

City Council
November 2, 2012
Friday

Special Meeting 1:00 P.M.



Conference Room - Upstairs
City Hall
491 E. Pioneer Avenue
Homer, Alaska

Produced and
Distributed by the City Clerk's Office -11/1/2012-rk



CONFERENCE ROOM
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



SPECIAL MEETING
1:00 P.M. FRIDAY
NOVEMBER 2, 2012

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER JAMES DOLMA
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

MEETING NOTICE
SPECIAL MEETING AGENDA

1. **CALL TO ORDER, 1:00 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
3. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**
4. **NEW BUSINESS**
- A. **Emergency Ordinance 12-52**, An Emergency Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Capital Budget by Appropriating an Additional \$101,250 from the General Fund Balance for Completion of the Nick Dudiak Fishing Lagoon Dredging Project. City Manager/Public Works Director/Port and Harbor Director.
Page 5
Memorandum 12-169 from City Manager as backup. Page 11
5. **COMMENTS OF THE AUDIENCE**
6. **COMMENTS OF THE CITY ATTORNEY**
7. **COMMENTS OF THE CITY CLERK**
8. **COMMENTS OF THE CITY MANAGER**
9. **COMMENTS OF THE MAYOR**
10. **COMMENTS OF THE CITY COUNCIL**
11. **ADJOURNMENT**

Next Regular Meeting is Monday, November 26, 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.

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-52

An Emergency Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Capital Budget by Appropriating an Additional \$101,250 from the General Fund Balance for Completion of the Nick Dudiak Fishing Lagoon Dredging Project.

Sponsor: City Manager/Public Works Director/Port and Harbor Director

1. City Council Special Meeting November 2, 2012 Introduction and Second Reading
 - a. Memorandum 12-169 from City Manager as backup
 - b. Ordinance 12-44(A)(S)
 - c. Ordinance 12-43
 - d. Memorandum 12-147 from Public Works Director as backup
 - e. Memorandum 12-156 from Public Works Director as backup

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Manager/Public Works Director/
4 Port and Harbor Director

5 **EMERGENCY ORDINANCE 12-52**
6

7 AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF
8 HOMER, ALASKA, AMENDING THE FY 2012 CAPITAL
9 BUDGET BY APPROPRIATING AN ADDITIONAL \$101,250
10 FROM THE GENERAL FUND BALANCE FOR COMPLETION
11 OF THE NICK DUDIAK FISHING LAGOON DREDGING
12 PROJECT.
13

14 WHEREAS, The Homer City Council adopted Ordinance 12-43 and Ordinance 12-44
15 (A)(S) which together appropriated \$376,500 for the Fishing Lagoon Dredging Project; and
16

17 WHEREAS, The approved project budget/appropriation was based upon the removal of
18 25,000 cubic yards of material and it is now apparent that 32,500 cubic yards of material will
19 need to be removed if the Lagoon is to be dredged to its original design depth; and
20

21 WHEREAS, Dredging an additional 7,500 cubic yards will cost \$101,500; and
22

23 WHEREAS, An emergency exists and an emergency ordinance is justified because:
24

- 25 • The contractor is already on site and mobilized. To remobilize would cost approximately
26 \$20,000 and it cannot be assumed that the contractor would be available later or would
27 complete the job for the same unit price.
- 28 • The Council, under its present schedule, could not adopt an appropriation ordinance until
29 December 10, far longer than the equipment can be retained on site. The contractor would
30 likely need to be compensated for sitting idle.
- 31 • A new RFP for dredging the remaining material would be costly and time consuming,
32 and could increase the total expenditure and jeopardize the targeted completion date.
- 33 • Stopping now and/or completing the job using another method of dredging would drive
34 the cost higher, cause the City to miss the environmental window for dredging, and
35 potentially require new permits.
- 36 • Stopping now or delaying would likely result in the City Council not being able to
37 achieve its goals including restoring the Lagoon to its original design depth, insuring
38 optimal conditions for fish survival, and completing the project before ADF&G stocks
39 the Lagoon in the spring.
40

41 NOW, THEREFORE, BE IT ORDAINED by the City of Homer:

42
43 Section 1: The City Council hereby amends the FY 2012 Capital Budget by appropriating
44 an additional \$101,250 from the General Fund Balance for completing the Nick Dudiak Fishing
45 Lagoon Dredging Project as follows:

46
47 Expenditure:

48 From Account:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
100-100	Fishing Hole Dredging	\$101,500

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-779	Nick Dudiak Fishing Lagoon Dredging	\$101,500

51
52 To Account:

53 Section 2. The Council finds that an emergency exists and that an emergency ordinance
54 is justified for the reasons stated in the Whereas clauses.

