



## City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Clerk

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(p) 907-235-3130

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# Memorandum

## Agenda Changes/Supplemental Packet

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JULY 25, 2016

SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

### **CALL TO ORDER, PLEDGE OF ALLEGIANCE**

Councilmember Reynolds has requested telephonic participation.

### **CONSENT AGENDA**

**Resolution 16-078**, A Resolution of the Homer City Council Approving Memorandum 16-120 Establishing Conditions Under Which Adjacent and Benefitted Properties Can Connect to the Shellfish Avenue/South Slope Drive Water Main Project. City Manager/Public Works Director. (Title amendment)

Written backup provided by Public Works Director.

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**Resolution 16-079(S)**, A Resolution of the City Council of the City of Homer, Alaska, Approving a Policy and Procedure for the Waiver of Penalties on Delinquent Special Assessment Payments. Mayor/Lewis.

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### RECOMMENDATION:

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A





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## Public Works

3575 Heath Street  
Homer, AK 99603

[publicworks@cityofhomer-ak.gov](mailto:publicworks@cityofhomer-ak.gov)

(p) 907-235-3170

(f) 907-235-3145

July 19, 2016

Home Owners - Quiet Creek Community

**RE: Proposed Policy Regarding Water Main Connection Conditions  
Shellfish Avenue/South Slope Drive Water Main Improvements**

I want to clarify the implications of the policy being considered by the City Council regarding the conditions under which fronting property will be allowed to connect to and be responsible for construction costs associated with the above reference water main improvements; specifically how it will or will not affect your property.

First, I want to explain why the City considers that this project “benefits” your property. All lots are expected to participate in extending a water main across the entire frontage of their property before gaining access to water. The water main that was previously extended to serve your property did not front the entire parcel. The proposed project does construct water main that fronts that portion of your lot that does not currently have water main frontage. The new water main “benefits” your property by providing water main across the entire frontage of the lot.

I appreciate that the number of owners associated with your lot and the current consensus of the owners that the lot will not be subdivided or developed in the future makes it difficult for you to appreciate that the new water main does benefit your property; but from your neighbor’s perspective and from the City’s perspective it does complete your obligation to participate in extending a water main across the entire frontage of the lot.

Second, why are you on a list that suggests that an “assessment” associated with this project might be due?

Any lot that is “benefited” by the water main installation and requests connection to that main, will be required to pay their “fair share” of the cost of construction. In your case, this is may be highly unlikely (based on current property development restrictions), but it could happen. Other lot owners in the neighborhood have strong beliefs that they will never request water service from the proposed main and that no benefit exists.

Every lot fronting this proposed water main has some potential of being benefited by its construction (some more and some less), it would be unfair to remove some lots from the list based on what level of benefit may or may not be being provided.

If the City Council approves the policy memo that I have recommended:

- 1) It will not create an assessment on your property, no lien will be placed on your property.
- 2) Additional buildings on the property could get water service without incurring the costs outlined in the policy memo if they connect to the main originally extended onto your property.
- 3) You would only be responsible for construction costs associated with this project (as outlined in the policy memo) if you request to connect to the new main and volunteer to pay the fair share costs outlined in the policy memo.

