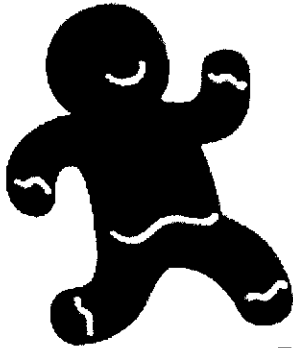


City Council
December 10, 2012
Monday



Special Meeting 4:00 P.M.
Committee of the Whole 5:00 P.M.
Regular Meeting 6:00 P.M.



Cowles Council Chambers
City Hall
491 E. Pioneer Avenue
Homer, Alaska

Produced and
Distributed by the City Clerk's Office -12/5/2012-rk



DECEMBER 2012

JANUARY 2013

Monday 10th	CITY COUNCIL Special Meeting 4:00 p.m., Committee of the Whole 5:00 p.m. and Regular Meeting 6:00 p.m.
Tuesday 11th	BAYCREST OVERLOOK IMPROVEMENT COMMITTEE Meeting 2:00 p.m.
	ECONOMIC DEVELOPMENT ADVISORY COMMISSION Regular Meeting 6:00 p.m.
Thursday 13th	1% ART SELECTION COMMITTEE Meeting 1:00 p.m.
Tuesday 18th	WATER AND SEWER RATE TASK FORCE Meeting 5:15 p.m.
Wednesday 19th	PORT AND HARBOR ADVISORY COMMISSION Regular Meeting 5:00 p.m.
Thursday 20th	PARKS AND RECREATION ADVISORY COMMISSION Special Meeting 5:30 p.m.
Tuesday 25th	CITY OFFICES CLOSED in observance of Christmas.
Thursday 27th	1% ART SELECTION COMMITTEE Meeting 1:00 p.m.
Tuesday 1st	CITY OFFICES CLOSED in observance of New Year's Day.
Wednesday 2nd	PLANNING COMMISSION Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
Thursday 3rd	1% ART SELECTION COMMITTEE Meeting 1:00 p.m.
	KACHEMAK DRIVE PATH COMMITTEE Meeting 5:30 p.m.
Tuesday 8th	WATER AND SEWER RATE TASK FORCE Meeting 5:15 p.m.
	ECONOMIC DEVELOPMENT ADVISORY COMMISSION Regular Meeting 6:00 p.m.
Thursday 10th	LEASE COMMITTEE Regular Meeting 3:00 p.m.
Monday 14th	CITY COUNCIL Committee of the Whole 5:00 p.m. and Regular Meeting 6:00 p.m.

Regular Meeting Schedule

City Council 2nd and 4th Mondays 6:00 p.m.

Library Advisory Board 1st Tuesday 5:00 p.m.

Economic Development Advisory Commission 2nd Tuesday 6:00 p.m.

Parks and Recreation Advisory Commission 3rd Thursday of the month with exception of December 5:30 p.m.

Planning Commission 1st and 3rd Wednesday 6:30 p.m.

Port and Harbor Advisory Commission 4th Wednesday 5:00 p.m.

Transportation Advisory Committee Quarterly 3rd Tuesday 5:30 p.m.
Public Arts Committee Quarterly 3rd Thursday 5:00 p.m.
Lease Committee Quarterly 2nd Thursday 3:00 p.m.
Permanent Fund Committee Quarterly 2nd Thursday 5:15 p.m.

MAYOR AND CITY COUNCILMEMBERS AND TERMS

BETH WYTHE, MAYOR - 14
FRANCIE ROBERTS, COUNCILMEMBER - 15
BARBARA HOWARD, COUNCILMEMBER - 14
DAVID LEWIS, COUNCILMEMBER - 14
BRYAN ZAK, COUNCILMEMBER - 13
BEAUREGARD BURGESS, COUNCILMEMBER - 15
JAMES DOLMA, COUNCILMEMBER - 13

City Manager, Walt Wrede
City Attorney, Thomas Klinkner

<http://www.cityofhomer-ak.gov/cityclerk> home page access, Clerk's email address is: clerk@ci.homer.ak.us Clerk's office phone number: direct line 235-3130, other number 435-3106.

COWLES COUNCIL CHAMBERS
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



SPECIAL MEETING
4:00 P.M. MONDAY
DECEMBER 10, 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, 4:00 P.M.

Councilmembers Howard and Zak have requested excusal.

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. **Memorandum 12-178**, From City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(C)(1 & 5), Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Government Unit and Attorney-client Privilege (City Attorney Update on Court Cases: Auction Block vs. City of Homer, Griswold vs. City of Homer, and Neal vs. City of Homer). **Page 7**

5. COMMENTS OF THE AUDIENCE

6. ADJOURNMENT

Next Regular Meeting is Monday, January 14, 2013 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.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-178

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, CMC, CITY CLERK

A handwritten signature in black ink, appearing to read 'Jo Johnson', is written over the 'FROM' line.

DATE: DECEMBER 3, 2012

SUBJECT: REQUEST FOR EXECUTIVE SESSION PURSUANT TO AS §44.62.310(C)(1 & 5), MATTERS, THE IMMEDIATE KNOWLEDGE OF WHICH WOULD CLEARLY HAVE AN ADVERSE EFFECT UPON THE FINANCES OF THE GOVERNMENT UNIT AND ATTORNEY-CLIENT PRIVILEGE (CITY ATTORNEY UPDATE ON COURT CASES: AUCTION BLOCK VS. CITY OF HOMER, GRISWOLD VS. CITY OF HOMER, AND NEAL VS. CITY OF HOMER).

Pursuant to Council's Operating Manual – "Any Councilmember, the Mayor or City Manager may place consideration of an executive session on the agenda..."

City Manager Wrede requested an Executive Session regarding "City Attorney Update on Court Cases: Auction Block vs. City of Homer, Griswold vs. City of Homer, and Neal vs. City of Homer" for the Special Meeting of December 10, 2012. This has been publicly and internally noticed since that time.

Attorney Wells will be present.

RECOMMENDATION:

Approve the request for Executive Session and conduct immediately in the Conference Room.

COWLES COUNCIL CHAMBERS
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



COMMITTEE OF THE WHOLE
5:00 P.M. MONDAY
DECEMBER 10, 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
COMMITTEE OF THE WHOLE AGENDA

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

Councilmember Howard has requested excusal.

Councilmember Zak has requested telephonic participation.

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

3. REGULAR MEETING AGENDA

4. COMMENTS OF THE AUDIENCE

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

Next Regular Meeting is Monday, January 14, 2013 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.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
AGENDA APPROVAL

COWLES COUNCIL CHAMBERS
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



REGULAR MEETING
6:00 P.M. MONDAY
DECEMBER 10, 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

REGULAR MEETING AGENDA

**Special Meeting 4:00 p.m. and Committee of the Whole 5:00 p.m. in Homer City Hall
Cowles Council Chambers.**

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Councilmembers Howard and Zak have requested telephonic participation.

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.)

3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

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 November 26, 2012. City Clerk. Recommend adoption. Page 17

B. **Memorandum 12-179**, from Deputy City Clerk, Re: Application for Liquor License Renewals for Beluga Lake Lodge and Best Western Bidarka Inn. Page 43

C. **Memorandum 12-180**, from Mayor, Re: Appointment of Joshua Ross to the Economic Development Advisory Commission. Page 59

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

3. Economic Development Advisory Commission

4. Parks and Recreation Advisory Commission

5. Port and Harbor Advisory Commission

C. Homer High School Students and Mayor Wythe Letters, re: Intersections

Page 63

D. Reports from Mayor Wythe and Councilmembers Burgess, Dolma, and Zak on Alaska Municipal League Conference Page 67

8. **PUBLIC HEARING(S)**

A. **Ordinance 12-53**, An Ordinance of the Homer City Council, Amending HCC 9.16.010(A) and HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100 Reinstating on a Year-Round Basis the City of Homer Sales Tax Imposed on Sales of Non Prepared Foods. Zak. Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012. Page 79

- Ordinance 12-53(S)**, An Ordinance of the Homer City Council, Amending HCC 9.16.010(A) and HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100 Reinstating on a Year-Round Basis the City of Homer Sales Tax Imposed on Sales of Non Prepared Foods. Zak. Page 85
- B. **Ordinance 12-54**, An Ordinance of the Homer City Council, Amending HCC 9.16.040 and HCC 9.16.100 to Make Certain Categories of Nonprepared Foods Subject to the City of Homer Sales Tax on a Year-Round Basis. Lewis. Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012. Page 105
- Ordinance 12-54(S)**, An Ordinance of the Homer City Council, Amending HCC 9.16.040 and HCC 9.16.100 to Make Certain Categories of Nonprepared Foods Subject to the City of Homer Sales Tax on a Year-Round Basis. Lewis. Page 111
- C. **Ordinance 12-47(A)**, An Ordinance of the City Council of Homer, Alaska, Appropriating Funds for the Calendar Year 2013 for the General Fund, the Water-Sewer Fund, the Port/Harbor Fund, Debt Funds, and Capital Reserve Funds (Conditional Expenditures). City Manager. Introduction October 22, 2012, Public Hearings November 26 and December 10, 2012, Second Reading December 10, 2012. Page 121
- Resolution 12-088**, A Resolution of the City Council of Homer, Alaska, Maintaining the City of Homer Fee Schedule at the Current Rates. City Clerk. Recommended to follow Budget Ordinance 12-47 schedule. Page 145
- Resolution 12-089**, A Resolution of the City Council of Homer, Alaska, Maintaining the Port of Homer Terminal Tariff No. 600. City Clerk. Recommended to follow Budget Ordinance 12-47 schedule. Page 171
- D. **Ordinance 12-55**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Highway Safety Program Grant for DUI Enforcement and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012. Page 239
- Memorandum 12-172 from Police Chief as backup. Page 241
- E. **Ordinance 12-56(A)**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant in an Amount up to \$7,280.00 for a Temporary Part-Time IT Aide for the Public Library and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012. Page 251
- Memorandum 12-173 from Library Director as backup. Page 253

- F. **Ordinance 12-57**, An 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. Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012. Page 259

Ordinance 12-57(S), An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Capital Budget by Appropriating an Additional ~~\$101,250~~ **\$69,768** 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 261

Memorandum 12-169 from City Manager as backup. Page 265

Memorandums 12-156 and 12-147 from Public Works Director as backup. Page 267

9. **ORDINANCE(S)**

- A. **Ordinance 12-58**, An Ordinance of the City Council of Homer, Alaska, Approving the Disbursement of the Net Earnings of 5% of the Permanent Fund, an Amount of \$3,554.79, to Local Non-Profit Organizations for the Benefit of the Community. City Clerk/Permanent Fund Committee. Recommended dates: Introduction December 10, 2012, Public Hearing and Second Reading January 14, 2013. Page 283

- B. **Ordinance 12-59**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Reimbursable Grant in the Amount of \$8,000 from the State of Alaska Department of Environmental Conservation for Hazardous Materials Training and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Deputy Harbormaster. Recommended dates: Introduction December 10, 2012, Public Hearing and Second Reading January 14, 2013. Page 293

Memorandum 12-181 from Deputy Harbormaster as backup. Page 295

- C. **Ordinance 12-60**, An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting HCC Chapter 17.04 Regarding Special Assessment Districts. City Manager. Recommended dates: Introduction December 10, 2012, Public Hearing and Second Reading January 14, 2013. Page 323

10. **CITY MANAGER'S REPORT**

- A. City Manager's Report Page 337

- B. Games 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 12-096**, A Resolution of the City Council of Homer, Alaska, Approving a New Two Year Contract in the Amount of \$40,000 Per Year with Anderson Group, LLC for Legislative Consulting and Lobbying Services. City Manager. (Postponed from November 26, 2012.) Page 373

Resolution 12-096(S), A Resolution of the City Council of Homer, Alaska, Approving a New One Year Contract in the Amount of \$40,000 Per Year with Anderson Group, LLC for Legislative Consulting and Lobbying Services. City Manager. Page 375

14. NEW BUSINESS

- A. **Memorandum 12-182** from City Clerk, Re: Vacate Portions of Sprucewood Drive a 60-Foot Right-of-Way Located Northeast of Tract A, Block 2, and Any Associated Utility Easements With These Portions of Sprucewood Drive, Dedicated and Granted by Mountain Park Subdivision (Plat HM 78-10); Within Section 14, Township 6 South, Range 14 West, Seward Meridian, City of Homer and Within the Kenai Peninsula Borough, Alaska; KPB File 2012-175; Note: The adjacent existing roadway is to be dedicated with the recording of this plat; Location: City of Homer. Page 381

15. RESOLUTIONS

- A. **Resolution 12-102**, A Resolution of the City Council of Homer, Alaska, Establishing the 2013 Regular Meeting Schedule for the City Council, Economic Development Advisory Commission, Library Advisory Board, Parks and Recreation Advisory Commission, Advisory Planning Commission, Port and Harbor Advisory Commission, Lease Committee, Permanent Fund Committee, Public Arts Committee and Transportation Advisory Committee. City Clerk. Page 405

Memorandum 12-183 from Permanent Fund Committee as backup. Page 409

Memorandum 12-184 from Economic Development Advisory Commission as backup. Page 411

Memorandum 12-185 from Library Advisory Board as backup. Page 413

Memorandum 12-186 from Planning Commission as backup. Page 415

Memorandum 12-187 from Transportation Advisory Committee as backup. Page 417

Memorandum 12-188 from Port and Harbor Advisory Commission as backup. Page 419

- B. **Resolution 12-103**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Enter Into a New Short Term Lease with the Homer Boys and Club and to Extend the Club's Occupancy of the Lower Level of the Homer Education and Recreation Complex (HERC) Building for One Additional Year Beginning on January 1, 2013 and Ending December 31, 2013. City Manager. Page 421

16. COMMENTS OF THE AUDIENCE

17. COMMENTS OF THE CITY ATTORNEY

18. COMMENTS OF THE CITY CLERK

19. COMMENTS OF THE CITY MANAGER

20. COMMENTS OF THE MAYOR

21. COMMENTS OF THE CITY COUNCIL

22. ADJOURNMENT

Next Regular Meeting is Monday, January 14, 2013 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.

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

RECONSIDERATION

CONSENT AGENDA

Session 12-33 a Regular Meeting of the Homer City Council was called to order on November 26, 2012 at 6:01 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: BURGESS, DOLMA, HOWARD, LEWIS,
ROBERTS, ZAK

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER
COMMUNITY & ECONOMIC
DEVELOPMENT COORDINATOR KOESTER
COMMUNITY RECREATION
COORDINATOR ILLG
FINANCE DIRECTOR MAURAS
LIBRARY DIRECTOR DIXON
PERSONNEL DIRECTOR PETERSEN
POLICE CHIEF ROBL
PUBLIC WORKS DIRECTOR MEYER

Council met as a Committee of the Whole from 5:00 p.m. to 5:47 p.m. to discuss 2013 Budget and Regular Meeting Agenda items.

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

AGENDA APPROVAL

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

The following changes were made to the agenda:

PUBLIC HEARINGS - **Ordinance 12-47**, An Ordinance of the City Council of Homer, Alaska, Appropriating Funds for the Calendar Year 2013 for the General Fund, the Water-Sewer Fund, the Port/Harbor Fund, Debt Funds, and Capital Reserve Funds (Conditional Expenditures). City Manager. Written public comments; **Resolution 12-100**, A Resolution of the City Council of Homer, Alaska, Authorizing Participation in the Community Development Block Grant Program. City Manager. (Advertised as Public Hearing.); **ORDINANCES** - **Ordinance 12-56**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant in the Amount of \$4,760.00 for a Temporary Part-Time IT Aide for

the Public Library and Authorizing the City Manager to Execute the Appropriate Documents.
City Manager/Library Director. Grant Agreement.

Mayor Wythe called for a motion for the approval of the agenda as amended.

HOWARD/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Doug Stark, city resident, supports Ordinance 12-53. The money is needed to maintain quality of life, is not a new tax, but restores what voters approved. All other cities chose to continue their sales tax.

Meghan Murphy, city resident, supports Ordinance 12-53 to avoid shortfalls for community programs each year.

Larry Slone, city resident, supports Ordinance 12-53 if we need to balance the budget. There is an unlimited demand for services and a limited source of resources. As to Ordinance 12-57 he suggested setting aside 100 yards of dredge materials for the public to utilize.

Ray Kranich, city resident, voiced objection to Ordinances 12-53 and 12-54. People have spoken twice that they didn't want the tax on food. The City Manager and Department heads need to sharpen their pencils more to balance the budget.

Frank Bauer, city resident, opposes Ordinance 12-53. We don't have a tax revenue problem; we have a spending problem. It is time to start looking at Administrative costs. The power to tax is the power to destroy incentive, investment, and the purchasing power of people.

Wes Head, city resident, voiced opposition to Ordinance 12-53. The food tax hits low income and single parents hard. The voters have spoken twice.

Monte Davis, city resident, asked how much of the budget is going towards trail projects. People keep demanding services and don't want to pay for them with taxes.

Kelly Cooper, Homer resident, appreciates utilizing city services and approves reinstating the sales tax.

RECONSIDERATION

CONSENT AGENDA

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

- A. Homer City Council unapproved Special Meeting minutes of October 15, 22, and November 2, 2012 and Regular Meeting minutes of October 22, 2012. City Clerk. Recommend adoption.
- B. **Memorandum 12-170**, from Deputy City Clerk, Re: Application for Liquor License Renewal for Boardwalk Fish and Chips and a New Liquor License Application for the Sourdough.
- C. **Memorandum 12-171**, from Mayor, Re: Appointment of Larry Slone to the Planning Commission.

LEWIS/BURGESS - MOVED FOR APPROVAL OF THE RECOMMENDATIONS OF THE CONSENT AGENDA AS READ.

Councilmember Burgess welcomed Mr. Slone's appointment to the Planning Commission. Mr. Slone comes prepared, pays attention, and has good points. He looks forward to seeing him offer solutions to a myriad of problems.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

- A. Mark Roth, Cook Inlet Aquaculture Board

Mr. Roth was not present.

- B. Monte Davis, Chamber of Commerce, Funding for Marketing

Monte Davis, Executive Director of the Homer Chamber of Commerce, reported the Chamber is helping to promote economic development. They promote Homer as a world class visitor destination, a great place to live and raise a family and do business. They spend every dime from the City to market the community as a whole. It is a wise investment for marketing. Last year the City budgeted \$21,000 for marketing and the Chamber tripled the investment. Currently 500+ members, the winter king tournament, the halibut derby, and car raffle fund the Chamber. Each year the Winter Carnival, Kachemak Bay Shorebird Festival, Clean-up Day, Get to Know Homer, and the Fourth of July Parade are held. The Chamber organizes and presents events for the community and they bring business to both the members and nonmembers.

Dollars are extended by partnering with organizations that get other funding. Every person in the community benefits from marketing. Sales taxes account for 70% of the tax revenues generated for the City; 75% of those taxes are generated in the six months surrounding the summer. The Chamber helped get the word out for the high school track and HoPP at Karen Hornaday Park. The sign to Pioneer Avenue business district is restored and the Visitor's Center is landscaped. The Chamber constantly works to enhance our quality of life and ensure our local business climate is positive and helpful to local entrepreneurs.

This year \$45,000 was spent on advertising, \$23,071 spent locally. We had a presence on local Alaska television. Over the summer the Chamber hosted over 50 Alaskan, national, and international travel writers. Their stories will equate to over \$300,000 of advertising for the city. In 2012 there was an increase of visitors. Over 91,000 visitor guides were requested and delivered. The State of Alaska has spent more money for marketing over the last two years than ever before and the 2013 season looks good. Mr. Davis thanked Council for dredging the Nick Dudiak Fishing Lagoon as it will be a shot in the arm for the entire community. The average visitor spends \$102 per day; 9,200 visitors were welcomed at the visitor center. He encouraged Council to support businesses and visitors with marketing.

Mayor Wythe recommended the Chamber of Commerce budget line item be amended to add "marketing fund" since that is what the Chamber does.

**ANNOUNCEMENTS/PRESENTATIONS/BOROUGH
REPORTS**

REPORT/COMMISSION

- A. **Mayor's Proclamation** – Karen Hornaday Park: Homer Playground Project (HoPP), Homer Little League and City of Homer

Mayor Wythe read and presented the proclamation to Mike Illg.

- B. **Mayor's Proclamation** – The City of Homer Parks and Community Recreation Program - Alaska Recreation and Park Association - 2011 Outstanding Organization Award

Mayor Wythe read and presented the proclamation to Mike Illg.

- C. **Mayor's Proclamation** – November as Pancreatic Cancer Awareness Month

Mayor Wythe read and presented the proclamation to Kelly Cooper. A purple night vigil is scheduled for Thursday at 6:00 p.m. at WKFL Park.

- D. **Mayor's Proclamation** – Jerry Lawver, Lead Operator, Alaska Rural Water Association 2012 Water Operator of the Year

Mayor Wythe read and presented the proclamation to Jerry Lawver.

- E. Homer High School Students and Mayor Wythe Letters, re: Roundabouts

- F. Memorandum 12-177 from Community and Economic Development Coordinator Koester, re: Domestic Violence and Sexual Assault Prevention: The Green Dot Strategy

Homer is considered as a pilot project for The Green Dot Strategy. Mayor Wythe has offered support from the City for the project.

- G. Certificate of Achievement for Excellence in Financial Reporting to Finance Department

Mayor Wythe acknowledged Regina Mauras and the Finance Department for keeping our accounts in order.

- H. Borough Report

Bill Smith, Kenai Peninsula Borough Assemblyman, reported the Assembly had a presentation from the Equine Rescue Group. There is difficulty dealing with animal rescues on the Peninsula. Animal control officials for all cities will be putting together a comprehensive plan for the Borough. There is a working group for emergency animal sheltering, as current planning does not include household pets.

Ketchikan has been advocating for State funding of schools in organized boroughs. Unorganized boroughs are funded 100% by the State. There will be a meeting in Anchorage soon that Mayor Navarre will attend.

- I. Commissions/Board Reports:

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

Mayor Wythe called for a recess at 6:52 p.m. and reconvened the meeting at 6:58 p.m.

PUBLIC HEARING(S)

A. **Ordinance 12-47**, An Ordinance of the City Council of Homer, Alaska, Appropriating Funds for the Calendar Year 2013 for the General Fund, the Water-Sewer Fund, the Port/Harbor Fund, Debt Funds, and Capital Reserve Funds (Conditional Expenditures). City Manager. Introduction October 22, 2012, Public Hearings November 26 and December 10, 2012, Second Reading December 10, 2012.

Resolution 12-088, A Resolution of the City Council of Homer, Alaska, Maintaining the City of Homer Fee Schedule at the Current Rates. City Clerk. Follows Budget Ordinance 12-47 schedule.

Resolution 12-089, A Resolution of the City Council of Homer, Alaska, Maintaining the Port of Homer Terminal Tariff No. 600. City Clerk. Follows Budget Ordinance 12-47 schedule.

Mayor Wythe opened the public hearing.

Larry Slone, city resident, suggested funding to nonprofits be at a level for core services to allow them to remain viable. The City has a CIP list and cannot get funding for all 50 projects at one time.

Bumpo Bremicker, city resident, appreciates a lot of city services and is willing to pay for them through sales tax.

Mayor Wythe closed the public hearing.

HOWARD/LEWIS - MOVED TO PROPOSE A BUDGET AMENDMENT FOR ACCOUNT 400 DEPRECIATION RESERVES FOR PORT AND HARBOR ENTERPRISE FUND IN THE AMOUNT OF \$20,000 FOR THE PURPOSE OF A FEE AND TARIFF STUDY.

The City has been remiss in not being current and competitive with tariffs. The Port and Harbor Improvement Committee and the Port and Harbor Advisory Commission are in agreement.

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

Motion carried.

BURGESS/ZAK - MOVED TO ADOPT THE RECOMMENDATION OF STAFF TO AMEND THE FOUR PART-TIME JAILER POSITIONS TO TWO PART-TIME JAILER POSITIONS, ONE FULL-TIME PERS COMPLIANT JAILER POSITION THAT WILL RESULT IN A PROJECTED BUDGET SURPLUS OF APPROXIMATELY \$4,000.

There was no discussion.

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

Motion carried.

HOWARD/ROBERTS - MOVED TO SUPPORT AND AMEND THE BUDGET ACCORDING TO THE PUBLIC WORKS REQUEST FROM THE SEWER RESERVE FUND IN THE AMOUNT OF \$60,000 FOR THE EQUIPMENT UPGRAGE.

The Water and Sewer Task Force Committee is asking questions about cost and flow rates. The equipment is old. Now is the time to take care of it so we have accurate equipment for the end goal of fair and equitable water and sewer rates.

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

Motion carried.

ZAK/ROBERTS - MOVED TO ADD THE AMENDMENT ON PAGE 7 OF THE PACKET.

The amendment has a variety of items based on the presumption of returning the sales tax revenues in the amount of \$697,000.

Councilmember Howard expressed opposition to reinstating the food tax. Citizens have spoken twice and it disenfranchises the voter when Council goes against them. Thus, she cannot support Councilmember Zak's amendment.

BURGESS/LEWIS – MOVED TO BREAK DOWN TO A LINE BY LINE APPROVAL.

There was no discussion.

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

Motion carried.

LEWIS/HOWARD - MOVED TO EXCLUDE 100-100 CITY COUNCIL WAGE INCREASE.

Councilmember Burgess would like to see people of lesser means be able to serve on the council. The small stipend equivalent to minimum wage is assurance more people would serve.

Councilmember Howard has no problem with council wages; she has a problem with the source of income to increase it.

Mayor Wythe expressed opposition as the amount currently paid covers the majority of expenses of serving on the council. She did not expect any compensation. It is public service and an honor to be here.

VOTE: (amendment) YES. HOWARD, LEWIS
VOTE: NO. ROBERTS, DOLMA, ZAK, BURGESS

Motion failed.

BURGESS/ROBERTS - MOVED TO REDUCE THE CONTRIBUTION TO SENIOR CENTER, ITEM 100-350, FROM \$50,000 TO \$20,000.

There was no discussion.

VOTE; (amendment) YES. LEWIS, ROBERTS, DOLMA, HOWARD, BURGESS
VOTE: NO. ZAK

Motion carried.

LEWIS/HOWARD - MOVED TO REDUCE 100-112 (CHAMBER OF COMMERCE MARKETING) FROM \$50,000 TO \$10,000.

The amendment would bring the Chamber contribution to \$31,000. Currently \$21,000 is allocated to the Chamber in the Manager's preliminary budget.

Councilmember Burgess would like to see the contribution total \$50,000.

Councilmember Howard noted this amendment would restore the contribution to the Chamber where it was several years ago at \$30,000.

Councilmember Roberts supports a reduction to \$50,000. The Chamber does good things with the money. It is money well spent.

Councilmember Burgess pointed out most cities on the Kenai Peninsula have a bed tax or form of revenue to market their community. The City of Homer is under-spending our competitors. The investment brings revenue to the community and is leveraged well.

Councilmember Lewis doesn't disagree with the contribution. We should just start reducing contributions slowly.

Councilmember Howard has no objection to the purpose. Her concern is the source of the income.

Councilmember Zak commented the Chamber of Commerce promotes revenue. He would like to see the \$50,000 remain as the Chamber helps the City run more efficiently. It is a big return to the community by multiplying the number of visitors to Homer. It is a key piece in helping create a community with quality of life.

Mayor Wythe expressed support to bring the total contribution up to \$50,000, but opposed \$71,000.

Councilmember Dolma would support an increase to bring the total to \$40,000 or \$50,000.

VOTE: (amendment) YES. LEWIS, HOWARD

VOTE: NO. BURGESS, ROBERTS, DOLMA, ZAK

Motion failed.

DOLMA/LEWIS - MOVED TO AMEND 100-112 TO REDUCE TO \$19,000 TO BRING TOTAL TO CHAMBER OF COMMERCE TO \$40,000.

VOTE: YES. HOWARD, LEWIS, DOLMA

VOTE: NO. BURGESS, ROBERTS, ZAK

Mayor Wythe broke the tie with a YES vote.

Motion carried.

BURGESS - MOVED TO REDUCE 100-5101-5105 TO A 1% COLA AND INCLUDE THE NEXT TWO LINES.

Motion died for lack of second.

Councilmember Burgess commented everyone is facing hard times. Employers are having to make cuts to benefits and COLAs. Big places in the City's budget where we spent lots of money is staff, Port and Harbor, Police, and Fire. He has a hard time seeing the City continue to provide full health benefits to employees knowing the private sector is not doing that well.

Councilmember Roberts commented the city employees have received no COLA for several years and she thinks it is time to do that.

Councilmember Lewis added there is no longer full health care for city employees. Their pay has been lowered and they are one of the lower paid cities in the United States. We need to keep quality employees here.

Mayor Wythe commented attracting and retaining employees is becoming difficult for the City.

Councilmember Howard expressed frustration as we don't have extra money for adjustments. People do not understand why depreciation reserves are made.

Councilmember Zak noted the City is overall stronger since reserve accounts are funded. If you don't plan for it you may face a big loss.

Councilmember Burgess commented Council is making difficult decisions. We have been mandated by the taxpayers to support programs and we have to balance the budget or put off funding depreciation. Hard decisions made now are those less difficult down the road that don't sign our future away.

ZAK/ROBERTS – MOVED TO APPROVE THE AMENDMENT TO THE BUDGET.

The amendment would be Councilmember Zak's proposal with the Economic Development 100-112 reduced to \$19,000 and the 100-350 for the Senior Center reduced to \$20,000.

BURGESS – MOVED FOR A FRIENDLY AMENDMENT TO MAKE THE AMENDMENT CONTINGENT ON PASSAGE OF ONE OR OTHER SALES TAX ORDINANCES.

City Clerk Johnson advised the amendment was not friendly.

ZAK/ROBERTS – MOVED TO AMEND THE AMENDMENT THAT APPROVAL OF THE AMENDMENT WOULD BE CONTINGENT TO THE PASSAGE OF ORDINANCE 12-53.

VOTE: (amendment as amended) YES. ZAK, HOWARD, BURGESS, LEWIS, ROBERTS, DOLMA

Motion carried.

D.. **Ordinance 12-48**, An Ordinance of the City Council of Homer, Alaska, Amending the Official Road Maintenance Map of the City of Homer by Adding Kestrel Circle and a Portion of Golden Plover Avenue as Urban Road. City Manager/Public Works Director. Introduction October 22, 2012, Public Hearing and Second Reading November 26, 2012.

Memorandum 12-162 from Public Works Inspector as backup.

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

Mayor Wythe called for a motion for the adoption of Ordinance 12-48 by reading of title only for second and final reading.

LEWIS/HOWARD – SO MOVED.

Councilmember Roberts questioned the information requested at the last meeting pertaining to the number of houses on the streets.

City Manager Wrede answered there are no houses; we expect some houses next year. There would be no plowing or road maintenance there now unless it was absolutely needed.

Councilmember Roberts recollected when Council was asked to add Adams Street they did not approve it since there was only one house on the road at that time. Two houses are required on the road to add them to the maintenance map.

Public Works Director Meyer answered Adams Street is the road that leads to Jack Gist Park. The City accepted the road for summertime road maintenance. There is no winter maintenance on the road. Seven things must be present for the City to accept maintenance of a road. One requirement is there must be residences where people live on the road, a house every 300 feet. In this case the subdivision was built in the city with a plan review and inspection with the understanding the City would take ownership of the road and maintain it. There are other subdivisions the City has placed on the official road maintenance map that we do no maintenance on since there are no people living there. Maintenance does not occur until there are people living there.

City Manager Wrede added there is an informal agreement between the City and Kachemak City with Kestrel Circle. The City has to drive its equipment through Kachemak City to service the area. There may be times the City gets there before Kachemak City crews do. The informal agreement states there may be times where we will drop the blade but will take no official responsibility for any road in Kachemak City. There is no obligation to drop sand or do plowing.

Public Works Director Meyer noted the portion of Golden Plover we are adding to the maintenance map is not the portion of Golden Plover that exists within Kachemak City. This is the extension of Golden Plover into the subdivision that is located in the city limits of Homer.

Councilmember Roberts questioned the whereas on Line 22 that says Kestrel Circle will go on the road maintenance map even though it is not built to standards.

Public Works Director Meyer answered Kestrel Circle does meet the road and grade standards.

City Attorney Klinkner advised roads shown on the official road maintenance map as amended by Ordinance 02-23(S) pertain to grandfathered roads; it is not applicable to roads approved now.

VOTE: YES. DOLMA, ZAK, HOWARD, BURGESS, LEWIS

VOTE: NO. ROBERTS

Motion carried.

- C. **Ordinance 12-49**, An Ordinance of the City Council of Homer, Alaska Appropriating \$20,000 from the Homer Accelerated Roads and Trails Fund (HART) for the Purpose of

Conducting Survey Work and Engineering / Cost Estimating to Determine the Cost of Constructing the Initial One Half Mile of the Proposed Kachemak Drive Non-Motorized Pathway in Accordance with Resolution 12-079(S). Mayor/City Council. Introduction October 22, 2012, Public Hearing and Second Reading November 26, 2012.

Memorandums 12-163, 12-164, and 12-165 from Kachemak Drive Path Committee as backup.

Mayor Wythe opened the public hearing.

Bumppo Bremicker, city resident, advocated for the pathway that is listed in city plans and has been for years. The first section of the trail is dangerous for pedestrians and cyclists. Volunteer work will be used for the pathway.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 12-49 by reading of title only for second and final reading.

BURGESS/LEWIS - SO MOVED.

Councilmember Howard noted the commitment of funds does not bind the City for construction.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

D. **Ordinance 12-50**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Grant Award from the Rasmuson Foundation in the Amount of \$18,852 for Collection Enhancement and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Introduction October 22, 2012, Public Hearing and Second Reading November 26, 2012.

Memorandum 12-166 from Library Director as backup.

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

Mayor Wythe called for a motion for the adoption of Ordinance 12-50 by reading of title only for second and final reading.

LEWIS/BURGESS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Ordinance 12-51**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2012 Capital Budget by Appropriating \$212,270 from the Homer Accelerated Roads and Trails Fund (HART) to Re-Pave Fish Dock Road and Construct Improvements to Outer Dock Road and Appropriating \$100,000 from the General Fund Reserves / Fund Balance for a Reimbursable Economic Development Grant to Fund the Homer Tidal Power Incubator Project. Mayor. Introduction October 22, 2012, Public Hearing and Second Reading November 26, 2012.

Mayor Wythe opened the public hearing.

Bill Smith, Kachemak City resident, is working with the incubator power group. Plans are being drawn up on the stages of the project. University of Alaska will provide site characterizations of the currents and sediment of the Deep Water Dock to see if the area is viable.

Mayor Wythe closed the public hearing.

Councilmember Roberts expressed support for the tidal power incubator project.

Mayor Wythe called for a motion for the adoption of Ordinance 12-51 by reading of title only for second and final reading.

HOWARD/LEWIS – SO MOVED.

Mayor Wythe commented the proposal was presented with the concept of Homer taking initiative of economic development on our own. The project will not be the property of the City.

City Manager Wrede reported Port and Harbor Director Hawkins and Community and Economic Development Coordinator Koester are attending meetings. It is a reimbursable grant, but the first step in gathering data at the site is not reimbursable. There are recommendations to bring more structure to the RFP, particularly Section 3.

ROBERTS/LEWIS - MOVED TO AMEND SECTION 3 TO ADD THE RULES GOVERNING THE REIMBURSABLE GRANT PROGRAM WILL BE APPROVED BY RESOLUTION.

Councilmember Howard commented we will derive invaluable information from the study on the currents and erosion to prepare for future mitigation.

Mayor Wythe commented it was not her intention the City would be responsible for the project. The City would just assist in the initial funding for the project.

City Manager Wrede added the conceptual plan will be made by the University of Alaska professor. With Council's action on the ordinance the City may gather data. Other details can be figured out and stated clearly to Council and the public.

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

Motion carried.

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

Motion carried.

- F. **Resolution 12-100**, A Resolution of the City Council of Homer, Alaska, Authorizing Participation in the Community Development Block Grant Program. City Manager.

Mayor Wythe opened the public hearing.

Natasha Ala, Executive Director of the Boys and Girls Club, commented the HERC building is an asset for the Boys and Girls Club and other occupants. The block grant is a stepping stone to open other funding.

Kelly Cooper, Boys and Girls Club Board Member, supports the HERC facility for a permanent place for the club and Community Schools. The Boys and Girls Club is committed to looking for additional funding.

Mayor Wythe closed the public hearing. (See Resolutions.)

ORDINANCE(S)

- A. **Ordinance 12-53**, An Ordinance of the Homer City Council, Amending HCC 9.16.010(A) and HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100 Reinstating on a Year-Round Basis the City of Homer Sales Tax Imposed on Sales of Non Prepared Foods. Zak. Recommended Dates: Introduction November 26, 2012, Public Hearing And Second Reading December 10, 2012.

Mayor Wythe called for a motion for the adoption of Ordinance 12-53 for introduction and first reading by reading of title only.

ZAK/ROBERTS – SO MOVED.

Councilmember Howard will be voting yes for introduction for the sole purpose of allowing the public hearing process.

Councilmember Burgess noted it was a difficult spot in balancing the budget to provide essential services. He asked that the public help if they don't want to see the sales tax number increase.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Ordinance 12-54**, An Ordinance of the Homer City Council, Amending HCC 9.16.040 and HCC 9.16.100 to Make Certain Categories of Nonprepared Foods Subject to the City of Homer Sales Tax on a Year-Round Basis. Lewis. Recommended Dates: Introduction November 26, 2012, Public Hearing And Second Reading December 10, 2012.

Mayor Wythe called for a motion for the adoption of Ordinance 12-54 for introduction and first reading by reading of title only.

LEWIS/DOLMA – SO MOVED.

BURGESS/ROBERTS – MOVED TO POSTPONE THIS ORDINANCE TO A TIME WHEN THERE IS A DEFINITIVE YES OR NO VOTE OR NONPASSAGE OF ORDINANCE 12-53 AT OUR NEXT MEETING.

Councilmember Howard asked that the ordinance remain on schedule as it will run concurrent with Ordinance 12-53.

Councilmember Burgess would like the public to consider the merits of this ordinance and Ordinance 12-53.

VOTE: (postponement) YES. BURGESS

VOTE: NO. ROBERTS, DOLMA, ZAK, HOWARD, LEWIS

Motion failed.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 12-55**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Highway Safety Program Grant for DUI Enforcement and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Recommended Dates: Introduction November 26, 2012, Public Hearing And Second Reading December 10, 2012.

Memorandum 12-172 from Police Chief as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 12-55 for introduction and first reading by reading of title only.

LEWIS/HOWARD - SO MOVED

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 12-56**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant in the Amount of \$4,760.00 for a Temporary Part-Time IT Aide for the Public Library and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Recommended Dates: Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012.

Memorandum 12-173 from Library Director as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 12-56 for introduction and first reading by reading of title only.

DOLMA/BURGESS – SO MOVED.

City Manager Wrede noted the discrepancy on the grant agreement. Library Director Dixon applied for \$4,760. He suggested the amount be amended to an amount up to \$7,280 to reflect the language in the grant agreement.

ROBERTS/LEWIS - MOVED TO CHANGE ON LINES 9, 17, 27 AND 30 UP TO AN AMOUNT OF \$7,280.

There was no discussion.

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

Motion carried.

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

Motion carried.

- D. **Ordinance 12-57**, An 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. Recommended Dates: Introduction November 26, 2012, Public Hearing and Second Reading December 10, 2012.

Memorandum 12-169 from City Manager as backup.

Memorandums 12-156 and 12-147 from Public Works Director as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 12-57 for introduction and first reading by reading of title only.

LEWIS/BURGESS - SO MOVED.

Discussion on putting a couple hundred yards of dredge materials out for the public ensued. The materials are being sold to recoup as much money back as possible for the Nick Dudiak Fishing Lagoon dredging project. As city code stands, dredge materials may not be removed from the Spit.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

CITY MANAGER'S REPORT

- A. City Manager's Report

City Manager Wrede reported a number of the Council went to AML. People in town deserve a pat on the back from the information they received. There are a number of cities complaining about air quality. Homer is ahead of the game in sewage and water treatment, and energy conservation in public buildings. They talked about Homer for half of the presentations, where Homer has funded energy conservation. An article in the Library Journal touts the Homer Public Library as a star library among four others in Alaska. The focus was on circulation per capita at 20.6% and visits per capita 25.1%.

People are dumping trash at dumpsters on the Spit. The City could ask the Borough to place a couple trash bins on the Spit.

We are getting questions if deferred assessments for the natural gas line will be available for seniors. If intended, Council will need to identify a source of money for deferrals. We can obtain borough records to get a sense of age and possible income to determine how many deferrals may be sought. If Council goes forward with the gas line they will need to upfront administrative costs and one loan payment.

Asked how the deferral could be applied to something the city does not own, Attorney Klinkner advised the deferred assessment could have interest accrue and be payable. An opportunity for the property owner to realize savings if they convert to gas could trigger the liability to begin.

The City received \$2M for Main Street intersection improvements that must be used. On the January agenda there will be discussion about roundabouts vs. a stoplight.

Councilmember Howard commended the employees on the Wellness Program.

B. Bid Report

C. Games Report

1. Alaska State Elks Association – Homer Elks Lodge 2127

CITY ATTORNEY REPORT

Attorney Klinkner outlined the three court cases that have had a dramatic increase in legal charges. Those are Auction Block vs. City of Homer, Griswold vs. City of Homer, and Neal vs. City of Homer. The Auction Block case is challenging the port and harbor tariff and treatment of lessees. The case is on a fast track and does not allow flexibility for the parties. The fixed dates have required intensive effort from September through November. The hearing will be held the first quarter of next year. There are pending motions to dispose of issues, which, if ruled in the City's favor will dispose of the case. The appeal from the decision on Griswold vs. City of Homer public records request on emails stemmed from voter information on a 2008 bond

election. It went through Superior Court where the City prevailed and is now in Supreme Court. A brief is to be filed soon. If the City prevails, the Superior Court has awarded \$11,000 in attorney fees. Neal vs. City of Homer claims the City is liable to plow Beluga Lake for ice skating. The land donation was made in 1983. The case has been briefed before Superior Court and is amenable to decision.

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

Mayor Wythe reported there will be a public hearing in January to share concepts the committee has been looking at. This includes a billing process based on usage with a nominal monthly fee. The next meeting for the task force is December 4 at 5:15 p.m.

PENDING BUSINESS

NEW BUSINESS

- A. **Memorandum 12-174**, from City Clerk, Re: Vacation of the 20-Foot Pedestrian Easement Within Tract A-1 Dedicated by Alfred Anderson Subdivision Pratt Museum Replat (Plat HM 2008-75); and Vacate the 10-Foot Utility Easement Along the West Boundary of Lot 14-A and 15-A Granted by Bunnell's Subdivision No. 17 (Plat HM 86-44) and the 10-Foot Utility Easement Along the West Boundary of Lot 15-A-1 Granted by Bunnell's Subdivision 1996 Pratt Museum Addition (Plat HM 97-13); Within Section 19, Township 6 South, Range 13 West, Seward Meridian, Alaska; the City of Homer and Within the Kenai Peninsula Borough; KPB File 2012-160; Location: City of Homer.

Mayor Wythe called for a motion for approval of the recommendations of Memorandum 12-174 to vacate pedestrian and utility easements at the Pratt Museum.

LEWIS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Memorandum 12-175**, from City Clerk, Re: Post Travel Authorization for Councilmember Dolma to Attend the Alaska Municipal League 62nd Annual Local Government Conference in Anchorage, Alaska, November 12 - 16, 2012.

Mayor Wythe called for a motion for approval of the recommendations of Memorandum 12-175 to authorize post travel for Councilmember Dolma.

LEWIS/ROBERTS – SO MOVED.

The AML annual conference comes up very close to the election, not allowing Council to make prior travel approval for new members.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

RESOLUTIONS

- A. **Resolution 12-095**, A Resolution of the Homer City Council Adopting an Alternative Allocation Method for the FY 13 Shared Fisheries Business Tax Program and Certifying That This Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in the Cook Inlet Fisheries Management Area. City Manager.

Mayor Wythe called for a motion for the adoption of Resolution 12-095 by reading of title only.

LEWIS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 12-096**, A Resolution of the City Council of Homer, Alaska, Approving a New Two Year Contract in the Amount of \$40,000 Per Year with Anderson Group, LLC for Legislative Consulting and Lobbying Services. City Manager.

ROBERTS/HOWARD - MOVED TO ADOPT RESOLUTION 12-096.

ROBERTS/BURGESS – MOVED TO AMEND LINE 7 TO CHANGE TWO TO ONE YEAR CONTRACT, LINE 21 TO MAKE ONE YEAR AND CHANGE DATE IN LINE 22 TO 2013 AND ADD THE PHRASE WITH THE OPTION TO RENEW FOR ONE YEAR, AND CHANGE LINE 32 AND 9 TO ONE.

The amendment would be for a one year contract with Anderson Group, LLC for lobbying services.

BURGESS/ROBERTS - MOVED TO AMEND WITH THE OPTION TO REVIEW AT THE CURRENT RATE.

Air fare and lodging for one trip to Homer per year are not included in the resolution.

HOWARD/LEWIS – MOVED TO POSTPONE FOR IT TO GO BACK TO THE DRAWING BOARD AND ALL PARTIES ARE IN AGREEMENT.

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

Motion carried.

- C. **Resolution 12-097**, A Resolution of the City Council of Homer, Alaska, Expressing Support for a Code Blue Grant Application in the Amount of \$153,000 for a New Ambulance, Authorizing the City Manager to Execute the Appropriate Documents, and Pledging that it will Appropriate the Required Ten Percent Match (\$17,000) if the Grant is Awarded. City Manager/Fire Chief.

Memorandum 12-176 from Fire Chief as backup.

Mayor Wythe called for a motion for the adoption of Resolution 12-097 by reading of title only.

BURGESS/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Resolution 12-098**, A Resolution of the City Council of Homer, Alaska, Awarding a Contract to Pacific Pile and Marine, LP, of Seattle, Washington, in an Amount Not to Exceed \$25,000 for Fender Pile Removal at the Deep Water Dock and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Port and Harbor Director.

Mayor Wythe called for a motion for the adoption of Resolution 12-098 by reading of title only.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Resolution 12-099**, A Resolution of the City Council of Homer, Alaska, Approving a Memorandum of Agreement Between the Homer Playground Project (HoPP), The Homer Foundation, and the City of Homer Regarding Future Maintenance and Oversight Responsibilities for the New Playground at Karen A. Hornaday Hillside Park. City Manager.

Mayor Wythe called for a motion for the adoption of Resolution 12-099 by reading of title only.

LEWIS/DOLMA - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- F. **Resolution 12-100**, A Resolution of the City Council of Homer, Alaska, Authorizing Participation in the Community Development Block Grant Program. City Manager.

Mayor Wythe called for a motion for the adoption of Resolution 12-100 by reading of title only.

HOWARD/BURGESS – SO MOVED.

ROBERTS/LEWIS - MOVED TO AMEND LINE 15 TO PUT \$150,000 IN AND DELETE THE WORDS ON LINE 12 "OR A GRANT PROGRAM TO PAY NATURAL GAS HOMER SPECIAL ASSESSMENT DISTRICT ASSESSMENTS ON BEHALF OF LOW INCOME SENIORS."

There was no discussion.

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

Motion carried.

HOWARD/LEWIS -- MOVED TO AMEND TO ADD PRIOR TO THE FINAL APPROVAL OF RESOLUTION 12-100 WE DECLARE THERE ARE NO ALTERNATIVE PROPOSALS SO WE ARE SUBMITTING THESE ITEMS FOR THE GRANT.

A correction to Line 6 for "COUNCIL" was noted.

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

Motion carried.

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

Motion carried.

G. **Resolution 12-101**, A Resolution of the City Council of Homer, Alaska, Acknowledging the October 2012 Surplus Equipment Bid Results. City Clerk.

Mayor Wythe called for a motion for the adoption of Resolution 12-101 by reading of title only.

LEWIS/BURGESS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Kelly Cooper, Homer resident, appreciates Council's time and effort and consideration of the block grant.

Bill Smith, Kachemak City resident, is supportive of natural gas.

Larry Slone, city resident, commented on the budget discussions and expressed his support for natural gas.

COMMENTS OF THE CITY ATTORNEY

Attorney Klinkner commented Attorney Wells will be at the December 10th meeting and he will be available by phone if needed.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede had no comment.

COMMENTS OF THE MAYOR

Mayor Wythe thanked Council for their work on the budget this week. She thanked staff for their efforts of getting information to this meeting. She encouraged people to do research in the race to the bottom. It is defined as tightening the noose where everyone is sliding down.

COMMENTS OF THE CITY COUNCIL

Councilmember Dolma thanked the folks that came to speak tonight.

Councilmember Howard thanked the folks that came to speak. She cast a lot of no votes tonight. This will be her last meeting for six weeks.

Councilmember Burgess thanked the city staff for allowing participation in AML. The conference was a testament to what a well-run organization the City of Homer is. The Newly Elected Officials training had already been touched on. He learned Homer is ahead of other Alaskan cities on a lot of things. He thanked Bill Smith for talking about natural gas. There is no good short term alternative to fuel oil, although natural gas is cheaper. He thanked everyone that came to testify and looks forward to seeing more people on December 10th.

Councilmember Zak thanked Katie for the block grant resolution. We are already seeing the fruits of her position; if we race to the bottom we will not fund things like Katie's job. He thanked everyone that serves on boards of directors; that is what helps to add to the quality of life in the community. There was a great sense of community tonight with the proclamations. It takes everyone working together instead of just the City Council. Council has a lot of hard thought to make the right decisions for the community and he appreciates the support. There is no other community he would choose to live in; part of it is the people that choose to live here.

Councilmembers Roberts and Lewis had no comments.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 9:28 p.m. The next Regular Meeting is Monday, December 10, 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.

JO JOHNSON, CMC, CITY CLERK

Approved: _____

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-179

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK *W*

DATE: DECEMBER 3, 2012

SUBJECT: APPLICATION FOR LIQUOR LICENSE RENEWALS FOR BELUGA LAKE LODGE AND BEST WESTERN BIDARKA INN

We have been notified by the ABC Board of liquor license renewals within the City of Homer for the following:

Type: Beverage Dispensary – Tourism
Lic #: 4795
DBA Name: Beluga Lake Lodge
Premise Address: 204 Ocean Drive Loop, Homer, AK
Owner: Beluga Lake Lodge Inc.
Mailing Address: 575 Sterling Highway, Homer, AK 99603

Type: Beverage Dispensary – Tourism
Lic #: 4795
DBA Name: Best Western Bidarka Inn
Premise Address: 575 Sterling Highway, Homer, AK
Owner: Beluga Lake Lodge Inc.
Mailing Address: 575 Sterling Highway, Homer, AK 99603

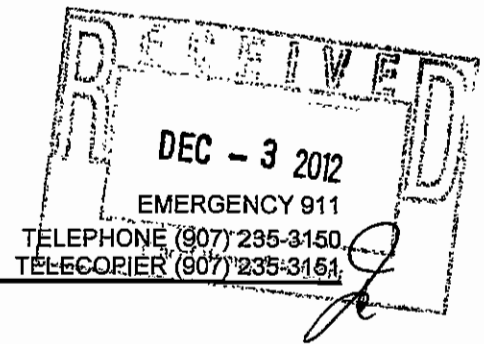
RECOMMENDATION: Voice non objection and approval for the liquor license renewals.

Fiscal Note: Revenues.



CITY OF HOMER POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609



MEMORANDUM

DATE: November 29th 2012
TO: Melissa Jacobsen, CMC, Deputy City Clerk
FROM: Mark Robl, Chief of Police *MR*
SUBJECT: Liquor License

The Homer Police Department has no objection to the liquor license for the following business:

Type: Beverage Dispensary-Tourism
Lic #: 4795
DBA Name: Beluga Lake Lodge
Premise Address: 204 Ocean Drive Loop, Homer AK 99603
Owner: Beluga Lake Lodge Inc
Mailing Address: 575 Sterling Highway, Homer, AK 99603

1944

C-320



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

5848 E. Tudor Road
Anchorage, Alaska 99507
Main: 907.269.0350
Chris Lambert: 907.269.0359
TDD: 907.465.5437
Fax: 907.272.9412

November 26, 2012

RE: Liquor License Renewal Notice

Attn: Homer City Clerk Kenai City Clerk
Seldovia City Clerk Seward City Clerk
Soldotna City Clerk Kenai Peninsula Borough Clerk

HOMER

Type: Beverage Dispensary - Tourism
Lic #: 4795
DBA Name: Beluga Lake Lodge
Service Location: 204 Ocean Drive Loop
Owner: Beluga Lake Lodge Inc
Mailing Address: 575 Sterling Hwy., Homer, AK 99603

Type: Beverage Dispensary - Tourism
Lic #: 1402
DBA Name: Best Western Bidarka Inn
Service Location: 575 Sterling Hwy.
Owner: Beluga Lake Lodge Inc
Mailing Address: 575 Sterling Hwy., Homer, AK 99603

OUTSIDE CITY LIMITS

Type: Restaurant Eating Place -- Public Convenience
Lic #: 4840
DBA Name: La Casa Italiana
Service Location: 51795 Kenai Spur Hwy.
Owner: Luis M. Elias-Delgado
Mailing Address: PO Box 8474, Nikiski, AK 99635

Type: Package Store
Lic #: 877
DBA Name: The Pit
Service Location: 11857 Seward Hwy.
Owner: Clear Creek Investments Inc.
Mailing Address: PO Box 1451, Seward, AK 99664

Note: Applications applied for under AS 04.11.400(g), 13 AAC 104.335(a)(3), AS 04.11.090(e), and 13 AAC 104.660(e) must be approved by the governing body.

If you have any questions or concerns regarding this information, please feel free to contact me.

Sincerely,

SHIRLEY A. COTÉ
Director

/s/Christine C. Lambert
Christine C. Lambert
Licensing & Records Supervisor
Christine.lambert@alaska.gov

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



Fax-ed 11-28-12

491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM

TO: MARK ROBL, POLICE CHIEF

FROM: MELISSA JACOBSEN, DEPUTY CITY CLERK

DATE: NOVEMBER 28, 2012

SUBJECT: LIQUOR LICENSE RENEWAL FOR BELUGA LAKE LODGE AND BEST WESTERN
BIDARKA INN

We have been notified by the ABC Board of a liquor license renewal within the City of Homer for the following:

Type: Beverage Dispensary – Tourism
Lic #: 4795
DBA Name: Beluga Lake Lodge
Premise Address: 204 Ocean Drive Loop, Homer, AK
Owner: Beluga Lake Lodge Inc.
Mailing Address: 575 Sterling Highway, Homer, AK 99603

Type: Beverage Dispensary – Tourism
Lic #: 4795
DBA Name: Best Western Bidarka Inn
Premise Address: 575 Sterling Highway, Homer, AK
Owner: Beluga Lake Lodge Inc.
Mailing Address: 575 Sterling Highway, Homer, AK 99603

This matter is scheduled for the December 10, 2012 City Council meeting. Please respond with an objections/non-objections to this liquor license renewal by **Wednesday, December 5, 2012**.

Thank you for your assistance.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Commerce, Community,
and Economic Development

ALCOHOLIC BEVERAGE CONTROL BOARD

5848 E. Tudor Road
Anchorage, Alaska 99507
Main: 907.269.0350
Chris Lambert: 907.269.0359
TDD: 907.465.5437
Fax: 907.272.9412

November 26, 2012

RE: Liquor License Renewal Notice

Attn: Homer City Clerk Kenai City Clerk
Seldovia City Clerk Seward City Clerk
Soldotna City Clerk Kenai Peninsula Borough Clerk

HOMER

Type: Beverage Dispensary - Tourism
Lic #: 4795
DBA Name: Beluga Lake Lodge
Service Location: 204 Ocean Drive Loop
Owner: Beluga Lake Lodge Inc
Mailing Address: 575 Sterling Hwy., Homer, AK 99603

Type: Beverage Dispensary - Tourism
Lic #: 1402
DBA Name: Best Western Bidarka Inn
Service Location: 575 Sterling Hwy.
Owner: Beluga Lake Lodge Inc
Mailing Address: 575 Sterling Hwy., Homer, AK 99603

OUTSIDE CITY LIMITS

Type: Restaurant Eating Place – Public Convenience
Lic #: 4840
DBA Name: La Casa Italiana
Service Location: 51795 Kenai Spur Hwy.
Owner: Luis M. Elias-Delgado
Mailing Address: PO Box 8474, Nikiski, AK 99635

Type: Package Store
Lic #: 877
DBA Name: The Pit
Service Location: 11857 Seward Hwy.
Owner: Clear Creek Investments Inc.
Mailing Address: PO Box 1451, Seward, AK 99664

Type: Beverage Dispensary
Lic #: 876
DBA Name: The Pit
Service Location: 11857 Seward Hwy.
Owner: Clear Creek Investments Inc.
Mailing Address: PO Box 1451, Seward, AK 99664

Type: Beverage Dispensary - Tourism
Lic #: 897
DBA Name: The Place Bar & Motel
Service Location: 53791 Sparrow Lane
Owner: John R. Young
Mailing Address: PO Box 1037, Kenai, AK 99611

Type: Beverage Dispensary - Seasonal
Lic #: 1956
DBA Name: The Saltry
Service Location: West Ismailof Island
Owner: The Saltry Inc.
Mailing Address: PO Box 6410, Halibut Cove, AK 99603

Type: Lodge - Seasonal
Lic #: 4928
DBA Name: Tutka Bay Lodge
Service Location: South Shore Tutka Bay
Owner: Within the Wild Adventure Company
Mailing Address: PO Box 91419, Anchorage, AK 99509

Type: Club
Lic #: 2604
DBA Name: V.F.W. Post #10221
Service Location: 72551 Milo Fritz Avenue
Owner: Anchor Point Post #10221, VFW
Mailing Address: PO Box 374, Anchor Point, AK 99556

Type: Package Store
Lic #: 3738
DBA Name: W. M. Likors
Service Location: 19194 Sterling Hwy.
Owner: Wildman TR Inc.
Mailing Address: PO Box 724, Cooper Landing, AK 99572.

SELDOVIA

Type: Restaurant Eating Place - Seasonal
Lic #: 209
DBA Name: The Mad Fish Restaurant
Service Location: 221 Fulmor Ave.
Owner: Isabelle's Fine Catering Inc.
Mailing Address: 35022 Forest Lane, Soldotna, AK 99669

SEWARD

Type: Restaurant Eating Place
Lic #: 3230
DBA Name: Apollo Restaurant
Service Location: 229 Fourth Ave.
Owner: Konstantinos Kanaras
Mailing Address: PO Box 1443, Seward, AK 99664

Type: Restaurant Eating Place – Public Convenience
Lic #: 5040
DBA Name: Chattermark
Service Location: 220 Fourth Ave.
Owner: Chattermark LLC
Mailing Address: Seward, AK 99664

Type: Restaurant Eating Place – Public Convenience
Lic #: 4915
DBA Name: Railway Cantina
Service Location: 308 N Harbor Street
Owner: Taco Dans LLC
Mailing Address: PO Box 2284, Seward, AK 99664

Type: Beverage Dispensary - Seasonal
Lic #: 2790
DBA Name: Ray's Waterfront Bar & Grill
Service Location: 1316 Fourth Ave.
Owner: Janaska Corporation
Mailing Address: PO Box 1750, Seward, AK 99664

SOLDOTNA

Type: Recreational Site
Lic #: 5023
DBA Name: Kenai River Brown Bears
Service Location: Soldotna Sports Center – 530 Arena Drive
Owner: Kenai Peninsula Youth Foundation, Inc.
Mailing Address: PO Box 2613, Kenai, AK 99611

Type: Beverage Dispensary - Tourism
Lic #: 2695
DBA Name: King Salmon Motel & Restaurant
Service Location: 35530 Kenai Spur Hwy.
Owner: A Kearlee Wright
Mailing Address: PO Box 430, Soldotna, AK 99669

Type: Club
Lic #: 2217
DBA Name: V.F.W. Post #10046
Service Location: 134 N Birch Lane
Owner: Jerry V. Horn Memorial Post #10046
Mailing Address: 134 N Birch Lane, Soldotna, AK 99669

We have received a renewal application for the above listed licenses within your jurisdiction. This is the notice as required under AS 04.11.520. Additional information concerning filing a "protest" by a local governing body under AS 04.11.480 is included in this letter.

A local governing body as defined under AS 04.21.080(11) may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the board **and** the applicant with a clear and concise written statement of reasons in support of a protest within 60 days of receipt of this notice. If a protest is filed, the board will not approve the application unless it finds that the protest is "arbitrary, capricious and unreasonable". Instead, in accordance with AS 04.11.510(b), the board will notify the applicant that the application is denied for reasons stated in the protest. The applicant is entitled to an informal conference with either the director or the board and, if not satisfied by the informal conference, is entitled to a formal hearing in accordance with AS 44.62.330-44.62-630. **IF THE APPLICANT REQUESTS A HEARING, THE LOCAL GOVERNING BODY MUST ASSIST IN OR UNDERTAKE THE DEFENSE OF ITS PROTEST.**

Under AS 04.11.420(a), the board may not issue a license or permit for premises in a municipality where a zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages, unless a variance of the regulation or ordinance has been approved. Under AS 04.11.420(b) municipalities must inform the board of zoning regulations or ordinances which prohibit the sale or consumption of alcoholic beverages. If a municipal zoning regulation or ordinance prohibits the sale or consumption of alcoholic beverages at the proposed premises and no variance of the regulation or ordinance has been approved, please notify us and provide a certified copy of the regulation or ordinance if you have not previously done so.

Protest under AS 04.11.480 and the prohibition of sale or consumption of alcoholic beverages as required by zoning regulation or ordinance under AS 04.11.420(a) are two separate and distinct subjects. Please bear that in mind in responding to this notice.

AS 04.21.010(d), if applicable, requires the municipality to provide written notice to the appropriate community council(s).

If you wish to protest the application referenced above, please do so in the prescribed manner and within the prescribed time. Please show proof of service upon the applicant. For additional information please refer to 13 AAC 104.145, Local Governing Body Protest.

Note: Applications applied for under AS 04.11.400(g), 13 AAC 104.335(a)(3), AS 04.11.090(e), and 13 AAC 104.660(e) must be approved by the governing body.

If you have any questions or concerns regarding this information, please feel free to contact me.

Sincerely,

SHIRLEY A. COTÉ
Director

/s/Christine C. Lambert
Christine C. Lambert
Licensing & Records Supervisor
Christine.lambert@alaska.gov

*Office of the Mayor
Mary E. Wythe
Homer City Hall*

*491 E. Pioneer Avenue
Homer, Alaska 99603-7624*

*Phone 907-235-8121 x2229
Fax 907-235-3143*



MEMORANDUM 12-180

TO: HOMER CITY COUNCIL
FROM: MARY E. WYTHE, MAYOR
DATE: DECEMBER 3, 2012
SUBJECT: APPOINTMENT OF JOSHUA ROSS TO THE ECONOMIC DEVELOPMENT
ADVISORY COMMISSION.

Joshua Ross is appointed to the Economic Development Advisory Commission to fill the seat vacated by Monte Davis. His appointment will expire April 1, 2015.

RECOMMENDATION:

Confirm the appointment of Joshua Ross to the Economic Development Advisory Commission.

Fiscal Note: N/A



**CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM**

NOV 26 2012 PM 04:56
CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

Name Date

Physical Address City

Mailing Address Zip Code

Phone Work # Cell #

Email Address

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
<input type="checkbox"/>	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
<input checked="" type="checkbox"/>	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2ND TUESDAY OF THE MONTH AT 6:00 P.M.
<input type="checkbox"/>	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
<input type="checkbox"/>	PARKS & RECREATION ADVISORY COMMISSION	3RD THURSDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PORT & HARBOR ADVISORY COMMISSION	4TH WEDNESDAY - JANUARY TO APRIL & SEPTEMBER TO DECEMBER AT 5:00 P.M. 4TH WEDNESDAY - MAY - AUGUST AT 6:00 P.M.
<input type="checkbox"/>	PUBLIC ARTS COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:00 P.M.
<input type="checkbox"/>	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
<input type="checkbox"/>	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
<input type="checkbox"/>	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	

I have been a resident of the City for mos. yrs I have been a resident of the area for 30 mos. yrs.

I am presently employed as:

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

Have you ever served on a similar commission, committee, board or task force?

If so when and where?

When are you available for meetings? Weekly Monthly Bi-Monthly

I am interested in serving on the above because:

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

Yes No If yes, please list organizations:

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence?

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis?

If yes, is you use primarily: Commercial Recreational Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

VISITORS

**ANNOUNCEMENTS
PRESENTATIONS
BOROUGH REPORT
COMMISSION REPORTS**

Dear Mayor Wythe,

My name is Grant Arseneau. I am a student at Homer high school and a lifetime resident of Kachemak bay. I have grown up in this wonderful community, and I have watched it evolve year by year according to the high expectations held by the residents of this town. I too share these expectations, and they lead me address some concerns for the well-being of commuters of Homer. Even with the installments of traffic lights in two problem intersections in homer, there are two still intersections in need of an alternative method to regulate traffic.

