

Session 16-02 a Regular Meeting of the Homer City Council was called to order on January 25, 2016 at 6:00 p.m. by Mayor Mary E. Wythe at the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS: ADERHOLD, LEWIS, REYNOLDS, SMITH, VAN
DYKE, ZAK

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
CITY ATTORNEY WELLS
CITY PLANNER ABOUD
POLICE CHIEF ROBL
PORT AND HARBOR DIRECTOR HAWKINS

Council met for a Worksession from 4:00 p.m. to 4:50 p.m. to discuss Strategic Doing – American Disabilities Act and Memorandum 16-019. From 5:00 p.m. to 5:56 p.m. Council met as a Committee of the Whole to discuss Ordinance 16-04, Memorandums 16-016 and 16-017, and Consent and Regular Meeting Agenda items.

Department Heads may be called upon from time to time to participate via teleconference.

AGENDA APPROVAL

(Addition of items to or removing items from the agenda will be by unanimous consent of the Council. HCC 1.24.040.)

There was no supplemental agenda.

Mayor Wythe called for a motion for the approval of the agenda.

LEWIS/REYNOLDS – SO MOVED.

Mayor Wythe called for a motion to move New Business Item C – Memorandum 16-015 City Manager’s Evaluation to be heard after Comments of the City Council.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Scott Adams, city resident, opposes Memorandum 16-014. He reminded Council they extended the lobbyist contract and at the last meeting still wanted to send three people to Juneau. Now they want to send one person to Juneau.

Carrie Harris, city resident, commented on the Strategic Doing priority list (Worksession). She votes for no on all projects except ADA which is a requirement.

Rika Mouw, city resident, questioned why speed limits, permissible activities, trash, and fire size were not spelled out in Ordinance 16-05. Currently all beaches below mean high tide line lie within Kachemak Bay critical habitat area. Fish and Game is likely to approve a tidelands permit on Bishop's Beach west of the parking lot, but they are not going to issue a permit for tidelands east of the Spit. It is premature to direct vehicular use in Area 1.

Jeremiah Emmerson, Alaska Small Cultivators Association, commented on Ordinance 16-04. He favors the attorney's advice on conditional use permits. He sees opportunity for revenues, increased public safety, and tested products. He has been fighting for limited cultivation facilities in rural residential areas to create an incentive for home-based growers to enter the legal growing market. If neighbors bring up a valid concern the State will investigate it. We may see our product exported to other cities that have opted out.

Tim Clark, city resident, commented on Ordinance 16-04. The green area on the map is not enough room for growing marijuana. There are a lot of black market growers and not allowing it in urban or rural areas will keep the black market going. There is a high demand for marijuana and not enough warehouses or buildings in the proposed areas. As to Ordinance 16-05, a person would be fined for driving over the storm berm to get to the west side of Bishop's Beach.

Louise Ashman, city resident, commented on Ordinance 16-05. Restricting driving in Areas 7, 6, and 4 is good; Council should look at including Area 1. Area 8 (to the west of the access) will still allow vehicle access for coal picking and vehicle enhanced recreation. She hopes the other recommendations from the Parks and Recreation Advisory Commission can be put into ordinance.

Crisi Matthews, city resident, spoke on Ordinance 16-04. She provided written information from Colorado on the adverse effects of marijuana legalization. She opposes retail marijuana on the Spit.

Chad Matthews, city resident, commented on Ordinance 16-04. He asked that the Spit be protected as it is a large tourist destination and big driver of income and taxes for the community. There are a lot of near fatality wrecks and a marijuana dispensary there would encourage people under the influence to go to the Spit and get more. He referenced the negative effects that marijuana legalization has had on Denver, Colorado.

RECONSIDERATION

CONSENT AGENDA

(Items listed below will be enacted by one motion. If 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 January 11, 2016. City Clerk. Recommend adoption.
- B. **Memorandum 16-010**, from Mayor Wythe, Re: Appointment of Beth Carroll to the Cannabis Advisory Commission and Appointment of Councilmember Heath Smith as a Consulting Member of the Economic Development Advisory Commission.

Moved to New Business, Item C. Zak

- C. **Memorandum 16-011**, from Deputy City Clerk, Re: Liquor License Renewals for Homer Brewing Company, Oaken Keg #1832, Save-U-More Liquor #6, Harbor Grill, and Cosmic Kitchen.
- D. **Resolution 16-015**, A Resolution of the Homer City Council Establishing a Regular Meeting Schedule for 2016 Strategic Doing Work Sessions. Mayor/Council. Recommend adoption.

Item B, Memorandum 16-010 was moved to New Business, Item C. Zak.

Mayor Wythe called for a motion for the approval of the recommendations of the consent agenda as amended.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS

- A. Borough Report
- B. Commissions/Board Reports:
 - 1. Library Advisory Board
 - 2. Homer Advisory Planning Commission
 - a. Minutes of January 6, 2016

Planning Commission Chair Don Stead reported the commission passed the marijuana ordinance to the Council. The commission held a public hearing and six people were supportive of loose rules associated with the ordinance. The commission was looking at towers, has held a public hearing, and will pass that ordinance to Council.

- 3. Economic Development Advisory Commission
- 4. Parks and Recreation Advisory Commission

Parks and Recreation Advisory Commissioner Deb Lowney reported they distributed 250 doggie pick-up disposable bags and containers. They were distributed to four non-profits to educate people of the importance of cleaning up after pets. People were enthused to kick it off. In that process the commission realized the need for more trash cans around town. Speaking on her own behalf, Commissioner Lowney supports the updated portion of Ordinance 16-05. The commission was not able to review it, but would have liked to have seen greater restrictions. There is conflict of what's being said and what is being allowed on the beaches. She encouraged the Council to address dogs in public spaces and parking lots as free running dogs have caused a lot of problems. The commission would like to see a leash law in parking lots and within a certain distance of parking lots so people can feel safe and comfortable. The HERC building space and its use continues to be of great concern to the commission and the public. She questioned how the numbers were obtained to place restrictions on the HERC.

