

Session 19-29 a Regular Meeting of the Homer City Council was called to order on October 14, 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  
CITY ATTORNEY GATTI

**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: **CITY MANAGERS REPORT** Written public comment; **NEW BUSINESS** Memorandum **19-134** from City Clerk Re: Affidavit filed to Initiate a Contest of the Residency of a Candidate in the October 1, 2019 Regular Election. Copy of affidavit to contest and written public comment; **RESOLUTIONS** **Resolution 19-073**, A Resolution of the City Council of Homer, Alaska Imposing a Moratorium for Cutting, Clearing or Removal of Trees and Vegetation located Within the Vehicle Right of Ways Between October 1, 2019 and May 1, 2020. Mayor. **Resolution 19-073(S)**, A Resolution of the City Council of Homer, Alaska, Establishing a Moratorium on Cutting, Clearing or Removal of Trees and Vegetation Located within Public Rights of Way (ROW) between October 15, 2019 and May 1, 2020, and Establishing a ROW Policy Evaluation Team. Lord/Aderhold. Written public comment, **Resolution 19-074**, A Resolution of the City Council of Homer, Alaska Certifying the Results of the City of Homer Regular Election held October 1, 2019 to Elect Two Councilmembers and Decide one Proposition. City Clerk/Canvass Board. Written public comment.

LORD/VENUTI MOVED TO APPROVE THE AGENDA AS AMENDED

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## **MAYORAL PROCLAMATIONS AND RECOGNITIONS**

### **PUBLIC COMMENT ON MATTERS ALREADY ON THE AGENDA**

Mayor Castner expressed his hope that commenters will maintain the equanimity with regard to the issues on the agenda this evening. He explained Council is not taking evidence tonight, and reminded everyone we are one community and asked that we respect everyone's opinion. He reviewed the processes that would be taking place regarding Memorandum 19-134 and Resolution 19-074.

Ron Keffer, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Scott Adams, city resident, commented in support of Resolution 19-073 and the moratorium on right of way clearing.

Kate Finn, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Gee Denton, city resident, commented in support of Resolution 19-073 and the moratorium on right of way clearing.

David Taylor commented in support of Gee Denton and Resolution 19-073 and the moratorium on right of way clearing.

Thomas Soderholm, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Jill Hockema, non-resident, commented regarding Storm Hansen-Cavasos not being a resident of the City of Homer for one year prior to election day.

Ginny Espenshade, city resident, commented in support of following the processes for the election and encouraged the public to be respectful.

Kathryn Carsow, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Francie Roberts, city resident, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Paula Gallagher, city resident, commented the City Clerk didn't thoroughly vet all of the candidates and expressed her concerns with considering intent.

Adam Hykes, city resident, encouraged Council to follow the laws regarding the election process regarding election certification and processing the election contest.

Arelene Ronda, commented in support of certifying the results of the October 1<sup>st</sup> election and following process for the election contest.

McKibben Jackinsky, city resident, commented in support of Resolution 19-073 and the moratorium on right of way clearing.

Connor Schmidt, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Renee Edem, city resident, commented in support of investigating the residency of Storm-Hansen-Cavasos.

Shirley Thompson, city resident, commented in support of Resolution 19-073 and the moratorium on right of way clearing.

Kim Seymour, city resident, commented in opposition of certifying the October 1<sup>st</sup> election results and in support of commented in support of Resolution 19-073 and the moratorium on right of way clearing.

Corbin Arno, non-resident, commented in support of Public Works employees and in opposition of Resolution 19-073 and the moratorium on right of way clearing.

Carol Ford, city resident, commented people are testifying and shouldn't be, and are continuously cutting others down. She encouraged following the rules regarding the election process.

Megan O'Neil, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Larry Slone, city resident, commented in support of Public Works, and postponing election certification to the next meeting.

Cassie Lawver, non-resident, commented regarding Storm Hansen-Cavasos not being a resident of the City of Homer for one year prior to election day.

Tara Findley, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Susannah Webster, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Ralph Crane, city resident, commented in support of certifying the results of the October 1<sup>st</sup> election and following the process for the election contest.

Mayor Castner called for a 10 minute break at 7:03 p.m. The meeting reconvened at 7:13 p.m.

