

AGENDA  
FOR THE REGULAR  
CITY COUNCIL MEETING  
FOR THE CITY OF THORNE BAY  
CITY HALL COUNCIL CHAMBERS,  
TUESDAY  
March 6, 2018  
6:30 P.M.

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

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. MAYOR'S REPORT:
6. CITY ADMINISTRATOR REPORT:
7. PUBLIC COMMENTS:
8. COUNCIL COMMENTS:
9. CONSENT AGENDA:

A. MINUTES: Minutes for the February 6, 2018, Regular City Council Meeting, discussion and action item:

**10. NEW BUSINESS:**

- A. Renewal of SISD lease of City Property located next to Bay Chalet, Sandy Beach Road; discussion and action item:
- B. Authorizing Linda Currie to continue to rent a space at the City of Thorne Bay RV Park through May 2018; discussion and action item:
- C. Request from SISD to reduce the lease payment for the Restaurant from the current \$1000.00 a month to \$300.00 a month for the remainder of the lease which is October 31, 2018; discussion and action item:
- D. Jason Clowar easement request for Lot 6A-1 of the Clowar Subdivision; discussion ONLY.

**11. ORDINANCES FOR INTRODUCTION:**

- A. None at this time

**12. ORDINANCES FOR PUBLIC HEARING:**

- A. None at this time

**13. EXPENDITURES EXCEEDING \$2,000.00:**

A. None at this time

**14. EXECUTIVE SESSION:** The Council May adjourn to executive session.

**15. CONTINUATION OF PUBLIC COMMENT:**

**16. CONTINUATION OF COUNCIL COMMENT:**

**17. ADJOURNMENT:**

**AGENDA Posted & Published: March 2, 2018 - City Hall (2), A&P, SISD, USFS, The Port, Thorne Bay School, City Website @ [www.thornebay-ak.gov](http://www.thornebay-ak.gov);**

**Minutes  
OF THE REGULAR  
MEETING OF THE CITY COUNCIL  
FOR THE CITY OF THORNE BAY  
CITY HALL COUNCIL CHAMBERS,  
TUESDAY, February 6, 2018  
6:30 P.M.**

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

1. **CALL TO ORDER:**  
Mayor Pro-Tem Hartwell called the meeting to order at 6:30PM
2. **PLEDGE TO FLAG:**  
The Council and audience stood for the pledge to the flag.
3. **ROLL CALL:**  
Hartwell, Burger, Carlson, Edenfield, and Slayton were present. McDonald attended by phone. Gould was excused.
4. **APPROVAL OF AGENDA:**  
Hartwell moved to approve the agenda. Carlson seconded. There was no further discussion.

**MOTION:** Move to approve the agenda.

**F/S:** Hartwell/Carlson

**YEAS:** Burger, McDonald, Carlson, Slayton, Edenfield and Hartwell

**NAYS:** None

**STATUS:** Motion Passed.

5. **MAYOR'S REPORT:**  
Hartwell said he wanted to discuss a warning system for Tsunamis but it was covered in workshop. Hartwell stated there would probably be an executive session.
6. **CITY ADMINISTRATOR REPORT:**  
**ADMINISTRATOR'S REPORT 2-6-18 Wayne Benner**

**Meetings Attended and Updates:**

- A. Like last year winter hit with vengeance. At least not as cold, yet. And like every year the first real snow take their toll on equipment. The crews do their best with the equipment and funding they have available. This is all complicated by the fact that most roads are not designed or built to allow for ease of maintenance, especially during winter weather.
- B. I will be at SE Conference next week. We have the monthly SEASWA meeting and meetings are set with legislators and state agencies to discuss projects, funding, communications plus a special dinner on Valentines with my wife.
- C. The City of Thorne Bay has achieved Gold status in loss control for keeping losses to less than ten percent of contribution during FY 2016.
- D. I did receive an e-mail from Vern Humecky, of AT&T, that my request for more information on how internet and cell phone operations can be improved in Thorne Bay has been sent on up the ladder.

**Tasks and Projects:**

- A. Looks like now there may not be a RAC meeting until congress finalizes the funding crisis.
- B. Currently the city has agreements with SEARHC and Peace Health to provide medical service for the community at the clinic. With SEARHC removing the computer network equipment I am

wondering whether both entities plan on continuing to use the facility to provide medical service or are shifting just occasional consultation meetings. I was planning on contacting both to see what their future plans might be.

- C. The city has received a proposal from a small business who is interested in leasing or renting city property. More will come after I have time to review the request and see what type of agreement might fit best.

**New Business:**

- A. Organized Village of Kasaan is requesting monetary support of the annual mining symposium.
- B. Mayor has a presentation honoring Doug MacClister.
- C. Resolution 18-02-06-01 is the annual resolution for the city to show support of the POW Transportation Resolution. Kasaan Road still retains the # 1 priority.

**Ordinances for Introduction:** None

**Ordinances for Public Hearing:** None

**Expenditures over \$2000:**

- A. We now have what I believe a good estimate for new doors (\$5115) on the firehall and the labor for removal of the old and installation of the new (\$5705). These will have automatic openers and manual openers. Purchase is from Madison in Ketchikan and labor is also from Ketchikan contractor who does garage door work.
- B. FYI the winter purchase of chemicals (\$2415)

**Executive Session:** There are some employee issues that the council may want to discuss in executive session or come and speak with me personally.

**Harbors and Parks:** We will start reviewing Harbormaster applications the week of Feb 21. Councilman Hartwell and Burger and admin staff have reviewed the applications and selected the ones for interviews. Two have withdrawn their applications and 3 are lacking in qualifications to fit within the harbormaster job description.

**Streets and Roads:** Pushing snow, sanding and repairing equipment.

**Water and Sewer:** Signed VSW Addendum #3 which increases the cost for the water and sewer improvements to just over 2 million. We are about half way through the public comment period on the proposed plans for the water improvements which add another building, raise the roof of the existing building and add additional filtration.

