

Session 10-02 a Regular Meeting of the Homer City Council was called to order on January 11, 2010 at 6:00 p.m. by Mayor James C. Hornaday at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: **COUNCILMEMBERS:** HOGAN, HOWARD, LEWIS, ROBERTS,
WYTHE, ZAK

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER
CITY PLANNER ABOUD
FINANCE DIRECTOR HARVILLE
POLICE CHIEF ROBL
PORT AND HARBOR DIRECTOR HAWKINS
PUBLIC WORKS DIRECTOR MEYER

Department Heads may be called upon from time to time to participate via teleconference.

Council met in a Special Meeting as a Board of Adjustment to hear Griswold vs. Blackwell, Appeal of Acceptance of a Nonconforming Use at 1440 East End Road from 3:38 p.m. to 4:38 p.m. Council met as a Committee of the Whole from 5:01 p.m. to 5:50 p.m. to discuss Ocean Drive Loop Seawall and Regular Meeting Agenda items.

AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The agenda was approved by consensus of the City Council with the following changes:

CONSENT AGENDA - Homer City Council unapproved Special Meeting minutes of November 30, 2009 – Appellant comments; **Memorandum 10-02**, Commissioner/Board Data Sheet from Beth Wythe; **ORDINANCES** - **Ordinance 10-01(S)**, Substitute Ordinance of the City Council of Homer, Alaska, Amending the Title of Homer City Code Chapter 21.54 and the Title of Subchapter 1 of Homer City Code Chapter 21.54, repealing Homer City Code 21.54.060 Standards for Mobile Home Structures, and Enacting Homer City Code 21.54.100 Standards for Mobile Home Structures. City Manager/Planning; **Ordinance 10-02**, public comments; **CITY MANAGER’S REPORT** - **Memorandum 10-16 & 10-17**, Re: Hickerson Memorial Cemetery; **PENDING BUSINESS** - **Ordinance 09-40(S)**, public comments; **RESOLUTIONS** - **Resolution 10-12**, backup information; and **Resolution 10-13**, public comments.

Memorandum 10-14 was moved to be heard right before adjournment.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Chris Newby, city resident of Ocean Drive Loop (ODL) Seawall district, has been involved with the seawall since its inception. The City is adamant the best way for property owners is to form a

homeowner's association. An attorney drew up the articles of incorporation and they hope to have a viable operating plan. He encouraged Council to adopt Resolution 10-13 to allow the process to continue and maintain the seawall until the association can find funds for improving and strengthening it.

Paula Dickey, city resident and caboose at the Seawall, offered a correction to packet pg. 281, the map of the ODL Seawall property owners. The Lawers are not a part of the seawall and it ends halfway across her lot. She urged Council to read her letter in the packet and rescind Ordinance 06-53 regarding the special tax district. She is not a part of the HCEC (Homer Citizens for Erosion Control, Inc.) and is very upset.

John Szajkowski, city resident and ODL Seawall property owner, is part of the special service tax district, but not a member of the HCEC. Voting in the HCEC is done by linear footage of ownership of the wall. Members of HCEC are a majority of the voting membership, controlling the vote of what the committee does. Some of the bylaws of the committee are legally questionable. He encouraged Council to read the bylaws and ask themselves if they would join such an organization.

Tom Taffe, city resident, has reviewed the Comprehensive Plan in detail. Most of economic data stops in 2005 before his residential development of Spring Hill Park, placing all properties in a different economic environment. We now have a flat where it is difficult to sell real estate in Homer. The 72 lots in their subdivision would be redefined by this Comp Plan from rural to transitional. Does it mean taxes will rise? He spent \$2M paying for road, sewer, and water, which raised property values and his property taxes by 325%. He asked Council to communicate more about specific parts of the Comp Plan that need to be narrowly addressed.

Findlay Abbott, Yukon Island resident, owns 100 ft. frontage on ODL Seawall. His building was 75 ft. back from the edge of the cliff; today it hangs over the edge. He can't finish building because it is insecure. He objected to plastic seawall at every point. He doesn't own a section, so has no obligation to maintain the wall. It is an engineering disaster that needs armor rock soon. The City decided on the engineering, design, and all. Homeowners are not going to bail the City out.

Devony Lehner, city resident, provided written comments on the Comprehensive Plan in the packet. Her concern is the public outreach process that does not meet minimal professional standards.

Roberta Highland, city resident, asked for postponement on the Comprehensive Plan. The last draft of changes became available on Thursday. Changes in zoning are not known by affected landowners and are significant enough changes to warrant notification. Information is outdated. She would like to see 2010 numbers. There are new faces on the Planning Commission, City Council and a new Planning Department Director. The continuity of the plan has suffered.

Diane Converse, city resident and new director of Pratt Museum, urged for support of Resolution 10-11. The resolution will provide importance to the museum's capital request; the capital project in turn will benefit the community.

