

Session 15-26 a Regular Meeting of the Homer City Council was called to order on August 10, 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: BURGESS, LEWIS, REYNOLDS, ROBERTS, VAN DYKE, ZAK

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
CITY ATTORNEY WELLS
FINANCE DIRECTOR LI
IT MANAGER POOLOS
POLICE CHIEF ROBL
PORT AND HARBOR DIRECTOR HAWKINS

The Council met for a Joint Worksession with the Cannabis Advisory Commission from 4:00 p.m. to 4:54 p.m. to discuss Cannabis Timelines and Decisions, presented by Attorney Holly Wells. From 5:00 p.m. to 5:55 p.m. the Council met as a Committee of the Whole to hear Report on Town Hall/Public Input on Budget, Memorandum 15-138 from Assistant City Manager Lawrence. Budget Priorities for 2016 and Consent and Regular Meeting Agenda items were discussed at the Committee of the Whole.

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 - Memorandum 15-127**, from Mayor, Re: Appointment of Barbara Howard to the Public Safety Building Review Committee. Written comments by Ralph Crane, former PSBRC member. **ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS** - Thank you from Pratt Museum. **PUBLIC HEARINGS - 2016 Budget Priorities**, Written public comments. **ORDINANCES - Ordinance 15-29**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Lewis/Reynolds. Written public comments. **CITY ATTORNEY REPORT** - City Attorney Report – July 2015. **PENDING BUSINESS - Memorandum 15-118**, from Finance Director and Public Works Director, Re: Water and

Sewer Rate Recommendations for 2015. Memorandum 15-139 from Finance Director as backup.

Mayor Wythe called for a motion for the approval of 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

Roberta Highland, city resident, supports Ordinance 15-29. Public safety and the environment is foremost. The sign does not work, critical habitat does not allow vehicles, private property owners should be considered, and drug use on the beaches is problematic.

Susanna Webster, city resident, supports Ordinance 15-29. Beaches are not roads. The traffic is too dense and erratic for children on beaches.

Charlie Franz, city resident, opposes Ordinance 15-29 as it is punishing the whole population when a few misbehave.

Rachel Lord, city resident and Cook Inletkeeper, supports Ordinance 15-29 and the engaged public process. She supports the ordinance to promote safety and for the environment.

Kari Arno, Homer resident, opposes Ordinance 15-29. A few bad incidences and there's a suggestion to shut down the beach. She hopes a few bad apples don't ruin the whole bushel.

David Raskin, Kachemak City resident and Friends of Alaska National Wildlife Refuge, supports Ordinance 15-29. The beaches are important habitat for the shorebirds, vehicles are causing great damage, and there are safety issues.

Louise Ashmun, city resident, supports Ordinance 15-29. Pedestrians need a safe place on the beach and critical habitat regulations do not allow vehicles below the mean high tide line.

Justin Arnold, city resident, opposes Ordinance 15-29. Many people enjoy using the beaches to drive on. If the Council believes a ban is necessary, turning left on Bishop's Beach could be for pedestrians only. It should be put to a vote.

Miranda Weiss, city resident, supports Ordinance 15-29. Bishop's Beach is no longer her favorite beach due to the traffic and parking on the beach. It is not safe for kids to play freely on the beach.

Jessica Shephard, Kachemak Bay Research Reserve, supports Ordinance 15-29. Prohibiting autos will allow the reestablishment of berms, beach grass, and debris and prevent ocean waters from reaching the water treatment plant.

Sarah Vance, city resident, commented on Ordinance 15-29. A balance is needed as other communities have done. She suggested a fine against abusers of the beach and a compromise rather than closing it down.

Ted Schmidt, city resident, opposes Ordinance 15-29. Many retired people drive to sit and watch the beach and surf. The beach task force exaggerated the drug issue. There is no definitive information; it all comes from Homer residents. Other harbor activities have larger impacts, but they have deeper pockets than the citizens.

Tom Zitzmann, city resident, supports Ordinance 15-29. The Kachemak Bay Critical Habitat Area encompasses Bishop's Beach. He requested passive enforcement of boulders and a gate. If the City does nothing it is an accomplice or enabler. The key is education.

Steve Delehanty, Alaska Maritime National Wildlife Refuge, spoke on Ordinance 15-29. The federal government encourages and supports pedestrian traffic, but not off-road vehicle traffic. Pets and dogs need to be leashed; there are many reports of nuisance dogs.

Ken Landfield, city resident, opposes Ordinance 15-29. He enjoys parking on the beach to sit for extended periods of time to read and nap. He sees a minimum of vehicles speeding around; a lot of people are nonviolently enjoying parking on the beach.

Rika Mouw, city resident, supports Ordinance 15-29. It is not about access or a special interest topic. Lots of heavy vehicle traffic is too much use and beaches are not roads. A pedestrian should have the freedom to walk. People could use the Anchor Point section to Diamond Ridge. Enforcement is not possible due to staff shortage.

Matt Steffy, non-resident, commented on Ordinance 15-30. He offered the Homer Soil and Water Conservation District services to help eliminate the City's invasive species of weeds with the development of Waddell Way.

