

HAWSP Homer Accelerated Water Sewer Program

[illegible]



City of Homer

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Planning

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Staff Report PL 16-47 (A)

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: ~~August 3, 2016~~ Sept. 7, 2016
SUBJECT: HAWSP - Recommendations

Introduction: We have heard from both the Finance and Public Works Director and seem to have come away with a few concepts. I am providing a review of these concepts and recommending some polices. But, I am afraid the hard part is to figure out just how to enact these policies. We will need some legal support.

The Planning Commission has been directed by the City Council to develop recommendation regarding the HAWSP policies including:

- How the City should apply the debt service ratio
- When the debt service ratio should be calculated
- When pending HAWSP projects should be inputted into the debt service ratio calculation
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects

How and when the debt service ratio should be applied and calculated?

The service ratio should be calculated using the current experience regarding debt payment and revenue. The ratio can be calculated whenever necessary to respond to a proposal. In general, it is thought that it might be useful to calculate annually. Perhaps the ratio is presented and discussed with the proposed budget and the council could decide when to lift a moratorium based upon a report from finance.

Where should the debt service ratio be in order to lift the moratorium?

In order to keep a debit service ratio of 1.25, or any ratio for that matter, we need to have enough room to borrow for the project and stay above 1.25. Roughly, it was figured that .1 or

when we get to 1.35 would be enough to fund a million dollar project. A million gets you a fairly large project.

How do we queue in, revue, and account for project's effect on the debt ratio.

Current thought supports the review of projects in the order of submission. Some issues surrounding this include whether or not to accept a proposal in a moratorium. One thing that was agreed upon is that the \$100 fee is inadequate to cover costs of setting up a district and leaves little incentive for someone to propose a district that is more likely to have support than not. Soldotna charges \$500 and the Borough charges \$1000. Others governments have input on the district boundaries and provide the petition but have the applicant seek signatures. This could be problematic in Homer because of the amount of property owners located out of state.

Rules from other to consider include that no property shall be accessed more than 50% of value (this may be offset by prepayment), all delinquent taxes must be paid prior to accepting the district, and an owner may not own more than 40% of the benefitted properties in a proposed district. Issues we would like to have a policy about include determining the excluded properties prior to assembling the district.

When should pending projects be inputted into the debt service ratio?

As soon as we are able to give an estimate and until the project is dropped/paid it should be included in the ratio. Unfortunately, it can take up to four months to get back petitions of interest and workup a rough estimate of cost. A concern here is just how much of a 'cushion' do we need to have? The project's costs could vary greatly from one to another and waiting to get to the estimate would considerably slow down any other pending applications. One way to get more feasible proposals might be to raise the cost to the borough level of \$1000. Another thought might be to refund this cost upon approval and work it back into the estimate, otherwise the funds are nonrefundable. Even another thought on the subject includes accepting a proposal during a moratorium and not collecting the fee until we are able to consider the project.

The last suggestion is an answer to the tracking and processing requests. Basically, take requests and put them into a queue until we are able to consider them. The clerk would be the keeper of the requests.

Status of the program: It seems that the only significant progress in lowering the debt service ratio in any near timeframe will come with better experience with tax revenues. When meeting with the City Manager and the Finance Director and looking at the numbers in consideration of relatively flat rates of sales tax collection, it does look like we should not

even consider a project in the next five years. But, this could all change with a banner sales tax collection year.

My general conservative fiscal thought leads me to a few conclusions in general about the program. The twenty year length of the financing really ties up the program. Not only does it encumber the sales tax long into future, it takes a really long time to continue to input new projects until the past debt is settled. We have inputted some really expensive projects that will affect the program for a long time, like the Kachemak Drive projects and the water plant.

The basic premise of the program was to help facilitate an increase in the amount of system users and pay off sewer debt associated with the sewer treatment plant (paid off in 2012), but it is also used to fund other large maintenance and general infrastructure. Now we find competition in the funding of one or another.

Staff Recommendation: Discuss and provide direction on the items.

Attachments

1. Resolution 99-53
2. Resolution 99-92
3. Ordinance 99-14(S)(A)

CITY OF HOMER
HOMER, ALASKA

Finance
Public Works
City Clerk

RESOLUTION 99-53

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA AUTHORIZING THE HOMER ACCELERATED
WATER AND SEWER PROGRAM.

WHEREAS, City of Homer property owners continually express their needs regarding water and sewer and have urged the Council at Council meeting to address this need: and

WHEREAS, sewer particularly is a health and safety matter within the Homer City limits and many homes are without connection to City water; and

WHEREAS, for the majority of Homer residents water and/or sewer improvements are cost prohibitive; and

WHEREAS, a need exists for some type of water and sewer program for the Homer residents that will provide for utility improvements without the heavy financial burden placed on the individual property owner and will increase users to the system(s), thereby increasing revenues to the Water and Sewer Enterprise Funds.

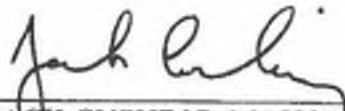
NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska hereby authorizes the Homer Accelerated Water and Sewer Program; and

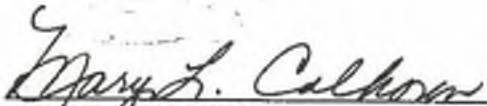
BE IT FURTHER RESOLVED that funding of the program should be defined by January 1, 2000.

PASSED AND ADOPTED by the City Council of Homer, Alaska this 28th day of June, 1999.

CITY OF HOMER

ATTEST:


JACK CUSHING, MAYOR


MARY L. CALHOUN, CMC/AE, CITY CLERK

Fiscal Note: Included.

**CITY OF HOMER
HOMER, ALASKA**

**City Clerk
Canvass Board**

RESOLUTION 99-92

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOMER,
ALASKA CERTIFYING THE RESULTS OF THE GENERAL MUNICIPAL
ELECTION HELD OCTOBER 5, 1999 TO ELECT THREE
COUNCILMEMBERS AND VOTE ON TWO PROPOSITIONS.**

WHEREAS, in compliance with the Homer City Code 4.35, the Canvass Board of the City of Homer has opened, counted, and tallied the votes on absentee ballots found to be valid and made determinations on questioned ballots, and has opened, counted, and tallied those questioned ballots found to be valid, cast in the General Municipal Election held on October 5, 1999; and

WHEREAS, the total number of voters voting in the City Election reflect the number of voters not the number of votes cast; and

WHEREAS, in accordance with Homer City Code 4.35, the Canvass Board of the City of Homer has opened and inspected the precinct reports, election center Logs, Accu Vote reports and entered the results of the absentee and questioned ballots on the Certification of Election along with the results of the precinct counts; and

WHEREAS, no candidate for the one year term received in excess of forty percent of the votes cast for that race there will be a Run-off Election held on Tuesday, November 2nd, 1999 between the two candidates receiving the highest number of votes, Bill Smith and Ray E. Kranich, Sr.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Homer, Alaska, that the Council hereby accepts and certifies the results of the General Municipal Election for the City of Homer held October 5, 1999, as presented in the Certificate of Election by the Canvass Board, in accordance with the Homer City Code;

BE IT FURTHER RESOLVED the following candidates having received in excess of forty percent (40%) of the votes cast for the office of City Council, two - three year term, of the City of Homer are hereby declared elected, a Run off situation exists for the one year term in that no candidate received in excess of forty percent (40%) of the votes cast, and the following results for each of the propositions:

COUNCILMEMBERS (TWO - 3 YR. TERM)

**Patricia (Pat) Cue
Kurt Marquardt**

City of Homer
Regular Municipal Election
October 5, 1999

CERTIFICATE OF ELECTION (S)

We, the Election Canvass Board, duly appointed, of the City of Homer, Alaska hereby certify that the validated absentee and validated questioned ballots were opened, counted, and recorded at a legally authorized and convened meeting of the City of Homer Canvass Board, held October 11, 1999 and that the results of that count are hereon entered with the certified results of the judges of election for votes counted at the precinct polling places via Accu-Vote Ballot Tabulation System and that the total results are recorded hereon.

RACE	PRECINCT 1	PRECINCT 2	PRECINCT 3	ABSENTEE & QUESTIONED & NON PROS	TOTAL VOTES RECEIVED	PERCENTAGE
CITY COUNCIL - 2						
Three year term						
KEYS, Robert Edward	65	67	80	26	236	33.2%
MARQUARDT, Kurt	175	152	136	41	504	70.8%
CUE, Patricia (Pat)	172	156	152	38	518	72.9%
COUSINS, Bob	42	43	51	15	151	21.2
Write In votes	2	2	7		11	
CITY COUNCIL - 1						
One year term						
FRANZ, Nancy P.	23.00	22.00	19.00	2	66	8%
KRANICH, Ray E. Sr.	101.00	78.00	78.00	21	278	33.9%
SMITH, Bill	98.00	88.00	79.00	19	283	34.5%
MEEKER, George	45.00	46.00	70.00	30	191	23.3%
Write in votes	2.00	1.00	3.00	1	6	

PROPOSITIONS	PRECINCT 1	PRECINCT 2	PRECINCT 3	ABSENTEE & QUESTIONED & NON PROS	TOTAL VOTES RECEIVED	PERCENTAGE
Proposition No. 1	Y - 184 N - 81	Y - 155 N - 81	Y - 168 N - 71	54 19	Y - 561 N - 252	na
Proposition No. 2	Y - 165 N - 100	Y - 147 N - 89	Y - 156 N - 79	48 24	Y - 518 N - 292	na

There were 789 Regular voters, We further certify that 865 voters voted in this election. There were 70 absentee voters and 6 questioned voters. Percentage of voter turn out - ~~25.9%~~ is 25.9%.

Total registered voters for the City of Homer are 3,327.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of October, 1999.

Lois Irvin
Lois Irvin

Rose Faust
Rose Faust

Mary Thompson
Mary Thompson

Attest: *Mary L. Calhoun*
Mary L. Calhoun, CMC/AAC, City Clerk

**COUNCILMEMBERS (ONE - 1 YEAR TERM)
RUN OFF ELECTION BETWEEN**

**Bill Smith
Ray E. Kranich Sr.**

PROPOSITION 1. YES

PROPOSITION 2. YES

BE IT FURTHER RESOLVED that the Certificate of Election be attached permanently as part of this Resolution.

PASSED AND ADOPTED by the Homer City Council this 11th day of October, 1999.

CITY OF HOMER

ATTEST:


JACK CUSHING, MAYOR


MARY L. CALHOUN, CMC/AEE, City Clerk

Fiscal Note: NA

**CITY OF HOMER
HOMER, ALASKA**

**City Clerk
Canvass Board**

RESOLUTION 99-92

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BE IT FURTHER RESOLVED the following candidates having received in excess of forty percent (40%) of the votes cast for the office of City Council, two - three year term, of the City of Homer are hereby declared elected, a Run off situation exists for the one year term in that no candidate received in excess of forty percent (40%) of the votes cast, and the following results for each of the propositions:

COUNCILMEMBERS (TWO - 3 YR. TERM)

**Patricia (Pat) Cue
Kurt Marquardt**

CITY OF HOMER
HOMER, ALASKA

Staff
City Attorney

ORDINANCE 99-14(S)(A)

AN ORDINANCE AMENDING HOMER CITY CODE SECTION 9.16.010(b) TO REDEDICATE CURRENT UNEXPENDED SALES TAX REVENUES COLLECTED UNDER THAT SUBSECTION TO WATER AND SEWER IMPROVEMENTS; AND FURTHER ELIMINATING THE CURRENT TERMINATION DATE OF THE TAX AND REDEDICATING THE ENTIRE TAX TO WATER AND SEWER SYSTEMS IMPROVEMENTS AFTER SATISFACTION OF SEWER TREATMENT PLANT DEBT RETIREMENT OBLIGATIONS.

WHEREAS, HCC Section 9.16.010(b) currently levies a 3/4% sales tax dedicated "for the purpose of funding debt retirement of the sewer treatment plant improvements"; and

WHEREAS, there are significant unexpended sales tax revenue generated by that levy in excess of the funds needed currently to fund debt retirement obligations for the sewer treatment plant improvements; and

WHEREAS, the City Council recently authorized the new Homer Accelerated Water and Sewer Program (HAWSP) to promote construction of additional improvements to the City water and sewer systems, and funds are needed to implement the program; and

WHEREAS, the HAWSP is suitable for use for unexpended revenues collected under HCC 9.16.010(b); and

WHEREAS, the tax levy under HCC 9.16.010(b) is scheduled to terminate upon full repayment of the sewer treatment plant debt on or before December 21, 2012, whichever occurs first, and if the levy were extended it could be used in its entirety to fund sewer and water improvements, ~~under HAWSP, or another City program.~~

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code Section 9.16.010(b) is hereby amended to read as follows:

b. An additional consumer's sales tax in the amount of three-quarters percent (3/4%) is hereby levied by the City of Homer on all sales, rents and services within the City except as the purpose of funding debt retirement of the sewer treatment plant improvements, and to the extent revenues from such tax exceed such debt retirement obligations, for the purpose of funding water and sewer systems improvements.

Section 2. Section 1 of this Ordinance shall take effect on October 26, 1999 only if the following proposition is approved by the qualified voters of the City of Homer at the General Election of October 5, 1999:

Under Homer City Code Section 9.16.010(b), 3/4 of 1 percent of the sales tax is currently dedicated for the purpose of funding debt retirement of the sewer treatment plant improvements. Shall the dedication be amended to allow current unexpended sales tax revenue in excess of that needed to fund debt retirement to be dedicated to water and sewer system improvements, such as the Homer Accelerated Water and Sewer Program?

YES _____ NO _____

Section 3. The sales tax levy imposed by Section 9.16.010(b) shall continue to remain in effect after full repayment of the debt for the sewer treatment plant improvements and after December 31, 2012. Provisions to the contrary in Ordinance 91-19(S)(A) are repealed. After full repayment of the debt of approximately \$6.8 million (as of August 12, 1991, the date of enactment of Ordinance 91-19(S)(A)) for the sewer treatment plant improvements, the entire tax generated by the levy imposed by Section 9.16.010(b) shall be used for the purpose of funding water and sewer systems improvements.

Section 4. Section 3 of this Ordinance shall take effect on October 26, 1999 only if the following proposition is approved by the qualified voters of the City of Homer at the General Election of October 5, 1999:

Under Homer City Code Section 9.16.010(b), 3/4 of 1 percent of the sales tax now dedicated for the purpose of funding debt retirement of the sewer treatment plant improvements is scheduled to terminate upon retirement of \$6.8 million in sewer treatment plant debt or on December 31, 2012, whichever occurs first. Shall this termination provision be repealed and, after the applicable debt has been repaid in full, shall the entire amount of the 3/4 of 1 percent sales tax levy be dedicated to water and sewer systems improvements, such as the Homer Accelerated Water and Sewer Program?

YES _____ NO _____

Section 5. Section 1 of this ordinance is of a permanent and general character and shall be included in the City Code if the proposition set forth in Section 2. is approved by the voters. Section 3 of this Ordinance removes a termination date for the current sales tax levy, and the only codification required is the removal of the footnote to HCC 9.16.010(b), if the proposition set forth in Section 4 is approved by the voters. Sections 2 and 4 will not be included in the City Code.

Page Three
City of Homer
Ordinance 99-14(S)(A)

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA on this
28th day of August, 1999.

CITY OF HOMER



Jack Cushing, Mayor

ATTEST:



Mary L. Calhoun, CMC/AAE, City Clerk

AYES: 5
NOES: 0
ABSTAIN: 0
ABSENT: 1

First Reading: 7/12/99

Public Hearing: 7/26/99

Second Reading: 8/23/99

Effective Date: Upon approval by the Mayor Oct 5, 1999 &

certification by the Council, scheduled for Oct 11th.

Reviewed and approved as to form and content:



Ronald Wm. Drathman, City Manager



Gordon J. Tans, City Attorney

Fiscal Note: Cost of putting on the ballot and election advertising.

VENUTI/BOS MOVED TO POSTPONE PUBLIC HEARINGS ON CUP 16-04, 16-05, AND 16-06 TO SEPTEMBER 14TH.

There was brief discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

- A. Staff Report PL 16-46, CUP 16-04, HVFD Equipment Storage Facility-4060 Heath St.
- B. Staff Report PL 16-40, CUP 16-05, Amending CUP 15-04, at 5185 Slavin Drive
- C. Staff Report PL 16-41, CUP 16-06, Homer Medical Clinic Expansion

Plat Consideration

Pending Business

- A. Staff Report 16-47, Homer Accelerated Water Sewer Program (HAWSP)

City Planner Abboud reviewed the suggestions that the debt service ratio be calculated at budget time and applied at the beginning of each year.

Regarding the application fee and the moratorium it was suggested the city maintain a list as improvement projects are requested and if the moratorium is lifted then collect the application fee. Another suggestion was to implement a que fee; say \$100 to be on the list and \$900 when the project comes up.

The commission also discussed whether projects are done on a first come first serve basis or are evaluated based on a set of criteria to determine the merits of the project. A drawback of first come first served is that one large and costly project in the que could delay the moratorium being lifted for a longer period of time. Queuing up smaller less costly projects could keep a larger project from moving to the top of the list. Most agreed on the importance of the project being able to contribute to paying the cost of the system, or the most users per linear foot and promote. People who are waiting for their project to move to the top of the list won't appreciate being passed over. There is also the legality of selecting on project over another. They touched on pros and cons to both methods but did not reach a consensus on which method they would recommend.

They talked about annual financing reviews and when to calculate ratios. A quarterly review and reporting schedule to the City Manager and City Council would be a good time for the calculation to be made known, so they are aware.

ABRAHAMSON/HIGHLAND MOVED THAT THE COMMISSION RECOMMENDS THAT THE FINANCE DEPARTMENT REPORT QUARTERLY TO THE CITY COUNCIL AND CITY MANAGER AND INCLUDE THE HAWSP DEBT SERVICE RATIO CALCULATION IN THAT QUARTERLY REPORT.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

HIGHLAND/STROOZAS MOVED THAT WE INCREASE THE SAD APPLICATION FEE TO \$1000.

