

Session 19-23 a Regular Meeting of the Homer City Council was called to order on August 26, 2019 by Mayor Ken Castner at 6:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS: ADERHOLD, ERICKSON, LORD, SMITH, STROOZAS, VENUTI

STAFF: CITY MANAGER KOESTER
CITY CLERK JACOBSEN
LIBRARY DIRECTOR BERRY
CITY ATTORNEY WELLS

AGENDA APPROVAL (Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 2.08.040.)

The following changes were made: **Mayoral Recognitions and Proclamations** Swearing in City of Homer Police Officers Kellen Stock and Tyler Jeffres; **Consent Agenda** Resolution 19-053, A Resolution of the City Council of Homer, Alaska, Amending the Homer Public Library, Library Card Registration Policy to Change Library Card Renewal to Every Two Years and Add Accepted Residency Documentation. Aderhold/Venuti. Amended Library Card Policy Document as backup; **Visitors** Legislative Update from Representative Vance; **Public Hearings** Rosebud Court Road Reconstruction and Paving Special Assessment District Memorandum 19-111 from City Clerk as backup; **City Manager's Report** Schedule for Attorney RFP process.

VENUTI/ERICKSON MOVED TO APPROVE THE AGENDA AS AMENDED.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

- a. Swearing in City of Homer Police Officers Kellen Stock and Tyler Jeffres

Chief Robl swore in Officers Stock and Jeffres

PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA

Tony Neal commented regarding Memorandum 19-108 under New Business requesting Council veto the drainage easement vacation because the Borough mishandled the process.

Robert Archibald, city resident, commented regarding 19-19(S) and encouraged discussion on the ramifications of extending water, having suitable water do said project, and realizing the responsibly to the citizens of Homer to maintain a proper supply of water.

RECONSIDERATION

CONSENT AGENDA (Items listed below will be enacted by one motion. If a 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 and Regular Meeting Minutes of August 12, 2019. City Clerk. Recommend approval.
- b. Memorandum 19-100 from Mayor Castner Re: Appointments to the Planning Commission, Economic Development Advisory Commission, and Library Advisory Board. Recommend approval.
- c. Memorandum 19-101 from Deputy City Clerk Re: New Retail Marijuana License and Manufacturing License Renewal for Cosmic Seaweed. Recommend approval.
- d. Ordinance 19-39, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offences-Fines Schedule. Lord/Venuti. Recommended Dates Introduction August 26, 2019, Public Hearing and Second Reading September 9, 2019

Memorandum 19-102 from Port Director as backup

- e. Resolution 19-052, A Resolution of the City Council of Homer, Alaska, Amending the Port of Homer Tariff and the City of Homer Fee Schedule Under Barge Ramp Cargo Facility. Lord/Venuti. Follows Ordinance 19-39.

Memorandum 19-102 from Port Director as backup

- f. Resolution 19-053, A Resolution of the City Council of Homer, Alaska, Amending the Homer Public Library, Library Card Registration Policy to Change Library Card Renewal to Every Two Years and Add Accepted Residency Documentation. Aderhold/Venuti. Recommend adoption.

Memorandum 19-103 from Library Director as backup

Moved to Resolutions a. Aderhold

- g. Resolution 19-054, A Resolution of the City Council of Homer, Alaska, Awarding the Contract for Real Estate Broker Services to Homer Real Estate of Homer, Alaska, for a Period of Three Years with Option to Extend, Compensating the Broker 10% Commission Fee for each Land Sale and up to 6% for each Improved Property Sale, and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk. Recommend adoption.

Memorandum 19-107 from City Clerk as backup

- h. Resolution 19-055, A Resolution of the City Council of Homer, Alaska, Confirming the Americans with Disabilities Act (ADA) Compliance Committee as a Standing Committee of the City Council. Aderhold. Recommend adoption.
- i. Resolution 19-056, A Resolution of the City Council of Homer, Alaska, Approving a Noncompetitive Forty-Two Month Short-Term Lease at the Homer Airport Terminal with Pioneer Car Rental, Inc. and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption.

