

City Council and Port & Harbor Advisory Commission Work Session

ADVISORY BODY TRAINING – APRIL 2023

Where did we come from?

- ❖ Boards and Commissions are created by the City Council via Ordinance.

Alaska Statutes 29.20.320 & Homer City Code 2.58.010

- ❖ The Port & Harbor Advisory Commission was established with the adoption of Ordinance 73-1 effective February 18, 1973.

Duties & Responsibilities

Homer City Code 2.64.040(a)

- The Commission was created to act in an advisory capacity to the City Manager and City Council on the problems and development of the City port and harbor facilities.
- Consideration may include the physical facilities, possible future development and recommendations on land use within the port and harbor areas.

Duties & Responsibilities

Homer City Code 2.64.040(b)

- The daily operation and maintenance of the port and harbor are the direct responsibility of the Port Manager and the Harbormaster, under the direction of the City Manager.
- Any recommendation the Commission or a Commission member may have regarding the operation and maintenance of the facilities is to be directed to the City Manager, not a port or harbor employee.
- The City Manager will study the recommendation and refer it to the Council, or the recommendations of the Commission concerning policy issues shall be sent directly to the Council upon the request of the Commission.

Duties & Responsibilities

Homer City Code 2.64.040(c)

The Commission shall consider any specific proposal, problem or project as directed by the City Council and any report or recommendations thereon shall be made directly to the Council, unless otherwise directed by the Council.

Homer City Code 2.64.040(d)

The City Council may at a future date expand or withdraw duties and responsibilities of the Commission.

Duties & Responsibilities

Homer City Code 18.08.020 Land Allocation Plan

e. Prior to the adoption of the land allocation plan, Council shall hold a work session. Commission members and City staff may provide recommendations to Council during the work session regarding City-owned property available for lease and the terms of such leases.

Duties & Responsibilities

Homer City Code 18.08.070 Notice to award

b. The City Manager shall submit any recommendation for approval of a proposal under this chapter for property located on the Homer Spit to the Port and Harbor Advisory Commission for review and comment prior to recommending a proposal to Council.

Duties & Responsibilities

Homer City Code 18.08.120 Improvements

b. Improvements not included in the lease agreement or improvements that are inconsistent with or deviate from those permitted in the lease agreement must be approved by Council via resolution. Council shall only approve such improvements upon recommendation by the City Manager and after review by the Port and Harbor Commission, the Homer Advisory Planning Commission, and any other commission determined to be appropriate by the City Manager. Inconsistent improvements may be approved if the proposed changes to the improvements serve the City's best interest and/or when changes are necessary due to relevant changes in industry or the local economy.

Duties & Responsibilities

Homer City Code 18.08.120 Assignments

e. Where a lessee intends to assign the lease as part of a sale of the business located on the leased lot, the person who intends to purchase the business may apply to extend the lease term to allow the continuation of the business and to secure financing for the purchase of that business. Any significant changes in the terms (use) of the existing lease must be reviewed by the Port and Harbor Commission and approved by City Council by resolution as an amendment to the lease.

City Council's Role

City Council –

- Creates and Disbands boards and commissions by ordinance.
- Directs boards and commissions to consider any specific proposal, problem or project.
- Direction comes from Council, as a body, by memorandum or resolution.

Reporting Structure

- The Commission provides a written or verbal report at the Council Meeting that follows the Commission's meeting.
- Recommendations from the Commission regarding operations and maintenance of the port and harbor facilities are submitted to the City Manager by memorandum.
- Recommendations on matters directed by Council or on policy issues are submitted to Council by memorandum.

Homer City Code

- Outlines Commission duties and responsibilities
- Defines a quorum as four members
- Requires a quorum of members to conduct a meeting
- Directs that all members vote unless they have a conflict of interest or personal bias
- Defines that four yes votes are required to pass a motion
- Directs that voting by proxy is prohibited
- Directs that meetings will be conducted under the current edition of Robert's Rules of Order as the parliamentary authority

Chair's Responsibilities

Homer City Code 2.58.050 states:

The presiding officer shall preserve order and decorum at all meetings of the board or commission, while promoting discussion by all members in deliberations unless otherwise prohibited by law.

These duties are all about procedure and running a meeting well.

Chair's Responsibilities

Robert's Rules of Order outlines the responsibilities of the Chair are to-

- Open the meeting
- Announce agenda items as they come up
- Recognize members
- State questions and put them to vote
- Refuse to recognize frivolous motions

Chair's Responsibilities

- Enforce order and decorum
- Expedite business
- Decide questions of order
- Respond to inquiries (*i.e. requesting chair's opinion on a matter of parliamentary procedure*)
- Authenticate documents (*not applicable to city advisory bodies*)
- Close the meeting

The Chair

- Is a member of the body with the same voting and discussion rights as the other members. Robert's Rules recommends the Chair speak last.
- Can make motions in a small board or commission, but it's recommended that other member's make the motions, and the Chair state the question and put it to a vote.
- Is not a position where they can exercise their leadership to determine the outcome of a vote.
- Is not in control of the decision the group makes.
- Is not tasked with obtaining consensus of the group.
- Is not tasked to direct the membership regarding business matters.

Taking care of business

Before the meeting

➤ Agenda Packets

- Agendas are set by the Chair and Staff.
- Commissioners may request items be added to a commission agenda and must provide packet information, prior to agenda deadline.
- The agenda deadline is 5:00 p.m. on the Wednesday prior to the meeting day.
- Agenda packet material are provided to the Clerk, who prepares and distributes the agenda packets.

