

Session 10-05 A Special Meeting of the Lease Committee was called to order at 3:05 pm on November 3, 2010 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
PORT AND HARBOR ADMINISTRATIVE SUPERVISOR LISA ELLINGTON
DEPUTY CITY CLERK RENEE KRAUSE

APPROVAL OF THE AGENDA

HARVILLE/ABBOUD – 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)*

Chair Erickson invited comments from the public for items on the agenda reminding them of the three minute time limit.

Eric Olson, tenant of Brad Faulkner, representative for a large halibut and black cod buyer especially in Homer. He has a long history of renting from Brad and would like to continue doing so. He travels quite extensively between Seward, Anchorage and Homer. Brad has indicated he would provide living facilities if his lease is renewed. He buys a lot of ice and crane time. He is a big supporter of the Auction Block and the Fish Factory who require their business very bad, including the fisherman. He rents year round.

Glen Carroll performs a similar function, a tenant for approximately three years, small mom & pop cod buying operation that deals with one million and one and a half million pounds of product each year. He does no processing on site. The property is ideally located. The location provides the storage he needs. Mr. Carroll further commented that his business provides employment for several people, and keeps a couple of trucks rolling during the time of year there isn't much going on. He rents year round. The cod buying is September through March.

Kevin Hogan, city resident, he has a tremendous respect for Mr. Faulkner they have been fierce competitors but have been able to remain good friends. The concerns he has regarding the staff memorandum and the approach that Brad has had to deal with in renewing his lease, well there appears to be different rules for different fools around here. The last four leases that have come up for renewal, three of them went out to RFP the lessees were allowed to match any bid that came forward and the last one, the Fed-Ex lease was just renewed. Given the track record of Mr. Faulkner's business and what he has done out there in the Harbor I don't think there are many that can actually come close to generating the economic impact that he has had out on the Spit. Most people from town do not realize that just looks like a lot with a bunch of stuff parked on it. It has been a hugely successful venture for the city. Mr. Faulkner has had differences with the City and is not shy of voicing them. One thing about Brad that he has found is that Brad is usually right. He would like to see the same considerations given to Bob's Trophy Charters and Sportsman got by getting the provision to match any bid. No one else bid on those RFP's, it was a courtesy to those businesses. He does not see a lot of people beating down the doors to start a business here and we need to stop running off the ones that we have here. He urges everyone to recommend a renewal for Mr. Faulkner and make it as smooth and effortless as possible.

Chair Erickson thanked them for their testimony.

There was no further discussion.

RECONSIDERATION

There were no items for reconsideration.

APPROVAL OF MINUTES

(Minutes are approved during regular meetings)

None.

VISITORS

There were no visitors scheduled.

STAFF & COUNCIL REPORT/COMMITTEE REPORTS/BOROUGH REPORTS

(Chair set time limit not to exceed 5 minutes)

- A. Memorandum from the City Clerk dated October 28, 2010
Re: Meeting Structure of the Lease Committee

Chair Erickson summarized the memorandum regarding time limits for comments and testimony.

There was no discussion on the memorandum.

- B. Staff Report from City Manager Wrede dated November 3, 2010
Re: Brad Faulkner Lease Application
- C. Lease Application Checklist – Faulkner Lease Application

Chair Erickson noted that there was a supplement forwarded via email and a paper copy is available. She inquired if all present had read the information and if there was any questions.

There was no discussion on the reports.

PUBLIC HEARING *(3 minute time limit)*

There were no public hearings scheduled.

PENDING BUSINESS

- A. Lease proposal for Lot 88-4, Homer Spit Subdivision #2 – Brad Faulkner

Mr. Brad Faulkner thanked the committee for postponing the meeting as he has been out of town all summer. He stated he tried to answer some the questions and concerns listed in the staff report. He believes that his proposal has the perfect mix in development with tourism and commercial fishing. He considers that the three who spoke on his behalf and himself have accomplished more for the City of Homer in the commercial fishing industry over the last 15 years or more than any four guys. He understands the commercial fishing industry needs for office space for support services such as fish buyers. He took his biggest competitor and put them in his building when he got out of the fish buying business. He would like to build a small fish processing building on the lot. He is here mostly to answer any questions from the committee.

