

Session 10-21 a Special Meeting of the Homer City Council was called to order on July 19, 2010 at 5:35 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, WYTHER, ZAK

ABSENT: HOGAN (excused)

STAFF: CITY MANAGER WREDE
PUBLIC WORKS DIRECTOR MEYER
FINANCE DIRECTOR HARVILLE
DEPUTY CITY CLERK JACOBSEN

Councilmember Hogan requested excusal.

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 unanimous consent with the following changes:

Reconsideration and New Business- Public comment regarding the Reconsideration of Resolution 10-54, Color copies of financial information and graphs in the regular meeting packet **New Business-** Memorandum 10-97 withdrawing the Enforcement Order at 2189 Aspen Lane.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Doug Stark, city resident and not a property owner in the district, commented that the necessities a city needs are not only fire and police but also sewer and water to safeguard public health and welfare, particularly in this area. There is a public health problem with sewage on the surface. When he was on the Council and the district failed he tried to get the Council to go ahead under the code provision for a health emergency, but did not succeed. Installing sewer and water in an adjoining right-of-way will allow DOT to widen the state highway including a bike path. Water and sewer connections will increase the HAWSP fund. A future project will be more expensive plus terminating the project will force the city to absorb the costs. For the benefit of all the citizens as well as local homeowners please continue the project.

Charles Rehder, city resident and property owner of two lots in the district, commented in support of continuing the project. Over \$500,000 has been spent that is not recoverable and with a 75/25 split it doesn't leave the City with a lot of money to come up with for the project. The 1.5% interest rate is about the best money you can get and he doesn't think that will come up again, so now is the time to start.

Roberta Highland, city resident and not a property owner in the district, commented in opposition to the project. She is concerned that it is an expensive project and Homer is not flush with money. We the taxpayers can get left holding the bag if poor financial decisions are made now. She thinks it could encourage more development in the wetlands on the north side of Kachemak Drive, which she has grave concerns about. It can increase water usage and Homer is not flush in fresh water. One of the City's top CIP request has been for funding for a new water source which will cost about \$700,000 just for the study, and it will probably dam Diamond Creek, Twitter Creek, or Fritz Creek. We have a tendency to waste water when hooked up to sewer and water, and it is a precious resource. She knows there are old pipes underground that are leaking, right now there is a hose in the harbor that runs chlorinated water into the bay 24/7, and water haulers use it. She is trying to figure out ways to be innovative and conservative about our use like encouraging water collection, educating residents about using less, publicizing our lack of an easy fresh water source, and requesting residents to conserve. The City has a catch 22 because they need residents to use as much water as possible to pay for the system. A less expensive way to deal with this is to have DEC check the existing septic on Kachemak Drive and the failing septic be replaced by self contained septic, putting the expense on the land owner not the general tax payers. Bad financial decisions now could be the ruination of our fair city. The City Attorney warns Homer has already spent over \$500,000 on the project and can't recover those losses. This philosophy seems to promote the idea throwing possible bad money after bad. She supports fiscal responsibly and let's remember the City is us and the money being spent is ours. There are cheaper alternatives.

Dave Seaman, city resident, is in the process of buying his lot on Kachemak Drive. The Borough won't approve his plat until the water and sewer are in due to the lot size. He is very much in support of the project and hopes they will carry on.

Debbie Rehder, city resident and property owner of two lots in the district, said she is in favor of the project. She acknowledged that Ms. Highland did makes some good points, but she doesn't see a big difference in consumption whether you have your water hauled or hooked up to the system. She thinks this will alleviate some very expensive sewer systems along the bluff property because of erosion. She hopes the Council will continue on with this. A lot of work has gone into this, Carey Meyer has done a great job and she appreciates that. She hates to have to see them have to address this again in 5 or 10 years.

Annette Koth, city resident and a property owner in the district, said that she would like to see this project continue.

Linda Rowell, a property owner of two lots in the district, she and her husband are totally in favor of city water and sewer on Kachemak Drive. A lot of money and time have already been invested in the project, they have been committed to it all along and want to see it continue.

