

Session 10-12 a Regular Meeting of the Homer City Council was called to order on March 22, 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
PUBLIC WORKS DIRECTOR MEYER

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

Council met for a Joint Worksession from 4:02 p.m. to 4:55 p.m. with Advisory Bodies (Ray Kranich, Planning Commission and Bob Hartley, Port and Harbor Advisory Commission) to discuss the Land Allocation Plan. Council met as a Committee of the Whole from 5:00 p.m. to 5:38 p.m. to discuss Salary/Benefits Parity Study 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 amended to add: PUBLIC HEARINGS - Ordinance 10-10 Staff Report PL 10-18 from Planning Technician Re: Public and private schools in General Commercial 1 and NEW BUSINESS – Substitute Ordinance 10-20(S). The agenda as amended was adopted by unanimous consent of the Council.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Roberta Highland, city resident, Comp Plan Working Group, advocated for the map and changes as presented to Council on March 8th.

Paul Hueper, city resident, asked that Council not pass Ordinance 10-19. The two end properties of the seawall could be exempted out. If the service district goes away, the insurance goes away.

City Manager Wrede commented he met with the Executive Director of AML/JIA while in Juneau. Per Alaska Statutes, AML/JIA is prohibited from providing insurance for improvements on private property. If Ordinance 10-19 passes the City's insurer AML/JIA could not insure the seawall in its entirety.

Donna Rae Faulkner, city resident, asked for passage of Ordinance 10-19 or that they and the Dickey's be dropped off the special service district. She opposes Ordinance 10-20(S) as there is no legal basis and it is not acting in good faith with an inequitable distribution of funds.

Pat Irwin, city resident, prefers to maintain the insurance on the seawall. His property is in the middle and if the wall goes, it goes.

Don McNamara, city resident, commented on Ordinances 10-19 and 10-20. He asked Council how they could make the taxpayers liable for private property. He bought 100 ft. seawall, paid for it and maintains it. The City calls in Troy Jones to work on other people's property and wants him to pay \$1,000. There is currently a hole in the seawall with 30 to 50 yards washed out that is not being taken care of. People need to maintain their own property. The seawall is a bottomless pit and taxpayers and homeowners do not have that much money.

Marilyn Hueper, city resident, commented on Ordinance 10-19 and the insurance that was dependent on the special service district. She now feels like the rug has been pulled out from under their feet. They have never had serious issues on their property. They went in together as a neighborhood and she is not comfortable leaving people to figure it out on their own. The special service district will create a stronger tax and property value base.

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 Regular Meeting minutes of March 8, 2010. City Clerk. Recommend adoption.

Mayor Hornaday called for a motion for the adoption of the consent agenda as read.

LEWIS/HOGAN - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. Susan Cushing, Haven House

Susan Cushing, representative for the Haven House, outlined the functions of the shelter. Haven House offers safety, support, and advocacy for victims of domestic violence and sexual assault. Victims receive crisis and legal counseling and coping skills to change their lives for the better. Additionally, they offer school presentations, a batterers' intervention program, a child advocacy center, support groups for prevention, and youth leadership peer intervention programs. Through the efforts of the court, Homer Police Department, Alaska State Troopers and the City, Haven House is one of the most successful shelters in the state. On Sunday, March 28th at 6:00 p.m. at Land's End Clara Anderson and Oceana Wills will be honored as women of distinction. Governor Parnell has proclaimed an initiative "Alaskans Choose Respect" to bring awareness to domestic violence and sexual assault. On Wednesday, March 31st on Pioneer Avenue at noon Commissioner Hogan of the Department of Health and Social Services and Mayor Hornaday will speak at WKFL Park.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. Mayor's Proclamation – "Alaskans Choose Respect"

B. Borough Report

Bill Smith, Kenai Peninsula Assemblyman, reported the Assembly is working with administration on the budget. Mayor Carey is looking for a ½ mill reduction from the current 4.5 mill rate. This fiscal year the Borough received money from several sources for several million dollars that helped the budget reserves. The school district budget will require several million dollars from Borough funds. Revenue was lost due to the exemption of sales tax on non-prepared food and a slower economy.

C. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission

Ray Kranich, HAPC, reported the commission spent untold hours working on the Comprehensive Plan chapter by chapter. The commission looked at the Comp Plan as to how it would benefit the entire city, with no special interest groups. Transitional residential was defined; when the population grows the number of zoning districts increase. Uses and lot sizes are not defined in transitional residential, however, it would be an in between zone to encourage smaller lot sizes that might help the water/sewer system operate in the black. Otherwise we will continue to live an urban lifestyle as in the previous Comp Plan with no water/sewer customers for miles. The Planning Commission recommended against adoption of Ordinance 10-10. GC1 is intended for light industrial use and they would not want to inter-mix schools. A building supply

could go right next door to Head Start. Based on space, health and safety concerns, even as a conditional use, GC1 would need revisions with more restrictions. The commission amended finding #6 to add that allowing schools would necessitate increased regulation of surrounding properties and could reduce property values.

3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission
5. Port and Harbor Advisory Commission

PUBLIC HEARING(S)

- A. **Ordinance 10-10**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.24.060 to Add Public, Private, Trade, Skilled, Or Industrial Schools as a Conditional Use in the General Commercial One Zoning District. Zak. Introduction February 8, 2010, Referred to Planning Commission, Public Hearing and Second Reading March 22, 2010.

Memorandum 10-48 from City Planner as backup.

Mayor Hornaday opened the public hearing.

Jenny Zielinski, city resident, advocated for Ordinance 10-10. Conditional uses for GC1 could be expanded. There are commercial buildings that are excellent spaces and well maintained that have been empty for years. Traffic is not an issue on Ocean Drive; it is busiest during the summer months when school is out. The Planning Commission is concerned about small children; the facility should be responsible.

Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-10 by reading of title only for second and final reading.

ZAK/HOGAN - SO MOVED.

Discussion ensued on the number of building vacancies in GC1 districts. There is a lot of opportunity for economic development in Homer and a conditional use permit would require justification. Concerns for young children in the area were voiced.

VOTE: YES. WYTHE, ZAK, HOGAN

VOTE: NO. ROBERTS, HOWARD, LEWIS

Mayor Hornaday broke the tie vote with a NO.

Motion failed.

- B. **Ordinance 10-14**, An Ordinance of the City Council of Homer, Alaska, Adopting Homer City Code Chapter 3.14, Revolving Energy Fund, and Amending the FY 2010 Operating Budget by Appropriating \$315,691 from Thirteen Facility Depreciation Accounts to Provide Startup Funds. Roberts. Introduction March 8, 2010, Public Hearing and Second Reading March 22, 2010.

Memorandum 10-43 from Councilmember Roberts as backup.

Mayor Hornaday opened the public hearing.

In the absence of public testimony, Mayor Hornaday closed the public hearing.

ROBERTS/ZAK - MOVED TO ADOPT ORDINANCE 10-14.

Councilmember Hogan expressed concern of who the money would be loaned to and why money could not be used from present funds. He is concerned of setting up a committee that is under administration to decide how the funds would be spent. It is Council's responsibility and they should not delegate their fiduciary duties to some committee.

Councilmember Roberts stated Council adopted the Climate Action Plan (CAP) and agreed to follow some of its steps. A CAP recommendation was to set up an energy fund to save taxpayers money in usage. Money will be taken from depreciation funds. If Ordinance 10-14 passes, Council must approve bylaws for the revolving energy fund. The suggested committee make-up is outlined in the bylaws and is not run by the City Manager.

Councilmember Hogan reiterated Council's charge with the City's fiduciary duties. He doesn't know why a separate fund is needed to dictate energy savings. It is taking a bad idea and dressing it up for a popular cause.

Councilmember Roberts explained the committee would be comprised of people who can contribute in a positive way. It will be cost effective for the City.

