

Session 21-29 a Special Meeting of the Homer City Council was called to order on November 8, 2021 by Mayor Ken Castner at 4:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS ADERHOLD, DAVIS, ERICKSON, HANSEN-CAVASOS, LORD

ABSENT: COUNCILMEMBER VENUTI (excused)

STAFF: CITY CLERK JACOBSEN
ATTORNEY BRANDT-ERICHSEN

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

Mayor Castner announced the laydown information from Frank Griswold, Appellant including an email advising the Clerk he did not have adequate time to prepare and regarding notice, and a second email requesting supplemental items be included.

LORD/ADERHOLD MOVED TO APPROVE THE AGENDA.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

City Clerk Jacobsen announced for the record that Councilmember Hansen-Cavasos, Attorney Brandt-Erichson, Attorney Holmquist, and City Planner Abboud were in attendance via Zoom.

PENDING BUSINESS

NEW BUSINESS

Parties will be given a total of 10 minutes to comment on the matters below, not 10 minutes per topic, but 10 minutes total time to address both matters.

Prior to taking up the matters, Mayor Castner commented regarding his understanding of the procedure that the Council can act in reaction to a complaint against a pending permit or action. He requested Attorney Brandt-Erichsen provide advice to the Board regarding the necessity to convene the Board of Adjustment (BOA).

Attorney Brandt-Erichsen responded the reason for the Council to meet as BOA and address the pending request would be in order to make a clear record and have a final decision for an aggrieved party to appeal to the Superior Court if they desired.

Board member Lord acknowledged Mr. Griswold's correspondence regarding notice and asked if there was notice that should have been provided.

Attorney Brandt-Erichsen noted the 15 days' notice requirement in code is notice for a hearing, which isn't necessarily controlling in this instance, and an exercise in caution would be to provide 15 days' notice prior to convening. Whether the Court would determine that 12 days' notice is prejudicial is speculative.

City Clerk Jacobsen explained notice was not mailed to neighboring property owners. City Code doesn't give direction on noticing types of matters that go beyond the appeal hearing and final decision. The parties were noticed by email, the BOA meeting was noticed in the newspaper regular meeting notice, and an additional legal ad to notice the BOA would be taking up these matters. She suggested if the BOA deems that to be insufficient the matter can be postponed to December 13th and asked for guidance on noticing.

Board member Lord suggested it would be prudent to postpone and re-notice. At the request of Mayor Castner, City Clerk Jacobsen explained those to be noticed in an appeal hearing for this matter include Mr. Griswold, JDO as attorneys for the City, Melody Livingston, Beachy Construction, and property owners within 300 feet of the proposed action.

LORD/ADERHOLD MOVED TO POSTPONE TO DECEMBER 13TH BOTH ITEMS ON THE AGENDA TODAY, CONSIDERATION OF MOTION FOR LEAVE TO SUPPLEMENT POINTS ON APPEAL TO ADDRESS PLANNING COMMISSION'S DISMISSAL OF APPEAL BY FRANK GRISWOLD, APPELLANT, AND RECOMMENDATION BY THE PLANNING COMMISSION TO DISMISS THE APPEAL OF CONDITIONAL USE PERMIT (CUP) 20-15 FOR THE RECONSTRUCTION OF A RESTAURANT BUILDING AT 106 W. BUNNELL AVENUE, HOMER, ALASKA BASED ON THE APPLICANT'S WITHDRAWAL OF THEIR CUP APPLICATION, TO PROVIDE TIME TO GIVE NOTICE TO THE APPROPRIATE PARTIES.

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

- a. Consideration of Motion for Leave to Supplement Points on Appeal to Address Planning Commission's Dismissal of Appeal by Frank Griswold, Appellant.

Memorandum 21-201 from City Clerk as backup

- b. Recommendation by the Planning Commission to Dismiss the Appeal of Conditional Use Permit (CUP) 20-15 for the Reconstruction of a Restaurant Building at 106 W. Bunnell Avenue, Homer, Alaska based on the Applicant's Withdrawal of their CUP Application.

Memorandum 21-202 from City Clerk as backup

COMMENTS OF THE AUDIENCE

Larry Slone, city resident, commented this seems to be an issue of conflicting sources of jurisdiction or authority between city ordinances and case law. He agrees with Mr. Griswold in that the city ordinances have not been followed as closely as they should have been. There's an area of confusion in that the application has been withdrawn and it makes common sense that the process shouldn't continue on, particularly since there is case law backing up that argument. But the area of confusion in the future it might be wise to clarify what the Planning Commission should do in the future in the event of a case like this with regard to the city ordinances.

ADJOURN

There being no further business to come before the Board, Mayor Castner adjourned the meeting at 4: 20 p.m. The next Regular Meeting is Monday, December 13, 2021 at 6:00 p.m., Committee of the Whole at 5:00 p.m. and a Worksession November 22, 2021. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



Melissa Jacobsen, MMC, City Clerk

Approved: December 13, 2021

Session 21-30 a Regular Meeting of the Homer City Council was called to order on November 8, 2021 by Mayor Ken Castner at 6:00 p.m. at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska, and opened with the Pledge of Allegiance.

PRESENT: COUNCILMEMBERS ADERHOLD, DAVIS, ERICKSON, HANSEN-CAVASOS, LORD, VENUTI

STAFF: CITY MANAGER DUMOUCHEL
CITY CLERK JACOBSEN
FINANCE DIRECTOR WALTON
PORT DIRECTOR HAWKINS
LIBRARY DIRECTOR BERRY
PUBLIC WORKS DIRECTOR KEISER
CITY ATTORNEY GATTI

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

Mayor Castner announced supplemental items to the packet as follows- **CONSENT AGENDA**
Resolution 21-078, A Resolution of the City Council of Homer, Alaska Confirming the Assessment Roll, Establishing Dates for Payment of Special Assessments and Establishing Delinquency, Penalty, and Interest Provisions for the Seawall Improvement Special Assessment District for Armor Rock Toe Improvements. City Clerk. Memorandum 21-203 from Public Works Director as backup;
Resolution 21-079, A Resolution of the City Council of Homer, Alaska Authorizing the City Manager to Apply and Accept a Loan from the State of Alaska Department of Environmental Conservation, Alaska Drinking Water Fund, in an Amount not to Exceed \$86,250 to Finance Costs of the Public Works Department's Computerized Maintenance Management System (CMMS). City Manager/Public Works Director. Amended Memorandum 21-197(A) from Public Works Director as backup;
ANNOUNCEMENTS / PRESENTATIONS / REPORTS Planning Commission Written Report
RESOLUTIONS Resolution 21-082, A Resolution of the City Council of Homer, Alaska Acknowledging the Results of the Invitation to Bid for City Owned Cold Storage Seasonal Rental Units. City Clerk. Resolution 21-082(S), A Resolution of the City Council of Homer, Alaska Acknowledging the Results of the Invitation to Bid for City Owned Cold Storage Seasonal Rental Units. City Clerk. Memorandum 21-198 from Port Director as backup.

LORD/ADERHOLD MOVED TO APPROVE THE AGENDA

There was no discussion.

VOTE: NON OBJECTION: UNANIMOUS CONSENT

Motion carried.

MAYORAL PROCLAMATIONS AND RECOGNITIONS