



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

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MEMORANDUM AGENDA CHANGES/SUPPLEMENTAL PACKET

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: SEPTEMBER 9, 2013

SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

PUBLIC HEARINGS

Resolution 13-087(A), A Resolution of the Homer City Council Adopting the 2014-2019 Capital Improvement Plan and Establishing Capital Project Legislative Priorities for Fiscal Year 2015. Mayor/City Council.

Memorandum 13-131 from Community and Economic Development Coordinator as backup

Page 3

Written public comments

Page 7

CITY ATTORNEY REPORT

City Attorney Report of August, 2013

Page 19

RECOMMENDATION:

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A



City of Homer

www.cityofhomer-ak.gov

Administration

491 East Pioneer Avenue
Homer, Alaska 99603

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum 13-131

TO: Mayor Wythe and Homer City Council
THROUGH: Walt Wrede, City Manager
FROM: Katie Koester, Community and Economic Development Coordinator
DATE: September 4, 2013
SUBJECT: Public Safety Building Site Assessment

The purpose of this memo is to provide information on the possible site locations for a Public Safety Building.

Things to keep in mind when selecting a site for a Public Safety Building include: ease of ingress and egress, ease of access by the public, ease of access to customer (police, fire and EMS incidents), minimum of 1.5 acres, and clearly out of a tsunami zone.

Staff considered 8 possible sites for the location of a new public safety building. After a site visit with the Chiefs on September 3 and closer inspection, 5 sites remained on the list. The three lots that were ruled out and reasons included:

- a) Private/CIRI lots along the Sterling Highway west of Petro Express. There is no water and sewer at those lots and space is limited. Lots may be in a tsunami zone.
- b) Waddell lot on the corner of Sterling Highway and Main Street. Too valuable of real estate for civic purpose and lot may be in a Tsunami zone.
- c) Waddell cabins behind Post Office. Lot is too small.

The remaining lots are divided into two tiers, tier one being the preferred lots. Pros and cons for the various lots are listed on the following pages. Refer to the map Potential Public Safety Building Sites for a visual.

TIER ONE:

1) HERC Site

This would involve tearing down both structures on the HERC building lot. The demolition cost for that is projected to be \$450,000 (\$250,000 to remove asbestos and lead based paint and \$200,000 for demolition of structures).

PRO	CON
City owns the property	Have to demo existing structures
Access: direct access to Sterling Hwy and easy access to Pioneer	Located at a complicated, busy intersection. Off of Main more ideal. Could mitigate with stop light controls.
Plenty of room. Potential for future growth and/or other City facilities on same lot.	Small creek runs through lot (can be mitigated)
Already developed land: limited permitting, utilities are already on location	Fire is concerned the distance from the Spit may cause ISO ratings to increase for spit structures
View	Too valuable of real estate for a public building?
Could offer two accesses (public could enter off Woodside, fleet could roll onto Sterling on other side of lot).	

2) Main Street Site (Town Center)

PRO	CON
A civic building could initiate development of Town Center.	Lot needs utilities and road/driveway, however would not have that far to travel
Would clean up an area of town that could use a police presence	Added expense of acquiring the lot (maybe a land trade?)
Great access right off Main	May have to/want to acquire Homer Cleaning Center lot: could be some remediation issues with dry cleaning chemicals
Would be easy for public to find	
Buildable: little elevation gain, cleared	

TIER TWO

1) Pioneer Site (Town Center)

