



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 WYTHER AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK 

DATE: DECEMBER 9, 2013

SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

CONSENT AGENDA

Resolution 13-114, A Resolution of the City Council of Homer, Alaska, Establishing the 2014 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.

Memorandum 13-167 from Port and Harbor Advisory Commission as backup **Page 1**

PUBLIC HEARINGS

Ordinance 13-44(A), An Ordinance of the City Council of Homer, Alaska, Appropriating Funds for the Calendar Year 2014 for the General Fund, the Water-Sewer Fund, the Port/Harbor Fund, Debt Funds, and Capital Reserve Funds (Conditional Expenditures). City Manager.

Proposed budget amendments **Page 3**

Written public comments **Page 7**

CITY ATTORNEY REPORT

City Attorney Report for November 2013 **Page 25**

PENDING BUSINESS

Ordinance 13-42(A), An Ordinance of the City Council of Homer, Alaska, Amending the Definition of "Discontinued" in Homer City Code 21.61.015, Definitions, to Extend the Time Required to Discontinue a Nonconforming Use from 12 Months to 24 Months. Zak.

Staff Report 13-98 from City Planner, Re: Ordinance 13-42(A)

Page 27

RECOMMENDATION:

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A



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Memorandum 13-167

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: PORT & HARBOR ADVISORY COMMISSION

THRU: RENEE KRAUSE, CMC, DEPUTY CITY CLERK I

DATE: DECEMBER 5, 2013

SUBJECT: 2014 MEETING SCHEDULE

BACKGROUND

The Port and Harbor Advisory Commission reviewed the proposed regular meeting schedule for 2014 at a Special Meeting on December 4, 2013.

The commission unanimously approved the schedule as presented. Following is the excerpt of those minutes:

NEW BUSINESS

D. Memorandum from City Clerk Re: 2014 Meeting Schedule

Chair Ulmer read the title into the record and inquired if everyone was able to attend the dates as written. There was no objection presented.

Ms. Krause requested a motion to approve the schedule.

HOWARD/STOCKBURGER – MOVED TO APPROVE THE 2014 MEETING SCHEDULE AS PRESENTED.

There was no discussion.

VOTE. YES. UNANIMOUS CONSENT.

Motion carried.

RECOMMENDATION:

No action requested. Informational only.

2014 Proposed Budget Amendment Form

Department Number: MAYOR / COUNCIL 100 - 0100

Rationale:

COUNCIL MEMBER HOWARD

Prepared By: W. WATKINS

Mayor & C
12/09/13
J

Jo Johnson

From: Emilie Springer <esspringer@alaska.edu>
Sent: Monday, December 09, 2013 9:49 AM
To: Department Clerk; Barbara Howard; Beauregard Burgess; brianzak@ci.homer.ak.us; David Lewis; Francie Roberts; Gus Van Dyke
Subject: Support for HACA funding

Dear Mayor, Council women and men;

I wanted to attend the meeting this evening to present live public testimony but work took me to ADFG events in Anchorage. I am writing as another voice of support of all of the arts and culture suggestions and requests for funding that you will hear this evening. I know that everyone wants their own program funded and that this particular community certainly has a large share of non-profits. However, I can tell you that the arts organizations and the events performed through outreach and opportunity with these organizations is what makes Homer the community that it is. Arts provide year-round personality for this community.

I personally have had enormous support and opportunities through many different organizations—Homer Council on the Arts, Pier One, Homer Nutcracker, Bunnell Street Gallery, many more. I've had mentors and performance opportunities from the time I was in elementary school, through high school and recently as a PhD candidate in Anthropology in the National Science Foundation's "Resilience and Adaptation" program. These organizations have inspired much of my work through school and are a fabulous venue for connecting the people in Homer with the environment around them.

Tourism brings some funding to the city but arts and culture are the backbone identity. Please continue to support them in all ways possible. Contact me with any questions you may have.

Sincerely,

Emilie Springer

--

*University of Alaska Fairbanks
Department of Anthropology
Phone: 907-399-1175*

Jo Johnson

Margaret C
12/09/13
J

From: Art Koeninger <akoeninger@acsalaska.net>
Sent: Monday, December 09, 2013 9:10 AM
To: Department Clerk
Subject: Please reinstate funding for the Pratt and Homer Foundation

Mayor Wythe, if you haven't visited the Pratt Museum lately, it must be difficult to slash its funding with integrity. If you have visited recently, you will have witnessed the important service it provides for the Homer community, the excellent education programs and exhibits, not to mention the window it gives to our community for our vital visitor industry, and the preservation of our history and culture and their artifacts. As you know, most cities fully fund their museums. The Pratt has been an excellent steward of its resources. Your support is vital to the continuation of this quality institution.

