

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of May 22, 2001

1. CALL TO ORDER:

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

2. ROLL CALL:

Present: Dan Sullivan, Dick Tremaine, Janice Shamberg, Dan Kendall, Allan Tesche, Fay Von Gemmingen, Dick Traini, Anna Fairclough, Melinda Taylor, Doug Van Etten, Cheryl Clementson.

Absent: None.

3. PLEDGE OF ALLEGIANCE:

The pledge was led by Ms. Fairclough.

4. MINUTES OF PREVIOUS MEETING: None.

5. MAYOR'S REPORT:

Mayor Wuerch announced, as of June, there were approximately 600 volunteers who worked on or contributed to the Midtown Park, including British Petroleum, the Cuddy family and Wilder Construction. He also noted a dedication ceremony for the new Veteran’s statue on the Delaney Park Strip would be held on Memorial Day. Mayor Wuerch explained the new statue was bronze and depicted a World War II-era rifleman, but it commemorates all Americans who have served in the Military. The statue is the property of the Municipality, courtesy of a group of volunteers led by former prisoner of war Bob Bowen. He added the AFL-CIO membership helped raise money for the statue.

6. ADDENDUM TO AGENDA:

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

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

A. BID AWARDS: None.

B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

- 1. Ordinance No. AO 2001-103, an ordinance of the Municipality of Anchorage, Alaska, authorizing and providing for the borrowing from the State of Alaska Clean Water Fund of an amount not to exceed \$3,858,570 for the purpose of financing a portion of the costs of the Chester Creek Trunk Project in the Municipality, and providing for related matters, Water and Wastewater Utility. public hearing 6-5-01.
  - a. Assembly Memorandum No. AM 442-2001.
- 2. Ordinance No. AO 2001-104, an ordinance of the Anchorage Municipal Assembly extending the existing lease between the Municipality of Anchorage as lessor and Totem Ocean Trailer Express, Inc. as lessee on Transit Area "D" Port of Anchorage Subdivision pursuant to an exercised renewal option by Totem Ocean Trailer Express, Inc., Port of Anchorage. public hearing 6-5-01.
  - a. Assembly Memorandum No. AM 443-2001.
- 3. Ordinance No. AO 2001-106, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Section 3.87.030.D. to provide appropriate job classification for current plan administrator of the Police and Fire Retiree Medical Funding Program, Employee Relations. public hearing 6-5-01.
  - a. Assembly Memorandum No. AM 463-2001.
- 4. 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. public hearing 6-19-01.

Ms. Shamberg requested this item be considered on the Regular Agenda. See item 8.B.

- 5. 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

1                    **establish an exemption from taxation for cigarettes and other tobacco products brought into**  
2                    **or acquired within the Municipality and transported outside the Municipality for resale.**

3                    public hearing 6-19-01.

- 4                    6.        Ordinance No. AO 2001-109, an ordinance amending Anchorage Municipal Ordinance AO 2001-  
5                    80 by **changing the effective date on the prohibition of pole signs for large retail**  
6                    **establishments**, Assemblymember Kendall. public hearing 6-5-01. (**addendum**)

7  
8                    Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.B.

- 9  
10                  7.        Ordinance No. AO 2001-110, an ordinance of the Anchorage Municipal Assembly amending  
11                  Anchorage Municipal Code Subsection 21.50.320.M., provided for in AO 2001-80 As Amended  
12                  and approved by the Assembly on May 8, 2001, regarding **exterior signs for large retail**  
13                  **establishments**, Assemblymembers Fairclough and Kendall. public hearing 8-14-01. (**addendum**)  
14                  a.        Assembly Memorandum No. AM 468-2001.

15  
16                  Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.B.

- 17  
18                  8.        Ordinance No. AO 2001-111, an ordinance of the Anchorage Municipal Assembly amending  
19                  Anchorage Municipal Ordinance AO 2001-80 as amended and approved May 8, 2001, by **changing**  
20                  **the effective date on the prohibition of pole signs, rotating signs and flashing signs for large**  
21                  **retail establishments**, Assembly Vice-Chair Fairclough. public hearing 6-5-01. (**addendum**)  
22                  a.        Assembly Memorandum No. AM 469-2001.

23  
24                  Mr. Tesche requested this item be considered on the Regular Agenda. See item 8.B.

- 25  
26                  9.        Ordinance No. AO 2001-112, an ordinance to approve the **sublease of approximately 8 acres of**  
27                  **the Municipality of Anchorage South Tidelands leasehold** to Alaska Railroad Corporation to  
28                  accommodate the installation of new rail tracks for offloading petroleum products, Legal  
29                  Department. public hearing ~~6-5-01~~ 6-19-01. (**addendum**)

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

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33                  C.        RESOLUTIONS FOR ACTION:

- 34  
35                  1.        Resolution No. AR 2001-154, a resolution of the Municipality of Anchorage appropriating the sum  
36                  of \$1,125 from the State of Alaska, Department of Transportation Alaska Highway Safety Office  
37                  and \$375 as a contribution from the 2001 Anchorage Metropolitan Police Service Area Operating  
38                  Budget, Anchorage Police Department Fund (151) to the State Categorical Grants Fund (231) for  
39                  this **Bicycle Safety Program**, Anchorage Police Department.  
40                  a.        Assembly Memorandum No. AM 448-2001.  
41                  2.        Resolution No. AR 2001-155, a resolution of the Municipality of Anchorage appropriating \$42,400  
42                  to the State Categorical Grants Fund (231), Department of Health and Human Services, from the  
43                  Alaska Department of Health and Social Services to fund **Community Health Nursing Services**,  
44                  Health and Human Services.  
45                  a.        Assembly Memorandum No. AM 449-2001.  
46                  3.        Resolution No. AR 2001-156, a resolution authorizing the Municipality to grant an electrical  
47                  easement across a portion of **Tract A-1, Chinook and Dimond-Mears School Site Subdivision**,  
48                  Tax Code #012-284-20, Office of Planning, Development and Public Works.  
49                  a.        Assembly Memorandum No. AM 450-2001.  
50                  4.        Resolution No. AR 2001-158, a resolution of the Municipality of Anchorage approving a **non-**  
51                  **exclusive access easement to the First Congregational Christian Church of Anchorage** along  
52                  the eastern boundary of Wendler Jr. High School property as shown on the attached map labeled  
53                  Exhibit A, Heritage Land Bank/Real Estate Services. (**addendum**)  
54                  a.        Assembly Memorandum No. AM 464-2001.  
55                  5.        Resolution No. AR 2001-160, a resolution of the Anchorage Municipal Assembly **recognizing and**  
56                  **honoring Sergeant Paul A. Godwin for his 28 years of service** with the Anchorage Police  
57                  Department, Assemblymembers Clementson, Fairclough, Kendall, Shamberg, Sullivan, Taylor,  
58                  Tesche, Traini, Tremaine, Van Etten, and Von Gemmingen. (**addendum**)

59  
60                  Ms. Fairclough requested this item be considered on the Regular Agenda. See item 8.C.

- 61  
62                  6.        Resolution No. AR 2001-161, a resolution of the Anchorage Municipal Assembly **recognizing and**  
63                  **honoring Constance A. Hettinga for her 20 years of service** with the Anchorage Police  
64                  Department, Assemblymembers Clementson, Faircough, Kendall, Shamberg, Sullivan, Taylor,  
65                  Tesche, Traini, Tremaine, Van Etten, and Von Gemmingen. (**addendum**)

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

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69                  D.        NEW BUSINESS:

- 70  
71                  1.        Assembly Memorandum No. AM 461-2001, Municipality of Anchorage Matching Grant for **UAA**  
72                  **Logistics Management Program** (\$125,000), Mayor's Office.

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74                  Mr. Van Etten requested this item be considered on the Regular Agenda. See item 8.D.

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2. Assembly Memorandum No. AM 452-2001, Ichiban Restaurant (License No. 2113) - Transfer of Ownership or a Restaurant/Eating Place Liquor License and Application for a Restaurant Designation Permit (Campbell Park Community Council), Clerk's Office.

Action on this item was reconsidered later in the meeting. See after 8.D.5.

3. Assembly Memorandum No. AM 453-2001, Panda Restaurant (License No. 3077) - Transfer of Ownership for a Restaurant/Eating Place Liquor License (Spenard Community Council), Clerk's Office.

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

4. Assembly Memorandum No. AM 454-2001, C & D Liquor #4 (License No. 4069) - 2001/2002 Liquor License Renewal for a Package Store Liquor License (Rogers Park and University Area Community Councils), Clerk's Office.
5. Assembly Memorandum No. AM 451-2001, Alaska Marketplace #579 (License No. 997) - Transfer of Ownership and Transfer of Location for a Package Store Liquor License (Northeast Community Council), Clerk's Office.

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

6. Assembly Memorandum No. AM 455-2001, 2001/2002 Liquor License Renewals: Mandarin House Restaurant #1372, Mario Restaurant #3500, Marx Brothers Cafe #1422 (Restaurant/Eating Place); Mary Lou's/Diamond Jim's #2926 (Package Store) (Downtown, Northeast, Russian Jack, Eagle River and Turnagain Arm Community Councils), Clerk's Office.
7. Assembly Memorandum No. AM 456-2001, amendment No. 1 to Utility Relocation Agreement with Alaska Communications Systems (ACS) King Street Upgrade Phase II, 96th Court to Dimond Boulevard, PM&E Project No. 98-26 (\$17,500), Office of Planning, Development and Public Works.
8. Assembly Memorandum No. AM 457-2001, contract amendment No. 3 to the Baxter Road Improvements Project Phase I and Phase II with Lounsbury & Associates, Inc., PM&E Project Nos. 96-06 and 99-28 (\$22,755), Office of Planning, Development and Public Works.
9. Assembly Memorandum No. AM 458-2001, King Street Upgrade Phase II, 96th Court to Dimond Boulevard, PM&E Project No. 98-26, Chugach Electric Association, Inc. (CEA) Utility Relocation Costs (\$100,000), Office of Planning, Development and Public Works.
10. Assembly Memorandum No. AM 459-2001, contract amendment No. 3 to King Street/100th Avenue Street Improvements Project with USKH, Inc., PM&E Project Nos. 96-14 (Phase I) and 98-26 (Phase II) (\$110,924), Office of Planning, Development and Public Works.
11. Assembly Memorandum No. AM 460-2001, amendment No. 3 to the State of Alaska Department of Transportation & Public Facilities (ADOT) Utility Relocation Agreement No. 1 1-51168-94-42 for Old Seward Highway, 92nd Avenue to O'Malley Road (\$12,712.38), Water and Wastewater Utility.
12. Assembly Memorandum No. AM 465-2001, Zoning Board of Examiners and Appeals appointment (Burke Wick), Mayor's Office. (addendum)

Action on this item was postponed until June 19, 2001 to permit a 10-day public comment period pursuant to AMC 21.10.010.B. See before item 8.D.12.

