

Session 11-14 a Regular Meeting of the Homer City Council was called to order on April 11, 2011 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 CLERK JOHNSON
CITY MANAGER WREDE
CITY ATTORNEY KLINKNER (telephonic)
LIBRARY DIRECTOR HILL
PORT AND HARBOR DIRECTOR HAWKINS
PUBLIC WORKS DIRECTOR MEYER

Councilmember Zak requested telephonic participation and joined the meeting at 7:31 p.m.

Council met from 4:00 p.m. to 4:51 for a Worksession to discuss Water/Sewer Rates. Council met as a Committee of the Whole from 5:00 p.m. to 5:43 p.m. to discuss Regular Meeting Agenda items.

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

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 Council with the following changes:

RESOLUTIONS - Resolution 11-036, A Resolution of the City Council of Homer, Alaska, Amending the Fee Schedule to Provide for Long Term Parking Permit Fees. City Manager. Written public comments/Port & Harbor Director Response; Draft Ordinance from City Attorney to incorporate Parking Violation Offenses in code.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Jill Lush, city resident, spoke in support of the Mayor's Proclamation, Week of the Young Child.

Andrea VanDinther, city resident, supports the Week of the Young Child and early childhood education projects.

Lolita Brache, Homer resident, spoke in support of the Week of the Young Child and the need for children from birth to age five to be prepared to succeed.

Ken Bergman, Anchor Point resident, spoke in support of the Week of the Young Child.

Bonnie Bentley, Homer resident, supports the Week of the Young Child.

Sue Mauger, Homer resident and Friends of Homer Public Library, spoke in support of National Library Week.

Judy Dean, Homer resident, spoke in support of Week of the Young Child.

RECONSIDERATION

None.

CONSENT AGENDA

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

- A. Homer City Council unapproved Special Meeting (BOE) minutes of March 24, 2011 and Regular Meeting minutes of March 29, 2011. City Clerk. Recommend adoption.

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

ROBERTS/LEWIS - SO MOVED.

Councilmember Hogan asked that the minutes of March 24, 2011 be amended to reflect his comments pertaining to the base lease. Mayor Hornaday stated they would be amended.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

- A. **Joy Steward**, City of Homer Grants Program

Joy Steward, Executive Director of The Homer Foundation provided a report on the City of Homer Grants Program. This year there were six applications with \$24,621 for awards. The City provided a \$19,000 budget allocation to The Homer Foundation. Due to a stabling economy and fewer grant applicants this year, a portion of the allocation was placed into the endowment fund. This year the endowment fund generated \$19,000 that was distributed through the grants program. In addition, \$14,000 of the current year allocation and \$1,600 from Kachemak City was used.

Organizations that received the funding include:

Bunnell Street Gallery	\$4,200
Center for Alaska Coastal Studies	\$4,500
Cook Inlet Keeper	\$2,750
Homer Community Food Pantry	\$6,121
Kachemak Heritage Land Trust	\$2,750
Kachemak Nordic Ski Club	\$4,300

Over the last twelve years The Foundation has distributed \$547,284 to local non profits.

As of February 28, the endowment fund had a total of \$185,601. The Homer Foundation has rebounded and regained losses since the 2008 downturn in the economy. In 2009 the combined earnings for market growth and distributable earnings was 22.29% and 24.51% for 2010.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. **Mayor's Proclamation** – Week of the Young Child, April 10-16, 2011

Mayor Hornaday read and presented the proclamation.

B. **Mayor's Recognition** – Homer Bantam Hockey Team, State Champions

Mayor Hornaday read and presented the proclamation.

C. **Mayor's Proclamation** – National Library Week, April 10-16, 2011

Mayor Hornaday read and presented the proclamation.

D. **Borough Report**

Bill Smith, Kenai Peninsula Borough Assemblyman, provided documents depicting sales tax revenues and property/personal/oil assessed values for communities within the borough. Sales tax revenues have rebounded from other cities within the borough, with the exception of Homer and Soldotna. The City does not collect sales tax on food and Soldotna sales tax revenue has dropped due to competition from Walmart. Overall, residential construction is down significantly. Homer has the benefit of a diverse economy with a strong fishing industry.

The City exceeded Kenai's assessed real property values due to Homer having more expensive homes and a diversity of small and medium businesses.

Recent ordinances have been introduced at the Borough to give the Mayor a salary increase from \$80,000 to \$99,000, and another to improve administrative salaries and benefits. An ordinance to protect the stream setbacks of the 25 streams the Borough manages is also in the works.

The mil rate will be lowered to 4.5 mils. Given the increase in costs for everything and lack of sales tax from food, the Borough will not be able to maintain the sales tax holiday and low mil rates for long. Currently the maximum taxable sale is set at \$500; there is an amendment to increase the amount to \$2,500. The change is anticipated to generate an additional \$6.3M.

