

Session 10-26 a Regular Meeting of the Homer City Council was called to order on September 27, 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 (telephonic)

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
PORT AND HARBOR DIRECTOR HAWKINS
PUBLIC WORKS DIRECTOR MEYER

Councilmember Zak has requested telephonic participation.

Mayor Hornaday ruled Councilmember Zak may participate by phone. There was no opposition from the Council.

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

Council met as a Committee of the Whole from 5:00 p.m. to 5:52 p.m. to discuss 2011 Budget, Police Annual Report, 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: Written public comments on Ordinance 10-47. New Business Item A. Memorandum 10-120 was moved to be heard just prior to adjournment.

The agenda as amended was approved by consensus of the Council.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Ingrid Harrald, Parks and Recreation Advisory Commissioner, reported a full commission with new members Dave Brann, Beth Cumming, Robert Archibald and Thomas CarlinSchauer. It is an exciting group of commissioners with new ideas and energy. They are talking about a recreation needs assessment, the Spit Comp Plan, and park walk-thrus.

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 September 13, 2010. City Clerk. Recommend adoption.
- B. **Memorandum 10-119**, from Mayor, Re: Appointment of James Dolma to the Planning Commission.

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

ROBERTS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

- A. **Ryjil Christianson**, Pratt Museum, Education Program & Capital Project Update

Ryjil Christianson, lifelong Homer resident and Director of the Education Program at the Pratt Museum, provided a PowerPoint presentation of the children's education program. In 2009 the museum provided education for over 4,000 students. The Pratt hosted 32 visits, free of charge, by groups and schools with 750 people participating. In return educators filled out a survey with 100% saying they plan to revisit the museum. In the summer activities include earth friendly art installations along trails. Due to limited accessibility to the museum, Ms. Christianson also goes to the Friendship Center and Friendship Terrace to present programs to seniors. The museum needs classroom space, work space, and full ADA accessibility for the education program. She asked Council to seriously consider the Pratt's capital project when identifying the City's Capital Improvement Plan (CIP). Community meetings will be held soon for the Pratt capital project.

Mayor Hornaday recommended that the Pratt Museum staff look up Jim Preston for his expertise on Woodard Creek.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. **Mayor's Proclamation** – October as Domestic Violence Awareness Month

Mayor Hornaday read the proclamation.

- B. Borough Report
- C. Commissions/Board Reports:
 - 1. Library Advisory Board
 - 2. Homer Advisory Planning Commission
 - 3. Economic Development Advisory Commission
 - 4. Parks and Recreation Advisory Commission
 - 5. Port and Harbor Advisory Commission
- D. Rotary District Conference 2011

Mayor Hornaday commented over 300 people plan to participate in the Rotary District Conference next year. With no monetary contribution the City could participate by welcoming the group and providing city pins.

PUBLIC HEARING(S)

A. 2011-2016 Capital Improvement Plan & FY 2012 Legislative Request

Memorandum 10-117(A) from Special Projects Coordinator as backup.

Mayor Hornaday opened the public hearing.

Milli Martin, Homer resident and member of the Pratt Museum Board of Directors, asked the Council to rank the Pratt Museum as high as possible on the CIP. The entire project cost is \$8.5M; \$1.8M is requested for schematic design development. The museum serves over 35,000 visitors each year with over 4,000 students involved in education programs. The museum generates \$1M annually in economic activity. The current building does not meet today's needs for storage, exhibit space, and is not ADA compliant. It lacks education and community meeting spaces, all which will be resolved with a new building.

Mayor Hornaday closed the public hearing.

- B. **Ordinance 10-44**, An Ordinance of the City Council of Homer, Alaska, Accepting a 2010 Interoperable Emergency Communications Grant to the City of Homer Port and Harbor from the Alaska Division of Homeland Security and Emergency Management (DHS&EM) in the Amount of \$17,400 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Port and Harbor Director. Introduction September 13, 2010, Public Hearing and Second Reading September 27, 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 10-44 by reading of title only for second and final reading.

