

1 MUNICIPALITY OF ANCHORAGE

2 ANCHORAGE ASSEMBLY

3 Minutes for Regular Meeting of March 4, 2003

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10 1. CALL TO ORDER:

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

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15 2. ROLL CALL:

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

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21 3. PLEDGE OF ALLEGIANCE:

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23 Mr. Kendall led the pledge.

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25 4. MINUTES OF PREVIOUS MEETING: None.

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27 5. MAYOR'S REPORT:

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29 Mayor Wuerch discussed the Iditarod and thanked the street crews for placing snow on 4th Avenue and Cordova for the start
30 of the race.

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32 In response to Chairman Traini, Mayor Wuerch said the Governor's office had been encouraged to hold a telephone
33 conference with the mayors before the Governor addressed the joint session of the Legislature on the revenue projection.

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35 Mr. Tesche thanked Mayor Wuerch for the tour the Assembly had of the Loussac library. He noted there were ordinances
36 considered in 1921 that were missing from prior council meeting. The missing ordinances included ordinance 5, the curfew
37 ordinance relating to children under 16 between the hours of 9:00 p.m. to 5:00 a.m.; ordinance 6, regulating and requiring the
38 removal of curtains in public places; an ordinance providing for the taxation of dogs, disposing of vicious dogs and
39 prohibiting stray cattle from roaming around in the streets; and an ordinance covering the installation and maintenance of
40 electrical wires. He felt these ordinances should be researched and placed back into the code.

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42 6. ASSEMBLY CHAIR'S REPORT: None

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44 7. COMMITTEE REPORTS: None

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46 8. ADDENDUM TO AGENDA:

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48 Mr. Tesche moved, to amend the agenda to include the addendum items.
49 seconded by Ms. Fairclough,

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51 Chairman Traini read the addendum items.

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

- 54
55 A. Resolution No. AR 2003-49, a resolution of the Anchorage Municipal Assembly approving a **pilot**
56 **program** for a student member of the Assembly.

57
58 Mr. Tesche, Ms. Taylor and Mr. Van Etten joined in introducing AR 2003-49. The public hearing was scheduled for March
59 18, 2003.

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61 9. CONSENT AGENDA:

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

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66 A. RESOLUTIONS FOR ACTION - PROCLAMATIONS AND RECOGNITIONS:

- 67 1. Resolution No. AR 2003-43, a resolution of the Anchorage Municipal Assembly honoring **Alaska**
68 **Senator Ted Stevens** for his outstanding public service to the State of Alaska and the
69 Municipality of Anchorage, Assemblymembers Von Gemmingen, Traini, Fairclough, Kendall,
70 Shamberg, Sullivan, Taylor, Tesche, Tremaine, Van Etten, and Whittle.

71
72 Ms. Von Gemmingen requested this item be considered on the Regular Agenda. See item 10.A.

- 73
74 2. Resolution No. AR 2003-44, a resolution of the Anchorage Municipal Assembly recognizing and
75 honoring **Dan Bolles** for his 30 years of service with the Municipality of Anchorage,
76 Assemblymembers Fairclough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine,
77 Van Etten, Von Gemmingen, and Whittle.

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

B. RESOLUTIONS FOR ACTION - OTHER:

1. Resolution No. AR 2003-46, a resolution of the Anchorage Municipal Assembly supporting the **Southern Intertie**, Assemblymember Tremaine.

C. BID AWARDS: None

D. NEW BUSINESS:

1. Assembly Memorandum No. AM 193-2003, 2003/2004 Liquor License Renewals: **Cyrano's Crepes & Books** (#2724), **China King Restaurant** (#4133), **Godfather's Pizza** (#1682), **Café Amsterdam** (#3961), **Szechuan Restaurant** (#4082), **Today's Pizza** (#2568) - Restaurant/Eating Place; **Chili's Grill & Bar** (#4200), **Outback Steak House** (#3753), **International Airport Lounge** (#1798), **O'Malleys on the Green** (#2696) - Beverage Dispensary; **In & Out Liquor #3** (#688), **O'Malley's Package Store** (#2884), **Alyeska Prince Hotel** (#3449), **Williams Express, Inc.** (#3973), **Oaken Keg** (#1802), **Oaken Keg** (#1805), **Oaken Keg** (#0795), **Oaken Keg** (#1464), **Oaken Keg** (#0799), **Oaken Keg** (#0798), **Oaken Keg** (#1397), **Oaken Keg** (#1799), **Oaken Keg** (#2094) - Package Store; **K&L Distributors, LLC** (#1510), **K&L Beverage Co.** (#3964) - Wholesale; **Anchorage Bucs** (#1747) - Other (Downtown, Spenard, Taku/Campbell, Abbott Loop, Eagle River, Bayshore/Klatt, Huffman/O'Malley, Turnagain, Sand Lake, Girdwood, Fairview, Rogers Park, and Northeast Community Councils), Clerk's Office.

