

**NOTICE OF MEETING
REGULAR MEETING AGENDA**

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA**
- 4. RECONSIDERATION**
- 5. APPROVAL OF MINUTES**
 - A. Regular Meeting Synopsis of November 15, 2011 Page 1
- 6. VISITORS/PRESENTATIONS**
 - A. Homer Ocean Park, by Dr. Bill Marley Page 5
- 7. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS**
- 8. PUBLIC HEARING**
- 9. PENDING BUSINESS**
 - A. Update on Waddell Way Page 11
 - B. Update on Main Street and Bypass Progress
 - C. Update on Kachemak Drive Bike Path Page 13
- 10. NEW BUSINESS**
 - A. HART Fund and Gas Line Project
 - B. Homer Ocean Park
- 11. INFORMATIONAL MATERIALS**
 - A. City Manager's Report 4-23-12 Page 15
 - B. Acting City Manager's Report 5-14-12 Page 17
 - C. Ordinance 12-15 Re: Special Assessment Districts Page 19
 - D. Ordinance 12-13 Re: Utility Use of Rights-of-way Page 29
 - E. Homer Tribune Article "Lower Speed Limits Could Save Tax Payers Millions of Dollars" Page 37
- 12. COMMENTS OF THE AUDIENCE**
- 13. COMMENTS OF THE STAFF**
- 14. COMMENTS OF THE COUNCILMEMBER**
- 15. COMMENTS OF THE CHAIR**
- 16. COMMENTS OF THE COMMITTEE MEMBERS**
- 17. ADJOURNMENT/NEXT REGULAR MEETING IS SCHEDULED FOR AUGUST 21, 2012 at 5:30 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.**

Session 11-04, a Special Meeting of the Transportation Advisory Committee was called to order by Chair Roberts at 5:30 p.m. on November 15, 2011 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

COMMITTEE MEMBERS: Highland, Roberts, Smith, Venuti

ABSENT: Velsko

STAFF: Public Works Director Meyer
Deputy City Clerk Jacobsen

APPROVAL OF AGENDA

The agenda was approved by consensus of the Committee.

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

There were no public comments.

RECONSIDERATION

No items were scheduled for reconsideration.

APPROVAL OF MINUTES

A. Regular Meeting Synopsis of August 16, 2011

The Synopsis was approved by consensus of the Committee.

VISITORS/PRESENTATIONS

No visitors or presentations were scheduled.

STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS

There were no reports.

PUBLIC HEARING

There were no public hearings scheduled.

PENDING BUSINESS

A. Pioneer and Bypass Right Turn Plan

The Committee reviewed the map provided and made the following comments:

- Would people utilize the right turn only rule if there was no traffic and how would that be enforced.
- A few members tried it over the summer and found more frequently that they didn't need it.
- Coming off Main Street or Heath Street would require loop all the way through town to Lake Street to go out toward the spit.

TRANSPORTATION ADVISORY COMMITTEE
MEETING SYNOPSIS
NOVEMBER 15, 2011

- DOT will have to be the ones to make it happen.
- Sveldund should be right turn only or the flower boxes on the corner need to be addressed.
- Traffic from Heath Street would flood Pioneer Avenue, which is one of the worst intersections for level of service.
- Perhaps one way up Main Street and one way down Heath Street would resolve some of the traffic issues.
- A feasible solution could be to restructure the intersections to allow the capability to turn left and right.

SMITH/VENUTI MOVED TO TABLE THE RIGHT TURN LANE CONCEPT IN FAVOR OF SPENDING ENERGY OVER THE NEXT YEAR TRYING TO SOLVE, IN A COMPREHENSIVE WAY, THE INTERSECTION ISSUES AND IDENTIFY WHAT THIS COMMITTEE THINKS WOULD BE GOOD FIXES FROM A CONSTRUCTION PERSPECTIVE.

There were brief comments made.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

- A. Draft Resolution 11-xxx Re: Authorizing the Public Works Director to Develop a Budget and Begin the Planning Process for the Waddell Way Road Improvement Project.

The committee reviewed the draft resolution.

SMITH/VENUTI MOVED TO AMEND THE THIRD WHEREAS TO SAY NO LOCAL IMPROVEMENT DISTRICT (LID) HAS BEEN APPROVED IN THE LAST FIVE YEARS.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

SMITH/VENUTI MOVED TO AMEND THE NOW THEREFORE BE IT RESOLVED TO READ THE HOMER CITY COUNCIL AUTHORIZES THE CITY MANAGER TO DEVELOP A SCOPE, SCHEDULE, AND BUDGET FRO THE WADDELL WAY ROAD IMPROVEMENT PROJECT.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Committee members agreed that option b is the preferred improvement routs and it addresses issues with connectivity, the lay of the land, and only one property owner.

- B. 2012 Meeting Schedule

SMITH/HIGHLAND MOVED TO APPROVE THE TAC 2012 MEETING SCHEDULE.

TRANSPORTATION ADVISORY COMMITTEE
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The committee considered changing the November meeting date as it falls in the week of Thanksgiving and decided to address in the future if needed.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

INFORMATIONAL ITEMS

AUDIENCE COMMENTS

There were no audience comments.

COMMENTS OF THE STAFF

Staff had no comments.

COMMENTS OF THE COUNCILMEMBER

There were no Councilmember comments.

COMMENTS OF THE CHAIR

Chair Roberts had no comments.

COMMENTS OF THE COMMITTEE MEMBERS

Mr. Smith said it is exciting to be working on modeled extensions and nice to have movement.

Mrs. Venuti thanked Chair Roberts for her work on the resolution and she is enjoying gaining knowledge on how things go forth.

Ms. Highland said it is interesting to realize the complexity of transportation issues in our town.

ADJOURN

There being no more business to come before the Committee the meeting adjourned at 6:49 p.m. The next regular meeting is scheduled for February 21, 2011 at 5:30 p.m. in the City Hall Cowles Council Chambers.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____

William J. Marley of Dell Group
183 West Bayview Ave.
Homer, Ak 99603
(907)-235-8987
wmarley@mac.com

May 8, 2012

Chairman Transportation Committee,
Ms Franci Roberts and Committee Members
Economic Development Committee
City of Homer
Homer, Alaska 99603

Re: Homer Ocean Park

Dear Chairman Roberts and Committee Members;

Great communities have great parks.

Three of us who are owners of the "Dell" property wish to propose the said property as the most scenic and visible park potential in all of the area.

The Dell property consists of a total of 31.3 acres with of that 12.3 acres estimated uplands on the Sterling Highway. Kenai Peninsula Borough Parcel Nos.: 175-100-53 & adjoining 175-082-33. The combined beach front area is 2,300 feet (est.) and

the highway frontage is 1400 feet (est.). The Dell property is by far the largest piece of land that approximates both the highway and the beach.

The proposed, presently called the “Homer Ocean Park” rests at the base of the truly world class scenic drive into Homer. Its development would provide a natural scenic view of the ocean yet from a natural landscape. It would provide a very positive punctuation point to the end of the road concept of which we are. In fact another name could be Punctuation Park because the location of this park would be at the bottom of the drive into Homer yet the beginning of the entrance to Homer proper and would give new visitors their first impression of us and our community as well as cause us all to have a continuing positive self image of ourselves. Most of us pass this land on a quite frequent basis and this land would indeed be an art image of who we are what we stand for.

The location of the park would be such that with a conceived ramp down to the beach it could then provide for beach access to the trail system beginning at Bishops Beach.

Being at a near sea level yet averaging about 100 feet above sea level it also would provide for

significant tsunami protection and would there for have some strategic value to be owned by the City if ever such a terrible event occurred.

While the final design of the park would rest in the hands of the Parks and Recreation Committee and the City Council some potential park uses are as follows:

A year round performing arts center. In all deference to the Spit area the in-clement winter time weather does not lend itself at all to community activities.

Tennis courts.

Walking trails.

Pavilions for family and group picnics.

Observation stations to appreciate the ocean and wild life. The bluff area is a noted fly way for birds. Bald Eagles regularly cruise the beach. Seals, sea otters and water fowl can often be seen just off of the beaches.

Beach access to the community trail system as well as the extended beach along the property.


An outdoor native appreciation area.

With sewer and water to the property facilities requiring such as rest rooms and water to pavilions can be provided.

