

# MUNICIPALITY OF ANCHORAGE

## ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of June 19, 2001

### 1. CALL TO ORDER:

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

### 2. ROLL CALL:

Present: Anna Fairclough, Dan Sullivan, Fay Von Gemmingen, Melinda Taylor, Doug Van Etten, Dick Traini, Dan Kendall, Allan Tesche, Janice Shamberg, Dick Tremaine, Cheryl Clementson.  
Absent: None.

### 3. PLEDGE OF ALLEGIANCE:

The pledge was led by Ms. Clementson.

### 4. MINUTES OF PREVIOUS MEETING:

A. Regular Meeting, - January 23, 2001

Mr. Tesche moved, to approve the minutes of the January 23, 2001 regular  
seconded by Ms. Taylor, meeting.  
and it passed without  
objection,

### 5. MAYOR'S REPORT:

Mayor Wuerch noted the Police Department organization will change soon, to provide for a second Deputy Chief. He announced a community forum on racism will be held on June 27 in the Wilda Marston Theater in the Loussac Library, and encouraged everyone to participate. Lastly, Mayor Wuerch discussed the extreme fire danger situation in Anchorage. He noted many people living on the hillside and in Eagle River have taken advantage of chipping services and the wood lot where citizens can, for no charge, dump trees and brush cleared for fire safety purposes. About 150 acres of public land has been cleared. Mayor Wuerch thanked those who have helped educate the public about fire danger. He said police patrols would be increased, along with public service announcements and other measures, to address the increased danger of fire from fireworks during the upcoming Independence Day holiday. He reminded everyone fireworks use and possession was illegal within the Municipality of Anchorage.

### 6. ADDENDUM TO AGENDA:

Mr. Tremaine moved, to amend the agenda to include the addendum items.  
seconded by Ms. Fairclough,

Chairman Traini read the addendum items.

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

### 7. CONSENT AGENDA:

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

#### A. BID AWARDS:

1. Assembly Memorandum No. AM 536-2001, recommendation of award to Denali HVAC for furnishing **services, repairs and replacement of furnaces and boilers** to the Municipality of Anchorage, Department of Health and Human Service (ITB 21-B051) (NTE \$600,000), Purchasing.
2. Assembly Memorandum No. AM 537-2001, recommendation of award to Safar Construction for **Century Village Water Interties-Patterson Street Intertie, Ryan Court and Patterson Intertie and Hiland Drive Pressure Relief Valve** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility (ITB 21-C022) (\$124,440), Purchasing.
3. Assembly Memorandum No. AM 538-2001, recommendation of award to Pacific Asphalt Marking, Inc. for **2001 Americans with Disabilities Act (ADA) construction services** on an "as needed" basis for the Municipality of Anchorage, Office of Planning, Development and Public Works (ITB 21-C010) (\$250,000), Purchasing.
4. Assembly Memorandum No. AM 539-2001, recommendation of award to Tam Construction for **Glen-Don/Campbell Airstrip Water Upgrade** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility (ITB 21-C018) (\$719,474.25), Purchasing.
5. Assembly Memorandum No. AM 540-2001, recommendation of award to SeaCoast Construction Co., Inc. for **9th Avenue Reconstruction, P Street to L Street and 2001 Water and Sewer**

- Improvements M/N Alley, 9th Avenue to 8th Avenue** for the Municipality of Anchorage, Office of Planning, Development and Public Works (ITB 21-C019) (\$341,380), Purchasing.
6. Assembly Memorandum No. AM 541-2001, recommendation of award to Summit Roads for **Arlene Street Upgrade - Dimond Boulevard to Opal Street** for the Municipality of Anchorage, Office of Planning, Development, and Public Works (ITB 21-C025) (\$2,118,042.80), Purchasing.
  7. Assembly Memorandum No. AM 567-2001, recommendation of award to Swalling Construction Company, Inc. for **columbarium retaining wall**, Anchorage Memorial Park Cemetery for the Municipality of Anchorage, Office of Planning, Development and Public Works (ITB 21-C023) (\$1,251,500), Purchasing. **(addendum)**
  8. Assembly Memorandum No. AM 575-2001, recommendation of award to Summit Roads for **Arctic Boulevard Surface Rehabilitation - Chester Creek to 22nd Avenue** for the Municipality of Anchorage, Office of Planning, Development and Public Works (ITB 21-C027) (\$330,851.10), Purchasing. **(addendum)**
  9. Assembly Memorandum No. AM 576-2001, recommendation of award to Tam Construction, Inc. to **Bonnie Jean Court/Ledora Circle Reconstruction Road Improvement District** or the Municipality of Anchorage, Office of Planning, Development, and Public Works (ITB 21-C026) (\$618,196.07), Purchasing. **(addendum)**
  10. Assembly Memorandum No. AM 579-2001, recommendation of award to Tam Construction Inc. for **Reka Drive Sewer Upgrade Project - Phase IB and II** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility (ITB 21-C028) (\$1,707,810.45), Purchasing. **(addendum)**

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

B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 2001-122, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Title 7, **Purchasing and Contracts and Professional Services**, pertaining to sections 7.10, General Provisions, 7.15, General Contracting Procedures, Section 7.20, Methods of Source Selection and 7.70, Contracts with Nonprofit Service Organizations, Municipal Attorney. *public hearing 7-10-01.*
  - a. Assembly Memorandum No. AM 529-2001.
2. Ordinance No. AO 2001-123, an ordinance amending the Anchorage Municipal Code Section 9.60.120 to include a **payment in lieu of taxes** from the Anchorage Parking Authority to the Municipality of Anchorage, Anchorage Parking Authority. *public hearing 7-10-01.*
  - a. Assembly Memorandum No. AM 533-2001.
3. Resolution No. AR 2001-177, a resolution authorizing the Municipality of Anchorage Traffic Department to enter into a Transfer of Responsibility Agreement (TORA) in the amount of \$144,000 with the State of Alaska, Department of Transportation and Public Facilities for financing the **2001 Anchorage Household Travel Survey** and appropriating these funds to the State Categorical Grants Fund (231), Traffic Department. *public hearing 7-10-01.*
  - a. Assembly Memorandum No. AM 528-2001.
4. Resolution No. AR 2001-185, a resolution of the Municipality of Anchorage appropriating \$122,080 from Areawide General Fund (101) to the Department of Health and Human Services to provide an increase in the municipal operating funds for the **Human Services Matching Grant Program**, Health and Human Services. *public hearing 7-10-01.*
  - a. Assembly Memorandum No. AM 556-2001.
5. Ordinance No. AO 2001-124, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 3.87.050 D. to **allow payment of additional health care premiums for retirees of the Police and Fire Retiree Medical Funding Program** (Trust), Employee Relations. *public hearing 7-10-01. (addendum)*
  - a. Assembly Memorandum No. AM 568-2001.
6. Ordinance No. AO 2001-125, an ordinance amending Anchorage Municipal Code Section 3.20.060 to **allow qualified fire investigators to also serve as special police officers in carrying out their official duties**, Fire Department. *public hearing 7-10-01. (addendum)*
  - a. Assembly Memorandum No. AM 577-2001.
7. Ordinance No. AO 2001-126, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Subsection 2.30.030 I. relating to the **Order of Business at regular Assembly meetings**, Assembly Chair Traini. *public hearing 7-10-01. (addendum)*
  - a. Assembly Memorandum No. AM 578-2001.
8. Ordinance No. AO 2001-127, an ordinance of the Municipality of Anchorage, Alaska, authorizing the issuance of a **Nonrecourse Revenue Bond (United Way of Anchorage)**, of the Municipality in the aggregate principal amount of not to exceed \$900,000; authorizing the execution and delivery of a loan agreement in connection therewith; authorizing the proper officials of the Municipality to do to all things necessary or advisable to consummate the issuance, sale and delivery of such bonds; providing the form of bond and manner of sale of said bond; and providing that the bond be placed with National Bank of Alaska, Finance. *public hearing 7-10-01. (addendum)*

Municipal Manager Harry Kielsing requested this item be considered on the Regular Agenda. See item 8.B.

C. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 2001-188, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Lieutenant Robert E. Griffiths for his 17 years of service** with the Anchorage Police Department, Assemblymember Clementson, Fairclough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine, Van Etten, and Von Gemmingen.

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

2. Resolution No. AR 2001-179, a resolution of the Municipality of Anchorage appropriating the sum of \$33,000 as a grant from the Alaska Department of Environmental Conservation to the State Categorical Grants Fund (231) for the Anchorage Air Pollution Control Agency in the department of Health and Human Services to fund **fine particulate pollution monitoring**, Health and Human Services.
  - a. Assembly Memorandum No. AM 530-2001.
3. Resolution No. AR 2001-180, a resolution of the Municipality of Anchorage providing for the appropriation of \$1,030 from donations to the Miscellaneous Operational Grant Fund (261), Cultural and Recreational Services Department, for the purchase of **library books and materials**.
  - a. Assembly Memorandum No. AM 532-2001.
4. Resolution No. AR 2001-181, a resolution of the Municipality of Anchorage appropriating the sum of \$1,500 from the State of Alaska, Department of Transportation Alaska Highway Safety Office and \$380 as a contribution from the 2001 Cultural and Recreational Services Department Sports and Recreation Operating Budget (161) to the State Categorical Grants Fund (231) for **Municipal Youth At Risk Bike Rodeo and Safety Programs**, Cultural and Recreational Services.
  - a. Assembly Memorandum No. AM 542-2001.
5. Resolution No. AR 2001-182, a resolution of the Municipality of Anchorage providing for the appropriation of \$5,000 from donations to the Miscellaneous Operational Grants Fund (261), Cultural and Recreational Services Department, for the **purchase of library books and materials for the BP Wish List Program**, Cultural and Recreational Services/Library.
  - a. Assembly Memorandum No. AM 543-2001.
6. Resolution No. AR 2001-183, a resolution of the Municipality of Anchorage appropriating \$7,000 of Fund Balance from the Ravenwoods/Bubbling Brook Limited Road Service Area Fund (116) to the Street Maintenance Department 2001 General Operating Budget for **summer maintenance projects**, Office of Planning, Development, and Public Works.
  - a. Assembly Memorandum No. AM 544-2001.
7. Resolution No. AR 2001-184, a resolution of the Municipality of Anchorage appropriating \$65,000 of Fund Balance from the South Goldenview Limited Road Service Area Fund (149) to the Street Maintenance Department 2001 General Operating Budget for **summer maintenance projects**, Office of Planning, Development, and Public Works.
  - a. Assembly Memorandum No. AM 545-2001.
8. Resolution No. AR 2001-186, a resolution of the Municipality of Anchorage appropriating \$22,000 within the Street Maintenance Department, as a contribution from Anchorage Roads and Drainage Fund (141) to the Areawide General Fund (101), and transferring \$12,000 from the Office of Planning, Development, and Public Works Department to the Street Maintenance Department, within the Areawide General Fund (101), to **fully fund two part-time inspection and enforcement officer positions**, Development Services Department.
  - a. Assembly Memorandum No. AM 557-2001.
9. Resolution No. AR 2001-187, a resolution of the Anchorage Municipal Assembly appropriating the sum of \$82,000 from the Anchorage Roads and Drainage Service Area Fund (141) to the Traffic Department to provide funding for the **production of traffic calming public service announcements and the purchase of speed humps**, Assemblymembers Taylor and Van Etten.
  - a. Assembly Memorandum No. AM 565-2001.

Municipal Manager Harry Kieling requested this item be considered on the Regular Agenda. See item 8.C.

D. NEW BUSINESS:

1. Assembly Memorandum No. AM 531-2001, **appointments to the Executive Staff** (William Sheffield - Port Director), Employee Relations.
2. Assembly Memorandum No. AM 558-2001, **K & L Distributors** (License No. 1510) - Transfer of Ownership (stock only) for a General Wholesale Liquor License (Taku/Campbell Community Council), Clerk's Office.
3. Assembly Memorandum No. AM 559-2001, **Godfather's Pizza #2503** (License No. 1682) - 2001/202 Liquor License Renewal for a Restaurant/Eating Place Liquor License (Taku/Campbell and Abbott Loop Community Councils), Clerk's Office.
4. Assembly Memorandum No. AM 560-2001, 2001/2002 Liquor License Renewals: **O'Brady's Burgers & Brew #1989** - Restaurant/Eating Place; **O'Brady's Burgers & Brew #3396** - Beverage Dispensary (Taku/Campbell, Bayshore/Klatt and Scenic Park Community Councils), Clerk's Office.
5. Assembly Memorandum No. AM 561-2001, **China King Restaurant** - New Restaurant/Eating Place Liquor License and Restaurant Designation Permit (Spenard and Taku/Campbell Community Councils), Clerk's Office.
6. Assembly Memorandum No. AM 562-2001, **Ding How Restaurant** - New Restaurant/Eating Place Liquor License and Restaurant Designation Permit (Northeast Community Council), Clerk's Office.
7. Assembly Memorandum No. AM 526-2001, **Anchorage Jail project**, change order No. 29 to contract with Neeser Construction, Inc., project No. 00-32 (\$744,789), Office of Planning, Development & Public Works.
8. Assembly Memorandum No. AM 527-2001, amendment No. 4 to professional services contract with ECI/Hyer, Inc., for providing architectural/engineering services for the design of the **6th Avenue Replacement Jail** for the Municipality of Anchorage, Department of Project Management and Engineering, Project No. 00-32 (\$219,148), Office of Planning, Development & Public Works.

