

AGENDA
FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY
ALASKA,
COUNCIL CHAMBERS
CITY HALL
TUESDAY
February 17, 2015
6:30p.m.

The meeting will be preceded by a workshop beginning at 6:00p.m.
The public is invited and encouraged to attend

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. MAYOR'S REPORT:
6. CITY ADMINISTRATOR'S REPORT:
7. PUBLIC COMMENTS:
8. COUNCIL COMMENTS:
9. CONSENT AGENDA:
 - A. Minutes for the January 20, 2015, City Council Meeting, discussion and action item:
 - B. Minutes for the February 2, 2015, Regular Planning Commission Meeting, discussion and action item: This was a meeting of the City Council acting as the Planning Commission.
10. **NEW BUSINESS:**
 - A. Cancelation of lease between the City of Thorne Bay and Promech Air, discussion and action item:
 - B. Approval of lease between Charles and Laura Jennings and the City of Thorne Bay, discussion and action item: (This lease is for the land that Promech was leasing)
 - C. Resolution 15-02-17-01, a resolution of the City Council supporting the Alaska Association of Harbormasters and Port Administrators, in support of full funding for the State of Alaska Harbor Facility Grant, discussion and action item:
 - D. Resolution 15-02-17-02, a resolution of the City Council supporting the Alaska Association of Harbormasters and Port Administrators in support of the addition of port and harbor employees to the list of employees covered by AS12.55.135, discussion and action item:
 - E. Resolution 15-02-17-03, a resolution supporting the reinstatement of a full \$60 million into the Revenue Sharing Fund on a yearly basis with a one-year appropriation of \$8 Million into the fund with an effective date prior to June 30, 2015, discussion and action item:
 - F. Authorizing the Memorandum of Understanding agreement between the Organized Village of Kasaan and the City of Thorne Bay, for shared road maintenance for the South Thorne Bay/Kasaan Road, discussion and action item:

11. EXPENDITURES EXCEEDING \$2,000.00:
12. EXECUTIVE SESSION:
13. CONTINUATION OF PUBLIC COMMENT:
14. CONTINUATION OF COUNCIL COMMENT:
15. ADJOURNMENT:

Posted: February 12, 2015

City Hall (2), A&P, SISD, USFS, The Port, Thorne Bay School

**MINUTES
OF THE
CITY COUNCIL
ACTING AS THE
PLANNING COMMISSION
FOR THE
CITY OF THORNE BAY
FEBRUARY 2, 2015
6:00 p.m.**

The public was invited and encouraged to attend

1. **CALL TO ORDER:**

Minnillo called the meeting to order at 6:00p.m.

2. **PLEDGE TO FLAG:**

The audience and council stood for the pledge to the flag.

3. **ROLL CALL:**

Slayton, Minnillo, and Edenfield were present. Carlson arrived at 6:06p.m. Hartwell and McDonald attended by phone.

4. **APPROVAL OF AGENDA:**

Minnillo moved to approve the agenda. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve the agenda

F/S: Minnillo/Hartwell

YEAS: Minnillo, McDonald, Slayton, Edenfield and Hartwell

NAYS: None

STATUS: Motion Passed.

5. **PUBLIC HEARING:**

- A. Public Hearing for Conditional Use Permit Application 15-01-21-01, extension of Conditional Use Permit Application 10-21-14-02, discussion only:

Rachelle Huddleston-Lorton submitted comments. (see attached)

Glenn Lorton submitted comments. (see attached)

Mrs. Huddleston-Lorton expressed concern with Resolution 15-02-02-01, as it states that use was for private use and not commercial as Permit Application 15-01-21-01 states.

6. NEW BUSINESS:

- A. Review of Thorne Bay Municipal Code 17.04.043-Conditional Use Permit, 17.04.043 (B)-Criteria for approval, discussion item: (The City Council acting as the Planning Commission will take this time to review the required criteria for approval and take all public comments from the public hearing into consideration and deliberate for a resolution)

Minnillo requested to abstain from voting on anything dealing with the conditional use permit due to conflict of interest, but requested to participate in discussion. McDonald as Vice Mayor approved Minnillo's request.

Slayton stated the way he understood 17.04.025 (e) is that it would be permitted. Slayton stated the City did not want to be sued. Slayton continued that 17.04.025 (D) lists conditional list of 10, and E lists commercial use.

There was discussion on the interpretation of 17.04.025 (e)..as the Thorne Bay Municipal Code listed 17.04.025 (d) as conditional uses, and (e) as commercial-commercial uses.. discussion was if (e) was supposed to say "conditional-commercial".

Minnillo stated that if 17.04.025 (e) was supposed to say conditional-commercial that it meant the warehouse did not have to be approved but could at least be considered.

Carlson stated she wasn't sure what category the warehouse would fall under for approval. Carlson suggested building material and retail supply as an option.

McDonald stated there are many issues in the Municipal Code that needed to be addressed, and if they were set in stone there would never be development in Thorne Bay.

Slayton stated each interested party had valid complaints and the city could get sued by either side depending on the decision made.

McDonald stated the City would be liable either way.

Carlson stated the list in the code was a subjective list and warehouse was not covered under this list but there may be other possibilities for the list that are not in the code.

Minnillo stated the other businesses on Hemlock Loop were listed as uses in the Code.

Carlson suggested it possible they were there before the code was written.

Minnillo inquired if the code did not specifically say a warehouse would be permitted could the council even consider it?

McDonald stated he did not agree with that.

McDonald stated when the code was written it was meant to be broad for future interpretation.

McDonald stated the City needed a Planning and Zoning Commission to address the needed code changes.

Slayton stated the code was purposely open ended to allow for flexibility.

McDonald stated the City has a code that needs to be worked on, it was a job that has never been gotten around to and now that there is enough controversy people may be interested in joining the commission.

Minnillo inquired if the council (acting as planning commission) should wait to vote until the code was addressed.

McDonald replied no.

Minnillo stated the council (acting as the planning commission) needed to first determine whether a warehouse met the required criteria for approval.

McDonald stated the council (acting as the planning commission) needed to put together a resolution to bring forward to the Council for approval.

Mrs. Huddleston-Lorton inquired if the council/commission felt compelled to make a decision now or if they could wait and take time to review the material that was submitted.

There was discussion of the required criteria.

Minnillo stated even a residential home would block the view therefore reduce property values.

Glenn Lorton stated there are four places in the Municipal Code that talk about a warehouse and it is defined as industrial. Mr. Lorton stated if the council allows because the code is too vague then people like himself will never be allowed due process and that is a travesty.

Minnillo stated Mr. Lorton had a good point that a warehouse fell under industrial.

Carlson stated Mr. Lorton took more time and knows the code better than we do, maybe we need more time.

Slayton inquired if the City had planning resources they could tap.

Administrator stated he could talk to Local Government Specialist (LGS) and Attorney.

Minnillo suggested a meeting with the LGS and attorney with the public present.

Carlson suggested maybe a meeting with the commission members first then invite public.

7. RESOLUTIONS:

- A. Resolution 15-02-02-01, approving Conditional Use Permit Application 15-02-02-01, discussion and action item:

Hartwell moved to table Resolution 15-02-02-01 for up to 30 days to consult with additional personnel. Slayton seconded the motion. There was no further discussion.

