

# MUNICIPALITY OF ANCHORAGE

## ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of January 5, 1999

### 1. CALL TO ORDER:

Chair Von Gemmingen convened the meeting at 5:15 p.m. in the Assembly Chambers, 3600 Denali, Anchorage, Alaska.

### 2. ROLL CALL:

Present: Bob Bell, Ted Carlson, George Wuerch, Melinda Taylor, Charles Wohlforth, Fay Von Gemmingen, Cheryl Clementson, Kevin Meyer, Pat Abney, Dan Kendall, Joe Murdy.

Absent: None.

### 3. PLEDGE OF ALLEGIANCE: Mr. Meyer led the pledge.

### 4. MINUTES OF PREVIOUS MEETING:

#### A. Regular Meeting – September 1, 1998.

Mr. Murdy moved, to approve the minutes of  
seconded by Ms. Taylor, September 1, 1998.  
and it passed without  
objection,

### 5. MAYOR'S REPORT:

Mayor Mystrom reported on the progress of a donation drive for residents of Anchorage's sister city, Magadan, Russia. Because of the bad weather and the poor economy, residents of Magadan are in desperate need of food and clothing. The initial goal of 4,000 pounds of clothing was surpassed by actual contributions of about 30,000 pounds of clothing. One shipment has been delivered to Magadan. The administration is working with various airlines on plans to deliver the balance of the donations. There is also a need for food and heating coal in Magadan.

### 6. ADDENDUM TO AGENDA:

Mr. Murdy moved, to amend the agenda to include the  
seconded by Ms. Clementson, addendum items.

Chair Von Gemmingen read the addendum items.

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

### 7. CONSENT AGENDA:

Mr. Murdy moved, to approve all items on the Consent  
seconded by Ms. Clementson, Agenda as amended.

#### A. BID AWARDS:

1. Assembly Memorandum No. AM 29-99, recommendation of award to Alaska Truck Center for providing **maintenance utility trucks** to the Municipality of Anchorage, Anchorage Water and Wastewater Utility (ITB 98-140), Purchasing.
2. Assembly Memorandum No. AM 30-99, recommendation of award to Alaska Sales & Services, Cal Worthington Ford, and Tony Chevrolet for providing **miscellaneous light duty vehicles** to the Municipality of Anchorage, Anchorage Water and Wastewater Utility (ITB 98-141), Purchasing.

#### B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Resolution No. AR 99-4, a resolution of the Anchorage Assembly accepting and appropriating \$742,500 as a grant from the United States Department of Justice to the Anchorage Metropolitan Police Service Area Capital Improvement Program Fund (0451) for costs related to **implementation of Mobile Data Technology in-Car Computer System**, Anchorage Police Department, public hearing 1-12-99.
  - a. Assembly Memorandum No. AM 26-99.
2. Resolution No. AR 99-5, a resolution of the Municipality of Anchorage, Alaska, accepting and appropriating an Alaska Clean Water Fund loan offer in the amount of \$1,410,000 for financing a portion of the costs of FY99 **Miscellaneous Small Sewer Replacement and Rehabilitation (R&R), Phase I**, Water and Wastewater Utility, public hearing 1-12-99.

- a. Assembly Memorandum No. AM 27-99.
- 3. Resolution No. AR 99-6, a resolution of the Municipality of Anchorage deleting, accepting, and appropriating **State of Alaska legislative grants** to the Municipality of Anchorage for the Anchorage School District per Senate Bill 231, Office of Management and Budget. public hearing 1-12-99.
  - a. Assembly Memorandum No. AM 28-99.

C. RESOLUTIONS FOR ACTION:

- 1. Resolution No. AR 99-3, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Samuel G. Cornell for his 21 years of service** with the Municipality of Anchorage, Assemblymembers Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, Wohlforth, and Wuerch.

Mr. Wuerch asked this item be considered on the regular agenda. See item 8.D.

- 2. Resolution No. AR 99-2, a resolution of the Municipality of Anchorage, Alaska, accepting a State of Alaska, Department of Environmental Conservation Underground Storage Tanks Financial Assistance Program grant in the amount of \$26,977.31 and appropriating said grant to the Anchorage Wastewater Utility's Capital Improvement Fund for the **removal and clean up of underground storage tanks** located at 3000 Arctic Boulevard, Water and Wastewater Utility.
  - a. Assembly Memorandum No. AM 17-99.
- 3. Resolution No. AR 99-7, a resolution of the Municipality of Anchorage accepting and appropriating \$7,338 from a private donation to the Anchorage Parks and Recreation Capital Improvement Program Fund (0461) for **capital improvements to the Town Square Fountain**, Office of Management and Budget.
  - a. Assembly Memorandum No. AM 31-99.
- 4. Resolution No. AR 99-8, a resolution of the Municipality of Anchorage appropriating \$13,323 to the State Categorical Grants Fund (0231) from the Alaska Commission on Aging to assist in the **funding of coordinated transportation services for senior citizens and for people with disabilities** within the Municipality of Anchorage, Public Transportation Department.
  - a. Assembly Memorandum No. AM 32-99.
- 5. Resolution No. AR 99-9, a resolution of the Municipality of Anchorage appropriating \$50,000 from the Alaska Department of Health and Social Services to the State Categorical Grants Fund (0231) for the **Child Care Licensing Program** in the Department of Health and Human Services, Health and Human Services.
  - a. Assembly Memorandum No. AM 41-99.

D. NEW BUSINESS:

- 1. Assembly Memorandum No. AM 1-99, **1999-2000 Liquor License Renewals**: Klondike Kate's Baretrap Saloon, Rock-U (Beverage Dispensary), Clerk's Office.

Mr. Wuerch asked this item be considered on the regular agenda. See item 8.E.

- 2. Assembly Memorandum No. AM 2-99, 1999-2000 Liquor License Renewal: **Bird House Bar** (NO PREMISE) (Package Store), Clerk's Office.

Mr. Meyer asked this item be considered on the regular agenda. See item 8.E.

- 3. Assembly Memorandum No. AM 3-99, **1999-2000 Liquor License Renewals**: Chepo's Mexican Restaurant (Beverage Dispensary), Chilkoot Charlie's (4 Duplicates - Beverage Dispensary); Bush Liquors (Package Store), Clerk's Office.
- 4. Assembly Memorandum No. AM 4-99, **Irish Setter** - Transfer of Ownership of a Beverage Dispensary Liquor License (Fairview/Mt. View Community Councils), Clerk's Office.

Mr. Wohlforth asked this item be considered on the regular agenda. See item 8.E.

- 5. Assembly Memorandum No. AM 5-99, **Oaken Keg #47**: 7731 E. Northern Lights Blvd. - Transfer of Ownership of a Package Store Liquor License (Northeast/Scenic Foothills Community Councils), Clerk's Office.
- 6. Assembly Memorandum No. AM 6-99, **Oaken Keg #52**: 1340 Gambell Street - Transfer of Ownership of a Package Store Liquor License (Fairview Community Council), Clerk's Office.
- 7. Assembly Memorandum No. AM 7-99, **Oaken Keg #54**: 1465 E. Huffman - Transfer of Ownership of a Package Store Liquor License (Bayshore-Klatt Community Council), Clerk's Office.
- 8. Assembly Memorandum No. AM 8-99, **Oaken Keg #55**: 1650 W. Northern Lights Blvd. - Transfer of Ownership of a Package Store Liquor License (Spenard Community Council), Clerk's Office.
- 9. Assembly Memorandum No. AM 9-99, **Oaken Keg #56**: 600 E. Northern Lights Blvd. - Transfer of Ownership of a Package Store Liquor License (Spenard Community Council), Clerk's Office.
- 10. Assembly Memorandum No. AM 10-99, **Oaken Keg #57**: 6901 E. Tudor Road - Transfer of Ownership of a Package Store Liquor License (Northeast Community Council), Clerk's Office.
- 11. Assembly Memorandum No. AM 11-99, **Oaken Keg #59**: 11409 Business Blvd. - Transfer of Ownership of a Package Store Liquor License (Eagle River Community Council), Clerk's Office.

