

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Special Meeting of September 15, 1998
(Corrected)

1. CALL TO ORDER:

The meeting convened at 4:10 p.m. by Chair Fay Von Gemmingen in the Assembly Chambers, 3600 Denali, Anchorage, Alaska.

2. ROLL CALL:

Present: Bob Bell, George Wuerch, Melinda Taylor, Charles Wohlforth, Fay Von Gemmingen, Cheryl Clementson, Kevin Meyer, Pat Abney, Dan Kendall, Joe Murdy.
Absent: Ted Carlson (excused).

3. OLD BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS:

- A. Ordinance No. AO 98-135, an ordinance of the Anchorage Municipal Assembly amending AMC Sections 12.35.005, 12.35.010, and 12.35.025 and proving for **tax exemptions and tax deferral for deteriorated property**, and Assemblymember Wohlforth.
1. Assembly Memorandum No. AM 767-98.
 2. Assembly Memorandum No. AM 825-98, Finance.
 3. Assembly Memorandum No. AM 844-98,
 4. Ordinance No. AO 98-135(S), an ordinance of the Anchorage Municipal Assembly amending AMC Sections 12.35.005, 12.35.010, and 12.35.025, and providing for tax exemptions and tax deferral for deteriorated property, Assemblymember Wohlforth.
 5. Information Memorandum No. AIM 106-98, Mayor's Office.

Chair Von Gemmingen announced a motion to adopt AO 98-135 was on the floor.

Mr. Wohlforth moved, to substitute AO 98-135(S-1).
seconded by Ms. Taylor,

Mr. Wohlforth handed out copies of the S-1 version. He explained the differences from the original ordinance for deteriorated area, which was taken from a statute in Pennsylvania. Mr. Wohlforth said that the change in the substitute for deteriorated property makes the local ordinance more stringent than State law.

He said that the substitute S-1 version complies more closely with State law by adding the word "partial." Also, it made clearer that the deferral or exemption of taxes is for up to five years for each time period. Mr. Wohlforth stated that these changes help make this a more stringent version than the legislature passed and will provide more protection in the future. Whether the legislature intended the five-year period of deferral and exemption to be a total five years for both or five years of exemption and then five years of deferral remained unclear. Mr. Wohlforth reported that from his research in this matter he felt there is ample evidence to show that 10 years is what was intended by the legislature. Mr. Wohlforth recommended further testimony be given to address this question.

MARC MARLOW, a real estate developer, explained his involvement with this legislation. He spoke about the words renovation, replace, etc. Mr. Marlow stated that these words were added specifically to require performance so that exemptions and deferrals of taxes could not be extended to buildings, which did not go under renovations or replacements.

PEGGY RAWITZ, an attorney with Hoge and Lekisch law firm. Ms. Rawitz referred to the State statute on Economic Development Tax Exemption and Deferral. She explained the meaning and provided a brief background on the statute. Ms. Rawitz stated it is pretty clear to her that the initial visualization would be five years of deferral and five years of exemption.

In response to Mr. Wohlforth, Ms. Rawitz explained she spoke to the State Assessor regarding the same question in that he was not aware of any example of anyone actually receiving both deferral and exemption in industrial development. So there is no way to tell how anyone would interpret in administrating this program because it has not been used much.

In response to Mr. Wohlforth, Mr. Marlow explained that these ordinances are to provide setting in place the tools necessary to move forward with this project of renovating this two-block area, specifically the MacKay Building. Once these ordinances pass, then it is his responsibility to come back and apply for the actual package of exemptions and deferrals for the area. This process will provide more specific plans for the project. Then when that package is brought forward to be approved by the Assembly, those plans would be revealed and be tied to that outcome.

In response to Mr. Bell, Ms. Rawitz explained it was true that Rep. Ryan requested her to draft this bill. She also indicated that she did not recall Rep. Ryan's intent was to be five years and five years.

