

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of October 19, 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, Anchorage, Alaska.

2. ROLL CALL:

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

3. PLEDGE OF ALLEGIANCE:

The pledge was led by Ms. Abney.

4. MINUTES OF PREVIOUS MEETING:

- A. Regular Meeting - May 11, 1999
- B. Regular Meeting - May 18, 1999

Ms. Taylor moved, to approve the minutes of the regular meetings of May 11 and
seconded by Mr. Tesche, 18, 1999.

Ms. Clementson moved, to postpone action on the minutes of the regular meeting of
seconded by Ms. Abney, May 11, 1999 until October 26, 1999.
and it passed without
objection,

Question was called on the motion to approve the minutes of the regular meeting of May 18, 1999 and it passed without objection.

5. MAYOR'S REPORT: None.

6. ADDENDUM TO AGENDA

Mr. Kendall moved, to amend the agenda to include the addendum items.
seconded by Mr. Tesche,

Chairman Wuerch read the addendum items.

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

7. CONSENT AGENDA

Ms. Von Gemmingen moved, to approve all items on the consent agenda as amended.
seconded by Ms. Abney,

- A. BID AWARDS: None.
- B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:
 - 1. Ordinance No. AO 99-123, an ordinance adopting and appropriating funds for the **2000 Enterprise Activities/Municipal Utilities Operating and Capital Budgets** for the Municipality of Anchorage, Office of Management and Budget. public hearing 11-9-99 and 11-16-99.
 - a. Assembly Memorandum No. AM 812-99.
 - 2. Resolution No. AR 99-236, a resolution adopting the **2000-2005 Enterprise Activities/Municipal Utilities Capital Improvement Program**, Office of Management and Budget. public hearing 11-9-99 and 11-16-99.
 - a. Assembly Memorandum No. AM 813-99.
 - 3. Ordinance No. AO 99-124, an ordinance of the Municipality of Anchorage **adopting and appropriating funds for the 2000 General Government Operating Budget for the Municipality of Anchorage**, Office of Management and Budget. public hearing 11-9-99 and 11-16-99.
 - a. Assembly Memorandum No. AM 814-99.
 - 4. Ordinance No. AO 99-125, an ordinance of the Municipality of Anchorage adopting and appropriating funds for the **2000 Plan Year Anchorage Police and Fire Retirement System Operating Budget**, Police and Fire Retirement System. public hearing 11-9-99 and 11-16-99.
 - a. Assembly Memorandum No. AM 815-99.

5. Resolution No. AR 99-301, a resolution of the Municipality of Anchorage appropriating \$531,176 proceeds of capital lease, representing the **ten year lease-purchase of an Emergency-One 95' aerial platform w/pump apparatus truck** for the Anchorage Fire Service Area to the Fund (131) to properly record the lease-purchase of fire apparatus in compliance with generally accepted accounting principles, Anchorage Fire Department. public hearing 10-26-99.
 - a. Assembly Memorandum No. AM 959-99.
6. Resolution No. AR 99-302, a resolution of the Anchorage Municipal Assembly appropriating the sum of \$600,412 from the U.S. Department of Justice, Office of Justice Programs, Local Law Enforcement Block Grant, and \$66,713 from the Anchorage Metropolitan Service Area (151) Fund Balance to the Metropolitan Police Service Area (151) Fund Balance to the Federal Categorical Grants Fund (241) for the purpose of **underwriting projects to reduce crime and improve public safety**, Anchorage Police Department. public hearing 10-26-99.
 - a. Assembly Memorandum No. AM 960-99.

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

7. Resolution No. AR 99-303, a resolution of the Municipality of Anchorage appropriating \$968,154 from the State of Alaska Department of Education and Early Development to the State Categorical Grants Fund (231) for the **Day Care Assistance Program** in the Department of Health and Human Services. public hearing 10-26-99.
 - a. Assembly Memorandum No. AM 961-99.
8. Resolution No. AR 99-304, a resolution of the Municipality of Anchorage appropriating \$10,204,406 from the State of Alaska Department of Education and Early Development to the State Categorical Grants Fund (231) for the **Day Care Assistance Program** in the Department of Health and Human Services. public hearing 10-26-99.
 - a. Assembly Memorandum No. AM 962-99.
9. Resolution No. AR 99-313, a resolution **confirming and levying assessments for the water special improvements within Levy Upon Connection (LUC) Roll 99-W-2**, setting date of payment and providing for penalties and interest in the event of delinquency, Water and Wastewater Utility. public hearing 11-9-99.
 - a. Assembly Memorandum No. AM 975-99.
10. Resolution No. AR 99-314, a resolution of the Municipality of Anchorage, Alaska, accepting and appropriating State of Alaska Drinking Water Fund loan offers in the total aggregate amount of \$4,000,000 for **financing a portion of the costs of the Anchorage Loop Transmission Main Phase V and the Service Reservoir No. 6 projects**, Water and Wastewater Utility. public hearing 11-9-99.
 - a. Assembly Memorandum No. AM 976-99.

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

11. Resolution No. AR 99-315, a resolution of the Municipality of Anchorage appropriating \$450,000 to the State Categorical Grants Fund (231) from the Federal Highway Administration through the Alaska Department of Transportation and Public Facilities and a contribution of \$400,000 of the grant to the General Fund to provide **funding for congestion management and air quality mitigation** through free fixed route bus service during the winter months within the Municipality of Anchorage, Public Transportation Department. public hearing 10-26-99.
 - a. Assembly Memorandum No. AM 977-99.

C. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-312, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Mark A. Sollenberger for over three decades of service** with the Municipality of Anchorage, Assemblymembers Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Taylor, Tesche, Tremaine, Von Gemmingen and Wuerch.

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

2. Resolution No. AR 99-305, a resolution of the Municipality of Anchorage providing for the appropriation of a grant totaling \$37,800 from the State of Alaska, Department of Education and \$42,000 as a contribution from the Library Operating Budget to the State Categorical Grants Fund for the **Public Library Assistance Grant**, Cultural and Recreational Services/Library.
 - a. Assembly Memorandum No. AM 963-99.
3. Resolution No. AR 99-306, a resolution of the Municipality of Anchorage appropriating \$49,622 from the State of Alaska, Department of Health and Social Services to the State Categorical Grants Fund (231) for a **grant to conduct investigations and perform checks for minors consuming alcohol**, Anchorage Police Department.
 - a. Assembly Memorandum No. AM 964-99.

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

4. Resolution No. AR 99-307, a resolution of the Municipality of Anchorage appropriating \$60,000 from the Federal Emergency Management Agency (FEMA) to the Federal Grants Fund (241) for a **flood study in the Girdwood area**, Public Works Department.
 - a. Assembly Memorandum No. AM 965-99.
5. Resolution No. AR 99-309, a resolution of the Municipality of Anchorage appropriating \$15,000 of Fund Balance from the Section 6/Campbell Airstrip Limited Road Service Area (LRSA) Fund (112)

to the Department of Public Works 1999 General Operating Budget for fourth quarter **road maintenance**, Public Works Department.

- a. Assembly Memorandum No. AM 966-99.
6. Resolution No. AR 99-316, a resolution of the Municipality of Anchorage appropriating \$63,300 from the State of Alaska Department of Military and Veterans' Affairs, Division of Emergency Services (ADES), to the State Categorical Grants Fund (231) to **support Anchorage Local Emergency Planning Committee (LEPC) activities**, Office of Emergency Management.
 - a. Assembly Memorandum No. AM 978-99.
7. Resolution No. AR 99-317, a resolution of the Municipality of Anchorage appropriating \$78,000 from the Vehicle Inspection and Maintenance Program revenue account for the following: \$45,000 to the Federal Categorical Grants Fund (241) for the **preparation of a Carbon Monoxide Air Quality Control Plan** and \$33,000 to the Department of Health and Human Services Fund (101) for the **purchase of equipment for the Vehicle Inspection and Maintenance Program and Air Quality Program**, Health and Human Services.
 - a. Assembly Memorandum No. AM 979-99.
8. Resolution No. AR 99-318, a resolution authorizing the Municipality to **grant an easement for fiberoptic cable on the Wilson Park site**, Tax Code #010-115-46, Legal Department.
 - a. Assembly Memorandum No. AM 980-99.
9. Resolution No. AR 99-319, a resolution approving the Municipality's **acquisition of a ground lease of a portion of the city block in Downtown Anchorage bounded by "A" and Barrow Streets and Fourth and Fifth Avenues** from Alaska Facility Developers, with a option to purchase, for the construction of a Fire Station in Downtown Anchorage, Legal Department.
 - a. Assembly Memorandum No. AM 981-99.
 - b. Information Memorandum No. AIM 96-99, Municipal Clerk. (**addendum**)

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

10. Resolution No. AR 99-320, a resolution of the Municipality of Anchorage appropriating \$15,450 from the Federal Emergency Management Agency (FEMA), National Emergency Training Center, to the Federal Categorical Grants Fund (241) to **assist in the delivery of services and training under the Anchorage Fire Department's "Fire Stoppers for Children" juvenile arson prevention program**, Anchorage Fire Department.
 - a. Assembly Memorandum No. AM 982-99.