Julie Derry, Kenai resident, supports Resolution 10-12. The Kenai Peninsula Food Bank serves the entire peninsula, including the Homer Food Pantry. Carlisle is providing an in-kind donation by transporting monthly food boxes to the Homer Food Pantry free of charge. The Kenai Peninsula Food Bank received a \$395,000 Rasmuson Foundation matching grant, and is seeking private and public funding to match the amount.

Ruth Dickerson, Homer resident and Homer Food Pantry volunteer, is grateful to be one of 65 agencies on the Kenai Peninsula Borough that purchases food from the Kenai Food Bank. She expressed concern for Resolution 10-11, which may lead locals to think they are supporting the Kenai Food Bank. People should be aware that money does not come from the Kenai Peninsula Food Bank for this community; it is a separate entity.

Kathy Sarns-Erwin, city resident on ODL Seawall, is a member of HCEC. As a group they have more power than as individuals for outside funding. She is willing to keep making amendments until HCEC works.

Frank Griswold, city resident, requests postponement of the approval of the November 30th Board of Adjustment minutes for corrections. Ordinance 09-40(S) and the proposed Comprehensive Plan are flawed. The plan was delegated to an ad hoc committee without planning training and some committee members had a vested financial interest. There were no surveys taken for the community's input about land use issues. The plan is now obsolete. The City has a hard time admitting that as they spent \$100,000 on consultants to dress up the poorly drafted document. Another \$65,000 was squandered for the Homer Spit Plan. He suggested zoning all of Homer as a mixed use district that would create new businesses. The plan should be shredded and left to the Kenai Peninsula Borough who has the authority.

Robert Archibald, city resident, commented on the Comprehensive Plan. He has horses and is interested in agriculture. From rural residential to rural urban there is no allowance for light agriculture, which will affect people on the south side of Kachemak Drive and East End Road to Kachemak Drive. In the West Hill residential business area, no one knows about land use changes as there has not been any information to the public. If we go ahead with the plan without the new census it will be obsolete.

Jeanne Fabich, city resident, commented on the Comprehensive Plan changes in land use designation. Although it is not rezoning her property, it is a significant change. As a landowner she should have been notified. The City needs to move transparently.

Pat Erwin, city resident and ODL Seawall, said all property owners on the seawall want the same thing, a better, stronger wall. Armor rock is the way to go. He and his wife joined the HCEC because as a group they stand a better chance of Federal and State grants for armor rock. The majority of the property owners have joined the HCEC and they are working on the bylaws and amending them as people bring up their issues.

Leonard Wells, city resident, commented on the Comprehensive Plan. His biggest problem with it is restrictive zoning. It has stricken out types of business within the city by those with an environmental opinion. It does not provide what jobs will come from non industrial type uses.

He sort of agrees with Mr. Griswold it is not the business of the Council, but rather a Borough activity to do zoning.

Rika Moew, city resident, asked for postponement of the Comprehensive Plan. It does not reflect suitable studies for land uses. It is not clear if it includes a pre-zoning map, or a dream map. There are places where rural residential is being designated to urban residential. The input people are giving is not being reflected in the land use designation, including the suitability maps.

Jackie Eisenberg, city resident, asked for a delay of the Comprehensive Plan to take a closer look. Cottonwood Horse Park is a similar situation with the Chamberlain Equestrian Center in South Anchorage. By implementing this Comp Plan it is switching a big section from rural residential to urban residential, encouraging everything to be split into small sections and losing the green space in Homer. She would like to see it maintained for her children. Ms. Eisenberg read a letter from Mike McCarthy.

Paul Hueper, city resident and ODL Seawall property owner, asked Council to pass Resolution 10-13. A few years ago the homeowners were asked to put together an association. They have taken great pains to have what the City asked for. The bylaws are great and allow the HCEC to qualify as an eligible entity to acquire grants. The City Attorney had suggestions for minor things to improve on.

Jane Swain, city resident, commented on the Comprehensive Plan and changing the zoning on West Hill. She has lived there since 1986 and has seen wetlands destroyed and debris buried. The Comp Plan should be strict about what they are going to do in that area, otherwise, it will end up like Sand Lake. You will find a lot of stuff underneath that will cause problems for future development in the areas.

Don McNamara, city resident and ODL Seawall property owner, asked that Council not support Resolution 10-13 and HCEC's eligibility until they meet up to the ordinance's criteria. Proposed amendments to bylaws have not been brought up at HCEC meetings. They have not been open to the public, the annual meetings are not happening, and there is no reasonable written plan for 2010 and 2011. In the annual budget for 2010 the City pays \$40 a linear ft. and all other homeowners pay \$8 per linear ft. on the seawall. HCC 15.10.020 took money out of the fund. If Council passes the resolution they ignore their fiduciary duties to taxpayers. People can borrow money in his name. The City does not oversee the quality of the work on the seawall.

