

# Permanent Fund Committee

Thursday  
APRIL 11, 2013



**Special Meeting 5:15 pm**  
City Hall ♦ Cowles Council Chambers  
491 E Pioneer Ave ♦ Homer, Alaska





PERMANENT FUND COMMITTEE  
491 E. PIONEER AVENUE  
HOMER, ALASKA

APRIL 11, 2013  
THURSDAY, 5:15 P.M.  
COWLES COUNCIL CHAMBERS

**NOTICE OF MEETING  
SPECIAL MEETING AGENDA**

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA**
- 4. APPROVAL OF MINUTES**
  - A. Synopsis of Regular Meeting of February 14, 2013 Page 5
- 5. VISITORS**
- 6. STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS**
- 7. PUBLIC HEARING**
- 8. PENDING BUSINESS**
- 9. NEW BUSINESS**
  - A. Review of Homer City Code 3.12 and Ordinance 13-06, Investment Policies of the Permanent Fund Page 9
- 10. INFORMATIONAL MATERIALS**
- 11. COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)**
- 12. COMMENTS OF THE CITY STAFF**
- 13. COMMENTS OF THE COUNCILMEMBER**
- 14. COMMENTS OF THE CHAIR**
- 15. COMMENTS OF THE COMMISSION**
- 16. ADJOURNMENT/NEXT REGULAR MEETING** is scheduled for Thursday, May 9, 2013 at 5:15 p.m. in the Homer City Hall Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.



Session 13-01 a Regular Meeting of the Permanent Fund Committee was called to order on February 14, 2013 at 5:17 p.m. by Acting Chair Jo Johnson at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**PRESENT:** COMMITTEE MEMBERS: FRANCIE ROBERTS, MATT NORTH, REGINA MAURAS, JO JOHNSON

**ABSENT:** BARBARA HOWARD (excused)

### **APPROVAL OF AGENDA**

MAURAS/ROBERTS - MOVED TO APPROVE THE AGENDA AS PRESENTED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA**

There were no public comments.

### **APPROVAL OF MINUTES**

A. Synopsis of Regular Meeting of November 8, 2012

MAURAS/NORTH - MOVED TO APPROVE THE MINUTES OF NOVEMBER 8<sup>TH</sup>.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **VISITORS**

### **STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS**

Regina Mauras reported the balances of the Permanent Fund ending December 31, 2012: Income - \$596,197 and Growth - \$1,052,951 for a Total of \$1,649,148. The amount excludes the recent allotment to Green Dot.

Another local investor expressed his concerns about how the investments were handled by U.S. Bank. Mrs. Mauras encouraged him to speak to the PFC if he had concerns.

### **PUBLIC HEARING**

## **PENDING BUSINESS**

## **NEW BUSINESS**

- A. Review of Homer City Code 3.12 the Established Investment Policies of the Permanent Fund

The language in HCC 3.12.020(c) may need to be cleared up to exclude other local non-profit organizations and allocate to The Homer Foundation only. The current language reads five percent of funds are available for distribution. It should be interest on five percent of the funds.

MAURAS/ROBERTS – MOVED TO AMEND HCC 3.12.020(A) TO 100%; HCC 3.12.020(C) TO READ: FIVE PERCENT OF THE ELIGIBLE EARNINGS FROM THE PERMANENT FUND AND OTHER WINDFALL MONIES ARE AVAILABLE TO BE APPROPRIATED BY THE CITY COUNCIL FOR GRANTS TO THE HOMER FOUNDATION FOR THE BENEFIT OF THE COMMUNITY.

The five percent of the earnings that were to be distributed will go to The Homer Foundation. Windfall monies may or may not include earnings from the jack-up rig.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Recommendations will be forwarded to City Council by memorandum with an ordinance making the changes.

## **INFORMATIONAL MATERIALS**

- A. U.S. Bank Reports for period ending December 31, 2012

## **COMMENTS OF THE AUDIENCE (3 MINUTE TIME LIMIT)**

There were no comments of the audience.

## **COMMENTS OF THE CITY STAFF**

There were no comments from the staff.

## **COMMENTS OF THE COUNCILMEMBER**

Francie Roberts is glad to be on the committee as she has always been interested in what is done here.

## **COMMENTS OF THE CHAIR**

Acting Chair Johnson stated she misses Barbara and will miss Regina.

## **COMMENTS OF THE COMMISSION**

Matt North commented if there are questions about the statements and the values of the bonds with large premiums we should have someone available to address how premiums work. He is happy to do that.

Francie Roberts requested a brief presentation by Matt North at the next meeting on bonds.

Regina Mauras commented U.S. Bank is to report to us sometime in the year. She has not yet heard from them. In her absence there may or may not be a Finance Director before the May meeting. She suggested an acting Finance Director sit in the seat since it is such a small body.

## **ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 5:32 p.m. The next Regular Meeting is scheduled for Thursday, May 9, 2013 at 5:15 p.m. in the Homer City Hall Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

Submitted by Jo Johnson





CITY OF HOMER  
HOMER, ALASKA

City Clerk/  
Permanent Fund Committee

ORDINANCE 13-06

AN ORDINANCE OF THE HOMER CITY COUNCIL,  
AMENDING HCC 3.12.020 PERMANENT FUND  
CONTRIBUTIONS, AND HCC 3.12.060 EXPENDITURES OF  
INCOME, TO PROVIDE THAT FIVE PERCENT OF INCOME  
FROM THE HOMER PERMANENT FUND INCOME SUB-  
FUND IS AVAILABLE TO BE APPROPRIATED FOR  
GRANTS TO THE HOMER FOUNDATION FOR THE  
BENEFIT OF THE COMMUNITY.

