

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

City Manager

3
4 **RESOLUTION 17-095**

5
6 A RESOLUTION OF THE HOMER CITY COUNCIL APPROVING AN
7 AMENDMENT TO THE ICICLE SEAFOOD'S, INC. LEASE FOR LOT 41
8 TO INCLUDE LOT 42 HOMER SPIT SUBDIVISION AMENDED, WHICH
9 EXPIRES DECEMBER 31, 2036 WITH A BASE RENT OF \$69,648
10 SUBJECT TO APPRAISAL AND AUTHORIZING THE CITY MANAGER
11 TO EXECUTE THE APPROPRIATE DOCUMENTS.
12

13 WHEREAS, Icicle Seafoods, Inc. is in a 20-year lease with two 5-year options which
14 expires Dec. 31, 2036 with the City of Homer for Lot 41 Homer Spit Subdivision Amended; and
15

16 WHEREAS, Icicle Seafood's, Inc. also leases the adjacent lot, Lot 42 Homer Spit
17 Subdivision Amended from the Alaska Mental Health Trust Authority; and
18

19 WHEREAS, Ordinance 17-41 authorizes the City to acquire from Alaska Mental Health
20 Trust Authority (AMHTA) as fee simple absolute ownership of Lot 42 Homer Spit Subdivision
21 Amended and to remove all claims or cloud made by AMHTA of partial ownership of any and
22 all properties on the Homer Spit; and
23

24 WHEREAS, On January 9, 2017 the City Council adopted Resolution 17-008 supporting
25 a new 20-year lease with two, five-year options with Icicle Seafoods LLC. for Lot 41 Homer Spit
26 Subdivision Amended without the parcel being advertised through the Request for Proposal
27 process; and
28

29 WHEREAS, Icicle Seafood's Inc. has expressed interest in amending its' long term lease
30 with the city for Lot 41 to include Lot 42 Homer Spit Subdivision Amended; and
31

32 WHEREAS, When the City is successful in acquiring Lot 42 from the AMTHA it is in the
33 best interest of the community to support the continued operation of a long-standing lessee
34 with a successful business in the City of Homer, as a seafood-buyer and commercial fishing
35 fleet support facility, without Lot 42 Homer Spit Subdivision Amended being advertised
36 through the Request for Proposal process.
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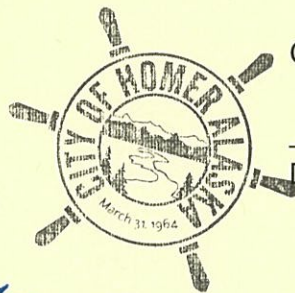
38 NOW THEREFORE BE IT RESOLVED, the City Council hereby authorizes the City Manager
39 to amend the existing lease for Lot 41 with Icicle Seafood's Inc. upon acquiring Lot 42 from
40 AMHTA as follows:
41

42 Section 1 Icicle lease of lot 41, Lease of Property – Add Lot 42 Homer Spit Subdivision
43 Amended containing 64,033 square feet, more or less, also known as Kenai Peninsula Borough
44 Tax Parcel No. 18103418.

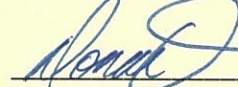
45
46 Section 4.01 Base Rent – Amending the annual base rent from \$35,070 to \$69,648
47 payable monthly in advance in installments of \$5,804 plus tax beginning on the date the
48 acquisition is recorded with the State of Alaska, subject to appraisal.

49
50 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves
51 amending the Icicle Seafood’s, Inc. lease of Lot 41, to include Lot 42 Homer Spit Subdivision
52 Amended with an annual base rent to \$69,648 and authorizing the City Manager to execute the
53 appropriate documents.

54
55 PASSED AND ADOPTED by the Homer City Council this 27st day of November, 2017.

