



City of Homer

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Memorandum 21-103

TO: MAYOR CASTNER AND HOMER CITY COUNCIL
FROM: MELISSA JACOBSEN, MMC, CITY CLERK
DATE: JUNE 8, 2021
SUBJECT: ORDINANCE 21-29 DESIGNATED SEATS

After Ordinance 21-29 was introduced I did some research on the history of designated seats in Homer because this came forward to Council in 2008. After looking at some of the amendments proposed back then I reached out to the Soldotna City Clerk and asked about their process related to designated seats, primarily to find out what they do in the event someone doesn't file for a particular seat. She explained that hasn't happened, but if it did, they'd declare the seat vacant and Council would appoint someone to serve until the next election. She also shared that with the designated seats in her community the trend seems to be that if the person who's seated is running for re-election, they typically run unopposed, and there isn't a race for a seat unless the a seated council member doesn't file for re-election.

We got curious about how many other communities have designated seats so I email 60 Clerks in our state association and asked the question. 12 responded, six have designated seats at large and six are just elected at large, as we do now. The City Clerk of Valdez shared her perspective:

We just do not have enough people who run for office for this to be fair. Technically, running for a seat would just guarantee someone they would be elected due to the odds they would run unopposed. And, what if you have someone running for a seat who only receives 20 votes? If he runs unopposed does he get the seat on council? Or is there a certain percentage of votes required to be elected? I just believe an open election which allows citizens to select council members at large is a more fair and equitable system. Just my two cents.

Councilmember Lord and I spoke early last week and I shared some of this information. She asked that it and the previous Council's discussion be included for informational purposes.

Attachments:

-Ordinance 08-15(S)

-Minutes excerpts from April 28, May 12, and May 27, 2008

*Failed
5/27/08*

CITY OF HOMER
HOMER, ALASKA

Novak

ORDINANCE 08-15(S)

1 AN ORDINANCE OF THE CITY COUNCIL OF HOMER,
2 ALASKA, AMENDING HOMER CITY CODE CHAPTER 1.24
3 AND TITLE 4 TO PROVIDE FOR THE ELECTION OF CITY
4 COUNCIL MEMBERS TO DESIGNATED SEATS.
5

6 ~~WHEREAS, Currently City Council members are elected at large, but not to designated~~
7 ~~seats; and~~
8

9 ~~WHEREAS, Running for a specific seat narrows the field, allows candidates to select~~
10 ~~their opposition and forces more one on one debate; and~~
11

12 ~~WHEREAS, When candidates select a seat to run for, each seat becomes an election in~~
13 ~~itself, which should sharpen the issues and encourage more people to get involved; and~~
14

15 ~~WHEREAS, The process of electing candidates for a specific seat gives the voters a~~
16 ~~greater sense of empowerment; and~~
17

18 ~~WHEREAS, The City Council finds it to be in the best interests of Homer to elect City~~
19 ~~Council members to designated seats.~~
20

21 WHEREAS, Designated seats divides up the candidates, which encourages one on
22 one debate so that voters have a clearer choice; and
23

24 WHEREAS, Designated seats allows a candidate to pick a different seat than a
25 candidate with whom they share similar philosophy and values; and
26

27 WHEREAS, Designated seats allows the candidate the option of not running
28 against someone who they would like to see stay in office; and
29

30 WHEREAS, Designated seats present a clearer choice for the voters, and make it
31 easier to understand the positions and differences between candidates.
32

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

35 Section 1. Section 1.24.010 of the Homer City Code is hereby repealed.
36

37 ~~1.24.010 Selection of officers. The Mayor and City Council shall be selected as provided for~~
38 ~~under the Statutes of the State of Alaska and the provisions of the City Code.~~
39

40 Section 2. Section 1.24.030 of the Homer City Code is hereby amended to read as
41 follows:
42

43 1.24.030 Composition of governing body--Terms of office.

