

City Council
January 23, 2017
Monday



Worksession 4:00 P.M.

Committee of the Whole 5:00 P.M.

Regular Meeting 6:00 P.M.



Cowles Council Chambers
City Hall
491 E. Pioneer Avenue
Homer, Alaska

Produced and
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January & February 2017



- Monday 23rd** **CITY COUNCIL**
Worksession 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.
- Tuesday 24th** **LIBRARY ADVISORY BOARD**
Worksession 8:30 a.m.
- Wednesday 25th** **PORT AND HARBOR ADVISORY COMMISSION**
Regular Meeting 5:00 p.m.
- Thursday 26th** **CANNABIS ADVISORY COMMISSION**
Regular Meeting 5:30 p.m.
- Wednesday 1st** **PLANNING COMMISSION**
Worksession 5:30 p.m. and Regular Meeting 6:30 p.m.
- Tuesday 7th** **LIBRARY ADVISORY BOARD**
Worksession 4:30 p.m. and Regular Meeting 5:30 p.m.
- Thursday 9th** **AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE**
Meeting 4:00 p.m.
- Monday 13th** **CITY COUNCIL**
Joint Worksession w/Port and Harbor Advisory Commission 4:00 p.m., Committee of the Whole 5:00 p.m., and Regular Meeting 6:00 p.m.

Regular Meeting Schedule

- Library Advisory Board 1st Tuesday with the exception of January, April, August and November 5:30 p.m.**
- Economic Development Advisory Commission 2nd Tuesday 6:00 p.m.**
- Parks Art Recreation and Culture Advisory Commission 3rd Thursday with the exception of July, December and January 5:30 p.m.**
- Planning Commission 1st and 3rd Wednesday 6:30 p.m.**
- Port and Harbor Advisory Commission 4th Wednesday 5:00 p.m. (May-August 6:00 p.m.)**
- Cannabis Advisory Commission 4th Thursday 5:30 p.m.**

MAYOR AND CITY COUNCILMEMBERS AND TERMS

- BRYAN ZAK, MAYOR - 18**
- DAVID LEWIS, COUNCILMEMBER - 17**
- CATRIONA REYNOLDS, COUNCILMEMBER - 17**
- DONNA ADERHOLD, COUNCILMEMBER - 18**
- HEATH SMITH, COUNCILMEMBER - 18**
- TOM STROOZAS, COUNCILMEMBER - 19**
- SHELLY ERICKSON, COUNCILMEMBER - 19**

**City Manager, Katie Koester
City Attorney, Holly Wells**

<http://cityofhomer-ak.gov/cityclerk> for home page access, Clerk's email address is: clerk@ci.homer.ak.us
Clerk's office phone number: direct line 235-3130

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



WORKSESSION
4:00 P.M. MONDAY
JANUARY 23, 2017
COWLES COUNCIL CHAMBERS

MAYOR BRYAN ZAK
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
COUNCIL MEMBER TOM STROOZAS
COUNCIL MEMBER SHELLY ERICKSON
CITY ATTORNEY HOLLY WELLS
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

WORKSESSION AGENDA

1. CALL TO ORDER, 4:00 P.M.

Councilmember Aderhold has requested telephonic participation.

2. AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 5)

3. ELECTION CODE CHANGES

4. NEW POLICE STATION/PUBLIC SAFETY BUILDING

Page 5

5. COMMENTS OF THE AUDIENCE

6. ADJOURNMENT NO LATER THAN 4:50 P.M.

Next Regular Meeting is Monday, February 13, 2017 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

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**CITY OF HOMER
HOMER, ALASKA**

Mayor

RESOLUTION 16-128(S)

A RESOLUTION OF THE HOMER CITY COUNCIL CREATING A POLICE STATION BUILDING TASK FORCE AND ESTABLISHING THE SCOPE OF WORK AND PARAMETERS UNDER WHICH THE TASK FORCE WILL CONDUCT ITS WORK.

WHEREAS, Council created a Public Safety Building Review Committee (PSBRC) in January 2014 to review and rate GC/CM proposals for a new public safety building, review the proposed contract and provide input on the scope of work and deliverables, and make recommendations to Council as to how to proceed with the project; and

WHEREAS, The proposed new fire department was separated from the public safety building project when it became apparent the cost was too steep to simultaneously build a new police and fire station; funds were appropriated to the Fire Department for updates and improvements to extend the life of the facility; and

WHEREAS, Council supported a bonding request to construct a reduced size public safety campus with police station only to the voters at the general election in October 2016 in an amount not to exceed twelve million dollars; and

WHEREAS, Proposition #1 that would allow the City of Homer to incur debt and issue general obligation bonds in an amount not to exceed twelve million dollars (\$12,000,000) to finance the planning, design and construction of a police station and related capital improvements was defeated by the voters at the October 4, 2016 regular election; and

WHEREAS, The Public Safety Building Review Committee was disbanded via Resolution 16-127; and

WHEREAS, It would be beneficial to establish a Police Station Building Task Force (PSBTF) to assist the City in ~~moving forward with a new police station project, refining the plans the PSBRC worked on and achieve the \$10M budget objective.~~

37 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby establishes the
38 Police Station Building Task Force (PSBTF).

39
40 BE IT FURTHER RESOLVED that the task force is directed to analyze and report back to
41 City Council on the following items by May 30, 2017:

- 42 -proposed budget for the project between ? (\$6-\$10m)
- 43 -site selection
- 44 -possibility of public private partnerships
- 45 -impact to the operating budget of ongoing maintenance costs
- 46 -a funding mechanism and repayment method that takes into account capital and
47 maintenance expenses
- 48 ~~Task Force will use the work products from the previous project and work with the~~
49 ~~Architect and Contractor, Stantec and Cornerstone, to produce a project to fit the~~
50 ~~budgetary constraints.~~

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51
52 BE IT FURTHER RESOLVED that the Task Force membership shall be five city residents.

53
54 BE IT FURTHER RESOLVED that primary staff support shall be provided by Public Works
55 Director Carey Meyer, Police Chief Mark Robl, and Deputy City Clerk Renee Krause and
56 secondary support shall be provided as needed and requested by the City Manager, the
57 Finance Director, and the City Planner.

58
59 BE IT FURTHER RESOLVED that every attempt will be made to schedule meetings in the
60 Council Chambers.

61
62 BE IT FURTHER RESOLVED that the Task Force shall establish its own work schedule,
63 ~~presenting the Council a project by May 30, 2017.~~

64
65 BE IT FURTHER RESOLVED that the City Clerk is authorized to advertise for members of
66 the community to serve on the task force.

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68 PASSED AND ADOPTED by the City Council of Homer, Alaska, this 5th-____day of
69 _____, _____December, 2016.

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71 CITY OF HOMER
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79 ATTEST:

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JO JOHNSON, MMC, CITY CLERK

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84 Fiscal Note: Staff time and advertising costs.

BRYAN ZAK, MAYOR



MAYOR BRYAN ZAK
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
COUNCIL MEMBER TOM STROOZAS
COUNCIL MEMBER SHELLY ERICKSON
CITY ATTORNEY HOLLY WELLS
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

COMMITTEE OF THE WHOLE AGENDA

1. CALL TO ORDER, 5:00 P.M.

Councilmember Aderhold has requested telephonic participation.

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

3. Ordinance 17-01, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040 to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager. Page 165

4. Ordinance 17-06, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.80 and Homer City Code 1.18.050 to Appoint a Hearing Officer to Hear Ethics Complaints Against City Council Members and the Mayor and to Amend Homer City Code Section 2.08.050 to Permit the Board of Ethics or Hearing Officer to Dismiss Witnesses Prior to the Administrative Hearing and Clarify the Investigative and Hearing Process. Aderhold. Page 105

5. Ordinance 17-07, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 4.10.040, 8.08.120, 14.05.425, 21.93.060, 21.93.070, 21.93.100, 21.93.110, 21.93.500, 21.93.540, 21.93.550, 21.93.560, 21.93.570, 21.93.700, and 21.93.710 to Remove the Board of Adjustment as the Decision Making Body in Appeals of Planning Commission Decisions, Remove the City Manager as the Decision Maker Regarding the Impoundment of Dangerous Animals, Remove the Police Chief as the Decision Maker Regarding Merchant Licenses, and Permit the City Clerk to Designate a Hearing Officer to Determine the Qualifications of a Candidate for Office. Aderhold. Page 121

6. CONSENT AGENDA

7. REGULAR MEETING AGENDA

8. COMMENTS OF THE AUDIENCE

9. ADJOURNMENT NO LATER THAN 5:50 P.M.

Next Regular Meeting is Monday, February 13, 2017 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
AGENDA APPROVAL

HOMER CITY COUNCIL
491 E. PIONEER AVENUE
HOMER, ALASKA
www.cityofhomer-ak.gov



REGULAR MEETING
6:00 P.M. MONDAY
JANUARY 23, 2017
COWLES COUNCIL CHAMBERS

MAYOR BRYAN ZAK
COUNCIL MEMBER DAVID LEWIS
COUNCIL MEMBER CATRIONA REYNOLDS
COUNCIL MEMBER DONNA ADERHOLD
COUNCIL MEMBER HEATH SMITH
COUNCIL MEMBER TOM STROOZAS
COUNCIL MEMBER SHELLY ERICKSON
CITY ATTORNEY HOLLY WELLS
CITY MANAGER KATIE KOESTER
CITY CLERK JO JOHNSON

REGULAR MEETING AGENDA

Worksession 4:00 p.m. and Committee of the Whole 5:00 p.m. in Homer City Hall Cowles Council Chambers.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Councilmember Aderhold has requested telephonic participation.

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

2. AGENDA APPROVAL

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

3. MAYORAL PROCLAMATIONS AND RECOGNITIONS

A. Mayor's Proclamation – Congenital Heart Defect Awareness Week Page 23

4. PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

5. RECONSIDERATION

6. 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 9, 2017. City Clerk. Recommend adoption. Page 31
- B. **Memorandum 17-014** from Mayor Zak, Re: Reappointments of Robert Hartley and Catherine Ulmer to the Port and Harbor Advisory Commission. Page 53
- C. **Memorandum 17-015** from City Clerk, Re: Liquor License Renewals for Boardwalk Fish & Chips and Don Jose’s Mexican Restaurant. Page 57
- D. **Memorandum 17-016** from City Clerk, Re: Travel Authorization for Mayor Zak and Councilmembers Aderhold and Smith to Attend the Alaska Municipal League/Conference of Mayors Winter Legislative Conference in Juneau, Alaska, February 21 – 23, 2017. Page 79
- E. **Ordinance 17-04**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.30.020 to Add “Auto Equipment Sales, Rentals, Service, Repair and Storage” to the List of Permitted Uses in the Marine Industrial District. Lewis. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission. Page 81
- F. **Ordinance 17-05**, An Ordinance of the City Council of Homer, Alaska, Amending the 2017 Operating Budget by Appropriating \$970,870 From the Homer Accelerated Roads/Trails Program (HART) for the Greatland Street Improvements (Option C) Project, and Authorizing the City Manager to Execute All Appropriate Documents. Erickson. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission. Page 89
- Memorandum 17-019 from Public Works Director as backup. Page 95
- G. **Ordinance 17-06**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.80 and Homer City Code 1.18.050 to Appoint a Hearing Officer to Hear Ethics Complaints Against City Council Members and the Mayor and to Amend Homer City Code Section 2.08.050 to Permit the Board of Ethics or Hearing Officer to Dismiss Witnesses Prior to the Administrative Hearing and Clarify the Investigative and Hearing Process. Aderhold. Recommended dates: Introduction January 23, 2017, Public Hearing and Second Reading February 13, 2017. Page 105
- H. **Ordinance 17-07**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 4.10.040, 8.08.120, 14.05.425, 21.93.060, 21.93.070, 21.93.100, 21.93.110, 21.93.500, 21.93.540, 21.93.550, 21.93.560, 21.93.570, 21.93.700, and 21.93.710 to

Remove the Board of Adjustment as the Decision Making Body in Appeals of Planning Commission Decisions, Remove the City Manager as the Decision Maker Regarding the Impoundment of Dangerous Animals, Remove the Police Chief as the Decision Maker Regarding Merchant Licenses, and Permit the City Clerk to Designate a Hearing Officer to Determine the Qualifications of a Candidate for Office. Aderhold. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission. Page 121

- I. **Resolution 17-012**, A Resolution of the City Council of Homer, Alaska, Noting the Insufficiency of the Petition for Shannon Lane, Shannon Court and Early Spring Street Road Reconstruction and Paving Special Assessment District. City Clerk. Recommend adoption. Page 139

7. VISITORS

- A. MAPP Steering Committee, Update on Community Needs Assessment, 10 minutes.

8. ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS (10 minute limit per report)

- A. Borough Report

- B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission
3. Economic Development Advisory Commission
4. Parks Art Recreation and Culture Advisory Commission
5. Port and Harbor Advisory Commission
6. Cannabis Advisory Commission

- C. Thank You from Cook Inletkeeper for Funding from Homer Foundation Page 155

- D. Mayor Zak Letter to City of Teshio Mayor Asada Page 157

9. PUBLIC HEARING(S)

A. **Ordinance 17-01**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040 to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager. Introduction January 9, 2017, Public Hearing and Second Reading January 23, 2017. Page 165

B. **Ordinance 17-02**, An Ordinance of the City Council of Homer, Alaska, Amending the Official Road Maintenance Map of the City of Homer by Adding Grubstake Avenue and Snowbird Street as Urban Road. City Manager/Public Works Director. Introduction January 9, 2017, Public Hearing and Second Reading January 23, 2017. Page 171

Memorandum 17-004 from Public Works Superintendent as backup. Page 177

C. **Ordinance 17-03**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule; and Repealing Subsection (F) of Homer City Code 5.20.020, Open Burning – Permit Requirement, Homer City Code 5.24.060, Violation – Penalty, Homer City Code 8.08.150, Violation – Penalty, Homer City Code 8.11.080, Violation – Penalty, Homer City Code 13.08.170, Violation – Penalty, Homer City Code 14.08.170, Violation – Penalty, Homer City Code 18.20.090, Penalty, Homer City Code 19.04.100, Violation – Penalty, Homer City Code 19.08.120, Violation – Penalty, and Homer City Code 19.12.100 Violation – Penalties, to Provide for the Disposition of Additional Offenses by Bail Forfeiture Without a Court Appearance. City Manager. Introduction January 9, 2017, Public Hearing and Second Reading January 23, 2017. Page 179

Memorandum 17-005 from City Clerk as backup. Page 187

D. **Resolution 17-009**, A Resolution of the City Council of Homer, Alaska, Approving Port and Harbor Enterprise’s Implementation of Newly Revised Crane Use Agreements. City Manager/Port and Harbor Director. Public Hearing January 23, 2017. Page 187

Memorandum 17-008 from Port and Harbor Director as backup. Page 191

E. **Resolution 17-010**, A Resolution of the City Council of Homer, Alaska, Amending the Fee Schedule Under Planning and Zoning to Add Fees for Technical Review of

Communication Tower Applications. City Clerk/City Planner. Public Hearing January 23, 2017. Page 215

Memorandum 17-009 from City Planner as backup. Page 219

10. ORDINANCE(S)

11. CITY MANAGER’S REPORT

A. City Manager’s Report Page 225

B. Bid Report Page 237

12. CITY ATTORNEY REPORT

13. COMMITTEE REPORT

A. Employee Committee Report

B. Americans with Disabilities Act Compliance Committee

14. PENDING BUSINESS

A. **Resolution 17-006**, A Resolution of the City Council of Homer, Alaska, Amending the City Council Operating Manual to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager. Postponed from January 9, 2017 to follow Ordinance 17-01. Page 245

15. NEW BUSINESS

A. **Memorandum 17-017** from Councilmember Erickson, Re: Temporary Shelter for People from the Cold Weather. Refer to Planning Commission. Page 249

B. **Memorandum 17-018** from Acting Finance Director, Re: Waiver of Penalties for Natural Gas Distribution Special Assessment. Page 251

16. RESOLUTIONS

17. COMMENTS OF THE AUDIENCE

18. COMMENTS OF THE CITY ATTORNEY

19. COMMENTS OF THE CITY CLERK

20. COMMENTS OF THE CITY MANAGER

21. COMMENTS OF THE MAYOR

22. COMMENTS OF THE CITY COUNCIL

23. ADJOURNMENT

Next Regular Meeting is Monday, February 13, 2017 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

MAYORAL PROCLAMATIONS
AND RECOGNITIONS

**CITY OF HOMER
HOMER, ALASKA**

MAYOR'S PROCLAMATION
Congenital Heart Defect Awareness Week

February 12 - 18, 2017

WHEREAS, Congenital heart defects are the most frequently occurring birth defect and the leading cause of birth defect related deaths worldwide; and

WHEREAS, Over a million families across America are facing the challenges and hardships of raising children with congenital heart defects; and

WHEREAS, Every year, 40,000 babies are born in the United States with congenital heart defects; and

WHEREAS, Some congenital heart defects are not diagnosed until months or years after birth; and

WHEREAS, Undiagnosed congenital heart conditions cause many cases of sudden cardiac death in young athletes; and

WHEREAS, Congenital Heart Defect Awareness Week provides an opportunity for families whose lives have been affected to celebrate life and to remember loved ones lost, to honor dedicated health professionals, and to meet others and know they are not alone.

NOW, THEREFORE, I, Bryan Zak, Mayor of the City of Homer, do hereby proclaim February 12 - 18, 2017 as:

Congenital Heart Defect Awareness Week

and encourage families to share experiences and information with the public and the media in order to raise public awareness about Congenital Heart Defects.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Homer, Alaska to be affixed this 23rd day of January, 2017.

CITY OF HOMER

BRYAN ZAK, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

PUBLIC COMMENTS
UPON MATTERS
ALREADY ON THE AGENDA

RECONSIDERATION

CONSENT AGENDA

Session 17-01 a Regular Meeting of the Homer City Council was called to order on January 9, 2017 at 6:00 p.m. by Mayor Bryan Zak 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, ERICKSON, LEWIS, REYNOLDS, SMITH, STROOZAS

STAFF: CITY MANAGER KOESTER
CITY CLERK JOHNSON
POLICE CHIEF ROBL
PORT AND HARBOR DIRECTOR HAWKINS

Councilmember Reynolds has requested excusal.

Mayor Zak ruled Councilmember Reynolds' absence as excused. There was no objection from the Council.

Council met for a Worksession from 4:00 p.m. to 4:53 p.m. to discuss New Police Station/Public Safety Building. From 5:00 p.m. to 5:37 p.m. Council met as a Committee of the Whole to discuss Consent Agenda 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.)

The following changes were made: **CONSENT AGENDA - Resolution 17-008**, A Resolution of the Homer City Council Awarding Icicle Seafoods, Inc. a New 20-Year Lease With Two, 5-Year Options to Renew for Lot 41, Homer Spit Subdivision Amended ADL 18009, With an Annual Base Rent of \$35,070.00, and Authorizing the City Manager to Move Forward With Lease Negotiations and Execute the Appropriate Documents. City Manager. Memorandum 17-013 from Port and Harbor Advisory Commission. **CITY ATTORNEY REPORT** - Amended City Attorney Report for the Last Quarter in 2016. **PENDING BUSINESS - Ordinance 16-57**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.95.060 and Homer City Code 21.95.070 to Require the Homer Advisory Planning Commission to Review Amendments to Title 21 or the Official Zoning Map Before Such Amendments are Adopted by City Council But Not Necessarily Before Such Amendments are Submitted to City Council for Review. City Manager. Memorandum 17-012 from City Planner. **Resolution 16-131**, A Resolution of the Homer City Council Approving an Economic Development and Tourism Marketing Agreement Between the City of Homer and the Homer Chamber of Commerce. City Manager. Homer Chamber of Commerce 2016 Marketing Expenditures. **NEW BUSINESS - Memorandum 17-011**, from City Clerk, Re: Request for Executive Session Pursuant to AS 44.62.310(a-c)(1), Matters, the

Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Public Entity (Briefing of Homer Police Department Confidential Investigation). **RESOLUTIONS - Resolution17-002**, A Resolution of the City Council of Homer, Alaska, Supporting Sustainable Fisheries in Kachemak Bay Through Fisheries Enhancement and Habitat Rehabilitation. Lewis/Smith. Written public comments.

New Business Memorandums 17-006 and 17-011 for Executive Sessions were moved to be heard following Comments of the City Council.

Visitor West Homer Elementary Students was moved to be heard following Agenda Approval.

Mayor Zak called for a motion for the approval of the agenda as amended.

LEWIS/ADERHOLD – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. West Homer Elementary Students – Lego Robotics Group

West Homer Elementary Students provided a summary of their work in the Lego Robotics Group.

MAYORAL PROCLAMATIONS AND RECOGNITIONS

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA

Roberta Highland, city resident and Kachemak Bay Conservation Society representative, urged Council to reject Resolution 17-002. It is a controversial subject and pits neighbors against neighbors.

Matthew Hambrick, city resident and general contractor, supports Resolution 17-002 as local businesses benefit from sustainable fisheries in Kachemak Bay.

Kristen Dixon, Tutka Bay lodge owner, expressed opposition to Resolution 17-002. Kachemak Bay has a remarkable and stunning beauty. The net pens will upset the experience of the area.

Steve Vanek, Ninilchik resident and Cook Inlet Aquaculture Association (CIAA) board member, supports Resolution 17-002. We need an alternate place for fish.

Debbie Rehder, city resident and commercial fisher, supports Resolution 17-002. Fishing supports the economy and hatcheries are a good way to enhance salmon populations.

Mimi Tolva, city resident, asserted a fish farm is not the same as a hatchery. She supports Resolution 17-002 as it will increase the number of fish for the 21.1% of the local population that fishes.

Robert Archibald, city resident and Kachemak Bay State Park Board Member, expressed opposition to Resolution 17-002. The science is not here for a hatchery and we don't know what it will do to the fish diversity of the bay.

Gary Fandrei, Kenai resident and Executive Director of CIAA, supports Resolution 17-002. The net pens would be in for two months and then removed. It would provide \$2.5M in fish value. He invited the Mayor, Council, and City Manager for a tour to see what's going on in Tutka Bay.

Bruce Friend, city resident, opposes Resolution 17-002. He provided timelines of fisheries over the last 46 years. Some zones in Tutka Bay are dead zones.

Brent Johnson, Clam Gulch resident, set netter, and CIAA President, supports Resolution 17-002. This is building a program to contribute to the economy.

David Nelson, Homer resident, commercial fisherman, and 45-year member of the CIAA Board, supports Resolution 17-002. He provided a comparison of the Valdez hatchery that was one of the most successful pink salmon hatcheries in the world.

David Martin, Ninilchik resident, supports Resolution 17-002. The economic benefits are in the millions of dollars along with a few jobs. People are spreading fake data of negative impacts to the fish.

Dick Dunn, Homer resident, lived in Tutka Bay in the 70's when it was a lively place and a seafood paradise. He doesn't know if he's for or against Resolution 17-002.

Ray Kranich, city resident, supports Resolution 17-002. He hiked a mile up the stream that comes into Tutka Bay and found zero pink salmon or Dolly Varden. Butter and steamer clams have disappeared from Kachemak Bay. The nets would not add to depletion in the lagoon.

Larry Slone, city resident, opposes Resolution 17-002 from a philosophical perspective. When man interferes with the natural process we have no idea of the effects. We probably don't have the science to determine what the long term benefits are.

Malcolm Milne, Homer business owner and alternate CIAA Board Member, supports Resolution 17-002. Fish enhancement activities are a compatible use within the park management plan.

Glen Carroll, city resident, commercial fisher in Cook Inlet. Net pens are already in Tutka Bay; this would just be moving them three miles. He supports Resolution 17-002. We already enjoy the enhancement of fish in Homer from net pens in British Columbia.

Zack Bennett, Homer resident, supports Resolution 17-002. The CIAA helped his business and brought business to him. The net pens will bring revenue here.

Dan Miotke, city resident, City employee, and fisherman, supports Resolution 17-002. Big boats go away to make a living while little boats fish here. He spent over 90% of his fishing funds in the community. This may keep the big boats here to fish.

Alan Parks, retired commercial fisherman, commented there is a complex dynamic thing going on. Proponents could work for consensus for each stakeholder instead of bringing it forward this way. Resolution 17-002 should be amended to show support to the fishing industry and be receptive to those concerned about future development. He offered an amended resolution.

Glen Hollowell, Fritz Creek resident and fisheries biologist, supports Resolution 17-002. In March 2013 Alaska Department of Fish and Game (ADFG) asked to locate a pink salmon release site outside Tutka Lagoon. The ADFG prefers the site at the back of Tutka Bay for a timely harvest and more efficiency. The plan will increase recreational fishing opportunities.

Nancy Hillstrand, Homer resident, has been in the fisheries for 40 years. She opposes Resolution 17-002 because hatcheries are not sustainable. Tutka Bay is a critical habitat area, but it is also a state park who has authority. The definition of a scenic park prevents anything artificial. It would be overlapping jurisdictions in the park and critical habitat.

Jeff Lee, Seldovia resident, opposes Resolution 17-002. The net set expansion in the bay is a CIAA business plan. Outdoor recreation is big business and preserving areas for scenic beauty is essential. There is a conflict between the CIAA and the state parks.

Duff Hoyt, Homer resident and Icicle Seafoods Manager, asked Council to support Resolution 17-002. The Tutka Bay hatchery will provide \$6M to \$10M return in pink salmon production.

Chris Perry, Homer resident, fished Cook Inlet for 33 years. He supports Resolution 17-002. Tourists enjoy seeing commercial fisheries and hatcheries up close. He will support red salmon and other hatchery projects around Kachemak Bay.

John McCombs, city resident, supports Resolution 17-002. The polarization is surprising since the benefits are broad.

Mayor Zak called for a recess at 7:40 a.m. and reconvened the meeting at 7:50 p.m.

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 December 5, 2016. City Clerk. Recommend adoption.
- B. **Memorandum 17-001** from Mayor Zak, Re: Appointments of Charles Evans and Rachel Lord to the Economic Development Advisory Commission.
- C. **Memorandum 17-002** from Deputy City Clerk, Re: Liquor License Renewals for Patel's, Patel's 2, Rum Locker, Homer Liquor & Wine, Grog Shop, Fat Olive's, Fresh Catch Café, La Baleine Café, and Land's End.
- D. **Ordinance 17-01**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040 to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager. Recommended dates: Introduction January 9, 2017, Public Hearing and Second Reading January 23, 2017.
- E. **Ordinance 17-02**, An Ordinance of the City Council of Homer, Alaska, Amending the Official Road Maintenance Map of the City of Homer by Adding Grubstake Avenue and Snowbird Street as Urban Road. City Manager/Public Works Director. Recommended

dates: Introduction January 9, 2017, Public Hearing and Second Reading January 23, 2017.

Memorandum 17-004 from Public Works Superintendent as backup.

- F. **Ordinance 17-03**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule; and Repealing Subsection (F) of Homer City Code 5.20.020, Open Burning – Permit Requirement, Homer City Code 5.24.060, Violation – Penalty, Homer City Code 8.08.150, Violation – Penalty, Homer City Code 8.11.080, Violation – Penalty, Homer City Code 13.08.170, Violation – Penalty, Homer City Code 14.08.170, Violation – Penalty, Homer City Code 18.20.090, Penalty, Homer City Code 19.04.100, Violation – Penalty, Homer City Code 19.08.120, Violation – Penalty, and Homer City Code 19.12.100 Violation – Penalties, to Provide for the Disposition of Additional Offenses by Bail Forfeiture Without a Court Appearance. City Manager. Recommended dates: Introduction January 9, 2017, Public Hearing and Second Reading January 23, 2017.

Memorandum 17-005 from City Clerk as backup.

- G. **Resolution 17-001**, A Resolution of the Homer City Council Establishing the Final Cost for the Shellfish Avenue/South Slope Drive Water Main/PRV Project to be \$590,314 and the Per Lot Fair Share as \$11,292. City Manager/Public Works Director. Recommend adoption.

Memorandum 17-010 from Public Works Director as backup.

- H. **Resolution 17-003**, A Resolution of the Homer City Council Confirming the Appointments of Jenna deLumeau as Treasurer and Andrea Browning as Deputy Treasurer for Calendar Year 2017. City Manager. Recommend adoption.

- I. **Resolution 17-004**, A Resolution of the Homer City Council Designating Signatories of City Accounts and Superseding Any Previous Resolution So Designating. City Manager. Recommend adoption.

- J. **Resolution 17-005**, A Resolution of the Homer City Council Awarding the Contract for the Construction of the East Bunnell Avenue Storm Drain Rehabilitation Project to the Firm of Construction Unlimited, Inc. of Anchorage, Alaska, in the Amount of \$405,372 and Authorizing the City Manager to Execute the Appropriate Documents. City Clerk/Public Works Director. Recommend adoption.

Memorandum 17-007 from Public Works Director as backup.

- K. **Resolution 17-006**, A Resolution of the City Council of Homer, Alaska, Amending the City Council Operating Manual to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager. Recommend postpone to January 23, 2017 to follow Ordinance 17-01.
- L. **Resolution 17-007**, A Resolution of the City Council of Homer, Alaska, Approving a Memorandum of Agreement Between the City of Homer and the Kachemak Nordic Ski Club Regarding the Maintenance and Operation of Nordic Ski Trails on City Owned Land in the Baycrest Ski Area. City Manager. Recommend adoption.
- M. **Resolution 17-008**, A Resolution of the Homer City Council Awarding Icicle Seafoods, Inc. a New 20-Year Lease With Two, 5-Year Options to Renew for Lot 41, Homer Spit Subdivision Amended ADL 18009, With an Annual Base Rent of \$35,070.00, and Authorizing the City Manager to Move Forward With Lease Negotiations and Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 17-013 from Port and Harbor Advisory Commission as backup.

Moved to Resolutions, Item B. Stroozas.

- N. **Resolution 17-009**, A Resolution of the City Council of Homer, Alaska, Approving Port and Harbor Enterprise's Implementation of Newly Revised Crane Use Agreements. City Manager/Port and Harbor Director. Recommend Public Hearing January 23, 2017.

Memorandum 17-008 from Port and Harbor Director as backup.

Moved to Resolutions, Item C. Stroozas.

- O. **Resolution 17-010**, A Resolution of the City Council of Homer, Alaska, Amending the Fee Schedule Under Planning and Zoning to Add Fees for Technical Review of Communication Tower Applications. City Clerk/City Planner. Recommend Public Hearing January 23, 2017.

Memorandum 17-009 from City Planner as backup.

- P. **Resolution 17-011**, A Resolution of the City Council of Homer, Alaska, Approving an Automatic Aid Agreement and Operational Plan Between Kachemak Emergency Service

Area and the City of Homer Volunteer Fire Department for Fire Apparatus and Personnel. Recommend adoption.

Item M, Resolution 17-008 was moved to Resolutions, Item B. Stroozas.

Item N, Resolution 17-009 was moved to Resolutions, Item C. Stroozas.

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

LEWIS/ADERHOLD – SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VISITORS

A. West Homer Elementary Students – Lego Robotics Group.

Heard following Agenda Approval.

B. Catie Bursch, Kachemak Bay Research Reserve, Saltwater Invasive Species

Catie Bursch, Kachemak Bay Research Reserve Coordinator of the Harmful Species Program, presented on the correlation between invasive species and Jackup rigs.

ANNOUNCEMENTS/PRESENTATIONS/BOROUGH REPORT/COMMISSION REPORTS (10 minute limit per report)

A. Borough Report

B. Commissions/Board Reports:

1. Library Advisory Board
2. Homer Advisory Planning Commission

Planning Commissioner Roberta Highland reported on the commission's January 4th meeting. The commission agreed with Ordinance 16-57 where the City Council may introduce an ordinance and refer to the Planning Commission for review. It may gauge support of a proposal and flush out amendments. They approved a plat subdividing a lot on Kachemak Drive and a plat vacating a lot line west of East Hill Road. Additionally, the commission discussed and recommended zero HART funds be used for maintenance unless taken to the City Council first. They discussed sidewalks and the availability of grant programs and cost sharing in the expenses. The Planner was asked to do some more research on those subjects. The commission discussed and reviewed port and harbor recommendations on harbor overslope development. There are areas available for overslope, but there should be no development in front of Boardwalk businesses, except for Lots 88-2 and 88-4. The commission would prefer to see overslope lots available for both individual development and development by the City.