LEWIS/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 10-45**, An Ordinance of the City Council of Homer, Alaska, Amending HCC 1.24.040, By-Laws for Council Procedure, to Incorporate Subsequent Amendments to the Council Agenda Format. Hogan. Introduction September 13, 2010, Public Hearing and Second Reading September 27, 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 10-45 by reading of title only for second and final reading.

HOGAN/WYTHER - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 10-46**, An Ordinance Reinstating on a Year-Round Basis the City of Homer Sales Tax Imposed on Sales of Nonprepared Foods. Lewis. Introduction September 13, 2010, Public Hearing and Second Reading September 27, 2010.

Mayor Hornaday opened the public hearing.

Beth Cumming, city resident, spoke in support of Ordinance 10-46. Everyone should pay what some consider a hefty sales tax. She eats a nutritious diet, spending very little. The City needs the sales tax money. She believes Council was voting with their hearts rather than with financial intelligence when the sales tax was removed.

Al Waddell, city resident, opposes reinstating the sales tax. He works for the City of Homer, the Kenai Peninsula Borough, and Homer Electric Association; there is nothing left. It is a tough

time and although he knows the City is having their problems they can cut back. He has cut back by only employing two people.

Dean Ravin, Homer resident, opposes Ordinance 10-46, citing taxation on food as unethical and regressive, affecting people that earn less money. Council should not balance the budget on the backs of the poor.

Kris Holderied, city resident, supports the sales tax. It is based on what kind of community we want to live in and how we want to support it. If you tighten the belt we don't get the services we want. Homer is a phenomenal place to live and a big part is what the City does. It makes the place what it is. She has never lived in a place where the overall tax burden for services is low.

Mark Hadley, Anchor Point resident, stated the value of benefits the average city employee gets is more than he makes in a year. On a fixed income he has no choice. In the summer months he drives to Kenai and shops at Walmart. He urged Council to continue with the way it is and impose no full time sales tax.

Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-46 by reading of title only for second and final reading.

LEWIS/ROBERTS - SO MOVED.

Councilmember Lewis said he thought about putting off the ordinance until the end of the budget, but taxing some foods is not right. Pop, chips, energy drinks, and candy should be taxed but aren't. He would have liked to present an ordinance that left off basic foods, but was shot down by the KPB. Do we want services or a bare bones budget? To hire a policeman we will need to budget \$75,000, cutting someplace else to do so. It is up to us to decide if we want to keep cutting the budget or keep things status quo and grow a bit.

Councilmember Roberts will vote yes based on earlier budget discussions that we are not doing well. It is possible there will be no funding for non profits. If the ordinance passes tonight we can anticipate more revenue. Some cities north of us have not eliminated sales tax on nonprepared food. It is a means for out of town residents to contribute for services provided to every area.

Councilmember Wythe will vote against the ordinance since the citizens voted in good faith against the collection of sales tax. The KPB put in an option for cities to tax differently. The citizens voted for elimination of KPB sales tax. If we want to change that we should come back with a vote of the people affected by decreased city services and lack of funding for non profits. Services are diminishing due to lack of revenue.

Councilmember Hogan will vote against the ordinance. He is aware how the tax impacts those that can least afford to pay it. Those people are struggling. Everywhere else in the country there are drastic cuts being made; we have not even scratched the surface. There are an inordinate number of houses for sale in his neighborhood. We are running people out. We should eliminate

sales tax year round. We need to find a way to make ends meet besides taking food out of people's mouths. We need to look at ways to grow the revenues. If we keep running people out, we will be in the same place as communities on the outside. We need to bite the bullet and tighten our belts.