E. Commissions/Board Reports:

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

Beth Cumming, Parks and Recreation Advisory Commissioner, reported the commission's work includes the Karen Hornaday Park improvements, the Wooden Boat Society's interest in leasing spit land, and the pedestrian/bicycle trail along Kachemak Drive. The commission voted to have a preliminary engineering plan drawn up with the \$300,000 in grant funds and prioritized drainage ditches, parking, moving the road over, and bridge abutments. A Special Parks and Recreation Advisory Commission meeting is scheduled for April 19 at 6:30 p.m. the Kachemak Drive Path Committee is investigating three different possible aspects. Those include narrowing Kachemak Drive and widening paving to allow room for bicycles and pedestrians, putting the trail under the power line on the leased land, and a path from the base of the Spit eastward on the bay side of Kachemak Drive continuing between the beach and the steep area of hillside. The section would end at the airport where the road goes down to the beach.

Robert Archibald and Bumpo Bremicker, Parks and Recreation Advisory Commissioners, reported the funding for Karen Hornaday Park is very limited, The road to the park is straight and wide, making it dangerous. There is a big drainage problem with the ballfields and parking area that needs to be addressed. A comprehensive engineering report would be very expensive, but a realistic idea of solutions to the problem is needed. Playground equipment is in need of repair; some may need replacement. Former Mayor Cushing has been approached to provide a design across Woodard Creek. Tangible numbers are needed to provide to Council.

Councilmember Wythe asked about the protocol to access the grant funds. City Manager Wrede answered Council approved a grant agreement to implement Phase I of the KHP Master Plan and anything that follows in that trajectory is included. Phase II is for engineering and moving the road, which falls outside the scope of what the Legislature intended. For Parks and Recreation to access the grant money and put Phase I into place, a memorandum from the commission is needed with their recommendations. Council will then consider an ordinance to appropriate the money.

Councilmember Roberts suggested an estimate for measures to improve the parking. Mr. Bremicker added the idea of an engineer's report was to see if moving the road would affect

parking. With the parking on the other side, kids have to cross the road. A pre-engineering report would provide an idea of the costs so we are spending the money wisely.

Mayor Hornaday expressed interest in the long range plan for the park, but foremost is fixing up the parking, drainage, and the ballfields. Councilmember Wythe commented the probability of the long range plan within the next 10 to 15 years is slim. Her concern is that we will be focusing on the future plans and will not utilize the funds we have today.

5. Port and Harbor Advisory Commission

Bob Hartley, Port and Harbor Advisory Commissioner, reported the commission has discussed parking for the last two years, specifically long term parking. The current ordinance provides for a violation and \$25 fine per day for vehicles that are parked longer than seven days. For people who live across the bay or for fishermen this can be an inconvenience. The ordinance was put in effect last year and has not been strictly enforced. The new long term parking plan allows people to purchase a parking permit, the fees are reasonable without a great expense to the city.

PUBLIC HEARING(S)

A. **Ordinance 11-11**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2011 Operating Budget by Appropriating \$9,000 from the Homer Accelerated Roads and Trails Fund (HART) for the Construction of the West Homer Elementary Trail Project. City Manager/Public Works Director. Introduction March 29, 2011, Public Hearing and Second Reading April 11, 2011.

Memorandum 11-049 from Public Works 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 11-11 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.

B. **Ordinance 11-12**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Donation / Grant from Family First in the Amount of \$2,800 for Playground Equipment at Bayview Park and Stipulating that the Funds be Segregated and Used Only for That Purpose. City Manager/Public Works Director. Introduction March 29, 2011, Public Hearing and Second Reading April 11, 2011.

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 11-12 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. **Resolution 11-036**, A Resolution of the City Council of Homer, Alaska, Amending the Fee Schedule to Provide for Long Term Parking Permit Fees. City Manager.

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

ORDINANCE(S)

A. **Ordinance 11-13**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2011 Operating Budget by Appropriating \$7,000 from the Port and Harbor Reserve Account in the Amount of \$7,000 for the Purpose of Implementing the Long Term Parking Permit Plan. City Manager. Recommended dates: Introduction April 11, 2011, Public Hearing and Second Reading April 25, 2011.

Mayor Hornaday called for a motion for the adoption of Ordinance 11-13 for introduction and first reading by reading of title only.

ROBERTS/HOGAN - SO MOVED.

WYTHE/ROBERTS - MOVED TO AMEND ALL OCCURRENCES OF \$7,000 TO READ \$15,000.

There was no discussion.

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

Motion carried.

WYTHE/ROBERTS – MOVED TO FURTHER AMEND THE TITLE AND SECTION 1 UNDER THE NOW THEREFORE TO INCLUDE AT THE END OF THE STATEMENT “AND FOR NEW SIGNAGE AT THE APPROACH RAMPS”.