D. NEW BUSINESS:

1. Assembly Memorandum No. AM 971-99, **Clarion Suites Hotel/ Choice Picks Restaurant** - Transfer of Ownership of a Beverage Dispensary Tourism Liquor License and Application for a Restaurant Designation Permit (Downtown and South Addition Community Councils), Clerk's Office.
 - a. Information Memorandum No. AIM 92-99, Municipal Clerk. (**addendum**)
2. Assembly Memorandum No. AM 972-99, **Hawthorn Suites** - Transfer of Ownership of a Beverage Dispensary Tourism Liquor License and Application for a Restaurant Designation Permit (Downtown and South Addition Community Councils), Clerk's Office.
 - b. Information Memorandum No. AIM 92-99. (**addendum**)
3. Assembly Memorandum No. AM 973-99, **Mami's Restaurant** - Transfer of Ownership of a Restaurant/Eating Place Liquor License and Application for a Restaurant Designation Permit (Government Hill Community Council), Clerk's Office.

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

4. Assembly Memorandum No. AM 974-99, **Spenard Paradise Inn & Lounge** - Transfer of Ownership of a Beverage Dispensary Tourism Liquor License (Spenard Community Council), Clerk's Office.
 - a. Information Memorandum No. AIM 95-99, Municipal Clerk. (**addendum**)

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

5. Assembly Memorandum No. AM 967-99, change order No. 3 to the contract with Ebco General Contractors for the **Emergency Operations Center**, Property and Facility Management.
6. Assembly Memorandum No. AM 983-99, recommendation of award of a **development contract for Fire Station No. 1** to Alaska Facility Developers, Property and Facility Management.

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

7. Assembly Memorandum No. AM 984-99, recommendation of award to Land Design North for **completing an Eagle River Central Business District Revitalization Plan** for the Municipality of Anchorage, Department of Community Planning and Development and Department of Cultural and Recreational Services (RFP 99-P028), Purchasing.
8. Assembly Memorandum No. AM 985-99, proprietary purchase of a **15 Kv outdoor non-segregated phase bus duct** from Pedersen Power Products for the Municipality of Anchorage, Municipal Light and Power/Purchasing.
9. Assembly Memorandum No. AM 986-99, change order no. 1 to purchase order 83106 with EES Consulting, Inc. for providing **professional independent consulting engineering services** for the Municipality of Anchorage, Municipal Light and Power/Purchasing.

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

10. Assembly Memorandum No. AM 987-99, award to Xerox Corporation for **lease of Xerox copiers** for the Municipality of Anchorage, Management Information Systems Department and Municipal Light and Power/Purchasing.

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

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 88-99, Internal Audit Report 99-10 - **Cash Controls at Spenard Recreation Center**, Sports and Recreation Division, Cultural and Recreational Services/Internal Audit.

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

2. Information Memorandum No. AIM 89-99, Internal Audit Report 99-11 - **Cash Controls at Fairview Recreation Center**, Sports and Recreation Division, Cultural and Recreational Services/Internal Audit.

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

3. Information Memorandum No. AIM 91-99, **Year 2000 Holidays**, Employee Relations. (addendum)

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

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

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

8. REGULAR AGENDA:

A. TIME CRITICAL ITEMS: None.

B. BID AWARDS: None.

C. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Resolution No. AR 99-302, a resolution of the Anchorage Municipal Assembly appropriating the sum of \$600,412 from the U.S. Department of Justice, Office of Justice Programs, Local Law Enforcement Block Grant, and \$66,713 from the Anchorage Metropolitan Service Area (151) Fund Balance to the Metropolitan Police Service Area (151) Fund Balance to the Federal Categorical Grants Fund (241) for the purpose of **underwriting projects to reduce crime and improve public safety**, Anchorage Police Department. public hearing 10-26-99.
 - a. Assembly Memorandum No. AM 960-99.

Ms. Fairclough, Ms. Taylor and Ms. Abney joined in introducing this resolution. The public hearing was scheduled for October 26, 1999.

In response to Ms. Fairclough, Police Chief Duane Udland confirmed the Sexual Assault Response Team was still in existence. He explained the Team was still a special unit, despite the shift to community policing. The Team is classified under the Major Crimes unit.

2. Resolution No. AR 99-314, a resolution of the Municipality of Anchorage, Alaska, accepting and appropriating State of Alaska Drinking Water Fund loan offers in the total aggregate amount of \$4,000,000 for **financing a portion of the costs of the Anchorage Loop Transmission Main Phase V and the Service Reservoir No. 6 projects**, Water and Wastewater Utility. public hearing 11-9-99.
 - a. Assembly Memorandum No. AM 976-99.

Ms. Fairclough, Ms. Taylor and Mr. Kendall joined in introducing this resolution. The public hearing was scheduled for November 9, 1999.

In response to Ms. Fairclough, Chief Fiscal Officer Soren Orley explained the loan is secured by future revenues of the Water and Wastewater Utility. It has nothing to do with the assessments for the projects.

D. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-312, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Mark A. Sollenberger for over three decades of service** with the Municipality of Anchorage, Assemblymembers Abney, Clementson, Fairclough, Kendall, Meyer, Sullivan, Taylor, Tesche, Tremaine, Von Gemmingen and Wuerch.

Ms. Von Gemmingen moved, to approve AR 99-312.
seconded by Ms. Clementson,
and it passed without
objection,

Ms. Von Gemmingen read the resolution while Ms. Abney and Public Works Director Jim Fero presented it to Mr. Sollenberger.

Mr. Sollenberger thanked the Assembly and recalled the public works accomplishments over the past 33 years. He was proud to be a part of those accomplishments and to work with the many borough, city and Municipal employees who were also a part.

The Assembly members thanked Mr. Sollenberger.

2. Resolution No. AR 99-306, a resolution of the Municipality of Anchorage appropriating \$49,622 from the State of Alaska, Department of Health and Social Services to the State Categorical Grants Fund (231) for a **grant to conduct investigations and perform checks for minors consuming alcohol**, Anchorage Police Department.
 - a. Assembly Memorandum No. AM 964-99.

Mr. Meyer moved, to approve AR 99-306.
seconded by Ms. Taylor,

Mr. Meyer asked the Assembly receive a copy of the investigation reports when they are complete.

Police Chief Duane Udland said he would provide the reports, and added services of alcohol to minors would also be reflected in the quarterly bar violations reports.

Question was called on the motion to approve AR 99-306 and it passed without objection.

3. Resolution No. AR 99-319, a resolution approving the Municipality's **acquisition of a ground lease of a portion of the city block in Downtown Anchorage bounded by "A" and Barrow Streets and Fourth and Fifth Avenues** from Alaska Facility Developers, with a option to purchase, for the construction of a Fire Station in Downtown Anchorage, Legal Department.
 - a. Assembly Memorandum No. AM 981-99.
 - b. Information Memorandum No. AIM 96-99, Municipal Clerk. (**addendum**)

Ms. Clementson moved, to approve AR 99-319.
seconded by Ms. Taylor,

Ms. Clementson moved, to postpone action on AR 99-319 until October 26, 1999.
seconded by Mr. Sullivan,

Ms. Clementson explained she had some concerns about both items. She asked about the effect of a delay.

In response to Ms. Clementson, Executive Manager Elaine Christian explained time was of the essence, as the options for the property will expire soon. She said a one-week delay might pose some problems. She noted a representative from Shannon and Wilson was present to answer questions on environmental issues. Also, Ken Kincaid was present to discuss appraisal issues, and Mark Pfeffer was present representing Alaska Facility Developers, to answer questions. Answers to all the questions raised in today's work session were included in the Assembly's packet. She also distributed bond information.

Bob Braunstein, a certified professional geologist, spoke representing Shannon and Wilson. He discussed the Phase I and Phase II environmental assessment. He explained all sampling was done in accordance with Alaska Department of Environmental Conservation (ADEC) guidelines. He explained the black material on the site was not collected for sampling because their field-screening instruments, which detect the presence of hydrocarbons or other volatile contaminants, did not detect any of those substances in the black material. They felt the black substance was merely a naturally-occurring black sand, or potentially organic matter. They took a sample of soil immediately beneath similar black material on the adjacent site, and no contamination was detected. More importantly, he felt, was the water sample analysis taken at the site. The black material was at the water table level. Had there been any significant contamination in the black sand, it would have probably leached into the ground water. The water sample was not contaminated, so in his opinion there was not a significant risk from the black sand.

Ken Kincaid, owner of Kincaid and Riely, a real estate appraisal and consulting firm, discussed fair market value. He clarified he has not yet completed his appraisal of the property. Mr. Kincaid explained buyers and sellers have different ideas about fair market value, especially if buildings are included with large parcels. In this situation, there are various segments of the block which include vacant land, dilapidated buildings, and buildings with existing businesses. All the components combined might add up to a different value than the sum of the individual values.

In response to Mr. Tesche, Mr. Kincaid said he was a general certified appraiser by the State of Alaska. He has been in the business of appraisal for sixteen years. He recalled there were between five and seven property interests acquired by Mr. Pfeffer for this project. The properties were in various states of improvement. His understanding was that Mr. Pfeffer negotiated the sales of the properties in secret, and the sellers were not aware of the ultimate purpose for the properties. Mr. Kincaid concluded the acquisitions were done under normal market conditions, with a willing buyer and willing seller. Therefore, it would be fair to assume the prices paid by Mr. Pfeffer represented fair market values. He felt the \$3.1 million figure Mr. Pfeffer says he paid to acquire the various property interest did not seem surprising, in light of the vacant land, improvements and business interests. He said the draft lease includes a lease payment which appears to be calculated on the

true acquisition costs, without a built-in profit margin. The option price allows the Municipality to acquire the property at the exact acquisition price. He felt the lease rate of 8.2 percent seemed fair; the average range of lease rates is generally between eight and ten percent.

In response to Ms. Fairclough, Ms. Christian said she could obtain the Municipal Assessor's value on the land. However, the business values may be higher because of the business revenues.

