



City of Homer

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Memorandum

Agenda Changes/Supplemental Packet

TO: MAYOR ZAK AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: SEPTEMBER 25, 2017
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

CONSENT AGENDA

Resolution 17-081, A Resolution of the City Council of Homer, Alaska, Authorizing the City to Accept Alaska Tidelands Survey No. 1373 and 1609 from the State of Alaska and Authorizing the City Manager to Execute All Appropriate Documents. City Manager.

Final Finding and Decision for Conveyance of Tide and Submerged Land Page 3

PUBLIC HEARING

Ordinance 17-33(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 9, Taxation, by Adding a New Section 9.04.049 to Exempt Disabled Veterans and Surviving Spouses from Real Property Taxes. Stroozas. Page 11

Memorandum 17-128 from City Manager as backup Page 15

Resolution 17-079, A Resolution of the Homer City Council Adopting the 2018-2023 Capital Improvement Plan and Establishing Capital Project Legislative Priorities for Fiscal Year 2019. Mayor/City Council.

Memorandum 17-127 from Special Projects & Communications Coordinator as backup Page 17

**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

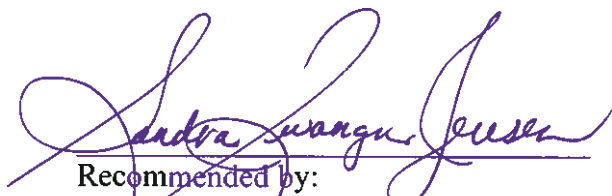
This decision affects the City of Homer tide and submerged land selections of 13.273 acres. These selections were determined to meet the requirements of AS 38.05.825, and this decision determines that the interests of the City of Homer outweigh those of the state, and are appropriate to convey to the 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.

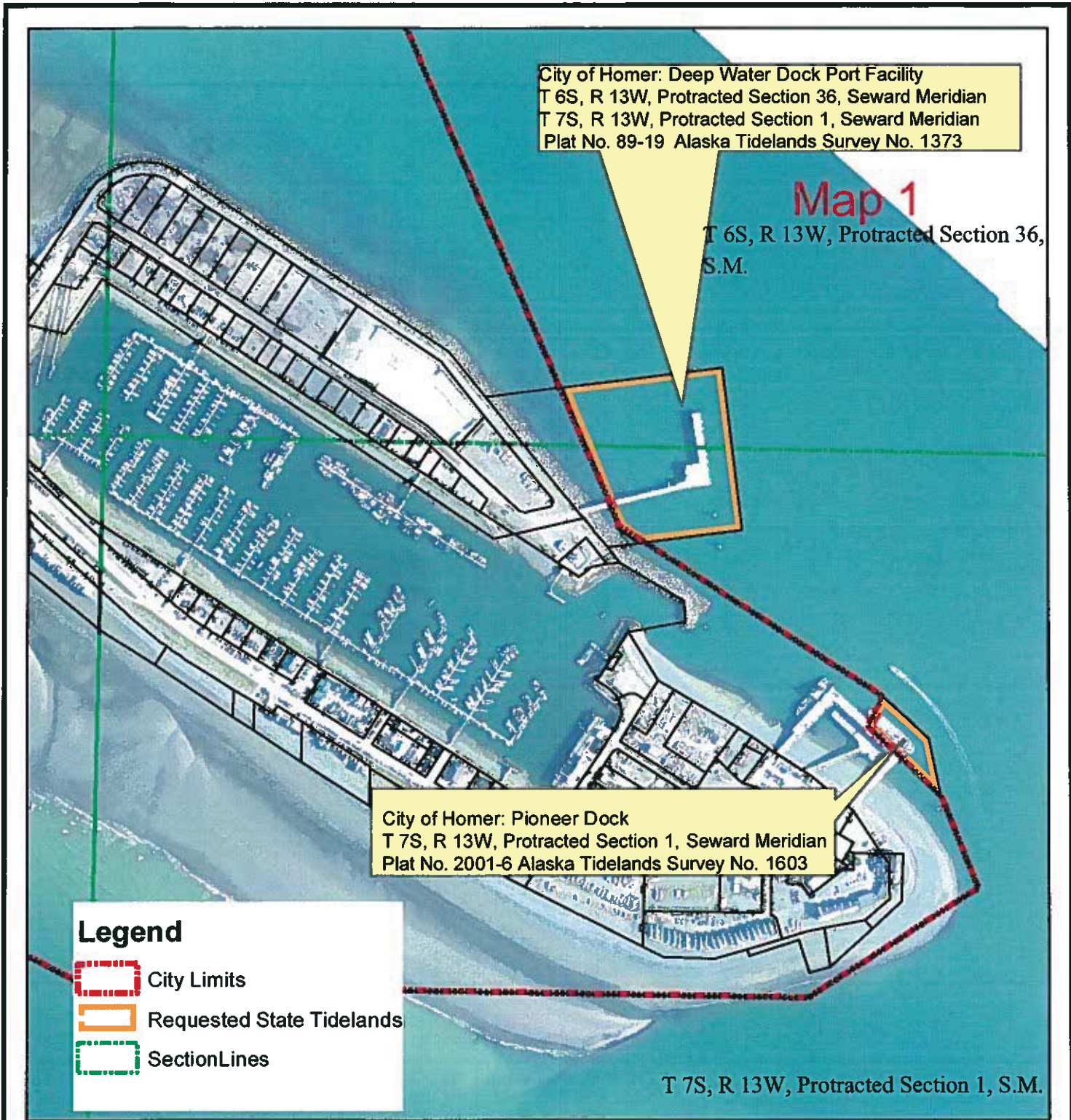
If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day of issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (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



