



MEMORANDUM

Ordinance 24-20, An Ordinance of the City Council of Homer, Alaska, Amending Homer City Code Section 18.08.040 Council approval of leases. Erickson/Hansen.

Item Type: Action Memorandum
Prepared For: Mayor Castner and Homer City Council
Date: April 3, 2024
From: Renee Krause, MMC, Acting City Clerk

Following are memorandums from Port & Harbor staff and Commission and relevant minutes excerpt on the proposed amendments to Homer City Code Chapter 18.08.040 amending the language to have advisory review of proposed leases on the Homer Spit by the Port and Harbor Advisory Commission.

The Port & Harbor Advisory Commission brought this topic forward at their regular meeting on November 8, 2023, Commissioner Shavelson performed amendments to the draft documents and presented the final draft at the regular meeting in January of this year. The Commission has recommended adoption of the proposed amendments. The relevant documents have been provided as backup.

Recommendation

Adopt Ordinance 24-20.

Attachments:

Memorandum PHC-24-001

Memorandum from Commissioner Shavelson re: Property Leasing

Excerpt of the PHC Minutes dated January 24, 2024



ACTION ITEM REPORT

Property Leasing

To: Port and Harbor Advisory Commission
From: Amy Woodruff
Meeting Date: January 24, 2024

Summary Statement:

Commissioner Shavelson has revised his proposed draft ordinance to amend City Lease Code. If the commission makes a motion of support and a councilmember sponsors it, it will be forwarded to the City Manager and the City Attorney for review prior to moving forward to Council. Depending on the duration of that review, it would likely appear on the agenda at the February 26th and March 11th meetings.

Staff Recommendation:

Review the draft ordinance and supporting memorandum. Weigh potential benefits to the City against potential costs to City or Lessee due to a longer timeline for lease approval.

Attachments:

Memorandum from Commissioner Shavelson
Draft Ordinance from Commissioner Shavelson



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Memorandum

To: Port & Harbor Commission & Staff
From: Bob Shavelson
Date: January 2, 2024
Subject: Property Leasing

The Homer City Code rightly recognizes the purpose of the City's leasing program is to "maximize the value of City assets" and to "provide the highest and best use of City-owned property." HCC 18.08.005. Because City leases, including ground leases, can endure for 20-35 years (depending on the lease term and options to renew), it's vital such leases receive adequate scrutiny.

Currently, the Port & Harbor Commission (PHC) does not review final drafts of long-term leases before they go to the City Council for approval; instead, the PHC only reviews a recommendation to lease from the City Manager. While that recommendation is required to contain "the essential terms of the proposed lease," HCC 18.08.070, it does not contain the final lease language, and therefore paints an incomplete picture of the actual lease.

Because the PHC has a specialized knowledge of City-owned property on the Spit, and because close scrutiny should be paid to leases locking-up City property for 20-35 years, it makes sense to run final draft lease language – and not simply the City Manager's less complete recommendation – through the PHC before consideration by the Council.

At its December 13, 2023, meeting, the PHC discussed this proposal, and raised two primary concerns: 1) additional PHC review could delay turn-around times for leasing activities and 2) lease options, renewals and extensions were not covered in the original proposed language.

To address concern 1, the proposal has been modified to allow both the City Council and the City Manager to forego PHC review if they find time is of the essence. To address concern 2, the proposal now includes reference to lease extensions, options to renew and renewals.



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These policy goals can be achieved with the following amendment to the Homer City Code:

Add to the end of HCC 18.08.04(a): “All leases, including but not limited to lease extensions, renewals and options, on the Homer Spit shall be reviewed by the Port & Harbor Commission prior to submission to the Council or the City Manager for approval; the Council and the City Manager may forego this requirement if either finds time is of the essence for the leasing activity.”

Draft Ordinance of the Homer City Council (January 2024)

WHEREAS, the City of Homer owns real property throughout the City, including on the Homer Spit;

WHEREAS, the City-owned property on the Homer Spit represents significant economic and non-economic value for the City and its residents;

WHEREAS, the Homer City Code rightly recognizes the purposes of the City's property leasing program to be to "maximize the value of City assets" and to "provide the highest and best use of City-owned property." HCC 18.08.005;

WHEREAS, to achieve these purposes, and to promote predictability, the City often enters long-term leases which can endure for 20-35 years;

WHEREAS, by virtue of its roles and responsibilities, the Port & Harbor Commission (PHC) has specialized knowledge about City-owned property located on the Homer Spit;

WHEREAS, currently, while the PHC may review recommendations to lease from the City Manager, such recommendations may not provide a complete picture of the proposed lease, and the PHC does not review final draft lease language before it goes to Council or the City Manager for approval;

WHEREAS, it is in the best interests of the City to provide the necessary scrutiny for property leases on the Homer Spit by providing the PHC the opportunity to review final draft lease language before it goes to Council or City Manager for final approval.

NOW, THEREFORE, HOMER CITY CODE IS HEREBY AMENDED TO REFLECT:

Add to the end of HCC 18.08.04 (a): "All leases, including but not limited to lease extensions, renewals and options, on the Homer Spit shall be reviewed by the Port & Harbor Commission prior to submission to the Council or the City Manager for approval; the Council and the City Manager may forego this requirement if either finds time is of the essence for the leasing activity."

7.B. Port & Harbor Staff Report – December 2023

Port Director Hawkins noted the second and final reading of the ordinance pertaining to the City's share of additional funding in the amount of \$266,000, which passed at City Council's meeting on Monday. He added that a resolution was passed requesting the state to match the additional funding. The Kenai Peninsula Borough also passed a resolution to state supporting the increase of their share of the funds for the project.

Other discussion topics included:

- Oil spills in the harbor.
- Property leasing on the Spit.
- Large Vessel Haul Out Facility.
- Cruise Boom Documentary.

7.C. Homer Marine Trades Association (HMTA) Report

8. PUBLIC HEARING(S)

9. PENDING BUSINESS

9.A. Property Leasing

SIEKANIEC/PITZMAN MOVED TO APPROVE COMMISSIONER SHAVELSON'S MEMORANDUM REGARDING PROPERTY LEASING FOR RECOMMENDATION TO CITY COUNCIL.

Mr. Shavelson offered clarification that the end of the proposed changes would include a sentence that reads, "This requirement does not apply to subleases."

There was no further discussion.

Chair Matthews requested a roll-call vote.

VOTE: YES: VELSKO, ZEISET, FRIEND, SIEKANIEC, MATTHEWS, PITZMAN, SHAVELSON, ROGERS.

Motion carried.

10. NEW BUSINESS

10.A. Scheduling Work Session for Port & Harbor Advisory Commission

The Commission agreed to schedule a work session for Tuesday, March 5th at 5:30 p.m.

11. INFORMATIONAL MATERIALS

11.A. Port Operations Report