

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of January 14, 2003

1. CALL TO ORDER:

The meeting was convened at 3:00 p.m. by Assembly Chairman Dick Traini in the Assembly Chambers, 3600 Denali, Anchorage, Alaska.

2. ROLL CALL:

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

3. PLEDGE OF ALLEGIANCE: The pledge was led by Ms. Carol Thompson, Acting Deputy Clerk.

15. BOARD OF ADJUSTMENTS/ASSEMBLY APPEALS

A. Appeal S-10935, Astoria Park Subdivision

After some discussion, it was determined there had been no ex-parte communications regarding this appeal.

Ms. Von Gemmingen pointed out errors in the document; items listed as B14 through B20 should, in fact, be labeled A14 through A20.

Mr. Tremaine moved to grant the appeal and remand to Platting Board,
Ms. Shamberg seconded.

Mr. Tremaine advised Title 21 required covenants be included in an application.

Ms. Von Gemmingen informed the Assembly that at this point she would vote no. Ms. Von Gemmingen stated her understanding regarding issues on drainage were handled entirely by the Corp of Engineers on wetlands.

Chairman Traini directed members to turn to Chairman Walsh's comments on page 22 (stamped page 27), line 24. Chairman Traini asked Mr. Wheeler, Municipal Attorney's Office, if Chairman Walsh's comments were correct in that they could not take covenants into account when making their decision.

Mr. Wheeler replied that it has been the decision of the Municipal Attorney's Office that private covenants created by the subdivider, developer, and later the property owners is a matter of private enforcement. The requirement to review covenants stemmed from a desire to insure that there was not anything contained in the covenant which would be incompatible with Title 21 or laws generally. Originally they were reviewed with respect to Civil Rights issues. The Municipality does not enforce covenants once adopted by the property owner/subdivider/developer.

Mr. Tremaine stated it is a fact that the Code reads covenants "shall" be included with an application and it is a fact that they were not. It is a fact that the Code mandates that an incomplete packet be turned back to the person who submitted it and it is a fact that it was not turned back. The question was whether it made a significant difference. Mr. Tremaine agreed with Ms. Von Gemmingen that in this case it probably did not. Mr. Tremaine asserted the Platting Board has the ability and authority to plat parcels to meet Code. Covenants on the property say that cannot happen without permission of people involved. Mr. Tremaine asked how these two sets of law interacted. Mr. Wheeler asked for clarification.

Mr. Tremaine replied that it was his understanding that a covenant was a civil contract between parties. That contract stated that a subdivision may not occur without written approval by 75% of the property owners. How does that covenant interact with the Platting Board's legal authority to subdivide?

Mr. Wheeler answered that the Platting Board has no control over whether a property owner or property owners can subdivide, but if they subdivide, the Platting Board has jurisdiction to make sure it complied with Title 21. In that instance, the property owners control whether, if ever, the property is subdivided. Once they make the decision to subdivide, and present a plat to the Platting Board, the Platting Board has the jurisdiction to insure that the subdivision comports with Title 21.

Mr. Tremaine questioned Mr. Wheeler regarding the interaction of the Platting Board's jurisdiction and civil law.

Mr. Wheeler replied, once the Platting Board passed a resolution which outlined what it approved and applicable conditions, any loose ends needed to be worked out with staff before the final plat was recorded. Once the plat was signed off by the Platting Officer, it became an official plat subject to recordization. The requirements in the document were fully enforceable.

Mr. Tremaine asked if that meant the Municipality knowingly ignored civil contracts.

Mr. Wheeler replied that ignore was too strong of a word. The Municipality does not handle enforcement of those provisions, but do look to see if they impact Title 21.

Mr. Tremaine then read from the civil contract. “No lot shall be subdivided into smaller lots without the express written approval of the majority of the owners of the lots in the subdivision.” This was a civil contract acknowledged by the Municipality.

Mr. Wheeler asked Mr. Tremaine if his question was that if it was a pre-existing covenant, does the Municipality need to honor that covenant. Mr. Tremaine replied in the affirmative.

Mr. Wheeler stated that his answer to the Platting Board was that if they had knowledge a covenant was being violated they should withhold further action until clarified.

Ms. Shamberg said she found it troubling that the Planning Board granted the subdivision under 21.75.010 which stated, “The Platting authority may approve a preliminary or final plat only if it finds that the plat: Mitigates the effects of incompatibilities between the land uses or residential densities in the surrounding neighborhood, including but not limited to visual, noise, traffic and environmental effects.” The effect of the proposed neighborhood was inconsistent with what already existed. This neighborhood had large lot homes. The property owners left all of the trees standing which subsequently resulted in an unrefined neighborhood. They did not clear-cut the lots and did not plant neat little hedges and rows of trees. They left everything as natural as they could. The neighborhood was built with a variety of houses; some very large houses and some very small houses, but what they had in common was they left everything natural. Ms. Shamberg commented that it was a lovely neighborhood and to say that it could be subdivided into as many lots as planned without affecting the neighborhood is totally incorrect.

Mr. Tesche commented that Mr. Wheeler’s comments prompted him to go back and look at pages 10 and 11 of the brief. Mr. Tesche said that if he understood those pages, they were taking a position contrary to the advice he has just given. Generally read those pages suggested, and this was the argument made by the administration, that the subdivision covenants, were indeed, private agreements not enforced by the Municipality. Mr. Tesche restated his understanding of Mr. Wheeler’s advice was if a private subdivision covenant prohibited the proposed subdivision the Assembly had no choice but to reverse the appeal before them. Mr. Tesche pointed out this advice contradicted the legal argument advanced by Ms. Fisson. Mr. Tesche asked Mr. Wheeler how he would square the advice he just gave the Assembly with the argument made on behalf of the administration found on pages 10 and 11 of the brief.

Mr. Wheeler responded that the Municipality does not enforce the covenants. He continued that when a covenant existed and indicated a clear process for subdivision, it would be difficult to justify the Platting Board going forward if there was a dispute about whether or not they could hear the case at all. Mr. Wheeler wondered about the advisability of risking the resources of the Municipality in terms of wrapping itself up in litigation when you could return it to the property owners and ask what the resolution was with respect to the covenant before going forward. Mr. Wheeler continued to say that as Assembly counsel he found this issue problematic and had he advised the Platting Board he would have advised them to take care of this issue up front rather than process it.

Ms. Von Gemmingen pointed out that page B11 stated, “Enforcement of private covenants would have the effect of rezoning the property to conform to the R-6 district regulations.” The fact of the matter was the owner(s) of the four lots did not sign on to the large lot idea when it was rezoned to R-6 in 1977. They kept it as it was zoned in 1971 as R-1A and that was the fact the Assembly had to go by. The R-1A rating meant the lots could be subdivided into 27 lots and smaller homes built. Ms. Von Gemmingen stated the place this should be dealt with was in the courts. Ms. Von Gemmingen stated that it was properly zoned to do what they proposed doing, even if nobody liked it.

Ms. Fairclough stated she would support the motion to remand back to the Platting Board as had been laid on the table by Mr. Tremaine. The Code states the covenant shall be present during application. Ms. Fairclough pointed out that the Assembly needed to make consistent decisions on that basis and not be arbitrary in ruling. Ms. Fairclough said she totally agreed with Ms. Von Gemmingen that the developer had every right to develop this property as he or she saw fit. The Assembly needed to send it back to the Platting Board with a clear message that they abide by the Code and start denying instead of letting the Planning and Zoning Department piecemeal subdivisions. Some applications coming before the Assembly on the major lots, gravel pits, and large developments have failed to bring the appropriate application package. Ms. Fairclough pointed out that the Assembly needed to vote on this consistently.

Mr. Sullivan asked Mr. Weaver what was the maximum number of homes that could be built on the four lots; given the zoning.

Mr. Weaver answered that at this time the present configuration was four homes.

Mr. Sullivan asked if that was R-1A zoning.

Mr. Weaver replied that it was R-1A zoning with one home per lot.

Mr. Sullivan observed that the replat created 27 lots and asked, with the same zoning, what was the maximum that could be created with this amount of acreage. How many lots could it conceivably be platted for.

Ms. Fairclough said that she believed the minimum lot requirement was 8,400 square feet.

Mr. Tremaine stated that on page 26, line 23, Board Member Poulton said, “...easement to the north from the interior cul de sac.” On page 29, item 9, “Providing a 15-foot wide pedestrian access easement to the north from one of the interior cul de sacs.” That seemed to be a cut and paste from what was presented to the board by the staff, but it was not what was approved by the board. It was small word changes and was a very small point in and of itself. Page 29, item 3, talked about meeting lot width requirements of 70 feet. Elsewhere in the record it referred to AMC 21.80.330(d) which talks about width of the driveway and states “the total width of driveway entrances to a lot from a street shall not exceed two-fifths of the frontage of that lot on the street or one-third of the size if the Platting Authority finds that conditions warrant it unless the subdivider provides for new storage in a manner approved by the Platting Authority.” They did not do that. AMC 21.80.330(e) goes on

to say that the frontage on a cul de sac shall be at least 30 feet. Mr. Tremaine did not know if they addressed it specifically or not, but thought it needed to be addressed.

Mr. Tremaine directed the Assembly to the bottom of page 30 which states, “Based on the foregoing Findings and Conclusions, be it resolved by the Anchorage Municipal Platting Authority that the vacation request does not conform to the policy and the vacation request is denied.” Page 29 is approving the vacation request. Mr. Tremaine said it was confusing and he thought he was missing something but he did not know what.

Mr. Tesche concurred with Mr. Tremaine’s comments and requested that when it does go back all parties have an opportunity to present to the Platting Board their views on the legal question as to the effect and enforceability of the covenants in the context of this particular subdivision application.

Mr. Sullivan referred members to the Board of Adjustment, Appeal S-10935, Astoria Park Subdivisions B11 and A4. He also referred to Development Services comments on page 70. Mr. Sullivan asserted that the subdivider needed to respond back to the Platting Authority either with a redesign or answer to those nonconforming questions before this was passed onto the Assembly or before it was approved. For that reason Mr. Sullivan supported the remand and hoped that it comes back with the required information prior to moving to the next level.

Mr. Sullivan questioned if the appeal was remanded back to the Platting Board, could the Assembly remand it back with an additional condition that the Platting Board must take into account. Mr. Sullivan proposed a limit on the number of lots that could be built.