44 a. The governing body of the City of Homer shall consist of six Councilmembers, two
45 of whom are elected each year and shall serve for a term of three years **and until their**
46 **successors are elected and have qualified. Each Councilmember shall be elected at-large**
47 **to a seat designated as seat A, seat B, seat C, seat D, seat E, or seat F.**

48 b. The Mayor shall be elected for a two-year term.

49 c. Persons so elected to office under this chapter shall take office on the first Monday
50 following certification of the election in which that person was elected. There will be a special
51 meeting, held at the regular time, for the purpose of administering the oath of office to the
52 elected candidates.

53
54 Section 3. Section 4.10.010 of the Homer City Code is hereby amended to read as
55 follows:

56
57 4.10.010 Declaration of Candidacy

58 a. Time. The period for filing declarations of candidacy shall be August 1st through
59 August 15th. Should August 15th fall on a Saturday or Sunday, then candidates shall have until
60 Monday following to file their declarations as provided in the rules of counting time;
61 definitions.

62 b. Notice. At least one week preceding the candidate filing period, the City Clerk shall
63 publish a notice announcing that candidacy declarations are available, naming offices and the
64 terms that are open on the next regular election day. The notice shall include:

- 65 1. Candidate qualifications.
- 66 2. Time for filing declarations.
- 67 3. Where to file declarations.

68 c. Declaration. The City Clerk shall provide a form for declaration purposes which will
69 include candidate's name, residence address, mailing address and telephone number. ~~A;~~ a
70 statement of City residence, voter qualifications and the name of the office and the date of the
71 election to which he declares himself a candidate; the term of office; **the designated seat, if a**
72 **candidate for city council;** and a statement of acceptance of the office if elected; and an
73 acknowledgment of compliance with the State of Alaska Campaign Disclosure Law. The
74 declaration will be signed and dated by the candidate and sealed by a notary. The candidate's
75 name shall be printed as specified on the declaration for candidacy (See ballot form in Section
76 4.15.100 for prohibitions).

77
78 Section 4. Section 4.10.050 of the Homer City Code is hereby amended to read as
79 follows:

80
81 4.10.050 Prohibitions.

82 a. A person may not serve simultaneously **in more than one of the offices of** as
83 Mayor, Councilmember, Commissioner or member of the Library Advisory Board.

84 b. No elected municipal official may hold any other municipal office, or municipal
85 employment or elected position in the state or federal government while in office.

86 c. A person elected or appointed to the office of city mayor or city council member
87 may not be a candidate for another elected city office or for another term for the same city
88 office, except as follows:

89 1. A person holding such city office may be a candidate for election to the same
90 or a different city office during the last year of the person's term of office; and

91 2. A person who resigned from the office of city mayor or city council may be
92 a candidate for the same city office only during or after the last year of the term from which the
93 person resigned; and

94 3. At any time a person may be a candidate for the office of city mayor while
95 simultaneously serving as a city council member, but if elected such person must resign the
96 office of city council prior to assuming the office of mayor.

97 **d. No person may be a candidate for more than one seat on the city council. The**
98 **City Clerk will reject any declaration of candidacy that would cause a person to be in**
99 **violation of this subsection.**

100
101 Section 5. Section 4.15.010 of the Homer City Code is hereby amended to read as
102 follows:

103
104 4.15.010 Ballots--Form.

105 a. Ballots shall be prepared in the manner prescribed for State elections, insofar as such
106 requirements are applicable to nonpartisan elections.

107 b. City of Homer Official ballots shall be white with a narrow trim of green or, in the
108 case of a hand count election or as determined by the City Clerk, green tinted paper. The
109 ballots shall be numbered in series, the number being placed in an area set off by perforations,
110 known as the ballot stub, for ease of removal. At the top of the ballot shall be printed the
111 words: "Official Ballot of the City of Homer, Alaska," the date of the election, and whether it
112 is a regular or special election.

