

Session 15-24 a Special Meeting of the Homer City Council was called to order on June 29, 2015 at 6:00 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: LEWIS, REYNOLDS, ROBERTS, VAN DYKE, ZAK

ABSENT: BURGESS (excused)

STAFF:

- CITY MANAGER KOESTER
- CITY CLERK JOHNSON
- CITY ATTORNEY WELLS
- ASSISTANT CITY MANAGER LAWRENCE
- CITY PLANNER ABBOUD
- FINANCE DIRECTOR LI
- FIRE CHIEF PAINTER
- LIBRARY DIRECTOR DIXON
- POLICE CHIEF ROBL
- PORT AND HARBOR DIRECTOR HAWKINS
- PUBLIC WORKS DIRECTOR MEYER

Councilmember Burgess has requested excusal.

Mayor Wythe ruled Councilmember Burgess' absence as excused. There was no objection from the Council.

Council met from 4:00 p.m. to 4:46 p.m. to hear Beach Policy Recommendations – Parks and Recreation Advisory Commission. From 5:00 p.m. to 5:48 p.m. Council met as a Committee of the Whole to discuss Ordinance 15-08, 15-08(S), and 15-23, along with Consent Agenda and Regular Meeting Agenda items.

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: **CONSENT AGENDA - Resolution 15-052**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Renewal of the Special Services Contract for FY 2016 with the Alaska Department of Public Safety in the Amount of

\$36,000.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Contract for Special Services as backup. **Resolution 15-054**, A Resolution of the City Council of Homer, Alaska, Authorizing Lease Negotiations for Lot 19 on the Homer Spit Between the City and Jose Ramos, dba Harbor Grill, and Finding That Awarding a New Lease to the Current Lessee Without a Competitive Bidding Process is in the Public Interest. City Manager. Memorandum 15-095 from Deputy City Clerk/Port and Harbor Advisory Commission as backup. **PUBLIC HEARINGS - Ordinance 15-18(S)**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2015 Capital Budget by Appropriating \$621,500 From the General Fund Fund Balance to the Public Safety Building Project Account to Fund the New Public Safety Building to 35% Design. Mayor. Written public comments. **PENDING BUSINESS - Resolution 15-043**, A Resolution of the City Council of Homer, Alaska, Urging the U.S. Navy to Change Training Exercises in the Gulf of Alaska. Zak/Roberts. Written public comments. **Resolution 15-048**, A Resolution of the City Council of Homer, Alaska, Noting the Sufficiency of the Petition for the Lillian Walli Fairview Avenue Road Reconstruction and Paving and Sewer Improvements Special Assessment District and Setting the Public Hearing Date for September 14, 2015. Written public comments. **RESOLUTIONS - Resolution 15-049**, A Resolution of the City Council of Homer, Alaska, Awarding a New Twenty-Year Lease, With Two Five-Year Options, on a Portion of Lot 11, Homer Spit Subdivision, No. 5 to SPITwSPOTS (SWS), Inc. of Homer, Alaska, and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Clerk. Memorandum 15-088 from Deputy City Clerk/Port and Harbor Advisory Commission. **Resolution 15-050(S)**, A Resolution of the City Council of Homer, Alaska, Providing for the Reassessment of Condominium Units in the Homer Natural Gas Distribution Special Assessment District. City Manager.

Mayor Wythe called for a motion for the approval of the agenda as amended.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Catherine Ulmer, city resident, thanked the Council for the work they do. She submitted a petition with signatures of people in support of Resolution 15-043.

Shelley Gill, Homer resident, referenced the 65 businesses that signed the petition in support of Resolution 15-043. The high intensity military sonar is detrimental for marine mammal life and the fisheries.

Olga vonZiegesar, Homer resident, spoke in support of Resolution 15-043. The beaked whales are rare and mysterious. They dive deep and feed in deep trenches, surfacing once an hour. They migrate in the same place where the Navy wants to practice sonar.

Sue Christiansen, Homer resident, expressed concern that the Navy games scheduled for the next five years will affect marine habitats and tourism. The Navy estimates 35,000 mammals are taken in ten days of torpedo blasts; it is a loss of 185,000 whales over a five-year period. Additionally, salmon and another 377 species are affected by the chemicals they use. She asked that the Navy games be postponed until after the fishing season and that they move 200 miles offshore.

