

Session 10-13 a Regular Meeting of the Homer City Council was called to order on April 12, 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: HOWARD, LEWIS, ROBERTS, WYTHE, ZAK

ABSENT: HOGAN (excused)

STAFF: CITY MANAGER WREDE (telephonic)
FIRE CHIEF PAINTER (acting City Manager)
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER
FINANCE DIRECTOR HARVILLE
LIBRARY DIRECTOR HILL
PLANNING TECHNICIAN ENGBRETSSEN
PORT AND HARBOR DIRECTOR HAWKINS
PUBLIC WORKS DIRECTOR MEYER
SPECIAL PROJECTS COORDINATOR HOLEN

Councilmember Hogan has requested excusal.

Mayor Hornaday ruled Councilmember Hogan as excused. There was no objection from the Council.

City Manager Wrede will be participating telephonically.

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

Council met for a Worksession from 4:00 p.m. to 4:42 p.m. for Homer Accelerated Roads and Trails (HART) Annual Discussion. Council met as a Committee of the Whole from 5:00 p.m. to 5:33 p.m. to discuss 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: VISITORS - The Homer Foundation Report of 2010 City of Homer Grants Program; PUBLIC HEARINGS - Ordinance 09-40(S) written public comment; Ordinance 10-19 & 10-20(S) written public comment; and NEW BUSINESS Memorandum 10-54 was moved to just prior to adjournment.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Mike Illg, city resident, supports Resolution 10-34 for Karen Hornaday Park improvements and Ordinance 10-16. He has no objection to postponing Ordinance 10-16 to April 26th.

Jack Wiles, Homer resident, supports Resolution 10-34. Karen Hornaday Park is a jewel of the community. To acquire grant funds and legislative funding the City must show commitment.

Heidi Fielding, Homer resident and Little League President, expressed support for Resolution 10-34. Renovations are needed to the ball fields and parking area. The park is not accessible for handicapped people.

Angela Doroff, city resident with the Kachemak Bay Research Reserve, supports Resolution 10-33. Community support is needed for the grant to look at coastal uplift rates in Kachemak Bay.

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 22, 2010. City Clerk. Recommend adoption.
- B. **Memorandum 10-53**, from Deputy City Clerk, Re: Liquor License Renewal for Frosty Bear Ice Cream Parlor and Crabbies Seafood and Steakhouse, Finn's, Captain Patties Fish House, and Homer Brewing Company. Recommend approval.

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

ZAK/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

- A. Joy Steward, The Homer Foundation, Financial Update

Joy Steward, Executive Director of The Homer Foundation, provided a summary of funds the Foundation received by the City. The City's 2010 budget allocated \$20,000 to the Foundation for distribution through the City of Homer Grants Program. Added earnings of \$6,800 from the City of Homer Endowment Fund and \$600 from the City of Kachemak Endowment Fund were included for a total of \$27,400. A review committee comprised of taxpaying city residents was formed to review applications. There were eight applicants and all eight were awarded funding. City support allows the organizations to leverage funding from other entities. The Homer Foundation charges no fees to the City or nonprofits for distribution.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. Mayoral Proclamation, *National Library Week*, April 11 – 17

Mayor Hornaday read the proclamation.

B. Borough Report

Bill Smith, Kenai Peninsula Borough Assemblyman, reported on pending Assembly business. They are reviewing an expanded code of ethics and defeated an ordinance prohibiting dual service of mayor/assembly (to be reconsidered). The school budget was presented to the Assembly, \$45.2M was requested, or 65% of the KPB budget. The Assembly has 30 days to state what it will fund; a resolution next week will support up to \$45M in funding. Tonight the KPB Planning Commission is meeting at Land's End. Mr. Smith asked for support of Resolution 10-33.

Mayor Hornaday commented at the next Council meeting he will sponsor a resolution of support to fund the full time position at the local Borough office. The office serves 28% of the Borough's population. If needed, cutbacks should be made at the central office.

C. Commissions/Board Reports:

1. Library Advisory Board

Eileen Faulkner, Chair of the LAB, provided an update on the Board. The LAB will be submitting a request to the City Manager to fix drainage, provide insulation for the north facing windows, making the arctic entry a true arctic entry, extending the boiler smoke stack to prevent fumes from coming into the building, minor maintenance for computers, light control, and heat turned on earlier on Mondays. The LAB urgently needs three volunteers to become board members. Bill Smith furnished an energy audit that was confirmed to be accurate.

Helen Hill, Library Director, wished everyone a happy National Library Week. The week has been celebrated since the 1950's. There is a wonderful and active Friends of the Library group. They will hold a celebration of lifelong learning with Seth Kantner as the keynote speaker. This year's recipient of the lifelong learner award will be Dr. Walter Johnson.

