

City Council
April 28, 2014
Monday



Worksession 4:00 P.M.
Committee of the Whole 5:00 P.M.
Special Meeting 5:20 P.M.
Regular Meeting 6:00 P.M.

Cowles Council Chambers
City Hall
491 E. Pioneer Avenue
Homer, Alaska

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April/May 2014

Monday 28 th	CITY COUNCIL Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., Special Meeting 5:20 p.m., and Regular Meeting 6:00 p.m.
Tuesday 29 th	PUBLIC SAFETY BUILDING TASK FORCE Meeting 5:15 p.m.
Monday 5 th	VESSEL HAUL-OUT TASK FORCE Meeting 3:30 p.m.
Tuesday 6 th	LIBRARY ADVISORY BOARD Regular Meeting 5:00 p.m.
Wednesday 7 th	PLANNING COMMISSION Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
Thursday 8 th	PERMANENT FUND COMMITTEE Regular Meeting 5:15 p.m.
Monday 12 th	CITY COUNCIL Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.

Regular Meeting Schedule

City Council 2nd and 4th Mondays 6:00 p.m.
Library Advisory Board 1st Tuesday 5:00 p.m.
Economic Development Advisory Commission 2nd Tuesday 6:00 p.m.
Parks and Recreation Advisory Commission 3rd Thursday of the month with exception of December 5:30 p.m.
Planning Commission 1st and 3rd Wednesday 6:30 p.m.
Port and Harbor Advisory Commission 4th Wednesday 5:00 p.m.
(May – August 6:00 p.m.)
Transportation Advisory Committee Quarterly 3rd Tuesday 5:30 p.m.
Public Arts Committee Quarterly 3rd Thursday 5:00 p.m.
Lease Committee Quarterly 2nd Thursday 3:00 p.m.
Permanent Fund Committee Quarterly 2nd Thursday 5:15 p.m.

MAYOR AND CITY COUNCILMEMBERS AND TERMS

BETH WYTHE, MAYOR – 14
FRANCIE ROBERTS, COUNCILMEMBER – 15
BARBARA HOWARD, COUNCILMEMBER – 14
DAVID LEWIS, COUNCILMEMBER – 14
BRYAN ZAK, COUNCILMEMBER – 16
BEAUREGARD BURGESS, COUNCILMEMBER – 15
GUS VAN DYKE, COUNCILMEMBER – 16

City Manager, Walt Wrede
City Attorney, Thomas Klinkner

<http://www.cityofhomer-ak.gov/cityclerk> home page access, Clerk's email address is: clerk@ci.homer.ak.us
Clerk's office phone number: direct line 235-3130, other number 435-3106.

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



WORKSESSION
4:00 P.M. MONDAY
APRIL 28, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

WORKSESSION AGENDA

1. **CALL TO ORDER, 4:00 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
3. **EMPLOYEE COMPENSATION PACKAGE**
4. **COMMENTS OF THE AUDIENCE**
5. **ADJOURNMENT NO LATER THAN 4:50 P.M.**
Next Regular Meeting is Monday, May 12, 2014 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.

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
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COMMITTEE OF THE WHOLE
5:00 P.M. MONDAY
APRIL 28, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

COMMITTEE OF THE WHOLE AGENDA

1. **CALL TO ORDER, 5:00 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
3. **Ordinance 14-17**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040.m Regarding Compensation for the Mayor and Council, and Amending the FY 2014 Operating Budget by Appropriating \$8,775.00 From the General Fund-Fund Balance for Mayor and Council Member Compensation. Burgess/Lewis/Roberts. *Page 67*
4. **CONSENT AGENDA**
5. **REGULAR MEETING AGENDA**
6. **COMMENTS OF THE AUDIENCE**
7. **ADJOURNMENT NO LATER THAN 5:15 P.M.**
Next Regular Meeting is Monday, May 12, 2014 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.

CITY COUNCIL
COWLES COUNCIL CHAMBERS
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



**SPECIAL MEETING
5:20 P.M. MONDAY
APRIL 28, 2014**

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER BRYAN ZAK
COUNCIL MEMBER BEAUREGARD BURGESS
COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

SPECIAL MEETING AGENDA

1. **CALL TO ORDER, 5:20 P.M.**
2. **AGENDA APPROVAL** (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)
3. **PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA**
4. **NEW BUSINESS**
 - A. **Memorandum 14-072**, from City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(c)(3), Matters, Which by Law, Municipal Charter, or Ordinances are Required to be Confidential. (Ethics Complaint Nos. 2014-03, 2014-04, 2014-05, 2014-06, 2014-07, and 2014-08.)
Page 11
5. **ADJOURNMENT NO LATER THAN 5:50 P.M.**

Next Regular Meeting is Monday, May 12, 2014 at 6:00 p.m., Committee of the Whole 5:00 p.m., and a 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.



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

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Memorandum 14-072

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: APRIL 21, 2014

SUBJECT: REQUEST FOR EXECUTIVE SESSION PURSUANT TO AS §44.62.310(C)(3), MATTERS, WHICH BY LAW, MUNICIPAL CHARTER, OR ORDINANCES ARE REQUIRED TO BE CONFIDENTIAL. (ETHICS COMPLAINT NOS. 2014-03, 2014-04, 2014-05, 2014-06, 2014-07, and 2014-08.)

Pursuant to Council's Operating Manual – "Any Councilmember, the Mayor or City Manager may place consideration of an executive session on the agenda..."

Mayor Wythe has requested an Executive Session regarding "Ethics Complaint Nos. 2014-03, 2014-04, 2014-05, 2014-06, 2014-07, and 2014-08" for the Special Meeting of April 28, 2014. This has been publicly and internally noticed since that time.

City Attorney Klinkner will be present by telephone.

RECOMMENDATION:

Approve the request for Executive Session and conduct immediately in the Conference Room.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
AGENDA APPROVAL

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



REGULAR MEETING
6:00 P.M. MONDAY
APRIL 28, 2014
COWLES COUNCIL CHAMBERS

MAYOR BETH WYTHE
COUNCIL MEMBER FRANCIE ROBERTS
COUNCIL MEMBER BARBARA HOWARD
COUNCIL MEMBER DAVID LEWIS
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COUNCIL MEMBER GUS VAN DYKE
CITY ATTORNEY THOMAS KLINKNER
CITY MANAGER WALT WREDE
CITY CLERK JO JOHNSON

REGULAR MEETING AGENDA

Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Special Meeting 5:20 p.m.
in Homer City Hall Cowles Council Chambers.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Department Heads may be called upon from time to time to participate via teleconference.

2. AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

3. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

4. RECONSIDERATION

5. CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Councilmember.)

- A. Homer City Council unapproved Special Board of Adjustment meeting minutes of April 9 and Special and Regular meeting minutes of April 14, 2014. City Clerk. Recommend adoption. *Pages 27/43/45*

- B. **Memorandum 14-073**, from Mayor, Re: Appointment of Pedro Ochoa to the Parks and Recreation Advisory Commission as Student Representative. *Page 63*

- C. **Ordinance 14-17**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040.m Regarding Compensation for the Mayor and Council, and Amending the FY 2014 Operating Budget by Appropriating \$8,775.00 From the General Fund-Fund Balance for Mayor and Council Member Compensation. Burgess/Lewis/Roberts. Recommended dates: Introduction April 28, 2014, Public Hearing and Second Reading May 12, 2014. *Page 67*

- D. **Ordinance 14-18**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.03.04, Definitions Used in Zoning Code, the Title of Homer City Code 21.58 and Homer City Code 21.58.010, Purpose and Application; and Enacting Homer City Code 21.58.040, Communications Tower Requirements; to Define and Establish Standards for Communications Towers. Zak. Recommended dates: Introduction April 28, 2014, Refer to Planning Commission. *Page 73*

- E. **Resolution 14-048**, A Resolution of the Homer City Council Awarding a Three-Year Contract for Solid Waste Collection and Disposal to the Firm of Moore & Moore Services, Inc. of Homer, Alaska, in the Amount of \$54,273.80 Per Year and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk. Recommend adoption. *Page 79*

Memorandum 14-074 from Port and Harbor Director as backup. *Page 81*

- F. **Resolution 14-049**, A Resolution of the City Council of Homer, Alaska, Expressing Support for the Alaska Department of Transportation and Public Facilities (ADOT/PF) Selected Alternative for Traffic Control Improvements at the Intersection of Main Street and the Sterling Highway; a Traffic Signal With a Right Hand Turning Lane. City Manager. Recommend adoption. *Page 83*

6. VISITORS

- A. Green Dot Update – 10 minutes *Page 87*

7. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. New Firefighters and EMT's Swearing In

- B. Mayor's Proclamation – Municipal Clerks Week – May 4-10, 2014 *Page 91*
- C. Mayor's Proclamation – May 2014 as Bike Month *Page 93*
- D. Borough Report
- E. Commissions/Board Reports:
 - 1. Library Advisory Board
 - 2. Homer Advisory Planning Commission
 - 3. Economic Development Advisory Commission
 - 4. Parks and Recreation Advisory Commission
 - 5. Port and Harbor Advisory Commission
- F. Letter from Recreate Rec, Re: PARC Needs Assessment and HERC Building *Page 95*
- G. Letter from Keren Kelley, Homer Senior Citizens, Inc., Re: Request for Financial Support for Natural Gas Conversion Project *Page 101*
- H. Letter from Joy Steward, The Homer Foundation, Re: City of Homer Grants Program 2014 *Page 103*
- 8. **PUBLIC HEARING(S)**
 - A. **Ordinance 14-14(S)**, An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Limitation Period for Filing a Complaint of a Violation of the City Ethics Code of Five-Years or One Year After Discovery of the Violation. City Clerk. City Clerk. Introduction March 24, 2014, Public Hearings April 14 & 28, 2014 and Second Reading April 28, 2014. *Page 109*

Memorandum 14-046 from City Clerk as backup. *Page 113*
- 9. **ORDINANCE(S)**

10. CITY MANAGER’S REPORT

A. City Manager’s Report *Page 119*

B. Bid Report *Page 131*

11. CITY ATTORNEY REPORT

12. COMMITTEE REPORT

A. Public Arts Committee

B. Transportation Advisory Committee

C. Permanent Fund Committee

D. Lease Committee

E. Port and Harbor Improvement Committee

F. Employee Committee Report

G. Port and Harbor Building Task Force

13. PENDING BUSINESS

A. **Resolution 14-046**, A Resolution of the City Council of Homer, Alaska, Amending Chapter 2, Section 2.2(A) of the City of Homer Property Management Policy and Procedures (Lease Policy) Regarding Committee Membership. Mayor and City Council. Recommend adoption. (Postponed from April 14, 2014) *Page 139*

Memorandum 14-066 from City Manager as backup. *Page 141*

14. NEW BUSINESS

15. RESOLUTIONS

16. COMMENTS OF THE AUDIENCE

17. COMMENTS OF THE CITY ATTORNEY

18. COMMENTS OF THE CITY CLERK

19. COMMENTS OF THE CITY MANAGER

- 20. COMMENTS OF THE MAYOR**
- 21. COMMENTS OF THE CITY COUNCIL**
- 22. ADJOURNMENT**

Next Regular Meeting is Monday, May 12, 2014 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.

PUBLIC COMMENTS
UPON MATTERS
ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

Session 14-09 a Special Meeting of the Homer City Council was called to order on April 9, 2014 at 6:00 p.m. by Board Chair Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: BOARD MEMBERS: BURGESS, HOWARD, LEWIS, ROBERTS,
VAN DYKE

ABSENT: ZAK (excused)

STAFF: CITY ATTORNEY WELLS
CITY CLERK JOHNSON
DEPUTY CITY PLANNER ENGBRETSSEN

City Clerk Johnson related Board Member Zak requested a timely excusal that was not noticed on the agenda.

Chair Wythe ruled Board Member Zak's absence as excused. There was no objection from the Council.

AGENDA APPROVAL

(Only those matters on the noticed agenda may be considered, and HCC 2.08.040(c); 2.08.040(e)(3)).

Chair Wythe called for a motion for the approval of the agenda.

LEWIS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

APPEAL TO THE BOARD OF ADJUSTMENT

- A. Appeal of the Homer Advisory Planning Commission Decision of December 4, 2013 for Conditional Use Permit 13-13 for More Than One Building Containing a Permitted Principal Use on a Lot at 3850 Heath Street. Frank Griswold, Appellant.

Opening briefs were received from the Planning Department and Appellant Frank Griswold. A reply brief was received from Mr. Griswold. The applicant substantively participated in the commission hearing but did not file any briefing. All parties have standing pursuant to HCC 21.93.060.

Appellant Frank Griswold and Deputy City Planner Julie Engebretsen were present and were identified for the Board.

A. PRELIMINARY ISSUES

(1) Conflicts of interest

Frank Griswold addressed a conflict of interest of the City Attorney. He cited Alaska Bar Rule 1.7(a) and 1.7(b), paragraph (b)(3) in which a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. The bar rule was submitted into Mr. Griswold's supplemental evidence for the hearing. He asked for determination whether City Attorneys Holly Wells or Thomas Klinkner or any other member of Birch Horton Bittner and Cherot wrote or assisted City Planner Rick Abboud in writing the opening brief of the City of Homer or advised the Planning Commission.

Chair Wythe asked City Attorney Holly Wells to state the associations between Birch Horton and the services to the Board and the City Planner.

City Attorney Wells related to the Board since March 2011 the City of Homer adopted a policy that follows several ethical opinions and court cases in which the State of Alaska through the Attorney General and the Municipality of Anchorage with its municipal attorney's office, took the approach where a single attorney from a law firm or an in-house legal department would represent the planning department or administrative body. A separate attorney would then represent the board or the decision making body with a few limitations. Those limitations include not entering into deliberations and providing guidance and advice on procedural matters only. That is the position Birch Horton has taken. It was March 22, 2011 when the city administration asked for guidance on the topic. They have maintained those rules, including a Chinese wall erected between the attorneys so no conversations and ex-parte communications occur between lawyers. They have abided and complied by those limitations in this proceeding. Reasons for this option are for cost effectiveness and the ability to avoid finding outside counsel. It can be costly and difficult to find an outside attorney for a municipality.

Chair Wythe ruled there was no violation.

Frank Griswold called for a point of order that this was a decision of the Board and not the Chair. The City Attorney did not answer the question if she assisted in writing the City's brief.

Attorney Wells stated she did not assist in any way in writing the brief or consult with the Planning Department in any way. Attorney Wells answered she believes Tom Klinkner did

provide assistance. She is not sure that he did. Because of the Chinese wall she has no knowledge of the level of interactions he has had with the Planning Department.

Mayor Wythe does not perceive a conflict of interest and called for a motion from the Board.

BURGESS/LEWIS – MOVED THAT PROVIDED AS LONG AS THE CHINESE WALL IS MAINTAINED AND ATTORNEY WELLS IS HERE ON AN ADVISORY CAPACITY ON MATTERS OF PROCEDURE AND OF CODE THAT THERE IS NO CONFLICT.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Wythe asked if there were any conflicts of the Board.

Board Member Roberts disclosed that she attended the December 3, 2013 Planning Commission meeting. She doesn't remember this being discussed, but she was there.

Board Member Lewis disclosed he has known Kenton Bloom for a number of years although he has never done any business with him.

Board Member Burgess disclosed he sometimes works on projects that require Kenton Bloom's expertise. In the past he has been involved with businesses that Mr. Ramos is also involved with. Neither of those interactions has resulted in the amount of \$5,000 direct benefit to him or the corporation he works with.

Chair Wythe asked if that would influence Board Member Burgess' decision and he answered it would not.

Board Member Van Dyke disclosed his business has repaired many of Jose Ramos' vehicles.

Mayor Wythe sees no concerns of conflicts.

Frank Griswold called for a point of order as after disclosure there needs to be a vote.

Chair Wythe had allowed the Board opportunity to make a motion to consider someone in conflict and there were no motions made. She does not see any conflicts.

BURGESS/HOWARD - MOVED THAT BARRING ANY OBJECTION BY THE OTHER COUNCIL WE RULE THAT NO COUNCILMEMBER HAS A CONFLICT THAT WOULD MAKE IT UNNECESSARY FOR THEM TO PARTICIPATE IN THESE PROCEEDINGS.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Wythe announced the Board has clearly vetted their potential issues and none have been identified to be in conflict. She asked for the declaration of any partiality issues.

(2) Partiality

Frank Griswold cited HCC 1.18.048(a) and (c), and 1.18.020 relating to partiality matters. Mayor Wythe is a consulting member of the Planning Commission as provided under HCC 2.72.010(d). She nominated many of the people appointed to the Planning Commission and could look bad if her nominations were ruled to have made a bad decision. Mr. Griswold believes she has a bias in favor of the commissioners and a long-standing animosity towards him and actively sought to thwart his previous appeal involving the City Manager's denial of a public records request by excluding witnesses and preventing him from questioning them. If she declined to participate in the discussions and did not vote, her participation as chair would violate HCC 1.18.048(a) and create the appearance of impropriety.

Board Member Burgess asked Chair Wythe if she participated in the Planning Commission's decision of CUP 13-13.

Chair Wythe answered in her lifetime on the Council she has maybe been to a Planning Commission once, never since she was elected mayor.

Chair Wythe noted for partiality review we will follow the same protocol. If there is a motion from the floor regarding partiality or the absence thereof, we will act on that motion.

BURGESS/LEWIS - MOVED TO DISCUSS THIS ISSUE BRIEFLY.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BURGESS/LEWIS - MOVED THAT MAYOR WYTHE BE ALLOWED TO CHAIR THIS BOARD OF ADJUSTMENT.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Frank Griswold noted a partiality by both City Planner Rick Abboud and Deputy City Planner Engebretsen by favoring approval of CUP 13-12. If they qualify as city officials of HCC 1.18.048(a) it would be illegal for them to advise the BOA or influence their decision. If Ms. Engebretsen does not qualify as a city official she does not qualify for standing to appeal the determination of the commission per HCC 21.93.060(b).

