



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

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Homer, Alaska 99603

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Memorandum Agenda Changes/Supplemental Packet

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK *Jo Johnson*

DATE: SEPTEMBER 22, 2014

SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

CONSENT AGENDA

Resolution 14-099, A Resolution of the City Council of Homer, Alaska, Authorizing the City Manager to Apply for a Safe Routes to Schools Planning Grant in the Amount of \$15,000 and Expressing Commitment to Provide In-Kind Staff Time as a Contribution. City Manager.

Written public comments

Page 3

PUBLIC HEARINGS

Ordinance 14-45, An Ordinance of the Homer City Council Amending Homer City Code 21.93.060 Standing – Appeal to Board of Adjustment and 21.93.500 Parties Eligible to Appeal to Board of Adjustment – Notice of Appearance, Providing for the City Planner or Designee to Participate in Appeals to the Board of Adjustment. City Manager.

Memorandum 14-147 from City Planner as backup

Page 5

PENDING BUSINESS

Resolution 14-075, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Donation From the Bunnell Street Arts Center of a Fanciful Loon Windsock Sculpture by Alaskan Artist Rachelle Dowdy to be Placed at Bishop's Beach Park. City Clerk/Public Arts Committee.

Memorandum 14-148 from Parks and Recreation Advisory Commission as backup

Written public comments

Page 15
Page 17

RECOMMENDATION:

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A

Jo Johnson

From: Kevin Walker <homerkev@gmail.com>
Sent: Sunday, September 21, 2014 9:33 PM
To: Jo Johnson; Department Clerk; Beauregard Burgess; Francie Roberts; Barbara Howard; David Lewis; Bryan Zak; Gus Van Dyke; Adele Person
Subject: Safe Route to Schools is on City Council's agenda tomorrow night at 6pm

I totally support the Safe Route to School grant application. Safety of the kids is primary. If our children could safely walk or bike to school when weather permits, they would get more exercise, be healthier, and have a bit more independence. Traffic from one adult driving one child to school might be reduced. School buses might travel a bit quicker if they didn't have to pick up so many kids. Our school doors need to be connected to our sidewalks and non motorized trails without hazardous driveway and road crossings.

Hopefully this might be the first step toward developing "Safe Route to Playgrounds and Ball fields and other parks", "Safe Route to Post Office", "Safe Route to Safeway", "Safe Route to Library", and "Safe Route to All Public Facilities", most of which have no pedestrian access without walking on the driveway and/or crossing roads !!!

Thanks,
Kevin Walker

On Sun, Sep 21, 2014 at 6:59 PM, Adele Person <adele@bunnellarts.org> wrote:

On the consent agenda for City Council tomorrow night is a resolution that would authorize the City of Homer to apply for a Safe Route to School (SRTS) grant in the amount of \$15,000 to develop a Safe Route to School plan for each of our 4 in-town K-8 schools. The grant looks at conditions within 1.5 miles of a school, which coincidentally, is nearly the entirety of our urban core. If our grant application is successful, a task force comprised of City, School, District, State and community representatives will be appointed, and the City's Planning Department will help conduct the work to identify the conditions that prevent kids from walking and biking safely to school. The plan would also identify solutions and partners to fix these issues.

The beauty of the planning grant is that once a SRTS plan is in place, other funding may be more readily accessible. Let's build those missing sidewalks! Install the solar speed radar signs! Develop a crossing guard program!

If you have time, join me at City Council tomorrow, Monday September 22nd at 6pm, to voice your support.

Tomorrow is of course, a school night, so if you can't be there, email me, and I will include the gist of your comments as best I am able.

Feel free to forward!

Yours,
Adele Person



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Memorandum 14-147

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: RICK ABBOUD, CITY PLANNER

DATE: SEPTEMBER 18, 2014

SUBJECT: AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING HOMER CITY CODE 21.93.060 STANDING – APPEAL TO BOARD OF ADJUSTMENT AND 21.93.500 PARTIES ELIGIBLE TO APPEAL TO BOARD OF ADJUSTMENT – NOTICE OF APPEARANCE, PROVIDING FOR THE CITY PLANNER OR DESIGNEE TO PARTICIPATE IN APPEALS TO THE BOARD OF ADJUSTMENT.

The Planning Commission held a public hearing on September 17, 2014 on the ordinance. No one from the public testified. At the meeting the Commission voted unanimously to recommend that the City Council adopt the proposed amendment.

Recommendation:

The Homer Advisory Planning Commission recommends the City Council adopt Ordinance 14-45.