9. Assembly Memorandum No. AM 534-2001, change order No. 2 to purchase order 991623 with Union Bank of California for providing **trust and custody services for the MOA Trust Fund**, Finance.
10. Assembly Memorandum No. AM 546-2001, change order No. 2 to purchase order 202086 with CEF, Inc. dba Sonshine Enterprises for **annual road maintenance services to the South Goldenview Limited Road Service Area** for the Municipality of Anchorage, Street Maintenance Department (\$40,000), Office of Planning, Development, and Public Works.
11. Assembly Memorandum No. AM 547-2001, change order No. 1 to purchase order 201698 with Bering Marine Corporation for providing **bulk salt** to the Municipality of Anchorage, Street Maintenance Department (\$42,378), Purchasing.
12. Assembly Memorandum No. AM 548-2001, recommendation of award to Shepard Bros., Inc. for cooperative purchase of **new paratransit buses** for the Municipality of Anchorage, Public Transportation Department (\$577,500), Purchasing.
13. Assembly Memorandum No. AM 549-2001, change order No. 2 to purchase order 996106 with Axxis Company for **vehicle washing services** to the Municipality of Anchorage, Anchorage Water and Wastewater Utility (\$14,000), Purchasing.
14. Assembly Memorandum No. AM 550-2001, recommendation of award to R&M Consultants, Inc. for providing professional engineering services for the **Girdwood Water Service Expansion PRE-Design Report** for the Municipality of Anchorage, Water and Wastewater Utility (RFP 21-P008) (\$475,000), Purchasing.
15. Assembly Memorandum No. AM 551-2001, recommendation of award to CRW Engineering Group for providing professional engineering services for a **Northern Communities Water and Sewer Extension** for the Municipality of Anchorage, Water and Wastewater Utility (RFP 21-P012) (\$421,670), Purchasing.
16. Assembly Memorandum No. AM 552-2001, recommendation of award to Kinnectic Laboratories, Inc. to conduct the monitoring programs for the National Pollutant Discharge Elimination System (NPDES) Permits: **Asplund, Eagle River, and Girdwood Wastewater Treatment Facilities** for the Municipality of Anchorage, Water and Wastewater Utility (RFP 21-P026) (\$1,268,611), Purchasing.
17. Assembly Memorandum No. AM 553-2001, amendment No. 1 to the contract for professional services with R&M Consultants, Inc. for the **Reka Drive Sanitary Sewer Upgrade Phase IB and II**, in the amount of \$285,000, Water and Wastewater Utility.
18. Assembly Memorandum No. AM 554-2001, contract amendment No. 1 to professional services contract with DOWL Engineers for **Denali Street Reconstruction - 40th Avenue to Fireweed Lane**, PM&E Project No. 99-24 (\$427,500), Office of Planning, Development, and Public Works.
19. Assembly Memorandum No. AM 555-2001, change order No. 2 to purchase order 201579 to Carlos Tree Service Inc. for providing **spruce bark beetle fire mitigation services** through residential brush chipping and hauling services, Fire Department.
20. Assembly Memorandum No. AM 563-2001, **King Street Upgrade, Phase II, 96th Court to Dimond Boulevard**. PM&E Project No. 98-26, Chugach Electric Association, Inc. (CEA) Utility Relocation Costs, Amendment No. 1 (\$75,000), Office of Planning, Development, and Public Works

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

21. Assembly Memorandum No. AM 564-2001, **2001 Audit Plan Revision**, Internal Audit.
22. Assembly Memorandum No. AM 566-2001, **Living with Wildlife in Anchorage**: A Cooperative Planning Effort, Planning Department.
23. Assembly Memorandum No. AM 569-2001, amendment No. 1 to contract 201392 with Alaska Facility Developers, L.L.C. for **Downtown Fire Station design/construction** for the Project Management and Engineering Department, Project No. 00-34 (\$179,381), Office of Planning, Development, and Public Works. **(addendum)**
24. Assembly Memorandum No. AM 570-2001, **Chugiak, Birchwood, Eagle River Rural Road Service Area Board of Supervisors appointments** (Dave Sellie, Carolyn Greiner), Mayor's Office. **(addendum)**
25. Assembly Memorandum No. AM 571-2001, **Chugiak-Eagle River Parks and Recreation Board of Supervisors appointments** (Ray Burger, Rex Shattuck, Alexandra Hill, Ann Newbury), Mayor's Office. **(addendum)**
26. Assembly Memorandum No. AM 572-2001, **Mt. Park Estates #2 Limited Road Service Area Board of Supervisors appointment** (Gary Russell), Mayor's Office. **(addendum)**
27. Assembly Memorandum No. AM 573-2001, **Police and Fire Retirement Board of Trustees appointment** (John Gentile), Mayor's Office. **(addendum)**
28. Assembly Memorandum No. AM 574-2001, **Totem Limited Road Service Area Board of Supervisors appointments** (Patrice Higgins), Mayor's Office. **(addendum)**

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 63-2001, **Anchorage Jail project** background, status and future actions report, Project No. 00-32, Office of Planning, Development and Public Works.
2. Information Memorandum No. AIM 65-2001, waiver of Assembly approval of bid award for the **replacement of dasher boards at the Sullivan Arena** due to time constraints for the manufacture and installation prior to the National Hockey League exhibition games at the Sullivan Arena on September 15 and 16, 2001, and the Assembly's scheduled summer break, Cultural and Recreational Services. **(addendum)**

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

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine.  
NAYS: None.

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

8. REGULAR AGENDA:

A. BID AWARDS:

1. Assembly Memorandum No. AM 579-2001, recommendation of award to Tam Construction Inc. for **Reka Drive Sewer Upgrade Project - Phase IB and II** for the Municipality of Anchorage, Anchorage Water and Wastewater Utility (ITB 21-C028) (\$1,707,810.45), Purchasing. **(addendum)**

Mr. Tremaine moved, to approve AM 579-2001.  
seconded by Mr. Tesche,

In response to Mr. Tremaine, Purchasing Officer Bart Mauldin explained why this item was submitted with the addendum. He said the bid for the project opened June 14, 2001 and there was a large variation in the amounts of the bids. It took time to validate the bids. This project, among others of this type, are facing tight time frames for completion during the construction season, so they are submitted to the Assembly as soon as possible.

Question was called on the motion to approve AM 579-2001 and it passed without objection.

B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 2001-127, an ordinance of the Municipality of Anchorage, Alaska, authorizing the issuance of a **Nonrecourse Revenue Bond (United Way of Anchorage)**, of the Municipality in the aggregate principal amount of not to exceed \$900,000; authorizing the execution and delivery of a loan agreement in connection therewith; authorizing the proper officials of the Municipality to do to all things necessary or advisable to consummate the issuance, sale and delivery of such bonds; providing the form of bond and manner of sale of said bond; and providing that the bond be placed with National Bank of Alaska, Finance. *public hearing 7-10-01.* **(addendum)**

Municipal Manager Harry Kieling noted only the title of the ordinance was currently available.

Mr. Kendall, Ms. Fairclough and Mr. Tesche joined in introducing this ordinance. The public hearing was scheduled for July 10, 2001.

C. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 2001-188, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Lieutenant Robert E. Griffiths for his 17 years of service** with the Anchorage Police Department, Assemblymember Clementson, Fairclough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine, Van Etten, and Von Gemmingen.

Mr. Tesche moved, to approve AR 2001-188.  
seconded by Ms. Von Gemmingen,  
and it passed without  
objection,

Mr. Sullivan read the resolution.

Lieutenant Robert E. Griffiths said he has had an enjoyable and fruitful career with the Anchorage Police Department, which has prepared him for his next law enforcement career as the Director of the National Institute of Justice’s National Law Enforcement and Corrections Technology Center in Anchorage.

2. Resolution No. AR 2001-187, a resolution of the Anchorage Municipal Assembly appropriating the sum of \$82,000 from the Anchorage Roads and Drainage Service Area Fund (141) to the Traffic Department to provide funding for the **production of traffic calming public service announcements and the purchase of speed humps**, Assemblymembers Taylor and Van Etten.
  - a. Assembly Memorandum No. AM 565-2001.

Mr. Van Etten moved, to approve AR 2001-187.  
seconded by Mr. Tesche,  
and it passed without  
objection,

Mr. Dave Mumford, Traffic Engineering Department, requested a change to the resolution to allow up to \$10,000 of the funding to be used for operational costs for installation of the speed humps.

In response to Mr. Sullivan, Mr. Mumford said there has not been any additional funding since the original purchase of the speed humps.

In response to Ms. Von Gemmingen, Mr. Mumford said the speed humps cost between \$3,500 and \$3,700 each, including shipping. It will take four to six weeks to receive the speed humps once they are ordered.

Ms. Taylor felt the entire allocation should go to the speed humps and the media campaign. She would be happy to request additional money in the future for installation. She suggested painting the speed humps another color so they would be more visible.

In response to Ms. Shamberg, Mr. Mumford said the installation and removal cost for a speed hump was between \$500 and \$600 each.

Mr. Campbell said they would order the speed humps if the approval went forward. They would not be installed this season unless money was put into the operational side. The cost of installation and removal would be added to the budget for each season.

In response to Ms. Clementson, the Administration said they would check on the fund balance to see where it stands.

Mr. Van Etten said Trajen Langdon and other well-known personalities in the community have agreed to be part of the promotional campaign. The plan is to have public service announcements as well as bus signs. The public service announcements can be used this year as well as subsequent years.

Question was called on the motion to approve AR 2001-187 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Kendall, Tesche, Shamberg, Tremaine, Clementson.  
NAYS: Traini.

Mayor Wuerch introduced Bill Sheffield, the new director of the Port of Anchorage.

- D. NEW BUSINESS:
1. Assembly Memorandum No. AM 563-2001, King Street Upgrade, Phase II, 96th Court to Dimond Boulevard. PM&E Project No. 98-26, Chugach Electric Association, Inc. (CEA) Utility Relocation Costs, Amendment No. 1 (\$75,000), Office of Planning, Development, and Public Works

Ms. Fairclough moved, to approve AM 563-2001.  
seconded by Mr. Tesche,  
and it passed without  
objection,

In response to Ms. Fairclough, Municipal Engineer Howard Holtan said they had a contract for the reconstruction of the final gravel portion of King Street from 96<sup>th</sup> Court to Dimond. Last fall an agreement was negotiated for the relocation of the conflicting facilities, but the replacement of the conductor was not included. Chugach Electric refuses to go forward with the relocation unless relocation costs are reimbursed.

In response to Ms. Fairclough, Mr. Holton said they used a detailed process to determine the exact amount to be reimbursed. The exact amount is still under negotiation. It will be approximately \$75,000, which is a fair price.

Mayor Wuerch reviewed those people appointed to the board and commissions. He thanked all those appointed for helping our community to govern itself better.

- E. INFORMATION AND REPORTS: None.
- Resolution No. AR 2001-189, a resolution appropriating \$50,000 from Areawide General Fund Balance 0101 to the Department of Law to fund **legal research, investigation, representation and action to defend and advance Assembly and Mayoral recommendations for the State's decennial reapportionment plan**, Legal Department. **(LAID ON THE TABLE)**
1. Assembly Memorandum No. AM 580-2001.

Mayor Wuerch moved, to approve AR 2001-189.  
seconded by Mr. Sullivan,

(Clerk's Note: For discussion and action on this item, see 14. Special Orders.)

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

- A. Assembly Memorandum No. AM 465-2001, Zoning Board of Examiners and Appeals (Burke Wick), Mayor's Office.  
(POSTPONED FROM 5-22-01 AND 6-5-01)

Chairman Traini gave the history of the memorandum and noted there was no motion pending.

Mr. Kendall moved, to approve AM 465-2001.  
seconded by Mr. Sullivan,  
and it passed without  
objection,

- B. Resolution No. AR 2001-80, a resolution of the Anchorage Municipal Assembly **empanelling a special citizens task force to review and recommend any needed improvements to existing municipal building, fire, and life safety codes**, Assemblymember Tesche.
1. Assembly Memorandum No. AM 271-2001, Municipal Manager.  
(POSTPONED FROM 3-13-01 AND 3-20-01)

Chairman Traini gave the history of the resolution and noted there was no motion pending.

Mr. Tesche moved, to approve AR 2001-80,  
seconded by Ms. Taylor,

Mr. Tesche said his intent in proposing this resolution was not to replicate the long-standing process in the Municipality for routine code review and updating. The intent was to empanel a citizens' management audit of our building safety function to provide recommendations on making services as user-friendly and pro-development as possible. He suggested reviewing customer service orientation of building safety to ensure the "best practices" model is followed, remove unnecessary obstacles in current codes to new technology, reduce delays of permit review, inspections and approvals, and review the consistency of code enforcement. He was not criticizing the dedicated Municipal employees in the Public Works Department, but challenging us all to review this vital function to ensure we are leading the nation in a proactive, pro-development and competent building safety division. The panel would have the best in Anchorage review this function for the Legislative and Executive branches to provide recommendations on legislative or administrative actions.

Office of Planning, Development and Public Works Director Craig Campbell requested that no action be taken on this resolution tonight. Last year 11 committees started reviewing the building codes. In the late summer or early fall those committees' recommendations will be brought to the Assembly and there could be significant changes in current law proposed. A "lean government" consultant is also reviewing department activities.

Mr. Mabry said codes were updated on a three-year cycle. The new 2000 codes were received early in 2000. In August, 11 committees were setup to start a review process of the new codes under the purview of the Building Board. There were committees on accessibility, architecture, elevator, energy, fire, mechanical plumbing, residential structural and a few others. They go through each of the codes and review them. The committees are made up of private sector architects, engineers, contractors and private citizens and are chaired by a member of the Building Board. All of the committees, except one, have completed their reviews. All of the meetings have been open to the public and posted to the Building Safety website. The staff will incorporate their recommendations into the necessary codes. It will go to the Municipal departments for review and then be presented to the Assembly for adoption in August or September.

