

## ACTION AGENDA

Monday, June 25, 2012  
Special Meeting 4:00 p.m.  
Committee of the Whole 5:00 p.m.  
Regular Meeting 6:00 p.m.

### SPECIAL MEETING AGENDA

Session 12-18 a Special Meeting of the Homer City Council was called to order on June 25, 2012 at 4:00 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: BURGESS, HOWARD, LEWIS, ROBERTS,  
WYTHE, ZAK

STAFF: CITY MANAGER WREDE  
CITY CLERK JOHNSON  
CITY ATTORNEY KLINKNER (telephonic)

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

There were no public comments.

**4. NEW BUSINESS**

**A. Memorandum 12-099**, From City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(C)(1 & 2), Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Government Unit and Subjects that Tend to Prejudice the Reputation and Character of Any Person, Provided the Person May Request a Public Discussion. (City Attorney Contract/Update on Tony Neal vs. City of Homer re: Deed Restriction Ben Walters Park - Beluga Lake Ice Skating) Page 7

APPROVED without discussion.

Council adjourned to Executive Session at 4:03 p.m. and reconvened the meeting at 4:36 p.m.

Mayor Pro Tempore Wythe reported Council conferred with the attorney and staff and provided direction for the Neal case and now are prepared to proceed with our pending business Resolution 12-053.

5. PENDING BUSINESS

- A. **Resolution 12-053**, A Resolution of the City Council of Homer, Alaska, Extending the Contract for General Counsel Legal Services with the Firm of Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2013 in the Amount of \$11,000.00 per Month and Authorizing the Mayor to Execute the Contract. City Clerk.

**Resolution 12-053(S)**, A Resolution of the City Council of Homer, Alaska, Extending the City Attorney Contract with Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2016 in the Amount of \$11,000.00 per Month through July 31, 2014 and \$11,550.00 per Month Thereafter, and Authorizing the Mayor to Execute the Contract. City Clerk.

SUBSTITUTE RESOLUTION 12-053(S) ADOPTED without discussion.

5. COMMENTS OF THE AUDIENCE

There were no comments of the audience.

6. ADJOURNMENT

Mayor Hornaday adjourned the meeting at 4:39 p.m.

COMMITTEE OF THE WHOLE AGENDA

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

Mayor Hornaday 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. 5)

The agenda was approved by consensus of the Council.

3. REGULAR MEETING AGENDA

4. COMMENTS OF THE AUDIENCE

There were two who testified.

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

Mayor Hornaday adjourned the meeting at 5:41 p.m.

## REGULAR MEETING AGENDA

Session 12-19 a Regular Meeting of the Homer City Council was called to order on June 25, 2012 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: BURGESS, HOWARD, LEWIS, ROBERTS,  
WYTHE, ZAK

STAFF: CITY MANAGER WREDE  
CITY CLERK JOHNSON  
CITY PLANNER ABBOUD  
COMMUNITY & ECONOMIC DEVELOPMENT  
COORDINATOR KOESTER  
LIBRARY DIRECTOR DIXON  
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.)

The agenda was approved by consensus of the Council with the following changes: **CONSENT AGENDA** – Memorandum 12-100 from Kenai Peninsula Borough Deputy City Clerk, Re: New Liquor License for Pho & Thai Restaurant; **VISITORS- John Hays**, Climate Change; **CITY MANAGER’S REPORT** – Memorandum 12-110 from Community & Economic Development Coordinator, re: Update on Municipal Harbor Grant; Resolution 12-043 Capital Improvements in the Harbor; **RESOLUTIONS - Resolution 12-059(S)**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$2,228,412** for the Deep Water Dock Fender Replacement Project and Authorizing the City Manager to Execute the Appropriate Documents; Memorandum 12-109 from Public Works Director as backup; **Resolution 12-060(S)**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$525,912** for the Beluga Slough Trail Reconstruction Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director; Memorandum 12-108 from Public Works Director as backup.

