

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of January 12, 1999

1. CALL TO ORDER:

The meeting was convened at 5:13 p.m. by Assembly Chair Fay Von Gemmingen in the Assembly Chambers, 3600 Denali, Anchorage, Alaska.

2. ROLL CALL:

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

3. PLEDGE OF ALLEGIANCE:

The pledge was led by Mr. Carlson.

4. MINUTES OF PREVIOUS MEETING:

- A. Special Meeting - September 15, 1998
- B. Regular Meeting - September 15, 1998
- C. Regular Meeting - September 22, 1998

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

to postpone action on approval of the minutes of the special meeting of September 15, 1998 until January 26, 1999.

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

to approve the minutes of the regular meetings of September 15 and 22, 1998.

5. MAYOR'S REPORT:

Mayor Mystrom discussed continuing relief efforts for communities in Russia. He noted that Alaska Airlines donated a flight to Providena. About 9,000 pounds of clothing will be shipped to Magadan on January 14, 1999. The Russian people are very grateful for the help. Secondly, the Mayor said Eagle River Commons in Eagle River was part of a large tract of land. He disclosed he recently purchased a piece of property adjacent to that tract. He was asked to decide on a location of the Commons within the large tract. He felt uncomfortable with that decision, because the location of the Commons could have an impact on his rental property. He asked the Assembly Chair to appoint a three-person committee to act in the Mayor's stead. For this issue, Municipal staff would report to the committee, which would develop recommendations on a site for the Assembly or the Heritage Land Bank. Lastly, he noted a new payroll/financial information system was implemented on January 1, 1999. The transition went very smoothly. The system represents about 1/3 of all Municipal computers, and it is Year 2000 compliant.

Mr. Wuerch requested the Mayor include the Municipality's Y2K readiness in upcoming public addresses.

6. ADDENDUM TO AGENDA:

Mr. Murdy moved,
seconded by Mr. Carlson,

to amend the agenda to include the addendum items.

Chair Von Gemmingen read the addendum items.

Question was called on the motion to amend the agenda and it passed without objection.

7. CONSENT AGENDA:

Ms. Clementson moved,
seconded by Mr. Wuerch,

to approve all items on the consent agenda as amended.

A. BID AWARDS: None.

B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

- 1. Ordinance No. AO 99-1, an ordinance of the Municipality of Anchorage creating **Alley Paving Special Assessment District 2P98 - East 15th Avenue/East 15th Terrace Alley from East 15th**

Terrace to its west end and determining to proceed with proposed improvements therein, Public Works. public hearing 2-2-99.

- a. Assembly Memorandum No. AM 43-99.
2. Ordinance No. AO 99-2, an ordinance amending Anchorage Zoning Ordinance 94-235(S-1), an ordinance that rezoned to PC, Planned Community District approximately 530 acres described as **Tract A of the Powder Reserve**, to add Matanuska Electric Association (MEA) utility substations as a permitted use to Development Area J and delete Matanuska Electric Association (MEA) utility substations as a permitted use from Development Area L, generally located immediately northwest and southwest of the North Eagle River Interchange of the New Glenn Highway in Eagle River and within portions of Sections 25, 26, 35 and 36 Township 15 North, Range 2 West, Seward meridian, Alaska (Birchwood Community Council) (Planning and Zoning Commission Case 93-022-3), Community Planning and Development. public hearing 2-9-99.
 - a. Assembly Memorandum No. AM 52-99.
3. Ordinance No. AO 99-3, an ordinance amending the zoning map and providing for the rezoning from "T" Transition District to R-O SL (Residential-Office) District with Special Limitations, for a **portion of the NW4 of the NE4 of the NE4 of the NE4, T14N, R2W, Seward Meridian Alaska**; generally located on the west side of the New Glenn Highway and south of the North Eagle River Interchange (Eagle River Community Council) (Planning and Zoning Commission Case 98-151), Community Planning and Development. public hearing 2-9-99.
 - a. Assembly Memorandum No. AM 53-99.
4. Ordinance No. AO 99-4, an ordinance amending the zoning map and providing for the rezoning from PC (Planned Community) to B-3 (General Business District) Zone with Special Limitations for **Tract 1, Powder Reserve Subdivision**, generally located immediately northwest and southwest of the North Eagle River Interchange and the New Glenn Highway (Birchwood Community Council) (Planning and Zoning Commission Case 99-001), Assemblymember Kendall. public hearing 2-9-99.
 - a. Assembly Memorandum No. AM 66-99.
5. Ordinance No. AO 99-5, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code to provide municipal reimbursement of **utility relocation costs** necessitated by municipal capital projects; to adjust the fee and fine schedules for utility permits; streamline permit monitoring; provided for annual blanket permits, and to require markers for utility facilities under six feet tall, Legal Department.
 - a. Assembly Memorandum No. AM 54-99.

Mr. Wuerch asked this item be considered on the regular agenda. See item 8.C.

6. Ordinance No. AO 99-6, an ordinance **continuing or reestablishing the Anchorage Veteran's Affairs Commission**, Municipal Clerk. public hearing 1-26-99. (**addendum**)
 - a. Assembly Memorandum No. AM 62-99.
7. Ordinance No. AO 99-7, an ordinance **continuing or reestablishing the Arts Advisory Commission, Bidding Review Board, Budget Advisory Commission, Election Commission, Emergency Medical Service Board, Employee Relations Board, Board of Ethics, Geotechnical Advisory Commission, Historical and Fine Arts Commission, Library Advisory Board, Municipal Light and Power Commission, Parks and Recreation Commission, Personnel Review Board, Platting Board, Anchorage Port Commission, Public Facilities Advisory Commission, School Budget Advisory Commission, Senior Citizens Advisory Commission, Sister Cities Commission, Traffic Commission, Public Transit Advisory Commission, Transportation Commission, Anchorage Water and Wastewater Utilities Commission, Zoning Board of Examiners and Appeals**, Municipal Clerk. public hearing 1-26-99. (**addendum**)
 - a. Assembly Memorandum No. AM 63-99.
8. Ordinance No. AO 99-8, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Chapter 4.60, Program Advisory Boards, to **establish an Anchorage Trails Commission**, Assemblymembers Abney and Taylor. public hearing 2-2-99. (**addendum**)

C. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-10, a resolution authorizing the **disposal of municipal interests within numerous properties managed by Eklutna, Inc.** located from Eagle River to Eklutna Lake, Water and Wastewater Utility.
 - a. Assembly Memorandum No. AM 44-99.
2. Resolution No. AR 99-11, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Sgt. Mike Grimes, upon his retirement**, for his 26 years of service with the Anchorage Police Department and to the Anchorage Community, Assemblymembers Carlson, Abney, Bell, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, Wohlforth, and Wuerch.

Mr. Carlson asked this item be considered on the regular agenda. See item 8.C.

3. Resolution No. AR 99-12, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Sam Oliveri as a "City Hero"**, Assemblymembers Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, Wohlforth, and Wuerch. (**addendum**)

Mr. Wuerch asked this item be considered on the regular agenda. See item 8.C.

D. NEW BUSINESS:

1. Assembly Memorandum No. AM 58-99, **confirmation of appointments to Police and Fire Retiree Medical Funding Program Board of Trustees** (Dwayne D. Jones, Gary L. Powell), Mayor's Office.
2. Assembly Memorandum No. AM 48-99, **Crow Creek Mercantile #51** - Transfer of Ownership of a Package Store Liquor License (Girdwood Community Council), Clerk's Office.
3. Assembly Memorandum No. AM 49-99, **1999-2000 Liquor License Renewals**: Blue Fox, Cheechako Bar (Beverage Dispensary); Regal Alaskan Hotel (Beverage Dispensary-Tourism); Simon & Seaforts (Beverage Dispensary); New Party Time Liquors (Package Store); Anchorage Bucs (Recreational Site); China Lights Chinese Restaurant, Godfather's Pizza #2502, Godfather's Pizza #2503, Godfather's Pizza #2504, Peggy's Restaurant (Restaurant/Eating Place), Clerk's Office.
4. Assembly Memorandum No. AM 45-99, change order No. 1 to construction contract with Coastal Inc. for **Sports Field Irrigation Improvements**, Cultural and Recreational Services.