Ms. Clementson voiced some concerns and inquired if the developer would be required to post bond in order to complete the project.

In response to Ms. Clementson, Mr. Wohlforth explained that there will not be any tax relief until the project is complete.

In response to Ms. Clementson, Mr. Marlow pointed out where in the State statute it was written how and when the deferrals would be given. This prompted further discussion.

Ms. Clementson commented that the definition of deteriorated area is extremely broad. She questioned who makes the determination and had some serious concerns about expanding the definition.

Mr. Wohlforth said the ordinance was more restrictive than State law. To declare a deteriorated area, the Assembly needs to conduct a hearing and make findings of fact. The idea was to provide some guidance to future assemblies as to what was a deteriorated area. In this case, the area is referring to two blocks.

Ms. Clementson pointed out that the ordinance is for the Municipality of Anchorage not the two-block area. She proposed an amendment to delete "vacant, overgrown and unsightly lots" and "defective design or arrangement of buildings, street or lot layouts" on page 1, lines 11-13. Mr. Wohlforth said he would not support the amendment if it deleted "vacant...lots."

Chair Von Gemmingen pointed out a possible technical problem, referring to Page 2 of the Mayor's AIM, dated September 1 under "eligibility of vacant land," stated it is not authorized by State law. This prompted further discussion about vacant land.

Mr. Bell explained the procedure to determine if the property meets the requirements. It would come to the mayor or the chief fiscal officer, but the ordinance does provide the criteria which the decision would have to be made.

Mayor Mystrom confirmed Mr. Bell's analysis that the application would come to the mayor and chief fiscal officer, according to the proposed ordinance. Although the Administration did not have the benefit to discuss this ordinance, the mayor agreed with Ms. Clementson in regards to the "vacant, overgrown and unsightly" text. He explained why.

Mayor Mystrom referred to another paragraph that would allow deteriorated area that is adjacent to the property in question. He agreed it may be difficult dealing with the wording.

Ms. Clementson spoke further to her proposed amendment. She felt that it was very important that the ordinance will be for other developments, not just the MacKay Building, and that the ordinance needs to be correct and not specific to one project.

Mr. Wohlforth spoke to a possible misunderstanding, explaining that the fact of something meeting this definition of deteriorated area does not mean it is qualified for tax exemption. It means that the Assembly could consider it to be an area that would become qualified. He did not see it as a big problem. He felt that it was more important to make sure they did not open the door to every vacant lot for eligibility.

Mr. Wohlforth also pointed out that an amendment was not in order until after the vote on the substitution.

Question was called on the motion to substitute and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Kendall, Murdy.
NAYS: None.

Ms. Clementson moved, seconded by Mr. Meyer,	to amend AO 98-135(S-1) by deleting "vacant, overgrown and unsightly lots" and "defective design or arrangement of buildings, street or lot layouts" on page 1, lines 11-13.
Mr. Wohlforth moved, seconded by Mr. Bell, and it passed without objection,	to divide the question between "overgrown and unsightly lots" and the "defective design and arrangement of buildings."

Chair Von Gemmingen asked if there was any discussion on vacant, overgrown and unsightly lots of ground.

Mr. Wuerch felt that the important issue was will the developers be allowed to bundle together or will the Assembly be allowed to define an area that includes, within that area, land that may be vacant at the time. He explained further. Mr. Wuerch commented that if the property adjacent to the area is adequate to allow a developer to use adjacent vacant lots, he saw no objection to the first amendment.

Municipal Attorney Mary Hughes, opined that, assuming other criteria in the State law is fulfilled and meets the state assessor's requirements, the second part would be sufficient to include adjacent lots. She clarified that she was not opining that the S-1 version meets the state assessors' requirements because the Department of Law had not reviewed the proposed ordinance, since it was just handed out.

In response to Mr. Bell, Ms. Hughes spoke further about which properties might be applicable to future situations.

