

**MUNICIPALITY OF ANCHORAGE**

**ANCHORAGE ASSEMBLY**

Minutes for Regular Meeting of August 10, 1999

**1. CALL TO ORDER:**

The meeting was convened at 5:00 p.m. by Assembly Chairman George Wuerch in the Assembly Chambers, 3600 Denali, and Anchorage, Alaska.

**2. ROLL CALL:**

Present: Dan Kendall, Dan Sullivan, Pat Abney, Allan Tesche, Melinda Taylor, George Wuerch, Kevin Meyer, Anna Fairclough, Dick Tremaine, Fay Von Gemmingen, Cheryl Clementson.  
Absent: None.

**3. PLEDGE OF ALLEGIANCE:**

The pledge was led by Mr. Tesche.

**4. MINUTES OF PREVIOUS MEETING:**

A. Regular Meeting - February 2, 1999

Ms. Clementson moved, to approve the minutes of the regular meeting of  
seconded by Ms. Taylor, February 2, 1999.  
and it passed without  
objection,

Ms. Fairclough and Mr. Tremaine abstained.

**5. MAYOR'S REPORT:**

Mayor Mystrom commented on the meeting of August 3, 1999 in which goals to accomplish, both capital and operating budgets, for the next 11 months were discussed. Since some Assembly members were not able to be present, he handed out copies of the issues discussed.

He also passed out a letter from the Parking Authority, which he received about a month ago. The parking garages are starting to become much more used downtown. In 1998 there were over a million vehicles parked in the garage for the first time in history. That was up from about 500,000 in the early 1990s. The parking garages alone went from about 500,000 to about 1,000,000 at the end of 1998. In 1999, the daily parking is up about 11 percent over last year at the same time. And parking garage monthly parking is up over 22 percent from last year. Mayor Mystrom said more people were starting to use off street parking and that was a continued sign of activity in downtown Anchorage.

**6. ADDENDUM TO AGENDA:**

Mr. Meyer moved, to amend the agenda to incorporate the addendum items.  
seconded by Ms. Taylor,

Chairman Wuerch read the addendum.

Mr. Tesche pointed out that the public hearing on item 7.B.4, AO 99-83(S), was closed. He requested it be added to the agenda under Old Business as item 9.C.

Chairman Wuerch pointed out that 7.B.4 was similar to the original version, AO 99-83.

Mr. Tesche moved, to move item AO 99-83(S), 7.B.4 to 9.C on the agenda.  
seconded by Ms. Taylor,

Mr. Kendall questioned if he was introducing it or if it was for approval.

Chairman Wuerch said he was adding it under Old Business because a public hearing had already been held.

Mr. Kendall questioned if a public hearing was actually held on this issue. There was a clerk's note in the agenda that said it would be remanded back to the Heritage Land Bank Advisory Board to resolve some issues.

Mr. Tesche asked for confirmation from the clerk. It was his understanding that the Assembly did conduct a public hearing on AO 99-83 and at the close of the hearing the matter was remanded to the Heritage Land Bank for additional consideration.

The Deputy Municipal Clerk Vickie Cantrell affirmed it was her understanding that the public hearing closed and the ordinance was remanded to the Heritage Land Bank.

Ms. Clementson pointed out there were people who wished to testify and she believed it was the intent to have a public hearing. She questioned the possibility of a public hearing being scheduled for the next week for that purpose.

Chairman Wuerch pointed out that if the public hearing was closed, it could be reopened with a vote of six affirming votes.

The clerk said since ordinance, AO 99-83(S), on the agenda had the same title as the original, AO 99-83, it did not need to be re-advertised for a public hearing with the seven-day limitation of prior notice.

Chairman Wuerch pointed out that any Assemblymember could invite a person to come to the microphone during discussion and debate on an action.

Question was called on the motion to move agenda item 7.B.4, AO 99-83(S), to Old Business item 9.C. and it passed with Mr. Kendall and Ms. Clementson objecting.

(Clerk's Note: The Assembly considered this item under 8.C. later in the meeting. See the minutes of June 8, 1999 for the public hearing on AO 99-83.)

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

## 7. CONSENT AGENDA:

Mr. Tremaine moved, to approve all items on the consent agenda as amended.  
seconded by Ms. Taylor,

### A. BID AWARDS:

1. Assembly Memorandum No. AM 730-99, recommendation of award to Precision Power Company for furnishing **Uninterruptible Power Systems (UPS)** to the Municipality of Anchorage, Management Information Systems Department (ITB 99-B062), Purchasing.

Mr. Tremaine requested this item be considered on the Regular Agenda. See item 8.B.

2. Assembly Memorandum No. AM 731-99, recommendation of award to Alaska Pollution Control for furnishing **road maintenance service to the Upper O'Malley Limited Road Service Area** for the Municipality of Anchorage, Public Works Department (ITB 99-B070), Purchasing.
3. Assembly Memorandum No. AM 732-99, recommendation of award to Alaska Pollution Control for furnishing **road maintenance service to the Glen Alps Limited Road Service Area** for the Municipality of Anchorage, Public Works Department (ITB 99-B071), Purchasing.

Mr. Tremaine requested this item be considered on the Regular Agenda. See item 8.B.

4. Assembly Memorandum No. AM 743-99, recommendation of award to Criterion General, Inc. for the **new Northwood Street maintenance warm storage facility-design/build** for the Municipality of Anchorage, Property and Facility Management (ITB 99-C044), Purchasing.

A member of the administration requested this item be considered on the Regular Agenda. See item 8.B.

5. Assembly Memorandum No. AM 744-99, recommendation of award to Summit Paving and Construction, Inc. for **Russell's Field playfield improvements** for the Municipality of Anchorage, Department of Cultural and Recreational Services (ITB 99-C053), Purchasing.

### B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 99-114, an ordinance of the Anchorage Assembly **formally adopting the goals and objectives of the Anchorage Bowl Comprehensive Plan**, Assembly members Taylor, Tesche, Tremaine, and Abney. public hearing ~~9-14-99~~, 10-19-99.
  - a. Assembly Memorandum No. AM 724-99.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.C.

2. Ordinance No. AO 99-115, an ordinance **authorizing the sale of 5,317 square feet from Tract A-5A, Dowling Subdivision No. 3**, in Anchorage, to the State of Alaska, Department of Transportation and Public Facilities for right of way along Dowling Road, Heritage Land Bank/Real Estate Services. Public hearing 9-14-99.
  - a. Assembly Memorandum No. AM 733-99.
3. Ordinance No. AO 99-116, an ordinance authorizing the **sale of properties foreclosed by the Municipality for delinquent taxes and/or special assessments**, Heritage Land Bank/Real Estate Services. public hearing 9-14-99.
  - a. Assembly Memorandum No. AM 745-99.
4. Ordinance No. AO 99-83(S), an ordinance of the Municipality of Anchorage **authorizing the Heritage Land Bank (HLB) to sell via sole source Tract A, Eagle Bluff Subdivision, Plat No. 98-40**, generally located northeast of the Hiland Road and Glenn Highway Interchange adjacent to Yosemite Drive in Eagle River, to Jose Vicente, Heritage Land Bank.
  - a. Assembly Memorandum No. AM 746-99.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.C.

5. Resolution No. AR 99-200, a resolution of the Municipality of Anchorage appropriating \$150,000 to the State Categorical Grants Fund (231) from the Alaska Department of Health and Social Services for the provision of **perinatal case management/healthy baby services**, Health and Human Services. public hearing 8-17-99.
  - a. Assembly Memorandum No. AM 713-99.
6. Resolution No. AR 99-201, a resolution of the Municipality of Anchorage appropriating \$358,531 to the Federal Categorical Grants Fund (241) from the U.S. Department of Health and Human Services to fund **Family Planning Services**, Health and Human Services. public hearing 8-17-99.
  - a. Assembly Memorandum No. AM 714-99.
7. Resolution No. AR 99-202, a resolution **confirming and levying assessments for the sewer special assessments within Levy-Upon-Connection Roll 99-S-1**, setting date of payment and providing for penalties and interest in the event of delinquency, Water and Wastewater Utility. public hearing 9-14-99.
  - a. Assembly Memorandum No. AM 715-99.

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 8.C.

8. Resolution No. AR 99-203, a resolution **confirming and levying assessments for the sewer special assessments within Levy-Upon-Connection Roll 99-S-2**, setting date of payment and providing for penalties and interest in the event of delinquency, Water and Wastewater Utility. public hearing 9-14-99.
  - a. Assembly Memorandum No. AM 716-99.

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 8.C.

9. Resolution No. AR 99-214, a resolution authorizing the Municipality of Anchorage, Community Planning and Development Department to enter into a Memorandum of Agreement in the amount of \$167,000 with the Department of Transportation and Public Facilities, State of Alaska, for **financing the Municipal Transportation Planning Model Update** and appropriating these funds to the State Categorical Grants Fund (231), Community Planning and Development. public hearing 8-17-99. (**addendum**)
  - a. Assembly Memorandum No. AM 751-99.

Ms. Abney requested this item be considered on the Regular Agenda. See item 8.C.

#### C. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-209, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Charles "Chuck" White**, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch.
  - a. Resolution No. AR 99-209(S), a resolution of the Anchorage Municipal Assembly recognizing and honoring Charles "Chuck" White, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch. (**addendum**)

Ms. Taylor requested this item be considered on the Regular Agenda. See item 8.D.

2. Resolution No. AR 99-210, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Trajan Langdon**, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch.
  - b. Resolution No. AR 99-210(S), a resolution of the Anchorage Municipal Assembly recognizing and honoring Trajan Langdon, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch. (**addendum**)

Ms. Taylor requested this item be considered on the Regular Agenda. See item 8.D.

3. Resolution No. AR 99-204, a resolution of the Municipality of Anchorage appropriating \$10,000 from the Area-wide General (0101) Fund Balance to Community Planning and Development for Amendment No. 1 to the **professional legal services contract to represent the Municipality of Anchorage regarding Beirne v. MOA**, Legal Department.
  - a. Assembly Memorandum No. AM 717-99.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.D.

4. Resolution No. AR 99-205, a resolution of the Municipality of Anchorage appropriating \$4,000 from the State of Alaska, Department of Health and Social Services to the State Categorical Grants Fund (0231) for a **tobacco sales to minor enforcement project**, Anchorage Police Department.
  - a. Assembly Memorandum No. AM 718-99.

Mr. Meyer requested this item be considered on the Regular Agenda. See item 8.D.

5. Resolution No. AR 99-206, a resolution of the Municipality of Anchorage appropriating \$42,000 of Fund Balance from the South Goldenview Limited Road Service Area Fund (149) to the Department of Public Works 1999 General Operating Budget for **summer maintenance projects**, Public Works.

- a. Assembly Memorandum No. AM 719-99.
- 6. Resolution No. AR 99-207, a resolution **correcting summation information on Water Levy Upon Connection Roll 99-W-1**, Water and Wastewater Utility.
  - a. Assembly Memorandum No. AM 720-99.
- 7. Resolution No. AR 99-211, a resolution authorizing the **granting of a tax refund to Edna and Mario Ancheta as a result of manifest clerical error** on Real Property Account 010-098-06, Finance.
  - a. Assembly Memorandum No. AM 734-99.
- 8. Resolution No. AR 99-212, a resolution of the Municipality of Anchorage appropriating \$25,000 from the Areawide General (101) Fund Balance to the Department of Health and Human Services for Amendment No. 1 to the contract with Gilmore & Doherty for **professional legal services regarding Allvest, Inc. v. MOA and Doyon Universal Services**, Legal Department.
  - a. Assembly Memorandum No. AM 735-99.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.D.

- 9. Resolution No. AR 99-213, a resolution of the Municipality of Anchorage appropriating \$35,000 of Fund Balance from the Glen Alps Road Service Area Fund (105) to the Department of Public Works 1999 General Operating Budget for **summer maintenance projects**, Public Works.
  - a. Assembly Memorandum No. AM 736-99.

D. NEW BUSINESS:

- 1. Assembly Memorandum No. AM 711-99, **Bidding Review Board appointment** (Bob Bezek), Mayor's Office.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.E.

- 2. Assembly Memorandum No. AM 712-99, **Urban Design Commission appointment** (Hugh McPeck), Mayor's Office.

A member of the administration requested this item be considered on the Regular Agenda. See item 8.E.

- 3. Assembly Memorandum No. AM 737-99, **Transportation Commission appointments** (Amy Ahmed, Anthony Lombardo), Mayor's Office.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.E.

- 4. Assembly Memorandum No. AM 725-99, **Blue's Central/Chef's Inn** - Transfer of Ownership of a Beverage Dispensary Liquor License (Spenard/North Star Community Councils), Clerk's Office.
- 5. Assembly Memorandum No. AM 726-99, **K & L Beverage Company, LLC** - New Wholesale Liquor License (Taku/Campbell Community Council), Clerk's Office.
- 6. Assembly Memorandum No. AM 727-99, **Williams Express** - Transfer of Location of a Package Store Liquor License (Bayshore/Klatt Community Council), Clerk's Office.

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 8.E.

- 7. Assembly Memorandum No. AM 728-99, **Cafe Amsterdam** - New Restaurant/Eating Place Liquor License and Restaurant Designation Permit (Spenard & Rogers Park Community Councils), Clerk's Office.

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 8.E.

- 8. Assembly Memorandum No. AM 729-99, **Polar Ice** - New Recreational Site Liquor License (Abbott Loop Community Council), Clerk's Office.

Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.E.

- 9. Assembly Memorandum No. AM 721-99, **miscellaneous pile repairs & Trestle No. 2 renovations**, PO No. 80343, Change Order No. 2, Port of Anchorage.
- 10. Assembly Memorandum No. AM 722-99, amendment No. 1 to professional services agreement with CH2M Hill Inc. for the **design of the Asplund Wastewater Treatment Facility solids handling improvements**, Water and Wastewater Utility.
- 11. Assembly Memorandum No. AM 723-99, change order No. 1 to purchase order 991283 with Arctic Promotions for furnishing **sweatshirts** to the Municipality of Anchorage, Department of Cultural and Recreational Services/Purchasing.
- 12. Assembly Memorandum No. AM 738-99, proprietary approval for **computer software maintenance** from SAS Institute, Inc. for the Municipality of Anchorage, Management Information Systems Department (MISD), Purchasing.
- 13. Assembly Memorandum No. AM 739-99, request for approval of **lease purchase financing** with Cisco Systems Capital Corporation for the Municipality of Anchorage, Management Information Systems Department (MISD).
- 14. Assembly Memorandum No. AM 740-99, amendment No. 2 to the contract with Ogden Facility Management of Alaska, Inc. for the **management of Ben Boeke/Dave Baumeister and Dempsey Anderson Ice Arenas**, Property and Facility Management.