**Solid Waste:** WM is planning another trip to POW in Feb 19-20 to work out more details concerning removal of scrap metal. Now looks like WM may take the barge to Craig to eliminate the hauling of scrap across the island. So, this maybe the last opportunity to take advantage of free scrap collection. Waiting for the next steps in the baler repair process. SEASWA is in the process of reviewing RFP's for household hazardous collection. ER Conference for 10 years had administered this program and when the contractor chose not to continue DE Conference thought this would be a good program for SEASWA.

**Law Enforcement:** Issues around the community have kept Buck and the Troopers busy the last couple weeks.

**FIRE/EMS:** If the council approves the cost for doors and installation we can move forward on a desperately needed project.

**Library:** Ashley has finished up the strategic planning and provided the city with a great set of goals for library operations.

## 7. PUBLIC COMMENTS:

Jim Baichtal gave this written statement to council that he read aloud:

February 6, 2018

Looking for clarification...does the City of Thorne Bay plow Greentree Heights or not?

In 2010 we purchased Lot 7 of Greentree Heights and began construction on our home. We moved into our home in November of 2012. In all that time, we believe we have asked for assistance removing or moving snow from the By-Pass Road, Otter Hill, and Sitka Blacktail Lane 6 or 7 times. Twice Papac Logging has plowed the access for us; 4 times the City of Thorne Bay has plowed snow, once unrequested (thank you). So 3 out of the 7 times the City responded. Several times we have asked that rock be placed on the ice on the By-pass road for safety reasons, this usually has been responded to. We have been plowing the snow the remainder of the times as needed. We plow from our garage to the stop sign where the By-Pass Road meets the Highway, a distance of 0.72 miles, nearly ¾ miles (image attached). We strive to keep the roads safe and serviceable. Lauren Burch and Pricilla Goulding and Glen and Rose Holt now have places up there besides us. We

have personally invested in over 20 loads of surface rock, grade reshaping, and maintenance on these Thorne Bay City streets. The cost of this maintenance has been shared by Lauren Burch and Pricilla Goulding, Tim Lindseth, and Jason Clower.

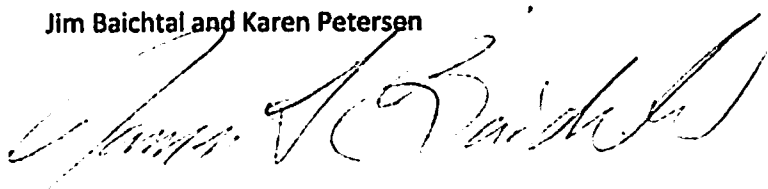
We have not invested in an expensive snow plow for a large truck. We have been able to manage the snow for the most part with a blade on our quad runner. It is time consuming however, taking 3 hours to plow that distance. The problem arises when there a deep heavy snow fall like our last snow fall. With our quad runner we cannot throw the snow over the berm plowing creates so the road gets narrower and narrower. This is when we ask for help plowing the city streets from the City of Thorne Bay.

For some reason this request for help initially is noted and accepted by the front office folks...then the request tends to meet with resistance. Most recently we heard from a city councilman that our latest request was denied for the reason of safety, the snow plow could not turn around safely in the cul de sac. We have the road plowed to our house and the cul de sac clear. We were asking for two passes, on in and one out to move the berm of snow out so we could keep up with any additional snow accumulation. The cul de sac at the end of Sitka Blacktail Lane is nearly 60' in diameter (image attached). We have the edge of the cul de sac delineated by cones and a huge snow berm (image attached). We find it hard to believe that the snow plow cannot turn around in a 60' diameter area safely.

Keeping the road clear is a safety issue, mainly for emergency vehicles to be able to access our property. We need propane trucks to be able to access our home and to bring pellets up from the barge line. We have an expectation that if one lives in the city limits, in a reasonable amount of time, the city should keep its streets free of snow. We apologize if this expectation is not reasonable. If the city does not intend to keep the roads plowed with the Greentree Heights Subdivision we would like to know it. We do not mind keeping up the maintenance of our road and plowing snow when we can handle the accumulation with the equipment we have. Karen comes home next week and I do not want access to be a strain or a concern. When we finally ask for help we really need it!

Thank you...

Jim Baichtal and Karen Petersen



Jim Baichtal

**8. COUNCIL COMMENTS:**

Slayton talked about Barney Freeman's concerns & complaints on the snow plowing process. He stated that Mr. Freedman was satisfied after the matter was addressed. (Mr. Freedman did not attend the meeting)

**9. NEW BUSINESS:**

- A. The Organized Village of Kasaan is asking for monetary donations to support the 2018 "Mining & Enviroment Working Together" symposium – discussion item: Council would like more information. Hartwell will make some calls.
- B. Presentation of the Alaska State Legislature "In Memorium" honor of Thorne Bay Resident Doug MacAllister – Read by Bob Hartwell.
- C. Resolution 10-02-06-01: Supporting the POWCAC Resolution 18-01 Transportation Priority List for Prince of Wales Island 2018 – discussion and action item: Council discussed the various projects listed in the transportation priority list and offered opinions.

MOTION: Move to approve Resolution 18-02-06-01  
F/S: Hartwell/Burger  
YEAS: Burger, McDonald, Carlson, Slayton, Edenfield and Hartwell  
NAYS: None  
STATUS: Motion Passed.

13. EXPENDITURES EXCEEDING \$2,000.00:

A. Doors for Firehall from Madison Lumber for doors, materials & equipment for town Firehall - \$5115.00:

MOTION: Move to approve Expenditure to Madison Lumber.  
F/S: McDonald/Hartwell  
YEAS: Burger, McDonald, Carlson, Slayton, Edenfield and Hartwell  
NAYS: None  
STATUS: Motion Passed.

B. Labor to install doors on firehall - \$5305.00

MOTION: Move to approve Expenditure for labor to install doors on town firehall.  
F/S: Hartwell/Burger  
YEAS: Burger, McDonald, Carlson, Slayton, Edenfield and Hartwell  
NAYS: None  
STATUS: Motion Passed.

