

# 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

## **M E M O R A N D U M – AGENDA CHANGES/SUPPLEMENTAL PACKET**

TO: MAYOR WYTHE AND HOMER CITY COUNCIL  
FROM: JO JOHNSON, CMC, CITY CLERK   
DATE: MARCH 11, 2013  
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

### **CONSENT AGENDA**

Letters from Borough Clerk voicing non-objection to Liquor License Renewals for Don Jose's, Homer Liquor and Wine Company, Patel's, and Patel's #2. Page 1

Substitute Resolution 13-023(S), A Resolution of the City Council of Homer, Alaska, Noting the Sufficiency of the Petition for the Webber Subdivision Road Reconstruction and Paving Special Assessment District and Setting the Public Hearing Date for May 28 ~~13~~, 2013. Page 5

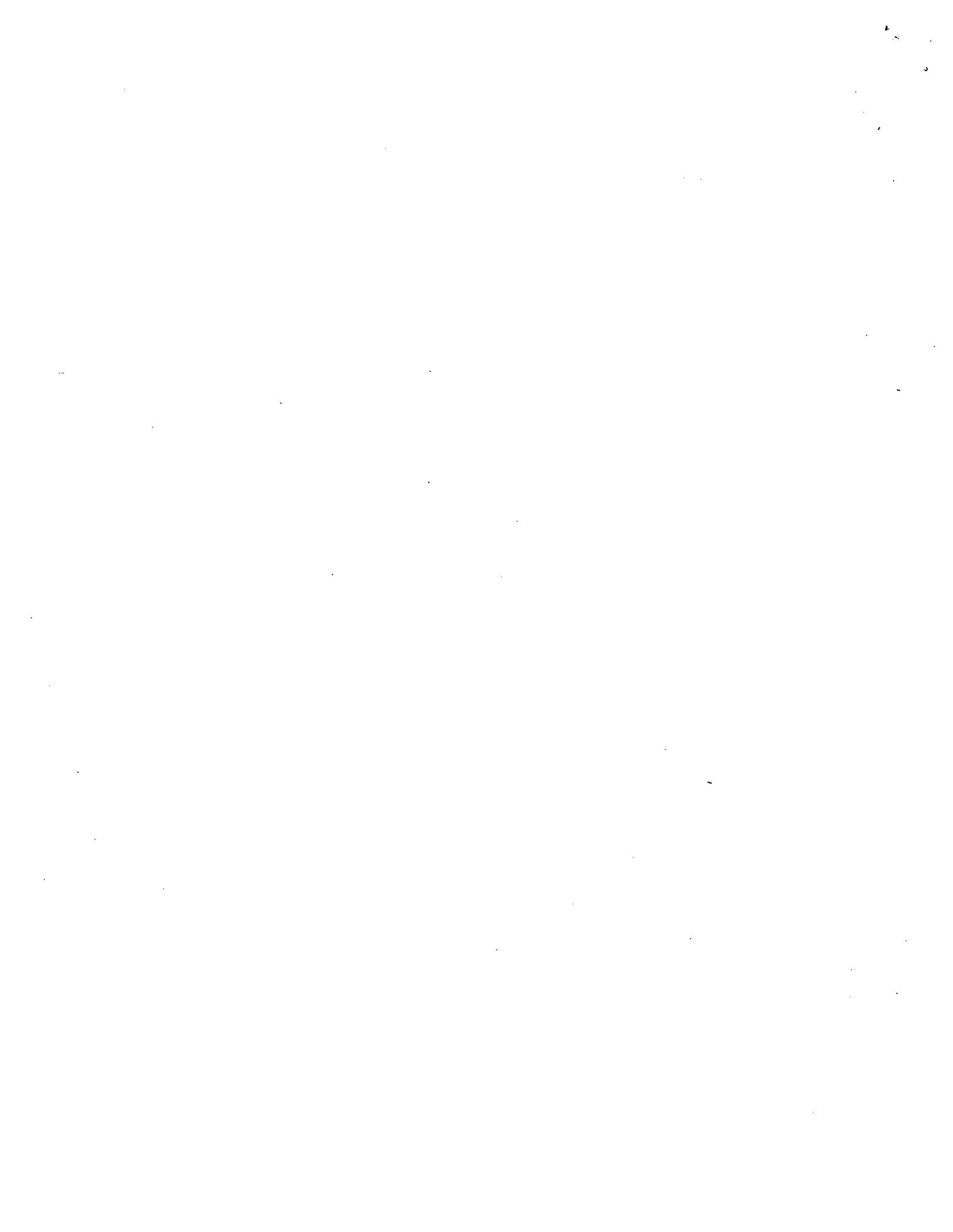
### **CITY ATTORNEY REPORT**

City Attorney report for February, 2013. Page 7

### **RECOMMENDATION:**

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A





## **KENAI PENINSULA BOROUGH**

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2160 • FAX: (907) 714-2388

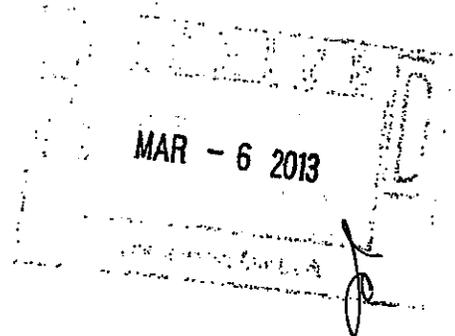
Toll-free within the Borough: 1-800-478-4441 Ext. 2160