City Manager Wrede commented the committee would report to Council and expenditures would require approval.

Councilmember Zak advocated for the ordinance, stating Joel Cooper provided the CAP to start saving the City money in energy costs. The energy savings will be returned to the fund. If we wait longer we may not get the opportunity to reap the benefits.

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

VOTE: NO. HOGAN

Motion carried.

- C. **Ordinance 10-15**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an American Recovery and Reinvestment Act (ARRA) Community

Economic Stimulus Grant Administered by the State of Alaska Department of Commerce, Community and Economic Development in the Amount of \$161,979.77 for the Purchase of Electric and Heating Fuel and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Introduction March 8, 2010, Public Hearing and Second Reading March 22, 2010.

Mayor Hornaday opened the public hearing.

In the absence of public testimony, Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-15 by reading of title only for second and final reading.

LEWIS/WYTHE – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

A.. **Ordinance 10-16**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Section 1.43.010 to Change the Name of the Community Schools Program to Community Recreation Program. City Manager. Recommended dates: Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

Memorandum 10-49 from Community Recreation Coordinator through City Manager as backup.

Mayor Hornaday called for a motion for the introduction and first reading of Ordinance 10-16 by reading of title only.

HOGAN/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Ordinance 10-17**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2010 Budget by Appropriating \$6,600 from Port and Harbor Reserves for the Installation of Electric at the Steel Grid. City Manager/Port and Harbor Director.

Recommended dates: Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

Memorandum 10-51 from Port and Harbor Director as backup.

Mayor Hornaday called for a motion for the introduction and first reading of Ordinance 10-17 by reading of title only.

LEWIS/HOGAN - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

C. **Ordinance 10-18**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2010 Budget by Appropriating \$20,000.00 from the General Fund Reserves for the Purpose of Redesigning, Developing and Implementing the City of Homer Website. City Manager. Recommended dates: Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

Mayor Hornaday called for a motion for the introduction and first reading of Ordinance 10-18 by reading of title only.

LEWIS/WYTHE - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

City Manager Wrede reported on his visit to Juneau during the Legislative session. It was a productive visit, having spent most of the time working on trying to secure money already received in past years. Both Senator Stevens and Representative Seaton feel positive about re-appropriating money for the current City Hall building. Additionally, City Manager Wrede spent time with DOT on the \$2M for Main Street and \$2M for the Deep Water Dock. The commissioners and the regional office are on the same page as to spending money. A MOU with DOT will allow us to start on a feasibility study for expanding the dock. As to Main Street, the \$2M grant said it would be for the intersection improvement. Council is focused on fixing the intersection; DOT's impression is the funds are for Main Street. Anything the City does to

upgrade Main Street would have to be integrated with the intersection. DOT's suggestion is that we start designing Main Street and intersection improvements. When we get to the 30% phase it will be easier to secure highway funds. As to the Spit Trail, it is disappointing because we got the money last year and were looking to complete the trail this year. There is still no MOU with DOT to pass the money through. A lease is forthcoming on the warehouse project with DOT. City Manager Wrede will return to Juneau for the first two weeks of April to advocate for the City.

Public Works Director Carey Meyer provided a video presentation of the sewer lines and the \$1.8M rehabilitation project to keep the lines in good working condition.

B. Bid Report

C. Games Report

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, January 25, February 8 & 22, March 8, 2010, Worksession November 9, 2009 and Second Reading March 22, 2010.

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

Motion on the floor from January 11, 2010: MOTION TO ADOPT ORDINANCE 09-40(S) BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

ROBERTS/ZAK – MOVED TO AMEND THE COMPREHENSIVE PLAN PAGE 4-22 ON THE LAND USE IMPLEMENTATION TABLE: FIRST BULLET AMEND TO “DEVELOP NEW ZONING CODE TO IMPLEMENT NEW CATEGORIES” AND DELETE THE WORDS: “COMP PLAN LAND USE RECOMMENDATIONS MAP”.

