



## CITY & BOROUGH OF WRANGELL PUBLIC HEARING AGENDA

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**Tuesday, November 7, 2017**  
**6:30 – 7:00 p.m.**

**Location: Assembly Chambers, City Hall**

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1. Call to Order
2. Roll Call
3. Public Hearing Items:
  - a. Request for a vacation of a 3 foot wide trail right-of-way from Cassiar to the corner of Lot 20A Oliver Subdivision and Lot A LRO Subdivision, requested by Thomas Roland, owner of Lot 20A and Michael Nash, Attorney for Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust, owner of portion of Lots 7 and 8, Block 13, USS 1119 (or proposed new Lot 8A of proposed Fennimore/Roland Replat)
  - b. **PROPOSED ORDINANCE No. 937:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS OF CHAPTER 3.05 OF THE WRANGELL MUNICIPAL CODE, ASSEMBLY – RULES OF PROCEDURE (*second reading*)
4. Written Testimony
5. Oral Testimony
6. Adjournment

**CITY & BOROUGH OF WRANGELL, ALASKA**

**BOROUGH ASSEMBLY PUBLIC HEARING AGENDA STATEMENT**

AGENDA ITEM TITLE:

NO.

**3a**

DATE:

November 7, 2017

Request for a vacation of a 3 foot wide trail right-of-way from Cassiar to the corner of Lot 20A Oliver Subdivision and Lot A LRO Subdivision (or proposed new Lot 8A of proposed Fennimore/Roland Replat)

SUBMITTED BY:

FISCAL NOTE:

**Expenditure Required:**

**Amount Budgeted:**

**Account Number(s):**

**Account Name(s):**

Reviews/Approvals/Recommendations



Commission, Board or Committee

**Unencumbered Balance(s) (prior to expenditure):**

Name(s)

Planning & Zoning Commission

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Insurance

**ATTACHMENTS:**

1. Staff Report to the Planning and Zoning Commission
2. Letters from land owners requesting trail ROW vacation
3. 1927 deed creating the trail ROW from Lot 20 for City of Wrangell
4. Proposed Preliminary Plat
5. Aerial location map
6. Letter from Attorney for owner regarding combining Portion of Lot 7 and Portion of Lot 8

**RECOMMENDATION MOTION:**

None. Public Hearing Item.

**SUMMARY STATEMENT:**

The Planning and Zoning Commission at their regular meeting of October 12, recommended to the Assembly to approve the request to vacate a three foot wide trail right-of-way through Lot 20A, Block13, Wrangell Townsite, subject to the condition that either the two lots owned by Viola Erickson Irrevocable Trust ( Portion of Lot 7 and Portion of Lot 8) are combined into one single lot, or that a 20 foot wide access easement is created along the existing driveway access through Portion of Lot 7 to Portion of Lot 8 (proposed Lot 8A) to assure permanent road access to proposed Lot 8A.

The trail ROW was created and deeded to the City in 1923 as a path to access Mt. Dewey. Since that time, an alternative path to Mt. Dewey was constructed and private land has been subdivided or developed that has created obstacles for use of this trail.

As currently platted, the only legal access to the existing Portion of Lot 8 (or the proposed Lot 8A) is via the 3 foot trail. The same property owner also owns Portion of Lot 7 with road frontage along Cassiar street. They utilize a driveway currently crossing Portion of Lot 7 to access Portion of Lot 8. If the 3 foot trail ROW is vacated without combining the two lots, or creating an access easement through Portion of Lot 7, Portion of Lot 8 will no longer have a platted legal access. Per WMC19.28.050B all lots shall front on a public right-of-way, or a permanent easement for access must be granted and recorded. By combining Portion of Lot 7 and Portion of Lot 8 into a single lot, it not only cleans up the lots which are currently being used as if a single lot, it addresses the access issue for the back lot should the Assembly approve to vacate the trail right-of-way.

Staff have reviewed utilities, drainages and other public issues that might warrant the retention of the ROW. The trail back in 1923 was designated to access Mt. Dewey. Since that time, another trail option from downtown has been developed and is being utilized. There are no known utilities in the ROW area and it would be a difficult trail through residential yards, with blockages of vegetation, fences, and rock.

Michael Nash, attorney for the owners of Portion of Lot 7 and Portion of Lot 8, Block 13, USS 1119 has provided written confirmation that the owner will combine the lots into a single lot, meeting the recommended requirement of the Planning and Zoning Commission.

*City and Borough of Wrangell, Alaska*

G-3

Date: October 9, 2017

To: Planning and Zoning Commission

From: Carol Rushmore, Economic Development Director

Re: Request for a vacation of a 3 foot wide trail right-of-way from Cassiar to the corner of Lot 20A Oliver Subdivision and Lot A LRO Subdivision, requested by Thomas Roland, owner of Lot 20A and Michael Nash, Attorney for Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust, owner of Lots 7 and 8A, Block 13, USS 1119 (or proposed new Lot 8A of proposed Fennimore/Roland Replat).

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**Background:**

In January of 2017 a preliminary plat for a subdivision was presented by the applicants to address an area of fill encroachment by Fennimore's into Lot 20A owned by Roland. The preliminary plat was approved, but there were questions raised regarding the potential to vacate and purpose of the three foot ROW reflected on the preliminary plat.

