



Homer City Hall

491 E. Pioneer Avenue

Homer, Alaska 99603

www.cityofhomer-ak.gov

City of Homer Agenda

Port & Harbor Advisory Commission Worksession

Wednesday, March 24, 2021 at 4:30 PM

City Hall Cowles Council Chambers via Zoom Webinar

Webinar ID: 918 5067 6874 Password: 787895

Dial: 346-248-7799 or 669-900-6833; (Toll Free) 888-788-0099 or 877-853-5247

CALL TO ORDER, 4:30 P.M.

AGENDA APPROVAL

PUBLIC COMMENTS UPON MATTERS ALREADY ON THE AGENDA (3 minute time limit)

DISCUSSION TOPIC(S)

A. Advisory Body Training

COMMENTS OF THE AUDIENCE (3 minute time limit)

ADJOURNMENT NO LATER THAN 4:50 P.M.

Next Regular Meeting is **WEDNESDAY, MARCH 24, 2021 at 5:00 P.M.** All meetings scheduled to be held via Zoom Webinar in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.



City of Homer

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Office of the City Clerk

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Memorandum

TO: PORT & HARBOR ADVISORY COMMISSION

FROM: MELISSA JACOBSEN, MMC, CITY CLERK

DATE: MARCH 17, 2021

SUBJECT: ADVISORY BODY TRAINING

THE ALASKA OPEN MEETINGS ACT (OMA) (AS 44.62.310 Government meetings public)

The OMA legislates the methods by which public meetings are conducted in the State of Alaska. It applies to all meetings, including teleconferencing, of any and all Alaska governmental bodies of a public entity, unless exempt by statute. The Alaska Open Meetings Act generally ensures that members of the public have both the right to attend government meetings and the right to speak before the body holding the meeting.

- Reasonable public notice shall be given for all meetings.
- Governmental body means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members.
- A meeting means a gathering of members of a governmental body when:
 - More than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or
 - More than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act, and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity.

Open Meetings Act FAQ:

Q: *Can two commissioners get together to work on something to bring back to the body to discuss?*

A: No. Two or more members gathering for the purpose of advising or making recommendations is considered a subcommittee, which falls under the description of a governmental body, as noted in the second bullet point above.

Q: *Can commissioners email each other with questions about Commission business?*

A: No. A serial meeting is one in which a quorum of the body communicates with each other, directly or indirectly, through whatever medium, to develop collective concurrence. Serial meetings are in violation of the Open Meetings Act. Commissioners should be aware of the potential for serial meetings and never hit “reply all” when responding by email.

QUORUM (HCC 2.58.020 (d))

Four commission or board members shall constitute a quorum of seven members; and five commission or board members shall constitute a quorum of eight members.

VOTING (HCC 2.58.020 (e))

Each member, including the chairperson, shall vote, and shall not abstain from voting, unless such member claims a conflict of interest, in which event the member shall be excused from voting. The member shall then state for the record the basis for the abstention.

1. Four affirmative votes of seven members and five affirmative votes of eight members are required to pass a motion.
2. Voting will be by a roll call vote, the order to be rotated; or by unanimous consent if no objection is expressed.
3. Voting by proxy or absentee is prohibited.

PARLIAMENTARY PROCEDURES ROBERTS RULES

Per Homer City Code 2.58.050(i) meetings shall be conducted under the current edition of Robert’s Rules of Order Newly Revised (RONR).

MAKING A MOTION (RONR §4)

- A member makes the motion “I move that...” or “I move to...”
- A member seconds the motion “I second it” or “second”
- The Chair states the motion “It has been moved and seconded that...”
- The Chair opens the floor to discussion:
 - Offering the floor to the maker of the motion to see if they’d like to speak first.
 - Members raise their hands to be recognized by the Chair.
 - Discussion must be confined to the merits of the pending question.
- Vote:
 - When discussion is complete the Chair may ask if there is any objection to the motion on the floor.
 - If there is no objection expressed by a member, the Chair may announce the motion passes by unanimous consent.

- If a member expresses objection, the Chair must ask for a roll call vote.

Other motions that are routinely made include:

- Motion to Amend – a motion to make a change to the motion on the floor.
- Motion to Postpone – a motion to take the business item up at the next meeting or a date specific.
- Call for the Question
 - Requires a second and requires 2/3 vote to pass.
 - Immediately ends debate and brings the motion on the floor to a vote

WITHDRAWING A MOTION (RONR 32:12)

A motion can be withdrawn in the following manner:

- If the Chair has not stated the question the maker of the motion may withdraw it (or modify it).
- If the Chair has stated the question the maker of the motion asks to withdraw the motion. The Chair treats it as a unanimous consent request and asks if there's objection to withdrawing the motion.

