

MUNICIPALITY OF ANCHORAGE

ANCHORAGE ASSEMBLY

Minutes for Regular Meeting of March 23, 1999

1. CALL TO ORDER:

The meeting was convened at 5:05 p.m. by Assembly Chair Fay Von Gemmingen 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 (5:10 p.m.), Kevin Meyer, Pat Abney, Dan Kendall, Joe Murdy.

Absent: None.

3. PLEDGE OF ALLEGIANCE:

The pledge was led by Mr. Bell.

4. MINUTES OF PREVIOUS MEETING:

A. Regular Meeting - January 5, 1999

Mr. Murdy moved, to approve the minutes of the previous meeting,
seconded by Mr. Wuerch,
and it passed without
objection.

5. MAYOR'S REPORT:

Mayor Mystrom stated that he did not have a report at this time

Mr. Wohlforth proffered an apology to Mayor Mystrom about the comments attributed to him, about the mayor's performance, in the newspaper. Mr. Wohlforth averred that these were not comments he had made, nor were they his beliefs or opinions. In fact, the reporter admitted that there was an error.

Mr. Wohlforth also made note of the Olympics scandal. He commented that it has been a great satisfaction to see that it has not affected Anchorage's Olympic bid. It was his opinion that had the game been fair, Anchorage would have hosted the Olympics. He felt that, because of this, Anchorage truly won by not having become involved in improper conduct. Mr. Wohlforth stated the hope that Mayor Mystrom, when his term was over, would consider giving this another try. It was his belief that Anchorage's good reputation would benefit any future bids.

Mayor Mystrom thanked Mr. Wohlforth for his comments.

6. ADDENDUM TO AGENDA:

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

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

A. BID AWARDS:

1. Assembly Memorandum No. AM 299-99, recommendation of award to Construction Machinery, Inc. for furnishing an **all wheel drive motor grader** to the Municipality of Anchorage, Department of Property and Facility Management (ITB 99-B001), Purchasing.
2. Assembly Memorandum No. AM 305-99, recommendation of award to Alaska Fleet Services, Inc. for providing **16 cubic yard dump trucks** to the Municipality of Anchorage, Merrill Field Airport (ITB 99-B005), Purchasing.

B. ORDINANCES AND RESOLUTIONS FOR INTRODUCTION:

1. Ordinance No. AO 99-59, an ordinance of the Municipality of Anchorage Assembly **approving the sale of Heritage Land Bank Parcels 1-063 and 1-070**, known as Lots 116 and 138/139, Section 25, Township 14 North, Range 2 West, Seward Meridian for fair market value or above, Heritage Land Bank. public hearing 4-6-99.
 - a. Assembly Memorandum No. AM 290-99.
2. Resolution No. AR 99-55, a resolution of the Municipality of Anchorage appropriating \$199,000 from the Southcentral Foundation to the Federal Categorical Grants Fund (241) for the purpose of providing **emergency alcohol services**, Health and Human Services. public hearing 4-6-99.
 - a. Assembly Memorandum No. AM 279-99.
3. Resolution No. AR 99-60, a resolution of the Municipality of Anchorage appropriating \$160,000 from the Areawide General (0101) Fund Balance to the Office of the Municipal Attorney to **secure additional contract legal services for the sale of the Anchorage Telephone Utility**, Legal Department. public hearing 4-6-99.
 - a. Assembly Memorandum No. AM 291-99.
4. Resolution No. AR 99-61, a resolution of the Municipality of Anchorage appropriating \$463,000 from the retained earnings of the Equipment Maintenance Fund (601) to the Equipment Maintenance 1999 Operating Budget to **cover additional depreciation expense**, Property and Facility Management. public hearing 4-6-99.
 - a. Assembly Memorandum No. AM 292-99.
5. Resolution No. AR 99-65, a resolution of the Municipality of Anchorage revising the 1999 General Government Operating Budget to **provide for an increase of salaries in accordance with the Anchorage Joints Craft Council contract agreement**, Office of Management and Budget. public hearing 4-6-99.
 - a. Assembly Memorandum No. AM 300-99.
6. Resolution No. AR 99-66, a resolution of the Municipality of Anchorage appropriating up to \$1,200,000 from the Heritage Land Bank Operating Fund (221) to the Heritage Land Bank Capital Fund (421) for the **purchase of vacant land in downtown Eagle River**, Heritage Land Bank. public hearing 4-6-99.
 - a. Assembly Memorandum No. AM 301-99.
7. Ordinance No. AO 99-60, an ordinance amending Anchorage Municipal Code Title 2 to enact a **Demerit Point System** to identify potential and actual problem alcoholic beverage licensees and establish standards and procedures for the assignment of points, notices, hearings and Assembly action on warnings to potential problem licensees and Assembly protests of the issuance, renewal, transfer and continued operation of an alcohol beverage license and Assembly issuance, revocation or modification of or imposition of conditions on conditional land use permits for the retail sale of alcoholic beverages, Assemblymember Wohlforth. public hearing 4-27-99. **(addendum)**
 - a. Assembly Memorandum No. AM 314-99.

C. RESOLUTIONS FOR ACTION:

1. Resolution No. AR 99-63, a resolution of the Anchorage Municipal Assembly **recognizing and thanking Kathleen Plunkett for her service as Chair of the Federation of Community Councils**, Assemblymember Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Von Gemmingen, Taylor, Wohlforth, and Wuerch.