I voted for the seasonal sales tax reduction on food because taxing food puts a disproportionate burden on the most needy. That does not mean that I am against any taxes or a compensatory adjustment on other taxes. I suggest making a small adjustment across the board to other city taxes, so that no one constituency carries the burden, including increasing the \$500 limit on taxable purchases.

Thank you,
Art Koeninger

Wagner 29c
12-10-2/13
JK

Jo Johnson

From: ANGIE NEWBY <angienewby@alaska.com>
Sent: Monday, December 09, 2013 8:36 AM
To: Department Clerk; Francie Roberts; Gus Van Dyke; Barbara Howard; David Lewis; Bryan Zak; Beauregard Burgess
Cc: Department Clerk; Diane Converse; asia@bunnellarts.org
Subject: Budget deliberations and long term economic impacts

I do not envy your role as dedicated and committed leaders of our community, and as the "gatekeepers" of our municipal financial health. Daunting task when revenues are flat and everyone is so tax increase adverse...

As you enter in to the final deliberations for the 2014 budget,, I wish to share some comments from my professional perspective as a Homer area Realtor. In that role, i have the unique perspective of hearing just what attributes draw our Buyers from other Alaska communities and from the Lower 48. What i hear constantly from these folks is that Homer is such a uniquely rich community dedicated to the arts, culture and let us not forget, our excellent culinary assets.

Homer has established itself as the "jewel" of the Kenai Peninsula-a small "arts" town with a big heart and a commitment to an enduring "quality of life" that brought many of us here. We are not just bricks and mortar, police and fire (although these are critical elements for sure). We believe in access to affordable visual and performing arts, City trails and parks, rich cultural and historical preservation (Pratt Museum) and a burning desire to differentiate ourselves from the typical soulless strip cities all across America.

The Buyers we attract to our area support local businesses, encourage new businesses, pay sales and property taxes, and volunteer for boards and commissions across the community They support the local construction trades, banks, insurance companies, grocery stores, charter businesses, food establishments, lumber yards, the library, the schools-you get my drift. I can assure you that they WILL NOT COME if we continue to systematically destroy the arts and cultural organizations within Homer, as well as the Chamber of Commerce (our #1 public face), by reducing funding year after year. Non profits need city support in order to secure other funding through grants and membership campaigns. AND they definitely need strong City support for capital campaigns.

Why are we so afraid to ask our citizens to pay a little more to maintain our quality of life and to expand our opportunities for even more? What disastrous impact would there be with a 1/8-1/4% increase in property taxes? That would easily fund all of our non essential budget requests. What about seriously working with the Borough to establish a small "bed tax" or recreational service area?

All of the people filling the Chamber meeting after meeting would get behind any of these increased revenue ideas. Please consider increasing revenue vs destroying the arts and cultural organizations that make us such a rich, viable and desirable community.

Mayor = C/C
12/09/13 J

Jo Johnson

From: Elisa Russ <elisa.russ68@gmail.com>
Sent: Monday, December 09, 2013 1:16 AM
To: Department Clerk
Subject: Save the Pratt

Dear City of Homer,

The Pratt Museum is such an important part of Homer. Please reinstate their budget allocation. As a resident of Homer for the past 20 years, I was immediately inducted into the community through community events, art, and history presented at the Pratt. This is the culture of our community! Please make sure they have the funding they need to remain staffed and functioning - a 30% budget cut is debilitating to a non-profit that is already operating on a shoestring budget.

Thank you for reconsidering.

--

Elisa Russ

Mayer - etc
12/09/13
R

Jo Johnson

From: Susan Ruddy <sruddyalaska@gmail.com>
Sent: Monday, December 09, 2013 1:33 AM
To: Department Clerk
Subject: Pratt!

Please please please reconsider the funding for the Pratt Museum. I live in Halibut Cove in the summer and have been coming to Homer since 1972. I ALWAYS recommend the Pratt to visitors, and they ALWAYS love it. I think the numbers prove that it is an important tourist attraction. And it is - and has been - at the heart of the Homer community for at least the last 40 years. It would be very short-sighted to try to save money on the Pratt's back.

I hope the City Council shows the wisdom and the foresight to reinstate the Pratt funding.

Sincerely,

Susan Ruddy
Sruddyalaska@gmail.com
Indonesia: 081293396615
Alaska: 907-229-2707
Sent from my iPad

Mayer C/C
12/09/13
J

Jo Johnson

From: Lucy Cutting <puffinbase@gmail.com>
Sent: Monday, December 09, 2013 6:05 AM
To: Department Clerk; Barbara Howard; Beauregard Burgess; Bryan Zak; David Lewis; Francie Roberts; Gus Van Dyke
Subject: funding for the Pratt

I have been a four month resident in Homer for 36 years. From the first summer, my husband and I were involved as volunteers at the Pratt Museum. Over the years, it has become more and more evident to me how important the museum is to the community. Its work in preserving local history, supporting local artists, and educating the many summer visitors provides an important position in the city. I urge you to reinstate funding for the Pratt.