C. FYI: Chemicals from Cascade Columbia \$2,415.00 – discussed but no vote taken as these expenses have already been approved in the budget process.

14. EXECUTIVE SESSION: Hartwell moved to adjourn to executive session. Slayton stated that a basic reason needed to be given, Hartwell said it was to discuss personnel matters. Edenfield noted that if personnel were to be discussed that employee would need to be notified and had the option to appear. Wayne Benner answered that he had been notified and he was present.

MOTION: Move to adjourn to Executive Session.  
F/S: Hartwell/Slayton  
YEAS: Burger, McDonald, Carlson, Slayton, Edenfield and Hartwell  
NAYS: None  
STATUS: Motion Passed.

15. CONTINUATION OF PUBLIC COMMENT: No members of the public were still present

16. CONTINUATION OF COUNCIL COMMENT: Edenfield complemented the road crews and the work that has been done.

17. ADJOURNMENT:

Hartwell adjourned the meeting at 7:27 p.m.

Minutes prepared by acting council clerk, Dana Allison.

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Robert Hartwell, Mayor Pro-Tem  
For James Gould, Mayor

ATTEST:

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Teri Feibel, CMC

# RENTAL AGREEMENT

This Rental Agreement is entered into by and between the City of Thorne Bay, Alaska, P.O. Box 110, Thorne Bay, Alaska 99919 (hereinafter called the "CITY "and, Southeast Island School District, (hereinafter called the "RENTER").

1. **Rented Premises.** The City does hereby Rent to the Renter Property South of School Gym approx. 0.2 Acres, See Attached Exhibit A on municipally owned property within the corporate boundaries of the City of Thorne Bay.

**Municipal Code, Title 2, Article III, Incorporated.** The provisions of "Title 2, Article III of the Thorne Bay Municipal Code shall apply to the terms of this Rental Agreement unless otherwise amended in this Rental Agreement.

2. **Term.** The term of this Rental Agreement shall be Two (2) year(s) beginning March 1, 2016 and ending February 28, 2018. Monthly rental payments due the City shall commence prior to use of Rented Premises and continue throughout the term of this Rental Agreement. Monthly Sales Taxes due the City shall commence upon the signing of Rental Agreement. Renter shall have the option to renew this Rent for an additional period of time subject to renegotiations of Rent terms and payments acceptable to both the City and Renter. The option to renew and Rent for the additional period can only be effective upon approval by the Thorne Bay City Council. This option to renew shall be exercised by the Renter in writing sixty (60) days prior to the expiration of the original Rent term. The option to renew is specifically waived if not exercised in full compliance with this provision.

This Rental Agreement expires automatically on the last day of the Two (2) year period absent the approval of a new Rental Agreement by the Thorne Bay City Council. Absent an approved Rental Agreement the Renter shall vacate the premise on or before the ending date of this Rental Agreement.

In addition to any rights of the City to terminate this Rental Agreement as specified in this Rental Agreement, or as specified in the Thorne Bay Municipal Code, the City shall have all rights to terminate this Rental Agreement in accordance with any provision of applicable law.

3. **Monthly Rent Payment.** Renter covenants and agrees to pay City monthly Rent payments in the sum of Seventy Five Dollars (\$75) plus applicable sales tax payable in advance on the first day of each month of the Rent term. In the event any payment required to be made pursuant to this Rental Agreement is more than ten (10) days past due, a late charge equal to ten percent (10%) per annum on such past due amount will be assessed and charged to Renter by City. At the expiration of two year term the monthly Rent payment shall be reviewed and adjusted in accordance with the provisions of Section 2.56.210 of Title 2, Article III of the Thorne Bay Municipal Code.



# RENTAL AGREEMENT

4. **Deposits.** Renter shall deposit with the City an amount equal to One Month Rent. Upon termination of the Rental Agreement the Renter shall vacate the premise leaving it in the same clean condition as presented at the time said Rental Agreement was initiated. If the premise is in need of cleaning, repairs or the Renter is in default in payments said deposit shall be used to offset such costs. In the event the Rented Premise is clean and in need of no repairs the deposit will be refunded in full. First and last month may be waved in lieu of improvements to the Rented Premises or other City Facilities as provided by Renter per "Exhibit A".
5. **Use.** Renter shall use the Rented Premises for the purposed of maintaining and operating there on, Parking of School Vehicles, School Employee Vehicles, School Guest Vehicles and Ball Field Guests **(THERE SHALL BE NO PARKING IN FRONT OF ROAD ACCESS TO THE BALLFIELD AND BACK OF SCHOOL----THIS IS A FIRE LANE AND MUST BE ACCESSIBLE AT ALL TIMES)**. The Rented Premises shall be used for no other purposes without the prior written consent of City.
6. **Utilities and Fees.** Renter shall be responsible for all utility accounts and applicable deposits for said accounts. Renter agrees to pay, and keep current, ALL charges, including deposits, for all utilities, including but not limited to water, sewer, refuse collection, electricity, propane, fuel oil and telephone. Failure to do so will result in the utility being shutoff. Activation of a city shutoff shall constitute a material breach of the Rent Agreement resulting in the City's termination of the Rent Agreement. Absent an approved Rental Agreement the Renter shall vacate the premise immediately.
7. **Repairs, Maintenance and Compliance with Laws.** Renter shall maintain the Rented Premises at Renter's sole cost and expense and at all times keep the Rented Premises neat, clean and in a sanitary condition. Renter shall keep and use the Rented Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of all governmental authorities. Renter shall permit no waste, damage or injury to the Rented Premises. Renter's use of the Rented Premises in violation of any law or regulation of any governmental entity related to public health or safety or environmental pollution shall be a material breach of the Rental Agreement and grounds for City's termination of the Rental Agreement. Renter is required to obtain building permit authorization from the City for construction of any and all structures placed on or in the Rented Premises.
8. **Signs, Alterations and Improvements.** All signs or symbols placed on or about the Rented Premises shall be subject to City's prior written approval. After prior written consent of City, Renter may make alterations and improvements to the Rented Premises, at Renter's sole cost and expense. City may elect to require Renter to remove any such alterations and improvements upon termination of this Rental Agreement at Renter's sole cost and expense. Any of Renter's improvements remaining on the Rented

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Premises longer than thirty (30) days after Renter's possessors rights to the Rented Premises have expired shall become Rented Premises of City.

