



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

Agenda Changes/Supplemental Packet

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: OCTOBER 14, 2019
SUBJECT: AGENDA CHANGES AND SUPPLEMENTAL PACKET

CITY MANAGERS REPORT

Written public comment Page 2

NEW BUSINESS

Memorandum 19-134 from City Clerk Re: Affidavit filed to Initiate a Contest of the Residency of a Candidate in the October 1, 2019 Regular Election.

Copy of affidavit and written public comment Page 3

RESOLUTIONS

Resolution 19-073, A Resolution of the City Council of Homer, Alaska Imposing a Moratorium for Cutting, Clearing or Removal of Trees and Vegetation located Within the Vehicle Right of Ways Between October 1, 2019 and May 1, 2020. Mayor.

Resolution 19-073(S), A Resolution of the City Council of Homer, Alaska, Establishing a Moratorium on Cutting, Clearing or Removal of Trees and Vegetation Located within Public Rights of Way (ROW) between October 15, 2019 and May 1, 2020, and Establishing a ROW Policy Evaluation Team. Lord/Aderhold.

Page 20

Written public comment Page 22

Resolution 19-074, A Resolution of the City Council of Homer, Alaska Certifying the Results of the City of Homer Regular Election held October 1, 2019 to Elect Two Councilmembers and Decide one Proposition. City Clerk/Canvass Board.

Written public comment Page 29

From: [Mary Griswold](#)
To: [Melissa Jacobsen](#)
Subject: Fw: Manager's Report: Mission Statement
Date: Thursday, October 10, 2019 5:28:50 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Please include in the CC supplemental packet.

From: [Mary Griswold](#)
Sent: Thursday, October 10, 2019 5:26 PM
To: carolinevenuti@ci.homer.ak.us ; donnaaderhold@ci.homer.ak.us ; heathsmith@ci.homer.ak.us ; mayor@ci.homer.ak.us ; rachellord@ci.homer.ak.us ; shellyerickson@ci.homer.ak.us ; tomstroozas@ci.homer.ak.us
Subject: Manager's Report: Mission Statement

Please consider this proposed COH Mission Statement: To promote a high quality of life through essential infrastructure, public safety, recreation, and compatible economic development within the constraints of fiscally responsible government.

A short and sweet capture of the essence of our local government.

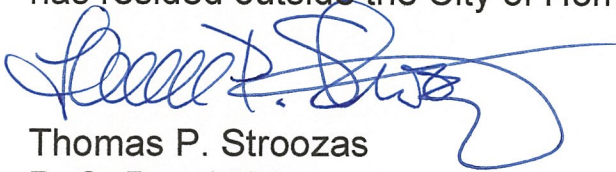
Received
City Clerk's Office
OCT 07 2019
City of Homer
Alaska

4.50.010 Contest of Election – Liability for Expense

AFFIDAVIT

I, Thomas P. Stroozas, resident of Homer, Alaska and candidate for Homer City Council in the October 1, 2019 Municipal Election, do hereby contest the residency eligibility of Storm P. Hansen-Cavasos as a candidate for election to the Homer City Council in the October 1, 2019 Municipal Election. I cite clause A(2), HCC 4.5.010, as the person elected is not qualified under the law of Homer City Code; 2.08.020.

Furthermore, it has come to my attention that Storm P. Hansen-Cavasos has resided outside the City of Homer limits as late as July 2019.



Thomas P. Stroozas
P. O. Box 1481
Homer, Alaska 99603
October 7, 2019

Signed before me this 7th day of October, 2019
by Thomas P. Stroozas personally known by me
to be the person signing this affidavit.

Bobbie R Krause
Notary Public, State of Alaska
Commission# 190806002
My Commission Expires 08/06/2023

Bobbie R Krause
Notary
My Commission Expires
8/6/23

From: [Lolita Brache](#)
To: [Department Clerk](#)
Subject: Storm Hansen-Cavasos
Date: Monday, October 14, 2019 8:21:24 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear members of the Homer City Council,

I thank you all for your work and service to our city. I know it is a challenging job, for which you may receive more complaints than compliments.

I would like to address the issue of the recent election, and the petition of Mr. Stroozas to confirm that Ms Hansen-Cavasos is indeed a city resident, as required by city code. I respect Mr. Stroozas' concern and his right to ask this question. I trust he has started this process in good faith and with the good of all in mind.

I would implore you, as well, to work from this place of good faith and the good of the whole as you move through the process of investigating, or confirming the truth of the situation. I do not know whether anyone on the council has actually called for the nullification of the election; however, that rumor has been circulating. As I understand city code (after some recent reading thereof), nullification of the election does NOT appear to be legal or necessary.

I urge you to follow your own rules; to seat Ms Hansen-Cavasos, and then complete the due diligence of clarifying the residency question.

Judging by the letter her lawyer has submitted, it appears to me that she is clearly a resident. I do hope and expect the council to fully investigate and confirm this so that all parties will have been listened to and all residents can feel secure in the knowledge that our city council will manage such issues in a non-partisan, fair, and legal manner.

Thank you. Sincerely,
Lolita Brache

From: [Jeanie Fabich](#)
To: [Rachel Lord](#); [Mayor Email](#); [Department Clerk](#); [Shelly Erickson](#); [Tom Stroozas](#); [Donna Aderhold](#); [Heath Smith](#)
Subject: Storm's residency
Date: Monday, October 14, 2019 8:24:17 AM

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I was not aware of the rule that a candidate running for city Council needed to be a resident within the city limits for one year. When I heard of this I realized that Storm had not lived within the city limits for one year. It was late this summer that she moved from out East End Road home to her new house in town. I know this through direct casual conversations with Storm.

From: [Matt & Jill Hockema](#)
To: [Department Clerk](#); [Mayor Email](#); [Tom Stroozas](#); [Donna Aderhold](#); [Rachel Lord](#); [Shelly Erickson](#); [Heath Smith](#); [Caroline Venuti](#)
Subject: Statement of Residency
Date: Tuesday, October 08, 2019 9:45:05 PM
Attachments: [Doc1.pdf](#)

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It is with a heavy heart that I am having to come forward with information regarding the newly elected council member and my former neighbor, Storm Hansen-Cavasos.