Ms. Clementson asked this item be considered on the regular agenda. See item 8.E.

5. Assembly Memorandum No. AM 46-99, change order No. 1 to the contract with Sandstrom & Sons, Inc. for **miscellaneous pile repairs and Trestle No. 2 renovations**, Port of Anchorage.
6. Assembly Memorandum No. AM 47-99, contract amendment No. 1 to Black-Smith & Richards, Inc. for **market value appraisal services in support of right of way acquisition on the 15th Avenue Safety Improvements, ISTEPA Project**, DPW 92-64, Public Works.

Mr. Wohlforth asked this item be considered on the regular agenda. See item 8.E.

7. Assembly Memorandum No. AM 51-99, proprietary purchase to McKesson Drug and Bergen Brunswig Medical Corporation for furnishing **medical supplies** to the Municipality of Anchorage, Department of Health and Human Services/ Purchasing.
8. Assembly Memorandum No. AM 55-99, change order No. 1 to purchase order 73911 to exercise to option with Continuous Printing of Alaska for furnishing **envelopes** to the Municipality of Anchorage, Water and Wastewater Utility/Purchasing.
9. Assembly Memorandum No. AM 56-99, change order No. 3 to purchase order 60401 with Aetna Life Insurance Company for providing **group health and related insurance programs** for the Municipality of Anchorage, Employee Relations Department/Purchasing.
10. Assembly Memorandum No. AM 57-99, approval to enter into **grant agreements with the Association for Retarded Citizens of Anchorage, Northeast Community Center, Anchorage Opera Company, Anchorage Concert Association, Anchorage Symphony Orchestra, and Alaska Dance Theatre**, Cultural and Recreational Services.
11. Assembly Memorandum No. AM 59-99, **Fred Meyer-Diamond** - Transfer of Ownership and Location of a Package Store Liquor License (Bayshore-Klatt/Sand Lake Community Councils), Clerk's Office. (**addendum**)

Ms. Clementson asked this item be considered on the regular agenda. See item 8.E.

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 3-99, Anchorage Water and Wastewater Utility construction contract change order for **Kluane Terrace water upgrade**, Water and Wastewater Utility.

Question was called on the motion to approve the remaining items on the consent agenda as amended and it passed:

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

8. REGULAR AGENDA:

A. TIME CRITICAL ITEMS: None.

B. BID AWARDS: None.

C. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 99-5, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code to provide municipal reimbursement of **utility relocation costs** necessitated by municipal capital projects; to adjust the fee and fine schedules for utility permits; streamline permit monitoring; provided for annual blanket permits, and to require markers for utility facilities under six feet tall, Legal Department. (NOT SUBMITTED)
 - a. Assembly Memorandum No. AM 54-99.

Municipal Manager George Vakalis said the administration will resubmit the ordinance at a later date.

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

to postpone action on AO 99-5 indefinitely.

D. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-11, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Sgt. Mike Grimes, upon his retirement**, for his 26 years of service with the Anchorage Police Department and to the Anchorage Community, Assemblymembers Carlson, Abney, Bell, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, Wohlforth, and Wuerch.

Mr. Carlson moved, to approve AR 99-11.
seconded by Ms. Taylor,
and it passed without
objection,

Mr. Carlson read the resolution while Mr. Murdy presented it to Sergeant Grimes.

Sergeant Grimes accepted the resolution and thanked the Assembly. He felt honored to serve this community for the past 26-½ years. He felt the Anchorage Police Department was made up of the finest professionals in all the world.

2. Resolution No. AR 99-12, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Sam Oliveri as a "City Hero"**, Assemblymembers Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, Wohlforth, and Wuerch. (**addendum**)

Mr. Wuerch moved, to approve AR 99-12.
seconded by Mr. Murdy,
and it passed without
objection,

Mr. Wuerch read the resolution while Chair Von Gemmingen presented it to Mr. Oliveri. Mr. Wuerch noted Mr. Oliveri, a custodian at Gladys Wood Elementary School, saved the life of a student. Mark Johnson was choking on a piece of an orange, and Mr. Oliveri successfully applied the Heimlich Maneuver.

Mr. Oliveri thanked the Assembly. He encouraged others to act if they see someone in need.

Mrs. Johnson, Mark's mother, said she was appreciative that the Anchorage School District provides a learning environment which is safe as well as educational.

Greg Moyer, Director of the Assembly Office, presented the Johnson and Oliveri families with gifts from various local merchants.

E. NEW BUSINESS:

1. Assembly Memorandum No. AM 45-99, change order No. 1 to construction contract with Coastal Inc. for **Sports Field Irrigation Improvements**, Cultural and Recreational Services.

Ms. Clementson moved, to approve AM 45-99.
seconded by Mr. Murdy,

Ms. Clementson moved, to postpone action on AM 45-99 until January 26, 1999,
seconded by Mr. Murdy, to allow time for further research into the issue.
and it passed without
objection,

2. Assembly Memorandum No. AM 47-99, contract amendment No. 1 to Black-Smith & Richards, Inc. for **market value appraisal services in support of right of way acquisition on the 15th Avenue Safety Improvements, ISTEA Project**, DPW 92-64, Public Works.

Mr. Wohlforth moved, to approve AM 47-99.
seconded by Mr. Murdy,

Mr. Wohlforth requested an update on acquisition of the Alano Club.

Municipal Manager George Vakalis said he would provide an update at a later date.

Question was called on the motion to approve AM 47-99 and it passed without objection.

3. Assembly Memorandum No. AM 59-99, **Fred Meyer-Diamond** - Transfer of Ownership and Location of a Package Store Liquor License (Bayshore-Klatt/Sand Lake Community Councils), Clerk's Office. (**addendum**)

Ms. Clementson moved, to approve AM 59-99.
seconded by Mr. Meyer,

In response to Ms. Clementson, Dan Coffey addressed the Assembly on behalf of Fred Meyer. He explained the Brown Jug license is now designated as "no premises" because they have closed their store. A "no premises" license is surrendered to the State Alcoholic Beverage Control Board until such time as a new location is found. Fred Meyer purchased a license from a location a few blocks away, and will operate it in the old Brown Jug location within Fred Meyer. Brown Jug will have to apply for a conditional use permit in order to operate the "no premises" license again. The liquor store in Fred Meyer will remain the same size. The chain plans to make this change at all three Anchorage stores.

Question was called on the motion to approve AM 59-99 and it passed without objection.

F. INFORMATION AND REPORTS: None.

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

- A. **NOTICE OF RECONSIDERATION:** Ordinance No. AO 98-171(S), an ordinance amending Anchorage Municipal Code Sections 9.04.010, 9.32.070 and 9.30.030 to **prohibit vehicles other than municipal buses from standing, stopping or parking in Municipal Transit bus stop zone.**
(POSTPONED FROM 11-17-98; FAILED 1-5-99; NOTICE OF RECONSIDERATION WAS GIVEN BY MS. TAYLOR 1-6-99)

Chair Von Gemmingen gave the history of the ordinance, and noted Ms. Taylor gave notice of reconsideration. The question of whether to reconsider action on AO 98-171(S) was on the floor.

In response to Mr. Murdy, Municipal Manager George Vakalis said he would address the problem of passenger loading and unloading at the Egan Center.

Question was called on whether to reconsider action on AO 98-171(S) and it passed:

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

Ms. Taylor felt the ordinance was necessary. She pointed out People Mover buses stop at the Egan Center over 400 times per day. The goal of the ordinance was to ensure Municipal buses can operate in a timely and efficient manner.

Mr. Wuerch noted the current law allows private vehicles to discharge and pick up passengers in bus stops, as long as they do not interfere with the Municipal transit bus. He was concerned that the proposed ordinance would restrict the use of certain land for a select few. He felt the proposal might create more problems than it would solve.

