

Session 11-01 A Regular Meeting of the Lease Committee was called to order at 3:05 pm on January 13, 2011 by Chair Shelly Erickson at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**PRESENT:** COMMITTEEMEMBERS ERICKSON, HAWKINS, ABOUD, HARVILLE,  
ZIMMERMAN AND YAGER

**STAFF:** CITY MANAGER WALT WREDE  
ADMINISTRATIVE ASSISTANT TERRY FELDE  
DEPUTY CITY CLERK RENEE KRAUSE

### **APPROVAL OF THE AGENDA**

Chair Erickson requested a motion to approve the agenda.

MAURAS/HAWKINS – MOVED TO APPROVE THE AGENDA.

The agenda was approved by consensus of the Committee.

### **PUBLIC COMMENT REGARDING ITEMS ON THE AGENDA** *(3 Minute Time Limit)*

There were no comments from the public present.

### **RECONSIDERATION**

There were no items for reconsideration.

### **APPROVAL OF MINUTES**

*(Minutes are approved during regular meetings)*

- A. Minutes for the Regular Meeting October 14, 2010  
Minutes for the Special Meeting November 3, 2010
- B. Minutes for the Special Meeting November 30, 2010

MAURAS/HAWKINS – MOVED TO APPROVE ALL PREVIOUS MINUTES LISTED.

There was no discussion.

The minutes for the previous three meetings were approved by consensus of the committee.

### **VISITORS**

There were no visitors scheduled.

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

*(Chair set time limit not to exceed 5 minutes)*

- A. Staff report from City Manager Wrede dated January 13, 2011 Re: Chapple Lease Application

Chair Erickson appreciated the staff report on the lease proposal it was very informative and helpful.

### **PUBLIC HEARING** *(3 minute time limit)*

There were no public hearings scheduled.

**PENDING BUSINESS**

A. Homer Spit Campground Lease Application

HAWKINS/MAURAS - MOVED TO REVIEW THE HOMER SPIT CAMPGROUND LEASE APPLICATION.

Chair Erickson inquired if there were any questions or comments regarding the staff report or application. She further commented on the report being included it offered more information than the last go around regarding a lease proposal for review. Ms. Mauras thought it was very helpful and well written. Mr. Zimmerman concurred.

ZIMMERMAN/MAURAS - MOVED TO APPROVE THE APPLICATION WITHOUT GOING THROUGH THE RFP PROCESS.

Ms. Mauras offered a friendly amendment to include the City Managers recommendation to approve the proposal with stipulations that all zoning violations be addressed, 10 year lease with two 5 year options for a total of 20 years.

Mr. Zimmerman clarified that they are approving the application or recommendation to council. He had concerns that 20 years would be enough to amortize the investment for the proposer. Mr. Chapman clarified that 20 years would be enough time to recoup. Mr. Zimmerman accepted the friendly amendment. The motion now reads:

ZIMMERMAN/MAURAS – MOVED TO APPROVE THE LEASE APPLICATION OF THE HOMER SPIT CAMPGROUND WITHOUT GOING THROUGH THE COMPETITIVE PROCESS UNDER THE TERMS AND CONDITIONS DESCRIBED IN THE PROPOSAL, WITH THE STIPULATIONS THAT THE LEASE WILL BE FOR 10 YEARS WITH TWO FIVE YEAR OPTIONS, AND ALL ZONING VIOLATIONS BE ADDRESSED.

Mr. Yager wanted assurance that this approval included the 50% rate increase. It was noted that the recommendation included all of the items included in the proposal. The shorter term was recommended due to the location in the future there may be a more beneficial use for this property especially once dewatering issues were addressed and it is also recommended in the Spit Comprehensive Plan to review.

VOTE. YES. ZIMMERMAN, MAURAS, ERICKSON, YAGER, HAWKINS.

Motion carried.

Mr. Chapman thanked the Committee.

**NEW BUSINESS**

A. Memorandum dated January 6, 2011 Re: Establishing a Summer or Transient Lease for a Specified Fee

Chair Erickson introduced the topic regarding the last meeting a discussion on allowing short term summer only type rentals for businesses and making it an easier straight forward process.

HAWKINS/ZIMMERMAN – MOVED TO BRING TO THE FLOOR FOR DISCUSSION.

There was no discussion.

The motion to discuss was approved by consensus.

Mr. Hawkins explained that this was discussed and pointed out the area that was offered for small kiosk type businesses. He explained they intended to do that again and will be requesting the designation from the Land Allocation Committee. There were no takers. It was not believed to be due to the location.

Mr. Yager commented that he had a few comments on this subject and explained that the transients businesses need the time to plan the type of business such as a transient food or catering service that they need to know what services are available, the 250sf was limiting, competing with similar nearby businesses.

He advocates strongly for competitive businesses is good for the public. He did have a client that was interested and was going to invest a substantial amount of money but the timing was too short. Chair Erickson wanted to know if this was an issue that the Lease Committee should be looking into and addressing.