In response to Ms. Clementson, Mr. Kincaid said he was retained to do an appraisal of this property by the First National Bank of Anchorage. He began that work yesterday. He explained he has not done any previous work on this property. He worked with ECI Hyer as a sub-consultant on the fire station site selection process. However, this property was not one of the proposed sites identified under that sub-contract.

In response to Mr. Tremaine, Ms. Christian clarified there are three buildings and six empty lots on the subject property.

In response to Mr. Tremaine, Mr. Kincaid felt it is a developer's motive to minimize the purchase price for a property to enhance the ability to sell the property to another party.

Mark Pfeffer discussed the negotiations on the properties. He attempted to find a solution for the Municipality's fire station location situation. He knew the Municipality was considering the subject site, and also knew the Municipality would have to negotiate in a very public way. If the Municipality negotiated directly for the properties, the owners would likely have increased their asking price. Mr. Pfeffer attempted to acquire the properties without informing the sellers the purpose of the purchase, and negotiated the best price he could, since he knew eventually he would have to defend his transaction to the Assembly and the Administration. He pointed out he was not placing a mark-up on the price; it was the amount of his actual costs. He added if the Municipality tried to acquire the properties in the future, after his options with the owners lapse, the price would certainly increase. He said he submitted the option agreements to the Administration, absent the prices per lot. He explained if he submitted that information, it would become public, and all the land owners would know the amounts their neighbors were selling for, and put the Municipality at a disadvantage. He has agreed to use a title company to close on the acquisition with the land owners. That title company will certify for the Municipality that the price he has proposed in the lease is the aggregate price he paid to the land owners.

In response to Mr. Tesche, Mr. Pfeffer said the land owners were not told of the plans for a fire station. However, the last owner that negotiated a deal figured out the plan, and consequently did not settle for one of the lowest acquisition prices. He did not threaten anyone with eminent domain. He said he would not benefit if he agreed to pay more for the properties than he could by tough bargaining.

In response to Ms. Fairclough, Mr. Pfeffer confirmed the Municipality may pay the price verified by the third independent party, anytime in the next ten years.

In response to Mr. Tremaine, Mr. Pfeffer said he has not checked on the Municipal assessment for the underlying land for this group of parcels. In his opinion, the Municipal assessment for property is not equal to fair market value. The difference between the two can be considerable. He attempted to purchase the liquor license for The Hub as part of the deal, but the owner did not want to sell. The owner sold with the knowledge he would have to transfer the license through the normal process.

In response to Mr. Tesche, Mr. Pfeffer confirmed the issues of loss of business profits and cost for relocating the businesses were considered during the negotiations, and were a factor in the ultimate sale price. He added his understanding was that gross revenues for The Hub are approximately \$2 million.

Ms. Clementson felt there was too much information to assimilate quickly. She recalled the original schedule for action was October 26, 1999.

Ms. Christian confirmed the original October 26 date, although the scheduled has been changed since.

Mr. Tesche spoke against the motion to postpone. He was concerned a delay posed a risk in loss of the options negotiated by Mr. Pfeffer.

Mr. Tremaine noted in the first work session on this topic, the Mayor assured the Assembly there were sufficient bond funds to cover the entire cost. Today, the Administration told the Assembly there is now a \$3.1 million shortfall.

Ms. Christian explained the cost increase. She said several years ago when the bonds were approved, the amount was based on estimates of the cost. Those projections included about \$1 million for the acquisition of vacant land. In the downtown area, there is no vacant land available. Since the original projection was for vacant land, it did not include demolition and asbestos removal.

Question was called on the motion to postpone action on AR 99-319 until October 26, 1999 and it passed:

AYES: Tremaine, Wuerch, Meyer, Abney, Von Gemmingen, Clementson.

NAYS: Kendall, Sullivan, Tesche, Taylor, Fairclough.

E. NEW BUSINESS:

1. Assembly Memorandum No. AM 973-99, Mami's Restaurant - Transfer of Ownership of a Restaurant/Eating Place Liquor License and Application for a Restaurant Designation Permit (Government Hill Community Council), Clerk's Office.

Mr. Tesche moved,
seconded by Mr. Sullivan,

to approve AM 973-99.

Mr. Tesche noted the Assembly was in receipt of a letter from the Government Hill Community Council requesting action on this item be postponed to allow the Council time to review it and make a recommendation.

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

to postpone action on AM 973-99 until October 26, 1999.

2. Assembly Memorandum No. AM 974-99, Spenard Paradise Inn & Lounge - Transfer of Ownership of a Beverage Dispensary Tourism Liquor License (Spenard Community Council), Clerk's Office.
 - a. Information Memorandum No. AIM 95-99, Municipal Clerk. (**addendum**)

Ms. Clementson moved,
seconded by Ms. Von Gemmingen,

to approve AM 974-99.

Ms. Clementson said the fact that the original owner of the license is attempting to regain ownership negates her concerns, and those that were raised by the community council. She had no objection to approval.

In response to Mr. Tesche, the applicant Clyde Jackson and his attorney, Fred Odsen, addressed the Assembly. Mr. Jackson confirmed he paid the taxes on the property a few days ago. He questioned why the previous owner was allowed to become \$7,000 in arrears on taxes over the last two years.

Chairman Wuerch noted there was an issue of property taxes and one of hotel/motel tax. He suggested the issue be clarified in the next week.

Mr. Odsen noted the licensee, Mr. Song, was in the process of a bankruptcy proceeding, which was filed early this month. As a result, Mr. Jackson is automatically stayed from any action to enforce his rights without further order of the bankruptcy court. He added Mr. Jackson is aware of the conditions previously placed on the license by the Assembly.

Mr. Tesche suggested a postponement to research whether the bankruptcy proceeding would affect the Assembly's actions.

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

to postpone action on AM 974-99 until October 26, 1999.

3. Assembly Memorandum No. AM 983-99, recommendation of award of a **development contract for Fire Station No. 1** to Alaska Facility Developers, Property and Facility Management.

Ms. Clementson moved,
seconded by Ms. Fairclough,

to approve AM 983-99.

Ms. Clementson moved,
seconded by Mr. Tremaine,

to postpone action on AM 983-99 until October 26, 1999.

AYES: Kendall, Sullivan, Tremaine, Wuerch, Meyer, Abney, Von Gemmingen, Clementson.

NAYS: Tesche, Taylor, Fairclough.

4. Assembly Memorandum No. AM 986-99, change order no. 1 to purchase order 83106 with EES Consulting, Inc. for providing **professional independent consulting engineering services** for the Municipality of Anchorage, Municipal Light and Power/Purchasing.

Mr. Tremaine moved,
seconded by Mr. Tesche,

to approve AM 986-99.

In response to Mr. Tremaine, Municipal Light and Power General Manager Meera Kohler explained the utility usually spends a little over \$100,000 per year for engineer of record services which are required by ML&P's bond covenants. Last year, they retained the services of EES after issuing a bid. EES will provide the usual services, as well as economic assistance, needed because of restructuring issues that has arisen lately. In the past year and a half, the utility has spent about \$250,000 of the \$350,000 contract, and there is another year and a half remaining in the contract. With restructuring issues and recent Regulatory Commission of Alaska activities that requires the utility to assess economic issues such as unbundling, the proposed services are absolutely necessary.

Question was called on the motion to approve AM 986-99 and it passed:

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

NAYS: None.

5. Assembly Memorandum No. AM 987-99, award to Xerox Corporation for **lease of Xerox copiers** for the Municipality of Anchorage, Management Information Systems Department and Municipal Light and Power/Purchasing.

Mr. Meyer moved, to approve AM 987-99.
seconded by Ms. Fairclough,

In response to Mr. Meyer, Bart Mauldin of Purchasing explained an existing five-year lease for copiers was nearing completion. Part of the value of that lease, about \$15,000 is being credited to the Municipality, which is being transferred to a follow-on lease for new digital copiers. The lease includes maintenance of the items, which in turn includes operating supplies excluding paper. He said currently, there is a city-wide contract for copiers which is due to expire this year. However, the company that held the contract went out of business in July, so the bid is going out for another three-year contract.

Management Information Services Director Dave Rudisill explained the digital copiers include computer connections, to allow them to act as printers. He expected there would be a savings in printer purchases in the future. More importantly, there would be a savings in staff time since print jobs can be sent to the printer directly from a personal computer.

In response to Ms. Taylor, Municipal Manager George Vakalis said various departments do take routine advantage of cooperative leases with the State of Alaska.

In response to Ms. Taylor, Mr. Mauldin said the Purchasing Director was researching the possibility of using credit cards for purchases. He said the features requested by the Assembly such as accumulation of airline miles in a credit card would be difficult, as those options are not currently available in the industry.

Question was called on the motion to approve AM 987-99 and it passed without objection.

F. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 88-99, Internal Audit Report 99-10 - **Cash Controls at Spenard Recreation Center**, Sports and Recreation Division, Cultural and Recreational Services/Internal Audit.
2. Information Memorandum No. AIM 89-99, Internal Audit Report 99-11 - **Cash Controls at Fairview Recreation Center**, Sports and Recreation Division, Cultural and Recreational Services/Internal Audit.

Ms. Fairclough moved, to accept AIM 88-99.
seconded by Ms. Taylor,

In response to Ms. Fairclough, Municipal Manager George Vakalis explained generally with regard to internal audits, when problems are identified and recommendations made, there is a commitment to making the changes. There is also a follow-up process to ensure changes are implemented. In this case, Cultural and Recreational Services Director Kathy Kingston was in the process of implementing the recommended changes, and will provide him feedback on an estimated completion date. When the changes are implemented, the Internal Auditor will be informed.

