

Session 18-07 a Regular Meeting of the Homer City Council was called to order on March 12, 2018 at 6:00 p.m. by Mayor Bryan Zak at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

Mayor Zak called for a motion to allow Councilmember Stroozas to participate telephonically.

ADERHOLD/ERICKSON MOVED TO ALLOW COUNCILMEMBER STROOZAS TO PARTICIPATE BY TELEPHONE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PRESENT: COUNCILMEMBERS: STROOZAS (telephonic), ADERHOLD, VENUTI, SMITH, LORD, ERICKSON

STAFF: CITY MANAGER KOESTER  
DEPUTY CITY CLERK KRAUSE  
CITY ATTORNEY WELLS  
FINANCE DIRECTOR WALTON  
IT MANAGER POOLOS  
CITY PLANNER ABBOUD  
LIBRARY DIRECTOR DIXON  
PORT AND HARBOR DIRECTOR HAWKINS  
PUBLIC WORKS DIRECTOR MEYER

Council met for a Special Meeting at 4:00 p.m. and as Committee of the Whole 5:00 p.m. to discuss the 2018 Land Allocation Plan, also consent agenda and regular agenda items in Homer City Hall Cowles Council Chambers.

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 2.08.040.)

The following changes were made: PUBLIC HEARING Ordinance 18-10, An Ordinance of the City Council of Homer, Alaska, Accepting the Modified ADEC Municipal Matching Grant (MMG #40909) for an Expanded Water Storage and Distribution Improvement Project, Accepting the Responsibility to Operate and Maintain the Improvements, Agreeing to the Terms and

Conditions of the Grant, and Authorizing the City Manager to Execute the Appropriate Documents. Grant Letter and Agreement as backup

Mayor Zak asked for a motion to approve the agenda as amended.

ADERHOLD/VENUTI – MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no further discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Larry Slone, city resident, commented on Ordinance 18-14 recommending exercising caution **in restricting the public's rights**, providing the City Council total protection from an ethics complaints based upon **the attorney's advice** during the meeting or in the course of business which he opined is just an opinion not a fact of law.

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 Regular Meeting Minutes of February 26, 2018. City Clerk. Recommend adoption.
- B. Memorandum 18-028, from City Clerk re: Vacation of a portion of the Starboard Way Right-of-Way adjacent to Lots 4-8 Block 1 and Lots 4 and 5 Block 2 Mariner Village Subdivision as dedicated on Mariner Village Subdivision, Plat HM 68- 657. Recommend Approval.
- C. Ordinance 18-11, An Ordinance of the City Council Of Homer, Alaska, Amending Homer City Code Sections 1.16.040, 7.04.030, 10.04.110, 19.08.120, 19.20.070, 20.08.010, and 20.32.020, Adding New Homer City Code Sections 5.08.030, 5.20.060, 8.12.800,

14.04.130, 19.02.100; and Re-Enacting Homer City Code Sections 5.24.060, 5.38.060, 8.08.150, 8.11.080, 13.08.170, 14.08.170, 18.20.090, 19.04.100, 19.08.120, 19.12.100 to Conform Homer City Code to State Law and to Clarify that Certain Code Violations may be Disposed of by Bail Forfeiture without a Court Appearance as Indicated in the Homer City Code Fine Schedules, and all other Violations Require a Court Appearance and are Subject to the General Penalty. City Clerk. Recommended dates: Introduction March 12, 2018, Public Hearing and Second Reading March 27, 2018.

Memorandum 18-029 from City Attorney as backup

- D. Ordinance 18-12, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.54.325, Standards for Recreational Vehicles in the Marine Commercial District and Marine Industrial District. Erickson. Recommended dates: Introduction March 12, 2018, Public Hearing and Second Reading March 27, 2018.
- E. Ordinance 18-13, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$92,592 from the Sewer Reserve Fund to Complete the Wastewater Treatment Plant HVAC Rehabilitation Project. City Manager/Public Works Director. Recommend dates: Introduction March 12, 2018, Public Hearing and Second Reading, March 27, 2018.

Memorandum 18-030 from Public Works Director as backup

- F. Ordinance 18-14, An Ordinance of the City Council of Homer, Alaska Amending Homer **City Code 1.18.020 to Define the Term “Impartial”**; **Amending Homer City Code 1.18.030** by Requiring City Council Members to Comply with Homer Workplace Policies and Procedures; Repealing 1.18.050 and Incorporating it Under the Newly Enacted Homer City Code **Chapter 1.19, “Board Of Ethics - Complaints”**, to Clarify the Preliminary Review Process for Ethics Complaints by the City Clerk and City Attorney; Amending Homer City Code 1.18.060 to Prohibit Ethics Complaints Based Upon Actions Taken in Accordance with Advice from the City Attorney; and Repealing Homer City Code Chapter 2.80. Aderhold. Recommended dates: Introduction March 12, 2018, Second Reading and Public Hearing March 27, 2018.