City Attorney Wells advised under HCC 21.93.500 both Mr. Abboud and Ms. Engebretsen are people actively and substantively participating and qualify under HCC 21.93.060. They are participating as parties to present the position of the Planning Department in approving the conditional use permit (CUP). The Planning Department at times advises the Planning Commission to represent their decision before the commission.

Frank Griswold noted the Planning Department and the Planning Commission are two separate entities and there is no one here from the Planning Commission.

City Attorney Wells advised Julie Engebretsen is here to present information from the commission because it was aligned with the Planning Department that it should be approved. She read the definition of partiality in HCC 1.18.020.

Chair Wythe called for a motion for determination if Ms. Engebretsen is an official.

LEWIS/BURGESS - MOVED THAT MRS. ENGBRETSSEN IS AN EMPLOYEE OF THE CITY AND IS NOT AN OFFICIAL OF THE CITY.

City Attorney Wells advised narrowing the finding to partiality. A definition for another government official outside of HCC 1.18 may be different.

Board Member Roberts asked for clarification of Deputy City Planner Engebretsen's role in this hearing.

Chair Wythe called for a recess at 6:41 p.m. and reconvened the meeting at 6:47 p.m.

Chair Wythe clarified Deputy City Planner Engebretsen assumes the capacity of City Planner when City Planner Abboud is absent or unavailable. She is in that qualified, recognized governmental capacity for the Board now.

City Attorney Wells added in Ms. Engebretsen's capacity as Deputy City Planner she will qualify for standing under the standing provisions that Mr. Griswold may raise later. For purposes of partiality it would be outside the scope of a city official for the Code of Ethics. The Board should limit their scope of the finding to HCC 1.18.020.

VOTE: NO. LEWIS, BURGESS, ROBERTS, HOWARD, VAN DYKE

Motion failed.

Mayor Wythe called for a motion that Ms. Engebretsen is not an elected official for the purpose of HCC 1.18.020 in determining partiality.

HOWARD/LEWIS - SO MOVED

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BURGESS/LEWIS – MOVED THAT BECAUSE MS. ENGBRETSSEN IS NOT DEFINED AS AN OFFICAL FOR THE PURPOSES OF PARTIALITY AND BECAUSE MS. ENGBRETSSEN HAS DISCLOSED THAT SHE HAS NO PERSONAL PARTIALITY CONFLICT IN THESE PROCEEDINGS THAT SHE NOT BE CONSIDERED TO HAVE A PARTIALITY CONFLICT.

Mr. Griswold objected since the question has not yet been asked of Ms. Engebretsen.

Deputy City Planner Engebretsen disclosed she has no personal or professional partiality in the proceedings. Her child attends daycare within 300 feet of the proposed property, but she just drives by the property every day on her way to work.

Board Member Burgess restated his motion.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

(3) Ex Parte communications

Frank Griswold referenced HCC 21.93.710(a) and (e) for ex parte communications. He asserted Ms. Engebretsen and Mr. Abboud are qualified parties to this appeal. He questioned ex parte communications with any of the commissioners or the Board on CUP 13-13. Mr. Abboud who co-signed the commission's decision is not present for questioning.

Chair Wythe commented Mr. Abboud is not present and she does not anticipate that any further questioning of him will take place. She asked Ms. Engebretsen if she has talked to the commission about the appeal.

Deputy City Planner Engebretsen doesn't believe she has spoken to the Planning Commission about the appeal and does not agree with Mr. Griswold's interpretation of the code. It is talking about where there is a decision of staff that is appealed to the Planning Commission.

City Attorney Wells agreed Mr. Griswold is right that once you are a party to the appeal it would be inappropriate if Ms. Engebretsen were to have ex parte or any communications with the Board. The role that the Planning Department serves with the Planning Commission is two-fold; they both present the reasons for recommending approval for a CUP and often help with drafting of the decision. The commission tells them what to write and then there is a process that is well vetted and appropriate and approved under Alaska law. If the Planning Department is advising the Planning Commission in a way that is not transparent that would be an ex parte problem. The more pertinent question is has there been any contact between the Planning Department and the Board.

Chair Wythe asked the Board of Adjustment to disclose any ex parte communication regarding this case with anyone not sitting at this table. Chair Wythe noted there were none stated.

Frank Griswold asked for determination whether City Planner Abboud and City Deputy Planner Engebretsen have standing to participate in the appeal and if so, who do they represent. The entries of appearance state they represent the City of Homer, not the Planning Commission. It appears they are both representing the owner of the subject property, Mr. Ramos. Neither city planners are aggrieved by the decision of the commission nor would they be by a Board reversal. Mr. Griswold referenced State vs. Taylor 114, Washington Appellate Court, 124, 2002 case and Griswold vs. City of Homer in KSMA 252 Pacific Third 1020.

City Attorney Wells referenced HCC 21.93.160 and (b) for standing. Ms. Engebretsen would be considered a government official, or most certainly working for the city government. There is an express provision granting standing to the Planning Department, therefore the need to prove aggrieved status would not apply.

City Attorney Wells agreed with Mr. Griswold that Mrs. Engebretsen would not be representing the commission. It may not have been an accurate portrayal of their role; they may have been intending to say they were representing the decision of the Planning Commission. It is appropriate for the Board to limit their role as a party to this proceeding with standing to move forward.

BURGESS/ROBERTS - MOVED TO RESTRICT JULIE'S PARTICIPATION IN THESE PROCEEDINGS AS A REPRESENTATIVE OF THE CITY OF HOMER AND TO NOT REPRESENT THE INTEREST OF ANY WAY TO BIAS OF THE RULING OF THE DETERMINATIONS OF THE HOMER ADVISORY PLANNING COMMISSION.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Frank Griswold clarified he did not assert Ms. Engebretsen claimed to represent the Planning Commission. If her role is restricted it should be to represent the Planning Department.

Frank Griswold noted the entries of appearance of Mr. Abboud and Ms. Engebretsen failed to meet the requirements of HCC 21.93.090. It should be determined whether city employees can represent themselves without the written authorization of the City Manager or the City Council. An attorney hired to represent the City of Homer files an entry of appearance; anyone other than an attorney needs written authorization.

City Attorney Wells agreed with Mr. Griswold that the authorized representative provision never intended a signature by the City. It only refers to a person. It may be wise for the Council to amend that section of the code to make it expressly clear that a notice of appearance by a city representative is on behalf of the City of Homer. This is an ambiguous code provision and the Board could not find a violation of that code provision.

BURGESS/LEWIS - MOVED TO FURTHER CLARIFY THAT MS. ENGBRETSSEN IS REPRESENTING THE HOMER CITY PLANNING DEPARTMENT, ADVISING ON THE ACTIONS TAKEN BY THE PLANNING DEPARTMENT, AND DOES NOT NECESSARILY REPRESENT THE CITY OF HOMER AS A WHOLE.

The Board discussed the Planning Department as a part of the City of Homer.

Chair Wythe thanked Mr. Griswold for pointing the ambiguity within the code that can be adjusted later.

Vote: NO. ROBERTS, HOWARD, LEWIS, BURGESS, VAN DYKE

Motion failed.

Frank Griswold noted neither Mr. Abboud or Mrs. Engebretsen filed an appeal or cross appeal and neither constitutes an appellant, a cross appellant, or a respondent as required under HCC 21.93.530(a) for filing briefs and presenting oral argument. He referenced the denial of his March 26, 2014 public records request from City Manager Wrede noting it was routine for the City Planner to prepare an opening brief. Mr. Griswold referenced a superior court judge's decision that is appealed; court personnel do not defend their positions. Neither party qualifies under 21.93.540(b) to present oral argument. The Planning Commission's decision does not need to be defended by partisan staff of the Planning Department.

City Attorney Wells advised HCC 21.93.530 deals expressly with parties. The language binding on the Board is each party to the appeal may file. Respondent or Appellee are terms used to define who is responding or filing. In a quasi-judicial proceeding that has no bearing. It would be inappropriate to exclude the Planning Department as a party despite express provisions that permit them to be a party.

City Attorney Wells addressed Mr. Griswold's analogy of the case referring to the superior court judge. The Planning Department's participation in these proceedings is not like the involvement of a superior court judge. It is like the involvement of an attorney general or a district attorney. Those officials are constantly appearing on appeal for the agencies they

represent. If they lose a case before the superior court they will carry the case forward as an advocate and appeal to the supreme court. Homer City Code is designed to allow the Planning Department to fulfill that recommendation they carry forth through procedural hearings.

Board Member Roberts questioned the email from Walt Wrede that Mr. Griswold referenced.

Frank Griswold clarified it was the public records request. He stated it was established Attorney Klinkner assisted or wrote the brief.

City Attorney Wells stated she does not have any idea if Attorney Klinkner had any involvement in the drafting of the opening brief. Mr. Klinkner has been assigned to the Planning Department for purposes of this CUP. He may have had no contact with the Planning Department. Because of the Chinese wall the attorneys do not discuss cases.

Frank Griswold asked that Mr. Abboud be allowed to state who wrote the brief. It is prejudicial to him if one attorney from the law firm has already written a brief that Attorney Wells would challenge the wisdom of her law partner.

Frank Griswold believes neither Mr. Abboud or Ms. Engebretsen can represent the City of Homer or any department without being licensed to practice law. He referenced AS 08.08.230 and Alaska Bar Rule 63.

City Attorney Wells advised Homer City Code is very clear that as a party the Planning Department and its representative can present the position of that party. She referenced an opinion with the Human Rights Commission, Attorney General opinion: WL22915, file no. A66-055-80 issued on September 11, 1979. Homer City Code 21.93.090 clearly anticipates the participation in quasi-judicial proceedings by non-attorneys. The Board should consider what is the ramification and consequences of limiting parties before them. Attorney Wells argues the consequence is a restriction on due process, access, and rights to decisions. The Board should err on the side of fulfilling due process rights of individuals and allowing access of the quasi-judicial proceedings. The Planning Department is almost representing themselves as pro se. There is a clean and clear line.

Frank Griswold commented if they are representing themselves pro se they should have said so. The Homer City Code can still be wrong and if the Board follows it a court could rule it invalid.

Board Member Burgess asked Mr. Griswold if he has found that any member of the Planning Department represented themselves in the capacity of an attorney.

Frank Griswold answered if they want to exercise their appeal rights they are entitled to have an attorney represent them. If they are authorized to represent themselves they should file an entry of appearance to represent themselves.

City Attorney Wells clarified the city planners do have access and can receive advice from Attorney Klinkner. He has been assigned to the Planning Department. It is not relevant to this issue whether a non-attorney can represent a commission. Based on the city code provisions and advice of the Attorney General, the department is allowed and it is proper to represent themselves as a party. Requiring them to have an attorney present at all proceedings has costly and restrictive ramifications. There is ambiguity of the law; very clear municipal provisions permit Ms. Engebretsen to proceed as a party. It is a decision that the Board needs to make as it is a valid issue raised by Mr. Griswold.

Chair Wythe asked if a precedent has been set by past hearings of the Board of Adjustment (BOA) where the Planning Department has represented themselves. In past BOA hearings they have had access to an attorney but don't always have an attorney in the room.

City Attorney Wells answered consistency of government practice is important. We are not at the level of a state quasi-judicial body; we are at the level of a municipal quasi-judicial body that needs more flexibility.

(4) Other preliminary issues

Frank Griswold referenced HCC 21.93.540(b) of the taking of testimony as limited by HCC 21.93.510 and (a) that the Board shall not consider allegations of new evidence or changed circumstance and shall make its decision based solely on the record. The Board has accepted briefs and is about to hear oral argument. He asked if testimony was limited to arguing points in the briefs and what happens if new evidence is introduced at oral argument. He asked if objections be acknowledged and decided by the Chair subject to override by the Board or will they be decided by the Board as a whole.

Chair Wythe answered following completion of preliminary issues she will outline the oral argument process.

Deputy City Planner Engebretsen had no preliminary issues.

B. ORAL ARGUMENTS

Chair Wythe recommended the Board hear oral arguments and grant each side a total 30 minutes, if they need it. There were no objections from the Board.

Chair Wythe reminded the parties that this is not the time for them to offer new evidence to the Board pursuant to HCC 21.93.510. Parties must base their case on the evidence in the record from the Planning Commission.

Oral argument will proceed as follows: Mr. Griswold, as the appellant, will go first. He will have a total of 30 minutes. If wanted, he may reserve some of that time for his response to the Homer Deputy City Planner. After Mr. Griswold presents his argument, then Julie Engebretsen, Homer Deputy City Planner, will have 30 minutes to make her argument. Then, if Mr. Griswold

has reserved any time, he will be allowed to respond to the Deputy City Planner, up to the limit of his remaining time. When he is finished, that will conclude the arguments.

BURGESS/ROBERTS - MOVED THAT ANY PARTY THAT HAS OBJECTION ON NEW EVIDENCE BEING RAISED, THE CLOCK WILL BE STOPPED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Wythe called for a recess at 7:42 p.m. and reconvened the meeting at 7:49 p.m.

Chair Wythe noted applicant Kenton Bloom is here, but did not file an opening brief.

Kenton Bloom, applicant, was identified and reserved his right to respond.

Frank Griswold objected to Mr. Bloom's participation since he did not file an entry of appearance; it is inappropriate for him to participate in this proceeding.

Chair Wythe noted there are entries of appearance from both Jose Ramos and Seabright Survey (Mr. Bloom) dated March 11. Both have submitted their entry of appearance timely. Neither party provided any written documentation or brief. They reserve their right to participate in the proceedings.

Frank Griswold stated he was never provided copies of those entries of appearance.

City Attorney Wells advised under HCC 21.93.500(b) both the appellant and the applicant are not required to submit entry of appearance in order to appear as parties. We do have the entries of appearance. She advised the Board to look at the section of the code and what is required of the applicant and also note if Mr. Griswold did not receive notice of the entries of appearance excluding the party from participation might be a much more prejudicial and destructive action than moving forward. It is understood when something is filed with the clerk it should be served and sent to opposing parties. It is usually done by the clerk although this is not an express requirement.

BURGESS/ROBERTS - MOVED THAT BECAUSE THIS MATTER IS NOT EVIDENTIARY, IT SIMPLY HAS TO DO WITH PARTIES WHOSE UNCERTAIN INTERPRETATIONS OF THE CODE WOULD BE EXPLICITELY ALLOWED TO PARTICIPATE OTHERWISE, THAT MR. BLOOM BE ALLOWED TO PARTICIPATE IN THESE PROCEEDINGS.

City Attorney Wells advised notice of appearance must be filed 14 days before the hearing, but the code expressly exempts the appellant and owner of the property from the entry of appearance requirement.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Frank Griswold referenced HCC 21.93.090 that says no person may represent a party to an appeal without filing with the city clerk written authorization which shall be signed by the parties so represented and provide the name and address of the party's representative. If the person representing another is a lawyer licensed to practice law in Alaska, an entry of appearance signed by the attorney is acceptable in lieu of authorization signed by the person so represented. He questioned the entry of appearance documents that say Kenton Bloom, property owner representative. He doesn't believe it meets the requirements of HCC 21.93.090 as nothing authorizes him to represent anyone else. If Mr. Griswold had known in advance he would have had objections and raised conflict of interest and other issues. Now there is a non-attorney representing a party.

City Attorney Wells advised it is appropriate to address Mr. Griswold's concerns. HCC 21.71.020(a) requires an application for a CUP include the name of the owner of the subject lot and the name of the applicant for the permit. If the applicant is not the owner of the lot as is the situation here, (a)(g) requires that the application include the owner's signed authorization granting applicant the authority to apply for the CUP and bind the owner to the terms of the CUP if it is granted. The record shows on behalf of Seabright Survey Kenton Bloom signed the application for the CUP as the applicant and Jose Ramos signed the application as the owner of the property. Mr. Bloom is not here as a representative of the owner. He is here as the applicant and has that right. He has followed the procedure to be an applicant

Kenton Bloom affirmed he is representing himself and his company as the applicant.

Chair Wythe confirmed Kenton Bloom will be representing himself as the applicant.

City Attorney Wells advised it is appropriate for the Board to limit his representation as the applicant.

BURGESS/LEWIS – MOVED THAT MR. BLOOM'S COMMENTS BE CONFINED TO HIM REPRESENTING HIMSELF AND SEABRIGHT CONSTRUCTION AS AN APPLICANT AND HE IN NO WAY SHAPE OR FORM MAY REPRESENT THE INTEREST OF THE OWNER OR ANOTHER APPLICANT.

VOTE: YES. HOWARD, VAN DYKE, BURGESS, LEWIS

VOTE: NO. ROBERTS

Motion carried.

Frank Griswold rested on his briefs and reserved his 30 minutes for rebuttal.

Kenton Bloom addressed the applicant item that was alleged to require the expertise of an attorney for submission of a CUP application. There has never been a determination to that effect in any of the process that he is aware of for the City of Homer. The nature of the process as the City has presented to his firm is applicable and appropriate for submitting a CUP.

Chair Wythe noted 29:13 minutes remain for Mr. Bloom's rebuttal.

Deputy City Planner Julie Engebretsen asserted the applicant applied to build a duplex at the property and applied for a CUP for more than one building containing a principal permitted use on the lot. Per opening brief #5 the applicant's property was evaluated for the current proposal and the Planning Commission evaluated the proposal, made conditions, and considered current permitting requirements as displayed in Mr. Abboud's response #4. Previous permits or plans over a decade or longer ago do little to enforce what is proposed in the current CUP. As part of the permitting process the City Planner will review to determine whether all permits and approvals required by applicable Federal, State, or local law or regulation have been obtained. All other permits must be applied before the Planning Department will issue a zoning permit for that development.