MOTION: Move to table resolution for up to 30 days to consult with additional personnel

F/S: Hartwell/Slayton

YEAS: Slayton, Edenfield and Hartwell

NAYS: McDonald

ABSTAIN: Minnillo

STATUS: Motion Passed.

8. COMMISSION COMMENTS:

McDonald stated the City needed a PZ Commission. McDonald stated there are people out there who do a good job on researching this stuff and he encourages them to help make Thorne Bay a better place.

Minnillo seconded McDonald's comment.

9. PUBLIC COMMENTS:

Glenn Lorton thanked the council and employees for making sure the process is met. Mr. Lorton stated he was willing to serve on the Planning and Zoning Commission and feels he has something to offer.

Administrator reported that DOWL would be in Thorne Bay at the next scheduled Council meeting (2/17/2015).

10. ADJOURNMENT:

Minnillo adjourned the meeting at 7:58p.m.

James Gould, Mayor

ATTEST:

Teri Feibel, CMC

Additional Comments

RE: Resoulution 15-02-02-01 as drafted and included in the Agenda Packet for the Thorne Bay Planning Commission meeting scheduled for 2/2/2015.

Draft resolution 15-02-02-01

1. That the proposal is consistent with the Thorne Bay comprehensive plan, the Thorne Bay coastal plan, the city code and all other applicable city ordinances; The proposal falls within the "Commercial and Mixed Land Analysis" of the Thorne Bay Comprehensive Plan. Although storage (warehouse) for private use and accomodations for private use are not specifically mentioned this project has been considered commercial/residential in nature, thus the need to pursue a conditional use. The goals and policies encourage commercial opportunities located in areas where there are a pattern of mixed development. Per the applicant the "warehouse" is to store his personal items, prepare personal meats and fish, plus store some items for the Thorne Bay Market requiring and occasional delivery and pickup. Upstairs is for occasional private gatherings or friends to stay when they come to POW to hunt.

As the Thorne Bay Comprehensive Plan is brought up the planning commission needs to be fully aware of the relationship between the Comprehensive Plan and the Thorne Bay Municipal Code. The following quote from the Comprehensive Plan shows specifically what that relationship is:

Zoning

The relationship between a comprehensive plan and a zoning ordinance and map is fundamental to community planning. The comprehensive plan, text and map provide basic recommendations about long term land use for the general community. Zoning is a method of official land use control, adopted by the city council as a zoning ordinance. Zoning decisions are based on the comprehensive plan. While a comprehensive plan is general and refers to generalizated map areas, a zoning ordinance is very specific in terms of uses and refers to legally defined and described parcels. The comprehensive plan reflects community discussion and provides rational and direction whereas a zoning ordinance is very specific, and divides the city into different types of land uses: residential, commercial, and industrial.

Thorne Bay Comprehensive Plan p.42

This means that as the planning commission deliberates these issue that they must realize that zoning requirements found in the Thorne Bay Municipal Code cannot be superceded by general comments on zoning found in the Comrehensive Plan.

The Comprehensive Plan also speaks to conditional use permits much in the same way as it addresses zoning. The following is a quote from the Thorne Bay Comprehensive Plan:

Conditional Use Permits

Conditional use permits are included in zoning regulations as a way to allow consideration of individual land uses. They allow for flexibility in the zoning title by providing for uses that may be suitable in certain locations but not in others. These are expressly permitted conditional uses in the zone, clarified by a section labeled conditional uses for each zone.

Thorne Bay Comprehensive Plan p.43

So the Comprehensive Plan is in agreement with the zoning regulations with regard to the Thorne Bay Municipal Code as we would expect it to be. Conditional use permits are dependent on expressly permitted uses clarified by a section label conditional uses for each zone (in the case of Ben Williams' conditional use permit application 17.04.025 D 1 - 10.

Additionally, item one of resolution 15-02-02-01 appears to make the argument for approving the conditional use permit from Mr. Williams' testimony that he also intends to use his proposed warehouse for personal uses such as *"to store his personal items, prepare personal meats and fish, plus store some items for the Thorne Bay Market requiring occasional delivery and pickup. Upstairs is for occasional private gatherings or friends to stay when they come to POW to hunt."* According to section 1.04.020 J of the Thorne Bay Municipal Code *"Where any provision of the code imposes greater restrictions upon the subject matter than the general provisions imposed by the code, the provisions imposing the greater restriction or regulation shall be deemed controlling."* The activities described by Ben Williams related to his personal use of the proposed warehouse fall under the general provisions of the code for the residential/commercial II zone. If Ben Williams only intended to use the warehouse for the described personal uses he would not be required by the Thorne Bay Municipal Code to obtain a conditional use permit. However, the proposed warehouse with its storage and distribution function in support of the Thorne Bay Market requires a special use permit and as specified in section 1.04.020 of the Thorne Bay Municipal Code this use becomes the controlling issue in the permit application because it is the "provision imposing the greater restriction or regulation." Any decisions reached on Mr. Williams' conditional use application by the planning commission must deem the uses requiring the special use permit as controlling according to Thorne Bay Municipal Code 1.04.020 J. Specifically, the planning commission is bound by the Thorne Bay Municipal Code to deny Ben Williams' conditional use permit as it is not an "expressly permitted conditional use" in the residential/commercial II zone where the proposed warehouse is intended to be built. No other conclusion is supported by the Thorne Bay Comprehensive Plan, The Thorne Bay Municipal Code or the oath of office taken by each of the city council members serving on the planning commission tonight.

Glenn Lorton - Property owner and resident at 203 Hemlock Loop, Thorne Bay, Alaska



Presented to the Thorne Bay City Council acting as the Planning Commission in regard to Ben Williams Conditional Use Permit Application File Number 15-01-21-01.

I would like to remind the city council here tonight acting as the planning commission that when Ben Williams submitted his conditional use permit 15-01-21-01 that he signed a sworn statement stating and I quote, "*I (we) being duly sworn, depose and say that the foregoing statements and answers herein contain, and the information herewith submitted, are in all respects true and correct to the best of my knowledge and belief.*" Therefor when Mr. Williams is ask to describe in detail the conditional use requested we must assume his statement that follows to be true. So how does Mr. Williams define the conditional use in his application? I quote from Mr. Williams' application, "*The conditional use is requested to allow construction of a 40' x 60' warehouse to support the Owner's existing business (Thorne Bay Market). The second floor of the building will house visiting employees and guests of the family.*" The issue before the planning commission tonight is not about wheather Mr. Williams plans to store a few toys in the building, invite a few hunting buddies over to butcher a few fish and deer or even if he plans to repair an atv or two at the site. The only matter before the planning commission tonight is a permit application for a warehouse used to support the Thorne Bay Market. Mr. Williams had ample opportunity to amend this application from the previous application but choose not to do so. An examination of the structure, layout, equipment and space proposed would lead any resonable person to assume that the use specified in the permit application is the intended use for the proposed building. For the planning commission to consider this application in any other light would be a miss-representation of the application as presented and sworn to by Mr. Williams and would make a mockery of the public process we are engaged in tonight.