The First is the three way intersection where Pioneer Avenue and the New Seward highway intersect. Constant ebb of traffic at this intersection prevents motorists turning left from Pioneer onto New Seward Highway in a timely fashion, causing traffic buildup and more carbon dioxide emissions. The same applies for motorists turning left from the Seward highway onto Pioneer Avenue. During high traffic timeframes this intersection is especially hard to turn on. For example during the morning rush to school and work, from around 7:55-8:20, the return journey as well around 3:30 and 5:00, this intersection is nearly impossible to make a turn in a timely fashion. By installing either a rotary or stoplight I think that it would reduce the frequency of traffic pileups, simultaneously decreasing greenhouse emissions and saving drivers a few drops of gasoline.

The other intersection that I am concerned about is where Heath Street and Pioneer avenue meet. It faces many of the same problems as the intersection mentioned above, including traffic buildup at the times stated above. Another thing that makes it hard to cross the intersection is that the streets aren't perpendicular to each other. There is a three lane road on Pioneer at this point making it extremely time consuming to cross for drivers going South on Heath street if there are other drivers in the turning lane on pioneer. I would hope that the city of homer could build its first roundabout at this intersection, seeing as there is available space; it would fix the problem of the intersecting streets that aren't anywhere near perpendicular.

Thank you for your time, I hope my considerations are taken into account.

Sincerely,





Office of the Mayor

Mary E. Wythe

Homer City Hall
491 E. Pioneer Avenue
Homer, Alaska 99603-7624

Phone 907-235-8121 x2229
Fax 907-235-3143

December 3, 2012

Mr. Grant Arseneau
Homer High School
600 East Fairview Avenue
Homer, AK 99603

Dear Mr. Arseneau:

I appreciate your teacher encouraging students to become more involved in local governance. Hopefully, beginning to pay attention to decisions that will impact your future while you are young will increase your awareness and ability to influence those types of decisions in the future.

As traffic volumes began to grow in Homer, the City developed a traffic management plan hoping to get ahead of the growth. Unfortunately, many of the main intersections identified as needing to be upgraded are on roads that do not belong to the City (Pioneer Avenue, Main Street, Sterling Highway, and Lake Street), but rather are owned by the State of Alaska. As a result, in order for any upgrade to take place the intersections have to be included on the State's road maintenance list, which makes accessing funds all the more difficult.

The City Council does include the Intersection Improvement Plan in the City of Homer Capital Improvement Plan year after year, and as a result funding has been allocated to install traffic control at the Main Street/Sterling Highway and Main Street/Pioneer Avenue intersections. The Council will continue to promote the improvement of the remaining intersections and consider alternatives that may ease traffic in the mean time. This is a costly project that will take a number of years to reach full resolution.

Thank you for taking the time to write to me about the intersection problems in Homer. I hope to hear from you on future Council matters.

Sincerely,

Mary E. Wythe
Mayor, City of Homer

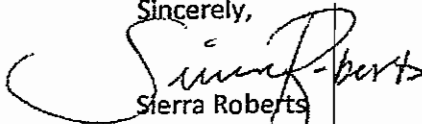
October 17, 2012

Dear Beth Wythe,

Hello, I am a student at Homer High and would like to bring attention to the corner of Svedlund St. and Pioneer Ave. When coming down Svedlund, at the stop sign, to the left side there are large flower boxes along with a telephone pole blocking the view of Pioneer Ave. The flower boxes and telephone pole together create somewhat of a blind spot for drivers turning off of Svedlund St. The problem of the blind spot is worst during the summer when there are flowers planted in the boxes. The flowers usually grow to be somewhat tall and add to the blocked view of Pioneer Ave. I find this to be a safety issue for drivers trying to turn off of Svedlund St. on to Pioneer Ave.

Frequently driving Svedlund St, I usually have to pull out farther onto Pioneer than is typical when at a stop sign. This corner is a hazard to the safety of all drivers in Homer. I propose that the flower boxes are moved somewhere else in town. The flowers look nice during the summer time but shouldn't be a safety hazard. Moving the boxes would clear the visibility at the corner, making it easier and safer for drivers. Another option would be to stop planting flowers during the summer time in those boxes. Thank you for your time.

Sincerely,


Sierra Roberts



Office of the Mayor

Mary E. Wythe

Homer City Hall
491 E. Pioneer Avenue
Homer, Alaska 99603-7624

Phone 907-235-8121 x2229
Fax 907-235-3143

December 3, 2012

Ms. Sierra Roberts
Homer High School
600 East Fairview Avenue
Homer, AK 99603

Dear Ms. Roberts:

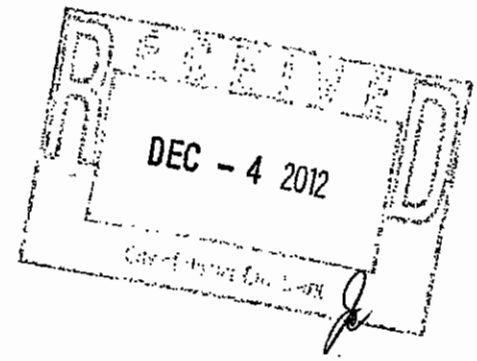
I appreciate that your teacher is encouraging students to become more involved in local governance. Becoming involved and starting to pay attention to how decisions that will impact your future are made now, will increase your awareness and ability to influence those types of decisions in the future.

I am very familiar with the line-of-sight issue that you are referring to at the Svedlund/Pioneer Avenue intersection. I do not know if the flower boxes belong to the property owner or the City, but will be glad to pass your concern along to staff for consideration.

Thank you for taking the time to write to me about this important issue. I hope to hear from you on future Council matters.

Sincerely,

Mary E. Wythe
Mayor, City of Homer



December 3, 2012

To: City Council

From: Mayor Wythe

RE: AML Conference
Conference of Mayors
Meeting with Governor

I was privileged to represent the City of Homer at this years' Alaska Municipal League Conference in Anchorage November 12 – 16. My schedule was as follows:

Monday – Newly Elected Officials Training. The content of the first day training was a welcome refresher since it has been eight years since I attended the NEO training. I was in attendance with Council members Burgess and Dolma and there were a variety of topics discussed (Roles & Responsibilities; Budget; Lobbying; Open Meetings Act, etc.). An item of particular interest was that two (2) members of a Council appointed committee can meet without being in violation of the open meetings act. This change in protocol could be helpful as committee members try to work on development of presentations, etc. outside of regular meetings. I have requested the Clerk to review and verify this standard since it is a change in the current standard. The budget presentation was also near to my heart when he said things like, “If it’s not in the budget, it can’t happen”, and “find it before you spend it; don’t spend it until you find it.”

Tuesday – Conference of Mayors. This was my first opportunity to attend this meeting and it was interesting to hear what other communities are doing and the difficulties that they face. Just as with Homer, for most communities energy and fuel prices are a top concern, but the prices that are being paid in the villages make our complaints seem unfounded.

Tuesday – Meeting with Governor Parnell. Walt and I were able to meet with Governor Parnell at 1:30 p.m. First I thanked the Governor for visiting Homer for the second Voices Over Violence community meeting and discussed ongoing activities within Homer towards becoming a Green Dot Pilot Community for Alaska and the inclusion of the Fourth R (Respect) into the school curriculums. Following these discussion, the CIP priorities were presented requesting the Governor include funding for the Municipal Harbors Grant Fund in the coming budget. Governor Parnell reviewed the CIP and asked some questions regarding the Skyline Drive Fire Station (item 3 on our list). All

told, it was a good first meeting and I am optimistic about future opportunities to work with the Governor for the benefit of Homer.

Wednesday – Friday AML Sessions and business meeting.

The program was set up with break-out sessions on various topics. In addition to the general session presentation on the World of 2020, I sat in on:

Scalable Federal Engineering Solutions, which discussed the Corp of Engineering financing processes. Not much new here.

The Public Works & Infrastructure Policy Committee where they approved moving our resolution supporting the full funding of the Municipal Harbors Grant Fund forward.

Investment Policy & Asset Allocation for Local Governments which confirmed that our plan for investing the Homer Permanent Fund is on track.

Basis & Legislative Research Techniques which provided an overview of using the State's on-line system for keeping track of legislation as it flows through the processes during session.

PERS again! This was an interesting discussion regarding some of the nuances of the PERS underfunded liability repayment agreement. Of particular interest is how the penalty for a reduction in staff is impacting very small communities and a discussion on potential alternatives for resolving this.

At the annual membership meeting on Friday morning, our resolution supporting the full funding of the Municipal Harbors Grant Fund was approved by the Board and will be included in the 2013 policy statement. If funded, this program will provide the additional monies needed to complete the harbor improvements, and Homer is number one on the priority list this year.

The AML board also proposed an abbreviated policy statement to be used in promoting the priorities for 2013 (copy attached).

I appreciate the Council's authorization of my attendance of this years' AML conference.

ALASKA MUNICIPAL LEAGUE

SUMMARY OF PRINCIPLES

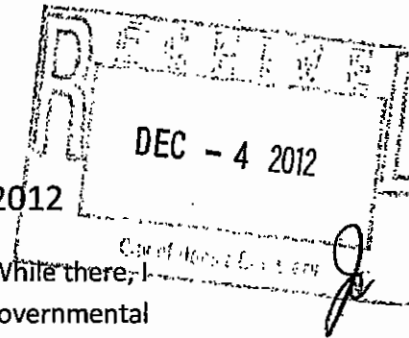
The Alaska Municipal League supports state policies that no longer increase burdens on local governments by shifting state responsibilities or that do not require municipalities to carry out state policies which thus increase local tax burdens.

The Alaska Municipal League supports adequate funding by the State of Alaska for basic public services, such as education, public safety, transportation, water and sewer.

The Alaska Municipal League supports municipal self-determination both in the form of local government to have and to regulate local land use and development.

The Alaska Municipal League supports the state in providing Revenue Sharing and thus helping municipalities to better provide consistent and dependable energy and transportation for all Alaskans.

Report on the Alaska Municipal League Conference 2012



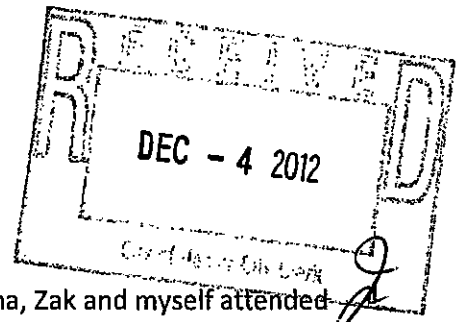
I attended the Alaska Municipal League Conference in Anchorage Nov. 12 and 13. While there, I attended classes on: roles and responsibilities of Municipal officers, Budgets and Governmental accounting, Lobbying, Local tax policy, The Open Meetings Act, Quasi-judicial role and Ex-parte contact, Ethics, Parliamentary Procedures and conducting effective meetings.

Jill Dolan and Michael Gatti on Quasi-judicial and Ex Parte contact, and Ethics and conflict of interest were especially good. Several sections of the conference reinforced the training I attended last year with the planning commission. Having had a ear on the P & Z commission I was able to see the information in a larger light.

Across the two days several examples were given relating to Homer. From the sessions and from talking to other participants from other cities it seems that Homer is in front of the curve on doing things right.

All in all the conference was worthwhile and I appreciate having had the chance to attend.

Jams Dolma



Dear Mayor, Council and Citizens of Homer,

The AML conference that Mayor Wythe and Councilmembers Dolma, Zak and myself attended early in November was an extremely useful educational experience. I attended the conference Monday and Tuesday and participated, along with Mr. Dolma, in the Newly Elected Officials (NEO) orientation and presentations. The wealth of information at this event was unparalleled. I only wish that there could have been some kind of NEO orientation shortly after I was appointed earlier this year. I envy Mr. Dolma his timing. The first day we focused mostly on the basic rules of the Open Meetings Act and on conflicts of interest. We also learned a bit about the various capacities in which councilmembers act as elected officials: legislative, administrative and quasi-judicial. It was very helpful to understand for the first time the different concerns, limitations and abilities a councilmember has when acting in these varying capacities.

The second day we delved more deeply in to parliamentary procedures, Robert's Rules of order, etc. We also were able to delve more deeply into some of the legal grey areas of the OMA, conflicts of interest, due process and other public official concerns. These topics and the information they elicited from presenters were my favorites of the entire event.

I cannot speak to the benefits of the rest of the AML conference, but the NEO portion is certainly a must for any newly elected official, councilmember or otherwise. I think this is an extremely valuable use of city staff time and resources. From a financial standpoint, this is a no brainer – a solid return on investment. I can only imagine how many lawsuits having this knowledge will help to prevent. Please don't remind me that I wrote this the next time I click "reply-all" to an e-mail.

As an aside, the AML conference gave me a great deal of pride in our city for two reasons: (1) Homer is ahead of the curve in many ways, and the way in which our community is looked to as an example and a leader across the State was made clear more than once at the conference. (2) A great deal of the basic information and the current concerns about the OMA and conflicts of interest were points that had already been made clear to me by the City Clerk, and via various meetings and educational sessions we have gotten from staff and the attorneys since I was appointed. City staff should feel very proud of this fact, and the citizens of Homer can be pleased with the value and integrity of our municipal government and the people who work for it.

Sincerely,
Beauregard Burgess

Alaska Municipal League Conference attendance report by Councilman Zak

NOV 29 2012

On Wednesday November 14th, 2012

Attended the opening ceremony AML Opening Ceremonies at which the Mayor Sullivan of Anchorage and Governor Parnell shared insights on the future of Alaska in 2013 and beyond. There was then time to visit exhibits. Exhibits of interest to me were the Alaska Housing and Finance and the Alaska Small Business Development Centers.

At noon an economist provided a presentation on "Imagining the World 2020". The bottom line is that we as citizens are in some of the best historical times then we have ever been in. I enjoyed this presentation so much that I stayed around for the session shared by the same speaker on "Creating a Vibrant Community for Tomorrow".

During the late afternoon I attended the Policy Statement Changes & Resolution committee where we discussed AML's policies with regards to Revenue & Finance.

Thursday, November 15th, 2012

From 9:00am to 10:15 am, I attended a very informative meeting presented by Lobbyist Ray Galispe on how to effectively lobby the legislature. This presentation covered subjects shared by the presenter learned from a lifetime of working in or lobbying the legislature including "Do's and Don'ts" as well as how to be prepared for a visit to Juneau.

From 10:30 a.m. – 11:45 a.m. I attended a workshop on Cultivating Financial Partnerships where I increased my understanding of the Alaska Division of Economic Development lending and economic development programs. There is an opportunity through for communities to partner with private businesses.

From 1:45 p.m. – 3:30 p.m. I attended an open discussion on PERS and gained a clear understanding of why municipalities have to be so careful in Alaska when it comes to hiring new employees.

On Friday, November 16th

I attended and participated in the AML Annual Business Meeting where we voted on and finalized our 2013 policy statements and resolutions.

Respectfully submitted,

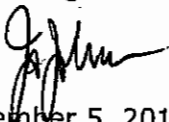
Bryan Zak
Councilman,
City of Homer

PUBLIC HEARING(S)

All interested persons are welcomed to attend and give testimony. Written testimony received by the Clerk's Office prior to the meeting will be provided to Council.

** Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, the City of Homer Kiosks at City Clerk's Office, Captain's Coffee, Harbormaster's Office, and Redden Marine Supply of Homer and the City's homepage - <http://clerk.ci.homer.ak.us>. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us or fax 235-3143.

Jo Johnson, CMC, City Clerk

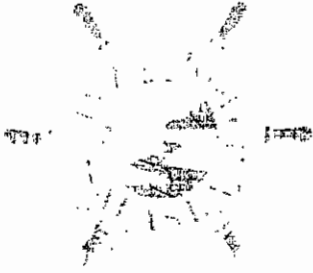


Publish: Homer Tribune: December 5, 2012

CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, CMC, Deputy City Clerk I for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for Ordinance 12-53, An Ordinance of the Homer City Council, Amending HCC 9.16.010(A) and HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100 Reinstating on a Year-Round Basis the City of Homer Sales Tax Imposed on Sales of Non Prepared Foods; Ordinance 12-54, An Ordinance of the Homer City Council, Amending HCC 9.16.040 and HCC 9.16.100 to Make Certain Categories of Nonprepared Foods Subject to the City of Homer Sales Tax on a Year-Round Basis; Ordinance 12-47(A), An Ordinance of the City Council of Homer, Alaska, Appropriating Funds for the Calendar Year 2013 for the General Fund, the Water-Sewer Fund, the Port/Harbor Fund, Debt Funds, and Capital Reserve Funds (Conditional Expenditures); Resolution 12-088, A Resolution of the City Council of Homer, Alaska, Maintaining the City of Homer Fee Schedule at the Current Rates. City Clerk. Recommended to follow Budget Ordinance 12- 47 schedule; Resolution 12-089, A Resolution of the City Council of Homer, Alaska, Maintaining the Port of Homer Terminal Tariff No. 600. City Clerk. Recommended to follow Budget Ordinance 12-47 schedule; Ordinance 12-55, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Highway Safety Program Grant for DUI Enforcement and Authorizing the City Manager to Execute the Appropriate Documents; Ordinance 12-56(A), An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant in an Amount up to \$7,280.00 for a Temporary Part-Time IT Aide for the Public Library and Authorizing the City Manager to Execute the Appropriate Documents; Ordinance 12-57, An 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 at the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office, and Redden Marine Supply of Homer, on November 30, 2012 and that the City Clerk posted same on City of Homer Homepage on November 30, 2012.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 30th day of November, 2012.



Renee Krause
Renee Krause, CMC, Deputy City Clerk I

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-53

An Ordinance of the Homer City Council, Amending HCC 9.16.010(A) and HCC 9.16.040, and Repealing and Reenacting HCC 9.16.100 Reinstating on a Year-Round Basis the City of Homer Sales Tax Imposed on Sales of Non Prepared Foods.

Sponsor: Zak

1. City Council Regular Meeting November 26, 2012 Introduction
 - a. Kenai Peninsula Borough Ordinance 2008-28
 - b. Ordinance 08-32(S)(A-2)
 - c. City Attorney Memorandum re: Effect of Vote on Proposition to Repeal Sales Tax Exemption
 - d. Written public comments

2. City Council Regular Meeting December 10, 2012 Public Hearing and Second Reading
 - a. Substitute Ordinance 12-53(S)
 - b. Kenai Peninsula Borough Ordinance 2008-28
 - c. Ordinance 08-32(S)(A-2)
 - d. City Attorney Memorandum re: Effect of Vote on Proposition to Repeal Sales Tax Exemption
 - e. Written public comments

1 CITY OF HOMER
2 HOMER, ALASKA

Zak

3
4 ORDINANCE 12-53
5

6 AN ORDINANCE OF THE HOMER CITY COUNCIL,
7 AMENDING HCC 9.16.010(A) AND HCC 9.16.040, AND
8 REPEALING AND REENACTING HCC 9.16.100
9 REINSTATING ON A YEAR-ROUND BASIS THE CITY OF
10 HOMER SALES TAX IMPOSED ON SALES OF
11 NONPREPARED FOODS.
12

13 WHEREAS, A proposition was passed by the voters in the Kenai Peninsula Borough
14 (“Borough”) exempting nonprepared foods from sales tax from September 1st through May 31st;
15 and
16

17 WHEREAS, The Borough adopted Ordinance 2008-28 authorizing cities within the
18 Borough, including the City of Homer (“City”), to continue taxing nonprepared foods during the
19 period from September 1st through May 31st despite the Borough’s exemption of such foods from
20 sales tax during those months; and
21

22 WHEREAS, The City enacted Ordinance 08-32(S)(A-2) on December 8, 2008 exempting
23 the sales of nonprepared foods from City sales tax during September 1st through May 31st of each
24 year; and
25

26 WHEREAS, The loss of sales tax revenues on the sale of nonprepared foods has had a
27 substantial negative impact on funding for essential City services including but not limited to
28 water, sewer, and road project matching funds and has required the almost complete elimination
29 of all non-essential City services; and
30

31 WHEREAS, It is in the City’s best interest to reinstate the sales tax on nonprepared foods
32 at the full 4.5% rate on a year-round basis to provide funding for City services.
33

34 THE CITY OF HOMER HEREBY ORDAINS:
35

36 Section 1. The City of Homer exercises the authority granted it under Kenai
37 Peninsula Borough Ordinance 2008-28 to levy and collect sales taxes on nonprepared food items
38 on a year-round basis notwithstanding Kenai Peninsula Borough Initiative Ordinance 2008-01.
39

40 Section 2. Section 9.16.010(a) of the Homer City Code is hereby amended to read as
41 follows:
42

43 9.16.010 Levied. a. A consumer’s sales tax in the amount of three percent is
44 levied by the City on all sales, rents and services within the City except as the
45 same may be otherwise exempted by law. ~~provided that the rate of sales tax on~~
46 ~~nonprepared food items shall be 1.5% during the period from September 1~~

47 ~~through May 31. This reduced tax rate imposed on nonprepared foods items shall~~
48 ~~no longer be effective if the Borough's exemption of nonprepared foods from its~~
49 ~~sales tax is repealed or overturned. As used in this subsection, the term~~
50 ~~"nonprepared foods" shall have the meaning ascribed to that term in Chapter 5.18~~
51 ~~of the Kenai Peninsula Borough Code, as the same may be amended from time to~~
52 ~~time.~~

53
54 Section 3. Section 9.16.040 of the Homer City Code is hereby amended to read as
55 follows:

56
57 9.16.040 Borough Provisions Adopted by Reference. Except for provisions
58 regarding exemption from sales tax, which are addressed in Section 9.16.100 of
59 this chapter, Those sections of the Kenai Peninsula Borough Code of Ordinances
60 applicable to the levy and collection of the sales tax described in this chapter are
61 incorporated by this reference and made a part of this chapter as though fully set
62 forth in this chapter.

63
64 Section 4. Section 9.16.100 of the Homer City Code is hereby repealed and reenacted
65 to read as follows:

66
67 9.16.100 Exemptions. Except for sales of nonprepared food items, all
68 sales, rentals, and services that are exempted from sales tax under the Kenai
69 Peninsula Borough Code as amended from time to time shall be exempt from the
70 sales tax levied under Section 9.16.010 of this chapter.

71
72 Section 5. This ordinance is of a permanent and general character and shall be
73 included in the city code.

74
75 Section 6. This ordinance shall take effect January 1, 2013.

76
77
78 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this
79 day of _____, 2012.

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83 CITY OF HOMER

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87 _____
88 MARY E. WYTHER, MAYOR
89
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93 ATTEST:

94

95

96

97 JO JOHNSON, CMC, CITY CLERK

98

99

100 AYES:

101 NOES:

102 ABSTAIN:

103 ABSENT:

104

105 First Reading:

106 Public Reading:

107 Second Reading:

108 Effective Date:

109

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111 Reviewed and approved as to form:

112

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115 Walt Wrede, City Manager

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117 Date: _____

118

Thomas F. Klinkner, City Attorney

Date: _____

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**CITY OF HOMER
HOMER, ALASKA**

Zak

ORDINANCE 12-53(S)

AN ORDINANCE OF THE HOMER CITY COUNCIL,
AMENDING HCC 9.16.010(A) AND HCC 9.16.040, AND
REPEALING AND REENACTING HCC 9.16.100
REINSTATING ON A YEAR-ROUND BASIS THE CITY OF
HOMER SALES TAX IMPOSED ON SALES OF
NONPREPARED FOODS.

WHEREAS, A proposition was passed by the voters in the Kenai Peninsula Borough
("Borough") exempting nonprepared foods from sales tax from September 1st through May 31st;
and

WHEREAS, The Borough adopted Ordinance 2008-28 authorizing cities within the
Borough, including the City of Homer ("City"), to continue taxing nonprepared foods during the
period from September 1st through May 31st despite the Borough's exemption of such foods from
sales tax during those months; and

WHEREAS, The City enacted Ordinance 08-32(S)(A-2) on December 8, 2008 exempting
the sales of nonprepared foods from City sales tax during September 1st through May 31st of each
year; and

WHEREAS, The loss of sales tax revenues on the sale of nonprepared foods has had a
substantial negative impact on funding for essential City services including but not limited to
water, sewer, and road project matching funds and has required the almost complete elimination
of all non-essential City services; and

WHEREAS, It is in the City's best interest to reinstate the sales tax on nonprepared foods
at the full 4.5% rate on a year-round basis to provide funding for City services.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. The City of Homer exercises the authority granted it under Kenai
Peninsula Borough Ordinance 2008-28 to levy and collect sales taxes on nonprepared food items
on a year-round basis notwithstanding Kenai Peninsula Borough Initiative Ordinance 2008-01.

Section 2. Section 9.16.010(a) of the Homer City Code is hereby amended to read as
follows:

9.16.010 Levied. a. A consumer's sales tax in the amount of three percent is
levied by the City on all sales, rents and services within the City except as the
same may be otherwise exempted by law. ~~provided that the rate of sales tax on
nonprepared food items shall be 1.5% during the period from September 1~~

47 ~~through May 31. This reduced tax rate imposed on nonprepared foods items shall~~
48 ~~no longer be effective if the Borough's exemption of nonprepared foods from its~~
49 ~~sales tax is repealed or overturned. As used in this subsection, the term~~
50 ~~"nonprepared foods" shall have the meaning ascribed to that term in Chapter 5.18~~
51 ~~of the Kenai Peninsula Borough Code, as the same may be amended from time to~~
52 ~~time.~~

53
54 Section 3. Section 9.16.040 of the Homer City Code is hereby amended to read as
55 follows:

56
57 9.16.040 Borough Provisions Adopted by Reference. Except for provisions
58 regarding exemption from sales tax, which are addressed in Section 9.16.100 of
59 this chapter, those sections of the Kenai Peninsula Borough Code of Ordinances
60 applicable to the levy and collection of the sales tax described in this chapter are
61 incorporated by this reference and made a part of this chapter as though fully set
62 forth in this chapter.

63
64 Section 4. Section 9.16.100 of the Homer City Code is hereby repealed and reenacted
65 to read as follows:

66
67 9.16.100 Exemptions. Except for sales of nonprepared food items, all
68 sales, rentals, and services that are exempted from sales tax under the Kenai
69 Peninsula Borough Code as amended from time to time shall be exempt from the
70 sales tax levied under Section 9.16.010 of this chapter.

71
72 Section 5. This ordinance is of a permanent and general character and shall be
73 included in the city code.

74
75 Section 6. This ordinance shall take effect ~~March~~ January 1, 2013.

76
77
78 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this
79 day of _____, 2012.

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83 CITY OF HOMER

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88 MARY E. WYTHE, MAYOR
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93 ATTEST:

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97 JO JOHNSON, CMC, CITY CLERK

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100 AYES:

101 NOES:

102 ABSTAIN:

103 ABSENT:

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105 First Reading:

106 Public Reading:

107 Second Reading:

108 Effective Date:

109

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111 Reviewed and approved as to form:

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115 Walt Wrede, City Manager

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117 Date: _____

118

Thomas F. Klinkner, City Attorney

Date: _____

Introduced by:	Mayor
Date:	08/19/08
Hearings:	09/02/08 & 09/16/08
Action:	Postponed Until 09/16/08
Action:	Enacted as amended
Vote:	6 Yes, 1 No, 2 Absent
Action:	Reconsideration Filed by Fischer
Date:	10/14/08
Action:	Reconsideration Failed
Vote:	1 Yes, 8 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2008-28**

**AN ORDINANCE AUTHORIZING THE GENERAL LAW CITIES IN THE KENAI
PENINSULA BOROUGH TO LEVY AND COLLECT SALES TAXES ON
NONPREPARED FOOD ITEMS**

WHEREAS, if approved by the voters in the October 7, 2008, election, ballot Proposition 1 will require that nonprepared food items be exempt from borough sales taxes from September 1 through May 31 of each year; and

WHEREAS, Alaska Statute 29.45.700 requires general law cities in the borough that levy a sales tax to levy the tax sources taxed by the borough unless the assembly by ordinance authorizes the city to levy and collect taxes on other sources; and

WHEREAS, the cities of Soldotna, Homer, and Seldovia are general law cities that levy a sales tax and will be required to exempt nonprepared foods if Proposition 1 passes, unless the assembly gives them the option to tax nonprepared food year-round; and

WHEREAS, the cities of Seward and Kenai are home rule cities and are, therefore, exempt from the statutory requirement to tax the same sources as the borough unless otherwise provided by the assembly; and

WHEREAS, at its meeting on August 13, 2008, the Soldotna City Council adopted Resolution 2008-052 requesting the Kenai Peninsula Borough to grant the city of Soldotna the option to tax nonprepared food; and

WHEREAS, at its meeting of September 10, 2008 the Seldovia City Council adopted Resolution 09-03 in support of Kenai Peninsula Borough Ordinance 2008-28; and

WHEREAS, at its meeting of July 28, 2008, the Homer City Council introduced Ordinance 08-32, amending the Homer Sales Tax Code to seasonally exempt sales of nonprepared food between September 1 and May 31 each year and scheduled that ordinance for public hearing on October 27, 2008; and

WHEREAS, exempting nonprepared food items for nine months each year will likely have a significant impact on the cities' revenues; and

WHEREAS, each city is in the best position to make policy decisions concerning whether or not to exempt nonprepared food items from its respective city sales tax; and

WHEREAS, it is accordingly appropriate to authorize the city councils of general law municipalities to make this decision on behalf of their own constituents;

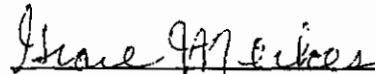
NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

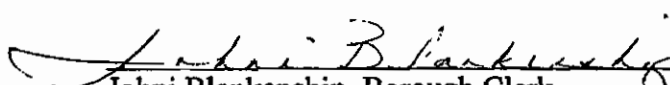
SECTION 1. That the general law cities in the Kenai Peninsula Borough are authorized to levy and collect sales taxes on nonprepared food items on a year-round basis except for sales that are required to be exempted by AS 29.45.700 as now enacted or may be hereinafter.

SECTION 2. That this ordinance shall take effect on October 14, 2008, if Proposition 1 of the Kenai Peninsula Borough regular election is approved by the voters.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF SEPTEMBER, 2008.

ATTEST:


Grace Merkes, Assembly President


Johni Blankenship, Borough Clerk



Enactment:

Yes: Long, Martin, Smith, Sprague, Superman, Merkes

No: Fischer

Absent: Gilman, Knopp

Reconsideration:

Yes: Fischer

No: Fischer, Gilman, Knopp, Long, Martin, Smith, Sprague, Superman, Merkes

Absent: None

CITY OF HOMER
HOMER, ALASKA

Mayor

ORDINANCE 08-32(S)(A-2)

1
2 AN ORDINANCE ENACTING HOMER CITY CODE
3 9.16.100 TO EXEMPT SALES OF NONPREPARED
4 FOODS FROM SEPTEMBER 1ST THROUGH MAY 31ST OF
5 EACH YEAR, PENDING COMPLETION OF AN ADVISORY
6 VOTE REGARDING THE SALES TAX STRUCTURE FOR
7 NONPREPARED FOOD ITEMS, AND INCORPORATING IN
8 THE HOMER CITY CODE ALL OTHER SALES TAX
9 EXEMPTIONS ADOPTED BY THE KENAI PENINSULA
10 BOROUGH.

11
12 WHEREAS, A proposition was passed by the voters in the Kenai Peninsula
13 Borough exempting nonprepared foods from sales tax from September 1st through
14 May 31st; and

15
16 WHEREAS, The City of Homer ("City") believes it is appropriate to exempt the
17 sales of nonprepared foods from taxation from September 1st through May 31st.

18
19 THE CITY OF HOMER HEREBY ORDAINS:

20
21 Section 1. Homer City Code Chapter 9.16 is hereby amended by adding the
22 following section 9.16.100:

23
24 9.16.100 Exemptions. The following are exempt from the Homer sales
25 tax:

26
27 a. Commencing January 1, 2009, sales of nonprepared food items from
28 September 1st through May 31st of each year.

29
30 b. All other items granted exemption from sales tax under the Kenai
31 Peninsula Borough Code as amended from time to time, except where the
32 Kenai Peninsula Borough by ordinance expressly authorizes the city to tax
33 a source exempted from sales tax by the Kenai Peninsula Borough Code
34 and the city imposes a sales tax on that source in compliance with the law.

35
36 Section 2. This exemption on nonprepared food items shall no longer be
37 effective if the Borough's exemption on nonprepared foods from its sales tax is repealed
38 or overturned.

39

40 Section 3. The Council intends to bring forward a proposition for an advisory
41 vote regarding the sales tax structure for nonprepared food items as soon as
42 administratively practical.

43
44 Section 4. This ordinance shall take effect upon its adoption by the Homer City
45 Council.

46
47 Section 5. This ordinance is of a permanent and general character and shall be
48 included in the city code.

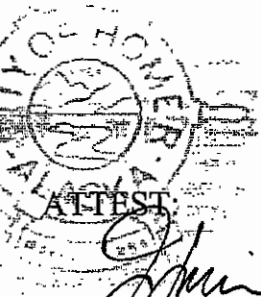
49
50 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA,
51 this 8th day of December, 2008.

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CITY OF HOMER

James C. Hornaday

JAMES C. HORNADAY, MAYOR



ATTEST

Jo Johnson

JO JOHNSON, CMC, CITY CLERK

AYES: 6
NOES: 0
ABSTAIN: 0
ABSENT: 0

First Reading: 7/28/08
Public Reading: 11/24/08
Second Reading: 12/08/08
Effective Date: 12/09/08

Reviewed and approved as to form:

Walt Wrede

Walt Wrede, City Manager

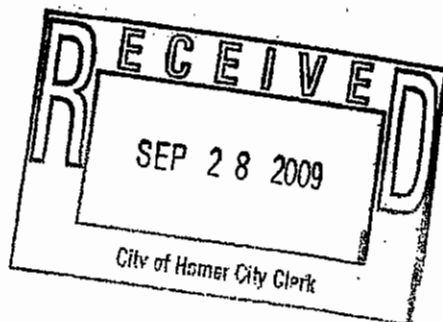
Thomas F. Klinkner

Thomas F. Klinkner, City Attorney

Date: 12/12/08

Date: 12-18-08

MEMORANDUM



TO: Walt Wrede, City Manager
Jo Johnson, City Clerk
City of Homer

FROM: Tom Klinkner

DATE: September 28, 2009

FILE NO. 506,742.1

RE: Effect of Vote on Proposition to Repeal Sales Tax Exemption

The City of Homer ("City") enacted an ordinance exempting sales of nonprepared food items from September 1 until May 31 from the City's sales tax. The City then enacted an ordinance providing for the levy of a 3% sales tax on sales of nonprepared food items from September 1 until May 31, placed a proposition for the levy of such a tax on the ballot for the October 6, 2009 regular City election, and made the tax levy subject to voter approval of the proposition. You have asked the following questions regarding the vote on this proposition:

1. If the voters do not approve the proposition, may the Council thereafter repeal the tax exemption for sales of nonprepared food items from September 1 until May 31 without voter approval?
2. If the voters approve the proposition, may the Council thereafter increase the rate of sales tax on sales of nonprepared food items from September 1 until May 31 without voter approval?

In summary, if the voters do not approve the proposition, the Council may repeal the tax exemption without voter approval. If the voters approve the proposition, it is not clear whether the Council may increase the rate of sales tax on sales of nonprepared food items from September 1 until May 31 without voter approval.

1. Background.

The City levies a sales tax under the authorization in AS 29.45.700(a):

(a) A city in a borough that levies and collects areawide sales and use taxes may levy sales and use taxes on all sources taxed by the borough in the manner provided for boroughs. Except as provided in (d) and (e) of this section, the assembly may by ordinance authorize a city to levy and collect sales and use taxes on other sources.

Before January 1, 2009, the City levied a sales tax at an aggregate rate of 4.5% "on all sales, rents and services within the City except as the same may be otherwise exempted by law."¹ The City Code did not specify any sales tax exemptions, so sales were exempt from City sales tax only if exempt under federal or state law, or exempt from the sales tax levied by the Kenai Peninsula Borough ("Borough").²

An initiative proposition to exempt sales of nonprepared food from September 1 to May 31 from Borough sales tax was placed on the ballot at the October 7, 2008 regular Borough election ("Borough Proposition").³ Under AS 29.45.700(a), voter approval of this initiative would have precluded the City from taxing the sales that the initiative exempted from Borough sales tax unless the Borough Assembly authorized it to do so by ordinance.

Anticipating the effect of this initiative on the levy of sales taxes by general law cities in the Borough, the Borough Assembly on September 16, 2008, adopted Ordinance 2008-28. Section 1 of Ordinance 2008-28 provided, "That the general law cities in the Kenai Peninsula Borough are authorized to levy and collect sales taxes on nonprepared food items on a year-round basis except for sales that are required to be exempted by AS 29.45.700 as now enacted or may be hereinafter (sic)." Ordinance 2008-28 was to become effective on October 14, 2008 if the voters approved the Borough Proposition. The voters approved the Borough Proposition at the October 7, 2008 regular Borough election. The exemption enacted by the Borough Proposition was to become effective on January 1, 2009.

With voter approval of the Borough Proposition, the authorization in Borough Ordinance 2008-28 for general law cities in the Borough to tax nonprepared food items on a year-round basis became effective on October 14, 2008. Thus, voter approval of the Borough Proposition had no effect on the application of the City sales tax to nonprepared food items. However, on December 8, 2008, the City Council adopted Ordinance 08-32(S)(A-2). This ordinance enacted HCC 9.16.100(a), making sales of nonprepared food items exempt from City sales tax from September 1 through May 31 of each year, commencing January 1, 2009. Section 3 of Ordinance 08-32(S)(A-2) also

¹ HCC 9.16.010.

² Under AS 29.45.700(a), the City's sales tax structure must mirror that of the Borough with regard to which transactions are taxable or exempt from taxation, subject to the authority of the "assembly...by ordinance [to] authorize a city to levy and collect sales and use taxes on other sources." *City of Homer v. Gangl*, 650 P.2d 396, 399-400 (Alaska 1982).

³ The initiative proposed enacting Kenai Peninsula Borough Code 5.18.200(15)(d) as follows:

(d) Sales of nonprepared food items. Sales tax is prohibited on all sales of nonprepared food items from September 1 until May 31 of each year. These food items exempted from sales tax include those which have been previously granted exemption in KPB 5.18.200(14) for food purchased with coupons issued under the federal food stamp program.

stated, "The Council intends to bring forward a proposition for an advisory vote regarding the sales tax structure for nonprepared food items as soon as administratively practical."

On January 26, 2009, the Council adopted Ordinance 09-02, providing for the levy of a sales tax on nonprepared foods at a rate of 3.0% from September 1 through May 31 of each year, effective January 1, 2010, but only if the City voters approved the following proposition ("City Proposition") at the October 6, 2009 regular City election:

Shall the City of Homer levy a sales tax on sales of nonprepared food items at a rate of 3.0%, consisting of 0.75% to fund water and sewer systems (HAWSP), 0.75% to fund construction of roads and trails (HART), and 1.5% for the general fund during the period from September 1st through May 31st?

The questions presented here concern what effect the vote on the City Proposition will have on the Council's power thereafter to legislate regarding the taxation of sales of nonprepared food items from September 1 through May 31.

2. Ordinance 09-02 Repealed a Sales Tax Exemption, which Did Not Require Voter Approval.

AS 29.35.250(a) authorizes the City to "exercise any power not otherwise prohibited by law." AS 29.20.050(a) vests the legislative power of the City in the Council. Thus, the Council may exercise its legislative power without voter approval, except where prohibited by law from doing so. One prohibition on the exercise of legislative power by the Council is the requirement in AS 29.45.670 that "[a] new sales and use tax or an increase in the rate of levy of a sales tax approved by ordinance does not take effect until ratified by a majority of the voters at an election." In contrast, the power to grant sales tax exemptions is not so limited: "[sales tax] exemptions may be granted by ordinance."⁴

*City of St. Mary's v. St. Mary's Native Corporation*⁵ addressed the question whether a city council could repeal a sales tax exemption by ordinance without voter approval. The City's sales tax ordinance had exempted from taxation the part of a sale in excess of \$1,000. The case challenged the council's repeal of this exemption by ordinance. The court held that repealing a sales tax exemption neither increases the rate of levy of a sales tax, nor imposes a new sales tax—the two actions that AS 29.45.670 makes subject to voter approval.⁶ Thus, the city council could repeal the sales tax exemption under its implicit authority to repeal any ordinance that it had the power to enact:

⁴ AS 29.45.650(a).

⁵ 9 P.3d 1000 (Alaska 2000).

⁶ 9 P.3d at 1006-1008.

Alaska Statute 29.45.650(a) grants a municipality the power to grant an exemption to a sales tax by ordinance without voter approval. We conclude that this grant of power implies the power to repeal such an exemption by ordinance. As one commentator has observed:

Specific grant of power to repeal ordinances, however, ordinarily is not necessary since it is the general rule that power to enact ordinances implies power, unless otherwise provided in the grant, to repeal them. It is patently obvious that the effectiveness of any legislative body would be entirely destroyed if the power to amend or repeal its legislative acts were taken away from it.

Moreover, Alaska's constitution and our prior case law require us to interpret AS 29.45.650(a) in favor of the broad power of municipal governments. We have concluded that article X, section 1 of the Alaska Constitution restrains us from implying limitations "on the taxing authority of a municipality where none are expressed."⁷

While the amendments of the City Code in Ordinance 09-02 speak in terms of the levy of a sales tax on nonprepared food items from September 1 through May 31, their effect is to partially repeal the tax exemption for such sales that was enacted by Ordinance 08-32(S)(A-2). Under the court's analysis in *City of St. Mary's*, the City Code amendments in Ordinance 09-02 neither increase the rate of levy of a sales tax, nor impose a new sales tax, and could take effect without voter approval.

3. If the Voters Reject the City Proposition, the Council Nonetheless May Repeal the Sales Tax Exemption for Nonprepared Food Items without Voter Approval.

Ordinance 09-02 only makes voter approval of the City Proposition a condition to the effectiveness of its partial repeal of the tax exemption for sales of nonprepared food items from September 1 through May 31. Voter rejection of the City Proposition merely causes the failure of that condition. It has no other legal effect. Nothing in Ordinance 09-02 indicates that voter rejection of the City Proposition would restrict the Council's authority to legislate regarding the sales tax exemption for nonprepared food items. Moreover, such a restriction is not permissible. It is a well established rule of municipal law that a city council may not limit the legislative power of future councils by prohibiting the repeal of an ordinance:

The power of repeal extends, generally speaking, to all ordinances. Indeed, a municipal corporation cannot abridge its own legislative powers

⁷ 9 P.3d at 1007 (footnotes omitted).

by the passage of irrevocable ordinances. The members of its legislative body are trustees for the public, and the nature and limited tenure of their office impress the ordinances enacted by them with liability to change. One council may not by an ordinance bind itself or its successors so as to prevent free legislation in matters of municipal government. Accordingly, in the absence of a valid provision to the contrary, a municipal council or assembly, having the power to legislate on, or exercise discretionary or regulatory authority over, any given subject, may exercise that power at will by enacting or repealing an ordinance in relation to that subject.⁸

Thus, the Council's adoption of Ordinance 09-02 could not "abridge its own legislative power" by either expressly or implicitly attributing that result to the voters' rejection of the City Proposition. Notwithstanding voter rejection of the City Proposition, the Council may repeal the sales tax exemption for nonprepared food items in Ordinance 08-32(S)(A-2) without voter approval.

4. Voter Approval of the City Proposition May Preclude the Council from Eliminating the Remainder of the Exemption for Sales of Nonprepared Food Items.

In upholding the repeal of a sales tax exemption by ordinance, the *City of St. Mary's* decision also took notice of the specific manner in which the repealed sales tax exemption had been adopted. The city's voters had authorized a sales tax by approving the following ballot measure: "Shall the City of St. Mary's levy a 3% sales tax?"⁹ Only after the vote did the city council adopt a detailed sales tax ordinance that included exemptions, among which was the exemption whose repeal by the council was the subject of the litigation.¹⁰ One of the *City of St. Mary's* opinion's concluding statements indicates that this sequence of events may have affected the outcome of the case: "We therefore conclude that when a local government grants an exemption by ordinance **and the exemption is not subjected to a public vote**, it may repeal that exemption by ordinance without a public vote."¹¹

The court examined this qualifying phrase in *Interior Cabaret, Hotel, Restaurant & Retailers Association v. Fairbanks North Star Borough ("ICHERRA")*.¹² This case concerned a sales tax on alcoholic beverages that the borough levied pursuant to voter approval of the following ballot proposition: "Shall the Fairbanks North Star Borough levy an areawide 5% tax on the retail sale of alcoholic beverages with limited exemptions for alcoholic beverage sales to the extent taxed by the City of Fairbanks

⁸ 6 McQuillin, *The Law of Municipal Corporations* § 21.10, at 374 (rev.3d ed. 2007) (footnotes omitted).

⁹ 9 P.3d at 1004.

¹⁰ *Id.*

¹¹ 9 P.3d at 1007-1008 (emphasis added).

¹² 135 P.3d 1000 (Alaska 2006).

and the City of North Pole?"¹³ The opponent of the tax argued that the ballot proposition impermissibly restricted the authority of the borough assembly to later repeal the exemptions referred to in the ballot proposition:

ICHRRA correctly points out that the exemptions in Ordinance 2003-52 may have made the sales tax more palatable to some voters; it argues that because borough voters approved both the tax and the exemptions, repeal of or reduction in the exemptions would be a new tax or an increase in the rate of levy. ICHRRRA reasons that the assembly therefore cannot repeal the exemptions without voter approval. This, ICHRRRA argues, is a violation of the separation of powers because it takes budget authority away from the assembly and places it in the hands of the voters.¹⁴

The court acknowledged the basis for this argument in the *City of St Mary's* decision:

In *St. Mary's* we concluded that "when a local government grants an exemption by ordinance and the exemption is not subjected to a public vote, it may repeal that exemption by ordinance without a public vote." ***The negative implication of this statement may be that when exemptions are approved by public vote, they may not be repealed by a mere ordinance.***¹⁵

However, the court rejected the separation of powers argument, concluding that, even if a voter-approved sales tax exemption could not be repealed without voter approval, the borough's sales tax was valid: "We see no separation of powers problem with an areawide tax that includes voter-approved exemptions that require voter approval for repeal."¹⁶

Before resolving the separation of powers issue, though, the court also examined the "negative implication" that it observed in the *City of St. Mary's* decision, returning to the language used in the statute authorizing sales tax exemptions:

Moreover, AS 29.45.650(a) provides that "[e]xemptions *may* be granted by ordinance." (Emphasis added.) The use of the permissive term "may" suggests that ordinances are not the sole means by which exemptions may be granted. We therefore do not read AS 29.45.650(a) as either precluding the adoption through referendum of a sales tax with

¹³ 135 P.3d at 1002.

¹⁴ 135 P.3d at 1004.

¹⁵ *Id.* (footnote omitted, emphasis added).

¹⁶ *Id.*

exemptions or mandating that repeal of an exemption adopted in this manner would require voter approval.¹⁷

But the court's statement that it did not interpret AS 29.45.650(a) to require voter approval for the "repeal of an exemption adopted [as part of a voter-approved sales tax referendum]" was not its last word on this subject. It concluded with the following disclaimer:

Because the assembly has not attempted to repeal these exemptions, we need not decide here whether it could do so without voter approval.¹⁸

Thus, if a sales tax referendum includes a description of tax exemptions in the question whether to levy a sales tax, it is not certain whether a sales tax exemption described in the referendum is subject to repeal without voter approval.

As discussed above, the City Code amendments in Ordinance 09-02 partially repeal a sales tax exemption—they do not levy a new sales tax. If the voters approve the City Proposition, they are only ratifying that partial repeal. In contrast to the situation that was presented in *ICHRRA*, the voters would not be ratifying the levying of a new sales tax, subject to exemptions. Nonetheless, there is the same feature that the court noticed in *ICHRRA*, that the reduced rate of taxation of sales of nonprepared food items in the City Proposition might have made the partial repeal of the tax exemption more palatable to some voters. This, combined with the court's observation in *ICHRRA* that an ordinance is not the exclusive means of granting a sales tax exemption under AS 29.45.650(a), might lead a court to reason by analogy that a voter-ratified partial repeal of a sales tax exemption precludes a further repeal of the exemption by ordinance.

However, there also is a viable argument for the contrary result. As discussed above, under the holding in *City of St. Mary's*, the amendments to the City Code in Ordinance 09-02 that partially repealed the tax exemption for sales of nonprepared food items from September 1 to May 31 were not required to be subject to voter approval. As in the case of voter rejection of the City Proposition, voter approval of the City Proposition cannot deprive a future Council of authority to act on the same subject.

Thus, it is unclear whether voter approval of the City Proposition would preclude the Council from subsequently modifying or repealing the remaining exemption of sales of nonprepared foods from the full 4.5% sales tax previously authorized by the voters.

¹⁷ *Id.* (footnotes omitted, emphasis added).

¹⁸ 135 P.3d at 1004 n. 20.

OCT 30, 2012

To All Homer City Council Members —

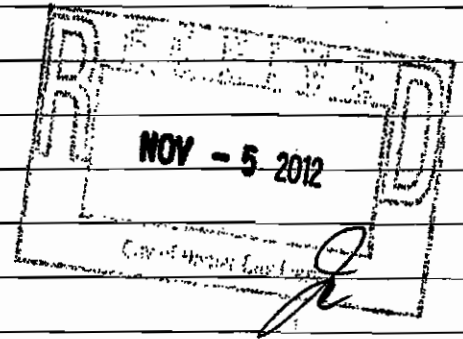
My name is Robert Townsend. I'm 64 year old and Live off of less than \$20,000 per year. Please don't mess with the tax exemption for groceries without first bringing it to a vote of the people.

I Live within my means and do without many things I can't afford. I wish you would do the same.

Thank You,

Robert Townsend

Ph # 907-748-1925



Jo Johnson

From: Mary Griswold <mgrt@xyz.net>
Sent: Wednesday, November 28, 2012 4:02 PM
To: Department Clerk
Subject: Budget & sales tax reinstatement

I support reinstatement of the year-around sales tax on nonprepared foods because it helps distribute the cost of city services to beneficiaries outside the city. My comments are probably unnecessary because it sounds like you already have four votes to pass it and spend the revenue it will generate. \$30,000 is plenty to spend on promotional advertising for Homer. We do not need a city lobbyist. Modern communication and transportation enable city officials to maintain effective pressure on our legislators to support our requests.

I am opposed to the city sponsoring and financing the natural gas line build-out because this is a real potential budget buster. If there are not enough essential city services to occupy city employees' time, then staffing should be reduced. The gas line build-out can be better managed by Enstar working with interested neighborhoods and subdivisions. The city has spent a lot of time and resources promoting this private enterprise and will spend a lot more trying to collect the assessments from property owners who cannot afford to pay them. Or taxpayers will foot this bill. Since the HSAD also appears to be a done deal, please know that I oppose deferring assessments for anyone because this is not city-owned infrastructure or responsibility. I regret that the city has railroaded this project which may cause unnecessary hardship for a lot of people.

Jo Johnson

From: rogerimhoff@alaska.net
Sent: Thursday, November 29, 2012 7:59 AM
To: Department Clerk
Subject: sales tax

I followed in the paper the pros/cons of re-instating the "grocery tax" and as a long time resident of the Homer area and supporter of our small businesses, I have to go on the opposing side (of re-instating) for a few simple reasons:

1. The Majority of the money that is not being spent on the grocery tax stays in the community and is most likely taxed on other purchases.

This simple action supports our local economy. I believe the positive effect of this "spreading out the spending" has a greater positive effect than City of Homer spending, particularly on personnel.

2. There are alot people just hanging on by their fingernails around here, especially during the winter months. I think the reduced tax helps where it is important in putting food on the table. I know it helps us out.

3. The City is by no means going to shut the doors at City Hall or Public Works or the Harbor without the additional funds. There is always room for fiscal restraint.

Sincerely,
Roger Imhoff

DEC - 3 2012

3 years ago 60% of Homer residents voted against a winter time sales tax increase on groceries. The whole idea was that the working poor would have one place to spend their money where the city government didn't have their hand out.

Prior to that ballot question, in the fall of 2009, the city attorney was asked his opinion about the legality of the city council ending the food tax exemption *"even if the public voted to keep it"*. In his written letter to the council he said that according to the superior court of Alaska - it's not certain whether or not it would be legal. That has not deterred some council members and it should.

Here's what the court decision actually says: "...we concluded that 'when a local government grants an exemption by ordinance and the exemption is 'not' subjected to a public vote, it may repeal that exemption by ordinance without a public vote". ***The negative implication of this statement may be that when exemptions are approved by public vote they may not be repealed by a mere ordinance.***" The court's last words on the subject further stated that a decision on this issue could not be made until a borough (or council) government actually tried to take away a sales tax exemption once the voters ratified it. This is exactly the situation the city of Homer finds itself in right now.

According to state law it is fairly clear that if the sales tax exemption had never gone to a public vote, the council who granted the exemption could have just as easily taken it away. That's not what happened. We didn't just vote on whether or not to 'keep the exemption' - We actually voted on specific language of whether or not to raise the food tax to 3% - and it's a very important distinction.

Elected officials are fond of saying they are listening to their constituents. Having 10 people tell you not to cut something is hardly significant public input. Having 5 or 10 people tell you that they want you to raise taxes on food is hardly a mandate. But that's exactly what's happening here. It's even more distressing because the council members pushing this consider themselves enlightened progressive people. There is nothing progressive at all about raising sales tax rates on groceries.

The question all of us should be asking - is why aren't they letting us vote on it? I had a council member tell me that the public didn't need to vote on it because he was elected to make the hard choices. I'd say going against what 60% of the people voted for is not only a 'hard' choice - but a stupid one as well. I am certain that if the winter food sales tax is reinstated - that very shortly afterward there will be a public initiative and enough signatures gathered to put this issue on the ballot next fall.

The reality is that government generally spends every single dollar it can get. And when they do all the department heads want more. Then once a year the administrator and finance people come to the council with a new budget, a somber look on their faces, and in an apologetic tone of voice they ask for a little more. The next time some well meaning individual tells you that another 30 or 40 dollars a month out of your family food budget is really no big deal, you should ask them how they know.

The slogan on the side of city vehicles reads: "The city that works". Perhaps we should change that to "The city that can't say no". We need to elect councilmen who understand that's exactly what their job is sometimes. It is our job to tell them how much we are willing to be taxed. We deserve that vote and we will have it - one way or another.

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-54

An Ordinance of the Homer City Council, Amending HCC 9.16.040 and HCC 9.16.100 to Make Certain Categories of Nonprepared Foods Subject to the City of Homer Sales Tax on a Year-Round Basis.

Sponsor: Lewis

1. City Council Regular Meeting November 26, 2012 Introduction
 - a. Kenai Peninsula Borough Ordinance 2008-28
 - b. Ordinance 08-32(S)(A-2)
 - c. Kenai Peninsula Borough Initiative Ordinance 2008-01

2. City Council Regular Meeting December 10, 2012 Public Hearing and Second Reading
 - a. Substitute Ordinance 12-54(S)
 - b. Kenai Peninsula Borough Ordinance 2008-28
 - c. Ordinance 08-32(S)(A-2)
 - d. Kenai Peninsula Borough Initiative Ordinance 2008-01

1 CITY OF HOMER
2 HOMER, ALASKA

Lewis

3
4 ORDINANCE 12-54
5

6 AN ORDINANCE OF THE HOMER CITY COUNCIL,
7 AMENDING HCC 9.16.040 AND HCC 9.16.100 TO MAKE
8 CERTAIN CATEGORIES OF NONPREPARED FOODS
9 SUBJECT TO THE CITY OF HOMER SALES TAX ON A
10 YEAR-ROUND BASIS.
11

12 WHEREAS, A proposition was passed by the voters in the Kenai Peninsula Borough
13 (“Borough”) exempting nonprepared foods from sales tax from September 1st through May 31st;
14 and
15

16 WHEREAS, The Borough adopted Ordinance 2008-28 authorizing cities within the
17 Borough, including the City of Homer (“City”), to continue taxing nonprepared foods during the
18 period from September 1st through May 31st despite the Borough’s exemption of such foods from
19 sales tax during those months; and
20

21 WHEREAS, The City enacted Ordinance 08-32(S)(A-2) on December 8, 2008 exempting
22 the sales of nonprepared foods from City sales tax during September 1st through May 31st of each
23 year; and
24

25 WHEREAS, The loss of sales tax revenues on the sale of nonprepared foods has had a
26 substantial negative impact on funding for essential City services including but not limited to
27 water, sewer, and road project matching funds and has required the almost complete elimination
28 of all non-essential City services; and
29

30 WHEREAS, It is in the City’s best interest to reinstate the sales tax at the full 4.5% rate
31 on a year-round basis on the categories of nonprepared foods described in Homer City Code
32 9.16.100(c), enacted by this ordinance, to provide funding for City services.
33

34 THE CITY OF HOMER HEREBY ORDAINS:
35

36 Section 1. The City of Homer exercises the authority granted it under Kenai
37 Peninsula Borough Ordinance 2008-28 to levy and collect sales taxes on the nonprepared food
38 items described in Homer City Code 9.16.100(c), enacted by this ordinance, on a year-round
39 basis notwithstanding Kenai Peninsula Borough Initiative Ordinance 2008-01.
40

41 Section 2. Homer City Code 9.16.040 is amended to read as follows:
42

43 9.16.040 Borough Provisions Adopted by Reference. Subject to Section 9.16.100,
44 ~~F~~those sections of the Kenai Peninsula Borough Code of Ordinances applicable to the levy and
45 collection of the sales tax described in this chapter are incorporated by this reference and made a
46 part of this chapter as though fully set forth in this chapter.

93 AYES:
94 NOES:
95 ABSTAIN:
96 ABSENT:
97
98
99 First Reading:
100 Public Reading:
101 Second Reading:
102 Effective Date:
103
104
105 Reviewed and approved as to form:
106
107
108 _____
109 Walt Wrede, City Manager
110
111 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

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**CITY OF HOMER
HOMER, ALASKA**

Lewis

ORDINANCE 12-54(S)

AN ORDINANCE OF THE HOMER CITY COUNCIL,
AMENDING HCC 9.16.040 AND HCC 9.16.100 TO MAKE
CERTAIN CATEGORIES OF NONPREPARED FOODS
SUBJECT TO THE CITY OF HOMER SALES TAX ON A
YEAR-ROUND BASIS.

WHEREAS, A proposition was passed by the voters in the Kenai Peninsula Borough
("Borough") exempting nonprepared foods from sales tax from September 1st through May 31st;
and

WHEREAS, The Borough adopted Ordinance 2008-28 authorizing cities within the
Borough, including the City of Homer ("City"), to continue taxing nonprepared foods during the
period from September 1st through May 31st despite the Borough's exemption of such foods from
sales tax during those months; and

WHEREAS, The City enacted Ordinance 08-32(S)(A-2) on December 8, 2008 exempting
the sales of nonprepared foods from City sales tax during September 1st through May 31st of each
year; and

WHEREAS, The loss of sales tax revenues on the sale of nonprepared foods has had a
substantial negative impact on funding for essential City services including but not limited to
water, sewer, and road project matching funds and has required the almost complete elimination
of all non-essential City services; and

WHEREAS, It is in the City's best interest to reinstate the sales tax at the full 4.5% rate
on a year-round basis on the categories of nonprepared foods described in Homer City Code
9.16.100(c), enacted by this ordinance, to provide funding for City services.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. The City of Homer exercises the authority granted it under Kenai
Peninsula Borough Ordinance 2008-28 to levy and collect sales taxes on the nonprepared food
items described in Homer City Code 9.16.100(c), enacted by this ordinance, on a year-round
basis notwithstanding Kenai Peninsula Borough Initiative Ordinance 2008-01.

Section 2. Homer City Code 9.16.040 is amended to read as follows:

9.16.040 Borough Provisions Adopted by Reference. Subject to Section 9.16.100:
Those sections of the Kenai Peninsula Borough Code of Ordinances applicable to the levy and
collection of the sales tax described in this chapter are incorporated by this reference and made a
part of this chapter as though fully set forth in this chapter.

93 AYES:
94 NOES:
95 ABSTAIN:
96 ABSENT:
97
98
99 First Reading:
100 Public Reading:
101 Second Reading:
102 Effective Date:
103
104
105 Reviewed and approved as to form:
106
107
108
109 _____
Walt Wrede, City Manager
110
111 Date: _____

Thomas F. Klinkner, City Attorney
Date: _____

Introduced by:	Mayor
Date:	08/19/08
Hearings:	09/02/08 & 09/16/08
Action:	Postponed Until 09/16/08
Action:	Enacted as amended
Vote:	6 Yes, 1 No, 2 Absent
Action:	Reconsideration Filed by Fischer
Date:	10/14/08
Action:	Reconsideration Failed
Vote:	1 Yes, 8 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2008-28**

**AN ORDINANCE AUTHORIZING THE GENERAL LAW CITIES IN THE KENAI
PENINSULA BOROUGH TO LEVY AND COLLECT SALES TAXES ON
NONPREPARED FOOD ITEMS**

WHEREAS, if approved by the voters in the October 7, 2008, election, ballot Proposition 1 will require that nonprepared food items be exempt from borough sales taxes from September 1 through May 31 of each year; and

WHEREAS, Alaska Statute 29.45.700 requires general law cities in the borough that levy a sales tax to levy the tax sources taxed by the borough unless the assembly by ordinance authorizes the city to levy and collect taxes on other sources; and

WHEREAS, the cities of Soldotna, Homer, and Seldovia are general law cities that levy a sales tax and will be required to exempt nonprepared foods if Proposition 1 passes, unless the assembly gives them the option to tax nonprepared food year-round; and

WHEREAS, the cities of Seward and Kenai are home rule cities and are, therefore, exempt from the statutory requirement to tax the same sources as the borough unless otherwise provided by the assembly; and

WHEREAS, at its meeting on August 13, 2008, the Soldotna City Council adopted Resolution 2008-052 requesting the Kenai Peninsula Borough to grant the city of Soldotna the option to tax nonprepared food; and

WHEREAS, at its meeting of September 10, 2008 the Seldovia City Council adopted Resolution 09-03 in support of Kenai Peninsula Borough Ordinance 2008-28; and

WHEREAS, at its meeting of July 28, 2008, the Homer City Council introduced Ordinance 08-32, amending the Homer Sales Tax Code to seasonally exempt sales of nonprepared food between September 1 and May 31 each year and scheduled that ordinance for public hearing on October 27, 2008; and

WHEREAS, exempting nonprepared food items for nine months each year will likely have a significant impact on the cities' revenues; and

WHEREAS, each city is in the best position to make policy decisions concerning whether or not to exempt nonprepared food items from its respective city sales tax; and

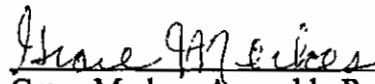
WHEREAS, it is accordingly appropriate to authorize the city councils of general law municipalities to make this decision on behalf of their own constituents;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the general law cities in the Kenai Peninsula Borough are authorized to levy and collect sales taxes on nonprepared food items on a year-round basis except for sales that are required to be exempted by AS 29.45.700 as now enacted or may be hereinafter.


SECTION 2. That this ordinance shall take effect on October 14, 2008, if Proposition 1 of the Kenai Peninsula Borough regular election is approved by the voters.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF SEPTEMBER, 2008.



Grace Merkes, Assembly President

ATTEST:



Johni Blankenship, Borough Clerk



Enactment:

Yes: Long, Martin, Smith, Sprague, Superman, Merkes

No: Fischer

Absent: Gilman, Knopp

Reconsideration:

Yes: Fischer

No: Fischer, Gilman, Knopp, Long, Martin, Smith, Sprague, Superman, Merkes

Absent: None

CITY OF HOMER
HOMER, ALASKA

Mayor

ORDINANCE 08-32(S)(A-2)

1
2 AN ORDINANCE ENACTING HOMER CITY CODE
3 9.16.100 TO EXEMPT SALES OF NONPREPARED
4 FOODS FROM SEPTEMBER 1ST THROUGH MAY 31ST OF
5 EACH YEAR, PENDING COMPLETION OF AN ADVISORY
6 VOTE REGARDING THE SALES TAX STRUCTURE FOR
7 NONPREPARED FOOD ITEMS, AND INCORPORATING IN
8 THE HOMER CITY CODE ALL OTHER SALES TAX
9 EXEMPTIONS ADOPTED BY THE KENAI PENINSULA
10 BOROUGH.

11
12 WHEREAS, A proposition was passed by the voters in the Kenai Peninsula
13 Borough exempting nonprepared foods from sales tax from September 1st through
14 May 31st; and

15
16 WHEREAS, The City of Homer ("City") believes it is appropriate to exempt the
17 sales of nonprepared foods from taxation from September 1st through May 31st.

18
19 THE CITY OF HOMER HEREBY ORDAINS:

20
21 Section 1. Homer City Code Chapter 9.16 is hereby amended by adding the
22 following section 9.16.100:

23
24 9.16.100 Exemptions. The following are exempt from the Homer sales
25 tax:

26
27 a. Commencing January 1, 2009, sales of nonprepared food items from
28 September 1st through May 31st of each year.

29
30 b. All other items granted exemption from sales tax under the Kenai
31 Peninsula Borough Code as amended from time to time, except where the
32 Kenai Peninsula Borough by ordinance expressly authorizes the city to tax
33 a source exempted from sales tax by the Kenai Peninsula Borough Code
34 and the city imposes a sales tax on that source in compliance with the law.