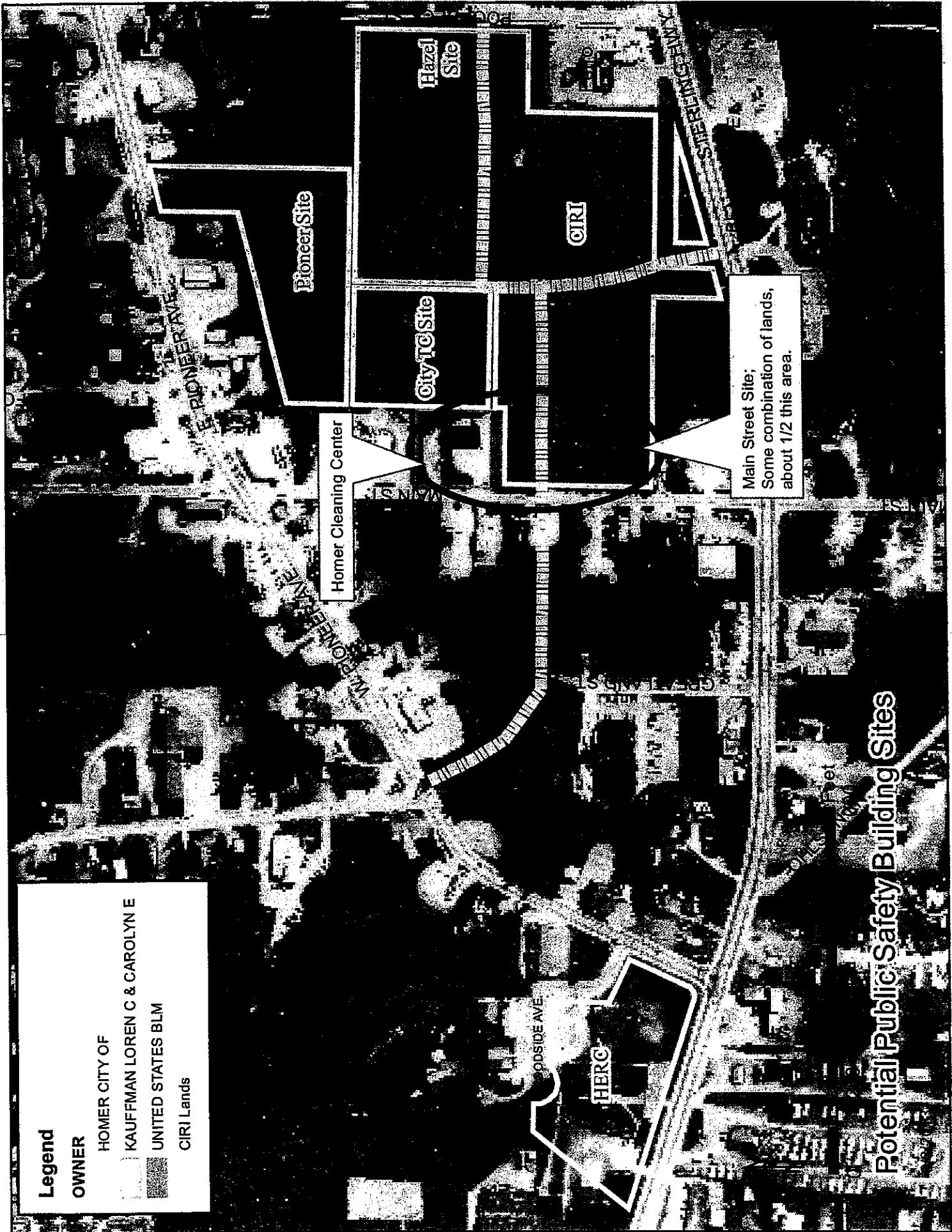
PRO	CON
A civic building could initiate development of Town Center	Extra expense brining infrastructure (utilities and roads) to lot
City owns the property	Would have to acquire a private lot in order to develop two access points
Decent grade for building on	Would have to clear a lot of trees. Needs a fair amount of dirt work
Does not significantly constrain other possibilities for Town Center	Is behind Alice's the best location for Police/Fire?
Would clean up an area of town that needs a police presence	Hidden from public

2) City TC Site (Town Center)

PRO	CON
A civic building could initiate development of Town Center. Would really open up Town Center.	Extra expense of infrastructure. Utilities and road have a long way to travel.
City owns the property	Is Public Safety Building the best use of the most centrally located City lot in Town Center?
Would clean up an area of town that could use a police presence	Would have to acquire Homer Cleaning Center or CIRI land for access
	May have issues for double entry
	Require lots of tree clearing/ dirt work
	Some elevation on north side of lot. Could be used as a buffer

3) Hazel Site (Town Center)

PRO	CON
A civic building could initiate development of Town Center	Extra expense of infrastructure
Would clean up an area of town that could use a police presence	Would push police/fire traffic onto Hazel or Poopdeck. No direct access to a main road
Buildable: limited grade, cleared	Expense of acquiring property (potential land trade)
	Buildable space is small and narrow, especially once E-W Corridor road goes through. May have to split garage space on either side of lot.



Legend

OWNER

HOMER CITY OF

KAUFFMAN LOREN C & CAROLYN E

UNITED STATES BLM

CIRI Lands

Homer Cleaning Center

Main Street Site;
Some combination of lands,
about 1/2 this area.

Potential Public Safety Building Sites

Pratt Museum

Homer Society of Natural History, Inc.