Ms. Clementson requested this item be considered on the Regular Agenda. See item 8.E.

15. Assembly Memorandum No. AM 741-99, contract amendment No. 1 to CRW Engineering Group, Inc. for the **36th Avenue Storm Drain Rehabilitation Project**, DPW Project No. 95-10, Public Works.
16. Assembly Memorandum No. AM 742-99, appointment of a citizen facility naming panel for the **naming of the Plaza at the Z.J. Loussac Library**, Cultural and Recreational Services.
17. Assembly Memorandum No. AM 747-99, change order No. 1 to purchase order 84641 with Alaska Airgas for providing **self contained breathing apparatuses (SCBA)** to the Municipality of Anchorage, Police Department/Purchasing.
18. Assembly Memorandum No. AM 748-99, proprietary purchase of **computer software maintenance** from Environmental Systems Research Institute, Inc. (ESRI) for the Municipality of Anchorage, Management Information Systems Department/Purchasing.
19. Assembly Memorandum No. AM 749-99, recommendation of award to Alaska Contractors Elite for the **S & R Street water upgrade and 10th & Cordova water upgrade project** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility/Purchasing.

Administration requested this item be considered on the Regular Agenda. See item 8.E.

20. Assembly Memorandum No. AM 750-99, sole source with Enstar Natural Gas Company for **relocation of gas pipeline** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility/Purchasing.

Mr. Kendall requested the record to reflect that he abstained from voting on this item.

21. Assembly Memorandum No. AM 753-99, **change in Assembly meeting schedule**, Assembly Chair Wuerch. **(addendum)**

E. INFORMATION AND REPORTS:

1. Appeal S-10419, Skyhills Subdivision Phase 3, has been scheduled for hearing before the Board of Adjustment on September 14, 1999, Clerk's Office.
2. Appeal 98-177, Campbell Park Acres Subdivision, has been scheduled for hearing before the Board of Adjustment on September 21, 1999, Clerk's Office.
3. Information Memorandum No. AIM 67-99, report of **Public Works' construction contract amendments**, Public Works.
4. Information Memorandum No. AIM 68-99, Anchorage Water and Wastewater Utility construction change order report - **Girdwood WWTF Improvements Phase 1; Pave/Patch Contract; and various pipe sizes for Anchorage Loop WTM Phase V**, Water and Wastewater Utility.
5. Information Memorandum No. AIM 69-99, **Bar Violations/Quarter Report** (2nd Quarter - 1999), Anchorage Police Department.
6. Information Memorandum No. AIM 70-99, waiver of formal procedures for **Juniper Street storm drain improvements at Klatt Elementary School** for the Municipality of Anchorage, Public Works Department (ITB 99-BC056), Purchasing.

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

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen, Clementson.  
NAYS: None.

8. REGULAR AGENDA:

A. TIME CRITICAL ITEMS: None.

B. BID AWARDS:

1. Assembly Memorandum No. AM 730-99, recommendation of award to Precision Power Company for furnishing **Uninterruptible Power Systems (UPS)** to the Municipality of Anchorage, Management Information Systems Department (ITB 99-B062), Purchasing.

Mr. Tremaine moved, to approve AM 730-99.  
seconded by Ms. Taylor,

Mr. Tremaine questioned why only one bidder was responsive out of so many otherwise qualified bidders.

Purchasing Officer Ted Chenier said all vendors who bid, with the exception of one, could have meet the specifications. They chose not to bid and so they did not adhere to the specifications.

Question was called on the motion to approve AM 730-99 and it passed without objection.

2. Assembly Memorandum No. AM 732-99, recommendation of award to Alaska Pollution Control for furnishing **road maintenance service to the Glen Alps Limited Road Service Area** for the Municipality of Anchorage, Public Works Department (ITB 99-B071), Purchasing.

Mr. Tremaine moved,  
seconded by Ms. Taylor,

to approve AM 732-99.

Mr. Tremaine pointed out that 7.A.2 and 7.A.3 were both maintenance contracts to the same company, Alaska Pollution Control, and wanted to be sure the company was adequately capitalized to handle both the contracts in a timely manner.

Purchasing Officer Ted Chenier said the company had been doing a number of the LRSAs for about 10 years and is a competent contractor.

Question was called on the motion to approve AM 732-99 and it passed without objection.

3. Assembly Memorandum No. AM 743-99, recommendation of award to Criterion General, Inc. for the **new Northwood Street maintenance warm storage facility-design/build** for the Municipality of Anchorage, Property and Facility Management (ITB 99-C044), Purchasing.

Mr. Kendall moved,  
seconded by Ms. Taylor,

to approve AM 743-99.

Purchasing Officer Ted Chenier pointed out the second paragraph to this memorandum was left off. There was a handout demonstrating the missing paragraph. The Administration requested that the paragraph be incorporated as the second paragraph of the AM 743-99.

Mr. Kendall moved,  
seconded by Ms. Fairclough,  
and it passed without  
objection,

to amend AM-743-99 to incorporate a second paragraph to read: "One item was noted in the bid documents submitted by the low, responsive bidder that requires a waiver of an irregularity pursuant to Anchorage Municipal Code Section 7.20.050. Criterion General, Inc. submitted a bid bond in the amount of 5% of their bid. The bid specifications required a bid guarantee in an amount equal to at least 10% of the total bid. However, the bid guarantee of 5% (or \$159,300) was sufficient to cover the difference in their bid of \$3,186,000 and the next lowest bid of \$3,229,533."

Question was called on the motion to approve AM 743-99 as amended and it passed without objection.

#### C. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 99-114, an ordinance of the Anchorage Assembly **formally adopting the goals and objectives of the Anchorage Bowl Comprehensive Plan**, Assembly members Taylor, Tesche, Tremaine, and Abney. public hearing ~~9-14-99~~ 10-19-99.

Mr. Tesche, Ms. Taylor, Ms. Abney and Mr. Tremaine joined in introducing AO 99-114. The public hearing was scheduled for October 19, 1999 instead of September 14, 1999.

Ms. Clementson questioned holding a public hearing at the end of October during budget time if the Mayor intended to have the plan finished at the beginning of December.

Mr. Tesche said he did not believe there would be sufficient work product to gauge where the old goals and objectives stood until the middle of October. It would be more meaningful in October rather than September as originally thought.

Mr. Tremaine said he felt comfortable with the processes going on and by putting this forward, staff time would be saved where it was really needed, which was now.

Ms. Taylor said they had a very good meeting with the Mayor's staff. They were encouraged by the level of public participation and looked forward to seeing this process through.

Ms. Clementson said she was not at the work session so she would defer to members who were at the work session.

There was no objection to setting the public hearing of AO 99-114 on October 19, 1999.

2. Ordinance No. AO 99-83(S), an ordinance of the Municipality of Anchorage **authorizing the Heritage Land Bank (HLB) to sell via sole source Tract A, Eagle Bluff Subdivision, Plat No. 98-40**, generally located northeast of the Hiland Road and Glenn Highway Interchange adjacent to Yosemite Drive in Eagle River, to Jose Vicente, Heritage Land Bank.
  - a. Assembly Memorandum No. AM 746-99.

Mr. Tesche, Mr. Meyer and Ms. Taylor joined in introducing this resolution.

Mr. Tesche moved,  
seconded by Ms. Taylor,

to move AO 99-83(S) to Old Business item 9-C.

Mr. Kendall objected because no public hearing had been held and one should be scheduled.

Ms. Clementson pointed out that a public hearing had been advertised for September 14. She proposed a friendly amendment to set a public hearing for next week.

Mr. Tesche said he did not have a strong objection, but would like to hear from other members of the Assembly.

Ms. Fairclough said the ordinances were identical except for sale price. The AO 99-83, which was remanded to Heritage Land Bank has one addition that the Board tells the Assembly that Mr. Vicente has been through a six-year process as an explanation for the Board supporting a sole source sale.

Ms. Clementson felt that when a matter was remanded, the public should be advised of when they could testify in the future. She said she thought there were people in the audience tonight who wanted to testify.

Ms. Fairclough said there were people to testify. She said she received phone calls last night in possible opposition to the sale. She advised them that the public hearing had been closed, but she would voice their concerns at the meeting. However, she did not object to postponing the matter for one week.

Chairman Wuerch said the question was only whether to move it to 9.C to be discussed later in the evening.

Question was called on the motion to move AO 99-83(S) to 9.C on the agenda and it passed:

AYES: Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine.  
NAYS: Kendall, Von Gemmingen, Clementson.

3. Resolution No. AR 99-202, a resolution **confirming and levying assessments for the sewer special assessments within Levy-Upon-Connection Roll 99-S-1**, setting date of payment and providing for penalties and interest in the event of delinquency, Water and Wastewater Utility. public hearing 9-14-99.
  - a. Assembly Memorandum No. AM 715-99.

Ms. Fairclough, Mr. Meyer, and Ms. Taylor joined in introducing this resolution for public hearing on September 14, 1999.

In response to Ms. Fairclough, Anchorage Water and Wastewater Utility General Manager Mark Premo said he could not answer the question of what the Eagle River project costs were. He explained how the price was arrived at and invited the Assembly to a workshop at the utility to explain it in more detail. He said with respect to the Eagle River Water Transmission Main, that the cost was calculated differently because it was a large diameter project.

Chairman Wuerch asked Mr. Premo to work up some answers to Ms. Fairclough's questions before the public hearing.

4. Resolution No. AR 99-203, a resolution **confirming and levying assessments for the sewer special assessments within Levy-Upon-Connection Roll 99-S-2**, setting date of payment and providing for penalties and interest in the event of delinquency, Water and Wastewater Utility. public hearing 9-14-99.
  - a. Assembly Memorandum No. AM 716-99.

Ms. Fairclough, Mr. Kendall and Mr. Tremaine joined in introducing this resolution for public hearing on September 14, 1999.

5. Resolution No. AR 99-214, a resolution authorizing the Municipality of Anchorage, Community Planning and Development Department to enter into a Memorandum of Agreement in the amount of \$167,000 with the Department of Transportation and Public Facilities, State of Alaska, for **financing the Municipal Transportation Planning Model Update** and appropriating these funds to the State Categorical Grants Fund (231), Community Planning and Development. public hearing 8-17-99. **(addendum)**
  - a. Assembly Memorandum No. AM 751-99.

Ms. Abney, Mr. Tremaine, and Ms. Taylor joined in introducing this resolution for public hearing on August 17, 1999.

In response to Ms. Abney, who wanted to know the status of the transportation planning model update, Mayor Mystrom said the administration would have an answer by the public hearing date.

In response to Ms. Fairclough's question about a transfer of agreement in AM 751-99, Deputy Municipal Attorney Bill Greene explained that it was an inter agency agreement between the State and the City.

D. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-209, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Charles "Chuck" White**, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch.
  - a. Resolution No. AR 99-209(S), a resolution of the Anchorage Municipal Assembly recognizing and honoring Charles "Chuck" White, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch. **(addendum)**.

Ms. Taylor moved,  
seconded by Ms. Clementson,

to approve AR 99-209(S).

Ms. Abney moved, to postpone action until Mr. White appeared.  
seconded by Mr. Tremaine,  
and it was withdrawn,

Mr. Greg Moyer noted that Trajan Langdon would accept for Mr. White.

Ms. Abney read the resolution and Ms. Clementson presented it to Mr. Langdon on behalf of Coach White.

Question was called on the motion to approve AR 99-209 and it passed without objection.

2. Resolution No. AR 99-210, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Trajan Langdon**, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch.
- b. Resolution No. AR 99-210(S), a resolution of the Anchorage Municipal Assembly recognizing and honoring Trajan Langdon, Assembly members Taylor, Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Tesche, Tremaine, Von Gemmingen, and Wuerch. (**addendum**)

Ms. Taylor moved, to approve AR 99-210(S).  
seconded by Ms. Clementson,  
and it passed without  
objection,

Ms. Taylor read the resolution while Ms. Clementson presented it Mr. Langdon.

Mayor Mystrom said he had been watching Trajan play basketball for about 10 years and it had been a real treat. He said it was the kind of victories and losses that Trajan had that built character. He reminded Trajan of a comment he had heard from a scout when Trajan was being scouted for other NBA teams. The scout had said great shooter, great knowledge of the basketball game and great human being. He commented on how proud his parents were. He said we were all proud to have Trajan as a citizen. Mayor Mystrom congratulated Trajan Langdon on everything he had accomplished.

Trajan Langdon thanked the Mayor and the Assembly for recognizing himself and Coach White. He said it had been a great honor to play in Anchorage.

3. Resolution No. AR 99-204, a resolution of the Municipality of Anchorage appropriating \$10,000 from the Areawide General (0101) Fund Balance to Community Planning and Development for Amendment No. 1 to the **professional legal services contract to represent the Municipality of Anchorage regarding *Beirne v. MOA***, Legal Department.
- a. Assembly Memorandum No. AM 717-99.

Mr. Tesche moved, to approve AR 99-204.  
seconded by Ms. Taylor,

In response to Mr. Tesche, Municipal Attorney Mary Hughes said she did not know the estimated value of the property, but it was probably in excess of \$1,000,000. She said there had been no true appraisal of the property because the case was still in summary judgment. She reminded Mr. Tesche that Dr. Beirne was the one suing, so there was no choice with respect to whether or not to be sued, but legal fees would probably be paid. She indicated that this was the first change order. She felt there was a good chance of prevailing on the issue and the judge's decision was still pending.

Question was called on the motion to approve AR 99-204 and it passed without objection.

4. Resolution No. AR 99-205, a resolution of the Municipality of Anchorage appropriating \$4,000 from the State of Alaska, Department of Health and Social Services to the State Categorical Grants Fund (0231) for a **tobacco sales to minor enforcement project**, Anchorage Police Department.

Mr. Meyer moved, to approve AR 99-205.  
seconded by Ms. Taylor,

Mr. Meyer pointed out this was a resolution appropriating \$4,000 from the State of Alaska, Department of Health and Social Services for the enforcement of tobacco sales to minors. In 1993, many retailers had been selling tobacco products to children under age. A couple years ago, only a handful of retailers were actually selling to minors. Enforcement was working and that is important when it comes to tobacco sales. Mr. Meyer asked if the Assembly could be advised of the results of the sting operations pertaining to the enforcement of tobacco sales.