Mr. Abboud asked about the lay-down drawing of the proposed site plan whether this was what he was proposing. He asked for clarification of his proposal.

Mr. Faulkner stated he has not changed or added any new information other than some financial information. He further explained that his lease is a one of a kind lease prohibiting him from having any lien against any building, for a fish plant only, which has burned down. There has never been the opportunity to come in and work a new lease in the middle of existing lease. So he continued with the fish buying, and fish processing in the winter and that has continued.

Mr. Abboud questioned what would be done with the existing structure if Mr. Faulkner proposes a new business or the same use. Mr. Faulkner responded additional structures would be built for subleasing if a new lease is approved. Right now nothing can be done because of the lease. The two story structure is currently being used as his residence. This was the only option available to him under his current lease. Mr. Faulkner responded that he would like to use the highest and best use for the building which may not be a residence. He further stated that he has been in compliance with his lease. He may use the existing building as office space or a B & B, for the immediate few years it would remain as his residence.

Mr. Yager informed those present that with only minimal time to review all the information in the packet, he believed for this committee to make a decision, they would like to know Mr. Faulkner's specific plan for the property. It seems to be pretty up in the air or open ended.

Chair Erickson responded that most of that will be determined during the negotiation process. The Lease Committee reviews the whole package presented and then make a recommendation to Council who then makes the decision to direct the City Manager to enter into negotiations.

Mr. Faulkner responded that the specifics may not be known until the structures are built. He has been approached by a number of people over the years. He does intend to make the property presentable and visually pleasing with adequate parking, a possible boardwalk, etc. He went on further to cite the trouble and time spent by Mr. Hogan with his business. He further commented that the City staff has had a lack of understanding and knowledge on exactly how the fish docks work. His intention is to pull the tourist past the Salty Dawg to visit the businesses situated toward the end of the Spit.

Mr. Hawkins stated that there is question to the Lease Committee whether to send this property out for RFP. Chair Erickson agreed with that but wanted to make sure there were no more questions of Mr. Faulkner.

Mr. Zimmerman questioned if Mr. Faulkner has checked to see if he would be able to obtain a CUP to do what he wanted to do since the zoning was Marine Industrial and his ideas presented may not be allowed. Mr. Faulkner responded that he has not since almost every use would need a CUP. He did not believe that he could responsibly drag a tenant/business through a long process then be turned down.

There were no further questions from the committee.

Chair Erickson then summarized that a recommendation to City Council to send out to RFP or that this was a business, in good standing and in the City's best interest to enter into a new lease with Mr. Faulkner without going through the RFP process.

Chair Erickson explained some of the prior leases and the lots going to RFP with an opportunity for the current lessee to match any bids received.

HAWKINS/ABBOUD - MOVED TO RECOMMEND THAT LOT 88-4 BE MADE AVAILABLE FOR COMPETITIVE BIDDING THROUGH THE CITY OF HOMER'S REQUEST FOR PROPOSAL PROCESS.

Mr. Abboud pointed out that the option to match is stated in the policy and he would be willing to make this amendment and is what was done for the other lessees. The Clerk distributed an excerpt of minutes she requested on the Sport Shed lease proposal. She inquired if the date was known for the RFP because it was a short window of time to submit a proposal for this lot. It was surmised that RFP was sent out between the January and February meetings in 2009.

There was a detailed discussion on the following points by the committee:

- Points of a short term proposal submittal period
- Preventing delays in obtaining a new lease
- Making a motion to allow Mr. Faulkner to match bids received should be specific to the same kind of use as proposed by Mr. Faulkner.
- Allowing a current lessee to match bids presents a deterrent to possible new lessees
- The uniqueness of the previous lots being part of the deciding factors in the previously issued RFPs.
- The lessee is current at this time.