Mr. Tremaine requested this item be considered on the Regular Agenda. See item 10.D.

2. Assembly Memorandum No. AM 210-2003, 2003/2004 Liquor License Renewals: **Arigato Japanese Restaurant** (#2662), **Alaska Bagel Inc.** (#3557), **Campo Bello** (#3545), **Bella Vista Pizzeria & Restaurant** (#92-107), **Round Table Pizza** (#93-2606), **Pizza Man** (#1533), **Muldoon Pizza** (#761), **Haute Quarter Grill** (#4075) - Restaurant/Eating Place; **Fu-Do Restaurant** (#4109), **Courtyard by Marriott** (#3694), **La Mex** (#94-0635), **Bradley House** (#814), **La Mex Too-Upstairs** (#2009), **Blues Central/Chef's Inn**, **La Mex Too** (#94-636) - Beverage Dispensary; **In & Out Liquor #1** (#156), **Fred Meyer** (#4179) - Package Store; **VFW Post #9981** (#2706) -Club; **Alaska Distributors Co.** (#25) -Wholesale (Downtown, Spenard, Mountain View, Northeast, Campbell Park, Muldoon, Abbott Loop, Eagle River, Bayshore/Klatt, Huffman/O'Malley Community Councils), Clerk's Office.
3. Assembly Memorandum No. AM 211-2003, 2003/2004 Liquor License Renewal: **Spirits of Alaska #1-1139 Gambell Street** - Package Store, Clerk's Office.
4. Assembly Memorandum No. AM 212-2003, approval to expend 2003 funds for the **operation of the William A. Egan Civic and Convention Center** (NTE \$730,000), Cultural and Recreational Services.
5. Assembly Memorandum No. AM 213-2003, **Airport Aviation Advisory Commission appointment** (Anthony Follett), Mayor's Office.
6. Assembly Memorandum No. AM 214-2003, **Arts Advisory Commission appointment** (Ira Perman), Mayor's Office.
7. Assembly Memorandum No. AM 215-2003, **Equal Rights Commission appointment** (Breddy Yang), Mayor's Office.
8. Assembly Memorandum No. AM 216-2003, **Historical and Fine Arts Commission appointments** (Timothy Bridgman, Joe Josephson, Mark Simpson), Mayor's Office.
9. Assembly Memorandum No. AM 217-2003, **Housing & Neighborhood Development Commission appointments** (Jean Wall, Wanda Smith), Mayor's Office.
10. Assembly Memorandum No. AM 218-2003, **Water and Wastewater Utility Commission appointments** (Craig Woolard, William McKeever), Mayor's Office.
11. Assembly Memorandum No. AM 219-2003, **Senior Citizens Advisory Commission appointments** (Ron Hammett, Doreen Lowe, Charles Jackson), Mayor's Office.
12. Assembly Memorandum No. AM 220-2003, **Veterans Affairs Commission reappointments** (Fred Becker, Paul Drummond, Jeffrey Schneider), Mayor's Office.

E. INFORMATION AND REPORTS:

F. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 2003-45, an ordinance determining and approving the total amount of the **annual operating budget of the Anchorage School District** for its fiscal year 2003-2004 and determining and appropriating the portion of the Assembly approved budget amount to be made available from local sources, Anchorage School District.
- a. Assembly Memorandum No. AM 125-2003.

2. Ordinance No. AO 2003-53, an ordinance amending Anchorage Municipal Code Chapter 10.55 to modify the definitions, permit requirements and age restrictions for **teen nightclubs**, Assembly Chair Traini.

Ms. Von Gemmingen requested this item be considered on the Regular Agenda. See item 10.F.

3. Ordinance No. AO 2003-54, an ordinance of the Anchorage Municipal Assembly adopting an amendment to ~~amending~~ the Official Streets and Highways Plan (OS&HP), an element of the Anchorage Bowl Comprehensive Plan (AMC 21.05.030E), to redesignate ~~by changing the designation of~~ **Karluk Street**, between East Fifth Avenue and East Fifteen Avenue, from a Class 1 Residential Collector to a Class 1C Neighborhood Collector, Assemblymember Tesche. P.H. 6-10-03.
- a. Assembly Memorandum No. AM 196-2003

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

4. Ordinance No. AO 2003-55, an ordinance amending Anchorage Municipal Code Chapter 10.55 to modify the definitions, permit requirements, security personnel requirements and age restrictions for **teen nightclubs**; and amending Anchorage Municipal Code and Code of Regulations Chapters 25.10 to provide an age restriction and require a specified ratio of adult supervisors to minors for certain underage dances on municipal property, Assembly Chair Traini. P.H. 3-18-03.
5. 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.
6. Ordinance No. AO 2003-52, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Subsection 21.15.005.E. requiring that the Department of Community Planning and Development provide **notice of public hearing** by mailing to property owners within 1,000 feet of land subject to an application for variances, conditional uses, subdivision approval, and other special land use permits, Assemblymembers Taylor, Shamberg, Van Etten, ~~and~~ Whittle, Sullivan, Tesche, Traini, and Fairclough.
- a. Assembly Memorandum No. AM 175-2003

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

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

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

10. REGULAR AGENDA:

A. RESOLUTIONS FOR ACTION - PROCLAMATIONS AND RECOGNITIONS:

1. Resolution No. AR 2003-43, a resolution of the Anchorage Municipal Assembly honoring **Alaska Senator Ted Stevens** for his outstanding public service to the State of Alaska and the Municipality of Anchorage, Assemblymembers Von Gemmingen, Traini, Fairclough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Tremaine, Van Etten, and Whittle.