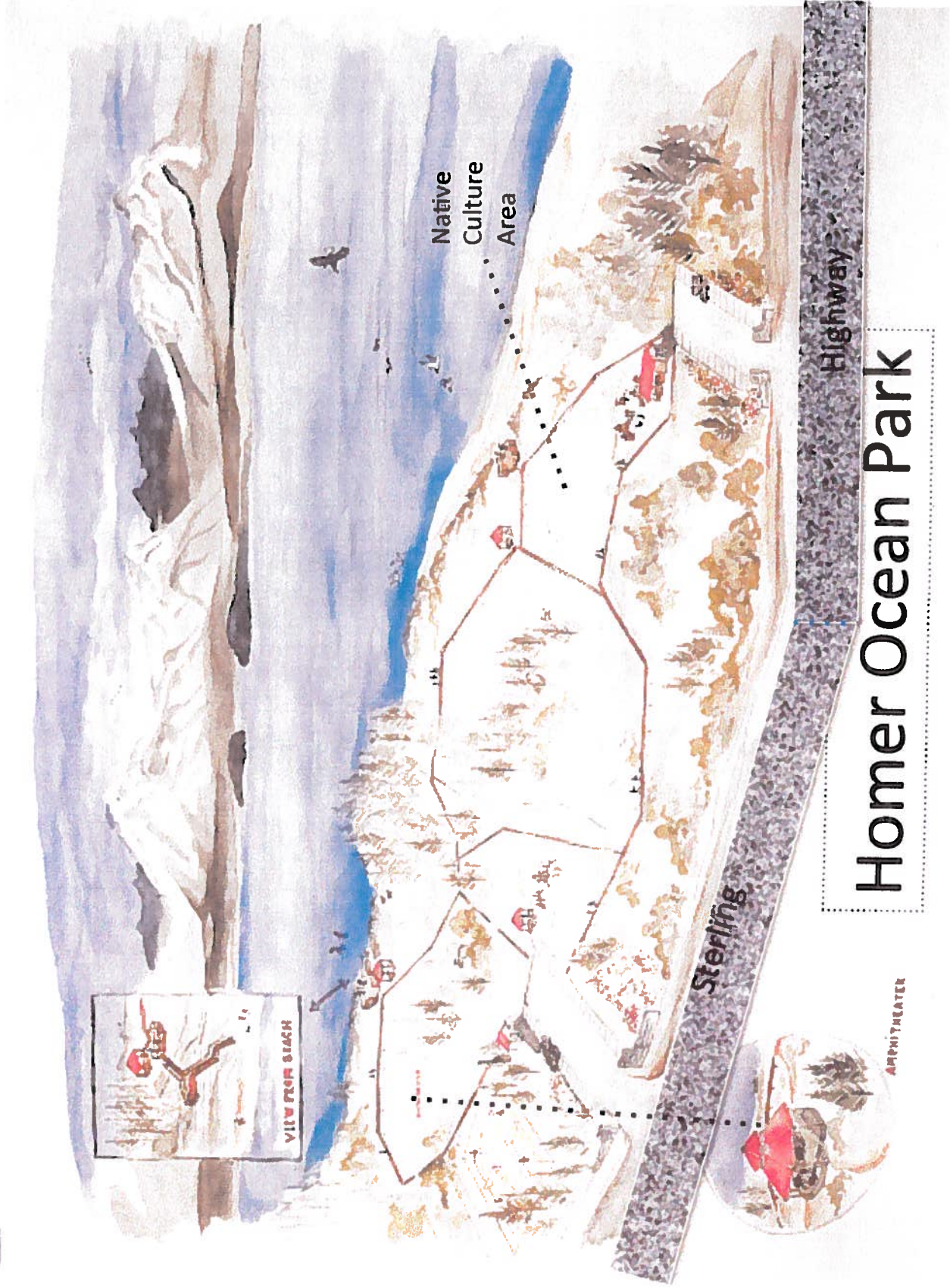
Proposed sale of the entire 31.3 acres of land is \$3,750,000. A final appraisal will no doubt be less than this in todays market.

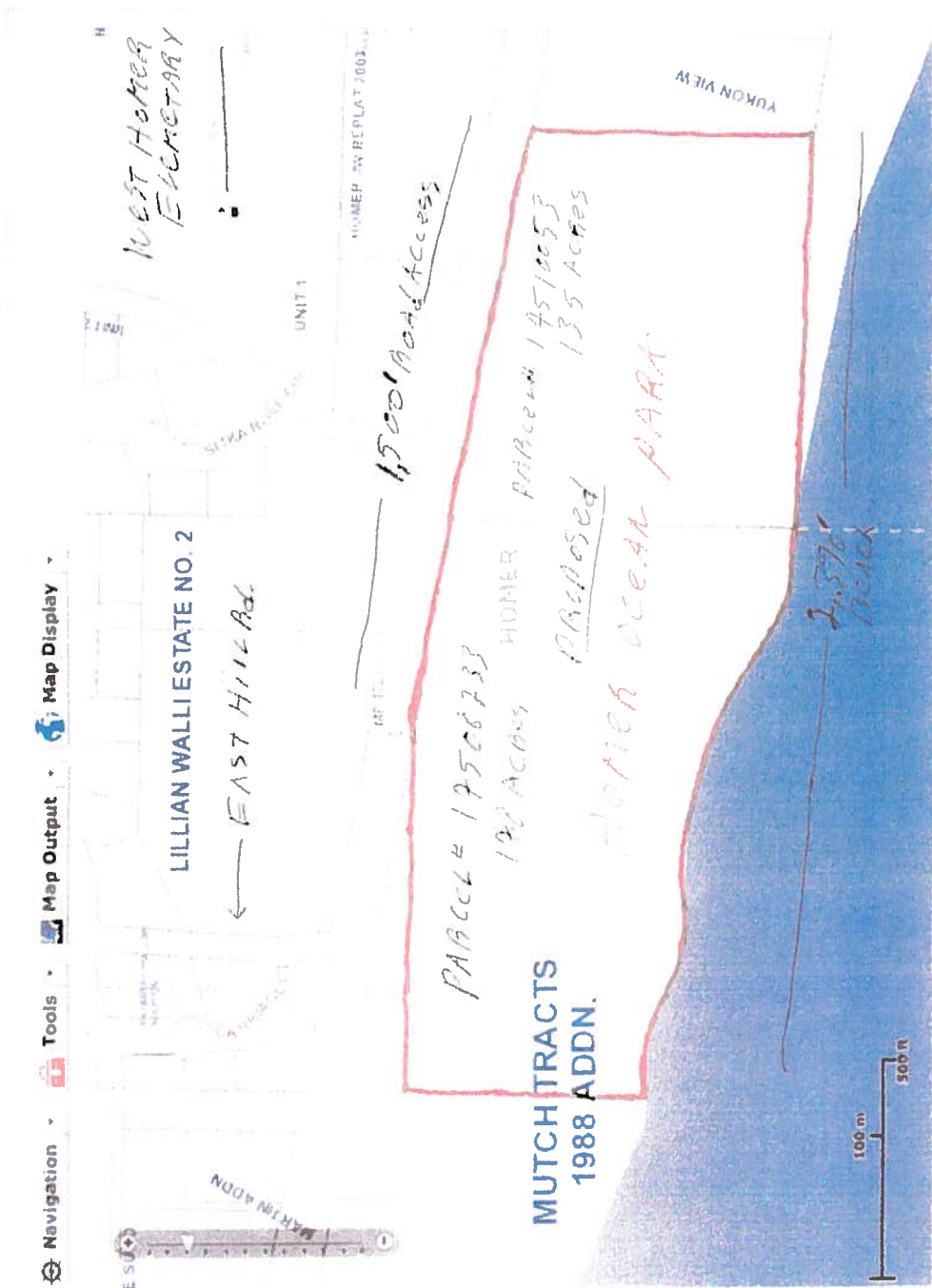
This has to be the most glowing promotional letter I have ever written. But I would be very proud to have future generations enjoy and appreciate this park and I am consequently proud to submit the proposal.

Respectfully submitted:



William J. Marley





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**CITY OF HOMER
HOMER, ALASKA**

Roberts/ Transportation
Advisory Committee

RESOLUTION 11-106

A RESOLUTION OF THE HOMER CITY COUNCIL
DIRECTING THE CITY MANAGER TO DEVELOP A
BUDGET, SCOPE, AND SCHEDULE FOR THE WADDELL
WAY ROAD IMPROVEMENT PROJECT.

WHEREAS, The Transportation Advisory Committee is tasked with advising the Homer City Council on transportation issues; and

WHEREAS, Homer Accelerated Roads and Trails Program (HART) funding has been designated by voters to be utilized for road improvement; and

WHEREAS, No road Local Improvement District (LID) has been completed in the past four years; and

WHEREAS, The Homer City Council has approved the 2005 Homer Area Transportation Plan; and

WHEREAS, The Transportation Plan includes modeled road extensions; and

WHEREAS, Waddell Way between Lake Street and Heath Street is one of the modeled extensions; and

WHEREAS, There is adequate funding in the HART account to complete this modeled road improvement.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council authorizes the City Manager to develop a budget, scope, and schedule for the Waddell Way road improvement project.

PASSED AND ADOPTED by the Homer City Council this 28th day of November, 2011.

