

Session 13-06 a Regular Meeting of the Homer City Council was called to order on February 25, 2013 at 6:02 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 (telephonic),
LEWIS, ROBERTS, ZAK

STAFF: CITY MANAGER WREDE
CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER
FINANCE DIRECTOR MAURAS
LIBRARY DIRECTOR HILL
PORT AND HARBOR DIRECTOR HAWKINS
PUBLIC WORKS DIRECTOR MEYER

Councilmember Howard has requested telephonic participation.

Mayor Wythe called for a motion to allow Councilmember Howard to participate by telephone.

BURGESS/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Council met as a Committee of the Whole from 5:00 p.m. to 5:57 p.m. to discuss Consent Agenda 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 agenda was approved by consensus of the Council with the following changes:

PUBLIC HEARINGS - **Ordinance 13-03(S)(2)**, An Ordinance of the City Council of Homer, Alaska, Authorizing the City to Issue a Natural Gas Distribution Special Assessment Bond in the

Principal Amount of Not to Exceed \$12,700,000 to Finance the Design and Construction of Natural Gas Distribution Improvements in the City, Fixing Certain Details of Such Bond and Authorizing Its Sale; and Repealing HCC Chapter 17.08. City Manager; Loan Agreement; **CITY MANAGER'S REPORT** - Thank you from the Kenai Peninsula Economic Development District for sponsoring the 2013 Industry Outlook Forum; and Homer Volunteer Fire Department Letter of Commendation to Firefighters. Housekeeping issues to agenda: change the order of Ordinance 13-03 and substitute & Resolution 13-017 and substitute.

Mayor Wythe called for a motion to approve the agenda.

BURGESS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Karin Marks, city resident, supports Resolution 13-021. She was part of the committee to make the recommendation. With minimal expense most of the businesses in town will benefit.

Larry Slone, city resident, commented on Memorandum 13-022. He suggested an RFP for the parcel and to provide the Wooden Boat Society bonus points due to their service to the community.

Scott Adams, city resident, spoke on Resolution 13-022. He sees the economic benefits of the drill rig since the hotels are full and people are working. The City is making money.

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 and Regular meeting minutes of February 11, 2013. City Clerk. Recommend adoption.

- B. **Memorandum 13-029**, from Mayor, Re: Appointment of Merry Maxwell to the Economic Development Advisory Commission.
- C. **Memorandum 13-032**, from City Manager Wrede, Re: Tract 1-A, Fishing Hole Subdivision #2.
- D. **Resolution 13-021**, A Resolution of the City of Homer, Alaska, Approving Seasonal Day Use Parking at the Homer Education and Recreation Center Parking Lot and Authorizing the City Manager to Work with the State for Signage as Needed. City Manager. Recommend adoption.

Memorandum 13-031 from Community and Economic Development Coordinator and Planning Technician as backup.

- E. **Resolution 13-022**, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Seek Proposals for Analysis of the Economic Impacts of the Drill Rig. Mayor/Burgess. Recommend adoption.

Mayor Wythe called for a motion for the approval of the recommendations of the consent agenda as read.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

- A. **Esther Hammerschlag**, Homer Prevention Project

Esther Hammerschlag, Project Director for Homer Prevention Project, provided an overview of the project designed to reduce underage drinking and adult binge drinking. The project was born out of MAPP (Mobilizing for Action through Planning and Partnership). They have just completed their strategic plan. There are many participants in the project that include over two dozen groups in the community. For more information: www.homerpreventionproject.org or call 235-0570.

**ANNOUNCEMENTS/PRESENTATIONS/BOROUGH
REPORTS**

REPORT/COMMISSION

A. Borough Report

B. Commissions/Board Reports:

1. Library Advisory Board

Eileen Faulkner, Chair of the Library Advisory Board, reported the computer program at the library is progressing with the program to start March 28th. March 4th – 7th the trainer will be at the library. The library will be closed to the public on Monday and Tuesday, March 4th and 5th, for staff training. The outreach partnership program with Best Beginnings is going well. As part of a grant Claudia travels to McNeil Canyon School weekly and Razdolna every other week for story hour. The final week of Big Read is this week. Tim O'Brien, author of *The Things They Carried* will give a presentation on March 1st at the Mariner Theatre. Board members are needed to fill vacancies. Interested persons are encouraged to apply.

