



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum Agenda Changes/Supplemental Packet

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JUNE 29, 2015

SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

### **CALL TO ORDER, PLEDGE OF ALLEGIANCE**

Councilmember Burgess has requested excusal.

### **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.

Page 3

**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.

Page 5

### **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

Page 7

**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

Page 9

**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

Page 11

**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.

Page 19

**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.

Page 21

RECOMMENDATION:

Voice consensus to changes under Agenda Approval.

Fiscal Note: N/A

**ALASKA DEPARTMENT OF PUBLIC SAFETY  
CONTRACT FOR SPECIAL SERVICES**

**July 1, 2015 to June 30, 2016**

The parties. The parties to this contract are the Alaska Department of Public Safety (hereinafter referred to as the "Department") and the City of Homer (hereinafter referred to as the "City").

Sole Agreement. The City and the Department undertake this contract under the terms set forth below. This contract is the sole agreement between the parties relating to special services, and there are no other agreements, express or implied.

Effective Date/Termination/Amendments. This contract is effective July 1, 2015 and continues in force until June 30, 2016; except that it may be terminated by either party upon thirty (30) days written notification to the other. This agreement may be amended by written agreement of the parties.

1. The Department will pay the City for services provided in accordance with, and under the terms of, this contract. Payments will be made quarterly in the amount of \$9,000.00, for a total of \$36,000.00. Payment for services provided under this contract will be made in four annual payments in the amount of and covering the periods indicated below:

<b>Period Covered</b>	<b>Amount</b>	<b>Payment Process Can Be Initiated</b>
07/01/15 – 09/30/15	\$9,000.00	10/01/15
10/01/15 – 12/31/15	\$9,000.00	01/01/16
01/01/16 – 03/31/16	\$9,000.00	04/01/16
04/01/16 – 06/30/16	\$9,000.00	06/01/16
<b>12 Month Total</b>	<b>\$36,000.00</b>	

2. The City will provide and perform the services specified in this contract to the satisfaction of the Department, in support of Department personnel and operations.

**SPECIFIC PROVISIONS**

3. The City will:
  - a. permit limited but continued access to and utilization of professional facilities and equipment instrumental to the overall efficient and effective operation of law enforcement and emergency response component (i.e. squad room, temporary work desk, kitchen, weight and exercise room, locker room, interview rooms, evidence processing room and equipment, intoximeter, video and training material, and other general building facilities).

**ALASKA DEPARTMENT OF PUBLIC SAFETY  
CONTRACT FOR SPECIAL SERVICES**

**July 1, 2015 to June 30, 2016**

- b. provide continued transport and security of prisoners from the Homer Jail to Homer Court for hearings and arraignments; persons remanded to custody by the Court from Homer Court to Homer Jail; persons in custody prior to arraignment; and persons committed under Title 47 to the South Peninsula Hospital in Homer.

IN WITNESS OF THIS AGREEMENT, the undersigned duly authorized officers have subscribed their names on behalf of the Department and the City respectively.

For the City of Homer:

By \_\_\_\_\_

Printed Name \_\_\_\_\_

Official Title \_\_\_\_\_

Date \_\_\_\_\_

For the Department of Public Safety:

By \_\_\_\_\_

Printed Name \_\_\_\_\_

Official Title \_\_\_\_\_

Date \_\_\_\_\_



# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 15-095

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

DATE: JUNE 25, 2015

SUBJECT: PORT & HARBOR ADVISORY COMMISSION RECOMMENDATION ON THE HARBOR GRILL  
LEASE RENEWAL

---

Pursuant to the Property Management Policy and Procedures 6.2E, prior to submitting a recommendation from the Lease Committee to the City Council on a lease proposal or successful bidder when the lease property is on land on the Homer Spit surrounding the Port and Harbor area, the City Manager shall provide the recommendation to the Port and Harbor Advisory Commission for review and comment.

The Port & Harbor Advisory Commission met for their regular meeting on June 24, 2015 and reviewed the Lease Committee's recommendation on the renewal of the lease for the Harbor Grill. They voted unanimously to support the Lease Committee's recommendation.