**Findings:**

For Vacation of easement or Right-of-way requests, the Planning and Zoning Commission holds a public hearing and makes a recommendation to the Assembly whether to grant the vacation. The Assembly also holds a public hearing and makes the final decision. As Wrangell's code does not have sections specific to vacation requirements, the Alaska Statutes within Title 29.40.160 are followed.

The local surveyor and Michael Nash, attorney for Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust, conducted extensive document research on the three foot right of way, discovering over time it was described or reflected differently, a ROW, or an easement, part of Lot 20 or outside of Lot 20. Attorney Nash was able to find the original document that created the ROW from Lot 20. The owner of Lot 20 at the time created a three foot ROW and deeded the trail to the City of Wrangell to access Mt. Dewey (copy attached).

Because the vacation of the easement must be approved by the Assembly, the landowners are bringing this request forward first for Planning and Zoning Commission recommendation to the Assembly. The final plat will address the final decision of the Assembly regarding the vacation request.

Staff reviewed utilities, drainages and other public issues that might warrant the retention of the ROW. The trail back in 1923 was designated to access Mt. Dewey. Since that time, another trail option from downtown has been developed and is being utilized. There are no known utilities in the ROW area and it would be a difficult trail through residential yards, with blockages of vegetation, fences, and rock.

**Recommendation:**

Staff recommends approval of the vacation request of the three foot trail to Mt. Dewey from Cassiar to the corner of Lot 20A Oliver Subdivision and Lot A LRO Subdivision, as requested by Thomas Roland and Attorney for the Trustee of the Ericka Viola Trust.

**Alaska Statutes Title 29.40.160****Sec. 29.40.160. Title to vacated area.**

(a) The title to the street or other public area vacated on a plat attaches to the lot or land bordering the area in equal proportions, except that if the area was originally dedicated by different persons, original boundary lines shall be adhered to so that the street area that lies on one side of the boundary line shall attach to the abutting property on that side, and the street area that lies on the other side of the boundary line shall attach to the property on that side. The portion of a vacated street that lies inside the limits of a platted addition attaches to the lots of the platted addition bordering on the area. If a public square is vacated, the title to it vests in a city if it lies inside the city, and in the borough if it lies inside the borough but outside all cities. If the property vacated is a lot, title vests in the rightful owner.

(b) If the municipality acquired the street or other public area vacated for legal consideration or by express dedication to the municipality other than as a subdivision platting requirement, before the final act of vacation the fair market value of the street or public area shall be deposited with the platting authority to be paid to the municipality on final vacation.

(c) The provisions of (a) and (b) of this section apply to home rule and general law municipalities.

(d) The council of a second class city located outside a borough may vacate streets, alleys, crossings, sidewalks, or other public ways that may have been previously dedicated or established when the council finds that the streets, alleys, crossings, sidewalks, or other public ways are no longer necessary for the public welfare, or when the public welfare will be enhanced by the vacation. If the council determines that all or a portion of the area vacated under this subsection should be devoted to another public purpose, title to the area vacated and held for another public purpose does not vest as provided in (a) of this section but remains in the city.

October 9, 2017

Carol Rushmore  
Economic Development Director  
City and Borough of Wrangell  
P.O. Box 531  
Wrangell, AK 99929

To Whom It May Concern:

I am writing in regards to the property at 306 Cassiar, Lot 20A of the Oliver subdivision. Prior to the Fennimore/Roland replat, we are seeking for the City and Borough of Wrangell to vacate the three foot trail Right of Way from Cassiar to the corner of Lot A and Lot 20, along the entire length of our property line.

Sincerely,

Thomas Roland  
P.O. Box 2163  
Wrangell, AK 99929

LAW OFFICES OF MICHAEL P. NASH

P. O. Box 2341  
WRANGELL, AK 99929

COPY

September 5, 2017

Carol Rushmore  
Planning and Zoning Commission  
Borough of Wrangell  
P.O. Box 531  
Wrangell, AK 99929

In Re: Request to vacate a portion of a three-foot-wide right-of-way.

Dear Ms. Rushmore and Members of the Planning and Zoning Commission:

As Ms. Rushmore is aware, I represent Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust. The trust desires to make a boundary line adjustment with a neighbor to incorporate in its property a driveway that currently intrudes on the neighbor's property.

To that end, Ms. Fennimore had a preliminary plat prepared. In the process it discovered that the Borough of Wrangell has a three-foot wide right-of-way, running between the properties, that originally provided access to City land on Mount Dewey. At my request, Ms. Rushmore researched the origins and use of the right-of-way. She informed me that the right-of-way is no longer necessary, and that I could ask to have it vacated. Is do so now.

Because the new plat cannot be presented to this Commission until the issue of the three-foot right-of-way is resolved, I am requesting that the Borough vacate the right-of-way running along the northwest side of lots 7 and 8 and the southeast side of lot 20 as shown on the preliminary plat (enclosed). If that is not feasible, then I request some other action by the Borough to allow a driveway over the right-of-way.

Thank you for considering this request. Please contact me if you have any questions or concerns.