Councilmember Howard voiced opposition due to the vote of electorates. She is happy we have held off this long, as the budget numbers are sad. At the Committee of the Whole we talked about social issues that are not cured by throwing money at them. She favors revisiting the sales tax in February. With forty families out of business in January due to federal regulations in fishing, and only fifteen states taxing food, she cannot support Ordinance 10-46 at this time.

Councilmember Zak voiced the need to work on the processes to reduce expenses or increase revenue. The gas line to Homer could reduce utility costs. We need to kick in more to the costs of providing water/sewer. We need to give a little back to the people and find ways to reduce overall spending.

VOTE: YES. ROBERTS, LEWIS

VOTE: NO. WYTHE, ZAK, HOWARD, HOGAN

Motion failed.

E. **Ordinance 10-47**, An Ordinance Amending Homer City Code 8.12.110 "Definitions" to Subject Public Transportation Vehicles Offering Free Transportation Services in Support of an Operator's Primary Business to the Licensing and Permitting Requirements in the Homer City Code. Lewis. Introduction September 13, 2010, Public Hearing and Second Reading September 27, 2010.

Mayor Hornaday opened the public hearing.

James Hadley, Anchor Point resident, commented free transportation was provided to cruise ship passengers benefitting businesses in Homer. Several people commented they wouldn't have come in to town without a ride. He worked as a driver and people were appreciative of the free rides. Although the taxi cabs did not like it, people would not have spent their valuable dollars if it had not been for the free rides.

Mark Hadley, Anchor Point resident, was a driver who ferried people all over town. The ordinance will affect a lot of people other than Gold Mine Gifts. Rental car companies, air charter businesses, and fishing charters offer free transportation. Folks from the cruise ships could not believe the service was free; it made a positive image of Homer. He opposes the ordinance.

Doug Stark, city resident, recently rallied against the cost of busses into town and suggested a couple of ways to get away from it. Free rides are an excellent idea. A valid concern is liability, but most people offering free rides are insured. He opposes the ordinance.

Al Waddell, city resident, noted the State of Alaska voted that cruise ship passengers would be taxed \$50 per person. He asked if the City received a \$37.50 head tax.

Mayor Hornaday answered we do not get an automatic \$37.50, but we do get a portion.

Mayor Hornaday closed the public hearing.

Mayor Hornaday called for a motion for the adoption of Ordinance 10-47 by reading of title only for second and final reading.

LEWIS/HOGAN - SO MOVED.

LEWIS/WYTHER- MOVED TO TABLE.

VOTE: YES. LEWIS, ROBERTS, WYTHER, ZAK, HOWARD
VOTE: NO. HOGAN

Motion carried.

Mayor Hornaday called for a recess at 6:59 p.m. and reconvened the meeting at 7:04 p.m.

F. **Ordinance 10-48(S)**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a State of Alaska Legislative Grant for Use Towards Construction of Phase I of the Anchor Point to Homer Natural Gas Pipeline in the Amount of \$525,000 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Introduction September 13, 2010, Public Hearing and Second Reading September 27, 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 10-48(S) by reading of title only for second and final reading.

WYTHER/ROBERTS - SO MOVED.

Councilmember Hogan would like to see a natural gasline come to Homer. There are a lot of questions on the grant agreement that concern him. He asked if the work that is currently being done on the pipeline is part of the grant.

City Manager Wrede answered the pipeline going to Ninilchik is not part of the grant, although the survey work is. Enstar knows they are doing it at their own risk until Council accepts the grant agreement. At this time no contract has been signed between the City of Homer and Enstar.

Councilmember Hogan sees a lot of obligations the City is incurring. It is a big leap of faith and he would like to see the process go differently.

Councilmember Wythe commented we are providing a pass thru service for the citizens of Anchor Point. There is no assurance Enstar is continuing the gasline to Homer. Anchor Point is not an incorporated city and cannot accept state funds.

Councilmember Roberts added we are providing assistance to the Anchor Point area. If we vote against the ordinance there is no possibility Homer will receive gas in the future. She is supportive of the ordinance.