John Fowler, Homer resident, asked that his time be allotted to a film clip. The film depicted the negative reaction from the whales during the Navy games.

Maya Goedani, Homer and Hawaii resident, supports Resolution 15-043. She commented on the 9.6M instances of harm to marine mammals during the Navy exercises that include explosives, sonar, and vessel strikes to animals. The whales in Alaska are the same whales migrating to Hawaii and California.

Jazz Maltz, Homer resident, spoke in support of Resolution 15-043. People make their livelihoods in Kachemak Bay and the Gulf of Alaska. The #1 threat to him is the Navy bombing in our waters and attacking our fisheries. They have been doing it here for 30 years.

Jeff Tolman, Old Sterling Highway resident, expressed displeasure with a councilmember's attitude and comments at the June 15th meeting regarding Navy games effect on marine mammals.

Joe Fletcher, Homer resident, spoke in support of Resolution 15-043. The Navy has depleted uranium and has dumped spent nuclear cores in the Bering Sea using Alaska as their personal playground for 100 years. Seward has a long history of pandering to the military. It is all about oil.

Jessica Tenhoff, Homer resident, commented on Resolution 15-043. She doesn't want percussive or sonar noises on fish and wildlife. It is common sense they should be off the shelf and out of the time frame when the animals are breeding and coming through. The Navy can do this somewhere else or come in late September when the fishermen have returned.

Beth Cumming, city resident, spoke in support of Resolution 15-043. The human created technology is not accompanied by the human ability to foresee the long term potential consequences, some positive and some disastrous.

Anita Christie, city resident, spoke in support of Resolution 15-043 and asked Council to consider the people who really care.

Kevin Hogan, city resident, objects to Ordinance 15-25. The funds were appropriated by Council in 2003 for a restroom and not used for the purpose intended. The project was not built because staff objected and staff can't override the actions of the Council. The current restrooms around Fish Dock are locked and his restrooms are serving the public.

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 Special meeting minutes of June 15, 2015. City Clerk. Recommend adoption.
- B. **Memorandum 15-101**, from Deputy City Clerk, Re: Liquor License Transfer and Application for Best Western Bidarka Inn/Otter Room.
- C. **Ordinance 15-20**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an Alaska Department of Environmental Conservation Municipal Matching Grant in the Amount of \$1,922,577 and Authorizing a 30% Matching Requirement From the Homer Accelerated Water And Sewer Fund (HAWSP) in the Amount of \$576,773.10 for the Purpose of Completing the Water Distribution/Storage Improvement Project and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Public Works Director. Recommended dates: Introduction June 29, 2015, Public Hearing and Second Reading July 27, 2015. (Postponed from June 15, 2015.)
- D. **Ordinance 15-23**, An Ordinance of the Homer City Council Amending Homer City Code 21.40.070, Requirements, Regarding Standards for Impervious Coverage in the Bridge Creek Watershed Protection District. Planning. Recommended dates: Introduction June 29, 2015, Public Hearing and Second Reading July 27, 2015.

Memorandum 15-100 from City Planner as backup.

- E. **Ordinance 15-24**, An Ordinance of the Homer City Council Enacting HCC 2.52.080, Correctional Officer Qualifications, Regarding the Qualification and Certification of

City Correctional Officers. City Manager. Recommended dates: Introduction June 29, 2015, Public Hearing and Second Reading July 27, 2015.

Memorandum 15-090 from Police Chief as backup.

- F. **Ordinance 15-25**, An Ordinance of the City Council of Homer, Alaska, Re-Appropriating the 2003 Allocation From the Alaska Department of Community and Economic Development as Fisheries Revitalization Aid for the Purpose of Refurbishing a Fish Dock Crane. City Manager/Port and Harbor Director. Recommended dates: Introduction June 29, 2015, Public Hearing and Second Reading July 27, 2015.

Memorandum 15-089 from Port and Harbor Director as backup.

Moved to Ordinances.

