

MUNICIPALITY OF ANCHORAGE
ANCHORAGE ASSEMBLY

Assembly Chambers, Z. J. Loussac Library
3600 Denali Street, Anchorage, Alaska

Minutes for Special Meeting of July 8, 2003

1. CALL TO ORDER

The Assembly Meeting was called to order by Chair Traini at 5:00 p.m. in the Assembly Chambers, Room 108 in the Loussac Library, 3600 Denali Street in Anchorage, Alaska.

2. ROLL CALL A Quorum was achieved with Assemblymembers present.

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 ALLEGANCE Mayor Mark Begich led the pledge.

4. OLD BUSINESS AND UNFINISHED ACTION ON PUBLIC HEARING ITEMS

- 4.A. Assembly Memorandum No. AM 548-2003, Polaris Distributors (#4305) – New Wholesale Liquor License (Taku/Campbell and Tudor Area Community Councils), Clerk's Office.
(Carried Over From 6-24-03)

Chair Traini read this memorandum title, summarized its history and noted that no motions were pending.

Ms. Von Gemmingen moved, to approve AM 548-2003.
Mr. Tremaine seconded,

In response to Ms. Von Gemmingen, Mayor Begich stated that a wholesale liquor license was a distributor's license, which allowed the licensee to sell to retail establishments, not individuals.

Ms. Von Gemmingen read the police log dated August 1, 2002 of a liquor violation initiated by a citizen. A female reported that a male subject bought liquor, consumed all of it and became extremely intoxicated. He wanted more liquor and stumbled two blocks back to the liquor store where he was sold more liquor. The man was so intoxicated that vehicles almost hit him. He passed out and was transported to Providence Hospital with a blood alcohol level of .548. The female said the liquor store would give the man liquor and allow him to pay later or do handyman work in exchange for the liquor. Ms. Von Gemmingen said she would not support AM 548-2003.

In response to Mr. Sullivan, Chair Traini stated the applicant was not present at the meeting.

Mr. Tremaine moved, to *postpone* AM 548-2003 to July 15, 2003
Mr. Sullivan seconded, and request that more information be provided.

Chair Traini directed the Municipal Clerk to request the applicant's appearance at the July 15, 2003 meeting to discuss the issue with the Assembly.

Assembly Attorney Michael Gatti read a portion of 04.11.160, which defined wholesale liquor licenses. A general wholesale license authorized the holder to sell alcoholic beverages in the original package and wine in bulk in quantities of not less than five gallons. Chair Traini requested Mr. Gatti work with the Municipal Clerk to find out about the incident, gather background information on wholesale liquor licenses and notify the applicant that the Assembly would like to discuss the issue with them.

Mr. Sullivan noted that the applicant was applying for a new license, and indicated that they were transitioning from retail to wholesale. The incident may have occurred when they were a retail establishment.

Chair Traini called for a vote on the motion to postpone AM 548-2003.

and the motion passed without objection,

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

NAYES: None.

Mr. Tremaine felt that because AM 548-2003 and AM 550-2003 were both coming forward for new wholesale liquor licenses, it might indicate that there was a loophole which needed to be addressed before the Assembly voted on the issues.

- 1 4.B. Assembly Memorandum No. AM 550-2003, Turnagain Vines – New Wholesale Liquor License
2 (University Area, Russian Jack and Northeast Community Councils), Clerk's Office.
3 (Carried Over From 6-24-03)
4

5 Chair Traini read this memorandum and called for a motion from Mr. Tremaine.

6
7 Mr. Tremaine moved, to *postpone* AM 550-2003 until July 15, 2003.
8 Ms. Von Gemmingen,
9 and this was unanimously approved,
10

11 AYES: Tesche, Whittle, Taylor, Fairclough, Traini, Von Gemmingen, Van Etten, Kendall, Shamberg,
12 Tremaine and Sullivan.
13 NAYES: None.
14

15 Chair Traini directed the Municipal Clerk to request the applicant's appearance at the June 15, 2003 meeting to
16 discuss this issue before the Assembly.
17

- 18 4.C. Assembly Memorandum No. AM 533-2003, change order No. 2 to purchase order No. 221322 for
19 providing towing and vehicle disposal services on an "as required" basis for the Municipality of
20 Anchorage, Community Development Division (\$208,750), Purchasing.
21 (Carried Over From 6-24-03)
22

23 Chair Traini gave the history of AM 533-2003 and called for a motion from Mr. Tesche.

24
25 Mr. Tesche moved, to approve AM 533-2003.
26 Ms. Taylor seconded,
27

28 Mr. Tesche questioned the service cost increase and asked the Administration the reasoning. Mayor Begich asked the
29 Assembly to postpone AM 522-2003 for a few weeks to allow the new Administration time to research the issue.
30

31 Mr. Tesche moved, to *postpone* AM 533-2003 until July 22, 2003.
32 Mr. Whittle seconded,
33

34 Chair Traini said there was a tremendous increase in the cost and he felt the service increases should be justified.

35
36 Mayor Begich said some of the additional costs were attributed to some shifting of services. A secondary issue was
37 with the funding source. A detailed response would be provided to the Assembly at the meeting of July 22, 2003.
38

39 Chair Traini called for a vote on postponement of AM 533-2003.
40

41 and it passed without objection,
42

43 AYES: Tesche, Whittle, Taylor, Fairclough, Traini, Von Gemmingen, Van Etten, Kendall, Shamberg,
44 Tremaine and Sullivan.
45 NAYES: None.
46

47 Mr. Whittle stated this was an important issue in his neighborhood, and would like to see the system function as
48 efficient as possible, removing all unwanted vehicles.
49

- 50 4.D. Information Memorandum No. AIM 63-2003, Internal Audit Report 2003-6 – Bradley Lake Operation
51 and Maintenance Costs, Municipal Light and Power, Internal Audit.
52 (Carried Over From 6-24-03)
53

54 Chair Traini read the informational memorandum title and called for a motion from Mr. Whittle.

55
56 Mr. Whittle moved, to accept AIM 62-2003.
57 Ms. Taylor seconded,
58

59 In response to Mr. Whittle, General Manager of Municipal Light and Power, Jim Posey, said he agreed with the
60 auditor's statement. Mr. Posey stated they were making progress in collecting the money that the Alaska Energy
61 Authority owed to the Municipality.
62

63 and the motion was passed,
64

65 AYES: Tesche, Whittle, Taylor, Fairclough, Traini, Von Gemmingen, Van Etten, Kendall, Shamberg,
66 Tremaine and Sullivan.
67 NAYES: None.
68

- 69 4.E. Ordinance No. AO 2003-75, an ordinance amending Anchorage Municipal Code Chapter 2.40 related
70 to Community Council Redistricting; including lengthening the interval of periodic comprehensive
71 review of community council boundaries; providing wider notice and greater opportunity to participate
72 in public hearing review; adding descriptions and maps of recognized community council districts, and
73 amending a number of council district boundaries to better reflect present day neighborhoods, as
74 recommended by the *Community Council Redistricting Report And Recommendations*, dated
75 December 9, 2002, Planning Department.
76 1. Assembly Memorandum No. AM 370-2003.
77 (Public Hearing was Closed 6-10-03; Action Carried Over from 6-10-03 and 6-24-03)
78

Chair Traini read this resolution title, gave the history of AO 2003-75 and called for a motion from Mr. Tesche.

Mr. Tesche moved, to approve AO 2003-75.
Mr. Tremaine seconded,

While the Administration was preparing to display district maps on the overhead projector, Mr. Kendall proposed to introduce a new ordinance.

Mr. Kendall moved, to introduce a new ordinance.
Ms. Fairclough seconded,

In response to Chair Traini, Assembly Attorney Gatti said it was his understanding that only items on the Agenda could be taken up during a special meeting. He would review the code and advise the Assembly if a new ordinance could be introduced.

Mr. Tremaine noted that he and Ms. Shamberg had also wanted to introduce a new ordinance for Girdwood, but they had been advised that it should be brought forward at the next Regular Assembly Meeting.

and Mr. Kendall withdrew his motion,

The Assembly then returned to Item 4.E.

Mr. Tom Davis of the Planning Department reviewed the work maps for deliberating on community council district boundaries, which provided an overlay of the Planning and Zoning Commission's recommended boundaries with the existing boundaries. He reviewed the lines on the map and explained what each color indicated. The maps were based on AO 2003-75 ordinance maps. In addition to the boundary lines on the ordinance maps, the work maps also provided the Assembly with the recommended boundary lines of the proposed Midtown and Northeast Community Councils. The boundary lines were for reference and came from AR 2003-136. Assemblymembers would be making individual floor amendments to the Planning and Zoning Commission's recommended boundaries as modified by the Federation's Boundary Review Committee lines. The first anticipated amendment would be to adopt all the recommendations of the Boundary Review Committee, which would modify the Planning and Zoning Commission's recommendations. This would mean adopting all the orange lines on the map, which would modify the purple lines. If an Assemblymember did not agree with an orange line segment, an individual floor amendment should be proposed. He asked the Assemblymembers to number their amendments to insure that they were in order and understood by the staff before discussing them.

In response to Chair Traini, Mr. Davis said approval of AO 2003-75 would adopt the recommendations of the Planning and Zoning Commission in mass.