- 5. Port and Harbor Advisory Commission
- 6. Cannabis Advisory Commission

Cannabis Advisory Commissioner Carrie Harris reported the commission discussed the City's need to get taxes back that the Borough places on marijuana sales.

- C. Letter from Mayor Wythe in Support of Kachemak Bay National Estuarine Research Reserve Transfer Proposal.

PUBLIC HEARING(S)

- A. **Ordinance 15-43(S)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 3.10.130, Governance of Homer Permanent Fund Assets, Regarding the Management of Investments of the Homer Permanent Fund. City Clerk/Permanent Fund Committee. Introduction November 23, 2015, Public Hearing and Second Reading December 7, 2015, Postponed to January 11, 2016, Substitute Introduced, Public Hearing January 25, 2016.

Memorandum 15-190 from Permanent Fund Committee as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 15-43(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 16-01(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010 Declaration Of Candidacy Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of

Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Ordinance 16-01(A)(S), An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.030, Composition of Governing Body – Terms of Office, Homer City Code 4.10.010, Declaration of Candidacy, Homer City Code 4.35.010, Review of Election Documents by Canvass Board, and Homer City Code 4.40.010, Runoff Election – Required; and Enacting Homer City Code 4.35.020, Votes Required to be Elected, Homer City Code 4.35.030, Tie Vote, and Homer City Code 4.35.040, Certification of Election; Regarding the Procedure for Electing the Mayor and Council Members. Mayor.

Memorandum 16-003 from City Clerk as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion to substitute Ordinance 16-01(A)(S) for Ordinance 16-01(A).

LEWIS/REYNOLDS - SO MOVED.

Mayor Wythe called for a motion for the adoption of Ordinance 16-01(A)(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS – SO MOVED.

Council discussed redundant language on Lines 28 – 32 when a person shall take office. It was clarified that one applies to a regular election and one applies to a run-off election.

Mayor Wythe called for a recess at 6:39 p.m. and reconvened the meeting at 6:41 p.m.

ZAK/REYNOLDS - MOVED TO AMEND LINE 42 CHANGING 4:30 P.M. TO NOON.

Councilmember Zak requested the candidacy filing period be consistent with the Borough. In the past, candidates who have filed in the afternoon have not been included in the candidate packet.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ZAK/LEWIS - MOVED TO FURTHER AMEND THAT ANYWHERE ELSE 4:30 P.M. SHOWS UP WE CHANGE THAT TO 12:00 P.M.

There was no discussion.

VOTE: (secondary amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Vote: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Ordinance 16-02**, An Ordinance of the Homer City Council Amending the 2016 Operating Budget by Appropriating Funds in the Amount of \$20,000 From Port and Harbor Reserves to Purchase Eight Light Emitting Plasma (LEP) Lamps for the Fish Dock. City Manager/Port and Harbor Director. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Memorandum 16-007 from Port and Harbor Director as backup.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-02 by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Ordinance 16-03(S)**, An Ordinance of the City Council of Homer, Alaska Amending Ordinance 13-03(S)(2) to State the Actual Principal Amount of, and Change the Payment Dates for, the Natural Gas Distribution Special Assessment Bond Authorized by Ordinance 13-02, and Authorizing an Amendment to the Loan Agreement Between the City and the Kenai Peninsula Borough Regarding the Bond. City Manager. Introduction January 11, 2016, Public Hearing and Second Reading January 25, 2016.

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

Mayor Wythe called for a motion for the adoption of Ordinance 16-03(S) by reading of title only for second and final reading.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

E. **All Hazard Mitigation Plan 2015 Update**

Mayor Wythe opened the public hearing. In the absence of public testimony, Mayor Wythe closed the public hearing.

ORDINANCE(S)

- A. **Ordinance 16-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.18, Central Business District; Homer City Code 21.24, General Commercial 1; Homer City Code 21.26, General Commercial 2; Homer City Code 21.27, East End Mixed Use; Homer City Code 21.28, Marine Commercial; Homer City Code 21.40 to Identify the Zoning Districts Permitting Marijuana Facilities and Adopting Chapter 21.62 Entitled "Marijuana Facilities" Regarding General Land Use Requirements for Marijuana Cultivation, Manufacturing, Testing, and Retail Facilities. Planning Commission. Recommended dates: Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.

Memorandum 16-016 from City Clerk as backup.

Memorandum 16-017 from City Planner as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 16-04 for introduction and first reading by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

REYNOLDS/LEWIS - MOVED TO AMEND TO STRIKE SECOND READING ON FEBRUARY 8TH AND HAVE A PUBLIC HEARING ON FEBRUARY 8TH AND A SECOND PUBLIC HEARING AND FINAL READING ON FEBRUARY 22ND.

Mayor Wythe and Council expressed the need for an additional public hearing for people that are concerned or interested in the ordinance. Council may have changes to the ordinance also.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

LEWIS/REYNOLDS – MOVED TO AMEND THE CENTRAL BUSINESS DISTRICT (CBD) WHICH IS CUP (CONDITIONAL USE PERMIT) ONLY TO HAVE IT TO WHERE IT IS PERMITTED OUTRIGHT.

The amendment would require complaints to be presented at the state level instead of litigation against the city.