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

There were four 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 June 11, 2012. City Clerk. Recommend adoption.
- B. **Memorandum 12-100**, from Deputy City Clerk, Re: New Liquor License for Pho & Thai Restaurant.
- C. **Memorandum 12-101**, from Mayor, Re: Appointment of Donald Stead and Reappointment of Roberta Highland to the Planning Commission.

APPROVED without discussion.

6. VISITORS

**John Hays**, Climate Change, 15 minutes.

John Hays, Nobel Peace Prize recipient, made a presentation about climate change.

7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. **Mayor's Recognition** – City Manager Walt Wrede

Mayor Hornaday read and presented the recognition to City Manager Wrede.

- B. **Mayor's Proclamation** – July as Parks and Recreation Month

Mayor Hornaday read and presented the proclamation to Parks and Recreation Advisory Commissioners Dave Brann and Robert Archibald. Angie Otteson, and Mike Illg, Community Recreation Coordinator were also present.

- C. Letter from City Clerk: Re: Nicholas Schmitt as EDC representative on the Lease Committee.

- D. Borough Report

Kenai Peninsula Borough Assemblyman Bill Smith reported bids opened for the Homer track project and the track will be built within budget. The Assembly approved accepting money from the State for the project. Also approved were the Diamond Creek Park fuel reduction project that will provide the public firewood this summer.

- E. Commissions/Board Reports:
  - 1. Library Advisory Board
  - 2. Homer Advisory Planning Commission
  - 3. Economic Development Advisory Commission
  - 4. Parks and Recreation Advisory Commission

Dave Brann, Parks and Recreation Advisory Commissioner, thanked the Mayor for the proclamation. The commission is an enthusiastic bunch that is working hard with lots on the table. They are pleased with the progress on the Mariner Park driveway change and the Spit trail. There will be work on the Beluga Slough Trail too. The commission is pleased with the Parks and Recreation staff. Angie goes above and beyond her duties. He encouraged everybody to think about the Adopt-a-Park program, with July being a good time to think of a park or trail to adopt. The commission is working on a recommendation for the HERC building; there is potential to make it a real community asset. The commission is pleased with the improvements at Karen Hornaday Park and they have more recommendations to make. As the budget process starts, the commission will recommend an increase in the Parks and Recreation maintenance budget. New restrooms will be maintained by Parks and Recreation staff. They would like to see maintenance start earlier in the spring and go later in the fall. The picnic shelter by Pier One Theatre is leaning and has become a liability issue. If we increase maintenance staff there will be more time to address those kinds of issues. The commission supports Ordinance 12-24(A) as it is written. During commission discussions of the ordinance alcohol became the biggest issue. Some members of the commission are interested in signs at all parks.

- 5. Port and Harbor Advisory Commission
- 8. PUBLIC HEARING(S)
  - A. **Ordinance 12-21**, An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$12,000 from the Sewer Reserve Fund for the Replacement of the Bald Mountain Air Sewer Service. City Manager/Public Works Director. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

Memorandum 12-089 from Public Works Inspector as backup.

Councilmember Burgess recused himself due to a financial conflict of interest in his business with Bald Mountain Air and vacated his seat.

There was no public testimony.

ADOPTED without discussion.

Councilmember Burgess returned to his seat.

- B. **Ordinance 12-22**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 4.01.030, Definitions; Homer City Code 4.30.030, Application for Ballot; Homer City Code 4.30.050, Materials for Absentee Voting; Homer City Code 4.30.060, Issuance of Ballot by Mail or In Person; Homer City Code 4.30.070, Casting Absentee Ballot; Homer City Code 4.35.010, Review of Election Documents by Canvass Board; to Provide for Absentee Voting in City Elections by Electronic Transmission. City Clerk. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

There was no public testimony.

ADOPTED without discussion.

- C. **Ordinance 12-23**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Department of Transportation (ADOT) Reimbursement of up to \$6,720.00 for Commercial Vehicle Enforcement Inspections and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

Memorandum 12-092 from Police Chief as backup.

There was no public testimony.

ADOPTED without discussion.