I have had City employees and council members tell me that the Thorne Bay Municipal Code is difficult to interpret. In one case I suggested that the purpose statements found in the code might be a beginning point to help the reader determine the text that follows. The employee who was generally famililar with the code was not even aware that in many cases purspose statements preceed section of the code. These purpose statements are just one of several means provided to the reader to help the reader interpret the intended meaning of the code. There are at least four ways that the Thorne Bay Municipal Code provides insight into its meaning.

- 1) There is the code itself. In many cases the meaning is entirely clear simply from reading the code.
- 2) There are purpose statements that give the context in which other statements are to be interpreted.
- 3) There are definitions written into the code to define the meaning of certain words or phrases.
- 4) There is language in the code that tells the reader how the meaning of words not defined by the code shall be interpreted.

Tonight we are dealing with chapter 17 and any other pertinent chapters of the Thorne Bay Municipal Code. If we refer to section 17.04.015 we find a list of definitions and the following statement:

17.04.015 Definitions. Interpretation of words not listed: when a word or term is not specifically stated, the city shall have authority to interpret the meaning based on the most appropriate dictionary definition.

Then follows an alphabetical list of words that the code clearly defines such as and again I quote:

"Conditional use" means a land use in a zoning district that is not specifically permitted but may be compatible with existing and proposed uses under certain conditions.

Now we have a clear statement from the code defining what a conditional use is. So moving on to 17.04.043 we find the purpose of conditional use permits defined by the following quote:

17.04.043 Conditional use permits. A. Purpose. The purpose of a conditional use permit is to allow for flexibility in the zoning title by providing for uses that may be suitable in certain locations and not others. (please pay close attention to what follows) These uses will be expressly permitted conditional uses in the zone, clarified by a section labeled conditional uses for each zone.

I have heard City employees and Council members state that the warehouse proposed by Ben Williams is an expressly permitted use in the residential/commercial II zone where the warehouse is proposed to be built. The following statement appears in the letter I received from the City of Thorne Bay dated January 22, 2015; quote:

This property is currently zoned as a Residential Commercial II, and allows for a warehouse and housing upon approval of a conditional use permit.

So I would like to ask any member of the City Council acting as the Planning Commission here tonight to please identify in section 17.04.025 of the Thorne Bay Municipal Code titled Mixed residential/commercial II under section D. Conditional Uses. to please identify which expressly allowed conditional use allows for a warehouse in this zone? (poll of council members by name) Mr. Slayton? etc.

In fact lets review each of the 10 expressly allowed conditional uses for this zone:

17.04.025 D.

- 1) Religious assembly.*
- 2) Electrical utility substations, pump/lift station.*
- 3) The keeping of animals for profit or for more than personal use; the keeping of more than four dogs with the exception of puppies; the keeping of roosters and other noisy livestock.*
- 4) Day care center or facility.*

- 5) *Bed and breakfast.*
- 6) *Parking a truck or other heavy equipment over two tons.*
- 7) *Home occupation or business in accessory building.*
- 8) *Triplex.*
- 9) *Apartment (four or more units).*
10. *Structure or fence above the maximum height limit.*

So we have just read the section for residential/commercial zone II titled conditional uses as instructed by the code in section 17.04.043 and there is no provision for a warehouse such as that proposed by Ben Williams to be found on the list of expressly allowed uses.

Was this an oversight? Clearly not. When one examines chapter 17 of the code they find the following with regard to warehouses such as the one proposed by Ben Williams:

First lets refer back to section 17.04.015 of the Thorne Bay Municipa Code titled Definitions. We can see right away that warehouse is not one of the words defined. However, the definition section still sheds light on warehouse. Looking at 17.04.015 I. we find the following and I quote:

"Industrial" means an activity that includes manufacturing, processing, warehousing, storage, shipping, distribution or the reduction of any article, substance or commodity or any other treatment that changes the characteristics or appearance of the article, substance or commodity. "Industrial, light" or "light industrial" means industrial uses of a nature which do not produce dust, traffic, noise, odor, vibration or other objectionable pollutants of a significantly greater intensity or duration of those commonly associated with surrounding land uses.

By nature of this definition found in the Thorne Bay Municipal Code the warehouse proposed by Ben Williams is identified as an industrial or industrial light activity both by nature of its warehouse function and its distribution function of stored items.

There are 13 zones identified in section 17 of the Thorne Bay municipal Code beginning with section 17.04.020 through section 17.04.034. Each of these sections clearly defines permitted uses and any conditional uses. I will not take the time tonight to review each of these but only 4 expressly allow industrial or industrial light uses. They are:

1) Mixed residential/commercial zone III

17.04.026 The Purpose of this zone is to be as open and unrestrictive as possible by allowing many differt, capatable uses, yet still provide protection to all property owners in the subdivision.

17.04.026 B. Permitted Uses-Commercial and Industrial. Any commercial or industrial use may be permittd in this zone as long as the proposed use will not adversely affect the

surrounding property owners.

2) Commercial zone

17.04.027 Commercial zone. *The purpose of the commercial zone is to accommodate a wide range of commercial and compatible light industrial uses.*

3) Industrial Zone

17.04.028 Industrial zone. *This zone designation is intended to provide an area that is suitable for both heavy and light industrial uses such as manufacturing, processing, repairing and assembling.*

4) Waterfront Development zone

17.04.029 Waterfront development zone. *The purpose of this zone is to reserve areas with direct waterfront access for water-dependant or water related uses and to give these uses first priority.*

17.04.029 B. Conditional uses.

1. Other water-dependant or water-related commercial or industrial uses;

Had Ben Williams purchased property to construct his proposed warehouse in any of the four zones cited above the planning commission would have the authority vested to it by the Thorne Bay Municipal Code to approve Mr. Williams' application after the appropriate public hearing. However, Ben Williams purchased his property in the mixed residential/commercial II zone where construction of a warehouse is not permitted outright nor is it an allowable option found in the expressly permitted conditional uses for that zone.

So in review lets look at the Thorne Bay Municipal Code regarding the mixed residential/commercial II zone where Ben Williams is proposing to build his warehouse in support of the Thorne Bay Market.

17.04.025 Mixed residential/commercial II. *The purpose of this zone is to provide for an aesthetically pleasing neighborhood and to maintain property values by permitting single family houses, duplexes and mobile homes plus accommodating present mixed commercial uses.*

Note that industrial uses or industrial light uses are not mentioned and that even the allowed commercial uses are defined as those being "*present mixed commercial uses*".

A further review of 17.04.025 Mixed residential/commercial II zone in its entirety reveals that nowhere is industrial, industrial light or warehousing and distribution of goods mentioned as an outright permitted use or an "*expressly permitted conditional use*" as required by 17.04.043 A.

Clearly the Thorne Bay Municipal Code defines in which zones warehouse structures are allowed and the residential/commercial zone II where Ben Williams is proposing to build his warehouse is not one of the zones that allow for this type of construction.

I would additionally like to remind the planning commission tonight of an additional section of the Thorne Bay Municipal Code and I quote as follows:

1.04.020 Definitions - Rules of construction.

J. Interpretation. In the interpretation and application of any provision of this code, it shall be held to the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and personal welfare. Where any provision of the code imposes greater restrictions upon the subject matter than the general provisions imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

I would also like to remind the City Council, in your roll as the planning commission, that it is your obligation to uphold the Municipal Code of Thorne Bay. To fail to do so would constitute an arbitrary action and would not be consistent with your oath of office and would constitute a mockery of the democratic process we are gathered here tonight to uphold.