VIRTUAL MEETINGS

While the City is operating under its emergency declaration, all meetings are being conducted virtually by Zoom meeting or webinar. During Zoom meetings:

- Keep your camera on whenever possible and be aware of what's visible on your screen. This allows a semblance of normalcy as if we're in the same room together, and makes it easier for the Chair to call on commissioners.
- Mute yourself if you aren't speaking. Too much background noise disrupts the meeting and the person currently speaking.
- Refrain from using the chat feature with other members and with the audience. Having private conversations during meetings goes against Roberts Rules of Order, and not everyone participating in the meeting (such as those calling in) can see the chat feature. Also, meetings are recorded and items listed in the chat aren't included in the audio.

CONDUCT OF COMMISSIONERS

While the meeting is in session, members should not interrupt the proceedings or any commissioner that has the floor. A commissioner, once recognized, should not be interrupted when speaking unless it is to call him or her to order. If a commissioner is called to order, he or she should cease speaking until the question of order can be determined. If determined to be in order by the Chair, the commissioner should be permitted to proceed.

After being recognized by the Chair, commissioners may briefly question individuals speaking during audience participation or testifying during a public hearing, but may not enter into a discussion with the individual.

COMMISSION MEMBER RESPONSIBILITIES

Commission Members represent the entire community and should use their knowledge of the community and their unique position to articulate local values. Public meetings provide an opportunity for direct interaction between commissioners and community residents. Meetings give the local residents an opportunity to see the Commission in action and give commission members the chance to hear, first-hand, about the concerns of local residents.

In addition to understanding, educating, and guiding the community in its development, commissioners need to understand their role as advisory to the City Council.

COMMISSION CHAIR RESPONSIBILITIES

The Chair's responsibilities include presiding at the meetings and maintaining order, working with the staff liaison to develop agendas, conducting the meetings in a fair manner, keeping the commission discussion on track and germane to the subject, and rules on recusals. When the Chair is absent, the Vice-Chair carries out the duties of the Chair.

STAFF RESPONSIBILITIES

Staff liaisons are staff professionals with significant work responsibilities in addition to their board liaison activities. In general, the liaisons are individuals whose work responsibilities relate to that of the commission. Liaisons do not work for or at the direction of the commission; they are assigned by the City Manager and follow the direction of the City Manager. They are professionals who provide guidance, issue analysis, and recommendations, and ensure the intent of the commission is relayed to administration and the City Council in a timely manner.

The Recording Clerk is responsible for ensuring timely meeting notifications, taking meeting notes that can be developed into a meeting summary, providing parliamentary assistance, and guidance when needed.

COMMITTEES/SUBCOMMITTEES

Occasionally, subcommittees are created for fact finding/information gathering for the purpose of advising the full commission on issues that the commission will take into consideration when advising the City Council. Only those members of the commission appointed to the subcommittee are considered subcommittee members and it is their numbers that determine whether or not a quorum is present. Members of the public and staff may be invited to the subcommittee meetings to provide reports and information but are not considered members for the purposes of voting or determining a quorum.

Attachments: AS 44.62.310 Government Meetings Public
HCC 2.58 Boards and Commissions

Alaska Statutes Sec. 44.62.310. Government meetings public.

(a) All meetings of a governmental body of a public entity of the state are open to the public except as otherwise provided by this section or another provision of law. Attendance and participation at meetings by members of the public or by members of a governmental body may be by teleconferencing. Agency materials that are to be considered at the meeting shall be made available at teleconference locations if practicable. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. The vote at a meeting held by teleconference shall be taken by roll call. This section does not apply to any votes required to be taken to organize a governmental body described in this subsection.

(b) If permitted subjects are to be discussed at a meeting in executive session, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that are listed in (c) of this section shall be determined by a majority vote of the governmental body. The motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session without defeating the purpose of addressing the subject in private. Subjects may not be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Action may not be taken at an executive session, except to give direction to an attorney or labor negotiator regarding the handling of a specific legal matter or pending labor negotiations.

(c) The following subjects may be considered in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential;

(4) matters involving consideration of government records that by law are not subject to public disclosure.