Mr. Meyer asked this item be considered under the Regular Agenda. See Item 8.D.

2. Resolution No. AR 99-64, a resolution of the Anchorage Municipal Assembly **recognizing and honoring the East High School Music Department** for being selected as a Grammy Signature Schools Gold Recipient, Assemblymember Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Von Gemmingen, Taylor, Wohlforth, and Wuerch.

Mr. Meyer asked this item be considered under the Regular Agenda. See Item 8.D

3. Resolution No. AR 99-56, a resolution of the Municipality of Anchorage providing for the appropriation of \$38,000 donated from the Friends of the Library to the Miscellaneous Operational Grants Fund (261) for the **purchase of computer equipment and software, library books and materials and to support the Youth Services' programming for the branch libraries**, Cultural and Recreational Services/Library.
 - a. Assembly Memorandum No. AM 280-99.
4. Resolution No. AR 99-57, a resolution authorizing the Municipality of Anchorage, Public Transportation Department, to enter into a Transfer of Responsibilities Agreement (TORA) in the amount of \$15,000 with the State of Alaska, Department of Transportation and Public Facilities for **financing an Alaska Bus and Van Rodeo** and appropriating these funds to the State Categorical Grants Fund (231), Public Transportation.
 - a. Assembly Memorandum No. AM 281-99.
5. Resolution No. AR 99-58, a resolution of the Municipality of Anchorage appropriating \$50,000 from the State of Alaska, Department of Transportation and Public Facilities, and \$1,195 as a contribution from the 1999 APD Operating Budget to the State Categorical Grants Fund (0231) for a **motor carrier safety assistance program**, Anchorage Police Department.
 - a. Assembly Memorandum No. AM 282-99.

6. Resolution No. AR 99-59, a resolution of the Anchorage Assembly approving the **1999 Heritage Land Bank Work Program**, Heritage Land Bank.
 - a. Assembly Memorandum No. AM 289-99.

Mr. Carlson asked this item be considered under the Regular Agenda. See item 8.D.

7. Resolution No. AR 99-62, a resolution of the Municipality of Anchorage appropriating \$5,000 to the Miscellaneous Operating Grants Fund (0261) from ARCO Alaska, Inc. for the **Municipal "Tremendous Anchorage" Program**, Cultural and Recreational Services.
 - a. Assembly Memorandum No. AM 293-99.
8. Resolution No. AR 99-67, a resolution of the Anchorage Municipal Assembly appropriating \$86,560 from Areawide General Fund Balance (101) for an **Eagle River Central Business District Urban Design Plan and Pedestrian Circulation Study**, Community Planning and Development.
 - a. Assembly Memorandum No. AM 302-99.
9. Resolution No. AR 99-68, a resolution of the Municipality of Anchorage appropriating \$30,000 from the Areawide General (101) Fund Balance to Community Planning and Development to **obtain professional legal services to represent the Municipality of Anchorage regarding *Beirne v. MOA***, Legal Department.
 - a. Assembly Memorandum No. AM 303-99.
10. Resolution No. AR 99-69, a resolution **supporting the passage of Senate Bill 55 or House Bill 77 establishing a Joint Armed Services Committee** as a permanent interim committee of the Alaska State Legislature.
 - a. Assembly Memorandum No. AM 304-99.

D. NEW BUSINESS:

1. Assembly Memorandum No. AM 283-99, **Uncle Joe's Pizzeria** - New Restaurant/Eating Place Liquor License and Restaurant Designation Permit (Bayshore-Klatt/Huffman-O'Malley Community Councils), Clerk's Office.
2. Assembly Memorandum No. AM 286-99, **Carpentier's Cocktail Lounge** - Transfer of Ownership of a Beverage Dispensary Liquor License (Mt. View/Northeast/Russian Jack Community Councils), Clerk's Office.
3. Assembly Memorandum No. AM 287-99, **Humpy's Great Alaskan Alehouse** - Restaurant Designation Permit (Downtown Community Council), Clerk's Office.

Mr. Wohlforth asked this item be considered under the Regular Agenda. See item 8.E.

4. Assembly Memorandum No. AM 288-99, **La Cabana Restaurant** - Transfer of Ownership of a Beverage Dispensary Liquor License (Downtown/Fairview/Government Hill/Mt. View Community Councils), Clerk's Office.
5. Assembly Memorandum No. AM 284-99, approval of sole source award to obtain **professional legal services** from the law firm of Preston Gates & Ellis LLP to assist and advise Municipal Light and Power with the matters listed below, Legal Department.
6. Assembly Memorandum No. AM 285-99, change order No. 3 to purchase order 73696 with Bloomberg LP for providing **market rate services** for the Municipality of Anchorage, Finance Department/Purchasing Department.

Mr. Wuerch asked this item be considered under the Regular Agenda. See item 8.E.

