

**ACTION AGENDA**

Monday, February 22, 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. HOMER ACCELERATED WATER AND SEWER PROGRAM (HAWSP) AND HOMER ACCELERATED ROADS AND TRAILS PROGRAM (HART)**

Memorandum 16-030 from City Manager as backup.

Memorandum 16-022 from Deputy City Clerk as backup.

Memorandum 15-099 from Economic Development Advisory Commission as backup.

Memorandums 15-193 and 16-027 from Public Works Director as backup.

**4. COMMENTS OF THE AUDIENCE**

There were three who commented

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

Mayor Wythe adjourned the meeting at 4:55 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 16-07**, An Ordinance of the Homer City Council Submitting to the Qualified Voters of the City the Question Whether Marijuana Establishments Shall be Prohibited in the City at the Regular Election to be Held in the City on October 4, 2016. Mayor. Recommended dates: Introduction February 22, 2016, Public Hearing and Second Reading March 14, 2016.

**Ordinance 16-06**, An Ordinance of the City Council of Homer, Alaska, Enacting Homer City Code Chapter 6.18, Marijuana Establishments, Prohibiting the Operation of Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores in the City. Smith/Van Dyke. Introduction February 8, 2016, Public Hearing and Second Reading February 22, 2016.

**Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; 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 21.40 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. Lewis. Introduction January 25, 2016, Public Hearings February 8 and 22, 2016, and Second Reading February 22, 2016.

**Ordinance 16-04(A)(S-2)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; 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 21.40 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 **to be Effective Only Upon Certification of a Majority Vote Rejecting the Proposition to Prohibit Marijuana Establishments in the City at the Regular Election to be Held in the City on October 4, 2016.** Mayor. Recommended dates: Substitution February 22, 2016, Public Hearing and Second Reading March 14, 2016.

Memorandums 16-016 and 16-032 from City Clerk as backup.

Memorandums 16-017 and 16-023 from City Planner as backup.

Memorandum 16-036 from Police Chief as backup.

Memorandum 16-037 from Police Chief and Fire Chief as backup.

#### 4. **CONSENT AGENDA**

#### 5. **REGULAR MEETING AGENDA**

**6. COMMENTS OF THE AUDIENCE**

There were six who commented

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

Mayor Wythe adjourned the meeting at 5:50 p.m.

**REGULAR MEETING AGENDA**

Session 16-04 a Regular Meeting of the Homer City Council was called to order on February 22, 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, VAN DYKE, ZAK

STAFF:	CITY MANAGER KOESTER
	DEPUTY CITY CLERK JACOBSEN
	CITY ATTORNEY DAVIES
	POLICE CHIEF ROBL
	PUBLIC WORKS DIRECTOR MEYER
	CITY PLANNER ABOUD
	PERSONNEL DIRECTOR BROWNING

**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.)

The following changes were made: written public comments on Ordinance 16-05(S)(S) Beach Regulations, Ordinance 16-06 Prohibiting Commercial Marijuana, Ordinance 16-04(a)(s) Zoning for Commercial Marijuana, Resolution 16-013 and 16-014 Homer Enterprise Spit Leases, and Resolution 16-016 Public Safety Building. Also Memorandum 16-039 from the Police Chief as backup to Resolution 16-016 on the Public Safety Building; under City Manager’s Report AML Legislative Meeting Report from Councilmember Zak and a Lobbyist Report and under Resolutions, Substitute Resolution 16-021(S) and Memorandum 16-038 from Public Works Director as backup.

**3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**

There were 30 who testified.

#### 4. RECONSIDERATION

##### A. Reconsideration issued by Councilmember Lewis:

**Ordinance 16-05(S)(A)**, 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/Aderhold.

Memorandum 16-018 from City Manager as backup.

Memorandum 16-031 from City Attorney as backup.

Reconsideration was approved with discussion.

##### B. Reconsideration issued by Councilmember Aderhold:

**Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; 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 21.40 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. Reynolds/Aderhold.

Memorandums 16-016 and 16-032 from City Clerk as backup.

Memorandums 16-017 and 16-023 from City Planner as backup.

Reconsideration was approved with discussion.

#### 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 February 8, 2016. City Clerk. Recommend adoption.

B. **Memorandum 16-033**, from Mayor Wythe, Re: Appointment of Cassandra Peterson to the Economic Development Advisory Commission and Jacque Peterson to the Library Advisory Board. Recommend adoption.