12. Assembly Memorandum No. AM 12-99, Oaken Keg #60: 900 E. Dimond Blvd. - Transfer of Ownership of a Package Store Liquor License (Taku/Campbell Community Council), Clerk's Office.
13. Assembly Memorandum No. AM 13-99, Oaken Keg #61: 5668 DeBarr Road - Transfer of Ownership of a Package Store Liquor License (Northeast Community Council), Clerk's Office.
14. Assembly Memorandum No. AM 14-99, Oaken Keg #62: 4000 W. Dimond Blvd. - Transfer of Ownership of a Package Store Liquor License (Sand Lake Community Council), Clerk's Office.
15. Assembly Memorandum No. AM 15-99, Oaken Keg #68: 1545 W. Northern Lights Blvd. - Transfer of Ownership of a Package Store Liquor License (Spenard Community Council), Clerk's Office.
16. Assembly Memorandum No. AM 18-99, change order No. 3 to purchase order 73494 with LCMF, Inc. to provide **professional architectural/ engineering services for capital improvement projects** for the Municipality of Anchorage, Merrill Field Airport, Merrill Field Airport.
17. Assembly Memorandum No. AM 19-99, change order No. 1 to contract No. 98-C31 with Summit Paving and Construction, Inc. for the **Anchorage Golf Course, Realignment of Holes 4 & 7**, Property and Facility Management.
18. Assembly Memorandum No. AM 20-99, approval to expend 1999 funds for the operations and management agreement with the **Alaska Center for the Performing Arts**, Property and Facility Management.
19. Assembly Memorandum No. AM 21-99, approval of 1999 funding and to amend the professional services agreement with the **Anchorage Convention and Visitors Bureau (ACVB)**, Property and Facility Management.
20. Assembly Memorandum No. AM 22-99, approval to expend 1999 funds for the operation of the **William A. Egan Civic and Convention Center**, Property and Facility Management.
21. Assembly Memorandum No. AM 23-99, contract amendment No. 8 to Koho Contracting, Inc. for the **reconstruction of King Street, Dimond Boulevard to 76th Avenue**, DPW 93-14, Public Works.
22. Assembly Memorandum No. AM 24-99, contract amendment Number One (1) to Quality Asphalt Paving, Inc. for the **construction of Lake Otis Parkway Surface Rehabilitation, Campbell Creek Bridge to East 68th Avenue**, DPW 98-05, Public Works.
23. Assembly Memorandum No. AM 25-99, request to the Board of Adjustment for approval of an extension of time to file a brief in **Appeal Case S-10236, East Addition Anchorage Townsite**, Municipal Clerk.
  - a. Assembly Memorandum No. AM 25-99(A), request to the Board of Adjustment for approval of an extension of time to file a brief in Case S-10236, East Addition Anchorage Townsite, Municipal Clerk. (**addendum**)
24. Assembly Memorandum No. AM 33-99, change order No. 3 to the construction contract with Matrix General for the **South Anchorage Park Improvement Project**, Cultural and Recreational Services.
25. Assembly Memorandum No. AM 34-99, proprietary purchase of **handheld electronic meter reading systems** from Itron, Inc. for the Municipality of Anchorage, Municipal Light and Power/Purchasing.
26. Assembly Memorandum No. AM 35-99, change order No. 1 to purchase order 80421 to continue **copying services for recorded documents** from the State of Alaska, District Recorders Office, Finance/ Property Appraisal.
27. Assembly Memorandum No. AM 36-99, proprietary service contract with law offices of Mitchell D. Gravo, Inc. for **1999 lobbyist services**, Executive Manager's Office.

Mr. Bell asked this item be considered on the regular agenda. See item 8.E.

28. Assembly Memorandum No. AM 37-99, change order No. 2 to purchase order 81147 with Unisys Corporation for furnishing **computer hardware and software maintenance** to the Municipality of Anchorage, Finance Department/Purchasing.
29. Assembly Memorandum No. AM 38-99, amendment No. 1 to the contract with the law office of Stuart G. Ross for **indigent defense conflict case services** for the Municipality of Anchorage, Office of Management and Budget.
30. Assembly Memorandum No. AM 39-99, recommendation of award to Rise Alaska, LLC for providing professional **project management services for the Anchorage 6th Avenue Jail Replacement** for the Municipality of Anchorage, Department of Property and Facility Management (RFP 56-98), Purchasing.

Mr. Bell asked this item be considered on the regular agenda. See item 8.E.

31. Assembly Memorandum No. AM 40-99, change order No. 2 to contract with E. Brown, Inc. dba International Steel for the **Egan Center Skybridge**, Property and Facility Management.
32. Assembly Memorandum No. AM 42-99, change order No. 11 to purchase order 51724 with Aurora Towing for providing **towing and removal services of miscellaneous junk vehicles** for the Municipality of Anchorage, Public Works Department/Purchasing.

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 1-99, Internal Audit Report 98-15, **Uniform Summons and Complaint Citation Process**, Anchorage Police Department/Internal Audit.

Mr. Murdy asked this item be considered on the regular agenda. See item 8.F.

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

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Kendall, Murdy.  
NAYS: None.

8. **REGULAR AGENDA:**

- A. TIME CRITICAL ITEMS: None.
- B. BID AWARDS: None.
- C. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION: None.
- D. RESOLUTIONS FOR ACTION:

- 1. Resolution No. AR 99-3, a resolution of the Anchorage Municipal Assembly **recognizing and honoring Samuel G. Cornell for his 21 years of service** with the Municipality of Anchorage, Assemblymembers Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, Wohlforth, and Wuerch.

Mr. Wuerch moved, to approve AR 99-3.  
seconded by Mr. Meyer,  
and it passed without  
objection,

Mr. Wuerch read the resolution while Ms. Clementson presented it to Mr. Cornell.

Mr. Cornell thanked the Assembly.

E. NEW BUSINESS:

- 1. Assembly Memorandum No. AM 1-99, 1999-2000 Liquor License Renewals: Klondike Kate's Baretrap Saloon, Rock-U (Beverage Dispensary), Clerk's Office.

Mr. Wuerch moved, to approve AM 1-99.  
seconded by Mr. Murdy,

Mr. Wuerch moved, to grant a motion to stay consideration of  
seconded by Mr. Meyer, AM 1-99 until January 26, 1999.  
and it passed without  
objection,

- 2. Assembly Memorandum No. AM 2-99, 1999-2000 Liquor License Renewal: Bird House Bar (NO PREMISE) (Package Store), Clerk's Office.

Mr. Meyer moved, to approve AM 2-99.  
seconded by Ms. Clementson,

Mr. Meyer moved, to postpone action on AM 2-99 until  
seconded by Mr. Wuerch, January 12, 1999 pending receipt of  
and it passed without answers to questions about the license.  
objection,

- 3. Assembly Memorandum No. AM 4-99, Irish Setter - Transfer of Ownership of a Beverage Dispensary Liquor License (Fairview/Mt. View Community Councils), Clerk's Office.

Mr. Wohlforth moved, to approve AM 4-99.  
seconded by Mr. Murdy,

Mr. Wohlforth said he was concerned about the type of entertainment which would be offered at this club. He supported a postponement to allow time to investigate whether the planned under-age strip club was allowable in this location.

In response to Mr. Wohlforth, Don Alspach of the Community Planning and Development Department said he checked and determined there were no residential properties within 1,000 feet of the establishment.

In response to Mr. Wohlforth, Municipal Attorney Mary Hughes said she would like a week to review the issue, including the conditional use permit.

Mr. Wohlforth moved, to postpone action on AM 4-99 until  
seconded by Mr. Murdy, January 12, 1999.

Mr. Bell asked Ms. Hughes to also answer questions on sale of alcohol in conjunction with adult entertainment, and the property line designations within the club.

Question was called on the motion to postpone action on AM 4-99 until January 12, 1999 and it passed without objection.

4. Assembly Memorandum No. AM 36-99, proprietary service contract with law offices of Mitchell D. Gravo, Inc. for **1999 lobbyist services**, Executive Manager's Office.

Mr. Bell moved,  
seconded by Mr. Murdy,  
and it passed without  
objection,

to postpone action on AM 36-99 until  
later in the meeting.

(Clerk's Note: See after action on item 12.K.)

5. Assembly Memorandum No. AM 39-99, recommendation of award to Rise Alaska, LLC for providing professional **project management services for the Anchorage 6th Avenue Jail Replacement** for the Municipality of Anchorage, Department of Property and Facility Management (RFP 56-98), Purchasing.

Mr. Bell moved,  
seconded by Mr. Wuerch,

to postpone action on AM 39-99 until  
January 12, 1999.

Mr. Bell explained he has concerns about the award, because the Request For Proposal specifically required the project manager to have experience in this area. There are concerns that Rise Alaska, LLC does not have the required experience. Also, he was concerned there were only two proposals submitted out of fifty-eight RFP's distributed. He would like some assurances that the RFP was not written to favor Rise Alaska. Mr. Bell was unsure that a project manager would be the best plan for the project. He added that the other proposer wants to have the award reviewed by the Bidding Review Board.