Ms. Von Gemmingen moved, to approve AR 2003-43.
seconded by Mr. Tesche,
and it passed without objection,

Ms. Von Gemmingen read the resolution. Senator Ted Stevens would be receiving an award in Washington, D.C. from the National League of Cities for his service. AR 2003-43 would be presented to Senator Stevens at that time along with other mementos from cities across Alaska.

2. Resolution No. AR 2003-44, a resolution of the Anchorage Municipal Assembly recognizing and honoring **Dan Bolles** for his 30 years of service with the Municipality of Anchorage, Assemblymembers Fairclough, Kendall, Shamberg, Sullivan, Taylor, Tesche, Traini, Tremaine, Van Etten, Von Gemmingen, and Whittle.

Mr. Van Etten moved, to approve AR 2003-44.
seconded by Ms. Taylor,
and it passed without objection,

Mr. Van Etten read the resolution.

B. RESOLUTIONS FOR ACTION - OTHER: None

C. BID AWARDS: None

D. NEW BUSINESS:

1. Assembly Memorandum No. AM 193-2003, 2003/2004 Liquor License Renewals: **Cyrano's Crepes & Books** (#2724), **China King Restaurant** (#4133), **Godfather's Pizza** (#1682), **Café Amsterdam** (#3961), **Szechuan Restaurant** (#4082), **Today's Pizza** (#2568) - Restaurant/Eating Place; **Chili's Grill & Bar** (#4200), **Outback Steak House** (#3753), **International Airport Lounge** (#1798), **O'Malleys on the Green** (#2696) - Beverage Dispensary; **In & Out Liquor #3**

(#688), **O'Malley's Package Store** (#2884), **Alyeska Prince Hotel** (#3449), **Williams Express, Inc.** (#3973), **Oaken Keg** (#1802), **Oaken Keg** (#1805), **Oaken Keg** (#0795), **Oaken Keg** (#1464), **Oaken Keg** (#0799), **Oaken Keg** (#0798), **Oaken Keg** (#1397), **Oaken Keg** (#1799), **Oaken Keg** (#2094) - Package Store; **K&L Distributors, LLC** (#1510), **K&L Beverage Co.** (#3964) - Wholesale; **Anchorage Bucs** (#1747) - Other (Downtown, Spenard, Taku/Campbell, Abbott Loop, Eagle River, Bayshore/Klatt, Huffman/O'Malley, Turnagain, Sand Lake, Girdwood, Fairview, Rogers Park, and Northeast Community Councils), Clerk's Office.

Mr. Tremaine moved, to approve AM 193-2003.
seconded by Mr. Tesche,

Mr. Tremaine discussed the O'Malley's Package Store. When the Assembly approved the golf course license, he understood they would transfer the package store license elsewhere.

Mr. Tremaine moved, to bifurcate the O'Malley's Package Store.
seconded by Mr. Tesche,
and it passed without objection,

Mr. Tremaine asked the clerk to send a letter to O'Malley's Package Store to clarify their intentions on the license.

Question was called on the motion to approve AM 193-2003 as amended and it passed without objection.

E. INFORMATION AND REPORTS: None

F. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 2003-53, an ordinance amending Anchorage Municipal Code Chapter 10.55 to modify the definitions, permit requirements and age restrictions for **teen nightclubs**, Assembly Chair Traini.

Ms. Von Gemmingen moved, to postpone AO 2003-53 indefinitely.
seconded by Mr. Tesche,
and it passed without objection,

Ms. Von Gemmingen requested that item 9.F.4, OA 2003-55, which would replace 9.F.2, OA 2003-53, be sent to the Youth Advisory Board for their comments.

2. Ordinance No. AO 2003-54, an ordinance of the Anchorage Municipal Assembly adopting an amendment to ~~amending~~ the Official Streets and Highways Plan (OS&HP), an element of the Anchorage Bowl Comprehensive Plan (AMC 21.05.030E), to redesignate ~~by changing the designation of~~ **Karluk Street**, between East Fifth Avenue and East Fifteen Avenue, from a Class 1 Residential Collector to a Class 1C Neighborhood Collector, Assemblymember Tesche.
a. Assembly Memorandum No. AM 196-2003

Mr. Tesche, Mr. Tremaine and Ms. Taylor joined in introducing AO 2003-54. The public hearing was scheduled for June 10, 2003.

