



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

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MANAGER'S REPORT

December 9, 2013

TO: MAYOR WYTHE / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

NOTE: Some of these items appeared in the last report. I have updated them and brought them back in case the Council wanted to discuss.

1. Deep Water Dock and Pioneer Dock Tidelands: The Department of Natural Resources has completed the public comment period and issued a Final Finding and Decision on the conveyance to the City of tide and submerged lands adjacent to the Deep Water Dock and the Pioneer Dock. A copy of the decisional document is attached for your information. The maps attached to the decisional document clearly illustrate why our next conversation should be expanding the municipal boundaries in the port area.
2. Economic Impacts Analysis / Drill Rig Endeavor. The economic impacts study the Council commissioned regarding the Drill Rig has arrived. At the time this report was written, we were reviewing the draft document to see if we had any comments or concerns that needed to be addressed with the draft before it goes to the Council. (We saw the impacts of releasing the rate study report too soon). If it needs revisions, we may not have it to you by packet time or even by meeting time. But we can certainly summarize it for you at the meeting. This report is timely because there is a resolution on the agenda which references the study and states the City's position going forward regarding drill rigs at the dock.
3. Pedestrian Cross-Walk Signs. We have been engaged in a discussion with Representative Seaton about adding cross walk signs on the backside of already existing cross walk sign posts. The effect of this would be that approaching drivers would see two crosswalk signs on either side of the roadway. Rep. Seaton would like the City to conduct a pilot project on Pioneer Ave. and the Sterling Highway, both state roads, and on some of the City's own roads, including those in Old Town. The City would assume the cost of purchase and maintenance. Rep. Seaton believes this would improve pedestrian safety. The State traffic engineer counters that there is no evidence that doing this would improve safety and that the state cannot afford the extra labor and expense or to set a precedent that would apply statewide. The City administration has taken the same position so far, however, this issue would likely benefit from a public discussion. We can provide you with more details at the meeting

- if you like or the issue could be referred to the Planning Commission and/or the Transportation Committee who are both already working on traffic calming issues.
4. Request for Support from Soldotna: At the AML meeting in Anchorage, I spent some time with Soldotna City Manager Mark Dixon. One of the things we talked about was Soldotna's efforts to expand its Sports Center and specifically, to include indoor soccer fields. This is a priority CIP project for Soldotna and they are attempting to obtain funding from the governor and the legislature. Mark reminded me that there are many Homer families that drive all the way to Anchorage several times a year to get time on a soccer field. This situation is apparently much like the situation we once had with hockey. He said if Soldotna was able to build these fields, Homer residents could just drive to Soldotna rather than all the way to Anchorage. He asked if I would consider writing a letter of support. I told him that I would want to discuss this with the Council first, since actively supporting a CIP project in another City is really a policy/political matter. Please let me know what you think. We could follow with a resolution later if Council is interested.
 5. A New Budget Amendment: The packet contains a new budget amendment proposal from the administration. We bring this forward at the request of the Port and Harbor Commission. The project is basically to use \$15,000 of HART Funds for survey, engineering, design, and permitting on expanding the parking lot between the Seafarers memorial and the Boardwalk to the North. A memorandum on the project was included in your last packet and is attached to the budget amendment for reference. This project has been talked about for many years and the Commission believes it would relieve parking congestion and improve pedestrian safety. It would be a big part of our MOU with the State to create a pedestrian zone in that area. I considered waiting until January to bring this up (and not hit you with it at the last minute) but Council has next year's Budget before it right now. It seemed silly to adopt a new budget for next year and then immediately bring you a budget amendment ordinance in January. However, we can definitely postpone this if Council thinks it needs more discussion. Using HART funds for this purpose is one thing that Council should weigh in on. We can discuss this in detail at the meeting, or simply postpone and we'll come back with an ordinance early next year.
 6. Proposed New Legislation: The Alaska Department of Fish and Game has permitting authority in the Kachemak Bay and Fox River Critical Habitat Area. You will recall that there is a conflict between this plan and relevant state statutes regarding whether a drill rig can moor at the Deep Water Dock and put its legs down. ADF&G has strongly recommended that legislation is needed to address this problem. We are taking this issue on and Katie will be working with ADF&G and our legislators to craft legislation for introduction this session. Linda Anderson is already working on this and contacting legislators.
 7. Scheduling Issues: It might be a good idea to have a short discussion about scheduling for the upcoming year in order to get everyone on the same page and start planning. First, at the last meeting, Council members seemed to agree that a workshop in January to discuss expanding the municipal boundaries in the port area was a good idea. The Mayor also discussed her desire to reserve all of the 4 PM timeslots as

