

CITY OF SELDOVIA

PO Box B, 245 Dock Street
Seldovia, Alaska 99663
Phone 907-234-7643
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Regular City Council Meeting

Monday, October 28, 2019

6:00PM

Council Chambers
Multi-Purpose Room
260 Seldovia Street
Seldovia, AK 99663

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**AGENDA FOR A REGULAR MEETING
OF SELDOVIA CITY COUNCIL
COUNCIL CHAMBERS**

**Monday
October 28, 2019
6:00pm**

COLBERG CAMPBELL MORRISON ROJAS NATHAN SWEATT
--

- A. Call to Order & Roll Call:
- B. Pledge of Allegiance:
- C. Excused Absences:
- D. Agenda Approval:
- E. Consent Agenda: *(All items under the Consent Agenda are approved with a single motion, no discussion, and one vote. A Council Member may request to remove an item(s) for discussion and a separate vote.)*
 - 1. Approval of Minutes: Minutes of the Regular Meeting, October 14, 2019
 - 2. Payment Approval Report: None
 - 3. Ordinance Introduction:
 - 1. ORDINANCE 20-04 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, REPEALING CHAPTER 2.24 CIVIL DEFENSE AND DISASTER CONTROL AND ADOPTING CHAPTER 2.26 NATIONAL INCIDENT MANAGEMENT SYSTEM
- F. Mayoral Proclamations:
- G. Public Presentation Prior Notice: (each presenter has up to 10 min)
 - 1. Representative Lousie Stutes-
- H. Public Presentation for Items not on Agenda: (public has 3 min each)
- I. Committee and Advisory Board Reports: (each member has 5 min)
- J. Public Hearings:
 - 1. RESOLUTION 20-10 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA IN SUPPORT OF FULL FUNDING (\$12,145,312) FOR THE STATE OF ALASKA MUNICIPAL HARBOR FACILITY GRANT PROGRAM IN THE FY 2021 STATE CAPITOL BUDGET
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
 - 2. RESOLUTION 20-11 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA ENCOURAGING AUTOMATIC REGISTRATION FOR VESSELS ACTIVE IN THE ALASKA CFEC DATABASE
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
 - 3. RESOLUTION 20-12 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA SUPPORTING THE INCLUSION OF PRACTICAL CLIMATE ADAPTATION AND MITIGATION MEASURES IN THE KENAI PENINSULA BOROUGH'S 2019 COMPREHENSIVE PLAN
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
 - 4. RESOLUTION 20-13 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA ADOPTING THE CITY OF SELDOVIA EMERGENCY OPERATIONS PLAN

- a. Presentation by Staff or Council
- b. Council Discussion
- c. Public Presentation or Hearing (public has 3 min each)
- d. Action/Disposition

5. RESOLUTION 20-14 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA AUTHORIZING THE CITY MANAGER TO JOIN THE ALASKA REMOTE SELLER SALES TAX COMMISSION FOR THE PURPOSE OF DEVELOPING, IMPLEMENTING, AND ENFORCING A REMOTE SELLERS SALES TAX CODE

- a. Presentation by Staff or Council
- b. Council Discussion
- c. Public Presentation or Hearing (public has 3 min each)
- d. Action/Disposition

6. ACTION MEMORANDUM 20-04 CONSENT TO THE APPROVAL OF THE VACATION OF THE 30-FOOT WIDE BACKER'S ISLAND LANE RIGHT-OF-WAY

- a. Presentation by Staff or Council
- b. Council Discussion
- c. Public Presentation or Hearing (public has 3 min each)
- d. Action/Disposition

K. Unfinished Business:

1. COLE/WARBURTON VARIANCE PERMIT APPLICATION

- a. Presentation by Staff or Council
- b. Council Discussion
- c. Public Presentation or Hearing (public has 3 min each)
- d. Action/Disposition

L. New Business:

M. Administration Reports:

- 1. Treasurer's Report:
- 2. City Manager's Report: See Laydown
- 3. Chief of Police Report: See Laydown
- 4. Harbormaster's Report: See Laydown
- 5. Public Works Report: See Laydown

N. Informational Items Not Requiring Action:

- 1. The City Office will be closed November 11, 2019 in observance of Veterans Day.
- 2. The City Manager will be out of office the week of November 17, 2019 in order to attend the Alaska Municipal League Conference.
- 3. The City Clerk will be out of office Monday, November 18, 2019- Wednesday November 20, 2019 in order to attend the AMMC conference.

O. Executive Session:

P. Council and Mayor Comments Concerning Items Not on the Agenda:

Q. Next Meeting: The next Regular Meeting will be held on Monday, November 25, 2019 at 6:00 pm

R. Adjournment:

* IF YOU REQUIRE SPECIAL ASSISTANCE TO ATTEND THE MEETING, PLEASE NOTIFY THE CITY OFFICE 24 HOURS IN ADVANCE AND ARRANGEMENTS WILL BE MADE *

Seldovia City Council Regular Meeting October 28, 2019

Contents Page

Pages 7-8	Ordinance 20-04 National Incident Management System- DRAFT
Pages 9-10	Resolution 20-10 Harbor Facility Grant Fund Program- DRAFT
Page 11	Resolution 20-11 Automatic Vessel Registration- DRAFT
Page 12	Resolution 20-12 Supporting Climate Change Measures in the KPB Comp Plan- DRAFT
Page 13	Resolution 20-13 Adopting the Emergency Operations Plan- DRAFT
Pages 14-16	Resolution 20-14 Online Sales Tax Commission- DRAFT
Pages 17-26	Attachment A- Intergovernmental Agreement
Page 27	Action Memorandum 20-04- Backer's Island Vacation
Page 28	Letter to the City of Seldovia- Re: Seldovia Island showing the vacation of Backer's Island Lane
Pages 29-49	KPB File 2019-109V Public Hearing Packet
Page 50	KPB Planning Commission Notice of Decision
Page 51	Letter- Friends of Alaska Marine Highway System

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**CITY OF SELDOVIA
ORDINANCE 20-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA,
REPEALING CHAPTER 2.24 CIVIL DEFENSE AND DISASTER CONTROL AND ADOPTING
CHAPTER 2.26 NATIONAL INCIDENT MANAGEMENT SYSTEM**

SECTION 1. CLASSIFICATION: This ordinance is permanent in nature and shall become a part of the Municipal Code of the City of Seldovia.

SECTION 2: SEVERABILITY: If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to another person or circumstances shall not be affected thereby.

SECTION 3. ENACTMENT: REPEALING CHAPTER 2.24 CIVIL DEFENSE ANF DISASTER CONTROL AND ADOPTING CHAPTER 2.26 NATIONAL INCIDENT MANAGEMENT SYSTEM BY REMOVING LANGUAGE IN ~~STRIKEOUT~~ AND ADDING LANGUAGE IN **HIGHLIGHT** TO READ AS FOLLOWS:

~~Chapter 2.24~~

~~Civil Defense and Disaster Control*~~

Sections:

~~2.24.010 Organization - Created - Staff.~~

~~2.24.020 Organization - Composition.~~

~~**2.24.010 Organization - Created - Staff.** There is created the civil defense organization for the City of Seldovia, Alaska, as an agency of said government to be composed of the Mayor and such other persons that he may appoint from time to time. The Mayor shall appoint a civil defense director and a staff to serve at the pleasure of the Mayor of the City. (Ord. 69-5 Sec. 2, 1969)~~

~~**2.24.020 Organization - Composition.** All city officers and employees of this city, together with those volunteer forces enrolled to aid them prior to or during a disaster shall constitute the civil defense organization, as provided by law. (Ord. 69-5 Sec. 2, 1969)~~

* For statutory provisions regarding local civil defense organizations, see AS Sec. 26.20.060 *et seq.*

Chapter 2.26

National Incident Management System

Sections:

2.26.010 National Incident Management System.

2.26.010. - National Incident Management System. The City of Seldovia hereby adopts the National Incident Management System (NIMS) as its system of preparing for and responding to disaster incidents. NIMS includes the use of the Incident Command System for responding to and management of disasters.

SECTION 4. EFFECTIVE DATE. This ordinance becomes effective upon its adoption by the City Council.

ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this ____ day of _____, 2019.

ATTEST:

Heidi Geagel, City Clerk

APPROVED:

Dean Lent, Mayor

Vote:
Colberg-
Campbell-
Morrison-
Rojas-
Nathan-
Sweatt-

**CITY OF SELDOVIA
RESOLUTION 20-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
IN SUPPORT OF FULL FUNDING (\$12,145,312) FOR THE STATE OF ALASKA
MUNICIPAL HARBOR FACILITY GRANT PROGRAM IN THE FY 2021 STATE
CAPITOL BUDGET**

WHEREAS, the City of Seldovia recognizes the majority of the public boat harbors in Alaska were constructed by the State during the 1960s and 1970s; and

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

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

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

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

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

WHEREAS, in response to this financial burden, the Governor and the Alaska Legislature passed legislation in 2006, supported by the Alaska Association of Harbormasters and Port Administrators, to create the Municipal Harbor Facility Grant program, AS 29.60.800; and

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

WHEREAS, the municipalities of the City of Cordova, City and Borough of Sitka, City of Ketchikan, City of Homer, City of Edna Bay, City of Kake, City and Borough of Juneau, and the Municipality of Anchorage have offered to contribute \$12,145,312 in local match funding for FY2021 towards seven harbor projects of significant importance locally as required in the Harbor Facility Grant Program; and

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

WHEREAS, during the last ten years the Municipal Harbor Facility Grant Program has only been fully funded twice; and

WHEREAS, during the last ten years the backlog of projects necessary to repair and replace these former state-owned harbors has increased to over \$100,000,000.

NOW THEREFORE: BE IT RESOLVED THAT: the City Council of the City of Seldovia urges full funding in the amount of \$12,145,312 by the Governor and the Alaska Legislature for the State of Alaska’s Municipal Harbor Facility Grant Program in the FY 2021 State Capitol Budget in order to ensure enhanced safety and economic prosperity among Alaskan coastal communities.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia, on this 14th day of October, 2019.

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

DRAFT

**CITY OF SELDOVIA
RESOLUTION 20-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
ENCOURAGING AUTOMATIC REGISTRATION FOR VESSELS ACTIVE IN THE
ALASKA CFEC DATABASE**

WHEREAS, derelict vessels are a large and growing problem in small boat harbors and ports across Alaska's Coast and rivers, resulting in increased costs to the public, environmental, and navigational hazards; and

WHEREAS, defining ownership and holding individuals responsible for their vessels has been identified as one of the top barriers to effective management to prevent derelict vessels; and

WHEREAS, in 2018 the legislature passed Senate Bill 92, the Derelict Vessel Act; and

WHEREAS, in addition to substantially re-writing and updating AS30.30, the derelict vessel chapter of state statute, SB92 addressed tracking vessel ownership through changes to AS05.25; and

WHEREAS, these changes expand vessel registration requirements in Alaska effective January 1, 2019 and, similar to Washington and other states, Alaska now requires federally documented vessels to also be registered with the state Department of Motor Vehicles; and

WHEREAS, the State of Alaska did not inform the newly regulated community nor do any outreach of any kind in advance of this change; and

WHEREAS, active fishermen around the state were caught unaware, and raised the fact that their vessels are already in the Commercial Fisheries Entry Commission Database; and

WHEREAS, the intent of SB92 was to better track vessel ownership in Alaska regardless of its engagement in a fishery and across the life of the vessel which is best accomplished through state registration; and

WHEREAS, vessel registration should be simple, creating minimal added burden to help effectively address the problem of identifying vessel ownership; and

NOW THEREFORE: BE IT RESOLVED THAT: the City Council of the City of Seldovia recommends an update to Alaska state statute directing vessels active in the Commercial Fisheries Entry Commission Vessel Database be automatically issued Alaska vessel registration numbers, and that the CFEC and the Division of Motor Vehicles create a system for information sharing to this end.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia, on this 14th day of October, 2019.

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

**CITY OF SELDOVIA
RESOLUTION 20-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
SUPPORTING THE INCLUSION OF PRACTICAL CLIMATE ADAPTATION AND
MITIGATION MEASURES IN THE KENAI PENINSULA BOROUGH'S 2019
COMPREHENSIVE PLAN**

WHEREAS, July 2019 was Alaska's hottest month on record, and

WHEREAS, this summer's temperature and rainfall are consistent with scientifically agreed-upon models of global climate trends that forecast such conditions could be common in the Kenai Peninsula Borough in the future, and

WHEREAS, the City of Seldovia declared a local disaster emergency on August 26, 2019 due to drought from extreme temperatures and lack of precipitation; and

WHEREAS, the Kenai Peninsula Borough managed three declared disasters this summer caused or exacerbated by increased temperatures and lack of rainfall, namely the Swan Lake Fire and the droughts in Seldovia and Nanwalek, and

WHEREAS, the Kenai Peninsula Borough is updating their 2005 Comprehensive Plan to address new challenges, seize opportunities for growth and prosperity, and coordinate efforts throughout the borough; and

WHEREAS, climate trends threaten the future of the Kenai Peninsula's economically and socially important salmon runs by depleting water levels and raising temperatures in Cook Inlet streams; and

WHEREAS, a climate adaption plan and other climate adaption mitigation measures are included in the Kenai Peninsula Borough 2019 Comprehensive Plan Draft.