Asked about the liability of the CUP process, City Attorney Wells advised the CUP process has criteria with substantially related terms and wiggle room that creates vulnerability for legal challenges. Communities are putting a moratorium on the CUP process while others are using CUPs. It comes with legal costs that cannot be predicted. We will have a better understanding once the industry gets going in communities that are using CUPs.

Councilmember Lewis reminded Council the City has had a lot of litigation on CUPs and zoning issues. He would just as soon pass that cost off to the State instead of us bearing that cost.

VOTE: (amendment) YES. LEWIS, SMITH, ADERHOLD, REYNOLDS, ZAK, VAN DYKE

Motion carried.

Councilmember Van Dyke commented on Marine Commercial. The Homer Spit draws people from all over the state with families. There is the Homer Ice Rink, Nick Dudiak Fishing Lagoon, and parks and campgrounds up and down the Spit. Each one has tons of families and children. He would like to see no cannabis activity on the Spit.

VAN DYKE/SMITH– MOVED THAT MARINE COMMERCIAL BE A NO SALE ZONE.

Councilmember Lewis questioned the depiction of the Spit as a great, wholesome place with Salty Dawg Saloon, other bars and liquor stores, and five or six guys sitting out at night after a day's charter pounding down beers. It's not a good analogy to restrict the cannabis business there. On his visit to Denver he did not see derelicts hanging outside. There are laws on advertising.

Councilmember Smith asked what the economic benefit is that we are projecting versus the social costs.

Councilmember Lewis answered the problems are already there; we aren't going to bring anything new. The product and alcohol are there and some will use both. Those that want to use one or the other will use one or the other. It will not create more smoking and driving. Those that are going to do it will regardless if it is legal or not.

Mayor Wythe commented the majority of properties on the Spit are City of Homer properties. In complying with the eight guiding principles to keep us out of the federal target zone, one of those is growing marijuana on public lands and the public safety and environmental dangers posed by marijuana production. Although there wouldn't be marijuana growing on the Spit, people could not lease city properties to sell marijuana. We can start smaller and if it makes sense we can grow.

VOTE: (amendment) YES. ADERHOLD, ZAK, SMITH, VAN DYKE

VOTE: NO. REYNOLDS, LEWIS

Motion carried.

ZAK/VAN DYKE – MOVED TO AMEND TO MAKE THE HOMER SPIT A BUFFER ZONE.

City Planner Abboud advised no buffer is needed if Marine Commercial is a no sale zone. Adding a buffer to the Spit could be decided by the Planning Commission at a later date.

VOTE: (amendment) YES. VAN DYKE, ZAK, SMITH

VOTE: NO. REYNOLDS, ADERHOLD, LEWIS

Mayor Wythe broke the tie with a NO vote.

Motion failed.

ADERHOLD/LEWIS - MOVED TO AMEND LINE 20 to CHANGE the WORD "MANUFACTURER" TO "MANUFACTURE."

There was no discussion.

VOTE: (amendment) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Zak asked the advantages or disadvantages of making regulations now versus later.

City Attorney Wells advised there are pros and cons to making regulations now or later. Juneau used to have a moratorium on their CUP process, but has now passed an ordinance zoning and regulating it and implementing the CUP process. They are going forward and have something on the ground. The City of Ketchikan does not have regulations and just made a decision not to ban it. The Ketchikan Gateway Borough has provided limited zoning. Homer will be somewhere in the middle time wise. The timeline from the Marijuana Control Board is: February 21 the application process will be initiated. The State is anticipated to take 90 days to start processing applications. The focus will be on manufacturing and cultivation facility applications. The manufacturing, cultivation, and testing of product are necessary before you can retail it. In mid-May applications will be processed and it will be even longer before you see retail facilities going into operation. February 24, 2016 is not the date when applications will go in to be processed. It is advisable to be ahead of the May date. Homer has already designated the local authority so that is a voice with the Marijuana Control Board which is important for the industry.

Councilmember Zak asked if an applicant would have to designate the space where they would grow.

Mayor Wythe called for a recess at 7:11 p.m. and reconvened the meeting at 7:15 p.m.

City Attorney Wells answered an applicant is required to provide a description of the premises as well as the document showing their right to possession and the GPS coordinates. If they want to fill out an application on February 24th and have no restrictions, they have the ability to put an application on property that may be in a prohibited district. There are risks to a business entity deciding to do that. It doesn't change the City's timeline, except that it would have negative impacts on the industry. The City of Homer will be a part of the application process.

LEWIS/REYNOLDS - MOVED TO ALLOW LIMITED CULTIVATION FACILITIES IN RURAL RESIDENTIAL IN LOTS OF 20,000 FEET OR LARGER.

City Planner Abboud advised the amendment is going against the Planning Commission's recommendation due to the commercial nature of that activity. The commission discussed it at length and thought that commercial activity was not in line with the purpose of the district. Buffers will still remain in place. Animals, general farming, high tunnels, and other activities are permitted in rural residential.

Councilmember Aderhold noted we should say square feet. She expressed concern into moving into something too quickly before reviewing all the materials Council has received.

VOTE: (amendment) NO. VAN DYKE, LEWIS, REYNOLDS, ZAK, ADERHOLD, SMITH

Motion failed.

LEWIS/ZAK - MOVED TO AMEND TO ALLOW LIMITED CULTIVATION OPERATIONS AS DEFINED UNDER ALASKA STATE LAW THAT WOULD BE ALLOWED IN RURAL RESIDENTIAL LOTS OF 20,000 SQUARE FEET OR LARGER.

The Cannabis Advisory Commission decided a half acre would allow for everything without intruding on neighbors. There are setback requirements for cultivation and lighting and operations cannot be visible from the road.