Sincerely,



Michael P. Nash

Attorney for Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust

Enclosure: Preliminary Plat

Mt. Dewey Trail

## Quit-Claims Deed

This Grantor, Edwin Hofstad, of Hoonah in the Territory of Alaska, for the Consideration of One Dollar (\$1.00) Currecy and Quit-claims to the Town of Hoonah, Incorporated, all interest in the following described Real Estate:

Beginning at the S.E. Cor. of Lot No. 22 in Block No. 13, as described on the official plat of the Hoonah Townsite, and following the line between Lot No. 8 and Lot No. 22 in said Block No. 13 in a Northwesterly direction 262.427 ft. to City Park Reserve;

Being more particularly described as a path or trail three feet wide from Circular street to City Park Reserve the same to be used as a trail to connect with path or trail now in use to reach summit of "Mt. Dewey" situate in the Town of Hoonah, Territory of Alaska.

Dated this 8th day of May, 1923

Witness:

John C. Hardin

Edwin Hofstad

United States of America }  
Territory of Alaska } ss

I, John C. Hardin, a Notary Public, do hereby certify that on this 8th day of May, 1923 personally appeared before me Edwin Hofstad to me known to be the individual described in and who executed the within instrument, and acknowledged that he signed and sealed the same as his free and voluntary act and deed for the uses and purposes therein mentioned. Witness under my hand and official seal this 8th day of May A.D. 1923.

*Seal*

John C. Hardin  
Notary Public, Alaska  
Commission expires

Nov. 1st, 1924

Filed for record and recorded this 8th day of May, 1923, at 2 pm.

Thos. H. Thomas  
Recorder  
by R.L. - att.



# CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH OUR FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE \_\_\_\_\_  
THOMAS E. ROLAND

## NOTARY'S ACKNOWLEDGMENT

U.S. OF AMERICA  
STATE OF ALASKA  
CITY AND BOROUGH OF WRANGELL

THIS IS TO CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BEFORE ME, THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED  
TO ME KNOWN TO BE THE IDENTICAL INDIVIDUAL(S) MENTIONED AND WHO EXECUTED THE WITHIN PLAT AND \_\_\_\_\_ ACKNOWLEDGED TO ME THAT \_\_\_\_\_ SIGNED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN SPECIFIED.

WITNESS MY HAND AND NOTARY SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST HEREIN WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA

MY COMMISSION EXPIRES \_\_\_\_\_

# CERTIFICATE OF OWNERSHIP AND DEDICATION

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT WE HEREBY ADOPT THIS PLAN OF SUBDIVISION WITH OUR FREE CONSENT AND DEDICATE ALL STREETS, ALLEYS, WALKS, PARKS AND OTHER OPEN SPACES TO PUBLIC OR PRIVATE USE AS NOTED.

DATE \_\_\_\_\_  
ELAINE EVI FENNIMORE

## NOTARY'S ACKNOWLEDGMENT

U.S. OF AMERICA  
STATE OF ALASKA  
CITY AND BOROUGH OF WRANGELL

THIS IS TO CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BEFORE ME, THE UNDERSIGNED A NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA, DULY COMMISSIONED AND SWORN, PERSONALLY APPEARED  
TO ME KNOWN TO BE THE IDENTICAL INDIVIDUAL(S) MENTIONED AND WHO EXECUTED THE WITHIN PLAT AND \_\_\_\_\_ ACKNOWLEDGED TO ME THAT \_\_\_\_\_ SIGNED THE SAME FREELY AND VOLUNTARILY FOR THE USES AND PURPOSES THEREIN SPECIFIED.

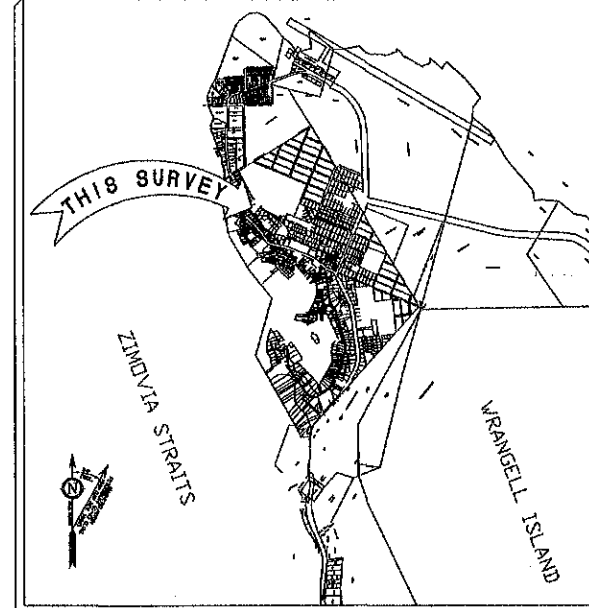
WITNESS MY HAND AND NOTARY SEAL THE DAY AND YEAR IN THIS CERTIFICATE FIRST HEREIN WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA

