

Session 24-10 a Special Meeting of the City Council of Homer, Alaska was called to order on April 25, 2024 by Mayor 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 ERICKSON, DAVIS, ADERHOLD, VENUTI, LORD

ABSENT: COUNCILMEMBER HANSEN (EXCUSED)

STAFF: INTERIM CITY MANAGER JACOBSEN
ACTING CITY CLERK KRAUSE
ATTORNEY HOLMQUIST

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

Mayor Castner called for a motion to approve the agenda.

LORD/VENUTI MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

NEW BUSINESS

- a. Appeal of the Interim (Acting) City Manager's Determination on a Public Records Request Submitted by Frank Griswold on February 26, 2024.

Mayor Castner reviewed the issue before the City Council. Frank Griswold submitted a request for records on February 26, 2024 and in accordance with Homer City Code 2.84.070 an appeal was filed to the Homer City Council of a decision by the acting now interim city manager. The Interim City Manager denied the request on the grounds that the appellant is involved in litigation. The Appeal record was prepared by the Acting City Clerk along with a Supplement to the Appeal Record.

Mayor Castner stated that in accordance with Alaska Statute as the presiding officer of the governing body he will act in that capacity during the appeal. He requested the Appellant to identify himself and to please take a seat at the lectern.

Mr. Griswold identified himself as the appellant for the record.

Attorney Holmquist, attending electronically, identified himself as representing the City of Homer.

Conflict of Interest

Mayor Castner requested declarations of Conflicts of Interest or ex parte discussions.

There were none declared.

Preliminary Matters

Mayor Castner stated that Appellant Mr. Griswold has filed two motions but would like to state for the record what the appeal record consists of and confirm that was what he (Appellant) was provided documented exchanges between Mr. Griswold and Acting City Clerk Krause and the Interim City Manager. There is no other evidence. The Council and Mayor have had no contact or provided any additional communication with anyone from JDO or another attorney concerning this matter. The Council or Mayor have not reviewed the records that were requested and that will be addressed later in one of the motions presented. He continued stating that if Mr. Griswold had an objection to the process that he advise him and maybe they can adopt some since he had objections to the Attorney Holmquist proposal. If there is something Mr. Griswold would like Council to consider please make the request.

Mayor Castner requested Mr. Griswold to state any additional preliminary matters that he would like to address at this time.

Mr. Griswold raised the issue of Bias over one party or another.

Mayor Castner stated that he can query the Council for Bias over one party or another but noted that each one has taken an oath to uphold the laws, state, federal and city. He then directed the question to Council asking if any member held bias against one side or the other.

There were no responses from Council.

Mr. Griswold then reviewed Black's Law Dictionary definition of "party"; Homer City Code 21.93.090 bringing forth the issue of representation of the City of Homer by Attorney Holmquist, stating that the City did not meet the definition of party and if the entire entity if the City of Homer is self-represented that the authorizing employee or officer should be submitted into evidence. He requested identification of the parties stating his belief that Attorney Holmquist representing the City of Homer was overly broad and should identify specifically whom he was representing and if in fact he was representing the entire city why then the Council would not be considered part of that entity.

Mayor Castner stated that Mr. Griswold brought his appeal before the Council so the two parties involved are the City Council and Mr. Griswold. Attorney Holmquist is here to represent the City of Homer, as the attorney of fact.

Attorney Holmquist responded that he represents the City of Homer since the Council is acting on a quasi-judicial manner in this appeal. The City of Homer is a party because that is the entity that made the decision regarding Mr. Griswold's request for public records and therefore would need to come to

this appeal and defend the decision in its legality. He reiterated that he represents the City not Council as they are acting in a quasi-judicial capacity.

Mayor Castner inquired if they were in a judicial capacity who would represent the City.

Attorney Holmquist stated that in a court of law he would be representing the City of Homer.

Appellant Griswold presented argument that Melissa Jacobsen who issued the adverse decision would be a party to this appeal but City Council would not be a party since they would be the judge in a court. The Court and thus the Council are not party to the appeal but are considered the judge and the adjudicatory authority. He continued stating that if Council was a party they could not be impartial, generally the people are the names captioned at the top of a lawsuit.