- D. **Ordinance 12-24(A)**, An Ordinance of the City Council of Homer, Alaska, Adopting Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule; and Homer City Code Chapter 19.20, Parks and Recreational Facilities; to Provide Regulations for the Use of City Parks and Penalties for Their Violation. City Manager. Introduction June 11, 2012, Referred to Parks and Recreation Advisory Commission, Public Hearing and Second Reading June 25, 2012.

There was no public testimony.

AMENDED and ADOPTED with discussion.

AMENDMENTS:

LINE 64 FOLLOWING NOTICE TO PLACE A COMMA, “VEGETATION” OR PLACARD IN A PARK AND STRIKE LINES 65 THROUGH 67;

LINE 40 FINE FOR PARK CLOSURE FROM \$300 TO \$150;

STRIKE LINES 77 AND 78.

- E. **Ordinance 12-25**, An Ordinance of the Homer City Council Amending the Official Road Maintenance Map of the City of Homer by Adding a Portion of Ohlson Lane and West Bunnell Avenue as Urban Road; and a Portion of Mission Road as Rural Road. City Manager/Public Works Director. Introduction June 11, 2012, Public Hearing and Second Reading June 25, 2012.

ADOPTED without discussion.

9. ORDINANCE(S)

- A. **Ordinance 12-26**, An Ordinance of the City Council of Homer, Alaska, Amending Table 3 Permitted Sign Characteristics by Zoning District, Following Homer City Code 21.60.060, Signs on Private Property, to Permit Changeable Copy Signs for Institutional Uses Permitted in the RR, UR And RO Zoning Districts. Planning. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Memorandum 12-102 from City Planner as backup.

ADOPTED without discussion.

- B. **Ordinance 12-27**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Community Coastal Impact Assistance Program (CIAP) Grant from the State of Alaska in the Amount of \$448,116 for the Beluga Slough Trail Reconstruction Project, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Memorandum 12-104 from Public Works Director as backup.

ADOPTED without discussion.

- C. **Ordinance 12-28**, An Ordinance of the City Council of Homer, Alaska, Amending the 2012 Operating Budget by Appropriating Up to \$30,000 from the Parks and Recreation Depreciation Reserve Fund for the Relocation of the Mariner Park Driveway Access. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Memorandum 12-105 from Public Works Director as backup.

ADOPTED with discussion.

- D. **Ordinance 12-29**, An Ordinance of the Homer City Council Amending Homer City Code Chapter 15.10.010 to Exclude Oscar Munson Subdivision Lot 34 from the Ocean Drive Loop Special Service District. Lewis/Wythe. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

ADOPTED with discussion.

- E. **Ordinance 12-30**, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating a Legislative Grant in the Amount of \$8,150,000 for Construction of the Natural Gas Pipeline from Anchor Point to Homer and Kachemak City. City Manager. Recommended dates: Introduction June 25, 2012, Public Hearing and Second Reading July 23, 2012.

Mayor Hornaday ruled Councilmember Wythe has a financial conflict of interest due to her employment with Homer Electric Association.

Councilmember Wythe vacated her seat.

ADOPTED without discussion.

Councilmember Wythe returned to her seat.

## 10. CITY MANAGER'S REPORT

### A. City Manager's Report

- 1. Memorandum 12-110 from Community and Economic Development Coordinator, re: Update on Municipal Harbor Grant.

City Manager Wrede reported Katie Koester provided a report at the Committee of the Whole on the harbor grant.

He intends to bring a mid year budget amendment forward at the next meeting. It will ask for new software for the library, deal with the revolving energy fund, and a few other things.

City Manager Wrede is meeting with Enstar on Wednesday to talk about the contract. Council will receive and appropriate the grant money, and then we will enter into a contract to do the work. We are detailing the documentation so Enstar is paid and the City is reimbursed in a timely manner. At the last Worksession he had the impression Council wanted to proceed with an LID (Local Improvement District/Special Assessment District). There will be a lot of work to get the 4,000 lots lined out prior to the July 23<sup>rd</sup> meeting.