- C. **Resolution 16-022**, A Resolution of the Homer City Council Noting the Insufficiency of the Petition for Road Reconstruction and Paving for Shelford Street. City Clerk. Recommend adoption.
- D. **Resolution 16-023**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Donation from the Homer Animal Friends of a Bronze Dog by Alaskan Artist Steve Kelly to be Placed at the Memorial Garden at the Animal Shelter. City Clerk. Recommend adoption.

Memorandum 16-034 from Police Chief as backup.

- E. **Resolution 16-020**, A Resolution of the Homer City Council Awarding the Contract for the Chip Pad Fence Demolition Project to the Firm of Alaska Marine Excavation, LLC of Anchor Point, Alaska, in the Amount of \$14,700 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption.

Memorandum 16-035 from Public Works Director as backup.

The consent agenda was approved by consensus of the Council.

## **6. VISITORS**

- A. South Peninsula Hospital, Service Area Board, Ralph Brosches, 10 minutes.

Ralph Brosches gave a historical overview of the hospital since it first opened in Homer. He addressed the hospital's service area and provided information showing the demographics of the aging population in the area. Mr. Brosches explained the responsibilities of the service area board and reviewed financial information including tax revenues, expenses, general obligation bonds and examples of capital purchase. Lastly he touched on the role of the hospital in our community and informed the Council that a Healthcare Task Force was appointed by the Borough Mayor to to analyze the current hospital service area structure and evaluate whether changes should be recommended to better serve all residents of the Kenai Peninsula. Additionally, the Task Force will collect and analyze information regarding the healthcare system operations, practices, service delivery and costs within the Kenai Peninsula Borough.

## **7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS**

- A. Letter of appreciation to Councilmember Zak from Governor Walker
- B. Borough Report
- C. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
  - a. Minutes of February 3, 2016

Planning Commissioner Roberta Highland reported the Commission is working on a draft ordinance to simplify some language relating to accessory dwellings in the Rural Residential Zoning District. She noted that the amendment does not propose any property use changes. She also reported they have begun looking at the Comprehensive Plan update and started with the energy chapter. Their goal is to produce a plan that has a more logical and easy flow to it. The energy chapter has some implementation tables that may not be realistic and the commission will review the content, discuss why things haven't moved forward, and what it might take to become realistic.

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

Parks and Recreation Advisory Commissioner Robert Archibald reported that the Early Childhood Coalition spoke to the Commission about needed improvements at Bayview Park, particularly the picket fence. The Coalition is fundraising to collect money to fix the fence may be looking to the City for some funding for that. The Friends of Woodard Creek and Karen Hornaday Park are going to finance a survey of the east property line of Hornaday Park to find out where the line is and look at putting a trail there. The Commission is going to amend the bylaws so the Chair can vet agenda items to help make it easier on staff. They are also going to review the Strategic Plan to bring it more in line with the Homer Recreational and Cultural Needs Assessment. Lastly \$20,000 has been raise so far for the water trail pavilion.

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

## **8. PUBLIC HEARING(S)**

- A. **Ordinance 16-06**, An Ordinance of the City Council of Homer, Alaska, Enacting Homer City Code Chapter 6.18, Marijuana Establishments, Prohibiting the Operation of Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, and Retail Marijuana Stores in the City. Smith/Van Dyke. Introduction February 8, 2016, Public Hearing and Second Reading February 22, 2016.

There were 27 who testified.

The motion for the adoption of Ordinance 16-06 by for second and final reading failed for lack of a second.

- B. **Ordinance 16-04(A)(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; 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 21.40 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. Lewis. Introduction January 25, 2016, Public Hearings February 8 and 22, 2016, and Second Reading February 22, 2016.

**Ordinance 16-04(A)(S-2)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12, Rural Residential; 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 21.40 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 **to be Effective Only Upon Certification of a Majority Vote Rejecting the Proposition to Prohibit Marijuana Establishments in the City at the Regular Election to be Held in the City on October 4, 2016.** Mayor.

Memorandums 16-016 and 16-032 from City Clerk as backup.

Memorandums 16-017 and 16-023 from City Planner as backup.

Memorandum 16-036 from Police Chief as backup.

Memorandum 16-037 from Police Chief and Fire Chief as backup.

There were seven who testified.

Motion to substitute Ordinance 16-04(A)(S) for Ordinance 16-04(A) failed with discussion.