Mr. Wheeler, Municipal Attorney’s Office, responded that the Board of Adjustment needed to make some findings with respect to the density issue so that they could cite, for the record, those findings as a justification for changing or making a recommendation with respect to density.

Chairman Traini commented that reading the appeal was very disquieting; having a large lot and wanting to subdivide to accommodate 27 homes, where only four should be situated.

Question was called on the motion to grant the appeal and remand to Platting Board and it passed.

AYES: Allan Tesche, Brian Whittle, Melinda Taylor, Anna Fairclough, Dick Traini, Fay Von Gemmingen, Doug Van Etten, Dan Kendall, Janice Shamberg, Dick Tremaine, Dan Sullivan.
NAYES: None.

The Assembly recessed until their regular meeting reconvened at 5:00 p.m.

4. MINUTES OF PREVIOUS MEETING: None

5. MAYOR’S REPORT:

Mayor Wuerch reported Tuesday, January 14, 2003, was the first class of Muniuniversity; a program designed for citizens to learn how the Municipality of Anchorage worked. The first class was attended by approximately 80 to 90 people. The classes teach the public about the fundamentals of our government. The classes run from noon to 1:00 p.m. for the next ten weeks in the Assembly Chambers. The schedule of classes is located on the Municipality of Anchorage’s homepage.

6. ASSEMBLY CHAIR’S REPORT: None

7. COMMITTEE REPORTS: None

8. ADDENDUM TO AGENDA:

Mr. Tesche moved to incorporate the addendum,
Ms. Fairclough seconded.

Question was called on the motion to approve the addendum to agenda and it passed with no objection.

9. CONSENT AGENDA:

Mr. Tesche moved to approve consent agenda,
Ms. Fairclough seconded.

A. RESOLUTIONS FOR ACTION – PROCLAMATIONS AND RECOGNITIONS:

- 1. Resolution No. AR 2003-25, a resolution of the Anchorage Municipal Assembly recognizing Robert E. Kniefel for his service to the Municipality of Anchorage.

Ms. Taylor requested this item be considered on the Regular Agenda. See item 10.A.1.

B. RESOLUTIONS FOR ACTION - OTHER

- 1. Resolution No. AR 2003-12, a resolution of the Municipality of Anchorage appropriating the sum of \$41,000 from the State of Alaska, Department of Transportation & Public Facilities and \$1,370 as a contribution from the 2002 Anchorage Police Operating Budget, Anchorage Metropolitan Police Service Area Fund (151) to the State Categorical Grants Fund (231), Anchorage Police Department for the Impaired Driving Enforcement Blitz Program.
 - a. Assembly Memorandum No. AM 30-2003

2. Resolution No. AR 2003-13, a resolution of the Municipality of Anchorage appropriating \$13,800 donated by Conoco Phillips to the Miscellaneous Operational Grants Fund (281), Cultural and Recreational Services Department for the purpose of supporting the Westchester Lagoon Saturday Family Skate.
 - a. Assembly Memorandum No. AM 31-2003

Mr. Tesche requested this item be considered on the Regular Agenda. See item 10.B.1.

3. Resolution No. AR 2003-20, a resolution authorizing the Municipality to grant a forty-foot-wide right of way easement to Matanuska Electric Association, Inc. across a portion of the Chugiak School Site Subdivision, within Section 9, Township 15 North, Range 1 West, Seward Meridian, Alaska, located near North Birchwood Road, Tax #015-142-22.
 - a. Assembly Memorandum No. AM 36-2003
4. Resolution No. AR 2003-21, a resolution authorizing the Municipality to grant a twenty-foot-wide electrical easement to Chugach Electric Association, Inc. across a portion of Kincaid Park located within Section 5, T12N, R4W, S.M., Alaska, Tax #010-411-16.
 - a. Assembly Memorandum No. AM 38-2003

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 10.B.2.

5. Resolution No. AR 2003-19, a resolution of the Anchorage Municipal Assembly requesting an annual work session with the Assembly, other local elected officials, and the Alaska Public Offices Commission or its staff to provide information pertaining to contributions, reporting, and other campaign matters.
6. Resolution No. AR 2003-26, a resolution of the Anchorage Municipal Assembly determining a suitable site for Little League Ball fields in the Southwest corner of Bicentennial Park and the size, number, and configuration of the fields, including attendant and related facilities.
 - a. Assembly Memorandum No. AM 52-2003
7. Resolution No. AR 2003-24, a resolution of the Anchorage Municipal Assembly revising the 2003 general government operating budget appropriating fifty-two thousand dollars (\$52,000.00) from area-wide general fund (101) balance to the public transportation department to provide funding for continued bus service on Martin Luther King Day, President's Day, Veteran's day, and the day after Thanksgiving.

Ms. Taylor requested this item be considered on the Regular Agenda. See item 10.B.3.

8. Assembly Memorandum No. AM 56-2003, Orso Ristorante – New Duplicate Brewpub Liquor License (Downtown Community Council).
9. Resolution No. AR 2003-27, a resolution of the Anchorage Municipal Assembly supporting passage of legislation to extend treatment for uninsured women diagnosed with breast and cervical cancer.
10. Resolution No. AR 2003-28, a resolution approving a purchase and sale agreement for the acquisition of the Assembly-approved Muldoon Middle School site; appropriating funds to reimburse the Municipal School District for proration of taxes at closing; amending the site approval conditions contained in Assembly Resolution 2001-366(S); and authorizing the expenditure of general government funds as a contribution to payment of the purchase price.

Mr. Whittle requested this item be considered on the Regular Agenda. See item 10.B.4.

C. BID AWARDS

1. Assembly Memorandum No. AM 51-2003, recommendation of award to Tam Construction, Inc. for B-5 & B-6 And C-5-7 sewer trunk upgrade for the Municipality of Anchorage, Anchorage Water & Wastewater Utility (\$1,353,092) (ITB 22C-054).

D. NEW BUSINESS

1. Assembly Memorandum No. AM 43-2003, Parks and Recreation Commission appointment (Sandy Traini).
2. Assembly Memorandum No. AM 25-2003, recommendation of award to USKH, Inc. for providing professional engineering services for the Pintail Street and Huffman Road Intersection Improvement Project for the Municipality of Anchorage, Project Management & Engineering (RFP 22-P034 Project B) (\$426,347).
3. Assembly Memorandum No. AM 26-2003, recommendation of award to CRW Engineering Group, LLC for providing professional architectural/engineering services for the Anchorage Area Wide Trail Rehabilitation, for the Municipality of Anchorage, Project Management & Engineering (RFP 22-P014 Project F) (\$308,839).
4. Assembly Memorandum No. AM 27-2003, change order No. 1 to purchase order 220942 for the Housing Acquisition Rehabilitation Program contract with Anchorage Neighborhood Housing Services, Inc. (ANHS) (\$160,650).
5. Assembly Memorandum No. AM 29-2003, 2003 grant agreement with Anchorage Economic Development Corporation (\$491,500).

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 10.D.1

6. Assembly Memorandum No. AM 45-2003, change order No. 2 to purchase order numbers 212880 with Aetna US Health Care and 212716 with States West Life Insurance Company for providing long and short term disability coverage and claims payment programs for the Municipality of Anchorage, Employee Relations Department (\$1,013,690).
7. Assembly Memorandum No. AM 46-2003, change order No. 3 to purchase order 211049 with Blue Cross Blue Shield of Alaska, for providing medical, dental, vision and audio benefits and claims administration to the Municipality of Anchorage, Employee Relations Department (\$29,300,052).
8. Assembly Memorandum No. AM 48-2003, 2002 grant agreement with Anchorage Winter Cities 2004 (\$123,768).

Mr. Van Etten requested this item be considered on the Regular Agenda. See item 10.D.2

E. INFORMATION AND REPORTS

1. Information Memorandum No. AIM 4-2003, Eagle River Reservoir – Alaska Mechanical, Inc. (PO 84252), Report of Construction Contract Change Orders (\$1,379,669.14).

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 10.E.1

2. Information Memorandum No. AIM 5-2003, Eagle River Water Improvements-1998 – Eastwind-A Division of NORCON, Inc. (PO 996165), Report of Construction Contract Change Orders (\$3,982,376.06).

Ms. Fairclough requested this item be considered on the Regular Agenda. See item 10.E.2

3. Information Memorandum No. AIM 6-2003, **Reka Drive Sanitary Sewer Upgrade** – Tam Construction, Inc. (PO 0000216101), Report of Construction Contract Change Orders (\$1,727,314.32).

F. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION

1. Ordinance No. AO 2003-3, an ordinance amending Anchorage Municipal Code Subsection 21.40.020.D.7. to add impound yards owned by the government as a conditional use in the PLI – Public Lands and Institutions District.
 - a. Assembly Memorandum No. AM 20-2003.
2. Ordinance No. AO 2003-5, an ordinance amending Anchorage Municipal Code Section 3.30.172 to classify the Librarian executive position in accordance with 3.30.172.
 - a. Assembly Memorandum No. AM 37-2003

Mayor Wuerch requested this item be considered on the Regular Agenda. See item 10.F.1

3. Resolution No. AR 2003-14, a resolution of the Municipality of Anchorage appropriating \$1,346,000 to the Public Transportation CIP Fund (485) from the Federal Highway Administration through the Alaska Department of Transportation and Public Facilities to provide funding for purchase of new buses. This purchase will aid in congestion management and air quality mitigation through additional fixed route bus service within the Municipality of Anchorage.
 - a. Assembly Memorandum No. AM 32-2003
4. Resolution No. AR 2003-22, a resolution authorizing the Municipality of Anchorage, Public Transportation Department to enter into a Transfer of Responsibilities Agreement in the amount of \$387,100 with the Department of Transportation and Public Facilities, State of Alaska, for the Municipal Share-A-Ride Program and appropriating these funds to the State Categorical Grants Fund (231).
 - a. Assembly Memorandum No. AM 39-2003
5. Resolution No. AR 2003-15, a resolution of the Municipality of Anchorage appropriating supplemental award of \$385,146 to the State Categorical Grants Fund (231) from the Alaska Department of Labor and Workforce Development for the PY 2002 Workforce Investment Act Title 1B Dislocated Worker Program within the Planning Department.
 - a. Assembly Memorandum No. AM 33-2003
6. Resolution No. AR 2003-16, a resolution of the Municipality of Anchorage reducing the 2002 Dividend from the MOA Trust Fund Balance (Fund 730) from \$9,400,000 to \$7,025,863; and subsequently appropriating \$2,374,137 from MOA Trust Reserve Fund Balance (Fund 731) as a contribution to the Area-wide General Fund (Fund 101).
 - a. Assembly Memorandum No. AM 34-2003

Ms. Shamberg requested this item be considered on the Regular Agenda. See item 10.F.2

7. Resolution No. AR 2003-17, a resolution of the Municipality of Anchorage, Alaska, confirming and levying assessments for the water special improvements within Levy Upon Connection (LUC) Roll 02-W-2, setting date of payment and providing for penalties and interest in the event of delinquency.
 - a. Assembly Memorandum No. AM 35-2003.
8. Ordinance No. AO 2003-8, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Chapter 10.50, Alcoholic Beverages, to require registration of kegs or other containers capable of holding four or more gallons of an alcoholic beverage and offered for sale or lease to consumers who are not licensed under AS 04.16.