Lucy P. Cutting
Oyster Bay, New York in the winter.
Homer in the summer

Myron C/C
12/09/13
[Signature]

Jo Johnson

From: Lucy Cutting <puffinbase@gmail.com>
Sent: Monday, December 09, 2013 6:05 AM
To: Department Clerk; Barbara Howard; Beauregard Burgess; Bryan Zak; David Lewis; Francie Roberts; Gus Van Dyke
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Lucy P. Cutting

Oyster Bay, New York in the winter.

Homer in the summer

Mayor - C/C
12/09/13
J

Jo Johnson

From: Wes <whead15@hotmail.com>
Sent: Saturday, December 07, 2013 7:51 AM
To: Department Clerk
Subject: I am a HVFD Volunteer

Dear Mayor Wythe,

My name is Wes Head, my wife and I own Beluga Air, and I have lived in Homer for seven years. For five of those years I have been a volunteer with HVFD. I started as an EMT, but now serve as an EMT-2, and as a Lieutenant in the department. I run on an average of three or four EMS calls a week. The majority of which are between 6:00 PM and 8:00 AM.

Although it is in the name Homer VOLUNTEER Fire Dept. I have found that the majority of our citizens do not understand that it is their neighbors that are getting out of bed at 2:00 AM to help them. By the time we are called, our clients are not in a state to realize the majority of us are not paid.

Your volunteers at HVFD are, in one word, incredible. However, we are volunteers: We have jobs, and like the majority of Homerites, the majority of volunteers, make our money in the Summer. I take a leave of absence from HVFD for three months.

The numbers of active volunteers in the Summer are minimal. BUT THE CALLS FOR HELP STILL COME IN!

I want to be very clear that the staffing of HVFD in the summer can be easily overwhelmed. And unlike many of the other funding requests that you have on the budget, HVFD's request for two seasonal ESS, can, without exaggeration, be a matter of life and death.

Please continue to support the two seasonal ESS positions.

Wes Head
907.299.1196

Mayor's
12/09/13
J

Jo Johnson

From: Tracey Tillion <tillion@alaska.net>
Sent: Sunday, December 08, 2013 4:47 PM
To: Department Clerk
Subject: Please don't cut Pratt funding!

I am sending a request to the City Council asking them NOT to cut funding to the Pratt and the Homer Foundation. These valuable organizations do so much for the community of Homer on a daily basis, that the impact of slicing their funding from the City of Homer will have a domino effect on the people who live in and visit Homer and the surrounding areas. The Pratt Museum is an icon for the City and the Homer Foundation ensures that the area non-profits have a touch-stone for information and support.

Please consider fully funding both of these entities!!

Thank you,

Tracey Tillion

Mayor C/C
12/09/13
J

Jo Johnson

From: Victoria Wendell <fishcreekwoman2@yahoo.com>
Sent: Sunday, December 08, 2013 9:03 PM
To: Department Clerk
Subject: Pratt Museum

Hello,

I have just heard about the funding cut proposed for the Pratt Museum. Seriously? This is one of the city's finest features!

I would happily pay a bed tax to support the arts in Homer, the arts community is one of Homer's best assets.

Please reconsider!

Kind regards,

Frequent visitor
Victoria Wendell
Anchorage, AK 99517

Mayer c/c
12/09/13
12

Jo Johnson

From: Sam Rose <samrosedc@gmail.com>
Sent: Sunday, December 08, 2013 10:17 PM
To: Department Clerk
Subject: Funding for Pratt

To Whom It May Concern:

I have heard the Homer Council has voted tentatively to cut funding to the Pratt Museum by \$20,000.00. I was born & raised in Anchorage and lived there for 53 years. Homer was always our family's favorite destination for vacations within Alaska. I have since moved out of State but visit yearly, usually more than once a year. As a now-tourist, I would happily pay an increased bed tax to support your wonderful museum. We have too little that celebrates our Alaskan history and culture. Please preserve funding for the Pratt.

Sincerely,
Sam Rose, D.C.

Mayor = 4C
12/9/13
2

Jo Johnson

From: Lila Lee Little <lilaleelittle@gmail.com>
Sent: Sunday, December 08, 2013 11:21 PM
To: Department Clerk
Subject: Pratt

Hello,

I am writing to request that the Pratt's funding stay in tact. The exhibits and events sponsored by the Pratt are a crucial part of our community's art, culture, and science education. Locals and tourists enjoy the museum. I bring my two toddlers there often for the fish feeding and the special programs put on for children and families. I value all of these events and believe that the Pratt is an integral part of our community.