Glenn Lorton

Property Owner and Resident

203 Hemlock Loop

Thorne Bay, Alaska 99919



To the Thorne Bay Planning Commission:

Nearly two years ago we moved to Thorne Bay. Initially we lived on the Forest Service compound due to lack of housing options in the community, and frankly, I was unsure if island life would appeal to me in the long run. Eight months into my job as District Ranger I realized that not only do I love the job but I have come to appreciate Thorne Bay – its residents, pace of life, and access to the wild and wonderful world around us. Glenn and I decided to buy a house and make Thorne Bay our home. We were so fortunate to find a great house in our price range in a relatively quiet neighborhood. The purchase of residential property is a big commitment so we exercised due diligence and researched the Thorne Bay Municipal Code so that we knew the sideboards for development in our neighborhood. Satisfied with the language in the code, specifically 17.04.025 which states that the “purpose of the zone is to provide for an aesthetically pleasing neighborhood *and* to maintain property values by permitting single-family houses, duplexes and mobile homes *plus* accommodating *present* mixed commercial uses” (emphasis added). Satisfied that the Municipal Code provided adequate sideboards to development we purchased our home on Hemlock Loop.

Shortly after we moved in, the lot at the end of the loop was sold and we speculated on what kind of a home would go there; it honestly never crossed our minds that the city would consider allowing a commercial warehouse to be built in this mixed residential zone where the purpose was so clearly stated as to “accommodate present mixed commercial uses”. We thought perhaps another lodge, B&B, or single family home might be constructed. We believed, in good faith, that the City Council would uphold the Municipal Code, which they are bound to do when they take office.

I find it very interesting that other than Mr. Silverthorne and Mr. Wilson, all the support for this warehouse is from people who do not live on Hemlock Loop. It is easy to be supportive of a commercial warehouse when it is not in your neighborhood or even on your side of the bay. Nearly 2 years on this island and the only time I have felt disrespected has been during this process.

The Thorne Bay Municipal Code contains a definitive list of conditional uses that may be permitted within this zone. Section 17.04.025 does not contain language indicating that there are no limitations on what could be built in the zone. Rather there is a quite exhaustive list that does not include commercial warehouses to support an existing business or for any other reason.

In the question of compatibility, the Council must address the fact that Adventure Alaska and Silverthorne Charters are business that are operated out of a home – a single family dwelling. A compatible use would be if I decided to open a business in the daylight basement of my home. That would be similar to and compatible with the other home-based businesses. POW Gas is a small business that in the more than year I have lived on Hemlock Loop has produced no noise, dust or disturbance. A 40x60x35 warehouse is not nor can it ever be a single family dwelling; it is a warehouse with a large roll up door to accommodate a box truck and as Mr. Williams has stated now twice, in two permit applications, intended as a warehouse to support his existing business, the Thorne Bay Market.

The City Council must consider the effects of this action on property values. There have been many studies of the effects of commercial development on residential property values. In 2010, Ayden, et.al., conducted an extensive literature review on the effects of commercial development on residential values and found that almost universally, the proximity to industrial land uses had a deleterious effect on home values. In addition, the impact of commercial development on nearby residential areas indicated that the proximity to commercial development may have a negative impact on nearby residential properties; however, that impact is likely dependent upon the size of the development and the degree to which proximity is improved by buffers to minimize visibility. In the case of Mr. Williams' proposal to build a 4800 square foot commercial warehouse on Hemlock Loop it is necessary to take into account that this action would be additive, that is, would add to the size of the commercial development already existing on Hemlock Loop (Adventure Alaska, Silverthorne Charters, and POW Gas). Stull (1975) found a quadratic relationship between home values and the amount of commercial development in an overall residential area. This means that as commercial development increases in an area, residential property values may decrease. In that study, small amounts of commercial development were found to be positive but larger amounts (in excess of 5% of the neighborhood land base) were found to have statistically significant negative impacts on home values. The existing neighborhood on Hemlock has clearly exceeded that threshold. Li and Brown (1980) found that home values within 1/3 mile of a commercial development fell as proximity to the development decreased. Furthermore, visual quality and noise pollution have impacts on housing prices. In the case of the proposed warehouse on Hemlock Loop, our property line is less than 50 feet from the proposed project site. Paterson and Boyle (2002) found that visibility of a development significantly detracts from property value; a development appears to be neutral as long as it cannot be seen from residential properties. Clearly, a 40x60x35 foot warehouse would be visible from the residential properties on Hemlock Loop. In the matter of commercial traffic and the potential to negatively impact home values, Hughes and Sirmans (1992) found that traffic generated by commercial activity only produced negative home value impacts if it directly involved traffic on streets on which homes are located. Clearly that is the case here.

According to municipal code, the Council must also consider traffic volume, type, and patterns as well as access to serve any additional traffic flow. According to the Institution of Transportation Engineers, a traffic study should be conducted where high traffic volumes impede movement; there are inadequate sight distances at access points, and the proximity of access points to other exiting drives or intersections. Clearly, the existing traffic issues on Hemlock Loop should be addressed before adding additional commercial uses. Sight distance is inadequate from the east end of Hemlock Loop; the storage structure at POW Gas blocks the view around the corner; many times in the past year I have left my home, turned that corner only to have to swing into the on-coming lane in order to avoid hitting vehicles parked in front of POW Gas. The consequences of a box truck hitting a parked car or pedestrian could be catastrophic for the individual, the owners of POW Gas, and the City. Comparing box truck traffic with car or light pickup traffic is fallacious because single family homes do not operate forklifts or box trucks. In order to accurately assess traffic impacts it is necessary to collect information on the base traffic conditions first – something the City has failed to do.

At the first public hearing on this matter (November 20, 2014), Mr. Williams stated that his warehouse "could be used for community gatherings or wine tastings" as well as what is in his written permit application. The site plan drawing submitted with Mr. Williams' application for a conditional use permit includes 4 parking areas to the side of the warehouse with access from Hemlock Loop. Existing parking is extremely limited (POW Gas has no parking – off street or otherwise). Hosting a community gathering at the warehouse is not feasible due to lack of parking.

In summary, I urge the City Council, acting as the Thorne Bay Planning Commission, to take the time to consider these comments, to examine the potential effect on property values, and the current traffic patterns and parking on Hemlock Loop before making a recommendation to the City Council. It is your sworn duty to represent all the citizens of Thorne Bay.

Sincerely,



Rachelle Huddleston-Lorton

203 Hemlock Loop

Thorne Bay, AK

Submitted to the Thorne Bay City Council, Acting as the Planning Commission, on February 2, 2015.

Literature Cited

Aydin, Recai, Evert Crawford, and Barton A. Smith. 2010. *Commercial Development Spillover Effects Upon Residential Values*. *Southwestern Economic Review* pages 47-62.

Li, Mingche M. and H. James Brown. 1980. *Micro-Neighborhood Externalities and Hedonic Housing Prices*. *Land Economics* vol. 56(2) pages 125-141.

Hughes, William T. and C.F. Sirmans. 1992. *Traffic Externalities and Single-Family House Prices*. *Journal of Regional Science* vol. 32(4) pages 487-500.

