

AGENDA
FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY
ALASKA,
COUNCIL CHAMBERS
CITY HALL
TUESDAY
July 21, 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 of the June 23, 2015, Special City Council Meeting, Discussion and action item:
 - B. Minutes of the July 6, 2015, Regular Planning and Zoning Commission Meeting, discussion and action item: (this meeting was the City Council "acting" as the Planning Commission)
 - C. Minutes for the July 7, 2015, City Council Meeting, discussion and action item:
10. OLD BUSINESS:
 - A. Update on Seaford Conditional Use Permit, discussion item:
11. NEW BUSINESS:
 - A. Resolution 15-07-21-01, a resolution of the city council supporting POWCAC recommendation for formation of an Island Wide Borough, discussion and action item:
 - B. Resolution 15-07-21-04, Entering into a compliance order by consent with the DEC, discussion and action item:
 - C. Resolution 15-07-21-02, amending Resolution 13-07-02-01, and establishing new harbor rates for Davidson Landing and Main Harbor, discussion and action item:
 - D. Resolution 15-07-21-03, amending Resolution 13-03-05-02, and establishing new water and sewer rates for the City of Thorne Bay, discussion and action item:
 - E. Appointing Jim Silverthorn as Fire Chief for the City of Thorne Bay Volunteer Fire Department, discussion and action item:
 - F. Appointing Cindy Edenfield EMS Captain for the City of Thorne Bay Volunteer EMS Department, discussion and action item:
12. EXPENDITURES EXCEEDING \$2,000.00:
13. EXECUTIVE SESSION:
14. CONTINUATION OF PUBLIC COMMENT:
15. CONTINUATION OF COUNCIL COMMENT:
16. ADJOURNMENT:

Faxed July 13, 2015 - A&P, SISD, USFS, The Port, Thorne Bay School, Tackle Shack

MINUTES
FOR THE SPECIAL MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY
ALASKA,
COUNCIL CHAMBERS
CITY HALL
TUESDAY
June 23, 2015
6:30p.m.

The meeting was preceded by a workshop

1. **CALL TO ORDER:**

Mayor Gould 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:**

Gould, Carlson, Slayton, McDonald, Minnillo, Edenfield and Hartwell were present.

4 **APPROVAL OF AGENDA:**

Gould moved to approve the agenda. Hartwell seconded the motion.

MOTION: Move to approve the agenda

F/S: Gould/Hartwell

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

NAYS: None

STATUS: Motion Passed.

5. **MAYOR'S REPORT:**

There was no report given.

6. **CITY ADMINISTRATOR'S REPORT:**

The City Administrator gave a report.

7. **PUBLIC COMMENTS:**

Guy Lane commented on the following:

- Harbor Rental billing

8. **COUNCIL COMMENTS:**

McDonald stated there had been an accident near Klawock by Black Bear. McDonald stated there was a fundraiser and the amount raised in a couple of days was astonishing. McDonald thanked everyone for their support regarding the injured Jonnie Botello.

9. **NEW BUSINESS:**

There was no new business for this meeting.

10. **ORDINANCES FOR PUBLIC HEARING:**

- A. Ordinance 15-06-23-01, approving the FY16 Budget for the City of Thorne Bay, discussion and action item:

Gould moved to approve Ordinance 15-06-23-01. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 15-06-23-01
F/S: Gould/Hartwell
YEAS: Edenfield, Carlson, Slayton, Gould, Hartwell, McDonald and Minnillo
NAYS: None
STATUS: Motion Passed.

11. **EXPENDITURES EXCEEDING \$2,000.00:**
There were no expenditures exceeding \$2,000.00.

12. **EXECUTIVE SESSION:**
A. The Council may adjourn to executive session for the purpose of discussing pending or threatened lawsuits in which the city has an interest, which are matters, the immediate knowledge of which would clearly have adverse effect upon the finances of the City

Gould moved to adjourn to executive session at 6:45p.m. For the purpose of discussing pending or threatened lawsuits in which the city has an interest, which are matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the City. McDonald seconded the motion. There was no further discussion.

MOTION: Move to adjourn to executive session for the purpose of discussing pending or threatened lawsuits in which the city has an interest, which are matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the City

F/S: Gould/McDonald
YEAS: Slayton, Hartwell, Gould, Minnillo, Edenfield, McDonald and Carlson
NAYS: None
STATUS: Motion Passed.

13. **CONTINUATION OF PUBLIC COMMENT:**
Shane Nyquest commented on the following:

- Thankful for new motor on the harbor boat
- Harbor is fairly full

14. **CONTINUATION OF COUNCIL COMMENT:**
There was no further council comment.

15. **ADJOURNMENT:**
Gould adjourned the meeting at 7:43pm

James Gould, Mayor

ATTEST:

Teri Feibel, CMC

ADMINISTRATOR'S REPORT 6-23-15 Wayne Benner

Meetings Attended and Updates:

1. VPSO interviews on hold pending Tlingit- Haida budget and contract negotiations.
2. Dana and Ray are back home. Ray is doing fine and Dana is back to work.
3. City offices and departments will be closed Friday July 3rd for the 4th of July holiday.
4. Planning and Zoning meeting July 6th here in the city council chambers. Variance to fence height restriction and another phase of South Thorne Bay Subdivision.