Councilmember Zak voiced the need to support Homer residents and provide an immediate opportunity for the neighborhood north of us. It provides an opportunity for natural gas to Homer in the future.

Councilmember Hogan referenced Article 24 in the grant agreement: *“Ownership of Project/Capital Facilities – The Department makes no claim to say capital facilities or real property improved or constructed with funds under this Grant Agreement and, by this grant of funds, does not and will not acquire any ownership interest or title to such property of the Grantee. The Grantee shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the Department and the State of Alaska harmless from any and all causes of action arising from the ownership and operation of the project.”*

City Manager Wrede said Article 24 is standard language in grant agreements. The City will include that language in the agreement with Enstar.

Mayor Hornaday suggested postponement until an opinion is made by the City Attorney. He cautioned Article 24 is a killer until we know what to do.

Councilmember Roberts commented the contract is transferring money to the City; there is no liability until the transfer of the money.

Councilmember Wythe added it is only after we enter into a contract with Enstar that the grant funds are drawn.

Mayor Hornaday stated he will request an attorney opinion before he signs Ordinance 10-48(S) if Council decides to pass it.

City Manager Wrede commented the City Attorney reviewed the grant agreement, although they did not discuss Article 24 specifically.

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

Motion carried.

G. **Ordinance 10-49(S)**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a U.S. Fish and Wildlife Service Grant for the Beluga Slough Trail Replacement Project in the Amount of \$25,000 with a Local Match of \$30,000 and Authorizing the City Manager to Execute the Appropriate Documents. City

Manager/Public Works Director. Introduction September 13, 2010, Public Hearing and Second Reading September 27, 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 10-49(S) by reading of title only for second and final reading.

LEWIS/ROBERTS - SO MOVED.

Councilmember Hogan commented due to damage to the wetlands and impeding surface movement, we don't need a trail through the wetlands. There is no guarantee it will perform. Although it is a nice trail in a critical habitat area, it is just as easy to walk around and go the long way to get to the beach.

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

VOTE: NO. HOGAN

Motion carried.

ORDINANCE(S)

None.

CITY MANAGER'S REPORT

A. City Manager's Report

The City Manager's report for this meeting will be a verbal report and it will be devoted entirely to the FY 2011 Draft Budget. Some graphs and other data may be passed out at the meeting. The purpose of this report is to give the Council and the public a general briefing on the status of budget preparations and the significant budget issues that the Council will be addressing this fall. The draft budget will be delivered to the Council later in the week.

City Manager Wrede referenced the letter in the packet from NOAA. Kris Holderied, Director of NOAA Kasitsna Bay Laboratory invited Council to participate as a member of the Kasitsna Bay Laboratory Science Board. Mayor Hornaday asked Ms. Holderied to draft a letter of support from the City.

City Manager Wrede provided an update on the 2011 Budget: The two enterprise funds, Water and Sewer and Port and Harbor, are in fairly good shape. There is a lot of discussion to be had by the Council. Expenses do not exceed revenues and we are able to put \$500,000 in depreciation reserves in both accounts. The Port and Harbor staff and the commission are discussing a 3% increase to some fees within the harbor to meet some goals the auditors set forth in the last audit. The Port and Harbor fund is in good shape, with the exception of a cash asset problem. There is

not enough in reserve to balance the asset ratio. The general fund is a bigger problem with over a \$300,000 decrease in revenues last year. A big portion of the loss is in property taxes. Property assessments are down over \$21M, which results in a \$130,000 loss in revenue. In January there will be a \$82,000 loss in rent revenue for the old school the college currently leases. The sales tax remains flat. Mr. Wrede hopes to have a draft budget to Council by the end of the week. It has been delayed to see the final taxable sales for the third quarter and to consider additional cuts. We are still \$213,000 in the hole.