Question was raised if the fee is refundable.

VENUTI/STROOZAS MOVED TO AMEND THAT THE FEE IS NON REFUNDABLE.

There was discussion that the \$1000 fee be applied toward cost of the project.

Deputy City Clerk Jacobsen commented her understanding is the application fee is an administrative fee to process a property owner's application for an improvement district.

Commissioner Abrahamson commented the program provides for overhead like facilities and administration and questions if it might be double dipping if the project goes forward. City Planner Abboud said he could follow up and see how the application fee is applied and the commission discussed how the administrative fees could be accounted for.

Deputy City Clerk Jacobsen gave a brief overview of the what the City Clerk's office does including working with the applicant for the proposed district, working with public works to get a map of the boundaries, also preparing and mailing petitions to property owners via certified mail and scheduling and advertising public meetings and public hearings before the assessment district is approved.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

VOTE: (Main motion as amended): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

New Business

A. Staff Report PL 16-51, Ordinance from the Cannabis Advisory Commission

City Planner Abboud reviewed the staff report. He commented that when doing a review for zoning compliance, he doesn't foresee anything that would impede meeting the 15 day timeline for review. If an application triggers a conditional use permit, it will be address in the appropriate timeframe for a CUP. He touched on the state's timeline and pointed out they have 60 days, and he hopes they will move the applications along.



City of Homer

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Planning

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Homer, Alaska 99603

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Staff Report PL 16-47

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: August 3, 2016
SUBJECT: HAWSP - Recommendations

Introduction: This continues the conversation we started last meeting. Please review the previous staff report and call if you have any questions about the information provided last week or this week. While I am attempting to address the specific questions from council, I am still very much in a learning stage. I am looking for more insight and questions to help formulate better answers. You will recall the Commission was tasked with the following:

The Planning Commission has been directed by the City Council to develop recommendation regarding the HAWSP policies including:

- How the City should apply the debt service ratio
- When the debt service ratio should be calculated
- When pending HAWSP projects should be inputted into the debt service ratio calculation
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects

Analysis: I am looking for the Finance Director to provide guidance on how and when the debt service ratio is calculated and when it may be best applied. The farther I am getting into this, the more I feel that the questions asked are very interrelated and the answer to one depends on the other. Linear answers to these concerns are difficult to formulate. The responses are very interrelated and dependent upon one another. It may be best to outline a recommended practice and then explain how it would address the concerns. This is very difficult to explain at this point, but after evaluating the questions you may see it.

I am including some examples from the Borough and Soldotna. KPBC, Chapter 14.31, Special Assessment-Road Improvements is an example of an improvement district where a contribution is made to the improvement, as is Soldotna, Ordinance 2012-022. KPBC 5.35 is an example of special assessments for public utilities where no contribution to the project is

made and just the financing is addressed. City of Soldotna Resolution 2013-011 is their policy for matching funds.

How to apply debt service ratio?

This question is a bit vague. Generally speaking, I would surmise that the debt ratio is applied to all on-going and accepted projects and is based on current experience. We may ask the Finance Director his policy regarding the calculation of the ratio. Is it a projection based on projected revenues determined at the start of the budget year? And is it or when is it adjusted from current year experience?

When should the debt service ratio be calculated?

Finance has informed me that we make semiannual payment on the debt. Also, from time to time we may have some portion of debt forgiven. So, we know that we could count on having changes to the debt service ratio at least twice a year. I am not sure exactly when these payments are scheduled.

When to input pending projects into the debt service ratio? It will take 2 to 3 months just to define the project parameters and get out a petition of interest for the district. Once distributed, the property owners would have to get positive responses from those that would bear not less than 50 percent of the assessed cost of the improvement within 60 days of distribution (remember here we are talking about equal shares).

At this point, if the petition responses indicated sufficient response, a meeting of the owners of real property in the district will be scheduled. This meeting will include all the district information including boundaries, design, cost, and financing. A notice of not less than 60 days is required for the meeting. If those that would bear more than 50% of the costs file a protest before the meeting, the district may not proceed unless the boundaries are changed to create a district where less than 50% of the member object.

Once the above is met, then a resolution will be sent to the City Council to approve the project boundaries and costs. In the most ideal circumstances, it would take approximately 9 months to ensure a proposed project has the green light for construction.

This gets us back to **when should pending projects be inputted into the debt ratio.** I believe the answer to this is, after the projects have been selected as candidates for funding through the program. The first time we would have a number regarding the impact on the fund would be at the time an estimate, prior to the first mailing. But the project will not be assured until after the public meeting is held (approximately 6 months or more after the first mailing) and approved by the City Council afterwards.

This gets us back to **when should pending projects be inputted into the debt ratio.** I believe the answer to this is, after the projects have been selected as candidates for funding through the program. The first time we would have a number regarding the impact on the fund would be at the time an estimate, prior to the first mailing. But the project will not be assured until after the public meeting is held (approximately 6 months or more after the first mailing) and approved by the City Council afterwards.

At this point, I do not have a solid answer, but my research has given me something to consider. We have determined that, at this very time, we do not have the ability to fund an additional project. I do not believe that we should continue to cue up projects at a first come basis. We have limited resources and need carefully consider projects that best fit the criteria we are looking for and are within the realm of fiscal possibility. I believe it is reasonable to evaluate projects on an annual basis.

We could determine a date that would be driven by a preferred likely construction schedule and availability of funds, although our current system is filled with variables. The Borough accepts applications for its Road Improvement Assessment District (RIAD) no later than July 1st of every year per KPBC 14.31.050. These applications are then reviewed by the Assessor and Road Service Area (RSA) Director. An initial staff report is then sent to the RSA Board and their review is to be accomplished by September 1, for construction the following year. I really like the idea of a scheduled application period. Borough Code, KPBC 14.31.050 spells out the review criteria at the various points in the process. These include both technical and financial concerns.

Keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect.

I am coming up with two schools of thought I this regard, first come, first serve or a competitive process. Of course, those that find a need and get their request in first believe that they should have first considerations. This is the case with a proposal for a district to provide water on Mission Drive that has been subjected to a current moratorium because the current debt service coverage ratio is below 1.25. Now we also have someone interested in exploring a project on Alder Street.

We may have even more projects proposed during the moratorium. These could be local SAD's or, if current policy holds, Public Works projects that improve, repair, or expand the system. It is going to be difficult to have a project on hold for an extensive amount of time and have the project still considered valid. Above, I outlined a schedule for submission and review.

A process for lifting and implementing a moratorium

Because we make semiannual payments, we will have at least two opportunities to review our debt service ratio. We may need to have some sort of guideline established based on a reasonable amount of experience. We could explore this with finance.

Staff Recommendation: I am looking for insight and further questions. At this point, I am considering mechanics of the current process and how it might be reformed to incorporate the concerns of Council.

Attachments

1. City of Soldotna Resolution 2013-011
2. City of Soldotna Ordinance 2012-022
3. KPBC, Chapter 5.35
4. KPBC, Chapter 14.31

Introduced By:
Date:
Action:
Vote:

City Manager
February 27, 2013
Adopted
6 Yes, 0 No

CITY OF SOLDOTNA
RESOLUTION 2013-011

A RESOLUTION OF THE COUNCIL OF THE CITY OF SOLDOTNA, ALASKA, ADOPTING A
GENERAL POLICY REGARDING MUNICIPAL MATCHING FUNDS AVAILABLE FOR
SPECIAL ASSESSMENT DISTRICT IMPROVEMENTS

WHEREAS, Ordinance 2012-022, adopted September 26, 2012, created Chapter 3.18 of the Soldotna Municipal Code, which provides a procedure for establishing Special Assessment Districts (SAD) in the City of Soldotna; and

WHEREAS, in accordance with SMC 3.18.070, the City Council is required to set a policy regarding use of city funds to fund a portion of the cost of the SAD; and

WHEREAS, citizens desiring to form an SAD would benefit from knowing the likely amount of municipal matching funds available for potential projects; and

WHEREAS, this policy is intended as a general guide, meant to inform the public and City administration of the Council's position regarding matching funds. The Council may alter this policy at any time, to reflect changes in availability of funding, or City priorities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

- Section 1. This policy applies to public improvements which primarily benefit the owners of a limited geographical area, as opposed to improvements which benefit the entire community, and are entirely paid for with general governmental resources.
- Section 2. In partially developed or undeveloped areas that include one or a small number of property owners, the City shall assess up to one hundred percent (100%) of all eligible costs of the SAD to the benefitted properties and contribute no municipal matching funds. This is intended in situations where the owner(s) are essentially acting as developers, with the intent of marketing and profiting from the undeveloped land.
- Section 3. For improvements not categorized under Sections 1 or 2 above, the City may, in its sole discretion, contribute a minimum of fifty percent (50%) and a maximum of seventy-five percent (75%) of all eligible costs of the SAD, with the remaining amount assessed to the benefitted property owners. In determining the exact percentage of municipal matching funds for a particular SAD, the Council shall give preference to projects which:
- Reduce City cost and maintenance efforts of existing infrastructure;
 - Increase development and/or employment potential in the community;
 - Increase City revenues, for example through additional sales tax and/or real property taxes as a result of the improvements;

- d. Are identified as a priority project of the City, for example in the 5-year Capital Improvement Plan (CIP), legislative priority list, Comprehensive Plan, or other City planning document;
- e. Have secured grant funding that may be used to offset municipal expenditures;
- f. Contribute aesthetic or other quality of life benefits to the community as a whole.

It shall be the burden of the applicant to demonstrate the project's benefit to the City, by referencing the above criteria, if the applicant requests more than the minimum matching amount.

Section 4. Nothing in this policy shall prevent the City from funding an improvement without the formation of an SAD. In such cases, the City shall make a finding that the improvement is in the best interests of the entire community due to:

- a. Reduced City cost and maintenance efforts of existing infrastructure;
- b. Increased development and/or employment potential in the community; or
- c. Increased City revenues, for example through additional sales tax and/or real property taxes as a result of the improvements.

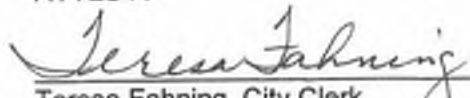
Section 5. Application. A sponsor of a special assessment district shall make his/her request for municipal matching funds, including all back-up or supporting documents, on the initial application to the City Clerk, per SMC 3.18.080(A). The City Administration shall make a recommendation as to the appropriate matching percentage, and include this recommendation with the petition which is returned to the sponsor for circulation.

Section 6. Final Determination. The determination as to the final amount of municipal matching funds provided to a particular SAD will be made by resolution of the City Council, following the public hearing in accordance with SMC 3.18.100. The decision of the Council shall be final. The Council reserves the right to apply percentages different from those listed above, based on the unique characteristics of any project.

ADOPTED BY THE CITY COUNCIL THIS 27TH DAY OF FEBRUARY, 2013.


Brenda Hartman, Vice-Mayor

ATTEST:


Teresa Fahning, City Clerk

Ayes: Bagley, Daniels, Eoff, Sprague, Czarnecki, Hartman
Noes: None
Absent: None

13RES011

Introduced By: Council Members
Bagley and Sprague
Date: September 12, 2012
Public Hearing: September 26, 2012
Action: Amended, Enacted
Vote: 4 Yes, 0 No, 2 Absent

CITY OF SOLDOTNA
ORDINANCE 2012-022

AN ORDINANCE TO REPEAL CHAPTER 3.17, SPECIAL ASSESSMENT DISTRICTS, OF THE SOLDOTNA MUNICIPAL CODE IN ITS ENTIRETY AND TO ADOPT A NEW CHAPTER FOR SPECIAL ASSESSMENT DISTRICTS, SMC 3.18, AND TO AMEND REFERENCES TO SMC 3.17 IN OTHER AREAS OF THE CODE

WHEREAS, special assessment districts are used to finance public improvements which primarily benefit property owners of a limited geographical area, as distinguished from improvements which benefit the entire community; and

WHEREAS, the current chapter governing special assessment districts, SMC 3.17, was adopted on November 14, 2007 (Ordinance 2007-27); and

WHEREAS, certain provisions of the current SMC 3.17 create confusion in administering the special assessment process, which causes additional burdens and costs for city administration, and can result in frustration for the public in attempting to create a special assessment district; and

WHEREAS, the City Council finds it is in the best interest of the citizens of Soldotna to revise the procedures for creating special assessment districts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

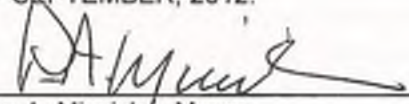
Section 1. That Section 3.17 of the Soldotna Municipal Code is repealed in its entirety.

Section 2. That a new chapter of the Soldotna Municipal Code is hereby adopted, to be cited as Soldotna Municipal Code Title 3, Chapter 18, and entitled Special Assessment Districts, which shall govern special assessments and the procedures to create special assessment districts for the construction of public improvements within the City of Soldotna.

[See 'Attachment A' for new text]

Section 3. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE CITY COUNCIL THIS 26th DAY OF SEPTEMBER, 2012.


Peter A. Micciche, Mayor

ATTEST:


Teresa Fahning, City Clerk

Ayes: Bagley, Daniels, Czarnecki, Sprague
Noes: None
Absent: Hartman, Anderson

12ORD022



City of Soldotna

177 North Birch Street ▶ Soldotna, Alaska ▶ Phone (907) 262-9107

MEMORANDUM

To: Larry Semmens, City Manager
Cc:
From: Stephanie Queen, Planning Director *Stephanie*
Date: Tuesday, September 04, 2012
Subject: Ordinance 2012-022, Special Assessment District Code re-write

Ordinance 2012-022 proposes to repeal in its entirety, and readopt the chapter of municipal code governing special assessment districts (SAD) within the City of Soldotna. The City's first SAD code was adopted in 1986, and several special assessment districts were created and administered under this original chapter (including Endicott, the 'Flower Streets,' Golf Acres Subdivision, and Ridgewood/Diane Lane). In 2007, the City determined that sections of the code were outdated and no longer supported by State Statutes, and that the process was difficult to administer. Ordinance 2007-027, enacted November 14, 2007, repealed SMC 3.16 in its entirety, and readopted SMC 3.17, with the goal of establishing clearer standards and requirements.

Only one SAD petition has been submitted under our existing SAD code, and through the process, the City has again identified sections which could be revised to provide a clearer and more efficient procedure. This memorandum highlights the main differences between the proposed ordinance adopting Chapter 3.18, and our existing Chapter 3.17.

INITIATION OF A SPECIAL ASSESSMENT DISTRICT

Our existing code allows an SAD to be initiated either by a sponsor, or by the City Council (SMC 3.17.050). The proposed re-write provides both of these options as well (SMC 3.18.080). The main difference is how a sponsor-initiated petition is created, and at what point the city becomes involved in the formation of the district.

Initiation. Our existing code allows a sponsor to prepare a petition and collect signatures, then turn these documents in to the City Clerk with a non-refundable \$500 filing fee. The petition must contain a detailed description of the improvement and a map showing the proposed area to be benefitted, but the sponsor has the sole discretion to determine the extent (geographical area) of the improvements, and the level of improvement (i.e. paving vs. gravel, whether utilities are included, etc.) for their petition.

The process contained in the proposed re-write is similar to that used by the Kenai Peninsula Borough, and would allow for the city administration to become involved earlier. Under the proposed language, a sponsor may initiate an SAD by filling out an application and paying the \$500 fee, but the city administration would put the actual petition together, including determining the extent and level of improvements. In addition, the administration would make an initial recommendation as to the method of allocating the costs among the properties.

Withdraw a signature. The current code allows owners to remove their signature from the petition at any point in the process, if authorized by the City Council (SMC 3.17.050(D)).

The proposed alternate language would only allow an owner to withdraw their signature if they do so before the petition has been submitted to the City Clerk (SMC 3.18.080(A)(3)(b)). The owner's next opportunity to object would be during a 30-day objection period, prior to the public hearing at which the Council would consider a resolution to establish the SAD (SMC 3.18.100(D)).

Establishing a valid petition - Signatures required. The existing code contains an inconsistency here. SMC 3.17.050(C) states that a petition may be initiated by the "owners of at least one-half in value of the property to be benefitted." However, SMC 3.17.050(C)(1) requires signatures of owners of the property "that will bear fifty percent or more of the estimated cost of the improvement." For the first test, the administration uses the KPB assessed values. However, we are not able to determine whether the second test is met, because at this point in the process, the Council has not yet determined which allocation method would be used. Therefore it would be impossible to know which parcels would bear 50% of the costs.

The proposed language would require the record owners of at least sixty percent (60%) of the total number of parcels in the SAD; and the record owners of parcels that would bear more than fifty percent (50%) of the total cost. This two-prong test *would be* feasible under the new process, because the petition created by the administration would already contain the recommended cost allocation method.

PROPOSED 3.18.070. CITY MATCH PROGRAM. (SMC 3.17.250)

Rather than the code containing specific details about the process for municipal matching funds, this section would instead require that the Council set such a policy by Resolution. It would be the administration's intent that a resolution be prepared and scheduled in conjunction with the public hearing on this ordinance.

CHAPTER 3.18. - SPECIAL ASSESSMENTS

- 3.18.010. - PURPOSE.
- 3.18.020. - ASSESSMENT AUTHORITY.
- 3.18.030. - AUTHORIZED CAPITAL IMPROVEMENTS.
- 3.18.040. - COSTS ASSESSED.
- 3.18.050. - PROPERTY SUBJECT TO ASSESSMENT.
- 3.18.060. - METHODS OF ALLOCATION.
- 3.18.070. - CITY MATCH PROGRAM.
- 3.18.080. - INITIATION OF SPECIAL ASSESSMENT DISTRICT.
- 3.18.090. - RESTRICTIONS ON DISTRICT FORMATION.
- 3.18.100. - RESOLUTION TO FORM DISTRICT AND PROCEED WITH IMPROVEMENT.
- 3.18.110. - ORDINANCE LEVYING ASSESSMENTS.
- 3.18.120. - NOTICE OF ASSESSMENT.
- 3.18.130. - PAYMENT.
- 3.18.140. - PRORATION OF ASSESSMENT.
- 3.18.150. - REASSESSMENT.