Question was called on the motion to accept AIM 88-99 and it passed without objection.

Ms. Fairclough moved, to accept AIM 89-99.
seconded by Ms. Taylor,
and it passed without
objection,

3. Information Memorandum No. AIM 91-99, **Year 2000 Holidays**, Employee Relations.
(addendum)

Mr. Tremaine moved, to accept AIM 91-99.
seconded by Mr. Tesche,

In response to Mr. Tremaine, Employee Relations Director Tom Tierney confirmed the Assembly could unilaterally remove holidays from the collective bargaining process. However, that action would not go into effect until each individual union contract expires. He said the Anchorage Municipal Employees Association (AMEA) contract expires at the end of 2000; the Anchorage Police Department Employees Association contract will expire in about five years. The International Association of Fire Fighters contract is currently in negotiations. He explained the main problem with the holiday schedule rests with the AMEA and the Joint Crafts Council (JCC) contracts.

Ms. Fairclough pointed out any time changes are made to collective bargaining without negotiation, there is a potential for litigation. She urged her colleagues to avoid recommendations to contracts until they are opened for negotiation. She did not agree with the action of the Assembly to remove Seward's Day as a holiday, to compensate for the added Martin Luther King, Jr. Day holiday.

Mr. Tremaine clarified that a vote to accept this information memorandum did not necessarily indicate approval of the information.

Question was called on the motion to accept AIM 91-99 and it passed:

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

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

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

- A. Assembly Memorandum No. AM 941-99, **Zoning Board of Examiners and Appeals appointment** (Kenneth Burkhart), Mayor's Office.
(POSTPONED FROM 10-12-99)
- B. Assembly Memorandum No. AM 956-99, change order No. 4 to purchase order 72678 with Davis Wright Tremaine LLP for providing **legal services for the Municipal Employees Relations Board**, Employee Relations.
(POSTPONED FROM 10-12-99)
- C. Resolution No. AR 99-310, a resolution of the Anchorage Municipal Assembly **recommending a variable flow level of Cheney Lake**, Assemblymembers Taylor, Abney, Fairclough, Tesche, and Tremaine.
 - 1. Resolution No. AR 99-310(S), a resolution of the Anchorage Municipal Assembly recommending a variable flow level of Cheney Lake, Assemblymembers Taylor and Clementson. **(addendum)**\(POSTPONED FROM 10-12-99)
- D. Resolution No. AR 99-311, a resolution of the Anchorage Municipal Assembly **recommending regulating the level of Cheney Lake to protect public and private infrastructure**, Assemblymember Clementson.
(POSTPONED FROM 10-12-99)
- E. Resolution No. AR 99-83, a resolution of the Anchorage Municipal Assembly **requesting that the State Legislature amend state law to allow municipalities to establish a limit on annual increases in assessed valuation of real property** unless improvements are made which increase the property's value by an amount greater than the limit, Assemblymember Kendall.
(POSTPONED FROM 4-6-99; CARRIED OVER FROM 4-27-99; POSTPONED FROM 5-11-99, 5-25-99, AND 9-14-99)

Items 9.A. through 9.E. were continued until October 26, 1999.

10. APPEARANCE REQUESTS:

- A. **Soren Wuerth**, regarding the lack of public process.

Mr. Wuerth spoke about the many failures of the Municipality's public process system, included the latest failure to notify affected residents of the Cheney Lake area about the planned lowering of the lake. He pointed out residents were frustrated they were almost entirely left out of the process. He questioned whether Assembly members or the engineers on the project realized the importance of the lake and its resident wildlife to area residents. He questioned whether the contractor was taken to task for failing to notify Cheney Lake residents that the road plans included lowering the level of the lake. He questioned whether a lesson was learned. Mr. Wuerth pointed out that this public process failure has become a pattern. He heard recently about a gravel company that convinced Municipal officials to change the conditions of a conditional use permit in Chugiak, without notice to affected residents. He recalled the recent approval of a golf facility which will obscure the mountains, and the proposed solution is to paint the facility to match the mountains. He added community councils that meet only once per month are often left out of discussions during the summer's accelerated construction season. Mr. Wuerth said he felt left out of the public process now that he is expected to subscribe to the Alaska Journal of Commerce in order to read the Assembly agenda. He felt on all these issues, Municipal officials could have won the respect of citizens if they had merely conducted a good and fair public process. He questioned why officials do not seem to learn from past mistakes. He felt the bottom line was that officials should slow down and listen more to citizens, even if it means delaying the interests of private developers. He distributed written recommendations from the Alaska Action Center, which included a town meeting to discuss public process, changes to the law on public process, increase to the length of time citizens are allow to speak at Assembly meetings, and wider circulation of Assembly agendas. Mr. Wuerth recommended the Municipality delay any decisions to lower the level of Cheney Lake for six months, to give the public adequate time to consider alternatives, and to allow time for a hydrology study to be performed.

In response to Mr. Tesche, Mr. Wuerth said he would be able to compile a list of the ten or fifteen most important types of Municipal actions they would like to be examined for purposes of adequate public notice. He felt the time limit for persons speaking before the Assembly should be increased to five minutes.

In response to Mr. Tesche, Chairman Wuerch said he spoke with Purchasing Department officials, who agreed to send a letter to the Alaska Journal of Commerce, reminding them that if the publication is not made available as required in their contract, they are at risk of having the contract voided.

11. CONTINUED PUBLIC HEARINGS:

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

to combine the public hearings for items 11.A and B,
AR 99-254 and AR 99-255.

- A. Resolution No. AR 99-254, a resolution **authorizing eminent domain proceedings and acceptance of the Decisional Document for the construction of the 15th Avenue Safety Improvements, 'L' Street to Juneau Street**, Public Works Department.
 - 1. Assembly Memorandum No. AM 863-99.
 - 2. Information Memorandum No. AIM 82-99, right-of-way acquisition procedures, Public Works.(CONTINUED FROM 10-12-99)
- B. Resolution No. AR 99-255, a resolution **authorizing eminent domain proceedings and acceptance of the Decisional Document for the construction of the 15th Avenue Safety Improvements, Ingra Street to Sitka Street**, Public Works Department.
 - 1. Assembly Memorandum No. AM 864-99.
 - 2. Information Memorandum No. AIM 82-99.

(CONTINUED FROM 10-12-99)

Chairman Wuerch opened the public hearing for AR 99-254 and AR 99-255 and asked if anyone wished to speak. There was no one, and he closed the public hearing.

The meeting recessed at 7:00 p.m. and reconvened at 7:30 p.m.

Chairman Wuerch reopened the public hearing for AR 99-254 and AR 99-255 and asked if anyone wished to speak.

DICK WEINIG, representing the Black Angus restaurant, requested the Assembly not rush the condemnation authorization. He requested the Assembly defer the authorization with regard to the restaurant, parcels 28 and 29. In his case, it is not true that every reasonable effort has been made to resolve the dispute, and it is not true, as the resolution states, that continued negotiations would be non-productive. Mr. Weinig explained he has been attempting to obtain an appraisal from his appraiser since March. The appraiser, Eric Follett, is very good and is in great demand. He has been busy with government contracts since March. The appraisal is due at the end of November, and the restaurant's business loss appraisal is due at the beginning of November. Mr. Weinig felt productive negotiations can proceed sometime in December, that may resolve the matter. The property owners are willing to retain an architect and a contractor to make improvements necessary to remove the entire front of the south wing of the building, which would otherwise protrude into the project area. Mr. Weinig explained the restaurant is a non-conforming use because it has 89 rooms with only 69 parking spaces, pursuant to its 1992 conditional use permit. He requested a delay to allow the necessary permits to be obtained.

In response to Mr. Tesche, Mr. Weinig clarified the Municipality has performed an appraisal on the property, but he wanted his own appraiser to perform another appraisal. He explained he could not counter the Municipality's offer for his property without having a separate appraisal.

In response to Ms. Clementson, Mr. Weinig explained why he would prefer a delay, rather than pursuing an appraisal after the Assembly approved eminent domain. He noted when the Assembly approves eminent domain, the property owner must file an answer or contest within 20 days. Within another 30 days, the property owner must file a motion to dismiss the complaint based on lack of authority and necessity. If these two actions are not completed by the property owner, he would lose any rights to object to the taking. He pointed out if these motions are filed by the property owner, it would make continuing good faith negotiations with the Municipality quite difficult. Also, once the motions are filed, the process becomes much more costly for both

In response to Mr. Tesche, Mr. Weinig said it would be acceptable if the Assembly approves the condemnation resolution tonight, if court actions would be delayed until after December 7, 1999.

CORITTA ROLAND, owner of Lot 21B, said she was not notified of this public hearing. She pointed out the first offer by the Municipality was not forwarded to her until September 1, 1999. She said the offer was based on an appraisal by Black-Smith and Richards, but the appraisal was based on an inaccurate inventory and the comparable properties were not comparable in her opinion. She was told by Public Works staff that they were experiencing other problems with the appraisals, and they would provide a new appraisal. Ms. Roland has not yet received the second appraisal. She added her property was an income property, and certain issues were not being considered. She will have to knock down a wall in order to remove the washer and dryer, and cannot remove the lilac trees in winter. Also, the Municipality's contract requires that she guarantee there is no hazardous waste on the property.

In response to Ms. Clementson, Ms. Roland confirmed the property is rental property. It is currently vacant, as the Municipality is paying her to keep it vacant.