- needed for workshops on employee health insurance. We have already changed a possible meeting with legislators from the 4 Pm timeslot for that reason. So, just be advised that unless something changes, other arrangements would have to be made for the boundary issue. Also, last fall, during the CIP discussions, the Council talked about conducting some strategic planning this winter. The budget also includes, at Councilmember Howard's, request, funding for the Citizen's Academy. Council would certainly want to discuss the program goals, objectives, process and hoped for outcomes before we launch into it. Maybe we need a workshop to discuss workshops!!
8. Kachemak City Agreements. I am working with Kachemak City Mayor Phil Morris on a number of new and/or updated agreements between the two Cities. These agreements include a cost sharing agreement for installation of the natural gas line on Spencer Drive, a fire and emergency services agreement and associated tanker truck lease agreement, Steller's Jay and Golden Plover road maintenance agreement, and a sewer operations agreement. Expect to see at least some of these agreements for review and approval at the first meeting in January.
 9. New Port and Harbor Building: The most recent committee meeting was very productive. Based upon the meeting, the staff has given new direction to the architects. Cost savings and budget cuts were requested in some key areas and other possible sources of money were identified to fund some features of the proposed design. The consultants were asked to prepare new costs estimates for the Committee meeting on December 20.
 10. Police Department Statistics: The Police Department has been extremely busy this year. The departmental statistical reports through October will be placed in your mailboxes in about a week. When you get a chance, please take a minute to review the Police Report because it is very informative about the types of incidents and arrests the Police have been involved in. There has been a large spike in drug arrests and drug investigations. At the end of October, the Police had already broken the all- time yearly record for arrests and prisoner days at the jail. This is a story that the community needs to be aware of and try to address. We are fortunate that we already have the MAPP group and other non-profits working on the causes of these problems and proposing solutions. But this is something we should all be concerned about as a community.

ATTACHMENTS

1. December Employee Anniversaries
2. Final Finding and Decision / Tidelands Conveyance



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Memorandum

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: Walt Wrede
DATE: December 5, 2013
SUBJECT: December Employee Anniversaries

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

Will Hutt,	Police	19 Years
Chris Cushman,	Fire	4 Years
Todd Cook,	Public Works	4 Years
Angie Otteson,	Public Works	4 Years
Katie Koester,	Administration	2 Years
Mark Robl,	Police	29 Years
Bryan Hawkins,	Port & Harbor	14 Years

**ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
MUNICIPAL ENTITLEMENT**

**FINAL FINDING AND DECISION
CONVEYANCE OF TIDE AND SUBMERGED LAND
UNDER AS 38.05.825**

CITY OF HOMER HOMER SPIT-KACHEMAK BAY ADL 231763

I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD) supplements the Preliminary Decision (PD) issued on October 25, 2013 for the proposed action which is incorporated herein. The FFD does not make any changes to the PD, but clarifies that the tide and submerged (tidelands) lands will remain within the boundary of the Kachemak Bay Critical Habitat area (KBCHA) and only state legislature may remove these tidelands from the KBCHA. The Department of Natural Resources (DNR) received two comments responding to the PD that is incorporated stating no objections.

II. RECOMMENDED ACTION

DNR has determined in this FFD that Alternative 3 described in the PD is the preferred action. The FFD finds it is in the best interest of the state to convey the tide and submerged lands of 13.273 acres as indicated in TABLE A to the City of Homer in accordance to AS 38.05.825 and the Public Trust Doctrine.

These state-owned tide and submerged lands approved for conveyance to the City of Homer are subject to the following:

Subject to:

Conditions, Restrictions and Reservations

1. Administration of state leases and permits in the surface estate, if any, will be transferred to the City of Homer once the FFD is effective.
2. Management authority for the approved state-owned tide and submerged lands will be transferred to the City of Homer once the FFD is effective. The City may execute leases and permits prior to issuance of a state conveyance document in accordance with AS 38.05.825.
3. All mineral related permits, licenses, claims and leases affecting the tide and submerged lands proposed for conveyance, if any, will remain under the authority of the state.
4. The City is subject to the requirements of the Public Trust Doctrine as it applies to the approved lands and to the requirements of AS 38.05.825.