9. **Insolvency.** In the event Renter becomes insolvent, bankrupt or if a receiver, assignee or other liquidating officer is appointed for the business of Renter, City, in City's sole discretion may immediately terminate this Rental Agreement and require that Renter vacate the Rental Premises.
10. **Subletting or Assignment.** Renter shall not sublet the whole or any part of the Rented Premises nor assign this Rental Agreement without the prior written consent of City. This Rental Agreement shall not be assignable by operation of law. All terms and conditions of the Rental Agreement shall be binding upon any sub Renter or assignee of this Rental Agreement and Renter shall remain fully responsible to City for performance of this Rental Agreement.
11. **Permits and Compliance with Law.** Renter shall obtain all necessary local, state and federal permits necessary for the operation of Renter's business and shall comply with all local, state and federal laws, rules and regulations.  
  
Failure to comply with any requirements of this section shall constitute a material breach of the Rental Agreement. Failure to remedy the violation within 30 days will result in the City's termination of the Rental Agreement. Absent an approved Rental Agreement the Renter shall vacate the premise immediately.
12. **Insurance.** General Liability Insurance: The Renter shall procure and maintain during the life of this agreement, General Liability Insurance on an "occurrence basis" with limits of liability not less than \$1,000,000 per occurrence and /or aggregate combined single limit, personal injury, bodily injury and property damage.  
  
Proof of Insurance shall be provided to City within thirty (30) days after the parties have executed this agreement and prior to public use of said premises. City shall be notified at least thirty (30) days before the cancellation or termination of any policy.  
  
City shall be named as additional insured.
13. **Accidents and Liability.** City or its agent shall not be liable for any injury or damage to the persons or property sustained by Renter or others, in and about the Rented Premises.
14. **Indemnification and Waiver of Subrogation.** To the fullest extent permitted by law, the Renter agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, employees and volunteers against any and all liabilities, claims, demands, lawsuits, or losses, including costs and attorney fees incurred in defense thereof, arising out of or in any way connected or associated with this agreement.

# **RENTAL AGREEMENT**

To the extent permitted by law, the Renter hereby re-Rents the City, its elected and appointed officials, employees and volunteers from any and all liability or responsibility to the Renter or anyone claiming through or under the Renter by way of subrogation or otherwise, for any loss or damage to the property caused by fire or any other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of the City, its elected or appointed officials, employees or volunteers. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of the Renter's occupancy or use.

Renter understands that the City accepts no responsibility whatsoever for loss of, or damage to Renter's property.

- 15. Removal of Renter's Property and Repair of Rented Property.** All buildings, fixtures and equipment of whatsoever nature, that Renter shall have acquired and installed upon Rented premises, whether permanently affixed or otherwise, shall continue to be the property of the Renter and must be removed by the Renter at the expiration or termination of this Rental Agreement; and at its own expense, Renter shall repair any injury to Rented Premises resulting from such removal. Renter shall remove all buildings, fixtures, and equipment, and make all repairs, within thirty days of the date the Renter vacates Rented Premises. If the Renter fails to remove its buildings, fixtures, and equipment, and fails to make the necessary repairs, the City may do so, and seek reimbursement from the Renter for the full amount of the repairs, without any deduction for the value of any buildings, fixtures, or equipment left on the premises by the Renter. If City determines that it is in City's best interest to acquire the improvements, it may negotiate to purchase Renter's buildings, fixtures, and equipment at a price equal to or less than fair market value.
- 16. Taxes.** Renter shall be solely and fully responsible for the payment of all applicable federal, state, and Thorne Bay municipal taxes including all Monthly Sales Taxes due the City.
- 17. Liens.** Renter shall maintain Rented Premises free of any and all liens. Renter will not permit any mechanics', laborers' or materialmen's liens to stand against the Rented Property or improvements for any labor or materials furnished to Renter or claimed to have been furnished to Renter, or to Renter's agents, contractors, or sub-Renters, in connection with work of any character performed or claimed to have been performed on Rented premises or improvements by or at the direction or sufferance of Renter; provided, however, Renter shall have the right to contest the validity or amount of any such lien or claimed lien, In the event of such contest, Renter shall give to the City such reasonable security as may be demanded by the City to insure payment of such lien or such claim of lien. Renter will immediately pay any judgment rendered with all proper costs and charges and shall have such lien re-Rented or judgment satisfied at Renter's own expense. Renter agrees to indemnify, hold harmless and to defend the City and

# RENTAL AGREEMENT

Rented premises from such liens. Renter consents to the City's recording of and posting of a statutory notice of non-responsibility in accordance with Alaska Statute 34.35.065

**18. Default by Renter.** Each of the following shall be deemed a default by the Renter and a breach of the Rental Agreement:

- (a) A failure to make payment of any installment, of rent or of any other sum herein specified to be paid by Renter, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to make payment;
- (b) Upon shut off of utilities;
- (c) A default in the performance of any other covenant or condition on the part of the Renter to be performed for a period of thirty (30) days after receipt by Renter of a notice specifying the particular default or defaults;
- (d) The filing of a petition by or against Renter for adjudication as a bankrupt, or for reorganization or arrangement within the meaning of the Bankruptcy Act;
- (e) The dissolution or the commencement of any action or proceeding for the dissolution or liquidation of the Renter or for the appointment of a receiver or trustee of Rented Premises of the Renter;
- (f) The taking possession of Rented Premises of the Renter by any governmental officer of agency pursuant to statutory authority for the dissolution or liquidation of the Renter;
- (g) The making by the Renter of an assignment for the benefit of creditors;
- (h) Renter vacates or abandons the Rented Premises; and
- (i) A failure that continues for five (5) days or more to have the City named as an additional insured as required under paragraph 18, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to name the City as an additional insured.