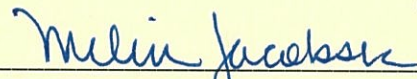


CITY OF HOMER



DONNA ADERHOLD, MAYOR PRO TEMPORE

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61 ATTEST:

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63 _____
64 MELISSA JACOBSEN, MMC, CITY CLERK
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66
67 Fiscal Note: Currently the base lease is for lot 41 is \$35,070 annually, which will increase to
68 \$69,648 annually once lot 42 is included in the lease. An appraisal of both properties will be
69 performed to make sure the price is reflective of current market conditions, as is customary
70 every 5 years with all leased properties.

71



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Memorandum 17-141

TO: Mayor Zak and Homer City Council
FROM: Katie Koester, City Manager
DATE: November 21, 2017
SUBJECT: Ordinance 17-41 and Resolution 17-095

The purpose of this memo is to answer questions that came up during Council discussion regarding the purchase of Lot 42 via Ordinance 17-41 and bring forward additional information to facilitate Council discussion.

How did staff determine a net present value for Lot 42?

Since Lot 42 is adjacent Lot 41, staff used the 2016 Appraisal of Lot 41 (Derry and Associates) to extrapolate a potential market value for Lot 42. The appraisal notes that the physical characteristics are similar, though Lot 41 is an irregular "T" shaped lot and "Any adverse impact due to the shape is reduced by the lot's extensive road frontage which enhances overall usability..."

The appraisal also provides a ratio of annual land lease rates to market value. In the summary the appraisal notes that annual lease rates are approximately 8% of the market value. The appraised annual lease rate for Lot 41 is \$0.54 per square foot resulting in an annual lease rate of \$35,070, which is approximately 8% of the market value, or approximately \$438,000. Using the same formula for Lot 42 results in a value of \$34,577 in annual rent or a market value of \$432,000. This is the amount City staff used as a baseline for the true market value for Lot 42. Essentially, the Enterprise is overpaying for lot 42 by \$118,600 in order to clear up the claims AMTHA is making on the baseball bat of land that extends out into the mouth of the harbor and other 'core property'. However, it is important to note that AMTHA's original offer only transferred a portion of Lot 42 (approximately 2/3) to the City of Homer. Under their original offer the City would have had to negotiate separately for the 1/3 of Lot 42 owned by AKDNR (or \$144,000 based on \$0.54 per square foot).

Value of AMTHA claimed land + remaining 1/3 of Lot 42: \$694,600

Assumed appraised value of Lot 42: \$432,000

Purchase price for Lot 42: \$550,600

In summary, the agreed upon purchase price reflects the City of Homer increasing their offer price from the value of Lot 42 by \$118,600 and the state decreasing their asking price for all of Lot 42 and the associated lots by \$144,000. In this way, I believe both entities compromised to come together and resolve the title issues with the 'core property'.

Ordinance 17-41 proposes to pay for the lot half from the Enterprise and half with a loan from the general fund. Why not pay for the parcel outright from the Enterprise?

2017 ending estimate balance for Port and Harbor Reserves is \$3,994,856, not including 2018 anticipated transfers or capital projects. Staff will have a better idea by Monday's meeting the projects that have been approved but not spent to give Council an idea of how much this fund could absorb. The Port and Harbor Director and the Commission felt more comfortable splitting the difference between General Fund and Enterprise to avoid a onetime hit to reserves. However, purchasing the land 100% from reserves would still leave significant revenue in the fund.

What is the recommendation of the Port and Harbor Commission?

The Port and Harbor Commission met on October 25, 2017 and discussed the purchase of Lot 42 and the proposed financing mechanism (a loan from the general fund with revenue from the lease to pay back the loan) and approved the recommendation to purchase the lot with a loan from the general fund (see attached minutes).

Lease amendment with Icicle (Resolution 17-095)

In order for Icicle to continue operating seamlessly on Lot 42 once the title transfers from Alaska Mental Health Trust Authority (AMTHA) to the City of Homer, the City needs to enter into a lease agreement with Icicle and begin collecting revenue on the property. Resolution 17-095 authorizes the Administration to amend their lease for Lot 41 to include Lot 42 in order to guarantee a smooth transition.