September 6, 2013

Mayor Beth Wythe and Homer City Council Members
491 East Pioneer Street
Homer, AK 99603

Dear Mayor Wythe and City Council Members,

This morning, Pratt staff member Michele Miller and I met with Mayor Wythe and City Manager Walt Wrede. We had a good conversation, discussing the Pratt's capital project and the recent Council's decision on the CIP and how we might move forward.

Messages we took away from this meeting were that the City of Homer (City) supports the Museum, that the focus for this year's CIP list is a result of conversations with individual legislators, awareness that state funding is becoming leaner for capital projects, and that the City feels a responsibility to health and safety needs first.

Our goal for this meeting was to see if there is a creative way the Pratt and the City might work together, helping each other during this and subsequent legislative sessions. There were some ideas discussed during the meeting, and it is my hope that the City Council will support these ideas:

- A resolution of support of the Pratt's capital request, noting the City's special relationship with the Pratt, and stating that the Pratt's new building and site redesign project is the City's No. 1 nonprofit priority.
- The exchange of talking points, so that the Pratt's lobbyist and staff can capably speak to the City's key messages and in turn the City's lobbyist, Mayor, Council Members, and staff can capably speak to the Pratt's project, ensuring their work compliments each other and relevant parties stay "in the loop."

We have provided copies of the agreement with the City, along with subsequent resolutions, outlining the special relationship that was worked out for this nonprofit to take on the responsibility for a museum in this community. In most communities this size, the museum is partially or completely owned by the City.

Thank you for your service to the citizens of Homer and for your consideration of this request for support.

Sincerely,



Diane Converse
Museum Director/CEO



3779 Bartlett Street, Homer, Alaska 99603

Email: info@prattmuseum.org

Web: www.prattmuseum.org

(907) 235-8635

Fax: 235-2764



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A G R E E M E N T

WHEREAS, the City of Homer, hereinafter referred to as the "City", and the Homer Society of Natural History, Inc., hereinafter referred to as the "Society", have entered into negotiation regarding the construction of a museum, and payment therefor, and

WHEREAS, the City has resolved that a monetary grant toward construction of such a facility is for a public purpose and is in the best interest of the people of the City of Homer, Alaska, and

WHEREAS, it is the desire of the Society that the real property and improvements of said Society be protected and the desire and wish of both parties hereto that a museum be perpetuated for the use and enjoyment of the citizens of Homer,

NOW, THEREFORE, it is hereby agreed between the City and the Society that in the event the Society should for any reason or under any circumstances cease to exist, the ownership, rights of ownership and real property shall from that time forward vest in the City, and that such real property shall include, unless released by the City, that real property transferred by Warranty Deed dated August 18, 1966, from Samuel Pratt and Vega Pratt to the Society, a public recording of which was made on August 19, 1966, in Book 42, page 100, of the records of the Homer Recording District, and further described as follows:

All and the whole of Lot Fifteen (15), of the Bunnell Subdivision of Section Nineteen (19), Township 6 South, Range 13 West, Seward Meridian, Alaska, according to the official map and plat thereof now on file in the Office of the District Recorder for the Homer Recording Precinct, Third Judicial District, State of Alaska.

EXCEPTING AND RESERVING the restrictions, reservations and easements now of record.

AND EXCEPTING AND RESERVING FURTHER, the North

LAW OFFICE OF
HANN & JEWELL
648 FOURTH AVENUE
ANCHORAGE, ALASKA
272-8324
PIONEER AVENUE
HOMER, ALASKA
235-8705

HOMER

Serial No. 67-147

(25)

BOOK 44 PAGE 35
Homer Recording District

1 Fifteen (15) feet along the North boundary, and
2 the right of ingress and egress, over the said North
3 fifteen (15) feet of the lot above described, unto
4 the Grantors, their heirs, executors, administrators,
5 or assigns. This is a private easement only, to
6 serve the following described property:

7 That certain piece of land in the SW-1/4 NE-1/2,
8 Section 19, Township 6 South, Range 13 West, Seward
9 Meridian, at Homer, Alaska, lying and bounded as
10 follows: beginning at the intersection of the N.W.
11 corner of lot of Margaret Richardson and the west
12 line of A. M. Berry and running north along said
13 line to the S.E. corner of the Kohler Homestead
14 416 feet; thence south to the N.W. corner of the
15 lot of Margaret Richardson; thence along the north
16 line of lot of Margaret Richardson to place of
17 beginning.

18 This land is in the N.E. corner of the Additional
19 Homestead of J. R. Crittenden, U. S. Patent No.
20 1062115 and deeded to the party of the first part,
21 both deeds being on record in the Commissioner's
22 office at Seldovia, Alaska.