Sincerely,

Lila and Nate Johnson
515 Rangeview. Homer, AK 99603
907-299-4461

Maguire 9c
12/09/13
A

Jo Johnson

From: Debby Bloom <bgdbloom@gmail.com>
Sent: Sunday, December 08, 2013 11:41 PM
To: Department Clerk
Subject: Pratt Support

Hello,

While I live in Anchorage, there is never a time that I do not take my visitors, my children, and myself to the Pratt.

I understand there is some thought to the City reducing support. Please consider full funding of your allocation to the Pratt museum. We are happy the Pratt is there and consider it a jewel among Homer's wonderful arts and cultural community.

Thank you,
Debby Bloom

Jo Johnson

Mayor's Office
12/05/13

From: Alaska's Hallo Bay Bear Camp <hallobay@acsalaska.net>
Sent: Thursday, December 05, 2013 8:15 AM
Subject: Belt-tightening ahead for Alaska

Good Morning,

The enclosed article from this mornings copy of the Alaska Dispatch indicate more of what is to come with regard to the budget.

I believe it would be wise for the City to dramatically cut back or eliminate entirely the \$50,000 requested by the Homer Chamber of Commerce as they are an elite membership group and are self serving on to themselves (their members) and not the entire community (all residents). As such, it is City money and thus should serve to the benefit all of the people, not just a limited group with politically inclinations.

The \$50,000 would be better applied to our City Sewage System that fails when it rains, stinks dramatically at times, improved crosswalks, youth projects, park improvements and a number of other projects reflecting much needed repairs to improve the safety and well-being of ALL the residents of Homer and not just an elite group.

If the \$50,000. is to be applied to tourism, then without doubt it should go to the Pratt Museum which truly serves a greater percentage of Homer's visitors and more importantly, the Pratt is there year-around to serve ALL of the residents of Homer unlike the Chamber's elite membership group which (by their rules) alienates local businesses choosing not to be on their membership roll.

Clint Hlebechuk
Homer City Resident/Property Owner

Muggercl
12/05/13
Jo

Jo Johnson

From: Karen King <karen.king@spawnak.com>
Sent: Wednesday, December 04, 2013 7:48 PM
To: Department Clerk
Subject: budget cuts -- The Pratt Museum

To whom it may concern:

As a board member and supporter of the Pratt Museum, I am very disappointed that the City Council has voted to cut money this organization. This cut is devastating to a small but vibrant organization like the Pratt, with a rich history of preserving stories of the region, inspiring people through community engagement and engaging visitors with the unique Homer culture. The whale exhibit just a couple of months ago was the best demonstration of a community gathering together to do something both worthy and amazing.

While I understand that the city has to make difficult decisions in order to balance its budget, it should not strip the important cultural institutions that make Homer such an attractive place to live and visit.

The Pratt runs a tight, tight budget and a cut of this size will mean loss of jobs. It makes it more difficult for the organization to get matching grants, and dramatically slows The Pratt's ability to make the changes it is implementing to enhance its service to audiences which, in turn, impacts the organization's long-term sustainability.

Please restore these important funds to the Pratt!

Thank you.

KAREN KING

Pratt Museum
1000 1st St
Homer, AK 99603
907.243.7100
www.prattmuseum.org

SPAWNAK.COM <<http://www.spawnak.com>>

Named one of "Outside Magazine's" "100 "Best Places to Work in America" 2 years in a row.

Mayor a/c
12/04/13
J

Jo Johnson

From: hanvikingsen@gmail.com
Sent: Wednesday, December 04, 2013 1:11 PM
To: Department Clerk
Subject: Pratt Funding

Homer City Council

- >
- >
- > I'm writing to urge you to reinstate funding for the Pratt Museum. I would like to see funding raised to the higher levels of some years but at least to what it has been this past year.
- >
- > Homer's economy depends in no small part on our reputation as a unique place.
- > A nationally recognized, accredited Museum is a large part of that
- > whole "place" picture. This is an immediate, every season bennifit for our economy. Visitors will pass on to friends all of Homer's attractions including what a great museum is here, promoting more visitors next season .
- > Then, and to my mind more importantly, is the very fine educational programs at the Pratt. Homer kids, toddlers with parents and school groups from around the state, inspired and engaged to learn and love history, anthropology, art and natural sciences. These young minds are the communities future.
- >
- > It's pertinent to mention to the council and the general public what an exceptionally cost effective structure is in place for maintaining and operating the Pratt, an institution providing broad benefits to our whole town. An independent non-profit drawing on volunteerism and donations, instead of a city operated museum which would require city administrative resources, health care coverage and retirement plans.
- >
- > An adequate indeed a larger than last years city contribution is essential to maintain the Pratt at it's current level of excelence. Support from city government becomes a multiplier to boost state, corporate and private donations.
- >
- > Finally realizing the City of Homer Administration & Council are striving to create a balanced budget please consider raising revenues. I am willing to pay more in some kind of taxes for support of arts, culture, education, in short maintaining and improving quality of life in Homer. It is why we live here.
- >
- > Thank you for your time
- > City landowner
- > Shawn Hansen
- >
- >
- >
- >
- >
- >
- >
- > iPad
- > Shawn Hansen

