

ACTION AGENDA

Monday, January 25, 2016

Worksession

Committee of the Whole

Regular Meeting

WORKSESSION AGENDA

1. CALL TO ORDER, 4:00 P.M.

Mayor Wythe called the meeting to order at 4:00 p.m.

2. AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

The agenda was approved by consensus of the Council.

3. STRATEGIC DOING – AMERICAN DISABILITIES ACT

Memorandum 16-019 from City Manager as backup.

4. COMMENTS OF THE AUDIENCE

There were no comments of the audience.

5. ADJOURNMENT NO LATER THAN 4:50 P.M.

Mayor Wythe adjourned the meeting at 4:50 p.m.

COMMITTEE OF THE WHOLE AGENDA

1. CALL TO ORDER, 5:00 P.M.

Mayor Wythe called the meeting to order at 5:00 p.m.

2. AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)

The agenda was approved by consensus of the Council.

- 3. Ordinance 16-04,** An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.28, Marine Commercial; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled “Marijuana Facilities” Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission.

Memorandum 16-016 from City Clerk as backup.
Memorandum 16-017 from City Planner as backup.

- 4. CONSENT AGENDA**
- 5. REGULAR MEETING AGENDA**
- 6. COMMENTS OF THE AUDIENCE**

There was one who commented.

- 7. ADJOURNMENT NO LATER THAN 5:50 P.M.**

Mayor Wythe adjourned the meeting at 5:56 p.m.

REGULAR MEETING AGENDA

Session 16-02 a Regular Meeting of the Homer City Council was called to order on January 25, 2016 at 6:00 p.m. by Mayor Mary E. Wythe 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: ADERHOLD, LEWIS, REYNOLDS, SMITH, VAN DYKE, ZAK

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
CITY ATTORNEY WELLS
CITY PLANNER ABBOUD
POLICE CHIEF ROBL
PORT AND HARBOR DIRECTOR HAWKINS

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

- 2. AGENDA APPROVAL**

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

There was no supplemental agenda.

New Business Item C – Memorandum 16-015 City Manager’s Evaluation was moved to be heard after Comments of the City Council.

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

3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

There were eight who commented.

4. RECONSIDERATION

5. 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 January 11, 2016. City Clerk. Recommend adoption.
- B. **Memorandum 16-010**, from Mayor Wythe, Re: Appointment of Beth Carroll to the Cannabis Advisory Commission and Appointment of Councilmember Heath Smith as a Consulting Member of the Economic Development Advisory Commission.

Moved to New Business, Item C. Zak

- C. **Memorandum 16-011**, from Deputy City Clerk, Re: Liquor License Renewals for Homer Brewing Company, Oaken Keg #1832, Save-U-More Liquor #6, Harbor Grill, and Cosmic Kitchen.
- D. **Resolution 16-015**, A Resolution of the Homer City Council Establishing a Regular Meeting Schedule for 2016 Strategic Doing Work Sessions. Mayor/Council. Recommend adoption.

Item B, Memorandum 16-010 was moved to New Business, Item C. Zak.

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

6. VISITORS

7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. Borough Report

B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
 - a. Minutes of January 6, 2016

Planning Commission Chair Don Stead reported the commission passed the marijuana ordinance to the Council. The commission held a public hearing and six people were supportive of loose rules associated with the ordinance. The commission was looking at towers, has held a public hearing, and will pass that ordinance to Council.

3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Parks and Recreation Advisory Commissioner Deb Lowney reported they distributed 250 doggie pick-up disposable bags and containers. They were distributed to four non-profits to educate people of the importance of cleaning up after pets. People were enthused to kick it off. In that process the commission realized the need for more trash cans around town. Speaking on her own behalf, Commissioner Lowney supports the updated portion of Ordinance 16-05. The commission was not able to review it, but would have liked to have seen greater restrictions. There is conflict of what's being said and what is being allowed on the beaches. She encouraged the Council to address dogs in public spaces and parking lots as free running dogs have caused a lot of problems. The commission would like to see a leash law in parking lots and within a certain distance of parking lots so people can feel safe and comfortable. The HERC building space and its use continues to be of great concern to the commission and the public. She questioned how the numbers were obtained to place restrictions on the HERC.

5. Port and Harbor Advisory Commission
6. Cannabis Advisory Commission

Cannabis Advisory Commissioner Carrie Harris reported the commission discussed the City's need to get taxes back that the Borough places on marijuana sales.