Mayor Hornaday announced the Senior Center talent show this Wednesday at the Homer Theatre.

2. Homer Advisory Planning Commission

Ray Kranich, Vice Chair of the HAPC, reported there is still a majority vote of the Planning Commission backing the Comp Plan and by Chairman Minsch who wrote the letter as a citizen. The Comp Plan is a comprehensive document with philosophy represented in most chapters of encouraging, guiding, and trying to influence the infilling of open spaces. It promotes the continued use of proper architectural features to maintain a superb lifestyle. It is a mosaic; you cannot create a mosaic by taking something out and trying to make something else fit. You must portray the overall theme, with philosophy. Mr. Kranich encouraged Council to maintain policy of the overall plan, or change the overall plan to reflect low density residential use.

3. Economic Development Advisory Commission

4. Parks and Recreation Advisory Commission

5. Port and Harbor Advisory Commission

PUBLIC HEARING(S)

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 and April 12, 2010. Worksession November 9, 2009. Hearing March 22, 2010 and Second Reading April 26, 2010.

Memorandums 10-11 and 10-56 from City Planner and Planning Technician as backup.

Mayor Hornaday opened the public hearing.

Devony Lehner, city resident and Comp Plan Working Group, recommended the Land Use Recommendation Map area south of East End Road currently urban residential should be transitional residential. The area includes the Calvin & Coyle Land Trust parcel, Cottonwood Horse Park, and Jack Gist Park. A Section 16 approach would allow recreational open space developments. Wetlands issues were not adequately addressed in the Comp Plan to the area that is valued high or moderate wetlands or abuts the same.

Mayor Hornaday closed the public hearing.

HOWARD/ROBERTS- MOVED TO AMEND THE LAND USE RECOMMENDATION MAP TO SHOW THE AREA GENERALLY KNOWN AS HILLSIDE ACRES LID AREA AS TRANSITION ZONING INSTEAD OF RURAL RESIDENTIAL.

Councilmember Howard stated Council was unaware of the LID in that area and is trying to put it back to be respectful of the residents.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

HOWARD/ZAK – MOVED TO AMEND THE LAND USE RECOMMENDATION MAP TO SHOW THE 10 LOTS EAST OF EAST HILL ROAD AS TRANSITIONAL RESIDENTIAL AND NOT RESIDENTIAL OFFICE MIX USE AS WERE SHOWN ON THE NOVEMBER 23RD VERSION OF THE MAP.

Councilmember Howard noted the amendment would return the map to its original state.

VOTE: (amendment) YES. ZAK, HOWARD

VOTE: NO. ROBERTS, WYTHE, LEWIS

Motion failed.

HOWARD/ZAK - MOVED TO AMEND THE AREA GENERALLY BOUNDED BY MISSION ROAD, EAST HILL ROAD, SPENCER DRIVE AND EAST END ROAD AS TRANSITIONAL RESIDENTIAL INSTEAD OF RURAL RESIDENTIAL, AS SHOWN ON THE NOVEMBER 23RD REVISED MAP.

Councilmember Howard stated in keeping with the sewer and water and expansion program the previous amendment does not keep up with the general tenants of the water and sewer program.

VOTE: (amendment) YES. LEWIS, WYTHE, ZAK, HOWARD

VOTE: NO. ROBERTS

Motion carried.

B. **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. 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 opened the public hearing.

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

WYTHE/LEWIS - MOVED TO POSTPONE SECOND READING TO THE FIRST MEETING IN MAY.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **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. Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

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

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 10-17 by reading of title only for second and final reading.

WYTHER/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **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. Introduction March 22, 2010, Public Hearing and Second Reading April 12, 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 10-18 by reading of title only for second and final reading.

WYTHER/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **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. Introduction March 22, 2010, Public Hearing and Second Reading April 12, 2010.

Mayor Hornaday opened the public hearing.

Chris Newby, city resident, provided history behind the seawall. Property owners came to the City and asked to pay 100% of the seawall. We have a \$1M seawall, 80% paid for, with \$195,000 left to pay. Two property owners have yet to pay. Property owners, the City, and the engineer reached several settlements. The first was between property owners, the City, and the engineer with liabilities and providing the property owners monies towards their assessments. The second was between the City and property owners to address how monies would be distributed against assessments with a provision for maintaining insurance on the seawall. From 2004 the City started to bill property owners for insurance. In the AML insurance policy there is no provision that precludes the City from providing the insurance. He urged Council to vote the ordinance down.