City Attorney Wells confirmed there are controls on its appearance. She is not sure if they encompass setbacks.

City Planner Abboud commented there are concerns for open grows where the product can't be seen. If you have an enclosed grow in an auxiliary structure your house can still be 5 ft. from the property line and your operation can be within that. There are no additional buffers besides 20 ft. sight in front of the doors, be lit, and have a camera on it.

Councilmember Smith expressed opposition on the amendment that is a substantial change. It is in conflict with what we have received from the Planning Commission.

Councilmember Aderhold is not opposed to allowing grow operations in rural residential. She wants to make sure the language is right and is not arbitrary. She asked if someone can work on an amendment and bring a substitute ordinance at the next meeting.

VOTE: (amendment) YES. REYNOLDS, LEWIS

VOTE: NO. ZAK, VAN DYKE, SMITH, ADERHOLD

Motion failed.

VOTE: (main motion as amended) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Ordinance 16-05**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule, Enacting Homer City Code Chapter 7.16, Vehicles in Beach Areas, and Repealing Homer City Code Chapter 19.16, Vehicles on Homer Spit Beach, to Restrict the

Operation, Stopping and Parking of Motor Vehicles in Beach Areas. Reynolds. Recommended dates: Introduction January 25, 2016, Public Hearing and Second Reading February 8, 2016.

Memorandum 16-018 from City Manager as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 16-05 for introduction and first reading by reading of title only.

LEWIS/ZAK – SO MOVED.

Councilmember Reynolds appreciates the work the Parks and Recreation Advisory Commission and the community put in on beach access. Ordinance 16-05 is a good compromise for people wanting no vehicular beach access and those that need access to gather coal and recreate. Islands and Ocean reached out to the City and encouraged us to be good neighbors to prevent cars driving left from Bishop's Beach. Katie and she worked hard with the Wildlife Refuge to clarify these areas.

Councilmember Aderhold agrees it is a needed ordinance since the beaches are loved to death and that is what is damaging them. She requested a discussion on Area 1 and why we are leaving it open for vehicular traffic. The proposed ordinance may be helping habitat in some areas, but it may be creating traffic in other areas of the beach.

Councilmember Reynolds clarified the ordinance addresses Bishop's Beach only because that is something the City of Homer has control over. The City has no jurisdiction at the airport beach (Area 1) so we can't block access or install signs.

Councilmember Smith questioned the signage cost of \$10,000.

City Manager Koester explained Fish and Wildlife estimated the cost of the very sturdy interpretive signage. They have offered to partner with the City by creating and paying for the signs.

VOTE: YES. SMITH, REYNOLDS, LEWIS, ZAK, ADERHOLD, VAN DYKE

Motion carried.

CITY MANAGER'S REPORT

A. City Manager's Report

Council Lunch Hour at Library

Thanks for embracing Lunch Hour with Council with such enthusiasm. First lunch hour will be February 8 at noon with Councilmembers Reynolds and Lewis.

Hickerson Cemetery

A reminder that the Hickerson Cemetery neighborhood meeting is scheduled for February 10 at 5:30 p.m. in Council Chambers. The Planning Department and Clerk's Office are helping spread the word and sending the attached notice out to the neighborhood. Site plans and frequently asked questions are posted on the website. Please let anyone you know who may be interested in the project – including the need for a municipal cemetery, of the upcoming meeting.

TORA with DOT for Maintenance of Pioneer Avenue

The City signed an agreement with ADOT for continued maintenance of Pioneer Avenue. Given the hit the ADOT maintenance and operations budget has taken, I am thankful the maintenance responsibilities and compensation remained static – \$34,000 a year. However, this amount has not increased since 2000. Depending on the snow load, it costs the City about 30% more than DOT's contract to provide services on Pioneer. As our main business corridor, Pioneer Avenue gets a higher level of service through the City. The more responsive service is critical for businesses along Pioneer and residents trying to get around town on foot, car, or bicycle.

City Applied for AFG Grant for Harbor Fire Carts and Ventilation System at Fire Hall

Chief Painter has applied for a grant for refurbishing fire carts in the Homer Harbor (\$170,000) and installing a ventilation system for vehicle exhaust at the Fire Hall (\$40,000). The fire cart replacement project has been on the City's CIP for years and in the last budget cycle it was included in the top 5. This project would purchase new pumps and motors for the Port and Harbor Maintenance to refurbish existing fire carts with. The fire hall needs a proper ventilation system to transfer toxic vehicle exhaust gases from the vehicle bays to outside (instead of up through the stairwell and into office and living quarters, like it does now).

Boathouse Pavilion

Organizers of the Boathouse Pavilion project, a timber frame pavilion planned for the old harbormaster's office lot on the Spit, had a successful kick off to the project Wednesday January 13. About 140 people attended the Open House and organizers have already raised 1/3 of the \$210,000 goal. The following morning the Public Works Director, Harbormaster and I met with organizers and about a dozen local builders/professionals in the construction trades at a work session. The Boathouse supporters are currently working with the architects to compile community input. Next steps for the group are to continue the local and statewide fundraising efforts and work with the City on a revised site plan.

Surplus Items Up for Grabs

Public Works will man the upstairs at the HERC Friday January 29th from 11 a.m. to 1 p.m. for interested nonprofits to come by and pick up free of charge an assortment of surplus office related equipment (see attached table). Items will be given away on a first come first serve

basis. Any equipment that is not picked up will be brought to the transfer site or recycled. Thanks to Public Works for taking on this spring cleaning project.