Item f. moved to Resolutions a. Aderhold

Mayor Castner asked for a motion for the adoption of the consent agenda as read.

ERICKSON/VENUTI SO MOVED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

VISITORS

- a. South Kenai Peninsula Opioid Task Force Update (10 minutes)

Hannah Gustafson reported in May a fundraiser was held for The Exchange and over \$6400 was raised to support the project. The Task Force was awarded a grant from the State of Alaska Office of Substance Misuse and Addition Prevention for support of Task Force Initiatives. The funds have been used for several thing including the Sober Tent at Salmonfest and funding for Task Force members travel to the MatSu to collaborate with their Task Force. September is National Recovery Month and the 2019 theme is “Join the Voices for Recovery, we are Stronger Together”. Events include a local Stories of Recovery night at KBay; Quarterly MAPP Meeting with a theme of Building Community through Art, Stories of Healing, Wellness and Recovery; family friendly/alcohol free activities as part of the World Arts Festival; and a Thriving Thursday with SVT. The Task Force is in a series of three strategic planning sessions with the Foraker Group, the facilitator of the Statewide Opioid Action Plan, and the local plan will be in line with State initiatives which will help alignment and stability of our local Task Force. Mike Tupper shared a story of recovery from a community member who wished to remain anonymous.

- b. Legislative Update – Representative Vance (10 minutes)

Representative Sarah Vance provided an update on the fires. She commented her nonsupport for the repeal of the Fish Tax repeal and the oil and gas tax. She emphasized there needs to be

further discussion on what is truly equitable for our communities and the State. She's taken heed on the communications from the City and Borough that have been sent regarding the effect of those repeals. The senior benefits have been restored and people will receive their benefits on September 1, retroactive back to July 1, and there is a supplemental payment for those who didn't receive benefits in May. Funding to the Division of Agriculture was restored and Representative Vance noted some of the programs that benefit from that. The Governor has signed a compact with the University of Anchorage for a \$70 million reduction over three years, \$25 million for the first and second year, and \$20 million the last year. The State Council on the Arts has been restored, as well as Early Learning Programs, and K-12 funding for the base student allocation. SB91 was repealed and a new crime bill was enacted that gives our law enforcement the ability to make arrests and protect private citizens once again. They are looking at a 3rd special session to address the dividend. It's at \$1600 right now, which is not the statutory formula, and the special session will address the remaining \$1400 to make up the difference of the statutory formula. The overall takeaway is the Governor cut his vetoes in half to about \$222 million in vetoes, reducing the deficit by nearly 1/3 while having discussion about the programs that are important to Alaska. She reviewed her schedule for Capital Updates throughout the district and commented people can follow her updates and sign up for newsletters on her Facebook page @repsarahvance.

ANNOUNCEMENTS / PRESENTATIONS / REPORTS (5 Minute limit per report)

a. Committee of the Whole Report

Councilmember Smith reported Council discussed next steps for the HERC and the discussion directed them to look at the demolition of the building and formulating short and long term plans of filling the needs of the community in its absence.

b. Worksession Report

City Manager Koester reported Council discussed the 2020-2025 Capital Improvement Plan. A lot of conversation was had about a new community recreation center and elevating as a priority for the City and Council. At the next meeting Councilmembers will have an opportunity to establish their top five priorities.

c. Special Meeting Report

d. Mayor's Report

Mayor Castner reported on his attendance at the Alaska Conference of Mayors in Soldotna. There was a lot of discussion on the issues that Representative Vance covered and they shared their concerns on the budget effects on communities and what could happen in the next session. On Friday the City received good news on Enstar with settlement that is fair to both sides. He's pleased with the outcome. The City Manager will talk more about that and a press

release will be issued. He welcomed Jason Davis to the Planning Commission, John Mink to the Economic Development Advisory Commission, and Clark Fair to the Library Advisory Board.