3. Economic Development Advisory Commission

Economic Development Advisory Commission Chair Karin Marks thanked Council for appointing new members to the commission; the commission is now full. A subcommittee is reviewing business retention and expansion, looking for the detailed needs of Homer businesses. Chair Marks has been appointed to the Kachemak Peninsula Economic Development District Board. Her service on the board will be an additional conduit for the City and businesses.

4. Parks Art Recreation and Culture Advisory Commission

5. Port and Harbor Advisory Commission

6. Cannabis Advisory Commission

C. Homer Council on the Arts 2017 Arts Awards Nominations

D. Letter to Mayor Bryan Zak from Mayor Hirotaka Asada, Teshio, Japan

PUBLIC HEARING(S)

- A. **Ordinance 16-58(A)**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.100 to Clarify That the Mayor Retains the Right to Cast a Tie-Breaking Vote Even When Attending a Council Meeting Telephonically. Lewis. Introduction December 5, 2016, Public Hearing and Second Reading January 9, 2017.

Mayor Zak opened the public hearing.

Roberta Highland, city resident, agrees with the ordinance and would like to see it pass.

Mayor Zak closed the public hearing.

Mayor Zak called for a motion for the adoption of Ordinance 16-58(A) by reading of title only for second and final reading.

LEWIS/ADERHOLD - SO MOVED.

There was no discussion.

VOTE: YES. LEWIS, SMITH, ADERHOLD, STROOZAS, ERICKSON

Motion carried.

B. **Memorandum 17-003**, from Deputy City Clerk, Re: New Liquor License for Bluff Point Lighthouse Grill.

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

Mayor Zak called for a motion for the approval of the recommendations of Memorandum 17-003 to approve the new liquor license.

LEWIS/ADERHOLD - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCE(S)

CITY MANAGER'S REPORT

A. City Manager's Report

There were no questions for the City Manager relating to her report.

Industry Outlook Forum Jan 11

Kenai Peninsula Economic Development District is offering the Industry Outlook Forum for 2017 at the Soldotna Chamber of Commerce on January 11 from 8:30 a.m. to 7:30 p.m. The forum is open to the public and offers a variety of topics and speakers discussing the economic outlook for the Kenai Peninsula and the State of Alaska and the impact oil, gas, mining, gas pipeline projects, education, tourism, fishing and medical projects have on peninsula communities. For more information and to register visit www.kpedd.org

Harbor Vessel Fire

On December 19, 2016 harbor officers and the Homer Volunteer Fire Department responded to a 42' charter vessel on D float on fire. As you recall, this is the second vessel fire this winter. Vessel fires are more common in the winter when owners use heaters to keep vessels warm. Crew did a great job working together to quickly extinguish the fire and keep the damage contained to the vessel. The smooth and efficient response demonstrates the benefits of training together and the usefulness of the investment in fire apparatus such as harbor fire carts and dry lines.

ETT Training for City Employees

Twelve city employees completed a 40 hour emergency trauma technician (ETT) course the week of January 1 including employees in harbor operations, maintenance, ice plant and a police officer. Harbor officers are often first to respond to a scene and have to be trained in emergency response. We are fortunate to be able to offer the training locally.

2016 Major Capital Projects Completed

Public Works submitted the attached summary of major capital projects completed in 2016. It includes over \$5.2M in major infrastructure projects funded through a combination of city funds and grant funding. Major expenditures include water and sewer lines, road rehabilitation, and improvements to the staging area at the Deep Water Dock. The most recent project completed is the new fish cleaning table at the Nick Dudiak Fishing Lagoon. The timber frame structure is larger than the old station it replaced and will have amenities such as overhead hoses, webbing, and lighting for ease of cleaning. Visitors to the lagoon this summer will be sure to notice this huge improvement. A big thanks to Public Works Director Meyer for managing these projects through to successful fruition.

Employee Anniversaries (December)

I would like to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer.

Mark Robl	Police	32	Years
Will Hutt	Police	22	Years
Bryan Hawkins	Port & Harbor	17	Years

Todd Cook	Public Works	7	Years
Chris Cushman	Fire	7	Years
Katie Koester	Administration	5	Years
Sean Perry	Police	2	Years
Mike Zelinski	Public Works	2	Years

B. Bid Report

CITY ATTORNEY REPORT

A. Last Quarter 2016 Report

COMMITTEE REPORT

A. Employee Committee Report

B. Americans with Disabilities Act Compliance Committee

Councilmember Aderhold reported the committee will meet on Thursday. She welcomed people to the committee to fill the vacancy.

PENDING BUSINESS

- A. **Ordinance 16-57**, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.95.060 and Homer City Code 21.95.070 to Require the Homer Advisory Planning Commission to Review Amendments to Title 21 or the Official Zoning Map Before Such Amendments are Adopted by City Council But Not Necessarily Before Such Amendments are Submitted to City Council for Review. City Manager. Introduction November 21, 2016, Public Hearing December 5, 2016, Referred to Planning Commission, Second Reading January 9, 2017.

Memorandum 17-012 from City Planner as backup.

Motion on the floor from December 5: MOTION FOR THE ADOPTION OF ORDINANCE 16-57 BY READING OF TITLE ONLY FOR SECOND AND FINAL READING.

There was no additional discussion.

VOTE: YES. ADERHOLD, LEWIS, STROOZAS, SMITH, ERICKSON

Motion carried.

- B. **Resolution 16-131**, A Resolution of the Homer City Council Approving an Economic Development and Tourism Marketing Agreement Between the City of Homer and the Homer Chamber of Commerce. City Manager. Postponed from December 5, 2016.

Resolution 16-131(S), A Resolution of the Homer City Council Approving an Economic Development and Tourism Marketing Agreement Between the City of Homer and the Homer Chamber of Commerce. City Manager.

Mayor Zak declared a potential conflict of interest as his wife, Karen, is the Executive Director at the Chamber. He passed the gavel to senior Councilmember Lewis.

Councilmember Lewis ruled Mayor Zak did have a conflict of interest due to pecuniary gain of \$5,000 in the aggregate in 12 consecutive months. Council voiced no objections. Mayor Zak stepped away from the dais.

Motion on the floor from December 5: MOTION FOR THE ADOPTION OF RESOLUTION 16-131 BY READING OF TITLE ONLY.

ADERHOLD/ERICKSON - MOVED TO SUBSTITUTE RESOLUTION 16-131(S) FOR 16-131.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ADERHOLD/ERICKSON - MOVED TO AMEND THE WHEREAS ON LINE 31 TO DELETE THE WORDS "THE AGREEMENT" RIGHT AFTER "WHEREAS."

There was no discussion.

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

Motion carried.

Mayor Zak returned to his seat at the dais and Councilmember Lewis returned the gavel to Mayor Zak.

NEW BUSINESS

RESOLUTIONS

- A. **Resolution 17-002**, A Resolution of the City Council of Homer, Alaska, Supporting Sustainable Fisheries in Kachemak Bay Through Fisheries Enhancement and Habitat Rehabilitation. Lewis/Smith.

Mayor Zak declared a potential conflict of interest as he serves on the Board of Directors for Cook Inlet Aquaculture Association. He derives no income from the position. He passed the gavel to senior Councilmember Lewis.

Councilmember Lewis ruled Mayor Zak did not have a conflict of interest as there was no pecuniary gain. He returned the gavel to Mayor Zak.

ERICKSON/SMITH - MOVED FOR THE ADOPTION OF RESOLUTION 17-002 BY READING OF TITLE ONLY.

Councilmember Stroozas commented this is a very contentious issue. Council heard from nearly 40 people. It is outside the ordinary area of expertise and jurisdiction of this city government. Our charge is to look out for the health, safety, and welfare of the community. We have heard a lot of things that indicate this project is a 3-year trial and if proven not to be economical, it will not continue. This program in 2019 and 2020 could be a financial asset. Maybe we could glean a new cannery. There is nothing scientific that anything will negatively affect Kachemak Bay or negatively affect the crab. There is nothing that claims only CIAA will gain; it will have a positive effect on everyone. If the net pens draw tourists who want to see fish harvests it will be economic gain. Alan Parks' laydown recommends a compromise and resolution so both parties, those in favor or opposition of net pens, could get something out of this. He spoke with a lot of people and did a lot of reading. There are pros and cons. There is no evidence it would harm the ecosystem. It will provide opportunity for financial gains for fishermen and the community. He will support Resolution 17-002.

Councilmember Lewis sponsored Resolution 17-002 and will sponsor any like resolution, but they have to stand on their own. We heard the economic benefits this could have for the city of Homer, but we also need to worry about the health of the bay. This is a state parks issue, not

the City of Homer issue. Kachemak City voted in favor of this. He recommended tabling the resolution until after the parks have dealt with it.

LEWIS - MOVED TO TABLE UNTIL AFTER THE STATE PARKS HAS DEALT WITH THIS.

Motion died for lack of a second.

Councilmember Aderhold expressed opposition to the resolution citing that the Council needs to remain neutral on a state parks decision. It is a controversial topic and adopting it means we are playing favorites to one part of the community over the other. There are potential legal ramifications associated with the state parks decision; if the state parks decides to go with the net pens there is a potential lawsuit.

Councilmember Smith co-sponsored the resolution since he recognizes the importance of the fishing industry. He values the input of fishermen. Neutrality would be an easy choice. Testimony has gone back and forth, but he does not buy into the fear mongering of what the net pens will do with the pristine Kachemak Bay. After listening to all the comments he can support the resolution. He has weighed all the information presented and finds the potential gains outweigh potential harms.

Councilmember Erickson grew up here and spent years watching fishermen and Kachemak Bay. She is supportive of the resolution. This is a trial period and it provides the opportunity to see if it will bring economic value to Homer. The fishing industry changed when crab and shrimp disappeared. We have to diversify and have different sources of revenue than tourism. If we can get some good runs we will get fish tax. This is an opportunity for the next three years. Fish will be released in a more efficient way. Tourists are excited to see the Deadliest Catch boat and the Kilchers. Commercial fishing is another thing.

LEWIS/SMITH - MOVED TO POSTPONE UNTIL THE NEXT MEETING.

Reason for postponement is for Councilmember Reynolds to return to have a full council voting.

VOTE: YES. ADERHOLD, SMITH, LEWIS

VOTE: NO. ERICKSON, STROOZAS

Motion failed.

Councilmembers Smith and Stroozas reaffirmed they will stand with our fishermen and go to bat for them. There has been no proof the net pens will be harmful to the local waters or Kachemak Bay.

Councilmember Lewis recalled when past councilmembers were asked to provide a letter in support of the charter fishermen. They found out what the fish wars were like. It is mentioned in one of our plans we would avoid getting into the fray. He co-sponsored the resolution since it is local government. He would support it if we come up with our own resolution.

Councilmember Aderhold reaffirmed the biology is not our decision; it is the decision of state parks and Fish and Game. There is no evaluation and we cannot make the assessment. Areas in the bay are anoxic and are impacted by human activities.

VOTE: YES. ERICKSON, STROOZAS, SMITH

VOTE: NO. LEWIS, ADERHOLD

Motion failed.

B. **Resolution 17-008**, A Resolution of the Homer City Council Awarding Icicle Seafoods, Inc. a New 20-Year Lease With Two, 5-Year Options to Renew for Lot 41, Homer Spit Subdivision Amended ADL 18009, With an Annual Base Rent of \$35,070.00, and Authorizing the City Manager to Move Forward With Lease Negotiations and Execute the Appropriate Documents. City Manager. Recommend adoption.

Memorandum 17-013 from Port and Harbor Advisory Commission as backup.

Mayor Zak called for a motion for the adoption of Resolution 17-008 by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

The new lease puts everyone on the same level playing field. The City will be using the basic ground lease for all tenants on the Spit. Preferential treatment is not given to anyone, including special services for crane use or ice.

VOTE: YES. STROOZAS, ERICKSON, SMITH, LEWIS, ADERHOLD

Motion carried.

- C. **Resolution 17-009**, A Resolution of the City Council of Homer, Alaska, Approving Port and Harbor Enterprise's Implementation of Newly Revised Crane Use Agreements. City Manager/Port and Harbor Director. Recommend Public Hearing January 23, 2017.

Memorandum 17-008 from Port and Harbor Director as backup.

Mayor Zak called for a motion for the adoption of Resolution 17-009 by reading of title only.

LEWIS/ADERHOLD – SO MOVED.

Minutes of the Port and Harbor Advisory Commission discussing the crane use agreements will be included in the January 23rd council packet.

LEWIS/ADERHOLD - MOVED TO POSTPONE TO JANUARY 23RD FOR A PUBLIC HEARING.

There was no discussion.

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

Motion carried.

COMMENTS OF THE AUDIENCE

Roberta Highland, city resident, supports wild species fisheries. Studies show hatcheries are damaging to wild stock. We have issues in the bay and nobody knows why it is happening. Scientific data is needed.

Larry Slone commented nobody can argue with the proposal to enhance fishery's livelihood. We don't know if the short term benefit is offset by degrading of the environment. Council did the right thing by voting it down. He would want a full council to vote on the controversial fishery.

Debbie Rehder, city resident, said there were good arguments on both sides. All areas have changed over Alaska in recent years. Years ago sea otters and octopus were rarely seen, now they are everywhere. The benefits of the fish pens outweigh the repercussions.

Glen Carroll, city resident, commented there is a huge infestation of whales. These are dynamic systems that take care of themselves.

Beaver Nelson, city resident, said the original decision by the state parks was to deny the permit. It was a political decision and has nothing to do with science. Decisions are not made based on science.

Chris Perry, Homer resident and local salmon biologist, told Council the regional Alaska Department of Fish and Game Planning Committee approved of the plan. Department of Natural Resources initially approved the permit and must have considered the legal ramifications for state parks and plans. He would like Council to reconsider their decision.

Nancy Hillstrand, Homer resident, told Council the commissioner was seated for three days when he made this decision. The law was made in 1970.

Alan Parks, city resident, told Council they did the right thing. Politics is all about compromise. He provided suggestions to amend the resolution knowing Council supports fish and their voices are being heard.

COMMENTS OF THE CITY ATTORNEY

City Attorney Wells was not present.

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 Zak wished the Lego Robotics Group good luck.

COMMENTS OF THE CITY COUNCIL

Councilmember Lewis announced the high school hockey team will be playing on Thursday, Friday, and Saturday at the hockey rink.

Councilmember Smith appreciates the people that testified tonight. He would rather not look at it as contentious or divisive; people just have different opinions. He hopes we are all friends since we have to live together in a tight knit community.

Councilmember Stroozas said there was lots of good thought provoking conversation. The fisheries are outside the realm of our jurisdiction. He thanked everyone for their attendance and input and asked them to come back often.

Councilmember Aderhold thanked everyone for coming out and the feedback. She learned a lot about the Tutka Bay fishery and would love to have a tour. She appreciates where the economy comes from and appreciates the commercial fishermen, but it is not our issue to weigh in on. She listens to everyone that comes and comments and thanked everyone for participating in local government.

Councilmember Erickson enjoyed getting to know about the fisheries and talking to people. She would love to have a tour at the head of Tutka Bay where the pens would be. It is nice to hear from both sides. She told people not to be afraid to come again. We need to work together to make this place more profitable.

NEW BUSINESS

- A. **Memorandum 17-006**, from Mayor Zak, 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 Zak called for a motion for the approval of the recommendations of Memorandum 17-006 to meet in Executive Session to discuss City Manager Koester Annual Performance Evaluation/Employment Contract.

STROOZAS/LEWIS - SO MOVED.

City Manager Koester requested her evaluation be conducted in Executive Session.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- B. **Memorandum 17-011**, from City Clerk, Re: Request for Executive Session Pursuant to AS 44.62.310(a-c)(1), Matters, the Immediate Knowledge of Which Would Clearly Have an Adverse Effect Upon the Finances of the Public Entity (Briefing of Homer Police Department Confidential Investigation).

Mayor Zak called for a motion for the approval of the recommendations of Memorandum 17-011 to meet in Executive Session to discuss briefing of Homer Police Department confidential investigation.

LEWIS/ADERHOLD - SO MOVED.

Asked if the Executive Session was properly noticed, City Clerk Johnson told Council the memorandum was posted on the City's website on Friday and Executive Sessions are sometimes scheduled after the agenda is posted.

Asked what the adverse effect upon the City's finances would be to mandate an Executive Session, City Manager Koester advised the Council there is potential litigation for the matter.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

LEWIS/ADERHOLD - MOVED TO POSTPONE TO A TIME CERTAIN OF 5:00 P.M. TOMORROW NIGHT.

There was no discussion.

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

Motion carried.

Mayor Zak called for a recess at 9:40 p.m.

The meeting was postponed to Tuesday, January 10, 2017 at 5:00 p.m.

Session 17-01 a Regular Meeting of the Homer City Council reconvened on January 10, 2017 at 5:00 p.m.

LEWIS/ADERHOLD – MOVED TO ADJOURN TO EXECUTIVE SESSION.

There was no discussion.

VOTE: YES. SMITH, LEWIS, STROOZAS, ADERHOLD, ERICKSON

Motion carried.

Council adjourned to Executive Session at 5:02 p.m. to discuss Memorandums 17-006 and 17-011.

Following Executive Session Councilmember Lewis issued the following statement for Memorandum 17-006: We met with the City Manager and completed her evaluation.

Councilmember Lewis issued the following statement for Memorandum 17-011: We met with the City Manager and the Police Chief on a confidential police investigation.

ADJOURNMENT

There being no further business to come before the Council, Mayor Zak adjourned the meeting at 7:05 p.m. on Tuesday, January 10, 2017. The next Regular Meeting is Monday, January 23, 2017 at 6:00 p.m., Committee of the Whole 5:00 p.m., and Worksession 4:00 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: _____



City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

Memorandum 17-014

TO: HOMER CITY COUNCIL
FROM: BRYAN ZAK, MAYOR
DATE: JANUARY 16, 2017
SUBJECT: REAPPOINTMENTS OF ROBERT HARTLEY AND CATHERINE ULMER TO THE PORT AND HARBOR ADVISORY COMMISSION.

Robert Hartley and Catherine Ulmer are reappointed to the Port and Harbor Advisory Commission for three-year terms. Their terms will expire February 1, 2020.

RECOMMENDATION:

Confirm the reappointments of Robert Hartley and Catherine Ulmer to the Port and Harbor Advisory Commission.

Fiscal Note: N/A



Spread sunshine. Scatter joy!

1-3-17

Bob Hartley,

I would like to
apply for membership
on the part of Harbor
Commission.

Bob Hartley

The Eat Your Peas Collection™

From: [Melissa Jacobsen](#)
To: [Jo Johnson](#)
Subject: FW: Port Commission Term
Date: Tuesday, January 03, 2017 3:19:47 PM

Cathy would like to be re-appointed.

From: Catherine Ulmer [mailto:cu@homerak.us]
Sent: Tuesday, January 03, 2017 3:13 PM
To: Melissa Jacobsen
Subject: Re: Port Commission Term

Yes I do!

On Jan 3, 2017, at 10:29 AM, Melissa Jacobsen <MJacobsen@ci.homer.ak.us> wrote:

Hi Cathy,

I just want to give you a reminder that your term on the Port Commission expires on February 1st. Please me know whether or not you want to be reappointed by Tuesday, January 17th.

Thank you! Melissa

Melissa Jacobsen, MMC
Deputy City Clerk
ADA Coordinator
City of Homer, Alaska
907-435-3107

[City of Homer City Clerk's Office](#)

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City of Homer

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Office of the City Clerk

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Memorandum 17-015

TO: MAYOR ZAK AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JANUARY 16, 2017

SUBJECT: LIQUOR LICENSE RENEWALS FOR BOARDWALK FISH & CHIPS AND DON JOSE'S MEXICAN RESTAURANT

We have been notified by the Alcohol and Marijuana Control Office of an application for liquor license renewals in the City of Homer for the following:

Lic. #	Doing Business As	License Type	Licensee	Premises Address
4713	Boardwalk Fish & Chips	Restaurant/Eating Place Public Convenience Seasonal	H & D, Inc.	4287 Homer Spit Rd., Unit 4
2252	Don Jose's Mexican Restaurant	Beverage Dispensary	Don Jose's, LLC	127 W. Pioneer Ave.

RECOMMENDATION: Voice non objection and approval for the the liquor license renewals.

Fiscal Note: Revenues.



January 5, 2017

City of Homer
Attn: City Clerk

Via Email: clerk@cityofhomer-ak.gov

Cc: joanne@borough.kenai.ak.us
jblankenship@borough.kenai.ak.us
kring@borough.kenai.ak.us

Re: Notice of 2017/2018 Liquor License Renewal Application

License Type:	Restaurant/Eating Place-PC-Seasonal	License Number:	4713
Licensee:	H & D, Inc.		
Doing Business As:	Boardwalk Fish & Chips license #4713		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

Cynthia Franklin, Director
amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board
Renewal License Application
Form AB-17a: Restaurant / Eating Place

What is this form?

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing restaurant / eating place license that will expire on December 31, 2016. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only needs to be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

This form must be completed correctly and submitted to the Alcohol & Marijuana Control Office (AMCO)'s main office, along with all other required documents and fees, before any renewal license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to have its license renewed.

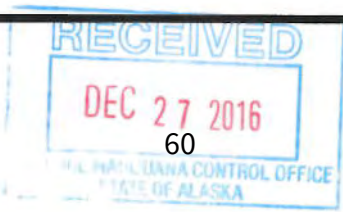
Licensee:	D&H, Inc.	License #:	4713
License Type:	Restaurant/Eating Place-Public Convenience Seasonal	Statute:	AS 04.11.400(g)
Doing Business As:	Boardwalk Fish & Chips		
Premises Address:	4287 Homer Spit Rd, Unit 4		
Local Governing Body:	City of Homer (Kenai Peninsula Borough)		
Community Council:	None		

Mailing Address:	P.O. Box 1720				
City:	Homer	State:	AK	ZIP:	99603

Enter information for the licensee who will be designated as the primary point of contact regarding this application and the license.

Designated Licensee:	Holly Cusack-McVeigh		
Contact Phone:	(907) 299-7770	Business Phone:	(907) 235-7749
Contact Email:	hmcusack@iupui.edu		

Seasonal License? Yes No If "Yes", write your six-month operating period: April-September





Alaska Alcoholic Beverage Control Board
Renewal License Application
Form AB-17a: Restaurant / Eating Place

Section 2 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 3.
 If more space is needed, please attach a separate sheet with the required information.
 The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:	HOLLY CUSACK M-U31611			
Address:	P.O. BOX 1720			
City:	Homee	State:	AK	ZIP: 99603
Email:	DARRENBF@GMAIL.COM			
Contact Phone:	907-399-2327 ~ 907-299-7770 - 907-235-7749			

This individual is an: applicant affiliate

Name:				
Address:				
City:		State:		ZIP:
Email:				
Contact Phone:				

Section 3 – Entity Ownership Information

This subsection must be completed by any licensee that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC). Partnerships may skip to Page 3. Sole proprietors should skip to Section 4.

Alaska DOC Entity #:	106606
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Alaska Division of Corporations: Yes No

Is your entity in good standing with the Alaska Division of Corporations?





Alaska Alcoholic Beverage Control Board
 Renewal License Application
 Form AB-17a: Restaurant / Eating Place

Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

This subsection must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a corporation, the following information must be completed for each *stockholder who owns 10% or more* of the stock in the corporation, and for each *president, vice-president, secretary, and managing officer*.
- If the applicant is a limited liability organization, the following information must be completed for each *member with an ownership interest of 10% or more*, and for each *manager*.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each *partner with an interest of 10% or more*, and for each *general partner*.

Entity Official:	HOLLY CUSACK MCDONALD			
Title(s):	PRESIDENT / TRAINER	Phone:	907-299-7700	% Owned: 100
Address:	P.O. BOX 1720			
City:	Homee	State:	AK	ZIP: 99603

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:

Entity Official:				
Title(s):		Phone:		% Owned:
Address:				
City:		State:		ZIP:





Alaska Alcoholic Beverage Control Board
Renewal License Application
Form AB-17a: Restaurant / Eating Place

Section 4 – Authorization

Communication with AMCO staff: Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

Darren McViehl - Husband manager of RESTAURANT

Section 5 – License Operation

Check the box that best describes your liquor license operations in calendar years 2015 and 2016:

- The license was regularly operated continuously throughout each year, for 8 or more hours each day.
- The license was regularly operated during a specific season each year, for 8 or more hours each day.
- The license was only operated to meet the minimum requirement of 30 days each year, 8 hours each day. *If this box is checked, an AMCO employee will contact you after reviewing your application.*
- The license was not operated at all or was not operated for at least the minimum requirement of 30 days each year, 8 hours each day, during one or both of the calendar years. *If this box is checked, an AMCO employee will contact you after reviewing your application.*

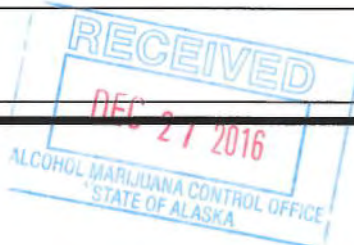
Section 6 – Convictions

Applicant convictions in calendar years 2015 and 2016: Yes No

Has any person named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2015 or 2016?

If "Yes", list all convictions:

(Empty box for listing convictions)





**Alaska Alcoholic Beverage Control Board
Renewal License Application
Form AB-17a: Restaurant / Eating Place**

Alcohol and Marijuana Control Office
550 W 7th Avenue, Suite 1600
Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
Phone: 907.269.0350

Section 7 – Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all current licensees (as defined in AS 04.11.260) and affiliates have been listed on this application, and if the licensee is an organized entity, that all current entity officials and stakeholders are listed with the Alaska Division of Corporations.

[Handwritten initials]

I certify on behalf of myself or of the organized entity that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.

[Handwritten initials]

I certify that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.

[Handwritten initials]

I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers or stakeholders) from what is currently on file with the Alcoholic Beverage Control Board.

[Handwritten initials]

I certify that I have not violated any restrictions pertaining to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Alcoholic Beverage Control Board.

[Handwritten initials]

I certify that the gross receipts for the sale of food at the restaurant equal at least 50% of the total gross receipts for calendar years 2015 and 2016.

[Handwritten initials]

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

[Handwritten signature]

Signature of licensee

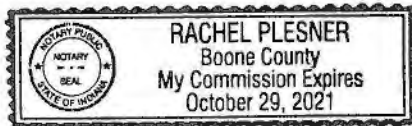
[Handwritten signature]

Signature of Notary Public

[Handwritten name]

Printed name of licensee

Notary Public in and for the State of INDIANA



My commission expires: 04/02/21

Subscribed and sworn to before me this 5 day of December, 2016

License Fee:	\$ 300.00	Filing Fee:	\$ 200.00	TOTAL:	\$ 500.00
Late Fee of \$500.00 – if received or postmarked after 01/03/2017:					
Miscellaneous Fees:					
GRAND TOTAL (if different than TOTAL):					<i>500.00</i>





City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum

TO: Mark Robl, Police Chief
FROM: Melissa Jacobsen, Deputy City Clerk
DATE: January 10, 2017
SUBJECT: Liquor License Renewal for Boardwalk Fish & Chips

We have been notified by the Alcohol Marijuana Control Office of an application for liquor license renewals in the City of Homer for the following:

Type: Restaurant Eating Place-Public Convenience Seasonal
Lic #: 4713
DBA Name: Boardwalk Fish & Chips
Service Location: 4287 Homer Spit Rd. Unit 4, Homer, Alaska
Licensee: D&H, Inc.
Mailing Address: PO Box 1720, Homer, AK 99603

This matter is scheduled for the January 23, 2017 City Council meeting. Please respond with objections/non-objections to this liquor license renewal by **Wednesday, January 18, 2017**.

Thank you for your assistance.



CITY OF HOMER POLICE DEPARTMENT

4060 HEATH STREET HOMER, AK 99603-7608

EMERGENCY 911
TELEPHONE (907) 235-3150
TELECOPIER (907) 235-3151

MEMORANDUM

DATE: January 10th 2017
TO: Melissa Jacobsen, Deputy City Clerk
FROM: Mark Robl, Chief of Police
SUBJECT: Liquor License Renewal

The Homer Police Department has no objection to the liquor license renewal for the following businesses:

Type:	Restaurant Eating Place-Public Convenience Seasonal
Lic #:	4713
DBA Name:	Boardwalk Fish & Chips
Premise Address:	4287 Homer Spit Rd. Unit 4, Homer AK
Owner:	D&H, Inc.
Mailing Address:	PO Box 1720, Homer, AK 99603

Sincerely,

Mark Robl
Chief of Police



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2160 • FAX: (907) 714-2388

Toll-free within the Borough: 1-800-478-4441 Ext. 2160

Email: assemblyclerk@kpb.us

**JOHNI BLANKENSHIP, MMC
BOROUGH CLERK**

January 13, 2017

Ms. Sarah Daulton Oates
Records & Licensing Supervisor
Alcohol & Marijuana Control Office
550 West 7th Ave, Suite 1600
Anchorage, AK 99501

RE: Non-Objection of License Renewal

Business Name	:	Boardwalk Fish & Chips
License Type	:	Restaurant Eating Place – PC Seasonal
License Location	:	City of Homer
License No.	:	4713

Dear Sarah,

This serves to advise that the Finance Department has reviewed the above referenced application and has no objection to the renewal of this license.

Should you have any questions, or need additional information, please do not hesitate to contact our office.

Sincerely,

Johni Blankenship, MMC
Borough Clerk

JB/klr

cc: Applicant
City of Homer
KPB Finance Department
File



January 10, 2017

City of Homer

Attn: City Clerk

Via Email: clerk@cityofhomer-ak.gov

Cc: joanne@borough.kenai.ak.us

jblankenship@borough.kenai.ak.us

kring@borough.kenai.ak.us

Re: Notice of 2017/2018 Liquor License Renewal Application

License Type:	Beverage Dispensary	License Number:	2252
Licensee:	Don Jose's, LLC		
Doing Business As:	Don Jose's Mexican Restaurant		

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

AMCO Staff

amco.localgovernmentonly@alaska.gov



Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

What is this form?

This renewal license application form is required for all individuals or entities seeking to apply for renewal of an existing liquor license that will expire on December 31, 2016. All fields of this form must be complete and correct, or the application will be returned to you in the manner in which it was received, per AS 04.11.270 and 3 AAC 304.105. The Community Council field only needs to be verified/completed by licensees whose establishments are located within the Municipality of Anchorage or outside of city limits within the Matanuska-Susitna Borough.

This form must be completed correctly and submitted to the Alcohol & Marijuana Control Office (AMCO)'s main office, along with all other required documents and fees, before any renewal license application will be considered complete.

Section 1 – Establishment and Contact Information

Enter information for the business seeking to have its license renewed.

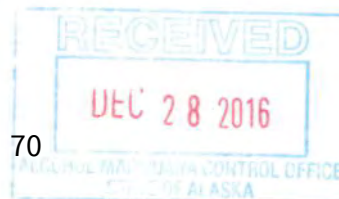
Licensee:	Don Jose's, LLC	License #:	2252
License Type:	Beverage Dispensary	Statute:	A5 04.11.090
Doing Business As:	Don Jose's Mexican Restaurant		
Premises Address:	127 W Pioneer Ave. Homer		
Local Governing Body:	City of Homer (Kenai Peninsula Borough)		
Community Council:	None		

Mailing Address:	127 W Pioneer Ave		
City:	Homer	State:	AK
		ZIP:	99603

Enter information for the licensee who will be designated as the primary point of contact regarding this application and the license.

Designated Licensee:	LISA FINK		
Contact Phone:	678-382-9054	Business Phone:	907-334-6400
Contact Email:	lfink@alaska.donjoses.com		

Seasonal License? Yes No If "Yes", write your six-month operating period: _____





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

Section 2 – Sole Proprietor Ownership Information

This section must be completed by any sole proprietor who is applying for a license. Entities should skip to Section 3. If more space is needed, please attach a separate sheet with the required information. The following information must be completed for each licensee and each affiliate (spouse).