Mr. Carlson agreed with Mr. Wuerch. He noted most people he has heard from on this issue seem to focus on the Egan Center. He suggested limiting the application of this ordinance to that facility. He pointed out senior citizen buses use the stops to unload passengers, as the stops are often the only areas that are cleared of snow.

Ms. Clementson pointed out it was important for buses to be able to pull completely off the road and not be a hindrance to traffic. She said the public routinely uses bus pullouts in many areas of town for many reasons, such as to wait for children after school.

Ms. Taylor concurred with Ms. Clementson, and added Municipal police have encountered problems ticketing offenders because of the wording of the current law.

Question was called on the motion to adopt AO 98-171(S) and it passed:

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

- B. Assembly Memorandum No. AM 39-99, recommendation of award to Rise Alaska, LLC for providing professional **project management services for the Anchorage 6th Avenue Jail Replacement** for the Municipality of Anchorage, Department of Property and Facility Management (RFP 56-98), Purchasing.
(POSTPONED FROM 1-5-99)

Chair Von Gemmingen gave the history of the memorandum and noted there were no motions pending.

Mr. Wuerch moved, to approve AM 39-99.
seconded by Mr. Murdy,

Mr. Wuerch said upon review, the proposal seems to fall short of the traditional definition of "project management services." He recommended the Assembly refer the proposal to the Bidding Review Board for review. However, he did not want to delay the jail project. He pointed out design of the facility had likely begun, so delay in selecting the project manager should not be a problem.

Mr. Wuerch moved, to substitute a motion to refer the winning bid on
seconded by Mr. Murdy, RFP 56-98 to the Bidding Review Board.

Purchasing Officer Ted Chenier explained the Bidding Review Board would need specific questions and issues to address.

Mr. Wuerch said the question was whether the bidder was responsive since he would not be performing design review. He said most project managers would not agree that a project manager can perform this service without discipline engineers.

Mr. Bell pointed out one of the requirements of the RFP was that the firm and the project manager have specific jail construction experience. The two projects that Rise Alaska cited as providing experience were not completed, and it appears their project manager has no jail experience. He felt the question should be whether the company has the expertise required by the RFP.

Mr. Wohlforth agreed the two Alaska projects Mr. Bell referred to are not yet complete. However, he noted the contractor listed a 1,000-bed Federal detention center and a 500-bed Federal detention center both in Brooklyn, New York, a 1,000-bed Federal detention center in Washington, DC, the Nesbitt Courthouse and Police Department Headquarters in Anchorage, a courthouse in Fairbanks, and the Seward Sealife Center. He did not understand the contention of some of his colleagues that the contractor does not have adequate experience.

Mr. Bell responded he has never seen someone use a project that is incomplete as an example of experience. He added the other projects mentioned by Mr. Wohlforth were not Rise Alaska projects. They were Steve Chinn's projects while he was working for another firm. It is uncertain whether Mr. Chinn will be involved in the proposed jail project.

Mr. Wohlforth agreed that whether Mr. Chinn will be involved was an important point.

In response to Mr. Wohlforth, Internal Auditor Pete Raiskums said he reviewed the process used to evaluate the two proposals. He felt the process was conducted properly, and there was no indication of impropriety. He could not comment on the qualifications of the bidders.

In response to Ms. Clementson, Don Simmons of Property and Facility Management spoke as a member of the selection committee. He said the committee was composed of qualified members. There was a clear process and a unanimous decision to choose the most qualified bidder. He said the firm was a reputable, national jail designer with engineering expertise. On that team are very prominent Anchorage engineering firms to perform part of the design and peer review work. Peer review work is built into the project management contract. The project budget will cover additional engineering peer review work if the administration feels it is necessary. The Rise Alaska contract is very specific; the administration knows exactly the services and personnel which will be provided. The personnel are all degreed architects or engineers and will be involved in peer review work during various phases of the design. Between Rise Alaska and ECI/Hyer, also a member of the team, the engineering and design reviews on this project will be well covered.

In response to Mr. Wohlforth, Mr. Simmons discussed his opinion of the qualifications of the personnel. Martha Showenthall, the project manager, is highly recommended. She was involved with the Anchorage Museum project, was project manager on dozens of U.S. Army Corps of Engineers projects in Alaska and Germany. He has checked her references, and knows people who have worked with her. Roe Sturgulewski will be primarily involved during construction. He was the construction manager at the Seward Sealife Center and is currently working on the Kodiak launch complex. Mr. Sturgulewski worked on APD headquarters, and worked for Mr. Simmons on the Bartlett High swimming pool. He was public works director in Unalaska for six years. Mr. Chinn's roll is peer review. He will come to Alaska during various phases of the design, for peer review of schematics, design development and construction documents.

In response to Mr. Bell, Mr. Simmons confirmed the Rise Alaska contract was separate from the contract with ECI/Hyer.

Mr. Meyer moved, the previous question.
seconded by Mr. Murdy,

Mr. Meyer pointed out the Bidding Review Board would be able to settle the question.

Question was called on the motion to call the previous question and it failed, for lack of eight affirmative votes required to pass:

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

Executive Manager Elaine Christian said the administration tried to respond to concerns raised at last weeks' Assembly meeting. However, today she heard about additional communication from Jim Dekoozian to Assemblymembers. She suggested further postponement of the memorandum, to give the administration an opportunity to respond to these new questions.

Mayor Mystrom clarified that if the bidder was declared non-responsive, the entire process would begin over again, rather than being awarded to the second bidder.

In response to Mr. Wohlforth, Mr. Simmons said if the RFP process was started over, the jail project would still move forward. However, the chances for error or problems with the work that is already underway would increase. The RFP process takes two to three months; by then, design and development would be halfway finished.

Mr. Wohlforth agreed the losing bidder found items that could have been done better in the winning proposal. However, that would likely be possible with almost any proposal. He also felt the administration should be allowed to respond to the new questions.

Mr. Wohlforth moved, to postpone action on AM 39-99 until January 26, 1999.
seconded by Ms. Clementson,

Mr. Bell pointed out delaying the project for a few months as a result of a re-bid would be much less costly to the community than hiring a firm that was not qualified. Postponement for two week to allow a response from the administration would be fine, but their response will be from their perspective. The Bidding Review Board would examine both sides of the story.

Ms. Clementson noted Assembly members received several pages of information from the losing company detailing technical problems with the winning proposal. She felt it was inappropriate to involve the Assembly without first going through established administrative procedures. Assembly members cannot adequately address these complaints, because they do not have access to the losing proposal. She supported a postponement, but not sending the proposal to the Bidding Review Board.

In response to Mayor Mystrom, Mr. Chenier said when he spoke with the attorney for Mr. Locker on March 1, 1999, they discussed how a proposal does not usually lend itself to a Bidding Review Board hearing. This is because the Board cannot review all the information.

Question was called on the motion to postpone action on AM 39-99 until January 26, 1999 and it passed:

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

The meeting recessed at 7:00 p.m. and reconvened at 7:26 p.m.

- C. Ordinance No. AO 98-141(S), an ordinance of the Municipality of Anchorage **creating a Board of Adjustment panel separate from the Assembly**, retaining the Assembly as a Board of Adjustment panel with limited jurisdiction and delineating the respective duties, responsibilities, powers and jurisdiction with respect to appeals to the Board of Adjustment, Assemblymember Clementson.
1. Ordinance No. AO 98-141(S-1), an ordinance of the Municipality of Anchorage creating a Board of Adjustment panel separate from the Assembly, retaining the Assembly as a Board of Adjustment panel with limited jurisdiction and delineating the respective duties, responsibilities, powers and jurisdiction with respect to appeals to the Board of Adjustment, Assemblymember Wohlforth.
(addendum)
 2. Assembly Memorandum No. AM 64-99.
 (AO 98-141(S) FAILED 12-8-98; MR. WOHLFORTH GAVE NOTICE OF RECONSIDERATION ON 12-9-98; RECONSIDERED AND POSTPONED FROM 12-15-98)

This item was continued until January 26, 1999.