Councilmember Roberts noted the old bullet causes some citizens to be fearful the Land Use Recommendations Map is going to be the zoning code. It was not the intention of the Planning

Commission to make it that way. The Comprehensive Plan is a working document; we work to adapt, understand it, and work our way towards it.

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

Motion carried.

ROBERTS/HOWARD – MOVED TO AMEND ON THE SAME PAGE ANOTHER BULLET RIGHT UNDER THE FIRST ONE: “WORK WITH THE COMPREHENSIVE PLAN LAND USE RECOMMENDATION MAP ON AN AREA BY AREA BASIS TO DETERMINE THE FEASIBILITY AND ACCEPTABILITY OF REZONING”.

City Planner Abboud commented the amendments just refine the implementation part; there is nothing outside the intent the Planning Commission has not already had.

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

Motion carried.

WYTHE/HOWARD - MOVED TO AMEND BOTH OF THOSE ITEMS, THE TIME FRAME FROM THE NEAR TERM TO THE LONGER TERM.

Councilmember Wythe stated it is appropriate to allow time on both amendments, rather than list the near future.

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

Motion carried.

ROBERTS/HOWARD - MOVED TO AMEND TO CHANGE THE LAND USE MAP ON PAGE 4-7, THE INTERSECTION OF EAST HILL ROAD AND EAST END ROAD TO THE EAST OF THE BOTTOM OF EAST HILL ROAD TO MAKE THE FIRST 10 LOTS ON THE NORTH SIDE OF EAST END ROAD TO THE EAST OF EAST HILL ROAD TO BECOME EAST END ROAD RESIDENTIAL OFFICE COMMERCIAL DISTRICT WHICH IS THE HOT PINK COLOR ON THE MAP.

Councilmember Zak commented the amendment is too focused for the Comprehensive Plan and may need to be discussed at the Planning Commission level.

Planning Commissioner Ray Kranich stated the idea of the Planning Commission and Comp Plan Citizens Advisory Committee was that this land use map is not detailed lot by lot, it is area by area. It is a long range plan. To try to plan five years lot by lot you would have a checkerboard and it would require a magnifying glass to see. The plan allows for flexibility.

Councilmember Wythe defended the small area that is being amended. Changes that are being made today are not necessarily going to be approved today. The Council still has the opportunity

to discuss it further or send it back to Planning for further input. There has not been a convenient time frame for making changes to the Comp Plan prior to now.

Councilmember Zak commented area by area there was a lot of thought that went into the Comp Plan. In getting into specific lots, we need to be careful. He expressed opposition to this particular amendment.

City Clerk Johnson asked that Councilmember Roberts re-read the motion to clarify ten lots, rather than nine.

Councilmember Roberts clarified it was ten lots instead of nine. The base of East Hill Road currently says one side is business. It seems like eventually in the future both sides would become more business orientated. Many of the lots there are similar to the lots on the other side of the base of East Hill Road. It is not a zoning map and Council is not discussing zoning, merely the direction and ways the City of Homer might move and grow.

Councilmember Zak said there was not enough public input and questioned why we are doing it now. It is the area-wide scheme instead of specific lots.

Councilmember Wythe reiterated the changes may not be permanent and the Comprehensive Plan may be returned to the Planning Commission.

Mayor Hornaday commented he has been told by Planning Commissioners they do not want the plan sent back to the commission. They feel they have done their work.

VOTE: (amendment) YES. HOGAN, LEWIS, ROBERTS, WYTHE

VOTE: NO. HOWARD, ZAK

Motion carried.

WYTHE/ROBERTS – MOVED TO AMEND THE BEGINNING OF SECTION 4 – GOAL #1 TO STRIKE “THE AMOUNT AND LOCATION OF” SO IT WOULD READ: “GUIDE HOMER’S GROWTH WITH A FOCUS ON INCREASING THE SUPPLY AND DIVERSITY OF HOUSING, PROTECTING COMMUNITY CHARACTER, (STRIKE REDUCING) ENCOURAGING INFILL, HELPING (STRIKE REDUCE) MINIMIZE GLOBAL IMPACTS OF PUBLIC FACILITIES, INCLUDING LIMITING GREENHOUSE GAS EMISSIONS”.