In response to Mr. Wohlforth, Don Simmons of Property and Facility Management explained the proposed award was for project management and was separate from the design contract for the jail. Design development language in the award referred to oversight by the project manager of various phases of the project, including design and construction.

In response to Mr. Bell, Mr. Simmons said the proposed contractor has jail design and project management experience, and members of the firm have been involved with jail work. He said he could provide copies of the winning proposal for review.

Mr. Wuerch asked for qualifications of the subcontractors also.

Mayor Mystrom felt it was inappropriate for Mr. Bell to question the integrity of the award without providing evidence.

In response to Mayor Mystrom, Purchasing Officer Ted Chenier said he received a call yesterday from someone inquiring about protest procedures, but a protest has not been filed. Yesterday's telephone call was the first indication he has heard of a potential protest. He added seventy-two RFP's were distributed. It is usual for very few proposals to be returned out of a group that size.

Question was called on the motion to postpone action on AM 39-99 until January 12, 1999 and it passed without objection.

F. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 1-99, Internal Audit Report 98-15, **Uniform Summons and Complaint Citation Process**, Anchorage Police Department/Internal Audit.

Mr. Murdy moved,  
seconded by Ms. Taylor,

to accept AIM 1-99.

In response to Mr. Murdy, Chair Von Gemmingen said there was a typographical error in the title of the document on the agenda.

Question was called on the motion to accept AIM 1-99 and it passed without objection.

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

- A. Resolution No. AR 98-404, a resolution **adopting the 1999 Legislative Program** for the Municipality of Anchorage, Executive Manager's Office.

1. Assembly Memorandum No. AM 1172-98.  
(POSTPONED FROM 12-15-98)

Chair Von Gemmingen gave the history of the resolution, and noted a motion to amend by Ms. Clementson was on the floor.

Mr. Wuerch addressed Ms. Clementson's motion regarding hook-up to public and private utilities. He said a letter from the Alaska Mortgage Bankers Association explained the requirement for connection to available utilities when a property is refinanced or sold. This is a national standard. To create an exception for Alaska, it would be a disservice to citizens because their mortgages would not be able to be marketed.

Ms. Clementson explained she wanted to bring attention to this problem, which will continue to grow, to State Legislators. She would be open to a change in wording.

Mr. Kendall supported addressing this growing problem which affects many of his constituents.

Mr. Carlson suggested the Assembly approve a separate resolution describing the problem directed toward State and Federal officials.

Mr. Wuerch agreed this issue was not appropriate for the Legislative Program, because it has not been thoroughly researched and a definite plan devised.

In response to Ms. Clementson, Tim Rogers of the Executive Manager's Office said he felt it would be more appropriate to approve a resolution rather than including the issue in the Legislative Program.

Mr. Kendall felt a separate resolution would delay addressing this important issue.

Ms. Clementson moved,  
seconded by Ms. Taylor,  
and it passed without  
objection,

to amend the amendment to include language in page 4-8, rather than page 3-1, of the Legislative Program to read: "Hook-up to Public/Private Utilities. Currently, some Alaska mortgage lenders require that a borrower hook-up to public utilities if the property is adequately served by public/private utilities. This requirement prompts charges or assessments once the property connects to the utility, which can hamper the orderly extension of utility service to areas otherwise not served. In addition, it can create an undue financial burden on existing property owners when the existing on-site well or septic system is functioning adequately by state and local standards. The Municipality of Anchorage supports a prohibition on mandatory hook-up by lending institutions of utilities when on-site systems are demonstrated to be adequate."

Question was called on Ms. Clementson' motion to amend as amended and it passed:

AYES: Taylor, Von Gemmingen, Clementson, Meyer, Abney, Kendall.  
NAYS: Bell, Carlson, Wuerch, Wohlforth, Murdy.

In response to Mr. Kendall, Municipal Attorney Mary Hughes explained why "Competition in Refuse Collection" was ranked under the Highest Priority Legislative Issues. She said one company from outside of Alaska controls about 75% of refuse collection in the State. The company has purchased Anchorage Refuse. Competition and refuse collection generally will likely be addressed by the Legislature. The Municipality has an interest in this issue because it provides refuse collection services. Competition on a equal field is important.

Question was called on the motion to approve AR 98-404 as amended and it passed:

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Kendall, Murdy.  
NAYS: None.

- B. Ordinance No. AO 98-171, an ordinance amending Anchorage Municipal Code Sections 9.04.010, 9.32.070 and 9.30.030 to **prohibit vehicles other than municipal buses from standing, stopping or parking in Municipal Transit bus stop zones**, Public Transportation Department.
1. Assembly Memorandum No. AM 970-98.
  2. Ordinance No. AO 98-171(S), an ordinance amending Anchorage Municipal Code Sections 9.04.010, 9.32.070 and 9.30.030 to prohibit vehicles other than municipal buses from standing, stopping or parking in Municipal Transit bus stop zone.
- (POSTPONED FROM 11-3-98 AND 11-17-98)

Chair Von Gemmingen gave the history of the resolution, and noted no motions were pending.

Ms. Clementson moved, to adopt AO 98-171(S).  
seconded by Mr. Wohlforth,

In response to Mr. Kendall, Municipal Manager George Vakalis explained the proposed action would address problems of private vehicles parking in bus parking areas. There is no current law prohibiting this action.

Mr. Murdy pointed out one problem bus zone was in front of the Egan Center. Tour busses unload passengers and luggage onto the sidewalk, making travel by pedestrians on the sidewalk impossible. He added that private vehicles must have the right to pull up to the Center's doors to pick up passengers.

In response to Mr. Wuerch, Public Transportation Director Bob Kniefel explained the current Municipal Code regulations on this issue are unenforceable. This ordinance was drafted on the advice of the Police and Traffic Engineering. Private vehicles would still be able to use passenger loading zones. In the summer, a huge number of tour busses occupy Municipal bus zones.

In response to Mr. Wuerch, Deputy Municipal Attorney Bill Greene explained the current law presented problems because it does not distinguish between Municipal busses and private busses.

Mr. Wuerch was concerned the ordinance might keep private vehicles from loading or unloading handicapped persons or senior citizens.

Question was called on the motion to adopt AO 98-171(S) and it failed:

AYES: Wohlforth, Clementson, Meyer, Kendall.

NAYS: Bell, Carlson, Wuerch, Taylor, Von Gemmingen, Abney, Murdy.

(Clerk's Note: This item was reconsidered. See minutes of January 12, 1999.)

- C. Resolution No. AR 98-360, a resolution **approving the Eagle River Water Transmission Main extension** and providing for assessment of benefited properties at time of service connection, Water and Wastewater Utility.
1. Assembly Memorandum No. AM 1051-98.
  2. Information Memorandum No. AIM 149-98.
- (POSTPONED FROM 12-8-98 AND 12-15-98)

Chair Von Gemmingen gave the history of the resolution, and noted a motion to approve was on the floor.

In response to Mr. Carlson, Water and Wastewater Utility General Manager Mark Premo explained why some route alternatives would delay construction by one year. The design and field work is complete on the recommended route, but no such work has been done for any of the alternatives.

Frank Rast of the design consultant, R&M Consultants, explained the cost differences between the proposed options on Citation Road. Availability of a booster station at various sites is uncertain.

In response to Mr. Bell, Mr. Premo said Colonial Lateral Sewer District, the next item on the agenda, is the only sewer project planned for this area. He recommended that if the proposed water main does not pass, no action be taken on the Colonial District. There would be a significant increase in cost for the sewer district, because the cost of the road reconstruction would be borne by the water main assessments.

In response to Ms. Clementson, Mr. Premo discussed fire protection problems in the area. If the proposed water main is not installed, fire protection for the area to the south of the project area will be lost within a few years.

In response to Mr. Wohlforth, Mr. Premo said it was determined that water service in this area of Eagle River was needed desperately. Instead of trying to serve any individual needs, the overall area was evaluated to determine the best location to provide protection for the future. Regarding the issue of mortgage financing, which requires owners to pay the assessment whether they need service or not, Mr. Premo addressed the question of whether the Municipality could approach the Alaska Public Utilities Commission and ask for a reduction in assessments in certain situations. Isolating the cost-causer/cost-payer concept is the basis for the principles of the AWWU tariff established in the early 1970's. Changing that system would result in costs being absorbed by higher rates for all users.

Ms. Clementson asked whether the document could be amended to eliminate the Levy-Upon-Connection roll, and prohibit citizens from hooking up to the main. Then in the future, the Assembly could approve hook up for certain properties in certain situations.