Deputy City Planner Engebretsen noted point of appeal #7 Mr. Griswold states the commission erred in finding that other conditions were not necessary to protect the interests of the community and surrounding area or to protect the health, welfare, and safety of persons working in the vicinity. Mr. Abboud's response was that the Planning Commission reviewed the application, held a public hearing, and proposed conditions. They did respond to written testimony and comments and displayed due considerations to all concerns presented.

Deputy City Planner Engebretsen referenced point of appeal #8 Mr. Griswold states that the Planning Commission erred in making a finding if all structures and uses of the subject property conformed to the Homer zoning code. Mr. Abboud responded that nothing in Homer City Code prescribes abatement of any alleged zoning violation as a prerequisite prior to hearing or ruling on a CUP application. Mr. Griswold discusses the Community Design Manual (CDM). The Planning Department's interpretation is that the CDM applies to all nonresidential uses and uses with more than twelve residential uses. There are not twelve residential structures on the subject property so the CDM does not apply. Lighting and landscaping provisions in city code do apply.

C. REBUTTAL

Chair Wythe told Frank Griswold he has 30 minutes remaining that he may use for response to the Deputy City Planner.

Frank Griswold rebutted just because there is nothing in Homer City Code that requires prerequisite compliance with code doesn't mean it is not appropriate for the Planning Commission to mandate under HCC 21.71.040. They have broad discretion to mandate any conditions to protect the public health, welfare, and community. It is disingenuous to say it is not required; it is in the catchall category of the CUP. If all of these things cannot be met and

protections put in place, then the CUP must be denied. They clearly have the authority to apply any number of conditions to make it an appropriate development. The CDM is very convoluted; it was enacted in 2004. Before that, this provision was mandated by the CUP application process. The CDM is supposed to be amended from time to time, but it still refers to the 1999 Comprehensive Plan. In the CUP process one of the requirements is that the development must meet all applicable provisions of the CDM. You have applicability restrictions within the CDM and one is lighting that applies to all uses. Lighting is required whether it is a permitted or a conditional use.

Chair Wythe asked if the Board had any questions for either party.

Board Member Roberts referenced the CDM page 2 of 38, applicability. If you are in the Central Business District then site plan review should be followed when issuing a permit. Should the architectural requirements be applied?

Deputy City Planner Engebretsen answered it is staff's interpretation on page 3 and 5 of the CDM that applicable uses in areas zoned Central Business District or Gateway Business District are all nonresidential uses and uses with more than twelve residential uses. The intent is not for a single family home or for five or eleven residences on a lot. It is twelve; it is a volume of development. The major rewrite of Title 21 was after the CDM. Lighting standards became part of city code; at the time the CDM was written we did not have those lighting regulations.

Board Member Burgess had hoped to hear more about some other points raised. The issues are relatively minor reasons to overturn a CUP. He would give more weight to topics like the Planning Commission lacking authority to permit as opposed to recommend a CUP. He is curious that Mr. Griswold would not use his time to speak on it.

Frank Griswold answered he briefed it and took a lot of time to prepare the argument. He would only be stating it again. The Board is supposed to have read the briefs and ask questions. The points in the brief are no less important than if he presented oral argument, which is optional.

Board Member Roberts asked Deputy City Planner Engebretsen and Frank Griswold to comment on item 8 in Mr. Griswold's brief that talks about zoning violations. How do we know there are zoning violations?

Frank Griswold answered there is lots of information in the street file that should have been provided to the commission. This would be grounds for remand for the taking of new evidence. His public records request for that information was delayed and not received in time to present. Some is referenced in the testimony and documents presented to the Planning Commission. There should have been an effort to make sure all the structures on the property were in compliance.

Board Member Burgess asked what Mr. Griswold finds objectionable about the CUP? Does he object to use of the site or the building?

Frank Griswold answered this is an invalid land use permit that is being approved as an abatement tool. The Planning Department is aware of multiple zoning violations on the lot and instead of seeking abatement they are issuing an invalid land use permit. It is actually a planned unit development encompassing the whole lot. Previously a structure was required to be removed from this property. While one governmental agency is requiring structures to be removed another is allowing structures to be constructed.

Board Member Roberts referenced pages 37 and 38 of the appeal record, the two maps of the lot. The building closest to Heath Street says tool shed as of 2005. The CUP application says some buildings are stores. When you change from a tool shed to a business do you have to do anything?

Deputy City Planner Engebretsen answered she cannot speak to the rules at the time as she does not know when it changed from a tool shed to what it is now.

Board Member Roberts noted the packet information lists conflicting uses for the buildings. She expressed confusion of the eleven residences on the lot.

Deputy City Planner answered she does not know when the tool shed became the use that it is today. If it were to change to a different occupancy today they should apply for a change of use zoning permit.

Board Member Roberts referenced argument #6 street file documents. She asked if those kinds of documents would be in the record of appeal.

Deputy City Planner Engebretsen answered those documents are not in the appeal record as that would be admitting new information. The street file is a paper file with permits, water and sewer bills, etc. stored according to the records retention schedule.

Board Member Burgess questioned #5 in Mr. Griswold's brief on the assertions that the Planning Department is not required to investigate or make sure all permitted uses on the lot are in compliance when issuing a CUP. Mr. Griswold is claiming the opposite. He asked either party what their understanding of that section of the code is.

Frank Griswold answered HCC 21.90.030 was cited in his opening brief.

Deputy City Planner referenced #5 the zoning permit requirement. Enforcement of a violation is the authority granted to the City Planner to pursue or to not pursue.

Chair Wythe advised deliberations of the Board will now commence and continue from time to time as necessary until completed. She asked for a motion from the Board to go into executive session for the purpose of deliberating and deciding this appeal.

HOWARD/LEWIS – SO MOVED.

The Board briefly discussed the necessity of going into executive session to discuss the appeal. City Attorney Wells noted the Board needs to maintain the procedural process. Once in deliberations the Board is exempted from the Open Meetings Act and can meet at any time to deliberate. She reminded the Board that her counsel is for procedural issues only and she will not be joining the Board in deliberations.

VOTE: YES. VAN DYKE, LEWIS, HOWARD, ROBERTS, BURGESS

Motion carried.

ADJOURNMENT

There being no further business to come before the Board, the public portion of the Board of Adjustment meeting adjourned at 8:37 p.m. Board deliberations will commence and continue in executive session as needed until completion.

JO JOHNSON, MMC, CITY CLERK

Approved: _____

Session 14-10 a Special Meeting of the Homer City Council was called to order on April 14, 2014 at 5:30 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS: BURGESS, HOWARD, LEWIS, ROBERTS,
VAN DYKE, ZAK

STAFF: ACTING CITY MANAGER/CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER

AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

Mayor Wythe called for a motion to approve the agenda as presented.

ZAK/VAN DYKE – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

There were no public comments.

NEW BUSINESS

- A. **Memorandum 14-070**, from City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(c)(3), Matters, Which by Law, Municipal Charter, or Ordinances are Required to be Confidential. (Ethics Complaint No. 2014-01.)
- B. **Memorandum 14-071**, from City Clerk, Re: Request for Executive Session Pursuant to AS §44.62.310(c)(3), Matters, Which by Law, Municipal Charter, or Ordinances are Required to be Confidential. (Ethics Complaint No. 2014-02.)

Mayor Wythe called for a motion for the approval of the recommendations of Memorandums 14-070 and 14-071 to meet in Executive Session to hear Ethics Complaint Nos. 2014-01 and 2014-02.

HOWARD/VAN DYKE – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

BURGESS/HOWARD - MOVED TO ADJOURN TO EXECUTIVE SESSION WITH OUR ATTORNEY PRESENT.

There was no discussion.

VOTE: YES. LEWIS, BURGESS, ROBERTS, HOWARD, ZAK, VAN DYKE

Motion carried.

Council adjourned to Executive Session at 5:34 p.m. and reconvened the Special Meeting at 6:02 p.m.

Mayor Pro Tempore Roberts stated Council met with the attorney and he provided advice and we will continue our meeting after this meeting.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 6:02 p.m. The next Regular Meeting is Monday, April 28, 2014 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession at 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.

JO JOHNSON, MMC, CITY CLERK

Approved: _____

Session 14-11 a Regular Meeting of the Homer City Council was called to order on April 14, 2014 at 6:02 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS: BURGESS, HOWARD, LEWIS, ROBERTS,
VAN DYKE, ZAK

STAFF: ACTING CITY MANAGER/CITY CLERK JOHNSON
CITY ATTORNEY KLINKNER
DEPUTY CITY PLANNER ENGBRETSSEN
FINANCE DIRECTOR LI
PORT AND HARBOR DIRECTOR HAWKINS
PROJECT MANAGER NELSEN

Council met for a Worksession from 4:00 p.m. to 4:39 p.m. to discuss a Report from Public Works Re: Estimated Costs, Financing Options, Policy Considerations, and Feasibility of Constructing a "Loop" Water and Sewer Connection that Extends Up West Hill Road, Across Skyline Drive, and Down East Hill Road. (Resolution 14-010) and Lillian Walli Subdivision – Potential for Water and Sewer Special Assessment District. From 5:00 to 5:15 p.m. the Council met as a Committee of the Whole to discuss Ordinance 14-09(A), Memorandum 14-068, Consent Agenda, and Regular Meeting Agenda items. Council conducted a Special Meeting in Executive Session from 5:30 p.m. to 6:02 p.m. to hear Memorandums 14-070 and 14-071, Ethics Complaints Nos. 14-01 and 14-02.

Department Heads may be called upon from time to time to participate via teleconference.

AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

The following changes were made:

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

Lobbyist Report, April 10, 2014; Thank You from Kachemak Heritage Land Trust for Fund Allocation to The Homer Foundation; **PUBLIC HEARINGS** - **Ordinance 14-14**, An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Five-Year Time Limitation for Filing a Complaint of a Violation of the City Ethics Code. City Clerk. & **Ordinance 14-14(S)**, An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Limitation Period for Filing a Complaint of a Violation of the City Ethics Code of Five-Years or One Year After Discovery of the Violation. City Clerk. Written public comments.

The agenda was approved by unanimous consent of the Council.¹

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Kevin Hogan, city resident, spoke in opposition of Resolution 14-046. He finds Memorandum 14-066 insulting and would like to preserve the Lease Committee as it currently stands.

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 March 24, 2014. City Clerk. Recommend adoption.
- B. **Memorandum 14-065**, from Mayor, Re: Appointment of Shelly Erickson to the Planning Commission.
- C. **Resolution 14-046**, A Resolution of the City Council of Homer, Alaska, Amending Chapter 2, Section 2.2(A) of the City of Homer Property Management Policy and Procedures (Lease Policy) Regarding Committee Membership. Mayor and City Council. Recommend adoption.

Memorandum 14-066 from City Manager as backup.

Moved to Resolutions.

- D. **Resolution 14-047**, A Resolution of the Homer City Council Awarding the Contract for Two Public Works Vehicles to the Firm of Kendall Ford of Wasilla, Alaska, in the Amount of \$51,466.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommend adoption.

Memorandum 14-067 from Project Manager as backup.

- E. **Memorandum 14-069**, from City Clerk, re: Correction of Account Number on Ordinance 13-39.

Resolution 14-046 was moved to Resolutions A. (Burgess)

¹ No formal motion to adopt the agenda was made. See Robert's Rules of Order 11th Edition Chapter II, §4 The Handling of a Motion, Adoption of a Motion or Action Without a Motion, by Unanimous Consent.

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

HOWARD/BURGESS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. Lolita Brache and Lisa "Red" Asselin, Best Beginnings Homer

Lolita Brache, Co-Chair of Best Beginnings Homer, pointed out it is a statewide effort advocating for early education so children start school with confidence. Their program includes local and statewide early learning agencies to tailor their goals to the community. She thanked Council, MAPP, individual childcare providers, and citizens for supporting their group. One group on the importance of language learning is chaired by Library Director Ann Dixon. A video depicting the importance of talking with your children to grow their vocabulary was shown. Communication is a strong predictor of children's development.

She thanked the community for supporting the full time librarian. Best Beginnings offers many resources and role models and provides opportunity to meet other parents and develop a community of support.

Red Asselin, Coordinator of Best Beginnings Homer, reported on the workgroups that provide early learning:

- Language and literacy work groups.
- Play spaces work group – with community recreation, Coastal Studies, and other agencies they worked to publish a map that includes family friendly trails. They have made improvements to Bayview Park.
- Parent engagement and education work group – provides parenting classes; they are full with wait lists.
- Business and economic impact work group - provides quality local childcare programs and promotes family friendly business practices. They have offered mini grants to childcare providers to better their programs. They continue partnership with the Homer Chamber of Commerce in providing an updated list of childcare providers.
- Child provider Facebook group page – monthly emails go to providers pertaining to events.

The latest project is a campaign for promoting family friendly businesses. There is a checklist for local businesses. Best Beginnings Homer will create baskets that include information on local resources and games and activities to utilize in waiting areas.

The community support workgroup has been providing testimonials and letter writing campaigns to legislators to ensure the Best Beginnings and Head Start programs are not cut. This past fall they facilitated open discussions with Senator Micciche and Representative Seaton to focus on the needs of families. Upcoming events are listed on Best Beginning Homer Facebook or access them on the internet at www.pop411.org. Additionally, events will be listed in the local newspapers this week.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. Mayor's Proclamation - Week of the Young Child April 20 – 27, 2014

Mayor Wythe read and presented the proclamation to Lolita Brache and Red Asselin.

- B. Mayor's Proclamation – National Library Week April 13-19, 2014

Mayor Wythe read and presented the proclamation to Youth Services Librarian Claudia Haines.

- C. Mayor's Recognition - Homer Glacier Kings Pee Wee Hockey Team State Champions

Mayor Wythe read and presented the recognition to the Glacier Kings Pee Wee Hockey Team.

- D. Mayor's Recognition – Homer Glacier Kings Squirt C Hockey Team State Champions

Mayor Wythe read and presented the recognition to the Glacier Kings Squirt C Hockey Team.

- E. Citizens Academy Certification Ceremony

Mayor Wythe and Councilmember Howard recognized the participants in the Citizens Academy.

Councilmember Barbara Howard provided an overview of the first Homer Citizens Academy. Fourteen citizens participated in the six-week course that included visits to Public Works, the Library, Port and Harbor, Police and Fire, and the Sewer and Water Treatment Plants. Each participant was provided with a binder that was filled with presentation material from each department. Each Thursday evening from February to the end of March from 5:30 p.m. to 8:00 p.m. the participants were on time and eagerly awaited to hear more about their community. They asked thought provoking questions, expressed concerns, and offered suggestions. The graduates are better informed and hopefully eager to become volunteers with the City. A requirement was that the citizens attend at least five of the six sessions to graduate.

Mayor Wythe presented certificates to graduates: Ted Schmidt, Chad Jones, Kevin Walker, Keri-Ann Baker, Julie Nelsen, Lindsay Wolter, and Ken Landfield.

Other graduates not present included: Mary Griswold, Larry Slone, Lori Evans, Julie Davis, and John Li.

Other academy participants were Barbara and Bob Howard who completed less than the required five sessions.

Mayor Wythe called for a recess at 6:38 p.m. to serve cake and reconvened the meeting at 6:51 p.m.

- F. Mayor's Report – Spring Representation
- G. Lobbyist Report – April 10, 2014
- H. Thank You from Kachemak Heritage Land Trust for Fund Allocation to The Homer Foundation
- I. Borough Report
- J. Commissions/Board Reports:
 - 1. Library Advisory Board

Library Advisory Board Member Nan Porter reported the LAB has two new members. They are trying to put their faces into memories so that the Council knows they are a vital board that is working hard. They are working on prioritizing the needs of the library, both immediate and long term. They listen to Library Director Ann Dixon's needs and how they can help her. The Board encourages her as she is heading into summer with the library reading program and the influx of tourists.

- 2. Homer Advisory Planning Commission
- 3. Economic Development Advisory Commission
- 4. Parks and Recreation Advisory Commission

Parks and Recreation Advisory Commissioner Roger MacCampbell reported last Saturday eight volunteers got together and cleared the end of the Poopdeck Trail. They spent 3 hours; or 25-26 volunteer hours clearing brush. There were issues with campers and people hiding out in the area. At their last meeting they discussed the ball fields and working with the Little League Association. They discussed moving the snack shack and the building next to it. The area will then be cleared for landscaping and drainage. There are safety issue concerns in the parking lot and a request for speed bumps and signs was made.

- 5. Port and Harbor Advisory Commission

Port and Harbor Commissioner Bob Hartley thanked the Council for their support, stating it has been a productive year for the harbor. He reported the plans for the harbor office are reaching 95% and they are still within budget. There is quite a change in the haul-out area on the Spit with large vessels being worked on by the maritime trades. The Commission is embarking on a new rate study for parking vessels. They are developing a new formula that will be more fair for boat owners. Float System 5 improvements are well underway and hopefully will be completed this fall. The dumpsters fill up in the winter with a lot of the refuse from the City instead of the vessels. It is added expense for the harbor.

PUBLIC HEARING(S)

- A. **Ordinance 14-09(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.12.020, "Permitted Uses and Structures", to Expand the Permitted Uses in the Rural Residential District to Include the Addition of a Detached Dwelling Unit as an Accessory to a Single Family Dwelling on a Lot Serviced by City Water and Sewer Services **and On a Lot That Is Over One Acre Not Serviced by City Water and Sewer Services.** City Manager/Planning. (Referred to the Planning Commission on February 24, 2014.)

Memorandum 14-068 from City Planner as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 14-09(A) by reading of title only for second and final reading.

LEWIS/BURGESS – SO MOVED.

There was no discussion.

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

VOTE: NO. VAN DYKE

Motion carried.