In response to Mr. Tesche, Ms. Roland said she has contacted a private appraiser to provide her an appraisal last week. She did not take that action sooner because of delays by Municipal officials on the Municipal appraisal. She expected her private appraisal would take a few months to perform, as the property appraisal issues are very complex. She added the Municipality will be paying for the second appraisal.

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

In response to Chairman Wuerch, Public Works Director Jim Fero updated the Assembly on the status of the negotiations. He said there were about 80 properties involved. There is a current total of twelve properties that have not been resolved.

Ms. Clementson moved, to approve AR 99-254.
seconded by Mr. Tesche,

In response to Ms. Clementson, Vivian Dietz-Clark of Public Works discussed the status of the project. She explained within 30 days of approval of the proposed eminent domain authority, the Municipality must file a declaration of taking, unless the owner(s) submit a written extension. She said within those 30 days and/or the extension period, they will continue to work with the property owners. She has spoken with Mr. Weinig about a procedure. They will consider the status at the end of 30 days, and consider extending, if necessary. She confirmed if the eminent domain authority is approved, they would begin first with those property owners who have requested eminent domain.

In response to Ms. Clementson, Attorney Ron Baird said they do have some flexibility within the rules of procedure, once the case has begun, to accommodate the sort of situation described by Mr. Weinig. However, he did not want to suggest that it would be acceptable to leave a claim against the project unresolved until January or February.

Ms. Dietz-Clark clarified she was unaware that any property owners have challenged authority and necessity. However, as Mr. Weinig testified, sometimes attorneys hold in reserve the opportunity to challenge on that basis.

Mr. Baird concurred. He felt Mr. Weinig should identify any objections, so the project could proceed.

In response to Mr. Tesche, Mr. Baird felt deferring the Assembly's determination of authority until December would compromise the project schedule, which is currently to have right-of-way acquisition by March 1, 2000. If the Municipality obtains authority, they can proceed to file, and there is some flexibility to extend to allow the appraisal process to be completed.

In response to Mr. Sullivan, Ms. Dietz-Clark confirmed the Municipality has agreed to reimburse Ms. Roland for a second appraisal of her property. She said the offer in the resolution is identified as a "final" offer because the Municipal Code requires such an offer to be made prior to requesting eminent domain from the Assembly. However, there is flexibility to continue to work with the property owner and review the new appraisal.

Question was called on the motion to approve AR 99-254 and it passed:

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

Ms. Clementson moved, to approve AR 99-255.
seconded by Mr. Sullivan,

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

12. NEW PUBLIC HEARINGS:

- A. Resolution No. AR 99-277, a resolution of the Municipality of Anchorage appropriating \$220,355 from the Alaska Department of Health and Social Services to the State Categorical Grants Fund (0231) for the **Child Care Licensing Program** in the Department of Health and Human Services.
1. Assembly Memorandum No. AM 915-99.

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

Ms. Clementson moved, to approve AR 99-277.
seconded by Ms. Taylor,

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

- B. Resolution No. AR 99-278, a resolution of the Municipality of Anchorage appropriating \$943,314 to the State Categorical Grants Fund (231) from the Alaska Department of Health and Social Services to **fund Community Health Nursing Services**, Health and Human Services.
1. Assembly Memorandum No. AM 916-99.

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 approve AR 99-278.
seconded by Mr. Meyer,

In response to Mr. Tremaine, Municipal Manager George Vakalis explained the itemized amount listed as "retirement" includes all benefits to the employees.

Question was called on the motion to approve AR 99-278 and it passed:

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

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

- C. Resolution No. AR 99-279, a resolution of the Municipality of Anchorage appropriating \$418,604 to the State Categorical Grants Fund (0231) from the Alaska Commission on Aging to assist in the **funding of coordinated transportation services for senior citizens and for people with disabilities** within the Municipality of Anchorage, Public Transportation Department.
1. Assembly Memorandum No. AM 917-99.

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 approve AR 99-279.
seconded by Mr. Meyer,

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

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

- D. Resolution No. AR 99-298, a resolution of the Municipality of Anchorage appropriating \$224,950 from the Federal Categorical Grants Fund (0241) from the Federal Department of Health and Human Services for the **augmentation of the Metropolitan Medical Strike Team (MMST) System**, Anchorage Fire Department.
1. Assembly Memorandum No. AM 948-99.

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

Ms. Clementson moved, to approve AR 99-298.
seconded by Ms. Fairclough,

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

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

- E. **SECOND PUBLIC HEARING:** Ordinance No. AO 99-122, an ordinance adopting the **2000 General Government Capital Improvement Budget** and appropriating \$681,973 from the State Categorical Grants Fund (231); \$395,000 to the Anchorage Metropolitan Police Service Area Capital Improvement Program Fund (451) for the purchase and equipping of police vehicles; and \$286,973 to the Anchorage Fire Service Area Capital Improvement Program Fund (431) for communications, technology, or other capital improvements, Office of Management and Budget.
1. Assembly Memorandum No. AM 809-99.
 2. Ordinance No. AO 99-122(S), an ordinance adopting the 2000 General Government Capital Improvement Budget and appropriating \$681,973 from the State Categorical Grants Fund (231); \$395,000 to the Anchorage Metropolitan Police Service Area Capital Improvement Program Fund (451) for the purchase and equipping of police vehicles; and \$286,973 to the Anchorage Fire Service Area Capital Improvement Program Fund (431) for communications, technology, or other capital improvements, Office of Management and Budget. **(addendum)**
 3. Assembly Memorandum No. AM 989-99.

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

BARBARA WEINIG, of the Rabbit Creek Community Council, noted every year the Council performs a survey of area residents. For the last three years, the highest priority parks project has been the southern extension of the Coastal Trail. She pointed out there is no prescribed route for that extension. The Council has chosen and ranked the top three logical routes. Ms. Weinig said there were other projects they would like to see in the budget, including Moen Park. She noted open spaces are important in this area, because of increasing development. Rabbit Creek greenbelt is also a priority. She encouraged funding to acquire more property to add to this greenbelt. Lastly, Ms. Weinig advocated funding for a trailhead at Potter's Marsh. She pointed out sanitary facilities were greatly needed for visitor's to the Marsh.

GEORGE DEMETELIN, of Scenic Foothills Community Council, spoke about the proposed fire station at the intersection of Tudor and Baxter Roads. He asked funding for site selection be moved from 2004, as proposed, to 2000. He explained available land on the east side of town is rapidly decreasing.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing. He announced action on AO 99-122 would be postponed until October 26, 1999.

- F. **SECOND PUBLIC HEARING:** Resolution No. AR 99-235, a resolution of the Municipality of Anchorage **adopting the 2000-2005 General Government Capital Improvement Program**, Office of Management and Budget.
1. Assembly Memorandum No. AM 809-99.
 2. Resolution No. AR 99-235(S), a resolution of the Municipality of Anchorage adopting the 2000-2005 General Government Capital Improvement Program, Office of Management and Budget. **(addendum)**
 3. Assembly Memorandum No. AM 989-99.

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

BARBARA WEINIG of the Rabbit Creek Community Council again reiterated her support of acquiring more land to add to the Rabbit Creek greenbelt. She explained the greenbelt would be an asset for all Anchorage residents. She noted land acquisition is a lengthy process, and the area is rapidly becoming more developed, so she encouraged more timely acquisition of land for the greenbelt.

Chairman Wuerch asked if anyone else wished to speak. There was no one, and he closed the public hearing. He announced action on AR 99-235 would be postponed until October 26, 1999.

- G. Resolution No. AR 99-234, a resolution of the Municipality of Anchorage adopting the **2000-2005 Six Year Fiscal Program**, Office of Management and Budget.
1. Assembly Memorandum No. AM 810-99.

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

Ms. Clementson moved, to approve AR 99-234.
seconded by Mr. Meyer,

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

- H. Ordinance No. AO 99-127, an ordinance **creating King Lateral Sanitary Sewer Special Assessment District 190** and determining to proceed with the proposed improvements therein, Water and Wastewater Utility.
1. Assembly Memorandum No. AM 861-99.

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 adopt AO 99-127.
seconded by Mr. Meyer,

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

- I. Ordinance No. AO 99-114, an ordinance of the Anchorage Assembly **formally adopting the goals and objectives of the Anchorage Bowl Comprehensive Plan**, Assemblymembers Taylor, Tesche, Tremaine, and Abney.
1. Assembly Memorandum No. AM 724-99.

Chairman Wuerch recalled on October 12, 1999, the Assembly rescheduled the public hearing for this ordinance to February 15, 2000.

- J. Resolution No. AR 99-276, a resolution of the Anchorage Municipal Assembly approving a conditional use for sales of alcoholic beverages (Package Store) located on Smith Subdivision, Addition #1, Block 5, Lot 10A, generally located at the northeast corner of Northern Lights Boulevard and A Street (Tesoro Northstore d.b.a. **Tesoro 2 Go**) (Case 99-191), Community Planning and Development.
1. Assembly Memorandum No. AM 913-99.
2. Information Memorandum No. AIM 90-99, Municipal Clerk.
3. Information Memorandum No. AIM 93-99, Municipal Clerk. (**addendum**)

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

LEO VON SCHEBEN, Chief Executive Officer of USKH, noted he approached the Assembly about eight months ago regarding the Alaska Liquor Store. There had been several years of problems with street people who were customers of that store. He recalled from 1995 to 1999, the store operated adjacent to the USKH property. During that time, USKH staff experienced increasing numbers of problems with inebriates who trespassed and vandalized USKH property. Mr. Von Scheben believed the inebriates were attracted to the area solely because of Alaska Liquor Store. These persons purchased alcohol at Alaska Liquor Store, and then returned to loiter on USKH property. They exhibited many signs of intoxication, including staggering, slurred speech, loss of consciousness, urination and defecation. These people also trespassed and loitered on other businesses' properties in the area. Mr. Von Scheben noted the proposed liquor store is only a few feet away from the old Alaska Liquor Store location. He did not support allowing another liquor store to locate in the area. He had nothing against the Tesoro company, and USKH does business with that company. However, he did not support selling gasoline and alcohol in the same location. He added since Alaska Liquor Store closed, incidents of drunkenness and disorderly conduct have decreased significantly. He noted 750 people have signed a petition opposing locating another liquor store in this area. He asked the Assembly to deny the proposed conditional use permit.