NOW THEREFORE: BE IT RESOLVED THAT: the City Council of the City of Seldovia supports inclusion of practical climate adaptation and mitigation measures in the borough's 2019 comprehensive plan.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia, on this 28^h day of October, 2019.

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

**CITY OF SELDOVIA
RESOLUTION 20-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
ADOPTING THE CITY OF SELDOVIA EMERGENCY OPERATIONS PLAN**

WHEREAS, the City of Seldovia has developed an Emergency Operations Plan (EOP) draft that was circulated through key staff, emergency personnel, a work group, and the Kenai Peninsula Borough; and

WHEREAS, the EOP describes the system that will be used to manage the mitigation of, preparation for, response to, and recovery from natural and man-caused disaster emergencies including oil spills and hazardous substance releases; and

WHEREAS, the EOP is an all-hazard, all-risk plan based on the National Incidents Management System (NIMS) for comprehensive management of disaster emergency relief forces and disaster emergency operations; and

WHEREAS, the EOP is intended to meet disaster emergency planning requirements of all federal, state, borough, and city agencies and departments having jurisdiction over such matters and enables each level of government to integrate with other levels, public agencies, and with private sector resource providers under the NIMS Incident Command System; and

WHEREAS the EOP will be activated whenever there is a disaster emergency that could significantly threaten human health, property, or the environment; and

WHEREAS, upon declaration of a disaster emergency, the designated person responsible for disaster emergency management would be authorized to commit the resources necessary to carry out the provisions of the plan; and

WHEREAS, the EOP is intended to be used as a reference and training aid for municipal, regional, industry and other emergency response personnel to ensure efficient and effective response to and management of disaster emergencies; and

WHEREAS, the EOP is considered a living document and should be continuously updated and revised to reflect lessons learned during drills and actual incidents; and

NOW, THEREFORE, BE IT RESOLVED THAT: the City Council of the City of Seldovia, Alaska; adopts the City of Seldovia Emergency Operations Plan and authorizes the City Manager to forward the documents to the Kenai Peninsula Borough, the State of Alaska, and other organizations as appropriate.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia on this 28th day of October, 2019

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

**CITY OF SELDOVIA
RESOLUTION 20-14**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
AUTHORIZING THE CITY MANAGER TO JOIN THE ALASKA REMOTE SELLER
SALES TAX COMMISSION FOR THE PURPOSE OF DEVELOPING,
IMPLEMENTING, AND ENFORCING A REMOTE SELLERS SALES TAX CODE**

WHEREAS, the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska in response to orders placed electronically by consumers with remote sellers, is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the state has no broad-based tax, and sales tax revenues are essential in funding the provision of services by local governments; and

WHEREAS, the failure to collect tax on remote sales creates market distortions by creating tax shelters for businesses that limit their physical presence in the state or cities and boroughs but still sell their goods and services to their consumers, something that becomes easier and more prevalent as technology continues to advance; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring and is a growing problem that is likely to only worsen in the near future; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy generally, as well as local infrastructure; and

WHEREAS, given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and

WHEREAS, the recent decision by the United States Supreme Court in *South Dakota v. Wayfair* allows for the amendment of the sales tax code to account for remote sellers who do not have a physical presence in either the state of Alaska or within the City of Seldovia, but do have a taxable connection with the state of Alaska and the City of Seldovia; and

WHEREAS, the decision in *South Dakota v. Wayfair* provided guidance that included the defensibility of a single-level statewide administration of remote sales tax collection and remittance; and

WHEREAS, in order to implement a single-level statewide sales tax administration, it is the intent of local taxing jurisdictions within Alaska to establish an intergovernmental entity known as the Alaska Remote Seller Sales Tax Commission (the “Commission”); and

WHEREAS, the function and powers of the Commission will be set forth under the Alaska Intergovernmental Remote Seller Sales Tax Agreement (the “Agreement”), a cooperative agreement between Commission members; and

WHEREAS, under the terms of the Agreement, in order to maintain membership in the Commission, the City of Seldovia will be required to adopt certain uniform code provisions for the collection and remittance of municipal sales tax applicable to sales made by remote seller; and

WHEREAS, the uniform remote sales tax code will be presented to the City Council of the City of Seldovia for consideration once adopted by the Commission; and

WHEREAS, once adopted, the administration of remote sales tax collection and remittance will be delegated to the Commission; and

WHEREAS, the intent of the Agreement is to enable Alaska’s taxing jurisdictions to levy their municipal sales tax to the maximum limit of federal and state constitutional doctrines.

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

Section 1. Authorization. The City Council of the City of Seldovia authorizes the City Manager to negotiate, execute, and submit all necessary documents to obtain and maintain membership in the Alaska Remote Seller Sales Tax Commission.

Section 2. Representation. The City Council of the City of Seldovia designates the City Manager as the City of Seldovia’s representative on the Commission.

Section 3. Scope of Agreement. The Alaska Intergovernmental Remote Seller Sales Tax Agreement is included as Attachment A.

Section 4. Effective Date. This resolution shall be effective immediately after its adoption.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia on this 28th day of October, 2019

ATTEST:

Heidi Geagel, City Clerk

APPROVED:

Dean Lent, Mayor

DRAFT

Alaska Intergovernmental
Remote Seller
Sales Tax Agreement

FINAL DRAFT

October 11, 2019

Alaska Intergovernmental Remote Seller Sales Tax Agreement

This Agreement is made and entered into by the signatories representing Alaska's cities and boroughs to enable them to implement single-level, statewide administration of remote sales tax collection and remittance. The provisions of the Agreement do not apply to administration and collection of sales taxes for the sales of goods and services originating from within the boundaries of a member municipality nor does this Agreement restrict how a member municipality administers and collects sales tax on such sales, nor on sales made by those retailers with a physical presence in the municipality. The authority to set rates and exemptions is maintained by the member municipality.

Commented [NA1]: The software vendor has asked if we want to start out just with inter-state sales, vs. intrastate. Does this proviso here apply to that, or how are we clearly delineating inter- vs. intra- state sales?

Commented [NA2]: Does this make sense here, to affirm clearly up front for local governments that this is the case?

Article I. Background Principles.

1. The signatories wish to enable local governments to benefit from opportunities for collection of existing sales tax on sales made by remote sellers. Remote sellers are sellers who sell, often through the internet, products or services in a taxing jurisdiction without having a physical presence in the taxing jurisdiction.
2. The collection of remote sales tax provides a level playing field for local businesses and strengthens the ability of local governments to provide public services and infrastructure.
3. The signatories are particularly mindful of the specific holding in, and implications of, the Supreme Court's *South Dakota v. Wayfair* decision, which provides guidance relative to nexus and the legal defensibility of a single-level statewide administration that reduces or removes potential burdens to interstate commerce.
4. Alaska's local governments have the authority to enter into intergovernmental agreements and applicable taxing authority has been delegated to organized boroughs and cities.
5. The signatories desire to establish an intergovernmental entity to enable cooperative centralized administration of sales tax collection, remittance, and enforcement on sales made by remote sellers.

Article II. Purpose.

The purpose of this Agreement is to:

1. Enable cooperative centralized administration of sales tax collection, remittance, and enforcement on sales made by remote sellers using a single statewide intergovernmental entity;
2. Provide for and promote reasonable uniformity and compatibility in significant components of local sales tax levy and collection on sales made by remote sellers in order to facilitate streamlined joint administration; and
3. Facilitate taxpayer and tax collector convenience and compliance in the filing of tax returns, the payment of tax, and in other phases of tax administration of sales made and services provided by remote sellers.

Article III. Definitions.

As used in this Agreement:

1. "Commission" means the Alaska Remote Seller Sales Tax Commission established pursuant to this Agreement.
2. "Local Government" means any home rule, first class, or second class borough, or any home rule, first class, or second class city, or unified municipality in Alaska.
3. "Member" means a Local Government signatory to this Agreement.
4. "Remote seller" means any corporation, partnership, firm, association, governmental unit or agency, or person acting as a business entity that sells property or products, or performs services in the State of Alaska or a taxing municipality in the state, using the internet, mail order, or telephone, without having a physical presence in the state or taxing municipality. The term "remote seller" shall also refer to those acting as marketplace facilitators.
5. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of property or the rendering of services measured by the price of the property transferred or services provided.
6. "Marketplace facilitator" means a person that contracts with sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products or services (excluding lodging and rentals) through a physical or electronic marketplace operated by the person, and engages:
 - a. Directly or indirectly, through one or more affiliated persons in any of the following:
 - i. Transmitting or otherwise communicating the offer or acceptance between the buyer and seller;
 - ii. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and sellers together;
 - iii. Providing a virtual currency that buyers are allowed or required to use to purchase products from the seller; or
 - iv. Software development or research and development activities related to any of the activities described in (b) of this subsection (3), if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person;
 - b. In any of the following activities with respect to the seller's products:
 - i. Payment processing services;

Commented [NA3]: Do we want to remove this since they would be tax exempt?

- ii. Fulfillment or storage services;
- iii. Listing products for sale;
- iv. Setting prices;
- v. Branding sales as those of the marketplace facilitator;
- vi. Order taking;
- vii. Advertising or promotion; or
- viii. Providing customer service or accepting or assisting with returns or exchanges.

Article IV. The Commission.

1. Organization and Management.

- a. The Alaska Remote Seller Sales Tax Commission (the “Commission”) is hereby established as an intergovernmental entity in the state of Alaska. It will be comprised of one designated representative from each Member, who shall have the authority to act on the Member’s behalf.
- b. Each Member will be entitled to one vote.
- c. To assist conducting business when the full Commission is not meeting, the Commission will annually elect a Board of Directors of seven members, including officers. The Board of Directors will act subject to the provisions of this Agreement and as provided in the bylaws of the Commission, as ratified by the members.
- d. No action will be binding unless approved by a majority of the Directors present at a meeting.
- e. The Commission will adopt an official logo.
- f. The Commission will hold an annual meeting rotating the location of the meeting each year, with telephonic participation provided for, in addition to scheduled regular meetings and special meetings as provided by its bylaws. Notices of special meetings must include the reasons for the meeting and the items to be considered.
- g. The Commission will elect annually, from among its members, a Chairman, a Vice Chairman, and a Secretary/Treasurer. The bylaws of the Commission shall provide for nomination and election of officers.
- h. The Commission will contract at formation for support and administrative

functions with the Alaska Municipal League (AML). The Executive Director of the AML will serve as a liaison between the Commission and AML and may appoint necessary staff support. This provision will be revisited within three years of legal formation of the Commission.

- i. The Commission may contract for supplies and professional services, and delegates to AML the same ability on its behalf.
- j. To carry out any purpose or function, the Commission may accept and utilize donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any Member or governmental entity.
- k. The Commission may establish one or more offices for the transacting of its business. Upon formation, its registered office and place of business will be the Alaska Municipal League at One Sealaska Plaza, Suite 200, Juneau, AK 99801.
- l. The Members will adopt the initial bylaws of the Commission. The Commission will make its bylaws easily accessible for Members and prospective members. The power to adopt, alter, amend or repeal bylaws is vested in the Board of Directors unless it is reserved to the Members per the bylaws. The bylaws shall contain provisions for the regulation and management of the affairs of the Commission not inconsistent with this Agreement.
- m. The Commission will provide annual reports to its members covering its activities for the preceding fiscal year. The Commission may make additional reports.

2. Committees.

- a. In furtherance of its activities, the Commission may establish advisory and technical committees by a majority vote of the membership body. Membership on a technical committee, may include private persons and public officials. Committees may consider any matter of concern to the Commission, including issues of special interest to any member and issues pertaining to collection of sales tax on behalf of members.
- b. The Commission may establish additional committees by a majority vote of the membership or Board of Directors as its bylaws may provide.
- c. Committees may not take any action but may recommend action to the Board of Directors for consideration.

3. Powers.

In addition to powers conferred elsewhere in this Agreement and in the bylaws, the Commission may:

- a. Study federal, state and local sales tax systems, and particular types of state and local taxes.

- b. Develop and recommend proposals to promote uniformity and compatibility of local sales tax laws with a view toward encouraging the simplification and improvement of local tax law and administration.
- c. Compile and publish information to support and assist members in implementing the Agreement or assist taxpayers in complying with local government sales tax laws.
- d. Do all things necessary and incidental to the administration of its functions pursuant to this Agreement, including:
 - i. Sue and be sued.
 - ii. Administer provisions of uniform sales tax ordinances pursuant to authority delegated by Members
- f. The Commission may create and adopt policies and procedures for any phase of the administration of sales tax collection and remittance in accordance with this Agreement and the Commission's bylaws, including assertion of jurisdiction to administer taxation or prescribing uniform tax forms. Prior to the adoption of any policy, the Commission will:
 - 1. As provided in its bylaws, hold at least one meeting after due notice to all affected members and to all taxpayers and other persons who have made timely requests to the Commission for advance notice of its policy-making proceedings.
 - 2. Afford all affected members and interested persons an opportunity to submit relevant written comments, which will be considered fully by the Commission.
- g. The Commission will submit any policy adopted by it to the designated representative of all Members to which they might apply. Each such Member will in turn consider any such policy for adoption in accordance with its own laws and procedures.