e. Borough Report

f. Library Advisory Board

Marcia Kuszmaul, Library Advisory Board Chair, thanked outgoing member Mark Massion for his service on the Board and welcomed back former member Clark Fair and also Student Representative applicant Marina Greear. Ms. Kuszmaul thanked Councilmembers Aderhold and Venuti for sponsoring Resolution 19-053 and asked for Council support for the mid-year adjustment to replace the library cameras. The Governor announced the Online with Library's, the OWL program will be fully funded and will re-start. It's a program that is used by 96 libraries in the state including Homer. They will be holding a worksession on September 3rd at 3:30 pm to discuss the Library's Gift Acceptance Policy before their regular meeting at 5:30. Lastly she reported that September is Library Card Sign up Month.

g. Homer Planning Commission

i. Memorandum from City Planner Re: Transportation and Wayfinding Plan

Tom Bos, Planning Commissioner, reported the Commission has forwarded a draft ordinance to Council regarding requirements to allow buildings up to 75 feet in height by CUP in the East End Mixed Use District, and one regarding expanded manufacturing activities in General Commercial I & II Districts. The formulated a memo regarding Ordinance 19-19(S) to Mayor and Council, they continued discussion on permitting, surveying, and site plan requirements as they're related to the Planning Office, and voted on their CIP recommendations.

h. Economic Development Advisory Commission

Nicole Arevalo, Commissioner, reported they held a worksession to discuss and define their strategic plan and goals for the next year and the long term. At their regular meeting the reviewed and discussed the Capital Improvement Plan and forwarded their recommended projects which were the Storm Water Master Plan and Large Vessel Mooring Facility. They had hearty discussion on Ordinance 19-19(S) and forwarded on their recommendations and considerations through the filter of economic development perspective. She thanked staff for providing information from the City that impact economic development in our area. She welcomed John Mink, their newest member, and noted there is one opening for member who lives in or outside city limits.

i. Parks Art Recreation and Culture Advisory Commission

David Lewis, Commissioner, commented the group heard a presentation on Klondike Alley Pedestrian Trail, which is a good project, but they feel sidewalks on Main Street and Svedlund

are still their priority at this time. They had an update from the Parks Maintenance Coordinator Steffy on the progress on the new equipment for Ben Walters Park, campground usage and revenue which was down \$10,000 in June, \$5000 in July, and probably more for August because of the fires. They had a report from Community Recreation Manager Illg that the Pickle Ball Tournament went well, and that he needs additional staff to assist with programs. They passed on a recommendation on Wayfinding and Streetscapes plan.

j. Port and Harbor Advisory Commission

k. Americans with Disabilities Act Compliance Committee

Councilmember Aderhold reported the Committee received an update from Port and Harbor staff on some of the ADA issues that were identified in the Harbor area, one being identifying accessible slips for vessels and a policy for how to move vessels around for someone who needs an accessible slip. The committee also reviewed the recommendations for the Capital Improvement Plan.

l. AML Summer Conference Travel Report - Councilmember Venuti

Councilmember Venuti reviewed her travel report that was included in the packet.

PUBLIC HEARING(S)

a. Rosebud Court Road Reconstruction and Paving Special Assessment District

Mayor Castner opened the public hearing.

Mary Sanders, city resident in the district, commented she and her husband own two lots in the district. They understand there is a great need for reconstruction and pavement, but the problem is there are several lots without sewer. It's their understanding that if the reconstruction goes forward now, and if there is a sewer project in that area later, the property owners would be responsible for costs associated with taking up the road, installing sewer, and repaving the road.

Seeing no one coming forward to comment, Mayor Castner noted there is no action scheduled tonight and opened the floor for discussion by Council.

Councilmember Aderhold commented there is written testimony in the packet. She appreciates testimony for the public hearing and to know where property owners stand on the full scope of the issues.

Councilmember Lord acknowledged this is only for public hearing tonight and asked about next steps. City Clerk Jacobsen commented a resolution will come back to Council regarding the district after further discussion with the City Attorney.

There were other members who wanted to testify and there was no objection from the Council.

Alfonso Lamendola, city resident, lives off East Hill just next to Rosebud and Fireweed. He shared some history of the water improvements in the area and commented about challenges he's experienced with getting a sewer improvement district in the area.

Matt North, city resident in the district, commented a lot of them on the street want it paved and it makes sense financially for it to happen. He thinks there is just some confusion as to what would happen for those who don't have sewer and potential costs.