- G. **Resolution 15-052**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting the Renewal of the Special Services Contract for FY 2016 with the Alaska Department of Public Safety in the Amount of \$36,000.00 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Recommend adoption.

Memorandum 15-093 from Police Chief as backup.

- H. **Resolution 15-053**, A Resolution of the Homer City Council Awarding the Contract for the Refurbishment of Homer Fire Department Apparatus Tanker 2 to U.S. Fire Equipment LLC of Sumner, Washington, in the Amount of \$154,375.01 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Fire Chief. Recommend adoption.

Memorandum 15-094 from Fire Chief as backup.

- I. **Resolution 15-054**, A Resolution of the City Council of Homer, Alaska, Authorizing Lease Negotiations for Lot 19 on the Homer Spit Between the City and Jose Ramos, dba Harbor Grill, and Finding That Awarding a New Lease to the Current Lessee Without a Competitive Bidding Process is in the Public Interest. City Manager. Recommend adoption.

Memorandum 15-096 from Lease Committee as backup.

Memorandum 15-095 from Deputy City Clerk/Port and Harbor Advisory Commission as backup.

- J. **Resolution 15-055**, A Resolution of the City Council of Homer, Alaska, Directing the Administration to Issue a Request for Proposals for Janitorial Services. City Manager. Recommend adoption.

Memorandum 15-103 from City Manager as backup.

Item F, Ordinance 15-25 was moved to Ordinances, Item A. Reynolds.

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

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. **Mayor's Proclamation**, July as Parks and Recreation Month

Mayor Wythe read and presented the proclamation to Community Recreation Coordinator Mike Illg.

- B. Borough Report

- C. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
 - a. Minutes of June 3, 2015
3. Economic Development Advisory Commission
 - a. Memorandum 15-097 from Deputy City Clerk, Re: Recommendation Regarding Affordable Housing

- b. Memorandum 15-099 from Deputy City Clerk, Re: Recommendation Regarding Special Assessment Districts Levy of Assessment After Subdivision
4. Parks and Recreation Advisory Commission
5. Port and Harbor Advisory Commission
6. Cannabis Advisory Commission

Cannabis Advisory Commissioner Chad Jones reported the commission has met twice and has established their bylaws. They are reviewing zoning from Colorado, Seattle, and Fairbanks North Star Borough. This includes cultivation, manufacturing, testing, retail stores, intensity of activities, limitation of local licenses, distances and buffers between facilities, and exclusion of operation zones. Their next meeting is July 23rd.

Mayor Wythe called for a recess at 6:47 p.m. and reconvened the meeting at 6:54 p.m.

PUBLIC HEARING(S)

- A. **Ordinance 15-18(S)**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2015 Capital Budget by Appropriating ~~\$613,000~~ **\$621,500** From the General Fund Balance to the Public Safety Building Project Account to Fund the New Public Safety Building to 35% Design. Mayor. Introduction May 26, 2015, Postponed to June 29, 2015 for Public Hearing and Second Reading.

Memorandum 15-074 from City Manager as backup.

Mayor Wythe opened the public hearing.

Ken Castner, city resident and Public Safety Building Review Committee Member, commented both the fire and police buildings need to be replaced soon. The appropriation is not the correct way to spend money since the public does not have an appetite for a \$30M facility. He would like Council to take their time since there is no bond proposition for 2015. As much as he would like to proceed, this is not the right avenue.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 15-18(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

Mayor Wythe supports moving forward to 35% design; there are several months of work to be done. Public Works says the plans are good for 3 to 5 years and if we don't continue we will lose the momentum gained over two years and the investment. Understanding the current financial situation, fear should not be keeping us from making good decisions. The project has been postponed for 25 years and city employees deserve to work in a safe and healthy environment per OSHA standards. Both employees and prisoners are at risk because there is no space for separation. If we decide not to go forward, we need to decide how we are going to proceed without police and fire services. A portion of the funds to be used are this year and last year's community revenue sharing. They are one-time monies and should not be used for long-term balancing of the budget.

The Council expressed the need to provide better facilities for the employees and prisoners. They voiced concerns about the costs and whether it was the right time to spend the money.