Mayor Castner interjected stating that there are two parties to the Appeal and they are both represented here and this is going to be the quasi-judicial body, to whom, if Mr. Griswold does not believe that Attorney Holmquist has standing then he will rule that Attorney Holmquist does have standing and they can proceed.

Mr. Griswold questioned that the Alaska Statute that Mayor Castner quoted for the record gives him the authority to make rulings on behalf of the higher body.

Mayor Castner responded, as the presiding officer and with a lay body there will not be full legal knowledge of what is going on.

Mr. Griswold confirmed that Mayor Castner was a lay person. He then stated that he did not believe that Mayor Castner could speak for the whole body as in questions of partiality of the other members unlike City Council procedures, in quasi-judicial procedures the Mayor cannot make the decision, the rulings are made by a majority of the body.

Mr. Griswold stated that he like to discuss procedural matters noting that in past appeals of denials of public records requests it has been City Council policy to approve a procedural notice for distribution to the parties well in advance of the hearings but no procedural notice was approved by this City Council for this hearing and he questioned why not and what procedures will apply for this hearing.

Mayor Castner responded that he is following the procedures outlined by Attorney Holmquist; there are preliminary issues and decisions that Council has to make. He noted that Mr. Griswold has requested Council stay anything until they made a decision on your original motion or on your secondary motion actually for not allowing you to access to records pertinent to this particular hearing. Mayor Castner stated he understood the secondary motion that was asked of Council.

Mr. Griswold stated that his bigger concern was that the Council was using procedures submitted by Attorney Holmquist who has stated he is not the Attorney for Council, he is concerned that Council did not have their own legal counsel, and even after repeated statements from Mr. Holmquist being that he is the only attorney in the room Council is taking his advice and this action was highly prejudicial to him. He went on to state that this has happened to him in almost every appeal he has been involved

in recently and believed that it would have been different if Council hired separate counsel for themselves.

Mayor Castner provided that it seems straight forward reviewing the format of the procedures.

Councilmember Aderhold reported that this was the first time Council has met to have a conversation regarding this appeal, we cannot issue a stay because they have to meet as a body, in public. She also pointed out that Mr. Griswold had the opportunity to suggest different alternative procedures, noting there were some ideas but Mr. Griswold did not submit anything. She noted that Council cannot make the decisions in the background, they have to meet in public as a body to issue a stay.

Mr. Griswold argued that Council had weeks to schedule a meeting and there was nothing prohibiting the Council from doing that and related his experience before a Hearing Officer with the OAH (Office of Administrative Hearings) noting the motions flowing all the time and he was not convinced that Council could not have met in Executive Session to decide these things.

Mayor Castner stated for the record that Council recently received the documents and has had no opportunity to schedule and meet as a body to approve procedures prior to this meeting tonight.

Attorney Holmquist stated that in the City's perspective there is concern with proceeding today with the appeal hearing since there is no clarity on the hearing procedure. He acknowledged that Mr. Griswold opposed the procedures submitted by the City but did not submit any alternative procedures.

Mr. Griswold opposed the city procedures since they did not contain in camera review of the requested documents or the ability to call witnesses. The City procedure also included filing written briefs along with oral arguments. The city has not filed written briefs since there was no authorization from Council. The difficulty is that City Code is completely open ended with regard to the type of procedures that could be employed for this type of appeal. It is at the discretion of City Council and it would be a benefit to all parties for clarity on the process before going forward with the hearing. Mr. Holmquist suggested dealing with the pre-hearing issues and setting another date to hear the oral arguments. City Council could determine in the interim the procedures that would apply to the appeal in general.

Mayor Castner addressed Mr. Griswold and requested his input on whether he would like to have this issue heard by a Hearing Officer as opposed to City Council.

