



City of Homer

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Memorandum 20-108

TO: MAYOR CASTNER AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: JULY 22, 2020

SUBJECT: VACATION OF THE 10 FOOT WIDE DRAINAGE EASEMENT ON LOT 24-A, AA MATTOX PEGGI'S ADDITION GRANTED BY PEGGI'S ADDITION (PLAT HM 99-64); WITHIN SECTION 17, TOWNSHIP 6 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA WITHIN THE KENAI PENINSULA BOROUGH. KPB FILE 2019-048V.

At their July 13, 2020 meeting, the Kenai Peninsula Borough Planning Commission approved the vacation of the 10 foot wide drainage easement on Lot 24-A, AA Mattox Peggi's Addition Granted by Peggi's Addition (Plat HM 99-64); within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska within the Kenai Peninsula Borough. KPB File 2019-48V. Per the letter from the Kenai Peninsula Borough, City Council has thirty days from July 13, 2020 in which to veto the decision of the Kenai Peninsula Borough Planning Commission and cites AS 29.40.140 as the basis for the ability to veto this drainage easement vacation. Their letter states per AS 29.40.140 and reads "In accordance with AS 29.40.140, no vacation of a City right-of-way and/or easement may be made without the consent of the City Council."

However, upon review of AS 29.40.140, the statute is specific to the vacation of a city street and reads as follows:

Sec. 29.40.140. Hearing and determination.

(a) The platting authority shall consider the alteration or replat petition at a hearing and make its decision on the merits of the proposal.

(b) Vacation of a city street may not be made without the consent of the council. Vacation of a street in the borough area outside all cities may not be made without the consent of the assembly. The governing body shall have 30 days from the decision of the platting authority in which to veto a vacation of a street. If no veto is received by the platting authority within the 30-day period, consent is considered to have been given to the vacation.

In addition, this matter was taken up by the Homer City Council at a Special Meeting on September 5, 2019 per KPB Code 20.70.110 which reads:

20.70.110. - Vacation consent—City council or assembly.

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council. A vacation of a street right-of-way, public

area, or public easement within the borough outside of the limits of cities may not be made without the consent of the borough assembly. The assembly or council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

Council considered the drainage easement at the September 5, 2019 special meeting and no action was taken at that time.

RECOMMENDATION: No action is necessary from City Council in accordance with AS 29.40.140 related to a drainage easement and this has already been considered per KBP 20.70.110.