Mr. Premo said that could be done, however, it would be a legislative circumvention of the tariff principles. Also, it would be difficult and expensive for individual properties to hook up in the future. He said delay of this resolution would affect the following item, AO 98-163.

Mr. Carlson recommended a "no" vote. He encouraged his colleagues to try to find an alternative.

Mr. Wohlforth felt the tariff rules were clearly unfair for Eagle River, and should be changed. He pointed out this was not an impossible task. He opposed the resolution in its current form.

Mr. Bell pointed out anyone hooked up to the Municipal water supply paid an assessment, in the cost of a home and in water fees. So, everyone is affected equally. He felt the project should proceed, because it is needed for fire protection, to serve the schools and future development.

Ms. Abney moved,  
seconded by Mr. Murdy,

to postpone action on AR 98-360 until January 26, 1999,  
pending development of other alternatives, and schedule a  
worksession to discuss alternatives.

Mr. Premo requested specific direction to prepare for the worksession.

Mr. Wohlforth said at the worksession, he would like to see an analysis of prohibiting residents from hooking up to the main. Also, he wanted an analysis of possible changes to the tariff to deal with this and similar situations.

Question was called on the motion to postpone action on AR 98-360 and it failed:

AYES: Bell, Wohlforth, Meyer, Abney, Murdy.  
 NAYS: Carlson, Wuerch, Taylor, Von Gemmingen, Clementson, Kendall.

Question was called on the motion to approve AR 98-360 and it passed:

AYES: Bell, Wuerch, Von Gemmingen, Clementson, Meyer, Kendall.  
 NAYS: Carlson, Taylor, Wohlforth, Abney, Murdy.

- D. Ordinance No. AO 98-163, an ordinance **creating Colonial Lateral Sanitary Sewer Special Assessment District 50-18**, and determining to proceed with the proposed improvements therein, Water and Wastewater Utility.
1. Assembly Memorandum No. AM 951-98.  
 (POSTPONED FROM 10-27-98, 12-8-98, AND 12-15-98)

Chair Von Gemmingen gave the history of the resolution, and noted a motion to adopt was on the floor.

Mr. Carlson noted he received correspondence from Troy and Kalee Johnson, who originally asked permission to change their vote in approval of the District. However, they have reconsidered and now do not wish to change their vote. So their original vote in support of the District stands.

Question was called on the motion to adopt AO 98-163 and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Kendall.  
 NAYS: Carlson, Murdy.

The meeting recessed at 7:30 p.m. and reconvened at 7:45 p.m.

- E. Assembly Memorandum No. AM 1192-98, 1999-2000 Liquor License Renewal: **The Hub** (Beverage Dispensary); **The Hub** (Beverage Dispensary-Duplicate), Clerk's Office.  
 (POSTPONED FROM 12-15-98)

This item was continued until January 12, 1999.

#### 10. APPEARANCE REQUESTS:

- A. **Kendra Taber**, regarding police response to telephone calls from elderly persons and victimization of elderly citizens.

Ms. Taber did not appear.

- B. **Bud Knox**, regarding snow removal.

Mr. Knox did not appear.

Mr. Wuerch moved, to change the orders of the day to  
 seconded by Mr. Meyer, consider item 12.L, AO 98-184.

Ms. Clementson and Mr. Wohlforth spoke against the motion.

Question was called on the motion to change the orders of the day, and it failed for lack of eight affirmative votes required to change the orders of the day:

AYES: Bell, Carlson, Wuerch, Von Gemmingen, Meyer, Murdy.  
 NAYS: Taylor, Wohlforth, Clementson, Abney, Kendall.

#### 11. CONTINUED PUBLIC HEARINGS:

- A. Ordinance No. AO 98-175, an ordinance amending the zoning map and providing for the rezoning from R-9 (Rural Residential District) to R-1A (One Family Residential District) **Brendlwood Subdivision, Tract D**, generally located at the north end of Kaskanak Drive and to the east of Skyline Drive (Eagle River Valley Community Council) (Planning and Zoning Commission Case 98-114), Community Planning and Development.
1. Assembly Memorandum No. AM 1013-98.  
 (CONTINUED FROM 12-8-98)

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

MIKE QUINN, the petitioner and owner of the property, explained the property is incorrectly zoned R-9. R-9 zoning is intended to satisfy needs for low density residential development in areas where public sewers and water are unlikely to be provided for a considerable period of time, or where topographic or other natural conditions are such that higher density development and the provision of public sewers and water would be unfeasible at any time. Mr. Quinn said his property does



not meet these qualifications; public sewer and water are available at the end of Kaskanek Drive. The proposed rezoning would correspond with the Eagle River/Chugiak Comprehensive Plan of 1993. He noted Community Planning and Development (CPD) recommended in favor of the rezoning when it was presented to the Planning and Zoning Commission.

In response to Mr. Meyer, Mr. Quinn said Anchorage Water and Wastewater Utility (AWWU) staff did an analysis and found there would be adequate water pressure to serve the development and for fire protection. A few lots on the upper end of the property might have a problem with pressure, which could be alleviated by a booster pump installed in the home. There would be no burden on existing homes in the subdivision. The new homes would be similar to existing homes in the subdivision.

ELEANOR BRENDELE spoke against the rezoning. She and her husband were the original owners of the subject property, and they intended it to remain in large lots to preserve the natural flora and fauna of the area. The property is an island, connected to the adjacent subdivision only by a narrow road. The R-9 zoning was appropriate, because the land is on a mountain side, and 1/3 of the land is in a canyon. Also, Kaskanek Drive has a hairpin turn on a steep upgrade, and it is already difficult to see approaching vehicles during the winter when snow is piled alongside the road. The storm drain at the bottom of the road cannot handle the existing runoff at springtime. Ms. Brendle added that Transportation Planning has stated that any additional development would place an undue burden on the existing street. She felt it was inappropriate that large, beautiful homes be placed on small lots with a slope on one side and a drop-off on the other side.

ARTHUR W. BRENDELE, original homesteader of the area, spoke in opposition to the rezoning. According to Public Works' review comments, it is required the length of the cul-de-sac not exceed a 10% grade; the proposed end cul-de-sac has a grade of 16% and the proposed extension of Kaskanek Drive has a grade of 11¼ %. Six of the proposed lots have a change in elevation of 40 feet or more. The huge amount of excavation and fill necessary to construct homes on these grades will result in destruction of many existing trees. Also, runoff from the excavated areas will carry mud into Meadow Brook. Lastly, Mr. Brendle pointed out the east edge of the property borders a "wet" area which is the source of seepage along Kaskanek Drive.

TOM JENSEN, a resident on Kaskanek Drive, spoke in support of the rezoning. He pointed out that a professional and impartial staff examined the issue and recommended in favor of the proposal, yet the Planning and Zoning Commission (P&Z) recommended against adoption. Mr. Jensen felt P&Z was wrong in this case. He recalled that in 1994 when he purchased his home, he was told there would be additional development, and there has been. He was pleased with the new homes, which are very nice quality and add to the value of his property. Also, they add to the tax base which pays for the services he enjoys as a homeowner. Brendlewood is one of the nicest subdivisions in Eagle River. The development will provide all necessary utilities, will not provide a traffic hazard, and conforms with the Eagle River/Chugiak Comprehensive Plan. All required agencies and entities have approved the plan.

TOM ESKER, a resident on Kaskanek Drive, spoke against the rezoning. He said the safety of school children, significant lack of water pressure and volume, and only one ingress/egress road to the subdivision were issues of great concern. Despite opinions from AWWU staff, he felt water pressure would be an issue. He and his neighbors have experienced problems with pressure and volume, and they were concerned with fire protection.

VIRGINIA COFIELD, a real estate agent in the Eagle River area, said she has sold homes for about 25 years. She said buyers are looking for lots with a little more room, and also connected to public water and sewer. The proposed property is rare in Eagle River. The subdivision was developed in a beautiful fashion; the continuity of the homes is ideal. Mr. Quinn is the ideal person to develop the land, because he will maintain that continuity. She was in support of the rezoning.

TERESE SANDBORN, a resident on Kaskanek Drive, pointed out P&Z voted against the proposal and made twelve specific findings of fact in support of that decision. She said the property was zoned based on the Eagle River/Chugiak Comprehensive Plan. The Plan is designed to be a guide for development to occur in a reasoned and rational manner. If the Plan's requirements for varied density are ignored, there is not much purpose in the Plan. Ms. Sandborn said the subject land has substantial slopes in an alpine area, which is intended to support large lot development. There are existing water pressure problems in the neighborhood, and there is only one road to enter or exit the subdivision. P&Z found this route was too long for emergency access.