Question was called on the motion to approve the balance of the Consent Agenda and it passed.

10. REGULAR AGENDA

A. RESOLUTIONS FOR ACTION - PROCLAMATIONS AND RECOGNITIONS

1. Resolution No. AR 2003-25, a resolution of the Anchorage Municipal Assembly recognizing Robert E. Kniefel for his service to the Municipality of Anchorage, Assembly members Fairclough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine, Van Etten, Von Gemmingen, and Whittle.

Ms. Taylor requested Mr. Kniefel come forward. Mr. Van Etten presented the resolution recognizing Mr. Kniefel's contribution to the Municipality of Anchorage. Mr. Kniefel thanked the Assembly and members of the audience.

Ms. Taylor moved to approve AR 2003-25,
seconded by Ms. Fairclough,
and it passed without objection.

B. RESOLUTIONS FOR ACTION - OTHER

1. Resolution No. AR 2003-13, a resolution of the Municipality of Anchorage appropriating \$13,800 donated by Conoco Phillips to the Miscellaneous Operational Grants Fund (281), Cultural and Recreational Services Department for the purpose of supporting the Westchester Lagoon Saturday Family Skate, Cultural and Recreational Services.
 - a. Assembly Memorandum No. AM 31-2003

Mr. Tesche moved to approve AR 2003-13,
seconded by Mr. Van Etten,
and it passed without objection.

Mr. Tesche spoke in support of the resolution. Mr. Tesche recognized complaints regarding the event from the surrounding neighborhood. These concerns were lack of adequate parking, traffic jams, noise, and litter. He urged citizens to work together to ensure the event's future success. Mr. Tesche urged approval of the appropriation.

2. Resolution No. AR 2003-21, a resolution authorizing the Municipality to grant a twenty-foot-wide electrical easement to Chugach Electric Association, Inc. across a portion of Kincaid Park located within Section 5, T12N, R4W, S.M., Alaska, Tax #010-411-16.
 - a. Assembly Memorandum No. AM 38-2003

Ms. Fairclough moved to approve AR 2003-21,
Mr. Van Etten seconded,
and it passed without objection.

Ms. Fairclough asked Administration and Legal if the title was sufficient for this resolution. Mr. Greene, Municipal Attorney, advised that the title was sufficient.

3. Resolution No. AR 2003-24, a resolution of the Anchorage Municipal Assembly revising the 2003 General Government Operating Budget by appropriating \$52,000 from Areawide General Fund (101) Balance to the Public Transportation Department to provide funding for continued bus service on Martin Luther King Day, President's Day, Veterans' Day, and the day after Thanksgiving.
 - a. Assembly Memorandum No. AM 44-2003

Ms. Taylor stated she wanted to postpone action on this item until after Persons to be Heard as there were people in the audience who wanted to discuss this item. Chairman Traini asked to do a time certain so everybody on Persons to be Heard gets heard and stated the item would be taken up after Persons to be Heard is completed. There were no objections.

4. Resolution No. AR 2003-28, a resolution approving a purchase and sale agreement for the acquisition of the Assembly-approved Muldoon Middle School site; appropriating funds to reimburse the Municipal School District for proration of taxes at closing; amending the site approval conditions contained in Assembly Resolution 2001-366(S); and authorizing the expenditure of general government funds as a contribution to payment of the purchase price.

Mr. Whittle moved to approve AR 2003-28,
Ms. Fairclough seconded.

Mr. Whittle urged Assembly members to approve this resolution.

Ms. Von Gemmingen asked if Mr. Vakalis, who was in the audience, had read the document.

Mr. Vakalis came forward and responded that the school district had read the document and were in concurrence with it.

Ms. Taylor urged a yes vote.

Question was called on the motion to approve AR 2003-28 and it passed.

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

C. BID AWARDS: None**D. NEW BUSINESS:**

1. Assembly Memorandum No. AM 29-2003, 2003 grant agreement with Anchorage Economic Development Corporation (\$491,500).

Ms. Fairclough moved to approve AM 20-2003,
Mr. Tremaine seconded.

Ms. Fairclough asked Administration to provide her with an update of the 2002 Work Plan Accomplishment Priorities and statistics as to how goals were met.

Question was called on the motion to approve AM 29-2003 and it passed.

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

2. Assembly Memorandum No. AM 48-2003, 2002 grant agreement with Anchorage Winter Cities 2004 (\$123,768), Municipal Manager's Office.

Mr. Van Etten moved to approve AM-48-2003,
Ms. Fairclough seconded.

Mr. Van Etten addressed Mayor Wuerch regarding his enthusiasm for Anchorage being the host city of Winter Cities 2004. Mr. Van Etten requested more information to enable the Assembly members to do everything possible to make this the best Winter Cities' conference.

Mayor Wuerch thanked Mr. Van Etten and the Assembly for the support and interest.

Question was called on the motion to approve AM 48-2003 and it passed.

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

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 4-2003, Eagle River Reservoir – Alaska Mechanical, Inc. (PO 84252), Report of Construction Contract Change Orders (\$1,379,669.14).

Ms. Fairclough moved to accept AIM 4-2003,
Mr. Whittle seconded.

Ms. Fairclough asked AWWU if this was the project that had a million dollars coming from the state to offset the costs and if it was reflected in the costs before the Assembly and if there would be assessments charged on this.

Mr. Mark Premo, AWWU, was asked to step forward to answer questions regarding AIM-4-2003.

Mr. Premo informed the Assembly that the million dollars was not reflected in the costs before the Assembly. These costs represented the actual contract value to the contractor. The reconciliation of the million dollars was in the payment of these costs back out and included assessment costs.

Ms. Fairclough asked if the citizens of Chugiak/Eagle River on the assessment roles would only be levied on the \$379,669.14.

Mr. Premo answered that he would prefer to answer the question in writing as he did not have the answers off the top of his head and he wanted the information given to the Assembly to be accurate.

Question was called on the motion to accept AIM 4-2003 and it passed.

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

2. Information Memorandum No. AIM 5-2003, Eagle River Water Improvements-1998 – Eastwind-A Division of NORCON, Inc. (PO 996165), Report of Construction Contract Change Orders (\$3,982,376.06).

Ms. Fairclough moved to accept AIM 5-2003,
Mr. Whittle seconded.

Ms. Fairclough asked Mr. Mark Premo, AWWU, if assessments would be levied against property tax holders.

Mr. Premo advised that was correct. He also advised that his previous answer included both of these projects.

Ms. Fairclough asked if both projects would have assessments.

Mr. Premo stated he knew this project had assessments; he did not know if the Reservoir project had assessments. Mr. Premo conferred with an associate and answered that there should be no assessments with respect to the Reservoir project.

Ms. Fairclough asked if AWWU, as part of its capital improvement plan, is paying the \$379 ... almost \$380,000.00 on that particular project. Mr. Premo confirmed that.

Ms. Fairclough asked when the million dollars was processed and granted to the City of Anchorage was it just for the Reservoir project or was it supposed to be applied to this particular part of the project also.

Mr. Premo did not know the answer. He stated he would get back to Ms. Fairclough in writing unless his associate knew the answer.

An unidentified staff person said that the portion of the State grant not used for the reservoir was to be applied to the other project. Any monies left over would be applied to the reservoir and then deducted from any assessments due property owners for the second project.

Ms. Fairclough stated her understanding was that they received a million dollar grant from the State of Alaska. She wanted to know if there were stipulations in the grant for some of that money to go to the reservoir or was it supposed to go to the people whose property taxes are going to be assessed. She wanted to know if there was a percentage breakout. Ms. Fairclough stated that 1.4 million dollars had already been spent.

An unidentified staff person stated he did not believe there were stipulations in the grant, but offered a copy of the grant, the stipulations, and the accountability to the grant funds through both projects.

Ms. Fairclough stated the larger question was the acquisition of North Fork Utilities on the second AM and there were several charges totaling nearly \$280 thousand dollars that refer to North Fork Utilities. Ms. Fairclough wanted to know if that would be deducted so no aspect of the acquisition of North Fork Utilities was included to those property owners.

An unidentified staff person replied that she was correct and it will be deducted.

Question was called on the motion to approve and it passed.

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

F. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 2003-5, an ordinance amending Anchorage Municipal Code Section 3.30.172 to classify the Librarian executive position in accordance with 3.30.172.

Mayor Wuerch stated that the Administration would like to postpone this indefinitely.

Ms. Fairclough moved to postpone AO-2003-5 indefinitely,
Mr. Tesche seconded.

Question was called on the motion to approve postponement of AO 2003-5 indefinitely and it passed.

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

2. Resolution No. AR 2003-16, a resolution of the Municipality of Anchorage reducing the 2002 Dividend from the MOA Trust Fund Balance (Fund 730) from \$9,400,000 to \$7,025,863; and subsequently appropriating \$2,374,137 from MOA Trust Reserve Fund Balance (Fund 731) as a contribution to the Area-wide General Fund (Fund 101).
 - a. Assembly Memorandum No. AM 34-2003

Ms. Shamberg moved to introduce AR 2003-16,
Ms. Fairclough seconded,
Ms. Taylor third.