Attachments:

Staff Report 14-86

Memo PL 14-01

Ordinance 14-45

Memo 14-123



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Staff Report PL 14-86

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: September 17, 2014
SUBJECT: Standing and Parties Eligible to Appeal to BOA

Introduction: The City Council has before it a proposal to amend some text in title 21. According to HCC 21.95.060, the Planning Commission shall review each proposal to amend Title 21.

Analysis: There has been some confusion regarding authorization of the City Planner or other Planning Department employee to participate in an appeal to the Board of Adjustment as a party. The City Attorney explains this in Memo 14-123.

Staff Recommendation: Review proposed ordinance, take public comments and forward a recommendation to the City Council.

Attachments:

1. Memorandum 14-123
2. Ordinance 14-45
3. Memorandum 14-01

MEMORANDUM 14-123

**TO: MAYOR AND CITY COUNCIL MEMBERS
CITY OF HOMER**

FROM: THOMAS F. KLINKNER

**RE: PARTICIPATION OF CITY PLANNER AND PLANNING DEPARTMENT
EMPLOYEES IN APPEALS TO BOARD OF ADJUSTMENT**

FILE NO.: 506,742.563

DATE: JULY 30, 2014

In recent appeals from the Homer Advisory Planning Commission ("Commission") to the Board of Adjustment ("Board"), either the City Planner or another Planning Department employee has filed a brief and appeared at the appeal hearing before the Board to provide information to the Board regarding the Commission's decision. I have been asked to draft an amendment to the Homer City Code to sanction this practice. This memorandum accompanies the ordinance that I have prepared for that purpose, and explains the Code amendments in the ordinance.

HCC 21.93.500(a) authorizes the City Planner to participate *as a party* in all appeals to the Board from decisions of the Commission. HCC 21.93.500(a) provides, "Only persons who actively and substantively participated in the matter before the Commission and who would be qualified to appeal under HCC 21.93.060 may participate as parties in an appeal from the Commission to the Board of Adjustment." Under HCC 21.93.500(a), one must meet two qualifications to participate as a party in an appeal from the Commission to the Board: (i) active and substantive participation in the matter before the Commission, and (ii) having standing to appeal under HCC 21.93.060. The City Planner or another Planning Department employee will actively and substantively participate in each matter before the Commission that is subject to appeal to the Board. The City Planner also is designated in HCC 21.93.060(b) as a person who has standing to appeal a decision of the Commission to the Board. Since the City Planner may designate another Planning Department employee to present recommendations to the Commission in a matter that may be appealed to the Board, other Planning Department employees also should be authorized to participate as parties before the Board. Section 1 of the accompanying ordinance amends HCC 21.93.060(b) to make this change.

HCC 21.93.500(b) requires that any person desiring to participate as a party in an appeal to the Board, other than the appellant, the applicant for the action or

determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, must file an entry of appearance with the City Clerk. Since the City Planner or other Planning Department employee who participates in a matter before the Commission automatically becomes a party to an appeal of the Commission decision to the Board, efficiency would be served by exempting them from this requirement. Section 2 of the accompanying ordinance amends HCC 21.93.500(b) to make this change.

HCC 21.93.090 provides, "No person may *represent a party* to an appeal without filing with the City Clerk written authorization, which shall be signed by the party so represented and provide the name and address of the party's representative" (emphasis added). There has been some confusion regarding whether the City Planner or another Planning Department employee participates in an appeal to the Board in a representative capacity (e.g., as a representative of the City), and therefore is subject to the written authorization requirement in HCC 21.93.090. As the discussion in the preceding paragraphs indicates, the City Planner (or with the proposed Code amendment discussed therein, another Planning Department employee) participates in an appeal to the Board as a party, and not as a representative of a party. Thus, the written authorization requirement in HCC 21.93.090 does not apply to such participation.

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CITY OF HOMER
ORDINANCE 14-45

City Manager

AN ORDINANCE OF THE HOMER CITY COUNCIL AMENDING HOMER CITY CODE 21.93.060 STANDING – APPEAL TO BOARD OF ADJUSTMENT AND 21.93.500 PARTIES ELIGIBLE TO APPEAL TO BOARD OF ADJUSTMENT – NOTICE OF APPEARANCE, PROVIDING FOR THE CITY PLANNER OR DESIGNEE TO PARTICIPATE IN APPEALS TO THE BOARD OF ADJUSTMENT.