- B. **Ordinance 14-14,** An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Five-Year Time Limitation for Filing a Complaint of a Violation of the City Ethics Code. City Clerk. Introduction March 24, 2014, Public Hearings April 14 & 28, 2014 and Second Reading April 28, 2014.

Memorandum 14-046 from City Clerk as backup.

Ordinance 14-14(S), An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Limitation Period for Filing a Complaint of a Violation of the City Ethics Code of Five-Years or One Year After Discovery of the Violation. City Clerk.

Mayor Wythe opened the public hearing.

Justin Arnold, Homer resident, spoke in opposition of the ordinance and the substitute. He suggested an amendment so that the five-year limitation applies to isolated causes and will not apply if there are multiple alleged violations. This compromise will protect the people of the city against gross misconduct and also protect public officers from isolated cases of bad judgment.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion to substitute Ordinance 14-14(S) for 14-14.

BURGESS/ROBERTS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe called for a motion to postpone Ordinance 14-14(S) to April 28, 2014 for Public Hearing and Second Reading.

ROBERTS/BURGESS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Burgess clarified the substitute ordinance adds an additional year to the five-year statute of limitations in the event new evidence were to come to light.

Councilmember Lewis added the only crime that does not have a statute of limitations is murder. Every other crime has a statute of limitations; we are trying to come in line with the rest of the state.

- C. **Ordinance 14-15**, An Ordinance of the Homer City Council, Repealing HCC 4.45.010, Election Recount, and Enacting HCC Chapter 4.45, Election Recount; Regarding the Procedure for Recounts in City Elections. City Clerk. Introduction March 24, 2014, Public Hearing and Second Reading April 14, 2014.

Memorandum 14-047 from City Clerk as backup.

Mayor Wythe opened the public hearing.

Justin Arnold, Homer resident, asked for the recount last time. It was proven the election machines are not 100% accurate and he prefers a hand count. It is putting 100% trust in a computer that is fallible.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 14-15 by reading of title only for second and final reading.

HOWARD/ROBERTS – SO MOVED.

Councilmember Burgess clarified the intent is to specify and clarify the code. We are not delegating all responsibility of vote counting to digital election machines. The ordinance requires a deposit by the person calling for a recount. If the recount does not change the outcome of the election that money pays a small portion of staff time of what it requires to conduct a recount. If there is no incentive in place anyone can call for a recount.

Councilmember Lewis added that a \$250 fee is not required for a recount if the candidates' votes are within 20 votes of each other.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 14-16**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2014 Operating Budget by Appropriating \$31,000 From the General Fund-Fund Balance for Marketing and Showcasing Homer as a Great Place to Live, Work, and Play in the Next Edition of the *Alaska: North to the Future Volume V* Book. Mayor/Council. Introduction March 24, 2014, Public Hearing and Second Reading April 14, 2014.

Mayor Wythe opened the public hearing.

Jim Lavrakas, Homer Chamber of Commerce, questioned paying a publisher for a story and suggested Council look into it. He is willing to research the publication in the event Council wants to postpone it for a week.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 14-16 by reading of title only for second and final reading.

LEWIS/ROBERTS - SO MOVED.

Councilmember Roberts appreciates Mr. Lavrakas' testimony and would be interested to have him pursue the publication and postpone to the next meeting.

Councilmembers Zak and Van Dyke expressed opposition to the expenditure as we have a hard time finding money in the budget to fund the Chamber of Commerce. They are more in favor of keeping the money local.

Mayor Wythe reminded Council they had previously instructed City Manager Wrede to accept the offer. They are late in the game to oppose this as the offer has been accepted. It is a paid advertisement with a full eight-page spread. Senator Murkowski is a forward for the book and the book is a coffee table item in legislators' offices. It is a different level of advertisement than anything we are getting locally. The marine trades will help with the publication; it is a strong economic option with outreach that the City does not have access to. Council talked about providing funding to the marine trades, but they have reservations about being funded by the City as they don't want city politics getting involved in their process.

Councilmember Howard commented that Council previously said yes to the idea and now we have a competitor coming and trying to talk us out of it.

Councilmember Burgess noted if the Council felt differently about this initially we have put ourselves into a difficult situation by authorizing staff to proceed. He has confidence in the Mayor and staff in bringing this forward. It is a four-year publication that we can amortize over four years. We should stay with the plan.

Councilmember Zak is experiencing buyer's remorse, maybe because of the way it was initially presented to Council.

VOTE: YES. ROBERTS, HOWARD, LEWIS

VOTE: NO. ZAK, BURGESS, VAN DYKE

Mayor Wythe broke the tie with a YES vote.

Motion carried.

ORDINANCE(S)

CITY MANAGER'S REPORT

A. City Manager's Report

1. Acting City Manager's Report

Trip to Juneau: I traveled to Juneau with Mayor Wythe to meet with Senators Micciche and Stevens, Representative Seaton, Coast Guard Captain Jack Vogt and staff, DOT Commissioner Kemp and staff, and City Lobbyists Linda Anderson and Yuri Morgan. All meetings were favorable and encouraging for the future of Homer. The first draft of the Senate's capital budget was released and includes funding for Fire Department Equipment Upgrades, Harbor Sheet Pile Loading Dock, Waddell Way Road Improvement, and Ferry Terminal Improvements. Other capital project funding within the draft budget is for Homer Hockey Association and Homer Senior Citizens natural gas conversion and Pratt Museum new building construction.

B. Bid Report

CITY ATTORNEY REPORT

A. City Attorney Report – March 2014

City Attorney Klinkner reported Attorney Holly Wells went to Washington, DC and argued the Auction Block case before the Federal Maritime Commission on April 3rd. The Commission has 90 days to render a decision and could request more time if needed.

COMMITTEE REPORT

- A. Public Arts Committee
- B. Permanent Fund Committee
- C. Lease Committee
- D. Port and Harbor Improvement Committee
- E. Employee Committee Report
- F. Port and Harbor Building Task Force

13. PENDING BUSINESS

14. NEW BUSINESS

15. RESOLUTIONS

- A. **Resolution 14-046**, A Resolution of the City Council of Homer, Alaska, Amending Chapter 2, Section 2.2(A) of the City of Homer Property Management Policy and Procedures (Lease Policy) Regarding Committee Membership. Mayor and City Council. Recommend adoption.

Memorandum 14-066 from City Manager as backup.

Mayor Wythe called for a motion for the adoption of Resolution 14-046 by reading of title only.

LEWIS/ROBERTS - SO MOVED.

Councilmember Burgess has had interactions with several committee members and the public. The concerns expressed are about only the city staff looking over assets and city property. Members of the public have insight on leased lots that would not have come to light if the public were not included. He believes we should leave the Lease Committee alone.

Councilmember Howard has received more comments about the Lease Committee than anything else. She realizes there is a disconnect in the process since much of the lease information is confidential. Folks from the community that serve on the Lease Committee are isolated from discussion. She hopes the City Attorney can figure out a way to involve citizens without compromising the confidentiality of the applicants. She cannot support eliminating the committee; we should figure out what is wrong and fix it.

Although he did not hear from anyone, Councilmember Lewis feels that leases should be open to the public. It is public land and should have a noticed meeting with a committee that can have their say. If someone thinks they are getting a sweetheart deal it takes that perception away.

Councilmember Roberts is not sure she is in agreement with the Council since the City Manager has said that Port and Harbor and Economic Development Advisory Commissions provide input on the leases. Because of the confidentiality there is not much the Lease Committee can do. There are legal concerns for having a committee evaluating perspective leases. She is not unhappy to eliminate the Lease Committee.

Councilmember Howard recollected on the Snug Harbor lease we asked to send it back to the Port and Harbor Advisory Commission and were told that is not a normal process.

Councilmember Burgess noted citizens are the ones who identify things that may otherwise fall through the cracks.

Attorney Klinkner commented the concern City Manager Wrede and he have are that people who make themselves available to serve on the Lease Committee are lease holders or have other business interests in the area. There is the potential that they are reviewing leases as a potential competitor. He suggested postponing the resolution until Mr. Wrede is available to address it.

BURGESS/ROBERTS - MOVED TO POSTPONE TO APRIL 28.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Dan Miotke, city resident and employee, thanked Councilmember Howard for having the Citizens Academy. It was a great outreach as a city employee to talk to community and sell ourselves. It is good to recognize the community teams and library events. He commented on the increased costs for employees' healthcare and how it affects his family.

Jim Lavrakas, Homer Chamber of Commerce, announced the Shorebird Festival from May 8 – 11. There will be a good selection of speakers and events. The online ticketing solution has started and may be accessed at www.kachemakshorebird.org.

Justin Arnold, Homer resident, would like to keep citizens involved in the lease process since it is our land. We spent how much money working on a trail project that we found out we did not own the land? We are spending \$31,000 on a book; now the Chamber of Commerce has to charge for events. He voiced opposition to Ordinances 14-14(S) and 14-15.

Kevin Walker, Kachemak City, attended the Citizens Academy. He expressed opposition to eliminating the Transportation Advisory Committee and is just now hearing about the Lease Committee issue.

Christine Szocinski, wife of city employee, spoke on the City's health insurance program as compared to Soldotna and Kenai. She cited the numbers pertaining to wages and insurance premiums as outlined in Stan Eller's letter of April 14th to the Council. She referenced a comparison of 21 Alaska communities that ranked Homer employees with families' health insurance premiums as first (most costly) and the City's health insurance premiums as dead last (less contribution).

Ted Schmidt, city resident, complimented the Citizens Academy and city employees he has worked with. The employees are impressive as they have put up with a lot of different councils, mayors, and political changes and strategies. Employees are committed and have a good work ethic; he has heard no derogatory statements about the political situation.

Stan Eller, Homer resident, referenced his letter with wage and benefit comparisons of 21 communities within the state. The hockey players tonight show that Homer is family oriented and always has been. While families account for 10% of the City's healthcare costs, their rates have quadrupled qualifying them for public assistance. It is the most anti-family healthcare plan he has seen; as a governing body the Council has an obligation to the 104 city workers.

Councilmember Burgess asked Mr. Eller if he has compared total compensation packages (salaries and healthcare benefits) of the different communities.

Mr. Eller replied he took his son-in-laws Water Technician II job and compared it to Kenai and Soldotna. It didn't compare well at all. The salary is \$13,000 less than Kenai; with insurance it is \$21,000 less than Kenai. Homer's average family income is only \$3,000 less than Kenai. We don't pay Homer fishermen 20% to 30% less because they live in Homer. Workers on the slope, the school district, HEA, and the hospital do not get paid less.

Kathryn Cushman, wife of city employee, moved to Homer from Kenai because of the healthcare benefits. The cost of living here is a lot higher and with two kids it is a big financial hit for them. She asked that Council revisit the healthcare benefits.

Jo Earls, city resident and city employee, has seen a lot of changes since 1999. The past few years it is about employees' wages, benefits, and health insurance. She appreciates the 2% COLA increase, the first since 2009. The changes in health insurance increased her contribution almost 39% requiring her to make cuts. If the Council and Administration want to make Homer a place to live, work, and play they have to show people that. She questioned the City Manager's memo on health insurance that brought it into the political arena and the City Manager's go ahead on expending \$31,000 before passing the ordinance.

COMMENTS OF THE CITY ATTORNEY

City Attorney Klinkner had no comments.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comments.

COMMENTS OF THE CITY MANAGER

Acting City Manager Johnson had no comments.

COMMENTS OF THE MAYOR

Mayor Wythe thanked Jo for doing a good job in Walt's absence. To the city employees, when she made the commitment to them about their benefits it was not disingenuous. She has been recused by Council from further conversation on employee benefits and a councilmember must now bring it forward for discussion. Hats off to the Chamber for breaking the ice on charging a small fee for the Shorebird Festival. Senator Micciche will applaud you, as both trips to Juneau they got an earful, first about not collecting sales tax and about providing so many free services. He even had that discussion at his Town Hall meeting here. Sometimes you need to collect a fee to maintain those things that are important to your community. As to the comment made earlier about serving on the council being a thankless job, for the last ten years there is nothing about serving on the council that is thankless. You make decisions and have to walk out on the street every day and hope that people don't throw things at you. Very seldom does she get negative phone calls, emails, or ugly remarks. She is probably the least contacted member of the council as she tells you truly where she is operating from. She was elected to represent you and does it the best she can. We live in a community where 100% of the time at least 30% to 50% of the people are not in agreement of a decision made at this table. She does not take it personally, but she does take it to heart. The service provided here is a benefit to the community and a privilege to the people that sit at this table. As to the book, \$31,000 is not a small amount, but it was not a casual thought. We do a great job with marketing ourselves as

a tourist oriented financial foundation. Tourism is awesome when the economy is good, but we are reaping the benefits of a poor economy now. If we want to grow we need to branch out and reach a different market. This gives us an eight-page spread as a coffee table book selling the City of Homer to organizations we do not traditionally have access in reaching. From her perspective it is not a bad investment.

COMMENTS OF THE CITY COUNCIL

Councilmember Howard asked that employee healthcare issues be put back on the agendas for the 4 p.m. meetings until we get this resolved. She thanked the Acting City Manager for taking on the additional duties; Jo is to be commended for a great job. The Mission of Mercy was conducted in Anchorage over the weekend. Sixteen healthcare providers from Homer participated and served over 2,000 people with dental healthcare. Dr. Vickey Hodnik was among the group. Councilmember Howard sent Brian Williams of NBC News an email of the perfect story to be aired on his newscast of *Making a Difference*. They showed up and filmed it and she hopes it will be aired on Monday or Tuesday. She thanked Council for seeing her dream come true of the Citizens Academy. She is asking staff to prepare a report that reflects the opinions and survey results of the academy and she will be asking to do it again in October. We still have half of the budget remaining so there will be no more money requested. She will also be thanking the staff for the great job they did. There may be three people who take out applications to serve on committees or commissions.

Councilmember Lewis seconded Councilmember Howard on bringing up the healthcare. Besides Senator Micciche wondering about us with our sales tax, when he came up in 1976 we had an income tax and a school tax that everyone paid. Right now we have thousands of people that are making millions of dollars in the state and walking away with all that money and not paying anything to the State of Alaska. He would behoove our legislators to figure out a way to make sure that we get some of that money back instead of having it all go down to the Lower 48.

Councilmember Burgess reminded everyone there will be a full moon tonight at 10 p.m. with a lunar eclipse. As to the statute of limitations ordinance (Ordinance 14-14(S)), usually he would be very opposed to this sort of thing. The real other side is if you are talking about the city council what is the benefit to the taxpayers, someone being able to litigate against the city? If you look in our budget, certainly Frank Griswold is a great example. Often times he brings excellent things to the point of the city, finds things in the code or holds us accountable. But at the same time the privilege of Mr. Griswold's oversight is a pretty hefty sum; sometimes several hundred thousand dollars to the taxpayer. The same sort of logic applies when you consider these scenarios. You are always kind of making that compromise on what is in the best financial interest of the citizen whose financial interest and livelihood we have to look out for and what is in the best interest in making sure that the law is followed which is why there are statutes of limitations on just about everything except for the most severe criminal proceedings. We did extend that and he hopes the public takes a look at it. He asked people to come forward to present testimony. On employee healthcare most people don't understand where the City is at in employee healthcare and how we got to be in the challenges we are in.

You have heard that we compare very poorly or dead last with total compensation. It largely comes from a system when we were self-insured and never paid an insurance company for the last 10+ years. If there was an employee healthcare cost, the City just paid for it. We had an extremely Rolls Royce healthcare plan that benefitted large families with no additional costs themselves. The City paid those costs. It worked out very well for us until about three or four years ago at which point we started to do a lot worse. Now we have to drastically scale back our plan to live within our means that the taxpayers set for us. If we go to the private market and solicit bids they look at our loss run history. We have set a precedent and it makes us difficult to insure through an insurance company. This is not something unique to the City of Homer. Personal healthcare costs go up 8% to 10% each year. The issue is not that we want to pay the employees more; it is what is the taxpayer willing to bear? Where do they want to cut and increase their tax to cover the costs? To compare employees with the median benefit package it costs between \$600,000 and \$1M dollars. Where do we get the money? He works for the citizens of Homer who elected him. The city manager works for the City Council. The city staff works for the city manager. Ultimately we are accountable to the taxpayer, the voter. The choice is not between his bourbon cabinet and city employee benefits. The choice is between taking the sand off the roads, having a community recreation department, plowing the roads, having whole areas of government and paying employees a median wage. We have to pay for it. The City has been weaned down over \$3M in the last four to five years. It is not a realistic discussion to say we will pay employees more; the money has to come from somewhere. He thanked everyone for a great meeting.

Councilmember Van Dyke commented on the good points from one half of the table. He congratulated the Homer Hockey Association's two teams. He has grandsons on each team. The state titles bring a whole new benefit to the town with not one, but two state champions. This is the kind of program that is fantastic for the City. If there is anything we can do to get behind them that will be a great thing.

Councilmember Zak commended employees have stood up tonight and brought this to our attention. We clearly have something that we need to do on the worksessions. We will get Andrea to help us and figure out a solution we can work with. At the worksession tonight, employees provided an excellent presentation on the build-out of water and sewer and the costs. We realize the costs and say maybe it is not such a good idea; we have to live with the system and live with getting water delivered. We do have the clear numbers and the diagrams will be in council chambers. When looking at collectively \$80M for a build-out we may have to live with what we have. We can appreciate more what we do have. Realizing tonight it is the culture and the people that stand up at these council meetings. We represent you. He congratulated Barbara Howard on the first Citizens Academy. Collectively we will make a difference; we will make sure we value everyone and manage a budget. At the next meeting we'll be talking about healthcare. Every year we look at the budget and underestimate what we will receive. We had a huge number a couple meetings ago and maybe we have to look at putting some of that back at healthcare. There are discrepancies whether you have a family or not. We have work to do as a council. We have the spirit and heart in this community.