Email: [assemblyclerk@borough.kenai.ak.us](mailto:assemblyclerk@borough.kenai.ak.us)

**JOHNI BLANKENSHIP, MMC**  
BOROUGH CLERK

March 1, 2013

Ms. Christine Lambert  
Records & Licensing Supervisor  
Alcoholic Beverage Control Board  
5848 E. Tudor Road  
Anchorage, Alaska 99507-1286



RE: Non-Objection of License Renewal

Business Name	:	Don Jose's Mexican Restaurant
License Type	:	Beverage Dispensary
License Location	:	City of Homer
License No.	:	2522

Dear Ms. Lambert,

This serves to advise that the Finance Department has reviewed the above referenced application and has no objection to the renewal of this license.

Should you have any questions, or need additional information, please do not hesitate to contact our office.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

JB/mlt

cc: Applicant  
City of Homer  
KPB Finance Department  
File



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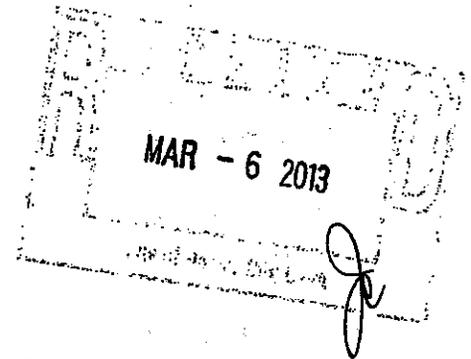
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**BOROUGH CLERK**

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Records & Licensing Supervisor  
Alcoholic Beverage Control Board  
5848 E. Tudor Road  
Anchorage, Alaska 99507-1286



RE: Non-Objection of License Renewal

Business Name	:	Homer Liquor & Wine Company
License Type	:	Package Store - Seasonal
License Location	:	City of Homer
License No.	:	2531

Dear Ms. Lambert,

This serves to advise that the Finance Department has reviewed the above referenced application and has no objection to the renewal of this license.

Should you have any questions, or need additional information, please do not hesitate to contact our office.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

JB/mlt

cc: Applicant  
City of Homer  
KPB Finance Department  
File



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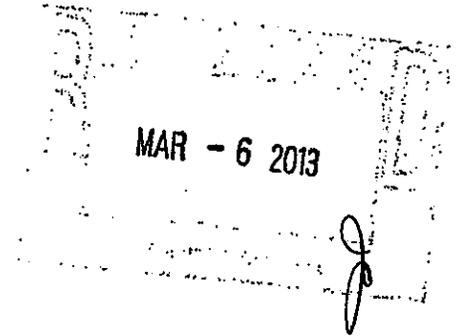
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BOROUGH CLERK

March 1, 2013

Ms. Christine Lambert  
Records & Licensing Supervisor  
Alcoholic Beverage Control Board  
5848 E. Tudor Road  
Anchorage, Alaska 99507-1286



RE: Non-Objection of License Renewal

Business Name	:	Patel's
License Type	:	Package Store - Seasonal
License Location	:	City of Homer
License No.	:	3176

Dear Ms. Lambert,

This serves to advise that the Finance Department has reviewed the above referenced application and has no objection to the renewal of this license.

Should you have any questions, or need additional information, please do not hesitate to contact our office.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

JB/mlt

cc: Applicant  
City of Homer  
KPB Finance Department  
File



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**BOROUGH CLERK**

March 1, 2013

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Records & Licensing Supervisor  
Alcoholic Beverage Control Board  
5848 E. Tudor Road  
Anchorage, Alaska 99507-1286

MAR - 6 2013

RE: Non-Objection of License Renewal

Business Name	:	Patel's #2
License Type	:	Package Store
License Location	:	City of Homer
License No.	:	3472

Dear Ms. Lambert,

This serves to advise that the Finance Department has reviewed the above referenced application and has no objection to the renewal of this license.

Should you have any questions, or need additional information, please do not hesitate to contact our office.

Sincerely,

Johni Blankenship, MMC  
Borough Clerk

JB/mlt

cc: Applicant  
City of Homer  
KPB Finance Department  
File

**CITY OF HOMER  
HOMER, ALASKA**

City Clerk

**RESOLUTION 13-023(S)**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, NOTING THE SUFFICIENCY OF THE PETITION FOR THE WEBBER SUBDIVISION ROAD RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT AND SETTING THE PUBLIC HEARING DATE FOR MAY 28 13, 2013.