HOWARD/HARTLEY MOVED THAT THIS COMMISSION SUPPORT THE LEASE COMMITTEES RECOMMENDATION TO THE CITY COUNCIL TO NEGOTIATE THE LEASE EXTENSION.

Chair Ulmer read the committee recommendation into the record.

VOTE: YES: CARROLL, DONICH, HOWARD, ZIMMERMAN, ULMER, HARTLEY

Motion carried.



**From:** [Mary Griswold](#)  
**To:** [Department Clerk](#)  
**Subject:** Ord 15-18(S) safety bldg design funding  
**Date:** Thursday, June 25, 2015 6:57:27 PM

---

I urge you to defeat Ordinance 15-18(S) appropriating \$621,500 to complete the 35% design of a new public safety building. We are facing harsh financial times with the likelihood of increased taxes and reduced services as described in Memo 15-107 Budget Matters. We should not be in a rush to put an expensive bond question on the ballot this fall. Let's work through the city budget questions and see how state finances shake out in the coming year before considering a significant additional financial burden on city residents.





**From:** [Anne Wieland](#)  
**To:** [Department Clerk](#)  
**Subject:** Resolution 15-043  
**Date:** Sunday, June 28, 2015 3:18:51 PM

---

To Mayor Wythe and members of the Homer City Council,  
I strongly support Resolution 15-043. The U.S. Navy needs to change both the timing and the location of the training exercises from its current time to one much later in the year, and locate it farther out in the Gulf of Alaska or even at some location further away. Fish migration and marine mammals should not be subjected to the various significant damages possible as a result of these exercises.

Thank you,  
Anne Wieland  
P.O. Box 1395  
Homer

**From:** [Nina Faust](#)  
**To:** [Jo Johnson](#)  
**Subject:** Resolution: Urging the U.S. Navy to Change Training Exercises in the Gulf of Alaska.  
**Date:** Sunday, June 28, 2015 6:29:03 PM

---

P.O. Box 2994  
Homer AK 99603

City Council  
Homer AK 99603

Dear Council Members:

I fully support the City Council Resolution, Urging the U.S. Navy to Change Training Exercises in the Gulf of Alaska for all the reasons in the resolution and more. There is enough science to support a cautionary approach that would move these exercises further offshore and into a less sensitive time of year. We must protect our marine mammals, birds and fish. Please pass this resolution.

Sincerely,

Nina Faust

**Jo Johnson**

---

**From:** durner1 <durner1@gmail.com>  
**Sent:** Thursday, June 25, 2015 7:07 AM  
**To:** Katie Koester  
**Cc:** Department Clerk; Jo Johnson; Carey Meyer; Francie Roberts; David Lewis; Bryan Zak; Beauregard Burgess; Gus Van Dyke; Catriona Reynolds; Mary (Beth) E. Wythe; Brent Johnson; Davids Gardens; Steve Walli; Pat Miller; Gene Dobrzynski; Cheryl Ford; peter.fefelov@acsalaska.net; f durner  
**Subject:** Re: For Council Meeting 6/15/15

Dear Katie and members of Council,

Thank you for your email addressing the concerns I raised regarding Resolution 15-048. I appreciate that action was postponed at the June 15th Council meeting and will be considered again at the June 29th Council meeting.

In regards to the reason given that the subdivision is not eligible for HART funding because it is a new subdivision: I would like to point out that the Lillian Walli Subdivision was created in 1988. It is not a new subdivision. Furthermore, although per the HART policy manual, dated 2006, Part VI, paragraph 9 at page 7, "New subdivisions may not participate in HART for the construction of subdivision roads..." it does not cite a resolution or date to ammend HART to include the new criteria, suggesting that it was added at some point after HART was created, without adopting or passing a resolution or amendment.

I also reiterate that although the subdivision agreement states that the owners are responsible for improvements, the agreement does not prevent or preclude us from pursuing eligible cost-share programs such as HART and HAWSP to help fund those improvements.

While I appreciate that the City is willing to credit us with previous assessments we have paid for bringing sewer and water to West Hill, today's dollar is worth half of what it was in 1988 while constructions costs have climbed disproportionately.