Tasks and Projects:

1. Much of the last two weeks has been spent on various legal issues.

New Business:

1. Ordinance 15-06-23-01 is the ordinance for the FY 2016 budget which I have provided a narrative and some suggestions as to fees. FY 2015 budget was in the black again and the proposed FY 2016 budget is about \$10,000 less than last year. The FY 2016 budget is balanced without the proposed fee adjustments. The fee increases would free up some of the revenue sharing that is used in those accounts.

Old Business:

Harbor and Parks: The bottom of the ramp painting is progressing.

Streets and Roads: Utility work around the school is being done as part of the Sandy Beach Road Improvement Project. Waiting for power poles to be moved by city shop and water treatment plant.

Water and Sewer: With the lack of rain there has been more interest in purchasing water from the city. The city is looking into the possibility of constructing a water filling station.

Solid Waste: The FS is using a small area of the Solid Waste Site for soil remediation.

Law Enforcement: VPSO interviews on hold pending Tlingit- Haida budget and contract negotiations.

FIRE/EMS: Responded to one fire and one EMS call.

Library: Children reading program is underway

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

The public was invited and encouraged to attend

1. CALL TO ORDER:

Mayor Gould called the meeting to order at 6p.m.

2. PLEDGE TO FLAG:

The commission (City Council) and audience stood for the pledge to the flag.

3. ROLL CALL:

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

4. APPROVAL OF AGENDA:

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

MOTION: Move to approve the agenda

F/S: Gould/Hartwell

YEAS: Gould, McDonald, Edenfield and Hartwell

NAYS: None

STATUS: Motion Passed.

5. PUBLIC HEARING:

A. Public Hearing for Conditional Use Permit Application 15-05-05-01, discussion and action item:

Glenn Lorton explained to the public and the council his request was to put up a fence around his garden that was two feet taller than allowed in the municipal code. The City Clerk stated she notified the surrounding neighbors and received positive feedback. There was further discussion on the type of mesh fencing that was to be used.

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)

Gould read the resolution up for approval. The council reviewed the proposed resolution answering the criteria for approval of the conditional use permit. There were no suggested changes to the answers of the criteria for approval. Glenn Lorton stated the resolution stated the fencing was a wire, but would actually be a plastic mesh.

7. RESOLUTIONS:

- A. Resolution 15-07-06-01, a resolution of the Planning Commission for the City of Thorne Bay, approving the Conditional Use Permit 15-05-05-01, for Glenn Lorton for the purpose of installing an 8 ft. fence around his garden area, discussion and action item:

Gould moved to approve Resolution 15-07-06-01. Edenfield seconded the motion. There was no further discussion.

MOTION: Move to approve Resolution 15-07-06-01
F/S: Gould/Edenfield
YEAS: McDonald, Carlson, Gould, Edenfield, Hartwell and Slayton
NAYS: None
STATUS: Motion Passed.

- B. Resolution 15-07-06-02, a resolution of the Planning Commission for the City of Thorne Bay, approving the DNR, OLD SKID ROAD Subdivision, ASLS NO. 2014-62, discussion and action item:

Gould moved to approve Resolution 15-07-06-02. McDonald seconded the motion. Rick Braun the land surveyor was present to answer any questions. Mr. Braun discussed the process of the survey and subdivision. The commission (council) and the audience reviewed the proposed subdivision map. Hartwell inquired who would maintain the roads once they were built. Mr. Braun replied that he did not know. Mr. Braun stated the roads were owned by the State of Alaska but dedicated to the public. McDonald inquired who would build the roads. Mr. Braun stated the state would at some point. Gould stated the council was proposing conditions with approval of the plat. Gould stated he wanted to be specific that the City of Thorne Bay was not responsible for building or maintaining the roads in the proposed subdivision. McDonald inquired if the State still sent archeologists to look at the lots. McDonald stated he had information that there was a SHPO preservation in the proposed subdivision. Mr. Braun stated he was not qualified to answer that question. Gould stated he wanted one of the conditions for approval of the plat to be that a archeological study be done. Slayton inquired if the plat was available electronically. Carlson stated the council wanted a Cultural Resource Survey done. Carlson stated there are archeological sites and Thorne Bay Sultry is one of them. Mr. Braun inquired if McDonald had a map of where the site was. McDonald stated he only had pictures. Glenn Lorton inquired about Eagle Act and inquired about nests in the proposed area. Mr. Braun stated they are required to look for Eagle Trees and identify them on the map. There was further discussion about the process of approving the plat. Mr. Braun stated after approval of the plat he would normally go out and put up monuments then send out the Mylar to the state and they would send to Thorne Bay for a signature.