55
56
57
58
59
60 Section 3. This ordinance is a budget amendment ordinance only, is not of a permanent
61 nature, and shall not be codified.

62
63 Section 4. The material generated by this project can be sold for use off the Spit.

64
65 PASSED AND ADOPTED by the Homer City Council this 2nd day of November, 2012.

66
67 CITY OF HOMER

68
69
70
71 _____
72 MARY E. WYTHE, MAYOR

73 ATTEST:

74
75
76 _____
77 JO JOHNSON, CMC, CITY CLERK
78
79
80

- 81 YES:
- 82 NO:
- 83 ABSTAIN:
- 84 ABSENT:
- 85
- 86 First Reading:
- 87 Public Hearing:
- 88 Second Reading:
- 89 Effective Date:

90
91

92

93 Reviewed and approved as to form:

94

95

96

97 _____
Walt Wrede, City Manager

98

99 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

100

MEMORANDUM 12-169

TO: Mayor Wythe and Homer City Council

FROM: Walt Wrede

DATE: November 1, 2012

SUBJECT: Emergency Ordinance / Additional Funds for Nick Dudiak Fishing Lagoon Project

The Council recently adopted Ordinance 12-44 (A) (S) which appropriated \$100,000 from the Fishing Hole Maintenance Fund and \$167,500 from the General Fund Balance for the Fishing Hole dredging project. When the \$100,000 Legislative Grant is added, we had a total project budget / appropriation of \$367,500. Ordinance 12-44 (A) (S) and supporting Memorandums 12-147 and 12-156 are included in the packet as back-up for your information.

As you know, a dredging contract has been let and work is currently underway. The original estimate of the amount of material that needed to be removed when this project was proposed to the Legislature was 25,000 yards. This estimate was based upon information on lagoon depth levels that was available to us at the time. The contractor on the job has experience and the equipment necessary to make these types of estimates. He looked at the job before he submitted a bid and also concluded that 25,000 cubic yards would have to be removed. Based upon this concurrence, we went with that number when requesting funding from the Council rather than spend an additional \$6,000 for a detailed survey.

The contractor is now very close to removing 25,000 cubic yards. It is clear now that additional material will have to be removed in order to get the Lagoon back to its original design depth. New survey work is available to us that shows exactly where the problem areas are. It is now clear that an additional 7,500 cubic yards will need to be removed, for a total of 32,500 cubic yards. If this work is not completed, parts of the northern section of the Lagoon will have a steep shelf and will remain only 4 or five feet deep in some areas.

The contractor bid this job at \$13.50 per cubic yard. That is a really good price considering that he did the harbor dredging job for close to \$22.00 per yard. Unfortunately, \$13.50 per yard times 7,500 yards adds up to \$101,250; a lot of money. The material being dredged is of high quality and we do anticipate getting \$40,000 or more of the appropriation back through the sale of this material. The plan is to RFP this material separately from the other dredged stockpiles. Contractors have suggested that this material could bring bids that are quite a bit more than the current minimum price of \$5.00.

The money would again have to come from the General Fund Balance. This seems like the most logical place. The Mayor has suggested that we could use the extra \$100,000 the City received in Revenue Sharing this year. This seems appropriate since it is a one- time allocation. This money is unallocated at this point and would normally be added to the Fund Balance unless Council appropriates it.

HCC 1.08.040 governs emergency ordinances. It states that emergency ordinances must contain a finding that an emergency exists and a statement of the facts supporting such a declaration. The Administration believes that an emergency ordinance is justified in this case for the following reasons:

- The contractor is already mobilized and on-site. To remobilize at a later date would cost approximately \$20,000.
- Council is not scheduled to meet again until November 26 and second reading of an appropriation ordinance could not occur until December 10; much longer than the equipment can remain on-site.
- This method of dredging is the preferred method approved by the environmental permitting agencies. Stopping now and/or dredging in a different manner at a later date would require new permits and jeopardize completion of the project. It might also increase the cost.
- Stopping now would mean the permitting window for dredging might be missed and the project might not be complete by spring.
- A new RFP for dredging the remaining material would take time, be costly, and likely mean the project would not be complete by spring.
- Stopping now before the design depth is reached in all areas of the Lagoon would mean that optimal conditions for fish survival would not be attained.
- The Council has made it clear that it wants the Lagoon dredged to its original design depth and that the project be completed in time for ADF&G stocking this spring. The best way to accomplish that would be to keep moving. If we do so, the project will be completed in a few days.