3. 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.

Chairman Traini noted that AO 2003-45 had to be sent to Planning and Zoning. The public hearing should be scheduled for June 10, 2003.

Mr. Tesche moved, to schedule the public hearing for AO 2003-56 for June 10, 2003.
seconded by Ms. Fairclough,
and it passed without objection,

4. Ordinance No. AO 2003-52, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Subsection 21.15.005.E. requiring that the Department of Community Planning and Development provide **notice of public hearing** by mailing to property owners within 1,000 feet of land subject to an application for variances, conditional uses, subdivision approval, and other special land use permits, Assemblymembers Taylor, Shamberg, Van Etten, ~~and~~ Whittle, Sullivan, Tesche, Traini, and Fairclough.
a. Assembly Memorandum No. AM 175-2003

Ms. Taylor, Mr. Tesche and Ms. Fairclough joined in introducing AO 2003-52. The public hearing was scheduled for June 10, 2003.

Ms. Taylor noted that her constituents had concerns about AO 2003-52. As the amount of developable land diminished, it impacted a wide number of people. She asked for additional co-sponsors for AO 2003-52.

Mr. Sullivan, Mr. Tesche, Mr. Whittle, Mr. Traini and Ms. Fairclough asked to be added as a co-sponsor to AO 2003-52.

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

- A. Assembly Memorandum No. AM 163-2003, 2003-2004 Liquor License Renewals: **The Great Alaskan Bush Co. (#1839), Rumrunner's Old Towne Bar & Grill (#4157)** - Beverage Dispensary, Clerk's Office.

Chairman Traini gave the history of AM 163-2003 and noted no motions were pending.

Mr. Tesche moved, to approve AM 163-2003.
seconded by Ms. Von Gemmingen,

MR. COFFEY, representing the Great Alaskan Bush Company, reviewed the police reports, the standards utilized and the business practices of the establishment. There were 13 cases of driving under the influence, seven of which had blood alcohol levels of .15 and below, three with .15 to .18 and three with over .2. A .15 blood alcohol level was impaired for driving, but hard to determine due to the differences in standards utilized. He discussed the business practices and policies of the establishment. During the time indicated in the six-month logbook, 119 individuals were denied admission for various reasons. Training included TAM courses required by statute. The company maintained accounts with two cab companies and offered cab rides on a continuing and regular basis, but many refused. Designated drivers were provided free non-alcoholic beverages. There was one security guard on the premises at all times with additional security guard depending on the level of business. The four supervisors were TAM trained with at least one manager on the premises at all times. He discussed the difficulty in enforcing the standards.

Ms. Fairclough discussed the number of driving while intoxicated cases and the people that indicated that the source of their alcohol was the Bush Company. She wanted to know what the establishment was doing to prevent drivers driving while they were intoxicated.

In response to Ms. Fairclough, Mr. Coffey stated that the employees were currently TAM trained and logs were maintained of when the cards expired. They provided continuing employee training every four months.

Mr. Coffey noted that when people reported that they were drinking at the Bush Company there was no way to prove that they actually were at the Bush Company and not an after hours bar or someplace else.

Mr. Whittle noted that the report was unscientific, but allowed them to have a dialog that would lead to doing a better job in reducing the number of drunk drivers.

Ms. Von Gemmingen pointed out that there were 33 restaurants and beverage dispensary licenses on the renewal list and only two were being reviewed due to excessive driving while intoxicated reports.

In response to Ms. Von Gemmingen, Mr. Coffey said the Bush Company had something posted on the wall that explained the consequences of driving while intoxicated.

In response to Mr. Tesche, Mr. Coffey said that generally the patrons of the Bush Company were not there to down drinks, but to look at the women. The servers maintain close communications with the bartenders, the doormen and the floor supervisors to keep track of how many drinks the patrons were served. They try to limit the drinks to a maximum of three per hour.

Ms. Fairclough declared a possible conflict of interest. Rumrunner's sponsored some posters that Standing Together Against Rape (STAR) would be purchasing for April's sexual assault awareness month. Rumrunner's does not contribute to her salary.

Chairman Traini ruled that Ms. Fairclough did not have a conflict of interest and would participate in the vote.

BOB NEWMAN said he was the president of Grizzly's Incorporated, which operates the Historic Anchorage Hotel, Grizzly's Gifts and Rumrunner's Old Town Bar & Grill. He discussed the report presented to the Assembly by the Anchorage Police Department. Rumrunner's was operated by great managers. They had an over consumption policy in place and held training sessions every six weeks on alcohol management and safety. They employed eight security guards on Thursday through Saturday night and two on weeknights. They profiled every guest in Rumrunner's for over consumption. They purchased cab fares for any patron unable to pay. They had a video system in place for monitoring activities. There was a manager, two supervisors and a security supervisor on duty at all times. He felt they had done everything possible to prevent problems with alcohol in the community. He researched all of the reports provided by the Anchorage Police Department. Ninety percent of those calls were instigated by Rumrunner's, which was a good business practice to get the police involved in safety problems with the public. He was surprised that they had nine driving while intoxicated reports in a two-year period, which was unacceptable. They were reexamining the door security procedures.