Councilmember Roberts commented everyone covered everything. She is glad to see the hockey teams out and congratulated Barbara on the Citizens Academy. She was impressed at how well it went. She is glad to have healthcare back since we need a plan. She understands the employees are not as well paid as they should be and the healthcare is not as good as they would like it to be. The solutions are difficult and we need to think carefully about that.

Mayor Wythe thanked Jo again for being our city manager for the last couple weeks and traveling to Juneau with her.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 8:24 p.m. The next Regular Meeting is Monday, April 28, 2014 at 6:00 p.m. and Committee of the Whole 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

JO JOHNSON, MMC, CITY CLERK

Approved: _____



City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

Memorandum 14-073

TO: HOMER CITY COUNCIL
FROM: MARY E. WYTHER, MAYOR
DATE: APRIL 22, 2014
SUBJECT: APPOINTMENT OF PEDRO OCHOA TO THE PARKS AND RECREATION
ADVISORY COMMISSION AS STUDENT REPRESENTATIVE

Pedro Ochoa is appointed to the Parks and Recreation Advisory Commission as their student representative.

RECOMMENDATION:

Confirm the appointment of Pedro Ochoa to the Parks and Recreation Advisory Commission as student representative.

Fiscal Note: N/A



CITY OF HOMER
COMMISSION, COMMITTEE, BOARD & TASK FORCE
APPLICATION FORM

CITY CLERKS OFFICE
CITY OF HOMER
491 E. PIONEER AVENUE
HOMER, ALASKA 99603
PHONE 907-235-3130
FAX 907-235-3143

RECEIVED BY CLERK'S OFFICE

The information below provides some basic background for the Mayor and Council.
This information is public and will be included in the Council Information packet.

student seat

Name Pedro Ochoa Date 03/20/14

Physical Address P.O box 3088 City Homer

Mailing Address P.O box 3088 Zip Code 99603

Phone (907) 299-6895 Work # Cell # (907) 299-6895

Email Address

NOTE: The above information will be published in the City Directory and within the City web pages if you are appointed by the Mayor and your appointment is confirmed by the City Council.

Please indicate the commission(s), committee(s), board or task force you are interested in:

Select	COMMISSION/COMMITTEE/BOARD.TASK FORCE	REGULAR MEETING SCHEDULE
<input type="checkbox"/>	ADVISORY PLANNING COMMISSION	1ST & 3RD WEDNESDAY OF THE MONTH AT 6:30 P.M. WORKSESSIONS AT 5:30 P.M.
<input type="checkbox"/>	ECONOMIC DEVELOPMENT ADVISORY COMMISSION	2ND TUESDAY OF THE MONTH AT 6:00 P.M.
<input type="checkbox"/>	LIBRARY ADVISORY BOARD	1ST TUESDAY OF THE MONTH AT 5:00 P.M.
<input checked="" type="checkbox"/>	PARKS & RECREATION ADVISORY COMMISSION	3RD THURSDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PORT & HARBOR ADVISORY COMMISSION	4TH WEDNESDAY - JANUARY TO APRIL & SEPTEMBER TO DECEMBER AT 5:00 P.M. 4TH WEDNESDAY - MAY - AUGUST AT 6:00 P.M.
<input type="checkbox"/>	PUBLIC ARTS COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:00 P.M.
<input type="checkbox"/>	TRANSPORTATION ADVISORY COMMITTEE	3RD TUESDAY OF THE MONTH AT 5:30 P.M.
<input type="checkbox"/>	PERMANENT FUND COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 5:15 P.M.
<input type="checkbox"/>	LEASE COMMITTEE	QUARTERLY - 2ND THURSDAY OF THE MONTH AT 3:00 P.M.
<input type="checkbox"/>	OTHER - PLEASE ENTER THE COMMITTEE/TASK FORCE	

I have been a resident of the City for ☐ mos. ☒ yrs I have been a resident of the area for ☐ mos. ☒ yrs.

I am presently employed as:

List any special training, education or background you have which is related to your choice of commission, committee, board or task force:

Have you ever served on a similar commission, committee, board or task force?

If so when and where?

When are you available for meetings? ☐ Weekly ☒ Monthly ☐ Bi-Monthly

I am interested in serving on the above because:

Do you currently belong to any organizations specifically related to the area of your choice(s) you wish to serve on?

☐ Yes

☒ No

If yes, please list organizations:

Questions regarding the Homer Advisory Planning Commission:

Have you ever developed real property, other than your personal residence?

If yes, briefly describe the development:

Questions regarding the Port & Harbor Advisory Commission:

Do you use the Homer Port and/ or Harbor on a regular basis?

If yes, is you use primarily: ☐ Commercial ☐ Recreational ☐ Both

Please include any additional information that may assist the Mayor in his decision:

When you have completed the form please review all the information and then click on the print button.

[Print Form](#)

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-17

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040.m Regarding Compensation for the Mayor and Council, and Amending the FY 2014 Operating Budget by Appropriating \$8,775.00 From the General Fund-Fund Balance for Mayor and Council Member Compensation.

Sponsor: Burgess/Lewis/Roberts

1. City Council Regular Meeting April 28, 2014 Introduction

CITY OF HOMER
HOMER, ALASKA

Burgess/Lewis/Roberts

ORDINANCE 14-17

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING HOMER CITY CODE 2.08.040.M REGARDING
COMPENSATION FOR THE MAYOR AND COUNCIL, AND
AMENDING THE FY 2014 OPERATING BUDGET BY
APPROPRIATING \$8,775.00 FROM THE GENERAL FUND - FUND
BALANCE FOR MAYOR AND COUNCIL MEMBER
COMPENSATION.

WHEREAS, The functioning of a vital, just, resilient and truly representative democracy requires that all citizens have equitable and economically viable avenues to participate in government and to hold elected office, if duly elected; and

WHEREAS, The median income of the current Mayor and Council Members probably is markedly higher than the median income of their constituents; and

WHEREAS, The office of Mayor or Council Member is not attainable or tenable for a person of limited or even moderate economic means without minimum levels of compensation; and

WHEREAS, The Laws of the State of Alaska and the United States of America require minimum levels of pay and compensation be paid for work or services performed; and

WHEREAS, Reasonable and thoughtful execution of the duties of the office of Mayor or Council Member requires at least 6 to 9 hours of work per meeting in the form of participating at City Council meetings, reading 250 to 600+ pages of City Council packets and other related documents on a monthly or per meeting basis, being available to the public and City staff to answer questions and listen to concerns, crafting legislation, reviewing legal briefs, serving from time to time as a member of the Board of Adjustment, and all of the other duties and obligations associated with the office of Mayor or Council Member; and

WHEREAS, Current levels of Mayor and Council Member compensation are 200% lower than levels 8 years ago, and those levels were reduced in a time of severe economic recession and dire budgetary constraints; and

WHEREAS, Compensation for the work performed by the Mayor and Council Members ideally should be correlated with measurable time and personal resources invested in executing the duties of office; and

WHEREAS, Socio-economic and political circumstances in which we live and govern demand a continually increasing amount of time, energy, professional knowledge, and expertise in order to effectively represent and safeguard the concerns and interests of the Citizens of Homer; and

WHEREAS, AS 29.20.620 authorizes the Council by ordinance to provide a method of determining the salaries of elected officials, provided that the salary of the Mayor may not be reduced during the term of office of the Mayor.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 2.08.040(m) is amended to read as follows:

m. Salaries of Elected Officials.

1. The Mayor and each Council Member shall be paid a salary of \$75 for each council-meeting-day in which the person participates in person, or \$50 per council-meeting-day in which a majority of the person's participation time is telephonic. A council-meeting-day is any calendar day in which the person participates in any one or more of the following:

a. A scheduled and publically noticed meeting of the City Council, including without limitation a regular meeting, special meeting, committee of the whole meeting and meeting in executive session.

b. A scheduled and publically noticed meeting of the Board of Adjustment, Board of Ethics, or other board or commission that is composed of the Mayor and Council Members.

c. Training or continuing education programs, and work sessions, that are required by law or commonly recognized best practice to perform the duties of Mayor or Council Member.

~~The Council may fix by ordinance the salaries of elected officials. The Council members will receive a \$50.00 nonwage stipend per month during their term of office as a reimbursement for expenses and the Mayor at \$75.00 per month. The City shall not spend any funds for elected officials' membership in the Public Employees Retirement System. An elected official may not receive any other compensation for service to the City municipality unless specifically authorized to do so by ordinance. Per diem payments or reimbursements for expenses are not compensation under this section.~~

2. In lieu of receiving compensation under this subsection, the Mayor or a Council Member may direct the City Clerk in writing to distribute some or all of the person's compensation to the General Fund or to The Homer Foundation or another nonprofit or charitable organization operating on the Southern Kenai Peninsula.

Section 2. The compensation provided in Section 1 above applies to service as Mayor or Council Member commencing the first day of the first calendar month following the calendar month in which this ordinance is enacted, and as of that date replaces all forms of

compensation previously payable for service as Mayor or Council Member, other than reimbursement for expenses incurred in performing official duties.

Section 3. The FY 2014 Operating Budget is amended by appropriating \$7,500 from the General Fund, Fund Balance for Mayor and Council Member compensation as described below:

Expenditure:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
100-0100	Mayor and Council Member Compensation	\$8,775.00

Section 4. Section 1 of this Ordinance is of a permanent and general character and shall be included in the City Code. Section 3 of this Ordinance is a budget amendment, is not permanent in nature, and shall not be codified.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this ____ day of May 2014.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

130 Reviewed and approved as to form:

131

132

133

134 _____
Walt Wrede, City Manager

135

136 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-18

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.03.04, Definitions Used in Zoning Code, the Title of Homer City Code 21.58 and Homer City Code 21.58.010, Purpose and Application; and Enacting Homer City Code 21.58.040, Communications Tower Requirements; to Define and Establish Standards for Communications Towers.

Sponsor: Zak

1. City Council Regular Meeting April 28, 2014 Introduction

CITY OF HOMER
HOMER, ALASKA

Zak

ORDINANCE 14-18

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING HOMER CITY CODE 21.03.04, DEFINITIONS USED
IN ZONING CODE, THE TITLE OF HOMER CITY CODE 21.58 AND
HOMER CITY CODE 21.58.010, PURPOSE AND APPLICATION;
AND ENACTING HOMER CITY CODE 21.58.040,
COMMUNICATIONS TOWER REQUIREMENTS; TO DEFINE AND
ESTABLISH STANDARDS FOR COMMUNICATIONS TOWERS.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.03.040 is amended by adding a definition of
"communications tower" to read as follows:

"Communications tower" means a fixed vertical structure that supports equipment that
transmits or receives radio, microwave or other electromagnetic communication signals,
including a monopole or lattice tower, plus its accompanying base plates, anchors, guy cables
and hardware.

Section 2. The title of Homer City Code 21.58 is amended to read as follows:

Chapter 21.58 Small Wind Energy Systems and Communications Towers

Section 3. Homer City Code 21.58.010 is amended to read as follows:

21.58.010 Purpose and application. The purpose of this chapter is to establish minimum
health and safety standards for small wind energy systems and communications towers. It
applies to small wind energy systems and communications towers in all districts where they
are allowed as permitted or conditional uses.

Section 4. Homer City Code 21.58.040 is enacted to read as follows:

21.58.040 Communications tower requirements. a. An application for a
communications tower shall include the following information:

1. A level one site plan that shows the location of the communications tower.
2. Specifications for the communications tower including an illustration or picture of
the communications tower prepared to scale, total tower height, tower color and, if proposed,
the location of ladders and/or climbing pegs.
3. Tower foundation blueprints or drawings.

4. Evidence of compliance with, or exemption from, Federal Aviation Administration requirements.

b. Dimensional Requirements.

1. A communications tower may be installed only on a lot having an area not less than one acre.

2. The distance from a communications tower to the closest property line may not be less than 1.1 times its total height.

3. All guy wires, cables and other accessory support structures for a communications tower must be on the same lot as the communications tower, but may be located within required setback areas, and shall be properly jacketed to comply with visibility safety standards.

c. Tower standards.

1. A communications tower shall not interfere with television, microwave, navigational or radio reception.

2. The lowest part of a climbing apparatus that provides access to equipment on a communications tower shall be at least 12 feet above the ground, and the tower shall have no handholds or footholds below the climbing apparatus.

3. No artificial lighting shall be mounted on a communications tower, and a communications tower shall not be illuminated with artificial lighting, except when required by the Federal Aviation Administration.

d. Signs. No sign, flag or pennant may be attached to a communications tower except for the following:

1. A sign identifying the owner or operator of the communications tower.

2. Signs warning of dangers associated with the communications tower.

e. The City may abate as a nuisance under HCC 21.90.070 a communications tower that is not operational for a period of at least 12 consecutive months.

Section 5. This Ordinance is of a permanent and general character and shall be included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this ____ day of _____, 2014.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

87 AYES:
88 NOES:
89 ABSTAIN:
90 ABSENT:

91
92
93 First Reading:
94 Public Reading:
95 Second Reading:
96 Effective Date:

97
98
99 Reviewed and approved as to form:

100
101
102 _____
103 Walt Wrede, City Manager
104
105 Date: _____

Thomas F. Klinkner, City Attorney

Date: _____

1 CITY OF HOMER
2 HOMER, ALASKA

City Clerk

3
4 RESOLUTION 14-048
5

6 A RESOLUTION OF THE HOMER CITY COUNCIL AWARDING A
7 THREE-YEAR CONTRACT FOR SOLID WASTE COLLECTION
8 AND DISPOSAL TO THE FIRM OF MOORE & MOORE SERVICES,
9 INC. OF HOMER, ALASKA, IN THE AMOUNT OF \$54,273.80 PER
10 YEAR AND AUTHORIZING THE CITY MANAGER TO EXECUTE
11 THE APPROPRIATE DOCUMENTS.
12

13 WHEREAS, The City recently issued a Request for Proposals for solid waste collection
14 and disposal pursuant to HCC 3.16.110: Competitive Sealed Proposals – Negotiated
15 Procurement; and
16

17 WHEREAS, The Request for Proposals was published in accordance with the City Code
18 and appeared in the Homer Tribune on March 26 and April 2, 2014, the Peninsula Clarion on
19 April 6, 2014, and was posted on the Clerk's home page; and
20

21 WHEREAS, Sealed proposals were due in the Office of the City Clerk on April 17, 2014
22 and two bids were received, both of which were deemed to be responsive; and
23

24 WHEREAS, A Proposal Review Committee evaluated and scored the proposals; and
25

26 WHEREAS, The Review Committee scored Moore & Moore Services, Inc. the highest
27 with respect to both price and responsiveness to the issues of concern contained in the RFP;
28 and
29

30 WHEREAS, The Committee recommends that the contract be awarded to Moore &
31 Moore Services, Inc. of Homer, Alaska.
32

33 NOW, THEREFORE, BE IT RESOLVED that the City Council hereby awards a three-year
34 contract for solid waste collection and disposal to Moore & Moore Services, Inc. and authorizes
35 the City Manager to negotiate and execute the final terms of the contract.
36

37 BE IT FURTHER RESOLVED that the annual price for these services is estimated to be
38 \$54,273.80 but the actual cost shall be determined by the rates contained in the bid and the
39 number of trips required. Further, the Manager is authorized to negotiate a fixed, not to
40 exceed price similar to that outlined in the proposal, if he finds it to be in the best interest of
41 the City.

PASSED AND ADOPTED by the Homer City Council this 28th day of April, 2014.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: Estimated Annual Cost \$54,273.80

Accounts: 400-0601-5220 Harbor Operations Refuse Disposal
 100-0140-5220 City Hall
 100-0150-5220 Fire Department
 100-0160-5220 Police Department
 100-0145-5220 Library
 100-0149-5220 Airport
 100-0165-5220 Animal Shelter
 100-0171-5220 Public Works



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4350 Homer Spit Road
Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Memorandum 14-074

TO: HOMER CITY COUNCIL & WALT WREDE, CITY MANAGER
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER
DATE: APRIL 22, 2014
SUBJECT: SOLID WASTE DISPOSAL CONTRACT RFP RESULTS

The City of Homer advertised a request for proposals from qualified firms for solid waste collection and disposal for all City facilities. Bids were all-inclusive; successful proposers were required to provide detailed costs for collection and disposal, including labor, materials, equipment, tools and supervision. Proposers were reminded to pay close attention to the special conditions and needs for the Port and Harbor, i.e. wind, birds, customer service, and locations.

The City Clerk's Office received two proposals by qualified firms prior to the deadline of April 17 at 4:30pm: Moore & Moore Services, Inc. of Homer, AK and Alaska Waste of Anchorage, AK.

A group of City staff, representing the Finance Department, Office of the City Manager, and the Port and Harbor Department, met for the purpose of evaluating and scoring proposals. All responses were evaluated per the grading criteria laid out in the Request for Proposals. After careful review, staff concluded that the best overall proposal was submitted by Moore & Moore Services, Inc., both in price and service.

Recommendation

Staff recommends awarding the three year solid waste collection and disposal contract to Moore & Moore Services, Inc. of Homer, Alaska for a total estimated cost of \$54,273.80 per year.

Fiscal Note

400-0601-5220 Harbor Operations Refuse Disposal
100-0140-5220 City Hall
100-0150-5220 Fire Department
100-0160-5220 Police Department
100-0145-5220 Library
100-0149-5220 Airport
100-0165-5220 Animal Shelter
100-0171-5220 Public Works

CITY OF HOMER
HOMER, ALASKA

City Manager

RESOLUTION 14-049

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
EXPRESSING SUPPORT FOR THE ALASKA DEPARTMENT OF
TRANSPORTATION AND PUBLIC FACILITIES (ADOT/PF)
SELECTED ALTERNATIVE FOR TRAFFIC CONTROL
IMPROVEMENTS AT THE INTERSECTION OF MAIN STREET
AND THE STERLING HIGHWAY; A TRAFFIC SIGNAL WITH A
RIGHT HAND TURNING LANE.