Ms. Shamberg pointed out that on line 16, proscribed should be prescribed.

Chairman Traini asked for any objections; seeing none, the document was amended.

Chairman Traini asked for any objections to this item being set for public hearing on January 28, 2003? Seeing no objections from the body, it was so ordered.

11. OLD BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS

- A. Assembly Memorandum No. AM 23-2003, Executive Appointments (Denis LeBlanc – Director, Management and Budget; Robert Hall – Director, Solid Waste Services; Thomas Wilson – Director of Public Transportation; Jim Posey – General Manager, Municipal Light and Power; John Rodda – Director of Cultural and Recreational Services; Mike Scott – Executive Director Planning, Developmental Services and Public Works).

Mr. Tesche moved to approve AM 23-2003,
Ms. Fairclough seconded.

Mr. Tesche recommended Assembly confirmation of all executive appointments set out in AM 23-2003.

Mr. Tremaine supported AM 23-2003 in its entirety.

Chairman Traini thanked Mayor Wuersh for having the appointees talk to the Assembly confirmation committee.

Question was called on the motion to approve AM 23-2003 and it passed.

AYES: Tesche, Whittle, Taylor, Von Gemmingen, Traini, Fairclough, Van Etten, Kendall, Shamborg, Tremaine, Sullivan

NAYES: None

B. Resolution No. AR 2003-10, a resolution of the Anchorage Assembly approving the site plan for the development of Little League ball fields and a community park in the southwest corner of Far North Bicentennial Park.

1. Assembly Memorandum No. AM 18-2003.
2. Information Memorandum No. AIM 7-2003, AIM relating to development of Little League ball fields and a community park in the southwest corner of Far North Bicentennial Park.

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

Mr. Tesche moved to postpone AR 2003-10 indefinitely,
Ms. Fairclough seconded.

Ms. Von Gemmingen stated that Assembly members have received numerous phone calls and e-mails from folks angry about the public not having a chance to weigh in on this issue.

Mr. Tesche advised that the public will have the opportunity to be heard on this issue. AO 2002-165, which was approved several months ago, contained a clear, unambiguous requirement of at least two public hearings to be conducted before Parks and Recreation Commission takes action on a final ball field development plan. Assembly Memorandum No. AM 52-2003 contained a schedule of events which will take place following passage of that. The next step will be the preparation, by staff, of that detailed plan and then its submission for at least two public hearings before it goes to the Parks Board for approval. The Assembly approved the basic configuration of the ball fields, attendant, and facilities paving the way for the preparation of the detailed plan by staff and the two public hearings referenced by Ms. Von Gemmingen.

Ms. Von Gemmingen said she had been contacted by horse owners who utilized the park and their concern that the trail head would go away.

Mr. Tesche suggested that interested parties stay in close contact with staff over the next several months as that detailed plan is developed and then to prepare comments for the public hearings when scheduled.

Mr. Van Etten suggested concerned parties read Mike Duggan's opinion piece in which the City's Public Works Director was quoted affirming that there would be public process. Mr. Van Etten stated he was confident that messages sent to numerous Assembly members be taken into consideration. There is a public meeting scheduled for January 21st at 5:30 p.m. at the Public Works facility.

Mr. Mike Scott, Director of Office of Planning, Development and Public Works, asked Mr. Tesche if it was his understanding that with the two public hearings (outlined in AM 52-2003), which will be scheduled and conducted by the Department of Cultural and Recreational Services, that once the two hearings were completed the site plan would move forward to the Parks and Recreation Commission and would not need additional public hearings.

Mr. Tesche replied that Mr. Scott's understanding was correct. Additional public hearings would be optional as the administration deemed necessary.

Mr. Scott asked if it was Mr. Tesche's understanding that upon adoption of this AR 2003-10 this evening, the administration would move immediately, as outlined in AR 2002-226 Section 2, with the design, clearing, grading, irrigation, installation of top soil, and seeding of the ball fields.

Mr. Tesche responded that was his understanding.

Mr. Van Etten stated he was encouraged that the Administration had looked into the possibilities of transplanting some of the smaller Birch trees or allowing the public, under supervision, to plant. Mr. Van Etten stated that he knew the Administration has also considered using some small scale operators to do some selective logging of some of the better timber in the area. While these things are not commitments at this point, the administration has been aware of them and has given them consideration.

Mr. Sullivan referred to page two of AIM 7-2003 which showed a total cost of \$1.3 million and wanted to know if that included cost for removal of ribbons and other things in the park.

Question was called on the motion to postpone AR 2003-10 indefinitely and it passed.

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

NAYES: None

C. Assembly Memorandum No. AM 11-2003, 2003/2004 Liquor License Renewal: Beverage Dispensary – Gallo’s Mexican Restaurant (#3572).

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

Ms. Fairclough moved to approve AM 11-2003,
Mr. Whittle seconded.

Chairman Traini asked if there was a representative from Gallo's Mexican Restaurant. Mr. Smith and Mr. Coffey came forward.

The Assembly discussed the issues concerning this item.

Chairman Traini asked if there were any further questions from Assembly members.

Question was called on the motion to approve AM-11-2003 and it passed.

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

- D.** Ordinance No. AO 2002-164, an ordinance amending Anchorage Municipal Code Title 5 to add a new Chapter providing for fair housing practices and enforcement.
1. Assembly Memorandum No. AM 956-2002.
 2. Ordinance No. AO 2002-164(S), an ordinance amending Anchorage Municipal Code Title 5 to add a new Chapter providing for fair housing practices and enforcement, Anchorage Equal Rights Commission.

Chairman Traini gave the history of the Memorandum and stated a motion to approve original version of the ordinance was on the floor.

Mr. Tremaine moved to substitute AO 2002-164(S) for AO 2002-164,
Mr. Van Etten seconded.

Question was called on the motion to substitute AO 2002-164(S) for AO 2002-164 and it passed without objection.

Chairman Traini opened the floor to discussion on AO 2002-164(S).

Barbara Jones, Equal Rights Commission Executive Director, came forward and informed the Assembly which items had been changed in AO 2002-164(S). The changes included the floor amendments which she attempted to propose last week. The corrections were technical and, in fact, were from drafts of the proposed amendment which were sent to local attorneys as well as having been reviewed with Mr. Gatti.

Mr. Tremaine spoke of an issue which was brought up in the Community Council this past week was one of familial status. There have been several instances around town where people have custody of minors under the foster care system. In some cases they had a number of foster children. Mr. Tremaine stated that when foster homes were situated in neighborhoods there could be the perception that the home operated as a business. What does this or does this not affect?

Connie Livsey, Equal Rights Commission Attorney, came forward to answer Mr. Tremaine's question. Part of the answer was found in the definition of familial status on page two of the proposed ordinance. Foster placement was defined as a person having legal custody of an individual having not reached the age of 18. The question of whether having a large number of foster children should be considered a business may be answered more by zoning laws on the number of individuals you can have living in a house or a rented apartment. Under this proposed ordinance a minor living with an aunt, an uncle, a grandparent, or even a non-blood family relationship, but with the written permission or the designation of the parent could not be discriminated against under the proposed ordinance. Ms. Livsey said she did not know how the situation Mr. Tremaine or Ms. Von Gemmingen asked about would be analyzed and changed by this law. She said she did not believe it would change.

Question was called on the motion to approve AO 2002-164(S) and it was passed.

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

- E.** Ordinance No. AO 2002-117, an ordinance repealing or amending and renumbering sections of Anchorage Municipal Code Chapters 21.67, 15.40, and 15.50 and Anchorage Municipal Code of Regulations Chapter 21.67, regarding Stormwater and Watershed Management; and amending Anchorage Municipal Code Sections 4.40.150, 14.60.030, 21.10.015, 21.35.020 and 21.40.230; to provide for the implementation and enforcement of stormwater and watershed management.
1. Assembly Memorandum No. AM 717-2002.

The Chairman gave the history of the Ordinance and noted no motions were pending.

Ms. Shamberg moved to approve AO 2002-117,
Mr. Tremaine seconded.

Ms. Shamberg stated that the Administration approved, through Craig Campbell, who is no longer in the same position, an amendment to AO 2002-117 which addressed the land clearing portion EPA was requesting to be added to this Ordinance. It is one paragraph which reads, (Clerk's Note: Chairman Traini read amendment into record.)

“Any person who performs mechanized diesel-driven land clearing (chainsaws excluded) on undeveloped lots of two acres or more, with no building or other applicable permit must have a land clearing permit issued by the director and shall comply with the Storm Water Treatment Plan Review Guidance Manual regarding storm water runoff requirements and plan reviews. A temporary native vegetation buffer shall be retained on the perimeter of any undeveloped lot of two acres or more during land clearing equal to or greater than the specified minimum yard setback for that site’s zoning district. This buffer shall be at least 15 feet wide on the perimeter of lots in commercial and industrial zoning districts, except where these are adjacent to PLI and/or residential zoning districts, where the temporary buffer shall be a minimum of 30 feet wide. Those buffers of temporary native vegetation in commercial and industrial zoning districts not essential to the parcel’s development shall be retained and protected from disturbance. This provision shall be reviewed one year from the date of passage.”

Ms. Shamberg informed the Assembly that she, in speaking with the person who was making the recommendation to her, added “diesel-driven.” The individual is in the business of using heavy mechanized equipment and suggested it might clarify the type of equipment that would be used to perform the kind of clearing prohibited without a land clearing permit.

Chairman Traini asked Ms. Shamberg if that amendment was in the document.

Ms. Shamberg replied it was, but she had not cleared it with Administration.

Mayor Wuerch stated the Administration had no objections to those words.

Chairman Traini asked Mayor Wuerch if the Administration was in concurrence with the amendment as read into the record.

Mayor Wuerch replied that Administration was in concurrence.

Ms. Shamberg moved to amend AO 2002-117,
Mr. Tremaine seconded.

Question was called on the motion to amend AO 2002-117 and it passed.

Ms. Von Gemmingen gave a letter, dated December 11, 2002, from Jermain, Dunnagan & Owens to Administration regarding AO 2002-117(S) and their concerns about Angelus Memorial Park. She asked that Administration go through the letter to see if there were any conflicting problems that may need to be addressed after passage.