Enc:

Port and Harbor minutes 10/25/2017

PORT AND HARBOR ADVISORY COMMISSION
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Commissioner Zieset echoed his earlier comment. He believes it is wise to keep marijuana retail off of the City leased properties until there is a general idea of how everything will be run.

VOTE: 4 YES 0 NO. UNANIMOUS CONSENT.

Motion Carried

- B. Purchase of Lot 42 on Homer Spit
 - I. Memo from City Manager to Port and Harbor Commission Re: Purchase of Lot 42 on Homer Spit.
 - II. Draft Ordinance from City Manager Koester and Exhibit A map Overlay Sketch from TLO

Commissioner Stockburger asked Bryan how the City got into this mess with the Mental Health Land Trust to begin with.

Harbor Master Hawkins replied with a brief history between the Mental Health Land Trust and the City of Homer on Lot 42. In 1964 there was a different plat in place that was obliterated due to the 1964 Earthquake. The City re-platted that section of the Spit and gave notice to the State that the previous plat was void. Two years later the Borough became the Platting authority and also recognized the City's re-plat of the Spit. Now, the Mental Health Land Trust is stating that some of the previous plat still applies and was never voided. The City was served with a trespass notice, and since then has been in discussion with the Mental Health Land Trust. There was a special meeting held between the City of Homer and the Mental Health Land Trust with attorneys present, and the outcome was the compromise brought forth now. The City of Homer is not admitting that the Mental Health Land Trust owns Lot 42, but has taken the attorney's fees and everything else at risk into consideration. Ultimately, the City feels that buying Lot 42 would be the wisest and cheapest option moving forward.

The Commission clarified the property line of Lot 42 and had a small discussion about Mental Health Land Trust relinquishing their rights to the other Lots, along with the City purchasing Lot 42 for \$550,600.

Harbor Master Hawkins stated he looked at the business opportunity like this; "if I were looking back on this deal 10 years from now, would I see it as a bad deal?" He believes this deal is one that will benefit the City and the Harbor for years to come, so he doesn't think this is a "bad deal".

Commissioner Zimmerman expressed that his only issue with this deal is that the City is taking the money out of the General Fund, which in return the Harbor has to pay back plus interest. The City should pay for Lot 42 and not make the Harbor pay back interest, because it's in the best interest for the entire City, not just the Harbor.

Harbor Master Hawkins explained that this is the agreement that he and the City Manager has come up with, the other option would be for the Harbor to pay for the Lot out of their reserve fund, which they did not see feasible.

PORT AND HARBOR ADVISORY COMMISSION
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Commissioner Zimmerman feels that this issue is important and should be brought up in the future, but for now it may not be the right time to discuss the interest paid to the City.

STOCKBURGER/ZEISET - MOVED TO RECOMMEND AS WRITTEN

The Commission briefly discussed the businesses that are located on Lot 42 and what the process for obtaining the leases after the purchase.

VOTE. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. Meeting Schedule for 2018
 - I. Memo from City Clerk Jacobsen to Port and Harbor Commission Re: Meeting Schedule for 2018
 - II. Draft 2018 Meeting Schedule Ordinance

Commissioner Zimmerman asked the Commission their opinions on the draft 2018 meeting schedule.

Commissioner Stockburger stated that the only meeting that comes into question is the November 2018 meeting because most of the Commissioners leave for Conference that month. He stated that the Commission runs into this every year and in the past has chosen to take care of it when the meeting gets closer.

The Commission discussed the options of cancelling the November meeting or keeping the schedule the same.

STOCKBURGER/HARTLEY- MOVED TO APPROVE THE 2018 MEETING SCHEDULE AS PROPOSED

There was no discussion

VOTE. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL ITEMS

- A. Port & Harbor Monthly Statistical Report for September 2017
- C. Water/Sewer Bills Report September 2017
- E. Crane and Ice Report
- F. Deep Water Dock Report
- G. Pioneer Dock Report
- H. Dock Water Report
- I. Council Meeting Attendance