AUBREY PUTNAM read a statement from her 16-year-old sister. The statement, by Mina Putnam, said she felt allowing another liquor store in the area would lead to more problems in then mid-town area. She lives near a bike path near the intersection of Fireweed and A Street. She often sees inebriates on the bike path and wandering down the street. She felt this situation was not safe for her or her friends. Aubrey also read a statement from her brother, Cody, who also opposed the proposed liquor store. He said since the previous liquor store on A Street was closed, problems with inebriates in the area have decreased significantly. Aubrey concurred with her brother and sisters' statements. She related some encounters with inebriates which scared her very much. Since the previous liquor store closed, there have not been any such problems and she now feels safe walking in her neighborhood.

LAUREL PUTNAM, mother of Aubrey, Mina, Cody and two other children, also described frightening and disturbing experiences with inebriates in the past. Since Alaska Liquor Store closed, problems with inebriates have decreased significantly. She felt her neighborhood has enough challenges without the addition of another liquor store. She urged the Assembly not to grant the proposed conditional use permit.

GWEN MITCHELL and VIRGINIA ROWE, 6th graders from North Star and Rabbit Creek Elementary schools, described an encounter with an inebriated person when they were visiting a Tesoro liquor store.

JOHN CORNEEL, a member of the North Star Elementary School PTA, said his children attend North Star Elementary. He said the PTA Board feels if children feel safe, learning will be more effective. He recounted two incidents recently when inebriated persons required attention by Community Service Patrol because of activities on and near school grounds. Mr. Corneel described the improvements and security measures that have been done by the school officials, PTA and Municipality. He noted the indigent problem is not isolated. These people tend to congregate in areas that offer shelter and inexpensive alcohol. Unfortunately, North Star school grounds offer shelter, and the proposed Tesoro liquor store location is

about one-half mile away from the school. He noted problems have decreased since the Alaska Liquor Store has closed. He asked the Assembly not to grant the proposed conditional use permit.

MYRNA MOULTON, principal of North Star Elementary, expressed concern that teaching staff must patrol the parking lot and stairwell down the bluff to provide protection for students from inebriates. She said it is very frightening for children to walk past aggressive and unconscious inebriates. When the Alaska Liquor Store was still open, the doors to the school had to be locked because of problems with inebriates wandering into the building. She was concerned that the proposed liquor store would increase problems with inebriates. Many of the students' parents both work, and the children are left unsupervised. She did not want them to have to deal with any additional problems. She asked the Assembly to deny the conditional use.

In response to Mr. Meyer, Ms. Moulton explained a few years ago, as part of the Community Council, several local alcohol businesses were visited. Brown Jug Liquor was supportive and agreed not to sell to inebriates. She said they also do not sell the more inexpensive types of alcohol. She has not seen evidence of inebriates purchasing alcohol from Brown Jug, as opposed to the evidence when Alaska Liquor Store was in business.

JEANNIE BROOKING, past president of the North Star PTA, is also a resident of the area. She noted the PTA worked hard to get the Alaska Liquor Store closed. She said students say they feel more safe now that fewer inebriates are in the area. Ms. Brooking added the new school playground was planned to eliminate places for inebriates to sleep. The school's hockey rink was also dismantled, because it provided a place for inebriates to sleep. The stairwell down the hill from the school was normally occupied by several inebriates, and pedestrians had to literally go among them, which is very uncomfortable. School teachers are concerned about the fecal matter, vomit and broken glass in the area. She thanked the Akeela House organization, who sent people, at the request of the PTA, to visit and clean up the area on a weekly basis.

BARBARA JOHNSON, a member of the North Star Community Council, said she shops daily at Carrs Aurora Village, and on the way walks past the Tesoro at Fireweed and Spenard. She reported last summer, after Alaska Liquor Store closed, the inebriates and associated problems moved west toward the Spenard area. Tesoro representatives told Council members the proposed store would be an up-class wine and cheese shop, modeled after the store at Fireweed and Spenard. She pointed out the existing Spenard store sells many types of alcohol for under \$10.

REBECCA SOLBERG, a student at Romig Middle School, recalled some incidents with inebriated persons roaming through her neighborhood. She said since the liquor store on A Street closed, the problems have gone away. She asked the Assembly not to allow another liquor store in the area.

MATT JOHNSON, a resident near the intersection of East 23rd and A Streets, confirmed reports of frequent problems with public inebriates, such as unconsciousness, urination, defecation, fornication and disturbance of the peace. He said the difference between the now-closed Alaska Liquor Store and Brown Jug liquors is location. He pointed out Alaska Liquor and the proposed Tesoro store were/are located directly adjacent to the bike trail connecting the Chester Creek area with midtown. He regularly saw a parade of people walking on the trail one way empty-handed, and later walking the other way laden with a 12-pack of beer and varying sizes of vodka. He felt the location of the facility creates the problems. Mr. Johnson felt the disadvantages of alcohol establishments have been made clear. He questioned what advantages, if any, would result from adding another liquor store in the neighborhood. He felt only the Tesoro company would benefit, and it would be at the cost of the community. He recommended the company take the planned twelve percent of the facility floor space devoted to alcohol sales, and instead devote that space to sales of food and soft drinks, which would be a value to the community.

BILL ABBOTTY, a resident near the intersection of Arctic Boulevard and 20th Avenue, said there has been a large number of inebriates walking around the midtown area. The situation has become a real problem. He encouraged the Assembly to deny the proposed Tesoro conditional use. He felt there were enough liquor stores in the area, and any more will exacerbate the problems. He said things have improved slightly since Alaska Liquor Store closed, but the problem has not ceased entirely. He said the efforts to clean up downtown for the benefit of tourists has only moved the problems into the midtown area.

BRAD HEMLERIGHT, said he found an inebriate asleep on his couch when he returned home one day. His property fronts the bike trail that connects Fireweed and A Street. He said when Alaska Liquor Store was operating, there were huge numbers of inebriates in the area. The change in the neighborhood since the store closed has been profound. He concurred with statements mentioned by previous speakers. He pointed out there have also been problems with tremendous amounts of garbage left by inebriates: alcohol bottles and cans, and refuse left in the camps where the homeless live. He added the difference between Brown Jug liquor store and the stores on A Street is the convenience of the A Street location.

LEE FISHBACK, a Chugiak High School student, said he was present to fulfill a government class assignment. However, he was intrigued about the discussion. After listening to residents' concerns, he felt the issue was personal and community security. He questioned the right of some people to make decisions that would deprive others of this essential right. He noted the previous liquor store deprived residents of their right to safety and security.

BONNIE L. JACK, a resident of the area which would be affected by the proposed conditional use permit, noted there are many package store liquor licenses in the area. She noted on October 6, Tesoro representatives told the Community Council the proposed store would be modeled on the existing Tesoro on Spenard and Fireweed. She pointed out the Spenard Tesoro store sells many types of very inexpensive alcohol, which is directly opposed to the desires of the community. Although Tesoro management committed to remove certain offensive items from the Spenard store on September 3, the items were not removed until October 15, 1999. She felt Tesoro management was not paying attention to the concerns and complaints of area residents. She urged the Assembly to deny the proposed conditional use permit.

DAN COFFEY, representing Tesoro, appeared with Rick Bucy and Walter Crawford from Tesoro. Mr. Coffey felt the objections in the testimony tonight were legitimate, based on residents' experiences when Alaska Liquor Store was in business. He clarified Tesoro was a different operator. He pointed out the community has not accomplished any solutions to the problem of public inebriates. Instead, attention is directed toward liquor stores, which he felt was appropriate. He felt location was not as important as operation in regards to problems. He pointed out there are many examples of establishments

that were operated poorly, and after a management change, problems were eliminated. Also, there are examples of establishments with good operators that do not cause problems even if they are close to schools and in an area with a public inebriate problem. Mr. Coffey noted Tesoro proposed six conditions on the conditional use permit, including an expiration date for the permit. This point has not yet been discussed with the North Star Community Council, but they will meet with Council members soon. Also, the conditions include a proposal to eliminate sales of products that traditionally attract public inebriates, and reduced hours of operations. He said obviously, the company's outreach efforts were not adequate and they wish to speak with more concerned residents to discuss the proposed conditions.

Ms. Clementson noted in the past, there have been many incidents of alcohol thefts at Tesoro stores. She requested a representative to appear before the Assembly to discuss the issue. Since then, she was told by Tesoro employees that they are no longer allowed to report alcohol thefts to police. Since she requested representatives to appear before the Assembly, there have been no police reports. She was concerned instead of addressing the problem of theft, management has merely changed its reporting policy. She asked for comments.