There was no discussion.

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

Motion carried.

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

Motion carried.

Mayor Hornaday called for a recess at 7:06 p.m. and reconvened the meeting at 7:10 p.m.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Cook Inlet Jack Up Rig: Last year the Legislature passed a bill which provides for various incentives to encourage more gas drilling in Cook Inlet. Attached is a letter from the Alaska Industrial Development and Export Authority (AIDEA) describing a plan for AIDEA to become part owner in a Jack Up Rig that would operate in Cook Inlet. I am bringing this up for several reasons. First, you will see that AIDEA is asking for comments from the City regarding this plan. I have not formally responded beyond a quick e-mail stating that we would get back to them. My first thought was that the City is putting a great deal of resources into getting a gas line to Homer. Supply is one of the questions and this is an attempt to address the issue. On the other hand, we can't assume that everyone supports more drilling in Cook Inlet. So, this is a policy call and I hope Council will give me some direction. The second reason for bringing this to your attention is that a representative for the owner of the jack up rig has contacted the Port and Harbor Director about mooring the vessel at the deep water dock for three or four months next winter. The owners need a safe place to tie up and do work on the rig in preparation for its operations in the Inlet. This is potentially a good source of private sector jobs and revenue for the Port and Harbor Enterprise Fund. One thing that might get the public's attention however, is that the legs of the rig stand up straight and will be twice as high as the high mast lights. At Bryan's suggestion, the owners are consulting with the FAA. Please let us know if the Council has any questions or concerns.
2. Energy Prices and the Operating Budget: As everyone knows, the cost of energy is rising rapidly. This is having a very large impact on the budget and it is particularly worrisome as we look forward to the FY 2012 Budget. The energy efficiency measures we are taking will shield the City from even higher costs in the future because we are reducing consumption. That is good. However, the reduction in energy costs that we hoped to see in the operating budget will likely vanish due to higher costs per unit. In addition, the departments will now be expected to repay either the Revolving Energy Fund or the Depreciation Funds, increasing the operating budget expenditures / (transfers) even further. We anticipate that property tax revenues will decline again this year and sales taxes may as well. Anything that increases operating costs is not a good sign and it may

be that we will have a discussion about whether we have the ability to repay some of these “loans” next year.

3. City Attorney Report: As you know, we have been looking at ways that we can increase efficiency and reduce costs in cases where the City Attorney has determined that he has a conflict of interest. This usually occurs when there are appeals to either the Planning Commission or the Board of Adjustment. Mr. Klinkner has commented on one possible approach we have discussed in a memorandum that is included in your packet under City Attorney Report. I wanted to provide the Council with an opportunity to discuss this approach before we went too much further. This approach definitely has some advantages and disadvantages. Tom will be at the meeting and is prepared to discuss this during the City Attorney slot on the agenda. I have decided to go ahead and use this approach in the Becker remand matter because the parties are well served by a timely process. We need to keep that process moving and the new attorney would need time to review the case and get up to speed. However, it is not too late to reverse that if Council wishes.
4. Term Contracts / Engineering Services: Several years ago the Council approved issuing an RFP for a term contract for engineering services. The City uses outside engineers for a wide variety of services from designing water and sewer extensions to modifications on the Deep Water Dock. The advantage of having an engineering firm on a term contract is that we do not have to issue a separate RFP every time we need an engineer for a job; saving time and money. The current term contract has expired and we would like to issue an RFP again. This time around, Carey would like to issue three separate RFPs for specialized services; one for water and sewer, one for maritime/docks and harbors, and one for civil work. We plan to bring Council a resolution authorizing these RFPs at the next meeting.
5. Old Water Treatment Plant Demolition: The old water treatment plant is currently being demolished. Nothing will be left except the cement pad. As you know, we have discussed placing some type of structure there to house a satellite fire station. We will be developing a plan and budget to accomplish that soon for your consideration. The cost of the demolition contract (\$58,000) is significantly less than the insurance settlement (147,287.41). Unless Council has other ideas, we propose to place the remainder of the insurance settlement into the Water and Sewer Reserve Account.
6. Construction Contracts / Jobs: The Public Works Department is doing what it can to get some jobs and economic activity on the streets this summer. At the next couple of meetings, the Council will be asked to approve construction contracts for the West Homer Elementary trail, the access road project at the water treatment plant, the security gate at the Deep Water Dock, improvements at Jack Gist Park, and the Soundview / Woodard Creek bridge. If things go well, the Phase II Kachemak Water and Sewer Project could be before you in late May/ early June. Other projects are in the development phase. (See next item).
7. Karen Hornaday Park Improvements: Attached is a letter from the Parks and Recreation regarding improvements at Karen Hornaday Park. We asked the Commission to give us some input on how the legislative grant the City received last year (\$250,000) and the funding the City provided (\$55,000) should be spent. The legislative grant, and the grant agreement, are focused upon implementation of Phase I of the Karen Hornaday Park Master Plan. As you might recall, Phase I was focused on the most immediate needs such as drainage and parking lot improvements, upgrades to the playground and day use areas,