CITY OF HOMER


MARY E. WYTHE, MAYOR PRO TEMPORE

ATTEST:


JOHNSON, CMC, CITY CLERK

Fiscal Note: To be determined.

1 CITY OF HOMER
2 HOMER, ALASKA

3 Zak/Lewis/Parks and
4 Recreation Advisory Commission

5 RESOLUTION 11-090(S)
6

7 A RESOLUTION OF THE CITY COUNCIL OF HOMER,
8 ALASKA, SUPPORTING ~~THE CONCEPT AND~~
9 CONSTRUCTION OF A NON-MOTORIZED PATHWAYS TO
10 INCREASE ~~THE~~ SAFETY FOR MOTORIZED AND NON-
11 MOTORIZED USERS ALONG KACHEMAK DRIVE
12 LOCATED WITHIN THE HOMER CITY LIMITS, FROM THE
13 BASE OF THE HOMER SPIT TO EAST END ROAD.
14

15 WHEREAS, The Parks and Recreation Advisory Commission established a the
16 Kachemak Drive Path Ceommittee to specifically address possible solutions to the hazards
17 presented to non-motorized and motorized users of Kachemak Drive; and
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19 WHEREAS, The Kachemak Drive Path Committee received substantial public
20 input on safety concerns; and
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22 WHEREAS, The Homer City Council has shown support for this non-motorized
23 pathway by in approval of the Homer Non-Motorized Transportation and Trail Plan, Homer
24 Area Transportation Plan, Climate Action Plan, HART Policy Manual and inclusion of the
25 Kachemak Drive Rehabilitation/Pathway on the Capital Improvement Plan; and approving the
26 Homer Non-Motorized Transportation and Trail Plan; the Homer Area Transportation
27 Plan; the Climate Action Plan; and the Homer Accelerated Roads and Trails (HART)
28 Policy Manual; and
29

30 WHEREAS, Increasing active transportation, motorized and non-motorized
31 transportation, offers the potential for improved improves public health and safety,
32 encourages tourism, economic development, a cleaner cleans the environment, reduceds
33 transportation costs, and enhanceds community connections, social equity, and more livable
34 communities; and
35

36 WHEREAS, The City of Homer has available HART trail funds that can, including
37 other sources, form a basis for funding this project; and
38

39 WHEREAS, Utility easements can be employed with the permission of property
40 owners.
41

42 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska,
43 hereby supports the ~~concept and~~ construction of the non-motorized pathways along Kachemak
44 Drive ~~in, over, and upon property~~ within the City of Homer, and that said ~~improvements are~~
45 ~~necessary for the use~~ will enhance safety and benefit of the public; and
46

47 BE IT FURTHER RESOLVED that the City Council of Homer, Alaska, further supports
48 the actions increasing the safety for motorized and non-motorized users along Kachemak Drive
49 in any or all of the following ways:

- 50 - ~~Alteration of the existing Kachemak Drive and Shoulder~~
- 51 - ~~Separated Paths paralleling Kachemak Drive using the Utility Easements~~
- 52 - ~~Lowering the Speed Limit~~
- 53 - ~~Increasing the Use of Signage~~

- 54
- 55 **1. Increasing the usage of signage warning drivers of bicycles and pedestrians on**
- 56 **roadway.**
- 57 **2. Building a separated path paralleling Kachemak Drive using utility easements and**
- 58 **public property.**

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60 PASSED AND ADOPTED by the Homer City Council this 23rd day of April, 2012.

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62 CITY OF HOMER

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66 JAMES C. HORNADAY, MAYOR

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69 ATTEST:
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73 JO JOHNSON, CMC, CITY CLERK

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76 Fiscal Information: Funding not defined.
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MANAGERS REPORT

April 23, 2012

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

NATURAL GAS UPDATE

This Legislative capital budget this year once again contains funding for construction of a natural gas transmission line from Anchor Point to Homer. As some of you know, it was a wild and bumpy ride getting there, to say the least. The Legislative grant funding will come to the City of Homer and the amount is \$8.15 Million. Combined with the \$2.5 Million local match, (raised through the \$1.00 per mcf tariff increase), this will be enough to construct the project.

We are optimistic that the Governor will not veto this line item again. I say that for several reasons. First, he has stated in a letter to the Mayor, in a press interview, and in other conversations, that he was pleased with Homer's willingness to contribute to the cost of the transmission line and its progress in planning for the distribution system. Second, he has stated that he is unlikely to veto many projects, if any this year, because the Legislature stayed within the agreed upon budget caps. So, hold on Homer. It looks like getting natural gas to the area is much closer than it ever has been before. If the Governor does not veto this item, construction work could start as early as this fall.

Now is the time to really focus on whether the City Council wants to participate and provide financing for the local distribution system. Anchor Point and Kachemak City have already decided to do so. The Borough has established a 200 plus lot LID in Anchor Point and there is discussion about more.

We have talked about this issue in workshops and last year a special committee discussed the topic but did not make specific recommendations. Council has adopted several ordinances that put the City into position to accept gas utility line construction and to finance construction if it chooses. The next big decision, and it is becoming increasingly urgent, is if and how the Council will provide financial assistance to its businesses and residences so that they can hook up quickly. If the Council decides to move ahead with an LID or other financing strategy, the goal would be to have it approved and in place by this fall so that cost estimates will be locked in place and Enstar can make construction plans for the 2013 construction season.

Attached is a copy of a memorandum that I prepared for the workshop we had back in February. Since that time, there have been a number of new developments. They include:

- Enstar has provided cost estimates for three separate build-out scenarios. One is for the “core area”, one for the entire City limits, and one for the core area plus a loop that includes West Hill Road, Skyline Drive, and East Hill Road.
- The City Attorney has determined that lots which front the main transmission line being financed by the State cannot be included in an LID. This is important because there are many such lots and the street main construction costs will be borne by the other properties in the LID. This will drive up the cost per lot from prior estimates.
- The Legislature adopted SB 25. This bill allows AIDEA to provide direct loans for gas pipeline construction and it may provide an alternative source of low interest loans for the distribution system, potentially saving lots of money in bond closing costs and interest payments.
- The Economic Development Commission recently adopted a motion recommending that the Council finance construction of the distribution system using an LID and that the LID encompass the entire town.

Suggested Course of Action:

Step 1. Workshop: The first thing the Council must decide is whether it wants to provide financing for construction of the distribution system. If the answer is yes, then the next question is how. For example, it could simply make LIDs available to any area that wants to petition for them. Or, it could initiate an LID on its own that encompassed the core area or the entire town (or some other variation). There is a lot of information that would need to be considered in making this decision (maps, cost estimates, amortization schedules, etc.). That is why I suggest a workshop first, so that the Council can have as much information available to it as possible before making decisions. This workshop should be widely advertised and perhaps a public hearing might be added to the regular meeting agenda.

Step 2. Initiate an LID under HCC 17.04.040. There are advantages to the Council initiating an LID rather than waiting for individual neighborhoods to get organized. If the Council adopted a resolution initiating an LID under HCC 17.04.040, it would set in motion a whole chain of events including community meetings, development of a specific improvement plan, public hearings, more votes by the Council and so on. The ordinance would be followed from that point on.

I look forward to discussing this issue during the Manager’s Report and perhaps during the Committee of the Whole, if there is time.

ATTACHMENTS

1. February 6 Memorandum
2. Ordinance 12-15

Acting City Manager's Report
May 14, 2012

As the City Manager is utilizing some much deserved leave time he suggested that I take this opportunity to provide a short report on the status of the Homer Volunteer Fire Department. This year marks the 60th Anniversary of the Department which was founded in 1952 (incorporated at a non-profit in 1954), predating the establishment of the City of Homer by some 12 years. The Department has a long and proud history of providing fire protection and ambulance services to the citizens of Homer and the surrounding areas. Our members, including the 5 paid staff and some 46 volunteers provide a wide range of services to the community beyond simply extinguishing fires and taking those in need to the hospital for treatment. We provide hundreds of hours each year presenting fire and injury prevention programs to various groups; we oversee the Open Burn Permitting program within the City of Homer; we take blood pressures for folks that drop by the station when requested by their care providers; we function as the City's Emergency Management Agency and house the City's Emergency Operations Center and coordinate the development and revisions of the Emergency Operating Plans (EOP) and All Hazard Disaster Mitigation Plans; we provide CPR and other training to city employees so that they can take care of folks until the ambulance arrives (we were the first city in Alaska to have Automated External Defibrillators in police cars); and we act as ambassadors of good will for the folks that drop by the fire station to trade fire department patches or ask questions about almost anything, all on top of training and responding to every manner of emergency.

In 2011 the Homer Volunteer Fire Department responded to 513 requests for assistance including: 438 ambulance calls; 15 structure fires; 11 wildland fires; 8 vehicle fires; 4 rescue calls and 37 "public assist" calls for some accumulated 2,210 hours of actual service by our members. In addition we conducted a myriad number of training classes for our members totaling over 3,439 "man" hours. We don't even attempt to track the countless hours our members are simply available for call both on their assigned week-long shifts or not (all large fire and EMS calls are what we term as "all call" meaning that any and all available members should respond).