Donna Rae Faulkner, city resident and ODL Seawall property owner, commented armor rock is a great idea and does not require the HCEC. If the City deems the HCEC an eligible entity, it is taking on a legal fiduciary by taking their money for taxes. How would the City hold them accountable? Why is the resolution happening tonight with only half of the eligibility criteria having been met? There is not a separate interest bearing account for the seawall district, no interest on the spread sheets, there are line items not about the fund that are coming from the mill rate. She can easily show \$18,000 of receipts that neighbors and they have put into the wall since the LID assessment.

Marilyn Hueper, city resident and ODL Seawall property owner, asked Council to approve Resolution 10-13. From the testimony from Findlay and others that feel the wall is not theirs to

maintain, it leaves the rest of the owners and the City at risk. We have a wall that needs strengthening. If allowed to fail, replacement will cost three times or more. The City's utilities will be at risk and it will require a lot of cost for the City to move utilities. Loss of properties would mean a tax base was lost.

Beth Cumming, city resident, stated the City should avoid involvement in the seawall issue no more than they are already legally obligated. The City will be asked to address bluff erosion east of the Spit, which will be ten times worse than the seawall.

Douglas Westphal, city resident, supports postponement of the Comp Plan. People have not been given the opportunity to simulate the impacts of property tax increases and other changes to the West Hill neighborhood.

RECONSIDERATION

None.

CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Special Meeting minutes of November 30 and December 14, 2009 and Regular Meeting minutes of December 14, 2009. City Clerk. Recommend approval.
- B. **Memorandum 10-01**, from Clerk, Re: Liquor License Renewal for Happy Face, Oaken Keg, Kharacters, Down East Saloon, and Uncle Thirsty's Liquor Store.
- C. **Memorandum 10-02**, from Mayor, Re: Appointment of Barbara Howard and Reappointments of Beth Wythe and Matt North to the Permanent Fund Committee.

Mayor Hornaday called for a motion for the adoption and/or approval of the recommendations of the consent agenda as read.

LEWIS/ZAK – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

None.

Mayor Hornaday called for a recess at 7:04 p.m. and reconvened the meeting at 7:10 p.m.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. Borough Report

Bill Smith, Kenai Peninsula Borough Assemblyman, reported the Assembly voted to request that NOAA extend the comment period on the endangered beluga whale to March 1st. NOAA did extend the comment period for written comments to March 1st.

B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission
5. Port and Harbor Advisory Commission

PUBLIC HEARING(S)

None.

ORDINANCE(S)

- A. **Ordinance 10-01**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.060 Standards for Mobile Homes. City Manager/Planning. Recommended dates: Introduction January 11, 2010, Public Hearing and Second Reading January 25, 2010.

Memorandum 10-12 from City Planner and Planning Technician as backup.

Ordinance 10-01(S), An Ordinance of the City Council of Homer, Alaska, Amending the Title of Homer City Code Chapter 21.54 and the Title of Subchapter 1 of Homer City Code Chapter 21.54, repealing Homer City Code 21.54.060 Standards for Mobile Home Structures, and Enacting Homer City Code 21.54.100 Standards for Mobile Home Structures. City Manager/Planning.

Mayor Hornaday called for a motion to substitute Ordinance 10-01(S) for Ordinance 10-01.

WYTHER/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-01(S) for introduction and first reading by reading of title only.

WYTHE/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 10-02**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2010 Operating Budget by Appropriating \$269,040 from the General Fund Balance for the Purpose of Filling 3.7 Vacant Positions in the Police and Fire Departments. Howard. Recommended dates: Introduction January 11, 2010, Public Hearing and Second Reading January 25, 2010.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-02 for introduction and first reading by reading of title only.

HOWARD/ZAK - SO MOVED.

Councilmember Howard asked for consideration of restoring the public safety positions, using part of the \$4.5M reserves as funding.

Councilmembers Roberts and Wythe expressed opposition to a budget amendment so soon after the budget was passed without a sustainable \$270,000 per year to support the positions. Councilmember Hogan would like to see the amendment in June.

VOTE: YES. ZAK, HOWARD

VOTE: NO. ROBERTS, WYTHE, HOGAN, LEWIS

Motion failed.

- C. **Ordinance 10-03**, An Ordinance of the City Council of Homer, Alaska, Adopting Homer City Code Chapter 19.02, Large Special Events, Requiring Permits for Large Special Events in the City, and Authorizing Charges for City Services Required for Large Special Events. City Manager. Recommended dates: Introduction January 11, 2010, Public Hearing and Second Reading January 25, 2010.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-03 for introduction and first reading by reading of title only.

LEWIS/WYTHE - SO MOVED.

Councilmember Hogan expressed the need to see a lot less stick and would like to see something more proactive. He would like to see it as an economic tool to bring events to town and be successful. He does not want to build roadblocks.