MOTION: Move to approve Resolution 15-07-06-02
F/S: Gould/McDonald
YEAS: Slayton, Hartwell, Gould, Edenfield, McDonald and Carlson
NAYS: None
STATUS: Motion Passed.

8. COMMISSION COMMENTS:

Gould stated after the conditions of the approval were met the council would sign the map. Carlson stated they needed to make sure the Cultural Assessment was done on all the lots for sale, not just one.

9. PUBLIC COMMENTS:

Glenn Lorton thanked the commission for their consideration of his Conditional Use Permit request.

10. ADJOURNMENT:

Gould adjourned the meeting at 6:49p.m.

James Gould, Mayor

ATTEST:

Teri Feibel, CMC

MINUTES
FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY
ALASKA,
COUNCIL CHAMBERS
CITY HALL
TUESDAY
July 7, 2015
6:30p.m.

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

1. CALL TO ORDER:

Mayor Gould 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:

Gould, Carlson, Slayton, McDonald, Minnillo, Edenfield and Hartwell were present.

4 APPROVAL OF AGENDA:

Gould moved to approve the agenda. McDonald seconded the motion. There was no further discussion.

MOTION: Move to approve the agenda

F/S: Gould/McDonald

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

NAYS: None

STATUS: Motion Passed.

5. MAYOR'S REPORT:

Mayor Gould reported he would be gone the 18th through the 20th for the Alaska Municipal League Conference, as well as the 14th through the 18th of September for Southeast Conference.

6. CITY ADMINISTRATOR'S REPORT:

The City Administrator read a report. (See attached)

The City Administrator reported that he would also be gone at the end of July for a wedding.

7. PUBLIC COMMENTS:

Larry Watson commented on the following:

- Steep Road has alders that are into the road and are blocking visibility

Tim Lindseth commented on the following:

- Same problem with alders in South Thorne Bay on Cindy Way and also the Bypass road

8. COUNCIL COMMENTS:
There were no council comments.

9. CONSENT AGENDA:

A. Minutes for the May 19, 2015, City Council Meeting, discussion and action item:

B. Minutes for the June 9, 2015, City Council Meeting, discussion and action item:

Gould moved to approve the consent agenda consisting of the Minutes from the May 19, 2015 and June 9, 2015, City Council meeting. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve the consent agenda consisting of the Minutes from the May 19, 2015 and June 9, 2015, City Council meeting

F/S: Gould/Hartwell

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

NAYS: None

STATUS: Motion Passed.

10. NEW BUSINESS:

A. Review and discussion of proposed ordinance changes for Title 3-Revenue and Finance, and Title 2-Administration and Personnel, discussion only item:

Gould explained he wanted to place the two ordinances on the agenda for discussion so everyone had time to review and ask any questions if they needed. Gould stated there was some concern over the increase of senior exempt cards from \$10 to \$50 and that the council could change the number. The City Clerk encouraged the council to contact her via email or by coming into City Hall with any suggested changes they had to the ordinances.

B. Resolution 15-07-07-01, approving the Planning and Zoning Commission recommendation to approve Glenn Lorton's Conditional Use Permit for the purpose of building a fence above permitted height, discussion and action item:

Gould moved to approve Resolution 15-07-07-01 striking the wording "wire fence" and replacing with "plastic mesh". Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve Resolution 15-07-07-01 striking the wording "wire fence" and replacing with "plastic mesh"

F/S: Gould/Hartwell

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

NAYS: None

STATUS: Motion Passed.

- C. Resolution 15-07-07-02, approving the Planning and Zoning Commission's recommendation to approve the State of Alaska's plat for Old Skid Road Subdivision, discussion and action item:

Gould moved to approve Resolution 15-07-07-02. McDonald seconded the motion. Gould read the two conditions in the resolution. There was discussion on the Archeological Survey need and the certificate wording for the plat. Gould stated the State was not happy with the Certificate Wording the City is requiring. Gould stated the certificate needed to be black and white stating the City of Thorne Bay is not responsible for building or maintaining roads in the subdivision. McDonald stated the reasoning for this, was the roads belong to the State and not to the City and it needed to be clear to the people buying the property that they would be responsible for building their own roads. There was further discussion about the archeological study that the City is requiring be done. Slayton inquired if there were any other concerns the City had regarding the subdivision. Hartwell stated the State gets all proceeds of the subdivision sale and the city does not get any proceeds from it. There was further discussion.

MOTION: Move to approve Resolution 15-07-07-02
F/S: Gould/McDonald
YEAS: McDonald, Minnillo, Carlson, Gould, Edenfield, Hartwell and Slayton
NAYS: None
STATUS: Motion Passed.

12. EXPENDITURES EXCEEDING \$2,000.00:

- A. Expenditure of \$3819.00, to HACH for controller for water department, discussion and action item:

Gould moved to approve the expenditure of \$3,819.00 to Hach. Minnillo seconded the motion. There was no further discussion.

MOTION: Move to approve the expenditure of \$3,819.00 to Hach
F/S: Gould/Minnillo
YEAS: Edenfield, Minnillo, Hartwell, Carlson, Gould, Slayton and McDonald
NAYS: None
STATUS: Motion Passed.