Motion to substitute Ordinance 16-04(A)(S-2) for Ordinance 16-04(A) passed.

Ordinances 16-04(A)(S-2) was adopted with discussion and the following amendments:

- Lines 19-20 and lines 502-503 ~~Regular Election on October 4, 2016~~ **Special Election April 19, 2016**
- Line 16: **To be effective only upon certification of a majority rejecting 16-07**
- Line 20: add **The proposition to prohibit marijuana establishments in the city at the special election to be held on April 19, 2016.**
- Line 415 amend to read: This ordinance shall take effect only upon certification of a majority vote rejecting the proposition to prohibit marijuana establishments in the City at the Special Election to be held in the City on April 19, 2016.

## 9. **ORDINANCE(S)**

- A. **Ordinance 16-07**, An Ordinance of the Homer City Council Submitting to the Qualified Voters of the City the Question Whether Marijuana Establishments Shall be Prohibited in the City at the Regular Election to be Held in the City on October 4, 2016 and Prohibiting Marijuana Establishments in the City Until Certification of the Result of the Election on that Question. Mayor. Recommended dates: Introduction February 22, 2016, Public Hearing and Second Reading March 14, 2016.

Motion to introduce Ordinance 16-07 as amended passed with discussion and the following amendments:

- Lines 9-10: ~~At the Regular Election to be held in the City on October 4, 2016~~ **At a Special Election to be held in the City on April 19, 2016**
- Line 37: ~~October 4, 2016~~ **April 19, 2016**
- **Section 2. Commercial Marijuana establishments shall not be permitted within the boundaries of the City of Homer.**
- Section 4. This ordinance shall become effective immediately upon its enactment **except for section 2 of this ordinance which shall be effective upon the passage of proposition 1.**

## 10. CITY MANAGER'S REPORT

- A. City Manager's Report

City Manager Koester reported:

- Library received a grant for books and supplies from the Rasmussen Foundation.
- Working group of Councilmembers who can touch base with the lobbyist in Juneau once a week. Councilmembers will check in with the City Manager to sign up and participate.

Councilmember Lewis commented regarding the issues last time there was a jack up rig at the dock. He questioned if we should vote to have a rig tied up at the harbor.

There was brief discussion on scheduling the Councilmember lunches and Councilmember Smith's conflict on Monday's when the Council is scheduled to meet.

Councilmember Lewis initiated the discussion about the requests that came from the Hickerson Cemetery meeting. He thinks if the property owners in the area want something special we should start discussing cost sharing. He also touched on whether there can be a requirement that embalmed bodies must be in a vault.

City Manager Koester suggested one way to proceed would be to send the project to the Planning Commission for some vetting provided the Council accompanies it with specific directives. They could also choose the option to move forward with the project with a policy for burials. Other things to address are raising the cost of a plot to help offset increased cost of making a more aesthetically pleasing cemetery and conversation about the no build option as the city incurs costs to maintain the cemetery.

Brief comments were made regarding if a fence is required, disrepair of the current fence, raised headstones despite the code language that the must be flat, and if it's viable to expect someone else to take over the business.

Councilmember Aderhold raised the point they need to decide if the City wants to expand the cemetery and continue running it.

Councilmember Smith suggested there are other options noting at cemeteries in other countries there are a lot of urn holders used for entire families and they are very beautiful. It doesn't have to be putting bodies in the ground.

City Manager Koester said she spoke to the funeral home about a Niche Wall that is being built up the road for about \$25,000. She couldn't recall the capacity and it is something that can be researched further. She will ask the Planning Commission to look the Niche Wall, the no build option, and addressing requirements for a vault if a body is embalmed and not requiring if the body isn't embalmed.

Lastly, City Manager Koester talked to the Council about the Homer Volunteer Fire Departments request for a councilmember to participate with setting their strategic planning goals. Councilmember Smith expressed interest, depending on when they plan to meet.

B. Bid Report

**11. CITY ATTORNEY REPORT**

A. City Attorney Report

**12. COMMITTEE REPORT**

A. Public Arts Committee

B. Employee Committee Report

C. Public Safety Building Review Committee

**13. PENDING BUSINESS**

A. **If Reconsideration passes:**

**Ordinance 16-05(S)(A)**, 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/Aderhold.

**Ordinance 16-05(S)(A)(S)**, 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. Lewis.

Memorandum 16-018 from City Manager as backup.

Memorandum 16-031 from City Attorney as backup.