Councilmember Wythe stated we do not have the ability to control the amount of growth. Locations are controlled through zoning. Council does not have a lot of ability to control non-public facilities greenhouse gas emission.

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

Motion carried.

WYTHE/HOGAN – MOVED TO AMEND GOAL #3 TO STRIKE “GUIDE THE FORM AND CHARACTER OF GROWTH TO” AND LEAVE “ENCOURAGE HIGH-QUALITY BUILDINGS AND SITE DEVELOPMENT THAT COMPLEMENT HOMER’S BEAUTIFUL NATURAL SETTING”.

There was no discussion.

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

Motion carried.

WYTHE/ROBERTS – MOVED TO AMEND GOAL #6 TO SPLIT INTO TWO SENTENCES: “DEVELOP A CLEAR AND OPEN PUBLIC PROCESS FOR FUTURE CHANGES TO CITY OF HOMER BOUNDARIES” AND “EXPLORE A PLANNED, PHASED POSSIBLE EXPANSION AND INITIATE AND ESTABLISH REGIONAL PLANNING PROCESSES WITH THE KENAI PENINSULA BOROUGH”.

There was no discussion.

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

Motion carried.

WYTHE/ROBERTS – MOVED TO AMEND PAGE 4-2 AT THE END OF THE SECOND PARAGRAPH TO STRIKE “THAT THIS PLAN MERELY BRINGS FORWARD THE POLICIES OF THE 1999 PLAN” AND INSERT “AS ADDRESSED SEPARATELY IN THE SPIT COMPREHENSIVE PLAN”.

There was no discussion.

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

Motion carried.

ROBERTS/WYTHE - MOVED TO AMEND TO INCLUDE THE FUNCTIONAL WETLANDS MAP THAT WAS ADOPTED BY RESOLUTION 07-09 BY THE COUNCIL AS AN APPENDIX IN SECTION D.

Councilmember Roberts stated it is an important map the Council adopted and should be included in the appendix.

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

Motion carried.

Councilmember Hogan requested an amendment to section 1-3 as to the key elements of AS 29.40.030.

City Attorney Klinkner commented he would need to review the statute to approve the amendment.

Mayor Hornaday called for a recess at 7:50 p.m. and reconvened the meeting at 7:55 p.m.

WYTHE/LEWIS – MOVED TO AMEND PAGE 1-3 SECOND PARAGRAPH DURING THE INDENTATION, THE LAST SENTENCE, STRIKE MUNICIPALITY AND REPLACE THAT WITH “OF THE FIRST OR SECOND CLASS BOROUGH”.

City Attorney Klinkner stated the proposed amendment does quote Alaska Statute verbatim. It fails to provide any explanation as to why the City is preparing this plan when the City is not a second or third class borough. To include that explanation would require considerable elaboration. The amendment as presented is acceptable.

Asked by Councilmember Roberts if it would cause future dilemmas with no explanation included as to why Council is making the Comprehensive Plan, City Attorney Klinkner responded it may be a bit confusing to the reader. Another approach would be to clearly indicate it is not a verbatim quote and put the word “municipality” in brackets.

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

Motion carried.

WYTHE/LEWIS – MOVED TO FURTHER POSTPONE AND INCLUDE ON THE APRIL 12TH AGENDA FOR PUBLIC HEARING AND SECOND READING APRIL 26TH.

Councilmember Roberts stated she has several other amendments and would like them completed prior to postponement.

Councilmember Wythe withdrew the motion to postpone.

ROBERTS/HOWARD – MOVED TO AMEND PAGE 10-1 7TH PARAGRAPH, 2ND SENTENCE: TO READ: “THE CITY OF HOMER COMPREHENSIVE PLAN AND COMPREHENSIVE PLAN USE RECOMMENDATION MAP SHOULD BE REVIEWED AFTER FIVE YEARS BY THE CITY COUNCIL...”