Mr. Sullivan said he was opposed to the amendment. Putting the amendment into the Watershed Ordinance needed to make scientific sense and was missing from this equation. There has been no evidence from the EPA of citations issued because people, in developing their lots, created either air or water quality problems. There has been no indication of citations by State DEC that lots cleared, as defined under this section, have created either air particulate or water run off problems to a degree that would cause either citations to be issued or a problem that would necessitate this Ordinance. There has been no evidence of citations by Health and Human Services Department that such a problem exists. If a problem does not exist, what has been cured with this Ordinance? An Ordinance has to have a purpose. It has to solve a problem. Mr. Campbell informed the Assembly that approximately a dozen properties in his estimation would be effected by this, as if, because there was so few properties, that made it okay. So if a dozen people lose their property rights or have their property rights diminished it is okay. If it was 30 or 40, would it not be okay? Impacting anybody’s property rights is not a good thing unless there is something that supports it in science and that is not the case. What this results in is an incremental loss of property rights. We have heard discussion that in the future this may come down to not just two acres but one acre would be considered. There is possibly language that can be agreed upon.

Mr. Sullivan moved to amend the amendment,
Mr. Kendall seconded.

Mr. Sullivan read his amendment for the record. “No person may engage in land clearing activity on undeveloped, commercial, or industrial zoned lots of five acres in size or greater without first obtaining a permit from the director. Permits issued under this section shall require compliance with the Stormwater Treatment Plan Review Guidance Manual.”

Mr. Sullivan urged the body to approve his amendment stressing the need to look at commercial and industrial lots.

Mr. Kendall supported Mr. Sullivan’s amendment. Mr. Kendall stressed his concern about the two acre threshold.

Ms. Shamberg did not support Mr. Sullivan’s amendment. She stated that whether the land is zoned for commercial or industrial purposes or whether it is zoned for residential; when large blocks of land’s vegetative floor are destroyed it creates the same environmental problems for adjacent properties. It does not matter how it is zoned.

Ms. Fairclough asked Mr. Howard Holtan, Municipal Engineer’s Office, to speak to the Assembly regarding a conversation they had about the two acre threshold versus the five and how that would affect Mr. Sullivan’s amendment.

Mr. Holtan spoke about Phase II amendments of the Clean Water Act which implemented the next phase of water quality requirements. Phase II amendments reduce the size of disturbed area causing polluted run off from five acres to two acres for which a permit would be required.

Ms. Fairclough asked Mr. Holtan, whether Mr. Sullivan’s amendment was passed at five acres or not, if development planned for the Birchwood or Chugiak areas to clear cut property, would the developer be required under EPA guidelines, to get a permit from the EPA.

Mr. Holtan answered in the affirmative.

(CLERK’S NOTE: Chairman Traini informed the Assembly they had to move on to Appearance Requests and would come back to this issue afterwards.)

12. APPEARANCE REQUESTS

- A. **ROD PHLEIGER, Sand Lake Community Council, Health & Safety Committee**, regarding the land use appeals procedures.

Chairman Traini advised Mr. Phleiger that testimony given tonight could not deal with the appeal on Kincaid Estates which is in front of the Assembly.

Mr. Phleiger testified that residents of the Sand Lake area during the past year have had concerns about the appeal process of subdivisions before this community. Part of that process was the ex parte communication the Assembly experienced relative to being in a legislative posture on the Assembly as well as being asked to make judicial decisions concurrently. The Assembly works under Title 21 which is being updated and they respect that. The Sand Lake community is not sure that the ex parte ruling is working. Mr. Phleiger testified that the Council would like for the Assembly to remain involved in the appellate process in some fashion.

Mr. Greene, Municipal Attorney, interrupted at this point saying the testimony is problematic and recommended Chairman Traini advise the speaker to stay to process not to issues whether they have been resolved or not that are within the case, because these could still be reopened if the Board of Adjustment so desired.

Mr. Tesche stated he did not see or hear anything in Mr. Phleiger's remarks that comes close to issues that the Assembly should not be discussing here. Mr. Tesche said his understanding of what Mr. Phleiger is explaining is a discussion about general rules of procedure followed by the Assembly. Mr. Tesche expressed that Mr. Phleiger should be allowed to mention the words "ex parte contact" without interference by counsel. Mr. Tesche further stated that he believed Mr. Phleiger is aware of the boundaries that have been set down by the Chair and it is not appropriate to prohibit him from at least mentioning the fact that there is a general concern about the limitations that rules on ex parte contacts impose on the Assembly.

Chairman Traini invited Mr. Phleiger to continue speaking.

Mr. Phleiger read the Sand Lake Resolution for the Assembly members.

Mr. Sullivan thanked Mr. Phleiger for his comments identifying a problem faced by the Assembly. Mr. Sullivan pointed out that the Assembly is either the body that decides it and there are ex parte rules or the Assembly is removed from it and another body decides it; it cannot be both ways.

Mr. Tesche asked Mr. Phleiger if he had a position with the Sand Lake Community Council.

Mr. Phleiger answered that he served on the Safety Committee and as Vice President.

Mr. Tesche asked if it was the Sand Lake's preference that the Assembly stay involved in the appeal process.

Mr. Phleiger replied in the affirmative.

Mr. Phleiger explained that the Sand Lake Community Council members felt that the Assembly was comprised of elected members of the community and the Council would like to be involved in the process with the elected members of our area of town.

Mr. Tesche informed Mr. Phleiger that an ordinance was being prepared that, if approved, would remove the Assembly entirely from Administrative Appeals from decisions of the Platting Board. This would allow appellants to seek remedy from Superior Court. Mr. Tesche asked Mr. Phleiger if the Assembly got out of the Platting Appeal process would the Council favor the Assembly setting up some sort of intermediate appeal board that would substitute the Assembly's position as Board of Adjustment such that there would be a local appeal from decisions of the Platting Board before parties went to the Superior Court. Under such a proposal the Assembly would not be involved but there would be an intermediate local appeal before it went to Superior Court.

Mr. Phleiger answered that the Council had discussed something of that nature and the Council did not come to any conclusion because it was difficult to decide how this body would fit in. The Council would like the Assembly take a position keeping in mind concerns and develop a professional body that could give some scientific information and historic data through the process of safety and community input.

- B. **RAYMOND ANTHONY CROWN**, regarding affordable housing.

Mr. Crown addressed the Assembly regarding the need for affordable housing in Anchorage. He suggested the Municipality of Anchorage borrow money from the Alaska Housing Finance Corporation, purchase property and build low cost housing.

- C. **DONNA BROOKS**, regarding the Municipality's Affirmative Action Plan.

Ms. Brooks informed the Assembly she was following up on the Affirmative Action Plan discussed a couple of months ago. She wanted to know where the plan was as far as development and implementation of the plan in the Municipality.

Chairman Traini called upon the Administration to address this. Mayor Wuerch advised that the Administration would be happy to meet with Ms. Brooks.

Ms. Taylor requested the information, in writing, be provided to the Assembly members.

D. **TOM LAYNE**, regarding Knox boxes.

Mr. Layne spoke to the Assembly regarding Knox boxes and his opposition to the Ordinance requiring all businesses to have a Knox box installed. Mr. Layne informed the Assembly that he attempted to contact the Anchorage Fire Department and no one returned his call. He then stated he had put four calls into the Mayor's Office and got no response. Finally, he picketed the Mayor's Office and a meeting was arranged with the Fire Marshall. Mr. Layne called for the Assembly to stop charging for mandatory inspections. Mr. Layne wants the Assembly to repeal the Ordinance mandating Knox boxes.

Mr. Sullivan expressed his regret that Mr. Layne had to picket City Hall to get someone to talk to him. Mr. Sullivan asked Mr. Layne where his business was located, how many businesses were in the mall, and if the mall was owned by one person or if the business people owned their own units. Mr. Sullivan asked if Mr. Layne had spoken with the owner of the mall about supplying Knox boxes for his clientele.

Mr. Layne reported that they had bought the Knox box. Mr. Layne remarked that the reason he was present at the Assembly meeting was to express his opinion that it was an unreasonable requirement.

Ms. Von Gemmingen said that it was her understanding that the reason they used a full sized fire truck to do inspections was because they were still on duty if they should be called out on a call. Another aspect of the fire inspections was the opportunity to get to know the area they are serving so that if they should be called they would know the structure.

Mr. Sullivan asked the Fire Chief to come forward. Mr. Sullivan asked for a brief summation of what is going on with the Knox box program and specifically if the Municipality was asking every small business to purchase a Knox box.

Mr. Fullenwider answered that the Fire Department was actively pursuing Knox boxes for individual businesses. It is the Fire Department's position that it is better to use a key to enter a building, for example, if there is a sprinkler system going off rather than to break the door down.

Mr. Sullivan asked how long it would take to get the program implemented city wide and if what Ms. Von Gemmingen said about using the fire trucks for inspections correct.

Mr. Fullenwider replied that it was correct about using the fire trucks on inspections.

Mr. Van Etten asked how long the development of the Knox box system in the Municipality.

Mr. Fullenwider replied it has been about 15 years.

Mr. Van Etten stated that Mr. Layne had an interesting point about different types of entrance technologies and wanted to know if there was a trend in fire departments nation wide to do something different than Knox boxes.

Mr. Fullenwider replied that it was still an expected practice.

Mr. Sullivan wanted to know the time frame to install the remaining Knox boxes needed in the Anchorage area and if there was anything the Municipality can do public relations-wise to get the word out to small business owners.

Mr. Fullenwider responded that communications can always be improved upon. The Knox box program has been an ongoing process and that until this administration engine companies were not doing pre-fire plans or business inspections. Mr. Fullenwider guessed that it would take approximately two to four years to complete the Knox box program.

Mr. Whittle asked Mr. Fullenwider to reiterate what the Fire Department gets in doing the fire inspections.

Mr. Fullenwider stated that is was the Fire Department's job to provide the public with a safe place to go. When a business owner opens its doors it is the Fire Department's job to make sure that not only can the public get in but they can get out. It is part of the inspection process and that is what the charges are all about.

Mr. Fullenwider replied that there is a record and it is part of the pre-fire plan process with a goal of computerizing records.

E. **MARY FAIRBANKS**, to speak in favor of passage of appropriation for funding to reinstate bus service on Martin Luther King Day, Presidents Day, Veterans Day, and the day after Thanksgiving.