Mr. Campbell felt they were in the middle of a process that would provide the Assembly with valuable information to review. He requested that no action be taken on this resolution until October.

Mr. Tesche said the purpose of the resolution was to look at the entire building and safety function, not just the technical details of the fire and life safety codes. Mr. Tesche felt the best way to review these issues would be with input from the people affected by the way the municipality administers codes, which would be builders, tradespeople and craftspeople in the community.

Mr. Campbell said the goal of the Administration was to look at the process and evaluate how they were doing business. They do not oppose citizens having the right to participate, but they want to provide them with more information.

Mr. Kendall felt they should follow the procedure they used with the Fire Department and bring in professionals to review the process.

Mr. Tesche said he wanted the message from the Assembly to be that they care about development, responsible economic growth in the community and that they want progress made in this area.

Mr. Tesche moved, to postpone the action on AR 2001-80 to July 10, 2001.  
seconded by Ms. Fairclough,

Mr. Kendall moved, a substitute motion to postpone AR 2001-80 to September 25,  
seconded by Mr. Sullivan, 2001.

Question was called on whether to substitute Mr. Kendall's motion and it passed with Mr. Tesche objecting.

Mr. Tesche moved, a substitute the motion to postpone AR 2001-80 to July 24,  
seconded by Mr. Van Etten, 2001.

Mr. Kendall said the Public Works Department was very busy at this time of year and he did not feel there was adequate time to review the changes before July 24, 2001.

Mr. Van Etten felt that if they passed the resolution in a timely manner, they would be ready to take action as soon as the building season slowed down and the development people were available to serve on the committees. He supported taking action on the resolution on July 24, 2001.

In response to Ms. Von Gemmingen, Mr. Campbell said KPMG would be introducing to the Assembly and the Administration the lean government approach used in other locations. A firm will be selected to implement a revised process in the July/August timeframe. He pointed out that he was not arguing with Mr. Tesche's motion, but asking for time to bring forward solid evidence to show what lean government can produce and then determine how to proceed. He felt the short timeframe would not work to the benefit of accomplishing that goal. He recommended approval of the September date proposed by Mr. Kendall.

Question was called on Mr. Tesche’s motion to substitute and it failed:

AYES: Taylor, Van Etten, Tesche, Shamberg, Tremaine.  
NAYS: Fairclough, Sullivan, Von Gemmingen, Traini, Kendall, Clementson.

Question was called on the motion to postpone AR 2001-80 to September 25 and it passed with Ms. Clementson objecting.

- C. Ordinance No. AO 2000-157, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Subsection 21.20.120 B. related to **Assembly approval of zoning map amendments** (Planning and Zoning Commission Case No. 2000-231), Assemblymembers Tremaine, Abney, and Tesche.  
1. Assembly Memorandum No. AM 358-2001.  
(CARRIED OVER FROM 5-15-01; POSTPONED FROM 5-22-01)

Chairman Traini gave the history of the ordinance and noted there were no motions pending.

Mr. Tremaine moved, to adopt AO 2000-157,  
seconded by Mr. Tesche,

Mr. Tremaine said this was an item that strengthens citizen input. The Planning and Zoning Commission have recommended the ordinance and he recommended a yes vote.

Question was called on the motion to approve AO 2000-157 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine, Clementson.  
NAYS: None.

Ms. Fairclough moved, to change the order of the day to consider item 12.B,  
seconded by Mr. Tesche, New Public Hearings.  
and it passed without  
objection,

- Resolution No. AR 2001-166, a resolution of the Anchorage Assembly appropriating \$2,200,000 of anticipated interest earnings from the jail revenue bond investment to the Anchorage Metropolitan Police Service Area Capital Improvement Program fund (451) for costs related to the construction of the **Anchorage Jail**, Office of Planning, Development and Public Works.  
a. Assembly Memorandum No. AM 488-2001.

Chairman Traini 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 2001-166.  
seconded by Mr. Tesche,

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine, Clementson.  
NAYS: None.

Ms. Fairclough thanked everyone who participated in the tour of the jail facility. The project is approximately 76 percent complete. They are running ahead of schedule and within budget. She thanked Neeser Construction for the good job they were doing.

10. **APPEARANCE REQUESTS:** None.

11. **CONTINUED PUBLIC HEARINGS:**

Ms. Von Gemmingen moved, to combine the public hearings on items 11-A and 12-K.  
seconded by Ms. Fairclough,  
and it passed without  
objection,

- A. Ordinance No. AO 2001-91, an ordinance of the Anchorage Municipal Assembly **rescinding AO 2000-161 repealing the tax exemption for cigarettes and other tobacco products** acquired within the Municipality and transported for resale outside the Municipality, Assemblymember Traini.  
1. Assembly Memorandum No. AM 425-2001, repeal of tobacco tax exemption in AMC 12.40. -  
excise tax on cigarettes and tobacco products, Finance.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

- Ordinance No. AO 2001-108, an ordinance repealing Anchorage Ordinance 2000-161, which repealed tobacco tax exemptions, and amending Anchorage Municipal Code Chapter 12.40 to **establish an exemption from taxation for cigarettes and other tobacco products brought into or acquired within the Municipality and transported outside the Municipality for resale**.  
a. Assembly Memorandum No. AM 535-2001.  
b. Information Memorandum No. AIM 64-2001.

Chairman Traini opened the public hearings and asked if anyone wished to speak.

ANNETTE MORELY said she worked for the Alaska Native Health Board and sits on the steering committee for the Alaska Tobacco Alliance. If repealed, this tax on tobacco will make Anchorage a more hospitable environment for selling tobacco to outsiders at reduced costs. It has been proven that when the cost of tobacco is low, consumption remains high, which is why the health of thousands of Alaskans is at stake. Alaska Natives suffer disproportionately from use of this deadly and addictive drug. Most of the businesses that sell tobacco to outsiders have avoided the tax by moving their point of operations out of town. Since they are lobbying to come back to Anchorage, we can assume being based outside of town costs them extra money. Common sense would say that this extra cost must be passed on to the end user by increasing the cost of tobacco. It seems natural to assume that the end result would be similar to that of a tax and consumption would remain decreased. It is clear that the businesses behind this endeavor are focused on keeping the sale of tobacco up. Judging by municipal data on imported cigarettes, millions of dollars in tobacco sales to outsiders are enjoyed by the tobacco industry. This fact, combined with the fact that Anchorage is the most economical hub of distribution, makes it clear why the tobacco industry would like to roll back this tax. The Alliance understands that the Assembly often has hard decisions to make with regard to issues that impact residents. It is hard to understand the logic of repealing this tax after only six months. The Alliance believes Anchorage could use the \$500,000 in tax revenue that has been projected. It seems prudent to wait and see how much money this tax will bring to the city. She commended the Assembly for their efforts over the last 10 years to protect children and workers from the harmful effects of tobacco. After weighing all of the evidence and the facts, she requested a no vote on the ordinance.

MARK SCHOEBEN, general manager of Costco Wholesale, asked that AO 2001-108 be rescinded, which would repeal the tax exemption for cigarettes and other tobacco products sold to businesses located outside the Municipality. Costco opened their first location in Anchorage in 1984 and followed with a second location in 1992. Costco employs 520 people in the Anchorage area. Costco has spent many years developing both a retail and a wholesale trade, including many areas outside of the municipality. Costco originally chose Anchorage because of its regional commerce position in Alaska. The passage of this ordinance places Costco, and other Anchorage based wholesale food operators, at an extreme disadvantage in the regional marketplace and the previous level playing field no longer exists. While tobacco may be a controversial commodity, it is a critical item for food wholesalers that service many small grocery and convenience stores outside of Anchorage. Anchorage businesses have been negatively affected and jobs have been lost. Any benefit of the additional tax benefit is outweighed by the loss of competition and business to Anchorage-based wholesale food operators. The notion that small business customers of Anchorage-based food wholesalers would simply continue to purchase their tobacco in Anchorage was flawed. They were forced to buy it outside the municipality to save \$2.84 a carton. When notice of this ordinance was sent to holders of tax-exempt cards in December of 2000, Costco received notification from each of its accounts located outside the municipality of the financial necessity to move their business purchases outside the Municipality of Anchorage. It was a simple economic decision for these small businesses. The small businesses are not able to compete with substantially higher costs of goods. Costco was forced to open a facility in Wasilla in January of 2001 to service its accounts located outside the municipality. This was done solely to maintain the regional wholesale business developed over many years. This was not done in an effort to avoid paying taxes. This did not change Costco's tax and there has been no tax savings to Costco by this move. The real impact on Costco is the increased cost of operating a third unit in Wasilla, along with moving jobs from Anchorage to Wasilla. In December, Costco addressed members of the Assembly in an effort to get this ordinance rescinded. We were unsuccessful, but learned that the Assemblymembers desired an opportunity to research the issues affecting business. He asked the Assembly to rescind AO 2001-108 in favor of Anchorage-based businesses and their employees.

In response to Ms. Clementson, Mr. Schoeben said the economic impact to Costco was the increased cost of operating a third store in Wasilla and jobs being transferred from Anchorage to Wasilla. Historically, small businesses buy all their goods where they buy their tobacco. Tobacco is the largest dollar amount of an average customer's purchase. There are many companies that can compete with Costco. If the ordinance were repealed, there would be five additional jobs in Anchorage. The Wasilla jobs would be transferred to Anchorage in an attempt to avoid laying off people.

In response to Ms. Shamberg, Mr. Schoeben said Costco only sells wholesale tobacco in Wasilla. There is a lot of commerce between Anchorage and Fairbanks. Several of the businesses in the Valley have contacted freight companies that deliver products from Fairbanks and they would be willing to give them a good rate to deliver products from Samms Club in Fairbanks. The hardship on Costco is operating the facility in Wasilla. The rent on the Costco location in Wasilla is \$1,700 a month, plus additional insurance and other costs that are involved with operating a facility.

In response to Mr. Tremaine, Mr. Schoeben said if the ordinance were repealed, the Wasilla location would be closed. It was never Costco's goal to operate a facility in Wasilla, but they were forced to do that to retain the business they developed. Food items shipped to the Bush come out of Anchorage, but tobacco items are shipped from the Wasilla location. Costco researched the sales tax in Wasilla and found it was substantially lower than \$2.84 a carton for tobacco. Tobacco is purchased directly from the vendor and delivered directly to the Wasilla location. Delivery of product was a step that Costco had to develop, which also adds costs. They would prefer to operate their business without doing deliveries.

In response to Ms. Shamberg, Mr. Schoeben said Costco has seen an increase in tobacco sales in the Valley, but that business was taken from vendors in Anchorage who did not deliver. Tobacco is a critical item they need to carry to service their accounts, but it is not a high profit margin item.

In response to Mr. Sullivan, Mr. Schoeben said the ordinance had not decreased the consumption or sales of tobacco. Costco receives commodities from all over the country and pay the no sales taxes at the point of origin when goods are transported to their depots.

In response to Mr. Van Etten, Mr. Schoeben said a convenience store that spends \$50,000 a week for tobacco, would spend an extra \$4,000 a week to purchase those products in Anchorage.

MICKIE HARRS said she was from the Smoke Free Anchorage Coalition and the American Cancer Society. Tomorrow marks the one-year anniversary of passage of the most important piece of public health policy in the Anchorage, the smoke free Anchorage ordinance. The Assembly's commitment to Anchorage citizens' health is outstanding and made her proud to

live in Anchorage. Tonight we have a chance to look at tobacco and public health from a tax perspective. Tobacco taxes save lives by decreasing consumption. Reducing taxation will increase consumption. Alaska has seen a 13.5 to 17 percent decline in tobacco consumption since state tobacco taxes were implemented in 1997. Several years ago Canada rolled back their taxes and tobacco consumption increased. The consumption increase concerns the Coalition. She encouraged the Assembly to take this opportunity to show its great leadership by actively working to care for all Alaskans. She encouraged the Assembly to vote no on the ordinance.

JERRY BITTNER said he was president and CEO of Alaska Commercial Company, Alaska's oldest retailer, and the number one retailer of groceries and supplies to bush Alaska. This is not a tax issue, but a distribution issue. It is wrong for the Mayor to think that they are going to make money off the bush. In the first quarter of this year, Alaska Commercial Company lost \$2,100,000 in sales and \$73,000 in profit, which contributed to job losses. The ordinance is not going to stop smoking in bush Alaska. Alaska Commercial Company is no longer in the wholesale cigarette business, because it could not afford to move its distribution to another area like others have. If Anchorage continues this type of legislation, the Assembly can say that it drove the oldest retail company in Alaska to move to Seattle.

In response to Mr. Sullivan, Mr. Bittner said Alaska Commercial Company no longer distributes cigarettes, because they cannot afford it. There has not been a decrease in the sale of cigarettes to bush Alaska. Alaska Commercial Company sells cigarettes in their retail stores, but now they have to purchase them from competitors.

In response to Mr. Tremaine, Mr. Bittner said they still sell cigarettes retail in their stores and they buy them from Costco. They lost \$4,500,000 in sales and \$250,000 in profit, in the last six months in cigarette sales. That contradicts what the Costco representative said, because of higher profits in cigarette sales at the retail level. Stores also receive "back-end" money from cigarette companies for displaying their brands. If the ordinance were rescinded, Alaska Commercial Company would get that business back.