Memorandum 18-031 from City Attorney as backup

- G. Ordinance 18-15, An Ordinance of the City Council of Homer, Alaska, Amending the 2018 Operating Budget by Authorizing the Expenditure of an Additional \$29,550 from the Public Works Fleet Reserve Fund for the Purchase of a Brush Cutter. City Manager/Public Works Director. Recommended dates: Introduction March 12, 2018, Second Reading and Public Hearing March 27, 2018

Memorandum 18-032 from Public Works Superintendent as backup

- H. Resolution 18-027, A Resolution of the City of Homer, Alaska Requesting the Alaska Congressional Delegation Reinstate Funds in the Federal Budget for the National Estuarine Research Reserve System to Ensure Future Continuation of Important Ecological and Economic Contributions from the Kachemak Bay National Estuarine Research Reserve to the City of Homer, Other Kachemak Bay Communities, and the Lower Kenai Peninsula. Aderhold. Recommend adoption.
- I. Resolution 18-028, A Resolution of the Homer City Council Expressing Results of the February 26, 2018 Police Station Worksession and Providing Direction for the Next Step. Council/City Manager. Recommend adoption.

Moved to Resolutions. Aderhold.

- J. Resolution 18-029, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for the Solid Waste Collection and Disposal Contract to Moore & Moore Services, Inc. of Homer, Alaska, for a Three Year Contract with Two One Year Renewal Options, in the Amount of \$45,890.11 Per Year and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Port & Harbor Director. Recommend adoption.

Memorandum 18-033 from Port Director/Harbormaster as backup

Resolution 18-028 was moved to Resolutions, Item A. (Aderhold)

Mayor Zak requested a motion to approve the consent agenda as read.

ERICKSON/LORD – SO MOVED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

VISITORS

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS  
(10 minute limit per report)

A. Borough Report

Assembly person Kelly Cooper provided a report on the actions taken by the Assembly at the March 6, 2018 meeting. She noted the following actions of the Assembly:

- Ordinance 2017-29 Amending Chapter 5.18 to Establish a 6% Area wide Sales Tax on Temporary Lodging and Overnight Camping Facilities Failed
- Ordinance 2018-09 Amending KPB Code to Provide for Financial Support for the Promotion of Tourism and Economic Development Failed
- Resolution 2018-10 Authorizing the Reestablishment of a Cost Allocation Plan for Service Area Operating Funds and Certain Funds Approved
  - o This will be a 2.5% administrative fee
- Ordinance for a .5% Sales Tax increase will be on the April 3<sup>rd</sup> Agenda for Public Hearing. Please contact her if there is anyone interested in testifying from Homer by next Wednesday, March 14th.
- The Mayor has put forward an ordinance to move \$3 million from the Lane Trust Fund to the General Fund to Balance the Budget. This is a stop gap measure.
- Reported that the School District has reduced their budget \$8 million dollars in the last 4 years being very responsible with their funds.
- Possible Fuel Tax in the future. This would be an excise tax and does not have to go before the voters for approval.
- Open to suggestions on balancing the budget.
- Sealed Bid Offering if approved in April will be due in May. Regular Over the Counter Land Sales will be in October

Ms. Cooper responded that there was a great number of testimony in opposition and how it would affect the industry itself and that there was more favor for a broad based tax; a bed tax would make the overall tax up to 13.5% and not everyone has that disposable income that comes into the area. The fiscal note also showed that it did not raise the revenue as expected it was only going to create approximately \$2.5 million. She noted that there is still a potential

for a mil rate increase. However if the sales tax increase passes in April it will be on the October ballot this year but would not be in effect until 2019. There is a member of assembly who may bring forward a temporary mil rate increase. The Assembly meetings in April are budget meetings. A reduction in the property exemption back to \$20,000 has not been looked at by the Assembly. She noted that they do not currently generate enough revenue in sales tax to fund the school district so they supplement from the general fund. Reducing the exemption amount is not something she believes would be supported in response to questions from Councilmembers Smith, Stroozas and Erickson.