removal of the old storage shed, etc. The Commission favors doing the engineering work for the drainage and existing parking lot improvements; which we will do. However, it also appears to be more focused now upon the bridge over Woodard Creek and preparation for Phase II which includes moving the road and re-contouring the entire parking area adjacent to Woodard Creek. The argument for this is that unless we do the preliminary engineering work, we will never know if moving the road is possible or affordable. The downside of this approach is that we might spend a lot of money on engineering and not much on actual improvements. Future funding for this project is speculative at best. This approach may also require an amendment to the grant agreement since we are starting to delve into Phase II projects. Council input on this is encouraged. The bottom line is that this year, we are likely to see only some engineering and design work and improvements on the ball field playing surface. We will also see what we can accomplish in the playground and day use areas.

8. Sewer Rehab Project: This project was funded in large part by stimulus money. This project is not very sexy or visible to the public but we are excited about it because it is accomplishing major maintenance and repair tasks on the City sewer lines that would be very expensive to do later. This project will save the City and its sewer customers a great deal of money down the road. Carey attempted to give the Council an update on the project including a video taken by a small remote camera traveling through the sewer lines. That part of the presentation did not go so well you might recall! At any rate, the project was described in an article in Pacific Northwest Trenchless Review. (Yes, there is such a publication you have to be a real geek with no life whatsoever to read such a thing!). A copy of the article is attached I hope the public will find it to be informative.
9. Change Order Notice: This agenda contains a resolution which awards a contract to HDR to perform the Sewer Treatment Plant Bio-Solids Disposal Feasibility Study and replacement of the polymer injection equipment. Carey explains in the resolution and in his back-up memo the reasons for using HDR and tacking this work onto an existing contract. HCC 3.16.100 provides that change orders which change the scope of work of a contract are not binding without prior Council approval.
10. HERC / Old Intermediate School. The Request for Proposals to lease the building has been published and the closing date is Friday May 6. One thing Council may want to consider is what to do if the EDC does not have a quorum when it comes time to review the proposals and make a recommendation to Council. I am told that might be a possibility. Council might consider sending the proposals to the Lease Committee instead or setting up a committee made up of Council members.
11. Bridge Creek Fire Mitigation Project: This project is well underway and so far we are pleased with the result. The only complaint we have received so far is that firewood is not being made available to the public.

Lobbyists Linda Anderson and Yuri Morgan provided an update on the Senate Capital Budget. At this time \$10M is budgeted for the natural gas line, \$6M for the cruise ship dock, and \$6.7M in DOT funds for paving at the Airport taxiway and East End Road. The Capital Budget includes \$400M in energy projects statewide. Each project is tied together, if one gets vetoed, they all go. The fish tax will not receive a hearing before the Legislature this year.

Revenue sharing is allocated at \$60M statewide; the City's share is estimated at \$450,000. Senate Bill 97 related to revenue sharing identifies extra revenue sharing tied to the price of oil. Because the bill may not pass, an additional \$20M was added to the operating budget.

The typical pattern is if the House goes along with the capital budget submitted by the Senate there is no conference committee. The capital budget is \$2.9 billion; \$1.8 billion is general funds. The House still has the opportunity to add projects; the Senate in past years has not removed projects from the House. Without the passage of Senate Bill 97 Homer is scheduled to get \$114,000 additional dollars for revenue sharing. There is \$3.5 billion more oil revenue than projected for FY 2011 and 2012. This year's capital budget reflects spending of \$1 and saving of \$2.

Councilmember Hogan asked about the change order to HDR for work at the sewer treatment plant. City Manager Wrede explained the change order to HDR's existing contract is an opportunity to save a lot of money. Although you could look at it as a sole source contract, it is a legitimate and creative means of saving money.

As to the conflict issue with the city attorney, Councilmember Hogan expressed concern. The city attorney is supposed to work for the Council and any work the attorney is engaged to do should go through the Council. Mr. Hogan believes by statute the attorney is supposed to work for the Council.

B. Bid Report

CITY ATTORNEY REPORT

A. Advising City Adjudicatory Bodies

Attorney Tom Klinkner explained they are trying to formulate a way where two attorneys within their office can play different roles within a proceeding, save the City some money, preserve the fairness of the hearing, and handle the situation more efficiently.