35
36 Section 2. This exemption on nonprepared food items shall no longer be
37 effective if the Borough's exemption on nonprepared foods from its sales tax is repealed
38 or overturned.

39

40 Section 3. The Council intends to bring forward a proposition for an advisory
41 vote regarding the sales tax structure for nonprepared food items as soon as
42 administratively practical.

43
44 Section 4. This ordinance shall take effect upon its adoption by the Homer City
45 Council.

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47 Section 5. This ordinance is of a permanent and general character and shall be
48 included in the city code.

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50 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA,
51 this 8th day of December, 2008.

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CITY OF HOMER

James C. Hornaday
JAMES C. HORNADAY, MAYOR



ATTEST

Jo Johnson
JO JOHNSON, CMC, CITY CLERK

AYES: 6

NOES: 0

ABSTAIN: 0

ABSENT: 0

First Reading: 7/28/08

Public Reading: 11/24/08

Second Reading: 12/08/08

Effective Date: 12/09/08

Reviewed and approved as to form:

Walt Wrede
Walt Wrede, City Manager

Thomas F. Klinkner
Thomas F. Klinkner, City Attorney

Date: 12/12/08

Date: 12-18-08

Sponsored by: Citizen Initiative Ordinance
Election Date: 10/07/08
Certification Date: 10/14/08
Vote: 60.15% Yes, 39.85 % No

**KENAI PENINSULA BOROUGH
INITIATIVE ORDINANCE**

**AN ORDINANCE FOR A SEASONAL (SEPTEMBER 1 TO MAY 31) EXEMPTION OF
ALL SALES OF NONPREPARED FOOD ITEMS FROM BOROUGH SALES TAX**

WHEREAS, taxation of basic food items can create a serious hardship for residents within the Kenai Peninsula Borough; and

WHEREAS, since last year, the Kenai Peninsula Borough has raised its sales tax percentage by 50% (from 2% to 3 %), and has experienced huge sales tax revenue increases from the increase price of fuel, groceries, and other necessities required by our local residents, resulting in a huge windfall of revenue to Borough coffers; and

WHEREAS, such taxation can be particularly difficult for families, the elderly, low income individuals and unemployed people; and

WHEREAS, a seasonal sales tax exemption will afford relief almost exclusively to residents of the Kenai Peninsula Borough; and

WHEREAS, burdening individuals and families who are least able to pay with taxation of products necessary for their survival is not in the best interest of our society; and

WHEREAS, most state governments exempt sales tax on unprepared food items and, of the minority that so tax unprepared food, many do so at a reduced rate; and

WHEREAS, the collection of revenue required for borough and municipal operation can be more fairly accomplished without burdening our local residents, who are least able to support such taxation.

NOW, THEREFORE, BE IT ORDAINED BY THE VOTERS OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Code is hereby amended by creating a new Section 5.18.200(15)(c) to read as follows:

5.18.200. (15)(c) Exemptions/waivers - Sales of nonprepared food items. Sales tax is prohibited on all sales of nonprepared food items from September 1 until May 31 of each year. These food items exempted from sales tax include those which have been previously granted exemption in KP.B 5.18.200(14) for food purchased with

coupons issued under the federal food stamp program.

SECTION 2. If approved by a majority of the voters, voting on this question at a regular or special election held for that purpose; this ordinance shall take effect January 1 of the year following the certification of that election.

ENACTED BY THE VOTERS OF THE KENAI PENINSULA BOROUGH AT AN ELECTION HELD ON THE 7TH DAY OF OCTOBER, 2008 WITH CERTIFICATION ON OCTOBER 14, 2008.

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-47

An Ordinance of the City Council of Homer, Alaska, Appropriating Funds for the Calendar Year 2013 for the General Fund, the Water-Sewer Fund, the Port/Harbor Fund, Debt Funds, and Capital Reserve Funds (Conditional Expenditures).

Sponsor: City Manager

1. City Council Regular Meeting October 22, 2012 Introduction
2. City Council Regular Meeting November 26, 2012 Public Hearing
3. City Council Regular Meeting December 10, 2012 Public Hearing and Second Reading
 - a. Ordinance 12-47(A) as amended on November 26
 - b. Budget Amendments
 - c. Written public comments

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**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 12-47(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, APPROPRIATING FUNDS FOR THE CALENDAR YEAR 2013 FOR THE GENERAL FUND, THE WATER-SEWER FUND, THE PORT/HARBOR FUND, DEBT FUNDS, AND CAPITAL RESERVE FUNDS (CONDITIONAL EXPENDITURES).

THE CITY OF HOMER ORDAINS:

Section 1. Pursuant to the authority of Alaska Statute, Title 29, the appropriations for Calendar Year ending December 2013 are appropriated as follows:

General Fund	\$11,430,413	<u>\$11,430,629</u>
Water-Sewer Fund	\$ 3,593,462	
Port/Harbor Fund	\$ 5,836,667	
Capital Projects	\$ 2,289,188	<u>\$ 2,369,188</u>
Internal Service Funds	<u>\$ 2,169,416</u>	
Total Expenditures	\$25,319,146	<u>\$ 25,399,362</u>

Section 2. Such amounts are appropriated to the objects and purposes stated in the adopted budget.

Section 3. A copy of the budget shall be certified by the City Clerk and filed in the Office of the City Clerk.

Section 4. The supporting Line Item Budget detail as presented by the Administration and reviewed by the City Council is incorporated as part of this Budget Ordinance.

Section 5. The property tax mill levy is set at 4.5 mills for 2013.

Section 6. This Ordinance is limited to approval of the Budget and appropriations for Calendar Year 2013, is a non code Ordinance and shall become effective January 1, 2013.

PASSED AND ENACTED by the Homer City Council on this _____ day of December, 2012.

CITY OF HOMER

MARY E. WYTHE, MAYOR

47 ATTEST:

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51 JO JOHNSON, CMC, CITY CLERK

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54 Introduction:

55 Public Hearing:

56 Second Reading:

57 Effective Date:

58

59 AYES:

60 NOES:

61 ABSTAIN:

62 ABSENT:

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64 Reviewed and approved as to form:

65

66

67 Walt E. Wrede, City Manager

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69 Date: _____

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72 Fiscal Note: See Line Item Budget and detail.

Thomas Klinkner, City Attorney

Date: _____

CITY OF HOMER

2013 PROPOSED BUDGET AMENDMENTS FORM

To add the sales tax back into revenues, excluded previously on non-prepared foods seasonally.

Account #	Name of Account	Page	Increase 1	Decrease 2	Balance 3
REVENUES WILL BE INCREASED TO COVER ADDITIONAL EXPENDITURES....					
100-4201	GF – Sales Tax	34, 52	697,004		
205-4201	HAWSP – Sales Tax	191	174,225		
160-4201	HART – Roads	192	156,802		
165-4201	HART – Trails	193	17,422		
ADDITIONAL EXPENDITURES WHICH WILL INCREASE THE BUDGET					
100-161	Police Dispatch	93	70,780		
100-145	Library - Tech II	80	49,569		
100-100	City Council – Wages	55	4,820		
100-112	Economic Development – Chamber of Commerce	66	19,000		
100-350	City Contributions – Senior Center	114	20,000		
100-xxx-5101-5105	General Fund - 2% COLA	GF	110,967		
200-xx-5101-5105	Water/Sewer – 2% COLA	WS	28,783		
400-xx-5101-5105	Port & Harbor – 2% COLA	PH	27,718		
156-367-5990	GF – Depr Res – Public Art	47	5,000		
156-384-5990	GF – Depr Res – City Hall	47	10,000		
156-385-5990	GF – Depr Res – Parks	47	20,000		
156-387-5990	GF – Depr Res – Planning	47	10,000		
156-388-5990	GF – Depr Res – Airport	47	15,000		
156-390-5990	GF – Depr Res – Library	47	15,000		
156-393-5990	GF – Depr Res – Fire	47	30,000		
156-394-5990	GF – Depr Res – Police	47	30,000		
156-395-5990	GF – Depr Res – PW	47	50,000		
To cover the 2% COLA for Water/Sewer and Port & Harbor, reduce the G/F Administrative Fee by 7% (Note: Rate may vary due to allocations made through Budget Amendments)					
100-099-4981-4985	G/F Admin Services	GF		\$90,492	
200-xx-5241	G/F Admin Services	WS		\$39,023	
400-xx-5241	G/F Admin Services	PH		\$35,830	
205-xxx-5241	G/F Admin Services	HAWSP		\$9,792	
160/165-xxx-5241	G/F Admin Service	HART		\$5,847	
Requested by: Bryan Zak		Prepared By: R. Mauras			

**CITY OF HOMER
DEPARTMENT BUDGET REQUEST
YEAR 2013**

Requesting Department Police Date 11/13/2012

Level of Need: Urgent Essential Necessary Desirable

Request for Additional Personnel:

Position Title Community Jail Officer

Salary Range & Step 10A

Full-time

Part-time Hours Per Year _____

Request Other Than Personnel:

Description _____

Fund Name: General Fund

Account Name: _____

Account # _____

Estimated Cost: _____

(FINANCE DEPT WILL COMPLETE)	
5101 Permanent Employees	<u>see below</u>
5102 Fringe Benefits	_____
5103 P/T Employees	_____
5104 Fringe Benefits P/T	_____
5105 Overtime	_____
Total Personnel Cost	(\$4,442)

Justification:

The approval of this request will result in the replacement of two to three part time jail officers with one full time jail officer. This will result in a cost savings to the city.

We currently staff the jail with three full time positions and four part time positions. The part timers split one full time slot and fill in for vacations and special needs. We have been encountering problems with our PER'S contract because our part-timers are hitting the hourly cap as early as September in most years. When this happens we have to fill in our jail schedules with police officers on overtime which is very expensive and disruptive to our patrol scheduling. By eliminating some of the part time officers and replacing them with a full time position, we will eliminate scheduling problems, free up police officers, eliminate PER'S contract concerns and save money. This will also allow us to meet the requirements for jail staffing as mandated by the state jail contract.

Impact on 2013 Budget is as follows:

Cost of Full Time Jail Officer including Benefits:	\$72,542
Removal of 2 Part Time Jail Officers Including Benefits:	\$59,484
Removal of OT from Jail PT OT (100-160-5107)	5,500
Removal of OT from Jail FT OT (100-160-5105)	8,000
Removal of OT from Police Patrol (100-163-5105)	<u>4,000</u>
Impact to budget (excluding OT Costs)	\$ 4,442

Requestor's Name: Mark Robl

Department Head Approval: Mark Robl

City Manager Recommendation: _____ Date 11/13/2012

Approved 

Denied _____

Comments _____

Requesting Department PUBLIC WORKS Date 11/7/2012

Level of Need: Urgent Essential Necessary Desirable

Request for Additional Personnel:

Position Title _____

Salary Range & Step _____

Full-time

Part-time Hours Per Year _____

Request Other Than Personnel:

Description Lift Stations

SCADA Upgrade

Fund Name: Sewer Fund

Account Name: Sewer Reserve

Account # 256.379

Estimated Cost: \$60,000

Justification:

This request is to upgrade our autodialing & SCADA systems in (5) wastewater lift stations. The original systems were installed in 1998 and the technology is outdated and no longer supported. The request is estimated at \$12,000 per station and includes the following locations.

- (2) stations located on the Spit
- (1) station on Bay Avenue
- (1) station at Kachemak City
- (1) station on Beluga Slough

Other stations, including the new station on Kachemak Drive and the Fish Outfall station on the Spit already have the new systems installed. This work will standardize all of our stations to the present technology.

Requestor's Name: Jonker / Fraizer

Department Head Approval: *Greg Meyer*

City Manager Recommendation: *Johnnie Wood*

Approved

Denied

Comments

Date 11/6/12

City of Homer
2013 Operating Budget

Amendment No.	Council Member	Fund	Page No.	FUND/DEPT	Account	Description	Proposed Budget Changes				
							General	Water/Sewer	Port & Harbor	Projects	Internal Services
2013 CHANGE IN FUND BALANCE (Page 29 of Budget)							\$ 75,019	\$ 1,115	\$ (1,490,487)	\$ 198,151	\$ 4,194
A-2	Wrede	Adjustment of Sales Tax Revenues due to Actual 2012 Data									
		General Fund	34,52	100/010	4201	Revenue - Sales Tax	40,002				
		HAWSP	191	205/000	4201	Revenue - Sales Tax				9,999	
		HART - Roads	192	160/766	4201	Revenue - Sales Tax				8,999	
		HART - Trails	193	165/375	4201	Revenue - Sales Tax				1,000	
		Change Part Time IT Postion to Full Time									
		General Fund	68	001	5101-5107	Wages & Benefits	(35,506)				
		Change in General Fund (IT Postion, changes G/F Overhead Allocation)									
		General Fund - Administration Services	53	100/099	4981-4985		11,983				
		Water & Sewer Administrative Fees	12/133	200/400&500	5241			(5,574)			
		P&H Administrative Fees	151	400/600	5241				(6,409)		
Impact on Change in 2013 Fund Balance							\$ 1,558	\$ 5,581	\$ (1,497,098)	\$ 1,213,153	\$ 4,194

CITY OF HOMER

2013 PROPOSED BUDGET AMENDMENTS FORM

Fund Name: <u>General Fund</u>		Department Number: _____			
Account #	Name of Account	Page	Increase 1	Decrease 2	Balance 3

SALES TAX REVENUES TO BE INCREASED, DUE TO ACTUAL 2012 DATA.

100-4201	GF – Sales Tax	34,52	40,002		
205-4201	HAWSP – Sales Tax	191	9,999		
160-4201	HART – Roads	192	8,999		
165-4201	HART – Trails	193	1,000		

To change the Information Technology Department Part Time Employee to a Full Time Position.

100-113	GF – Information Tech	68	36,506		

Rationale:

Trend Data for Sales Tax has been received through November 2012, indicating that Sales Tax Revenue is understated in the budget. 2012 Sales Tax Receipts are \$7,025,744. (Actual through November, estimate for December only). 2013 Budget for Sales Tax was \$7,000,000. This increases it to \$7,060,000.)

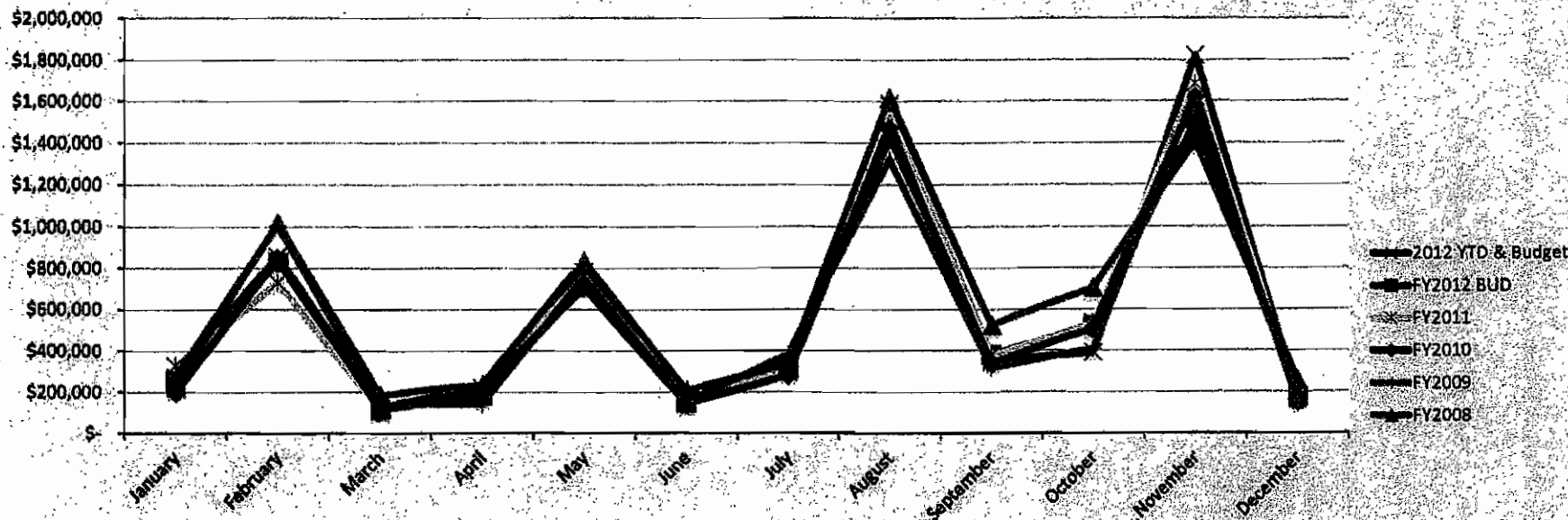
It is essential that the City expands its IT Department due to the expansion of technology. Current staffing level can not keep up with the daily work load. This will improve Efficiencies throughout the City.

Requested by: W. Wrede **Prepared By R. Mauras**

Total Sales Tax Receipts - per KPB Reports

Year	January	February	March	April	May	June	July	August	September	October	November	December	Total
FY2002	235,388	380,279	109,320	231,443	316,236	126,174	382,955	677,665	277,455	450,518	687,874	155,641	4,030,948
FY2003	224,815	483,914	113,038	158,745	513,963	138,171	295,314	826,740	276,163	451,811	752,585	150,531	4,385,789
FY2004	173,383	608,080	118,185	159,742	511,976	169,754	278,260	973,217	282,216	358,798	984,426	128,990	4,747,028
FY2005	156,436	631,587	119,393	195,704	505,108	260,454	328,133	1,387,454	326,776	503,283	1,258,696	189,159	5,862,184
FY2006	240,620	831,955	222,816	270,840	649,076	239,430	614,911	1,007,800	468,950	472,900	1,195,427	325,981	6,540,706
FY2007	631,651	700,910	189,457	234,994	880,550	131,452	343,623	1,611,240	454,949	531,720	1,629,222	150,320	7,490,087
FY2008	225,658	1,021,315	186,685	237,640	835,054	208,135	337,826	1,617,973	524,035	704,601	1,411,051	257,355	7,567,329
FY2009	271,926	1,008,458	139,485	142,821	754,668	155,318	380,202	1,323,913	316,633	407,923	1,644,807	140,103	6,686,257
FY2010	198,439	847,588	115,033	209,618	707,069	145,958	281,018	1,472,687	339,344	510,455	1,619,213	155,417	6,601,838
FY2011	326,120	727,708	110,958	222,332	759,766	161,408	306,052	1,589,654	376,522	533,966	1,686,031	162,275	6,962,792
FY2012	271,603	856,859	128,574	219,730	783,481	142,613	297,417	1,579,715	348,647	391,201	1,825,185	178,718	7,025,744
				Actual								Budget	
FY2012 BUD	257,466	835,206	118,141	185,796	718,107	149,564	312,673	1,427,023	381,442	524,633	1,511,230	178,718	6,600,000

Sales Tax Receipts Analysis



**Design Funds Available - PW Project Management Anticipated
December 2012**

Project Name	Design Funds Unexpended	Project Management Effort Anticipated
Harbor Trails to DWD and Coal Point	\$67,000	\$2,680
Harbor Restrooms - Shelter- Guard Shack	\$54,500	\$2,180
Downtown Restrooms	\$54,500	\$2,180
Deepwater Dock Fender improvements	\$25,000	\$1,000
Spit Trail Improvements (Phase II)	\$70,800	\$2,832
Main Street Intersection Improvements	\$250,000	\$10,000
Harbor Float Replacement	\$349,400	\$13,976
System 5 Electrical Improvements	\$59,200	\$2,368
Ramp 3 Replacement	\$56,800	\$2,272
Kachemak Drive Water Improvements (Phase III) - SAAP	\$105,000	\$4,200
Redwood Tank Removal - SAAP	\$30,200	\$1,208
Homer Water Distribution/Storage Improvements - SAAP	\$579,000	\$23,160
Spit Water Main Replacement - SAAP	\$170,000	\$6,800
WWTP Intake Improvements	\$21,000	\$840
Deep Water Dock Expansion	\$3,000,000	\$120,000
Karen Hornaday Park Access Road	\$50,000	\$2,000
Crittendon Drive LID	\$21,000	\$840
Kachemak Drive Trail Survey/Design	\$20,000	\$800
SCADA Replacement - Sewer Lift Station	\$19,000	\$760
	\$5,002,400	\$200,096

Jo Johnson

From: Robert Letson [rfi@sphosp.org]
Sent: Monday, October 15, 2012 2:09 PM
To: Department Clerk
Subject: Marketing investment

Dear All,

This letter is in support of increasing the marketing funding to \$50,000. This investment is very important for our local economy so that our Chamber can market our vacation opportunities to the lower 48 and Alaska. Also, the chamber members and events basically match this amount so there is a good return on investment for the City.

Thanks,

Bob

Robert Letson, CEO/Administrator
South Peninsula Hospital
4300 Bartlett St.
Homer, AK 99603
(907) 235-0326; (907) 235-0253 fax
rfi@sphosp.org

Confidentiality Notice:

This email and any attached documents contain information which may be confidential. These materials are intended only for the personal and confidential use of the addressee identified above. If you are not the intended recipient or an agent responsible for delivering these materials to the intended recipient, you are hereby notified that any review, disclosure, copying, distribution or the taking of any action in reliance on the contents of this transmitted information is strictly prohibited. If you have received this email in error, please immediately notify the sender of this message. Thank you.



October 18, 2012

Homer City Council
City of Homer
491 East Pioneer Avenue
Homer, Alaska 99603

Dear Mayor and City Council Members:

Thank you to the City of Homer for continuing its support of the nonprofit community through funds administered by the Homer Foundation! This consistent support makes a big difference in the capacity of our local nonprofit organizations, which frequently rely on community and volunteer support to achieve our goals.

Since 1996, citizen volunteers have assisted Cook Inletkeeper staff by collecting valuable water quality data in Kachemak Bay. Since 2008 the City of Homer has partnered with Cook Inletkeeper and the Alaska Department of Environmental Conservation to monitor bacteria levels on Homer beaches. Working with us, local volunteers help collect samples using state approved protocols to ensure Homer's beaches are safe for swimming, wading, shellfish collection and other contact recreational opportunities. In 2010 the City of Homer passed a resolution (10-61) to support the Alaska Clean Harbors program and the participation of the Homer Harbor. Inletkeeper developed this program in partnership with the City of Homer, the Alaska Department of Environmental Conservation and the Alaska Association of Harbormasters and Port Administrators, and in 2011 Homer Harbor became the first certified Alaska Clean Harbor. Our Safe Drinking Water project helps local homeowners and families test and understand the issues affecting their private drinking water sources. In addition, Cook Inletkeeper is proud to be looking forward to the 8th annual Electronics Recycling Day in 2013, which last year kept 18,000 lbs. of electronic waste out of our landfill.

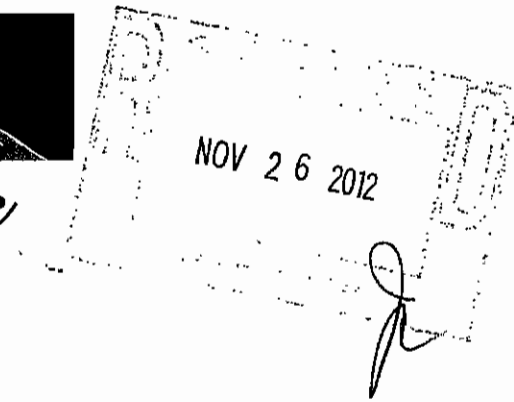
Perhaps you see the pattern here. All of our projects, broadly supported by the Homer community, are transferable to sister communities throughout the Cook Inlet watershed and the state. The largesse, concern and compassion expressed by the Homer City Council through the dispersion of funds from the Homer Foundation not only touches many lives in our local community but sets an example and precedent for community problem solving for other communities.

Inletkeeper employs nine staff people—eight of whom reside in Homer. Since our inception in 1995, we have created numerous opportunities for meaningful employment and added over \$6 million to the local economy. Support from the City of Homer demonstrates the Council's commitment to making Homer a superior place to live, work and play. Thank you again for all your dedicated service to our community.

Very Truly Yours,

Wayne Jenkins
Wayne Jenkins
Executive Director

cc: Homer Foundation



November 21, 2012

City of Homer
City Council
491 E Pioneer Avenue
Homer, AK 99603

Dear City Representative,

I am writing to express my support that the city spends \$50,000 to market Homer as a visitor destination and as a place for a permanent residence. The Homer Chamber of Commerce and Visitors Center has in the past acted as the agent that does this marketing. I support the use of this organization again for a variety of reasons. The main reason is the City does not have to bear the expense to maintain the infrastructure to do this task. Our Chamber/Visitors Center has the personnel and expertise to do this effectively. The monies that the City devotes to marketing Homer can be leveraged to a greater effect when combined with the marketing program that the Chamber and Visitors Center already has in place.

Marketing Homer is very important in that the city stands to reap dividends from the money spent. Visitor dollars not only bring in business and jobs to our area but many visitors choose to buy property and come back here to live. It is very important to note is that visitor's dollars generate sales tax dollars that are a huge contributor to the city's coffers. This is clearly evident by noting the bulge in tax revenue that is generated in our summer months. It is noteworthy to mention that all fishing charter and accommodation costs are taxed the full amount spent in this business sector. By taxing beyond the 500-dollar limit of ordinary purchases the city and borough receive many thousands of dollars more.

The visitor industry is a low impact industry on our environment. As a matter of fact many visitors come here because we stress an eco-friendly spin to our

community. The city has recently moved in that direction by passing a no-plastic bag ordinance. This is a great opportunity to partner with the Chamber/Visitors Center to turn this into a winning situation. A good use of the City's marketing dollars would be to implement a program utilizing the Chamber/VC as a provider and distributor of shopping bags to our merchants and visitors. These bags could be printed with an attractive logo and made available at cost to our area merchants. The Chamber/Visitors Center has the reach to let our visitors know before they get here where they can get these bags. We can utilize the power of our members to get the word out as booking arrangements are made. By having these bags ready and available it would facilitate the visitors shopping needs. The real bonus is when the bags go home with them as a souvenir. They will use them in their daily shopping all the while marketing Homer.

Please don't pass up this opportunity. Please budget the money to market Homer. We need to invest wisely in order to expect dividends. Marketing our area is the wise investment and the dividends are the tax revenues, employment and commerce that come as a result.

Thank you for the good work you do,

Sincerely,

A handwritten signature in black ink, appearing to read "Holly Van Pelt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Holly Van Pelt
Alaskan Cottages
P.O. Box 3309
Homer, AK 99603

Jo Johnson

From: Jenna deLumeau
Sent: Wednesday, December 05, 2012 9:22 AM
To: Jo Johnson
Subject: Gary Petersen/ food sales tax

Hi Jo,

Gary Petersen called the front desk and wanted a message relayed to Council. He did not want to be transferred to you nor did he want council members contact info.

He said that it would be "wrong" to tax fruits and vegetables.

Jenna deLumeau
Accounting Tech IV
City of Homer
491 E Pioneer Ave
Homer, Ak 99603
907-435-3116

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

RESOLUTION 12-088

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, MAINTAINING THE CITY OF HOMER FEE
SCHEDULE AT THE CURRENT RATES.

WHEREAS, Fees are reviewed annually during the budget cycle; and

WHEREAS, It was determined there were no rate adjustments to the City of Homer Fee
Schedule at this time.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby maintains the
City of Homer Fee Schedule at the current rates.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this ____ day of
December, 2012.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: N/A

Fee Schedule

July 2012

This Pamphlet compiled by the Office of the Homer City Clerk

**Homer City Clerk
491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us**



City's Home Page - <http://clerk.ci.homer.ak.us>

Updated: July 2012

07/12 - clerk

The City of Homer is a First Class General Law Municipality with a Manager form of Government. Incorporated March 31, 1964.

Main Office Phone for the City of Homer 235-8121 (City Hall)

Sales Tax - 4.5% for the City, 3.0% Borough, and total sales tax paid within Homer City limits, 7.5%. Non prepared food items are exempt from Borough and City Sales Tax September 1st through May 31st of each year.

Property Tax - Mill levy

City - 4.5

Borough - 6.50

Hospital - 1.75

KPC - 0.10

HCC - Homer City Code - codification of City ordinances.

AAC - Alaska Administrative Code

AS - Alaska Statutes

Office Hours for City Hall are 8:00 a.m. to 5:00 p.m. unless otherwise specified.

Phone Numbers for main offices:

Administration - 235-8121

City Clerk - 235-3130

City Hall - 235-8121

Community Schools - 235-6090

Fire Department - 235-3155

Library - 235-3180

Planning - 235-3106

Police Department - 235-3150

Port/Harbor - 235-3160

Public Works - 235-3170

BILLING AND PAYMENTS - 235-8121 ext 2240 or 0 for the front desk.

Assessment Bills (City of Homer only) - 235-8121 ext 2240

Port/Harbor Bills - 235-3160

Water/Sewer Bills - 235-8121 ext 2240

Ambulance Bills - 235-8121 ext 2228

Emergencies - 911 (Fire, Medical, Police)

ADMINISTRATIVE FEES FOR THE CITY OF HOMER

(The following fees have been set by legislative enactments, Ordinances 04-53(S)(A), 03-36(A), 01-13(S)(A); Resolutions 11-074(A), 11-036(A)(S), 10-90(A), 06-24(S), 05-125(S), 05-49, 05-22, 04-98(S)(A), 04-96, 04-95, 04-94(S)(A), 03-159, 00-14, 99-116, 99-50, 95-1 and 92-10(A), Regulations Concerning Public Record Inspections dated March 2003.)

These fees are administrative fees for all departments of the City of Homer unless otherwise specified under that department. All fees are inclusive of sales tax. Unless otherwise specified: Any item mailed may have an additional fee added for actual postage. Handling fees may be added up to the actual staff time spent preparing the item for shipping.

An application for indigency may be filed with the City Manager for waiving or partially waiving the costs of fees. The City Manager may allow an applicant, who qualifies as an indigent, a reduced fee, a payment plan or a waiver of the fee where the Manager is able to make a written finding, based on information provided by the applicant, that payment of the fee would be a financial hardship. Based upon the information provided, the fee may be reduced or waived in accordance with the following scale:

Annual Income as a Percent of current Health and Human Services (HHS) Poverty Guidelines for Alaska	Percent of fee reduced
1-100%	100% Waiver
101-149%	75% Waiver
150-174%	50% Waiver
175-199%	25% Waiver
200% plus	No Waiver

Airport Pickup/delivery \$25
 Annual Safety Inspection commercial vehicles \$100
 Annual Taxi Permit \$75
 Appeal Fees

Water and Sewer Appeals, under HCC 14.04 and 14.08 – shall be set by Resolution; in the event the appellant is the prevailing party the fee shall be refundable. Ordinance 05-43(A).

Zoning Appeals – fee \$250.00 subject to refund if the appellant is successful on any aspect of appeal. Resolution 06-24(S)

Credit Cards are accepted for other than real property lease payments with a minimum of \$10.
 Computer Disc (includes 1st class postage): \$10/disc

CD Reproductions: \$20.00

Document copying fees: \$.25/page

Certification Fee: \$10/report

Driver License Records \$10

Fax: w/in Alaska \$1/page, Continental US \$2/1st page, Subsequent pages \$1/page. Other destination \$5/1st page. Subsequent pages \$2/page.

Electronic Transmission: \$1/page (Scanned PDF document)

Lease application fee \$30

Lease fee \$300

Lease Assignment Fee \$250

Local Bidder's Preference

Non-local bid is	Local bid is not more than
\$0 - \$500,000.00	5 percent higher than non-local bid
\$0 - \$1,000,000.00	5 percent higher than non-local bid on first \$500,000.00 and 2.5 percent higher than non-local bid on amount in excess of \$500,000.00 to \$1,000,000.00

No additional adjustment for bids above \$1,000,000.00

Photograph Copying: \$10/order (includes shipping and; handling)
If done commercially – Actual Costs plus 5%

Production Fees -

Per requestor in a calendar month exceeds five-person hours the fee is the City employee's actual salary plus benefit costs. An estimate will be prepared and the requestor must deposit the estimated production and copying fees in advance. If the actual costs are greater than the estimate the records will not be released until the difference is paid and if the actual costs are less the requestor will receive a refund of the difference.

No fee for simple inspection, except when the production of records by one requestor exceeds five person hours in a calendar month.

Local Improvement Districts (LID's):

HARP (Homer Accelerated Roads Program) LID's

Assessments are: \$30 per front foot for Road Reconstruction
\$17 per front foot for Paving

HAWSP (Homer Accelerated Water and Sewer Program) LID's

Assessments are: 75% of the total project cost allocated in equal shares to each participating parcel

OTHER LID's if approved by the Council are at 100% property owner participation.

Application Fee	\$100
Bill Fee	\$3.00 per bill
Administrative Fee	
0-500,000	5%
over 500,000	\$25,000 plus 2.5%

Notary \$5.00

Smoking prohibited in City Facilities, Vehicles and Watercraft - \$25 fine

Tapes: Audio Cassette (Police Department) \$25 tape

Subsequent, \$15/tape Includes 1st class postage

Video Cassette (Police Department) \$30/tape

Vehicle Impound/Storage Fees (actual costs + towing) Storage, \$7.50/per day

AIRPORT TERMINAL FACILITY

Administration - 235-8121 (ext 2225)

(The following fees have been set by legislative enactments, Resolution 10-90(A), 04-98(S)(A), 94-61, 93-107, 08-124).

Advertising only:

\$ 75/yr. - size 9X4"
\$ 100/yr. - size 9X7"
\$125/yr. - size 9X11"

Advertising w/Direct Dial Phone - \$350/year

Long Term Parking - Per day \$5

Annual Pass \$500/year

Vending Machine Space \$30/month

ANIMAL CONTROL FEES

235-3141 Hours are 11 a.m. to 2 p.m. Monday through Friday.

(The following fees have been set by legislative enactments to HCC 20.32, Resolution 01-85)

Dog License	
Neutered/spayed	\$10.00/2 years
Nonneutered/nonspayed	\$50.00/2 years
Kennel license	\$100.00/2 years
Replacement fee, lost license	\$ 4.00
Rabies Voucher	\$ 12.00
Quarantine at Home	\$ 40.00
Quarantine at Shelter	\$ 40.00 plus daily boarding fee
Boarding fee (when available)	\$ 12.00 daily
Pickup at residence for owner release	\$ 20.00
Turn In	\$ 5.00
Turn In for Euthanasia	\$ 15.00

Impound fees:			
	Nonspayed/Nonneutered		Spayed or Neutered
1st offense	\$35.00	1st offense	\$25.00
2nd offense	\$50.00	2nd offense	\$40.00
3rd offense	\$85.00	3rd offense	\$75.00
4th offense or greater	\$100.00		same

Live Trap:

Small trap \$ 70.00 deposit, \$1.00 per day. Seven (7) day rental maximum.
Large trap \$150.00 deposit, \$1.00 per day. Seven (7) day rental maximum.
Deposit is forfeited if the trap is not returned in seven days. A portion of the deposit, up to the entire amount of the deposit, will be forfeited if the trap is damaged.

Adoption Fee \$ 15.00

All impounded animals must be properly licensed and have current rabies vaccinations prior to being released. Owners of impounded animals will be charged a daily boarding fee for every full day that the animal stays in the shelter. Vaccination and license fees shall be the owner's responsibility.

Animals being adopted shall be spayed or neutered, properly licensed and vaccinated. Associated fees shall be the responsibility of the adopting party.

The City shall charge for any additional expense incurred by the City in the actual impoundment, transportation, medical care, housing or feeding of any animal; which expenses shall be paid in full prior to the animal's release.

CAMPING FEES

(The following fees have been set by legislative enactments, Resolutions 05-05, 04-98(S)(A), 99-94, 93-35, 91-34 and; 91-20(S)).

"Campground" means an area owned, controlled, developed and/or maintained by the City, which contains one or more improved campsites or contains adequate area for one or more unimproved campsites.

"Camping" means:

1. The erection of, or occupancy of any tent.
 2. The placing or leaving of any items normally found at a campsite within campsite such as cook stoves, lanterns, sleeping bags or bedding.
 3. Parking of any camper unit in any area owned or controlled by the City that has been designated a camping area by official signs, in excess of twenty-four hours.
- "Camping Season" means that period of time from April 1 through October 30.

RV \$ 15/day
14 calendar days \$189

All other camping \$ 8/day
14 calendar days \$100

All fees inclusive of sales tax.

CITY CLERK

(The following fees have been set by legislative enactments, Resolutions 03-159, 05-125(S), 06-16 and 06-40(A).)

Administrative - 235-3130

Cemetery fees amended Resolution 98-28.

Cemetery - plot \$200

Excavation

adult - \$500; \$400 opening, \$100 closing

infant \$375; \$300 opening, \$75 closing

Extraordinary conditions such as weather, heavy snow coverage, ice, frozen ground and etcetera may result in fees charged up to \$200 additional at Public Works discretion.

City Council and Commission Meeting packet fee

Per Packet:

0 - 25 pages - \$5.00

26 - 50 pages - \$10.00

51 - 100 pages - \$20.00

100 - 200 pages - \$25.00

200 - 500 pages - \$30.00

500+ pages - \$35.00

Per Month, Per Council or Advisory Body:

1 packet same fees as above.

2 packets above fee with 10% reduction.

3 packets above fee with 12% reduction.

4 or more packets above fee with 15% reduction.

City Hall Facility Use Fee (Resolution 03-159)

Government Agencies, generally, are exempt from fees.

Use by non governmental agency or entity fee is \$15.00 per hour, with a minimum of two hours; maximum fee is \$75.00 per day.

Cleaning Fee – if the facility is not left as found an additional fee of up to \$30.00 may be applied.

City Pins and Mugs (Resolution 98-28)

Logo Pins \$1.00
Logo Mugs \$4.00
Scene Mugs \$8.00

Copies of meeting (audio) tapes \$10.00/each (Reso. 03-159)

Copies of meeting (digital) CDs \$10.00/each (Reso. 06-16)

The following fees have been set by legislative enactments to HCC 19, 5.

Gravel Permit, application fee \$5 (Areas B and; C require no approval of the COE or Div. of Lands, HCC 19.12.040(c).)

Fire Works Permit, HCC 5.24 \$25 (apply 30 days in advance) per exhibit plus bond for \$500 or liability insurance, must have.

LIBRARY FEES

235-3180 (Amended: Ordinance 05-08; Resolution 12-006, 04-98(S)(A); 03-87; 99-19(A); 98-86; 97-87)

Closed - Sundays. Open - Mon, Wed, Fri and Sat from 10 a.m. to 6 p.m. Tues and Thurs from 10 a.m. - 8 p.m.

Library Cards Replacement cards \$5/issue
Temporary card \$10 non refundable
Temporary Family card \$50, \$40 refundable; limit of twelve items.
Refunds are issued the second check run of each month via check from the City of Homer. Apply for refund through Library staff and provide forwarding address. If the refund is not claimed within six months the refund becomes a donation to the Library.

Overdue Items - 14 day circulation (except digital devices) \$0.15/day
(except digital devices) Maximum charge \$6.00

7 day and 1 day circulation - \$1.00/day

Digital Devices \$5.00/day

Interlibrary Loans- \$1.00/day

2nd overdue notice - \$1.00/notice

Bill notice - \$1.00/notice

Admin. Fee for Bills Sent to Collection Agency \$25.00

Photo copy \$.15/ea (letter size) and (legal size) per side
\$.25/ea (11"x17") per side
\$1 .00/ea color copies (letter size) and (legal size) per side
\$2.00/ea color copies (11"x17") per side

Interlibrary loan fee \$2 standard size books
\$.15 per page for photo copy
Priority Mail \$4.00
Microfilm/videos/CDS/Audios

Additional charges may be assessed and mailing costs may exceed these amounts.

Replacement/Repair of items
fee
Lost or damaged items: Replacement cost plus \$7.00 processing per item
Lost or damaged cases, hang-up bags, etc.: Replacement cost or \$2.00, whichever is greater

Lost map or inserts - \$10/item
Lost out-of print items - \$50/Alaskana
\$40/non fiction
\$35/fiction

Damaged Item - \$1.00/page
\$2.50/cover
Damaged beyond repair - Full bindery cost or full replacement cost plus \$7.00 processing charge.

Improper Return of Digital Devices- \$25 fee if not returned to Front Desk staff

Please Note: To receive a refund on a lost item, patrons must return the item within sixty days of lost status. Refunds of payment for items deemed valuable to the collection and returned after the 60-day period may be made at the discretion of the Director. No refunds will be given for digital devices.

PLANNING AND ZONING DEPARTMENT

235-3106 or 235-8121 (Coordinates with Public Works)

Zoning Permit

(The following fees, for Zoning Permits have been set by legislative enactments, Resolution 00-17 as authorized by HCC 21.42.060, Resolution 03-12(A), Resolution 03-159, Resolution 04-35, and Resolution 04-98(S)(A), Resolution 05-27(S) and Resolution 05-35, Resolution 07-14 and Resolution 07-45, Resolution 08-124.)

Zoning Permit Fees:

Single Family /Duplex	\$200
Multi-Family/Commercial/Industrial	\$300, plus \$50 per hour when over six hours of administrative time.
Change of Use fee	\$50
Deck	\$50

Fees for commencing activities, without a permit, shall be assessed at the regular rate multiplied by one and one half (1.5) for Residential and two (2) for Commercial.
(The following fees have been set by legislative enactments to HCC 14.08.035.)

ROW Permit - minor \$90
major \$90

(The following fees have been set by legislative enactments to HCC 11.08.040).

Driveway Permit Residential	\$45
Commercial	\$60
Long	\$105

Publication Fees
 Comp Plan large \$20
 Comp Plan small \$10
 Zoning Map sm \$ 5 lg \$25
 Road Maint. Map \$ 5

Zoning Ordinance - HCC 21 \$ 15
 Sign Permit - \$ 50
 Variance - \$250
 Erosion and Sediment Control Plan (BCWPD): \$300

Storm Water Protection Plan Fee: \$200

Conditional Use Permit Processing Fee
 Amendment \$200
 Fence \$300
 Single Family/Duplex \$200
 Multi-Family/Commercial/Industrial
 \$500 for uses less than 8,000 sq. ft.
 \$1,000 for uses 8,001 sq. ft. to 15,000 sq. ft.
 \$2,500 for uses 15,001 sq. ft. to 25,000 sq. ft.
 \$5,000 for uses 25,001 sq. ft. to 40,000 sq. ft.
 \$8,000 for uses 40,001 sq. ft. and larger
 Recording (as Required) \$50

Fees for commencing activities, without a permit, shall be assessed at the regular rate multiplied by one and one half (1.5) for Residential and two (2) for Commercial.

Traffic Impact Analysis and Community Impact Assessment – when required, applicant will be charged for the actual cost of the study, plus a 10% administrative fee. The City will be responsible for hiring and managing the study.

(Resolution 03-159 and 96-13 HCC 12.12.03)

Rezone - \$500
 (HCC 21.63 repealed via Ordinance 03-21.)

Flood Hazard Development Permit \$200

Preliminary Plat Processing Fee \$300, or \$100 per lot, whichever is greater. (Resolution 07-14, 03-159 and 96-13)

Elimination of a common interior lot line. \$200.00

Right of Way and Section Line \$300
 Easement Vacation Application
 Fee: (In addition to applicable preliminary plat fees).
 Utility easement vacation: no fee

Bridge Creek Watershed Permit - zoning permits are required for the Bridge Creek Watershed Area. Although no fees will be charged for the zoning permits outside of City Limits,

the evaluation process is still in effect.

Street Renaming

Fees

(A) For name changes or naming of public dedicated streets other than those named during the subdivision process:

- | | |
|--|-------|
| (1) Street Naming Petition and hearing advertising fee | \$150 |
| (2) Installation of each new City sign, post, etc. Per sign: | \$150 |
| (3) Replacement of existing City sign due to change where no post is needed. Per sign: | \$ 80 |

The minimum fee shall be either a combination of 1 and 2 OR 1 and 3, above; however, all signs that need to be changed and/or maintained by the City must be paid for prior to installation.

(B) For Private Road Naming:

- | | |
|--|--------|
| (1) Street Naming Petition and hearing advertising fee | \$150 |
| (2) Installation of each new City sign, post, etc. Per sign: | \$150 |
| (3) If no public hearing or public notice is necessary, i.e., 100% petition and no partial dedicated street involved | No fee |
| (4) If no signs are required | No fee |

PORT AND HARBOR DEPARTMENT

(The following fees have been set by legislative enactments to HCC 10, Ord. 95-18(A) and Resolutions 12-037(S), 12-023, 10-89, 06-52, 06-04, 05-123, 04-96, 03-154(S), 03-104, 03-88, 00-39, 99-118(A), 99-101, 99-78(S), 99-30(A), 95-69 (Port/Harbor Tariff No. 600), Resolution 95-19, Resolution 01-84(S)(A), Resolution 02-81(A), Resolution 07-121, and Resolution 08-123)
Harbor Office - 235-3160
Fish Dock - 235-3162

All rates except load and launch ramp fees and parking fees for Ramps 1 - 4, which are inclusive of sales tax, will have sales tax applied. The resulting figure will be rounded to the nearest half dollar for billing purposes.

Administrative cost for changing boat in slip - \$25.00

A \$30.00 per year charge will be assessed for a listing on a permanent reserved stall assignment.

Large quantity waste oil disposal (with Harbor Master approval) - \$3.25 gallon

PARKING FEES

Parking fees to be collected at Ramp 1, Ramp 2, Ramp 3 and Ramp 4 seasonally (Memorial Day through Labor Day). Parking fee is \$5 per calendar day. Posted parking time limits will be established and enforced as per Homer city code 10.04.100.

Seasonal permits for day use parking (Ramps 1-4): \$250.00.

Long Term parking permits required for Vehicles 20' or less parked in excess of seven (7) consecutive 24-hour days.

Long Term Parking annual permit (January 1st through December 31st): fee \$200.00.

Long Term Parking annual permit fee for vessel owners paying annual moorage in the Homer Harbor: fee \$100.00.

Vehicles over 20' and trailers are not eligible for long term parking permits.

Monthly parking permit for vehicles less than 20': fee \$70.00 for 30 consecutive days.

Monthly parking permit for vehicles over 20': fee \$85.00 for 30 consecutive days in a portion of Lot 9 only.

Long term parking will be enforced year around.

Parking lot restrictions for long term parking, May 1 through October 1, as depicted on attached map (Attachment A).

Existing code definitions for restricted parking, vehicles, junk vehicles, and fines for violations apply.

Fines, \$25.00 per calendar day, limited to \$250.00 fine per calendar year, with \$200.00 of the fine credited towards the long term parking annual permit.

Annual Moorage fee - \$37.86 per lineal foot, plus \$50.00 administrative charge.

Reserved Stall - length of the float stall assigned, or overall length of vessel whichever is greater, plus \$50.00 administrative charge.

Float Plane Fee - daily moorage rate of (2) 24' vessels shall be assessed on a daily basis for float planes or a monthly rate equal to the monthly rate for (2) 24' vessels.

Dockage charges will be assessed based on lineal foot per calendar day or portion thereof as follows:

0' to 100'	\$254.13	451' to 475'	\$1,327.51	651' to 675'	\$2,711.10
101' to 200'	\$423.25	476' to 500'	\$1,434.88	676' to 700'	\$2,990.88
201' to 300'	\$677.75	501' to 525'	\$1,580.26	701' to 725'	\$3,368.76
301' to 350'	\$871.38	526' to 550'	\$1,687.63	726' to 750'	\$3,766.63
351' to 375'	\$961.01	551' to 575'	\$1,806.01	751' to 775'	\$4,188.01
376' to 400'	\$1,043.38	576' to 600'	\$1,958.38	776' to 800'	\$4,668.88
401' to 425'	\$1,137.26	601' to 625'	\$2,174.26		
426' to 450'	\$1,243.13	626' to 650'	\$2,445.63		

A service charge of \$52 will be assessed to each vessel.

These charges are applicable to the "outer face" and "trestle berth" of Deep Water Dock and to all berthing locations on Pioneer Dock. The "inside berth" (berth No.2) of Deep Water Dock will have a 4-hour minimum dockage charge of 1/6 the daily rate, and a half day (up to 12 hours) docking charge of 1/2 the daily rate, with no service charge applicable.

Wharfage:

Minimum wharfage on any shipment will be ten dollars (\$10). Except as otherwise specifically provided, rates are in dollars per short ton of 2,000 lbs. or per 40 cu. ft.

COMMODITY	WHARFAGE RATE
Freight N.O.S. (Not Otherwise Specified)	\$7.96
Freight at barge ramp	\$5.14
Poles, logs, cants or cut finished lumber per M.M.	\$3.95/thousand board ft.

(Note: Industry standard conversion formulas shall be used in converting pounds to board feet measure.)

Logs that are unloaded at Port of Homer barge beaching site will be charged 50% of the wharfage rate applicable to outbound (export) shipment. However if these cargoes are not exported over Deep Water Dock with full payment of outbound wharfage within 60 days of unloading at the barge beaching site, then the additional 50% of wharfage will be owed and paid for inbound products.

Petroleum products (inbound and outbound)	\$0.6363/barrel \$0.01515 per gallon
Wood Chips (all grades)	\$ as per contract
Seafood/fish product	Setting a tariff of \$4.76 per ton of seafood/fish product across the dock, regardless of species.
Livestock: Horses, mules, cattle, hogs, sheep, goats, all other livestock	\$10.12 per head
Fowl: Any kind, crated	\$10.12 per crate
Boats: Up to and including twenty (20) feet LOA	\$15.66 each
Over twenty (20) feet LOA	\$1.60 per lineal ft.
(Fishing boats, pleasure craft, skiffs, dinghies and other boats moved over the docks.)	
Demurrage	0.09/sq. ft.

Uplands Storage:

Land for Gear Storage-

First come-first served basis; approved by Harbormaster; primarily for fishing related gear.

Open areas, fishing gear 0.12/ sq. ft.

Open areas, non-fishing gear 0.17/ sq. ft.

Boat Trailers-

Short term storage, up to 7 days - space available basis - no fee.

Long term storage, 8 days or more - not available May 1 to Oct 1

Up to 30 feet \$ 75.00/month Oct 1 to May 1

Over 30 feet \$100.00/month Oct 1 to May 1

TIDAL GRIDS:

The City of Homer operates two tidal grids. The wooden grid is for vessels of less than 60 feet in length. The steel grid is only for use by vessels of 60 feet or greater in length. Vessels that remain on either grid after their scheduled tide may be assessed a 50% surcharge for each unscheduled tide. Use of the steel grid shall be charged at the minimum rate applicable for a 60' boat if a boat of less length is allowed to use this grid.

The rate per foot per tide is \$1.05 for vessels 0' - 59'
 The rate per foot per tide is \$2.55 for vessels 60' - 80'
 The rate per foot per tide is \$3.25 for vessels 81' - 100'
 The rate per foot per tide is \$3.82 for vessels 101' - 120'
 The rate per foot per tide is \$4.24 for vessels 121' - 140'

WATER:

Potable water furnished to vessels at the Deep Water Dock and Main Dock:
 Quantity charge - \$38.81 per one thousand gallons (minimum five thousand gallons).
 Scheduled deliveries will have a minimum charge of one hundred and two (\$102.00) dollars for combined connection and disconnection.
 Unscheduled deliveries will have a minimum charge of one hundred thirty nine dollars and thirty two cents (\$139.32) for combined connection and disconnection.

ELECTRICITY (per kilowatt):

Reserved stalls having a meter base at the berth shall be charged a meter availability fee.
 The meter availability fee - \$23.95 per month
 Connect/disconnect fee - \$28.80

Metered transient vessels will be charged a meter availability fee of \$28.80 per month with a one month minimum charge to be applied for shorter connection periods. Connect/Disconnect fee 28.80.

Unless other arrangements have been made in writing with the Harbormaster, transient vessels shall be charged the following rates (where metered power is unavailable).

	<u>110 volt</u>	<u>220 volt</u>	<u>208 volt/3-phase</u>
Daily (or part thereof)	\$ 10.20	\$ 20.12	\$42.50
Monthly	\$152.67	\$341.70	available meter only

* Vessels requiring conversion plugs may purchase them from the Harbormaster's office for a nominal fee.

208 volt/3-phase electrical power is available at System 5 on a first come first served basis, for vessels will be charged the following rates:

1. There will be an electrical usage charge per kilowatt hour as determined by the local public utility:
2. Vessels will be charged a meter availability fee of \$28.80 per month with a one month minimum charge to be applied for shorter connection periods.
3. There will be a \$28.80 connect/disconnect fee.

TOWING: Inside small boat harbor: Skiff with operator - 1/2 hour \$68.00, Skiff with operator - 1 hour \$102.00. Any additional personnel required will be charged at rate of \$102.00 per hour each.

PUMPING VESSEL: \$40.79 per day or portion thereof for electrical pumps.
\$69.97 per hour or portion thereof for gas pumps.

LABOR/PERSONNEL:

All labor provided by City personnel shall be charged at \$102.00 per hour (1/2 hour minimum at \$51.00). Work requiring callouts shall be charged at a minimum of two hours.

SPECIAL SERVICES:

Special services, including waste, bulk oil, or garbage disposal shall be billed at the City's actual cost plus 125% of city costs for services arranged for by the City but provided by others. Waste oil in quantities greater than 5 gallons, shall be charged a \$3.35 per gallon handling and disposal fee.

REGULATED GARBAGE HANDLING FEE:

Contact the Homer Harbormaster office for a list of contractors certified to handle regulated garbage at the Port of Homer. Fees will be negotiated between the contractor and vessel managers.

SEARCH AND RESCUE FEES:

When the City utilizes city equipment and personnel to provide search and rescue assistance to vessels outside of the Homer Port and Harbor, such as towing and rescue, the Harbormaster will charge users of those services \$102.00 per hour for skiff and operator for the first hour and for additional search and rescue assistance beyond one hour. Additional personnel will be charged at the rate of \$102.00 per man per hour.

PUBLIC LAUNCH RAMPS:

Vessels shall be charged \$13.00 per day to launch from the public launch ramps from April 1 through October 15. (Reserved stall lessees exempt for the boat assigned to and registered to the reserved stall only, not for other boats owned by the same individual.)

Vessel owners or operators may obtain a seasonal permit for \$130.00 entitling a specific vessel and owner to launch from April 1 through October 15. (Reserved stall lessees exempt for the boat assigned to and registered to the reserved stall only, not for other boats owned by the same individual.)

BEACHES AND BARGE RAMP:

The use of beaches and barge ramp under the City ownership or control for commercial barge vessel repair, equipment loading or similar purposes, must be approved by the Harbormaster. A beach use agreement will be filled out and signed by the user and Harbormaster prior to use of the beach.

The Harbormaster shall charge a fee of \$1.50 per foot based on the overall length of the vessel, for vessels landing or parking on the beaches under City ownership or control. This same rate shall apply to vessels using the barge ramp.

Charges for extended beach or barge ramp use may be adjusted by the Harbormaster under appropriate circumstances.

The user of any beach area or the barge ramp must repair any damage to the beach or ramp and remove all debris. Failure to make such repairs and removal will result in repairs and cleanup by the harbor staff. The costs incurred by the harbor staff will be fully charged to the beach user. Labor rate for the harbor staff will be one hundred and two dollars (\$102.00) per hour per person, plus appropriate equipment rental and material costs.

Sandblasting of vessel hull is not permitted on City beaches or barge ramp; water blasting using pressures that result in removal of paint is also prohibited. No paint chips or other paint materials are to be put into the water as a result of any maintenance done on the beach or ramp.

FISH DOCK:

The Fish Dock is to be used primarily for the loading and unloading of fish, fish products and fishing gear.

Cranes located onboard the vessel moored at Fish Dock may be utilized for loading/unloading the vessel only with prior approval granted by the Harbor Officer on duty.

Every person using a crane on the Fish Dock shall first obtain a license from the City.

Blocking access to cranes - \$150.00/hr.

Unattended vessels - \$150.00/hr.

Failure to obtain prior approval for a use other than loading and unloading fish, fish products or fishing gear will result in the imposition of a surcharge of thirty (\$30.00) dollars per hour in addition to the regular fee.

ITEM	FEE
Annual access	\$52.00 per year
Card (private license)	(annual renewal fee)
Card replacement fee	\$15.00 per occurrence
Cold Storage	\$334.75/month
(Cold storage rate structure is for storage area of eight (8) feet by ten (10) feet	\$309/per month for two (2) consecutive months
	\$283.25/per month for three (3) consecutive months
	\$275.50/per month for nine (9) month season
	Minimum one month rental
	Inspection \$50/per hour
Bait Storage Fee (4x4x4)	
Per Day	\$5.15
Per Week	\$25.75
Per Month	\$77.25
Ice Plant Bin Storage	\$200/per month, minimum two (2) months
(Roofed over, open sided storage bins at west end of of ice plant building sixteen (16) feet by twelve (12) feet)	
Fish Dock crane	\$90.64/per hour
Minimum charge per hour for crane	Fifteen minutes
Ice	\$124.95/per ton
Seafood Wharfage/ Fish product	Setting a tariff of \$4.76 per ton of seafood/fish product across the docks.

Regardless of species bait in quantities greater than one ton that is loaded onto a vessel at Fish Dock, shall be charged seafood wharfage.

Freight NOS, Nonfish Cargo \$14.50/per ton for cargo going over the Fish Dock.

Fish Waste Disposal Fees/Fish Grinder \$5.00/Tub
\$30.00/Tote

Fishing gear is free from wharfage, except as otherwise provided under a lease agreement, contract or operating agreement with the City of Homer, ice brought onto Fish Dock to be loaded into totes or transferred to boats at the dock, shall be charged wharfage at the Freight NOS rate, unless this is ice that was purchased from the City Ice Plant.

Minimum per hour charge for the cranes and cold storage inspection will be one quarter hour (fifteen minutes). All additional charges will be in one-quarter hour (fifteen minutes) increments.

PUBLIC SAFETY

Emergency 911
Administrative Office 235-3150
HPD = Homer Police Department

(The following fees have been set by legislative enactments to HCC 7): Resolution 10-90(A); 06-45
Handicap Parking Violation \$100

Noisy Vehicles - enforcement begins April 28, 2004.
Noise greater than 85 decibels (dBA) at a distance of fifty (50) feet is prohibited. Between the hours of 8 p.m. and 8 a.m. not greater than 75 dBA at a distance of fifty (50) feet.

<u>Offense</u>	<u>Penalty/Fine</u>
Muffler not working properly	CORR/\$500
Muffler modified/excessive noise	CORR/\$500
Muffler removed or inoperative	CORR/\$500

Noise exceeds limits:	
First conviction	\$100
Second conviction within 6 months of first conviction	\$200
Third conviction within 6 months of any prior conviction	\$300

Sale of vehicle exceeding noise limits:	
First conviction	\$100
Second conviction within six (6) months of first conviction	\$200

Third conviction within six (6) months of any prior conviction	\$300
--	-------

Jake brake use prohibited:

First conviction	\$100
Second conviction within six (6) months of first conviction	\$200 plus proof of satisfactory HPD commercial vehicle inspection
Third conviction within six (6) months of any prior conviction	\$300 plus proof of satisfactory HPD commercial vehicle inspection

CORR: "CORR" means a correctable/dismissible offense. A citation for one of these offenses may be dismissed (or voided) if proof of correction is presented to a HPD vehicle inspector within thirty (30) days. If the required repair is not made and shown to a vehicle inspector within the specified time, the defendant must pay the fine.

Public Transportation (HCC 8.12.150 and 8.12.200):

Vehicle Permit \$75 Fiscal Year, expires June 30th
Permit \$37.50 after January 1st, expires June 30th
\$5 Replacement Permit

Chauffeurs License \$75 application fee plus the fees in the amount of \$35.00 (for Fingerprinting to the State of Alaska)(none of these fees are refundable)
Annual Safety Inspection commercial vehicles \$100

(The following fees have been set by legislative enactments AAC 13 (Paid at City Hall).

Parking Tickets -\$25

(The following fees have been set by legislative enactments to HCC 8, Ord. 01-20).

Itinerant Merchant - \$330/for 60 days
Mobile Food Unit - \$390/per yr.

FIRE DEPARTMENT FEES

Emergency 911
Administrative Office - 235-3155

(The following fees have been set by legislative enactments Resolutions 91-97, 92-06, 92-43(S), 03-145, 04-98(S)(A) and 06-64(S)(A).

AMBULANCE:

Basic Life Support (BLS)	\$440
Advanced Life Support (ALS)	\$550
Non-Emergency Transport	\$440
Standby each half hour	\$ 25
Mileage	\$7.50 mile
Medevac	Determined by level of call, see BLS, ALS rate

FIRE:

Type 1 Engines (>1,000 gals or 1,500 GPM)	\$240/hr.	\$2,040 day
Type 1 Tenders (<3,000 gals or 1,000 GPM)	\$144/hr.	\$1,224/day
Ladder Truck	\$360/hr.	\$3,060/day
Medic Unit/Ambulance	\$60/hr.	\$510/day
Brush Patrol	\$100/hr.	
Command Vehicle	\$ 50/hr.	
Rescue/Extrication Truck	\$144/hr.	\$1,224/day
Command/Utility Vehicle	\$ 60/hr.	\$510/day
6 x 6 ATV	\$25/hr.	\$200/day

VOLUNTEER PERSONNEL:

Fire Department IC (1) (IC - Incident Command)	\$36/hr.
Safety Officer/Officer	\$36/hr.
Driver/Engineer (1 per vehicle)	\$24/hr.
Firefighters (Minimum 1 per tender, 2 per Engine)	\$18/hr.
EMT (Minimum 2 per Rescue Medical Unit)	\$18/hr.

PUBLIC WORKS DEPARTMENT

Administrative - 235-3170

(The following fees have been set by legislative enactment Resolution 04-98(S)(A) and 95-1).

R.V. Station dumping	\$2 per dumping
Bluelines, copies minimum	\$10 + \$2/pg.
Standard Construction Specs	\$50
Job Specific Specifications and plans vary in price.	

SUBDIVISION AGREEMENT FEE SCHEDULE:

Agreement Application, Plan Review, Inspection, and Warranty Period Deposits

A developer shall pay the City's actual cost associated with the reviewing, approving, coordinating and inspecting improvements required to be completed under a subdivision agreement. The City's cost shall include, but is not limited to, administering the agreement, plan checking, surveillance, and administrative overhead. Prior to initiating each phase of the subdivision approval process, a deposit shall be paid. Deposits shall not bear interest. The deposits shall be held in a separate account and disbursed only as authorized by this fee schedule. The deposits are described below:

- 1) Subdivision Agreement Application: Upon submitting an application agreement, the Developer will provide a \$300 deposit.
- 2) Subdivision Improvement Plan Review: Upon submission of plans for review and approval, the Developer will provide a plan review deposit of .5% of the estimated cost of improvements or \$300, whichever is greater.
- 3) Construction Inspection: Prior to the issuance of a notice to proceed with construction to the Developer, the Developer shall pay a deposit toward the City's costs based upon the estimated cost of the improvements to be constructed under the subdivision agreement as follows:

<u>Estimated Construction Cost</u>	<u>Deposit</u>
\$10,000 or less	\$300
Over \$10,000 up to \$50,000	4% of the estimated costs
Over \$50,000 up to \$150,000	3% of the estimated costs
Over \$150,000 up to \$500,000	2.5% of the estimated costs
Over \$500,000	\$13,000

After the City finds the subdivision improvements meet City specifications, it shall determine its costs to date. If costs (plus any deposit required under subsection 4 below) exceed the total deposits received, the Developer shall pay the balance to the City prior to final acceptance of the improvements. If the total deposits exceed the costs, the City shall refund the balance (less any deposit required under subsection 4 below) to the Developer.

4) Initiation of Warranty Period: Prior to acceptance of completion by the City of the undertaking by the developer, the Developer shall also pay a deposit toward the City's cost incurred during the warranty period under the subdivision agreement in the amount determined by the Public Works Director, but not to exceed \$2,000.

If at any time the City finds its costs exceed the total deposit received, the City may periodically bill and receive payment from the Developer for those actual incurred costs in excess of the amount of deposit.

(Contact Planning Department - at City Hall, 235-3106. Planning issues the permits.)

WATER AND SEWER FEES:

(The following fees have been set by the following legislative enactment HCC Title 14, new fees set forth in Ordinance 11-43, Resolution 11-062(A), Resolution 09-47(S)(A), Resolution 09-48(S)(A), Resolution 07-119 (A), Resolution 07-120(A), Ordinance 06-62(A), Resolution 06-04, Resolution 05-125, Resolution 05-122, Resolution 05-121(A), Resolution 05-09, Resolution 04-95, Resolution 04-94(S)(A), Resolution 03-159, Resolution 02-80, Resolution 01-80(A), Resolution 00-123, Resolution 00-34, Ordinance 00-02, Ordinance 97-17(A), amending the rates set forth in Ordinance 97-5(S)(A), with amendments by Ordinance 97-7, Ordinance 97-13 and Ordinance 97-14).

Public Works - 235-3170
City Hall - 235-8121
Billing - 235-8121 x2240

A 15% admin. fee for replacement parts for water/sewer services, functions, pressure reducing valves, sewer saddles, any Public Works Department stock item for resale to public.

Establishing service includes a one time disconnect - \$30
Service calls, inspections, repairs not to exceed one hour - \$25 per employee plus equipment and materials.

Service calls, inspections and repairs during normal operating hours in excess of one hour labor: actual labor costs by City plus equipment and materials.