RECOMMENDATION: Approve Emergency Ordinance 12-52

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Public Works Director

ORDINANCE 12-44(A)(S)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE 2012 OPERATING BUDGET BY APPROPRIATING \$100,000 FROM THE FISHING HOLE MAINTENANCE FUND AND \$167,500 FROM THE GENERAL FUND FOR THE NICK DUDIAK FISHING LAGOON DREDGING PROJECT.

WHEREAS, The Lagoon has accumulated material that has reduced its depth significantly; and

WHEREAS, A State legislative grant in the amount of \$100,000 has been awarded to the City for the removal of this material; and

WHEREAS, An additional \$267,500 will be required to complete the removal (see Memorandum #12-147 & Memorandum #12-156); and

WHEREAS, The sale of the removed material will ultimately reduce the cost of the project by \$125,000 if the material can be sold for use off of the Spit; and

WHEREAS, The completion of this project benefits the entire community (not just Harbor users).

NOW, THEREFORE, BE IT ORDAINED by the City of Homer:

Section 1. The FY 2012 Operating Budget is hereby amended by appropriating \$100,000 from the Fishing Hole Maintenance Fund and \$167,500 from the General Fund for the Nick Dudiak Fishing Lagoon Dredging project.

Expenditure:

From Accounts:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
156-397	Fishing Hole Maintenance	\$100,000
100-100	General Fund	\$167,500

To Account:

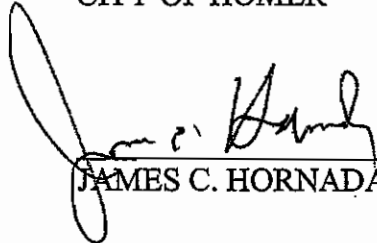
151-779	Nick Dudiak Fishing Lagoon Dredging Fishing Lagoon Improvements	\$267,500
---------	--	-----------

47 Section 2. This ordinance is a budget amendment only, is not of a permanent nature and
48 is a non code ordinance.

49
50 Section 3. The material generated by this project can be sold for use off the Spit.

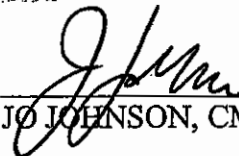
51
52 PASSED AND ADOPTED by the Homer City Council this 8th day of
53 October, 2012.

CITY OF HOMER



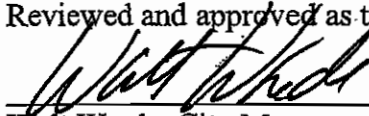
JAMES C. HORNADAY, MAYOR



63
64
65
66
67 
68 JO JOHNSON, CMC, CITY CLERK

69
70
71 YES: 6
72 NO: 0
73 ABSENT: 0
74 ABSTAIN: 0

75
76 First Reading: 9/24/12
77 Public Hearing: 10/08/12
78 Second reading: 10/08/12
79 Effective Date: 10/09/12

80
81
82
83 Reviewed and approved as to form:
84 
85 _____
86 Walt Wrede, City Manager



Thomas F. Klinkner, City Attorney

87
88 Date: Oct 10, 2012

Date: 10-16-12

CITY OF HOMER
HOMER, ALASKA

City Manager

ORDINANCE 12-43

AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
ALASKA, ACCEPTING AND APPROPRIATING A
LEGISLATIVE GRANT IN THE AMOUNT OF \$100,000 FOR
DREDGING AT THE NICK DUDIAK FISHING LAGOON.

WHEREAS, The Nick Dudiak Fishing Lagoon is filling in with sand and gravel and shallower depths are a contributing factor in the recent decline in survival rates for salmon smolt stocked by ADF&G; and

WHEREAS, The Fishing Lagoon provides important recreational and economic benefits to the community and restoring its productivity and salmon returns has been a top Capital Improvement Priority for the City in recent years; and

WHEREAS, In the spring of 2012, the City was awarded a Legislative Grant in the amount of \$100,000 to restore the Lagoon to its original design depth and contours.

NOW, THEREFORE, BE IT ORDAINED by the City of Homer:

Section 1. The Homer City Council hereby accepts and appropriates a Legislative Grant in the amount of \$100,000 to restore the Nick Dudiak Fishing Lagoon to its design depth and contours as follows:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-779	Dredging / Nick Dudiak Fishing Lagoon	\$100,000

Section 2. This ordinance is a budget amendment only, is not of a permanent nature, and shall not be codified.


ENACTED BY THE HOMER CITY COUNCIL this 8th day of October, 2012.