MY COMMISSION EXPIRES \_\_\_\_\_

## LEGEND

- SCHEFF ALUMINUM CAP ON 5/8 REBAR MONUMENT RECOVERED
- POOL ALUMINUM CAP ON 5/8 REBAR MONUMENT RECOVERED
- ⊗ T-BAR SECONDARY MONUMENT RECOVERED
- IRON PIPE RECOVERED
- 5/8 REBAR 30" LONG WITH 2" ALUM CAP WITH PLASTIC INSERT SET THIS SURVEY
- BK 22, P. 676, W.R.D. REFERENCE TO DOCUMENTS RECORDED WITHIN WRANGELL RECORDING DISTRICT
- (88.09) DATA OF RECORD
- 88.09 DATA MEASURED OR COMPUTED
- PREVIOUS PROPERTY LINE
- ROAD CENTERLINE



VICINITY MAP  
SCALE: 1" = 100'

## OWNERSHIP STATUS

1. LOT 20A (THOMAS E. ROLAND)
2. PORTION OF LOT 8 (ELAINE EVI FENNIMORE)

## PROPOSED OWNERSHIP

1. LOT 20AA (THOMAS E. ROLAND)
2. LOT 8A (ELAINE EVI FENNIMORE)

## PREVIOUS LOT AREAS

1. LOT 20A (36,430 SQ. FT)
2. PORTION OF LOT 8 (11,542 SQ. FT)

## NEW LOT AREAS

1. LOT 20AA (34,905 SQ. FT)
2. LOT 8A (13,603 SQ. FT)

CLIENT: ELAINE EVI FENNIMORE  
BOX 957  
WRANGELL, ALASKA 99929

WRANGELL RECORDING DISTRICT

No.	Date	Description	Revisions
1	02/01/2016	PRELIMINARY	

R&M ENGINEERING-KECHIKAN, INC.  
355 Oatanna Lake Road  
Ketchikan, AK 99901  
(907) 225-7017  
(907) 225-3441

CRAG OFFICE  
P.O. BOX 1273  
CRAG, AK 99821  
Phone: (907) 825-2294

CERTIFICATE OF \_\_\_\_\_  
PROJECT: \_\_\_\_\_

## FENNIMORE / ROLAND REPLAT

THE REPLAT OF LOT 20A, OLIVER SUBDIVISION, AND PORTION OF LOT 8, WRANGELL TOWNSITE, CREATING LOT 20AA AND LOT 8A, FENNIMORE / ROLAND RESUBDIVISION, CITY AND BOROUGH OF WRANGELL.

## CERTIFICATE STATE OF ALASKA (FIRST JUDICIAL DISTRICT)ss

I, THE UNDERSIGNED, BEING DULY APPOINTED AND QUALIFIED, AND AN ACTING ASSESSOR FOR THE CITY AND BOROUGH OF WRANGELL, HEREBY CERTIFY, THAT ACCORDING TO THE RECORDS IN MY POSSESSION, THE FOLLOWING DESCRIBED PROPERTY IS CARRIED ON THE TAX RECORDS OF THE CITY AND BOROUGH OF WRANGELL, IN THE NAME OF \_\_\_\_\_

AND THAT ACCORDING TO THE RECORDS IN MY POSSESSION, ALL TAXES ASSESSED AGAINST SAID LANDS ARE PAID IN FULL; THAT CURRENT TAXES FOR THE YEAR 20\_\_\_\_ WILL BE DUE ON OR BEFORE OCTOBER 15, 20\_\_\_\_ DATED THIS DAY OF \_\_\_\_\_

ASSESSOR CITY AND BOROUGH OF WRANGELL

## CERTIFICATE OF APPROVAL BY THE PLANNING COMMISSION

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY AND BOROUGH OF WRANGELL PLANNING COMMISSION, AND THAT SAID PLAT HAS BEEN APPROVED BY THE COMMISSION BY PLAT RESOLUTION NO. \_\_\_\_\_ DATED \_\_\_\_\_, 20\_\_\_\_, AND THAT THE PLAT SHOWN HEREON HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT MAGISTRATE, EX-OFFICIO RECORDER, WRANGELL, ALASKA.

DATE \_\_\_\_\_ CHAIRMAN, PLANNING COMMISSION

SECRETARY

## CERTIFICATE OF APPROVAL BY THE ASSEMBLY

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF THE CITY AND BOROUGH OF WRANGELL ASSEMBLY AS RECORDED IN MINUTE BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ DATED \_\_\_\_\_, 20\_\_\_\_, AND THAT THE PLAT SHOWN HEREON HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE DISTRICT COURT, EX-OFFICIO RECORDER, WRANGELL, ALASKA.