Mayor Wythe told Council we have the opportunity to position ourselves well. The project has sat on the CIP for 25 years and the longer we delay the more money it will cost. There could be a special election at the end of the year. We built a library without a funding source. Being prepared is our best position; if something pops open we won't miss the opportunity. Although she is very conservative and protective of the revenue funds, this project is that important. The City is not required to provide police and fire services. If we didn't provide fire it would be handled through KESA and we would rely on the state troopers for police services. Fire services through KESA would be at a higher mill rate.

ZAK/LEWIS - MOVED TO POSTPONE TO JULY 27, 2015.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Ordinance 15-19**, An Ordinance of the Homer City Council, Amending Homer City Code Chapter 9.16 to Revise HCC 9.16.040, HCC 9.16.100, and Add HCC 9.16.110

Repealing the Seasonal Sales Tax Exemption as Applied to Certain Categories of Nonprepared Foods, Including But Not Limited to Cakes, Cookies, Ice Cream, Candy, Chips, and Frozen Pizzas. Lewis. Introduction June 15, 2015, Public Hearing and Second Reading June 29, 2015.

Mayor Wythe opened the public hearing.

Barb Brodowski, city resident, referenced the analysis she compiled of 12 states that place sales tax on food items. All 12 states are very specific and it took time and effort to decide what to tax and what not to tax. There are lots of items to consider and taxing food and non-food can be very complicated. She asked who will be setting it up and monitoring it and questioned the expense on retailers to review all the items. She suggested concentrating on bringing economic development to Homer instead of implementing sales tax on specific food items.

Jeff Tolman, Old Sterling Highway resident, expressed opposition to Ordinance 15-19. Cookies are food and someone sick may only be able to eat ice cream. Chips may be eaten by someone in a hurry and pizza is eaten by people around the nation.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 15-19 by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

LEWIS/ROBERTS – MOVED TO AMEND TO DELETE LINES 87 – 89.

The whereas “frozen foods that are ready to eat upon heating in a conventional or microwave oven, including entrees, dinners, pizza and burritos, but excluding frozen fruits and vegetables” was deleted. Item g becomes Item f.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Lewis defended the ordinance to tax certain food items. From September 1 through May 31 you can buy a donut from the bakery and pay sales tax. If you grab a Hostess

package it is not taxed. Purchase chicken from the deli and you pay tax. The next day the chicken is sold in plastic containers and you don't pay sales tax. There are certain items that we should be taxing.

Councilmember Reynolds likes the idea of taxing non-nutritive products. There are some cookies that are nutritionally rich and it would be hard to define a health bar instead of a cookie. It is not easy to enforce without more details. She questioned if it was a burden for grocery stores.

Councilmember Lewis has talked with store owners. Their POS machines can click off whether the item is taxable or nontaxable. When paying with food stamps you are not charged sales tax no matter what time of the year. It will take some time to implement, but is not that much of a burden for store owners.

Councilmember Van Dyke asked if there was an estimated amount of the increase in sales tax that would be realized. Councilmember Lewis answered there was no way to do a cost study unless you can figure out how much they sell. It will only levy a 4.5% sales tax on the items since the borough tax is not included during the exemption period. It will help build the HART and HAWSP funds that have been losing \$1M per year with the tax holiday.

VOTE: (main motion as amended) YES. LEWIS, REYNOLDS

VOTE: NO. ROBERTS, ZAK, VAN DYKE

Motion failed.

- C. **Ordinance 15-21**, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2015 Operating Budget by Appropriating \$277,335.45 to Pay for Homer Natural Gas Special Assessment District Assessments of 85 City Lots From Various City Reserve Funds. City Manager. Introduction June 15, 2015, Public Hearing and Second Reading June 29, 2015.

Mayor Wythe opened the public hearing.

Ken Castner, city resident, commented it was prudent for the City to hold on to funds and pay the assessments later.

Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 15-21 by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

D. **Ordinance 15-22**, An Ordinance of the City Council of Homer, Alaska, Declaring That Lillian Walli Estates Subdivision Lots 57-60, 65-67, and 70 No Longer Need to Be Retained For a Public Purpose as No Public Need Exists For Retaining the Property and Releasing HM0880016 T06S R14W S24 Lillian Walli Estate Sub Lot 60, 65, 66, 67, 70, 57, 58, 59 For Sale Subject to Land Disposal Proceedings Under the Homer City Code. City Manager. Introduction June 15, 2015, Public Hearing and Second Reading June 29, 2015.

Ordinance 15-22(S), An Ordinance of the Homer City Council Determining That a Public Purpose Does Not Exist for Lots 57, 58, 59, 60, 65, 66, 67 and 70, Lillian Walli Estate, and Authorizing Their Sale. City Manager.

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

Mayor Wythe called for a motion to substitute Ordinance 15-22(S) for Ordinance 15-22.

REYNOLDS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe called for a motion for the adoption of Ordinance 15-22(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

- A. **Ordinance 15-25**, An Ordinance of the City Council of Homer, Alaska, Re-Appropriating the 2003 Allocation From the Alaska Department of Community and Economic Development as Fisheries Revitalization Aid for the Purpose of Refurbishing a Fish Dock Crane. City Manager/Port and Harbor Director. Recommended dates: Introduction June 29, 2015, Public Hearing and Second Reading July 27, 2015.

Memorandum 15-089 from Port and Harbor Director as backup.

Mayor Wythe called for a motion for the introduction of Ordinance 15-25 by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

In response to questions from the Council, Port and Harbor Director Hawkins explained the money came to the City in 2003. The Council asked the Port and Harbor Advisory Commission to find a project and they recommended building a restroom in the vicinity of Fish Dock. Since the \$82,000 wasn't going to be enough, they bumped the budget up another \$40,000 from reserves. They could never decide where to build the restroom and the project languished. We are making progress with the crane rehabilitation project and it is good use of the fund to rebuild another crane at a cost of \$84,000. New construction in the harbor area of the processors has provided restrooms for their employees. It has taken the pressure off of the need for a restroom. Instead, a porta-potty has been placed on Fish Dock for an extra facility. People that work on the Fish Dock have key access to the restroom with their crane card. The public is discouraged from being on Fish Dock since it is an industrial site. People are kept in the viewing areas. The money came to the City with no strings attached.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Memorandum 15-107 from City Manager, Re: Budget Work Session follow-up.
 - a. Memorandum 15-108 from Library Director as backup.
2. Memorandum 15-104 from Assistant City Manager, Re: Budget Issues Survey.
3. Memorandum 15-106 from Planning Commission, Re: Recommendation on Waddell Way.

Budget Work Session Follow-up

Council requested extensive follow-up on budgetary matters from the work session. This information is included as an attachment to the City Manager's Report.

Collecting Public Input on Budget

Mayor Wythe has provided some direction from her trip to the State Budget Forum on conducting a Town Hall meeting. Assistant City Manager Lawrence prepared a draft schedule for a survey and town hall meeting that is attached. I would like to gather your feedback and availability on the best way to reach out to the public on their understanding of core services and the most thoughtful approach to reducing services.

Waddell Way

The Planning Commission held a public hearing on Waddell Way June 17th and selected option A, connecting Waddell Way with Grubstake and routing through the lot above the post office with the cluster of cabins. In 2013 City Council passed Resolution 13-033 approving a variation of option B. This was motivated by the fact that a non-profit organization was purchasing the Waddell lot that would be necessary for option A to proceed. That land sale fell through and it effectively put both options back on the table. Please provide Council input on the preferred alternative for Waddell Way so Public Works Director Meyer can begin bid document preparation efforts with construction occurring this fall. Project completion is slated for spring of 2016. See attached maps and recommendation from the Planning Commission.

No Fireworks, Please

With Fourth of July around the corner the Fire Chief sends a friendly reminder that fireworks are a bad idea. Sale of fireworks has been banned by the state for the last few weeks to mitigate fire danger.

Demand for Recovery of Preference Payments (Buccaneer)

The City received a demand for recovery of preference payments letter from a legal firm in Texas. The firm is claiming that the City of Homer was given preferential treatment for payments made to the Port and Harbor during the 90-day period preceding their filing for Bankruptcy. The claim is for \$17,457.15. A number of other local businesses have been sent a similar letter. It is a tremendous burden for a small business to have to hire a bankruptcy

attorney and fight this demand. City attorney Klinkner is working with the Port and Harbor on this issue.