2. Homer Advisory Planning Commission

3. Economic Development Advisory Commission

Josh Ross, Economic Development Advisory Commissioner, reported on the commission's work. They have been discussing marketing Homer for high tech businesses, revitalizing downtown Homer, and promoting Homer as an agricultural center. They have heard a lot of presentations from business owners on their ideas and concerns. A small group was formed to explore downtown revitalization. They came up with ideas for RV parking as outlined in Resolution 13-021.

4. Parks and Recreation Advisory Commission

Tricia Lillibridge, Parks and Recreation Advisory Commissioner, reported on the commission's work. They have been working on the Karen Hornaday Park playground and park projects, and the Diamond Creek recreation area. Council will be getting reports on the Diamond Creek area to approve. It is hoped a new pavilion can be constructed this summer at Karen Hornaday Park. A subcommittee was formed and has a pavilion design. The plan is the old pavilion will be taken down to be reused near the T-ball fields. The design was passed by the commission and forwarded to Public Works. There is a wonderful outdoor fire pit design, safe against the weather and winds, and has separate departments for multi users. Grass and walking trails will be used. The project will take a week to complete. Reservations will be handled through parks and

recreation department. HoPP has another piece of playground equipment to install. The commission reviewed the Land Allocation Plan and forwarded their recommendations. The Kachemak Drive Path Committee is still in effect; it has not been disbanded. There is a lot of work to do on the trail.

5. Port and Harbor Advisory Commission

Mayor Wythe recused herself due to her ongoing conflict of interest on the gas line and passed the gavel to Mayor Pro Tempore Roberts.

PUBLIC HEARING(S)

- A. **Ordinance 13-03**, An Ordinance of the City Council of Homer, Alaska, Authorizing the City to Issue a Natural Gas Distribution Special Assessment Bond in the Principal Amount of Not to Exceed \$12,700,000 to Finance the Design and Construction of Natural Gas Distribution Improvements in the City, Fixing Certain Details of Such Bond and Authorizing Its Sale; and Repealing HCC Chapter 17.08. City Manager. Introduction January 28, 2013, Public Hearings February 11 and 25, 2013, and Second Reading February 25, 2013.

Ordinance 13-03(S), An Ordinance of the City Council of Homer, Alaska Authorizing the City to Issue a Natural Gas Distribution Special Assessment Bond in the Principal Amount of not to Exceed \$12,700,000 to Finance the Design and Construction of Natural Gas Distribution Improvements in the City, Fixing Certain Details of Such Bond and Authorizing its Sale; and Repealing HCC Chapter 17.08. City Manager.

Memorandum 13-030 from City Manager as backup.

Ordinance 13-03(S)(2), An Ordinance of the City Council of Homer, Alaska Authorizing the City to Issue a Natural Gas Distribution Special Assessment Bond in the Principal Amount of not to Exceed \$12,700,000 to Finance the Design and Construction of Natural Gas Distribution Improvements in the City, Fixing Certain Details of Such Bond and Authorizing its Sale; and Repealing HCC Chapter 17.08. City Manager.

Mayor Pro Tempore Roberts opened the public hearing. In the absence of public testimony Mayor Pro Tempore Roberts closed the public hearing.

Mayor Pro Tempore Roberts called for a motion to substitute Ordinance 13-03(S)(2) for Ordinance 13-03.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Pro Tempore Roberts called for a motion for the adoption of Ordinance 13-03(S)(2) by reading of title only for second and final reading.

LEWIS/BURGESS - SO MOVED.

Councilmember Burgess asked the City Attorney if the Borough could compel the City to foreclose on property in arrears of the assessment. Or can the Borough simply enforce that we must place the lien?

City Attorney Klinkner answered the lien is statutory and imposed on the property at the time assessments are levied. It is an automatic process and does not require any discretionary action on the part of the City. The City needs to use due diligence of enforcement of the assessments to raise the funds to pay the loan. The City is not compelled to foreclosure on a property to satisfy a lien.

Mayor Pro Tempore Roberts noted Council talked about the loan agreement at the Committee of the Whole and investigated all the changes in Ordinance 13-03(S)(2).

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

Motion carried.