4. Finance.

- a. At least 90 days prior to the start of a new fiscal year, the Commission will submit a budget of its estimated expenditures for the upcoming fiscal year to the Board of Directors.
- b. The Commission will follow a July 1 to June 30 fiscal year.
- c. The Commission's budgets must contain specific recommendations for service fees built into statewide administration. Service fees will account for direct staff and software costs, and indirect costs, as justifiable to the Board of Directors.
- d. The Commission will not pledge the credit of any member. The Commission may

meet any of its obligations in whole or in part with funds available to it, provided that it takes specific action to set aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it, the Commission may not incur any obligation prior to the allocation and commitment of funds adequate to meet the same.

- e. The Commission must keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission will be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission will be audited annually by a certified public accountant and the report of the audit will be included in and become part of the annual report of the Commission to Members.
- f. The accounts of the Commission will be open at any reasonable time for inspection by duly constituted officers of the Members, the State of Alaska, and by any persons authorized by the Commission.
- g. Nothing contained in this Article may be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article V. Membership Requirements; Remote Seller Sales Tax Code

1. To obtain and retain full membership, the Local Government must submit either an Ordinance or Resolution authorizing entry into the Agreement, including to:
 - a. Designate the individual at the municipality that may execute initial binding documents on behalf of the municipality and who will be the Member's representative on the Commission.
2. Once the Commission adopts its bylaws and adopts a uniform Remote Sellers Sales Tax Code, members must submit an Ordinance or Resolution that:
 - a. Delegates remote seller sales tax registration, exemption certification, collection, remittance, and audit authority to the Commission.
 - b. Adopts, by reference or otherwise, the Remote Seller Sales Tax Code in its entirety as it pertains to collection of sales tax from remote sellers. The Remote Seller Sales Tax Code is provided as "Addendum A".
3. To retain full membership status, changes made to the Agreement or Code should be ratified by the Member within ninety (90) days.
4. The Member must provide notice of tax or boundary changes to the Commission and must assure the Commission of the accuracy of rates and exemptions. Rate and exemption changes will take effect within thirty (30) days.

Article VI. Sales Tax Collection and Administration

1. Collection; Registration; Remittance.

- a. Every remote seller, including marketplace facilitators, meeting the Threshold Criteria of \$100,000 in annual sales or 100 annual transactions occurring in Alaska, shall collect sales taxes from the buyer at the time of sale or service and shall transmit the sales taxes collected to the Commission on a monthly basis.
- b. The Commission will thereby follow local tax codes in its remittance and reporting.
- b. A remote seller or marketplace facilitator meeting the Threshold Criteria shall apply for a certificate of sales tax registration within thirty (30) calendar days of the adoption of this Remote Seller Sales Tax Code and/or within thirty (30) calendar days of meeting the threshold, whichever occurs later. Registration shall be to the Commission on forms prescribed by the Commission as set out in the remote seller sales tax code.
- c. Upon receipt of a properly executed application, the Commission shall issue the applicant a certificate of registration, stating the legal name of the seller, the primary address, and the primary sales tax contact name and corresponding title. A list of registered sellers in good standing shall be distributed to Members, made public and available on the Commission's webpage.

2. Returns; Confidentiality.

- a. The Commission will provide all sales tax return information to the taxing jurisdiction, consistent with local tax codes.
- b. All returns, reports and information required to be filed with the Commission under this Code, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:
 - i. Employees and agents of the Commission and taxing jurisdiction whose job responsibilities are directly related to such returns, reports and information;
 - ii. The person supplying such returns, reports and information; or
 - iii. Persons authorized in writing by the person supplying such returns, reports and information.

3. Title; Penalty and Interest; Overpayment.

- a. Upon collection by the seller, title to the sales tax vests in the Commission and the member on whose behalf the original tax arose. The Commission shall act as a third-party trustee and remit taxes collected on behalf of the member no later than

thirty (30) days after each filing deadline.

- b. The Remote Sellers Sales Tax Code shall establish the per annum interest rate and any applicable penalties for late or non-compliant remote sellers.
- c. Upon request from a buyer or remote seller the Commission shall provide a determination of correct tax rate and amount applicable to the transaction. In the case of an overpayment of taxes, the remote seller shall process the refund and amend any returns accordingly.

4. Audit; Compliance and Enforcement.

- a. The Commission shall have sole audit authority and will make final determinations regarding: (1) whether a remote seller meets Threshold requirements; (2) the accuracy of returns filed by a remote seller or marketplace facilitator with the Commission; and (3) whether a remote seller filing returns with the Commission is in compliance with collection and remittance obligations.
- b. The Commission shall have authority to enforce issues relating to the Remote Sellers Sales Tax Code including, but not limited to, the collection of late fees and penalties, and filing of civil suits and injunctions.

Article VII. Entry into Force and Withdrawal.

- 1. This Agreement will be in force and effective when formally approved by any seven signatories, and will terminate if membership falls below seven.
- 2. Any Member may withdraw from this Agreement through ordinance or resolution rescinding signatory action and giving notice to the Commission of the effective date of the ordinance, with a minimum of 30 days' notice. Withdrawal will not affect any liability already incurred by or chargeable to a Member prior to the effective date of such withdrawal. The obligations of the Commission to remit and report remain until no longer necessary.

Article VIII. Effect on Other Laws and Jurisdiction.

Nothing in this Agreement may be construed to:

- 1. Affect the power of any local government to fix rates or tax exemptions, except that all members must adopt and implement the Commission's common definitions and tax code changes, or demonstrate parity or non-applicability.
- 2. Withdraw or limit the authority of local government with respect to any person, corporation, or other entity or subject matter, except to the extent that such authority is expressly conferred by or pursuant to this Agreement upon another agency or body.

3. Supersede or limit the jurisdiction of any court of the State of Alaska.

Article IX. Construction and Severability.

This Agreement shall be liberally construed so as to effectuate its purposes. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision is declared or held invalid by a court of competent jurisdiction, the validity of the remainder of this Agreement and its applicability to any government, agency, person or circumstance will not be affected. If any provision of this Agreement is held contrary to the charter of any member, the Agreement will remain in full force and effect as to the remaining members and in full force and effect as to the Member affected in all other provisions not contrary to charter.

Approved	Denied
Public Hearing:	10/28/2019
Date Action Taken:	
Attest:	

**CITY OF SELDOVIA
ACTION MEMORANDUM 20-04**

Title: Consent to the approval of the Vacation of the 30-foot wide Backer's Island Lane right-of-way.

Agenda of: October 28, 2019

Originator: Heidi Geagel, City Clerk

Date: 10/23/2019

Route to:	Department Head	Signature	Date
X	City Clerk	<i>Heidi Geagel</i>	10/23/2019
X	City Manager		
X	Public Works	<i>J. J.</i>	10/23/2019

Attachment(s):

- Letter to the City of Seldovia- Re: Seldovia Island showing the vacation of Backer's Island Lane
- KPB File 2019-109V Public Hearing Packet
- KPB Planning Commission Notice of Decision

Summary Statement:

During their regularly scheduled meeting of October 14, 2019, the Kenai Peninsula Borough Planning Commission granted approval of the Backer's Island Lane vacation based on the findings of facts and conditions.

During their regularly scheduled meeting of September 04, 2019 the Seldovia Planning Commission approved the vacation of the Backer's Island Lane and the replat of Seldovia Island 2019.

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The City Council has 30 days from October 14, 2019 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

ABILITY SURVEYS

MEASURING MAPPING & REPORTING ON ALASKA'S INFRASTRUCTURE SINCE 1978

152 DEHEL AVE., HOMER, AK 99603 PH. 907-235-8440

email; gary@abilitysurveys.com

October 18, 2019

Seldovia City Council
C/o City Clerk
P.O. Drawer B
Seldovia, AK 99663

Re: Seldovia Island 2019 showing the vacation of Backer's Island Lane.

Please schedule and take action to approve the vacation of Backer's Island Lane right-of-way as shown on the enclosed plats. I have enclosed 1 full sized copy of the plat and 7 reduced copies for the City Council members. The City Council's approval is required by Kenai Peninsula Borough ordinance to complete the plat/vacation action. I hope it can be scheduled for the next City Council meeting.

The Seldovia Planning Commission and Kenai Peninsula Borough Planning Commission have already approved of the right-of-way vacation.

I thank you all for your volunteer service.

Sincerely,



Gary Nelson, PLS

F. PUBLIC HEARINGS

- 2. Vacate Backer's Island Lane, a public right-of-way, and associated utility easements located in the City of Seldovia.**

KPB File 2019-109V

Petitioner: Precious Earth, Inc.

AGENDA ITEM F. PUBLIC HEARINGS

2. Vacating Backer's Island Lane a 30 foot Public Right of Way containing 0.311 acres dedicated by plat Seldovia Island, SL 2007-4 and vacate the associated utility easement described as the front 10 feet of the 20 foot setback and the full 20 feet within 5 feet of the side lot lines adjoining Backer's Island Lane as dedicated by plat Seldovia Island, SL 2007-4. The right-of-way being vacated is unconstructed and located within the S/E 1/4 of Section 31, Township 8 South, Range 14 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-109V.

STAFF REPORT

PC Meeting: 10/14/19

Purpose as stated in petition: Application to constructors to right-of-way has been denied by City, Corps of Engineers, & DNR. Therefore, owner feels the right-of-way and lots it serves are no longer feasible or desired. Surrounding water and tidelands are the only real and actual means of access to the land except for two adjoining private lands. Owner desires privacy and there is no longer a need for public access onto property. The right-of-way does not serve any other properties or the public for any sort of through fare, and as such does not provide access to public waters.

Petitioner: Precious Earth, Inc.

Notification: Public notice appeared in the October 3, 2019 issue of the Homer News as a separate ad. The public hearing notice was published in the October 10, 2019 issue of the Homer News as part of the Commission's tentative agenda.

3 certified mailings were sent to owners of property within 300 feet of the proposed vacation. 0 receipts had been returned when the staff report was prepared.

Public hearing notices were sent by regular mail to 3 owners within 600 feet of the proposed vacation.

11 public hearing notices were emailed to agencies and interested parties.

Public hearing notices were made available to 6 KPB staff/Departments via a shared database.

Notices were mailed to the Seldovia Post Office and Seldovia Public Library with a request to be posted in public locations.

The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

ACS: No objections.

ENSTAR: No comments, recommendations, or objections.

Homer Electric Association:

KPB Addressing: 222 Backer's Island Ln will be removed from the system. Lot 1A will need a new remote address.

KPB Planning: No material site or local option zone issues. A review is not required for property inside city limits.

KPB River Center: This subdivision is located within a flood hazard area. Flood Zone A per FIRM map panel 020012-5045A. This subdivision is not located within a Habitat Protection District.

Page 1 of 5

KPB Roads Department: No comments.

State Parks: No comments.

Seldovia Planning Commission: The Seldovia Planning Commission recommended approval of the vacations on September 4, 2019.

Staff Discussion: Lots 1-5, SL 2007-4, are located on a peninsula in Seldovia Bay. A narrow strip of land connects the peninsula to the mainland. Each lot has waterfront access to Seldovia Bay or the Seldovia Slough. Backers Island Lane is a 30' wide right-of-way that extends northwest from the east side of the peninsula's waterfront to provide land access to Lots 1-5, SL 2007-4. The petition proposes to combine Lots 1-5, SL 2007-4, into one 7.289 acre lot. Backers Island Lane would then extend into the end of peninsula and be surrounded by one lot. Backers Island Lane would no longer provide land access to any lots.

Per the Seldovia Planning Commission, the right-of-way is no longer needed.

KPB 20.70 – Vacation Requirements.

Platting staff comments: *Staff reviewed the vacation and all the items required by 20.70 were met, unless otherwise noted below:*

20.70.050. Petition—Information required.

- B. Persons listed on the borough assessor's tax roll shall be deemed the legal owners for purposes of the vacation petition. **The petition shall include a statement containing the reasons in support of the vacation** and be accompanied by a minimum of three copies of a sketch clearly indicating the proposed vacation, submitted to the planning department at least 30 calendar days in advance of the meeting at which it will be considered. In cases where encroachments on public rights-of-way are in question, an as-built survey, sealed by a surveyor, is required showing the improvements, existing travel ways, amount of encroachment, and any other submittal as requested by the planning commission. **The burden of proof shall lie with the petitioner to support the vacation.**

Petitioner Comments: Application to constructors to right-of-way has been denied by City, Corps of Engineers, & DNR. Therefore, owner feels the right-of-way and lots it serves are no longer feasible or desired. Surrounding water and tidelands are the only real and actual means of access to the land except for two adjoining private lands. Owner desires privacy and there is no longer a need for public access onto property. The right-of-way does not serve any other properties or the public for any sort of through fare, and as such does not provide access to public waters.

- C. In areas where right-of-way is being vacated due to excessive topographic features, a contour map or centerline profile and/or right-of-way cross sectional view may be required by the commission to substantiate the unusable right-of-way and show alternate and dedicated routes to insure ingress and egress to adjacent lands.

Platting Staff Comments: The petition included a plat with shading for areas with slopes steeper than 20%. The portion of the right-of-way extending west from the Seldovia Slough is affected by slopes steeper than 20%. KPB Four Foot Contours are not available for the affected area.

- D. If the proposed vacation lies within the boundaries of an incorporated city, comments from the city advisory planning commission must be submitted with the petition.

Platting Staff Comments: The Seldovia Planning Commission recommended approval of the vacation on September 4, 2019.