Bill Ostwald, city resident, supports Ordinance 15-29. The beach is critical habitat. Clams at Ninilchik were over loved and now they are gone. There are rules to keep the environment, safe, sound, and enjoyable. If we don't do something now we may not have it in the future.

Yan Kandror, summer city resident, opposes Ordinance 15-29 as he uses coal as his main source of heat. He gathers it himself and if not able to he doesn't see how he can live in this town.

Martin Renner, city resident, supports Ordinance 15-29. His children have grown up on the beach and he is concerned for their safety.

Tim Clark, city resident, opposes Ordinance 15-29. He burns coal year-round, collecting it from Bishop's Beach. Few people collect at Mariner Beach. He collects coal almost a mile down Bishop's Beach. Artists collect wood off the beaches. They can't do it on foot.

Ryan Walker, Homer resident, opposes Ordinance 15-29. He gets coal off Bishop's Beach, and thousands of pounds of petrified wood. Bishop's Beach is critical habitat area for people, those walking and driving. It is infringing on people's rights to close the beach to vehicles.

Lindianne Sarno, city resident, spoke on Ordinance 15-29. She suggested a special permit for coal pickers to get warm with dignity.

Andrea Clark, Homer resident, spoke on Ordinance 15-29. She uses the beach to pick coal and needs to access it year-round.

August Weber, Homer resident, spoke on Ordinance 15-29. Anchor Point to Point Pogie is critical habitat area. Mud Bay and the Homer Slough areas are for the birds. Nobody drives on Mud Bay. He questioned how much the beach is impacted by a vehicle driving on it compared to over fishing the resources.

RECONSIDERATION

CONSENT AGENDA

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

- A. Homer City Council unapproved Regular meeting minutes of July 27, 2015. City Clerk. Recommend adoption.
- B. **Memorandum 15-127**, from Mayor, Re: Appointment of Barbara Howard to the Public Safety Building Review Committee.
- C. **Ordinance 15-30**, An Ordinance of the Homer City Council Amending the FY 2015 Operating Budget by Appropriating a 25% Match to the Waddell Road Improvement Legislative Grant in the Amount of \$357,500 From the Homer Accelerated Roads and Trail Program (HART) Fund; Authorizing the Purchase of the Waddell Property in

Support of the Waddell Road Improvement Project; and Authorizing the City Manager To Execute All Appropriate Documents. City Manager/Public Works Director. Recommended dates: Introduction August 10, 2015, Public Hearing and Second Reading August 24, 2015.

Memorandum 15-134 from Public Works Director as backup.

- D. **Resolution 15-068**, A Resolution of the City Council of Homer, Alaska, Adopting the Bylaws for the Cannabis Advisory Commission. City Clerk/Cannabis Advisory Commission.

Memorandum 15-129 from Cannabis Advisory Commission as backup.

Moved to Resolutions.

- E. **Resolution 15-069**, A Resolution of the City Council of Homer, Alaska, Supporting the Alaska Marine Highway System. Mayor.

Moved to Resolutions.

- F. **Resolution 15-073**, A Resolution of the Homer City Council Awarding a Contract in an Amount Not to Exceed \$20,000 to Northern Economics to Prepare a Graduated Rate Structure, and Also Linear Rate Structure for Comparison, Amending the Port of Homer Terminal Tariff Moorage Rates to Incorporate a 32% Rate Increase Over Ten Years to Fund the Port and Harbor Reserves as Recommended in the Northern Economics November 2013 Rate Study; and Authorizing the City Manager to Execute the Appropriate Documents. Lewis/Port and Harbor Advisory Commission.

Memorandum 15-137 from Port and Harbor Director as backup.

Items D and E, Resolutions 15-068 and 15-069 were moved to Resolutions, Items D and E. Burgess.

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

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. Kachemak Bay Water Trail – Dave Brann

Dave Brann and Robert Archibald, Co-Chairs of the Kachemak Bay Water Trail provided an overview of the project. They were presented an award from the Society of Outdoor Recreation Professionals for the water trail. The award was presented at the Outdoor Recreation Professionals Conference in April 2015. The acceptance speech video at the awards ceremony was played.

It has been a four-year collaborative effort to move the water trail forward. Agencies and organizations that came forward to make the Kachemak Bay Water Trail include: National Park Service, Homer City Council, Seldovia City Council, Parks and Recreation Advisory Commission, Seldovia Parks and Recreation and Trails Department, Homer Chamber of Commerce, Seldovia Chamber of Commerce, Alaska State Parks, Alaska Chapter of the American Society of Landscape Architects, NOAA Kasitsna Bay Lab, Kachemak Bay National Estuary Research Reserve, Alaska Department of Fish and Game, Cook Inletkeeper, The Homer Foundation, Alaska Trails, Friends of Kachemak Bay State Park, Kachemak Bay Wooden Boat Society, and the Kachemak Bay Conservation Society.