23 It is further agreed that such vesting in the City shall be
24 formally affected by the transfer by appropriate instruments of
25 title where necessary to convey to the City all of the property
26 at that time owned by the Society, or in which the Society has
27 at that time an interest, and that such transfer, whether or
28 not by instrument shall be made independently of any request by
29 the City, and without further compensation or consideration
30 therefor.

31 The City of Homer further agrees to accept said property
32 and to maintain a museum for the citizens in keeping with the
policy and intent of the Society.

It is further agreed that from and after the completion of
the museum building, portions thereof will be available for
public use, and that the City may, according to a schedule
mutually agreed upon by the Society and the City, use the audi-
torium portion of said building as and for the Council Chambers
for the Homer City Council meetings.

IN WITNESS WHEREOF, ^I we execute the foregoing on this 27th
day of February, 1967, at Homer, Alaska.

LAW OFFICES OF
ANN & JEWELL
405 FOURTH AVENUE
ANCHORAGE, ALASKA
272-6324
PIONEER AVENUE
HOMER, ALASKA
235-8709

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CITY OF HOMER, ALASKA

By Larry C. Hansen, Mayor

By _____

RECORDED - FILED
<u>Homer</u> REC. DIST.
DATE <u>3/29</u> 19 <u>67</u>
TIME <u>11:35</u> <u>A.M.</u>
Requested by <u>City of Homer</u>
Address <u>Homer Alaska</u>

HOMER SOCIETY OF NATURAL HISTORY, INC

By Samuel L. Pruitt, President

By Margaret S. Anderson, Secretary

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on the 27th day of February, 1967, before me personally appeared Larry C. Hansen and Mayor known to me to be the Mayor and _____ of the City of Homer, Alaska, and they acknowledged to me that they executed the foregoing agreement for and on behalf of the City of Homer, Alaska, and that said instrument was signed and sealed by them on behalf of the City of Homer, Alaska, pursuant to a resolution of authorization duly adopted by the Common Council of the City of Homer, Alaska.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

Edith A. Brennan
Notary Public in and for Alaska
My Commission expires: 12/5/70

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on the 28th day of February, 1967, before me personally appeared Samuel L. Pruitt and Margaret S. Anderson known to me to be the President and Secretary of the Homer Society of Natural History, and they acknowledged to me that they executed the foregoing agreement for and on behalf of the Homer Society of Natural History, and they further acknowledged to me that said instrument was signed and sealed by them on behalf of the Homer Society of Natural History, Inc., for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and notarial seal the day and year in this certificate written.

Edith A. Brennan
Notary Public in and for Alaska
My Commission expires: 12/5/70

LAW OFFICES OF
JOHN B. JEWELL
16 FORTY-SECOND AVENUE
HOMER, ALASKA
272-5725
HOMER, ALASKA
272-5725

Intro: Anderson
Date: 5/10/82

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 82-18

A RESOLUTION OF THE HOMER CITY COUNCIL SUPPORTING, AS PART OF ITS CULTURAL PROGRAM, THE CONTINUED OPERATION OF THE PRATT MUSEUM, IN ACCORDANCE WITH FINANCIAL AND OTHER RESOURCES AVAILABLE.

WHEREAS, the City of Homer, hereinafter referred to as the "City", and the Homer Society of Natural History, Inc., hereinafter referred to as the "Society" have a common interest in perpetuating a museum for the use and enjoyment of the citizens of Homer; and,

WHEREAS, the City has exhibited ongoing support as evidenced in the following actions:

- a) funding assistance provided for the 1967 construction of the main museum facility,
- b) assistance in procuring grant support for the 1977 facility addition through a Rural Development Administration grant,
- c) through a 1981 Federal Shared Revenue and 1980/81 Municipal Assistance Grant appropriation providing a security system and related improvements
- d) assistance in the day to day maintenance of the parking area, and provision of various utilities since 1967,
- e) provision of the 1981 storm drain construction project which removed the threat of impending property damage; and

WHEREAS, the City voters clearly mandated in the October, 1979 General Municipal Election a willingness to provide increased support of operations and maintenance for the Pratt Museum over and above the existing funding of utilities; and,

WHEREAS, there exists a document of certain assurances between the City and the Society which provides that in the event the Society dissolves, the City will accept said property and maintain the museum in keeping with the policy and intent of the Society; and,

WHEREAS, the American Association of Museums, while currently reviewing the Pratt Museum's application for museum accreditation, requires a statement of assurances of continuing support of the museum by the City; and,

WHEREAS, it is the desire of the City to make an appropriate statement of assurance;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Homer supports, as part of its cultural program, the continued operation of the Pratt Museum, in accordance with financial and other resources available.