Council has said they want to engage the community in whether the City should get involved in providing financing so people can hook up to gas quickly. Website updates and articles will be used. An online poll is another method of getting feedback from the public. Councilmember Howard mentioned a vote would be a good idea. There is an option to do a vote by ballot. If Council passes a resolution to initiate an LID in July or August, that sets off a whole process. It will take about four months. There will be town hall meetings, public hearings, and all property owners will be notified. There could be a ballot question whether the City should get involved in financing. We could incorporate the ballot vote and still be ready for construction in the spring. Council has expressed concern about doing an LID and forcing everyone into it.



Councilmember Lewis supports an advisory vote as something online could be skewed one way or other.

Councilmember Roberts commented an online poll is not a bad idea. It gives a sense quickly, but is not very accurate.

Councilmember Howard is not in favor of advisory ballot measures as we run a high risk of disenfranchising the voter. If we can vote in the general election online we should be able to ask this question online. We should be able to apply the same process the electronic absentee ballot will follow.

Councilmember Burgess commented Nick Poolos, IT Manager, is capable of narrowing it down as to who is providing input online. An advisory vote may be problematic. It would be good to have everyone informed and on the same page and the LID process allows feedback by voting.

City Manager Wrede explained with an LID you are only engaging the property owners within the improvement district. With an advisory vote, everyone votes. It is a big difference.

Councilmember Wythe referenced Bryan Hawkins report on the Daniel D incident. She commended the harbor staff for a great job that deserves recognition. Port and Harbor Director Hawkins reported \$5,200 will be billed out. The vessel is currently in the harbor incurring moorage. There will be additional costs for when the vessel was put on the beach on the east side.

B. Bid Report

11. CITY ATTORNEY REPORT

12. COMMITTEE REPORT

A. Public Arts Committee

B. Transportation Advisory Committee

C. Permanent Fund Committee

D. Lease Committee

E. Port and Harbor Improvement Committee

F. Employee Committee Report

G. Water and Sewer Rate Task Force

13. PENDING BUSINESS

- A. **Resolution 12-050**, A Resolution of the City of Homer Authorizing the Initiation of a Special Service District in the Lillian Walli Estate Subdivision Identified as HM 0880017 T06S R14W S24 Lillian Walli Estate Subdivision Lots 39 - 42, and 51 -77, for the Purposes of Preparing the Lots Owned by the City of Homer for Sale and Further Residential Development. Wythe. (Postponed from May 29, 2012.)

Memorandum 12-106 from City Manager as backup.

POSTPONED to July 23, 2012.

If not completed at Special Meeting:

- B. **Resolution 12-053**, A Resolution of the City Council of Homer, Alaska, Extending the Contract for General Counsel Legal Services with the Firm of Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2013 in the Amount of \$11,000.00 per Month and Authorizing the Mayor to Execute the Contract. City Clerk.

**Resolution 12-053(S)**, A Resolution of the City Council of Homer, Alaska, Extending the City Attorney Contract with Birch, Horton, Bittner, Inc. for the Period of August 1, 2012 through July 31, 2016 in the Amount of \$11,000.00 per Month through July 31, 2014 and \$11,550.00 per Month Thereafter, and Authorizing the Mayor to Execute the Contract. City Clerk.

SUBSTITUTE RESOLUTION 12-053(S) ADOPTED (See 4:00 p.m. Special Meeting.

14. NEW BUSINESS

15. RESOLUTIONS

- A. **Resolution 12-057**, A Resolution of the City Council of Homer, Alaska, Expressing Support for the Creation and Establishment of the Kachemak Bay Water Trail, a 125 Mile Water Trail that Inspires Exploration, Understanding and Stewardship of the Natural Treasure that is Kachemak Bay. Lewis/Parks and Recreation Advisory Commission.

ADOPTED without discussion.

- B. **Resolution 12-058**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Renewal of the Special Services Contract for FY 2013 with the Alaska Department of Public Safety in the Amount of \$36,000.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief.

Memorandum 12-103 from Police Chief as backup.

ADOPTED without discussion.