3.18.010. - PURPOSE.

Special assessments may be created for the purpose of acquiring, installing or constructing capital improvements and are used for the financing of public improvements which primarily benefit property owners in a limited geographical area. This distinguishes them from improvements which benefit the entire community, paid for with general governmental resources.

3.18.020. - ASSESSMENT AUTHORITY.

A. The city may assess all or a portion of the cost of acquiring, installing, or constructing improvements against the property of a state or federal governmental unit or private property to be benefitted by a capital improvement described in SMC 3.18.020, notwithstanding its exemption from taxation by law.

B. Pursuant to AS 29.46.020(a) the procedures in SMC 3.18.040 through 3.18.160 apply to the levying of assessments under this chapter in lieu of the procedures in AS 29.46.030 through 29.46.100.

3.18.030. - AUTHORIZED CAPITAL IMPROVEMENTS.

Special assessments may be levied under this chapter for the improvement of existing roads or construction of new roads, and installation of utilities in dedicated public rights-of-way to meet or exceed construction standards adopted by the City of Soldotna that are in effect at the time of the formation of the special assessment district in which the assessments are levied.

3.18.040. - COSTS ASSESSED.

The city council shall assess against the benefitted parcels costs of the improvement that are allowable under AS 29.46.110, including without limitation costs of land acquisition, design, engineering, administrative overhead, professional services, financing costs and interest; provided that the assessment allocated to a parcel shall be reduced by the amount of any prepayment for that parcel under SMC 3.18.090(A)(1).

3.18.050. - PROPERTY SUBJECT TO ASSESSMENT.

The city council may assess any real property or interest in real property that the council determines is benefitted directly or indirectly by an improvement. The real property or interest in real property that is benefitted by an improvement may be abutting, adjoining, adjacent, contiguous or noncontiguous to the improvement.

3.18.060. - METHODS OF ALLOCATION.

The method of allocating the cost of an improvement shall be proportional to the benefit of the improvement to each assessed parcel. The methods of allocating the cost of an improvement include without limitation the following, or any combination thereof:

- A. Allocation based on the area of a parcel;
- B. Allocation based on lineal feet of street frontage of a parcel;
- C. Allocation based on the assessed valuation of a parcel;
- D. Allocation by zones within the special assessment district which allow differential assessment based upon differing benefits to different geographic locations within the district; and
- E. Allocation on a per lot basis so that each lot is charged an equal amount.

3.18.070. CITY MATCH PROGRAM.

The City Council shall, by resolution, establish a policy regarding use of city funds to fund a portion of the cost of improvements associated with a special assessment district.

3.18.080. - INITIATION OF SPECIAL ASSESSMENT DISTRICT.

A special assessment district may be initiated either by application from a sponsor, and subsequent petition of the required number of property owners; or by action of the City Council. For the purposes of this chapter, the record owner shall be the owner(s) listed with the Kenai Peninsula Borough public parcel information.

A. Sponsor Initiated. To obtain a petition for formation of a special assessment district, the sponsor of the district must first submit an application to the city clerk. The application shall be on a form provided by the clerk.

1. Review of Application. After receiving an application to form a special assessment district, the city administration shall determine the boundaries of the proposed district. Once the city makes an initial determination that formation of the proposed district is feasible based on the proposed boundaries and criteria set forth in SMC 3.18.090, a filing fee of five hundred dollars (\$500.00) shall be paid. The filing fee shall be nonrefundable.

2. Preparation and Issuance of Petition. After consulting with the sponsor of the special assessment district concerning any legal deficiencies in the proposed district and collection of the filing fee, the administration shall, within thirty (30) days, prepare a special assessment district petition for circulation. The petition form will include the following:

- a. A copy of Soldotna Municipal Code chapter 3.18, Special Assessment Districts;
- b. A description of the proposed improvement;
- c. A map of the proposed district;

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- d. The name of the record owner of each parcel in the proposed district, as of the date the petition was created;
- e. The tax parcel number of each parcel in the proposed district;
- f. The assessed valuation of each parcel in the proposed district;
- g. The proposed method of allocating the cost of the improvement to each parcel in the proposed district;
- h. A description of the limitations on withdrawing a petition signature under SMC 13.18.080(A)(3)(b); and
- i. The name, address and daytime telephone number of the sponsor of the petition.

3. Circulation and Filing of Petition; Signature Requirements

- a. After the city has determined that a special assessment district is eligible to proceed, the sponsor may circulate the petition for signature. The petition must be filed with the clerk's office within 30 days of the date of the first signature on the petition.
- b. A signature on a petition may be withdrawn only by written notice from the signer filed with the city clerk. A withdrawal is effective only if notice of the withdrawal is filed before the filing of the petition with the city clerk.
- c. The sponsor shall file the signed petition with the city clerk. If the city clerk finds that the petition contains sufficient signatures, the clerk shall submit the petition to the city manager for preparation of a resolution to form the district and proceed with the improvement under SMC 3.18.100. The sufficiency of signatures on a petition shall be determined as of the date the petition is filed with the clerk. The petition contains sufficient signatures only if it contains the signatures of:
 - i. The record owners of sixty percent (60%) or more of the total number of parcels subject to assessment in the proposed district; and
 - ii. The record owners of parcels that would bear more than fifty percent (50%) of the total cost of the assessments in the proposed district.
- d. If the City of Soldotna is an owner of property in the assessment district, the City Manager is authorized to sign the petition on behalf of the City, upon passage of a resolution by the City Council.

B. City Council Initiated.

The City Council may initiate a special assessment improvement proposal by motion or other action directing the city manager to prepare the resolution in accordance with Section 3.18.100. Council-initiated special assessment districts are subject to restrictions contained in SMC 13.18.090, but do not require a petition signed by property owners.

3.18.090. - RESTRICTIONS ON DISTRICT FORMATION.

- A. A special assessment district may not be formed if it violates any of the following restrictions, determined as of the date of filing the petition to form the district with the city clerk:
 - 1. The estimated amount of the assessment to be levied against each parcel in the district may not exceed fifty percent (50%) of the current assessed value for land and improvements on the parcel. For the purposes of this restriction, the estimated amount of the assessment against a

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parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the city before the city council acts on the resolution to form the district and proceed with the improvement. If the council does not approve the resolution to form the district and proceed with the improvement, the city will refund the prepayment.

2. A special assessment district may not be formed if parcels in the proposed district which would bear more than 10 percent of the estimated cost of the improvement are delinquent in payment of borough real property taxes in the immediately preceding tax year.

3. A special assessment district for the upgrade of an existing road, including paving, may not be formed if unimproved parcels represent more than 40 percent of the total assessed value of real property in the district. A parcel is improved under this subsection if it contains operable water and waste-water disposal systems or a dwelling or a building suitable for commercial use.

B. The provisions of this section must be met at the time the clerk certifies the petition pursuant to SMC 3.18.080(A)(3).

C. The legal description of parcels within the proposed district as of the date of the clerk's certification will be used to determine assessment. Any replats or subdivision of parcels pending during the formation process must be recorded by the clerk's certification of the petition in order for the parcels to be assessed as replatted or subdivided.

3.18.100. - RESOLUTION TO FORM DISTRICT AND PROCEED WITH IMPROVEMENT.

A. Within one hundred twenty (120) days after the city clerk has determined that a petition bears sufficient signatures or was initiated by the city council in accordance with SMC 3.18.080(B), the city manager shall prepare for city council consideration a resolution to form the special assessment district and proceed with the improvement. The city manager shall submit to the city council with the resolution a report on the proposed district containing the following:

1. A legal description of the parcels to be benefitted by the improvement, and a map of the proposed district;
2. A description of the current condition of the rights-of-way that are to be improved and a statement of the need for the proposed local improvement;
3. A proposed allocation of the cost of the improvement among parcels in the district;
4. An engineer's estimate of the cost of the improvement to the district, and the estimated amount to be assessed against each parcel;
5. A profile of the parcels in the proposed district, including nature of ownership and status of tax payments;
6. Whether there are other special assessment liens against any of the parcels in the proposed district;
7. A description of any parcels that exceed the assessment-to-value ratio set forth in SMC 3.18.090(A)(1);
8. The method of financing the improvement; e.g., bonding, city investment, or a combination; and
9. All estimated costs of the improvement set forth in SMC 3.18.040

B. The city council shall hold a public hearing on the resolution. The city clerk shall give notice of the public hearing on the resolution:

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1. By certified mail, return receipt requested, mailed not less than thirty-five days before the date of the hearing, to each record owner of a parcel in the proposed district; and
 2. By publication once a week for two consecutive weeks in a newspaper of general circulation in the city, with the first publication appearing not less than thirty days before the date of the hearing.
- C. Each notice of the public hearing shall include the following:
1. A description of the special assessment district and the proposed improvement;
 2. The date of public hearing;
 3. The place for reviewing the estimated assessment roll, and
 4. The procedure for presenting objections to the formation of the district.
- D. Written objections to the formation of the district may be filed with the city clerk for a period of 30 days after mailing the notice of the public hearing. If written objections are filed by the owners of parcels bearing one-half or more of the estimated cost of the improvement, the city council may not proceed with the improvement unless it revises the district so that parcels objecting to the district bear less than one-half of the cost of the improvement, except on approval of not fewer than three-fourths of the council. The revised district shall be subject to notice and public hearing as provided in subsections B and C of this section.
- E. After public hearing, the city council may adopt the resolution to form the district and proceed with the improvement. The resolution shall:
1. Describe the improvement and its location;
 2. Describe the parcels benefitted by the improvement;
 3. Approve the estimated cost of the improvement;
 4. Approve any City Matching Funds for the improvement in accordance with SMC 3.18.070;
 5. State the method of allocating the cost of the improvement among the benefitted parcels;
 6. Include an estimated assessment roll showing the amount of the assessment against each parcel;
 7. Authorize the city manager to proceed with the construction of the improvement; and
 8. Require the clerk to record in the district recorder's office a copy of the resolution to proceed and the estimated assessment roll.
- F. After passage of the resolution to proceed, the improvement may be constructed by force account or by contract, or in any other manner provided by law.
- G. In the event that the contract amount for improvements exceeds the estimated cost of the improvement by more than 10 percent, then no contract shall be entered without further city council approval by resolution. The city council shall hold a public hearing on the resolution, to allow owners of parcels to be assessed to be heard. The city clerk shall publish notice of the public hearing once in a newspaper of general circulation in the city and shall, by regular mail, notify affected property owners. If written objections are not received by or on the date set for the public hearing from owners of parcels bearing at least one-half of the cost of the improvement, the city council may approve the improvement contract.
- H. If construction of the project has not been initiated within two (2) years of adoption of the

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resolution forming the district, the special assessment district shall expire.

3.18.110. - ORDINANCE LEVYING ASSESSMENTS.

A. After the actual cost of an improvement authorized under SMC 3.18.040 has been ascertained, the city manager shall prepare and submit to the city council an assessment roll containing a description of the parcels in the special assessment district, the names of their record owners, and the amounts of the assessments. The assessment roll shall be submitted with an ordinance confirming the assessment roll and levying the assessments. The ordinance shall fix the times for payment of the assessments, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. The assessment roll shall be filed with the city clerk at the time of the introduction of the ordinance and shall be open to public inspection.

B. The city clerk shall give notice of the public hearing on the ordinance:

1. By regular mail mailed not less than fifteen days before the date of the hearing to each record owner of a parcel in the district; and
2. By publication once not less than fifteen days before the date of the public hearing in a newspaper of general circulation in the city.

C. Each notice of the public hearing shall state that the assessment roll is on file in the office of the city clerk and is available for public inspection, and the time and place for the hearing of objections to an assessment. In addition, the notice mailed to each record owner of a parcel in the district shall state the amount of the assessment to be levied against the parcel.

D. After the public hearing on the ordinance, the council shall correct any errors in the assessment roll, and confirm the corrected roll by adoption of the ordinance.

3.18.120. - NOTICE OF ASSESSMENT.

A. Within fifteen days after the adoption of an ordinance levying an assessment under SMC 3.18.110, the city clerk shall mail an assessment statement to the record owner of each assessed parcel. The statement shall describe the parcel, state the date of mailing of the statement, the amount of the assessment, the times for payment of the assessment, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. The statement shall include notice that it is the final determination of the assessment and that the property owner has thirty days from the date of mailing of the notice to appeal the assessment to the superior court.

B. Within five days after the assessment statements are mailed, the city clerk shall publish a notice that such assessments have been mailed and that the assessment roll is on file in the office of the city clerk.

C. After adoption of an ordinance levying a special assessment under SMC 3.18.110, the city clerk shall file in the office of the district recorder an appropriate notice of assessment lien on all assessed parcels.

3.18.130. - PAYMENT.

Payment may be in lump sum or by installments. Unless otherwise authorized by council, the following terms shall apply to the payment of assessments:

A. The period of time allowed for installment payments of assessments shall not exceed ten years.

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- B. A penalty equal to ten percent of the payment due plus any surcharge required to be imposed by AS 12.55.039 shall be added to all delinquent payments.
- C. The annual rate of interest on the unpaid balance of the assessment, excluding any penalty imposed on delinquent payments, shall be 2 percent (%) plus prime rate as published by the Wall Street Journal on the date the assessment roll is confirmed by the city council under SMC 3.18.110.
- D. Payment may not be required sooner than sixty (60) days after assessment.

3.18.140. – PRORATION OF ASSESSMENT.

Where any property on the confirmed assessment roll is subsequently subdivided or resubdivided prior to paying off the assessment, then the amount of principal and interest due on such property at the time of such subdivision or resubdivision shall be prorated between or among the subdivided or resubdivided lots in proportion to the benefitted area contained in each, as determined by the administration.

3.18.150. - REASSESSMENT.

- A. The city council shall within one year correct any deficiency in a special assessment found by a court. Notice and hearing must conform to the initial assessment procedures in SMC 3.18.100(B).
- B. Payments on the initial assessment are credited to the property upon reassessment. The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure.

CHAPTER 5.35. - SPECIAL ASSESSMENTS—PUBLIC UTILITIES

5.35.010. - Assessment authority.

This chapter is enacted under the authority of and in conformance with chapter 29.46 of the Alaska Statutes, to provide for the establishment of special assessment procedures. Under this authority the borough assembly may assess against private real property and/or the property of a governmental unit all or a portion of the cost of constructing or improving those capital projects of local benefit as described hereunder. As provided by AS 29.46.020, these procedures set out through KPB Chapter 5.35 shall replace and supersede the procedures set out by AS 29.46.030—AS 29.46.100.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.020. - Authorized capital improvements.

Special assessments may be utilized solely for financing of the extension of the lines of service of those public utilities regulated by the Regulatory Commission of Alaska, or of city-owned utilities to areas outside the boundaries of the city. Special assessments are not available for the construction and financing of private hookups or service connections running from the utility's main line to private structures or facilities to be served on the benefitted parcels.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 1, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.030. - Initiation of improvement proposal—Preclearance—Resubmission.

- A. When a petition application is submitted by a project sponsor, the boundaries of the district shall be approved following these steps:
1. A special assessment district proposal shall be initiated by submitting a complete application and a map or detailed description of the proposed geographic area subject to inclusion in the special assessment district to the borough assessor or assessor's designee. Any property owner interested in bringing the public utility improvement to their property or neighborhood can initiate the process.
 2. Upon receipt of the application and map or description, the assessor or the assessor's designee shall review the materials to determine whether the proposed boundary is proper. The boundary will be considered improper if:
 - a. any property adjacent to the proposed district will be benefitted by the proposed utility and is clearly excluded for the primary purpose of enabling the included properties to meet assessment percentage and signature requirements of this chapter;
 - b. the boundary covers a large, non-contiguous area, such as parcels unconnected by roadways, utility easements or property boundaries; or
 - c. the boundary includes too many parcels with the intention of diluting costs or minimizing the effect of delinquent properties; or
 - d. such other grounds as may be established by regulation or administrative policy.

3. If the assessor makes a preliminary finding that the boundary is proper, s/he shall then obtain the approval of the borough mayor to submit the proposed boundary to the utility whose service is sought.
 4. Once the assessor and mayor both approve the boundary, the assessor shall consult with the utility whose service is sought to be extended and obtain written acknowledgment that the proposed boundary meets the requirements of the utility, that the utility approves and will support construction of the extension, and a written estimate of the utility's total cost of constructing the extension.
 5. If the utility company approves the project as described in subsection (A)(4), the assessor shall contact the sponsor and inform him/her of the assessor's approval and the utility's cost estimate.
- B. In the event that the assessor determines the proposed boundary is improper, the boundary description shall be returned to the sponsor along with a written explanation describing why the proposed boundary has been deemed improper. The sponsor may modify and resubmit the boundary description to the assessor for approval as described in Section A above.
- C. If the proposed boundary is approved under KPB 5.35.030(A), the sponsor may provide written notice to the assessing department of intent to proceed with full administrative review of the petition report under KPB 5.35.105.
- D. A non-refundable filing fee as established in the most current Schedule of Rates, Charges and Fees under KPB chapter 1.26 shall be submitted with the sponsor's notice to proceed with administrative review.
- E. After the written notice to proceed and filing fee are received by the assessing department from the sponsor, the assessing department shall provide notice of the proposed USAD to all parcel owners within the proposed USAD by certified mail, return receipt requested. The notice shall include the following:
1. a description of the special assessment district and proposed improvement;
 2. a map of the proposed improvement;
 3. the timeframe for the mayor to complete the administrative review pursuant to KPB 5.35.105(C);
 4. notice that the legal description of parcels within the proposed district as of the date the mayor approves the petition report will be used to determine assessments per KPB 5.35.070(B). Any action to replat parcels within the proposed district shall be completed and recorded before the date the mayor approves the petition report under KPB 5.35.105(C); and
 5. notice that parcel owners shall submit any comments, including objections to their parcel's inclusion in the proposed district, in writing within 45 days of the date the assessing department mails the notices under this section, in order to be considered in the mayor's review of the petition report pursuant to KPB 5.35.105. Comments may be submitted via mail, hand-delivery, email, or facsimile. The date the assessing department receives the written comment will determine whether that comment has been timely submitted.
- F. If any changes are made to the proposed district boundary by the sponsor after the assessing department receives the sponsor's written intent to proceed with administrative review of the proposed district, the revised district shall be subject to all steps for preclearance and resubmission of the proposed district as provided in KPB 5.35.030. The sponsor will not be required to submit an additional filing fee.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 2, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.040. - Reserved.