There was no discussion.

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

Motion carried.

Councilmember Wythe noted the need to make sure the rest of land use implementation and long term designations are updated.

ROBERTS/WYTHER - MOVED TO AMEND TO ELIMINATE PART OF THE TRANSITIONAL RESIDENTIAL AREA WEST OF WEST HILL ROAD THAT IS INDICATED ON THE MAP PROVIDED AT THE 3/08/10 MEETING AND RETURN IT TO RURAL RESIDENTIAL. (Eliminate the blue areas and turn them back to yellow on the Comprehensive Plan Land Use Recommendation Map.)

Councilmember Roberts explained the transitional residential area is defined as areas where water/sewer services exist or are likely to exist in the near term future. Those areas are not likely to have water/sewer in the 5-year near term future.

ROBERTS/WYTHER – MOVED TO AMEND THE PREVIOUS MOTION TO INCLUDE THE AREA JULIE HAS CIRCLED IN INK PEN WITHIN HILLSIDE PLACE.

VOTE: (secondary amendment) YES. WYTHER, ZAK, HOWARD, HOGAN, LEWIS, ROBERTS

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

Motion carried.

ROBERTS/LEWIS – MOVED TO AMEND TO ELIMINATE THE TRANSITIONAL RESIDENTIAL AREA SURROUNDING EAST HILL ROAD TO THE EAST AND ONLY INCLUDE THE PART ALONG EAST HILL ROAD AS INDICATED BY THE MAP RECEIVED ON 3/08/10 AND RETURN IT TO RURAL RESIDENTIAL.

Councilmember Zak noted it was a big area wide change; it is a much bigger piece.

VOTE: (amendment) YES. ROBERTS, WYTHER, HOGAN, LEWIS

VOTE: NO. ZAK, HOWARD

Motion carried.

ROBERTS/HOGAN - MOVED TO RETURN THE AREA ALONG KACHEMAK DRIVE TO RURAL RESIDENTIAL FROM THE TRANSITIONAL RESIDENTIAL.

Councilmember Zak commented it was not doing justice as he has not had time to think about the amendments from a planning mindset.

VOTE: (amendment) YES. ROBERTS, WYTHER, HOGAN

VOTE: NO. LEWIS, ZAK, HOWARD

Mayor Hornaday broke the tie vote with a NO.

Motion failed.

HOGAN - MOVED TO ELIMINATE THE TOWN CENTER DEVELOPMENT PLAN FROM THE COMPREHENSIVE PLAN.

Motion died for lack of a second.

WYTHE/LEWIS - MOVED TO POSTPONE AND PLACE ON THE AGENDA FOR THE NEXT TWO MEETINGS WITH THE FINAL VOTE BEING AT THE SECOND MEETING IN APRIL (APRIL 26TH) AND A PUBLIC HEARING AT THE NEXT MEETING (APRIL 12TH).

VOTE: (postponement) YES. HOWARD, HOGAN, LEWIS, ROBERTS, WYTHE
VOTE: NO ZAK

Motion carried.

NEW BUSINESS

- A. **Memorandum 10-50**, From City Clerk Re: Request for Executive Session Pursuant to AS §44.62.310(C)(1&5), Matters, The Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Government Unit and Attorney/Client Privilege. (Ocean Drive Loop Seawall)

Mayor Hornaday called for a motion for the approval of the recommendations of Memorandum 10-50 to discuss Ocean Drive Loop Seawall.

WYTHE/LEWIS - SO MOVED.

There was no discussion.

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

Motion carried.

Council adjourned to Executive Session at 8:11 p.m. and reconvened the meeting at 8:40 p.m.

Mayor Pro Tempore Wythe announced Council consulted with the City Attorney and will proceed as advised.

- B. **Ordinance 10-19**, An Ordinance of the City Council of Homer, Alaska, Abolishing the Ocean Drive Loop Special Service District, Repealing Homer City Code Chapter 15.10 Ocean Drive Loop Special Service District, and Providing for Related Matters. Council. Recommended dates: Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

Mayor Hornaday called for a motion for the introduction and first reading of Ordinance 10-19 by reading of title only.