This summer the Kachemak Bay Water Trail completed 8 bear proof food lockers, a 12 x 12 platform, 2 picnic tables, and 2 signs at Homer Spit Trailhead. This was made possible through a donation from the Kachemak Bay Conservation Society for the bear resistant container program. Additionally they have raised \$12,500 towards the loaves and fishes picnic shelter near the launch site. Future projects include placing mooring buoys near Kachemak Bay State Park trailheads. Special thanks was issued to The Homer Foundation and Mako's Water Taxi.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

A. Borough Report

B. Commissions/Board Reports:

1. Library Advisory Board

Library Advisory Board Member Terry Smith reported the July statistics at the Library. There were 13,647 items checked out, 1,000 more than last year. Friends of the Library hired Mercedes Harness. The western lot had a clean-up party, adding more wood chips for the trails. The trails are getting more appropriate use. The summer reading program has finished with 384 children, adults, and teens registered, reading a total of 3,513 hours.

2. Homer Advisory Planning Commission
 - a. Minutes of July 15, 2015
3. Economic Development Advisory Commission
4. Parks and Recreation Advisory Commission

Parks and Recreation Advisory Commissioner Matt Steffy congratulated the water trail committee. The water trail is recognized across the United States. He acknowledged the ground development at the library, consisting of volunteers and their time. The Alaska Recreation and Park Association will hold their annual conference in Homer October 7 – 10 at Land’s End. He encouraged members of the community to join in the networking opportunity. A social is scheduled for Wednesday, October 7th. More information will follow. The Parks and Recreation Advisory Commission has agreed to purchase a membership at the Homer Chamber of Commerce.

Commissioner Steffy is happy to see so many people speak on the beach policy. It was a laborious process for the commission. Twenty to thirty people attended each meeting; it was a certain audience present who was vocal, with the voice shifting at the end. The commission focused a lot of energy in collecting emotional testimony. The result was a 600 page packet for the City Council.

On Bishop’s Beach if you turn right or left you are on private property. There is only room for ten cars to park on the triangle of city-owned property. People are using the gates as an access point to do illegal things. For decades private property owners have not been enforcing their backyards. Now it has reached the point of being an issue and it is not fair to task the City’s police department to respond. The police have priorities that may involve domestic situations. There are either active or passive regulations to control and the City is not looking at ways to spend more money for something that can be done more economically. The Parks and Recreation Advisory Commission recommends the Council vote yes on Ordinance 15-29 to move it forward.

5. Port and Harbor Advisory Commission

Port and Harbor Advisory Commissioner Bob Howard commented the Council approved Resolution 15-073 on the consent agenda. He looks forward to the Council’s support on Resolution 15-072 and to hold a public hearing.

6. Cannabis Advisory Commission

Cannabis Advisory Commissioner and Police Chief Mark Robl reported the commission spent the last meeting discussing proposed State regulations regarding cannabis. The discussion was guided by Attorney Wells. The commission discussed and approved regulations to be sent to the State.

C. Thank you from Sprout Family Services

D. Thank you from Pratt Museum

Mayor Wythe called for a recess at 7:24 p.m. and reconvened the meeting at 7:30 p.m.

PUBLIC HEARING(S)

2016 BUDGET PRIORITIES

Mayor Wythe opened the public hearing.

Charlie Franz, Homer resident, asked the Council what the mandated functions were, if the surplus of funds was given back to the people we took them from, and if we've gotten into a pattern of spending money on unnecessary things.

Mayor Wythe closed the public hearing.

B. **Ordinance 15-26**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating a State of Alaska Public Library Assistance Grant for FY 2016 in the Amount of \$6,650 for Books and Library Materials, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Library Director. Introduction July 27, 2015, Public Hearing and Second Reading August 10, 2015.

Memorandum 15-114 from Library Director as backup.

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

Mayor Wythe called for a motion for the adoption of Ordinance 15-26 by reading of title only for second and final reading.

BURGESS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 15-27**, An Ordinance of the City Council of Homer, Alaska, Providing a Procedure for the Council to Consider Whether to Exclude Certain Properties From the Homer Natural Gas Distribution Special Assessment District. Burgess. Introduction July 27, 2015, Public Hearing and Second Reading August 10, 2015.

Mayor Wythe declared her continued conflict of interest in natural gas line related issues and passed the gavel to Mayor Pro Tempore Roberts.

Councilmember Lewis suggested a vote for the Mayor's recusal as it may no longer be relevant.

Attorney Wells advised the Council to remain consistent with the previous conflict decision. She will research the continued conflict of interest and report back to the Council.

Mayor Pro Tempore Roberts opened the public hearing. In the absence of public testimony, Mayor Pro Tempore Roberts closed the public hearing.

Mayor Pro Tempore Roberts called for a motion for the adoption of Ordinance 15-27 by reading of title only for second and final reading.

BURGESS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Pro Tempore Roberts returned the gavel to Mayor Wythe.

- D. **Ordinance 15-28**, An Ordinance of the Homer City Council Repealing and Reenacting Homer City Code Chapter 18.12, Municipal Property Sales, Regarding the Methods and Procedure for Disposing of Interests in Real Property Owned by the City. City Manager. Introduction July 27, 2015, Public Hearing and Second Reading August 10, 2015.

Memorandum 15-123 from City Manager as backup.