The specification of events constituting default by the Renter in this Section, are in addition to any defaults specified in the Thorne Bay Municipal Code.

**19. City's Remedies for Default.** In the event of any default of the Renter, the City shall have the following rights and remedies – all in addition to any rights or remedies that may be given to the City by statute, common law, or under Thorne Bay Municipal Code.

- (a) Distraint for rent due and subsequent sale of chattels so distrained. The sale of any such chattels shall be in accordance with the procedure set forth in Alaska Statutes.
- (b) Re-enter Rented Premises and take possession thereof, remove all persons therefrom, and remove Renter's property therefrom and store it in a public warehouse or elsewhere at the cost of Renter, all without service of notice or resort to legal process (all of which Renter expressly waives) and without becoming liable

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for trespass, forcible entry, detainer, or other tort or for any loss or damage which may be occasioned thereby;

- (c) Declare the Term ended;
- (d) Re-let Rented premises in whole or in part for any period equal to or greater, or less, than the remainder of the Term for any sum which is commercially reasonable;
- (e) Cure any such default, if possible, and demand immediate payment until all costs incurred in curing the default have been reimbursed fully, together with interest calculated at the rate of ten percent (10%) per annum at the then current prime rate as established by the First Bank of Alaska;
- (f) Collect all reasonable damages, costs and expenses that the City may incur by reason of default by Renter, together with interest calculated at the rate of ten percent (10%) per annum at the then current prime rate as established by the First Bank of Alaska.
- (g) The City shall use reasonable diligence to relet Rented Premises in or to mitigate the City's damages, consistent with the uses of Rented Premises, and all applicable Thorne Bay code provisions related to this Rent and Rented Premises.

**20. Rights and Remedies.** Except insofar as this is inconsistent with or contrary to any provision of this Rent, no right or remedy herein conferred upon reserved to the City or Renter is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

**21. Waiver.** Except to the extent that a party may have otherwise agreed in writing, no waiver by a party of any breach by the other party of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, agreement or obligation. Nor shall any forbearance by a party to seek a remedy for any breach of the other party be deemed a waiver of its rights or remedies with respect to such breach.

**22. Changes.** No modifications, amendments, deletions, additions or alterations of the Rent Agreement shall be effective unless in writing and signed by all of the parties hereto and such representatives of the parties as have been duly authorized to make such changes.

**23. Joint Product.** The language set out in this Rental Agreement represents the joint product of the parties and shall not be construed against one party in favor of the other. Each party hereto has had the option of seeking the advice of legal counsel in the drafting of this Rental Agreement, and the rule of construction favoring construction against the drafter shall not apply. Renter acknowledges and agrees that Renter has not received any legal advice from the City's attorney or from anyone associated with the City.

**24. Authority.** The parties and their undersigned representatives warrant that they have full authority to enter into this Rental Agreement and to execute this Rental Agreement.

# RENTAL AGREEMENT

- 25. Hazardous Materials.** The Renter shall not permit, store, manufacture or dispose on Rented Premises any hazardous material or controlled substance as determined by federal, state, or municipal statutes or laws now or at any time hereafter in effect, including but not limited to , the Comprehensive Environmental Response, Compensation and liability Act (42 U.S.C. 9601 et seq.), the Hazardous materials Transportation Act (42 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C.7401 et seq.), the Toxic Substance Control Act, as amended (15 U.S.C. 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. 651et seq.), and Title 46 of the Alaska Statutes as these laws have been and may hereafter be amended or supplemented. "Hazardous Substance" means any pollutant, contaminant, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, PCB's or any other substance the removal of which is required, or the manufacture, preparation production, generation, use maintenance, treatment, storage, transfer, handling or ownership of which is restricted , prohibited, regulated or penalized by any and all federal, state, or municipal statutes or laws now or at any time hereafter in effect. Hazardous material shall not include cleaning supplies used in the routine daily cleaning and operation of a restaurant.
- 26. Acceptance of the Rented Property by Renter.** Renter acknowledges that it has thoroughly examined Rented Premises. Renter accepts Rented Premises in their "**AS IS**" condition, and the City shall not be required to perform any work to prepare Rented Premises for the Renter. Renter's taking possession of Rented Premises shall be conclusive evidence against it that, at the time possession was taken, Rented Premises were in good and satisfactory condition. Renter acknowledges that, except for those representations and statements regarding the condition of Rented Premises expressly stated herein, Renter has not relied upon any representations or statements of the City or its representatives or agents regarding the condition of Rented premises or their suitability for Renter's uses under this Rent.
- 1. Attorneys' Fees and Costs.** Should any dispute and/or legal action arise by reason of any default or breach on the part of Renter in the performance of any of the provisions of the Rental Agreement, Renter agrees to pay all reasonable attorneys' fees and costs incurred by City in connection therewith including City's attorneys' fees and costs incurred on appeal. It is agreed that the venue of any legal action brought under the terms of this Rental Agreement will be the First Judicial District, at Ketchikan, Alaska. Renter specifically agrees that venue for trial in any action related to this Rent shall be in Craig, Alaska.
  - 2. No Waiver of Covenants.** Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future or similar breach. This Rental Agreement contains all the agreements between the parties, and there shall be no

## RENTAL AGREEMENT

3. **Surrender of Rented Premises.** Upon termination of this Rental Agreement, Renter agrees to peacefully quit and surrender the Rented premises without notice, remove all of Renter's personal property and leave the Rented premises neat and clean. If City elects to require Renter to remove any alterations or improvements made by Renter, then Renter shall restore the Rented Premises to their previous condition, at Renter's sole expense.
4. **Binding on Heirs, Successors and Assigns.** The covenants and agreements of this Rental Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of both parties thereto, except as hereinabove provided, and as allowable by law.
5. **Notice.** Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to City at P.O. Box 19110, Thorne Bay, Alaska 99919, or the Renter at, PO Box 19569, Thorne Bay, AK 99919, or at such other address as either party may designate in writing to the other.
6. **City's Right of Entry.** The City shall have the right to enter Rented premises at all reasonable times to examine the condition of same.