13. Assembly Memorandum No. AM 467-2001, expenditure of Assembly funds - approval by Assembly: Board of Adjustment legal fees-Eagle Crossing (NTE \$10,000), Assembly Chair Traini. (addendum)

This item was continued to June 5, 2001.

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 53-2001, Internal Audit Report 2001-2 - CSX Preferential Use Agreement Follow-Up, Port of Anchorage/Internal Audit.
2. Information Memorandum No. AIM 54-2001, contracts awarded between \$30,000 and \$100,000 through formal competitive processes for the month of April 2001, Purchasing.
3. Information Memorandum No. AIM 55-2001, Sole Source Procurement Report for the month of April 2001, Purchasing.
4. Information Memorandum No. AIM 57-2001, Employee Relations work schedule proposed changes, Employee Relations.

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, Clementson.  
NAYS: None.

8. REGULAR AGENDA:

A. BID AWARDS: None.

B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

4. 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. ~~public hearing 6-19-01.~~

Ms. Shamberg moved, to postpone introduction of AO 2001-107 to June 19, 2001.  
seconded by Mr. Tremaine  
and it passed without objection

6. Ordinance No. AO 2001-109, an ordinance amending Anchorage Municipal Ordinance AO 2001-80 by **changing the effective date on the prohibition of pole signs for large retail establishments**, Assemblymember Kendall. ~~public hearing 6-5-01.~~ **(addendum)**

Mr. Tesche noted ordinances AO 2001-109 and 2001-111 would amend recently adopted AO 2001-80 by delaying the effective date of the prohibition in that ordinance regarding pole signs, rotating signs, and flashing signs. He felt these ordinances were unnecessary. He explained AO 2001-80 requires conditional use permits for new, large commercial establishments, there is not a blanket prohibition against all new pole signs regardless of where they were situated. That had been clarified by Office of Planning, Development and Public Works Director Craig Campbell staff

Mr. Tesche moved, to postpone AO 2001-109 indefinitely.  
seconded by Mr. Tremaine

Question was called on the motion to postpone AO 2001-109 indefinitely and it passed:

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

NAYS: Fairclough, Sullivan, Traini, Kendall, Clementson.

8. Ordinance No. AO 2001-111, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Ordinance AO 2001-80 as amended and approved May 8, 2001, by **changing the effective date on the prohibition of pole signs, rotating signs and flashing signs for large retail establishments**, Assembly Vice-Chair Fairclough. ~~public hearing 6-5-01.~~ **(addendum)**  
a. Assembly Memorandum No. AM 469-2001.

Mr. Tesche moved, to postpone AO 2001-111 indefinitely.  
seconded by Mr. Tremaine

Ms. Fairclough noted she had been informed that signage ordered prior to the adoption of AO 2001-80 was not permitted by Code Enforcement; however, Office of Planning, Development and Public Works Director Craig Campbell issued a letter clarifying they were permitted. She wished to have a 30-day delay in dealing with AO 2001-111 in the event someone else may challenge those signs.

In response to Mr. Van Etten, Assistant Municipal Attorney Dennis Wheeler stated the Department of Law and the Office of Planning, Development and Public Works discussed how to interpret the Assembly's intent and believed the pole sign prohibition was aimed at new, large retail establishments and not existing structures. In the event the existing structure is remodeled, the ordinance may be triggered, but changes to signs themselves or new signs for existing structures will not be affected by this ordinance. Mr. Tremaine noted this item would need to be heard by the Planning and Zoning Commission. Ms. Fairclough understood, and it was confirmed by Mr. Wheeler, that this ordinance would not go before the Planning and Zoning Commission.

After further deliberation, Mr. Tesche remarked that there had previously been misunderstandings regarding the application of AO 2001-111 with regard to pole signs. He noted that, staff will be charged with determining whether a remodeling is substantial enough that a conditional use process must go through the Planning and Zoning Commission; that requires some exercise of discretion by municipal staff.

Mr. Sullivan and Ms. Clementson voiced agreement with Ms. Fairclough's concerns and with the introduction of AO 2001-111.

Question was called on the motion to postpone AO 2001-111 indefinitely and it failed:

AYES: Tremaine, Tesche, Taylor, Van Etten.

NAYS: Fairclough, Sullivan, Von Gemmingen, Traini, Kendall, Shamberg, Clementson.

Ms. Fairclough moved, to introduce AO 2001-111 and set for public hearing on June 5, 2001.  
seconded by Mr. Kendall  
and it passed without objection

7. Ordinance No. AO 2001-110, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Subsection 21.50.320.M., provided for in AO 2001-80 As Amended and approved by the Assembly on May 8, 2001, regarding **exterior signs for large retail establishments**, Assemblymembers Fairclough and Kendall. ~~public hearing 8-14-01.~~ **(addendum)**  
a. Assembly Memorandum No. AM 468-2001.

Mr. Tesche moved, to introduce AO 2001-110.  
seconded by Ms. Fairclough  
third by Mr. Kendall

Mr. Tesche spoke against the motion, based on his discussion of AO 2001-109. He felt it was appropriate to allow AO 2001-80 to be implemented as adopted.

Mr. Tesche moved, to postpone AO 2001-110 indefinitely.  
seconded by Mr. Van Etten

Ms. Clementson supported the motion, noting this item was recently dealt with in public hearing. Mr. Kendall did not believe the issue of signage received a fair hearing at the Assembly level. Ms. Fairclough spoke against the postponement, explaining representatives of the sign industry feel they were neglected in the process as they had been informed AO 2001-46, which included provisions regarding signage, was not being acted upon. Mr. Tremaine supported the postponement, believing the title of the ordinance was defective as it referred only to the action taken by the Assembly on May 8, 2001. Mr. Sullivan spoke against the postponement, noting that AO 2001-80, which was adopted, did not include a sign provision.

Question was called on the motion to postpone indefinitely and it passed:

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

NAYS: Fairclough, Sullivan, Traini, Kendall.

8. Ordinance No. AO 2001-111, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Ordinance AO 2001-80 as amended and approved May 8, 2001, by **changing the effective date on the prohibition of pole signs, rotating signs and flashing signs for large retail establishments**, Assembly Vice-Chair Fairclough. public hearing 6-5-01. (**addendum**)  
a. Assembly Memorandum No. AM 469-2001.

Action on this item was reconsidered earlier in the meeting. See after item 8.B.6.

9. 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. public hearing ~~6-5-01~~ 6-19-01. (**addendum**)

Mr. Tesche moved, to introduce AO 2001-112 and set for public hearing on June 19, 2001.  
seconded by Mr. Kendall  
third by Ms. Taylor

Mr. Tesche explained there were scheduled negotiations between Williams Petroleum and the Government Hill neighborhood on issues that will directly affect the issues of both parties on the lease in question. Ms. Taylor indicated she was working with Government Hill residents and Williams Petroleum to affect a resolution of the issues around this topic.

Question was called on the motion to introduce AO 2001-112 and set for public hearing on June 19, 2001 and it passed without objection.

#### C. RESOLUTIONS FOR ACTION:

5. Resolution No. AR 2001-160, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Sergeant Paul A. Godwin for his 28 years of service** with the Anchorage Police Department, Assemblymembers Clementson, Faircough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine, Van Etten, and Von Gemmingen. (**addendum**)

Ms. Fairclough moved, to postpone AR 2001-160 to June 5, 2001.  
seconded by Mr. Tremaine

Ms. Fairclough explained Sergeant Godwin was not available this evening. Ms. Von Gemmingen suggested AR 2001-160 could be approved at this time and Sergeant Godwin could appear at the June 5, 2001 meeting. Ms. Fairclough withdrew her motion.

Ms. Fairclough moved, to approve AR 2001-160.  
seconded by Mr. Tremaine  
and it passed without objection

6. Resolution No. AR 2001-161, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Constance A. Hettinga for her 20 years of service** with the Anchorage Police Department, Assemblymembers Clementson, Faircough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine, Van Etten, and Von Gemmingen. (**addendum**)

Mr. Tesche moved, to approve AR 2001-161.  
seconded by Ms. Clementson  
and it passed without objection

Mr. Tremaine read AR 2001-161 and Ms. Clementson presented it to Ms. Hettinga.

#### D. NEW BUSINESS:

1. Assembly Memorandum No. AM 461-2001, Municipality of Anchorage Matching Grant for **UAA Logistics Management Program** (\$125,000), Mayor's Office.