Larry Goode, city resident, testified after the \$550,000 settlement there was discussion of what to do with the money. Property owners decided to apply the money toward assessments and give the money back to the City. They had an agreement with the City that insurance would be provided. Mr. Goode said 90% of the damage done to the seawall was by him. He could have said give me \$100,000, as when the City staked the area into a horseshoe it caused devastation to the seawall on his property. He said to give the money back to the City because we are all in it together. Property owners formed an association, the City would provide insurance, and the Borough would collect money for maintenance. Over 90% of the repair work last year was done on the City's property. We have forgotten what damage is to be done if the rug is pulled out from under us. Property owners are looking for long-term solutions.

Councilmember Zak asked Mr. Goode if federal funding might be available. Mr. Goode answered when the seawall was built towers were constructed by Eneboe's property and cameras were set up for a five-year comprehensive study. The City agreed to do the study, but the City didn't do it. Property owners have been in contact with Senator Begich to come up with a solution. They just learned since the City did not comply with the five-year study they put the matter on hold. Water and sewer and electrical lines run in the road. It is the City's job to protect roads and utilities, but not public property. There have been hiccups on the seawall, but it has continued to work for eight years.

Paul Hueper, city resident, commented in 2002 the Army Corps of Engineers placed a requirement on the City to do the five-year study for the environmental impact of the seawall. They have been working with Senator Begich's office for solutions. Eight years into the process the study has not been done. It has frozen everything solid. He asked that Ordinance 10-19 be tabled. In the May 2006 settlement between the City, residents, and Phukan Engineering the City agreed to maintain the current insurance policy. In 2007 there was a \$95,000 claim. "The City

currently maintains a policy insurance covering catastrophic losses that includes certain possible losses that involve the seawall.” The City cannot dishonor an agreement that has been in place, and if so, it is opening itself up to a costly legal battle.

Councilmember Zak commented the homeowners association is in agreement to remove the two end properties and maintain the special service district. Mr. Hueper confirmed that is the association’s wishes. The two end properties are above the tide line.

Councilmember Roberts recollected when the special service district was enacted the neighborhood filed suit against the City as they didn’t want to be in the district. Mr. Hueper answered that although there was opposition to the service district upfront, it was the glue that held everyone together. He does not recall if there was a suit filed against the City.

Councilmember Lewis commented at the last meeting during the worksession there were people along the seawall that were not members of the homeowners association. He asked if there was 100% membership. Mr. Hueper answered there was not 100% membership. Two of the people have not paid a dollar toward their taxation and are not part of the association.

Councilmember Wythe asked with the homeowner’s association as a functioning unit, what keeps them from acquiring insurance? Why does the tax have to be the compelling argument? Mr. Hueper answered currently insurance is \$3,500 per year. They checked with Lloyd’s of London long ago and it was beyond reach, \$50,000 to \$60,000. Without the special service district it will not work. People outside the homeowners association will not put in money; there is no leverage. The special service district allows leverage for people to fairly contribute. There are 65% of the people in the homeowners association.

Councilmember Wythe commented on Mr. Hueper’s incongruous statements of property owners’ participation. The only people that are not participating are not members of the homeowners association. She asked how the presence of the special service district changes the people that are going to participate in the contribution. Mr. Hueper answered with the district in place they have the ability to tax. They are okay with the end properties removed from taxation as they will not require maintenance.

Councilmember Wythe stated if the homeowners association is functioning, the taxation district should not be required to compel them to function as a unit. Mr. Hueper stated the homeowners association will continue to work together; they just won’t have the taxation leverage to collect. Councilmember Wythe said the homeowners have a collective interest unique and if they are functioning in that capacity they should be able to regulate themselves instead of being dependent on the City. People not in the homeowners association will not obtain the benefits collectively anyway. Mr. Hueper said it is a fantasy to think those people will want to pay into the homeowners association. Some simply will not pay a dollar to the City or the homeowners association. With the special service district in place at least there would be the ability to collect the small amount needed for their portion of the maintenance.

Mr. Hueper commented people won’t want to be paying into the homeowners association. With the special service district in place people will pay. People will not contribute simply to the

homeowners association. The homeowners association does not have the leverage because the City did not set it up from the very beginning. The ability to leverage, lean, and to collect was not given to the homeowners. It was convoluted and went up in a lawsuit. There is no agreement going in; contributions are purely voluntary.

Councilmember Zak commented if the ordinance passes the homeowners will not have any insurance. Mr. Hueper said they would never find anyone to insure them as they are not an entity tied together. They are a volunteer homeowners association. If the special service district is maintained they can obtain insurance, just like the last eight years.