Councilmembers Roberts and Lewis expressed support for the new and improved ordinance, indicating that few events are covered.

City Manager Wrede related the new ordinance incorporates Council's comments. It is clear that expressive events and demonstrations are exempt, with no permit needed. Large events are 500 people or more and there are quite a few exemptions for the permit. We do want to encourage events for economic development, but make sure taxpayers don't get caught holding the bag. A copy of the changes (from failed Ordinance 09-42(A)(S)) are available through the City Manager's office.

Councilmember Wythe asked that Councilmember Hogan submit his proposed changes in writing.

VOTE: YES. LEWIS, ROBERTS, WYTHE, ZAK, HOWARD, HOGAN

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Climate Action Plan: We are moving forward with planning on how to implement the Climate Action Plan. The Plan was presented to the Council at its meeting on December 14. Council requested that it have some time to read and digest the Plan and then have a workshop with Joel to discuss it in detail. Jo and I talked about the workshop this week and she has tentatively scheduled it for the last meeting in February. At that time, Council could consider its next steps including a resolution accepting or adopting the plan and specific implementation actions. In the meantime, Anne Marie is keeping track of the possible finding sources including the Energy Efficiency and Conservation Block Grant Program (The City is basically guaranteed funding but will need to apply and program rules are not finalized yet) and the AHFC Performance Contracting Program. The rules for this program are expected to be available in March provided the Legislature authorizes the bonds. Performance Contracting is described in the Climate Action Plan and is a very interesting concept. I met with the Library Advisory Board on January 5 to discuss capital improvements and energy efficiency at the Library.
2. Kachemak Drive Phase II Water and Sewer. We will ask Council for some direction on this project again very soon. The City has now obtained all of the environmental permits necessary to proceed with construction. The easements that are needed from property owners continue to come in slowly and there are about 16 remaining. I will be reviewing the status of HAWSP funds and the City's current debt obligation again in order to make a recommendation about whether the City can afford to finance this project at this time.

We will likely ask the Council to authorize us to begin the first steps in preparation for an eminent domain proceeding in case that becomes necessary to obtain the remaining easements. Final authority there remains with the Council but some initial steps are necessary before the Council can make a decisions to proceed. We are aware that moving forward with this project will be very unpopular among some residents. But we also have to keep in mind that this LID was approved by a majority of the property owners in the LID and they have rights also.

3. Grants for Police and Fire Personnel. We are actively monitoring the status of Stimulus Package grant programs for funding Police and Fire Department positions. In 2009, we declined to apply for funding under the COPPS program because the strings attached seemed too onerous. However, it appears that this program may be reauthorized and we will take another look given current budget constraints. Chief Painter has applied for two positions under the federal SAFER program. The conditions attached to this program are very favorable and we would be happy to discuss this in detail at the meeting.
4. University Lands / Baycrest Ski Trails / Conservation Easement. Council will recall that several years ago, the City accepted title to land formally owned by the University of Alaska near Rogers Loop Road. This property contains a good portion of the Baycrest Ski Trails and was designated municipal parkland by ordinance. There are restrictions in the terms of the grant used to purchase the property which state that the land may only be used for conservation, recreation, and forestry projects. Money for the purchase was obtained by the Kachemak Heritage Land Trust. The state Department of Natural Resources has contacted us and requested that a conservation easement be placed on the property. According to DNR, this is a requirement of the Forest Legacy Program (a major funding source for the purchase) which was overlooked or forgotten at the time. Since DNR is responsible for this program in Alaska, it has requested the City's assistance. We are currently reviewing a draft conservation easement and when it is ready, will bring it to Council for its consideration.
5. New Sounds System: Jo reports that the contractor will install the new sound system in the Council Chambers on January 26.
6. West Campus Boiler: Carey reports that the new high efficiency boiler was installed at the Old Intermediate School over the Holiday break. Fine tuning is underway. It is estimated that this will save 20 to 30 percent in fuel costs at the building.
7. Homer Foundation Funding: Attached is a letter from the Homer Foundation outlining how it wishes to disperse the funding it will receive from the City in 2010. I bring this to your attention because in past years, the policy was that half of the City contribution was made available for distribution to nonprofits and the other half was deposited into the City's nonprofit endowment fund managed by the Foundation for long term growth. Last year, for the first time, the Foundation distributed all of the City's contribution plus the interest earned by the endowment fund. The Foundation cited economic conditions and the extraordinary need expressed by nonprofits around town. The Foundation proposes to do the same thing this year. If the Council had any concerns about this proposal, it should make those concerns known to the Foundation.
8. Deputy Fire Chief Position: Council will recall that one of the positions that was vacant and unfilled as we worked on the 2010 Budget was the Deputy Fire Chief position. This position is still vacant and unfunded. In preparation for the time when funding can be secured, the Chief is proposing a reorganization that should save money but increase efficiency and improve overall operation and service delivery. Under this plan, the

Deputy Chief position would be eliminated and replaced with an ESS / Trainer position. The new position would be responsible for all regular ESS functions and for tasks associated with volunteer training. This step will reduce employee costs, improve training and support for the volunteers that the City relies so heavily upon, and improve coverage and service delivery to the community. It has my full support.