Editor's note— Ord. No. 2009-25, § 7, adopted May 19, 2009, renumbered § 5.35.040 as § 5.35.106 and amended same. See also the Ordinance List and Disposition Table.

5.35.050. - Reserved.

Editor's note— Ord. No. 2009-25, § 8, adopted May 19, 2009, renumbered § 5.35.050 as § 5.35.107 and amended same. See also the Ordinance List and Disposition Table.

5.35.060. - Administration—Regulations—Procedures.

The mayor may adopt regulations, subject to assembly approval, setting out such requirements and procedures as deemed necessary for the efficient administration of this program. The assessing department shall be responsible for the processing of petitions and development of an assessment roll for the special assessment district. The finance department shall be responsible for the sale of any bonds and collection of assessments.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.070. - Property assessed—Restrictions on formation.

- A. The assembly may assess for an improvement any real property, or any interest in real property, directly benefitted by the improvement. The property to be assessed may include any property which is otherwise for any reason exempt from taxation by law.
- B. The legal description of parcels within the proposed district as of the date of the mayor's approval of the petition report under KPB 5.35.105 will establish the parcels for assessment. No subdivision, reversion of acreage, or lot line adjustment will be recognized for USAD assessment purposes after the mayor's approval of the petition report.
- C. In no case may a property be assessed an amount in excess of 50 percent of the fair market value of the property.

For the purposes of this restriction, the estimated amount of the special assessment lien against a parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the borough before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment shall be received no later than the close of business at least 15 days prior to the date the assembly is scheduled to act on the resolution to form the district and proceed with the improvement. If the assembly does not approve the resolution to form the district and proceed with the improvement, the borough shall refund the prepayment.

- D. In no case shall a special assessment district be approved for formation by the assembly under KPB 5.35.110 where properties which will bear more than 10 percent of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes at the time the assembly approves the resolution to form the district and proceed with the improvement.

For the purposes of this restriction, the delinquent tax may be paid before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment shall be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form the district and proceed with the improvement.

- E. A special assessment district may not be formed under this chapter if one owner owns more than 40 percent of the total number of parcels to be benefited.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 3, 5-19-09; Ord. No. 2001-03, § 1, 4-3-01; Ord. No. 96-38, § 2, 1996; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.080. - Costs assessed.

The assembly shall assess one hundred percent of all costs of a public improvement against the parcels of property directly benefitted by the improvement, less any costs prepaid prior to assessment. The total costs for an improvement shall include the actual costs of the improvement, including costs of acquisition of interest in land necessary for the improvement, design, engineering, administrative costs, professional services, bond costs, financing costs, and interest incurred as a result of the improvement, and all other costs resulting from the construction of the improvement.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 96-38, § 3, 1996; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.090. - Method of assessment.

The method of assessment shall be an allocation of costs on a per parcel basis so that each benefitted parcel is charged an equal amount.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 4, 5-19-09; Ord. No. 97-23, § 1, 1997; Ord. No. 96-38, § 4, 1996; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.100. - Financing special assessment districts.

The mechanism for financing of special assessment districts shall be determined on a case by case basis and set out and approved by the assembly in the resolution to form the district and proceed with the improvement adopted for each respective special assessment district.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 5, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.105. - Preparation and review of petition report.

A. After the sponsor gives notice of intent to proceed with administrative review of the proposed USAD, the assessor or assessor's designee shall prepare a petition report for the mayor's approval. The petition report shall include the following information:

1. a description of the proposed improvement;
2. the total estimated cost of the improvement supported by a written statement from the utility constructing the improvement;
3. a map showing the boundary of the proposed district;
4. the estimated roll:
 - a. the total estimated cost of the improvement;
 - b. the name of the record owner of each parcel in the proposed district;
 - c. the tax parcel number of each parcel in the proposed district;
 - d. the legal description of each parcel in the proposed district;
 - e. the assessed valuation of each parcel in the proposed district;

- f. an estimate of the amount to be assessed to each parcel in the proposed district;
 - g. whether there are other special assessment liens against any of the parcels in the proposed district; and
 - h. a description of any parcels that violate the restrictions listed in KPB 5.35.070(C) or (D);
- 5. all written comments timely received per KPB 5.35.030(E)(5), including any objections from parcel owners regarding inclusion of their property in the proposed district;
- 6. the method of proposed financing for the improvement; and
- 7. the name, address and daytime telephone number of the sponsor.
- B. The mayor shall exclude from the proposed district any real property, or any interest in real property, that is not directly benefitted by the improvement. If a property owner claims the physical characteristics of his or her property make it legally impermissible, physically impossible, or financially infeasible to develop or improve it in a manner that would enable the property to benefit from the proposed improvement, the property owner has the burden of demonstrating that the property cannot be developed or improved.
 - 1. Factors that may allow a parcel to be excluded from the district include, but are not limited to, the utility company's inability to provide service to the parcel via main line, and plat restrictions on development.
 - 2. For the purposes of this section, "financially infeasible" means the cost to develop the property would exceed the increase in value due to development.
- C. The mayor will consider the petition report and make a final determination to approve the report or to require additional or amended information not less than 45 days and not more than 60 days from the date the assessing department mails notice to affected property owners under KPB 5.35.030(E) to allow for the comment period described in that section. In the case where the mayor determines the district boundary as proposed in the petition report is improper, the mayor may modify and resubmit the district boundaries to the utility company for further consideration. The sponsor shall provide written agreement of any changes to the boundaries, cost per parcel, or other project elements prior to the project proceeding.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 6, 5-19-09)

5.35.106. - Petition.

- A. Once the petition report is approved by the mayor, the assessing department shall create the final petition containing all information required under KPB 5.35.107(A) and provide at least one copy of the petition to the sponsor for distribution to affected property owners.
- B. Upon receiving a copy of the petition, the sponsor may pursue the signatures of owners of property within the approved boundaries. Once sufficient signatures are obtained, the sponsor shall file a complete petition with the assembly, through the assessing department, following the process described in KPB 5.35.107.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 7, 5-19-09; Ord. No. 94-26, § 1(part), 1994)

Note— Formerly § 5.35.040.

5.35.107. - Petition filing; Requirements of petition.

- A. *Petition content.* The petition, which shall be distributed by the sponsor to all owners of property within the proposed district, shall include: the petition report approved by the mayor under KPB 5.35.105; a statement notifying the property owners to contact the applicable utility for any additional costs that may be required to utilize the improvement; notification that any costs to connect individual parcels to the main improvement are not included in the assessment; and a signature page with instructions.
- B. *Deadline for signatures.* The sponsor shall submit the completed petition signature page(s) to the assessing department within 45 days of the date on which the assessing department distributes the petition to the sponsor.

Proposed districts involving more than 150 properties may have additional time, up to 30 days, to collect signatures at the discretion of the mayor, so long as the delay has no negative impact on the utility company's estimate and timeframe for construction. The sponsor shall request the additional time when submitting the notice of intent to proceed with administrative review under KPB 5.35.030(C). However, the mayor has the discretion to approve a request for additional time at a later point in the process so long as the request for additional time does not impact the timeline for the project.

- C. *Signature requirements.* The petition shall contain the signatures of (a) the owners of record of at least 60 percent of the total number of parcels subject to assessment within the proposed district, and (b) the owners of at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation.
1. *Multiple owners.* When a parcel is owned by more than one person or entity, signatures for each record owner are required in order for the parcel to count towards the signature thresholds, consistent with the requirements listed in KPB 5.35.107(C)(2)–(6), as applicable.
 2. *Signature by Proxy.* Signatures by proxy will not be accepted by the clerk.
 3. *Power of Attorney.* The signature of a power of attorney will only be accepted by the borough if the signature is accompanied by a copy of the Power of Attorney document providing authority for such signatures.
 4. *Business entities.*
 - a. *Corporations.* Where a parcel is owned by a corporation, the petition shall be signed by two individuals, one of whom is the chair of the board, the president, or the vice president, and the other of whom is the secretary or treasurer, or by another person or persons who have been given authority via corporate resolution.
 - b. *Limited liability companies.* Where a parcel is owned by a LLC, the petition shall be signed by a member if the LLC is member-managed, or by the manager, if a manager has been designated.
 - c. *Other business owners.* Where a parcel is owned by another type of business entity, only those persons who have signatory authority to bind the business entity under Alaska Statutes shall sign the petition as owner.
 5. *Trusts.* Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the signature thresholds unless otherwise provided in the trust document. The signature of the trustee(s) shall be accepted by the borough if it is accompanied by a copy of the trust document.
 6. *Kenai Peninsula Borough.* The mayor shall be the designee for signing any petition when borough land is part of the proposed district. Where the Kenai Peninsula Borough abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, shall be reduced by the number of parcels owned by the borough within the proposed district.
 7. *Excluded parcels.* When a parcel is excluded from the district by the mayor under KPB 5.35.105(B) or by law, the total number of parcels within the district, for the purpose of

calculating the signature thresholds, shall be reduced by the number of excluded parcels within the proposed district.

- D. *Utility acknowledgement.* The petition shall contain or be accompanied by a statement from an authorized officer or employee of the utility whose service is sought to be extended acknowledging that the project as proposed by the petition meets the requirements of the utility and that the utility approves and will support construction of the extension.
- E. *Withdrawal of signature.* A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department prior to the final filing of the petition signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is submitted before the completed petition is filed.
- F. *Certification of petition.* Once the sponsor files the signed petition with the assessing department, the borough clerk shall determine whether the petition contains sufficient signatures as described in KPB 5.35.107. If the petition meets the requirements of KPB 5.35.107, the borough clerk shall certify the petition and submit the petition to the mayor for preparation of a resolution to form the district and proceed with the improvement under KPB 5.35.110.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2011-32, § 12, 9-20-11; Ord. No. 2009-25, § 8, 5-19-09; Ord. No. 96-38, § 1, 1996; Ord. No. 95-16, § 1, 1995; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

Note— Formerly § 5.35.050.

5.35.110. - Resolution to form the district and proceed with the improvement.

- A. When the borough clerk has determined that a petition bears sufficient signatures as described in KPB 5.35.107, the mayor or mayor's designee shall prepare for assembly consideration a resolution to form the special assessment district and proceed with the improvement. The mayor shall submit to the assembly with the resolution a copy of the petition as described in KPB 5.35.107(A).
- B. The assembly shall hold a public hearing on the resolution. The borough clerk shall give notice of the public hearing on the resolution:
 - 1. by certified mail, return receipt requested, mailed not less than 35 days before the date of the hearing, to each record owner of a parcel in the proposed district; and
 - 2. by publication once a week for two consecutive weeks in a newspaper of general circulation in the borough, with the first publication appearing not less than 30 days before the date of the hearing.
- C. Each notice of the public hearing shall include the following:
 - 1. a description of the special assessment district and the proposed improvement;
 - 2. the date of public hearing;
 - 3. the place for reviewing the estimated assessment roll; and
 - 4. the procedure for presenting objections to the formation of the district.
- D. Written objections to the necessity of formation of the district may be filed with the borough clerk for a period of 30 days after mailing the notice of the public hearing. If written objections to the necessity of formation of the district are filed by the owners of parcels bearing one-half or more of the estimated cost of the improvement, the assembly may not proceed with the improvement.
- E. After public hearing, the assembly may adopt the resolution to form the district and proceed with the improvement. If the assembly approves the district, the resolution shall:
 - 1. describe the improvement and its location;

2. describe the parcels benefitted by the improvement;
 3. make a finding that the improvement is necessary and should be made;
 4. identify any parcels within the boundaries excluded from the district, which will not receive the benefit of the improvement and will not be subject to the assessment;
 5. if the mayor signed the petition on behalf of the borough, approve the mayor's action;
 6. approve the estimated cost of the improvement;
 7. include an estimated assessment roll showing the amount of the assessment against each parcel;
 8. authorize the mayor to proceed with the construction of the improvement; and
 9. require the clerk to record in the district recorder's office a copy of the resolution to form the district and proceed with the improvement and the estimated assessment roll.
- F. After passage of the resolution to form the district and proceed with the improvement, the improvement may be constructed by force account or by contract, or in any other manner provided by law.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 9, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.120. - Reserved.

Editor's note— Ord. No. 2009-25, § 10, adopted May 19, 2009, repealed § 5.35.120, which pertained to resolution to proceed. See also the Ordinance List and Disposition Table.

5.35.125 - Ordinance of appropriation.

- A. An ordinance of appropriation shall be scheduled for enactment at the same assembly meeting that the resolution to form the district and proceed with the improvement is adopted. The amount of the appropriation shall be equal to the estimated cost of the improvement included in the petition report under KPB 5.35.105(A).
- B. In the event that the borough puts the project out to bid, and the lowest, responsive, responsible, qualified bid exceeds the appropriation by more than 10 percent, then no contract shall be entered without further assembly approval. Prior to such further approval, the borough clerk shall publish notice once in a newspaper of general circulation in the borough stating the time and place when owners of parcels to be assessed may be heard on the question and shall, by certified mail, return receipt requested, notify affected property owners of the time and place when they may be heard on the question.

(Ord. No. [2015-12](#), § 1, 6-16-15)

5.35.130. - Effect of resolution to form the district and proceed with the improvement.

Adoption of the resolution to form the district and proceed with the improvement shall be a final determination that properties in the assessment district are properly included and subject to assessment for the improvement.

(Ord. No. 2009-25, § 11, 5-19-09; Ord. No. 94-26, § 1(part), 1994)

5.35.140. - Improvements financed through the sale of bonds.

If the cost of the improvements are to be paid from bond proceeds the bonds shall not be sold until 30 days after the adoption of the resolution to proceed. No construction may begin prior to receipt of the proceeds from the sale of the bonds.

(Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 94-26, § 1(part), 1994)

5.35.150. - Ordinance of assessment.

- A. After the actual cost of the public improvements has been ascertained, the borough assembly shall by ordinance assess a lien against each parcel enumerated in the estimated assessment roll adopted under KPB 5.35.110. The final assessment roll shall be developed in the same proportion to the estimated assessment roll as the actual cost of the improvement bears to the estimated cost of the improvement. This assessment shall be payable in the manner provided in the resolution to form the district and proceed with the improvement adopted under KPB 5.35.110, and shall be final upon the enactment of the ordinance.
- B. The assessment roll made under this section shall be filed with the borough assembly at the time of the introduction of said ordinance of assessment and shall be open to public inspection.
- C. Prior to enactment of the ordinance of assessment, the assembly shall:
 - 1. Fix a time to hear objections to the assessment roll;
 - 2. Provide that the borough clerk publish notice of the ordinance of assessment as required under KPB 22.40.010(D); and
 - 3. Provide that the borough clerk notify the owners of record of the parcels to be assessed for the improvement by regular mail not less than 10 days before the hearing; the notice shall include notice of individual assessment and notice of the time and place of the hearing.

(Ord. No. [2015-26](#), § 1, 12-8-15; Ord. No. [2015-12](#), § 1, 6-16-15; Ord. No. 2009-25, § 12, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.155. - Deferral of payment of principal.

- A. The principal of the special assessment lien on real property owned and occupied as the primary residence and permanent place of abode by a resident who is economically disadvantaged may be deferred as provided in this section. The deferral of payment on the principal of the special assessment lien means that such payment will be postponed, but not forgiven.
- B. For purposes of this section, a resident is economically disadvantaged if the person's adjusted gross income is less than 200 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska.
- C. Interest shall continue to accrue on the assessment during the period of deferral.
- D. Property owners wishing to seek a deferral of the assessment shall submit a form prescribed by the finance director or designee no later than February 1 of each calendar year to certify that the conditions described in this section continue to exist.
- E. Deferral is for the principal balance only. Individuals who qualify for the deferral shall pay the accrued interest by the due date each year.
- F. The deferred assessment, including all unpaid accrued interest, becomes due and payable in full when the property ceases to be owned or occupied by the resident who qualified for the deferral. Any remaining balance due shall be paid on the same schedule as would have been in place if no deferral had applied.

- G. If the resident who previously qualified for the deferral no longer qualifies, but continues to own and occupy the property, then payments on the principal shall resume starting with the next payment due.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 13, 5-19-09)

5.35.160. - Notice of assessment.

- A. Within 15 days after the enactment of an ordinance under KPB 5.35.150 levying a special assessment, the finance director shall mail a statement to the owner of record of each property assessed. For each property the statement shall designate the property, the total allocated assessment, the assessment lien amount, the schedule of payments, the time of delinquency, penalties, and notice of the deferral of principal option described in KPB 5.35.155.
- B. Within 5 days after the statements are mailed, the finance director shall publish a notice that such assessments have been mailed and that the assessment roll is on file in the office of the borough clerk.
- C. After enactment of an ordinance under KPB 5.35.150 levying a special assessment, the clerk shall file in the office of the district recorder an appropriate notice of assessment lien on all lands assessed.

(Ord. No. 2015-12, § 1, 6-16-15; Ord. No. 2009-25, § 14, 5-19-09; Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.170. - Return of excess funds.