CITY OF HOMER


JAMES C. HORNADAY, MAYOR

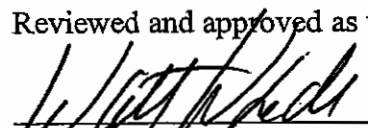
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70




ATTEST

JO JOHNSON, CMC, CITY CLERK

YES: 6
NO: 0
ABSENT: 0
ABSTAIN: 0

First Reading: 9/24/12
Public Hearing: 10/08/12
Second reading: 10/08/12
Effective Date: 10/09/12

Reviewed and approved as to form:

Walt Wrede, City Manager

Date: Oct 10, 2012


Thomas F. Klinkner, City Attorney

Date: 10-16-12



CITY OF HOMER
PUBLIC WORKS
 3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
 FACSIMILE (907)235-3145

MEMORANDUM 12-147

TO: Walt Wrede, City Manager
 FROM: Carey Meyer, Public Works Director
 DATE: September 18, 2012
 RE: **Nick Dudiak Fishing Lagoon Dredging
 Appropriation/Funding Recommendations**

During the last legislative session, \$100,000 was appropriated in the form of a grant to the City for the dredging of the Fishing Lagoon. The City had originally requested \$255,000, the estimated cost of returning the Lagoon to its original depth. Public Works, with the assistance of the Harbormaster, has prepared a plan and submitted for the required environmental permits to allow for the work to proceed this Fall.

We estimate that to return the Lagoon to its original depth, approximately 25,000 CY of material will need to be removed. At \$10.20/CY the total cost of the project is \$255,000.

Total Project Cost =	\$255,000
Legislative Grant =	<u>\$100,000</u>
Additional Appropriation Required =	\$155,000

Not all of this additional required funding will be needed. The 25,000 cubic yards of material can be sold at \$5 per yard, which will generate approximately \$125,000 (especially if the Council authorizes the use of the material off the Spit).

Additional Funding Required =	\$155,000
Revenue from Sale of Material =	<u>\$125,000</u>
Actual Additional Funds Required =	\$ 30,000

Although \$155,000 needs to be appropriated for the project; only \$30,000 will ultimately need to be spent to complete this project. The construction contract will be offered to potential bidders with the ability for the successful bidder to take ownership of the material as part of the bid price (which would reduce the contract amount significantly, but still require some additional City funding)

Recommendations: The City Council pass an ordinance amending the 2012 Operating Budget appropriating \$155,000 from the General Fund for the completion of the Nick Dudiak Fishing Lagoon Dredging project.



CITY OF HOMER
PUBLIC WORKS
3575 HEATH STREET HOMER, AK 99603

TELEPHONE (907)235-3170
FACSIMILE (907)235-3145

MEMORANDUM 12-156

TO: Walt Wrede, City Manager

FROM: Carey Meyer, Public Works Director

DATE: October 3, 2012

RE: **Nick Dudiak Fishing Lagoon Dredging
Construction Contract Award Recommendations**

Public Works recommends that a non-competitively bid, negotiated, sole source contract be awarded for the completion of the widely supported dredging of the Nick Dudiak Fishing Lagoon.

The City's Procurement Policy and Procedures Manual authorizes negotiated procurement following unsuccessful efforts to obtain competitive bidding; when utilizing an existing government contract; or when approved by the City Council as in the best interests of the City.

Dredging of the Fishing Lagoon cannot be completed during normal summer construction windows. This work has to be completed when fish are not present, when other Kachemak Bay critical habitat wildlife are not present, and when winter weather does not negatively impact cost and productivity. Costs can be greatly reduced if the proper equipment has already on the Spit. The bids for mobilization for the Corps annual (2010 -2012) dredging contract ranged from \$190,000 to \$480,000 just to mobilize the necessary equipment onto the Spit.

Public Works evaluated two approaches to completing the work – *land-based operations* (construct a cofferdam across the lagoon opening, pump out the lagoon, and remove material utilizing dozers/backhoes), and *barge-based suction dredging operation* (similar to how the entrance to the small boat harbor/USCG berth is dredged annually).

The Corps of Engineers and the Alaska Department of Fish and Game have indicated agreement with the decision to utilize the barge-based suction dredging operation in an October timeframe recommended by Public Works. The decision by Public Works was based on belief that a barged-based operation would reduced the potential for sediment transported into Kachemak Bay and minimize negative impacts to wintering eiders and other endangered species.

Two barged based dredging operations currently have the equipment on the Spit that can accomplish the work in the timeframe established - the Contractor finishing the annual Corps of Engineers harbor entrance dredging contract (Alaska Marine Excavation, LLC) and a Contractor storing their equipment in the English Bay barge basin. These two contractors are in the best position to accomplish the work as scheduled and at a reasonable cost.