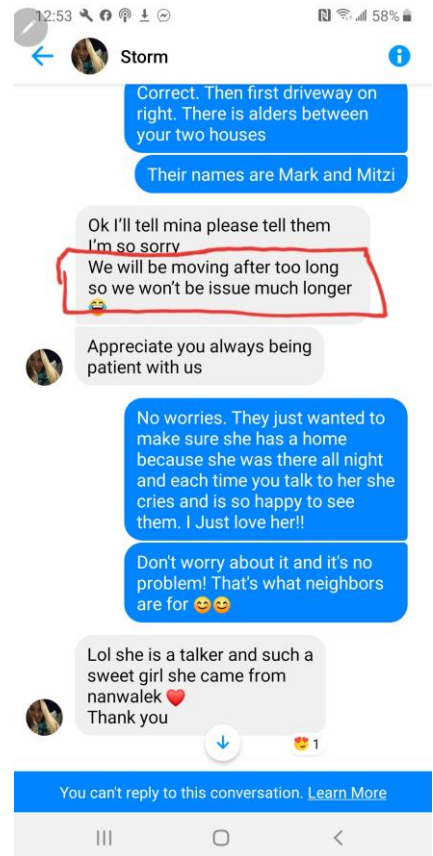
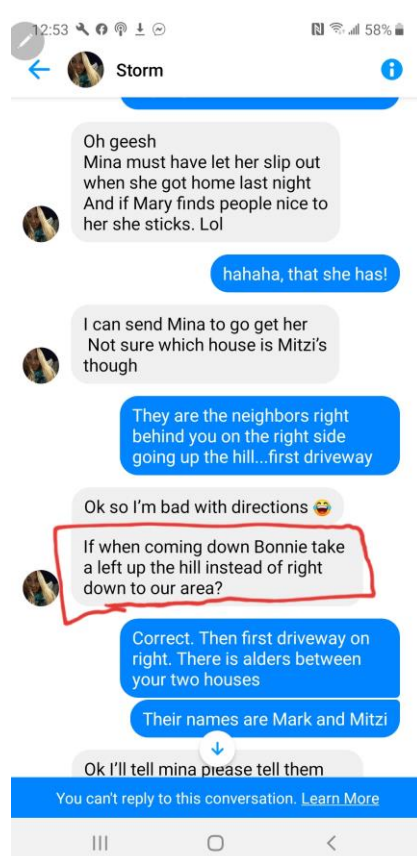
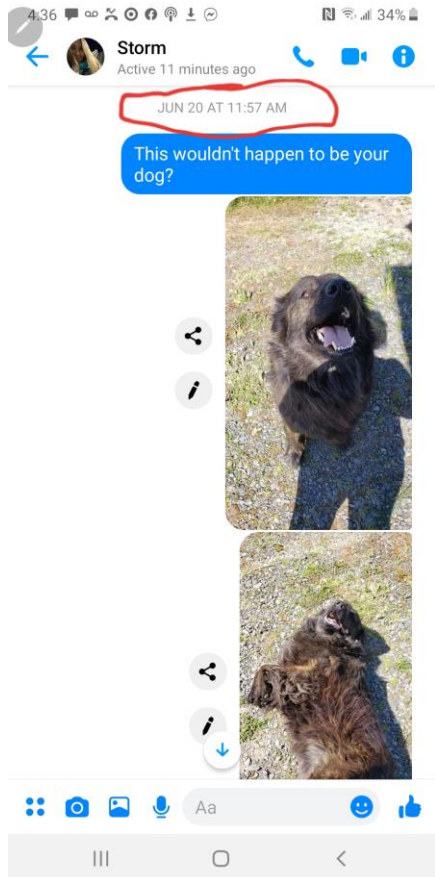
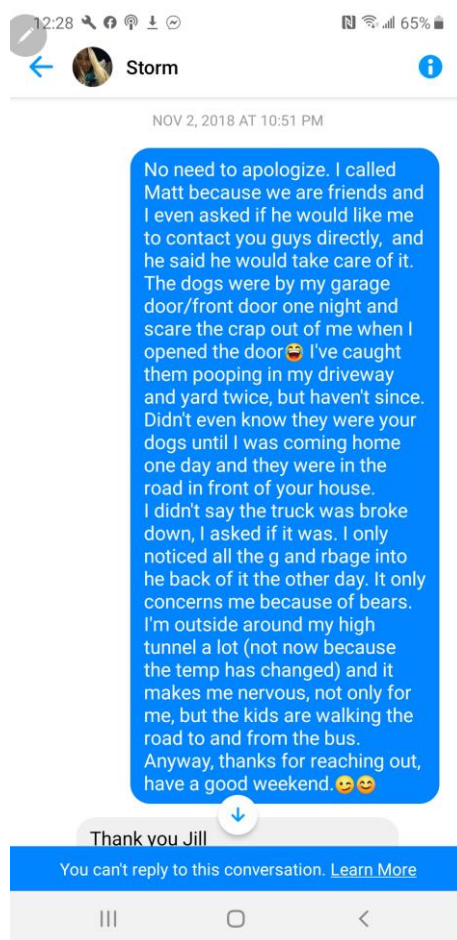
On October 6th, 2019, I learned that one of the requirements to run for a Homer city council seat was to be a resident of the city for at least one year. Storm has been my neighbor in Fritz Creek for approximately a year during 2018 - 2019.

My husband, Matthew, and I live at 54699 Rolling Meadows Road, Homer, approximately 10 miles East End Road. Jason and Storm resided at 54730 Rolling Meadows Road, Homer, AK from approximately the summer of 2018 until approximately mid July 2019. The Cavaso's were renting from the owners and landlords, Matt and Beth Hambrick of Homer, Alaska. Exact dates for renting can be obtained from Mr. Hambrick.

I have attached two of my personal conversations with Storm on the first page. On or about November 1st, 2018 I spoke via phone with Matt Hambrick, said landlord, regarding an issue of concern at the rental. On November 2nd, 2018, Storm sent me a message, via Facebook, in regards to my phone call to Mr. Hambrick. The second was on June 20th, 2019 regarding their dog, Mary. During this conversation, she states that "we will be moving after too long..." The second grouping of screenshots are from her Facebook page that show she was at her home in Fritz Creek, as well as the top of my mom's home in the background of one of the photos. My mom, Rosemary Crowder, owns the home at 54705 Rolling Meadows Road, which is directly across the street from the rental house.

I believe in the integrity process of elections, and that process has been violated. According to the cities application requirements, this candidate did not meet the residency requirements to run for a city council seat. It is appalling that the candidates were not vetted, in FULL, prior to the election. All of this could have been avoided had it been.

Sincerely,
Jill Hockema



Storm P. Hansen-Cavasos is in Fritz Creek, Alaska. April 16 · 🧑🏻‍🦱

Two cup Tuesday, before even leaving the house...☺️



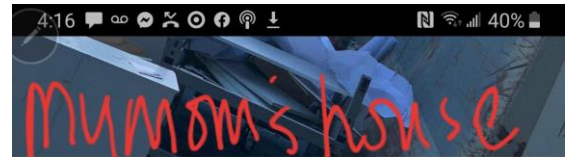
Storm P. Hansen-Cavasos is in Fritz Creek, Alaska. May 25 at 11:18 PM · Fritz Creek, Alaska · 🧑🏻‍🦱

First hotdog and s'mores roast of the season. Finished just in time for the rain ❤️ @ Fritz Creek, Alaska



Storm P. Hansen-Cavasos Aug 6 at 12:35 PM · 🧑🏻‍🦱

I am the luckiest girl in the world to have such amazing friends! Thanks to Tammie, Tristen and Christopher we got all the big heavy crap from upstairs to downstairs. The bottle of homemade wine that Allie made was the added bonus. We finally made some serious progress ❤️



3 Comments Like Comment



3 Like Comment

From: [Matt & Jill Hockema](#)
To: [Department Clerk](#); [Mayor Email](#); [Heath Smith](#); [Donna Aderhold](#); [Tom Stroozas](#); [Rachel Lord](#); [Caroline Venuti](#); [Shelly Erickson](#)
Subject: Statement of Candidate Residency
Date: Tuesday, October 08, 2019 10:25:45 PM

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It has come to my attention that the residency of Storm Hansen-Cavasos is in question for her eligibility for a seat on the Homer City Council. Storm has been my neighbor and has been residing at 54730 Rolling Meadows Road for approximately one year during 2018 and 2019. My wife, Jill Hockema, and I reside at 54699 Rolling Meadows Road, Homer. Storm Hansen-Cavasos recently moved from that address in approximately mid July of 2019.

I witnessed on several occasions, Storm walking with her children and their dog, Mary, from the bus stop at the top of Bonnie Avenue, to their home on Rolling Meadows Road. During the time she lived in my neighborhood, I had a few conversations with her.

On June 20th, 2018, our mutual neighbors, Mark and Mitzi Kay, who have a summer home on the lot next to 54730 Rolling Meadows Road, had Storm and Jason's dog, Mary stay the night on their deck. The next day, Storm's daughter went and retrieved Mary from their home after Jill contacted Storm to verify it was her dog. I later saw the dog on the upper deck of their house.