7. Assembly Memorandum No. AM 294-99, change order #1 to 1991-1999 contract with Delisio, Moran, Geraghty & Zobel, P.C. to provide **legal services**, Finance.
8. Assembly Memorandum No. AM 295-99, approval of authorization for **Westlaw Computer Assisted Legal Research services** provided by West Group, Inc., Legal Department.
9. Assembly Memorandum No. AM 296-99, amendment No. 3 to **professional consulting services agreement, Assessment Management System**, Water and Wastewater Utility.
10. Assembly Memorandum No. AM 297-99, change order No. 5 to purchase order 73756 with HRC, Inc. for the **operation of the Job Training Partnership Act (JTPA)/State Training and Employment Programs (STEP) in the Matanuska-Susitna Borough** for the Municipality of Anchorage, Department of Health and Human Services/Purchasing.
11. Assembly Memorandum No. AM 298-99, sole source contract with eXegeSys, Inc. for providing **computer programming services** to the Municipality of Anchorage, Municipal Light and Power/Purchasing.
12. Assembly Memorandum No. AM 306-99, proprietary approval for **library network services** from OCLC/WLN for the Municipality of Anchorage, Department of Cultural and Recreational Services/Purchasing.
13. Assembly Memorandum No. AM 307-99, sole source procurement authorization from various suppliers to support **power generation plant operations** for the Municipality of Anchorage, Municipal Light and Power/Purchasing.
14. Assembly Memorandum No. AM 308-99, change order No. 5 to purchase order 62083 with Betz Dearborn for furnishing **boiler and cooling water treatment chemicals** to the Municipality of Anchorage, Municipal Light and Power/Purchasing.
15. Assembly Memorandum No. AM 309-99, change order No. 14 to purchase order 53821 with Skyline Electric for furnishing **repair/installation of street lights/poles, traffic signals, lift stations, and thaw wires** to the Municipality of Anchorage, Public Works Department/Purchasing.

16. Assembly Memorandum No. AM 310-99, change order No. 3 to purchase order 81851 to exercise the first option period with Denali Trucking for **rental of belly dumps with operators** for the Municipality of Anchorage, Public Works Department/Purchasing.
17. Assembly Memorandum No. AM 311-99, change order No. 1 to purchase order 81582 to exercise the first option period with Yukon Fire Protection Services for furnishing **halon and dry chemical fire suppression maintenance services** to the Municipality of Anchorage, Department of Property and Facility Management/Purchasing.
18. Assembly Memorandum No. AM 312-99, change order No. 1 to purchase order 73348 to exercise the first option period with Van Waters & Rogers for providing **dry polymer** to the Municipality of Anchorage, Water and Wastewater Utility/ Purchasing.

E. INFORMATION AND REPORTS:

1. Information Memorandum No. AIM 32-99, **report of Public Works construction contract agreements**, Public Works.
2. Information Memorandum No. AIM 33-99, **contracts awarded between \$30,000 and \$100,000 through formal competitive processes** for the months of January and February 1999, Purchasing.
3. Information Memorandum No. AIM 34-99, **Sole Source Procurement Report** for the months of January and February 1999, Purchasing.

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 99-63, a resolution of the Anchorage Municipal Assembly **recognizing and thanking Kathleen Plunkett for her service as Chair of the Federation of Community Councils**, Assemblymember Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Von Gemmingen, Taylor, Wohlforth, and Wuerch.

Mr. Meyer moved, to approve AR 99-63.
 seconded by Ms. Clementson,
 and it passed without
 objection.

Ms. Clementson presented the resolution to Ms. Plunkett.

Mr. Meyer recognized and thanked Ms. Plunkett for her contributions and services.

Ms. Plunkett expressed her appreciation to the Chair, the Assembly, her family, her fellow board of delegates and officers and staff.

2. Resolution No. AR 99-64, a resolution of the Anchorage Municipal Assembly **recognizing and honoring the East High School Music Department** for being selected as a Grammy Signature Schools Gold Recipient, Assemblymember Abney, Bell, Carlson, Clementson, Kendall, Meyer, Murdy, Von Gemmingen, Taylor, Wohlforth, and Wuerch.

Mr. Meyer moved, to approve AR 99-64.
 seconded by Mr. Wuerch,
 and it passed without
 objection,

Mr. Meyer presented the resolution to the musicians.

Mr. Wuerch expressed recognition and honor for East High School Music Department, especially Margaret David, Fine Arts Chair; Jainie Dudley, Choir Director and James Bowers, Band Director.

A woman from the East High faculty expressed the appreciation of the East High School Music Department, and introduced the members of the East High String Quartet that had entertained the Assembly earlier in the evening.

Ms. Abney added her congratulations, pointing out that this was another example of the fine young people and the wonderful school district here in Anchorage.

3. Resolution No. AR 99-59, a resolution of the Anchorage Assembly approving the **1999 Heritage Land Bank Work Program**, Heritage Land Bank.

Mr. Carlson moved, to approve AR 99-59.
Mr. Wuerch seconded,

In response to Mr. Carlson, Heritage Land Bank Director Larry Houle explained that a mail-out was done to the entire list of community councils, to include the Federation of Community Councils, on October 23rd. There is a 45-day notice requirement in the municipal code. He stated his belief that the mailing had gone out on time because it was anticipated to have this resolution before the Assembly this last January. Telephone calls were made, and only the Birchwood Community Council responded that they had not received this mailing. All other councils confirmed reception of this mailing.

Mr. Carlson moved, to postpone action on AR 99-59 until April 27, 1999 to allow
seconded by Ms. Clementson, time to mail notices again.
and it passed without
objection,

E. NEW BUSINESS:

1. Assembly Memorandum No. AM 287-99, **Humpy's Great Alaskan Alehouse** - Restaurant Designation Permit (Downtown Community Council), Clerk's Office.

Mr. Wohlforth moved, to approve AM 287-99.
seconded by Mr. Wuerch,

Mr. Wohlforth asked if there was a representative for the applicant present. There was no response.