Mr. Tesche moved, to amend AO 2003-75, (*Tesche amendment #1*), on
Mr. Tremaine seconded, Page 7, to read as follows:

C. Specific Community Council Maps adopted:

1. The following maps prepared by the Department of Planning numbered 1-12 depict the community council boundaries adopted by the Assembly on June 18, 2002;
 - a. Map 1 -- Northern Chugiak-Eagle River
 - b. Map 2 -- Central Chugiak-Eagle River
 - c. Map 3 -- Northeast Anchorage Bowl
 - d. Map 4 -- Northwest Anchorage Bowl
 - e. Map 5 -- Northwest Anchorage Bowl
 - Map 5a -- Northwest Anchorage Bowl: Bootleggers Cove Vicinity
 - Map 5b -- Northwest Anchorage Bowl East Downtown Vicinity
 - f. Map 6 -- Midtown Anchorage
 - Map 6a -- Midtown Anchorage: Spenard Lake
 - Map 6b -- Midtown Anchorage: West Fireweed Lane Vicinity
 - g. Map 7 -- Sand Lake and Taku-Campbell
 - h. Map 8 -- Southwest Anchorage Bowl
 - i. Map 9 -- Hillside Anchorage
 - Map 9a -- Hillside Anchorage Section 36 / Bear Valley Elementary Vicinity
 - j. Map 10 -- Turnagain Arm
 - k. Map 11 - Chugiak-Eagle River
 - l. Map 12 -- Anchorage Bowl
1. The Department of Planning shall maintain, for inspection by the public, maps showing the community council district boundaries.

In response to Ms. Fairclough, Mr. Tesche proposed a motion to adopt the mapping that was on the table and then made a second amendment that would adopt the changes recommended by the Federation's Boundary Committee. He explained that if the Assembly approved them, they would then consider the Planning and Zoning Commission's recommendations as modified by the Boundary Committee's action. At that point, the floor would be open to individual changes based on Assembly districts rather than the maps.

In response to Mr. Kendall, Mr. Stu Hall, representing the Federation's Boundary Commission, stated they participated in the Planning and Zoning Commission's proceedings and commented on their recommendations to the Assembly.

In response to Mr. Kendall, Planning Department Director Sue Fison said the Administration provided recommendations, and acknowledged that the final decision was up to the Assembly. She felt the Assembly should start by adopting the maps as revised by the orange lines and then make additional changes from there.

Mayor Begich said the Administration provided the starting point, but the final decision would be up to the Assembly as the respondents to the community councils.

Ms. Taylor moved, *to limit discussion* on AO 2003-75 to one hour.
Mr. Tesche seconded,
and the motion passed with one objection,

Chair Traini called for a vote on the Tesche floor amendment # 1.

and it was unanimously approved,

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

Mr. Tesche moved, *to AO 2003-75, (Tesche amendment #2), on Page 7,*
Ms. Shamberg seconded, *Lines 24 through 42, inclusive, by substituting the Community*
Council District maps prepared by the Department of
Planning, dated June 17, 2003, embodying the
recommendations of the Federation of Community Council's
Boundary Review Committee, dated June 4, 2003, for Maps
Nos. 1-12, modifying the maps prepared by the Department
of Planning to implement the recommendations of the
Anchorage Planning and Zoning Commission, December 9,
2002, adopted by the Assembly on July 8, 2003.

Mr. Tesche said this amendment would adopt all of the recommendations made by the Federation's Boundary Review Committee to the maps prepared by the Planning and Zoning Commission and would give the Assembly a platform to make individual amendments by Assembly districts.

Ms. Fairclough noted that this procedure was not what had been done in the past. In previous proceedings, the Assembly took the recommendations from the Planning and Zoning Commission and made amendments from there. One of the major differences between the recommendations of the Federation of Community Council's, was that the Planning and Zoning Commission and the Planning Department dealt with common properties, such as the airport, that had value to everyone. She felt it was wrong to let the Airport Community Council, and not other community councils, comment on issues that affected people in surrounding area. She felt this needed to be discussed and resolved before the Assembly adopted anything.

Mr. Tesche thought that the action the Assembly was considering would shut off the rights of a community council to speak out on every issue was inaccurate. Setting community council boundaries did not preclude any community council from coming forward to speak on any issue. The existing law had a number of "donut holes" or areas where no community council technically had jurisdiction. Some businesses purposely placed their business in these areas to avoid community council scrutiny. He felt areas such as Merrill Field should be in a community council area, and perhaps shared by several community councils, but that would not preclude any community council from weighing in on an issue.

Ms. Fairclough noted that the surrounding community councils were not specifically notified. The Planning and Zoning Commission and the Planning Department recommended that certain identified items in the plan would have general notification for all community councils.

Ms. Von Gemmingen noted that the airport was in her district and was surrounded by three community councils. The airport realized what they needed to do in the way of community relations. They went to all the community councils and discussed the changed flight plans, which were necessary to fix the north/south runway.

Chair Traini called for a vote on the Tesche amendment #2.

and this motion was approved,

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

No amendments were made to Map 1. The Assembly then addressed Map 2.

Mr. Kendall moved, *to amend Map 2 of AO 2003-75 by approving the map*
Ms. Fairclough seconded, *entitled "Option A."*

Mr. Kendall referenced the letters from the Chugiak Community Council and the Birchwood Community Council and noted that they both concurred with the map entitled Option A.

1 Ms. Fairclough disagreed with the map entitled Option A, because it would move Powder Ridge into the Birchwood
2 Community Council. She did not have a problem with Birchwood retaining the north section of Powder Ridge on the
3 other side of the overpass, but the residents of Powder Ridge Subdivision had voted almost unanimously to remain in
4 the Eagle River Community Council.

5
6 Mr. Kendall stated that adopting the Federation's map as proposed would divide the Powder Ridge development into
7 two separate areas, which he did not feel was appropriate. Earlier in the meeting he had wanted to introduce an
8 ordinance to develop a new Fire Lake Community Council, which would serve Powder Ridge and other transitioning
9 areas between the city and rural areas of Chugiak and Birchwood. Assembly Attorney Gatti was still reviewing the
10 code to see if an ordinance could be introduced at a special meeting.

11
12 To Mr. Van Etten, Mr. Kendall responded that the current boundary for fire service areas was the section line, with the
13 exception of the triangle on the west side of the Glenn Highway, which was within the Chugiak Fire Service Area.
14 Everything south of the section line was within the Anchorage Fire Service Area.

15
16 Ms. Fairclough said the largest concern expressed at the Birchwood Community Council meetings was their desire to
17 be involved in the Powder Ridge development, because it was adjacent to their rural community. She felt the
18 Assembly should approve the recommendations as presented, which would give Birchwood a piece of the Powder
19 Ridge Subdivision and insure they had an opportunity to make comments on the development.

20
21 Mr. Sullivan referenced a letter from the Birchwood Community Council. Birchwood conditioned their acceptance of
22 including the Powder Ridge Subdivision in the Eagle River Community Council on the submission of a written petition
23 from the Powder Ridge residents stating they agreed to the change, but a petition had not been submitted.

24
25 Ms. Fairclough said the residents of Powder Ridge did not participate in the Birchwood Community Council. She did
26 not know why a petition had not been submitted, but the residents of Powder Ridge had contacted her and said they
27 did not want to be a part of the Birchwood Community Council, because they were an urban subdivision.

28
29 Chair Traini called for a vote on the Kendall amendment, addressing Map 2, amending AO 2004-75.

30
31 and this motion failed,

32
33 AYES: Van Etten, Kendall, Tremaine and Sullivan.

34 NAYES: Tesche, Whittle, Taylor, Von Gemmingen, Traini, Fairclough and Shamberg

35
36 Ms. Fairclough said she supported Mr. Kendall's effort to establish a Fire Lake Community Council to include the entire
37 Powder Ridge area in a separate community council for urban development.

38
39 To Chair Traini, Assembly Attorney Gatti responded that the charter provided that ordinances could be introduced at
40 regular and special meetings. Supplementing that provision was a provision of the municipal code which provided that
41 ordinances could be introduced at a special meeting of the Assembly provided such introduction had been included in
42 the call of the meeting. Another section of the code said no business shall be transacted at any special meeting of the
43 Assembly, except that specifically stated in the notice of the meeting. According to Robert's Rules of Order, a special
44 meeting is a separate session of a society held at a time different from that of any regular meeting and convened to
45 consider only or more items of business specified in the call of the meeting. The items of business specified in the call
46 of the meeting were the listed agenda items. With regard to introduction of new ordinances, the municipal attorney's
47 office did not consider introductions to be business transacted, because it was not a substantive activity of the
48 Assembly. The safer course of conduct would be to place the item on the agenda for the July 15, 2003 meeting.

49
50 Mr. Kendall asked the Municipal Clerk to place his ordinance for introduction on the Agenda of the scheduled
51 Assembly meeting of July 15, 2003. He asked Mr. Davis to have a new map drawn up that reflected the changes
52 made at that evening's meeting.

53
54 The Assembly then addressed Map 3.

55
56 Mr. Whittle moved,

57 Ms. Taylor seconded,

to amend Map 3 of AO 2003-75 *by retaining* the existing
boundaries of the Northeast Community Councils and not
create the Nunaka Valley-Cheney Council.

58
59
60 Mr. Whittle said there were some big issues coming before the Muldoon area that would affect everyone, such as the
61 town center, and the area would be best served by having one community council.

62
63 Ms. Taylor said they received testimony from people who lived in the Nunaka Valley and Chester Valley area that felt
64 their interests would be best protected by the entire strength of the council. They felt the Northeast Community
65 Council met their needs and was responsive to them. She recommended a YES-vote.

66
67 In response to Ms. Von Gemmingen, Ms. Fairclough felt they should consider splitting the Northeast Community
68 Council in the future due to its size, but at this time it was to their benefit to maintain the maximum strength possible.

69
70 In response to Ms. Von Gemmingen, Mr. Whittle agreed that there might come a time when splitting the Northeast
71 Community Council would make sense, but he did not feel this was the appropriate time due to the issues currently
72 before the council that needed to be addressed as a whole.