THE CITY OF HOMER ORDAINS:

Section 1. Homer City Code 21.93.060, Standing – Appeal to Board of Adjustment, is amended to read as follows:

21.93.060 Standing – Appeal to Board of Adjustment. Only the following have standing to appeal an appealable action or determination of the Planning Commission to the Board of Adjustment:

a. Applicant for the action or determination, or the owner of the property that is the subject of the action or determination under appeal.

b. The City Manager, ~~or the~~ the City Planner or the City Planner’s designee, or any governmental official, agency, or unit.

c. Any person who actively and substantively participated in the proceedings before the Commission and is aggrieved by the action or determination.

d. Any person who actively and substantively participated in the proceedings before the Commission and would be aggrieved if the action or determination being appealed were to be reversed on appeal.

Section 2. Homer City Code 21.93.500, Parties eligible to appeal to Board of Adjustment – Notice of appearance, is amended to read as follows:

21.93.500 Parties eligible to appeal to Board of Adjustment – Notice of appearance. a. Only persons who actively and substantively participated in the matter before the Commission and who would be qualified to appeal under HCC 21.93.060 may participate as parties in an appeal from the Commission to the Board of Adjustment.

b. Any person so qualified who desires to participate in the appeal as a party, other than the appellant, ~~the City Planner or the City Planner’s designee,~~ the applicant for the action or determination that is the subject of the appeal and the owner of the property that is the subject of the action or determination, must, not less than 14 days before the date set for the appeal hearing, file with the City Clerk a written and signed notice of appearance containing that party’s name and address, and proof that the person would be qualified under HCC 21.93.060 to have filed an appeal.

[**Bold and underlined added.** Deleted language stricken through.]

45 Section 3. This Ordinance is of a permanent and general character and shall be
46 included in the City Code.

47
48 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this ____ day of
49 _____, 2014.

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51 CITY OF HOMER

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54 _____
55 MARY E. WYTHE, MAYOR

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57 ATTEST:

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60 _____
61 JO JOHNSON, MMC, CITY CLERK

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64 AYES:
65 NOES:
66 ABSTAIN:
67 ABSENT:

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70 First Reading:
71 Public Hearing:
72 Second Reading:
73 Effective Date:

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76 Reviewed and approved as to form:

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79 _____
80 Walt Wrede, City Manager

81
82 Date: _____

Thomas F. Klinkner, City Attorney
Date: _____



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Planning

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Memorandum 14- 01

TO: Homer Advisory Planning Commission
FROM: Rick Abboud, City Planner
DATE: September 17, 2014
SUBJECT: AN ORDINANCE OF THE HOMER CITY COUNCIL MENDING HOMER CITY CODE 21.93.060 STANDING – APPEAL TO BOARD OF ADJUSTMENT AND 21.93.500 PARTIES ELIGIBLE TO APPEAL TO BOARD OF ADJUSTMENT – NOTICE OF APPEARANCE, PROVIDING FOR THE CITY PLANNER OR DESIGNEE TO PARTICIPATE IN APPEALS TO THE BOARD OF ADJUSTMENT.

Introduction: The Planning Department shall evaluate all amendments to Title 21.

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

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

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

Staff response: The many goals and objectives of the comprehensive plan are a requirement to be followed in decision making of the Planning Commission. Allowing the City Planner or designee to present briefs before the Board of Adjustment allows defense of decisions to be accomplished in an affordable manner, thus supporting the many references to affordability in the comprehensive plan.

Additionally, the City Code is the primary tool used in furthering the goals and objectives of the Comprehensive Plan Land Use Chapter. Presenting briefs and the ability to appeal are necessary tools to interpret and enforce title 21 as indicated in the duties of the City Planner in HCC 21.90.020(c)(4).

b. Will be reasonable to implement and enforce.

Staff response: The City Planner's duties include enforcing code and upholding the decisions of law made by the Planning Commission or the City Council. The ability to present briefs before the Board of Adjustment enables the City Planner or designee to perform his or her duties to "exercise all powers to administer and enforce the zoning code" as stated in HCC 21.90.020 continuing "assistants to the City Planner may exercise the administration and enforcement functions and powers of the City Planner under the City Planner's supervision." The proposed amendment does not change the premise or concept of due process. It will be reasonable to implement and enforce.

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

Staff response: The proposed amendment does not hinder the future public health, safety and welfare.

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

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

21.95.010 Initiating a code amendment.

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

21.95.030 Restriction on repeating failed amendment proposals.

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

Staff Recommendation: Forward positive recommendation for adoption to City Council.



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Memorandum 14-148

TO: MAYOR WYTHE AND CITY COUNCIL

FROM: PARKS AND RECREATION ADVISORY COMMISSION

THROUGH: RENEE KRAUSE, CMC, DEPUTY CITY CLERK

DATE: SEPTEMBER 19, 2014

SUBJECT: RECOMMENDATION FOR PLACEMENT OF A FANCIFUL LOON SCULPTURE IN BISHOP'S BEACH PARK

BACKGROUND

At the June 23, 2014 City Council was presented with Resolution 14-075 to Approve and Accept the Donation from the Bunnell Street Arts Center of a Fanciful Loon Windssock Sculpture by Alaskan Artist Rachele Dowdy to be placed in Bishop's Beach Park.