20.70.130. Vacation plat—Preparation, approval and recording. Upon approval of the vacation request by the planning commission and no veto by the city council or assembly, the applicant shall have a surveyor prepare and submit a plat including the entire area approved for vacation in conformance with KPB

20.10.080. Only the area approved for vacation by the assembly or council may be included on the plat. The final plat must be recorded within one year of the vacation consent in KPB 20.70.110.

Platting Staff Comments: If approved, Seldovia Island 2019 (KPB 2019-109), will finalize the proposed right-of-way and associated utility easement vacations, while combining five lots into one lot. The Plat Committee is tentatively scheduled to review Seldovia Island 2019 on October 28, 2019.

20.70.170. Vehicular Access. The planning commission shall not approve the vacation of a right-of-way unless an equal or superior right-of-way for vehicular access exists or will be provided in exchange. Where two or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider density, use, projected development, and maintain sufficient rights-of-way to serve potential use.

Platting Staff Comments: No equal or superior right-of-way for vehicular access is provided. In addition, no equal or superior alternative vehicular access exists. No rights-of-way leads to the peninsula and the thin strip of land connecting the peninsula to the mainland is unlikely to support construction of a road for vehicular access.

However, per the petition and aerial imagery, the right-of-way is not used for vehicular access. Per the petition, applications to construct the right-of-way were denied by the City, the Corps of Engineers, and DNR.

In addition, the 30' half right-of-way is unlikely to support vehicular access. While Kenai Watershed Forum Wetlands mapping is not available for the affected area, National Wetlands Inventory mapping indicates the eastern portion of Backers Island Lane is affected by estuarine and marine wetlands. The northernmost portion of the right-of-way is within Floodplain Zone A and affected by a Flood Hazard Area Zone A per FEMA FIRM panel #020012-5045A. Also, per the petition, the portion of the right-of-way extending west from the Seldovia Slough is affected by slopes steeper than 20%.

Lastly, the petition proposes to combine Lots 1-5, SL 2007-4, into one lot. Backers Island Lane would then extend into the end of a peninsula and be surrounded by one lot. Backers Island Lane would no longer provide land access to any lots.

Per the Seldovia Planning Commission, the right-of-way is no longer needed.

Staff recommendation: *The Planning Commission concur that, because vehicular access to the parcels fronting Backers Island Lane and adjacent parcels does not currently exist, equal vehicular access will exist if Backers Island Lane is vacated.*

20.70.180. Other access. Other lawful uses that exist or are feasible for the right-of-way shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available. The planning commission shall consider whether alternate uses present public safety issues which support approval of the vacation.

Platting Staff Comments: Per the petition, the right-of-way is not used by pedestrians or for other uses.

However, SL 2007-4 notes that a private access trail extends into Backers Island Lane for use of Lots 1-4. This would indicate that pedestrian and other uses are feasible within the proposed vacation. In addition, the wetlands, floodplain and flood hazard area, and steep slopes affecting the right-of-way, along with its substandard 30' width, indicate that the right-of-way is not suited for general road use. Therefore, equal or superior access must exist or be provided.

Pedestrian or other uses could currently occur within the right-of-way. For example, the public could dock a boat from the Seldovia Slough and hike to the interior of the peninsula. The right of way is surrounded by private lands and there is no public destination that the right of way provides access for. The petition does not propose equal or superior alternative access.

However, per the proposed replat, the existing access would only provide access to the interior of one private parcel. Equal alternate access to the parcel by water is available. In addition, the alternate uses within a right-of-way extending into the interior of this single parcel raise public safety issues that may result from potential trespasses, flood hazards, and the steep slopes located within the right-of-way. Lastly, the Seldovia Planning Commission determined that the right-of-way is no longer needed.

Staff recommendation: *The Planning Commission concur that equal access to the proposed replat exists by water and concur that public safety issues resulting from potential trespass, flood hazards, and the steep slopes within the right-of-way support approval of the vacation.*

20.70.190. Utility provisions. All existing and future utility requirements shall be considered when evaluating a vacation request. Rights-of-way which are utilized by a public utility or which logically would be required by a public utility shall not be vacated, unless it can be demonstrated that equal or superior access is or will be available. Where an easement would satisfactorily serve the utility interests, and no other public need for the right-of-way exists, the commission may approve the vacation and require that a public utility easement be granted in place of the right-of-way.

Platting Staff Comments: The petition proposes to vacate the 10' wide utility easements adjoining the right-of-way that extend to 20' within 5' of side lot lines. Per the petition, the utility easements are not in use by any utility company.

The utility easement provided utility access to Lots 1-5, SL 2007-4. The replat renders the utility easements moot.

The existing 30 foot utility easement, centered on the existing overhead electric lines, will remain.

The affected utility providers were emailed the vacation public hearing notice as part of the routine notification process.

Staff recommendation: *Grant any utility easements requested by utility providers.*

20.70.200. Waterfront access provisions. A right-of-way which serves to provide access to public waters shall not be vacated unless such a right-of-way is wholly impractical to all modes of transport including pedestrian or the use of such right-of-way causes damage to the right-of-way, adjacent properties, the waterbody or the watercourse, or threatens public safety which cannot otherwise be corrected and where such continued damage or threat would be contrary to the public interest.

Platting Staff Comments: Backers Island Lane provides access to the public waters of the Seldovia Slough to Lots 1-5, SL 2007-4. These are the only parcels that Backers Island Lane provides water access to. However, each lot also fronts and has access to the Seldovia Slough. The proposed replat would result in a right-of-way that does not provide access to public waters to any lots.

Staff recommendation: *The Planning Commission concur that the proposed replat will result in a right-of-way which does not serve to provide access to public waters and would comply with KPB 20.70.200.*

STAFF RECOMMENDATION: Based on the above means of evaluating public necessity established by KPB 20.70, the merits of the proposed vacations, and staff comments, **staff recommends** approval of the vacations as petitioned, subject to:

1. Consent by Seldovia City Council.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Seldovia City Council and utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

KPB 20.70.110:

A vacation of a city street, public right-of-way, public area, or public easement located within an incorporated city may not be approved without the consent of the city council.

The Seldovia City Council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received by the planning director within the specified period, the city or borough shall be considered to have given consent to the vacation.

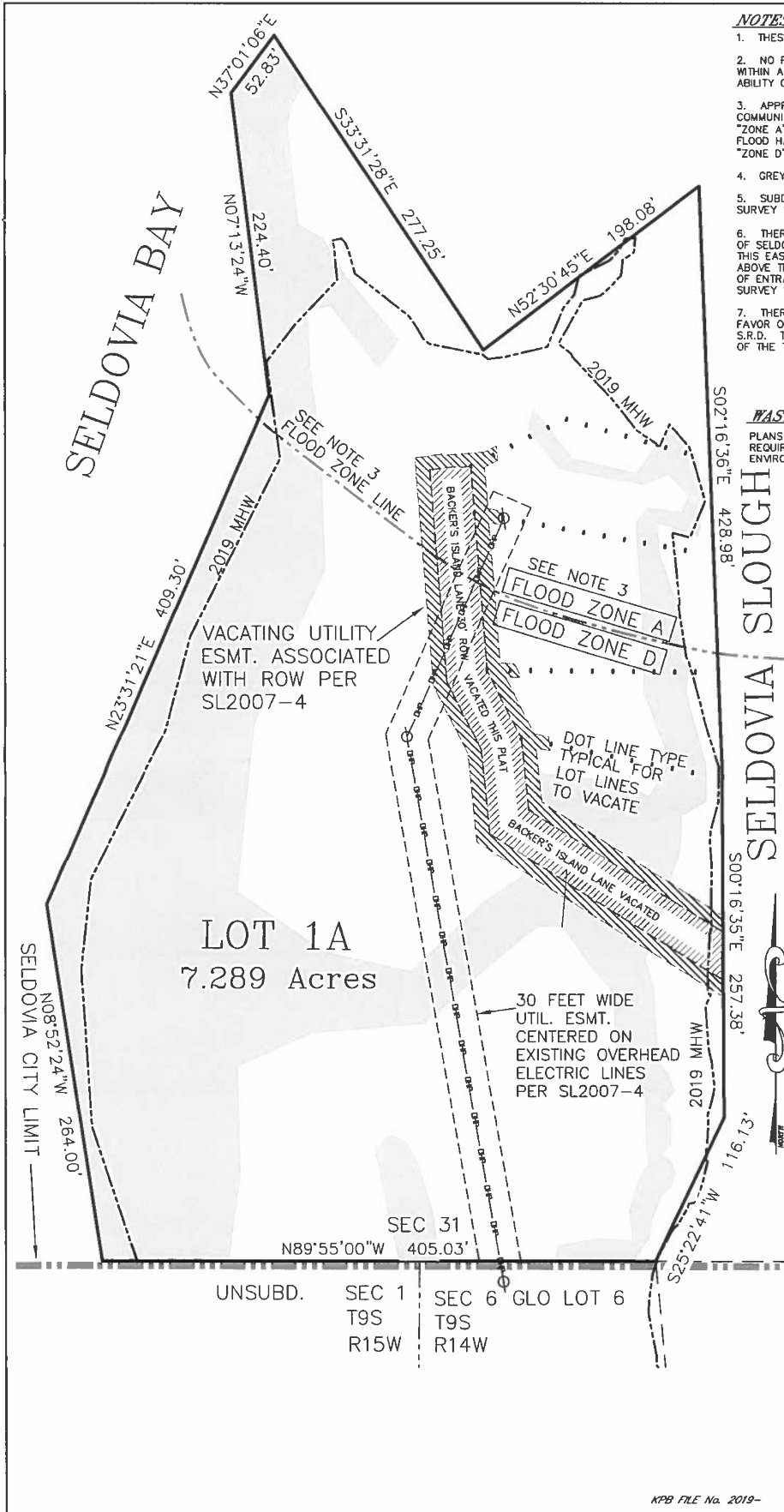
KPB 20.70.120:

- A. Denial of a vacation petition is a final act for which no further consideration shall be given by the Kenai Peninsula Borough.**
- B. Upon denial by the planning commission, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.**

KPB 20.70.130:

THE FINAL PLAT MUST BE RECORDED WITHIN ONE YEAR OF THE VACATION CONSENT IN KPB 20.70.110.

END OF STAFF REPORT



NOTES

1. THESE LOTS ARE SUBJECT TO SELDOVIA CITY CODE.
2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. APPROXIMATE FLOOD ZONE DEFINITION FROM FEMA F.I.R.M. COMMUNITY PANEL #020012-5045A MAY 19, 1981.
"ZONE A": AREA OF 100-YEAR FLOOD. BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS NOT DETERMINED.
"ZONE D": AREA OF UNDETERMINED, BUT POSSIBLE FLOOD HAZARDS.
4. GREY SHADING REPRESENTS SLOPES STEEPER THAN 20%.
5. SUBDIVISION BOUNDARY IS PER SL2007-4, ATS 219, AND U.S. SURVEY 1771, FIXED BY 1964 EARTHQUAKE.
6. THERE IS AN INGRESS/EGRESS EASEMENT IN FAVOR OF THE CITY OF SELDOVIA RECORDED IN BOOK 6, PAGE 90 AND PAGE 94 S.R.D. THIS EASEMENT IS DESCRIBED AS HAVING A WIDTH OF 20 FEET ABOVE THE HIGHEST TIDE LEVEL AT A SUITABLE PLACE FOR MEANS OF ENTRANCE AND EGRESS FROM THE LAND SIDE OF TRACT C, U.S. SURVEY 1771.
7. THERE IS AN EASEMENT FOR A BREAKWATER AND MATERIALS IN FAVOR OF THE CITY OF SELDOVIA RECORDED IN BOOK 6, PAGE 89, S.R.D. THIS EASEMENT IS DESCRIBED AS BEING LOCATED ON EITHER OF THE TWO NORTHERN POINTS OF TRACT C, U.S. SURVEY 1771.

WASTEWATER NOTE

PLANS FOR WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS, ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

CERTIFICATE OF OWNERSHIP

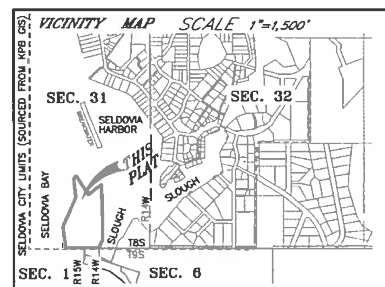
I hereby certify that Precious Earth Inc. is the owner of the real property shown and described hereon, and that Precious Earth Inc. does hereby adopt this plan of subdivision, and by its free consent dedicate all public rights-of-way and grant all easements and public areas to the use shown.