Mr. Griswold responded that he would, however, Council does not have the authority to put this to a hearing officer, council can only follow city code, and encouraged the Council to follow city code. He stated that there was nothing in city code that required him to prepare procedures for Council for an appeal, that it was their duty to approve procedures. He reported that procedures used 15 years ago, prepared by Attorney Joe Levesque were presented to him and when he asked if they were approved by City Council, he received a response from Mr. Holmquist, not the City Clerks, so Mr. Holmquist knew, ex-parte, that the procedures were not approved by City Council. Mr. Griswold continued stating that Attorney Holmquist had the ability, time and staff to execute 10 page briefs, this was a continuation

of the situation, regarding the knowledge and ability of Council to meet and prepare procedures, Attorney Holmquist by preparing a 10 page brief this is the template for Council to make their decision.

Mayor Castner agreed and stated that he, Mr. Griswold, stated that the question before the Council is whether to disclose the public records that he, Mr. Griswold, requested and that is a pretty simple question, Does Council follow city code? Do they disclose the records? Does Council follow the urgings of the other party or does Council engage in something that has turned into a multi-step process of calling witnesses, commenting he had no idea where Mr. Griswold was going with that exactly, but should Council turn it into a thing because he asked for records that pertain to this proceeding, not to the records that you originally asked for.

Mr. Griswold responded that he was requesting records for discovery to show what the precedent has been because he has checked that box on the request form before and it was never a problem but now it is. He further explained that it was unknown to him if others have but he wanted that information before the Council since it would not mean much to just state, "This is what happens". He wanted to review what previous policies of the city were and an explanation why in the past, if my premise if true it was not an issue, and now it is. Mr. Griswold stated that he believed there were ulterior motives and it is not cut and dry.

Mayor Castner then asked Appellant Griswold if he would like Council to act on the stay tonight, noting that no one has submitted an email to City Council that the Appellant requested the action. He did not want the stay now. He requested it two weeks ago.

Mr. Griswold stated that he submitted motions to the Clerk requesting that they be submitted to City Council right away regarding the stay on April 5th and on April 9th the motion for in camera review then on April 10th he sent an Email to Renee Krause requesting she forward the motions to Homer City Council as soon as possible so that it can be ruled upon in advance of the hearing as it would be prejudicial to him to have to wait to find out if he can call witnesses or whether the hearing would be stayed, furthermore his motion for in camera review needs to be ruled on in advance of the so that if granted the public records are available for review by Council at the hearing, additionally he referenced that in administrative appeals before a hearing officer motions by parties are routinely ruled upon in advance of the actual hearing and referred to OAH 23-0320-MUN which is page 31 of the record.

Mayor Castner acknowledged that Mr. Griswold submitted the documents but that Council did not receive notifications and tonight this is the first they were reviewing the documents.

Councilmember Lord recommended that they go back to the original question of do they treat this as a preliminary hearing and address the preliminary motions and concerns and then set another subsequent hearing date and if both parties want to object then we can move forward with what is presented, she would not object to that action but she is hearing a lot of discontent from one party.

Councilmember Aderhold noted that she would like guidance from the City Clerk but noted that they are on a timeline and if they could make this a preliminary hearing, take time to make those decision then come back again to make those decisions since they are at the end of the timeline.

Councilmember Davis questioned that if they are operating under the City Council then the Attorney for the Council should provide direction on what they are supposed to do.

Mayor Castner stated that when they directed everything to a Hearing Officer, it was removed from City Code so there is no process.

Councilmember Lord clarified that there is no city code or written adopted policy that can provide direction to the Council sitting as a quasi-judicial body.

Councilmember Aderhold stated that they are near the end of the 30 days and questions if and what can be done to extend the timeline.

Mayor Castner offered that they have started the procedure and believed that they have a certain number of days to issue a decision but the Council has not actually heard the appeal and is still addressing preliminary issues, this is not Mr. Griswold's fault but he agreed with Councilmember Lord that as a quasi-judicial body the Council can make a ruling and not run the clock out on Mr. Griswold.

Councilmember Aderhold requested guidance from the Clerk regarding the timeline when a decision has to be made and when there is an appeal what leeway that Council has relative to what it states in city code. She expressed wanting to hear the Clerk as their parliamentarian.

Acting City Clerk Krause responded that in city Code that addresses appeals for public record requests section 2.04.070 states that Council will consider and decide the appeal within 30 days.