Stull, William. 1975. *Community Environment, Zoning, and Market Value of Single-Family Homes*. *Journal of Law and Economics* vol. 18(2) pages 535-557.

**MINUTES
FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY
ALASKA,
COUNCIL CHAMBERS
CITY HALL
TUESDAY
January 20, 2015
6:30p.m.**

The meeting was preceded by a workshop beginning at 6:00p.m.

1. CALL TO ORDER:

Councilman Minnillo called the meeting to order at 6:30p.m.

2. PLEDGE TO FLAG:

The audience and council stood for the pledge to the flag.

3. ROLL CALL:

Carlson, Slayton, Minnillo and Edenfield were present. Hartwell and McDonald attended by phone. Gould was excused.

4 APPROVAL OF AGENDA:

Minnillo moved to approve the agenda removing item 11(a). Slayton seconded the motion. There was no further discussion.

MOTION: Move to approve the agenda removing item 11(a)

F/S: Minnillo/Slayton

YEAS: Hartwell, Edenfield, Slayton, Carlson, McDonald and Minnillo

NAYS: None

STATUS: Motion Passed.

5. MAYOR'S REPORT:

There was no Mayor Report.

6. CITY ADMINISTRATOR'S REPORT:

City Clerk read the Administrator report for Mr. Benner as he was unable to attend the meeting. (Report attached)

7. PUBLIC COMMENTS:

Doug MacAllister inquired if there were rules for building driveways. He commented that some drive ways are above grade and causing the road to flood.

8. COUNCIL COMMENTS:

Carlson stated the Council needed to address parking situations on Hemlock look aside from the appeal.

9. **CONSENT AGENDA:**

- A. Minutes for the January 6, 2015, City Council Meeting, discussion and action item:
- B. Minutes for the December 2, 2014, Regular City Council Meeting, discussion and action item:
- C. Minutes for the November 20, 2014, Special City Council Meeting, discussion and action item:
- D. Minutes for the November 11, 2014, Special City Council Meeting, discussion and action item:

Minnillo moved to approve the consent agenda. Slayton seconded the motion. There was no further discussion.

MOTION: Move to approve the consent agenda

F/S: Minnillo/Slayton

YEAS: Edenfield, Carlson, Slayton, Hartwell, McDonald and Minnillo

NAYS: None

STATUS: Motion Passed.

10. **CONTINUING BUSINESS:**

- A. City Council sitting as the Board of Adjustments will hear and vote on the appeal for the Conditional Use Permit issued to Ben Williams for the purpose of building a warehouse in the Manier Subdivision on Hemlock Loop, discussion and action item: (This item was brought forward from the original hearing date of January 6, 2015)

Councilman Minnillo declared conflict of interest for the reason he owns property in the area the Conditional Use Permit is being requested. Vice Mayor McDonald accepted Minnillo declaration of conflict.

Slayton moved to approve the appeal submitted by Mr. Lorton on the grounds the Planning Commission did not pass a resolution when forwarding to City Council. Carlson seconded the motion.

The City Clerk, Teri Feibel, read the following report which included information the Board of Adjustments would need in order to make their decision:

“Thorne Bay Municipal Code 17.04.043 (B) states that after a public hearing is held on a conditional use permit they must find the following to be true:

1. That the proposal is consistent with the Thorne Bay comprehensive plan, the Thorne Bay coastal management program, the city code and all other applicable city ordinances;
2. That the proposed use is an expressly permitted conditional use in the zone, except in mixed residential/ commercial III where there are no expressly permitted conditional uses;
3. That the requested use is generally compatible with other existing or proposed uses in the surrounding area;
4. That the proposed use would not adversely affect the health, safety or welfare of persons or property in the area neighboring the proposal and the surrounding area;
5. That the proposed use would not have an unfavorable or detrimental effect on property or property values in the area;

6. That building height, poor or decrepit construction and incompatibility would not significantly affect the surrounding area or the view shed in the neighborhood;
7. That all utilities to the proposal will be adequate or made adequate by the applicant and not interfere or adversely affect utility capacity in the area;
8. That traffic volume, type and patterns are taken into consideration and that access is adequate to serve any additional traffic flow;
9. That adequate off-street parking is provided. (See Section 17.04.041);
10. That the proposed use would not degrade land, water, air or habitat quality;
11. That all other reasonable objections were taken into consideration by the planning commission at the public hearing.

The City Council acting as the Planning Commission held a public hearing on Mr. Williams Conditional Use Permit Application on November 20th. The Planning commission did discuss the traffic concerns and property value concerns at this meeting as they were brought up by Mr. and Mrs. Lorton. The Planning Commission forwarded their approval on to the City Council for final approval set for December 2nd, 2014. The City Council passed a resolution addressing the criteria for approval of a conditional use permit.

Thorne Bay Municipal Code 17.04.043 (D) Reviewing Body.

1. The reviewing body shall be the planning commission.
2. All formal decisions made by the reviewing body shall be made by resolution and shall address all required criteria for approval.

It is my interpretation that the City Council should have been acting as the Planning Commission when approving the Resolution on the December 6, 2014, with one final approval to be heard as the City Council on January 6th.

I have spoken with our local Government Specialist Lynn Kenealy and she said that since the City Council was actually wearing both the Council and Planning Commission hats, that the resolution passed on December 2nd is good and would count for the requirement of Municipal Code 17.04.043 (D) (1&2). Lynn also advised that it really is up to the City Council on how to view this.

You have two choices tonight. 1. Approve Mr. Lorton's appeal. This would mean that Mr. Ben Williams could apply for another conditional use permit for the same use in the same location and the City will hear this once for the public hearing where the public will have a chance to speak for or against the CUP and the Planning & Zoning Commission will address the required criteria and make a decision in the form of a resolution, after the Commissions resolution (if approved) it would go before the City Council for additional approval.

2. Deny Mr. Lorton's appeal on the basis that the City Council met the requirement of 17.04.043 with the resolution passed on December 2, 2014, addressing the required criteria for approval.

I also asked Lynn how the City would determine if the proposed use would not have an unfavorable or detrimental effect on property or property values in the area; She said the Council is not required to pay for a study to be done, they would determine what buildings and homes are in the area and if the new structure would be compatible.. So if the area was all million dollar homes and a trailer with a large add-on applied for a conditional use permit to do business, this would clearly affect property values... But it is up to the council to decide on what is currently in the area and what the new structure would be as to whether they believe in good faith that this would affect negatively on property values.

I also asked specifically about criteria # 8 – that traffic volume, type and patterns are taken into consideration and that access is adequate to serve any additional traffic flow; I explained there is traffic in the area of concern but that the applicant assured the council there would be no more than what a family without needing a conditional use permit would use. She said it was for the council to consider and no study is needed.

Slayton stated he felt the Board of Commissions should respect the appeal from Mr. Lorton and move forward.

McDonald agreed. The council needed to apologize to Mr. Williams and start the process over.

Lorton inquired if this meant the process would start from ground zero.

MOTION: Move to approve the appeal submitted by Mr. Lorton on the grounds the Planning Commission did not pass a resolution when forwarding to City Council

F/S: Slayton/Carlson

YEAS: Slayton, Hartwell, Edenfield, McDonald and Carlson

NAYS: None

ABSTAIN: Minnillo

STATUS: Motion Passed

11. EXPENDITURES EXCEEDING \$2,000.00:

- A. Expenditure exceeding \$2,000.00 to Hach for water controller, discussion and action item:

This item was removed from the agenda.