DATE \_\_\_\_\_ ATTEST: \_\_\_\_\_ MAYOR, CITY AND BOROUGH OF WRANGELL

CITY CLERK

## PLAT NOTES

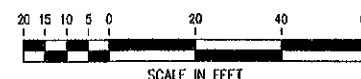
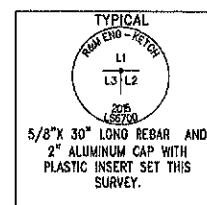
1. THE BASIS OF BEARING IS THE ACCEPTED BEARING OF S 42°31'39.23" E BETWEEN H&W BRASS CAPS NO. 104 & 159. THE TIE FROM H&W NO. 104 TO THE S.E. CORNER OF LOT 20AA IS N 75°07'28.59" E AND A DISTANCE OF 215.80 FT.
2. THIS PLAT WILL COMBINE A PORTION OF LOT 20A OF OLIVER SUBDIVISION AND PORTION OF LOT 8 WRANGELL TOWNSITE INTO ONE LOT TO FORM LOT 20AA OF FENNIMORE / ROLAND RESUBDIVISION.
3. REFERENCES WITHIN THE WRANGELL RECORDING DISTRICT UTILIZED FOR THIS SURVEY:
  - A. PLAT 91-1
  - B. PLAT 66-193
  - C. QUICKCLAIM DEED 2005-000407-0
  - D. STATUTORY WARRANTY DEED 2014-000232-0
  - E. DEED OF TRUST 2014-000233-0
  - F. ASSIGNMENT OF DEED OF TRUST 2014-000234-0
  - G. ASSIGNMENT OF DEED OF TRUST 2014-000235-0

DRAWN BY: MCH  
CHECKED BY: CGP  
DATE PLATTED: JUNE 2016  
DATE SURVEYED: FEBRUARY, 2016  
SCALE: 1"=20'  
SURVEYED BY: MCH / CGP  
PROJ NO.: 162702

## SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR, LICENSED IN THE STATE OF ALASKA, AND THAT IN \_\_\_\_\_ A SURVEY OF THE HEREIN DESCRIBED LANDS WAS CONDUCTED UNDER MY DIRECT SUPERVISION AND THAT THIS PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE FIELD NOTES OF SAID SURVEY, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT ACCORDING TO SAID FIELD NOTES.

DATE \_\_\_\_\_ CHRISTOPHER G. PIBURN LS 107552







WRANGELL  
CITY  
GATEWAY TO THE COAST  
ADOPTED JULY 21, 1971

LAW OFFICES OF MICHAEL P. NASH  
P. O. BOX 2341  
WRANGELL, AK 99929

Attachment #6

November 2, 2017

Carol Rushmore  
Planning and Zoning Commission  
Borough of Wrangell  
P.O. Box 531  
Wrangell, AK 99929

In Re: Statement of intention to combine Lots 7 and 8A.

Dear Ms. Rushmore and Members of the Planning and Zoning Commission:

As you are aware, I represent Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust. The trust has asked that the Wrangell Borough vacate the three-foot wide right-of-way running along the northwest side of lots 7 and 8 and the southeast side of lot 20 as shown on the preliminary plat (previously submitted). The Planning and Zoning Commission responded favorably, but was concerned about access to Lot 8A. One solution proposed was to combine Lots 7 and 8A into a single lot accessible from Classier Street. This is the solution that Ms. Fennimore pursuing.

To that end, Ms. Fennimore has contacted Surveyor Chris Piburn to prepare a new preliminary plat combining Lots 7 & 8A. Mr. Piburn indicated that he has work backed up and that it would take him a month to complete the new preliminary Plat. Consequently, the new plat is not yet ready. I am hoping that the Borough Council will give its preliminary approval to vacation of the right-of-way, subject to the combining of Lots 7 and 8A.

Thank you for considering this request. Please contact me if you have any questions or concerns.

Sincerely,



Michael P. Nash  
Attorney for Evi Fennimore, Trustee of the Viola Erickson Irrevocable Trust

CC Evi Fennimore



# CITY & BOROUGH OF WRANGELL, ALASKA

## BOROUGH ASSEMBLY PUBLIC HEARING AGENDA STATEMENT

<u>AGENDA ITEM TITLE:</u>	<u>NO.</u>	<b>3b</b>	<u>DATE:</u>	November 7, 2017
<b>PROPOSED ORDINANCE No. 937:</b> AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS OF CHAPTER 3.05 OF THE WRANGELL MUNICIPAL CODE, ASSEMBLY – RULES OF PROCEDURE (second reading)				
<u>SUBMITTED BY:</u>			<u>FISCAL NOTE:</u>	
Kim Lane, Borough Clerk			Expenditure Required: none	
			Amount Budgeted: none	
			Account Number(s): none	
			Account Name(s): none	
<u>Reviews/Approvals/Recommendations</u>				
n/a	Commission, Board or Committee		Unencumbered Balance(s) (prior to expenditure):	
Name(s)			none	
<input checked="" type="checkbox"/>	Attorney			
n/a	Insurance			
<u>ATTACHMENTS:</u>				
1. Ordinance No. 937				

### RECOMMENDATION:

None. Public Hearing Item.

### SUMMARY STATEMENT:

The Clerk and Manager are recommending some revisions to the order and manner in which the Assembly agenda and meetings are managed. The first recommendation is that Public Hearings become a part of the regular meeting agenda. That way if there is little or no public comment, the hearing can be closed and the Assembly can commence with the rest of the Agenda business. Second, Persons to be Heard is currently used to allow members of the public to comment on both items not on the agenda and items on the agenda. The code specifically states this portion of the agenda is for the public to comment on subjects not on the agenda. If members of the public are not allowed to speak regarding an item on the agenda when it is brought to the floor by the assembly then comments are being made out of context of the Assembly's discussion of the matter and there is no opportunity

for discourse with the public. The recommended change is twofold: 1) Persons to be Heard will be limited to comments about items not on the agenda; and 2) the Assembly will take public comment during each agenda item. It may seem as if this will lengthen meetings, but appropriate meeting management will keep this type of public interaction appropriate in both time and scope.