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

Mayor Wythe called for a motion for the adoption of Ordinance 15-28 by reading of title only for second and final reading.

BURGESS/REYNOLDS - SO MOVED.

BURGESS/REYNOLDS – MOVED TO AMEND TO INSERT ON LINE 50 AFTER THE WORDS “ONLY UPON RECEIPT OF FULL PAYMENT” AND INSERT COMMA “OR A SATISFACTORY FINANCING AGREEMENT” COMMA.

The City may wish to dispose of real property without receiving full cash payment at the time of sale. It may be advantageous to the City to have an option without limiting property sales to cash only. Interest rates or minimum down-payments are not codified by the Borough; it is generally set by the mayor or assembly. The Borough uses this policy to dispose of foreclosed properties or sealed bid land sale options.

Discussion on the added burden property sales would put on the Finance Department ensued. It was suggested a bank could do the financing. Almost everyone who buys a piece of property from the City would prefer for the City to hold the paper and finance it. It would set up a precedent that all things could be financed that way.

The amendment does not obligate the City to extend the option to everyone. It offers the council or administration the possibility. It would be financially beneficial to the City to collect interest on a sale, a property is being liquidated which may not otherwise sell, and it puts property back on the assessment roll.

Attorney Wells had no legal objection to the amendment. If a property is financed it is important to have attorney review of the agreement. Other communities have built the flexibility into their land disposal procedures.

VOTE: (amendment) YES. LEWIS, BURGESS, ROBERTS, REYNOLDS, VAN DYKE

VOTE: NO. ZAK

Motion carried.

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

Motion carried.

ORDINANCE(S)

- A. **Ordinance 15-29**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Lewis/Reynolds. Recommended dates: Introduction August 10, 2015, Public Hearing and Second Reading August 24, 2015.

Memorandum 15-130 from Deputy City Planner as backup.
Memorandum 15-131 from Police Chief as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 15-29 for introduction and first reading by reading of title only.

REYNOLDS/BURGESS - SO MOVED.

REYNOLDS/LEWIS - MOVED TO AMEND 7.16.020(B) LINE 49 TO READ: "A PERSON MAY OPERATE, STOP, OR PARK A MOTOR VEHICLE FOR THE PURPOSE OF COLLECTING COAL FOR HEATING PRIVATE HOMES FROM OCTOBER 1 UNTIL THE FOLLOWING MARCH 31. AFTER THE DESCRIPTION OF THE BOUNDARIES AFTER FISHIN' HOLE" ADD: "OR THE BEACH AREA BOUNDED ON THE EAST BY A LINE EXTENDING SOUTH/SOUTHWEST FROM BELUGA PLACE TO THE NORTHWEST OF BISHOP'S BEACH IN ACCORDANCE WITH THE TERMS OF A PERMIT ISSUED FOR THAT PURPOSE BY THE CHIEF OF POLICE AND AT NO TIME MAY A MOTOR VEHICLE BE OPERATED BY A PERMIT HOLDER AT A SPEED GREATER THAN 10 MPH."

The amendment would require a person to be collecting coal to drive on the beach. Areas for getting larger pieces of coal are about a mile northwest of the entrance. The eastern edge would be Beluga Place and it would be west from there. The amendment would further restrict vehicle access, with the exception of access for coal use. It is proposed the Police Department would issue permits and a key that would be returned. The cost of a gate is about \$5,000.

City Manager Koester advised the Council any type of permit system would not be supported given the current staffing system, beyond a very limited permit system for people that own property on the beach. Establishing the criteria for being on the beach is a concern of the Police Chief.

Council discussed the administrative burden on the people or the City of going through the permit process. The ordinance does not specify who can or cannot gather coal. A person who

makes a living by gathering coal to sell would be restricted. The amendment would be a way to preserve the tradition of collecting coal for people.

City Attorney Wells advised Council the amendment is a substantial change. Changing section B is one of the few access provisions in the ordinance. She advised reintroducing the ordinance with the substantive change.

The Council noted we cannot issue a permit to drive across private land. Fish and Game would have to issue a permit to use critical habitat. Individuals may be able to ask for an exception for collecting coal in critical habitat.

VOTE: (amendment) YES. ROBERTS, REYNOLDS

VOTE: NO. LEWIS, ZAK, BURGESS, VAN DYKE

Motion failed.

Councilmember Burgess commented the Parks and Recreation Advisory Commission feel this is a nine-month process and it is time to come to a conclusion. For the public users that this affects, the process has just begun. Rather than banning vehicular access and banning beach access for those that need to gather coal the Council should put it out to an advisory vote. It is a contentious issue. The Commission did a tremendous amount of work and two-thirds of the people that showed up felt that beach access should be restricted in one form or another. The scientific rationales does not support policy decisions we are about to make. If limiting vehicular access is impact to wildlife a better result would be derived by outlawing dog access. If eliminating erosion, why not limit horseback, bike, and pedestrian access. He doesn't agree the Council has to do something in a rush. The ordinance creates a fee structure and says you can no longer drive a vehicle on the beach. It doesn't put up a fence, it doesn't allocate funds, it doesn't allow people to access private property, and it doesn't allow citizens to apply for a permit for vehicular activities that include seaweed harvesting, subsistence activities, and coal harvesting.