## **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 Regular Meeting Minutes of September 23, 2019. City Clerk. Recommend adoption.
- b. Memorandum 19-130 from Deputy City Clerk Re: Liquor License Renewal for Homer Brewing Company. Recommend approval.
- c. Ordinance 19-44, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating an FY2017 State Homeland Security Program Reallocation Award for an Amount no to Exceed \$53,324.58 to Replace Mobile Radios in the City's Radio Communication System and Authorizing the City Manager to Execute the Appropriate

Documents. City Manager. Recommended dates Introduction October 14, 2019, Public Hearing and Second Reading October 28, 2019.

Memorandum 19-131 from Fire Chief as backup

- d. Ordinance 19-45, An Ordinance of the City Council of Homer, Alaska Accepting and Appropriating an FY2019 State Homeland Security Program Grant in the Amount of \$255,005 for a Back Generator at the Fire Hall and a Dispatch Console for the Police Department and Appropriating \$24,704 from the Police Station Reserve Account to Purchase a Computer Hardware Integrated Workstation to House the Dispatch Console. City Manager. Recommended dates Introduction October 14, 2019, Public Hearing and Second Reading October 28, 2019

Memorandum 19-132 from Police Chief as backup

- e. Ordinance 19-46, An Ordinance of the City Council of Homer, Alaska Amending Homer City Code Chapter 2.60, Parks, Art, Recreation, and Culture Advisory Commission, Section 2.60.010(A) Created-Membership, to Reduce the Number of Members from Nine to Seven. Aderhold. Recommended dates Introduction October 14, 2019, Public Hearing and Second Reading October 28, 2019
- f. Ordinance 19-47, An Ordinance of the City Council of Homer, Alaska, Repealing Homer City Code 2.76 Economic Development Advisory Commission, Requiring Economic Finding to Accompany Recommendations from City Commission, Establishing an Official Mayoral Appointment to the Kenai Peninsula Economic Development District Board of Directors City of Homer Seat and Encouraging Appointment of Task Forces to Address Timely Community Issues, and Amending Homer City Code 2.58.020 Creation of City Boards and Commissions to Delete (e) Economic Development Advisory Commission. Lord/Erickson. Recommended dates Introduction October 14, 2019 Public Hearing and Second Reading November 25, 2019

Moved to Ordinances item c. Lord.

- g. Resolution 19-070, A Resolution of the City Council of Homer, Alaska, Amending the Parks, Art, Recreation and Culture Advisory Commission Bylaws by Renaming Articles in a Manner that more Efficiently Outlines the Commission's Internal Operations; and Amending Articles Titled Name and Authorization, Purpose, Members, Officers, Meetings, Committees, Bylaw Amendments, and Teleconferencing. Aderhold.

Memorandum 19-133 from PARCAC as backup

Item f. moved to Ordinance item c. Lord.

LORD/VENUTI MOVED TO APPROVE THE RECOMMENDATIONS OF THE CONSENT AGENDA AS READ.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## **VISITORS**

- a. 2018 Audit Report - BDO (10 Minutes)

This presentation may be rescheduled.

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

- a. Worksession Report

City Manager Koester reported BDO presented the 2018 audit. It was a clean audit and Assurance Partner Bikky Shrestha reviewed a lot of the process that was used and answered questions from Councilmembers.

- a. Committee of the Whole Report

Councilmember Smith reported Council discussed the consent and regular meeting agenda and the City Manager presented the draft biennial budget.

- b. Mayor's Report

Mayor Castner welcomed City Attorney Michael Gatti to his first council meeting. He reported on the North Pacific Fisheries Council meetings and that there is a builder's association coming to Homer this week. He also shared Governor Dunleavy will be in Homer on Thursday and speaking at or around 2:30 in the afternoon.