In response to Mr. Meyer, Employee Relations Director Tom Tierney said if Mr. Moyer would request the results, they would provide a response. Mr. Tierney said he did not know how much of the money from the tobacco settlement had filtered down to the Municipality for education and prevention purposes, but he would check.

Question was called on the motion to approve AR 99-205 and it passed without objection.

5. Resolution No. AR 99-212, a resolution of the Municipality of Anchorage appropriating \$25,000 from the Areawide General (101) Fund Balance to the Department of Health and Human Services for Amendment No. 1 to the contract with Gilmore & Doherty for **professional legal services regarding *Allvest, Inc. v. MOA and Doyon Universal Services***, Legal Department.
- a. Assembly Memorandum No. AM 735-99.

Mr. Tesche moved,  
seconded by Ms. Taylor,

to approve AR 99-212.

In response to Mr. Tesche, Municipal Attorney Mary Hughes said this did relate to changes in the Animal Control contract and it was a public procurement matter. She said the justification for the sole source contract was a time commitment problem due to a restraining order. Ms. Hughes said she looked at three or four law firms and then determined which would be most appropriate under the circumstances. She said there was not time for a Request for Proposal.

Mr. Tesche requested a memorandum from the city attorney, together with the documentation behind the sole source justification.

In response to Mr. Tesche, Municipal Attorney Mary Hughes said all summary motions were due by September 30 and there was no monetary relief being requested.

Ms. Von Gemmingen asked for a legal update from the Municipal Attorney on all cases that were pending.

Chairman Wuerch said if the Assembly wanted to ask questions in detail, they should be in executive session.

Ms. Abney wanted a general briefing before determining the necessity for executive session.

Mr. Tremaine said he did not think there would be a need for executive session without first being briefed.

Chairman Wuerch asked Ms. Jackson to schedule a work session with the Administration for a briefing on pending litigation.

Mr. Tesche said he would prefer a work session, which was less formal. He agreed to a general briefing before considering an executive session. He also suggested a list of cases be distributed to Assembly members in advance through Mr. Moyer's office so the Assembly could prepare for the work session.

Municipal Attorney Mary Hughes said it was not her practice to provide a list of cases due to the privileged nature of the information.

Mr. Tremaine said as a public official with a fiduciary responsibility, he felt uneasy not having a list of the public lawsuits that are pending. He felt even more uneasy being told such a list was not normally produced and there was some hesitation to produce it.

Municipal Attorney Mary Hughes said she did not say it could not be produced; it just was not a public document.

Mr. Tremaine felt they should not be privileged since they were all public lawsuits.

Chairman Wuerch said this needed to be taken into executive format before talking about individual cases.

Ms. Abney said they were merely asking for a listing of all those that were outstanding, the kind of general information that would be provided in a work session, then it could be determined if an executive work session was needed.

Chairman Wuerch said there would be a general briefing and then an executive session would be called if needed.

Mr. Tesche pointed out that you could get the list from the courthouse, but it would include misdemeanor cases and collection cases. Mr. Tesche requested a list of more serious cases in the Superior Court seeking damages to get an overall sense of pending litigation. He said he saw no authority to rule the documents as confidential.

Chairman Wuerch questioned if anyone wanted to make a motion to vote on it and no one responded. He ruled that a general briefing would be held and then it would be decided if an executive session was necessary. He said specific questions should be addressed to the Municipal Attorney.

Question was called on the ruling of the Chair and it passed without objection.

Question was called on the motion to approve AR 99-212 and it passed without objection.

E. NEW BUSINESS:

1. Assembly Memorandum No. AM 711-99, **Bidding Review Board appointment** (Bob Bezek), Mayor's Office.

Mr. Tesche moved,  
seconded by Ms. Taylor,

to approve AM 711-99.

In response to Mr. Tesche, Executive Manager Elaine Christian said the resume of Mr. Bezek was not in the packet.

In response to Mr. Tesche, Purchasing Officer Ted Chenier said there were five commissions that put members on the Bidding Review Board and this was one of them. He said that was according to Municipal ordinance.

Mr. Tesche requested a copy of Mr. Bezek's resume.

Mr. Tesche moved, to postpone AM 711-99 for one week.  
seconded by Ms. Taylor,  
and it passed without  
objection,

2. Assembly Memorandum No. AM 712-99, Urban Design Commission appointment (Hugh McPeck), Mayor's Office.

Employee Relations Director Tom Tierney said the appointment required public notification and recommended postponing it until next week for action.

Question was called on the request to postpone AM 712-99 for one week and it was postponed without objection.

3. Assembly Memorandum No. AM 737-99, **Transportation Commission appointments** (Amy Ahmed, Anthony Lombardo), Mayor's Office.

Mr. Tesche moved, to approve AM 737-99.  
seconded by Mr. Meyer,

Ms. Fairclough asked what the breakdown was on the commission and how the actual committee was composed. She wanted to know how many actual industry people were on the commission.

In response to Mr. Tesche and the Chairman, Employee Relations Director Tom Tierney said the amended ordinance was not yet in effect. It was Mr. Greene's recollection that there was no specific industry designation requirement in the previous ordinance.

Mr. Tesche moved, to postpone action on AM 737-99 one week.  
seconded by Mr. Meyer,

Mr. Tesche said he would like input from the Assembly. He felt the individual had a substantial interest in one of the principal dispatch companies that was regulated under the ordinance and wondered if that was appropriate. He thought it might be a good idea to have somebody from the industry on the commission, but was undecided.

Chairman Wuerch asked the Administration to address that point in a memo.

Mr. Meyer said on the Transportation Commission wanted to have a minority person on the commission because many drivers were minorities. He did not know if either of the candidates was a minority, but hoped that would be taken into consideration. He felt it was a good idea to have someone from the industry on the commission. He said he was not sure why Mr. Rosenberg and Mr. Knutson had resigned early, but thanked them for their time and effort over the years.

Chairman Wuerch pointed out this was a very hard working commission and the individuals appointed took on a huge community responsibility and he thanked them.

In response to Mr. Kendall, Mr. Tesche said the postponement was to obtain additional background information, comments, recommendations and an evaluation from the Administration. Mr. Tesche felt there were good points to both sides, but wanted to hear from Administration on the subject.

Mr. Kendall felt the Administration had given their position by nominating these people to the board. He pointed out that these were voluntary citizen that wanted to be on boards and commissions. He felt the policy questions should be asked, but the appointments did not need to be held up.

Ms. Von Gemmingen felt it was time to put somebody from the industry on the commission to present the industry's point of view. Since the nominations came from the Administration, she felt they had already reviewed the rules and determined it was appropriate to have someone from the industry on the commission. She said she saw no reason to postpone it for a week.

Mr. Meyer said his point was really to thank Mr. Rosenberg and Mr. Knutson for their efforts and saw no reason to hold up the appointments. He felt having someone from the industry on the commission would help bridge the gap between the Assembly and the industry.

Ms. Abney said she concurred; however, she was concerned that they did not have time to adequately research the appointment. She felt this was a continuing problem. Ms. Abney said she would support a one-week postponement.

Question was called on the motion to postpone AM 737-99 for one week and it failed:

AYES: Abney, Tesche, Taylor, Meyer, Tremaine.  
NAYS: Kendall, Sullivan, Wuerch, Fairclough, Von Gemmingen.

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

Ms. Clementson requested a revote when she returned.

Question was called on the motion to postpone AM 737-99 for one week and it passed:

AYES: Abney, Tesche, Taylor, Meyer, Fairclough, Tremaine, Clementson.  
NAYS: Kendall, Sullivan, Wuerch, Von Gemmingen.

4. Assembly Memorandum No. AM 727-99, **Williams Express** - Transfer of Location of a Package Store Liquor License (Bayshore/Klatt Community Council), Clerk's Office.

Ms. Fairclough moved, to approve AM 727-99.  
seconded by Mr. Tremaine,

Ms. Fairclough pointed out a typographical error in the application and thought it should be corrected. In section 2 of the liquor license application it states the school name is Ocean View Elementary, but the closest school is Sunset Hills Baptist. She said she registered a no vote because the license was being transferred from the Bird House, which was a long distance transfer.

Chairman Wuerch informed the public of the typographical error, but did not know what should be done about it since it was a state application and not a municipal one.

In response to Ms. Fairclough, Mr. Coffey, representing Williams, said the business name would be Williams.

Mr. Tremaine said he has noticed errors often in applications and would like to see the applications filled out properly in the future.

Question was called on the motion to approve AM 727-99 and it passed with two objections from Ms. Clementson and Ms. Fairclough.

5. Assembly Memorandum No. AM 728-99, **Cafe Amsterdam** - New Restaurant/Eating Place Liquor License and Restaurant Designation Permit (Spenard & Rogers Park Community Councils), Clerk's Office.

Ms. Fairclough moved, to move AM 728-99 to after agenda item 12.K.  
seconded by Mr. Meyer,

Question was called on the motion to move AM 728-99 to after public hearing item 12.K and it passed without objection.

6. Assembly Memorandum No. AM 729-99, **Polar Ice** - New Recreational Site Liquor License (Abbott Loop Community Council), Clerk's Office.

Ms. Fairclough moved, to move AM 729-99 to after agenda item 12.L  
seconded by Mr. Meyer,

Question was called on the motion to move AM 729-99 to public hearing item 12.L and it passed without objection.

7. Assembly Memorandum No. AM 740-99, amendment No. 2 to the contract with Ogden Facility Management of Alaska, Inc. for the **management of Ben Boeke/Dave Baumeister and Dempsey Anderson Ice Arenas**, Property and Facility Management.

Ms. Clementson moved, to approve AM 740-99  
seconded by Ms. Von Gemmingen,

Ms. Clementson moved, to postpone action on AM 740-99 for one week.  
seconded by Ms. Von Gemmingen,

Ms. Clementson requested information from the Administration by next week.

Question was called on the motion to postpone AM 740-99 until August 17, 1999 and it passed without objection.

8. Assembly Memorandum No. AM 749-99, recommendation of award to Alaska Contractors Elite for the **S & R Street water upgrade and 10th & Cordova water upgrade project** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility/Purchasing.

Purchasing Officer Ted Chenier requested this item be postponed indefinitely since they were still checking on the contractor.

Mr. Sullivan moved, to postpone action on AM 749-99 indefinitely.  
seconded by Ms. Abney,  
and it passed without  
objection,

F. INFORMATION AND REPORTS: None.

Chairman Wuerch entertained a motion to suspend the rules and take up a special order.

Ordinance No. AO 99-84(S), an ordinance **designating certain real property as deteriorated property known as the Knik Arm Power Plant at Ship Creek**, Assembly member Tesche.  
(APPROVED 7-20-99; VETOED 7-27-99)

Mr. Tesche moved, to override the Mayoral veto of AO 99-84(S).  
seconded by Ms. Taylor,

Mr. Tesche said this matter had been discussed extensively and he urged an override of the Mayor's veto.

Chairman Wuerch passed out a letter from General Teamsters Local 949.

Mayor Mystrom said there was an ordinance for public hearing on August 17, 1999, that would set the process for determining whether or not somebody should get a substantial tax break for developing property. He pointed out there were a number of questions the Assembly should be asking. He felt there should be a process set forward for giving someone a tax break that could amount to \$2,000,000 to \$3,000,000, since it was a significant impact on future taxpayers.

The ordinance on August 17 asks the Assembly to explore other ways to develop a piece of property other than giving a significant tax break and how much property should be included in the tax break. He said these questions should be asked before taking taxes off the role. Currently there is no mechanism for the Assembly to get staff support, information and research done and if a person could get six votes on the Assembly then they could get a tax break. He felt that was not the way to operate the city and there should be a process in place for people who were applying for future tax breaks.

He discussed the development of the Knik Arm Power Plant and whether it could happen with or without a tax break. He pointed out that with the tax break they would move Whitney Road, which the Railroad was already planning to do in the next couple of years. He indicated that if the tax break were granted, the taxpayers would bear the burden of the cost of moving Whitney Road instead of the Railroad. Mr. Mystrom feels it should not be done without a process in place and people knowing what the rules are. Currently any developer who wants a tax break knows all he has to do is convince six Assembly members to do it.

In Ms. Clementson's proposed ordinance there are questions that will be asked. For example, is this a minimum tax break or the minimum tax burden that we have to put on the rest of the taxpayers to make it happen. He questioned the deterioration of the area and said he feels there should be some basis for making the decision. He believes this project will have an extraordinary cost to taxpayers.

He vetoed the ordinance because if we are to give people tax breaks, we should set the rules before playing the game. He believes there is nothing in Mr. Marlow's comments that show a sense of urgency or would prevent the project from going forward. He does not feel there has been a good argument to justify that kind of tax break without setting forth a process first. He does not believe he has the votes to uphold the veto, but he would like to make the statement that he feels the Assembly is wrong if they override the veto. Mayor Mystrom believes it is important to have a process before giving this kind of a tax break. He would encourage Assembly members to consider voting to sustain the veto, deal with the Clementson ordinance next week, set up a process then put Mr. Marlow's plan and proposal into that process and see if it has the merit to take that kind of action. Mayor Mystrom encouraged a no vote on the override.

In response to Mr. Tremaine, Deputy Municipal Attorney Bill Greene said under the state statutes and the municipal ordinance, deterioration was a necessary ingredient to a tax break and it did not have any land use or development standards set forth.

Mr. Tremaine said the answer confused him. He recalled a previous action that did not result in a tax break. He said it was his understanding that once a property was declared deteriorated then the Assembly decided whether it would get a tax break or not.

Deputy Municipal Attorney Bill Greene said that was correct. It was a two-step process. When you make the determination on a deteriorated area, you do not set forth any process or standards by which to make any determination and neither does the ordinance as it presently stands.

Mr. Tremaine said deteriorated area was a necessary, but not sufficient, condition of a tax break. He said the action did not automatically apply tax breaks, but welcomed a presentation to ask for one.

Chairman Wuerch said 99-84(S) did not give any authority to waive or change the assessed value in taxation of the property.

Ms. Fairclough said her understanding of the statute was that it set up the criteria. She said she was in support of Mr. Marlow's attempt to renovate the area and put people to work. She said she has received two additional letters from other union organizations that were in support of Mr. Marlow's project and they would like a yes vote. She said she would be voting no and supporting the Mayor's veto because she agreed with what he said about the lack of a process.