Councilmember Burgess urged the Council to take a step back, realize it is a polarized issue, appreciate what Councilmembers Reynolds and Lewis have done is trying to move the discussion forward, but realize an advisory vote may be the best way forward. He suggested an advisory vote or measures with a sunset period capped by an advisory vote. It may be encouraging the State to put up a physical barrier or petition the critical habitat area to extend vehicular access to Bishop's Beach from the west. We need to balance people's ability

to connect and commune with nature against the idea that nature is only valuable if we preserve it by not touching it and interacting with it.

Mayor Wythe commented beaches wash in and out all of the time. The presumption that a vehicle running can do more damage than the tide is unique to her. She picks coal so she doesn't have to pay a heating winter bill. It is not a financial thing; it is a way of life here. It is not the only use. If we know people are partying at the beach our police officers need to be there four or five times a day. If you do that for a few months they will move up to another area and you won't like that either. Partying is part of the social fabric of this community and we can't elitist that out of our beach areas. If people want to post their property private and then have someone camping in their front yard they can call the police. The police have an obligation to show up and move them off the private property. There are a lot of good things that go on at the beach. The Spit is a nice part of the beach but not the same as Bishop's Beach. It is part of the culture of Homer. There are lots of areas on the beach where cars do not go. This is not even our property to engage in. If the State does not want people driving on the beach they have provisions for enforcement; we are not required to do that for them.

Councilmember Lewis noted we created the access point in 1984. What happens when an idiot hits a kid? He is not in favor of banning all vehicles. The conversation will come up all around the state as more people use the beaches. We need to see if the State will start regulating the critical habitat. We cannot justify or allow people to be driving on private property or removing logs from berms that protect the banks from erosion. He favors postponing this to see what the State will allow in the critical habitat. How hard would it be to get a permit and drive from Bishop's Beach to where the coal is? Kids will party anywhere. We need to put up a kiosk and explain what is City, private, Federal and critical habitat. If a person breaks the law they can be fined.

Councilmember Roberts has lived here a long time. When she first came here Bishop's Beach was a quiet place. It is not like that today; it is much more active with lots of people. The issue is not protecting nature. The population has grown. We are arguing about how we as a larger group of people will use the beach and make it work. She would encourage introducing the ordinance and at the next meeting we will take public testimony and Councilmember Reynolds will come back with her coal amendment and a substitute ordinance. We will have more public testimony and then will have the second reading. People can come and talk to us or write letters. We have asked the Parks and Recreation Advisory Commission to do this and they have worked on it for many months. It is a difficult issue with lots of strong opinions. We have to have the courage to go forward.

Councilmember Reynolds commented one person in a motorized vehicle impacts a lot of people that are not in a motor vehicle. We may incorporate certain days for motorized vehicles at the beach.

VOTE: (main motion) YES. REYNOLDS, ROBERTS, ZAK, LEWIS

VOTE: NO. VAN DYKE, BURGESS

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

1. Memorandum 15-135 from Public Works Superintendent, Re: Purchase of New 10-Yard Dump Truck

ADOT and Pioneer Avenue; Reduced Plowing This Winter

Alaska Department of Transportation and Public Facilities (ADOT) central region staff met with me, City Planner Abboud and Public Works Director Meyer to discuss Pioneer Avenue Rehabilitation. Pioneer Avenue Rehabilitation is included in the Statewide Transportation Improvement Plan (STIP). In 2014 ADOT informed the City Council that, due to funding reasons, they were not able to construct the rehabilitation of Pioneer to the original standard that had been proposed: widened roadway, five foot bike lanes, new drainage, sidewalks, lighting, landscaping and pedestrian safety improvements. A revised project was proposed that the Council supported but could not accept ownership of (Resolution 14-063(A)). Council asked for the revised scope to include painted pedestrian walkway islands and LED walkway signs. ADOT has come back to City staff requesting the City take over maintenance of Pioneer in exchange for some of these improvements. Staff maintained that the position established in Resolution 14-063(A), that proposed improvements for the revised scope, which primarily consist of painted lines, are not sufficient to warrant taking over maintenance of Pioneer Avenue. Pioneer is an expensive road to maintain, the City receives \$36,000 from the State just for winter maintenance of Pioneer. ADOT still plans on proceeding with a resurfacing project under the revised scope proposed in 2014.

DOT staff also highlighted cuts in their Maintenance and Operations budget that would impact the timeline for plowing major roads. They warned that the less traveled roads such as East End, West Hill, and East Hill could take longer to get to, depending on the severity of the snow event.

Response Agreements for Increased Tanker Traffic Contingency Planning

Fire Chief Painter met with representatives from Resolve Marine Salvage and Firefighting and T & T Salvage. As part of their contingency planning for the increase in tanker traffic and the

possibility of the LNG project they have asked that all fire departments with coastal access sign a consent agreement so that they can list HVFD as a potential resource in case of a vessel fire. In turn they are offering training opportunities, mostly, which can be of some benefit, especially if the LNG project moves forward. Once operational, there could be LNG tankers traversing Kachemak Bay every 16 hours or so, not to mention the existing vessel traffic. The City attorney has reviewed the agreement and has no issues with it. HVFD can only commit what resources are available at the time. This partnership is consistent with City of Homer's prioritization of safety in Kachemak Bay (See copies of response agreements, attached).