In response to Ms. Von Gemmingen, Mr. Newman explained how they profiled patrons. People who appeared intoxicated were not allowed into Rumrunner's. They did not serve alcohol to people to the point where they were drunk. They offered cab rides to people who appeared to be intoxicated. The servers were trained to identify how much alcohol a person was able to consume through behavior changes. Food sales were approximately 25 to 35 percent of sales, which helped in managing the alcohol consumption. Any minors found on the premises were arrested.

Ms. Fairclough discussed the possibility of issuing a letter asking for a response from the liquor license holders instead of protesting their licenses. Chief Monegan's response was indiscernible, because he was not at a microphone.

Ms. Fairclough noted that Rumrunner's had an attendant in the restrooms and guards at all points of entry as well as on the dance floor. She felt Rumrunner's had good policies in place and would support promoting their license.

Mr. Tesche discussed Anchorage municipal code section 10.50.015.e that made it unlawful for a licensee or employee to, within the normal powers of observation, serve or give alcoholic beverages to any person who appears to be intoxicated by exhibiting any symptoms indicating substantial loss of physical or mental faculties.

1 In response to Mr. Tesche, Mr. Newman said he was not aware of any employees of Rumrunner’s that was charged or
2 convicted of violating the code. He felt Rumrunner’s did more than other establishments, but they could still do better. They
3 would examine the issue and address it with the employees. Without administering a breathalyzer or blood test at the time of
4 serving a drink, it was difficult to determine whether a person was at the .08 blood alcohol level. One person could be out of
5 control after two drinks whereas another person could be in control after 10 drinks. He felt it would be helpful if the operator
6 knew about reported incidents on a regular basis so the issue could be addressed.

8 In response to Mr. Sullivan, Mr. Newman said they were doing a high volume of business. Patrons tend to go to more than
9 one place, which made monitoring more difficult. The surveillance tapes were saved and could be reviewed to address
10 problems if they knew about them.

12 Mr. Whittle felt they needed to let the consumers know that they were all working together to reduce the number of drunk
13 drivers.

15 Question was called on the motion to approve AM 163-2003 and it passed without objection.

17 Chairman Traini ruled that the Assembly would address item 12, Appearance Requests.

- 19 B. Assembly Memorandum No. AM 171-2003, Superior Court Remand of **Northeast Turnagain Special**
20 **Assessments** for Findings by the Assembly, Assembly Counsel.

22 This item addressed later in the meeting. See after item 14.B.

- 24 C. Ordinance No. AO 2002-178, an ordinance of the Anchorage Municipal Assembly amending Anchorage
25 Municipal Code by adding a new Section 6.10.032, **Budget Performance Measures**, Assemblymembers
26 Tesche, Fairclough, and Tremaine.

28 This item addressed later in the meeting. See after item 14.B.

30 **12. APPEARANCE REQUESTS:**

- 31 A. **Kenny TimberWolf Gardner**, regarding the *Alaskan Native Brotherhood & Sisterhood Park*.

33 Request withdrawn.

- 35 B. **Terri-Jo Mayeur**, regarding street lights in Glenn View Estates Subdivision.

37 Request withdrawn.

- 39 C. **Joseph A. Cook**, regarding the Declaration of Independence, the U.S. Constitution, the Bill of Rights.

41 JOSEPH A. COOK spoke regarding a violation of the Constitution, the Bill of Rights, and the Declaration of Independence
42 by the Municipality of Anchorage.

- 44 D. **Bill Bobrick**, regarding Standing Together Against Rape (STAR).

46 BILL BOBRICK discussed an e-mail that was sent by Mr. McGrath to an Assembly member and highlighted some of the
47 inaccuracies. He had not been on the board of Standing Together Against Rape (STAR) for over a year and was not Ms.
48 Fairclough’s boss. He felt the Assembly should protect people from slanderous charges and resented the fact that people
49 tried to use him to impugn the ethics of the Assembly.

51 Ms. Fairclough contacted the person who wrote the letter and clarified the fact that Mr. Bobrick was no longer on the board
52 of STAR.

- 54 E. **Alden Todd**, regarding library display.

56 ALDEN TODD discussed the denial of certain exhibits at the public library. He discussed his current exhibit in the library
57 on Shakespeare, which was considered controversial.