113 c. All candidates for the same office **and seat** shall be shown on one ballot. The title of
114 each office **and seat** to be filled shall be followed by the printed names of all candidates for
115 that office **and seat** and **a blank for a write-in name** ~~the provision shall be made for write-ins~~
116 ~~equal in number to the positions to be filled~~, except there shall be no provision made for write-
117 ins on a runoff election ballot. The names of candidates shall be printed as they appear upon
118 the candidacy declaration forms except that any honorary or assumed title or prefix shall be
119 omitted, but may include in the candidate's name any nickname or familiar form of a proper
120 name of the candidate. The words "Vote for not more than **one**" ~~with the appropriate~~
121 ~~number replacing the blank~~, shall be placed before the lists of candidates for each office.
122 Ballots shall be numbered consecutively and candidate names shall be listed in the order that
123 candidacy declarations are filed.

124 d. Following the offices and candidates, there shall be placed on the ballot or on
125 separate ballots as the Clerk may determine, all propositions or questions to be voted on. The
126 words "YES" and "NO" shall be placed below the statement of each proposition or question.
127 The Clerk shall determine the number of ballots to be used to present all offices, propositions
128 and questions to the qualified voter.

129 e. The clerk shall have printed and available at each polling place on election day and in
130 the Clerk's office preceding the election, the sample ballots on tinted paper, not green tinted,
131 for each election. Instructions to voters may be printed on the back of the sample ballot.

132 f. If the Election Board receives an insufficient number of official ballots, it shall
133 provide and the voters may use a substitute ballot. The Election Board shall certify the facts
134 which prevented the use of the official ballots and materials and shall include the certificate in
135 the election returns.
136

137 Section 6. Section 4.40.010 of the Homer City Code is hereby amended to read as
138 follows:
139

140 4.40.010 Runoff election; required.

141 a. If no City Council candidate receives in excess of forty percent of the votes cast for a
142 respective seat, a runoff election shall be held for that seat. ~~When more than one Council seat~~
143 ~~for the same term is to be filled, total votes cast for a respective seat shall be determined by~~
144 ~~dividing the total number of votes cast for all candidates by the number of seats to be filled.~~

145 b. In the event a runoff is required, the number of two candidates receiving the highest
146 number of votes to ~~provide two candidates for each vacancy~~ for that seat shall be the
147 ~~included in the list of candidates for the runoff election.~~

148 c. If no candidate for the office of Mayor receives forty percent of the votes cast for that
149 office, a runoff election between the two candidates receiving the highest number of votes will
150 be held.
151

152 Section 7. The terms of the incumbent council members are not affected by this
153 ordinance. The incumbent council members are assigned to the seat designations stated in this
154 section. The designated seats, incumbents, and the years of expiration of the current terms are
155 as follows:
156

<u>Seat</u>	<u>Incumbent</u>	<u>Term Ends</u>
A	Michael Heimbuch	2008
B	Matt Shadle	2008
C	Francie Roberts	2009
D	Dennis Novak	2009
E	Mary E. (Beth) Wythe	2010
F	Vacant	2010

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166 Section 8. Sections 1 through 6 of this ordinance are of a permanent nature and shall be
167 included in the City Code. Section 7 is transitional and shall not be included in the City Code.
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169 ENACTED BY THE CITY COUNCIL OF THE CITY OF HOMER, ALASKA, this
170 _____ day of _____, 2008.
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CITY OF HOMER

JAMES C. HORNADAY, 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: _____

Gordon J. Tans, City Attorney

Date: _____

Motion carried.

Councilmember Novak returned to his seat.

- D. **Ordinance 08-15**, An Ordinance Amending Homer City Code Chapter 1.24 and Title 4 to Provide for the Election of City Council Members to Designated Seats. Novak. Recommend Introduction April 28, 2008, Public Hearing and Second Reading May 12, 2008.
- Election Of
City Council
Members To
Designated
Seats

NOVAK/HEIMBUCH - MOVED TO INTRODUCE ORDINANCE 08-15 BY READING OF TITLE.

Councilmember Novak explained seats would have a letter designation and candidates could file for the seat of their choice. Candidates could chose who they want to run with or against. It will provide a mini election for each seat, heightening interest and sharpening issues. It would empower the public to have a selective ability for seats.

