

# MUNICIPALITY OF ANCHORAGE

## ANCHORAGE ASSEMBLY

Minutes for Special Meeting of October 9, 1998

1. CALL TO ORDER:

The meeting convened at 4:45 p.m. by Chair Fay Von Gemmingen in the Mayor's Conference Room, 632 W. 6<sup>th</sup> Avenue, Anchorage, Alaska.

2. ROLL CALL:

Present: Ted Carlson, Fay Von Gemmingen, Kevin Meyer, Joe Murdy, Charles Wohlforth (5:00), George Wuerch.  
Absent: Pat Abney, Bob Bell, Cheryl Clementson, Dan Kendall, Melinda Taylor (all excused).

3. NEW BUSINESS:

- A. Resolution No. AR 98-324, a resolution of the Anchorage Assembly **protesting issuance of a new restaurant eating place liquor license and restaurant designation for Latino's Cafe, 4119 Mt. View Drive, Anchorage, Alaska** (Mt. View Community Council), Assemblymember Wohlforth.
- B. To conduct such other business and take such other action relating to or concerning the above resolution and liquor license application as may be reasonably necessary and appropriate to effectuate the purpose, intent, goal and provisions of the resolution.

Mr. Wohlforth moved, to approve AR 98-324.  
seconded by Mr. Meyer,

Mr. Wohlforth gave a brief history of Assembly Memorandum 911-98, approved on October 6, 1998, regarding this liquor license. He explained the special meeting was necessary because a reconsideration could not be made within the mandated deadline for a protest of the license.

Mr. Wohlforth described the new resolution. He said it lays out the record, rescinds the memorandum (AM 911-98), gives grounds for protesting, and specifies the conditions, if met, that will prevent a protest. He explained his reason for taking the condition approach instead of the straight-protest approach.

Mr. Wuerch said just the license could be protested. However, the Assembly could create a risk with the Alcoholic Beverage Control (ABC) Board as appearing arbitrary and capricious.

Mr. Murdy questioned whether this restaurant may be involved in illegal activities. He observed it did not have the food stocked that was listed on its menu. He was not in support of the resolution, as written.

Mr. Carlson agreed with Mr. Murdy in that he also had some deep concerns. He felt that the Assembly had grounds for protest. Further, the applicant could not explain who was the manager or the owner. Mr. Carlson suggested that the Assembly "flat" protest it.

Chair Von Gemmingen said her concern was that the applicant seemed to concentrate more on liquor than on food. She thought the applicant seemed to be underfunded.

Mr. Meyer suggested the Assembly follow Mr. Wohlforth's suggestions, since the Assembly normally follows the advice of the member from the area in which the license is located. He supported the resolution with the understanding that the Assembly could revisit the license in January.

Mr. Wohlforth said there is no proof of some beliefs held by the community council regarding alleged drug use at the restaurant. Mr. Wohlforth said he could add another condition that Mr. Santos can not have an association with the restaurant.

Mr. Wohlforth also pointed out that the woman on the application would not speak English at the Assembly meeting, even though she does speak and understand English. She says she understands the laws, even though when asked if she had read the book, she said no. He admitted there seems to be some miscommunication. Mr. Wohlforth was concerned that the Assembly did not have the basis to deny the liquor license at this time.

Mr. Wohlforth moved, to amend AR 98-324 by inserting on page 2, under  
seconded by Mr. Wuerch, section C.2 after the words "...TAMS cards for all" the  
and it passed without word "owners."  
objection,

Mr. Wohlforth moved,  
seconded by Mr. Wuerch,  
and it passed without  
objection,

to amend AR 98-324 by adding on page 2, a new  
paragraph C.5, to read: "The applicant shall meet with the  
Mt. View Community Council to discuss their concerns."

Mr. Wohlforth moved,  
seconded by Mr. Wuerch,  
and it passed without  
objection,

to amend AR 98-324 by adding on page 2, a new  
paragraph C.6, to read "The previous owner, Mr. Delos  
Santos, shall have no association with the  
establishment."

Mr. Wohlforth discussed the reasons for these amendments.

Mr. Carlson expressed that it is a lot easier to oppose the issuance of a liquor license than it is to take one away, which can become a big court battle. Mr. Carlson believed strongly that the Assembly has the grounds to protest. He urged the members to oppose the issuance of this liquor license.

In response to Chair Von Gemmingen, Deputy Municipal Attorney Greene confirmed that a majority of six Assembly members must vote in the affirmative for this issue to pass at this meeting.

The meeting recessed for several minutes at 5:05 and reconvened at 5:15.

In response to Mr. Carlson, Mr. Greene explained some things that transpired at the preceding Tuesday Assembly meeting. He said the burden is on the applicants to establish qualification for the license. He recalled that there was a lack of information on the record regarding this license. However, the record does reflect that there is some evidence to indicate the applicants may not understand the liquor license laws. The applicants may not have the ability to adequately manage the premises, which is a judgment call for the Assembly to make.

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

to amend AR 98-324 by striking on page 1, at paragraph  
'A,' the word "rescinded" and inserting the word  
"repealed," and on page 2 by adding a new paragraph C.7  
to read: "All pending Municipal utility bills due are paid."

Mr. Carlson suggested another amendment regarding the management of the premises.

Mr. Carlson moved,  
seconded by Mr. Wuerch,  
and it passed without  
objection,

to amend AR 98-324 by adding a new paragraph C.8 to  
read: "The applicant shall submit to the Assembly and the  
Alcoholic Beverage Control Board a management plan  
showing how the applicant will avoid violations of the  
liquor laws and other evidence of knowledge of liquor laws,  
as required by the Assembly and ABC Board."

Mr. Murdy said his initial feeling was not to support the resolution, but he decided to give Mr. Wohlforth the benefit of the doubt and vote for it.

Mr. Greene reminded the Assembly this is a restaurant license only. The restrictions are not the same as a beverage dispensary license.

In response to Mr. Carlson, Mr. Wohlforth read the amendments again.

Mr. Carlson moved,  
seconded by Mr. Wohlforth,  
and it passed without  
objection,

to amend AR 98-324, at paragraph C.4, by striking the  
words "instances of serving minors or staying open after  
hours" and by inserting, before the words deleted, the  
words "any violations of the Alcoholic Beverage Control  
Board regulations, State or Municipality of Anchorage  
laws"...

Further discussion was held on the merits of the resolution as amended and on when the Alcoholic Beverage Control Board could be sent the resolution, in order to meet the local government's protest deadline.

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

to amend AR 98-324, paragraph C.8, by inserting the  
words "... applicant will avoid violations of liquor laws  
and shall show an understanding of the plan, and shall  
submit other evidence of a knowledge of the liquor laws  
as required by the Assembly or Board."

Question was called on the motion to approve AR 98-324 as amended and it passed:

AYES: Carlson, Meyer, Murdy, Von Gemmingen, Wohlforth, Wuerch.  
NAYS: None.

4. ADJOURNMENT

The meeting adjourned at 5:25 p.m.

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Chair

ATTEST:

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Municipal Clerk

Date Minutes Approved: January 26, 1999

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