Gregory W. Davis, President and Chairman
PRECIOUS EARTH INC.
P.O. BOX 10808
BAKERSFIELD, CA 93389

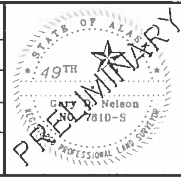
PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of _____ KENAI PENINSULA BOROUGH

BY _____
Authorized Official



DATE	7/31/2019
SCALE	1"=100'
JOB No.	5144
DRAWING:	5144PLAT.dwg



SELDOVIA ISLAND 2019
VACATING BAKER'S ISLAND LANE AND REVERTING TO ACREAGE BY VACATING LOTS 1 THROUGH 5 OF SELDOVIA ISLAND (SL2007-4), WITHIN THE SE1/4 SECTION 31, T9S, R14W, S4, CITY OF SELDOVIA, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, SELDOVIA RECORDING DISTRICT, ALASKA CONTAINING 7.289 ACRES MORE OR LESS

OWNER:
PRECIOUS EARTH INC,
P.O. BOX 10808,
BAKERSFIELD, CA 93389

ARILIPPY SURVEYS
GARY NELSON, PLS
(907) 235-8440
152 DEHEL AVE., HOMER ALASKA 99603

KPB FILE No. 2019-

NOTES

1. THE BASIS OF BEARING IS BETWEEN THE SW W.C.M.C. AND THE SE W.C.M.C., TRACT C, U.S. SURVEY NO. 1770.
2. THE FRONT 10' OF THE BUILDING SETBACK AND THE ENTIRE SETBACK WITHIN 5' OF SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. HEA HAS BLANKET EASEMENT ACROSS TRACT C, U.S. SURVEY NO. 1770.
4. LOTS WITHIN THIS SUBDIVISION ARE LOCATED WITHIN A DESIGNATED FLOOD HAZARD AREA. DEVELOPMENT MUST COMPLY WITH CHAPTER 21.06 OF THE KENAI PENINSULA BOROUGH CODE OF ORDINANCES. A SURVEY MAY BE REQUIRED TO DETERMINE THE ELEVATION OF THE PROPERTY PRIOR TO CONSTRUCTION.
5. THERE IS AN INGRESS/EGRESS EASEMENT IN FAVOR OF THE CITY OF SELDOVIA RECORDED IN BK 6 PAGE 90 AND PAGE 94 S.R.D. THIS EASEMENT IS DESCRIBED AS HAVING A WIDTH OF 20 FEET ABOVE THE HIGHEST TIDE LEVEL AT A SUITABLE PLACE FOR MEANS OF ENTRANCE AND EGRESS FROM THE LAND SIDE OF TRACT C.
6. THERE IS AN EASEMENT FOR A BREAKWATER AND MATERIALS IN FAVOR OF THE CITY OF SELDOVIA RECORDED IN BK 6 PAGE 89 S.R.D. THIS EASEMENT IS DESCRIBED AS BEING LOCATED ON EITHER OF THE TWO NORTHERN POINTS OF TRACT C.
7. THE SELDOVIA CITY COUNCIL APPROVED A VARIANCE TO THE SETBACK REQUIREMENTS FOR THE 3' WIDE BOARDWALK DURING THEIR DECEMBER 13, 2006 MEETING.

WASTEWATER DISPOSAL:

PLANS FOR THE WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

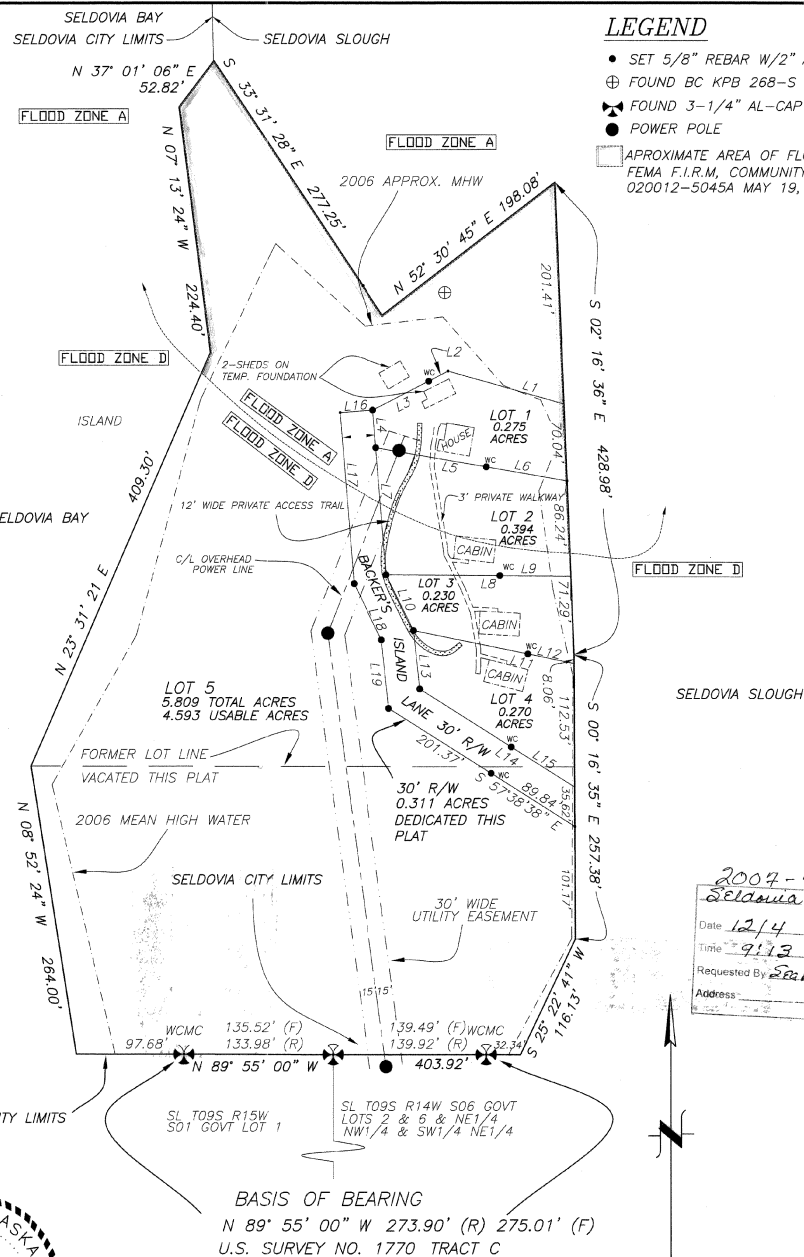
PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF November 27, 2006

KENAI PENINSULA BOROUGH

BY: *Maury Bond*
AUTHORIZED OFFICIAL

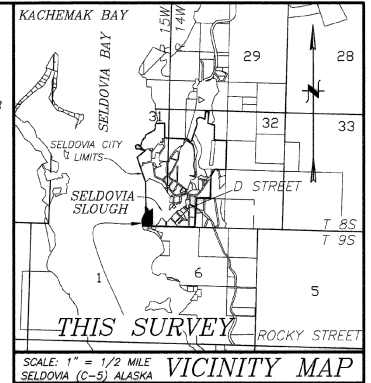
LINE	BEARING	LENGTH
L1	N 74°08'56" W	110.17'
L2	S 62°40'09" W	19.77'
L3	S 62°40'09" W	57.32'
L4	S 04°35'53" E	90.19'
L5	S 80°05'32" E	177.14'
L6	S 80°05'32" E	74.42'
L7	S 04°35'53" E	53.28'
L8	S 89°31'30" E	168.66'
L9	S 89°31'30" E	64.41'
L10	S 26°17'44" E	56.37'
L11	S 78°22'22" E	149.62'
L12	S 78°22'22" E	43.65'
L13	S 05°56'52" E	53.28'
L14	S 57°38'38" E	167.59'
L15	S 57°38'38" E	69.16'
L16	S 85°24'07" W	30.00'
L17	S 04°35'53" E	155.69'
L18	S 26°17'44" E	56.73'
L19	S 05°56'52" E	62.43'



BASIS OF BEARING
N 89° 55' 00" W 273.90' (R) 275.01' (F)
U.S. SURVEY NO. 1770 TRACT C

LEGEND

- SET 5/8" REBAR W/2" AL-CAP 7968-S 2006
- ⊕ FOUND BC KPB 268-S 1984
- ⊕ FOUND 3-1/4" AL-CAP ON 2" PIPE BLM 1988
- POWER POLE
- APPROXIMATE AREA OF FLOOD HAZARD ZONE A FEMA F.I.R.M., COMMUNITY PANEL # 020012-5045A MAY 19, 1981



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ADOPT THIS PLAT OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

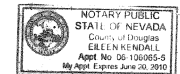
Robert Whear
ROBERT WHEAR, SIGNER FOR
SNUG HARBOR RESORT LLC
PO BOX 1707
GARDNERVILLE, NV 89410

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF 11/2, 2007.
FOR: *Robert whear*

NOTARY PUBLIC FOR ALASKA *Douglas C. Nevada*
MY COMMISSION EXPIRES 6/20/2010

2007-4
Seldevia REC DIST
Date 12/4 2007
Title 913 A.M.
Requested By Seabright
Address

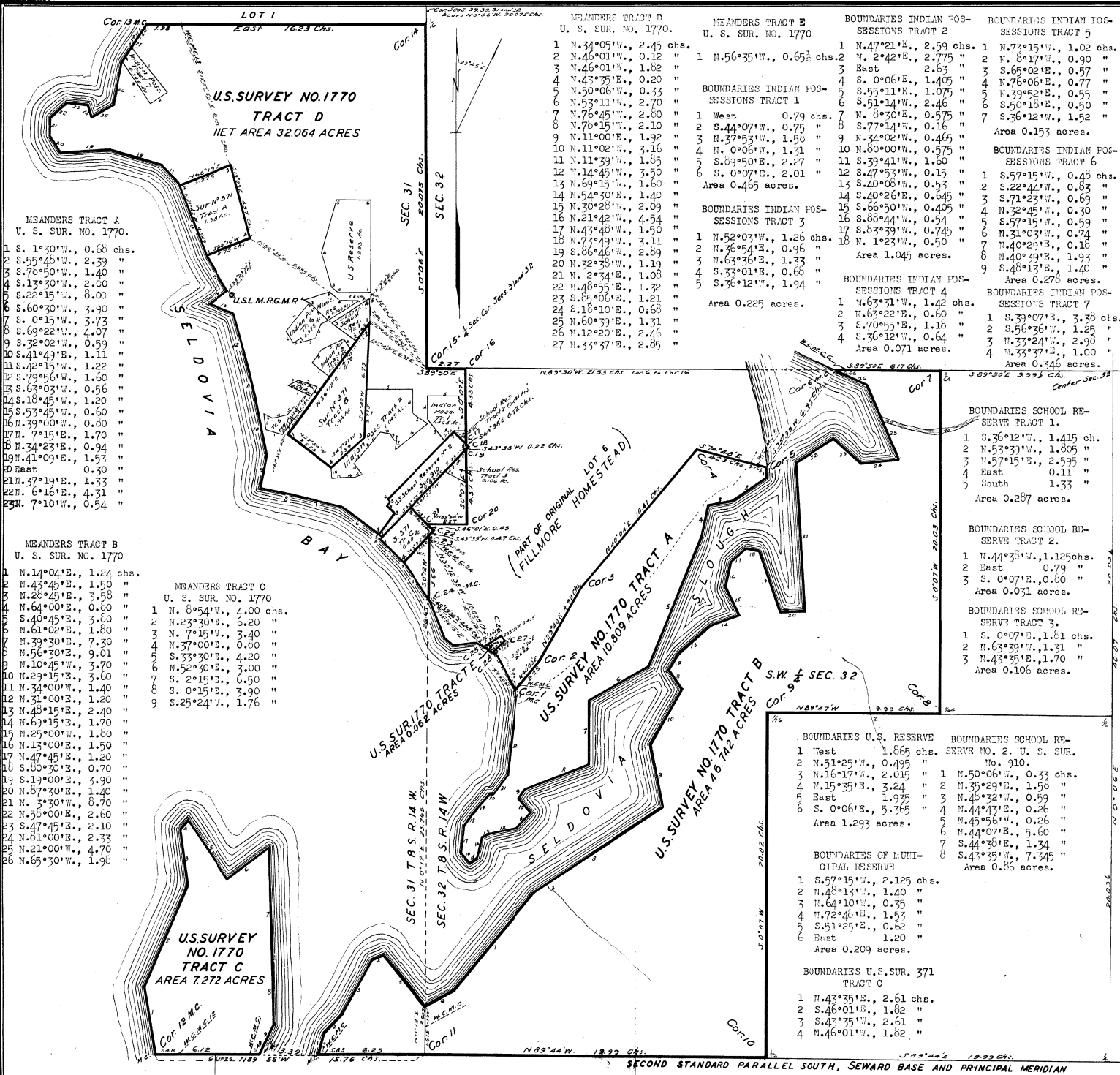


SELDOVIA RECORDING DISTRICT KPB FILE No. 2006-330

SELDOVIA ISLAND
A SUBDIVISION OF TRACT C, U.S. SURVEY NO. 1770 LYING WITHIN SELDOVIA BAY IN THE CITY OF SELDOVIA LYING WITHIN THE KENAI PENINSULA BOROUGH THIRD JUDICIAL DISTRICT, STATE OF ALASKA CONTAINING 7.289 ACRES MORE OR LESS

SEABRIGHT SURVEY+DESIGN
1044 EAST ROAD, SUITE A
HOMER ALASKA 99603
(907) 235-4247 & FAX
EMAIL: SEABRIGHT@alaska.net

DRAWN BY: J.S.	DATE: 10/26/07	SCALE: 1" = 80'
CHK BY: K.B.	JOB #06-48	SHEET 1 OF 1



P L A T

of

EXTERIOR BOUNDARIES

of

U. S. SURVEY NO. 1770.

Made under Sections 11, 12, 13, 14 and 15 of an act of Congress entitled "An Act to repeal timber cultural laws" approved March 3, 1891 and the regulations thereunder for a tract of Public Land, known as

SELDOVIA TOWNSITE

Situate

On Seldovia Bay, Cook Inlet, in Sections 31 and 32, T. 6 S., R. 14 W., Seward Base and Principal Meridian

TERRITORY OF ALASKA

Net area, 96.943 acres
Declination, 25°45' E.
Scale, 4 chains to the inch.