B. Bid Report

11. COMMITTEE REPORT

A. Public Arts Committee

1. Meeting Minutes of September 9, 2010

B. Transportation Advisory Committee

1. Meeting Minutes of August 17, 2010

C. Permanent Fund Committee

1. Meeting Minutes of August 17, 2010

D. Lease Committee

1. Meeting Minutes of July 22, 2010

(See Councilmember Hogan's report under Resolution 10-69.)

E. City Hall Renovation and Expansion Task Force

1. Meeting Minutes of August 30, 2010

PENDING BUSINESS

- A. **Resolution 10-69**, A Resolution of the City Council of Homer, Alaska, Approving a Transfer of Responsibility Agreement (TORA) Between the State of Alaska and the City of Homer Regarding Management and Enforcement of Parking, Loading Zones, Pedestrian Crossings, and Seasonal Speed Zones Within the Sterling Highway Right of Way on the Homer Spit. City Manager. (Postponed from August 23, 2010)

Motion on the floor from August 9, 2010: MOTION FOR THE ADOPTION OF RESOLUTION 10-69 BY READING OF TITLE ONLY.

City Manager Wrede reported the City and DOT are not ready. He suggested postponing to November or December and tabling the resolution until we are ready.

WYTHE/ROBERTS - MOVED TO TABLE UNTIL INTRODUCED BY STAFF AND THEY ARE PREPARED.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Hogan asked if he could go back to Committee Report.

Mayor Hornaday ruled Councilmember Hogan may go back to Committee Report to the Lease Committee.

Councilmember Hogan referenced the Lease Committee meeting on July 21 with three committee members and an alternate member present. He does not know of any provisions in code for alternate representation.

City Manager Wrede answered the Clerk informed us there are no provisions in code for alternate members. We were in error at the meeting.

Councilmember Howard asked if it was the alternate member who made the quorum.

City Manager Wrede answered affirmatively and one consideration at the time was there was not a real decision made other than to have a general discussion with the applicant to let them know how they could improve the application.

Councilmember Hogan stated he has no objection to amending code to provide for that. It is frustrating the rules are made up as we go along, hoping nobody notices.

B. **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. (Postponed from June 14, 2010)

Motion on the floor from March 22: MOTION FOR THE ADOPTION OF RESOLUTION 10-29 BY READING OF TITLE ONLY.

Councilmember Wythe will vote against Resolution 10-29, as from Council conversations we are not going to approve the changes as submitted by the EDC in their entirety.

HOGAN – MOVED TO AMEND CHAPTER 7 OF THE PROPERTY MANAGEMENT POLICY AND PROCEDURES AS PRESENTED BY THE EDC 7A TO READ AS FOLLOWS UNDER SECTION 1: PERCENTAGE OF VALUATION AND THE LEASE RATIO EQUAL

8% OF THE BOROUGH'S ASSESSED VALUATION OF RAW LAND AND/OR CITY OWNED IMPROVEMENTS BASED ON FEE SIMPLE BASIS OF THE RATING.

Mayor Hornaday stated we agreed not to have amendments at this stage.

Motion died for lack of a second.

Councilmember Hogan referenced the laydown from Brad Faulkner. It is frustrating that the EDC and Port and Harbor Advisory Commission spent over a year addressing the issue. At the last minute the Council was presented with an alternative set of changes offered by administration. He has been following the process for a number of years. It is not the first or second time it has happened. The EDC spent a great amount of time looking at lease policy regulations. Revisions were offered by the EDC in 2004 and were shot down by a different administration. In 2007 the same thing happened. From the May 14, 2007 City Council minutes: "Bob Howard, city resident and Chair of the Economic Development Advisory Commission (EDC) spoke on Memorandum 07-89. It criticizes the EDC's revisions in a strong negative manner. Recommendations provided in Memorandum 07-78 by the EDC were done in a thoughtful effort to create a more flexible Lease Policy." Mr. Howard was eloquent in his frustrations how a citizen's committee was blindsided and shot down by an administration and a Council that put the administration's view over that of the citizens. The Council's manner of addressing this is a slap in the face to the EDC. The last time this happened the EDC was done, they walked away and a whole new commission had to be started all over again. A lot of work and thought went into the policies. We can go ahead and do what the administration wants and we will see nothing happen on our city- owned lease property. It has been going on for decades.