- The highest and best use of the property is arbitrary depending on the person's interest
- The availability of land adjacent or nearby Mr. Faulkner's lot that has had no interest when sent out for RFP on several occasions.
- The property would require a new appraisal

VOTE. NO. ERICKSON, ZIMMERMAN, YAGER.

VOTE. YES. ABBOUD, HAWKINS, HARVILLE

Motion failed.

Mr. Zimmerman would like to make a recommendation to enter into a new lease but include some stipulations to include timelines so this is not drawn out and performance standards regarding development plans.

There was a brief discussion regarding clarification of the previous motion, concern regarding the considerable investment Mr. Faulkner has in the property, possible misuse of the bids by persons with an agenda adverse to the City and Mr. Faulkner, allowing the City to negotiate a new lease with an appraisal and the Council is required to present good reasons why it is in the public interest to enter into a new lease without going through the RFP process.

Further dialogue on what the motion, and issues should be addressed within the new lease or negotiations, discouraging interruption of existing multi-million dollar businesses that are tenants, location to have access to trail, taking an incomplete proposal or business plan and recommending a lease, the duties of the City Manager to negotiate those aspects not the lease committee, consider recommendation made in staff report, no financial statements included; there is and hasn't been interest in surrounding parcels that have been let for RFP; current track record of the lessee and a viable existing business.

Mr. Hawkins read an excerpt from Chapter 4 of the Lease Policy regarding the Public's best interest; he did not see an exception to the lease policy with the proposal.

ZIMMERMAN/YAGER - MOVED TO RECOMMEND COUNCIL ENTER INTO A NEW LEASE WITH MR. BRAD FAULKNER ON LOT 88-4 WITHOUT GOING THROUGH THE RFP PROCESS DUE TO THE FOLLOWING: EXISTING LESSEE WITH A SUBSTANTIAL INVESTMENT IN THE PROPERTY, THERE ARE SIMILAR LOTS AVAILABLE FOR RFP IF ADDITIONAL PUBLIC INTEREST IS SHOWN, AND THE CURRENT ECONOMIC ADVANTAGES WITH THE EXISTING TENANTS. IT IS FURTHER RECOMMENDED THAT COUNCIL USE EXPEDIENCY IN CONCLUDING THE LEASE PROCESS AND IT IS FURTHER RECOMMENDED TO STIPULATE IN THE NEW LEASE PERFORMANCE STANDARDS, AND A COMPLETED APPLICATION TO INCLUDE ALL REQUIRED FINANCIAL DOCUMENTATION.

There was no further discussion.

VOTE. NO. HAWKINS AND ABBOUD.

VOTE. YES. YAGER, ZIMMERMAN, HARVILLE, ERICKSON.

Motion carried.

City Manager Wrede will draft a resolution to go before City Council at the next meeting on November 22, 2010 listing the reasons as cited in the motion above.

NEW BUSINESS

A. Memorandum dated October 21, 2010 from the City Clerk Re: 2011 Meeting Schedule

Chair Erickson read the meeting dates for 2011 as shown in the memorandum.

HAWKINS/ZIMMERMAN – MOVED TO APPROVE THE 2011 MEETING SCHEDULE.

There was no discussion.

The 2011 Meeting Schedule was approved by consensus of the committee.

There was no further discussion.

Chair Erickson then stated that it was not listed on the agenda but informed the committee that a proposal was received for Lot 13B and that a special meeting for November 15, 2010 at 3:00 p.m. if everyone was available she would like to schedule that meeting.