73
74 In response to Mr. Sullivan, Mr. Davis said the ordinance maps did not show new community councils for Midtown or
75 Cheney Lake. Those councils would be addressed through resolution AR 2003-136, which said the Assembly
76 acknowledged that the Planning and Zoning Commission recommended that those two councils be created at a time
77 when a voluntary association came forward. The ordinance maps did not include the two proposed community
78 councils. The Northeast Community Council was to remain as it currently existed.

Chair Traini called for a vote on the Whittle amendment.

and this motion was passed.,

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

NAYES: Kendall.

No amendments were made to Map 4. The Assembly then addressed Map 5.

Mr. Tesche moved,
Ms. Taylor seconded,

to amend Map 5 of AO 2003-75, Fairview area, *by adding text*, to read: "Southwest boundary would start at the intersection of 9th and Cordova, then south to 13th, then west along 13th to A Street, then south to A Street to 15th Avenue to C Street, then south on C Street to Chester Creek."

Mr. Tesche stated that the amendment would allow the Fairview resident who had petitioned into the neighboring South Addition Community Council to join that council. The Central Lutheran Church at 15th and Cordova would be excluded, because both the church and the Fairview Community Council wanted the church to remain in the Fairview boundary.

Chair Traini ruled that Mr. Tesche did not have a conflict of interest, due to the fact he attended the church, because he was not employed nor did he receive financial compensation from the church.

Mr. Tesche said 120 people signed the petition to join the South Addition Community Council. The Fairview Community Council did not oppose this change, but would like to keep Central Lutheran Church within their existing boundaries.

Chair Traini called for a vote on the Tesche amendment #1.

and this was approved unanimously,

Mr. Tesche moved,
Mr. Tremaine seconded,

to amend Map 5 of AO 2003-75, Fairview area, *by adding*, to read: "Northern boundary begins at intersection of 9th and Cordova, then north to 6th Avenue then east along 6th Avenue to Gambell Street."

Mr. Tesche said the amendment would include the Anchorage Memorial Cemetery as part of the Fairview Community Council. The cemetery was an integral part of the Fairview community and they had taken a leadership role in advocating for cemetery improvements.

Chair Traini called for a vote on the Tesche amendment #2.

and this was unanimously approved,

Mr. Tesche moved,
Ms. Shamberg seconded,

to amend Map 5 of AO 2003-73, South Addition/Downtown, *by adding*, to read: "Retain existing boundaries on the west between the South Addition Community Council and the Downtown Community Council. The tidal flats immediately west of Bootlegger's Cove would remain within the South Addition Community Council."

Mr. Tesche said the amendment would retain the established residential area known as Bootlegger's Cove within the existing South Addition Community Council boundaries. The suggestion had been made that the commercial buildings to the west of L Street should be part of the Downtown Community Council, but the current boundaries seemed to work well. The people in Bootlegger's Cove currently attended the South Addition Community Council meetings.

Mr. Tremaine said the boat launch would remain in the South Addition Community Council, but the approach to the boat launch would be in the Downtown Community Council, which gave both community councils a voice on the issues.

Mr. Sullivan spoke against the amendment. Considering the geography and the residential character of the area, he felt 9th Avenue made a perfect boundary line. The area north of 9th Avenue had a mixture of apartments, multi-family houses and condominiums, which was distinctly different than the single-family homes in the South Addition Community Council. The proposed boundary would add the residential mix that was needed in the Downtown Community Council area. He concurred with the Federation's recommendation on how to split up the Downtown and South Addition Community Councils.

Mr. Tesche agreed that it was important to increase the citizen participation in the Downtown Community Council, but he felt the best way to do that was to redevelop the downtown area and not change the boundaries of an established neighborhood. He urged a YES-vote on the amendment.

Chair Traini called for a vote on the Tesche amendment #3.

and this motion failed,

AYES: Tesche, Whittle, Taylor, Shamberg and Tremaine.

1 NAYES: Von Gemmingen, Traini, Fairclough, Van Etten, Kendall and Sullivan.

2
3 The Assembly then addressed Map 6.

4
5 To Chair Traini's question, Mr. Davis explained how the currently adopted map would affect the midtown area.
6 Midtown and Spenard would be separated along Arctic Boulevard. North of 36th Avenue would transfer to Northstar
7 Community Council and south of 36th Avenue would transfer to Taku-Campbell Community Council.

8
9 Ms. Von Gemmingen moved, to amend Map 6 of AO 2003-75, #27, by keeping the purple
10 Mr. Sullivan seconded, lines around the Lake Spenard Beach Park, and by returning
11 the park to the Turnagain Community Council area.

12
13 Ms. Von Gemmingen said the residents in Turnagain felt like they owned the Lake Spenard Beach Park and wanted it
14 to remain in their community council area.

15
16 Chair Traini called for a vote on the Von Gemmingen amendment #1.

17
18 and this motion was approved,

19
20 AYES: Tesche, Whittle, Taylor, Von Gemmingen, Fairclough, Van Etten, Kendall, Shamberg and Tremaine.

21 NAYES: Traini and Sullivan.

22
23 Ms. Von Gemmingen and Planning Department Director Sue Fison discussed the Spenard area boundaries.

24
25 Ms. Von Gemmingen moved, to amend Map 6 of AO 2003-75, so Spenard would include
26 Mr. Tremaine seconded, the areas within the purple lines and "extend down 36th
27 Avenue to the New Seward Highway and encompass the
28 area of 36th Avenue to International Airport Road and Arctic
29 Boulevard to the New Seward Highway."

30
31 To Mr. Sullivan, Chair Traini responded that the maps could be amended once the new community councils were
32 proposed.

33
34 Ms. Von Gemmingen said the area north of 36th Avenue would go into the North Star Community Council to
35 encompass the boundary of North Star School. Taku-Campbell would remain within their current boundaries.
36 Spenard would encompass the area from International Airport Road to 36th Avenue and Arctic Boulevard to the New
37 Seward Highway.

38
39 Chair Traini called for a vote on the Von Gemmingen amendment.

40
41 and this motion was approved,

42
43 AYES: Tesche, Whittle, Taylor, Von Gemmingen, Fairclough, Shamberg, Tremaine and Sullivan.

44 NAYES: Traini, Van Etten and Kendall.

45
46 Chair Traini addressed Map 7, and there were no amendments. He called for discussion on Map 8.

47
48 Mr. Davis stated the orange dotted lines on Klatt Road indicated the recent boundary agreement between the two
49 community councils. He suggested making an amendment to adopt the orange dotted lines.

50
51 Mr. Tremaine moved, to amend Map 8 of AO 2003-75, of Botanical Heights and
52 Ms. Von Gemmingen seconded, Botanical Park Estates, by adopting the dotted orange line
53 and this was unanimously approved, and in Botanical Park Estates by crossing out the purple line
54 as it came north, then east, then north, then west.

55
56 Mr. Davis stated the orange dotted lines on Klatt Road indicated the recent boundary agreement between the two
57 community councils. He suggested making an amendment to adopt the orange dotted lines.

58
59 Mr. Tremaine moved, to amend Map 8 of AO 2003-75 by adopting the dotted
60 Ms. Shamberg seconded, orange line at Klatt Road the northern boundary of the Old
61 and this was approved without objection, Seward/Ocean View Community Council and by crossing out
62 the purple line that extends up Klatt Road up to Minnesota
63 and east on Minnesota to the New Seward Highway.

64
65 Mr. Davis stated the orange dotted lines on Klatt Road indicated the recent boundary agreement between the two
66 community councils. He suggested making an amendment to adopt the orange dotted lines.

67
68 The Assembly then addressed Map 9.

69
70 Chair Traini noted that the changes made to Map 8 would be reflected on Map 9.

71
72 Mr. Tremaine discussed the area of Bear Valley and north to the area labeled 35. The original recommendation from
73 the Federation was based on erroneous information provided by the Mapping Department. He referenced Map 9A.
74 The current boundary runs along Rabbit Creek Road to Rabbit Creek and then follows Rabbit Creek eastward until it
75 picked up the section line. The section line shown on the map would be a change from current condition.

1 Mr. Tremaine moved, to amend Map 9 of AO 2003-75 by leaving the portion of the
2 Ms. Von Gemmingen seconded, boundary line as it currently exists along Rabbit Creek Road
3 and this was unanimously approved, to Rabbit Creek and by removing the purple line that begins
4 on Hoskin Road from Rabbit Creek and goes down to the
5 ridge line to the section line and goes north on the section
6 line.
7

8 No amendments were made to Map 10. Chair Traini noted that Map 11 had already been dealt with during the
9 discussion of Map 1.
10

11 Ms. Fairclough thanked the Planning Staff, the Wuerch Administration, the Federation of Community Councils and the
12 community councils for their hard work. She requested the Mapping Department prepare a final map before the
13 Assembly approved the final ordinance.
14

15 Mr. Tesche concurred with Ms. Fairclough that a final map should be developed before approving the ordinance.
16

17 Mr. Tesche moved, to amend AO 2003-75, Page 3, Line 20, after
18 Ms. Taylor seconded, "Government Hill" *to strike out* "Ship Creek."
19 and this was approved without objection,
20

21 Mr. Tesche moved, to amend AO 2003-75, Page 6, table 2.40.060A.-2,
22 Ms. Fairclough seconded, Item B, right column, Line 15, *to strike out* "500" and *by*
23 and this was approved without objection, *insert* "1,000."
24

25
26 Mr. Tesche moved, to amend AO 2003-75, Page 7, between Lines 23 and 24,
27 Ms. Fairclough seconded, *by inserting* the following: "5. The boundary of a community
28 and this was approved without objection, council that abuts, adjoins or is adjacent to either Turnagain
29 Arm or Knik Arm of Cook Inlet extends seaward to the mean
30 low or lower water."
31