Ms. Fairbanks, Marketing Director of the Dimond Center, testified about the impact of not having bus service on certain holidays. Ms. Fairbanks polled employees of the Dimond Center. She stated that 25% of employees of the Dimond Center depend upon bus service as their only means of transportation. The four days in question are days that a lot of people have off; however, the service industry workers do not have those days off.

Ms. Taylor thanked Ms. Fairbanks for coming forward. Ms. Taylor asked if the 25% of people polled indicated what they would have to do if they did not have access to bus service to get to work.

Ms. Fairbanks replied that the only question she asked was how they got to work and if bus service was their only means of transportation.

Mr. Van Etten asked Ms. Fairbanks if he heard correctly in that 2,500 employees were polled and 25% would be affected; 300 people relied exclusively on the bus and Ms. Fairbanks replied in the affirmative. He then asked if Ms. Fairbanks interacted with other marketing people from other major shopping areas and if so is this number typical.

Ms. Fairbanks replied that she did not have interaction with them, but in the service industry it would be her assumption that it was probably close city-wide.

Mr. Van Etten asked if many shoppers used the bus to go shopping and Ms. Fairbanks replied in the affirmative.

Ms. Fairclough asked how many surveys Ms. Fairbanks sent out.

Ms. Fairbanks replied that she sent one to each business and they surveyed their employees.

F. **THOMAS K. WILLIAMS**, regarding public bus service on Martin Luther King Day, Presidents Day, Veterans Day, and the day after Thanksgiving.

Mr. Williams, Chairman of the Chamber of Commerce's State and Local Government Affairs Committee, testified that he is authorized to speak on behalf of the Chamber of Commerce on the proposal to spend \$52,000.00 for public transportation to provide bus service on the four holidays in question. The Chamber supports the appropriation and believes that the idea of bus service is important. The Chamber of Commerce membership consists of a lot of retailers and holidays present an opportunity for many retailers. The day after Thanksgiving is probably the busiest retail day of the year. If there is no bus service for the people who rely on it, they cannot go shopping or get to work. The Chamber of Commerce urged the Assembly to reinstate service for the four holidays. The second point the Chamber wanted to make to the Assembly was that the general fund balance and the impact there could be on the Municipality's bond rating if the balance gets too low. Although the Chamber advocates bus service appropriation they urged caution and encouraged the Assembly to watch the balance closely so not to adversely effect the credit rating. Mr. Williams informed the Assembly that the Chamber will be doing a study of public transportation and bus service and making a report back to the Assembly.

Ms. Von Gemmingen pointed out there was concern from the University of Alaska regarding bus service and students (800) getting to class on the holidays in question.

Mr. Van Etten suggested the Chamber coordinate with People Mover in conducting their study.

Mr. Tesche suggested the Chamber look to see how other cities handle transit and requested as they bring forward recommendations they look at funding sources as well.

Mr. Whittle asked if the Chamber was familiar with Council Link and encouraged the Chamber to use it in their study.

(CLERK'S NOTE: The Assembly now took up action on AR 2003-24.)

Chairman Traini reread AR 2003-24 and noted there was a motion on the floor.

Resolution No. AR 2003-24, a resolution of the Anchorage Municipal Assembly revising the 2003 General Government Operating Budget by appropriating \$52,000 from Areawide General Fund (101) Balance to the Public Transportation Department to provide funding for continued bus service on Martin Luther King Day, President's Day, Veterans' Day, and the day after Thanksgiving.

a. Assembly Memorandum No. AM 44-2003

Ms. Taylor urged a yes vote on AR 2003-24 stating it was obvious this service has a positive economic effect on the community.

Mr. Van Etten urged a yes vote and focused his attention on the University. He referred to the letter the Assembly received from the Student Union indicating that large numbers of students ride the bus. This was supported by the fact that they have on-campus shuttle which has quadrupled the riders. Mr. Van Etten stated that it was the Assembly's obligation to see that transit service be consistent and available.

Mr. Sullivan asked Administration whether or not there was a means other than withdrawal from fund balance that this could be accommodated within the Transit Department's budget.

Mr. Harry Kieling, Municipal Manager, responded that they would look into it as they now had a better understanding because of the testimony and support the need of consistent bus service. The Administration will look at other ways to get the money. Mr. Kieling pointed out they would have to come back to the Assembly at the time of the first quarter budget revision stating that when you add on or add back the People Mover service it needs to be correlated with Anchor Rides. He could not give an exact figure but he stated it would be substantial and probably approach the cost of People Mover to provide that at the same level on the same days.

Ms. Taylor stressed the importance of dealing with this issue in a timely manner to accommodate people who depend on bus service in their every day lives.

Mr. Kieling stated that Administration does support AR 2003-24.

Question was called on the motion to approve AR 2003-24 and it passed.

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

Ms. Taylor moved for immediate reconsideration and urged a no vote,
Ms. Fairclough seconded.

Question was called on immediate reconsideration of AR 2003-24 and it failed.

The Assembly took their regularly scheduled break before continuing public hearings.

Ms. Fairclough and Mr. Kendall introduced students from Chugiak High School.

13. CONTINUED PUBLIC HEARINGS

- A. Ordinance No. AO 2002-172, an ordinance amending Anchorage Municipal Code Section 11.50.030.A. to increase the number of members on the Port Commission from seven to nine, and authorizing up to two members to be Alaskan citizens who are not residents of the Municipality, Port of Anchorage.
1. Assembly Memorandum No. AM 1032-2002.

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

Ms. Fairclough moved to approve AO 2002-172,
Ms. Shamberg seconded.

Mr. Tesche remarked that he understood the benefit of having citizens outside of Anchorage involved in activities of the Port Commission because the Port receives approximately 80% of the commerce over the water for Alaska. He is concerned that these members of the Port Commission actually had a voting right on the Commission. Mr. Tesche offered an amendment to the Assembly which provided that non-resident members may not vote and serve ex officio. That would provide the opportunity to receive the informal advice and expertise of non-resident members, but at the same time preserving the core decision making power of this important body to residents of the Municipality of Anchorage.

Ms. Fairclough told Mr. Tesche that she appreciated the amendment, but was concerned that people who participate in particular commissions seem to take those positions more seriously when they have a vested interest in the outcome. Ms. Fairclough wondered whether we could encourage attendance of the two commissioners if they did not have a voting right.

Mr. Tesche yielded to the Administration and asked if they felt non-resident members would still be willing to join in the Port Commission's activities with the understanding that they would be ex officio and would not vote.

Mr. Kieling commented that there was something to be said for the stature of a voting member versus a non-voting member both on the commission and also back in the area that they are representing. The Municipality would still have the majority of the voting members. Mr. Kieling suggested that Governor Sheffield put a lot of thought into designing this and certainly yielded to his judgment in the way he thought this should be designed.

Question was called on the amendment to AO 2002-172 and it passed.

AYES: Tesche, Whittle, Taylor, Traini, Van Etten, Shamberg, Tremaine
NAYES: Von Gemmingen, Fairclough, Kendall, Sullivan

Question was called on the motion to approve AO 2002-172 as amended and it passed.

AYES: Tesche, Whittle, Taylor, Von Gemmingen, Traini, Fairclough, Van Etten, Shamberg, Tremaine, Sullivan
NAYES: Kendall

- B. Ordinance No. AO 2002-175, an ordinance amending Anchorage Municipal Code Subsection 9.28.030(D), regarding minimum sentencing for failure to have vehicle insurance, to correct the sentencing structure.
1. Assembly Memorandum No. AM 1008-2002.

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

Ms. Fairclough moved to approve AO 2002-175,
Mr. Van Etten seconded.

Question was called on the motion to approve AO 2002-175 and it passed.

- C. Resolution No. AR 2002-401, a resolution of the Municipality of Anchorage appropriating the sum of \$375,000 from the Anchorage Fire Service Area (131) Fund Balance to the Anchorage Fire Department 2002 Anchorage Fire Service Area Operating Budget.
1. Assembly Memorandum No. AM 1064-2002.

Chairman Traini informed the Assembly, upon request of Administration, they would take testimony tonight but postpone action on AR 2002-401. Chairman Traini opened the public hearing and asked if anyone wished to testify.

Mr. Alex Crown testified against AR 2002-401.

Chairman Traini closed the public hearing.

Mr. Sullivan moved to postpone AR 2002-401 until 1-28-03,
Ms. Fairclough seconded.

Question was called on the motion to postpone AR 2002-401 until January 28, 2003, and it was approved.

- D. Resolution No. AR 2002-406, a resolution of the Municipality of Anchorage appropriating \$148,000 from the Anchorage Metropolitan Police Service Area Fund Balance (151) to the Anchorage Police Department's 2002 Operating Budget.
1. Assembly Memorandum No. AM 1069-2002.

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

Ms. Fairclough moved to postpone AR 2002-406 until January 28, 2003,
Mr. Tremaine seconded.

Question was called on the motion to postpone AR 2002-406 until January 28, 2003, and it was approved.

- E. Resolution No. AR 2002-402, a resolution of the Municipality of Anchorage appropriating \$268,000 from the Anchorage Roads and Drainage Service Area 2002 Operating Budget (Fund 141) as a contribution to the Anchorage Roads and Drainage Service Area Capital Improvement Program (Fund 441) for Governmental Accounting Standards Board, Statement Number 34 (GASB-34), compliance implementation, Maintenance and Operations.
1. Assembly Memorandum No. AM 1065-2002.

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

Ms. Fairclough moved to approve AR 2002-402,
Mr. Tremaine seconded.

Question was called on the motion to approve AR 2002-402 and it passed.

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

- F. Resolution No. AR 2002-403, a resolution appropriating \$237,325 of Year 2002 Special Assessment and Interest Collections and \$101,553 of Fund Balance within the Special Assessment Bond Redemption Fund (899) for Special Assessment Bond Debt Service.
1. Assembly Memorandum No. AM 1066-2002.

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

Ms. Fairclough moved to approve AR 2002-403,
Ms. Shamberg seconded.

Question was called on the motion to approve AR 2002-403 and it passed.