Flood Insurance

The Planning Department is working with FEMA and the National Floodplain Management Program to reduce flood insurance rates for home and business owners in Homer. Through a series of efforts from the Planning Department, Fire Department and Public Works that include planning, outreach and mitigation, City of Homer reduces the risk from flood damage. As a result, areas of the City receive a lower insurance score which translates into a discount on flood insurance. With flood insurance becoming more standard for many mortgages, this represents an important 'behind the scenes' way City services directly help residents.

Dump Truck

In the last City Manager's report I brought to your attention three urgent vehicle needs: a dump truck for Public Works, an ambulance for the Fire Department and a patrol car for the Police Department. It is my preference to deal with these needs in the context of the 2016 budget when we have a better idea of revenue. However, the purchase of a replacement dump truck cannot wait until 2016; the Public Works Department needs it in the summer for road maintenance projects. In the winter, it becomes a sander for sanding roads and repairing water mains. Furthermore, a new dump truck is 6-9 months out. Public Works has investigated options which are detailed in the attached memo. I would like to bring to the Council an ordinance at the next meeting authorizing the purchase of the dump truck for \$150,000. This would have to come out of the general fund fund balance (current balance \$5.7M) as there is a negative balance in the Public Works fleet reserve account. However, we do have the option to finance the vehicle. I am concerned that financing just puts the issue off to future operating budgets. Also, we would be paying 2-3% interest while we have money sitting in the bank making minimal interest.

City Manager Koester highlighted the acquisition of a dump truck for Public Works. The second truck failed and the truck is no longer usable. The dump truck is used for repairing roads, sanding, and other operations. Because there are no fleet reserves, emergency situations are becoming more frequent. The purchase of a new dump truck requires a 6 to 9 month lead time, at a cost of \$149,000. It would cost \$5,000 a month to lease a dump truck, if there is one available.

The Council discussed leasing a truck and waiting until the 2016 budget discussion before making a decision. Councilmember Burgess indicated he will sponsor an ordinance at the August 24th meeting to purchase a new dump truck.

In response to questions of the response agreements for increased tanker traffic contingency planning, City Manager Koester told Council we are agreeing that our fire department will fight fires in our harbor. It is a mutual aid agreement between two different marine firefighting companies who will be staged in Kachemak Bay if the Alaska LNG project moves forward. We will be compensated for any actual response and our volunteers and firefighters will benefit from the training opportunities.

B. Bid Report

CITY ATTORNEY REPORT

A. City Attorney Report – July 2015

City Attorney Holly Wells reported Birch Horton Bittner’s municipal law department is expanding. She introduced Attorney Katie Davies, one of the four attorneys added to the firm with a focus on municipal law.

COMMITTEE REPORT

- A. Public Arts Committee
- B. Permanent Fund Committee
- C. Employee Committee Report
- D. Public Safety Building Review Committee

Mayor Wythe reported the committee met and reviewed a variety of steps to move forward to 35% design. They will meet towards the end of August and will begin the public information campaign.

E. Vessel Haul-Out Task Force

PENDING BUSINESS

- A. **Memorandum 15-118**, from Finance Director and Public Works Director, Re: Water and Sewer Rate Recommendations for 2015. (Postponed from July 27, 2015.)

Memorandum 15-139 from Finance Director as backup.

Motion on the floor from July 27: MOTION FOR THE APPROVAL OF THE RECOMMENDATIONS OF MEMORANDUM 15-118.

The spread sheet of water and sewer utilities will be presented when a resolution is brought forward.

VOTE: NO. VAN DYKE, LEWIS, REYNOLDS, ZAK, ROBERTS, BURGESS

Motion failed.

Mayor Wythe called for a motion to bring a resolution forward at the August 24th meeting to increase sewer rates effective January 1, 2016.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. **Resolution 15-066**, A Resolution of the Homer City Council Establishing Conditions Under Which Benefitted Property Owners Will Be Allowed to Connect to the Proposed Kachemak Drive and Shellfish Avenue/South Slope Drive Water Mains Being Installed as Part of Homer Water Storage/Distribution Improvements (Phase I). City Manager/Public Works Director. (Postponed from July 27, 2015.)

Resolution 15-066(S), A Resolution of the Homer City Council Establishing Conditions Under Which Benefitted Property Owners Will Be Allowed to Connect to the Proposed Kachemak Drive ~~And Shellfish Avenue/South Slope Drive~~ Water Mains Being Installed as Part of Homer Water Storage/Distribution Improvements (Phase I). City Manager/Public Works Director.

Memorandum 15-117 from Public Works Director as backup.

Memorandum 15-136 from City Manager as backup.

Councilmember Burgess previously declared a conflict of interest with Resolution 15-066. He does not have a conflict with Resolution 15-066(S).