Miguel
12/04/13
J

Jo Johnson

From: Karin Marks <kjm59@alaska.net>
Sent: Wednesday, December 04, 2013 2:16 PM
To: Department Clerk
Subject: submission to the City Council

To all the Council Members,

I would like to address the issue of the yearly city budget that is under review on December 9th.

To begin with I feel safe in stating that I have never met anyone in this community that did not care for our environment, education, safety, recreation, art and culture. The issue becomes how much money is available and since we know that in these economic times, especially, there is not enough to do everything, some will be disappointed. I would also like to observe that the cry to add or increase a tax does not solve the underlying problem of not enough money. The reason is that the year round base of people and business needs to increase so that the tax base produces more revenue. If you just increase taxes without increasing the base, it will drive more away. From the first I moved here, it was stated that people want to live here, but they could not make a living. So we need to be open for business not just in words but action. Having natural gas that puts us on the same grid with the rest of the Kenai and Anchorage lowering energy costs and making them the same is a step in the right direction. Another step "in open for business" is to have the one entity Homer Chamber of Commerce (who advertises Homer both for visitors and people thinking about residing here) have an increase. This will help to increase the tax base. As so often is mentioned other cities do more so why can't we. Just look, however, at the population numbers in say Wasilla which was the latest comparison I heard. Numbers do count.

On the current budget maybe we need to look at taking care of the things we have such as the ball fields or hockey rinks (both built but now having trouble caring for the facilities) for example rather than spend on an assessment finding out what more people want. Every time the city gets involved with new projects there seems a need for more staff and supplies and yet we are told that the current employees are not taken care in their present employment packages. We are told costs for everything has gone up, but I know in my own business that after reducing as much as I can, I have cut some of the extras out for my staff and myself since I cannot require my customers to just pay more. Once the extras go, the business will down size with a loss of jobs or not exist. No matter how much push for buy local, the buying on the internet and up the road is a fact of life. You have to compete or go under. For the City it too may have to downsize. As a matter of fact if an assessment is funded maybe it should be for the Departments of the City Hall so that it is determined if in fact we have departments that handle present day needs.

Somehow we get to this time in the budget cycle with not enough time to consider these issues and the budget with very little changes gets passed again. Maybe it is time to say time out for any increases. I really do not think that is wise since things happen that need adjustment, but be careful and it might be that you not take the easy way out and let everyone (even art, culture, recreation, environment and all the good stuff) get what they are asking for since we all know it all is needed.

Karin Marks
Homer resident and business owner

MEMORANDUM

TO: MAYOR AND CITY COUNCIL MEMBERS
FROM: THOMAS F. KLINKNER
RE: CITY ATTORNEY REPORT FOR NOVEMBER 2013
CLIENT: CITY OF HOMER
FILE NO.: 506,742.18
DATE: DECEMBER 5, 2013

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

City Council. I attended the November 25, 2013 City Council meeting.

City Clerk. I continued work on the ordinance creating a schedule of fines for traffic offenses, and revising related sections of the City Code. I researched and prepared information for the City Clerk regarding qualifications of candidates for a charter commission. Holly worked with the Clerk's office on a new retention schedule for City records.

Planning. We completed our opinion to the Planning Department regarding the scheduling of conditional use hearings and decisions on conditional use applications. We researched the effect of federal telecommunications law on the Planning Commission's review of conditional use applications for communications towers

Library. I drafted a contract for the loan of art for display in the Library.

Port and Harbor. I drafted a contract form for the temporary admission of "vessels of concern" to the harbor for repairs.

City of Homer v. Grant Aviation. Adam completed negotiation of a settlement of the City's claim for damages from Grant Aviation resulting from its abandonment of its lease at the Homer airport.

City of Homer v. Shadle. Holly prepared for a November 25, 2013 hearing on the penalties to be assessed against Mr. Shadle for his zoning violation. On the eve of that hearing, Mr. Shadle retained counsel to represent him, and the hearing was continued to December 17, 2013. Holly and Mr. Shadle's attorney are exchanging proposals to settle the case.