9. Beluga Whales: As you probably know, much of Cook Inlet and Kachemak Bay was recently designated as critical habitat for Beluga whales. There is no shortage of opinions on this topic as you might imagine. You may have noticed that Mayor Carey, along with Mayor Sullivan and the Mayor of the Mat-Su Borough have already weighed in. We will be attending workshops and closely monitoring the impacts this designation may have, both good and bad, on Kachemak Bay and on City operations. For example, this will definitely add another layer of review to capital projects such as the Deep Water Dock expansion and the East Boat Harbor project.

City Manager Wrede referenced the information relating to Hickerson Memorial Cemetery operations in the supplemental packet. For future planning, if the City is to stay in the cemetery business, more land is needed.

The Permanent Fund is to meet Thursday to select a financial advisor for investment of the Exxon monies. Currently the money is invested in the AML investment pool. Municipalities pool their money, it earns some interest, is liquid, and easily assessable. When an investment firm is selected the money can easily be moved out of the account.

There are two possible sources of funding to implement the Climate Action Plan. The City has received notice of eligibility for a block grant in the amount of \$220,000. A plan must be devised to spend the grant monies.

City Manager Wrede reported there is a chance of stimulus package grant programs for funding Police and Fire department positions. There are many regulations for the stimulus money that is designed to replace positions for up to two years that are not funded due to budget cuts. Two Fire positions have been applied for, with no obligation for a match. There is a stipulation to keep the person employed for an additional year. Council will decide if they want to accept the grants.

Historically when the City makes contributions to The Homer Foundation they are split in half. Half is distributed to nonprofits; half is invested to grow. Last year The Homer Foundation spent all the money and interest earned by the trust fund, as there was a dire need by the nonprofits. The Foundation plans to do the same this year. Mayor Hornaday commented the interest should not be distributed and should be in a growth fund. Council commented on the City's annual contributions to The Homer Foundation and the need to provide direction as to how the funds will be disbursed.

B. Bid Report

C. Question of the Week – *The City is looking into revamping its website and making it more user friendly. What improvements would you like to see on the city website? This week's question is simple...Why do you choose to live in Homer?*

COMMITTEE REPORT

- A. Public Arts Committee
- B. Transportation Advisory Committee
- C. Permanent Fund Committee
- D. Lease Committee

PENDING BUSINESS

- A. **Ordinance 09-40(S)**, An Ordinance of the Homer City Council Adopting the 2008 Homer Comprehensive Plan and Recommending Adoption by the Kenai Peninsula Borough. City Manager. Introduction September 14, 2009, Public Hearings October 12 & 26, November 23, 2009, Worksession November 9, 2009 and Second Reading January 11, 2010.

Memorandum 10-11 from City Planner and Planning Technician as backup.

Mayor Hornaday called for a motion for the adoption of Ordinance 09-40(S) by reading of title only for second and final reading.

HOGAN/ZAK – SO MOVED.

Councilmember Hogan commented he had a hard time reading the Comp Plan, as it made him angry. It is not a document the community can relate to. He is not happy with the process. The City should never again use a consultant, but rather do their own plan. He expressed the need to vote it down and start over. In the executive summary on page 1-3 the Alaska Statute 29 charging comprehensive plans is cited. It is not what the statute says; they have changed it. It is fraud and there should be an investigation. HCC 1.18 states it is unlawful to knowingly advance falsehood to advance legislation.

WYTHE/ROBERTS - MOVED TO POSTPONE THIS ORDINANCE FOR A FINAL READING FEBRUARY 8TH, WITH AN ADDITIONAL PUBLIC HEARING ON JANUARY 25TH.

Councilmember Wythe asked that in the event postponement is granted, that all Councilmembers bring forward adjustments and corrections. There have been a lot of adjustments and she would like staff to get the documents on the website along with the red line revisions. There is no rush to get the plan done, but we need to continue moving forward now.

Councilmember Hogan commented it does not need polishing, it needs canning. The last Comp Plan update was 14 pages and this is 120-130 pages long. It is incredibly overreaching and he has not heard anyone supporting it. We need to stop and take a different track.

Councilmember Roberts pointed out the document is a complete revision of the Comprehensive Plan, rather than a revision. She concurs that additional public input is needed and we need to continue moving forward.

VOTE: YES. LEWIS, ROBERTS, WYTHER, ZAK, HOWARD

VOTE: NO. HOGAN

Motion carried.