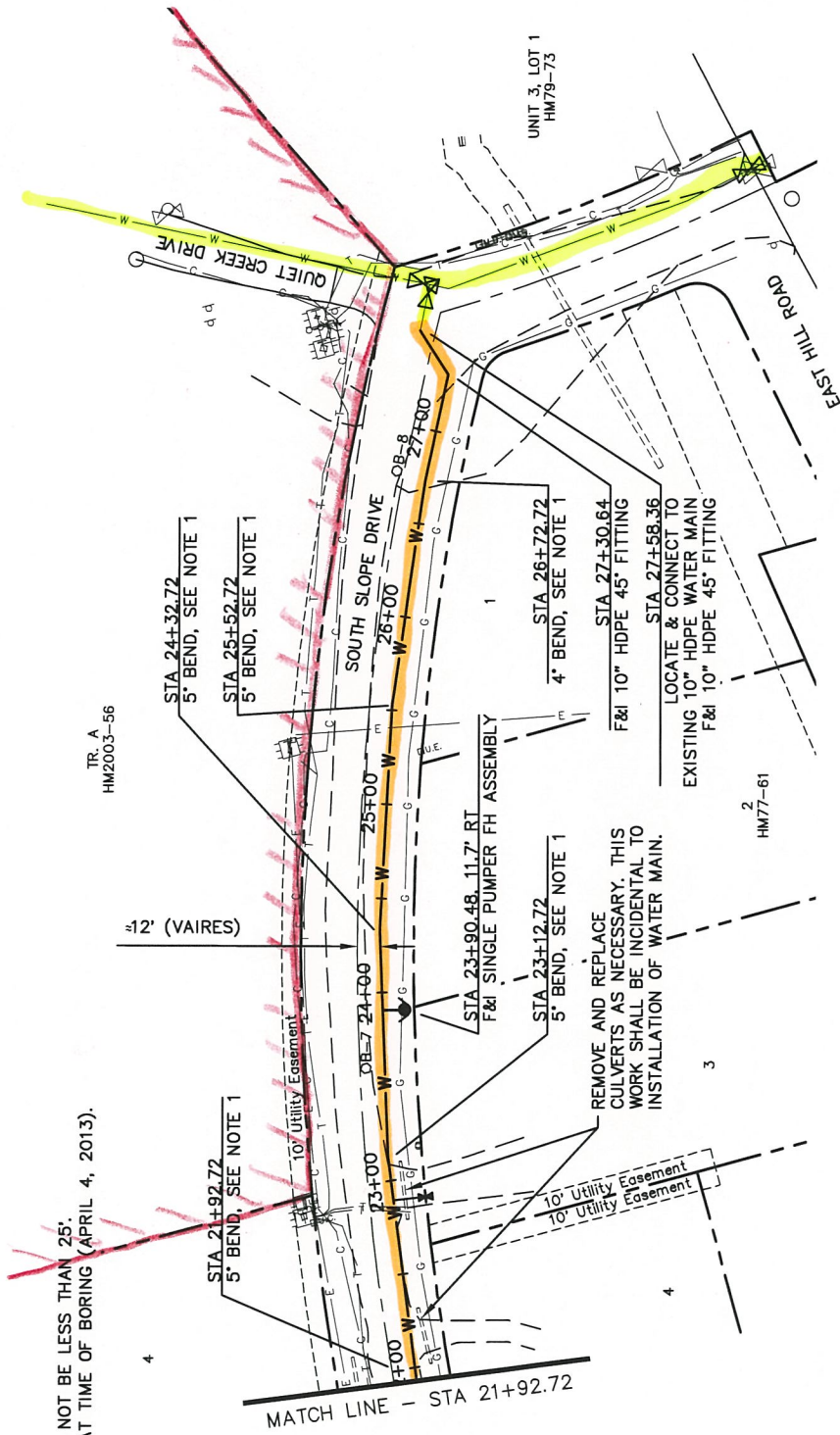
I understand your interest in being removed from the list (based on your expectations that you will never benefit from the proposed water main); but it would be unfair to other adjacent fronting property owners to treat your property differently than theirs.

Should you have any questions or concerns, you can call me at 399-7232.

Yours Very Truly;

**CITY OF HOMER**

Carey Meyer, P.E.  
Public Works Director



SHALL NOT BE LESS THAN 25'.  
 JURED AT TIME OF BORING (APRIL 4, 2013).

TR. A  
 HM2003-56

UNIT 3, LOT 1  
 HM79-73

HM77-61

4

4

3

MATCH LINE - STA 21+92.72



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

3 Mayor/Lewis

4 **RESOLUTION 16-079(S)**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOMER,  
7 ALASKA, APPROVING A POLICY AND PROCEDURE FOR THE  
8 WAIVER OF PENALTIES ON DELINQUENT SPECIAL ASSESSMENT  
9 PAYMENTS.

10  
11 WHEREAS, On March 23, 2015, the Council adopted Resolution 15-17, confirming the  
12 assessment roll, establishing payment due dates and establishing delinquency, penalty and  
13 interest provisions for the Homer Natural Gas Distribution Special Assessment District  
14 (“District”); and

15  
16 WHEREAS, On September 14, 2015, the Council adopted Resolution 15-081(S),  
17 confirming the assessment roll for condominium units in the District, and establishing  
18 delinquency, penalty and interest provisions for those assessments; and

19  
20 WHEREAS, On May 9, 2016, the Council adopted Resolution 16-052, establishing a  
21 more lenient penalty and interest structure for installments on assessments in the District  
22 that first become delinquent on or after July 1, 2016; and

23  
24 WHEREAS, With thousands of properties being assessed in the District, exceptional  
25 circumstances may occur in which, in the interest of fairness, a penalty on a delinquent  
26 assessment payment should be waived; and

27  
28 WHEREAS, The proposed Policy and Procedure for administrative waiver of penalties  
29 on delinquent assessment payments in a special assessment district is based on the Kenai  
30 Peninsula Borough procedure for fine abatement on late property taxes, is in the best interest  
31 of the City, and should be adopted.