Like many departments within the City we are providing the best services we can while staying within budget and strive to make every dollar we get from the taxpayers go as far as it can but our facility and fleet are aging. While our first out fire engine and ambulance are relatively new and top of the line we have two fire apparatus that are well past recommended time to either retire and replace or refurbish (a 1984 Engine/Pumper and a 1989 Tanker/Pumper). We also have a 1990 F-350 that functions as our only wildland/brush truck that is seriously overloaded and needing to be replaced. Our station (constructed by the volunteer corporation in 1980 and upgraded in 1997 by the City) is also in need of expanding or replacing (was on the City CIP list for many, many years until removed due to lack of potential funding). The fire department vehicles are all currently on the CIP list for funding and we are seeking state grant funding to possibly replace our oldest ambulance next year. The Department has been very fortunate over the last ten years or so in securing federal and state legislative funding. We replaced one ambulance and our 35 Self Contained Breathing Apparatus

(SCBA) through legislative funding and our large breathing air compressor and live-burn training systems through the Assistance to Firefighters Grants.

As busy as we are for a small, mostly volunteer Fire Department we would like to be able to expand our services to include a Fire Marshal's Office/Building Official to be able to conduct local commercial building plan approval and routine fire inspections of commercial occupancies. Currently, as a non-deferred jurisdiction, those responsibilities fall to the State Fire Marshal's Office in Anchorage. With only a handful of plan reviewers and inspectors for all of south central Alaska they don't have the time or ability to inspect every commercial building within this large area. We are the only municipality on the Kenai Peninsula that is not deferred (meaning we cannot conduct our own plan reviews and inspections). While this would require an additional employee trained to conduct plan reviews and inspections we feel that much of that cost could be re-captured in the collection of plan review fees currently being charged by the State Fire Marshal's Office.

1 CITY OF HOMER
2 HOMER, ALASKA

Lewis/City Manager

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4 ORDINANCE 12-15
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6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 REPEALING AND REENACTING HCC CHAPTER 17.04 REGARDING
8 SPECIAL ASSESSMENT DISTRICTS.
9

10 WHEREAS, The City of Homer enacted HCC 17.04, regarding special assessments, in
11 1987; and
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13 WHEREAS, In the years following the adoption of HCC 17.04, the City has found the
14 procedures under this code chapter to be cumbersome and difficult for the public to understand;
15 and
16

17 WHEREAS, It also is necessary to revise HCC Chapter 17.04 to accommodate the
18 financing of a wider range of projects, including infrastructure of privately owned utilities.
19

20 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
21

22 Section 1. HCC Chapter 17.04, Special Assessment Districts, is repealed and reenacted
23 to read as follows:
24

25 Chapter 17.04
26

27 SPECIAL ASSESSMENT DISTRICTS
28

29 Sections:

- 30 17.04.010 Definitions.
31 17.04.020 Purpose of chapter.
32 17.04.030 Assessment authority.
33 17.04.040 Initiation of district.
34 17.04.050 Creation of district.
35 17.04.060 Contract award; Approval of increased costs.
36 17.04.070 Assessment roll.
37 17.04.080 Certification of assessment roll.
38 17.04.090 Payment.
39 17.04.100 Subdivision after levy of assessments.
40 17.04.110 Assessments to be liens.
41 17.04.120 Reassessment.
42 17.04.130 Objection and appeal.
43 17.04.140 Interim financing.
44 17.04.150 Special assessment bonds.
45 17.04.160 Time limit for special assessment districts.
46 17.04.170 Water and sewer connections required.

47 17.04.180 Road improvement assessments for lots with two street frontages.

48 17.04.190 Deferment of assessment payments for senior citizens.

49 17.04.200 "In lieu of assessment".

50

51 17.04.010 Definitions. In this chapter:

52 a. "Cost" means all expenses incurred by the city for an improvement, including
53 without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees,
54 costs of property acquisition, payments to construction contractors, costs of interim and long-
55 term financing of the improvement, including costs of issuing bonds and notes, and city
56 administrative costs.

57 b. "District" means a special assessment district created under this chapter.

58 c. "Improvement" means a capital improvement, including without limitation streets,
59 sidewalks, alleys and bridges; street lighting; drainage and flood control facilities; sanitary
60 sewage collection and treatment facilities; water supply and distribution facilities; natural gas
61 distribution facilities; and parks, playgrounds, public squares and open space.

62 d. "Record owner" means the person in whose name real property is listed on the
63 property tax roll prepared by the Kenai Peninsula Borough.

64

65 17.04.020 Purpose of chapter. a. A special assessment district may be created for the
66 purpose of acquiring, installing or constructing a capital improvement that primarily benefits real
67 property in the district, in contrast to capital improvements that benefit the entire community and
68 are paid for with general government resources.

69 b. The purpose of this chapter is to prescribe the procedure for initiating a special
70 assessment district, authorizing an improvement in a special assessment district, approving and
71 levying special assessments, payment of special assessments, and the authorization of special
72 assessment bonds, for public information and administrative guidance.

73

74 17.04.030 Assessment authority. a. The city may assess all or part of the cost of a capital
75 improvement against real property benefited by the improvement, whether the property is
76 privately or governmentally owned, including real property that is exempt from taxation.

77 b. A capital improvement that is provided through a special assessment district may
78 be owned by the city, a public utility, or another entity that is qualified to own and operate the
79 capital improvement.

80

81 17.04.040 Initiation of district. a. A special assessment district may be initiated by:

82 1. Resolution approved by a vote of not less than three-fourths of the council;

83 or

84 2. Petition signatures of the record owners of not less than one half in value
85 of the real property in the proposed district received by the city clerk within 60 days after
86 the mailing of the petition to record owners of property in the proposed district. Upon
87 payment of the nonrefundable filing fee in the city fee schedule established by resolution
88 of the council, the city clerk shall prepare a petition for distribution by certified mail to
89 all record owners of property in the proposed district that contains:

90 i. A statement that it is a petition to form a special assessment
91 district, and describing the capital improvement for which the district is proposed;

92 ii. For each property in the proposed district, the Kenai Peninsula
93 Borough tax parcel number and property description, the name and mailing
94 address of the record owner, the current assessed value, and a place for the record
95 owner's signature; and

96 iii. A statement that to support initiation of the proposed district, the
97 record owner must sign and return the petition to the city clerk within 60 days
98 after the date the petition was mailed

99 b. Upon adoption of a resolution initiating a special assessment district, or the city
100 clerk's verification that a petition to initiate a district bears sufficient signatures, the city clerk
101 shall

102 1. Schedule a meeting of record owners of real property in the proposed
103 district, notify the record owners by mail of the date, time and location of the meeting,
104 and include a copy of the notice in the city's regular meeting advertisement, and

105 2. Refer the proposed district to the city manager, who shall prepare an
106 improvement plan for the district that includes final boundaries for the district, the design
107 of the proposed improvement, a cost estimate for the improvement, the percentage of the
108 improvement cost to be assessed against properties in the district, a method for allocating
109 the assessed cost of the improvement among the properties in the district, the time period
110 over which assessments will be financed, and a preliminary assessment roll for the
111 district.

112
113 17.04.050 Creation of district. a. Upon completion of an improvement plan under HCC
114 §17.04.040, the city clerk shall set a time for a public hearing on the necessity of the
115 improvement and proposed improvement plan. Notice of the hearing shall be published at least
116 twice in a newspaper of general circulation in the city, and mailed via certified mail to every
117 record owner of real property in the proposed district not less than 60 days before the hearing.

118 b. A record owner of real property in the proposed district may file a written
119 objection to the improvement plan with the city clerk no later than the day before the date of the
120 public hearing on the improvement plan. If owners of real property that would bear 50 percent
121 or more of the assessed cost of the improvement file timely written objections, the council may
122 not proceed with the improvement unless it revises the improvement plan to reduce the assessed
123 cost of the improvement that is borne by objecting record owners to less than 50 percent of the
124 assessed cost of the improvement. If the resolution changes the district boundary in the
125 improvement plan, the city clerk shall notify all record owners of property included in the district
126 under the improvement plan of the change.

127 c. At the noticed date and time, the council shall hold a public hearing on the
128 necessity of the improvement and proposed improvement plan. After the public hearing, the
129 council shall act upon a resolution determining to proceed with the proposed improvement. The
130 resolution shall find that the improvement is necessary, of benefit to the properties to be
131 assessed, and if the district is initiated by petition, that the petition is in proper form and bears
132 sufficient signatures. The findings of the council are conclusive. The resolution shall contain a
133 description of the improvement, the estimated cost of the improvement, the percentage of the
134 cost to be assessed against the properties in the district, and a description of the properties to be
135 assessed.