Service calls, inspections and repairs after normal operating hours or on weekends/holidays: \$50 minimum plus equipment and materials or actual cost incurred by City, whichever is greater.

SEWER FEES:

Sewer Connection and Extension Permit Fee

Single Family/Duplex \$255
Multi-Family/Commercial/Industrial \$330

Sewer Rate Schedule.

All sewer utility services shall be billed according to the following schedule. This schedule is for monthly sewer services and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$20	\$0.00997	\$ 9.97
Multi-Family Residential	\$20 (per unit)	\$0.00997	\$ 9.97
Commercial	\$20	\$0.01264	\$12.64

Seasonal monthly sewer customer charge will be \$10.00 or one half off the regular monthly customer charge.

*-Customer classification definitions for determining water rates:

Single Family Residential – A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household: contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

Sewer System Residential or Residential Equivalent Dischargers Who Are Not Water System Users:

Sewer system dischargers who are not water system users shall be charged at the rate of \$54.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge \$20. The City reserves the right to adjust this rate based on the characteristics of the service for non-residential or non-residential equivalent users. Customers who receive septic service shall be charged an additional \$6.00* per month.

Sewer System Dischargers Who Are Members of Kachemak City LID:

Kachemak City Local Improvement District (LID) members have contributed to the initial cost of the sewer treatment plant and the collection system. Kachemak City LID dischargers connected within the LID and the City of Homer shall bill Kachemak City in one lump sum at the rate of \$60.90. Variable rate \$34.90 based on 3,500 gallons per month plus monthly customer charge of \$20 plus septage cost \$6.00* per month for each residential or residential equivalent discharger. Kachemak City shall be responsible for payment to the City of Homer.

Domestic sewer service customers who use large quantities of City water in addition to their domestic use shall be allowed, with the Public Works Director's approval, to install an additional water meter on the domestic water use line for the purpose of metering and charging for domestic sewer system use. Sewer system use will be billed monthly.

The City will allow, upon approval by Public Works and a permit from the Public Works Department, a second water usage meter – called a seasonal sewer meter – for each customer that desires to measure the flow of City water that is not discharged to the sewer system during the summer growing season, June 15 through September 15. Rates noted above do not apply.

Seasonal Sewer Meter Fee is \$211.97.

WATER FEES:

Water Connection Fee

Single Family/Duplex \$300
 Multi-Family/Commercial/Industrial \$375

Water Rate Schedule.

All water utility services shall be billed according to the following schedule. This schedule is for monthly water service and is in addition to any charges for connecting or disconnecting the service, installation of the service or any assessment of the improvements.

Customer Classification*	Monthly Customer Charge	Charge per Gallon .	Usage Charge per 1,000 Gallons of Water
Single Family Residential	\$25	\$0.00442	\$ 4.42
Multi-Family Residential	\$25 (per unit)	\$0.00442	\$ 4.42
Commercial	\$25	\$0.01140	\$11.40
Bulk	\$25	\$0.01269	\$12.69

Seasonal monthly water customer charge will be \$12.50 or one half off the regular monthly customer charge.

*-Customer classification definitions for determining water rates:

Single Family Residential – A unit providing housing for one household; with less than 25% of the building area used for business or commercial purposes.

Multi-Family Residential - A building or lot occupied by more than one household: contained within one building or several building within one complex. Examples of multi-family units include duplexes, four-plexes and up, apartments, condominiums, co-housing projects, and multiple structures on one lot (where units are normally rented or occupied for longer than one month at a time). Examples of units not considered as multi-family include hotels, motels, B&B's seasonal rooms/cabins (where units are routinely rented or occupied for less than one month at a time.)

Commercial - Any user not defined as Residential.

Meter Size Deposits.

<u>Size (inches)</u>	<u>Residential Users</u>	<u>Nonresidential Users</u>
5/8	\$75.00	\$220.00
3/4	\$80.00	\$230.00
1	\$90.00	\$250.00
1-1/2	\$115.00	\$310.00
2	\$150.00	\$370.00
3	\$220.00	\$525.00
4	\$310.00	\$730.00
6	\$520.00	\$1,225.00

\$750 meter deposit shall apply to metered fire hydrant connections. The deposit will be returned when the meter is returned undamaged. This deposit may be waived upon the recommendation of the Public Works Superintendent.

If a bulk water customer purchases a meter from the City for measuring the quantity of water purchased, it shall be exempt from the monthly meter service charge. It is the responsibility of the bulk water customer to maintain that meter so the City can accurately determine the amount of water being purchased. In the event the meter fails, it is the bulk water customer's responsibility, at its expense, to repair it or purchase a replacement meter from the City. The City may at any time test the meter for accuracy.

RESIDENTIAL HOLDING TANK FEES

(Resolution 02-23)

City of Homer will bill property owner/customer monthly for City service, not pumping contractor charge.

Each property owner/customer will be billed once each month, regardless of number of pumping, 1[one] Customer Charge \$3.98 + 1 [one] General Service Charge \$16.95 + Commodity Charge [\$12.00 per pumping]

Property owner/customer is responsible for payment to pumping contractor.

City of Homer monthly billing examples based on number of pumping per month:

<u>Type of Charge</u>	<u>No Pumping</u>	<u>1 mo.Pumping</u>	<u>3 mo. Pumping</u>
Customer Charge	\$3.98	\$3.98	\$3.98
Gen. Svs. Charge	\$16.95	\$16.95	\$16.95
Commodity Charge	\$0	\$12.00	\$36.00
Total Monthly Bill	\$20.93	\$32.93	\$56.93

LEGISLATIVE BODY

MAYOR

Mary E. (Beth) Wythe – 2014

COUNCILMEMBERS

Vacant—2013

Bryan Zak—2013

Barbara Howard—2014

David Lewis—2014

Francie Roberts—2015

Beauregard Burgess—2015

ADVISORY BODIES

Parks and Recreation Advisory
Commission

Advisory Planning Commission

Port and Harbor Advisory
Commission

Library Advisory Board

Economic Development Advisory
Commission

DEPARTMENTS

Located At:

City Hall

City Manager's Office
Administration
Personnel

City Clerk's Office
Records & Elections
Planning & Zoning

Public Works Facility

Public Works
Water & Sewer
Maintenance
City Engineer
Inspector

On the Spit

Port and Harbor

Public Library
Library

Police Department
Public Safety
Police Department

Fire Hall

Fire Department
EMS
Fire
Rescue

Homer High School

Community Recreation

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

RESOLUTION 12-089

A RESOLUTION OF THE CITY COUNCIL OF HOMER,
ALASKA, MAINTAINING THE PORT OF HOMER
TERMINAL TARIFF NO. 600 AT THE CURRENT RATES.

WHEREAS, Fees are reviewed annually during the budget cycle; and

WHEREAS, It was determined there were no adjustments to the Port of Homer Terminal
Tariff No. 600 at this time.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby maintains the
Port of Homer Terminal Tariff No. 600 at the current rates.

PASSED AND ADOPTED by the City Council of Homer, Alaska, this ____ day of
December, 2012.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: N/A

PORT OF HOMER TERMINAL TARIFF NO. 600

Terminal Tariff No. 600
Filed under ATFI Rules



Issued by City of Homer
Phone 907.235.3160 Fax 907.235.3152
Or Visit our Website at
<http://www.cityofhomer-ak.gov/port>
4350 Homer Spit Road
Homer, Alaska 99603

Naming, Rates, Charges, Rules and Regulations
For
Wharfage, Terminal Storage, Demurrage
And
Other Terminal Services and Privileges Defined Herein
At Port of Homer Municipal Terminals
Located at Homer, Alaska

Issued: July 2, 2012

Effective: July 2, 2012

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RULE: 01 -- SCOPE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 02 -- APPLICATION OF RATES AND CHARGES (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 03 -- RATE APPLICABILITY RULE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 04 -- HEAVY LIFT (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 05 -- EXTRA LENGTH (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 06 -- MINIMUM BILL OF LADING CHARGES (I)

EFF: 31OCT1994

NOT APPLICABLE



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RULE: 07 -- PAYMENT OF FREIGHT CHARGES (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 08 -- BILL(S) OF LADING (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 09 -- FREIGHT FORWARDER COMPENSATION (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 10 -- SURCHARGES AND ARBITRARIES (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 11 -- MINIMUM QUANTITY RATES (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 12 -- AD VALOREM RATES (I)

EFF: 31OCT1994

NOT APPLICABLE



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RULE: 13 -- TRANSSHIPMENT (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 14 -- CO-LOADING IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 15 -- OPEN RATES IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 16 -- HAZARDOUS CARGO (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 17 -- GREENSALTED HIDES IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 18 -- RETURNED CARGO IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE



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RULE: 19 -- SHIPPER'S REQUESTS IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 20 -- OVERCHARGE CLAIMS (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 21 -- USE OF CARRIER EQUIPMENT (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 22 -- AUTOMOBILE RATES IN DOMESTIC OFFSHORE COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 23 -- CARRIER TERMINAL RULES AND CHARGES (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 24 -- NVOCCS IN FOREIGN COMMERCE: BONDS AND AGENTS (I)

EFF: 31OCT1994

NOT APPLICABLE



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RULE: 25 -- CERTIFICATION OF SHIPPER STATUS IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 26 -- TIME/VOLUME RATES IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 27 -- LOYALTY CONTRACTS IN FOREIGN COMMERCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 28 -- DEFINITIONS (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 29 -- SYMBOLS (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 30 -- ACCESS TO TARIFF INFORMATION (I)

EFF: 31OCT1994

NOT APPLICABLE



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RULE: 31 -- SEASONAL DISCONTINUANCE (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 32 -- MILITARY CARGO TERMS (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 33 -- PROJECT RATES (I)

EFF: 31OCT1994

NOT APPLICABLE

RULE: 34 -- TERMINAL TARIFFS (I)

EFF: 31OCT1994

For application of individual charges, consult the sub-rules contained herein.

RULE: 34.1 -- SCOPE (C)

EFF: 15SEPT1995

SECTION I

SCOPE:

The rules, regulations, conditions, commodity rates and/or charges set forth in this tariff apply to or from the following terminal(s)

NAME

ADDRESS

PORT OF HOMER

4350 HOMER SPIT ROAD
 HOMER, ALASKA 99603

--

PORT AND HARBOR OF HOMER 4350 HOMER SPIT ROAD HOMER, ALASKA 99603 PHONE: 907.235.3160 TERMINAL TARIFF NO. 600	FMC NO. 600	PAGE	7
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RULE: 34.2 -- ABBREVIATIONS, SYMBOLS, DEFINITIONS (C)

EFF: 01JAN2002

SUBSECTION 100

Abbreviations:

B.M.	- Board Measure	L.C.L.	- Less than Carload/ Container Load
Bbl.	- Barrel	Ldg.	- Loading
Bdl.	- Bundle	Lgth.	- Length
B.D.U.	- Bone Dry Unit	M.B.M.	- 1,000 ft Board Measure
Cs.	- Case; ctn-carton crt-crate	Meas.	- Measurement
C.L.	- Carload	Min.	- Minimum
C.T.	- Cubic Ton of 40/ Cu.ft.	MISC.	- Miscellaneous
Cu. Ft.	- Cubic Foot or Feet	N.O.S.	- Not Otherwise Specified
Dkg.	- Dockage	Par.	- Paragraph
Ea.	- Each	Pkg.	- Package
F	- Fahrenheit	S.T.	- Weight by Short Ton of 2,000 lb.
F.F.	- Folded Flat	S.U.	- Set-Up
F.M.C.	- Federal Maritime	Sq. Ft.	- Square Foot/Feet
Gals.	- Gallons	Stg.	- Storage
Hdlg.	- Handling	Term'l	- Terminal
Inc.	- Including, Inclusive or Incorporated	U.S.	- United States of America
K.D.	- Knocked Down	W/M	- Weight Ton of 2,000 Pounds or Cubic Ton of 40 cu.ft.
K.D.F.	- Knocked Down Flat	W.R.	- Warehouse Receipt
		Yd.	- Yard

Symbols:

(A) Denotes Increase	(E) Denotes Expiration
(C) Denotes Change in Wording which results in neither increase nor decrease in rates of charges	(R) Denotes Reduction
(I) Denotes New or Initial Matter	(N) Denotes Reissued Matter
	(G) Denotes General Increase or Decrease

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RULE 34.2 - ABBREVIATIONS, SYMBOLS, DEFINITIONS
(continued)

DEFINITIONS:

(a) DEFINITIONS OF FEDERAL MARITIME COMMISSION MAY CONTROL:

Unless provided in this Tariff, applicable definitions set forth in 46 C.F.R. shall control.

(b) BEAM:

For the purpose of this Tariff, "beam" means greatest width of the vessel, including booms, spars, gins, or any fixed extensions.

(c) CITY DOCKS:

The city docks of the City of Homer include all docks, floats, stalls, wharves, ramps, piers, bulkheads, and sea walls owned or operated by the City of Homer including the Deep Water Dock, the Wood and Steel tidal grids, the Main (Ferry) Dock, Fish Dock, and beaches within the boundaries of the City of Homer.

(d) DERELICT:

For the purpose of this Tariff, "derelict" means any vessel moored or otherwise located within the boundaries of the Homer Harbor which is forsaken, abandoned, deserted or cast away, which by appearance gives evidence of being forsaken, abandoned, deserted or cast away, or which in the opinion of any recognized marine surveyor is unsound, unseaworthy and unfit for its trade or occupation and which by any substantial evidence of neglect may be considered abandoned.

(e) FLOAT; FLOAT SYSTEM:

Those portions of the city docks located within the Homer Port that rise and fall with the tide including the pilings, ramps, ladders, and utility connections.

(f) HOLIDAYS:

Whenever in this Tariff reference is made to holidays the following are included:

New Year's Day	Washington's Birthday
Seward's Day	Memorial Day
Independence Day	Labor Day
Alaska Day	Veteran's Day
Thanksgiving Day	Christmas Day
Day after Thanksgiving	



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RULE: 34.2 - ABBREVIATIONS, SYMBOLS, DEFINITIONS
(continued)

(g) HOMER HARBOR:

For the purpose of this Tariff, "Homer Harbor" shall mean all salt water or tide water laying within the boundaries of the City, including that area known as the Small Boat Harbor.

(h) LENGTH:

For the purpose of this Tariff, "length" means the overall length (OAL) as measured from the furthest forward position including booms, spars, gins or any fixed extensions, to the further most after portion of the vessel including the booms, spars, gins or any fixed extensions.

(i) OPERATOR:

For the purpose of this Tariff, "operator" means any lessee of a vessel, and master or captain who has actual physical use, control and/or possession of a vessel and who is in the employ of, or who has a contractual relationship with the owner.

(j) OWNER:

For the purpose of this Tariff, "owner" means the individual, partnership or corporation holding legal title to the vessel.

(k) POINT OF REST STAGING AREA:

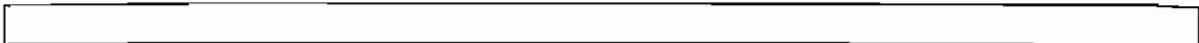
"Point of Rest Staging Area" is defined as that area on the terminal facility which is assigned for the receipt of inbound cargo from the vessel and which inbound cargo may be delivered to the consignee, and that area which is assigned for the receipt of outbound cargo from shippers for vessel loading.

(l) REGISTRATION:

"Registration" means completing a moorage or use agreement with all necessary information concerning the vessel and vessel owner, indicating type and duration of service required, and full payment of all applicable fees and charges.

(m) RESERVED MOORING:

"Reserved Mooring" means having a specific assigned stall the use of which, after payment of reserved mooring fees, takes precedence over the use of the stall by any other vessel.



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RULE: 34.2 - ABBREVIATIONS, SYMBOLS, DEFINITIONS
(continued)

(n) STALL:

A berthing location within the float system of the Homer Port and Harbor. A stall does not include the float or finger of the float; only the space between or adjacent to it.

(o) SMALL BOAT HARBOR:

"Small Boat Harbor" means that area of water protected by breakwaters constructed by the federal government and by the line of the mean higher high water of the shoreline of the area protected by breakwaters, including docks, floats, berths, tidal grids and other mooring facilities as operated by the City.

(p) TERMINAL FACILITIES:

Terminal Facilities include the two (2) City docks which are the Deep Water Dock and the Pioneer (Ferry) Dock the Fish Dock within the Small Boat Harbor and associated equipment, offices, warehouses. Storage space, roads, paved areas, water banks, beaches and shorelines under the management and control of the City of Homer.

(q) TRANSIENT:

"Transient" means any vessel using the mooring space on a temporary basis or which does not have a specific reserved mooring space.

(r) "VESSEL" DEFINED:

Whenever reference is made to a "vessel" in the Tariff, the term shall mean any boat, motor boat, ship, aircraft when waterborne, boathouse, floats, scows, rafts, pile drivers, or any floating structure or object used for recreational, or any other purpose upon the waterways, or moored at any place in any waterway within the boundaries of the City.

(s) WATERWAY:

"Waterway" means any water, waterway, lake, river, tributary or lagoon within the boundaries of the City.



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RULE: 34.2 - NOTICE TO THE PUBLIC (C)

EFF: 21DEC1999

SECTION 1

This Tariff is published and filed under the Federal Maritime Commission Automated Tariff Filing Information System as required by law and is; therefore, notice to the public, shippers, consignees and carriers, that the rates, rules and charges apply to all traffic for which contract rates have not been arranged.

In addition to the Port and Harbor Tariff, the public, shippers, consignees and carriers using City of Homer facilities should consult and be aware that the City of Homer Code of Ordinances, including but not limited to Chapter 5 (Fire Prevention), Chapter 5.14 and 21 (Utilities including Garbage, Refuse, Water and Sewage) and Chapter 10 (Ports and Harbors), all as amended, apply and govern where not specifically provided otherwise in this Tariff.

RULE: 34.4 - APPLICATION OF TARIFF (C)

EFF: 01JAN2002

SUBSECTION 105

(a) GENERAL APPLICATION OF TARIFF:

Rates, charges, rules and regulations provided in this Tariff will apply to persons and vessels using certain terminal facilities under jurisdictional control of the City of Homer and located within the harbor bounded by the City of Homer with the Small Boat Harbor entrance located at latitude 59 36'15" N and longitude 151 24'48" W and specifically to docks, appurtenant structures thereto, and waterways under the management of the City of Homer. Special terms and conditions exist for the dock operations by the State of Alaska, Alaska Marine Highway System, for operations of the State Ferry System on the Pioneer Dock and for the dock operations by a contractor engaged in chip storage and loading operations on or in the vicinity of Deep Water Dock.



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RULE: 34.4 - APPLICATION OF TARIFF

(continued)

(b) TARIFF EFFECTIVE:

Rates, charges, rules and regulations named in this Tariff and any additions, revisions, or supplements thereto shall apply to all vessels or users and to all freight received at facilities subject to the Tariff on and after the effective date of revisions, or supplements thereto. Unless otherwise specified all transit freight received at terminal and undelivered prior to effective dates of Tariff, revisions, or supplements thereto shall be charged the rates in effect on the date such freight was received until entire lot or shipment has been withdrawn.

(c) ACCEPTANCE OF TARIFF:

Use of the city docks and terminal facilities of the City shall be deemed acceptance of this Tariff and the terms and conditions named herein.

(d) RESERVATION OF AGREEMENT RIGHTS:

Right is reserved by the City of Homer to enter into agreement with carriers, shippers, consignees, and/or their agents concerning rates and services, providing, such agreements are consistent with existing local, state and federal law governing the civil and business relations of all parties concerned.

(e) COMPLIANCE WITH CONDITIONS OF BERTHING:

Use of city docks and terminal facilities and the acceptance of services shall comply with any additional Conditions of Berthing set forth in subsection 310 contained herein.

RULE: 34.5 - APPLICATION OF RATES (C)

EFF: 27DEC2000

SUBSECTION 110

Except as otherwise provided herein, rates apply per short ton which is 2,000 lbs., or per 40 cu.ft. as rated by ocean carriers, or per 1,000 feet board measure, or 42 gallons per barrel of bulk petroleum products corrected to 60 F. net, or 376 lbs. per barrel of bulk cement, or per bone dry wood chips as rated by ocean carrier.



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RULE: 34.5 - APPLICATION OF RATES
 (continued)

Rates provided for commodities herein are specific and may not be applied by analogy. If rates are not provided for specific commodities, rates to be applied are those established for "Freight N.O.S."

All rates in this Tariff except daily and seasonal load and launch ramp fees will have combined Borough and City sales tax applied. The resulting figure will be rounded to the nearest quarter dollar for billing purposes. The load and launch ramp daily and seasonal fees are both inclusive Borough and City sales taxes for ease of collection at the Iron Ranger and toll booth at the load and launch ramp.

These revisions are effective upon filing with the Federal Maritime Commission as an amendment to the Homer Port and Harbor Tariff.

RULE: 34.6 - INSURANCE (C)

EFF: 15SEP1995

SUBSECTION 115

Rates named in the Tariff do not include insurance of any kind. The City of Homer shall be under no obligation to provide any insurance of any type for any vessel, cargo, or liability arising out of use of the city docks or terminal facilities. If the City does acquire any such insurance, the charges for that insurance shall be in addition to the dockage and wharfage fees described in this Tariff.

RULE: 34.7 - RESPONSIBILITY FOR COLLECTION AND GUARANTEE OF CHARGES (C)

EFF: 01JAN2002

SUBSECTION 120

(a) RESPONSIBILITY FOR CHARGES:

The vessel, its owner or agents, shippers or consignees, and the owner of cargo on the vessel shall be jointly and severally responsible for payment of charges named herein and such payment responsibility applies without regard to the provisions of bills of lading, charter party agreements, contracts or other conflicting provisions.



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**RULE: 34.7 - RESPONSIBILITY FOR COLLECTION AND GUARANTEE OF
(continued) CHARGES**

(b) PREPAYMENT, TIME OF PREPAYMENT, ACCEPTABLE SECURITY:

All charges for services rendered by the Port or for the use of terminal, dock and harbor facilities are due and payable in United States currency as they accrue upon completion of such services or uses. Failure to pay an invoice when due shall render the account delinquent and subject to legal collection efforts. In his sole discretion, the Harbormaster may require payment in advance of any or all charges prior to rendering services or granting use of terminal, dock or harbor service.

(c) CHARGES ON DELINQUENT ACCOUNTS:

All invoices, except for damages to City of Homer property will be declared delinquent 45 days after billing date (statement date) and will be charged interest at the rate of 10.5% per annum (.875% per month). All accounts delinquent 90 days after billing date will be assessed a \$250 administrative fee.

RULE: 34.8 - LIABILITY FOR LOSS OR DAMAGE AND INDEMNITY (I)

EFF: 15SEP1995

SUBSECTION 125

(a) RESPONSIBILITY LIMITED

No person other than employees of the holders of authorized Terminal Use Permits of Fish Dock Use Permits shall be permitted to perform any services on the wharves or docks, on in any other terminal facility of the City of Homer, except on written authorization of the Harbormaster. The City of Homer, its employees and agents, shall not be liable for the injury of persons on city docks, or terminal facilities, nor shall they be liable for any loss, damage or theft occasioned by e such persons' presence of the city docks, or terminal facilities, except that the City of Homer shall be liable for any portion of loss or damage that is directly caused by its own negligence.



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RULE: 34.8 - LIABILITY FOR LOSS OR DAMAGE AND INDEMNITY
 (continued)

The City of Homer, its employees and agents, are not responsible for loss or damage caused by fire, frost, heat, dampness leakage, weather damage, evaporation, natural shrinkage, waste, or decay, animals, rats, mice, or other rodents, moths, weevil or other insects, leakage or discharge from fire protection systems, collapse of buildings or structures, breakdown of plant protection systems, breakage of plant or machinery or equipment, or by floats or logs, piling or camel logs required in breasting vessels away from wharf, nor will they be answerable for any loss, or damage, or delay arising from insurrection, shortage of labor, combinations, riots or strikes of any persons in their employ or in the service of others, or from any consequences arising therefrom, except the City of Homer shall be liable for any portion of loss or damage that is directly caused by its own negligence.

(b) INDEMNITY:

User, vessel, vessel owner and its agents, shippers or consignees shall indemnify and hold harmless the City of against any and all claims arising from any breach or default in performance of any obligation to such parties to be performed under the terms of this Tariff or arising from any act or omission of said parties for all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claims, action or proceeding brought against the City of Homer except for those caused by the City's own negligence.

(c) OWNER'S RISK:

All of the following shall be at the owner's risk except for those damages caused by the City's own negligence:

- (1) glass, liquids and fragile articles will be accepted only at owner's risk for breakage, leakage or chafing;
- (2) freight on open ground is at owner's risk for loss or damage;
- (3) freight subject to freezing will be accepted only at owner's risk; and



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RULE: 34.8 - LIABILITY FOR LOSS OR DAMAGE AND INDEMNITY

(continued)

- (4) all water craft, moored in the Harbor or berthed at Port Facilities, are at owner's risk for loss or damage. This includes vessels, if and when permitted by the Harbormaster or his authorized agent moored alongside of vessels.

(d) **LIMITS OF LIABILITY:**

No provisions contained in this tariff shall limit or relieve the Port of Homer from liability for its own negligence nor require any person, vessel or lessee to indemnify or hold harmless the Port of Homer from liability for its own negligence.

RULE: 34.9 - RIGHTS OF THE CITY OF HOMER (C)

EFF: 21DEC1999

SUBSECTION 130

SUBJECT TO SUBRULE 34.8 (d)

Without in any way limiting the general authority of the City of Homer, the City shall have the following powers:

(a) **ACCESS TO HARBOR OR PORT FACILITIES:**

The City shall at all times have the right to refuse the use of any city dock or terminal or harbor facility by any person, equipment materials or vessel or to remove any vessel or, person or cargo at any time from any city dock or terminal, or harbor facility. This right shall be reserved at all times to the City without responsibility for demurrage, loss or damage when:

- (1) previous arrangements for berthing, space, receiving or unloading have not been made with the Harbormaster; or
- (2) the vessel is unsafe or hazardous and may pose risk to life or property; or
- (3) the value of the vessel, in the opinion of the Harbormaster is less than the probable service charges and other charges to its use of the city dock or terminal, or harbor facility; or



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RULE: 34.9 - RIGHTS OF THE CITY OF HOMER
(continued)

- (4) during periods of congestion, or in cases of emergency, when, in the judgment of the Harbormaster, the circumstances the prevailing or likely to occur will prevent the city docks or terminal, or harbor facilities, or any portion of them from providing customary services to the public.

For vessels that may be hazardous or become a menace to other vessels, their occupants, or city facilities, the Harbormaster or City Manager may require an operator or owner of a vessel to furnish evidence that there is currently in effect liability insurance in an amount satisfactory to the City by filing a certificate of insurance or other satisfactory evidence signed by an agent or officer of the insurance company and stating the effectiveness and expiration date thereof. (HCC 10.04.110(b))

(b) RIGHT TO REFUSE CARGO:

In his discretion the Harbormaster shall at all times have the right to refuse to accept, receive or unload, or to permit a vessel to discharge:

- (1) Cargo for which previous arrangements for space, receiving, unloading or handling have not been made with the Harbormaster by shipper, consignee or vessel.
- (2) Cargo not suitably packed for safe transportation.
- (3) Cargo, deemed by the Harbormaster in the reasonable exercise of his discretion, that is offensive, perishable or hazardous. Hazardous cargo must have been prepared for shipment in accordance with the applicable Department of Transportation regulations (including 49 C.F.R. Parts 171-179).
- (4) Cargo, deemed by the Harbormaster in the reasonable exercise of his discretion, which may be less in value than the probable service charges and other charges related to it.



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RULE: 34.9 - RIGHTS OF THE CITY OF HOMER
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- (5) Cargo, deemed by the Harbormaster in the reasonable exercise of his discretion, which may have circumstances then prevailing or likely to occur that will prevent the city docks, or terminal or harbor facilities, or any portion of them, from providing customary service to the public during a period of congestion or in cases of emergency.

(c) RIGHT TO SCHEDULE VESSELS AND CARGO:

In his discretion, the Harbormaster shall at all times have the right to schedule access to any harbor or port facility by any person or vessel, or to remove any person, vessel, or cargo at any time from any city dock or terminal facility in order to provide for efficient operation of the city docks or terminal facilities and promote the objectives of the City of Homer as set forth in the Homer Code or as adopted by the City Council of City of Homer.

(d) RIGHT TO REMOVE, TRANSFER OR WAREHOUSE CARGO:

- (1) Hazardous or offensive cargo. In his discretion, the Harbormaster shall at all times have the right to immediately remove all hazardous or offensive cargo, or cargo, which by its nature, is liable to damage other cargo or city dock, terminal or harbor facilities. The cargo may be removed from its present location or any other location with all expenses and risk of loss or damage to be charged to the account of the owner, shipper, or consignee.
- (2) Cargo beyond free time. Any cargo remaining on city dock, terminal, or harbor facilities after expiration of any free time, may be removed to public warehouses, and all expenses of removal and risk of loss or damage shall be charged to the account of the owner, shipper, consignee or vessel as responsibility may appear on shipping documents, manifests or other sources.

(e) RIGHT TO WITHHOLD DELIVERY OF FREIGHT:

Right is reserved by the City of Homer to withhold delivery of freight until all accrued charges and/or advances against said freight have been paid in full. At the Harbormaster's discretion, any or all of such freight may be placed in public or private storage and all costs of removal and subsequent handling and storage shall be charges to the account of the owner of the freight.

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RULE: 34.9 - RIGHTS OF THE CITY OF HOMER

(continued)

(f) RIGHT TO SELL FOR UNPAID CHARGES:

Freight on which unpaid terminal, dock or harbor charges have accrued may be sold to satisfy such charges and costs; provided, such sale has been publicly advertised. Freight of a perishable nature or of a nature liable to damage other freight may be sold at public or private sale without advertising; provided owner has been given proper notice to pay charges and to remove said freight and has neglected or failed to do so within a prescribed reasonable time.

(g) EXPLOSIVES:

The City of Homer shall allow the acceptance, handling or storage of explosives within the confines of the Port and Homer Small Boat Harbor.

- (1) Hazardous materials, as established by the Department of Transportation Hazardous Materials Commodity List, will be charged wharfage at a rate of forty cents per hundred pounds, or fraction thereof, at locations designated for loading, unloading, or staging by U.S. Coast Guard permit.
- (2) Hazardous materials must be handled according to all federal, state, and local laws and regulations.

(h) RIGHT TO REMOVE, TRANSFER, OR REARRANGE VESSELS:

- (1) Hazardous vessels or vessels with hazardous cargo. In his discretion, the Harbormaster shall at all times have the right to immediately remove any hazardous or offensive vessel, or any vessel containing hazardous cargo, or any vessel or one containing cargo, which by its nature, is liable to damage other vessels, or other cargo, or harbor or port facilities.

The vessel may be removed from its present location to any other location and all expenses and risk of loss or damage shall be charged to the account of the owner, shipper, vessel or consignee.

- (2) Vessel beyond free time. Any vessel remaining at city dock, terminal or harbor facilities after expiration of any applicable free time, may be removed to any other public or private facility, and all expenses of removal and risk of loss or damage shall be charged to the account of the owner, shipper, consignee, or vessel.



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RULE: 34.9 - RIGHT OF THE CITY OF HOMER

(continued)

- (3) Movements of vessels to reduce congestion, or maximize services. In his discretion, the Harbormaster shall at all times have the right to move or rearrange any vessel from its present location to any other location in order to reduce congestion within or on the terminal, the docks or the harbor to prevent disruption of customary services to the public.

**(i) RIGHT TO REMOVE MATERIALS OR EQUIPMENT FROM CITY DOCK
 TERMINAL OR HARBOR FACILITIES**

Any materials, equipment, trash, or other items left on or about any city dock, terminal or harbor facilities may be removed by the Harbormaster at any time with all expenses of removal and risk of loss or damage charged to the account of the vessel that last occupied the facility, or the owner, shipper, consignee or vessel as responsibility may appear on shipping documents, manifests, or other sources.

(j) RIGHT TO IMPOUND AND DISPOSE OF VESSEL:

- (1) Impoundment of vessels for violations. The Harbormaster is authorized to impound any vessel in or on the Homer Harbor, terminal, or dock facilities whose owner or operator is not aboard and which is not properly identified by name and/or number; or any vessel in violation of any provisions of this tariff; or any vessel whose owner or operator has not paid the stall license fee or any other fee or charge due the City for the vessel by the due date of such fee or charge and such fee or charge is thirty days past due; or any vessel which is unsafe and whose owner or operator has failed to remove it after notice. The Harbormaster may impound a vessel by immobilizing it or removing or having it removed from the water and placed in City or commercial storage with all expenses and risk of haul-out and storage to be borne by the owner of such vessel.
- (2) The owner or operator of any vessel impounded by the City shall be subject to and liable for storage charge and shall be subject to and liable for all costs incurred by the City by reason of impounding or removal.
- (3) The procedure for impoundment, including notice and pre-impoundment hearing are set forth in 10.04.120 of the Homer City Code.

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RULE: 34.9 - RIGHT OF THE CITY OF HOMER
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(k) RIGHT TO REMOVE AND DISPOSE OF NUISANCES.

The City retains the right to abate and remove nuisances including vessels which are derelicts and unfit and unseaworthy or which are maintained in such manner as to make them liable to sinking for lack of being pumped or other maintenance. The provisions of Homer City Code 10.04.130, govern the declaration and abatement of nuisances including vessels, refuse and debris.

RULE: 34.10 - SHIPPERS REQUESTS AND COMPLAINTS (I)

EFF: 15SEP1995

SUBSECTION 135

Requests and complaints may be made by any shipper, vessel, or vessel agent by filing a written statement with: Harbormaster, 4350 Homer Spit Road, Homer, Alaska, 99603, or by facsimile, number (907) 235-3152.

RULE: 34.11 - DELAYS NO WAIVER OF CHARGES (C)

EFF: 15DEC1999

SUBSECTION 140

Delays which may be occasioned in loading, unloading, receiving or delivering freight, or the berthing of vessels as a result of harbor, terminal or dock congestion, equipment failure or breakdown, or combinations, riots or strikes of any persons in the employ of the City of Homer or others, or arising from any other cause not reasonably within the control of the City of Homer, will not excuse the owners, shippers, consignees or carriers of the freight or vessel from full wharf demurrage, berthing or other terminal, dock or harbor charges or expenses which may be incurred under conditions stated herein.



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RULE: 34.12 - MANIFESTS REQUIRED OF VESSELS (C)

EFF: 15DEC1999

SUBSECTION 145

Masters, owners, agents or operators of vessels are required to furnish the City of Homer with complete copies of vessel's manifests showing the name of consignees or consignors and the weights or measurements of all freight loaded or discharged at the docks terminal or harbor facilities of the City of Homer. Such manifests must be certified as correct by an authorized official of the company and must also designate the base weight or measurement on which ocean freight was assessed. In lieu of manifests, freight bills containing all information as required above may be accepted.

RULE: 34.13 - MOORAGE IN HARBOR (C)

EFF: 01JAN2006

SUBSECTION 150

(a) ASSIGNMENT OF MOORAGE:

The Homer Port and Harbor is often congested and it is the policy of the City of Homer to provide for the maximum public use of available facilities. The Harbormaster shall have discretion to implement that policy.

Mooring assignments to particular stalls on the City of Homer float system are made by the Harbormaster and subject to charges named in Subrule 34.18 Subsection 200. Mooring assignments are made to a particular combination vessel and owner/operator are not assignable by the owner/operator, and automatically expire upon the sale or transfer of the vessel to another owner/operator unless stall assignee places a newly acquired or replacement vessel of permitted size in the stall as per approved request made to Harbormaster and upon payment of the \$25.00 fee to cover administrative costs of changing the boat in the reserved stall. A mooring assignment is not a lease or an exclusive right to occupy any particular stall. In order to maximize the public's use of existing facilities it is common for the Harbormaster to temporarily assign vessels to stalls normally used by another vessel when that vessel is out of the harbor.

Individuals who have a reserved stall may request a change in reserved stall assignment by completing the Swap List Request Form upon payment of the required \$25.00 Swap List Fee.

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RULE: 34.13 - MOORAGE IN HARBOR (C)
(continued)

This fee is neither refundable nor creditable to the reserved stall holder or the reserved stall account. The Harbormaster shall place the reserved stall change request on the swap list on the swap list on a first-come, first-served basis.

As a condition precedent to securing moorage space, each applicant shall, in writing, agree to the terms and conditions of the moorage agreement provided by the Port and Harbor of the City of Homer. Providing false or misleading information on the moorage agreement is grounds for immediate termination of the moorage agreement.

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RULE: 34.13 - MOORAGE IN HARBOR (C)
(continued)

No long term (more than 3 consecutive months) live-aboard situation is permitted in the harbor without Harbormaster's approval in writing after an evaluation of the sanitary, service and congestion problems that may be a result of such arrangement.

A stall, on becoming available, shall promptly be made available to the next applicant from the top of the appropriate waiting list, as provided herein. The applicant may be assigned to an available stall upon completion and execution of the moorage agreement, payment of the appropriate moorage fee, and providing proof satisfactory to the Harbormaster of vessel ownership or agreement to operate or intent to obtain a vessel within one year. In the latter case, the moorage agreement will not be renewed without showing satisfactory proof of vessel ownership. If an applicant does not want to sign a moorage agreement within the time prescribed by the Harbormaster, after being offered a stall, he will be placed at the bottom of the waiting list.

The reserved stall is personal to the individual named as owner or operator on the moorage agreement. The stall is reserved only with respect to the vessel indicated on the moorage agreement. If the vessel is not in the reserved stall, the Harbormaster may, at his discretion assign a transient vessel to the reserve stall. Neither the owner nor operator is entitled to payment for or reimbursement from the use of the reserved stall by the transient vessel.

No person may sell, lease, transfer or assign a moorage agreement for the use or control of the assigned stall to any other person or entity, or otherwise charge another person for the use of a stall. The City has the sole control of the assignment, transfer and use of the individual stalls. In the event of a sale, lease, transfer or assignment of a moorage agreement prohibited by this section, the Harbormaster shall revoke the moorage agreement after 10 days' written notice to the holder of the moorage agreement.

No Bed & Breakfast, lodging business, coffee shops or sandwich shops, cafes or similar types of businesses are allowed on boats in the harbor due to the potential of increased congestion and/or liabilities to the City and impact on services capability in the harbor.

A stall user who no longer has possession, control or custody of the vessel or loses the vessel to fire, sinking or other casualty may continue to pay moorage fees with respect to the stall and retain reserved use for a period of not more than one year from the date of sale, transfer or loss of possession of the vessel so long as he has replaced the vessel with another vessel

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PORT AND HARBOR OF HOMER 4350 HOMER SPIT ROAD HOMER, ALASKA 99603 PHONE: 907.235.3160 TERMINAL TARIFF NO. 600	FMC NO. 600	PAGE	24
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RULE: 34.13 - MOORAGE IN HARBOR
(continued)

of appropriate size for the stall assigned within such one-year period and paid the \$25.00 administrative fee for changing the boat assigned to this reserved stall. Otherwise, the moorage agreement expires. Failure of the owner or operator to give notice in writing to the Harbormaster of the sale, assignment, transfer or loss of use, control and/or possession of a vessel occupying a reserved moorage space within fifteen days of the loss or transfer is grounds for immediate termination of the moorage agreement.

Any person acquiring a vessel or any interest therein, or acquiring any interest in a corporation, partnership, or other entity owning a vessel or any interest therein, shall not thereby acquire any other right under a moorage agreement, or any right to use an assigned stall.

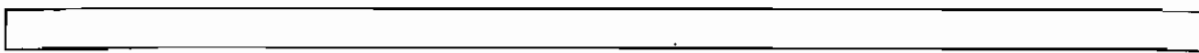
Upon the death of any reserved stall user, reserved mooring privileges shall be transferred to the surviving spouse, son or daughter upon written request to the Harbormaster.

(b) WAITING LIST FOR RESERVED STALL ASSIGNMENT:

Due to the scarcity of stalls on the City of Homer float system, vessels will be assigned a permanent reserved stall based on seniority position on waiting lists maintained by the Harbormaster's office. Separate waiting lists shall be maintained for the following size floats stalls:

- 18 feet
- 20 feet
- 24 feet
- 32 feet
- 40 feet
- 50 feet
- 75 feet

The Harbormaster shall place applicants on the waiting list on a first-come, first-serve basis only upon receipt of all requested information and payment of the annual waiting list fee. The annual waiting list fee will be accepted only from the individual whose name appears on the waiting list.



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RULE: 34.13 - MOORAGE IN HARBOR
 (continued)

The fee is neither refundable nor creditable to berth lessee. An applicant or existing reserved shall licensee may be placed on one or more of these lists. An applicant need not own or operate a vessel to be placed on the waiting list.

Upon the death of an applicant, the applicant's rank on the waiting list shall be transferred to the surviving spouse, son or daughter upon written request to the Harbormaster.

An applicant shall notify the Harbormaster in writing of any change of address or telephone number(s) immediately. Any individual, partnership, corporation or governmental agency may apply for use of a reserved stall. All applicants, except government agencies, shall designate a single individual whose name shall appear on the waiting list and who shall be responsible for payment of all fees. Any change in the individual designated may result in the applicant's loss of priority on the waiting list.

There is a fee of \$30.00 per year per listing upon the waiting list(s) for a permanent reserved stall assignment. An individual may sign up at any time during the year and pay a prorated fee to the May 1 Stall Wait List due date. Non payment of the fee by the May 1 due date means automatic cancellation from the wait list.

(c) RESERVED STALL ASSIGNMENTS:

- (1) The Harbormaster may assign a specific stall on the City of Homer float system within the Homer Small Boat Harbor, to a particular vessel on an annual basis.
- (2) Upon return of the permanently assigned vessel to the Small Boat Harbor, (provided property notifications are given, and based on harbor congestion and the difficulties involved in moving vessels) the Harbormaster will attempt to rearrange vessels so a vessel with a permanent reserved stall assignment may moor at that assigned stall.
- (3) A vessel assigned a permanent reserved stall assignment should notify the Harbormaster when departing for more than 5 days. If away from Homer for more than five days, a reserved stall vessel should notify the Harbormaster of its intended arrival date and time back into the Small Boat Harbor at least 24 hours prior to reentry into the Harbor.



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RULE: 34.13 - MOORAGE IN HARBOR
(continued)

(d) **PERMANENT RESERVED STALL AND TRANSIENT MOORAGE ASSIGNMENTS:**
 There are two types of moorage assignments at the Homer Port and Harbor Small Boat Harbor. The first is a permanently assigned reserved stall and the second is a transient moorage. Stalls that are permanently assigned to a boat/owner may be used for transient moorage when the permanently assigned vessel is away from the stall.

(e) **NOTICE UPON ARRIVAL:**

All vessels should notify the Harbormaster's office prior to arrival. Those vessels who have received permanently assigned stalls should notify the Harbormaster's office 24 hours prior to expected arrival to allow the harbor staff to free the stall. If, despite reasonable efforts, the Harbormaster is unable to clear a permanently assigned stall due to congestion, high winds, or safety considerations, a vessel with a permanently assigned stall may be required to temporarily use a transient moorage space as directed by the Harbormaster.

Vessels entering the Homer Port and Harbor which have not, for any reason, received a mooring assignment by radio contact or otherwise, shall be restricted to the following areas:

Transient moorage space throughout the Small Boat Harbor, which is designated by a yellow colored bullrail (approximately 4,000 lineal feet).

There are no transient stalls in the Small Boat Harbor. If there is no available transient space available at the bullrail, a vessel is permitted to "raft" to a vessel(s) already secured to the bullrail.



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RULE: 34.13 - MOORAGE IN HARBOR
 (continued)

(f) VESSEL REGISTRATION:

As a condition precedent to securing mooring space, each applicant shall, agree in writing to the terms and conditions of the moorage agreement provided by the Harbormaster and provide the information requested in the moorage agreement. Registration by completing the moorage agreement and paying the required fees must be accomplished immediately but not later than two hours after the vessel enters and moors in the Small Boat Harbor or before using and Port and Harbor Facilities. Providing false or misleading information on the moorage agreement is grounds for immediate termination of services.

RULE: 34.14 - BERTHING AT THE PORT (C)

EFF: 01JAN2002

SUBSECTION 155

(a) ASSIGNMENT OF BERTHS:

The Homer Port Docks require advance scheduling in order to provided maximum public use of available facilities. All vessels, or their owners or agents, desiring a berth at the docks shall, within a minimum time of twenty-four (24) hours make advance application for berthing, specifying the date of docking, sailing, and the nature and quantity of cargo to be handled. Application for berthing is to be made in writing to the Port.

Vessels may occupy a berth, subject to charges named in Subrule 34.19 Subsection 205, providing such vessel shall vacate the berth upon demand by the Port. Vessels refusing to vacate berth upon demand may be moved by tug or otherwise, and any expense, including damages to other vessels or to the facility during such removal, shall be charged to the vessel so moved. Vessels at berth engaged in loading or discharging cargo may be required to work overtime at the discretion of the Port. Overtime differentials shall be added to the account of the vessel's owners, agents or operators.

(Subject to Subrule 34.8 (d) herein)

Unauthorized anchoring in open areas in or adjacent to the Homer Port and Harbor is prohibited.



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RULE: 34.14 - BERTHING AT THE PORT
(continued)

(b) PREFERENCE TO RESERVED DOCK USE:

At the Deep Water Dock priority is given to dock use reserved in advance with the Harbormaster. Reservation of dock use must specify arrival and departure dates and the nature and quantity of the freight to be loaded or discharged. Preferential berthing rights are accorded by contract to berth vessels for wood chip loading up to fifteen (15) times in each calendar year. Preferential berthing rights by contract for vessels at the dock are immediate upon arrival of each vessel during a period of twelve (12) hours before and twelve (12) hours after the established arrival times recited by a written schedule filed by the contracted company with the Harbormaster at least thirty (30) days in advance. Other vessels utilizing the dock will be removed upon the arrival of contracted vessel arriving within the scheduled arrival period at no cost to contractor, with the exception that no vessel shall be moved from the dock if doing so would, in the opinion of the Harbormaster, create an emergency condition for that vessel.

On the main face of the Pioneer Dock, preferential privileges to berth Alaska Marine Highway System ferry vessels in accordance with the published schedule is accorded. Any variance in the schedule will be provided to the Harbormaster a minimum of six (6) hours prior to arrival.

Other vessels using the dock will be cleared upon arrival of the ferry. The north face of the Pioneer Dock has preferential mooring privileges accorded to the U.S. Coast Guard vessel assigned.

RULE: 34.15 - SAFETY, SANITATION AND HOUSEKEEPING (C)

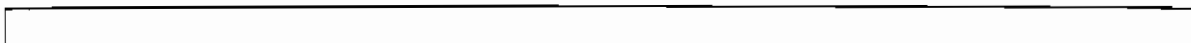
EFF: 01JAN2009

SUBSECTION 160

(a) GENERAL PROVISIONS

All users of City docks, terminal and harbor facilities shall exercise due care for the protection of life and property and the public from injury or damage.

Additional safety and sanitation rules applicable to docks and terminals should be consulted. Ordinances of the City of Homer of particular relevance include Chapter 5.06, (Nuclear Free Zone Which Includes Harbor Facilities), Chapter 5.08 (Garbage and Solid Waste Disposal), Chapter 5.16 (Public Nuisances), Chapter 5.20 (Fire Prevention and Explosives), and Title 10 (Port and Harbor).



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RULE: 34.15 - SAFETY, SANITATION AND HOUSEKEEPING
 (continued)

All safety and sanitation laws, regulations and policies of the City of Homer, the Kenai Peninsula Borough, the State of Alaska, and the United States, including those adopted by international treaty, apply to city docks, terminal or harbor facilities. All users, including shippers, vessels, and consignees are hereby warned that the party or parties responsible for infractions of such laws, regulations or policies will be subject to and responsible for any penalties that may result from their violation of those laws, regulations and policies.

(b) HAZARDOUS MATERIAL, NOTICE OF HAZARDOUS CARGO AND PERMIT REQUIREMENT:

Hazardous materials, as established by the Department of Transportation Hazardous Materials Commodity List, will not be permitted without the express consent of the Harbormaster and previous arrangement (at least 12 hours prior to landing) and receipt of all appropriate manifests and U.S. Coast Guard Permits, and only at those locations designated by U.S. Coast Guard Permit.

Temporary storage and/or shipment through the Port of Homer of quantities of hazardous waste in excess of 400 pounds of acutely hazardous material) requires a minimum 14 day advance request for a permit, in compliance with the "Interim Policy for the Port and City of Homer concerning notification by hazardous waste carriers and/or generators, municipal review and public notification."

No person shall throw or otherwise cause to be deposited any gasoline, oil, hazardous waste, petroleum contaminated refuse or pumping of bilge containing petroleum products onto any part of into the water of the port or harbor.

Pumping or storing fuel on floats is prohibited.

(c) RESPONSIBILITY FOR HOUSEKEEPING:

Users of docks and other terminal and harbor facilities will be required to maintain same in an orderly manner as directed by the Harbormaster. It is unlawful for any person to dump or otherwise dispose of refuse, sewage, garbage, rocks, and/or debris of any kind or type whatever into the water under the jurisdiction of the City of Homer Port and Harbor.



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RULE: 34.15 - SAFETY, SANITATION AND HOUSEKEEPING
(continued)

Deposit of fish carcasses, including heads, bones or viscera from sport fishing activities is authorized only at designated locations.

If user does not properly clean property used, the Harbormaster shall order the work performed and user will be billed for services in accordance with the rates set forth in Subrule 34.25 Subsection 245 of this tariff.

No person shall tap, connect, disconnect, or interfere with any water outlet, water pipe, water connection, telephone equipment, electrical devise of any kind on docks or in stalls maintained or operated by the City in the Homer Port or Small Boat Harbor without first having obtained the permission of the Harbormaster; or to interfere with or tamper with any wharf, float, gangway, ramp, or any other facility operated by the City.

No person shall use or disturb any port or harbor equipment or facilities; except fire extinguishers in a fire emergency and harbor carts. City provided carts are for use on the floats and may not be removed from the harbor or used on ramps at any time. Carts should be returned to area adjacent to ramps after each use.

(d) SMOKING PROHIBITED:

No smoking shall be allowed on any wharf, pier or in any port or harbor facility, during fuel operations or at any time on any fuel station. Persons violating this rule may be barred, at the discretion of the Harbormaster, from the further use of any wharf or facility and, in addition, shall be subject to prosecution under applicable federal, state and municipal laws.

(e) WASTE OIL AND PETROLEUM PRODUCTS:

All waste oil and petroleum products must be properly disposed of by the vessel/owner. The City of Homer offers a limited ability to take small quantities of such products as a convenience to the boating public. Quantities, less than 5 gallons, of waste oil and petroleum products will be accepted by the City in the approved and designated facilities on shore. There shall be no storage, even of a temporary nature, of waste oil or petroleum products on city docks, wharves, piers, or finger floats. Any vessel/owner/agent storing or disposing of waste oil in an inappropriate or illegal manner may be barred from further use of the Homer Port and Harbor and/or penalized according to the provisions of federal, state and local law.



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RULE: 34.15 - SAFETY, SANITATION AND HOUSEKEEPING
 (continued)

Larger quantities of waste oil may be accepted by the Harbormaster upon prior arrangement by written approval on a case by case basis. These larger quantities of waste oil, if accepted shall be charged \$3.25 per gallon handling and disposal fee.

(f) TUG REQUIREMENT AND SPEED LIMITATIONS

- (1) Vessels berthing or departing docks subject to the Tariff must use sufficient tugs so vessel can be berthed or removed in a safe manner. Berthing speed shall not exceed the maximum speed allowable for the tonnage or displacement of the vessel by the design of the facility.
- (2) The Deep Water Dock (DWD) fendering system was designed for a 37,500 displacement ton vessel with maximum berthing speed of 20 feet per minute then later up grader with modified corner fenders, and three breasting dolphins, to accommodate up to 65,000 ton displacement vessels. Vessels larger than 37,500 displacement tons shall have a maximum berthing speed of 16 feet per minute.
- (3) The new Pioneer Dock was designed to accommodate vessels of up to 80,000 displacement tons. Vessels larger than 37,500 displacement tons shall be docked with a maximum berthing speed of 16 feet per minute.
- (4) All craft shall restrict their speed to two miles per hour, no wake, while inside the Small Boat Harbor entering or leaving and shall operate at a reduced speed within one quarter mile of the docks outside the harbor. It shall be unlawful for any vessel to travel at a speed within any waterway causing a wake, wash or wave action which will damage, endanger or cause undue distress to any other boat or occupant thereof, regardless of established speed limits.

(g) TYING TO PILING IS PROHIBITED:

All vessels using the Deep Water Dock and Pioneer Dock will use bits and bullrails.



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RULE: 34.15 - SAFETY, SANITATION AND HOUSEKEEPING
 (continued)

(h) FIRE EXTINGUISHER REQUIREMENTS:

- (1) Fire extinguishers in operating condition must be readily available on or immediately adjacent to all welding, cutting, or open flame equipment being used on vessels.
- (2) Fire extinguishers in operating condition must be readily available on all machines, cranes, and welders used on the docks or within the Terminal.

(i) NO POSTING OR DEFAACEMENT:

No person shall write or post any written or printed matter in any place within or on any Homer Port or Harbor facilities, except upon bulletin boards constructed for the purpose only after having obtained permission from the Harbormaster.

No person shall disregard, deface, remove, tamper with or damage any sign or notice posted or installed by the Harbormaster.

(j) ANIMALS:

All dogs or other animals will at all times be under the physical control of the owner or person in charge of the animal in accordance with 20.08.020 of the City Code.

(k) STOVES, FIRES, EQUIPMENT, FLAMES, ETC:

No person shall leave a stove or other heating equipment in unattended operation on a vessel moored within the Homer harbor unless such equipment has been certified as safe for such unattended use. No person shall leave any vessel within the Homer Boat Harbor unattended while fire or open flame is burning thereon. No cutting or welding or use of open flame shall be allowed on any boat undergoing repairs, on or at any Homer port or harbor facility except in an area especially designated for such repair. However, at the Harbormaster's discretion, this requirement may be waived provided adequate fire fighting equipment is physically located where the welding project is taking place. No person shall use any fire-fighting equipment located at the Homer harbor for the purpose of pumping fire suppressant water into boats for any purpose other than extinguishing fires. Any use of City fire extinguishers must immediately be reported to the Harbormaster.



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RULE: 34.15 - SAFETY, SANITATION AND HOUSEKEEPING
 (continued)

(m) **PLACEMENT OF GEAR:**

The placement of fishing nets in the waters of the Homer Small Boat Harbor is prohibited. The physical limits of the "Small Boat Harbor" are set forth in Subrule 34.2 (o) Subsection 100 of this Tariff.

RULE: 34.16 - RESPONSIBILITY FOR PROPERTY DAMAGE (C)
 EFF: 15DEC 1999

SUBSECTION 165

Users damaging city docks, floats, ramps, or other property of the City of Homer will be responsible for cost of repairs. User will be billed for repairs to damaged property at cost, including overhead.

RULE: 34.17 - BULK PETROLEUM PRODUCTS (I)
 EFF: 15SEP1995

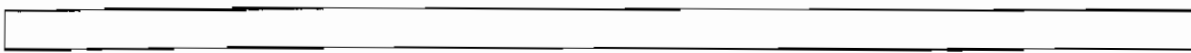
SUBSECTION 170

(a) **APPLICATION OF TARIFF:**

Except as otherwise provided in this section, the rates, rules and regulations published in other sections of this Tariff apply to vessels, shippers, and consignees of Bulk Petroleum Products.

(b) **CLEARING AND HEATING PETROLEUM LINES:**

Shippers, consignees, or vessels and persons in charge thereof are responsible for providing steam or other heating means to assure the proper flow of asphalt and other petroleum products requiring heat. Shippers, consignees, or vessels and persons in charge thereof will be responsible for clearing all petroleum products from lines located on or adjacent to any Terminal facility after a vessel completes loading or discharge unless otherwise authorized by the Harbormaster. In the event the City of Homer performs any of the above named services, rates shall be charged in accordance with Subrule 34.21 Subsection 215 of this Tariff and billed to shipper, consignee or vessel.



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RULE: 34.17 - BULK PETROLEUM PRODUCTS
(continued)

(c) REGULATIONS GOVERNING PETROLEUM PRODUCTS:

The transfer of bulk petroleum products shall be made in compliance with City of Homer Code provisions including Chapter 5.20 (Fire Prevention), as well as other federal, state and municipal laws, rules or regulations.

(d) HOUSEKEEPING:

Flammable liquids and all hydrocarbons leaked or spilled on wharves shall be cleaned up immediately. Vessels, or consignees shall remove temporary lines immediately upon completion of receipt or discharge of flammable liquids. Spillage from disconnected lines shall be cleaned up immediately by vessel or consignee.

RULE: 34.18 - HARBOR MOORAGE RATES (A)
EFF: 02JULY2012
SUBSECTION 200

(a) CALCULATION OF MOORAGE RATES:

Mooring charges shall commence when a vessel is made fast to a wharf, pier, harbor float or other facility, or when a vessel is moored to another vessel so berthed (rafting). Charges shall continue until such vessel is completely free from and has vacated the port and harbor facilities.

A vessel moored at any time between 12:01 A.M. and 10:00 A.M. shall be charged a full day's moorage. The Harbormaster may, in his discretion and with proper and appropriate advance notice, waive a daily rate for a vessel that will occupy mooring space for a minimum time and, provided that the Harbormaster determines the use of the public facilities by others will not be congested or adversely affected.

Mooring charges shall be calculated on the length of the vessel, or in the case of a reserved stall, the length of the float stall assigned, whichever is greater.

Length shall be construed to mean the distance expressed in feet from the most forward point at the stem to the aftermost part of the stern of the vessel, measured parallel to the base line of the vessel. The length shall include all hull attachments such as bowsprits, dinghies, davits, etc.



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RULE: 34.18 - HARBOR MOORAGE RATES
(continued)

For billing purposes, when the actual length of the vessel is not immediately available, length of the vessel as published in "Lloyd's Register of Shipping" may be used. The City of Homer reserves the right to: (1) obtain the length from the vessel's register, or (2) measure the vessel.

All vessels in the harbor are subject to these rates, except properly registered seine skiffs or work skiffs attached to the mother vessel. Work skiff is defined as a boat that is usually carried on the deck or super structure of the mother vessel and is regularly used in the commercial enterprise of the mother vessel.

(b) ANNUAL MOORAGE FEE:

The annual moorage fee for reserved moorage and transient moorage privileges shall be thirty seven dollars and eighty six cents (\$37.86) per lineal foot based on the overall length of the vessel (including all hull attachments such as bowsprits, davits, dinghies, swimsteps etc.) plus a fifty dollar (\$50.00) administration charge; or for a reserved stall, the length of the finger float stall assigned, or the overall length of the vessel, whichever is greater plus a fifty dollar (\$50.00) administration charge.

Any reproduction in the moorage fee due to a substituted or amended moorage agreement is not applied retroactively and the owner or operator is not entitled to a refund or a pro-rata adjustment of the moorage fees already due or paid. Any moorage agreement that expires will, after five days, automatically be charged a monthly rate retroactive to the expiration date. Unregistered vessels will also, after 5 days, automatically be charged a monthly rate retroactively to the date the vessel entered the harbor.

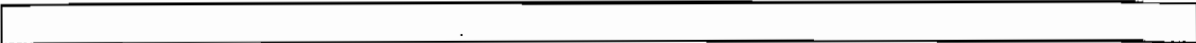
- (1) All reserved stall assignments are on an annual basis beginning October 1 and ending September 30 of the following year. Prepayment of a full year's moorage is due on or before October 1 of each year. Payment for reserved moorage will only be accepted from the individual assigned the reserved stall. The reserved stall payment shall be paid in full at the time the reserved stall/moorage agreement is executed to the satisfaction of the Harbormaster. Any other arrangements are at the discretion of the Harbormaster and must be made in advance.

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RULE: 34.18 - HARBOR MOORAGE RATES
 (continued)

- (2) A reserved stall assignment granted after October 1 will be charged a fee based on the number of months (including the month which it is granted regardless of the day of the month) left in the fiscal year ending September 30.
- (c) A semiannual transient rate is available on a prepaid basis only for transient vessels mooring in the Small Boat Harbor for a period of six consecutive months. The transient semiannual rate is 67% of the annual rate. Vessels that do not renew will automatically be charged the monthly rate.
- (d) The monthly transient rate will be 17% of the annual rate. Vessels that are properly registered and pay all moorage fees in advance may deduct fifty cents (\$.50) per foot per month.
- (e) The daily transient rates are: 3% of the annual rate. Vessels that properly register and pay all moorage fees in advance may deduct five dollars per day from the daily rate.
- (f) **FLOAT PLANE FEES:**
 With proper registration and specific permission from the Harbormaster, float planes may arrange for short-term moorage in the Small Boat Harbor. This is only allowed when ice and weather conditions prevent float planes from landing on Beluga Lake.

A fee in the amount equal to the daily rate for moorage of two (2) 24' vessels shall be assessed on a daily basis for float planes mooring within the confines of the Small Boat Harbor. A monthly rate in the amount equal to the monthly rate for two 24' vessels shall be assessed for float plane moorage for longer periods, and the moorage charge computed for a float plane's stay in the harbor shall be the lowest total charge resulting from the application of either the daily or the monthly rate indicated.



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RULE: 34.19 - DOCKAGE (A)
EFF: 02JULY2012

SUBSECTION 205

(a) DEFINITION:

Dockage charges are assessed on the overall length of the vessel. Length of the vessel as published in the "Lloyds Register of Ships" will be used; however, the Port reserves the right to:

- (1) obtain the length from the vessel's register, or (2) measure the vessel.

(b) DOCKAGE CHARGES:

Dockage charges will be assessed per linear foot per calendar day or portion thereof. A service charge of \$52 will be assessed to each vessel. These charges are applicable to the "outer face" and "trestle berth" of Deep Water Dock and to all berthing locations on Pioneer Dock. The "inside berth" (berth No.2) of Deep Water Dock will have a 4-hour minimum dockage charge of 1/6 the daily rate, and a half day (up to 12 hours) docking charge of 1/2 the daily rate, with no service charge applicable.

0' to 100'	\$254.13	451' to 475'	\$1,327.51	651' to 675'	\$2,711.10
101' to 200'	\$423.25	476' to 500'	\$1,434.88	676' to 700'	\$2,990.88
201' to 300'	\$677.75	501' to 525'	\$1,580.26	701' to 725'	\$3,368.76
301' to 350'	\$871.38	526' to 550'	\$1,687.63	726' to 750'	\$3,766.63
351' to 375'	\$961.01	551' to 575'	\$1,806.01	751' to 775'	\$4,188.01
376' to 400'	\$1,043.38	576' to 600'	\$1,958.38	776' to 800'	\$4,668.88
401' to 425'	\$1,137.26	601' to 625'	\$2,174.26		
426' to 450'	\$1,243.13	626' to 650'	\$2,445.63		

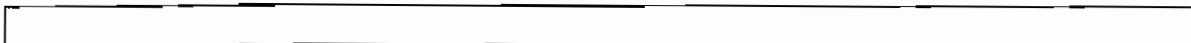
A service charge of \$481.53 will be assessed for each Cruise Ship. The crane at the inside of (berth No. 2) of Deep Water Dock shall be subject to same terms for charge and usage as for the cranes on Fish Dock (Rule 34.30).

RULE: 34.20 - DEFINITIONS AND CHARGES WHARFAGE (A)
EFF: 02JULY2012

SECTION II
SUBSECTION 210

(a) DEFINITION:

Wharfage is the charge assessed against any freight placed in transit shed or on a wharf, or passing through, over or under a wharf, or transferred between vessels, or loaded to or unloaded from a vessel at a wharf, regardless of whether or not a wharf is used. Wharfage is solely the charge for use of wharf and does not include handling, sorting, piling of freight or charges for any other services.



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RULE: 34.20 - DEFINITIONS AND CHARGES WHARFAGE
(continued)

Log quantities will be reported by manifest to the Port Office for subsequent billing. The basis for measuring 1,000 board feet (M.B.M.) log scale shall be the Scribner Rule or Scribner Dec. C Log Rule. All log scales will be performed by an independent log scaling bureau. Certified copies of log scale tickets and/or log scale books shall be provided to the Port for all logs shipped. The basis for the tariff payment to the City will be computed on a net log scale, with a maximum of a twenty five percent (25%0 deduct factor for defects and taper; that is gross scale minus 25% total deduct.

A Bone Dry Unit (BDU) is defined as 1.2 bone dry tons of wood chips. A bone dry ton is that quantity of wood chips which would weigh 2,000 lbs when dry.

(b) APPLICATION:

Wharfage rates named in the Tariff will be charged for all merchandise or cargoes received inbound or shipped outbound over the city docks (except the Fish Dock for which wharfage rates are contained in Rule 34.30 Subsection 275, barge ramp, or barge beaching site within the Homer Port and Harbor and will be in addition to all other charges made under provisions of this Tariff, EXCEPT:

No wharfage shall be charged to ship's gear, such as strongbacks, lines, hatch covers, walking boards, etc., placed on wharf during unloading operations. Fuel handled over wharf will not be considered as ship stores and will be subject to wharfage and other charges that may be incurred. Logs that are unloaded at Port of Homer barge beaching site will be charged 50% of the wharfage rate applicable to outbound (export) shipment. However if these cargoes are not exported over Deep Water Dock with full payment of outbound wharfage within 60 days of unloading at the barge beaching site, then the additional 50% of wharfage will be owed and paid for the inbound product.