Any and all funds collected from assessments levied for a specific project which exceed the actual total expenditures made by the borough on the project; and, any and all funds returned to the borough by the utility as a refund of expenditures made by the borough on a specific project, shall either be returned to the owners of record of the assessed properties on a pro rata basis or applied to the outstanding debt, in the manner provided by the ordinance of assessment.

(Ord. No. 96-38, § 5, 1996; Ord. No. 94-26, § 1(part), 1994)

5.35.180. - Reassessment.

When it appears to the assembly that a special assessment is invalid or when an assessment is adjudged to be illegal by a court, the assembly shall order a reassessment whether the improvement has been made or not. Proceedings for a reassessment and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

(Ord. No. 94-26, § 1(part), 1994; Ord. No. 92-16, § 1(part), 1992)

5.35.190. - Definitions.

"Application" means the form provided by the borough assessing department and completed by the district sponsor to initiate the process of proposing a special assessment district.

"Benefit" means an advantage gained from the improvement greater than that shared by the general public under this ordinance. Benefit may include, for example, increased property value and marketability, a special adaptability of the land, or a relief from some burden (for example, lower energy costs).

"Deferral of payment" means that payment is postponed or suspended until a certain time or event.

"Directly benefitted" means that the property may hook up its private service line to the main service line without any further extension of the main line, based upon the utility's guidelines.

"District" means an area composed of individual parcels of land that are connected to the public improvement for which the special assessment is to be levied.

"Estimated assessment roll" means a spreadsheet that includes the name of each recorded owner, tax parcel number, assessed value and legal description of the parcels of land and other property which will be specially benefited by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each parcel of land or other property.

"Petition report" means the document created by the assessing department, for the mayor's review, which contains all pertinent information regarding the proposed district and special assessment project.

"Petition" means the formal written request signed by record owners within the proposed boundaries to form the utility special assessment district.

"Sponsor" means the person who initiates the process proposing a special assessment district and coordinates the project on behalf of the property owners of the proposed district.

(Ord. No. [2015-12](#), § 1, 6-16-15)

CHAPTER 14.31. - SPECIAL ASSESSMENTS—ROAD IMPROVEMENTS

14.31.010. - Assessment authority.

- A. Within the borough road service area, the borough may assess against the property of a state or federal governmental unit and private property to be benefitted by a capital improvement described in KPB 14.31.020 all or a portion of the cost of acquiring, installing or constructing the capital improvement.
- B. Pursuant to AS 29.46.020(a) the procedures set out in KPB chapter 14.31 shall replace and supersede the procedures in AS 29.46.030 through 29.46.100.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.020. - Authorized capital improvements.

Special assessments may be levied under this chapter for the improvement of existing roads or construction of new roads in public rights-of-way to meet or exceed road construction standards adopted in KPB Chapter 14.06 that are in effect at the time of the formation of the special assessment district in which the assessments are levied.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2009-05, § 1, 2-17-09; Ord. No. 2008-05(S), § 2, 5-6-08; Ord. No. 97-32, § 2(part), 1997)

14.31.030. - Property subject to assessment.

The assembly may assess any real property or interest in real property that the assembly determines is directly benefitted by an improvement. The real property or interest in real property that is benefitted by an improvement may be abutting, adjoining, adjacent, or contiguous to the improvement. Real property may be assessed for an improvement notwithstanding its exemption from taxation by law.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2001-05(S), § 2, 4-3-01)

14.31.040. - Initiation of special assessment district.

To initiate a petition for the formation of a special assessment district, the sponsor of the proposed district submits an application and a map or detailed description of the proposed geographic area subject to inclusion in the special assessment district to the borough assessor or assessor's designee. Applications to form a road improvement assessment district (RIAD) and participate in the RIAD match program shall be received no later than July 1 of each year.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.050. - Review of petition application.

- A. *District boundaries—Review by assessor and RSA director.* After receiving an application for a petition to form a RIAD, the borough assessor or the assessor's designee, in consultation with the road service area director, shall determine whether the boundaries of the proposed district are proper. The boundary will be considered improper if:

1. any property adjacent to the proposed district will be benefited by the proposed improvement and is clearly excluded for the primary purpose of enabling the included properties to meet assessment percentage and signature requirements of this chapter;
 2. the boundary covers a large, non-contiguous area, such as parcels unconnected by the roadway or property lines;
 3. the boundary includes too many parcels with the intention of diluting costs or minimizing the effect of delinquent properties; or
 4. such other grounds as may be established by regulation or administrative policy.
- B. Based upon the proposed district boundaries, the borough assessor shall inform the sponsor whether the proposed district may violate any of the restrictions on district formation in KPB 14.31.080.
- C. *District boundaries—Deemed improper.* In the event that the assessor determines the proposed boundary is improper, the boundary description shall be returned to the sponsor along with a written explanation describing why the proposed boundary has been deemed improper. The sponsor may modify and resubmit the boundary description to the assessor for approval as described in KPB 14.31.050(A).
- D. *Initial staff report.* Once the assessor approves the boundaries of the proposed district, assessing and road service area staff will prepare an initial report for the road service area (RSA) board to consider for approval of an order for the engineer's estimate regarding the proposed project. The initial staff report shall contain the following information:
1. Sponsor's application, description of the subject road(s) and scope of the proposed project;
 2. Review of KPB 14.31.080(A)(3) and (4) restrictions on formation for the proposed project;
 3. Review of KPB 14.31.050(E) criteria for the proposed project;
 4. Any additional comments that may help the RSA board evaluate the project; and
 5. RSA staff recommendation for the proposed project.
- E. *RSA Board—Approval to proceed with engineer's estimate.* The RSA board shall review the staff reports for all RIAD applications timely submitted under KPB 14.31.040 no later than September 1 of each year, for construction in the following year. The road service area board shall consider the following factors in evaluating petition applications and determining whether to approve an order for an engineer's estimate:
1. Whether the road is currently on the maintenance system;
 2. The number of petitions for projects received that year;
 3. The funds available in the RIAD engineer's estimate fund established under KPB 5.20.160; and
 4. Whether an application for district formation has been previously filed and whether conditions have changed that make the project more feasible than in past application years.
- F. *RSA board—Administrative procedures.* The RSA board may adopt administrative procedures for application of the factors set forth in KPB 14.31.050(E) by board resolution.
- G. *Non-refundable filing fee.* Upon receiving notice that the RSA board has approved an order for an engineer's estimate under KPB 14.31.050(E), the sponsor must submit a non-refundable filing fee as described in the borough's Schedule of Rates, Charges and Fees, before any additional efforts are made by the borough to proceed with the proposed district.
- H. *Engineer's estimate.* After the sponsor submits the non-refundable filing fee, the road service area director or designee shall obtain an estimate of the cost of the improvement proposed for the district, referred to as the "engineer's estimate." The borough assessor shall re-evaluate whether the proposed district may violate any of the restrictions on district formation in KPB 14.31.080 taking into account the estimated costs, and inform the sponsor if any violations have been identified.

- I. *Sponsor's intent to proceed.* If the sponsor wishes to proceed after receiving the engineer's estimate under KPB 14.31.030 (H), s/he must submit to the assessor a written notice of intent to proceed with the project.
- J. After the written notice to proceed is received from the sponsor, the assessing department shall provide notice of the proposed RIAD to all parcel owners within the proposed RIAD district by regular mail, at least 10 days prior to the RSA board's consideration of the resolution to approve the petition report and recommend a borough match under KPB 14.31.065. The notice shall include the following:
 - 1. A description of the special assessment district and proposed improvement;
 - 2. A map of the proposed improvement;
 - 3. The date of RSA public hearing; and
 - 4. Notice that the legal description of parcels within the proposed district as of the date the RSA board approves the resolution will be used to determine assessments per KPB 14.31.080(C). Any action to replat parcels within the proposed district must be completed and recorded before the date the RSA board approves the resolution.
- K. If any changes are made to the proposed district boundary by the sponsor after the assessing department receives the sponsor's written intent to proceed with the project, the revised district shall be subject to all steps for preclearance and resubmission of the proposed district as provided in KPB 14.31.050. The sponsor will not be required to submit an additional filing fee.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2011-32, § 18, 9-20-11; Ord. No. 2009-05, § 2, 2-17-09; Ord. No. 2001-05, § 3, 4-3-01; Ord. No. 2000-19-08, § 2, 8-1-00; Ord. No. 99-45, § 1, 9-7-99; Ord. No. 97-32, § 2(part), 1997)

14.31.055. - Road service area match program.

- A. There is established pursuant to KPB 5.20.170 a borough match program for RIAD projects that upgrade existing roads. The RSA board may authorize up to 50 percent of the costs of a RIAD be defrayed from this fund for any project that upgrades existing roads subject to the assembly's annual appropriation to that fund.
- B. A borough match may be considered for the following types of RIAD projects:
 - 1. Pavement projects for existing roads which have been certified for borough maintenance;
 - 2. Pavement or gravel projects for existing roads, which do not meet borough standards in order that the road will be brought to borough standards; and
 - 3. Pavement or gravel projects for existing substandard gravel roads, which have been certified for borough maintenance in order that the road will be brought to borough standards.
- C. The annual deadline application for the match program is July 1 of each year, and must be submitted with the application to form a proposed district.
- D. The RSA board shall consider the following factors in evaluating applications for the match program:
 - 1. Whether it is economically feasible to improve the road to RSA certification standards;
 - 2. To what extent do the assessed values of properties support the scope of work for each project;
 - 3. The number of applications for projects received that year;
 - 4. The funds available in the Road Improvement Assessment District Match Fund;
 - 5. Whether an application for district formation has been previously filed and whether conditions have changed to make the project more feasible than in past application years;

6. The number of residents served;
 7. The number of parcels served;
 8. The feasibility of the project's compliance with KPB 14.31.080 criteria regarding restrictions on formation; and
 9. Whether there is alternate access to properties served by the road and the condition of that alternate access.
- E. The road service area board may adopt procedures by board resolution for implementation of this program consistent with this chapter.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2009-05, § 3, 2-17-09; Ord. No. 2004-11, § 5, 5-18-04; Ord. No. 2002-02, § 1, 2-5-02; Ord. No. 2001-05(S), § 4, 4-3-01)

14.31.060. - Preparation and issuance of petition report.

After the sponsor submits a written notice to proceed under KPB 14.31.050(I), the borough assessor or the assessor's designee, in consultation with RSA staff, will prepare a special assessment district petition report for circulation. The petition report will include the following:

1. A description of the proposed improvement;
2. The estimated roll:
 - a. the total estimated cost of the improvement based on the engineer's estimate and other allowable costs, including a ten percent contingency calculated by the assessing department;
 - b. the name of the record owner of each parcel in the proposed district;
 - c. the tax parcel number of each parcel in the proposed district;
 - d. the legal description of each parcel in the proposed district;
 - e. the assessed valuation of each parcel in the proposed district;
 - f. an estimate of the amount to be assessed to each parcel in the proposed district; and
 - g. whether there are other special assessment liens against any of the parcels in the proposed district; and
 - h. a description of any parcels that violate the restrictions listed in KPB 14.31.080(A).
3. A map of the proposed district;
4. A description of the limitations on withdrawing a petition signature under KPB 14.31.070(E); and
5. The name, address and daytime telephone number of the sponsor of the petition.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.065 - RSA board resolution to approve the petition report and recommend a borough match.

- A. The assessor or assessor's designee, with the assistance of road service area staff, shall submit to the road service area board the petition report described in KPB 14.31.060 and a recommendation on formation of the district. Borough staff shall prepare for RSA board's consideration a resolution to approve the petition report and recommend a borough match.
- B. The RSA board shall vote on whether to approve the petition report for the proposed RIAD and make a recommendation to the borough assembly regarding formation of the district. The petition will be

distributed to the sponsor for circulation only if the petition report is approved by the road service area board.

- C. When a timely application to participate in the match program has been received, the RSA board shall vote on whether to approve the proposed district for participation in the match program using the criteria set forth in KPB 14.31.055(D). The RSA resolution to approve the petition report and recommend a borough match must include the RSA board's findings with regards to the KPB 14.31.055(D) criteria.

(Ord. No. [2015-13](#), § 1, 6-16-15)

14.31.070. - Circulation and filing of petition; signature requirements.

- A. After the road service area board approves the RSA resolution to approve the petition report and recommend a borough match, the assessing department shall create the final petition and distribute at least one copy to the sponsor.
- B. The petition must include the petition report approved by the RSA board under KPB 14.31.065 and a signature page with instructions.
- C. Upon receiving a copy of the petition, the sponsor is responsible for distributing the petition to all property owners within the approved boundaries and collecting the signatures of those property owners who support the formation of the RIAD. Completed petition signature page(s) must be filed with the assessing department within 45 days of the date the assessing department distributes the petitions to the sponsor.
- D. In order for the assembly to consider the proposed special assessment district, the petition must contain the signatures of the owners of record of (a) at least 60 percent of the total number of parcels subject to assessment within the proposed district and (b) at least 60 percent in value of the property to be benefited, in order to be considered by the assembly for formation.
1. *Multiple owners.* When a parcel is owned by more than one person or entity, signatures for each owner are required in order for the parcel to count towards the signature thresholds. All signatures shall be consistent with the requirements listed in KPB 14.31.070(D)(2)–(6), as applicable.
 2. *Signature by Proxy.* Signatures by proxy will not be accepted by the clerk.
 3. *Power of Attorney.* The signature of a power of attorney will only be accepted by the clerk if the signature is accompanied by a copy of the Power of Attorney document providing authority for such signatures.
 4. *Business entities.*
 - a. *Corporations.* Where a parcel is owned by the corporation, the petition must be signed by two individuals: one of whom is the chair of the board, the president, or the vice president, and the other of whom is the secretary or treasurer; or by another person or persons who have been given authority via corporate resolution.
 - b. *Limited liability companies.* Where a parcel is owned by a LLC, the petition must be signed by a member if the LLC is member-managed, or by the manager, if a manager has been designated.
 - c. *Other business owners.* Where a parcel is owned by another type of business entity, only those persons who have signatory authority to bind the business entity under Alaska Statutes may sign the petition as owner.
 5. *Trusts.* Where a parcel is owned by a trust, only the trustee may sign as the property owner. If there are co-trustees, a majority must sign the petition in order for the parcel to count towards the signature thresholds unless otherwise provided in the trust document. The signature of the trustee(s) will only be accepted by the clerk if it is accompanied by a copy of the trust document.

6. *Kenai Peninsula Borough.* The mayor shall be the designee for signing any petition when borough land is part of the proposed district. Where the Kenai Peninsula Borough abstains from participating in the petition signature process, the total number of parcels within the district, for the purpose of calculating the signature thresholds, will be reduced by the number of parcels owned by the borough within the proposed district.

- E. A signature on a petition may be withdrawn only by written notice from the signer submitted to the assessing department prior to the final filing of the petition signatures by the sponsor. A withdrawal is effective only if notice of the withdrawal is submitted before the filing of the completed petition.
- F. The sponsor shall timely submit the petition signatures to the borough assessor, who will provide the complete petition, along with supporting documentation, to the borough clerk. If the borough clerk finds that the petition contains sufficient signatures as described in KPB 14.31.070(D), the borough clerk shall certify the petition and submit the petition to the mayor, who will prepare a resolution to form the district and proceed with the improvement under KPB 14.31.090 for assembly consideration.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2012-33, § 1, 9-4-12; Ord. No. 97-50, § 1, 1997; Ord. No. 97-32, § 2(part), 1997)

14.31.080. - Restrictions on district formation.

- A. A special assessment district may not be formed if it violates any of the following restrictions:
1. The estimated amount of the assessment to be levied against each parcel in the district may not exceed 21 percent for gravel improvements to an existing road, or 25 percent for paving improvements, or 40 percent for construction of a new road, of the current assessed value of the parcel.
 - A. For the purposes of this restriction, the estimated amount of the assessment against a parcel will be reduced by the amount of a prepayment of the assessment for the parcel that is received by the borough before the assembly acts on the resolution to form the district and proceed with the improvement. If the assembly does not approve the resolution to form the district and proceed with the improvement, the borough will refund the prepayment.
 - B. Any such prepayment must be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form the district and proceed with the improvement.
 2. In no case shall a special assessment district be approved by the assembly where properties that will bear more than 10 percent of the estimated costs of the improvement are subject to unpaid, past-due borough property taxes at the time the assembly approves the resolution to form the district and proceed with the improvement.

For the purposes of this restriction, the delinquent tax may be paid before the assembly acts on the resolution to form the district and proceed with the improvement. Any such payment must be received no later than the close of business at least 15 days prior to the date the assembly will act on the resolution to form the district and proceed with the improvement.
 3. A special assessment district for the upgrade of an existing road, including paving, may not be formed if unimproved parcels represent more than 40 percent of the total assessed value of real property in the district. A parcel is improved under this subsection if it contains operable water or waste-water disposal systems, or a structure assessed for more than \$5,000.
 4. For construction of new roads, a special assessment district may not be formed if one owner owns more than 40 percent of the parcels to be benefited.
- B. The legal description of parcels within the proposed district as of the date of the RSA resolution to approve the petition report and recommend a borough match under KPB 14.31.065 will be used to

determine assessment. No subdivision, reversion of acreage, or lot line adjustment will be recognized for RIAD assessment purposes after the RSA board issues the resolution under KPB 14.31.065.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2009-05, § 4, 2-17-09; Ord. No. 2001-03, § 2, 4-3-01; Ord. No. 97-50, § 2, 1997; Ord. No. 97-32, § 2(part), 1997)

14.31.090. - Assembly resolution to form district and proceed with improvement.