32 Chair Traini asked Mr. Davis to provide the corrected maps for approval on July 22, 2003.
33

34 Mr. Tesche offered a sponsor's statement for the record, on his amendment to the Fairview area, which allowed a
35 number of residents in the 15th Avenue area, with the exception of the Central Lutheran Church, to move from the
36 Fairview Community Council to the South Addition Community Council. The territory that the church occupied was
37 bounded on the north by 14th Avenue, on the west by A Street, on the east by Cordova, and on the south by 15th
38 Avenue. All of the property within those boundaries would remain in the Fairview Community Council and the rest of
39 the surrounding area would go into the South Addition Community Council.
40

41 *(Clerk's Note: This item was Postponed until July 22, 2003, awaiting final maps, showing amendments, from the*
42 *Mapping Department.)*
43

44 4.F. Resolution No. AR 2003-136, a resolution of the Anchorage Assembly acknowledging the Planning
45 and Zoning Commission recommendation to **establish community councils for Midtown and**
46 **Cheney Lake/Nunaka Valley**; and stating the intent to consider the recommended boundaries for
47 Midtown and Cheney Lake/Nunaka Valley district as they appear on the *Community Council*
48 *Redistricting Report and Recommendations*, dated December 9, 2002, Planning Department.
49 *(Public Hearing was Closed 6-10-03; Action Carried Over from 6-10-03 and 6-24-03)*
50

51 Chair Traini read this resolution title and called for a motion.
52

53 Mr. Whittle moved, to approve AR 2003-136.
54 Ms. Taylor seconded,
55

56 Mr. Whittle proposed an amendment, removing Cheney Lake/Nunaka Valley from consideration of being a new
57 community council
58

59 Mr. Whittle moved, to amend AR 2003-136 *by removing* Cheney Lake/
60 Ms. Taylor seconded, Nunaka Valley Community Council from consideration
61 and this was approved without objection, as a new community council.
62

63 Ms. Von Gemmingen did not believe they were ready to form the Midtown Community Council. She would like to see
64 the area split between the North Star Community Council and the Spenard Community Council, both of which have
65 been active on issues in the area.
66

67 Chair Traini requested to exchange seats with Mr. Tesche, allowing him to speak to this issue. Chair Tesche
68 recognized Mr. Traini.
69

70 Mr. Traini stated AR 2003-136, as amended, would address the issue of forming the Midtown Community Council. He
71 felt the Midtown Community Council should have the right to come forward once they met the requirements. He stated
72 that Ms. Brenda Smart had said that the Spenard Community Council was opposed to Northstar encroaching on any
73 part of their territory. While he appreciated that fact that Northstar wanted to take over the area, he thought this area
74 was different in nature and was a more business-oriented district. He had received numerous letters from people who
75 wanted to start a community council and the resolution would give the area residents the mechanism to do that. He
76 urged approval of the resolution.
77

78 Chair Tesche called for additional discussion. He returned the chair to Mr. Traini.

Chair Traini called for a vote on the main motion, as amended.

Mr. Whittle moved, to approve AR 2003-136, as amended.
Ms. Taylor seconded,

AYES: Tesche, Whittle, Taylor, Traini, Fairclough, Kendall and Shamberg.

NAYES: Von Gemmingen, Van Etten and Tremaine.

(Clerk's Note: Mr. Sullivan was temporarily out of the room)

4.G. Ordinance No. AO 2003-57(S-1), an ordinance of the Anchorage Municipal Assembly enacting a new Chapter 24.35 establishing public safety requirements for **soliciting business or contributions** and prohibiting the distribution of literature from within street or highway rights-of-way, Assemblymember Sullivan.
(Amended & Postponed from 5-13-03; Carried Over from 6-10-03 and 6-24-03)

Chair Traini read this ordinance title and summarized a brief history of AO 2003-57.

Mr. Sullivan reviewed the prior discussion on AO 2003-57(S-1). The ordinance set requirements for the conduct of activities within the street right-of-ways. For the people advertising on the sidewalks for car washes or other events, no permit would be needed, but they must stay two feet back from the curb. The ordinance established permitting requirements for those who want to be in the right-of-way, such as the Firemen's' Boot Campaign. The permits would cost \$100. As part of their application, they would have to include a plan that outlined where they would be, what time they would be there, and how many people would be involved. The department would then have the opportunity to examine the plan and determine whether or not it fit into the good public safety flow of traffic and the interaction of pedestrians with traffic. Other requirements included obtaining an insurance policy to cover any potential accidents, wearing brightly colored vests, limiting activity to 24 hours in a 48-hour period, an age limitation of 16 years of age or greater and a fine provision for those who broke the law. Mr. Sullivan felt the requirements were logical and would help protect the city from liability that was bound to occur in the future, if there were not changes made. He felt the changes would be similar to other cities' successful ordinances. The Dittman Corporation conducted a poll that indicted 76 percent of Anchorage residents favored limiting the activities of people in the roadways.

Ms. Fairclough spoke in favor of the amendment. Police officers that she had talked with felt they needed an additional tool to keep people out of the roadway. This was a public safety issue and did not target specific individuals. She encouraged a YES-vote.

Mr. Tremaine discussed the specific sections of the ordinance. He questioned how the ordinance related to state ordinances concerning solicitation and collection of funds.

In response to Mr. Tremaine, Assembly Attorney Gatti said this ordinance would only affect municipal right-of-ways and not state right-of-ways. The State Attorney General's Office felt the state law requirements defining outdoor advertising was broad enough to encompass the activity proposed by AO 2003-57(S-1).

Mr. Tremaine said he did not have a map that indicated what would be state right-of-way, but he thought they were a majority of the heavily traveled roadways in Anchorage. The ordinance would simply force the panhandlers to operate on the state right-of-ways, because it only applied to municipal roadways.

Mr. Gatti said the state conducted enforcement activities in state right-of-ways. The ordinance did not apply specifically to panhandlers, but to anyone who might be soliciting in the right-of-ways. During a work session, Mr. Dave Hire from the Department of Transportation advised the Assembly that the state enforced their statute from time to time.

Mr. Tremaine felt AO 2003-57(S-1) had a lot of merit, but he did not feel it accomplished what needed to be done for municipal-wide basis. He would not support the ordinance because it would only cause people to move their activities to state roadways.

In response to Mr. Tesche, Police Chief Walt Monegan felt the ordinance would afford the police officers an enhanced ability to enforce and protect public safety. Under the existing laws, panhandling or advertising along sidewalks was illegal. The ordinance would allow police officers the discretion to make contact with the individuals running charitable events and insure they had a permit, which would help educate them on safety measures.

In response to Mr. Tesche, Chief Monegan felt the ordinance was necessary, regardless of the existing provision in the city code. The ordinance had an educational requirement. The value of the ordinance was the understanding and reinforcement of what was required for everyone to remain safe.

Mr. Sullivan responded to Mr. Tremaine's concerns, which he felt were unfounded. Even though the ordinance applied strictly to municipal roads, the city could enforce on state right-of-ways if the activity was less restrictive than the state provided. The state completely banned these activities. A permitted activity was less restrictive than a complete ban, so the municipality would have the ability to enforce the ordinance with municipal officers.

In response to Ms. Taylor, Police Chief Monegan stated he did not have statistics on accidents caused by people soliciting in the roadways, but he did not believe there had been any incidents in recent history.

Ms. Taylor pointed out that there was already a law on the books to prevent people from distracting motorists and she felt the ordinance was redundant. In response to Ms. Taylor, Police Chief Monegan felt the ordinance was an educational opportunity.

1 In response to Ms. Taylor, Mr. Sullivan stated there was not a summary of economic effects prepared, because this
2 would be treated just like any other traffic or permit violation during the course of a police officer's duties. The
3 ordinance allowed a permitting process so people could use the roadway as long as they did it in a safe manner.
4

5 Ms. Taylor was concerned about the allocation of resources. She felt the resources would be better utilized to handle
6 car accidents, robberies and other incidents.
7

8 Police Chief Monegan stated priorities were established, based on the danger to individuals. There would not be a
9 special section assigned to enforcing the ordinance, but it would be handled in the normal course of police business.
10

11 Ms. Taylor felt having the Mayor's Office direct the State of Alaska to start mowing the lawns along the state roads
12 would be more beneficial.
13

14 Mr. Tremaine moved,	to amend AO 2003-57(S-1), Page 3, Line 10,
15 Mr. Sullivan seconded,	by <i>changing</i> the last word in the line from "section"
16 and it passed without objection,	to " <u>chapter</u> ."