Diane Caso-Morris, resident in the district, commented that the input from the City has been confusing regarding the cost share, it was initially stated 75% paid by property owners and 25% paid by the City, then they received a corrected notice that it's 25% paid by property owners and 75% paid by the City. It would be helpful to have the cost lined out for those who have sewer and those who don't, so everyone is clear about the potential financial responsibility over time.

There were no further comments and the hearing was closed.

- b. Ordinance 19-36, An Ordinance of the City Council of Homer, Alaska Authorizing the Expenditure in an Amount of up to \$1,500 from the HART Funds for Work on the Woodard Creek and Fairview Trails with Karen Hornaday Park. Venuti. Introduction August 12, 2019, Public Hearing and Second Reading, August 26, 2019

Memorandum 19-095 from PARCAC as backup

Mayor Castner opened the public hearing.

Robert Archibald, city resident, commented in support of Ordinance 19-36, the trail is several years old and has had a chance to settle. There are a few spots that need some work and this funding go toward materials. The labor will be done by volunteers.

There were no further comments and the hearing was closed.

VENUTI/STROOZAS MOVED TO ADOPT ORDINANCE 19-36 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. Ordinance 19-38, An Ordinance of the City Council of Homer, Alaska, Amending the FY 2019 Operating and Capital Budgets to Provide for Necessary Mid-Year Adjustments by Appropriating and Transferring funds from the General and Water Sewer Funds. City Manager/Finance Director. Introduction August 12, 2019, Public Hearing and Second Reading August 26, 2019

Memorandum 19-099 from Finance Director as backup

Mayor Castner opened the public hearing. There were no comments and the hearing was closed.

ADERHOLD/VENUTI MOVED TO ADOPT ORDINANCE 19-38 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

Councilmember Smith questioned the necessity of the expenditure for cameras at the library. There were comments from Councilmembers that the library is a very public area and should have working cameras in place to help protect the building, the users and employees.

Library Director Berry was asked to comment and he shared some history of past cases where the donation jar has been stolen from the counter, indecent exposure in the library, theft of materials, and the cameras have been helpful in identifying people who have done such things and have also been helpful in trying to resolve disputes.

Councilmember Smith questioned the necessity of the design for the airport roof replacement project, he feels this is too expensive. We have contractors who can tell us how to replace a roof that's in existence and engineering that has been done for the building. There was discussion that if there are going to be changes in the roof structure, an engineered design would be necessary, but may not be necessary for taking off an asphalt roof and putting a new asphalt roof on.

City Manager Koester shared the reason they had engineering was done for the City Hall roof because the cost estimates, without having any professional analysis, ranged from \$200,000 to \$400,000, and she wanted more concrete information to bring to Council when requesting full funding for the project.

There was further discussion about process and the benefits of following through with the upfront design cost and get a more solid number for the roof replacement project.

It was suggested that since no one at the table is an engineer and the City Manager has their questions on this topic, that they work through the rest of the ordinance and postpone to the next meeting to get answers.

There was brief discussion regarding the water meters, that the City has been behind in replacing the meters, but they have the capacity now to get back on schedule. The money for this project has been allocated, but it hasn't been used.

ADERHOLD/LORD MOVED TO AMEND THE ORDINANCE TO INCLUDE THE AUTHORIZATION TO SPEND \$35,000 FROM THE OLD MIDDLE SCHOOL DEPRECIATION ACCOUNT FOR THE DEMOLITION STUDY FOR THE HERC.

Councilmember Smith noted he wants to ensure there is good framework around this. We have information on hand from a prior study and that could limit what we need to spend here. He doesn't want a duplication of labor. He'd like to know what we've had done and make sure it's incorporated and used.

Councilmember Aderhold noted there is a scope of work that addresses the four considerations proposed by Council for HERC 1-

- (1) Keep the gym and portion of the upstairs that has the ventilation system and boiler, and demolish everything else;
- (2) Keep the concrete foundation to refurbish and demolish everything else; and
- (3) Demolish all of HERC1, including the concrete foundation.
- (4-Optional) Evaluate demolition process and costs for HERC2. Given the selected firm will already be visiting the site for HERC1, this could be a cost saving measure for the City, however it would increase the estimated cost of the study.