At the Assembly meeting held on October 10<sup>th</sup>, the Assembly requested some amendments to the proposed Ordinance. Those changes have been incorporated.

1. Rules on Presentations: added under 3.05.020(A)(3)
2. Persons to be heard: added "agenda items or non-agenda items"
3. Amendments to the Agenda: keeping this section but made a few changes. Note: for removing Consent Agenda items, the Assembly does not need to amend the agenda. Any one assembly member, the manager, or the clerk may request that an item be removed from the Consent Agenda, to be considered under New Business.

At the Assembly meeting held on October 10<sup>th</sup>, the Assembly requested some amendments to the proposed Ordinance. Those changes have been incorporated.

1. Under 3.05.020 (A)(3) – Ceremonial matters, and under 3.05.040(B)(6) - Public participation: added "in advance" to the sentences that address presenters and citizens submitting presentations, materials, or exhibits.
2. Under 3.05.040 (C): made two grammatical errors that were not part of the proposed changes but still needed to be corrected.

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 937

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CERTAIN SECTIONS OF CHAPTER 3.05 OF THE WRANGELL MUNICIPAL CODE, ASSEMBLY – RULES OF PROCEDURE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

SEC. 1.        Action. The purpose of this ordinance is to amend certain sections of Chapter 3.05 of the Wrangell Municipal Code, Assembly – Rules of Procedure.

SEC. 2.        Amendment of Sections. Sections 3.05.020, 3.05.030 and 3.05.040 of Chapter 3.05 of the Wrangell Municipal Code are amended to read:

**3.05.020        Order of business.**

At all regular meetings of the assembly, the order of business shall be:

- A. Call to order. The mayor shall call the meeting to order at 7:00 p.m. in the Borough Assembly Chambers.
  - 1. Pledge of Allegiance.
  - 2. Invocation.
  - 3. Ceremonial matters – community presentations, proclamations, awards, certificates of service, guest introductions. Presentations shall be limited to 10 minutes. Presenters are encouraged to submit written presentations and exhibits in advance. Any such materials shall be given to the borough clerk for distribution to the assembly. Presenters shall not distribute materials to the public or address the public directly.
- B. Roll call. The borough clerk shall conduct a roll call of each elected and duly qualified member of the assembly. The roll call will result in a record entry of those present or absent from the meeting. The roll call is primarily used to determine if sufficient members are present to conduct a meeting.
- C. Persons to be heard. This agenda item is reserved to provide an opportunity for persons to address the assembly on agenda items or non-agenda items. The rules of public participation for “persons to be heard” are set out in WMC 3.05.040(A).

[C]D. Amendments to the agenda. The assembly may amend the agenda as provided in WMC 3.05.030(E). Removal of an item from the consent agenda, as provided in subsection F, is not considered an amendment to the agenda. **[The manager also may request agenda changes.]**

[D]E. Conflict of interest. The purpose of this agenda item is to provide a time for any conflict of interest disclosures and determinations on such disclosures by the mayor, as may be necessary and appropriate under WMC 3.04.112.

[E]F. Consent agenda. Items listed on the consent agenda or marked with an asterisk (\*) are considered routine and will be passed in one motion; provided, upon the request of any member, the manager, or the clerk, an item on the consent agenda shall be removed from the consent agenda and placed under new business for assembly action. **[unless the item has been removed from the consent agenda by the manager, the mayor, or an assembly member.]**

1. Approval of minutes.
2. Communications.

[F]G. Borough manager's report.

[G]H. Borough clerk's file.

[H]I. Mayor and assembly **[reports and appointments]** business. This agenda item is reserved for the mayor and assembly to provide reports or comments and to introduce items not previously on the agenda which need to be brought to the attention of the entire assembly or the staff. Assembly members may hold limited discussion on these topics or ask the borough manager or the borough clerk for clarifying information. By majority consent of the assembly, the mayor or assembly may give direction to the borough manager or the borough clerk to add an item for consideration for the next regular assembly meeting. Other than as described in this subsection I, no action may be taken by the assembly under this agenda item.

J. Mayor and assembly appointments.

**[I. Persons to be heard. This agenda item is reserved to provide an opportunity for persons to address the assembly on non-agenda items. The rules of public participation for "persons to be heard" are set out in WMC 3.05.040(A).]**

K. Public hearing and public participation on agenda items. Public hearings are required on certain agenda items, including ordinances. An opportunity for public participation will be allowed on all other agenda items other than appeals. Persons wishing to speak during a public hearing on an agenda item, or otherwise on an agenda item, will sign up on a sheet provided by the clerk and list the agenda item they intend to speak on. Persons on the list will be called by the mayor to speak in the order in which they signed up for the agenda item, when

that item is brought up for consideration, following any administrative or committee reports on the item. Additional rules on the conduct of public hearings and public participation on agenda items are set out in WMC 3.05.040(B).