THE CITY OF HOMER HEREBY ORDAINS:

Section 1. HCC 3.12.020, Contributions, is amended to read as follows:

3.12.020 Contributions. a. If monies from the distribution of the Exxon Valdez settlement or other forms of "wind-fall" monies become available to the City, 95% 100% of such funds shall be placed in the Homer Permanent Fund.

b. "Wind-fall monies" shall be defined as any new monies received by the City from any source other than standard budgeted operating revenues and not allocated to any specific purpose. "Wind-fall monies" do not include bond proceeds, grant funds allocated to a specified purpose, or the proceeds of non-Exxon Valdez litigation when such proceeds are recovered as damages to compensate or reimburse the city for expenditures previously made by the city. In all cases, the City Council's determination of whether monies are "wind-fall" is final and conclusive.

~~e. The remaining five percent of Exxon Valdez settlement funds and other wind fall monies are available to be appropriated by the City Council for grants to the Homer Foundation or other local non-profit organizations for the benefit of the community.~~

Section 2. HCC 3.12.060, Expenditures of income, is amended to read as follows:

3.12.060 Expenditures of income. a. Expenditures of Permanent Fund income may be made only as authorized in this chapter.

~~b. The income from the income sub-fund may be appropriated by the City Council and be expended for general governmental purposes, including but not limited to ordinary operating expenses.~~ Five percent of the income from the income sub-fund is available to be appropriated by the City Council for grants to the Homer Foundation for the benefit of the community. The remainder of the income from the income sub-fund may be appropriated by the City Council and be expended for general governmental purposes, including but not limited to ordinary operating expenses.

c. The income from the growth sub-fund shall not be expended. It shall be added to the principal of the growth sub-fund and reinvested.

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

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF HOMER

\_\_\_\_\_  
MARY E. WYTHER, MAYOR

ATTEST:

\_\_\_\_\_  
JO JOHNSON, CMC, CITY CLERK

AYES:

NOES:

ABSTAIN:

ABSENT:

First Reading:

Public Reading:

Second Reading:

Effective Date:

Reviewed and approved as to form:

\_\_\_\_\_  
Walt Wrede, City Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

# Office of the City Clerk


Jo Johnson, CMC, City Clerk  
Melissa Jacobsen, CMC, Deputy City Clerk II  
Renee Krause, CMC, Deputy City Clerk I



491 E. Pioneer Avenue  
Homer, Alaska 99603  
(907) 235-3130  
(907) 235-8121  
ext: 2224, 2226, or 2227  
Fax: (907) 235-3143  
Email: clerk@ci.homer.ak.us

## MEMORANDUM 13-036

**TO:** MAYOR WYTHE AND CITY COUNCIL

**FROM:** JO JOHNSON, CMC, CITY CLERK & COMMITTEE MEMBER 

**DATE:** MARCH 5, 2013

**SUBJECT:** AMENDMENTS TO THE DISTRIBUTION PROVISIONS OF THE PERMANENT FUND

The Permanent Fund Committee is tasked with review of the established investment policies of the Permanent Fund each year. At their February meeting the committee made the review and recommended an amendment to the language for the five percent of funds allocated to non-profits.

The committee recommended clarifying the language of the five percent distribution of the eligible earnings from the income sub-fund. Additionally, they recommended The Homer Foundation be the sole recipient of those funds for distribution. The committee felt that distributing the eligible earnings solely to The Homer Foundation would be a better means of ensuring the funds were used for the benefit of the entire community.

### RECOMMENDATION:

Adopt Ordinance 13-06 with the amendments as proposed by the Permanent Fund Committee.



on their websites. There is a sizeable movement of energetic young people to Homer in the summer.

4. Parks and Recreation Advisory Commission
5. Port and Harbor Advisory Commission

## **PUBLIC HEARING(S)**

## **ORDINANCE(S)**

- A. **Ordinance 13-06**, An Ordinance of the Homer City Council, Amending HCC 3.12.020 Permanent Fund Contributions, and HCC 3.12.060 Expenditures of Income, to Provide that Five Percent of Income from the Homer Permanent Fund Income Sub-Fund is Available to be Appropriated for Grants to The Homer Foundation for the Benefit of the Community. City Clerk/Permanent Fund Committee. Recommended dates: Introduction March 11, 2013, Public Hearing and Second Reading March 26, 2013.

Memorandum 13-036 from Permanent Fund Committee as backup.

Mayor Wythe called for a motion for the adoption of Ordinance 13-06 for introduction and first reading by reading of title only.

ROBERTS/LEWIS - SO MOVED.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ROBERTS/LEWIS - MOVED TO POSTPONE ORDINANCE 13-06 TO THE FIRST MEETING IN APRIL AND RETURN TO THE PERMANENT FUND COMMITTEE FOR REVIEW.

HOWARD/ROBERTS – MOVED FOR A FRIENDLY AMENDMENT TO MAKE IT THE SECOND MEETING IN APRIL.

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

Motion carried.