City Attorney Wells advised Councilmember Burgess to abstain from the vote to substitute and he can then participate after the substitute resolution is on the floor.

Mayor Wythe ruled Councilmember Burgess should abstain from the vote on the substitute and then can join the conversation. There was no objection from the Council.

Councilmember Burgess was excused from participation.

Motion on the floor from July 27: MOTION FOR THE ADOPTION OF RESOLUTION 15-066 BY READING OF TITLE ONLY.

Mayor Wythe called for a motion to substitute Resolution 15-066(S) for Resolution 15-066.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Burgess returned to his seat.

Councilmember Burgess believes there is good solid rationale for restricting this and Kachemak Drive residents have already formed a group to bring water and sewer in at the same time. He asked if both utilities could be installed at the same time with a single excavation.

City Manager Koester told Council per Public Works Director Meyer it is possible to install water and sewer at the same time, although they may not be able to go on a single side of the street. That would require two excavations.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. **Memorandum 15-128**, from City Clerk, Re: Deferred Assessment for Thom and Seymour for the Homer Natural Gas Special Assessment District.

Mayor Wythe declared her continued conflict of interest in natural gas line related issues and passed the gavel to Mayor Pro Tempore Roberts.

Mayor Pro Tempore Roberts called for a motion for the approval of deferred assessment payments for the natural gas special assessment district for Thom and Seymour.

BURGESS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Pro Tempore Roberts returned the gavel to Mayor Wythe.

RESOLUTIONS

- A. **Resolution 15-070**, A Resolution of the Homer City Council Awarding the Contract for the Public Works Equipment Storage Building to the Firm of Steiner's North Star Construction, Inc. of Homer, Alaska, in the Amount of \$82,451 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director.

Memorandum 15-132 from Public Works Director as backup.

Councilmember Burgess declared a potential financial conflict of interest as he was on the plan holders list for this project and has a working relationship with one of the awardees.

City Attorney Wells advised being a contractor is not a conflict. It is a conflict of interest being on the plan holders list.

Mayor Wythe ruled Councilmember Burgess had a conflict and excused him from participation. There was no objection from the Council.

Mayor Wythe called for a motion for the adoption of Resolution 15-070 by reading of title only.

LEWIS/ROBERTS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 15-071**, A Resolution of the Homer City Council Awarding the Contract for the Old Harbormaster Building Demolition Project to the Firm of Moore & Moore

Services, Inc. of Homer, Alaska, in the Amount of \$8,300 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk.

Memorandum 15-133 from Port and Harbor Director as backup.

Councilmember Burgess declared a potential financial conflict of interest as he was on the plan holders list for this project.

City Attorney Wells advised it is a conflict of interest being on the plan holders list.

Mayor Wythe ruled Councilmember Burgess had a conflict and excused him from participation. There was no objection from the Council.

Mayor Wythe called for a motion for the adoption of Resolution 15-071 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Burgess returned to his seat.

C. **Resolution 15-072**, A Resolution of the City Council of Homer, Alaska, Amending the Port of Homer Terminal Tariff No. 600 and the City of Homer Fee Schedule Annual Moorage Rates. Lewis/Port and Harbor Advisory Commission. Recommend public hearing on August 24, 2015.

Memorandum 15-137 from Port and Harbor Director as backup.

Mayor Wythe called for a motion for the adoption of Resolution 15-072 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

ROBERTS/REYNOLDS - MOVED TO POSTPONE RESOLUTION 15-072 TO THE AUGUST 24TH MEETING FOR A PUBLIC HEARING.

There was no discussion.

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

Motion carried.

- D. **Resolution 15-068**, A Resolution of the City Council of Homer, Alaska, Adopting the Bylaws for the Cannabis Advisory Commission. City Clerk/Cannabis Advisory Commission.

Memorandum 15-129 from Cannabis Advisory Commission as backup.

Mayor Wythe called for a motion for the adoption of Resolution 15-068 by reading of title only.

BURGESS/LEWIS – SO MOVED.

BURGESS/LEWIS - MOVED TO AMEND LINE 80 OF THE BYLAWS TO READ: A CHAIR AND VICE-CHAIR SHALL BE SELECTED ANNUALLY (MAY MEETING) FROM AMONG THE APPOINTED MEMBERS.

There was no discussion.

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

Motion carried.

BURGESS/ROBERTS - MOVED TO AMEND LINE 106 OF THE BYLAWS TO CHANGE THE WORD “MAJORITY” TO “MOTION.”

There was no discussion.

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

Motion carried.

Bylaws lines 127-128: current language conflicts with the rule that a member may be disqualified due to conflict of interest by a majority vote.

Mayor Wythe called for a recess at 8:45 p.m. and reconvened the meeting at 8:49 p.m.

BURGESS/ROBERTS – MOVED TO AMEND TO STRIKE LINES 127 AND 128 AND LINE 129 WILL BECOME ITEM 4.

There was no discussion.

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

Motion carried.

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

Motion carried.

- E. **Resolution 15-069**, A Resolution of the City Council of Homer, Alaska, Supporting the Alaska Marine Highway System. Mayor.