1 Mr. Van Etten moved, to approve AM 461-2001.  
2 seconded by Ms. Taylor  
3

4 Mr. Van Etten asked for information on the success of this program. Municipal Manager Harry Kielsing indicated he would  
5 secure details in this regard and present them to the Assembly at a future date.  
6

7 Question was called on the motion to approve AM 461-2001 and it passed without objection.  
8

- 9 3. Assembly Memorandum No. AM 453-2001, Panda Restaurant (License No. 3077) - Transfer of  
10 Ownership for a Restaurant/Eating Place Liquor License (Spenard Community Council), Clerk's  
11 Office.  
12

13 Mr. Tremaine moved, to approve AM 453-2001.  
14 seconded by Ms. Clementson  
15

16 Mr. Tremaine asked why the administration was suggesting that this license transfer be permanently protested. Deputy Clerk  
17 Vickie Cantrell explained this item was being protested due to an outstanding tax bill of \$430.00. Mr. Tremaine suggested the  
18 language in AM 453-2001 be as contained in AM 451-2001, that being "until taxes are paid in full."  
19

20 Mr. Tremaine moved, to amend AM 453-2001 to insert "until taxes are paid in full"  
21 seconded by Ms. Fairclough following the word "establishment" in line 41.  
22 and it passed without objection.  
23

24 Question was called on the motion to approve AM 453-2001 as amended and it passed without objection.  
25

- 26 5. Assembly Memorandum No. AM 451-2001, Alaska Marketplace #579 (License No. 997) -  
27 Transfer of Ownership and Transfer of Location for a Package Store Liquor License (Northeast  
28 Community Council), Clerk's Office.  
29

30 Mr. Tremaine moved, to approve AM 451-2001  
31 seconded by Ms. Clementson  
32

33 Mr. Tremaine questioned the thought behind this transfer, which involves a distance of several miles. Ms. Clementson  
34 explained this license will go to the Fred Meyer located at Muldoon/DeBarr and replaces a license that had already existed.  
35 She indicated the neighborhood was supportive of this transfer. Ms. Taylor asked for information on the taxes owed in this  
36 matter. A representative of Fred Meyer indicated the amount of taxes owed are for both the grocery store and liquor store;  
37 after receiving clarification, he believed the amount due was approximately \$2,800. Chief Fiscal Officer Kate Giard stated  
38 the documentation she had available indicated an amount owing of \$27,000 as of May 8, 2001 and she did not have  
39 information to indicate whether an amount of \$2,800 was a corrected total.  
40

41 Mr. Tremaine moved, to postpone to June 5, 2001.  
42 seconded by Ms. Clementson  
43

44 Ms. Fairclough noted the last day to protest this would be June 9, 2001 and she believed the amount of taxes owed could be  
45 reduced, if appropriate. Ms. Von Gemmingen felt this item did not need to be postponed as the language indicates the license  
46 will be moved as soon as the taxes are paid in full.  
47

48 Mr. Tremaine withdrew his motion to postpone.  
49

50 Ms. Clementson moved, to amend line 27 to delete "in the amount of \$27,298.90."  
51 seconded by Mr. Tremaine  
52

53 Municipal Attorney Bill Greene explained that state statute refers to taxes on the business licensed by the State Alcoholic  
54 Beverage Control (ABC) Board, which licenses the owner and the premises. He explained that more investigation would be  
55 needed before a response could be given to Ms. Von Gemmingen's question. Ms. Von Gemmingen supported the motion as  
56 amended and deferred to the Administration to investigate the amount of taxes owed.  
57

58 Question was called on the motion to amend and it passed without objection.  
59

60 Question was called on the motion to approve AM 451-201 as amended and it passed without objection.  
61

- 62 2. Assembly Memorandum No. AM 452-2001, Ichiban Restaurant (License No. 2113) - Transfer of  
63 Ownership or a Restaurant/Eating Place Liquor License and Application for a Restaurant  
64 Designation Permit (Campbell Park Community Council), Clerk's Office.  
65

66 Ms. Fairclough moved, to reconsider 452-2001.  
67 seconded by Mr. Tesche  
68 and it passed without objection  
69

70 (Clerk's Note: Assembly Memorandum No. AM 452-01 was approved on the consent agenda.)  
71

72 Mr. Tesche moved, to approve AM 452-2001.  
73 seconded by Mr. Kendall  
74

75 Mr. Tesche moved, to amend Line 42 to insert "pending payment of taxes."  
76 seconded by Mr. Van Etten

Ms. Fairclough suggested the language be “until taxes are paid in full.” This was accepted as a friendly amendment.

Question was called on the motion to amend AM 452-2001 and it passed without objection.

Question was called on the motion to approve AM 452-2001 and it passed without objection.

*(Clerk’s Note: Mr. Sullivan introduced the following item that was laid on the table.)*

#### 14. SPECIAL ORDERS:

- A. Ordinance No. AO 2001-113, an ordinance amending the effective date of AO 99-37 which amended the zoning map and provided for the rezoning from R-3 (Multiple-Family Residential) to R-4/SL (Multiple-Family Residential District with Special Limitations) for the **Tract 2E, Toyon Subdivision**, generally located on the east side of the New Seward Highway and North Abbott Road, Assemblymember Sullivan. **(LAID ON THE TABLE)**

Mr. Sullivan moved, to introduce AO 2001-113.  
seconded by Mr. Kendall  
third by Ms. Von Gemmingen

Mr. Sullivan noted the Toyon Subdivision was rezoned unanimously by the Assembly in 1999, however, the owner of the property died before signing the approval of that rezoning. A realtor recently sold the property as R-4 property; however, it had not yet become R-4 and was still zoned R-3.

Municipal Attorney Bill Greene believed the issue was changing the effective date of the ordinance, so the matter would not be required to go before the Planning and Zoning Commission. The ordinance was set for public hearing on June 5, 2001.

Question was called on the motion to introduce an ordinance and set for public hearing and it passed without objection.

*(Clerk’s Note: The Assembly then addressed Item D.12 under New Business, which was approved on the Consent Agenda.)*

Ms. Von Gemmingen asked whether item 7.D.12 should have been pulled in order to afford a 10-day public comment period. Deputy Clerk Vickie Cantrell opined that, because this item was not published in the agenda that appeared in the newspaper, it should be delayed to the June 19, 2001 meeting.

12. Assembly Memorandum No. AM 465-2001, Zoning Board of Examiners and Appeals appointment (Burke Wick), Mayor's Office. **(addendum)**

Ms. Von Gemmingen moved, to reconsider AM 465-2001  
seconded by Ms. Clementson  
and it passed without objection

Ms. Von Gemmingen moved, to postpone AM 465-2001 to June 19, 2001.  
seconded by Ms. Clementson  
and it passed without objection

- E. INFORMATION AND REPORTS: None.

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

- A. Assembly Memorandum No. AM 412-2001, Planning and Zoning Commission appointment (Ken Klein), Mayor's Office.  
**(POSTPONED FROM 5-8-01)**

Chair Traini gave the history of AM 412-2001 and noted no motion was pending.

Ms. Clementson moved, to approve AM 412-2001.  
seconded by Mr. Tesche

Ms. Clementson noted no comments were received regarding Mr. Klein’s appointment to the Planning and Zoning Commission. Mayor Wuerch indicated the Administration had received only favorable endorsements of this appointment. Mr. Tesche also urged approval of this motion.

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

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

- B. Assembly Memorandum No. AM 436-2001, 1% for Art Agreement with Kim Brown for Anchorage Replacement Jail (\$165,000), Cultural and Recreational Services.  
1. Information Memorandum No. AIM 58-2001, Anchorage Replacement Jail, Project No. 00-32, Office of Planning, Development, and Public Works. **(addendum)**  
**(POSTPONED FROM 5-15-01)**

Chair Traini gave the history of AM 436-2001 and noted a motion to approve was on the floor.

Ms. Clementson expressed appreciation for the information provided by the Administration on the cost of landscape redesign necessary to accommodate artwork, but on principal, intended to vote against the motion.

Question was called on the motion to approve AM 436-2001 and it passed:

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

NAYS: Fairclough, Sullivan, Clementson.

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

- C. Resolution No. AR 2001-121, a resolution of the Municipality of Anchorage appropriating up to \$453,000 from the Areawide General Fund (101) Balance to the Department of Finance to provide a **tentative settlement agreement with low income housing properties** regarding real property tax appeals, Finance.
1. Assembly Memorandum No. AM 371-2001.  
(CARRIED OVER FROM 5-8-01; POSTPONED FROM 5-15-01)

Action on this item was considered later in the meeting. See after resumption of item 11.F. and before 11.G.

- D. Ordinance No. AO 2001-85, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Section 11.20.037 to permit the Transportation Commission to **issue a limited number of non-transferable permits to meet the needs of the disabled community** for demand-response transportation; to require specialized equipment be repaired within 96 hours; amending AMC 11.30.020C to provide vehicles permitted pursuant to Subsection 11.20.037F, shall maintain current certifications in first aid, CPR, sensitivity training and securing wheelchair devices; and amending Anchorage Municipal Code of Regulation Section 11.10.004 to provide the specialized equipment in vehicles permitted pursuant to Subsection 11.20.037F shall be in a safe, operable condition, Municipal Manager/Transportation Inspection.
1. Assembly Memorandum No. AM 355-2001.  
(POSTPONED FROM 5-8-01; CARRIED OVER FROM 5-15-01)

Action on this item was considered later in the meeting. See after resumption of item 11.F and before item 14.

- E. Ordinance No. AO 2001-55, an ordinance of the Anchorage Assembly amending Anchorage Municipal Code Section 14.60.030 to provide a civil fine schedule for Sections 8.35.020 (Sale of Drug Paraphernalia), 8.35.025 (Possession of Drug Paraphernalia) and 8.35.030 (Penalty; Additional Remedies) and providing for the **forfeiture of drug paraphernalia**, Legal Department.
1. Assembly Memorandum No. AM 190-2001.  
(POSTPONED FROM 3-20-01; CARRIED OVER FROM 4-17-01, 4-24-01, 5-8-01, AND 5-15-01)
- F. Resolution No. AR 2001-146, a resolution of the Anchorage Municipal Assembly requiring **study of safety, environmental, and community planning issues prior to approval of a rail loop project at the Port of Anchorage**, Assemblymembers Tesche, Abney, Traini, Tremaine, and Van Etten.
1. Information Memorandum No. AIM 50-2001, AR 2001-146; Attachment - Background information on the Williams Petroleum Rail Loop Project, Assemblymember Tesche.  
(POSTPONED FROM 5-8-01)

Items 9.E and 9.F were continued to June 5, 2001.

Chair Traini announced a change in the order of the day to hear Appearance Requests.

## 10. APPEARANCE REQUESTS:

- A. **John W. Wood**, regarding animal control enforcement and ordinance revisions.

Mr. Wood explained he had been involved in mushing for approximately 10 years and was before the Assembly as the result of well publicized complaints against a kennel in the last 1.5 years that were being processed at this time. He had requested to see kennel records and was denied this request by the contractor for various reasons. Further, his wife, who was applying for a license, attempted to rely on past submittals, as permitted by law, and was told only the license itself was on file. He asked for an investigation whether the contractor was simply not providing back-up documentation, or whether those documents had been destroyed. He noted it was his understanding that an ordinance dealing with animal control was being processed at this time.

Mr. Tesche asked whether the denial of access to records was appealed to the Mayor. Mr. Wood replied he met with Jewel Jones and they attempted to create a procedure that would resolve the issue. Mr. Tesche explained it is the obligation of the denying agency to take an appeal to the mayor. Mr. Wood was unaware of what the department did internally. Mr. Tesche asked whether Mr. Wood had discussed his issues with the Ombudsman. Mr. Wood indicated he had not. He stated the mediation process was recently terminated for failure of the party to even want to meet. He agreed it would be appropriate for the Ombudsman to address this issue.