B. Commissions/Board Reports:

1. Library Advisory Board

**Mark Massion, Library Advisory Commissioner, updated the Council on the Board's business regarding meeting schedule for 2018 and student representative position plus research into a few new programs for patrons and business people.**

2. Homer Advisory Planning Commission

3. Economic Development Advisory Commission

4. Parks Art Recreation and Culture Advisory Commission

5. Port and Harbor Advisory Commission

Steve Zimmerman, Port and Harbor Advisory Commissioner, reported on the initial Commission request to Council to approve zoning on the spit for retail marijuana and elaborated on the request of 10% of the revenues from parking tickets.

There was a brief exchange between Councilmember Smith and Commissioner Zimmerman on the accounting methods employed between the general fund and the enterprise fund.

Mayor Zak thanked Mr. Zimmerman and mentioned a previous joint worksession between Council and the Commission and invited them to come speak with Council and maybe they can discuss and/or address some of these issues soon.

Councilmember Lord stated that she would be willing to work with the Commission and Harbormaster Hawkins to bring forward a resolution or ordinance.

6. Cannabis Advisory Commission

## PUBLIC HEARING(S)

- A. Ordinance 18-08, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.28.020, Permitted Uses and Structures; Adding Marijuana Retail Facilities in the Marine Commercial District. Aderhold/Cannabis Advisory Commission. Introduction February 26, 2018, Public Hearing and Second Reading March 12, 2018.

Memorandum 18-021 from City Planner as backup

Mayor Zak opened the Public Hearing.

Jim Preston, city resident of 40 years, commented that his family is in opposition of commercial marijuana on the Spit.

Robert Roth, non-resident, commented in opposition he stated that there were enough problems on the spit **with too much traffic, the road is not wide enough, they don't need it out there with one shop in town and every time they have a cruise ship his stuff doesn't work.**

Larry Slone, city resident, commented in favor and provided information on the length of use over the centuries, medical hindrance by being a Schedule 1 drug, the other worse drugs including alcohol, caffeine, sugar and over the counter drugs by comparison marijuana minor.

Cassie Lawver, city resident, commented in opposition, if they have one on Ocean Drive what **is the point having it on the spit, there are families that visit out there and they don't need it on the spit.**

Steve Zimmerman, city resident, commented in favor, it was made legal by the voters, sugar is way worse and we allow and sell alcohol on the spit all over, marijuana is only going to be allowed on private property and if they want a commercial business out there they should be allowed to have it; he noted that there are too many reasons why it should be allowed in his opinion.

Wes Schact, city resident, expressed some concerns since there are no places for consumption but it has been consumed on the spit since 1967, he is not admitting anything but has smelled it, he also had concerns with banning the Cannabis Advisory Commission and not having a source to answer questions from the public on cannabis.

Mayor Zak closed the public hearing seeing no further members of the audience coming forward to testify.

Mayor Zak requested a motion for adoption by reading of title only for second and final reading.

ADERHOLD/VENUTI – MOVED TO ADOPT ORDINANCE 18-08 BY READING OF TITLE ONLY.

Discussion ensued on the topic of commercial retail marijuana on the spit pointing out the pros and cons as follows:

- Marijuana was legalized by Alaskans and the majority of Homer voters
- This is supported by the Port & Harbor, Planning and Cannabis Advisory Commissions
- It is a substance not unlike alcohol or cigarettes and should be allowed in areas where we allow those businesses
- The current individual license that was permitted still has not opened; controversial issue and recommended postponing to see how this business evolves
- Support businesses that want to have this happen on the spit
- Not prohibiting the opportunity just because of personal dislike
- If the business/permit holder has completed all the paperwork then they should be allowed to have a business in an area that allows other retail or similar businesses
- Possible hindrance to receiving federal funding for the Harbor projects
- Let the businesses in town get a foothold
- Not having it on the spit will bring people in to town
- The City must serve the residents in the best interests insuring visitors and residents safety
- No property owners came forward in support
- This is a debatable amenity for the vitality of the marine industry that is on the spit
- The intent is to forward think and serve into the future not just one or a few individuals
- Ramifications and responsibilities of the private property owner

City Attorney Wells provided the disclosure that while this may be lawful under state law it is still unlawful under federal law.

VOTE. YES. ADERHOLD, LORD, VENUTI

VOTE. NO. ERICKSON, SMITH, STROOZAS

Mayor Zak broke the tie with a NO vote.

Motion failed.

- B. Ordinance 18-09, An Ordinance of the City Council of Homer, Alaska, Disbanding the Cannabis Advisory Commission and Repealing Homer City Code Chapter 2.78 Outlining the Duties of the Cannabis Advisory Commission. Aderhold. Introduction February 26, 2018, Public Hearing and Second Reading March 12, 2018.