Mayor Wythe called for a motion for the adoption of Resolution 15-069 by reading of title only.

BURGESS/LEWIS - SO MOVED.

BURGESS/ROBERTS - MOVED TO AMEND LINES 55 AND 60 AND DELETE THE WORD "BOROUGH" AND ACCOMPANYING SLASH.

The City has no ability to enact on behalf of the Borough.

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

Motion carried.

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

Motion carried.

COMMENTS OF THE AUDIENCE

Robert Archibald, city resident, commented on Ordinance 15-29. People come to Homer for its beauty and to recreate; they can come down the beach from Anchor Point. Taking coal from the bluff is undermining people's property; most municipalities don't allow coal burning.

Deb Lowney, city resident, commented on Ordinance 15-29. Concerns and comments were made that Parks and Recreation made the proposal based on bad behavior that will punish the whole. The issue is much deeper. The proposal is not shutting down all beach access; it will open more beach for use. Vehicles can legally access the beach from Anchor Point to Bidarki Creek and from Miller's Landing to the head of the bay. Area 6 will be open to accommodate the coal gatherers. She requested the City Attorney's thoughts on the City providing vehicular access to beach areas that are illegal to drive on.

Tom Zitzmann, city resident, commented we need to be self-sufficient without relying on the State. Long ago we used bonds to pay for projects. We should be financing rolling stock with the historically low interest rates; municipalities receive preferential treatment. He thanked the Council for moving Ordinance 15-29 forward in the democratic process.

COMMENTS OF THE CITY ATTORNEY

City Attorney Wells introduced Attorney Katie Davies.

COMMENTS OF THE CITY CLERK

City Clerk Johnson announced the candidacy filing period for two council seats is open through August 17th.

COMMENTS OF THE CITY MANAGER

City Manager Koester had no comments.

COMMENTS OF THE MAYOR

Mayor Wythe thanked Deb and Tom for coming in. She appreciates their comments and time. Her kids went to Hope to go camping and found large boulders at the beginning of the trailhead. When they returned to the trailhead one of the huge boulders had been towed away and a truck drove in. You cannot regulate dishonest people and honest people don't need to be regulated. Sending people to Anchor Point to access the beach is passing the issue on to our neighbors. In her earlier comments she was not making light of the drug and alcohol situation here. A lot of people come here thinking it is a safe place, but the problem has existed for so long and is socially accepted in so many circles. It is difficult to manage and will move from one location to another.

COMMENTS OF THE CITY COUNCIL

Councilmember Roberts asked if Catriona knew how many young high school people participated in drinking. She is looking forward to modifications in the beach ordinance. She thanked Holly for the meeting with the Cannabis Advisory Commission. There was a lot of information presented and the group is moving forward.

Councilmember Reynolds commented there is a lot of momentum to change some of the culture in the community with the attitude of adults and students. *Just the Facts* is the campaign that indicates 78% of high school students do not drink in a month and when adults chose to drink most chose two drinks or less. The campaign is funded by non-profits to get good information out there, provide education in schools, and be a resource guide for

adolescents. There is a lot of momentum with Green Dot. She thanked everyone for the great public comments.

Councilmember Burgess commented Deb Lowney made the representation the commission's recommendation was to expand beach access in sector 6. The ordinance just passed restricted beach access on all city beaches except on the Spit in the wintertime. You (the Council) pushed the nuclear button and didn't take the commission's recommendations, you just said no beach access. You didn't fund the barrier to restrict access, a passive enforcement means. We took the all or nothing solution, acting as if there were a ticking clock and we didn't create consensus. We rushed to a conclusion. In response to Mr. Zitzmann's proposal, this is the first time any member of the public implied he doesn't take enough responsibility for making decisions on behalf of citizens. He only advocated for an advisory vote one other time (the plastic bag ban) while in office. He would advocate for an advisory vote on this since it is a hot button issue and it is not clear where the majority of citizens rest. He fears we are heading down another road by not being inclusive. He would like to pursue other alternatives than restricting beach access. Be advised the City Council did just vote to restrict all vehicular beach access on all beaches in Homer except along the Spit during the winter months. If you have a feeling about that we would like to hear from you.

Councilmember Van Dyke congratulated Kachemak Bay Water Trail people, who did a great job. If he had two drinks he would be waking up on Bishop's Beach wondering how he got there.

Councilmember Zak commented we started early today. He appreciates Patrick sharing the Town Hall report, Tom Stroozas sharing his willingness to help with a difficult budget, and Tom Zitzmann's comments on the financial situation. Two weeks ago Councilmember Zak had lost some of his optimism, but he has regained it again. Adrienne Sweeney provided well thought out and prepared comments about the bed tax. We have the professionals here to tell us the implications as we make some revenue generating sources. It was a good long meeting.

Councilmember Lewis corrected something Beau said. We have not restricted access to the beach yet. The ordinance still has a second reading. It doesn't mean anything has happened.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 9:15 p.m. The next Regular Meeting is Monday, August 24, 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

HOMER CITY COUNCIL
REGULAR MEETING MINUTES
AUGUST 10, 2015

Approved: _____