

Session 11-07 A Special Meeting of the Lease Committee was called to order at 3:05 pm on November 10, 2011 by Vice Chair Terry Yager at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

**PRESENT:** COMMITTEEMEMBERS YAGER, HAWKINS, ABOUD, MAURAS,  
AND ZIMMERMAN

**ABSENT:** COMMITTEE MEMBER NEECE

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

### **APPROVAL OF THE AGENDA**

Vice Chair Yager requested a motion to approve the agenda.

MAURAS/ABBOUD – MOVED TO APPROVE THE AGENDA.

There was no discussion.

The agenda was approved by consensus of the Committee.

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

There was no public present.

### **APPROVAL OF THE MINUTES**

There were no minutes for approval.

### **VISITORS**

There were no visitors scheduled.

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

A. Staff Report – Updates and Status Report

Ms. Felde updated the committee on outstanding issues as follows:

- Alaska Custom Seafoods
  - discussed outstanding paperwork required to complete this lease
- Appraisals Completed
  - There were five completed and additional meetings will be setup with the potential lessees Alaskan Coastal Freight and Fortune Sea
- Snug Harbor lease is completed and being reviewed by Lessee
  - Snug Harbor is in process of completing the conceptual site plan for submittal to Planning Dept.
- Homer Spit Campground Lease is completed and being reviewed by lessee.
  - They are working on getting a survey completed.
- Dock Side Two
  - In process of completing staff review of lease proposal and getting this prepared for the next committee meeting.

Mr. Wrede provided an update on the HERC building as follows:

- Spoke with the School District – they do not want the building back
- inquired if the School District would be willing to expend the upfront monies to bring Fireweed Academy into the building.
- Fireweed Academy has indicated that they would be willing to pay rent and discussions included current rents they pay now and the utilities cost plus upfront costs estimates to make the building usable by the academy.
- Boys and Girls Club advocacy group in the process of finding a solution and raising money.
  - It is anticipated that the group will be approaching the Council.
  - The deadline date is when the City Hall Staff relocates back to city hall which is Christmas or before. There is some maintenance that will be required even when the building is closed due to structural issues such as snow loads, etc.

Comments from members of the committee regarding participation by the parents in a manner that they are paying their fair share of the costs would assist in providing the service. The community is small and it should not be expected that the community pay for the service used by the few. Additional options are to use the building for the Community Recreation and parks and Recreation Department. Space could be rented out to other entities. It was noted that the original restrictions put on the building can be amended by the borough assembly. They may decide to request an amendment to allow the city to sell the building and use those funds for a public purpose. This option appealed to the Borough Mayor.

There was a brief discussion on other possibilities that the facility could be used for such as a trade school. It was noted that the economy has affected a number of entities including state, federal and private outlets. Many budgets are cut and other possible options are not feasible. There are still a number of options available.

There was no further discussion.

### **PUBLIC HEARING**

There were no public hearings scheduled.

### **PENDING BUSINESS**

- A. Additional Guidelines for Reviewing Proposals Submitted by Non-Profit Organizations for Lease on City Owned Property

Mr. Hawkins requested this item on the agenda at the regular meeting in July. Vice Chair Yager requested clarification on the reason for bringing this item to the committee since he was not at the last meeting.

Members of the committee stated their understanding of the concern in leasing to non-profits and that there are no specific guidelines or criteria established to review proposals submitted by a non-profit.

The following recommendations were made on the evaluation process or criteria for non-profits:

- Structure the lease prices based on a percentage of the total income for the non-profit
  - This would remove the politically charged atmosphere that occurs around non-profits
  - determine the fair percentage amount to charge all non-profits

Comments in opposition were noted that the City Council should direct the committee on what they would like to see. It was noted that the committee was advisory to the council and if they do not make a recommendation then the council has to make the decision with no input representing the good of the community and to look out for the city interests.