Mr. Wrede stated that they do receive a number of calls and that the code does state that an itinerant business cannot setup next to an established similar business. He further commented that they have received some grief from permanent long term businesses regarding this very same issue. It has been noted that there are a lot of hurdles for a temporary business must go through even short term lease proposals must come before the Lease Committee. Further discussion on what is a transient or short term business, streamlining the process, the current transient permitting process, allowing competition between businesses gives the public a better option, consideration of the investments of long term permanent businesses to short term, transient businesses. Further discussion on the following ensued:

1. Determine if the location selected and offered last year is the best location or if they should designate an area past the Harbor Office to bring business toward the end of the Spit.
2. Offering a one year lease on a spot but with the caveat that renewal is contingent on a permanent lease proposal being offered.
3. Renting the land versus lease for a set monthly fee.
4. The time frame land was offered (April-May) was too late in order to timely prepare a business to be operational in May.
5. The businesses would be varied not just food businesses.
6. Larger lots to accommodate a trailer/structure, seating, and possibly nearby parking. Food Service Business compared to a Canoe or Kayak Rental Business.
7. Have one common use parking area for the kiosk type businesses.
8. Designate lots in a parcel and then the interested business can rent the number of lots needed to accommodate the business effectively.
9. There should be a fair square footage price so the business will determine the square footage they need and then they know what they will be paying.
10. Subleasing and Boardwalk businesses.
11. Establishing this area in a reasonable spot in relation to the general retail area now established.
12. Establish a boardwalk next to the Harbor Office.
13. Installing improvements or requiring tenants to be self-contained.
14. Designating several locations throughout the Spit instead of areas near the established sections.
15. Availability of power a necessity, more than water.

Mr. Wrede noted that as a way to move forward a motion could be made that several areas be available for short term rentals, establish a standardized rental rate and that the Harbormaster Hawkins could enter into the contracts with Council approval and offering for RFP. The fair market rental rate and total square footage would have to be determined. Mr. Yager queried what regulations would be applied as far as the non-compete clauses in the code and application of the transient permitting process. He questioned whether the City was in business to lease or rental property or to tell businesses what they could or could not do.

Chair Erickson inquired about considerations of the considerations for Cruise ship passengers to offer a more welcoming area for them. Harbormaster Hawkins did not favor kiosk businesses as they would then prevent the passengers to get into town. Ms. Mauras felt the discussion were very good and lots of ideas but that the established rules should be followed as far as not allowing one business to set up next to established businesses. The discussion went back to competition is good and keeps one on their toes to provide great service of better product than the next guy.

Comments and responses could not be transcribed at this juncture as the members and staff did not use the microphones and the Clerk was unaware of it until too late.

Harbormaster Hawkins noted that the Lease Committee would not be meeting until after all the recommendations to Council regarding the Land Allocation Plan update. The Clerk in response to the question affirmed they could forward recommendations to council but to specifically designate individual lots for short term rental the committee would have to hold a special meeting in order to accomplish this task. Mr.

Zimmerman felt this would drag out and leave the same situation as last year. The Clerk confirmed that this is already scheduled for the City Council second meeting in March for approval.

Chair Erickson asked if a motion was made tonight to designate lots and to forward to Port and Harbor Commission and Council then they could have a special meeting and make recommendations in a short time. She inquired if anyone would like to make a motion to designate lots for short term land rentals for kiosk or similar type businesses. Mr. Yager stated he would make a motion but felt he did not have enough information on what processes were going to be used to address these businesses. He felt clarification on structure was needed.

The Clerk asked if these proposed changes would have to go before the City Attorney as it would be changing city code, lease policy, etc. Mr. Wrede confirmed that it may require a changes but he did not feel at this time that there would be any changes to the code required. He interpreted the code to apply to food vendors only in regards to the non-competitive requirements. There was concern on interpreting the terms open space, adjacent, and parking accommodations. Further discussion on not allowing set up on lands designated for parking and that most spaces not designated are for parking on the spit. Harbormaster Hawkins explained that the land allocation plan designates what the land use is to be.

MAURAS/YAGER - MOVED TO ALLOW THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO A SHORT TERM RENTAL AGREEMENT WITH ITINERANT MERCHANT OF MOBILE FOOD VENDORS, UP TO SIX MONTHS WITHOUT COUNCIL APPROVAL.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

MAURAS/YAGER - MOVED TO REQUEST THE CITY MANAGER ESTABLISH A STANDARD RENTAL AGREEMENT TO INLCUDE ALL NECESSARY DOCUMENTS AND TO DETERMINE A SET RENTAL FEE USING FAIR MARKET RENTS.

Discussion included that the agreement must include the insurance requirements and rates to be competitive and on the level of what other boardwalk businesses are paying.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

MAURAS/HAWKINS - MOVED TO DESIGNATE PORTIONS OF LOTS 12a AND 9 TO BE USED FOR SHORT TERM RENTALS FOR ITINERANT MERCHANTS AND MOBILE FOOD VENDORS. IT IS FURTHER RECOMMENDED THAT THE PLANNING DEPARTMENT REVIEW AND DESIGN THE DESIGNATED LOTS ACCORDING TO HOMER CITY CODE AND THAT THE PLANNING AND PORT AND HARBOR COMMISSIONS REVIEW RECOMMENDATIONS PROPOSED.