Latitude 59°26'04" N., Longitude 151°43'04" W.

as surveyed by

FRED DAHLQUIST
U. S. CADASTRAL ENGINEER,
May 19 - July 5, 1927

U. S. SUPERVISOR OF SURVEYS CERTIFICATE,
Denver, Colorado,
August 5, 1929.

The original field notes of Survey No. 1770, of the Exterior Boundaries of Seldovia Townsite, situate on Seldovia Bay, Cook Inlet, Alaska, from which this plat has been made, have been examined and approved, and I hereby certify that they furnish such an accurate description of said claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects and permanent monuments, as will perpetuate and fix the Locus thereof.

And I further certify that this is a correct plat of said claim, made in conformity with said original field notes of the survey thereof, and the same is hereby approved.

Samuel D. Johnson
U. S. Supervisor of Surveys.

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Washington, D. C., November 26, 1929.

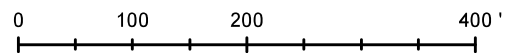
The survey represented by this plat having been correctly executed in accordance with the requirements of law and the regulations of this office, is hereby accepted.

Walter Stewart
Assistant Commissioner.



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Aerial View

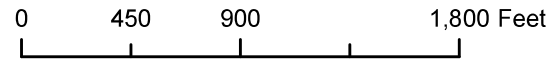
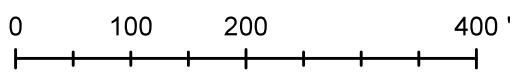
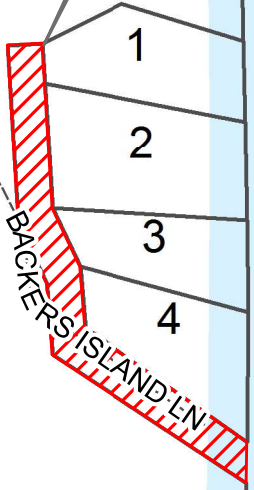


Right of Way Vacation

PClements, KPB
 Date: 9/19/2019
 Imagery: FixedWings 2012-2013

Seldovia Bay

30' Right of Way Vacation
& 10' Utility Easement
Vacation



KPB 2019-109V
T08S R14W S32
SELDOVIA



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for the accuracy of this information.
Page 81 of 130

PClements, KPB
Date: 9/9/2019

**MINUTES FROM THE SELDOVIA PLANNING COMMISSION
REGULAR MEETING
MULTI-PURPOSE ROOM
Wednesday
September 4, 2019
6:00PM**

BATES FORSBERG CARLUCCIO GRUBER
--

- A. Call to order; MEETING CALLED TO ORDER 6:05PM BY COMMISSIONER CARLUCCIO
- B. Roll Call: IN ATTENDANCE; BATES, FORSBERG, CARLUCCIO, and GRUBER
- C. Approval of the Agenda;
BATES/GRUBER MOVED TO APPROVE THE AGENDA
NO OBJECTION/ MOTION CARRIED
- D. Approval of Minutes from August 07, 2019
GRUBER/BATES MOVED TO APPROVE THE MINUTES
NO OBJECTION/ MOTION CARRIED
- E. Public Comments Regarding Items Not on the Agenda; None
- F. Public Hearings, Prior Notice; None
- G. Consideration of Site Plans;
 - 1. Consideration of Replat Seldovia Island 2019 and Vacation of Backer's Island Lane
 - A. Presentation by Staff or Commission
CLERK GEAGEL- Presented correspondence with the surveyor, a response from the borough, the replat, the petition to vacate, and the current plat in the packet.
 - B. Public Presentation or Hearing
None
 - C. Commission Discussion
GRUBER- Spoke in support of moving forward and in appreciation for Mr. Huffs comments.
CARLUCCIO- Discussed that Mr. Huffs role in the borough and that he had answered their questions.
FORSBERG- Inquired if the delay had caused any problems.
 - D. Action/Disposition

MAIN MOTION- CARLUCCIO CALLED FOR A MOTION TO RECOMMEND APPROVAL OF THE REPLAT AND THE VACATION OF BACKER'S ISLAND LANE
BATES/FORSBERG SO MOVED

FINDINGS-

- 1. Questions were answered by Mr. Huff.
- 2. Since the owner is removing the lot lanes and making it one parcel again the lane is no longer needed.

AMENDMENT MOTION- BATES/FORSBERG MOVED TO ATTACH THE FINDINGS
NO OBJECTION/ MOTION CARRIED

MAIN MOTION- NO OBJECTION/ MOTION CARRIED

- H. Commission Business:

She discussed that the right-of-way that the deck was near was to Watch Point Island that visitors frequented and where the Coast Guard monitored a beacon.

GRUBER- Inquired about the length of time the deck was not there and spoke in support of recommending the applicant apply for a variance.

FORSBERG- Inquired if the neighbors were in support or opposition of the deck.

D. Action/Disposition

BATES/FORSBERG MOVED TO GRANT MR. COLES REQUEST FOR A BUILDING PERMIT
ROLL CALL VOTE/ FORSBERG- N, CARLUCCIO- N, GRUBER-N, BATES-N/ MOTION FAILED

THE SELDOVIA PLANNING COMMISSION RECOMMENDED THAT THE APPLICANT
APPLY FOR A VARIANCE.

2. Consideration of Replat Seldovia Island 2019 and Vacation of Backer's Island Lane

A. Presentation by Staff or Commission

CLERK GEAGEL- Presented the replat and petition to vacate of Backer's Island Lane. The clerk noted that note two on the current plat addresses the city utility easements.

B. Public Presentation or Hearing

WALT SONEN- Inquired if there was an advantages or disadvantage to the replat and vacation.

VIVIAN ROJAS- Inquired about access to Backer's Island without the lane and if they city needed to provide access to the lot.

CM CAMERON- Discussed that the replat was an advantage for the property owner to decrease property taxes, and that monetary evaluation of the lots were not a consideration for the city. She differed to the chair whether access needed to be provided through the right-of-way and discussed that the applicant did indicate that an alternate right-of-way was being provided for, though it was unable to be determined what that access was. She discussed the utility easement, that the water and sewer came under the slough and up on the eastern side of the island and the two easements on the north and south side of the island in notes 5 and 6 of current plat which were put in place for breakwater materials and for a means of entrance and egress.

C. Commission Discussion

CARLUCCIO- Discussed the history of the replat and the utility easement down the middle and inquired if the city needed a water and sewer utility easement. She spoke in support of retaining the easements for the city. She spoke to the history of the island and that if the lots became one lot there would not seem to be a need for a road. The borough would request an alternative access on paper if the vacated road needed an alternative access, but the replat was eliminating that need. She spoke to the precedence in town of replatting lots and discussed that the application looked a little incomplete, the notes on the current plat were not on the new plat. The city would want to retain notes five and six and she inquired if the variance was being relinquished. She spoke in support of the replat and vacating the lane because it was not connecting point a to a point b and recommended approval as long as notes 2, 5, 6, and 7 were carried forward. If note 7 was being eliminated then the city would need to receive a letter of relinquishment for the variance.

GRUBER- Inquired about the effects of the replat and vacation on the city and the property owner and inquired if utilities were not in use as the application stated. She discussed that she would like to see the language from note 3 of the current plat for a blanket easement for HEA on the new plat.

BATES- Discussed that with the vacation of the lot lines there would no longer need to be a platted access only water access, and that the HEA line dropped down the pole to other side of bay and then to Nanwaleek. He discussed wanting further information about the current notes and if they would carry over to the new plat.

FORSBERG- Inquired about the utility easement and the current status of the water and sewer utility.

D. Action/Disposition

GRUBER/BATES MOVED TO POSTPONE UNTIL THE NEXT MEETING
NO OBJECTION/ MOTION CARRIED

~~3. Consideration of Rezoning Lots 2, 3, and 4 of Block 13 Waterfront Resubdivison No 1~~

~~A. Presentation by Staff or Commission~~

~~CLERK GEAGEL- Presented a request from a property owner to consider rezoning lots 2, 3, and 4 of Block 13 from Commercial Marine to Waterfront Commercial Residential.~~

~~B. Public Presentation or Hearing~~

~~ROJAS- Spoke in support of an application needing to be turned in before the commission would be able to act on the request and in opposition of it the lots in question being rezoned.~~

~~WALT SONEN- Spoke to the history of the creation of the zones and their properties not living up to the requirements. He spoke in opposition of the lots in question being rezoned.~~

~~C. Commission Discussion~~

~~CARLUCCIO- Discussed that there was a procedure to be rezoned in contract zoning and she read those procedures and their intent. It has to be shown as beneficial to the city to do this, before they can recommend approval to city council and ask them to change it by ordinance. She spoke to an application being needed before it could be considered.~~

~~FORSBERG- Inquired about the change of the zones and if the change would allow those properties to still be a business if wanted.~~

~~GRUBER- Spoke in opposition of the consideration to rezone the lots in question without an application.~~

~~BATES- Discussed spot zoning.~~

~~D. Action/Disposition~~

~~NO ACTION WAS TAKEN AT THIS TIME~~

4. Building Application Permit- Update and Review

A. Presentation by Staff or Commission

CLERK GEAGEL- Presented the updated draft ordinance and building permit with the language of a two-year completion date included. She discussed that it was in the code that it was required that a property within 200' feet of the public system being hooked into the system before having a building be occupied.

B. Public Presentation or Hearing

ROJAS- Asked about the water and sewer being required within 200' feet of the public system.

C. Commission Discussion

CARLUCCIO- Spoke in support of the building permit reformat and discussed that federal and state building codes required and mentioned on the building application.

FORSBERG- Spoke in support of the building permit reformat.

D. Action/Disposition

CARLUCCIO- asked for a motion to recommend approving the ordinance of the city council of Seldovia amending section 17.04.020 building permits.

BATES/KATHLEEN SO MOVED

NO OBJECTION/ MOTION CARRIED

H. Commission Business: None

I. Staff Reports:

From: Huff, Scott <shuff@kpb.us>
Sent: Friday, August 16, 2019 3:34 PM
To: Gary Nelson (gary@abilitysurveys.com)
Cc: Best, Max
Subject: FW: Seldovia Island 2019 Preliminary Plat

Gary,

Per borough code the city shall review the plat and prepare written comments which shall be included with the submittal of the plat to the borough. It also states that the City has 49 days to complete the review. If you submit to the City, and they do not act or approve the plat within 49 days, then you can submit the preliminary plat to the borough for review and approval.

As far as the notes on the parent plat,

- Plat note 2 will no longer be valid after the right of way and associate easements are vacated.
- Plat note 5 will still be valid, and will need to be carried forward, as the ingress/egress easement in favor of the city of Seldovia will still exist.
- Plat note 6 will still be valid, and will need to be carried forward.
- Plat note 7 will no longer be relevant after the right of way and building setback are vacated. Plat note 7 will not be carried forward.

Hope that his answers your questions. Please feel free to give me a call if you wish to discuss further.

Thanks,

Scott

From: gary@abilitysurveys.com
To: [Heidi Geagel](#)
Cc: edenkiwi@aol.com
Subject: RE: Seldovia Island 2019 Preliminary Plat
Date: Friday, August 16, 2019 5:50:44 PM
Attachments: [image001.png](#)
[5144_s_huff_prelim_reply.pdf](#)

Madam Clerk;

Please forward to the Seldovia Advisory Planning Commission, the attached pdf email comments from the borough plat manager regarding the Seldovia Island Preliminary Plat.

My comments to the Seldovia Advisory Planning Commission follow;

I recommend Seldovia initiate new Planning Commissioners with an Orientation of powers and the how and why of Planning Commission actions. Preliminary Plats are reviewed for CONCEPT. Is what is being proposed good, bad, or otherwise in harmony with City code and reasonable planning concepts of the City?

The borough has the platting powers, and will generally adopt City recommendations, and will make sure the FINAL plat complies with legalities of code.

I was very disappointed in the way the Seldovia Advisory Planning Commission delayed action on the subject plat because notes were not carried forward from the parent plat. Plats are **typically recommended for approval with conditions or recommendations**, at least by Seward, Kenai, Homer, and Kenai Peninsula Borough Planning Commissions. According to the Borough's Plat Manager, not all of the Seldovia Planning Commission's note "requests" would be valid or upheld by the borough. Another reason to keep them requests and not requirements, with unnecessary delays.

You have the parent plat and so know of the noted easements and such. You also now have comments from a review by the Borough Plat Manager. Notes will be carried forward on the final plat to the Borough and possibly on the preliminary plat to the borough subject to my review and consult with Borough Plat Manager.

I understand your positions are voluntary and unpaid. **Thank You for your service.** A service that is all too often a thankless service to say the least.

Appreciative of your time and effort,

Gary Nelson, PLS

From: Heidi Geagel <cityclerk@cityofseldovia.com>

Sent: Tuesday, August 13, 2019 9:55 AM
To: 'gary@abilitysurveys.com' <gary@abilitysurveys.com>
Cc: 'edenkiwi@aol.com' <edenkiwi@aol.com>
Subject: RE: Seldovia Island 2019 Preliminary Plat

Mr. Nelson,

The Seldovia Island 2019 Preliminary Plat and the vacation of Backer's Island Lane was discussed at the Seldovia Planning Commission on Wednesday, August 7th, 2019.