Ordinance 16-05(S)(A)(S) was adopted with discussion as amended:

- Line 52 ~~the area between Beluga Slough outlet and the Mariner Park lagoon outlet~~ **the south end of Mariner Park beach to the east end of the seawall.**

- 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. Postponed from January 25, 2016.

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

Failed with discussion

- 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. Postponed from January 25, 2016.

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

Adopted without discussion

- 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 from January 25, 2016.

Adopted as amended with discussion:

- Line 39 **Option 3**
- Line 40 ~~public safety campus~~ **Police Station**

- Line 43 ~~25 million dollars~~ **12 million dollars**

**14. NEW BUSINESS**

**15. RESOLUTIONS**

- A. **Resolution 16-021**, A Resolution of the Homer City Council Awarding the Contract for the Deep Water Dock Uplands Improvements 2016 Project to a Firm to be Named in an Amount to be Announced and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

Substitute Resolution awarding the project to Puffin Electric of Homer, Alaska in the amount of \$864,235.72 was adopted with discussion.

**16. COMMENTS OF THE AUDIENCE**

3 Minutes. Any topic. Sign in.

There were seven who commented.

**17. COMMENTS OF THE CITY ATTORNEY**

Attorney Davies had no comment.

**18. COMMENTS OF THE CITY CLERK**

Deputy City Clerk Jacobsen noted the city councils of palmer and Wasilla banned commercial marijuana sales activities in their cities.

**19. COMMENTS OF THE CITY MANAGER**

City Manager Koester had no comment

**20. COMMENTS OF THE MAYOR**

Mayor Wythe commented it's important for the voters to work through this process. Just as easily as bringing it to a vote she could have voted no and it would be just as done as Wasilla and Palmer but we have a different path to resolve that. If your method of approaching and dealing with that is a referendum to recall the council or mayor, that is up to the voters as well. In regard to public comment about the budget, it can be found on the website along with an accounting tool to look closer at expenditures and so forth. She thanked the Council for their work tonight.

**21. COMMENTS OF THE CITY COUNCIL**

Councilmember Lewis clarified the Wasilla City Council voted it down and the city voters had voted it down, Palmer residents had voted yes and the City Council, lead by the Mayor who was against it, voted no. He thanked the plow drivers who came through his neighborhood on Sunday. They did a good job of clearing and not leaving a berm in front of his driveway.

Councilmember Smith also recognized the city workers did a fine job on Sunday. He thanked the public for testifying tonight, last night, and talking to him directly or by email. He wants to respect all the walks of life and we wouldn't be having this discussion if ballot measure two did not have the provision to explore this option. That would have been a definitive yes/no, but the language that exists provides the option, so we need to do our due diligence and make sure we have a definitive answer. He knows it may present itself as aggravating but choosing to be insulted is a personal choice. We are trying to work to the best benefit of the City.

Councilmember Aderhold also appreciates the people who have testified. She reminded the public that ordinance for a special election was only introduced tonight. There will be a public hearing on it at the March 14<sup>th</sup> meeting so people can testify about it at that time.

Councilmember Van Dyke said goodnight.

Councilmember Zak commented it won't be until October when we vote on the public safety building so it will be better aware of what the state is looking at. He was trying to be a bit conservative tonight and cut back a little. He commented about Sunday's Daytona 500 being the closest race ever and a photo finish race. It was a close vote when the voters of Alaska voted to approve marijuana and it left the ability to make the decision at the local level. Now could be the opportunity to vote again on April 19<sup>th</sup> to get it before the voters sooner than later. It wasn't easy tonight, probably one of the toughest council meetings, but interesting in listening to all the people and hearing the benefits of marijuana who are using it in a way that changes their lives. We are really going to have to decide what's reasonable in our community.

Commissioner Reynolds echoed a thank you to the people who testified. It's easier for her when people participate because she doesn't have to wonder what they are thinking. She finds it perplexing the idea that the City and City Council are different than property owners, because they aren't, like the skin in the game part when talking about the public safety building and reallocating funds. She feels like there are some questions that need to be answered on 16-04(A)(S-2), particularly what happens if they don't move forward with the vote. Lastly she commented about getting to spend some time riding fat tire bikes with some travel agents who were here from China as part of the Go West Summit in Anchorage this week.

## **22. ADJOURNMENT**

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 11:37 p.m. The next Regular Meeting is Monday, March 14, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. A Worksession is scheduled for Monday, March 21, 2016 at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.