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Jean Mack, city resident and property owner in the district, commented in favor of the project. She expressed her concern about the waste going into the bay and doesn't want to repeat what other people have already said, but feels strongly that the project continue.

Eugene Anaya, city resident and property owner in the district, commented in favor of the project. He and his wife purchased their property and have started renovating under the impression that the water and sewer were coming in. Their intent is to provide a high end bed and breakfast and bring business colleagues up from the lower 48 and are already involved with other businesses in the area. He believes this is an important addition to the city.

Jack Montgomery, city resident and property owner in the district, commented he has been a resident on Kachemak Drive for 30 years and has experience all the good and the bad. He said he is for the sewer and water coming in, but is very upset about the footprint the sewer and water project has forced on his property. He planned to retire there and first the City annexed the area, took a lot of their rights and pushed a lot of City things on to them and now the City is trying to take his land as well. The footprint that is being taken for future road construction that might someday come in means that he and his wife will be pushed off the part of the lot where they want to build their retirement house. They have a building pad there. If some future engineering would help relieve some of that, he would be 100% for the project. The other thing that concerns him is that sewer projects from the past still have a \$9.5 million price tag that the City has not even started to pay for. When they drag Kachemak Drive into it, everyone in this is going to be held responsible for the City's past dealings.

Dottie Hill, city resident and property owner in the district, said she provided a letter to Council and is quite concerned about the decision at the last meeting after the comments of a few people in the minority of the entire group. Whatever council decides to do she hopes they keep in mind that there are others out there with different ideas. She wants the water and sewer because she is concerned about contamination and that there needs to be some regulation about how the ground water is dealt with. In her case her water and sewer are contained on her half acre, but there are others who may have drainage problems.

Nancy Whitmore, city resident and property owner in the district, is very much in favor of the water and sewer coming in. She has been anticipating it and planning with the expectation that it will come through.

Beverly Kaiser, property owner in the district and lives in Soldotna, asked that the Council reconsider their vote and change it to yes. The lots are so close, no matter what side of the road, and for environmental, health, and safety issues, she believes they all need to be on the same system, the best system to be on is City water and sewer. She believes that if the water and sewer come through it will give the City some control over the development. She recognizes that people would like to see Homer be a quaint little fishing village, but it is going to develop whether we want it to or not. Here is a chance to have some control so things develop as they should. If we can get 1.5% on \$3 million, we can't afford not to do it. There are a lot of contractors here who are out of work, and this project will be a good

opportunity to put some of our locals to work. She anticipates the City will get some reasonable bids because of that. City water and sewer is the right thing to do.

Marty Leichtung, city resident and property owner in the district, wants to clarify it isn't that he is not in favor of having water and sewer on his property, but he thinks there are serious issues that need to be dealt with. His understanding is that the Council voted no as a financial decision based on the auditor's comments. He was clear that it is easy to get intoxicated with this 1.5% money, and we already owe way more than we can pay with the amount of money that is coming in. Mr. Leichtung said he saw in the paper that the City Finance Director countered that it is a question of how the charges are segregated. If there isn't enough money to pay the debt, adding more to the debt, no matter how low the interest rate cannot be a good idea. He doesn't know how many Councilmembers have had a chance to read the DEC requirements on the project, which are very specific and detailed. The ground has to be frozen and a contractor has to come in and cut out the frozen ground, set it aside and keep it frozen until the project is done and put it back. The ground has to be frozen to a depth of 7 feet. He has lived on Kachemak Drive for many years and has never seen the ground frozen that deep. It won't work to take out a few feet and wait for it to freeze deeper, you will end up with a trench full of water. If a contractor really looks at these requirements then the cost of the project will go out the window. He doesn't think you can do it for \$3.25 million. He would love to see the water and sewer come in, but doesn't believe it is a wise decision for the Council to renew this. He wanted to remind the Council that the original petition initiating the process said there were 51% in favor, but that was not the case. A neighbor spent a lot of time going over the records with the City Clerk and found the number was not correct.