Taking care of business

At the meeting

- The Chair will announce agenda items in the order listed on the agenda and will ask for motions when necessary.
- Under pending and new business items, the Chair will open the floor to staff or a member to provide a report on the topic, and one or more motions to carry out the recommendations in the report may be introduced.
- If a public hearing is scheduled, the Chair will open the public hearing, the Commission will hear public comments, the Chair will close the public hearing and ask for motions when necessary.

Staff Liaison

- The City Manager designates an employee to serve as staff liaison to each board or commission.
- The staff liaison shall assist the chairperson in setting meetings, preparing agendas, and other documentary material, and coordinating the acquisition of needed materials and training.
- The staff liaison shall submit reports and recommendations for those agenda items requiring decisions or recommendations by the Commission.
- Other staff having experience, education, and professional training in the subject matter may provide input into the reports and recommendations, or may provide supplemental information.

Committees/Subcommittees

- Committees of one or more members for such specific purposes as the business of the Commission will only become active upon approval of Council.
- A memorandum and resolution will go before Council outlining the reason, tasks assigned and termination date.
- Committees shall be considered to be discharged upon completion of the purpose for which it was appointed, and after its final report is made to and approved by the Commission.

PHC Bylaws Article V. Section 1

Speaking on behalf of Commission or Enterprise

- The Commission acts as a body and speaks in the same manner.
- Messaging should be agreed to by the body.
- If a Commissioner is speaking to a matter on their own behalf, they should state that at the beginning of their comments.
- Questions or concerns about port and harbor operations should be directed to harbor staff.
- Citizens can be invited to the Commission meetings share their comments and concerns.

Sidebar Conversations

- Are inappropriate.
- Are disrespectful to the member of the public or the commission member who has the floor.
- To remedy, call for a point of order and ask for the sidebar to cease.
- Texts and notes passed between members during a meeting may be requested through a public records request.

Conflict of Interest

- Must be disclosed immediately after the Chair announces the agenda item.
- The member with the conflict announces they have a conflict of interest.
- It is moved and seconded by the Commission that the member has a conflict of interest.
- The member with the conflict discloses the conflict.
- The Commission votes. If the member is determined to have a conflict they must leave the dais for the duration of consideration of the matter.
- The decision of the Commission is final.

Standards and Prohibited Acts

City officials –

- a. Shall not knowingly make false statements to influence official action.
- b. Shall not participate in an action if they are the applicant, a party, or has a substantial financial interest in the subject of official action currently, or within a year of the of the official action.
- c. Are allowed to participate on behalf of the City when the City is the applicant.
- d. Shall not attempt to influence the City's selection of any bid or proposal
- e. Shall not participate in, vote on, or attempt to influence an appointment where substantial financial interest is a factor.

Standards and Prohibited Acts

City officials –

- f. Shall not participate in, vote on, or attempt to influence an appointment of a Planning Commissioner who will have a matter before the Commission as outlined in code.
- g. Shall not use their position for personal gain.
- h. Shall not use their office title or authority to unduly influence the decision of others or promoting personal interest within the community.
- i. Shall not represent private interests for compensation.
- j. Shall not disclose information they know to be confidential.
- k. May not engage in outside activities that are incompatible with the discharge of their duties or impair independent judgement.

Standards and Prohibited Acts

City officials –

- l.** Shall not accept gratuities.
- m.** Shall not use city property for any non-city purpose.
- n.** May not take part in political activities when on duty.
- o.** May not attempt to influence another city officials vote or position through contact with their employer or by threatening financial harm.
- p.** Shall not participate in public testimony in a matter they have substantial financial interest unless they are the applicant or fully disclose their interest.
- q.** Shall not interfere in administration and elections.

Standards and Prohibited Acts

City officials –

- r. Shall act impartially when conducting City business.
- s. Shall comply with City's workplace safety policies, harassment prevention, and respectful workplace policies set forth in the personnel regulations.

Open Meetings Act (OMA)

AS 44.62.310 Government Meetings Public

- ❖ All meetings of a governmental body of a public entity are open to the public, except as otherwise provided.
- ❖ Certain subjects may be considered in executive session
 - ✓ Matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity
 - ✓ Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion
 - ✓ Matters involving consideration of government records that by law are not subject to public disclosure
 - ✓ Matters which by law, municipal charter, or ordinance are required to be confidential

OMA definitions

A board or commission with the authority to advise or make recommendations to the public entity is a Governmental Body;

"governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members

Meeting- means a gathering of members of a governmental body when

- more than three members or a majority of the members, whichever is less, are present,
- the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act,
- and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

What constitutes a meeting?

- ❖ It's a gathering of at least 4 commissioners that's been prearranged to discuss a matter upon which the body is empowered to act, aka: commission business.
- ❖ Or other subordinate unit of a governmental body if the subordinate unit consists of two or more members.
- ❖ Or Emailing, texting, phone calls, or other communications between four or more commissioners to discuss commission business. (Serial Meeting)
- ✓ A matter on which the body is permitted to act includes every step of the decision making process, from brainstorming sessions to fine-tuning a proposal.

What if I run into other commissioners at a gathering or event?

- ❖ A social gathering arranged for a given social purpose and not prearranged to discuss matters on which the body can act is not a meeting.
- ❖ Chance encounters will not constitute a meeting, even if the members discuss a matter on which they could advise or make a recommendation.

But!!! Remember the public's perception is important so it's best to refrain from talking about commission business if you find yourself in these situations.