Mr. Bucy of Tesoro said he was a relatively new employee. He explained the group of people running the stores two years ago has been changed. He clarified the policy is to report. He was unsure why Ms. Clementson received the report she did, and asked for more information so he could follow up. He said Tesoro has contracted with Guardian Security to perform security services at the Northern Lights/A Street and Spenard/Fireweed stores, so he did not anticipate a problem with shoplifting at those stores. Mr. Bucy said Tesoro is contesting a police report in the last quarter, that a clerk at the Spenard store sold alcohol to someone who was intoxicated. He said according to video tapes and statements by both clerks on duty, the person in question did not appear to be intoxicated.

In response to Ms. Clementson, Mr. Crawford, marketing manager for Tesoro, said the company would address, on a store-by-store basis, problems with sales of certain types of alcohol or alcohol sold for a certain price. He explained when management heard of a problem at the Fireweed store, they started working on it.

Ms. Fairclough disclosed she had close contact with Mr. Bucy's brother, Gary, although she did not know Mr. Rick Bucy.

In response to Mr. Tesche, Mr. Crawford explained the concept of sales of alcohol with automobile fuel and supplies on the same premises. He said Tesoro was not really an automobile service station, but a convenience store. The customer dictates the inventory; if there was not a demand for a product, it would not be offered.

MICHAEL GRUENSTEIN, of Alaska Premier Exercise Equipment, said the business is located about 200 meters from the proposed conditional use permit location. He said he was very glad that Alaska Liquor Store has closed, because he no longer has to clean human feces from his loading dock on a daily basis. Also, his customers are no longer solicited for money and threatened with physical violence as they approach his store. He looked forward to the Tesoro store because it would be convenient to purchase gasoline, but he was not looking forward to the alcohol sales in the store. He pointed out Tesoro has several stores in Anchorage that do not serve alcohol; he would like the proposed store to conform to the same format. He pointed out inebriates often pool their money, and send a sober friend into a store to purchase larger quantities of alcohol that may cost over \$10. They then share the alcohol among themselves. He stressed the situation has improved greatly since Alaska Liquor Store closed. His customers are more open to visiting his store to purchase equipment. He welcomed another gasoline station, but not more alcohol.

MIKE MITCHELL, a resident of the Spenard/Fireweed area, spoke in opposition to the proposed conditional use permit. He said his concerns were not only losing the gains made by closure of Alaska Liquor Store, but also with the operation of the existing Tesoro store at Fireweed/Spenard. He pointed out the Fireweed/Spenard store has many signs advertising alcohol sales, but none advertising gasoline or food. He was interested in the comments by Tesoro representatives earlier, that the stores are for convenience rather than gasoline. He felt the convenience was to obtain alcohol. Mr. Mitchell addressed the question of what to do about public inebriates. He felt the first thing would be to not make it more convenient to obtain alcohol, and not promote the type of facility that encourages "drive-up" alcohol purchases. He suggested the Assembly test the company, and ensure it can reduce violations at the Spenard/Fireweed store before granting the proposed conditional use, if they were considering granting it. He urged the Assembly to deny the permit.

RICK SOLBERG, a resident near the intersection of Barrow and 23rd Avenue, said his children use duct tape to fashion weapons out of sticks. They run for the "weapons" when inebriates come around his house. He felt allowing or encouraging the drunk-in-public behavior is a poor example for children. He said he has experienced all the events mentioned by previous speakers, including public fornication and defecation, people sleeping in his vehicles and entering his home. He said the Assembly has an opportunity to take a stand to stop the problem by refusing to allow the proposed liquor store. He urged them to deny proposed permit.

TOM MCGRATH noted Spenard Community Council area has 27 percent of the total liquor licenses in Anchorage. He pointed out the proposed store would be using an existing license. The proposed license would have a lot of restrictions; the existing license has no restrictions. He opposed the Alaska Liquor Store operation years ago. He pointed out since then, House Bill 446 passed, which give the right to abate properties that do not operate properly. Also, House Bill 69 passed. He heard an enabling ordinance would be going before the Assembly soon, which would give them leverage against license operators who do not operate responsibly. He felt these tools will help. Mr. McGrath asked the Assembly add another item to the list of proposed conditions: that the operator use the Municipal law which allows operators to fine people \$1,000 in civil court if they purchase alcohol illegally. Brown Jug and Chilkoot Charlie's use that law and have had very good results. He suggested a good proactive measure to discourage inebriates is to clear vacant lots of brush and vegetation to a level of six feet. The lots still look nice, but there is nowhere for people to hide or camp. He said the Municipal land along Arctic between Fireweed and Valley of the Moon Park would benefit from such treatment.

The meeting recessed at 9:35 p.m. and reconvened at 9:50 p.m.

GORDON GLASER, chair of the North Star Community Council, concurred with the concerns voiced earlier by area residents. He noted the community is very fragile, and the impact of the Alaska Liquor Store operation was very traumatic.

The community needs time to recover from that experience. Even if Tesoro was a perfect operator, which it is not, placing another liquor store in this neighborhood would be unwise and untimely. He noted various alcohol abuse studies have identified a “triangle” area where people can eat and sleep, panhandle and obtain alcohol. The Alaska Liquor Store was one leg of that triangle, and now that it has been broken, the community does not want it to be restored. He urged the Assembly to deny the conditional use permit.

SAM ROSE, of the North Star Community Council, felt limiting some availability of alcohol for inebriates is part of the possible solution to the problem. He added inebriates like privacy, which is provided by the nearby greenbelt. He liked Mr. McGrath’s suggestion earlier about removing part of the brush on vacant land, to remove the availability of hiding places. He asked the proposed conditional use permit be denied, because of the location’s proximity to the greenbelt. He pointed out many service stations in town serve food; he suggested Tesoro investigate a partnership with a food vendor.

MARY WOOD, an east Anchorage resident who works in midtown, noted her place of employment has a large, lighted parking lot. The women in her office developed an informal buddy system, so if someone had to work late, they would not have to go to their vehicle alone. This danger was part of the problems associated with the Alaska Liquor Store operation and clientele. She said the improvements since that establishment closed have been significant. She agreed Tesoro did not cause the problems, but she was concerned neighborhood residents would be subjected to the same types of behavior by their potential clients. She urged the Assembly to deny the conditional use permit.

HARRIET DRUMMOND, a homeowner in the North Star Community Council area, said she and her children have picked up hundreds of pounds of trash, beer and wine bottles and cans from the homeless camps behind North Star Elementary. The school staff has tried to protect children from that scary situation for years, and does the same kind of clean-up on school grounds every day. She appreciated the recent action of the Assembly that resulted in the long-awaited closure of Alaska Liquor Store. However, she felt it would be outrageous and disingenuous for the Assembly to approve a conditional use for a liquor store one lot removed from the Alaska Liquor Store location. She urged the Assembly to deny the permit.

BILL BORCHARDT spoke as owner of Arctic Office Products, located across the street from the proposed liquor store. He thanked the Assembly for helping close Alaska Liquor Store. He said the difference to the neighborhood and his business has been significant. He did not see an appreciable difference between the former Alaska Liquor Store and the proposed Tesoro store, because inebriates are smart and motivated enough to get alcohol when they need it. He said the proposed store location was one of the worst for easy supply to inebriates, because of the close proximity to the greenbelt. He also owns rental property adjacent to the Tesoro at the corner of Fireweed and Spenard. Over the last 20 years, he had no problem keeping tenants, because the area is wooded and pleasant. However, over the last six months he lost three tenants, because they did not want to deal with the street people. He felt the reason the street people were present was because of the liquor store. They will congregate wherever alcohol is sold. Among the three affected groups, the residents, the inebriates and Tesoro, none would benefit from approving the conditional use. He noted in Tesoro’s proposal, they would have only seven percent of sales from alcohol. He questioned why Tesoro would want to put area residents through more misery, for only seven percent of revenues.

ROBERT AUTH, chair of the Spenard Community Council, said the Council debated this issue thoroughly at its October 6, 1999 meeting. Comments were similar to the majority of the testimony tonight. The Council voted unanimously to oppose the conditional use permit. Mr. Auth noted Spenard has a very serious problem with inebriates. He pointed out as a member of the Citizens Advisory Committee for the Midtown Trail, he knew the trail along A Street will be upgraded significantly between Fireweed Lane and the Midtown Park. The upgrade will increase the amount of trail users, and he questioned the wisdom of placing a liquor store adjacent which will likely attract inebriates.

SHAWN CLIMMER, owner of North Star Locksmith Service at the intersection of Northern Lights and A Street, discussed the problems with inebriates. He felt the problem must be addressed. Tesoro would be a good neighbor, but alcohol at the store was not a necessity. He could not understand why the company wanted alcohol there, because it would not help his business or that of any business in the area. He felt drive-up liquor convenience stores were not helpful and should not be promoted in Anchorage. He opposed the conditional use permit.

BARBARA WEINIG said she was a frequent visitor to the Federation of Community Councils office at the corner of Fireweed and Cordova. She described the inebriate presence she observed while the Alaska Liquor Store was operating. Since the store closed, the inebriates are not a problem in the area.

LINDA SMITH said she has worked in midtown for about eight years. She said the experience has been very pleasurable since the Alaska Liquor Store closed. She feels safe, and employees no longer have to use the buddy system when walking at lunch breaks or to vehicles in the parking lots. She looked forward to having Tesoro as a neighbor, and the convenience store, but not if they were going to sell alcohol. She felt many people would not patronize the store if they do sell alcohol. She urged the Assembly to deny the proposed conditional use permit.