In response to Ms. Taylor, Municipal Attorney Bill Greene indicated revisions to Title 17 would come before the Assembly in 30 to 60 days. He offered to meet with Mr. Wood and Ms. Jones and to report back to the Assembly on June 5, 2001. There was discussion clarifying Mr. Sullivan's intent that his proposed ordinance not affect existing kennel licenses upon their renewal.

- B. **Tim Martin**, concerning water quality.



Mr. Martin noted the Health and Human Services Commission had recommended in 1992 that fluoride be removed from the city's water, but that had not been done. He commented that filters do not remove fluoride from water. He noted the leading expert in the dental industry in Canada recommends against fluoride.

Mr. Tremaine asked what action had been taken regarding the 1992 letter referenced by Mr. Martin. Department of Health and Human Services Director Jewel Jones stated the Commission had taken an action and later supported the continuation of fluoride. She remarked on the extensive public testimony that was received on that item. Ms. Von Gemmingen urged the Department of Health and Human Services to continue to examine the inclusion of fluoride in drinking water.

C. **Theresa Nangle Obermeyer**, concerning \$200,000 paid to Sandberg, Wuestenfeld and Corey.

Ms. Obermeyer spoke regarding case 3AN-99-12271. She questioned why Mark Sandberg was representing Bob Cristal. She understood Jermaine, Dunnegan and Owens transferred the case to Mr. Sandberg. She was interested in the amount of funding being dealt with by the Assembly on each of its agendas and noted that AR 2001-141 and AO 2001-95 and 2001-96 on this evening's agenda total \$184 million.

The meeting recessed at 6:35 p.m. and reconvened at 7:05 p.m.

Ms. Fairclough moved, to change the order of the day to consider items 12.A and 12.B.  
seconded by Mr. Kendall  
and it passed without objection.

## 12. NEW PUBLIC HEARINGS:

- A. Ordinance No. AO 2001-95, an ordinance of the Municipality of Anchorage, Alaska, authorizing and providing for the **issuance of not to exceed \$65,000,000 in aggregate principal amount of General Obligation School Bonds** of the Municipality for the purpose of raising funds to pay the costs of educational capital improvement projects in the Municipality; fixing certain details of said bonds; providing for the form and manner of sale of said bonds; pledging the full faith and credit of the Municipality to the payment thereof; authorizing the Chief Fiscal Officer to negotiate and execute a contract for the purchase and sale of said bonds; and related matters, Finance.
1. Assembly Memorandum No. AM 395-2001.

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 2001-95.  
seconded by Ms. Taylor,

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

- B. Ordinance No. AO 2001-96, an ordinance of the Municipality of Anchorage, Alaska, authorizing and providing for the **issuance of General Obligation Refunding Bonds of the Municipality in the aggregate principal amount of not to exceed \$72,000,000** to provide funds required to refund certain outstanding General Obligation School Bonds of the Municipality; providing for the form and manner of sale of said bonds; pledging the full faith and credit of the Municipality to the payment thereof; authorizing the Chief Fiscal Office to negotiate and execute a contract for the purchase and sale of said bonds and related matters, Finance.
1. Assembly Memorandum No. AM 396-2001.

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

Ms. Von Gemmingen moved, to adopt AO 2001-96.  
seconded by Ms. Fairclough,

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.)

## 11. CONTINUED PUBLIC HEARINGS:

Chair Traini announced that items 11.D and 11.E had been withdrawn. He also announced that AR 2001-121 would be heard at 9:30 p.m.

- A. Resolution No. AR 2001-141, a resolution of the Municipality appropriating \$46,995,000 of proceeds of General Obligation Bonds to the Areawide CIP Fund (401), Public Transportation CIP Fund (485), Anchorage Fire Service Area CIP Fund (431), Anchorage Roads and Drainage Service Area CIP Fund (441), Anchorage Parks and Recreation Service Area CIP Fund (461), to pay the **costs of public safety, cemetery, Anchorage Senior Center, fire protection, road, storm drainage, and parks and recreation and related capital improvement projects**; and contributing \$950,000 from the Anchorage Roads and Drainage Service Area CIP Fund (441), and \$237,500 from the Anchorage Parks and Recreation Service Area CIP Fund (461) to the Equipment Maintenance Internal Service Fund (601) for the **purchase of street maintenance vehicles, parks and recreation vehicles and equipment**, Office of Management and Budget.

1. Assembly Memorandum No. AM 369-2001.  
(CARRIED OVER FROM 5-15-01)

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

Mr. Van Etten moved, to approve AR 2001-141.  
seconded by Mr. Kendall,

Question was called on the motion to approve AR 2001-141 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.)

B. Ordinance No. AO 2001-90, an ordinance merging the Anchorage Municipal Code of Regulations Chapter 25.60 into the Anchorage Municipal Code Chapter 25.60 and amending the Code to more accurately designate the property of the **Anchorage Memorial Park Cemetery**, to update the gravesite decoration rules, to require a funeral director's presence at all burials, to increase the allowable size of an infant casket from 24 inches to 36 inches, and to make other related code improvements, Legal Department.  
1. Assembly Memorandum No. AM 357-2001.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

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

Mr. Van Etten moved, to adopt AO 2001-90.  
seconded by Ms. Von Gemmingen

Mr. Van Etten asked why this ordinance requires a funeral director's presence at all burials. Anchorage Memorial Park Cemetery Director Don Warden indicated this was a customary requirement and was intended to assist families. Ms. Von Gemmingen did not see the need for having a funeral director at all burials. Mr. Warden explained there are instances when the absence of a funeral director is problematic. He understood the additional charge for a funeral director from one of the Anchorage funeral homes is \$100; the requirement for a director would be for full casket burials only. Mr. Tesche clarified there is no state law or local ordinance prohibiting someone from being buried in the Anchorage Memorial Park, assuming there is a permit from the cemetery. Ms. Fairclough spoke in support of the motion.

Question was called on the motion to adopt AO 2001-90 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.)

C. Ordinance No. AO 2001-83, an ordinance amending the zoning map and providing for the rezoning from B-3 (General Business District) to PLI (Public Lands and Institutions District) for **Audacious Subdivision, Lot 38A and the remainder of Lot 38A, Section 11, T14N, R2W, S.M., AK**; all located within the SE 1/4, Section 11, T14N, R2W, S.M., AK; generally located between Eagle River Road and VFW Road (Eagle River Community Council) (Planning and Zoning Commission Case 2000-175), Planning Department.  
1. Assembly Memorandum No. AM 303-2001.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

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

TIM POTTER, representing the petitioner, explained this rezoning relates to former Enstar warehouse facility that was recently remodeled into Eagle River Fire Station. This rezoning was a requirement of the Planning and Zoning Commission as an effective clause in their site selection approval.

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

Mr. Tesche moved, to adopt AO 2001-83.  
seconded by Mr. Kendall

Question was called on the motion to adopt AO 2001-83 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.)

D. Ordinance No. AO 2000-165, an ordinance amending the Hillside Wastewater Management Plan, Anchorage Municipal Code Subsection 21.05.030M., to **remove from the sewerage service area approximately 29 acres of an 80.9 acre parcel platted as Tract A-4, Viewpoint South Subdivision**, generally located north and east of Potter Valley Drive on the south side of Potter Creek in the southern

Hillside Area (Rabbit Creek Community Council) (Planning and Zoning Commission Case 2000-025), Planning Department.

1. Assembly Memorandum No. AM 1056-2000.  
(CONTINUED FROM 12-12-00 AND 2-27-01)

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

Ms. Shamberg moved, to postpone AO 2000-165 indefinitely.  
seconded by Mr. Tesche

Mr. Tremaine noted this case had been before the Assembly for sixth months and had been postponed several times prior to the petitioner's request on this date to withdraw AO 2000-165 and 2000-152.

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

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

E. Ordinance No. AO 2000-152, an ordinance amending the zoning map and providing for the rezoning from R-3 SL (Multiple Family Residential District) with Special Limitations to R-6 (Suburban Residential District) for approximately 29 acres of an 80.9 acre parcel platted as **Tract A-4, Viewpoint South Subdivision**; generally located east of Goldenvue Drive (extended), on the north and east side of Potter Valley Road and on the south side of England Avenue (Rabbit Creek Community Council) (Planning and Zoning Commission Case 2000-024), Planning Department.  
1. Assembly Memorandum No. AM 937-2000.  
(CONTINUED 12-12-00 AND 2-27-01)

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

Ms. Shamberg moved, to postpone AO 2000-152 indefinitely.  
seconded by Mr. Tremaine

AYES: Fairclough, Sullivan, Von Gemmingen, 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 and Ms. Taylor did not vote.)

F. Resolution No. AR 2001-127, a resolution **revising the Central Business District parking meter zones** authorizing the Municipal Traffic Engineer to designate parking meters in the area of 2nd Avenue to 9th Avenue and 'A' Street to 'T' Street in accordance with Title 9.34.010.A., Office of Planning, Development, and Public Works.  
1. Assembly Memorandum No. AM 377-2001.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

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

Mr. Tesche asked that this matter be postponed until later in the evening in order to allow participation by Ms. Clementson.

Mr. Tesche moved, to postpone AR 2001-127  
seconded by Mr. Tremaine

AYES: Fairclough, Sullivan, Von Gemmingen, 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 and Ms. Taylor did not vote.)

Chair Traini clarified that testimony could be given either at this time or when the case was heard later in this agenda.

BILL BREDESON, resident of Bootlegger's Cove, was generally supportive of AR 2001-127. He noted a parking permit program was recently initiated in the area in question and had been successful until a decrease in enforcement. He suggested that enforcement might be done by the Anchorage Downtown Partnership or the Anchorage Parking Authority.

In response to questioning by Mr. Sullivan, Police Chief Walter Monegan stated the individuals who had been charged with parking enforcement were recently made police officers; more individuals were being hired for parking enforcement. He indicated he would investigate Mr. Bredeson's concern.

This hearing was continued. See after item 13.

G. Ordinance No. AO 2001-92, an ordinance of the Anchorage Municipal Assembly **rescinding AO No. 2001-59 enacting a new Subsection D to AMC 12.15.030 relating to municipal assessment of properties subject to recorded deed restrictions on rents, the valuation of low income housing credits** awarded under 26 USC 42, and providing for the effective date of its application, Assemblymember Tesche.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

Mr. Tesche moved, to defer action on AO 2001-92 until action is taken on item 9.C,  
seconded by Ms. Taylor AR 2001-121.