Mr. Wohlforth expressed his concern, stating that he viewed Humpy's as primarily a tavern. He pointed out the purpose of this permit was to allow individuals as young as 16 years of age, to work at and/or patronize the establishment, without a parent or guardian. He felt that was not justified, but he would like to hear an explanation from the establishment in question. He requested that the applicant be asked to attend the April 6, 1999 meeting of the Assembly.

Mr. Wohlforth moved, to postpone action on AR 99-59 until April 6, 1999, and to
seconded by Mr. Murdy, request the applicant to appear at that meeting to address the
and it passed without above concerns.
objection,

2. Assembly Memorandum No. AM 285-99, change order No. 3 to purchase order 73696 with Bloomberg LP for providing **market rate services** for the Municipality of Anchorage, Finance Department/Purchasing Department.

Mr. Wuerch moved, to approve AM 285-99.
seconded by Mr. Murdy,
and it passed without
objection,

In response to Mr. Wuerch, Executive Manager Elaine Christian responded that this also includes access to other Bloomberg services that relate to equities.

F. INFORMATION AND REPORTS: None.

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

- A. **NOTICE OF RECONSIDERATION:** Ordinance No. AO 99-46(S), an ordinance determining and approving the total amount of the **annual operating budget of the Anchorage School District for its Fiscal Year 1999-2000** and determining and appropriating the portion of the Assembly approved budget amount to be made available from local sources, Anchorage School District.
1. Assembly Memorandum No. AM 245-99.
 2. Assembly Memorandum No. AM 313-99, Mayor's Office. (**addendum**)
(APPROVED 3-16-99; RECONSIDERATION WAS ENTERED ON THE MINUTES 3-16-99)

Chair Von Gemmingen gave the history of the resolution and noted the question of whether to reconsider action was on the floor.

In response to Mr. Bell, Janet Stokesbary of the Anchorage School District (ASD) said that the \$12.00 tax increase was an estimate, and may actually be high. She stated that the rate that was actually calculated using last year's budget was actually \$7.77, and that was because the entire assessed valuation of the Municipality has increased since last year. Ms. Stokesbary understood that the assessed valuation will be changing as much as two more times before the mill rate is actually set in the latter part of April. It is because the assessed valuation has gone up from \$13.6 billion to approximately \$14.5 billion. When the amount for taxes being requested for each of the years is divided up, it generates an approximated \$12.00 difference per \$180,000 real property valuation.

In response to Mr. Bell, Mayor Mystrom stated that for every \$1,000,000 increase in taxes, there is approximately a \$12.00 increase per \$180,000 home.

Gene Dusek Director of the Office of Management and Budget stated that per an earlier request by Mr. Bell, a recalculation was done on the property tax equivalent of the \$20,000,000 in new items being requested in the budget. The \$7.3 million total property tax increase in the FY 99-2000, and the \$5.4 million general fund property tax increase in the proposed budget were considered. On a \$100,000 home, the \$20,000,000 divided by the new assessed valuation of \$14.5 million, is equal to \$138.00 on a \$100,000 home. For the \$7.3 million total property tax increase it comes to \$51.00 on a \$100,000 home. For the \$5.4 million general fund property tax increase, it comes to \$37.00 on a \$100,000 home. He also noted that because of the split fiscal year, only half of the property tax increase would be reflected.

In response to Mr. Bell, Ms. Stokesbary explained that the \$12.00 is the difference between the 1998 and 1999 fiscal years, which did involve only half of each year.

Mr. Bell felt there was also a question regarding the major expenditure increases, and the major expenditure reductions. He pointed out that one of the major expenditure reductions involved the average teacher salary, which is \$2.8 million, implied the anticipation of saving \$2.8 million due to lower average teacher salary.

School District Superintendent Christal replied that the average teacher salary was analyzed and lowered, based on the new employees and the different work force that resulted from the Retirement Incentive Program.

Mr. Bell referred to Mr. Christal's memo of June 25, 1998 to the Anchorage School Board, which stated that there were \$8,000,000 in under-expenditures. Quoting from the memo, Mr. Bell said that the major areas to be under-spent are salaries, fringe benefits and utilities. Salaries and fringe benefits are anticipated to be \$7,000,000 less due to the average teacher salary being lower than budget. Mr. Bell stated his understanding was that the budget for teacher salaries in this year is equivalent to last year's budget. He questioned why \$7,000,000 would not be saved instead of only \$2.8 million.

Mr. Christal and Ms. Stokesbary responded to Mr. Bell's questions regarding variables affecting teacher salaries and the relative impacts to the school budget.

Mr. Wohlforth declared a potential conflict of interest because his wife is employed by the Anchorage School District as a teacher at the Lake Otis Elementary School.

Mr. Wuerch moved,
seconded by Ms. Clementson,

the question "does Mr. Wohlforth have a substantial financial interest in the matter before the Assembly?"

AYES: None.

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

ABSTAIN: Wohlforth.

Mr. Wuerch encouraged reconsideration, asking the consideration of three important items. One, the importance of passing the school construction bond. School bonds do not always pass by a large majority. The effect of the budget increase that may cause members of the public to not support the school bond is an issue of concern. Secondly, is the point of revenue sharing. Mr. Wuerch pointed out that the Municipality of Anchorage gets approximately \$17 million from the State. Mr. Wuerch expressed the opinion that it would probably be substantially reduced, noting it has been going down at the rate of five or six percent a year. Lastly, Mr. Wuerch felt it important to try to balance the judgment with consideration to the impact of new state and federal moneys. He noted, for instance, that Senate Bill 36 gave Anchorage the benefit of a great amount of money. Mr. Wuerch believed that if the members considered these important issues, they may see the importance of voting for reconsideration.