IN WITNESS WHEREOF, The parties hereto have executed this Rental Agreement as of the date first set above written.

CITY:

RENTER:

THE CITY OF THORNE BAY

By James X. Gould  
James Gould, Mayor "City"

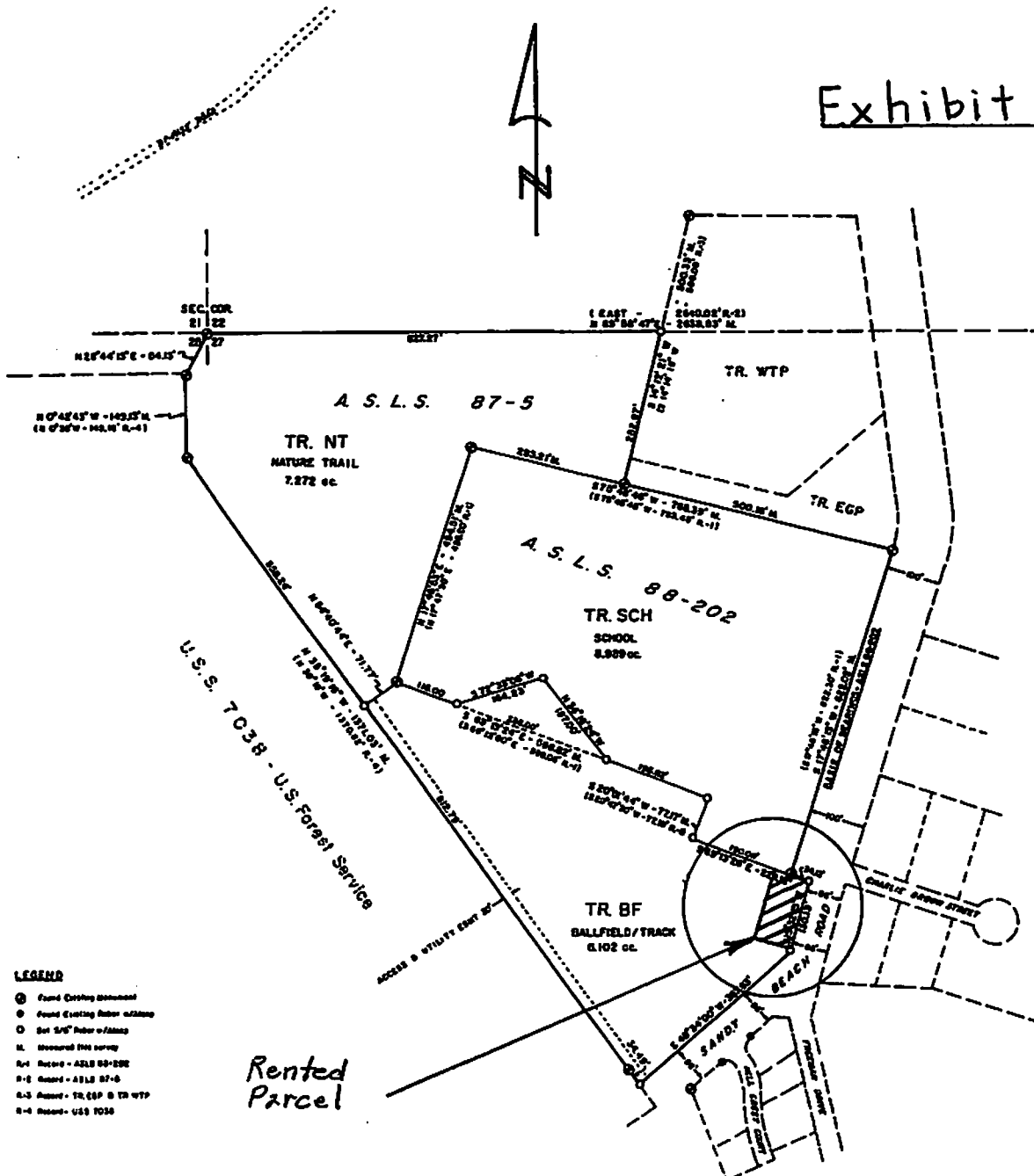
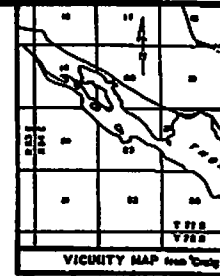
By Lauren Burch  
Lauren Burch SISD "Renter"

ATTEST:

Teri Feibel  
Teri Feibel, City Clerk

# Exhibit A

March 1, 2016  
W. Benner



Rented Parcel

## NOTES

1. The subdivision was made by the City of Thomas Bay, Alaska, and is subject to the City of Thomas Bay's rules and regulations for subdivisions.

## CERTIFICATE OF APPROVAL BY THE BOARD

I hereby certify that the subdivision map shows the land to be subdivided is within the jurisdiction of the City of Thomas Bay, Alaska, and is subject to the City of Thomas Bay's rules and regulations for subdivisions.

City of Thomas Bay, Alaska  
March 1, 2016

## SURVEYOR'S CERTIFICATE

I hereby certify that I am a registered professional land surveyor in the State of Alaska, and that this map is a true representation of a survey made by me or under my direct supervision, that all measurements and relative bearings are correct, and that the monuments are not in place and noted upon this map as present.

Greg L. Thomas, ASLS 3431  
Date 12/29/15



## CERTIFICATE OF OWNERSHIP

We hereby certify that we are the owners of the property described herein and that we hereby adopt this plan of subdivision with all definite all easements, streets, alleys, water, ports and area public or private as shown.

Handwritten signatures and names of owners.