LEWIS/ROBERTS - SO MOVED.

Councilmember Zak commented the ordinance may be postponed to a later meeting. It is his hope the seawall owners association will get together and get formed.

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

VOTE: NO. ZAK

Motion carried.

- C. **Ordinance 10-20**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2010 Operating Budget by Appropriating \$11,000.00 from the Ocean Drive Loop Special Service District for the Purpose of Paying the Cost of Repairs to the Seawall, and Appropriating \$11,000.00 from the Ocean Drive Loop Special Service District for Refunds to Taxpayers In The Ocean Drive Loop Special Service District. Council. Recommended dates: Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

Mayor Hornaday called for a motion for the introduction and first reading of Ordinance 10-20 by reading of title only.

ROBERTS/WYTHER - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

WYTHER/ROBERTS - MOVED TO SUBSTITUTE WITH ORDINANCE 10-20(S).

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

RESOLUTIONS

- A. **Resolution 10-27**, A Resolution of the City Council Of Homer, Alaska, Noting the Insufficiency of the Petition for Eagle Place/Little Fireweed Road Improvements. City Clerk.

Mayor Hornaday called for a motion for the adoption of Resolution 10-27 by reading of title only.

LEWIS/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Resolution 10-28**, A Resolution of the City Council of Homer, Alaska, Approving a One Year Lease Extension for Peninsula Scrap and Salvage, Inc. on a Portion of Lot 5, Homer Spit Plat #5, for the Purpose of Staging and Shipping Crushed Vehicles and Recycled Steel. City Manager.

Mayor Hornaday called for a motion for the adoption of Resolution 10-28 by reading of title only.

WYTHER/ROBERTS – SO MOVED.

Councilmember Hogan asked if the lease included a performance bond. City Manager Wrede answered if so it would be in the separate contract for junk car removal. Upon review of the lease it was determined there was not a performance bond, just a requirement for environmental insurance in the event of an oil spill or contaminants associated with scrap metal.

HOGAN- MOVED TO AMEND THE LEASE TO INCLUDE A PERFORMANCE BOND TO RETURN THE PROPERTY TO ITS ORIGINAL CONDITION AND REDUCE THE RENT BY \$450 A MONTH.

Motion died for lack of a second.

WYTHER/ROBERTS - MOVED THAT EVERY POINT IDENTIFIED AS LOT 5 BE AMENDED TO LOT 12.

The subject property is Lot 12 in Subdivision 5.

VOTE: (amendment) YES. HOGAN, LEWIS, ROBERTS, WYTHER, ZAK, HOWARD

Motion carried.

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

Motion carried.

- C. **Resolution 10-29**, A Resolution of the City Council of Homer, Alaska, Amending the City Property Management Policy and Procedures Manual to Include the Amendments Submitted by the Economic Development Advisory Commission. Hogan.

Mayor Hornaday called for a motion for the adoption of Resolution 10-29 by reading of title only.

HOGAN/ROBERTS - SO MOVED.

HOGAN/ROBERTS – MOVED TO POSTPONE TO THE SECOND MEETING IN MAY.

Councilmember Wythe noted the need for a couple of meetings to review the language from the Economic Development Advisory Commission. She requested postponement to the second meeting in June.

HOGAN/ROBERTS – MOVED TO AMEND POSTPONEMENT TO THE FIRST MEETING IN JUNE.

Councilmember Hogan agreed on the need for worksessions on the proposed changes that will be presented as revised language with strikethroughs in the Lease Policy.

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

Motion carried.