Councilmember Wythe noted the assigned seats may restrict voters the ability to select the candidates of their choice. An individual may wish to elect the two candidates that are running against each other, thus eliminating the voters' ability to vote for the second person.

Councilmember Novak explained candidates would have the choice of seats according to their political agenda.

Councilmember Wythe said the election option of the voter supersedes that of the candidates. Voters should be able to elect their representation freely; she favors the voters over the candidates.

Councilmember Howard views the proposed procedure as disenfranchising the voter by complicating the process. It may create a more political arena rather than statesmanship and stewardship of the business of the city. Soldotna and Kenai have the process with a 20-signature petition. She is interested in public input. Clerks work hard to encourage voter and candidate participation. She asked that the Clerk give insight as to the changes to the voting machine recalibration and fiscal impact to the ballot, and provide that information at the next meeting.

Councilmember Heimbuch asked that the ordinance be introduced; debate is healthy.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

- E. **Ordinance 08-16**, An Ordinance of the City Council of Homer, Alaska, To Create a Residency Incentive Credit Program. Heimbuch. Recommend Introduction April 28, 2008, Public Hearing and Second Reading May 12, 2008.
- Residency
Incentive Cr
Program

Mayor Hornaday called for a motion for the introduction of Ordinance 08-16 by reading of title only.

enic Gateway permitted in the GC1 District which is no longer part of the SGC District. Asked what the propriety of holding issuance on a zoning permit pending the whole assessment of the ordinance's impact, City Planner McKibben answered the ordinance does not do very much. It prohibits certain uses in the SGC District; most are not permitted in the underlying districts today. This ordinance and the Community Design Manual have almost no impact on single family development.

Councilmember Heimbuch referenced the corner store at Pioneer Avenue and the Sterling Highway that does watch repair and welding of jewelry. He stated they could not hang the sign out in the GBD. City Planner McKibben answered she would not consider it as welding and repair, as it is a jewelry store. Councilmember Roberts stated her interpretation of mechanical repair is repair of cars, vehicles and large trucks. Councilmember Heimbuch referenced the different businesses, a jewelry store with a trashy place versus a mechanic with a spotless workshop. It is the gorgeousness of the view we are trying to protect.

VOTE: YES. NON OJBECTION. UNANIMOUS CONSENT.

Motion carried.

Councilmember Howard defended her position to vote. Twice she has received notice from the City Attorney her work is legislative and she would be able to vote. She does not support the ordinance, even though the Planning Commission worked long and hard on it. It is not the best legislation the City could pass. Council is in a quandary, not understanding the ordinance as well as they should. When in doubt, the answer is no.

HEIMBUCH/WYTHE - MOVED TO POSTPONE CONSIDERATION OF ORDINANCE 08-12(S)(A) TO THE FIRST MEETING IN OCTOBER.

Councilmember Roberts expressed concern in postponement with the summer season approaching. Councilmember Heimbuch stated he is not willing to see all the work thus far on the ordinance go down the tubes.

VOTE: YES. WYTHE, HOWARD, HEIMBUCH, ROBERTS

Motion carried.

ouncil Member B. **Ordinance 08-15**, An Ordinance Amending Homer City Code Chapter 1.24 and Title 4
esignated to Provide for the Election of City Council Members to Designated Seats. Novak.
ats Election Introduction April 28, 2008, Public Hearing and Second Reading May 12, 2008.

There was no public testimony.

NOVAK/HEIMBUCH – MOVED TO ADOPT ORDINANCE 08-15 BY READING OF TITLE.

Councilmember Novak expounded the reasons behind designated seats. It will make for a more interesting process, as candidates will be competing against each other for one seat. They may

want to sharpen their points and issues. For the next election there are two 3-year seats and one Council Member 2-year seat for Council. A candidate may choose who they are running against, or choose another Designated seat. If two people file for one seat they did it for a reason. It will give candidates the choice. Seats Electio Unlike the HEA Board or KPB Assembly designated seats, you can vote for every seat. It would give the full power of a vote.