## NOTARY'S ACKNOWLEDGMENTS

Notary Public for the State of Alaska  
Date 12/29/15

Handwritten signature of Notary Public.

Notary Public for the State of Alaska  
Date 12/29/15

Handwritten signature of Notary Public.

## CERTIFICATE OF APPROVAL BY THE BOARD

I hereby certify that the subdivision map shows the land to be subdivided is within the jurisdiction of the City of Thomas Bay, Alaska, and is subject to the City of Thomas Bay's rules and regulations for subdivisions.

City of Thomas Bay, Alaska  
March 1, 2016

## COUNCIL CERTIFICATE

I hereby certify that this plan and ordinance is within the jurisdiction of the City of Thomas Bay, Alaska, and is subject to the City of Thomas Bay's rules and regulations for subdivisions.

City of Thomas Bay, Alaska  
March 1, 2016

DATE OF REVIEW: 01/11/16  
By: 01/11/16

SUBDIVISION OF ASLS No. 88-202 (PLAY 91-portion of ASLS No. 87-5 (PL FORMING TRACTS SCH, BF, LOCATED WITHIN SEC. 27 & 28, T. 72 N., R. 12 E., S. 12 E., CITY OF THOMAS BAY, ALASKA) Containing 28.363 acres

Scale 1" = 100' Drawn by G.L.T. D



Lemos up 3/18/18

Feb. 15, 2018

To the Thorne Bay City,

I, Linda Currie, request an extension on my rental space in the Thorne Bay City Trailer Park. My request is due to the winter weather conditions and the fact that it has hindered my ability to get my property habitable. I would like to extend my stay until May 2018.

Thank you for your consideration,

Linda Currie

*Linda Currie*





## **SOUTHEAST ISLAND SCHOOL DISTRICT**

P.O. Box 19569, 1010 Sandy Beach Road Thorne Bay, Alaska 99919  
(907) 828-8254 Fax: (907) 828-8257 E-mail: [sisd@sisd.org](mailto:sisd@sisd.org)

---

March 2, 2018

City of Thorne Bay  
Wayne Benner  
City Manager

Dear Mr. Benner,

I am writing regarding the lease agreement for the land under the Thorne Bay Café. The rental payment under the current lease agreement is \$1,000 per month. Southeast Island School District is requesting that the rent be reduced to \$300 per month for the duration of the lease.

When we first purchased the restaurant, the District agreed the higher monthly payment to help the City to recover their investment in the café. We have certainly exceeded that necessity. While the District has not resolved the future of the business, it is certain that the café cannot be maintained with the current lease payment. We do not believe that the District or any other operator could get the business to pencil out with the higher monthly rent.

The Thorne Bay Café benefits the community, the City, and other local businesses when it is open and operational. It provides a consistent dining opportunity and meeting place for Prince of Wales residents. During the café's most profitable months in the summer, sales tax receipts can approach \$750 per month. Increased traffic to our community helps increase business for other commercial ventures. I am currently unable to move forward on any effort to reopen the café, or to encourage someone else to lease or purchase the café and reopen. With the lease payment of \$1,000 per month plus fixed costs, it is more economical to leave it closed than it is to operate.

I believe it is in the best interest of the community for the restaurant to operate. The lower monthly lease payment of \$300 is an important step toward building another viable business in our community. Once this issue is resolved, the District will make every effort to find a way to either open the restaurant or work with someone else to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "La Burch", written over a horizontal line.

Lauren Burch  
Superintendent

## **Adventure Alaska would like to be granted access over an easement or purchase the easement**

**Introduction:** Hemlock Loop is small and pretty steadily congested due to most residences and businesses having no off-street parking. I believe access to my business from the main road (Shoreline Drive) would be beneficial to everyone currently using Hemlock Loop for business or residence. Fortunately, there is a solution to this problem. I would like to use the utility easement either through **permission granted or purchase** to access Adventure Alaska. This easement currently goes from Shoreline Drive to the City RV Park. It is on city property, as well as Adventure Alaska property. The city-owned portion that I am proposing to buy is roughly 20' x 120' (2400 sq. ft.) The utilities in the ground are sewer, the same that are under most streets in Thorne Bay, so vehicle traffic should not be a concern.

### **History....**

I tried to purchase this same piece of land in 2005 and had the support of the Council and P&Z until one person in the crowd stood up and said, "What if Durette wants to buy that ground?" The person was asked, "Do you speak for Durette?" to which he replied, "No." After those statements, it was voted down to allow more time to discuss. I had invested a lot of time into this pursuit and chose not to invest any more at that point.

### **Currently....**

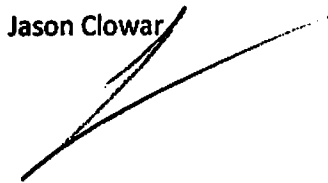
I decided to try again and took my original 2005 proposal to Wayne. I told him I would like to purchase or at least get access over the easement (two separate ideas and sizes of land). I told him I would like to know what he thought of my ideas and what he would support. I figured if I had his support, I might also have the council's support. I thought this would lead to discussion. Wayne reciprocated with a letter stating in a nutshell, "The City will not be selling or leasing this property except for city purposes." I have attached Wayne's complete letter for your review so this quote won't be out of context in any way. I don't want this to be perceived as an attack on Wayne. Wayne is simply stating the city's current views on these matters, so I want to go to the council to see if these views can be changed.

### **Conclusion:**

I understand that the city has planners being paid through a grant for an overall CTB plan, but I don't fully agree with where they are taking Thorne Bay. I also understand that there is a trail slated to be put in the same vicinity and I don't believe this would be a conflict. Please remember that Adventure Alaska employs locals, brings people to Thorne Bay who purchase food, gas, and liquor. Adventure Alaska pays taxes and purchases many services from the City of Thorne Bay. I appreciate the good relationship we have had with the City over these 20+ years and I think this could prove to be mutually beneficial to us, the City and the residents of Hemlock Loop. I hope you feel the same.