- Establish a point system

Mr. Wrede stated that there seems to be two issues before the committee one is the current criteria is based on commercial activities and he noted some criteria that was recommended at the last meeting and these criteria or other could be recommended to use. The second is the money issue and the committee could recommend that council determine a rate to charge them based on the criteria.

Discussion ensued on making amendments to the lease policies and how this would proceed.

MAURAS/ZIMMERMAN - MOVED TO DIRECT STAFF TO DRAFT AN AMENDMENT TO CHAPTER SIX OF THE LEASE POLICIES REGARDING A SEPARATE CRITERIA FOR EVALUATING PROPOSALS FROM NON-PROFITS USING THE BULLETED RECOMMENDATIONS FROM THE MINUTES OF THE JULY 14, 2011 MEETING.

Those bulleted items were:

1. Activity days on site
2. Persons Served – per year or month
3. Revenues to the City from the non-profit whether via Head Tax, Rent or percentage of profits
4. Indirect Commerce – How will this affect the City?
5. Partnerships with Other Non-profits or Businesses
6. How many volunteers – such as actors
7. Profit vs. Non-Profit – benefits versus revenue loss to the city  
Such as property taxes.

There was a brief discussion on whether non-profits had to pay the property taxes and comment from Lance Petersen whether they paid property tax on property owned that is not used in the endeavors of the non-profits where the Pier One Theater does not pay property taxes on the Spit property since it is used wholly in the pursuit of the non-profit endeavor.

There was no further discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

### **NEW BUSINESS**

A. Elections of Chair and Vice Chair of the Committee

Mr. Hawkins moved to open discussion and nominated Mr. Yager as Chair.

Mr. Zimmerman seconded.

Mr. Yager asked if there were any other nominations. There were none.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Mr. Abboud nominated Mr. Zimmerman as vice chair. Mr. Hawkins seconded.

There were no additional nominations.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

The Chair and Vice Chair were congratulated and comments were made that they could decline the appointment if they chose. There was a brief period of quiet but Chair Yager and Vice Chair Zimmerman accepted their roles.

B. Draft Resolution 11-XX Establishing the 2012 Regular Meeting Schedule.

ABBOUD/MAURAS – MOVED TO APPROVE THE MEETING SCHEDULE AS PROPOSED.

There was a brief discussion on changing the January 12, 2012 meeting to January 26, 2012 at 3:00 p.m.

ABBOUD/ZIMMERMAN – MOVED TO AMEND THE JANUARY MEETING DATE TO JANUARY 26, 2012 AT 3:00 P.M.

There was no discussion.

VOTE. (Amendment) YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

VOTE. (Main) YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

There was no further discussion.

C. Pier One Lease Proposal

Vice Chair Yager brought to item to the floor for discussion.

Mr. Wrede summarized the review performed by Ms. Felde and has concluded that there would be some zoning permits needed and approval from the Fire Marshall. He went on to summarize his review and recommendations. A few of the points made:

- This has not been let for the request for proposal process.
- This is a request for less than fair market value lease.
- The use is compatible for the area.
- There are no plans for major new development by the lessee.
- There is no significant capital investments proposed.
- The applicant has been at the location for decades.
- It has been determined that the organization has the financial capacity to maintain the facility and continue operations.
- There are no employees, actors are volunteers.
- The rental rate is \$1.00 per year for five year. Utilities are paid for by the lessee. Restroom facilities are provided by the city.
- The theater does stimulate and add to the economic impact to the city.
- The theater has provided significant contribution towards the social, cultural and educational fabric of the community.
- Short term lease of 5 yrs allows time to determine the best use of the property
- Zoning Permits required
- If the fire Marshall does not approve then who bears the cost of the improvements
  - If it is determined unsafe would the city uphold this decision?