Councilmember Howard thanked the Clerk's office for supplying research on the question of increased election costs for designated seats.

Councilmember Wythe voiced opposition to the ordinance, as anything that is done to the ballot to reduce, diminish or eliminate the choice of the electorate is a decision on the voters' behalf. Homer has a very intelligent community that is able to make reasonable choices on their own without half of the choice being predetermined for them. If a candidate has to sharpen their knowledge and terminology to compete against other candidates, they are going to have to work a lot harder. They will have to know everyone's position and address themselves against all candidates. It is not in the best interests of the community as a whole.

Councilmember Roberts stated she has thought about the ordinance after discussion on disenfranchising the voter from the last meeting. Every ballot she has ever voted on has a write-in option, allowing a voter to write someone in for another office. She favors the ordinance.

Councilmember Wythe commented that write-in votes are not looked at, unless it is a very close race. City Clerk Johnson confirmed this.

Discussion ensued on the lack of language to address no candidates filing for open seats. The last two elections of the Hospital Service Area Board required appointments due to lack of candidates.

NOVAK/HOWARD - MOVED TO POSTPONE TO THE NEXT MEETING TO ADDRESS THE ISSUE JUST BROUGHT UP.

There was no discussion.

VOTE: YES. HEIMBUCH, ROBERTS, HOWARD, NOVAK

VOTE: NO. WYTHER, SHADLE

Motion carried.

C. **Ordinance 08-16(S)**, An Ordinance Establishing a Program for Residency Incentive Residency Credit Payments to Adult Residents of the City. Heimbuch. Introduction April 28, 2008, Incentive Public Hearing May 12, 2008 and Second Reading September 8, 2008. Credit Progr

There was no public testimony.

Second and Final Reading scheduled for September 8, 2008.

Tori Lentfer, Parks & Recreation Advisory Commissioner, announced Park Day on August 9th. There will be lots of fun, food, and activities.

PUBLIC
 HEARINGS

PUBLIC HEARING(S)

Alaska Highway
 Safety Program
 Grant

- A. **Ordinance 08-17**, An Ordinance of the City Council of Homer, Alaska, Accepting and Appropriating Alaska Highway Safety Program Grants for Seat Belt Enforcement, DUI Enforcement and Two New Radar Guns and Radar Instructor Training and Authorizing the City Manager to Execute the Appropriate Documents. City Manager/Police Chief. Recommended Dates: Introduction May 12, 2008, Public Hearing and Second Reading May 27, 2008.

Memorandum 08-65 from Police Chief as backup.

There was no public testimony.

Mayor Hornaday called for a motion for the adoption of Ordinance 08-17 by reading of title only for second and final reading.

WYTHE/ROBERTS – SO MOVED.

Councilmember Shadle asked if there were seatbelts on busses and the response was there were not.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

ORDINANCES

ORDINANCE(S)

Electing City A.
 Council Members
 to Designated
 Seats

Ordinance 08-15, An Ordinance Amending Homer City Code Chapter 1.24 and Title 4 to Provide for the Election of City Council Members to Designated Seats. Novak. Introduction April 28, 2008, Public Hearing May 12, 2008 and Second Reading May 27, 2008.

Ordinance 08-15(S), An Ordinance Amending Homer City Code Chapter 1.24 and Title 4 to Provide for the Election of City Council Members to Designated Seats. Novak. Introduction April 28, 2008, Public Hearing May 12, 2008 and Second Reading May 27, 2008.

Memorandum 08-75 from Dennis Novak, Mayor Pro Tempore, as backup.

Motion on the floor from the May 12, 2008 meeting: MOVED TO ADOPT ORDINANCE 08-15 BY READING OF TITLE.

NOVAK/ROBERTS – MOVED TO SUBSTITUTE ORDINANCE 08-15(S) FOR ORDINANCE 08-15.