Sincerely,

Matthew Hockema

From: [Avram Kalugin](#)
To: [Mayor Email](#)
Subject: Storm election
Date: Saturday, October 12, 2019 10:29:54 PM

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I Avram live in 54470 rolling meadows rd. Can attest to Storm living in this neighborhood up until at least June of 2019 when I went to Bristol Bay. Therefore it should disqualify her. Fraudulent election

Sent from my iPhone

From: [Avram Kalugin](#)
To: [Department Clerk](#)
Subject: Storm not living in city limits
Date: Saturday, October 12, 2019 10:26:50 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I Avram live in 54470 rolling meadows rd. Can attest to Storm living in this neighborhood at least until June of 2019 when we went to Bristol Bay, therefore the election was a fraud.
Sent from my iPhone

From: [Cassie Lawver](#)
To: [Department Clerk](#)
Subject: Integrity of the City Council Election
Date: Wednesday, October 09, 2019 12:19:49 PM

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Madam Clerk, Council Members, Mayor Castner,

I am writing this email because I am concern about the integrity of our election process. As citizens of this great community, we have an expectation that laws, rules, codes, etc... are being followed within our city government. After receiving dozens of calls and messages about a candidate's eligibility to run for city council because of her residency, I look into it because I couldn't believe that our city would allow such a thing. First, I went online to the City election page and saw the qualifications. Right there it states "And have been a resident, fixed habitation, of the City of Homer for a least one year prior to the October 1, 2019 election day". Next I went to the candidate packet for 2019 online to see for myself what the candidate see. On the bottom of page 1 it has "REVIEW OF CANDIDATE QUALIFICATIONS", which state "The Clerk shall determine whether each candidate for municipal office is qualified as provided by law. At any time before the election the Clerk may disqualify any candidate who is not qualified and immediately notify that candidate by certified mail. A candidate who is disqualified may request a hearing before the Clerk within five (5) days of receiving the notice." Then I was really concern about the rumors and did what many people would do, I started researching for myself if the candidate lived outside the city limits. Well it didn't take long to see on her Public Facebook post that she lived on Rolling Meadows, just as many people had told me. In fact she posted on August 6th about getting all the heavy stuff out of the house and had a huge trash container in one of the pictures. In the pictures she posted you can see the neighbor's house. So I drove down Rolling Meadows and found that house. From there I could tell from a picture on this candidates Public Facebook page from April 16, 2019 where she had "Two cups of coffee before leaving the house..." and it has she was in Fritz Creek, Alaska and I could tell from the deck where that picture was taken. She also posted, with pictures, on May 27, 2019 of mowing the lawn and at the end has @Fritz Creek, Alaska. This is only 2 of many examples I found just using Facebook. There are other people that message me that they have actual messages with the candidate about moving into town in July/August. I have encourage these people to also send this information to you. I also encourage the people who reached out to me that shared they know the candidate well enough to know where she lived and when to send in an affidavit with this info in it. Again this is about the intergrity of the election and not a personal attack on the candidate. There are rules and codes that ALL must follow and check and balance to ensure these rules and codes are followed. Unfortunately this one slip through the crack but there is enough people asking that it should be investigated.

Once again I want to stress to whoever read this, this is not an attack on the candidate. For whatever reason they signed the candidate packet stating they were a city resident for a year. That was their choice. My concern is the City's job to make sure that each candidate meets all the qualifications. The city's job is to ensure the integrity of the election by making sure all candidate are 100% qualified per Homer City Code 4.10.040. I hope the City steps up and do their due diligence and investigate the residency of the candidate. At this point, maybe a 3rd

party investigation is in order to ensure the integrity of the investigation. People are losing trust in our local government and with good reason.

Once more thing, just because you were born and raised in Homer does not automatically make you eligible to run for a city office as many people keep telling me. Until the city code is changed, it is very clear. A candidate has to live in the city limits for 1 year prior to election day. There are many of us that have a Homer zip code but reside outside the city limits with no expectation that we can run for city office.

Thank you,

Cassie Lawver

Community resident

From: [Linda Martin](#)
To: [Department Clerk](#); [Mayor Email](#); [Heath Smith](#); [Donna Aderhold](#); tomstroozas@ci.homer.ak.ua; [Rachel Lord](#); [Caroline Venuti](#); [Shelly Erickson](#)
Subject: Storm Hansen
Date: Monday, October 14, 2019 11:22:34 AM

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Dear Homer City Council Members, My husband and I live at 364 Rangeview Avenue in Homer. We have lived here since 1981. The owner of the house next to us on the uphill side of Rangeview, Conrad Schaad, worked on his house through July making repairs. Then he rented the place to Storm Hansen who moved in this August 2019.

Sincerely,
Linda Martin

From: [Kesha Etwiler](#)
To: [Department Clerk](#); [Shelly Erickson](#); [Heath Smith](#); [Caroline Venuti](#); [Rachel Lord](#); [Tom Stroozas](#); [Donna Aderhold](#); [Mayor Email](#)
Subject: Storm Eligibility
Date: Tuesday, October 08, 2019 8:27:14 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Frankly, I'm saddened and frustrated to be put in the position of having to "come forward" with any information about this entire mishandling of the Election. The Citizens of Homer should NOT be put in the position of having to vet and determine the eligibility of our candidates, that should be done prior to this sort of thing happening. I had questions, knowing Storm as a friend and acquaintance, of her residency, but never "came forward" as I assumed the City would have that handled and wouldn't allow an ineligible candidate to run in the first place. I didn't find it my place to press the issue and ask about her marital situation, living situation, etc. even though I believed her to be living out at Fritz Creek as late as July. Wasn't my business. WAS the City of Homer's.

She and I had a private conversation re: our kids in July and a comment was made that she would be moving to town soon. What was said in the course of a private conversation and my own personal understanding of her residency puts me in a really tough, awkward, and compromising spot now, and as I said before, I don't like it. It puts me in the place of either pretending I don't know what was said, what I know, or being honest. It's seriously ridiculous to put the people of Homer in this position. I know I'm repeating myself, but this is the garbage that causes major rifts in friendships and a boatload of drama that we don't need. Candidates should be FULLY vetted and determined eligible prior to being allowed to run. I find it interesting to find out after the fact that due diligence was not done in this situation and here we are, having another Homer slugfest. A simple look at bank statements, utility bills, PFD filings, rent statements, paystubs, employment records, et al. should be easy enough to "investigate" this issue. It's not OUR job to look at a candidates Facebook to determine whether or not they're eligible by their posts that clearly show otherwise. If *I* can go online and see that, where was the proper vetting by City officials?

I am willing to provide a statement of my knowledge of the situation, but I will not provide it in an email that is public, putting myself and everyone involved on blast, creating more discontent and bad feelings here in Homer. I'm tired of the division, sowing of discord, and general lack of respect for the emotions and lives of the residents here, due to city officials not doing the right thing. This town has been through the ringer the last 3 years.. with political bullying, mistruths, lies, slander, and general disrespect.

Our family has experienced personal attacks and accusations that have forever changed myself and our family dynamic, simply over our political views and standing up for what we feel are issues of integrity. I'm tired. I'm weary. And I'm sick of tired

of being put in this position, by people that should know better as our elected officials and city administrators.

Kesha Etwiler

**LIBBY BAKALAR
ATTORNEY AT LAW**

211 Fourth Street, Suite 108 | Juneau, AK 99801
907.723.9492 | ebakalar@gmail.com

October 13, 2019

Michael Gatti
Jermain Dunnagan & Owens, P.C.
3000 A Street, Suite 300
Anchorage, Alaska 99503

Dear Mr. Gatti,

I represent Storm Hansen-Cavasos in her capacity as a newly-elected member of the Homer City Council ("Council").