12. EXECUTIVE SESSION:

There was no executive session.

13. CONTINUATION OF PUBLIC COMMENT:

Yvonne Seaford inquired why Mr. Williams needed a Conditional Use Permit to build on his property, and inquired if everyone else with a business had to apply for a Conditional Use Permit.

Ben Williams stated the reason he went through the Permitting process was because he wanted to be up-front and honest about his plans. Mr. Williams stated he trusted the process.

Rachelle Huddleston-Lorton stated the traffic concern on Hemlock is caused from congestion, and people parking in the road way when shopping at POW Gas. Mrs. Lorton stated the parking issue in that area needs to be addressed.

Trisha Clowar stated Jason looked into his vehicles on Hemlock Loop and said only a couple of them were not on property and needed to be moved. Mrs. Clowar stated Jason would be moving them. Mrs. Clowar addressed the pictures that were included in the November 20, 2014, council minutes and submitted by Mr. Glenn Lorton. Mrs. Clowar stated in the pictures that 4 of the vehicles were not theirs. Mrs. Clowar agreed that some things can be moved and the parking really looked worse than it is. Mrs. Clowar stated there were parking issues all around Thorne Bay.

Glenn Lorton stated in the busy season most of the traffic is generated from POW Gas, and the road being used for other than a road is an issue.

Mr. Williams stated he never wants to contribute to a problem, likes to fix problems. Mr. Williams stated he will be a good neighbor.

Greg Kirkoff stated he had been a resident of Thorne Bay for 2 years. Mr. Kirkoff stated if Ben had said that he was just building a "toy box" he would not have had to approach the council, but he decided to be honest and say he may use as part of his business. Most people in Thorne Bay ignore the code and just build anyway. Mr. Kirkoff stated Mr. Williams chose the right route and chose to seek approval.

Rachelle Huddleston-Lorton stated there is a process that needs to be followed and is outlined in the code. Mrs. Lorton stated there was a lot of animosity towards her for exercising the right to due process.

14. CONTINUATION OF COUNCIL COMMENT:

Slayton stated the council is trying to be consistent with code and this is a forgiving community in every way.

15. ADJOURNMENT:

Minnillo adjourned the meeting at 7:15p.m.

James Gould, Mayor

Mark

ATTEST:

Teri Feibel, CMC



Promech Air

1515 Tongass Avenue, Ketchikan AK 99901
Phone: 907 225-3845, Fax: 907 225-3875

January 30th 2015

To: City of Thorne Bay
Attn: City Clerk – Terry

From: Promech Air
Kris Spear

Due to operational changes at Promech Air, We will no longer be doing business in Thorne Bay. At this time we would like to request to terminate the lease between Promech Air and the City of Thorne Bay, as of February 17th 2015, upon City Council Approval.

The building on the property has been sold to Charlie and Laura Jennings

Kris Spear
Promech Air
1515 Tongass Avenue
Ketchikan AK 99901

President

Marcus Sessoms

Date

1/30/15

Municipal Code 2.56.320-F

F. Cancellation and Forfeiture.

1. Leases in good standing may be cancelled in whole, or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety days notice in writing to the city before the end of an annual rental period.

CITY OF THORNE BAY

RESOLUTION 15-02-17-01

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING THE ALASKA ASSOCIATION OF HARBORMASTERS AND PORT ADMINISTRATORS RESOLUTION NO. 2014-01, IN SUPPORT OF FULL FUNDING FOR THE STATE OF ALASKA HARBOR FACILITY GRANT PROGRAM IN THE FY 2016 STATE CAPITAL BUDGET

WHEREAS, the City Council is the governing body for the City of Thorne Bay, Alaska; and

WHEREAS, the City of Thorne Bay owns and operates Davidson Landing and the Thorne Bay City harbor facilities; and

WHEREAS, the City of Thorne Bay has on staff a full time Harbormaster; and

WHEREAS, the City of Thorne Bay recognizes harbor facilities are a vital part of life in coastal communities in Alaska; and

WHEREAS, the City of Thorne Bay recognizes the high cost to maintain and operate harbor facilities; and

WHEREAS, the City of Thorne Bay recognizes the importance of the State of Alaska's Municipal Harbor Facility Grant Program as a means of helping communities maintain harbor facilities.

NOW THEREFORE BE IT RESOLVED that the City Council for the City of Thorne Bay hereby supports and approves the Alaska Association of Harbormaster and Port Administrators Resolution No. 2014-01 urging the Governor and the Alaska Legislature to fund \$14,262,722 for the State of Alaska's Municipal Harbor Facility Grant Program in the FY 2016 State Capital Budget.

PASSED AND APPROVED: February 17, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk

Alaska Association of Harbormasters and Port Administrators



RESOLUTION NO. 2014-01

A RESOLUTION OF THE ALASKA ASSOCIATION OF HARBORMASTERS AND PORT ADMINISTRATORS IN SUPPORT OF FULL FUNDING FOR THE STATE OF ALASKA HARBOR FACILITY GRANT PROGRAM IN THE FY 2016 STATE CAPITAL BUDGET.

Whereas, the Alaska Association of Harbormasters and Port Administrators recognizes the majority of the public boat harbors in Alaska where constructed by the State during the 1960s and 1970s; and

Whereas, these harbor facilities represent critical transportation links and are the transportation hubs for waterfront commerce and economic development in Alaskan coastal communities; and

Whereas, these harbor facilities are ports of refuge and areas for protection for ocean-going vessels and fishermen throughout the State of Alaska, especially in coastal Alaskan communities; and

Whereas, the State of Alaska over the past nearly 30 years has transferred ownership of most of these State owned harbors, many of which were at or near the end of their service life at the time of transfer, to local municipalities; and

Whereas, the municipalities took over this important responsibility even though they knew that these same harbor facilities were in poor condition at the time of transfer due to the state's failure to keep up with deferred maintenance; and

Whereas, consequently, when local municipal harbormasters formulated their annual harbor facility budgets, they inherited a major financial burden that their local municipal governments could not afford; and

Whereas, in response to this financial burden, the Governor and the Alaska Legislature passed legislation, supported by the Alaska Association of Harbormasters and Port Administrators, to create the Harbor Facility Grant program, AS 29.60.800; and

Whereas, the Alaska Association of Harbormasters and Port Administrators, is pleased with the Department of Transportation and Public Facilities administrative process to review, score and rank applicants to the Harbor Facility Grant Program, since state funds may be limited, and

Whereas, for each harbor facility grant application, these municipalities have committed to invest 100% of the design and permitting costs and 50% of the construction cost and

Whereas, the municipalities of the Aleutians East Borough, the City and Borough of Sitka, the City of Seward, the City of Ketchikan, the City of Coffman Cove, and the Municipality of Anchorage have offered to contribute \$14,262,722 in local match funding for FY2016 towards seven harbor projects of significant importance locally as required in the Harbor Facility Grant Program, and

Whereas, completion of these harbor facility projects is all dependent on the 50% match from the State of Alaska's Harbor Facility Grant Program, and

Whereas, during the last eight years the Municipal Harbor Facility Grant Program has only been fully funded twice, and

Whereas, during the last eight years the backlog of projects necessary to repair and replace these former State-owned harbors has increased to over \$90,000,000.