(c) OVERSIDE:

One-half of wharfage named herein will be charged to merchandise or cargo discharged or loaded overside of vessel directly to or from another vessel or to the water when vessel is berthed at wharf.



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RULE: 34.20 - DEFINITIONS AND CHARGES WHARFAGE
(continued)

(d) OVERSTOWED CARGO:

Overstowed cargo destined for discharging at another port will be exempt of wharfage charges, provided such cargo is not removed from the wharf prior to re-loading to the vessel.

(e) SCHEDULE OF RATES:

Minimum wharfage on any shipment will be ten dollars (\$10). Except as otherwise specifically provided, rates are in dollars per short ton of 2000 lbs. or per 40 cu.ft.

COMMODITY	WHARFAGE RATE
Freight N.O. S.	\$7.96
Freight at Barge Ramp	\$5.14
Poles, logs, cants or cut	\$3.95/thousand board
Finished lumber per MBM	feet
(Note: Industry standard conversion formulas shall be used in converting pounds to board feet measure.)	

In absence of board feet measure on bill of lading, a loadout will be assessed a tariff by converting the weight of logs to board foot measure, for the average diameter of logs (small end diameter) in accordance with the following table for white spruce logs:

Scaling Diameter of Logs Inches	Weight per Board Feet Pounds
8"	14.5
12"	11.5
16"	9.5
20"	8.5
24"	7.8

Kiln dried lumber: Three pounds will equal one board foot measure.

Petroleum Products	\$0.6363/barrel
(inbound and outbound)	\$0.01515/gallon
Wood Chips (all grades)	\$ as per contract



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RULE: 34.20 - DEFINITIONS AND CHARGES WHARFAGE
 (continued)

Seafood/fish product:	Setting a tariff of \$4.76 per ton of seafood/fish Product across the dock, regardless of species.
Livestock: Horses, mules	
Cattle, hogs, sheep, goats	\$10.12 per head
All other livestock:	
Fowl: Any kind, crated:	\$10.12 per crate
Boats: Up to and including twenty feet L.O.A.	\$15.66 each
Over twenty feet L.O.A.:	\$1.60 per lineal foot
(Fishing boats, pleasure craft, skiffs, dinghies and other boats moved over the docks.)	

RULE: 34.21 - DEMURRAGE (A)

EFF: 01JAN2011

SUBSECTION 215

(a) DEFINITION:

The term "demurrage" as used in this tariff shall mean the charge assessed against cargo remaining in or on terminal facilities after the expiration of free time, unless arrangements have been made for storage.

(b) FREE TIME:

- (1) Definition: The specified period during which cargo may occupy space assigned to it on terminal property free of demurrage or terminal storage charges, immediately prior to the loading, or subsequent to the discharge, of such cargo off the vessel.
- (2) Computing free time: Free time is calculated inclusive of Saturdays, Sundays or holidays. Free time starts the first 7 A.M. after freight is received or unloaded onto wharf from car, truck, or, in the case of freight received from vessel, the first 7 A.M. after completion of vessel's discharge. On outbound traffic from vessel, delivery of which is made after the allotted time period, the day freight is loaded out or delivered to truck or car is to be included in the computation as storage day.



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RULE: 34.21 - DEMURRAGE (A)
(continued)

When freight is transshipped between deep sea vessels and involves application of both a long and short time period, the longer period shall be allowed, but not the aggregate of any two free time periods.

- (3) Free time period: Free time of 3 days will be allowed on all inbound traffic.
Free time of 3 days will be allowed on all outbound traffic.

(c) RATES:

Demurrage will be assessed at a rate of nine cents (\$.09) per square foot per day, based on the "foot print" occupied by cargo in the laydown area or for cargo with overhangs, the footprint plus the area under the overhang that the overhang renders unusable for other storage.

(d) LAY-DOWN AREAS:

All cargo is expected to vacate city docks, and piers as soon upon arrival as possible. Cargo is not to be stored on City piers awaiting pick up by vessels unless prior arrangements are made with the Harbormaster. The Harbormaster shall have the discretion to refuse all cargo activities and/or laydown, either in-bound or out-bound. Cargo that is allowed to wait for "beyond" transportation shall adhere to the following rules.

- (1) The Harbormaster shall designate laydown areas for cargo.
- (2) Cargo may not be placed on city docks or terminal facilities except in designated laydown areas.



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RULE: 34.21 - DEMURRAGE
(continued)

- (3) Cargo and freight not placed in designated laydown area must be immediately removed from a city dock or terminal facility upon order of the Harbormaster.
- (4) A vessel, shipper or consignee who refuses to move cargo on demand will be assessed wharf demurrage at five times its applicable rate, starting at the time the vessel, shipper or consignee is notified to move the cargo.
- (5) In addition, the Harbormaster may, in his discretion move cargo or freight and any expense or damages, including damage to cargo or freight during such movement, shall be charged to the vessel, shipper or consignee except damages caused by the City's own negligence.

RULE: 34.22 - UPLAND STORAGE (A)

EFF: 01JAN2009

SUBSECTION 230

(a) AREA OF LAND AVAILABLE:

The City of Homer may make available a limited area of land for gear storage subject to the following conditions:

- (1) Space is made available on a first-come, first-served basis. All storage assignments must be approved by the Harbormaster.
- (2) This upland storage area is primarily for fishing related gear. No vehicle or boat trailers may be placed on the upland storage area without prior permission of the Harbormaster.

(b) BOAT TRAILER STORAGE:

- (1) Short term storage of boat trailers not to exceed 7 days will be provided on a space available basis. Storage is allowed only in designated areas where posted.



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RULE: 34.22 - UPLAND STORAGE

(continued)

- (2) Long term storage of boat trailers (8 or more days) is not available during the summer season beginning May 1 and ending September 30. Long term storage of boat trailers other than during the summer season must be approved and assigned by the Harbormaster. Long term boat storage is available commercially off the Spit.

(c) **METHOD OF CALCULATIONS OF RATES:**

Charges shall be based on type of storage required, vehicle, boat trailer, gear or equipment.

(d) **STORAGE CHARGES:**

No charge for storage should be generated for free time of 2 days or less. Storage time beyond 7 days shall generate one month charge.

(e) **RATES:**

All general storage is on a month-to-month basis unless otherwise provided. Charges for any particular lot shall begin at the receipt of the first unit of that particular lot in store and shall continue and include the storage month during which the last unit of the particular lot is removed from storage. Charges shall be made on the basis of square footage of units in any particular lot in store during the storage month. All charges for storage are due on the first day of a storage month.

A storage month shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding calendar months. Less than one month's storage will be charged for the full month. The Harbormaster may negotiate storage contracts for six months or longer.

Fees for general storage are as follows:

Open Areas, fishing gear	\$.12 per square foot
Open Areas, non fishing gear	.17 per square foot
Fenced Storage Yard	.24 per square foot

The fees for trailer parking area/long term storage Oct. 1 to May 1 are as follows:

Up to 30 feet	\$75.00 per month
Over 30 feet up to 40 feet	\$100.00 per month



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RULE: 34.22 - UPLAND STORAGE
(continued)

There will be no storage of trailers of total length greater than 40 feet and no long term storage available from June 1 to Oct. 1.

Equipment and materials stored without proper registration and advance payment will be charged according to storage fees above.

(f) EMPTY CRADLES/TRAILERS:

For the purpose of this Tariff, a vessel trailer or cradle shall be treated as a vessel of the length of the vessel normally occupying the cradle.

RULE: 34.23 - TIDAL GRIDS (A)
EFF: 01JAN2011

SUBSECTION 235

(a) TIDAL GRIDS

The City of Homer operates two tidal grids. The wooden grid is for vessels of less than 60 feet in length. The steel grid is generally for use by vessels of 60 feet or greater in length. Vessels over 60' may not use the wooden grid without specific approval of the Harbormaster. Vessels over 300 displacement tons or over 120' may not use the steel grid without specific approval of the Harbormaster. Vessels that remain on either grid after their scheduled tide may be assessed a 50% surcharge for each unscheduled tide. Use of the steel grid shall be charged at the minimum rate applicable for a 60' boat if a boat of less length is allowed to use this grid.

Sandblasting of vessel is not permitted on tidal grids; water blasting of vessel to remove barnacles or other marine growth is permitted provided that the water pressure used does not result in removal of paints onto the grid work platform or into the water of the harbor.

(b) RATES:

The rate per foot per tide is \$1.05 for vessels 0'-59'

The rate per foot per tide is \$2.55 for vessels 60'-80'

The rate per foot per tide is \$3.25 for vessels 81'-100'

The rate per foot per tide is \$3.82 for vessels 101'-120'

The rate per foot per tide is \$4.24 for vessels 121'-140'



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RULE: 34.23 - TIDAL GRIDS

(continued)

(c) USE OF TIDAL GRIDS

Except in emergencies, use of tidal grids is limited to three tide cycles. Use of the tidal grids must be scheduled in advance and a deposit equal to one tide use must be paid. Deposit may be refunded if cancellation of reservation is at least forty-eight hours prior to scheduled use.

(d) WRITTEN PERMISSION FOR USE OF GRIDS:

No vessel shall be moored onto the tidal grids until permission has been granted by the Harbormaster and the appropriate Utilization Agreement/Waiver and Release forms completed by User.

RULE: 34.24 - HANDLING, LOADING AND UNLOADING (I)

EFF: 15SEP1995

SUBSECTION 240

(a) HANDLING DEFINED:

Handling means the service of physically moving cargo between point of rest and any place on the terminal facility other than the end of a ship's tackle.

(b) LOADING AND UNLOADING DEFINED:

Loading and unloading means the service of loading or unloading cargo between any place on the terminal and trucks lighter or barges or any other means of conveyance to or from the terminal facility.

(c) TERMINAL USE PERMIT:

Handling, loading and unloading services are provided by independent agents at all terminal facilities covered by this Tariff. A Terminal Use Permit or Fish Dock Use Permit is available to any qualified agent desiring to provide long shore services at the terminal facilities of the City of Homer.



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RULE: 34.25 - SERVICE CHARGES (A)

EFF: 01JAN2011

SUBSECTION 245

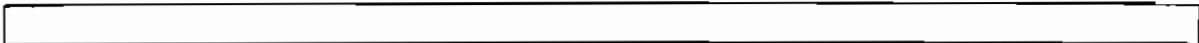
A service charge is assessed, in addition to any other charges set forth in this Tariff, for specific services provided by the City of Homer or its agents. Service charges do not include charges for dockage, wharfage, wharf demurrage and handling.

(a) SPECIFIC SERVICES:

The following rates shall apply for services provided by the City of Homer.

- (1) Potable water furnished to vessels at the Deep Water Dock and Main Dock:
 The following charges in dollars will be made for furnishing water to vessels berthed at docks or terminals subject to this Tariff.
 - a. Quantity charge, \$38.81 dollars per one thousand gallons (minimum five thousand gallons).
 - b. Scheduled deliveries will have a minimum charge of \$102.00 for combined connection and disconnection.
 - c. Unscheduled deliveries will have a minimum charge of \$139.32 dollars for combined connection and disconnection.

- (2) Electricity (per kilowatt):
 - (a) Reserved stalls having a meter base at the berth shall be charged a meter availability fee.
 1. The meter availability fee will be \$23.95 per month.
 2. There will be an electrical usage charge cost per kilowatt determined by the local public utility.
 3. Licensee shall notify the Harbormaster of any period when the assigned vessel will not occupy the stall and the Harbormaster, upon payment of a \$28.80 connect/disconnect fee, shall disconnect service to the license holder's stall.



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RULE: 34.25 - SERVICE CHARGES
(continued)

- (b) Subject to availability, transient vessel may buy electrical power on a metered basis from October 15 to April 15.
1. There will be a \$28.80 connect/disconnect fee.
 2. Metered transient vessels will be charged a meter availability and connect/disconnect fee of \$28.80 per month with a one month minimum charge to be applied for shorter connection periods.
 3. There will be an electrical usage charge per kilowatt as determined by the local public utility.

- (c) Unless other arrangements have been made in writing with the Harbormaster, transient vessels shall be charged the following rates (where metered power is unavailable).

	110 volt	220 volt	208 volt 3 phase
Daily (or part thereof)	\$10.20	\$20.12	\$45.20
Monthly	\$152.67	\$341.70	Available meter only

If a transient vessel consumes more electricity than would be covered by these flat rates, then such transient vessel shall be charged for the actual consumption. If a transient vessel on the daily rate accrues daily charges that total for a 30 day period more than the monthly flat rate, then the monthly rate shall be billed.

- Vessels requiring conversion plugs may purchase them from the Harbormaster's office for a nominal fee.

- (d) 208 volt/3 phase electrical power is available at System 5 on a first come-first served basis, for which the vessel will be charged the following rates:

1. There will be an electrical usage charge per kilowatt hour as determined by the local public utility.
2. Vessels will be charged a meter availability fee of \$28.80 per month with a one month minimum charge to be applied for shorter connection periods.
3. There will be a \$28.80 connect/disconnect fee.

- (3) Towing inside small boat harbor: Skiff with operator ½ hour \$68.00, Skiff with operator 1 man hour \$102.00. Any additional personnel required will be charged at rate of \$99.00 per hour.



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RULE: 34.25 - SERVICE CHARGES

(continued)

- (4) Pumping vessel: \$40.79 per day or portion thereof for electrical pumps.
 \$69.97 per hour or portion thereof for gas pumps. (includes attendant time)

(b) LABOR/PERSONNEL:

- (1) When labor is furnished by the City at the request of a user it is expressly stipulated that the City acts as agent of the user. The City shall charge for labor provided by the City for the following services:
- (i) all services not specifically described in this Tariff.
 - (ii) Services of loading, unloading, or transferring cargo for which no specific commodity rates are provided and which cannot be performed at the rates named N.O.S. and cargo in packages or units of such unusual bulk, size, shape or weight as to preclude performing such services at rates named under individual items of this Tariff.
 - (iii) Services for which no specific commodity rates are provided and any other services for which specific rates are named in this Tariff because of unusual conditions or requirements of shippers not normally incidental to such services preclude the performance; and
 - (iv) Services of cleaning City docks or terminal facilities of dunnage, stevedore gear, and other equipment or material when the shipper, vessel owner or consignee fails to promptly clear the facility as requested by the Harbormaster.
- (2) When a user notifies the Harbormaster for labor for a specific time and labor is on the job ready for work at that time, the use shall be charged from the time the labor is ready for work until the work is concluded even if the work is delayed through no fault of the City.



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RULE: 34.25 - SERVICE CHARGES

(continued)

- (3) All labor provided by City personnel shall be charged at \$102.00 per hour. (½ hour minimum at \$51.00. Work requiring call-outs shall be charged at a minimum of two hours.

(c) EQUIPMENT:

When the City utilizes city equipment to provide services under this Subsection, it will charge users for the cost of that equipment on an hourly basis at the rates charged capital projects within the City of Homer for similar equipment.

(d) REGULATED GARBAGE HANDLING FEE:

\$800.00 per round trip for certified truck pick up plus \$90.00 per one hundred pounds. Regulated garbage, as per the Code of Federal Regulations, is garbage from foreign going vessels that contains, or that is suspected of containing, food scraps or food waste.

(e) SPECIAL SERVICES:

Except where otherwise required by law, the Harbormaster has the authority to refuse or to provide or to arrange for the provision of services in addition to those set out in paragraph (a) above. Special services, including waste, bulk oil, or garbage disposal shall be billed at the City's actual cost (including city labor costs as determined in paragraph 2 above) plus 125% of city costs for services arranged and paid for by the City but provided by others. Waste oil in quantities greater than 5 gallons, shall be charged a \$3.35 per gallon handling and disposal fee.

Special services shall not include the taking or handling of sewage of any kind. Sewage disposal must be accomplished by the vessel owner or his agent pursuant to federal, state and municipal laws, codes and ordinances.

RULE: 34.26 - PASSENGER FEES (C)

EFF: 02JULY 2012

Deleted pursuant to Resolution 12-038(S)



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RULE: 34.27 - SEARCH AND RESCUE FEES (A)

EFF: 01JAN2011

SUBSECTION 255

In addition to other Tariff provisions, when the City utilizes city equipment and personnel to provide search and rescue assistance to vessels outside of the Homer Port and Harbor, such as towing and rescue, the Harbormaster will charge users of those services \$102.00 per hour for skiff and operator for the first hour on any part thereof, and for additional search and rescue assistance beyond one hour. Additional personnel will be charged at the rate of \$99.00 per man hour.

RULE: 34.28 - BOAT LAUNCH RAMP FEES (A)

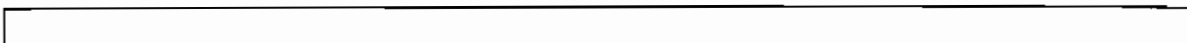
EFF: 01JAN2011

SUBSECTION 260

(a) USE OF PUBLIC LAUNCH RAMPS:

The City owns and provides access to public launch ramps, Access to those ramps is generally on a first come, first served basis, but the Harbormaster may deviate from that policy or refuse access to a ramp when, in his judgment, the public interest would be served and his consideration in that determination of the following factors:

- (1) The degree of existing or potential congestion in the harbor, including upland storage area, and whether the proposed launch or retrieval will affect that congestion, and
- (2) Whether the launch or retrieval poses a risk of loss of public or private property.



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RULE: 34.28 - BOAT LAUNCH RAMP FEES (A)
(continued)

(b) CHARGES FOR USE OF PUBLIC LAUNCH RAMPS:

Vessels shall be charged \$13.00 per day to launch from the public launch ramps from April 1 through October 15 (Reserved stall lessees exempt for the boat assigned to and registered to the stall only, not for other boats owned by the same individual.) Vessel owners or operators may obtain a seasonal permit for \$130.00 entitling a specific vessel and owner to launch from April 1 through October 15. (Reserved stall lessees exempt for the boat assigned to and registered to the reserved stall only, not for other boats owned by the same individual.)

(c) RAMP USE:

The principal intended use of the launch ramp is the launch and recovery of small/trailable vessels. An authorized subsidiary use is the incidental, noncommercial, loading or unloading of goods, supplied or materials.

The principal intended use of the harbor barge ramp is the commercial loading or unloading of goods, materials, equipment or personnel. An authorized subsidiary use is the loading or unloading of fishing gear and equipment or other use approved by the Harbormaster.

At the Harbormaster's discretion, reasonable restrictions may be placed on the use of any ramp owned or operated by the City.

RULE: 34.29 - BEACHES AND BARGE RAMP (A)

EFF: 01JAN2011

SUBSECTION 270

The use of beaches and barge ramp under the City ownership or control for commercial barge vessel repair, equipment loading or similar purposes, must be approved by the Harbormaster. A beach use agreement will be filled out and signed by the user and Harbormaster prior to use of the beach.

The Harbormaster shall charge a fee per foot based on length overall of the vessel, for vessels landing or parking on the beaches under City ownership or control. This same rate shall apply to vessels using the barge ramp.

Vessels up to 50 ft.	per foot \$1.50
Vessels over 50 ft.	per foot \$1.50

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RULE: 34.29 - BEACHES AND BARGE RAMP
(continued)

Charges for extended beach or barge ramp use may be adjusted by the Harbormaster under appropriate circumstance.

The user of any beach area or barge ramp must repair any damage to the beach or ramp and remove all debris. Failure to make such repairs and removal will result in repairs and cleanup by harbor staff. The costs incurred by the harbor staff will be fully charged to the beach user. Labor rate for the harbor staff will be (\$90.00) per hour per person, plus appropriate equipment rental and material costs.

Sandblasting of vessels is not permitted on City beaches or barge ramps; water blasting using pressures that result in removal of paint is also prohibited. No paint chips or other paint materials are to be put into the water as a result of any maintenance done on the beach or ramp.

RULE: 34.30 - FISH DOCK (A)
EFF: 02JULY2012

SUBSECTION 275

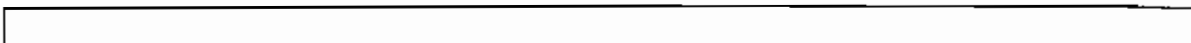
The Fish Dock is to be used primarily for the loading and unloading of fish, fish products and fishing gear. Any other use must be approved in advance by the Harbormaster.

Dock fees shall be those set at Subrule 34.19 Subsection 205;

Cranes located onboard the vessel moored at Fish Dock may be utilized for loading/unloading the vessel only with prior approval granted by the Harbor Officer on duty.

No non-City owner cranes or boom trucks may be brought onto Fish Dock for use in loading/unloading without advance Harbor Officer approval.

Every person using a crane on the Fish Dock shall first obtain a license from the City. A private user shall obtain a private license, which shall be the annual access card, and shall pay the annual access card fee set forth in this subsection. A private license shall entitle only the owner if an individual, and the master and crew of a vessel to load/unload the vessel at the Fish Dock. In addition to the annual license fee, all users of the Homer Fish Dock shall pay the user fees set forth herein.



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RULE: 34.30 - FISH DOCK
(continued)

The Harbormaster shall designate one or more cranes on the Fish Dock open to public use (both private and commercial users) on a first-come first-served basis. All private licenses and food services are subject to a two-hour maximum time limit during the times when other private or food service licensees are waiting to use the crane. This time shall be the time that the licensees actually occupy the crane berthing space or otherwise has possession of the public use crane. Every other crane at the Fish Dock and the crane on the Main dock may be designated by the Harbormaster for preferential use. Preferential use of a crane shall entitle the holder to the exclusive right to use of the crane for loading and unloading fish and fish product during fish buying periods and to priority use of crane for all other uses; provided however, that a preferential user shall not be entitled to use of the crane until an actual and legal use of the crane by non-preferential user ends. The Harbormaster shall promulgate such additional rules as may be necessary to implement this section.

For an approved user's vessel blocking access to cranes other than those in use, a fee of one hundred fifty dollars (\$150.00) per hour will be assessed if such vessel is not immediately moved upon request of Harbor staff and if another vessel is thereby forced to wait.

Vessels are not to be left unattended at Fish Dock. Vessels moored at Fish Dock must have sufficient crew on board to move the vessel upon request or direction of Harbor staff. A fee of one hundred fifty dollars (\$150.00) per hour will be assessed against the owner or operator of a vessel per hour left unattended at Fish Dock that obstructs access by other vessels.

Failure to obtain prior approval for a use other than loading and unloading fish, fish products or fishing gear will result in the imposition of a surcharge of thirty dollars (\$30.00) per hour in addition to the regular fee.

No person shall use the Fish Dock in violation of this section.

Schedule of rates shall be set by City Council Resolution
See also Subrule 34.20 Subsection 210 e.

PORT AND HARBOR OF HOMER 4350 HOMER SPIT ROAD HOMER, ALASKA 99603 PHONE: 907.235.3160 TERMINAL TARIFF NO. 600	FMC NO. 600	PAGE	53
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RULE: 34.30 - FISH DOCK
(continued)

ITEM	FEE
Annual access	\$52.00 per year
Card (private license)	(annual renewal fee)
Card replacement fee	\$15.00 per occurrence
Cold Storage	\$334.75/month
(Cold storage rate structure is for storage area of eight feet by ten feet)	\$309/per month for two consecutive months
	\$283.25 per month for three consecutive months minimum one month rental inspection \$50/hour
	\$257.50 per month nine month season
Ice Plant Bin Storage (roofed-over, open-sided Storage bins at west end of ice plant building Sixteen feet by twelve feet)	\$200/month Minimum two months
Bait Storage Fee per bin (4x4x4)	
Per Day	\$5.15
Per Week	\$25.75
Per Month	\$77.25
Fish Dock Crane	\$90.64/hour
Minimum charge per hour for crane	Fifteen minutes
Ice	\$124.95 per ton

Seafood wharfage/Fish product:

Setting a tariff of \$4.76 per ton of seafood/fish product across the docks regardless of species. Bait in quantities greater than one (1) ton that is loaded onto a vessel at Fish Dock, shall be charged seafood wharfage.

Freight NOS, Non-fish Cargo:

\$14.50/T for cargo going over the Fish Dock. Fishing gear is free from wharfage. Except as otherwise provided under a lease agreement contract or operating agreement with the City of Homer, ice brought onto Fish Dock to be loaded into totes or transferred to boats at the dock, shall be charged wharfage at the Freight NOS rate, unless this is ice that was purchased from the City Ice Plant.



PORT AND HARBOR OF HOMER 4350 HOMER SPIT ROAD HOMER, ALASKA 99603 PHONE: 907.235.3160 TERMINAL TARIFF NO. 600	FMC NO. 600	PAGE	54
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RULE: 34.31 - CONDITIONS OF BERTHING (C)

EFF: 15DEC1999

SUBSECTION 310

All applications for Bessel berthing shall be made in the form specified by the Harbormaster and may require the timely filing of the financial responsibility information called for by Supplement to Vessel Berthing Application, completed in accordance with, and otherwise governed by, the terms and conditions set forth below:

(1) Unless waived pursuant to paragraph 2 below, the terms of payment for all applicable terminal or dockage charges shall be cash in advance. A cash deposit or acceptable security in an amount equal to 125% of the estimated applicable charges will be required to be posted with the Harbormaster six days prior to the vessel's scheduled arrival, or at such time as may be authorized or directed by the Harbormaster, but in all cases in advance of actual services rendered.

When a cash deposit has been posted, any excess there of after satisfaction of all applicable port charges, shall be promptly refunded by the Port of Homer to the party posting same.

(2) The Harbormaster may waive the requirement of cash in advance as to all or any category or categories of its anticipated port charges when the party responsible for such charges has been identified by berthing agent to the satisfaction of the Harbormaster, and:

- (i) That the party responsible has established credit worthiness acceptable to the Harbormaster; or
- (ii) Adequate security, acceptable to the Harbormaster in an amount equal to 125% of the applicable estimated port charges, has been posted; or
- (iii) The agent requesting the berth, or another entity, in each case applicable to the Harbormaster as credit worthy, has personally accepted financial responsibility for the applicable charges.

(3) The vessel agent or other person requesting a berth ("berthing agent") shall provide, as a part of the berthing process and to the extent of his knowledge, all information called for by any Supplement to Vessel Berthing Application respecting the vessel, its estimated arrival and departure, amount(s) and type(s) of cargo to be loaded or discharged.

PORT AND HARBOR OF HOMER 4350 HOMER SPIT ROAD HOMER, ALASKA 99603 PHONE: 907.235.3160 TERMINAL TARIFF NO. 600	FMC NO. 600	PAGE	55
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RULE: 34.31 - CONDITIONS OF BERTHING
 (continued)

The vessel agent or other person requesting a berth shall provide an estimate of the amount of each category of port charges, as enumerated, and the party responsible there for.

The submission of this form, signed by the berthing agent, shall constitute the berthing agent's information supplied, based upon and to the extent of information made available to the berthing agent shall be held personally liable to the City of Homer as a result of the agent's failure to accurately report the above information.

Should the berthing agent, subsequent to submission of this form, receive information which materially differs from the information the agent reasonably believes is not equally known to the Harbormaster, it shall immediately notify the Harbormaster and if requested by the Harbormaster, promptly file an amended Supplement to Vessel Berthing Application with the Harbormaster.

All estimates of terminal and dockage charges are subject to approval and/or adjustment by the Harbormaster.

(4) The Harbormaster shall, promptly after receipt of this form, advise the berthing agent as to (i) its approval or adjusted estimate of terminal charge and (ii) whether posting of cash or security is required for any one or more categories of such charges and the amount thereof.

(5) In addition to the terms for berth reservation and establishment of financial responsibility as set forth herein, request for berth reservation and assignment of berths shall otherwise be in accordance with all local rules and regulations established by the City of Homer.

(6) The City of Homer retains the right in its sole discretion to determine whether a responsible party or agent is credit worthy and waive the cash-in-advance requirement. The City may establish guidelines for determining whether a responsible party or an agent is credit worthy. Compliance with these guidelines does not create a right to waiver of the cash-in-advance requirement.

(7) For safety or other reasons, the City of Homer in some circumstances may grant a vessel a temporary berth before the owner or agent has paid all applicable charges or otherwise complied with all applicable Tariff provisions of conditions of berthing.

PORT AND HARBOR OF HOMER 4350 HOMER SPIT ROAD HOMER, ALASKA 99603 PHONE: 907.235.3160 TERMINAL TARIFF NO. 600	FMC NO. 600	PAGE	56
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RULE: 34.31 - CONDITIONS OF BERTHING
(continued)

In such circumstances, the vessel may unload its cargo only if (i) the Harbormaster determines that a regular berth is available, and (ii) the owner pays all applicable charges and complies with all other applicable Tariff provisions and conditions of berthing. If no regular berth is available, or the vessel owner or agent does not pay all applicable charges and comply with other applicable provisions, the vessel may not unload its cargo and shall sail on the next tide. The vessel shall be assessed appropriate fees as set forth in this Tariff.

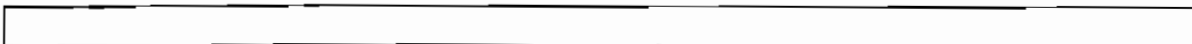
RULE: 34.32 - PARKING FEES
EFF: 09APR2012

Parking fees to be collected at Ramp 1, Ramp 2, Ramp 3 and Ramp 4 seasonally (Memorial Day through Labor Day). Parking fee is \$5 per calendar day. Posted parking time limits will be established and enforced as per Homer City Code 10.04.100.

(a) LONG TERM PARKING PERMITS

Vehicles over 20' and trailers are not eligible for long term parking permits.

- (1) Seasonal permits for day use parking (Ramps 1-4): \$250.00.
- (2) Long Term parking permits required for vehicles 20' or less parked in excess of seven (7) consecutive 24-hour days.
- (3) Long Term parking annual permit fee for vessel owners paying annual moorage in the Homer Harbor: fee \$100.00.
- (4) Long Term parking annual permit (January 1st through December 31st): fee \$200.00.
- (5) Monthly parking permit for vehicles less than 20': fee \$70.00 for 30 consecutive days.
- (6) Monthly parking permit for vehicles over 20': fee \$85.00 for 30 consecutive days in a portion of Lot 9 only.
- (7) Long term parking will be enforced year around.
- (8) Parking lot restrictions for long term parking, May 1 through October 1, as depicted on harbor map (Resolution 11-036(A)).
- (9) Existing code definitions for restricted parking, vehicles, junk vehicles, and fines for violations apply. Fines, \$25.00 per calendar day, provided that the fine for overtime parking in long term parking area will be limited to \$250.00 fine per calendar year, with \$200.00 of the fine credited towards the long term parking annual permit.



ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-55

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Highway Safety Program Grant for DUI Enforcement and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Police Chief

1. City Council Regular Meeting November 26, 2012 Introduction
 - a. Memorandum 12-172 from Police Chief as backup
 - b. Grant Agreement

2. City Council Regular Meeting December 10, 2012 Public Hearing and Second Reading
 - a. Memorandum 12-172 from Police Chief as backup
 - b. Grant Agreement

1 CITY OF HOMER
2 HOMER, ALASKA

City Manager/Police Chief

3
4 ORDINANCE 12-55

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
7 ALASKA, ACCEPTING AND APPROPRIATING AN ALASKA
8 HIGHWAY SAFETY PROGRAM GRANT FOR DUI
9 ENFORCEMENT AND AUTHORIZING THE CITY
10 MANAGER TO EXECUTE THE APPROPRIATE
11 DOCUMENTS.

12
13 WHEREAS, The Homer Police Department has received a grant for DUI enforcement
14 from the State of Alaska Highway Safety Program; and

15
16 WHEREAS, The grant is in the amount of \$7,100.00 and will be used for the Homer
17 Police Department officers to conduct high-visibility seat belt and DUI enforcement; and

18
19 WHEREAS, The purpose of the grant is to reduce deaths and injuries caused by impaired
20 drivers and to increase compliance with Alaska's primary seat belt law.

21
22 NOW, THEREFORE, the City of Homer Ordains:

23
24 Section 1. That the City Council hereby accepts and appropriates an Alaska Highway
25 Safety Program grant for DUI enforcement as follows and hereby authorizes the City Manager or
26 his designee to execute the appropriate documents:

27

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
28 157-780	Alaska Highway Safety Program	\$7,100.00
	DUI Enforcement Grant	
32 Expenditure:		
33 157-780-5102/5105	Officer Wages and Benefits	\$7,100.00

34

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

37
38 PASSED AND ENACTED by the Homer City Council this ____ day of _____,
39 2012.

40
41 CITY OF HOMER

42
43
44
45 _____
46 MARY E. WYTHE, MAYOR

47 ATTEST:

48
49 _____
50 JO JOHNSON, CMC, CITY CLERK

51 Introduction:
52 Public Hearing:
53 Second Reading:
54 Effective Date:

55
56
57 Ayes:
58 Noes:
59 Abstain:
60 Absent:

61
62
63 Reviewed and approved as to form:

64
65 _____
66 Walt E. Wrede City Manager

Thomas F. Klinkner, City Attorney

67
68
69 Date: _____

Date: _____

70
71 Fiscal Note: Fiscal information included in body of Ordinance.



CITY OF HOMER POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7609

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MEMORANDUM 12-172

DATE: November 19, 2012
TO: Walt Wrede, City Manager *W. Wrede*
FROM: Mark Robl, Chief of Police *Mark Robl*
SUBJECT: Highway Safety Grant

We have received the attached grant from the Alaska Highway Safety Office. This is a DUI enforcement grant that will enable us to participate in the statewide DUI prevention project. It will reimburse us for police officer overtime costs associated with working over-time hours doing DUI patrols during certain time frames around holidays from now until September 2nd, 2013.

I request that we obtain council approval to accept this grant and participate in the prevention program.

Fiscal Note: Revenue, \$7,100 to 100.157.780

11
12
13



Grant Agreement Notice to Proceed

State of Alaska, DOT & PF
P.O. Box 112500
Juneau, AK 99801-2500
Ph: 907-465-2446
Fx: 907-465-4030
dot.alaska.gov/highwaysafety/

Grantee Name and Address:	Title/ Short Description:
City Of Homer 491 E. Pioneer Ave Homer, Alaska 99603	High Visibility Enforcement Overtime Grant

Supplemental Agreements: Check all that apply.

Match Agreement
 Enforcement Agreement
 Law Enforcement Liaison Agreement

Action Requested:

New Setup
 Add Funds
 Reduce Funds
 Closure (Decrease)

Revision of Funds: Please provide explanation of funding change and budget breakdown.

FUNDING SUMMARY			
Budgets Approved for this NTP			
Budget Category	Current Budget Totals	AHSO Increase (Decrease)	Revised Budget Totals
(100) Personnel Services	\$ -	\$ 6,500.00	\$ 6,500.00
(200) Travel & Per Diem	\$ -	\$ -	\$ -
(300) Contractual Services	\$ -	\$ 600.00	\$ 600.00
(400) Commodities	\$ -	\$ -	\$ -
(500) Equipment	\$ -	\$ -	\$ -
(Indirect Costs)	\$ -	\$ -	\$ -
TOTALS	\$ -	\$ 7,100.00	\$ 7,100.00
TOTAL AMOUNT AUTHORIZED TO DATE			\$ 7,100.00

Explanation of Approved Grant Application & Activity Dates:

Activities as outlined in the FFY 2013 Grant Application covering the period of October 1, 2012 - Sep. 30, 2013.

AHSO USE ONLY			
Project Control Programming			NTP #: 1
Collocation Code	Program Code	Ledger Code	Account Code
24462421	57870	30187982	77436
Project #	<input type="checkbox"/> RSA (Interstate Agency) <input checked="" type="checkbox"/> EN (Outer State Agency)		Project End Date: 9/30/2012
83574			CFDA #: 20.607

Project Control Programming Approved	
Program Control Agent Name: Cynthia Johnson	Accounting Technician Name: Stefanie Bingham
Signature: Date: _____	Signature: Date: 10-24-12

You may proceed with the activities for the Categories and specific Tasks enumerated above in the Funding Summary. Any activities beyond the written scope and/or any costs above the price estimate in our Agreement require prior AHSO approval and a Project Revision. Actual cost underrun of the Contract Amount for any Category shall not routinely accumulate for other Categories. AHSO reserves the right to retain or reallocate any remaining funds resulting from such cost underruns. Conditions to this agreement are as outlined in the "Agreement Conditions" Section 4 of the application for grant. **CONDITIONS ARE A PART OF THE PROJECT AGREEMENT AND, AS SUCH, ARE BINDING ON ALL PARTIES TO THE PROJECT AGREEMENT.**

This NTP is cumulative and supersedes all prior NTPs for this Agreement.

The AHSO Administrator for this NTP is: Tammy Kramer.

Issued for the Contracting Agency per ADOT&PF Policy #01.01.050 by: Tammy Kramer Signature: Date: 10/24/2012	Accepted for the Grantee by: Signature: Date: 11-15-12
---	--



Supplemental DUI Enforcement Agreement

State of Alaska, DOT & PF
P.O. Box 112500
Juneau, AK 99801-2500
Ph: 907-465-2446
Fx: 907-465-4030
dot.alaska.gov/highwaysafety

Grantee Name and Address: City Of Homer, Jo Earls, Grants Administrator 491 E. Pioneer Ave. Homer, Alaska 99603	Title/ Short Description: High Visibility Enforcement
---	---

Action Requested New Setup Revision of Agreement: Please provide change in the Enforcement Plan Breakdown.

ACTUAL COST OF OVERTIME TO INCLUDE BENEFITS IS NOT TO EXCEED THE FOLLOWING AMOUNT INCLUDING VEHICLE USAGE	\$ 8,000.00
--	--------------------

Enforcement Plan Breakdown				
Enforcement Period	Budget of Time/Hours			Budget
	EXPENSE ITEMS	HOURS	AVERAGE HOURLY	
Pre- Holiday Season (Required) December 1st - 11th, 2012	Hours	15.00	\$ 65.00	\$ 975.00
	Vehicle Usage		\$ 6.00	\$ 90.00
Enforcement Period Total:			\$ 1,065.00	
Holiday (Required) December 12th - January 1st, 2013	Hours	20.00	\$ 65.00	\$ 1,300.00
	Vehicle Usage		\$ 6.00	\$ 120.00
Enforcement Period Total:			\$ 1,420.00	
Superbowl (Optional) Febuary 3rd, 2013	Hours	15.00	\$ 65.00	\$ 975.00
	Vehicle Usage		\$ 6.00	\$ 90.00
Enforcement Period Total:			\$ 1,065.00	
St. Patrick's Day (Optional) March 16th - 17th, 2013	Hours	15.00	\$ 65.00	\$ 975.00
	Vehicle Usage		\$ 6.00	\$ 90.00
Enforcement Period Total:			\$ 1,065.00	
Independence Day (Required) July 4th, 2013	Hours	20.00	\$ 65.00	\$ 1,300.00
	Vehicle Usage		\$ 6.00	\$ 120.00
Enforcement Period Total:			\$ 1,420.00	
National Impaired Driving Crackdown (Required) August 16th-September 2nd, 2013	Hours	15.00	\$ 65.00	\$ 975.00
	Vehicle Usage		\$ 6.00	\$ 90.00
Enforcement Period Total:			\$ 1,065.00	
Total Hours			\$ 6,500.00	
Total Vehicle Usage			\$ 600.00	
GRAND TOTAL of Enforcement Periods			\$ 7,100.00	

Purpose/Objectives: In order to reduce deaths and injuries caused by impaired drivers and to increase compliance with Alaska's primary seat belt law, the Grantee will conduct high-visibility seat belt and DUI enforcement as detailed in the Alaska Strategic Enforcement Partnership Enforcement Plan submitted to the Alaska Highway Safety Office in April 2006. The _____ agrees to participate in the following enforcement blitzes from October 1, 2012 through September 30, 2013. As a guideline, a minimum of three (3) self-initiated contacts per hour funded with a 'desired outcome' of contacting as many violators as possible should be made. Allowable use of funds is for overtime salary @ 1.5 times the normal rate, wages and benefits of commissioned personnel in direct support of operational activity. To receive reimbursement for personnel services the department must provide activity sheets, overtime hours worked and the overtime hourly rates for each officer.

Agreement are as outlined above for FFY 2013 Grant period of October 1, 2012 - Sep. 30, 2013.

Project Control DUI Enforcement Agreement Approved

Program Control Agent Name: Cynthia Johnson	Accepted for the Grantee by:
 Signature _____ Date <u>10-15-12</u>	 Signature _____ Date <u>11-15-12</u>

You may proceed with the activities for the Categories and specific Tasks enumerated in the above Enforcement Agreement. Conditions to this agreement are as outlined in the "Agreement Conditions" **CONDITIONS ARE A PART OF THE PROJECT AGREEMENT AND, AS SUCH, ARE BINDING ON ALL PARTIES TO THE PROJECT AGREEMENT.**

This Enforcement Agreement is cumulative and supersedes all prior Enforcement Agreements.

The AHSO Administrator for this NTP is: Tammy Kramer.

Issued for the Contracting Agency per ADOT&PF Policy #01.01.050 by: Tammy Kramer

 Signature _____ Date <u>10-12-12</u>	
--	--

AGREEMENT CONDITIONS

THE FOLLOWING CONDITIONS ARE A PART OF THE PROJECT AGREEMENT AND, AS SUCH, ARE BINDING ON ALL PARTIES TO THE PROJECT AGREEMENT:

- A. **Property:** State and Local Agencies and Other Non-State Sub grantees: Equipment and other property acquired under this Agreement for use in highway safety projects shall be used and kept in operation for highway safety purposes. State Agencies: Property management standards described in the "State Property Accounting Manual" will be used in accounting for equipment purchased under this Agreement. Local Agencies and Other Non-State Sub grantees: Standards for property management described in 49 CFR 18.32(c) through (e) will be used in accounting for equipment purchased under this Agreement. The Applicant Agency shall seek disposition instructions from the Alaska Highway Safety Office prior to disposing of any item of equipment purchased under this project. Nothing in this Agreement shall prevent the Applicant Agency from following existing property management standards that exceed the requirements set out in 49 CFR 18.32(c) through (e).
- B. **Copyright:** The Alaska Highway Safety Office and the U.S. Department of Transportation reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for State or federal government purposes: (1) the copyright in any work developed under a grant, sub grant, or contract under a grant or sub grant; and (2) any rights of copyright to which a grantee, sub grantee, or a contractor purchases ownership with grant support.
- C. **Sub Awards to Debarred and Suspended Parties:** Grantees and sub grantees must not make any award (sub grant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension."
- D. **Standards for Americans with Disabilities:** Grantees, contractors, and others who receive funding from the State of Alaska, Department of Transportation and Public Facilities, to provide a service or services to the general public as an agent of the state must certify that all programs, services, and activities operated under the grant or contract are made available to the general public in compliance with the Americans with Disabilities Act of 1990. Grant or contract recipients are subject to state review.
- E. **Procurement Standards:** Grantees and sub grantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in 49 CFR 18.36.
- F. **Progress Reports:** The Applicant Agency will submit quarterly narrative progress reports which must include an update on grant performance measures, by the 15th of the month following the end of each calendar quarter and an annual evaluation report by October 30th during the life of the project.

Exceptions

- 1. High Visibility Enforcement Overtime Individual Enforcement Period Reports are to be submitted by 30 days following Last Day of Enforcement Activity.

- G. **Financial Reports:** The Applicant Agency certifies that it has an accounting system capable of properly accounting for expenditures made under this project. Claims for costs incurred must be submitted on a monthly basis. Claims must be accompanied by supporting documentation. All claims shall be submitted by the 15th of the following month expenditures occur.

Exceptions

- 1. Travel expenditures shall be submitted by the 15th of the following month after completion of travel.
- 2. High Visibility Enforcement Overtime Claims are to be submitted by 30 days following Last Day of Enforcement Activity.

- H. **Motorcycle-related Advertisements:** All motorcycle-related advertising must have approval of the Alaska Motorcycle Safety Advisory Committee (AMSAC) http://www.dot.state.ak.us/stwdplng/hwysafety/motorcycle_safety.shtml
- I. **News Releases:** The Alaska Highway Safety Office encourages agencies to publicize Highway Safety project approval. The Alaska Highway Safety Office shall be named as the granting agency in any news releases announcing the approval of this project. Any subsequent news releases written by the Applicant Agency shall mention the Alaska Highway Safety Office.
- J. **Highway Safety Tag:** The Alaska Highway Safety Office shall be noted as the sponsor or co-sponsor in any public information materials developed under a highway safety project. This requirement includes: public service announcements on radio and

- television, newspaper advertisements, pamphlets and brochures, and promotional "give-aways" such as bumper stickers, key chains, etc. Promotional items must include the "Target Zero" logo or wording to support the Alaska Strategic Traffic Safety Plan as well as the type or national/state slogan of a national or state driver behavior program: Impaired Driving, Occupant protection, Traffic Records, Motorcycle Safety, etc. Examples of a national program: "Click It Or Ticket", and "Drive Sober Or Get Pulled Over". **Record**
- K. **Retention:** All financial and programmatic records, supporting documents, statistical records, and other records of the Applicant Agency which are required to be maintained by the terms of 49 CFR 18.42 and other records reasonably considered as pertinent to program regulations or the project agreement must be retained for a period of three years after submittal of the final claim. Additional record retention requirements may be found in 49 CFR 18.42 and are incorporated and made part of this Agreement by reference. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and sub grantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.
- L. **Enforcement:** If the Applicant Agency materially fails to comply with any term of this Agreement, the Alaska Highway Safety Office may take one or more of the actions listed in 49 CFR 18.43(a)(1) through (5), as appropriate in the circumstances. Additional provisions for enforcement are listed in 49 CFR 18.45(b) through (d).
- M. **Termination for Convenience:** Except as provided in 49 CFR 18.43, this Agreement may be terminated in whole or in part only as follows: (a) by the Alaska Highway Safety Office with the consent of the Applicant Agency, in which case the two parties shall agree upon the termination conditions, including the effective date, and, in the case of partial termination, the portion to be terminated, or (b) by the Applicant Agency upon written notification to the Alaska Highway Safety Office, setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. If, however, in the case of a partial termination, the Alaska Highway Safety Office determines that the remaining portion of this Agreement will not accomplish the purposes for which the award was made, the Alaska Highway Safety Office may terminate the Agreement in its entirety under either 49 CFR 18.43 or paragraph (a) of this section.
- N. **Audit:** The Applicant Agency agrees to arrange for a financial and compliance audit as required under the Single Audit Act of 1984 and to provide a copy of the final audit report to the Alaska Highway Safety Office upon request. The CFDA (Catalog of Federal Domestic Assistance) number of the State and Community Highway Safety Program is 20.600-20.613. The financial agency responsible for arranging for the audit shall be advised by the applicant agency of this number.
- O. **Laws of Alaska:** This Agreement shall be governed in all respects by the laws of the State of Alaska.
- P. **Limited English Proficient Persons (LEP) Guidance:** There are two federal authorities, title VI of the civil Rights Act of 1964 and the Presidential Executive Order (EO) 13166, Improving Access to Services for Persons with Limited English Proficiency, that require the ADOT&PF to provide LEP persons with meaningful access to programs, activities and services. To fully implement Title VI and EO 13166, the US DOT published guidance to its recipients of federal assistance on December 14, 2005 in the Federal Register. ADOT&PF is required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. By 2/2/2008, the department's Civil Rights Office staff had developed a plan, in cooperation with staff from all three regions. A policy and procedure manual is being created to explain how to implement this plan. If you have any questions, please contact the Civil Rights Manager, at 907.269-0850.
- Q. **Buy America Act:** Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of a satisfactory quality; or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.
- R. **Political Activity (Hatch Act)** The Applicant Agency will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Name of Authorizing Official

Mark Kotel

Signature of Authorizing Official

11-15-12

Date

CERTIFICATION REGARDING FEDERAL LOBBYING:

Certification for Contracts, Grants, Loans, and Cooperative Agreements:

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, sub grants, and contracts under grant, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

Name of Authorizing Official

Mark Ball

Signature of Authorizing Official

11-15-12

Date

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-56

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Online With Libraries (OWL) Grant in the Amount of \$4,760.00 for a Temporary Part-Time IT Aide for the Public Library and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Library Director

1. City Council Regular Meeting November 26, 2012 Introduction
 - a. Memorandum 12-173 from Library Director as backup
 - b. Alaska OWL Internet Technology Aide Grant Agreement FY2013
 - c. Project Budget

2. City Council Regular Meeting December 10, 2012 Public Hearing and Second Reading
 - a. Ordinance 12-56(A) Amended November 26
 - b. Memorandum 12-173 from Library Director as backup
 - c. Alaska OWL Internet Technology Aide Grant Agreement FY2013
 - d. Project Budget

CITY OF HOMER
HOMER, ALASKA

City Manager/Library Director

ORDINANCE 12-56(A)

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, ACCEPTING AND APPROPRIATING AN ONLINE WITH LIBRARIES (OWL) GRANT IN AN AMOUNT UP TO \$7,280.00 FOR A TEMPORARY PART-TIME IT AIDE FOR THE PUBLIC LIBRARY AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE APPROPRIATE DOCUMENTS.

WHEREAS, The Homer Public Library has received an OWL grant to fund a part-time IT aide for the library; and

WHEREAS, The grant is in an amount up to \$7,280.00 and will be used for the part-time IT aide to assist with technical support and training in library technology.

NOW, THEREFORE, the City of Homer Ordains:

Section 1. That the City Council hereby accepts and appropriates an Online With Libraries (OWL) grant for a temporary part-time IT aide for the Public Library as follows and hereby authorizes the City Manager or his designee to execute the appropriate documents:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
157-799	OWL Grant	\$7,280.00
Expenditure: 157-799	Temporary Part-Time IT Aide	\$7,280.00

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

PASSED AND ENACTED by the Homer City Council this ____ day of _____, 2012.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

51 Introduction:
52 Public Hearing:
53 Second Reading:
54 Effective Date:

55
56
57 Ayes:
58 Noes:
59 Abstain:
60 Absent:

61
62
63 Reviewed and approved as to form:

64
65
66 _____
67 Walt E. Wrede City Manager

Thomas F. Klinkner, City Attorney

68
69 Date: _____

Date: _____

70
71 Fiscal Note: Fiscal information included in body of Ordinance.
72

**Homer Public Library
500 Hazel Avenue
Homer, Alaska 99603
907-235-3180**

MEMORANDUM 12-173

TO: Mayor and Council

THROUGH: Walt Wrede, City Manager

FROM: Ann Dixon, Library Director

DATE: November 19, 2012

RE: OWL Project Grant for a Temporary Part-Time IT Aide

The Online With Libraries (OWL) project, which is implemented by the Alaska Department of Education & Early Development and the Alaska State Library, has awarded the Homer Public Library a grant of \$4,760 to fund a part-time IT Aide (7 hours per week) through June 30, 2013, to assist with technical support, training staff members and the public in basic digital literacy skills and videoconferencing procedures, and performing basic library tasks connected with library technology.

The IT Aide is needed to work on a backlog of IT tasks, as well as install and program equipment that has been purchased but not set up.

The Library is required to comply with existing requirements of the Public Library Assistance Grant and with accurate record keeping for the project's duration.

RECOMMENDATION: Approve Ordinance 12-56 accepting the OWL Project Grant for a Temporary Part-Time IT Aide.

Alaska OWL (Online with Libraries) Internet Technology Aide Grant Agreement FY2013

This agreement is made and entered into this 20th day of November 2012, by and between the Alaska State Library Alaska OWL Project, hereafter referred to as the Grantor; and the Horner Public Library, hereafter referred to as the Grantee.

Whereas, the U.S. Department of Commerce has granted funds to the Alaska State Library for internet technology aides for small public libraries; and whereas, the application of the Grantee for an internet technology aide has been approved. NOW THEREFORE, for and in consideration of the mutual covenants herein contained, the parties hereto agree as follow:

The Grantor (Alaska State Library) will agree to:

1. Furnish funds up to the amount of \$ 7,280.00.
2. Provide initial and periodic training for the internet technology aide
3. Provide advisory services in furtherance of the grant project

The Grantee will agree to:

1. Comply with the ongoing requirements of the Alaska Public Library Assistance Grant for FY2013.
2. If open less than 20 hours per week, open the library 4 additional hours per week through June 30, 2013.
3. Hire or contract a person to serve as an Internet Technology Aide (ITA), who will be present in the library at least 5 hours per week.
4. Provide the name and contact information for the person hired as the ITA to the Alaska OWL project staff.
5. Assign duties to the ITA including basic technical support, training other staff members and the public in basic digital literacy skills and videoconferencing procedures, and performing basic library tasks if necessary for extended library hours.
6. Verify that the ITA has participated in and completed all in-person and online training required by the Alaska State Library.
7. Document all ITA hours worked through a Project OWL timesheet, which will be returned by the monthly deadline to the Project OWL Compliance Administrator, Alex Pock, at the Alaska State Library, 344 W 3rd Ave. Suite 125, Anchorage, AK 99501,
8. Send monthly reports of any OWL Project training in the library to the OWL Project Compliance Administrator, Alex Pock, Alaska State Library, 344 West 3rd Ave., Suite 125, Anchorage, AK 99501.
9. Use all funds received solely for the purposes outlined above.
10. Repay any portion of grant funds that have not actually been used for these purposes by June 30, 2013.

The source of funding for this agreement is as follows:

BTOP Federal Grant CFDA 11.557 Award No. 02-42-B10560

up to \$ 7,280.00

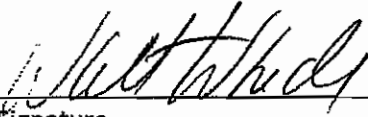
By accepting this agreement, the grantee may become subject to the audit requirements of State of Alaska Administrative code 2 AAC 45.010. As a result, the Grantee may be required to provide for an audit and to permit independent auditors to have access to their records and financial statements. The Grantee should consult with an independent auditor for assistance in determining audit requirements for the fiscal year.

The undersigned understands and agrees to the conditions of this agreement. BOTH Signatures Are Required.

For the Library

For the Legal Entity


Signature


Signature

Library Director 11/20/12
Title Date

CITY MANAGER 11/20/12
Title Date

**CITY OF HOMER
PROJECT NUMBER & BUDGET FORM**

This section to be completed by Finance

Special Project Number 157-799 DATE 10/19/2012
 GL Activity Task Number _____

Project Name: OWL IT Aide
 Activity Task Name: OWL IT Aide
 Project Start Date: Dec. 11, 2012 Project End Date: 7/30/2013

Project Description: Hire a part-time temporary IT Aide to assist with technical support, training staff members and the public in basic digital literacy skills and videoconferencing procedures, and perform basic library tasks connected with library technology.

Funding Source: Online With Libraries (OWL) program, through Alaska State Library and U.S. Department of Commerce.

Other Comments: _____

Codes	Expense Description	Project Budget	
		Grant Budget	Local Match (if Required)
5101/2	Project -Salaries & Benefits	\$4,760	_____
5202	Materials	_____	_____
5210	Professional Services	_____	_____
	Project Management	_____	_____
	Inspection	_____	_____
5212	Engr / Arch / Design	_____	_____
5216	Postage / Freight	_____	_____
5227	Advertising	_____	_____
5261	Construction	_____	_____
5262	Contingency	_____	_____
5901	c/o Equipment, Furnishing >\$1,000	_____	_____
5903	c/o Buildings & Improve >\$1,000	_____	_____
	TOTAL	\$ 4,760.00	\$ _____

Resolution : _____ Ordinance: _____

Approvals

Ann Dixon Ann Dixon 10/31/12
 Requesting Department/Project Manager Date
~~Reggie Mammis~~ Reggie Mammis 11/19/2012 10/31/12
 Finance Department Date
 Walt Wrede Walt Wrede 10/31/12
 City Manager Date

This section to be completed by Finance

Project Number/Budget Scanned & E-mailed to:
 City Clerk: _____ Date & Initial _____
 Requesting Dept: _____ Date & Initial _____
 _____ Date & Initial _____
 _____ Date & Initial _____
 Scanned to "Y" drive: _____

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-57

An 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 Regular Meeting November 26, 2012 Introduction
 - a. Memorandum 12-169 from City Manager as backup
 - b. Memorandum 12-156 from Public Works Director as backup
 - c. Memorandum 12-147 from Public Works Director as backup
 - d. Emergency Ordinance 12-52(S)
 - e. Ordinance 12-44(A)(S)
 - f. Ordinance 12-43

2. City Council Regular Meeting December 10, 2012 Public Hearing and Second Reading
 - a. Ordinance 12-57(S)
 - b. Memorandum 12-169 from City Manager as backup
 - c. Memorandum 12-156 from Public Works Director as backup
 - d. Memorandum 12-147 from Public Works Director as backup
 - e. Emergency Ordinance 12-52(S)
 - f. Ordinance 12-44(A)(S)
 - g. Ordinance 12-43
 - h. Letter from Carol Kerkvliet, Alaska Dept. Fish and Game

1 CITY OF HOMER
2 HOMER, ALASKA

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

5 ORDINANCE 12-57
6

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

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

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

20 WHEREAS, Dredging an additional 7,500 cubic yards will cost \$101,250; and
21

22 WHEREAS, Homer City Council adopted emergency Ordinance 12-52 on November 2,
23 2012 to allocate an additional \$101,250 to the Fishing Lagoon Dredging Project.
24

25 NOW, THEREFORE, BE IT ORDAINED by the City of Homer:
26

27 Section 1: The City Council hereby amends the FY 2012 Capital Budget by appropriating
28 an additional \$101,250 from the General Fund Balance for completing the Nick Dudiak Fishing
29 Lagoon Dredging Project as follows:
30

31 Expenditure:

32 From Account:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
100-100	Fishing Hole Dredging	\$101,250

35 To Account:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
151-779	Nick Dudiak Fishing Lagoon Dredging	\$101,250

1 CITY OF HOMER
2 HOMER, ALASKA

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

5 ORDINANCE 12-57(S)
6

7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
8 ALASKA, AMENDING THE FY 2012 CAPITAL BUDGET BY
9 APPROPRIATING AN ADDITIONAL ~~\$101,250~~ \$69,768 FROM
10 THE GENERAL FUND BALANCE FOR COMPLETION OF
11 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~~ 30,168 cubic yards of material
19 will 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~~ 5,168 cubic yards will cost ~~\$101,250~~ \$69,768;
22 and
23

24 WHEREAS, Homer City Council adopted emergency Ordinance 12-52 on November 2,
25 2012 to allocate an additional \$101,250 to the Fishing Lagoon Dredging Project.
26

27 NOW, THEREFORE, BE IT ORDAINED by the City of Homer:
28

29 Section 1: The City Council hereby amends the FY 2012 Capital Budget by appropriating
30 an additional ~~\$101,250~~ \$69,768 from the General Fund Balance for completing the Nick Dudiak
31 Fishing Lagoon Dredging Project as follows:
32

33 Expenditure:

34 From Account:

35 <u>Account No.</u>	35 <u>Description</u>	35 <u>Amount</u>
36 100-100	36 Fishing Hole Dredging	36 \$101,250
		37 <u>\$69,768</u>

38
39
40

41	To Account:		
42	<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
43	151-779	Nick Dudiak Fishing	\$101,250
44		Lagoon Dredging	<u>\$69,768</u>
45			

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

48
49 Section 3. The material generated by this project can be sold for use off the Spit.

50
51 PASSED AND ADOPTED by the Homer City Council this _____ day of
52 _____, 2012.

53
54 CITY OF HOMER

55
56
57
58 _____
59 MARY E. WYTHE, MAYOR

60 ATTEST:

61
62
63 _____
64 JO JOHNSON, CMC, CITY CLERK

- 65
- 66
- 67
- 68 YES:
- 69 NO:
- 70 ABSTAIN:
- 71 ABSENT:
- 72
- 73 First Reading:
- 74 Public Hearing:
- 75 Second Reading:
- 76 Effective Date:
- 77

78 Reviewed and approved as to form:
79
80

81 _____

82 Walt Wrede, City Manager

83

84 Date: _____

85

Thomas F. Klinkner, City Attorney

Date: _____

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



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.



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.

- 40 • Stopping now or delaying would likely result in the City Council not being able to
41 achieve its goals including restoring the Lagoon to its original design depth, insuring
42 optimal conditions for fish survival, and completing the project before ADF&G stocks
43 the Lagoon in the spring.

44
45 NOW, THEREFORE, BE IT ORDAINED by the City of Homer:

46
47 Section 1: The City Council hereby amends the FY 2012 Capital Budget by appropriating
48 an additional \$101,250 from the General Fund Balance for completing the Nick Dudiak Fishing
49 Lagoon Dredging Project as follows:

50
51 Expenditure:

52 From Account:

53 <u>Account No.</u>	<u>Description</u>	<u>Amount</u>
54 100-100	Fishing Hole Dredging	\$101,500

55
56 To Account:

57 <u>Account No.</u>	<u>Description</u>	<u>Amount</u>
58 151-779	Nick Dudiak Fishing 59 Lagoon Dredging	\$101,500

60
61 Section 2. The Council finds that an emergency exists and that an emergency ordinance
62 is justified for the reasons stated in the Whereas clauses.

63
64 Section 3. This ordinance is a budget amendment ordinance only, is not of a permanent
65 nature, and shall not be codified.

66
67 Section 4. The material generated by this project can be sold for use off the Spit.

68
69 Section 5. Any proceeds from gravel sales will be placed in the fishing lagoon fund.

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

71
72 CITY OF HOMER

73
74
75 
76 MARY E. WYTHE, MAYOR
77

78 ATTEST:

79

80

81

82 J. Johnson
JO JOHNSON, CMC, CITY CLERK

83

84

85

86 YES: 6

87 NO: 0

88 ABSTAIN: 0

89 ABSENT: 0

90

91 First Reading: 11/02/12

92 Public Hearing:

93 Second Reading: 11/02/12

94 Effective Date: 11/02/12

95

96

97

98 Reviewed and approved as to form:

99

100

101

102 Walt Wrede
Walt Wrede, City Manager

103

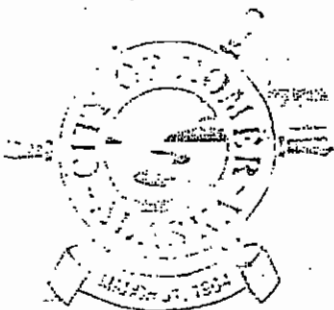
104

105

Date: 11/5/12

Thomas F. Klinkner
Thomas F. Klinkner, City Attorney

Date: _____



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:

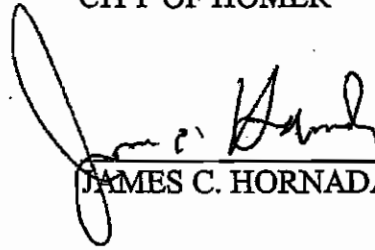
151-779	Nick Dudiak Fishing Lagoon Dredging Fishing Lagoon Improvements	\$267,500
---------	--	-----------

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.

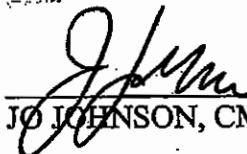
51
52 PASSED AND ADOPTED by the Homer City Council this 8th day of
53 October, 2012.

CITY OF HOMER



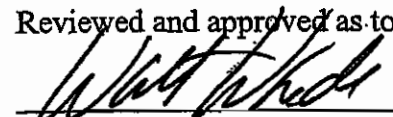
JAMES C. HORNADAY, MAYOR



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68 JO JOHNSON, CMC, CITY CLERK

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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
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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
89
90

Date: 10-16-12

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager

4 ORDINANCE 12-43

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
7 ALASKA, ACCEPTING AND APPROPRIATING A
8 LEGISLATIVE GRANT IN THE AMOUNT OF \$100,000 FOR
9 DREDGING AT THE NICK DUDIAK FISHING LAGOON.

10
11 WHEREAS, The Nick Dudiak Fishing Lagoon is filling in with sand and gravel and
12 shallower depths are a contributing factor in the recent decline in survival rates for salmon smolt
13 stocked by ADF&G; and

14
15 WHEREAS, The Fishing Lagoon provides important recreational and economic benefits
16 to the community and restoring its productivity and salmon returns has been a top Capital
17 Improvement Priority for the City in recent years; and

18
19 WHEREAS, In the spring of 2012, the City was awarded a Legislative Grant in the
20 amount of \$100,000 to restore the Lagoon to its original design depth and contours.

21
22 NOW, THEREFORE, BE IT ORDAINED by the City of Homer:

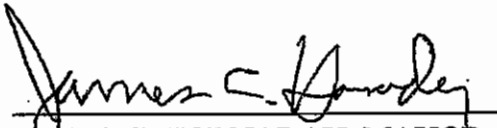
23
24 Section 1. The Homer City Council hereby accepts and appropriates a Legislative Grant
25 in the amount of \$100,000 to restore the Nick Dudiak Fishing Lagoon to its design depth and
26 contours as follows:

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

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

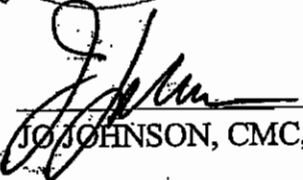
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35 ENACTED BY THE HOMER CITY COUNCIL this 8th day of October,
36 2012.