Ms. Clementson pointed out that there were a lot of exciting things happening at Ship Creek. She felt there was confusion over the issue and believed the sole reason to declare an area deteriorated was so they could apply for a tax break. She questioned the fairness of this action and pointed out that there was still a pretrial date in September to determine who held the lease. She felt taking the time for a public hearing would not slow down the process since there are still legal issues pending.

Mr. Tesche said Mayor Mystrom and Ms. Clementson's arguments ring hollow when compared with history of how this statute had been applied by the Municipality. He questioned if the new standards, regulations and ordinances were so essential, why did they only come up recently. He believed this ordinance was hastily prepared and there was a relationship between the ordinance and Mr. Marlow's project. He did not feel this was a good way to set public policy. He urged the Assembly to override the veto.

Mayor Mystrom commented on Mr. Tesche's remarks. He said the ordinance had been provided in the packet on Friday, but it was for public hearing on August 17, so it was actually provided 10 days ahead of time. It was hurried so the Assembly would have time to consider it before voting on the tax break. He said a number of Assembly members had stated that no tax break was being given; there was just the potential of one. He believed this vote was important because there was no other reason for this declaration other than a tax break. He asked the Assembly members to question if it was absolutely essential to be passed now or could it wait for a process to be put in place.

Ms. Clementson said she felt it would serve the body best if speakers refrained from using other member's names in attacking their comments or what they perceive to be personal actions. She said research was done by the assessor's office and the planning department and the process took at least nine months. Deputy Municipal Attorney Bill Greene was pulled off other things to look at this process. She said she put a note on the front of the ordinance that said if anyone had questions to call her or Mr. Greene and no one had asked any questions. The ordinance sets up the process that will be discussed. It's not a smoke screen to stop anything. She said she was not opposed to the project, but she felt they needed to take one step at a time.

Question was called on the motion to override the Mayor's veto of AO 99-84(S) and it passed:

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Tremaine.  
 NAYS: Fairclough, Von Gemmingen, Clementson.

The Assembly then considered item 10, Appearance Requests.

**J. Todd Brown**, regarding revenue sources.

Mr. Brown said he worked as a temporary worker at the Transit Department, People Mover, for six months. He said he would have been placed in a part-time position, but that did not happen because of layoffs and the concept of lessening state funds connected with the latest PFD issues. He said \$155,000 was allocated to the department and \$60,000,000 for the City in 1997. He believed it would take \$2,000,000 to keep all the people employed for one year. He said there was a six-year fiscal plan in the office of management and budget, but it didn't work out. One year there is a problem with oil revenues and everything went crunch. Oil is back up to \$20 a barrel and on its way up even further. He questioned what was being done. He wondered if we reacted too soon and was this going to happen every time. He questioned if the Assembly members were going to ask the real questions of whether a greater society had taxes, progressive taxes and regressive taxes. He asked the Assembly members if they would continue to let the city of Anchorage be held hostage by oil prices and property taxes. He wondered if we should have a progressive system that maintains a balance for all of the people in our society. He thanked the Assembly.

In response to Ms. Fairclough, Mr. Todd said he was not questioning the Assembly's commitment; he was only questioning what had already happened. He pointed out the need for extensive future planning. He said he had asked hundreds of people about which tax they favored and most of them felt a sales tax was the best idea because it taxed others who came into the community. They also felt it was the least regressive tax. He said he had not considered a fee charge on rental cars, but believed that constituted discrimination because you should tax all people equally.

Chairman Wuerch told Mr. Todd that he would be very happy to give him a rundown of what the budget committee and the Assembly were looking at in the way of alternatives. He believed Mr. Todd would be pleased that some of his ideas are consistent with the views of the Assembly members.

**Patrick & Susan Petersen**, regarding animal control.

Ms. SUSAN PETERSEN said she worked on the Animal Control Advisory Board for eight years and she was Chair for the last two. She helped write the current Title 17 so she is aware of what it says. On May 19 they had two Pitbulls get behind their six-foot licensed kennel and within 15 minutes their dog was destroyed, basically skinned alive. The blood covered Pitbulls then climbed out of the kennel, but her daughter caught them and returned them to the kennel to wait for Animal Control. Four days later the dog was released back to the owners at the wrong level, which later changed. They (animal control) imposed conditions that have never been met. Her husband saw the dog running loose again and called Animal Control to pick up the animal. Animal Control, Title 17, can require a \$100,000 insurance policy to take care of any damages that may happen in the future, but they chose not to do that. They released the dogs on the 28<sup>th</sup> because they said the dogs did not appear to be aggressive. She detailed the damage done to her dog in fifteen minutes. The dogs are still not in complete compliance. She reported that the kennel that the owners did provide was inadequate and she felt neighborhood kids would have no trouble getting into it. She reported that the dog also was not neutered. She questioned why Animal Control allowed these dogs back into the community uninsured and not under compliance.

Chairman Wuerch said this is a moving story and a tragic situation and they had the apologies of the members.

MR. PETERSEN said this was not a dog that was killed; it was a family member. He said his concern was for the safety of his neighborhood. He reported that the owner had not met the conditions imposed upon the dogs. He said he was devastated because of the death of his dog, but he would be even more devastated if a child were to get hurt, damaged, or disfigured for life. He pointed out that the contractor did not follow up on the conditions set for the release of the dogs. He said he knew the dogs could get out of the enclosure if they wanted to and most of the children in the neighborhood could get into it if they wanted to. He said these dogs were seen running loose before the accident happened. He said so many people have asked him why he keeps turning it into Animal Control and why he does not take care of things himself. He said there should be a process and the process should work. He said we have a process in place, but it is not being enforced. He said that all he asks is that before a child gets hurt or another animal gets hurt, that something be put upon the owners to emphasis to them that they need to get this dangerous animal off the ground. He said if you look at a dog and it wags its tail, it does not mean the dog is not aggressive.

In response to Mr. Meyer, Mr. Petersen said he was a founding member of the appeals board and has heard a lot of cases. He informed Animal Control when they picked up the dogs that a hearing should be held. After they released the dog he advised them they had set the wrong level of attack on the dog. After they released it the second time, he tried to speak to the Animal Control Advisory Board. His concern was that the city needed to know that their contractor has deemed it their responsibility to release this dog into the public again and if a child got hurt it would be on their shoulders since they were given two opportunities not to release the dog. He said when he went before the Advisory Board there was not a quorum so they were not allowed to ask questions. He filed for a hearing today, but was told he did not qualify as having a grievance. He hoped

that would be overturned and he would have an opportunity to be heard. He said they were speaking at as many community councils as they could. He said the problem existed all over town.

In response to Mr. Meyer, Employee Relations Director Tom Tierney said the Administration was aware of the situation and that there was an ongoing investigation. Since there was an appeal process underway, he felt it would be inappropriate to comment at this point.

In response to Mr. Peterson, Health and Human Services Director Mary Good said she was not aware of the specifics on Mr. Petersen's appeal. She knew there was an appeal, but she did not know if it was his or the other party's or both.

Mr. Meyer asked Mr. Tierney for a briefing on the status of the case and encouraged Animal Control to go back out to ensure the dog was properly restrained in order to meet class four requirements.

In response to Chairman Wuerch, Mr. Meyer said he would like a summary of the findings in writing and would like Administration to have an immediate follow-up inspection.

Ms. Fairclough said she was at the meeting where the Petersen's shared pictures. The reason the board was not able to take questions was they felt like there might be some legal ramification and did not want to expose the board to liability. She said she did follow it through with questions at Health and Human Services and it appeared that the letter of the law was followed. She pointed out that victim's rights needed to be looked at. She suggested launching an active responsible campaign for pet owners. She questioned whether these dogs ran in packs and if they were more violent when they did.

Ms. Petersen said anytime you put a dog in a situation where they do not have human control over them, anything could happen. She said when they are not maintained properly, bad things can happen.

Mr. Petersen reported that some dogs are bred that way. He said was not faulting the dog; he was faulting the owner. He said the owner needed to realize what these dogs could do and take responsible action to prevent them from doing it.

In response to Ms. Fairclough, Ms. Petersen said she has lobbied for years on behalf of dog groups in the State of Alaska to not ban any breed of dog because she felt that did not solve the problem. She said she did not have a problem with the breed; she had a problem with owners who didn't know how to control their animals.

Mr. Petersen said any vicious dog is a vicious dog, but not every breed is vicious.

**Mike Robbins**, to repay the Freedom Day Fireworks Festival loan. (**LAI**D ON THE TABLE)

MR. MIKE ROBBINS said the Freedom Day Fireworks Festival Committee produced the 4<sup>th</sup> of July celebration for the City. He said the committee asked for a loan of \$25,000 and he was here tonight to pay in full. The festival was a success this year and they had over 9,000 people. The event was alcohol free and security and police coverage was beefed up. He said the event came off without a hitch. He said he was here to return the money and recognize in a public forum the sponsors, Alaska Communications Systems and La Mex Restaurant. He presented a check to Chairman Wuerch.

The meeting recessed at 7:05 p.m. and reconvened at 7:30 p.m.

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

- A. Assembly Memorandum No. AM 647-99, Anchorage Marriott Hotel - New Beverage Dispensary Tourism Liquor License and Restaurant Designation Permit (Downtown/South Addition Community Councils), Clerk's Office.  
(POSTPONED FROM 7-13-99)

This item was carried over to August 17, 1999.

- B. Resolution No. AR 99-166, a resolution of the Municipal Assembly **resolving that all Anchorage road projects planned for construction, rehabilitation, repaving and safety improvements will include full funding for needed roadside trail, bicycle, sidewalk and landscaping improvements**, Assembly member Abney.
  - 1. Assembly Memorandum No. AM 661-99, Public Works.
  - 2. Assembly Memorandum No. AM 663-99, Assembly member Abney.
  - 3. Resolution No. AR 99-166(S), a resolution of the Municipal Assembly resolving that all Anchorage road projects planned for construction, rehabilitation, repaving and safety improvements will include full funding for needed roadside trail, bicycle, sidewalk and landscaping improvements, Assembly member Abney.
  - 4. Assembly Memorandum No. AM 704-99.
 (POSTPONED FROM 6-15-99; CARRIED OVER FROM 7-13-99 AND 7-20-99)

This item was considered later in the meeting. See after item 11.B.

- C. Ordinance No. AO 99-83, an ordinance of the Municipality of Anchorage **authorizing the Heritage Land Bank (HLB) to sell via sole source Tract A, Eagle Bluff Subdivision, Plat No. 98-40**, generally located northeast of the Hiland Road and Glenn Highway Interchange adjacent to Yosemite Drive in Eagle River, to Jose Vicente, Heritage Land Bank.
  - 1. Assembly Memorandum No. AM 495-99.
 (ORDINANCE NO. AO 99-83 WAS REMANDED TO THE HERITAGE LAND BANK ADVISORY COMMISSION ON 6-8-99.)

2. Ordinance No. AO 99-83(S), an ordinance of the Municipality of Anchorage authorizing the Heritage Land Bank (HLB) to sell via sole source Tract A, Eagle Bluff Subdivision, Plat No. 98-40, generally located northeast of the Hiland Road and Glenn Highway Interchange adjacent to Yosemite Drive in Eagle River, to Jose Vicente, Heritage Land Bank.
3. Assembly Memorandum No. AM 746-99.

This item was postponed to August 17, 1999. Chairman Wuerch advised there was intent to re-open the public hearing.

#### 10. APPEARANCE REQUESTS:

- A. **J. Todd Brown**, regarding revenue sources.
- B. **Patrick & Susan Petersen**, regarding animal control.
- C. **Mike Robbins**, to repay the Freedom Day Fireworks Festival loan. (**LAI D ON THE TABLE**)

These persons were heard earlier in the meeting. See after item 8.

#### 11. CONTINUED PUBLIC HEARINGS:

- A. Resolution No. AR 99-168, a resolution of the Anchorage Municipal Assembly approving a conditional use for sales of alcoholic beverages (Restaurant and Eating Place License) located on Debora Subdivision, Block "E", Lot 1A, generally located on the east side of Old Glenn Highway and north of South Juanita Loop Road (Jose & Lucia Nanez d.b.a. **River Place Restaurant**) (Case 99-147), Community Planning and Development.
  1. Assembly Memorandum No. AM 602-99.  
(CARRIED OVER FROM 7-20-99)

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Mr. Kendall moved, to approve AR 99-168.  
seconded by Ms. Abney,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen, Clementson.  
NAYS: None.

Ms. Von Gemmingen moved, to change the orders of the day to consider item 9.B,  
seconded by Ms. Clementson, AR 99-166, after item 11.B.  
and it passed without  
objection,

- B. Ordinance No. AO 99-96, an ordinance amending AO 94-241(S) and amending the zoning map for the rezoning from PLI (Public Lands and Institutions District) with Special Limitations to PLI (Public Lands and Institutions District) with Special Limitations for **Moose Meadows Subdivision, Tract B**, generally located to the east of the New Seward Highway and north of Huffman Road (Huffman O'Malley Community Council) (Planning and Zoning Commission Case 99-083), Assemblymember Sullivan.
  1. Assembly Memorandum No. AM 592-99.
  2. Ordinance No. AO 99-96(S), an ordinance amending AO 94-241(S) and amending the zoning map for the rezoning from PLI (Public Lands and Institutions District) with Special Limitations to PLI (Public Lands and Institutions District) with Special Limitations for Moose Meadows Subdivision, Tract B, generally located to the east of the New Seward Highway and north of Huffman Road (Huffman O'Malley Community Council) (Planning and Zoning Commission Case 99-083), Community Planning and Development.
  3. Assembly Memorandum No. AM 655-99.  
(CARRIED OVER FROM 7-20-99)

Chairman Wuerch opened the public hearing and asked if anyone wished to speak.