WHEREAS, An intersection traffic study conducted by ADOT/PF in 2005 indicated that traffic control measures were necessary and justified at the intersection of Main Street and the Sterling Highway; and

WHEREAS, The Homer City Council has been advocating for traffic control at this intersection for many years and has taken the position that the intersection is dangerous and that improvements should be installed as quickly as possible to reduce the hazard to both drivers and pedestrians; and

WHEREAS, The City of Homer and ADOT/PF have worked together on a number of strategies to address this problem but were unsuccessful for a wide variety of reasons; and

WHEREAS, In late 2012, ADOT/PF informed the City that it had an opportunity to apply for Federal Highway Safety Improvement Program Funds (HSIP) that could be used for traffic control improvements at both the Main Street and Sterling Highway and Main Street and Pioneer Avenue intersections; and

WHEREAS, ADOT/PF indicated that if it received these funds, it would be the fastest way to get improvements installed at this intersection and further, that it would have sufficient funds to make significant, long term improvements; and

WHEREAS, The City endorsed the application for funding, ADOT/PF received the funds, and it has been working on engineering, design, and a set of alternatives for the past year; and

WHEREAS, In late March, ADOT/PF held an Open House in Homer to present the alternatives and take public comment; and

WHEREAS, On April 10, ADOT/PF notified the City that it had selected an alternative which is a traffic signal and a right turning lane on Main Street; and

WHEREAS, ADOT/PF indicated to the City Manager that it would like to receive an endorsement or some type of feedback from the City on this decision so that it can proceed with the next steps in the process.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves and expresses support for the ADOT/PF selected alternative for traffic control improvements at the intersection of Main Street and the Sterling Highway; a traffic signal with a right turning lane on Main Street.

BE IT FURTHER RESOLVED that the City Council finds that maintenance and operation of the traffic signal is a State responsibility and maintenance and operation costs should not be imposed upon the City.

PASSED AND ADOPTED by the Homer City Council this 28th day of April, 2014.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Transportation
and Public Facilities

DESIGN & ENGINEERING SERVICES
Traffic Safety & Utilities

PO Box 196900
Anchorage, Alaska 99519-6900
Phone: 907.269.0544
Toll Free: 800.770.5263
TDD: 907.269.0473
TTY: 800.770.8973
Fax: 907.269.0654

April 10, 2014

Mr. Walt Wrede, City Manager
Homer City Hall
491 East Pioneer Avenue
Homer, AK 99603

Dear Mr. Wrede :

This letter is to inform you that the State of Alaska Department of Transportation (ADOT) has selected an alternative for the Sterling and Main Street intersection improvements. The three alternatives reviewed to solve intersection crashes and improve traffic flow are a roundabout, a signal with no turn lanes and a signal with turn lanes.

ADOT considered the impacts of each alternative including Right of Way (ROW), cost and project schedule. Both the signal alternatives have less ROW impact, cost and provide a faster project delivery schedule than the roundabout option. The signal with right turn lanes will provide better traffic operations over the signal with no turn lanes. Constructing the turn lanes can be completed at a much lower cost as part of the initial signal installation, rather than revisiting the intersection to install the turn lanes in the future. Based on this information, we will move forward with design of the signal with turn lanes alternative.

Signals constructed by ADOT outside of the Municipality of Anchorage continue to be budgeted and maintained by ADOT&PF. As budgets are constrained and more signals are desired in the future, it will be valuable for our agencies to discuss long term funding of maintenance for signals before more are constructed.

Sincerely,

A handwritten signature in cursive script that reads "Carla J. Smith".

Carla J Smith, P.E

Project Manager

cc: Rick Abboud, Homer City Planner

John R. Linnell, P.E., Traffic Safety & Utilities Group Chief

Kenneth Morton, P.E., Preconstruction Engineer

Scott Thomas, P.E., Traffic Engineer

VISITORS

WHAT WE HAVE TO OFFER

Training, Education, Discussion on the Green Dot model of bystander intervention. These interactive workshops from 1 to 8 hours in length build skills around recognizing when to take action, identifying barriers that prevent us from action and simple strategies for safe interventions using the 3 Ds:

- **Direct: do it yourself.** “Are you okay?” “You are making me uncomfortable.” “I think you should stop what you are doing.”
- **Delegate: get someone else to do it.** Trusted family member, law enforcement or VPSO, elder, his or her friends, the bouncer.
- **Distract: stop it indirectly.** Start a conversation, ask to borrow some sugar, spill a drink. The possibilities are limited only by your imagination.

A community of support for individuals and groups wanting to create change. Connect with us through:

- Facebook: facebook.com/groups/greendothomer.
- Website: greendothomer.org
- Newsletter: email vista@havenhousealaska.org to subscribe

WHAT WE NEED YOU TO DO

- **Host** a training or a green dot overview at your place of business, your sports team, your club, your house! How can **you** help spread the word?
- **Make a commitment to yourself** that you will take action when you see a warning sign or act of violence, what we call a red dot.
- **Make your commitment known** by talking about your stance on interpersonal violence, encouraging others to get trained, or making public your belief that everyone has a part to play. These proactive green dots go a long way in creating the culture change needed to end violence.
- **Make Green Dot your own** by imagining how this philosophy can integrate into your life as you are already living it- will you wear a green dot pin, post a green dot sign, feature a green dot special...? Get creative!
- **Donate** to this community wide program. We need your support to make this happen. Funds support trainings, outreach and materials.

No one has to do everything, but everyone can do something.

WE DO GREEN DOTS HERE



**A green dot
is simply an individual
choice
we can make at any
given moment to make
our community safer.**

We believe our community can be safer for all of us.

We believe we can reduce the number of individuals impacted by domestic violence, sexual assault, stalking and abuse.

We believe change starts with us.

We believe our voice, actions and choices matter.



ANNOUNCEMENTS
PRESENTATIONS
BOROUGH REPORT
COMMISSION REPORTS

Mayor's Proclamation

Municipal Clerks Week

May 4 - 10, 2014

WHEREAS, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and

WHEREAS, The Office of the Municipal Clerk is the oldest among public servants; and

WHEREAS, The Office of the Municipal Clerk provides the professional link between the citizens, Mayor and City Council and agencies of government at other levels; and

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, The Municipal Clerk serves as the information center on functions of local government and community; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations; and

WHEREAS, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW, THEREFORE, I, Mary E. Wythe, Mayor of the City of Homer, do hereby proclaim the week of May 4 - 10, 2014 as:

MUNICIPAL CLERKS WEEK

and encourage all residents to take advantage of the variety of information, records assistance and services that the City Clerk's Office provides.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND CAUSED THE Seal of the City of Homer, Alaska, to be affixed this 28th day of April, 2014.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Mayor's Proclamation

May 2014 as Bike Month

WHEREAS, For more than a century the bicycle has been an utilitarian, economical, environmentally sound and effective means of personal transportation, recreation and fitness; and

WHEREAS, The United States Census Bureau's American Community Survey shows that Alaska ranks sixth in the nation in the proportion of adults who bike to work; and

WHEREAS, Many Homer residents enjoy riding bicycles and Homer is blessed with unique riding trails and landscapes suited for bicyclists of all levels; and

WHEREAS, The City of Homer, Alaska, recognizes the bicycle as a legitimate roadway vehicle and therefore is entitled to legal and responsible use of all public roadway facilities in Alaska except highways constructed to interstate standards; and

WHEREAS, The bicycle is an affordable and viable form of transportation as well as an excellent form of health and fitness; and

WHEREAS, Both bicyclists and motorists should always be careful and conscientious of their surroundings. Bicycling does not require additional infrastructure or maintenance if all road users "share the road"; and

WHEREAS, The City of Homer, Alaska, encourages the increased use of the bicycle, benefiting all citizens of Homer by improving air quality, reducing traffic congestion and noise, decreasing the use of and dependence upon finite energy sources, and fostering exercise; and

WHEREAS, During the month of May, Homer Cycling Club along with, schools, parks and recreation departments, police departments, hospitals, businesses, and civic groups throughout Alaska will be promoting bicycling as a wholesome transportation activity, as well as an environmentally friendly alternative to automobile travel; and

WHEREAS, Many Alaskans will experience the joys of bicycling through educational programs, commuting events, helmet promotions, and other bicycling events.

NOW, THEREFORE, I, Mary E. Wythe, Mayor of the City of Homer, do hereby proclaim May 2014 as Bike Month and May 12 - 16 as Bike Week and May 16 as Bike to Work and School Day in Homer, and encourage all in the Homer area to participate in Bike Month activities, to always be aware of cyclists on our roads, and to recognize and practice bicycle safety throughout the year.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND CAUSED THE Seal of the City of Homer, Alaska, to be affixed this 28th day of April, 2014.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

April 21, 2014

Dear Madam Mayor, Homer City Council Members and Homer City Manager:

Recreate Rec is alive and well and continuing to discuss how we as a community can increase and improve our recreation programs and facilities to meet the growing needs and desires of Homer and the surrounding area. We appreciate your support of the PARC (Park, Art Recreation and Culture) needs assessment and look forward to analyzing the data. Currently, the time line we are looking at is a completion date of April 30th, 2015. We are hoping that with this information we can recommend a funding structure for the formation of an official Parks, Art, Culture and Recreation Department and in doing so, our beloved programs and facilities can exist and develop without putting a huge stress on the City budget. We continue to advocate for the HERC building and the land upon which it sits. The gym has received heavy use this winter with participants in a toddler play group, a women's basketball league, Popeye wrestling and pickle ball. The skate park next to the gym has attracted a fine group now that the weather has warmed up. The field adjacent to the building has been used for bocce ball and dog training. Plans are developing for sprucing up the basketball court for the summer.

We hope that you will reconsider your Resolution 13-096 passed on September 23, 2013, in which you request that the Borough Assembly "amend relevant agreements and the quit claim deed regarding the transfer of ownership of the Old Intermediate School property to permit the City to sell the property and dedicate the proceeds for the use and benefit of the general public." We would like to call your attention to Ordinance 98-42 passed in September of 1998 which authorizes the conveyance of the real property associated with the former Homer Intermediate School to the City of Homer at other than fair market value. The Ordinance states in section I, part d, "There is a large demand from the public for the use of the gym at the former Homer Intermediate (Middle) School, and the City of Homer is the appropriate entity to properly manage the facility for the community purposes as the City has park and recreation powers while the Borough lacks such powers."

The current deed also states that “The land will be used for a public purpose beneficial to the general public”. We feel that nothing has changed since 1998 when the City of Homer was entrusted with this building and the property associated with it. If anything, the recreational needs of our community have grown and continue to do so.

This parcel belongs to the people of Homer. To sell the property was not the intent of the Borough when they sold it to the city for \$1.00. The parcel was not given to us to make a financial profit. If sold, with the current statewide climate, we will have zero chance of establishing another community and recreational hub especially on the heels of a Public Safety Building. The central location and existing structures have begun to show their potential in light of all this and we ask that you help us safeguard this cornerstone of our community.

You have been aware and have even encouraged and supported our recreation movement. Let’s work together to keep the HERC property for the use of the general public. We need your help to keep this recreation momentum going and we urge you to rethink the direction you have been heading with Resolution 13-096.

Thank you.

Sincerely,

Kate Crowley

Robert Archibald

Kathy Hill

Shay Lowney

Ola Mullikin

Jessica Marx, Homer Softball Association

Saundra Hudson

Mike Illg

Storm and Jason Cavasos

Ralph Broshes

Keri Syth

Deb Lowney

Deb Cox

Mary Griswold

Michelle Miller

Wendy Todd

Kari Greiner

Meghan Murphy

Kara Clemens

Ted Otis

Shannon McBride

Chris Monin

Miranda Weiss

Rebecca Clarke

Judy, Steve and Douglas Dean

Sue Rennolds

Michelle and Shaun Hatton

Andrea and Matt Stineff

Gail Edgerly

Diane Converse

Kate Henry

Dots Sherwood

Gary Sholz

Jenny Martin,

Erica Marley

Matt Steffy

Shanon Davis

Bekah Pearson

Christy Russ, Rec Coordinator @ILC

Rachel Romberg

Brianna Allen, Old Town Development Director

Leslie Slater

Lisa Zatz

Chris Etzweiler. Bruins Basketball

Krista Etzweiler



Homer Senior Citizens, Inc.

3935 Svedlund Street
Homer, Alaska 99603
(907) 235-7655 Fax: (907) 235-3739

April 22, 2014

Honorable Beth Wythe
Mayor and City Council
491 East Pioneer Avenue
Homer, Alaska 99630

Dear Honorable Wythe and City Council:

Thank you for allowing the Homer Senior Citizens, Inc. an opportunity to present what the senior center contributes to the City of Homer during your March 10, 2014 City Council Meeting. We understand the City of Homer has many priorities and supports non-profits through the Homer Foundation. We don't qualify for Homer Foundation Grants because of our size. As explained during the Council meeting, we are not a typical non-profit.

We understand the City of Homer financially supports the Pratt Museum. We understand the City of Homer financially supports Haven House. We believe it is unconscionable that the City of Homer does not support the Senior Center financially.

A financial contribution from the City of Homer for the natural gas conversion may leverage the State and possibly Kenai Borough. We have been advised the \$100,000 capital project request has passed the Senate and currently is in the House. If we are to remain a viable thriving organization, your financial support is necessary. We will continue to get declined by foundations and governmental agencies until the City of Homer provides financial support on a continual basis.

We are requesting \$100,000 in financial support for the natural gas conversion project. We are also requesting future line-item funding. Now is the time to act; your support will keep this valuable program in your community.

Respectfully submitted,

Keren L. Kelley,
Executive Director

Cc: Board of Directors

40 Years of Great Service Helping Seniors "Live Life to Its Fullest!"

www.homerseniors.com



Homer Senior Citizens, Inc. Natural Gas Conversion

City of Homer Assessment	4 Lots	\$3,283.30	\$	13,133
Enstar Line Installation	400 ft.	\$1,290	\$	5,160
\$1,290 first 100 feet to Building	1,200 ft.	\$2.00	\$	2,400
\$2.00 each additional foot				
Total Enstar Installation			\$	7,560
Enstar Meters (BTU Loads)				
Parcel ID (estimate based on projected BTU loads)			\$	1,000
Parcel ID (estimate based on projected BTU loads)			\$	1,000
Parcel ID (estimate based on projected BTU loads)			\$	1,000
Parcel ID (estimate based on projected BTU loads)			\$	1,000
Total Meter Instalation			\$	4,000
Boiler Conversion				
Senior Center Boiler Conversion			\$	51,750
Assisted Living Facility			\$	36,800
Kachemak Bay			\$	230,000
Pioneer Vista			\$	39,215
Bartlett			\$	9,200
Swatzell			\$	10,350
Total for Boiler Conversion			\$	377,315
Retrofitting Piping to Appliances				
Gas Piping to Pioneer Vista			\$	10,000
Gas Piping to Bartlett			\$	8,000
Gas Piping to Convert Swatzell			\$	4,000
Total for Piping			\$	22,000
Appliances				
Gas Dryer @ \$476	55	\$476	\$	26,180
Gas Range @ \$587	55	\$587	\$	32,285
Kitchen Steamer			\$	14,425
Kitchen Stove			\$	8,000
Total for Appliances			\$	80,890
Total Conversion to Natural Gas			\$	504,898

HOMER FOUNDATION

REPORT: City of Homer Grants Program 2014

This is the 15th year of the City of Homer Grants Program administered by the Homer Foundation. A total of \$649,464 has been awarded through this program since inception in 2000.

Applications for the 2014 funding cycle were made available January 14th and completed applications were due March 20th. A total of \$31,180 was available for distribution. This funding included the City's current year \$19,000 allocation, \$11,317 in earned income from the City of Homer's endowment fund, and \$863 in earned income from the City of Kachemak's endowment fund. Kachemak City adds their earnings annually in the spirit of good neighbors. We appreciate having the flexibility to allocate these funds each year depending on need.

Being a resident of the City of Homer is our one criterion for membership on the Distributions Committee. This year's committee consisted of HF Board of Directors John Mouw, Flo Larson, Polly Prindle-Hess, Denise Pitzman, and Steve Albert, who were joined by community members Luana Stovel, Caroline Venuti, Ginny Espenshade, and Maynard Smith. The committee members received their packets March 6th, and reconvened on March 20th, at 6 pm in the Homer Foundation conference room to review and score applications. All committee members agreed in writing to adhere to the Homer Foundation's Conflict of Interest Policy. John Mouw chaired the meeting, but recused himself from voting on the applications as he is a fiduciary of one of the grantees. There were no other disclosures made, and no conflicts existed.

Nine applications were received. Committee members scored the organizations using the weighted criteria established for the four areas covered in the application: Financial Health (30 pts.), Governance (15 pts.), Correlation of Mission to Programs (40 pts.), and Leverage (15 pts.). They used these scores to prioritize applicants and recommend funding levels. The Homer Foundation board of trustees approved the Committee's recommendations at their March 26th board meeting. The following grant recommendations were approved for funding:

Organization	2014 Awards
<u>Bunnell Street Gallery</u>	\$ 3,600
<u>Center for AK Coastal Studies</u>	\$ 3,500
<u>Cook Inlet Keeper</u>	\$ 3,300
<u>Homer Community Food Pantry</u>	\$ 3,780
<u>Homer Council on the Arts</u>	\$ 3,400
<u>Homer Hockey Association</u>	\$ 3,000
<u>Hospice of Homer</u>	\$ 3,780
<u>Kachemak Heritage Land Trust</u>	\$ 3,500
<u>Kachemak Nordic Ski Club</u>	\$ 3,320
Total:	\$31,180

I regret that I am unable to make this report in person this year. I am happy to report to the Council at any time in the future should you so request it. The Homer Foundation appreciates the opportunity to assist the City of Homer by administering this annual grants program that provides important operating funds to Homer's vital nonprofit community.