CITY OF HOMER


JAMES C. HORNADAY, MAYOR

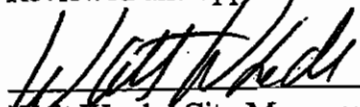
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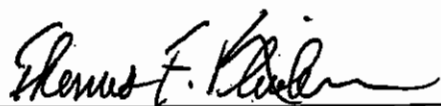

JO JOHNSON, CMC, CITY CLERK

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: 10-10-2012


Thomas F. Klinkner, City Attorney

Date: 10-16-12



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of
Fish and Game**

DIVISION OF SPORT FISH
Homer

3298 Douglas Place
Homer, Alaska 99603-7942
Main: 907.235-1730
Fax: 907.235-2448

November 29, 2012

Mayor Wythe and Homer City Council
491 E. Pioneer Avenue
Homer, AK 99603

Dear Mayor Wythe and Homer City Council:

On behalf of the Department of Fish and Game, thank you for your support appropriating funds to dredge the Nick Dudiak Fishing Lagoon and creating long-term lagoon maintenance fund. The department also thanks City Manager Walt Wrede, Port and Harbor Director Bryan Hawkins, Public Works Director Carey Meyer, and other City employees who helped see this project through completion.

The removal of 32,500 cubic yards of gravel, sand, and organic material from the Dudiak Fishing Lagoon will increase tidal flushing and lagoon depth which should improve rearing conditions for salmon smolt. Next summer the Department will continue to monitor rearing conditions when smolt are stocked.

The Department looks forward to our continued partnership and appreciates your demonstrated commitment to this important enhancement project on the Homer Spit.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Kerkvliet".

Carol Kerkvliet
Assistant Area Management Biologist
Alaska Department of Fish and Game, Division of Sport Fish

Cc: Jim Hornaday (past City of Homer Mayor)
James Hasbrouck (Sport Fish Regional Supervisor)
Tom Vania (Sport Fish Regional Management Coordinator)
Jeff Milton (Sport Fish Hatchery Program Supervisor)

ORDINANCE(S)

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-58

An Ordinance of the City Council of Homer, Alaska, Approving the Disbursement of the Net Earnings of 5% of the Permanent Fund, an Amount of \$3,554.79, to Local Non-Profit Organizations for the Benefit of the Community.

Sponsor: City Clerk/Permanent Fund Committee

1. City Council Regular Meeting December 10, 2012 Introduction
 - a. Permanent Fund Allocation to Non-Profit Organizations, June 2010 – December 2011
 - b. Unapproved synopsis of November 8, 2012 meeting of the Permanent Fund Committee

CITY OF HOMER
HOMER, ALASKA

City Clerk/
Permanent Fund Committee

ORDINANCE 12-58

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, APPROVING THE DISBURSEMENT OF THE NET EARNINGS OF 5% OF THE PERMANENT FUND, AN AMOUNT OF \$3,554.79, TO LOCAL NON-PROFIT ORGANIZATIONS FOR THE BENEFIT OF THE COMMUNITY.

WHEREAS, The Permanent Fund was established in June, 2010 to invest and manage wind-fall monies to the City of Homer; and

WHEREAS, The net earnings of five percent (5%) of the fund are to be distributed to local non-profit organizations for the benefit of the community; and

WHEREAS, As of December, 2011 the net earnings of five percent of the Permanent Fund to be allocated to non-profit organizations is \$3,554.79.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. The City Council hereby approves the disbursement of the net earnings of 5% of the Permanent Fund, the amount of \$3,554.79, to local non-profit organizations for the benefit of the community as follows:

Expenditure:

From Account:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
999-1043	Net Earnings of 5%	\$3,554.79
999-1044	of the Permanent Fund	

To Account:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
999-1043	Local Non-Profit Organizations	\$3,554.79
999-1044		

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

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this day of _____, 2013.

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CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

CITY OF HOMER

PERMANENT FUND ALLOCATION TO NON-PROFIT ORGANIZATIONS

ALLOCATION PERIOD JUN 2010 - DEC 2011

Original Investment

	US BANK - INCOME	US BANK - GROWTH	TOTAL
Jun-10	460,508.23	690,762.39	1,151,270.62
Additional Funds	106,410.65	159,615.99	266,026.64
	566,918.88	850,378.38	1,417,297.26
VALUE AT 12/2011	581,132.08	907,260.94	1,488,393.02
			71,095.76
AMOUNT ALLOCATED TO NON-PROFITS (5% OF EARNINGS)			<u>X 5%</u>
To be allocated			3,554.79

Session 12-03 a Regular Meeting of the Permanent Fund Committee was called to order on November 8, 2012 at 5:19 p.m. by Chair Barbara Howard at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMITTEE MEMBERS: BARBARA HOWARD, JO JOHNSON, REGINA MAURAS

ABSENT: FRANCIE ROBERTS (excused), MATT NORTH

APPROVAL OF AGENDA

MAURAS/JOHNSON - MOVED TO APPROVE THE AGENDA AS PRESENTED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

There were no public comments.

APPROVAL OF MINUTES

A. Synopsis of Regular Meeting of May 10, 2012

MAURAS/JOHNSON - MOVED TO APPROVE THE MINUTES OF MAY 10TH.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS

PUBLIC HEARING

PENDING BUSINESS

NEW BUSINESS

A. Recommendation to City Council for a Fund Distribution

MAURAS/JOHNSON – MOVED TO PUT FORTH TO THE CITY COUNCIL AN ORDINANCE THAT 5% OF THE NET EARNINGS FROM THE PERMANENT FUND BE AVAILABLE FOR CHARITABLE CONTRIBUTIONS PURSUANT TO HCC 3.12.020.

Five percent of the net earnings from the Permanent Fund should be allocated to charitable contributions through The Homer Foundation. An ordinance for the allocation will be presented to Council at their December 10th meeting.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. Review of the Established Investment Policies of the Permanent Fund – 5% Allocation for Grants to Benefit the Community

By consensus the Committee agreed the 5% allocation for grants policy remain status quo.

- C. Draft Resolution 12-, A Resolution of the City Council of Homer, Alaska, Establishing the 2013 Regular Meeting Schedule for the City Council, Economic Development Advisory Commission, Library Advisory Board, Parks and Recreation Advisory Commission, Advisory Planning Commission, Port and Harbor Advisory Commission, Lease Committee, Permanent Fund Committee, Public Arts Committee and Transportation Advisory Committee. City Clerk.

JOHNSON/MAURAS – MOVED TO APPROVE THE DRAFT RESOLUTION FOR THE 2013 MEETING SCHEDULE AS PRESENTED.

Brief discussion on amending the time of meetings was made.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL MATERIALS

- A. U.S. Bank Reports for period ending September 30, 2012

Due to funds invested in riskier investments, a verbal report from U.S. Bank is requested. It was suggested U.S. Bank be invited to the February 14th meeting for telephonic participation.

- B. Letter of relinquishment from Permanent Fund Committee from Mayor Wythe
- C. Certificate of Appointment – Francie Roberts

COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)

There were no comments of the audience.

COMMENTS OF THE CITY STAFF

There were no comments from the staff.

COMMENTS OF THE COUNCILMEMBER

Councilmember Roberts was not present.

COMMENTS OF THE CHAIR

Chair Howard requested the selection of Chair and Vice Chair be calendared for the February 14th meeting. A teleconference with U.S. Bank on the City's investments was requested for the next meeting.

COMMENTS OF THE COMMISSION

There were no comments of the Committee Members.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 5:38 p.m. The next Regular Meeting is scheduled for is scheduled for Thursday, February 14, 2013 at 5:15 p.m. in the Homer City Hall Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

Submitted by Jo Johnson

0

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-59

An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a Reimbursable Grant in the Amount of \$8,000 from the State of Alaska Department of Environmental Conservation for Hazardous Materials Training and Authorizing the City Manager to Execute the Appropriate Documents.

Sponsor: City Manager/Deputy Harbormaster

1. City Council Regular Meeting December 10, 2012 Introduction
 - a. Memorandum 12-181 from Deputy Harbormaster as backup
 - b. Memorandum of Understanding
 - c. Project Budget
 - d. HAZWOPER Training
 - e. Letter from iWorkWise re: HAZWOPER/Ammonia Training
 - f. Resolution 00-31
 - g. Community Spill Response Agreement between ADEC & City of Homer

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager/
4 Deputy Harbormaster

5 ORDINANCE 12-59

6
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
8 ALASKA, ACCEPTING AND APPROPRIATING A
9 REIMBURSABLE GRANT IN THE AMOUNT OF \$8,000
10 FROM THE STATE OF ALASKA DEPARTMENT OF
11 ENVIRONMENTAL CONSERVATION FOR HAZARDOUS
12 MATERIALS TRAINING AND AUTHORIZING THE CITY
13 MANAGER TO EXECUTE THE APPROPRIATE
14 DOCUMENTS.

15
16 WHEREAS, The Homer Port and Harbor Department has received a grant for anhydrous
17 ammonia gas safety training (HAZWOPER) from the State of Alaska Highway Department of
18 Environmental Conservation; and

19
20 WHEREAS, The grant is in the amount of \$8,000.00 and will be used for the Homer Port
21 and Harbor and HVFD's employees and volunteers to conduct HAZWOPER training and a joint
22 exercise involving an emergency response to the Port and Harbor's Ice Plant; and

23
24 WHEREAS, The purpose of the grant is to ensure the protection of the lives of our emergency
25 responders, the general public and its property, and to prevent a disruption in our region's economy.

26
27 NOW, THEREFORE, the City of Homer Ordains:

28
29 Section 1. That the City Council hereby accepts and appropriates a State of Alaska
30 Department of Environmental Conservation grant for HAZWOPER training and a joint exercise
31 as follows and hereby authorizes the City Manager or his designee to execute the appropriate
32 documents:

33
34

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
35 Revenue		
36 415-932	Alaska Department of 37 Environmental Conservation 38 Grant	\$8,000.00
39		
40 <u>Expenditure:</u>		
41 415-932	Professional Services	\$8,000.00

42
43 Section 2. This ordinance is a budget amendment only, is not of a permanent nature and
44 is a non code ordinance.

45
46 PASSED AND ENACTED by the Homer City Council this ____ day of _____,
47 2013.

CITY OF HOMER

MARY E. WYTHE, MAYOR

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56 ATTEST:

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60 _____
JO JOHNSON, CMC, CITY CLERK

61
62
63 Introduction:
64 Public Hearing:
65 Second Reading:
66 Effective Date:

67
68
69 Ayes:
70 Noes:
71 Abstain:
72 Absent:

73
74
75 Reviewed and approved as to form:

76
77 _____
78 Walt E. Wrede City Manager

Thomas F. Klinkner, City Attorney

79
80
81 Date: _____

Date: _____

82
83 Fiscal Note: Fiscal information included in body of Ordinance.



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM 12-181

TO: HOMER CITY COUNCIL

CC: PORT DIRECTOR/HARBORMASTER BRYAN HAWKINS, CHIEF OF POLICE MARK ROBL, FIRE CHIEF BOB PAINTER, & CITY MANAGER WALT WREDE

FROM: MATT CLARKE, DEPUTY HARBORMASTER

DATE: NOVEMBER 30, 2012

SUBJECT: ANHYDROUS AMMONIA HAZWOPER TRAINING

As you are aware, the Port and Harbor department operates an anhydrous ammonia gas refrigeration and ice production plant on the Homer Spit. Anhydrous ammonia gas is classified as a hazardous material containing corrosive and flammable properties. The Ice Plant has the capacity to hold up to 4,000 lbs. of ammonia in its operating system; and can produce 100 tons of ice in a 24 hour period. This plant is vital to our region's commercial fisheries and economy, yet presents a significant hazard in the event of an emergency.

The Port and Harbor and Homer Volunteer Fire Department have identified the need to pursue ammonia gas HAZWOPER training in order to maintain our employees' and volunteers' current level of preparedness and to conduct a joint training exercise involving an emergency response at the Ice Plant. The purpose of this training shall ensure the further protection of the lives of our emergency responders, the general public and its property, and help to prevent a disruption in our region's economy.

The Port and Harbor recently contacted iWorkWise, a firm specializing in anhydrous ammonia gas HAZWOPER training, who proposed two training courses: a 4-hour responder awareness course to be offered to the members of HVFD, and an 8-hour first responder course to be offered for City employees charged with emergency response duties. The proposed training dates are January 8th and 9th, 2013. A joint training exercise involving the Port and Harbor and HVFD shall be conducted during the evening of January 9th. **The total estimated cost of training, including the instructor's travel and per diem, is \$8,000.**

On March 13, 2000, the Homer City Council adopted Resolution 00-31 and engaged in a Community Spill Response Agreement with ADEC. Section 12 of the CSRA provides for reimbursement of the local government for costs associated with preparedness training and joint exercises. On November 29, 2012, ADEC drafted a Memorandum of Agreement in support of our proposed hazardous materials safety training and indicated its willingness to reimburse the City of Homer up to \$8,000 for the associated costs.

Recommendation:

Approve Ordinance 12-59, accepting and appropriating a reimbursable grant in the amount of \$8,000 from the Alaska Department of Environmental Conservation for hazardous materials training.

**2012 MEMORANDUM OF UNDERSTANDING BETWEEN
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
AND
CITY OF HOMER
FOR
HAZARDOUS MATERIALS SAFETY TRAINING**

This Memorandum of Understanding (MOU) is made and entered into between the Alaska Department of Environmental Conservation, hereinafter referred to as ADEC, and the City of Homer.

PURPOSE AND OBJECTIVE

Pursuant to the Local Response Agreement between ADEC and the City of Homer, dated February 16, 2000, this MOU is made for the purpose and objective of providing funds for hazardous materials training to the City of Homer in support of maintaining and expanding oil and hazardous substance spill response capabilities in the local community.

RECITALS

WHEREAS, a partnership between the State, local communities, and industry can lead to a more coordinated and effective oil and hazardous substance spill response capability in Alaska;

WHEREAS, funds in the amount of \$8,000 for training to the City of Homer will enable the Homer Fire Department and other Homer-based responders to build on its present capabilities and facilitate response activities;

WHEREAS, it is recognized that entering into a written agreement will facilitate the cooperation and coordination necessary to accomplish the purpose and objective herein described;

Now, therefore, in consideration of benefits to be derived by each party, it is hereby agreed as follows:

AGREEMENT

I. SPECIFIC OBLIGATIONS OF THE PARTIES

City of Homer

Y900 -
COPY

1. The City of Homer will receive up to \$8,000 from ADEC upon the completion of the training agreed upon in the attached document. The City of Homer will provide to ADEC a final invoice of all expenses, including supporting documentation of any invoices and purchase orders connected with the agreed training.
2. The City of Homer will work with ADEC to develop and implement procedures to initiate responses to oil and hazardous substance incidents according to the terms of the ADEC Local Community Response Agreement.

Alaska Department of Environmental Conservation

1. Upon execution of this MOU, ADEC will transfer to the City of Homer on a reimbursement-only basis an amount not to exceed \$8,000 to be used for the training agreed upon in the attached document. Only expenses associated directly with this training are eligible for reimbursement.
2. ADEC will provide expertise and advice as needed to meet the intended purpose of this agreement.

II. EFFECTIVE DATE AND FUNDING

This agreement is effective immediately upon execution by the parties. ADEC will transfer funds to the City of Homer within 30 days of receiving an invoice, including the necessary documentation on actual expenses. The funding source for this MOU is the Oil and Hazardous Substance First Responder Equipment and Preparedness Capital Improvement Project (cc 18559082).

III. LAPSE OF FUNDS

It is understood between the parties that the amount of this MOU from ADEC to the City of Homer will be retained by ADEC to be used for the purposes described above. All expenditures for this MOU must be completed by June 30, 2013. Invoices for any expenditure after that date will not be processed for reimbursement.

IV. AMENDMENTS

Amendments to this agreement may be proposed by either party and shall become executed upon being reduced to a written instrument executed by both parties.

IN WITNESS WHEREOF, each party hereto has caused this MOU to be executed by an

authorized official on the day and year set forth opposite his/her signature.

Approved by:

City of Homer

Date: _____
Walter Wrede, City Manager

Alaska Department of Environmental Conservation:

Date: _____
Larry Dietrick, Director Spill Prevention and Response

Date: _____
Chyenne Schmidt, Finance Officer,
Administrative Services

CITY OF HOMER
PROJECT NUMBER & BUDGET FORM

This section to be completed by Finance

Special Project Number 415-932 DATE 11-29-2012

GL Activity Task Number _____

Project Name: Anhydrous Ammonia HAZWOPER Training

Activity Task Name: Port & Harbor, Emergency Operations

Project Start Date: 1/8/2013 Project End Date: 1/9/2013

Project Description: Port & Harbor operations, maintenance, fish dock, HVFD personnel and volunteers will receive an 8-hour first responder HAZWOPER training course performed by iworkwise.com for the purpose of emergency response to an anhydrous ammonia gas discharge at the ice plant.

Funding Source: ADEC is providing reimbursement to the City of Homer, not to exceed \$8,000.00, for the purpose of ammonia gas HAZWOPER training.

Other Comments: _____

Codes	Expense Description	Project Budget	
		Grant Budget	Local Match (if Required)
5101/2	Project -Salaries & Benefits	_____	_____
5202	Materials	_____	_____
5210	Professional Services	\$8,000	_____
	Project Management	_____	_____
	Inspection	_____	_____
5212	Engr / Arch / Design	_____	_____
5216	Postage / Freight	_____	_____
5227	Advertising	_____	_____
5261	Construction	_____	_____
5262	Contingency	_____	_____
5901	c/o Equipment, Furnishing >\$1,000	_____	_____
5903	c/o Buildings & Improve >\$1,000	_____	_____
	TOTAL	\$ 8,000.00	\$ -

Resolution : _____ Ordinance: 12- _____

Approvals

Port & Harbor, Matt Clarke <i>Matt Clarke</i>	11/29/2012
Requesting Department/Project Manager	Date: _____
<i>Laurie Moore (Acting FD)</i>	11/30/12
Finance Department	Date: _____
<i>Matt Hedl</i> 11/29/12	_____
City Manager	Date: _____

This section to be completed by Finance

Project Number/Budget Scanned & E-mailed to:

City Clerk: 11/30/2012 *J* Requesting Dept: Harbor 11/30/2012
Date & Initial Date & Initial
Matt Clarke *Richard*
 Finance 11/30/2012 *J*
Date & Initial Date & Initial
Laurie Moore

Scanned to "Y" drive: _____

HAZWOPER TRAINING

Hazardous Waste Operations & Emergency Response

24-Hour Hazardous Materials Technician

This class satisfies OSHA and state requirements for those who respond offensively to stop a hazardous chemical release. Students successfully completing the class are certified as HAZWOPER Technicians. Topics covered include laws and regulation; incident command and notification; hazard recognition, assessment, and communication; respiratory protection; monitoring and instrumentation; PPE/chemical protective clothing; decontamination procedures; confined space hazard and assessment; lockout/tagout; and emergency response plans.



We can train at your site, so employees learn about their own equipment and how to respond to leaks in their own system. Off-site training is also available.

8-Hour Annual Refresher

We also provide annual refresher training to responders as required by the HAZWOPER regulation.



8-Hour First Responder Operations Level

This class is designed for those who respond defensively to hazardous chemical releases. Topics covered include basic terminology; hazard and risk assessment techniques; selection and use of PPE; basic control, containment and confinement and decontamination procedures; DOT emergency response guidebook; and standard operating and termination procedures.

Class Information

- ✓ We specialize in ammonia and oil spill response.
- ✓ All classes can be customized to meet your facility and personnel needs.
- ✓ Our instructors are active responders who work in hazardous materials response; they know AND DO what they teach.

A current list of our scheduled classes can be found anytime at www.iworkwise.com.

If you would like to attend a class, or schedule one for your facility, please call Jessica at 206-331-4130, extension 102.



iWorkWise™
Knowledge when you need it.

206-331-4130

www.iworkwise.com

PSM / RMP Specialists • Computerized Maintenance • Paperless PSM • HAZWOPER Training • Free Podcasts



iWorkWise™

Knowledge when you need it.

145 NW 185th St
Seattle, WA 98177-3443
Phone: (206) 331-4130
Fax: (206) 237-1720
www.iworkwise.com

COURSE

8-Hour Hazardous Waste Operations and Emergency Response (HAZWOPER) Refresher

INSTRUCTORS

Brett Bigger, Fire Department, HAZMAT Instructor, Confined Space Specialist

Stephanie Carter, CIH, PhD

Amy Duz, President, iWorkWise

Jeff Kainz, Captain, USMM, Marine Oil Spill Specialist and Training Manager

Jake Lazenby, Fire Department HAZMAT Team, Water Rescue Specialist

Rick Marshall, Fire Department HAZMAT Team

Dan Smiley, Captain, USMM, Marine Oil Spill Specialist

Jane Robinson, RETO CIRO

COURSE DESCRIPTION

This course focuses on the topics required by OSHA 29 CFR 1910.120 for renewal certification as a HAZWOPER Technician Level Responder. An appropriate mix of classroom, hands-on, and demonstration instruction is used to meeting required learning objectives.

LEARNING OBJECTIVES

- Review of and retraining on relevant topics covered in the 24-hour course using reports by the students on their work experiences.
- Update on developments with respect to material covered in the 24-hour course.
- Review of changes to pertinent provisions of EPA or OSHA standards or laws.
- Introduction of additional subject areas as appropriate.
- Hands-on review of new or altered PPE or decontamination equipment or procedures.
- Review of new developments in personal protective equipment.
- Review of newly developed air and contaminant monitoring equipment.

DEMONSTRATION AND ASSESSMENT OF LEARNING

1. Attendance at all modules
2. Active involvement in class workshops, exercises and drills
3. 20 question exam

Title	Topics	Texts, Videos and References
Introduction	<ul style="list-style-type: none"> • Incident case studies- lessons learned • Current issues related to ammonia and oil 	VIDEO: TBD National and Alaskan TV news reports, live fire and evacuation footage, aftermath, and interviews
MODULE 1: Chemical Properties	<ul style="list-style-type: none"> • MSDS exercise • Chemical states and forms • Terminology and applied concepts • Exposure Limits 	Manual: Section 1 VIDEO: Introduction to Hazardous Chemicals Book: MSDS Pocket Guide TEST QUESTIONS: 1-7
MODULE 2: Hazard and Risk Assessment	<ul style="list-style-type: none"> • Approaching an incident • Hazards vs. Risks • Sizing up 	Video footage: Firefighter training video-lessons learned
MODULE 3: Ammonia OPTIONAL	<ul style="list-style-type: none"> • Properties of ammonia • Release behavior 	Manual: Section 2 VIDEO: Anhydrous Ammonia
MODULE 4: Refrigeration OPTIONAL	<ul style="list-style-type: none"> • Refrigeration system overview • System safeties 	Manual: Section 3
MODULE 5: Respiratory Protection & CPE	<ul style="list-style-type: none"> • Requirements • Selection • Levels A-D • Resources • Use • Fit-testing (if pre-arranged) 	Manual: Section 4 VIDEO: CPE & Decontamination DEMO: Filtering face piece, half-masks, full face and gas masks, SCBAs, Level A & B
MODULE 6: Decontamination and First Aid	<ul style="list-style-type: none"> • Zones • Stations • Strategies • First Aid Procedures 	Manual: Section 5 TEST QUESTIONS: 8-13
MODULE 7: Control & Containment	<ul style="list-style-type: none"> • Response strategies • Containment techniques • Ventilation 	Manual: Section 6 TEST QUESTIONS: 14-20

Title	Topics	Texts, Videos and References
MODULE 8: Emergency Response Plans & Implementation	<ul style="list-style-type: none"> • Requirements • Review company (or sample) plan • Communication/signals • Five-minute tasks • Response techniques 	Manual: Section 6 VIDEO: VIDEO: Hazmat-Suicide Missions Part 3: Largest HAZMAT disasters, response flaws, current best practices in response
MODULE 9: Response Exercises	<ul style="list-style-type: none"> • Leak Exercises • Other Chemical Release Exercises 	Section 7
MODULE 10: On-Site Drill	<ul style="list-style-type: none"> • Drill 	
OPTIONAL MODULE: A Oil Spill	<ul style="list-style-type: none"> • Lessons learned • Transfer procedures • Plan requirements 	VIDEO: Oil Spill Initial Response
OPTIONAL MODULE: B Compressed Gases	<ul style="list-style-type: none"> • Properties of compressed gases • Hazards and risks • Response principles and techniques 	VIDEO: Cylinders, or CSB Praxair video
OPTIONAL MODULE: C Confined Space	<ul style="list-style-type: none"> • Definitions • Hazards • Requirements 	DEMO: Confined space LEL, O2
OPTIONAL MODULE: D Freon	<ul style="list-style-type: none"> • Properties • Hazards • Environmental issues and planning 	
OPTIONAL MODULE: E Flammable Liquids	<ul style="list-style-type: none"> • Terminology • Hazards • Response strategies 	



iWorkWise™

Knowledge when you need it.

145 NW 185th St.
 Seattle, WA 98177
 Phone: (206) 310-5512
 Fax: (206) 237-1720

HAZWOPER COURSES

These classes deliver information that is relevant, current and immediately applicable to emergency response on shore and on vessels. Ammonia refrigeration emergency response, Freon leak response and/or oil transfer and spill response training is emphasized per request.

HAZWOPER COURSE COST SCHEDULE

Please note that there is an 8 person minimum charge requirement. If you have fewer than 8 students, ask us if we can include your students in another scheduled class.

COURSE	1-8	9-12	13-19	20+
HAZWOPER 8-HOUR (minimum 8)	\$195 each	\$165 each additional student	\$140 each additional student	\$120 each additional student
Classes in Alaska	\$225 each	\$185 each additional student	\$160 each additional student	\$135 each additional student

COURSE	1-6	7-12	13-19	20+
HAZWOPER 24-HOUR (minimum 8)	\$495	\$435	\$395	\$345
Classes in Alaska	\$525 each	\$465 each additional student	\$435 each additional student	\$385 each additional student

Please note that travel expenses will also be billed for classes out of the Puget Sound area at cost plus 10%. Companies may pay expenses directly as an alternative as long as the travel expense is not part of a multi-leg trip.

...

— ✓



iWorkWise™

Knowledge when you need it.

145 NW 185th Street
Seattle, WA 98177-3443
Phone: (206) 310-5512
Fax: (206) 237-1720
www.iworkwise.com

16 November 2012

Matt Clarke
Deputy Harbormaster
Port of Homer, Alaska

RE: HAZWOPER/Ammonia Training

Dear Matt,

Thank you for the opportunity to provide you with this proposal.

Scope

Provide HazMat training in Homer, Alaska. Classes will be instructed by an experienced and active emergency response professional with extensive ammonia expertise. Each attendee will receive a full course manual. Certificates will be issued within a week of the class.

Day 1: 4-hr Ammonia Awareness Course. This course satisfies HAZWOPER Awareness Level training requirements. The course will focus on anhydrous ammonia.

Day 2: 8-hr Hazardous Materials Course. This course satisfies HAZWOPER First Responder Operations Level and refresher training requirements. The course will focus on anhydrous ammonia.

Costs

Awareness Course Costs: \$120/person, minimum 15 persons. First Responder/Refresher Course Costs: Prices are per person with a minimum of 8. Please see attached cost schedule.

Estimated cost for Awareness Level training, 20 persons:	\$2400
Estimated cost for Operations Level training, 20 persons:	\$3795
Estimated travel expenses (itemized below):	\$1840
Airfare	\$1000
Hotel, 2 nights	\$280
Car, 2 days	\$260
Airport parking 2.5 days	\$50
Meals 2.5 days	\$150
Baggage fees	\$100

Total estimated cost \$8,035.

TERMS OF SERVICE

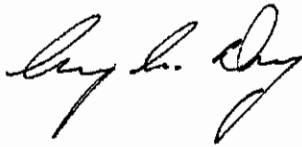
TRAVEL. Transportation, airport parking, lodging and meal expenses will be paid by Client or documented and billed to Client at cost. All travel time is included.

SCHEDULE. The schedule for completion will be mutually agreed to by Client and iWorkWise upon acceptance of proposal. Proposal is accepted upon receipt of Purchase Order. This proposal is valid for sixty days.

PAYMENT. Invoices will be submitted at the completion of the project. Payment will be due within 30 days of receipt unless otherwise agreed in writing prior to billing.

Please call me if you have questions or if there are any changes or clarifications needed in the proposal. You can reach me at (206) 310-5512.

Sincerely,
IWORKWISE



Amy A. Duz

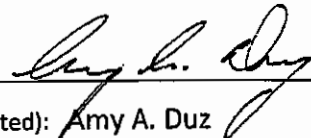
Standard Services Agreement

This Services Agreement ("Agreement") is entered into between City of/Port of Homer, ("Client"), and iWorkWise, ("Consultant"). Client engages Consultant to assist with various safety and regulatory issues.

- 1. Consultant's Responsibilities.** Consultant shall provide services and advice relating to regulatory compliance, ("Services") as set forth in the attached "Proposal" or "Statement of Services" (collectively "SOS"), which is part of this Agreement. Client acknowledges this Agreement sets forth the sole duties, tasks and obligations of Consultant.
- 2. Client's Responsibilities.** Client shall (a) provide Consultant with access to Client's facility to facilitate Consultant's timely performance of the Services; and (b) provide sufficient qualified personnel capable of performing Client's duties. Client acknowledges that its failure to timely perform any of its duties or obligations may affect the timing and cost of the Services.
- 3. Compensation.** Client will pay the fees within 30 days of being invoiced. If not timely paid, interest at 1.5% per month will accrue on the balance until paid. If out-of-pocket expenses are billed separately, at Client's request, Consultant will provide documentation to verify such expenses.
- 4. Independent Contractor.** The relationship of the parties is that of independent contractor and client, and is governed solely by this Agreement. Nothing herein shall be deemed to create a joint venture, partnership, agency, or employee/employer relationship. Neither party is authorized to act as agent for, or otherwise on behalf of the other party.
- 5. Services Warranty and Exclusion of Warranties.** Consultant warrants that it shall perform the Services in a professional and workmanlike manner. In the event Consultant fails to perform any Services as provided in the SOS, Consultant's sole and exclusive obligation shall be to promptly take such action as may be reasonably necessary to correct such failure. Consultant makes no other express or implied representations or warranties with respect to the Services to be performed by Consultant or any products that may result therefrom. Client acknowledges that Consultant has been hired for consultancy and advisory services only.
 - 5.1 Limitation of Liability.** Consultant's total liability under this Agreement for any cause whatsoever, including without limitation, breach of contract or warranty, negligence or gross negligence, is limited to the amount actually paid by Client under this Agreement for the services that gave rise to such liability. Consultant shall in no event be liable for any consequential, incidental, indirect, exemplary, punitive, or special or similar damages including, but not limited to, personal injury or Jones Act claims, accident costs, loss of profits, loss of revenue, or loss of data.
 - 5.2 Indemnification.** Client shall indemnify, defend and hold harmless Consultant and Consultant's directors, officers, employees, representatives, agents, successors and assigns ("Indemnified Parties"), and shall pay any and all losses, liabilities, damages, costs and expenses (including attorney's fees) incurred by the Indemnified Parties as a result of Client's operation of its business including, without limitation, losses, liabilities, damages, costs and expenses arising or resulting from real or alleged safety violations by Client.
- 6. Legal.** The terms of this Agreement shall survive termination of this Agreement. This Agreement shall be governed by the laws of the State of Washington. Any dispute or disagreement between the parties shall be settled by arbitration in Seattle, Washington under the Commercial Arbitration Rules then in effect with the American Arbitration Association and the non-prevailing party shall be liable for reasonable attorneys' fees, court costs and other costs and expenses of litigation or arbitration, including the fees and costs of experts and investigators.
- 7. Proprietary Materials.** Each party is and shall remain the owner of all right, title and interest in its proprietary materials. Neither party shall obtain any right or license in the other's proprietary materials.
- 8. Force Majeure.** Each party shall be excused from performance and shall have no liability to the other party for any period it is prevented from performing any of its obligations, in whole or in part, as a result of delays caused by the other party by an act of God, war, civil disturbance, court order, third party performance or nonperformance, strikes, work stoppages or other cause beyond its reasonable control, and such nonperformance shall not be a default under, or grounds for termination of, this Agreement. This Agreement is entered into on 11/21/2012.

CONSULTANT:

iWorkWise

Signature: 

Name (printed): Amy A. Duz

Title: President

CLIENT:

Signature: _____

Name (printed): _____

Title: _____

**CITY OF HOMER
HOMER, ALASKA**

City Manager

RESOLUTION 00-31

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA ENTERING INTO AN AGREEMENT WITH THE STATE OF ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE CITY OF HOMER FOR COMMUNITY SPILL RESPONSE.

WHEREAS, this agreement is to facilitate coordinated and effective oil and hazardous substance release responses within the State; and

WHEREAS, to provide for reimbursement by ADEC of actual costs, other than normal operating expenses as defined, incurred by the local government in the abatement of a release or threatened release of oil or a hazardous substance as authorized under State law; and

WHEREAS, through this partnership ADEC can better protect public health and the environment from the effect of oil and hazardous substance releases by

- (1) providing for the immediate protection of local resources;
- (2) developing, augmenting and sustaining first-tier response capabilities and readiness at the local level;
- (3) taking advantage of local knowledge, experience and resources to the greatest extent possible;
- (4) fully integrating local oil and hazardous substance response capability into the State's overall response network; and

WHEREAS, ADEC and the local government will designate contact persons for implementation; and

WHEREAS, ADEC and the designated persons shall mutually establish and coordinate procedures for notification, response resources, verbally requested services and reimbursement of expenses as noted in the agreement; and

WHEREAS, this agreement will become effective upon the date of execution, may be terminated at any time by either party, with or without cause, with 60 days notice served on either party.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF HOMER, ALASKA that the City Manager is authorized to execute the Community Spill Response Agreement between the Alaska Department of Environmental Conservation and the City of Homer.

Reso 00-
Page 2 of 2

PASSED AND ADOPTED by the Homer City Council this 13th day of March 2000.

CITY OF HOMER



JACK CUSHING, MAYOR


ATTEST:



MARY CALHOUN, CMC/AE, CITY CLERK

ADEC

COMMUNITY SPILL RESPONSE AGREEMENT

BETWEEN

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

AND

CITY OF HOMER

February 16, 2000

DEC

PURPOSE

This agreement between the Alaska Department of Environmental Conservation (DEC) and the City of Homer hereinafter referred to as the "local government" is intended to (1) facilitate coordinated and effective oil and hazardous substance release responses within the State, and (2) provide for reimbursement by DEC of actual costs, other than normal operating expenses as defined below, incurred by the local government in the abatement of a release or threatened release of oil or a hazardous substance as authorized under State law.

BACKGROUND

Under State law, any person who causes or permits a release of oil or a hazardous substance must take proper response action, consisting of containment and cleanup, unless DEC determines that containment or cleanup is (1) technically infeasible, (2) would cause greater environmental damage than if the release were not contained or cleaned up, or (3) in the case of a hazardous substance release, would pose a greater threat to human life or health than if the release was not contained or cleaned up (AS 46.04.020; 46.09.020). All releases of oil or hazardous substances must be reported to DEC by the responsible party. If DEC determines that the responsible party has failed to conduct a proper cleanup, or cannot or will not do so, DEC may direct the person undertaking the response action to cease and may undertake containment or cleanup directly or by contract. These actions are carried out by the designated DEC State On-Scene Coordinator (SOSC). DEC maintains access to a wide array of containment and cleanup resources which are available to the SOSC for this purpose.

The Department is seeking to enhance its response capability by executing Local Response Agreements (LRAs), through which local emergency response resources can be used to facilitate coordinated and effective response actions. The SOSC activates and directs these resources through the Incident Command System (ICS). These resources supplement the Department's own response capability. The SOSC will select those resources best suited for responding to a particular incident, and will request such services upon the determination that current response actions are inadequate. Through these agreements, DEC intends to develop partnerships through which local resources, experience and knowledge can benefit statewide response actions. State reimbursement of actual costs will make available the combined response resources of local governments, substantially enhancing the State's overall response capability.

Response activities will be conducted in accordance with the Alaska Federal/State Preparedness Plan for Response to Oil and Hazardous Substance Discharges/Releases (the "Unified Plan") and its ten regional sub-plans and will be consistent with all applicable local, State and federal response plans and requirements.

GENERAL PROVISIONS

DEC shall reimburse a local government for actual expenses, other than normal operating expenses as defined below, incurred in the abatement of a release or threatened release of oil or a hazardous substance if (1) the local government has entered into an agreement with the Commissioner under AS 46.04.020(e) or AS 46.09.020(e); (2) the Commissioner determines that the expenses were for a necessary emergency first response to a release or threatened release that posed an imminent and substantial threat to the public health or welfare, or to the environment; and (3) the expenses were consistent with the regional master plan, if any (AS 46.08.070(c)). DEC shall not be obligated to reimburse any cost incurred by a local government associated with a response when the local government is identified as the responsible party (RP).

Under AS 46.09.020(e), the Commissioner of DEC may enter into agreements with local governments in order to (1) facilitate a coordinated and effective hazardous substance release response in the state; (2) provide for cooperative hazardous substance release notification procedures; or (3) provide for cooperative review of hazardous substance release response contingency plans submitted to the department. DEC may enter into similar agreements with local governments to facilitate a coordinated response to oil discharges (AS 46.04.020(e)).

The local government has been created under the laws of the State of Alaska and has all of the powers necessary to enter into agreements and specifically the power to enter into this Local Response Agreement. The local government is also a local emergency response authority empowered to commit locally available resources to assist DEC in the abatement of a release or threatened release of oil or a hazardous substance for purposes of facilitating a coordinated and effective hazardous substance release response.

Therefore, based on the foregoing and in consideration of a mutual interest in facilitating a coordinated and effective oil or hazardous substance release response, both parties agree to the following:

TERMS OF AGREEMENT

Response to Oil and Hazardous Substance Spills

1. DEC and the local government shall designate local contact persons who will implement this agreement.
2. DEC and the local government shall mutually establish, and coordinate, procedures for notification of releases and the callout by DEC of response resources as follows:
 - A. When the local government determines that an actual or potential oil or hazardous substance release may pose an imminent and substantial threat to the public health or welfare or to the environment, the local contact person shall then notify the SOS. The SOS will make the decision whether to request activation of the Local Response Agreement in order to initiate local response activities and provide for reimbursement of costs incurred.

- B. When DEC has been notified of a release or threatened release of oil or a hazardous substance which may pose an imminent and substantial threat to the public health or welfare or to the environment, the SOSOC will evaluate the adequacy of response actions being undertaken by the responsible party (RP). If the SOSOC determines that the response by the RP is insufficient, the SOSOC may request activation of the Local Response Agreement in order to initiate local response activities and provide for reimbursement of costs incurred.
3. The SOSOC or his designee must give prior written approval for any expenditures submitted for reimbursement. In an emergency, verbal approval may be granted by the SOSOC or his designee. If, due to special circumstances, it is not possible to obtain advance approval despite a good-faith effort on the part of the local government, the local government may initiate emergency response activities. In all cases, however, response activities undertaken by the local government within the scope of this agreement will be reported to the SOSOC or his designee as soon as possible.
 4. DEC may, in an emergency, verbally request specified services from the local government in an amount not to exceed \$25,000.00. All verbal requests will be followed, within 48 hours, with a written description of the scope of services to be provided in the form of a Notice to Proceed (NTP) pursuant to the terms of the agreement.
 5. Pursuant to AS 46.08.070(c), DEC shall reimburse the local government for actual expenses incurred under this agreement, other than normal operating expenses for personnel, goods, and services used during a response. For the purposes of this agreement, and to implement AS 46.08.070(c), the term "normal operating expenses" means those routine expenditures that are unrelated to the response activities associated with a particular incident. Such expenses would include normal overhead and operating costs (office rent, utilities, fax lines, vehicle leases, etc.). Personnel expense incurred as a direct result of response activities is not considered a normal operating expense and will be billed and reimbursed on an hourly basis. Reimbursement will be made for actual expenses for responses both inside and outside of the local jurisdiction when requested by the SOSOC. All such reimbursement is subject to the requirements of AS 46.08.070(c). As authorized under AS 37.05.285(c), the State will not be liable for interest payments on any unpaid balances owed.
 6. Subject to the provisions of Article 3 of this agreement, DEC will make no payment for personnel, services, or goods provided during or prior to the incident unless such personnel, services, and goods are requested and approved in writing by the SOSOC or his designee. Equipment purchased for the incident becomes State property and must be relinquished to the State at the end of the incident response unless other arrangements meeting the applicable requirements of the Alaska Department of Administration have been made in writing.
 7. The local government shall provide a list, or description of personnel, equipment and services that will be available to respond to an incident, along with the cost of each item. This information shall be updated semi-annually to reflect current and actual services and costs. Personnel and equipment costs will reflect usual, customary and reasonable rates for comparable services within the area of operation. Only actual expenses incurred for

- personnel, equipment and services are eligible for reimbursement.
8. The local government will maintain sufficient records to verify work done by personnel and to document the use of goods and services during an incident. The local government will revise its record-keeping and accounting methods if requested by DEC in order to substantiate claim for reimbursement.
 9. The local government shall submit to the SOSOC for payment the original documentation of expenditures for each incident. Such documentation will include time sheets, field reports, and receipts. Submissions for payment will include a status report addressing activities covered by the submitted reimbursement request. All billings must meet the State's documentation requirements for expenditures and any additional requirements under the Oil and Hazardous Substance Release Prevention and Response Fund. The State will not reimburse for costs which are not sufficiently documented.
 10. DEC and the local government agree that any dispute arising under this agreement regarding reimbursement of costs shall be submitted to mediation for resolution prior to any action being taken in the courts of the State of Alaska. The cost of such mediation will be divided evenly between the parties. In addition, each party will be responsible for its own costs incurred as a result of such mediation.
 11. The local government, having entered into a written agreement with the Department to provide response action with respect to a release or threatened release of a hazardous substance, is provided immunity from civil liability to third parties for spill response services to the maximum extent available under AS 46.03.823 - Hazardous Substance Response Action Contractors and AS 46.03.825 - Oil Spill Response Action Contractors. Nothing in this agreement is intended to alter or limit those protections, or any other immunities or limitations of liability that may be available under the law.

Response Preparedness

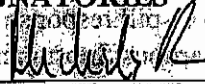
12. DEC and the local government agree to identify release response preparedness needs, and to pursue reimbursement of the local government for preparedness costs, not associated with individual incidents, that will enhance local response capability. This may include provisions for joint training and exercises with Department response staff. The parties acknowledge that the Response Fund may be unavailable for this purpose (AS 46.08.070(c)).

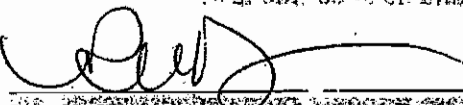
General

13. DEC and the local government agree that nothing in this agreement shall be construed as obligating the local government to respond to a particular incident. Whenever possible, the SOSOC shall extend the right of first refusal to the local government to undertake response actions.
14. DEC and the local government agree that nothing in this agreement shall be construed as obligating local government to support response and preparatory activities should DEC no longer be capable of the funding support identified in this agreement.
15. DEC and the local government mutually agree that nothing in this agreement shall be construed as obligating DEC to the expenditure of funds, or to the future payment of

- funds, in excess of that authorized by the SOSC under this agreement.
16. DEC retains the option to audit. Audit may include, but is not limited to, inspection of all records, documents, tangible objects, and physical locations related to this agreement.
 17. DEC and the local government will execute any other documents reasonably necessary to fully perform the intentions of this agreement.
 18. This agreement shall be governed and interpreted by the laws of the State of Alaska.
 19. No party may assign this agreement or any interest therein without the written consent of the other party.
 20. No amendment, alteration or modification of this agreement shall be effective unless made in writing and duly executed by the parties involved.
 21. Nothing in this agreement shall preclude either party from seeking reimbursement for actual costs from other sources.
 22. This agreement shall be in effect on the date of execution. The agreement may be terminated at any time by either party, with or without cause, with 60 days written notice served upon the other party. If this agreement is terminated the local government shall have no rights to further reimbursement except for those expenses already approved pursuant to this agreement.

SIGNATORIES


 _____ Date 3/23/00
 Michele Brown, Commissioner
 Alaska Department of Environmental Conservation


 _____ Date 03/15/00
 Local Government Authorized Representative
 Ronald W. Draffman, City Manager

g:\perpleje\cras\blankira.wpd

ORDINANCE REFERENCE SHEET
2012 ORDINANCE
ORDINANCE 12-60

An Ordinance of the City Council of Homer, Alaska, Repealing and Reenacting HCC Chapter 17.04 Regarding Special Assessment Districts.

Sponsor: City Manager

1. City Council Regular Meeting December 10, 2012 Introduction
 - a. Ordinance 12-15

1 CITY OF HOMER
2 HOMER, ALASKA

3 City Manager

4 ORDINANCE 12-60
5

6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 REPEALING AND REENACTING HCC CHAPTER 17.04 REGARDING
8 SPECIAL ASSESSMENT DISTRICTS.
9

10 WHEREAS, City of Homer Ordinance 12-15 revised HCC Chapter 17.04 to
11 accommodate the financing of a wider range of projects, including infrastructure of privately
12 owned utilities; and

13
14 WHEREAS, The provisions of HCC 17.04.190 regarding deferment of assessments are
15 intended to apply only to assessments for publicly owned improvements, and not to assessments
16 for infrastructure of privately owned utilities; and

17
18 WHEREAS, It is appropriate to amend HCC 17.04.190 to clarify the intended scope of
19 its application.

20
21 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
22

23 Section 1. HCC 17.04.190, Deferment of assessment payments for senior citizens, is
24 amended to read as follows:
25

26 17.04.190 Deferment of assessment payments for senior citizens. a. Assessment
27 payments, except assessment payments for the infrastructure of a privately owned utility,
28 may be deferred under the provisions of this section. A person may obtain a deferment of
29 assessment payments under this section if the person:

30 1. Will be at least 62 years of age within 12 months after the date of
31 confirmation of the assessment roll;

32 2. Has an annual family income that would qualify under the United States
33 Department of Housing and Urban Development designation of lower income families
34 adjusted for Alaska and the Kenai-Cook Inlet Region;

35 3. Owns or has a life tenancy in the assessed property, and permanently
36 resides in a single family dwelling on the property; and

37 4. Is not determined by the city, after notice and hearing, to have been
38 conveyed the property primarily for the purpose of obtaining the exemption.

39 b. An assessment payment deferment is subject to approval by the council. A person
40 seeking deferment of an assessment payment shall file a written application with the finance
41 director on or before the first payment is due, supported by documentation showing that the
42 applicant meets the criteria in subsection (a) of this section. A person receiving an assessment
43 payment deferment must file with the city by April 15th of each subsequent year a new
44 application proving eligibility as of January 1st of that year in order to retain the exemption.
45 Within the same year the city for good cause shown may waive the claimant's failure to make
46 timely application and approve the application as if timely filed.

47 c. Assessment payment deferments are subject to the availability of funds
48 appropriated for that purpose. An application for an assessment payment deferment shall be
49 submitted to the council with a report from the finance director as to the availability of funds to
50 appropriate for the deferment. Deferred assessments are funded from the following sources:

51 1. The appropriate utility operating fund for deferred water and sewer
52 assessment payments.

53 2. The accelerated roads program fund for deferred road improvement
54 assessment payments.

55 If funds for an assessment payment deferment are not available from the appropriate source, the
56 council may loan the necessary amount to the appropriate source from the general fund.

57 d. A person who receives an assessment payment deferment shall execute a deed of
58 trust on the property subject to assessment, together with a promissory note payable to the city
59 on demand, to secure the eventual payment of the deferred payment.

60 e. A deferred assessment payment shall be immediately due and payable upon the
61 earlier to occur of the following events:

62 1. The sale or lease of the assessed property; or

63 2. The death of both the deferred assessment applicant and the applicant's
64 surviving spouse, if any.

65
66 Section 2. This Ordinance is of a permanent and general character and shall be included
67 in the City Code.

68
69 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
70 _____ 2012.

71
72 CITY OF HOMER

73
74
75
76 _____
77 MARY E. WYTHER, MAYOR

78 ATTEST:

79
80
81 _____
82 JO JOHNSON, CMC, CITY CLERK

83 YES:

84 NO:

85 ABSTAIN:

86 ABSENT:

87
88 First Reading:

89 Public Hearing:

90 Second Reading:

91 Effective Date:

92

93 Reviewed and approved as to form:

94

95

96

97 Walt E. Wrede, City Manager

98

99 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

1 CITY OF HOMER
2 HOMER, ALASKA

Lewis/City Manager

3
4 ORDINANCE 12-15

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 REPEALING AND REENACTING HCC CHAPTER 17.04 REGARDING
8 SPECIAL ASSESSMENT DISTRICTS.

9
10 WHEREAS, The City of Homer enacted HCC 17.04, regarding special assessments, in
11 1987; and

12
13 WHEREAS, In the years following the adoption of HCC 17.04, the City has found the
14 procedures under this code chapter to be cumbersome and difficult for the public to understand;
15 and

16
17 WHEREAS, It also is necessary to revise HCC Chapter 17.04 to accommodate the
18 financing of a wider range of projects, including infrastructure of privately owned utilities.

19
20 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

21
22 Section 1. HCC Chapter 17.04, Special Assessment Districts, is repealed and reenacted
23 to read as follows:

24
25 Chapter 17.04

26
27 SPECIAL ASSESSMENT DISTRICTS

28 Sections:

- 29
30 17.04.010 Definitions.
31 17.04.020 Purpose of chapter.
32 17.04.030 Assessment authority.
33 17.04.040 Initiation of district.
34 17.04.050 Creation of district.
35 17.04.060 Contract award; Approval of increased costs.
36 17.04.070 Assessment roll.
37 17.04.080 Certification of assessment roll.
38 17.04.090 Payment.
39 17.04.100 Subdivision after levy of assessments.
40 17.04.110 Assessments to be liens.
41 17.04.120 Reassessment.
42 17.04.130 Objection and appeal.
43 17.04.140 Interim financing.
44 17.04.150 Special assessment bonds.
45 17.04.160 Time limit for special assessment districts.
46 17.04.170 Water and sewer connections required.

47 17.04.180 Road improvement assessments for lots with two street frontages.

48 17.04.190 Deferment of assessment payments for senior citizens.

49 17.04.200 "In lieu of assessment".

50

51 17.04.010 Definitions. In this chapter:

52 a. "Cost" means all expenses incurred by the city for an improvement, including
53 without limitation advertising expenses, fees of engineers, architects and surveyors, legal fees,
54 costs of property acquisition, payments to construction contractors, costs of interim and long-
55 term financing of the improvement, including costs of issuing bonds and notes, and city
56 administrative costs.

57 b. "District" means a special assessment district created under this chapter.

58 c. "Improvement" means a capital improvement, including without limitation streets,
59 sidewalks, alleys and bridges; street lighting; drainage and flood control facilities; sanitary
60 sewage collection and treatment facilities; water supply and distribution facilities; natural gas
61 distribution facilities; and parks, playgrounds, public squares and open space.

62 d. "Record owner" means the person in whose name real property is listed on the
63 property tax roll prepared by the Kenai Peninsula Borough.

64

65 17.04.020 Purpose of chapter. a. A special assessment district may be created for the
66 purpose of acquiring, installing or constructing a capital improvement that primarily benefits real
67 property in the district, in contrast to capital improvements that benefit the entire community and
68 are paid for with general government resources.

69 b. The purpose of this chapter is to prescribe the procedure for initiating a special
70 assessment district, authorizing an improvement in a special assessment district, approving and
71 levying special assessments, payment of special assessments, and the authorization of special
72 assessment bonds, for public information and administrative guidance.

73

74 17.04.030 Assessment authority. a. The city may assess all or part of the cost of a capital
75 improvement against real property benefited by the improvement, whether the property is
76 privately or governmentally owned, including real property that is exempt from taxation.

77 b. A capital improvement that is provided through a special assessment district may
78 be owned by the city, a public utility, or another entity that is qualified to own and operate the
79 capital improvement.

80

81 17.04.040 Initiation of district. a. A special assessment district may be initiated by:

82 1. Resolution approved by a vote of not less than three-fourths of the council;
83 or

84 2. Petition signatures of the record owners of not less than one half in value
85 of the real property in the proposed district received by the city clerk within 60 days after
86 the mailing of the petition to record owners of property in the proposed district. Upon
87 payment of the nonrefundable filing fee in the city fee schedule established by resolution
88 of the council, the city clerk shall prepare a petition for distribution by certified mail to
89 all record owners of property in the proposed district that contains:

90 i. A statement that it is a petition to form a special assessment
91 district, and describing the capital improvement for which the district is proposed;

92 ii. For each property in the proposed district, the Kenai Peninsula
93 Borough tax parcel number and property description, the name and mailing
94 address of the record owner, the current assessed value, and a place for the record
95 owner's signature; and

96 iii. A statement that to support initiation of the proposed district, the
97 record owner must sign and return the petition to the city clerk within 60 days
98 after the date the petition was mailed

99 b. Upon adoption of a resolution initiating a special assessment district, or the city
100 clerk's verification that a petition to initiate a district bears sufficient signatures, the city clerk
101 shall

102 1. Schedule a meeting of record owners of real property in the proposed
103 district, notify the record owners by mail of the date, time and location of the meeting,
104 and include a copy of the notice in the city's regular meeting advertisement, and

105 2. Refer the proposed district to the city manager, who shall prepare an
106 improvement plan for the district that includes final boundaries for the district, the design
107 of the proposed improvement, a cost estimate for the improvement, the percentage of the
108 improvement cost to be assessed against properties in the district, a method for allocating
109 the assessed cost of the improvement among the properties in the district, the time period
110 over which assessments will be financed, and a preliminary assessment roll for the
111 district.

112
113 17.04.050 Creation of district. a. Upon completion of an improvement plan under HCC
114 §17.04.040, the city clerk shall set a time for a public hearing on the necessity of the
115 improvement and proposed improvement plan. Notice of the hearing shall be published at least
116 twice in a newspaper of general circulation in the city, and mailed via certified mail to every
117 record owner of real property in the proposed district not less than 60 days before the hearing.

118 b. A record owner of real property in the proposed district may file a written
119 objection to the improvement plan with the city clerk no later than the day before the date of the
120 public hearing on the improvement plan. If owners of real property that would bear 50 percent
121 or more of the assessed cost of the improvement file timely written objections, the council may
122 not proceed with the improvement unless it revises the improvement plan to reduce the assessed
123 cost of the improvement that is borne by objecting record owners to less than 50 percent of the
124 assessed cost of the improvement. If the resolution changes the district boundary in the
125 improvement plan, the city clerk shall notify all record owners of property included in the district
126 under the improvement plan of the change.

127 c. At the noticed date and time, the council shall hold a public hearing on the
128 necessity of the improvement and proposed improvement plan. After the public hearing, the
129 council shall act upon a resolution determining to proceed with the proposed improvement. The
130 resolution shall find that the improvement is necessary, of benefit to the properties to be
131 assessed, and if the district is initiated by petition, that the petition is in proper form and bears
132 sufficient signatures. The findings of the council are conclusive. The resolution shall contain a
133 description of the improvement, the estimated cost of the improvement, the percentage of the
134 cost to be assessed against the properties in the district, and a description of the properties to be
135 assessed.

136 d. If the owners of 100 percent of the real property in the proposed district waive in
137 writing the notice, protest period and public hearing required under this section, the question of
138 creating the district may be submitted to the council without such notice, protest period or public
139 hearing.

140
141 17.04.060 Contract; Approval of increased costs. a. After a special assessment district
142 has been created, the city shall contract for the construction of the improvement. If the city will
143 own the improvement, it shall solicit bids for construction of the improvement. If the city will
144 not own the improvement, it shall contract with the owner of the improvement to provide for its
145 construction.

146 b. If the cost of constructing the improvement will exceed 115 percent of the
147 estimated cost of construction of the improvement in the improvement plan, the city shall not
148 contract for the construction of the improvement without first:

149 1. Notifying all record owners of property in the district via certified mail of
150 the increased cost, and

151 2. Within 30 days after the mailing of notice of the increased cost to record
152 owners of property in the district, receiving written objections from record owners of
153 property that would bear less than one-half of the cost of the improvement.

154 c. If record owners of property that would bear one-half or more of the cost of the
155 improvement object in writing to the increased cost, the city will not contract to construct the
156 improvement. The council either may levy assessments in the district in an amount sufficient to
157 recover costs incurred for preliminary design and engineering services, or determine that the city
158 shall assume such costs.

159
160 17.04.070 Assessment roll. a. After completion of the improvement the council shall
161 assess costs of the improvement by a method that the council determines will assess each
162 property in the district in proportion to the benefit that it receives from the improvement.

163 b. The city shall prepare an assessment roll stating for each property in the district
164 the name and address of the record owner, Kenai Peninsula Borough parcel number, a
165 description of the property, the amount assessed against the property, and the assessed value of
166 the property as determined by the Borough Assessor.

167 c. Each property in the district shall be identified and assessed on the assessment roll
168 in accordance with the legal description of the property at the time the council certifies the
169 assessment roll; except that where assessments are in an equal amount per parcel (i.e., without
170 regard to parcel area, dimension or other characteristic), a property that was created by
171 combining parcels after the public hearing under HCC §17.040.050(c) shall be assessed that
172 amount multiplied by the number of parcels that comprised the property at the time of the public
173 hearing.

174 d. The council shall fix a time to hear objections to the assessment roll. Not less than
175 fifteen days before the hearing, the city clerk shall send notice of the hearing and assessment roll
176 by certified mail to each record owner of an assessed property, and publish notice of the hearing
177 in a newspaper of general circulation in the city.

178
179 17.04.080 Certification of assessment roll. After the hearing the council shall correct any
180 errors or inequalities in the assessment roll. If an assessment is increased, a new hearing shall be

181 set and notice published, except that a new hearing and notice is not required if all record owners
182 of property subject to the increased assessment consent in writing to the increase. Objection to
183 the increased assessment shall be limited to record owners of properties whose assessments were
184 increased. When the assessment roll is corrected, the council shall confirm the assessment roll by
185 resolution. The city clerk shall record the resolution and confirmed assessment roll with the
186 district recorder.

187
188 17.04.090 Payment. a. In the resolution confirming the assessment roll, the council shall
189 fix the time or times when assessments or assessment installments are due, the amount of penalty
190 on a delinquent payment and the rate of interest on the unpaid balance of an assessment. An
191 assessment that is to be paid in a single payment shall not be due before 60 days after billing.

192 b. Within 30 days after fixing the time when payment of the assessments is due, the
193 finance director shall mail a statement to the record owner of each assessed property identifying
194 the property and stating the assessment amount, the payment due date and the amount of the
195 penalty on a delinquent payment. Within five days after mailing the statements, the finance
196 director shall publish notice of mailing the statements in a newspaper of general circulation in
197 the city.

198
199 17.04.100 Subdivision after levy of assessments. a. Except as provided in subsection (b)
200 of this section, upon the subdivision of a property assessed as a single parcel, the amount of the
201 assessment shall be allocated among the resulting lots that benefit from the improvement on the
202 same basis that the assessment originally was allocated.

203 b. Upon the subdivision of a property assessed as a single parcel in an assessment
204 district where assessments were levied in an equal amount per parcel (i.e., without regard to
205 parcel area, dimension or other characteristic), then no resulting parcel, other than the parcel that
206 contains the original connection to the improvement for which the assessment was levied, may
207 connect to the improvement until a subdivided property connection fee is paid for the parcel.

208 1. The amount of the connection fee shall be equal to the amount of the
209 original assessment, adjusted up or down by a percentage equal to the change in the
210 Consumer Price Index, All Urban Consumers (CPI-U) for Anchorage, Alaska from the
211 end of the calendar year preceding the original assessment date to the end of the calendar
212 year preceding the date the parcel is connected to the improvement.

213 2. If the original assessment was payable in installments the city may enter
214 into a written agreement for the payment of the connection fee in installments on terms
215 that are substantially the same as those authorized for the payment of the original
216 assessment, secured by a deed of trust on the parcel.

217 3. Upon receiving connection fee payments, the city shall allocate such
218 payments to each property assessed in the district in proportion to the amount originally
219 assessed against the property, either by adjusting the original assessment amount or
220 disbursing a payment to the record owner at the time of disbursement.

221
222 17.04.110 Assessments to be liens. Assessments are liens upon the property assessed and
223 are prior and paramount to all liens except those having priority under State law. They shall be
224 enforced in the same manner as property tax liens.
225

226 17.04.120 Reassessment. a. The City Council shall within one year correct any
227 deficiency in a special assessment found by a court, under the procedure for certification of the
228 assessment roll in HCC §§17.04.070 and 17.04.080.

229 b. Payments on the initial assessment are credited to the property upon reassessment.
230 The reassessment becomes a charge upon the property notwithstanding failure to comply with
231 any provision of the assessment procedure.
232

233 17.04.130 Objection and appeal. a. The regularity or validity of an assessment may not
234 be contested by a person who did not file with the city clerk a written objection to the assessment
235 roll before its confirmation. The decision of the council on the objection may be appealed to
236 the superior court within 30 days after the date of confirmation of the assessment roll.

237 b. If no objection is filed or appeal taken within the time provided in this section, the
238 assessment procedure shall be considered regular and valid in all respects.
239

240 17.04.140 Interim financing. a. The council may provide by resolution or ordinance for
241 the issuance of notes to pay the costs of an improvement that shall be payable from the special
242 assessments for the improvement. The notes shall bear interest at a rate or rates authorized by
243 the resolution or ordinance, and shall be redeemed either in cash or bonds for the improvement
244 project.

245 b. Notes issued against assessments shall be claims against the assessments that are
246 prior and superior to a right, lien or claim of a surety on the bond given to the city to secure the
247 performance of the contract for construction of the improvement, or to secure the payment of
248 persons who have performed work or furnished materials under the contract.

249 c. The finance director may accept notes against special assessments on conditions
250 prescribed by the council in payment of:

- 251 1. Assessments against which the notes were issued in order of priority;
- 252 2. Judgments rendered against property owners who have become delinquent
253 in the payment of assessments; and
- 254 3. Certificates of purchase when property has been sold under execution or at
255 tax sale for failure to pay the assessments.
256

257 17.04.150 Special assessment bonds. a. The council by ordinance may authorize the
258 issuance and sale of special assessment bonds to pay all or part of the cost of an improvement in
259 a special assessment district. The principal and interest of the bonds shall be payable solely from
260 the special assessments levied against property in the district. The assessment shall constitute a
261 sinking fund for the payment of principal and interest on the bonds. The benefitted property may
262 be pledged by the council to secure payment of the bonds.

263 b. On default in a payment due on a special assessment bond, a bondholder may
264 enforce payment of principal, interest, and costs of collection in a civil action in the same manner
265 and with the same effect as actions for the foreclosure of mortgages on real property. Foreclosure
266 shall be against all property on which assessments are in default. The period for redemption is
267 the same as for a mortgage foreclosure on real property.

268 c. Before the council may issue special assessment bonds, it shall establish a
269 guarantee fund and appropriate to the fund annually a sum adequate to cover a deficiency in
270 meeting payments of principal and interest on bonds if the reason for the deficiency is

271 nonpayment of assessments when due. Money received from actions taken against property for
272 nonpayment of assessments shall be credited to the guarantee fund.

273
274 17.04.160 Time limit for special assessment districts. If five or more years elapse
275 between the creation of a special assessment district and the city contracting for construction of
276 the improvement, the city may not enter into the contract unless the council by resolution extends
277 the period for entering into the contract by not more than an additional five years.

278 b. Before the council acts on a resolution under subsection (a) of this section, the
279 city clerk shall mail notice of the resolution to each current record owner of property listed on
280 the preliminary assessment roll that the city will not contract for construction of the improvement
281 in the district unless the resolution is adopted. The notice also shall include an updated copy of
282 the preliminary assessment roll.

283
284 17.04.170 Water and sewer connections required. The owner of property in a water or
285 sewer special assessment district that contains an occupied building shall connect to the
286 improvement constructed in the district within one year after the date that the resolution
287 confirming the assessment roll for the district becomes final.

288
289 17.04.180 Road improvement assessments for lots with two street frontages. a. The
290 record owner of a through lot or flag lot may obtain a deferment of the part of an assessment for
291 road improvements that is based on frontage on a road to which the lot does not have access. To
292 obtain the deferment, the owner shall enter into a deferred assessment agreement with the city
293 before the end of the period for filing objections to the district under HCC §17.04.050. The
294 agreement shall provide that the lot has frontage on two streets, to only one of which the lot has
295 access; that the lot owner shall pay the part of the assessment that is based on frontage on the
296 street to which the lot has access; and that the owner shall pay the part of the assessment that is
297 based on the other street frontage when the lot acquires access to the street from that frontage.
298 The agreement shall be recorded with the district recorder's office.

299 b. The assessment for road improvements against a corner lot shall be based only on
300 the longer of the lot's road frontages.

301
302 17.04.190 Deferment of assessment payments for senior citizens. a. A person may obtain
303 a deferment of assessment payments under this section if the person:

304 1. Will be at least 62 years of age within 12 months after the date of
305 confirmation of the assessment roll;

306 2. Has an annual family income that would qualify under the United States
307 Department of Housing and Urban Development designation of lower income families
308 adjusted for Alaska and the Kenai-Cook Inlet Region;

309 3. Owns or has a life tenancy in the assessed property, and permanently
310 resides in a single family dwelling on the property; and

311 4. Is not determined by the city, after notice and hearing, to have been
312 conveyed the property primarily for the purpose of obtaining the exemption.