In response to Ms. Clementson, Mr. Bittner said Alaska Commercial Company has a wholesale division and a retail division. The wholesale division lost \$2,100,000 in sales and \$73,000 in profit during the first quarter. They still sell cigarettes in their retail store, but they buy them from Costco in Wasilla. Alaska Commercial Company is the oldest retailer in Alaska. They are in many bush communities and are often the only store in town.

In response to Ms. Shamberg, Mr. Bittner said if the ordinance were rescinded, they would probably reclaim the business that they lost.

In response to Ms. Clementson, Mr. Bittner said Alaska Commercial Company just opened a new warehouse, which they may have to close.

In response to Mr. Van Etten, Mr. Bittner said if this type of legislation continues to be passed, Alaska Commercial Company will have to look at leaving Anchorage as their headquarters. They have about 105 employees. They are expecting to grow at a rate of about 30 percent over the next five years.

The meeting recessed at 6:45 p.m. and reconvened at 7.10 p.m.

BOB GALLISUCH said he was vice president of wholesale operations for Alaska Commercial Company. He operates the wholesale division, which is called Frontier Expeditors. Alaska Commercial Company has been in business in Alaska for approximately 167 years. They have 650 employees statewide with 100 employed in Anchorage. Their annual spending throughout the state exceeds \$25,000,000. Their payroll exceeds \$14,000,000. They service rural communities exclusively. They have 24 stores of their own and they service approximately 125 wholesale customers in the rural portions of the state. Alaska Commercial Company considers this tax to be unfair to the citizens and consumers of rural Alaska. The goal of the ordinance was to decrease consumption by increasing tobacco prices. The \$2.84 tax has not increased the costs of tobacco goods in rural Alaska, because the retail stores have gone elsewhere to find that product. This tax impedes his company's ability to do business on a level playing field with competitors, because it lacks the critical mass to leverage a facility outside of the Municipality of Anchorage. The company has not sold tobacco since January 1, but intends to get back into the tobacco business. He contended the ordinance was unfair to his company and its customer base. This is an issue of supply and demand. The customer is looking for best values so they can be competitive with the other retailers in their community.

In response to Ms. Clementson, Mr. Gallisuch said they do not have an alcohol license and do not ship alcohol to the bush. Generally liquor wholesalers deal exclusively in beverage products. Their customers now have to go to other suppliers for their tobacco needs and that could jeopardize their core food and general merchandise sales.

In response to Mr. Tremaine, Mr. Gallisuch said none of their stores are monopolies, but they are the dominant players in those markets. The ownership of Alaska Commercial Company is public. Their parent is Northwest Company of Canada, a public company traded on the Toronto stock exchange. Tobacco is a very expensive market that has a low profit margin, but demand is extremely high. Our goal is not to make choices on behalf of our retailers or their customers, but to supply their needs. The customers look to broad line wholesalers for tobacco products to make ordering easier.

In response to Ms. Shamberg, Mr. Gallisuch said tobacco sales averaged \$31,000 a week, which would be 15-18 percent of their business. They have a plan in place that would take them to a growth rate of 30 percent a year over the next five years. Business is based on competition and being able to supply the products. The company is working to rescind the tax on behalf of its customers. If the tax is not rescinded, the customers may consider looking for another supplier who can service all their needs. Alaska Commercial Company is expected to grow due to good management, market consolidations, changing of market dynamics and other issues. Their business is not affected on the retail level and they are projecting that the bulk of their growth will occur at retail area.

In response to Ms. Clementson, Mr. Gallisuch said they have a wholesale division and they sell to the retail stores that they have in the bush. They do not have the \$2.84 a carton price increase, because they are not buying the products within the municipality. In the first quarter of last year, \$1,000,000 worth of product went to their retail stores.

TOM McGRATH, owner of Frigid North, a wholesale products company, said if the Assembly could pass a tax high enough that nobody would smoke he would support it. But he did not support a tax that is not founded on good business. He resells goods that he buys from approximately 500 vendors around the United States. He does not pay tax on those goods to any taxing area outside of Anchorage. If the point of origin charged him taxes, then he would find another point of origin to order from. Resellers should not pay taxes, but the purchasers of the cigarettes should pay the taxes. Resellers are issued a resale certificate that says they do not have to pay the taxes, because the tax will be charged to somebody else when it is sold. He was concerned that next month the Assembly may decide to tax something that he sells. We are going to end up sending a lot of jobs someplace else and that will be to the disadvantage of businesses in Anchorage.

BRENDA NORTON read a letter from the Commissioners on the Health and Human Services Commission opposing the Assembly ordinance which reinstates the tax exemption on tobacco products purchased in the Municipality of Anchorage for resale elsewhere. The Assembly has distinguished itself as a body concerned about the health of its constituents with the recent implementation of a "clean indoor air" ordinance, which protects residents and visitors from the harmful effects of secondhand smoke. Use of tobacco products is associated with many disabling and serious diseases. Nicotine is an addictive substance. The Centers for Disease Control and Prevention (CDC) and other researchers have found that young adults and lower income populations are most responsive to changes in the price of tobacco products. CDC's results show that there would be a 10 percent reduction in tobacco use by 18-24 year olds with a 28 percent increase in the price of cigarettes. When the State of Alaska raised the tobacco rate in 1997, that revealed an approximate 13 percent decrease in the consumption of cigarettes the year after implementation. Price increases tend to decrease the tobacco use of young people before the habit is set. It is the Commission's opinion that reinstating the tax exemption approves a policy that states we want to limit smoking in our area with little or no regard to the damage it is doing to the youth in rural Alaska. She urged the Assembly to oppose reinstating the tobacco tax exemption for wholesalers who sell those products to customers outside Anchorage.

BARBARA SIMS, a member of the Health and Human Services Commission, suggested that the tax did not prohibit vendors from purchasing tobacco products. It sounds like there is a choice being forced upon purchasers and that is not the case. The Commission's emphasis is on the youth of Alaska. It is a health concern and not a business concern.

MICHELLE CZAJKOWSKI opposed AO 2001-108. This tax has raised at least \$500,000 for Anchorage. She wondered how the Assembly would replace that money in the budget. One man said this tax was making money off the residents of bush Alaska. A retailer who is selling tobacco products to the bush is making millions of dollars off the residents of bush Alaska. Another man said the bush is the lifeblood of their business. Their business kills people in the bush. The bush communities have come to the Alaska Native Health Board to ask for help to stop this by imposing the excise tax. Everybody is saying something different regarding how it affects their businesses financially. She would like to see a sheet of paper showing how many jobs have been lost and how much revenue has been lost. She suggested letting the tax continue for a year or two. In the meantime, let's talk to the Matanuska-Susitna Borough and get them to institute an excise tax. The business people will not move out. They will learn to adjust.

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

Vice Chair Fairclough assumed the chair.

Mr. Traini moved,  
seconded by Mr. Tesche,

to approve AO 2001-108,

Mr. Traini said this was not about smoking or tobacco, but about economics. A few weeks ago he passed out an information sheet showing 21 jobs that were lost, but could return to Anchorage. The amount of tobacco consumed is the same with or without this tax. It is bad business to have a tax at the wholesale level. When this was first instituted, it was projected that \$3,500,000 would be raised in taxes and now that is down to about \$500,000. We heard testimony that all we have done is shift the source of supply to the Matanuska-Susitna Borough. Mr. Traini urged approval of AO 2001-108.

In response to Mr. Tremaine, Municipal Treasurer Dan Moore, said through the month of May, 11.6 million more cigarettes have been subjected to the tax, which equates to about \$165,000 of additional revenue. The municipality expects to reach \$500,000 by the end of the year. This is a seasonal business with heavy purchases in the summer months.

In response to Mr. Tremaine, Cash Management Supervisor Mike Mulane said they have not determined what the increase on the old sales would be for this year. He believed there had been a slight decrease in recent years, which was attributed to the State of Alaska increasing its excise tax, as well as the Municipality of Anchorage. About 93 percent of the tobacco tax revenues collected by Anchorage were attributed to cigarettes and the remaining 7 percent were other tobacco products. The most recent analysis is based on data that has come off the tax returns, as well as data that was required early in May. We are looking at actual trend and movement of the product and apply the tax rate to come up with the tax dollar amount.

In response to Mr. Tremaine, Dan Moore said the distributors have been in a holding pattern waiting for the ordinance to be rescinded. As a result of that, they have taken temporary measures to avoid increasing the cost to the consumers. Until the cost is passed on to the consumer, we will not see a reduction in the demand for the product. Back in 1995 when there were tax increases, people recognized the taxes weren't going down and adjusted their demand downward. The price increases have not hit the end consumer yet. Historically, over a 10-year period the exempt sales for tobacco were \$4,000,000 per year. When the administration did the summary of economic events for the November ordinance, sales were discounted down 25 percent based on the assumption that some of the smaller operators would change their business distribution model and do something different. It was not anticipated that any of the major Anchorage-based distributors would move, but they have. Some very significant players moved, forcing revenue estimates down from \$3,000,000 to \$500,000. That number is very supportable when one looks at the fact that the sales that have occurred historically are of the level of \$4,000,000 per year of revenue not collected. One eighth will remain as a revenue source that was not there under the old exemption program, but is there now. The 11.6 million cigarettes account for the entire group of entities within the Municipality that are licensed to import tobacco. Treasury currently does not have a comparison that shows the change in tax rate as compared to a moving trend regressed against inflation population growth, but one could be done. He suspected that some businesses or customers

who had been acquiring the products exempt of taxes were still acquiring them in the Municipality of Anchorage. That would be the explanation for the increase in the number of the taxed cigarettes. For the months of January-May of 2001, there have been about 90,000,000 fewer cigarettes imported into the city. He suspected they were experiencing a decrease in local consumption, but are actually collecting taxes from consumers that do not reside within the Municipality of Anchorage, but he has no way of proving that. In the past non-Anchorage entities, which would be the exempt cardholders, would present their card at Costco or Samms and receive the tobacco products tax-free here in Anchorage. There are 25 businesses, licensed to operate and distribute tobacco in Anchorage. There were over 200 exempt cardholders from all over the state that used their exemption cards to purchase products.

Ms. Clementson disagreed that this was an economic issue and not a smoking issue. Costco has stated that they moved five jobs to Wasilla. If the ordinance were repealed, those jobs would be moved back to Anchorage. Alaska Commercial Company lost three positions. She pointed out that the people who represented the 21 lost jobs were not present. People who do not show up to make their case probably do not have a case. The financial issue is minimal. There is \$550,000 that we think we are going to collect in taxes. We set our budget based on certain assumptions. We are either going to have to cut the services or we are going to have to take the money from the fund balance, which is dwindling. She felt it was important to take the emotional aspects out of it and look at what was really happening. Things have never been equal between the Municipality of Anchorage and the bush communities. The tax structures are not equal. The residents of the bush do not pay property or school taxes, but Anchorage residents do. She did not feel it was reasonable to tell Anchorage residents that they have to pay taxes, but because the Assembly is willing to allow the sale of tobacco to retail operators in bush communities without requiring taxes that Anchorage will have to take cuts in services.

Vice Chair Fairclough said the public hearing on AO 2001-187 would be continued after taking up the Paradise Inn.

Chair Traini returned to the chair.

Resolution No. AR 2001-178, a resolution **protesting the renewal of the beverage dispensary-tourism liquor license for Spenard Paradise Inn** (License No. 1139); transmitting notification of violation of conditions to the State Alcoholic Beverage Control Board; and finding the continued operation of the licensed premise to be a public nuisance, Assemblymembers Von Gemmingen, Sullivan, Traini, Shamberg, Taylor and Van Etten.

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

WOODY SAUNDERS said he owned a business just down the street from the Paradise Inn. Many businesses in Spenard have tried to clean up the area. The only way to clean up Spenard is for all the business owners to cooperate. The Paradise Inn is supposed to be a tourist hotel, but the main business seems to be the bar.

In response to Ms. Shamberg, Mr. Saunders said he owns a bar and a restaurant in Spenard. People driving by stop and pick up streetwalkers and take them to the Paradise Inn.

In response to Mr. Sullivan, Mr. Saunders said he has been doing business in Spenard for six years. He felt the violations at the Paradise Inn have gotten worse over the last year. It is the owner's responsibility to run a good business. This is bad for the liquor industry, because it gives everyone a bad reputation.

Chair Traini asked if anyone else wished to speak. There was no one. The public hearing was continued until July 24, 2001.

The Assembly then returned to consider item AO 2001-91 and AO 2001-108.

Vice Chair Fairclough assumed the chair.

Mr. Tesche felt the Assembly needed to reflect on the great work done by the Smoke Free Anchorage Coalition and the other organizations that have helped Anchorage go to a new era in workplace safety and convenience for our residents. This is not an issue of reducing smoking, but a business decision. The Assembly was told the tax would generate \$3,000,000 if the exemption was repealed. That has not proven to be the case. The estimate is now at \$500,000 because businesses have relocated out of town. He felt businesses would continue to relocate and \$500,000 was optimistic. There was no data provided to prove that this would have a measurable effect on smoking in the bush. He questioned if it was appropriate for Anchorage to engineer social or health policy for the rest of the state. It is clear that there are some business losses to the Municipality of Anchorage. He felt the ordinance that reinstates the exemption should be passed.

Mr. Sullivan pointed out that in building the budget they took into account certain projected revenues, which are not going to come to fruition. He was concerned that if they eliminated the \$500,000 from the budget that they would have problems funding certain programs. He suggested a compromise of changing the effective date of the ordinance to January 1, 2002, which would leave the tax in place for a fiscal year, not impact the budget, and give the merchants a specific time they can go back into business in Anchorage.