Councilmember Aderhold questioned, with the understanding Council must address the appeal and make a decision within 30 days, if a continuation could be done with the approval of both parties.

Mayor Castner read into the record that Homer City Code 2.84.070 (c) An appeal to the City Council decision may be made to the Superior Court within 30 days after the decision is distributed to the parties.

Attorney Holmquist stated that he previously noted that the City would be agreeable to a continuance and certainly with agreement from all parties that City Council could extend the 30 day deadline particularly if it was to resolve preliminary pending pre-hearing motions and set forth a hearing procedure.

Mr. Griswold objected stating that city code did not allow extending the deadline for good cause and the city code is very scant so that is the only option available to Council. Council does not have the authority to make any changes and he filed his appeal on March 20, 2024 and again on March 21, 2024 and even with consideration that 30 days was on a Saturday, April 20, 2024. Even if you extend it to the following Monday, they have exceeded the 30 day deadline. He further stated that he has prepared and does not want continue this action, plus he has additional preliminaries to address.

Council member Lord stated that Council should have the authority to recess into Executive Session so at any point that Council decides that it would be a good time to have that conversation.

Mayor Castner offered caution on recessing as there should be the opportunity for presentation before Council determines to proceed or dispense. If it's a procedural thing he did not see any reason that Council could not recess.

Councilmember Lord assured the Mayor it would be procedural.

Mr. Griswold read into the record Homer City Code 2.84.070 (a) (b) and (c). This is all there and he did not see where Council could deviate from that and in other sections elsewhere in code it is allowed noting that anything can come up.

Attorney Holmquist did not have anything to add at this time.

Mr. Griswold read into the record his emails from March 21, 2024 through April 5, 2024 regarding his requests for discovery and the response or lack of response from the Acting City Clerk.

Mayor Castner interjected that Council has the information and the complete record and believed that Council in preparation for the Hearing has reviewed the information in the Appeal Record.

Mr. Griswold stated that previously Council stated that they just received the record.

Mayor Castner assured Mr. Griswold that Council is cognizant of the timeline and they are cognizant of what Mr. Griswold had requested. He noted there were repetitive things back and forth.

Mr. Griswold stated he had one more preliminary matter, and that was Homer City Code 2.16.010 Duties of the City Attorney and read into the record Homer City Code 2.16.010. He stated the following items were not clear regarding City Attorney Holmquist:

- when he first got involved in this matter; and
- why his alleged representation of the City of Homer would exclude City Council which is inextricably associated with the City of Homer; and
- whether he authored or "ghost wrote" the letter dated March 20, 2024 on page 8 or the Appeal Record signed and mailed by Acting City Manager Jacobsen; and
- whether he dictated or otherwise influenced the responses submitted by Deputy City Clerk Krause; and
- advised City Manager Rob Dumouchel regarding disclosure of my February 26, 2024 Public Records Request or if not, why not
- Even though stated, the long standing professional relationship with the City Council creates a city council bias/partiality in favor of Mr. Holmquist and his unnamed clients

Mr. Griswold read into the record Homer City Code 1.18.020 and noted that it did not say that your bias has to be as the Mayor stated outrageous, it just has to be that a reasonable person would consider it,

that it could impair your decision, it doesn't mean that it would definitely mean that you would rule one way or the other, it is a very low bar, so how could any City Council member not have a bias or prejudice in favor of its own city attorney? The City Council's hiring of independent legal counsel would have helped mitigate the inherent prejudice created by the City Attorney's participation in this matter and would suggest that some or all of the members present have what is called an implicit bias one that you may not have been aware of before and especially if you never knew what constitutes partiality.

Mayor Castner stated that that statement is a lot like asking a jury if they can decide something fairly, and Council has already addressed that question, Can you decide something fairly? They all said that they could. Further, It could be true that Mr. Holmquist and Mr. Gatti consulted with the City Clerk and the City Manager but the Council has not and has not consulted with anyone else for that matter but Mr. Griswold you are implying that by some connection that Council has consulted with the City Manager, City Clerk or City Attorney that Council has some sort of a bias.