City of Homer
 Planning and Zoning Department
 November 27, 2013

Vicinity Map

0 250 500 1,000
 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.

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 Tideland Survey No. 1373

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

Legend

-  City Limits
-  Requested State Tideland
-  Section Lines



City of Homer
Planning and Zoning Department
November 27, 2013

Deep Water Dock

0 225 450 Feet



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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 Tideland
-  Section Lines



City of Homer
Planning and Zoning Department
November 27, 2013

Pioneer Dock

0 225 450 Feet



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Stroozas

c. The exemption applies residents of the City of Homer as of January 1 of the current tax year.

d. Except as otherwise provided in this section, qualifications for eligibility for this exemption and application for it shall be the same as required for the disabled veteran's exemption provided by the Kenai Peninsula Borough under Section 5.12.105 of the Kenai Peninsula Borough Code of Ordinance as it now exists or as it may be amended or renumbered in the future.

Section 2: The exemption provided for in this ordinance shall be effective for the tax year beginning January 1, 2018.

Section 3: This ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER THIS __ DAY OF _____, 2017.

CITY OF HOMER

BRYAN ZAK, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

82

83 Reviewed and approved as to form:

84

85

86

87 _____
Mary K. Koester, City Manager

88

89 Date:_____

Holly Wells, City Attorney

Date:_____



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Memorandum 17-128

TO: Mayor Zak and Homer City Council
FROM: Katie Koester, City Manager
DATE: September 25, 2017
SUBJECT: Ord. 17-33 Property Tax Exemption for Disabled Veterans

The City sought clarification regarding Ord. 17-33 that, if passed, would provide a 100% tax exemption for Disabled Veterans.

One scenario that was posed is: if a widow/er of a disabled veteran, moves from outside city limits to the City of Homer, would they be eligible for the 100% property tax exemption?

The short answer is: No.

The longer answer is that under state statute and borough code, the disabled veteran spouse, now deceased, must have qualified for the exemption at the time of his/her death. Therefore, the surviving party of an out-of-state resident cannot qualify because the deceased party could not have qualified at the time of her/her death.

To clarify the language in the ordinance, the substitute ordinance states that the 100% exemption applies to residents of the City of Homer as of January 1 of the current tax year.



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MEMORANDUM 17-127

TO: Mayor Bryan Zak and Homer City Council
THROUGH: Katie Koester, City Manager
FROM: Jenny Carroll, Special Projects and Communications Coordinator
DATE: September 25, 2017
SUBJECT: 2018-2023 CIP amendments, adoption and FY 2019 Legislative Request Project Selections

I have amended the 2018-2023 Draft CIP according to your actions at the September 11, 2017 City Council Meeting. The new draft includes the following changes.

1. Legislative Priority projects are listed in order, reflecting the outcome of City Council prioritization.
2. Added projects:
 - Port and Harbor Wood Grid Project
 - South Peninsula Hospital Hillside Stability Study
 - South Peninsula Behavioral Health Services Annex Upgrade
3. Amended projects:
 - Public Safety Building Phase 1 renamed New Homer Police Station with a revised project description to reflect changes to the project. Final version of project description/budget is forthcoming as progress is made on project planning.
 - Barge Mooring Facility combined with Large Vessel Haul Out Repair Facility and included in Legislative Priority section
 - Phase 1 added to Ice Plan Upgrade
 - Ramp 2 Public Restroom Upgrade moved to Mid-Rage Project Section
4. Projects removed:
 - East West Transportation Corridor
 - Land Acquisition for New Roads
 - Heath Street Pioneer to Anderson

The updated draft can be viewed at the City of Homer website: <https://www.cityofhomer-ak.gov/economicdevelopment/9252017-draft-capital-improvement-plan>. A couple of drafts will be available as a laydown at your meeting as well.

Thank you for your work on the CIP.