Discussion including not wanting to overstep this committee's responsibilities, covering liabilities and selecting appropriate areas and that appropriate zoning is applied to the lots.

VOTE. YES. NON-OBJECTIONS. UNANIMOUS CONSENT.

Motion carried.

Once the Land Allocation Plan has been approved this will be advertised.

There was no more discussion.

B. Memorandum dated January 6, 2011 Re: Establishing a Scoring or Evaluation System for Existing Lease Proposals.

Chair Erickson introduced this memorandum for discussion explaining that she is interested in developing a separate scoring or evaluation process for existing businesses that are applying for a new long term lease. She mentioned that it is not noted whether the business is currently licensed, are they good payers or pay late all the time, do they have the appropriate insurance coverage. These are not currently answered or shown on the formats being used now. She stated she would like this information when determining a new lease for an existing business. She added that it is very important to her if a business always pays 60 to 90 days late then it may be in the City's best interest to find another lessee for that property or apply some other remedy. She also mentioned if there are other businesses being conducted on the said lease and what would happen to them if the City did not offer to enter into a new lease.

Ms. Mauras believed that the process as it stands is fairly dysfunctional and believes that each department such as finance and planning should review and add comment.

Ms. Felde stated that as part of the checklist form she double checks to make sure that each business currently hold the proper licenses, insurance, she checks to see if they are current on sales taxes and licensing with the borough and she checks with planning, finance and the port to see if there is any discrepancies.

Further comments regarding knowledge or indication whether the proposed lessee is in compliance with the current lease was opined to be necessary to formulate a recommendation in favor of extending another long term lease. Information on if an existing business has tenants and what will be done by the city to accommodate those businesses affected if it is determined that it is not in the City's best interest to extend another long term lease. Concern was expressed that they did not want to extend or lengthen the lease application process any more than it currently is; review of the application for initial completeness is being done now, if a lease application is submitted and incomplete it is returned to proposer with the deficiencies noted. It was noted that the decision made by the Committee must be based on the application. There should be a different application for an existing business wanting to enter into a new lease that takes into account prior history.

Mr. Zimmerman was agreeable to a different application for an existing business however he did not want to see the time frame for approval extended any longer than it already takes for approval.

Mr. Hawkins reading from Chapter 11 the guidelines for approving a proposal from an existing lessee.

Mr. Yager noted that following those guidelines along with the application requirements was a good directive on how to proceed in the evaluation process with existing lessees. He felt that the information and reports as presented for Chapple's application was very good and contained the information they needed to make an informed recommendation.

Chair Erickson stated if the Committee is comfortable with the current guidelines then she was okay with not making any changes.

There was no further discussion.

**INFORMATIONAL MATERIALS**

- A. Memorandum dated January 5, 2011 to Mayor and City Council, Copied to Planning and Port & Harbor Commissions Re: Recommendation to Consider the Kachemak Bay Wooden Boat Society (KBWBS) Lease Proposal during the 2011 Land Allocation Review.
- B. KBWBS Reduced Drawings Submitted at the October 14, 2010 Regular Meeting
- C. Lease Expirations Updated January 6, 2011
- D. Resolution 10-94, Approving a New Lease for Lot 88-4, Brad Faulkner
- E. Resolution 10-97, Establishing the 2011 Meeting Schedule
- F. Memorandum to Mayor and City Council dated December 7, 2010 Approving the 2011 Meeting Schedule
- G. Resolution 10-98, Approving a Five Year lease with Two One Year Renewal options with Snug Harbor Seafoods.

There was no discussion on the informational materials.

**COMMENTS OF THE AUDIENCE**

There were no comments from the audience.

**COMMENTS OF THE CITY STAFF**

Deputy City Clerk Krause requested a date for a Special Meeting to review and make recommendations on the Land Allocation Plan. It was agreed to meet at noon on February 9, 2011. Bring your lunch!

City Manager Wrede had no comments.

**COMMENTS OF THE COUNCILMEMBER** *(If one is appointed)*

There were no councilmembers present.

**COMMENTS OF THE CHAIR**

Chair Erickson commented that they made some good progress on the transient rental, they made some good progress and discussions. Hopefully this will generate more revenue for the city.

**COMMENTS OF THE COMMITTEE**

Mr. Hawkins thanked everyone for their service.

There were no comments from the committee members present.

**ADJOURN**

There being no further business before the Lease Committee Chair Erickson adjourned the meeting at 4:45 p.m. A Special Meeting has been scheduled for Wednesday, February 9, 2011 at noon to review and make recommendations on the Land Allocation Plan. The next regular meeting is scheduled for 3:00 p.m. April 14, 2011 at City Hall, Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

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Renee Krause, Deputy City Clerk I

Approved: \_\_\_\_\_