Mr. Meyer questioned if the bonds were not passed, with consideration to the commitment of the new Russian Jack Elementary School, whether the money for this new school would need to be taken out of the fund balance.

In response to Mr. Meyer and Mr. Bell, Mr. Christal stated that the estimated cost for the Russian Jack Elementary School is \$10.9 million. A settlement was reached with the insurance company of \$5.2 million, and the assembly approved \$2 million, so there would be \$3.5 to \$4 million needed from the fund balance to cover the cost. If the bond did not pass, an additional \$2 million would be needed out of the fund balance. The fund balance is currently \$15 million.

Ms. Clementson presented to the assembly members and Mr. Christal a paper regarding mill levies that reflects the impact to both the School District and Municipality's budgets to taxes. Ms. Clementson noted that there was a significant difference regarding the \$5.4 million increase to the budget.

In response to Ms. Clementson, Mr. Christal stated that the real issue relative to taxes is the amount of taxes needed to support the school budget. The calculation was made based on a city-wide assessed valuation, and the \$7.3 million is how much the local property taxes will increase. He noted that these amounts continually modify and change.

Ms. Clementson pointed out that the challenge in understanding seemed to stem from the wrong number or formula being used, creating a discrepancy. She noted that an understanding of the full impact would be needed before action could be taken, and for that to happen, there needed to be an agreement on the actual numbers and/or formula being used.

In response to Ms. Clementson, Mr. Dusek stated that the figures he had presented to the Assembly were the property tax equivalent of the \$20 million, \$7.3 million, and \$5.4 million. He explained that it was that amount of money divided by the assessed valuation of \$14.5 million. He pointed out two reasons the numbers would be so different from the School Districts

numbers. One is that, because of the split fiscal year only half of the property tax increase would be reflected in this year's mill rate. Secondly, the mill rates had been set and the tax bills had already sent out when the State increased the amount of reimbursement for the School Districts debt service.

Ms. Clementson, reviewed the basis for the tax increase with Mr. Dusek, given the split fiscal years of the School District and Municipality. It was based on a blended rate.

There was a general discussion on whether the estimate by the school district of a \$12.00 increase represented a home valuation of \$100,000 or \$180,000 and what was the annual tax increase to taxpayers.

In response to Mr. Wohlforth, Ms. Stokesbary, broke down teacher salaries as follows: 1997-98, there was \$137,694, 000. There were 2,936 teachers, which came out to an average salary of \$47,574. In 1998-99, because of an increase in teachers, it was \$144,640,920, with 3,112 teachers and an \$46,469 average. In 1999-2000, the budgeted teacher salaries are \$143,612,808, and there are 3,150 teachers, an average of \$45,591. Ms. Stokesbary also pointed out that, since 1998-99, there was almost a six percent increase in the number of teachers.

In response to Mr. Bell, Mr. Christal pointed out that increased budget requests also reflected class size reduction, special education inclusion, and charter school issues. He also noted his pride in what has been accomplished within the Anchorage School District, with State and public support. He expressed the opinion that the increase was needed to protect the integrity of school programs.

Ms. Abney moved, to call the previous question.
seconded by Mr. Murdy,

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

Question was call on whether to reconsider action on AO 99-46(S) and it failed:

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

- B. Assembly Memorandum No. AM 271-99, Girdwood Board of Supervisors appointment (Elizabeth Wilson), Mayor's Office.
(POSTPONED FROM 3-16-99)

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

Question was called on the motion to approve AM 271-99 and it passed:

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

Mayor Mystrom introduced and welcomed Elizabeth Wilson, now appointed to the Girdwood Board of Supervisors to the Assembly.

- C. Assembly Memorandum No. AM 253-99, private development water main oversizing reimbursement for Eagle Pointe Subdivision AWWU File No. W-97-057, Water and Wastewater Utility.
(POSTPONED FROM 3-16-99)

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

Mr. Wuerch moved, to postpone action on AM 253-99 indefinitely.
seconded by Mr. Murdy,
and it passed without
objection,

- D. Resolution No. AR 99-44, a resolution of the Anchorage Municipal Assembly **directing the Municipal Administration to discontinue privatizing all or part of the Municipality's animal control services**, Assemblymember Wohlforth.
(CARRIED OVER FROM 3-2-99; POSTPONED FROM 3-16-99)

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

Mr. Wohlforth said he believed that animal control would best be operated by public employees, in order to ensure a direct line of accountability, at least in the area of enforcement, to the Mayor and to the Assembly. He also expressed his concern about awarding a \$1.5 million one-year contract under an emergency provision. He felt it should be more of a temporary measure of a few months while the issue was resolved. He encouraged the Assembly to obtain some outside legal council on the use of this emergency provision, as it could present a major change in the balance of power between the Assembly and the Mayor.

Mayor Mystrom clarified Mr. Wohlforth's misconception, stating that the contract had not been done under the emergency procedure. It was done under a waiver of bidding procedure allowed when time is crucial.

Mr. Bell encouraged a “no” vote. He pointed out that being a Municipal employee did not insure quality performance.

Mr. Wuerch stated while he shared some of Mr. Wohlforth’s concerns, this document is not the one to accomplish changes concerning enforcement. He felt the resolution should be defeated.