136 d. If the owners of 100 percent of the real property in the proposed district waive in
137 writing the notice, protest period and public hearing required under this section, the question of
138 creating the district may be submitted to the council without such notice, protest period or public
139 hearing.

140
141 17.04.060 Contract; Approval of increased costs. a. After a special assessment district
142 has been created, the city shall contract for the construction of the improvement. If the city will
143 own the improvement, it shall solicit bids for construction of the improvement. If the city will
144 not own the improvement, it shall contract with the owner of the improvement to provide for its
145 construction.

146 b. If the cost of constructing the improvement will exceed 115 percent of the
147 estimated cost of construction of the improvement in the improvement plan, the city shall not
148 contract for the construction of the improvement without first:

149 1. Notifying all record owners of property in the district via certified mail of
150 the increased cost, and

151 2. Within 30 days after the mailing of notice of the increased cost to record
152 owners of property in the district, receiving written objections from record owners of
153 property that would bear less than one-half of the cost of the improvement.

154 c. If record owners of property that would bear one-half or more of the cost of the
155 improvement object in writing to the increased cost, the city will not contract to construct the
156 improvement. The council either may levy assessments in the district in an amount sufficient to
157 recover costs incurred for preliminary design and engineering services, or determine that the city
158 shall assume such costs.

159
160 17.04.070 Assessment roll. a. After completion of the improvement the council shall
161 assess costs of the improvement by a method that the council determines will assess each
162 property in the district in proportion to the benefit that it receives from the improvement.

163 b. The city shall prepare an assessment roll stating for each property in the district
164 the name and address of the record owner, Kenai Peninsula Borough parcel number, a
165 description of the property, the amount assessed against the property, and the assessed value of
166 the property as determined by the Borough Assessor.

167 c. Each property in the district shall be identified and assessed on the assessment roll
168 in accordance with the legal description of the property at the time the council certifies the
169 assessment roll; except that where assessments are in an equal amount per parcel (i.e., without
170 regard to parcel area, dimension or other characteristic), a property that was created by
171 combining parcels after the public hearing under HCC §17.040.050(c) shall be assessed that
172 amount multiplied by the number of parcels that comprised the property at the time of the public
173 hearing.

174 d. The council shall fix a time to hear objections to the assessment roll. Not less than
175 fifteen days before the hearing, the city clerk shall send notice of the hearing and assessment roll
176 by certified mail to each record owner of an assessed property, and publish notice of the hearing
177 in a newspaper of general circulation in the city.

178
179 17.04.080 Certification of assessment roll. After the hearing the council shall correct any
180 errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be

181 set and notice published, except that a new hearing and notice is not required if all record owners
182 of property subject to the increased assessment consent in writing to the increase. Objection to
183 the increased assessment shall be limited to record owners of properties whose assessments were
184 increased. When the assessment roll is corrected, the council shall confirm the assessment roll by
185 resolution. The city clerk shall record the resolution and confirmed assessment roll with the
186 district recorder.

187
188 17.04.090 Payment. a. In the resolution confirming the assessment roll, the council shall
189 fix the time or times when assessments or assessment installments are due, the amount of penalty
190 on a delinquent payment and the rate of interest on the unpaid balance of an assessment. An
191 assessment that is to be paid in a single payment shall not be due before 60 days after billing.

192 b. Within 30 days after fixing the time when payment of the assessments is due, the
193 finance director shall mail a statement to the record owner of each assessed property identifying
194 the property and stating the assessment amount, the payment due date and the amount of the
195 penalty on a delinquent payment. Within five days after mailing the statements, the finance
196 director shall publish notice of mailing the statements in a newspaper of general circulation in
197 the city.

198
199 17.04.100 Subdivision after levy of assessments. a. Except as provided in subsection (b)
200 of this section, upon the subdivision of a property assessed as a single parcel, the amount of the
201 assessment shall be allocated among the resulting lots that benefit from the improvement on the
202 same basis that the assessment originally was allocated.

203 b. Upon the subdivision of a property assessed as a single parcel in an assessment
204 district where assessments were levied in an equal amount per parcel (i.e., without regard to
205 parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that
206 contains the original connection to the improvement for which the assessment was levied, may
207 connect to the improvement until a subdivided property connection fee is paid for the parcel.

208 1. The amount of the connection fee shall be equal to the amount of the
209 original assessment, adjusted up or down by a percentage equal to the change in the
210 Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the
211 end of the calendar year preceding the original assessment date to the end of the calendar
212 year preceding the date the parcel is connected to the improvement.

213 2. If the original assessment was payable in installments the city may enter
214 into a written agreement for the payment of the connection fee in installments on terms
215 that are substantially the same as those authorized for the payment of the original
216 assessment, secured by a deed of trust on the parcel.

217 3. Upon receiving connection fee payments, the city shall allocate such
218 payments to each property assessed in the district in proportion to the amount originally
219 assessed against the property, either by adjusting the original assessment amount or
220 disbursing a payment to the record owner at the time of disbursement.

221
222 17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and
223 are prior and paramount to all liens except those having priority under State law. They shall be
224 enforced in the same manner as property tax liens.
225

226 17.04.120 Reassessment. a. The City Council shall within one year correct any
227 deficiency in a special assessment found by a court, under the procedure for certification of the
228 assessment roll in HCC §§17.04.070 and 17.04.080.

229 b. Payments on the initial assessment are credited to the property upon reassessment.
230 The reassessment becomes a charge upon the property notwithstanding failure to comply with
231 any provision of the assessment procedure.

232
233 17.04.130 Objection and appeal. a. The regularity or validity of an assessment may not
234 be contested by a person who did not file with the city clerk a written objection to the assessment
235 roll before its confirmation. The decision of the council on the objection may be appealed to
236 the superior court within 30 days after the date of confirmation of the assessment roll.

237 b. If no objection is filed or appeal taken within the time provided in this section, the
238 assessment procedure shall be considered regular and valid in all respects.

239
240 17.04.140 Interim financing. a. The council may provide by resolution or ordinance for
241 the issuance of notes to pay the costs of an improvement that shall be payable from the special
242 assessments for the improvement. The notes shall bear interest at a rate or rates authorized by
243 the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement
244 project.

245 b. Notes issued against assessments shall be claims against the assessments that are
246 prior and superior to a right, lien or claim of a surety on the bond given to the city to secure the
247 performance of the contract for construction of the improvement, or to secure the payment of
248 persons who have performed work or furnished materials under the contract.

249 c. The finance director may accept notes against special assessments on conditions
250 prescribed by the council in payment of:

- 251 1. Assessments against which the notes were issued in order of priority;
252 2. Judgments rendered against property owners who have become delinquent
253 in the payment of assessments; and
254 3. Certificates of purchase when property has been sold under execution or at
255 tax sale for failure to pay the assessments.

256
257 17.04.150 Special assessment bonds. a. The council by ordinance may authorize the
258 issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in
259 a special assessment district. The principal and interest of the bonds shall be payable solely from
260 the special assessments levied against property in the district. The assessment shall constitute a
261 sinking fund for the payment of principal and interest on the bonds. The benefitted property may
262 be pledged by the council to secure payment of the bonds.

263 b. On default in a payment due on a special assessment bond, a bondholder may
264 enforce payment of principal, interest, and costs of collection in a civil action in the same manner
265 and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
266 shall be against all property on which assessments are in default. The period for redemption is
267 the same as for a mortgage foreclosure on real property.

268 c. Before the council may issue special assessment bonds, it shall establish a
269 guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in
270 meeting payments of principal and interest on bonds if the reason for the deficiency is

271 nonpayment of assessments when due. Money received from actions taken against property for
272 nonpayment of assessments shall be credited to the guarantee fund.

273
274 17.04.160 Time limit for special assessment districts. If five or more years elapse
275 between the creation of a special assessment district and the city contracting for construction of
276 the improvement, the city may not enter into the contract unless the council by resolution extends
277 the period for entering into the contract by not more than an additional five years.

278 b. Before the council acts on a resolution under subsection (a) of this section, the
279 city clerk shall mail notice of the resolution to each current record owner of property listed on
280 the preliminary assessment roll that the city will not contract for construction of the improvement
281 in the district unless the resolution is adopted. The notice also shall include an updated copy of
282 the preliminary assessment roll.

283
284 17.04.170 Water and sewer connections required. The owner of property in a water or
285 sewer special assessment district that contains an occupied building shall connect to the
286 improvement constructed in the district within one year after the date that the resolution
287 confirming the assessment roll for the district becomes final.