There was a lengthy debate on the merits of the first division of Ms. Clementson's amendment.

Question was called on the motion to amend AO 98-135(S-1) by deleting the words "vacant, overgrown and unsightly lots of ground" and it failed:

AYES: Von Gemmingen, Clementson.
NAYS: Bell, Wuerch, Taylor, Wohlforth, Meyer, Abney, Kendall, Murdy.

Mr. Wohlforth said he did not object to the other half of the divided amendment to delete "defective design or arrangement of buildings, street or lot layouts."

Ms. Abney commented that as the city grows, she can see where this would be a useful program to have available to encourage new development.

Question was called on the motion to amend AO 98-135(S-1) by deleting "defective design or arrangement of buildings, street or lot layouts," and it passed:

AYES: Bell, Wohlforth, Von Gemmingen, Clementson, Kendall, Murdy.
NAYS: Wuerch, Taylor, Meyer, Abney.

Mr. Wohlforth spoke to the main motion. He provided a brief history of his experience with being a representative for the downtown area for the past six years, and specifically spoke on the MacKay Building and how Mr. Marlow approached him with a well thought-out plan that brought them to where they are today in this process.

Chair Von Gemmingen felt that there were some problems with the State law; she did not see specific items that would provide protection for the public. She hoped to work on this issue for the best interest of the taxpayers of Anchorage.

Mayor Mystrom, made a broad comment for the record, about revenue sources for the Municipality. He said that because the City does not have sales or income tax; the only additional base for new services due to increased population is increased property taxes. He felt that the Assembly needs to be prudent in applying this law and avoid applying it too broadly so that existing tax payers would end up paying a disproportionately higher burden.

Further discussion occurred on the amended ordinance before the Assembly.

Question was called on the motion to adopt AO 98-135(S-1) as amended and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Meyer, Abney, Kendall, Murdy.
NAYS: Clementson.

- B. Ordinance No. AO 98-136, an ordinance of the Anchorage Municipal Assembly **designating certain real property as deteriorated property** (all property located between Cordova and Eagle Streets and 3rd and 4th Avenues), Assemblymember Wohlforth.
1. Assembly Memorandum No. AM 768-98.
 2. Assembly Memorandum No. AM 825-98.
 3. Assembly Memorandum No. AM 845-98.
 4. Ordinance No. AO 98-136(S), an ordinance of the Anchorage Municipal Assembly designating certain real property as deteriorated property (all property located between Cordova and Eagle Street sand 3rd and 4th Avenues), Assemblymember Wohlforth.
 5. Information Memorandum No. AIM 106-98.

Mr. Wohlforth moved, to adopt AO 98-136(S).
seconded by Ms. Taylor,

Mr. Wohlforth pointed out that the Feasibility Report addresses this entire area, which is a deteriorated area by any standards. He stated that he would like the record and the minutes to show, specifically, the findings of fact that the Assembly is making are in the "whereas" sections of the ordinance, with respect to the deteriorating conditions, then that should justify a designation.

In response to Ms. Clementson, Mr. Wohlforth verified the intent, including the B&C Automotive Supply property, to be the entire two-block area.

Mr. Marlow said the property in question is his. He explained the property within the defined boundary.

Ms. Hughes referred to Line 38 of 98-136(S) and commented that it seemed they should be using "deteriorated area" instead of "deteriorated property." She also pointed out the property has yet to be defined.

Ms. Clementson moved, to amend AO 98-136(S) by deleting "property" and
seconded by Mr. Meyer, inserting the word "area" at line 38.
and it passed without
objection,

In response to Mr. Wohlforth, Attorney Rawitz explained that in light of the passage of the S-1 version of AO 98-135, it made sense to change the wording to "deteriorated area."

Ms. Hughes said the Legal Department could make the appropriate changes.

In response to Chair Von Gemmingen as to whether it was the intent to have the ordinance read "deteriorated area" or just "area," Ms. Clementson, the maker of the motion, said "deteriorated area."