There was discussion about removing number 1, the cost involved in enclosing and securing after the demolition is done, would likely be beyond what they'd want to spend to keep it. It was noted there has been a lot of public discussion about keeping the gym, and this could provide the opportunity to answer the question and confirm that it isn't feasible.

ADERHOLD/ERICKSON MOVED TO AMEND TO REMOVE ITEM 1 FROM THE SCOPE OF WORK.

There was brief discussion.

VOTE (secondary amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion.

VOTE (primary amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

ERICKSON/ADERHOLD MOVED TO POSTPONE TO THE NEXT MEETING.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion to postpone carried.

ORDINANCE(S)

CITY MANAGER'S REPORT

a. City Manager's Report

City Manager Koester reported on the settlement agreement regarding the reported on settlement agreement for gas tariff. The rate Homer will pay remains at \$1 per mcf, and this payment will end in 2032 or sooner if sales are higher than predicted. It was a major victory for your area and was great that the Southern Peninsula worked together in the effort.

PENDING BUSINESS

- a. Ordinance 19-19(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 14.08, "Water Rules and Regulations" to add HCC 14.08.015, "Water Service Area" and Permitting the City to Provide Water Service Outside the City of Homer so Long as the Property Served is Adjacent to a Water Main Installed to Serve City Property and Such Service is Required by Law or Authorized by Ordinance and Requiring a Council Approved Agreement Regulating Use, Operation, Installation, and Maintenance of Water Service on the Property. Aderhold. Introduction April 22, 2019, Postponed to May 28, 2019, Public Hearing June 10, 2019, Referred to Planning Commission, Port & Harbor Advisory Commission and Economic Development Advisory Commission, Postponed to August 26, 2019.

Memorandum 19-072 from Councilmember Aderhold as backup

Memorandum 19-104 from Port & Harbor Advisory Commission as backup

Memorandum 19-105 from Economic Development Advisory Commission as backup

Memorandum 19-106 from Planning Commission as backup

ADERHOLD/VENUTI MOVED TO ADOPT ORDINANCE 19-19(S) BY READING OF TITLE FOR SECOND AND FINAL READING.

Councilmember Aderhold thanked the Commissions for their input, they provided a lot of good information. She also commented she has had community members come with concerns about potential conflicts of interest. City Attorney Wells explained this ordinance is a general ordinance that affects everyone the same, and even if it has an impact on a particular member or their family, it's not a conflict according to city code. The problem with ordinances like this is if the reality is that this ordinance is going to impact one street or area, and they don't foresee that being something that happens in the future in another area, then we need to treat it as if it's impacting that one street.

Mayor Castner called for a 10 minute recess at 7:57 p.m. to allow Council to review the water/sewer area map to see if there are locations besides the East End Road extension that can be built out in a similar manner. The meeting reconvened at 8:05 p.m.

Mayor Castner questioned each Councilmember as to their potential for conflict of interest.

Councilmembers Venuti, Lord, Aderhold, and Stroozas stated they have no conflict.

Councilmember Smith stated he does not believe he has a conflict. He explained this was borne out of infrastructure in the ground, and this ordinance addresses the larger policy that affects all extraterritorial properties that have a boundary with the City of Homer. He never got into the discussion in the first place because of property his father owns, and to this day it has nothing to do with the decision he's making at the table. He gains no benefit from adopting this policy and he doesn't believe his dad will benefit either.

Councilmember Erickson commented she looks at this as a general policy. She believes they will see other districts that are going to run along the road. As we as a City grow and as our utilities go up along Skyline where one side is City and the other is Borough, these are the kinds of things we need to have in place going forward. She thinks this is about the big picture, not one spot and how it might or might not affect her. She wants to make sure what's in code works for all of us. She said she owns two properties on East Road that are adjacent to the water line.