Mayor Pro Tempore Roberts passed the gavel back to Mayor Wythe.

- B. **Ordinance 13-04**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a 2012 Emergency Management Performance Grant from the State Division of Homeland Security and Emergency Management in the Amount of \$5,000 for an Update to the Emergency Operations Plan and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Fire Chief. Introduction February 11, 2013, Public Hearing and Second Reading February 25, 2013.

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 13-04 by reading of title only for second and final reading.

BURGESS/LEWIS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 13-05**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2013 Operating Budget by Appropriating \$10,500 from the General Fund for Emergency Relief to Pay Immediate Dislocation Expenses Incurred by the Tenants of Three Structures Affected by Sewer System Surcharges Caused by Extreme Weather on January 12 Through 14, 2013. City Manager. Introduction February 11, 2013, Public Hearing and Second Reading February 25, 2013.

Memorandum 13-019 from City Manager as backup.

Mayor Wythe opened the public hearing.

Larry Slone, city resident, expressed his support for the City to cover the costs. The City has some obligation if they did not inform the water and sewer user an event such as this was possible. There is a rider a person could put on their insurance policy.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 13-05 by reading of title only for second and final reading.

BURGESS/LEWIS - SO MOVED.

Councilmember Lewis asked if there was any insurance coverage the City could acquire that would cover like acts of deity.

City Manager Wrede answered insurance companies cover anything if you pay; you would be hard pressed to find an insurance company that would cover force majeure.

Councilmember Burgess noted it would be prudent of the City to advise potential new customers and existing customers though a disclaimer that installing a check valve is an option. It would advise people it is a possibility that uncommon things do tend to happen.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

CITY MANAGER'S REPORT

A. City Manager's Report

1. Finance Director Resignation: Finance Director Regina Mauras has accepted a job in Washington State and has tendered her resignation. Her last day at work will be March 8. She will make herself available after that if questions come up. We have started the recruitment

process for this very important position. I would like to thank Regina for all of her dedication and hard work over the past seven years. She has contributed a lot to the City and its financial management. I would especially like to take note of the very significant improvements she made in the areas of internal controls and basic accounting practices. Regina was a real asset and she will be missed.

2. Damage at Water Treatment Plant: At recent meetings the Council was briefed on the extreme weather event that caused damage to the sewer collection system and to three structures in town. Understandably, most of the focus to date has been on the damage to the structures and the displaced tenants. However, there was also extensive damage to the sewer treatment plant itself. We did not realize the extent of the damage at the time but that is now becoming clear. The staff at the treatment plant has performed yeoman's work troubleshooting and making repairs to insure that the plant is functioning properly. Much of this work was done standing in knee deep sewage. Lots of overtime has been needed and these guys deserve a special thank you for keeping the community and Kachemak Bay protected from potential contamination. The bottom line though, is that the cost of repairs now exceeds \$100,000 and could continue to grow. We have not yet brought forward an appropriation ordinance because we did not fully understand the extent of the damage or ultimate cost for repairs and for health and safety reasons, we needed to move fast. At the time this was written, we were considering whether to file an insurance claim. The deductible for this policy is \$100,000. This insurance is for coverage of property damage to property owned by the City and differs from the coverage in place regarding the private structures.

3. Grant Aviation: As you probably heard by now, Grant Aviation is discontinuing service to Homer effective immediately. We are currently in the process of terminating their lease at the terminal and all of the normal steps that entails.

4. Transportation Committee Recommendations: Council recently asked the administration to look into acquiring the ROW that would be needed to push Waddell Way through to Heath St.; an important step in implementing the Transportation Plan. It has come to the City's attention that there is a potential buyer for the property (currently for sale) and PW and Planning have been working with the interested party to see if we can work out a plan that benefits all. There are a number of variables and considerations that come into play when thinking about the best alignment for the proposed east-west corridor. Carey brought this issue to the Transportation Committee at their meeting on the 19th. The Committee gave it careful consideration and its recommendations are attached. We hope to talk about this in some detail at the Committee of the Whole.

5. Emergency Operations Plan Update: Chief Painter has hosted three meeting so far. The next meeting is scheduled for Thursday, February 21. The Emergency Operations Plan is a very important document and we appreciate the volunteers who are participating on the Committee.