There was a brief disclosure on the amount of work and improvements that were undertaken to make the building safe and in compliance with the State Fire Marshall requirements. The current lessee has been in the building since 1987 when the first production was held. There was noted that it would be acceptable to the lessee to include a 90 day notice to cancel the lease by the city. The Lessee did direct the committee's attention to the Resolution 89-36(A) which stated that as long as there was sport fishing in the lagoon and the summer theater activities continued at the location that the land was to be used for recreational/parking purposes. He informed the committee on a form that must be completed and submitted to the IRS that indicates public support for the organization, and this form also shows a line item in-kind valuation from the city to the non-profit. A non-profit must prove that they received support from the community. The lessee recommended that they require a potential non-profit lessee submit the complete 990 form with the lease application. Mr. Petersen briefly reviewed the 990 form information with the committee.

There was a brief discussion on submitting the recommendation to council and making a motion and clarification on zoning review on parking was made.

ZIMMERMAN/ - MOVED TO RECOMMEND THAT THE \$1.00 PER YEAR LEASE FOR FIVE YEARS BE ACCEPTED CONTAINING THE STAFF RECOMMENDATIONS AND ADDRESS THE CONCERNS AS NOTED REGARDING ZONING REVIEW AND FIRE MARSHALL APPROVAL.

HAWKINS/ - PROPOSED TO OFFER A FRIENDLY AMENDMENT TO INCLUDE THE CLAUSE ALLOWING THE CITY OUT OF THE LEASE IF A BETTER USE WAS OFFERED DURING THE FIVE YEAR LEASE PERIOD.

There was no discussion on the amended motion.

The Clerk read the amended motion into the record

ZIMMERMAN/MAURAS - MOVED TO RECOMMEND A FIVE YEAR LEASE AT 1.00 PER YEAR WITH THE STIPULATION THAT A ZONING REVIEW AND FIRE MARSHAL APPROVAL IS OBTAINED AND INCLUDE A CLAUSE TO ALLOW THE CITY TO BREAK THE LEASE WITH A 90 DAY NOTICE.

There was no further discussion.

VOTE. (Amended) NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

MAURAS/ZIMMERMAN - MOVED THAT THE LEASE COMMITTEE FINDS THAT THIS PROPERTY SHOULD BE LEASED TO PIER ONE THEATER WITHOUT THE REQUEST FOR PROPOSAL PROCESS AND AT LESS THAN FAIR MARKET VALUE FOR THE REASONS STATED IN THE MEMORANDUM.

There was a brief discussion by the committee on the reasons to list in the memorandum.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

There was no further discussion.

### **INFORMATIONAL MATERIALS**

- A. Ordinance 11-25, Amending Homer City Code 18.08.120, Sublease, Regarding the Charging of Additional Rent for Subleases of City Property

- B. Resolution 11-041, Approving and Adopting a New Amended Standard Ground Lease Document and Authorizing the Amendment of the City of Homer Property Management Policy and Procedures Manual to Conform to the Amended Standard Ground Lease Document.
- C. Amended Ground Lease and Security Agreement
- D. Lease Expiration Updated as of 5/23/11

There was no discussion on the informational materials.

**COMMENTS OF THE AUDIENCE**

Lance Petersen was really glad that the lease committee went through the work to have really specific guidelines on how to approach the city for a lease; much of the time the lease process has been murky and mysterious and this now makes it possible for an applicant to find the information and it is all lined out and if you add the non-profit chapter and criteria it will make it more transparent and open for the public.

**COMMENTS OF THE CITY STAFF**

There were no comments from Staff.

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

There were no councilmembers present.

**COMMENTS OF THE CHAIR**

The Chair had no comments.

**COMMENTS OF THE COMMITTEE**

There were no comments from the committee members.

**ADJOURN**

There being no further business before the Lease Committee, Chair Yager adjourned the meeting at 4:23 p.m. The next regular Lease Committee meeting is scheduled for 3:00 p.m. January 26, 2012 at City Hall, Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

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RENEE KRAUSE, CMC, DEPUTY CITY CLERK I

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