Insurance

Alaska Municipal League Joint Insurance Agency (AMLJIA) has provided insurance for the City of Homer for many years. They have provided an excellent level of service. They are incredibly responsive, have many professionals that the City can call on for advice, a workplace safety program that we have benefited from, and provide top notch legal representation when needed. However, their contract expires in June and I have given notice to AMLJIA, as is required, that we will be requesting competitive bids for 2017. There are two public providers of insurance in Alaska: AMLJIA and Alaska Public Entity Insurance (APEI). A number of municipalities have switched to APEI at significant cost savings. A very important variable for the Council to consider will include the quality and level of service. AMLJIA has requested the March 14 work session to update Council on current policy and services.

Why What Happened to the Drinking water in Flint, Michigan would not Happen in Homer

Homer Public Works staff works hard making sure that Homer drinking water meets EPA standards and is not contaminated with lead – as appears to be the case in Flint, Michigan.

The problems in Flint were first brought to the attention of the public when residents were found to have elevated levels of lead in their blood stream. The corrosive Flint River water may have caused lead from aging pipes to leach into the water supply, causing extremely elevated lead levels.

The City of Homer's drinking water source is not highly corrosive and our water distribution system has no lead components. There are some homes that may have some aging plumbing that do. Public Works does three things to make sure what happened in Flint does not happen in Homer:

- 1) At the treatment plant, small amounts of sodium hydroxide are added to the water for pH adjustment. This increases the pH of the water, minimizing the potential for the water to be aggressive, and reduces the opportunity for lead and copper to leach into the water.
- 2) Orthophosphate, a corrosion inhibitor, is added which creates a thin coating on the inside walls of the pipes in your home, creating a protective barrier between the water and the copper pipes/lead solder.
- 3) In homes constructed prior to 1986 (when lead was routinely used in building plumbing work), the City randomly completes testing at the tap to verify that lead and copper levels in the water meet EPA drinking water standards. Based on the encouraging results of these tests in Homer, EPA has approved reduced monitoring of this potential problem, but testing continues.

Public Works completes extensive testing - at the treatment plant, in the distribution system and in the homes of our customers to assure that your drinking water is safe – and that what is happening in Flint does not happen in Homer.

2016 Capital Project Update from Public Works Director Meyer

2016 promises to be another busy year for the City and Public Works. Public Works Director Meyer has compiled the following list of project updates:

- **Deep Water Dock Uplands Improvements** – This project consists of paving Outer Dock Road from Homer Spit Road to the Dock, removal of the “Walls” around the “Chip Pad”, installing chain link fence around the Chip pad (designated as a storage area for cargo coming off the dock), installing chain link fence around the gravel area between the Chip pad and the dock approach (designated as a laydown area for cargo staged for loading on to the dock), installation of security lighting and cameras, and miscellaneous drainage/paving improvements.

This project is completely funded by a legislative grant (in support of the expansion/upgrade of the Deep Water Dock). The project bids in January, will be awarded in February, work starts in April, and is to be completed by the end of June.

- **Waddell Way Road Improvements** – This project consists of the construction of a road and water line between Lake Street and Heath Street (just north of the Post Office) and a road connection south toward the Post Office. The road will include a sidewalk on one side, bike lanes on both sides, LED street lighting, and adjustments to the driveway off Heath Street to the HEA storage yard to the north.

This project is in large part funded by a legislative grant in support of the development of an east/west transportation corridor through the center of town. The project bids in January, will be awarded in March, work starts in May, and is to be completed in August.

- **Shellfish Avenue/South Slope Drive Water Main Improvements** – This project consists of the extension of a water main and installation of a pressure reducing vault from east Hill Road across to the eastern end of Mountain View Drive.

This project is in large part funded by an ADEC grant in support of interconnecting two isolated water pressure zones; increasing water service dependability City wide; providing more dependable domestic water service and fire flows to the South Peninsula Hospital, water and fire service to the adjacent properties, and water to the future Shellfish Avenue water storage tank site. The project bids in February, will be awarded in April, work starts in May, and is to be completed in September.

- **Other Significant Projects Anticipated:**

Kachemak Drive Water and Sewer Improvements (Phase III)

Backup Generator at the Library

Kramer Avenue Neighborhood Paving SAD

Lillian Walli Subdivision – Eric Lane Road and Sewer SAD

Road Repaving – Various local residential roads

Finishing Old Town Pedestrian Improvements
Hickerson Cemetery Expansion (Phase I)
West Homer Elementary Soundview Safety Improvements
Calhoun Trail Work
Soundview Sidewalk and Safety Improvements
Deep Water Dock Feasibility Study
 Deep Water Dock Bird Deterrent Project
 Roger Loop Trailhead Acquisition

City Manager Koester reported Homer came away relatively unscathed after the earthquake over the weekend. A non-structural crack was found in the Fire Hall and a few local businesses sustained minor damage. The police were out checking businesses and alarms. The earthquake made her aware of her own personal emergency planning. The Kenai Peninsula Borough has some good information on their emergency services webpage.

Councilmember Zak appreciated the information in the City Manager's report regarding the Flint, Michigan water crisis. Many Homer residents have lead pipes that may raise concern. He praised City Manager Koester for her comprehensive report that was done with detail and thought. City Manager Koester credited Public Works Director Carey Meyer for the Flint, Michigan water information and letting the public know we have good quality water here.

Councilmember Van Dyke questioned if the Boat House pavilion on the Spit was the wisest use for the property that once housed the port and harbor office. He questioned if there could have been a better revenue stream and where the money will come from for the City to maintain it.