Report submitted by Joy Steward, Ex. Director, The Homer Foundation 4/21/14.

PUBLIC HEARING(S)

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

Ordinances 14-14(S)

A **public hearing** is scheduled for **Monday, April 28, 2014** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Ordinances 14-14(S) internet address:

<http://www.cityofhomer-ak.gov/ordinances>

Ordinance 14-14(S), An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Limitation Period for Filing a Complaint of a Violation of the City Ethics Code of Five-Years or One Year After Discovery of the Violation. City Clerk.



All interested persons are welcomed to attend and give testimony. Written testimony received by the Clerk's Office prior to the meeting will be provided to Council.

** Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, the City of Homer Kiosks at City Clerk's Office, Captain's Coffee, Harbormaster's Office, and Redden Marine Supply of Homer and the City's homepage - <http://clerk.ci.homer.ak.us>. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us or fax 235-3143.

Jo Johnson, MMC, City Clerk

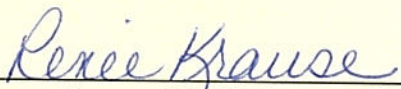
A handwritten signature in blue ink, appearing to read "Jo Johnson".

Publish: Homer News: April 24, 2014

CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, CMC, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for Ordinance 14-14(S), Enacting HCC 2.80.200, Limitation Period, Establishing a Limitation Period for Filing a Complaint of a Violation of the City Ethics Code of Five Years or One Year after Discovery of the Violation was distributed to the City of Homer kiosks located at City Clerk's Office, Captain's Coffee Roasting Co., Harbormaster's Office and Redden Marine on Thursday, April 17, 2014 and that the City Clerk posted same on City of Homer Homepage on Tuesday, April 15, 2014.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 16th day of April, 2014.



Renee Krause, CMC, Deputy City Clerk I



ORDINANCE REFERENCE SHEET
2014 ORDINANCE
ORDINANCE 14-14

An Ordinance of the Homer City Council, Enacting HCC 2.80.100, Limitation Period, Establishing a Five-Year Time Limitation for Filing a Complaint of a Violation of the City Ethics Code.

Sponsor: City Clerk

1. City Council Regular Meeting March 24, 2014 Introduction
 - a. Memorandum 14-046 from City Clerk as backup
2. City Council Regular Meeting April 14, 2014 Public Hearing
 - a. Memorandum 14-046 from City Clerk as backup
 - b. Substitute Ordinance 14-14(S) from City Attorney
3. City Council Regular Meeting April 28, 2014 Public Hearing and Second Reading
 - a. Substitute Ordinance 14-14(S) as adopted by Council on April 14, 2014
 - b. Memorandum 14-046 from City Clerk as backup

CITY OF HOMER
HOMER, ALASKA

City Clerk

ORDINANCE 14-14(S)

AN ORDINANCE OF THE HOMER CITY COUNCIL, ENACTING
HCC 2.80.100, LIMITATION PERIOD, ESTABLISHING A
LIMITATION PERIOD FOR FILING A COMPLAINT OF A
VIOLATION OF THE CITY ETHICS CODE OF FIVE-YEARS OR
ONE YEAR AFTER DISCOVERY OF THE VIOLATION.

WHEREAS, The City Ethics Code in HCC Chapter 1.18 establishes important standards
for official conduct in City government; and

WHEREAS, While investigation and action on complaints of violations of the City Ethics
Code serve important public purposes, they demand significant time and resources of the
Board of Ethics and City staff; and

WHEREAS, The benefits of enforcing the City Ethics Code generally decline as an
alleged violation becomes more remote in time; and

WHEREAS, The enforcement of state statutes prohibiting unethical conduct by public
officials typically is subject to a five-year limitation period.

NOW, THEREFORE, THE CITY OF HOMER HEREBY ORDAINS:

Section 1. HCC 2.80.100, Limitation period, is enacted to read as follows:

2.80.100 Limitation period. (a) Notwithstanding any other section of this chapter or
HCC Chapter 1.18, and subject to (b) of this section, the Board only may investigate or
otherwise act upon a complaint of a potential violation of HCC Chapter 1.18 that is received by
the City Clerk's office within five years after the date of the alleged violation.

(b) After the time limitation in (a) of this section has expired, the Board may investigate
or otherwise act upon a complaint of a potential violation of HCC Chapter 1.18 that is received
by the City Clerk's office within one year after the date of discovery of the alleged violation, but
in no case shall this subsection extend the period of limitation in (a) of this section by more
than three years.

Section 2. This Ordinance is of a permanent and general character and shall be
included in the City Code.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this ____ day
of April, 2014.

CITY OF HOMER

MARY E. WYTHE, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

Walt Wrede, City Manager

Date: _____

Thomas F. Klinkner, City Attorney

Date: _____



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

(f) 907-235-3143

Memorandum 14-046

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: JO JOHNSON, MMC, CITY CLERK
DATE: MARCH 17, 2014
SUBJECT: ENACTING A TIME LIMIT FOR ETHICS CODE COMPLAINTS

Upon review of the Board of Ethics provisions I discovered there was no time limit for filing a complaint of a violation of the City's Ethics Code. The current code leaves a retired city official or city manager in a perpetual state of uncertainty. The more time that passes after an individual held office diminishes the benefit of enforcing the ethics code.

The State of Alaska has a five-year limitation from the date of the potential violation to file a complaint of a violation of the Ethics Code. It is recommended the City of Homer enact a time limit for filing an ethics complaint that is consistent with the State's provision.

RECOMMENDATION:

Adopt Ordinance 14-14 to set a time limit for filing a complaint of a violation of the Ethics Code.

ORDINANCE(S)

CITY MANAGER'S REPORT



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

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(f) 907-235-3148

MANAGER'S REPORT

April 28, 2014

TO: MAYOR WYTHER / HOMER CITY COUNCIL

FROM: WALT WREDE

UPDATES / FOLLOW-UP

NOTE: Some of these items appeared in the last report. I have updated them and brought them back in case the Council wanted to discuss.

1. Employee Health Insurance: (**Reprinted from the March 24 Report**) You will recall that we discussed bringing the employee health insurance issue back to you at around mid-year. The idea was to address the issue before we started budget preparation in the fall. Right now, we are targeting the first meeting in August for a special meeting / workshop on an off-Monday (preferable). This would be a workshop forum. Jeff Paxton, our broker would be present for a presentation. The idea would be to present the data we have for the first 8 months of the new plan to look at impacts on costs and employee utilization. We would also present you with the bids we have received from private sector insurance companies. The goal would be for Council to be able to make an informed decision going forward re: staying self insured vs. the private sector. Starting the process this early will help with budget preparation, will give us time to make all of the necessary transfers, and give employees adequate notice. Also, Andrea Petersen is planning on having a report to you on the wage scale and ways to address the job classifications that are falling behind as requested by Council. This report will be submitted at about the same time so that the Council can look at total employee compensation prior to budget time.
2. PERS: Good news here. It looks like the Governor's proposal to transfer \$3 Million into the PERS and TERS funds is going to pass. The really good news for the City is that the municipal contribution rate will not be increased, which would have been a major hit to the budget. The bad news is that termination studies have not been eliminated as hoped.
3. Capital Budget: At the time this report was written, the Capital Budget was still being debated. If it passes in its current form, I think the community did pretty well overall, considering the dire predictions about spending going into the session. Community projects include money for the Pratt Museum building project, funds for natural gas conversion at the Senior Center, and one year funding restoration for KBBR. City projects include funds for refurbishment of Fire Department apparatus, Phase I of the East-West Road Corridor, and funding for the Sheet Pile Dock in the harbor.

4. Legislature Recognizes City's 50 Year Anniversary: The Alaska Legislature adopted a proclamation "Honoring the City of Homer at the 50 Year Anniversary of City incorporation." The prime sponsors were representative Paul Seaton and Senator Peter Micciche. It looks like the entire Legislature signed on as co-sponsors. A copy will be available at the meeting and we will have it framed and placed in a prominent place.
5. Spit Project Updates: The Spit Trail extension and the new trail on the other side of the harbor are scheduled to be paved late this week. Much progress is being made on the interpretative areas and other enhancements as you may have noticed. The new restrooms are all about to be hooked up to natural gas, which will greatly reduce utility costs. The Spit Trail extension has been a long time coming and we are pleased that we will be able to get it done before the visitor season arrives in full force.
6. Paving: A quick reminder that DOT/PF is planning to execute Phase II of its paving project this summer. There will be new pavement on the Sterling Highway from the Pioneer Avenue intersection all the way to the end of the Spit. There will be delays and inconvenience but the end result should be good. The City is working with DOT/PF to incorporate some of the planned pedestrian improvements at the end of the Spit as part of this project.
7. Main Street / Sterling Intersection: DOT/PF has informed the City that it has selected an alternative for traffic control at the Main St. / Sterling intersection. It plans to install a traffic signal with right turning lanes. DOT/PF would like an endorsement or comment from the Council before it proceeds further. A resolution expressing support for the project is on the agenda to get the issue on the table.
8. Pier One Lot: As you are aware, there has been a lot of public discussion about the highest and best use of the parcel that Pier One is located on. If anyone had any questions about the need or the demand for marine industrial / marine trades activities there, you should have been there last week. As many as six vessels were hauled out and being worked on, almost entirely with local crews and labor.
9. Congratulations to Mike Illg: Community Recreation Coordinator Mike Illg ran and finished the Boston Marathon. According to the paper, he was the only person from Homer to finish the race. Mike ran to raise money for charity. Way to go Mike!
10. Trip Report: On April 2, 3, and 4 I was in Washington DC. The purpose of the visit was to attend a hearing of the Federal Maritime Commission with Holly Wells and to visit our delegation. I met with Congressman Young and a number of staff members in Senator Begich and Senator Murkowski's offices. The topics of discussion included the future of KBRR, the excise tax provision of the Affordable Health Care Act, and funding for the Deep Water Dock and the harbor expansion. We talked a lot about Homer's role in energy development and support for the expansion of Arctic shipping.

ATTACHMENTS

1. April Employee Anniversaries
2. Public Works Director: Community Disaster Recovery Training
3. Status of EPA Funded Water Projects Design



City of Homer

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Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

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(f) 907-235-3148

Memorandum

TO: MAYOR WYTHE AND CITY COUNCIL
FROM: Walt Wrede
DATE: April 23, 2014
SUBJECT: April Employee Anniversaries

I would like to take the time to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer over the years.

Jerry Lawver,	Public Works	23	Years
Chris Dabney,	Port & Harbor	15	Years
Joe Young,	Public Works	7	Years
Rick Pitta,	Police	5	Years
Rachel Tussey,	Port & Harbor	4	Years
Andrea Petersen,	Personnel	3	Years
Travis Brown,	Planning	2	Years
Erica Hollis,	Police	2	Years



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Public Works

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(f) 907-235-3145

MEMORANDUM

TO: Walt Wrede, City Manager
FROM: Carey Meyer, Public Works Director
DATE: April 22, 2014
SUBJECT: **Spring 2014 Preparedness Conference
Community Disaster Recovery**

A major earthquake hits south central Alaska. It lasts for 5 minutes, destroys infrastructure including many bridges between Anchorage and Homer, the Spit is in ruins, and the runway at the airport in Homer is damaged. Could Homer recover this time? With no docks, ice production, or access to processing could our commercial fishing industry survive? With no tourist arriving, could our small businesses recover? With schools closed could families justify staying? Could we re-establish a healthy functioning community that would sustain itself over time?

I attended the above referenced three day conference in Anchorage and I thought I would give you a summary of what was discussed. This conference concluded what has been called the Alaska Shield Disaster Response Exercise, a state wide effort to evaluate local, state and federal disaster *response* capabilities. This conference focused on how a community might *recovery* from a disaster similar to the one described above.

The Stafford Act authorized the federal government to get money to local jurisdictions to help pay for disaster response and mitigation. As a result of the experiences responding to Katrina, the Gulf of Mexico Oil Spill, and Hurricane Sandy, additional legislation has been passed which authorizes additional resources to help communities recover from disasters. The federal government realizes that it takes more than \$'s to return to normal a community impacted by a disaster. It takes the coordination of many local, state, and federal players.

200 individuals from all corners of Alaska attended the conference, as well as representatives from dozens of state and federal emergency management agencies. The main focus of the conference was the newly created "*Community Disaster Recovery (CDR) Guide*" prepared by the Alaska Division of Homeland Security & Emergency Management (DHS&EM). This guide outlines how to develop and implement a community disaster recovery program, which is the process of re-establishing a healthy, functioning community that can sustain itself over time.

Also discussed was the "*State of Alaska Long-Term Disaster Recovery Framework*" - a set of guidelines to manage the State's long-term recovery activities following a major disaster; and the "*National Disaster Recovery Framework*" - a guide that enables effective recovery support to disaster-impacted States, Tribes and local jurisdictions.

Three real-life examples of disaster recovery were presented by the people directly involved. The Recovery & Development Director for the Village of Gay's Wells, Wisconsin, a flood ravaged town that in two years sustained massive damage from back to back 500 year floods, discussed the overall 4 year recovery effort in the context of her position and that of the various resident groups. She illustrated the challenges of fairness, funding, finance and the challenges of a political climate in flux nationally and locally after the disaster.

The Chief of Staff to the Colorado Governor and the Director of the Colorado Division of Homeland Security and Emergency Preparedness, both instrumental in responding to flooding that occurred in Colorado this past September, discussed in particular how the Colorado Recovery Office worked in the months following the floods to continue to respond to the ongoing recovery effort.

Members of the City of Galena discussed how their community planned for and implemented a recovery plan, developed by the community to assist local citizens recover from the recent flooding. Their discussion highlighted the challenges a diverse, remote community must contend with when attempting to develop a consensus within the community and at the same time soliciting effective assistance from partnering State and Federal agencies.

Throughout the conference it was emphasized that recovery is driven by the local community; State and Federal resources are available to support that effort. The Community Disaster Recovery (CDR) Program Goals (recently developed by the Alaska Division of Homeland Security & Emergency Management focus on:

- 1) **Individual/Family Empowerment** – provide an opportunity for the community to take control of its future and facilitate its recovery.
- 2) **Leadership/Local Primacy** – coordination among local officials with support from state and federal and non-governmental agencies.
- 3) **Partnerships/Inclusiveness** – foster cooperation and coordination among federal, state and local agencies, as well as public and private organizations.
- 4) **Public Information** – public information messaging helps manage expectations throughout the recovery process and supports the development of intergovernmental communication plans.
- 5) **Unity of Effort** – attempts to incorporate all elements of the community as part of the recovery process, encourage consideration of the interrelationships of various sectors, such as commercial, environmental, etc., and forces the community to look at the long term implications of decisions.
- 6) **Timeliness & Flexibility** – upholds the values of timeliness and flexibility in coordinating and efficiently conducting recovery activities and delivering assistance, minimizing delays and loss of opportunities.
- 7) **Resilience and Sustainability** – provides an opportunity to incorporate concepts that eliminates or decreases exposure to future disasters.
- 8) **Physiological and Emotional Recovery** – addresses the full range of emotional needs of the community as it recovers from a disaster.
- 9) **Need for Pre-Disaster Recovery Planning** – taking actions that will significantly reduce disaster impacts through disaster resilient building practices.

Who would lead the recovery effort? What policies or regulations are in place now to facilitate or inhibit recovery activities? What organizational structures exist to manage recovery? Who would articulate a recovery vision for the community? How would we secure outside support? How would we engage the community? Could we achieve a consensus?

Disasters may unveil new opportunities that were not considered earlier. Community recovery provides an opportunity to put a community back together in an improved way. Each community's Disaster Recovery program would be shaped by the community itself, with outside involvement from non-governmental groups, and state and federal government agencies.

Are we prepared to not only initially respond to a disaster, but recover from one too?



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Public Works

3575 Heath Street
Homer, AK 99603

publicworks@cityofhomer-ak.gov
(p) 907- 235-3170
(f) 907-235-3145

MEMORANDUM

TO: Walt Wrede, City Manager *W. Wrede*
FROM: Carey Meyer, Public Works Director
DATE: April 22, 2014
SUBJECT: **Status of EPA funded Water Projects Design**

Public Works is coordinating the design of several water distribution improvements. The design of these projects is funded partially through an EPA grant, authorized by the City Council in 2012. The remaining funds come from the HAWSP program. No construction monies have been obtained. Once design is complete, Public Works will apply for grants and loans to cover the cost of construction. Some additional HAWSP funds may be required to complete these projects.

New Water Tank – A new water tank is being designed near the Shellfish Avenue/South Slope Drive intersection. The design is 65% complete. This tank will be an underground concrete tank and will require the purchase of a lot. Public Works has been negotiating the purchase with a willing land owner. Attached is the letter of intent executed recently between the City and the property owner. *Public Works will in the next few months be requesting authorization to use City funds to purchase the lot.* Public Works is currently submitting for Planning Commission approval a Conditional Use permit and a preliminary plat that creates the new lot. Included in the design of this tank is the potential for installing turbines on the transmission main coming down East Hill Road which could generate power back on to the electrical grid.

Shellfish Avenue/South Slope Drive Water Main Extension – The new tank will be filled by this new water main extension. The extension will also connect two isolated pressure zones, the connection of which will provide more dependable water service to much of the City. The design has been submitted to ADEC for an Approval to Construct.

A-Frame Tank Demolition – The construction of the new tank will allow for the removal of the existing A-Frame tank which was constructed in 1965.