- D. Assembly Memorandum No. AM 2-99, 1999-2000 Liquor License Renewal: **Bird House Bar** (NO PREMISE) (Package Store), Clerk's Office.
 (POSTPONED FROM 1-5-99)

This item was considered later in the meeting . See item 16, Unfinished Agenda.

- E. Assembly Memorandum No. AM 4-99, **Irish Setter** - Transfer of Ownership of a Beverage Dispensary Liquor License (Fairview/Mt. View Community Councils), Clerk's Office.
 (POSTPONED FROM 1-5-99)

This item was continued until January 26, 1999.

- F. Assembly Memorandum No. AM 1192-98, 1999-2000 Liquor License Renewal: **The Hub** (Beverage Dispensary); **The Hub** (Beverage Dispensary-Duplicate), Clerk's Office.
 (POSTPONED FROM 12-15-98 AND 1-5-99)

This item was considered later in the meeting . See item 16, Unfinished Agenda.

10. **APPEARANCE REQUESTS:** None.

11. **CONTINUED PUBLIC HEARINGS :**

- A. Resolution No. AR 98-410, a resolution determining whether to protest the renewal of the beverage dispensary license and duplicate license for LLD, Inc. d/b/a **The Hub** located at 122 E. Fourth Avenue, Anchorage, Alaska, Assemblymember Wohlforth.
 (CONTINUED FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak.

MARK HUNSTIGER, a senior patrol officer with the Anchorage Police Department, answered questions from the Assembly. In response to Mr. Wohlforth, Officer Hunstiger said 'The Hub's clientele are more problematic than other bars'. He has spoken with management about their internal policies, and he felt their staff might need more training. Also, he felt more staff would be helpful in monitoring the intoxicated state of clients. He felt there was a considerable discrepancy between the training for bar workers and the standards in this community. He participated in TAM and TIPS alcohol server training courses, and felt their guidelines were much more lenient than local enforcement guidelines. He pointed out all people working with alcohol in Anchorage receive this training, so they probably start work with assumptions that are not consistent with local customs. In more than six hours of training, he did not see a scenario presented where a customer was ejected from an establishment. He agreed that although all Anchorage workers receive the same training, some establishments are better than others at control. He added that some bars, including The Hub have hired employees from their pool of customers, which he felt was a poor practice. In response to Mr. Bell, Officer Hunstiger said the size and layout of the establishment can contribute to problems. There are some areas of The Hub that are not in view of the bartender or the doorman. He said he has seen an improvement in the operation at The Hub since a new manager took charge. When the new manager is on duty, the bar operates much differently than when he is not. He felt the bar is understaffed in the earlier hours of the day.

RICHARD HENNING, an APD officer, said he worked almost exclusively in the downtown and Fairview area. He said he concurred with Officer Hunstiger's testimony. In response to Ms. Abney, Officer Henning said he has seen changes in the operation of The Hub since the Assembly placed conditions on the license. He felt the bar was under-staffed at certain times. It is noticeable that the bar runs differently when the new manager is on duty. The manager seems willing to cooperate.

LIEUTENANT NELSON, APD central district commander, said he was new to this job and was still learning. He said one condition of the license is regular meetings with APD. He meets about once per month with the owners and managers of the bar. They discuss problems in the bar, and problems with communication between APD officers and the bar personnel. They also discuss prevention strategies to avoid problems inside the establishment, and problems outside the establishment. Based on his current work schedule, he felt a monthly meeting schedule was adequate. Since more bars are becoming more aggressive in calling the Police and reporting problems, many of these problems are being forced onto the streets. There is and will be some adjustment to the new community policing system. In response to Ms. Clementson, Lt. Nelson felt communication between bar owners and officers had improved. In response to Mr. Wohlforth, Lt. Nelson said he has a copy of the conditions, placed on the license by the Assembly, at his office.

In response to Mr. Wohlforth, Officer Hunstiger said The Hub has a hand-held metal detector on the premises, but he has rarely seen it used. He has seen patrons sleeping on the premises. This is usually during the quieter day-time hours. He reiterated he felt this problem might be because of insufficient staffing. He felt the lighting in the bar was adequate.

In response to Ms. Abney, Officer Hunstiger said the bar does have an alcohol-free area for inebriated clients to wait for taxis. However, the clients he has seen sleeping were not in this area.

DAN COFFEY, representing The Hub, referred to the bar's police incident reports. He noted in 1998, 10 of the incidents were reported by the establishment's staff. He introduced the manager of The Hub, Nick Jurassic.

NICK JURASSIC, manager of The Hub, answered questions from the Assembly. He said recently, they have increased the number of employees in response to increases in business. All employees have taken TAM training. He agreed there is a difference between what is taught at TAM training and what is required by law. He clarified there are essentially no areas hidden from the view of the bartender and doorperson, because there is video monitoring of a hard-to-see area. That video is monitored by the doorperson. Mr. Jurassic added he is training security on drug dealer behavior, and they are helping Police arrest drug dealers. In response to Mr. Meyer, Mr. Jurassic said some clients are not checked with metal detectors, such as those that are frequent customers and are known as non-threatening to the staff. Strangers, drug dealers and persons unknown to staff are checked with the detectors. A list of persons, with their photographs, not allowed in the bar is on the premises, and they are taking steps to present any violators with trespass notices. He said "86" information is shared with other downtown bars. Also, security is trained to confiscate any alcohol that customers attempt to bring into the bar. Mr. Jurassic said about 70% of the clientele, and about half of the staff, is Alaska Native. However, all the problems associated with the bar are caused by people from other ethnic groups.

JED WHITTAKER said he was astounded that the Assembly was prepared to make a decision about The Hub without visiting the establishment and by relying on third party information. He felt The Hub was being singled out because it caters to a mostly Alaska Native clientele.

ALLAN TESCHE, representing the South Addition Community Council, said the Council approved a resolution on December 17, 1998 recommending a protest of the license renewal for The Hub. He attended one of the APD meetings with the bar owner and staff. Mr. Tesche said residents of the Council area are concerned about their safety and that of their children while in the downtown area. Although this year the number of incidents at the bar is reduced, he said over the past three years, the number has increased and decreased. Regardless of the relative decrease, the number of incidents is too high. The high numbers have continued despite close attention by the Assembly for the last five years, resolutions, conditions, warnings, and promises by the management that situations will improve. Allowing the establishment to continue operation will set an unreasonably low standard for the community. In response to Mr. Bell, Mr. Tesche said if The Hub was closed, its clientele would likely patronize other downtown bars. However, most other downtown bars have better management practices and they do not generate the kinds of incidents common at The Hub. In response to Mr. Wohlforth, Mr. Tesche said his personal recommendation was, if the Assembly does not protest, to place more stringent conditions on the license.

BONNIE WATSON, general manager of The Hub, said she has done everything asked by the Assembly, and has never missed a meeting with APD. She intends to do whatever necessary to cooperate. She explained how difficult it is to operate this type of business. Day-time security personnel has been increased in response to comments by APD.

In response to Mr. Carlson, Mr. Coffey stated there were no Alcoholic Beverage Control Board (ABC) Notices of Violation issued in 1998 for The Hub. Also, there were no criminal citations issued in 1998. There were three reported incidents in the quarterly reports listed as liquor violations. He said if every bar in town received the same daily scrutiny by APD as this bar, they would also have similar incidents. Part of the problem is that training provided to bar personnel is different from enforcement training for APD.

In response to Ms. Clementson, Mr. Coffey said as long as alcohol is served in bars, there will be problems with drunkenness. He felt the question is whether the owners and operator are cooperative and actively addressing problems.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Wohlforth moved,
seconded by Mr. Murdy,

to approve AR 98-410.