(d) This section does not apply to

(1) a governmental body performing a judicial or quasi-judicial function when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff;

(5) meetings of the governmental body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges, or discipline;

(6) staff meetings or other gatherings of the employees of a public entity, including meetings of an employee group established by policy of the Board of Regents of the University of Alaska or held while acting in an advisory capacity to the Board of Regents;

(7) meetings held for the purpose of participating in or attending a gathering of a national, state, or regional organization of which the public entity, governmental body, or member of the governmental body is a member, but only if no action is taken and no business of the governmental body is conducted at the meetings; or

(8) meetings of municipal service area boards established under [AS 29.35.450](#) - 29.35.490 when meeting solely to act on matters that are administrative or managerial in nature.

(e) Reasonable public notice shall be given for all meetings required to be open under this section. The notice must include the date, time, and place of the meeting and if, the meeting is by teleconference, the location of any teleconferencing facilities that will be used. Subject to posting notice of a meeting on the Alaska Online Public Notice System as required by [AS 44.62.175](#) (a), the notice may be given using print or broadcast media. The notice shall be posted at the principal office of the public entity or, if the public entity has no principal office, at a place designated by the governmental body. The governmental body shall provide notice in a consistent fashion for all its meetings.

(f) Action taken contrary to this section is voidable. A lawsuit to void an action taken in violation of this section must be filed in superior court within 180 days after the date of the action. A member of a governmental body may not be named in an action to enforce this section in the member's personal capacity. A governmental body that violates or is alleged to have violated this section may cure the violation or alleged violation by holding another meeting in compliance with notice and other requirements of this section and conducting a substantial and public reconsideration of the matters considered at the original meeting. If the court finds that an action is void, the governmental body may discuss and act on the matter at another meeting held in compliance with this section. A court may hold that an action taken at a meeting held in violation of this section is void only if the court finds that, considering all of the circumstances, the public interest in compliance with this section outweighs the harm that would be caused to the public interest and to the public entity by voiding the action. In making this determination, the court shall consider at least the following:

(1) the expense that may be incurred by the public entity, other governmental bodies, and individuals if the action is voided;

(2) the disruption that may be caused to the affairs of the public entity, other governmental bodies, and individuals if the action is voided;

(3) the degree to which the public entity, other governmental bodies, and individuals may be exposed to additional litigation if the action is voided;

(4) the extent to which the governing body, in meetings held in compliance with this section, has previously considered the subject;

(5) the amount of time that has passed since the action was taken;

(6) the degree to which the public entity, other governmental bodies, or individuals have come to rely on the action;

(7) whether and to what extent the governmental body has, before or after the lawsuit was filed to void the action, engaged in or attempted to engage in the public reconsideration of matters originally considered in violation of this section;

(8) the degree to which violations of this section were wilful, flagrant, or obvious;

(9) the degree to which the governing body failed to adhere to the policy under [AS 44.62.312](#) (a).

(g) Subsection (f) of this section does not apply to a governmental body that has only authority to advise or make recommendations to a public entity and has no authority to establish policies or make decisions for the public entity.

(h) In this section,

(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members;

(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) more than three members or a majority of the members, whichever is less, are present, the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act, and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

(3) "public entity" means an entity of the state or of a political subdivision of the state including an agency, a board or commission, the University of Alaska, a public authority or corporation, a municipality, a school district, and other governmental units of the state or a political subdivision of the state; it does not include the court system or the legislative branch of state government.

Chapter 2.58

BOARDS AND COMMISSIONS

Sections:

- 2.58.010 Boards and commissions.
- 2.58.020 Creation of City boards and commissions.
- 2.58.030 Applicability.
- 2.58.035 Commission and board member terms.
- 2.58.040 Commission and board bylaws.
- 2.58.050 Required procedures.

2.58.010 Boards and commissions.

City Council may create or abolish boards and commissions. Council shall create or abolish boards and commissions via ordinance. Council shall establish the number of members of each board or commission, their terms of office, and the purpose for which the board or commission is created via ordinance. [Ord. 18-38(S) § 2, 2018].

2.58.020 Creation of City boards and commissions.

The following commissions and boards have been created by City Council and are subject to this chapter unless otherwise provided in this title:

- a. Library Advisory Board;
- b. Parks, Art, Recreation, and Culture Advisory Commission;
- c. Port and Harbor Advisory Commission;
- d. Advisory Planning Commission;
- e. Economic Development Advisory Commission. [Ord. 18-38(S) § 2, 2018].

2.58.030 Applicability.

Except as otherwise provided within this title, this chapter applies to all boards and commissions created by City Council which exercise powers vested in the City or which serve as an advisory body of the City. This chapter does not apply to standing committees, special committees, work groups or task forces which are created jointly with other governing bodies, City staff or which do not exercise powers vested in the City. [Ord. 18-38(S) § 2, 2018].