DATED AT HOMER, ALASKA, this 10th of May, 1982.

CITY OF HOMER


Leo Rhode, Mayor

ATTEST:


Kathleen Herold, City Clerk

INTRO: Phillips
DATE: 4/23/84

CITY OF HOMER
HOMER, ALASKA

RESOLUTION 84-29

A RESOLUTION OF THE HOMER CITY COUNCIL SUPPORTING THE BASIC MAINTENANCE AND UTILITY NEEDS OF THE PHASE II EXPANSION OF THE PRATT MUSEUM IN ACCORDANCE WITH FINANCIAL AND OTHER RESOURCES AVAILABLE.

WHEREAS, the City of Homer, hereinafter referred to as the "City" and the Homer Society of Natural History, Inc., hereinafter referred to as the "Society", have a common interest in providing museum services to the community; and,

WHEREAS, the City has established its ongoing support of the operation and programs of the Pratt Museum as summarized in Resolution 82-18; and,

WHEREAS, the City has identified this construction project as one of the City's capital regional priorities for State funding in Resolution 83-64S; and,

WHEREAS, Phase II construction will significantly improve museum services through a 6200sf addition consisting of a multipurpose room and special exhibition gallery for educational programs; and,

WHEREAS, the proposed multipurpose room will be available for non-museum functions to help offset some of the operational costs through a rental program for general community use; and,


WHEREAS, the National Endowment for the Humanities, while reviewing an application for partial funding of this construction, is concerned with the operational impact of this project on museum programs; and,

WHEREAS, it is the desire of the Council to assist the Society in its fund raising endeavors for this project;

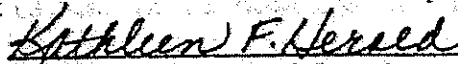
NOW THEREFORE BE IT RESOLVED that the Homer City Council supports the basic operational and maintenance needs of the Phase II expansion of the Pratt Museum.

DATED AT HOMER, ALASKA, THIS 23rd DAY OF APRIL, 1984.

CITY OF HOMER


Erle Cooper, Mayor

ATTEST


Kathleen F. Herold, City Clerk

RECEIVED AUG 15 2002

CITY OF HOMER
HOMER, ALASKA

Mayor/Ladd

RESOLUTION 02-49

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA RECOGNIZING THE KEY ECONOMIC AND CULTURAL SERVICES PROVIDED THE COMMUNITY BY THE PRATT MUSEUM AND IF THE CITY OF HOMER ALLOCATES FUNDS TO NONPROFIT ORGANIZATIONS IN FUTURE BUDGET CYCLES, A SEPARATE LINE ITEM APPROPRIATION FOR THE PRATT MUSEUM WILL BE ESTABLISHED.

WHEREAS, the Pratt Museum is dedicated to the process of education by exploring the natural environment and human experience relative to the Kachemak Bay region of Alaska and its place in the world, and

WHEREAS, the Homer Society of Natural History, Inc., (the Society) was incorporated August 10, 1955 as a nonprofit organization to operate the Pratt Museum in order to inspire self-reflection and dialogue in its community and visitors through exhibitions, programs and collections in the arts, sciences and humanities, and

WHEREAS, the Pratt Museum is the only accredited and reaccredited museum in the 25,600 square mile area of the Kenai Peninsula and serves a regional population of over 40,000 and hosts around 30,000 visitors each year, and

WHEREAS, indoor exhibits focus on art, natural history, native cultures, Alaskan wildlife, homesteading in the Homer community, fishing, marine ecology, and the impact of the Exxon Valdez oil spill, and

WHEREAS, the Pratt Museum serves the Homer community as the repository of Kachemak Bay history with collections of artifacts, photographs and written records that provide a living history of the community's past, and

WHEREAS, through the Pratt Museum's ongoing schedule of events and displays, thousands of visitors are attracted to the City of Homer where other small business and the City of Homer profit from visitor revenues, and

WHEREAS, the Pratt Museum has been recognized nationally on numerous occasions by foundations such as the National Science Foundation, the National Endowment of the Humanities, the National Endowment of the Arts, the Institute for Museum and Library Services, and others, and