Conveyance document to include following:

1. Valid existing rights, including reservations, easements, and exceptions in the U.S. Patent, or other state or federal conveyance, and in acts authorizing the issue thereof; easements, rights-of-way, covenants, conditions, reservations, notes on the plat, and restrictions of record, if any.
2. Reservation of the mineral estate pursuant to Section 6(i) of the Alaska Statehood Act and AS 38.05.125; a reservation of reasonably necessary access to the mineral estate in accordance with AS 38.05.130.
3. Notification to the Alaska State Historic Preservation Office in accordance with AS 41.35.070(d) is required upon discovery of historic, prehistoric, or archaeological sites, locations, remains or objects.

TABLE 'A'

TIDE AND SUBMERGED LANDS APPROVED FOR CONVEYANCE

DNR will convey these state-owned tide and submerged lands approved for conveyance identified in TABLE A. The final acreage will be determined at the time of survey and are 'subject to' the applicable conditions, restrictions and reservations as listed in the PD and in this FFD.

Map #	Seward Meridian of Township(T), Range(R) & Section	Legal / Plat	Acreage
Map 2	S T6S, R13W, Protracted Section 36 and S T7S, R13W, Protracted Section 1	ATS No. 1373, which encompasses the City of Homer Deep Water Dock Port Facility.	11.908
Map 3	S T7S, R13W, Protracted Section 1	ATS No. 1603, which encompasses that portion of the City of Homer Pioneer Dock.	1.365
TOTAL ACRES:			13.273

III. AUTHORITY

The authority for conveyance of state-owned tide and submerged land is pursuant to AS 38.05.825 and the authority for the FFD is pursuant to AS 38.05.035(e).

IV. PUBLIC NOTICE

Public Notice has been accomplished in accordance with AS 38.05.945.

V. RESPONSE TO COMMENTS

The City of Homer and the Alaska Department of Fish & Game (ADF&G) were the only two entities who submitted comments in response to the PD and having no objections. The comments are as follows:

1. City of Homer

The City of Homer concurs with the findings of the Preliminary Decision.

DNR Response: DNR acknowledges that the City of Homer stated no objections.

2. Department of Fish & Game (ADF&G), Access Defense Program:

ADF&G has reviewed the public notice and Preliminary Decision for the conveyance of tide and submerged lands to the City of Homer (ADL 231763). ADF&G supports the conveyance of these tide and submerged lands that are located within the Kachemak Bay Critical Habitat Area (KBCHA). We do suggest that the Final Finding and Decision identify that the subject tide and submerged lands will remain within the boundary of the KBCHA after conveyance to the City. Only the State Legislature can remove the tidelands from the KBCHA.

DNR Response:

DNR acknowledges there are no objections and has provided clarification in this decision for the tidelands to remain within the KBCHA and only the State Legislature can remove the tidelands from the KBCHA.

VI. DISCUSSION AND FINAL FINDING AND DECISION

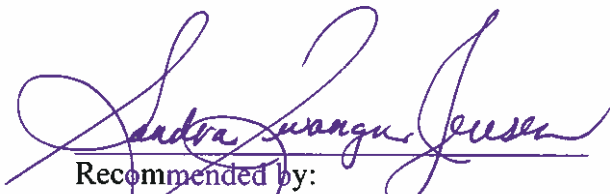
This decision affects the City of Homer tide and submerged land selections of 13.273 acres. These selections were determined to meet the requirements of AS 38.05.825, and this decision determines that the interests of the City of Homer outweigh those of the state, and are appropriate to convey to the City of Homer. The conveyance of these tidelands does not change the fact that they will remain within the boundary of the Kachemak Bay Critical Habitat area KBCHA. Only state legislature can remove lands from the KBCHA.