Councilmember Wythe noted the proposed changes in Councilmember Howard and Roberts' resolution. They are not the staff's proposal. The items were brought forward as acceptable in light of all changes proposed. EDC is frustrated they have put time and energy into recommendations. Not having every proposal sent forward rubber stamped is not a measure of the worth of the commission. There are many things they brought forward that are being considered and will be brought into the review process; there are many things that are not. Bringing the proposals forward continues to bring it to the Council to give thoughtful consideration to altering the plan. The function of the Council is to determine what is in the best interest of the City. No one is making a decision based on not valuing the time, energy, and effort expended by the EDC. Some of the major changes introduced by Resolution 10-77 have to do with the valuation of the property and who stands the expense for the periodic review of the values of those properties. The EDC brought forward extremely valuable information and as a result we will come out with better product for the City of Homer.

Councilmember Howard noted as a lessee she would like to see the process as amended. Council was trying to hear both sides and bring something most to the center. It is not a perfect document, although there are step improvements along the way. In reading the recommendations from the EDC her recommendation would be to sell all the property and not stay in the leasing process.

Councilmember Hogan referenced the laydown from Mr. Faulkner, a lease holder on the Spit. It is very well written and points out a lot of the history. A lot of the history of dealing with City Hall boils down to there is a policy of reward and retaliation based around city leases. People are afraid to speak up due to retaliation. The EDC was trying to come up with a fair policy that was uniform. So much in the past is arbitrary and good ole boy politics that harms the reputation of the business community. Seafood businesses come and leave with a bad taste in their mouth. He would like people to realize and acknowledge what is going on.

Councilmember Howard is appreciative of the opportunity to discuss it and make resolution. Her concern of some amendments was reading the attorney's comments contrary to State code.

Councilmember Hogan recalled the memo the attorney wrote in regard to lease rental rates. His comments were made addressing a policy issue, not a legal issue. Rental rates have to affect fair market value. The attorney's comments were to affect a policy arena question. It is not the attorney's job to support the administration's view on policy. The City Attorney is to represent the Council. Rental rates could be determined by assessed valuation. The attorney's comments were used inappropriately.

VOTE: YES. ZAK, HOGAN, LEWIS

VOTE: NO. HOWARD, ROBERTS, WYTHE

Mayor Hornaday broke the tie vote with a NO vote.

Motion failed.

NEW BUSINESS

- A. **Memorandum 10-120**, 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. (Briefing on Atwater and Dietzman Cases by Attorney Frank Koziol).

Moved to be heard just prior to adjournment.

RESOLUTIONS

- A. **Resolution 10-75**, A Resolution of the City Council of Homer, Alaska, Establishing a Natural Gas Distribution Task Force. City Manager.

Memorandum 10-93 from City Manager as backup.

HOWARD/ZAK - MOTION FOR THE ADOPTION OF RESOLUTION 10-75 BY READING OF TITLE ONLY.

Councilmember Lewis expressed opposition until we know we have the money to build the gasline from Anchor Point to Homer. He sees no need to set up another committee.

City Manager Wrede said the committee was part of the legislative intent language. If the Council does plan to put Phase II of the gasline in the CIP list and try to get it in the State budget this year it would help Phase II get funded. He has no ownership in the make-up of the committee; Council can make the committee membership what it chooses.

Councilmember Hogan commented a few meetings ago the resolution forming the utilities commission was voted down since there may have been oversight on the City's utilities too.