## Jo Johnson

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**From:** Laurie Moore  
**Sent:** Thursday, March 14, 2013 2:38 PM  
**To:** Jo Johnson  
**Subject:** Permanent Fund

Hi Jo,

This is what I see from looking at the financial records and reading the HCC 3.12 Permanent Fund section pertaining to the original \$1,151,270.64 from the Exxon-Valdez settlement back in 2010.

Right now the permanent fund is split (40/60) between two sub-funds, a growth, and an income. I think the reason for not breaking the 5% out for non-profits is that 5% (\$57,563.54) would not earn very much interest. The money is earning a larger rate of return being included with all the money, then appropriating 5% of the total interest earned.

I have Regina's calculations. She calculated 5% on the total earnings from 2010 (when the accounts were set up through 12/31/11). That amount is what she reported (\$3,554.79) to council.

The transfer for the \$3,554.79 from US Bank to Wells Fargo went through this week. Today I typed up a check request for Walt's signature. The check will be in the check run next Friday, March 22, 2013.

Laurie

*Laurie Moore*  
Accounting Supervisor  
City of Homer, Alaska  
Ph - 1-907-435-3113  
E-mail - [lmoores@ci.homer.ak.us](mailto:lmoores@ci.homer.ak.us)  
Fax - 1-907-235-3140

"It is our responsibilities, not ourselves, that we should take seriously."

Peter Ustinov  
British actor and writer

Notice: Emails to and from this address are subject to disclosure under the Alaska public records law

VOTE: YES: NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mayor called for a recess at 8:24 p.m., reconvening the meeting at 8:31 p.m.

**ORDINANCE(S)**

Amend  
HCC 3.05  
Permanent  
Fund

A. **Ordinance 05-14(A)**, Of the City Council of the City of Homer, Alaska Amending Homer City Code Chapter 3.05, Budget to Add a New Section 3.05.046, General Permanent Fund. Wythe. (First Reading May 24, 2005, Public Hearing on June 13, 2005, Second Reading June 27, 2005 amended and deferred/moved to July 25, 2005, Referred to Six-Month Committee. **Main Motion is on the floor as amended and referred to Committee on July 25, 2005. Committee Recommendations for November 14, 2005 as seen in Substitute, Postponed on November 14th, to December 12, 2005 to revise the Committee Substitute Main Motion as amended is back on the floor as postponed on December 12, 2005.)**

Amend  
HCC 3.12  
Permanent  
Fund

A.1. **Ordinance 05-14(A)(S)**, Of the City Council of the City of Homer, Alaska, Amending Homer City Code, to add a new Chapter 3.12, To Establish and Govern a Permanent Fund, and Amending Homer City Code Chapter 3.10, Investment and Collateralization of Public Funds to Add a New Section, 3.10.130 Relating to the Permanent Funds. Permanent Fund Committee with City Attorney revision. (Public Hearing November 14, 2005.)

Amend  
HCC 3.12  
Permanent  
Fund

A.2. **Ordinance 05-14(S)**, Of the City Council of the City of Homer, Alaska, Amending Homer City Code to Add a New Chapter 3.12 to Establish and Govern a Permanent Fund, and Amending Homer City Code Chapter 3.10, Investment and Collateralization of Public Funds to Add a New Section 3.10.130, Relating to the Permanent Fund. PFC and City Attorney. **(Recommend adopt this Ordinance)**

**Main Motion as amended is back on the floor:** WYTHE/YOURKOWSKI - MOVED FOR THE ADOPTION OF ORDINANCE 05-14(A) BY READING OF TITLE ONLY FOR SECOND AND FINAL READING. STARK/MOVED TO AMEND ORDINANCE 05-14(A) TO REPLACE WITH ORDINANCE 05-14(A)(S) AS READ.

WYTHE/NOVAK - MOTION TO AMEND ORDINANCE 05-14(A)(S) TO SUBSTITUTE ORDINANCE 05-14(S), WHICH IS A COMPLETE SUBSTITUTION.

There was no discussion.

VOTE: (primary amendment to substitute Ordinance 05-14(S)) YES: NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Wythe encouraged the Council to support this Ordinance that has been worked on for about a year. She noted that the committee did a lot of work on the Ordinance and that in the packet there is a really good diagram schematic, page 197 of the packet, that City Attorney Tans put together. She elucidated the process if there were wind fall funds:

- 5% would be dropped into a non profit investment funds such as the City fund at the Homer

Foundation.

- Remaining 95% would be put into a fund, which would become the Permanent Fund. Permanent Fund
- From the Permanent Fund the investment of that portion would be divided - 40% into equities to generate continuous support income for the basis of the fund the remaining 60% would be placed into bonds and fixed income proceeds.
- The proceeds to generate income that would be distributed into the general fund for the purposes of helping to support the balance.
- Income goes to the general operating expense of the City.
- Core of 60%, principal of that 60%, could also be available for the purpose of supplying loan funds to City projects.

She noted that this then builds a nice core and basis for long term financial benefit to the City of Homer and its residents.

Discussion about 5% that goes to the non profits, that perhaps this is a little excessive.

STARK/SHADLE - MOVE TO AMEND TO CHANGE IN 3.12.020 95% TO 99%.

There was some discussion. Should there be a cap rather than a percentage. The Permanent Fund Committee spent a great deal of time discussing the percentages. The 5% provides for benefit to the community. This would assist the City with funding non profits. Pros and cons were discussed. This would go to an investment fund of the Homer Foundation nature. The Committee was not looking at the non profits that currently hold a line item in the budget, but were considering things like the skating rink, the community schools issue, etc. This would provide a separate funding mechanism for some of the lesser non profits, but would not eliminate some of the larger non profits that the City funds via line item such as the Pratt Museum.