As you are likely aware, Ms. Hansen-Cavasos unseated incumbent Shelly Erickson in the October 1, 2019 municipal election in Homer. That election is scheduled to be certified at the regular Council meeting on Monday, October 14, 2019, and Ms. Hansen-Cavasos is to be sworn in at the end of the meeting along with a second newly-elected Council member, Joey Evensen.

Item (a) under New Business on the agenda for the October 14, 2019 meeting is "Memorandum 19-134 from City Clerk re: Affidavit filed to Initiate a Contest of the Residency of a Candidate in the October 1, 2019 Regular Election." Materials for the meeting available online include Memorandum 19-134, dated October 8, 2019, from City Clerk Melissa Jacobsen to Mayor Ken Castner and the Homer City Council. The memorandum indicates that losing Council candidate and incumbent Council member Tom Stroozas has initiated an election contest under Homer City Code (HCC) 4.50, and states that a copy of the affidavit is attached to the memorandum.

Neither Mr. Stroozas' affidavit nor the notice of election contest appear to be included in the packet of public Council meeting materials, but the memorandum recommends an "investigation by the City Manager with the assistance of the City Clerk and City Attorney regarding the residency of candidate Storm Hansen-Cavasos." HCC 4.50(c) provides that in this situation, the Council shall order "such action as it deems appropriate."

As an initial matter, Mr. Stroozas should not be permitted to vote for or against an investigation of Ms. Hansen-Cavasos' residency at this or any future Council meetings. The City's ethics law at HCC 1.18.030(b) provides that "No City Official . . . shall participate in any official action in which the person is an applicant." Mr. Stroozas lost re-election and filed an election contest in his capacity as a candidate. But he now wants to use the waning days of his incumbency on the Council to punish a newly-elected Council member by authorizing an investigation into her residency. This is unethical under City law. Additionally, Mr. Stroozas told the *Homer News* on October 9, 2019 that he "may declare the election null and void and call for a redo." Of course, this is not a viable legal remedy, and is not within Mr. Stroozas' purview to do under any circumstances.

Assuming the notice of election contest is otherwise valid and meets all technical requirements of HCC 4.50, and assuming the substantive basis for the election contest is that Ms. Hansen-Cavasos is "not qualified under the law or the Homer City Code" per HCC 4.50.010(a)(2), there is no reason

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ATTORNEY AT LAW

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whatsoever—either factually or legally—for the Council to initiate an investigation into Ms. Hansen-Cavazos’ residency.

HCC 4.10.020 sets forth candidate qualifications in Homer city elections. The candidate: “(a) Must be a qualified voter as noted in HCC 4.05.010; and (b) Must meet the eligibility requirement of HCC 2.08.020.”

HCC 2.08.020(a) provides in relevant part that: “A person is eligible for the office of City Council . . . if the person is a voter of the City as prescribed by HCC 04.05.010 and has been a resident within the City for a period of one year immediately preceding the election day on which the person is a candidate.” HCC 4.05.010(c) provides that a qualified voter must have been a “resident of the municipality for 30 days immediately preceding the election.”

HCC 4.05.020, which is almost identical to its state counterpart at AS 15.05.020, sets forth detailed rules for determining qualified voter residency. In relevant part, HCC 04.05.020 provides for the following rules:

- **HCC 4.05.020(a):** The residence of a person is that place in which habitation is fixed, and to which, whenever he is absent, he has intention to return. If a person resides in one place but does business in another, the former is the person’s place of residence. Temporary camps do not constitute a dwelling place.
- **HCC 4.05.020(b):** A change of residence is made only by the act of removal joined with the intent to remain in another place. There can only be one residence.
- **HCC 4.05.020(e):** A person does not lose his residence if he leaves his home and goes to another country, state, or place within this State for temporary purposes only and with the intention of returning.
- **HCC 4.05.020(f):** A person does not gain a residence in a place to which he comes without a present intent to establish a permanent dwelling there.

The relevant period for evaluating Ms. Hansen-Cavazos’ residency for purposes of her qualifications to serve on the City Council is September 30, 2018 to September 30, 2019. *See* HCC 4.05.020(h).

Ms. Hansen-Cavazos clearly meets the Code’s residency requirements. She was born and raised in Homer and grew up at 1345 Mission Road, within Homer city limits. She attended public school within Homer city limits, as have all of her five children. During her marriage to Jason Cavazos, Ms. Hansen-Cavazos leased a home outside of Homer city limits at 54730 Rolling Meadows with her husband. That lease remains in the couple’s names.

However, in late May of 2018, Ms. Hansen-Cavazos and her husband separated. At that time, she and her children moved back in with her mother, Bertha Hansen, and her mother’s partner, Anthony Charles, to the family home at 1345 Mission Road. Jason kept the Rolling Meadows home for his use,

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ATTORNEY AT LAW**

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907.723.9492 | ebakalar@gmail.com

although he was frequently out of town for construction work. Ms. Hansen-Cavasos and her children continued to reside at Mission Road.

Shortly thereafter, Ms. Hansen-Cavasos moved to 408 Rangeview, also within city limits, while she saved money to build another dwelling on the family property at 1345 Mission Road. All five of Ms. Hansen-Cavasos' children are registered in the Kenai Peninsula School District with their residence address of 1345 Mission Road, and the school bus dropped them off there each day for both the last and current school years.

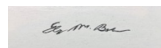
Although we do not yet have the full documentation filed in support of the election contest, my client believes that the effort to discredit her residency is based on neighbors' hearsay that she recently resided at 54730 Rolling Meadows—several undrivable family vehicles were parked there, and the children were seen there fetching belongings they needed to retrieve. Also, during the last few months, Ms. Hansen-Cavasos has visited the Rolling Meadows property several times in order to mow the lawn and engage in the emotionally difficult task of sorting through her marital belongings.

In sum, at all times relevant to this dispute, Ms. Hansen-Cavasos has both resided at 1345 Mission Road within Homer city limits and has intended to remain there—the critical legal factor for a residency determination. Under the plain language of the Code, visiting the Rolling Meadows property during the collapse of her marriage does not defeat Ms. Hansen-Cavasos' Mission Road residency, and the fact that the Rolling Meadows lease bears her name is of no consequence under these circumstances or the Code. She resided at—and always intended to reside at—her Mission Road home during the relevant time period. Accordingly, there is no legal or factual reason to proceed with any further inquiry into Ms. Hansen-Cavasos' residency.

Ms. Hansen-Cavasos is a political newcomer and her opponents did not expect her to win. This election contest is nothing more than a bad-faith, "sore loser" effort by her opponents and their supporters to oust Ms. Hansen-Cavasos from her seat and defy the will of Homer's voters. Surely, the individuals mounting this campaign against Ms. Hansen-Cavasos had the time and opportunity to do so prior to the election, and if their concerns were valid, should have done exactly that. Their disingenuous attempt to do so now should be viewed with skepticism.

Given your many years of extensive experience on these and similar issues, I am confident that you will advise the Council not to waste valuable City time and resources on this fruitless exercise. We urge the Council to certify the election as required by law and swear in Ms. Hansen-Cavasos at the October 14 Council Meeting as planned.

