



# City of Homer

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

Office of the City Manager

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## City Manager's Report

TO: Honorable Mayor Wythe and Homer City Council  
FROM: Katie Koester, City Manager  
DATE: September 23, 2015  
SUBJECT: City Manager's Report

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### **Changes to Council Packets**

After attending the Borough Assembly meeting that was held in Homer, Councilmember Reynolds recommended instituting a cover sheet similar to the one the Borough uses for to help the public better understand the meeting process and when to comment. Mayor Wythe and I talked about developing some short titles for Resolutions and Ordinances that could help the public follow what item the Council is referring to beyond the resolution and ordinance number. City Clerk Johnson and I are working on these updates to improve the public's ability to follow and contribute to Council proceedings and plan to implement in October. Please let us know if there are other recommendations you feel would be helpful.

### **Winter Road Maintenance Privatization Considerations**

At the request of Councilmember Lewis, Superintendent Gardner drafted the attached memo outlining the consequences of privatizing winter road maintenance. In summary, city of Homer equipment operators do much more than plow and sand streets. When not plowing roads and sanding streets there is a long list of necessary maintenance activities the equipment operators perform that range from utility locates to ditch clearing. If winter road maintenance were privatized, these activities would still have to occur. Having the flexibility to respond to winter road conditions with the same employees that perform many other maintenance helps ensure that the City gets the most out of these talented employees.

ENC:

Front page of Kenai Peninsula Borough Assembly Packet September 15, 2015

Memo from Public Works Superintendent Gardener, Re: Winter Road Maintenance  
Privatization Considerations

Memorandum 15-162 from City Attorney, Re: Runoff Election and Expiration of Council  
Member Terms



# Kenai Peninsula Borough Assembly Packet September 15, 2015

*This mini-packet contains the agenda and the resolutions and ordinances to be considered by the Assembly at tonight's meeting. The information following has been provided to assist you if you wish to address the Assembly this evening.*

*To conduct business in an orderly manner, the Assembly has adopted portions of Mason's Manual of Legislative Procedure and other procedures codified in the Borough Code of Ordinances.*

*The Assembly encourages public comment and involvement and provides three minutes per speaker on pending legislation as well as a general comment period at the beginning and the end of the agenda. Sign-up sheets are provided at the entry-way table. Please indicate your name, address and the agenda item you wish to address on the sheet provided.*

*Comments on agenda items should relate to the pending item at the time it is before the Assembly. Please refrain from using disorderly words or making negative personal remarks about individuals; these are not productive and will be ruled out of order.*

*Thank you for attending this meeting and participating in the public process.*

*Office of the Borough Clerk  
Kenai Peninsula Borough*





## CITY OF HOMER PUBLIC WORKS DEPARTMENT

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### MEMORANDUM

To: Katie Koester, City Manager

From: Dan Gardner, PW Superintendent *DMG*

Date: September 9, 2015

Subject: Winter Road Maintenance Privatization Considerations

The concept of privatization of the winter road maintenance has been discussed off and on over many years. To present a cost estimate to perform what the city accomplishes over the winter would be extremely difficult and inaccurate at best. Some considerations/impacts to attempting to privatize are as follows:

1. When one attempts to rationalize that the city would save money during winters that are mild from a snow removal standpoint because at a home or business they save money during those years, the comparison is not legitimate. An individual pays a contractor for the snow removal service per occurrence and does not pay the contractor for anything else. But, city operators continue to provide all kinds of services when snow removal is not occurring. The city can't send the operators home after a snow removal operation like a homeowner can send a contractor home because many other tasks are occurring between snow falls and sanding to maintain infrastructure and be at a state of readiness with equipment and inventory. Some of those items are:
  - Performing daily utility locate requests
  - Maintenance of heavy equipment, sanders, pumps, generators, etc. This can include catching up on upgrades, fixes to equipment, changing and assembling/repairing tire chains, greasing, blade replacements, and more.
  - Water/Sewer repair assistance (excavation, material transport, restoration)
  - Steaming of Fire Hydrants (all winter long)
  - Steaming of drainage ditches and culverts
  - Misc. building related projects
  - Roadway ditching
  - Snow and fill sites maintenance
  - Counting inventory
  - Many housekeeping items around Public Works that can only take place on slower times
  - Provide support to other departments
2. During winter snow removal operations and some sanding operations, all operators are working (5 operators and one foreman). If winter plowing/sanding were to be privatized, then it would be expected that PW personnel would decrease significantly. Unfortunately, that would dramatically

impact the rest of maintenance that is required and expected, both during the winter months, and during the spring/summer/fall seasons. By “eliminating” personnel in the winter, thus eliminating personnel in the spring/summer/fall, the city loses personnel for trying to keep up with all the other maintenance items such as:

- Daily utility locate requests – often requires one to two persons for a full day in spring/summer/fall
  - Road ditching and road shouldering
  - Vacuuming storm drains and catch basins
  - Culvert replacements
  - Assist with water/sewer repairs
  - Manhole and Gate Valve adjustments in roadways
  - Receiving and stockpiling gravel and sand
  - Grading roads
  - Dust/Erosion control prep and application
  - Street sweeping
  - Pavement patching
  - Pavement crack sealing
  - Paint striping on roads and parking lots
  - Crosswalk & Stop Bar Maintenance
  - Gravel road repairs and topping application
  - Brush cutting
  - Equipment maintenance
  - Inventory control
  - Many miscellaneous projects within and without the department
3. Even if privatization were not to occur, some think that there is a significant savings to the city if there is not a lot of snowfall in a particular winter. Although there would be a savings due to less fuel spent in heavy equipment, less maintenance on equipment due to less hours used, and overtime that might otherwise be paid, there are still other items of work that take place, and there is the need to maintain readiness for plowing and sanding. This readiness requires personnel and equipment. As previously stated, operators can't be sent home to save the city money. No one has a crystal ball to know what the snow and sanding needs will be in a given winter until the winter is over. In some winters, we find ourselves using all of our available equipment and personnel resources, including water/sewer personnel to keep up with the snow removal needs.
4. There is a value in using city personnel for winter road maintenance. Operators that maintain roads year after year including during spring/summer/fall months obtain valuable information regarding locations of manholes, gate valves, hydrants that can prove to be issues while plowing snow. There is a vested interest and working knowledge and working relationship with other personnel and departments at Public Works that is invaluable in having PW operators perform the winter road maintenance. PW operators see many things as they travel every mile of the road system that are reported that a private contractor would/may not be aware of or obligated to report. The city operator's intimate knowledge and internal working relationships helps to avoid conflicts with those utilities, and helps to address other issues such as drainage and property owner issues. There is daily coordination with city equipment operators throughout the winter that would be difficult to maintain between the PW Superintendent and a private contractor and his personnel. That efficiency and coordination would be eliminated with privatization.

5. Existing equipment operators share an on-call schedule where the on-call person is available twenty-four hours a day for a week at a time. Privatizing would require fewer people to maintain that on-call schedule. And, the schedule would still need to be maintained year round due to the fact that call-outs can occur for things other than snow removal.
6. Some issues/questions that would have to be addressed were to privatization to occur are:
  - Who purchases sand and chemicals for use in the winter sanding operations?
  - Who maintains and stores the winter sand?
  - If the city maintains, purchases, stores the sand/chemicals at Public Works, does the contractor use city equipment and facilities for loading the material into the contractor's equipment?
  - Will the police department call out contractor personnel as they currently do with city personnel for regular winter road hazards or to respond to needs generated due to auto accidents or fire emergency needs?
  - Who is liable for claims due to winter road/sidewalk maintenance?
7. When searching for studies of where privatization has occurred, reports vary as to the pros and cons, but a general consensus is that service goes down, it requires a significant effort at administering/inspecting of the contract, and that it is extremely difficult to come back to public maintenance once going the direction of privatization. Liability is an issue that comes up in many of the reports. And, many of the reports show that there is no financial benefit, and some places ended up costing more. It's a very difficult thing to experiment with. Most reports deal with states and sections of highway maintenance as opposed to municipal streets.