I continue to object to any language that is included in any resolution stating that the Lillian Walli Subdivision SAD for Fairview Ave. is not eligible for HART and HAWSP cost-share funds, as we clearly are eligible. I also object to further delays implementing the proposed SAD you have before you, and urge you to adopt a resolution noting the sufficiency of the original SAD petition and setting a meeting for September 15.

If it is the intent of the City of Homer to encourage economic growth, develop new housing and broaden the tax base, I encourage you to think of future gains to the City that would come with building the proposed SAD under the cost-share programs. Please do not take a short-sighted view based on budgetary avoidance as it may harm the City in the long run.

I am open to and encourage further discussions regarding the issues raised and hope we can work together to resolve them in a timely manner and continue with a plan to develop our lots.

With respect,

Fran Durner

On Wed, Jun 24, 2015 at 10:53 AM, Katie Koester <[kkoester@ci.homer.ak.us](mailto:kkoester@ci.homer.ak.us)> wrote:

Fran,

Thank you for your email objecting to Resolution 15-048. Council postponed action on the resolution until the June 29<sup>th</sup> meeting. The City attorney recommends the Council substitute the attached resolution, Resolution 15-048(S).

### **Road Improvements**

The petition that was circulated inaccurately includes information about cost sharing under the HART program. This was a grave oversight on the part of the City. Lillian Walli is not eligible for participation in the HART program per the HART policy manual Part VI, paragraph 9 at page 7, "New subdivisions may not participate in

HART for the construction of subdivision roads...” Furthermore, the original subdivision agreement with the City of Homer establishes that the development of the subdivision is the responsibility of the developers. This is standard for all new subdivision development in the City.

WHEREAS, Ero Steve Walli and John R. Gibson, as executors, signed a development agreement with the City of Homer, which is recorded in Book 0183 pages 424 and 425 Homer Recording District, the terms of this Development Agreement being incorporated herein by this reference, designating themselves responsible for street, drainage, water, storm drain, sanitary sewer, street signs, street lighting, underground power and monumentation improvements to the Walli Estate, and” (p. 19-20)

The information on cost sharing through HART should not have been included in the petition as it gave lot owners the inaccurate impression that they would only be charge \$30 a linear foot for improvements. The City still proposes, as is consistent with HART policy, to pay the difference between constructing Eric Lane as a subdivision road versus a collector. Preliminary estimates for constructing Eric Lane as a collector street is \$774,000. Of this, under Resolution 15-048(S) the City would be responsible for \$255,500, or approximately 1/3 of the cost associated with improving the road from a ‘normal’ subdivision road and a collector street.

### **Sewer Improvements**

Again, the subdivision agreement states that developers are responsible for the cost of utilities, including sewer improvements. A preliminary estimate for the cost of installing sewer in Eric Lane is \$180,000. Resolution 15-048(S) credits the lot owners for the amount they have already paid for bringing Sewer to West Hill Road.

### **Accessing your lot off of Eric Lane**

The Homer Advisory Planning Commission has reviewed platt note 7 on the Lillian Walli Subdivision and recommended its removal. The City believes that the imposition of driveway restrictions along Fairview Avenue is inconsistent with similar properties located along Fairview. The Borough will take any action on removing the platt note, but because we anticipate they will ask the City’s opinion, the Planning Commission took it up at their last meeting.

### **What is next?**

Resolution 15-048(S) directs the City to re-circulate the petition gauging interest from property owners with a correct description of funding sources. If there is enough interest, the City will move forward with drafting an improvement plan that includes a cost estimate and project description.

I hope we are able to continue working together on our common goal to bring the Lillian Walli lots to market.

Sincerely,

Katie Koester

City Manger

**From:** durner1 [mailto:[durner1@gmail.com](mailto:durner1@gmail.com)]

**Sent:** Saturday, June 13, 2015 5:50 PM

**To:** Department Clerk; Jo Johnson; Katie Koester; Carey Meyer; Francie Roberts; [dlewis@ci.homer.ak.us](mailto:dlewis@ci.homer.ak.us); [bzak@ci.homer.ak.us](mailto:bzak@ci.homer.ak.us); [bburgess@ci.homer.ak.us](mailto:bburgess@ci.homer.ak.us); [gvandyke@ci.homer.ak.us](mailto:gvandyke@ci.homer.ak.us); [creynolds@ci.homer.ak.us](mailto:creynolds@ci.homer.ak.us); [tklinkner@ci.homer.ak.us](mailto:tklinkner@ci.homer.ak.us)