VOTE:(primary amendment 2) YES: STARK.

NO: WYTHE, SHADLE, NOVAK, HEIMBUCH, McLAY.

Motion failed.

STARK/SHADLE - MOVED TO AMEND AT THE END OF LINE 50, AFTER ALLOCATED TO A SPECIFIC PURPOSE AND ADD, STATE REVENUE SHARING, COMMUNITY DIVIDEND, OR OTHER SIMILAR FUNDS.

There was some discussion. Revenue sharing and community dividend funds are not considered windfall monies. When funds such as these are provided they are provided for the general fund of the community and are specific allocations. Funds allocated for the purpose of community support items are designated funds and not windfall monies. The Ordinance states, Funds not allocated for a specific purpose. The question was asked if the Council is prohibited from adding monies to the Permanent Fund. The answer is no, there is a provision for the Council to add monies to the Permanent Fund, see line 63 on 3.12.040.

VOTE: (primary amendment 3.) YES: STARK.

NO: McLAY, WYTHE, SHADLE, NOVAK, HEIMBUCH.

Motion failed.

There was no further discussion.



VOTE:(main amended motion) YES: STARK, NOVAK, HEIMBUCH, McLAY, WYTHE, SHADLE.

Motion carried.

Amend  
Chapter  
21.68 -  
Appeals

B. **Ordinance 05-17(A)**, Of the City Council Amending Homer City Code Chapter 21.68, Concerning Appeals Under the Homer Zoning Code and Enacting Section 21.30.030 to Authorize Setting Zoning Fees by Resolution. (First Reading October 10, 2005 and forwarded to the Planning Commission for Review and Public Hearing, Public Hearing November 14, 2005, **Second Reading November 28, 2005 postponed to December 12, 2005 Main Motion as amended is back on the floor as postponed on December 12, 2005, further postponed on January 9, 2006 to January 23, 2006.**)

B. 1. **Ordinance 05-17(S)**, Of the City Council Amending Homer City Code Chapter 21.68, Concerning Appeals Under the Homer Zoning Code and Enacting Section 21.30.030 to Authorize Setting Zoning Fees by Resolution. Includes City Attorney Suggestions.

**Main motion as amended is back on the floor as postponed on November 28, 2005 for the City Attorney to review the amendments.** McLAY/WYTHE - SO MOVED FOR THE ADOPTION OF ORDINANCE 05-17 FOR SECOND AND FINAL READING BY READING OF TITLE ONLY. STARK/SHADLE - MOVED TO AMEND LINE 102 PAGE 123 TO ADD, 4. GRANT OR DENIAL OF A CONDITIONAL FENCE PERMIT. (Per suggestion of the City Attorney in his memo to Council and then renumber rest. 4 to 5 and 5 to 6.) WYTHE/McLAY - MOVED TO AMEND LINES 87 AND 88 TO INCLUDE "APPROVAL OR DENIAL", INSTEAD OF JUST BEING FOR THE DENIAL THAT IT WOULD INCLUDE THE APPROVAL OF THE PERMIT ALSO (21.68.015 1. and 2. of a zoning permit, of a sign permit.) WYTHE/NOVAK - I WOULD MAKE A SECOND AMENDMENT ON LINES 81 AND LINES 95 TO STRIKE TO STRIKE THE WORD "ONLY". HEIMBUCH/McLAY - LIKE TO OFFER THE FOLLOWING AMENDMENT ON PAGE 125 TO BE INSERTED AT THE LINE 160 ADDING A FOURTH NUMBER TO THOSE PEOPLE DESCRIBED IN 21.68.020 WHO MAY APPEAL, 4. WOULD READ: ANY PERSON WHO OBTAINS THE SIGNATURES OF THREE AGGRIEVED PEOPLE AS DEFINED IN SECTION C. OF 21.68.020 AND ADDING A FIFTH NUMBER, NUMBER 5. ANY PERSON PAYING A FEE OF \$750 SUBJECT TO REFUND IF THE APPELLANT IS SUCCESSFUL ON ANY ASPECT OF APPEAL.

WYTHE/NOVAK - MOVED TO AMEND ORDINANCE 05-17(A) TO SUBSTITUTE ORDINANCE 05-17(S).

There was discussion primarily about the public testimony, about standing, and about who may file an appeal. It is understood that renters are included and it is not just property owners. The Ordinance actually loosens up standing. It used to be that an appellee had to be a property owner within 300 feet or some place close to where the zoning decision was made. Now an appellee only has to be a person aggrieved. There is a provision in the Ordinance for people to participate by proxy, so only one signature is required.

VOTE: (primary amendment 1.) YES: NOVAK, HEIMBUCH, McLAY, WYTHE, SHADLE, STARK.

Motion carried.



**Mary Calhoun**

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**From:** BJWYTHE [mewjcw@acsalaska.net]  
**Sent:** Tuesday, January 03, 2006 6:05 PM  
**To:** 'Tans, Gordon (Perkins Coie)'  
**Cc:** Mary Calhoun  
**Subject:** RE: another revised perm fund ord

Thanks for the terminology review. I have never really understood that one. That said, I think we are on the same page and I would call it good to go to Mary.

Thanks again for all your help. Hopefully we can get it done this time.