Sincerely,



Libby Bakalar
Attorney for Storm Hansen-Cavasos

cc: Homer City Clerk; Homer City Council

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

3 Lord/Aderhold

4 **RESOLUTION 19-073 (S)**

5
6 A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
7 ESTABLISHING A MORATORIUM ON CUTTING, CLEARING OR
8 REMOVAL OF TREES AND VEGETATION LOCATED WITHIN PUBLIC
9 RIGHTS OF WAY (ROW) BETWEEN OCTOBER 15, 2019 AND MAY 1,
10 2020 AND ESTABLISHING A ROW POLICY EVALUATION TEAM
11

12 WHEREAS, For many years Public Works did not regularly maintain City Rights of Way
13 (ROW), leading to overgrowth and recent increased vegetation clearing activities; and
14

15 WHEREAS, The City adopted Ordinances 16-51 and 19-27(S) establishing Homer City
16 Code 11.36 and outlining laws regarding the City of Homer’s actions for public use of City
17 ROW; and
18

19 WHEREAS, This law does not address potential concerns in areas of steep slopes,
20 landmark trees, traffic volume, zoning classification, or property covenants but is a “one size
21 fits all” approach; and
22

23 WHEREAS, The City has received complaints over the years about vegetation removal
24 activities, including debris, noise, and scope of clearing in the rights of way; and
25

26 WHEREAS, the Public Works Department has expressed concerns regarding the cost
27 and time required to effectively maintain ROW across the City; and
28

29 WHEREAS, The Homer City Council should examine opportunities to create a ROW
30 maintenance policy that maintains city infrastructure, promotes visibility and safety, is cost
31 effective, and appreciates adjacent landowner concerns; and
32

33 WHEREAS, Such policy may require legal guidance in regards to both City and
34 landowner rights and responsibilities under state and local laws, including private covenants.
35

36 NOW, THEREFORE, BE IT RESOLVED that the City of Homer establishes a moratorium on
37 cutting, clearing, or removal of vegetation located within public ROW between October 15,
38 2019 and May 1, 2020; and
39

40 BE IT FURTHER RESOLVED that during the aforementioned period, the City Council of
41 Homer Alaska will evaluate the City’s ROW maintenance policy by appointing two Council
42 members to work with the City Manager and appropriate staff, as determined by the City

43 Manager, to propose alternative ROW maintenance policies to City Council no later than the
44 last Council meeting in March, 2020; and

45

46 BE IT FURTHER RESOLVED that the evaluation team shall discuss and evaluate policy to
47 include the following issues of concern:

48

- 49 1. Drainage, snow storage and plowing, sight distances, utility operations and
50 maintenance, and equipment and emergency vehicle response
- 51 2. Steep slopes, traffic volumes, zoning districts, and property covenants
- 52 3. Debris cleanup and aesthetics, including landmark trees
- 53 4. Adjacent landowner concerns including timing and noise
- 54 5. Landowner maintenance options and opportunities
- 55 6. Legal rights and responsibilities of City and landowners, including enforcement
- 56 7. Cost of implementation

57

58 BE IT FURTHER RESOLVED that in order to address these issues, the evaluation team may
59 seek legal counsel from the City Attorney.

60

61 PASSED AND ADOPTED by the City Council of Homer, Alaska, this ____day of _____,
62 2019.

63

64 CITY OF HOMER

65

66

67

68

KEN CASTNER, MAYOR

69

70 ATTEST:

71

72

73 _____
MELISSA JACOBSEN, MMC, CITY CLERK

74

75 Fiscal Note: N/A

Kevin Thomas Fay
P O Box 602
Belmar, NJ 07719

KevinTFay@verizon.net
(732) 681-4128

October 14, 2019

Ken Castner, Homer Mayor
Katie Koester, Homer City Manager
Rachel Lord, Homer City Council Member
Caroline Venuti, Homer City Council Member
Donna Aderhold, Homer City Council Member
Shelly Erickson, Homer City Council Member
Tom Stroozas, Homer City Council Member
Heath Smith, Homer City Council Member
Joey Evensen, Homer City Council Member (elect)
Storm Hansen-Cavasos, Homer City Council Member (elect)
Citizens of Homer

VIA and Care Of the Homer City Clerk clerk@cityofhomer-ak.gov
Homer City Hall (907) 235-3130
491 East Pioneer Ave
Homer AK 99603

Everyone:

My name is Kevin Thomas Fay. I first visited Alaska over thirty years ago. Beginning in 1990 I purchased three properties in Alaska. Two of those properties are located on Skyline Drive. The first is Lot 7 of Eker Estates. The second property is Lot 1 of Newton Subdivision. The lots share a common boundary and face Skyline Drive.

Following my purchase of these lots, the City of Homer filed a petition, dated in March of year 2000, to annex these properties, along with many others. In that petition of annexation (the City of Homer) “asserts that annexation will not deny any person the enjoyment of any civil or political right...”. (Page 59 of DCED Preliminary Report, dated October 2001). The Report goes further to quote Black’s Law Dictionary: (see page 204) **“Civil rights are such as belong to every citizen of the state or country, or, in a wider sense, to all of its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, protection by the laws, freedom of contract, trial by jury, etc. Or, as otherwise defined, civil rights are rights appertaining to a person in virtue of his citizenship in a state or community.”**

My property on Skyline was annexed by the City of Homer in 2002. Contrary to many assertions by the City, the Annexation did not give any rights or property belonging to owners of property (within the area approved for annexation) to the City of Homer. Part of the property that I own, within Eaker Estates, is the protections (themselves) provided by the Covenants, Conditions and Restrictions dated September

1990. These protections are said to “run with the property” and therefore become a valuable part of the real property. If I do not defend these covenants from violation, then their efficacy will be in question and hence the value of these protections and the value of my property that my heirs may sell one day is greatly diminished. These covenants were dated and recorded concurrently in the month of September of 1990. Just a few days later, in October 1990, I completed the purchase of Lot 7, in Eker Estates. In considering my purchase I gave value to the protections provided by the Covenants. I paid for these protections. They are included in my property. Accordingly, I will defend those covenants and the property they protect from all threats.

Since my purchase the City has trespassed on original Lots 1-7 at least three times.

The First Offense to the Covenants of Eker Estates.

Notwithstanding, the pledge of the City of Homer that: “the annexation will not deny any person the enjoyment of any civil or political right”, by March 2000, a plan to do that very thing was already in the works by Homer City Officials. In September 1999, the City of Homer obtained from the Kenai Peninsula Borough Assembly, KPB Ordinance 99-47 authorizing the City of Homer to exercise extraterritorial jurisdiction over the area generally referred to as the Bridge Creek Watershed. Such authorization was in accordance with power granted by Alaska Statute 29.35.020. Said statute includes in its first paragraph: *“To the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service....(including) utility services.... outside its boundaries and may regulate their use and operation to the extent that the jurisdiction in which they are located does not regulate them..... Before a power authorized by this subsection may be exercised inside the boundaries of another municipality, the approval of the other municipality must be given by ordinance..... A municipality intending to exercise its authority under this subsection shall act by ordinance, and may adopt an ordinance under this subsection to (1) protect its water supply and watershed....”*

The operative premise here is (ONLY) *“to the extent a municipality is otherwise authorized by law to exercise the power necessary to provide the facility or service.”* No small point. Early in 2003, the City of Homer enacted an ordinance known as the “Bridge Creek Watershed Protection District” which, with ***no Due Process and no Just Compensation***, took from landowners, within the said Bridge Creek Watershed, the right to build so much as a walking path on more than 4.2% of their property and the right to sub divide the property into lots less than four and one-half acres. This ordinance intends to restrict the owners from the full enjoyment of 95% of their property. Further, larger tracts are restricted from subdivision into affordable residential lots of less than four and one-half acres. The effect of said ordinance constitutes an unlawful taking and is violative not only of the U S Constitution, but is also violative of Paragraphs 7 and 18, under Article 1 of the Alaska Constitution which provide:

“§ 7. Due Process: No person shall be deprived of life, liberty, or property, without due process of law....; and

§ 18. Eminent Domain: Private property shall not be taken or damaged for public use without just compensation. Articles 7 and 18, respectively.

The pretense by Homer City Officials made their plans sound benign, something like, only those things which might be authorized by law, such as are found in the Bear Creek Watershed Protection Overlay District, near Cannon Township, Michigan. The said Bear Creek Watershed Protection Overlay District restricts buildings and interruption of the vegetation within the filtration strips which are located within 100 feet of the high water mark of the said Bear Creek and its named tributaries. Similar watershed

protections are practiced and encouraged, by the Natural Resources Conservation Service, a division of the USDA, with offers of technical assistance and offers of some annual payments, on creeks.