This individual is an: applicant affiliate

Name:				
Address:				
City:		State:		ZIP:
Email:				
Contact Phone:				

This individual is an: applicant affiliate

Name:				
Address:				
City:		State:		ZIP:
Email:				
Contact Phone:				

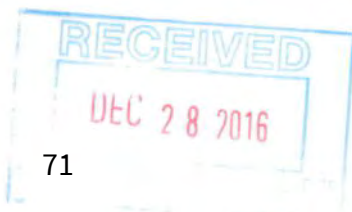
Section 3 – Entity Ownership Information

This subsection must be completed by any licensee that is a corporation or LLC. Corporations and LLCs are required to be in good standing with the Alaska Division of Corporations (DOC). Partnerships may skip to Page 3. Sole proprietors should skip to Section 4.

Alaska DOC Entity #:	56813 D
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Alaska Division of Corporations: Yes No

Is your entity in good standing with the Alaska Division of Corporations?





Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

This subsection must be completed by any entity, including a corporation, limited liability company (LLC), partnership, or limited partnership, that is applying for renewal. If more space is needed, please attach additional completed copies of this page.

- If the applicant is a corporation, the following information must be completed for each stockholder who owns 10% or more of the stock in the corporation, and for each president, vice-president, secretary, and managing officer.
- If the applicant is a limited liability organization, the following information must be completed for each member with an ownership interest of 10% or more, and for each manager.
- If the applicant is a partnership, including a limited partnership, the following information must be completed for each partner with an interest of 10% or more, and for each general partner.

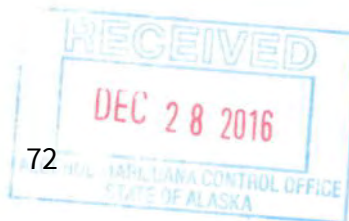
Entity Official:	Jose Ramos				
Title(s):	Member	Phone:	907-229-7196	% Owned:	51
Address:	127 W Pioneer Ave				
City:	Homer	State:	AK	ZIP:	99603

Entity Official:	Maria Ramos				
Title(s):	member	Phone:	907-299-3947	% Owned:	49
Address:	127 W Pioneer Ave				
City:	Homer	State:	AK	ZIP:	99603

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	

Entity Official:					
Title(s):		Phone:		% Owned:	
Address:					
City:		State:		ZIP:	





Alaska Alcoholic Beverage Control Board

Form AB-17: Renewal License Application

Section 4 – Authorization

Communication with AMCO staff:

Yes No

Does any person other than a licensee named in this application have authority to discuss this license with AMCO staff?

If "Yes", disclose the name of the individual and the reason for this authorization:

LISA Fink

Section 5 – License Operation

Check the box that best describes your liquor license operations in calendar years 2015 and 2016:

The license was regularly operated continuously throughout each year, for 8 or more hours each day.

The license was regularly operated during a specific season each year, for 8 or more hours each day.

The license was only operated to meet the minimum requirement of 30 days each year, 8 hours each day. If this box is checked, an AMCO employee will contact you after reviewing your application.

The license was not operated at all or was not operated for at least the minimum requirement of 30 days each year, 8 hours each day, during one or both of the calendar years.

If this box is checked, an AMCO employee will contact you after reviewing your application.

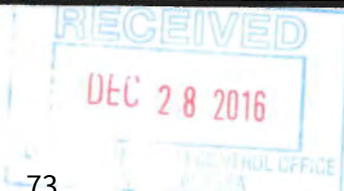
Section 6 – Convictions

Applicant convictions in calendar years 2015 and 2016:

Yes No

Has any person named in this application been convicted of a violation of Title 04, of 3 AAC 304, or a local ordinance adopted under AS 04.21.010 in the calendar years 2015 or 2016?

If "Yes", list all convictions:





Alcohol and Marijuana Control Office
 550 W 7th Avenue, Suite 1600
 Anchorage, AK 99501
alcohol.licensing@alaska.gov
<https://www.commerce.alaska.gov/web/amco>
 Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board Form AB-17: Renewal License Application

Section 7 - Certifications

Read each line below, and then sign your initials in the box to the right of each statement:

Initials

I certify that all current licensees (as defined in AS 04.11.060) and affiliates have been listed on this application, and if the licensee is an organized entity, that all current entity officials and stakeholders are listed with the Alaska Division of Corporations.



I certify on behalf of myself or of the organized entity that I understand that providing a false statement on this form or any other form provided by AMCO is grounds for rejection or denial of this application or revocation of any license issued.



I certify that in accordance with AS 04.11.450, no one other than the licensee(s) has a direct or indirect financial interest in the licensed business.



I certify that I have not altered the functional floor plan or reduced or expanded the area of the licensed premises, and I have not changed the business name or the ownership (including officers or stakeholders) from what is currently on file with the Alcoholic Beverage Control Board.



I certify that I have not violated any restriction applicable to this particular license type, and that this license has not been operated in violation of a condition or restriction imposed by the Alcoholic Beverage Control Board.



As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, is true, correct, and complete. I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned to me as incomplete.

SIGN HERE

Signature of licensee

Jose Ramos
 Printed name of licensee



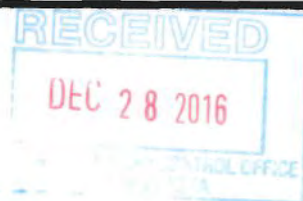
Signature of Notary Public

and for the State of Alaska

My commission expires: May 29, 2019

Subscribed and sworn to before me this 27 day of December, 2016.

License Fee:	\$ 2500.00	Filing Fee:	\$ 200.00	TOTAL:	\$ 2700.00
Late Fee of \$500.00 – if received or postmarked after 01/03/2017:					
Miscellaneous Fees:					
GRAND TOTAL (if different than TOTAL):					





City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum

TO: Mark Robl, Police Chief
FROM: Melissa Jacobsen, Deputy City Clerk
DATE: January 12, 2017
SUBJECT: Liquor License Renewal for Don Jose's

We have been notified by the Alcohol Marijuana Control Office of an application for liquor license renewals in the City of Homer for the following:

Type: Beverage Dispensary
Lic #: 2252
DBA Name: Don Jose's Mexican Restaurant
Service Location: 127 W. Pioneer Ave. Homer, Alaska
Licensee: Don Jose's LLC
Mailing Address: 127 W. Pioneer Ave, Homer, AK 99603

This matter is scheduled for the January 23, 2017 City Council meeting. Please respond with objections/non-objections to this liquor license renewal by **Wednesday, January 18, 2017**.

Thank you for your assistance.



City of Homer

www.cityofhomer-ak.gov

Police Department

4060 Heath Street

Homer, Alaska 99603

police@cityofhomer-ak.gov

(p) 907-235-3150

(f) 907-235-3151

Memorandum

TO: MELISSA JACOBSEN, DEPUTY CITY CLERK
FROM: MARK ROBL, POLICE CHIEF
DATE: JANUARY 12, 2017
SUBJECT: LIQUOR LICENSE RENEWAL FOR DON JOSE'S MEXICAN RESTAURANT

We have been no objection to the liquor license renewal application in the City of Homer for the following:

Type: Beverage Dispensary
Lic #: 2252
DBA Name: Don Jose's Mexican Restaurant
Service Location: 127 W. Pioneer Ave. Homer, Alaska
Licensee: Don Jose's LLC
Mailing Address: 127 W. Pioneer Ave, Homer, AK 99603



KENAI PENINSULA BOROUGH

144 North Binkley Street • Soldotna, Alaska 99669-7520

PHONE: (907) 714-2160 • FAX: (907) 714-2388

Toll-free within the Borough: 1-800-478-4441 Ext. 2160

Email: assemblyclerk@kpb.us

**JOHNI BLANKENSHIP, MMC
BOROUGH CLERK**

January 19, 2017

Ms. Sarah Daulton Oates
Records & Licensing Supervisor
Alcohol & Marijuana Control Office
550 West 7th Ave, Suite 1600
Anchorage, AK 99501

RE: Non-Objection of License Renewal

Business Name	:	Don Jose's Mexican Restaurant
License Type	:	Beverage Dispensary
License Location	:	City of Homer
License No.	:	2252

Dear Sarah,

This serves to advise that the Finance Department has reviewed the above referenced application and has no objection to the renewal of this license.

Should you have any questions, or need additional information, please do not hesitate to contact our office.

Sincerely,

JB/klr

cc: Applicant
City of Homer
KPB Finance Department
File



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 17-016

TO: MAYOR ZAK AND HOMER CITY COUNCIL

FROM: JO JOHNSON, MMC, CITY CLERK

DATE: JANUARY 17, 2017

SUBJECT: TRAVEL AUTHORIZATION FOR MAYOR ZAK AND COUNCILMEMBERS ADERHOLD AND SMITH TO ATTEND THE ALASKA MUNICIPAL LEAGUE/ALASKA CONFERENCE OF MAYORS WINTER LEGISLATIVE CONFERENCE IN JUNEAU, ALASKA, FEBRUARY 21 – 23, 2017.

Mayor Zak and Councilmembers Aderhold and Smith would like to attend the Alaska Municipal League/Alaska Conference of Mayors Winter Legislative Conference in Juneau, Alaska, February 21 – 23, 2017.

The AML is a voluntary, nonprofit, nonpartisan, statewide organization of 140 cities, boroughs, and unified municipalities, representing over 97 percent of Alaska's residents. Originally organized in 1950, the League of Alaska Cities became the Alaska Municipal League in 1962 when boroughs joined the League.

Meetings include Alaska Conference of Mayors, board committees and meeting with Legislators.

Cost estimates for travel include round trip airfare from Homer to Juneau \$500.00 and room rates at \$139.00 per night. Per diem is \$58.00 per day, for three meals. Conference cost is \$125.00.

For FY 2017 Council budgeted \$6,500 for transportation and \$3,500 for subsistence. To date \$0 has been expended from Transportation Acct. No. 100.0100.5236, leaving a balance of \$6,500; and \$0 has been expended from Subsistence Acct. No. 100.0100.5237, with a balance of \$3,500 remaining.

RECOMMENDATION:

Discuss the travel and if approved allocate funds for transportation.

Fiscal Note: Mayor and Council 2017 Budget: 100.0100.5236 - Transportation: \$6,500.00 and 100.0100.5237 - Subsistence: \$3,500.00.



**Alaska Municipal League/Alaska Conference of Mayors
Winter Legislative Conference
February 21-23, 2017
Baranof Hotel, Juneau, AK**

Tuesday, February 21, 2017

Lunch on your own

1:00 – 5:00p.m. AML Board Meeting Treadwell Room

Wednesday, February 22, 2017

8:30 - 11:45 a.m. Alaska Conference of Mayors Meeting Treadwell Room

Lunch on your own

1:30 – 4:30 p.m. Heroin Issues Treadwell Room

Thursday, February 23, 2017

8:00 a.m. Breakfast (included) Treadwell Room

8:30 – 11:45 a.m. Legislative Meeting Treadwell Room

12:00 – 1:15 p.m. Lunch (included) Treadwell Room

1:30 – 4:00 p.m. Legislative Meeting Continued Treadwell Room

5:30 – 7:00 p.m. AML Legislative Reception Treadwell Room

Agenda subject to change.

ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-04

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 21.30.020 to Add “Auto Equipment Sales, Rentals, Service, Repair and Storage” to the List of Permitted Uses in the Marine Industrial District.

Sponsor: Lewis

1. Council Regular Meeting January 23, 2017 Introduction
 - a. Written public comments

CITY OF HOMER
HOMER, ALASKA

Lewis

ORDINANCE 17-04

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
AMENDING HOMER CITY CODE 21.30.020 TO ADD “AUTO
EQUIPMENT SALES, RENTALS, SERVICE, REPAIR AND STORAGE”
TO THE LIST OF PERMITTED USES IN THE MARINE INDUSTRIAL
DISTRICT.

WHEREAS, The Homer City Code does not permit auto equipment sales, rentals, service,
repair, or storage in the Marine Industrial Complex; and

WHEREAS, It is in the interest of the City of Homer and its residents and visitors to permit
these types of use in the Marine Industrial Complex.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Section 21.30.020, Permitted uses and structures, is amended to read as
follows:

The following uses are permitted outright in the Marine Industrial District, except when
such use requires a conditional use permit by reason of size, traffic volumes, or other
reasons set forth in this chapter:

- a. Port and harbor facilities;
- b. Manufacturing, processing and packing of sea products;
- c. Cold storage;
- d. Dry docks;
- e. Wharves and docks, marine loading facilities, ferry terminals, marine railways;
- f. Marine **and auto** equipment sales, rentals, service, repair and storage;
- g. Boat launching or moorage facilities, marinas, boat charter services;

- 41 h. Warehouse and marshaling yards for storing goods awaiting transfer to marine
42 vessels or off-loaded from a marine vessel and awaiting immediate pickup by
43 land-based transportation;
- 44
- 45 i. Mobile food services;
- 46
- 47 j. Itinerant merchants;
- 48
- 49 k. Recreational vehicle parks, provided they shall conform to the standards in
50 Chapter 21.54 HCC;
- 51
- 52 l. Caretaker, business owner or employee housing as an accessory use to a
53 primary use, and limited to no more than 50 percent of the floor area of a
54 building and for use by an occupant for more than 30 consecutive days;
- 55
- 56 m. More than one building containing a permitted principal use on a lot;
- 57
- 58 n. Restaurant as an accessory use;
- 59
- 60 o. Parks;
- 61
- 62 p. As an accessory use, one small wind energy system per lot;
- 63

64

65 Section 2. This ordinance shall take effect upon its adoption by the Homer City Council.

66

67 Section 3. This ordinance is of a permanent and general character and shall be included
68 in the City Code.

69

70 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
71 _____, 2017.

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73 CITY OF HOMER

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77 BRYAN ZAK, MAYOR

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83 ATTEST:

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86 _____

87 JO JOHNSON, MMC, CITY CLERK

88

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90 YES:

91 NO:

92 ABSTAIN:

93 ABSENT:

94

95 First Reading:

96 Public Hearing:

97 Second Reading:

98 Effective Date:

99

100 Reviewed and approved as to form.

101

102 _____

103 Mary K. Koester, City Manager

104

105 Date: _____

106

107

108 Fiscal Note: NA

Holly C. Wells, City Attorney

Date: _____

From: Frank Griswold
To: [Jo Johnson](#)
Cc: [Department Planning](#)
Subject: Ordinance 17-xx/Temporary Auto Sales/Spot Zoning
Date: Thursday, January 12, 2017 1:54:23 PM

Re: Ordinance 17-xx, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Title 21 to Allow Temporary Auto Sales in the Marine Commercial District for Up to 90 Days. Lewis. Recommended dates: Introduction January 23, 2017, Refer to Planning Commission.

In *Griswold vs. City of Homer*, 925 P.2d 1015, 1020, at footnote 6, the Alaska Supreme Court defined spot zoning as follows: “[S]pot zoning is simply the legal term of art for a zoning decision which affects a small parcel of land and which is found to be an arbitrary exercise of legislative power. Cf. *Concerned citizens of S. Kenai Peninsula*, 527 P.2d at 452 [“T]he constitutional guarantee of a substantive due process assures only that a legislative’s decision is not arbitrary but instead based upon some rational policy.”). “The common [spot zoning] situation is one in which an amendment is initiated at the request of an owner or owners who seek to establish a use prohibited by the existing regulations.” Robert M. Anderson, *American Law of Zoning* 3d Sect. 5.12, at 358 (1986). See also, *Ballenger v. Door County*, 131 Wis. 2d 422, 388 N.W. 2d 624, 627 (App. 1986) (applying spot zoning analysis in a case where the zoning district remained the same but the permitted uses within the district were expanded.).

Spot zoning is illegal in Alaska. Before considering Ordinance 17-xx, it would be prudent for the City Council and Planning Commission to request a formal legal opinion addressing whether allowing auto sales, temporary or otherwise, in the Marine Commercial District (or in the Marine Industrial District or in any other zoning district where they are not currently allowed) would constitute spot zoning. The following questions need to be addressed: 1. What rational *public* policy constitutes the basis for the proposed ordinance? 2. How does the proposed ordinance comport with the Homer Comprehensive Plan? 3. Does the small size of the area proposed for rezone require a finding of spot zoning? 4. If the proposed ordinance is enacted, on what grounds could anybody be denied the right to sell vehicles in any other zoning district?

Frank Griswold

ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-05

An Ordinance of the City Council of Homer, Alaska, Amending the 2017 Operating Budget by Appropriating \$970,870 From the Homer Accelerated Roads/Trails Program (HART) for the Greatland Street Improvements (Option C) Project, and Authorizing the City Manager to Execute All Appropriate Documents.

Sponsor: Erickson

1. Council Regular Meeting January 23, 2017 Introduction
 - a. Memorandum 17-019 from Public Works Director
 - b. Greatland Street Improvement – Option A, B & C

**CITY OF HOMER
HOMER, ALASKA**

Erickson

ORDINANCE 17-05

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE 2017 OPERATING BUDGET BY APPROPRIATING \$970,870 FROM THE HOMER ACCELERATED ROADS/TRAILS PROGRAM (HART) FOR THE GREATLAND STREET IMPROVEMENTS (OPTION C) PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL APPROPRIATE DOCUMENTS.

WHEREAS, Extending Greatland Street north to Pioneer Avenue would improve vehicular and pedestrian access to the eastern portion of the Central Business District; and

WHEREAS, The Homer Transportation Plan recommends that the northern portion of Greatland Street be vacated and a new connection be made to Pioneer Avenue by extending Bartlett Street south, curving it to the east and connecting to Greatland Street and Main Street. This would be part of a recommended new east/west corridor that would have City-wide benefits, most notably relief of traffic congestion on Pioneer Avenue and the Sterling Highway; and

WHEREAS, Three options have been considered; Option A – Extend Greatland Street North to Pioneer Avenue; Option B – Extend Greatland Street North to a New East/West Extension of Bartlett Avenue (from Pioneer Avenue to Main Street); and Option C – Extend Greatland Street North to a New East/West Extension of Bartlett Avenue (but only from Pioneer Avenue to Greatland Street); and

WHEREAS, Option A is the least expensive, but does not conform to the recommendations of the Transportation Master Plan and Option B is the most expensive, requiring significant capital expenditure; Option C conforms to the recommendations of the Transportation Plan and provides Greatland Street with needed interconnection to Pioneer Avenue; and

WHEREAS, The City Council supports improvements to Greatland Street, preferring Option C based on cost and recommendations of the Homer Transportation Plan; and

WHEREAS, If Greatland Street was to be extended north to Pioneer (Option A), benefitted property owners would pay their fair share (25% of the cost under a special assessment district); and

WHEREAS, Since Option C cost more than Option A but provides the same benefit to adjacent property owners as Option A, fair share costs to benefitting property owners under Option C should be no more than that required under Option A; and

WHEREAS, Since only one property owner will benefit directly from the construction of Option C, rather than creating a special assessment district (SAD), the City shall enter into an

45 agreement with this property owner to establish fair share road construction costs (at stated
46 above), conditions of land acquisition purchases, and other cooperative arrangements.

47

48 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

49

50 Section 1. The FY 2017 Operating Budget is hereby amended by appropriating \$970,870
51 from the Homer Accelerated Roads/Trails Fund (HART) for the design, platting, land acquisition,
52 construction, inspection, project management, and administrative costs associated with
53 completing the Greatland Street Improvements (Option C).

54

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
620-0375 (HART)	Greatland Street Improvements (Option C)	\$970,870

57

58 Section 2. This is a budget amendment ordinance, is not permanent in nature, and shall
59 not be codified.

60

61 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of February, 2017.

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63 CITY OF HOMER

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ATTEST:

JO JOHNSON, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

88 Reviewed and approved as to form:
89
90
91 _____
92 Mary K. Koester, City Manager
93
94 Date: _____
95

Holly C. Wells, City Attorney

Date: _____



City of Homer

www.cityofhomer-ak.gov

Public Works

3575 Heath Street
Homer, AK 99603

publicworks@cityofhomer-ak.gov

(p) 907- 235-3170

(f) 907-235-3145

Memorandum 17-019

TO: Katie Koester - City Manager
FROM: Carey Meyer - Public Works Director
DATE: January 4, 2017
SUBJECT: **Proposed Greatland Street Extension**

Background:

Extending Greatland Street north to Pioneer Avenue has been contemplated for some time. The driving force has been interest in providing more direct vehicular and pedestrian access to Save-U-More and eliminating the need to access the area from and back onto the Sterling Highway. Moving forward with this extension is complicated by the recommendations of the Homer 2005 Transportation Plan, which recommends that the northern portion of Greatland Street be vacated and a new east/west road be extended to connect to Pioneer at Bartlett Street (to the west) and Main Street (to the east). See attached Exhibit A and B showing what extending Greatland to the north (Option A) would look like and how the Transportation Plan recommendations (Option B) could be implemented.

One of the major recommendations of the Transportation Plan was to develop a new road corridor through the central business district that could provide additional east/west traffic/pedestrian access and reduce traffic on Pioneer Avenue and the Sterling Highway. The plan envisioned extending a new road from Lake Street to Heath Street along Waddell Way (accomplished in 2016); pushing through a road from Poopdeck to Main (through "town center"); and extending the corridor west of Main Street, across Greatland Street, and connecting into Pioneer Avenue at Bartlett Street. This would allow for the northern portion of Greatland Street to be vacated, eliminating a poorly aligned Pioneer/Greatland intersection (Greatland north of Pioneer Avenue has already been vacated), and creating a four-way intersection at Pioneer and Bartlett (reducing the number of intersections and conflicting turning movements along Pioneer Avenue).

Discussion:

Projects like this are best accomplished when there is consensus among those affected. Public Works has contacted several of the property owners that will be most affected by

either alternative. I will not speak for them here, but in general they see value in both alternatives.

Option A – Extend Greatland North

Option A is the least expensive alternative. The estimated cost is \$643,600 (see table below). It does provide access to all area properties, has less impact to benefitting adjacent properties, and creates a connection to Pioneer Avenue. It does not provide for the recommended new east/west corridor that would benefit the entire community.

Public Works envisions that this option would be completed by creating a Special Assessment District (SAD) in which the City would pay 75% of the cost; the benefitted property owners would pay 25%. There are 3 affected property owners along Greatland who would each pay approximately \$14,679 under SAD. A SAD can be initiated by a property owner or by Council.

**Greatland Street Improvements
 Overall Cost Comparision - Option A, B and C**

	Option A	Option B	Option C
Design/Survey	\$ 56,028	\$ 113,160	\$ 64,944
Platting	\$ 7,500	\$ 29,000	\$ 20,000
Property Acquisition	\$ 6,000	\$ 331,125	\$ 163,500
Inspection (4%)	\$ 18,676	\$ 37,720	\$ 21,648
Road Construction	\$ 466,900	\$ 943,000	\$ 541,200
Contingency (15%)	\$ 83,266	\$ 141,450	\$ 121,694
Project Management (3%)	\$ 14,007	\$ 28,290	\$ 16,236
City Administration (4%)	\$ 18,676	\$ 37,720	\$ 21,648
Total Project Cost	\$ 671,053	\$ 1,661,465	\$ 970,870
Property Owner Contribution	\$ 167,763	\$ 146,793	\$ 146,793
City Cost	\$ 503,289	\$ 1,514,672	\$ 824,077

Option B – Vacate Greatland/Connect East/West to Main and Bartlett

Option B is the more expensive option, but conforms to the recommendation of the Transportation Plan. The cost is \$1,591,000.

Public Works envisions that this option would be completed by creating a City project, in which the one benefitted property owner through a development agreement would contribute no more than what they would pay under Option A; and the City would pay the remaining costs.

Option C – Vacate Greatland/Connect Only to West to Bartlett/Pioneer Intersection

Option C is based on Option B, but only constructs the western portion; leaving the connection to Main Street for another day. The cost is \$971,000.

Public Works envisions that this option would be completed by creating a City project, in which the one benefitted property owner through a development agreement would contribute no more than what they would pay under Option A; and the City would pay the remaining costs.



Greatland Street Improvement - Option A

1 inch = 100 feet



Greatland Street Improvement - Option B

101
1 inch = 100 feet



Greatland Street Improvement - Option C

1 inch = 100 feet

ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-06

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.80 and Homer City Code 1.18.050 to Appoint a Hearing Officer to Hear Ethics Complaints Against City Council Members and the Mayor and to Amend Homer City Code Section 2.08.050 to Permit the Board of Ethics or Hearing Officer to Dismiss Witnesses Prior to the Administrative Hearing and Clarify the Investigative and Hearing Process.

Sponsor: Aderhold

1. Council Regular Meeting January 23, 2017 Introduction

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

Aderhold

3
4 **ORDINANCE 17-06**

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6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 2.80 AND HOMER CITY CODE
8 1.18.050 TO APPOINT A HEARING OFFICER TO HEAR ETHICS
9 COMPLAINTS AGAINST CITY COUNCIL MEMBERS AND THE MAYOR
10 AND TO AMEND HOMER CITY CODE SECTION 2.08.050 TO PERMIT
11 THE BOARD OF ETHICS OR HEARING OFFICER TO DISMISS
12 WITNESSES PRIOR TO THE ADMINISTRATIVE HEARING AND
13 CLARIFY THE INVESTIGATIVE AND HEARING PROCESS.
14

15 WHEREAS, The City Council highly values the public's confidence in the propriety and
16 fairness of City of Homer ("City") administrative hearings and appeals; and
17

18 WHEREAS, It is in the City's best interest to designate a hearing officer to decide ethics
19 complaints filed against City Council members or the Mayor, preserving the ability of Council
20 members to work collaboratively and respectfully with one another while maintaining the
21 accountability and responsible governance of each member; and
22

23 WHEREAS, Permitting the Board of Ethics or a hearing officer to utilize witness
24 testimony in a manner that preserves the confidentiality of the Board's or the officer's
25 investigation and review.
26

27 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
28

29 Section 1. Section 1.18.050 entitled "Procedures for violation reporting" is amended to
30 read as follows:
31

32 a. Any person who believes that a violation of any portion of this chapter has
33 occurred may file a written complaint of potential violation with the City Clerk's
34 office.

35 b. All written complaints of potential violation submitted under this chapter
36 shall be signed by the person submitting the complaint. A written complaint of
37 potential violation shall state the address and telephone number of the person
38 filing the complaint, identify the respondent, and affirm to the best of the
39 person's knowledge and belief the facts alleged in the complaint of potential
40 violation signed by the person are true. The person filing the complaint of

[Bold and underlined added. Deleted language stricken through.]

41 potential violation shall identify the section of this chapter the person believes
42 was violated, state why the person signing the complaint of potential violation
43 believes the facts alleged constitute a violation of that section, and identify any
44 documentary or testimonial evidence the person filing the complaint believes is
45 in support of the notification of potential violation.

46 c. Written complaints of potential violations filed with the City Clerk's office shall
47 be forwarded to the Board of Ethics under Chapter 2.80HCC. **Except as**
48 **otherwise provided in this section,** ~~the~~ the Board of Ethics has sole jurisdiction
49 to decide the merits of the complaint filed under this chapter.

50 **d. The City Clerk shall appoint a hearing officer to decide and investigate**
51 **properly filed written complaints against City Council members or the**
52 **Mayor and shall have sole jurisdiction to decide the merits of the complaint**
53 **filed under this section.**

54
55
56 Section 2. Section 2.80.010 is repealed and replaced as follows:
57

58 a. There is hereby established a Board of Ethics.

59 b. The Board shall be comprised of all members of the City Council and the
60 Mayor. The Mayor, or the Mayor Pro Tem in the Mayor's absence, will serve as
61 presiding officer of the Board. In the absence of both, the members of the Board
62 shall elect a presiding officer from among its members.

63 c. The City Attorney or other legal counsel for the Board may assist the Board at
64 every stage of the proceedings, but shall have no vote.

65 d. A quorum of the Board shall be a majority of all members who are not excused
66 for cause, such as being the complainant, the respondent, a witness, having a
67 conflict of interest, or other cause for recusal. However, in no event may a
68 quorum be less than three.

69 e. Decisions of the Board shall be adopted by a majority of the members who are
70 qualified to act on the matter, where a quorum is present.

71 f. Unless the Board delegates such authority to another member or decides that
72 no one shall have such authority, **and except as provided for hearing officers**
73 **in subsection (h) of this section,** the presiding officer shall have authority to
74 make procedural decisions between Board meetings on behalf of the Board.

[Bold and underlined added.] Deleted language stricken through.

75 Examples of matters that may be decided by such delegate include scheduling
76 hearings and other matters, establishing pre-hearing requirements and filing
77 deadlines for motions, exhibits, witness lists, hearing briefs, and deciding other
78 procedural matters.

79 g. The presiding officer shall vote on every question, unless required to abstain
80 for cause, and shall not have power to veto any action of the Board.

81 **h. A hearing officer designated by the City Clerk under HCC 1.18.050 shall**
82 **have sole authority to investigate the complaint they have been retained to**
83 **hear and to make procedural decisions regarding the investigation and**
84 **hearing of that complaint. The designated hearing officer shall be the sole**
85 **decision-maker and shall comply with the procedures and requirements of**
86 **this chapter provided for the Board and its members.**

87
88 Section 3. Section 2.80.020 is amended to read as follows:

89
90 2.80.020 Function and authority.

91
92 The Board of Ethics or a **hearing officer appointed under this chapter** has
93 authority to perform the following functions:

94
95 a. Investigate reported violations of Chapter 1.18 HCC.

96
97 b. Hear and decide written complaints of violations of Chapter 1.18 HCC.

98
99 c. Hear and decide on requests for exceptions as specified in Chapter 1.18 HCC.

100
101 d. Make findings and recommendations concerning sanctions, civil penalties
102 and remedies for violations as provided in the code.

103
104 e. Adopt recommended policies and procedures governing the Board's conduct
105 of business.

106
107 f. Upon application of the complainant, respondent, or at the Board's **or hearing**
108 **officer's** discretion, compel by subpoena the appearance and sworn testimony,
109 at a specified time and place, of a person the Board **or hearing officer**
110 reasonably believes may be able to provide information relating to a matter
111 under investigation by the Board **or hearing officer** or the production of
112 documents, records or other items the Board **or hearing officer** reasonably
113 believes may relate to the matter under consideration.

[Bold and underlined added.] Deleted language stricken through.

114 g. Administer oaths and receive testimony from witnesses appearing before the
115 Board **or hearing officer**.

116
117 h. Request City agencies to cooperate with the Board **or hearing officer** in the
118 exercise of the Board's **or hearing officer's** jurisdiction.

119
120 i. Request the advising attorney to seek assistance of the Superior Court to
121 enforce the Board's **or hearing officer's** subpoena.

122
123 j. Conduct investigative hearings in executive session, pursuant to notifications
124 alleging violations of matters within the authority of the Board **or hearing**
125 **officer**.

126
127 Section 4. Section 2.80.030 is amended to read as follows:

128
129 2.80.030 Confidentiality – Initial review.

130
131 a. Each written complaint of a violation of Chapter 1.18 HCC received by the City
132 Clerk's office shall be assigned an identification number, which shall be used in
133 lieu of names when referring to the complaint to maintain confidentiality. The
134 City Clerk and the Board **or hearing officer** shall keep all written complaints of
135 potential violation confidential during investigation and the Board's **or hearing**
136 **officer's** deliberative process. Complaints of potential violation may be
137 disclosed only to the staff member of the City Clerk's office providing
138 administrative support to the Board **or hearing officer**, members of the Board
139 **except when a hearing officer has been appointed**, and legal counsel. Upon
140 receipt of a notification of potential violation, the Board **or hearing officer** shall,
141 at its next scheduled meeting or earlier, as determined by the Board Chair **or**
142 **hearing officer**, review the complaint of potential violation ~~in executive session~~
143 and determine if further action on the notification of potential violation is
144 warranted. **The Board shall review the complaint of potential violation in**
145 **executive session. A hearing officer appointed under this chapter shall**
146 **review the complaint in a confidential manner.**

147
148 b. If the Board **or hearing officer** determines the facts alleged in the notification
149 of potential violation, even if proven, do not constitute a violation, or that the
150 Board **or hearing officer** lacks jurisdiction to address the complaint of potential
151 violation, the Board **or hearing officer** shall return the complaint of potential
152 violation to the complaining party or it may recommend to the person filing the
153 complaint that it be amended and re-filed. Notifications of potential violation
154 returned without further action shall remain confidential.