- C. Letter from Mayor Wythe in Support of Kachemak Bay National Estuarine Research Reserve Transfer Proposal.

8. PUBLIC HEARING(S)

- A. **Ordinance 15-43(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund. City Clerk/Permanent Public Hearing January 25, 2016.

Memorandum 15-190 from Permanent Fund Committee as backup.

There was no public testimony.

ADOPTED without discussion.

- B. **Ordinance 16-01(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010 Declaration Of Candidacy Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Ordinance 16-01(A)(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010, Declaration of Candidacy, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor.

Memorandum 16-003 from City Clerk as backup.

There was no public testimony.

ADOPTED Substitute Ordinance 16-01(A)(S).

Mayor Wythe called for a recess at 6:38 p.m. and reconvened the meeting at 6:41 p.m.

AMENDED: Deadline for candidacy filing is at noon on August 15.

ADOPTED as AMENDED with discussion. (Ordinance 16-01(A)(S)(A))

- C. **Ordinance 16-02**, An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock. City Manager/Port and Harbor Director. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Memorandum 16-007 from Port and Harbor Director as backup.

There was no public testimony.

ADOPTED without discussion.

- D. **Ordinance 16-03(S)**, An Ordinance of the City Council of Homer, Alaska Amending Ordinance 13-03(S)(2) to State the Actual Principal Amount of, and Change the Payment Dates for, the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond. City Manager. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

There was no public testimony.

ADOPTED without discussion.

- E. **All Hazard Mitigation Plan 2015 Update**

There was no public testimony.

9. **ORDINANCE(S)**

- A. **Ordinance 16-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.28, Marine Commercial; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled “Marijuana Facilities” Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission. Recommended dates: Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.

Memorandum 16-016 from City Clerk as backup.
Memorandum 16-017 from City Planner as backup.

AMENDED: Permit outright in CBD; MC is a no sale zone; Amend Line 20 “manufacturer” to “manufacture.”

STRIKE SECOND READING ON FEBRUARY 8TH AND HAVE A SECOND PUBLIC HEARING AND SECOND AND FINAL READING ON FEBRUARY 22ND.

ADOPTED as AMENDED with discussion.

Mayor Wythe called for a recess at 7:11 p.m. and reconvened the meeting at 7:15 p.m.

- B. **Ordinance 16-05**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Reynolds. Recommended dates: Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.

Memorandum 16-018 from City Manager as backup.

ADOPTED with discussion.

10. CITY MANAGER’S REPORT

- A. City Manager’s Report

City Manager Koester reported Homer came away relatively unscathed after the earthquake over the weekend. A non-structural crack was found in the Fire Hall and a few local

businesses sustained minor damage. The police were out checking businesses and alarms. The earthquake made her aware of her own personal emergency planning. The Kenai Peninsula Borough has some good information on their emergency services webpage.

Councilmember Zak appreciated the information in the City Manager's report regarding the Flint, Michigan water crisis. Many Homer residents have lead pipes that may raise concern. He praised City Manager Koester for her comprehensive report that was done with detail and thought. City Manager Koester credited Public Works Director Carey Meyer for the Flint, Michigan water information and letting the public know we have good quality water here.

Councilmember Van Dyke questioned if the Boat House pavilion on the Spit was the wisest use for the property that once housed the port and harbor office. He questioned if there could have been a better revenue stream and where the money will come from for the City to maintain it.

City Manager Koester acknowledged there could be other uses for the lot. The Port and Harbor Advisory Commission endorsed the Boat House pavilion. The most immediate need on the Spit is for parking; the pavilion area will provide additional parking. The pavilion could be shifted to over-slope development in the future. Council approved a Memorandum of Understanding with The Homer Foundation to start fundraising for the project. The Boat House pavilion will become a city facility and the City will be responsible for maintaining it. The expense will fall under the port and harbor and the enterprise fund.

Port and Harbor Director Hawkins added there is no plan for paving the lot; that is a big expense. Paid parking could be added to the lot.

B. Bid Report

11. CITY ATTORNEY REPORT

City Attorney Wells reported we had several pending litigation cases; two of the cases were Frank Griswold vs. City of Homer regarding conditional use permits. One involved standing and bias and conflict of interest issues; the other included similar issues on a public records request. Court orders were received on both cases and the Board of Adjustment was affirmed on all counts in the first case and substantially all counts on the second case. The attorney is producing documents with the date and name of attorney, previously redacted for attorney-client privilege. That was the only area of disagreement by the courts. It is good news for the City of Homer and Board of Adjustment procedures.