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

cc: Walt Wrede
Jo Johnson



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Staff Report 13-98

TO: Homer Advisory Planning Commission

FROM: Rick Abboud, City Planner

DATE: December 4, 2013

SUBJECT: Draft Ordinance 2013-42(A) Amending the Definition of "Discontinued" in Homer City Code 21.61.015, Definitions, to Extend Time Required to Discontinue a Nonconforming Use from 12 Months to 24 Months.

Introduction

The Commission recently weighed in on Ordinance 13-37, that proposed an exception to the definition of "discontinued" and did not recommend that a specific exception be made for the time it may take to deal with the death of an "operator." This was upheld and ordinance 13-37 was voted down by the City Council. Since this was a legislative change, I did not want to introduce a particular situation that this was to remedy. Rather we should look at how this affects all possible circumstances.

At the October 14th meeting of the City Council, (after resolution 13-102 failed to grant specific relief of code to the Bayview Inn) a directive was issued to the Planning Commission to look at a more universal solution that takes a look at the continuance of nonconformities in general as it affects the entire city.

Then at the subsequent City Council meeting held October 28th, Councilman Zak introduced Ordinance 13-42, proposing to extend the term in which a nonconformity could be discontinued and resumed from 12 to 36 months. Council amended this to 24 months rather than the proposed 36 months resulting in Ordinance 13-42(A).

This staff report will attempt to address a universal solution as well as Councilman's Zak's proposal.

Background

As you all know by now, the issue of the death of an owner/operator has resulted in a business becoming unable to continue in its previous configuration after it was nonconforming and not resumed within the 12 months now allowed in code. The business is one defined as a motel.

"Hotel" or "motel" means any building or group of buildings containing six or more guest rooms that are used, rented or hired out to be occupied for sleeping purposes by guests. "Hotel" or "motel" also means any building or group of buildings containing five or less guest rooms that are used, rented or hired out to be occupied for sleeping purposes by more than fifteen guests.

The terms "hotel" and "motel" exclude bed and breakfast, rooming house, dormitory, shelter for the homeless, and hostel.

1. A hotel is not a permitted or conditionally permitted use in the Rural Residential District.
2. The hotel is found near an area that has been subject to discussion about the possibility of a zoning change to a commercial zone.
3. Councilman Zak proposes that any use be allowed to be discontinued for up to 24 months, up from the 12 currently allowed.

Discussion

Hotel

Hotels could be considered for a conditional use permit in the Rural Residential District. A hotel is certainly something not traditionally found in the RR district, although there may be some activities that are similar in impact, whether a collection of cabins or a more traditional single structure that accommodate many guests on a nightly basis. A conditional use permit can be reviewed and noticed for neighborhood input. Special conditions may be considered. It also provides an option for businesses that have or will evolved into a hotel. It is not much of a stretch to compare the impacts of rather large bed and breakfast operations to those of small hotels. On the other hand, I would guess that most in the large geographic area of the Rural Residential area would be opposed to inviting opportunities for hotels to operate in their neighborhood. By definition the Rural Residential area really does not support this activity.

21.12.010 Purpose. The purpose of the rural residential district is primarily to provide an area in the City for low-density, primarily residential, development; allow for limited agricultural pursuits; and allow for other uses as provided in this chapter. (Ord. 08-29, 2008).

Additionally, a change like this would be tough to be considered in compliance with the comprehensive plan. Consideration would have to be given to the circumstances which might have to exist for such an activity, such as infrastructure and space requirements (utility and minimum lot requirements as an example). If it is not acceptable for the entire zone, it may be worth considering if a zoning district change is in order.

Zoning Classification

Thoughts have been expressed about the possibility of up zoning to a commercial district along upper Baycrest. There are several commercial operations in the vicinity. The neighborhood could be noticed and given a chance to provide input on this option. It would also open up the opportunity for more signage for business.

Both of the above options would take some time. Perhaps 6-12 months to notice property owners, hold open house(s) craft and propose changes and then go through the adoption process of the comprehensive plan and then on to a change the Homer City Code.

I know that there are those who will see this as overly burdensome. I have to respect the Comprehensive Plan as a guiding document. If a change in code is not first presented in the Comprehensive Plan, it is not very defensible that the change should just be pushed through. The Comprehensive Plan provides a measure of assurance that the community should consult when weighing an investment. Did someone make a purchase on a relative assurance that a hotel would not be proposed next to their family home? They must be given a proper opportunity to reflect and contribute.