155
[Bold and underlined added. Deleted language ~~stricken through.~~]

156 c. If the Board **or hearing officer** determines the allegation in a complaint of
157 potential violation, if proven, may constitute a violation of a matter within the
158 Board's **or hearing officer's** jurisdiction, the Board **or hearing officer** shall:

159
160 ~~1. Request and receive assistance from legal counsel to assist the Board~~
161 ~~in all further deliberative processes, investigations and reports;~~

162
163 **21.** Give the respondent a copy of the complaint of potential violation,
164 along with a copy of the outline of the Board's process under this chapter,
165 including notice that the respondent may choose to hold the proceeding in
166 public and may be represented by legal counsel of respondent's choosing and
167 at respondent's own expense; and

168
169 **32.** Notify both the person submitting the complaint of potential
170 violation and respondent of the date(s) on which each may be requested to meet
171 with the Board **or hearing officer**, present documentary or testimonial
172 evidence, and assist the Board **or hearing officer** in resolving the potential
173 violation.

174
175 Section 5. Section 2.80.040 is amended to read as follows:

176
177 2.80.040 Disclosure of complaint of potential violation prohibited.

178
179 a. A complaint of potential violation of Chapter 1.18 HCC is confidential until the
180 Board **or hearing officer** completes a written report for distribution as a public
181 record.

182
183 1. No person, including the complainant, shall knowingly disclose to
184 another person, or otherwise make public in violation of this chapter, the
185 contents of a complaint of potential violation filed with the Board **or hearing**
186 **officer**, unless:

187
188 **ia.** The respondent elects to proceed in public; or

189
190 **ii**h**.** The written report of the Board **or hearing officer** is
191 electronically published by the City Clerk.

192
193 2. Breach of confidentiality required by any provision of this chapter is a
194 violation of this chapter subject to punishment.

195
196 3. A person filing a complaint of potential violation shall keep
197 confidential the fact that the person has filed the complaint with the City, as well

[Bold and underlined added.] Deleted language stricken through.

198 as the contents of the complaint of potential violation. If the Board **or hearing**
199 **officer** finds probable cause to believe that the person filing the notice of
200 complaint violation has violated confidentiality under this chapter, the Board **or**
201 **hearing officer** shall immediately dismiss the complaint of violation. Dismissal
202 under this subsection does not affect the right of the Board **or hearing officer**
203 or another person to initiate a proceeding on the same factual allegations by
204 filing a complaint of potential violation.

205
206 4. Public disclosure resulting from corrective action under this chapter is
207 not a violation of this section.

208
209 Section 6. Section 2.80.050 is amended to read as follows:

210
211 2.80.050 Conduct of investigation and standard of proof.

212 **a. The Board's investigation shall be conducted in executive session,**
213 **unless the respondent requests to hold the Board's investigation on the**
214 **notification of potential violation in public. The hearing officer's**
215 **investigation shall be conducted in a manner to maintain confidentiality**
216 **unless the respondent requests to hold the hearing officer's**
217 **investigation on the notification of potential violation in public.**

218 **1. The respondent and the person who filed the notification of**
219 **potential violation may identify other individuals and documents that**
220 **each would like the Board or hearing officer to interview and review.**

221 **2. If an individual with information bearing on the notification of**
222 **potential violation is unwilling to come forward with information, the**
223 **respondent and the person who filed the notification of potential**
224 **violation may each request the Board or hearing officer to subpoena the**
225 **person and any documentary evidence.**

226 **3. Persons appearing before the Board or hearing officer may be**
227 **represented by counsel or other person serving in a representative**
228 **capacity.**

229 **4. The Board or hearing officer may question the respondent, the**
230 **person who filed the notification of potential violation, and other**
231 **persons appearing before the Board or hearing officer.**

232 **5. The Board or hearing officer may solicit questions and**
233 **testimony from the person filing the notification of potential violation,**

[Bold and underlined added.] Deleted language stricken through.]

234 the respondent and other persons appearing for the purpose of
235 providing information to the Board or hearing officer. The Board or
236 hearing officer may solicit questions from counsel present to represent
237 persons appearing before the Board or hearing officer, but all questions
238 during the Board's or hearing officer's investigation shall be posed
239 through and by a member of the Board or the hearing officer. Consistent
240 with due process, the Board or hearing officer may limit or prohibit
241 questions suggested to the Board or hearing officer by or on behalf of
242 persons appearing before the Board or hearing officer.

243 6. The standard of proof to be applied by the Board or hearing
244 officer in determining a violation under this chapter is proof by a
245 preponderance of the evidence.

246 7. Technical rules of evidence do not apply, but the findings of the
247 Board shall be based upon reliable and relevant information presented
248 to the Board.

249 8. The Board's or hearing officer's finding of a violation of this
250 chapter must be supported by substantial evidence.

251 9. The Board's or hearing officer's findings shall not be binding in
252 a subsequent sanctions proceeding.

253 10. When the Board's or hearing officer's investigation is
254 conducted in executive session or confidentially, the public shall be
255 excluded but an executive session of the Board shall be electronically
256 recorded. The recording shall be available for access as a public record
257 after publication by the municipal clerk of the proposed resolution and
258 settlement.

259 ~~a. The Board's investigation shall be conducted in executive session, unless the~~
260 ~~respondent requests to hold the Board's investigation of written complaint of~~
261 ~~potential violation in public. The respondent and the person who filed the~~
262 ~~complaint, and their counsel, if any, may be present in executive session while~~
263 ~~the investigation is being conducted.~~

265 ~~1. The respondent and the person who filed the complaint of potential~~
266 ~~violation may identify other individuals and documents that each would like the~~
267 ~~Board hearing officer to interview and review.~~

269 2. If an individual with information bearing on the complaint of potential
270 violation is unwilling to come forward with information, the respondent and the
271 person who filed the complaint of potential violation may each request the
272 Board to subpoena the person and any documentary evidence.
273

274 3. Persons appearing before the may be represented by counsel or other
275 person serving in a representative capacity.
276

277 4. The Board may question the respondent, the person who filed the
278 complaint of potential violation, and other persons appearing before the Board.
279

280 5. The Board may solicit questions and testimony from the person filing
281 the complaint of potential violation, the respondent and other persons
282 appearing for the purpose of providing information to the Board. The may solicit
283 questions from counsel present to represent persons appearing before the
284 Board but all questions during the Board's investigation shall be posed through
285 and by a member of the Board. Consistent with due process, the Board may limit
286 or prohibit questions suggested to the Board by or on behalf of persons
287 appearing before the Board
288

289 6. The standard of proof to be applied by the Board in determining a
290 violation under Chapter 1.18 HCC is proof by a preponderance of the evidence.
291

292 7. Technical rules of evidence do not apply, but the findings of the Board
293 shall be based upon substantial evidence, which means reliable and relevant
294 information presented to the Board.
295

296 8. The Board's finding of a violation of Chapter 1.18 HCC must be
297 supported by substantial evidence.
298

299 9. The Board's findings shall not be binding in a subsequent sanctions
300 proceeding.
301

302 10. When the Board's investigation is conducted in executive session, the
303 public shall be excluded and the session shall be electronically recorded. The
304 recording shall be available for access as a public record after publication by the
305 City Clerk of the proposed resolution and settlement under HCC 2.80.090.
306

307 Section 8. Section 2.80.060 is amended to read as follows:

308 2.80.60 Board member **and hearing officer** disclosures.
309
310

[Bold and underlined added] Deleted language stricken through.]

311 **a.** When an investigation is convened in executive session to determine whether the
312 respondent has violated Chapter 1.18 HCC, the Board members will be requested to
313 disclose any conflict of interest, ex parte communications, or other facts that may
314 affect their qualification to hear the matter. After such a disclosure, the other
315 members of the Board shall determine whether a member shall be excused for
316 cause.

317
318 **b. A hearing officer shall disclose any conflict of interest or ex parte**
319 **communications with the complainant or respondent before conducting an**
320 **investigation or holding a hearing under this chapter. The complainant and the**
321 **respondent have ten days from the date the written disclosure is sent to the**
322 **parties to file an objection to the hearing officer with the City Clerk. Upon**
323 **receiving an objection, the City Clerk shall appoint a new hearing officer.**
324

325 Section 9. Section 2.80.061 is amended to read as follows:

326
327 2.80.061 Duty of cooperation.

328
329 A City official or the City Manager subject to a complaint of a violation shall work
330 cooperatively with the City Clerk to establish a hearing date and shall appear at
331 the place and time set for the hearing, regardless of the respondent's intentions
332 concerning defense or exercise of other rights. Failure to appear, except when
333 failure results from a serious condition or event that prevented the respondent's
334 appearance, is a breach of respondent's duties under this chapter and in itself
335 may result in a summary finding of violation by the Board **or hearing officer** and
336 imposition of remedies, penalties and disciplinary action under HCC 2.80.070.
337 For the purposes of this section, a "serious condition or event" may include a
338 serious medical condition, a serious family emergency requiring the presence of
339 the party, a death in the family, or other similar cause that prevents the
340 respondent's attendance at the hearing. Nothing in this section shall prevent the
341 rescheduling of a hearing for cause upon request of the respondent or the
342 complainant.

343
344 Section 10. Section 2.80.065 is amended to read as follows:

345
346 2.80.065 Decisions on the record.

347
348 Using the identification number of the complaint of potential violation to
349 protect confidentiality, the Board **shall vote** or **hearing officer** shall ~~vote~~
350 **determine** in open session on these questions:
351

- 352 a. Whether the Board **or hearing officer** finds by a preponderance of the
353 evidence one or more violations within the jurisdiction of the Board **or hearing**
354 **officer**; and
- 355
- 356 b. Whether the Board **or hearing officer** recommends further administrative or
357 remedial actions; and
- 358
- 359 c. What specific sanctions, corrective actions or referrals, if any, the Board **or**
360 **hearing officer** recommends pursuant to 2.80.070.
- 361
- 362 d. If the Board **or hearing officer** does not find a violation under Chapter 1.18
363 HCC, the Board **or hearing officer** shall prepare a confidential statement of
364 closure listing the complainant and respondent, the assigned identification
365 number, the allegations, the hearing date, and the finding that no allegation was
366 substantiated by the Board **or hearing officer** in whole or in part, and the date
367 of Board **or hearing officer** closure. At the sole discretion of the respondent,
368 the Board **or hearing officer** may release the statement of closure as a public
369 document.

370

371 Section 11. Section 2.80.067 is amended to read as follows:

372

373 2.80.067 Timely completion.

374

375 The Board **or hearing officer** shall complete action on a complaint of potential
376 violation and investigations within 90 days of the filing of the complaint of
377 potential violation. By a majority vote, the Board **or hearing officer** may extend
378 the completion date for up to an additional 90 days, or longer for good cause
379 shown.

380

381 Section 12. Section 2.80.070 shall be amended to read as follows:

382

383 2.80.070 Sanctions, civil penalties and remedies.

384

385 a. Upon conviction for any violation of Chapter 1.18 HCC under criminal
386 procedures or upon a determination of any violation of Chapter 1.18 HCC after
387 an investigation conducted by the Board **or hearing officer** under this chapter,
388 the Board **or hearing officer** may impose (or recommend in the case of
389 subsection (a)(1) of this section) as a sanction, penalty, or remedy any or all of
390 the following, as appropriate to the seriousness of the violation:

391

392 1. A recommendation to the City Council that the office of a City Council
393 member or the position of City Manager be declared vacant for a serious

[Bold and underlined added.] Deleted language stricken through.

394 violation that is (a) flagrant or (b) willful and knowing. A recommendation that
395 the office of the Mayor be declared vacant may be made only if the violation
396 justifies a declaration of vacancy under AS 29.20.280. Only the City Council may
397 actually declare any of these positions vacant.

398
399 2. A member of a board or commission may be removed from the board
400 or commission.

401
402 3. A public or private reprimand may be given to the official.

403
404 4. The official may be ordered to refrain from voting, deliberating, or
405 participating in any matter in violation of Chapter 1.18 HCC.

406
407 5. The committee assignments of an official may be revoked.

408
409 6. An official's privilege to travel at City expense on City business may be
410 revoked or restricted.

411
412 7. A contract, transaction or appointment, which was the subject of an
413 official act or action of the City that involved the violation of a provision of
414 Chapter 1.18 HCC, may be voided.

415
416 8. The official must forfeit or make restitution of any financial benefit
417 received as a consequence of a violation of Chapter 1.18 HCC.

418
419 9. A civil fine of not more than \$1,000 per violation may be imposed.

420
421 Section 13. Section 2.80.080 shall be amended to read as follows:

422
423 2.80.080 Record of proceedings and public record.

424
425 Permanent records and minutes shall be kept of Board's **or hearing officer's**
426 proceedings. Such minutes shall record the vote of each member upon every
427 question decided in public. Every decision or finding shall immediately be filed
428 in the office of the City Clerk, and shall be a public record open to inspection by
429 any person. Every finding and recommendation shall be directed to the City
430 Council at the earliest possible date.

431
432 Section 14. Section 2.80.090 is amended to read as follows:

433
434 2.80.090 Settlement of complaints.

435

436 a. The respondent in any case accepted for investigation may propose a
437 resolution and settlement of the complaint. A proposed resolution and
438 settlement will include the admitted violation of Chapter 1.18 HCC; the remedial
439 actions agreed to by the respondent subject to the City Council's concurrence;
440 any proposed preventive actions to be undertaken to avoid similar violation by
441 respondent or others in the future; and other matters required by the Board **or**
442 **hearing officer**.

443
444 b. A proposed resolution and settlement is subject to approval by the Board **or**
445 **hearing officer** and has no effect unless approved by the Board **or hearing**
446 **officer**. The Board **or hearing officer** will give the complaining person the
447 opportunity to review and comment on the proposed resolution and settlement
448 prior to approving it. Until approved by the Board **or hearing officer**, a proposed
449 resolution and settlement must be kept confidential.

450
451 c. The proposed resolution and settlement becomes public record upon final
452 approval by the Board **or hearing officer**.

453
454 Section 15. Section 2.80.100 is amended to read as follows:

455
456 2.80.100 Limitation period.

457
458 a. Notwithstanding any other section of this chapter or Chapter 1.18 HCC, and
459 subject to subsection (b) of this section, the Board **or hearing officer** only may
460 investigate or otherwise act upon a complaint of a potential violation of Chapter
461 1.18 HCC that is received by the City Clerk's office within five years after the date
462 of the alleged violation.

463
464 b. After the time limitation in subsection (a) of this section has expired, the Board
465 **or hearing officer** may investigate or otherwise act upon a complaint of a
466 potential violation of Chapter 1.18 HCC that is received by the City Clerk's office
467 within one year after the date of discovery of the alleged violation, but in no case
468 shall this subsection extend the period of limitation in subsection (a) of this
469 section by more than three years.

470
471 Section 16. This ordinance shall take effect upon its adoption by the Homer City Council.

472
473 Section 17. This ordinance is of a permanent and general character and shall be
474 included in the City Code.

475
476 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
477 _____, 2017.

CITY OF HOMER

BRYAN ZAK, MAYOR

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ATTEST:

JO JOHNSON, MMC, CITY CLERK

YES:

NO:

ABSTAIN:

ABSENT:

First Reading:

Public Hearing:

Second Reading:

Effective Date:

Reviewed and approved as to form.

Mary K. Koester, City Manager

Holly C. Wells, City Attorney

Date: _____

Date: _____

Fiscal Note: NA

ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-07

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 4.10.040, 8.08.120, 14.05.425, 21.93.060, 21.93.070, 21.93.100, 21.93.110, 21.93.500, 21.93.540, 21.93.550, 21.93.560, 21.93.570, 21.93.700, and 21.93.710 to Remove the Board of Adjustment as the Decision Making Body in Appeals of Planning Commission Decisions, Remove the City Manager as the Decision Maker Regarding the Impoundment of Dangerous Animals, Remove the Police Chief as the Decision Maker Regarding Merchant Licenses, and Permit the City Clerk to Designate a Hearing Officer to Determine the Qualifications of a Candidate for Office.

Sponsor: Aderhold

1. Council Regular Meeting January 23, 2017 Introduction

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

Aderhold

3
4 **ORDINANCE 17-07**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 4.10.040, 8.08.120, 14.05.425,
8 21.93.060, 21.93.070, 21.93.100, 21.93.110, 21.93.500, 21.93.540,
9 21.93.550, 21.93.560, 21.93.570, 21.93.700, AND 21.93.710 TO
10 REMOVE THE BOARD OF ADJUSTMENT AS THE DECISION MAKING
11 BODY IN APPEALS OF PLANNING COMMISSION DECISIONS,
12 REMOVE THE CITY MANAGER AS THE DECISION MAKER
13 REGARDING THE IMPOUNDMENT OF DANGEROUS ANIMALS,
14 REMOVE THE POLICE CHIEF AS THE DECISION MAKER REGARDING
15 MERCHANT LICENSES, AND PERMIT THE CITY CLERK TO
16 DESIGNATE A HEARING OFFICER TO DETERMINE THE
17 QUALIFICATIONS OF A CANDIDATE FOR OFFICE.
18

19 WHEREAS, The City Council highly values the public's confidence in the propriety and
20 fairness of City of Homer ("City") administrative hearings and appeals; and
21

22 WHEREAS, The City Council believes that the use of hearing officers who are not
23 employed by the City or designated as the City Attorney may provide appellants and hearing
24 parties with greater confidence in the objectivity of the administrative hearing or appeal in
25 which they are participating; and
26

27 WHEREAS, The costs associated with hearing officers are generally less than or equal to
28 hourly rates for City legal counsel; and
29

30 WHEREAS, The use of hearing officers permits the City Attorney to represent the City
31 and advise it on both substantive and procedural matters,
32

33 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:
34

35 Section 1. Section 4.10.040 is amended to read as follows:
36

37 The Clerk shall determine whether each candidate for municipal office is qualified as
38 provided by law. At any time before the election the Clerk may disqualify any candidate
39 whom the Clerk finds is not qualified and immediately notify that candidate by certified
40 mail. A candidate who is disqualified may request a hearing before the Clerk within five
41 days of receiving the notice. **The Clerk may appoint a hearing officer to conduct the**
42 **hearing and determine whether or not the Clerk's disqualification of the candidate**

[Bold and underlined added. Deleted language stricken through.]

43 **was supported by the evidence.** The hearing shall be held no later than five days after
44 the request unless the candidate agrees in writing to a later date.
45

46 Section 2. Section 8.08.120 is amended to read as follows:
47

48 **a.** Any person aggrieved by the action of the Chief of Police in the denial of an
49 application for a permit or license as provided in HCC 8.08.040, or in the decisions
50 with reference to the revocation of license as provided in HCC 8.08.050, shall have
51 the right of appeal to **a hearing officer appointed by the City Manager**~~the City~~
52 ~~Council.~~ Such appeal shall be taken by filing with the **City Clerk**~~City Council,~~ within
53 14 days after the action of the Chief of Police, a written statement setting forth fully
54 the grounds for appeal. The **City Clerk**~~City Council~~ shall set a time and place for a
55 hearing on such appeal, and notice of such hearing shall be mailed to the appellant
56 postage prepaid at his **or her** last known address at least five days prior to the date
57 set for the hearing. The decision and order of the **hearing officer**~~City Council~~ on
58 such appeal shall be final and conclusive.

59 **b. The hearing officer shall be identified in the notice of hearing. The appellant**
60 **may object to the hearing officer by providing the City Clerk a written objection**
61 **no more than ten days after the date of the notice of hearing. If the appellant**
62 **does not file an objection, any right to object to the hearing officer shall be**
63 **deemed waived.**

64 **c. The hearing officer shall disclose any conflict of interest, personal bias as soon**
65 **as he or she is aware of such conflicts or bias and shall refrain from acting as**
66 **the hearing officer if he or she has a conflict of interest or personal bias.**
67

68 Section 3. Section 14.05.425 is amended to read as follows:
69

70 If a violation of this chapter is not corrected by administrative adjustment under
71 HCC 14.05.420, then the City Manager shall order the user to show cause why
72 service should not be terminated or other enforcement action, including
73 imposition of a civil penalty, should not be taken. A written notice shall be served
74 on the user by personal service, or by certified or registered mail, return receipt
75 requested, specifying the time and place of the hearing to show cause. The
76 notice of the hearing shall be served no less than 10 days before the hearing.
77 Service may be made on any agent, officer or authorized representative of the
78 discharger. **The hearing shall be before the City Manager or his or her**
79 **designee.** After the hearing, the City Manager **or his or her designee** shall issue
80 a written decision which may include appropriate orders with respect to the
81 violations of the chapter and may include a civil penalty in accordance with HCC
82 14.05.435. The ~~City Manager's~~ decision **of the City Manager or his or her**
83 **designee** constitutes final administrative action for purposes of judicial review.
84

85 Section 4. Section 20.20.040 is amended to read as follows:
86

87 All animals seized pursuant to HCC 20.20.030 shall be held in impound pending
88 an administrative hearing concerning their potential destruction. The
89 administrative hearing shall be conducted as follows:

90 a. An administrative ~~h~~Hearing ~~officer Board~~ shall be **appointed by the**
91 **City Manager** ~~convened consisting of the City Manager (who shall chair~~
92 ~~the proceedings), the Chief of Police, and one member of the City Council~~
93 ~~(selected by the City Manager).~~

94
95 b. A notice of administrative hearing shall be served upon the animal's
96 owner or his designee under the procedures set for service of summons
97 in a civil action. The notice shall specify the date, time, and location of
98 the hearing. The hearing may not be less than three days following the
99 service of the hearing notice on the animal owner or his designee.

100
101 c. The hearing shall consider all information pertinent to the specific
102 violation of HCC 20.20.030 which initiated the impoundment and hearing
103 process, and may additionally consider any information concerning prior
104 violations or incidents with this same animal, as well as any information
105 concerning the animal owner's or his designee's prior violations of the
106 Homer animal ordinances with any other animal.

107
108 d. The hearing shall address and enter its formal findings as to whether:

109 1. The animal is a vicious animal under HCC 20.04.020;

110
111 2. The owner or designee thereof failed to use all reasonable
112 precautions to control his animal and protect the public;

113
114 3. The circumstances of this incident under consideration
115 constitute a danger to the public.

116 e. If ~~the hearing officer~~ a majority of ~~Board~~ members finds in the
117 affirmative as to all three of the provisions of subsection (d) of this
118 section, the ~~h~~Hearing ~~officer Board~~ shall order the animal destroyed. The
119 owner or designee, if present at the hearing, shall be verbally notified of
120 the findings and order at the conclusion of the hearing. Written findings
121 shall also be prepared and served upon the owner or designee. If the
122 owner or designee is not present at the hearing, written findings and
123 destruction order shall be served on that person as soon as possible
124 following the hearing.
125

126 f. Absent an affirmative finding by the **hearing officer**~~Hearing Board~~ as
127 to one or more of the provisions of subsection (d) of this section, the
128 animal shall be immediately released to its owner or designee. The
129 **hearing officer**~~Hearing Board~~ shall, in the event of release under this
130 provision, prepare a written notice which shall be delivered or mailed to
131 the animal's owner, outlining the **hearing officer's** ~~Hearing Board's~~
132 recommendations as to actions that owner should take to prevent future
133 incidents and to protect the public.

134
135 g. Any appeal of the **hearing officer's**~~Hearing Board's~~ finding and
136 destruction order shall be taken through the Alaska Court System within
137 10 days of the receipt of said findings and order by the owner. The filing
138 of an appeal will automatically stay the order of destruction pending
139 resolution of the appeal. The animal shall remain in impound at the
140 owner's expense pending resolution of the appeal.

141
142 Section 5. Section 20.20.050 shall be amended to read as follows:

143
144 Vicious animals to be destroyed upon administrative **hearing officer**~~Hearing~~
145 ~~Board~~ order shall be destroyed as follows:

146
147 a. The animal shall remain in impound for 10 days following the date the
148 owner (or his designee) is verbally notified of the **hearing**
149 **officer's**~~Hearing Board's~~ decision, or the date that a written finding and
150 destruction order is served on the owner (or his designee) to allow that
151 person to appeal the destruction order through the courts.

152
153 b. If the City is not served with a notice of appeal of the destruction order
154 within the 10-day holding period outlined in subsection (a) of this
155 section, the City shall immediately proceed to humanely destroy the
156 animal.

157
158 Section 6. Section 21.41.400 shall be amended to read as follows:

159
160 a. The Planning Commission shall hear and decide appeals when it is alleged
161 there is an error in any requirement, decision, or determination made by the
162 Planning Department.

163
164 b. A **hearing officer appointed by the City Manager** shall hear and decide
165 appeals when it is alleged there is an error in any requirement, decision, or
166 determination made by the Planning Commission.

167
[Bold and underlined added.] Deleted language stricken through.

168 Section 7. Article II of Section 21.91 shall be amended to read as follows:

169

170 Article II. ~~Board of Adjustment~~ **Appeals of Planning Decisions.**

171

172 Section 8. Section 21.91.100 shall be repealed in its entirety.

173

174 Section 9. Section 21.91.110 shall be renumbered 21.91.100 and amended to read as
175 follows:

176

177 a. ~~The Board of Adjustment shall hear and decide appeals pursuant to the~~
178 ~~provisions of the code, zoning code.~~ **A hearing officer appointed by the City**
179 **Manager shall hear and decide appeals pursuant to the provisions of the**
180 **zoning code.**

181

182 b. **A hearing officer appointed by the City Manager to act as the decision maker**
183 **in appeals of decisions made by the Planning Commission must have at least**
184 **five years experience acting as an administrative law judge or**
185 **administrative hearing officer and must be licensed to practice law in the**
186 **State of Alaska and in good standing.**

187

188 Section 10. Section 21.91.120 shall be renumbered 21.91.110 and amended as follows:

189

190 Appeals heard by the hearing officer shall be conducted according to applicable
191 procedures specified in Chapter 21.93 HCC.

192

193 Section 11. Section 21.91.130 shall be renumbered 21.91.120 and amended as follows:

194

195 a. An appeal from a final decision of the ~~Board of Adjustment~~ **hearing officer**
196 may be taken directly to the Superior Court by a party who actively and
197 substantively participated in the proceedings before the ~~Board of Adjustment~~
198 **hearing officer** or by the City Manager or City Planner or any governmental
199 official, agency, or unit.

200

201 b. An appeal to the Superior Court shall be filed within 30 days of the date of
202 distribution of the final decision to the parties appearing before the ~~Board of~~
203 ~~Adjustment~~ **hearing officer.**

204

205 c. An appeal from a final decision of the ~~Board of Adjustment~~ **hearing officer** to
206 the Superior Court is governed by court rules.

207

208 Section 12. Section 21.93.030 shall be amended to read as follows:

209

210 21.93.030 Decisions subject to appeal to **a hearing officer**.~~Board of Adjustment.~~

211
212 The following acts or determinations of the Commission, when final, may be
213 appealed to ~~the~~ **a hearing officer appointed by the City Manager**~~Board of~~
214 ~~Adjustment~~ by a person with standing:

- 215
216 a. Grant or denial of a conditional use permit.
- 217
218 b. Grant or denial of a variance.
- 219
220 c. Grant or denial of formal recognition of a nonconforming use or structure, or
221 a decision terminating a nonconforming use or structure.
- 222
223 d. Grant or denial of a conditional fence permit.
- 224
225 e. A decision by the Commission in a matter appealed to the Commission under
226 HCC 21.93.020.
- 227
228 f. Any other final decision that is expressly made appealable to ~~the Board of~~
229 ~~Adjustment~~ **a hearing officer** by other provisions of the code.

230
231 Section 13. Section 21.93.060 shall be amended to read as follows:

232
233 21.93.060 Standing – Appeal to ~~Board of Adjustment~~ **Hearing Officer**.

234
235 Only the following have standing to appeal an appealable action or
236 determination of the Planning Commission to the ~~Board of Adjustment~~ **hearing**
237 **officer**:

- 238
239 a. Applicant for the action or determination, or the owner of the property that is
240 the subject of the action or determination under appeal.
- 241
242 b. The City Manager, the City Planner or the City Planner’s designee, or any
243 governmental official, agency, or unit.
- 244
245 c. Any person who actively and substantively participated in the proceedings
246 before the Commission and is aggrieved by the action or determination.
- 247
248 d. Any person who actively and substantively participated in the proceedings
249 before the Commission and would be aggrieved if the action or determination
250 being appealed were to be reversed on appeal.
- 251

252 Section 14. Section 21.93.070 shall be amended to read as follows:

253
254 a. An appeal to the Planning Commission must be filed within 30 days after the
255 date of distribution of the final action or determination to the applicant or other
256 person whose property is the subject of the matter being appealed.

257
258 b. An appeal to **a hearing officer**~~the Board of Adjustment~~ must be filed within
259 30 days after the date of distribution of the final action or determination to the
260 applicant and other parties, if any.

261
262 Section 15. Section 21.93.100 shall be amended to read as follows:

263
264 a. All appeals must be heard within 60 days after the appeal record has been
265 prepared. The body **or officer** hearing the appeal may for good cause shown
266 extend the time for hearing. The decision on appeal must be rendered within 60
267 days after the appeal hearing.

268
269 b. The appellant, the applicant for the action or determination that is the subject
270 of the appeal, the owner of the property that is the subject of the action or
271 determination, and all parties who have entered an appearance shall be
272 provided not less than 15 days' written notice of the time and place of the appeal
273 hearing. Neighboring property owners shall be notified as set forth in HCC
274 21.94.030.

275
276 **c. A notice identifying the hearing officer shall be filed with the notice of the**
277 **hearing. All parties shall have ten days from the date of the notice to object**
278 **to the hearing officer based upon conflicts of interest, personal bias or ex**
279 **parte contacts. Failure to file an objection to the hearing officer within the**
280 **ten days shall waive any objection to the hearing officer.**

281
282 ~~d.~~ An electronic recording shall be kept of the entire proceeding. Written
283 minutes shall be prepared. The electronic recording shall be preserved for one
284 year unless required for further appeals. No recording or minutes shall be kept
285 of deliberations that are not open to the public.

286
287 Section 16. Section 21.93.110 shall be amended to read as follows:

288
289 a. All final decisions on appeals shall be in writing, and shall state the number of
290 members of the body **or officer** hearing the appeal who participated in the
291 appeal, number voting in favor of the decision, and the number voting in
292 opposition to the decision.

293

294 b. A decision shall include an official written statement of findings and reasons
295 supporting the decision. This statement shall refer to specific evidence in the
296 record and to the controlling sections of the zoning code. Upon express vote, the
297 body may adopt, as its statement of findings and reasons, those findings and
298 reasons officially adopted by the body or officer below from which the appeal
299 was taken.

300
301 c. Copies of the written decision shall be promptly mailed to the appellant, the
302 applicant for the action or determination that is the subject of the appeal, the
303 owner of the property that is the subject of the action or determination, and all
304 parties who entered a written notice of appearance in the appeal proceeding.
305

306 Section 17. Section 21.93.500 shall be amended to read as follows:

307
308 21.93.500 Parties eligible to appeal **Planning Commission decision to a**
309 **hearing officer**~~to Board of Adjustment~~ – Notice of appearance.

310 a. Only persons who actively and substantively participated in the matter before
311 the Commission and who would be qualified to appeal under HCC 21.93.060 may
312 participate as parties in an appeal from the Commission to **a hearing officer** ~~the~~
313 ~~Board of Adjustment~~.

314
315 b. Any person so qualified who desires to participate in the appeal as a party,
316 other than the appellant, the City Planner or the City Planner's designee, the
317 applicant for the action or determination that is the subject of the appeal and
318 the owner of the property that is the subject of the action or determination,
319 must, not less than 14 days before the date set for the appeal hearing, file with
320 the City Clerk a written and signed notice of appearance containing that party's
321 name and address, and proof that the person would be qualified under HCC
322 21.93.060 to have filed an appeal.
323

324 Section 18. Section 21.93.510 shall be amended to read as follows:

325
326 a. Except as provided in subsections (b) and (c) of this section, **the hearing**
327 **officer**~~the Board of Adjustment~~ shall not consider allegations of new evidence
328 or changed circumstances and shall make **his or her**~~its~~ decision based solely on
329 the record. If new evidence or changed circumstances are alleged, the **hearing**
330 **officer**~~Board~~ may, in **his or her**~~its~~ discretion, either hear the appeal without
331 considering the allegations or may remand the matter to the appropriate lower
332 administrative body or official to rehear the matter, if necessary.
333

334 b. When the standing of a person is in issue, the **hearing officer** ~~Board of~~
335 ~~Adjustment~~ may take additional evidence for the limited purpose of making

[Bold and underlined added.] Deleted language stricken through.