Councilmember Lewis commented there are two at the end of the seawall they are willing to drop. Two are not paying anything. He asked how many other residents are not members of the homeowners association. Mr. Hueper answered two. There are a total of twelve property owners. Councilmember Lewis stated everyone should be there or not. The homeowners association should be able to work out an agreement for all members on the seawall. Mr. Hueper said not everyone will agree to the homeowners association and without the legal instrument in place if one person ducks out there is a problem.

Councilmember Howard commented the seawall is covered under the City's insurance policy. If the City was not there no insurance could be provided. The citizens of Homer own the two lots. If the Council and citizens decided they wanted to put the lots into conservation they would not be eligible to provide insurance. Property owners have the right to sell their property at any time; citizens who own the two pieces of property should have the right to sell.

Mr. Hueper commented the two City lots are useless as there is maybe 10 ft. property outside the easements. He cannot see a conservation group ever wanting the property.

Councilmember Zak commented utilities could be cut if the seawall was not maintained. Mr. Hueper stated if the seawall would fail in front of the City's property it would be a mess. The road with utilities is a few feet away and water/sewer would be cut. He would need a new road.

Councilmember Wythe called for a point of order due to the length of public testimony.

Mayor Hornaday ruled it is within the appropriate perimeters and Council can ask questions. There was no objection from the Council.

Mayor Hornaday cautioned there was a lawsuit and two legal issues have been raised tonight. Those are the interpretation of the insurance policy and the five-year plan. He asked City Attorney Klinkner if it was appropriate to comment on those two issues. Mayor Hornaday does not want to reopen the lawsuit.

City Attorney Klinkner answered he knows nothing about a five-year study, therefore, is not able to comment. As to insurance in the settlement document, if the only language was that which was quoted, it was a recital of the existing fact at the time. The City currently has insurance, but it was not a promise to maintain insurance in the future.

City Manager Wrede commented there was a stipulation on the Corps of Engineers permit that there would be a study after five years. It is part of what the research reserve is doing with their cameras. The City made a commitment to pull together various agencies to have a forum and look at data and possible impacts the seawall may have had on erosion, buildup and change in the transport of sediments. The City did not do the study. It was brought to our attention by the Corps of Engineers recently. If property owners want to proceed with a permit from the COE they will not be able to do so until the City complies with the stipulation in the original permit. He is committed to get on with that as soon as possible.

Donna Rae Faulkner, city resident, asked Council to pass the ordinance or delete them and the Dickey's from the nightmare. She is not sure why the insurance is affected. They never agreed to be part of the homeowners association. There has been no meeting since October. She appreciates the neighbors seeing the value of dropping them and the Dickey's. The special service district does not collect fairly with mil rates and property values and does not take into account the improvements that have been done. Some people pay zero and others pay thousands for the same amount of seawall. They do not want to litigate, nor sell their home due to a property tax with no cap. The homeowners association bylaws and guidelines are frightening because a lot is not spelled out. If there was an agreement in writing to pay their fair share of insurance based on linear footage they would be agreeable. They are fine with dropping the insurance since the economic threat of the tax is too much to live with.

Don McNamara, city resident, commented there are six members in the homeowners association out of 13 property owners. They have met with the tax assessor and lawyers and there is no way to keep it intact and make it fair for everyone. Three weeks ago there was a good blowout in the seawall. East End Road Services repaired the wall. There are boards missing and a chunk of plywood put up. The homeowners association bylaws state they are to talk with one voice. Meetings are open to the public, yet they haven't met since October. The reasonable written plan to operate is non-existent. They have one year maintenance outlined. He asked Council to support the ordinance.

Pat Irwin, city resident, agrees to eliminate the two end properties. The rest of the owners in the middle can form the homeowners association and get on with it. It's not perfect, but all homeowners agree. He would like to keep the insurance and is willing to pay for it.

Marilyn Hueper, city resident, testified that over eight years the construction of the City Council has changed and their understanding of the seawall. They were told the seawall would be maintenance free. The homeowners association was put together at the request of the City. It was an understanding the homeowners association would be in partnership with the City. The homeowners association does not have a vehicle for collection. It does meet the minimum requirements; the goal was to continue with the City and qualify with insurance. They don't have 100% to function independently well. They have a good neighborhood and are willing to drop off the ends. In an effort to show more unity they agreed to drop off the end parcels. We are at the end of the winter storm season, fall is not far away. If the City does not have the study done and if the catastrophic insurance is dropped they will be in trouble. She asked Council to vote no and keep it functioning as is.