12. COMMITTEE REPORT

- A. Public Arts Committee
- B. Permanent Fund Committee
- C. Employee Committee Report
- D. Public Safety Building Review Committee
- E. Sustainable Animal Control Review Committee

13. PENDING BUSINESS

- A. **Memorandum 16-001(A)**, from Mayor Wythe, Re: Appointment of Councilmember Bryan Zak to the Kenai Peninsula Economic Development District.

APPROVED with discussion.

14. NEW BUSINESS

- A. **Memorandum 16-013**, from City Clerk, Re: Travel Authorization for Councilmember Zak to Travel to Anchorage to Attend the Institute for Alaska Native Corporation Director Education and Institute for Tribal Council Training March 21 - 22, 2016.

FAILED with discussion.

- B. **Memorandum 16-014**, from Councilmember Lewis, Re: Travel Reimbursement for Mayor Wythe to Travel to Juneau February 2 – 4, 2016 to Advocate for the City.

APPROVED with discussion.

- C. **Memorandum 16-010**, from Mayor Wythe, Re: Appointment of Beth Carroll to the Cannabis Advisory Commission and Appointment of Councilmember Heath Smith as a Consulting Member of the Economic Development Advisory Commission.

APPROVED with discussion.

15. RESOLUTIONS

- A. **Resolution 16-012**, A Resolution of the City Council of Homer, Alaska, Adopting the City of Homer All Hazard Mitigation Plan 2015 Update and Revision and Authorizing

the City Manager to Forward the Document to the Kenai Peninsula Borough, the Federal Emergency Management Agency, the Alaska Division of Homeland Security, and Other Organizations as Appropriate. Reynolds.

ADOPTED with discussion.

- B. **Resolution 16-013**, A Resolution of the Homer City Council Concerning the Harbor Enterprises, dba Petro 49, (Formerly Petro Marine Services) Lease for Lot 8-E-1 Homer Spit #6 and Directing that it be Canceled at the Term of the Lease December 1, 2018, and that the Property be Advertised for Lease in a Request for Proposals. City Manager. Recommend adoption.

Memorandum 16-012 from Port and Harbor Advisory Commission as backup.

POSTPONED to February 8, 2016.

- C. **Resolution 16-014**, A Resolution of the Homer City Council Amending the Harbor Enterprises, dba Petro 49, (Formerly Petro Marine Services) Lease on the Coal Point Fuel Float and the Terminal Tank Farm on the Coal Point Lot (Sec 1 T7S, R13W, S.M.) and to Enter Into a New 20-Year Term Lease With the City, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 16-012 from Port and Harbor Advisory Commission as backup.

POSTPONED to February 8, 2016.

- D. **Resolution 16-016**, A Resolution of the City Council of Homer, Alaska, in Support of the Homer Public Safety Building as Presented by the Public Safety Building Review Committee. Mayor.

POSTPONED to February 22, 2016.

- E. **Resolution 16-017**, A Resolution of the City Council of Homer, Alaska, Expressing a Deep Sense of Urgency for the Alaska State Legislature to Take Immediate and Decisive Action During the 2016 Legislative Session to Enact a Complete Package of Initiatives to Provide for a Balanced, Sustainable, and Predicable State Budget for the Foreseeable Future. Mayor.

ADOPTED with discussion.

16. COMMENTS OF THE AUDIENCE

There were four who commented.

17. COMMENTS OF THE CITY ATTORNEY

City Attorney Wells encouraged Council to ask questions about Ordinance 16-04 and she will be responsive. In response to the question posed during comments, she advised that a licensed standard cultivation marijuana facility may also apply for a retail or a product manufacturing facility license. If they do get one of those licenses, they can conduct those operations in a room completely separated from the cultivation facility with some other requirements. If you just have the cultivation facility license you cannot manufacture and retail.

18. COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comments.

19. COMMENTS OF THE CITY MANAGER

City Manager Koester had no comments.