Councilmember Roberts expressed support, as at the last meeting the City Manager was asked to come back with a resolution for citizens to make a decision about our gas future. If we don't pass the resolution it will be showing the Legislature we are not too interested. She asked if the five members of the committee are to be city or non-city residents.

City Manager Wrede answered it is desirable to have city residents with this level of experience.

Councilmember Wythe stated city residents would be given preference, but if someone in the outlying area has expertise we would certainly want to consider them.

Councilmember Howard expressed support for the resolution. When water and sewer rates were under discussion she had suggested a utility commission. Councilmember Hogan brought a resolution forward at that time, but she had hoped to bifurcate the gas out. She will encourage the resurgence of a utility commission.

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

VOTE: NO. HOGAN

Motion carried.

B. **Resolution 10-76**, A Resolution of the City Council of Homer, Alaska, Approving the Federal Express Corporation Cargo Area Sublease at the Homer Airport Terminal and Authorizing the City Manager to Sign. City Manager.

Memorandum 10-121 from Airport Terminal Manager as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 10-76 by reading of title only.

WYTHE/LEWIS - SO MOVED

Councilmember Hogan referenced Memorandum 10-121 as to administrative leases since 1993. He stated there is no such thing as an administrative lease. We have a lease policy that covers city leases. If we want to have administrative leases we must amend the code.

City Manager Wrede answered in the past we have interpreted the lease policies as referring to ground leases. If Council does not agree we should make a change to say all leases are subject to

the lease policies. There are limited options. Fed Ex is a good customer and can only sign up for leases five years or less, a State DOT requirement.

Councilmember Hogan said Fed Ex is a great tenant. The lease is expired, it's a cumbersome policy, yet we need to follow the rules.

VOTE: YES. ROBERTS, LEWIS

VOTE: NO. WYTHE, ZAK, HOWARD, HOGAN

Motion failed.

(See Reconsideration under Comments of the City Council.)

C. **Resolution 10-77**, A Resolution of the City Council of Homer, Alaska, Amending the City of Homer Property Management Policy and Procedures Manual. Howard/Roberts.

Mayor Hornaday called for a motion for the adoption of Resolution 10-77 by reading of title only.

HOWARD/ROBERTS – SO MOVED.

HOWARD/ROBERTS - MOVED TO AMEND THE NOW THEREFORE TO INCLUDE EXHIBIT B AND MARK PAGE 263 AS EXHIBIT B.

There was no discussion.

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

Motion carried.

WYTHE/ROBERTS - MOVED TO AMEND EXHIBIT A, ITEM 4-A-1 AND ADD ON THE END OF THAT "THAT IN NO INSTANCE SHALL THE RATE BE REDUCED BELOW THE ORIGINALLY CONTRACTED RATE".

Councilmember Wythe defended when you enter into the agreement there is an agreed upon rate of value for the lease. The City then makes revenue projections based on those agreements. If the rate goes down you still need the lease agreement as the value collected for the property.

Councilmember Hogan commented there are a lot of businesses and people with upside down mortgages. All across the country mortgages, real estate deals, and lease rates are being renegotiated to facilitate the survival of business. He can appreciate that the City wants everything it can get, but if it doesn't have anything it is not going to get anything. It is just another disincentive.

VOTE: (secondary amendment) YES. ROBERTS, WYTHE

VOTE: NO. LEWIS, ZAK, HOWARD, HOGAN

Motion failed.

City Manager Wrede referenced Chapter 14.4 Assignments with a clerical error. We talked about moving Section 13.2 numbers with assignments to Chapter 14.

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

Motion carried.

COMMENTS OF THE AUDIENCE

Dean Ravin, Homer resident and Economic Development Advisory Commissioner, told Council they just failed to renew the Fed Ex lease. They are a good customer and are not doing any harm to the City. The EDC just put in a lot of time rewriting lease policies; there is a seamless lease renewal for performing. Council was swept away by Resolution 10-77 instead of Resolution 10-29. People that sit on the EDC are all business owners, earn out a living, collect taxes, and put a lot of work into it. A lot of the work was flushed away. He is a little sorry to see it. Council needs to think a lot about making it business friendly for this town, as revenues are falling.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner was not present.

