



City of Homer

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Homer City Council

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Memorandum 20-008

TO: Mayor Castner and Homer City Council
FROM: Councilmember Aderhold
DATE: January 8, 2020
SUBJECT: Request for a Legal Opinion Concerning the Seawall

In December of 2018, seawall property owners came to the City with concerns about the Seawall's long term viability. This, combined with the high cost of maintenance, prompted Administration to hold two neighborhood meetings with residents of the Ocean Drive Loop Service Area (ODLSA), both of which I attended. At the last meeting in August 2019, neighbors reviewed the results of a feasibility study for long term maintenance options on the Seawall performed by Coastal Engineer McPherson of HDR, Inc. and asked for a worksession with City Council to discuss next steps. This was held on September 23rd, 2019. The general consensus from the neighbors and staff was that armor stone placed at the toe to reinforce the wall was the preferred option. HDR, Inc.'s rough order of magnitude estimate for Armor Stone Scour Protection was \$1.5M-\$2.1M.

Currently, the fund used to repair the Seawall has \$102,153 remaining; this fund is comprised of a portion of ODLSA property taxes and an annual \$10,000 contribution from the City. In order to make the lower end (\$1.5M) of the Armor Stone Scour Protection recommendation possible, the City could secure a general obligation bond through the Alaska Municipal Bond Bank (AMBB). Property taxes generated by the ODLSA, along with the City's contribution, could be used to guarantee the bond.

According to the State Assessor's Office, a service area/tax jurisdiction cannot have a property tax that exceeds more than 30 mils. However, per AS 29.45.100, the mil rate can exceed 30 mils if there is bonded debt. Since 2013, ODLSA properties have had a mil rate of 21.4625 with 9.9625 going towards the Seawall. Using information provided by AMBB, a \$1.5M bond amortized over 30 years at 3% interest would require an annual payment of \$75,915. Based on linear feet, property owners would be responsible for 82% (\$62,250) and the City would be responsible for 18% (\$13,665). Based on 2019 property values, the mil rate needed to cover the ODLSA amount would be around 20.6 or about double what the current mil rate portion for the Seawall is.

ODLSA property owners will have to vote in favor of issuing the bond for the work to proceed, which in turn would permit the City to exceed 30 mils for ODLSA residents if required by the bond payments. There remain unanswered legal questions for Council to be willing to take on such a project. To that end I am requesting a legal opinion that concerns financing a capital improvement for the Seawall and expanding the ODLSA to incorporate more properties, specifically:

- How would the City hold a vote for ODLSA property owners to decide on bonding for the Seawall improvements?
- Would the general obligation bond qualify as tax exempt given the City owns two properties within the ODLSA and is the facilitator of the Seawall's maintenance?
- What is the City's obligation to maintain the wall if ODLSA property owners do not vote in favor of the bond and the current Seawall maintenance account does not have enough funds to cover the Seawall's costs?
- The ODLSA used to include the property located at 811 Ocean Drive Loop; however, the former property owners gained approval from Council to be excluded from the ODLSA. The new property owners are currently working to source armor stone to reinforce their section of the wall. Is there a way to incorporate their efforts into the project?
- At the worksession, Council asked about expanding the ODLSA. Could different mil rates be established for properties based on their proximity to the wall?
- What is the legal process to increase the mil rate over 30 mils per AS 29.45.090 with bonded indebtedness? Can the mil rate fluctuate based on assessed value, or is it set by the voters when ODLSA residents approve the bond?

ENC:

Armor Stone Excerpt from the HDR, Inc. Report

Fiscal Note:

Legal time researching this project would be billed proportionality to ODLSA property tax fund and the City of Homer Seawall Reserve fund.