BOB KLEIN said he was representing Tanglewood Lakes Golf Club. He requested a modification from the existing PLI-SL zone that allowed 15,000 square feet maximum building size to a zone that allowed 88,000 square foot of building size to support an air supported dome that would be an indoor driving range for year round use. The dome would be 190 feet wide, 300 feet long and 70 feet tall. He said the plan was reviewed by the Planning and Zoning Commission in April and endorsed. He said the proposed site was part of the existing driving range so it's a natural site use. He said the high demand for the facility was certified by the study done for Fort Richardson, which indicates 20 percent of Anchorage golfs, which is much higher than a national average than 12 percent. He said this facility would offer them an opportunity for their family and friends to go out during the winter months when it's cold and provide a facility for training adults and school children. The site has a landscape buffer between the freeway and the existing location. It has an excellent storm drain system that will take care of storm water and no offsite utility extensions would be required. There is an excellent one-way access to it using Brayton Drive. The dome would have a minimum impact on the site because they would use pilings and grade beams to install the weight required to hold the dome down. It would have a 20 foot paved strip around it to provide fire access with a wood, slated chain link fence to provide security. There would be an additional 100 parking spaces and no logos or signs on the side of the building. The building would be screened using color 35 feet up the side of the building. He showed a picture of the site from the freeway.

In response to Ms. Abney, Mr. Klein said the access began at Huffman and ended at O'Malley.

In response to Chairman Wuerch, Mr. Klein said the structure was 20 feet higher than the top of the poles.

JIM PICARD lives in Talus West Subdivision within the Huffman/O'Malley Community Council. He said he was in favor of this ordinance and thought it would be a great addition to the neighborhood. He said he liked the idea of being able to use the driving range year round and believed his whole family would enjoy using it.

GARY PETROS said he lives about a mile south of the area and drives by there four or five times a day and is in favor of it. He felt Anchorage needed more indoor recreation during the winter.

BRUCE COMPTON said he was in favor of this proposition because as part of the youth of Anchorage, he believed there were very few places to go for activities, especially golf. He felt this would provide better access and would be a fantastic opportunity to hone his golf skills. He felt it would give the youth of Anchorage more of an access to golf and give them additional activities.

MARVIN KENSEL said he lived in the Huffman O'Malley area. He said he voted for it on the straw pole, but the computer-enhanced photographs did not do it justice. After looking at it from the roadside, he has changed his mind. He said this 70 foot high, 190 foot wide, 300 feet long great white slug will be a blight on the whole horizon of the whole Seward Highway area.

BARRY WILTERSON said he was a professional golfer who has been in the state about two years. He said he was here on behalf of the junior golfers in the Alaska Junior Golf Association. He said many of these kids were great players and felt that they could pay for a college education with a golf scholarship. They also had aspirations of becoming professionals and playing in the PGA tour. He said other countries with similar weather conditions had indoor areas in which to practice. Alaskans love golfing and golf kept him out of trouble when he was young. He encouraged a yes vote because it would be good of Anchorage and for the children of Anchorage.

LARRY PEAK said he supported this ordinance because when he lived out of state it was nice having an indoor facility to play golf in. He said he thought this would be an excellent opportunity to be able to play year round. He encouraged the Assembly to take advantage of the opportunity before them.

BILL BANKSTON said after his disastrous rounds in the State Amateur Golf Championship in July he would like the opportunity to cut that score next year. He felt this would help people over 50 improve their game as well as some of the younger athletes in Alaska. He supports the opportunity to train in the wintertime.

ANGELA KENSEL said she understood there would be no further development other than the golf course. She said it was huge and did not belong in the location. She agreed that an indoor driving range was a wonderful thing, but it did not belong in the proposed location. She said Mr. Klein made it sound like a charitable institution and asked Mr. Klein to explain the costs for the youth.

JIM McCOLLUM said he lived downtown but he uses the Tanglewood Golf Course. He said his daughter also uses the course extensively. He said when they go on vacation and play golf, it is hard since they have not been able to play for so long and he thought this would be widely used and a great addition to Anchorage.

JIM STEWART said he supported the range. He said we need something to do in the wintertime and it's an excellent sport to spend your time in.

PAUL PALMER said he's been a Hillside resident for 28 years and fully supported the dome. He felt Anchorage needed more recreational facilities for winter use because winters were so long. He reported that Anchorage had an estimated 40,000 golfers. He felt it was also important that this facility was being built by private money and not taxpayer money. He felt the visual impact was minimal in that it did blend in with the surroundings and it was just part of city growth.

JERRY SHALLS said he has been a general contractor in Anchorage for 26 years. He said if had the dome 26 years ago where he could practice in the wintertime; he'd be on the PGA tour today. He felt it was a very good thing, especially for the children.

KRISTEN PRESTEGARD said she thought the dome would be great because during the summer she had other sports that she played, but in the winter when it's cold she could learn how to play golf. She indicated that she had more free time in the winter and would like to learn how to play golf and the dome would help her to do so.

NEIL CAMERON said he would like to personally applaud Ms. Abney because she seems to go beyond the call of duty in researching things. He said he would like to applaud the Community Council for voting in favor of this dome. He believes this is a good deal and is in full support of it, even though he is not a golfer. He felt if we got the kids active in, as many things as we can then that will prevent future problems.

ABRAHAM AVABATA said he didn't know anything about golf but liked the idea of making the city bigger. He indicated this could make his business bigger and in the wintertime his business was slow.

JACK OLIVE said he had been playing golf in Anchorage since 1968. He pointed out that some things were only to improve the quality of our lives. He felt with the long winters, this would give golfers an opportunity to socialize. He felt everyone would enjoy this and it would help with the stress and strain through the long winters.

Chairman Wuerch asked if anyone wished to speak. There was no one and he closed the public hearing.

Ms. Abney moved,  
seconded by Mr. Sullivan,

to adopt AO 99-96(S).

Ms. Abney said the Community Council did vote in favor of it and she thought it had some positive things that would be good for the whole city.

Mr. Sullivan said he supported this issue because he was a big proponent of sports activities, particularly in the winter months and youth related. He felt the facility would enhance those opportunities in Anchorage for young and old. He said he did extensive research on a similar type dome about 15 years ago and they fit nicely in communities. He said despite their size, they very quickly become adaptable visually to the community. He said what they lend in terms of quality of life far out weigh any other considerations. He said they are very quiet. They are easily removed and can be taken down in one day and there is no permanent structure remaining. He said it was a flexible type of unit and applauds the private developers for proposing one.

Mr. Tremaine said it was apparent the indoor golf range would serve the public well. He pointed out that the voting history of the Community Council was checkered. Originally they voted against it. After another presentation they voted in favor of it. He said he would vote against this motion because of location, not because of what it was.

In response to Mr. Tesche, Mr. Don Alspach of Community Planning and Development said the Urban Design Commission usually did not get involved in the building design; they are looking more at the landscaping and the provisions of the code.

Mr. Tesche said he had concerns that there would be substantial changes to the landscape in the area. He assumed the renditions were accurate, but he was concerned about the visual impact. He noted the testimony seemed to be in favor of the proposal. He felt it was a close call, but the appearance was troubling.

In response to Ms. Fairclough about whether the Huffman Community Council was in opposition, Mr. Abney said she arrived at the Community Council just as the vote was being taken and there was no challenge as to who was eligible to vote. She said she took it on face value that it was a legitimate vote. Ms. Abney said they took a straw poll on the request and of the 15 votes, six were by people outside the council boundaries and three were by people related to Mr. Klein. Of the 11 against votes, all nine elected council members voted no, so that is a vote of 15 to 9 supporting it.

Mr. Tremaine stated that if 6 of 15 were from outside the council boundaries then the vote for those members within the council boundary was perhaps 11 to 9 against, and at the very best, 9 to 9. So he would call that a push and would go back to the first vote which was overwhelmingly in opposition. So he will vote against.

Question was called on the motion to adopt AO 99-96(S) and it passed:

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Von Gemmingen, Clementson.  
NAYS: Fairclough, Tremaine.

(Clerk's Note: The Assembly then considered item 9.B.)

Resolution No. AR 99-166, a resolution of the Municipal Assembly **resolving that all Anchorage road projects planned for construction, rehabilitation, repaving and safety improvements will include full funding for needed roadside trail, bicycle, sidewalk and landscaping improvements**, Assembly member Abney.

1. Assembly Memorandum No. AM 661-99, Public Works.
  2. Assembly Memorandum No. AM 663-99, Assembly member Abney.
  3. Resolution No. AR 99-166(S), a resolution of the Municipal Assembly resolving that all Anchorage road projects planned for construction, rehabilitation, repaving and safety improvements will include full funding for needed roadside trail, bicycle, sidewalk and landscaping improvements, Assembly member Abney.
  4. Assembly Memorandum No. AM 704-99.
- (POSTPONED FROM 6-15-99; CARRIED OVER FROM 7-13-99 AND 7-20-99)

Ms. Abbey moved, to approve AR 99-166(S).  
seconded by Mr. Tremaine,

Ms. Abney said she was questioned whether a street improvement program included sidewalks and things of this type. She referenced the "Now Therefore" clause which emphasized the key word, "needed." She said many times the State Department of Transportation (DOT) had ignored the relevant criteria. This is a resolution that strongly suggests if the State is building roads in our city under T-21 that they would include those safety and things called for in the code as needed. She encouraged support.

Ms. Von Gemmingen invited Ralph Samuels, Chairman of the Anchorage Chamber of Commerce, to the podium and asked him to read a resolution.

Mr. Samuels read a Chamber resolution in opposition to AR 99-166(S). He encouraged the Assembly not to approve the resolution, but if they did then the Mayor should veto it. He said there is no discussion on the costs involved. He discussed the choices that needed to be made. He felt the decision should be left on an individual road basis.

In response to Ms. Abney, Mr. Samuels said the Chamber's transportation committee did reviewed the criteria "of need" in the code.

In response to Ms. Clementson, Ms. Abney said the criteria of need were already in code and a comprehensive plan to show where those things are supposed to be. She said it would only be on those under the AMATS plan with the T-21 funds. She said if it was determined something did not need to be there, this body had the ability to make that known. She pointed out how difficult it is to get the money to retrofit roads afterwards.

Ms. Clementson said her concern was the resolution does not state that “needed as per code,” it just says “needed.” She feels this word, since it is not tied to anything, can be manipulated. She said when landscaping is put in the Municipality has to maintain the landscaping and that adds hundreds of thousands to the budget for maintenance. She does not oppose this in general, but she opposes it because it is not specific enough. She pointed out that if this was approved the Assembly members on AMATS are bound by it. The Assembly sees the priority list and can make recommendation to the AMATS committee.

In response to Chairman Wuerch, Ms. Taylor reported on a meeting with the State Commissioner of Transportation. Ms. Taylor said it was a very good meeting. They gave a comprehensive overview of the projects around the state. They mentioned the importance of Anchorage, but they have to look at the statewide perspective. Their feeling was that it was best to get the information they need from AMATS because they are representatives of this body as an Assembly.

Chairman Wuerch said Commissioner Perkins said Alaska is a bit of an exception because the federal government is allowing us to use federal highway dollars for repaving projects. He said Mr. Perkins said this is a privileged exception for Alaska because we have such a demand for repaving. He pointed out that Mr. Perkins cautioned that if we were to introduce additional requirements that federal permission might evaporate.

Ms. Abney said if the amendment to include resolutions to the code is what is needed she would make that amendment. She believes there is a real concern in the city to have those amenities. She said T-21 monies do provide for those types of things. She pointed out that when Spenard Road was put in that the people held off on it for a number of years because they wanted the whole picture, not piecemeal. She said let us not piecemeal our roads, but provide for quality of life for our citizens. She urged the Assembly’s support of this resolution.

Mr. Tremaine said he would take Ms. Abney up on the offer to include a whereas amendment to the resolution referencing the current trail plan.

Ms. Von Gemmingen pointed out on the 1997 or 1998 ballot, the people of Anchorage gave the Assembly the right to choose their own representatives to the AMATS board. She feels they need to hear all the discussion on the floor and to make informed decisions. She feels this is too broad in some respects and too restrictive in others. She feels it may tie their hands at a time that they do not need their hands tied. She wants to use the process as intended by the voters of Anchorage.

Ms. Abney suggested adding a whereas to line 35 stating that “need” shall be defined by Municipal code. She said she would defer to the Public Works Design Criteria Manual and the Official Streets and Highway Plan.

Mr. Meyer questioned whether the title should be amended as well and might, therefore, require re-advertisement.

Ms. Abney read from a Mayor’s memorandum in response to the resolution that referred to the Public Works Design Criteria Manual and the Official Streets and Highway Plan.

In response to Mr. Tesche, Public Works Director Jim Fero said he did not believe the Public Works Design Criteria Manual was something that was approved by ordinance without checking.

Mr. Tesche said we might consider adding the language, at line 37, “consistent with the Public Works Design Criteria Manual and the Official Streets and Highways Plan.”

Ms. Abney requested to postpone until later in the meeting so she could prepare a complete amendment.

Ms. Fairclough suggested having a dollar amount on the projects it was impacting.

Ms. Clementson recommended postponing this until next week to give time to work on an amendment.

Ms. Clementson moved,	to postpone action on AR 99-166(S) for one week.
seconded by Ms. Abney,	
and it passed without	
objection,	

The Assembly then returned to the regular order.

- C.     Ordinance No. AO 99-98, an ordinance providing for the rezoning from R-0 (Residential Office District) to B-2C (Central Business District, Periphery), for the **North 1/2 of Blocks 23 and 24, Anchorage Original Townsite**, generally located on the south side of East 3rd Avenue between Cordova and Eagle Streets containing 2.2 acres more or less (Fairview Community Council) (Planning and Zoning Commission Case 99-107), Assembly member Tesche.
1.       Assembly Memorandum No. AM 600-99.
  2.       Information Memorandum No. AIM 60-99, Community Planning and Development.
- (CARRIED OVER FROM 7-20-99)

Chairman Wuerch opened the public hearing and asked if anyone wished to speak.

MARC MARLOW requested the passage of AO 99-98. He said this was in conjunction with redevelopment of the MacKay building.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing.

Mr. Tesche moved, to adopt AO 99-98.  
seconded by Ms. Taylor,

Mr. Tesche referred the Assembly the resolution of the Planning and Zoning Commission. He felt it made good sense for the revitalization of Northeast Anchorage and recommended approval.

In response to Mr. Meyer, Mr. Marlow gave an update to the MacKay building. The Municipality reviewed the structural design of the building through an outside consultant. Field data has been collected and the final design has been forwarded to the Municipality's consultant for their review. Subject to their approval, he expects a structural building permit could be issued soon.

In response to Ms. Fairclough, Mr. Marlow said a substantial renovation of the building began in March. He stated the taxes on the MacKay building were about \$2,000 a year on the structure and the land.