Angie Newby, city resident, commented the special service district was established to pool up to \$50,000 (the deductible for catastrophic loss). It is much simpler to do that through taxation, rather than calling everyone up. There have been a few dissenters, at the end of the seawall. They are a unique group that came to the City ten years ago with an LID that said they would pay for everything. They have almost reimbursed the City 100%, went to court over faulty design and turned the money over to the City. They are committed to being financially and fiscally prepared in the event of a major catastrophe. If the ordinance passes, that opportunity will be taken away. You have already taken away the opportunity to assess members to the homeowners association. Homeowners are happy to pay \$3,500 for insurance. They are working with federal representatives to look for federal funds to benefit the entire community. It has been a long ten years. It is a worthwhile project as everyone is paying \$400 on every \$100,000 assessment on their property.

Ray Kranich, city resident, commented he was one of the councilmembers that voted for the seawall project in the beginning. A group of residents came to the City with a problem; they were not big enough to put it together by themselves. The City helped. The project was built and they are paying it back. Everyone was sold a bill of goods. If we had been sold steel sheet pile, which was significantly more expensive, the seawall would still be there 50 years from now. We were sold a wall that may have been good on the Mississippi River or some little lake somewhere in the Midwest. With the scouring effect of the media in the surf it took it away. None of us knew this from the start. It still looks like the homeowners need an entity larger than themselves to be a vehicle to work for grant money and taxation. The City still needs to be involved.

Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-19 by reading of title only for second and final reading.

ROBERTS/WYTHE – SO MOVED.

Mayor Hornaday called for a recess at 7:42 p.m. and reconvened the meeting at 7:50 p.m.

Councilmember Roberts will be voting yes on the ordinance. She expressed concern of the way taxes are collected, as they are inequitable for the amount of the wall. A homeowners association without the City overseeing the tax collection would be more helpful to the residents. She does not believe that 100% of the wall is paid for. When the seawall was accepted it cost \$1,039,000; the assessment was \$1,014,000. That left \$25,000 that the City paid for the seawall for starters. The citizens of Homer paid for 20% of wall costs, or \$186,000. A couple people on the seawall haven't paid anything.

Councilmember Wythe recognizes and appreciates the benevolence concept of the community by coming together and helping the seawall residents. It creates substantial financial exposure to the City. There are lots of areas in the City that have erosion issues; it is not a large enough community to provide underwriting services for everyone. Of the 13 homeowners, not all are participating. The City helped provide the service, provided for insurance, and the rest of the

citizens of the community are underwriting insurance for the seawall. It is not appropriate to make a decision for use of their funds. If there is a vested interest, the interest should be vested enough to regulate themselves to make it work.

Councilmember Zak voiced opposition to removing the special service district. There is an obligation to all citizens within the community. Based on tonight's testimony of the residents and past city councilmember it is a win, win situation in keeping the district. The wall is big and is there due to past involvement with City Council. It has protected the properties. There are other utilities beyond it. His concern is we are backing out of this for the people that we initially did something for. The citizens returned the money the City expended with the insurance payout. The property owners have a solution that is working; they just need a little more time.

Councilmember Wythe doesn't see by eliminating the tax district it is eliminating the City's commitment to a vested interest in the wall. We will still maintain our portion of the wall, follow through on completing the review, and stand and support the property owners as they move forward and do something better with the wall. The City will still have a vested interest. We are not going to compel people to contribute to supporting the wall that protects their property.

Councilmember Zak sees it as the first move as the destruction of the seawall. It is unethical to back away and not support the citizens.

Councilmember Lewis will vote in favor of the ordinance. He has walked the wall a number of times. It is not 100% of the people on the wall in the homeowners association.

Councilmember Zak stated \$50,000 is the deductible for catastrophic destruction to the wall. If the owners lose insurance they will have a hard time finding insurance.

Mayor Hornaday stated we are missing a councilmember tonight; if it were a tie vote he would vote no.

VOTE: YES. LEWIS, ROBERTS, WYTHER, HOWARD

VOTE: NO. ZAK

Motion carried.

- F. **Ordinance 10-20(S)**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2010 Operating Budget by Appropriating \$11,650.00 from the Ocean Drive Loop Special Service District for the Purpose of Paying the Cost of Repairs to the Seawall, and Appropriating the Remainder \$9,365.36 from the Ocean Drive Loop Special Service District for Refunds to Taxpayers In The Ocean Drive Loop Special Service District. Council. Introduction March 22, 2010, Public Hearing and Second Reading April 12, 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 10-20(S) by reading of title only for second and final reading.

LEWIS/HOWARD - SO MOVED.