- B. **Memorandum 10-14**, from City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(C)(3), Matters, Which by Law, Municipal Charter, or Ordinances are Required to be Confidential. (Ethics Case No. 2009-01)

Moved to be heard right before adjournment.

NEW BUSINESS

- A. **Memorandum 10-03**, From City Clerk Re: Council Seating.

Mayor Hornaday called for a motion for the approval of the recommendations of Memorandum 10-03.

ROBERTS/HOWARD - SO MOVED.

Councilmember Zak suggested the rock, paper, scissors method of selecting seats.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Hornaday, Mayor Pro Tempore Wythe, and Councilmembers Roberts and Howard retained their current seats. Mayor Hornaday allowed Councilmember Lewis to call the coin due to the alphabetical sequence between him and Councilmember Zak. Having lost the call, Councilmember Zak had first choice and chose to retain the seat he currently occupies.

RESOLUTIONS

- A. **Resolution 10-01**, A Resolution of the City Council of Homer, Alaska, Confirming the City Manager's Appointment of Robert Painter as Acting City Manager for the Calendar Year 2010. City Manager.

Mayor Hornaday called for a motion for the adoption of Resolution 10-01 by reading of title only.

LEWIS/WYTHER - SO MOVED.

Councilmember Hogan expressed concern at rotating the position, as it lacks continuity. He would rather see a permanent position rather than rotation.

Councilmember Roberts asked if Chief Painter was aware of City Manager Wrede's upcoming 30-day absence to attend the Legislative session. City Manager Wrede commented he will not spend all day, every day there. He could do work with a laptop and the impact would be having to sign things.

Councilmember Wythe noted the appointment of Acting City Manager is outlined in City Code and Council must follow code.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Resolution 10-02**, A Resolution of the Homer City Council Confirming the Appointments of Regina Harville as Treasurer and Laurie Moore as Deputy Treasurer for Calendar Year 2010. City Manager.

Mayor Hornaday called for a motion for the adoption of Resolution 10-02 by reading of title only.

LEWIS/WYTHE – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. **Resolution 10-03**, A Resolution of the City Council of Homer, Alaska, Designating Signatories of City Accounts and Superseding Any Previous Resolution So Designating. City Manager.

Mayor Hornaday called for a motion for the adoption of Resolution 10-03 by reading of title only.

WYTHE/LEWIS - SO MOVED.

WYTHE/ROBERTS – MOVED TO AMEND TO REPLACE BETH WITH MARY E., MY LEGAL SIGNATURE.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Resolution 10-04**, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Pressure Reducing Vault Replacement Project to the Firm of Endries Company of Soldotna, Alaska, in the Amount of \$171,500.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Memorandum 10-04 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-04 by reading of title only.

WYTHER/ZAK - SO MOVED.

Asked by Councilmember Hogan why the bid came in so high from the engineer's estimate, Public Works Director Meyer answered he did not spend enough time fully understanding the costs. Past PRV stations have been replaced for \$75,000. A few years ago a PRV station was replaced for \$165,000.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Resolution 10-05**, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Homer Sanitary Sewer Rehabilitation Project to the Firm of Construction Unlimited of Anchorage, Alaska, in the Amount of \$897,895.90 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Memorandum 10-05 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-05 by reading of title only.

WYTHER/LEWIS - SO MOVED.

Councilmember Hogan asked why the bid came in significantly under the engineer's estimate. You could balance it out with a reprimand on the previous bid.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- F. **Resolution 10-06**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Accept and Appropriate American Recovery and Reinvestment Act Funding (ARRA-Stimulus Bill) in the Form of a Loan (90% Forgiven Upon Purchase) in

the Amount of \$145,355 for the Purpose of Purchasing a New Vacuum Sweeper. City Manager/Public Works Director.

Memorandum 10-06 from City Manager as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-06 by reading of title only.

LEWIS/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- G. **Resolution 10-07** A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Issue a Request for Proposals to Lease Lot 8-D-1 on the Homer Spit Immediately Adjacent to the Deep Water Dock. City Manager/Lease Committee.

Memorandum 10-07 from Port and Harbor Advisory Commission as backup.

Memorandum 10-08 from Lease Committee as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-07 by reading of title only.

ZAK/ROBERTS - SO MOVED.

Asked by Councilmember Hogan if the lot was on the land allocation list, Port and Harbor Director Hawkins answered it was not on last year's Land Allocation Plan, but was in previous years. Asked by Councilmember Lewis of Home Run Oil's proposal, Port and Harbor Director Hawkins explained they are proposing to build a tank farm and a pipe line out to the Deep Water Dock.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- H. **Resolution 10-08**, A Resolution of the City Council of Homer, Alaska, Amending the Homer Port and Harbor Advisory Commission Bylaws, Regular Meetings, to be Held the Fourth Wednesday of Each Month at 5:00 p.m. with the Exception of the November and December Meetings Which will be Held on the Third Wednesday of the Month at 5:00 p.m. City Clerk/Port and Harbor Advisory Commission.