WHEREAS, the Pratt Museum supports the community through maintaining a highly visible website that features active links to the Homer Public Library, Homer Council on the Arts, and numerous other nonprofit organizations such as the Homer Chamber of Commerce that strengthen the community's economy, and

WHEREAS, the Pratt Museum has a unique relationship with the City and that the City of Homer will become owner of the museum should the Homer Society of Natural History ever disband and the City and its area citizens are very well served by the museum being an independent entity and not a department of the City, and

WHEREAS, the City of Homer annually supports the economic position of the Pratt Museum through directly appropriating funds to the Homer Foundation which are then distributed to applying nonprofit organizations by the Foundation, and

WHEREAS, August is the month in which the United States Congress in 1846 recognized the value of nonprofit historical museums such as the Pratt Museum through the founding of the Smithsonian Institution,

NOW, THEREFORE, THE CITY OF HOMER HEREBY RESOLVES:

1. That the Pratt Museum serves as both a key economic and cultural foundation for positive growth and success of the City of Homer, and
2. That the Pratt Museum provides the City of Homer a valued service as the repository of records and other materials of our area's historical past, and
3. That the Pratt Museum, like the Chamber of Commerce, is a nonprofit organization with greater economic purpose to the City of Homer than other organizations receiving City funds distributed and allocated through the Homer Foundation, and
4. That if the City of Homer dedicates funding toward nonprofit organizations in upcoming budget cycles, the City of Homer will establish a direct line item appropriation for the Pratt Museum as is presently done for the Homer Chamber of Commerce.

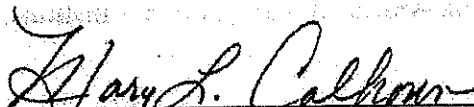
PASSED AND ADOPTED by the City of Homer, Alaska this 12th day of August, 2002.

CITY OF HOMER



JACK CUSHING, MAYOR

ATTEST:



MARY L. CALHOUN, CMC, CITY CLERK
Fiscal Note: 2003 Budget.

MEMORANDUM

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: THOMAS F. KLINKNER

RE: CITY ATTORNEY REPORT FOR AUGUST 2013

CLIENT: CITY OF HOMER

FILE NO.: 506,742.18

DATE: SEPTEMBER 5, 2013

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

City Council. Holly attended the August 12, 2013 City Council meeting. Holly and I are working toward a schedule where we attend Council meetings in alternating months. However, Holly also has graciously agreed to attend the Council meeting on September 9, which is my wife's and my anniversary.

City Clerk. I revised a code amendment to reduce the membership of the Library Board, and advised the Clerk regarding a defect in the notice of public hearing for the Kachemak Drive Water/Sewer Phase II assessment roll. I drafted an ordinance establishing a Water and Sewer Advisory Commission.

City Manager. I advised the City Manager regarding a proposed conveyance of City property to resolve a setback encroachment on an adjacent lot, and drafted an ordinance to authorize the conveyance. I drafted an ordinance tolling the period for discontinuance of a nonconforming use while the site of the use was subject to legal proceedings preventing the use's continuance.

City of Homer v. Kennedy. We completed the negotiation of a settlement agreement with Mr. Kennedy to resolve this zoning enforcement action.

City of Homer v. Shadle. After receiving an order granting the City partial summary judgment establishing Mr. Shadle's zoning violation, Holly attempted unsuccessfully to obtain Mr. Shadle's agreement to a settlement of this zoning enforcement action that would provide for Mr. Shadle's payment of civil penalties to the City. At our request, the trial of this zoning enforcement action has been postponed to October 28, 2013 to allow additional time for settlement negotiations.

Neal v. City of Homer. I negotiated an agreement regarding the form of judgment in this action. The judgment will affirm that the City's title to Ben Walters, Sr. Memorial

Park is subject to the conditions in the deed by which Mr. Neal transferred the park property to the City (which require that the property be used as a park and prescribe the name of the park), but will make the City's title free and clear of the terms of the Covenants document that was the basis for Mr. Neal's claim that the City was required to plow the ice on Beluga Lake for skating.

Port and Harbor. Holly assisted in resolving questions regarding compliance of the Fish Dock cranes with OSHA safety requirements.

State v. Turkington. The state brought this eminent domain action to obtain additional right-of-way for improvements to East End Road. The complaint named the City as a party in its role as "local zoning authority." After investigation determined that the property in question is not located in the City, I filed a disclaimer of interest on the City's behalf.

Holly will be available to answer questions regarding these matters at the September 9, 2013 Council meeting.

cc: Walt Wrede
Jo Johnson