Executive Manager Elaine Christian said there were a number of required conditions for Mr. Marlow to meet the standard. One was substantial rehabilitation should have begun. The other was the finalization of a re-plat, which has not happened. Another condition was the ownership or controlling interest of all of the properties in a two-block area, which has not happened. She said they disagree with Mr. Marlow with respect to the substantial renovation; they do not believe substantial renovation has begun.

In response to Ms. Fairclough, Mr. Marlow thought that would be a dangerous precedent since the goal of the law was to require performance before tax exemption was earned. He felt if property tax relief were extended now, that would be a negative incentive to perform. He felt it would be in the best interest of the public and the taxpayers to ensure that before the exemption was extended that performance was guaranteed.

Mr. Sullivan declared a potential conflict of interest previously stated on another matter pertaining to the MacKay building and the same conflict pertained here.

Question was called on the motion to adopt AO 99-98 and it passed:

AYES: Kendall, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.

NAYS: None.

ABSTAIN: Sullivan.

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

- D. Ordinance No. AO 99-99, an ordinance amending Assembly Ordinance 93-183(S-1)(aa) adopted January 11, 1994 and amended June 7, 1994, which provided for the rezoning from PC (Planned Community District) to PC (Planned Community District), for portions of **Sections 7 and 18, T13N, R3W, S.M. and Section 13, T13N, R4W, S.M.**; as depicted in Exhibit A, generally located in the Lower Ship Creek Valley between the railroad yards and Downtown Anchorage containing 127 acres more or less (Downtown Community Council) (Planning and Zoning Commission Case 99-114), Assembly member Tesche.
1. Assembly Memorandum No. AM 599-99.
  2. Information Memo randum No. AIM 61-99, Community Planning and Development.
- (CARRIED OVER FROM 7-20-99)

Chairman Wuerch opened the public hearing and asked if anyone wished to speak.

TIM POTTER, Dowl Engineers, representing the Alaska Railroad Corporation, noted that six years ago there was a great idea to use a new planning tool called the Planned Community district to rezone the Ship Creek Rail Yard area to bring forward good development in the future. At that time a developer from outside who had great plans was locked in, but that development did not come to force. There are new plans being developed and refined at this time. It has become clear that when you look at an area for redevelopment that is this large, it is very difficult to envision all the scenarios and predict all the outcomes or situations that may be coming forward. He suggested this would be the first of a series of housekeeping visitations to the PC District. The Planning and Zoning Commission's draft resolution goes to most of the points of their discussion and their affirmative action in recommending approval of these changes. The key item is a temporary outdoor storage of certain materials. At the time the PC District originally came into force, everybody believed it was going to happen quickly. Unfortunately that did not occur. There is a large area of land not being utilized. We are in a position where they can utilize that property for short-term storage of construction materials. He felt the open areas should be utilized for that type of use for short-term leases only and any materials that would be wind borne or water borne would have to be covered or enclosed in some fashion.

In response to Ms. Von Gemmingen, Mr. Potter said this project was for 119 acres, not 127 acres.

KATHLEEN PUTMAN, on behalf of Commercial Recycling Center, read a statement into the record. "Commercial Recycling Center does not oppose the recognition of the right of the former Chugach Power Plant on Ship Creek to produce electrical power and continue other historic uses. Commercial Recycling Center does wish to point out that this subject property was never properly rezoned from I-2 to PC or any other zoning. It is our position that CRC owns controlling legal interest in the power plant. We further contend that the public notices for rezoning were mailed to the wrong owner, Chugach Electric Company, at the wrong address. The certified mail came back marked wrong address. This happened twice during the alleged rezoning. In 1997, CRC sent City Attorney Mary Hughes official notice that under state statute, the Alaska Constitution, and the Federal Constitution, no effective due process occurred. Under all applicable law, any action such as an alleged rezoning failing proper notice is a nullity. In short, under the law, the rezoning of the power plant from I-2 to PC never legally happened. Thus the current correct zoning of the power plant is I-2. CRC has no objection to the recognition of the power plant's lawful right to operate in its historical context."

In response to Mr. Tesche, Ms. Putman verified that Commercial Recycling Center had written to the city attorney on this issue in 1997. She said since she was not involved with the issue at the time she does not know what the response was given.

MARC MARLOW encouraged passage of this amendment to the PC zone. He pointed out the need to provide for lay down areas in the rail yard and suggested that for major construction projects downtown that would be the place to do it. He said he is the electrical subcontractor on the new Marriott Hotel being built downtown and can appreciate the lack of space that the owner is dealing with. He suggested the rail yard, which is adjacent to downtown but away from the foot traffic, would be an appropriate place to have areas under short-term permit.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing.

Mr. Tesche moved, to adopt AO 99-99.  
seconded by Ms. Taylor,

Mr. Tesche referred to the comments and recommendations of staff of the Planning and Zoning Commission. He agreed with Mr. Potter and the Alaska Railroad that this ordinance was a necessary house cleaning measure in the Ship Creek area and will facilitate some of the new development. He received a letter from residents in the area immediately south, raising concerns about truck traffic from the Daugherty's, John and Elaine Swiss, and Jack Swiss. They propose some minor amendment to section 2 of the ordinance on line 30-42 on the first page.

Mr. Tesche moved, to amend AO 99-99 at Section 2, line 32 by deleting the words "port" and  
seconded by Ms. Taylor, "and downtown" and at line 38 delete the words "and central business district."

Mr. Tremaine questioned removing the word "port". He said he could understand downtown use because of the truck traffic through residential areas, but the port is an adjacent industrial area.

Mr. Tesche said it was at the request of the neighbors.

Chairman Wuerch said that the land is not the Port, that the port had a separate set of rules. He said they were geographically separated.

Mr. Tesche responded that the rational would be that the property should be used only for storage of materials for the property itself and not other outlying areas such as the downtown or the port.

Mr. Sullivan said his only objection was the like Mr. Marlow explained where there were projects downtown with literally no place to store materials and Ship Creek is the closest logistical place to store them.

In response to Mr. Meyer, Mr. Potter said he was sensitive to the concerns of neighbors, but it seemed imprudent to force those staging areas into midtown or south Anchorage. He felt more people would be impacted by the increased truck traffic and there would be an increased impact on roads and infrastructure. He felt there would be an increased burden on the taxpayers if alternate sites were used. He also pointed out that future projects in downtown could be Municipal ones. He said he did not consider downtown an outlying area since it is directly next-door. Other areas -- South Anchorage, O'Malley, the industrial area are outlying.

In response to Mr. Tesche, Mr. Potter said the railroad had stored construction materials in the Ship Creek area for downtown projects until someone pointed out they were in violation of the PC District. After being limited by code enforcement, they have limited it to their own projects.

Mr. Tesche rebutted that the perception that if construction materials cannot be stored in the Ship Creek area that somehow the downtown area will wither and die is extreme. He believes the idea is a good idea and will supports passage, but he feels that one of Anchorage's oldest and most historic neighborhoods should be protected from a single trail of trucks that are hauling materials outside of this area into the downtown.

Question was called on the motion to amend AO 99-99 and it failed:

AYES: Abney, Tesche, Taylor, Fairclough, Tremaine.  
NAYS: Kendall, Sullivan, Wuerch, Meyer, Von Gemmingen.

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

In response to Ms. Von Gemmingen, Deputy Municipal Attorney Bill Greene said it was not necessary to change the title because it did not have any legal effect since it read "127 acres more or less."

Mr. Tremaine felt exhibit A did not pertain to the current motion. He asked Mr. Potter to distribute a correct map to the Assembly. The correct map was to be inserted into the record.

In response to Ms. Fairclough, Mr. Tesche said he looked at the proposals by the Downtown Community Council that were worthy of consideration, but since his amendment had just failed, he was not in a position to offer any further amendments.

In response to Mr. Tremaine, Mr. Potter said that area C, which is 13.5 acres, was not included in the project area.

Question was called on the motion to adopt AO 99-99 and it passed:

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

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

The meeting recessed at 9:00 p.m. and reconvened at 9:15 p.m.

**12. NEW PUBLIC HEARINGS:**

- A. Resolution No. AR 99-188, 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) Projects, Phase I**, Water and Wastewater Utility.
1. Assembly Memorandum No. AM 665-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Ms. Von Gemmingen moved, to approve AR 99-188.  
seconded by Mr. Tremaine,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

(Clerk's Note: Ms. Clementson and Mr. Meyer were out of the room at the time of the vote.)

- B. Resolution No. AR 99-191, a resolution of the Municipality of Anchorage appropriating \$491,388 of reserve account proceeds received from Ben Boeke and Dempsey Anderson Ice Arenas to the Ice Revenue Bond Fund 1998 (265) for payment of the 1999 & 2000 interest expense due on the revenue bonds for the **expansion of Dempsey Anderson Ice Arena**, Property and Facility Management.
1. Assembly Memorandum No. AM 675-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Mr. Sullivan moved, to approve AR 99-191.  
seconded by Ms. Taylor,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

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

- C. Resolution No. AR 99-193, a resolution of the Municipality of Anchorage appropriating \$160,500 from the State of Alaska, Department of Environmental Conservation under the Prevention and Emergency Response Program, to the State Categorical Grants (231) Fund to **expand the hazardous response capabilities of the Anchorage Hazardous Materials (HAZMAT) Response Team**, Anchorage Fire Department.
1. Assembly Memorandum No. AM 690-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Ms. Von Gemmingen moved, to approve AR 99-193.  
seconded by Mr. Sullivan,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

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

- D. Ordinance No. AO 99-113, an ordinance amending Anchorage Municipal Code Chapter 28, Elections, to implement an amendment to the Municipal Charter approved by voters at the Regular Election of April 20, 1999 **changing the date for runoff elections and to clarify standards for counting absentee ballots**, Assembly members Sullivan and Tesche.
1. Assembly Memorandum No. AM 709-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Mr. Sullivan moved, to adopt AO 99-113.  
seconded by Mr. Tesche,

In response to Ms. Von Gemmingen, Chairman Wuerch said the spring election was moved up a week to allow an extra week to process the ballot in order to comply with the public law adopted by the voters at the last election to have a runoff in the case of less than a 50 percent vote. He said that would affect the filing dates for candidates.

Ms. Von Gemmingen asked if the certification of the second election would be two weeks after the runoff.

Chairman Wuerch said they would take up the filing dates in a separate issue.

Mr. Sullivan pointed out that it would move it up two weeks from the third Tuesday to the first Tuesday in April.

Question was called on the motion to adopt AO 99-113 and it passed:

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.

NAYS: None.

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

- E. Ordinance No. AO 99-102, an ordinance of the Municipality of Anchorage repealing creation Ordinance 81-110 and dissolving **Turnagain-West Lateral Sewer Improvement District Number 128**, Water and Wastewater Utility.
  - 1. Assembly Memorandum No. AM 615-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Ms. Fairclough moved, to adopt AO 99-102.  
seconded by Mr. Meyer,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Fairclough, Tremaine, Von Gemmingen.

NAYS: None.

(Clerk's Note: Ms. Clementson and Mr. Meyer were out of the room at the time of the vote.)

- F. Ordinance No. AO 99-107, an ordinance amending Anchorage Municipal Code 26.80.050 to **amend the Solid Waste Fee Schedule** for secured and unsecured loads, pick up of hazardous waste, removal of chlorofluorocarbons and hydro-chlorofluorocarbons and tarp sales, Solid Waste Services.
  - 1. Assembly Memorandum No. AM 674-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Mr. Kendall moved, to adopt AO 99-107.  
seconded by Mr. Sullivan,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.

NAYS: None.

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

- G. Ordinance No. AO 99-103, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Title 7, Purchasing and Contract and Professional Services, to add a new Section 7.20.103 B. providing for **review of competitive procurement** undertaken under AMC 7.20.060 by the Bidding Review Board, Assembly member Tesche.
  - 1. Assembly Memorandum No. AM 644-99.

This item was continued to September 14, 1999.

- H. Ordinance No. AO 99-105, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 11.30.070, by **deleting provisions regarding smoking, eating, drinking and playing audio entertainment devices in a regulated vehicle**, Assembly member Kendall.
  - 1. Assembly Memorandum No. AM 659-99.
- I. Ordinance No. AO 99-111, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 11.30.070 regarding **smoking in regulated vehicles**, Assembly member Abney.
  - 1. Assembly Memorandum No. AM 703-99.

Ms. Von Gemmingen moved, to combine 12.H and 12.I for public hearing purposes.  
seconded by Ms. Taylor,  
and it passed without  
objection,

Chairman Wuerch opened the public hearing for AO 99-105 and AO 99-111 and asked if anyone wished to speak.

GREG O'CLEARY, Director of Governmental Affairs for the Marine Engineers Beneficial Association, said they represented taxi cab drivers in Juneau and recently signed an affiliation agreement with the Juneau Independent Taxi Drivers in Juneau. He felt AO 99-105 would be the most sensible approach between the two. He pointed out that taxi cab drivers are professionals who have worked all across the country. He said it appeared that the attempt on the commercial vehicle code

rewrite went too far. He said unless you had a tremendous amount of complaints from the public about this activity, the self-regulation by the industry should be sufficient. He encouraged the Assembly to adopt AO 99-105.

In response to Mr. Kendall, Mr. O'Cleary said normally this issue was dealt with by regulations in reaction to a preponderance of public complaints. He said it was the customer's desire that needed to be taken into consideration and not many cities have this stringent ordinance. He encouraged the Assembly to acknowledge the self-policing that the industry does. He felt the fines were too high compared to fines for smoking in public buildings.

CHRISTINE GUTERREZ presented a list of signatures. She indicated that the signatures were those of cab customers. She said drivers received verbal abuse over this issue. She does not feel it is right that they take the harassment and lose money because of the ordinances. She felt it interfered with their livelihood, their safety, and they have to take the verbal abuse.

In response to Mr. Kendall, Ms. Guterrez said the petition requests the Assembly to appeal the ordinance and drop it.

In response to Mr. Tremaine, Ms. Guterrez said she felt marking cabs as smoking or non-smoking would work.

In response to Mr. Kendall, Ms. Guterrez said the industry has always had smoking and non-smoking cabs. They are not allowed to now because they can get a ticket. But if a customer gets belligerent about it, she allows them to smoke in her cab to avoid verbal abuse.

In response to Mr. Meyer, Ms. Guterrez acknowledged that passengers could eat food, but the drivers cannot while they have passengers. She said when she takes customers to a drive-through some customers offer to buy the driver food and they do not understand why this is not allowed. She said oftentimes when they pull over to eat they are interrupted by passengers and then have to eat cold food.