There was a brief discussion on staff performing a compliance review of the proposal and letting the Clerk know so an alternate date can be scheduled if needed. The packet deadline is next Wednesday if they will be meeting on Monday it was determined that if the proposers are not in compliance notice can be sent to them to provide any missing information prior to that date to make it available to the Committee for review prior to the meeting. It was noted that the process went much smoother this time around. The current lessee is on a month to month rental basis.

There was no further discussion.

INFORMATIONAL MATERIALS

- A. Letter dated October 29, 2010 from City Clerk Re: Notification of Appointment
- B. Letter dated October 22, 2010 from City Manager Wrede to Brad Faulkner Re: Special Meeting November 3, 2010
- C. Property Management Policy and Procedures, Chapter 7 – Lease Rental Rates, Item 7.2.A.4
- D. Homer City Code Title 18, Section 18.08.030 Approval of Lease, Paragraph (b)
- E. Section 4: The Open Meetings Act as It Applies to Planning Commissions excerpt from City Attorney Training for the Homer Advisory Planning Commission.

Chair Erickson explained that she requested items C and D as it is relevant information for dealing with the proposal from the Kachemak Bay Wooden Boat Society. It explains what is required for a proposed lease for less than the fair market value.

She attended the training session for the Planning Commission and felt that the section on meetings was very interesting and offered some explanation what meetings fall under the open meetings act and require notification.

There was no further discussion.

COMMENTS OF THE AUDIENCE

Mr. Kevin Hogan welcomed Mr. Yager to the committee. He felt he was a wonderful addition to the committee. He commented, "Hats Off to Renee, she's amazing as usual."

Mr. Faulkner thanked the Committee for their time and postponing the meeting for him and the consideration shown to him.

COMMENTS OF THE CITY STAFF

City Manager Wrede commented that during a discussion with Mr. Abboud about providing a staff support for the committee. The discussion included establishing some processes such as staff report with reviews of the submitted proposals for compliance. There should be a deadline when the proposals are due prior to packet day. He noted the trouble Mr. Chapple had trying to ferret out what documentation was required has brought it to light that process improvement is needed.

Chair Erickson commented that a city liaison would be great to assist new businesses navigate the Lease process in the future.

A brief discussion on establishing an area or areas designated specifically for short term, temporary businesses without having to go through the whole lease proposal process would be extremely beneficial; the authority of the city manager signing short term, up to six month leases without council approval; amending the lease policies and other documents that dictate the established processes; establishing a summer or transient lease, for set fees, with no approval by lease committee or council required.

Chair Erickson requested this discussion to be added to the agenda for the special meeting.

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

There were no comments.

COMMENTS OF THE CHAIR

Chair Erickson thanked everyone for their hard work and announced the next regular meeting will be Thursday January 13, 2010 at 3:00 p.m. There will be a Special Meeting on Monday November 15, 2010, at 3:00 p.m. unless changed.

COMMENTS OF THE COMMITTEE

Mr. Hawkins stated that the Proposal for Lot 13B was supposed to be on this agenda and it got dropped from the agenda so he wanted to let the other members know they were not showing special considerations to the proposer. He welcomed Terry and thanked him for serving, pleasure having him here.

Mr. Yager is glad to be here and hope he is not slowing down anybody during his learning period. It is a daunting responsibility.

Mr. Abboud explained his voting when he has been on a body it is generally put out to RFP and to have a person out there with a very successful business, and assuming it gets approved he looks forward to working with Mr. Faulkner to make it happen.

Mr. Zimmerman welcomed Terry and thanked everyone for putting up with his inarticulate motion and voting in favor of it.

ADJOURN

There being no further business before the Lease Committee Chair Erickson adjourned the meeting at 4:45 p.m. A special meeting is scheduled for 3:00 p.m. on November 15, 2010 and the next regular meeting is scheduled for 3:00 p.m. January 13, 2011 at City Hall, Cowles Council Chambers, 491 E. Pioneer Avenue, Homer, Alaska.

Renee Krause, Deputy City Clerk I

Approved: _____