Beth

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**From:** Tans, Gordon (Perkins Coie) [mailto:GTans@perkinscoie.com]  
**Sent:** Tuesday, January 03, 2006 9:18 AM  
**To:** BJWYTHE  
**Cc:** clerk@ci.homer.ak.us; wwrede@ci.homer.ak.us  
**Subject:** RE: another revised perm fund ord

Beth,

The additional whereas clauses pose no problem and can be inserted in the appropriate place.

As to use of the term "bonding" -- I purposely did not use the term because it is a legal term of art that refers to the highly technical and formalized process that occurs when a city borrows from a third-party lender who often (not always) seeks tax-exempt status for the the interest income it receives from the city. Bond underwriters, bond counsel, bond ordinances and resolutions, and often bond elections are required.

Most of this formality is not going to be required for the kind of intra-City inter-fund lending that is referred to in this ordinance. It is best not to confuse the two by using "bond" language in reference to these in-house loans.

*Gordon Tans*

gtans@perkinscoie.com  
Anchorage, Alaska

-----Original Message-----

**From:** BJWYTHE [mailto:mewjcw@acsalaska.net]  
**Sent:** Monday, January 02, 2006 10:04 PM  
**To:** Tans, Gordon (Perkins Coie)  
**Subject:** RE: another revised perm fund ord

Gordon,

Sorry to be so long in replying. I would like to add a couple of more WHEREAS statements.

WHEREAS, The City Council appointed a Permanent Fund Committee (PFC) for the purpose of reviewing this ordinance and developing recommendations regarding the implementation of a Permanent Fund; and

WHEREAS, The PFC held several meetings for these purposes, all of which were duly noticed and open to for public participation; and

I would place these between the WHEREAS regarding the requirement for voting on expenditure of the funds and your first WHEREAS regarding the committee.

Should the segment on "Loans from income sub-fund" specify "bonding"? The discussion of the committee was that funds would be made available for "bonding". I don't know if the terms are mutually inclusive.

Thanks for your diligence on this project. I know we have had you hopping with much larger issues, but I think getting this in place may be a good thing for our financial future.

Beth

---

**From:** Tans, Gordon (Perkins Coie) [mailto:GTans@perkinscoie.com]  
**Sent:** Tuesday, December 20, 2005 5:00 PM  
**To:** mewjcw@acsalaska.net  
**Cc:** wwrede@ci.homer.ak.us; clerk@ci.homer.ak.us  
**Subject:** another revised perm fund ord

Beth,

Thinking I finally understand the plan and the diagram flow-chart I sent earlier today is accurate, I undertook to rewrite the ordinance.

In order to make it readable, I wrote this as a complete substitute -- it does not show any revisions from previous versions. And because it is substantially different in a number of respects, it doesn't really make a lot of sense to compare it to previous versions.

So, be careful to read the whole thing through. I made numerous changes in all sections of the ordinance.

Finally I think I am getting close to what you and the committee were after. Let me know how close I came!

Gordon Tans  
Perkins Coie LLP  
1029 W. Third Ave. #300  
Anchorage, Alaska 99501

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907.279.8561  
fax 907.276.3108

<<AA053120.024.DOC>>

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

## Mary Calhoun

---

**From:** J & B Wythe [mewjcw@acsalaska.net]  
**Sent:** Monday, January 03, 2005 6:26 PM  
**To:** 'Mary Calhoun'  
**Subject:** RE: ORDINANCE REGARDING INVESTMENT OF EXXON FUNDS

Mary,

Does this work?

3.05.0## General Permanent Fund. a. At any point in time that funds become available from the distribution of the Exxon Valdez settlement, or other forms of "wind-fall", there shall be established a General Permanent Fund (Fund).  
b. The Fund shall be invested in such a manner as to provide a secure source of annual revenues.  
c. An amount equal to 96.5% of any revenues derived from the investments in such fund shall become available for inclusion in the annual budget on a 12 month delayed basis. (i.e., funds earned in year A shall be available for inclusion in the budget in year C.)  
d. The retention of 3.5% of the annual earnings and the addition of other "wind-fall" funds is intended to provide a margin of inflation proofing for the principle of the fund.  
e. Under no circumstance shall the principle of the fund be distributed without the approving vote of the preponderance (67%) of the voting electorate.

Beth

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**From:** Mary Calhoun [mailto:clerk@ci.homer.ak.us]  
**Sent:** Monday, January 03, 2005 8:04 AM  
**To:** Mary Wythe  
**Subject:** RE: ORDINANCE REGARDING INVESTMENT OF EXXON FUNDS

Could be an amendment to title 3, similar to what we currently have:

3.05.040 Equipment replacement reserve fund. a. There is established in each fund of the City an equipment replacement reserve fund. The amount of the equipment replacement reserve fund shall be based on the amount necessary to meet future equipment needs projected for all departments within each fund of the City.  
b. Any earnings from investment of monies accumulated in the equipment replacement reserve fund shall accrue to the equipment reserve fund.  
c. At year end, all unexpended and unencumbered appropriations from the reserve fund for equipment purchases shall be lapsed into that reserve fund.  
d. Monies in the reserve fund for equipment replacement shall be available for appropriation and expenditure for equipment replacement, purchase or any other purpose as recommended by the City Manager and authorized by the City Council. (Ord. 93-14 Section 2, 1993)

3.05.043 Health Insurance Reserve Fund. a. There is established in the general fund of the City a health insurance reserve fund. All health insurance claim rebates received shall be appropriated to and deposited in the health insurance reserve fund. The City Council may appropriate additional sums to the fund.  
b. Any earnings from investment of monies accumulated in the health insurance reserve fund shall

accrue to the health insurance reserve fund.

c. At the year end, all unexpended and unencumbered appropriations from the health insurance reserve fund shall be lapsed into that reserve fund.

d. Monies in the health insurance reserve fund shall be available for appropriation and expenditures for health insurance premium increases as recommended by the City Manager and authorized by the City Council. (Ord. 94-5 Section 1, 1994)

If you decide to pursue this, I would recommend that you rough out your idea, staff add our touches and that the City Attorney finish it up.