Mr. Sullivan moved,  
seconded by Ms. Von Gemmingen,

to amend the effective date of AO 2001-108 to January 1, 2002.

Mr. Traini said he saw no need to change the date of the ordinance. He felt it was fallacious information concerning the amount of money that would be raised by the tax. It was bad legislation then and it is still bad legislation. Taxing should not be done at the whole level, but at the retail level. He felt the ordinance should be repealed immediately. The businesses will simply relocate to the valley and it will not impact smoking in the bush.

Mayor Wuerch said there was never a revenue stream of \$3,000,000 put into the city budget. The only revenue stream from this tax base that went into the budget was \$550,000. The Administration supports the amendment. The budget was built on the expectation of revenues from the cigarette tax. If this were rescinded immediately, the taxpayers would either see a

substitution or reduction of services to make up for the shortfall. There will be no increase in the taxpayers tax bills this year, because the mill rate has already been set. The general fund balance is dwindling. Those figures will be provided for the July meeting. The municipality has a tight revenue line and a tight budget line and must live within that discipline.

Mr. Tremaine reviewed the tax effects of the exemption cards. There has been a steady uptake over the last three years of close to \$500,000 of tobacco taxes collected annually. Rescinding the exemption has not done anything for us except to reduce the amount of cigarettes passing through Anchorage. Most of that is due to businesses moving their operations out of the Municipality. It appears that the municipality will get close to \$500,000 in extra taxes with or without the tax exemption, but the administration is saying that the tax exemption is bringing in an extra \$500,000. Mr. Tremaine said he has not been given enough information to make an informed decision. He would support the exemption until January 1, 2002 to allow time to make an informed decision about the future.

Mr. Tesche pointed out that the Administration would be offering a separate piece of legislation that would open the door to at least \$50,000 worth of expenditures of the fund balance and possibly more. Therefore, he discounted the financial issue and the predictions of doom and gloom with respect to the finances. He felt this was strictly a business issue and the revenue picture was likely overstated. He opposed the amendment.

Question was called on the amendment to AO 2001-108 to change the effective date to January 1, 2002 and it failed:

AYES: Sullivan, Von Gemmingen, Shamberg, Tremaine, Clementson.

NAYS: Traini, Taylor, Van Etten, Fairclough, Kendall, Tesche.

Ms. Von Gemmingen said she has worked vigorously for many years to oppose smoking. The Assembly prohibited the sale of single cigarettes years ago. They have addressed penalties for under aged smokers. They have moved tobacco to clerk assisted enclosed areas in stores. Effective December 31, 2000, they passed the ordinance restricting or prohibiting smoking in the workplace, which she co-sponsored. She does oppose smoking. This is a distribution issue, but it is also a financial issue for the Municipality.

Ms. Von Gemmingen moved,  
seconded by Mr. Sullivan,

to amend AO 2001-108 to change the effective date to  
October 1, 2001.

AYES: Traini, Sullivan, Von Gemmingen, Fairclough, Tesche, Shamberg, Tremaine, Clementson.

NAYS: Taylor, Van Etten, Kendall.

In response to Ms. Clementson, Municipal Attorney Bill Greenee said that the licensee is required to verify legitimate sales to non-Anchorage entities. They have to keep records and they are subject to audits. If the ordinance is repealed, cards will only be issued to the licensees, which will simplify the process. That will allow the municipality more time for desk audits and field audits.

In response to Ms. Clementson, Mr. Greene said they charged \$50 for the cards, which is enough to handle the administrative cost of ensuring compliance. The licensee will be issued one card to act as an agent for all of their wholesale customers on an individual basis. Some of the larger businesses already maintain records of their customers, including business licenses. The cost on the card was based on hourly wages associated with individuals who administered this function. The amount of time required to issue the card would remain the same and the fee would be the same.

In response to Mr. Tesche, Mr. Greene said AO 2001-161, which repealed the tax exemption, was rescinded by AO 2001-91. The rescission of the repeal did not reinstate the old ordinance. In order to get back to the old ordinance and the exemption, a new ordinance that reinstated the old ordinance was required and some technical changes were made. Who is taxed and for what reason has remained the same.

In response to Mr. Tremaine, Mr. Greene said the administration does not know how the year is going to play out, because they only have five months of data. The \$500,000 in additional revenue estimated in the summary of economic effect for this ordinance is on track.

In response to Mr. Tremaine, Office of Management and Budget Director Cheryl Frasca said the \$500,000 of anticipated revenue from the regular tobacco tax has already been included in our revenues. The other \$550,000 is in addition to that \$500,000.

Mr. Tremaine said they were on track to get the \$500,000 that they budgeted for natural increase of non-exempt tobacco products. Then the exemption was rescinded and it did not add anything to our bottom line. The municipality should be getting \$1,000,000 extra in tax revenues, but will end up with \$500,000. Mr. Tremaine pointed out that the budget was \$500,000 short no matter what the Assembly did.

Mr. Sullivan moved,  
seconded by Mr. Traini,

the previous question.

AYES: Traini, Sullivan, Taylor, Van Etten, Fairclough, Kendall, Tesche, Shamberg.

NAYS: Von Gemmingen, Tremaine, Clementson.

Question was called on the motion to adopt AO 2001-108 as amended and it passed:

AYES: Traini, Sullivan, Von Gemmingen, Taylor, Van Etten, Fairclough, Kendall, Tesche, Shamberg.

NAYS: Tremaine, Clementson.

Mr. Traini moved,  
seconded by Mr. Tesche,

for immediate reconsideration of AO 2001-108  
as amended.

AYES: Von Gemmingen, Fairclough, Kendall, Shamberg, Tremaine, Clementson.

NAYS: Traini, Sullivan, Taylor, Van Etten, Tesche.

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

to postpone AO 2001-108 until July 10, 2001.

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

to postpone AO 2001-91 indefinitely.

Mr. Van Etten moved,  
seconded by Ms. Von Gemmingen,  
and it passed with  
Ms. Fairclough and Ms. Clementson  
objecting,

to change the order of the day to consider items 12.  
L, O, and N under New Public Hearings.

Resolution No. AR 2001-159, a resolution of the Municipality of Anchorage providing for a revision of the  
**Anchorage School District financial plan** for FY 2001-2002, Anchorage School District.

a. Assembly Memorandum No. AM 466-2001.

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

CAROL COMEAU, Superintendent with the Anchorage School District, urged the Assembly to support raising the upper limit of the budget so that the District can spend the additional resources received from the state and the federal governments.

PEGGY ROBINSON, President of the Anchorage School Board, urged the Assembly to support this resolution. The legislative committee worked really hard this year. They appreciated the support from the Assembly in their discussions with the Legislature for increasing the amount of funding for public education.

In response to Mr. Tremaine, Ms. Comeau said they could consider an after school bus for the high school students in Girdwood that would like to participate in sports. They have received some federal funds for 21<sup>st</sup> Century Learning for the middle schools for after school tutorials. They added activity buses for some additional middle schools. Girdwood has not been discussed administratively, but it is something they can consider.

In response to Mr. Kendall, Ms. Comeau said they added activity buses for Mirror Lake, Greuning, Mears and Goldenview Middle Schools. The other middle schools already had activity buses.

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

Ms. Fairclough moved,  
seconded by Mr. Sullivan,

to approve AR 2001-159.

Mayor Wuerch spoke in favor of the resolution. The administration continues to work with the School District to find ways to provide more help and assistance. The municipality continues to take on the responsibility for the swimming pools and not revert that expense to the School District. He encouraged a favorable vote on the resolution.

Question was called on the motion to approve AR 2001-159 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine, Clementson.

NAYS: None.

Ordinance No. AO 2001-107, an ordinance amending Anchorage Municipal Code Chapter 4.60 to **create the Girdwood Valley Advisory Commission** and define its purpose and municipal obligations, Legal Department.

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

Mr. Tremaine moved,  
seconded by Mr. Tesche,

to postpone AO 2001-107 indefinitely.

Mr. Tremaine said this was voted against unanimously by the Lands Board, which is the Community Council for Girdwood, and by the Board of Supervisors. It is the wish of the community of Girdwood that this approach not be taken.

In response to Ms. Von Gemmingen, Mr. Tremaine said the community of Girdwood was not comfortable with the concept of mayoral appointments. The people of Girdwood are united on the fact that they elect a Board of Supervisors, which functions as their Town Council. They would like to have their Board of Supervisors, which are elected in a public vote, to operate as their Community Council.

In response by Ms. Von Gemmingen, Mr. Tremaine said the election would be by all the residents of Girdwood, which is the way it is currently done.

Question was called on the motion to postpone AO 2001-107 indefinitely and it passed:

AYES: Fairclough, Taylor, Van Etten, Traini, Tesche, Shamberg, Tremaine.

NAYS: Sullivan, Von Gemmingen.

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

At this point, the Assembly took up a Special Order.

Ordinance No. AO 2001-128, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code to **allow elected members of the Girdwood service area boards to represent community views and recommendations before the Assembly, Mayor, School Board and other municipal boards, commissions, and agencies**, Assemblymembers Tremaine and Shamberg. (LAID ON THE TABLE)

Mr. Tremaine, Mr. Tesche and Ms. Von Gemmingen joined in introducing this AO 2001-128. The public hearing was scheduled for July 24, 2001.

Ordinance No. AO 2001-102, an ordinance of the Anchorage Municipal Assembly creating the **Northwood Transportation Study Area** and imposing a moratorium on building permits for new development and on redevelopment which creates identified impacts. The moratorium also applies to zoning, site plan, conditional use and platting approvals. The moratorium applies to the area bounded by Spenard Road, International Airport Road, and Minnesota Drive and shall be in effect until November 5, 2001 or until the Municipality adopts a study area report, whichever occurs first, Assemblymembers Sullivan and Von Gemmingen.

1. Assembly Memorandum No. AM 441-2001.

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

DANA STABINOW said she lived a block from where Diamond Parking is planning to build a 1,000-space, long-term parking lot. Children walk to Northwood Elementary School in the dark during the winter and to the four parks, the school playground and the Spenard Recreational Center during the summer. Commuters walk down from Alaska Landings and Terrace on the Lake to catch the People Mover bus at 48<sup>th</sup> Street. Tourists from all the hotels in Spenard walk up Aspen and down Northwood to the parks all summer long looking for moose. Residents on both sides of Northwood walk their dogs, push their strollers, ride their bikes, peddle their skateboards and play ball on these streets. The amount of pedestrians in the neighborhood will soon be increased with the development of a 100 new townhomes on Northwood Drive. This proposed parking lot puts all of these pedestrians at serious risk. The 1,000 drivers parking in the proposed parking lot will use the same routes that pedestrians use. Diamond Parking cannot ride shotgun on every driver speeding to catch a plane or hurrying home after a flight. She asked for time to figure out a solution that will satisfy Diamond's wish to build a parking lot, the Municipality's wish to encourage businesses to build in the Anchorage area and the neighborhood's determination to maintain its safety, beauty and quality of life. Residents understand the drastic nature of the action requested. Many of you have serious ideological concerns with government interfering in the development of private property. As property owners, we share those concerns. Please support the Northwood neighborhood in its efforts to find a solution to this grave problem.

JERRY ANN SIMONIOUS said she was the mother of Whisper Kovach who was killed in a pedestrian/vehicle accident. After the death of her daughter, she worked to pass a law regulating the ice cream trucks. She has since moved into this neighborhood. Her son will be going to Northwood Elementary School in a few years. She does not want to lose another child. She did not want the additional traffic that the parking lot would add to the area. She urged the Assembly to consider how this would impact the community and the children.

In response to Mr. Tremaine, Ms. Simonious said the School district should look at the number of children that are moving into the neighborhood and the potential size of future classrooms. She questioned what the School District was going to do when Northwood Elementary was over crowded and there was no land to expand the school because the land was turned into a parking lot.

In response to Mr. Tremaine, Ms. Simonious thought the land was zoned for residential use, not industrial. The Northwood access would be through the residential area.

Mr. Tremaine said the 1979 rezoning ordinance, in section 2, paragraph O says there should be no direct access to Northwood Street.

ROBERT AUTH vice-chair of the Spenard Community Council and a 14-year resident of the effected area, commented the issue was not just a parking lot. This area has had to deal with major road expansion with the Minnesota and International Airport Road interchange, as well as a proposed Spenard Road and International Airport Road interchange. It has had to deal with proposed railroad expansions crossing Northwood along International Airport Road, which will close every access out of the neighborhood when the railroad is operating. Hotel and trucking operation expansions have brought more traffic to the area. There have been five major insults that will be affecting this neighborhood. The neighborhood is being threatened by poor land use planning and inadequate buffers between commercial, industrial, residential and school uses. It is a misconception that this property is properly zoned for a parking lot. It is not. One-third of the land is zoned R-O. That area was last replatted in 1998 and the Platting Board specifically said that this R-O was to be a buffer between the industrial use and the residents. Every plan that Diamond Parking has proposed includes taking all of that R-O land and turning it into a parking lot. There is a misconception that the neighbors have not been paying attention to this lot. The Community Council has been very active in trying to create a master plan for this area, because there are so many incompatible uses. The Council

came up with its own traffic plan to extend Harding Drive to accommodate all of the commercial and industrial users and not affect Northwood or the neighbors. The Council has never been able to get any action on that because it is in the railroad right-of-way and they have opposed it.

In response to Mr. Sullivan, Mr. Auth said the Spenard Community Council was involved previously in an attempt to have one of those lots donated to the school in a three-way trade back in 1997 and it fell through. The Council and the neighbors would like another kind of accommodation involving a land swap with regard to that particular parcel. The area also needs a master plan.