Mayor Zak read the title into the record and opened the Public Hearing.

Wes Schact, city resident, commented on the public information aspect and who would the public present their questions or comments to without the commission.



Mayor Zak closed the public hearing seeing no further members of the audience coming forward to testify.

Mayor Zak requested a motion for adoption by reading of title only for second and final reading.

ADERHOLD/VENUTI MOVED TO ADOPT ORDINANCE 18-09 BY READING OF TITLE ONLY.

There was a brief discussion on the resources for the public to get information, why the commission was formed, and the role of the commission has been reduced to minimal need and anything in the future can come before the Council.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. Ordinance 18-10, An Ordinance of the City Council of Homer, Alaska, Accepting the Modified ADEC Municipal Matching Grant (MMG #40909) for an Expanded Water Storage and Distribution Improvement Project, Accepting the Responsibility to Operate and Maintain the Improvements, Agreeing to the Terms and Conditions of the Grant, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Introduction February 26, 2018, Public Hearing and Second Reading March 12, 2018.

Memorandum 18-034 from Public Works Director as backup

Mayor Zak read the title into the record and an invited the public to come forward for Public testimony. There was no Public testimony and Mayor Zak closed the Public Hearing.

Mayor Zak requested a motion for adoption by reading of title only for second and final reading.

ADERHOLD/VENUTI – MOVED TO ADOPT ORDINANCE 18-10 BY READING OF TITLE ONLY.

There was no discussion.

VOTE. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

## **CITY MANAGER'S REPORT**

A. City Manager's Report

City Manager Koester reported that the city will be applying the Cruise Ship Passenger Vessel Tax Funds to the Ramp 2 restroom project and she will be submitting a letter to the Borough to that effect.

The next issue she brought forward was having a worksession every other week on the legislative issues before the state that would impact the City on Tuesdays at 4:00 p.m. in the Conference Room upstairs the week prior to the Council meetings. That way if there is any issue that Council would like to take action on it can be included in the packet in a timely manner.

City Manager Koester inquired if there were any questions on her written report.

There were none.

B. Bid Report

City Manager Koester provided a summary of the Request for Proposal issued on Overslope Development in the Small Boat Harbor and the economic development opportunities available.

CITY ATTORNEY REPORT

City Attorney Wells provided a summary of the discussion held earlier on how to interpret the Open Meetings Act requirements that limit attendance of more than three Council members attendance at public meetings and functions that has not been advertised and how well the Council takes preventative measures to avoid the perception or appearance of any impropriety.

COMMITTEE REPORT

A. Employee Committee Report

B. Americans with Disabilities Act Compliance Committee

Councilmember Aderhold provided a brief report on the actions of the committee at the last meeting to review the Harbor report from Northwest ADA and recommended sharing the

report with the Harbormaster and presenting at a future Port and Harbor Commission meeting regarding ADA Compliance at Harbor facilities.

The committee received information from the contractor who maintains the city website of necessary ADA update requirements to make the city website compliant.

Councilmember Aderhold reported that Melissa Jacobsen, ADA Coordinator, provided a very informative report on a FEMA webinar she attended March 8, 2018 regarding Recovery from Recent Disasters: Lessons for Disability Planning in Remote Areas. It was very good after the recent tsunami warning.

Council member Aderhold responded that she did not have the details on the ADA requirements but believed it was making the website more accessible for those with vision issues.

PENDING BUSINESS

NEW BUSINESS

RESOLUTIONS

- A. Resolution 18-028, A Resolution of the Homer City Council Expressing Results of the February 26, 2018 Police Station Worksession and Providing Direction for the Next Step. Council/City Manager. Recommend adoption.

Mayor Zak read the title into the record and requested a motion to adopt

ADERHOLD/LORD – MOVED TO ADOPT RESOLUTION 18-028 BY READING OF TITLE ONLY.

ADERHOLD/SMITH – MOVED TO AMEND LINE 22-23 REMOVE THE WORDS, “REDESIGN OF THE \$6.4 MILLION DESIGN CONCEPT AND REPLACE WITH “TO INCORPORATE IN THE REVISED DESIGN.”

This is to be consistent with the previous decision reflected in Resolution 18-13(a).