Asked what the City's share of the \$11,650 bill is, Finance Director Harville answered she did not know, nor did she know the City's percentage of ownership of the seawall.

Councilmember Roberts recollected the City owns 19% of the seawall. Finance Director Harville explained the ODL Special Assessment District Reconciliation 2008-2010 (page 161) reflects the taxes the homeowners paid in.

WYTHE/ROBERTS- MOVED TO AMEND THE \$11,650 BY REDUCING THE 19% THAT WOULD BE THE CITY'S NATURAL PROPORTION FOR PAYING FOR MAINTENANCE OF THE WALL.

Councilmember Wythe commented if we didn't collect the insurance money we were supposed to be collecting, that should not absolve us from paying the portion of the maintenance bill.

Finance Director Harville explained there is no vehicle to charge seawall owners their insurance. The City has been paying insurance throughout the years. The amount received here would not cover the insurance.

City Manager Wrede commented we did not feel we had the authority to take money out of the taxpayer's fund. The money could not be disbursed until there was an eligible entity.

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

Motion carried.

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

Motion carried.

- G. **Resolution 10-31**, A Resolution of the City Council of Homer, Alaska, Adopting the City of Homer All Hazards Mitigation Plan 2010 Update and Revision and Authorizing the City Manager to Forward the Document to the Kenai Peninsula Borough, the Federal Emergency Management Agency, the Alaska Division of Homeland Security, and Other Organizations as Appropriate. Howard. Public Hearing and Adoption April 12, 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 Resolution 10-31 by reading of title only.

HOWARD/LEWIS - SO MOVED.

Councilmember Howard commented she was on the committee and enjoyed the work. Planning Technician Dotti Harness and Fire Chief Painter did most of the work, amending the outdated document, making it readable and size appropriate. Cities in the Kenai Peninsula Borough are to adopt their own plan, then the Borough adopts all of them in the Borough's plan according to FEMA and Homeland Security.

Fire Chief Painter added that the plan was developed from directives from FEMA and updates every five years. Next month the Borough will include our plan with theirs and adopt both. After the Borough plan is accepted, the City will accept the Borough's plan in its entirety with all annexes and forward to FEMA. The All Hazards Mitigation Plan allows the City to apply for federal funds.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

- A. **Ordinance 10-21**, An Ordinance of the City Council of Homer, Alaska, Authorizing the Purchase of Property Within the Bridge Creek Watershed, Kenai Peninsula Borough Parcel No. 17307031 (N 663 ft. of NE 1/4, SE 1/4, East of Skyline Drive, T 6S R 13W SEC 7), in the Amount of \$90,000 from the Water Depreciation Reserve Account for the Purpose of Protecting the Watershed and Providing Alternate Access to Property North of the City's Water Treatment Plant. City Manager/Public Works Director. Recommended dates: Introduction April 12, 2010, Public Hearing and Second Reading April 26, 2010.

Memorandum 10-58 from Public Works Director as backup.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-21 for introduction and first reading by reading of title only.

LEWIS/HOWARD - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

City Attorney Klinkner advised he will be available by phone for the April 26th meeting in which Council may need an Executive Session to discuss the ordinance.

CITY MANAGER'S REPORT

A. City Manager's Report

City Manager Wrede, participating from Juneau, reported there is less than a week before the Legislature adjourns. It is hectic with a lot of discussion and maneuvering. Main business is the capital budget and oil and gas issues. The Finance Committee expanded the budget from what was submitted by the Governor. The budget is ready for reading on the Senate floor, but was postponed to tomorrow. The budget will then go to House Finance, the conference committee, and to the Governor for final signatures or veto. The Finance Committee proposes a substantial budget, with a large part of the budget being deferred maintenance, making investments in infrastructure and jobs. They put quite a bit of money into savings. The Governor is shocked by the size of the budget. Currently from the Senate Finance Committee \$6M is slated for the Homer area: \$4.8M for a natural gas transmission line from Anchor Point to Homer; \$1M for the Deep Water Dock Phase I (to add to \$2M already allocated for design and feasibility); \$250,000 for Karen Hornaday Park to use as a match for the grant tonight; \$30,000 for The Homer Foundation for Community Schools that both Kachemak City and the City of Homer can leverage; and re-appropriation of the Legislative grant for refurbishing the current City Hall. House leaders are determined to cut the budget, while others want to add their own favorite projects. There is a long way to go, with no guarantee any projects will end up in the budget.

Asked by the Mayor if there was any progress on a new water source, City Manager Wrede answered it is not in the Governor's budget. Representative Seaton and Senator Stevens are aware that is our top priority. They are working with the House right now to make sure they are aware of the City's projects. It is difficult to get to see people, as some Legislators are not making appointments.