Councilmember Lord noted she has proposed amendments that were included in the supplemental packet. The purpose is to clarify that connection to extraterritorial water shall only be allowed when the property outside city limits fronts a main extension within City limits. In no circumstance would a new main extension be constructed entirely outside of City limits.

LORD/ADERHOLD MOVED TO AMEND THE ORDINANCE AS FOLLOWS:

- Line 39, delete "extend," insert "**permit connection to**"
- Line 40, delete "extension," insert "**service**"
- Line 41, delete "the extension"
- Line 51, delete "extending," insert "**providing**"

- Line 52, insert “**of any costs and fees associated with connecting to the water main, including costs associated with the original main extension,**” before “for the property or properties;”
- Line 57, delete “the extension of,” insert “**permitting connection to**”
- Line 60, delete “Notwithstanding the other provisions of this Section, after,” insert “**Connection to**”
- Line 61, delete “extended,” insert “**permitted**”
- Delete lines 64-66.
- Line 68, insert “**connection to**” after “Before,” delete “extended,” insert “**permitted**”
- Line 75, delete “extension of,” insert “**connection to the**”
- Lines 75, delete “property,” insert “**water main**”
- Line 77, delete “the amount of the extension,”
- Line 78, delete “the extension,” insert “**connecting to the water main, including costs associated with the original main extension,**”
- Line 88, insert “**Connection to the City**” before “**water**”
- Line 88, delete “extended,” insert “**permitted**”

Discuss ensued between Council and City Attorney Wells.

It was suggested the proposed amendment to line 60 is relevant because there aren't other provision of the section that would not be withstanding the subsequent verbiage. City Attorney Wells noted statutory requirements for particular verbiage within the code, and that this could be narrowed down to the subsection for clarity, and use language such as “except as otherwise provided by law”.

LORD/ADERHOLD MOVED TO AMEND THE AMENDMENT ON LINE 60 TO DELETE “NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SECTION, AFTER, AND HAVE THE VERBIAGE READ “UNLESS OTHERWISE REQUIRED BY LAW,”

There was brief comment the rest of the language remains the same including adding the effective date.

VOTE (secondary amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Lines 64-66 are subsection (c) and Councilmember Lord explained if we are not expanding the main outside city boundaries, and through this ordinance providing a mechanism by which individual properties or groups could connect to a city owned main, she doesn't see why an outside jurisdiction would take over a financial or managerial role in our city owned water system.

City Attorney Wells commented there are two things happening with this section one is foresight in what would happen in a situation, second, the City has had those types of agreements and arrangements in other arenas in the past so we want to provide for it being permissible if it's Councils direction.

The Mayor agreed with deleting this relative to water and sewer.

There was no further discussion on the amendment as amended.

VOTE (primary amendment): NON OBJECTION, UNANIMOUS CONSENT

Motion carried.

SMITH/STROOZAS MOVED TO AMEND LINE 40 TO ADD AFTER REQUESTED "OR PREVIOUSLY DETERMINED AS ALLOWED" BY THE GOVERNING BODY.

Brief discussion ensued explaining this is a fundamental policy shift, because the trigger for this ordinance is the request from the outside jurisdiction and this changes it so it's more of a passive trigger.

VOTE (amendment): NO: VENUTI, SMITH, ADERHOLD, LORD, STROOZAS, ERICKSON

Motion failed.

SMITH/ADERHOLD MOVED TO AMEND LINE TO CHANGE THE WORD EXTENSION TO CONNECTION.

There was brief comment the follows the same language as the earlier amendment.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

SMITH/ADERHOLD MOVED TO AMEND LINE 92 TO CHANGE PERSONS TO WATER CUSTOMERS.

There was no discussion.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

SMITH/ADERHOLD MOVED TO AMEND LINE 94 TO CHANGE IT TO READ "TO PERMITTING WATER AND CONNECTION FEES AND BILLING PRACTICES"

There was discussion that this amendment says we'll treat everyone the same regarding permitting, and this code is not treating people outside the city the same as inside the in terms of permitting connection to the water system. The City treats people outside the city different in regards to permitting access to the water system.

VOTE (amendment): NO: ADERHOLD, LORD, VENUTI, STROOZAS, SMITH, ERICKSON

Motion failed.