Mr. Tesche noted the appropriation would fund the agreement made between the Administration and owners of the properties in question. Ms. Fairclough disagreed, noting the matter was in violation of state law. She noted the Assembly was informed in a meeting earlier in the day why AO 2001-59 should be repealed.

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

NAYS: Fairclough, Sullivan, Von Gemmingen.

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

Action on this item was considered later in the meeting. See after resumption of item 9.C.

- H. 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)

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

Mayor Wuerch asked that the Assembly postpone a decision on AO 2000-157.

Ms. Fairclough moved, to postpone AO 2000-157 to June 19, 2001.  
seconded by Mr. Kendall

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.)

- I. Ordinance No. AO 2001-70, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Chapter 6.30, **Administration of Budget**, to add a new Section regarding Assembly oversight of litigation settlements, Assemblymember Tesche.
1. Assembly Memorandum No. AM 253-2001.
- (CONTINUED FROM 3-27-01; CARRIED OVER FROM 5-8-01 AND 5-15-01)

Chair 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 postpone AO 2001-70 indefinitely.  
seconded by Ms. Taylor

Mr. Tesche explained he had a number of discussions with the Risk Manager, the Municipal Attorney, and the Chief Fiscal Officer regarding possible changes to this and other issues relating to the reporting to the Assembly of major actions in litigation, which he expected would result in further legislation that would be helpful to the Assembly and Administration.

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.)

- J. Resolution No. AR 2001-62, a resolution of the Anchorage Municipal Assembly revising the 2001 General Government Operating Budget by appropriating the sum of \$270,310 from the Anchorage Metropolitan Police Service Area Fund (151) Balance to the Municipal Attorney to provide funding for **prosecution and prevention of domestic violence**, Assemblymembers Tesche, Taylor, Traini, and Van Etten.
1. Assembly Memorandum No. AM 215-2001.
  2. Resolution No. AR 2001-62(S), a resolution of the Anchorage Municipal Assembly revising the 2001 General Government Operating Budget by appropriating the sum of \$270,310 from the Anchorage Metropolitan Police Service Area Fund (151) Balance to the Municipal Attorney to provide funding for prosecution and prevention of domestic violence, Office of Management and Budget. (**addendum**)
  3. Assembly Memorandum No. AM 470-2001.
- (CONTINUED FROM 3-27-01 AND 4-24-01; CARRIED OVER FROM 5-15-01)

Chair Traini opened the public hearing in AR 2001-62 and AR 2001-62(S) and asked if anyone wished to speak. There was no one, and he closed the public hearing.

Mr. Tesche moved, to approve AR 2001-62(S).  
seconded by Mr. Kendall

Mr. Tesche asked to be added as a co-sponsor on AR 2001-62(S) and explained he had been concerned that funding for prosecution and prevention of domestic violence had been decreased by \$270,310 and sponsored AR 2001-62. He had since

received a recommendation from the Administration in AR 2001-62(S), which would restore funding in the amount of \$105,000.

Mr. Tremaine strongly supported additional funding for prevention of domestic violence. He noted the title indicates the funding would come from the Anchorage Metropolitan Police Service Area Fund, yet the text indicates funding would come from the General Fund.

Municipal Attorney Bill Greene noted that sources of funds frequently change and he did not feel there was a conflict between title and text that would disallow approval of AR 2001-62(S).

Mr. Tremaine, Ms. Shamberg, Mr. Van Etten, Ms. Taylor, and Mr. Traini asked to be added as co-sponsors of AR 2001-62(S).

Question was called on the motion to approve AR 2001-62(S) 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.)

## 12. NEW PUBLIC HEARINGS:

- A. Ordinance No. AO 2001-95, an ordinance of the Municipality of Anchorage, Alaska, authorizing and providing for the **issuance of not to exceed \$65,000,000 in aggregate principal amount of General Obligation School Bonds** of the Municipality for the purpose of raising funds to pay the costs of educational capital improvement projects in the Municipality; fixing certain details of said bonds; providing for the form and manner of sale of said bonds; pledging the full faith and credit of the Municipality to the payment thereof; authorizing the Chief Fiscal Officer to negotiate and execute a contract for the purchase and sale of said bonds; and related matters, Finance.
1. Assembly Memorandum No. AM 395-2001.

Action on this item was considered earlier in the meeting. See after item 10.

- B. Ordinance No. AO 2001-96, an ordinance of the Municipality of Anchorage, Alaska, authorizing and providing for the **issuance of General Obligation Refunding Bonds of the Municipality in the aggregate principal amount of not to exceed \$72,000,000** to provide funds required to refund certain outstanding General Obligation School Bonds of the Municipality; providing for the form and manner of sale of said bonds; pledging the full faith and credit of the Municipality to the payment thereof; authorizing the Chief Fiscal Office to negotiate and execute a contract for the purchase and sale of said bonds and related matters, Finance.
1. Assembly Memorandum No. AM 396-2001.

Action on this item was considered earlier in the meeting. See after item 10.

- C. Ordinance No. AO 2001-97, an ordinance amending Anchorage Municipal Code Chapter 15.70 to **modify the time of day when a permit is required or amplified sound** and to provide for the monitoring and limitation on the transmission of low frequency amplified sound, Assemblymember Tesche/Health and Human Services.
1. Assembly Memorandum No. AM 417-2001.

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

PETER GIANNINI, resident of East Anchorage and local attorney, urged postponement of the ordinance. He felt the ordinance was very misleading and that it, in fact, codified a significant shift in policy by the Administration and virtually eliminated permits for amplified sound for private events. He noted that amplified sound is a form of constitutionally protected speech that could not be regulated unreasonably. As proposed, the ordinance would codify a daytime public event exception, while eliminating the implied private event exception.

Through questioning by Mr. Tesche, Mr. Giannini indicated his son has a rock-n-roll band that plays in his garage and he believed that, under some circumstances, that playing would be permitted; he noted the ordinance allows a noise level of 60 decibels at the property line. He explained his concern was with block parties, company picnics and other private events that would be unable to secure a noise permit under the proposed ordinance. Mr. Tesche asked if the constitutional issues noted by Mr. Giannini would be any different than those that might be seen in the existing ordinance. Mr. Giannini replied they would not be, as written, but perhaps would be as applied.

Mr. Van Etten asked for an example of 60 decibels at the property line. Mr. Giannini replied his 1984 Chevrolet diesel pick-up generates 70 decibels sitting in the driveway and, if the band was playing when the pick-up was running, the band could not be heard.

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

Mr. Van Etten moved, to adopt AO 2001-97.  
seconded by Mr. Tesche

Mr. Van Etten asked whether there was any reason to not postpone action on AO 2001-97 at this time. Municipal Manager Harry Kieling responded there were concerns by some downtown businesses about sounds affecting their clientele. The

individuals involved in the generation of the sound and the complainants were involved in a lengthy deliberative process to approach this problem. The Department of Health and Human Services conducted extensive research and discovered testing done by a noted professor at Rutgers University on emanation of sound; this research resulted in the ordinance proposal to use the “C” scale rather than “A” scale to measure sound. He indicated this ordinance, if adopted, would be implemented in the same fashion as the smoking ordinance, providing education on its requirements. He felt the primary objective of the ordinance could be addressed and, if modifications were required, they could be made.

Municipal Attorney Bill Greene believed Mr. Giannini’s concerns related to Section 2 of the ordinance, which extends the hours when a permit is required and that he otherwise did not object to the ordinance.

In response to questioning by Mr. Tesche, Dr. Lura Morgan with the Department of Health and Human Services explained Section 2 is currently interpreted that there is authority to issue permits only between 10:00 p.m. and 7:00 a.m.; if those time frames were eliminated from the ordinance, permits could be issued during day and evening hours, with no distinction whether the event was public or private. Dr. Morgan stated the “C” scale was not in the current ordinance, but was in legislation in other locales; she understood that scale addressed the impacts of low frequency sounds to human hearing.

In response to questioning by Mr. Kendall, Dr. Morgan explained the ordinance requires the Department to weigh hardship and public health in issuing a permit. Public events can be issued a permit for the public benefit and conditions can be set on the permit; without a permit, all parties generating noise are held to the standards outlined in the noise ordinance.

In response to questioning by Mr. Tremaine, Dr. Morgan indicated violations of noise levels in vehicles are enforced by the Anchorage Police Department.

Ms. Taylor requested that Mr. Giannini respond to the information presented by the Administration. Mr. Giannini agreed with what had been stated, but the current ordinance contains a section that allowed permits to be issued between the hours of 10:00 p.m. and 7:00 a.m. He believed only a minimal number of those had, in fact, been granted. He felt the issue of concern with the proposed ordinance was private events not open to the public. He suggested the proposed ordinance could be amended to delete reference to events open to the public.

Ms. Von Gemmingen indicated she and Mr. Tesche attended a demonstration by the Health Department on the differences between the “A” and “C” scales, which she found to be very educational. She felt this issue should be dealt with as soon as possible.

Mr. Tesche noted the language of concern to Mr. Giannini is existing law and he believed the proposed ordinance did not change existing practices or procedures with respect to whether an event is public or private.

Mr. Sullivan suggested that line 4 of Section A could be changed to state, “...except for activities for which a permit has been issued.” He felt this was a straightforward change.

Mayor Wuerch was concerned that such a change would open neighborhoods up to a permitting process that was not defined. He felt the proposed ordinance addresses commercial districts and suggested that issues addressing neighborhoods could be dealt with at a future date.

Municipal Attorney Bill Greene explained that, under the ordinance, private activities would not be granted a permit, but would be allowed to generate noise up to the maximum levels permitted in the code. He indicated the change in Section 2 would allow the issuance of permits for public activities at any time of the day or evening.

In response to Mr. Sullivan, Mr. Greene stated he did not have concerns with the constitutionality question raised by Mr. Giannini. He recommended further study of events, public or private, on public or private land. Mr. Sullivan indicated he would support the ordinance.

Mr. Van Etten asked whether there have never been noise permits for private events. Director of Health and Human Services Jewel Jones understood the Department had issued those permits in the past, but had done so in error. She indicated Mr. Giannini had requested a permit to exceed noise levels and the Department, in conjunction with the Department of Law, determined it did not have the authority to grant such a permit.