Mary

-----Original Message-----

**From:** J & B Wythe [mailto:mewjcw@acsalaska.net]

**Sent:** Friday, December 31, 2004 10:14 AM

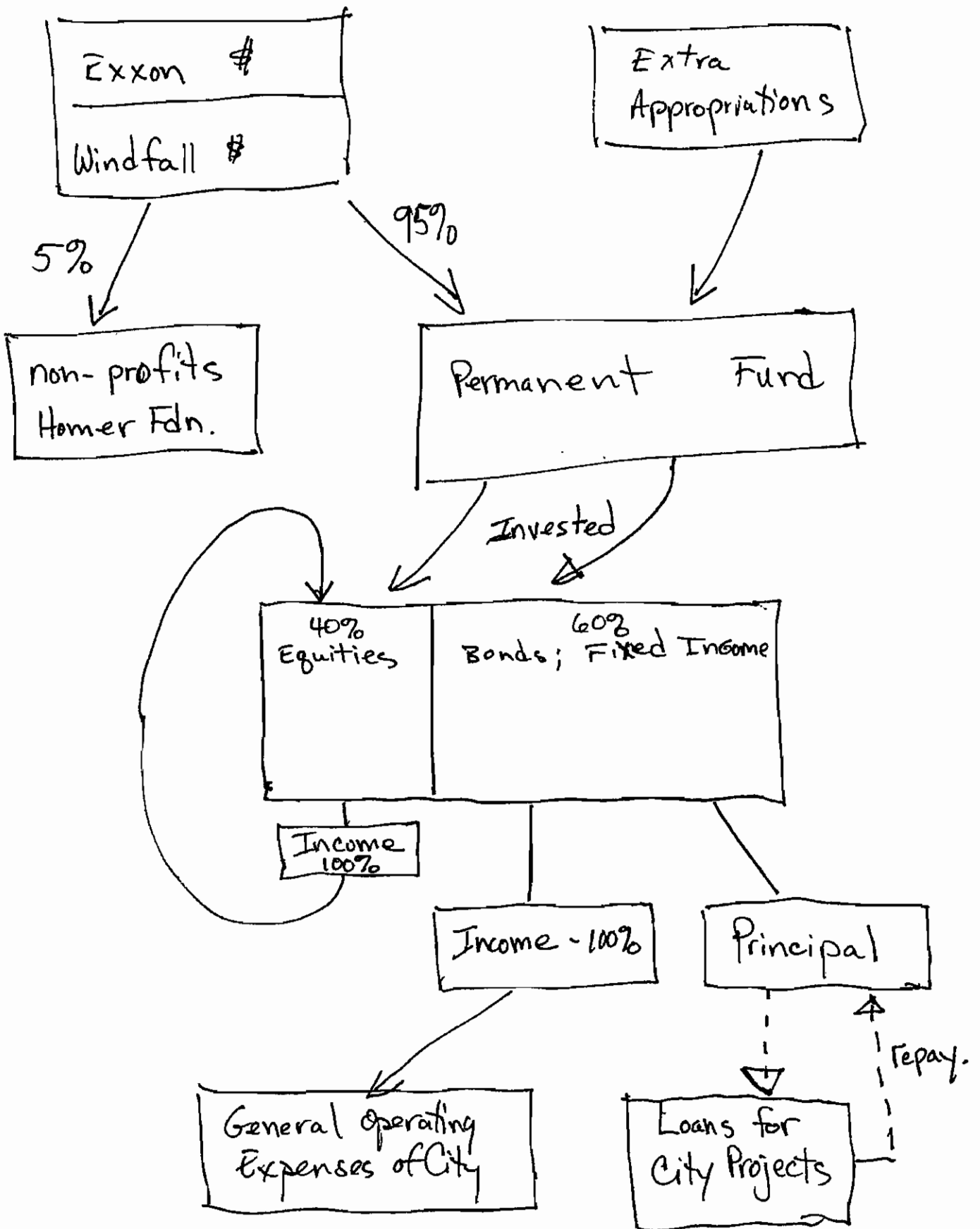
**To:** Mary

**Subject:** ORDINANCE REGARDING INVESTMENT OF EXXON FUNDS

Mary,

How would we go about putting in place an ordinance that would invest any revenues from the Exxon case (not that this will happen in our life-time), into an account something like the permanent fund, allowing for the revenues only to be rolled into the General Fund annually?