Mr. Wohlforth moved,
seconded by Ms. Taylor,

to amend AR 98-410 in the final Whereas clause to read:
"1) Two foot patrol officers who spend a large portion of their time on patrol in downtown bars indicate that The Hub bar is the second greatest problem bar downtown after the 515 Club, whose license renewal the Assembly previously protested. The officers also indicated the bar has had inadequate security and employs personnel lacking in skills or qualifications. 2) The Hub has violated at least two conditions imposed by the

Assembly December 17, 1996, #2 and #3. The establishment has not used metal detectors to check all patrons entering (#2) and intoxicated persons have been allowed to remain, customers have slept on the premises, and a patron with a weapon was allowed on the premises (#3). 3) A summary of police incidents at The Hub for 1998 indicates problems of public health and safety, including overserving intoxicated patrons, continued at an unacceptable rate despite Assembly concerns expressed in prior renewal periods about excessive numbers of incidents. Incidents of May 13, August 22, September 3, September 13, November 9, and November 20, 1998 are of particular concern." and on page 2, to delete "Section 1 – 2nd alternate" and Section 1 – 3rd alternate."

Mr. Wohlforth said debate on the number and type of incidents, and whether there has been improvement, could continue indefinitely. He pointed out the Assembly has been trying to address problems at this bar for over five years, yet incident numbers remain high. APD has spent a lot of time working with the management. He questioned whether the Assembly wants APD to be the management overseers of this bar. At some point, it should be conceded that the management cannot handle the situation and a protest based on public health and safety should be imposed.

Mr. Wohlforth moved,
and it was accepted as
a friendly amendment,

to amend the amendment to add a fourth item in the final
Whereas to read: "4) The problems of The Hub bar are
absorbing excessive police resources."

Mr. Bell felt incidents involving calls to police initiated by the management should not be counted against The Hub. He said apparently, management has tried to comply with conditions placed on the license by the Assembly. They are not perfect, but are doing a good job. Closing The Hub would only disperse its clientele to other downtown bars. He felt it was better to keep inebriates in an area where there is some control, and the management is trying to meet the Assembly's requirements.

Ms. Taylor moved,
and it died for lack of a second,

to call the previous question.

Mr. Wohlforth reiterated other bars in the downtown area have better management records. If The Hub clientele go to these other bars, there is a better chance they will not be overserved.

Ms. Abney pointed out the management has shown willingness, and has achieved some success at compliance with local and State laws.

Mr. Carlson felt the letter from APD Lt. Danny Cole should be taken into consideration. The letter explains Lt. Cole's work with the bar management and their efforts to improve. Mr. Carlson agreed the management has improved operation of the bar. He supported continuing or increasing conditions on the license, but did not support a protest because he felt there were not sufficient grounds for a protest.

Question was called on Mr. Wohlforth's motion to amend and it failed:

AYES: Wuerch, Taylor, Wohlforth, Clementson, Meyer.

NAYS: Bell, Carlson, Von Gemmingen, Abney, Murdy.

Mr. Wohlforth moved,
seconded by Ms. Clementson,
and it was withdrawn,

to amend AR 98-410 in the final Whereas clause to read:
"1) Two foot patrol officers who spend a large portion of their
time on patrol in downtown bars indicate that The Hub bar is
the second greatest problem bar downtown after the 515 Club,
whose license renewal the Assembly previously protested.
The officers also indicated the bar has had inadequate security
and employs personnel lacking in skills or qualifications. 2)
The Hub has violated at least two conditions imposed by the
Assembly December 17, 1996, #2 and #3. The establishment
has not used metal detectors to check all patrons entering (#2)
and intoxicated persons have been allowed to remain,
customers have slept on the premises, and a patron with a
weapon was allowed on the premises (#3). 3) A summary of
police incidents at The Hub for 1998 indicates problems of
public health and safety, including overserving intoxicated
patrons, continued at an unacceptable rate despite Assembly
concerns expressed in prior renewal periods about excessive
numbers of incidents. Incidents of May 13, August 22,
September 3, September 13, November 9, and November 20,
1998 are of particular concern." and to delete "Section 1 – 1st
alternate" and Section 1 – 3rd alternate" and to amend Section
1 – 2nd alternate to read: "1) The conditions adopted
December 17, 1996 remain in effect, except as listed below. 2)
The security returns to the original security requested in a
resolution approved February 1, 1994 (AR 94-30 – Section 1,
paragraph 1.)

In response to Mr. Carlson, Mr. Tesche said he supported these conditions. He recommended additions to the conditions, including making payroll and time records for security available to APD and installing a frame metal detector.

Mr. Coffey said a frame metal detector would be a burden on the owner. He pointed out concealed weapons have not been a problem at the bar.

Mr. Wohlforth moved, to postpone action on AM 98-410 until later in the meeting.
seconded by Mr. Carlson,
and it passed without
objection,

(Clerk's Note: See item 16, Unfinished Agenda.)

- B. Resolution No. AR 99-1, a resolution of the Anchorage Municipal Assembly approving a conditional use for sales of alcoholic beverages (Beverage Dispensary Duplicate Liquor License) located on Lampert Subdivision, Block 3, Lot 34 and the N 75' of Lots 32 & 33, generally located on the southeast corner of East Fireweed Lane and Fairbanks Street (Steven Fibranz d.b.a. **Steve's Sports Bar and Grill**) (Case 99-010), Community Planning and Development.
1. Assembly Memorandum No. AM 16-99.
- (CONTINUED FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak.

TED JACKSON, a resident on Fairbanks Street near the bar, said parking on his property can be a problem. Sometimes Fireweed Theatre patrons park in the area when the Fireweed parking lot is full. A few years ago, when the bar was a sports bar named El Toro, overflow parking was a serious problem. There are several small businesses, a school and a dance studio in the area, with only enough parking for their patrons. Parking problems would impact them also.

MARGARET AUTH pointed out the applicant answered "yes" to questions on the application indicating he intended to have happy hours, games and contests that include consumption of alcoholic beverages, and encouragement of alcoholic beverage consumption. She hoped this was a mere error on the part of the applicant, but she was concerned that such an important document was not completed with due care. She added the Spenard Community Council protested an application Mr. Fibranz submitted a few years ago, for a bar in the Z Plaza. The protest was based on a high percentage of total revenues coming from alcohol sales. She questioned the proposed length of operating hours, from 10:30 a.m. to 2:30 a.m. She felt these hours were too long considering the bar is for watching sports events and would not be primarily an eating establishment.

JOHN GRAMES, said he was proud to be a friend of Mr. Fibranz. Mr. Grames assured the Assembly his friend was a good person and a good citizen.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 99-1.
seconded by Mr. Meyer,

In response to Mr. Meyer, Mr. Fibranz said he was aware that happy hours and drinking games are not allowed by State law. He could not explain the entries to the contrary on his application. He added he has 42 parking spaces for customers, and the bar seats about 100 persons. Menu items at the bar will include ribs, steaks, burgers, soups and salads. The 15% of revenues listed as "other" on the application would come from sales of T-shirts and other merchandise. The proposed conditional use permit is for a duplicate license; there is already one license operating at the location.

In response to Mr. Carlson, Mr. Fibranz said he would amend his application to correct the mistakes when he delivers his parking plan.

Question was called on the motion to approve AR 99-1 and it passed:

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

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

- C. Resolution No. AR 98-397, a resolution **selecting a site for a future elementary school in Muldoon**, to consist of two parcels totaling 24.4 acres, described as the N 1/2 NW 1/4 NE 1/4 and the East 480 Feet of the SE 1/4 NW 1/4 NE 1/4, Section 25, Township 13N, Range 3W, Seward Meridian, Alaska, and generally located southeast of the Muldoon Road/Northern Lights Boulevard Intersection, Community Planning and Development.
1. Assembly Memorandum No. AM 1148-98.
- (CONTINUED FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Ms. Clementson moved, to approve AR 98-397.
seconded by Mr. Meyer,

Ms. Clementson spoke in support of the resolution. She pointed out there are very few vacant parcels of land in Anchorage which are large enough for a school. In response to Mr. Wohlforth, she said there are no current plans to build a school on the site. In the future, access from the site to Muldoon road may be on 32nd Avenue, and there may be a traffic light installed.

In response to Mr. Bell, a Municipal employee explained since the site is larger than the typical elementary school site, the additional acreage may be used as ballfields for the Muldoon area. In that event, the additional land would be transferred to Cultural and Recreational Services Department.