Mr. Griswold argued that by using and accepting the City Attorney's procedure shows bias.

Mayor Castner argued that it is a simple appeal and he could not understand and Mr. Griswold did not submit something, but he would like to offer Attorney Holmquist the opportunity to present preliminary items.

Attorney Holmquist briefly explained that in response to Mr. Griswold request for discovery records request, there is no authorization in city code or requirement for this type of appeal. Discovery requests are typically done in court proceedings, this is quasi-judicial action. What is actually was is a public records request and having used the public records request form for the February 26th public records request, Mr. Griswold is refusing to use it for this second public records request that would easily be resolved if he is willing to submit the form properly as the Acting City Clerk suggested. As to the city's representation or the city attorney's representation of the city in this case he would note that the Superior Court has already rejected on the issue that Mr. Griswold raised in the same argument regarding Homer City Code 2.16.020 that the ordinary practice of the city attorney, representing the city as a party in a quasi-judicial proceeding is entirely appropriate.

Mayor Castner requested clarification on his statement regarding the public records and discovery.

Councilmember Lord recommended that they recess to discuss preliminary matters, not to discuss dispensing the actual matter at hand, but the preliminary matters raised over the past hour.

Councilmember Aderhold supported that action but wanted to ensure that all present understood what they would be discussing.

Councilmember Lord stated that as a body the Council would be discussing the preliminary matters of request for records from March 21st, the motion to stay, next steps for the how they want to proceed for the rest of the meeting and the lack of legal counsel for the City Council and timeline.

Acting City Manager Jacobsen advised that in accordance with the Open Meetings Act a quasi-judicial body cannot go into executive session they recess into deliberation.

LORD/ADERHOLD MOVED TO RECESS INTO DELIBERATIONS TO DISCUSS PRELIMINARY MATTERS ON THE MATTER AT HAND.

There was no discussion.

Mayor Castner requested the Clerk to perform a roll call vote.

VOTE. YES. LORD, ADERHOLD, DAVIS, ERICKSON, VENUTI

Motion carried.

Mayor Castner recessed to Deliberative Session at 7:03 p.m. The meeting was called back to order at 7:26 pm

Mayor Castner requested if Council had any motions to address after preliminary deliberations.

LORD/ ADERHOLD MOVED TO DENY THE MOTION TO STAY.

There was no discussion.

Mayor Castner requested the Clerk to perform a roll call vote.

VOTE. YES. VENUTI, LORD, DAVIS, ADERHOLD, ERICKSON

Motion carried.

Mayor Castner recognized Councilmember Lord.

LORD/VENUTI MOVED TO DENY THE DISCOVERY REQUEST FOR MR. GRISWOLD'S MARCH 21ST RECORDS REQUEST AND THE REQUEST FOR IN CAMERA REVIEW.

There was no discussion.

Mayor Castner requested the Clerk to perform a roll call vote.

VOTE. YES. DAVISERICKSON, LORD, VENUTI, ADERHOLD

Motion carried.

Mayor Castner recognized Councilmember Lord.

LORD/ADERHOLD MOVED TO PROCEED WITH THE APPEAL HEARING PROVIDING EACH SIDE WITH 10 MINUTES FOR ORAL ARGUMENTS AND PROVIDING MR. GRISWOLD CAN RESERVE TIME FOR REBUTTAL.

There was no discussion.

Mayor Castner requested the Clerk to perform a roll call vote.

VOTE. YES. ERICKSON, DAVIS, VENUTI, ADERHOLD, LORD

Motion carried.

Mayor Castner stated for the parties present that Council was prepared to hear oral arguments and to make a decision this evening. He requested Mr. Griswold to proceed.

Mr. Griswold presented argument that in the previous procedural notices there were provided 20 minutes was given to both parties. He stated that the parties should have been consulted and was not confident that he could make his oral argument in the time allowed but would do his best.