336 findings on the question of the person’s standing. No evidence received under
337 this subsection shall be considered for purposes other than determining
338 standing.

339
340 ~~c. When the disqualification of a member of the Board of Adjustment for conflict~~
341 ~~of interest, ex parte contact, partiality or other cause is in issue, the Board of~~
342 ~~Adjustment may take additional evidence for the limited purpose of making~~
343 ~~findings on the question of disqualification. No evidence received under this~~
344 ~~subsection shall be considered for purposes other than determining~~
345 ~~disqualification.~~

346
347 Section 19. Section 21.93.520 shall be amended to read as follows:

348
349 a. The appeal record shall be completed within 30 days after receipt of a timely
350 and complete notice of appeal to the ~~Board of Adjustment~~**hearing officer**, shall
351 consist of the items, and shall be prepared in the manner, described in this
352 subsection.

353
354 1. The Clerk will assemble and paginate all relevant documents involved
355 in the original decision, including any staff reports, minutes, exhibits, notices,
356 and other documents considered in making the original decision.

357
358 2. A party may elect to include a verbatim transcript of the testimony
359 before the Planning Commission in the appeal record by making a written
360 request to the City Clerk for a recording of the testimony within 14 days after the
361 Clerk mails copies of the notice of appeal to the parties pursuant to HCC
362 21.93.080(d). The requesting party shall arrange and pay for the preparation of
363 the transcript. Only a transcript prepared and certified as accurate by a qualified
364 court reporter shall be accepted. The original transcript must be filed with the
365 City Clerk to be provided to the ~~Board of Adjustment~~ **hearing officer** with the
366 record on appeal.

367
368 b. The appellant, the applicant for the action or determination that is the subject
369 of the appeal, the owner of the property that is the subject of the action or
370 determination, and other parties who have entered an appearance shall be
371 notified by mail when the record and transcript, if ordered, are complete. Any
372 person may obtain a copy upon payment of the costs of reproduction and any
373 applicable mailing costs.

378 Section 20. Section 21.93.540 shall be amended to read as follows:

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a. The meeting at which the Board of Adjustment hears an appeal **before the hearing officer** shall be open to the public. ~~The City Attorney or another attorney acting as legal counsel to the Board shall be present.~~

b. Each party (each appellant, cross-appellant, and respondent) may present oral argument at the appeal hearing, subject to the order of presentation and time limitations that the **hearing officer** chair adopts at the commencement of the hearing. The taking of testimony or other evidence is limited by HCC 21.93.510.

c. The **hearing officer** ~~Board of Adjustment~~ may undertake deliberations immediately upon the conclusion of the hearing on appeal or may take the matter under advisement and meet at such other time as is convenient for deliberations until a decision is rendered. Deliberations need not be public, ~~and may be in consultation with the legal counsel to the Board.~~

d. The **hearing officer** ~~Board of Adjustment~~ may exercise **his or her** its independent judgment on legal issues raised by the parties. “Legal issues” as used in this section are those matters that relate to the interpretation or construction of the zoning code, ordinances or other provisions of law.

e. The **hearing officer** ~~Board of Adjustment~~ shall defer to the findings of the lower administrative body regarding disputed issues of fact. Findings of fact adopted expressly or by necessary implication by the lower body shall be considered as true if they are supported by substantial evidence. But findings of fact adopted by less than a majority of the lower administrative body shall not be given deference, and when reviewing such findings of fact the Board of Adjustment shall exercise independent judgment and may make its own findings of fact. If the lower administrative body fails to make a necessary finding of fact and substantial evidence exists in the record to enable the **hearing officer** ~~Board~~ to make the finding of fact, **he or she** ~~the Board~~ may do so in the exercise of **his or her** its independent judgment, or, in the alternative, the **hearing officer** ~~Board~~ may remand the matter for further proceedings. “Substantial evidence,” as used in this section, means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Section 21. Section 21.93.550 shall be amended to read as follows:

21.93.550 **Hearing Officer** ~~Board of Adjustment~~ Decision

420 The **hearing officer**~~Board of Adjustment~~ may affirm or reverse the decision of
421 the lower administrative body in whole or in part. A majority vote of the fully
422 constituted ~~Board~~ is required to reverse or modify the action or determination
423 appealed from. For the purpose of this section the fully constituted ~~Board~~ shall
424 not include those members who do not participate in the proceedings due to a
425 conflict of interest or disqualifying ex parte contacts, disqualifying partiality, or
426 other disqualification for cause. A decision affirming, reversing, or modifying the
427 decision appealed from shall be in a form that finally disposes of the case on
428 appeal, except where the case is remanded for further proceedings.

429
430 b. The ~~Board~~ may seek the assistance of legal counsel, City staff, or parties in the
431 preparation of a decision or proposed findings of fact.

432
433 Section 24. Section 21.93.560 shall be amended to read as follows:

434 a. The **hearing officer**~~Board of Adjustment~~ may remand the appeal to the lower
435 administrative body when **he or she**~~the Board~~ determines that:

- 436
437 1. There is insufficient evidence in the record on an issue material to the
438 decision of the case;
439
440 2. There has been a substantial procedural error that requires further
441 consideration by the lower administrative body; or
442
443 3. There is other cause requiring further proceedings by the lower
444 administrative body.

445 b. A decision remanding a case shall describe any issue upon which further
446 evidence should be taken, and shall set forth any further directions the **hearing**
447 **officer**~~Board~~ deems appropriate for the guidance of the lower administrative
448 body.

449
450 c. The lower administrative body shall promptly act on the case upon remand in
451 accordance with the decision of the **hearing officer**~~Board of Adjustment~~. A case
452 on remand has priority on the agenda of the lower administrative body, except
453 cases remanded under HCC 21.93.510(a) are not entitled to priority. The
454 applicant or owner of the property in question may waive the priority given by
455 this subsection.

456
457 Section 25. Section 21.93.570 shall be amended to read as follows:

458
459 If no specific procedure is prescribed by the code, the **hearing officer**~~Board of~~
460 ~~Adjustment~~ may proceed in an administrative appeal in any lawful manner not
461 inconsistent with this title, statutes, and the Constitution.

[Bold and underlined added] Deleted language stricken through.]

462 Section 26. Section 21.93.700 shall be amended to read as follows:

463
464 a. A member of the Planning Commission or **a hearing officer appointed to**
465 **hear an appeal from a Planning Commission decision**~~Board of Adjustment~~
466 may not participate in the deliberation or voting process of an appeal if,
467 following the procedures set forth in this chapter, the Commission or **hearing**
468 **officer**~~Board member~~ is determined to have a substantial financial interest in
469 the official action, as defined in Chapter 1.18 HCC. In the absence thereof, all
470 Commission ~~or Board~~ members shall participate in the deliberation and voting
471 process unless excused pursuant to other provisions of this chapter.

472
473 b. When a financial interest of a member of the Planning Commission ~~or Board~~
474 ~~of Adjustment~~ is disclosed on the record, the remainder of the Commission ~~or~~
475 ~~Board, respectively,~~ shall determine whether the member should participate in
476 the matter. If it is determined the member should participate, any action taken
477 thereafter by the **Commission**~~body~~ shall be valid notwithstanding a later
478 determination by a court, ~~or an~~ appellate tribunal, **or the hearing officer** that
479 the member should have been disqualified from participation because of a
480 substantial financial interest in the matter; except the action shall be invalidated
481 when the disqualified member's vote was necessary to establish the required
482 majority to approve the decision of the **Commission**~~body~~. When a Commission
483 ~~or Board~~ decision is invalidated because such vote was necessary to establish
484 the required majority, the **Commission**~~body~~ shall commence new
485 consideration of the matter beginning at the point where the Commission~~or~~
486 ~~Board, respectively,~~ determines it is necessary to do so to eliminate the effect of
487 the member's improper participation.

488
489 **c. A hearing officer shall disclose any substantial financial interest, personal**
490 **bias or ex parte contact immediately upon being appointed by the City**
491 **Manager and shall refrain from accepting the appointment if a substantial**
492 **financial interest, personal bias or ex parte contact exists. If the substantial**
493 **financial interest, personal bias or ex parte contact arises after the hearing**
494 **officer's appointment, he or she shall disclose his or her interest and shall**
495 **be disqualified from serving as the hearing officer unless all parties waive**
496 **any objection to the hearing officer.**

497
498 **d**e. For purposes of hearing an appeal, a quorum of the Commission is four
499 members and a quorum of the ~~Board is four members, one of whom may be the~~
500 ~~Mayer.~~ If it is not possible to obtain a quorum of the Planning Commission ~~or~~
501 ~~Board of Adjustment~~ to hear an appeal without the participation of members
502 disqualified by reason of a substantial financial interest, then all members who
503 would be so disqualified shall nevertheless participate in the appeal, including

[Bold and underlined added.] Deleted language stricken through.]

504 deliberations and voting, and the decision rendered in such a case shall be valid
505 notwithstanding the participation of such members. This subsection shall not
506 apply if the matter can be postponed to a later date (not later than 75 days after
507 the appeal record is prepared) when the **Commission**~~body~~ can obtain a quorum
508 of members who are not disqualified by a substantial financial interest.

509
510 Section 27. Section 21.93.710 shall be amended to read as follows:

511
512 a. No member of the Commission or **a hearing officer appointed by the City**
513 **Manager to review a decision issued by the Commission**~~Board of Adjustment~~
514 shall have ex parte communication with any person. “Ex parte communication”
515 means to communicate, directly or indirectly, with the appellant, other parties
516 or persons affected by the appeal, or members of the public concerning an
517 appeal or issues specifically presented in the notice of appeal, either before the
518 appeal hearing or during any period of time the matter is under consideration or
519 subject to reconsideration, without notice and opportunity for all parties to
520 participate in the communication.

521
522 b. This section does not prohibit:

523
524 1. **Commission** Members from discussing matters relating to the appeal
525 among themselves.

526
527 2. Communications between municipal staff and Commission ~~or Board~~
528 members **or the hearing officer** where:

529
530 a. Such staff members are not themselves parties to the appeal;
531 and

532 b. Such communications do not furnish, augment, diminish, or
533 modify the evidence in the record on appeal.

534
535 3. Communications between the Commission ~~or Board~~ and its legal
536 counsel.

537
538 c. If, before an appeal commences, a member of the Commission ~~or Board~~
539 receives an ex parte communication of a type that could not properly be
540 received while an appeal is pending, the member shall disclose the
541 communication in the manner prescribed in subsection (d) of this section at the
542 first meeting of the Commission ~~or Board~~ at which the appeal is addressed.

543
544 d. A member of the Commission ~~or Board~~ who receives an ex parte
545 communication at any time shall, at the first opportunity after the

546 communication, place on the record of the pending matter all written
547 communications received, all written responses to the communications, and a
548 memorandum stating the substance of all oral communications received, all
549 responses made, and the identity of each person from whom the member
550 received an ex parte communication. Any party to the appeal desiring to rebut
551 the ex parte communication must be granted a reasonable opportunity to do so
552 if a request is promptly made.

553
554 e. If the Commission ~~or Board~~ determines in its discretion it is necessary to
555 eliminate the harmful effect of an ex parte communication received in violation
556 of this section, the Commission ~~or Board~~ may disqualify the member who
557 received the communication from participation in the appeal. In addition, the
558 Commission ~~or Board~~ may impose appropriate sanctions, including default,
559 against a party to the appeal for any violation of this section.

560
561 f. It is a violation, subject to penalties and other enforcement remedies under
562 this title:

563
564 1. For any person to knowingly have or attempt to have ex parte
565 communication with a Commission or a hearing officer~~or Board~~
566 ~~member~~ in violation of subsection (a) of this section.

567
568 2. For any Commission ~~or Board~~ member or the hearing officer to
569 knowingly receive an ex parte communication in violation of subsection
570 (a) of this section.

571
572 3. For any Commission ~~or Board~~ member to knowingly fail to place on the
573 record any matter when and as required under subsections (c) and (d) of
574 this section.

575
576 Section 28. Section 21.95.060 Review by Planning Commission shall be amended as
577 follows:

578
579 a. The Planning Commission shall review each proposal to amend this title or to amend
580 the official zoning map, **except an ordinance to amend chapter 21.93 of this title,**
581 **before it is submitted to the City Council. Amendments to chapter 21.93 of this title**
582 **revising the administrative appeals processes and procedures shall be made by**
583 **ordinance and shall be submitted directly to the City Council.**

584
585 b. Within 30 days after determining that an amendment proposal is complete and
586 complies with the requirements of this chapter, the Planning Department shall present
587 the amendment to the Planning Commission with the Planning Department's

588 comments and recommendations, accompanied by proposed findings consistent with
589 those comments and recommendations.

590
591 c. The Planning Department shall schedule one or more public hearings before the
592 Planning Commission on an amendment proposal, and provide public notice of each
593 hearing in accordance with Chapter 21.94 HCC.

594
595 d. After receiving public testimony on an amendment proposal and completing its
596 review, the Planning Commission shall submit to the City Council its written
597 recommendations regarding the amendment proposal along with the Planning
598 Department's report on the proposal, all written comments on the proposal, and an
599 excerpt from its minutes showing its consideration of the proposal and all public
600 testimony on the proposal.

601
602 Section 29. This ordinance shall take effect upon its adoption by the Homer City
603 Council.

604
605 Section 30. This ordinance is of a permanent and general character and shall be
606 included in the City Code.

607
608 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
609 _____, 2017.

610
611 CITY OF HOMER

612
613
614
615 _____
616 BRYAN ZAK, MAYOR

617 ATTEST:
618
619
620 _____
621 JO JOHNSON, MMC, CITY CLERK

622
623
624
625
626 YES:
627 NO:
628 ABSTAIN:
629 ABSENT:

630 First Reading:
631 Public Hearing:
632 Second Reading:
633 Effective Date:

634
635
636
637

638 Reviewed and approved as to form.

639
640 _____

641 Mary K. Koester, City Manager

642

643 Date: _____

644

645

646 Fiscal Note: NA

Holly C. Wells, City Attorney

Date: _____

**CITY OF HOMER
HOMER, ALASKA**

City Clerk

RESOLUTION 17-012

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
NOTING THE INSUFFICIENCY OF THE PETITION FOR SHANNON
LANE, SHANNON COURT AND EARLY SPRING STREET ROAD
RECONSTRUCTION AND PAVING SPECIAL ASSESSMENT DISTRICT.

WHEREAS, A petition was circulated from November 3, 2016 to January 3, 2017; and

WHEREAS, Signatures from 25% of property owners in favor of the road reconstruction
and paving improvements were received; and

WHEREAS, Pursuant to HCC 17.04.040(2)(c) the sufficiency of the petition requires
receipt of signatures of the record owners of not less than 50% of the total properties included
in the special assessment district.

NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby notes the
insufficiency of the petition for Shannon Lane, Shannon Court and Early Spring Street Road
Reconstruction and Paving Improvements.

BE IT FURTHER RESOLVED this does not preclude further petitioning by property
owners for road improvements for a modified area or any other type of improvements by
initiating a new petition.

PASSED AND ADOPTED by the Homer City Council this 23rd day of January, 2017.

CITY OF HOMER

BRYAN ZAK, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

November 2, 2016

Dear Property Owner:

A request for road improvements was made for your neighborhood. The request was made by David Dvorak on August 10, 2016.

A Special Assessment District may be initiated with petition signatures of the record owners of real property that would bear not less than 50 percent of the assessed cost of the improvement in the proposed district. We have compiled a list of the property owners within the boundaries of Shannon Lane, Shannon Court and Early Spring Street road and paving improvement district, including your parcel(s).

If you support the road reconstruction and paving improvements and wish for the City to determine a cost estimate of the project you will need to sign and return the Property Owner Petition. By signing you are indicating that you may favor the road improvements and wish to hear more about the project, including costs. The Property Owner Petition must be returned to the City Clerk's office by **January 3, 2017**.

If you are not interested in starting the road reconstruction and paving improvements you do not need to sign the Property Owner Petition. Your lack of response indicates that you are not in favor of the Special Assessment District.

Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is 25% of the project costs for street reconstruction and paving on an equal assessment per lot basis of a residential standard street. Projects will be authorized only after a public hearing to insure public participation in the process.

We will determine the amount of interested property owners by the number of signatures that are returned. You will be notified of the results once the petition deadline has passed.

Please call with questions you may have about the Special Assessment District. We would be happy to assist you.

Sincerely,

Renee Krause
Deputy City Clerk

Enc. Property Owner Petition
Map of proposed project

CITY OF HOMER, ALASKA
PROPERTY OWNER PETITION

David K Dvorak of **4697 Early Spring Street, Homer, Alaska 99603** filed a request for road reconstruction and paving improvements.
Request Date: **August 10, 2016**

District Name: **Shannon Lane & Early Spring Street SAD** Requested: Water _ Sewer _Road Reconstruction Paving

We the undersigned owners of real property fronting, predominately, **Shannon Lane, Shannon Court and Early Spring Street** within the City of Homer, Alaska, request that a Homer Accelerated Roads and Trails Program Special Assessment District for road reconstruction and paving improvements be created to include the properties listed below. We represent the owners of at least one-half of the real property to be benefited by these improvements.

Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is 25% of the project cost for street reconstruction and paving on an equal assessment per lot basis for a standard residential street. Projects will be authorized only after a public hearing to insure public participation in the process.

If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **January 3, 2017**. For this petition to be sufficient, signatures representing at least one half or more of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

1.	MATHEW GLEN W PO BOX 2452 SOLDOTNA AK 99669-2452	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 6 #17938006
2.	BRAHM RONALD EDWARD & DEBORAH MARTHA 741 ROLLING GREEN DR BETHEL PARK PA 15102-3711	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 7 #17938007
3.	PAINTER ROBERT L & LAUREN V 4781 SHANNON CT HOMER AK 99603-7316	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 8 #17938008
4.	STONE GREGORY G & SHERRY A PO BOX 111461 ANCHORAGE AK 99511-1461	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 9 #17938009

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

CITY OF HOMER, ALASKA
PROPERTY OWNER PETITION

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Request Date: **August 10, 2016**

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If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **January 3, 2017**. For this petition to be sufficient, signatures representing at least one half or more of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

5.	PLANT KERRY F & TERESA A 4810 SHANNON CT HOMER AK 99603-7316	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 10 #17938010
6.	BRADLEY DONALD V JR & TAMARA S 4824 SHANNON CT HOMER AK 99603-7316	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE UNIT 3 LOT 11 #17938011
7.	PULLEN SUSAN M 4836 SHANNON CT HOMER AK 99603-7316	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 12 #17938012
8.	HAND, BILL PO BOX 3129 HOMER AK 99603-3129	T 6S R 13W SEC 16 Seward Meridian HM 0820047 SCENIC VIEW SUB NO 6 LOT F10-A #17939001

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

CITY OF HOMER, ALASKA
PROPERTY OWNER PETITION

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If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **January 3, 2017**. For this petition to be sufficient, signatures representing at least one half or more of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

9.	MOSS ROBERT & CHARLOTTE PO BOX 1115 HOMER AK 99603-1115	T 6S R 13W SEC 15 Seward Meridian HM 2002027 JACK GIST SUB NO 2 LOT 1-A #17901028
10.	MOSS ROBERT & CHARLOTTE MOSS CHRISTOPHER & PAT PO BOX 1115 HOMER AK 99603-1115	T 6S R 13W SEC 15 Seward Meridian HM 2002027 JACK GIST SUB NO 2 LOT 1-B #17901029
11.	JOHNSON WALTER & ANNIE M 4600 EARLY SPRING ST HOMER AK 99603-7323	T 6S R 13W SEC 15 Seward Meridian HM PTN SW1/4 NW1/4 FROM 1/4 SEC CORNER COMMO N TO SEC 15 & 16 AS POB TH E 165 FT TH N 264 FT TH W 165 FT TH S 264 FT TO POB #17901002
12.	PERLETTI SUSAN A 465 W REDOUBT AVE APT 308 SOLDOTNA AK 99669-7735	T 6S R 13W SEC 16 Seward Meridian HM 0780118 MEADOW-WOOD PLACE REPLAT OF LOT S 1-12 BLOCK 3 LOT 5 BLK 3 #17932032

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

CITY OF HOMER, ALASKA
PROPERTY OWNER PETITION

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If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **January 3, 2017**. For this petition to be sufficient, signatures representing at least one half or more of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

13.	COFFING MICHAEL W & LORD-COFFING LES 2041 SHANNON LN HOMER AK 99603-7318	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 13 #17938013
14.	BORING THEODORE SHANNON 2721 LOWDEN LN REDDING CA 96002-1804	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE SUB UNIT 3 LOT 14 #17938014
15.	ARNOLD JUSTIN T 4765 EARLY SPRING ST APT C HOMER AK 99603-7326	T 6S R 13W SEC 16 Seward Meridian HM 0810033 MEADOW-WOOD PLACE UNIT 3 LOT 15 #17938015
16.	ANSELL TRACY L PO BOX 2981 HOMER AK 99603-2981	T 6S R 13W SEC 16 Seward Meridian HM 0780118 MEADOW-WOOD PLACE REPLAT OF LOT S 1-12 BLOCK 3 LOT 7 BLK 3 #17932037

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

CITY OF HOMER, ALASKA
PROPERTY OWNER PETITION

David K Dvorak of **4697 Early Spring Street, Homer, Alaska 99603** filed a request for road reconstruction and paving improvements.
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Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is 25% of the project cost for street reconstruction and paving on an equal assessment per lot basis for a standard residential street. Projects will be authorized only after a public hearing to insure public participation in the process.

If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **January 3, 2017**. For this petition to be sufficient, signatures representing at least one half or more of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

17.	KORAN MATTHEW S PO BOX 1284 KODIAK AK 99615-1284	T 6S R 13W SEC 16 Seward Meridian HM 0780118 MEADOW-WOOD PLACE REPLAT OF LOT S 1-12 BLOCK 3 LOT 8 BLK 3 #17932038
18.	KOCH DOUGLAS PO BOX 554 ANCHOR POINT AK 99556-0554	T 6S R 13W SEC 16 Seward Meridian HM 0780118 MEADOW-WOOD PLACE REPLAT OF LOT S 1-12 BLOCK 3 LOT 9 BLK 3 #17932039
19.	TORSEN BRANT W 4711 EARLY SPRING ST HOMER AK 99603-7326	T 6S R 13W SEC 16 Seward Meridian HM 0780118 MEADOW-WOOD PLACE REPLAT OF LOT S 1-12 BLOCK 3 LOT 12 BLK 3 #17932040
20.	DVORAK FAMILY TRUST PO BOX 1792 HOMER AK 99603-1792	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 14 BLK 3 #17931036

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

CITY OF HOMER, ALASKA
PROPERTY OWNER PETITION

David K Dvorak of **4697 Early Spring Street, Homer, Alaska 99603** filed a request for road reconstruction and paving improvements.
Request Date: **August 10, 2016**

District Name: **Shannon Lane & Early Spring Street SAD** Requested: Water _ Sewer _ Road Reconstruction Paving

We the undersigned owners of real property fronting, predominately, **Shannon Lane, Shannon Court and Early Spring Street** within the City of Homer, Alaska, request that a Homer Accelerated Roads and Trails Program Special Assessment District for road reconstruction and paving improvements be created to include the properties listed below. We represent the owners of at least one-half of the real property to be benefited by these improvements.

Pursuant to the Homer Accelerated Roads and Trails Program, property owner contribution to road improvements is 25% of the project cost for street reconstruction and paving on an equal assessment per lot basis for a standard residential street. Projects will be authorized only after a public hearing to insure public participation in the process.

If you are in favor of these improvements please sign in the Signature and Date slot. Please date your signature. We ask that you include your phone number for future reference, although this is not mandatory. Deadline for this petition is **January 3, 2017**. For this petition to be sufficient, signatures representing at least one half or more of the real property to be benefitted must be secured. If sufficient, a neighborhood meeting will be held.

IN WITNESS WHEREOF, we have set our hands:

21.	WIELAND ANNE P PO BOX 1395 HOMER AK 99603-1395	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 16 BLK 3 #17931037
22.	GRONSETH DANIEL OSCAR PO BOX 2632 HOMER AK 99603-2632	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 18 BLK 3 #17931038
23.	BROWNING DAN & HEIDI 4657 EARLY SPRING ST HOMER AK 99603-7324	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 20 BLK 3 #1793139
24.	ALBORN DANA ANN BRECKENRIDGE PAMELA PO BOX 1208 HOMER AK 99603-1208	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 22 BLK 3 #17931040

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

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PROPERTY OWNER PETITION

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IN WITNESS WHEREOF, we have set our hands:

25.	BILLINGS BRADLEY J & CHRISTINE J 4631 EARLY SPRING ST HOMER AK 99603-7324	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 24 BLK 3 #17931041
26.	DUNSON JOHN A & SUSAN C PO BOX 3105 HOMER AK 99603-3105	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 26 BLK 3 #17931042
27.	GIBSON STEVEN ROSS LIVING TRUST 1622 HIGHLAND DR HOMER AK 99603-8339	T 6S R 13W SEC 16 Seward Meridian HM 0830019 MEADOW-WOOD PLACE SUB AMENDED LO T 28 BLK 3 #17931043

Total parcels in Special Assessment District is 27. Petition signatures of at least 14 of the benefitted parcels is required for the petition to move forward.

VISITORS

ANNOUNCEMENTS
PRESENTATIONS
BOROUGH REPORT
COMMISSION REPORTS



January 11, 2017

JAN 17 2017
[Handwritten signature]

Homer City Council
City of Homer
491 East Pioneer Avenue
Homer, Alaska 99603

Dear Mayor Zak & City Council Members:

Thank you to the City of Homer for continuing its support of the nonprofit community through funds administered by the Homer Foundation. This consistent support makes a big difference in our capacity to provide a wide range of services to local residents.

Past support from the City of Homer helped us build our Alaska Clean Harbors certification program, where the City of Homer took the lead statewide in embracing pollution prevention measures designed to protect water quality while reducing costs; establish a large set of baseline data through our Citizens Environmental Monitoring Program which helps resource managers make better decisions; assist local citizens with well water education and testing through our Safe Drinking Water project; and through our Electronics Recycling Project, we've kept over 200,000 pounds of electronic waste out of the Homer Landfill. We had hoped to hand the electronics recycling program off to the borough, but funding challenges made that impossible, so we will continue supporting these efforts.

With funding from a USDA local food promotion grant, Inletkeeper launched a pilot online food hub serving Homer, Seldovia, and Soldotna in 2016. Today, we have 680 farms across the state but 95% of our food comes from Outside (ADN, Nov. 4, 2013). This presents numerous problems, including the climate impacts of food transportation, the lack of food security for Alaskans and a need to support Alaskan farmers and fishermen economically. Through this grant we have helped connect farmers and fishermen with consumers, to help grow our community and give Homer residents better access to local foods. Over 500 customers and 27 farms signed up to participate in the first year distributing over \$25,000 in local products. In year two of the grant we will be working to build a sustainable business model for the Food Hub beyond the life of the grant.

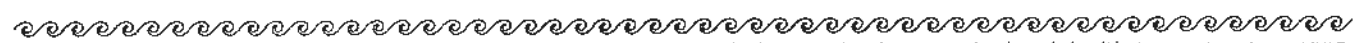
As we enter 2017, Inletkeeper employs 8 staff—six of whom reside in Homer. Since our inception in 1995, we have created numerous opportunities for meaningful employment and added over \$13 million to the local economy. The City of Homer grants program allows us to leverage relatively small contributions into larger revenues we then spread throughout the community. Support from the City of Homer demonstrates the Council's commitment to making Homer a world-class place to live, work and play.

Very truly yours,

[Handwritten signature]
Bob Shavelson
Director of Advocacy

Thanks too for your work on the City's behalf.

cc: Homer Foundation





City of Homer

www.cityofhomer-ak.gov

Office of the Mayor

491 East Pioneer Avenue
Homer, Alaska 99603

mayor@ci.homer.ak.us

(p) 907-235-3130

(f) 907-235-3143

January 25, 2017

Mayor Hirotaka Asada, City of Teshio
8 – Chome, Shinei-Dori
Teshio-cho, Teshio-gun
Hokkaido, 098-3398, Japan

Dear Mayor Asada,

Thank you for reaching out to the City of Homer and your heartfelt congratulations on my election to the Office of Mayor. I am proud to be the mayor of Homer, a town surrounded by spectacular scenery. Our town is famous for the 4.5 mile Homer Spit, a natural sandy peninsula of land that extends into Kachemak Bay. Like Teshio, tourism is a key element in Homer's economy. Jobs in commercial fishing, education and health care round out a robust economy for a rural community of just over 5,000. You may find of interest Homer's 2015 Annual Report which highlights city services and summarizes some of our accomplishments.

Thank you for the warm and generous welcome you gave Councilmember Dave Lewis and his wife during their September 2016 visit to Teshio. The stories, photos, and delicious chocolates were shared with the Council and the community and highlight how much Teshio and Homer have in common.

I share your desire to continue the efforts of our predecessors fostering over 30 years of friendship and exchange between Teshio and Homer. I would like to extend an invitation to you and members of the Teshio City Council to visit Homer March of 2018 for the 25th anniversary of the Annual Winter King Fishing Tournament. The Winter King Tournament is an excellent opportunity to participate in local festivities and hopefully catch a prize winning salmon. It would be a great honor to host Teshio as a special guest of the tournament and the City of Homer.

With Warm Regards,

Bryan Zak
City of Homer Mayor
mayor@ci.homer.ak.us

Att: 2015 Annual Report
2016 Kenai Peninsula Situations and Prospects
2016 Official Homer, Alaska Visitor Guide
2017 24th Annual Winter King Salmon Tournament information

PUBLIC HEARING(S)

**CITY OF HOMER
PUBLIC HEARING NOTICE
CITY COUNCIL MEETING**

**Ordinances 17-01, 17-02, and 17-03
Resolutions 17-009 and 17-010**

A **public hearing** is scheduled for **Monday, January 23, 2017** during a Regular City Council Meeting. The meeting begins at 6:00 p.m. in the Homer City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

Ordinances 17-01, 17-02, and 17-03 address: <http://www.cityofhomer-ak.gov/ordinances>

Resolutions 17-009 and 17-010 address: <http://www.cityofhomer-ak.gov/resolutions>

Ordinance 17-01, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040 to Remove Limitations Placed Upon Public Commenting Before City Council. City Manager.

Ordinance 17-02, An Ordinance of the City Council of Homer, Alaska, Amending the Official Road Maintenance Map of the City of Homer by Adding Grubstake Avenue and Snowbird Street as Urban Road. City Manager/Public Works Director.

Ordinance 17-03, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule; and Repealing Subsection (F) of Homer City Code 5.20.020, Open Burning – Permit Requirement, Homer City Code 5.24.060, Violation – Penalty, Homer City Code 8.08.150, Violation – Penalty, Homer City Code 8.11.080, Violation – Penalty, Homer City Code 13.08.170, Violation – Penalty, Homer City Code 14.08.170, Violation – Penalty, Homer City Code 18.20.090, Penalty, Homer City Code 19.04.100, Violation – Penalty, Homer City Code 19.08.120, Violation – Penalty, and Homer City Code 19.12.100 Violation – Penalties, to Provide for the Disposition of Additional Offenses by Bail Forfeiture Without a Court Appearance. City Manager.

Resolution 17-009, A Resolution of the City Council of Homer, Alaska, Approving Port and Harbor Enterprise’s Implementation of Newly Revised Crane Use Agreements. City Manager/Port and Harbor Director.

Resolution 17-010, A Resolution of the City Council of Homer, Alaska, Amending the Fee Schedule Under Planning and Zoning to Add Fees for Technical Review of Communication Tower Applications. City Clerk/City Planner.



All interested persons are welcome to attend and give testimony. Written testimony received by the Clerk’s Office prior to the meeting will be provided to Council.