Councilmember Hogan is concerned that we emphasize the priority of the Council as the client over boards, commissions, and staff.

Attorney Klinkner agreed and indicated the proposal would not change that. They will use Attorney Holly Wells and him to handle different aspects of the representation. In the preliminary stage one of them would work with city administration; the other person would be totally uninvolved and free to help the Council.

Councilmember Roberts asked if this method would fall under the contract or would we pay more for the additional services. Mr. Klinkner answered the services would fall under the retainer, and he assumes it would be a significant savings to the City.

City Manager Wrede has no doubt the city attorney was hired by and works for Council. It is hard to cut the staff out; the staff has far more contact with the city attorney than Council does.

Council would want staff to consult with the attorney on a regular basis to keep us out of trouble. It would be problematic if there is no access for staff.

Councilmember Zak joined the meeting via telephone at 7:31 p.m.

ROBERTS/HOGAN – MOVED TO ALLOW BRYAN ZAK TO PARTICIPATE BY TELEPHONE.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Zak asked if the City Attorney had thought about setting up a separate appeals board or board of adjustment, instead of Council in that capacity. City Attorney Klinkner answered he had not received an indication from the Council as a whole on a separate board. An alternative is to designate a hearing officer to hear contested appeals. It would be a person with legal training who would hear the case and make recommendation to Council or to a separate board.

Councilmember Howard commented from all her years in local government it is a normal working relationship with the City Attorney and staff and Council. It is a fine line and there may be times when you have to hire your own attorney. The Clerk would be in a world of hurt without contact with the City Attorney. She asked if Attorney Klinkner was confident with an arms length transaction. Mr. Klinkner expressed he is confident they can operate at an arms length transaction, but cannot guarantee it will satisfy everybody in the Homer community. They have researched it thoroughly and discussed it with a representative of the Alaska Bar Association to confirm they are well within the professional responsibility rules. If conducted properly they will do so.

Attorney Klinkner added that this issue of conflict or separate representation only comes up in adjudications Council hears as a Board of Adjustment. Under any other circumstances assistance to city staff does not interfere with advice to Council.

COMMITTEE REPORT

- A. Public Arts Committee
- B. Transportation Advisory Committee
- C. Permanent Fund Committee
- D. Lease Committee
- E. City Hall Renovation and Expansion Task Force

F. Natural Gas Distribution Task Force

PENDING BUSINESS

NEW BUSINESS

RESOLUTIONS

A. **Resolution 11-036**, A Resolution of the City Council of Homer, Alaska, Amending the Fee Schedule to Provide for Long Term Parking Permit Fees. City Manager.

Mayor Hornaday called for a motion for the adoption of Resolution 11-036 by reading of title only.

HOWARD/ROBERTS – SO MOVED.

HOWARD/ROBERTS – MOVED TO AMEND ON THE RESOLUTION THAT IS A LAYDOWN, TO DO SOME GRAMMATICAL ADJUSTMENTS: UNDER PARKING FEES IT WOULD READ PARKING FEES TO BE COLLECTED AT RAMP 1, RAMP 2, RAMP 3 AND RAMP 4 SEASONALLY (MEMORIAL DAY THROUGH LABOR DAY).

There was no discussion.

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

Motion carried.

HOWARD/ROBERTS - MOVED TO AMEND PER BOLD AND UNDERLINED IT WOULD READ SEASONAL PERMITS FOR DAY USE PARKING RAMPS 1-4 \$250.00.

There was no discussion.

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

Motion carried.

WYTHE/ROBERTS - MOVED TO FURTHER AMEND THE RESOLUTION AS IS IN THE PACKET BY STRIKING “ANNUAL PERMIT FOR DAY USE PARKING RAMPS 1-4 AVAILABLE FOR LEGAL VEHICLES 20’ OR LESS”.

There was no discussion.

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

Motion carried.

Councilmember Lewis remarked the Port and Harbor Advisory Commission spent a lot of time on the resolution. If people, especially those across the bay, want changes he recommended they go back to the commission and recommend they amend it without a wing and a prayer at the council meeting.

Councilmember Wythe asked that the Port and Harbor Advisory Commission give consideration as to how they can provide parking on the Spit for people with seasonal boats to leave their trailer on the Spit. It would avoid them having to traffic their trailer.

City Manager Wrede referenced the draft ordinance from City Attorney Klinkner. The attorney advises Council may pass the fee schedule change, but should not implement the plan until the ordinance is passed to give the Port and Harbor Director certain authorities. It improves how we will handle fines and how people will pay. The ordinance will be introduced at the next meeting.

Discussion ensued on the 20 ft. or less limitation of trailers that was stricken. It does not pertain to fee pay lots. Oversized vehicles in the high traffic area is a concern.