Thank you again for your time,

Jason Clowar



### **Attachments**

- Wayne's Letter
- Overall plat map
- Highlighted plat map showing tract AD-1
  - YELLOW highlighted area was ORIGINALLY BEING SOUGHT FOR PURCHASE with the utility & drainage easement running through the center of it
  - PINK highlighted area is the DRAINAGE EASEMENT
  - ORANGE highlighted area is the UTILITY EASEMENT

\*\*\*I have other documents as well, but the attached are the most pertinent. Please ask if you would like to see more~



## CITY OF THORNE BAY

P.O. BOX 19110  
THORNE BAY, ALASKA 99919  
(907) 828-3380  
FAX (907) 828-3374  
[www.thornebay-ak.gov](http://www.thornebay-ak.gov)

November 9, 2016

Jason Clowar  
PO Box 19561  
Thorne Bay, AK 99919

RE: Sale of Property

ATTN: Jason

Thank you for your interest in purchasing some city property adjacent to your lot and Bayview Tire property. The property in question is currently zoned Waterfront and was part of the Waterfront Master Plan that was recently updated. The Plan calls for updating the Waterfront Zone which is part of several zoning updates that the city council will be addressing in the coming months.

As part of the planning process the city has discussed several options for the lands along Shoreline Drive from Bayview Tire to Nick Gefre's property. Parking, overflow parking for the boat launch, lease lots for business, or possibly lots for sale. A trail system along the upper area is already funded with details for construction underway. This trail ties into the trail to be constructed from the Port to the Claw. As part of laying out the trail we will be looking at possible uses and designs for the land between the trail and Shoreline Drive.

If the city were to decide to sell off the land the area would be developed in to usable parcels, subdivided, appraised and then auctioned off per Thorne Bay Municipal Code with restrictions placed on parcels for development. Until a plan has been developed for the use of this property, the city will not be selling or leasing this property except for city purposes.

Sincerely,

Wayne Benner, City Administrator

Cell: (907) 254-2554

Email: [administrator@thornebay-ak.gov](mailto:administrator@thornebay-ak.gov)

Source: NOAA Chart  
No. 17423, dated 1952

6-26-02  
CRAIG L. TELFER, AK. ELS. NO. 3491



- LEGEND:
- Found existing primary monument
  - Found existing secondary monument
  - Set 5/8" iron w/2" ALCAP

I hereby certify that this plot conforms to Thomas Bay Council Resolution No. 01-10-17-07, dated: May 8, 2007.

**TAX STATEMENT**  
This subdivision lies within the tax authority of the City of Thomas Bay. As of the date of this statement, the City of Thomas Bay has no property tax levy.

**For The New Boy City Council**

City of Thomas Bay. As of the date of this report, the City of Thomas Bay has no property tax levy.

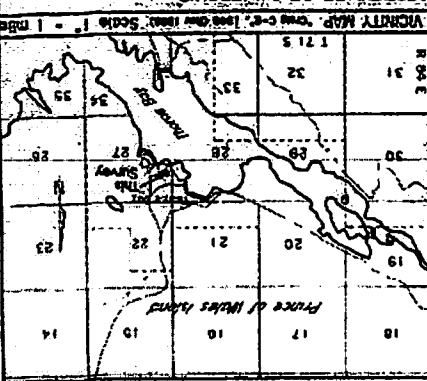
The purpose of this survey was to  
 to let 6-4-1941  
 Persons of Tracts AS, AR and AS, Part  
 2000-43, were called by this survey.  
 The boundaries of these tracts were not  
 surveyed.  
 A copy of surveyed boundaries of tracts  
 2000-43, were called by this survey.

PL Tract AD - 18,400 Sq. Ft.  
PL Tract AB - 14,000 Sq. Ft.  
PL Tract AS - 1,400 Sq. Ft.

Curve	Radius	ARC	CHORD	CD	BRG
C-1	40.00	61.57	59.55	38.48	518.00-59.55
	(40.00)	61.57	58.04-49	38.48	518.00-59.55
C-2	40.00	51.28	75.27-55	47.84	548.00-55.28
	(40.00)	51.28	55.28-48	47.84	548.00-55.28

Curve	Radius	ARC	CHORD	CD	BRG
C-1	40.00	61.57	59.55	38.48	518.00-59.55
	(40.00)	61.57	58.04-49	38.48	518.00-59.55
C-2	40.00	51.28	75.27-55	47.84	548.00-55.28
	(40.00)	51.28	55.28-48	47.84	548.00-55.28

10-5-02



**BOARD**

I hereby certify that the subscription card shown herein  
is a true and correct copy of the original as filed in the  
records of the City of Chicago, Illinois, and that  
said card has been approved by the Rating Board by  
Resolution No. \_\_\_\_\_ Dated \_\_\_\_\_  
and that said subscription has been approved  
for recording in the Election District Recording  
Office, Kitchikan, Alaska.

-7-

NOTARY'S ACKNOWLEDGEMENTS

Donner	Jacob Cramer, PO Box 18561,	Date
Donner	Thomas Boy, AK 99919	Date
<i>John Cramer</i>		
Donner	THOMAS Cramer, PO Box 19561,	Date
Donner	Thomas Boy, AK 99919	Date
<i>John Cramer</i>		
Donner	City of Thomas Boy, PO Box 18110,	Date
Donner	Thomas Boy, AK 99919	Date

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12-5-04

~~Personality appeared 40215 2-05~~

My Commission Expires 12-1-71

CLOWAR SUBDIVISION

Portions of Tracts AD, AR and AS Plat 2000-43  
located within Sec. 27, T 71 S, R 84 E, CRM, Alaska

Turnover for: Jason Clower PO Box 19361 Thermo Bay, AK 99518 (907) 644-5120	Turnover for: TEMPLE LAND SURVEYING PO BOX 449 - WHALE PASS KETCHIKAN AK 99901
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RECORDED - FILED  
JAN 11 1964  
FBI - NEW YORK