13. EXECUTIVE SESSION:
No executive session was held.

14. CONTINUATION OF PUBLIC COMMENT:

Glenn Lorton commented on the following:

- Suggested the City Attorney review the code change that would require the government to be responsible for renters bills if not paid.

15. CONTINUATION OF COUNCIL COMMENT:

McDonald stated if people were planning to travel on the IFA to make reservations as this is their busy season.

Slayton stated July 24th at the Craig High School there would be a welcome home ceremony for Vets. Slayton stated Jan Storboken was heading this event up and the State of Alaska will present coins to the Vets on the island.

16. ADJOURNMENT:
Mayor Gould adjourned the meeting at 7:01p.m.

James Gould, MAYOR

ATTEST:

Teri Feibel, CMC

ADMINISTRATOR'S REPORT 7-7-15 Wayne Benner

Meetings Attended and Updates:

1. Planning and Zoning meeting was held July 6th for the Variance to fence height restriction and another phase of South Thorne Bay Subdivision.

Tasks and Projects:

1. Need to put on next agenda the discussion and action in reference to whether the city supports POWCAC's Borough charter.
2. Need to put on next agenda the discussion and action in reference to increase in utility fees, parking fees and harbor fees. Also the idea of increasing sales tax on alcohol and tobacco to be used to fund fire and ems.
3. Also on the next agenda will be discussion / action on the compliance order with the DEC that addresses water treatment improvement designs, funding and construction that is currently in the process.

New Business:

- A. Discussion of ordinance modifications to the Revenue and Finance and Administration and Personnel are for discussion. Councilman Hartwell is the only one to talk with me about the suggested changes and only on the fee increase for senior tax exemptions.
- B. Resolution 15-07-07-1 approving Glenn Lorton's CUP for increasing the height of a fence from 6 feet to 8 feet.
- C. Resolution 15-07-07-02 approving the Planning Commission's recommendation for approval of the State of Alaska's plat for Old Skid Road Subdivision.

Old Business:

Harbor and Parks: The international power boat association had a great stay and some will be returning on their way south. Stall at both City Harbor and Davidson Landing are full. Have a few side tie spaces at both facilities.

Streets and Roads: Sandy beach road project keeps finding surprises when they are removing base material. Received a concern over how the bypass road was graded and use of jake brakes on the bypass early in the morning.

Water and Sewer: The expenditure to Hatch for \$3819 is for a controller that finally went out at the water plant. Also had a bearing go out at the sewage treatment plant and new one is in route express mail from the midwest. The last one lasted 20 years.

Solid Waste: Josh Musser has been hired for Solid Waste Operator.

Law Enforcement: Still on hold sharing VPSO with Kasaan.

FIRE/EMS: Have had a couple EMS responses.

Library: Busy and discussing about establishing the WiFi for use in the Library.

CITY OF THORNE BAY
RESOLUTION 15-07-21-01

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, SUPPORTING A BOROUGH
DRAFT CHARTER

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

WHEREAS, Prince of Wales Community Advisory Council (POWCAC) represents the communities on Prince of Wales concerns; and

WHEREAS, POWCAC recognized the need to study the pros and cons of establishing an Prince of Wales Island (POW) Borough; and

WHEREAS, POWCAC recognizes the need to have a draft Borough Charter available if the State opts to establish a borough on POW or another borough opts to annex POW or portions of POW into their borough; and

WHEREAS, POWCAC through meetings and workshops has gathered information and public input used to prepared a draft Borough Charter; and

WHEREAS, the draft Borough Charter provides for the establishment of a Home Rule Borough by the vote of the residents of POW; and

WHEREAS, the draft Borough Charter sets forth the powers of Home Rule granted by the Constitution of the State of Alaska in order to provide for borough government responsive to the will and values of the people and to the continuing needs of the communities with the borough; and

WHEREAS; approving the draft Borough Charter means only that the City of Thorne Bay approves the draft Borough Charter using the Home Rule principle as prepared by POWCAC to be used if the the residents of POW vote to approve the establishment of a borough for POW; and

WHEREAS, the City of Thorne Bay support is only for the purpose of supporting POWCAC with establishing a Draft Borough Charter to be placed on the shelf for use if the residents of POW vote on the establishment of a borough,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Thorne Bay approves the draft Home Rule Borough Charter to be placed in the POWCAC files as a templet for forming a borough if the residents of POW vote to approve the establishment of a borough for POW.