20. COMMENTS OF THE MAYOR

Mayor Wythe thanked the Council for funding her trip to Juneau. She reiterated the importance of Council going to Juneau and encouraged a second trip. She thanked Melissa Jacobsen for taking on the ADA coordinator. Melissa has a full time job and just took on another full time job. It is important to clearly define her position of authority and to make sure Council provides good direction for that. She appreciates Council's time this evening as we did a lot of work.

21. COMMENTS OF THE CITY COUNCIL

Councilmember Reynolds regrets she missed the last meeting and is curious of the added meetings. She mentioned the Library statistics and the number of people participating in the library. She is reading a lot more lately and learning new things. She appreciates the conversation about travel to Juneau. She was honored to be asked to travel and somewhat disappointed the money wasn't available. She has work travel and would now have a conflict on the dates. The City Council, Parks and Recreation, and the community talked about all the pieces for improvements of the beach as one big item. It was unwieldy and we had a way forward that was clear and reasonable. This ordinance is about traffic and motorized vehicles on the beach. Although a gate seems easy it is not our road or gate to put up. That is why the beach ordinance focused on a different area than Area 1.

Councilmember Smith appreciates the Public Safety Building Review Committee and all the work they put in to it. The projects going forward need to reflect the economic temperature of the waters we are in. As to cannabis and marijuana, we need to consider the overall economic benefit to the community in comparison to the social costs. May people use Colorado as the standard, but there is very little here that compares to Colorado. They have six times the population as us, and a sixth of the land mass. Colorado has six different states that border them. Their market is tremendously larger than ours. It is important that we take into consideration and not overestimate the benefit of taxes that might be garnered. A lot of the population here has smoked marijuana for a long time. He doesn't think they will pay an additional \$30 to \$50 per ounce through the taxation of it and doesn't think there will be much tourism for cannabis. We need to focus on what it's going to mean to the community to give it an open door. He appreciates the opportunity to be here.

Councilmember Van Dyke commented the marijuana laws are going to be hard choices; the Council has a task ahead of us. The City is facing a fiscal shortfall and with us starting on solutions now is a definite jump ahead. He is glad that the City of Homer survived the earthquake with minimal to no damage.

Councilmember Lewis said cannabis is not going to be a God send or save the City, but it is what 53% of the people voted for it. More people voted for pot than to get rid of the sales tax on food. It is what the majority of the voters wanted and we have to remember that. Not one person here got as many votes as what cannabis got in the two areas.

Councilmember Aderhold commented Homer hosted the cross country ski races as part of the Besh Cup Series at Lookout Mountain ski trails. We had some of the finest young skiers in the state from Anchorage, MatSu, Juneau, Fairbanks, and Nome. It was a very successful race. Her hat is off to the people who groom trails and make it happen with the challenging trail conditions. Several businesses donated food and items. She thanked the local businesses for their support in donating to sports and non-profits. Accurate earthquake information can be found at the Alaska Earthquake Information Center at www.earthquake.alaska.edu. Throughout the day on Sunday they posted new information regularly. She acknowledged the passing of a fantastic person in our community. She was a marine biologist, a poet, an essayist, and a writer. Eva Saulitis passed away on January 16th. She was a huge positive asset to the Homer community and influenced many people here, in Alaska, and throughout the United States. She will be missed.

Councilmember Zak thanked Catriona and Katie for putting together the beach policy. He thanked the Planning Commission for their work on cannabis. Tomorrow at noon is the Homer Chamber of Commerce meeting at the Elks Lodge. You can learn more about what the Chamber and Visitor Center does here. Senator Dan Sullivan's aid will be in attendance. It is a good opportunity to partner with more of the community members around the peninsula. He thanked Pat Brown, EDC Chair, for reaching out to the Governor. We are stronger together but can still make a difference individually. The Governor's speech addresses tourism and fishing.

He is happy and optimistic about Homer. It is a good time for Mayor Wythe to be representing us in Juneau.

- C. **Memorandum 16-015**, from Mayor Wythe, Re: Request for Executive Session Pursuant to AS 44.62.310 (A-C)(2), Matters, Subjects that Tend to Prejudice the Reputation and Character of Any Person, Provided the Person May Request a Public Discussion. (City Manager Koester Annual Performance Evaluation/Employment Contract.

APPROVED.

City Manager Koester requested her evaluation be conducted in Executive Session.

Council adjourned to Executive Session at 8:54 p.m.

22. ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 8:55 p.m. The next Regular Meeting is Monday, February 8, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.