313 b. An assessment payment deferment is subject to approval by the council. A person
314 seeking deferment of an assessment payment shall file a written application with the finance
315 director on or before the first payment is due, supported by documentation showing that the

316 applicant meets the criteria in subsection (a) of this section. A person receiving an assessment
317 payment deferment must file with the city by April 15th of each subsequent year a new
318 application proving eligibility as of January 1st of that year in order to retain the exemption.
319 Within the same year the city for good cause shown may waive the claimant's failure to make
320 timely application and approve the application as if timely filed.

321 c. Assessment payment deferments are subject to the availability of funds
322 appropriated for that purpose. An application for an assessment payment deferment shall be
323 submitted to the council with a report from the finance director as to the availability of funds to
324 appropriate for the deferment. Deferred assessments are funded from the following sources:

- 325 1. The appropriate utility operating fund for deferred water and sewer
326 assessment payments.
327 2. The accelerated roads program fund for deferred road improvement
328 assessment payments.

329 If funds for an assessment payment deferment are not available from the appropriate source, the
330 council may loan the necessary amount to the appropriate source from the general fund.

331 d. A person who receives an assessment payment deferment shall execute a deed of
332 trust on the property subject to assessment, together with a promissory note payable to the city
333 on demand, to secure the eventual payment of the deferred payment.

334 e. A deferred assessment payment shall be immediately due and payable upon the
335 earlier to occur of the following events:

- 336 1. The sale or lease of the assessed property; or
337 2. The death of both the deferred assessment applicant and the applicant's
338 surviving spouse, if any.

339
340 17.04.200 "In lieu of assessment". a. An "in lieu of assessment" must be paid for a
341 property to receive additional water or sewer service within or beyond the area within a local
342 improvement district.

343 b. An "in lieu of assessment" shall be computed on the actual cost of the additional
344 water or sewer service, and shall be paid in accordance with HCC §§17.04.090 and 17.04.100.

345 c. A property on which an "in lieu of assessment" for water or sewer service has
346 been levied in accordance with subsection (a) of this section nonetheless may be included in
347 special assessment district for the same service in the future date, and will be assessed in that
348 district. An amount not exceeding the lesser of (i) the amount of "in lieu of assessment" paid for
349 the property and (ii) the amount of the assessment levied on the property in the future special
350 assessment district shall be a credit against the amount of the assessment levied on the property
351 in the future special assessment district

352
353 Section 2. This Ordinance is of a permanent and general character and shall be included
354 in the City Code.

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ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 9th day of June 2012.



[Signature]
JO JOHNSON, CMC, CITY CLERK

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

First Reading: 3/27/12
Public Hearing: 4/09/12
Second Reading: 4/09/12
Effective Date: 4/10/12

Reviewed and approved as to form:

[Signature]
Walt E. Wrede, City Manager

Date: 5/11/12

CITY OF HOMER

[Signature]
JAMES C. HORNADAY, MAYOR

[Signature]
Thomas F. Klinkner, City Attorney

Date: 5-13-12

CITY MANAGER'S REPORT

MANAGERS REPORT
December 10, 2012

TO: MAYOR HORNADAY / HOMER CITY COUNCIL

FROM: WALT WREDE

W. Wrede

UPDATES / FOLLOW-UP

1. Senior Gas Assessment Deferral Ordinance: At the last meeting the Council discussed the issue of whether senior deferrals should be available for the proposed natural gas special assessment district. I indicated that I would bring an ordinance forward to get the issue on the table and hopefully, get it resolved one way or the other before the end of the objection period. The ordinance in your packet provides that there will be no deferrals for SADs that are created to finance infrastructure that is not owned by the City. Council Member Burgess stated that he could support a senior deferral if interest accrued. There was discussion about whether a separate ordinance would be needed. Upon review, it is clear that the Code already provides for interest to accrue on deferred assessments. The Code also requires that applicants for a deferral provide the City with some security such as lien, deed of trust, and/or promissory note. Therefore, the City is reasonably assured of getting repaid eventually. A new ordinance is not required. If the Council wishes to permit deferrals, it might want to discuss the difference in income requirements for deferrals between the City and the Borough. The City uses HUD low income requirements. The Borough apparently uses the poverty level. There is a big difference here and a big difference in the number of applicants that might qualify for the deferral.
2. Eliminating Lot Lines / Combining Lots: The City has received several complaints recently from property owners who contend that they have not been given enough time to eliminate lot lines and combine lots so that they can avoid multiple assessments on the proposed Natural Gas SAD. The Code provides that lots lines must be eliminated before the public hearing scheduled in January. Getting plats approved can take a minimum of several months, even if the plat is a relatively simple one. According to the Planning Department, there are approximately six plats that are likely to be approved before the hearing date. There are others that won't make the deadline for a variety of reasons. At this point, pushing the hearing date back or amending the ordinance would be problematic and might create other undesirable outcomes. We can discuss this issue in more detail at the meeting if Council wishes. The staff natural gas planning group recommends no change for a variety of reasons including the fact that the SAD was initiated back in July and delays in the schedule could jeopardize construction this year. No matter where the cutoff is establish, some property owners will be upset and permitting too much of this drives the cost per lot up for everybody else.
3. Nick Dudiak Fishing Lagoon Dredging: The dredging work is complete at the Fishing Lagoon. It turns out that the quantity to be removed was about 30,000

cubic yards rather than the 32,000 cubic yards we estimated for the emergency ordinance. As a result, the cost was about \$31,000 less than the ordinance authorized. Therefore, this agenda contains a substitute for the permanent budget ordinance that contains the correct numbers.

4. Lobbyist Contract: At the last meeting, the Council postponed a resolution approving a new contract for the lobbyist and asked me to work with her to make some amendments. Linda has agreed that a one year contract is fine with her. She saw no need to include suggested language about an option for a second year. We also added more specific language about costs associated with her trips to Homer to consult with Council and staff. A substitute resolution and amended draft contract is included in the packet for your consideration.
5. Proposed Capital Budget Amendment: Attached to the budget you will see a proposed budget amendment from me that I hope the Council will adopt. You may recall from my budget message that one of my top priorities if additional funds could be identified was to upgrade the part time IT position to a full-time IT position. The original position description and justification contained in your draft budget is attached. This upgrade is vitally important and will have a big impact for all City departments. It will cost \$35,000 to make this a full time position and I believe it is money that will pay big dividends in terms of efficiency, productivity, and customer service. Regina reports that there is a surplus of approximately \$50,000 in the draft budget (revenues exceed expenditures) that can be used for this purpose. I ask for your support of this amendment.
6. Budget Amendments: At the last meeting, the Council adopted several budget amendments. Regina has incorporated those amendments into the draft budget and provided Council with the relevant pages of the budget. The Mayor also requested a spreadsheet showing the impacts to the budget if the proposed amendments and the proposed food tax ordinance brought forward by Council Member Zak were to be adopted. That information is attached.
7. Financing for Gas Service Lines: At the last meeting, Council Member Dolma mentioned the possibility of the City also providing financing for construction of service lines from the street to the structure. Since that time, Council members have been approached by at least one member of the public about that possibility. As you will note on the attached trip report, discussions with the Borough about a construction loan are currently underway. If the Council is at all interested in discussing this idea, now would be a good time to do so.

ATTACHMENTS

1. CM Trip Report / Borough
2. City Clerk Trip Report / Clerk's Conference
3. Deputy City Clerk Trip Report / Clerk's Conference
4. Letter from ADF&G re: Nick Dudiak Fishing Lagoon

5. Proposed Budget Amendment / City Manager
6. Pictures / Beluga Slough Trail
7. Pictures / Homer Airport Terminal Signage
8. Budget Amendment Spreadsheet
9. Memorandum from Public Works Director re: Project Manager Position / Hiring Recommendations
10. November/December Employee Anniversaries

TRIP REPORT

KPB 11/28/12

On Wednesday, November 28, I travelled up to Soldotna to meet with Mayor Navarre about a number of topics. The Chief of Staff, Finance Director, and Borough Attorney were also present. Following is a list of the topics we discussed and a brief summary of each.

Borough Loan for Gas Distribution System: One of the options available to the City to finance the gas distribution system is to borrow the money from the Borough. I still have some research to do on this topic, but based up my discussions with the Mayor and his staff, it looks at this time like the Borough is the best option. Going into the discussion, I had three primary concerns. They were 1) the interest rate 2) borrowing in stages and 3) delaying the first principle payment as far as possible. The Mayor was very helpful on all of these.

1. The interest rate: We tentatively agreed on 4.5 percent which would be locked in for the term of the loan. This is basically prime plus one percent. This appears to be a good deal for both parties because the Borough will make money and the City is unlikely to get a rate lower than that.
2. Borrowing in stages: The Borough is willing to establish a line of credit which will allow the City to draw down the funds as they are needed. This could even happen on a monthly basis as construction invoices are received. This will save a significant amount in interest payments over the first two years of construction.
3. First principle payment: The Borough understands that the City will not begin to receive assessment payments until early in 2015. It is willing to delay the first principle payment until later in order to relieve potential cash flow problems for the City. The exact date of the first principle payment is yet to be determined. The City will have to make interest payments but they should be relatively small for the first year.

The Borough did request more in the way of security above and beyond the assessment payments. The City Attorney has suggested that this can be addressed through the special loan repayment fund that will be established by ordinance if the SAD is created. Based upon this framework, the Borough Attorney will put together a draft loan agreement that we can review. We mapped out the meeting schedules for both the City Council and the Borough Assembly and concluded that a loan agreement could be approved by both parties by early February, which is when we would need it. More on this topic later but please let me know if you have any questions or comments.

Spit Waste Disposal: We discussed the waste disposal issue on the Homer Spit. The Mayor reminded me that the Borough does provide for waste collection and disposal in the communities on the other side of the Bay and out East End Road. He said he thought the Borough would be unlikely to want to pay more or set up another transfer station on the Spit but that he would have the solid waste staff look into it and get back to me.

Food Tax Exemptions: We spent some time talking about the two pending ordinances that would amend the exemption for non-prepared foods. The Borough agreed with Tom Klinkner's conclusion that there was no legal barrier to the City adopting exemptions that were different from those adopted by the Borough. The Finance Department stated that it would have no problem adjusting its software to accommodate Council member Lewis's ordinance however, it said that it had no idea how difficult this might be for local businesses. The Finance Department stated that it needs a 30 day public notice period and that it would have to come down at least twice to do training sessions with local merchants. They said they needed ideally 45 to 60 days for implementation. Based on this information, we prepared substitute ordinances for both which makes the effective date March 1, 2013.

HERC Building: The Mayor and I spent some time discussing the HERC Building. We discussed the Boys and Girls Club, the engineering study, the CIP List, the CDBG application and a host of other issues. The Mayor said that he would support the CIP request and that he hoped the City would be able to find a way to allow the Boys and Girls Club to remain in the building. He also reiterated that he would support asking the Assembly to amend the land transfer agreement to permit the City to demolish the building and/or sell the property if that was the wish of the Council. He relayed a similar situation in Seward in which the City, after much debate, decided that it was best to demolish an old school. The Mayor supports programs like the Boys and Girls Club but he also appreciates fiscal reality and prudence.

High School Football Field Upgrades: The Mayor confirmed that the H.S. Football Field is likely to be on the Borough CIP List and that his staff contacted Dr. Gee and encouraged him to seek City support. I informed the Mayor that I had spoken to Dr. Gee and expected him to schedule a presentation with the Council sometime soon. I informed Dr. Gee that the level of support, if given, could range from a Resolution to inclusion on the CIP list, to a local cash contribution.

Office of the City Clerk


Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, CMC, CITY CLERK 

DATE: DECEMBER 4, 2012

SUBJECT: TRAVEL TO ALASKA ASSOCIATION OF MUNICIPAL CLERKS ANNUAL CONFERENCE.

I had the opportunity to attend the AAMC Annual Conference in Anchorage from November 10-13. The conference began with a Nuts and Bolts session on Saturday to cover basic roles of the clerk, including meetings, Title 29, parliamentary procedures, and elections. This course was well attended with over 100 Alaskan clerks, about 50 of them new in their positions.

The conference opened with a presentation in electronic information management. It provided an overview of compliance and governance demands, ideas on how to go forward in the e-world, and tools and techniques for compliance. It is assuring to know the City is already working towards the principles for e-information that include accountability, integrity, protection, compliance, availability, retention, disposition, and transparency.

Other topics addressed were records preservation, quasi-judicial boards, the Open Meetings Act, and Social Media. The session on social media was particularly engaging due to its application in today's society. Municipal websites should function as an official voice of the municipality to communicate municipal events, projects, policies, and ordinances. Municipal websites should be used as a one-way means of communications where information can be pushed out to the public and offer email addresses for visiting members of the public to send comments. Again, it is gratifying to know the City's website is currently working in this forum, following the recommendations of the experts.

The academy session was titled "Understanding and Raising your EQ". This session covered a self assessment of your own emotional intelligence and learning how it impacts your personal and professional growth. By raising your EQ you are able to deal more effectively with stress, increase self-motivation, find balance in your relationships, improve your communication skills, and improve your overall health and wellbeing. The exercises presented definitely made me more aware of my own abilities and provided tools to enhance them.

It was a pleasure attending this conference and networking with the other Alaskan clerks. Although we are spread far and wide throughout the state, we share a common bond with the same mission to serve our communities. I appreciate Council's funding for education and training opportunities.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK *lj*

DATE: DECEMBER 4, 2012

SUBJECT: ALASKA ASSOCIATION OF MUNICIPAL CLERK'S ANNUAL CONFERENCE

Each year the Alaska Association of Municipal Clerks (AAMC) offers a conference that is filled with quality educational opportunities that are job specific. This year's schedule included sessions on the Open Meetings Act, record's preservation, electronic records, social media, and quasi-judicial boards. Our annual conference also includes the association's business meeting and a banquet. The training is always valuable, but the time networking and building better relations with peers may be the biggest benefit.

Each year there is an opportunity to attend an Advanced Academy that offers a full day session with one speaker on a motivational topic geared toward personal betterment. This year's academy was presented by Karen Carswell Kirk, M.Ed. It focused on Emotional Intelligence and how to build your EQ. "It has been suggested that (as opposed to IQ) a high EQ is a stronger contributor to our personal and professional success".

The message seemed obvious, I am going to encounter things personally and professionally that initiate emotional and physical reactions and these "triggers" can bring on a range of feelings including joy, sadness, fear, or anger. The perspective she provided in reviewing the tools of self-awareness, self-management, self-motivation, understanding relationships, and self-actualization really helped me see areas that I can improve. My goal is to improve the way I respond to triggers by filtering and considering if my responses are true, necessary, and kind, no matter if it is a positive or a negative response. In the short time since this conference I have encountered some typical but less than pleasant 'triggers', and already feel that my reactions and responses to those situations have improved.

I really appreciate the opportunity to attend my association's annual conference this year and encourage the City Council to continue to provide funds to allow City staff the opportunity to attend training.

"WHERE THE LAND ENDS AND THE SEA BEGINS"

To access City Clerk's Home Page on the Internet: <http://clerk.ci.homer.ak.us>



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of
Fish and Game**
DIVISION OF SPORT FISH
Homer

3298 Douglas Place
Homer, Alaska 99603-7942
Main: 907.235-1730
Fax: 907.235-2448

November 29, 2012

Mayor Wythe and Homer City Council
491 E. Pioneer Avenue
Homer, AK 99603

Dear Mayor Wythe and Homer City Council:

On behalf of the Department of Fish and Game, thank you for your support appropriating funds to dredge the Nick Dudiak Fishing Lagoon and creating long-term lagoon maintenance fund. The department also thanks City Manager Walt Wrede, Port and Harbor Director Bryan Hawkins, Public Works Director Carey Meyer, and other City employees who helped see this project through completion.

The removal of 32,500 cubic yards of gravel, sand, and organic material from the Dudiak Fishing Lagoon will increase tidal flushing and lagoon depth which should improve rearing conditions for salmon smolt. Next summer the Department will continue to monitor rearing conditions when smolt are stocked.

The Department looks forward to our continued partnership and appreciates your demonstrated commitment to this important enhancement project on the Homer Spit.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Kerkvliet".

Carol Kerkvliet
Assistant Area Management Biologist
Alaska Department of Fish and Game, Division of Sport Fish

Cc: Jim Hornaday (past City of Homer Mayor)
James Hasbrouck (Sport Fish Regional Supervisor)
Tom Vania (Sport Fish Regional Management Coordinator)
Jeff Milton (Sport Fish Hatchery Program Supervisor)

CITY OF HOMER

2013 PROPOSED BUDGET AMENDMENTS FORM

Fund Name: <u>General Fund</u>		Department Number: _____			
Account #	Name of Account	Page	Increase 1	Decrease 2	Balance 3
SALES TAX REVENUES TO BE INCREASED, DUE TO ACTUAL 2012 DATA.					
100-4201	GF – Sales Tax	34,52	40,002		
205-4201	HAWSP – Sales Tax	191	9,999		
160-4201	HART – Roads	192	8,999		
165-4201	HART – Trails	193	1,000		
To change the Information Technology Department Part Time Employee to a Full Time Position.					
100-113	GF – Information Tech	68	36,506		
Rationale:					
Trend Data for Sales Tax has been received through November 2012, indicating that Sales Tax Revenue is understated in the budget. 2012 Sales Tax Receipts are \$7,025,744. (Actual through November, estimate for December only). 2013 Budget for Sales Tax was \$7,000,000. This increases it to \$7,060,000.)					
It is essential that the City expands its IT Department due to the expansion of technology. Current staffing level can not keep up with the daily work load. This will improve Efficiencies throughout the City.					
Requested by: W. Wrede			Prepared By R. Mauras		

**CITY OF HOMER
DEPARTMENT BUDGET REQUEST
YEAR 2013**

Requesting Department Admin ~ IT Date 8/15/2012

Level of Need: Urgent Essential Necessary Desirable

Request for Additional Personnel:
 Position Title IT Analyst
 Salary Range & Step 10E
 Full-time
 Part-time Hours Per Year 2080

Request Other Than Personnel:
 Description _____
 Fund Name: General Fund 100

(FINANCE DEPT WILL COMPLETE)

5101 Permanent Employees	<u>\$45,883</u>
5102 Fringe Benefits	<u>29,940</u>
5103 P/T Employees	_____
5104 Fringe Benefits P/T	_____
5105 Overtime	<u>75,823</u>
Total Personnel Cost	

Account Name: IS 113
 Account # Reg Employees 5101
 Estimated Cost: _____

Justification:

There is a growing need to expand the IT Department due to the expansion of technology. The current staffing level cannot keep up with the daily work load and more and more projects are not taking priority due to other issues taking precedence. Replacing the part-time position with a full-time position will help alleviate frustrations from the end users and departments. In addition, this will improve efficiencies and reduce any employee burn out.

It staffing levels are commonly benchmarked as a ratio of IT Support Staff to the Total FTE of the organization. Currently the 1.5 FTE of IT staff yields ratio of 1 : 75. Increasing this position to full-time, will decrease the IT staffing ratio to 1 : 55.5 which is considered a sustainable level for staff planning assuming the City continues implementing more mature IT support tools, policies and procedures.

For a local government benchmark comparison, both Seward and Kodiak maintain 2 FTE IT staff.

Requestor's Name: Nick Poolos

Department Head Approval: Nick Poolos

City Manager Recommendation: _____ Date _____

Approved _____

Denied _____

Comments _____

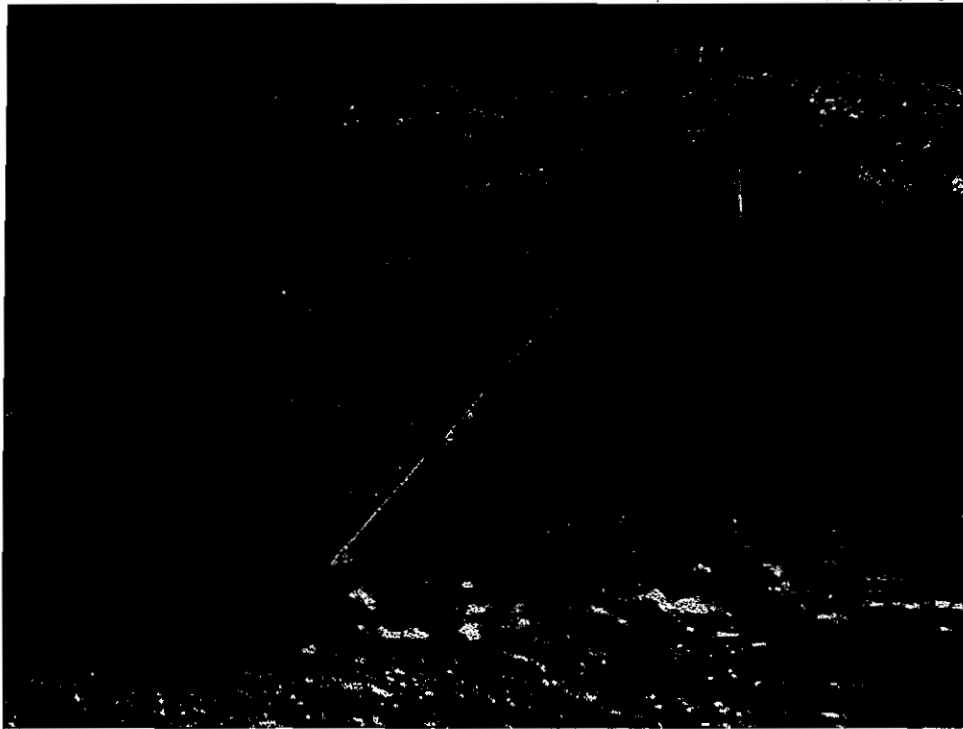


Figure 1 - 6' wide trail from gravel section north toward Islands & Ocean Visitors Center

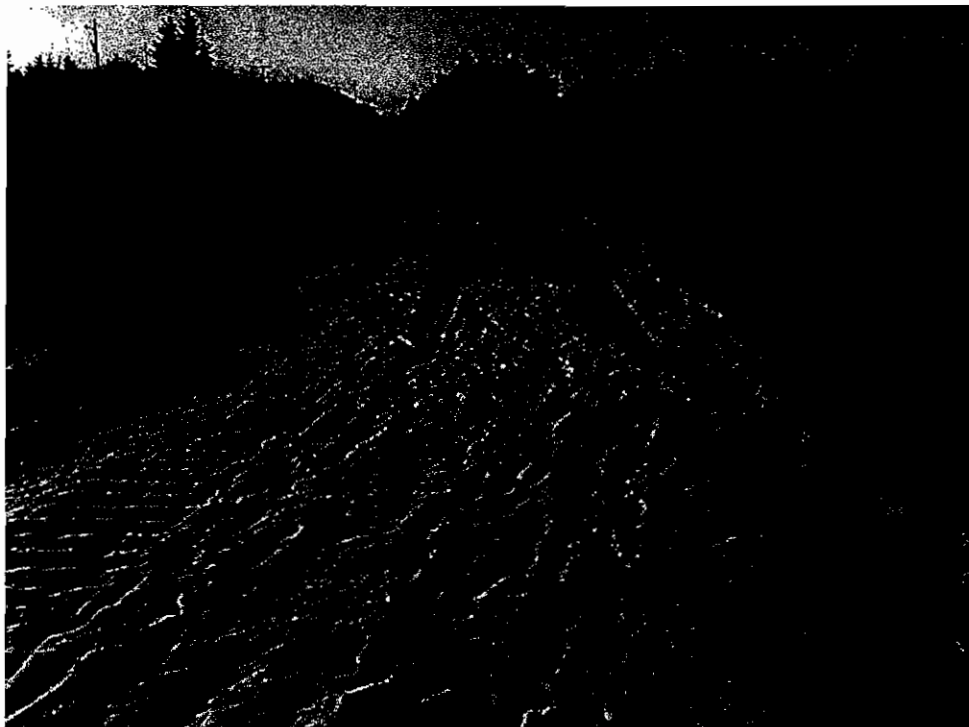


Figure 2 - 12' wide gravel portion of trail looking west toward Bunnell Street

Project funded by Community Coastal Impact Assistance Program
The Department of Interior – U.S. Fish and Wildlife; The State of Alaska - Department of Commerce, Community, and Economic Development - Division of Community and Regional Affairs; The Kenai Peninsula Borough; and the City of Homer



Figure 3 - 8' wide trail looking south from gravel portion of trail (Bunnell Street)



Figure 4 - 8' wide trail looking south toward Bishop's Beach

Project funded by Community Coastal Impact Assistance Program

The Department of Interior – U.S. Fish and Wildlife; The State of Alaska - Department of Commerce, Community, and Economic Development - Division of Community and Regional Affairs; The Kenai Peninsula Borough; and the City of Homer



Figure 5 - 8' wide trail looking north back toward Bunnell Street



Figure 6 - 8' wide trail looking north (from Charles Way connection)

Project funded by Community Coastal Impact Assistance Program
The Department of Interior – U.S. Fish and Wildlife; The State of Alaska - Department of Commerce, Community, and Economic Development - Division of Community and Regional Affairs; The Kenai Peninsula Borough; and the City of Homer



Figure 7 - 8' wide trail looking north from Bishop's Beach Park



Figure 8 - Trail connection to Bishop's Beach Park picnic area

Project funded by Community Coastal Impact Assistance Program
The Department of Interior – U.S. Fish and Wildlife; The State of Alaska - Department of Commerce,
Community, and Economic Development - Division of Community and Regional Affairs; The Kenai
Peninsula Borough; and the City of Homer

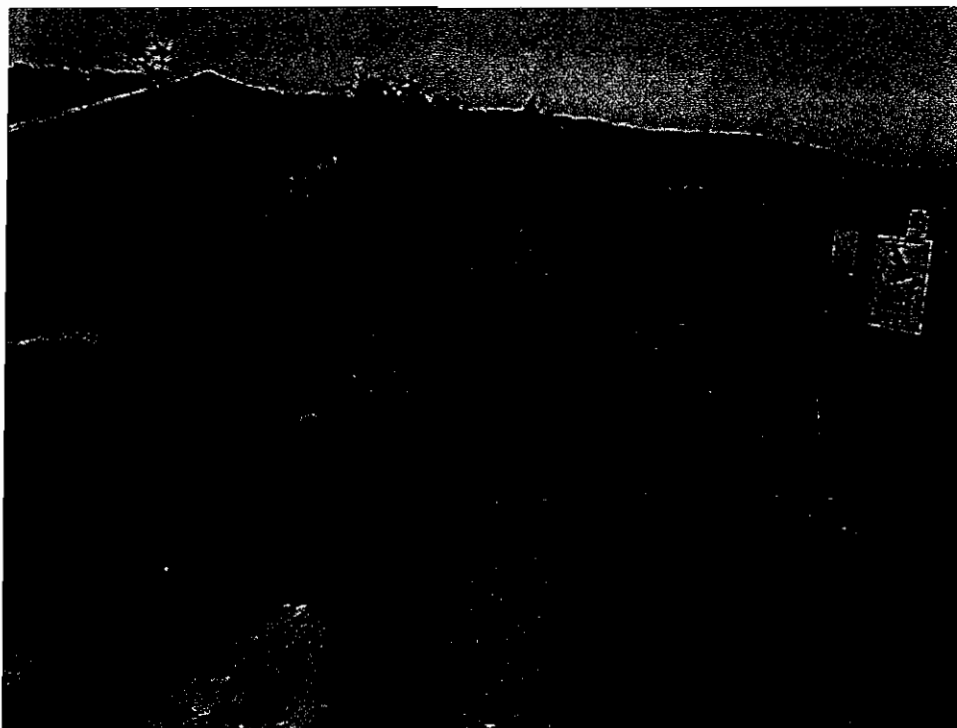
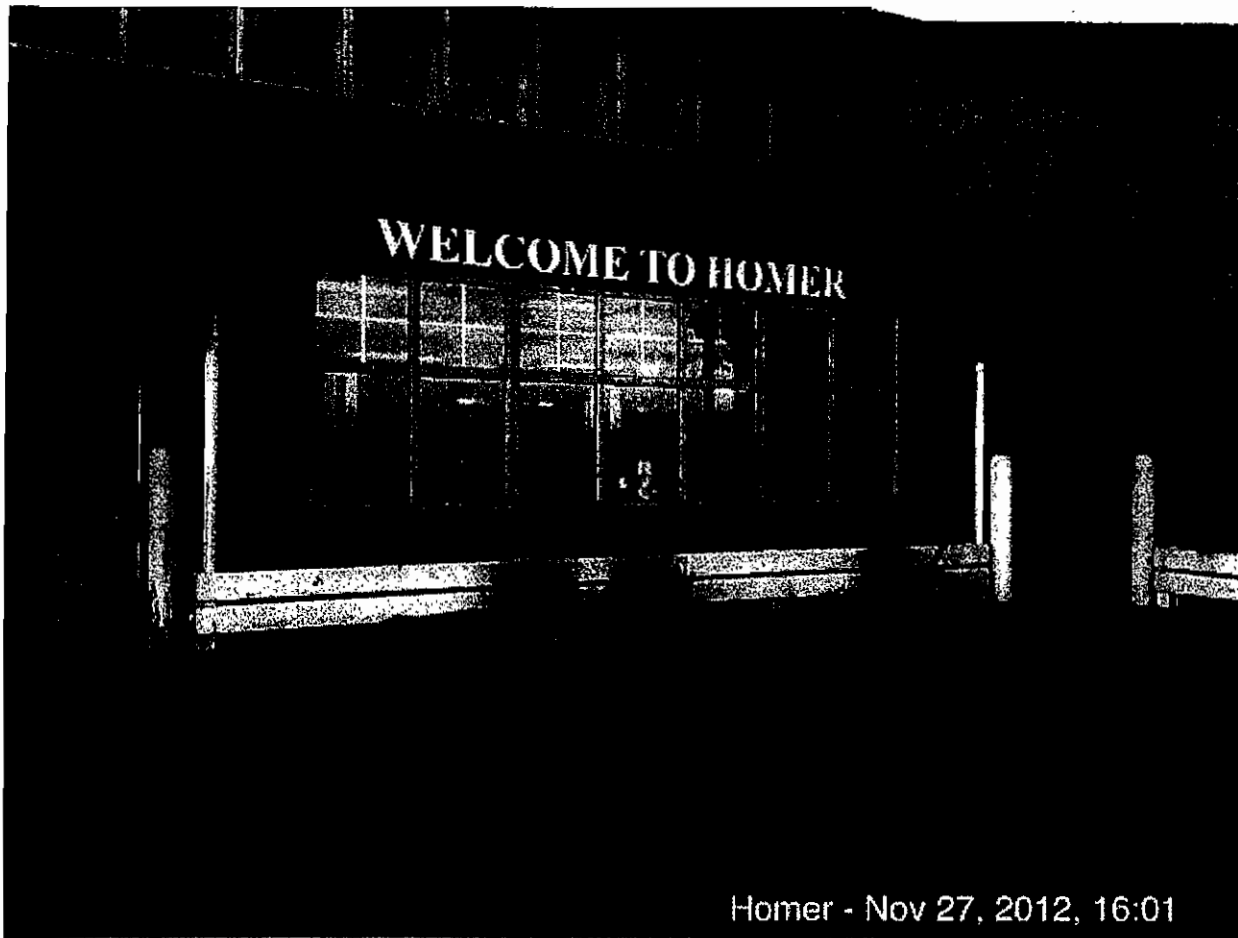


Figure 9 - 8' wide trail looking north from Bishop's Beach parking lot

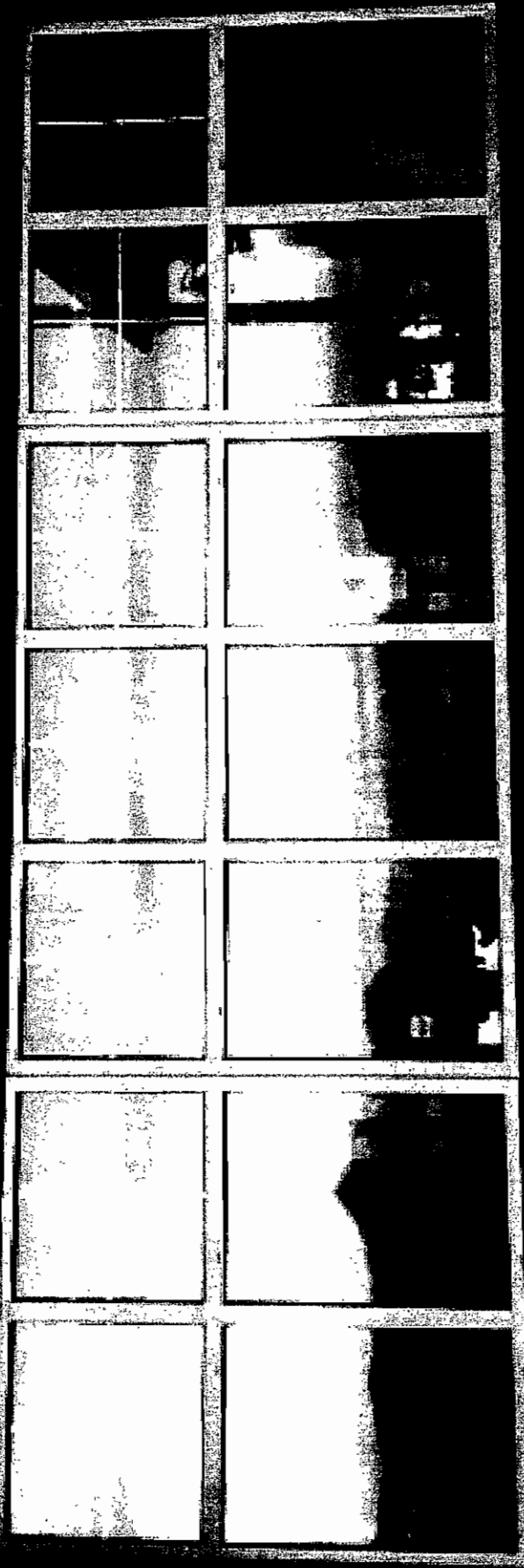
Project funded by Community Coastal Impact Assistance Program
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Peninsula Borough; and the City of Homer

New "WELCOME TO HOMER" Lettering Homer Airport Terminal



The Public Arts Committee and Public Works joined forces to design, purchase and install a new message for all arriving Homer Airport Terminal passengers. The old lettering was difficult to see; the new lettering contrasts well against the background building color and reflects the sun, provided by its southern exposure.

WELCOME TO HOMER



Homer - Nov 27, 2012, 16:01

WELCOME TO HOMER

Homer - Nov 27, 2012, 16:01

**City of Homer
2013 Operating Budget**

Amendment No.	Council Member	Fund	Page No.	FUND/DEPT	Account	Description	Proposed Budget Changes				
							General	Water/Sewer	Port & Harbor	Projects	Internal Services
2013 CHANGE IN FUND BALANCE (Page 29 of Budget)							\$ 13,029	\$ 21,155	\$ (1,490,687)	\$ 1,193,155	\$ 34,294
A-2	Wrede	Adjustment of Sales Tax Revenues due to Actual 2012 Data									
		General Fund	34,52	100/010	4201	Revenue - Sales Tax	40,002				
		HAWSP	191	205/000	4201	Revenue - Sales Tax				9,999	
		HART - Roads	192	160/766	4201	Revenue - Sales Tax				8,999	
		HART - Trails	193	165/375	4201	Revenue - Sales Tax				1,000	
		Change Part Time IT Postion to Full Time									
		General Fund	68	001	5101-5107	Wages & Benefits	(35,506)				
		Change in General Fund (IT Postion, changes G/F Overhead Allocation)									
		General Fund - Administration Services	53	100/099	4981-4985		11,983				
		Water & Sewer Administrative Fees	12/133	200/400&500	5241			(5,574)			
		P&H Administrative Fees	151	400/600	5241				(6,409)		
Impact on Change in 2013 Fund Balance							\$ 11,558	\$ 15,581	\$ (1,497,096)	\$ 1,213,153	\$ 34,294

CITY OF HOMER

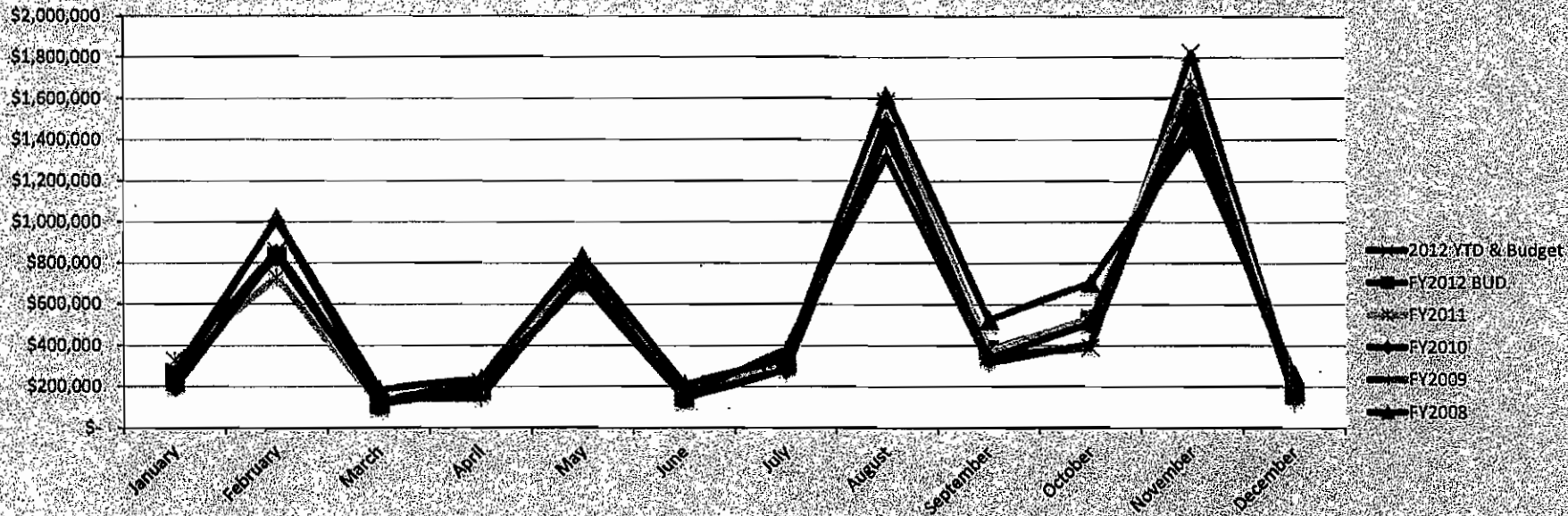
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It is essential that the City expands its IT Department due to the expansion of technology.					
Current staffing level can not keep up with the daily work load. This will improve					
Efficiencies throughout the City.					
Requested by: W. Wrede			Prepared By R. Mauras		

Total Sales Tax Receipts - per KPB Reports

	January	February	March	April	May	June	July	August	September	October	November	December	Total
FY2002	235,388	380,279	109,320	231,443	316,236	126,174	382,955	677,665	277,455	450,518	687,874	155,641	4,030,948
FY2003	224,815	483,914	113,038	158,745	513,963	138,171	295,314	826,740	276,163	451,811	752,585	150,531	4,385,789
FY2004	173,383	608,080	118,185	159,742	511,976	169,754	278,260	973,217	282,216	358,798	984,426	128,990	4,747,028
FY2005	156,436	631,587	119,393	195,704	505,108	260,454	328,133	1,387,454	326,776	503,283	1,258,696	189,159	5,862,184
FY2006	240,620	831,955	222,816	270,840	649,076	239,430	614,911	1,007,800	468,950	472,900	1,195,427	325,981	6,540,706
FY2007	631,651	700,910	189,457	234,994	880,550	131,452	343,623	1,611,240	454,949	531,720	1,629,222	150,320	7,490,087
FY2008	225,658	1,021,315	186,685	237,640	835,054	208,135	337,826	1,617,973	524,035	704,601	1,411,051	257,355	7,567,329
FY2009	271,926	1,008,458	139,485	142,821	754,668	155,318	380,202	1,323,913	316,633	407,923	1,644,807	140,103	6,686,257
FY2010	198,439	847,588	115,033	209,618	707,069	145,958	281,018	1,472,687	339,344	510,455	1,619,213	155,417	6,601,838
FY2011	326,120	727,708	110,958	222,332	759,766	161,408	306,052	1,589,654	376,522	533,966	1,686,031	162,275	6,962,792
FY2012	271,603	858,859	128,574	219,730	783,481	142,613	297,417	1,579,715	348,647	391,201	1,825,185	178,718	7,025,744
				Actual									
FY2012 BUD	257,466	835,206	118,141	185,796	718,107	149,564	312,673	1,427,023	381,442	524,633	1,511,230	178,718	6,600,000
											Budget		

Sales Tax Receipts Analysis



**Design Funds Available - PW Project Management Anticipated
December 2012**

Project Name	Design Funds Unexpended	Project Management Effort Anticipated
Harbor Trails to DWD and Coal Point	\$67,000	\$2,680
Harbor Restrooms - Shelter- Guard Shack	\$54,500	\$2,180
Downtown Restrooms	\$54,500	\$2,180
Deepwater Dock Fender improvements	\$25,000	\$1,000
Spit Trail Improvements (Phase II)	\$70,800	\$2,832
Main Street Intersection Improvements	\$250,000	\$10,000
Harbor Float Replacement	\$349,400	\$13,976
System 5 Electrical Improvements	\$59,200	\$2,368
Ramp 3 Replacement	\$56,800	\$2,272
Kachemak Drive Water Improvements (Phase III) - SAAP	\$105,000	\$4,200
Redwood Tank Removal - SAAP	\$30,200	\$1,208
Homer Water Distribution/Storage Improvements - SAAP	\$579,000	\$23,160
Spit Water Main Replacement - SAAP	\$170,000	\$6,800
WWTP Intake Improvements	\$21,000	\$840
Deep Water Dock Expansion	\$3,000,000	\$120,000
Karen Hornaday Park Access Road	\$50,000	\$2,000
Crittendon Drive LID	\$21,000	\$840
Kachemak Drive Trail Survey/Design	\$20,000	\$800
SCADA Replacement - Sewer Lift Station	\$19,000	\$760
	\$5,002,400	\$200,096



City of Homer

Memorandum

To: Mayor Wythe and Homer City Council

From: Walt Wrede, City Manager

Date: December 5, 2012

Re: November and December Employee Anniversaries

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

Mark Robl,	Police	28	Years
Will Hutt,	Police	18	Years
Dave Shealy,	Police	15	Years
Bryan Hawkins,	Port & Harbor	13	Years
Mike Riley,	Public Works	12	Years
Lisa Ellington,	Port & Harbor	6	Years
Paul Clark,	Police	5	Years
Jenna deLumeau,	Finance	3	Years
Chris Cushman,	Fire	3	Years
Todd Cook,	Public Works	3	Years
Angie Otteson,	Public Works	3	Years
Ian Overson,	Police	1	Year
Katie Koester,	Administration	1	Year

Alaska 2013 Gaming Permit Application

Validation #	DEPARTMENT USE ONLY
Date Stamp	NOV 30 2012

826

Organization Information

Federal EIN 16-1627119	If renewing, enter gaming permit # 2307	Phone Number 907-235-1814	Fax Number Same
Organization Name K-Bay Marines Det 838, Marine Corp League		Website Address	
Mailing Address 200 East Pioneer Ave		City Homer	State AK
Zip Code 99603			
Entity Type (check one)			
Organization Type (check one) for definitions see AS 05.15.690 and 15 AAC 160.995.			
<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Charitable	<input type="checkbox"/> Fraternal	<input type="checkbox"/> Police or fire department
<input type="checkbox"/> Partnership	<input type="checkbox"/> Civic or service	<input type="checkbox"/> Labor	<input type="checkbox"/> Political
<input type="checkbox"/> Association	<input type="checkbox"/> Dog mushers' association	<input type="checkbox"/> Municipality	<input type="checkbox"/> Religious
	<input type="checkbox"/> Educational	<input type="checkbox"/> Nonprofit trade association	<input checked="" type="checkbox"/> Veterans
	<input type="checkbox"/> Fishing derby association	<input type="checkbox"/> Outboard motor association	IRA/Native Village
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Does the organization have 25 or more members, as defined in your articles of incorporation or bylaws, who are Alaska residents?			

Members in Charge of Games

Members in charge must be natural persons and active members of the organization or employees of the municipality and designated by the organization. Members in charge may not be licensed as an operator, be a registered pull-tab vendor or an employee of a vendor for this organization. If more than one alternate, attach a separate sheet.

Primary Member First Name Eileen	M.I. J	Primary Member Last Name Faulkner	Alternate Member First Name Roxie	M.I. A	Alternate Member Last Name Schade
Social Security Number	Email ejf@gci.net	Social Security Number	Email ris@horizonsatellite.com		
Daytime Phone Number 907-235-0545	Mobile Number 907-299-8949	Daytime Phone Number 907-235-8949	Mobile Number N/A		
Home Mailing Address 357 Lee Drive		Home Mailing Address 35250 Schade Drive			
City Homer	State AK	Zip Code 99603	City Homer	State AK	Zip Code 99603
Has the primary member passed the test? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Permit # under which test was taken: 498	Has the alternate member passed the test? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Permit # under which test was taken: 44

Legal Questions

These questions must be answered. If you answer Yes to either question, see instructions.

<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Does any member of management or any person who is responsible for gaming activities have a prohibited conflict of interest as defined by 15 AAC 160.954?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Has any member of management or any person who is responsible for gaming activities ever been convicted of a felony, extortion, or a violation of a law or ordinance of this state, or another jurisdiction, that is a crime involving theft or dishonesty, or a violation of gambling laws?
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We declare, under penalty of unsworn falsification, that we have examined this application, including any attachments, and that, to the best of our knowledge and belief, it is true and complete. We understand that any false statement made on the application or any attachments is punishable by law. By our signatures below we, the primary member, the alternate member, and if applicable, the manager of games, agree to allow the Department of Revenue to review any criminal history we may have, in accordance with 15 AAC 160.934.

Primary Member in Charge's Signature <i>Eileen J Faulkner</i>	Printed Name EILEEN J FAULKNER	Date 27 Nov 12
President or Other Officer's Signature (see instructions) <i>Ron Ness</i>	Printed Name RON NESS	Date 27 Nov 12
Alternate Member in Charge's Signature <i>Roxie Schade</i>	Printed Name ROXIE SCHADE	Date 29 Nov 12
Manager of Games Signature <i>Eileen J Faulkner</i>	Printed Name EILEEN J FAULKNER	Date 27 Nov 12

826

RECEIVED
NOV 30 2012

2013 Alaska Gaming Permit Application

826

Gaming Permit # 2307	Organization Name K-Bay Marines Detachment 838 Marine Corp League
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Facility-Based Games (self-directed) If more than two facilities, attach a separate sheet.

Facility Name Veterans Pull Tab Store	Physical Address 200 East Pioneer Avenue	City Homer	State AK	Zip Code 99603
Facility Type (check one) <input type="checkbox"/> Owned <input checked="" type="checkbox"/> Leased <input type="checkbox"/> Donated	Game Type (check all that apply) <input type="checkbox"/> Bingo <input checked="" type="checkbox"/> Raffle <input checked="" type="checkbox"/> Pull-tabs <input type="checkbox"/> Animal classic (chicken)* <input type="checkbox"/> Animal classic (rat race)* <input type="checkbox"/> Special draw raffle ** <input type="checkbox"/> Calcutta pool**			
Facility Name	Physical Address	City	State AK	Zip Code
Facility Type (check one) <input type="checkbox"/> Owned <input type="checkbox"/> Leased <input type="checkbox"/> Donated	Game Type (check all that apply) <input type="checkbox"/> Bingo <input type="checkbox"/> Raffle <input type="checkbox"/> Pull-tabs <input type="checkbox"/> Animal classic (chicken)* <input type="checkbox"/> Animal classic (rat race)* <input type="checkbox"/> Special draw raffle ** <input type="checkbox"/> Calcutta pool**			

Area-Based Games If more than two areas, attach a separate sheet. * restricted game type **see instructions for mandatory attachments

Area Homer/Anchor Point	Game type (check all that apply) <input checked="" type="checkbox"/> Raffle <input checked="" type="checkbox"/> Contest of skill <input type="checkbox"/> Fish derby <input type="checkbox"/> Dog musher' contest <input type="checkbox"/> Classic (specify) _____
Area Kenai Peninsula	Game type (check all that apply) <input checked="" type="checkbox"/> Raffle <input checked="" type="checkbox"/> Contest of skill <input type="checkbox"/> Fish derby <input type="checkbox"/> Dog musher' contest <input type="checkbox"/> Classic (specify) _____

Manager of Games Required only for self-directed pull-tabs and bingo.

Manager First Name Eileen	MI J	Manager Last Name Faulkner	Social Security Number	Daytime Phone Number 907-235-0545
Home Mailing Address 357 Lee Drive			Email ejf@gci.net	Mobile Phone 907-299-8949
City Homer	State AK	Zip Code 99603	Has the manager of games passed the test? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Permit # under which test taken 498

Vendor Information Attach 2012 vendor registration form(s) and fee(s) for each vendor listed below.

Bar or Liquor Store Name L&S, Inc., d/b/a Kharacters	Physical Address 3851 Sheford	City Homer	State AK	Zip Code 99603
Bar or Liquor Store Name	Physical Address	City	State AK	Zip Code
Bar or Liquor Store Name	Physical Address	City	State AK	Zip Code
Bar or Liquor Store Name	Physical Address	City	State AK	Zip Code
Bar or Liquor Store Name	Physical Address	City	State AK	Zip Code

Operator Information

Designate operator who will conduct activities on the organization's behalf. Attach signed operating contract(s). If more than one operator, attach a separate sheet.

Operator License #	Operator	Facility Name	Game Type(s)
Physical Address	City	State	Zip Code

Multiple-Beneficiary Permittee Information (MBP)

Designate the MBP with which the organization has signed a partnership or joint venture agreement.

MBP Permit #	MBP Name	Facility Name	Game Type(s)
Physical Address	City	State	Zip Code

Dedication of Net Proceeds Describe in detail how the organization will use the net proceeds from gaming activities.

Veterans organizations, civic organizations, veterans assistance, high school & college scholarships, Active Duty Service personnel, military assistance, children & youth activities, families in need, community assistance, Share the Spirit, Lions Club, elementary school breakfast program, Senior Center, Fire Departments, medical & Educational assistance.

CITY ATTORNEY REPORT

COMMITTEE REPORT(S)

PENDING BUSINESS

CITY OF HOMER

MARY E. WYTHE, MAYOR

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ATTEST:

JO JOHNSON, CMC, CITY CLERK

Fiscal Note: \$40,000 per year compensation.

41 PASSED AND ADOPTED by the Homer City Council this 10th day of December, 2012.

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CITY OF HOMER

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MARY E. WYTHE, MAYOR

47 ATTEST:

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50 JO JOHNSON, CMC, CITY CLERK

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52 Fiscal Note: \$40,000 per year compensation plus reimbursable costs associated with one trip to

53 Homer.

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In Juneau:
319 Seward Street, Ste. 11
Juneau, AK 99801
907.586.1977 p
907.586.1061 f

In Fairbanks:
3165 Riverview Drive
Fairbanks, AK 99709
907.474.9463 p
907.479.9113 f

2013 CONTRACT FOR SERVICES

City of Homer and Anderson Group, LLC

This Contract, effective as of January 1, 2013, is between the City of Homer (hereinafter referred to as "Client"), of 491 E. Pioneer Avenue, Homer, Alaska 99603, and Anderson Group, LLC (hereinafter referred to as "Contractor"), of 3165 Riverview Drive, Fairbanks 99709.

RECITALS

WITNESSETH that:

Whereas, the need for such a Contract has been deemed necessary by Client;

Whereas, Client is entering into this Contract by direct negotiations and not by competitive bid because this is a contract for professional consulting services and Client has determined that it is not feasible to solicit these services through competitive bidding due to the professional nature of the services and the specific qualifications required of the Contractor; and

Whereas, Contractor is willing to undertake the performance of this Contract under its terms.

AGREEMENT

For consideration received, recited herein, Contractor agrees to provide services to Client and/or its designated representative, as set forth in Section H, the Statement of Work.

A. PERIOD OF PERFORMANCE

Subject to either party's right to terminate, the period of performance under this Contract is for one calendar year and shall begin on January 1, 2013 through December 31, 2013. Performance may be extended for additional periods by the written contract of both parties.

B. CONSIDERATION

For services rendered under this Contract, Client agrees to compensate Contractor the annual sum total of \$40,000 to be paid in five equal payments by the fifteenth day of the month beginning in January 2013 and January 2014. If payment is received 30 days past the date due, a 5% late payment fee on the amount owing will apply, and interest will accrue at the maximum legal rate.

Contractor agrees to make at least two trips to Homer during the year to consult with the Council and staff. The cost of one trip will be absorbed by the contractor. The Client agrees to pay for the costs associated with the second trip. Where feasible and prudent, the Contractor agrees to control costs by combining this with another scheduled trip to Anchorage.

Contractor specifically recognizes that the limitation upon this Contract is essential and expressly agrees to be bound thereby. Contractor may submit invoices for reimbursement for travel expenses, lodging, food and entertainment expenses pre-authorized by Client.

C. INDEMNIFICATION

Contractor shall indemnify and hold harmless Client for any and all liability or claim for injury to persons or damage to property arising out of Contractor's performance or non-performance of this Contract.

Client shall indemnify and hold harmless Contractor for any and all liability or claim for injury to persons or damage to property arising out of Client's performance or non-performance of this Contract.

D. ASSIGNMENT AND SUBCONTRACTS

This is a Contract for professional services and no portion of this Contract may be assigned, delegated, or sub-contracted without the written permission of Client or its designee. Client is aware of the existence of a contract between Contractor and Yuri Morgan, an Independent contractor, and Client hereby gives its written permission as to this sub-contract and for Contractor to assign tasks and use the services of Mr. Morgan.

E. TAXES

Contractor is, for all purposes, including taxes, workers compensation, and insurance an independent Contractor and not Client's employee. Contractor agrees to make all Social Security, federal or state tax payments or other payments as required by law.

F. STATE OF ALASKA REPORTING REQUIREMENTS

Contractor is responsible to meet all reporting deadlines as required by the Alaska Public Offices Commission with regard to "Lobbyist" Reports and filings. Client is responsible to meet all reporting deadlines as required by the Alaska Public Offices Commission with regard to "Employer of Lobbyist" Reports and filings.

G. COMPLETE CONTRACT

This Contract contains the complete agreement concerning the arrangement between the parties and shall, as of the effective date, supersede all other contracts between the parties. The parties stipulate and agree that neither of them has made any representation with respect to the subject matter of this Contract or any other representations except as are specifically set forth herein, and that neither of them has relied upon any representations in entering into this Contract, except as are specifically set forth herein. Each of the parties acknowledges that he or it has relied on its own judgment in entering into this Contract.

H. STATEMENT OF WORK

Contractor shall perform the following services for Client for the duration of this Contract:

1. Work to secure capital and/or operating budget funding as requested by Client;
2. Political strategy development tailored to meet the specific objectives of Client;
3. Identification of and monitoring the progress of all legislation introduced or proposed for Introduction in the Alaska Legislature which may affect Client;
4. Bi-weekly and ad hoc reporting to Client and in sufficient detail to keep Client reasonably apprised of the status and likelihood of passage of such legislation;
5. Evaluation of all relevant legislation and advisory to Client of circumstances which necessitate the presence of Client in Juneau to lobby, testify, or otherwise act to protect the interests of Client;
6. Engagement with members of the Legislature and Administration on behalf of Client on all proposed legislation, regulations and executive actions affecting Client, and coordination with other industry lobbyists and associations when strategically advantageous to Client;
7. Coordination and organization of Client visits to Juneau during the legislative session, including meetings and/or social functions with key public officials.

Client and/or its designees shall be responsible for the following:

1. Provide Contractor with all legislative and administrative priorities and pertinent information necessary for legislative committee and administrative hearings and meetings;
2. Organize and provide technical support to promote Client's goals, i.e. professional testimony;
3. Be available to provide timely input and testimony either via teleconference or in person before legislative committees and administration officials relative to Client's priorities.

I. CONFLICT RESOLUTION PROCEDURES

Contractor shall communicate, coordinate, and report to Client as required under this Contract. Except as otherwise provided, if Contractor receives instruction from other clients that Contractor reasonably, in good faith, believes to be contradictory to instructions provided by Client on a specific issue, Contractor shall declare a conflict by giving notice thereof to each client. After giving said notice of conflict, Contractor shall not carry out any of the duties, tasks, or functions requested by any of the contradictory instructions. Contractor will assist in conciliation efforts to resolve client differences. Said failure to act shall not constitute a breach of this Contract nor shall it decrease the Contract sum or travel reimbursement payable to Contractor hereunder. Contractor shall refrain from so acting until such time as Contractor receives non-contradictory written instructions on the same

subject from each client, or from one of said clients who represents to Contractor that the officials have conferred and are now in agreement as to how to proceed. Contractor shall then carry out said instructions as otherwise required by this Contract. Regardless of the existence of a specific conflict, Contractor shall continue to perform all other duties required under this Contract that are not involved in the conflict.

J. TERMINATION

This Contract may be terminated by either party for any reason upon 30 days written notice; in the event such notice is given by either party during the first five months of a year in which this agreement is in effect, compensation will be pro-rated for the portion of five months that this Contract was in effect.

Any notice of termination by Contractor shall be executed by Contractor. Any notice of termination by Client shall be executed by the City Manager of the City of Homer.

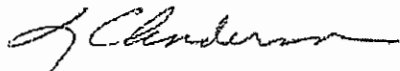
K. GENERAL CONDITIONS

1. The Contractor's and the Client's performance under this Contract shall comply with all applicable statutes, regulations, ordinances, policies and ethical rules.
2. No waiver of any provision of this Contract shall be effective unless in writing signed by both parties. The failure by any party to object to non-performance of, or to seek to compel performance of, an obligation under this Contract shall not constitute a waiver of any subsequent breach of the same or any different obligation.
3. The laws of the State of Alaska shall govern the rights and duties of the parties under this Contract. Venue for any action or proceeding arising from this Contract shall be in the state court at Homer, Alaska.
4. This Contract and the exhibits to it constitute the entire agreement between the parties, superseding all previous representations, discussions and any verbal agreements between them.
5. This Contract may not be modified, limited or added to except by a writing signed by both parties.
6. Notices concerning this Contract shall be given by the parties in writing and shall be personally delivered or mailed to a party at the address set out above. Notice shall be complete when delivered or faxed or emailed.
7. If any provision of this Contract is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Contract.
8. This Contract constitutes the complete and entire statement of all terms, conditions and representations of the agreement between the parties with respect to its subject matter.

IN WITNESS WHEREOF, the parties have executed this Contract and represent that they have the express authority to sign on behalf of the respective agency or party listed below.

CONTRACTOR:
ANDERSON GROUP, LLC

CLIENT:
CITY OF HOMER



BY: _____
Linda C. Anderson, President

BY: _____
Walt Wrede, City Manager

DATE: December 4, 2012

DATE: _____

NEW BUSINESS

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
ext: 2224, 2226, or 2227
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-182

TO: MAYOR AND CITY COUNCIL
FROM: JO JOHNSON, CMC, CITY CLERK
DATE: DECEMBER 3, 2012

A handwritten signature in black ink, appearing to read "Jo Johnson", is written over the "FROM" line of the memorandum.

SUBJECT: VACATE PORTIONS OF SPRUCEWOOD DRIVE A 60-FOOT RIGHT-OF-WAY LOCATED NORTHEAST OF TRACT A, BLOCK 2, AND ANY ASSOCIATED UTILITY EASEMENTS WITH THESE PORTIONS OF SPRUCEWOOD DRIVE, DEDICATED AND GRANTED BY MOUNTAIN PARK SUBDIVISION (PLAT HM 78-10); WITHIN SECTION 14, TOWNSHIP 6 SOUTH, RANGE 14 WEST, SEWARD MERIDIAN, CITY OF HOMER AND WITHIN THE KENAI PENINSULA BOROUGH, ALASKA; KPB FILE 2012-175; NOTE: THE ADJACENT EXISTING ROADWAY IS TO BE DEDICATED WITH THE RECORDING OF THIS PLAT; LOCATION: CITY OF HOMER.

At their November 26, 2012 meeting the Kenai Peninsula Borough Planning Commission approved vacation of portions of Sprucewood Drive a 60-foot right-of-way located northeast of Tract A, Block 2, and any associated utility easements with these portions of Sprucewood Drive, dedicated and granted by Mountain Park Subdivision (Plat HM 78-10); within Section 14, Township 6 South, Range 14 West, Seward Meridian, City of Homer and within the Kenai Peninsula Borough, Alaska; KPB File 2012-175; Note: The adjacent existing roadway is to be dedicated with the recording of this plat; Location: City of Homer.

Notice of vacation was received on November 30, 2012 by mail. Per AS 29.40.140 no vacation of a City right-of-way and/or easement may be made without the consent of the City Council.

The City Council has thirty days from November 26, 2012 in which to veto the decision of the Kenai Peninsula Borough Planning Commission.

The Homer Advisory Planning Commission has no objection to granting this vacation as is reflected in the minutes of October 3, 2012, Staff Report PL 12-55, Vacation of a portion of Sprucewood Dr.

RECOMMENDATION:

Voice non objection and consent to the vacation of portions of Sprucewood Drive a 60-foot right-of-way located northeast of Tract A, Block 2, and any associated utility easements with these portions of Sprucewood Drive; dedicated and granted by Mountain

Park Subdivision (Plat HM 78-10); within Section 14, Township 6 South, Range 14 West, Seward Meridian, City of Homer and within the Kenai Peninsula Borough, Alaska; KPB File 2012-175; Note: The adjacent existing roadway is to be dedicated with the recording of this plat; Location: City of Homer.

Fiscal Note: N/A



KENAI PENINSULA BOROUGH

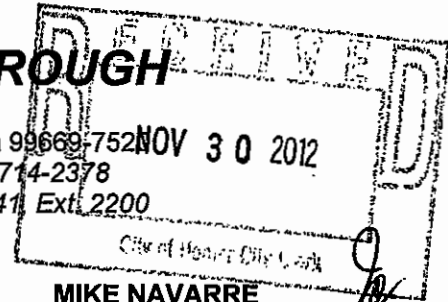
PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • FAX: (907) 714-2378

Toll-free within the Borough: 1-800-478-4441 Ext. 2200

www.borough.kenai.ak.us



MIKE NAVARRE
BOROUGH MAYOR

November 28, 2012

Homer City Council
491 East Pioneer Avenue
Homer, AK 99603-7645

RE: Vacate portions of Sprucewood Drive a 60-foot right-of-way located northeast of Tract A, Block 2, and any associated utility easements with these portions of Sprucewood Drive, dedicated and granted by Mountain Park Subdivision (Plat HM 78-10); within Section 14, Township 6 South, Range 14 West, Seward Meridian, City of Homer and within the Kenai Peninsula Borough, Alaska; KPB File 2012-175; Note: The adjacent existing roadway is to be dedicated with the recording of this plat; Location: City of Homer

Dear Homer City Council Members:

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The KPB Planning Commission approved the referenced vacation during their regularly scheduled meeting of November 26, 2012. This petition is being sent to you for your consideration and action.

The City Council has 30 days from November 26, 2012 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Planning Commission will stand.

Draft, unapproved minutes of the pertinent portion of the meeting and other related materials are attached.

Sincerely,

Max J. Best
Planning Director

MJB:pdh

Attachments

00 100



KENAI PENINSULA BOROUGH

PLANNING DEPARTMENT

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2200 • **FAX:** (907) 714-2378

Toll-free within the Borough: 1-800-478-4441, Ext. 2200

www.borough.kenai.ak.us

MIKE NAVARRE
BOROUGH MAYOR

November 28, 2012

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF DECISION

MEETING OF NOVEMBER 5, 2012

RE: Vacate portions of Sprucewood Drive a 60-foot right-of-way located northeast of Tract A, Block 2, and any associated utility easements with these portions of Sprucewood Drive, dedicated and granted by Mountain Park Subdivision (Plat HM 78-10); within Section 14, Township 6 South, Range 14 West, Seward Meridian, City of Homer and within the Kenai Peninsula Borough, Alaska; KPB File 2012-175; Note: The adjacent existing roadway is to be dedicated with the recording of this plat; Location: City of Homer

The Kenai Peninsula Borough Planning Commission approved the proposed vacation during their regularly scheduled meeting of November 26, 2012 based on the following findings of fact.

Findings:

3. Alternative right-of-way will be dedicated over the existing travel way by recording Mountain Park Sprucewood Replat.
4. The proposed vacation is within the City of Homer.
5. Per the submittal, the petitioners and City of Homer worked together to re-align the dedicated public right-of-way atop the existing road.
6. Per the submittal, utilities (phone and electric) generally follow the existing road and not the platted road.
7. Homer Advisory Planning Commission approved the proposed vacation on October 3, 2012.
8. Sufficient rights-of-way exist to serve surrounding properties.
9. No surrounding properties will be denied access.
10. Written statements of non-objection have been received from ACS, ENSTAR, GCI, and HEA.
11. If the vacation is approved, it will be finalized by recording Mountain Park Sprucewood Replat.
12. The proposed vacation and dedication over the existing road will place the traveled road within a public right-of-way rather than crossing private property.