- A. When the borough clerk has determined that a petition bears sufficient signatures as described in KPB 14.31.070, and the borough assessor has determined that the proposed district complies with KPB 14.31.080, the mayor shall prepare for assembly consideration a resolution to form the special assessment district and proceed with the improvement. The mayor shall submit the following information to the assembly with the resolution:
 - 1. The petition report prepared by borough staff under KPB 14.31.060, updated to account for any change in information;
 - 2. The RSA resolution to approve the petition report and recommend a borough match;
 - 3. A description of the current condition of the rights-of-way that are to be improved and a statement of the need for the proposed local improvement; and
 - 4. The method of financing the improvement; e.g., bonding, borough investment, or a combination.
- B. The assembly shall hold a public hearing on the resolution. The borough clerk shall give notice of the public hearing on the resolution:
 - 1. By certified mail, return receipt requested, mailed not less than 35 days before the date of the hearing, to each record owner of a parcel in the proposed district; and
 - 2. By publication once a week for two consecutive weeks in a newspaper of general circulation in the borough, with the first publication appearing not less than 30 days before the date of the hearing.
- C. Each notice of the public hearing shall include the following:
 - 1. A description of the special assessment district and the proposed improvement;
 - 2. The date of public hearing;
 - 3. The place for reviewing the estimated assessment roll, and
 - 4. The procedure for presenting objections to the formation of the district.
- D. Written comments, including any objections as to the necessity of the formation of the district may be filed with the borough clerk for a period of 30 days after mailing the notice of the public hearing. If written objections to the necessity of the formation of the district are filed by the owners of parcels bearing one-half or more of the estimated cost of the improvement, the assembly may not proceed with the improvement.
- E. After public hearing, the assembly may adopt the resolution to form the district and proceed with the improvement. The resolution shall:
 - 1. Describe the improvement and its location;
 - 2. Describe the parcels benefitted by the improvement;
 - 3. Approve the estimated cost of the improvement;
 - 4. Make a finding that the improvement is necessary and should be made, as required by AS 29.46.020;

5. Identify any parcels within the boundaries excluded from the district, which will not receive the benefit of the improvement and will not be subject to the assessment;
 6. If the mayor signed the petition on behalf of the borough, approve the mayor's action;
 7. Include an estimated assessment roll showing the amount of the assessment against each parcel;
 8. Authorize the mayor to proceed with the construction of the improvement; and
 9. Require the clerk to record in the district recorder's office a copy of the resolution to proceed and the estimated assessment roll.
- F. After passage of the resolution to proceed, the improvement may be constructed by force account or by contract, or in any other manner provided by law.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2000-01, § 1, 2-15-00; Ord. No. 97-32, § 2(part), 1997)

14.31.095. - Ordinance of appropriation.

- A. An ordinance of appropriation shall be scheduled for action at the same assembly meeting as the resolution to form the district and proceed with the improvement. The amount of the appropriation shall be equal to the estimated cost of the improvement presented in the petition report under KPB 14.31.060, including the 10 percent contingency calculated by the assessing department.
- B. In the event that the lowest, responsive, responsible, qualified bid exceeds the appropriation, then no contract shall be entered without further assembly approval.

Prior to such further approval, the borough clerk shall by regular mail, at least 10 days before the public hearing on the matter, notify affected property owners of the time and place when they may testify before the assembly.

(Ord. No. 2015-13, § 1, 6-16-15)

14.31.100. - Ordinance levying assessments.

- A. After the actual cost of an improvement authorized under KPB 14.31.090 has been ascertained, the mayor shall prepare and submit to the assembly an assessment roll containing a description of the parcels in the special assessment district, the names of their record owners, and the amounts of the assessments. The assessment roll shall be submitted with an ordinance confirming the assessment roll and levying the assessments. The ordinance shall fix the times for payment of the assessments, the rate of interest on unpaid installments, and the penalty and rate of interest on delinquent installments. The assessment roll shall be filed with the borough clerk at the time of the introduction of the ordinance and shall be open to public inspection.
- B. The borough clerk shall give notice of the public hearing on the ordinance:
 1. By regular mail mailed not less than 10 days before the date of the hearing to each record owner of a parcel in the district; and
 2. By publication as required by KPB 22.40.010(D).
- C. The notice mailed to each record owner in the district shall state that the assessment roll is on file in the office of the borough clerk and is available for public inspection, the time and place for the hearing of objections to an assessment, and the amount of the assessment to be levied against the parcel.
- D. After the public hearing on the ordinance, the assembly shall correct any errors or inequalities in the assessment roll, and confirm the corrected roll by adoption of the ordinance.

(Ord. No. [2015-26](#), § 2, 12-8-15; Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.110. - Costs assessed.

The assembly shall assess against the benefitted parcels any costs of the improvement that are allowable under AS 29.46.110, including without limitation costs of land acquisition necessary for the improvement, design, engineering, administrative costs, professional services, financing costs and interest; provided that the assessment allocated to a parcel shall be reduced by the amount of any prepayment for that parcel under KPB 14.31.080. Before the costs are allocated to the benefitted parcels under KPB 14.31.120, the amount of the approved borough match will be subtracted from the total cost of the improvement.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2001-05(S), § 5, 4-3-01; Ord. No. 97-32, § 2(part), 1997)

14.31.120. - Methods of assessment.

The method of assessment shall be an allocation of costs on a per parcel basis so that each benefitted parcel is charged an equal amount.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2000-01, § 2, 2-15-00; Ord. No. 97-32, § 2(part), 1997)

14.31.130. - Notice of assessment.

- A. Within 15 days after the adoption of an ordinance levying an assessment under KPB 14.31.110, the finance director shall mail an assessment statement to the record owner of each assessed parcel. The statement shall describe the parcel, state the date of mailing of the statement, the amount of the total allocated assessment, the assessment lien amount, the times for payment of the assessment, the rate of interest on unpaid installments, the penalty and rate of interest on delinquent installments, and notice of the deferral of principal option described in KPB 14.31.145. The statement shall include notice that it is the final determination of the assessment and that the property owner has 30 days from the date of mailing of the notice to appeal the assessment to the superior court.
- B. Within five days after the assessment statements are mailed, the finance director shall publish a notice that such assessments have been mailed and that the assessment roll is on file in the office of the borough clerk.
- C. After adoption of an ordinance levying a special assessment under KPB 14.31.110, the borough clerk shall file in the office of the district recorder an appropriate notice of assessment lien on all assessed parcels.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 97-32, § 2(part), 1997)

14.31.140. - Special assessment financing.

- A. Special assessment bonds. The borough may, by ordinance, authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of bonds so issued shall be payable solely from the levy of special assessments against the property to be benefitted. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. Interest on funds borrowed to finance the improvement prior to the sale of special assessment bonds shall be a cost of the assessment district.

- B. Borough Investment Funds. In conformance with KPB Chapter 5.10 on investment of borough funds, the assembly may authorize investment of borough moneys in special assessment districts to pay all or part of the cost of an improvement at an interest rate determined by the assembly. In all such cases, the properties benefitted shall stand as security for payment of the cost of improvements.

(Ord. No. 97-32, § 2(part), 1997)

14.31.145. - Deferral of payment of principal.

- A. The principal of the special assessment lien on real property owned and occupied as the primary residence and permanent place of abode by a resident who is economically disadvantaged may be deferred as provided in this section. The deferral of payment on the principal of the special assessment lien means that such payment will be postponed, but not forgiven.
- B. For purposes of this section, a resident is economically disadvantaged if the person's adjusted gross income is less than 200 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska.
- C. Interest will continue to accrue on the assessment during the period of deferral.
- D. Property owners wishing to seek a deferral of the assessment must submit a form prescribed by the finance director or designee no later than February 1 of each calendar year to certify that the conditions described in this section continue to exist.
- E. Deferral is for the principal balance only. Individuals who qualify for the deferral must pay the accrued interest by the due date each year.
- F. The deferred assessment, including all unpaid accrued interest, becomes due and payable in full when the property ceases to be owned or occupied by the resident who qualified for the deferral. Any remaining balance due shall be paid on the same schedule as would have been in place if no deferral had applied.
- G. If the resident who previously qualified for the deferral no longer qualifies, but continues to own and occupy the property, then payments on the principal will resume, starting with the next payment due.

(Ord. No. 2015-13, § 1, 6-16-15; Ord. No. 2010-25, § 1, 7-6-10)

14.31.150. - Reassessment.

When it appears to the assembly that a special assessment is invalid or when an assessment is adjudged to be illegal by a court, the assembly shall order a reassessment whether the improvement has been made or not. Proceedings for a reassessment and for the collection thereof, shall be conducted in the same manner as provided for the original assessment.

(Ord. No. 97-32, § 2(part), 1997)

14.31.160. - Definitions.

"Application" means the form provided by the borough assessing department and completed by the district sponsor to initiate the process of proposing a special assessment district.

"Benefit" means an advantage gained from the improvement greater than that shared by the general public under this ordinance. Improved access is one way of ascertaining that a parcel is benefited.

"Deferral of payment" means that payment is postponed or suspended until a certain time or event.

"Directly benefitted" means a property that is abutting, adjoining, adjacent or contiguous to the proposed improvement.

"District" or "special assessment district" means an area composed of individual parcels of land that are directly benefitted by the public improvement for which the special assessment is to be levied.

"Estimated assessment roll" means a spreadsheet which includes the name of each recorded owner, tax parcel number, assessed value and legal description of the parcels which will be specially benefitted by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each parcel.

"Improved parcel" means a parcel that contains an operable water or wastewater disposal system, or a structure assessed for more than \$5,000.

"Petition" means the formal written request signed by parcel owners within the proposed boundaries to form the road improvement assessment district.

"Petition report" means the document created by the assessing department, for the RSA board's review, which contains all pertinent information regarding the proposed district and special assessment project.

"Sponsor" means the person who initiates the process proposing a special assessment district and coordinates the project on behalf of the property owners of the proposed district.

(Ord. No. [2015-13](#), § 1, 6-16-15; Ord. No. 2009-05, § 5, 2-17-09; Ord. No. 2004-11, § 6, 5-18-04)

Motion carried.

Plat Consideration

- A. Staff Report PL 16-44, Skyline View Subdivision 2016 Replat Preliminary Plat

City Planner Abboud reviewed the staff report.

Kenton Bloom, city resident and licensed surveyor, commented they provided the slope on a separate document and that most of the lot is over 20%. The only level spot on the property is the house site and it's about 40 feet below the road. The plat fundamentally corrects the lot line encroachment with the neighbors who have been entirely willing to rectify that. When they did the equivocation it turned out the land they received at the bottom was on uplands on their side of the drainage so it worked to their benefit as well.

There were no public comments or questions of the applicant.

BOS/HIGHLAND MOVED TO APPROVE STAFF REPORT PL 16-44 AND THE SKYLINE VIEW SUB. 2016 REPLAT PRELIMINARY PLAT WITH STAFF COMMENTS AND RECOMMENDATIONS.

There was no discussion.

VOTE: YES: STEAD, BRADLEY, STROOZAS, BOS, HIGHLAND, ABRAHAMSON
NO: VENUTI

Motion carried.

Pending Business

- A. Staff Report 16-47, Homer Accelerated Water Sewer Program (HAWSP)

City Planner Abboud reviewed the staff report.

Commissioner Stroozas reiterated that he doesn't understand why this came to the commission.

Commissioner Abrahamson commented she understands this is an integrated problem between city departments and there are questions and solutions for Finance and Public Works, as well as Planning. It seems they may have been brought into this a little prematurely, or with less of an understanding of why the 1.25 service ratio is designated and if it's a set number. She would like clarification on the ratio before making decisions about how to implement it.

City Planner Abboud commented the 1.25 is what City Council decided on. We are slated to look at this and general policy matter, maybe not to find a solution to this condition that was created. He said the 1.25 is probably the highest conservative number a financial institution would see favorably when borrowing money. There are variables that can change the dynamics of the city revenue. He addressed some history on how the fund came to be.

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Commissioner Venuti reminded them that Public Works does not recommend this.

City Planner Abboud noted he received one phone call from a neighbor to the east stating no objection to this.

VOTE: YES: STEAD, HIGHLAND, ABRAHAMSON, STROOZAS, BRADLEY
NO: BOS, VENUTI

Motion carried.

Chair Stead called for a break at 7:53 p.m. and the meeting resumed at 7:56 p.m.

HIGHLAND/BRADLEY MOVED THAT THE PLANNING COMMISSION APPROVES THE VACATION OF A PORTION OF THE RIGHT OF WAY EASEMENT ALONG THE NORTHERN PORTION OF LOT 2 AND LOT 3 SKYLINE VIEW SUBDIVISION LOT 20-B REPLAT.

It was clarified for this action it's not the easement, it's the right of way.

City Planner Abboud commented this would bring the right of way to 43.5 feet. It's the boroughs rule to have a 60 foot right of way and it will be interesting to hear their opinion on us approving a reduction of an already inadequate right of way.

Commissioner Highland commented she thinks 10 feet makes a difference. In the days before annexation it goes down to less width of road to the east. City Planner Abboud commented the plat dates back to pre-statehood and it has a 40 foot right of way and reviewed the history of the area's platting to date.

Commissioner Bradley commented most of the section being considered is the driveway already.

There was further discussion about the location of the garage and confirmed the portion that is in the platted Mission Road.

HIGHLAND/BOS MOVED TO AMEND THE MOTION TO REMOVE THE WORD EASEMENT.

There was no discussion.

VOTE: (Amendment) NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

There was no further discussion on the main motion as amended.

VOTE: (Main motion as amended) YES: HIGHLAND, ABRAHAMSON, STROOZAS, BRADLEY
NO: STEAD, VENUTI, BOS

Chair Stead commented the debt service coverage ratio is a target ratio. Council is asking how they should apply the debt service ratio of 1.25 and are looking for a process. The city has to be able to show revenue of 125% to cover their debt on HAWSP projects and we have to answer the question how we apply the debt service ratio. Since it's a financial ratio, he would recommend calculating a cost for a project, adding a small percentage for contingencies, and then giving the cost to the city finance to calculate the ratio. If it meets the 1.25 ratio then the project can be approved, but if not, the project is moved to the deferred list. Chair Stead added he doesn't think the city should use the HAWSP program to finance any of its maintenance or on going issues with the water and sewer services, it is strictly for assessment districts.

City Planner Abbound talked about the moratorium and said he has a hard time rectifying this. When the projects get submitted they have to go through the process to see if there is enough interest and if the district is adequate for support. After the first estimate we would know if it fits in with the debt ratio and amount of funds. He suggests setting a date to submit projects and the city evaluates them to see what rises to the top. The HAWSP manual has 8 things they can use to evaluate the projects and a benefit cost analysis is the first thing he would do.

Chair Stead said he prefers first come first serve because if you evaluate based on benefit, some projects may continue to be set aside if other better projects are submitted in each application period.

Commissioner Abrahamson thinks the focus should be on prioritizing or tracking the applications for special assessment districts rather than getting mired down in the financial mechanisms and debt service ratio. Those are things that are more for the finance department and council level.

The Commission briefly discussed the application fee and the notion of increasing it. It could encourage applicants to canvass their area to see if neighbors are interested in paying for the improvements before they apply for a special assessment district. They also touched on how to deal with the application fee if a project isn't selected during a specified time frame.

New Business

Informational Materials

- A. City Manager's Report – July 25, 2016

Comments of the Audience

Comments of Staff

Comments of the Commission

Commissioner Stroozas commented that he questions the ordinance to reduce the senior property tax exemption over a period of several years. It will be grandfathered for those who turn 65 on January 1, 2018 then gradually phased out over several years. He has read that if you are going to

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
AUGUST 3, 2016

grant someone an exemption you have to give it to everyone in the same bracket, and he questions the constitutionality of phasing it out. He said Jorje's last day at the Chamber is Friday, the new membership coordinator is Emily Berg.

Commissioner Venuti welcomed Ms. Abrahamson to the Commission. It's good to get younger members because they are the future. He said the proposed reduction of Borough Planning Commission members was postponed at Tuesday night's Assembly meeting. Tonight's meeting was interesting and he thinks they are making some progress with the water and sewer. He thinks the decisions they made tonight about the Mission Road property were emotion. He voted no so he would be able to discuss it at the Borough level. He doesn't think making decisions based on emotion serves the public.

Commissioner Bos welcomed Ms. Abrahamson. He would like figure out a way to hold people more accountable. You can't just build a house anywhere. There are property lines and if you don't have the money to hire a surveyor to figure out where they are, then you probably don't have enough money to start a project. Sooner or later people who don't follow the rules need to be held accountable, or else we are going to go down this path for a long time.

Commissioner Abrahamson commended the planning department's efforts to establish the FEMA community rating system; she thinks it highlights the open space preservation qualities for the city; and also the plan to update the coastal erosion map as they will be useful in assessing coastal vulnerability and threats to infrastructure and future planning.

Commissioner Bradley said it's nice to see another young person on the Commission. She thinks the HAWSP discussions are progressing and starting to make more sense.

Commissioner Highland welcomed Ms. Abrahamson. She thinks we are to a place where people aren't just doing things helter skelter, but in the past they were. It will be a long time before things get where they are supposed to be and she doesn't think some will be able to, like the one today. It's always interesting when we make decisions that affect people.

Chair Stead welcomed Ms. Abrahamson. He commended them on a good job. The decisions tonight were probably was based on emotion, but he agrees there is a point where we have to fix problems that are existing when we kind of helped create them years ago by allowing someone to get that close to a property line. He looks forward to continuing to work on the water sewer program to help make it better for the city.

Adjourn

There being no further business to come before the Commission, the meeting adjourned at 9:20 p.m. The next regular meeting is scheduled for August 17, 2016 at 6:30 p.m. in the City Hall Cowles Council Chambers. A worksession will be held at 5:30 p.m.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____



City of Homer

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Staff Report PL 16-32

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: July 20, 2016
SUBJECT: HAWSP

Introduction: The Planning Commission has been directed by the City Council to develop recommendation regarding the HAWSP policies including:

- How the City should apply the debt service ratio
- When the debt service ratio should be calculated
- When pending HAWSP projects should be inputted into the debt service ratio calculation
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects

Analysis: First, I am providing the Commission with some background information. Included is the HAWSP policy manual and HCC 17.04, be sure to have a strong cup of coffee with you when reviewing. Since all of the above recommendations requested revolve around the debt ratio, we will start with information about it. Next meeting, I am hoping to have enough background covered to start formulating some recommendations. We also have some general review duties associated with both HART and HAWSP documents and will be addressed at a later date.