- c. Borough Report

Assembly member Kelly Cooper reported the Borough election brought three new members to the body from Nikiski, Central Peninsula and Soldotna, and both propositions failed. The Borough Comprehensive Plan is nearing completion, the draft can be viewed on the Borough website, and there will be a public hearing November 5<sup>th</sup>. Unincorporated communities have begun their meetings for the Community Assistance Program. The program may be gone in the next few years so it's important for those communities to make the best use of that money. The Fire Departments for the City of Kenai, Nikiski, and Central Emergency Services received a State grant to purchase new Self Contained Breathing Apparatus. An ordinance has been introduced to hire a contractor to manage the large amount of beetle kill coming to the land fill. She's co-

sponsored a resolution requesting public land managers at state and federal level to take reasonable actions to prevent, limit, and mitigate wildfires on the Peninsula, in response to the impacts of the recent fires. The Borough received a \$55,000 grant for cyber security vulnerability assessment and disaster management training. She encouraged the City to evaluate its program also. Lastly the ordinance for regarding subdivision private streets and gated subdivisions has been postponed until to December 3<sup>rd</sup> to allow each of the cities to review and give input.

d. Library Advisory Board

Connor Schmidt, Library Advisory Board member, reported the Board has been discussing the creation of an endowment fund for the library. The idea is to have a community foundation that would hold on to the endowment fund and it would create mechanism to received donations of larger goods or things that are not cash. He also commented on upcoming events including Friends of the Library Week, the Fall Plant and Book Sale, and a showing of The Public, a movie about what happens when unsheltered patrons refuse to leave the Cincinnati Public Library on a cold night.

f. Planning Commission

g. Economic Development Advisory Commission

Karin Marks, Economic Development Advisory Commission Chair, commented there is a joint worksession scheduled on Wednesday with the Planning Commission, PARCAC, and EDC to discuss the Wayfinding and Streetscape proposal. At their meeting on Tuesday they discussed the draft ordinance to disband the Commission, with Councilmembers Lord and Smith. Although many feel the current structure of the EDC is flawed and some tasks are no longer needed, the current commissioners feel their time has not been wasted, but they are also open for changes and new ideas. After further discussion it was agreed there would be more work done to make sure the best possible alternative can be reached.

h. Parks Art Recreation and Culture Advisory Commission

i. Port and Harbor Advisory Commission

Mark Zeiset, Port and Harbor Advisory Commissioner, thanked Council for their continued support of the harbor. He reported in November the Port and Harbor will be represented at Pacific Marine Expo in Seattle, the largest fish expo in the northwest. They'll be partnering with the Marine Trades Association to support and promote Homer.

j. Americans with Disabilities Act Compliance Committee

**PUBLIC HEARING(S)**

- a. Ordinance 19-42, An Ordinance of the City Council of Homer, Alaska, Instituting the Industrial Pretreatment Discharge and Waste Disposal Manual. City Manager. Introduction September 23, 2019 Public Hearing and Second Reading October 14, 2019

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

LORD/ADERHOLD MOVED TO ADOPT ORDINANCE 19-42 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There was brief discussion regard correction of a typo graphical error.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- b. Ordinance 19-43(S)(A), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 7.06.020, "Use of Improperly Muffled Engine Brakes Prohibited", to Prohibit the Use of Muffled Engine Brakes ~~to~~ **Except on** Certain Roads within the City of Homer. City Manager/Police Chief. Introduction September 23, 2019, Public Hearing and Second Reading October 14, 2019.

Mayor Castner opened the public hearing.

Scott Adams, city resident, commented in support of the ordinance and thought this was already in the books.

Larry Slone, city resident, commented in support of the ordinance.

There were no further comments and the hearing was closed.

LORD/VENUTI MOVED TO ADOPT ORDINANCE 19-43(S)(A)

There was brief discussion clarifying the ordinance clarifies roads where use of muffled engine brakes is permitted.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. 2020-2021 Budget

Mayor Castner opened the public hearing.

Representative Sara Vance, city resident, commented in support of the City's balanced budget and commended the City Manager and Council for their work.

Larry Slone, city resident, concurred with Representative Vance's comments and acknowledged the fine work by the City Manager in determining the types of projects need to be prioritized over the next 5 years.

### **ORDINANCE(S)**

- a. Ordinance 19-48, An Ordinance Of The City Council of Homer, Alaska Amending the FY 2019 Capital Budget by Re-Appropriating \$35,000 from Homer Education and Recreation Center (HERC) Demolishment Study Approved in Ordinance 19-35(A)(S) to Contract with Grow Economy to Write and Apply for a United States Economic Development Administration Planning Grant for the Demolition of The Homer Education and Recreation Complex (HERC) and the Development of a Regional Innovation Plaza at the HERC, Provide Matching Funds to the Grant, and Authorizing the City Manager to Execute the Appropriate Documents. Smith/Stroozas.  
Recommended dates Introduction October 14, 2019 Public Hearing and Second Reading October 28, 2019

STROOZAS/SMITH MOVED TO INTRODUCE ORDINANCE 19-48 BY READING OF TITLE ONLY.