City Manager Koester reported on budget information, a follow-up from the last meeting. Assistant City Manager Lawrence has been working on the Town Hall idea, getting input on the sessions, and providing the public with details on city dollars. A Town Hall meeting will be held on the evening of July 20th followed by an online survey to gather information. More community meetings will be held in the fall.

Buccaneer has made a demand for recovery of preference payments. This includes transactions between the City and Buccaneer in the 90-day period before their bankruptcy filing. The attorney is reviewing the demand and will provide direction in the upcoming weeks. Council suggested checking with the City of Soldotna and the Borough to see how they are handling this since they have had business exchanges with Buccaneer. Administration would like to do what is legally required and nothing more.

Council noted the Pratt Museum, Haven House, and the Chamber of Commerce provide services that the City would have to contract if funding was not provided.

Revenue ideas included taxing tobacco and e-cigarettes. City Attorney Wells will compile a report on taxation of marijuana and tobacco products. The Borough will only collect taxes from items the Borough taxes. If we wish to collect taxes outside the Borough we have to create our own tax department.

Mayor Wythe reminded the public that fireworks are discouraged due to the dry conditions and fire hazard.

The Planning Commission recommended Option A for construction of Waddell Way. The route will be up above the post office where the cabins are and connect with Grubstake. It is consistent with the Transportation Plan. Following Council direction the Public Works Director will negotiate with the owner of the cabins. Resolution 13-033 adopted Option B but the project never came to fruition. The attorney advised no resolution is required to follow Option A as it is consistent with the Transportation Plan. The Council concurred to follow Option A.

CITY ATTORNEY REPORT

City Attorney Wells referenced the report included in the June 15th agenda. The Auction Block vs. City of Homer case was heard before the Ninth Circuit Court of Appeals. Auction Block brought the action against the City before the Federal Maritime Commission (FMC) for violation of the Shipping Act of 1984. The FMC decided for the City of Homer on all counts. They found the City is not subject to the shipping act for activities on the fish dock. Sanctions were awarded against Auction Block for legally inappropriate behavior during the proceedings. The Ninth Circuit Court upheld the FMA decision on all counts. We are seeking

attorney fees although they are not systematically awarded in the Ninth Circuit Court of Appeals.

Asked how much the Auction Block was suing for, City Attorney Wells explained a private entity can bring a lawsuit for millions of dollars. There are reparations that could be in the millions of dollars and also fines assessed by the federal government. Had we lost it would be a separate and distinct hearing. The costs associated with the proceeding were well over \$250,000. We are at the end of the journey, but for an appeal to the U.S. Supreme Court which is unlikely. The Council may want to hold an executive session to discuss attorney fees.

Knowing the City Manager is working through budget expenditures and that the City is facing a budgetary crisis, Birch Horton Bittner and Cherot is working in changing how the firm services the City. They are expanding with a more comprehensive approach with the general municipal law services they provide. New associate attorneys are coming on to service municipal clients at an associate attorney rate to create a cost effective yet highly responsible team. She is hopeful the City will see a reduction in legal costs. City Manager Koester is eager to revisit the attorney's contract prior to expiration.

Leila Kimbrell, new associate attorney for Birch Horton Bittner and Cherot, was introduced.

There are several Griswold administrative appeals before the Superior Court and updates will be provided as they move further along in the process.

COMMITTEE REPORT

- A. Public Arts Committee
- B. Permanent Fund Committee
- C. Employee Committee Report
- D. Public Safety Building Review Committee
- E. Vessel Haul-Out Task Force

PENDING BUSINESS

- A. **Ordinance 15-08**, An Ordinance of the Homer City Council Amending Subsection (C) of Homer City Code 21.50.020, Site Development Standards – Level One, and Subsection (A) of Homer City Code 21.50.030, Site Development Standards – Level Two, to Require Revegetation of Exposed, Cleared, Filled and Disturbed Soils Within 9 Months. Planning. Introduction April 13, 2015, Referred to Planning Commission April 13, 2015. Recommend Public Hearing and Second Reading July 27, 2015.