In accordance with AS 29.40.140, no vacation of a city right-of-way and/or easement may be made without the consent of the city council. The proposed vacation has been forwarded to the Homer City Council. The City Council has 30 days from November 26, 2012 in which to veto the decision of the Planning Commission. If no veto is received from the Council within the 30-day period, the decision of the Commission will stand.

Please contact the Homer City Office to verify the date the subject vacation will be reviewed by the Council.

This notice and unapproved minutes of the subject portion of the meeting were sent November 28, 2012 to:

Mullikin Surveys
PO Box 790
Homer, AK 99603

Homer City Council
491 East Pioneer Avenue
Homer, AK 99603-7645

Roberta Highland & Robert Archibald
PO Box 2460
Homer, AK 99603

Homer Advisory Planning Commission
491 East Pioneer Avenue
Homer, AK 99603-7645

City of Homer
491 East Pioneer Avenue
Homer, AK 99603-7645

AGENDA ITEM F. PUBLIC HEARINGS

1. Vacate portions of Sprucewood Drive a 60-foot right-of-way located northeast of Tract A, Block 2, and any associated utility easements with these portions of Sprucewood Drive, dedicated and granted by Mountain Park Subdivision (Plat HM 78-10); within Section 14, Township 6 South, Range 14 West, Seward Meridian, City of Homer and within the Kenai Peninsula Borough, Alaska; KPB File 2012-175; Note: The adjacent existing roadway is to be dedicated with the recording of this plat; Location: City of Homer

Staff Report given by Max Best

PC Meeting: 11/26/12

Purpose as stated in petition: The owners and the City of Homer wish to maintain and improve the existing road. Both parties want the road dedication to match the existing road. Utilities (phone and electric) generally follow the existing road and not the platted road.

Petitioners: Robert Archibald and Roberta Highland of Homer, Alaska

Notification:

Public notice appeared in the November 15 and November 22, 2012 issues of the Homer News.

Six (6) certified mailings were sent to owners of property within 300 feet of the parcels. Four (4) receipts have been returned.

Nineteen (19) regular mailings were sent to agencies and interested parties. Five (5) notices were sent to KPB Departments. Notices were mailed to the Homer Post Office and Homer Community Library to be posted in public locations. The notice and maps were posted on the Borough bulletin board and Planning Department public hearing notice web site.

Comments Received:

Alaska Communications Systems: No objections.

ENSTAR: No comments, recommendations, or objections.

KPB Floodplain Administrator: The City of Homer manages its own floodplain management program under NFIP. KPB Chapter 21.06 does not apply in this case.

GCI: No objection to the vacations of the right-of-way as indicated on this plat provided the new right-of-way and plat are accepted by KPB.

HEA: Reviewed / No comments

Staff Discussion:

Homer Advisory Planning Commission conditionally approved the proposed vacation and associated preliminary plat on October 3, 2012.

The preliminary plat is scheduled for Plat Committee review on November 26, 2012.

Findings:

1. Per the submittal, the right-of-way proposed for vacation is in use for access (in a nearby location).
2. Per the submittal, the right-of-way proposed for vacation has been constructed (in a nearby location).
3. Alternative right-of-way will be dedicated over the existing travel way by recording Mountain Park Sprucewood Replat.
4. The proposed vacation is within the City of Homer.
5. Per the submittal, the petitioners and City of Homer worked together to re-align the dedicated public right-of-way atop the existing road.
6. Per the submittal, utilities (phone and electric) generally follow the existing road and not the platted

- road.
7. Homer Advisory Planning Commission approved the proposed vacation on October 3, 2012.
 8. Sufficient rights-of-way exist to serve surrounding properties.
 9. No surrounding properties will be denied access.
 10. Written statements of non-objection have been received from ACS, ENSTAR, GCI, and HEA.
 11. If the vacation is approved, it will be finalized by recording Mountain Park Sprucewood Replat.
 12. The proposed vacation and dedication over the existing road will place the traveled road within a public right-of-way rather than crossing private property.

STAFF RECOMMENDATION: Based on Findings 3-12, staff recommends approval of the vacations as petitioned, subject to:

1. Submittal of a final plat in accordance with Chapter 20 of the KPB Code within one year of vacation approval.

If the vacation is approved, the Homer City Council has thirty days in which they may veto Planning Commission approval of the vacation.

DENIAL OF A VACATION PETITION IS A FINAL ACT FOR WHICH NO FURTHER CONSIDERATION SHALL BE GIVEN BY THE KENAI PENINSULA BOROUGH. APPEALS TO PLANNING COMMISSION DENIAL OF A VACATION MUST BE TAKEN WITHIN THIRTY (30) DAYS TO SUPERIOR COURT AT KENAI, ALASKA PURSUANT TO PART VI OF THE ALASKA RULES OF APPELLATE PROCEDURES. [20.28.110 AS AMENDED BY KENAI PENINSULA BOROUGH ORDINANCE 99-43].

END OF STAFF REPORT

Vice Chairman Martin opened the meeting for public comment. Seeing and hearing no one wishing to speak, Vice Chairman Martin closed the public comment period and opened discussion among the Commission.

MOTION: Commissioner Gross moved, seconded by Commissioner Carluccio to grant approval of the vacation as presented by staff citing the following findings of fact.

Findings

3. Alternative right-of-way will be dedicated over the existing travel way by recording Mountain Park Sprucewood Replat.
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12. The proposed vacation and dedication over the existing road will place the traveled road within a public right-of-way rather than crossing private property.

Commissioner Ecklund asked if the road dedication will remain where it now resides. Mr. Best replied yes, that was correct.

VOTE: The motion passed by unanimous consent.

BRYSON ABSENT	CARLUCCIO YES	COLLINS YES	ECKLUND YES	FOSTER YES	GROSS YES	HOLSTEN ABSENT
ISHAM YES	LOCKWOOD YES	MARTIN YES	RUFFNER YES	TAURIAINEN YES	WHITNEY ABSENT	10 YES 3 ABSENT

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STAFF RECOMMENDATION: Based on Findings 3-12, staff recommends approval of the vacations as petitioned, subject to:

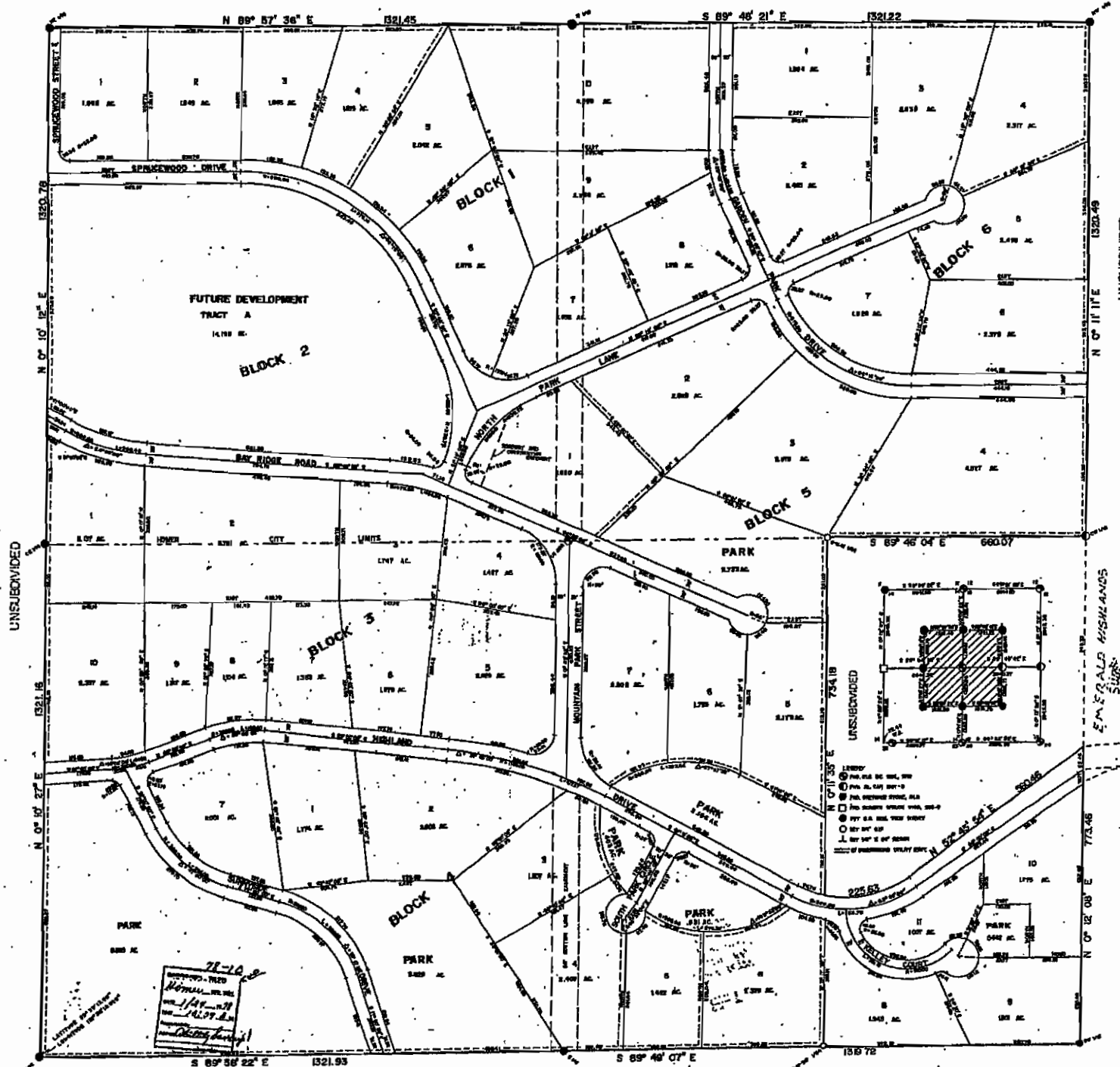
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END OF STAFF REPORT

UNSUBDIVIDED



NOTES:

1. ALL WATERWAY SPECIAL SYSTEMS SHALL COMPLY WITH EXISTING LAWS OF THE STATE OF ALABAMA.
2. A 5' BUFFER STRIP SHALL BE MAINTAINED ALONG ALL RIGHTS OF WAY.
3. THE STATE OF ALABAMA REQUIRES ALL WATERWAY SPECIAL SYSTEMS TO BE A MINIMUM OF 100' FROM ANY WATERWAY.
4. POND AREAS ARE HELD IN RESERVE POWER BY THE CITIES OF MOUNTAIN PARK FOR THEIR SWAMPING AND FLOOD CONTROL SYSTEMS.
5. 5' BUFFER STRIPS ARE REQUIRED AS A MINIMUM FOR SWAMPING AND FLOOD CONTROL SYSTEMS.
6. PROPERTY BOUNDARIES SHOWN ON THIS PLAN ARE BASED ON SURVEY DATA AND ARE SUBJECT TO REVISION.

DECLARATION OF CONSENT

I, the undersigned, being the owner of the property herein described and being duly qualified as such, do hereby certify that the same is as shown on the above and that the same is not subject to any other claims or encumbrances.

Samuel Miller *Francis J. Miller*
 SAMUEL MILLER FRANCIS J. MILLER
 SPECIAL COMMISSIONERS, MOUNTAIN PARK, ALABAMA

NOTICE OF ADJUDICATION

THE STATE OF ALABAMA, by and through the undersigned, do hereby certify that the above and that the same is not subject to any other claims or encumbrances.

Thelma Worley
 THELMA WORLEY
 SPECIAL COMMISSIONER, MOUNTAIN PARK, ALABAMA



DATE: JULY, 1977
 SCALE: 1" = 80'
 DESIGNED BY: J.A.
 CHECKED BY: S.M.
 DRAWN BY: E.W.
 P.L.D. NO. 10: 22.23

MOUNTAIN PARK

ABILITY SURVEYS

UNSUBDIVIDED

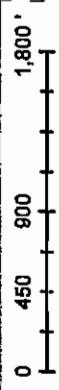
UNSUBDIVIDED

EMERALD HIGHLANDS

UNSUBDIVIDED



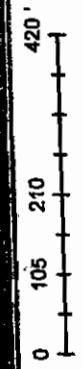
Date: 10/17/2012



Vicinity Map

The information depicted hereon is for a graphical representation only of best available sources. The Kenton Peninsula Borough assumes no responsibility for any errors on this map.



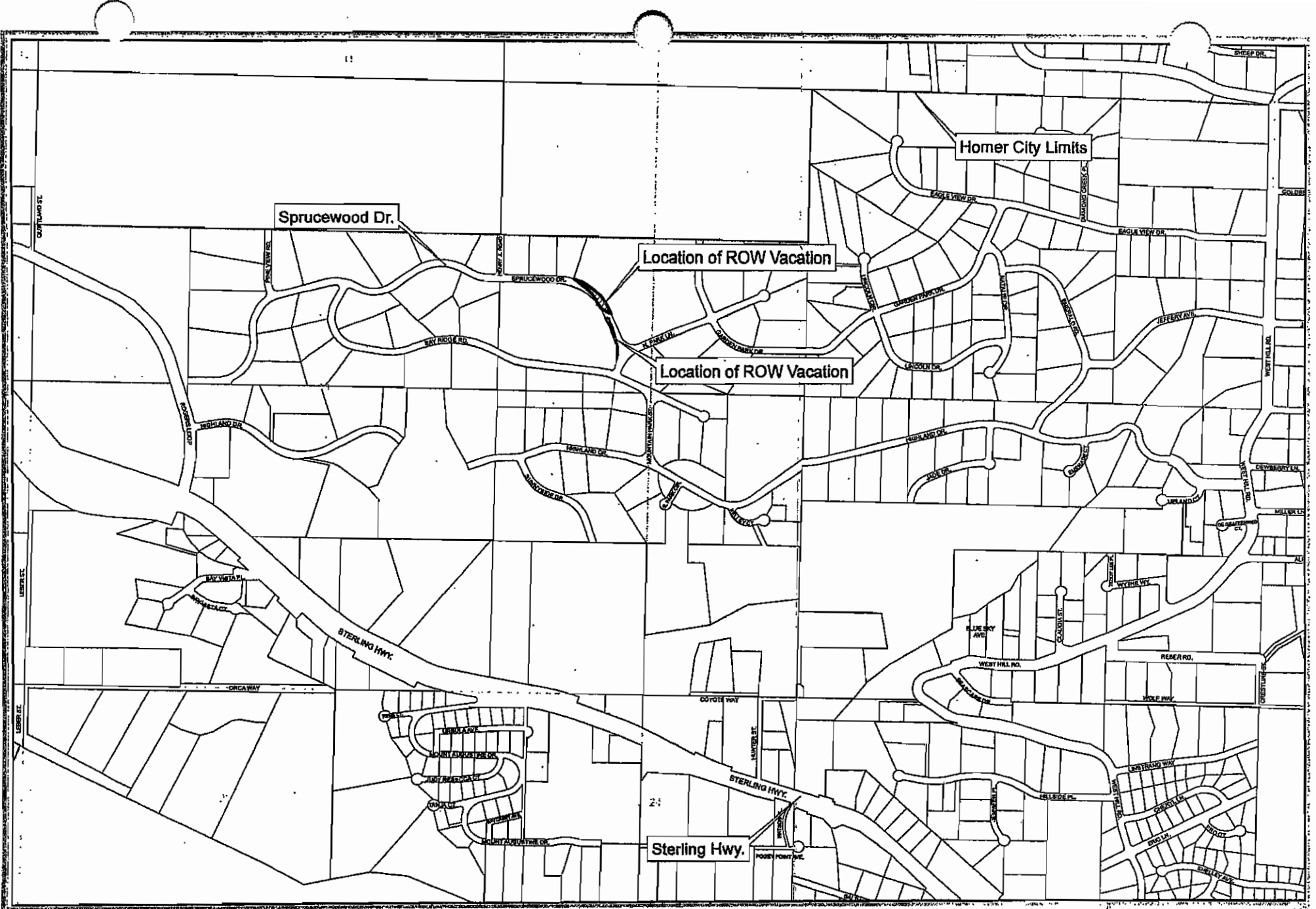


Vicinity Map

 Date: 10/18/2012

The information displayed hereon is for informational purposes only. The Canal Peninsula Borough assumes no responsibility for any errors on this map.





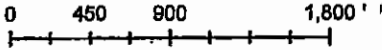
Sprucewood Dr.

Location of ROW Vacation

Location of ROW Vacation

Homer City Limits

Sterling Hwy.



Vicinity Map



Date: 10/17/2012



The information depicted hereon is for a graphical representation only of best available sources. The Kanawha County Planning Commission assumes no responsibility for any errors on this map.

Session 12-13, a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Erickson at 6:30 p.m. on October 3, 2012 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS BOS, DOLMA, ERICKSON, SONNEBORN, STEAD, VENUTI

ABSENT: HIGHLAND

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK JACOBSEN

APPROVAL OF AGENDA

The agenda was approved by consensus of the Commission.

PUBLIC COMMENT

The public may speak to the Planning Commission regarding matters on the agenda that are not scheduled for public hearing or plat consideration. (3 minute time limit).

RECONSIDERATION

ADOPTION OF CONSENT AGENDA

All items on the consent agenda are considered routine and non-controversial by the Planning Commission and are approved in one motion. There will be no separate discussion of these items unless requested by a Planning Commissioner or someone from the public, in which case the item will be moved to the regular agenda and considered in normal sequence.

1. Approval of the September 19, 2012 minutes

The consent agenda was approved by consensus of the Commission.

PRESENTATIONS

REPORTS

- A. Staff Report PL 12-57, City Planner's Report

City Planner Abboud reviewed the staff report.

PUBLIC HEARINGS

Testimony limited to 3 minutes per speaker. The Commission conducts Public Hearings by hearing a staff report, presentation by the applicant, hearing public testimony and then acting on the Public Hearing items. The Commission may question the public. Once the public hearing is closed the Commission cannot hear additional comments on the topic. The applicant is not held to the 3 minute time limit.

- A. Staff Report PL 12-55, A Vacation of a 60' Right of Way at Sprucewood Drive

Chair Erickson asked if any Commissioners felt that they could not fairly act on the agenda items tonight since Commissioner Highland is one of the property owners. None of the Commissioners expressed any issues with acting on the business items.

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
OCTOBER 3, 2012

City Planner Abboud reviewed the staff report.

There were no comments from the applicant. Chair Erickson opened the public hearing. There was no audience present and the public hearing was closed.

VENUTI/DOLMA MOVED TO ADOPT STAFF REPORT PL 12-55 VACATION OF A PORTION OF SPRUCEWOOD DRIVE WITH STAFF RECOMMENDATIONS AND FINDINGS 1-3.

There was brief discussion that this change, in conjunction with the proposed plat, cleans up what is already there.

YES: BOS, STEAD, SONNEBORN, VENUTI, ERICKSON, DOLMA

Motion carried.

PLAT CONSIDERATION

A. Staff Report PL 12-54, Mountain Park Sprucewood Replat

City Planner Abboud reviewed the staff report.

There were no comments from the applicant and there was no audience present to comment.

BOS/SONNEBORN I MOVE TO ADOPT STAFF REPORT PL 12-54 MOUNTAIN PARK SUBDIVISION SPRUCEWOOD REPLAT PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

B. Staff Report PL 12-56, Mountain Park Highland Addition No. 2

City Planner Abboud reviewed the staff report.

Comment was raised that this appears to be a straight forward request.

VENUTI/BOS MOVED TO ADOPT STAFF REPORT PL 12-56 MOUNTAIN PARK SUBDIVISION HIGHLAND ADDITION NO. 2 PRELIMINARY PLAT WITH STAFF RECOMMENDATIONS.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PENDING BUSINESS



City of Homer Planning & Zoning

491 East Pioneer Avenue
Homer, Alaska 99603-7645

Telephone (907) 235-8121
Fax (907) 235-3118
E-mail Planning@ci.homer.ak.us
Web Site www.ci.homer.ak.us

STAFF REPORT PL 12-55

TO: Homer Advisory Planning Commission
THROUGH: Rick Abboud, City Planner
FROM: Julie Engebretsen, Planning Technician
MEETING: October 3, 2012
SUBJECT: Vacation of a portion of Sprucewood Dr

Requested action: Conduct a public hearing and recommend approval of the vacation of a portion of Sprucewood Drive.

GENERAL INFORMATION

Applicants: Roberta Highland
Robert Archibald
PO Box 2460
Homer, AK 99603
Mullikin Surveys
PO Box 790
Homer, AK 99603

Requested Action: Vacation of a portion of Sprucewood Ave
Location: Spruceview Ave, northwestern Homer
Zoning Designation: Rural Residential
Existing Land Use: Residential/Vacant

Surrounding Land Use:
North: Vacant
South: Residential/Vacant
East: Residential/Vacant
West: Residential/Vacant

Comprehensive Plan: Chapter 5, Transportation, Goal 1: The street system should be configured to include arterial, collector and local streets. Through-street connections should be encouraged, while maintaining the integrity of existing neighborhoods.

Public Notice: Notice was sent to 31 property owners of 52 parcels as shown on the KPB tax assessor rolls.

ANALYSIS:
A preliminary plat also accompanies this request. The plat requires a separate platting action and vote. This staff report will only address the vacation of the right of way.

A portion of Sprucewood Drive was constructed outside the right of way, on private property. The City and the property owners are working together to correct this situation. A portion of the unused right of way will be vacated, and a new right of way will be dedicated over the existing road.

REVIEW

Kenai Peninsula Borough Code:

20.04.010 Purpose of provisions.

The purpose of this title is to promote an adequate and efficient street and road system, to provide utility easements, to provide minimum standards of survey accuracy and proper preparation of plats, and to protect and improve the health, safety and general welfare of the people.

Staff Finding 1: An adequate and safe road system has been provided to serve this area. The new right of way dedication will align with the existing road.

20.28.150. Vehicular access provision.

Where a right-of-way is required for logical provision of an existing or future road, the planning commission shall not approve the vacation unless an equal or superior right-of-way will be provided in exchange. Where 2 or more access points are necessary for large vacant or semi-vacant areas of land, the commission shall consider the ultimate density of habitation or use and maintain sufficient rights-of-way to serve such anticipated use.

Staff Finding 2: Superior right of way will be granted because it will align with the constructed road.

20.28.160. Other access provisions.

Rights-of-way which provide or could provide access for pedestrians, off-road vehicles, aircraft and similar modes of transport shall be considered when evaluating a vacation request. When such uses exist or could exist within rights-of-way which are not suited for general road use, the commission shall not approve the vacation request, unless it can be demonstrated that equal or superior access is or will be available.

Staff Finding 3: Superior access is available over the existing road and proposed right of way alignment.

PUBLIC WORKS COMMENTS: The Public Works Department had no comments.

FIRE DEPARTMENT COMMENTS: Fire Chief Painter had no concerns with the vacation.

STAFF COMMENTS:

Staff recommends the Commission recommend approval of the vacation of a portion of Sprucewood Drive with findings 1-3.

ATTACHMENTS

1. Surveyor's Submittal
2. Preliminary Plat and Vacation Drawing
3. Public Notice
4. Location map

MULLIKIN SURVEYS

P.O. Box 790, Homer, AK 99603-0790

Ph. & Fax: (907) 235-8975; E-mail: mullikin@xyz.net

October 12, 2012

Paul Voeller, Platting Officer
Kenai Peninsula Borough
144 N. Binkley
Soldotna, AK 99669

RECEIVED
OCT 15 2012
KENAI PENINSULA BOROUGH
PLANNING DEPARTMENT

Re: Preliminary plat submittal -- Mountain Park Sprucewood Replat

Dear Mr Voeller:

Please find enclosed nine copies of the above referenced preliminary plat.

The purpose of this plat is to vacate portions of Sprucewood Drive and replat the right of way to coincide with the existing constructed road. The owners of Lots 4-A and Tract A are working with the City of Homer to create a right-of-way that covers the existing road to facilitate road improvements and maintenance.

This plat was reviewed and approved by the City of Homer Planning Commission at their meeting of October 3, 2012.

Water and sewer are onsite for both lots. A copy of the KPB Basemap showing contours has been attached to this submittal showing that the grades are less than 10% and that intersection grades are also less than 4% as required by Borough Code. Sprucewood Drive is constructed. The utility easements associated with the right-of-way are intended to be relocated adjacent to the new right-of-way. The phone line was located in the field and is shown on the preliminary plat. The HEA lines are shown in the attached asbuilt drawing. The phone line will be in the right-of-way after the replat as opposed to crossing private land as it does currently.

KPB Basemapping indicates that the low wet areas on these lots are restricted to the area adjacent to the noted drainage in Lot 4-A-1. Grades on these lots are generally less than 20% with grades steeper than 20% located along the edges of the drainage in Lot 4-A-1.

KPB Code exceptions requested:

- 20.20.130, Reverse Curves. The purpose of this plat is to reconfigure the right-of-way to follow the existing road. Centerline radius has been kept at 300' but a reverse curve and a short intermediate tangent were needed to center the right-of-way on the existing road.
- 20.20.140. The current intersection of Sprucewood, Dr. North Park Ave., and Bay Ridge Rd., was created by the parent plat. It is beyond the scope and intent of this plat to effect any change in the intersection.

Please schedule this plat for the appropriate public hearings for the vacation of the right-of-way and the replat action.

Enclosed is check # _____ for \$775 to cover the plat review fees (\$200) the right-of-way vacation fee (\$500), and the utility easement vacation fee (\$75). Also included are the petitions to vacate the right-of-way and the utility easements. Comments are still being gathered for the utility easement vacation and will be passed along to you as soon as they are received.

Please let me know if there are any details I have overlooked.

Sincerely,



Tom Latimer, P.L.S.

Enclosures: Ck # _____, Petition to Vacate a Public Right-of Way, Petition to Vacate a Utility Easement, draft minutes of the City of Homer Planning Commission meeting, Contour Map with >20% slopes shown, HEA as-built drawing, nine copies of the preliminary plat



Kenai Peninsula Borough Planning Department
 144 North Binkley
 Soldotna, Alaska 99689-7599
 Toll free within the Borough 1-800-478-4441, extension 2200
 (907) 714-2200

RECEIVED

OCT 17 2012

**Petition to Vacate Public Right-of-Way / Section Line Easement
 Public Hearing Required**

**KENAI PENINSULA BOROUGH
 PLANNING DEPARTMENT**

Upon receipt of complete application with fees and all required attachments; a public hearing before the Planning Commission will be scheduled. The petition with all required information and attachments must be in the Planning Department at least 30 days prior to the preferred hearing date. By State Statute and Borough Code, the public hearing must be scheduled within 60 days of receipt of complete application.

- Fees - \$500 non-refundable fees to help defray costs of advertising public hearing. Plat fees will be in addition to vacation fees.
 - City Advisory Planning Commission. Copy of minutes at which this item was acted on, along with a copy of City Staff Report.
 - Name of public right-of-way proposed to be vacated is SPRUCEWOOD Dr.; dedicated by plat of Mountain Park Subdivision, filed as Plat No. 78-10 in Homer Recording District.
 - Are there associated utility easements to be vacated? Yes No
 - Are easements in use by any utility company, if so which? NO
 - Easement for public road or right-of-way as set out in (specify type of document) _____ as recorded in Book _____ Page _____ of the _____ Recording District. (Copy of recorded document must be submitted with petition.)
 - Section Line Easement. Width of easement must be shown on sketch.
 - Submit three copies of plat or map showing area proposed to be vacated. Must not exceed 11x17 inches in size. In the case of public right-of-way the submittal must include a sketch showing which parcels the vacated area will be attached to. Proposed alternative dedication is to be shown and labeled on the sketch.
- Has right-of-way been fully or partially constructed? Yes No
 Is right-of-way used by vehicles / pedestrians / other? Yes No
 Has section line easement been constructed? Yes No
 Is section line easement being used? Yes No
 Is alternative right-of-way being provided? Yes No

The petitioner must provide reasonable justification for the vacation. Reason for vacating:
The owners and the City of Homer wish to maintain and improve the existing road. Both parties want the road dedication to match the existing road. Utilities (Phone, Gas) generally follow the existing road and not the platted Road

The petition must be signed (written signature) by owners of majority of the front feet of land fronting part of the right-of-way or section line easement proposed to be vacated. Each must include address and legal description of his / her property.

Submitted by: Signature [Signature] As Petitioner Representative
 Name Tom Lataner
 Address Mullikin Surveys
P.O. Box 710
Homer, AK 99603
 Phone 235-8975



Petitioners:
 Signature _____ Name _____
 Address _____
 Owner of _____

+ Signature Robert Archibald
 Name Robert Archibald
 Address PO Box 2460
Homer, AK
99603
 Owner of Tract A - Lot 4A

+ Signature Roberta Highland
 Name Roberta Highland
 Address P.O. Box 2460
Homer, AK
99603
 Owner of TRACT A - Lot 4A

RESOLUTION(S)

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**CITY OF HOMER
HOMER, ALASKA**

City Clerk

RESOLUTION 12-102

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, ESTABLISHING THE 2013 REGULAR MEETING SCHEDULE FOR THE CITY COUNCIL, ECONOMIC DEVELOPMENT ADVISORY COMMISSION, LIBRARY ADVISORY BOARD, PARKS AND RECREATION ADVISORY COMMISSION, ADVISORY PLANNING COMMISSION, PORT AND HARBOR ADVISORY COMMISSION, LEASE COMMITTEE, PERMANENT FUND COMMITTEE, PUBLIC ARTS COMMITTEE AND TRANSPORTATION ADVISORY COMMITTEE.

WHEREAS, Pursuant to Homer City Code Section 1.14.020, the City Council annually sets the schedule for regular and some special meetings, noting the dates, times and places of the City Council, Advisory Commissions, and the Library Advisory Board meetings; and

WHEREAS, The public is informed of such meetings through the kiosks located at Captain's Coffee, Harbormaster's Office, Redden Marine Services of Homer, and the City Clerk's Office, Clerk's Calendar on KBBI, the City Clerk's Home Page on the Internet, and postings at the Clerk's Office at City Hall, and the Public Library; and

WHEREAS, HCC 1.14.020 - 040 states that meetings may be advertised in a local paper of general circulation at least three days before the date of the meeting and that special meetings should be advertised in the same manner or may be broadcast by local radio at least twice a day for three consecutive days or two consecutive days before the day of the meeting plus the day of the meeting; and

WHEREAS, HCC 1.14.010 notes that the notice of meetings applies to the City Council and all commissions, boards, committees, subcommittees, task forces and any sub-unit of the foregoing public bodies of the City, whether meeting in a formal or informal meeting; that the failure to give the notice provided for under this chapter does not invalidate or otherwise affect any action or decision of a public body of the City; however, this sentence does not change the consequences of failing to give the minimum notice required under State Statute; that notice will ordinarily be given by the City Clerk; and that the presiding officer or the person or persons calling a meeting are responsible for notifying the City Clerk of meetings in sufficient time for the Clerk to publish notice in a newspaper of general circulation in the City; and

WHEREAS, This Resolution does not preclude additional meetings such as emergency meetings, special meetings, worksessions, and the like; and

WHEREAS, Council adopted Resolution 06-144 on October 9, 2006 establishing the Regular Meeting site for all bodies to be the City Hall Cowles Council Chambers.

47 NOW, THEREFORE, BE IT RESOLVED by the Homer City Council, that the 2013
 48 meeting schedule is established for the City Council, Economic Development Advisory
 49 Commission, Library Advisory Board, Parks and Recreation Advisory Commission, Advisory
 50 Planning Commission, Port and Harbor Advisory Commission, Lease Committee, Permanent
 51 Fund Committee, Public Arts Committee and Transportation Advisory Committee of the City of
 52 Homer, Alaska, as follows:

53
 54 Holidays - City Offices closed:

January 1*, New Year's Day, Tuesday	February 18*, Presidents' Day, the third Monday	March 25*, Seward's Day, last Monday	May 27*, Memorial Day, last Monday	July 4*, Independence Day, Thursday	September 2*, Labor Day, first Monday
October 18*, Alaska Day, Friday	November 11*, Veterans Day, Monday	November 28* Thanksgiving Day, Thursday	November 29*, Friday, the day after Thanksgiving	December 25*, Christmas, Wednesday	

55
 56 *Indicates holidays - City offices closed.
 57 **If on a Sunday, the following Monday is observed as the legal holiday; if on a Saturday, the
 58 preceding Friday is observed as the legal holiday pursuant to the City of Homer Personnel Rules
 59 and Regulations.

60
 61 CITY COUNCIL (CC)

January 14, 28	February 11, 25	March 11, 26*	April 8, 22	May 13, 28*	June 10, 24
July 8***, 22	August 12, 26	September 9, 23	October 1 Election	October 14, 28, for Oath of Office, 21	Canvass Board October 4 or 7
November 5 Run- Off Election	November 12**, 25	December 9****	December 16**** if needed		

62
 63 City Council's Regular Committee of the Whole Meetings at 5:00 p.m. to no later than 5:50 p.m.
 64 prior to every Regular Meeting which are held the second and fourth Monday of each month at
 65 6:00 p.m. ***The City Council traditionally reschedules regular meetings that fall on holidays or
 66 High School Graduation days, for the following Tuesday. Council will not conduct a First
 67 Regular Meeting in July.

68
 69 AML Annual Conference Week is tentatively scheduled for November 11 - 15, 2013.

70 *Tuesday meeting due to Seward's Day/Memorial Day/Veterans Day.

71 **There will be no First Regular Meeting in July or November.

72 **** The City Council traditionally cancels the last regular meeting in December and holds the
 73 first regular meeting and one to two Special Meetings as needed. Generally the second Special
 74 Meeting the third week of December, will not be held.

75
 76

ECONOMIC DEVELOPMENT ADVISORY COMMISSION (EDC)

January 8	February 12	March 12	April 9	May 14	June 11
July 9	August 13	September 10	October 8	November 12	December 10

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 80

Economic Development Advisory Commission Regular Meetings are held on the second Tuesday of each Month at 6:00 p.m.

81 LIBRARY ADVISORY BOARD (LAB)

January meeting cancelled	February 5	March 5	April 2	May 7	June 4
July 2	August 6	September 3	October 1	November 5	December 3

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Library Advisory Board Regular Meetings are held on the first Tuesday of each month at 5:00 p.m.

PARKS AND RECREATION ADVISORY COMMISSION (P/R)

January 17	February 21	March 21	April 18
May 16	June 20	July 18	August 15
September 19	October 17	November 21	

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Parks and Recreation Advisory Commission Regular Meetings are held on the third Thursday of each month, with the exception of December, at 5:30 p.m.

PLANNING COMMISSION (P/C)

January 2, 16	February 6, 20	March 6, 20	April 3, 17	May 1, 15	June 5, 19
July 17**	August 7, 21	September 4, 18	October 2, 16	November 6**	December 4**

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Advisory Planning Commission Regular Meetings are held on the first and third Wednesday of each month at 6:30 p.m. **There will be no First Regular Meeting in July or Second Regular Meetings in November and December.

PORT AND HARBOR ADVISORY COMMISSION (P/H)

January 23	February 27	March 27	April 24	May 22	June 26
July 24	August 28	September 25	October 23	November 20	December 18

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 102

Port and Harbor Advisory Commission Regular Meetings are held on the fourth Wednesday of each month at 5:00 p.m., with the exception of May, June, July and August meetings that are held at 6:00 p.m. The Regular Meetings in the months of November and December are traditionally scheduled for the third Wednesday of the month.

103 LEASE COMMITTEE (LC)

January 10	April 11	July 11	October 10
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104
105 Lease Committee Regular Meetings are held quarterly on the second Thursday of each month at
106 3:00 p.m.

107
108 PERMANENT FUND COMMITTEE (PFC)

February 14	May 9	August 8	November 14
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109
110 Permanent Fund Committee Regular Meetings are held quarterly on the second Thursday of the
111 months of February, May, August, and November at 5:15 p.m.

112
113 PUBLIC ARTS COMMITTEE (PAC)

February 21	May 16	August 15	November 21
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114
115 Public Arts Committee Regular Meetings are held quarterly on the third Thursday of the months
116 of February, May, August, and November at 5:00 p.m.

117
118 TRANSPORTATION ADVISORY COMMITTEE (TAC)

February 19	May 21	August 20	November 19
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119
120 Transportation Advisory Committee Regular Meetings are held quarterly on the third Tuesday of
121 the months of February, May, August, and November at 5:30 p.m.

122
123 PASSED AND ADOPTED by the Homer City Council this 10th day of December, 2012.

124
125 CITY OF HOMER

126
127
128
129 _____
MARY E. WYTHER, MAYOR

130 ATTEST:

131
132
133 _____
134 JO JOHNSON, CMC, CITY CLERK

135
136 Fiscal Impact: Adverting of meetings in regular weekly meeting ad and advertising of any
137 additional meetings.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603-7624

(907) 235-3130
(907) 235-8121
Extension: 2227
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Extension: 2251
Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-183

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: PERMANENT FUND COMMITTEE

DATE: NOVEMBER 19, 2012

SUBJ: 2013 MEETING SCHEDULE

The Permanent Fund Committee discussed and approved the 2013 Meeting Schedule as presented at their November 8, 2012 regular meeting. The excerpt from those minutes follows:

JOHNSON/MAURAS – MOVED TO APPROVE THE DRAFT RESOLUTION FOR THE 2013 MEETING SCHEDULE AS PRESENTED.

Brief discussion on amending the time of meetings was made.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 12-184

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: ECONOMIC DEVELOPMENT ADVISORY COMMISSION

DATE: NOVEMBER 19, 2012

SUBJ: 2013 MEETING SCHEDULE

The Economic Development Advisory Commission discussed and approved the 2013 Meeting Schedule as presented at the November 6, 2012 regular meeting. The excerpt from those minutes follows:

NEW BUSINESS

D. Draft Resolution Establishing the 2013 City Council and Advisory Body Meeting Schedule

Chair Sarno introduced the item to the floor for discussion.

There was a brief discussion regarding changing the meeting date.

The Commission approved keeping the 2013 Meeting Schedule as presented in the Draft Resolution by consensus.

Office of the City Clerk

Jo Johnson, CMC, City Clerk

Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
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MEMORANDUM 12-185

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: LIBRARY ADVISORY BOARD

DATE: NOVEMBER 19, 2012

SUBJ: 2013 MEETING SCHEDULE

The Library Advisory Board discussed and approved the 2013 Meeting Schedule at the November 6, 2012 regular meeting with the exception of canceling the January 2, 2013 meeting as scheduled. The excerpt from those minutes follows:

NEW BUSINESS

A. 2013 MEETING SCHEDULE

Chair Faulkner introduced the item for discussion.

Ms. Krause explained the reason for the meeting to be on Wednesday, January 2, 2013.

Chair Faulkner suggested cancelling the January meeting.

GROESBECK/FLETCHER – MOVED TO CANCEL THE JANUARY 2013 MEETING.

There was a brief discussion regarding special meetings and Ms. Dixon having until February for the policies.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue
Homer, Alaska 99603
(907) 235-3130
(907) 235-8121
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Fax: (907) 235-3143
Email: clerk@ci.homer.ak.us

MEMORANDUM 12-186

TO: MAYOR WYTHE AND HOMER CITY COUNCIL
FROM: HOMER ADVISORY PLANNING COMMISSION
DATE: NOVEMBER 30, 2012
SUBJECT: 2013 REGULAR MEETING SCHEDULE

The Advisory Planning Commission took the following action at their November 7th regular meeting:

B. Staff Report PL 12-62 HAPC 2013 Meeting Schedule

The Commission discussed the meeting schedule. They considered the possibility of eliminating the January 2, 2013 regular meeting, but recommended no changes.

HIGHLAND/VENUTI MOVED TO ADOPT THE 2013 MEETING SCHEDULE AS OUTLINED IN THE DRAFT RESOLUTION.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 12-187

TO: MAYOR WYTHER AND HOMER CITY COUNCIL
FROM: TRANSPORTATION ADVISORY COMMITTEE
DATE: NOVEMBER 30, 2012
SUBJECT: 2013 REGULAR MEETING SCHEDULE

The Transportation Advisory Committee took the following action at their November 20, 2012 regular meeting:

A. Draft Resolution Re: 2013 Meeting Schedule

The committee discussed the meeting schedule.

HIGHLAND/VENUTI MOVED TO ADOPT THE TAC MEETING SCHEDULE FOR 2013.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Office of the City Clerk

Jo Johnson, CMC, City Clerk
Melissa Jacobsen, CMC, Deputy City Clerk II
Renee Krause, CMC, Deputy City Clerk I



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MEMORANDUM 12-188

TO: MAYOR WYTHER AND HOMER CITY COUNCIL
FROM: PORT AND HARBOR ADVISORY COMMISSION
DATE: NOVEMBER 30, 2012
SUBJECT: 2013 REGULAR MEETING SCHEDULE

The Port and Harbor Advisory Commission took the following action at their November 14, 2012 special meeting:

B. Approval of the 2013 Port and Harbor Meeting Schedule as outlined in the Draft Resolution

There was brief discussion of the meeting schedule in relation to the November meeting. It was noted that the date can be amended if they find that it conflicts with the marine trade expo, as it did this year.

HARTLEY/ZIMMERMAN MOVED TO APPROVE MEETING SCHEDULE FOR THE PORT AND HARBOR COMMISSION AS IT IS PRESENTED.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

41 BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter
42 into a new short term lease with the Homer Boys and Girls Club and to extend its occupancy of
43 the lower level of the HERC Building for one year beginning on January 1, 2013 and ending on
44 December 31, 2013 at a rental rate of \$750.00 per month.

45
46 PASSED AND ADOPTED by the Homer City Council this 10th day of December, 2012.

47
48 CITY OF HOMER

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52 _____
53 MARY E. WYTHE, MAYOR

54 ATTEST:
55
56
57 _____
58 JO JOHNSON, CMC, CITY CLERK

59
60 Fiscal Note: Revenue \$9,000 for 2013.

40 WHEREAS, The Homer Boys and Girls Club has requested that they be able to remain in
41 the facility at least until December 31, 2012 and has offered to contribute \$750 per month to
42 offset the cost of utilities; and

43

44 WHEREAS, The City will have to keep the building heated minimally even if it is
45 unoccupied because of the flat roof and other considerations.

46

47 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council finds that it is in
48 the best interest of the City to enter into another short term lease with the Homer Boys and Girls
49 Club and to work cooperatively with the Homer Boys and Girls Club Task Force and provide it
50 with more time to complete its work.

51

52 BE IT FURTHER RESOLVED that the Council authorizes the City Manager to enter
53 into a short term lease with the Homer Boys and Girls Club and to extend its occupancy of the
54 lower level of the HERC building. The term of the lease shall expire on December 31, 2012 and
55 the rent shall be \$750 per month.

56

57 PASSED AND ADOPTED by the Homer City Council this 14th day of May, 2012.

58

59

CITY OF HOMER

60



JAMES C. HORNADAY, MAYOR

61

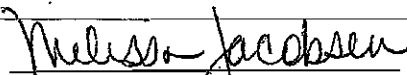
62

63

ATTEST:

64

65



66

MELISSA JACOBSEN, CMC

67

ACTING CITY CLERK

68

69

Fiscal Note: Utility fees to be determined.



CITY OF HOMER

LEASE EXTENSION AND AMENDMENT

THIS LEASE EXTENSION AND AMENDMENT is made and entered into effective as of this 18th day of June, 2012, between the **CITY OF HOMER**, a municipal corporation, 491 East Pioneer Avenue, Homer, Alaska 99603, ("LESSOR"), and the **BOYS & GIRLS CLUB OF HOMER**, whose address is 705 Frontage Rd., Suite B Kenai, Alaska 99611, ("LESSEE"), and affects that Lease Agreement entered into between LESSOR and LESSEE on January 1, 2012, situated in the Homer Recording District, Third Judicial District, State of Alaska, and described as follows:

The bottom floor and gymnasium of the main building of the former Homer Intermediate School facility located on a portion of the E 1/2 Section 19, T6S, R12W, S.M., Alaska, containing approximately 8,840 square feet of net usable area (the "Premises").

Lessee shall also have use of the paved parking lot and outside playground area. The purpose of this lease is for youth activities.

AGREEMENT

LESSOR and LESSEE agree as follows:

1. Extension

LESSEE, with LESSOR's approval, has agreed to an extension under the Lease. This extension term of the Lease shall commence as of June 1, 2012, and end on December 31, 2012.

2. Rental, Utilities, and Other Services

a. The Lease rental is \$5,250.00 for this Lease term, which is \$750.00 per month for seven months

b. Market Value. The Lessor and Lessee acknowledge that the Boys & Girls Club is making a contribution to offset the costs of utilities and does not represent true market value of this space.

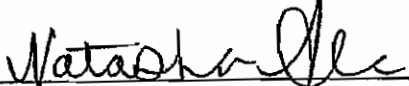
c. The rent provided in subparagraph 2a includes snow removal and sanding, and lawn/yard care at City's expense.

3. Lease Remains in Effect.

Every other provision of the Lease remains in full force and effect.

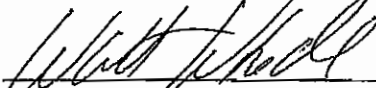
IN WITNESS WHEREOF, the parties hereto have caused this Lease Extension to be duly executed as of the day and year first above written.

BOYS & GIRLS CLUB



Natasha Ala, Executive Director
Boys & Girls Club
Dated: 6/20/12

CITY OF HOMER

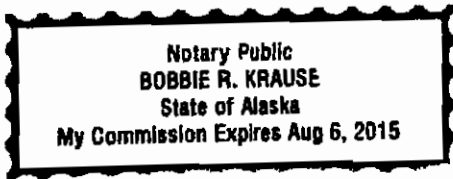


Walt Wrede, City Manager
Dated: 6/26/12

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 26th day of June, 2012, by Walt Wrede, City Manager of the City of Homer, an Alaska municipal corporation, on behalf of the corporation.



Bobbie R Krause
Notary Public in and for Alaska
My commission expires: 08/06/15

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 20th day of June, 2012 by Natasha Ala, Executive Director, Boys & Girls Club.



Alice L. Woodland
Notary Public in and for Alaska
My commission expires: June 11 2015

Return to: City of Homer
City Manager
491 East Pioneer Avenue
Homer, AK 99603

LEASE AND SECURITY AGREEMENT
BETWEEN
BOYS & GIRLS CLUB OF HOMER ALASKA

AND THE
CITY OF HOMER, ALASKA

January 1, 2012

LEASE AND SECURITY AGREEMENT

The CITY OF HOMER, an Alaska municipal corporation whose address is 491 East Pioneer Avenue, Alaska 99603, (hereinafter called "City"), grants to the BOYS & GIRLS CLUB OF HOMER, whose address is 705 Frontage Rd., Suite B Kenai, Alaska 99611 (hereinafter called "Lessee"), use of the following described facility situated in the Homer Recording District, Third Judicial District, State of Alaska, and described as follows:

The bottom floor and gymnasium of the main building of the former Homer Intermediate School facility located on a portion of the E 1/2 Section 19, T6S, R12W, S.M., Alaska, containing approximately 8,840 square feet of net usable area (the "Premises").

Lessee shall also have use of the paved parking lot and outside playground area. The purpose of this lease is for youth activities.

TERMS AND CONDITIONS

1. Lease Term and Renewals.

a. This lease is for a term of five (5) months commencing January 1, 2012, and terminating May 31, 2012.

b. This lease has no automatic renewals.

2. Rental, Utilities, and Other Services.

a. The Lease rental is \$3,750.00 for this Lease term, which is \$750.00 per month for five months

b. Market Value. The Lessor and Lessee acknowledge that the Boys & Girls Club is making a contribution to offset the costs of utilities and does not represent true market value of this space.

c. The rent provided in subparagraph 2a includes snow removal and sanding, and lawn/yard care at City's expense.

3. **Lessee's Covenants:**

a. Renovation: As-Is Facility: Inspection. Lessee covenants that it has renovated the lease space to accommodate Lessee's needs. Lessee accepted the facility in "as is" condition without any representations or warranties that the property is suitable or useable for Lessee's purposes, or any purpose, and Lessee continues its occupancy under this current Lease in the same condition and without any such representations or warranties. Lessee acknowledges that it had full opportunity to inspect the premises using professionals and resources of its choice prior to entering this lease. Lessee is aware that there is the possibility of asbestos in the building.

b. Fire Marshal. Lessee covenants that its remodel/renovation plans are approved by the State Fire Marshal. Any costs incurred as a result of the plan approvals are the responsibility of Lessee.

c. Americans with Disabilities Act. Lessee covenants that its remodel/renovation plans and improvements are in compliance with the Americans with Disabilities Act.

d. Janitorial and Maintenance Costs. Lessee must pay for janitorial and routine maintenance costs associated with the Premises. Routine maintenance includes repair of damages caused by Lessee or its invitees, light bulb replacement, electrical fixture repairs, painting, maintenance and repair of all renovations and improvements constructed by Lessee, and other items of maintenance and repair not exceeding \$250 each.

e. Destruction. Lessee covenants that if the Premises are destroyed, or if the Premises are determined to be unfit for occupancy, Lessee shall within a reasonable time remove their possessions and vacate the Premises and City shall have no obligation to provide alternative Premises.

f. Assignment. Lessee covenants that it shall not transfer or assign any rights or obligations arising from this lease, or sublet part or all of the leased premises without prior written consent of the City.

g. Waste. Lessee covenants that it shall not commit waste or injury upon the Premises.

h. Safety. Lessee covenants that it shall be solely responsible for maintaining the Premises in a safe and fit condition for its employees and invitees.

i. Hazardous Materials and Hazardous Waste. Lessee covenants that it will not store or handle, except as needed for instructional purposes, hazardous materials on this site and will not dispose of hazardous materials on this site.

Lessee shall comply with all applicable laws and regulations concerning hazardous chemicals and other hazardous materials, and shall properly store, transfer and use all hazardous chemicals and other hazardous materials and not create any environmental hazards on the site leased herein. In no event may Lessee utilize underground storage tanks for the storage or use of hazardous chemicals or other hazardous materials.

Should any hazardous chemicals or hazardous materials of any kind or nature whatsoever, or hazardous wastes be released upon the subject site during the term of this lease, Lessee shall IMMEDIATELY report such release to the City Manager and to any other agency as may be required by law, and Lessee shall, at its own cost, assess, contain and clean up such spilled materials in the most expedient manner allowable by law.

As used herein, "hazardous chemical" means a chemical that is a physical hazard or a health hazard.

As used herein, "hazardous material" means a material or substance determined by federal, state, or local law, to be a hazardous material or which poses a significant health and safety hazard.

As used herein, "hazardous waste" means a hazardous waste as identified by the Environmental Protection Agency, and any other hazardous waste as defined by the federal, state, or local law.

The covenants and obligations described in this article shall survive the termination of this lease.

j. Compliance With Laws. The Lessee covenants to comply with all applicable federal, state, City and local laws and regulations, and acquire all necessary permits to conduct its activities on the site.

k. Authorized Signator. Lessee covenants that the person executing this agreement is authorized to do so, on behalf of the Boys and Girls Club, Homer Alaska.

4. **Repairs.** City will make necessary repairs to the heating, water, electric or sewer/septic systems, except those repairs required of Lessee under paragraph 3d.

5. **Barrier.** City will maintain a barrier at the base of the stairs to prohibit access from upstairs to the downstairs level of the building.

6. **Easements and Rights-of-Way.** The facility subject to this lease is located on real property subject to all easements, rights-of-way, covenants and restrictions of which Lessee has actual or constructive notice. City reserves and retains the right to grant additional easements for utility and public access purposes across the property and nothing herein contained shall prevent City from specifically reserving or granting such additional easements and rights-of way across the property as may be deemed reasonable and necessary. All trails or roads existing at the time this Lease I executed shall be considered an easement for public use.

As the parties agree that this is a reserved right which is reflected in the annual lease rental, in the event that City grants future additional easements or rights-of-way across the property, it is agreed and understood that Lessee shall receive no damages for such grant.

7. **Inspections.** Lessee shall allow City, through its duly authorized representative, to enter and inspect the leased premises at any reasonable time, with or without advance notice to Lessee, to ensure compliance with the terms and conditions of this lease. City's right to enter and inspect shall be exercised at City's sole discretion and the reservation or exercise of this right, and any related action or inaction by City, shall not in any way impose any obligation whatsoever upon City, and shall not be construed as a waiver of any rights of City under this agreement.

8. **Indemnification and Hold Harmless.** To the fullest extent allowed by law, Lessee covenants and agrees to indemnify, save, defend, keep and hold harmless City, its council members, officers, agents, and employees from all damages, costs and expenses in law or equity that may at any time arise or be set up. This clause applies to claims arising from violation of laws, and violation of the terms and covenants of this agreement, damages to property, personal injury, economic loss, loss or damages resulting from all other tangible or intangible losses received by reason of or in the course of Lessee's use, occupancy and activities on the property, whether or not the activity is authorized. Lessee also specifically covenants and agrees that it shall indemnify, defend and hold City harmless from any and all liability or claims, judgments, damages, costs, or tangible and intangible losses, including, but not limited to reasonable attorneys fees, engineers' and consultants' fees, and contractors' fees which arise during or after the term of this lease to the extent such damages or losses are a result of any contamination from hazardous materials, hazardous chemicals and hazardous waste. These covenants shall survive the term of this agreement.

The provisions of this section do not apply to claims based solely on the fault of the Lessor.

9. **Insurance.** The Tenant shall secure, at its own expense, a policy of comprehensive general liability insurance which covers its use and occupancy of the premises or damages to other property which might arise from such use or occupancy. The minimum limits of insurance shall be coverage of not less than \$1,000,000 combined single limit per occurrence. The City of Homer shall be named as additional insured on the policy which shall be primary and exclusive of any coverage maintained by the Landlord. This coverage must be in force at all times during this lease. The policy shall provide at least 60 days actual notice to the City of any cancellation. Failure to maintain the required insurance is grounds for immediate termination. Tenant shall provide a certificate of insurance or such other proof of coverage as the Landlord requires prior to occupancy.

10. **Cancellation by Mutual Agreement.** At any time that this Lease is in good standing it may be canceled in whole or in part upon mutual written agreement by the Lessee and the City Manager. This Lease is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts.

11. **Termination.**

a. Termination for Cause. All terms and conditions of this lease are considered to be material and applicable to the use of the property under this Lease. In the event of Lessee's default in the performance or observance of any of the agreement terms, conditions, covenants and stipulations thereto, and such default continues fourteen (14) calendar days after written notice of the default, City may terminate this lease, or take any legal action for damages or recovery of the property. No improvements may be removed during the time in which the lease is in default.

b. Return of Property. Upon cancellation under Section 10 or termination of this Lease by either party, Lessee covenants and agrees to return the property to City in a neat, clean and sanitary condition, and to remove all items of personal property subject to the terms and conditions of paragraph 14 below, within 45 days.

c. Hazardous Substance Breach. In the event Lessee breaches any provisions prohibiting the release of hazardous chemicals, hazardous materials or hazardous waste upon the property, and fails to immediately terminate the operation causing such release upon notice from City, then City may immediately terminate this lease agreement without further notice to Lessee.

12. **Violation.** Violation of any of the terms of this lease may expose Lessee to appropriate legal action including forfeiture of leasehold interest, termination, or cancellation of its interest in accordance with state law.

13. **Notice of Default.** Notice of the default, where required, will be in writing and as provided in the Notice provision of this agreement.

14. **Entry or Re-entry.** In the event that the Lease is terminated, canceled or forfeited, or in the event that the demised facility or any part thereof, should be abandoned by the Lessee during the agreement term, City or its agents, servants or representative, may immediately or any time thereafter, enter or re-enter and resume possession of said lands or such part thereof, and remove all persons and property therefrom either without judicial action where appropriate, by summary proceedings or by a suitable action or proceeding at law or equity without being liable for any damages therefor. Entry or re-entry by City shall not be deemed an acceptance of surrender of the contract.

15. **Removal or Reversion of Improvements Upon Termination of Lease.** Upon termination or cancellation of the lease, Lessee shall provide a list of improvements made to the site by Lessee.

a. With the written approval of City the improvements on the property made by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by Lessee; provided such removal shall not cause injury or damage to the facility; and further provided that the City Manager may extend the time for removing such improvements in cases where hardship is proven. The Lessee may dispose of its improvements to a succeeding Lessee with the consent of the City Manager.

b. If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon written notice to the Lessee under the terminated or canceled contract, be sold at public sale under the direction of the City Manager. The proceeds of the sale shall inure to the Lessee who placed such improvements and/or chattels on the lands or facility, or its successors in interest, after paying to City all monies due and owing plus all costs, fees and expenses incurred in storing the goods and making such a sale. In case there are no other bidders at any such sale, the City Manager is authorized to bid, in the name of City, on such improvements and/or chattels. The bid money shall be taken from the fund to which said sites belong, and the fund shall receive all moneys or other value subsequently derived from the sale or leasing of such Improvements

and/or chattels. City shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase

c. If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the City Manager, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in City. Upon request, the purchaser, Lessee, or permittee shall convey said improvements and/or chattels by appropriate instrument to City.

16. Rental for Improvements or Chattels not Removed. Any improvements made by Lessee and/or chattels belonging to the Lessee or placed on the site during its tenure with or without Lessee's permission and remaining upon the premises after the termination or cancellation of the contract shall entitle City to charge a reasonable rent, unless City specifically requests that the improvement or chattel not be removed by the Lessee.

17. Notice. Any notice or demand, which under the terms of this Lease must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addresser.

All notices shall be sent to both parties as follows:

<u>Lessor</u>	<u>Lessee</u>
City of Homer	Boys & Girls Club
City Manager	705 Frontage Rd.
491 East Pioneer	Avenue Suite B
Homer, AK 99603	Kenai, Alaska 99611

18. Responsibility of Location. It shall be the responsibility of the Lessee to properly locate itself and its improvements on the portion of the facility subject to this lease.

19. Liens and Mortgages. Lessee shall not cause or allow any liens of any kind or nature whatsoever to attach to the property during the term of this lease.

20. Non-Waiver Provision. The receipt of payment by City, regardless of City's knowledge of any breach by Lessee, or of any default on the part of the Lessee

in observance or performance of any of the conditions or covenants of this agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of City to enforce any covenant or provision herein contained shall not discharge or invalidate such covenant or provision or affect the right of City to enforce the same in the event of any subsequent breach or default. The receipt by City of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and the payment fully satisfies the breach.

21. **Jurisdiction.** Any suits filed in connection with the terms and conditions of this Lease, and of the rights and duties of the parties, shall be filed and litigated in the trial courts of the State of Alaska, Third Judicial District at Homer, and shall be governed by Alaska law.

22. **Severability Clause.** Should any provision of this Lease fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of this Lease or constitute any cause of action in favor of either party as against the other.

23. **Binding Effect.** It is agreed that all covenants, terms and conditions of this agreement shall be binding upon the successors, heirs and assigns of the original parties hereto.

24. **Titles of Articles.** The titles of articles in this lease are for ease of reference and are not definitional nor limits the content of the articles.

25. **Full and Final Agreement.** This agreement constitutes the full and final agreement of the parties hereto and supersedes any prior or contemporaneous agreements. This agreement may not be modified orally, or in any manner other than by an agreement in writing and signed by both parties or their respective successors in interest. Lessee avers and warrants that no representations not contained within this agreement have been made with the intention of inducing execution of this agreement.

BOYS & GIRLS CLUB

Natasha Ala
Natasha Ala, Executive Director
Boys & Girls Club
Dated: 4-23-12

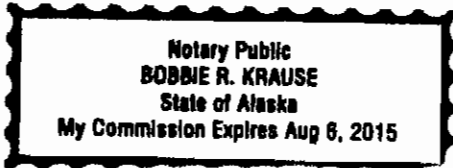
CITY OF HOMER

Walt Wrede
Walt Wrede, City Manager
Dated: 4/23/12

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 23 day of April, 2012, by Walt Wrede, City Manager of the City of Homer, an Alaska municipal corporation, on behalf of the corporation.



Bobbie R Krause
Notary Public in and for Alaska
My commission expires: 08/06/2015

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 23 day of April, 2012, by Natasha Ala, Executive Director, Boys & Girls Club.

Alice L Woodard
Notary Public in and for Alaska
My commission expires: June 11, 2015

Return to: City of Homer
City Manager
491 East Pioneer Avenue
Homer, AK 99603





**BOYS & GIRLS CLUBS
OF THE KENAI PENINSULA**

Programs Office
705 Frontage Road
Suite B
Kenai, Alaska 99611
907.283.2882
907.283.8190 Fax
www.positiveplaceforkids.com

Club Locations

Homer
Kenai
Kenai Teen Center
Nikiski
Seward
Soldotna

Board of Directors

Mike Navarre, President
Kelly Bookey, Vice President
Jim Montgomery,
Secretary/Treasurer
Peter Micciche, Past President
Margaret Anderson
Camille Sorensen
Tim Redder
Shelli Furlong
Monica Sallee
Jeff Sellinger
Ron Long
Rep, Mike Chenault

Executive Director

Natasha Ala

Cornerstone Contributors



Wednesday, June 20, 2012

Walt Wrede, City Manager
City of Homer
491 E. Pioneer Ave.
Homer, AK 99603

Dear Mr. Wrede;

As a long-term tenant of your facility, the Boys & Girls Clubs of the Kenai Peninsula would like we express our sincere appreciation for allowing us to occupy the bottom floor, and gymnasium, of your building for the past eleven years. We find this space to be ideal in its proximity to other schools, ideal in its amount of space and ideal in that we can prepare and serve our free snacks and meals utilizing the kitchen. In order to continue to secure adequate funding for our Homer program, the Boys & Girls Club Board of Directors is requesting that our current lease on the property be extended through December 31, 2014, at the current rate of \$750 per month.

In addition, the Boys & Girls Club Board of Directors would like to reiterate our commitment to working with the City of Homer in successfully securing funding for improvements and renovations needed for the entire building. We are sincerely committed to acquiring needed funding to turn this facility into a valued asset for the City of Homer.

Thank you for your consideration of our request to extend our current lease and please feel free to contact us if you have any questions.

Sincerely,

Kelly Bookey, Vice President

Natasha Ala, Executive Director

GREAT FUTURES START HERE.



**BOYS & GIRLS CLUBS
OF THE KENAI PENINSULA**

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Tim Redder
Shelli Furlong
Monica Sallee
Jeff Sellinger
Ron Long
Rep, Mike Chenault

Executive Director

Natasha Ala

Wednesday, June 20, 2012

Walt Wrede, City Manager
City of Homer
491 E. Pioneer Ave.
Homer, AK 99603

Dear Mr. Wrede;

As the City of Homer moves forward with consideration of capital improvement projects to add to its CIP list, the Boys & Girls Club of the Kenai Peninsula's Board of Directors would like to express our complete dedication to partnering with the City of Homer on improvements and renovations to the property currently leased by our organization. As your partner we will actively pursue grants, capital funding, as well as pursue corporate and individual giving to assist the City of Homer in costs associated with renovations to the building. We earnestly believe that, as your partner, our organization could successfully help secure funding for all renovation costs.

We encourage the City of Homer to consider adding this property to the Homer CIP list and we thank you for your consideration of our request. Please feel free to contact us regarding any question you may have.

Sincerely,

Kelly Bookey, Vice President

Cornerstone Contributors



GREAT FUTURES START HERE.

Walt Wrede
City Manager
City of Homer
491 E. Pioneer Avenue
Homer, AK 99603-7624

December 4, 2012

Dear Mr. Wrede;

The Boys and Girls Club of the Kenai Peninsula would like to reiterate our continued interest in renewing the lease agreement for the HERC building with the City of Homer. The Homer Boys & Girls Club has served the youth for over ten years at the current location and it is our intension to remain in the community providing afterschool and summer programing for the families of Homer. We kindly request an extension on the current lease through December 31, 2014.

Our trained, professional staff provide a safe and positive afterschool and summer program that is available for all Homer youth - *regardless of their ability to pay*. Our staff assists kids in achieving academic excellence through homework support and mentoring programs. Our structured daily activities such as arts and crafts, games and gym time provide youth a safe and predictable daily environment where they can feel safe and supported. Because of our access to kitchen facilities we are able to provide free daily snacks. During the summer months we are able to provide a free breakfast and lunch, to not only our registered members, but to any child in Homer who is present for the meal.

It is our sincere desire that the Homer City Council votes to renew the Boys & Girls Clubs lease in the HERC building, thereby allowing us to continue our mission in serving the youth of Homer.

Sincerely,



Mike Navarre, Board President



**BOYS & GIRLS CLUBS
OF THE KENAI PENINSULA**

Programs Office
705 Frontage Road Suite B
Kenai, Alaska 99611
907.283.2662
907.283.8190 Fax
www.positiveplaceforkids.com

Club Locations

Homer
Kenai
Kenai Teen Center
Nikiski
Seward
Soldotna
Kasilof

Board of Directors

Mike Navarre, President
Kelly Boockey, Vice President
Jim Montgomery,
Secretary/Treasurer
Peter Micciche, Past President
Margaret Anderson
Camille Sorensen
Tim Redder
Shelli Furlong
Jeff Selinger
Ron Long
Scott Griffith
Kelly Cooper
Rep. Mike Chenault

Executive Director

Natasha Ala

Cornerstone Contributors

ConocoPhillip

bp



central
peninsula
hospital



GREAT FUTURES START HERE.

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

