

**A Resolution of the Haines Borough Assembly authorizing the Borough Manager to lease an easement within a borough-owned Right of Way to the Estate of Richard M. Comerford.**

**WHEREAS**, Lots 2 and 3, Block 7, Townsite Addition, Haines Recording District, First Judicial District, State of Alaska contains a retaining wall, deck, and a portion of the house roof line that encroaches into the borough-owned right of way (ROW) on Dalton Street; and

**WHEREAS**, in 1972, the owner of the property, Martin A.J. Comerford, constructed his home with the appropriate permits only to discover by an updated survey that the original survey was inaccurate and a portion of his home extended into the ROW, and he petitioned the Haines Common Council to grant him an easement; and

**WHEREAS**, on August 28, 1972, the Haines Common Council approved a 10-foot easement for Lots 3 and 4 for a 10-year period expiring in 1982; and

**WHEREAS**, an exhaustive search of municipal records has produced no documentation to-date that the easement was renewed or acted on in any other way concerning this encroachment; and

**WHEREAS**, this encroachment has existed for 40 years, and the Estate of Richard M. Comerford Sr. (Martin Comerford's legal heir) has applied for a new easement for a 35-year lease period (the maximum allowed by borough code); and

**WHEREAS**, on April 19, 2012, the Planning Commission reviewed the application and recommends the assembly grant the requested easement lease for a period of 30 years to coincide with a typical mortgage loan term; and

**WHEREAS**, a January 15, 2012 as-built survey corroborates the encroachment which represents an area approximately 1,090 square feet, and a January 25, 2012 professional appraisal shows a value of \$10.95 per square foot for a total of \$11,950; and

**WHEREAS**, the borough's assistant assessor reviewed the request and has determined the appraisal value to be a fair assessment of the encroachment area; and

**WHEREAS**, Borough Code Section 14.16.190(C) states that "...the assembly may, by resolution, authorize the manager to execute the easement under such terms and conditions as are authorized by the assembly"; and

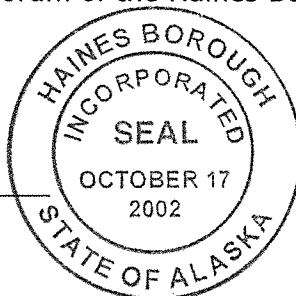
**NOW, THEREFORE, BE IT RESOLVED** that the Haines Borough Assembly authorizes the borough manager to enter into an easement lease with the Estate of Richard Comerford for the aforementioned encroachment area that includes the following terms and conditions:

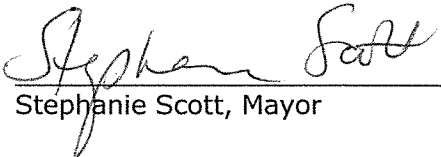
1. The lease term shall be 30 years ending June 30, 2042;
2. The Estate of Richard Comerford shall pay to the Haines Borough the sum of \$11,950 at the time of lease execution; and
3. Other than normal maintenance of the existing encroachments, any new construction or other improvements within the right of way or encroachment area shall void the lease.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on the 12<sup>th</sup> day of June, 2012.

ATTEST:

  
Julie Cozzi, MMC, Borough Clerk



  
Stephanie Scott, Mayor