This issue was remanded back to the Public Arts Committee to define the maintenance and address safety concerns expressed by the Parks and Recreation Advisory Commission.

City Manager Walt Wrede had requested this issue of placement to be revisited by the Parks and Recreation Advisory Commission after examination of soil condition by public works personnel.

Following is the excerpt from the September 18, 2014 regular meeting minutes regarding the ensuing recommendation from the commission.

NEW BUSINESS

A. Donation from Bunnell Street Art Center of a Loon Sculpture Created by Rachele Dowdy for Bishop's Beach Park

Chair Steffy brought the item to the floor and asked for comments or concerns from the commission.

Commissioner Archibald commented on the sculpture noting his previous concerns and seeing it completed has changed his opinion somewhat but that he favored support for the sculpture being placed in the park.

Commissioner MacCampbell concurred.

Chair Steffy requested a motion to approve the placement of the sculpture in Bishop's Beach Park.

MACCAMPBELL/LOWNEY – SO MOVED.

Commissioner Archibald asked for a report from Carey Meyer, Public Works Director/City Engineer on his findings regarding soil conditions in the preferred locations within the park. Mr. Meyer stated that there

were two test holes dug. He followed with the conditions found at each hole. The first one was unsuitable due to water. He expressed confidence that they will be able to construct a foundation that will disperse the load on the fill in the preferred area.

Commissioner Lillibridge showing an aerial view of the area requested Mr. Meyer to indicate where he is recommending the installation. Commissioner MacCampbell opined that the farther away from the parking lot the better commenting that vandals typically want access to a quick get-a-way. Commissioner Lowney reported that she has re-visited the Anchorage museum to view previous works of art from the artist and supported the location recommended by staff.

VOTE. YES. BRANN, ARCHIBALD, LILLIBRIDGE, STEFFY, MACCAMPBELL, LOWNEY

Motion carried.

Student Commissioner Ochoa voted in favor of the action.

Recommendation: Approve the placement within Bishop's Beach Park at the location north east of the pavilion on the edge of the maintained grassy area and natural vegetation recommended by Public Works Director Carey Meyer.

Jo Johnson

From: Renee Krause
Sent: Thursday, September 11, 2014 2:24 PM
To: Jo Johnson
Subject: FW: support for Loon Sculpture in Bishops Beach park for Parks and Rec and City Council packets
Attachments: Bunnell letter of support 914.pdf; Letter_Homer_LoonPublicArt .pdf

Please see the comments of support for the Loon Sculpture and attached also.

She requested that Council get them for the September 22nd meeting.

From: Asia Freeman [<mailto:asia@bunnellarts.org>]
Sent: Tuesday, September 09, 2014 9:21 AM
To: Renee Krause
Cc: Michele Miller; Matt Steffy; Deb Lowney; Carey Meyer
Subject: support for Loon Sculpture in Bishops Beach park for Parks and Rec and City Council packets

Dear Renee,

Attached please find letters of support for the Loon sculpture at Bishop's Beach park. I would like these to go into the packet for the Parks and Rec meeting next week.

Thank you

Asia Freeman
Executive/Artistic Director
Bunnell Street Arts Center
106 West Bunnell, Suite A
Homer, AK 99603
907.235.2662

From: sharon whytal <swhytal@alaska.net>
Subject: Re: letter of support
Date: September 9, 2014 7:25:02 AM AKDT
To: Asia Freeman <asia@bunnellstreetgallery.org>

Asia,

Thank you for the work that Bunnell is spearheading on creative space-making in Old Town. The neighborhood association has been calling forth a wonderful sense of community spirit, through such actions as the the introduction of murals, a street party and street painting. As a regular walker and runner at Bishop's Beach, who works in the area and appreciates the ongoing movement to beautify this gem in our community, I want to offer my enthusiastic support for the new Loon sculpture's installation. As a nurse, I see that research is now showing what we have long surmised intuitively: art and culture are integral in promoting healthy lifestyles, and art promotes respect in public places. I hope

the Council will put its full support behind this demonstration of Homer's deep appreciation of art in our daily life.

Sharon

Begin forwarded message:

Begin forwarded message:

From: Eva Saulitis <elsaulitis@gmail.com>
Subject: Re: City to vote Monday on sculpture for Bishop's Beach Park
Date: September 3, 2014 3:04:21 PM AKDT
To: Asia Freeman <asia@bunnellarts.org>

Hi Asia,

Hope it's really okay to send you my support statement for the City Council Meeting!