Ms. Taylor also spoke in support of the resolution. She thanked staff and the Anchorage School District staff for all their hard work on this project. She pointed out the Northeast Community Council would prefer a middle school before an elementary school, but all parties were happy with the site selection.

Question was called on the motion to approve AR 98-397 and it passed:

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

- D. Resolution No. AR 98-164, a resolution revoking the conditional use permit allowing the retail sale and dispensing of alcoholic beverages at 6119 Old Seward Highway, formerly known as the Sawmill Club and currently known as **Klondike Kate's Bare Trap Saloon**, Community Planning and Development/Public Works.
1. Assembly Memorandum No. AM 474-98.
(CONTINUED FROM 7-14-98, 10-6-98, AND 1-5-99)

This item was continued until January 26, 1999.

- E. Resolution No. AR 98-381, a resolution determining whether to protest the continued operation of the license for the sale of alcoholic beverages held by C & L Enterprises, Inc. d/b/a **Alaska Liquor Store #1**, located at 2607 "A" Street, Anchorage, Alaska, Assemblymembers Wuerch, Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, and Wohlforth.
(CONTINUED FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak.

BARBARA JOHNSON, of the Northstar Community Council, said she lived a few blocks from the Alaska Liquor Store. While riding their bicycles, she and her 10-year-old daughter were terrorized by the appearance of the store and by persons loitering around the store. When she was charged with drawing up a new bike trail map, she tried to find another route. However, there is no place to ride a bicycle on the other side of A Street from this store. She did not feel the business was operating correctly. The presence of the store was a negative impact on neighboring properties.

BILL ABOTTY encouraged the Assembly to protest the continued operation of the subject license. He drives past the Alaska Liquor Store on a routine basis. Especially in the summer months, he notices large numbers of people loitering on the property and adjacent areas. He has seen some of the loiterers consuming alcohol, stumbling around and leaning on fences. As a resident of the Northstar area, he notices a large number of transients and inebriates walking through his neighborhood from the Chester Creek bike trail toward Fireweed and Northern Lights. He and his wife have been harassed by these people, and have seen them urinate in neighboring yards. Mr. Abotty added he has not observed loitering near Brown Jug on Fireweed or some of the other drinking establishments in the area. He felt many of the transients were customers of Alaska Liquor Store.

VERN THACKER, with Alaska Liquor, appeared with his store manager, Levi Bonner. Mr. Thacker presented a letter from his landlord. He brought logs which were directed by the Assembly. To date, neither Northstar or Spenard community council representatives have asked to view the logs. He said the management has not violated any laws. They have complied with all conditions placed on the license. Alaska Liquor Store has received no Notices of Violation from Anchorage Police. He said the store has been the target of sting operations for food stamp or selling to minors violations. He stressed management and staff cannot prevent people from walking on public property or on adjacent private property.

LEVI BONNER, manager of the Alaska Liquor Store, said he was in the store on November 18, 1997 when an employee was arrested for selling cocaine to an undercover police officer. However, he was not involved. The employee was fired, and has written a letter exonerating Alaska Liquor Store management from any involvement. He said the situation is difficult, because inebriates purchase alcohol from stores a few blocks away and then walk to Alaska Liquor Store to loiter. Later, bottles from the other stores are found on the ground in the vicinity. Mr. Bonner assured the Assembly that no products prohibited by the conditions are sold. He added he cannot adequately police the adjacent parking lot, because a large opaque fence has been erected. In order to patrol the lot, he must lock the store and walk around the fence.

BILL BORCHARD, owner of the property directly across the street from the Alaska Liquor Store, said he has owned the property about 15 years. In the last several years, he has noticed an increased amount of vagrants, mostly inebriated, sleeping on his property. He has also seen these people urinate, defecate and vomit in public. It appears that the magnet for these people is the Alaska Liquor Store; he has observed the vagrants going to and from the store. He recommended the license be protested. He felt it would be a blessing to limit the vagrants' access to inexpensive alcohol.

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

to extend the public hearing portion of the meeting until
11:00 p.m.

MARGARET AUTH felt there was a reason that people choose to spend the night near this liquor store. She said inefficient management style was the cause of the problems of vagrancy in the area. She pointed out that employees of nearby businesses have been accosted by the people that frequent this store. She said it was not good for the community to allow this kind of activity to continue.

LEO VON SCHEBEN, spoke as CEO of USKH, the business adjacent to the Alaska Liquor Store. He said he was in that location for about 25 years, and has just completed improvements to the building which cost about \$300,000. Of the 65 staff members in the A Street location, 40% are female. He has gone through a lot of pain and agony in dealing with inebriates that gather on his property. He has observed incidents of exposure, urination, defecation, vomiting, loitering, drinking, storage of alcohol in planters, vandalism of vehicles, breaking into vehicles in the parking lot, people unconscious on the sidewalk and people approaching his clients and employees in the parking lot. He had a pushing match with an inebriated person, and had to remove a bloody man from his office. He is tired of dealing with these problems, and his employees are frightened. He has hired a security service to escort employees to their vehicles. Mr. Von Scheben added many other business owners in the area are also upset about this situation. Barnes and Nobel employees wear gloves to handle the inebriates, for protection against disease. He said if the Alaska Liquor Store was closed, the inebriates would not be loitering and causing problems. In response to Mr. Bell, Mr. Von Scheben said he was not interested in exploring a solution with Mr. Thacker. He has noticed the problems for about four years.

ROBERT AUTH, representing the Spenard Community Council, said in November, the Council passed a resolution protesting renewal of the liquor license for Alaska Liquor Store. The resolution was based in a large part on the evidence presented by Mr. Von Scheben, and the vote was unanimous. The Council found the liquor store was operating in such a manner to attract and become a public nuisance that resulted in unsafe conditions for surrounding businesses, communities, residents and schools. Mr. Auth added there was a problem with the Assembly procedure for dealing with problem licenses. He felt it was time the Assembly establishes an objective demerit point system for all liquor licenses, so problems can be evaluated effectively. The Council supports establishment of such a system.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 98-381.
seconded by Ms. Clementson,

Mr. Wuerch moved, to amend AR 98-381 on page two, in the final Whereas clause
seconded by Mr. Wohlforth, to insert language after #1 to read: "On November 18, 1997, the Anchorage Police Department made a controlled purchase of cocaine from an employee of the Licensee on the Licensed Premises during regular business hours of the Licensed Premises." and insert language after #2 to read: "On November 19, 1997, illegal drugs and drug paraphernalia were found on the Licensed Premises." and insert language after #3 to read: "The operation of the Licensed Premises and the Licensee attracts, caters to and/or fails to adequately control or prevent patronization of publicly inebriated customers which in turn creates and contributes to situations, events and conditions inimical to the public health, safety and welfare of other citizens and adjacent property owners and their properties, including but not limited to indecent exposure, public urination, defecation and vomiting on public and private property, trespass, vandalism, assaults, threats and damage to private property." and to delete Section 1 – 1st alternate and Section 1 – 2nd alternate.

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

Question was called on the motion to approve AR 98-381 as amended and it passed:

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

(Clerk's Note: See minutes of January 26, 1999 meeting for further amendments to this resolution.)

- F. Ordinance No. AO 98-190, an ordinance of the Municipality of Anchorage **creating Alley Paving Special Assessment District 1P98 - 'H' Street/'I' Street Alley from West Fifteenth Avenue to West Sixteenth Avenue** and determining to proceed with proposed improvements therein, Public Works.
 1. Assembly Memorandum No. AM 1144-98.
(CONTINUED FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to adopt AO 98-190.
seconded by Mr. Wuerch,

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

- G. Ordinance No. AO 98-188, an ordinance amending Title 21 of the Anchorage Municipal Code of Ordinances amending the B-2A, Central Business District, Core, B-2B Central Business District, Intermediate and B-2C, Central Business District, Periphery, to limit the number of **streetscape bonus points** to the amount needed for required site minimums or 25 percent of the points required for the development, to allow streetscape bonus points for only shops with windows at street level, and to set minimum standards for windows at street level and to require such windows, Community Planning and Development.
1. Assembly Memorandum No. AM 1102-98.
(CARRIED OVER FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Wohlforth moved, to adopt AO 98-188.
seconded by Mr. Murdy,

In response to Ms. Clementson, Don Alspach of Community Planning and Development explained the purpose of the ordinance was to avoid penalizing developers for having too many streetscape bonus points.