CLERK'S AFFIDAVIT OF POSTING

I, Renee Krause, Deputy City Clerk for the City of Homer, Alaska, do hereby certify that a copy of the Public Hearing Notice for **Ordinance 17-01**, Amending Homer City Code 2.08.040 to Remove Limitations Placed Upon Public Commenting Before City Council; **Ordinance 17-02**, Amending the Official Road Maintenance Map of the City of Homer by Adding Grubstake Avenue and Snowbird Street as Urban Road; **Ordinance 17-03**, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses – Fine Schedule; and Repealing Subsection (F) of Homer City Code 5.20.020, Open Burning – Permit Requirement, Homer City Code 5.24/060, Violation – Penalty, Homer City Code 8.08.150, Violation – Penalty, Homer City Code 8.11.080, Violation – Penalty, Homer City Code 13.08.170, Violation – Penalty, Homer City Code 14.08.170, Violation – Penalty, Homer City Code 18.20.090, Violation – Penalty, Homer City Code 19.04.100, Violation – Penalty, Homer City Code 19.08.120, Violation – Penalty, Homer City Code 19.12.100, Violation – Penalties, to Provide for the Disposition of Additional Offenses by Bail Forfeiture Without a Court Appearance; **Resolution 17-009**, Approving Port & Harbor Enterprise's Implementation of Newly Revised Crane Use Agreements; and **Resolution 17-010**, Amending the Fee Schedule Under Planning and Zoning to Add Fees for Technical Review of Communication Tower Applications was distributed to the City of Homer kiosks located at City Clerk's Office, and the Homer Public Library on Wednesday, January 11, 2017 and posted the same on City of Homer Website on Wednesday, January 11, 2017.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of said City of Homer this 11th day of January, 2017.



Renee Krause, CMC, Deputy City Clerk



** Copies of proposed Ordinances, in entirety, are available for review at Homer City Clerk's Office. Copies of the proposed Ordinances are available for review at City Hall, the Homer Public Library, and the City's homepage - <http://clerk.ci.homer.ak.us>. Contact the Clerk's Office at City Hall if you have any questions. 235-3130, Email: clerk@ci.homer.ak.us or fax 235-3143.

Jo Johnson, MMC, City Clerk

Publish: Homer News January 19, 2017



ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-01

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 2.08.040 to Remove Limitations Placed Upon Public Commenting Before City Council.

Sponsor: City Manager

1. Council Regular Meeting January 9, 2017 Introduction
2. Council Regular Meeting January 23, 2017 Public Hearing and Second Reading

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

City Manager

3
4 **ORDINANCE 17-01**

5
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING HOMER CITY CODE 2.08.040 TO REMOVE
8 LIMITATIONS PLACED UPON PUBLIC COMMENTING BEFORE CITY
9 COUNCIL.

10
11 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

12
13 Section 1. Section 2.08.040, Bylaws for Council procedure, is amended to read as
14 follows:

15
16 The following bylaws shall govern the procedures of the City Council of the City:

- 17
18 a. To abide by existing Alaska State laws pertaining to cities of the first class.
19
20 b. To abide by the current edition of Robert's Rules of Order insofar as this treatise is
21 consistent with these bylaws, other provisions of the Homer City Code, or unwritten
22 standing rules adopted by the City Council. In all other cases, bylaws, the code or the
23 standing rule shall prevail.
24
25 c. The Council's agenda format specified in the City of Homer City Council Operating
26 Manual, as the same may be amended from time to time, is incorporated herein by
27 reference.
28
29 1. The manual may be revised with Council approval;
30
31 2. A copy of the manual shall be available to the public during regular business
32 hours at the Homer City Hall and be available during City Council meetings.
33
34 d. Regular Meetings.
35
36 1. Second and fourth Mondays of each month at 6:00 p.m., unless otherwise
37 provided by two-thirds vote of the City Council;
38
39 2. The agenda shall be provided to each Council member 36 hours prior to
40 meeting, by City Clerk;
41

42 3. Adding items to or removing items from the agenda will be by unanimous
43 consent of the Council;

44
45 4. Public notice of a regular meeting shall be made as provided in Chapter 1.14
46 HCC.

47
48 e. Special Meetings.

49
50 1. Called by Mayor or majority of the Council;

51
52 2. If a majority of members are given at least 36 hours' oral or written notice
53 and reasonable efforts are made to notify all members, a special meeting may
54 be held at the call of the presiding officer or at least one-third of the members;

55
56 3. Agenda shall be as per subsection (c) of this section;

57
58 4. Public notice of a special meeting shall be made as provided in Chapter 1.14
59 HCC.

60
61 f. Emergency Meetings.

62
63 1. By unanimous consent of quorum;

64
65 2. Required justifiable reason;

66
67 3. Informal agenda – limited to emergency;

68
69 4. Public notice shall be made as provided in Chapter 1.14 HCC.

70
71 g. Teleconference participation in meetings may be authorized pursuant to HCC
72 2.08.100 through 2.08.120.

73
74 h. Quorum – Voting. Four Council members shall constitute a quorum. Four affirmative
75 votes are required for the passage of an ordinance, resolution, or motion. A member of
76 the Council acting as Mayor Pro Tem shall not lose his vote as the result of serving in
77 such office. The Mayor is not a Council member and may vote only in the case of a tie.
78 The final vote on each ordinance, resolution, or substantive motion may be a roll call
79 vote or may be done in accordance with subsection (k) of this section (see AS
80 29.20.160(c)(d)).

81

82 i. Motions to Reconsider. A member of the Council who voted with the prevailing side
83 on any issue may move to reconsider the Council’s action at the same meeting or at
84 the next regular meeting of the body. Notice of reconsideration shall be given to the
85 Mayor or City Clerk within 48 hours from the time the original action was taken.

86
87 j. Abstentions. All Council members present shall vote unless abstention is required by
88 law (AS 29.20.160(d)).

89
90 k. Consensus. The Council may, from time to time, express its opinion or preference
91 concerning a subject brought before it to consideration. The statement, representing
92 the will of the body and a meeting of the minds of the members, may be given by the
93 presiding officer as the consensus of the body as to that subject without taking a
94 motion and roll call vote.

95
96 l. Vacancies. An elected municipal office is vacated under the following conditions and
97 upon the declaration of vacancy by the Council. The Council shall declare an elective
98 office vacant when the person elected:

- 99
- 100 1. Fails to qualify or take office within 30 days after his election or
101 appointment;
 - 102
 - 103 2. Resigns and his resignation is accepted;
 - 104
 - 105 3. Is physically or mentally unable to perform the duties of the office as
106 determined by two-thirds vote of the Council;
 - 107
 - 108 4. Is convicted of a felony or misdemeanor described in AS 15.56 and two-thirds
109 of the members of the Council concur in expelling the person elected;
 - 110
 - 111 5. Misses three consecutive regular meetings unless excused;
 - 112
 - 113 6. Is convicted of a felony or of an offense involving a violation of the oath of
114 office;
 - 115
 - 116 7. Is convicted of a violation of AS 15.13 concerning Alaska Public Offices
117 Commission reporting requirements;
 - 118
 - 119 8. No longer physically resides in the municipality and the City Council by two-
120 thirds vote declares the seat vacant; and
 - 121

122 9. Is physically absent from the municipality for 90 consecutive days unless
123 excused by the City Council.

124
125 m. Salaries of Elected Officials.

126
127 1. The Mayor and each Council Member shall be paid a stipend of \$75.00 for
128 each council-meeting-day in which the person participates in person, or \$50.00
129 per council-meeting-day in which a majority of the person's participation time
130 is telephonic. A council-meeting-day is any calendar day in which the person
131 participates in any one or more of the following:

132
133 a. A scheduled and publicly noticed meeting of the City Council,
134 including without limitation a regular meeting, special meeting,
135 committee of the whole meeting and meeting in executive session.

136
137 b. A scheduled and publicly noticed meeting of the Board of
138 Adjustment, Board of Ethics, or other board or commission that is
139 composed of the Mayor and Council Members.

140
141 c. Training or continuing education programs, and work sessions, that
142 are required by law or commonly recognized best practice to perform
143 the duties of Mayor or Council Member.

144
145 The City shall not spend any funds for elected officials' membership in
146 the Public Employees Retirement System. An elected official may not
147 receive any other compensation for service to the City unless
148 specifically authorized to do so by ordinance. Per diem payments or
149 reimbursements for expenses are not compensation under this section.

150
151 ~~n. Any person making personal, impertinent, threatening or slanderous remarks or~~
152 ~~who shall become boisterous while addressing the Council shall be forthwith by the~~
153 ~~presiding officer barred from further audience at the meeting before the Council,~~
154 ~~unless permission to continue be granted by a majority vote of the Council.~~

155
156 Section 2. This ordinance shall take effect upon its adoption by the Homer City
157 Council.

158
159 Section 3. This ordinance is of a permanent and general character and shall be
160 included in the City Code.

161

162 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this _____ day of
163 _____, 2017.

164
165 CITY OF HOMER
166

167
168 _____
169 BRYAN ZAK, MAYOR
170

171 ATTEST:

172
173 _____
174
175 JO JOHNSON, MMC, CITY CLERK
176

177
178 YES:

179 NO:

180 ABSTAIN:

181 ABSENT:
182
183
184

185 First Reading:

186 Public Hearing:

187 Second Reading:

188 Effective Date:
189

190 Reviewed and approved as to form.
191

192 _____
193 Mary K. Koester, City Manager

Holly C. Wells, City Attorney

194
195 Date: _____

Date: _____

196
197
198 Fiscal Note: NA
199

ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-02

An Ordinance of the City Council of Homer, Alaska, Amending the Official Road Maintenance Map of the City of Homer by Adding Grubstake Avenue and Snowbird Street as Urban Road.

Sponsor: City Manager/Public Works Director

1. Council Regular Meeting January 9, 2017 Introduction
 - a. Memorandum 17-004 from Public Works Superintendent
2. Council Regular Meeting January 23, 2017 Public Hearing and Second Reading
 - a. Memorandum 17-004 from Public Works Superintendent

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Manager/
4 Public Works Director

5 **ORDINANCE 17-02**

6
7 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA,
8 AMENDING THE OFFICIAL ROAD MAINTENANCE MAP OF THE CITY
9 OF HOMER BY ADDING GRUBSTAKE AVENUE AND SNOWBIRD
10 STREET AS URBAN ROAD.

11
12 WHEREAS, The City of Homer has determined that it is necessary to provide minimum
13 standards to regulate design and construction of public streets, roads, and highways within
14 the City of Homer; and

15
16 WHEREAS, Ordinance 85-14, HCC 11.04.055, adopted July 2, 1985 provides appropriate
17 street design and construction standards as well as an official maintenance map to record
18 streets officially accepted for maintenance; and

19
20 WHEREAS, HCC 11.04.055 provides that the City shall not accept maintenance
21 responsibility for any road or street which is not constructed or reconstructed to the adopted
22 standards unless the road is shown on the Official Road Maintenance Map, as amended via
23 Ordinance 02-23(S), adopted June 10, 2002, of the City of Homer; and

24
25 WHEREAS, An additional 1,238 linear feet has been duly inspected, reviewed,
26 approved by the Department of Public Works and recommended for acceptance by the City of
27 Homer as Urban Road.

28
29 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

30
31 Section 1. Section 11.04.55 Official Road Maintenance Map adopted is hereby
32 amended per provisions of sections (a) through (e) to include the following additional streets
33 as Urban Road by the City of Homer and recorded as amendments #37 and #38 on the New
34 Official Road Maintenance Map adopted: The following mileage calculations are to the
35 nearest hundredth.

36

Amend	Subdivision	Roadway Name	Lineal Feet	Mile	Class
37. 37.	Waddell Park	Grubstake Ave.	947	.18	Urban
38. 38.	Waddell Park	Snowbird Street	291	.05	Urban

37
38 Section 2. This is a non code ordinance and of a permanent nature.

39 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 23rd day of January, 2017.

40

41

CITY OF HOMER

42

43

44

45

BRYAN ZAK, MAYOR

46 ATTEST:

47

48

49

JO JOHNSON, MMC, CITY CLERK

51

52

53

54 Introduction:

55 Public Hearing:

56 Second Reading:

57 Effective Date:

58

59

60

61 AYES:

62 NOES:

63 ABSTAIN:

64 ABSENT:

65

66

67

68 Reviewed and approved as to form:

69

70

Mary K. Koester, City Manager

Holly C. Wells, City Attorney

72

73 Date: _____

Date: _____

74

75 Fiscal Note: Annual maintenance costs for these improvements is estimated to be \$5,571.

76 Depreciation for these improvements over twenty years is estimated to be \$180,000 to

77 \$200,000.



**CITY OF HOMER
PUBLIC WORKS DEPARTMENT**

Dan Gardner, PW Supt.
3575 Heath St.
Homer, Alaska 99603

Telephone: (907)235-3170
Fax: (907)235-3145

EMAIL : dgardner@ci.homer.ak.us

Memorandum 17--004

To: Jo Johnson, City Clerk

Through: Carey S. Meyer, PW Director *CSM*

From: Dan Gardner, PW Superintendent *DMG*

Date: December 9, 2016

Subject: Street Improvements – Official Road Maintenance Map
Grubstake Avenue & Snowbird Street

The Waddell Way road improvement project has been declared substantially complete, and is ready for standard road maintenance. These improvements include bike lanes, and an attached, paved sidewalk. These road improvements were completed in 2016 and this department has inspected and approved the construction.

The street names were changed after the project was designed under the previous name of Waddell Way. The two new streets are Grubstake Avenue and Snowbird Street as follows:

1. Grubstake Avenue – 947 lineal feet of roadway, bike lanes, attached sidewalk
2. Snowbird Street – 291 lineal feet of roadway

This is a total of 1238 lineal feet of new road improvements (.23 miles) and 947 lineal feet of sidewalk (.18 miles).

In accordance with Ordinance 85.13, Section 11.20.090, and Section 11.20.100, this Department requests that the City Council formally accept the street improvements for operation and maintenance. Upon the Council's approval, please add the additional .23 miles of roadway and .18 miles of sidewalk to the official road maintenance map for year-round maintenance.

See attached map for location.

Fiscal Note – Annual maintenance costs for these improvements is estimated to be \$5571. Depreciation for these improvements over twenty years is estimated to be \$180,000 to \$200,000

C: Carey Meyer, PW Director
Katie Koester, City Manager



Grubstake Avenue

Snowbird Street

ORDINANCE REFERENCE SHEET
2017 ORDINANCE
ORDINANCE 17-03

An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code 1.16.040, Disposition of Scheduled Offenses—Fine Schedule; and Repealing Subsection (F) of Homer City Code 5.20.020, Open Burning – Permit Requirement, Homer City Code 5.24.060, Violation – Penalty, Homer City Code 8.08.150, Violation – Penalty, Homer City Code 8.11.080, Violation – Penalty, Homer City Code 13.08.170, Violation – Penalty, Homer City Code 14.08.170, Violation – Penalty, Homer City Code 18.20.090, Penalty, Homer City Code 19.04.100, Violation – Penalty, Homer City Code 19.08.120, Violation – Penalty, and Homer City Code 19.12.100 Violation – Penalties, to Provide for the Disposition of Additional Offenses by Bail Forfeiture Without a Court Appearance.

Sponsor: City Manager

1. Council Regular Meeting January 9, 2017 Introduction
 - a. Memorandum 17-005 from City Clerk
2. Council Regular Meeting January 23, 2017 Public Hearing and Second Reading
 - a. Memorandum 17-005 from City Clerk

**CITY OF HOMER
HOMER, ALASKA**

City Manager

ORDINANCE 17-03

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING HOMER CITY CODE 1.16.040, DISPOSITION OF SCHEDULED OFFENSES—FINE SCHEDULE; AND REPEALING SUBSECTION (f) OF HOMER CITY CODE 5.20.020, OPEN BURNING – PERMIT REQUIREMENT, HOMER CITY CODE 5.24.060, VIOLATION – PENALTY, HOMER CITY CODE 8.08.150, VIOLATION – PENALTY, HOMER CITY CODE 8.11.080, VIOLATION – PENALTY, HOMER CITY CODE 13.08.170, VIOLATION – PENALTY, HOMER CITY CODE 14.08.170, VIOLATION – PENALTY, HOMER CITY CODE 18.20.090, PENALTY, HOMER CITY CODE 19.04.100, VIOLATION – PENALTY, HOMER CITY CODE 19.08.120, VIOLATION – PENALTY, AND HOMER CITY CODE 19.12.100 VIOLATION – PENALTIES, TO PROVIDE FOR THE DISPOSITION OF ADDITIONAL OFFENSES BY BAIL FORFEITURE WITHOUT A COURT APPEARANCE.

WHEREAS, The Alaska Court System has requested that the City update its schedule of fines for violations of the Homer City Code that may be disposed of by bail forfeiture without a court appearance; and

WHEREAS, Making as many Homer City Code violations as possible subject to disposition by bail forfeiture without a court appearance increases the efficiency of enforcing the Code; and

WHEREAS, It is appropriate and in the best interest of the City to make the Code violations listed below subject to disposition by bail forfeiture without a court appearance.

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. Subsection (c) of Homer City Code 1.16.040, Disposition of scheduled offenses—fine schedule, is amended by adding new lines to read as follows:

Code Section	Description of Offense	Fine
HCC 5.08.020	Transporting unsecured load of garbage, trash or other materials in vehicle	\$300

HCC 5.20.020	Open burning, permit required	\$300
HCC 5.20.030	Trash burning—approved container required	\$300
HCC 5.20.050	Handling or storing explosives	\$300
HCC 5.24.030	Fireworks—Sale prohibited	\$300
HCC 5.24.040	Fireworks—Use prohibited	\$300
HCC 5.24.050	Fireworks exhibit—Permit required	\$300
HCC 8.08.020	Itinerant or transient merchant—License required	\$300
HCC 8.08.080	Itinerant or transient merchant—Exhibition of license	\$300
HCC 8.08.100	Itinerant or transient merchant—Use of streets and other public places	\$300
HCC 8.11.030	Mobile food service—License required	\$300
HCC 8.11.070(b)	Mobile food service—Operation near similar business at fixed location	\$300
HCC 8.11.070(c)	Mobile food service—Operation in City park or campground	\$300
HCC 8.11.070(d)	Mobile food service—Operation in congested area on Homer Spit	\$300
HCC 8.12.120	Public transportation vehicle—Permit required	\$300
HCC 8.12.200	Chauffeurs license—Required	\$300
HCC 8.12.250	Public transportation vehicle—Prohibited operation	\$300

Code Section	Description of Offense	Fine
HCC 8.12.400	Public transportation vehicle—Display of rates/fares	\$300
HCC 13.08.010	Work in City right-of-way or connecting to City utility—Permit required	\$300
HCC 13.08.130	Restore City right-of-way to original condition	\$300
HCC 13.08.140	Repair of damage to City utilities	\$300
HCC 14.04.050	Sewer extension or connection—Permit required	\$300
HCC 14.04.070	Destruction of private sewage disposal system after connection to City sewer system	\$300
HCC 14.04.090	Discharge of surface drainage into City sewer	\$300
HCC 14.08.030	Water extension or connection—Permit required	\$300
HCC 14.08.040	Connection to private water system—Permit required	\$300
HCC 14.08.105	Resale of City water—Permit required	\$300
HCC 18.20.015	Storing, parking or leaving abandoned or junk vehicle	\$300
HCC 18.20.025	Failure to remove abandoned or junk vehicle	\$300
HCC 19.02.020	Large special event—Permit required	\$300
HCC 19.04.040	Burial of human remains outside approved cemetery	\$300

Code Section	Description of Offense	Fine
HCC 19.04.090(a)	Monument or other memorial protruding above ground level in City cemetery	\$300
HCC 19.04.090(b)	Placement, alteration or removal of monument, memorial or plant without City consent	\$300
HCC 19.08.030(a)	Camping on City property where prohibited	\$300
HCC 19.08.030(b)	Camping outside designated areas	\$300
HCC 19.08.030(d)	Camping in closed campground	\$300
HCC 19.08.050	Camping in City campground—Permit required	\$300
HCC19.08.060	Camping in City campground for more than 14 days	\$300
HCC 19.08.070(a)	Disposal of human waste on City property	\$300
HCC 19.08.070(c)	Erect, occupy, utilize structure on City property	\$300
HCC 19.08.070(d)	Park, leave, maintain, utilize vehicle, camper unit, or camp where prohibited	\$300
HCC 19.08.070(e)	Deface, destroy, alter or remove City property	\$300
HCC 19.08.070(f)	Dog at large in City campground	300
HCC 19.08.070(g)	Campsite in City campground left in disorderly or unsightly condition	\$300

Code Section	Description of Offense	Fine
HCC 19.08.080	Improper storage of garbage, refuse, other waste in City campground	\$300
HCC 19.12.080	Excavation or removal of gravel or fill—Permit required	\$300
HCC 19.12.090	Tampering with, burning or removing driftwood from storm berm	\$300

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Section 2. Subsection (f) of Homer City Code 5.20.020, Open burning – Permit requirement, is repealed.

Section 3. Homer City Code 5.24.060, Violation – Penalty, is repealed.

Section 4. Homer City Code 8.08.150, Violation – Penalty, is repealed.

Section 5. Homer City Code 8.11.080, Violation – Penalty, is repealed.

Section 6. Homer City Code 13.08.170, Violation – Penalty, is repealed.

Section 7. Homer City Code 14.08.170, Violation – Penalty, is repealed.

Section 8. Homer City Code 18.20.090, Penalty, is repealed.

Section 9. Homer City Code 19.04.100, Violation – Penalty, is repealed.

Section 10. Homer City Code 19.08.120, Violation – Penalty, is repealed.

Section 11. Homer City Code 19.12.100 Violation – Penalties, is repealed.

Section 12. This ordinance shall take effect upon its adoption by the Homer City Council.

63 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 23rd day of January, 2017.

64
65 CITY OF HOMER
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69 _____
BRYAN ZAK, MAYOR

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71 ATTEST:

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74 _____
75 JO JOHNSON, MMC, CITY CLERK
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77
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79 YES:

80 NO:

81 ABSTAIN:

82 ABSENT:

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87 First Reading:

88 Public Hearing:

89 Second Reading:

90 Effective Date:

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92 Reviewed and approved as to form.

93
94
95 _____
96 Mary K. Koester, City Manager

97 _____
98 Holly C. Wells, City Attorney

99
100 Date: _____

Date: _____

101 Fiscal Note: NA



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum 17-005

TO: MAYOR ZAK AND CITY COUNCIL

FROM: JO JOHNSON, CITY CLERK

DATE: JANUARY 3, 2017

SUBJECT: ORDINANCE 17-03 - AMENDMENTS TO PROVIDE FOR THE DISPOSITION OF
ADDITIONAL OFFENSES BY BAIL FORFEITURE

The intent of Ordinance 17-03 is to bring the City's citations in line with the State Court who can enforce the penalties. Municipalities across the state are incorporating their fines for citations consistent with the State Court.

Aligning fines for citations with the State Court avoids court hearings and appearances, which in turn reduces costs to the State.

Ordinance 17-03 is a housekeeping measure to ensure the City's fines for minor offenses are consistent with the State's fines.

RECOMMENDATION:

Adopt Ordinance 17-03 to amend the City's citations so they are consistent with the Alaska Court.

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Manager/
4 Port and Harbor Director

5 **RESOLUTION 17-009**

6
7 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
8 APPROVING PORT AND HARBOR ENTERPRISE'S
9 IMPLEMENTATION OF NEWLY REVISED CRANE USE
10 AGREEMENTS.

11
12 WHEREAS, The City of Homer owns, maintains and manages cranes at the Homer
13 Harbor Fish Dock and the Deep Water Dock for public use; and

14
15 WHEREAS, The Port and Harbor Enterprise, who manages the crane facilities, requires
16 fulfilment of a Fish Dock Crane Use Agreement in order for the public to access the cranes;
17 and

18
19 WHEREAS, The purpose of the Fish Dock Crane Agreement is to keep the Fish Dock and
20 Deep Water Dock cranes accessible and safe for vessel and business owners, while at the
21 same time limiting the City of Homer's exposure to liability in the case that property is
22 damaged or destroyed during public crane use; and

23
24 WHEREAS, The Fish Dock Crane Agreement, a one-size-fits all agreement dating back
25 to the early 1980's, was recently reviewed by the City Attorney and found insufficient to
26 accomplish its purpose; and

27
28 WHEREAS, City Staff has worked together with the City Attorney to craft new
29 agreements covering individual and commercial users and all crane operators that clearly
30 define the roles and responsibilities for public use of the asset, insure on-going training in
31 proper crane use and provide a mechanism to confirm insurance coverage.

32
33 NOW, THEREFORE, BE IT RESOLVED that the Homer City Council hereby approves Port
34 and Harbor Enterprise's implementation of the newly revised Crane Use Agreements.

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36 PASSED AND ADOPTED by the Homer City Council this 23rd day of January, 2017.
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CITY OF HOMER

BRYAN ZAK, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: N/A



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road
Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

Memorandum 17-008

TO: MAYOR BRYAN ZAK & HOMER CITY COUNCIL
CC: KATIE KOESTER, CITY MANAGER
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER
DATE: JANUARY 3, 2017
SUBJECT: REVISED FISH DOCK CRANE USE AGREEMENTS

The City of Homer owns, maintains, and manages eight pedestal cranes fixated to the Homer Harbor Fish Dock and one fixed pedestal crane located on the Deep Water Dock. The public, i.e. vessel owners and harbor-related business owners, have access to these facilities for the purpose of loading and unloading vessels tied alongside our Fish Dock. The “new” Fish Dock was completed in 1984 when we went from a small wooden dock with two cranes to a 345 foot concrete and steel dock with eight cranes and an industrial Ice Plant. All of these facilities are under the management of the Port and Harbor Enterprise.

For the public to utilize the City’s cranes, individuals are required to complete a Fish Dock Crane Use Agreement (see attached), view a 15 minute introductory video (circa 1989), and conduct a simple practical, in-person test on the dock with City personnel. This method has been used to allow crane access since the early 1980’s. Last year, I reviewed these policies with City Attorney Holly Wells and asked for her input. She found the contract completely inadequate and advised that the City’s crane use program needed significant revamping.

Here are the main issues with the old policies:

- One single page contract with no expiration date (good for life).
- Insurance: not enough coverage and doesn’t specify what kind of coverage.
- No proof of insurance required naming the City as additional insured.
- Training consists of a 15 minute video and a practical test on the dock with City personnel that proves you can operate the crane. Trained for life, no retraining required.

Moving Forward & Goals:

- It is important to keep the Fish Dock cranes accessible to our vessel and business owners, while at the same time limiting the City’s exposure to liability in the case that someone or someone’s property were damaged or destroyed.
- Staff has worked together with the City Attorney to create new contracts that clearly define the roles and responsibilities for the use of this public asset.
- We are moving from a single page, one-size-fits-all contract to three separate agreements: the Individual User, the Commercial User, and the Covered Operator.

Individual User Permit: If you are a small business owner, boat owner or otherwise, and do not have any employees using the cranes, then the individual user agreement is your contract. You will also have to complete the covered operator agreement to be fully compliant.

Commercial User Permit: If you are an employer who intends to allow your employees to use your access card (the plastic card that turns the crane on/off), then you will need to fill out and agree to the terms in the commercial/permit holder agreement.

Covered Operator User Permit: For anyone actually operating the cranes, whether self-employed or working for a commercial permit holder, you will have to complete the training and agree to the conditions in the covered operator agreement. An operator card (paper) is issued to all persons that complete the training. It will not give you access to turn the cranes on/off. For that you still need a crane access (plastic) card, which is covered by the requirements outlined in the Individual or Commercial agreements.

The new agreements and training expire after three years. To remain compliant and be able to retain access to the City's cranes, a new agreement and re-training is mandatory every three years, no exceptions. No laps of insurance will be allowed. The plastic access cards can easily be disabled by Port and Harbor Administration at the Port and Harbor Office if a commercial or individual user fails to maintain their insurance.

The training program will be provided by an outside source named Hard Hat Training by Safety Provisions, Inc. It is an interactive course, OSHA-approved, that was developed specifically for our equipment type and use. The training takes about 90 minutes to complete and the fee for the training is \$50.00, which is the responsibility of the permit holder/individual to pay. ONLY the City's course will be allowed for use; you may be a highly qualified industrial crane operator, but you will still have to pass our course in order to get your City of Homer crane operators (paper) card.

Recommendation:

Approve Resolution 17-009, Approving the Port and Harbor Enterprises' Implementation of Newly Revised Crane Use Agreements.

Attached: OLD Fish Dock Crane Use Authorization Agreement
 Individual User Crane Agreement & Indemnification
 Commercial/Permit Holder Crane Agreement & Indemnification
 Covered Operator Crane Agreement & Indemnification



City of Homer

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Port and Harbor

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Homer, AK 99603

port@cityofhomer-ak.gov

(p) 907-235-3160

(f) 907-235-3152

FISH DOCK CRANE USE AUTHORIZATION AGREEMENT

Name: _____ Phone #: _____

Address: _____
P.O. Box or Street Address *City* *State* *Zip*

ID/Driver's License #: _____ S.S. # (optional): _____

Use of the Fish Dock cranes in the City of Homer harbor is a privilege which will be extended only to those who make safe and proper use of the equipment. The privilege will be granted only to those who have completed City training, who have demonstrated an ability to safely and properly use the equipment, and who agree to the following terms:

- I have viewed and understand the City of Homer training video for the safe and proper use of the Fish Dock cranes.
- I have successfully demonstrated proficiency on use of the cranes which has been observed and verified by authorized port and harbor personnel.
- I have received the port and harbor written policies concerning Fish Dock crane use. I understand the written policies and agree to abide by them.
- I agree that if I ever have a question concerning the proper procedures or policies for use of the cranes, I will ask authorized port and harbor personnel for further instruction and I will not use the crane until my questions have been answered.
- I agree that I will not operate a Fish Dock crane without having the Crane Card Operator Permit Card in my possession.
- If I am issued a crane access card, I agree that I will not allow any person to use my card that has not also completed training and received from the City of Homer a Crane Operator Permit Card.
- I agree that if I allow another person to operate a crane using my access card, before doing so I will provide to the port and harbor office proof of liability insurance covering such activity in an amount of not less than \$1,000,000.
- I agree that I will immediately report to port and harbor personnel any accident involving crane use or any malfunction or problem with the cranes.

I agree that my use authorization agreement, Crane Operator Permit Card, and my access card (if I have one), may be revoked immediately without prior notice to me if I violate the City of Homer policies or procedures for Fish Dock crane use, allow a person who does not have a use authorization agreement with the City to use my access card, fail to pay my account in full, or otherwise violate the terms of this agreement.

Signature

Date

For City Use Only:

Permit Only _____ Card(s) # _____ Liability Insurance _____

Training Completed On (Date): _____ Proficiency Test Verified By: _____

CITY OF HOMER PORT AND HARBOR OFFICE

Office Admin Authorization

Date

INDIVIDUAL USER CRANE AGREEMENT AND INDEMNIFICATION

Name: _____ (“User”) Phone: _____

Address: _____
P.O. Box or Street Address City State Zip

ID/Driver’s License #: _____ State of Issue _____ Marina Acct #: _____

Section 1. Equipment Use Permit

Subject to the conditions and limitations of this equipment use permit, which is hereafter called the “Permit”, between User and the City of Homer, Alaska (“City”), the City hereby grants permission to User to access any City-owned Crane. This Permit represents a nonexclusive privilege authorizing use of City-owned Cranes on the Fish Dock and the Deep Water Dock and does not convey an interest or right to any City property or to the use of any City property.

Section 2. User Access Card

A. Upon execution of this Permit, User shall be issued a plastic Crane Access Card.

Section 3. Term and Rates

This Permit shall be in effect beginning on _____ (“Effective Date”) and ending three years later on _____. (“Term”) In exchange for use of the City-owned cranes under this Permit, User agrees to pay the City \$52.00 a year for 3 years. This fee will be billed automatically to the User’s account. In addition to the charge for this Permit, User shall be charged the published crane rates from the Homer Port and Harbor tariff.

Section 4. Training

User shall, prior to operating any City-owned cranes, verify the successful completion of the following:

- A. The City of Homer authorized online Hard Hat Training Course at <https://cityofhomer-safetyclasses.talentlms.com/>. The \$50.00 charge for this training is the responsibility of the User.
- B. A proficiency training session with the City cranes administered by the City’s Ice Plant Personnel.
- C. When training is complete, City of Homer personnel will complete a Crane Operator Card (paper) for the User that is valid for 3 years from the date of issue.