Mr. Griswold presented his oral argument covering

- when he submitted his public records request on February 26, 2024, the litigation ended on March 11, 2024 and they are awaiting the decision from the Administrative Law Judge.
- He received a letter from City Manager Dumouchel stating that additional time was needed to respond to this request and that it should be completed by March 20, 2024.
- On March 14, 2024 Mr. Dumouchel's contract with the city was terminated.
- On March 20, 2024 Acting City Manager Melissa Jacobsen denied his request to inspect the records citing Homer City Code 2.84.055.
- On March 20, 2024 he appealed the denial of the February 26, 2024 Public Records Request and refiled the appeal on March 21, 2024.
- Cited Alaska Statute 40.25.120 (a) (4) regarding inspection rights of municipal records, providing court case information for relevant cases supporting the regulations.
- Stated that Homer City Code 2.84.055 distorts Alaska Statutes 40.25.122 by falsely giving the impression that public records sought by individuals involved in litigation are exempt from disclosure. He noted that Alaska rules of civil procedure set forth procedures pertaining to obtaining discovery for civil cases but no City of Homer Administrative adjudication forum provides any rules specifically addresses the disclosure of public records.
- Referenced Homer City Code 21.93.510 (a) which applies to Zoning Appeals and addresses the introduction of new evidence but does not address obtaining evidence via the public records request process.
- Stated that even if he intended to submit the new evidence (regarding Appeal of CUP) it would not be consistent with Homer City Code Title 21, Alaska Statutes or the State Constitution.
- Alluded that City Clerk Jacobsen may have personal interest in 106 W Bunnell Avenue or the owners of that property and the subject records may include correspondence to or from her.
- An acting city manager has no authority to override another city manager's decision, stating that denying litigation disclosure constitutes a quasi-judicial decision and citing Homer City Code 1.18.048 would be applicable as would Homer City Code 1.18.040 (e) if there was found to be partiality and bias.

- Additionally, requested the following information:

1. In light of the fact that previous public records requests involving persons involved in pending administrative appeals were approved why was his February 26th Public Records Request denied?

2. Why did City Manager Dumouchel after serving 3.5 years in office approve his request of February 26th only to have his determination overruled by Acting City Manager Jacobsen after only assuming the role a few days earlier?

3. Regarding Homer City Code, if records were presented for in camera review the Council would know whether they were processed or not and if there were no records then the request was moot;

4. Homer City 2.84.055 Litigation disclosure. Why did the city contort AS 40.25.122 instead of adopting it into city code verbatim?

5. Why did the City deny in camera review of the public records at issue including those pertaining to the March 21, 2024 public records discovery request? Does Council wish to hide public records and potentially critical evidence from itself?

City Council heard oral argument from Attorney Holmquist as follows:

- There is pending Administrative Appeal in the Matter of Conditional Use Permit 23-04 and Conditional Use Permit 23-01 that is before the Office of Administrative Hearings.
- Mr. Griswold is a party to those appeals
- The subject property is 106 West Bunnell Avenue, Homer, Alaska
- Restaurant owner is Melody Livingston, and applicant for the Conditional Use Permits. A previous permit CUP20-15 was pulled by the Applicant.
- Mr. Griswold requested to supplement the record before the Hearing Officer to include all records pertaining to CUP 20-15 and all correspondence between the city planner, members of the planning department, Melody and Scott Livingston regarding either the prior CUP 20-15 or the more recently issued CUP 23-04 or CUP 23-01.
- Mr. Griswold did not possess those records and was asking the Hearing Officer to order the city to produce them and then add those records to the record on appeal.
- The Hearing Officer denied Mr. Griswold's request to supplement the record with respect to those records.
- The Administrative Appeal remains pending as it has not been decided. That leads to the public records request which is similar category to Mr. Griswold's request to supplement the Appeal Record for the ongoing Administrative Appeal. The Records Request is for all emails and

correspondence to and from Asia Freeman and or melody Livingston pertaining to activities at 106 West Bunnell Avenue

- Mr. Griswold indicated that he was involved in litigation with the City and also the case number and indicated that his request pertains to the litigation matter so his public records request was denied in accordance with Homer City Code 2.84.055.
- The denial explained and provided the reason and code and since the records involve the property involved in the appeal that brings the applicability of HCC 2.84.055. The disclosure of records used for, included in, or appeal is governed by the rules and orders of that forum not this chapter. This Chapter meaning Homer City Code Chapter 2.
- Mr. Griswold was required to go to forum where the matter was being litigated to make the request rather than go around that forum and make a public records request. The litigation exception has policy behind it that the Supreme Court has explained on a number of occasions in that the Government is not disadvantaged in litigation by its public records statutes or ordinances and has the same protections afforded all litigants by the court rules governing discovery even when documents sought are public records.