Rika Mouw, city resident and not a property owner in the district, questions the Finance Director's comments over the auditor's concerns about the City being able to come up with the money for the project. She thinks that is why we have auditors to review staff work. She agrees with Councilmember Wythe's concerns about expanding utilities and not being able to have the revenue to pay for it. We need to densify our existing utilities rather than expanding them. She has been on the phone with the Army Corp (ACOE) supervisor with the project, and like Mr. Leichtung said, it is pretty stringent. She can't even imagine that this can be done in one season. The supervisor said this must be done when the ground is frozen solid down to the depth of the excavation regardless of the cost. It has to be cut out in chunks, do the trench work, and put it right back. Mrs. Mouw questions how you deal with it when the ground starts to thaw. This project could end up being quite extended and quite costly. She questions where the trees are going to be cut and how do you get into the root structure and keep the frozen blocks. It is a bigger deal than an easy water sewer installation in anywhere, USA. No one is arguing the convenience of water and sewer, but it won't solve the problems of the bluff. The bigger issues are not being discussed and she urged the Council to really read the permit and feel how adamant the ACOE is about this. Mrs. Mouw questions the schedule and the economics that Public Works Director Meyer has put forward.

Sharon Minsch, city resident and not a property owner in the district, said like Mrs. Mouw she no longer owns property in the district. She has property listed for sale on Kachemak Drive, her husband's employer is on Kachemak Drive. As a citizen of Homer she thinks Council owes the residents in the district an opportunity to let the Public Works Director extend his project. They aren't asking for anything different than any other place where there are wetlands. She requested the opportunity for the Public Works Director and Finance Director to answer questions. There are so many sides to this story. Mrs. Minsch said she doesn't know how the City will make water sewer pay for Homer if we don't get more customers. As a tax payer she wants to know how they will get her money back that has already been spent on this project. She doesn't believe we have the final numbers yet, and thinks more than the \$500,000 has been spent. They are ready to build the project, it will never get any cheaper or serve more people, it is better for the City of Homer. She noted that DEC does not go around checking private septic systems, but if you want to declare an emergency on Kachemak Drive, they will shut down just about every single one on Kachemak Drive. Lots have come and testified about the problems with yards being flooded and problems from paving Kachemak Drive. Your City Engineer will tell you in his professional opinion every system on Kachemak Drive has failed at some point in time. It is sitting in ground water and flooding over the bluff. Mrs. Minsch said she lived on Kachemak Drive for five years and worked her tail off to make sure people talked about this and got their ballots in. She used 2000 gallons of hauled water a month in the huge house on Kachemak Drive. She is now on City water and sewer and is using 2000 gallons a month. She doesn't agree with the idea that people who now live on little amounts of water will suddenly go crazy, because they still have to pay for it. She believes the Council owes it to the people in the district to reconsider the extension to get some other information out on the table. It is a good project, Public Works Director Meyer has worked hard for it, and Homer needs this.

Elaine Burgess, city resident and property owner in the district, said she has a bio-cycle septic system and is confident she has a good system. She suggested the City should investigate and become aware of how many people are allegedly polluting right over the bluff. Mrs. Burgess said Public Works Director Meyer has been keeping the property owners in the district informed, so it isn't like they haven't been able to get the information about the project.

Craig Whitmore, city resident and property owner in the district, commented that he is in favor of the reconsideration and the City providing water. He is not an engineer, he recognizes this is complex and he trusts the professionals to do their work in the best interests of the residents in the district and the City.

Jan Needham, city resident and property owner in the district, said she has lived there since 1976 and requests that she be removed from the project as her property doesn't front Kachemak Drive, it is one lot back from the road. She does worry about the finances of this town. She doesn't want to see Homer find itself in debt like so many little areas in Nevada, Arizona, and so forth where the City Council's kept developing and increasing the debt to the point where the only place they could turn was to the home owners to pay the debt to the point that the home owners walked out of their houses. Don't do that to Homer please. She

worried when she saw the last long list of the City's obligations. She worries about her own finances too. There are enough owners with property to run their own systems and have been doing so successfully for some time now.