288
289 17.04.180 Road improvement assessments for lots with two street frontages. a. The
290 record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for
291 road improvements that is based on frontage on a road to which the lot does not have access. To
292 obtain the deferment, the owner shall enter into a deferred assessment agreement with the city
293 before the end of the period for filing objections to the district under HCC §17.04.050. The
294 agreement shall provide that the lot has frontage on two streets, to only one of which the lot has
295 access; that the lot owner shall pay the part of the assessment that is based on frontage on the
296 street to which the lot has access; and that the owner shall pay the part of the assessment that is
297 based on the other street frontage when the lot acquires access to the street from that frontage.
298 The agreement shall be recorded with the district recorder's office.

299 b. The assessment for road improvements against a corner lot shall be based only on
300 the longer of the lot's road frontages.

301
302 17.04.190 Deferment of assessment payments for senior citizens. a. A person may obtain
303 a deferment of assessment payments under this section if the person:

304 1. Will be at least 62 years of age within 12 months after the date of
305 confirmation of the assessment roll;

306 2. Has an annual family income that would qualify under the United States
307 Department of Housing and Urban Development designation of lower income families
308 adjusted for Alaska and the Kenai-Cook Inlet Region;

309 3. Owns or has a life tenancy in the assessed property, and permanently
310 resides in a single family dwelling on the property; and

311 4. Is not determined by the city, after notice and hearing, to have been
312 conveyed the property primarily for the purpose of obtaining the exemption.

313 b. An assessment payment deferment is subject to approval by the council. A person
314 seeking deferment of an assessment payment shall file a written application with the finance
315 director on or before the first payment is due, supported by documentation showing that the

316 applicant meets the criteria in subsection (a) of this section. A person receiving an assessment
317 payment deferment must file with the city by April 15th of each subsequent year a new
318 application proving eligibility as of January 1st of that year in order to retain the exemption.
319 Within the same year the city for good cause shown may waive the claimant's failure to make
320 timely application and approve the application as if timely filed.

321 c. Assessment payment deferments are subject to the availability of funds
322 appropriated for that purpose. An application for an assessment payment deferment shall be
323 submitted to the council with a report from the finance director as to the availability of funds to
324 appropriate for the deferment. Deferred assessments are funded from the following sources:

- 325 1. The appropriate utility operating fund for deferred water and sewer
326 assessment payments.
327 2. The accelerated roads program fund for deferred road improvement
328 assessment payments.

329 If funds for an assessment payment deferment are not available from the appropriate source, the
330 council may loan the necessary amount to the appropriate source from the general fund.

331 d. A person who receives an assessment payment deferment shall execute a deed of
332 trust on the property subject to assessment, together with a promissory note payable to the city
333 on demand, to secure the eventual payment of the deferred payment.

334 e. A deferred assessment payment shall be immediately due and payable upon the
335 earlier to occur of the following events:

- 336 1. The sale or lease of the assessed property; or
337 2. The death of both the deferred assessment applicant and the applicant's
338 surviving spouse, if any.

339
340 17.04.200 "In lieu of assessment". a. An "in lieu of assessment" must be paid for a
341 property to receive additional water or sewer service within or beyond the area within a local
342 improvement district.

343 b. An "in lieu of assessment" shall be computed on the actual cost of the additional
344 water or sewer service, and shall be paid in accordance with HCC §§17.04.090 and 17.04.100.

345 c. A property on which an "in lieu of assessment" for water or sewer service has
346 been levied in accordance with subsection (a) of this section nonetheless may be included in
347 special assessment district for the same service in the future date, and will be assessed in that
348 district. An amount not exceeding the lesser of (i) the amount of "in lieu of assessment" paid for
349 the property and (ii) the amount of the assessment levied on the property in the future special
350 assessment district shall be a credit against the amount of the assessment levied on the property
351 in the future special assessment district

352
353 Section 2. This Ordinance is of a permanent and general character and shall be included
354 in the City Code.

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ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 9th day of June 2012.



ATTEST

[Signature]
JO JOHNSON, CMC, CITY CLERK

YES: 6
NO: 0
ABSTAIN: 0
ABSENT: 0

First Reading: 3/27/12
Public Hearing: 4/09/12
Second Reading: 4/09/12
Effective Date: 4/10/12

Reviewed and approved as to form:

[Signature]
Walt E. Wrede, City Manager

Date: 5/11/12

CITY OF HOMER

[Signature]
JAMES C. HORNADAY, MAYOR

[Signature]
Thomas F. Klinkner, City Attorney

Date: 5-13-12

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-15

An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting HCC Chapter 17.04 Regarding Special Assessment Districts.

Sponsor: Lewis/City Manager

1. City Council Regular Meeting March 27, 2012 Introduction
 - a. Comparison Draft with HCC 17.04
 - b. HCC Chapter 17.04 Improvement Districts
 - c. Ordinance 12-14 (failed 3/12/12)
 - d. Comparison Draft with Ordinance 12-14

2. City Council Regular Meeting April 9, 2012 Public Hearing and Second Reading
 - a. Comparison Draft with HCC 17.04
 - b. HCC Chapter 17.04 Improvement Districts
 - c. Ordinance 12-14 (failed 3/12/12)
 - d. Comparison Draft with Ordinance 12-14

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager/
4 Public Works Director

5 ORDINANCE 12-13

6
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
8 ENACTING HOMER CITY CODE CHAPTER 11.24, UTILITY USE OF
9 RIGHTS-OF-WAY.

10
11 THE CITY OF HOMER ORDAINS:

12
13 Section 1. HCC Chapter 11.24, Utility Use of Rights-of-Way, is adopted to read as
14 follows:

15
16 Chapter 11.24

17
18 UTILITY USE OF RIGHTS-OF-WAY

19
20 Sections:

- 21
22 11.24.010 Definitions.
23 11.24.020 Permit to use right-of way required.
24 11.24.030 Assignment of utility locations in rights-of-way.
25 11.24.040 Relocation of utility facilities within the right-of way.
26 11.24.050 Costs of utility relocations to be reimbursed by the city.
27 11.24.060 Utility construction project permits.
28 11.24.070 Utility construction project permit requirements.
29 11.24.080 Standards for excavation activity.
30 11.24.090 Appeals.
31 11.24.100 Liability.

32
33 11.24.010 Definitions. In this chapter:

34 "Right-of-way" means any public street, alley or other public way that is not part of the
35 state highway system, but does not include a utility easement located on private property.

36 "Excavation" means the removal, carrying away, back-filling, tunneling, boring,
37 bulldozing, digging out, leveling, clearing, or moving of material underlying a right-of-way by
38 manual or mechanical means.

39 "Maintenance" means upkeep, repair or improvement work on an existing utility facility
40 that does not expand the area occupied by, or change the location of, the facility.

41 "RCA" means the Regulatory Commission of Alaska, or its predecessor, the Alaska
42 Public Utilities Commission.

43 "Roadway" means the improved driving surface in a right-of-way and all structural fill
44 below that surface that makes up the roadway prism.

45 "Road opening" means excavation within a roadway.

46 “Utility” means a person that is defined as a public utility in AS 42.05.990 that owns,
47 operates, manages, or controls any plant, pipeline or system furnishing electrical service,
48 telephone service, cable television service, natural or manufactured gas service, water service or
49 sewer service to the public for compensation.

50
51 11.24.020 Permit to use right-of way required. a. A utility may not maintain a facility in,
52 under or over a right-of-way for which it must obtain a utility construction project permit under
53 HCC 11.24.060 without first obtaining a permit to use the right-of-way under this section.

54 b. A utility applies to the public works department for a permit to use a right-of-way
55 on a form provided by the public works department, accompanied by the permit fee in the city
56 fee schedule established by resolution of the council.

57 c. The permit application shall include without limitation:

58 1. the utility’s written agreement to indemnify and save the city harmless
59 against any loss or damage caused by the negligence of the utility, its agents and
60 employees while constructing, operating or maintaining its facilities in, under or over the
61 right-of-way; and

62 2. Evidence of insurance coverage in a form acceptable to the city, with
63 limits not less than one million dollars per occurrence, to protect the city and third parties
64 against any loss or damages due to the negligence of the utility, its agents and employees
65 while constructing, operating and maintaining its facilities in, under or over right-of-way,
66 including hazards from pollution, underground work, explosion, collapse and damage to
67 underground wires, conduits, pipes and fittings.

68 d. In addition to requiring compliance with the other requirements of this chapter,
69 the city may make a utility right-of-way permit subject to reasonable conditions that it deems
70 necessary to protect the public health, safety, welfare and interests of the city.

71
72 11.24.030 Assignment of utility locations in rights-of-way. a. General. A utility shall
73 place new facilities, relocate existing facilities and replace existing facilities in a location
74 assigned by this section. It is the utility’s responsibility to place its facilities within a right-of-
75 way in accordance with this chapter, the Design Criteria Manual, and with a reasonable degree of
76 prudence to enable maximum opportunity for others to use the right-of-way without conflict,
77 including adequate allowances for the future construction of roads, storm sewers, sanitary sewers
78 and water mains in the right-of-way. Utilities governed by this section shall be installed
79 underground unless an exception has been granted by the public works department in accordance
80 with subsection (b) of this section, or HCC §22.10.055.