Now therefore be it resolved that the Membership of the Alaska Association of Harbormasters and Port Administrators urges full funding in the amount of \$14,262,722 by the Governor and the Alaska Legislature for the State of Alaska's Municipal Harbor Facility Grant Program in the FY 2016 State Capital Budget in order to ensure enhanced safety and economic prosperity among Alaskan coastal communities.

Passed and approved by a duly constituted quorum of the Alaska Association of Harbormasters and Port Administrators on this 15th day of October, 2014.

ATTEST

Kim Elliot

Kim Elliot, Executive Secretary

Phillip P. Benner

Phillip Benner, President

CITY OF THORNE BAY

RESOLUTION 15-02-17-02

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING THE ALASKA ASSOCIATION OF HARBORMASTERS AND PORT ADMINISTRATORS RESOLUTION NO. 2014-02, IN SUPPORT OF THE ADDITION OF PORT AND HARBOR EMPLOYEES TO THE LIST OF EMPLOYEES COVERED BY AS 12.55.135.

WHEREAS, the City Council is the governing body for the City of Thorne Bay, Alaska; and

WHEREAS, the City of Thorne Bay owns and operates Davidson Landing and the Thorne Bay City harbor facilities; and

WHEREAS, the City of Thorne Bay has on staff a full time Harbormaster; and

WHEREAS, the City of Thorne Bay recognizes that Harbormasters perform enforcement and emergency response duties; and

WHEREAS, the City of Thorne Bay supports the Alaska Association of Harbormaster and Port Administrators desires to strengthen the deterrent t unlawfully assault or harass port and harbor employees throughout the State of Alaska.

NOW THEREFORE BE IT RESOLVED that the City Council for the City of Thorne Bay hereby supports and approves the Alaska Association of Harbormaster and Port Administrators Resolution No. 2014-02, a Resolution in support of the addition of Port and Harbor Employees to the list of employees covered by State of Alaska statue AS 12.55.125.

PASSED AND APPROVED: February 17, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk

Alaska Association of Harbormasters and Port Administrators



RESOLUTION NO. 2014-02

A RESOLUTION OF THE ALASKA ASSOCIATION OF HARBORMASTERS AND PORT ADMINISTRATORS IN SUPPORT OF THE ADDITION OF PORT AND HARBOR EMPLOYEES TO THE LIST OF EMPLOYEES COVERED BY AS 12.55.135.

Whereas, State of Alaska statute AS 12.55.135. Sentences of Imprisonment for Misdemeanors establishes minimum terms of imprisonment for defendants convicted of assaulting or harassing uniformed or otherwise clearly identified peace officers, fire fighters, correctional employees, emergency medical technicians, paramedics, ambulance attendants or other emergency responders or medical professionals; and

Whereas, port and harbor employees in communities throughout the State of Alaska routinely perform enforcement and emergency response duties commensurate with those performed by peace officers, fire fighters, correctional employees, emergency medical technicians, paramedics, ambulance attendants or other emergency responders or medical professionals; and

Whereas, defendants convicted of assaulting or harassing port and harbor employees in several recent cases have received sentences well below the minimums established in AS 12.55.135 for defendants convicted of assaulting or harassing uniformed or otherwise clearly identified peace officers, fire fighters, correctional employees, emergency medical technicians, paramedics, ambulance attendants or other emergency responders or medical professionals; and

Whereas, the Alaska Association of Harbormaster and Port Administrators desires to strengthen the deterrent to unlawfully assault or harass port and harbor employees throughout the State of Alaska.

Now therefore be it resolved that the Membership of the Alaska Association of Harbormaster and Port Administrators supports the addition of port and harbor employees to the list of employees covered by State of Alaska statute AS 12.55.135. Sentences of Imprisonment for Misdemeanors, which establishes minimum terms of imprisonment for defendants convicted of assaulting or harassing uniformed or otherwise clearly identified peace officers, fire fighters,

correctional employees, emergency medical technicians, paramedics, ambulance attendants or other emergency responders or medical professionals.

Passed and approved by a duly constituted quorum of the Alaska Association of Harbormasters and Port Administrators on this 15th day of October, 2014.

Philip P. Benner

Philip Benner, President

ATTEST:

Kim Elliot

Kim Elliot, Executive Secretary

CITY OF THORNE BAY
RESOLUTION 15-02-17-03

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA,
EXPRESSING STRONG SUPPORT FOR ALASKA MUNICIPAL LEAGUE RESOLUTION
#2015-01, A RESOLUTION SUPPORTING THE REINSTATEMENT OF A FULL \$60
MILLION INTO THE REVENUE SHARING FUND ON A YEARLY BASIS WITH A ONE-
YEAR APPROPRIATION OF \$8 MILLION TO THE FUND WITH AN EFFECTIVE DATE
PRIOR TO JUNE 30, 2015

WHEREAS, the City Council is the governing body for the City of Thorne Bay, Alaska; and

WHEREAS, the City of Thorne Bay receives annually around \$120,000 per year in Revenue Sharing funds from the State of Alaska; and

WHEREAS, the Revenue Sharing Funds are placed in the General Budget Fund for the purpose of assisting with funding critical city services such as Fire Protection, Emergency Medical Services, Water and Sewer Service and Road Maintenance; and

WHEREAS, the loss of Revenue Sharing Funds would force the City of Thorne Bay to cut back or cancel some or all of the services; and

WHEREAS, the City of Thorne Bay is limited to funding sources without increasing Sales Tax or implementing Property Tax, both subject to voter approval; and

WHEREAS, the City of Thorne Bay, and many communities, provide the services necessary for the State of Alaska to access, use and develop State Lands for management of timber (logging), recreation and developing lots for housing all at no cost to the State of Alaska; and

WHEREAS, Revenue Sharing Funds are a way for the State of Alaska's to help mitigate the costs borne by local governments to provide services to the State of Alaska.

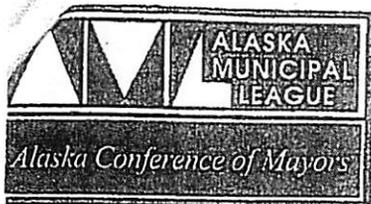
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THORNE BAY, ALASKA, that: The City of Thorne Bay supports the Alaska Municipal League resolution #2015-01, a resolution supporting the reinstatement of a full \$60 million into the revenue sharing fund on a yearly basis with a one-year appropriation of \$8 million to the fund with an effective date prior June 30, 2015.