By contrast, in other watersheds, where the water utility intends to restrict development on the entire watershed, conservation easements are obtained by one or more of the following three ways: 1) donation; 2) negotiated purchase; and 3) the exercise of eminent domain, which includes due process and just compensation to the owner of the property. Negotiated purchases, by far the most common, are legion across the nation. The appraised value of the impairment caused by such easements typically start AT LEAST 30% to 40% of the appraised value of the underlying land, (excluding any value for improvements). In rare instances the compensation for these impairments of value may be as high as 50 to 80% of the underlying property. Billion of dollars of conservation easements for watersheds have been negotiated over the past three decades.

Unlike those ordinances which are authorized by law and necessary, the City of Homer attempted an unlawful and unconstitutional taking of the development rights belonging to the owners of a total of approximately 2,180 acres, in the Bridge Creek Watershed, via a process often referred to as “inverse condemnation”. In a said “inverse condemnation”, once such ordinances are put in place they are thereafter enforced by the abuse of the City’s act as a police power. Such unlawful and unconstitutional practices are uncommon but have routinely been ruled unconstitutional by courts. In these instances, the title to the property was restored by the offender or, alternatively, the offended party obtained a judgment including the value of the impairment, attorney’s fees, pre-judgment interest and in some instances punitive monetary damages.

Fast forward to 2019. In its September 11, 2019 edition, the Homer News reports: “in a 4-3 vote... the council (adopted an ordinance that) went against...the city’s current policy prohibiting noncity lots from connecting to city water unless they are annexed by the city”. In other parts of the report it says: “In an ordinance passed in March, the council voted to allow East End Partners LLC, a Kachemak City apartment complex, to pay a \$100,000 fee and connect to an East End Road city main water line that runs at the edge of city limits.” Yes! That is what the newspaper said. To owners of property affected by the unconstitutional taking of their property rights by the BCWPD ordinance in 2003, it appears that the damage to the value and utility of their property is being used, in a manner that could only be characterized as “profiteering”, by the City of Homer. How else can this be explained? Take it unconstitutionally and sell it to a business in the next town?

But, if that is not enough.... looking again at Alaska Statute 29.35.020, regulating the provision of services in extraterritorial jurisdictions, it appears that AS 29.35.020 (b) requires Kachemak City to pass an ordinance approving the City of Homer’s plan to provide these services within another municipality, before the City of Homer can legally pass an ordinance to do so. Would not it be simpler just to read the law and follow it? Is it any wonder that the Kachemak City Council, would not want to become complicit in this?

The Second Offense to the Covenants of Eker Estates.

In October, 2013 one or two of my Homer neighbors was told by Tom Stroozas, then a member of the Homer Advisory Planning Commission, in his proud and brazen manner the following: “We are going to put microwave tower in your neighborhood.” These neighbors thought Tom was joking. When he repeated himself, they informed him of the covenants that protect Eker Estates and preclude

construction of anything other than single family homes and the limited number of associated buildings associated with non-commercial single-family homes. Further, they reminded him that such construction would be violative of the Homer City Code prohibiting ANY increase in impenetrable cover on the lot alleged to be the location of the application for conditional use permit. However absurd it seemed, even after a letter notifying the Homer City Planning Department with a copy of the covenants, Tom persisted, in what in retrospect is clearly an attempt to utilize the “color of authority” to threaten and intimidate in order to deprive another of the peaceful enjoyment of their property, a right guaranteed by the Alaska and U S Constitutions.

The application for CUP was heard before the HAPC in early December 2013. I forwarded to the Planning Department a letter opposing the CUP. This neighbor forwarded a letter opposing the tower permit and again included a copy of the covenants for all the members of the Homer Advisory Planning Commission. After the end of the meeting, Tom brazenly called the neighbor to brag that: “We (the HAPC) voted to permit that tower in Eker Estates. Afterward the recording of the hearing was transcribed by a court reporter. The transcript showed the provision of the copy of the covenants was suppressed by both the Homer Planning Department and by Franco Venudi, the HAPC Chairman. At the first vote, the motion for the CUP failed by the no votes of Commissioner Sonnenborn and Commissioner Highland. Close analysis of the transcript shows that City Planner Abboud and Commissioner Stroozas made false statements to coerce the motion to reconsider and to obtain the much-confused votes of Commissioner’s Sonnenborn and Roberts to pass the CUP. Yes, the certified transcript shows these things. Reading the transcript was surreal.

The CUP was appealed by me and two or three other neighbors. After some time, with the filing of briefs and counter briefs, the City Council heard the appeals and again ignored the existence of the covenants, making no mention of them. In a “determination and findings”, dated early May of 2014, the Council did not revoke the conditional use permit. Something was beginning to look fishy here.

Neighbors and their attorneys did some background checks on the applicant for the tower, one Brian Kincaid of a company called Kodiak Microwave Systems. This company was a sub-contractor for ACS Alaska. Background investigations found that Mr. Kincaid had a record and history of being in trouble with the law. Further, hearsay reported that Mr. Kincaid had been alleged to provide inducements or kickbacks to effect the decisions of council members and staff members in municipalities and villages across the state. With that information, attorneys for neighbors made clear to ACS Alaska that if the tower permit was not pulled immediately, a motion for injunction would be filed and personnel from ACS Alaska, those from Kodiak Microwave and various Homer officials associated with the planning department and the HAPC would be examined under oath to determine the nature of the relationship that existed between Mr. Kincaid and Homer City Officials. Amazingly, the tower permit was pulled and forfeited within 24 hours. In this instance, the brazen claim that we never give any attention to covenants was repeated by Rick Abboud, Tom Stroozas and Franko Venudi.

Although the trespass on the title of Eker Estates was successfully resisted, the damage to the lives and fortunes was substantial. The cost of defense against the lawlessness of both the Homer Advisory Planning Commission and the Homer City Council, acting as the Board of Adjustment, tallied up into the thousands of dollars and required hundreds of hours of work. While the owners in the neighborhood were relieved to have the illegal permit defeated, the cost of the ordeal was substantial. Hoping that it

would never happen again, the neighbors granted much charity and forbearance to the offenders on both the Committee and the Council. In retrospect, that grant of forbearance was obviously a mistake.

The Third Offense to the Covenants of Eker Estates.

Beginning in early February, 2019, a neighbor received a call from the acting Director of Public Works, Dan Gardner. Mr. Gardner was very disrespectful to the neighbor and communicated to the neighbor that he had no care for the covenants protecting Eker Estates, as he, Mr. Gardner was going to clear cut all of the standing spruce trees within the portions of Eker Estates reserved for roads and utilities, even though no change in traffic or need for new utility installations was or is foreseen. The neighbor attempted to explain to Mr. Gardner that unlike all but a few other covenants, those protecting Eker Estates covered all of the subdivision (corner to corner) and provided protection to “standing timber” no matter where located within the area that was platted in 1990. Further, the covenants reserved to the “grantees”, the right and responsibility for the roads. This means that the City cannot maintain the roads in a manner objectionable to the owners. Mr. Gardner reacted to this information, claiming that he had the “direction and authority of the City of Homer to remove the trees, just to make all streets “uniform” no matter whether the the trees were protected by covenants or not. The neighbor made clear that Eker Estates contains only about one eighth of the lots in town with similar covenants. Mr. Gardner slammed the phone and thereafter continued his threats, following with brazen brags around town and profane rants that he was “going to remove all the trees on Easy Street”. On February 12, the neighbor sent notice of the covenants and notice to “Cease and Desist” the unlawful threats to destroy the property, rightly belonging to owners in Eker Estates. This notice was delivered by Certified Mail to Dan Gardner, Mayor Ken Castner and City Manager Katie Koester. The same notice was delivered via the City Clerk to all of the City Council Members. A few days later, a conversation, between the neighbor and the City Manager was even more bizarre, as the City Manager continued with false statements constantly dismissing the validity and even the existence of the covenants. Following this the neighbor was told by Tom Stroozas that if he did not “play nice” and cooperate (with the trespass on title and destruction of private property by the City Public Works), all of the standing timber in areas reserved for roads in Eker Estates would be removed (as a punitive measure) and the value of the property(ies) would be severely diminished.