Fran Montgomery, city resident and property owner in the district, said she has been here for 40 years. The first 7 in the bush with no running water or sewer and did just fine. She moved to Homer to educate her children and moved to Kachemak Drive to be out of City limits. She didn't want to be annexed; she wanted to spend her retirement years out of the City. It isn't that she doesn't want sewer and water, she objects because the City is taking half of her land and that is unfair. We don't have a choice. The City tells them their land is worth nothing, but it is worth a lot because it is theirs. She wants the Council to know that she adamantly disapprove of how they are going about getting her land. The trees in her yard have been knocked down by cars and she has had drunk drivers in her yard, but no one has helped with that. She doesn't like what the City is doing and should have some say about her land. If the City wants to offer her a pittance, she doesn't want to do it. She asked Council to consider the residents that are on this land and the residents who have lived here for this many years, and all of the taxes she has created and paid through her business of 28 years. She does not want to see her land used in that particular way.

Andrea Anaya, city resident and property owner in the district, commented in favor of the project. She thinks this is good for Homer and for the economy. She has been in business for several years and has brought many colleagues from the lower 48 to Alaska resulting in a lot of dollars for the local economy, and she would like to continue doing that with her property on Kachemak Drive.

Leonard Wells, city resident and not a property owner in the district, commented that he doesn't object to the reconsideration but thinks in order to overturn the previous decision the reason for error needs to be stated. It should also be stated why the auditor was in error when pointing out why the City can't afford this, and hopefully that will be taken into consideration at the highest level, not just the desire to have sewer and water.

RECONSIDERATION

- A. Resolution 10-54, A Resolution of the City Council of Homer, Alaska, Extending the Period for Constructing Improvements in the Kachemak Drive Phase II Water and Sewer Assessment District to July 25, 2015. City Manager. (Reconsideration issued by Councilmember Zak June 30, 2010.)

Mayor Hornaday called for a motion for the reconsideration of Resolution 10-54 extending the period for Constructing Improvements in the Kachemak Drive Phase II Water and Sewer Assessment District to July 25, 2015.

ZAK/HOWARD SO MOVED.

Councilmember Zak explained that he asked for reconsideration because he has further questions for the City Manager, Public Works Director, and Finance Director. He said it was a unique situation at the last meeting with the report from the Auditor and the five year time frame run out for the LID. He doesn't think Council had a clear picture of costs and would like to look at that.

Finance Director Harville explained the information provided in the packet that shows the City is in a position to pay additional the debt incurred by continuing this project. She reviewed Mr. Bost's information and pointed out that he had combined the depreciation reserves and the HAWSP fund. Finance Director Harville explained HAWSP was founded by Council and voted in by taxpayers to pay for capital construction and for the laying of new water and sewer lines. It is not supposed to be a portion of the water sewer enterprise fund, it is to be segregated. She noted that Mr. Bost also did not consider that we receive LID repayment for all the assessments, any where from 25% to 75%, depending on when it was created. She added back in the LID assessments, showing that there is a small shortfall when looking at the water sewer enterprise fund as a whole, including HAWSP and the depreciation reserves. She still disagrees, because HAWSP was created separately for water and sewer projects. In the handout provided, she broke down the fund 205 segregated in the City's records for construction of the LID's, by adding in the assessments, and considering the loan repayment as Mr. Bost did. She noted a chart showing the amount for debt repayment compared to what the debt is and it shows that we do have the monies available. Finance Director Harville noted in Mr. Bost's email he did recognize that he failed to consider the LID assessments that we receive, and he says we were correct on our analysis in the short term, but in the long term he believes it is off because he was considering the 2010 debt. She also noted in the Water Sewer Fund 200, one thing Mr. Bost did not consider is that we did have a rate increase in the middle of the year and it is not reflected in his analysis. She noted the handout that breaks down the payments of the loan at the 1.5% interest, and she assumed 60% for the LID assessment because not all costs are recaptured. It reflects only one year that the City would be in the negative.