PASSED AND APPROVED February 17, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk



ALASKA MUNICIPAL LEAGUE

RESOLUTION #2015-01

A RESOLUTION SUPPORTING THE REINSTATEMENT OF A FULL \$60 MILLION INTO THE REVENUE SHARING FUND ON A YEARLY BASIS WITH A ONE-YEAR APPROPRIATION OF \$8 MILLION TO THE FUND WITH AN EFFECTIVE DATE PRIOR TO JUNE 30, 2015

WHEREAS, all of Alaska's boroughs and cities are appreciative to the Governor and the Legislature for the continuation of the Revenue Sharing program; and

WHEREAS, since 2008, municipalities have received a total of \$60 million per year to be divided among all boroughs, cities and unorganized communities in the State; and

WHEREAS, this money is a small share of the resource funding that is provided to the State; and

WHEREAS, \$60 million is also a small part of the total state-wide budget for the year; and

WHEREAS, municipalities are political subdivisions of the State of Alaska; and

WHEREAS, boroughs and cities can only raise their own money through increased taxes and/or fees; and

WHEREAS, in the past 2014 Legislative Session, the amount deposited into the Revenue Sharing fund dropped to \$52 million; and

WHEREAS, the larger municipalities use these funds to keep taxes as low as possible; and

WHEREAS, the smaller municipalities use these funds to provide basic services, such as snow removal, public building maintenance, harbor upkeep, fuel and insurance.

NOW, THEREFORE BE IT RESOLVED that the Alaska Municipal League requests the Alaska State Legislature to reinstate the amount of \$60 million on an annual basis into the Revenue Sharing Fund and also that the Alaska State Legislature appropriate an additional \$8 million to the fund with an effective date prior to June 30, 2015.



ORGANIZED VILLAGE OF KASAAN

P. O. Box 26-Kasaan
(907) 542-2230

☛ Ketchikan, Alaska 99950-0340
☛ (fax) 907-542-3006

Memorandum of Understanding

This Agreement dated, _____, by and between, the **Organized Village of Kasaan** (hereinafter referred to as "**OVK**") and (**City of Thorne Bay**) (hereinafter referred to as "**TB**").

WITNESSETH:

WHEREAS, OVK intends to assist the TB in performing road maintenance, on the Goose Creek to Kasaan access road.

WHEREAS, OVK is capable of providing the necessary services in conjunction with the above mentioned project;

NOW, THEREAFTER, in consideration of the mutual promises of the parties contained herein, the parties agree as follows:

ARTICLE 1. GENERAL

1. **SCOPE.** This is an Agreement to assist TB with year round road maintenance services. Under TB request and supervision the OVK will collaborate with the Thorne Bay's maintenance Director and perform the duties needed to the best of our ability.
2. **LOCATION OF WORK.** The Project is located in Thorne Bay city limits and OVK road inventory.
3. **INFORMATION.** All data, information and reports collected/developed by TB and/or project shall be property of the Organized Village of Kasaan and City of Thorne Bay.

ARTICLE 2. CONTRACTOR'S SERVICES

Information in Article 2 constitutes the Scope of Work for this Memorandum of Understanding (MOU). OVK agrees to assist with all basic services as set forth and specifically made a part hereof by reference:

Winter Weather Maintenance: Work with Max Blair on plowing and sanding schedule.

1. Plowing snow: As needed.

The Organized Village of Kasaan is committed to promoting, preserving, and protecting indigenous Taida identity and values. For our elders and youth we look to the future in unity, by developing economic opportunities, providing education, and utilizing our cultural, natural, and social resources.

2. Sanding: Share making and use of sanding material. TNB has an agreement with DNR through 2019 for material at no cost. This sand source is located on South Thorne Bay.

Routine Maintenance: Work with Max Blair on scheduled work and equipment.

1. Grading: Once a month grading and compacting. TB to participate with their grader and operator. Estimated 3 days a month.
2. Ditching: Once a year, ditch work and/or re-working sections of the road. Estimated 2 weeks per year.

TB may request assistance with grading and/or compacting outside the once per month schedule. All routine maintenance will be scheduled based on working conditions established by OVK and TB staff. Use of the TB Solid Waste site and DNR sand pit for referenced work shall coordinate with Max Blair.

Liability

The OVK and TB each hereby waives all claims against the other entity for compensation for any property loss or damage and/or personal injury or death occurring as consequence of the performance of this agreement.

The OVK assumes all liability and/or cost of damage to its equipment and the injury or death of its personnel when responding to performing under this agreement.

The TB assumes all liability and/or cost of damages to its equipment and the injury or death of its personnel when responding to performing under this agreement.

Agreement and work associated with this agreement to be reviewed in June and December 2015 and thereafter once a year in June.

Insurance

The OVK and TB shall each procure and maintain such insurance as is required by applicable federal and state law and as may be appropriate and reasonable to cover its staff, equipment, vehicles, and property, including but not limited to liability insurance, workers compensation (if applicable), Unemployment insurance, automobile liability, and property damage.

ARTICLE 3. TIME

1. **COMMENCEMENT OF SERVICES:** OVK's services shall commence upon the signed execution of this Agreement.
2. **EXPIRATION OF SERVICES:** This Agreement shall be effective until _____.
3. **PERIOD OF PERFORMANCE:**
Commence: Upon signed execution of this Agreement
Completion: _____

ARTICLE 4. COMPENSATION

Compensation shall be as set forth and specifically made a part hereof by reference. OVK will submit invoices to the TB weekly for their services. OVK will be compensated for equipment and man hours, fuel, and materials supplied by OVK. See attached equipment and materials prices.

ARTICLE 5. TERMINATION

This agreement may be terminated by either party upon **thirty (30)** days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. In addition, OVK may terminate the MOU in its discretion at any time on **thirty (30)** days written notice to TB. In the event of such termination the OVK shall be compensated for work performed prior to the termination date, including reimbursable expenses then due.

ARTICLE 6. DISPUTES

In the event of any dispute arising under this Agreement, as a condition precedent of any action being initiated by TB or OVK, TB shall submit to OVK, within **ten business** days of the date of the event giving rise to the dispute, a written statement of TB claim which shall include a full description of the basis for said claim, its amount, and the contract provision(s) relied upon. The contracting department shall review the content of TB written dispute or program and a written determination shall be provided to TB within 5 working days after receipt of the TB written dispute. If after reviewing the written determination from the department or program, TB believes that the dispute has not been resolved, TB may appeal the determination to the President of OVK. The President or its designee will review the pertinent facts and provide a written determination to the TB and the department or program within 10 working days of receiving the appeal from TB.

ARTICLE 7. CHANGES

OVK retains the right to make additions or deletions to the scope of the services hereunder and the compensation to be paid to TB. Additions or deletions to the scope of services set forth in the MOU must be agreed upon and approved in writing by TB prior to being incorporated in to this MOU.

ARTICLE 8. INTEGRATION

This agreement represents the entire integrated agreement between OVK and TB and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both OVK and TB.

ARTICLE 9. INDEPENDENT CONTRACTOR

The parties intend that the relation between them created by this agreement is that of employer-independent Contractor. TB will be solely and entirely responsible for their acts and those of their agents, employees, and sub-contractors and none of said persons shall be considered employees of OVK for any purpose.



THE ORGANIZED VILLAGE OF KASAAN

P.O. Box 26 - Kasaan * Ketchikan, AK 99950
(907) 542-2230 * (fax) 542-3006

DOT Material Price List

Material	Price
Shot Rock	\$15.00 cu/yd
3" Minus	\$20.25 cu/yd
D-1	\$29.00 cu/yd
Rip-Rap 2'	\$23.00 cu/yd
Rip-Rap 3'	\$25.00 cu/yd
Rip-Rap 4'+	\$27.50 cu/yd

All prices are at Rock Pit unless specified. All other deliveries will have to be negotiated with the Transportation Director of his designee.