WYTHE - MOVED TO AMEND THE LINE THAT CURRENTLY INSERTS LONG TERM PARKING ANNUAL PERMIT FEE OF \$200 TO READ: LONG TERM PARKING ANNUAL PERMIT FEE AVAILABLE FOR LEGAL VEHICLES 20' OR LESS/TRAILERS STILL SUBJECT TO THE 7 DAY RULE: \$200.00.

Mayor Hornaday called for a recess at 7:44 p.m. and reconvened the meeting at 7:46 p.m.

Motion died for lack of a second.

WYTHE/HOWARD - MOVED TO AMEND AFTER LONG TERM PARKING ANNUAL PERMIT FEE, INSERT: "AVAILABLE FOR LEGAL VEHICLES 20' OR LESS PARKED IN EXCESS OF SEVEN (7) 24-HOUR DAYS: \$200.00".

There was no discussion.

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

Motion carried.

WYTHE/ROBERTS - MOVED TO AMEND TO INSERT A SEPARATE STATEMENT: "VEHICLES OVER 20' AND TRAILERS ARE NOT ELIGIBLE FOR LONG TERM PARKING".

There was no discussion.

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

Motion carried.

WYTHE/HOWARD - MOVED TO POSTPONE THE APPROVAL TO THE NEXT MEETING AND HAVE A CLEANER COPY FOR REVIEW.

There was no discussion.

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

Motion carried.

B. **Resolution 11-037**, A Resolution of the City Council Approving the City of Homer 2011 Land Allocation Plan. Mayor/City Council.

Memorandum 11-054 from City Clerk as backup.

Memorandums 11-040 and 11-052 from Lease Committee, 11-041 from Planning Commission, 11-042 from Parks and Recreation Advisory Commission, 11-043 from Library Advisory Board, and 11-053 from Planning Technician as backup.

Mayor Hornaday called for a motion for the adoption of Resolution 11-037 by reading of title only.

ROBERTS/LEWIS - SO MOVED.

The resolution as presented includes no notation changes; Council may add recommendations from Memorandum 11-054.

LEWIS/ROBERTS – MOVED TO ADD SUPPORTING THE KACHEMAK BAY WOODEN BOAT SOCIETY TO THE LAND ALLOCATION PLAN.

Discussion ensued on the lease which may be 15 years out.

VOTE: YES. LEWIS

VOTE: NO. ROBERTS, WYTHE, ZAK, HOWARD, HOGAN

Motion failed.

ROBERTS/WYTHE – MOVED TO ADD ITEM 2 ON THE MEMORANDUM (11-054) FROM THE CITY CLERK: DESIGNATE AND DEFINE A 10,000 SQ. FT. PORTION OF TRACT 1-A, PAGE B-6, AND MAKE THE LAND AVAILABLE FOR REQUEST FOR PROPOSALS.

City Manager Wrede clarified it is the same as item 1 on Memorandum 11-054 supporting the lease proposal of the Kachemak Bay Wooden Boat Society, but from the Lease Committee. The first step would be to consider if Council wants to RFP the land, instead of just sole source. The Lease Committee supported in concept a bigger plan for the lot.

WYTHER/HOWARD - MOVED TO AMEND THE PROPOSAL TO READ: TO DEVELOP A PLAN WHICH WILL CONSIDER DESIGNATION OF A 10,000 SQ. FT. PORTION OF TRACT 1-A, PAGE B-6, TO MAKE THE LAND AVAILABLE FOR REQUEST FOR PROPOSAL.

Councilmember Roberts recalled that Shelly Erickson of the Lease Committee explained the parcel might be for non profits.

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

Motion carried.

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

Motion carried.

Mayor Hornaday called for a motion to adopt Item 3.

Failed for lack of a motion.

ROBERTS/LEWIS - MOVED TO ADOPT #4 TO RETAIN THE NW CORNER OF KAREN HORNADAY PARK, 10 ACRES, PAGE C-7, RETAIN FOR A FUTURE PARK.

There was no discussion.

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

Motion carried.

LEWIS/ROBERTS - MOVED THAT PAGE NUMBERS C-11 AND C-12 BE RETAINED FOR FUTURE KACHEMAK DRIVE TRAIL AND REST AREAS. (KPB PARCELS 179-100-01, 179-110-05, AND 179-360-20)

City Manager Wrede noted the lots are undesignated and he would not put them up for sale.

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

Mayor Hornaday broke the tie vote with a YES.

Motion carried.

WYTHER/LEWIS – MOVED TO CONTINUE HOLDING THIS LOT FOR SALE (ITEM #6 OLD LIBRARY LAND).

The property was previously designated for sale.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

WYTHE/LEWIS - MOVED TO INCLUDE RECOMMENDATION #7 IN OUR RESOLUTION.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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

Motion carried.