Mr. Tremaine understood a permit to exceed the noise level could be secured by a private party, if the event was open to the public, but a permit could not be granted for a private event on public property, as one could for a public event on public property. Mr. Greene affirmed this was the case. He felt a more comprehensive review of private activities should be done before any ordinance changes are proposed.

Ms. Taylor moved, to amend AO 2001-97 page 3 of 4, line 4 to delete “and open to the  
seconded by Mr. Van Etten public.”

Mayor Wuerch asked that time be permitted for the Administration to address the issue of concern that this amendment intended to address. Mr. Sullivan agreed with the Mayor that a more comprehensive review of the issue was required.

Mr. Van Etten explained this would ensure adequate time for affected parties to ascertain the impact of the ordinance. Mr. Tesche was reluctant to make any changes to AO 2001-97 without further input from staff.

Question was called on the motion to amend AO 2001-97 and it failed.

AYES: Taylor.

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

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

Mr. Van Etten moved, to amend Section 4 to add a sentence stating, “The ordinance shall be in effect for 180 days.”

seconded by Ms. Taylor

Mayor Wuerch indicated the Administration was pleased to proceed with the ordinance.

Question was called on the motion to amend AO 2001-97 and it failed.

AYES: Taylor, Van Etten, Shamberg, Tremaine.

NAYS: Fairclough, Sullivan, Von Gemmingen, Traini, Kendall, Tesche.

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

Question was called on the motion to adopt AO 2001-97 and it passed.

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

NAYS: Taylor, Van Etten.

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

Mr. Tesche moved, to immediately reconsider AO 2001-97.

seconded by Ms. Taylor

Question was called on the motion to reconsider AO 2001-97 and it failed.

AYES: Taylor, Van Etten, Kendall

NAYS: Fairclough, Sullivan, Von Gemmingen, Traini, Tesche, Shamberg, Tremaine.

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

- D. Ordinance No. AO 2001-93, an ordinance of the Municipality of Anchorage authorizing the Heritage Land Bank (HLB) to **dispose of HLB Parcels #3-040, 3-041, 3-044, 3-045 and 3-046**, located south of Tudor Road and east of Campbell Airstrip Road in Anchorage, to the Botanical Gardens, an Alaska non-profit corporation, on a sole source basis, for less than fair market value, by fifty-five year lease, Assemblymember Clementson.
1. Assembly Memorandum No. AM 263-2001.

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

GEORGE LYLE, a member of the Board of Directors of the Alaska Botanical Gardens, explained that entity had a use right for the parcel in question and the ordinance would simply change the nature of their legal right to use the land. He used a map to describe the former and proposed site location, totaling 110 acres. A master plan was prepared under RFP for the Alaska Botanical Gardens. The master plan recommended a longer term land tenure for purposes of obtaining grants and other funds for other improvements to the Gardens. He noted the Heritage Land Bank Advisory Commission had approved this request in concept.

In response to questioning by Mr. Tesche, Mr. Lyle indicated the right for the Gardens to use a portion of the site in question was allowed by the Assembly in 1988. He further responded there were approximately 20,000 visitors to the Gardens annually.

In response to questioning by Mr. Van Etten, Mr. Lyle stated the current use permit is renewed every 2 to 5 years, but it is an indefinite use permit that could be terminated by the Assembly. He further responded that a portion of the Gardens land was managed by the Department of Cultural and Recreational Services. The master plan consultant recommended the Gardens seek long-term leases on as much of the land as possible, and the Board decided to seek such a lease on the Heritage Land Bank parcel.

Mr. Kendall asked if the 55-year term of the proposed lease was requested by the Gardens. Mr. Lyle responded that, under municipal code, the maximum term was 55 years. Mr. Kendall asked whether sub-lease rights are included in the lease. Mr. Lyle responded that staff raised concerns that there not be sub-lease rights. After discussion, Mr. Lyle suggested the lease could come back to the Assembly once payment method was determined, as it was his understanding that percentage of revenue leases were not desired by the Heritage Land Bank.

Ms. Shamberg declared a conflict of interest as she had been a member of the board of the Alaska Botanical Gardens since 1994. Chair Traini indicated this could be dealt with after the conclusion of the public hearing.

GAYLE HOFFFLER, Executive Director of the Alaska Botanical Gardens, stated the organization had a \$120,000 annual operating budget raised exclusively from private funds and the desire was to secure a long-term lease in order to pursue funding opportunities. She indicated grant research indicated there were eight private foundations that would fund the Gardens, however, they require a minimum 50-year lease.

In response to questioning by Mr. Tesche, Ms. Hoeffler indicated the assets of the organization were \$150,000 and annual revenue was approximately \$120,000. Mr. Tesche asked whether the organization would prefer the terms of the lease, which would appear to entitle the Heritage Land Bank to a portion of revenue, or for a nominal dollar per year lease. Ms. Hoeffler responded that the latter was preferable. Mr. Lyle indicated the Heritage Land Bank Advisory Commission had left open the issue of rent structure and reserved the right to see the form of the lease. He indicated his conversations to date have involved a per year rental amount.

Ms. Von Gemmingen asked what might be a dollar value of a typical foundation grant. Ms. Hoeffler replied that grants could range from \$200,000 to \$500,000.

Ms. Clementson indicated AO 2001-93 did not represent the final lease.

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

Ms. Clementson moved, to adopt AO 2001-93.  
seconded by Mr. Tesche

Ms. Fairclough moved, that Ms. Shamberg had a substantial, financial interest in the matter  
seconded by Ms. Taylor before the Assembly.

Ms. Fairclough asked whether Ms. Shamberg had a substantial financial interest in AO 2001-93. Ms. Shamberg indicated she had no financial interest in AO 2001-93.

In response to Ms. Von Gemmingen. Municipal Attorney Bill Greene indicated Ms. Shamberg may not have a personal, financial interest, but the code imputes the financial interest of the Botanical Garden to her as her interest since she is on the board of directors.

Mr. Tesche and Ms. Taylor felt the issue of volunteer service being interpreted as a conflict of interest should be further examined.

Ms. Clementson felt it was appropriate to ensure there was no appearance of conflict.

Question was called on the motion that Ms. Shamberg had a substantial, financial interest in the issue before the Assembly and it passed.

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

NAYS: Taylor, Van Etten Tesche, Tremaine.

ABSTAIN: Shamberg

Mr. Tesche moved, to amend AO 2001-93, the section entitled "Public Sector Economic  
seconded by Ms. Von Gemmingen Effects," to delete the sentence, "With subsequent annual payments to  
MOA/HLB based on up to five percent of the ABG after-tax rental  
revenue."

Mr. Dworsky indicated that the Heritage Land Bank Advisory Commission discussed this at two meetings and the language in the lease was left unchanged pending resolution of the terms of the lease with the attorneys. There was some discussion of how a percentage of revenue would be calculated, given that the Alaska Botanical Gardens was a nonprofit organization.

Question was called on the motion to amend AO 2001-93 and it passed.

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

NAYS: None.

ABSTAIN: Shamberg.

Mr. Tesche moved, to amend AO 2001-93, line 46, Section 1 after the words "sole source  
seconded by Ms. Clementson basis" add "and for a nominal rental."

Mr. Tesche felt this would make it clear in the ordinance that the rental should be nominal. Mr. Kendall remarked on the responsibility to oversee the Heritage Land Bank funds and operations to ensure they make a reasonable recovery of their resources in order to provide a return to the community. He felt the lease should be negotiated between the Alaska Botanical Garden and the Heritage Land Bank.

Question was called on the motion to amend AO 2001-93 and it passed.

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

NAYS: Fairclough, Sullivan, Kendall.

ABSTAIN: Shamberg

Mayor Wuerch indicated the Administration possessed a signed and executed copy of Appendix C, the resolution of the Heritage Land Bank Advisory Commission. He affirmed the statement in that resolution that it was found by the Mayor to be in the best interest of the municipality.

Question was called on the motion to adopt AO 2001-93 as amended and it passed:

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

NAYS: None.

ABSTAIN: Shamberg



- 1 E. Ordinance No. AO 2001-98, an ordinance amending Anchorage Municipal Code Section 3.30.172 to  
2 **classify executive positions**, Employee Relations.  
3 1. Assembly Memorandum No. AM 418-2001.  
4

5 Chair Traini noted that, due to inadequate advertising, this ordinance would need to be continued to June 5, 2001.

6  
7 Ms. Fairclough moved, to continue AO 2001-98 to June 5, 2001.  
8 seconded by Mr. Sullivan  
9

10 Question was called on the motion to continue AO 2001-98 to June 5, 2001 and it passed without objection.  
11

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

14 **11. CONTINUED PUBLIC HEARINGS: (Continued)**  
15

- 16 F. Resolution No. AR 2001-127, a resolution **revising the Central Business District parking meter zones**  
17 authorizing the Municipal Traffic Engineer to designate parking meters in the area of 2nd Avenue to 9th  
18 Avenue and 'A' Street to 'T' Street in accordance with Title 9.34.010.A., Office of Planning, Development,  
19 and Public Works.  
20 1. Assembly Memorandum No. AM 377-2001.  
21 (CARRIED OVER FROM 5-8-01 AND 5-15-01)  
22

23 This item was begun earlier in the meeting. See after 11.E.  
24

25 Chair Traini indicated the public hearing in this case was open.  
26

27 DIANE LOUISE, owner of Aurora Fine Art Gallery and Zoez Window Gallery, stated she was born in Anchorage and had  
28 seen many changes in downtown. She understood the decision was made to provide free parking in the central business  
29 district because there was an understanding that, in order for retail to remain healthy year-round, free parking was important.  
30 She stated that paid parking in downtown would be a viable revenue source; however, if the reason for eliminating free  
31 parking was to encourage turnover, enforcement was necessary. She provided written information on annual citation activity.  
32 She referenced the Kittleson Study. She indicated she had served on the Board of the Parking Authority since 1997.  
33

34 In response to questioning by Ms. Clementson, Ms. Louise reviewed the reduction in number of overtime, handicap parking  
35 space, fire lane citations, and plate violations, presumably in the downtown core, from 1997 to 2001.  
36