Councilmembers Stroozas and Smith commented in support of the ordinance. With this ordinance there will be more of a two for one investment as there will be a demolition study done as well as preparing a planning grant to consider costs and benefits of transforming the HERC into a innovation plaza. Councilmember Smith noted Jeremiah Riley is available for the next few weeks to help address concerns.

Councilmembers Venuti, Aderhold, and Lord expressed concerns. Having done some research on this type of grant it looks like the only community in our area that would qualify would be Tyonek. Lists of projects funded appear to be long term funding in areas that are trying to recover from natural disaster or are in economic recovery. Question was raised why Grow Alaska isn't working with KPEDD on the project. There was disagreement that this will be a two for one investment.

Councilmember Erickson said she's intrigued but would like to see it handled through an RFP and they need to look deeper to see how to partner with others.

There was brief discussion of postponing to the next meeting to allow the sponsors a chance to get answers and propose a more solid package for Council to consider.

SMITH/ERICKSON MOVED TO POSTPONE TO THE NEXT MEETING.

Councilmember Smith asked members to submit their questions to the Riley's.

VOTE (postponement): NON OBJECTION: UNANIMOUS CONSENT



Motion carried.

- b. Ordinance 19-49, An Ordinance of the City Council of Homer, Alaska Imposing a Temporary Six-Month Moratorium on Applications for Professional Offices and Medical Clinics in the Residential Office District and Directing the Planning Commission to Make a Recommendation to the City Council for the Creation of a Medical District in the Vicinity of the South Peninsula Hospital During this Time Frame. Smith. Recommended dates Introduction October 14, 2019 Public Hearing and Second Reading October 28, 2019

SMITH/ERICKSON MOVED TO INTRODUCE ORDINANCE 19-49 AND REFER IT TO THE PLANNING COMMISSION FOR CONSIDERATION AND RECOMMENDATION.

There was brief discussion that establishing a medical district in the area of the hospital has been on the Planning Commission's list and this will be an opportunity to work through the process without having any applications submitted. Heath been on PC list and give them an opportunity without further CUPS presented.

There was no objection to scheduling the ordinance for public hearing on November 25<sup>th</sup>.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. Ordinance 19-47, An Ordinance of the City Council of Homer, Alaska, Repealing Homer City Code 2.76 Economic Development Advisory Commission, Requiring Economic Finding to Accompany Recommendations from City Commission, Establishing an Official Mayoral Appointment to the Kenai Peninsula Economic Development District Board of Directors City of Homer Seat and Encouraging Appointment of Task Forces to Address Timely Community Issues, and Amending Homer City Code 2.58.020 Creation of City Boards and Commissions to Delete (e) Economic Development Advisory Commission. Lord/Erickson. Recommended dates Introduction October 14, 2019 Public Hearing and Second Reading November 25, 2019

LORD/ERICKSEN MOVED TO POSTPONE ORDINANCE 19-47 TO FEBRUARY 10, 2020.

There were comments explaining Council touched on this at Committee of the Whole. Postponing will allow time to work through some suggestions before action is taken.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

## **CITY MANAGER'S REPORT**

a. City Manager's Report

City Manager Koester highlighted the response to questions Councilmembers had regarding potential next steps for the seawall and what bonded indebtedness would look like, and maps of coastal erosion and the neighborhood. She will continue working on what a major maintenance project would look like for the seawall.

There was brief discussion clarifying the information on the Council retreat, and supporting participating in the AML Block Party. They also addressed the process for submitting information to the City Attorney per the Council's Operating Manual.

**PENDING BUSINESS**

- a. Resolution 19-068, A Resolution of the Homer City Council Adopting the Industrial Waste Disposal Permit, Commercial Waste Disposal Permit, Water/Sewer Extension Permit, Water Filling Station Permit, and Utility Construction Project Permit as Part of the Public Utility System Application Process. City Manager.

Resolution 19-068(S), A Resolution of the Homer City Council Adopting the Industrial Waste Disposal Permit, Commercial Waste Disposal Permit, Water/Sewer Extension Permit, **and** Water Filling Station Permit, and Utility Construction Project Permit as Part of the Public Utility System Application Process. City Manager.