In response to Ms. Shamberg, Mr. Auth said the parcel of land that Diamond Parking plans to make into a parking lot is split zoned. Part of both of the lots are zoned R-O. Diamond Parking is planning to pave the entire lot. It is a conditional use on the R-O portion, so they would need Planning and Zoning approval. Diamond Parking has already leveled the lot and they plan to use every inch of the R-O zoned land.

Ms. Clementson said part of the reason why the three-way trade never went through with the School District was that initial tests showed the land was contaminated. The School District determined that the only thing they could use it for was parking and hard surface playgrounds. The School District does not have the ability to expand the Northwood School onto this property because of the contamination.

BRENDA SMART said she was against the parking lot. Diamond Parking went in and devastated wetlands with no Army Corps of Engineer's permit. They said they had a permit, but it was a hand-me-down permit for a different project that came with the property. They violated all three of the conditional clauses in the permits. There are a lot of problems with people like Jerry Weaver randomly erasing historic plat notes at the Municipal level. Ms. Smart has been battling for over a year with the Army Corps of Engineers, the developer and the Municipality over a stream on her property that feeds a neighboring pond. The developer wants to fill in the pond and build a four-plex in a designated repeat crime area, which will only create more crack houses. As she digs deeper, she finds that the city is building a pond at Hermit Park to do what the existing pond is already doing to help rejuvenate Fish Creek. She asked that this project be included in the proposed moratorium. This basically boils down to real estate crime and there are no laws being enforced. The Army Corps of Engineers say they are not subject to public opinion. Fish Creek is being rejuvenated. In the mean time, the Corps gives permits and the city is allowing things to happen that are not conducive to Fish Creek rejuvenation. There are a whole lot of wrongs being done here.

In response to Mr. Tremaine, Ms. Smart said Hermit Park was on Willow Street, north of 32<sup>nd</sup> Avenue. Dan Billman, HDR, has been hired by the city and the railroad to literally tear that park out and build a pond to filter the Fish Creek system, which the existing pond is already doing. She has it in writing that state, federal and other levels do not approve of this project. The Army Corps of Engineers has issued the permit with conditional clauses, but there is no enforcement. She requested that this area be included in the building moratorium. Spenard is the Fish Creek drainage. Diamond Parking cleared two different grades of wetlands without any permits and they did it in the middle of the night.

RAMONE SPECKING said until recently, Northwood was an older, established neighborhood located in Spenard. Many residents arrived in the mid to late 1960's and are still living in those homes. Some of the homes have passed onto a second generation. Her caring for her neighborhood stretches back to late 1960s when she was a child and attended Northwood Elementary School. The first thing people say is "I didn't know there was such a nice neighborhood tucked away back here." We are very lucky to live here. The lots are nicely treed and landscaped. The residents care about the neighborhood and live there long-term. This spring heavy equipment was brought in and 12 acres of green space were erased. Small animals took flight. She and her children cried. She has seen moose, rabbits and foxes in her yard. These animals will be forced out further and further and the neighborhood will lose another of its unique qualities. Residents were shocked that right next to the neighborhood and the elementary school, there would soon be 12 acres of long-term parking. She characterized that as a sea of cars in the middle of an established neighborhood. There is also a great impact on Northwood Elementary School. There are a number of dangers that will be imposed on the children including people who are late for their flights or in a hurry to get home, people coming from their flights that may have consumed alcohol and driving their cars, additional traffic, an influx of people who are only thinking of getting to the parking lot and not that they are driving through a residential area. Northwood is a walk-to school with only one crossing guard located on the corner of Aspen and Northwood. The only sidewalk is on the west side of Northwood. Most of the children walk to school on the eastside. They would have to cross Northwood Drive in order to get to the sidewalk, in order to get to this crossing guard, in order to get to school. The principal of Northwood Elementary School said the school was currently only 50 students under capacity. With the addition of 100 new townhomes, they will be over capacity. Her idea is to build forward onto where the playground is currently located and relocate the playground and the parking lot. The school has 4.7 acres of land, but it is supposed to have 15 acres. The principal was very disappointed that Northwood Elementary School did not get the land swap three years ago. This is a once in a lifetime opportunity to secure land for a drastically under serviced school. Asking for a moratorium seems like a drastic action, however the ramifications of allowing this parking lot to be built will be felt as soon as the first customer drives down Northwood Drive.

Ms. Clementson said the municipality could not use public money to buy contaminated land. Girdwood has a problem with a playground on contaminated land, so that may not be a good option.

AL OLSON said he has lived on Aspen Drive for the past 33 years. He and his wife wrote a letter on June 12<sup>th</sup> to all Assemblymembers and he read the letter for the record. The letter asked the Assembly to adopt ordinance AO 2001-102. The proposed moratorium will provide the necessary time to explore and possibly develop a solution that is satisfactory to the Municipality, Diamond Parking and concerned residents in the affected neighborhood. If the parking lot were developed, some concerns about the increased neighborhood traffic could be partially alleviated by the requirement that parking lot traffic use Harding Drive, which would route most of the traffic onto Minnesota Drive and Tudor Road. This could be done as an additional special limitation for conditional use of the R-O zoned portion. When a portion of the property along Northwood Drive was rezoned to R-O SL, the intent was very clear that direct access onto Northwood Drive should be prohibited. The plat had a note that said direct access to Northwood Drive is prohibited. But in the replat, they developed West 51<sup>st</sup> Circle, which provides access to Northwood Drive. Establishment of the cul-de-sac of West 51<sup>st</sup> Circle was a

cleaver method of circumventing the obvious intent of special limitations of the R-O zone to not allow direct access onto Northwood Drive. Recognition of the intent of that special limitation is a fairness issue that should be reconsidered before development commences. A moratorium would provide the opportunity to explore the option of extending Harding Drive.

In response to Mr. Tremaine, Mr. Olson said the original intent was to prohibit access to Northwood and the plat now allows that. There should be some consideration of rerouting traffic to the east and extending Harding Drive. That would also alleviate the traffic from heavy trucks going out Van Buren Drive through a residential neighborhood. Extending Harding Drive would still allow the industrial land on the Diamond Parking plan to be used as a parking lot, but keep the traffic away from Northwood Drive.

In response to Mr. Tremaine, Mr. Olson said it would not be okay to build the parking lot on the I-1 property, because that was not zoned for industrial access on Van Buren.

Ms. Clementson said the Assembly has the plat that Mr. Olson referred to with West 51<sup>st</sup> Circle on it. The previous plat, which was dated in 1974, has West 51<sup>st</sup> already going through. West 51<sup>st</sup> Circle is already a permitted road, but they stopped it and made it into a cul-de-sac. Direct access onto Northwood means they cannot have a driveway from that parcel of land right onto Northwood, but they have to use 51<sup>st</sup> Circle.

In response to Mr. Kendall, Mr. Olson said the property directly across International Airport Road, which the city owns, could be used for long-term parking for the airport. Mr. Olson said they were looking for time to explore other options.

BARBARA NORRIS said she lives in the Northwood neighborhood. Many of the people in the neighborhood have signed the petition that says they will not tolerate this parking lot in their neighborhood. A 1,000 car parking lot does not belong in a residential neighborhood next door to an elementary school. She related the proposed parking lot to the Sullivan Arena parking area. The impact of such an industrial development in the neighborhood would be devastating in terms of traffic, dust, visual impact, lighting, blocking of future school expansion and the stability of the neighborhood. This parking lot represents such a threat that it is viewed as a crisis in the neighborhood. The area around Northwood is a quiet, well-kept neighborhood with long-term homeowners. It would be a complete failure of the planning process to put a parking lot next to this type of neighborhood. This area was originally zoned R, not I. When part of the area was rezoned I, it was assumed that the land next to the school was going to be part of a land trade. No development was proposed on lots 5-A and 5-B at the time it was rezoned. It was expected to be protected by an R-O buffer and by no access to Northwood. The people who did the last platting specifically wrote a letter to the Zoning Commission saying there would be no access to Northwood Drive. The neighborhood is already under stress. It has tolerated increases in the airport, railroad expansion, hotel developments and truck traffic. The neighborhood cannot absorb and tolerate impact of the proposed parking lot. Residents are asking the Assembly to put off voting on the moratorium until July 24, 2001. The problem is solvable and the residents are committed to solving it. We would appreciate your commitment to helping us do so.

CAROL JENSEN said she does not live anywhere near Northwood and International Airport Road, but she still supported this ordinance. The Anchorage Daily News talks about more parking spaces that are going to be built at the airport. The rental car companies are looking at building a second parking garage. The proposed parking lot at Northwood would be in competition with the airport parking expansion that is planned. The Daily News also said that the Assistant Municipal Attorney said that these types of moratoriums usually hold up well in court in other parts of the country. Most developments in Anchorage have to come up with site plans, landscaping, traffic studies, environmental impacts, neighborhood impacts, safety and drainage studies and involve the public in notification and hearings. This project apparently did not have any of these requirements, which is a big concern. She was concerned about the way the developer came in without any notification to the neighbors. Anchorage is turning into a mini-Los Angeles with pavement, choking traffic, big boxes, little boxes, ugly buildings and cluster housing. The loss of wetlands and our wildlife habitat is enormous. She predicted that within 20 years Anchorage would not have any urban wildlife left. Anchorage has been on an accelerated path of development that chops up wildlife habitat and interrupts vital support or movement. This brings about a loss of food, nesting and breeding areas for the wildlife. There is a groundswell of public opposition to continued incompatibly zoned commercial development. This groundswell will eventually become a huge roar if the Assembly doesn't start taking some action. The Municipality needs to take a close look at the zoning for all vacant lands and review the rezoning before it gets out of hand. We need to maintain our wildlife habitat. We need to maintain our neighborhood integrity and the quality of life of the general public.

In response to Mr. Tremaine, Ms. Jensen said she felt the Municipality needed to take a good look at the way lands are zoned, especially when they are adjacent to neighborhoods.

TOM McGRATH said he was the chairperson of the Spenard Community Council. The Spenard Community Council, the Zoning Commission and the Assembly has repeatedly done its work in relation to this parcel of land. The past administrations have not done their work in association with this land. The map dated 1974 shows West 51<sup>st</sup> Street going through and tying into 48<sup>th</sup> Street, between Taft and Harding Streets. Van Buren was never suppose to go through to 48<sup>th</sup> Street. Van Buren was pushed through to 48<sup>th</sup> Street around the time that the School District warehouse was sited on West 48<sup>th</sup> Street. In the late 1970s, part of the land was zoned R-O. In 1996 or 1997, a trade was looked at between the Municipality and the School District. The land contamination has never been proven and the current owners have said there is no contamination. The Spenard Recreation Center, Brotherhood and Sisterhood Park and the Northwood School are all adjacent to this property. He felt the Municipality should enforce the map that was drawn in 1974 so that heavy truck traffic does not go through the middle of a subdivision. The owners have a right to I-1 development, but they do not have a right to put a parking lot on R-O. That will require a variance, which will be taken up before the Assembly at some point. The neighborhood deserves what has been worked out in the map dated 1974.

In response to Mr. Tremaine, Mr. McGrath said this was a very frustrating situation. He has been involved with the Spenard Community Council since the early 1980's. The Assembly passes laws, but they are not enforced. Van Buren was never supposed to go through to 48<sup>th</sup> Avenue, but it was done.

GREG RODERICK said he was with Maple Ridge Development. About three days after he closed on his property, he was notified that a moratorium was on the board for discussion and this directly impacts his project. He sympathizes with the

Spenard Community Council. He believes this is an isolated problem with Diamond Parking and it would justify an isolated solution. He and his partner are currently in the process of designing a 101-unit town home project. This is a class act project and role model for Anchorage. The parcel, Tract 3, is zoned for 180 units. If he has to turn the project over to someone else, the next developer will utilize the land to its fullest and put in 180 units in the form of apartment buildings. There is a housing shortage in Anchorage. Interest rates are low. He is creating 101 homes for 101 families. If the moratorium goes through and his project is put on hold, he would incur greater costs that may cause him to increase the density of his project. He has not heard any adverse discussion directed towards his project. He cautioned the Assembly that it is possible that they are setting something in motion that would set precedence for the rest of Anchorage for other developers.

In response to Mr. Tesche, Mr. Roderick said the site plan for his project was complete. They are currently working on drainage and utilities. They do not have building permits yet and they have not applied for a plan review. They are on the board for their first site plan review.

In response to Ms. Clementson, Mr. Roderick said all the units would be three-bedroom, two and a half bath, two car garage, duplex style townhouses. There will be an association with dues.

In response to Mr. Tremaine, Mr. Roderick said the development would be on the west side of Northwood. They have the D-3 parcel adjacent to Gwennies Restaurant, fronting Spenard Road. They also have a 1-acre parcel immediately to the south of that and a 10-acre parcel, which borders Northwood Park.

In response to Ms. Shamberg, Mr. Roderick said currently all three parcels are raw land. The only lot they are currently developing is Tract 3, which has shrubs and trees on it. The lot has not been clear-cut yet. The lot is currently being treated as a dumpsite by people in the area.

Ms. Fairclough moved, to extend the meeting to midnight to complete the agenda.  
seconded by Ms. Taylor,

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine  
NAYS: None.

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

In response to Mr. Sullivan, Mr. Roderick said he would like to begin construction of the roads in September, but that may not be realistic. He would like to have 20 foundations in for winter development. The site they are developing used to be the Vagabond Trailer Court, which was rezoned in 1991 and it is now zoned R-3, high density.

In response to Mr. Kendall, Mr. Roderick said they were on the list for Planning and Zoning on August 15, but they have been postponed several times.