C. **Resolution 11-038**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract for the Sewer Treatment Plant Bio-Solids Disposal Feasibility Study (\$49,940) and the Design of the Replacement of Sewer Treatment Plant Polymer Injection Equipment (\$9,988), for a combined total of \$59,928, to HDR Alaska, Inc. of Anchorage, Alaska, and Authorizing the City Manager to Execute the Appropriate Documents. Public Works Director.

Memorandum 11-055, from the Public Works Director as back up.

Mayor Hornaday called for a motion for the adoption of Resolution 11-038 by reading of title only.

LEWIS/ROBERTS – SO MOVED.

Councilmember Hogan voiced opposition to the change order to issue a sole source contract. There is a procurement policy in place to protect the public. The last time it was the snow blower. We were told we were getting the best deal, and that was not the case. We have a duty to RFP the project, not a change order to the existing contract. It is completely different. Although it is more expensive to RFP, there are a lot of firms looking for work. We are getting a reputation throughout the state that we don't put things out to bid that we should.

Councilmember Roberts defined it as a specialized activity, and asked if there are a lot of firms in the state that do this type of work.

City Manager Wrede referred to Public Works Director Meyer. For engineering services we can do sole source contracts if somebody has the specific expertise we are looking for.

Public Works Director Meyer answered it is specialized work, not every engineering firm deals with the treatment aspect of water and sewer. The Procurement Manual speaks to these types of projects. As to competition, engineering services are awarded based on qualifications within an RFP. It would be against engineering firms' code of ethics to bid the work. An option is to put out an RFP, select the firm on qualifications and negotiate a fee to complete the work. That will cost advertising money, city staff time, and review of RFPs. HDR Alaska was selected as the most qualified firm for the Water Treatment Plant engineer. It is not a stretch to say two years ago we selected their firm and this small change order is very close to the work that was done. It is a way to keep the ball rolling on the projects. An RFP is time consuming and is awarded based on qualifications. HDR Alaska is qualified.

Councilmember Wythe recognizes both sides of the discussion. In deference to Councilmember Hogan's concern she agrees the resolution before Council is not a clear and honest statement. The resolution needs to say we are authorizing staff to do a sole source agreement with HDR, recognizing them as the most qualified candidate. This project is distinctly separate from the other project they are coming here to work on.

Councilmember Hogan's bigger concern is the City's reputation in contracting opportunities. Building walls to prevent other contractors from bids will affect us down the road. It is not a competitive bid process, but everyone wants to play in the game. Excluding people from the ability to participate has and will continue to affect the City's reputation in the contracting community. Although the RFP process may be longer and tedious, we need to have some respect for the Procurement Policy.

Councilmember Wythe asked if Public Works maintained a qualified bidders list so people outside the RFP process had an opportunity to put forward their qualifications and have them reviewed and become a qualified vendor. Public Works Director Meyer answered they do not have a process outside the normal RFP. They have utilized term contracts, water/sewer projects for the next five years, contractors are selected as the most qualified and task orders are issued. The term contract ended at the end of last year and he has not had time to put the contract back out. A term contract can take six months to pull together. Polymer is an injection equipment replacement, an important part of the treatment process. He is motivated to try to find a way to make it happen. He is not trying to spin or ignore the Procurement Manual. Issuing change orders to existing contracts is a way we can complete contracts. It is reasonable in this case before we can get a term contract in place.

Councilmember Lewis asked how many other firms would be qualified for the project. Mr. Meyer indicated there are half a dozen; most firms are nationwide and have Anchorage branch offices.

Mayor Hornaday called for a recess at 8:15 p.m. and reconvened the meeting at 8:18 p.m.

Councilmember Lewis asked how long it would delay the project if it was put out to bid and what kind of problems and expense might occur. Mr. Meyer answered it would delay the project 3 to 4 months, there are advertising expenses, and could affect the polymer. It is a piece of equipment they don't make spare parts for anymore. The sludge disposal part would be less

affected by putting it off. HDR is under contract for the Water Treatment Plant. There is money for them to come to Homer and we can take advantage of the contracted travel costs. If we hired additional firms there would be additional funds to fly them here to accomplish the work.

Councilmember Howard noted it was not the lowest bid process, but is by qualifications. She suggested the title award a sole source contract.

City Attorney Klinkner advised it is a sole source contract as you are looking at one firm to do the work when there are other qualified firms. That would be an accurate characterization of what the resolution is doing.

HOWARD/WYTHE – MOVED TO AMEND THE TITLE TO READ: AWARDING A SOLE SOURCE CONTRACT.

Councilmember Hogan reiterated his concern about the City's reputation that needs protection like any other asset.

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

Motion carried.