[J]L. Unfinished business. This agenda item includes unfinished matters transferred from previous meetings and other items of unfinished business.

- 1. Administrative or committee reports**
- 2. Public hearing**
- 3. Assembly action]**

[K]M. New business. This agenda item includes items not previously addressed by the assembly, and items moved from the consent agenda during a meeting.

- 1. [Administrative or committee reports**
- 2. Public hearing**
- 3. Assembly action]**

[L]N. Attorney's file.

[M]O. Executive session. The procedure for executive session is set out in WMC 3.04.120.

[N]P. Adjournment.

### **3.05.030 Assembly agenda. [– Amendment of agenda.]**

A. The agenda shall be prepared by the clerk subject to review and revision by the manager and the mayor. An agenda shall be prepared before every regular meeting of the assembly and the agenda shall be posted at City Hall by noon (12:00 p.m.) on the Friday preceding the meeting.

B. Borough staff submission of items for agenda. All reports, ordinances, resolutions, contracts, and other matters proposed by borough staff to be included on the assembly agenda at a regular meeting must be submitted to the borough manager or borough clerk no later than noon (12:00 p.m.) on the **[Thursday]** Tuesday preceding the next regular meeting.

C. Requests by members of the public for placement of items on agenda.

1. Persons other than borough staff or a member of the assembly requesting that an item be placed on the assembly agenda at a regular meeting are urged to meet with borough staff first, in an effort to come to a resolution on the item before the item may be placed on the agenda. If resolution cannot be reached, the person must submit a written request either:
  - a. In the form of a letter stating that this is a request for an item to



- be placed on the borough assembly agenda, and explaining in detail what is requested; or
- b. By completing an “Agenda Item Request Form” provided by the borough clerk’s office.

2. Deadline for written request. A written request from a member of the public to place an item on the agenda must be received by the borough clerk no later than noon (12:00 p.m.) on the **[Thursday]** Tuesday preceding the next regular meeting. Any request received after deadline will be considered for the next succeeding regular meeting agenda. The borough clerk or manager have the authority to postpone an item submitted by the public to the next regular meeting if it is determined that insufficient supporting documentation has been provided or additional review time by staff is necessary.

D. Guidelines for Proclamations.

Proclamations are ceremonial documents that are approved and signed by the mayor.

1. Proclamations shall not be issued for:
  - a. Any political issue, political subject, political controversy, ideological or religious subjects or beliefs, faith based subject or appearing to be faith based, or individual conviction; or
  - b. Campaigns or events contrary to borough policies or contrary to borough programs, projects or decisions.
2. Additional guidelines:
  - a. The mayor, the borough clerk, or the borough manager may deny or modify any proclamation request in the sole discretion of the mayor, clerk or manager.
  - b. Proclamations must affect a broad group of people in a positive way. Proclamations will not be issued for individuals or as a matter of protest. All requests must be made in writing. Requests can be emailed, mailed, faxed or hand-delivered to the office of the borough clerk at City Hall. Requests must be received at least 10 days before the meeting for which the proclamation is being sought. By submitting a request for a proclamation, the person submitting the request agrees and acknowledges that there is no right to have a proclamation issued and the proclamation may be denied in the sole discretion of the mayor, borough clerk or borough manager, with no right or process of appeal.
3. Requests for proclamations must include the following:
  - a. Contact person’s first and last name, address, and telephone number.
  - b. The name and date(s) of the day, week, month or event to be

- proclaimed.
- c. Draft text for the proclamation, which must be in electronic format and shall include 4 – 6 “whereas” clauses.
- d. An indication of whether the proclamation should be mailed or if the requestor will be present at the meeting to receive the proclamation.
- e. A date when the proclamation is desired.

**[D. An agenda is not required for special meetings of the assembly; the list of topics contained in the notice given for a special meeting shall instead suffice.]**

E. Amendment of agenda. The assembly may by majority consent, amend the agenda as published to add or delete items, or change the order in which unfinished and new business is considered. [from the published agenda] The assembly, manager or borough clerk may request amendments to the agenda. Amendments are [during the course of a meeting,] subject to the limitations in this section.

1. No action item may be added to the agenda **[by a motion to amend the agenda]**. An action item is an item which:
  - a. Introduces an ordinance;
  - b. Is a resolution;
  - c. Awards a contract;
  - d. Expends non-budgeted funds;
  - e. Expends budgeted funds or authorizes expenditure of budgeted funds in excess of twenty-five thousand dollars (\$25,000); or
  - f. Is a matter which, due to its significant or complex nature, requires more extensive public notice.
2. This amendment of agenda provision is intended to allow the addition of agenda items that are in the nature of:
  - a. Requests or directives that the manager, borough clerk, or borough attorney investigate and report on an issue, or prepare a document, report, or other item for future consideration by the assembly;
  - b. Naming mayoral appointees selected, or the low bidder for a contract, when the fact of the appointment or contract award has appeared on the published agenda, and the name(s) of the appointee(s) or recommended choice(s) have been made available at the start of the meeting;
  - c. A call for an executive session concerning an item that appears on the published agenda; or
  - d. Is for purposes of receiving information only without making a decision.