Memorandum 10-09 from Port and Harbor Advisory Commission as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-08 by reading of title only.

WYTHE/LEWIS – SO MOVED.

ROBERTS/WYTHE - MOVED TO AMEND THE BYLAWS ON PAGE 210, TELECONFERENCE MEETING REGULATIONS: TO ADD THAT A MEMBER MAY PARTICIPATE UP TO TWO MEETING BY TELECONFERENCE.¹

Two annual teleconference meetings are allowed by City Council and the Economic Development Advisory Commission.²

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- I. **Resolution 10-09**, A Resolution of the City Council of Homer, Alaska, Amending the Homer Port and Harbor Advisory Commission Bylaws, to Add a Section on Teleconferencing. City Clerk/Port and Harbor Advisory Commission.

Memorandum 10-10 from Port and Harbor Advisory Commission as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-09 by reading of title only.

ROBERTS/LEWIS – SO MOVED.

ROBERTS/LEWIS - MOVED TO MAKE THE SAME AMENDMENT UNDER TELECONFERENCE MEETINGS NO. 1: UP TO TWO TELECONFERENCE MEETINGS IN A YEAR.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- J. **Resolution 10-10**, A Resolution of the City Council of Homer, Alaska, Renaming Thomas Street to Glenview Street Within the Forest Glen Subdivision Unit 1 Within the

¹ This amendment is moot as Resolution 10-08 addresses meeting time only. Resolution 10-09 addresses telephonic participation.

² City Council and EDC allow three telephonic meetings in a calendar year.

City of Homer, and Renaming Beach Road to Miller's Landing Road Within the HK Davis Subdivision in Compliance With the Enhanced 9-1-1 Street Addressing Program. City Manager/Planning.

Memorandum 10-13 from City Planner and Planning Technician as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-10 by reading of title only.

LEWIS/ZAK - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

K. **Resolution 10-11**, A Resolution of the City Council of Homer, Alaska, Expressing Support for the Pratt Museum's Legislative Grant Request in the Amount of \$160,000 for the Design Phase of the Museum Renovation Project. Roberts.

Mayor Hornaday called for a motion for the adoption of Resolution 10-11 by reading of title only.

ROBERTS/HOWARD - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

L. **Resolution 10-12**, A Resolution of the City Council of Homer, Alaska, Supporting the Efforts of the Kenai Peninsula Food Bank "Building to Nourish" Campaign to Secure Both Public and Private Financial Support to Match a Rasmuson Foundation Grant for Building Renovations and Upgrades that will Enhance the Food Bank's Efforts to Provide More Food to the Increasing Numbers of Hungry Within the Kenai Peninsula Borough. Mayor.

Mayor Hornaday called for a motion for the adoption of Resolution 10-12 by reading of title only.

LEWIS/ZAK - SO MOVED.

Councilmember Roberts expressed support for the resolution, adding that we need to support our local food bank as well.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

M. **Resolution 10-13**, A Resolution of the City Council of Homer, Alaska, Finding that with Specified Amendments to its Articles and Bylaws Homer Citizens for Erosion Control Substantially Meets the Requirements to Qualify as an Eligible Entity to Receive Grants for Operation of the Seawall Under HCC 15.10.100, and Encouraging the Corporation to Adopt the Required Amendments Prior to Making an Application for Grant Funds. City Manager.

Memorandum 10-15 from City Attorney as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-13 by reading of title only.

ZAK - SO MOVED.

Motion failed for lack of a second.

COMMENTS OF THE AUDIENCE

Dean Ravin, Homer resident, commented on the increasing inventory of vacant commercial real estate inside the city. He asked Council to explore how the current application of the zoning ordinances may prevent commercial development. What is the City doing that may be causing the vacancies? The City is not collecting sales tax revenues, and without the buildings being filled we will see dropping property values.

Councilmember Howard asked that the matter be remanded to the Economic Development Advisory Commission. Councilmember Hogan asked for a MLS of commercial and residential properties to establish a data base of that activity.

Leonard Wells, city resident, commented the Comprehensive Plan should be thrown out or wording be changed on future zoning changes. As of mid December about \$40,000 in sales tax revenue that used to come from gasoline sales on East End Road is now on the opposite side of the city line.

Don McNamara, city resident, said the seawall is a hot topic. One person within the ODL Seawall district did not show up; all others were here.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner commented that he provided a pending litigation report to City Council and would be happy to update it. Mayor Hornaday requested a quarterly report and a report to show the cases Attorney Klinkner is not involved in.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede commented he is trying to pull together a summary on other pending legal matters. It will follow shortly. As to Resolution 10-13, he is perplexed there was no discussion. He thinks City Council thought the resolution was premature. He wanted to get something on the table for Council to talk about the seawall. He will come up with the application form and fill in the blanks. The property owners will amend their bylaws. When they are in compliance with the code, it will be brought back.