The planning commission members spoke in support of the replat and vacation, but postponed approval until the next planning commission meeting so that notes 2, 5, 6, and 7 of the current plat could be addressed in the new preliminary plat. It was stated that the city would need a letter of relinquishment for the variance discussed in note 7 should the owner wish to relinquish the variance.

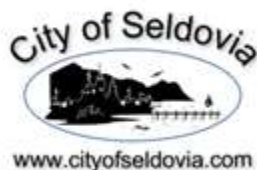
I have attached the current 2006 plat with the notes mentioned above for your reference. The next Seldovia Planning Commission will be September 4th, 2019 at 6:00pm.

Please let me know if you have any questions.

Thank you,

Heidi Geagel

City Clerk
City of Seldovia
(907)234.7643 (office)
(907)234.7430 (fax)



Public Records Law Disclosure: This e-mail may be considered public record and be subject to public disclosure.
Confidentiality Notice: This e-mail may contain confidential or privileged information. It is intended only for the use of the recipient named above. If you believe you have received this message in error, please notify me immediately by reply email, delete the message from your computer, and destroy any paper copies.

From: gary@abilitysurveys.com <gary@abilitysurveys.com>
Sent: Thursday, August 1, 2019 12:12 PM
To: Heidi Geagel <cityclerk@cityofseldovia.com>
Cc: edenkiwi@aol.com
Subject: Seldovia Island 2019 Preliminary Plat

Madam Clerk;

Attached is a pdf of the preliminary plat being submitted to City of Seldovia today for Planning

Commission consideration at next Wednesday's meeting.

A courier will deliver it shortly this afternoon. Five reduced 11"X 17 copies and 1 full sized 18" X 24" copy are being submitted.

Thank You for your assistance.

Gary Nelson, PLS
907-235-8440
Ability Surveys

CERTIFICATE OF OWNERSHIP

I hereby certify that Precious Earth Inc. is the owner of the real property shown and described hereon, and that Precious Earth Inc. does hereby adopt this plan of subdivision, and by its free consent dedicate all public rights-of-way and grant all easements and public areas to the use shown.

Gregory W. Davis, President and Chairman
 PRECIOUS EARTH INC.
 P.O. BOX 10808
 BAKERSFIELD, CA 93389

NOTES

1. THESE LOTS ARE SUBJECT TO SELDOVIA CITY CODE.
2. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. APPROXIMATE FLOOD ZONE DEFINITION FROM FEMA F.I.R.M COMMUNITY PANEL #020012-5045A MAY 19, 1981. "ZONE A"; AREA OF 100-YEAR FLOOD, BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS NOT DETERMINED. "ZONE D"; AREA OF UNDETERMINED, BUT POSSIBLE FLOOD HAZARDS.
4. GREY SHADING REPRESENTS SLOPES STEEPER THAN 20%.
5. SUBDIVISION BOUNDARY IS PER SL2007-4, ATS 219, AND U.S. SURVEY 1771, FIXED BY 1964 EARTHQUAKE.

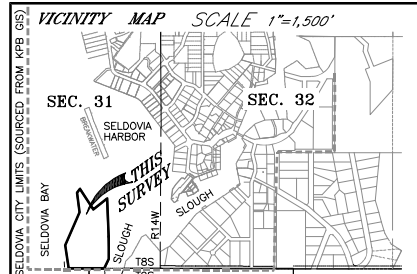
WASTEWATER NOTE

PLANS FOR WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS, ARE ON FILE AT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

PLAT APPROVAL

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of _____
 KENAI PENINSULA BOROUGH

BY _____
 Authorized Official



DATE	7/31/2019
SCALE	1"=100'
JOB No.	5144
DRAWING:	5144PLAT.dwg



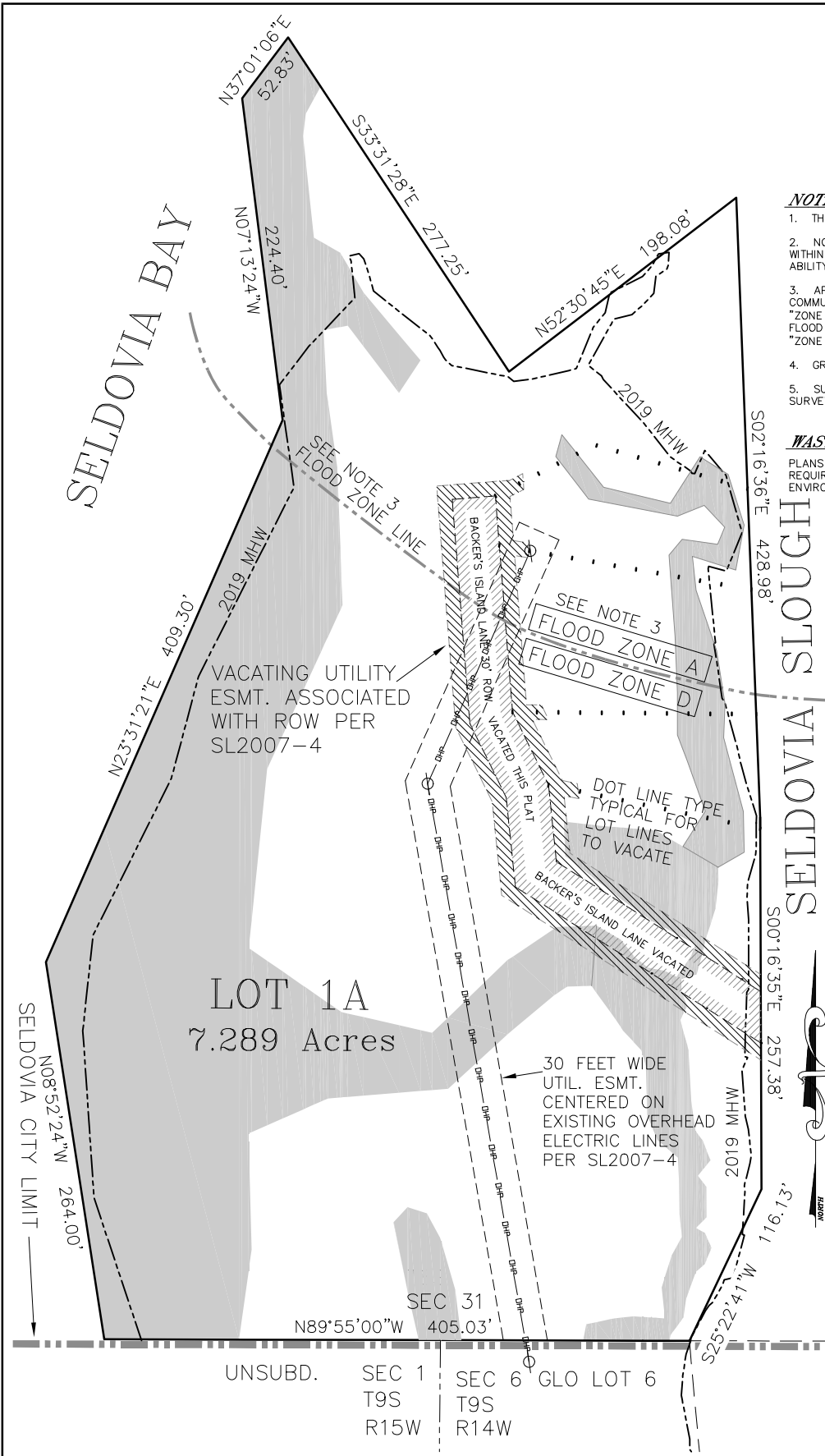
SELDOVIA ISLAND 2019

VACATING BACKER'S ISLAND LANE AND REVERTING TO ACREAGE BY VACATING LOTS 1 THROUGH 5 OF SELDOVIA ISLAND (SL2007-4), WITHIN THE SE1/4 SECTION 31, T8S, R14W, SM, CITY OF SELDOVIA, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, SELDOVIA RECORDING DISTRICT, ALASKA CONTAINING 7.289 ACRES MORE OR LESS

OWNER:
 PRECIOUS EARTH INC.
 P.O. BOX 10808,
 BAKERSFIELD, CA 93389

ABILITY SURVEYS

GARY NELSON, PLS
 (907) 238-8440
 152 DEHEL AVE., HOMER ALASKA 99603





Kenai Peninsula Borough Planning Department
 144 North Binkley
 Soldotna, Alaska 99669-7599
 Toll free within the Borough 1-800-478-4441, extension 2200
 (907) 714-2200

Petition to Vacate Public Right-of-Way/Easement/Platted Public Area
Public Hearing Required

Upon receipt of complete application with fees and all required attachments, a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

- \$500 non-refundable fee to help defray costs of advertising public hearing.
 - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
 - Name of public right-of-way proposed to be vacated is dedicated by the plat of SELDONIA ISLAND Subdivision, filed as Plat No. 2007-4 in SELDONIA Recording District.
 - Are there associated utility easements to be vacated? Yes No
 - Are easements in use by any utility company? If so, which company NOT USED
 - Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
 - Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way, the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has right-of-way been fully or partially constructed? Yes No
 Is right-of-way used by vehicles / pedestrians / other? Yes No
 Is alternative right-of-way being provided? Yes No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
Application to construct road to the right-of-way has been denied by City, Corps of Engineers, & DNR. Therefore owner feels the right-of-way and Lots it serves are no longer feasible or desired. Surrounding water and tidelands are the only real and actual means of access to the land except for two adjoining private lands. Owner desires privacy and there is no longer a need for public access onto property.
The right-of-way does not serve any other properties, or the public for any sort of through fare, and as such does not provide access to public waters.

The petition must be signed (written signature) by owners of the majority of land fronting the right-of-way, easement, or platted public area proposed to be vacated. Each petitioner must include address and legal description of his/her property.

Submitted By: Name: Gary Nelson Signature as: Petitioner Representative
 Address: 152 Debel Ave
Homer, AK 99603
 Phone: 907-235-8440

Petitioners:
 Signature: [Signature] Signature: _____
 Name: Gregory W. Davis Reckless Earth Inc. Name: _____
 Address: P.O. Box 10808 Address: _____
Bakersfield, CA 93308
 Owner of: Lots 1 through 5, Seldonia Island Owner of: _____
 Signature: _____ Signature: _____
 Name: _____ Name: _____
 Address: _____ Address: _____
 Owner of: _____ Owner of: _____

ROW Easement Vacation Petition & Procedures
 Revised 2/21/14

NOTES

1. THE BASIS OF BEARING IS BETWEEN THE SW W.C.M.C. AND THE SE W.C.M.C., TRACT C, U.S. SURVEY NO. 1770.
2. THE FRONT 10' OF THE BUILDING SETBACK AND THE ENTIRE SETBACK WITHIN 5' OF SIDE LOT LINES IS A UTILITY EASEMENT. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN A UTILITY EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
3. HEA HAS BLANKET EASEMENT ACROSS TRACT C, U.S. SURVEY NO. 1770.
4. LOTS WITHIN THIS SUBDIVISION ARE LOCATED WITHIN A DESIGNATED FLOOD HAZARD AREA. DEVELOPMENT MUST COMPLY WITH CHAPTER 21.06 OF THE KENAI PENINSULA BOROUGH CODE OF ORDINANCES. A SURVEY MAY BE REQUIRED TO DETERMINE THE ELEVATION OF THE PROPERTY PRIOR TO CONSTRUCTION.
5. THERE IS AN INGRESS/EGRESS EASEMENT IN FAVOR OF THE CITY OF SELDOVIA RECORDED IN BK 6 PAGE 90 AND PAGE 94 S.R.D. THIS EASEMENT IS DESCRIBED AS HAVING A WIDTH OF 20 FEET ABOVE THE HIGHEST TIDE LEVEL AT A SUITABLE PLACE FOR MEANS OF ENTRANCE AND EGRESS FROM THE LAND SIDE OF TRACT C.
6. THERE IS AN EASEMENT FOR A BREAKWATER AND MATERIALS IN FAVOR OF THE CITY OF SELDOVIA RECORDED IN BK 6 PAGE 89 S.R.D. THIS EASEMENT IS DESCRIBED AS BEING LOCATED ON EITHER OF THE TWO NORTHERN POINTS OF TRACT C.
7. THE SELDOVIA CITY COUNCIL APPROVED A VARIANCE TO THE SETBACK REQUIREMENTS FOR THE 3' WIDE BOARDWALK DURING THEIR DECEMBER 13, 2006 MEETING.

WASTEWATER DISPOSAL:

PLANS FOR THE WASTEWATER DISPOSAL, THAT MEET REGULATORY REQUIREMENTS ARE ON FILE AT THE DEPT. OF ENVIRONMENTAL CONSERVATION.