This hostility continued even after the City Officials were served notice of the protective covenants and that any further injury to the trees would bring complaints of criminal destruction of property against each person involved, including third parties such as Bill Day, the surveyor, each employee or sub-contractor, each supervisor, the City Manager and each of six City Council Members that voted in June, to amend and make more hostile the city vegetation ordinance. The Council seems to mis understand that there exist decades of cases (in the common law of appeal courts across the country) which repeat that subsequent and less restrictive city ordinances never invalidate or override a subdivision’s protective covenants. As such, no ordinance will give anyone associated with criminal and malicious destruction of property an affirmative defense. Further, Homer City Code 1.10.030 a. 1. Exclusions provides as follows: a. The hold harmless, indemnity and defense provisions of this chapter shall not apply to: 1. Criminal charges against an individual. Obviously, these Council Members are so brazen that they are willing to risk their own records and personal fortunes to encourage employees of the City of Homer to undertake, on their behalf, the destruction of private property.

There are three levels of trespass here.

1) violations commonly referred to as; “color of authority” or “color of law” violations where a federal, state or local official uses his appearance of authority to intimidate or otherwise deprive by threat of force the civil right of an individual to the peaceful enjoyment of property;

2) violations of the covenants, which even though they may be reversible, they damage the property by interfering with and depriving the owners of the property the pleasant enjoyment of their property, not to mention the costs of defense against the unlawful intrusion; and

3) criminal destruction of property. My neighbors in Eker Estates have cooperated to number and inventory, with measurement the trees, along Eker Estates so that in the event of destruction of even a single one, the value may be determined as evidence to support complaints of criminal mischief against all involved, no matter whether they surveyed, whether they cut trees, whether they operated other equipment, whether they supervised or whether they became complicit by passing an ordinance that was permissive and falsely conveyed that the City would indemnify the perpetrators of the property destruction.

These trespasses are going to end. The clock has ran. It is time for the Council to take such steps to make sure that this will never happen again. If Council Members believe that any dozen items on their Agenda are more important, they are mistaken and their lack of prompt response will so indicate. If steps are not taken immediately, such as an emergency meeting with executive session to hear and to take seriously the numerous reports of impropriety, the Council Members’ message of indifference and dismissiveness will be heard loud and clear. The lame excuse that the City is getting a new Attorney, no longer causes grant of further delay. The City has now had in place a new attorney for two weeks and yet there is no response.

The only way to solve this so that it never recurs is to remove the source of the lawlessness and bring the full penalty of law on all who have cooperated to accomplish the trespass and threatened destruction of property. Additionally, it is necessary to make this event so expensive for the people involved, that the example of lawlessness is made and remembered no one ever thinks of doing it again.

The owners of Eker Estates hope to hear that the City is willing to adopt this opportunity for a brighter future and a reversal of the economic blight that has come upon many of the businesses within the City. If the Council Members want visitors to return and locate in Homer with year-around employment for Homer citizens, then this is their opportunity to steer the City toward that outcome. As long as Homer continues to make itself known, from Nome to New Jersey, as a place where the local government holds contempt for the Federal Government and even the laws and judiciary of the State of Alaska, people from other locations will not bring year around employment to Homer residents. If better outcomes for Homer citizens are not important, then property owners are forced to take steps to protect their property from the perennial threats of trespass by the City government. The problem here is not the citizens of Homer, it is instead those few individuals that wish to threaten, intimidate and abuse their power as City officials to violate the civil rights of others. These people, including those on the Council will be stopped.

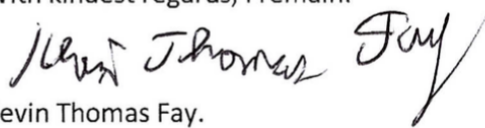
Property owners are not going to continue to leave themselves vulnerable to a corrupt or incompetent City government. If the City Council wishes to continue in indifference and dismissal, then their opportunity to correct this on a local level will pass. The events of the past week have demonstrated to anyone involved and informed that the City Manager and her deputies are defiant law breakers. Within

the past month, Franco Venudi, chair of the Homer Advisory Planning Committee, informed a neighbor: “We (City Planning) make the rules. We never pay attention to covenants. We are just humble public servants who help people. If you wish to talk about covenants, you need an attorney.” This follows a conversation in March where Tom Stroozas told the same neighbor. “We (the City) are not talking about covenants. The City will never recognize your covenants.”

In Summary:

The owners in Eker Estates have now experienced the third attempt of the City Officials to deprive them of their civil right to the peaceful enjoyment of their property by means of threats and intimidation. If the Council continues with its present trajectory, it is unlikely that further charity and forbearance will be granted to those who choose not to reverse their unlawful course.

With kindest regards, I remain:


Kevin Thomas Fay.

From: [Kathryn Carssow](#)
To: [Donna Aderhold](#); [Heath Smith](#); [Tom Stroozas](#); [Shelly Erickson](#); [Caroline Venuti](#); [Rachel Lord](#); [Department Clerk](#)
Subject: Seat Storm Hansen-Cavasos
Date: Sunday, October 13, 2019 1:57:14 PM

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Mayor Castner and Homer City Councilmembers,

I appreciate that you have a lot to do in preparation for Monday's meeting, so I will make this as succinct as I can.

I ask that you certify the municipal election results and seat Storm Hansen-Cavasos.

- The objection of one person ought not interfere with the City Council's obligation to act on the wishes of the voters as expressed in this duly-conducted election.
- The City Council has an obligation to the voters who elected her to presume that Hansen-Cavasos is qualified to hold the seat to which she has been elected unless and until it is proven otherwise.
- Reading the city ordinance criteria for residency, as determined by the criteria for purposes of state voter registration, I cannot imagine any hearsay, observation or assumptions that can prove or disprove a person's intent. An investigation of a person's intent is a fool's mission and waste of taxpayer money for attorney fees and misuse of the city manager's and clerk's time.
- If the City Council does not trust in the Clerk's finding that Hansen-Cavasos was a qualified candidate, as provided for by ordinance, and must have an investigation, that investigation can still be conducted and action can be taken based on its findings at any time. It should not be a means by which the Council delays when we, the voters, are represented on the Council by the person whom we elected.

I find outgoing Councilmember Stroozas's behavior regarding this issue reprehensible. Voters and candidates deserve respect: the time to raise questions of candidates' qualifications is prior to the election, not after, when one has lost. He has slandered Hansen-Cavasos directly and through innuendo in media interviews. This is behavior unbecoming of a member of the Council, even of one who was handily defeated by the person he is slandering. In the KBBI interview he told listeners that he planned to present "evidence" at the City Council meeting. This cannot be allowed. Stroozas has a financial and personal conflict of interest in the Council's action regarding certifying the election and addressing his affidavit. He cannot be impartial and must be prohibited from participating in Council discussion and action on these issues. Given the sensitivity of the matter, he should take leave of the Council Chambers prior to the Council taking up these agenda items.

I also believe Councilmember Erickson should recuse herself from discussing and taking action on certifying the election or responding to the affidavit. She has a conflict of interest in the outcome of both and cannot be impartial. Further, if she has involved herself in any way by consulting with those providing information or by giving input to or by lending support of any kind to the affidavit, she has an obligation to the electorate to reveal such involvement.