Mayor Castner explained there is a motion on the floor to adopt Resolution 19-068 that was postponed from September 23<sup>rd</sup>.

LORD/VENUTI MOVED TO SUBSTITUTE RESOLUTION 19-068(S) FOR 19-068

There was no discussion.

VOTE (substitution): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

LORD/ERICKSON MOVED TO AMEND LINE 8 ADD AND WATER SEWER EXTENSION PERMIT THEN DELETE THAT "AND" AND DELETE WATER FILLING STATION PERMIT.

VOTE (amendment): NON OBJECTION. UNANIMOUS CONSENT

Motion carried.

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

VOTE (main motion): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

## **NEW BUSINESS**

- a. Memorandum 19-134 from City Clerk Re: Affidavit filed to Initiate a Contest of the Residency of a Candidate in the October 1, 2019 Regular Election.

Mayor Castner explained City Attorney Gatti's firm hired Libby Bakalar to do piece meal work. Attorney Bakalar is representing Councilmember-Elect Hansen-Cavasos. He does not believe it is a conflict in this case and asked if the Council objected. No objection was stated.

Mayor Castner recused Councilmember Stroozas from participating in this action because he filed the affidavit of contest. He also reviewed the process for this and Resolution 19-074.

LORD/VENUTI MAYOR: MOVED THAT COUNCIL TO ORDER AN INVESTIGATION REGARDING THE RESIDENCY OF CANDIDATE HANSEN-CAVASOS, BY THE CITY MANAGER WITH THE ASSISTANCE OF THE CITY CLERK AND CITY ATTORNEY, PURSUANT TO HCC 4.50.010(C)?

There was brief discussion regarding the recusal and Councilmember Stroozas left the table.

Councilmember Aderhold requested clarification from City Attorney Gatti regarding the investigation process.

City Attorney Gatti recognized the difficulty of this action for the Council and the community, and explained we'll work through it properly and as expeditiously as possible. If Council decides to conduct an investigation, more information will come forward. He acknowledge the public has been providing materials. In the investigation people who are asked to provide information should do so under oath. That gives the imprimatur of solemnity and that they are important factual statements being provided truthfully. Under the election contest code section it doesn't outline process to conduct an election contest, however, it is a quasi-judicial proceeding where due process is accorded the participants. The hearing has to be fair in fact and appearance. The investigation is conducted in public and we'll have to work through how to do that. In a quasi-judicial process, Council can't talk to people outside of the context of the determination they will make. He explained to Council that if they elect to hold an investigation, their constituents can't talk to them about it outside of a duly noticed public hearing.

Councilmember Smith asked if the October 21<sup>st</sup> timeframe the Mayor suggested is enough time.

City Attorney Gatti responded if that's the timeframe Council establishes, we'll do our best to conduct the investigation and get the best information we can. He addressed the objective and subjective components of the question. The objection component is what indicia of residency is there to show a person has lived in the city for one year, per city code, and there is some

guidance in regulatory sections of state law. The subjective component looks at ways to ascertain intent and quantify it to some degree. There are various stakeholders one way or the other. They are all to be respected and people should be courteous and civil to one another. In the end, there will be one side that isn't going to be happy with the outcome, whatever it is. In response to further questions Attorney Gatti explained what Council will be doing is determining the qualifications of your members, which is why it would be a quasi-judicial proceedings. It really implicates due process and fairness, which is why you don't talk to people outside the proceeding, just like judges don't talk to the lawyers or the litigants unless they are in the courtroom taking information on the record. In the event the Council took an action where a person was improperly seated on the Council, Attorney Gatti explained the totality of the circumstances at the time are going to determine what the outcome of that issue might be.

There was brief discussion about the certification of the election, noting there are issues with either approach to certify the entire election or bifurcating and only certifying a portion.

VOTE: YES: ADERHOLD, LORD, VENUTI, SMITH, ERICKSON

Motion carried.

- b. Memorandum 19-135 from City Clerk Re: Travel Authorization for Mayor and Councilmembers to Attend the Alaska Municipal League 69th Annual Local Government Conference in Anchorage, Alaska, November 18-22, 2019.