VOTE. NON.OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Steve Zimmerman, city resident, commented on beating the dead horse for a moment but first thanked the Council for the conversation noting there are good arguments on both sides of the

issue, people keep saying that there is no place to legally consume out there, he questioned if it was illegal to consume alcohol in public why are they allowing all the establishments that sell alcohol; he believed it was legal to consume marijuana in your RV, tent or your private vessel if that was your home and if that was true, then there were lots of places to consume marijuana on the Spit. He is disappointed that the Ordinance did not pass but maybe in a few years after some enlightenment, down the road it will pass.

#### COMMENTS OF THE CITY ATTORNEY

Attorney Wells was no longer present.

#### COMMENTS OF THE CITY CLERK

Deputy City Clerk Krause thanked the Council for making the meeting easy for her.

#### COMMENTS OF THE CITY MANAGER

City Manager Koester thanked Deputy City Clerk Renee Krause for filling in for Melissa and doing the minutes of the meeting and complimented Ms. Krause for doing an excellent job.

#### COMMENTS OF THE MAYOR

Mayor Zak encouraged everyone to attend the Chamber meeting to hear Katie report on the State of the City tomorrow. He next commented on the wonderful Science Conference in Homer, learned about the importance of science and art and the scientist communicating their research through those avenues.

#### COMMENTS OF THE CITY COUNCIL

Councilmember Stroozas reiterated thanks for Katie and encouraged attendance to support the City Manager tomorrow at the Bidarka and that he will be back for the March 27th meeting and reminded everyone about the Winter King Tournament, March 24th, get out and support the community.

Councilmember Smith commented that they should have provided Katie an opportunity for a warm up and she could have given her state of the city speech tonight but that they probably have several people who could live stream that on Facebook so no one misses hearing it or they could review it later. He did have the opportunity to attend the Opioid/Heroin Summit along with Councilmembers Erickson and Aderhold last Wednesday for three of the five hours and it was very good information. Hard conversations, healthy discussions and ones that are much needed. A broad spectrum of support from the community will be needed to reach any resolution. Excellent interaction. He wanted to wish the following family members Happy

Birthday; his Dad, Aunt, his brother and his little Byron who is now 6, his nephew had his first child, Abraham son of Isaac. The **Men's Basketball won the tournament this year. It is great to be a Homer resident.**

Councilmember Erickson reflecting on the opioid epidemic commented on how they allow certain Facebook interactions, spoke about patterns changing, the privacy laws, we pull back and question from a distance; watching heartbreak; **we don't speak about** or mention observations to neighbors about their kids actions; take-away looking after our neighbors; she encourage residents to look out for their neighbors and take the time to reach out to them, offering encouragement or assistance. Take the time to walk across the street, reach across the aisle, just be a friend and it is an important part of living in a small town. Spring is starting to hit and the sun is shining. It is a pretty exciting time of year.

Councilmember Aderhold did read recently about a Mayor who came in on a zip line but no pressure. This has been a busy couple of weeks with meetings: Today was Lunch with a Councilmember and she attended with Assembly member Dunn it was good conversation and discussions included the HERC, taxes, and the Homer Comp Plan. There were only 4-5 people there but she finds this very valuable time to meet with community members in a relaxed atmosphere and hopes more people attend in the future. On March 5th the CARTS consultant held a public meeting and ended up filling the room and it was good to see the number of people who came out to speak about transportation and how their needs were not being met. It was a very diverse group in attendance. The Opioid summit was facilitated by the state Health and Social Services Office of Substance Misuse and Addiction Prevention. The state is taking the issue seriously and is getting input from communities in solving the problem. The Science Conference was three days focused on Kachemak Bay and most of the speakers were local. There were quite a few visitors from out of town. Many are taking a dive course across the bay now. As part of the science conference was a Chugachmiut Coordinators and Elders meeting. An attendee commented on learning the importance of water to humans he recalled **his mother saying, "Just place your hands on the water."**

Councilmember Venuti commented that she enjoyed the science conference and it was spring break so she was off this week and was looking forward to enjoying it.

Councilmember Lord commented that she just returned from 8 days back in New England, it is good to be home, March and April can be a tough time for a lot of people, the light is coming back, there is daylight savings but it is a period of time like today was beautiful and sunny then sideways snow, then back to sunny and beautiful; a crazy back and forth; she is sure the ski trails are gorgeous now; the spit trail is open and spring is coming; they have tulips coming up in the high tunnel now and thanked everyone at the table and all those who came out to testify tonight.

ADJOURN

There being no further business to come before the Council, Mayor Zak adjourned the meeting at 7:37 p.m. The next Regular Meeting is Tuesday, March 27, 2018 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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RENEE KRAUSE, CMC, DEPUTY CITY CLERK

Approved: \_\_\_\_\_