Commissioner Zak questioned the amount of land being taken in the Montgomery's case and Ms. Needham's inclusion since she her property doesn't front the right-of-way.

Public Works Director Meyer was reluctant to talk about the Montgomery property because it is an eminent domain process. He recognized that it is being impacted more than any others, but they have strived to minimize the impact and they are trying to make a reasonable offer based on appraised value. He said we will continue to work with City's attorneys to resolve that matter. Public Works Director Meyer referenced the map regarding Ms. Needham's property and explained that it does have a sliver of Cit owned property between it and the road surface. Public Works expects that a majority of the City owned property will ultimately become State right-of-way. Her property gains driveway access across the City lot. He has been unable to justify removing her property from the district as she is going benefit from water and sewer running across her property. Removing her and saddling the remaining

property owners with the cost of running the services past her property doesn't seem appropriate.

Councilmember Wythe noted that not a lot of things the City has spent money on are lost if the project is not extended, they are stranded assets until such time the City comes back to re-visit the LID. Public Works Director Meyer agreed. She also commented that the other 2 lots back there have been exempted. Public Works Director Meyer said he is unaware that they are, he believes they have an assessment due like everyone else. In response to further questioning he said a lot has to benefit from the water and sewer line. There is nothing in the process that says you have to front the right-of-way to be assessed. He said one that is not on the right-of-way is not included because it would require an additional main extension. Councilmember Wythe further noted in the closing of the Auditor's email he says it seems to him the City will run out of special assessment collections long before the debt is retired. There is still the uncertainty of the cost of running the new Water Treatment plant and the ultimate amount on new loans that are not yet to repayment for the Water Treatment plant are still points of concern.

City Manager Wrede added that the community as a whole is paying for the new Water Treatment Plant through funds collected by the sales tax. That is one of the confusions with the Auditor is that he has mixed the operating funds with the funds segregated to pay this debt and the funds collected through assessments. The Water and Sewer Enterprise fund is paid by the water and sewer customers.

There was brief discussion of the process of deferred assessments in HCC Chapter 17.04.160.

When questioned about the construction of the project Public Works Director Meyer explained that in the cases of working in the wetland areas, that work will have to be done in the winter time. They will remove and set aside the top 12 inches of surface wetland vegetation and replace it when the work is done. The permit does not require the ground be frozen to 7 feet. The cost is accounted for and there are several contractors familiar with the process. He clarified that about half of the project will run through wetlands.

City Manager Wrede said staff doesn't want to leave Council with the impress that they aren't considering the finances. The Auditor raises a good point and the caution flags are warranted, but they want Council to know that it isn't as dire as what was presented at the last meeting. We will be able to make our payments with this project, but we need to think long and hard before taking on more debt, or consider ways to increase the City's revenues.

Mayor Hornaday called for a five minute break. The meeting resumed at 6:58 p.m.

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

Motion carried.

NEW BUSINESS

- A. If reconsideration passes: Resolution 10-54, A Resolution of the City Council of Homer, Alaska, Extending the Period for Constructing Improvements in the Kachemak Drive Phase II Water and Sewer Assessment District to July 25, 2015. City Manager. (Reconsideration issued by Councilmember Zak June 30, 2010.)

The following motion is back on the floor for further consideration:

LEWIS/HOWARD - SO MOVED FOR THE ADOPTION OF RESOLUTION 10-54 BY READING OF TITLE ONLY.

Councilmember Wythe confirmed that there will be another opportunity for Council to look at the dollar amount before moving forward.

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

Motion carried.

- B. Junk Car Removal at 2189 Aspen Lane, Leonard Wells request for hearing.

Withdrawn as expressed in Memorandum 10-97 from the City Planner.