LORD/ERICKSON MOVED TO APPROVE THE RECOMMENDATION IN MEMORANDUM 19-135 TO ALLOW THE MAYOR, UP TO THREE COUNCILMEMBERS TO ATTEND AML ANNUAL CONFERENCE AND UP TO TWO NEWLY ELECTED OFFICIALS TO ATTEND NEWLY ELECTED OFFICIAL TRAINING.

It was noted that Councilmembers Aderhold, Lord, and Venuti had expressed interest in attending.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

Mayor Castner asked for a recess at 8:48 p.m. The meeting resumed at 8:57 p.m.

## **RESOLUTIONS**

- a. Resolution 19-071, A Resolution of the City Council of Homer, Alaska Accepting the 2018 Comprehensive Annual Financial Report with Audit and Financial Statements and Acknowledging the Management Letter Submitted by the City's Independent Auditor, BDO, USA, LLP and Authorizing the City Manager to Execute the Financial Report. City Manager/Finance Director.

VENUTI/LORD MOVED TO ADOPT RESOLUTION 19-071.

Mayor Castner commented that he has questions he'd like to submit to BDO regarding the audit. He had hoped to address them earlier at the worksession but ran out of time.

ERICKSON/SMITH MOVED TO POSTPONE TO THE NOVEMBER 25<sup>th</sup> MEETING.

There was discussion confirming the postponement won't impact any time sensitive issues regarding the audit process, and considering the line of questioning the Mayor intended to pose and potential cost to the City.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- b. Resolution 19-072, A Resolution of the City Council of Homer, Alaska Awarding the Contract for Third Party Accounting Analysis of HAWSP History and Reporting to the firm of Altman Rogers & Co. in the Amount of \$12,500 plus \$300 for Travel and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Finance Director.

Memorandum 19-138 from Finance Department as backup

ERICKSON/LORD MOVED TO ADOPT RESOLUTION 19-072

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- c. Resolution 19-073, A Resolution of the City Council of Homer, Alaska Imposing a Moratorium for Cutting, Clearing or Removal of Trees and Vegetation located Within the Vehicle Right of Ways Between October 1, 2019 and May 1, 2020. Mayor.

Memorandum 19-137 from Mayor as backup

Resolution 19-073(S), A Resolution of the City Council of Homer, Alaska, Establishing a Moratorium on Cutting, Clearing or Removal of Trees and Vegetation Located within Public Rights of Way (ROW) between October 15, 2019 and May 1, 2020, and Establishing a ROW Policy Evaluation Team. Lord/Aderhold.

ERICKSON/SMITH MOVED TO ADOPT RESOLUTION 19-073.

LORD/VENUTI MOVED TO SUBSTITUTE RESOLUTION 19-073(S) FOR 19-073.

Councilmember Lord commented she thinks the substitute casts the issue in a more positive and proactive manner that would provide an opportunity to have two Councilmembers work with administration to evaluate the right of way maintenance policy. It also includes legal rights and responsibilities of the City and landowners, and a clause the evaluation team may need to seek legal counsel from the City Attorney.

Councilmember Venuti agreed the original resolution as presented is negative and supports the substitute. She thinks it will be helpful to have the evaluation team address the policy for the right of way.

Councilmember Erickson shared that someone from Public Works needs to be part of the discussion. The goal is to make it work well for both the public and staff.

There were further comments emphasizing the goal of working on an overall policy, and not micromanaging Public Works role in right of way maintenance, and also in support of Public Works and their efforts. Discussion also touched on the notion that a policy decision may include additional staff to work in a different fashion related to right of way maintenance.

VOTE (substitution): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

ADERHOLD/LORD MOVED TO AMEND AND ADD A RESOLVE CLAUSE THAT THE MORATORIUM DOESN'T APPLY IF CLEARING IS REQUIRED FOR PUBLIC SAFETY PURPOSES.

City Manager Koester took issue with the suggestion because the reason this resolution came up is because the Council doesn't trust Public Works' ability to determine what a public safety issue is. She'd rather the direction be very clear, instead of the public being upset because of clearing during a moratorium. It puts staff in a difficult position. The reason for right of way clearing is very much about public safety.

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

Motion failed.

There was no further discussion.

VOTE (main motion): NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- d. Resolution 19-074, A Resolution of the City Council of Homer, Alaska Certifying the Results of the City of Homer Regular Election held October 1, 2019 to Elect Two Councilmembers and Decide one Proposition. City Clerk/Canvass Board.