24 months

Currently, the 12 months found in code before a discontinued use has to be resumed is the standard of most all communities who wish to eventually see an end to such uses. The Council shaved the proposal down to 24 from 36, which I believe was a step in the right direction. But curiously, does not offer relief to the Bayview Inn, which I am not sure that the council may realize.

After consideration of the issue, I do not oppose the concept of lengthening the time requirement. It would seem that 24 months is a reasonable amount of time in consideration of the seasonal nature of some of our businesses in town. Since this option has been introduced by council, they would like a recommendation for their next meeting.

Staff recommendation:

1. Discuss whether nonconforming uses city wide should be allowed to re-open up to 24 months after they are discontinued and forward a recommendation to City Council.
2. Make recommendations if the Commission wishes to go forward with other suggestions.

Attachments:

1. Ordinance 13-42(A)
2. Memo 13-03
3. Excerpt for HAPC Minutes 11.6.13

Excerpt from (unapproved) Planning Commission Minutes, Meeting of December 4, 2013

SLONE/HIGHLAND MOVED THAT THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL ADOPT ORDINANCE 13-42(A) AMENDING THE DEFINITION OF "DISCONTINUED" IN HCC 21.61.015, DEFINITIONS TO EXTEND TIME REQUIRED TO DISCONTINUE A NON CONFORMING USE FROM 12 MONTHS TO 24 MONTHS.

SONNEBORN/SLONE MOVED TO AMEND THIS MOTION TO EXTEND THE TIME FROM 24 TO 36 MONTHS.

Commission Slone commented in disagreement to the amendment. He agrees with Commissioner Stead's comment. He feels like they don't need to reinvent the wheel regarding the nonconforming timeframe. The property owners have other avenues to attempt to find resolve, whether it be to appeal to City Council or to a higher court. The Commission is tasked to review and make recommendation to Council and he doesn't see any basis to modify it.

Commissioner Highland read an excerpt from a point of view by Lane Chesley in a recent edition of the Homer News. He says typically most codes define discontinued as a period of 12 consecutive months where the use ceases to exist and once discontinued it can't come back. She said another idea he included was that under specific conditions it's possible the time period to sell or lease a property would not count against the 12 consecutive month rule. She added that she doesn't agree with 36 months.

Commissioner Slone added that through the process of the Comprehensive Plan and city ordinances defining uses in districts, the community at large has weighed in on how to address the nonconforming uses in their zoning district in that they terminate because the uses are no longer suitable, compatible, or the best use of the property. He reiterated there is no compelling evidence to make this amendment.

VOTE: YES: STROOZAS, SONNEBORN

NO: VENUTI, HIGHLAND, SLONE, STEAD

Motion failed.

Discussion ensued regarding the main motion. Commissioner Slone acknowledged the need for the development of concepts and the need to refine this in the near to immediate future with respect to these types of issues.

Commissioner Sonneborn asked about an amendment to make it 12 months from the time the estate has been settled. City Planner Abboud said the Commission has already made a recommendation to something of that nature.

Commissioner Highland suggested they try to come up with something and incorporate the concept of under specific conditions for discontinuing use. They would have to figure out specific the conditions, look at where are the nonconforming uses are, what are they doing, what problems they are creating, and come up with some specific ideas. She thought this would be an appropriate time to make a couple little changes to it and send it back to Council saying they want to do more work on the issue and consider some broader concepts.

Deputy City Clerk Jacobsen suggested that rather than making amendments on the fly tonight, that the Commission address the ordinance before them and let the Council know if they support the change to 24 months or not, as that is what the Council is asking. The Commission has given Council the message that they want to work on nonconforming for the City, and the Commission can certainly do that at future meetings.

VOTE: YES: VENUTI, SLONE, SONNEBORN, STROOZAS

NO: STEAD, HIGHLAND

Motion carried.



City of Homer

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Memorandum 13-03

TO: Homer Advisory Planning Commission

FROM: Rick Abboud

DATE: July 17, 2013

SUBJECT: Draft Ordinance 13-42(A), AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE DEFINITION OF "DISCONTINUED" IN HOMER CITY CODE 21.61.015, DEFINITIONS, TO EXTEND THE TIME REQUIRED TO DISCONTINUE A NONCONFORMING USE FROM 12 MONTHS TO 24 MONTHS.

This memo contains the planning staff review of the zoning code amendment as required by HCC 21.95.040.

21.95.040 Planning Department review of code amendment. The Planning Department shall evaluate each amendment to this title that is initiated in accordance with HCC 21.95.010 and qualified under HCC 21.95.030, and may recommend approval of the amendment only if it finds that the amendment:

a. Is consistent with the comprehensive plan and will further specific goals and objectives of the plan.