37 Ms. Von Gemmingen interpreted this data as indicating the situation was improving as there were less violations.  
38

39 Mr. Sullivan asked whether installing parking meters would solve the turnover problem or would people simply pay for  
40 additional time. Ms. Louise did not believe installing paid parking meters would, in fact, address the problem of turnover. In  
41 response to questioning by Mr. Sullivan, Ms. Louise referenced information in the Kittleson report covering a three-hour  
42 morning time period in 1997, which generated a 13.33% turnover rate. A similar study was done in the afternoon a day later,  
43 which indicated the extrapolated figure of 13.33% was inaccurate. Ms. Louise clarified that available parking shown in the  
44 report included freight loading zones and handicap parking spaces, which is not available to the general public.  
45

46 KEVIN KINNEY, director of the Anchorage Parking Authority, indicated the APA Board voted 8 to 1 in favor of the  
47 proposed ordinance. He indicated the majority of the Board are downtown business people. He explained that enforcement in  
48 a two-hour free zone is very time intensive and many communities are eliminating them. He indicated that people were  
49 moving their vehicles periodically in order to take advantage of parking in two-hour free spaces. The consultant determined  
50 the most effective means of addressing that would be to install meters. He believed meters would encourage downtown  
51 workers to park off-street. He felt enforcement by the Anchorage Police Department was satisfactory.  
52

53 JERRY WINCHESTER, lifelong Alaskan, stated he lives and works in the downtown area. He indicated that enforcement  
54 had fallen significantly in the last three years. He felt the free parking zone in the downtown area had brought people into the  
55 downtown core. He recalled the inception of free parking, which he felt created an incentive for people to come downtown.  
56

57 In response to a question from Mr. Tesche, Mr. Winchester stated he would still oppose the ordinance if the Assembly was  
58 unable to guarantee a change in enforcement. He further responded that a proposal for downtown employers to provide  
59 parking for employees may be a reasonable one to address.  
60

61 In response to questioning by Mr. Kendall, Mr. Winchester indicated he had occasionally remained in a two-hour parking  
62 space beyond the time limit. Mr. Kendall understood that free parking in downtown was viewed as a factor of competition  
63 with businesses in other locations where large parking areas were available.  
64

65 Chair Traini asked if anyone else wished to speak. There was no one, and he closed the public hearing.  
66

67 There had been agreement to consider item 9.C at 9:30 p.m.  
68

69 **9. OLD BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS: (Continued)**  
70

- 71 C. Resolution No. AR 2001-121, a resolution of the Municipality of Anchorage appropriating up to \$453,000  
72 from the Areawide General Fund (101) Balance to the Department of Finance to provide a **tentative**  
73 **settlement agreement with low income housing properties** regarding real property tax appeals, Finance.  
74 1. Assembly Memorandum No. AM 371-2001.  
75 (CARRIED OVER FROM 5-8-01; POSTPONED FROM 5-15-01)  
76

Chair Traini gave the history of the resolution and noted no motion was on the floor.

Mr. Tesche moved, to approve AR 2001-121.  
seconded by Ms Von Gemmingen

Mr. Tesche supported the resolution largely for reasons he had expressed previously. He referenced a letter from Dan Fauske with Alaska Housing Finance Corporation, which contained the comments he wished to make.

Ms. Clementson felt AR 2001-121 regarded a tax settlement outside of the normal process and not low-income housing. She stated that tax years 1998 and 1999 were appealed to Superior Court and the Administration believes a settlement can be made on those years; however, the year 2000 had not yet been to the Board of Equalization (BOE), making a settlement for the year 2000 problematic. She stated most of the properties involved in this settlement were built before a method of valuation was considered. She distributed appraisal information on Hampstead Heath, which was appraised at \$8 million prior to construction, including the tax credits. She indicated the first appeal on the issue valuation was filed in 1995 and Ken Gain was hired to represent the owners. Mr. Gain had indicated to the BOE that tax credits were to be considered “intangible” and separate from the property; the BOE determined the tax credits were, therefore, not taxable. She indicated that various jurisdictions have various bases for analyzing valuation and Alaska’s requires assessment at full and true value. Considered in that light, the majority of court cases had been decided in favor of considering the value of tax credits in assessing the value of a property. She indicated that both tax credits and restricted rents must be considered in assessing full and true value. She remarked that the risk analysis on the issue of settlement was done without either the BOE’s or the Assembly’s attorney. She believed the issue of retaining affordable housing was separate from the tax settlement issue. She feared the precedent that could be set by approving the tax settlement before the Assembly. She felt alternatives available included the municipality providing grants to the appellants to pay their taxes or the banks who were partners in those properties to provide additional financial support.

Ms. Von Gemmingen agreed with Ms. Clementson’s comments, particularly with respect to this settlement being outside of the prescribed process. She did not believe there was cost savings by agreeing to the proposed settlement amount versus going to court. She also did not believe the basis of the settlement was reasonable or fair to the taxpayers of Anchorage. She noted the properties involved in the proposed settlement included several not financed using Low Income Housing Tax Credits (LIHTC).

Mr. Tremaine asked the number of LIHTC properties and non-LIHTC properties involved in the settlement, as well as revenue effect. Chief Fiscal Officer Kate Giard indicated the settlement for the LIHTC properties totaled \$305,000 and for the rent restricted properties totaled \$283,000.

Mr. Traini asked whether the Mayor remained in support of the settlement before the Assembly. Mayor Wuerch replied in the affirmative. He applauded the efforts of Ms. Clementson to research this issue. He explained the settlement before the Assembly would yield more to taxpayers. He remarked that the settlement with the Hotel Captain Cook resulted in payment of \$.90 on the dollar and a commitment to methodology that removed all litigation prospects for the future. He felt both that settlement and the one before the Assembly were fair and reasonable.

Ms. Shamberg supported the settlement and felt the city should support low-income housing.

Mr. Tremaine asked how many low-income properties and rent restricted properties in Anchorage were not included in the settlement. Ms. Giard did not have that information. Mayor Wuerch believed that overall the Municipality had received \$30 million over the last approximately 15 years in rent restricted investment; additionally, 1,400 units currently have rent restrictions. He was uncertain how to define “low-income” properties, but believed there had been testimony that these represent 80 percent of the total number of affordable housing units. Mr. Tremaine asked what precedent might be set by making settlement on an appeal that had not yet been before the BOE, which in this case is the year 2000. Mayor Wuerch responded that, upon an appeal, the Assessor’s Office does a re-evaluation; therefore, it would be incorrect to suggest that anything that re-adjusts the assessed value was out of process. He believed the process was sound.

Ms. Clementson questioned the authority to settle on an appeal that had not yet been before the BOE or to change the assessed valuation on a property. She referenced written information from Municipal Attorney Bill Greene indicating that appeals are litigation by virtue of the fact the BOE is a quasi-judicial body, an opinion with which she disagreed. She clarified that assessed values had not been changed on the properties that were the subject of the settlement before the body and she believed there was no authority to change those valuations by virtue of agreeing to the settlement. She felt the settlement essentially changed the mil rate that is set by the Assembly.

Mr. Sullivan asked for clarification of the Administration’s position on whether an appeal was litigation. Mayor Wuerch indicated that, on advice of counsel, he would agree with the written statement provided by Mr. Greene.

Ms. Von Gemmingen understood the rent restricted properties benefiting by \$283,000 of the settlement were not covered by current state law. Ms. Giard stated they were covered under the Assembly ordinance, but state law effective January 1, 2001 dealt only with LIHTC properties. Ms. Von Gemmingen asked how this settlement would affect the formula for school funding. Ms. Giard responded the State has indicated this settlement would have no bearing on the school funding formula because it was not adjusted retroactively. Ms. Von Gemmingen asked how settlement could be made on rent restricted properties that were not covered by state law. Ms. Giard explained the \$283,000 was comprised of a benefit that will accrue to the city upon settlement of HUD HOME properties of \$176,000. These properties were considered in conjunction with LIHTC properties because they were covered by the ordinance adopted by the Assembly and because the appeal was filed as a group.

Mr. Sullivan felt the core of the settlement issue before the body was a policy question in terms of whether low-income housing, and the means by which that housing had been built in recent years, had value to the community. He noted that the publication Nation City Weekly recently covered Congressional hearings on housing, which discussed the shortage of affordable housing nationwide. The article notes that “the lack of decent, affordable housing is increasingly seen as a

significant impediment to local economic growth.” There was a recommendation to expand the LIHTC and HOME programs. He indicated the role of municipalities was to provide a stable tax climate for those types of development. He stated the Assembly has the ability to settle matters at any point in a process, if it is to the benefit of the city, and he supported the motion on the floor.

Question was called on the motion to approve AR 2001-121 and it passed:

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

NAYS: Fairclough, Von Gemmingen, Kendall, Tremaine, Clementson.

Mr. Tesche moved, to immediately reconsider AR 2001-121.  
seconded by Mr. Sullivan

Question was called on the motion to reconsider AR 2001-121 and it failed:

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

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

# 11. CONTINUED PUBLIC HEARINGS: (Continued)

G. Ordinance No. AO 2001-92, an ordinance of the Anchorage Municipal Assembly **rescinding AO No. 2001-59 enacting a new Subsection D to AMC 12.15.030 relating to municipal assessment of properties subject to recorded deed restrictions on rents, the valuation of low income housing credits** awarded under 26 USC 42, and providing for the effective date of its application, Assemblymember Tesche.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

Mr. Tesche moved, to adopt AO 2001-92.  
seconded by Mr. Tremaine

Mr. Tesche understood that both the Administration and the groups who had appealed assessments on the properties in question recommended this ordinance be repealed.

Question was called on the motion to adopt AO 2001-92 and it passed:

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

NAYS: Von Gemmingen.

Mr. Tesche moved, to immediately reconsider AO 2001-92.  
seconded by Mr. Sullivan

Question was called on the motion to reconsider AO 2001-92 and it failed:

AYES: Von Gemmingen.

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

F. Resolution No. AR 2001-127, a resolution **revising the Central Business District parking meter zones** authorizing the Municipal Traffic Engineer to designate parking meters in the area of 2nd Avenue to 9th Avenue and 'A' Street to 'T' Street in accordance with Title 9.34.010.A., Office of Planning, Development, and Public Works.  
1. Assembly Memorandum No. AM 377-2001.  
(CARRIED OVER FROM 5-8-01 AND 5-15-01)

This item was begun earlier in the meeting. See after item 13.

Chair Traini indicated the hearing on this item was held earlier in the meeting and no motion was on the floor.