Resolution 19-074(S), A Resolution of the City Council of Homer, Alaska Certifying the Results of the City of Homer Regular Election held October 1, 2019 to Elect Two Councilmembers and Decide one Proposition. City Clerk.

Memorandum 19-136 from City Clerk as backup

LORD/ADERHOLD MOVED TO ADOPT RESOLUTION 19-074.

Councilmember Smith expressed his concern about certifying an election that's been contested after the public comments and not so definitive direction from legal counsel. He's concerned if something is shown later that a candidate was disqualified because of illegal participation then we have an election that has been nullified as a result of that. He thinks should one person be disqualified then the other candidates on the ballot and received votes are nullified also. The idea of the vacation of the seat becomes a question for the body to appoint, versus upholding the rest of the election results is problematic to him.

After brief discussion Councilmember Smith said there were valid candidates and if the investigation shows that candidate should be disqualified, we had other valid participants in the election who received votes. If that person were to be disqualified we're basically saying those votes don't count. He doesn't agree it's a valid path to have a vacated seats and appoint someone in the stead, when we had candidates who received votes in order to be elected.

Councilmember Aderhold disagreed with that perspective because voters went to the polls and voted for people they presumed were qualified to be elected into this office. She thinks we need to move forward honoring the wishes of the voters and also acknowledging the results of the election, which is what this resolution does; and also presuming innocence instead of presuming guilt. That's the way the U.S. is supposed to work and she believes it's the way they should work.

VOTE: YES: ADERHOLD, LORD, VENUTI, STROOZAS, SMITH, ERICKSON

Motion carried.

City Clerk Jacobsen administered the Oath of Office to Councilmembers Evensen and Hansen-Cavasos.

### **COMMENTS OF THE AUDIENCE**

Ron Keffer, city resident, expressed his appreciation to Council for what they did tonight, particularly the way they worked with code, the Attorney, and the process.

Gee Denton, city resident, shared some history of the work done in the Baycrest area and added to her earlier comments about the significant damage to her home and other homes because of the erosion on Judy Rebecca Court.

McKibben Jackinsky, city resident, clarified earlier when she said Kachemak Subdivision she meant Baycrest. She appreciated the details Gee Denton provided about what she and her neighbors have experienced, she added more details and that she appreciates Council passing Resolution 19-073(S).

Kim Seymour, city resident, commented in the past couple years Public Works has done a good job on his road. He explained some of the prior discussions he had with Public Works about snow removal and issues that resulted.

Shirley Thompson, city resident, commented regarding issues at Judy Rebecca Court and the issues she's had with Public Works.

Ginny Espenschade, city resident, expressed her understanding of an issue with culture in what she's hearing tonight. Policy is one way to address it, but encouraged keeping in mind people don't always interact with everyone in the same way.

Sunrise Sjoeborg, city resident, commented she thinks the right of way clearing could be done more effectively and encouraged that the ditches be cleaned after the clearing takes place.

Larry Slone, city resident, commended Council on deferring the decision to accept the audit until questions can be answered regarding finances. On the moratorium for clearing, it's appropriate to expand the discussion on the big picture.

Scott Adams, city resident, supports keeping filling station permits in Resolution 19-068(S), and supports transparency with the audit. Regarding clearing, he thinks some areas need to be micromanaged because they aren't all the same, noting the Baycrest subdivision. The City should also have to stand by the standards of steep slopes.

Lynn Spence, city resident, thanked all the members for listening tonight and despite their diverse views, she recognizes their commitment to the City. She appreciates the new Councilmembers who have stepped up and are willing to look to the future of our City.

#### **COMMENTS OF THE CITY ATTORNEY**

Attorney Gatti commented it was an interesting meeting and he's thankful to represent the City.

#### **COMMENTS OF THE CITY CLERK**

City Clerk Jacobsen said she's enjoyed of working with Councilmembers Stroozas and Erickson on the Planning Commission and Councilmember Erickson on the Economic Development Advisory Commission, and also on Council. She appreciates their service to the community.