59 **13. CONTINUED PUBLIC HEARINGS: None**

60 **14. NEW PUBLIC HEARINGS:**

- 61 A. Resolution No. AR 2003-40, a resolution of the Municipality of Anchorage accepting when tendered the
62 sum of \$120,000 from the State of Alaska, Department of Transportation & Public Facilities; and
63 appropriating said grant, and \$16,510 as a contribution from the 2003 Anchorage Police Service Operating
64 Budget, Anchorage Metropolitan Police Service Area Fund (151), to the State Categorical Grants Fund
65 (231) Anchorage Police Department, for the **Youth at Risk Driving Enforcement Program**, Anchorage
66 Police Department.
67 1. Assembly Memorandum No. AM 4-2003

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

72 Mr. Tesche moved, to approve AR 2003-40.
73 seconded by Mr. Kendall.,

75 Question was called on the motion to approve AR 2003-40 and it passed.

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

1. Assembly Memorandum No. AM 47-2003

Mr. Tremaine read his amendment to AO 2003-7. In addition to section 2, a new section 13, dwelling units. There shall be no more than one dwelling unit per lot. In addition to other restrictions, there shall be no cluster detached housing and no condos. Section 3, plat notes, renumber the existing paragraph as A and add the following subsection, B, any subsequent plats shall include language referencing air quality to read “The subject property is susceptible to present and future air quality degradation. This air quality degradation is caused by temperature inversions and/or still air conditions. These meteorological phenomena are known to trap emissions generated within, and which flow into the subject property.” This plat note may be removed during final subdivision platting if recommended by the Department of Health and Human Services. Section 4, effective clause, add two subsections at the end of section 4. A geotechnical plan shall be reviewed and approved by the Geotechnical Advisory Commission. This plan shall include minimum and recommended slope

requirements and allowable minimum distance between slopes and dwelling units. Add subsection 5. An air quality study has been conducted at the developer's expense and certified by the Department of Health and Human Services. The department may recommend additional plat notes relating to air quality.

In response to Ms. Ward, Mr. Tremaine said section 1 amended the zoning map. Section 2 was special limitations to go forward and constrain development by modifying the underlying zoning. Section 3 was plat notes. Section 4 was an effective clause, which states that the rezoning shall not become effective until the outlined conditions were met.

Ms. Ward said the amendment was acceptable to the developer.

Question was called on the motion to amend AO 2003-7 and it passed without objection.

Mr. Tremaine moved,	to amend AO 2003-7 to reflect that on Exhibit A,
Seconded by Ms. Shamberg,	the lots to the east of the subdivision bordering Cange Road be changed from R-7 to R-6.

Mr. Tremaine felt they needed to discuss what would happen if they rezoned the lots from the Hillside Wastewater Plan perspective.

Deputy Municipal Attorney Dennis Wheeler referenced the implementation portion of code 21.05.110 which stated that when the Assembly considered a rezone, special limitations must be imposed in accordance with the buffering and transition standards if required. He asked Mr. Weaver to discuss whether or not those standards were required for the proposed rezone.

Planning Department Platting Supervisor Jerry Weaver referenced 21.45.200. A rural lot means a residential lot with a developed density not exceeding 2.2 dwelling units per acre. R-7 density was 2.17 and R-6 was less. It was their opinion that both R-6 and R-7 were rural lots and could buffer the urban development.

Mr. Tremaine referenced section C, which discussed access to the subdivision containing urban residential lots. The rezoning would be as a single subdivision with multiple zoning, which would preclude access into the subdivision from the R-6 area. Without the rezoning, they would have access into the subdivision.

In response to Ms. Ward, Mr. Wheeler said if they left that portion R-6 and had a 15-foot buffer, they would not have to have an R-7 buffer to the first R-1 lots.

Ms. Ward pointed out that the developer was doing everything possible to work with the neighborhood, but he had timelines to meet and debts to repay. They needed a structured plan to go forward in the future while they worked on other creative ideas. Whatever changes were made, they did not want to have the interior R-1 lots impacted.

In response to Mr. Tremaine, Mr. Weaver said the intent of the transitioning buffering standards would be met if the row of lots along Cange were R-6, a 15-foot greenbelt to the east, and the lots adjacent to the greenbelt were R-1 lots.

In response, Mr. Tremaine referenced AO 85-169. Regardless of the zoning, the area could utilize public sewer and water systems.

Question was called on the motion to amend AR 2003-7 and it passed without objection.

In response to Mr. Tremaine, Mr. Weaver said Project Management and Engineering would review the needs for right-of-ways during the platting stage.

Municipal Engineer Howard Holtan concurred with Mr. Weaver. The rights-of-way would be resolved at the time the plat was filed and they negotiated the subdivision agreement. He did not feel they needed the rest of the right-of-way, because the road worked well as it currently existed.

Mr. Tremaine pointed out that under the previous owner; the ordinances of the Municipality of Anchorage were not upheld. The dust issue would be addressed with the construction of the subdivision. He discussed the issue of the slopes. He referenced the agreement between the Municipality and the previous owner on page 3, section 2, number 11. There was concern that the cost to stabilize the slope might be significantly in excess of what was anticipated by the developer. Earlier they had talked about the concept of a bond or financial guarantees.