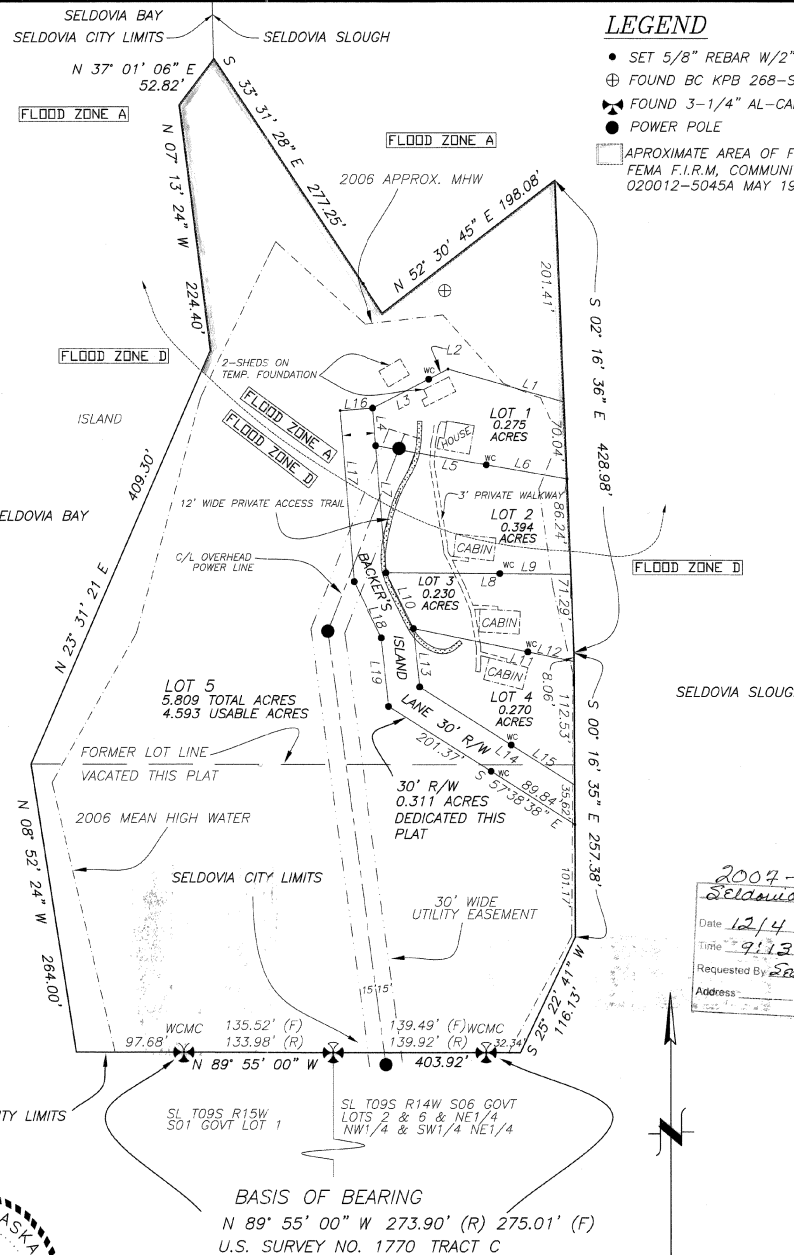
PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF November 27, 2006

KENAI PENINSULA BOROUGH

BY: *Maury Bond*
AUTHORIZED OFFICIAL

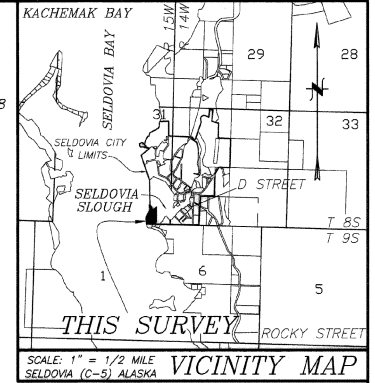
LINE	BEARING	LENGTH
L1	N 74°08'56" W	110.17'
L2	S 62°40'09" W	19.77'
L3	S 62°40'09" W	57.32'
L4	S 04°35'53" E	90.19'
L5	S 80°05'32" E	177.14'
L6	S 80°05'32" E	74.42'
L7	S 04°35'53" E	53.28'
L8	S 89°31'30" E	168.66'
L9	S 89°31'30" E	64.41'
L10	S 26°17'44" E	56.37'
L11	S 78°22'22" E	149.62'
L12	S 78°22'22" E	43.65'
L13	S 05°56'52" E	53.28'
L14	S 57°38'38" E	167.59'
L15	S 57°38'38" E	69.16'
L16	S 85°24'07" W	30.00'
L17	S 04°35'53" E	155.69'
L18	S 26°17'44" E	56.73'
L19	S 05°56'52" E	62.43'



BASIS OF BEARING
N 89° 55' 00" W 273.90' (R) 275.01' (F)
U.S. SURVEY NO. 1770 TRACT C

LEGEND

- SET 5/8" REBAR W/2" AL-CAP 7968-S 2006
- ⊕ FOUND BC KPB 268-S 1984
- ⊕ FOUND 3-1/4" AL-CAP ON 2" PIPE BLM 1988
- POWER POLE
- APPROXIMATE AREA OF FLOOD HAZARD ZONE A FEMA F.I.R.M., COMMUNITY PANEL # 020012-5045A MAY 19, 1981



CERTIFICATE OF OWNERSHIP

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON, THAT I HEREBY ADOPT THIS PLAT OF SUBDIVISION, AND BY MY FREE CONSENT DEDICATE ALL RIGHTS OF WAY AND PUBLIC AREAS TO PUBLIC USE, AND GRANT ALL EASEMENTS TO THE USE SHOWN HEREON.

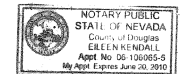
Robert Whear
ROBERT WHEAR, SIGNER FOR
SNUG HARBOR RESORT LLC
PO BOX 1707
GARDNERVILLE, NV 89410

NOTARY'S ACKNOWLEDGMENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF 11/2, 2007.
FOR: *Robert whear*

NOTARY PUBLIC FOR ALASKA Douglas C. Nevada
MY COMMISSION EXPIRES 6/20/2010

2007-4
Seldevia REC DIST
Date 12/14 2007
Title 913 A.M.
Requested By Seabright
Address:



SELDOVIA RECORDING DISTRICT KPB FILE No. 2006-330

SELDOVIA ISLAND
A SUBDIVISION OF TRACT C, U.S. SURVEY NO. 1770 LYING WITHIN SELDOVIA BAY IN THE CITY OF SELDOVIA LYING WITHIN THE KENAI PENINSULA BOROUGH THIRD JUDICIAL DISTRICT, STATE OF ALASKA CONTAINING 7.289 ACRES MORE OR LESS

SEABRIGHT SURVEY+DESIGN
1044 EAST ROAD, SUITE A
HOMER ALASKA 99603
(907) 235-4247 & FAX
EMAIL: SEABRIGHT@alaska.net

DRAWN BY: J.S.	DATE: 10/26/07	SCALE: 1" = 80'
CHK BY: K.B.	JOB #06-48	SHEET 1 OF 1



Planning Department

144 N. Binkley Street, Soldotna, Alaska 99669 • (907) 714-2200 • (907) 714-2378 Fax

Charlie Pierce
Borough Mayor

October 15, 2019

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
NOTICE OF DECISION
MEETING OF OCTOBER 14, 2019**

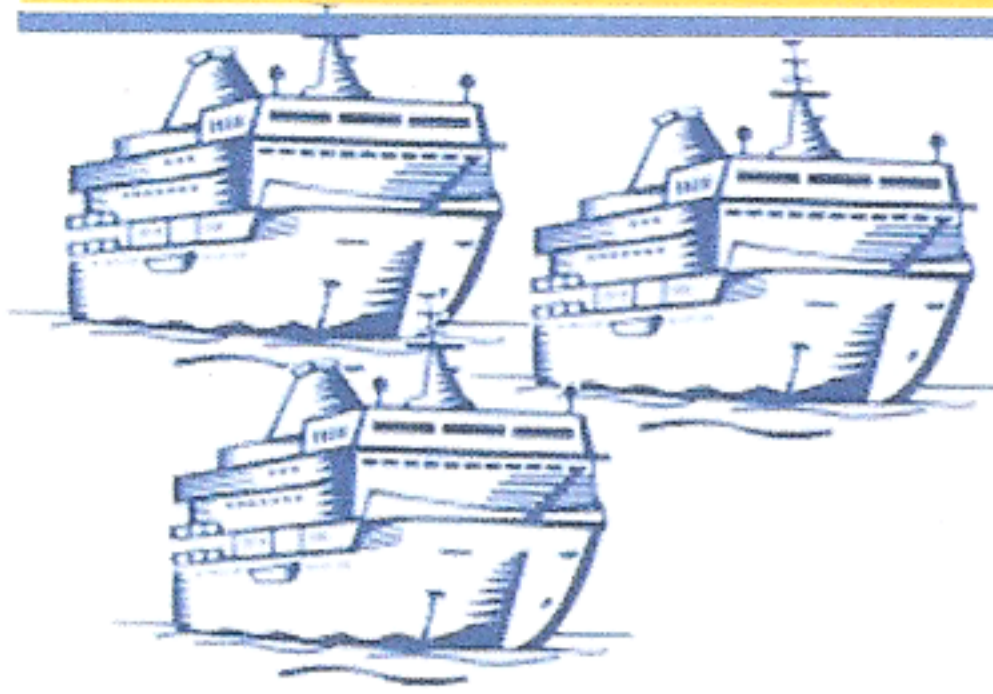
RE: Vacating Backer's Island Lane a 30 foot Public Right of Way containing 0.311 acres dedicated by plat Seldovia Island, SL 2007-4 and vacate the associated utility easement described as the front 10 feet of the 20 foot setback and the full 20 feet within 5 feet of the side lot lines adjoining Backer's Island Lane as dedicated by plat Seldovia Island, SL 2007-4. The right-of-way being vacated is unconstructed and located within the S/E 1/4 of Section 31, Township 8 South, Range 14 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-109V.

During their regularly scheduled meeting of October 14, 2019, the Kenai Peninsula Borough Planning Commission granted approval of the above right-of-way vacation subject to:

1. Consent by Seldovia City Council.
2. Compliance with the requirements for preliminary plats per Chapter 20 of the KPB Code.
3. Grant utility easements requested by the Seldovia City Council and utility providers.
4. Submittal of a final plat within a timeframe such that the plat can be recorded within one year of vacation consent (KPB 20.70.130).

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The proposed vacation has been forwarded to the Seldovia City Council. The City Council has 30 days from October 14, 2019 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Commission will stand.

Please contact the Seldovia City Office to verify the date the subject vacation will be reviewed by the Council.



Friends of the Alaska Marine Highway System

Alaska Ferry Advocacy Group

October 15, 2019

Dear Friends,

Unfortunately, we now have a better idea what the Governor's cuts to the Alaska Marine Highway System will mean for our communities. It's not a pretty picture.

The Transportation Department's winter schedule shows a major reduction in service to all communities along the ferry route. Some communities will have no service at all between October 31 and April 30. Public transportation is much more than getting people from point A to point B. It's an essential part of our social fabric, moving athletic teams, cargo, entire households, medical supplies and patients – the list is almost endless. Ferry service is vital to our community and is often the only way our residents can travel.

The refusal to invest in public transportation puts a stranglehold on our future. It can't be allowed to happen.

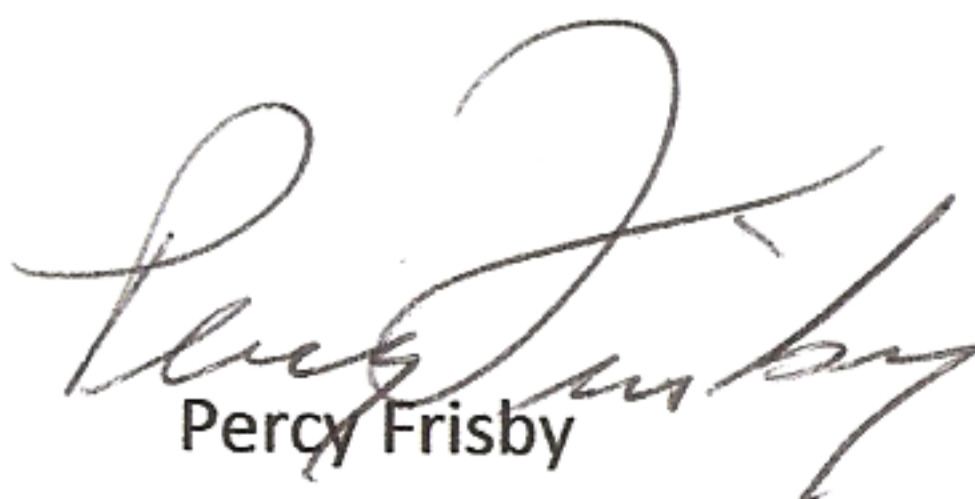
Ferry service is our highway, and we need it all year long. State support for it represents an investment in our economy, our community, our future. Public transit is a fundamental right.

Now we have reached a critical point in this battle. Since the middle of the last session, we have been talking to the legislative leadership about restoring ferry service funding. We have had good discussions, and we are working together to develop a plan for how the AMHS will look in the future and how it will be funded.

But now is the time to show the breadth of our support. We need to create a broad, powerful coalition of citizens and organizations from the communities most affected by the Governor's cuts to ferry service. We must organize to rescue the system and reinstate the \$64 million earmarked for the AMHS operating budget in the general fund.

I am asking you to be part of this group. Please let me know by telephone (907-321-9585) or email percyfrisby@gmail.com if you can join us.

I hope very much to hear from you. Together we can save our ferry system.



Percy Frisby