81 1. Telephone, electric and cable television utilities. Telephone, electric and
82 cable television distribution lines will be placed between the boundary of the right-of-
83 way and to six feet within the boundary of the right-of-way. A location farther within the
84 right-of-way must be approved by the public works department and noted on the permit.

85 2. Natural gas utilities. Natural gas utility distribution mains will be placed
86 between the boundary of the right-of-way and eight feet within the boundary of the right-
87 of-way. A location farther within the right-of-way must be approved by the public works
88 department and noted on the permit.

89 3. Burial depths. Underground utility lines shall be installed at minimum
90 depths of thirty-six inches for parallel runs within the right-of-way, and sixty inches for
91 all roadway crossings. The public works director may require different depths to

92 accommodate unusual topography or street widths, especially in areas where storm
93 drainage ditches are used along the roadway.

94 4. Incomplete right-of-way dedications. If only a portion of a right-of-way
95 has been dedicated, utility facilities shall not be placed along the side of the right-of-way
96 that is likely to be within the roadway after a dedication of additional adjacent right-of-
97 way. If a utility proposes to place facilities on the side of a partial right-of-way where
98 additional adjacent right-of-way is likely to be dedicated, the utility shall obtain
99 easements from the neighboring property owners so that its facilities will be located
100 outside the future roadway.

101 b. Exceptions to assigned utility locations.

102 1. If a utility finds it unreasonable to place its facilities as required by
103 subsection (a) of this section, it may apply to the public works department for an
104 exception, submitting at a minimum the following information:

105 i. A complete explanation of the reasons why the utility is requesting
106 an exception from its assigned location within the right-of-way; and

107 ii. Plans, drawings or sketches necessary to show the locations of
108 other existing utilities, problem areas such as rock or wetlands, and locations
109 where the utility is proposing to place its new facilities.

110 2. An application for an exception whose necessity becomes evident during
111 construction shall be deemed approved if not rejected or modified within four normal
112 working hours after receipt by the public works department. The utility is responsible for
113 determining whether the application for an exception has been approved, rejected or
114 modified.

115 3. This subsection shall not be interpreted or applied in a manner that would
116 permit an underground utility to be installed above ground.

117
118 11.24.040 Relocation of utility facilities within the right-of way. a. If the city or a third
119 party lawfully elects to change the grade or location of any road, street, public place or highway,
120 and the change will conflict with a utility facility, upon reasonable request and notice from the
121 city the utility shall relocate its facility, making every effort to accommodate the construction
122 schedule.

123 b. The city will reimburse the utility for facility relocation costs under the following
124 conditions:

125 1. The city requests the relocation for a city project or activity reflected in
126 the city's capital budget;

127 2. The relocation is necessitated by a disturbance to the utility's facilities
128 incident to the City constructing facilities or otherwise working in the right-of-way; or

129 The city requests the relocation in writing for the benefit of a third party, incident
130 to the third party constructing facilities or working in a right-of-way. This provision does
131 not affect any right that the city may have to recover costs of the relocation from the third
132 party.

133 c. Notwithstanding subsection (b) of this section, the utility shall pay the cost of
134 relocating its facilities where the relocation is made necessary by:

135 1. The failure of the utility to install the facilities in a reasonably prudent
136 manner;

137 2. The utility placed its facilities in the right-of-way after July 1, 1985
138 without first obtaining a permit from the city to do so, or the as-built location facilities
139 varies from the location approved in the permit;

140 3. Repairs by the city either to restore the right-of-way after an emergency,
141 or otherwise to reasonably maintain the serviceability of the right-of-way in the condition
142 existing when the utility first constructed its facilities; or

143 4. Any other circumstance where the RCA has determined such payment to
144 be reasonable.

145
146 11.24.050 Costs of utility relocations to be reimbursed by the city. a. Where HCC
147 §11.24.040 requires the City to pay costs of relocating utility facilities, the city shall reimburse
148 the utility for its reasonable cost of the relocation less a “credit” for the value of salvaged
149 materials and betterments resulting from the construction of new facilities.

150 b. The city reserves the right to audit books and accounts of a Utility to verify its
151 determination of reasonable costs for engineering, acquisition of rights-of-way or easements,
152 labor, material, equipment, overhead, salvaged materials, and betterment incidental to relocation
153 of the facilities for a term of six years after substantial completion of the construction project.

154 c. Overhead rates for a utility facility relocation project that is reimbursable by the
155 city shall be negotiated prior to commencement of work and shall not exceed overhead rates
156 approved for relocation projects reimbursed by the Alaska Department of Transportation and
157 Public Facilities. Utility equipment stationed at a project in a “standby capacity” will not be
158 expensed to relocation projects.

159 d. The City reserves the right to “offset” against a utility’s claim for reimbursement
160 of relocation costs for damages and delay claims it may incur for failure of the utility to perform
161 a relocation in a timely or acceptable manner.

162
163 11.24.060 Utility construction project permits. a. After securing a right-of-way use
164 permit under HCC §11.24.020, a utility shall obtain a permit from the public works department
165 before performing each individual road opening project or excavation within a right-of-way.

166 b. A utility need not obtain a construction project permit under this section for
167 normal maintenance of utility facilities within a right-of-way unless the maintenance work will
168 require an excavation in the roadway.

169 c. An application for a construction project permit shall be made upon a form
170 provided by the city, accompanied by the permit fee in the city fee schedule established by
171 resolution of the council, and shall include, at a minimum, the following information:

172 1. The name of the utility, its address, phone number, and contact person;

173 2. The name of any subcontractor working for the utility on the project, and
174 the subcontractor’s name, address, phone number, and contact person;

175 3. The name and location of the right-of-way in which the work is to be
176 performed;

177 4. The type of improvement or facility planned;

178 5. Plans, drawings or sketches showing the length, distance from the right-of-
179 way boundary and configuration of the improvement, and its relationship to the roadway
180 if one exists;

181 6. The proposed method of locating and marking of the boundaries of the
182 right-of-way for construction purposes;

183 7. Whether a detour of traffic will be necessary, and, if so, a traffic routing
184 narrative statement and plan as required by HCC §11.24.060; and

185 8. Any requested exceptions to assigned utility locations as prescribed by
186 HCC §11.24.030, with the supporting material required by that section.

187 c. The city shall review and grant or deny an application for a utility construction
188 project permit within three working days, if the proposed construction conforms to the standards,
189 terms and conditions in this chapter, and within ten working days if the proposed construction
190 does not conform to the standards, terms, and conditions in this chapter.

191
192 11.24.070 Utility construction project permit requirements. A utility construction project
193 permit shall conform to the following requirements:

194 a. The permit shall state the commencement and completion dates for construction,
195 and the procedure for any required road closure during the course of construction. A utility
196 should make every effort to comply with the schedule for construction in the permit, but it shall
197 not be penalized for failing to perform if emergency or other priority work preempts the
198 schedule. The utility shall notify the city in advance of any proposed schedule change arising
199 from utility exigencies.

200 b. The permit shall establish locations for utility facilities to assure compatibility
201 with all present and anticipated future uses of the right-of-way in which the utility facilities are
202 located, in accordance with the following general standards:

203 1. Utility facilities shall be located outside of the existing or anticipated
204 roadway whenever possible.

205 2. The location of the utility facilities shall allow for the safe and practical
206 maintenance and improvement of both the utility facilities and the roadway.

207 3. Surface utility facilities shall be set back from the existing or planned
208 roadway surface and shall be located so as not to create a visual obstruction or physical
209 obstacle contrary to codes or statutes regarding placement of obstacles in public rights-of-
210 way.

211 4. Both underground and surface facilities shall be offset a minimum of five
212 feet from existing or proposed water and/or sewer service stubouts, gate valves, manholes
213 and vaults. Any deviation from this minimum must have prior approval from the public
214 works director or his designee.

215 5. Excavation, backfill or other disturbance of the right-of-way surface by
216 utility construction or maintenance activities shall be finished in a manner that restores
217 the right-of-way in accordance with HCC §11.24.080.

218
219 11.24.080 Standards for excavation activity. Excavation under a utility construction
220 project permit shall conform to the following standards:

221 a. Project Coordination. The utility shall coordinate its work with the schedule for
222 other construction work in the same area of the right-of-way, including giving timely notice to
223 persons who may be inconvenienced by the utility's work in the right-of-way. The utility may
224 use a "one-call locate" service to give notice to other utilities.

225 b. Notice of Damage. If the utility damages plant or equipment of another utility, it
226 shall immediately notify the affected utility of the damage.

