

Session 19-31 a Special Meeting of the Homer City Council was called to order on October 28, 2019 by Mayor Ken Castner at 3:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

VENUTI/ADERHOLD MOVED TO ALLOW COUNCILMEMBER LORD TO PARTICIPATE TELEPHONICALLY.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

PRESENT: COUNCILMEMBERS: ADERHOLD, EVENSEN, HANSEN-CAVASOS, LORD (telephonic), SMITH, VENUTI

STAFF: CITY MANAGER KOESTER
CITY CLERK JACOBSEN
ATTORNEY CAULFIELD

Mayor Castner noted for the record that City Attorney Gatti and Attorney Bakalar and were also attending telephonically.

AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)

Mayor Castner note additional information in the supplemental packet that includes the Investigation Report to Council and email correspondence between the City Clerk and Dave Gerard re: investigation interview.

ADERHOLD/VENUTI MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

- a. Consideration of Investigative Report and Determination of Validity of the October 1, 2019 Election Contest submitted by Tom Stroozas contesting the Residency of Storm Hansen-Cavasos

Mayor Castner recused Councilmember Hansen-Cavasos from participating and she left the chambers.

ADERHOLD/VENUTI MOVED TO SUSTAIN THE COUNCIL'S CERTIFICATION OF MS. HANSEN-CAVASOS' ELECTION.

Councilmember Aderhold commented in support of sustaining the certification based on the October 25th letter to Council and the information provided from the investigation. She noted Councilmember Hansen-Cavasos met the 30 day requirement to be registered to vote per city code. She also acknowledged the preponderance of evidence standard and based on the information provided, agrees that more likely than not, that she was a resident of the City of Homer for the relevant time period of September 30, 2018 to September 30, 2019.

Mayor Castner followed up confirming that the Council understands that the standard of proof is the preponderance of evidence, the 50/50 deal.

Councilmember Smith disagreed in that there is information that indicates the contrary in Ms. Hansen-Cavasos' PFD filing and voter registration as late as April of last year at the Rolling Meadows address. He understands life is dynamic and changing, but noted the statement in the report that reads "a change of residence is made only by the act of removal joined with the intent." He doesn't know that there was ever a removal, so it's hard for him to say it's more likely than not that she had changed her residence because she did nothing officially to indicate that was the case.

Councilmember Evensen shared his perspective that a person's intent is difficult to define for someone else, an individual gets the right to define their intent for themselves. He acknowledged the comments about the PFD application but she's a long time resident and he added that he changed his voter's registration not far before the time Ms. Hansen-Cavasos changed hers. Oftentimes we wait until the last minute to get these things done and he doesn't feel there is an issue with her residency. He expressed his concern with a point in the report that read "Mr. Stroozas did not submit a written statement himself and stated during his oral testimony he had no first-hand knowledge of Ms. Hansen-Cavasos' residency".

Councilmember Lord concurs with Councilmember Evensen regarding intent. In terms of preponderance of evidence, she acknowledged the assertions under oath from Ms. Hansen-Cavasos, her mother, and others confirming where she was residing. What resonated with her in the investigation report was reference to the terms of the higher standards for post-election challenges, because an election has been held, the voter registration is appropriate, and the residence is declared to be within the city limits in the timeframe, per city code; and we have affidavits that is true and accurate.

Councilmember Venuti supports the motion. She believes her intent was to be in the city. She's here now and ready to serve, and was elected by the people.

Councilmember Smith noted reference to the Lake and Peninsula Borough court case, one section addresses that “the court weighed not only each voters testimony as to intent, but substantial objective evidence as well. The court considered whether each voters statement was supported by sufficient indicia of residency or contradicted by objective indicia of fraud, or unreasonableness, or implausibly”. This isn’t an easy place to be in because we’re calling one side or the other liars, because that’s what it comes down to. He said the only facts we have, and apparently unwilling to hold people to, is that they know what they do when they sign their name to a piece of paper. He feels there are a number of things missing from the investigation that address the facts.