City Manager Koester acknowledged there could be other uses for the lot. The Port and Harbor Advisory Commission endorsed the Boat House pavilion. The most immediate need on the Spit is for parking; the pavilion area will provide additional parking. The pavilion could be shifted to over-slope development in the future. Council approved a Memorandum of Understanding with The Homer Foundation to start fundraising for the project. The Boat House pavilion will become a city facility and the City will be responsible for maintaining it. The expense will fall under the port and harbor and the enterprise fund.

Port and Harbor Director Hawkins added there is no plan for paving the lot; that is a big expense. Paid parking could be added to the lot.

B. Bid Report

CITY ATTORNEY REPORT

COMMITTEE REPORT

- A. Public Arts Committee
- B. Permanent Fund Committee
- C. Employee Committee Report
- D. Public Safety Building Review Committee
- E. Sustainable Animal Control Review Committee

PENDING BUSINESS

- A. **Memorandum 16-001(A)**, from Mayor Wythe, Re: Appointment of Councilmember Bryan Zak to the Kenai Peninsula Economic Development District.

Mayor Wythe called for a motion for the approval of the recommendations of Memorandum 16-001(A) to appoint Councilmember Zak to the KPEDD.

LEWIS/REYNOLDS - SO MOVED.

Councilmember Zak was the appointee before City Manager Koester. A business retention and expansion survey may be accessed on the KPEDD website at www.kpedd.org. On Thursday and Friday the Industry Outlook Forum will be held at the old Carr's Mall in Kenai. The forum is free to the public but you must register with the KPEDD.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

NEW BUSINESS

- A. **Memorandum 16-013**, from City Clerk, Re: Travel Authorization for Councilmember Zak to Travel to Anchorage to Attend the Institute for Alaska Native Corporation Director Education and Institute for Tribal Council Training March 21 - 22, 2016.

Mayor Wythe called for a motion for the approval of the recommendations of Memorandum 16-013 to authorize Councilmember Zak to travel to Anchorage for Tribal Council Training.

SMITH/VAN DYKE – SO MOVED.

Councilmember Smith commented that people throughout the state are dialing back on travel and it is important for the City to start saving money on travel now.

Councilmember Zak requested Council vote the memorandum down since he is not able to attend the conference. He highly recommended and encouraged other councilmembers to attend the training for the development and future leaders of the community.

Mayor Wythe agreed with the need for council development and exposure to different activities, but questioned the applicability of this training.

VOTE: NO. LEWIS, SMITH, ADERHOLD, REYNOLDS, ZAK, VAN DYKE

Motion failed.

B. **Memorandum 16-014**, from Councilmember Lewis, Re: Travel Reimbursement for Mayor Wythe to Travel to Juneau February 2 – 4, 2016 to Advocate for the City.

Mayor Wythe called for a motion for the approval of the recommendations of Memorandum 16-014 to reimburse Mayor Wythe for travel to Juneau.

LEWIS/ZAK – SO MOVED.

Councilmember Lewis brought this up after the Mayor said she will travel to Juneau and foot the bill. He believes the City should pay the Mayor's travel to Juneau.

Mayor Wythe commented the mayor is the only person that can go and represent the City without authorization. She is not concerned about the City paying for her travel; she is concerned about the City being represented. While we may not be getting a lot of money, we don't want to get a lot of legislation that restricts our ability to raise funds that we do need.

Councilmember Zak believes we need to build long-term relationships. He voted in favor of the lobbyist because he has seen the benefit. The Mayor's travel to Juneau is important to our community. The City of Homer sometimes gets a paradigm from other communities that we don't participate. He would have preferred this to coincide with the Alaska Municipal League, but it is a small investment to have contacts with other leaders in the state.

Councilmember Smith sees value, but when we vote to send a lobbyist, pay AML membership, and elect a representative and senator to represent us in Juneau it has to be either or sometimes, not both.

ZAK – MOVED TO AMEND TO ALLOW COUNCILMEMBERS LEWIS AND REYNOLDS TO ALSO ATTEND WITH THE MAYOR IN JUNEAU.

Motion died for lack of second

VOTE: YES. ADERHOLD, REYNOLDS, LEWIS, ZAK, VAN DYKE

VOTE: NO. SMITH

Motion carried.

- C. **Memorandum 16-010**, from Mayor Wythe, Re: Appointment of Beth Carroll to the Cannabis Advisory Commission and Appointment of Councilmember Heath Smith as a Consulting Member of the Economic Development Advisory Commission.

Mayor Wythe called for a motion for the approval of the recommendations of Memorandum 16-010.

ZAK/LEWIS – SO MOVED.

Councilmember Zak previously served on the Economic Development Advisory Commission as the consulting member. He wished Heath well. It is a great opportunity to use resources and skills. Chairman Pat Brown was mentioned in the Governor's address as the blind person.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

RESOLUTIONS

- A. **Resolution 16-012**, A Resolution of the City Council of Homer, Alaska, Adopting the City of Homer All Hazard Mitigation Plan 2015 Update and Revision and Authorizing the City Manager to Forward the Document to the Kenai Peninsula Borough, the Federal Emergency Management Agency, the Alaska Division of Homeland Security, and Other Organizations as Appropriate. Reynolds.

Mayor Wythe called for a motion for the adoption of Resolution 16-012 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

Asked by Councilmember Reynolds if the plan should be amended to comply with ADA, City Manager Koester advised the Emergency Operations Plan would be the appropriate document to include ADA guidelines.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Resolution 16-013**, A Resolution of the Homer City Council Concerning the Harbor Enterprises, dba Petro 49, (Formerly Petro Marine Services) Lease for Lot 8-E-1 Homer Spit #6 and Directing that it be Canceled at the Term of the Lease December 1, 2018, and that the Property be Advertised for Lease in a Request for Proposals. City Manager. Recommend adoption.