Mr. Griswold provide rebuttal that the matter of his Appeal of Conditional Use Permit 23-04/01 was completed and that he followed the rules and procedures precisely through the Hearing Officer. It was denied. All proceedings in that case have concluded, there is no possibility of getting records added. If he would have received an email with the Decision from the Hearing Officer he could uncheck the box on his records request form. He did everything properly and now he was being punished and there is no justification for it.

Mayor Castner stopped Councilmember Davis finishing his question to Attorney Holmquist due to crossing the line of legal advice and he is a party to the opinion.

Councilmember Lord addressing Attorney Holmquist explained that according to Mr. Griswold except for the written decision the matter is done, but he was representing that the Appeal is still very much pending can you describe your understanding of where that administrative appeal is in its life and what or where we are in the conclusion of it.

Attorney Holmquist provided the short answer, at the end. There was an appeal record produced, initial hearing, record produced, litigation or motions back and forth regarding what was included in the record, briefing submitted by both parties, oral arguments and now we are waiting on the final decision to be handed down. It remains pending but is near the end of the proceeding.

Mayor Castner requested additional questions hearing none he requested a motion to recess to deliberate.

LORD/VENUTI MOVED THE BODY RECESS TO DELIBERATE THE ISSUE BEFORE THEM.

There was no discussion.

Mayor requested the Clerk to perform roll call vote.

VOTE. YES. DAVIS, ERICKSON, LORD, VENUTI, ADERHOLD

Motion carried.

Mayor Castner recessed the meeting at 7:54 P.M. The meeting was called to order at 8:17 p.m.

Addressing Councilmember Lord, Mayor Castner asked if Council reached a decision.

Councilmember Lord stated that they have and expect that the decision will be records and presented to all parties.

Homer City Council acting as a Board of Appeal under Homer City Code 2.84.070 Have made a decision pursuant to Homer City Code 2.84.055 and the Public Records exemption under Alaska Statutes 40.25.122 and that such upholds the denial of the Appellant Frank Griswold's February 26, 2024 Public Records Request. The Board makes no decision in any other matters raised.

Mayor Castner polled the City Council that all present are in agreement.

LORD/VENUTI HOMER CITY COUNCIL ACTING AS A BOARD OF APPEAL UNDER HOMER CITY CODE 2.84.070 HAVE MADE A DECISION PURSUANT TO HOMER CITY CODE 2.84.055 AND THE PUBLIC RECORDS EXEMPTION UNDER ALASKA STATUTES 40.25.122 AND THAT SUCH UPHOLDS THE DENIAL OF THE APPELLANT FRANK GRISWOLD'S FEBRUARY 26, 2024 PUBLIC RECORDS REQUEST. THE BOARD MAKES NO DECISION IN ANY OTHER MATTERS RAISED.

There was no further discussion.

VOTE. YES. VENUTI, ADERHOLD, DAVIS, ERICKSON, LORD

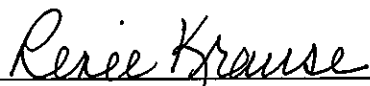
Motion carried.

COMMENTS OF THE AUDIENCE

COMMENTS OF THE CITY ATTORNEY

ADJOURNMENT

There being no further business to come before the Council Mayor Castner adjourned the meeting at 8:15 p.m. The next Regular Meeting is Monday, May 13, 2024 at 6:00 p.m. and Committee of the Whole at 5:00 p.m. Work Session at 4:00 p.m. All meetings are scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska and via Zoom webinar.



Renee Krause, MMC, Acting City Clerk

Approved: May 13, 2024