SMITH/STROOZAS MOVED TO DELETE LINES 84-86.

Councilmember Smith commented he thinks this is an overreach of our capacity and is inappropriate as a municipality. We provide water by bulk without any requirements.

There was discussion of the difference between bulk water and working with a customer in the City who delivers the water, and our piped water service and issues that could arise that would negatively impact the City's water supply, such as a negligent property owner who creates a back flow of contaminated water into the system. The City has a right to regulate the land use only to the extent it impacts the water system. Opposing comments were raised about the notion of regulating property outside the City regarding any use of the property that may or may not impact the water system.

Councilmember Aderhold commented there have been several amendments made and that she has compiled notes about the concerns with this section. She suggested voting this amendment down and postpone to the next meeting, and she'll work with the Attorney to draft some revised language on this section.

VOTE (amendment): YES: SMITH
NO: LORD, ADERHOLD, ERICKSON, STROOZAS, VENUTI

Motion failed.

ADERHOLD/ERICKSON MOVED TO POSTPONE TO SEPTEMBER 9TH.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

- a. Memorandum 19-108 from City Clerk Re: Vacation a 10 foot wide drainage easement on lot 24-A, AA Mattox Peggi's Addition granted by AA Mattox Peggi's Addition (Plat HM 99-

64) within Section 17, Township 6 South, Range 13 West, Seward Meridian, Alaska, within the Kenai Peninsula Borough. KPB File 2019-048V.

LORD/VENUTI MOVED TO UPHOLD THE KENAI PENINSULA BOROUGH'S DECISION TO APPROVE THE VACATION OF A 10 FOOT WIDE DRAINAGE EASEMENT ON LOT 24-A, AA MATTOX PEGGI'S ADDITION, GRANTED BY AA MATTOX PEGGI'S ADDITION PLAT HM 99-64, KPB FILE 2019-048V

Mayor Castner commented that vacation of something is typically not rigorously opposed, especially when it affects adjacent property owners. In this regard, Mr. Neal made salient points about the process it would take to vacate a drainage easement. Moreover, once we approve something like this, all of a sudden we become defendants in an action, and he doesn't believe we have the proper basis to defend the action. He's concerned about upholding the Borough's decision, even though our Planning Commission approved it.

Councilmember Aderhold said she's confused about what their role is and how this came to Council, because it's a Borough action. They are above us as a municipality so she's like the Attorney help them understand what action they're taking.

City Attorney Wells explained when the administration first got a letter from Mr. Neal regarding the process with the Borough it was her interpretation that this is not a utility easement but a public right of way easement. There is a trigger in the borough code for the City to grant or withhold consent. The Borough processed this as a utility easement which doesn't require a hearing. In discussion with the Borough, they went back and looked at it, and that's when they said, without making a definitive decision, they're going to treat it like a public right of way vacation. She recommends the Council determine this is the Borough's process, and it will ultimately be their determination, because that changes whether or not it matters what the Council says. The second issue is the petitioner asking for the vacation bears the burden of seeking that vacation. Our Commission has weighed in and supported approval and also stated as a matter of policy, that the City does not support a private right of way, when there is a dedicated public right of way. She thinks because we don't have a standard of review, we know where the burden lies, we don't know what the City's role is and how to weigh things, then she suggests treating this like a public policy oversight of review. She would give both parties a chance to do so and make a decision based on the best interest of the public.

Councilmember Smith noted they use a non-objection or veto, and questioned if they have the capacity to veto the action. City Attorney Wells replied Borough code says they cannot vacate the easement without putting it before the Council. If Council says no, it doesn't go.

He added absent any real clarity of their process it's clear they can't just offer non-objection because of testimony received and not knowing if the borough followed their own procedure. He proposed they veto so it goes back to the Borough to continue their part and they can send it back. City Attorney Wells clarified if the Council vetoes tonight, it won't come back to the City and the property owner can't reapply for a year.

There was discussion about vacation and process and how utility easements differ from right of way easements. They also addressed postponing this to a special meeting to get clarification from the Borough and a process in which both parties can comment.