Additionally, this decision finds that the imposition of a 'to' and 'along' easements under AS 38.05.127 is inappropriate. The 'along' easement will not serve any useful access function and would create unsafe conditions for the public on the existing and proposed expansion area of the Deep Water Dock and on the existing portion of the Pioneer Dock; the 'to' easement is unnecessary since DNR has determined that Freight Dock Road and Outer Dock Road function as public access for the public, whether it is vehicular or pedestrian traffic under 11 AAC 51.045.


The following are specific findings in this decision that:

1. It is appropriate to convey ATS No. 1603 (1.365 acres) and ATS 1373 (11.908 acres) for a total of 13.273 acres of state-owned tide and submerged lands to the City of Homer pursuant to AS 38.05.825 as the interest of the state to retain the tidelands does not outweigh the interests of the City of Homer in obtaining them.
2. It is appropriate for the additional infrastructure development to widen and extend the Deep Water Dock and trestle for continued operation as it is consistent with management unit 530, including the plan designation and management intent.
3. It is appropriate to resolve the encroachment of a portion of the Pioneer Dock on state-owned tidelands.
4. It is inappropriate to impose the 'along' easement under AS 38.05.127 on the existing and proposed expansion area of the Deep Water Dock and on the existing portion of the Pioneer Dock since it would serve no useful access function and would create unsafe conditions for the public under 11 AAC 51.045.
5. It is appropriate not to impose the 'to' easement under AS 38.05.127 since Freight Dock Road and Outer Dock Road currently function as public accesses for the public, whether it is vehicular or pedestrian traffic under 11 AAC 51.045.
6. The intended use is consistent with the designation and the management intent of the Kenai Area Plan (KAP).
7. The area of the subject action remains within the KAP intent.

The findings presented above has been reviewed and considered. Public Notice has been accomplished in accordance with AS 38.05.945. The case file has been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the best interest of the state to proceed with the conveyance of the tide and submerged land as described in the PD and this FFD.


Recommended by:
Sandra Swanger-Jensen, Manager
Municipal Entitlements

11/27/2013
Date


Approved by:
Bruce Phelps, Section Chief
Resource Assessment & Development

11/27/13
Date

APPEAL PROVISION

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Joe Balash, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day of issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.

ATTACHMENTS TO FFD

MAP 1-Vicinity Map

MAP 2-Pioneer Dock

MAP 3-Deep Water Dock

Map 3

T 7S, R 13W, Protracted Section 1, S.M.

City of Homer: Pioneer Dock
T 7S, R 13W, Protracted Section 1, Seward Meridian
Plat No. 2001-6 Alaska Tideland Survey No. 1603

Legend

-  City Limits
-  Requested State Tidelands
-  Section Lines



City of Homer
Planning and Zoning Department
November 27, 2013

Pioneer Dock

0 225 450 Feet



Disclaimer:
It is expressly understood the City of Homer, its council, board, departments, employees and agents are not responsible for any errors or omissions contained herein, or deductions, interpretations or conclusions drawn therefrom.

City of Homer: Deep Water Dock Port Facility
T 6S, R 13W, Protracted Section 36, Seward Meridian
T 7S, R 13W, Protracted Section 1, Seward Meridian
Plat No. 89-19 Alaska Tidelands Survey No. 1373

Map 1

T 6S, R 13W, Protracted Section 36,
S.M.

City of Homer: Pioneer Dock
T 7S, R 13W, Protracted Section 1, Seward Meridian
Plat No. 2001-6 Alaska Tidelands Survey No. 1603

Legend

-  City Limits
-  Requested State Tidelands
-  SectionLines

T 7S, R 13W, Protracted Section 1, S.M.



City of Homer
Planning and Zoning Department
November 27, 2013

Vicinity Map

0 250 500 1,000
Feet



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Map 2

T 6S, R 13W, Protracted Section 36, S.M.

City of Homer: Deep Water Dock Port Facility
T 6S, R 13W, Protracted Sec 36, Seward Meridian
T 7S, R 13W, Protracted Sec. 1, Seward Meridian
Plat No. 89-19 Alaska Tidelands Survey No. 1373

Legend

-  City Limits
-  Requested State Tidelands
-  SectionLines

T 7S, R 13W, Protracted Section 1, S.M.



City of Homer
Planning and Zoning Department
November 27, 2013

Deep Water Dock

0 225 450 Feet



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