Section 5. Users Warranties and Representations

- A. User warrants that their use of the City-owned cranes is for individual use only.
- B. User shall comply with all federal, state, and local laws related to the operation and use of any City-owned Cranes.

Section 6. Operation and Access

- A. The City does not guaranty the availability of any City-owned Crane at any time. City-owned Cranes may be unavailable due to City use or service without notice to User.
- B. User must have his or her Crane Operator Card (paper) in their possession at all times when operating any City-owned Crane.
- C. User shall not allow any other person to use their Crane Operator Card (paper) or their Crane Access Card (plastic).
- D. City-owned Cranes cannot be reserved and are available only on a first come first serve basis. However, offloading of fish shall be given priority over other uses of City-owned cranes on the Fish Dock.
- E. User shall be fully alert and shall not be under the influence of alcohol or any controlled substance while operating or using City-owned Cranes. User shall always use extreme care and caution when operating City-owned Cranes. The harbormaster or his designee has full discretion to determine when a user is operating a City-owned crane recklessly or impaired. Impairment may include but is not limited to operating the crane while under the influence of alcohol or any controlled substance or operation of a City-owned crane while suffering from fatigue. If the Harbormaster determines that a user is unfit to operate any City-owned crane, the Harbormaster or his designee has full authority to order user to immediately cease crane operations. Harbormaster may also prohibit a user from operating any City-owned crane in the future.
- F. User agrees that he or she will immediately report to port and harbor personnel any accident involving crane use or any malfunction or problem with a City-owned Crane. Any report must be received by port and harbor personnel within one (1) hour from accident or user's knowledge of any malfunction or problem with City-owned Cranes. In the event of serious bodily injury, user shall first call 9-1-1 and then report the accident to Port and Harbor Personnel.

Section 7. Insurance

- A. Minimum Scope and Limits of Insurance. User shall carry and maintain at its expense marine general liability insurance, including, without limitation, insurance against assumed or contractual liability under this Permit, with limits of liability not less than \$1,000,000 combined single limit bodily injury and property damage, \$1,000,000 personal injury, and \$2,000,000

aggregate. This insurance shall be primary and exclusive of any other insurance held by the City, and the policy purchased shall name the City as an additional insured with respect to the use or operation of City-owned Cranes by User or a Covered Operator.

- B. Verification of Coverage. User shall deliver to the City certificates of insurance required by this section before using or operating any City-owned Crane.

Section 8. Termination.

- A. The Crane Operator Card may be revoked by the City at any time with or without cause and does not create a right of use.
- B. The Crane User Permit may terminate immediately and User's Operator Card shall be immediately revoked if User violates any provision of this Permit or federal, state or local law or City of Homer policies or procedures during operation of any City-owned Crane.

Section 9. General Provisions

- A. This Permit is not transferable or assignable.
- B. Any provision or clause of this Permit that is deemed invalid by a court or otherwise by law shall not affect the validity of the remainder of the Permit.
- C. This Permit and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Alaska. Any legal proceeding in connection with this Permit shall be in the trial courts of the State of Alaska for the Third Judicial District in Homer. It is understood that consultation and negotiation are the first option for resolving all disputes arising under this Permit.
- D. The failure of the City at any time to enforce a provision or part of this Permit shall in no way constitute a waiver of such provision or part, nor in any way affect the validity of this Permit or any part of this Permit. A waiver by the City of any provision or part of this Permit shall not be construed as a continuing or future waiver of such provision or part or as a continuing or future waiver of any other provision or part of this Permit. Any waivers of the Permit conditions shall be in writing and signed by both parties.
- E. No provision of this Permit shall be construed to create a partnership or joint venture or any other arrangement between the City and User under which the City would be liable for the debts, losses or liabilities of User.
- F. The parties intend this Permit to be the complete and exclusive expression of their agreement and the Permit granted to User. No representations or promises not contained in this document have been made by the City. No modification to this Permit may be made unless in writing and executed by both parties.
- G. This Permit has been submitted to the scrutiny of all parties and their counsel if desired, and it shall be interpreted without consideration to or weight given to its being drafted by any party or

its counsel and interpreted according to its fair meaning and intent and not for or against either party.

- H. The Parties hereby warrant and represent that each has the authority to enter into and perform the obligations of this Permit and that the individual signing this Permit on behalf of User has the authority to enter into this Permit on behalf of the User.
- I. All notices or notifications required by this Permit to be effective must be in writing and delivered to the Port and Harbor Office.

Section 10. Individual User Release Of Liability And Indemnification Agreement

User hereby acknowledges that operation and use of cranes owned by the City may be dangerous and even life-threatening if used incorrectly. User further acknowledges that the City, through its employees and other representatives, has provided User with required training materials related to the operation and use of the cranes, which identify risks associated with operating the cranes.

User, on its behalf and on behalf of all its employees, designees, representatives, subcontractors, directors, officers, volunteers, administrators, agents, heirs, beneficiaries, executors, successors, assigns, and other entities or individuals claiming through it or affiliated with it (hereafter collectively referred to as "User"), hereby covenants and agrees to release, indemnify, and hold harmless the City, its employees, volunteers, officials, agents, officers, departments, boards, commissions, or other bodies (hereafter collectively referred to as the "City") from and for any and all demands, claims, actions, suits or causes of action, whether known or unknown, arising from any and all loss, damage, and/or mental or physical injury (including, but not limited to injuries leading to death and death itself) to any property or any person which is caused by or related to the operation or use of a City-owned crane by User.

User also warrants that injuries, death or damage stemming from not only the inherent risk of the operation of heavy equipment, like cranes, but also equipment malfunction or misuse, human error, ignoring a known hazard, and a defect in the property, including, but not limited to, the cranes or the dock on which the cranes are located, are all within the scope of this Release and Indemnification and User or individual through User or on his or her behalf is barred from bringing any and all present or future demands, suits, claims or causes of action arising from the City's conduct, including demands, suits, claims or causes of action arising from the City's negligence and User is obligated to indemnify and hold harmless the City for any such claims brought against the City that arise from the operation or use of a City-owned crane by User. The above list of potential causes of injury, death or loss is intended only to provide an example of the broad scope of this Release and Indemnification and is in no way intended to limit the Release to the named causes as this Release and Indemnification is intended to apply to any and all causes of liability.

User is familiar with the decision of the Alaska Supreme Court in *Young v. State*, 455 P.2d 889 (Alaska 1969) and it is still the undersigned's true intent and desire to fully release all of the entities and persons described above collectively as the City even though all of such entities and persons are not specifically named herein. User further acknowledges familiarity with the decision of the Alaska Supreme Court in *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978) and intends this release to discharge the City from any liability for damages or losses subsequently discovered or incurred or for damages or losses that are different in extent, degree, or kind than those now alleged, known, anticipated, or expected.

This Release and Indemnification has been submitted to the scrutiny of all parties and their counsel if desired, and it shall be interpreted without consideration to or weight given to its being drafted by any party or its counsel and interpreted according to its fair meaning and intent and not for or against either party.

This Release and Indemnification shall be governed by the laws of the State of Alaska.

IN WITNESS WHEREOF, the parties hereto have read and understand and have executed this Permit and Indemnification as of the date first written below.

CITY OF HOMER, ALASKA:

By: _____ Date _____

INDIVIDUAL PERMIT HOLDER:

By: _____ Date _____

_____ Permit Expiration Date _____
Print Name

Office Use

Insurance Expiration Date _____

Online Training Completion Date _____ Proficiency Test Verified By _____

Permit Holder Name _____

Marina Acct. # _____

COMMERCIAL/PERMIT HOLDER CRANE AGREEMENT AND INDEMNIFICATION

Section 1. Permit Holder Access Card.

- A. Upon execution of this Permit, Commercial Permit Holder shall be issued a plastic crane access card.
- B. Any individual using Permit Holder’s plastic access card shall be a “Covered Operator” under this Permit. Permit Holder warrants that prior to the use or operation of any City-owned crane, a Covered Operator must: (1) complete required online and proficiency training (see Section 4); (2) enter into and sign the Covered Operator Agreement and incorporated Indemnification Agreement; and (3) comply with all other applicable provisions in this Permit.

Section 2. Equipment Use Permit.

Subject to the conditions and limitations of this equipment use permit between (“Permit Holder”) _____

Address _____ City/State/Zip _____

Phone _____ Email _____

and the City of Homer, Alaska (“City”), the City hereby grants permission to Permit Holder to access any City-owned crane on the Fish Dock and the Deep Water Dock. Any person using this named Permit Holder’s access plastic card to operate or use a City-owned crane shall be a “Covered Operator” under this Commercial Permit. This Permit represents a nonexclusive privilege authorizing use of City-owned cranes and does not convey an interest or right to any City property or to the use of any City property.

Section 3. Term and Rate.

This Permit shall be in effect beginning on _____ (“Effective Date”) and ending 3 years later on _____. (“Term”) In exchange for use of City-owned cranes under this Permit, Commercial Permit Holder agrees to pay the City \$52.00 a year for 2 Permit Access Cards (plastic) or \$104.00 a year for 4 Permit Access Cards. This fee will be billed automatically to Permit Holder’s account. In addition, Permit Holder shall be charged the published crane rates from the Homer Port and Harbor tariff.

Section 4. Training.

Commercial Permit Holder shall, prior to operating any cranes owned by the City or permitting any employee, agent, representative, service provider, or other person to operate any City-owned crane using Commercial Permit Holder’s access card, ensure and verify that each Covered Operator has successfully completed:

- A. The City of Homer authorized online Hard Hat Training Course at <https://cityofhomer-safetyclasses.talentlms.com/>. The \$50.00 charge for this training is the responsibility of the User or Permit Holder, not the City of Homer.
- B. A proficiency training session with the Fish Dock cranes administered by the City's Fish Dock personnel.
- C. When training is complete, City of Homer personnel will complete a Crane Operator Card (paper) for the User that is valid for 3 years from the date of issue.

Section 5. Permit Holder Warranties and Representations.

- A. Permit Holder and its Covered Operators shall comply with all federal, state, and local laws related to the operation and use of any City-owned crane.

Section 6. Operation and Access.

- A. Permit Holder or any Covered Operator must have their Crane Operator Card (paper) in his or her possession at all times when operating any City-owned crane.
- B. Permit Holder agrees that all Covered Operators under its permit must immediately report to port and harbor personnel any accident involving crane use or any malfunction or problem with a City-owned Crane. Any report must be received by port and harbor personnel within one (1) hour from accident or Covered Operator's knowledge of any malfunction or problem with City-owned cranes. In the event of serious bodily injury, user shall first call 9-1-1 and then report the accident to Port and Harbor Personnel.
- C. The City does not guaranty the availability of any City-owned Crane at any time. City-owned Cranes may be unavailable due to City use or service without notice to Permit Holder or a Covered Operator.
- D. City-owned cranes cannot be reserved and are available only on a first come first serve basis. However, the use of City-owned cranes on the Fish Dock to offload fish shall be given priority over other uses.
- E. Permit Holder (plastic card) shall guaranty and prohibit any Covered Operator (paper card) from operating any City-owned crane recklessly or while impaired. The Harbormaster or his designee has full discretion to determine when a user is operating a City-owned crane recklessly or impaired. Impairment may include but is not limited to operating a crane while under the influence of alcohol or a controlled substance or operating a crane when suffering from extreme fatigue. If the Harbormaster determines that a user is unfit to operate any City-owned crane, the Harbormaster or his designee has full authority to order user to immediately cease crane operations. Harbormaster may also prohibit a user from operating any City-owned crane in the future. If a Covered Operator is prohibited from operating any City-owned crane due to reckless or impaired operation under this section of the Permit, Permit Holder shall ensure that the Covered Operator does not operate any City-owned crane using Permit

Holder's plastic access card. The City shall provide notice to Permit Holder of any action taken against a Covered Operator under this section within 24 hours of such action.

Section 7. Insurance.

- A. Minimum Scope and Limits of Insurance. Permit Holder shall carry and maintain at its expense marine general liability insurance, including, without limitation, insurance against assumed or contractual liability under this Permit, with limits of liability not less than \$1,000,000 combined single limit bodily injury and property damage, \$1,000,000 personal injury, and \$2,000,000 aggregate. This insurance shall be primary and exclusive of any other insurance held by the City, and the policy purchased shall name the City as an additional insured with respect to the use or operation of City-owned cranes by Permit Holder or a Covered Operator.
- B. Verification of Coverage. Permit Holder shall deliver to the City certificates of insurance required by this section before using or operating any City-owned crane or permitting any Covered Operator to use or operate a City-owned crane.

Section 8. Termination.

- A. This Permit may be terminated by the City at any time with or without cause and does not create a right of use.
- B. This Permit may terminate immediately and Permit Holder's plastic access card may be immediately revoked if Permit Holder or any Covered Operator violates any provision of this Permit or federal, state or local law or City of Homer policies or procedures during operation of any City-owned crane. The Crane Operator Card for person violating any permit provisions will also be revoked.

Section 9. General Provisions

- A. This Permit may not be transferred or assigned.
- B. Any provision or clause of this Permit deemed invalid by a court or otherwise by law shall not affect the validity of the remainder of the Permit.
- C. This Permit and the rights and obligations of the parties hereunder shall be construed in accordance with the laws of the State of Alaska. Any legal proceeding in connection with this Permit shall be in the trial courts of the State of Alaska for the Third Judicial District in Homer. It is understood that consultation and negotiation are the first option for resolving all disputes arising under this Permit.
- D. The failure of the City at any time to enforce a provision or part of this Permit shall in no way constitute a waiver of such provision or part, nor in any way affect the validity of this Permit or any part of this Permit. A waiver by the City of any provision or part of this Permit shall not be construed as a continuing or future waiver of such provision or part or as a continuing or future waiver of any other provision or part of this Permit. Any waivers of the Permit conditions shall be in writing and signed by both parties.

- E. No provision of this Permit shall be construed to create a partnership or joint venture or any other arrangement between the City and Permit Holder or any Covered Operator under which the City would be liable for the debts, losses or liabilities of Permit Holder or any Covered Operator.
- F. The parties intend this Permit to be the complete and exclusive expression of their agreement and the Use Permit granted to Permit Holder. No representations or promises not contained in this document have been made by the City. No modification to this Permit may be made unless in writing and executed by both parties.
- G. This Permit has been submitted to the scrutiny of all parties and their counsel if desired, and it shall be interpreted without consideration to or weight given to its being drafted by any party or its counsel and interpreted according to its fair meaning and intent and not for or against either party.
- H. The Parties hereby warrant and represent that each has the authority to enter into and perform the obligations of this Permit and that the individual signing this Permit on behalf of Permit Holder has the authority to enter into this Permit on behalf of the Permit Holder.
- I. All notices or notifications required by this Permit to be effective must be in writing and must be delivered to the Port and Harbor office.

Section 10. Commercial/Permit Holder Release Of Liability & Indemnification Agreement

Permit Holder hereby acknowledges that operation and use of cranes owned by the City may be dangerous and even life-threatening if used incorrectly. Permit Holder further acknowledges that the City has provided Permit Holder with required training materials related to the operation and use of the cranes, which identify risks associated with operating the cranes.

Permit Holder, on its behalf and on behalf of all its employees, designees, representatives, subcontractors, directors, officers, volunteers, administrators, agents, heirs, beneficiaries, executors, successors, assigns, and other entities or individuals claiming through it or affiliated with it, and on behalf of any person using or operating a City-owned crane with Permit Holder's access card (collectively referred to as "Permit Holder or its Covered Operators"), hereby covenants and agrees to release, indemnify, and hold harmless the City, its employees, volunteers, officials, agents, officers, departments, boards, commissions, or other bodies (hereafter collectively referred to as the "City") from and for any and all demands, claims, actions, suits or causes of action, whether known or unknown, arising from any and all loss, damage, and/or mental or physical injury (including, but not limited to, injuries leading to death and death itself) to any property or any person which is caused by or related to the operation or use of a City-owned crane by Permit Holder or its Covered Operators.

Permit Holder also warrants that injuries, death or damage stemming from not only the inherent risk of the operation of heavy equipment, like cranes, but also equipment malfunction or misuse, human error, ignoring a known hazard, and a defect in the property, including, but not limited to, the cranes or the dock on which the cranes are located, are all within the scope of this Release and Indemnification and Permit Holder and its Covered Operators are barred from bringing any and all present or future demands, suits, claims or causes of action arising from the City's conduct, including demands, suits, claims or causes of action arising from the City's negligence and Permit Holder is obligated to indemnify and hold harmless the City for any such claims brought against the City that arise from the operation or use of a City-owned crane by Permit Holder or its Covered Operators.

The above list of potential causes of injury, death or loss is intended only to provide an example of the broad scope of this Release and Indemnification and is in no way intended to limit the Release to the named causes as this Release and Indemnification is intended to apply to any and all causes of liability.

Permit Holder is familiar with the decision of the Alaska Supreme Court in Young v. State, 455 P.2d 889 (Alaska 1969) and it is still the undersigned's true intent and desire to fully release all of the entities and persons described above collectively as the City even though all of such entities and persons are not specifically named herein. Permit Holder further acknowledges familiarity with the decision of the Alaska Supreme Court in Witt v. Watkins, 579 P.2d 1065 (Alaska 1978) and intends this release to discharge the City from any liability for damages or losses subsequently discovered or incurred or for damages or losses that are different in extent, degree, or kind than those now alleged, known, anticipated, or expected.

This Release and Indemnification has been submitted to the scrutiny of all parties and their counsel if desired, and it shall be interpreted without consideration to or weight given to its being drafted by any party or its counsel and interpreted according to its fair meaning and intent and not for or against either party.

The representative signing hereby warrants that he or she has authority to sign on behalf of Permit Holder. This Release and Indemnification shall be governed by the laws of the State of Alaska.

IN WITNESS WHEREOF, the parties hereto have read and understand and executed this Permit as of the date first written below.

CITY OF HOMER, ALASKA:

By: _____

Date: _____

COMMERCIAL PERMIT HOLDER:

By: _____

Date: _____

Printed Name

Expiration Date: _____

Business Name

Title: _____
Permit Holder's Authorized Representative

Insurance Expiration Date: _____

COVERED OPERATOR CRANE AGREEMENT AND INDEMNIFICATION

This Agreement is entered into by and between the City of Homer, Alaska (“City”)

and (“Covered Operator”) Name _____

Address _____ City / ST / Zip _____

Phone _____ Email _____

ID / Driver’s License # _____ State of Issue _____

Beginning on _____ (“Effective Date”) and
Ending on _____ (“Term”). Covered Operator shall not use City-owned cranes
prior to the Effective Date of this Agreement.

Covered Operator Warranties

In exchange for permission to use City-owned cranes, Covered Operator hereby agrees and warrants that:

- A. Covered Operator has successfully completed: (1) the City of Homer authorized Hard Hat online training course at <https://cityofhomer-safetyclasses.talentlms.com/>. The \$50.00 charge for training is NOT the responsibility of the City of Homer; (2) a proficiency training session with the Fish Dock cranes administered by the City’s Fish Dock personnel. When training is complete, City of Homer personnel will issue a Crane Operator Card (paper) for the Operator that is valid for 3 years from the date of issue.
- B. Covered Operators shall comply with all federal, state, and local laws related to the operation and use of any City-owned crane.
- C. Covered Operator shall have their personal Crane Operator Card (paper) in his or her possession at all times when operating any City-owned crane.
- D. Covered Operator shall immediately report to port and harbor personnel any accident involving crane use or any malfunction or problem with a City-owned crane. Any report must be received by port and harbor personnel within one (1) hour from accident or Covered Operator’s knowledge of any malfunction or problem with City-owned cranes. In the event of serious bodily injury, user shall first call 9-1-1 and then report the accident to Port and Harbor Personnel.
- E. Covered Operator understands that the City does not guaranty the availability of any City-owned Crane at any time. City-owned Cranes may be unavailable due to City use or service without notice to Permit Holder or a Covered Operator.

F. Covered Operator understands that City-owned cranes cannot be reserved and are available only on a first come first serve basis. However, the use of City-owned cranes on the Fish Dock to offload fish shall be given priority over other uses.

G. Covered Operator shall use the utmost care when operating City-owned cranes. Covered operator shall not operate any City-owned crane recklessly or while impaired. The harbormaster or his/her designee has full discretion to determine when Covered Operator or any user of a City-owned crane is operating the crane recklessly or impaired. Impairment may include but is not limited to operating the crane while under the influence of alcohol or a controlled substance or operating a crane when suffering from extreme fatigue. If the Harbormaster determines that Covered Operator is unfit to operate any City-owned crane, the Harbormaster or his designee has full authority to order Covered Operator to immediately cease crane operations. Harbormaster may also prohibit Covered Operator from operating any City-owned crane in the future. The City shall notify Permit Holder of Covered Operator's operation restrictions and prohibitions under this section within 24 hours of the harbormaster or his designee's determination.

Covered Operator Release Of Liability And Indemnification

Covered Operator, who has access to cranes owned by the City of Homer, Alaska ("City") hereby acknowledges that operation and use of cranes owned by the City may be dangerous and even life-threatening if used incorrectly. Covered Operator further acknowledges that the City has required training related to the operation and use of the City-owned cranes, which identify risks associated with operating the cranes.

Covered Operator, on its behalf and on behalf of all its heirs, beneficiaries, executors, successors, assigns, and other entities or individuals claiming through it or affiliated with it (hereafter collectively referred to as "Covered Operator"), hereby covenants and agrees to release, indemnify, and hold harmless the City, its employees, volunteers, officials, agents, officers, departments, boards, commissions, or other bodies (hereafter collectively referred to as the "City") from and for any and all demands, claims, actions, suits or causes of action, whether known or unknown, arising from any and all loss, damage, and/or mental or physical injury (including, but not limited to injuries leading to death and death itself) to any property or any person which is caused by or related to the operation or use of a City-owned crane by Covered Operator.

Covered Operator also warrants that injuries, death or damage stemming from not only the inherent risk of the operation of heavy equipment, like cranes, but also equipment malfunction or misuse, human error, ignoring a known hazard, and a defect in the property, including, but not limited to, the cranes or the dock on which the cranes are located, are all within the scope of this Release and Indemnification and Covered Operator or individual through Covered Operator or on his or her behalf is barred from bringing any and all present or future demands, suits, claims or causes of action arising from the City's conduct, including demands, suits, claims or causes of action arising from the City's negligence and Covered Operator is obligated to indemnify and hold harmless the City for any such claims brought against the City that arise from the operation or use of a City-owned crane by Covered Operator. The above list of potential causes of injury, death or loss is intended only to provide an example of the broad scope of this Release and Indemnification and is in no way intended to limit the Release to the named causes as this Release and Indemnification is intended to apply to any and all causes of liability.

Covered Operator is familiar with the decision of the Alaska Supreme Court in Young v. State, 455 P.2d 889 (Alaska 1969) and it is still the undersigned's true intent and desire to fully release all of the entities and persons described above collectively as the City even though all of such entities and persons are not specifically named herein. Covered Operator further acknowledges familiarity with the decision of the Alaska Supreme Court in Witt v. Watkins, 579 P.2d 1065 (Alaska 1978) and intends this release to discharge the City from any liability for damages or losses subsequently discovered or incurred or for damages or losses that are different in extent, degree, or kind than those now alleged, known, anticipated, or expected.

This Release and Indemnification has been submitted to the scrutiny of all parties and their counsel if desired, and it shall be interpreted without consideration to or weight given to its being drafted by any party or its counsel and interpreted according to its fair meaning and intent and not for or against either party.

This Release and Indemnification shall be governed by the laws of the State of Alaska.

CITY OF HOMER, ALASKA:

By: _____

Date: _____

COVERED OPERATOR:

Signature

Date: _____

Print Name

Expiration Date: _____

Office Use

Online Training date _____

Proficiency verified by _____

Commissioner Zimmerman expressed his disagreement with the code requirement 21.46.060(h) regarding public access on and at each end of the overslope platform. Lessees would lose 16 feet off their platform for public access but still have to pay the full lease rate. He also question who's liable for the public access and the security for their business. If the goal of the boardwalk is to protect the view shed, then the buildings should be spaced to accommodate it.

It was suggested that the size of the building should factor into the amount of public access required.

It was also suggested the design requirements are too restrictive and should allow more creativity into the development.

(b) Would the commission rather see all the overslope lots available for individual development, or designate some lots for City development?

Some lots should be designated for city development, but at this time the city doesn't have money to develop overslope.

(c) If the City builds all or some of the boardwalks, how should staff proceed in determining the funding sources and investment/rate of return information?

This option is not realistic at this time.

B. Homer Marine Repair Facility

Question was raised if the new ramp was engineered to take the weight load for hauling large vessels. Harbormaster Hawkins said he will have an allowable live load limit per square inch.

Commissioner Stockburger provided information regarding on Conolift, Hostar, and Brodeur Machine Co. yard trailers and the Commission discussed models, features, and capacities of the yard trailers; and also photos.

As far as who purchases the trailer, there was discussion of a co-op or corporation where folks buy shares. It could be boat owners, hydraulic shop owners, or marine hardware store owners. Banks might invest with the interest of getting more business happening in Homer. After looking at the facility, equipment, and getting a feel for cost, then we can pursue funding a little better.

Commissioner Stockburger commented the first thing to look at is to confirm how big of a boat could be pulled up the ramp. Having hauled out a lot on the ramp he thinks the biggest problem is getting down the ramp. None of the trailers he provided information for have breaks, so the vehicle hauling has to control the speed, or some other way like a winch situation, an extendable hitch, or incorporating bags and beach haul outs.

NEW BUSINESS

- A. Port & Harbor Crane Use Policy Draft Review
 - i. Crane Use Policy-Staff Guidelines
 - ii. Packet A: Individual User Agreements/Policies
 - iii. Packet B: Commercial User Agreements/Policies

Harbormaster Hawkins reviewed the information in the packet and said they could take some time to review the information and have it on the agenda again in December. He would like to bring it into effect on January 1st.

Commissioner Zimmerman questioned the reference to the court cases in the agreements and asked if copies of the cases are provided to the users. Harbormaster Hawkins said that copies of the cases are not provided. Mr. Zimmerman said it would be nice if it were easier to understand and requested a copy of the court cases at the next meeting.

B. Memorandum from City Clerk Re: Approval of 2017 Meeting Schedule

ZIMMERMAN/HARTLEY MOVED TO APPROVE THE 2017 MEETING SCHEDULE.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

INFORMATIONAL ITEMS

- A. Harbormaster's Monthly Statistical Report for August, 2016
- B. Harbormaster's Monthly Statistical Report for September, 2016
- C. Water/Sewer Bills Report for August, 2016
- D. Water/Sewer Bills Report for September, 2016
- E. Crane and Ice Report
- F. Deep Water Dock Report
- G. Pioneer Dock Report
- H. Dock Water Report
- I. Northern Economics Study: Economic Benefits of Ports & Harbors in Alaska – August 2016
- J. Commissioner Attendance at City Council Meeting

There was brief discussion of the stall wait list and about the Northern Economics study on the Economic Benefits of Ports & Harbors in Alaska.

COMMENTS OF THE AUDIENCE

COMMENTS OF CITY STAFF

COMMENTS OF THE COUNCILMEMBER *(If one is assigned)*

COMMENTS OF THE CHAIR

Commissioner Ulmer appreciates everyone's work.

for all. Mr. Hoyt noted that currently they are the only processor that may be doing 24 hour days during the salmon runs.

They agreed to talk about this further at their next meeting.

Chair Ulmer asked if there is approval from the commission to support the following recommendation:

The City Manager and Port and Harbor Staff recommends approving Resolution 16-xxx, awarding Cooke Aquaculture, Inc., dba Icicle Seafoods a 20-year lease with two, five-year options for Lot 41, HOMER SPIT SUB AMENDED ADL 18009, with an annual base rent of \$35,070.00, and authorizing the City Manager to move forward with lease negotiations and execute the appropriate documents.

STOCKBURGER/HARTLEY SO MOVED

There was brief discussion clarifying this only addresses what's on lot 41 and that there are no performance clauses at this time.

VOTE: YES: ZIMMERMAN, ULMER, ZEISET, CARROLL, HARTLEY, STOCKBURGER

Motion carried.

- B. Homer Marine Repair Facility
 - i. Haul Out Trailer Info *(if provided by commissioners)*

Commissioner Carroll brought in a concept drawing that had drawn of a trailer being hauled out to help give a mental picture of what we are talking about.

Commissioner Stockburger commented that he spoke with the owner of Hostar at the Fish Expo. He offered some ideas about different things; one point was that 13 degrees is pretty steep to haul a large boat. They talked about trying to haul out at the beach where there is a shallower slope and some design options. There has been discussion with the Marine Trades group about trying to come up with a cooperative venture to purchase a trailer.

Commissioner Carroll added that he has talked to a company called Roodberg out of Holland that has been doing this for a lot of years. He is pursuing the question if a large trailer can haul a small vessel to have on trailer doing both. He is going to send pictures of the beach where the Kona Kai is hauled out and will let the commission know what he hears back. Mr. Carroll said the person he spoke to is interested in dealing with us.

Chair Ulmer asked for a recess at 6:50 p.m. and the meeting resumed at 6:53 p.m.

- C. Port & Harbor Crane Use Policy Draft Review
 - i. Crane Use Policy – Staff Guidelines
 - ii. Packet A: Individual User Agreements/Policies
 - iii. Packet B: Commercial User Agreements/Policies

Harbormaster Hawkins explained that this is a policy change that harbor staff has been working on with the attorney for over a year and that he would like the commission's support. They discussed the online training and testing that Port Maintenance Supervisor Aaron Glidden helped develop, and the process for getting permits and cards to use the cranes, and also the cost involved. Harbormaster Hawkins noted that a practical test will still be done on the dock.

HARTLEY/CARROLL MOVED TO ACCEPT THE STAFF GUIDELINES AND CRANE USAGE AGREEMENTS.

There was no further discussion.

VOTE: YES: ULMER, ZEISET, ZIMMERMAN, CARROLL, HARTLEY, STOCKBURGER

Motion carried.

NEW BUSINESS

INFORMATIONAL ITEMS

- A. Port & Harbor Monthly Statistical Report for October and November 2016
- B. Water/Sewer Bills Report for October 2016 and November 2016
- C. Crane and Ice Report
- D. Deep Water Dock Report
- E. Pioneer Dock Report
- F. Dock Water Report
- G. KSTK News Article Re: AAHPA Pushing for Tighter Derelict Vessel Laws dated November 4, 2016
- H. Anchorage Daily News Article Re: State Sues Company over Abandoned Barge dated November 25, 2016

There were brief comments regarding the stall wait list.

Harbormaster Hawkins commented that the budget passed for 2017 and there is a list of projects they got funding for, including putting zincs on the pilings in the harbor. He explained there are about 500 pile in the harbor and there is a company that specializes in electrolysis to help lay out a plan. They don't put zincs on new pilings because they would cause the galvanized material to go away faster. After about 20 years, the zincs need to be put on to protect and extend the life of the piling.

COMMENTS OF THE AUDIENCE

COMMENTS OF CITY STAFF

Deputy City Clerk Jacobsen advised Chair Ulmer and Commissioners Hartley and Stockburger that their terms expire on February 1, 2017. She will be sending them an email to confirm whether or not they want to request reappointment. She wished everyone Merry Christmas.

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Clerk/City Planner

4 **RESOLUTION 17-010**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING THE FEE SCHEDULE UNDER PLANNING AND ZONING
8 TO ADD FEES FOR TECHNICAL REVIEW OF COMMUNICATION
9 TOWER APPLICATIONS.

10
11 WHEREAS, Communication tower standards and the reviewing authority for
12 communications tower applications were established in 2014; and

13
14 WHEREAS, It is necessary to add a fee to the City's Fee Schedule for technical review of
15 communication tower applications:

16
17 **PLANNING AND ZONING DEPARTMENT**

18 235-3106 or 235-8121 (Coordinates with Public Works)

19
20 (The following fees, for Zoning Permits have been set by legislative enactments, Resolution
21 00-17 as authorized by HCC 21.42.060, Resolution 03-12(A), Resolution 03-159, Resolution 04-
22 35, and Resolution 04-98(S)(A), Resolution 05-27(S) and Resolution 05-35, Resolution 07-14
23 and Resolution 07-45, Resolution 08-124, 16-109.)