- D. **Resolution 10-30**, A Resolution of the City Council of Homer, Alaska, Authorizing the City of Homer to Exercise the Powers of Eminent Domain and Declaration of Taking to Acquire for Water and Sewer Improvements in the Phase II Kachemak Drive Water and Sewer Local Improvement District Certain Interests in Real Property Described as a Portion of the E1/2 SE1/4 of Section 11; Tract A, H. K. Davis Subdivision; Lots 3, 4 and 13, H. K. Davis Subdivision (Amended); and Lots 27-A, 27-D, 28-A, 28-D and 29, the N ½ of Government Lot 30, Government Lot 30, That Portion of Government Lot 49 Lying West of Kachemak Drive, and Government Lot 51, Section 14; all Located in Township 6 South, Range 13 West, Seward Meridian, Homer Recording District, Third Judicial District, State of Alaska. City Manager/Public Works Director/City Attorney.

Mayor Hornaday called for a motion for the adoption of Resolution 10-30 by reading of title only.

WYTHER/HOWARD - SO MOVED.

Councilmember Wythe asked for clarification on the construction easement versus the transfer of property.

City Manager Wrede explained some easements are temporary easements; others are permanent where the pipe will be laid. There is no right-of-way (ROW) on Kachemak Drive. Normally utilities would be put in a ROW; this requires extraordinary measures.

Asked by Councilmember Hogan about a 100 ft. ROW extension, Public Works Director Meyer answered it is traditional for DOT real road improvements to acquire a 100 ft. strip of property. The City uses a 60 ft. ROW; DOT typically uses a 100 ft. ROW (50 ft. to either side of the middle of the road). On the maps, the blue areas are dedicated ROW, yellow connects blue areas and defines the future 100 ft. wide corridor that is expected to be street ROW in the future. All owners were contacted and the documentation provided in the Decisional Document.

Councilmember Hogan asked if all options were exercised to avoid eminent domain. Public Works Director Meyer stated he has not stopped the process of communicating with property owners. He expects there are several owners that can get over the hurdle in time, but he cannot guarantee that. The purpose of including all the lots is to be certain we can gain possession to all the easements so construction can begin this summer.

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

Motion carried.

COMMENTS OF THE AUDIENCE

Rika Mouw, city resident, commented on Resolution 10-30. There never was a majority in the process and she never knew there was a time frame to protest. She reviewed the rolls for several hours with the Clerk. Mrs. Mouw gave each councilmember a list of less than 50% owners; now Council is moving forward with eminent domain with less than a 50% buy in. The Army Corps of Engineers insists the project be done in the winter, as you cannot dig until it is frozen solid. The contractor is required to remove living vegetation and return it just so. She has been assured by the Army Corps of Engineers they will be on top of it. There has never been a majority and there isn't now.

Katelyn Wythe, city resident, thanked Council for their hard work and encouraging her to care. She hopes to return to Homer one day and is interested in what Council does.

Donna Rae Faulkner, city resident, appreciates moving toward the final decisions on the seawall. She requested the special service district be rescinded or that they be dropped off. Much thought is put into eminent domain and she appreciates the seriousness Council takes it as.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner had no comment.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede had no comment.

COMMENTS OF THE MAYOR

Mayor Hornaday commented where else but Homer could he present a key to the City to both Sarah Palin and the Caveman.

COMMENTS OF THE CITY COUNCIL

Councilmember Hogan commented he hopes Council is not misinformed on Kachemak Drive eminent domain procedures. He wished a sad goodbye to Homer pioneer Charlie Smith who passed away. Mr. Hogan had a lot of respect for him and his wife who epitomized integrity.

Councilmember Roberts thanked City Manager Wrede for his worthwhile trip to Juneau.

Councilmember Zak thanked the Homer Chamber of Commerce for the wonderful winter king tournament and urged others to buy locally. He got skunked on the derby.

Councilmember Howard remarked that she caught two kings.

ADJOURNMENT

There being no further business to come before the Council the meeting was adjourned at 9:04 p.m. by Mayor James C. Hornaday. The next Regular Meeting is scheduled for Monday, April 12, 2010 at 6:00 p.m. The next Committee of the Whole is scheduled for Monday, April 12, 2010 at 5:00 p.m. A Worksession is scheduled for Monday, April 12, 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: _____