Dear City Council members,

As a resident of the City of Homer, I whole-heartedly support the installation of the sculpture "Loon" in Bishop's Beach Park. As a longtime Homer resident who works in the Old Town neighborhood, I have been thrilled to see the aesthetic improvements the Old Town Project has made to this culturally, economically, biologically and historically important part of our city. It is truly undergoing a process of revitalization, and Homer can be proud of its thoughtful approach to growth. We all recognize that Homer is a hub, or flyway for all kinds of aircraft. "Loon" is a perfect symbol of the importance of Homer as a flyway for migrating birds. It's apt that the sculpture is also playful and inventive, speaking to the diverse and creative character of our town, and the diverse uses of Bishop's Beach by young and old and everyone in between. It's also exciting to feature the work of an important Alaskan artist in such a prominent location. I hope that you will vote Monday to support the final funding for this wonderful labor of love on the part of Bunnell Arts Center and so many citizen-artists. I look forward to seeing the sculpture in place in the near future. Thank you, Eva Saulitis

Begin forwarded message:

From: Clark Yerrington <clarkyerrington@gmail.com>
Subject: support for "Loon" sculpture for Old Town
Date: September 3, 2014 4:54:43 PM AKDT
To: asia@bunnellarts.org

Asia

I live in Anchorage but have been a frequent visitor to Homer over the last four years.

The concept sketch for "Loon" by Rachelle Dowdy looks to me like a great addition to the Old Town revitalization project. Very familiar with Rachelle's large scale installation at the ANC airport and the pieces at the Anchorage Muesum, as well as her larger body of work. I would characterize a lot of her pieces as whimsical and heartfelt, and a bit supernatural. And everything I've seen is high quality and meticulously constructed. So count me as a definite YES.

Clark Yerrington
Architectural Designer
340 N. Flower St.
Anchorage, AK 99508

GARY & SUSAN MILLER

September 8, 2014

City Council of Homer

Dear Homer Council,

We own a residence in Old Town Homer and love the beautification program underway. We support the Loon sculpture in the park. We just had a picnic with friends in that park and all of us remarked how nice it is. Having public art in Old Town area really makes the area, we take pride in it. Since Bunnell Art Center spear headed this, we have watched neighbors work to make their places look better, more people are coming here to see what's happening, businesses are more active, so we would love to see even more done with your support. So we see Old Town as a good source of energy, art, and stewardship.

We appreciate your support!

Sincerely,

Gary and Susan Miller

3459 Main St #8 Homer, AK 99603 907.440.7167

To: Members of the Homer City Council

I am writing to urge you to accept the Loon sculpture created by lifelong Alaskan artist Rachelle Dowdy, which the Bunnell Street Arts Center commissioned as part of the Old Town neighborhood improvement project. The Loon, which was selected by a diverse panel of Homer residents, is slated for placement as public art on Bishop's Beach Park.

As you know, Rachelle's work is well loved by Alaskans across the state, and has found homes in the Anchorage Museum at Rasmuson Center, the University of Alaska's Museum of the North, the Municipality of Anchorage 1% for Art Program, the Ted Stevens International Airport, and within and without many of our private homes and gardens. Her very popular work combines organic, recycled and industrial materials to address current themes found throughout Alaska, using popular wildlife motifs as a vehicle. Her art is deeply imbued with the core values shared by all Alaskans, causing us to reflect upon who we are and what is most important to us. She breathes life into animal forms while she addresses the human condition in a most unique format.

Like so many fellow Alaskans, my husband and I love Rachelle's work. We also love to visit Homer, traveling from our home in Anchorage to visit friends and enjoy the incomparable beauty of your wonderful community. While enjoy taking in the natural beauty of Kachemak Bay, we greatly value the rich and varied arts scene that Homer offers us. Public art, in particular, is always an important draw - wherever we travel. The addition of the Loon to your public space would provide yet another draw for us to your community.

There are few artists in Alaska whose public art work is so compelling and poignant. And, of importance to outdoor public art in Alaska, her work has demonstrated a singular ability to withstand the rigors demanded by the unforgiving climate found in South Central Alaska.

I urge you to vote YES to accept this wonderful work of art - it is a gift from the Bunnell Street Art Center that should not be turned down. Personally, I cannot wait to come for a visit Homer, and to welcome your newest treasure.

Thank you for the opportunity to address you - I appreciate it.

Sincerely,

DONNA J. GOLDSMITH
14120 Jarvi Drive
Anchorage, AK 99515