Beth







**CITY OF HOMER  
HOMER, ALASKA**

Permanent Fund Committee

**ORDINANCE 05-14(S)**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, AMENDING HOMER CITY CODE TO ADD A NEW CHAPTER 3.12 TO ESTABLISH AND GOVERN A PERMANENT FUND, AND AMENDING HOMER CITY CODE CHAPTER 3.10, INVESTMENT AND COLLATERALIZATION OF PUBLIC FUNDS, TO ADD NEW SECTION 3.10.130 RELATING TO THE PERMANENT FUND.

WHEREAS, It is in the best interest of the Citizens of Homer and the City of Homer to set up a Permanent Fund to address funds received by the City from sources other than budgeted revenue; and

WHEREAS, At any point in time funds may become available from the Exxon Valdez Oil Spill Settlement; and

WHEREAS, These non-budgeted funds may be called "wind-fall" funds; and

WHEREAS, It is in the best interest of the Citizens of Homer and the City of Homer to invest these funds in such a manner as to provide a secure source of annual revenues; and

WHEREAS, The expenditure of these funds should be open to public decision and therefore shall require a vote of the Citizens of Homer; and

WHEREAS, The City Council appointed a Permanent Fund Committee (PFC) for the purpose of reviewing this Ordinance and developing recommendations regarding the implementation of a Permanent Fund; and

WHEREAS, the PFC held several meetings for these purposes, all of which were duly notices and open to and for public participation; and

WHEREAS, The PFC recommends that the earnings of the fund only be used for general operating purposes, that means not capital purposes; and

WHEREAS, The PFC recommends that the corpus of the fund may only be used to support capital projects in the way of a loan and not as a grant; and

WHEREAS, The PFC recommends that the City examine Home Rule, , by which the voters may adopt a home rule charter as the most permanent level of control over local government, and therefore is the mechanism that best assures the permanence of the Fund.

NOW, THEREFORE, THE CITY OF HOMER HEREBY ORDAINS:

Section 1. The Homer City Code is hereby amended by the enactment of new chapter 3.12, entitled "Permanent Fund," to read as follows:

## CHAPTER 3.12

### PERMANENT FUND

**3.12.010 Homer Permanent Fund Established.** There is hereby established the Homer Permanent Fund. The Permanent Fund shall be governed by this chapter.

**3.12.020 Contributions.** a. If monies from the distribution of the Exxon Valdez settlement or other forms of "wind-fall monies" become available to the City, 95% of such funds shall be placed in the Homer Permanent Fund.

b. "Wind-fall monies" shall be defined as any new monies received by the City from any source other than standard budgeted operating revenues and not allocated to any specific purpose. "Wind-fall monies" do not include bond proceeds, grant funds allocated to a specified purpose, or the proceeds of non-Exxon Valdez litigation when such proceeds are recovered as damages to compensate or reimburse the city for expenditures previously made by the city. In all cases, the City Council's determination of whether monies are "wind-fall" is final and conclusive.

c. The remaining five percent of Exxon Valdez settlement funds and other wind-fall monies are available to be appropriated by the City Council for grants to the Homer Foundation or other local non-profit organizations for the benefit of the community.

**3.12.030 Allocation to sub-funds.** When a contribution is made to the Permanent Fund pursuant to HCC 3.12.020, the money received shall be allocated to two sub-funds as follows:

- a. Sixty percent of each contribution shall be allocated to an income sub-fund.
- b. Forty percent of each contribution shall be allocated to a growth sub-fund.

**3.12.040 Additions to fund.** The City Council may elect to contribute a portion of the prior year's General Fund surplus or appropriate other monies to the Permanent Fund. Unless otherwise allocated by the Council, such contributions shall be allocated to sub-funds pursuant to HCC 3.12.030.

**3.12.50 Investment of fund.** The sub-funds of Permanent Fund shall be invested and managed in accordance with HCC 3.10.130.

**3.12.060 Expenditures of income.** a. Expenditures of Permanent Fund income may be made only as authorized in this chapter.

b. The income from the income sub-fund may be appropriated by the City Council and be expended for general governmental purposes, including but not limited to ordinary operating expenses.

c. The income from the growth sub-fund shall not be expended. It shall be added to the principal of the growth sub-fund and reinvested.

**3.12.070 Loans from income sub-fund.** The principal of the income sub-fund may be used as a source of loan funds for city capital projects, and not as a grant. To be eligible for such a loan the project must receive a majority of its funding from other sources. Such loans shall be on terms approved by resolution of the City Council, which must provide for the repayment of the loan over a reasonable period of time.

**3.12.080 Expenditure of principal.** a. Expenditures of Permanent Fund principal may be made only as authorized in this section.

b. Except as a source of loan funds as provided in subsection 3.12.070, the principal of both the income sub-fund and the growth sub-fund shall neither be distributed nor spent without the authorization of sixty percent of city voters at a regular or special election.

c. Prior to submitting to the voters the question of whether to distribute or spend funds from the principal of the Permanent Fund, the City Council shall find that all reasonable options for borrowing have been exhausted, including the option of borrowing from the Homer Permanent Fund pursuant to section 3.12.070.

**Section 2.** Homer City Code Chapter 3.10, Investment and Collateralization of Public Funds, is hereby amended to add new section 3.10.130 Governance of Homer Permanent Fund Assets to read as follows:

**3.10.130 Governance of Homer Permanent Fund Assets.** a. In investing and managing the monies of the Permanent Fund established pursuant to HCC Chapter 3.12, the persons having responsibility for making decisions shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation, but in regard to the long term investment of funds considering the probable safety of capital as well as probable income, in accordance with the stated objectives of the Permanent Fund.