RANDY VIRGIN said he was the executive director for the Alaska Center for the Environment. Alaska Center for the Environment is currently celebrating its 30<sup>th</sup> year of protecting Alaska's natural environment and community quality of life. This is not a traditional environmental issue, because there is no national wildlife refuge at stake, no endangered species and no national forests. However, Alaska Center for the Environment has always believed in supporting neighborhoods. This is a quality of life issue. The neighborhood the basic unit of our community. This neighborhood has done a great job of getting commitments from Diamond Parking and the city to sit down and deal with the issue. He asked the Assembly to give them the time to work out a win-win solution.

SHEILA HOWE said she was from the Northeast Community Council. This issue concerns her because of the lack of zoning enforcement and the lack of corridors being maintained for wildlife. She worked at Northwood Elementary as a teacher's assistant for a period of time. This is a very good, family oriented neighborhood that has been in Anchorage a long time. Anything the municipality can do to protect that neighborhood with good zoning enforcement should be done. A good compromise is needed too.

Chair Traini asked if anyone else wished to speak. There was no one.

Mr. Sullivan moved, to continue the public hearing on AO 2001-102 until  
seconded by Ms. Clementson, July 24, 2001.  
and it passed without  
objection,

Ms. Clementson asked Mr. Sullivan to take personal responsibility for this issue. If something is not worked out and the Assembly must vote on the moratorium, it will need more information including a map with parcels clearly marked, traffic impacts, a summary of economic effects and what other projects may be impacted.

Mr. Tesche spoke in favor of the postponement, to give the neighborhood and Diamond Parking an opportunity to work together.

In response to Mr. Tesche, the lawyer for Diamond Parking said it was his understanding that the engineers are proceeding with permit applications and conditional use applications, which will be ongoing in the interim. He said he was not in the position to promise, on behalf of his client, that they would not file before July 24. Diamond Parking is interested in working with the community, the Assembly and the City.

Mr. Tesche pointed out that the Municipality could play a role in this and could potentially provide solutions by way of other pieces of land that may be available. He noted that Mr. Campbell has volunteered some of his time to meet with the groups in an effort to work this out.

- B. Ordinance No. AO 2001-87, an ordinance enacting a new Section 25.70.070 authorizing the issue of **conduct orders in certain public areas** to remedy listed violations of the Anchorage Municipal Code and providing for appeals from those orders; amending Section 8.45.010 relating to the crime of trespass and Section 14.20.020 regarding administrative hearings, Assemblymembers Tesche, Traini, and Tremaine.
1. Assembly Memorandum No. AM 317-2001, AO 2001-87; "Conduct Ordinance", Assemblymember Tesche.
  2. Assembly Memorandum No. AM 370-2001, AO 2001-87; Conduct Ordinance - Floor Amendments, Assemblymember Tesche.
- (CARRIED OVER FROM 4-17-01; CONTINUED FROM 4-24-01)

Mr. Tesche moved, to postpone AO 2001-87 indefinitely.  
seconded by Ms. Clementson,

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine, Clementson.

NAYS: None.

## 12. NEW PUBLIC HEARINGS:

- A. Resolution No. AR 2001-165, a resolution of the Municipality of Anchorage appropriating \$1,057,971 as a grant from Alaska Housing Finance Corporation (AHFC) to the State Categorical Grants Fund (231), Health and Human Services Department, for the **Weatherization Assistance Program**.
- a. Assembly Memorandum No. AM 487-2001.

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

Mr. Tesche moved, to approve AR 2001-165.  
seconded by Mr. Tremaine,

AYES: Fairclough, Von Gemmingen, Taylor, Van Etten, Traini, Tesche, Shamberg, Tremaine, Clementson.

NAYS: None.

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

- B. Resolution No. AR 2001-166, a resolution of the Anchorage Assembly appropriating \$2,200,000 of anticipated interest earnings from the jail revenue bond investment to the Anchorage Metropolitan Police Service Area Capital Improvement Program fund (451) for costs related to the construction of the **Anchorage Jail**, Office of Planning, Development and Public Works.
- a. Assembly Memorandum No. AM 488-2001.

This item was considered earlier in the meeting. See item 9.C.

- C. Resolution No. AR 2001-169, a resolution of the Municipality of Anchorage accepting when tendered \$3,450,000 from the Federal Aviation Administration Airport Improvement Program Grant and appropriating said grant and \$230,000 from Airport retained earnings to Merrill Field's Capital Improvement Fund for **primary airport access road, gravel/ski runway and Phase 5A Security Improvement Projects and revising the 2001 Merrill Field Capital Improvement Budget** (581), Merrill Field Airport.
- a. Assembly Memorandum No. AM 509-2001.

Chairman Traini 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 2001-169.  
seconded by Mr. Tesche,

AYES: Fairclough, Von Gemmingen, Taylor, Van Etten, Traini, Tesche, Shamberg, Tremaine, Clementson.

NAYS: None.

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

- D. Resolution No. AR 2001-170, a resolution of the Municipality of Anchorage appropriating \$3,074,166 from the MOA Trust Reserve Fund Balance (731) as a **contribution to the MOA Trust Fund** (730), Finance.
- a. Assembly Memorandum No. AM 510-2001.

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

Ms. Fairclough moved, to adopt AO 2001-170.  
seconded by Ms. Von Gemmingen,

In response to Ms. Taylor, Municipal Treasurer Dan Moore said at the end of 2000, the MOA trust fund was approximately \$144,000,000. It hit a low point in March of \$135,000,000. At the end of May it was \$141,000,000. It is still 2 percent below the year 2000. The market has been very dismal and it is very unpredictable.

In response to Ms. Von Gemmingen, Municipal Treasurer Dan Moore said the 4<sup>th</sup> quarter 2001 dividend was always paid based on the prior year's performance. They try to wait as long as they can before the actually distributing the dividend. If the market does start to rebound, they would have more money available when they do the distribution. The 2001 budget assumes a \$9,400,000 dividend. They are working on a different approach for the dividend, which would be an endowment approach and would be a percentage of the market value.

Question was called on the motion to adopt AO 2001-170 and it passed:

AYES: Fairclough, Von Gemmingen, Taylor, Van Etten, Traini, Tesche, Shamberg,, Clementson.

NAYS: None.

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

- E. Resolution No. AR 2001-176, a resolution of the Municipality of Anchorage appropriating \$550,000 from the Areawide Fund (101) Balance to the Anchorage Fire Department 2001 Operating Budget to provide additional support to the 2001 interagency **spruce bark beetle fire mitigation program**, Chair of the Assembly at the request of the Anchorage Fire Department.
  - a. Assembly Memorandum No. AM 523-2001.

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

Ms. Fairclough moved, to adopt AO 2001-176.  
seconded by Mr. Tremaine,

In response to Ms. Von Gemmingen, Office of Management and Budget Director Cheryl Frasca said they wanted to insure maximum flexibility so the funds could be used both in Girdwood and Eagle River. The recommendation was that the money would come out of the areawide fund as opposed to being limited for use in the fire service area.

In response to Ms. Clementson, Ms. Frasca said they would have the money even if the Assembly repealed the cigarette tax, but the fund balance was decreasing.

Question was called on the motion to approve AO 2001-176 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Tesche, Shamberg, Tremaine.

NAYS: Clementson.

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

- F. Ordinance No. AO 2001-112, an ordinance to approve the **sublease of approximately 8 acres of the Municipality of Anchorage South Tidelands leasehold** to Alaska Railroad Corporation to accommodate the installation of new rail tracks for offloading petroleum products, Legal Department.

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

DONNA RYMOND said she was a resident of Government Hill. She has owned land there for 8-10 years. Two years ago they invested over \$350,000 on a new home that they purchased and renovated. She was opposed to the ordinance as well as the verbiage in section 1 of the ordinance. This ordinance talks about eight acres that will be filled with rubble from the eastside of Government Hill and occupied by additional fuel tanks. It is believed that the Assembly will pass this because Government Hill came to an agreement with Williams, but the agreement was made under pressure. The community members felt that it would be better to get something rather than nothing. The agreement is to remove three tanks in the next three to four years, but residents would like to have 11 to 13 tanks removed. After the Executive Board agreed, Mayor Wuerch had discussions in his office about buying out the houses that are on Delaney Street closest to the tank farms rather than remove the tank farms. The message is that maybe it is a better idea to destroy a neighborhood to create the safety buffer than it is to remove tanks and prevent the building of future tanks. One of the public sector economic effects says that there is a 10-year extension of the north portion. Many of the Government Hill community members would like to see the tank farm be totally moved to the north section of the port. She suggested starting the project north of the port rather than generating more tanks now that will have to be removed later. She was concerned section 1 of the ordinance left negotiations solely to the discretion and authority of Mayor Wuerch. She requested additional time before this issue was voted on.

Vice Chair Fairclough took the chair.

In response to Ms. Clementson, Ms. Rymond said they should remove 11 to 13 tanks, because they are within a safety buffer zone. There is nowhere else in the country where tanks are so close to a community or a neighborhood. They have only agreed to remove three tanks, because they do not want to incur the financial burden of removing all the tanks.

In response to Ms. Shamberg, Ms. Rymond said the tanks were installed before they purchased their property. It was their understanding that no other tanks would be built and some would be removed.

In response to Ms. Shamberg, Ms. Rymond said she felt that the agreement was reached under duress. She has talked to other members of the community and they also feel that agreement was made under duress.

In response to Mr. Traini, Ms. Rymond thought the neighborhood was built in 1939. Government Hill is an historic district and many of the homes in the area have historic status. She was not at the meeting when the agreement was reached with Williams. It was a decision made by the Executive Board and not the whole body of the Community Council.

Ms. Clementson said the ordinance proposed by Mr. Forbes came before the Assembly and it was not approved. It was to require conditional uses and there were extensive and exhaustive meetings over it. This is a resolution to that issue in that it is the beginning of the removal of the tanks that are closest to the Government Hill community and the ones that were of the greatest concern during that time.

In response to Mr. Tesche, Ms. Rymond said she was not aware of any plans by Williams to build new storage tanks east of Ocean Dock Road. Her understanding was that the tanks would be built on the land that will exist once the eight acres are filled in. She attended the last Government Hill Community Council meeting, but she did not remember them giving the Executive Board the authority to make an agreement with Williams. She did not participate in the negotiations between Government Hill and Williams Petroleum. Her knowledge of the agreement being made under duress was secondhand. Duress was not the exact word that was used, but it was implied.

Ms. Taylor said she attended the negotiations between Government Hill and Williams Petroleum. They tried to ensure that either party could walk away at any point during the negotiations. No undue pressure was put on anyone at the negotiation table.

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

Mr. Tesche moved, to adopt AO 2001-112.  
seconded by Mr. Tremaine,

Mr. Tesche said it was his understanding that the Government Hill Community Council was to write a letter in support of the ordinance and the lease to Williams as part of the negotiated settlement.

In response to Mr. Tesche, Mayor Wuerch said there was no plan being formulated to buy out property with or without houses. The issue is the continuing study of the risk and exposure of the homes on Government Hill. The study will not be concluded until January or February of 2002. Susanne DiPietro summarized the Council's concurrence with the ordinance in a statement at the last meeting.

Mr. Tesche said he and Ms. Taylor attended the negotiations between Government Hill and Williams. The positions of both parties were very eloquently stated. He did not feel the agreement had been made under duress. As part of the agreement reached, Williams will proceed with the development of its rail loop and that has some positive benefits for the community. There will be no new tanks constructed east of Ocean Dock Road. There is a commitment that there will be a phased removal of three of the tanks closest to Government Hill. As additional development of tanks might take place in the rail loop area, there will be a further reduction of tanks east of Ocean Dock Road. He felt it would benefit Government Hill to set aside a longstanding controversy in exchange for the certainty of results and the opportunity to move on. He supported the sublease as proposed on AO 2001-112.

Ms. Von Gemmingen said they did receive a letter from the Government Hill Community Council in their information packets.

In response to Mr. Traini, Municipal Attorney Bill Greene said the legal department reviewed the ordinance and there was no problem with the format or composition of the ordinance.

Ms. Clementson said it was her experience with the Government Hill Community Council that if they wanted to be heard they would be heard. She felt that since they had something in writing from the Council supporting the ordinance that it should be approved.

Question was called on the motion to adopt AO 2001-112 and it passed:

AYES: Traini, Sullivan, Von Gemmingen, Taylor, Van Etten, Fairclough, Kendall, Tesche, Shamberg, Clementson.  
NAYS: None.

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

Chairman Traini resumed the chair.

- G. Ordinance No. AO 2001-121, an ordinance amending Anchorage Municipal Code Chapter 3.30 to provide for **alternate working schedules**, Employee Relations.  
a. Assembly Memorandum No. AM 525-2001.

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

Ms. Fairclough moved, to adopt AO 2001-121.  
seconded by Ms. Clementson,

In response to Ms. Clementson, Employee Relations Director David Otto said the ordinance changed the definition of the workweek and he described how the new structure would work. The new workweek will not be imposed on anyone and it will be on a voluntary basis. We do not anticipate that smaller offices would be able participate in this. This is only for executives and non-reps at this point.

In response to Ms. Clementson, Mr. Otto said they would ensure that there was supervisory and delegation to authority on all shifts. AMEA and the other bargaining units are in support of this. He anticipated a large group of AMEA employees will participate on a voluntary basis.

In response to Mr. Kendall, Mr. Otto said the people who work this shift would have every other Friday off.

Question was called on the motion to adopt AO 2001-121 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Shamberg, Tremaine.

NAYS: Clementson.