Mayor Mystrom encouraged the Assembly to defeat this resolution. He believed this was not the appropriate time for the proposed change, and that a good contract was in place.

Mr. Wohlforth pointed out that a positive result of this one-year contract was that it gave the Assembly an entire year to work on an in-house option. He noted that every year this creates a disruptive process with the reconsideration of contractors. He explained that this ordinance did not set out details which could be accomplished by the Assembly over the next year.

Question was called on the motion to approve AR 99-44 and it failed:

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

- E. Ordinance No. AO 99-20, an ordinance amending Anchorage Municipal Code Chapter 21.10 to **provide a public comment period on appointees to the Planning and Zoning Commission, Urban Design Commission, Platting Board and Zoning Board of Examiners and Appeals prior to Assembly confirmation**; reiterating and establishing requirements and prohibitions regarding the performance of duties by such boards and commissions and their members; and the basis of removal from office for such board and commission members' conflicts of interest, Assemblymember Clementson.
(POSTPONED FROM 2-9-99)

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

Ms. Clementson moved, to postpone action on AO 99-20 until May 25, 1999.
seconded by Mr. Kendall,
and it passed without
objection,

- F. Ordinance No. AO 98-48, an ordinance amending the zoning map and providing for the rezoning of approximately nine (9) acres from R-3 (Multi-Family Residential District) to B-3/SL (General Business District) with Special Limitations for **Tract B, Cook Subdivision**, generally located on the west side of Denali Street and south of 40th Avenue (Spenard Community Council) (Planning and Zoning Commission Case 97-164), Community Planning and Development.
1. Assembly Memorandum No. AM 166-98.
(POSTPONED FROM 3-31-98; PUBLIC HEARING WAS RE-OPENED 7-21-98; CONTINUED FROM 8-25-98; POSTPONED FROM 1-26-99)

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

Mr. Wohlforth moved, to postpone action on AO 98-48 indefinitely.
seconded by Mr. Wuerch,
and it passed without
objection,

The meeting recessed at 6:30 p.m., and reconvened at 7:10 p.m.

- G. Ordinance No. AO 99-49, an ordinance amending Title 21 of the Anchorage Municipal Code Zoning District subsections **height of principal buildings to 30 feet**, Community Planning and Development.
1. Assembly Memorandum No. AM 233-99.
(POSTPONED FROM 3-16-99)

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

Mr. Wohlforth offered that the solution could be dealt with outside this ordinance. He asked that the administration draft an ordinance that would make it clear that the measurement would be the grade before the construction of the house. With that, he would support passage of this.

Question was called on the motion to approve AO 99-49 and it passed:

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

- H. Ordinance No. AO 98-141(S), an ordinance of the Municipality of Anchorage **creating a Board of Adjustment panel separate from the Assembly**, retaining the Assembly as a Board of Adjustment panel with limited jurisdiction and delineating the respective duties, responsibilities, powers and jurisdiction with respect to appeals to the Board of Adjustment, Assemblymember Clementson.
1. Ordinance No. AO 98-141(S-1), an ordinance of the Municipality of Anchorage creating a Board of Adjustment panel separate from the Assembly, retaining the Assembly as a Board of Adjustment

panel with limited jurisdiction and delineating the respective duties, responsibilities, powers and jurisdiction with respect to appeals to the Board of Adjustment, Assemblymember Wohlforth.

2. Assembly Memorandum No. AM 64-99.
(AO 98-141(S) FAILED 12-8-98; MR. WOHLFORTH GAVE NOTICE OF RECONSIDERATION ON 12-9-98; AO 98-141(S) WAS RECONSIDERED AND POSTPONED FROM 12-15-98; CARRIED OVER FROM 1-12-99 AND 1-26-99; POSTPONED FROM 2-2-99; CARRIED OVER FROM 2-9-99, 2-23-99 AND 3-2-99; POSTPONED FROM 3-16-99)

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

Mr. Wohlforth moved, to postpone action on AO 98-141(S) indefinitely.
seconded by Mr. Kendall,

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

10. **APPEARANCE REQUESTS:** None.

11. **CONTINUED PUBLIC HEARINGS:**

- A. Ordinance No. AO 99-36, an ordinance authorizing **conveyance by quitclaim deed of any interest in Tract C1 of Plat 87-99** and authorizing acceptance by quitclaim deed of any interest in Carr-Gottstein properties in Tract A1 of Plat 87-99, Legal Department.
1. Assembly Memorandum No. AM 150-99.
(CONTINUED FROM 2-23-99)

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

Ms. Clementson moved, to adopt AO 99-36.
seconded by Mr. Wuerch,

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

- B. Ordinance No. AO 98-193, an ordinance of the Anchorage Municipal Assembly **establishing a separate trust fund for certain monies generated by the sale of Anchorage Telephone Utility other than the sale proceeds** (The Trust Fund Earnings Reserve) and a spending plan therefore, Assemblymember Wohlforth.
1. Assembly Memorandum No. AM 65-99.
2. Assembly Memorandum No. AM 166-99.
(CARRIED OVER FROM 1-12-99; CONTINUED FROM 1-26-99 AND 2-9-99)

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

CHARLES MCKEE stated his opinion that this was a good action for the Assembly to consider. He suggested that it might not go through because the Alaska Public Utilities Commission might not grant the license for the telephone utility. He noted that there would be a hearing tomorrow in reference to a complaint about the possibility of a monopoly being established. Mr. McKee stated that he was against this ordinance.