- C. **Resolution 12-059**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_, in the Amount

of \$\_\_\_\_\_ for the Deep Water Dock Fender Replacement Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

**Resolution 12-059(S)**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$2,228,412** for the Deep Water Dock Fender Replacement Project and Authorizing the City Manager to Execute the Appropriate Documents.

Memorandum 12-109 from Public Works Director as backup.

SUBSTITUTE RESOLUTION 12-059(S) ADOPTED without discussion.

- D. **Resolution 12-,060** A Resolution of the City Council of Homer, Alaska, Awarding a Contract to \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_, in the Amount of \$\_\_\_\_\_ for the Beluga Slough Trail Reconstruction Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

**Resolution 12-060(S)**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to **Jay-Brant General Contractors**, of **Homer, Alaska**, in the Amount of **\$525,912** for the Beluga Slough Trail Reconstruction Project and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

Memorandum 12-108 from Public Works Director as backup.

SUBSTITUTE RESOLUTION 12-060(S) ADOPTED with discussion.

- E. **Resolution 12-061**, A Resolution of the City Council of Homer, Alaska, Approving the Kenai Peninsula Borough School District Agreement for Joint Use of Equipment and Facilities for the Period July 1, 2012 through June 30, 2014, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager.

ADOPTED with discussion.

- F. **Resolution 12-062**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Apply for and Accept Special Act Appropriations Project (SAAP) Funds in the Form of a Grant (45% Matching Requirement) in the Amount of \$485,000 for the Purpose of Completing Water Distribution/Storage Improvement Projects. City Manager/Public Works Director.

Memorandum 12-107 from Public Works Director as backup.

ADOPTED with discussion.

16. COMMENTS OF THE AUDIENCE

There were three who commented.

17. COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner was not present

18. COMMENTS OF THE CITY CLERK

City Clerk Johnson congratulated Walt for making city history and wished the Council a pleasant four-week break.

19. COMMENTS OF THE CITY MANAGER

City Manager Wrede said thanks for the cake.

20. COMMENTS OF THE MAYOR

Mayor Hornaday told everyone to have a good summer.

21. COMMENTS OF THE CITY COUNCIL

Councilmember Wythe congratulated Walt. It has been 8 years of support and education for her sitting next to him at the table. She congratulated Roberta Highland for her reappointment and Don Stead for his appointment to the Planning Commission. She is hopeful that in the McNamara matter that Council's decision will restore the community's faith of the Council's ability to make micro and macro decisions. What is happening in the public and at the table is not the whole picture. Council can't always share all activities with the public, especially when there is legal action. Council has to rely on the community to know they are acting in their best interests at all times.

Councilmember Roberts echoed congratulations to Walt and issued a thank you and goodbye to Sharon Minsch.

Councilmember Howard said in her years as a city clerk she had many city managers, six in one year. She told Walt when he reaches 10 years she will nominate him for the City Manager Hall of Fame at the University of Kansas. She thanked Sharon Minsch who was appointed to the Planning Commission July 2006, selected as Chair of the Planning Commission July 2008, and served them until July 2012. Under Sharon's leadership the commission has traversed through tough waters to bring the various zones and related codes up to date and simplified for easier customer service. She asked Sharon to keep involved with the community.

Councilmember Burgess echoed congratulations to Walt. Sharon Minsch is the reason he is in the council seat now. It was going to the Planning Commission meetings that got him involved in the community. He thanked Sharon. He objected to the Mayor's ruling on Councilmember Wythe as she has a good attention to detail and pursuing matters with a fine tooth comb. As we

move forward with the natural gas pipeline in negotiating the contracts the devil will be in the details. Although she won't be participating in the process he hopes we will still have her keen eye looking at the issues. That was his reasoning; not to disagree with the Mayor.

Councilmembers Lewis and Zak had no comment.

## 22. ADJOURNMENT

There being no further business to come before the Council, Mayor Hornaday adjourned the meeting at 7:49 p.m. The next Regular Meeting is Monday, July 23, 2012 at 6:00 p.m. and Committee of the Whole 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.