Staff response: The proposed amendment is consistent with the Comprehensive Plan and support Goal 3, Implementation strategy 3 (HCP 8-3); "Ensure that zoning and land use regulations do not unduly restrict entrepreneurial development..."

b. Will be reasonable to implement and enforce.

Staff response: The proposed amendment does not change the premise or concept for enforcement currently found in code. It will be reasonable to implement and enforce.

c. Will promote the present and future public health, safety and welfare.

Staff response: The proposed amendment does not hinder the future public health, safety and welfare by supporting currently accepted uses.

d. Is consistent with the intent and wording of the other provisions of this title.

Staff response: The amendments have been reviewed by the City Attorney and are deemed consistent with the intent and wording of the other provision of this title.

21.95.010 Initiating a code amendment.

Staff response: The code amendment was initiated by a member of the City Council as permitted by HCC 21.95.010(a)

21.95.030 Restriction on repeating failed amendment proposals.

Staff response: This section of code is found to be not applicable.

Session 13- , a Regular Meeting of the Homer Advisory Planning Commission was called to order by Chair Venuti at 6:30 p.m. on October 16, 2013 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HIGHLAND, SLONE, SONNEBORN, VENUTI

ABSENT: BOS, STEAD, STROOZAS

STAFF: PLANNING TECHNICIAN ENGBRETSSEN
DEPUTY CITY CLERK JACOBSEN

Approval of Agenda

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).

Adrienne Sweeney, inn keeper at the Driftwood Inn and AJ Steakhouse, commented regarding ordinance 13-32. She expressed her concern that the change to 24 months is not enough time when a use is discontinued because of death. Sometimes probate takes longer than 24 months, especially when land is involved, and she thinks 36 months is a fair compromise and recommends amending back to 36 months. This amendment is wrapped into the Bayview Inn issue, but the change effects more than just one property. She said she appreciated the City Manager's comments about traffic comments about traffic calming. She is hopeful it will work in Old Town, is excited about the process, and thinks it is a great example for other neighborhoods

Charles Davis, city resident, commented that he has a different outlook on non-conforming. Last time we went through this was with Guy Rosi, before him it was someone else, then it was someone before them. As a city we have kicked the can down the road to where we have a conditional use permit. He questions why the city has to have so much control that we have to designate every building. What difference does it make if there is another motel up there, particularly when maybe it's the original one? Why do we have to have some draconian zoning law here at the end of the road. The Commission is having a hard time keeping a quorum and doesn't need to keep going through this. Mr. Davis suggested lightening up on controlling business, let people be where they are, and don't make it so complicated because he thinks it's ruining the town. He recently heard at council that it's good that all the businesses are here. The only reason they are here is because of the local people living here.

Corbin Arno, city resident, commented that Bayview Inn is a landmark. He encouraged them to make the place legal; it has been here longer than many of us. He agrees with changing it back to 36 months because you just never know what's going to happen in life.

Reconsideration

Adoption of Consent Agenda

HOMER ADVISORY PLANNING COMMISSION
REGULAR MEETING MINUTES
NOVEMBER 16, 2013

Motion carried.

C. Staff Report 13-88 Discussion of Comprehensive Plan in the Baycrest Area

Acting City Planner Engebretsen reviewed the staff report.

The Commission discussed the process for rezoning process. There is a community plan in place that says the Baycrest area is residential. There are some options in the process like a community update, but there is still a public process that would need to take place to make any changes. The community has to agree.

Question was raised about allowing hotels and motels in the rural residential zoning district. Acting City Planner Engebretsen explained that it is an option, but it will be inclusive of all rural residential districts which make up about 50% of the city.

Chair Venuti suggested they could consider the mixed use district for that particular area, but probably not past the south end of Rogers Loop.

Discussion ensued about the history of the zoning for the Baycrest area and the businesses that are located there. Commissioner Highland expressed her feeling of urgency in resolving the issue and getting through the process. Acting City Planner Engebretsen advised it is a lengthy process and it is very important that there isn't an appearance of rushing the process because of one particular property.

Acting City Planner Engebretsen said staff will work on preparing some recommendations to consider and also a timeline for the process that the Commission can consider at their December or January meeting.

Further discussion continued regarding the need and ways to inform the public of what is going on.

D. Memo from City Clerk Re: 2014 Meeting Schedule

The Commission reviewed the meeting schedule and discussed the first meeting in January. They agreed that if there are no active applications that need to be addressed at the January 2nd meeting then staff may cancel the meeting.

HIGHLAND/SLONE MOVED TO APPROVE THE 2014 MEETING SCHEDULE FOR THE PLANNING COMMISSION SHOWN IN THE DRAFT RESOLUTION PROVIDED BY THE CITY CLERK.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.