17

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

20 NAYES: None.
21

22 To Mr. Tremaine, Ms. Westover responded the Alaska Statute 19.25.180 allowed the municipality to enact more
23 restrictive requirements and enforce in state right-of-ways. She added that Alaska Statute 19.25.160, provided the
24 definition for outdoor advertising, included any signs, displays or devices that were used to advertise, attract attention
25 or inform people in roadways.
26

27 Mayor Begich said the statute covered "advertising" not "soliciting." He thought that was the missing word that would
28 define the issue before them.
29

30 Mr. Tremaine thought a person holding up a sign that read "donate here" was advertising. A person using sign
31 language or pantomime was not advertising, but soliciting, which was legal on a state right-of-way according to the
32 existing statute.
33

34 Assembly Attorney Gatti discussed the interaction of the state law with the municipal code. The state law said the
35 municipality could not regulate in state right-of-ways unless what they were doing was more restrictive. Assistant
36 Attorney General Jim Cantor said the outdoor advertising definition would encompass the type of solicitation that the
37 ordinance would regulate in municipal right-of-ways. There were also federal highway monies associated with the
38 state right-of-ways and the federal government was quite restrictive with regard to the types of activities that were
39 authorized within state right-of-ways. If there was an administrative regulation with respect to solicitation or activities
40 regulated by an ordinance, the Anchorage Police Department could issue citations for those activities in state right-of-
41 ways. Police Chief Monegan concurred.
42

43 Mr. Tremaine pointed out that issuing permits was less restrictive than the state statute that allowed no activity
44 whatsoever in the roadways and would violate state law in state rights-of-way. Assembly Attorney Gatti responded
45 that he was incorrect because the ordinance did not apply to state right-of-ways.
46

47 In response to Mr. Tremaine, Police Chief Monegan said a person soliciting at the intersection of a municipal and state
48 road would be legal on the municipal road and illegal on the state road if the ordinance passed.
49

50 Mr. Tremaine spoke against the ordinance. If the state enforced its laws that prohibited solicitation on state roadways
51 then there would be no sense in permitting such activities in municipal roadways.
52

53 In response to Mr. Kendall, Police Chief Monegan said the police department had the ability to apply municipal
54 ordinances to state roadways within the municipality in traffic offense cases.
55

56 To Mr. Kendall, Assembly Attorney Gatti responded the same did not apply to this situation, because the state statute
57 specifically stated that the municipal ordinance could not be less restrictive than the state regulation. However, if there
58 was an administrative code on the state side that regulated a similar activity then the Anchorage Police Department
59 could issue citations on state roadways. Police Chief Monegan concurred.
60

61 To Mr. Kendall, Police Chief Monegan responded the firefighter's "Fill the Boot" program was illegal under the existing
62 law.
63

64 To Mr. Van Etten, Police Chief Monegan responded there were no traffic accidents in recent history that could have
65 been prevented by the application of the ordinance. He discussed the educational aspect of the ordinance. When a
66 group applied for a permit, part of the process would include education on the regulations. The ordinance would solve
67 the "equal enforcement" problems that the police officers experienced in the situation where they might ticket a
68 panhandler, but not ticket someone advertising on the roadways.
69

70 Mr. Sullivan pointed out that someone advertising on the roadway, as long as they remained two feet away from the
71 curb, did not need a permit. The permit was for those people who wanted to collect donations in the restricted area
72 and the roadway.
73

74 Mr. Whittle discussed the confusion between the state and local roadways. He would like to see a less confusing
75 solution proposed.
76

77 Mr. Sullivan proposed an amendment to change the insurance requirements to one million dollars. He thought this
78 was a much more realistic standard to cover potential liability.

Mr. Sullivan moved, to amend AO 2003-57(S-1), Page 2, Lines 11 and 12, 3b,
Ms. Fairclough seconded, *by increasing* the insurance requirement to "\$1,000,000."
and this motion was passed,

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

Mr. Van Etten moved, to amend AO 2003-57(S-1), Section 3, Line 21, *by adding a*
Mr. Tremaine seconded, "a one-year sunset clause," to allow the Assembly to
reevaluate the ordinance.

Mr. Sullivan disagreed with adding a one-year sunset clause, but he proposed a friendly amendment to have the Assembly review the ordinance after one year. Mr. Van Etten would not accept this change as a friendly amendment. He thought that an Assembly review of the ordinance after one year would not accomplish the same goal as a sunset clause, which would force the Assembly to review the ordinance after one year.

Chair Traini called for a vote on the Van Etten amendment.

and this motion was passed,

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

Mr. Sullivan moved, to approve AO 2003-57(S-1), as amended.
Ms. Von Gemmingen seconded,
and this motion failed,

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

4.H. Resolution No. AR 2003-144, a resolution of the Anchorage Assembly recognizing and encouraging residents to contribute to charitable organizations that assist the needy, discouraging gifts of pocket change to panhandlers, and requesting the Anchorage Police Department to enforce existing laws which forbid **street solicitation** or activities of pedestrians which unduly distract drivers, Assemblymember Tesche and Sullivan.
(Carried Over from 5-13-03, 6-10-03, and 6-24-03)

Chair Traini read the resolution title and gave the history of AR 2003-144. He stated there was no motion pending.

Mr. Tesche moved, to approve AR 2003-144.
Mr. Sullivan seconded,

Ms. Fairclough said she and Mr. Sullivan had talked about an education campaign related to solicitation in the road right-of-ways. She noted that there had been accidents at the Old Glenn Highway and Boniface on a regular basis, which were partially attributed to panhandlers. She suggested a community public service announcement to make the motorists aware that they should not be handing out money to panhandlers in the roadways.

Ms. Shamberg said San Francisco used their public buses to advertise the fact that motorists should not be handing out money to panhandlers in the roadways and she felt Anchorage should do the same.

Mayor Begich pointed out that there were budget restraints that they had to consider, but the ordinance would not be effective without a good educational program.

Mr. Sullivan stated Mr. Michael Porcaro had offered the services of his agency to produce a public service announcement at no charge that would encourage the public to support the social service agencies that could really help the panhandlers instead of passing out random donations.

Ms. Taylor felt the Administration should encourage the media to adopt this issue as one of their public service programs.

Chair Traini called for a vote on the main motion.

and this motion was passed,

AYES: Tesche, Whittle, Taylor, Traini, Fairclough, Van Etten, Kendall, Shamberg, Tremaine and Sullivan.
NAYES: None.
(Clerk's Note: Ms. Von Gemmingen, temporarily out of room)

With no objections, Chair Traini changed the order of the day to take up Item 4.I, AR 2003-151.

4.I. Resolution No. AR 2003-151, a resolution of the Anchorage Municipal Assembly revising the 2003 General Government Operating Budget by appropriating \$30,000 from Areawide General Fund (101) Balance to the Office of the Mayor to be used as a grant to the **Alaska Moving Image Preservation Association** (AMIPA), Assemblymember Taylor.
1. Assembly Memorandum No. AM 457-2003.
(Postponed from 5-20-03; Carried Over from 6-24-03)

Chair Traini read this resolution title and gave the history of AR 2003-151. He stated there were no motions pending.

Ms. Taylor moved, to postpone indefinitely AR 2003-151.
Mr. Tremaine seconded,

Ms. Taylor said the Administration would be working with the Alaska Moving Image Preservation Association (AMIPA) to develop a solution that would not impact the municipal budget. The Mayor concurred and added they would be in conversation with AMIPA, to review all expenses as the Administration analyzed the budget situation.

Chair Traini called for a vote on the Taylor motion to postpone indefinitely.

and this motion was passed,

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

NAYES: None.

5. CONTINUED PUBLIC HEARINGS

5.A. Resolution No. AR 2003-161, a resolution of the Municipality of Anchorage, Alaska, accepting and appropriating a State of Alaska Drinking Water Fund loan offer increase in the amount of \$255,000 for financing a portion of the costs of the **Disinfection Alternative Water Upgrades**, Anchorage Water and Wastewater Utility.

1. Assembly Memorandum No. AM 493-2003.
(Carried Over From 6-24-03)

Chair Traini read this resolution title and opened Public Hearing. There being no one to testify, he closed Public Hearing and called for a motion.

Ms. Fairclough moved, to approve AR 2003-161.
Mr. Sullivan seconded,
and this motion was passed,

AYES: Tesche, Whittle, Traini, Fairclough, Van Etten, Kendall, Shamberg, Tremaine and Sullivan.

NAYES: None.

(Clerk's Note: Taylor and Von Gemmingen were temporarily out of room)

5.B. Resolution No. AR 2003-164, a resolution of the Municipality of Anchorage appropriating \$3,915,000 from the Equipment Maintenance Internal Service Area Operating Fund 601 Retained Earnings Unreserved Account to the Equipment Maintenance Internal Service Capital Fund 606 for the purpose of purchasing **vehicles and equipment**, Maintenance and Operations.

1. Assembly Memorandum No. AM 496-2003.
(Carried Over From 6-24-03)

Chair Traini read this resolution title and opened Public Hearing. There being no one to testify, he closed Public Hearing and called for a motion.

Ms. Fairclough moved, to approve AR 2003-164.
Mr. Tesche seconded,
and this motion was passed,

AYES: Tesche, Whittle, Traini, Fairclough, Van Etten, Kendall, Shamberg, Tremaine and Sullivan.

NAYES: None.

(Clerk's Note: Taylor and Von Gemmingen were temporarily out of room)

5.C. Resolution No. AR 2003-165, a resolution of the Municipality of Anchorage appropriating \$42,880,000 of proceeds of General Obligation Bonds to the Areawide CIP Fund (401), and Anchorage Roads and Drainage Service Area CIP Fund (441), to pay the costs of public safety, road, and storm drainage capital improvements projects; and contributing \$912,000 from the Anchorage Roads and Drainage Service Area CIP Fund (441) to the Equipment Maintenance Internal Service Fund (601) for the purchase of **maintenance vehicles**, Office of Management and Budget.

1. Assembly Memorandum No. AM 497-2003.
(Carried Over From 6-24-03)

Chair Traini read this resolution title and opened Public Hearing. There being no one to testify, he closed Public Hearing and called for a motion.

Ms. Fairclough moved, to approve AR 2003-165.
Mr. Sullivan seconded,
and this motion was passed,

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

NAYES: None.

5.D. Resolution No. AR 2003-166, a resolution appropriating annual entitlement grants from the U.S. Department of Housing and Urban Development and anticipated program income in the amounts of \$2,330,000 of entitlement and \$180,000 of anticipated program income for the **Community**

Development Block Grant (CDBG), \$1,114,921 of entitlement and \$20,000 of anticipated recaptured funds for the **HOME Investment Partnership Program (HOME)**, and \$78,000 of entitlement for the **Emergency Shelter Grant (ESG)**, and appropriating said funds to the Federal Categorical Grants Fund (241), Planning Department.

1. Assembly Memorandum No. AM 498-2003.
(Carried Over From 6-24-03)

Chair Traini read this resolution title and opened Public Hearing.

BRENDA SMART, member of the Spenard Community Council, testified that she would like to see some of the Community Development Block Grant money used for cleaning up the various fire sights around the city. She knew these areas in Anchorage were sites of vandalism and shootings, and she proposed "slum and blight" money appropriations in the 2004 budget for their clean-up.