### **COMMENTS OF THE CITY MANAGER**

City Manager Koester took a moment to defend city employees. There's been a lot of vilification of the Public Works Department tonight and she appreciates that the Council will come together to give direction to Public Works. It's important to remember these are people who are doing their jobs to clear and maintain rights of way. There are almost 4000 parcels in city limits and many have a road that fronts them, and there's a ditch and an ambulance has to be able to get to your house, along with a snow plow has to plow. Just remember they are human beings who have to get up at 4:00 a.m. during to start the plow routes. They schedule their time off around snow storms because they know even if they aren't on call, they'll probably be called in to ensure everyone can get to their jobs. She knows it's not perfect and she appreciates the opportunity to improve, but she knows they are hardworking friends and neighbors.

### **COMMENTS OF THE MAYOR**

Mayor Castner said he doesn't have a vendetta against Public Works but he believes there are 100 people who work for the city and 7000 people who live in the city. The 7000 people who live here should be the ones that derive what the policies are for their neighborhoods, their quality of life, their health and happiness, and he feels that as an elected Mayor it's his job to provide a voice for the citizens of the city, and Katie Koester can be the advocate for the employees. He thanked Councilmembers Stroozas and Erickson. He knows they've had a kind of divided Council, but he think they've worked hard to try to find the center of the town and public opinion.

### **COMMENTS OF THE CITY COUNCIL**

Councilmember Venuti thanked Councilmembers Erickson and Stroozas for their service to the community, it was enjoyable working with them. She's sad to see them leave, but looks forward to working with the new members. She thanked the voters for passing the plastic bag ban, the Better Bags group is fabulous, and boomerang bags are a great solution. She's proud of Homer. She thanked the Election Canvass Board, there were no problems with the numbers, it was a well done election, despite the conflict now. The election workers were friendly and did their job. She shared that she participated in Lunch with a Councilmember today and had great discussions, and commented about part time class offerings available at the college.

Councilmember Smith welcomed the new councilmembers, as they've seen, things can get interesting quick. He thanked Councilmembers Erickson and Stroozas, he's grateful for their contribution and the diversity of the Council during their time, he thinks that's what's best for the community. He shared some reflections from his recent road trip and read the poem *The Spider and the Fly*.

Councilmember Lord responded to public comment that there are more permits being address that will be coming forward, and that the moratorium on clearing applies to rights of way city wide. She commented that everyone sitting at this table and everybody working for the city is a member of this community. We don't all get it right every time, which includes elected officials and members of this organization, but the city is "of the people" and if and when people have concerns we have an opportunity to work together to make things better. She believes we have a strong administration with good experience and a proactive supportive ethic, and works hard for the city. She highlighted the services of the city that provide a foundation for all the people, their families, and the businesses. She said she'll be going to the Pacific Marine Expo to be at the UFA booth to talk about the Harbormasters Association, vessel registration and titling laws in the State, and anything else people want to talk about. She shared about her recent trip to Juneau for the annual Harbormasters Association meeting. She thanked Councilmembers Erickson and Stroozas, and welcomed the new Councilmembers.

Councilmember Erickson said the last three years have been quite a ride. She shared her appreciation for being at the table, she implored new Councilmember Evensen take on the efforts for the Baycrest Subdivision issues, and shared her appreciation for what she feels each member has brought to the the table during her time on the Council.

Councilmember Aderhold welcomed the new Councilmembers and thanked Councilmembers Stroozas and Erickson for their service to the community. She shared her appreciation for City staff who work hard and are members of our community. She noted the customer feedback quarterly comment card report that was provided as a laydown and most of the things in the report are complements to City staff. She recognizes those who have shared about disparaging experiences, which is theirs to own. By and large our staff is professional and good at their jobs. She has an expectation that our Mayor will conduct himself professionally and when he writes memos he will do so professionally. She believes the memo provided tonight was not professional. She appreciated all the public comments tonight, it is always helpful in decision making.

Councilmember Stroozas welcomed the new Councilmembers and wished them the best for successful terms. He shared some of his history of coming to Homer beginning in 2000 and becoming involved in City government in 2006. He has appreciated the opportunity to serve. He's looking forward to being retired again and having more time to spend with family, and said he has appreciated working with everyone.

## **ADJOURN**

There being no further business to come before the Council Mayor Castner adjourned the meeting at 10:27 p.m. The next Regular Meeting is Monday, October 28, 2019 at 6:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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Melissa Jacobsen, MMC, City Clerk

Approved: \_\_\_\_\_