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 98-193.
seconded by Mr. Murdy,

Mr. Wohlforth pointed out that the total value of the ATU sale was \$310 million. The \$295 million sale price has to first be used to pay off ATU's debt, leaving approximately \$125 million that would go to the trust fund that is provided for in the ordinances. The other \$15 million can be spent in other ways. The ordinance that Mr. Wohlforth has presented would use it to even out the yearly investment incomes from the trust fund. It would be known as the Earnings Reserve. Under the provisions of the trust fund, the \$125 million principal could never be used. The interest first must be used for inflation-proofing. Mr. Wohlforth elaborated that with the balance of the money, there are three purposes to be met. One, is to off-set the dividend currently provided to the Municipal budget from ATU. Second, is to reduce property taxes. Third, is for reinvestment in the fund. Under his proposal, all earnings from the fund, other than those for inflation proofing, would go into the Earnings Reserve, which would be bound by the same rules. Mr. Wohlforth explained that a large Earnings Reserve would allow for variations in investments. He also explained that the challenge was that the yearly budget would need to be passed before the outcome of that year's investment was known. Mr. Wohlforth pointed out that one of the differences between his version and Mayor Mystrom's substitute version was that in the that version, the \$15 million Earnings Reserve would never be replenished.

Mayor Mystrom asked the Assembly to change the order to consider item 12.D, AO 99-50, so the two ordinances may be considered together.

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

to change the orders of the day to consider item 12.D,
AO 99-50.

Ordinance No. AO 99-50, an ordinance amending Anchorage Municipal Code Chapter 6.50 to add a new Section 6.50.060 to establish the **ATU Trust Fund**, relevant definitions, authorized investments for the investment of the ATU Trust Fund assets and to provide for the management of said Trust Fund; and to amend Anchorage Municipal Code Section 4.50.090 to increase the membership of the Investment Advisory Commission and specify new duties and responsibilities for said Commission relating to the investment of municipal funds including the ATU Trust Fund, Finance.

1. Assembly Memorandum No. AM 234-99.
2. Ordinance No. AO 99-50(S), an ordinance amending Anchorage Municipal Code Chapter 6.50 to add a new Section 6.50.060 to establish the ATU Trust Fund, relevant definitions, authorized investments for the investment of the ATU Trust Fund assets and to provide for the management of said Trust Fund; and to amend Anchorage Municipal Code Section 4.50.090 to increase the membership of the Investment Advisory Commission and specify new duties and responsibilities for said Commission relating to the investment of municipal funds including the ATU Trust Fund, Finance. **(LAID ON THE TABLE)**

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

CHARLES MCKEE stated that he had to take into consideration that there was a family relation involved in the potential sale and in establishing the trust fund. He pointed out that there was still the concern of generating a monopoly.

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

Mr. Bell moved,
seconded by Mr. Wuerch,
and it was withdrawn,

to adopt AO 99-50(S).

Mr. Bell pointed out that in Mr. Wohlforth's scenario, the trust fund would never do anything more than inflation-proof itself.

Mr. Wohlforth responded that the ordinance specifies the Earnings Reserve will be invested exactly as the trust fund, so it would also be developing earnings. Secondly, the Assembly would always have the power to put money back into the trust fund. Mr. Wohlforth continued, in response to Mr. Bell, that action by the Assembly would need to be taken in both scenarios. The real difference between the two is replenishment of the Earnings Reserve.

Mayor Mystrom discussed his version, AO 99-50(S), explaining he felt there were some misconceptions of it. He stated that both he and Mr. Wohlforth were trying to make sure there was a cushion for the trust fund and a consistency of funds available. Mayor Mystrom pointed out that in his version, there would also be a \$15 million reserve, and it does have a method for replenishing itself. Further, if there are years that the investments of the trust fund are more than is required for the budget, the Assembly will have three choices. One, if the reserve is too low, they can add to it. Two, the Assembly can choose to put it into the body of the trust fund. Finally, three, the Assembly could also use it to reduce taxes for that year. Mayor Mystrom felt that this gives the Assembly more flexibility based on the needs of any given year. He pointed out that the general guidelines need to be set, but allowance must be made for future Assemblies to make decisions based on what is needful at that time, and not on a prediction of what will be needed in the future. Mayor Mystrom continued by addressing concerns about the first year of the trust fund. He stated that there was no difference between that year and any other. It could be decided to go 12 months from the sale date, or to allow for a time period for the investments to generate, but, it should not make a significant draw on the reserves, and even if there were, there was still a mechanism for replenishing. He felt that it was important to keep the system simple, and not to get too rigid.

In response to Ms. Clementson, Mayor Mystrom stated it should be understood that in both versions, there are two funds. The trust fund, and the Earnings Reserve fund.

Ms. Clementson clarified that the difference between the two versions was in Mr. Wohlforth's version, any extra funds after inflation-proofing would automatically go into the Earnings Reserve, and in Mayor Mystrom's version, the Assembly would have to make a specific decision to put those funds in the Earnings Reserve.

Mayor Mystrom reiterated that it was a point of flexibility, giving more than one choice to the Assembly.

In response to Ms. Abney, Mayor Mystrom stated that it would be a debatable point to add a contingency for a minimum in the Earnings Reserve. He did see the possibility for adding a phrase that requires future Assemblies to maintain the Earnings Reserve.