With no additional public testimony, Chair Traini closed Public Hearing and call for a motion.

Ms. Fairclough moved, to approve AR 2003-166.
Mr. Sullivan seconded,

Mr. Sullivan pointed out that there was \$180,000 slum and blight money in the budget to specifically eliminate junk vehicles, clean up right-of-ways and demolish abandoned buildings, but it may not enough money to address all the issues.

Mr. Whittle stated he was aware of the problems and thought they needed to look at all the possibilities to get things cleaned up. He thought there was enforcement that could be utilized to condemn the burned out properties, sell them and use the money to clean up the lots.

Ms. Smart thought properties could be condemned, but knew it was a difficult process. There had to be money budgeted to go through the process. The property would have to be brought up to code, HAZMAT wise, before the building could be demolished or used as a controlled burn for fire training. The permit for a controlled burn was about \$6,000. She felt that removing the burned out buildings should to be made a priority as a matter of public safety.

Mayor Begich asked Chair Traini to supply Deputy Municipal Manager Michael Abbott with the addresses of the burned out buildings.

Chair Traini felt the Administration should develop a program to remove the burned out buildings, after labeling them as an eye sore and a public safety issue.

Mayor Begich said they recognized the issue, but the budget was the question. The Community Development Block Grant money had been used in the past for this purpose and the Administration would look into the issue.

Mr. Van Etten suggested looking at this issue from the standpoint of the tax assessor's office in future cases.

With no further public testimony Chair Traini closed Pubic Hearing and called for a vote on the main motion.

Ms. Fairclough moved, to approve AR 2003-166.
Mr. Sullivan seconded,

Mr. Tremaine stated a lot of the Community Development Block Grant money was used to pay salaries and benefits to municipal employees, which he felt should be reviewed. Every dollar spent on salaries was a dollar less that could be used for its intended purpose.

and this motion was passed,

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

NAYES: None.

5.E. Resolution No. AR 2003-157, a resolution of the Anchorage Municipal Assembly ratifying Executive Order 2003-03, an Executive Order naming an un-named right of way, from Dennis Way north to Sunview Drive, **Aleut Way**, Municipal Clerk.

1. Assembly Memorandum No. AM 456-2003.
(Carried Over From 6-24-03)

Chair Traini read this resolution title and opened Public Hearing.

KELLY PHILLIPS, resident of the unnamed road for four years, testified against the ordinance.

Mr. Tremaine referenced a letter with twelve signatures from the residents in the area dated May 11, 2003 who stated they did not wish the street to be named Aleut Way. In response to his question, Ms. Phillips responded they had discussed a proposed name for the street and if they were given more time, they would make a selection.

With no further public testimony, Chair Traini closed Public Hearing and called the question.

Ms. Fairclough moved, to postpone AR 2003-157 to August 19, 2003.
Mr. Tremaine seconded,

Ms. Fairclough said the new Begich Administration needed time to review this issue with the homeowners. She viewed it as a safety issue and the street needed to be named so emergency vehicles would know where to respond if there were problems. If the homeowners could come up with a name in the next 30 days, the Administration would be happy to consider it.

Mr. Tremaine pointed out that the Mayor signed the resolution on May 8, 2003, which was before the petition had been received. Postponing the resolution would allow the community to come up with another name and the administration to come forward with a different resolution.

Mayor Begich said the Administration would notify the Assembly if they needed more time to deal with the issue.

Chair Traini called for a vote on the main motion.

and the motion passed without objection,

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

NAYES: None.

5.F. Ordinance No. AO 2003-85, an ordinance amending the **Anchorage Food Code** Chapter 16.60 of the Anchorage Municipal Code and providing for consistency with State regulations requiring cooling and cold holding at 41°F or below, fee adjustment for temporary and seasonal facilities, caterer notice requirements, addition of time as a food safety control measure and clarifying verbiage, Health and Human Services.

1. Assembly Memorandum No. AM 407-2003.
(Carried Over From 6-10-03 and 6-24-03)

Chair Traini read the ordinance title and opened the Public Hearing. There was no one to testify and he closed Public Hearing and called for a motion.

Ms. Fairclough moved, to approve AO 2003-85.
Mr. Van Etten seconded,
and it was passed unanimously,

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

NAYES: None.

5.G. Ordinance No. AO 2003-82, an ordinance amending the zoning map and providing for the rezoning of **Lot 3, Ship Creek Crossing Subdivision** from PC (Planned Community) and I-2 (Heavy Industrial) to I-2 SL (Heavy Industrial with Special Limitations), generally located at 101 West Whitney Road (Government Hill Community Council) (Planning and Zoning Commission Case 2003-016), Planning Department.

1. Assembly Memorandum No. AM 400-2003.
(Carried Over From 6-24-03)

Chair Traini read the ordinance title and opened the Public Hearing.

STUART HALL, past president of the Government Hill Community Council, testified in support of the ordinance. He felt approval should be contingent on the owners complying with the landscaping provisions of the Ship Creek Plan and requiring that fire suppression devices be placed in the shop, because the city water fire hydrants were 1,400 feet away.

In response to Mr. Tesche, Mr. Hall recommended that the landscaping be consistent with the Ship Creek Plan. He was not sure if the Ship Creek Plan had been officially approved by the Assembly, but it was his understanding that the landowner supported the plan.

BRAD RINKY, representing the petitioner, testified in support of the ordinance. They had agreed with Community Planning to provide landscaping. He thought the fire suppression issues would be handled in the building permit process. The ordinance had the support of the Planning and Zoning Commission, Community Planning and Alaska Railroad, which owns the property leased to Wrightway Auto Carriers.

In response to Mr. Tesche, Mr. Rinky agreed that the ordinance would be approved, subject to landscaping in accordance with the Ship Creek Redevelopment Plan. They had a preliminary landscaping plan ready to submit to Community Planning for approval.

In response to Ms. Shamberg's question about the neighbor's concern over the noise, Mr. Rinky said Wrightway Auto Carriers had operated their business in that location for 40 years and there would be no additional uses that had not been there in the past.

With no additional testimony Chair Traini closed Public Hearing and called for a motion.

Ms. Fairclough moved, to approve AO 2003-82.
Ms. Taylor seconded,

Mr. Tesche moved, to amend AO 2003-82 *by adding* limitation #5 to Page 1,
Mr. Tremaine seconded, Line 38, to read: "5. Landscaping shall be accomplished in accordance with the Ship Creek Redevelopment Plan."

1 Mr. Tesche said the amendment was proposed at the recommendation of the community council and agreed to by the
2 petitioner. He recommended a YES-vote.

3
4 Chair Traini called for a vote on the Tesche amendment.

5
6 and it passed without objection,

7
8 Chair Traini called for a vote on the main motion, as amended.

9
10 Ms. Fairclough moved, to approve AO 2003-82, as amended.
11 Ms. Taylor seconded,
12 and this motion was passed,

13
14 AYES: Tesche, Whittle, Taylor, Von Gemmingen, Traini, Fairclough, Van Etten, Kendall, Shamberg,
15 Tremaine and Sullivan.

16 NAYES: None.

17
18 5.H. Ordinance No. AO 2003-83, an ordinance of the Anchorage Municipal Assembly amending Anchorage
19 Municipal Code Title 21 by adding definitions of **Commercial multi-lot development** and for
20 **Monument signs**, amending sign location provisions to allow signage on an adjacent or contiguous
21 lot or tract in a commercial multi-lot development, and adding conditional use standards for signs in
22 commercial multi-lot developments, Planning Department.
23 1. Assembly Memorandum No. AM 439-2003.
24 (*Carried Over From 6-24-03*)

25
26 Chair Traini read this ordinance title and opened Public Hearing. With no one to testify, he closed Public Hearing and
27 called for a motion.

28
29 Ms. Fairclough moved, to approve AO 2003-83.
30 Mr. Sullivan seconded,

31
32 Planning Department Director Sue Fison said these provisions would be handled in the sign code, which the Planning
33 and Zoning Commission had nearly completed. She felt it was unnecessary to address this issue at this time.

34
35 Ms. Shamberg stated she had originally wished to make an amendment, changing the height regulations, to not
36 exceed twenty feet in height. She stated that since this ordinance would be postponed, she thought it was
37 unnecessary.

38
39 Mr. Tremaine referenced Page 2, Section 3, #5, referring to deed restrictions. He wanted to understand the
40 ramifications and implications of the restrictions when the issue again comes before the Assembly. He asked what it
41 would mean if the Assembly passed a sign ordinance, added deed restrictions and then changed the sign ordinance.

42
43 Mr. Tremaine moved, to *postpone indefinitely* AO 2003-83.
44 Mr. Tesche seconded,
45 and this motion was withdrawn,

46
47 Ms. Von Gemmingen felt the most important thing about AO 2003-83 was that it limited the signs to 25 feet in height,
48 which currently was at 45 feet. Any new signs going in would want to be grandfathered. She felt the Assembly
49 needed to amend the 45-foot limitation to a 25-foot limitation.

50
51 Mr. Tremaine withdrew his motion to postpone indefinitely AO 2003-83, so the issue could be further discussed. Mr.
52 Tesche withdrew his second.

53
54 Ms. Shamberg said she would like to see the limitation changed to 20 feet. She made the motion.

55
56 Ms. Shamberg moved, to amend AO 2003-83, Page 2, Line 7, *by changing*
57 Mr. Tesche seconded, 25-feet to "20-feet."
58 and this motion was withdrawn,

59
60 Ms. Shamberg said the 25-foot limitation was proposed by the city's consultant, because they felt there would be too
61 many signs that would have to be reduced in height and not because it was the best thing for the city. She noted that
62 the legislation would affect the city for the next 20 years and she felt 25-feet was too tall.