Ordinance 15-08(S), An Ordinance of the Homer City Council Amending Subsection (C) of Homer City Code 21.50.020, Site Development Standards – Level One, and Subsection (A) of Homer City Code 21.50.030, Site Development Standards – Level Two, to Require Revegetation of Exposed, Cleared, Filled and Disturbed Soils by August 31st or Within 9 Months, Whichever Comes First. City Manager/Planning.

Memorandums 15-048 and 15-098 from City Planner as backup.

Mayor Wythe called for a motion to substitute Ordinance 15-08(S) for Ordinance 15-08.

ZAK/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe called for a motion for the adoption of Ordinance 15-08(S) by reading of title only for second and final reading.

ZAK/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Resolution 15-043**, A Resolution of the City Council of Homer, Alaska, Urging the U.S. Navy to Change Training Exercises in the Gulf of Alaska. Zak/Roberts. Recommend adoption. Postponed from June 15, 2015.

Motion on the floor from June 15: MOTION FOR THE ADOPTION OF RESOLUTION 15-043 BY READING OF TITLE ONLY.

Councilmember Lewis expressed support for the resolution and would like to contact the congressional delegation to negotiate with the defense department to have the games

moved. They may be able to change the training exercises to occur 200 miles off shore after the spring and fall migration when there is no fishing.

Councilmember Zak thanked the experts for bringing the information forward. It raises our awareness of sonar effects on marine mammals and fish runs. This year fish runs are delayed due to it.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Resolution 15-048**, A Resolution of the City Council of Homer, Alaska, Noting the Sufficiency of the Petition for the Lillian Walli Fairview Avenue Road Reconstruction and Paving and Sewer Improvements Special Assessment District and Setting the Public Hearing Date for September 14, 2015. City Clerk/Public Works Director. Recommend adoption. Postponed from June 15, 2015.

Resolution 15-048(S), A Resolution of the City Council of Homer, Alaska, Providing for the Submission of a Revised Petition to Form the Lillian Walli Fairview Avenue Road Reconstruction and Paving and Sewer Improvements Special Assessment District.

Memorandum 15-086 from Public Works Director as backup.

Memorandum 15-105 from City Manager as backup.

Motion on the floor from June 15: MOTION FOR THE ADOPTION OF RESOLUTION 15-048 BY READING OF TITLE ONLY.

Mayor Wythe called for a motion to substitute Resolution 15-048(S) for Resolution 15-048.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Roberts expressed appreciation of the work City Manager Koester did on researching the history of the subdivision.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

RESOLUTIONS

- A. **Resolution 15-049**, A Resolution of the City Council of Homer, Alaska, Awarding a New Twenty-Year Lease, With Two Five-Year Options, on a Portion of Lot 11, Homer Spit Subdivision, No. 5 to SPITwSPOTS (SWS), Inc. of Homer, Alaska, and Authorizing the City Manager to Negotiate and Execute the Appropriate Documents. City Manager.

Memorandum 15-091 from Lease Committee as backup.

Memorandum 15-088 from Deputy City Clerk/Port and Harbor Advisory Commission.

Mayor Wythe called for a motion for the adoption of Resolution 15-049 by reading of title only.

VAN DYKE/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 15-050**, A Resolution of the City Council of Homer, Alaska, Providing for the Reassessment of Condominium Units in the Homer Natural Gas Distribution Special Assessment District. City Manager.

Resolution 15-050(S), A Resolution of the City Council of Homer, Alaska, Providing for the Reassessment of Condominium Units in the Homer Natural Gas Distribution Special Assessment District. City Manager.

Mayor Wythe passed the gavel to Mayor Pro Tempore Roberts due to her ongoing conflict with natural gas line conflict.

Mayor Pro Tempore Roberts called for a motion for the adoption of Resolution 15-050 by reading of title only.

ZAK/VAN DYKE – SO MOVED.

Mayor Pro Tempore Roberts called for a motion to substitute Resolution 15-050(S) for Resolution 15-050.