Mr. Tremaine moved,	to amend AO 2003-7 to indicate that the north 3 lots
seconded by Ms. Shamberg,	at the top of the subdivision, excluding the buffering to the east, not be officially rezoned until the slopes have been restored to the approved geotechnical plan or a bond or other financial guarantee of sufficient size be obtained to assure restoration in compliance with the geotechnical plan.

Ms. Shamberg noted that the previous geotechnical advisor drafted a plan for remediation of the slopes in which he stated that a 4-to-1 ratio would be the safest ratio for housing. The city agreed to put the ratio back to 2-to-1 only until the last of the gravel extraction was completed.

Ms. Ward noted that the Assembly had already asked the developer to do a geotechnical plan and have it reviewed by the Geotechnical Advisory Committee. She asked the Assembly to allow the engineers to determine that without any further restrictions. After the review, the developer would abide by any further restrictions noted.

In response to Mr. Tremaine, Ms. Ward said the specifications for the restoration plan were in the rezone. By accepting the rezone, they were financially obligated to do everything required for the restoration plan.

Mr. Van Etten questioned if the amendment was necessary and suggested a plat note might be sufficient.

1
2 In response to Mr. Tesche, Mr. Greene said the old redevelopment plan was still in existence as well as the requirement for
3 site restoration. The redevelopment plan would be enforceable against the new developer.
4

5 Mr. Tesche pointed out the non-compliance of the previous owner and the city's reluctance to hold that developer
6 accountable.
7

8 Mr. Greene explained the original agreement. The redevelopment plan would not be triggered until the final lot was
9 subdivided, which belonged to a church and might not ever be subdivided.
10

11 In response to Mr. Tesche, Mr. Weaver said the extra safety net provided by Mr. Tremaine's amendment was a matter of
12 policy to be decided by the Assembly. In addition to the restoration plan, there were other codes that had evolved since the
13 gavel pit first became operational. How those codes should be applied would be an enforcement question for the appropriate
14 departments that manage those codes.
15

16 Mr. Tesche noted that due to the developer's tremendous strides in working with the neighborhood, he did not feel additional
17 restrictions and requirements should be imposed. However, based on the statements of the Department of Law, there may be
18 some need for the security that Mr. Tremaine's amendment would add.
19

20 Ms. Fairclough noted that the developer held itself to a higher standard than the previous developer. She urged a no vote on
21 the amendment to allow the developer to go forward and allow the Geotechnical and Platting Board to make those calls.
22

23 Mr. Scott concurred with Ms. Fairclough. He noted that the developer has worked well with the neighbors and recommended
24 withdrawing the amendment.
25

26 The Assembly further discussed Mr. Tremaine's amendment to AO 2003-7.
27

28 Mr. Tremaine withdrew his motion to amend AO 2003-7, but would continue to work on the issue to insure that platting did
29 not occur until there was a guarantee of slope restoration. Ms. Shamberg withdrew her second of the motion.
30

31 Question was called on the motion to approve AO 2003-7 as amended and it passed.
32

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

36 Mr. Tremaine moved, for immediate reconsideration of AO 2003-7.
37 seconded by Ms. Shamberg,
38

39 Mr. Tremaine urged a no vote.
40

41 Question was called on the motion for immediate reconsideration of AO 2003-7 and it failed.
42

43 AYES: None

44 NAYES: Tesche, Whittle, Taylor, Von Gemmingen, Traini, Fairclough, Van Etten, Kendall, Shamberg, Tremaine, Sullivan
45

46 The Assembly then returned to consider item 11.B.
47

48 B. Assembly Memorandum No. AM 171-2003, Superior Court Remand of **Northeast Turnagain Special**
49 **Assessments** for Findings by the Assembly, Assembly Counsel.
50

51 Chairman Traini gave the history of the item and noted no motions were pending.
52

53 At Mr. Tesche's request, Mr. Klinkner, Special Counsel to the Assembly, provided an overview of the issue. In 1998, the
54 Assembly adopted an ordinance and two resolutions levying assessments for street, water and sewer improvements in the
55 northeast Turnagain area. Property owners affected by those assessments appealed the matter to the Superior Court alleging
56 that the assessments were not validly levied or proportional to the benefit received by the affected properties. The Superior
57 Court ruled on a number of the issues presented by the appellants and then remanded the matter to the Assembly for an
58 explanation of reasons for its decision to levy the assessments. Mr. Klinkner prepared a set of draft findings, which had been
59 presented to the Assembly. He discussed the procedure the Assembly should take in addressing the issue.
60

61 Chairman Traini asked if any Assemblymembers had a conflict of interest or had not had an opportunity to read the entire
62 record. None of the Assemblymembers responded.
63

64 Mr. Klinkner said the next step was to consider whether to deliberate on this matter in a public or closed session.
65