ELAINE ALLEN spoke in opposition to the proposed rezoning. She pointed out the water pressure problem in the neighborhood is an issue. She noted Mr. Quinn did perform a pressure test, but it was on a week day during the day when no one was at home. She felt the test should be done when more people are at home.

CYNTHIA BRADFORD, a long-time resident of Eagle River, supported the proposed development in Brendlewood Subdivision. She and her husband wanted the opportunity to enjoy the wonderful subdivision. A vacant, one-acre lot in a subdivision with public water and sewer, paved streets and lighted sidewalks is nearly impossible to find in Eagle River today. She felt the property would eventually be developed, and she would like Mr. Quinn to do the job. He is an award-winning builder, has a proven record of quality construction and will maintain continuity in the subdivision. Her current home was built by Mr. Quinn, and she has nothing but good things to say about the quality of workmanship and his response to any small problems. Ms. Bradford added the current zoning would allow businesses such as dog kennels, veterinary clinics, rooming houses and sled dog teams.

AL ROMASZEWSKI, a long-time resident of Eagle River, spoke in support of the rezoning. He agreed Kaskanek Drive is steep, but past the turn it is fairly level. Anything Mr. Quinn builds will only increase the value of homes in the subdivision. Although there may be water pressure problems, there will be some mitigating efforts. He urged the Assembly to vote in support of the rezoning.

AL SANDBORN, a resident on Kaskanek Drive, was concerned about the proposed development. He said there have been many occasions when water pressure is a problem in the neighborhood, and residents are concerned about fire protection.

Traffic is also a concern, with children playing and the steep grade of the road. There will be erosion and drainage problems because of loss of trees where the new houses would be located.

SHARON MINSCH, a member of the Chugiak Community Council and vice president of the Municipal On-Site Wastewater and Technical Review Board, spoke in support of the rezoning. She said problems with water pressure should be addressed by AWWU. She pointed out the grade of Kaskanak Drive was not seen as a problem when it was built. She said many neighborhoods in her Council area have only one ingress/egress road.

SANDY GOLD, a resident on Kaskanak Drive, felt traffic would be an issue if the proposed development was allowed. She said the intersection of Kaskanak and Talerik serves a large number of vehicles from subdivisions other than Brendlewood. Many people use that intersection to access Eagle River, which was not intended when the roads were built. She asked the Assembly to deny the rezoning request.

ART ISHAM, president of the Eagle River Valley Community Council, said no one presented any concerns on either side to the Council. Therefore, the Council has not taken a position. He pointed out decisions of staff are not always correct, just as decisions of P&Z.

STEVE FRY, a resident of the subject area, was concerned about increased water pressure problems if more homes are built. He added in the winter, with snow piled on the sides of Kaskanak, the sharp turn in the road would be even more of a safety hazard with added vehicles. He felt more homes would reduce existing home values.

BILL MCLINTOCK, a new resident of Brendlewood Subdivision, said he was surprised at low water pressure and volume in his new home. It was marginal, but lower than his previous homes in Chugiak and Peter's Creek. He added Kaskanak Drive was very long, possibly longer than Municipal standards. The grade is also very steep, which is a danger to children and other pedestrians as vehicles attempt to descend in the winter. Approving the rezoning would increase the numbers of children exposed to this risk, and the number of vehicles causing the risk. He would have thought twice about purchasing his home if he knew about potential additional development.

ARTHUR A. BRENDLE, a resident on Kaskanak Drive and an Anchorage Fire Fighter, pointed out P&Z rejected the petition. P&Z staff stated that site conditions, particularly the slope, do not seem to support the proposed residential densities. He said the proposed tiered cul-de-sac would pose a danger to fire emergency vehicles. Water supply and pressure to the area is inadequate. The storm sewer on Kaskanak Drive is inadequate, resulting in water gushing from the manholes every spring. Extension of the paved street will worsen this situation, and may cause damage to the storm system. He said the proposal was contrary to the Eagle River/Chugiak Comprehensive Plan and was opposed by most of the surrounding residents.

BARBARA BRENDLE, a resident on Kaskanak Drive, pointed out Brendlewood Subdivision was planned in its entirety as it exists today. It was platted and approved prior to any development. She did not feel any further development should occur. If the Assembly approves the rezoning, it will mean it values R-1A development as more important than safety concerns and concerns about utility inadequacies. The developer proposes a 2.5 living unit per acre density. However, because of the steep grade of the land only some of the land will be buildable and the actual density will be about 3.4 homes per acre. Current density of adjoining land is 1.8 homes per acre. Ms. Brendle added that rezoning this parcel would set a precedent, and it will be more difficult to deny rezoning of the adjacent R-9 zoned property. She asked the Assembly to support the existing citizens and deny the rezoning.

DOUG ASKERMAN spoke in favor of the rezoning. He said Mr. Quinn belongs to an organization devoted to promoting responsibility among developers and builders. Mr. Quinn has followed the procedures required by our community, has received technical advice and has performed water tests. Mr. Askerman recommended the Assembly adopt the rezoning request.

MIKE TAYLOR, a resident on Kaskanak Drive, supported the rezoning. He felt the overall benefit to the entire community should be considered rather than just the concerns of a few citizens. If the rezoning is denied, the community will lose thousands of dollars annually. The revenue is needed; ways must be found to increase the income of the community. Development will likely result in about \$1 million over the next ten years.

CARRIE TOWNER, a resident on Kaskanak Drive, pointed out Mr. Quinn knew the zoning of the property when he purchased it. She asked the Assembly to keep that in mind. Residents would like to keep the neighborhood as it is.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to adopt AO 98-175.  
seconded by Ms. Clementson,

In response to Mr. Kendall, Don Alspach of CPD said the existing zoning would allow one or two lots to be developed. The minimum lot size in R-9 is 2.5 acres. The topography of the existing development and the subject property would be characterized about the same.

In response to Mr. Kendall, Don Keefer of AWWU said the Eagle River water transmission main approved earlier in the evening, and the reservoir will improve water flow into this entire area. Part of the water transmission main project includes another intertie to the east, where there would be two feeds into the cul-de-sac area. This should improve water pressure and volume problems. The project should be completed by the fall of 2000.

In response to Ms. Abney, Mr. Quinn said the current plat would require a slope variance for a few of the lots on the uphill side of the property. If the Platting Board does not agree, Mr. Quinn said he could eliminate one lot, making all the remaining lots a little bigger, and remove the need for any variance.

In response to Mr. Bell, an unidentified man accompanying Mr. Quinn addressed the road. He preliminary plans for the plat were to leave the switchback in place, to allow future access to the Brendle's R-9 property to the north, so it would not be landlocked.

In response to Mr. Meyer, Mr. Alspach listed uses in R-9 zones. Principle uses are: single Family and duplexes, mobile homes for a duration of 18 months, churches and antennae towers less than 75 feet high. Accessory uses are: home occupations, home businesses, non-commercial greenhouses, gardens, storage shed, private garages, keeping of animals, private storage of equipment including light trucks and boats, daycare facilities and bed and breakfast facilities. Conditional uses include: planning and developments, utility substations, natural resource extraction and neighborhood community centers. He added most zones allow outdoor animal keeping facilities.

In response to Mr. Wohlforth, Mr. Alspach said CPD received a valid protest petition. Because the petition is valid, adoption by the Assembly would require eight affirmative votes, per Title 21 of the Municipal Code. The protest is valid when 1/3 of the property owners within the surrounding 300 feet of the property agreed to protest the rezoning. In this case, the number of protesters was much higher than the amount required.

Ms. Clementson spoke in support of the rezoning. She researched the water issue, and found that when water pressure is a problem, it is usually at the end of the line. Therefore, if more homes are built, the existing property owners' water pressure will actually increase. She said since public water and sewer is available, more homes should be built. She understood no one likes to have more homes in their neighborhood; however, everyone must share the burden. Developable land with public utilities is an unusual situation for Eagle River.

Mr. Wohlforth felt when a home is purchased, the owner should have some degree of certainty that the zoning for the surrounding land would remain the same. He said the burden of proof is on the petitioner to show the public interest would be served and a rezoning is necessary. Mr. Wohlforth did not feel the petitioner has succeeded in this. He agreed with P&Z, which voted to recommend against the proposal by a large margin. He said a slightly lower density development might be appropriate.