With respect,
Kathryn Carssow

Sent from [Mail](#) for Windows 10

From: [Kim Koppen](#)
To: [Department Clerk](#)
Subject: alder mauler
Date: Sunday, October 13, 2019 1:03:09 PM

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Hi,

I'm writing to support the mayor in stopping the cutting/mauling of trees in Homer.

I've been harassed by them every summer since I bought my house in 1996. There was no reason for them to be down there. I maintain the circle myself. Having most of my beautiful trees cut down was awful. My neighbors were afraid of them as a lot of people in Homer are. I was 5000 miles away so there was nothing I could do to stop them. It was also totally unnecessary. I hope the mayors bill passes. Thank you. Kim Koppen

From: [Brian Metz](#)
To: [Mayor Email](#)
Subject: The October 1st election
Date: Sunday, October 13, 2019 10:26:57 PM

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The city statute on residency requirements to run or serve on the city council must be followed. This situation needs to be investigated and the proper actions taken to bring it into compliance with existing law.

Sent from my iPhone

From: [Brian Metz](#)
To: [Department Clerk](#)
Subject: The October 1st, 2019 election
Date: Sunday, October 13, 2019 10:22:46 PM

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The residency rules for city council members must be followed. This matter needs to be investigated and the appropriate actions taken .

Sent from my iPhone

From: [Susan Cushing](#)
To: [Melissa Jacobsen](#)
Subject: Honor City of Homer Election Codes
Date: Monday, October 14, 2019 9:12:34 AM

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Dear Ms. Jacobsen,

Please distribute my email to City Council members for their packets.

As a City resident and Super Voter, please honor City of Homer Election results, per Code.

Both candidates with the highest votes should be seated at the Council table. Any "investigation" into residency validation should be conducted by City Clerk, City Attorney, and City Manager, after seating both new top vote-getters.

Thank you for your service,

Susan Phillips Cushing
1423 Bay Ave
Homer, AK 99603

From: [Ronald Keffer](#)
To: [Department Clerk](#)
Subject: Steps that MUST be taken.
Date: Sunday, October 13, 2019 11:04:00 PM

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To all Homer City Council members,

At Monday evening's council session, I urge you to certify the results of the 1 October election and to seat both Joey Evensen and Storm Hansen-Cavasos. *After a careful reading of the code of the City of Homer, I conclude that you must do that.* Please note this reference to the Homer City Code:

4.35.040 Certification of election.

The Council shall certify the results of the election at the next regular Council meeting following completion of the canvass by the Canvass Board. [Ord. [16-01\(A\)\(S\)](#) § 6, 2016].

This section of code is explicit, saying the council "shall" certify the election results at the next regular council meeting. It's not a matter of choice. *The point is that by this code section the council is forced to recognize the will of the voters.*

The vote totals of the election of 1 October are not in question. Those totals express the will of the voters quite clearly. That must be certified and the democratic process must be honored.

Tom Stroozas has filed a contest of the election. This in no way impairs the seating of both of the winners in this election, and there is no code that says it does impair their being seated. Joey Evensen must be seated and Storm Hansen-Cavasos must be seated. Stroozas's contest then may take its course. The contest process also is set out in code, and it must be followed. Any changes in the process will have to be made at a later date. Otherwise, council will be moving into *ex post facto* territory, which is fraught and is basically forbidden.

If the contest process results in a vacancy on council, then council must fill the vacancy by appointment as prescribed in code for occasions when someone resigns, is deceased, or vacates the office in some other unforeseen circumstance.

However pleased or displeased anyone is with the election is irrelevant. This is not a political decision: Code must be followed or the council is moving down the road toward capricious election nullification. It is impossible to overstate the seriousness and danger of that step. *In a practical sense, the dollar cost to the city and its citizens ultimately would be extremely large.* Nullification could not be left unchallenged by the voters whose votes have not been acknowledged and whose decisions have been disregarded.

If the current situation seems difficult and confusing, please realize that the outcome of election nullification in any of the forms I have heard people contemplating would be horrific,

to say nothing of being absolutely incorrect in law and terribly wrong ethically. The simple and proper step to ease the way forward and to reduce confusion is to follow city code.

Thank you for your kind attention.

Ron

Ron Keffer
189 Island View Court
Homer, Alaska 99603
H: 907-235-8293
C: 907-299-0821
ron.keffer01@gmail.com

From: [Susan McLane](#)
To: [Shelly Erickson](#); [Tom Stroozas](#); [Heath Smith](#); [AAAderhold Donna](#); [Rachel Lord](#); [Caroline Venuti](#); [Department Clerk](#)
Subject: Election and meeting 10/14/19
Date: Monday, October 14, 2019 9:33:19 AM

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Council persons, first let me express my appreciation to all the council persons, incumbent and those leaving, for your dedication and service to our community.

Next, since the recent election there has been much discussion regarding the residency of one of the newly elected council persons and possible resolutions to this. I dare say that most of this discussion is and has been flawed and inaccurate. At tonight's meeting the city codes are quite clear that the newly elected persons **SHALL** be seated. If there are any issues raised subsequently the city code is also clear as to what steps to follow.

I certainly expect that all of the council members will adhere to the city codes and a smooth transition will occur.

Thank you again for your time and dedication,

Hal Smith

From: [Marianne Schlegelmilch](#)
To: [Department Clerk](#)
Subject: for Homer City Council public record
Date: Friday, October 11, 2019 2:46:43 PM

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Dear Homer City Clerk,
Please admit this to any testimony at the next city council meeting.
Thanks,
Marianne and Bill Schlegelmilch
Homer citizens

Dear Homer City Council,
We have seen considerable discussion online and in the news about the possibility that a newly elected member to the Homer City Council may not—either by misunderstanding or intentionally—have met the residency requirement for running for office as stated within current city code.
We believe the integrity of our election system is sacred and thus would like to state our feeling that any potential for error—intentionally or unintentionally—should be investigated and clarified for the reassurance of the entire community and for the candidate in question, no matter which political affiliation they subscribe to.
Failure to do so will hurt the integrity of both the candidate and the city itself and official clarification should dispel any questions out there about this election so our elected and city officials can get on with their jobs minus the distraction of having this issue potentially inadequately addressed.
Sincerely,

Marianne and Bill Schlegelmilch, registered voters
4470 Kachemak Way
Homer, Alaska

From: [Anne Wieland](#)
To: [Department Clerk](#)
Subject: City Council Election
Date: Monday, October 14, 2019 5:29:47 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

The City Council must follow the code and seat Joey Evensen and Storm Hansen-Cavazos because they got the most votes. Councilman Tom Stroozas is out of order.
Anne Wieland
Homer

From: [Clyde Boyer and Vivian Finlay](#)
To: [Department Clerk](#)
Subject: Letter to Homer City Council members
Date: Sunday, October 13, 2019 3:57:50 PM

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Dear City Clerk Jacobson,

This letter is for all the City Council members and we appreciate you forwarding it to each of them.

We support Resolution 19-074. We voted for the winning candidates in this recent election, and we want those candidates to be seated on the Council so that our votes matter. It is not appropriate to investigate the residency of one of the candidates who won the election, Ms. Storm Hansen-Cavasos, BEFORE she is seated on the Council. She won the election. If she is NOT seated until there is an investigation, then those who voted for her will not have their votes count.

The time to question Ms. Storm's residency was before the election, not now when the Council should be certifying the election and the newly elected members are to be installed.

Furthermore, Council member Stroozas should not be permitted to vote for or against an investigation of Ms. Hansen-Cavasos' residency at this or any future Council meetings. He is in a conflict of interest situation.

Thank you.

Vivian Finlay and Clyde Boyer

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