Councilmember Aderhold explained she isn’t calling anyone a liar, she believes the members who brought this forward did so with all intent and honesty in wanting to bring forward a concern they had based on their observations. She doesn’t believe anything Councilmember Hansen-Cavasos said actually refutes anything anyone has said, other than did she consider that location her residence. In her mind it comes down to what does Ms. Hansen-Cavasos consider her residence and where does she spend the preponderance of her time. She believes that for the last year, Ms. Hansen-Cavasos was spending the preponderance of her time on Mission Road until she moved to Rangeview.

Councilmember Lord agrees that no one intending to lie on any side, and that is a challenge when we look at the post-election component of this and the paperwork. Council can look at making changes to the code, but have to work with current code. In looking at the evidence, and it’s based on presumption and social media when there are differing sides to the story, it’s hard for her to go down a path and argue with someone’s sworn intent.

VOTE: YES: VENUTI, ADERHOLD, LORD, EVENSEN
NO: SMITH

Motion carried.

COMMENTS OF THE AUDIENCE

David Lewis, city resident, supports the Council’s decision this evening, he thinks they did the right thing. Going back to their last meeting, he reminded them the City Attorney works for the whole council, not any one individual.

Gretchen McCullough, non-resident, questioned an affidavit that was posted on the website the day after the October 21st deadline, and why her employer wasn’t subpoenaed.

Adam Hykes, city resident, commented there is questionable evidence whether or not she was a city resident. Courts prove intent a lot, and one of the best ways is money and where their

money is, referring to continued rent payments at the Rolling Meadows address. He echoed the question about the affidavit.

Tom Stroozas, city resident, commented this body has just demonstrated lawlessness by negating Alaska Statutes, specifically 15.05.020. He strongly suggested they learn it because it's the law and they broke it. He read the citation into the record, argued she was a resident in Rolling Meadows and Fritz Creek, and asserted that repercussions may come before them from this.

Ron Keffer, city resident, appreciated they took time to consider the evidence and consider the investigators report. The report was clear on all the points. He's pleased they took this seriously and used proper procedures. He appreciated how they clarified how they reached their conclusions.

Jill Hockema, non-resident, said she believes she's being called a liar along with others who live in the neighborhood. She doesn't appreciate being it, she knows what she saw and she knows where she lived. She cited evidence provided and asked how they could refute it.

Howard Reed, non-resident, he is a business owner in Homer for 27 years. He expressed his frustration with a lot of things that happen at the council level that irritate him and his inability to vote in the City's elections.

Matt Hockema, non-resident, commented regarding the need for more proof regarding residency. She lied on something. Show one utility bill from inside city limits, anything. We got nothing.

Roxy Lawver, city resident, commented all the way back to the sanctuary city debacle the disingenuous comments, trying to make it about intent. She agrees more proof is necessary. They aren't using the evidence provided. They're trying to stack the Council here and she wants balance.

Cassie Lawver, non-resident, commented that Tom Stroozas helped with an effort she and Jill had already started. He said he'd help move it up the chain quicker. It's nothing personal, it goes back to the integrity of the election.

Kathryn Carsow, city resident, commented she's pleased with the decision of the Council and appreciates their consideration of the evidence. Her fear in listening to the testimony of those who are angry with the decision, is how this will dissuade other people who may want to run in the future.

Nona Saffra, non-resident, appreciates Councilmember's willingness to serve. She thinks this perspective of intent will open the door for a lot of people. It's scary to her.

Ralph Crane, non-resident, commented it's hurtful to see someone who wants to serve and have to go through what Storm Hansen-Cavasos is going through right now. He feels it shouldn't have happened and proof should be provided by every candidate who runs; and he addressed challenges with considering intent.

ADJOURN

There being no further business to come before the Council Mayor Castner adjourned the meeting at 3:51 p.m. The next Regular Meeting is Monday, November 25, 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.

Melissa Jacobsen, MMC, City Clerk

Approved: _____