Memorandum 16-012 from Port and Harbor Advisory Commission as backup.

Mayor Wythe called for a motion for the adoption of Resolution 16-013 by reading of title only.

LEWIS/VAN DYKE – SO MOVED.

Port and Harbor Director Hawkins requested postponement to provide adequate notice to Petro 49.

LEWIS/REYNOLDS - MOVED TO POSTPONE RESOLUTION 16-013 TO FEBRUARY 22, 2016.

There was no discussion.

VOTE: (postponement) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- C. **Resolution 16-014**, A Resolution of the Homer City Council Amending the Harbor Enterprises, dba Petro 49, (Formerly Petro Marine Services) Lease on the Coal Point Fuel Float and the Terminal Tank Farm on the Coal Point Lot (Sec 1 T7S, R13W, S.M.) and to Enter Into a New 20-Year Term Lease With the City, and Authorizing the City Manager to Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 16-012 from Port and Harbor Advisory Commission as backup.

Mayor Wythe called for a motion for the adoption of Resolution 16-014 by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

Port and Harbor Director Hawkins requested postponement to provide adequate notice to Petro 49.

Mayor Wythe called for a motion to postpone Resolution 16-014 to February 22, 2016.

LEWIS/REYNOLDS – SO MOVED.

There was no discussion.

VOTE: (postponement) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- D. **Resolution 16-016**, A Resolution of the City Council of Homer, Alaska, in Support of the Homer Public Safety Building as Presented by the Public Safety Building Review Committee. Mayor.

Mayor Wythe called for a motion for the adoption of Resolution 16-016 by reading of title only.

LEWIS/REYNOLDS - SO MOVED.

Councilmember Smith noted the cheapest option is \$14.9M and he's fairly certain it will not pass bond. Although he appreciates the work of the committee, there needs to be a budget and framework. The size of the building is overblown. People will support the project if it is done responsibly. We need to reboot this and if it costs \$150,000 to do so it may save \$6M. He questioned what type of community we are building for the future; we are resigning to failure before getting started.

Councilmember Van Dyke commented the three different options include more wants than needs. Fifteen years ago we had a population of 4,000; we now have 5,000 people. That equates a 1% growth per year, so a 30-year building should be 30% bigger than we have now. The least expensive option is 24,000 square feet and is three times the amount of space we need. We need to rethink and take a good look. He suggested putting a 12,000 sq. ft. police department on the Waddell property and remodeling the fire department to make it good for another 10 years. These options will save the City a considerable amount of money.

Councilmember Zak added we are not in the same position when we started to look at the public safety building. The voters can be facing state income tax or sales tax. If you add a 25-

year bond it would be too expensive. It is an important decision for the long term and without additional revenue sources the project needs to be tabled. Otherwise we need to reboot and resize to better fit the needs of the community.

Mayor Wythe advised Council we need to provide some direction and a recommendation to the committee.

Councilmember Lewis commented if we pass a bond we will have the bond to pay off. Within three years we have to come up with an option instead of HART. Both topics should be discussed together.

Council agreed to add the public safety building to the revenue discussion on February 16th.

LEWIS/ADERHOLD - MOVED TO POSTPONE RESOLUTION 16-016 TO FEBRUARY 22.

This will allow Council to discuss the project at a February 16th Worksession.

VOTE: (postponement) YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Resolution 16-017**, A Resolution of the City Council of Homer, Alaska, Expressing a Deep Sense of Urgency for the Alaska State Legislature to Take Immediate and Decisive Action During the 2016 Legislative Session to Enact a Complete Package of Initiatives to Provide for a Balanced, Sustainable, and Predictable State Budget for the Foreseeable Future. Mayor.

Mayor Wythe called for a motion for the adoption of Resolution 16-017 by reading of title only.

LEWIS/REYNOLDS – SO MOVED.

Mayor and Council expressed support and the need for the Legislature to take action this year.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

COMMENTS OF THE AUDIENCE

Carrie Harris, city resident, would have liked Catriona and Dave to go to Juneau and is glad that the Mayor offered to pay her own way. It is foolish not to send as much representation as possible.

Louise Ashman, city resident, commented on Ordinance 16-04. She asked to include the exceptions that exist and include the places where driving is not allowed to include private property, storm berms, and areas not permitted by Fish and Game as exceptions to the critical habitat.

Scott Adams, city resident, received figures from Finance on maintenance costs for the HERC building. For 2009 it cost \$122,000 and cost \$51,000 for 2015, but the two buildings did not show separated costs. He asked if the boiler can be switched over to natural gas. Mr. Adams asked if you are allowed to transport marijuana products.

City Attorney Wells answered you can sell and manufacture on the same facility. You can manufacture in a cultivation facility, but there are separation requirements for the spaces.

Scott Adams continued...he doesn't agree that city residents should maintain the Boat House. He would like to see Bishop's Beach west open and east closed and the beaches on the Spit used October until March. He suggested seeing how the first resolution works before bringing forward another.

Deb Lowney, city resident, appreciates the ADA accessibility, water quality, new conversation on the public safety building, and the beach ordinance. She expressed concern about Area 1 as it is a free for all. She urged Council to take the time to walk the area to see the deliberate destruction in Mud Bay.

COMMENTS OF THE CITY ATTORNEY

City Attorney Wells encouraged Council to ask questions about Ordinance 16-04 and she will be responsive. In response to the question posed during comments, she advised that a licensed standard cultivation marijuana facility may also apply for a retail or product manufacturing facility license. If they do get one of those licenses, they can conduct those operations in a room completely separate from the cultivation facility with some other requirements. If you just have the cultivation facility license you cannot manufacture and retail.