**Cc:** Brent Johnson; Davids Gardens; Steve Walli; Pat Miller; Gene Dobrzynski; Cheryl Ford; [peter.fefelov@acsalaska.net](mailto:peter.fefelov@acsalaska.net)

**Subject:** For Council Meeting 6/15/15

I will not be able to attend the work sessions or council of the whole meetings on Monday night, 6/15, but I would appreciate it if this letter would be added to the information packet or read at the meetings.

Thank you.

Fran Durner

MAYOR BETH WYTHE

COUNCIL MEMBER FRANCIE ROBERTS

COUNCIL MEMBER DAVID LEWIS

COUNCIL MEMBER BRYAN ZAK

COUNCIL MEMBER BEAUREGARD BURGESS

COUNCIL MEMBER GUS VAN DYKE

COUNCIL MEMBER CATRIONA REYNOLDS

CITY ATTORNEY THOMAS KLINKNER

CITY MANAGER KATIE KOESTER

PUBLIC WORKS DIRECTOR CAREY MEYER

CITY CLERK JO JOHNSON

You have before you for consideration at the City Council meeting on June 15, 2015, Public Works Director Memorandum 15-086 and Resolution 15-048, both addressing a Special Assessment District along Fairview/Erik Avenue in the Lillian Walli Subdivision. If approved, these actions would impede the ability of private landowners to develop new housing and add to the city's property tax revenues.

I would like to point out inaccurate statements in both documents and urge you to amend the resolution or reject it outright until it can be corrected.

Both documents assert that "100% of the costs" of improving the Lillian Walli Subdivision are the responsibility of the lot owners within the subdivision and therefore the property owners are not eligible for HART or HAWSP funds. I can tell you that this is not accurate, and that continuing this interpretation serves only to frustrate responsible housing development in Homer.

I had heard this "100% of the costs" stated by the City for so long that others and I began to believe it. However, there is no language in any of the properties' recorded documents signed by the responsible parties that makes such a definitive statement. The city's extreme interpretation of the agreement—not supported by fact—has led to years of frustration and inaction.

In fact, the subdivision development agreement, signed May 16, 1988, and recorded shortly thereafter states, "...no request for a building permit...will be made until all improvements...are completed and accepted by the City." It does not specifically address

which party or parties should pay for which improvements. Nor does it place any limitations or restrictions on how to pay for the improvements or eliminate cost-sharing options.

A subsequent agreement of November 16, 1988, also recorded, which assessed the subdivision for water and sewer improvements, states that in the May 16, 1988, development agreement, lot owners will be "responsible" for the improvements. In neither of those legal documents is there any language or words using responsible "for 100% of the costs."

It is reasonable to assume that any developer of land be responsible for its development, but it is also reasonable to assume that if shared funding is available and the subdivision is eligible for those funds, then the landowners would have every right to pursue the use of those funds. Under HART and HAWSP, the Lillian Walli Subdivision is clearly eligible for shared funding of the improvements in the subdivision. The matters before you June 15 would eliminate that option.

I do not believe it is Council's intent to further stall or frustrate the efforts of the Walli Subdivision's owners to develop and attain access to their land. We have been ready and willing to work through this for years but it was only after Interim City Manager Marvin Yoder was able to take a fresh look at the situation that we were finally able to gain some attention.

It has been over 27 years since the subdivision was created, and yet no homes have been built on any of the lots. Sharing the improvements through HART and HAWSP would help change that. Most of us are retired or nearing retirement and we do not have much time, money or energy left at this point to bang our heads against the City of Homer's stonewall.

I urge you to reject Resolution 15-048 outright or amend the inaccurate language that perpetuates a so-called agreement requiring 100% of improvement costs and eligibility for HART and HAWSP funding.

Your actions at the Monday, April 15<sup>th</sup> Council meeting will send us a clear message.



Thank you for your consideration.