It is not this department's recommendation that privatization would be an efficient approach to winter road maintenance. If it were truly a beneficial approach to maintenance, there would likely be more cities going with privatization. One of the biggest considerations in retaining the maintenance is that were privatization to occur, many other operations and maintenance requirements throughout the city would suffer due to that fact that staffing would be reduced.







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Birch Horton Bittner & Cherot  
*a professional corporation*

**MEMORANDUM 15 - 162**

**TO: JO JOHNSON  
CITY CLERK  
CITY OF HOMER**

**FROM: THOMAS F. KLINKNER**

**RE: ELECTION ISSUES**

**FILE NO.: 506,742.103**

**DATE: SEPTEMBER 15, 2015**

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Two seats on the Council are to be filled at the October 6, 2015, regular City election, each for a three-year term. Seven candidates have filed for these two Council seats. The following responds to questions regarding this election of Council members that I was asked at last night's Council meeting.

**1. *Election of Council Members; Runoff Election.***

AS 29.20.130 provides that each first class city has a council of six members elected by the voters at large; provided that the council may by ordinance provide for election of members other than on an at-large basis for all members. In accordance with AS 29.20.130, HCC 2.08.030(a) provides that only two Council members are elected each year on an at-large basis for three-year terms.

AS 29.26.060(b) provides that a runoff election for an office for which candidates run at large shall be held if no candidate receives a number of votes greater than 40% of the total number of votes cast for all candidates divided by the number of seats to be filled, but allows this rule to be varied by ordinance. HCC 4.40.010(a) conforms to the general rule in AS 29.26.060(b), providing that if no Council candidate receives more than 40% of the votes cast for a respective seat, a runoff election shall be held. For this purpose, when more than one Council seat for the same term is to be filled, the total votes cast for a respective seat is determined by dividing the total number of votes cast for all candidates by the number of seats to be filled.

Under AS 29.26.060(b) and HCC 4.40.010(a), a runoff election for Council will be held after the October 6, 2015, general election only if no candidate for Council receives more votes than 40% of one-half of the total number of votes cast for all candidates—or with the calculation simplified, 20% of the total number of votes cast for all candidates.

Thus, if one or more candidates for Council at the October 6, 2015, regular City election receive a number of votes greater than 20% of the total votes cast for all candidates for the two Council seats, there is no runoff election and the two candidates who receive the greatest number of votes are elected.

If no candidate for Council at the October 6, 2015, regular City election receives a number of votes greater than 20% of the total votes cast for all candidates for the two Council seats, there is a runoff election. AS 29.26.060(c) provides that the runoff election shall be between the two candidates receiving the greatest number of votes for the seat. However, this statute does not indicate how it is to be applied to a runoff election for multiple seats that are to be filled at-large. In my opinion, HCC 4.40.010(b) provides a reasonable application of the statute to such a situation: the number of candidates receiving the highest votes to provide two candidates for each vacancy shall be the candidates in the runoff election. Thus, if the outcome of the October 6, 2015, regular City election for Council requires a runoff election, the four candidates for Council that receive the largest number of votes in the regular election shall be the candidates in the runoff election.

## **2. Commencement and Expiration of Terms of Office.**

If a runoff election for Council is required after the October 6, 2015, regular City election, HCC 4.40.020 requires that it be held on the Tuesday after the first Monday in November, which is November 3, 2015. Under AS 29.26.150(c) and HCC 2.08.030(c), the term of office for Council members who are elected at the runoff election will begin on the Monday following the certification of the election.

Under AS 29.20.150(a) and HCC 2.08.030(a), a Council member is elected for a three-year term and until a successor qualifies. If a runoff election for Council is required after the October 6, 2015, regular City election, an incumbent Council member whose term is scheduled to expire in 2015 remains in office until a successor qualifies. One qualifies for the office of Council member by taking the oath of office.<sup>1</sup> HCC 2.08.030(c) provides that there will be a special meeting on the first Monday following certification of the election for the purpose of administering the oath of office to the elected candidates. The term of the predecessor of a candidate who is elected to the Council in the runoff election expires upon the administering of the oath of office to the newly elected Council candidate.

TFK/lcj

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<sup>1</sup> *Reale v. Board of Real Estate Appraisers*, 880 P.2d 1205, 1211 (Colo. 1994).