2.58.035 Commission and board member terms.

Appointment and removal of the members of City boards and commissions shall be by recommendation of the Mayor and confirmation of such action by the Council, except as specifically provided otherwise in the Alaska Statutes and/or under other provisions of the code. In addition to the voting members of the board or commission, the Mayor may appoint honorary members of a board or commission, subject to confirmation by Council. The honorary members' terms are to be determined at the time of appointment. Honorary members of a board or commission may participate in the deliberations of the board or commission, but may not vote, nor shall they be counted in determining whether a quorum is present. [Ord. 18-38(S) § 2, 2018].

2.58.040 Commission and board bylaws.

a. Except as otherwise provided in this title, all boards and commissions created by Council shall draft and approve proposed bylaws governing the operations of their respective areas of authority, subject to review by the City Attorney. Once approved by the board or commission, the proposed bylaws shall be submitted to Council for approval via resolution.

b. Except as otherwise provided in this title, the City Clerk shall file the bylaws and the resolution approving them. The City Clerk shall make the bylaws available to the public upon request.

c. A commission or board may recommend an amendment to its bylaws to Council after considering any amendments at two separate meetings. Amendments to bylaws of any City commission or board shall be effective upon approval of the amendments by Council via resolution. [Ord. 18-38(S) § 2, 2018].

2.58.050 Required procedures.

Except as otherwise provided in this title, bylaws for boards and commissions shall contain:

a. Presiding Officer. The presiding officer of the board or commission shall be the chairperson. In the chairperson's absence, the vice-chairperson shall be the presiding officer. In all other circumstances, the most senior member shall preside. The presiding officer shall preserve order and decorum at all meetings of the board or commission, while promoting discussion by all members in deliberations unless otherwise prohibited by law.

b. Staff Liaison. The City Manager shall designate an employee to serve as a staff liaison to each board or commission. The staff liaison shall assist the chairperson in setting meetings, preparing agendas, and other documentary material, and coordinating the acquisition of needed materials and training.

c. Recording Clerk. The City Clerk shall designate a recording clerk to take minutes for each board and commission and that designee shall serve as the board's or commission's parliamentary advisory pursuant to AS 29.20.380(10) and assist the chairperson with compliance with the commission's or board's bylaws.

d. Quorum. Four commission or board members shall constitute a quorum of seven members; and five commission or board members shall constitute a quorum of eight members.

e. Voting. Each member, including the chairperson, shall vote, and shall not abstain from voting, unless such member claims a conflict of interest, in which event the member shall be excused from voting. The member shall then state for the record the basis for the abstention.

1. Four affirmative votes of seven members and five affirmative votes of eight members are required to pass a motion.
2. Voting will be by a roll call vote, the order to be rotated; or by unanimous consent if no objection is expressed.
3. Voting by proxy or absentee is prohibited.

f. Staff Reports and Recommendations. The staff liaison shall submit reports and recommendations for those agenda items requiring decisions or recommendations by any board or commission. Other staff having experience, education, and professional training in the subject matter may provide input into the reports and recommendations, or may provide supplemental ones. The material submitted may be oral, written or graphic, or some combination of all. Except as otherwise provided in this code, the reports and recommendations shall be accepted as evidence of record to the same extent as oral testimony and exhibits accepted from applicants, opponents, persons who are subjects of an inquiry, expert and lay witnesses, and members of the public who provide information for the record of the proceedings.

g. Attendance. Any commission or board member who misses three consecutive regular meetings without being excused, or 30 percent of all meetings within a calendar year, shall be removed from the board or commission. Any member who is unable to attend a meeting, whether regular or special, shall contact the City Clerk, staff liaison, or chairperson as soon as possible for excusal.

h. Vacancies. A commission or board member's appointment is vacated under the following conditions:

1. A member fails to qualify to take office within 30 days after their appointment;
2. A member resigns;
3. A member is physically or mentally unable to perform the duties of the office;
4. A member is convicted of a felony or of an offense involving a violation of their oath of office;

5. A member misses three consecutive regular meetings without being excused, or 30 percent of all meetings within a calendar year.

i. Rules of Order. Boards and commissions shall abide by the current edition of Robert's Rules of Order. If Robert's Rules of Order conflict with the board or commission bylaws or other provisions of this code, the bylaws and/or code provisions shall apply.

j. Training and Model Procedures.

1. Training sessions developed or arranged by the City Clerk and approved by the City Manager shall be mandatory unless a member's absence is excused by the chairperson.

2. The City Manager and/or City Clerk, in their discretion and in consultation with the City Attorney as needed, may develop model procedures to be used as a guide for boards and commissions. [Ord. 18-38(S) § 2, 2018].