Respectfully,

Fran Durner

--

Fran

--

Fran





# City of Homer

[www.cityofhomer-ak.gov](http://www.cityofhomer-ak.gov)

Office of the City Clerk

491 East Pioneer Avenue  
Homer, Alaska 99603

[clerk@cityofhomer-ak.gov](mailto:clerk@cityofhomer-ak.gov)

(p) 907-235-3130

(f) 907-235-3143

## Memorandum 15-088

TO: MAYOR WYTHE AND HOMER CITY COUNCIL

FROM: MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

DATE: JUNE 25, 2015

SUBJECT: PORT & HARBOR ADVISORY COMMISSION RECOMMENDATION ON RFP FOR HOMER SPIT PROPERTY LEASE FOR AN OWNER-OPERATED/SUBLEASED WIRELESS COMMUNICATION TOWER

---

Pursuant to the Property Management Policy and Procedures 6.2E, prior to submitting a recommendation from the Lease Committee to the City Council on a lease proposal or successful bidder when the lease property is on land on the Homer Spit surrounding the Port and Harbor area, the City Manager shall provide the recommendation to the Port and Harbor Advisory Commission for review and comment.

The Port & Harbor Advisory Commission met for their regular meeting on June 24, 2015 and reviewed the Lease Committee's recommendation on the RFP for Homer spit property lease for an owner-operated/subleased wireless communication tower. They voted unanimously to support the Lease Committee's recommendation.

HOWARD/CARROLL MOVED THAT THIS COMMISSION APPROVE THE LEASE COMMITTEES RECOMMENDATION TO THE CITY COUNCIL FOR THE PLACEMENT OF THE TOWER ON THE SPIT.

Deputy City Clerk Jacobsen read the committee recommendation into the record.

VOTE: YES: ZIMMERMAN, HARTLEY, CARROLL, ULMER, DONICH, HOWARD

Motion carried.



1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

City Manager

3  
4 **RESOLUTION 15-050(S)**

5  
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,  
7 PROVIDING FOR THE REASSESSMENT OF CONDOMINIUM UNITS  
8 IN THE HOMER NATURAL GAS DISTRIBUTION SPECIAL  
9 ASSESSMENT DISTRICT.

10  
11 WHEREAS, By Resolution 15-017, adopted March 23, 2015, the City confirmed the  
12 assessment roll for the Homer Natural Gas Distribution Special Assessment District  
13 (“District”); and

14  
15 WHEREAS, On April 3, 2015, the Superior Court in *Castner v. City of Homer, et al.*, Case  
16 No. 3HO-13-00038CI, ruled that the City’s method of assessing condominium units in the  
17 District was unlawful, and the Alaska Supreme Court recently denied a Petition for Review of  
18 this ruling; and

19  
20 WHEREAS, It now is necessary to prepare a new assessment roll for condominium  
21 units in the District, with assessments that comply with the Superior Court’s decision; and

22  
23 WHEREAS, The assessments in the new assessment roll will be subject to review by the  
24 Superior Court for compliance with its decision.

25  
26 NOW, THEREFORE, BE IT RESOLVED that the City Manager is authorized and directed  
27 to prepare a new assessment roll for condominium units in the District; and

28  
29 BE IT FURTHER RESOLVED that the assessment for each condominium unit in a  
30 condominium project shall be a percentage of the per-lot assessment amount of \$3,262.77  
31 that is equal to the condominium unit’s percentage of undivided interest in the common  
32 elements of the condominium; and

33  
34 BE IT FURTHER RESOLVED that the new assessment roll for condominium units in the  
35 District shall be subject to the procedure for certification of an assessment roll in HCC  
36 17.04.070 and 17.04.080, and the appeal procedure in HCC 17.04.130; and

37  
38 BE IT FURTHER RESOLVED that upon the confirmation of the new assessment roll for  
39 condominium units in the District, and the approval of the assessments in that assessment  
40 roll by the Superior Court in *Castner v. City of Homer, et al.*, Case No. 3HO-13-00038CI, the  
41 assessments in that assessment roll will supersede and replace the assessments of  
42 condominium units in the District that were confirmed in Resolution 15-017.

43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

PASSED AND ADOPTED by the Homer City Council on this 29<sup>th</sup> day of June, 2015.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHE, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A