PASSED AND APPROVED July 21, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk/Treasurer

**CITY OF THORNE BAY
RESOLUTION 15-07-21-04**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, TO SUPPORT ENTERING
INTO A COMPLIANCE ORDER BY CONSENT**

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

WHEREAS, the City of Thorne Bay treats, stores and distributes potable water; and

WHEREAS, disinfection by-products are a by-product of the treatment process; and

WHEREAS, the City of Thorne Bay has been working since 2010 to reduce the disinfection by-products by improving on the treatment and distribution system using in-house funding; and

WHEREAS, the City of Thorne Bay has been applied to the State since 2011 for funding to assist with capital projects that extend beyond in-house funding capabilities; and

WHEREAS; the City of Thorne Bay has been working with DOWL, the State of Alaska Department of Environment Conservation (DEC) and Village Safe Water (VSW) since 2012 to secure State and Federal funding; and

WHEREAS, the City has done a Utility Rate Analysis and meets the RUBA requirements to strengthen the City's position for funding; and

WHEREAS, DOWL, DEC and VSW suggested the City enter in to a compliance order with DEC to help strengthen the City's position for State and Federal funding; and

WHEREAS, entering into a Compliance Order by Consent sets milestones for designing and implementing improvements contingent upon State and Federal funding; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Thorne Bay enter into a Compliance Order by Consent with the State Department of Environmental Quality to help support the need to fund water treatment improvements.

PASSED AND APPROVED July 21, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk/Treasurer

**BEFORE THE STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the matter of:

STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION)	
)	18 AAC 80
)	40 CFR 141-143
)	42 USC 300
Complainant,)	SDWA 1412
<i>versus</i>)	
)	
James Gould, Mayor)	
City of Thorne Bay)	
P.O. Box 19110)	
Thorne Bay, Alaska, 99919)	
)	
Respondent.)	

Enforcement tracking #: 15-R0051-0001
File Name: City of Thorne Bay Public Water System – Disinfection Byproducts MCL Compliance
File #: PWSID 120216

COMPLIANCE ORDER BY CONSENT

WHEREAS, the State of Alaska, Department of Environmental Conservation (ADEC or the Department) and the City of Thorne Bay (Respondent or COTB) desire to resolve a matter and to avoid the uncertainty and expense of formal enforcement proceedings, it is hereby covenanted and agreed as follows:

1. Jurisdiction

This Compliance Order by Consent (COBC) is entered into under the authority of ADEC under AS 44.46.020, AS 46.03.020, AS 46.03.760(a), and AS 46.03.850.

2. Findings and Conclusions

A. The COTB’s public water system (PWS), ID 120206, serves approximately 60 percent of the 509 residents of the City of Thorne Bay, Alaska. COTB is centrally located on the eastern coast of Prince of Wales Island in Southeast Alaska.

- B. The PWS is located within the ADEC Drinking Water Program, Kenai and Southeast Office Area.
- C. As the owner and operator of the PWS, the COTB is required to be in compliance with the State of Alaska Drinking Water Regulations, 18 AAC 80, and Federal Drinking Water Regulations, 40 CFR 141-143.
- D. Requested Action:

COTB has requested time to address exceedances of the maximum contaminant levels (MCLs) set for disinfection byproducts. The deadline for the treatment installation to address the MCL exceedance for disinfection by-products is June 30, 2019 for their permanent water source serving the COTB.

3. Settlement of Requested Action

Provided the Respondent complies with each and every term of this COBC to the satisfaction of the Department, the Department shall not institute any administrative, civil or criminal action against the Respondent for violating the deadlines outlined in Section 4.

4. Schedule of Actions

In order to comply with the disinfection byproduct MCL as described in 40 CFR 141.64 and the Stage 2 Disinfection Byproducts Requirements as described in 40 CFR 141.620, the Respondent agrees to have an ADEC approved, fully operational drinking water system, that provides water in compliance with the MCLs for disinfection byproducts (total trihalomethanes (TTHM) and haloacetic acids (HAA5) by the treatment implementation deadline of June 30, 2019. The MCL for TTHM is 0.080 mg/L and 0.060 for HAA5.

- A. Prepare Design Study Report (DSR): COTB will work with their engineering term contractor to prepare a DSR for prioritizing Water Treatment Plant (WTP) improvements. The improvements will be split into immediate and long term improvements. (The immediate improvements are those that have the maximum amount of benefit for a value that COTB can afford without outside assistance.) The DSR will be a concise pre-design document with a detailed value engineering analysis. Completion date: May 1, 2016.
- B. Approach Municipal Grants & Loans Program (MG&L): The DSR will contain enough information to apply for grants and loans from the State's MG&L program for the long term improvements. Completion date: February 1, 2017.
- C. Design of Immediate Improvements: The DSR will identify the immediate improvements. The design phase will produce signed construction documents (CDs). Completion date: August 31, 2016.

- D. Plan Review and Approval to Construct Immediate Improvements: The CDs will be used to obtain approval to construct from ADEC. Completion date: November 30, 2016.
- E. Approval to Operate Immediate Improvements: Following implementation of immediate improvements, COTB will work with their contractor to issue record drawings, for submittal to ADEC for approval to operate. Completion date: August 31, 2017.
- F. Design and Implementation of Long term improvements: Depending on the availability of grants and loans, the long term improvements will be designed and installed. Completion date: June 30, 2019.