A-Frame PRV Station Replacement – This facility, constructed in 1965, would be replaced.

Kachemak Drive (Phase III) Water Main Extension – This design is 95% complete.

Homer Spit Old Cast Iron Main Replacement – This design is 95% complete



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April 21, 2014

Home Owners - Quiet Creek Community

**RE: Letter of Intent
Proposed Property Purchase for Water Tank**

The City is in the process of designing a new water tank that would require purchasing a strip of property along Shellfish Avenue from the Quiet Creek Community property. The tank will improve fire protection and the delivery of water to the core area of Homer. The attached map shows the location being considered.

The tank will be an underground tank (approximately 1.0 million gallons in size; 75' in diameter) that will extend anywhere between 5 and 10 feet above the ground surface (see attached drawing). Public Works will strive to design this new tank to minimize any negative visual impacts to your property. The tank will have less impact visually than a house.

If the Quiet Creek Community Homeowners (QCCH or Seller) are willing to consider selling the required property, the City's intention would be as follows:

- The City would coordinate and pay for the subdivision of the property to create the lot proposed to be purchased (Lot A-2; 1.157 acres) and the remaining property (Lot A-1; 15.780 acres) would be retained by QCCH. Attached is a draft preliminary plat.
- The City would coordinate and pay for the appraisal of the lot to be purchased (utilizing a firm approved by QCCH). The appraisal sales price subject to QCCH approval and acceptance.
- The City will prepare a purchase agreement (draft attached) formally defining the sale conditions.
- In previous attempts to create property lines on your property, the Borough has suggested that a road right-of-way across the property could be required. The City understands that should that be required by the Borough during the platting effort, it would be grounds for terminating any purchase.
- The City would create a vegetative buffer on Quiet Creek Community property between the tank site and the remaining property. See attached preliminary buffering plan.
- Since the sale of Lot A-2 would eliminate the Seller's frontage on Shellfish Avenue, the Seller will be exempt from any and all future assessments related to water main, sewer main, or road construction improvements related to Shellfish Avenue.
- The sale of Lot A-2 will not in itself affect the potential for future assessments on Lot A-1 resulting from South Slope Drive road, water and sewer improvements. Deferred assessments will be considered by the City Council regarding any future road, water and sewer assessments resulting from improvements made to South Slope Drive. Only future City Councils can make this decision.
- The City would cover all closing costs (including title insurance).
- Purchaser agrees to return property to its original pristine condition in the event of failure to close.

Schedule:	Purchase Agreement Executed	May 2014
	Plat Finalized	June 2014
	Appraisal Completed	May 2014
	Buffering Plan Approved	May 2014
	Purchase Closing	July 2014

The conditions of sale described above will be incorporated into the final purchase agreement, and the final landscaping/buffering plan and final preliminary plat will be made a part of the final purchase agreement.

Should you have any questions or concerns, you can call me at 399-7232.

Yours Very Truly;

Concurrence;

CITY OF HOMER



Carey Meyer, P.E.
Public Works Director

QUIET CREEK COMMUNITY HOMEOWNERS

(by and through the Quiet Creek Homeowners Association, Inc.)



Karen Berg Forrester, Vice President
Quiet Creek Homeowners Association, Inc.

BAYVIEW GARDENS
RASPBERRY CT.
VACATION LOT 3-A

BAYVIEW GARDENS
ADD'N #8
LOT B5

CERTIFICATE OF OWNERSHIP

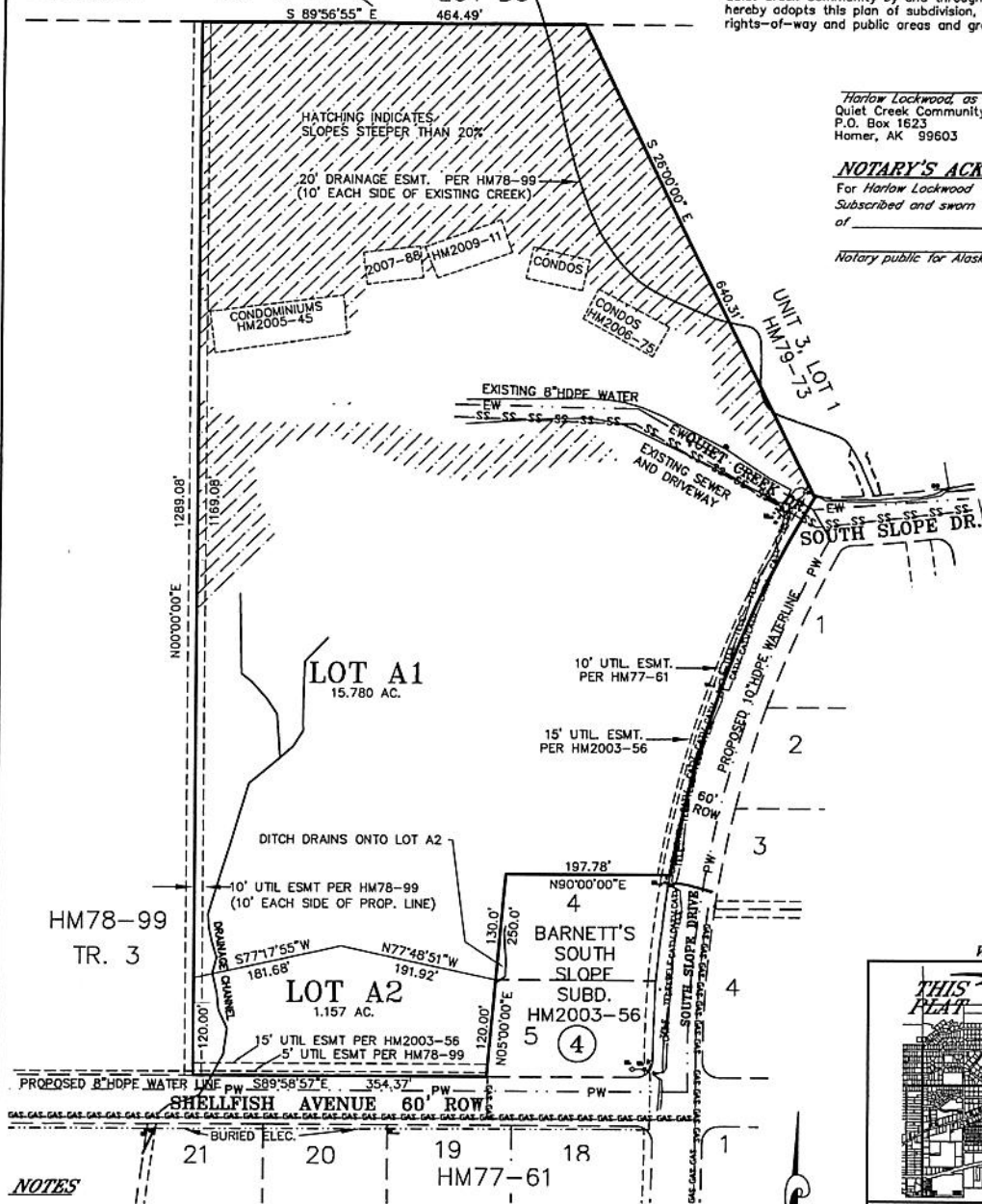
I hereby certify that the collective homeowners of the Quiet Creek Community by and through the Quiet Creek Homeowner's Association are the owners of the real property shown and described hereon, and that the collective homeowners of the Quiet Creek Community by and through the Quiet Creek Community Association hereby adopts this plan of subdivision, and by their free consent dedicate all public rights-of-way and public areas and grant all easements to the use shown.

Harlow Lockwood, as President
Quiet Creek Community Association Inc.
P.O. Box 1623
Homer, AK 99603

NOTARY'S ACKNOWLEDGEMENT

For Harlow Lockwood
Subscribed and sworn to before me this _____ day
of _____ 2014.

Notary public for Alaska _____ My Commission Expires _____

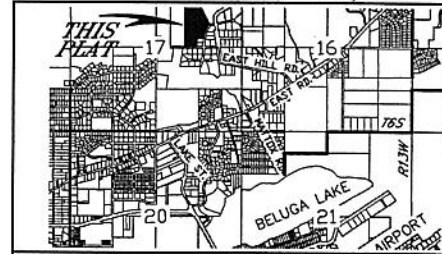


NOTES

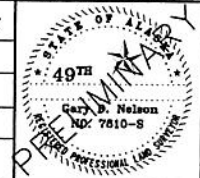
1. NO PERMANENT STRUCTURE SHALL BE CONSTRUCTED OR PLACED WITHIN AN EASEMENT WHICH WOULD INTERFERE WITH THE ABILITY OF A UTILITY TO USE THE EASEMENT.
2. THESE LOTS ARE SUBJECT TO HOMER CITY CODE.
3. REFERENCE IS MADE TO THE FOLLOWING PLATS IN THE HOMER RECORDING DISTRICT:
2011-39 (ROS), 2009-11,
CONDOMINIUM DEVELOPMENT PLANS AND AS-BUILTS;
2008-14, 2007-88, 2005-45, 2006-75,
SUBDIVISION PLATS; 2003-56, 78-99, 77-61.
4. WETLANDS EXIST ON THESE LOTS. ANY DEVELOPMENT WILL BE SUBJECT TO WETLAND DETERMINATION AND POSSIBLE WETLAND PERMITS.
5. THE FOLLOWING COVENANTS, CONDITIONS, RESTRICTIONS (CCR'S) AND EASEMENTS ARE RECORDED:
CCR BOOK 103, PAGE 88, & AMENDED BY 2003-001742-0,
HORIZONTAL PROPERTY REGIMES ACT DECLARATION 2004-005284-0 &
AMENDED 2006-005162-0,
AMENDED 2007-004467-0,
AMENDED 2008-001629-0,
AMENDED 2009-001212-0,
AMENDED 2011-003286-0,
AND OTHER RELATED PUBLIC NOTICE;
CANCELLATION OF AMENDMENT NO. 5, SERIAL #2014-000705-0,
RECORD OF SURVEY (HM2011-39),
SETTLEMENT AGREEMENT 2014-000706-0,
INVALID AMENDMENT AND RECORD OF SURVEY 2011-3636-0,
SETTLEMENT AND AGREEMENT 2014-000706-0,
AND WATER AND SEWER SERVICE AGREEMENT BK. 290, PG. 332
AND DRIVEWAY ACCESS RIGHT-OF-WAY #2006-005246-0
AND BLANKET ELECTRIC TRANSMISSION EASEMENTS AT BK. 48, PG. 77 AND
BK. 90, PG. 166.

REC DIST	_____
Date	20____
Time	____M
Requested By	_____
Address	_____

VICINITY MAP SCALE: 1" = 1/2 MILE



DATE	4/22/2014
SCALE	1" = 100'
GRID No.	AR-73
JOB No.	4749
DRAWING:	4749



BARNETT SUBDIVISION, QUIET CREEK ADD'N 2014

A SUBDIVISION OF TRACT A, BARNETT SUBDIVISION, QUIET CREEK ADDITION (HM2003-56) WITHIN THE NE1/4 SEC. 17, T8S, R13W, S.M., CITY OF HOMER, KENAI PENINSULA BOROUGH, THIRD JUDICIAL DISTRICT, HOMER RECORDING DISTRICT, STATE OF ALASKA,
CONTAINING 16.937 ACRES
EXCEPTING THEREFROM:
QUIET CREEK COMMUNITY LLC PHASE 1 (HM2005-45),
QUIET CREEK COMMUNITY LLC PHASE 2 (HM2006-75),
QUIET CREEK COMMUNITY LLC PHASE 3 (HM2007-88),
QUIET CREEK COMMUNITY LLC PHASE 4 (AMENDED HM2009-11)

ABILITY SURVEYS
GARY NELSON, PLS
(907) 235-8440
152 DENEL AVE. HOMER ALASKA 99603



City of Homer

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Office of the City Clerk

491 East Pioneer Avenue
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(p) 907-235-3130

(f) 907-235-3143

Memorandum

TO: MAYOR AND CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

DATE: APRIL 22, 2014

SUBJECT: BID REPORT

ITB Public Works Gravel Supply 2014-2016 - Sealed bids for the City of Homer Public Works Gravel Supply will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska 99603 until 2:00 p.m., Thursday, May 01, 2014, at which time they will be publicly opened and read.

RFP for a Park, Art, Recreation and Culture Needs Assessment - The City of Homer, Alaska is requesting proposals from qualified firms to conduct a park, art, recreation and culture needs assessment. Proposals will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska until 4:30 P.M., Thursday, May 8, 2014. The time of receipt will be determined by the City Clerk's time stamp. Bidders are required to be on the Plan Holder's List to have their proposals evaluated by the selection committee.

CITY ATTORNEY REPORT

COMMITTEE REPORTS

PENDING BUSINESS

1 CITY OF HOMER
2 HOMER, ALASKA

3 Mayor/Council

4 RESOLUTION 14-046

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING CHAPTER 2, SECTION 2.2(A) OF THE CITY OF
8 HOMER PROPERTY MANAGEMENT POLICY AND
9 PROCEDURES (LEASE POLICY) REGARDING COMMITTEE
10 MEMBERSHIP.

11
12 WHEREAS, The City Council has been reviewing all City Boards, Commissions,
13 Committees, and Task Forces to look for ways to reduce expenditures, redundancy, and
14 overlapping responsibilities; and

15
16 WHEREAS, The Lease Committee can be eliminated in its present form because other
17 existing Commissions can advise the Council on Lease Policies and lease proposal evaluation,
18 negotiation, and administration is more appropriately handled by the City Administration,
19 consistent with the City Code; and

20
21 WHEREAS, It is recommended that the membership of the Lease Committee be
22 changed back to its previous form by eliminating public members and making it an
23 Administrative Committee; and

24
25 WHEREAS, The reasons for abolishing the Lease Committee in its current form have
26 been summarized in Memorandum 14-066; a copy of which is attached and incorporated
27 herein.

28
29 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby finds that it
30 is in the City's interest to change the membership of the Lease Committee by eliminating
31 public membership and returning the Committee to an Administrative Committee.

32
33 BE IT FURTHER RESOLVED that Chapter 2, Section 2.2(A) is deleted in its entirety and
34 replaced with:

35
36 (A) The City Manager shall establish a Lease Committee that will at a minimum,
37 consist of the Finance Director, the City Planner, and the Port and Harbor
38 Director. The Lease Committee may consult with other department heads such

as the Fire Chief, Police Chief and Public Works Director, the City Attorney, or
outside professionals as needed and appropriate.

PASSED AND ADOPTED by the Homer City Council this 14th day of April, 2014.

CITY OF HOMER

MARY E. WYTHER, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A



City of Homer

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Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

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(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum 14-066

TO: Mayor Wythe and Homer City Council

FROM: Walt Wrede

DATE March 29, 2014

SUBJECT: Lease Committee

The City Council has been discussing ways to reduce expenditures, redundancy, and overlapping jurisdictions by eliminating some committees and lowering the number of meetings for others. The staff currently spends a very significant amount of time providing support to the various Boards, Commissions, Committees and Task Forces and this can make them less productive with respect to their regular duties. The City budget cannot accommodate additional staff members so it is wise to maximize the time of the current staff. As one organizational policy expert put it, if your goal is inefficiency, gridlock, and employee burnout then appoint lots of committees!

The Lease Committee is one of the Committees under consideration for elimination; at least in its present form. I have been asked to summarize the reasons given for eliminating this Committee as it is presently structured.

- Redundancy: This committee is one of several that has been charged with reviewing the adopted Lease Policies and making recommendations to the Council. The Economic Development Commission and the Port and Harbor Commission have both undergone extensive reviews of the policies. This creates unnecessary confusion. One of the standing Commissions can handle review and recommendations regarding the Lease Policies.
- Efficiency: Business people and prospective lessees often complain about how long it takes to get anything done with the City. Streamlining the permitting and leasing process is in line with the "Open for Business" approach espoused by the Council. Lease applications can be reviewed, evaluated, and presented to the Council by the Administration. That is the way it used to be. This would save many weeks and is more consistent with the Administration's fiduciary duties under the Code.
- Legal Concerns: The City Attorney has expressed concern about having public members on a Lease Committee that reviews, evaluates, and participates in the lease negotiation strategy process. This is the fiduciary responsibility of the City Manager

under the Code. According to the City Attorney, inclusion of public members on the Lease Committee is problematic because of the Committee's role as advisor to the City Manager in the evaluation of lease proposals and the negotiation of lease terms with prospective lessees. In performing these functions, Lease Committee members may become privy to confidential information regarding the business plans, finances and operations of prospective lessees, and the City's strategy in negotiating with prospective lessees. The likeliest candidates to be public members of the Lease Committee are persons who may have business interests in competition with prospective lessees, or may themselves hold leases of City property in the harbor area, resulting in inherent conflicts of interest, the potential for misuse of confidential information, and opportunities to engage in various forms of anticompetitive behavior. Even if this conduct occurs without the City's knowledge or consent, the role of the actor as a Lease Committee member could expose the City to potential liability for that conduct. Another concern is that the Lease Committee, in its present form, may be subject to things like the Open Meetings Act and Ex-Parte Contact. It is impossible for the Staff members of the Committee to comply with those laws because of their other duties in the process, including frequent contact with the applicant and collaboration on evaluating proposals and lease administration generally. In other words, staff members talk to each other regularly and are privy to information that the other members of the Committee are not. Having the Lease Committee return to an Administration function eliminates that concern.

RECOMMENDATION:

Change the Lease Committee membership by eliminating public members and including only members of the Administration. The revised Lease Committee would have sole responsibility for evaluating lease proposals, negotiating terms, and making recommendations to the Council. The Council could request advice from another standing Commission, like the Port and Harbor Commission, on the Lease Policies, if it thought that to be appropriate.

NEW BUSINESS

RESOLUTIONS

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