24
25 Zoning Permit Fees:

26
27 Single Family /Duplex \$200
28 Multi-Family/Commercial/Industrial \$300, plus \$50 per hour when over six hours of
29 administrative time.
30 Change of Use fee \$50
31 Deck \$50

32
33 Fees for commencing activities, without a permit, shall be assessed at the regular rate
34 multiplied by one and one half (1.5) for Residential and two (2) for Commercial.
35 (The following fees have been set by legislative enactments to HCC 14.08.035.)

36
37 Publication Fees

38 Comp Plan large \$20
39 Comp Plan small \$10
40 Zoning Map sm \$ 5 lg \$25

41	Road Maint. Map	\$ 5
42		
43	Zoning Ordinance - HCC 21	\$ 15
44	Sign Permit -	\$ 50
45	Variance -	\$250
46	Erosion and Sediment Control Plan (BCWPD):	\$300
47		
48	Storm Water Protection Plan Fee:	\$200
49		
50	Conditional Use Permit Processing Fee	
51	Amendment	\$200
52	Fence	\$300
53	Single Family/Duplex	\$200
54	Multi-Family/Commercial/Industrial	
55	\$500 for uses less than 8,000 sq. ft.	
56	\$1,000 for uses 8,001 sq. ft. to 15,000 sq. ft.	
57	\$2,500 for uses 15,001 sq. ft. to 25,000 sq. ft.	
58	\$5,000 for uses 25,001 sq. ft. to 40,000 sq. ft.	
59	\$8,000 for uses 40,001 sq. ft. and larger	
60		
61	Recording (as Required)	\$50
62	Fees for commencing activities, without a permit, shall be assessed at the regular rate	
63	multiplied by one and one half (1.5) for Residential and two (2) for Commercial.	
64		
65	Traffic Impact Analysis and Community Impact Assessment – when required, applicant will be	
66	charged for the actual cost of the study, plus a 10% administrative fee. The City will be	
67	responsible for hiring and managing the study.	
68		
69	(Resolution 03-159 and 96-13 HCC 12.12.03)	
70		
71	Rezone -	\$500
72	(HCC 21.63 repealed via Ordinance 03-21.)	
73		
74	Flood Hazard Development Permit	\$200
75		
76	Preliminary Plat Processing Fee	\$300, or \$100 per lot, whichever is greater. (Resolution
77	07-14, 03-159 and 96-13)	
78		
79	Elimination of a common interior lot line.	\$200
80	Right of Way and Section Line	\$300
81	Easement Vacation Application	
82	Fee: (In addition to applicable preliminary	

83 plat fees).

84 Utility easement vacation: no fee

85

86 Bridge Creek Watershed Permit - zoning permits are required for the Bridge Creek
87 Watershed Area. Although no fees will be charged for the zoning permits outside of City
88 Limits, the evaluation process is still in effect.

89

90 **Technical Review of Communication Tower Application: When required, the applicant**
91 **will be charged for the actual cost of the study, plus a 10% administrative fee. The City**
92 **will be responsible for hiring and managing the study.**

93

94 Street Renaming Fees

95 (A) For name changes or naming of public dedicated streets other than those named
96 during the subdivision process:

97 (1) Street Naming Petition and hearing advertising fee \$150

98

99 (2) Installation of each new City sign, post, etc. Per sign: \$150

100

101 (3) Replacement of existing City sign due to change
102 where no post is needed. Per sign: \$ 80

103

104 The minimum fee shall be either a combination of 1 and 2 OR
105 1 and 3, above; however, all signs that need to be changed
106 and/or maintained by the City must be paid for prior to installation.

107

108 (B) For Private Road Naming:

109

110 (1) Street Naming Petition and hearing advertising fee \$150

111

112 (2) Installation of each new City sign, post, etc. Per sign: \$150

113

114 (3) If no public hearing or public notice is necessary, i.e.,
115 100% petition and no partial dedicated street involved No fee

116

117 (4) If no signs are required No fee

118

119 NOW, THEREFORE, BE IT RESOLVED that the Fee Schedule is amended under Planning
120 and Zoning to add fees for technical review of communication tower applications.

121

122 PASSED AND ADOPTED by the City Council of Homer, Alaska, this 23rd day of January,
123 2017.

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CITY OF HOMER

BRYAN ZAK, MAYOR

ATTEST:

JO JOHNSON, MMC, CITY CLERK

Fiscal Note: Revenues as outlined in resolution.



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum 17-009

TO: MAYOR ZAK AND HOMER CITY COUNCIL
THROUGH: KATIE KOESTER, CITY MANAGER
FROM: RICK ABBOUD, CITY PLANNER
DATE: DECEMBER 30, 2017
SUBJECT: AMENDMENT TO FEE SCHEDULE

Planning and Zoning proposes an amendment to the fee schedule. Per HCC 21.58.040, Application requirements for Towers applicants are required to submit a deposit according to the fee schedule established by resolution of City Council equal to cost estimates for a technical review.

Proposed Amendment:

[Planning and Zoning Department](#)

Technical review of communication tower application – When required, the applicant will be charged for the actual cost of the study, plus a 10% administrative fee. The City will be responsible for hiring and managing the study.

Recommendation:

Adopt Resolution 17-010 to amend the fees under Planning and Zoning.

ORDINANCE(S)

CITY MANAGER'S REPORT



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

Memorandum

TO: Mayor Zak and Homer City Council
FROM: Katie Koester, City Manager
DATE: January 18, 2017
SUBJECT: City Manager's Report – January 23, 2017

Industry Forum Travel Report

I, along with other City staff, a representative of the EDC and Mayor Zak, attended the 2017 Industry Outlook Forum on the 11th in Kenai. It was an informative update on the industries that make the Peninsula economy tick including oil and gas, tourism, health care and commercial fishing. Presentations can be found at the Kenai Peninsula Economic Development District website <https://kpedd.org/>

Seawall Report

The attached letter was sent to property owners along the Ocean Drive Seawall updating them on the maintenance procedures and finances of the seawall. As you recall, the City Council established a separate mill rate (special service area) for the purpose of funding maintenance to the seawall. The City also contributes \$10,000 a year to a seawall reserve account. It is my intention to update property owners annually with a maintenance and finance report. It is evident when researching the history of the Seawall that the property owners would benefit from a homeowner's association. This would give them more control over maintenance of the wall and how their tax dollars are spent, a unified voice when communicating with government entities and the ability to insure the infrastructure. I have also attached an impactful picture of the Seawall during a storm that highlights the power of the ocean.

Assistant Fire Chief Update

The hiring climate proved difficult the first round in our search for an Assistant Fire Chief. The City of Homer and KESA both had jobs posted (KESA, for a Deputy Chief) during the same recruitment period. The City re-posted the Assistant Chief position after an unsuccessful search for the right candidate, and KESA fell into the same position. Our original posting was from September 29 – November 13, with 13 candidates applying for the position. The top two candidates were invited to attend in-person interviews scheduled for January. However, one candidate decided against leaving his current job, and the other was offered another position.

The position was re-advertised, and does not close until February 7. The hiring committee will meet on February 9 to go over applications, following up with essay questions for the most qualified applicants and Skype interviews. Face to face interviews, a meet and greet with the

volunteers, and an instructional component will take place in a two-day process scheduled for mid to late March.

Electronic Monitoring at Homer Jail

The Alaska Department of Corrections is working with the City to install electronic monitoring capabilities at the Homer Jail. The main purpose of electronic monitoring is to reduce the number of people in our jails. Studies have shown that non-violent offenders do better in electronic monitoring programs. They are less likely to have employment related problems and are not any more likely to reoffend. Electronic monitoring will initially be offered to 1st time DUI's. The program may be extended in the future to include other pre-trial cases involving non-violent, first time offenders. Electronic monitoring is court ordered home confinement. The State will provide the required equipment and training. HPD will be able to attach ankle devices to the subjects and then monitor their location via GPS signals. The system will alarm if the subject leaves a defined area resulting in an officer responding to investigate and a possible arrest. The City will be helping the State by reducing the amount of utilized bed space, which lowers costs. At this point we do not have a timeline for implementation, but are in contact with the DOC.

Hickerson Cemetery Update

Public Works is incorporating comments on this project received during Planning Commission public meetings. The final plan will be presented to the Planning Commission in February. Below is the schedule for completion of the project:

Homer Advisory Planning Commission Project Approval	February 1, 2017
Preliminary Plat Approval (Homer Advisory Planning Commission)	February 15, 2017
Construction Bid Documents Complete	March 30, 2017
Preliminary Plat Approval (KPB Platting Commission)	April 20, 2017
Construction Begins	April 28, 2017
Construction Complete	May 21, 2017
Final Plat Approval (KPB Planning Commission)	May 22, 2017
New Burial Plots Available	May 23, 2017

Barge Mooring Facility

Good news: the State recently approved the City's request to transfer capital project funds originally allocated to the Sheet Pile Loading Dock to the Barge Mooring Facility. Council authorized this reallocation request as part of the 2017-2022 CIP update. The City will utilize the remaining Sheet Pile Loading Dock design funds to reach final design of the Barge Mooring Facility, a port project that will improve service to the same fleet that would have benefitted from the Sheet Pile Loading Dock had it proved feasible. We look forward to moving ahead with the Barge Mooring Facility which will provide safe moorage in the harbor's tidal zone and a haul out ramp to access an uplands repair facility, an associated project prioritized in the 2017-2022 CIP for a Legislative request. The Barge Mooring Facility and Haul Out Repair Facility will offer improved services to large vessel owners and will attract additional business to the community.

Legislative Worksessions

The 30th Alaska State Legislature gaveled in on January 17th marking the beginning of a fast paced legislative session with many weighty issues facing the State. The Homer City Council has decided to take a more personal and proactive role in interacting with Juneau. Many members of the Council expressed an interest in closely following Juneau when I asked about it at the November 21, 2016 meeting. The best way I can come up with for all members to participate and provide timely input to the legislature would be to form a weekly standing worksession that can easily be cancelled when things are slow in Juneau. A standing worksession would be open to the public and advertised as “Issues before the Alaska Legislature including:”

- Revenue Sharing
- PERS/TRS and the Unfunded Liability
- Fiscal Policy
- Revenue measures new taxes (sales tax, income tax, etc.)
- State of Alaska Operating Budget
- Transportation
- Public Safety

Items can be added to the list as appropriate. Members would update each other on the issues they have been following, delegate tasks such as testifying before the legislature and decide on which issues need to come before City Council at a regular meeting for a position statement of the City. A worksession would be a transparent way to quickly confer and organize next steps. I propose meeting at 4 pm on Tuesday so items can be added to the next council agenda if needed. Using the conference room and encouraging telephonic participation by members will help keep things moving quickly, allow for the group to reach a quorum, and hopefully not interfere too much with your busy schedules. I propose the first meeting February 7 at 4 pm. This meeting will be used to plan for the trip to Juneau on the 21st.

Customer Feedback Postcard

At the direction of Mayor Zak, staff has come up with the attached customer feedback postcard that will be available at the front desk of city facilities. The purpose of the postcard is to encourage suggestions and ideas on how we can improve customer service – and hopefully positive feedback when we get things right! A similar online form will be available. Comments provided will be summarized and provided in the Manager’s report on a periodic basis.

Employee Anniversaries (January)

I would like to thank the following employees for the dedication, commitment and service they have provided the City and taxpayers of Homer.

Richard Gibson,	Public Works	17	Years
Jo Johnson,	Clerks	13	Years
Teresa Sundmark,	Library	10	Years
Amy Gordon,	Library	10	Years

Tomasz Sulczynski,	IT	9	Years
Larry Baxter,	Police	8	Years
Andrea Browning	Admin	5	Years
Paul McBride	Public Works	5	Years

Enc:

Letter to property owners along Ocean Drive Seawall, maintenance report, and image of Seawall during a storm

Customer feedback postcard



City of Homer

www.cityofhomer-ak.gov

Office of the City Manager

491 East Pioneer Avenue
Homer, Alaska 99603

citymanager@cityofhomer-ak.gov

(p) 907-235-8121 x2222

(f) 907-235-3148

January 6, 2017

Ocean Drive Loop Special Service District (SSD) Status Report/Update

Dear Property Owners,

I am writing to provide you with an update on seawall maintenance and finances.

Funding for maintenance

The City tracks 2 accounts dedicated to seawall maintenance: 1) the seawall reserve account which is general fund (city) money including a transfer of \$60,000 in 2012 and \$10,000 annually and 2) the Ocean Drive Loop Special Assessment which is where your 9.962541 mill rate is deposited. To date, the City has only charged maintenance to the general fund seawall reserve account; however Ordinance 12-03 authorizes the Ocean Drive Special Assessment account to credit the general fund seawall reserve account for repairs to the seawall. Based on linear feet the property owners are responsible for 82% of the wall and the City is responsible for 18%. This is consistent with how the special assessment district to construct the wall was established. Under this formula, the city seawall reserve account is eligible to be reimbursed \$58,175 for 82% of maintenance performed since 2012.

Seawall Reserve Account (City) – 5 year history

	2012	2013	2014	2015	2016	Total
General Fund transfer	\$70,000	\$10,000	\$10,000	\$10,000	\$10,000	\$110,000
Maintenance expenditures	(\$38,292)	\$0	\$0	(\$2,933)	(\$30,328)	(\$71,553)

Ocean Drive Loop Special Assessment (Property Owners) – 5 year history

	2012	2013	2014	2015	2016	Total
Mill Rate Transfer	\$19,167	\$22,078	\$35,176	\$24,802	\$24,759	\$125,982

Procedure for Maintenance

The City facilitates maintenance, though most of the seawall is on private land and the seawall is not a public improvement. Alternatively, a homeowner's association could coordinate maintenance and repairs. The attached maintenance summary provides an overview of maintenance activities to date.

The most effective oversight is for land owners to call when they witness the need for a repair (235-3170). Thank you to those who have called to alert the City to maintenance needs. These observations are invaluable. Due to the unpredictability and the immediate need to do repair; the City hires local contractors to do the repairs.

Fortunately, there has not been a catastrophic failure since 2008. As the wall gets older the maintenance needs will likely increase. A text book maintenance formula is typically 2-3% of the project value. The original cost of the seawall was 1.014 million, however replacement cost is estimated at 3 million.

Insurance and replacement

The City cannot insure the seawall and there are no funds available for replacement. The seawall coverage was deleted in 2010 after the Alaska Municipal League Joint Insurance Association realized that the seawall was not publicly owned. Purchasing insurance as a group, as in a Homeowner's Association, maybe available through commercial independent insurance brokers.

Homeowner's Association (HOA)

A legal entity such as a non-profit Homeowner's Association (HOA) is needed to organize the property owners in the SSD. A HOA would show its independence from the City while providing a united voice. This would streamline the process when the City needs quick concurrence from a majority of the property owners for decisions related to maintenance and future mill rates etc. An organized HOA can leverage funds from grants and the legislature for repairs and upgrades. In 2010 articles of incorporation and bylaws were drafted for a nonprofit organization, I encourage you to resume that conversation.

It is reasonable for you to expect an accounting of maintenance of the seawall and how your special assessment dollars are used. It is my intention to provide property owners with an annual update on the status of the repairs and finances surrounding the seawall. I hope you find this report useful.

Sincerely,



Katie Koester
City Manager
907-235-8121

Att: Maintenance Overview

Ocean Drive Loop Seawall Maintenance Activities Overview

December 2016

Prepared by Homer Public Works Department

Background: The Seawall was constructed in 2002. For the first 5 years it was the Contractor's responsibility to maintain and repair the wall. Since 2008, Public Works has facilitated the maintenance initially using funds provided by the Council – more recently using monies from the Special Service District.

All maintenance work is completed by East Road Services (Troy Jones) under the direction and supervision of the City Engineer (Carey Meyer). Property owners provide valuable eyes on the wall and call Public Works if repairs are needed.

For the most part (after significant upgrades/repairs completed by the Contractor), the wall has performed reasonably well. Most repairs are completed along the eastern half of the wall (where storm wave forces are greatest), but repairs have been necessary over much of the wall length. Most damage is seen in the bottom third of the wall, little damage has been seen in the upper third of the wall.

The key to prolonging the life of the wall is protecting the fiberglass sheet pile from wave/sand abrasion and making sure that the tie rods/concrete blocks buried behind the wall remain buried. The timber face protects the sheet pile from wave action. When this wood face is damaged or erosion at the toe of the wall exposes the sheet pile, the wall is in jeopardy. Of equal concern, the sheet pile is held in place by the tie rod system; erosion of material behind the wall exposing the anchored blocks would lead to catastrophic failure.



Sand/gravel build up protects toe of wall from erosion

Examples of Damage and Maintenance Activities To Date:



Typical maintenance issue - erosion at toe of wall



Timber face damage - repaired in 2016



Repair made to panel section



Lower wall repair - 2011





Tell Us What You Think

The City of Homer welcomes your feedback.

Suggestion?

Let us know your idea on how we can improve the service we provide.

Compliment?

Everyone likes to know when they've done a good job. We'll share your comment with the right people.

Concern?

You may wish to tell us to look at something to help avoid a problem.

Today's Date ____ / ____ / ____ Direct My Comment To _____
(Department)

Let us follow up with you

Name: _____ Contact Info: _____

The City of Homer



appreciates
your feedback.

You may mail this card
to City Hall or
hand deliver your
comment card

Please
place your
stamp
here.

City of Homer
491 E. Pioneer Avenue
Homer, AK 99603



City of Homer

www.cityofhomer-ak.gov

Office of the City Clerk

491 East Pioneer Avenue
Homer, Alaska 99603

clerk@cityofhomer-ak.gov

(p) 907-235-3130

(f) 907-235-3143

Memorandum

TO: MAYOR ZAK AND CITY COUNCIL
FROM: RENEE KRAUSE, CMC, DEPUTY CITY CLERK
DATE: JANUARY 16, 2017
SUBJECT: BID REPORT

REQUEST FOR PROPOSALS FOR THE HOMER HARBOR HIGH-MAST LIGHT LED CONVERSION PROJECT

The City of Homer, Alaska is requesting proposals from qualified firms to upgrade the 1000 watt High Pressure Sodium (HPS) high-mast light luminaires of the Homer Harbor, with new LED luminaires. There are currently 69 luminaires spread out over seven poles around the Homer Harbor. Successful proposer will be contracted to remove existing HPS luminaires and install new LED luminaires, and to furnish the necessary labor, materials, equipment, tools, supervision, and other facilities to perform under such contract.

Plan holder registration forms, and Plans and Specifications are available online at <http://www.cityofhomer-ak.gov/rfps>. All proposers must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive. Sealed proposals shall be received at the Office of the City Clerk no later than **4:30 p.m., Monday, January 30, 2017**. Please direct proposal submission questions to Jo Johnson, City Clerk, at (907) 235-3130. Please direct technical questions regarding this proposal to the Port Maintenance Supervisor in writing at aglidden@ci.homer.ak.us, or to 4667 Homer Spit Rd. Ste. 3, Homer, Alaska 99603.

REQUEST FOR PROPOSALS WIRELESS COMMUNICATION TOWER FOR HOMER SPIT PROPERTY

The City of Homer, Alaska is requesting proposals from qualified wireless facilities developers and/or communication service provider(s) that are interested in designing, permitting, constructing, operating, maintaining, owning, and subleasing a wireless communications tower for the purpose of providing improved wireless voice and data services to the general public and the City. The successful proposer will be offered the opportunity to negotiate for a 30-year term lease with the City of Homer to construct a communications tower on a portion of City-owned land that is located on the Homer Spit.

Sealed proposals for the Wireless Communication Tower for Homer Spit Property will be received at the office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **4:00 PM, Tuesday, January 17, 2017**. The time of receipt will be determined by the City Clerk's time stamp. A Lease Application Fee of \$30.00 will be due upon submittal of proposal.

REQUEST FOR PROPOSALS FOR ENGINEERING SERVICES TERM CONTRACTS FOR WATER AND SEWER – ROADS, DRAINAGE AND TRAILS -HARBOR AND MARINE PROJECTS

Separate proposals to provide professional engineering services through a term contract for water and sewer projects; road, drainage, and trail projects; and harbor/marine projects will be received at the Office of the City Clerk, City Hall, City of Homer, 491 East Pioneer Avenue, Homer, Alaska, until **4:30 PM on March 13, 2017**. Bids received after the time fixed for the receipt of the bids shall not be considered. **All bidders must submit a City of Homer Plan Holders Registration form to be on the Plan Holders List and to be considered responsive.** Plan holder registration forms and the Request for Proposal (RFP) are available online at <http://www.cityofhomer-ak.gov/rfps>

CITY ATTORNEY REPORT

COMMITTEE REPORTS

PENDING BUSINESS

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 City Manager

4 **RESOLUTION 17-006**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
7 AMENDING THE CITY COUNCIL OPERATING MANUAL TO
8 REMOVE LIMITATIONS PLACED UPON PUBLIC COMMENTING
9 BEFORE CITY COUNCIL.

10
11 WHEREAS, Ordinance 17-01 amends Homer City Code 2.08.040 Bylaws for Council
12 procedure to remove Section n. *Any person making personal, impertinent, threatening or*
13 *slandorous remarks or who shall become boisterous while addressing the Council shall be*
14 *forthwith by the presiding officer barred from further audience at the meeting before the*
15 *Council, unless permission to continue be granted by a majority vote of the Council; and*

16
17 WHEREAS, The Homer City Council Operating Manual contains the same language
18 under Policy Directives: *Decorum at Meetings - Any person making personal, impertinent,*
19 *threatening or slanderous remarks or who shall become boisterous while addressing the*
20 *Council, shall be forthwith, by the presiding officer barred from further audience at the meeting*
21 *before the Council, unless permission to continue be granted by a majority vote of the Council;*
22 and

23
24 WHEREAS, It is in the best interest of the City of Homer to remove the prohibitions on
25 public comments from City law and procedure.

26
27 NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, amends
28 the City Council Operating Manual to remove limitations placed upon public commenting
29 before City Council.

30
31 PASSED AND ADOPTED by the Homer City Council this 9th day of January, 2017.

32
33 CITY OF HOMER

34
35
36
37 _____
38 BRYAN ZAK, MAYOR

39 ATTEST:

40
41
42 _____
43 JO JOHNSON, MMC, CITY CLERK

44 Fiscal Note: N/A

NEW BUSINESS



City of Homer

www.cityofhomer-ak.gov

Planning

491 East Pioneer Avenue
Homer, Alaska 99603

Planning@ci.homer.ak.us

(p) 907-235-3106

(f) 907-235-3118

Memorandum 17-017

TO: MAYOR ZAK AND HOMER CITY COUNCIL
FROM: COUNCILMEMBER ERICKSON
DATE: DECEMBER 30, 2017
SUBJECT: TEMPORARY SHELTER FOR PEOPLE FROM THE COLD WEATHER

The purpose of this memo is to introduce the concept for a draft ordinance to the City Council for review prior to recommending the Planning Commission work on an ordinance. This serves two purposes: 1. an opportunity for the public to be aware of the item and that the subject may get passed to the Planning Commission (hopefully for their comment and future participation) and 2. for the City Council to express their support for the concept and to discuss any refinement which would lead to a better recommendation to the Planning Commission.

I would like to address the needs of homeless people who need temporary shelter during times of inclement weather. The points suggested for the Planning Commission to address include:

Setting parameters for temporary shelters for during time when weather is poor.

- Generally from October through April.
- Time of operation 8 pm – 8 am, no loitering
- Length of stays, few days
- Allow for churches to operate
- Make a permitted use, no Conditional Use Permit (CUP)
- Consider allowance to use Fire Marshal to determine capacity
-

Recommendation

Council support for the ordinance and concepts.



City of Homer

www.cityofhomer-ak.gov

Finance Department

491 East Pioneer Avenue
Homer, Alaska 99603

finance@cityofhomer-ak.gov

(p) 907-235-8121

(f) 907-235-3140

Memorandum 17-018

TO: Homer City Council
THROUGH: Katie Koester, City Manager
FROM: Jenna deLumeau, Acting Finance Director
DATE: January 18, 2017
SUBJECT: Waiver of Penalties for Natural Gas Distribution Special Assessment

Resolution 16-079(S)(A) outlines procedures for waiving penalties on delinquent special assessment payments. The resolution provides a fair and consistent policy to review waivers by recognizing exceptional circumstances. Examples of exceptional circumstances are clerical errors, U.S. Postal Service errors, or extreme personal hardship such as a serious illness or the death of the property owner or an immediate family member.

The finance dept. is requesting that prepayment of penalties be waived as I have encouraged folks to at least make the scheduled payment if they could not afford the penalties. It also seems silly to ask for the penalties to have to refund them back.

I have the following requests which fall into three categories. Due to confidentiality, the requests are not attached, but can be viewed by contacting the City Clerk. Below are my recommendations.

1. Approve. Legitimate requests that meets all the requirements of Resolution 16-079(S)(A).
 - Rosemarie Johnson 175-063-16
 - Scott Glosser 173-070-85
 - Jane Pascall 175-100-71 and 177-040-09
 - Barry and Jody Levit 177-040-28, 29, and 30
2. Conditional Approval. Meets all the requirements of Resolution 16-079(S)(A) pending one item.
 - Gloria Corey 179-030-65; payments not made. \$819.54 due
 - Elaine Chalup 175-081-47; payments not made. \$214.27 due
 - Everett Anderson 177-175-05; documentation needed.
 - Shirley and Stanley Houghton 175-114-11; documentation needed.
3. Deny. Not eligible pursuant to Resolution 16-079(S)(A),
 - Brad Somers 173-720-05 – thought payment was due Sept 1; was out commercial fishing

William Stovall 179-320-03 and 179-320-04 – was out working in Attu
Clark and Victoria Winne 177-191-10 and 174-010-01 – thought payment was on
auto-pay; was out of town at sea
Guy and June Morgan 175-082-11 – was out working in False Pass; wife working
in Fairbanks
Steven J Rich 173-690-08 – did not get bill; however we did mail to owner and
address on record with KPБ
Christopher Robinson 174-051-19 – did not get bill due to purchase timing of
property; however was notified by Title Co.
Clayton Nelson 175-113-14 – did not get bill; however we did mail to owner and
address on record with KPБ
Dan and Debbie Gardner 179-030-73 - did not get bill; however we did mail to
owner and address on record with KPБ (this was KPБ error)

RECOMMENDATION:

Review staff recommendations on each request for waiver of penalties and either waive
penalties or deny waiver by motion.

Att: Resolution 16-079(S)(A)

1 **CITY OF HOMER**
2 **HOMER, ALASKA**

3 Mayor/Lewis

4 **RESOLUTION 16-079(S)(A)**

5
6 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOMER,
7 ALASKA, APPROVING A POLICY AND PROCEDURE FOR THE
8 WAIVER OF PENALTIES ON DELINQUENT SPECIAL ASSESSMENT
9 PAYMENTS.

10
11 WHEREAS, On March 23, 2015, the Council adopted Resolution 15-17, confirming the
12 assessment roll, establishing payment due dates and establishing delinquency, penalty and
13 interest provisions for the Homer Natural Gas Distribution Special Assessment District
14 (“District”); and

15
16 WHEREAS, On September 14, 2015, the Council adopted Resolution 15-081(S),
17 confirming the assessment roll for condominium units in the District, and establishing
18 delinquency, penalty and interest provisions for those assessments; and

19
20 WHEREAS, On May 9, 2016, the Council adopted Resolution 16-052, establishing a
21 more lenient penalty and interest structure for installments on assessments in the District
22 that first become delinquent on or after July 1, 2016; and

23
24 WHEREAS, With thousands of properties being assessed in the District, exceptional
25 circumstances may occur in which, in the interest of fairness, a penalty on a delinquent
26 assessment payment should be waived; and

27
28 WHEREAS, The proposed Policy and Procedure for administrative waiver of penalties
29 on delinquent assessment payments in a special assessment district is based on the Kenai
30 Peninsula Borough procedure for fine abatement on late property taxes, is in the best interest
31 of the City, and should be adopted.

32
33 NOW, THEREFORE, BE IT RESOLVED the Policy and Procedure for waiver of penalties on
34 delinquent assessment payments in a special assessment district is adopted to read as
35 follows:

36
37 1. POLICY

38
39 It is the policy of the City of Homer to provide fair and consistent administration of Alaska
40 statutes and City ordinances with respect to waiving the assessment of penalties on
41 delinquent assessment payments in special assessment districts, and to recognize that

42 exceptional circumstances may occur in which, in the interest of fairness, a penalty on a
43 delinquent assessment should be waived.

44

45 2. RESPONSIBILITY

46

47 A. The Finance Director will review a request that the City waive a penalty on a
48 delinquent assessment payment, determine the facts that are relevant to the waiver
49 request, and recommend that the Council grant or deny the request in accordance
50 with the procedure below.

51 B. The Council will determine whether to grant or deny a request that the City waive a
52 penalty on a delinquent assessment payment, taking into consideration the
53 recommendation of the Finance Director.

54

55 3. PROCEDURE

56

57 A. An owner of property in a special assessment district who is delinquent in making an
58 assessment payment may apply to the Finance Director for a waiver of the penalty on
59 the delinquent assessment payment on a form provided by the Finance Director.

60 B. The application to waive the penalty shall be accompanied by payment of all
61 delinquent assessment payments that the property owner owes to the City.

62 C. The Finance Director will review and recommend that the Council approve or
63 disapprove the application. The Finance Director will recommend approval of an
64 application to waive a penalty on a delinquent assessment payment if the Finance
65 Director finds one of the following:

66 1. A clerical error by the City Clerk or Finance Department contributed
67 substantially to the late payment.

68 i. For the purpose of this procedure, a clerical error is a mistake made by
69 City personnel that results in the failure of the City to correctly and timely
70 notify the property owner of the due date for the delinquent assessment
71 payment, or to correctly credit a timely assessment payment to the
72 property owner's account. Examples of a clerical error include:

73 • Application of a timely payment to the wrong account.

74 • Failing to send the property owner timely notice of the payment due
75 date.

76 • Sending the property owner notice of the payment due date using a
77 name or address other than the name and addresses of the property
78 owner that currently appear on the Kenai Peninsula Borough property
79 tax roll.

80 ii. The property owner is responsible for notifying the Kenai Peninsula
81 Borough Assessor of any change in property owner name or address. The
82 City is not responsible for updating the property owner name and address
83 on the Kenai Peninsula Borough property tax roll, or for investigating the

- 84 accuracy of the property owner name or address that currently appears
85 on the Kenai Peninsula Borough property tax roll.
- 86 2. A U.S. Postal Service error contributed substantially to the late payment. A
87 waiver on this ground requires proof of one of the following:
- 88 i. The Postal Service failed to deliver either the payment or the notice of the
89 payment due date to the address that appeared on the envelope.
- 90 ii. The ~~the~~ Postal Service delayed delivery of either the payment or notice of
91 the payment due date to a degree that contributed substantially to the
92 lateness of the payment.
- 93 iii. The postmark on the payment did not accurately reflect when the
94 property owner delivered the payment to the Postal Service.
- 95 3. Proof that the property owner was unable to make the payment on time
96 because of an extreme non-financial personal hardship. This could include a
97 serious illness or death of the property owner or an immediate family member
98 that reasonably prevented making the payment on time.

99 The property owner bears the burden of proving that one of the grounds for waiving
100 the penalty exists, based on relevant documentation and sworn testimony.

- 101 D. The Council will decide whether to approve or disapprove an application to waive a
102 penalty on a delinquent assessment payment, taking the Finance Director's
103 recommendation into consideration in the decision. The City Clerk shall give the
104 property owner a written notice of the Council's decision on the application, stating
105 the Council's reasons for the decision. The decision of the Council on the application
106 is final and not subject to appeal.

107
108 PASSED AND ADOPTED by the Homer City Council on this 25th day of July, 2016.

109
110 CITY OF HOMER




117
118
119
120



121 DAVID G. LEWIS,
122 MAYOR PRO TEMPORE

117 ATTEST:

118
119
120
121
122



JO JOHNSON, MMC, CITY CLERK

RESOLUTIONS

COMMENTS OF THE AUDIENCE
COMMENTS OF THE CITY ATTORNEY
COMMENTS OF THE CITY CLERK
COMMENTS OF THE CITY MANAGER
COMMENTS OF THE MAYOR
COMMENTS OF THE CITY COUNCIL
ADJOURNMENT