63
64 Mr. Van Etten was concerned that without clarification on how much of the height could be the base and how much
65 could be the sign, they would end up with something that was very linear. He suggested asking the Planning Staff to
66 look into the ratios that were present in the proposed sign ordinance to see if there was not a more appropriate size
67 that they might want to amend into Section 3, Number 1.

68
69 Mayor Begich pointed out that items passed tonight, before the complete package was before the Assembly, might be
70 contradictory. He felt the issue should be postponed until the complete package was brought before the Assembly.

71
72 Mr. Sullivan agreed that the ordinance should be postponed until the full package was before the Assembly.

73
74 Mr. Tesche acknowledged that someone might erect a non-conforming sign before the entire package was before the
75 Assembly, but he felt it would be better to review the entire package before making any decisions.

76

Ms. Fairclough pointed out that there would be public testimony on the complete sign ordinance package. The proposed 25-foot sign limitation would affect about 25 percent of the signs in Anchorage, but dropping the limitation to 20-foot would greatly increase the number of business owners affected. She would be voting to postpone.

Ms. Von Gemmingen said she did not support the 20-foot sign limitation.

In response to Ms. Von Gemmingen, Planning Department Director Sue Fison said the complete sign ordinance would be finalized next week.

Mayor Begich said the Administration's goal was to bring the complete sign ordinance before the Assembly in the next five to six weeks.

Mr. Van Etten felt the ordinance should be postponed to allow the administration time to present the entire sign ordinance package to the Assembly.

Ms. Shamberg withdrew her motion to amend AO 2003-83. Mr. Tesche withdrew his second.

Mr. Sullivan moved, to postpone indefinitely AO 2003-83.
Mr. Tesche seconded,
and this motion was passed,

AYES: Tesche, Whittle, Taylor, Traini, Fairclough, Van Etten, Kendall, Tremaine and Sullivan.

NAYES: Von Gemmingen and Shamberg.

5.I. Ordinance No. AO 2003-58, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code 21.10.030 and 2.30.030 terminating designation of the Assembly as the **Board of Adjustment**, creating a separate Board of Adjustment, and transferring all functions of the Board of Adjustment from the Assembly to the newly constituted board, Assemblymembers Tesche and Sullivan.

1. Assembly Memorandum No. AM 222-2003.
2. Information Memorandum No. AIM 34-2003.
3. Assembly Memorandum No. AM 553-2003.

(Carried Over From 6-24-03)

Chair Traini read this ordinance title and opened Public Hearing.

WILL WATSON, member of Mayor Begich's transition team, testified against the ordinance.

Mr. Tesche discussed the amendments that he would be making to AO 2003-58 and asked Mr. Watson whether he supported the proposed amendments. Mr. Watson responded that he was unfamiliar with the how charters worked, but he felt that the general public needed to feel as if they were the customers.

Chair Traini called for additional public testimony, and there being none, he closed Public Hearing and called for a vote.

Mr. Tesche moved, to approve AO 2003-58.
Mr. Sullivan seconded,

To Mr. Watson, Mr. Tesche responded new people would not be elected, but rather would go before a three-member appeals board that would hear appeals from the Platting Board, which normally had gone before the Assembly before they go the Superior Court.

Mr. Tesche moved, to amend AO 2003-58 on the recommendation of the
Ms. Von Gemmingen seconded, Planning and Zoning Commission Resolution 2003-032,
and it passed without objection, set forth in AM 553-2003, and formatted in **bold** to read as follows on Line 26:

B. The Board of Adjustment shall be:

1. A three-member Board of Adjustment, with two alternate members to serve in the absence of the three sitting members, [THE ASSEMBLY], for appeals from the Platting Board and the Planning and Zoning Commission, whose members are nominated by the mayor and confirmed by the Assembly for three-year staggered terms. The board's seats shall be designated Seats 1, 2 and 3[;]. The board members shall be knowledgeable and experienced in administrative law "and/or" in the provisions of Title 21 of the Municipal Code.

C. When transmitting to the Assembly for confirmation the name of appointees to the Board of Adjustment, the mayor shall cause a notice of a 10-day comment period inviting public comment on the qualifications of such appointees to be published in a newspaper of general circulation in the Municipality. The notice shall advise that comments shall be in writing and

filed with the Municipal Clerk. Upon receipt, the Municipal Clerk shall forward comments received to the Mayor and the Assembly. The Assembly shall not take action on any appointment to the Board of Adjustment until after the close of the public comment periods.

Mr. Tesche said there had been an evolutionary process in the history of the Assembly's involvement in land use appeals, which he overviewed. Over time the complexity of the cases had changed. The court decisions changed the role of the legislative body to a judicial role by imposing quasi-judicial requirements on the Assembly and it had become increasingly uncomfortable for a legislative body to substitute its traditional legislative role for a much narrower and constricted judicial role. The Assembly received advice from the Department of Law that they were not to have ex-parte contacts with constituents; nor talk to, nor receive nor solicit information about appeals and had to base their decisions on what was provided in the packets. The Assembly's review was limited in most cases to whether or not there was substantial evidence to support factual determinations or whether a clear error had been made, unless the Assembly wanted to substitute their judgment for the decision by a super majority vote. The appeals were frustrating and time consuming and came before with Assembly with expectations from the public that the Assembly could not fulfill. He felt it was time for the Assembly to recognize that these types of matters were better left to a board of people who had demonstrated expertise in Title 21 and administrative law on a local level. This would leave the Assembly free to listen to their constituents and legislate public policy. He recommended a YES-vote.

Ms. Fairclough spoke against the amendment and the ordinance. She had a difficult time relinquishing the trust that the community placed in their elected officials. She would love to reduce the workload as far as the technical aspects of reviewing appeals, but she felt Anchorage citizens wanted the decisions on large appeals to be made by a body of eleven, not three.

Ms. Von Gemmingen said she had expressed the same opinion as Ms. Fairclough years earlier and she regretted that decision. She did not feel the Assemblymembers had time to read all the material necessary to make decisions on the appeals. She felt the Assembly would better serve the public by passing the ordinance. She noted that section one required a board member to be knowledgeable and experienced in administrative law and the provisions of Title 21. She felt it would be difficult to find people knowledgeable in both areas. Ms. Von Gemmingen felt the Assembly was not qualified to conduct appeal hearings. She proposed an addition, which was accepted by Mr. Tesche as a friendly amendment.

Ms. Von Gemmingen moved,	to amend the Tesche amendment, Section B.1, <i>by adding</i>
Mr. Tesche seconded,	"The board members shall be knowledgeable and
and this was approved unanimously,	experienced in administrative law <u>"and/or"</u> the provisions of
	Title 21 of the Municipal Code."

Assembly Attorney Gatti said the phrase "and/or" was disfavored in legislative drafting manuals, because it injected a degree of ambiguity into the context of the meaning of the subject.

Mr. Sullivan pointed out that it was not unprecedented for the Assembly to have another board serve on its behalf, such as the Board of Equalization. He agreed that a technical body should be formed with the time and expertise to deal with these complicated matters. He urged a YES-vote.

Mayor Begich recommended a change the ordinance on Page 1, Line 30, to indicate that the appointment of board members had to be approved by a "super majority," of eight Assemblymember's approval. Mr. Tesche made the motion.

Mr. Tesche moved,	to amend AO 2003-58, on Page 1, Line 30 <i>by adding:</i>
Ms. Fairclough seconded,	"A three-member Board of Adjustment, with two alternate
and it passed without objection,	members to serve in the absence of the three sitting
	members, [THE ASSEMBLY], for appeals from the Platting
	Board and the Planning and Zoning Commission, whose
	members are nominated by the mayor and confirmed by the
	Assembly <u>"with a super majority vote of eight members of the</u>
	<u>Assembly"</u> for three-year, staggered terms.

Mayor Begich said the ordinance would allow the Assembly to talk to their constituents and would enhance the community's participation in trying to resolve these issues.

Mr. Tremaine said the amendments to the ordinance addressed many of the concerns expressed by members of his district regarding the make-up of the board, but he would still vote against the ordinance. He felt the Assembly had an obligation and should continue acting as the Board of Adjustment.

In response to Ms. Von Gemmingen, Assembly Attorney Gatti discussed why the Mayor would appoint members to the Board of Adjustment and not the Board of Equalization. According to Title 29 of the Alaska Statute, which pertains to municipal government, the Assembly appointed members of the Board of Adjustment. Section 29.10.200, which was a laundry list of provisions that prohibit home rule municipalities from acting otherwise, was not included. Therefore, you would refer to the Municipal Charter, which contained a provision that said the Mayor appointed members of boards and commissions, which were then confirmed by the Assembly.

Chair Traini called for a vote on the main motion, as amended.

Mr. Tesche moved,	to approve AO 2003-58, as amended.
Mr. Sullivan seconded,	

1
2 AYES: Tesche, Whittle, Taylor, Von Gemmingen, Van Etten, Shamberg and Sullivan.
3 NAYES: Traini, Fairclough, Kendall and Tremaine.
4

5 5.J. Ordinance No. AO 2003-54, an ordinance of the Anchorage Municipal Assembly adopting an
6 amendment to the Official Streets and Highways Plan (OS&HP), an element of the Anchorage Bowl
7 Comprehensive Plan (AMC 21.05.030E), to redesignate **Karluk Street**, between East Fifth Avenue
8 and East Fifteen Avenue, from a Class 1 Residential Collector to a Class 1C Neighborhood Collector,
9 Assemblymember Tesche.