5. Stipulated Penalties

- A. Subject to the provisions of Force Majeure, or other reasonable or valid reasons for non-compliance, The COTB shall timely comply with the deadlines set forth in this COBC. The COTB shall pay, at ADEC's discretion, to ADEC a maximum stipulated penalty of \$100 per calendar day, in the event that the Respondent fails to meet the deadlines given in sections 4(E) and 4(F) herein established. The penalties imposed under this section shall be cumulative.
- B. The penalties set forth in this section shall apply only to the short-term violations of the deadline. A short-term violation may not exceed 30 days.
- C. Subject to the provisions of Force Majeure, or other reasonable or valid reasons for non-compliance, a violation of the deadlines which is not a short term violation may, at ADEC's option, and after discussion with COTB, constitute a breach of this COBC. The stipulated penalties set forth in this section do not preclude ADEC from electing to pursue any remedies or sanctions which may be available to ADEC as a result of any breach by the COTB of this COBC, or the COTB's failure to comply with state statutes and regulations.

6. Existing or Future Obligations

Nothing in this COBC shall be construed as (A) altering the COTB's existing or future obligations to monitor, record, or report information required under applicable environmental laws, statutes, regulations, or permits, or to allow ADEC's access to such information; (B) ADEC's authority to request and receive any relevant information under applicable environmental laws or in administrative or judicial proceedings; (C) limiting the COTB's rights to administrative or judicial review of the applicability or enforcement of the State of Alaska Drinking Water Regulations.

7. Deadline Extensions

- A. If any event occurs which causes delay and effectively precludes compliance with the terms of this COBC, the COTB shall promptly notify ADEC orally and shall, within seven days of oral notification to ADEC, notify ADEC in writing of: (A) the anticipated length and cause of the delay, to the extent reasonably possible; (B) the measures taken and to be taken by the Respondent to prevent or minimize the delay, if known and reasonably available to COTB without additional funding and (C) the timetable by which the Respondent intends to implement these measures, if reasonably possible and without additional funding.
- B. If ADEC determines, in its discretion, that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control and despite the due diligence of the Respondent, the time for performance hereunder shall be extended for a period equal to the delay resulting from such circumstances.
- C. ADEC may, in its discretion, extend deadlines for reasons other than Force Majeure, without penalty, or impose the stipulated penalties in Section 5 until the COTB PWS comes into compliance with the requirements of this order.
- D. Force Majeure shall not include increased costs of performance of the terms and conditions of the COBC, or changed economic circumstances.

8. Breach

Time is of the essence in this COBC. The COTB understands that any deviation from or noncompliance with the terms or deadlines set forth herein, other than short term violations or violations caused by Force Majeure, may at ADEC's option be deemed a breach of this COBC and may result in prompt legal action to (A) enforce the terms and deadlines of this COBC as well as all other applicable legal and regulatory requirements; and (B) institute any administrative, civil or criminal action against the Respondent for violating the deadlines outlined in Section 4. ADEC is required to act in good faith and shall not withhold technical or other assistance for COTB if requested by COTB.

9. Modifications

ADEC may, with the COTB's consent, modify the requirements contained in this COBC and all the documents incorporated into it. If ADEC finds that a modification is necessary to achieve the goals of this COBC, but the Respondent is not willing to agree to that modification, ADEC will request the modification in writing, stating the reasons therefore. If the parties are unable to reach an agreement, the modification will take effect and the provisions of Section 20 will apply.

10. State not a Party

The State of Alaska shall not be held as a party to any contract entered into by the COTB PWS related to activities conducted pursuant to this COBC.

11. Other Legal Obligations

The requirements, duties, and obligations set forth in this COBC are in addition to any requirements, duties, or obligations contained in any permit which ADEC has issued or may issue to the COTB. This COBC does not relieve the Respondent from the duty to comply with requirements contained in any such permit or with otherwise applicable state and federal laws, including federal time limitations or handling requirements.

12. Reservation of Rights

- A. The execution of this COBC is not an admission of liability by the COTB on any issue dealt with in this COBC. In signing this COBC, the COTB and ADEC do not admit, and reserve the right to controvert in any subsequent proceedings, the validity of, or responsibility for, any of the factual or legal determinations made herein; provided, however, that the COTB shall not controvert or challenge, in any subsequent proceedings initiated by the State of Alaska, the validity of this COBC or the authority of ADEC to issue and enforce this COBC, except where COTB alleges enforcement to be in violation of the implied covenant of good faith and fair dealing by ADEC.
- B. ADEC expressly reserve the right to initiate administrative or legal proceedings: (A) related to any violation not described in this COBC; (B) related to violations described in this COBC if the COTB breaches this COBC; and (C) related to violations described in this COBC if, in ADEC's opinion, subsequently discovered events or conditions constitute an immediate threat to public health, public safety, or the environment whether or not ADEC may have been able to discover the event or condition prior to entering into the COBC.

13. Covenant Not to Sue

Subject to the provisions of Sections 7, 10 and 11, and provided the COTB complies with the terms of this COBC to the satisfaction of ADEC, the ADEC shall not institute any action against the COTB, whether civil, criminal, administrative, penalty, or cost recovery, for violating the deadlines outlined in Section 4.