### 3.05.040 Public Participation.

A. Persons to be heard. There shall be an opportunity for public participation on agenda items or non-agenda items at each regular meeting of the assembly, which shall be listed on the agenda as “Persons to be heard” and conducted according to the following rules outlined in subsections 1-7, which shall be posted in the assembly chambers. Limited opportunity to speak under persons to be heard on items on the agenda may be allowed by the mayor if a member of the public is unable to be at the meeting during the time the agenda item is brought to the floor. The mayor may allow this in conformance with subsection B.

1. Any person desiring to address the assembly on non-agenda items under “persons to be heard” shall first sign up on the sheet provided at the meeting and be recognized by the presiding officer prior to speaking.
2. The speaker will precede their remarks by stating their name[s] and, unless otherwise allowed by the mayor, their place of residence.
3. The mayor or an assembly member may ask questions of the speaker, but shall not deliberate at that time on matters raised, or answer questions directed by the speaker to the members.
4. Speakers shall address their remarks to the assembly as a body and not to any individual member of the assembly, or to members of the public.
5. Inquiries made by speakers regarding borough business may be referred to the borough manager. Answers shall not be provided at the meeting by assembly or staff. By majority consent of the assembly, the assembly may direct the borough manager or borough clerk to report back to the assembly at a regular meeting for consideration.
- [5]6. The mayor may, prior to the call for persons to be heard, prescribe time limits, request designated speakers for groups, determine redundancy, and other effective meeting procedures.
7. Any exhibits or materials shall be given to the borough clerk for distribution to the assembly. Individuals shall not distribute materials to the public or address the public directly.

B. Public [H]hearings and [P]public participation on agenda items. Public participation during public hearings on ordinances[, **resolutions,**] and other

matters, and public participation on other agenda items, other than appeals, will be conducted according to the following rules, which shall be posted in the assembly chambers:

1. The hearing will be conducted by the mayor as chair.
2. The mayor will open the hearing by summarizing its purpose and reemphasizing the rules of procedure. Any person desiring to address the assembly during a public hearing on an agenda item, or otherwise on an agenda item, shall first sign up on the sheet provided at the meeting and be recognized by the presiding officer prior to speaking, as provided in WMC 3.05.020(J).
3. The mayor may request the borough manager provide background information regarding the item so as to provide clarification to the assembly and the public.
- [3]4. The mayor may set a time limit for public testimony, for individual speakers, or both, if it appears necessary to gain maximum participation and conserve time. The time limit may be extended by a majority vote of the assembly. The time limit shall be uniform for all speakers, provided the mayor may grant additional time to a person speaking on behalf of a group present in the chambers. The time limit may be extended by the mayor to allow an individual speaker to answer clarifying questions asked by members of the assembly.
- [4]5. The mayor may request designated speakers be chosen for groups of persons wishing to address the assembly on the same subject.
- [5]6. Citizens will be encouraged to submit written presentations and exhibits in advance. Any such materials shall be given to the borough clerk for distribution to the assembly, staff and members of the public. Individuals shall not distribute materials to the public at the public hearing.
- [6]7. Members of the public will precede their remarks by stating their names and, unless otherwise allowed by the mayor, their place of residence.
- [7]8. All speakers, members of the public, and members of the assembly, must be recognized by the chair before speaking.
- [8]9. All speakers, members of the public, and members of the assembly, will be recognized by the chair by name.
- [9]10. The mayor will set forth the item or subject to be discussed and will

rule inappropriate comments, or comments that are not germane to the subject, out of order.

[10]11. Members of the assembly will not direct questions to each other or to the chair during public participation except as to the conduct of the hearing.

[11]12. Members of the assembly may direct questions to members of the public only to obtain clarification of material presented. The questions may not be argumentative.

[12]13. Speakers may direct questions to the assembly or the borough administration. The questions may not be argumentative. Speakers shall address their remarks to the assembly as a body and not to any individual member of the assembly.

[13]14. Speakers may direct questions to the chair only as it pertains to the conduct of the hearing.

[14]15. The assembly and members of the public will refrain from argument and debate as between them.

[15]16. The manager may participate in the same manner as the members of the assembly.

[16]17. After public hearing has been closed and a motion made by the assembly, no person shall address the assembly without first obtaining permission from the chair.]

C. Disorderly conduct at meetings is prohibited. The chair may call to order any person who is breaching the peace or being disorderly by speaking without recognition, engaging in booing or catcalls, speaking vulgarities, name calling, personal attacks, or engaging [on]in other conduct which is determined by the chair to be disruptive of the meeting. Any person so disrupting a meeting of the assembly may be removed and barred from further attendance at the meeting unless permission to return or remain is granted by a majority vote of the assembly.

SEC. 3.        Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4.        Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SEC. 5.       Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: October 24, 2017.

PASSED IN SECOND READING: \_\_\_\_\_, 2017.

\_\_\_\_\_  
David L. Jack, Mayor

ATTEST:

\_\_\_\_\_  
Kim Lane, Borough Clerk

Yes: \_\_\_\_\_

No: \_\_\_\_\_

Absent: \_\_\_\_\_

Abstaining: \_\_\_\_\_