66 In response to Mr. Tesche, Mr. Klinkner said the purpose of the Superior Court's remand order was specifically to obtain an
67 explanation of the Assembly's prior decision. The Superior Court did not send the matter back to the Assembly for
68 reconsideration. If the parties believed there were errors in what the Assembly originally did, with the benefit of the
69 explanation provided in the Assembly's findings, they were at liberty to make those arguments to the Superior Court.
70

71 In response to Chairman Traini, none of the Assemblymembers objected to discussing the issue on the record.
72

73 Mr. Klinkner noted that there were some minor errors in the document and he prepared an errata memorandum identifying
74 those errors. Mr. Klinkner reviewed the draft findings with the Assembly.
75

Mr. Tesche moved, that the Assembly adopt as its findings on remand on this case the draft findings presented by Mr. Klinkner on February 18, 2003, together with the technical errata set forth on the March 4, 2003 memorandum.

Mr. Tesche said the draft findings appeared to be thorough, well reasoned and within the limited scope of what the Assembly could do in this case. He recommended approval.

Mr. Sullivan felt a compelling argument had been made by the appellants. He felt making a decision based solely on the written information was very difficult. He would vote against the motion to send the findings to the court, because he felt the case needed to be made to the appellants that the previous body probably did not do a very comprehensive job and they could not expect the new body to concur with those findings.

Ms. Von Gemmingen noted that she and Mr. Kendall were the only Assemblymembers that had been involved in the meetings. They had numerous work sessions and Assembly meetings discussing the issue. They reduced the assessments by over \$300,000. Ms. Von Gemmingen read a passage from the provided material. She urged a yes vote.

Mr. Tesche addressed the concerns raised by Mr. Sullivan, but noted that they really had no choice but to follow the court's order and enter their findings. He urged a yes vote.

The Assembly discussed the issue with Ms. Von Gemmingen and Mr. Kendall, the Assemblymembers who had been present at the original meetings.

Mr. Sullivan said he had a problem sending forth a group of findings that not only reflected data and information that they were not involved with, but was not inclusive. He read a passage from the brief. The objections were not dealt with point by point, case by case. It seemed the Assembly accepted whatever AWWU put before them as fact without investigating the property owners' specific complaints. They could not change the findings, but if the previous Assembly did not take the time to properly investigate the complaints, he felt this Assembly had the opportunity to do so and set forth a complete record and findings of fact.

Mr. Tesche pointed out that the court had ordered the Assembly to make complete findings and address the issues that the previous Assembly had not addressed. They could not deviate from the results based on the advice received, but it was their job to enter specific findings and explain the result that was reached.

In response to Mr. Tesche, Mr. Sullivan felt they needed to reopen the hearing process and review the data in the file as well as investigate items such as the internal auditor's report.

Mr. Tesche noted that the Assembly could not open the record and conduct new hearings. The Assembly's role was limited to a better explanation of what the previous Assembly did.

In response to Mr. Sullivan, Mr. Klinkner said the internal auditor's report was on page 684 in the record. However, the Superior Court clearly indicated that only matters that were before the Assembly up through the time it acted in April of 1998 could be considered. The internal auditor's report was not issued until after that time.

Question was called on the motion to adopt the draft findings and errata memorandum and it passed.

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

(CLERK'S NOTE: Ms. Fairclough and Mr. Van Etten were out of the room at the time of the vote.)

C. Ordinance No. AO 2002-178, an ordinance of the Anchorage Municipal Assembly amending Anchorage Municipal Code by adding a new Section 6.10.032, **Budget Performance Measures**, Assemblymembers Tesche, Fairclough, and Tremaine.

Chairman Traini gave the history of the item and noted a motion to approve was on the floor.

Mr. Tremaine urged a yes vote.

Question was called on the motion to approve AO 2002-178 and it failed.

AYES: Whittle, Traini, Van Etten, Shamberg
NAYES: Tesche, Von Gemmingen

(CLERK'S NOTE: Ms. Taylor, Ms. Fairclough, Mr. Kendall, Mr. Tremaine and Mr. Sullivan were out of the room at the time of the vote.)

15. **BOARD OF ADJUSTMENT/ASSEMBLY APPEALS:** None

16. **SPECIAL ORDERS:**

A. Resolution No. AR 2003-49, a resolution of the Anchorage Municipal Assembly approving a **pilot program** for a student member of the Assembly.

This item addressed earlier in the meeting. See item 9, Consent Agenda.

17. **UNFINISHED AGENDA:** None

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18. AUDIENCE PARTICIPATION: None
19. ASSEMBLY COMMENTS: None
20. EXECUTIVE SESSIONS: None
21. ADJOURNMENT:
- Mr. Tremaine moved, to adjourn the meeting.
- seconded by Ms. Von Gemmingen,
- and it passed without objection,

The meeting adjourned at 9:50 p.m.

Chairman

ATTEST:

Acting Municipal Clerk
LINDA HEIM

Date Minutes Approved: July 15, 2003.

LH:KRON

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