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

- G. Resolution No. AR 2002-405, a resolution of the Anchorage Municipal Assembly appropriating \$393,686 from the U.S. Department of Justice, Office of Justice Programs, Local Law Enforcement Block Grant and \$43,743 as a contribution from the Anchorage Police Service Area Fund (151), Anchorage Police Department 2002 Operating Budget, to the Federal Categorical Grants Fund (241), Anchorage Police Department, for the purpose of underwriting projects to reduce crime and improve public safety.
1. Assembly Memorandum No. AM 1058-2002.

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

Ms. Fairclough moved to disclose a possible conflict of interest. She works for Standing Together Against Rape (STAR). The group does not benefit financially from the Center that this money is going to be appropriated into the budget.

Chairman Traini ruled that Ms. Fairclough did not have a conflict of interest and was directed to participate in the discussion and voting.

Ms. Fairclough moved to approve AR 2002-405,
Ms. Taylor seconded.

Question was called on the motion to approve AR 2002-405 and it passed.

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

- H. Ordinance No. AO 2002-177, an ordinance amending Anchorage Municipal Code Chapter 15.65, to develop comprehensive and specific regulations for advanced on-site wastewater treatment systems and standards.
1. Assembly Memorandum No. AM 1009-2002.

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

Mr. Tremaine moved to approve AO 2002-177,
Mr. Kendall seconded.

Question was called on the motion to approve AO 2002-177 and it passed.

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

- I. Ordinance No. AO 2002-167, an ordinance amending the zoning map and providing for the rezoning of approximately 2.19 acres from PLI (Public Lands and Institutions District) to R-1 (One-Family District) for BLM Lot 46, Section 11, Township 14 North, Range 2 West, S.M., Alaska; generally located at 10500 Old Eagle River Road (Eagle River Community Council) (Planning and Zoning Commission Case 2002-141).
1. Assembly Memorandum No. AM 943-2002.

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

Ms. Fairclough moved to approve AO 2002-167,
Mr. Whittle seconded.

Ms. Fairclough urged a yes vote.

Question was called on the motion to approve AO 2002-167 and it passed.

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

- J. Ordinance No. AO 2002-173, an ordinance of the Anchorage Municipal Assembly amending the zoning map and providing for the rezoning of approximately 8.98 acres from R-10 (Residential Alpine/Slope District) to R-6 SL (Suburban Residential District-Large Lot with Special Limitations) for Tract A-3, Charlice Subdivision, generally located on the south side of White Spruce Drive, north of Eagle River Road, Eagle River (Eagle River Valley Community Council) (Planning and Zoning Commission Case 2002-142).
1. Assembly Memorandum No. AM 986-2002.

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

Mr. Jim Lee, owner of tract A-3, urged the Assembly to approve.

Chairman Traini closed the public hearing.

Ms. Fairclough moved to approve AO 2002-173,
Mr. Kendall seconded.

Ms. Fairclough urged a yes vote.

Question was called on the motion to approve AO 2002-173 and it passed.

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

14. NEW PUBLIC HEARINGS

- A. Resolution No. AR 2003-7, a resolution of the Anchorage Municipal Assembly approving a conditional use for an alcoholic beverages conditional use in the B-3 District for Williams Express, a Package Store per AMC 21.40.180.D.8., located on Tract A3, Waldec Subdivision; generally located on the northeast corner of Boniface Parkway and DeBarr Road (Williams Express) (Case 2003-009).
1. Assembly Memorandum No. AM 14-2003.

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

MR. DAN COFFEY, attorney for Williams Express (DeBarr Road), explained that they wanted to make some very novel and unique proposals to the Assembly relative to conditions on both licenses. Mr. Coffey stated the reason they were addressing both licenses is because of the operating requirements of the ABC Board; three years of non-operation and they take your license away. Mr. Coffey stated they would like to make a written presentation to the Assembly with a series of lengthy conditions and proposals which have never been proposed to the Assembly before. To do that, Mr. Coffey testified, they needed more time to discuss it among themselves and then to have some discussions with regard to both licenses. Mr. Coffey requested a continuance until February 3, 2003.

Ms. Fairclough requested Mr. Coffey's arguments somehow address alcohol being available for sale out of a packaging store where gas is being sold.

Chairman Traini advised that if postponement was granted, it will have to be rescheduled to February 11, 2003 because there was no meeting scheduled on February 3, 2003.

Mr. Coffey advised Chairman Traini that he had a conflict with that date.

Mr. Tesche moved to postpone until February 25, 2003,
Ms. Taylor seconded.

Question was called on the motion to postpone until February 25, 2003, and it passed without objection.

- B. Resolution No. AR 2003-8, a resolution of the Anchorage Municipal Assembly approving a conditional use for an alcoholic beverages conditional use in the B-3 District for Williams Express, a Package Store per AMC 21.40.180.D.8., located on Lot 1, Nacla Subdivision; generally located on the northeast corner of Dimond Boulevard and New Seward Highway (Williams Express) (Case 2003-010).
1. Assembly Memorandum No. AM 15-2003.

Chairman Traini opened the public hearing and asked if anyone wished to testify knowing that it would come before the Assembly on February 25, 2003.

Mr. Steve Fullsinger testified against approval of the license.

Ms. Martha Schmoy testified against approval of the license.

- C. Resolution No. AR 2003-3, a resolution authorizing the Municipality of Anchorage, Public Transportation Department, to enter into a Transfer of Responsibilities Agreement (TORA) in the amount of \$179,340 with the State of Alaska, Department of Transportation and Public Facilities, for financing the implementation of a Public Transportation Marketing Program and appropriating these funds to the State Categorical Grants Fund (231).
1. Assembly Memorandum No. AM 7-2003

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

Mr. Tesche moved to approve AR 2003-3,
Ms. Von Gemmingen seconded.

Question was called on the motion to approve AR 2003-3 and it passed.

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

- D. Resolution No. AR 2003-6, a resolution of the Anchorage Municipal Assembly revising the 2003 General Government Operating Budget by appropriating \$125,000 from Areawide General Fund (101) Balance to the Public Transportation Department to provide funding to reinstate the ADA service on the Hillside and Sand Lake.
1. Assembly Memorandum No. AM 13-2003

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

An unidentified woman testified in favor of the resolution.

PAT WOODZOFF testified in support of the resolution.

MARTHA SCHMOY testified in support of the resolution.

RAYMOND ANTHONY CROWN testified in support of the resolution.

DON SMITH testified in support of the resolution.

DARRELL NELSON testified in support of the resolution.

Ms. Taylor moved to approve AR 2003-6,
Mr. Tremaine seconded.

The Assembly members discussed the resolution.

Question was called on the motion to approve AR 2003-6 and it passed.

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

Ms. Taylor moved for immediate reconsideration,
Mr. Tremaine seconded.

Ms. Taylor urged a no vote.

Question was called on the motion for immediate reconsideration and it failed.

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

ABSENT: Mr. Van Etten

- E. Ordinance No. AO 2002-186, an omnibus ordinance amending Anchorage Municipal Code Title 19, *Special Assessments*, pertaining to Chapter 30, *Calculation of Improvement Costs*, and Chapter 40, *Allocation of Street Improvement Costs*, to provide new methods of cost allocation to private property owners for road improvement districts.
1. Assembly Memorandum No. AM 1067-2002

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

JOHN AXSMITH testified regarding the need to clarify language in the ordinance.

RYAN STENCIL, Huffman/O'Malley Community Council, relayed the council's wish that action be postponed.

Mr. Tremaine asked Administration if there was a reason action on this ordinance could not be postponed for a month.

Mr. Howard Holtan, Municipal Engineer's Office, informed the Assembly that their office has a backlog of requests for assessment districts and they wished to get the ordinance approved. They did not go to the different community councils because they were relying on presentation to the Assembly and this public hearing to review the provisions of the ordinance. Mr. Holtan testified that the ordinance is non-controversial. It fixes problems.

Mr. Tremaine suggested staff give the Assembly a brief presentation before deciding what to do.

DIANE HOLMES reiterated the need for clarification of the ordinance.

Chairman Traini closed the public hearing.

Ms. Fairclough moved to approve AO 2002-186,
Ms. Von Gemmingen seconded.

Administration came forward and said in deference to the comments received this evening they would hold a meeting where all Community Councils would be invited.

Mr. Tremaine moved to postpone action on AO 2002-186 until January 28, 2003,
Ms. Fairclough seconded.

Question was called on the motion to postpone action on AO 2002-186 until January 28, 2003, and it passed without objection.

(CLERK'S NOTE: THE ASSEMBLY RETURNED TO AR 2003-28 WHICH WAS CONSIDERED EARLIER IN THE EVENING)

Ms. Taylor told the Chairman that Administration had informed the Assembly that there was an error in a couple of the number were incorrect and needed to be reconsidered before the end of the meeting.

Ms. Taylor moved for immediate reconsideration of Resolution No. AR 2003-28,
Ms. Shamberg seconded.

Question was called on the motion for immediate reconsideration and it passed.

Ms. Taylor stated that on page three of three of AR 2003-28, line 30, instead of \$800,000.00 it is \$784,000.00. On line 32 instead of \$60,000.00 it is \$76,000.00.

Question was called on the motion for immediate reconsideration and it passed without objection.

Mr. Kendall stated that he had comments to make on 14 E, Ordinance No. AO 2002-186. Mr. Kendall directed his comments to staff. Mr. Kendall noticed that ARDSA was the only defined road service area within the program and wanted to know if the Ordinance just applied to the ARDSA area or did it apply to the entire Municipality.

Mr. Howard Holtan, Municipal Engineer's Office, answered that it could apply to the entire Municipality. It is a provision to create special assessment districts throughout the Municipality. The method of funding would fall within the service area.

Mr. Kendall asked Mr. Holtan to address his questions at the next meeting.

16. SPECIAL ORDERS

- A. Ordinance No. AO 2001-136, an ordinance amending the zoning map and providing for the rezoning of approximately 2.5 acres from PLI (Public Lands and Institutions District) to R-3 SL (Multi-Family Residential District with Special Limitations) for T14N, R2W, Section 11, Lot 59, S.M., A.K., generally located between VFW Road and Eagle River Road (Eagle River Valley Community Council) (Planning and Zoning Commission Case 2001-011).

Ms. Fairclough informed the Chairman about a letter in the Assembly packet which asked to postpone AO 2001-136 indefinitely. It is an Eagle River issue that has been hanging for over a year-and-a-half.