6. Trip to Juneau: Next week the Mayor and Katie will travel to Juneau to visit legislators and members of the administration. We have developed a general work plan / agenda on issues to be addressed but any input the Council might have would be most welcome.

7. Harbor Projects; This week I hope to be able to start the harbor revenue bond application process with the Alaska Municipal Bond Bank. The goal is to have the financing in place close to the time the capital budget is approved so that we can keep to the proposed construction schedule.

8. Lillian Walli Estates: The Council requested by resolution that the City initiate the petition process for forming a road, water, and sewer special assessment district in Lillian Walli

Estates. The Planning Department is working on that and is making good progress. Letters of interest went out to all property owners recently.

9. Port and Harbor Rate Study: The adopted budget contains funding for a Port and Harbor Rate Study. We are starting to focus attention on that issue and we should have more information for you soon.

10. Fiscal Impacts of the drill rig Endeavor: At the last meeting we discussed the possible benefits of commissioning a study of the economic impacts associated with the drill rig being moored in Homer. Several Council members expressed interest in doing this. This agenda contains a resolution on that topic sponsored by the Mayor and Council member Burgess to get the issue on the table.

City Manager Wrede reported the deadline for the re-appropriation of the \$2M is March 7th for the capital budget. Both Senator Micciche and Representative Seaton are on board. The Mayor will be talking to them on her upcoming Juneau trip. Council requested re-appropriation of the \$2M to the Skyline Fire Station with remaining funds going towards the Harbormaster's office. The estimate for the Harbormaster's office without the bathrooms is \$2M. After the Skyline Fire Station is built there should be \$1.3M or \$1.4M to put towards the Harbormaster's office.

Council discussed Waddell Way, the proposed east/west corridor from Lake Street to Heath Street. The corridor is a long term goal of the Transportation Plan. The Transportation Advisory Committee recommended the road be placed through the HEA property. A request to purchase the land is before HEA for consideration. There is a potential buyer for the Waddell property. A Worksession will be scheduled when more information is available.

City Manager Wrede reported Council appropriated \$20,000 for survey and engineering work on the Kachemak Drive trail. Public Works Director Carey Meyer has been looking at it closely. The original vision was to angle up the bluff; it is extremely steep in some places. To get a 10-ft. wide pathway bridges and retaining walls would be needed. Carey outlined a different plan for the trail, an extension of the existing trail that goes to the airport. The trail would stay at the toe of the bluff, similar to the Spit trail. His idea was it didn't make sense to spend a lot of money surveying a trail that would be too expensive to build. It received mixed results at the Parks and Recreation Advisory Commission meeting. The resolution approving the survey was not specific about a route; the money was to be used on a survey.

B. Bid Report

C. Games Report

D. Records Inventory Report

E. Other

CITY ATTORNEY REPORT

City Attorney Klinkner was asked by Councilmember Burgess to comment on the input received on the inequity of rendering assessments for the gas line per lot per user to the value of the lot.

City Attorney Klinkner advised there are numerous different methods to assess costs of an improvement to a benefitted property. They include a flat assessment per lot, by square footage, front street footage, square footage to a particular depth, assessed valuation, or by proximity to the improvement. Council approved an improvement plan that proposed assessments on a per lot basis. That is not binding and final at this point. The time that assessments and their method of assessment become binding and final is when the assessment roll is before Council after notice to property owners and their opportunity to object. Council can make adjustments to the assessment roll and the assessment method they think is warranted before the final roll is approved. After the final roll is approved and confirmed by the Council any party dissatisfied with the methodology has thirty days to take the matter to Superior Court. At this point any challenge to the proposed method of assessment is premature. A final challenge has to follow the exhaustion of the remedy by first coming to Council for the relief before going to court. The matter is still open for discussion and deliberation if there is a sentiment amongst Council based on public input that another method is more appropriate. Council may still consider it.

Asked by Councilmember Burgess if the assessment per lot is consistent or out of the norm, Attorney Klinkner advised the courts give the Council broad discretion in determining what is the appropriate method of assessment. The statutory standard is that the method of assessment is proportionate to the benefit received. There is considerable precedent in practice around the state of assessing for natural gas improvements on a per lot basis. It has happened in Mat-Su, within the Kenai Peninsula Borough, and the cities of Kenai and Soldotna. There was one case decided by the Alaska Supreme Court upholding per lot assessments on a road improvement.