DANIEL PICKLE said he's on medication and requires food and liquids.

BRIAN CALDWELL, Alaska Cab driver, said his main interest in driving cabs is to make money. He said making the customer happy is what makes him money. He feels most people, smokers and non-smoker alike, think this smoking issue has gone way too far. When passengers are paying for the rides, they should be able to have a cigarette if they want to. He said he wouldn't eat a Big Mac in front of a customer because it's rude. He feels cab drivers who do establish bad patterns should be dealt with individually.

LYNETTE HUEMS said she has been a taxi cab driver in the Municipality for 20 years. She said they have tried to bring this community to a decent taxi industry service and they feel they have done that. She said they are concerned because they are losing money over this issue. She pointed out that taxi cab drivers do not have the benefits that a lot of jobs have such as retirement or medical. She feels that because they fall under the Municipality, they need to be recognized as human beings doing a job that a lot of people will not do in a very dangerous industry. She said she used to make a lot of money in the cab company, but now it has affected cab drivers. She asked what she was supposed to do if a mother with children heading to the airport wanted to go to a drive-through. She asked the Assembly for some consideration.

In response to Mr. Meyer, Ms. Huems said she has lost money because the customers would call other transportation companies because they weren't able to eat, drink, or smoke in the cab industry anymore. Ms. Huems said they are asking the Assembly to vote for this ordinance. She said that would give them back the freedom of choice and it would help bring back some of their business.

In response to Mr. Tremaine, Ms. Huems said she felt that by amending the ordinance to say no eating or drinking while the cab was in motion would be a play-on-words.

ABRAHAM ARBATE pointed out that in a bar or a plane there were a lot of people, but in a taxicab you are dealing with individuals and their families. He said smokers would smoke at home anyway, so it really does not affect anyone. He does not feel he should have to police his customers and it affected his tips. He said most cab drivers do not eat and drive at the same time for safety reasons. He felt that by listening to the radio he would miss dispatch calls, so he didn't listen to the radio. However, if a customer requested to listen to the radio they should be allowed to because they are paying for the use of the taxicabs. He pointed out that cab drivers help prevent drunk drivers. He didn't feel they should be put in the position to argue with drunken customers.

In response to Mr. Tremaine, Mr. Arbate felt customers should be allowed to request non-smoking cabs, whatever they wanted.

GUY HEBERT, Alaska Cab, reported that over half a million calls a year are received by Alaska Cab and he doesn't remember any complaints. He said Alaska Cab provided non-smoking cabs that are marked. He said the restrictions are another tool to fine taxi drivers. He pointed out that taxi drivers transported people, saved lives by keeping drunks off the roads, took children to school. They were very important in the community. He believed lately they were taking a beating and it wasn't fair. He said cab drivers risked their lives to provide this service in all kinds of weather.

In response to Mr. Kendall, Mr. Herbert reaffirmed the lack of complaints by Alaska Cab Company. He said before the ordinance Alaska Cab provided smoking and non-smoking cabs because people asked that. He indicated that at night fewer people requested non-smoking cabs, but during the day there were quite a few requests.

In response to Ms. Von Gemmingen, Mr. Herbert said that at the airport a passenger didn't have to take the first cab, they could go down the line until they found a non-smoking cab. He felt a request for a non-smoking cab was handled in a timely manner.

In response to Mr. Sullivan, Mr. Herbert indicated that they had about 70 cabs and about 25 percent were designated as non-smoking cabs. He indicated that a lot of the drivers working the airport were non-smoking.

In response to Ms. Abney, Mr. Herbert said the non-smoking regulation went into effect July 4.

In response to Mr. Tremaine, Mr. Herbert said he received no complaints from the taxi drivers about customers eating in the cabs, but he has received complaints about smoking.

In response to Mr. Meyer, Mr. Herbert said there are a lot of smoking cabs at the airport as well as a lot of non-smoking cabs. He agreed that most non-smoking cabs would not pick up customers at bars. He indicated the average ride from a bar would be about 20 minutes; occasionally they will go out to Eagle River, Hillside or Muldoon.

BRUCE ORTEN indicated he was a lifelong non-smoker. He began driving cabs in Anchorage in December of 1975. He said since the application of the ordinance, he has been telling customers to violate because he did not believe the people who created the ordinance had the right to do it. He felt it was done for the wrong reasons. He said he has had times he didn't like smokers in his cab, but he tolerated it because he didn't feel he had the right to tell people what to do. He felt not allowing passengers to smoke would cause a lot of angry drunks to be on the road. He felt the law was ridiculous and urged the Assembly to repeal it because it was a waste of human energy. He said he encourages passengers to violate this ordinance and will continue to do so until it is dead and buried.

JACK MORRELL indicated that if asked, the cab driver would declare the cab non-smoking. He felt the cab drivers didn't need anyone exerting their wills or desires upon them. He felt that by restricting smoking in cabs, you would be encouraging people to drink and drive. He questioned if there was a law that said a policeman couldn't have a cup of coffee in the car while they were driving. He indicated taxi drivers were professionals and have a good safety record.

LEE BLACKWELL indicated he was not a cab driver, but wanted to convey his experience. He was injured in an accident and relied on taxi cab drivers for eight years for transportation. He said cab drivers were very helpful at the airport. He felt Anchorage had a great set of cab drivers that should be supported.

REGINA MANTEUFEL felt there should be smoking and non-smoking cabs. She felt a driver should not be smoking or eating while the cab was in motion. She felt cab drivers were heroes because victims of domestic violence often called them instead of police officers to get away from the situation. She said she rented out rooms to many single mothers and sometimes it was necessary to feed their children in the cab due to time constraints.

In response to Ms. Abney, Ms. Manteufel said she felt drivers should be allowed to eat in cabs because they work long shifts. She felt the cab drivers should be congratulated for all the people they have rescued.

In response to Mr. Tesche, Chairman Wuerch said AO 99-104, item 12.M, might be opened tonight. He suggested the Assembly could postpone action on AO 99-105 and AO 99-111 until next week if the Assembly wished.

CATHY MUSTER said she had a problem with the smoking law. She said she was a single mother and couldn't afford a fine. She indicated that due to time constraints, sometimes there was not time to stop for a break. She indicated she only works two days a week and needs to make as much money during those two days as she could. She felt it would be nice to have a list of official smoking and non-smoking drivers.

GUSTAR RAKEE said if the driver was not comfortable then the service would be compromised. He said cab drivers acted as a private enterprise and some days they didn't even make money. He said if they had to cut time out of their shift to smoke a cigarette or eat, it would not be practical. He felt the ordinance was unreasonable.

EVELYN CRABTREE said she was concerned over the idea of working 12 hours with nothing to eat or drink. She said lack of eating affects her night vision and ability to think. She indicated that some nights she is so busy she doesn't even have time to get food. She felt smoking could create problems. She wanted to know if the non-smoking signs were removable or would it restrict which cars a driver could use. She felt if a person could fly across the continent in a non-smoking plane, then they should be able to stay in a cab for 10 or 15 minutes without smoking. She said cabs are confined areas and the smoke affects her health.

In response to Ms. Abney, Ms. Crabtree indicated it was her understanding that she was not allowed to even drink water in her cab.

ONISI FOMINA said he was an Alaska Cab driver. He reported an incident that happened to him. He said last month he picked up some gentlemen and when they requested to smoke he advised them it was against the law. They became upset and requested to be dropped off. When they got out of the cab, they slammed the doors. Today the cab is outside with a broken window.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing.

Mr. Tesche moved,  
seconded by Mr. Tremaine,  
and it passed without  
objection,

to postpone action on AO 99-105 and AO 99-111  
until later in the meeting.

(Clerk's Note: These items were carried over to August 17, 1999.)

- J. Ordinance No. AO 99-110, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 9.26.020, **reducing the maximum speed limit on certain streets**, as determined by the Traffic Engineer, Assembly member Meyer.
1. Assembly Memorandum No. AM 698-99.

2. Ordinance No. AO 99-110(S), an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 9.26.020, reducing the maximum speed limit on certain streets, as determined by the Traffic Engineer, Assembly member Meyer. (**addendum**)
2. Assembly Memorandum No. AM 752-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Mr. Meyer moved, to adopt AO 99-110(S).  
seconded by Ms. Taylor,

Mr. Meyer said he was challenged to drive the 25 miles an hour speed limit in a cul-de-sac and there was no way he could go that fast safely. He said this gives the traffic engineer the ability to reduce speed limits in short streets.

Question was called on the motion to adopt AO 99-110(S) and it passed:

AYES: Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

(Clerk's Note: Ms. Clementson and Mr. Kendall were out of the room at the time of the vote.)

- K. Resolution No. AR 99-195, a resolution of the Anchorage Municipal Assembly approving a conditional use for sales of alcoholic beverages (Restaurant/Eating Place License) located on Highline Subdivision #1, Tract C, generally located between East Benson Boulevard and East 32nd Avenue and east of Denali Street (Shauna Pajak d.b.a. **Cafe Amsterdam**) (Case 99-154), Community Planning and Development.
  1. Assembly Memorandum No. AM 696-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak.

SHANA PAYOK, owner of Café Amsterdam, offered to answer any questions from the Assembly.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing.

Ms. Fairclough moved, to approve AR 99-195.  
seconded by Mr. Tremaine,

AYES: Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

(Clerk's Note: Ms. Clementson and Mr. Kendall were out of the room at the time of the vote.)

Assembly Memorandum No. AM 728-99, **Cafe Amsterdam** - New Restaurant/Eating Place Liquor License and Restaurant Designation Permit (Spenard & Rogers Park Community Councils), Clerk's Office.

Ms. Von Gemmingen moved, to approve AM 728-99.  
seconded by Ms. Taylor,

AYES: Sullivan, Abney, Tesche, Taylor, Wuerch, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

(Clerk's Note: Ms. Clementson, Mr. Kendall and Mr. Meyer were out of the room at the time of the vote.)

- L. Resolution No. AR 99-196, a resolution of the Anchorage Municipal Assembly approving a conditional use for sales of alcoholic beverages (Recreational Liquor License) for Independence Park Subdivision, Tract 1B-2, generally located on the south side of East 88th Avenue and on the east side of Abbott Road (Tony Blomfield d.b.a. **Polar Ice LLC**) (Case 99-155), Community Planning and Development.
  1. Assembly Memorandum No. AM 697-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak.

TONY BLOMFIELD said he was present to answer any questions the Assembly had.

TOM McGRATH said it was frustrating that AR 99-196 was a "to be submitted" item and it was hard to develop a convincing argument against something you have no documentation for. He felt this should be delayed for at least one month so the Community Council and the public could consider the action with full documentation. He said AM 729-99 should also be postponed. He felt the request was ridiculous because ice in Anchorage was largely used by the youth. He felt one of the things that made it hard for children to succeed was alcohol. He said Teen Files, a UPN show to be air next Wednesday, would talk about the importance of not mixing alcohol with athletic events where children were present. He said it was the number one way children were influenced. He said there was a real environmental issue with alcohol. He felt it was wrong to tie alcohol to an athletic event.

In response to Ms. Fairclough, Mr. McGrath said he had not been on a walk through of the facility. He usually relies on the packet, but there was none available. He said he realized alcohol service was separated in the building, but it was still prevalent. He felt it was time to say this was wrong and would not be allowed anymore in the community.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing.

Mr. Meyer moved, to approve AR 99-196.  
seconded by Mr. Sullivan,

Mr. Meyer thanked Mr. Blomfield for providing much needed ice. He said the Abbott Loop Community Council had heard the issue. He said he appreciated the self-imposed restrictions. Beer and wine would only be served at specific times. There would be no exterior or interior signs or alcohol advertising promotions. He felt the controls would be adequate. He said he would support the license.

Mr. Tesche moved, to extend the public hearings portion of the meeting until  
seconded by Mr. Sullivan, 11:00 p.m.  
and it passed without  
objection,

In response to Mr. Tesche, Chairman Wuerch said the self-imposed conditions of the license would be attached to the conditional use resolution.

Mr. Tesche moved, to amend AR 99-196 in Section 1, to add a new paragraph 4  
seconded by Ms. Fairclough, to reflect additional conditions to read: “Beer and wine service  
hours: 8:00 p. – 11:45 p. daily, 3:00 p. – 11:45 p. special  
events. Geographic separation for special event consumption.  
Portable dispensary cart will be secured and locked after  
service. No exterior or interior liquor signs or advertising  
promotional. Beer and wine limited to mezzanine viewing  
level only. No beer or wine allowed in the bleacher viewing  
section. Single point access to mezzanine level controls  
access. TAMS training is required for all beer and wine  
servers. Adult leagues will have posted rules for consumption.  
Food will be served as an amenity to beer and wine license.”

In response to Ms. Fairclough, Mr. Blomfield verified that a beer and wine license does not include the sales of hard alcohol nor do the owners intend to serve hard alcohol.

Ms. Fairclough moved, to delete the words “no hard liquor served” and the  
and it was accepted as a words “week nights” and insert the word “daily.”  
friendly amendment,

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

Question was call on the motion to approve AR 99-196 as amended and it passed:

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

(Clerk’s Note: Ms. Clementson was out of the room at the time of the vote.)

Assembly Memorandum No. AM 729-99, Polar Ice - New Recreational Site Liquor License (Abbott Loop Community Council), Clerk's Office.

Mr. Tremaine moved, to approve AM 729-99.  
seconded by Ms. Von Gemmingen,

AYES: Kendall, Sullivan, Abney, Tesche, Taylor, Wuerch, Meyer, Fairclough, Tremaine, Von Gemmingen.  
NAYS: None.

(Clerk’s Note: Ms Clementson was out of the room at the time of the vote.)

- M. Ordinance No. AO 99-104, an ordinance amending the zoning map and providing for the rezoning from R-3 (Multiple Family Residential District) to R-4SL (Multiple Family Residential District) with Special Limitations for **Third Addition Subdivision, Block 15C, Lots 1 through 12**; generally located between East 12th and 13th Avenues between Cordova and Barrow Streets (Fairview Community Council) (Case 99-004), Community Planning and Development.
1. Assembly Memorandum No. AM 652-99.

Chairman Wuerch opened the public hearing and asked if anyone wished to speak.