Acting City Manager Painter reported he received notice from FEMA of a grant for Firefighters assistance in the amount of \$194,275.00 (95%) with a Local Match of \$10,225.00 (5%). This will allow for a trailer for live fire training and volunteers will not have to travel to Kenai or Soldotna or wait for a live structure. An ordinance to accept and appropriate the grant will be introduced at the April 26 meeting.

B. Bid Report

COMMITTEE REPORT

A. Public Arts Committee

B. Transportation Advisory Committee

C. Permanent Fund Committee

D. Lease Committee

PENDING BUSINESS

None.

NEW BUSINESS

- A. **Memorandum 10-54**, 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/Time Extension)

Heard right before adjournment.

RESOLUTIONS

- A. **Resolution 10-32**, A Resolution of the City Council of Homer, Alaska, Awarding the Bridge Creek Watershed Dam Inspection Contract to the Firm of Shannon and Wilson, Inc. of Anchorage, Alaska, in the Amount of \$7,208.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director.

Mayor Hornaday called for a motion for the adoption of Resolution 10-32 by reading of title only.

ZAK/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B **Resolution 10-33**, A Resolution of the City Council of Homer, Alaska, Expressing Its Support for a Kachemak Bay Research Reserve Grant Application to the National Estuarine Research Reserve System Science Collaborative to Fund a Study of Coastal Uplift and Habitat Changes in Kachemak Bay. Mayor.

Mayor Hornaday called for a motion for the adoption of Resolution 10-33 by reading of title only.

ROBERTS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Resolution 10-34**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Apply for a Land and Water Conservation Fund (LWCF) Grant for Karen Hornaday Park Improvements in an Amount up to \$500,000 and Expressing Its Commitment to Provide a Local Cash Match of 15% (\$75,000) in Addition to In-Kind Services. City Manager.

Memorandum 10-55 from Special Projects Coordinator as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-34 by reading of title only.

WYTHE/ROBERTS - SO MOVED.

WYTHE/LEWIS - MOVED TO AMEND THE TITLE AND BE IT FURTHER RESOLVED FOR THE STATEMENT TO READ CASH MATCH FOR UP TO 15% OF THE GRANT REQUEST, NOT TO EXCEED \$75,000.

Special Projects Coordinator Anne Marie Holen stated the amendment would not solve the problem as the phrase "up to" is still in there. Language should specify a certain percentage or a certain amount.

WYTHE/LEWIS – MOVED TO WITHDRAW THE AMENDMENT.

There was no opposition from the Council.

WYTHE/LEWIS – MOVED TO AMEND TO INSERT 15% OF THE GRANT REQUEST NOT TO EXCEED \$75,000.

Councilmember Roberts stated as amended we could be limited by the amount of grant money received to not contribute \$75,000.

Special Projects Coordinator Holen explained we were hoping to apply for \$500,000, based on the Legislature providing \$400,000. The Legislature has reduced the contribution to \$250,000 and we will have to scale back our application depending on what the Legislature does. We could scale back or still contribute \$75,000.

Councilmember Wythe expressed the need to contain the amount to the minimum 15% as we don't have \$75,000 to appropriate.

Special Projects Coordinator Holen explained if Council wants to keep the City's contribution to a smaller level, the 15% would be the way to do so.

Councilmember Wythe stated if we can only apply for a smaller amount the maximum dollar exposure would be 15%.

Special Projects Coordinator Holen suggested a specific percentage.

Councilmember Roberts stated the Legislature has already diminished what we were anticipating. She asked if the \$75,000 would help leverage funding from somewhere else.

Special Projects Coordinator Holen answered the more match we can provide, the more funding we can apply for.

Councilmember Howard added that we would not want to limit ourselves because of the language.

Councilmember Wythe doesn't know where the \$75,000 is coming from; her objective is to use the minimum amount.

VOTE: YES. LEWIS, WYTHE, ZAK

VOTE: NO. HOWARD, ROBERTS

Motion failed.

ROBERTS/ZAK – MOVED TO AMEND RESOLUTION 10-34, THE TITLE AND THE LAST THEREFORE BE IT RESOLVED, AFTER THE WORDS “CASH MATCH” INSERT “OF \$75,000” AND DELETE “OF UP TO 15% (\$75,000) OF THE GRANT REQUEST”.

Special Projects Coordinator Holen answered that it would satisfy the requirements.

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

Motion carried.

VOTE: (main motion as amended) YES. ZAK, HOWARD, LEWIS, ROBERTS

VOTE: NO. WYTHE

Motion carried.