ZAK/VAN DYKE – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Pro Tempore Roberts returned the gavel to Mayor Wythe.

- C. **Resolution 15-051**, A Resolution of the City Council of Homer, Alaska, Approving and Accepting a Regional and Community Jails Services Contract for FY 2016 With the Alaska Department of Corrections in the Amount of \$424,080 and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief.

Memorandum 15-092 from Police Chief as backup.

Motion for the adoption of Resolution 15-051 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Jeff Tolman, Old Sterling Highway resident, commented on the excessive expenditure of \$1M for public safety building plans. Plans can be found on the internet or a Kenai Peninsula Borough grad student in computer drafting can work up something and have two independent certified reviews. He commented on the need for bear proof dumpsters, moving the sign for outfall sewage at Bishop's Beach to the entrance, and placing a stop light at Main Street and the Bypass.

Olga vonZiegesar, Homer resident, thanked Council for voting for Resolution 15-043. There are so many things going wrong in the ocean and it is important for the Navy games not to be here during marine mammal migrations.

COMMENTS OF THE CITY ATTORNEY

City Attorney Wells had no comments.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comments.

COMMENTS OF THE CITY MANAGER

City Manager Koester had no comments.

COMMENTS OF THE MAYOR

Mayor Wythe thanked the Council for postponing the discussion on the public safety building funding. She appreciates people coming in talking about the naval games. For the benefit of public servants willing to serve in the military she doesn't want to lose sight that they are willing to put their life on the line for us every day so we have the right to complain about their war games.

COMMENTS OF THE CITY COUNCIL

Councilmember Reynolds thanked the Planning and Parks and Recreation Advisory Commissioners for the tremendous amount of work into their focus groups. Beach use has

been a huge chunk of time. She gave a shout out to the Supreme Court for the Affordable Care Act getting support. She sees how much it affects people in Homer to get the medical care they need and couldn't afford before. Marriage equality is also something that can be celebrated on the 4th of July. She hopes everyone enjoys their holiday.

Councilmember Van Dyke thanked the people that worked on the Beach Policy. They have done a lot of work and are going in the right direction. He thanked the public for their diverse views. The Council are just ordinary people and to have something new to think about is extremely important. He wished everyone a great 4th of July.

Councilmember Roberts thanked the Parks and Recreation Advisory Commission. They did a wonderful job on issues on our beaches and made some great suggestions. She echoed what Katie had in her manager's report to please be careful with fireworks in the next week. We have had such a dry spell and it is very dangerous. She thanked everyone for supporting the resolution to encourage the Navy not to do their practices in the middle of summer and to perhaps change the location. She asked for reconsideration of Ordinance 15-19(A) at the July 27th meeting.

Councilmember Lewis thanked the Parks and Recreation Advisory Commission for their thankless job of listening to opinions on Bishop's Beach. The City owns the entrance to Bishop's Beach but doesn't own a piece of land on Bishop's Beach. It is either privately owned or critical habitat. Whatever is decided, we can't enforce not driving on land we don't own. While outside for his son's graduation he discovered Denver has a 14.5% bed tax; Santa Fe 8%, outside the Grand Canyon 7.5%, and Flagstaff 8%. We are missing the boat and he's sorry he couldn't get four councilmembers to agree with him.

Councilmember Zak congratulated the Mayor and the team she has with the City. He felt more of a team tonight with the discussion. It is the City Manager and Assistant City Manager bringing the survey forward, along with the attorney bringing an associate to bring our costs down. We are moving in the right direction. It is amazing to see that getting the right people in the right positions and how effective things are. We will get an opportunity on July 20th for a Town Hall meeting. The Mayor's trip to Fairbanks for the Governor's discussion is already showing results for Homer. He looks forward to being there and getting opportunities from the community. On July 27th we will re-address the public safety building. This year the 4th of July parade has the pioneer theme and Clem Tillion will be the Grand Marshall. He reminded everyone to be safe with fireworks on the 4th of July.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 8:28 p.m. The next Regular Meeting is Monday, July 27, 2015 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.

JO JOHNSON, MMC, CITY CLERK

Approved: _____