WYTHE/HOGAN - MOVED TO AMEND THE TITLE TO STRIKE THE "SEWER TREATMENT PLANT BIO-SOLIDS DISPOSAL FEASIBILITY STUDY (\$49,940)" AND THE STATEMENT AT THE BOTTOM WHICH SAYS "FOR A COMBINED TOTAL OF \$59,928".

Councilmember Wythe defended it would address the short term need and addresses the larger part of going out to bid for the feasibility study.

Councilmember Roberts expressed opposition to the amendment. The \$10,000 for the polymer injection equipment is valid. The extra costs incurred with a RFP and a new group of people to fly here would eliminate the savings. Staff has heard Council's concerns and will address them in the future.

Councilmember Hogan stated we are getting out into a field that none of us have no expertise in. That is why the state licenses engineers and there are a number of engineering firms in the state that could handle the project.

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

Motion failed.

VOTE: (main motion as amended) YES. ROBERTS, WYTHE, ZAK, HOWARD, LEWIS
VOTE: NO. HOGAN

Motion carried.

- D. **Resolution 11-039**, A Resolution of the City Council of Homer, Alaska, Supporting a Bill to End Requirements that Employers who Terminate Some or all Participation In the Public Employees' Retirement System of Alaska Pay Termination Costs, and Making the Changes Retroactive. Zak.

Mayor Hornaday called for a motion for the adoption of Resolution 11-039 by reading of title only.

ZAK/ROBERTS - SO MOVED.

City Manager Wrede explained this was a big deal while in Juneau with mayors, city managers, and lawyers talking about it. It was an unintended consequence when they tried to fix the PERS situation and set everyone at 22% per year, per employee. Administrative code exempts the state from the requirement. Anytime a city terminates a class or department of employees for budget reasons, you still have the obligation to make PERS payments, pay for a termination study, and make payments as though the employee was still your responsibility for 20-30 years. AML is strongly behind it; it is a huge financial impact to every municipality.

Attorney Klinkner added it is a device to support the ability of the PERS system to get back on a actuarial sound basis by increasing the money that goes in to work on their underfunding problem. With municipalities downsizing some of their functions it will have an adverse effect to recuperate some of the PERS system. The state is exempt, therefore, it seems it is not as important as made out to be. It is unfairly skewed toward the municipal participants in the program.

Mayor Hornaday sees that a city employee vests after five years of service. If you decide to end a city department and have vested employees within, employees are still entitled to benefits. Who is going to pay for them?

City Attorney Klinkner answered they are entitled to some type of benefit and the PERS shortfall needs to be covered. AML and others of opinion this is not the way to do it.

City Manager Wrede added if an employee vests after five years the city is still responsible for those five years. The city may be responsible for the PERS obligation for the employee's entire career.

Councilmember Wythe added this was a part of the discussion that took place when the 22% was put in. There are two separate issues; the money needed to pay for a person's health insurance benefit after retirement is unfunded. If five years vested and no longer employed, the employee can go back and collect their tier of pension and medical insurance. The money put in for the pension plan is vested, but there are no funds growing to pay for the health insurance. Language was added to prevent cities from removing groups of employees from PERS. If the state is not contributing, the municipalities are funding their portion. It is a reasonable resolution to move

forward on the basis the state is not being required to contribute. There is no one contributing funds towards the costs of the future health insurance benefits when you stop contributing to this plan.

City Manager Wrede said AML is trying to get resolutions from municipalities to encourage Legislature. Most municipalities are having budget problems and the liability of the termination study and PERS payments would amplify their financial problems.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

There were no comments of the audience.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner had no comment.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede had no comment.

COMMENTS OF THE MAYOR

Mayor Hornaday commented Homer is a hopping place. Last weekend the oil support spill drill people were here with 30 to 40 boats. They filled up the hotels, ate in restaurants, and shopped. The State Emblem Club and hockey kids from Barrow were here. The Elks are meeting next month and Bryan is bringing the Port and Harbor Directors to meet here. The Methodists are going to have their state convention here. Reality shows and movies are all ending up at the Auction Block. The Rotary with over 300 people will be meeting here in June.

COMMENTS OF THE CITY COUNCIL

Councilmember Hogan extended his best wishes to Helen Hill. Her tenure as a librarian was a difficult time that she handled with grace.

Councilmember Roberts commented she never thought she would read a magazine called Pacific Northwest Trenchless Review. She appreciated the article about Carey and his project.

Councilmember Howard requested that resolutions be lined documents which would be helpful for amendments.

Councilmembers Wythe, Zak, and Lewis had no comment.

ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 8:41 p.m. The next Regular Meeting is scheduled for Monday, April 25, 2011 at 6:00 p.m. The next Committee of the Whole is scheduled for Monday, April 25, 2011 at 5:00 p.m. A Worksession is scheduled for Monday, April 25, 2011 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: _____