14. Property Transfer

If the COTB transfers, sells, or leases the PWS described in Section 2 to another party prior to the Respondent's fulfillment of the provisions of this COBC, the COTB shall incorporate a copy of this COBC into the documents of transfer or lease, and shall provide in those documents that the new owners or lessees shall take or lease subject to the provisions of this COBC.

15. State Order

The COTB acknowledges and agrees that this COBC constitutes an order of the ADEC for the purposes of AS 46.03.760, AS 46.03.761, AS 46.03.765, AS 46.03.790, AS 46.03.850 and for all other purposes.

16. Periodic Reports & Briefings

At the request of ADEC, and after discussion with the COTB, the COTB shall schedule and conduct additional periodic briefings at a location and in a manner approved by ADEC concerning the status of activities conducted pursuant to this COBC.

17. Parties Bound

This COBC shall apply and be binding upon ADEC and the COTB, their agents, successors, and assigns and upon all persons, contractors, and consultants acting on behalf of ADEC or the COTB.

18. Copies

Upon retention, the COTB shall provide a copy of this COBC to all contractors, subcontractors, and consultants retained to conduct any portion of the work performed pursuant to this COBC.

19. Representative

The COTB shall designate a representative who shall be empowered on behalf of the COTB to communicate with, and to receive and comply with, all communications and orders of ADEC.

20. Dispute Resolution

- A. If the COTB objects to an ADEC rejection or modification made pursuant to this COBC, the Respondent shall notify ADEC in writing within ten calendar days of receipt of the rejection or modification. ADEC and the Respondent shall then have an additional thirty calendar days from the date of receipt by ADEC of the notification of objection to reach agreement. That period can be extended by mutual agreement of the COTB and ADEC.
- B. If ADEC and the COTB cannot reach agreement on the disputed matter within thirty days after receipt by ADEC of the Notice of Objection, or within any agreed extension of that period, ADEC shall provide a written statement of its decision to the Respondent. ADEC's written decision shall constitute a final agency action for purposes of the informal review provisions in 18 AAC 15.185. Respondent may not invoke the informal review provisions under 18 AAC 15.185 for disputes governed under this section until ADEC has provided a written decision.

- C. ADEC and the COTB agree that this dispute resolution process shall only be invoked for those disputes which the COTB can demonstrate involve acts or omissions which, if performed, involve direct monetary expenditures by the Respondent of \$1,000 or more. The dispute resolution process shall not be invoked by the Respondent for purposes of delay.
- D. All rejections or modifications made by ADEC that are not covered by this section are considered final agency actions immediately, allowing the Respondent to invoke the informal review provisions under 18 AAC 15.185.
- E. This section does not limit Respondent's right to appeal final decisions of 18 AAC 15.185 through the appeal procedures in 18 AAC 15.195-15.340. This section also does not limit Respondent's right to appeal final agency decisions of 18 AAC 15.300 to the Alaska Superior Court for purposes of judicial review pursuant to AS 44.62.560-570 and the Alaska Rules of Appellate Procedure 602(a). This COBC does not restrict the right of the court to conduct a trial de novo in whole or in part.

21. Effective Dates

The effective date of this Compliance Order by Consent shall be the date the Compliance Order by Consent is executed by both Respondent and the ADEC. This Compliance Order by Consent shall terminate on June 30, 2019 unless the deadlines and conditions in Section 4 have been extended by ADEC beyond that date in accordance with the terms of this agreement.

22. Severability

It is the intent of the parties hereto that the clauses of this COBC are severable and should any part of it be declared by a court of law to be invalid and unenforceable, the other clauses shall remain in full force and effect.

23. Waiver

A failure to enforce any provision of this COBC in no way implies a waiver of ADEC's right to insist upon strict performance of the same or other provisions in the future.

Department of Environmental Conservation

By: Cindy Christian
Acting Program Manager
Drinking Water Program

Date: _____

ASSENT OF COUNSEL

Chris Peloso
Assistant Attorney General

By: _____

Date: _____

City of Thorne Bay

By: _____
James Gould, City of Thorne Bay – Mayor

Date: _____

I, _____, hereby certify that I am the _____
_____ of the COTB PWS and that I have the
authority to enter into agreements on behalf of the COTB and to otherwise legally bind the COTB. I
hereby acknowledge that I have freely and voluntarily entered into this agreement with the State of
Alaska on behalf of the COTB after obtaining advice of counsel.

James Gould, City of Thorne Bay – Mayor

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2015.