32  
33 NOW, THERFORE, BE IT RESOLVED the Policy and Procedure for waiver of penalties on  
34 delinquent assessment payments in a special assessment district is adopted to read as  
35 follows:

36  
37 1. POLICY

38  
39 It is the policy of the City of Homer to provide fair and consistent administration of Alaska  
40 statutes and City ordinances with respect to waiving the assessment of penalties on  
41 delinquent assessment payments in special assessment districts, and to recognize that

42 exceptional circumstances may occur in which, in the interest of fairness, a penalty on a  
43 delinquent assessment should be waived.

44

## 45 2. RESPONSIBILITY

46

47 A. The Finance Director will review a request that the City waive a penalty on a  
48 delinquent assessment payment, determine the facts that are relevant to the waiver  
49 request, and recommend that the Council grant or deny the request in accordance  
50 with the procedure below.

51 B. The Council will determine whether to grant or deny a request that the City waive a  
52 penalty on a delinquent assessment payment, taking into consideration the  
53 recommendation of the Finance Director.

54

## 55 3. PROCEDURE

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57 A. An owner of property in a special assessment district who is delinquent in making an  
58 assessment payment may apply to the Finance Director for a waiver of the penalty on  
59 the delinquent assessment payment on a form provided by the Finance Director.

60 B. The application to waive the penalty shall be accompanied by payment of all  
61 delinquent assessment payments that the property owner owes to the City.

62 C. The Finance Director will review and recommend that the Council approve or  
63 disapprove the application. The Finance Director will recommend approval of an  
64 application to waive a penalty on a delinquent assessment payment if the Finance  
65 Director finds one of the following:

66 1. A clerical error by the City Clerk or Finance Department contributed  
67 substantially to the late payment.

68 i. For the purpose of this procedure, a clerical error is a mistake made by  
69 City personnel that results in the failure of the City to correctly and timely  
70 notify the property owner of the due date for the delinquent assessment  
71 payment, or to correctly credit a timely assessment payment to the  
72 property owner's account. Examples of a clerical error include:

73 • Application of a timely payment to the wrong account.  
74 • Failing to send the property owner timely notice of the payment due  
75 date.

76 • Sending the property owner notice of the payment due date using a  
77 name or address other than the name and addresses of the property  
78 owner that currently appear on the Kenai Peninsula Borough property  
79 tax roll.

80 ii. The property owner is responsible for notifying the Kenai Peninsula  
81 Borough Assessor of any change in property owner name or address. The  
82 City is not responsible for updating the property owner name and address  
83 on the Kenai Peninsula Borough property tax roll, or for investigating the



84 accuracy of the property owner name or address that currently appears  
85 on the Kenai Peninsula Borough property tax roll.

86 2. A U.S. Postal Service error contributed substantially to the late payment. A  
87 waiver on this ground requires proof of one of the following:

88 i. The Postal Service failed to deliver either the payment or the notice of the  
89 payment due date to the address that appeared on the envelope.

90 ii. There Postal Service delayed delivery of either the payment or notice of  
91 the payment due date to a degree that contributed substantially to the  
92 lateness of the payment.

93 iii. The postmark on the payment did not accurately reflect when the  
94 property owner delivered the payment to the Postal Service.

95 3. Proof that the property owner was unable to make the payment on time  
96 because of an extreme non-financial personal hardship. This could include a  
97 serious illness or death of the property owner or an immediate family member  
98 that reasonably prevented making the payment on time.

99 The property owner bears the burden of proving that one of the grounds for waiving  
100 the penalty exists, based on relevant documentation and sworn testimony.

101 D. The Council will decide whether to approve or disapprove an application to waive a  
102 penalty on a delinquent assessment payment, taking the Finance Director's  
103 recommendation into consideration in the decision. The City Clerk shall give the  
104 property owner a written notice of the Council's decision on the application, stating  
105 the Council's reasons for the decision. The decision of the Council on the application  
106 is final and not subject to appeal.

107  
108 PASSED AND ADOPTED by the Homer City Council on this 25<sup>th</sup> day of July, 2016.

109  
110 CITY OF HOMER

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113 \_\_\_\_\_  
114 MARY E. WYTHE, MAYOR

115  
116 ATTEST:

117  
118

119 \_\_\_\_\_  
120 JO JOHNSON, MMC, CITY CLERK

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