D. **Resolution 10-35**, A Resolution of the City Council Approving the City of Homer 2010 Land Allocation Plan. Mayor/City Council.

Memorandum 10-45 from Port and Harbor Advisory Commission as backup.
Memorandum 10-46 from Lease Committee as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-35 by reading of title only.

ROBERTS/LEWIS - SO MOVED.

ROBERTS/HOWARD – MOVED TO AMEND RESOLUTION 10-35 UNDER THE THEREFORE BE IT RESOLVED #1 TO INSERT PAGE C-17.

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

Motion carried.

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

Motion carried.

E. **Resolution 10-36**, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for Disposal of Junk Cars to the Firm of Moore and Moore Services Inc., dba Quick Sanitation, and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/City Planner.

Memorandum 10-57 from City Planner and Planning Technician as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-36 by reading of title only.

HOWARD/ROBERTS - SO MOVED.

Councilmember Howard expressed concern with the contract as the bang for the buck is not there. She asked that it be sent back for negotiations to attempt to get the vehicle number to 100.

Discussion ensued on the City Manager's authority to renegotiate a contract. City Attorney Klinkner advised per the resolution it is in within the City Manager's authority to re-negotiate a price.

HOWARD/WYTHE – MOVED TO POSTPONE THIS UNTIL THE CITY MANAGER CAN RENEGOTIATE.

City Attorney Klinkner advised postponing to a date certain and an amendment could be made to the resolution.

ZAK/ROBERTS - MOVED TO AMEND TO POSTPONE TO THE FIRST MEETING IN MAY.

There was no additional discussion.

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

Motion carried.

VOTE: (postponement as amended) YES. LEWIS, ROBERTS, WYTHE, ZAK, HOWARD

Motion carried.

COMMENTS OF THE AUDIENCE

Donna Rae Faulkner, city resident, thanked Council for their time, thought, comments, and vote on the seawall. There is no perfect answer after ten years.

Carey Meyer, city resident and Public Works Director, commented per the Karen Hornaday Park Master Plan the cost of completing improvements to the park are \$2.5M. There is an opportunity to put together a \$700,000 project with the grants identified. He appreciates Council authorizing the maximum amount to get as much as possible out of the grant application. His intention at the last meeting where he showed the video of the sewer lines was not to gross Council out, but to remind them and the entire community that Public Works personnel spends a lot of time maintaining and making sure waste is collected, contained, and properly treated.

Mayor Hornaday commented he hopes the playground at Karen Hornaday Park will remain where it is, as it was a big effort on the part of the parents.

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 thanked Council for their hard work on the tough issues tonight.

COMMENTS OF THE MAYOR

Mayor Hornaday commended the community choir on the wonderful concert they performed in Europe.

COMMENTS OF THE CITY COUNCIL

Mayor Pro Tempore Wythe requested a Worksession on April 26 to review the Comp Plan. Time is needed to address the language. She congratulated Fire Chief Painter on the FEMA funding.

Councilmember Lewis commented this Friday next door at the college is the career and job fair. Everyone is welcome. There will be employers there and the AVTEC Job Corps. The fair is from 9:30 a.m. to 4:00 p.m.

Councilmember Roberts commented on the three harbor personnel commended for exemplary service during the blizzards in March. All employees worked hard during the severe weather events.

Councilmember Zak said it was a good discussion on the seawall. He is a little concerned, but hopes the owners don't give up. He hopes they find another way to move forward. He hopes the City completes the study to help the owners move toward federal funding, and that Council continues to support the seawall owners in the future.

Councilmember Howard had no comment.

NEW BUSINESS

- A. **Memorandum 10-54**, 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/Time Extension)

Mayor Hornaday called for a motion to approve the recommendations of Memorandum 10-54 for Executive Session to discuss Ethics Case No. 2009-01 time extension.

WYTHER/LEWIS – SO MOVED.

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

Motion carried.

Council adjourned to Executive Session at 8:46 p.m. and reconvened at 8:50 p.m.

WYTHER/LEWIS - MOVED TO EXTEND THE PERIOD FOR RESOLVING THIS CASE FOR 90 DAYS TO ALLOW FOR THE CONTINUED HEARING ON MAY 13TH AT 5:30 P.M.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ADJOURNMENT

There being no further business to come before the Council the meeting was adjourned at 8:51 p.m. by Mayor James C. Hornaday. The next Regular Meeting is scheduled for Monday, April 26, 2010 at 6:00 p.m. The next Committee of the Whole is scheduled for Monday, April 26, 2010 at 5:00 p.m. A Worksession is scheduled for Monday, April 26, 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: _____