Notary Public in and for Alaska
My commission expires: _____

CITY OF THORNE BAY
RESOLUTION 15-07-21-02

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA, AMENDING RESOLUTION
13-07-02-01 ESTABLISHING NEW HARBOR MOORAGE RATES

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

WHEREAS, Title 18 of the Thorne Bay Municipal Code provides that harbor fees shall be as set forth in the most current Rate Schedule adopted and approved by resolution of the City Council and shall be incorporated into Title 18 by reference ; and

WHEREAS, the City of Thorne Bay changed the method of calculating fees for use of the harbor to a per foot of boat length; and

WHEREAS, the initial fee change was presented to the City Council with the caveat that fees after two years may need to be adjusted; and

WHEREAS, the fees as presented are Annual Rate of \$1.65 (an increase of \$0.13), Biannual Rate \$2.00 (an increase of \$0.35), Monthly Rate of \$2.55 (an increase of \$0.25),

WHEREAS, all Monthly, Biannual and Annual Rates are by contract with deposit and paid in advance; and

WHEREAS, the Monthly Rate shall be used for all contract cancellations, calculated from the date the contract was issued; and

WHEREAS, any use of the harbor facilities with a valid contract shall be calculated using the transient Rate; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Thorne Bay hereby approves the new harbor rates affective October 1, 2015.

PASSED AND APPROVED July 21, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk/Treasurer

THORNE BAY HARBOR AND DAVIDSON LANDING HARBOR RATES:

A. RENTAL AND USER FEES (Title 18, Chapter 18.20.030)

Harbor Rental Rates (Thorne Bay Harbor and Davidson Landing

If an annual payment is made and the party renting the stall leaves the City of Thorne Bay on a permanent basis, annual rent paid shall not be refunded.

Annual rental fees for prepaid reserved moorage in s shall be as follows:

Annual Rates:

	\$1.52 Per Foot
New Rate as of October 1, 2015	\$1.65 Per Foot

Six month rental fees for reserved moorage in s shall be as follows (plus tax):

6 Month Rates

	\$1.65 Per Foot
New Rate as of October 1, 2015	\$2.00 Per Foot

Monthly rental fees for reserved moorage in s shall be as follows (plus tax):

Monthly Rates

	\$2.30 Per Foot
New Rate as of October 1, 2015	\$2.55 Per Foot

Transient Moorage fees shall be as follows (tax included in price)

Transient Rates

	\$1.00 Per Foot
	\$0.75 Per Foot

Commuter vessel fees are as follows (plus tax):

Commuter Rates

\$50.00 per year

Float Plane moorage fees are as follows (plus tax):

Float Plane Moorage Rates

\$50.00 per month

Live aboard rates are as follows (plus tax):

Live aboard Rates

\$139.50 per month

Boat Launch Use Rates

\$5.00 per use
\$25.00 per year

**CITY OF THORNE BAY
RESOLUTION 15-07-21-03**

**A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF THORNE BAY, ALASKA,
AMENDING RESOLUTION 13-03-05-02, ESTABLISHING NEW WATER AND SEWER FEES**

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

WHEREAS, Title 13 of the Thorne Bay Municipal Code provides that rate and /or hookup fees for each of the municipal owned utilities shall be as set forth in the most current Rate Schedule adopted and approved by resolution of the City Council and shall be incorporated into Title 13 by reference; and

WHEREAS, the City of Thorne Bay had RUBA do a Utility Rate Assessment for both water and sewer departments; and

WHEREAS, the Utility Rate Assessment shows that the current water and sewer fees fall short of funding the FY 2014 operating budget with water and sewer rate short fall of \$21.55 and \$29.84 respectively ; and

WHEREAS, the City of Thorne Bay, to qualify for grant funding, needs to show that utility fees fund the operations of utility departments; and

WHEREAS, the City of Thorne Bay recognizes that a Temporary Water Shut Off fee is necessary as they could request water service reinstated at any time or require water for fire protection at any time; and

WHEREAS, City of Thorne Bay recognizes that a Water Service Availability Fee is necessary for those that have water services extended to their lot lines as they could place a demand on the water system at any time or require water for fire protection at any time,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Thorne Bay approves raising the monthly water and sewer rates for current user one fourth of the suggested RUBA Rate Assessment (\$5.29 and \$7.47 respectively) each year for the next 4 years. And charging a Temporary Water Shut Off Fee and Water Services Available Fee one half of the suggested RUBA Rate Assessment (\$36.28) per month. Rate increases to take affect October 1, 2015.

PASSED AND APPROVED July 21, 2015

James Gould, Mayor

ATTEST:

Teri Feibel, City Clerk/Treasurer

WATER AND SEWER RATE SCHEDULE

WATER RATES:

The rates are set based on the Equivalent Dwelling Unit EDU method of measurement for all metered and non-metered water and sewer service.

	<u>RESIDENTIAL</u>	<u>WATER</u>	<u>SEWER</u>	<u>Notes</u>
	Metered	\$48.00	\$49.50	3 UNITS MONTHLY
New Rate as of 10/1/15		\$53.39	\$56.96	3 Units Monthly
Over 3,000 gal/mo	\$12.00			Charged in 1000 increments

	<u>COMMERCIAL</u>	<u>WATER</u>	<u>SEWER</u>	<u>Notes</u>
	Metered	\$80.00	\$49.50	5 UNITS MONTHLY
New Rate as of 10/1/15		\$85.39	\$56.96	5 UNITS MONTHLY
Over 5,000 gal/mo	\$12.00			Charged in 1000 increments