Mr. Wohlforth added the ordinance would prohibit windowless buildings.

Question was called on the motion to adopt AO 98-188 and it passed:

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

- H. Resolution No. AR 98-409, a resolution of the Anchorage Municipal Assembly providing for a **revision to the 1999 General Government Operating Budget**, Assemblymember Bell.
1. Assembly Memorandum No. AM 50-99.
(CARRIED OVER FROM 1-5-99)

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one.

Mr. Bell moved, to continue the public hearing for AR 98-409 until
seconded by Ms. Clementson, January 26, 1999.
and it passed without
objection,

12. NEW PUBLIC HEARINGS :

- A. Resolution No. AR 99-4, a resolution of the Anchorage Assembly accepting and appropriating \$742,500 as a grant from the United States Department of Justice to the Anchorage Metropolitan Police Service Area Capital Improvement Program Fund (0451) for costs related to **implementation of Mobile Data Technology in-Car Computer System**, Anchorage Police Department.
1. Assembly Memorandum No. AM 26-99.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak.

CHARLES MCKEE expressed concern about invasion of privacy this technology might represent.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 99-4.
seconded by Mr. Wuerch,

Mr. Murdy commented that when a police officer logs onto the computer, that officer's name and badge number is automatically entered, so there is control at all times over who is accessing the computers.

Question was called on the motion to approve AR 99-4 and it passed:

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

- B. Resolution No. AR 99-5, a resolution of the Municipality of Anchorage, Alaska, accepting and appropriating an Alaska Clean Water Fund loan offer in the amount of \$1,410,000 for financing a portion of the costs of FY99 **Miscellaneous Small Sewer Replacement and Rehabilitation (R&R), Phase I**, Water and Wastewater Utility.
1. Assembly Memorandum No. AM 27-99.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 99-5.
seconded by Mr. Wuerch,

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

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

- C. Resolution No. AR 99-6, a resolution of the Municipality of Anchorage deleting, accepting, and appropriating **State of Alaska legislative grants** to the Municipality of Anchorage for the Anchorage School District per Senate Bill 231, Office of Management and Budget.
1. Assembly Memorandum No. AM 28-99.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 99-6.
 seconded by Mr. Meyer,

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

Mr. Wohlforth moved, to combine the public hearings for items 12.D and 12.E,
 seconded by Ms. Clementson, AR 98-394 and AR 98-395.
 and it passed without
 objection,

- D. Resolution No. AR 98-394, a resolution confirming and levying special assessments for street improvements on property specially benefited in **Alley Paving Special Assessment District No. 3P97 - West 8th/9th Avenue Alley from 'F' Street to 'G' Street** and setting the date of assessment installment payments, interest on unpaid assessments, and providing for penalties and interest in the event of delinquency, Public Works.
1. Assembly Memorandum No. AM 1145-98.
- E. Resolution No. AR 98-395, a resolution confirming and levying special assessments for street improvements on property specially benefited in **Alley Paving Special Assessment District No. 4P97 - West 5th/6th Avenue Alley from 'I' Street to 'K' Street** and setting the date of assessment installment payments, interest on unpaid assessments, and providing for penalties and interest in the event of delinquency, Public Works.
1. Assembly Memorandum No. AM 1146-98.

Chair Von Gemmingen opened the public hearing for AR 98-394 and AR 98-395 and asked if anyone wished to speak.

STAN WILLIAMS said he was in support of the paving district. He also agreed with the amount of the assessment. However, he objected to the fact there is a \$48.00 collection fee due every year for payments on the assessment. He felt this amount was much too high and he questioned the purpose.

Mr. Wohlforth said he has pursued complaints on this issue in the past. The collection office was established and funded by dividing the cost of the office by the amount of all assessments. He felt a Code revision would be necessary to effect a change.

Mr. Williams felt the fee was unfair and he will not pay. He suggested the Assembly pursue making this fee more fair.

Mr. Wuerch moved, to extend the meeting to complete these items, and
 seconded by Mr. Meyer, AR 98-410 regarding The Hub and AM 2-99 regarding
 and it passed without the Bird House bar.
 objection,

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Bell moved, to approve AR 98-394.
 seconded by Mr. Murdy,

In response to Mr. Bell, Deputy Municipal Attorney Bill Greene said he would research possible changes to the collection fee.

Question was called on the motion to approve AR 98-394 and it passed:

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

Mr. Bell moved, to approve AR 98-395.
 seconded by Mr. Wuerch,

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

- F. Ordinance No. AO 98-181, an ordinance enacting a new Section 4.05.037 to the Anchorage Municipal Code relating to **qualifications of persons appointed to the Planning and Zoning Commission, the Platting Board, the Urban Design Commission, and the Zoning Board of Examiners and Appeals**, Assemblymembers Wohlforth and Abney.

1. Assembly Memorandum No. AM 1047-98.
 2. Ordinance No. AO 98-181(S), an ordinance enacting a new Section 4.05.037 to the Anchorage Municipal Code relating to qualifications of persons appointed to the Planning and Zoning Commission, the Platting Board, the Urban Design Commission, and the Zoning Board of Examiners and Appeals, Assemblymembers Wohlforth and Abney. **(addendum)**
 3. Assembly Memorandum No. AM 61-99.
- G. Ordinance No. AO 98-182, an ordinance enacting a new Section 4.05.033 to the Anchorage Municipal Code **requiring a public hearing on appointments to the Planning and Zoning Commission, the Platting Board, the Urban Design Commission, and the Zoning Board of Examiners and Appeals**, Assemblymembers Wohlforth and Abney.
1. Assembly Memorandum No. AM 1048-98.
 2. Ordinance No. AO 98-182(S), an ordinance enacting a new Section 4.05.033 to the Anchorage Municipal Code requiring a public hearing on appointments to the Planning and Zoning Commission, the Platting Board, the Urban Design Commission, and the Zoning Board of Examiners and Appeals, Assemblymembers Wohlforth and Abney. **(addendum)**
 3. Assembly Memorandum No. AM 60-99.
- H. Ordinance No. AO 98-193, an ordinance of the Anchorage Municipal Assembly **establishing a separate trust fund for certain monies generated by the sale of Anchorage Telephone Utility other than the sale proceeds** (The Trust Fund Earnings Reserve) and a spending plan therefore, Assemblymember Wohlforth.
1. Assembly Memorandum No. AM 65-99. **(addendum)**

Items 12.F, 12.G, and 12.H were continued until January 26, 1999.

13. **BOARD OF ADJUSTMENT/ASSEMBLY APPEALS:** None.

14. **SPECIAL ORDERS:** See item 16, Unfinished Agenda.

15. **ASSEMBLY COMMENTS:**

16. **UNFINISHED AGENDA:**

- A. Assembly Memorandum No. AM 2-99, 1999-2000 Liquor License Renewal: **Bird House Bar** (NO PREMISES) (Package Store), Clerk's Office.
(POSTPONED FROM 1-5-99)

Mr. Meyer moved, to approve AM 2-99.
seconded by Mr. Murdy,
and it passed without
objection,

Mr. Meyer said he spoke with the owner of this license, who said she was in the process of selling the license.

- B. Resolution No. AR 98-410, a resolution determining whether to protest the renewal of the beverage dispensary license and duplicate license for LLD, Inc. d/b/a **The Hub** located at 122 E. Fourth Avenue, Anchorage, Alaska, Assemblymember Wohlforth.
(CONTINUED FROM 1-5-99)

Mr. Tesche and Mr. Coffey addressed the Assembly regarding their discussion of potential conditions.

(Clerk's Reference: The conditions approved in AR 94-30 on February 1, 1994...