HAWSP policy manual:

- I. Purpose/intent: This is pretty self-explanatory. You will notice the date that new subdivisions eligibility ended, basically with the adoption of the tax. The program is not meant as a tool to develop new subdivisions. I have to interpret this as subdivision small enough to not warrant a subdivision agreement for installation of utilities, generally the creation of less than 4 lots or so.
- II. This is a list of grandfathered Local Improvement Districts (LIDS) (now referred to as Special Assessment Districts or (SADS)), which may have been in-progress as this program developed. They were funded at 50%. After these property owners were expected to pay 75%. Page 6 may provide us with the most guidance in helping determine some criteria for which projects to fund. Most of these criteria

- really do not have any particular measures associate with them, thus making it difficult to compare and contrast. I will be looking for some input on measures here.
- III. Financing: Gives a description of the general overview of the financing expectations. The methodology caught my eye. You will notice that the equal share method of assessment was adopted in #9.
 - IV. Special Provisions: Get the coffee ready. My highlights include the "Connection required". This is a bit outside of what was asked in the resolution, but it has been a 'hot potato' item as the Planning Office has encouraged this and offered to help with the due process in gaining compliance. To date the city has not been heavy handed and several properties are not connected. It is relatively easy until you get to #7 and beyond. Number 10 sets the policy that future subdivisions will pay an amount equal to the original assessment and the city will then disperse the amount among current property owners in the district. You will notice that there is no sunset provision for this requirement. The Planning Office has seen this as a permanent deterrent to subdivision and thus inhibiting gaining a desired greater density of customers on the city system (besides the general loss of economic development).

Now you may be thinking about how special assessment districts work. I'm thinking at least a basic understanding will help you put the picture together.

HCC 17.04, Special Assessment Districts:

Not all of this section is directly relevant to HART and HAWSP. I will try to break down the highlights.

17.04.040 Initiation of the District: Council can initiate upon a vote or one may be formed by petition. Basically, in the petition scenario, an applicant is charged \$100 and proposes a district boundary. From there it is handed off to the clerks to distribute the petition. Once a positive response is received from not less than 50% of those bearing the assessed cost of the district (in the case of HASP, this is 50% of the parcel owners) then the city moves on to part two or HCC 17.04.040.

A meeting is noticed and scheduled, the city then prepares the plan including; the final boundary, design, cost estimate, figures assessments, method of assessment, time frame of financing, and preliminary assessment roll. We are not even close to done though. More meetings and due process are administered by the clerks as provided in HCC 17.04.050. But wait, there's more! Now we need to solicit bids. If our estimate exceeds 115% of our prediction, we have more notice and process per HCC 17.04.060. We still have to certify the roll and collect the payments.

Now something of policy interest, HCC 17.04.100, Subdivision after levy of assessments. You see a lot of 'except this and except that', but as far as HAWSP goes, it is as described above. Subdividers must pay the cost that the original assessment district did and the money is split up among the current property owners in the district with no sunset provisions.

We can go on and on with the additional process and financing options but the things that gain my interest in a policy sense is HCC 17.04.170, water and sewer connections required-discussed above and deferment.

Debt ratio:

Debt-Service Coverage Ratio

The Debt Service Ratio or **debt service coverage ratio (DSCR)** is a financial ratio that measures an entity's ability to make its current debt obligations (one year) by comparing its net operating income with its total debt service obligations.

A DSCR greater than 1 means the entity – whether a person, company or government – has sufficient income to pay its current debt obligations. A DSCR less than 1 means it does not. This is why a higher ratio is always more favorable than a lower ratio. A higher ratio indicates that there is more income available to pay for debt servicing.

Debt Service Coverage Ratio

$$\text{Debt Service Coverage Ratio} = \frac{\text{Operating Income}}{\text{Total Debt Service Costs}}$$

Total debt service refers to current debt obligations, meaning any interest, principal, sinking-fund and lease payments that are due in the coming year.

How should the DSCR apply to the HAWSP fund?

Example:

HAWSP Fund Income:

- | | |
|--------------------------|--|
| 1. Dedicated Sales Tax: | Avg. \$1,200,000 per year for the past 5 years |
| 2. Assessment Revenue: | Avg. \$ 250,000 per year for the past 5 years |
| 3. Assessment Interests: | Avg. \$ 50,000 per year for the past 5 years |

HAWSP Expenditures:

- | | |
|-------------------|--|
| 1. Debt Service: | Avg. \$1,050,000 per year for the past 5 years |
| 2. Admin Charges: | Avg. \$ 140,000 per year for the past 5 years |

Annual Operating Income = $1200000 + 250000 + 50000 - 140000 = \$1,360,000$

Total Debt Service = \$1,050,000

DSCR (in this example) = $1360000 / 1050000 = 1.29$

Staff Recommendation: This is a lot to digest. I am figuring on getting some questions and returning with answers for the next meeting, then we might start formulating some response to the Council.

Attachments

1. HAWSP policy manual
2. Resolution 16-074
3. HCC 17.04

H. A. W. S. P.

(Homer Accelerated Water Sewer Program)

POLICY MANUAL

Updated August 2012

Updated June 2016

HAWSP Original, June 22, 1999
Approved by Council via Resolution 99-53
June 28, 1999 Program Authorized

ERRATA

I. PURPOSE/INTENT – In General

II. QUALIFYING CRITERIA

1. Grandfather list updated, changes to Hillside Acres Sewer and Water and the Addition of West Lakeshore Drive Water and Sewer.
2. Resolution 03-80, deleted the methodology from Qualifying Criteria and placed more appropriately under Financing/Assessments.

III. FINANCING/ASSESSMENTS

1. Ordinance 99-14(S)(A), to use unexpended $\frac{1}{4}$ of 1% sales tax revenues not used for debt retirement for funding water and sewer systems.
2. Resolution 01-21, amended the assessment methodology.
3. Resolution 03-80, amended the interest and payment date.
4. Resolution 03-80, assessment methodology set at equal shares.
5. Ordinance 16-20, amended petition signatures required to record owners of real property that would bear not less than 50% of the assessed cost of the improvement.

IV. SPECIAL PROVISIONS, In Lieu of Agreements, Deferred Assessments

1. Ordinance 02-48, Subdividing. 17.04.095 and 17.04.180; Ordinance 12-15 - 17.04.100.
12. Added by Resolution 05-50, Exempting Certain Lands.

GENERAL STATEMENTS

H. A. W. S. P. POLICY MANUAL

TABLE OF CONTENTS

- I. Purpose/Intent – In General**
- II. Qualifying Criteria**
- III. Financing/Assessments**
- IV. Special Provisions**

I. PURPOSE/INTENT – IN GENERAL

1. The H.A.W.S.P. is a combined local funding source of unexpended dedicated sales tax and dedicated sales tax, once the sewer debt is paid, and assessments to upgrade approximately 500+ homes to City water and/or sewer service.
2. The intent of the program is to improve the health and welfare of the Citizens of Homer by connecting residences to City water and/or sewer, thereby increasing the number of users on the system, increasing property values and improving the quality of life.
3. All water and/or sewer connections, upgraded, projects will be to City standards.
4. When practical, the intent of the program is to preclude the destruction of existing water and/or sewer services and, where practical, to eliminate spaghetti lines.
5. The criteria for the H.A.W.S.P. shall be reviewed annually by the Homer City Council.
6. No new subdivisions, formed after June 28, 1999, shall be eligible for this program.
7. Every attempt shall be made to include lots immediately adjacent to the water/sewer main lines within the project limits or boundaries as defined by the Public Works Department.

II. QUALIFYING CRITERIA

The following water and/or sewer Assessment Districts, aka, LIDs or SADs are on the books: These LIDs/SADs should be grandfathered into the program and will receive priority consideration. These LIDs/SADs are listed in chronological order.

These projects have been reassessed, pursuant to Resolution 01-21 for a property owner share of 50%.

The City Council's regular meeting is scheduled for May 28, Memorial Day. The Council may change the meeting date to Tuesday, May 29th.

1. Harrington Heights – Water & Sewer, Public Hearing set for May 28/29/2001. Objection period ends July 27/28, 2001.

2. Mariner Village/Thorn Subdivision – Water & Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
3. Thompson Drive – Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
4. Forest Glen Subdivision/Forest Glen Drive – Water & Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
5. Salt Water Drive – Water and Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
6. East Road – portion – Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
7. Hillside Acres Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
8. Hillside Acres Water, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.
9. W. Lakeshore Drive Water and Sewer, Public Hearing set for May 28/29, 2001. Objection period ends July 27/28, 2001.

Amendments to the schedule can be accomplished only by Council action.

LIDs/SADs Assessment Districts formed after March 27, 2001 shall be assessed 75% property owner share of the project.

All projects will be authorized only after a public hearing to insure public participation in the process pursuant to HCC 17.

The following criteria may be considered for qualifying as a water and/or sewer project.

- a. Health and Safety;
- b. Correct deficiencies of existing systems;
- c. System wide basis versus local needs;

- d. Complete utility loop;
- e. Encourage economic development;
- f. Correct problems;
- g. Reduce maintenance cost;
- h. Build to city standards prior to acceptance;
- i. Property owner contribution through LID/SAD process by paying \$1,100 per half acre increments for water and sewer each. With the exclusion of those 7 projects on the preceding page.
- j. Other factors deemed appropriate by the City Council.

III. FINANCING/ASSESSMENTS

1. Pursuant to Ordinance 99-14(S)(A) the program may utilize the unexpended sales tax revenue dedicated to sewer debt. Upon satisfaction of the sewer debt the $\frac{3}{4}$ of 1% sales tax shall continue and shall be used for water and/or sewer system improvements. Approved by the voters October, 1999.
2. A $\frac{3}{4}$ of one percent (3/4%) dedicated sales tax can be expected to generate approximately \$750,000 annually. The unexpended portion is projected to be approximately \$300,000.
3. The utility improvements will be financed on a combined pay as you go basis as well as possible sale of revenue or assessment bonds, future bond sales or even the need for a General Obligation Bond if so deemed necessary by the Homer City Council and as recommended by staff.
4. The City will attempt to obtain long term financing for up to twenty years for the private share of funding.
5. Interest, if any, generated from the program will remain with the program funds.
6. Abutting property owners will share the cost of the utilities.
7. The City will pay all costs for any additional improvements required when deemed necessary by the City.

8. Assessment payment date, penalty and interest shall be set as soon as the project has been accepted by the Public Works Department.

Interest and Payment Due date will be set by Resolution of the City Council (Resolution 03-80, May 27, 2003).

9. Methodology: Approved by Resolution 02-21 on March 27, 2001. The nine LIDs/SADs Assessment Districts named herein, under Qualifying Criteria, shall be assessed 50% of the project. Districts formed after March 27, 2001 shall be assessed 75% of the project. Via Council action on April 28, 2003 assessment methodology for HAWSP LIDs/SADs Assessment Districts will be equal shares. (Resolution 03-80, May 27, 2003)

10. Expenditures under the HAWSP program are subject to the availability of funds, after maintaining a debt-service coverage ratio of 1.25 or above. (Resolution 16-041(S-2)(A), May 9, 2016)

IV. SPECIAL PROVISIONS

1. Non existing water and sewer improvement districts shall be encouraged whenever possible. District is defined as: lots immediately adjacent to the water/sewer main lines within the project limits/boundaries as defined by Public Works.
2. HCC 17.04.170 Water and sewer connections required. The owner of property in a water or sewer special assessment district that contains an occupied building shall connect to the improvement constructed in the district within one year after the date that the resolution confirming the assessment roll for the district becomes final. (Ordinance 87-30, 1988; revised Ordinance 12-15, 2012)
3. HCC 14.04.020(e), the City sewer is considered as not available to a structure when the nearest City sewer is located more than 200 feet from any point on the boundary of the lot or parcel of land on which the structure is located. Sewer connection will be required within one year of sewer becoming available. (Ordinance 94-17(A))
4. Additional easements required will be paid by this program, at no additional cost to abutting property owners.
5. No parcel shall be double assessed nor shall be included in two like assessment districts.

6. Whenever and wherever practical road improvements shall be done in conjunction with the water and/or sewer project, but not before.
7. HCC 17.04.190, Deferment of assessment payments for senior citizens.
8. HCC 17.04.200, "In lieu of assessment"—determination of amount—terms.
9. HCC 17.04.200 "In lieu of assessments", not to prevent inclusion in of property in future district.
10. 17.04.100 Subdivision after levy of assessments. (a) Except as provided in subsection (b) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among the resulting lots that benefit from the improvement on the same basis that the assessment originally was allocated. (b) Upon the subdivision of a property assessed as a single parcel in an assessment district where assessments were levied in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that contains the original connection to the improvement for which the assessment was levied, may connect to the improvement until a subdivided property connection fee is paid for the parcel. (1) The amount of the connection fee shall be equal to the amount of the original assessment, adjusted up or down by a percentage equal to the change in the Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the end of the calendar year preceding the original assessment date to the end of the calendar year preceding the date the parcel is connected to the improvement. (2) If the original assessment was payable in installments the city may enter into a written agreement for the payment of the connection fee in installments on terms that are substantially the same as those authorized for the payment of the original assessment, secured by a deed of trust on the parcel. (3) Upon receiving connection fee payments, the city shall allocate such payments to each property assessed in the district in proportion to the amount originally assessed against the property, either by adjusting the original assessment amount or disbursing a payment to the record owner at the time of disbursement. (Ordinance 02-48, December 10, 2002; revised by Ordinance 12-15, April 10, 2012)
11. 17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced in the same manner as property tax liens. (Ordinance 12-15, April 10, 2012)
12. Certain Lands that will not be Developed due to Conservation Easements or Owned by Organizations that Conserve Land for Public Purpose and/or Habitat Protection from the Homer Accelerated Roads Program and the Homer Accelerated Water and Sewer Program Assessment District Assessments on a Case by Case Basis and that Each Program Shall be Amended to Include this Exemption under Special Provisions. (Resolution 05-50(A), April 25, 2005)

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**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 16-074

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
PLACING A MORATORIUM ON ALL NEW WATER OR SEWER
SPECIAL ASSESSMENT DISTRICTS UNTIL THE DEBT SERVICE
RATIO FOR THE HOMER ACCELERATED WATER AND SEWER FUND
IS ABOVE 1.25 AND DIRECTING THE HOMER ADVISORY PLANNING
COMMISSION TO DEVELOP PROCEDURES FOR APPLYING AND
LIFTING THE DEBT SERVICE RATIO RESTRICTIONS.

WHEREAS, The Homer Accelerated Water and Sewer (HAWSP) Fund is made up of a
combination of special assessment district (SAD) payments and a ¾% dedicated sales tax;
and

WHEREAS, The HAWSP Fund is used to pay the City's share of water and sewer
improvements and pay back low interest loans for improvements initiated through local
special assessment districts; and

WHEREAS, The HAWSP Fund has significant debt burden and Council is concerned
with the fund's ability to meet current and future debt obligations; and

WHEREAS, To address fiscal solvency concerns, Council instituted a minimum debt
service ratio of 1.25 in Resolution 16-041(S-2)(A) in order to initiate new special assessment
districts; and

WHEREAS, The recent approval of Kachemak Drive Phase III and Lillian Walli SADs
place the current debt service ratio below 1.25; and

WHEREAS, Procedures must be developed as to how the debt service ratio is applied,
when and how it is lifted, and what to do about requests for SADs that come forward during
the interim; and

WHEREAS, As an example, Mission Road attempted to initiate a new water special
assessment district recently that was denied because of the current debt service ratio and
should be first on the list when the moratorium on special assessment districts is lifted.

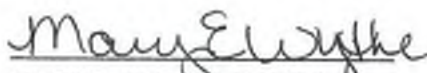
NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, places a
moratorium on all new water or sewer special assessment districts.

BE IT FURTHER RESOLVED that the City Council directs the Homer Advisory Planning Commission to develop a recommendation to Council on procedures for:

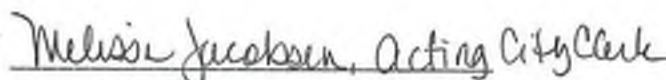
- How the City should apply the debt service ratio
- When the debt service ratio should be calculated
- When pending HAWSP projects should be inputted into the debt service ratio calculation
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects

PASSED AND ADOPTED by the Homer City Council this 27th day of June, 2016.

CITY OF HOMER


MARY E. WYTHE, MAYOR

ATTEST:


JO JOHNSON, MMC, CITY CLERK



Fiscal Note: N/A

Chapter 17.04

SPECIAL ASSESSMENT DISTRICTS¹

Sections:

- 17.04.010 Definitions.
- 17.04.020 Purpose of chapter.
- 17.04.030 Assessment authority.
- 17.04.040 Initiation of district.
- 17.04.050 Creation of district.
- 17.04.060 Contract – Approval of increased costs.
- 17.04.070 Assessment roll.
- 17.04.080 Certification of assessment roll.
- 17.04.090 Payment.
- 17.04.100 Subdivision after levy of assessments.
- 17.04.110 Assessments to be liens.
- 17.04.120 Reassessment.
- 17.04.130 Objection and appeal.
- 17.04.140 Interim financing.
- 17.04.150 Special assessment bonds.
- 17.04.160 Time limit for special assessment districts.
- 17.04.170 Water and sewer connections required.
- 17.04.180 Road improvement assessments for lots with two street frontages.
- 17.04.190 Deferment of assessment payments for low income residents.
- 17.04.200 In lieu of assessment.

17.04.010 Definitions. SHARE

In this chapter:

“Cost” means all expenses incurred by the City for an improvement, including without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees, costs of property acquisition, payments to construction contractors, costs of interim and long-term financing of the improvement, including costs of issuing bonds and notes, and City administrative costs.