HOWARD/ROBERTS – MOVED TO OFFER AN AMENDMENT TO 08-15(S) BY ADDING TO THE TITLE: FOR THE 10/07/08 GENERAL MUNICIPAL ELECTION ONLY.

Electing City
 Council Member
 To Designate
 Seats

The amendment would be an opportunity to test the change on a trial basis rather than a permanent process.

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

Motion carried.

WYTHE/HOWARD - MOVED TO AMEND SECTION 8 TO READ: SECTIONS 1 THROUGH 6 OF THIS ORDINANCE ARE OF A TEMPORARY NATURE AND PROVIDE THE WORDING THAT BARB PROVIDED FOR THE TITLE.

Asked if the City Clerk had any input on the amendment, City Clerk Johnson suggested discussing the amendment with the City Attorney.

City Manager Wrede suggested concurring with City Attorney Tans prior to adopting the amendment. Councilmember Howard concurred with the attorney's review of the amendment.

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

Motion carried.

SHADLE/HOWARD - MOVED TO POSTPONE.

Councilmember Novak noted the time frame for Department of Justice approval; the ordinance would need approval tonight to meet the deadline. Discussion of repealing the ordinance ensued.

Councilmember Shadle defended the current system in operation for many years and questioned why a change was needed.

Councilmember Roberts called for a point of order. Motion on the floor is to postpone.

SHADLE/WYTHE – MOVED TO POSTPONE TO THE NEXT MEETING.

There was no discussion.

VOTE: YES. NON OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Council favored making a decision on the ordinance tonight as it affects the October 7th election.

Vote: (postponement as amended) NO. HOWARD, NOVAK, ROBERTS, WYTHE, SHADLE

Motion failed.

Electing City Council Members to Designated Seats
 Councilmember Novak endorses the ordinance as it encourages one on one debate and provides the voters with a clear choice. Sometimes candidates want a different seat, as their philosophical values differ from others. It will give candidates the option of selecting positions, and each candidate must still secure 40% of the votes to win.

Councilmembers Shadle and Wythe expressed their lack of support for the restricted voting, while Councilmember Roberts agreed with the ordinance in the ability to change seats right up to the last minute.

Councilmember Novak indicated it will be a change for the better and the top vote getter will still secure the seat. Instead of one election, there will be an election for each seat. It will create more interest by doing it this way.

Council discussed the legalities of the one year stipulation and potential for repeal.

Councilmember Howard expressed concern with increased chances of run-offs and Council finding itself appointing members. It may become an election officer's nightmare on August 15th at 4:45 p.m. when candidates are switching seats and playing a chess game.

VOTE: (main motion as amended) YES. NOVAK, ROBERTS
 VOTE: NO. WYTHE, SHADLE, HOWARD

Motion failed.

CITY MANAGERS REPORT
CITY MANAGER'S REPORT

A. City Manager's Report

City Manager Wrede announced his mother and niece are visiting and he has been on vacation. Finance Director Regina Harville came through surgery well and is expected to return to work gradually. Chief Robl was successful in recruiting a new police officer, a local man who attended Homer High School. He is Michael Swearingen, a former trooper. The City is stepping up recruitment efforts for local folks and was active at the Job Fair. Having both the experience and dedication, Bryan Hawkins will be promoted to Port and Harbor Director. Six people were interviewed by phone for the City Planner position. Three have already accepted jobs elsewhere. Next week three candidates will be interviewed face to face. The Public Works job was advertised for the second time. Several phone interviews will be conducted next week.

City Manager Wrede expressed his appreciation for discussion at the Committee of the Whole on the wage structure and strategy for recruiting and retention of employees. as well as discussion on roads. A beach sign summit was held most recently. New signs will go up next week. A list of missing signs was made, and some wording was changed to make the new signs easier to understand. A cement base for some signs will be used to make them sturdier. A new kiosk at Mariner Park will be placed; one will be placed later at Bishops Beach. Stouter, piling type poles will be requested next time. There are new officers on beach patrol that will keep an eye on signs. The selection committee met today to look at proposals for the Climate Action Plan.