BILL BREDESEN, representing the Alano Club, handed out letters from Barbara Bennett from Beans Café and Mayor Mystrom to the Drug and Alcohol Advisory Board. He said the rezoning issue was prompted by the fact that the widening of 15<sup>th</sup> Avenue required that the Alano Club be removed. He had been looking for a new building for the Alano Club. He feels the Alano Club is important because it is a positive attempt to work on the prevention side of alcoholism. He described the process of finding a new location. He consulted realtors, the MOA property list, property owners in the area and the Fairview Community Council in trying to find another location. The Board members wanted to stay in the same area. He reviewed two properties: one four-acre tract was adjacent to 13<sup>th</sup> Avenue and the subject site before the Assembly.

In response to Chairman Wuerch, Mr. Bredesen said he realized he was over his time limit and would be available for questions.

DR. PAUL SIMONS said he was a retired scientist who lives in Anchorage. He said between 80 or 90 percent of the people incarcerated in the State of Alaska, alcohol was involved. He pointed out that the Alano Club was a safe haven for people trying to recover from this disease that could be scientifically proven. He said the Assembly had the opportunity to support and encourage people to recover from this terrible disease. He asked that the Administration grant a fair price for the building that was destroyed. He pointed out that the facility didn't cost the taxpayers any money. He said taxpayer money was used for the Community Service Patrol that policed inebriates. He urged the Assembly to think about what was best for the community. He said he wasn't against drinking; he was for helping people with the disease of alcoholism. He urged support of the ordinance.

TOM LEONARD said he was a member of the Alano Club. He said they didn't get involved with politics. He felt the Alano Club did a lot of public good. He pointed out that a lot of people were court ordered to go to the facility. He felt they provided a real benefit for the community. He felt it was important that they received the rezoning. He said they had a grandfather right where they are now and would like to enjoy the same in the future.

In response to Mr. Tesche, Mr. Leonard said he had been a member of the Alano Board for about eight months. He indicated the club opened at about 6:00 a.m., but he wasn't sure when it closed. He said they stayed open late when they had fundraising events and holiday events. He felt it was important for the Alano Club to be available all hours of the day. He said they had some parking problems, but he didn't know of any other complaints.

REGINA MANTEUFEL said she had been a member of the Fairview Community Council for many years. She said the Alano Club had not had any complaints that she had heard. She felt it was a good program that worked. She pointed out that the program tried to be self-sufficient and didn't ask for money from non-club members. She felt it was important to have enough money to build a new building. She said the members needed to feel important and we need to get rid of the stigma that they are just alcoholic drunks. She felt the new location would be a good location for the club. She pointed out the connection to domestic violence and alcohol.

In response to Ms. Fairclough, Ms. Manteufel said she had heard of no complaints regarding noise or traffic. She indicated the special events were well run and the members were quiet when they left.

Ms. Von Gemmingen moved, to continue the public hearings until 11:30 p.m.  
seconded by Mr. Tremaine,  
and it passed without  
objection,

CELESTE BENSON said she lived two blocks from the Alano Club. She moved to Anchorage in 1974. She feels Fairview is a great community and she has been an active member of the Fairview Community Council for 20 years. She feels the Alano Club has been a good neighbor. She said the Alano Club has been in the community for 25 years and has served the residents of Fairview and the residents throughout the city. She said the location of the Alano Club has been discussed at several Community Council Board meetings and three general membership meetings. It was announced as an agenda item in the Council newsletter. She said at the June meeting of the Community Council two motions were made and passed unanimously. The Fairview Community Council welcomed the Alano Club and approved its Fairview site location. They also approved the R-4 zone for the site selected. The Council reviewed and approved the renderings presented at a July meeting. On behalf of the Fairview Community Council, she asked for approval of the ordinance.

In response to Ms. Taylor, Ms. Benson said she has not noticed any noise problem, but she does hear announcements from the Ben Boeke Arena. She said she has not noticed any problems with parking.

DARREL TROUTMAN said he lives across the street from the proposed Alano Club. He referred to the area as presently an inebriate park. He said every evening there are people who drift over there and camp under the trees to have parties. He felt it would be appropriate to put the club in that location because maybe the drinkers in the area could be helped. He is strongly in favor of the ordinance. He has called for and observed the Community Service Patrol in the area.

ROSEANN GILPHELON said she had lived in Muldoon for over 20 years but uses the Alano Club on a regular basis. She said she has watched over the years as communities had attempted to take back their neighborhoods. She believes the Alano Club is an addition of Fairview to take back their neighborhood. She said she would appreciate the Assembly's support in making this change.

In response to Ms. Taylor, Ms. Gilphelon said she had lived in Anchorage for over 30 years and had been involved with the Alano Club for about 20 years. She had not heard of any complaints of noise or parking, but has not been actively involved with the day-to-day functions other than attending meetings at 6:30 a.m.

MICHAEL McNIEVEN said he was a member of the Alano Club and the Fairview Community Council. He helped look for a new location for the Alano Club and he feels this is the best spot. He felt the only responsible thing for the Assembly to do would be to allow the Alano Club to be there as a principal permitted use. He said there could be limitation on the use; however he felt it was essential they were there for an R-4 use. He talked about the proposed restrictions on the Alano Club and felt the current hours were reasonable and no restrictions should be imposed.

VIC FISCHER said he lived a block away from the proposed rezoning. He said he used to live two blocks from the Alano Club and there were no problems with noise from the Alano Club. He felt the Alano Club was not the issue. He felt the issue was rezoning and land use. He said the proposed site was the lowest priced land they could find in Fairview. He said his concern was more with planning. He felt there was a continuous erosion of residential neighborhoods. He said the area in question was zoned R-3. He felt the club could move in under the existing zoning. He felt spot zoning for a specific use did not fit into the basic concepts of comprehensive plans, goals and objectives. He wanted the Assembly to give the Alano Club more money for the property so they could get something that did not break into the neighborhood. He felt a whole block of parking would break-up the neighborhood.

In response to Mr. Tesche, Mr. Fischer said he felt the Alano Club was wonderful, but it was wrong to spot zone for something that does not need it. He felt if they could move a block or two further south, it would be less destructive. He felt the R-3 zoning should remain. He felt the proposed use was inconsistent with the residential area that is currently zoned R-3, because the area needed more R-3 residential areas to develop further.

ROGER RANCH said he didn't know a lot about the zoning, but he was concerned about the difference between R-3 and R-4 and the conditions around it. He said the problem he had was the way the members dealt with alcohol and drugs seemed to work and he wouldn't want to change it. He said the organization could not accept outside funds.

RON MARTINSON said he was senior pastor at Central Lutheran for 17 and half years. He said as a member of the Citizen's Advisory Committee on the 15<sup>th</sup> Avenue project, the decision to make the needed, wanted and good changes in the community had dispossessed the Alano Club. He felt some responsibility to assist the Alano Club. On March 11, 1999, the Fairview Community Council passed two motions unanimously. One was to keep the Alano Club in the Fairview area and the other was to approve the rezoning. He said the program seeks to help people be clean and sober. He suggested that special limitations could be imposed. He urged the Assembly to vote yes to allow the Alano Club to continue its good work.

In response to Mr. Tesche, Mr. Martinson said he it was not likely that the Alano Club would fail to be built and would hate to see them restricted unduly in terms of hours and noise levels. He felt the testimony had indicated that the problem did not currently exist and there was no reason to believe it would in the future. He felt this ordinance was not spot zoning.

RUTH MOULTON said they have no way to know the Alano Club would buy that property and could not predict what would happen in the future with the club. The ordinance rezoned a piece of land, not the club. She pointed out that the Alano Club could use the land with the existing zoning. She felt that by rezoning the land, the community would lose the right to impose conditions on it for future owners. She pointed out it would not be a conditional use; it would be a permitted use. She pointed out that you would be removing it for what might be the next owner. She pointed out the impact that the "A" Street split had on the community. She asked the Assembly not to take away the ability to put non-residential conditions on that land use.

In response to Mr. Tesche, Ms. Moulton said she was in favor of keeping the existing R-3. She said the conditions that could be applied to the Alano Club would include hours, noise levels, and a caretaker's unit. She said her concern was not the Alano Club, but who might follow them.

Ms. Von Gemmingen moved,	to continue the public hearing on this issue until all have
seconded by Mr. Kendall,	spoken who were present and return to the taxi ordinances.

Mr. Kendall agreed to continue the public hearing on AO 99-104 only.

Mr. Tremaine moved,	to continue the public hearing on this issue.
seconded by Mr. Kendall,	

Mr. Kendall objected to the motion. The Chair recognized Mr. Tremaine's objection.

Question was called on the motion to continue the public hearing and resolve all matters possible and it failed for a lack of nine votes.

Mr. Kendall moved,	to continue the meeting for AO 99-104 only.
seconded by Mr. Tesche,	
and it passed with Mr. Tremaine	
objecting,	

DENNIS SYKES said his family lived adjacent to the southeast corner of the proposed lots for the last two decades. He felt the essence of the issue had been misrepresented. He said no one had proposed that the Alano Club did not move there. He said he supported what the Alano Club does and believes they are valuable to the community. He related the move of the Alano Club to a desert story in which a man erected a tent during a desert storm and a camel slowly nudged his way in until he was in the tent and the man was outside. He felt the issue was not about the merits of the Alano Club and whether or not they can relocate to this location. He felt it would disrupt a decade long plan of common sense zoning that had built up a good zoning plan in the area. He felt allowing a rezoning to occur, it would open the door for future non-profit organizations to have free reign with uncontrolled access and use and it would be wrong. He encouraged the Assembly to find a way to help the Alano Club without disrupting the zoning of the neighborhood by keeping it at R-3 zoning.

GERALD HAGLE said he had property adjacent to the proposed site. He supported the Alano Club moving into the area, but didn't feel the neighborhood should lose the control they had with R-3. He felt R-4 would not be a good move. He felt it should remain an R-3 zone.

MALCOLM FORD said he lived a block away from the proposed site. He said he had been to many meetings in the neighborhood. He said they support Alano Club. He talked about the problems in the neighborhood that had resulted due to the close location to the 4<sup>th</sup> Avenue bars. He related experiences at his home with inebriates. He felt the neighborhood should help the Alano Club raise money to do an excellent job when they moved into the neighborhood. He suggested a spot tax on the liquor industry.

CHARLES BENSON, past president of Fairview Community Council, said when we fail to act, problems are accentuated. He felt moving the Alano Club in the area would be an alleviation of some of the current problems. He said the main issue seemed to be noise, but that currently was not a problem. He urged the Assembly to approve the rezoning.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing.

Ms. Von Gemmingen moved, to adopt AO 99-104.  
seconded by Ms. Taylor,

Mr. Tremaine talked about the differences between an R-3 and R-4 zoning. He felt building the club under the R-3 zoning would require conditional uses and would postpone construction. He said he would support this ordinance.

In response to Mr. Kendall, Mr. Bredesen said the Alano Club would like to be a permitted principal use in the R-4 zone. He said there would be a Public Site Plan Review. He pointed out that one of the conditions of the R-3 would be a site plan and they have already met that. He pointed out that the Alano Club was self-supporting. He hoped that any money would be given to the City to replace the Alano Club. He said if money was offered by the liquor industry that would have to be taken under consideration. He reaffirmed that other properties had been looked for and none had been found. He pointed out that the current site met with required codes.

In response to Mr. Tesche, Mr. Bredesen had no comment on whether they were being treated fairly by the Municipal Administration and its contractors in the acquisition of the existing club. He said they were currently asking for nine lots, not 12. He thought the Assembly had an “S” version reflecting the change. He said three lots should be removed from the application. He said he still had interest in those lots, but they would be used in a playground environment. He said the current financing available for the site would be through a settlement with the City.

Mr. Tesche moved, to amend AO 99-104 to exclude lots 4, 5 and 6 from the  
seconded by Ms. Abney, application at line 19, to read “Lots 1 through 3 and 7 through  
and it passed without 12” and at line 20 to delete “1.93” and insert “1.65 acres.”  
objection,

In response to Mr. Tesche, Mr. Bredesen said he would have to look at each and every condition before addressing neighbor’s concerns.

In response to Ms. Von Gemmingen, Mr. Bredesen said Alano is a non-profit organization and there would be no taxes on the property. He said he had discussed the noise issue with the architect and would do everything possible to address that.

In response to Ms. Fairclough, Mr. Bredesen said the weekend hours would be Friday and Saturday until 2:00 a.m.

Ms. Fairclough pointed out that under Title 21, R-3 and R-4, which were almost identical, would give them unrestricted limits.

Mr. Tesche moved, to amend AO 99-104 to provide on line 25-26 special  
seconded by Ms. Taylor, limitations, to read: “...do not serve alcohol, provided such  
clubs are not operated between the hours of 10:00 p.m. each  
night and 6:00 a.m. on the following morning and that sound  
emitted from such clubs is not audible to the human ear at the  
property line. An occupied caretaker’s unit shall be located on  
the property.”

Mr. Tesche said that the Alano club agreed to restrictions addressing neighborhood concerns in the event they were not successful in their endeavor. He offered this compromise amendment as a way of bringing these two important groups of people together.

In response to Mr. Kendall, Mr. Bredesen said in the floor plan they did have a caretaker’s unit. He felt the proposed hours and noise limitations would be very restrictive. He felt the limitations would be a hardship and he felt the hands of the group should not be tied.

Mr. Fairclough opposed the motion because the Club raised funds on Friday and Saturday Night.

Question was called on the motion to amend AO 99-104 and it failed:

AYES: Tesche, Meyer.  
NAYS: Kendall, Sullivan, Abney, Taylor, Wuerch, Fairclough, Tremaine, Von Gemmingen.

(Clerk’s Note: Ms. Clementson was out of the room at the time of the vote.)

Question was called on the motion to adopt AO 99-104 as amended and it passed:

AYES: Kendall, Sullivan, Tesche, Taylor, Wuerch, Fairclough, Tremaine, Von Gemmingen.  
NAYS: Abney, Meyer.

(Clerk’s Note: Ms. Clementson was out of the room at the time of the vote.)

(Clerk’s Note: Mr. Tesche gave Notice of Reconsideration of action on this item. See minutes of August 17, 1999.)

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

**14. SPECIAL ORDERS:**

A special order was considered earlier in the meeting. See after Regular Agenda item 8.F.

- 15. ASSEMBLY COMMENTS: None.
- 16. UNFINISHED AGENDA: None.
- 17. AUDIENCE PARTICIPATION: None.
- 18. EXECUTIVE SESSIONS: None
- 19. ADJOURNMENT:

The meeting adjourned at 12:00 p.m.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Municipal Clerk

Date Minutes Approved: November 23, 1999

VC/kron

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