Ms. Fairclough moved to postpone AO 2001-011 indefinitely,
Mr. Kendall seconded.

Question was called on the motion to postpone AO 2001-011 indefinitely and it passed without objection.

**17. UNFINISHED AGENDA:
OLD BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS (CONTINUED)**

- E. Ordinance No. AO 2002-117, an ordinance repealing or amending and renumbering sections of Anchorage Municipal Code Chapters 21.67, 15.40, and 15.50 and Anchorage Municipal Code of Regulations Chapter 21.67, regarding Stormwater and Watershed Management; and amending Anchorage Municipal Code Sections 4.40.150, 14.60.030, 21.10.015, 21.35.020 and 21.40.230; to provide for the implementation and enforcement of stormwater and watershed management, Development Services.
1. Assembly Memorandum No. AM 717-2002.

Chairman Traini reminded the Assembly that the Assembly had amended the document, 2002-117, with Ms. Shamberg's verbiage. Mr. Sullivan made an amendment to that version and there had not been a vote on Mr. Sullivan's amendment.

Mr. Kendall provided a history of AO 2002-117.

Chairman Traini read Mr. Sullivan's amendment for the record. "No person may engage in land clearing activity on undeveloped, commercial, or industrial zoned lots of five acres in size or greater without first obtaining a permit from the director. Permits issued under this section shall require compliance with the Stormwater Treatment Plan Review Guidance Manual."

The Assembly discussed Mr. Sullivan's amendment.

Question was called on the motion to approve Mr. Sullivan's amendment to AO 2002-117 and it failed.

AYES: Fairclough, Kendall, Sullivan

NAYES: Tesche, Whittle, Taylor, Von Gemmingen, Traini, Van Etten, Shamberg, Tremaine

Mr. Kendall proposed another amendment to AO 2002-117 and read it to the Assembly. "This amendment will be effective concurrently with the new EPA regulations covering clearing of vegetation of lots in size of two acres or greater."

The Assembly discussed Mr. Kendall's amendment.

Mr. Kendall moved to approve his amendment to AO 2002-117,
Mr. Sullivan seconded.

Question was called on the motion to approve the Kendall amendment and it failed.

AYES: Traini, Fairclough, Kendall, Sullivan

NAYES: Tesche, Whittle, Taylor, Von Gemmingen, Van Etten, Shamberg, Tremaine

Chairman Traini informed the members that AO 2002-117 as amended was now before them.

Mr. Howard Holtan, Municipal Engineer's Office, received written testimony from members of the South Fork Community Council and Mr. Cross, On-Site Wastewater Services attended a council meeting to explain what the present Ordinance under consideration included and did not include. The members of the Council were satisfied with the exception of one provision which was problematic. Mr. Holtan informed the Assembly that his office agreed and asked for it to be eliminated from the Ordinance. The provision was on page 7 of the Ordinance and has to do with the Watershed District. Section E provides for prohibitions of certain activities within the Watershed District and F requires permits for those activities. The Watershed District is a district entirely within Chugiak State Park and it was formed to protect water sources. Mr. Holtan told the Assembly he thought it would be inappropriate to regulate use within the Park when there were provisions within Park regulations to cover those. It should not be up to the Municipality to decide whether campers can use the water in the park or light fires. Those are provisions which lie in the peer view of the Chugiak State Park. Mr. Holtan requested that the Assembly remove paragraphs E and F from the Ordinance.

Ms. Shamberg moved to postpone further action to January 28, 2003,
Mr. Tremaine seconded.

- F. Ordinance No. AO 2002-176, an ordinance repealing and reenacting **Title 23** of the Anchorage Municipal Code to adopt the 2000 Editions of the following codes and enacting local amendments thereto: Administrative, Building, Mechanical, Plumbing, Electrical, Fire, Existing Buildings, Residential, Building Construction Contractor Requirements, Fire Protection Service Outside Service Areas, Energy Conservation, School Relocatables, Safety Code for Elevators and Escalators, Electrical Code, Mobile Aircraft Shelters, Grading, Fuel and Gas Code.
1. Assembly Memorandum No. AM 1012-2002
2. Assembly Memorandum No. AM 50-2003, Handouts and Diagrams for 2000 International Mechanical Codes, Development Services

Chairman Traini gave the history of AO 2002-176 and noted there was a motion to approve on the floor and a motion to reinstate Chapter 12 of the Uniform Plumbing Code is on the floor.

Mr. Kendall removed his motion to reinstate Chapter 12 of the Uniform Plumbing Code and Mr. Sullivan withdrew his second.

Mr. Kendall moved to postpone indefinitely,
Ms. Shamberg seconded.

Mr. Kendall advised that to get to this point had been a long and controversial process. The 2003 code is out in draft and he suggested the Assembly take a fresh look at this and look at the code.

Ms. Von Gemmingen opposed the postponement.

Ron Thompson was asked what the effect of postponing indefinitely would be. He replied the Codes that are in existence on Title 23 now would be in effect; which is the Uniform Family of Codes 1997 Edition.

Ms. Fairclough supported the motion to postpone indefinitely.

Ms. Taylor supported the motion to postpone indefinitely.

Mr. Tesche opposed the postponement.

Mr. Greene informed the Assembly that the State Fire Marshall mandated minimum standards would be the International Building, Mechanical and Fire and License Safety Codes. The Municipality does not have a choice but to follow the mandate. If the Municipality of Anchorage does not follow it, then the delegated authority to approve plans and specs for buildings would be withdrawn by the Fire Marshall.

Mr. Kendall replied the important thing to keep in mind was the Municipality will still have Building Codes in effect. They are enforceable and reviewable. For the last two years the Municipality of Anchorage used alternative means for approval. They have used the International Code as an alternate means and could continue to do so. Whether or not the Municipality is in compliance or not in compliance with the State, there is a law suit going forward in that matter. There is also pending action before the legislature because the legislature was not happy about the way the Codes were implemented at the State level.

Mr. Van Etten asked for clarification from either the Administration or legal as to the ramifications of noncompliance.

Mr. Mike Scott, Office of Planning, Development and Public Works advised that failure to come to compliance would lead to sanctions. Mr. Scott believes that the Municipality should not take that lightly. He said that his office will simply report to the State the action the Assembly decides upon. His office would prefer not to call their bluff.

Mr. Greene mentioned as a historical matter, generally speaking, the State has followed the Municipality and this time the State has gotten out in front on this issue.

Mr. Ron Thompson, Office of Planning, Development and Public Works responded to the statement there was no compromise. The first Ordinance came through with the International Codes and it was pulled back because of the fact that the Municipality knew there was pending legislation and discussion was going to take place in the last legislative session. It was decided to go forward with the two packages. When the Municipality received the letter from the State the two packages were pulled back. There is a proposed amendment that adopts Chapter 12 of the Uniform Plumbing Code as an alternative to pipe sizing for gas tables. The outcome would be the same as the new table and the codes are technically the same.

Mr. Sullivan commented that the motion to postpone indefinitely basically declared that there was a draw. There has been a lot of equally weighted testimony and the Assembly had not arrived at any conclusions. Mr. Sullivan said he was not that concerned about State action. Mr. Sullivan commented that what Mr. Greene and Mr. Thompson said is that the Municipality cannot do things less stringently than what the State adoption of International Code required. There has been no testimony that suggested continued use of the UPC and UMC would be less stringent. Mr. Sullivan stated that he did not know how the Municipality would be in noncompliance with continued use of those Codes. As Mr. Kendall mentioned, there is the option of using alternative means and measures.

Ms. Fairclough pointed out, as Mr. Sullivan had, that as long as the Municipality is more stringent in the Code it is not in violation and is in compliance. Ms. Fairclough urged a yes vote to postpone indefinitely.

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

AYES: Whittle, Taylor, Fairclough, Van Etten, Kendall, Sullivan

NAYES: Tesche, Von Gemmingen, Traini, Shamberg, Tremaine

18. AUDIENCE PARTICIPATION:

19. ASSEMBLY COMMENTS:

Ms. Von Gemmingen recognized the death of Kay Linton. Ms. Von Gemmingen expressed that Ms. Linton was a great leader, dynamic person. She never let a person say no to her. The Assembly voted her the first, and so far only, city treasure because of all the magnificent work she did for the Anchorage community.

Mr. Sullivan advised that he had an e-mail from Karen Have who just recently moved from the Anchorage Refuse District into a Solid Waste Service District. Mr. Sullivan said that like her, he paid his bills by credit card, but Solid Waste Service does not offer that service and customers have to pay by check. Mr. Sullivan related that it was time to get Solid Waste Service into the world of E-commerce.

20. EXECUTIVE SESSION: None

21. ADJOURNMENT:

The meeting adjourned at 9:45 p.m.

Chairman

ATTEST:

Acting Municipal Clerk
Linda Heim

Date Minutes Approved: March 18, 2003

lm/pas

1	10. REGULAR AGENDA	6
2	11. OLD BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS	11
3	12. APPEARANCE REQUESTS.....	15
4	13. CONTINUED PUBLIC HEARINGS.....	17
5	14. NEW PUBLIC HEARINGS.....	19
6	15. BOARD OF ADJUSTMENTS/ASSEMBLY APPEALS.....	1
7	16. SPECIAL ORDERS	20
8	17. UNFINISHED AGENDA:.....	21
9	18. AUDIENCE PARTICIPATION:	21
10	19. ASSEMBLY COMMENTS:	21
11	20. EXECUTIVE SESSION: None	22
12	21. ADJOURNMENT:.....	22
13	5. MAYOR’S REPORT:	3
14	6. ASSEMBLY CHAIR’S REPORT: None	3
15	7. COMMITTEE REPORTS: None	3
16	8. ADDENDUM TO AGENDA:	3
17	A. RESOLUTIONS FOR ACTION – PROCLAMATIONS AND RECOGNITIONS:	3
18	B. RESOLUTIONS FOR ACTION - OTHER	3, 6
19	C. BID AWARDS.....	4
20	C. BID AWARDS: None	7
21	D. NEW BUSINESS.....	5
22	D. NEW BUSINESS:	7
23	E. INFORMATION AND REPORTS.....	5
24	E. INFORMATION AND REPORTS:	8
25	F. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION.....	5
26	F. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:	8
27		