- 10 1. Assembly Memorandum No. AM 196-2003.
11 2. Information Memorandum No. AIM 28-2003.
12 *(Carried Over From 6-10-03 and 6-24-03)*
13

14 Chair Traini read this ordinance title and opened Public Hearing.

15
16 REGINA MONTEUFUL testified in support of the ordinance.
17

18 In response to Mr. Tesche, Ms. Monteuful said the petition was passed around at several of the community council
19 meetings. There had been no opposition to the ordinance from anyone in the community. She discussed Mr. Moyer's
20 investigation of the issue, which she felt was thorough.
21

22 PAUL WHIPPLE testified in support of the ordinance.
23

24 With no additional public testimony, Chair Traini closed Public Hearing and called for a motion.
25

26 Mr. Tesche moved, to approve AO 2003-54.
27 Mr. Whittle seconded,
28

29 Mr. Tesche noted that there was no neighborhood opposition to the ordinance and it had the support of the
30 Ombudsman and the local community council. He recommended a YES-vote.
31

32 and this motion was passed,
33

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

36 NAYES: None.
37

38 5.K. Ordinance No. AO 2003-52, an ordinance of the Municipality of Anchorage amending Anchorage
39 Municipal Code Subsection 21.15.005.E. requiring that the Department of Community Planning and
40 Development provide **notice of public hearing** by mailing to property owners within 1,000 feet of land
41 subject to an application for variances, conditional uses, subdivision approval, and other special land
42 use permits, Assemblymembers Taylor, Shamberg, Van Etten, Whittle, Sullivan, Tesche, Traini and
43 Fairclough.

- 44 1. Assembly Memorandum No. AM 175-2003.
45 2. Assembly Memorandum No. AM 492-2003.
46 3. Assembly Memorandum No. AM 527-2003.
47 *(Carried Over From 6-10-03 and 6-24-03)*
48

49 Chair Traini read this ordinance title and opened Public Hearing.

50
51 ANDREE McCLOUD testified in support of the ordinance.
52

53 With no additional public testimony, Chair Traini closed Public hearing and asked the Administration for their position
54 on this ordinance.
55

56 Deputy Municipal Manager Michael Abbott stated the Administration would like an allowance of 60 days to present an
57 alternative proposal that would meet the Assembly's expectations for broader public notification process for changes
58 that would be of interest to the public.
59

60 Ms. Taylor moved, to approve AO 2003-52.
61 Mr. Tesche seconded,
62

63 Ms. Taylor stated there had been a great deal of concern in her district over the notification process. Changes were
64 being made to parks and the people in adjacent community councils were not notified of changes that they felt had a
65 direct impact on their quality of life and property values. She would be willing to give the Administration time to
66 prepare an alternative proposal. She felt a broader notification requirement was important. She had concerns
67 regarding the accuracy of the impact study that was prepared by the Administration. She felt that the notification
68 process could be done less expensively by dealing with mail houses and electronic data.
69

70 Mayor Begich discussed a process that had been utilized in the past called "geo-rezoning." The Administration wanted
71 to expand that concept by holding meetings several times a year in communities to review proposed future activities
72 and development for their areas.
73

74 MOA Planning Department Director Sue Fison felt the current system needed to be reviewed before any changes were
75 proposed. The current system was setup decades ago. She discussed the notification process, which was expensive,
76 labor-intensive and received minimal responses. People who had recently complained that they had not been notified
77 were renters. Forty percent of the people who lived in Anchorage were renters, but the only people who received
78 notices were property owners. Another group of people who were not notified were mobile home owners. Eighty

percent of mobile home residents were owners, but they did not receive notification because they were not the property owners. Expanding the notification radius to 1,000 feet would greatly increase the cost at a time of budget cuts. An online notification system had been put together, which had the support of the current Administration, but not that of the prior Administration. Ms. Fison discussed how the online notification system would work. She would still utilize posters and newspaper advertisements, but she thought that an online notification system would help reach more people.

Ms. Taylor stressed that this should not be viewed as a matter of convenience for the Administration, but rather consideration needed for the homeowners who were negatively impacted by developments. She stated homeowners could have protested if they had been notified. She pointed out that the money that was used in the notification process was obtained through property taxes and the property tax payers should come first. The e-mail system was a consideration, but many people did not have access to computers and she felt they needed to consider a comprehensive approach that would notify the maximum amount of people in an inexpensive way.

Mr. Tesche stated the Assembly needed to find additional ways to increase the numbers of people who wanted to participate in what was going on in their neighborhoods. He felt that computers and general circulation newspaper advertising campaigns could be utilized, but he felt the Administration should be given the opportunity to review the issue.

Ms. Tesche moved, to postpone AO 2003-52 to September 23, 2003.
Mr. Van Etten seconded,
and this motion was passed,

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

NAYES: None.

Mr. Van Etten requested the Administration provide the Assembly with a progress report as to what techniques were being tested or considered.

- 5.L. Ordinance No. AO 2003-56, an ordinance amending Anchorage Municipal Code Subsection 21.45.245B to exempt **teen nightclubs** and underage dances from the 300-foot location restriction, Assembly Chair Traini.
1. Assembly Memorandum No. AM 478-2003.
(Carried Over From 6-10-03 and 6-24-03)

Chair Traini read this ordinance title and opened Public Hearing. With no one to testify, he closed Public Hearing. He pointed out that this item had gone before the Planning and Zoning Commission and they recommended approval. He called for a motion.

Mr. Tesche moved, to approve AO 2003-56.
Mr. Kendall seconded,
and this motion was passed,

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

NAYES: None.

- 5.M. Ordinance No. AO 2003-87, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code Chapter 9.20.060, **Pedestrians Soliciting Rides or Business**, to clarify that it applies to the collection of contributions from the occupant of a vehicle on a roadway, and to add a Subsection C to prohibit an occupant of a vehicle from aiding or abetting acts in violation of Anchorage Municipal Code 9.20.060, Assemblymember Sullivan.
(Carried Over from 6-24-03)

Chair Traini read the ordinance title and opened Public Hearing. With no one to testify he closed Public Hearing and called for a motion.

Mr. Sullivan moved, to approve AO 2003-87.
Mr. Tesche seconded,

Mr. Sullivan said AO 2003-87 would clarify any misconceptions in the traffic code as to the definition of "solicitation." He read an e-mail from Anchorage Police Officer Mueller regarding enforcement difficulties due to the unclear definition in the municipal code.

Mr. Tesche reviewed Subsection C of the ordinance. He proposed an amendment.

Mr. Tesche moved, to amend AO 2003-87, Subsection C, Line 23, by removing all of the language after the word "prohibited" and add "under A and B of this section."
and this motion was withdrawn,

Mr. Tesche said the amendment would make it clear that what was outlawed under 9.20.060, subsections A and B, would also apply to people who make donations or encourage people to violate subsections A and B.

Mr. Sullivan discussed the amendment that Mr. Gatti had prepared for AO 2003-87 and Mr. Tesche withdrew his motion to amend AO 2003-87. Mr. Sullivan moved his amendment.

Mr. Sullivan moved, to amend AO 2003-87, by deleting, "except as provided by

Ms. Fairclough seconded,

AMC 24.45, It..." to read: AMC 24.45, It..." to read: "C. It is unlawful for the occupant of a motor vehicle to make a contribution to a pedestrian upon a roadway."

Mr. Van Etten pointed out that there were other things given these panhandlers, other than cash contributions. Mr. Sullivan responded that a "contribution" was any item of value and not just monetary contributions.

and this motion was passed unanimously,

Mr. Tremaine stated this ordinance would prohibit solicitation and panhandling whereas the previous ordinance allowed certain people with permits to solicit on the roadways. He stated the Assembly would be taking a stronger stance with this ordinance and he encouraged a YES-vote. In response to Mr. Tremaine, Ms. Westover noted that police officers still could not arrest a person until they actually walked into the right-of-way and thought it would be appropriate to add "and adjacent to."

Mr. Tremaine proposed additional language and Mr. Sullivan accepted it as a friendly amendment.

Mr. Tremaine moved,

to amend the Sullivan amendment, *by adding text*, to read: C.

Mr. Sullivan seconded,

It is unlawful for the occupant of a motor vehicle to make a contribution to a pedestrian upon "or adjacent to" a roadway.

and this was approved unanimously,

Mr. Tremaine noted that the AO 2003-87 would eliminate panhandling and would allow the police officers to fine the person contributing to panhandlers.

Mr. Gatti recommended against adding the words "upon or adjacent to a roadway." Sidewalks were typically public forums that allowed people to express themselves, which was protected by the first amendment. The underlying legitimate governmental purpose of the ordinance was to protect public safety by prohibiting individuals from entering the roadway. The wording "adjacent to a roadway" injected an element of uncertainty with respect to the scope of the ordinance and needed clarification.

Mr. Tesche discussed the term "adjacent." He felt the amendment was clear and would prohibit the occupant of a motor vehicle from making a contribution to a pedestrian in a roadway.

The Assembly discussed various options of wording for the amendment.

Assembly Attorney Gatti cautioned against making too many amendments to the ordinance, because it was a sensitive issue that should have carefully and narrowly drawn provisions. He thought subsequent amendments could be made after the Assembly had experience with the implementation of the current provisions of the ordinance. He suggested defining the term "roadway" to be similar to the definition in the Title 24 proposal.

Chair Traini called for a vote on the main motion, as amended.

Mr. Sullivan moved,

to approve AO 2003-87, as amended.

Mr. Tesche seconded,

and this motion was passed,

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

NAYES: None.

6. ADJOURNMENT

Chair Traini called for a motion to adjourn the meeting.

Mr. Tesche moved,

to adjourn the Special Assembly Meeting.

Ms. Shamberg seconded,

and this motion was passed,

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

NAYES: None.

The meeting was adjourned at 10:45 p.m.

DICK TRAINI, Assembly Chair

ATTEST:

BARBARA GRUENSTEIN, Municipal Clerk
Date Minutes Approved: June 8, 2004
KRON/MC