Mr. Wohlforth suggested that, with this intention, the Clerk change "property" to "area" throughout the document.

Ms. Clementson announced that she did support the project. However, she commented that this process made her uneasy because there was no staff analysis or specific process declaring the area deteriorated. She explained that she will vote no because she does not support this process.

Question was called on the motion to adopt AO 98-136(S) as amended and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Meyer, Abney, Kendall, Murdy.
NAYS: Clementson.

- C. Ordinance No. AO 98-134, an ordinance of the Anchorage Municipal Assembly **withdrawing certain real property from the Heritage Land Bank for public purposes and authorizing the sale of said real property at the current appraised fair market value** (Parcel No. 1 Lots 7, 8 and 9A, Block 23, East Addition to Original Townsite; Parcel No. 2 Lot 2, Block 23, East Addition to Original Townsite; Parcel No. 3 Lots 4, 5 and 6, Block 24, East Addition to Original Townsite), Assemblymember Wohlforth.
1. Assembly Memorandum No. AM 766-98.
 2. Assembly Memorandum No. AM 846-98.
 3. Information Memorandum No. AIM 106-98.

Mr. Wohlforth moved, to adopt AO 98-134.
seconded by Mr. Meyer,

Mr. Wohlforth provided a brief history of the sale of this property. He felt that this will help the project and the redevelopment of it will be positive, and the City will get the expected fair-market value.

Ms. Hughes recommended that the Assembly consider allowing an option on these properties other than an out-right sale to avoid possible litigation. An option would allow a developer to say that he has the properties tied up and when the development goes ahead, the sale could go forward. However, as the ordinance is currently written, there is no recourse.

Mr. Wohlforth and Ms. Hughes discussed possible scenarios regarding the sale of the property. Ms. Hughes recommended that some type of option of sale with Mr. Marlow be worked out.

In response to Mr. Wohlforth, Mr. Marlow explained that with the passage of these ordinances and subsequent approval of an application for exemption and deferral, he would be moving very quickly to develop a design for the renovated MacKay Building as a nice apartment building. Mr. Marlow reported that he has never represented that financing is in place and it is not. He said the only thing that would make him uneasy about an option is if it could be tripped up some way after he had already spent money to design the building.

Mr. Bell pointed out that if the Municipality sells the property now it would get half a million dollars now, but if it gives the developer an option, it would not get money until later.

Chair Von Gemmingen asked for suggestions on drafting such an amendment.

Mr. Wohlforth recommended that Mr. Marlow and his attorney confer now and that the special meeting recess and reconvene at 7:00 p.m.

Mr. Wohlforth moved, to continue the Special Meeting until 7:00 p.m. on this
seconded by Ms. Taylor, and date.
it passed without objection.

The special meeting recessed at 5:20 p.m. and reconvened at 7:00 p.m.

In response to Mr. Wohlforth, Ms. Hughes indicated what words to insert as the proposed amendment for AO 98-134 on Line 41.

Mr. Wohlforth moved, to amend AO 98-134 to insert the words "including the
seconded by Mr. Murdy, and negotiation of an option" on line 41 after the words
it passed without objection, ..."and shall dispose."

Mr. Wohlforth commented that it would be his intent to make this an iron clad option so that Mr. Marlow can go ahead with his project with the confidence that he can buy the property for the fair-market value when the time comes for that to happen.

Question was called on the motion to adopt AO 98-134 as amended and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Murdy.
NAYS: None.

(Clerk's Note: Mr. Kendall was out of the room at the time of the vote.)

4. ADJOURNMENT:

Mr. Murdy moved,
seconded by Mr. Meyer, and
it passed without
objection,

to adjourn the Special Meeting at
7:05 p.m.

The meeting adjourned at 7:05 p.m.

Chair

ATTEST:

Municipal Clerk

Date Minutes Approved: January 26, 1999

VMC/ry

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