227 c. Manner of Excavation. The utility shall conduct excavations in compliance with
228 the excavation standards promulgated by the Alaska Department of Labor, Occupational Safety

229 and Health Administration. The utility shall exercise caution to avoid injury to pipes, cables or
230 conduits of another utility in making excavations or tunnels.

231 d. Pedestrian Ways. If the utility's work blocks a pedestrian way, the utility shall
232 construct or provide a temporary pedestrian way which shall be safe and convenient for travel.

233 e. Traffic Routing. If the utility's work affects traffic, the utility shall provide
234 proper traffic signs, detours, and safeguards in accordance with the Alaska Traffic Manual and
235 shall notify fire, emergency medical, police and school bus transportation agencies to obtain
236 clearance for the type of detour, time, and other limitations imposed.

237 f. Closing Roads. When traffic conditions permit, the city may give written
238 approval for the closing of roads to all traffic for a necessary period of time. Such approval may
239 require the utility to give notification to various public agencies and to the general public.

240 g. Clearance for Vital Structures. The excavation work shall be performed in a
241 manner that will enable access to fire hydrants, fire stations, fire escapes, water gates,
242 underground vaults, valve housing structures and other vital equipment.

243 h. Restoration of Right-of-Way. The utility shall restore the right-of-way to the
244 grade and condition originally found or to the grade and condition directed by the utility
245 construction project permit. Clearing of vegetation should be held to a minimum necessary for
246 safe construction and maintenance of the utility. Debris and felled timber should be disposed of
247 in a neat and orderly manner. Property pins, gravel, paving or seal coating, ditches, culverts,
248 signs, or other public improvements shall be replaced, unless the city gives specific written
249 direction to the contrary. If the utility fails to restore a right-of-way as required by this
250 subsection after reasonable notice from the city to do so, the city may accomplish the work and
251 recover the cost from the utility.

252 i. Unpaved Roads. Excavations in unpaved roads will be backfilled with useable
253 native material to the subgrade of the existing road. Geotextiles will match existing conditions
254 with a minimum two foot overlap to existing geotextile material. Type II material will be placed
255 and compacted to within six inches of finish grade with the final six inch lift consisting of Type
256 III material. The excavation and adjacent areas shall be graded to leave the site in a condition as
257 nearly equal to that found prior to the excavation as is reasonably possible.

258 j. Paved Roads. For excavations in paved roads, fill below subgrade will match
259 existing material with native backfill when material is approved as suitable. Geotextiles will
260 match existing materials with a minimum two foot overlap of the new and existing materials.
261 Gravel fill will consist of a minimum of twenty-six inches of Type II material, followed by six
262 inches of Type III material, followed by two inches of leveling course before being overlaid with
263 two inches of hot asphalt concrete.

264 k. Excavation Warranty. Compaction of backfilled material should be equal to that
265 of the surrounding material. The excavation shall be guaranteed for three years against settling.
266 Any area that has settled within three years shall be promptly rectified at no cost to the city.

267 l. Cleanup. As the excavation work progresses, all roads shall be thoroughly
268 cleaned of all rubbish, excess earth, rock, and other debris deposited by the utility. All gutters
269 shall be maintained unobstructed. Whenever a gutter crosses an intersecting street, an adequate
270 waterway shall be provided and maintained at all times. All cleanup operations shall be
271 accomplished at the expense of the utility and shall be completed to the reasonable satisfaction of
272 the city.

273 m. Prompt Completion of Work. After an excavation is commenced, the work shall
274 be promptly completed and the road restored to its original condition as soon as reasonably
275 possible.

276 n. Urgent Work – The city may order emergency work to complete an excavation as
277 soon as possible when required to protect the public health, safety, and welfare.

278 o. Emergency Action. Nothing in this chapter shall be construed to prevent the
279 making of such excavations as may be necessary for the preservation of life or property or for the
280 location of trouble within a conduit or pipe, or for making repairs, provided that the person
281 making such excavation should make a reasonable effort to notify police dispatch of the location
282 of the emergency excavation. A utility excavating on an emergency basis in a roadway shall
283 apply for a permit on the first working day after such work commenced.
284

285 11.24.090 Appeals. a. A person aggrieved by a decision of the public works director
286 under this chapter may appeal the decision to the city manager within five working days after
287 receiving notice of the decision. The city manager shall decide an appeal under this subsection
288 within five working days.

289 b. A person aggrieved by a decision of the city manager under this section may
290 appeal the decision to the RCA pursuant to AS 42.05.251. Unless the RCA provides a different
291 time by regulation, the appeal must be filed within thirty days after the city manager's decision is
292 mailed or delivered to the appellant.
293

294 11.24.100 Liability. Nothing in this chapter imposes a duty on the city to inspect any
295 activity of a utility for purposes of assuring compliance with standards set forth in this chapter;
296 nor does the city warrant to a utility that a right-of-way will be preserved in any particular
297 condition.
298

299 Section 2. This Ordinance is of a permanent and general character and shall be included
300 in the City Code.
301


302 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 27th day of
303 March 2012.
304

305 CITY OF HOMER

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JAMES C. HORNADAY, MAYOR

ATTEST:


JOE JOHNSON, CMC, CITY CLERK

319 YES: 5
320 NO: 0
321 ABSTAIN: 0
322 ABSENT: 0

323
324
325

326 First Reading: 3/12/12
327 Public Hearing: 3/27/12
328 Second Reading: 3/27/12
329 Effective Date: 3/28/12

330

331 Reviewed and approved as to form:

332

333

334

335 
Walt E. Wrede, City Manager

336


337

338

339

340

Date: 3/29/12


Thomas F. Klinkner, City Attorney

Date: 4-2-12

- Columnists
 - Extra Innings
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 - Fish Factor
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Point of View

Lower speed limit could save taxpayers millions of dollars

By Steve Gillon

My winter project involves cleaning up an old airplane. Airplanes, like people, gain weight as they age, and every so often, they have to be lightened up again. Some old wiring, unneeded instruments, corrosion, too much paint, and lots of dirt all build up, add weight to the airplane, and make it less simple, less elegant. The best airplane is the lightest, simplest airplane that does the job.

I listened to the city council meeting while scraping away some corrosion, and caught myself up on the issue of traffic congestion at the intersection of Main St. and the Bypass. I'm a survivor of rush hour in Los Angeles, Manhattan, Tijuana, and (worst of all) Boston, but, for the moment I will assume there IS congestion at the intersection of Main St. and the Bypass. I listened to the city manager and the council discussing, at great length and much seriousness, whether to ask the State for \$2 million to install a traffic light and turning lanes, or wait for a year or so and get \$4 million for a traffic circle! After I stopped laughing, I realized that the intersection of Main St. and the Bypass was a lot like an airplane. I remembered the last time I sat for, maybe two minutes at the intersection, waiting for the Winnebago parade to pass by so I could turn onto the Bypass, and thought, "what's the cheapest, simplest way to fix the congestion? I thought about traffic lights and circles, and concluded that what they have in common is that they slow traffic down. A traffic light slows traffic to a stop, and a circle slows traffic down to about half what it otherwise would be.

Traffic lights and circles do other things, which aren't necessarily good. Traffic lights stop traffic even when it doesn't need to be stopped. I know, for certain, that the traffic light at Lake and the Bypass senses when I'm in a hurry to catch a commuter plane, and deliberately stops me, even though there's no other traffic in sight. And circles seem designed by the drug companies to cause stress and anxiety in drivers who have to yield to get into the circle, play demolition derby to get into the correct lane and then hope when they eject themselves from the circle, they're going in the right direction to stop at the nearest drug store to refill their Prozac or Xanax prescription.

After pondering the horrors of traffic lights and traffic circles, I received a shocking bolt of creativity from my Muse, and discovered the perfect solution, one that would make any airplane designer proud: Lower the speed limit. A lower speed limit, say 25 mph from the Homer Middle School to Beluga Lake would definitely slow traffic, but it would not stop it, and would provide a straight shot without unnecessary lane changes, anxiety and frustration. It would also save almost \$2 million or \$4 million, depending, which maybe could be spent putting in sidewalks.

I will admit to being naïve concerning matters of municipal government and such. I'm sure that lowering the speed limit is far more complicated than sending out Mayor Hornaday with a spray can of black paint to turn a bunch of 35s into 25s, but if I remember correctly, it will take two years to get the traffic light installed, and maybe three or four years to get a circle installed. I'd bet that the powers-that-be could have new signs up faster than I can get my poor, old airplane back in the air. Wouldn't it be nice, though for the city to have a simpler, lighter, solution to the traffic problem, just like it will be nice for me to have a simpler, lighter airplane?

Steve Gillon is associate professor of Business at the Kachemak Bay Campus of the University of Alaska Anchorage.

Contact the writer

Posted by Editor on Feb 2nd, 2011 and filed under Point of View. You can follow any responses to this entry through the RSS 2.0. Both comments and pings are currently closed.

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