COMMENTS OF THE CITY CLERK

City Clerk Johnson reminded everyone of the upcoming October 5th election and absentee voting that is available now.

COMMENTS OF THE CITY MANAGER

City Manager Wrede had no comment.

COMMENTS OF THE MAYOR

Mayor Hornaday commented the City received a certificate of appreciation from the food pantry for their support. We received good information from the Homer Foundation on the City's funds they have invested. Joy will be following up with a more complete letter. The investments earned 19%.

COMMENTS OF THE CITY COUNCIL

Councilmember Wythe called for immediate reconsideration of Resolution 10-76. Resolution 10-76 was reconsidered and adopted. Councilmember Wythe commented the procedures for property management under 11.2 F under lease renewal allow Council after reviewing the recommendation from the Lease Committee to not require a competitive bid process.

Councilmember Hogan asked if there was a recommendation from the Lease Committee. City Manager Wrede answered there was not.

Councilmember Wythe reminded people to vote and thanked the EDC for the work they put into the Lease Policy. She asked that they not be discouraged as many recommendations are well founded.

Councilmember Hogan thanked the EDC for all their work. He hopes they will not be discouraged. He issued a challenge to his fellow councilmembers for United Way. He will be donating his council stipend and challenged others to match it.

Councilmember Roberts thanked the EDC folks for doing a good job. She reminded everyone we have been talking about lease renewals for two to three months and are not taking their suggestions lightly. We have spent a lot of time looking at the policies and working on it. We appreciate what they brought to us.

Councilmember Zak agrees with support for the EDC; Council does not take anything lightly. He appreciates the citizens' feedback, including a letter from Brad Faulkner and Councilmember Hogan's experience in this field. He puts a lot of faith in what Councilmember Hogan is communicating with his experience and background. He knows the results are forthcoming. He appreciates Council's support for making the gas line a possibility to Homer's future. He appreciates the visitor from the Pratt Museum who shared how much the Pratt contributes to the community. Their hire youth for summer activities and provide a great contribution to the community.

Councilmember Howard thanked Councilmember Lewis for honoring the concerns of the citizens in bringing forward the free ride vehicle issue and allowing the process of public hearing. She thanked Councilmember Hogan for bringing up the wetlands and trails issue. She agrees and wonders why Council goes through areas they should probably leave alone. In regard to the Federal Express lease, she would have appreciated a staff report in support of the resolution pointing out the section that authorized administration to extend the lease. She has noticed a lot of huge equipment and trucks parked on the Spit and wonders who is moving in or what is happening there. She thanked the folks for coming out tonight and having patience, and thanked the listening audience as well.

NEW BUSINESS

- A. **Memorandum 10-120**, 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. (Briefing on Atwater and Dietzman Cases by Attorney Frank Koziol).

Mayor Hornaday called for a motion for the approval of the recommendations of Memorandum 10-120.

WYTHE/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. WYTHE, HOWARD, HOGAN, LEWIS, ROBERTS (Councilmember Zak was not entitled to participate by phone in Executive Session.)

Motion carried.

Councilmember Zak ended his telephonic participation in the meeting at 8:16 p.m.

Council adjourned to Executive Session at 8:16 p.m. and reconvened the meeting at 8:51 p.m.

Mayor Pro Tempore Wythe stated Council met in Executive Session to receive a briefing from our insurance attorneys regarding the status of the Atwater and Dietzman cases.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 8:52 p.m. The next Regular Meeting is scheduled for Monday, October 11, 2010 at 6:00 p.m. The next Committee of the Whole is scheduled for Monday, October 11, 2010 at 5:00 p.m. A Worksession is scheduled for Monday, October 11, 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: _____