COMMENTS OF THE MAYOR

Mayor Hornaday commented on a new book, Snapshots of the Statehood on the Kenai Peninsula. The front page includes a picture of Mossy Kilcher at age 7 milking a cow. Wilma Williams wrote the Homer portion that Homer was opposed to Statehood. There is even a comment from the Mayor.

COMMENTS OF THE CITY COUNCIL

Councilmember Wythe commented there are a lot of contentious issues on the ODL Seawall. Council needs to spend some time to discuss the seawall and the aspects, why it came to be, how it came to be, and the City's legal responsibility relating to the wall. She understands ownership is by the citizens of the wall, not the City. Resolution 10-13 was put out there with the intent of talking about the seawall, but Council talked about the resolution. Both are separate. Council needs education on what has preceded them and the history of the seawall. Everything went well tonight.

Councilmember Lewis had no comment.

Councilmember Hogan expressed appreciation of the attorney's report. He concurs with the Mayor for a full report on other legal matters. He made an informal request of Administration for a DOT report for coastal erosion to the Sterling Highway and an inventory to establish a data base of vehicle rolling stock, equipment, hour meter readings, and mileage readings of all the vehicles in the City's fleet to determine what we have, what we are using, and what we don't need. He hopes Council will support gathering that information in a monthly report. In regard to the Comp Plan and changing the wording of the Alaska Statutes, he takes that very seriously. He cited HCC 1.18.030 that contractors shall not knowingly make false statements to influence official action. It needs to be taken seriously. Someone has been beating the drum stating the Comp Plan is a KPB function. Granted, the Borough has delegated that authority to us, but we should not be changing the State Statute to fit our purposes.

Councilmember Roberts felt that Resolution 10-13 was premature and may not have been the appropriate resolution. There was a lot of material to read in the packet. There were some things in the HCEC bylaws that their vote was based on the length of the seawall, yet the City collects

taxes based on the mil rate. Fairness needs to be looked at. She will not support it until it is equitable to the citizens. She has been on the Council for 3 ½ years and very erratically she gets quarterly financial documents. She would like a schedule to include a report three or four times a quarter, especially in these difficult financial times. A general overview of the general fund in comparison to past quarters is requested. Council is responsible financially to oversee the City. A regular report is needed, not just during budget time. A balance sheet to compare previous years to this one is needed to see if things are getting better or worse.

Mayor Hornaday commented in regard to the ODL seawall. The City Attorney is going to advise us on whether the application of the homeowners association meets the city code. What is in their bylaws is their business, not ours.

Councilmember Zak commented he introduced Resolution 10-13. He has heard about armor rock and stimulus funds that may be for shovel ready projects. He appreciates the City Manager's comments on the seawall and hope it comes back relatively soon. He offered congratulations to the Pratt Museum for getting the large grant and bringing funds to the City of Homer. He expressed disappointment that funding for police positions failed. Councilmember Howard is right to dip into reserves since non profits were funded. He also hopes that comes back fairly soon. Meeting earlier with a tremendous turnout was a more positive meeting with more energy.

Mayor Hornaday commented the City is not applying for anything on the seawall and Councilmember Zak's comments should not be taken that we are doing so.

Councilmember Howard said she hopes she doesn't say anything to upset the Mayor. She thanked the Clerk's office for the good advertisement for the change of times for the meetings. In evidence, folks are here tonight. She would like to add a notice at the front door and an announcement from the Mayor to turn off cell phones. It is interesting seawall owners all agree on armor rock. She challenged the group that lives on Hatfield and McCoy Street to start working together as a unit to resolve this as hard as the City Council is working on it.

PENDING BUSINESS (Continued)

- B. **Memorandum 10-14**, from City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(C)(3), Matters, Which by Law, Municipal Charter, or Ordinances are Required to be Confidential. (Ethics Case No. 2009-01)

Mayor Hornaday called for a motion for the approval of the recommendations of Memorandum 10-14 to discuss Ethics Case No. 2009-01.

WYTHE/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. HOWARD, HOGAN, LEWIS, ROBERTS, WYTHE, ZAK

Motion carried.

Council adjourned to Executive Session at 8:15 p.m. and reconvened at 8:30 p.m.

ADJOURNMENT

There being no further business to come before the Council the meeting was adjourned at 8:31 p.m. by Mayor Hornaday. The next Regular Meeting is scheduled for Monday, January 25, 2010 at 6:00 p.m. The Next Committee of the Whole is scheduled for Monday, January 25, 2010 at 5:00 p.m. A Special Meeting is scheduled for Monday, January 25, 2010 at 4:00 p.m. All meetings scheduled to be held in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

JO JOHNSON, CMC, CITY CLERK

Approved: _____