1. At all times when the establishment is open, at least two indoor and two outdoor security persons shall be on duty, and two security personnel on each public entrance; from 10 p.m. to closing time at least three indoor and three outdoor security are required in addition to the door personnel. All security personnel to be TAMS trained.
2. An entrance on the side parking lot shall be the primary entrance by July 1.
3. A metal detector shall be used to check all patrons entering the establishment for weapons.
4. No intoxicated person shall be allowed to remain on the premises; no customer may sleep on the premises; no patron with weapons will be allowed on the premises.
5. Lighting shall be installed sufficient for police officers and security to be able to identify and observe the activities of all patrons.
6. The establishment shall prepare a list of patrons not to be served because of excessive drinking, disorderly behavior or other problems.
7. The licensee will appear before the Assembly on August 2, 1994 to review compliance with these conditions and applicable laws.
8. The licensee will maintain a video camera recording the interior and exterior of the establishment. Tapes from the video cameras will be kept for three days for viewing by the police.
9. The owner or manager will attend monthly meetings of the Downtown Community Council.
10. The owner or manager will meet monthly with representatives of the Anchorage Police Department. Such meetings may occur at the Downtown Community Council.")

Mr. Coffey said he had no objection to a requirement that payroll and time records of security personnel be available to APD and the Assembly. He had no objection to making the list of banned customers available to APD and the Assembly. Also, he agreed to adding the South Addition Community Council to the list of councils that the owner or manager will meet with on a

monthly basis. He suggested South Addition Community Council also send a representative to the monthly meeting of all downtown establishments and the police.

Mr. Tesche said he and Mr. Coffey agreed on conditions numbers 4 through 10 of the conditions approved in AR 94-30 approved on February 1, 1994, with the following changes (underlined):

- 6) ... shall prepare and make available to APD and the Assembly a list of patrons not to be served because of drinking...
 7) deleted
 9) ... manager will attend monthly meetings of the Downtown Community Council and South Addition Community Council.
 11) Signs will be posted alerting patrons of video cameras on the premises.

Mr. Wohlforth withdrew his motion to amend made earlier in the meeting.

Mr. Wohlforth moved,
 seconded by Ms. Clementson,

to amend AR 98-410 to include conditions #4 through #10 listed in AR 94-30, with the changes indicated above by Mr. Tesche including a new #11.

In response to Mr. Bell, Mr. Coffey explained the dry room at The Hub was not part of the licensed premises. Therefore, patrons waiting in the dry room for a ride would not be on the "license premises."

Mr. Bell moved,
 and it was accepted as a friendly amendment,

to amend the amendment to change condition #4 to read: "...person shall be allowed to remain on the licensed premises;..."

Mr. Wohlforth moved,
 and it was accepted as a friendly amendment,

to amend the amendment to change condition #6 to read: "...shall prepare and make available to employees, APD and the Assembly a list of patrons not to be served..."

Question was called on Mr. Wohlforth's motion to amend as amended and it passed without objection.

Mr. Wohlforth and Mr. Coffey agreed condition #2 would be deleted, as it was completed.

Mr. Wohlforth moved,
 seconded by Ms. Taylor,

to amend condition #3 to read: "Frame metal detectors shall be used to check..."

In response to Mr. Bell, Mr. Coffey said he reviewed incident reports back to 1994, and only one concealed weapons charge was made. It is not known what type of weapon it was. He felt a frame metal detector might be warranted if there was a history of problems with weapons. A wand metal detector is usually used on customers not known to staff. It is not used on regular customers known to staff. He said a frame detector would be a burden because everyone entering with a belt buckle or keys would set off an alarm and have to be frisked or be checked with the wand detector.

Question was called on Mr. Wohlforth's motion to amend and it failed:

AYES: Wohlforth, Murdy.

NAYS: Bell, Carlson, Wuerch, Taylor, Von Gemmingen, Clementson, Meyer, Abney.

Mr. Tesche supported requiring a security presence at the level of the 1994 conditions. He pointed out there was testimony earlier in the evening that a lack of security is a problem.

Mr. Coffey agreed that regardless of the number of security persons, their payroll and time records may be verified.

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

to add a sentence to 1994 condition #1 to read: "Time records for security shall be made available to APD and the Assembly for verification."

Mr. Coffey proposed the following security schedule:

all days - 10:00 a.m. to 12:00 p.m. – one security person

all days - 12:00 p.m. to 8:00 p.m. - two security persons, minimum

Sunday through Thursday – 8:00 p.m. to closing – three security persons

Friday and Saturday - 8:00 p.m. to closing – four security persons

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

to amend 1994 condition #1 regarding the security presence to read: "Security shall be at least as follows: From opening until 8:00 p.m. – no less than two persons. From 8:00 p.m. to closing – no less than four persons. These figures are minimums and the bar is obliged to add additional security as needed."

Mr. Coffey asked the word "all" be removed from condition #3, because patrons known to the bar's staff are not checked with the metal detector.

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

to amend condition #3 to read: "...shall be used to check patrons entering..."

In response to Chair Von Gemmingen, Deputy Municipal Attorney Bill Greene said he spoke with State Alcoholic Beverage Control Board (ABC) Director Doug Griffin. Mr. Griffin said ABC will not enforce the Assembly's conditions because they do not have adequate staff resources. It is up to the Assembly to direct enforcement in the way it has traditionally done. He suggested the Assembly make known to the ABC Board that the protest is waived, if the conditions are imposed on the licensee. If they are not, there will be a protest.

In response to Mr. Wohlforth, Mr. Coffey agreed that security personnel would be dedicated to that duty, and would not perform waiting or bartending tasks.

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

to amend AR 98-410 in the final Whereas clause to add the findings he listed earlier in the meeting, and to delete Section 1 – 1st alternate and Section 1 – 3rd alternate.

Mr. Wohlforth added he felt over the years, it has been proved that placing conditions on problem licenses is not effective. He felt the only method to deal with problem licenses was to protest them when violations exceed standards.

Question was called on the motion to approve AR 98-410 as amended and it passed:

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

- C. Assembly Memorandum No. AM 1192-98, 1999-2000 Liquor License Renewal: **The Hub** (Beverage Dispensary); **The Hub** (Beverage Dispensary-Duplicate), Clerk's Office.
(POSTPONED FROM 12-15-98 AND 1-5-99)

Ms. Clementson moved,
seconded by Mr. Meyer,

to approve AM 1192-98.

Ms. Clementson moved,
seconded by Mr. Carlson,

to postpone action on AM 1192-98 indefinitely.

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

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

to extend the meeting to consider a special order.

- D. Resolution No. AR 99-13, a resolution of the Anchorage Assembly setting a public hearing on January 26, 1999 to consider and determine whether to protest the transfer of ownership of the beverage dispensary license of Debco, Inc. (Debbie Chen/George King) d/b/a **The Irish Setter**, located at 1911 East Fifth Avenue, Anchorage, Alaska to Debco, Inc. (Kathy & Carol Hartman/Jack Griffin), Assemblymember Wohlforth. (**LAI D ON THE TABLE**)

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

to approve AR 99-13.

E. Chair Von Gemmingen requested a legal opinion regarding Board of Adjustment appeals. Deputy Municipal Attorney Bill Greene said ex parte rules remain in effect as long as there is a possibility that the matter could return to the Assembly for further action. That possibility exists if there is an appeal pending before the Superior Court or Supreme Court, or until all time periods to file an appeal have expired. Mr. Greene said he has met with Jerry Wade, and explained ex parte rules. He would be happy to continue to consult with Mr. Wade, attorney for Paul Myers, regarding Mr. Myers concerns about appeal S-10054, Denali View Subdivision, which the Assembly acted on January 5, 1999.

17. **AUDIENCE PARTICIPATION:** None.

18. **EXECUTIVE SESSIONS:** None.

19. **ADJOURNMENT:**

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

to adjourn.

The meeting adjourned at 11:45 p.m.

Chair

ATTEST:

Municipal Clerk

Date Minutes Approved: April 6, 1999

LF/db

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