110 Page Four  
111 Ordinance 05-14(S)  
112 City of Homer

113 b. In order to ensure sound investment strategy, the city council will take action in the  
114 following manner:

115 1. The city council shall establish written investment policies by formal resolution  
116 which shall be adhered to without exception;

117 2. The city council shall review the investment policies of the permanent fund at  
118 least once each year during the first quarter and shall, by formal resolution, re-adopt or modify  
119 said policies;

120 3. The city council shall establish, by formal resolution, a plan for the allocation  
121 of investment assets each year that provides for the following:

122 (a) That earnings available for annual appropriation and distribution shall  
123 be confined to the interest, dividends or coupon discounts derived from the investments of the  
124 fund. Realized or unrealized gains to the port folio value are not considered earnings,

125 (b) The portfolio of the growth sub-fund will be invested primarily in  
126 equities, and is exempt from HCC 3.10.040.

127 (c) The portfolio of the income sub-fund will be invested primarily in  
128 bonds and the other fixed rate securities authorized by HCC 3.10.040.

129 (d) The income sub-fund may be used a revolving loan for various city  
130 capital projects as provided in HCC Chapter 3.12.

131 (e) Sets forth portfolio duration, and which establishes performance  
132 benchmarks, and which estimates the percentage or amount of that year's annual earnings that  
133 would be necessary to retain to inflation-proof the fund principal;

134  
135 4. The city council shall establish a permanent fund investment committee  
136 consisting of the finance director, the city clerk, two members of the city council, and two  
137 members of the community at-large. The term of each appointment shall be two years, with  
138 initial terms of the city council members and members at-large staggered so that half of the terms  
139 will expire each year. The committee shall be appointed by the mayor and confirmed by the city  
140 council. The appointment of any city official will automatically terminate on the date when the  
141 person no longer holds such city office. Any city council member or member at-large may be  
142 removed from the committee at any time by the City Council.

143  
144 5. The committee shall meet at least quarterly to provide direction as required for  
145 maintenance of the fund. The committee shall provide regular reports of its activity to the city  
146 council.

147  
148 6. The city administration shall maintain on file within the offices of the Finance  
149 Department monthly reports which indicate transactions affecting the investment account, to  
150 include, at a minimum, transfers of cash into and out of the account, and interest or dividends  
151 received by the account;

Page Five  
Ordinance 05-14(S)  
City of Homer

7. The city administration shall order an objective performance evaluation of the investment program every year;

8. The city administration shall retain one or more bank custodians to hold all investment cash and fixed income securities of the permanent fund and require that the custodians shall render monthly reports to the administration regarding assets held at both book and market values, and individual transactions which have taken place; that the banks shall have adequate fidelity insurance, and that written contracts be entered into between the city and the custodian banks.

c. The city, with the approval of the city council, shall retain one or more professional investment managers to design portfolios and invest funds in accordance with the written investment policies adopted by the city council. The investment managers shall be registered financial advisers with both the United States Securities and Exchange Commission and the state of Alaska, unless otherwise exempt from registration, and the investment managers shall agree to serve as a fiduciary to the city. Each investment manager shall carry professional liability insurance in an amount satisfactory to the city, and the terms of the investment relationship shall be memorialized in a written contract entered into between the city and the respective investment advisers.

Section 3. Sections 1 and 2 of this ordinance are of a permanent and general character and shall be included in the City Code.

Section 4. This section is not of a permanent character and shall not be codified. The City Council acknowledges the recommendation of the Permanent Fund Committee that the Council begin the process of considering changing from a First Class General Law Municipality to a Home Rule Municipality.

ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA this  
23rd day of January, 2006.

CITY OF HOMER

JAMES C. HORNADAY  
JAMES C. HORNADAY, MAYOR

ATTEST:

MARY L. CALHOUN  
MARY L. CALHOUN, CMC, CITY CLERK

193 Page Six  
194 Ordinance 05-14(S)  
195 City of Homer  
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197 Introduction: 05/24/06  
198 Public Hearing: 06/13/05  
199 Second Reading: 06/27/05 to committee on 7/25/05 (amended) 11/14/05, 12/12/05  
200 Effective Date: 01/23/06 - final reading  
201 01/24/06  
202 Ayes: 6  
203 Noes: 0  
204 Abstain: 0  
205 Absent: 0  
206  
207 Reviewed and approved as to form:  
208  
209 Walt E. Wrede  
210 Walt E. Wrede City Manager  
211 Date 1/24/06  
212  
213  
214  
Gordon J. Tans  
Gordon Tans, City Attorney  
1/30/2006  
Fiscal Note: NA.

**MEMORANDUM 05-115**

**TO: MAYOR HORNADAY AND HOMER CITY COUNCIL**

**FROM: COUNCILMAN DOUG STARK**

**DATE: COUNCIL MEETING OF 27 JUNE 2005**

**SUBJECT: AMENDMENT TO ORDINANCE 05-14(A) GENERAL PERMANENT FUND**

The state's Permanent Fund was adopted by vote of the people, as were most municipal permanent funds. It seems proper for Homer to do the same. This is a big addition to the Code and the citizens should have a chance to take ownership. The following paragraph should be added to the ordinance:

Section 2. This ordinance takes effect following ratification by the voters at the next municipal election October 4,2005.

Renumber Section 2 as 3.

**RECOMMENDATION:** Amend the ordinance accordingly.