Ms. Clementson moved,  
seconded by Mr. Kendall,  
and it passed without  
objection,

to amend AO 98-175 on line 19 to add a new Section 2 to read: "The zoning map amendment described in Section 1 above shall be subjected to the following special limitation: "Maximum allowable density shall not exceed 2.5 dwelling units per acre." and renumber the following sections accordingly.

Question was called on the motion to adopt AO 98-175 as amended and it passed:

AYES: Bell, Wuerch, Taylor, Von Gemmingen, Clementson, Meyer, Abney, Kendall, Murdy.  
NAYS: Carlson, Wohlforth.

- B. Resolution No. AR 98-164, a resolution revoking the conditional use permit allowing the retail sale and dispensing of alcoholic beverages at 6119 Old Seward Highway, formerly known as the Sawmill Club and currently known as **Klondike Kate's Bare Trap Saloon**, Community Planning and Development/Public Works.
1. Assembly Memorandum No. AM 474-98.  
(CONTINUED FROM 7-14-98 AND 10-6-98)

This item was continued until January 12, 1999.

## 12. NEW PUBLIC HEARINGS:

Mr. Kendall moved,  
seconded by Mr. Wuerch,

to change the orders of the day to  
consider item 12.L, AO 98-184.

In response to Mr. Wohlforth, Mayor Mystrom explained action on AO 98-184 was desirable tonight because the petitioner must return to the Planning and Zoning Commission for the site plan, and there is a concern about further delay.

Question was called on the motion to change the orders of the day and it passed:

AYES: Bell, Carlson, Wuerch, Taylor, Von Gemmingen, Meyer, Abney, Kendall, Murdy.  
NAYS: Clementson.

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

Mr. Carlson moved,  
seconded by Mr. Kendall,  
and it passed without  
objection,

to continue the public hearing for  
item 12.F, AO 98-192, until February 9, 1999.

Ordinance No. AO 98-184, an ordinance amending the zoning map and providing for the rezoning from R-O (Residential Office District) and R-OSL (Residential Office District) with Special Limitations to B-3 (General Business District) with Special Limitations for **Tract A, Hardware Subdivision**, generally located on the north side of East Tudor Road and west of Denali Street (Spenard Community Council) (Planning and Zoning Commission Case 98-197), Assemblymembers Wuerch and Meyer.

1. Information Memorandum No. AIM 2-99, Community Planning and Development.

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

JOE STIMSON, of Stimson Consulting Service, appeared with the property owner, Dan Farr. Mr. Stimson distributed materials including site plans. He noted the Planning and Zoning Commission (P&Z) voted unanimously to recommend in favor of the rezoning. He pointed out the proposal did not seek to rezone the property from a residential Comprehensive Plan designation. The property is designated, in the 1982 Comprehensive Plan, as commercial. There is a proposed use for the land, to operate Office Depot. P&Z imposed some special limitations, to which the petitioner is in agreement.

JIM PFANIS spoke to the design of the building, and said the proposed landscaping in a 50-foot buffer would provide a visual barrier between the store and the future Midtown Park. The exterior of the building will be a custom-made brick veneer, with a slight variation of color. There will also be a significant landscaping buffer, much larger than the adjacent Eagle Hardware. In response to Ms. Taylor, Mr. Pfanis said they have made numerous phone calls to the community council to schedule a presentation, but none have been returned.

ROBERT AUTH, vice chair of the Spenard Community Council, felt the proposal was being rushed. The public has not had an adequate opportunity to comment on the issue. The first time the petitioner disclosed the store which would be located on the property was at the public hearing before P&Z. He pointed out adjacent properties are still being reviewed by the Assembly for rezoning, and the Midtown Park issue is not settled. Planning staff said they would prefer to see the Cook Subdivision rezoning and the Park issue resolved before considering the proposed rezoning case.

RANDY VERGE admired the petitioner's commitment to landscaping and more attractive architectural design. However, he was concerned that gas stations and convenience stores will be built on the site. He felt the current zoning is more compatible for the area, especially considering the Midtown Park issue. He asked the Assembly to deny the rezoning request.

HELEN NIENHUESER, of the Midtown Park and Trail Steering Committee, felt there was a significant relationship between the use of the subject property and the Midtown Park and north/south trail. She said the community was in the process of creating a heart for midtown. A box store surrounded by asphalt parking lots is not an appropriate neighbor. There are already two such stores in the area. Also, there must be a trail connection through this parcel for the north/south trail. Residential/office would be the best use for the area. She felt it did not make sense to reduce residential, a category that there is not enough of, and increase B-3, a category there is a surplus of in Anchorage, especially when there is zoning appropriate for an Office Depot right across the road.

TUCKER SPORE, a resident near midtown, said there has not been enough public input on this issue. He said the area was beautiful, and an important link for a north/south trail. He urged the Assembly to deny the request.

PATRICIA JOINER, an employee working in the Frontier Building, spoke in opposition to the rezoning, for many of the reasons already stated. She volunteered on a citizen group reviewing the Comprehensive Plan. She reminded the Assembly the Plan was important to quality of life, and provided an orderly method of quality development. She said using the Plan would save citizens, developers and the Assembly time. Residents are weary of addressing development on each parcel in town. She pointed out Office Depot would likely have built last year if they thought that rezoning the subject parcel was not an option. Something is wrong when developers are so confident that zoning regulations are meaningless that they will spend large amounts of money and be prepared to break ground on a parcel that is not zoned for their use.

JANEL FEIERABEND felt the parcel should remain zoned for residential use. She said there was plenty of commercial and industrial-zoned property in the vicinity which are available. However, there is a deficit of residential land. The Midtown Park will be a wonderful addition to the area, and she would like to see that positive trend continued. She pointed out many of the citizens interested in midtown have invested a great amount of time appearing for hearings. They would like to have a well-planned, well-developed city that is useful and beautiful. She felt representatives of Office Depot and an engineer to discuss drainage issues should be present before the Assembly can make an informed decision.

KATHY GERARD spoke against the rezoning. She identified with previous speakers' comments in opposition. She was concerned that the proposal would turn residential land into commercial. She pointed out there is a surplus of commercial land and a deficit of residential.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Wohlforth moved, to adopt AO 98-184.  
seconded by Mr. Meyer,

Mr. Wohlforth admired Mr. Farr for attempting to make the proposed building attractive, adding touches above and beyond the standards required by Office Depot. However, he felt these types of large boxy warehouses are a scourge on our country. Since he believed the ordinance would be adopted, he would like some protection added for a north/south trail easement.

Mr. Wohlforth moved,  
seconded by Ms. Clementson,  
and it was withdrawn,

to amend AO 98-184 in Section 2, to add a new subsection C to read: "When the property is platted, a trail easement shall be created north and south across the property adequate for a multi-use trail."

In response to Mr. Meyer, the property owner said he was not willing to commit to an easement at this time.

Mr. Wuerch noted that plans for enhancement of C Street provide for a trail on the east side of C Street.

Ms. Clementson moved,  
seconded by Ms. Taylor,  
and it passed without  
objection,

to amend AO 98-184 on page 2, line 7 to read:  
"...shall meet with Department of Community  
Planning and Development staff and determine..."

Ms. Clementson moved,  
seconded by Mr. Wuerch,  
and it passed without  
objection,

to amend AO 98-184 in Section 2, subsection A,  
to add a new item 17 to read: "Package Stores."

Mr. Wohlforth moved,  
seconded by Ms. Clementson,

to amend AO 98-184 in Section 2, to add a new  
subsection C to read: "Upon site plan review for the western  
portion of the parcel the Planning and Zoning Commission  
shall require a north-south multi use trail if it determines  
necessary. "

AYES: Wohlforth, Clementson, Abney, Murdy.

NAYS: Bell, Carlson, Wuerch, Taylor, Von Gemmingen, Meyer, Kendall.

Ms. Clementson said she could not support this rezoning, because there is an adequate supply of B-3 properties in the area. She felt the existing land should be used before resorting to rezoning.

Chair Von Gemmingen disclosed she is part owner of a property at the intersection of Tudor Road and Cordova Street, across the street from the subject parcel.

Question was called on the motion to adopt AO 98-184 as amended and it passed:

AYES: Bell, Carlson, Wuerch, Von Gemmingen, Meyer, Abney, Kendall, Murdy.

NAYS: Taylor, Wohlforth, Clementson.

Ms. Clementson moved,  
seconded by Mr. Wohlforth,  
and it passed without  
objection,

to extend the public hearing portion of the meeting  
to consider items 12.A, B, C and 12.K, AO 98-189,  
AR 98-396, AR 98-401 and AO 98-191.