COMMENTS OF THE AUDIENCE

Marty Leichtung, city resident commented about the conversation of recovering costs. There is language in the ordinance about that, it says in the event that 51% of the property owners in the area sign a petition to terminate the LID the City can then assess the property owners in the LID to recover their costs. The other situation is if the cost estimate exceeds the original estimate by 15% it then has to be resubmitted to the owners for reconsideration and they again have to vote to support it. At that time if it fails the City can recover their costs by the same method.

Jan Needham, city resident, pointed out on a map how the lines will cross another property to get to hers. DOT has their 20 feet, she has an easement where she brings her driveway over, and there is a buildable spot in the middle of that lot. She explained that many years ago the lot was owned by a Yoshida in Japan who was represented by Mr. Yoshida here. She offered to purchase the property, but she chose to decline her offer and let it revert back to the City as a tax failure, and she would have to wait 10 years because they might bail it out again, she began to see the writing on the wall that she would never get that triangle, now suddenly the City has the triangle and she is being charged for something she has had to deal with, as she maintains the property in front of her. She is asking again that Council please let her out this district. She is far enough back that special lines will have to be installed to reach her property.

Dotti Hill, city resident, asked about the financing for property owners in the district. It was explained that the exact costs won't be known until the bids come in. Right now it is estimated at about \$29,000 per lot and is financed at 1.5% for 20 years. Property owners pay 75% of the cost.

Debbie Rehder, city resident, said she is in another LID on West Hill and commented about the process for that district. She said they get their statement in the fall so they can budget it for they year. When the work was done on their LID the contractors were very considerate of the people in the area and it went real well. It isn't a bad thing. She can see both side, she and her husband were born and raised here. She understands the concerns that some have but also understands that sometimes you have to make changes. She worked on Kachemak Drive when they paved and she understands there is a problem with drainage, but the contractors have to go by what the State dictates. If those issues are addressed she thinks this can be a good thing. She hopes everyone will see that in the long run.

Elaine Burgess, city resident, questioned that if the City could consider a shorter project, and wonders why 8000 feet was considered a logical end point. It creates a gap of 3500 feet where there will be no water and sewer and those people are adamant that they don't want water and sewer and she is concerned about that. City Manager Wrede explained that the boundary was established with the original petition. There was a proposal for extending the water line in the other area as there are benefits to not having two dead end lines there. It didn't pass for a number of reasons.

Sharon Minsch, city resident, asked if Mayor Hornaday would put in a plug for the vacancy on the Planning Commission.

Mayor Hornaday announced there is a vacancy on the Planning Commission.

Leonard Wells, city resident, wanted to remind the people here that they better keep an eye on what the Council is doing because it comes up for question again and some sounded shocked that it was turned down two weeks ago. When it comes up they need to be here and voice their opinions.

COMMENTS OF THE CITY ATTORNEY

The City Attorney was not present.

COMMENTS OF THE CITY CLERK

Deputy City Clerk Jacobsen had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede had no comment.

COMMENTS OF THE MAYOR

Mayor Hornaday had no comment.

COMMENTS OF THE CITY COUNCIL

Mayor Pro Tempore Wythe and Councilmember Lewis had no comment.

Councilmember Roberts commented that almost as long as she has been on the Council this project has come before us and if anyone paid attention they would know that she has voted against it several times. She said she has had a lot of concerns about the environmental issues but she is starting to believe they have been addressed. Tonight she did vote yes for it because she thinks it is a good thing for the people in that area.

Councilmember Zak expressed his appreciation to the other Councilmembers for allowing the reconsideration and the additional people to be heard. He thanked the City Manager, Finance Director, Public Works Director, and the Auditor for their input as well.

Councilmember Howard thanked the citizens for coming out tonight to help sort through this. It is not an easy decision; the subject matter is complex to say the least.

Mayor Hornaday thanked the people for coming tonight. He has friends on both sides of the issue, and sometimes he has splits in his family on some of these issues, but that's Homer and the way it is.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 7:13 p.m. The next regular meeting is scheduled for Monday, July 26, 2010 at 6:00 p.m. the next committee of the whole is scheduled for Monday, July 26, 2010 at 5:00 p.m. a worksession is scheduled for Monday, July 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.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____