DON HILIGAS of Hiligas Company Real Estate Management and Marketing said he managed about 1,750,000 square feet in the Anchorage bowl. About 250,000 square feet was located in midtown. He felt the Assembly had an opportunity to set a precedent, by not approving the proposed conditional use. Then, other problem areas could be addressed. He encouraged the Assembly to take this opportunity.

GARTH PARBERRY, co-owner of Alaska Bagel in the Great Alaska Mall, said when he opens the store at 6:00 a.m., panhandlers are already on duty. He said the situation has improved greatly since the Alaska Liquor Store closed, but he felt another liquor store would make the problem return. He pointed out if Tesoro hired security guards, they would only be able to patrol the Tesoro property, and would not have an effect where the real problem would be, at nearby area businesses. Mr. Parberry pointed out students from Steller School wanted to sign the petition he had at his store, because they felt liquor stores contributed to the inebriate problem at their school. He added Tesoro’s proposal was to sell alcohol for about 103 hours per week, but would only have a manager on duty for about 50 hours per week. The remainder of the time, regular employees would be in charge of sales. He asked the Assembly to consider the pain and suffering of the community when making their decision.

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

to extend the public hearing for this item 20 minutes, until
10:45 p.m.

RACE JONES, owner of the CanAd company, explained it was a litter control company. He said when he was a nine-year-old boy, a friend and mentor was killed on Northern Lights Boulevard because of alcohol. He explained the children who testified earlier tonight spoke from fear and pain. He said their experiences with inebriates will remain in their memories for life. He felt it was the responsibility of community leaders to ensure the safety and well-being of citizens. He asked the Assembly to consider legislation that would promote this goal.

GREG SOLSVIG, a resident on East 23rd Avenue, concurred with the testimony about the inebriate activities in the area of the A Street trail. He thanked the Assembly for its actions to close the Alaska Liquor Store. He took a recent trip to Boston, and noticed many of the revolutionary activities took place in pubs and taverns. Alcohol has deep roots in this country, and he did not want to remove it entirely. However, he felt wisdom should be used when making decisions about establishments.

ROSEMARY BORCHARDT said she lives and works in midtown. She said the situation with alcohol establishments and abusers is a war. One has to live with the situation to appreciate it. She asked for the Assembly's help. She supported Tesoro, but opposed the liquor store.

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. Kendall,

to approve AR 99-276.

Mr. Tesche spoke against the motion. He said keeping a package store liquor license in an area which already has four package store licenses, sixteen restaurant/eating place licenses, one club license and ten beverage dispensary licenses would only exacerbate the undue concentration of licenses in the area. Also, the license would be located in an area known to be frequented by public inebriates. Based on historical operation of a package store in the same area, a new store would likely perpetuate the problems associated with public inebriates in the area.

Ms. Fairclough also opposed the resolution. She noted a major goal of the Comprehensive Plan was to create a living environment of the highest possible quality, considering, among other things, the economic social considerations and physical developments. She felt according to the public testimony, this condition would not be met. Ms. Fairclough felt the testimony also indicated the community did not favor having a gas station selling alcohol in their neighborhood. Also, testimony indicates increased noise and environmental pollution would occur from an increased inebriate presence.

Ms. Abney also spoke against the resolution. She felt a community has the right to feel safe. It is apparent from the testimony that most of the residents have not felt safe in their community.

Ms. Von Gemmingen pointed out a lot of hard work was done to close the Alaska Liquor Store on A Street. She felt the wounds to the community was still fresh. The testimony and the written communication she has received indicated residents fears and concerns for their safety. She felt the Assembly should deny this conditional use.

Ms. Clementson pointed out the community opposition was overwhelming. She felt the issue was not one of operation, but availability. She pointed out there is enough availability of alcohol in the area. According to the rules of economics, increased availability leads to competition. This might lead to lower prices and less than perfect operation in order to maintain revenues. She encouraged a "no" vote on the resolution.

Mr. Meyer said he usually votes for liquor licenses based on the management's performance. If a manager works with the Assembly, and tries to solve problems at an establishment, he will usually give them the benefit of the doubt. He agreed the community had to wait too long for the previous store, Alaska Liquor, to be closed. He felt the recently-passed State legislation, House Bill 69, would help. It would allow local governments to place conditions on liquor licenses and enforce those conditions. He would like to give Tesoro the benefit of the doubt, because he felt it would provide good management. The company has agreed to use an existing license, and has agreed to several conditions. However, he felt it was too soon after a major trauma to the community to place another package store in the area. He supported denial of the conditional use. He suggested Tesoro work with the community to resolve concerns, and perhaps try again in the future.

Mr. Sullivan concurred with Mr. Meyer. However, he pointed out the applicant presented many conditions that the Assembly and various community councils have not had time to review. He suggested the resolution be postponed to allow time for the applicant to present and discuss these conditions. He added the existing license has no conditions; it may be beneficial to allow the transfer in order to get the opportunity to place conditions on the license.

Mr. Sullivan moved,
seconded by Mr. Kendall,

to postpone action on AR 99-276 until November 9, 1999.

Mr. Tesche opposed the motion.

Ms. Clementson also opposed the motion. She pointed out members might forget the testimony tonight in three weeks' time.

Question was called on the motion to postpone and it failed:

AYES: Kendall, Sullivan, Tremaine, Meyer.

NAYS: Tesche, Taylor, Wuerch, Fairclough, Abney, Von Gemmingen, Clementson.

Question was called on the motion to approve AR 99-276 and it failed:

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

- K. Ordinance No. AO 99-131, an ordinance amending various sections of Anchorage Municipal Code Title 21 concerning **procedures for obtaining a zoning variance**, variances from the Central Business District bulk regulations, when a zoning variance becomes null and void, procedures for obtaining an administrative variance for minor dimensional errors, projections into required yards, temporary handicap access ramps, and procedures for granting reductions for required parking with building additions and change of land use, Community Planning and Development.
 - 1. Assembly Memorandum No. AM 906-99.

This item was continued until October 26, 1999.

13. BOARD OF ADJUSTMENT/ASSEMBLY APPEALS: None.

14. SPECIAL ORDERS:

- A. Resolution No. AR 99-321, a resolution **declaring that the petition submitted to the Municipal Clerk on September 20, 1999 does not contain "reliable evidence" that the Assembly is malapportioned**, Assemblymembers Wuerch and Kendall. (**LAID ON THE TABLE**)

Mr. Kendall noted Deputy Municipal Attorney Bill Greene reviewed a petition submitted to the Municipal Clerk regarding malapportionment of the Assembly. Mr. Greene found the petition was deficient, in that it did not contain reliable evidence of malapportionment. Mr. Kendall noted the petition cited the single-member Assembly section downtown as a reason for malapportionment. According to the Municipal Charter, reliable evidence of malapportionment must be included with the petition.

Mr. Greene continued by explaining the Charter requires the Assembly determine whether it is malapportioned upon receipt of the Federal decennial census or receipt of a petition containing reliable information that the Assembly is in fact malapportioned. He noted the language at the beginning of the petition did not speak to malapportionment in terms of statistics or resident voters within various Assembly districts. In the absence of any evidence of malapportionment, the Assembly does not have adequate evidence to make a determination of malapportionment. Mr. Greene said although the Charter does not require Assembly action unless it receives reliable evidence, he recommended the Assembly act on the proposed resolution, which is a finding the petition is insufficient because of a lack of evidence.

Mr. Kendall moved, to approve AR 99-321.
seconded by Mr. Tesche,

In response to Ms. Fairclough, Mr. Greene said approval of the resolution would not preclude Assembly actions in response to the Federal 2000 census. He added the Charter requires the Assembly to act after the census.

Mr. Kendall said he requested Mr. Greene to prepare a proposal for Assembly consideration regarding a change to single-member districts. He said another issue to be discussed when that proposal is ready would be a change to the term lengths.

Chairman Wuerch spoke in support of the resolution. In response to Mr. Tesche, he said the Assembly must act on the malapportionment issue within 30 days of receipt of the petition, which approval of this resolution would satisfy. The other recommendations and requests presented by Mr. Terry Martin, who submitted the petition, will be addressed in Mr. Kendall's committee at a later date.

Question was called on the motion to approve AR 99-321 and it passed:

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

15. ASSEMBLY COMMENTS:

Ms. Fairclough moved, to extend the meeting past 11:00 p.m. to hear persons on the
seconded by Ms. Taylor, Cheney Lake issue.
and it was withdrawn,

16. UNFINISHED AGENDA: None.

17. AUDIENCE PARTICIPATION: None.

JASON DENMAN addressed the Cheney Lake issue. He said he was impressed by the Assembly's action earlier to deny a conditional use permit for Tesoro, and hoped the Assembly would listen to Cheney Lake residents the same way it listened to residents in the area affected by the conditional use. He felt the Assembly was obliged to heed the will of their constituents.

NORMAN HOGG pointed out according to a water quality report, there should be no drainage of Cheney Lake, except in the months of May or June. He said the reasons were the effects of bird droppings, oxygen and temperature. The June cutoff date was necessary to avoid exceeding State water quality standards. Mr. Hogg noted the vice presidents of the Anchorage Waterways Council was present to speak to the Assembly last week, but had to leave before testifying because of a family emergency. The vice president would have told the Assembly it is urgent the project be halted until a full examination of all alternatives can be made. He hoped the Assembly would read the report written by this man.

18. EXECUTIVE SESSIONS: None.

19. ADJOURNMENT:

The meeting adjourned at 11:00 p.m.

Chairman

ATTEST:

Municipal Clerk

Date Minutes Approved: January 25, 2000

VC/db

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