Mr. Tesche moved, to approve AR 2001-127.  
seconded by Mr. Sullivan

Mr. Tesche remarked on the limited amount of controversy that had existed over this item in the past several years. He gave the history of the study done on downtown parking and indicated that, based on the professional recommendation of the study consultant and the city's Traffic Engineering department, and the lack of controversy, led him to support the resolution.

Mr. Sullivan recalled that free parking was instituted in downtown because downtown merchants were losing customers to malls that were providing free parking. He felt there had been no change in that regard and the only change had been in terms of enforcement. He suggested it may be appropriate to delay this resolution until such time as ways to improve enforcement could be investigated.

Mr. Kendall felt there was a perception that free parking for shoppers was a benefit to downtown businesses and he felt that installing meters would negatively impact downtown business operation. He did not feel the issue of employees parking at metered or non-metered spaces in downtown would be resolved by AR 2001-127.

Ms. Von Gemmingen thought the fee of \$.25 for 15 minutes of parking was reasonable. She agreed there was a problem with enforcement in the downtown area.

Mayor Wuerch explained the interest of the Administration is maintenance of a vital and dynamic economy in the central business district. He noted a stakeholders committee was formed and that group supported the proposed resolution.

Mr. Tremaine noted the recommendations in the Kittleson report included many items. He asked for what length of time vehicles are permitted to park in a metered zone per day. Anchorage Parking Authority Director Kevin Kinney replied that municipal ordinance allows a vehicle to be parked two hours at a single meter. Mr. Tremaine understood the utilization of the free zone in winter was 72 percent and 84 percent in the summer.

Traffic Engineer Dave Mumford stated it was found that all parking in the downtown core, whether on-street or off-street, metered or non-metered, was 86 percent in the summer and approximately 70 percent in the winter.

Mr. Tremaine confirmed through Mr. Kinney that the utilization of covered parking was much higher in the winter than in the summer. Mr. Tremaine felt there was no recognition of the non-economic benefit to consumers by a free parking space.

Mr. Sullivan asked for information on the implementation for installing meters. Mr. Kinney replied they would be installed in March 2002. Mr. Sullivan understood the members of the stakeholders committee supported a change because there was a need for more parking available to customers; however, he felt they would support enhanced enforcement in lieu of installing meters. Mr. Kinney explained that his experience was that free parking was often used by other than customers of downtown businesses. Mr. Sullivan noted that data indicates the length of parking at free spaces in both morning and afternoon are within the two-hour limit.

Mr. Mumford indicated the study found that over 36 percent of vehicles parked in the free zone stayed for over two hours, while vehicles parked in the metered zone stayed for less than one hour. Mr. Sullivan asked that media conduct a survey or readers and listeners to determine what was the public will in terms of this proposal.

Mr. Sullivan moved, to postpone AR 2001-127 to August 14, 2001.  
seconded by Mr. Tesche

Mr. Tesche suggested a friendly amendment that a town meeting be convened in the downtown area before August 14, 2001 in order to test the hypothesis advanced by Mr. Tremaine that public notice on this had been lacking and people would be interested in this issue, were they aware of it. This was not accepted as a friendly amendment.

Ms. Von Gemmingen voiced concern with postponing this item to August. Mr. Sullivan explained the intent of his motion was not only to assess public opinion, but also to allow sufficient time to explore means to improve enforcement.

Question was called on the motion to postpone to August 14, 2001 and it passed:

AYES: Sullivan, Tremaine, Abney, Kendall, Traini, Fairclough, Taylor, Van Etten, Clementson.

NAYS: Von Gemmingen, Tesche.

Ms. Fairclough suggested that a special meeting be scheduled at 3:00 p.m. on June 5, 2001 to deal with item 9.D, AO 2001-85. Ms. Von Gemmingen preferred to deal with this item at this meeting and not delay it further.

Mr. Tremaine moved, to extend the meeting to no later than midnight in order to deal with  
seconded by Mr. Tesche AR 2001-85.

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

NAYS: None.

#### 14. SPECIAL ORDERS:

- B. Ordinance No. AO 2001-114, an ordinance amending Anchorage Municipal Code Title 21 to **expand the definition for *Subdivision*** to include condominium, apartment, and similar developments and to establish standards for site plan review, construction, and warranty of public and private improvements for these developments, Assemblymember Fairclough. (**LAID ON THE TABLE**) (**TO BE SUBMITTED**)

Ms. Fairclough moved, to introduce AO 2001-114 entitled "An ordinance  
seconded by Ms. Clementson amending Anchorage Municipal Code Title 21 to expand the  
third by Ms. Von Gemmingen definition for subdivision to include condominiums, apartments,  
and Mr. Traini and similar developments and to establish standards for site plan  
review, construction, and warranty of public and private improvements  
for these developments.

Ms. Fairclough suggested the public hearing be scheduled for August 14, 2001.

The meeting recessed at 10:55 p.m. and reconvened at 11:05 p.m.

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

- D. Ordinance No. AO 2001-85, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Section 11.20.037 to permit the Transportation Commission to **issue a limited number of non-transferable permits to meet the needs of the disabled community** for demand-response transportation; to require specialized equipment be repaired within 96 hours; amending AMC 11.30.020C to provide vehicles permitted pursuant to Subsection 11.20.037F, shall maintain current certifications in first aid, CPR, sensitivity training and securing wheelchair devices; and amending Anchorage Municipal Code of

Regulation Section 11.10.004 to provide the specialized equipment in vehicles permitted pursuant to Subsection 11.20.037F shall be in a safe, operable condition, Municipal Manager/Transportation Inspection.

1. Assembly Memorandum No. AM 355-2001.  
(POSTPONED FROM 5-8-01; CARRIED OVER FROM 5-15-01)

Chair Traini gave the history of AO 2001-85 and indicated a motion was not on the floor.

Mr. Tesche moved, to adopt AO 2001-85.  
seconded by Ms. Clementson

Mr. Tesche incorporated the recommendations made by the Administration and the memorandum. He felt this addressed a substantial need for additional taxi permits. Ms. Clementson concurred with Mr. Tesche. Ms. Von Gemmingen asked what would be the impact of this ordinance on Mr. Cheema's existing permit. Transportation Inspector Tom Wilson stated Mr. Cheema holds the only limited permit in the Anchorage taxi cab fleet and operates the only accessible vehicle in the fleet. The Transportation Commission would be responsible for deciding whether to continue or sunset that permit. He believed Mr. Cheema's request to convert his permit into a general permit would be discriminatory against the other 158 permit owners in the fleet. He felt Mr. Cheema would benefit by applying for a new permit allowed under AO 2001-85.

In response to Mr. Sullivan, Transportation Inspector Wilson indicated the ordinance would grant the Transportation Commission authority to issue, from time to time as determined by a convenience and necessity hearing, permits to vehicles that are accessible to the disabled community. Concurrently and assuming the ordinance would be passed, the Commission approved the issuance of four general permits. He clarified that failure to use a permit for 45 days results in reversion of the permit to the municipality; the permit can then be offered again for bid.

Ms. Fairclough clarified that the issue before the Assembly was not Mr. Cheema's permit. Mr. Wilson further clarified that the ordinance before the Assembly was not limited to four permits. Through Mr. Wilson, Ms. Fairclough indicated cab companies are aware of the assets included with each taxi. She asked whether a computerized dispatch company would be a benefit to a particular driver. Mr. Wilson responded that would depend on the preference of each driver. Ms. Fairclough voiced concern that, regardless of the number of permits issued, the availability of a cab for a disabled person would be unknown. She asked whether it might be appropriate to use an RFP process to determine the best dispatcher for the four initial permits so there would be one telephone number for a disabled person to call for a taxi ride.

Mr. Tremaine asked if the owner of a permit was required to drive the taxi. Mr. Wilson replied the tenor of the code was that the owner be actively involved in the driving or the management, and have driven a minimum of 500 hours in the prior year. In response to Mr. Tremaine, Mr. Wilson listed the types of training requirements for operators of the proposed general permits.

Ms. Clementson indicated she had discussed Ms. Fairclough's suggestion with Purchasing Officer Bart Mauldin, who felt an RFP to issue permits to a single dispatcher was problematic. Mr. Wilson felt the existing process was satisfactory, noting that licenses were not associated with a particular dispatcher, but with a particular taxi.

Ms. Fairclough voiced support for the motion, but had concern with independent permit holders using a dispatcher of their choice.

Mr. Tremaine referenced the federal law requiring there be no trip request denials and felt that it should be made clear with the issuance of these permits that non-performance would result in revocation of the permit. Mr. Wilson explained the zero denial policy is part of the Federal Transportation Act and did not apply to taxi cabs. He also clarified that the population primarily intended to be served with the permits in question total 683 individuals registered with AnchorRIDES who had motorized wheelchairs or scooters.

Ms. Shamberg recalled a cost of \$40,000 to outfit a vehicle to service the population in question, which would be a substantial investment for a single company, if the RFP process suggested by Ms. Fairclough was used. Mr. Wilson explained the permits were given to individuals, not to companies.

Question was called on the motion to adopt AO 2001-85 and it passed:

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

Mr. Tesche moved, to immediately reconsider AO 2001-85.  
seconded by Ms. Fairclough

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

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

Ms. Fairclough urged that Mr. Cheema bid on one of the new permits to be issued per AO 2001-85.

#### 14. SPECIAL ORDERS:

- A. Ordinance No. AO 2001-113, an ordinance amending the effective date of AO 99-37 which amended the zoning map and provided for the rezoning from R-3 (Multiple-Family Residential) to R-4/SL (Multiple-Family Residential District with Special Limitations) for the **Tract 2E, Toyon Subdivision**, generally located on the east side of the New Seward Highway and North Abbott Road, Assemblymember Sullivan.  
(LAID ON THE TABLE)

Action on this item was reconsidered earlier in the meeting. See after item 8.D.2.

- B. Ordinance No. AO 2001-114, an ordinance amending Anchorage Municipal Code Title 21 to **expand the definition for *Subdivision*** to include condominium, apartment, and similar developments and to establish standards for site plan review, construction, and warranty of public and private improvements for these developments, Assemblymember Fairclough. **(LAID ON THE TABLE) (TO BE SUBMITTED)**

Action on this item was reconsidered earlier in the meeting. See after resumption of item 11.F.

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

The meeting adjourned at 11:45 p.m.

\_\_\_\_\_  
Chairman Dick Traini

ATTEST:

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

Date Minutes Approved: October 23 , 2001  
VMC/kds