- A. Ordinance No. AO 98-189, an ordinance of the Municipality of Anchorage, Alaska, **amending Ordinance No. AO 98-152(S)** to authorize the Chief Fiscal Officer to negotiate and execute a contract for the purchase and sale of not to exceed \$55,900,000 in aggregate principal amount of General Obligation School Bonds of the Municipality and related matters, Finance.
1. Assembly Memorandum No. AM 1166-98.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved,  
seconded by Mr. Wuerch,

to adopt AO 98-189.

In response to Mr. Bell, Chief Fiscal Officer Soren Orley confirmed that the Municipality sells school bonds as the Municipality, and then makes the funds available to the School District. He said interest rates would not improve with an increased amount of the bond. However, with a larger bond, the amount the Municipality pays to specialty contractors may be slightly less. Mr. Orley said it is possible to combine the sales of multiple bonds. This has been done in the past, when the timing was right to achieve a savings. Combining is considered on every sale issue.

Question was called on the motion to adopt AO 98-189 and it passed:

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Murdy.

NAYS: None.

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

- B. Resolution No. AR 98-396, a resolution of the Municipality of Anchorage, Alaska, accepting and appropriating a State of Alaska Drinking Water Fund loan offer in the amount of \$3,700,000 for **financing a portion of the costs of the Airport Water Project Phase IB (Anchorage Loop Transmission Main Phase VII)**, Water and Wastewater Utility.

1. Assembly Memorandum No. AM 1147-98.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 98-396.  
seconded by Ms. Taylor,

AYES: Bell, Carlson, Wuerch, Taylor, Von Gemmingen, Clementson, Meyer, Abney, Murdy.  
NAYS: None.

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

- C. Resolution No. AR 98-401, a resolution of the Municipality of Anchorage appropriating the sum of \$148,500 from the State of Alaska, Department of Public Safety, Highway Safety Planning Agency, and \$16,500 as a contribution from the 1998 Anchorage Metropolitan Police Service Area operating budget to the State Categorical Grants Fund (0231) for this **traffic enforcement program**, Anchorage Police Department.
  1. Assembly Memorandum No. AM 1167-98.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to approve AR 98-401.  
seconded by Mr. Meyer,

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Murdy.  
NAYS: None.

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

- D. Resolution No. AR 98-397, a resolution **selecting a site for a future elementary school in Muldoon**, to consist of two parcels totaling 24.4 acres, described as the N 1/2 NW 1/4 NE 1/4 and the East 480 Feet of the SE 1/4 NW 1/4 NE 1/4, Section 25, Township 13N, Range 3W, Seward Meridian, Alaska, and generally located southeast of the Muldoon Road/Northern Lights Boulevard Intersection, Community Planning and Development.
  1. Assembly Memorandum No. AM 1148-98.
- E. Ordinance No. AO 98-190, an ordinance of the Municipality of Anchorage **creating Alley Paving Special Assessment District 1P98 - 'H' Street/'I' Street Alley from West Fifteenth Avenue to West Sixteenth Avenue** and determining to proceed with proposed improvements therein, Public Works.
  1. Assembly Memorandum No. AM 1144-98.

Items 12.D. and 12.E. were continued until January 12, 1999.

- F. Ordinance No. AO 98-192, an ordinance amending AMC 9.42.020 by adding a new Subsection pertaining to the **designation of areas, trails and other specifically designated rights of way for the lawful use and operation of snowmachines**, Assemblymember Carlson.
  1. Assembly Memorandum No. AM 1195-98.

This item was continued until February 9, 1999 by a motion passed earlier in the meeting.

- G. Resolution No. AR 99-1, a resolution of the Anchorage Municipal Assembly approving a conditional use for sales of alcoholic beverages (Beverage Dispensary Duplicate Liquor License) located on Lampert Subdivision, Block 3, Lot 34 and the N 75' of Lots 32 & 33, generally located on the southeast corner of East Fireweed Lane and Fairbanks Street (Steven Fibranz d.b.a. **Steve's Sports Bar and Grill**) (Case 99-010), Community Planning and Development.
  1. Assembly Memorandum No. AM 16-99.
- H. Resolution No. AR 98-381, a resolution determining whether to protest the continued operation of the license for the sale of alcoholic beverages held by C & L Enterprises, Inc. d/b/a **Alaska Liquor Store #1**, located at 2607 "A" Street, Anchorage, Alaska, Assemblymembers Wuerch, Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Taylor, Von Gemmingen, and Wohlforth.
- I. Resolution No. AR 98-410, a resolution determining whether to protest the renewal of the beverage dispensary license and duplicate license for LLD, Inc. d/b/a **The Hub** located at 122 E. Fourth Avenue, Anchorage, Alaska, Assemblymember Wohlforth.
- J. Ordinance No. AO 98-188, an ordinance amending Title 21 of the Anchorage Municipal Code of Ordinances amending the B-2A, Central Business District, Core, B-2B Central Business District, Intermediate and B-2C, Central Business District, Periphery, to limit the number of **streetscape bonus points** to the amount needed for required site minimums or 25 percent of the points required for the development, to allow streetscape bonus points for only shops with windows at street level, and to set minimum standards for windows at street level and to require such windows, Community Planning and Development.
  1. Assembly Memorandum No. AM 1102-98.

Items 12.G. through 12.J. were continued until January 12, 1999.

- K. Ordinance No. AO 98-191, an ordinance amending Anchorage Municipal Code Sections 21.87.030, 21.87.035, 21.87.037 to **allow a prime contractor to post the performance bond guaranteeing improvements and warranties in subdivision agreements** directly with the Municipality and subject to Municipality control, Legal Department.
1. Assembly Memorandum No. AM 1168-98.

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

BOB CLINE, with LH Construction and many other companies, discussed the need for third party bonding. He pointed out Municipal subdivision agreements currently require a bonding guarantee for construction. Many times a developer will provide a first deed of trust to fulfill this requirement. Mr. Cline said approval of third party bonding will make life easier, and help hold down the rising cost of construction.

Chair Von Gemmingen asked if anyone else wished to speak. There was no one, and she closed the public hearing.

Mr. Murdy moved, to adopt AO 98-191.  
seconded by Ms. Clementson,

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Kendall, Murdy.  
NAYS: None.

The Assembly then returned to item 8.E.4, AM 36-99.

Assembly Memorandum No. AM 36-99, proprietary service contract with law offices of Mitchell D. Gravo, Inc. for **1999 lobbyist services**, Executive Manager's Office.

Mr. Bell explained he pulled this item because he mistakenly recalled a conversation when lobbyist services was considered last year. He recommended approval of the memorandum. However, he was still interested in changing the selection process.

Mr. Bell moved, to approve AM 36-99.  
seconded by Mr. Meyer,

Ms. Clementson requested a list of Mr. Gravo's other clients. She felt it was important to review all the lobbyists clients to avoid potential conflicts.

Chair Von Gemmingen added that the contractor should notify the Assembly in writing when any clients are added or removed.

Mr. Wuerch pointed out that the Alaska Public Offices Commission (APOC) web page on the Internet lists lobbyists' client contracts with dollar amounts.

Question was called on the motion to approve AM 36-99 and it passed:

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Meyer, Abney, Kendall, Murdy.  
NAYS: None.

- L. Ordinance No. AO 98-184, an ordinance amending the zoning map and providing for the rezoning from R-O (Residential Office District) and R-OSL (Residential Office District) with Special Limitations to B-3 (General Business District) with Special Limitations for **Tract A, Hardware Subdivision**, generally located on the north side of East Tudor Road and west of Denali Street (Spenard Community Council) (Planning and Zoning Commission Case 98-197), Assemblymembers Wuerch and Meyer.
1. Information Memorandum No. AIM 2-99, AO 98-184; Planning and Zoning Commission recommendation on rezoning of Hardware Subdivision, Tract A, Community Planning and Development.

This item was considered earlier in the meeting. See before item 12.A.

- M. Resolution No. AR 98-409, a resolution of the Anchorage Municipal Assembly providing for a **revision to the 1999 General Government Operating Budget**, Assemblymember Bell.
1. Assembly Memorandum No. AM 50-99.

This item was continued until January 12, 1999.

### 13. BOARD OF ADJUSTMENT/ASSEMBLY APPEALS:

- A. Appeal S-10284, Nixa Subdivision, Clerk's Office.  
(CARRIED OVER FROM 12-15-98)
- B. Appeal S-10054, Denali View Subdivision.