COMMENTS OF THE CITY CLERK

City Clerk Johnson had no comments.

COMMENTS OF THE CITY MANAGER

City Manager Koester had no comments.

COMMENTS OF THE MAYOR

Mayor Wythe thanked the Council for funding her trip to Juneau. She reiterated the importance of Council going to Juneau and encouraged a second trip. She thanked Melissa Jacobsen for taking on the ADA coordinator. Melissa has a full time job and just took on another full time job. It is important to clearly define her position of authority and to make sure Council provides good direction for that. She appreciates Council's time this evening as we did a lot of work.

COMMENTS OF THE CITY COUNCIL

Councilmember Reynolds regrets she missed the last meeting and is curious of the added meetings. She mentioned the Library statistics and the number of people participating in the library. She is reading a lot more lately and learning new things. She appreciates the conversation about travel to Juneau. She was honored to be asked to travel and somewhat disappointed the money wasn't available. She has work travel and would now have a conflict on the dates. The City Council, Parks and Recreation, and the community talked about all the pieces for improvements of the beach as one big item. It was unwieldy and we had a way forward that was clear and reasonable. This ordinance is about traffic and motorized vehicles on the beach. Although a gate seems easy it is not our road or gate to put up. That is why the beach ordinance focused on a different area than Area 1.

Councilmember Smith appreciates the Public Safety Building Review Committee and all the work they put in to it. The projects going forward need to reflect the economic temperature of the waters we are in. As to cannabis and marijuana, we need to consider the overall economic benefit to the community in comparison to the social costs. May people use Colorado as the standard, but there is very little here that compares to Colorado. They have six times the population as us, and a sixth of the land mass. Colorado has six different states that border them. Their market is tremendously larger than ours. It is important that we take into consideration and not overestimate the benefit of taxes that might be garnered. A lot of the population here has smoked marijuana for a long time. He doesn't think they will pay an additional \$30 to \$50 per ounce through the taxation of it and doesn't think there will be much tourism for cannabis. We need to focus on what it's going to mean to the community to give it an open door. He appreciates the opportunity to be here.

Councilmember Van Dyke commented the marijuana laws are going to be hard choices; the Council has a task ahead of us. The City is facing a fiscal shortfall and with us starting on solutions now is a definite jump ahead. He is glad that the City of Homer survived the earthquake with minimal to no damage.

Councilmember Lewis said cannabis is not going to be a God send or save the City, but it is what 53% of the people voted for it. More people voted for pot than to get rid of the sales tax

on food. It is what the majority of the voters wanted and we have to remember that. Not one person here got as many votes as what cannabis got in the two areas.

Councilmember Aderhold commented Homer hosted the cross country ski races as part of the Besh Cup Series at Lookout Mountain ski trails. We had some of the finest young skiers in the state from Anchorage, MatSu, Juneau, Fairbanks, and Nome. It was a very successful race. Her hat is off to the people who groom trails and make it happen with the challenging trail conditions. Several businesses donated food and items. She thanked the local businesses for their support in donating to sports and non-profits. Accurate earthquake information can be found at the Alaska Earthquake Information Center at www.earthquake.alaska.edu. Throughout the day on Sunday they posted new information regularly. She acknowledged the passing of a fantastic person in our community. She was a marine biologist, a poet, an essayist, and a writer. Eva Saulitis passed away on January 16th. She was a huge positive asset to the Homer community and influenced many people here, in Alaska, and throughout the United States. She will be missed.

Councilmember Zak thanked Catriona and Katie for putting together the beach policy. He thanked the Planning Commission for their work on cannabis. Tomorrow at noon is the Homer Chamber of Commerce meeting at the Elks Lodge. You can learn more about what the Chamber and Visitor Center does here. Senator Dan Sullivan's aid will be in attendance. It is a good opportunity to partner with more of the community members around the peninsula. He thanked Pat Brown, EDC Chair, for reaching out to the Governor. We are stronger together but can still make a difference individually. The Governor's speech addresses tourism and fishing. He is happy and optimistic about Homer. It is a good time for Mayor Wythe to be representing us in Juneau.

- C. **Memorandum 16-015**, from Mayor Wythe, Re: Request for Executive Session Pursuant to AS 44.62.310 (A-C)(2), Matters, Subjects that Tend to Prejudice the Reputation and Character of Any Person, Provided the Person May Request a Public Discussion. (City Manager Koester Annual Performance Evaluation/Employment Contract.

Mayor Wythe called for a motion for the approval of the recommendations of Memorandum 16-015 to meet in Executive Session to discuss City Manager Koester Annual Performance Evaluation/Employment Contract.

LEWIS/REYNOLDS - SO MOVED.

Mayor Wythe advised City Manager Koester of her right to have the evaluation conducted in the open meeting and City Manager Koester declined.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor Wythe called for a motion to adjourn to Executive Session.

LEWIS/REYNOLDS - SO MOVED.

There was no discussion.

VOTE: YES. REYNOLDS, ADERHOLD, VAN DYKE, ZAK, SMITH, LEWIS

Motion carried.

Council adjourned to Executive Session at 8:54 p.m.

For the record Mayor Pro Tempore Lewis relayed the City Council met in Executive Session and reviewed and evaluated the City Manager. Council provided an evaluated rating of very good to excellent and we are honoring our contractual obligations.

ADJOURNMENT

There being no further business to come before the Council, Mayor Wythe adjourned the meeting at 8:55 p.m. The next Regular Meeting is Monday, February 8, 2016 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. A Worksession is scheduled for Tuesday, February 16, 2016 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.

JO JOHNSON, MMC, CITY CLERK

Approved: _____