WHEREAS, A petition for road reconstruction and paving improvements for property owners within the Webber Subdivision was circulated from December 28, 2012 to February 26, 2013; and

WHEREAS, Pursuant to HCC 17.04.040(a)(2) the sufficiency of the petition requires signatures of not less than one half in value of the real property in the proposed improvement district; and

WHEREAS, Signatures from property owners in favor of the road reconstruction and paving improvements equal 61.4%; and

WHEREAS, A neighborhood meeting has been scheduled for March 13, 2013; and

WHEREAS, The notice of public hearing and statement of objection form will be sent to property owners by certified mail in accordance with HCC 17.04.050(a).

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council notes the sufficiency of the petition for the Webber Subdivision Road Reconstruction and Paving Special Assessment District and sets a public hearing date of May 28 13, 2013.

PASSED AND ADOPTED by the City Council of Homer, Alaska this 11<sup>th</sup> day of March, 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

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JO JOHNSON, CMC, CITY CLERK

Fiscal Note: Staff time and certified mail fees.



## MEMORANDUM

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: THOMAS F. KLINKNER**

**RE: CITY ATTORNEY REPORT FOR FEBRUARY 2013**

**CLIENT: CITY OF HOMER**

**FILE NO.: 506,742.18**

**DATE: MARCH 8, 2013**

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The following summarizes our activities as City Attorney during the month of February 2013.

City Council. I attended the February 11 and 25, 2013 City Council meetings. I attended the second meeting principally to be available to assist with questions regarding the Borough's loan to finance the natural gas distribution system.

I have been asked to prepare an opinion regarding elected officials with a conflict of interest in a matter testifying before the Council on the matter as private citizens, and I am continuing to research this question, which presents important first amendment issues. There has been a recent helpful U.S. Supreme Court decision that addresses related issues regarding the first amendment rights of elected officials in relation to ethics legislation that I will address in the opinion.

City Clerk. The City Clerk's office received an application for a referendum petition to repeal the ordinance banning plastic bags. I advised the City Clerk regarding the sufficiency of the application and its certification, as well as the preparation and issuance of a referendum petition. I also advised the City Clerk regarding referendum procedure generally.

City Manager. I continued to monitor the AML/JIA response to potential claims from the sewer system backup, and prepared an ordinance appropriating funds for emergency relief to residents who incurred damage from the backup.

Seawall. I analyzed the Corps of Engineers decision denying the City's application to modify its permit for the seawall, and recommended that the City not appeal the decision. Although the City is not appealing, I anticipate a continuing dialogue between the City administration and the Corps regarding maintenance of the seawall.

Natural Gas Distribution System. The City Manager and I completed negotiations with ENSTAR regarding its contract to construct the natural gas distribution system. The contract will be before the Council for approval at its March 11, 2013 meeting.

Planning Department. I drafted ordinances amending regulations for the Marine Commercial and Marine Industrial zoning districts, and an ordinance rezoning parts of the Homer Spit. These two ordinances implement the adopted Homer Spit Plan.

City of Homer v. Shadle. Mr. Shadle has elected not to retain counsel in this zoning enforcement action, instead seeking representation from his engineer, former Council member Doug Stark. Authorization to practice law has not yet become an issue, but it may. This case is scheduled for trial in June. I will continue efforts to persuade Mr. Shadle and Mr. Stark to submit sufficient plans for the work required to restore the site of Mr. Shadle's former sand and gravel extraction operation.

Port and Harbor. The controversy between the City and former Council member Kevin Hogan took a new turn, as Wells Fargo Bank notified the City that The Auction Block Company, Mr. Hogan's fish brokering business, was in default under its leasehold deed of trust on the lot that an affiliated company, Harbor Leasing, LLC, had leased from the City. Holly Wells and I are monitoring the situation, and exploring the options that the City has: if the matter proceeds to foreclosure, or if either Mr. Hogan or Wells Fargo seeks to assign the lease to a third party.

The Auction Block Company v. City of Homer. Holly Wells and Adam Cook prepared a motion to strike the reply brief filed on behalf of The Auction Block Company. They determined that they were compelled to do so to protect the City's interest in response to Auction Block's flouting of the discovery rules and specific orders of the administrative law judge to produce documents necessary to the City's defense. Notwithstanding its failure to comply with these document production requirements, Auction Block attempted to rely on information from the withheld documents in its reply brief—hence the motion to strike. It is regrettable that the City has been put to such expense to defend both Mr. Hogan's weak claim and his dodgy litigation tactics.

Holly Wells will be available to answer questions regarding these matters at the March 11, 2013 Council meeting.

cc: Walt Wrede  
Jo Johnson