Ronald Baird, attorney for the Assembly sitting as the Board of Adjustment, described the Board's options. He said the Board may affirm the decision of the lower body, reverse the decision of the lower body, or remand the appeal to the lower body for further consideration.

Ms. Clementson moved,  
seconded by Ms. Abney,

to substitute the judgment of the Board of Adjustment in Appeal S-10054, that there is not adequate water, thus the developer did not meet the requirement that there be a showing of adequate water supply. Also, the proposed plat does not promote the public health, safety and welfare because it will cause undo and unreasonable impact to surrounding subdivisions.

Ms. Clementson felt there was substantial evidence on both sides of the record. Both sides had geologists study test results, who concluded there would be plenty of water available. There was also information to support that existing homeowners in Scimitar Subdivision could be negatively impacted by the addition of eleven wells. Ms. Clementson noted the Platting Board considered the case for about one year. She said originally, the developer wished to plat into large lots and install eleven wells. Water tests initially showed no problems. Upon further examination, there were questions on whether the tests were sufficient. At that time, the State Department of Environmental Conservation and Department of Natural Resources were involved and also had questions about the adequacy of the tests. During this time, a new calendar year arrived, and the State departments left the equation because of a change in State regulations. Ms. Clementson said there is a great deal of public testimony in the record about what is happening with existing wells. Residents testified they had to install storage tanks to store hauled water, in order to have an adequate supply. They can barely do anything with water other than take showers. She referred to page 97 of the record, where a woman named Jennifer Carlson testified. Ms. Carlson said her well was fine for five years. Two days after a test well was drilled on a lot across the street from their home, the Carlson's well failed. Ms. Clementson felt this was direct evidence that there was a potential for other problems. There are other incidents similar to that experienced by the Carlsons. According to the record, in Scimitar Subdivision there are many 500-foot wells that don't produce enough water. There are other people with 700 or 900-foot wells that are dry. When half the residents in Scimitar Subdivision are hauling water, care should be taken when considering adding new adjacent development. She added that State Statute 46.15.050b provides that water rights are granted to whoever files first, rather than who owns a well first. She said if residents in Scimitar Subdivision ever have problems with their wells as a result of the proposed development, they would not have recourse to protection by the State. The developer filed for water rights before Scimitar residents, and he has the rights although he has no wells yet. She asked Mr. Baird to note this last point in his findings.

Mr. Wohlforth said there is no indication why Mr. Cross from the Health and Human Services Department finally changed his mind, and after a meeting with the petitioner said there was no problems with the water. Mr. Wohlforth noted the Platting Board did not ask Mr. Cross why he changed his mind. He felt that information is important. He felt a remand might be more appropriate if the facts are in dispute.

Mr. Bell felt the appropriate statement, if a judgment was substituted, would be that upon reviewing the same fact that the Platting Board reviewed, the Assembly came to a different conclusion. The conclusion that there is inadequate water and the surrounding area would be damaged by the proposed development.

Ms. Clementson moved,  
seconded by Mr. Wuerch,  
and it passed without  
objection,

to extend the meeting to allow completion of  
this item.

Mr. Wohlforth moved,  
seconded by Ms. Clementson,  
and it passed with Mr. Bell  
objecting,

to extend the meeting to allow completion  
of item 13.A, appeal S-10284, Nixa Subdivision.

Mr. Kendall pointed out the Platting Board heard testimony from two professionals, and the residents of Scimitar Subdivision. Homeowners provided evidence that there was adequate water when the subdivision was first built, but it was not long before additional wells had to be drilled in many locations. Residents have had to resort to hauling water to their homes, which proves there is not adequate water in the area. So it is up to the petitioner to prove there is sufficient water on his property, and wells drilled will not adversely affect adjacent properties. The Health and Human Services Department did not give clear direction about whether there is adequate water. Mr. Kendall felt there was not enough evidence for the Platting Board to make a decision approving the plat.

In response to Mr. Wohlforth, Mr. Baird said if the Assembly substitutes its own judgment and denies the plat, the matter is concluded. However, the Assembly could also express views on some of the legal issues.

Mr. Wohlforth said he would support Ms. Clementson's motion. If that motion fails, he would recommend remand to the Platting Board on two issues. The Board seemed to defer entirely to Mr. Cross's opinion, and did not question him as to why he changed his mind on the water issue. Mr. Wohlforth felt the Board had an obligation to question Mr. Cross on his reasoning. Also, they should have discussed whether a trail easement was needed without regard to the Trails Plan.

Question was called on Ms. Clementson's motion to substitute the judgment of the Board of Adjustment in appeal case S-10054, Denali View Subdivision, and it passed:

AYES: Bell, Carlson, Wuerch, Taylor, Wohlforth, Von Gemmingen, Clementson, Abney, Kendall.  
NAYS: Meyer, Murdy.

Mr. Wohlforth moved,  
seconded by Mr. Murdy,

to affirm the decision of the Platting  
Board in appeal case S-10284, Nixa Subdivision.



Mr. Wohlforth felt the appellant did not point out any errors in law or procedures in the Platting Board's decision.

Mr. Kendall concurred. He felt the Platting Board acted appropriately.

Question was called on the motion to affirm the Platting Board's decision in case S-10284, Nixa Subdivision, and it passed:

AYES: Bell, Wuerch, Taylor, Wohlforth, Von Gemmingen, Meyer, Abney, Kendall, Murdy.  
NAYS: Carlson.

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

14. **SPECIAL ORDERS:** None.

15. **ASSEMBLY COMMENTS:** None.

16. **UNFINISHED AGENDA:** None.

17. **AUDIENCE PARTICIPATION:** None.

18. **EXECUTIVE SESSIONS:** None.

19. **ADJOURNMENT:**

Mr. Murdy moved, to adjourn.  
seconded by Mr. Meyer,  
and it passed without  
objection,

The meeting adjourned at 11:30 p.m.

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Chair

ATTEST:

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Municipal Clerk

Date Minutes Approved: March 23, 1999

VC/db

**INDEX**

*Subject*

Alaska Center For The Performing Arts ..... 3

Alley Paving Special Assessment District ..... 14

Anchorage Convention And Visitors Bureau ..... 3

Anchorage Golf Course..... 3

Anchorage Loop Water Transmission Main ..... 14

Anchorage School District ..... 2

Appeals

    Case S-10236, East Addition Anchorage Townsite..... 3

    S-10054, Denali View Subdivision ..... 16

    S-10284, Nixa Subdivision..... 15

Appearance Requests

    Bud Knox - Snow Removal..... 8

    Kendra Taber - Police Service ..... 8

Bus Stop Zones ..... 6

Central Business District..... 14

Child Care Licensing Program ..... 2

Computer Hardware And Software Maintenance ..... 3

Conditional Use For Sales Of Alcoholic Beverages ..... 14

Conditional Use Revocation..... 11

Conflict Of Interest..... 13

Copying Services For Recorded Documents ..... 3

Eagle River Water Transmission Main ..... 7

Egan Center Skybridge ..... 3

Egan Civic And Convention Center..... 3

Electronic Meter Reading Systems ..... 3

General Government Operating Budget ..... 15

Indigent Defense Conflict Case Services ..... 3

Internal Audit Report ..... 4, 5

Jail Replacement ..... 3, 5

Junk Vehicles ..... 3

King Street Reconstruction ..... 3

Lake Otis Parkway Surface Rehabilitation ..... 3

Legislative Program..... 5

Light Duty Vehicles ..... 1

Liquor License Protest..... 14

Liquor Licenses ..... 2, 3, 4, 8, 14

Lobbyist Services ..... 3, 5, 15

Merrill Field Airport ..... 3

Mobile Data Technology In-Car Computer System..... 1

Muldoon Elementary School..... 14

Police Department ..... 1

Recognizing

    Samuel G. Cornell ..... 2, 4

Rezoning ..... 8, 12, 15

School Bonds..... 13

School Site Selection ..... 14

Senate Bill 231 ..... 2

Sewer Replacement And Rehabilitation..... 1

Sewer Special Assessment District ..... 8

Snowmachine Operating Areas Designation ..... 14

South Anchorage Park Improvement Project..... 3

State Of Alaska Legislative Grants ..... 2

Streetscape Bonus Points ..... 14

Subdivision Agreements - Developer Requirements ..... 15

Summons And Complaint Citation Process ..... 4, 5

Towing And Removal Services ..... 3

Town Square Fountain ..... 2

Traffic Enforcement Program..... 14

Transportation - Seniors/Disabled ..... 2

Underground Storage Tanks ..... 2

Utility Trucks ..... 1

Vehicles Standing, Stopping Or Parking..... 6