Councilmember Lord requested to withdraw her motion. There was no objection to withdrawing the motion.

Councilmember Smith noted that if we are going to hold hearing we have to be cognizant of ex-parte communications. Councilmember Lord added that includes not going on expeditions to look at the property. Mayor Castner confirmed Council will only examine the information provided at the hearing.

There was consensus of the Council to postpone to a special meeting to be scheduled on a date to be determined following city attorney clarification from Kenai Peninsula Borough regarding process questions/concerns.

RESOLUTIONS

- a. Resolution 19-053, A Resolution of the City Council of Homer, Alaska, Amending the Homer Public Library, Library Card Registration Policy to Change Library Card Renewal to Every Two Years and Add Accepted Residency Documentation. Aderhold/Venuti. Recommend adoption.

Memorandum 19-103 from Library Director as backup

ADERHOLD/VENUTI MOVED TO ADOPT RESOLUTION 19-053 BY READING OF TITLE.

ADERHOLD/LORD MOVED TO AMEND LINE 16 TO READ AMENDING THE RENEWAL PERIOD TO EVERY TWO YEARS WILL **REDUCE THE ADMINISTRATIVE BURDEN FOR LIBRARY STAFF AND THE GENERAL PUBLIC;**

There was no discussion.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

ADERHOLD/LORD MOVED TO LINE 29 TO READ: REQUIREMENT **AND ADD ACCEPTED RESIDENCY DOCUMENTATION.**

There was no discussion.

VOTE (amendment): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

There was no further discussion on the main motion as amended.

There was no discussion.

VOTE (main motion): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

COMMENTS OF THE AUDIENCE

No comments

COMMENTS OF THE CITY ATTORNEY

City Attorney Wells had no comments.

COMMENTS OF THE CITY CLERK

City Clerk Jacobsen announced openings on the Economic Development Advisory Commission and the ADA Compliance Committee

COMMENTS OF THE CITY MANAGER

City Manager Koester had no comments.

COMMENTS OF THE MAYOR

Mayor Castner noted the issues with the amount of time it took to download this Council packet and that staff is working with the third party provider to resolve the problem.

COMMENTS OF THE CITY COUNCIL

Councilmember Stroozas had no comments.

Councilmember Aderhold expressed her appreciate to the fire fighters who are working on the fires and to community members who are taking action on their own to reduce fire risks. She thanked Pier 1 Theater for a great season, and announced on September 21st there will be a Belugas Count at the Baycrest overlook. There will be other stations in Kenai and Anchorage, and activities at the Anchorage Zoo.

Councilmember Erickson also expressed appreciation for the fire fighters and volunteers working in our area. As we come into hunting season and Labor Day weekend she encouraged everyone to pay attention and be fire wise.


Councilmember Lord thanked Mayor Castner for his work on Enstar, his efforts haven't gone unnoticed and she congratulated the new police officers who were sworn in. She thanked the fire fighters and recognized this opportunity to talk with her family about how safe it is around their home and steps to be taken. She commented regarding Philip Licht's letter in the paper and applauds the efforts to work the the Opioid Task Force and the community to find a location for the treatment center.

Councilmember Smith shared he has talked with Mr. Licht who remains positive and hopeful about their efforts to secure a location. He thanked Mayor Castner for his efforts on the Enstar issue, welcomed the new police officers, and announced his grandson was born and he got to hold him for the first time today. Lastly he gave kudos to the women's D team who won the State Softball Tournament, and shared the men's team came in 5th out of 23 teams.

Councilmember Venuti thanked Representative Vance for giving a report tonight and thanked City Clerk Jacobsen for the work she does in getting the packets together. She commented that classes are up and running at the college and she encouraged people to come out and vote on October 1st.

ADJOURN

There being no further business to come before the Council Mayor Castner adjourned the meeting at 9:49 p.m. The next Regular Meeting is Monday, September 9, 2019 at 6:00 p.m., Committee of the Whole at 5:00 p.m. and a Special Meeting on August 28, 2019 at 3:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



Melissa Jacobsen, MMC, City Clerk

Approved: September 9, 2019