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

- H. Resolution No. AR 2001-178, a resolution **protesting the renewal of the beverage dispensary-tourism liquor license for Spenard Paradise Inn** (License No. 1139); transmitting notification of violation of conditions to the State Alcoholic Beverage Control Board; and finding the continued operation of the licensed premise to be a public nuisance, Assemblymembers Von Gemmingen, Sullivan, Traini, Shamberg, Taylor and Van Etten.

This item addressed earlier in the meeting. See item 11.A

- I. Ordinance No. AO 2001-120, an ordinance of the Anchorage Assembly reaffirming the Assembly's legislative intent with respect to application of AMC 21.50.320(M) to pole signs, rotating signs, and flashing **signs to be erected in new or reconstructed large retail establishments**, Assemblymember Tesche.

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

DAVE MAVIUS said he was the owner of Signco Quality Signs and the vice president of the Alaska Sign Association. He thanked Ms. Fairclough for proposing the ordinance with the two-week period for them to get some of the signs out of their shops. He thanked Mr. Tesche for understanding that there were some misinterpretations on what was meant by AO 2001-80. He supported ordinance AO 2001-120.

ROBERT CLAUS said he was an executive director for Signage Foundation for Communications Excellence. They have just finished a project with the American Planning Association and the website with the SBA. He reviewed the ordinance and recommended passing this clarification ordinance. He felt the Assembly needed to accelerate their review of the other sign codes immediately.

In response to Mr. Tesche, Mr. Claus said he was from Sherwood, Oregon and he came up specifically for this meeting. The code was essentially a land use document that was adjusted to zoning, but with no consideration for aesthetics or concentration of the signs. He felt Anchorage could improve their sign codes and stay within constitutional guidelines.

SHELIA HOWE commented that signs were to communicate, but when they are cluttered they are distractions, safety hazards and visual pollution. She pointed out some areas in Anchorage that were cluttered with signs. She felt they had made a start in solving this problem and they should continue going in that direction.

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

Mr. Tesche moved, to adopt AO 2001-120.  
seconded by Ms. Fairclough,

Mr. Tesche said this ordinance would simply restate the intent of the Assembly with respect to the prohibitions and regulation of pole signs, rotating signs and flashing signs as stated in AO 2001-80.

Mr. Sullivan thanked the Assembly for the extension at the last meeting which provided the sign industry the opportunity to clear out their inventory and finish their ordering.

Question was called on the motion to adopt AO 2001-120 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Tremaine, Clementson.

NAYS: None.

Ordinance No. AO 2000-97, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Subsection 21.15.005 B. regarding **public hearing notices for Title 21 provisions** (Planning and Zoning Commission Case 2000-121), Assemblymember Sullivan.  
(AMENDED AND APPROVED 6-5-01; VETOED 6-12-01)

Mr. Sullivan moved, to override the veto of AO 2000-97.  
seconded by Ms. Fairclough,

Mr. Sullivan said the intent of extending to 35 days was at the request of every Community Council in Anchorage who felt that the current notification system left them out of the loop. Mr. Campbell provided a memo that indicates there may be a way to increase notification with a 45-day electronic mail notification system. The Federation of Community Councils has not seen this and they have not had a chance to vote on it. There are some Community Council presidents that are not electronic and do not have access to computers. It is his intention that if the veto is overridden to take Mr. Campbell's memo

to the Federation of Community Councils to see if it satisfies their concerns. Then the Assembly can rescind its previous action. The Assembly will not have that opportunity if the veto is not overridden at this time.

Mr. Campbell clarified the memorandum. What the Assembly passed would extend and expand the official public notice process to 35 days prior to an actual date of a meeting occurring for anything in Title 21. What the administration is offering is that whenever a case related to Title 21 is received by the Planning Department an electronic notification will go to the Community Councils. Planning will still do the public notifications required by the code once the cases are calendared. He felt the proposed notice exceeded the expectations of the Community Councils and the Mayor's veto should be sustained.

Mayor Wuerch said this issue started almost a year ago. One of the highest priorities that this Administration tackled when it moved to its web-based information system was notification on platting and zoning issues. That has been online now for some time and it seems to be working very well. The administration is committing to do an e-mail notification, which includes going to the Federation headquarters and they can help to contact those who do not have access to computers. The administration is getting the information out and most Community Councils have a chance to respond. The question is, is this the right message to send to the business community about doing business in Anchorage to deal with a total process rather than continuing to honor the requests of Community Councils for additional time in those few cases where they have not been able to act. In the last five years, it is hard to recall an instance where a Community Council has asked for a delay and not received it. Now we are imposing a delay whether they ask for it or not. He asked the Assembly to rethink the issue and would appreciate them not overriding the veto.

Mr. Tesche pointed out that the memorandum from Mr. Campbell expands the number of days of notice even beyond what the Assembly had voted for. He felt the memorandum was a positive step and so he would not vote to override the Mayor's veto. He pointed out that none of the elected officials present were anti-development, anti-growth or anti-business. We are all working for the same community. We also want our public process to be fair and informative to all of our citizens.

Ms. Fairclough pointed out that not everyone was electronically able. She has one or two Community Councils that are totally offline. She pointed out that Mr. Campbell said they would notify the Community Councils that an application had been received, but that does not give the Community Council an opportunity to respond in any reasonable fashion. There are times that Community Councils just choose not to comment on particular issues, because they have not received adequate notice. She will be voting to override the veto.

Mr. Campbell said the purpose was to make Community Councils aware of Title 21 issues that are coming forward. At that time, they will be able to request the petitioner to come to the presentation. He felt the Community Councils' needs were to know about the case and have a point of contact to call to bring somebody in to represent that case.

Question was called on the motion to override the veto of AO 2000-97 and the veto was sustained:

AYES: Fairclough, Sullivan, Taylor, Van Etten, Shamberg,  
NAYS: Von Gemmingen, Traini, Kendall, Tesche, Clementson.

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

- J. Ordinance No. AO 2001-119, an ordinance of the Municipality of Anchorage, Alaska, authorizing and providing for the borrowing from the State of Alaska Drinking Water Fund of an amount not to exceed \$1,548,450 for the purpose of financing a portion of the costs of the **Loop Water Transmission Main Phase IV** and the **Thunderbird Heights Water Upgrade** projects in the Municipality, and providing for related matters, Water & Wastewater Utility.
  - a. Assembly Memorandum No. AM 494-2001.

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

Mr. Kendall moved, to approve AO 2001-119.  
seconded by Mr. Sullivan,

Question was called on the motion to approve AO 2001-119 and it passed:

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Clementson.  
NAYS: None.

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

- K. Ordinance No. AO 2001-108, an ordinance repealing Anchorage Ordinance 2000-161, which repealed tobacco tax exemptions, and amending Anchorage Municipal Code Chapter 12.40 to **establish an exemption from taxation for cigarettes and other tobacco products brought into or acquired within the Municipality and transported outside the Municipality for resale**.
  - a. Assembly Memorandum No. AM 535-2001.
  - b. Information Memorandum No. AIM 64-2001.

This item was considered earlier in the meeting. See item 11-A.

- L. Resolution No. AR 2001-159, a resolution of the Municipality of Anchorage providing for a revision of the **Anchorage School District financial plan** for FY 2001-2002, Anchorage School District.
  - a. Assembly Memorandum No. AM 466-2001.

This item was considered earlier in the meeting. See item 11-A.

- M. Ordinance No. AO 2001-105, an ordinance amending Anchorage Municipal Code Sections 4.05.040 and 27.20.030 to provide the **continuation of terms for board and commission members pending election or appointment and confirmation of new members to fill vacancies**, Assemblymember Fairclough.

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

Mr. Kendall moved, to adopt AO 2001-105.  
seconded by Ms. Clementson,

AYES: Fairclough, Sullivan, Von Gemmingen, Taylor, Van Etten, Traini, Kendall, Tesche, Shamberg, Clementson.  
NAYS: None.

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

- N. Ordinance No. AO 2001-107, an ordinance amending Anchorage Municipal Code Chapter 4.60 to **create the Girdwood Valley Advisory Commission** and define its purpose and municipal obligations, Legal Department.

This item was considered earlier in the meeting. See item 11-A.

- O. Ordinance No. AO 2001-102, an ordinance of the Anchorage Municipal Assembly creating the **Northwood Transportation Study Area** and imposing a moratorium on building permits for new development and on redevelopment which creates identified impacts. The moratorium also applies to zoning, site plan, conditional use and platting approvals. The moratorium applies to the area bounded by Spenard Road, International Airport Road, and Minnesota Drive and shall be in effect until November 5, 2001 or until the Municipality adopts a study area report, whichever occurs first, Assemblymembers Sullivan and Von Gemmingen.
1. Assembly Memorandum No. AM 441-2001.

This item was considered earlier in the meeting. See item 11-A.

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

Chairman Traini said the Assembly will hold a special meeting to take up the matter of Eagle Crossing from 1:00 to 4:00 p.m. on July 24, 2001.

### 14. SPECIAL ORDERS:

- A. Resolution No. AR 2001-189, a resolution appropriating \$50,000 from Areawide General Fund Balance 0101 to the Department of Law to fund **legal research, investigation, representation and action to defend and advance Assembly and Mayoral recommendations for the State's decennial reapportionment plan**, Legal Department. **(LAID ON THE TABLE)**
1. Assembly Memorandum No. AM 580-2001.

Mr. Kendall said the perception of Anchorage is one of a dominant giant that wants to dominate the whole world and all the little cities have to fight for their survival and identity. The smaller communities have issues that are separate from Anchorage. In this redistricting plan, the perception has been proven true. He believed that Valdez was planning to file a lawsuit. Two important issues were left out of the redistricting plan; Government Hill should be joined to downtown Anchorage and legislative issue should include Point McKenzie and along the Glenn Parks Highway. He felt it was important for them to try to intervene with the courts and remedy this situation.

In response to Mr. Tesche, Mayor Wuerch said this resolution authorizes litigation without any further action. The administration does not have any agreements with other cities as to who might participate in the litigation. Discussions are continuing. It has been difficult to get information from the State Redistricting Board. There are only 30 days to respond to the Board's initial recommendations and the window is closing rapidly. We asked for \$50,000 in case we need to get additional help. First we have to figure out if this is an issue we need to weigh in on. We think there are some very serious flaws in the plan adopted by the board that affects the citizens of Anchorage. The State Constitution states that a voter has to petition the court to challenge the ruling of the board. We need to do some research to determine what is good for Anchorage and share that information with any potential petitioners that come forward.

In response to Mr. Tesche, Municipal Attorney Bill Greene said the most recent case our Supreme Court has had was the Hickel case in 1992. That case pretty clearly states that because of the provisions of the State Constitution, the socioeconomic integration requirements are considered by the Supreme Court to be very strong. There is a very substantial material issue with respect to that based upon the Hickel case. It is premature to say whether Anchorage would prevail or not. But based upon the analysis of the Hickel case and known facts at this point, Anchorage would probably prevail. The administration does not have any single person who is an expert in reapportionment litigation, but does have several attorneys who have a significant background and together we can probably handle it. The Department of Law would not hesitate to ask for help if needed. The attorney's fees in the 1991 litigation were in the multiples of hundreds of thousands of dollars. In the Hickel case, the Matanuska-Susitna Borough was a prime party, represented by counsel, and they remained throughout the entire case. He was not sure he could answer whether the plaintiff or the municipality would fund the litigation. The municipality would be reluctant to fund any litigation on behalf of a private person, but could share information with them. There is the possible risk that the municipality would have to pay court costs if it did not prevail. The cost for the Municipality of Anchorage will be much lower than for any other municipality, because Anchorage is the only municipality

that has the internal resources and planning department necessary to do the mechanics and statistical analysis in-house. He was not aware of any cost sharing agreement with other municipalities.

Ms. Von Gemmingen said Mr. Tesche spoke eloquently about how important it was to connect Government Hill with the downtown area. This plan cuts Government Hill off from the downtown area and connects it to the Fort Richardson and Elemendorf military bases. She was concerned that very few people who are connected with the military bases vote and that leaves a small body of people who can run for that seat and represent that area. Mr. Tremaine spoke about not going farther south than Whittier or Hope so that his area, South Anchorage, was protected and suggested the districts go north on the Glenn and Parks Highways to complete the point four seat on the House of Representatives. She felt they needed to stick by what the Assembly decided and support this.

In response to Ms. Taylor, Mayor Wuerch said the cities and organizations that he has spoken to about the lawsuit include Delta, Fairbanks, Valdez, the Aleutian Borough, the Mat-Su Borough, the Kenai Peninsula Borough, and one Native Corporation.

Mayor Wuerch moved, the previous question.  
seconded by Mr. Kendall,

AYES: Fairclough, Sullivan, Von Gemmingen, Kendall, Clementson.

NAYS: Taylor, Van Etten, Traini, Tesche, Shamberg.

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

In response to Ms. Taylor, Mayor Wuerch said the upper limit of what they would intend to spend would be \$50,000. This is a contingency amount in case the Department of Law needs expertise that it does not have.

In response to Ms. Taylor, Mr. Greene said the action of submitting the maps before coming before the Assembly would not have any effect on any future legal cases. The focus will be on the Redistricting Board’s maps.

In response to Ms. Taylor, Mayor Wuerch said the Matanuska-Susitna Borough had a unanimous vote of its Assembly to become a part of the lawsuit, but some of them may be changing their minds.

(Clerk's Note: See minutes of July 10, 2001 for further discussion of this item.)

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

The meeting adjourned at 12:00 a.m.

\_\_\_\_\_  
Chairman

ATTEST:

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

Date Minutes Approved: November 13 , 2001

LF/Kron/lf

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