“District” means a special assessment district created under this chapter.

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

“Record owner” means the person in whose name real property is listed on the property tax roll prepared by the Kenai Peninsula Borough. [Ord. 12-15 § 1, 2012].

17.04.020 Purpose of chapter. SHARE

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

b. The purpose of this chapter is to prescribe the procedure for initiating a special assessment district, authorizing an improvement in a special assessment district, approving and levying special assessments, payment of special assessments, and the authorization of special assessment bonds, for public information and administrative guidance. [Ord. 12-15 § 1, 2012].

17.04.030 Assessment authority. SHARE

a. The City may assess all or part of the cost of a capital improvement against real property benefited by the improvement, whether the property is privately or governmentally owned, including real property that is exempt from taxation.

b. A capital improvement that is provided through a special assessment district may be owned by the City, a public utility, or another entity that is qualified to own and operate the capital improvement. [Ord. 12-15 § 1, 2012].

17.04.040 Initiation of district. SHARE

a. A special assessment district may be initiated by:

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

2. Petition signatures of the record owners of real property that would bear not less than 50 percent of the assessed cost of the improvement received by the City Clerk within 60 days after the mailing of the petition to record owners of property in the proposed district. Upon payment of the nonrefundable filing fee in the City fee schedule established by resolution of the Council, the City Clerk shall prepare a petition for distribution by certified mail to all record owners of property in the proposed district that contains:

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

b. For each property in the proposed district, the Kenai Peninsula Borough tax parcel number and property description, the name and mailing address of the record owner, and a place for the record owner's signature; and

c. A statement that to support initiation of the proposed district, the record owner must sign and return the petition to the City Clerk within 60 days after the date the petition was mailed.

b. Upon adoption of a resolution initiating a special assessment district, or the City Clerk's verification that a petition to initiate a district bears sufficient signatures, the City Clerk shall:

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

2. Refer the proposed district to the City Manager, who shall prepare an improvement plan for the district that includes final boundaries for the district, the design of the proposed improvement, a cost estimate for the improvement, the percentage of the improvement cost to be assessed against properties in the district, a method for allocating the assessed cost of the improvement among the properties in the district, the time period over which assessments will be financed, and a preliminary assessment roll for the district. [Ord. 16-20 § 1, 2016; Ord. 12-15 § 1, 2012].

17.04.050 Creation of district. [SHARE](#)

a. Upon completion of an improvement plan under HCC 17.04.040, the City Clerk shall set a time for a public hearing on the necessity of the improvement and proposed improvement plan. Notice of the hearing shall be published at least twice in a newspaper of general circulation in the City, and mailed via certified mail to every record owner of real property in the proposed district not less than 60 days before the hearing.

b. A record owner of real property in the proposed district may file a written objection to the improvement plan with the City Clerk no later than the day before the date of the public hearing on the improvement plan. If owners of real property that would bear 50 percent or more of the assessed cost of the improvement file timely written objections, the Council may not proceed with the improvement unless it revises the improvement plan to reduce the assessed cost of the improvement that is borne by objecting record owners to less than 50 percent of the assessed cost

of the improvement. If the resolution changes the district boundary in the improvement plan, the City Clerk shall notify all record owners of property included in the district under the improvement plan of the change.

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

d. If the owners of 100 percent of the real property in the proposed district waive in writing the notice, protest period and public hearing required under this section, the question of creating the district may be submitted to the Council without such notice, protest period or public hearing. [Ord. 12-15 § 1, 2012].

17.04.060 Contract – Approval of increased costs. SHARE

a. After a special assessment district has been created, the City shall contract for the construction of the improvement. If the City will own the improvement, it shall solicit bids for construction of the improvement. If the City will not own the improvement, it shall contract with the owner of the improvement to provide for its construction.

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

1. Notifying all record owners of property in the district via certified mail of the increased cost; and
2. Within 30 days after the mailing of notice of the increased cost to record owners of property in the district, receiving written objections from record owners of property that would bear less than one-half of the cost of the improvement.

c. If record owners of property that would bear one-half or more of the cost of the improvement object in writing to the increased cost, the City will not contract to construct the improvement. The Council either may levy assessments in the district in an amount sufficient to recover costs incurred for preliminary design and engineering services or determine that the City shall assume such costs. [Ord. 12-15 § 1, 2012].

17.04.070 Assessment roll. SHARE

- a. After completion of the improvement the Council shall assess costs of the improvement by a method that the Council determines will assess each property in the district in proportion to the benefit that it receives from the improvement.
- b. The City shall prepare an assessment roll stating for each property in the district the name and address of the record owner, Kenai Peninsula Borough parcel number, a description of the property, the amount assessed against the property, and the assessed value of the property as determined by the Borough Assessor.
- c. Each property in the district shall be identified and assessed on the assessment roll in accordance with the legal description of the property at the time the Council certifies the assessment roll; except that where assessments are in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), a property that was created by combining parcels after the public hearing under HCC 17.04.050(c) shall be assessed that amount multiplied by the number of parcels that comprised the property at the time of the public hearing.
- d. The Council shall fix a time to hear objections to the assessment roll. Not less than 15 days before the hearing, the City Clerk shall send notice of the hearing and assessment roll by certified mail to each record owner of an assessed property, and publish notice of the hearing in a newspaper of general circulation in the City. [Ord. 12-15 § 1, 2012].

17.04.080 Certification of assessment roll. SHARE

After the hearing the Council shall correct any errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be set and notice published, except that a new hearing and notice is not required if all record owners of property subject to the increased assessment consent in writing to the increase. Objection to the increased assessment shall be limited to record owners of properties whose assessments were increased. When the assessment roll is corrected, the Council shall confirm the assessment roll by resolution. The City Clerk shall record the resolution and confirmed assessment roll with the District Recorder. [Ord. 12-15 § 1, 2012].

17.04.090 Payment. SHARE

- a. In the resolution confirming the assessment roll, the Council shall fix the time or times when assessments or assessment installments are due, the amount of penalty on a delinquent payment and the rate of interest on the unpaid balance of an assessment. An assessment that is to be paid in a single payment shall not be due before 60 days after billing.
- b. Within 30 days after fixing the time when payment of the assessments is due, the Finance Director shall mail a statement to the record owner of each assessed property identifying the property and stating the assessment amount, the payment due date and the amount of the penalty on a delinquent payment. Within five days after mailing the statements, the Finance Director shall publish notice of mailing the statements in a newspaper of general circulation in the City. [Ord. 12-15 § 1, 2012].

17.04.100 Subdivision after levy of assessments. SHARE

a. Except as provided in subsections (b) and (c) of this section, upon the subdivision of a property assessed as a single parcel, the amount of the assessment shall be allocated among the resulting lots that benefit from the improvement on the same basis that the assessment originally was allocated.

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

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

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

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

c. Upon the subdivision of a property assessed as a single parcel in an assessment district for natural gas distribution improvements where assessments were levied in an equal amount per parcel (i.e., without regard to parcel area, dimension or other characteristic), the assessment levied on the property that is to be subdivided shall be paid in full before the recording of the final plat. No parcel that results from the subdivision shall be subject to assessment for the improvements, but shall be charged for connecting to the improvements in accordance with the tariff of the public utility that provides natural gas service to the parcel. [Ord. 15-11 § 1, 2015; Ord. 12-15 § 1, 2012].

17.04.110 Assessments to be liens. SHARE

Assessments are liens upon the property assessed and are prior and paramount to all liens except those having priority under State law. They shall be enforced in the same manner as property tax liens. [Ord. 12-15 § 1, 2012].

17.04.120 Reassessment. SHARE

a. The City Council shall within one year correct any deficiency in a special assessment found by a court, under the procedure for certification of the assessment roll in HCC [17.04.070](#) and [17.04.080](#).

b. Payments on the initial assessment are credited to the property upon reassessment. The reassessment becomes a charge upon the property notwithstanding failure to comply with any provision of the assessment procedure. [Ord. [12-15](#) § 1, 2012].

17.04.130 Objection and appeal. SHARE

a. The regularity or validity of an assessment may not be contested by a person who did not file with the City Clerk a written objection to the assessment roll before its confirmation. The decision of the Council on the objection may be appealed to the Superior Court within 30 days after the date of confirmation of the assessment roll.

b. If no objection is filed or appeal taken within the time provided in this section, the assessment procedure shall be considered regular and valid in all respects. [Ord. [12-15](#) § 1, 2012].

17.04.140 Interim financing. SHARE

a. The Council may provide by resolution or ordinance for the issuance of notes to pay the costs of an improvement that shall be payable from the special assessments for the improvement. The notes shall bear interest at a rate or rates authorized by the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement project.

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

c. The Finance Director may accept notes against special assessments on conditions prescribed by the Council in payment of:

1. Assessments against which the notes were issued in order of priority;
2. Judgments rendered against property owners who have become delinquent in the payment of assessments; and
3. Certificates of purchase when property has been sold under execution or at tax sale for failure to pay the assessments. [Ord. [12-15](#) § 1, 2012].

17.04.150 Special assessment bonds. SHARE

a. The Council by ordinance may authorize the issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in a special assessment district. The principal and interest of the bonds shall be payable solely from the special assessments levied against property

in the district. The assessment shall constitute a sinking fund for the payment of principal and interest on the bonds. The benefited property may be pledged by the Council to secure payment of the bonds.

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

c. Before the Council may issue special assessment bonds, it shall establish a guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in meeting payments of principal and interest on bonds if the reason for the deficiency is nonpayment of assessments when due. Money received from actions taken against property for nonpayment of assessments shall be credited to the guarantee fund. [Ord. 12-15 § 1, 2012].

17.04.160 Time limit for special assessment districts. SHARE

a. If five or more years elapse between the creation of a special assessment district and the City contracting for construction of the improvement, the City may not enter into the contract unless the Council by resolution extends the period for entering into the contract by not more than an additional five years.

b. Before the Council acts on a resolution under subsection (a) of this section, the City Clerk shall mail notice of the resolution to each current record owner of property listed on the preliminary assessment roll that the City will not contract for construction of the improvement in the district unless the resolution is adopted. The notice also shall include an updated copy of the preliminary assessment roll. [Ord. 12-15 § 1, 2012].

17.04.170 Water and sewer connections required. SHARE

The owner of property in a water or sewer special assessment district that contains an occupied building shall connect to the improvement constructed in the district within one year after the date that the resolution confirming the assessment roll for the district becomes final. [Ord. 12-15 § 1, 2012].

17.04.180 Road improvement assessments for lots with two street frontages.

 SHARE

a. The record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for road improvements that is based on frontage on a road to which the lot does not have access. To obtain the deferment, the owner shall enter into a deferred assessment agreement with the City before the end of the period for filing objections to the district under HCC 17.04.050. The agreement shall provide that the lot has frontage on two streets, to only one of which the lot has access; that the lot owner shall pay the part of the assessment that is based on frontage on the street to which the lot has access; and that the owner shall pay the part of the

assessment that is based on the other street frontage when the lot acquires access to the street from that frontage. The agreement shall be recorded with the District Recorder's office.

b. The assessment for road improvements against a corner lot shall be based only on the longer of the lot's road frontages. [Ord. 12-15 § 1, 2012].

17.04.190 Deferment of assessment payments for low income residents.

 SHARE

a. Assessment payments, including payments of assessments levied in the City of Homer Natural Gas Distribution Special Assessment District created by Ordinance 13-02, but excluding other assessment payments for the infrastructure of a privately owned utility, may be deferred under the provisions of this section. A person may obtain a deferment of assessment payments under this section if the person:

1. Has an annual family income that is less than 125 percent of the current U.S. Health and Human Services Poverty Guidelines for Alaska;
2. Owns or has a life tenancy in the assessed property, and permanently resides in a single-family dwelling on the property; and
3. Is not determined by the City, after notice and hearing, to have been conveyed the property primarily for the purpose of obtaining the exemption.

b. An assessment payment deferment is subject to approval by the Council. A person seeking deferment of an assessment payment shall file a written application with the Finance Director on or before the first payment is due, supported by documentation showing that the applicant meets the criteria in subsection (a) of this section. A person receiving an assessment payment deferment must file with the City by April 15th of each subsequent year a new application proving eligibility as of January 1st of that year in order to retain the exemption. Within the same year the City for good cause shown may waive the claimant's failure to make timely application and approve the application as if timely filed.

c. Assessment payment deferments are subject to the availability of funds appropriated for that purpose. An application for an assessment payment deferment shall be submitted to the Council with a report from the Finance Director as to the availability of funds to appropriate for the deferment. Deferred assessments are funded from the following sources:

1. The appropriate utility operating fund for deferred water and sewer assessment payments.
2. The accelerated roads program fund for deferred road improvement assessment payments.
3. The source that the Council designates for other deferred assessment payments.

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

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

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

1. The sale or lease of the assessed property; or
2. The death of both the deferred assessment applicant and the applicant's surviving spouse, if any. [Ord. 13-01(A)(S) § 1, 2013; Ord. 12-60(S) § 1, 2013; Ord. 12-15 § 1, 2012].

17.04.200 In lieu of assessment. SHARE

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

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

c. A property on which an "in lieu of assessment" for water or sewer service has been levied in accordance with subsection (a) of this section nonetheless may be included in special assessment district for the same service in the future date, and will be assessed in that district. An amount not exceeding the lesser of (1) the amount of "in lieu of assessment" paid for the property and (2) the amount of the assessment levied on the property in the future special assessment district shall be a credit against the amount of the assessment levied on the property in the future special assessment district. [Ord. 12-15 § 1, 2012].

Commissioner comments and questions included:

- The CUP they approved tonight for the indoor recreation facility helps move forward with goal 5 to offer year-round opportunities to the community.
- Line 25 on page 57 reads 4.73 FTE's are budgeted. Question was raised if 4.73 is correct.
 - City Planner Abboud noted that Parks and Recreation has their regular staff and seasonal hires. He will follow up and confirm the number.
- Question was raised if line 26 *There is also a desire to better coordinate all efforts through a combined parks and recreation program* is an appropriate comp plan statement or if it's editorializing.
 - City Planner Abboud explained that is a community and an internal conversation. If the demand is to grow the program then we need a structure to grow it. Currently Parks Maintenance is part of Public Works and Community Recreation is part of Administration. There would be benefit to a department that is all encompassing.
- Line 66 *Partner with other organizations to continue providing programs and facilities* is almost the same as line 48 *Expand and promote adopt a park program..*
 - Others didn't see it as the same and City Planner Abboud said generally they are similar and perhaps they could be expanded a little more for clarification.
- Line 50 number 3 in the implementation strategies to establish the park endowment fund and possibly partner with the Homer Foundation is a really good idea.

The Commission agreed overall that staff has done a great job and commended Rick and Julie for their work.

B. Staff Report 16-32, Homer Accelerated Water Sewer Program (HAWSP)

City Planner Abboud reviewed the staff report, highlighted areas of the HAWSP, and touched on the process for initiating a special assessment district. He explained the City Council directed the Commission to develop recommendations for HAWSP regarding:

- How the City should apply the debt service ratio;
- When the debt service ratio should be calculated;
- When pending HAWSP projects should be inputted into the debt service ratio calculation;
- A process for keeping track of and prioritizing special assessment district requests that occur while a moratorium on new districts is in effect;
- A process for lifting and implementing a moratorium on water and sewer special assessment district projects.

Commissioner Highland asked who is in charge of the program now and if this is causing people not to develop property in town. City Planner Abboud explained that several departments play a role in the process including the Clerk's office, Public Works, and Finance. He isn't sure if this prohibits anything because we aren't doing new subdivisions with the fund. However if someone has a bigger lot and the water and sewer lines are installed, they are able to subdivide in to smaller lots down to 10,000 square feet. In areas like Mission Road, there aren't a lot of customers, but if there were denser developments, it would increase the customer base.

Commissioner Highland commented the criteria listed at the bottom of page 81 need to be improved on and clarified.

City Planner Abboud suggested at some point they will need to come up with a staff recommendation that would include him, Public Works, Finance, and possibly some others to evaluate and determine when the debt service ratio should be calculated, and when to evaluate projects and get them in the system to keep the debt ratio going. A set of criteria could be established to rank the projects, and decide who would evaluate the projects. One part the Planning Commission could weigh in about is how it relates to the Comprehensive Plan because the future land use map shows areas we would like to see go more dense.

Commissioner Stroozas commented he's surprised this would come to the Planning Commission because it's more of an accounting issue. That aside, with the work they have done to protect the Bridge Creek Watershed area, now we should bring water and sewer in to those areas that don't have it and increase the density.

Commissioner Highland is also surprised this has been put before them. In her estimation, the departments this effects need to meet, because they have dealt with it. That group could come up with a recommendation and then we would try to put it into the comp plan. She could see the Commission playing that part.

Chair Stead commented having worked from a utilities perspective this is an odd way of doing business. He's used to cost causer/cost payer, not equal shares and once the debt is incurred by the city for the project, that debt should be re-allocated without a CPI because the debt already exists. He isn't sure it's their job to redefine how this program works; it's more of a finance and engineering collusion to figure it out.

The Commission agreed it would be a good idea to have a worksession with the Finance Director and Public Works Director.

City Planner Abboud reviewed some of the history of the program noting the initial cost to property owner was 50% of the project cost. Now it's becoming cost prohibitive to extend the system.

Chair Stead read from the plan that the intent is to improve health and welfare of the citizens by connecting residences to city water and/or sewer, thereby increasing the number of users on the system, increasing property values, and improving quality of life. Using the funds for maintaining the system doesn't increase the number of users or property values. He questions how using the funds to perform maintenance on the system meets the intent of the program.

There was discussion that using the program to help pay for the water treatment plant wasn't the right way to use the funds. It's a great system, but is too expensive and impacting the debt ratio.

New Business

A. 2017 Capital Improvement Plan Review