Mayor Wythe asked if Council were to make a substantial change in the manner they determine the assessment, would they be required to go back for an objection period? People have said if the assessments are changed on the multi-tenant lots they would have voted differently.

Attorney Klinkner answered when the contract with Enstar is entered the City is contractually committed to the construction of the distribution system. Council cannot go back and undue the district. Property owners can still object to the actual assessments before the assessments are levied. Council would be able to say the condos are assessed as one property and everyone else's assessments would change.

COMMITTEE REPORT

- A. Public Arts Committee
- B. Transportation Advisory Committee

Councilmember Roberts reported the TAC met last week and talked about the Waddell Way connection between Heath Street and Lake Street. The matter will be on Council's agenda in the near future.

- C. Permanent Fund Committee
- D. Lease Committee
- E. Port and Harbor Improvement Committee
- F. Employee Committee Report

PENDING BUSINESS

Mayor Wythe recused herself due to her ongoing conflict of interest on the gas line and passed the gavel to Mayor Pro Tempore Roberts.

- A. **Resolution 13-017**, A Resolution of the City Council of Homer, Alaska, Approving a Contribution in Aid of Construction Agreement (CIAC) Between the City of Homer and Enstar Natural Gas Company for Construction of Improvements Within the Homer Natural Gas Distribution System Special Assessment District, in an Amount Not to Exceed \$12.7 Million. City Manager. (Postponed from February 11, 2013)

Resolution 13-017(S), A Resolution of the City Council of Homer, Alaska, Approving a Contribution in Aid of Construction Agreement (CIAC) Between the City of Homer and Enstar Natural Gas Company for Construction of Improvements Within the Homer Natural Gas Distribution System Special Assessment District, in an Amount Not to Exceed ~~\$12.7 Million~~ **\$12,160,632**. City Manager. (Postponed from February 11, 2013)

Mayor Pro Tempore Roberts called for a motion to substitute Resolution 13-017(S) for Resolution 13-017.

LEWIS/BURGESS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

City Manager Wrede noted the only difference is the number. Resolution 13-017 had the \$12.7M figure which is the amount we are borrowing. The \$12,160,632 is the actual construction amount. The difference is the administration fees that are built in. He asked for postponement as the agreement is not yet ready. They are having a vigorous discussion about the free main allowance. Postponing will not be a major setback as the funds will not be available until March 19 when the Borough takes up the loan agreement.

LEWIS/BURGESS - MOVED TO POSTPONE TO OUR MARCH 11TH MEETING.

Councilmember Burgess commented the agreement obligates Enstar to build out a 2" line. Some areas may have higher volume.

City Manager Wrede answered that is covered in the agreement. Enstar has discretion to oversize the pipe in an area with a lot of development. They do that at their own expense.

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

Motion carried.

Mayor Pro Tempore Roberts passed the gavel back to Mayor Wythe.

NEW BUSINESS

RESOLUTIONS

COMMENTS OF THE AUDIENCE

There were no comments of the audience.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner had no comment.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comment.

COMMENTS OF THE CITY MANAGER

City Manager Wrede said goodbye to Regina and wished her well. She is moving on to another job in the state of Washington. He will miss her husband, his water delivery guy.

COMMENTS OF THE MAYOR

Mayor Wythe wished Regina well.

COMMENTS OF THE CITY COUNCIL

Councilmember Howard's comments were inaudible.

Councilmember Lewis echoed Walt and Beth's remarks about Regina and wished her the best of luck.

Councilmember Burgess dittoed the comments and thanked everybody.

Councilmember Roberts said goodbye to Regina. She will really miss her, especially during budget time. She does a great job during budget time, having everything organized and on the internet so the community can see it. In the laydown packet there is a commendation from the Fire Chief about three young firemen. Their quick thinking saved a structure from burning. She thanked all the firemen in the community.

Councilmember Dolma and Zak had no comments.

ADJOURNMENT

There being no further business before the Council, Mayor Wythe adjourned the meeting at 7:16 p.m. The next Regular Meeting is Monday, March 11, 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.

JO JOHNSON, CMC, CITY CLERK

Approved: _____