Mr. Wohlforth said now that he understood there was also a mechanism for replenishment of the Earnings Reserve in Mayor Mystrom's version, he could see very little difference between the two, as his version also allowed for flexibility. He pointed out that in his, the funds would first go in the Earnings Reserve and then the decision made on what should be done with them. The only significant difference was making the choice every year to put funds in the Earnings Reserve or to have it happen automatically. Also, in 1999, no more than \$7.5 million would be removed. In the year 2000, it would be \$9.4 million.

In response to Mr. Kendall, Mayor Mystrom agreed that a cautious, conservative projection had been presented.

Mr. Bell expressed concern that the basic assumption being made was that, in either version, these funds were being set-up in such a way that the Assembly would be able to manipulate it. He expressed his opinion that he could not see what would be gained by putting the \$15 million in a separate fund. Mr. Bell suggested it should just be put in the trust fund with the \$125 million, as changes in the amount of funding coming in would always fluctuate.

In response to Mr. Carlson, Mayor Mystrom said that after inflation-proofing, only the excess could be used for the choices laid out. If there was not enough return from the investments to equal the budget requirements of \$9.4 million, only then would the Earnings Reserve be used, and then only to make up the difference.

Mr. Wuerch commented that he hoped the Assembly accepted the concept that there would be an annual session to decide on the distribution of earnings. He felt what was missing from both of the versions was the amount the Assembly would distribute for the benefit of the taxpayers. Mr. Wuerch submitted that there should be a definition known as dividend. He suggested a definition such as, "that portion of the fund earnings appropriated by the Assembly annually, to be paid to the Municipality." In that way, the tax benefit to citizens would be accomplished. Mr. Wuerch expressed concern for establishing the precise figure of \$9.4 million, and believed that the concept of the dividend would not require that. He suggested that instead the ordinance should state that it should be used solely in the event that earnings of the trust fund are inadequate to meet the dividend, then the Earnings Reserve would be tapped to pay the annual dividend to the Municipality.

Mayor Mystrom replied that he believed Mr. Wuerch was on the right track. He suggested that a change could be made from the statement of, "equal to \$9.4 million," to, "at least \$9.4 million."

Mr. Wohlforth expressed two concerns. First, this is a very important matter, and attempting to draft changes on the floor can lead to mistakes. He suggested that action could be delayed and considered after the consultant has reviewed it. Secondly, he believed that there was a covenant with the public to not spend more on the Municipal Budget than was being received from ATU, which is why the numbers needed to be defined. He also pointed out it is expected that the trust fund can earn an average of 4.9 percent, which is less than \$9.4 million. Mr. Wohlforth stated that both versions had equal merit, but there should be a maximum expenditure defined.

Mr. Wuerch stated he had no objection to postponing this until the next meeting as it was a very important issue.

Ms. Abney concurred with the postponement. She expressed a philosophical concern that the Assembly not fall into the trap the Legislature has fallen into with the State Permanent Fund Dividend.

Mr. Kendall felt the public understood there would be a trust fund from the sale of ATU and that would include the \$15 million, which would not be in a separate account. He also thought that Mayor Mystrom's version came closest to what was intended.

Ms. Clementson requested more detail on both versions be made available in writing.

Mayor Mystrom pointed out that an incorrect distinction was being made. He stated that the \$9.4 million would decrease property taxes just the same as any other revenues do. As a procedural issue, Mayor Mystrom encouraged the Assembly to have a special meeting if this is postponed, as the next regular meeting is canceled and there would not be another meeting until April 6th, 1999. He noted that a fund manager should be established because the sale may close soon.

In response to Mr. Bell, Municipal Attorney Mary Hughes explained why a fund manager was needed soon. The administration hoped that the requirements regarding the investment objectives would be in place so that the fund manager would know what was to be managed. The sale may close soon after April 6th. She felt it was important that a fund manager could look at a policy when they consider helping the Municipality.

In response to Mr. Bell, Executive Manager Elaine Christian said that the proposed ordinance would exempt the administration's selection of a fund manager from Title 7.

In response to Mr. Bell, Mayor Mystrom stated that the \$9.4 million figure will not impact the tax cap. It is only impacted by last year's tax cap, plus new construction, plus the Consumer Price Index and any voter-approved increases. It only impacts the government's ability to operate within the tax cap. He also pointed out that the \$15 million can only be used for the same purposes as the trust fund, and to supplement to the trust fund.

Mr. Bell expressed concern that the ordinance might be construed to mean that the trust fund could be used to supplement the Earnings Reserve. He also pointed out that the process of choosing a fund manager could proceed even if the ordinances were postponed. He urged that the Assembly approve the portion which would exempt Title 7 so the administration could proceed.

Ms. Christian clarified that procurement is an issue as well as the authorized investments. Therefore, a procurement clause as well as an investment policy would be required. The investment section through section 2 would allow creation of an investment policy and begin to select a manager.

Mr. Wohlforth moved, to postpone action on AO 98-193 until April 6, 1999.
seconded by Mr. Murdy,

Mr. Carlson noted a point of order, that there were too many motions on the floor.

Mr. Kendall pointed out that AO 98-45(S), adopted March 3, 1998, had no provisions for having two separate funds.

Mr. Murdy agreed with Mr. Kendall that the two funds were not what was presented to the voters. He also felt postponement would be in order to discuss all the ideas presented further.

Chair Von Gemmingen requested that Mr. Bell and Mr. Wuerch withdraw their motion to adopt AO 99-50(S) for the time being.

Mr. Bell withdrew his motion to approve AO 99-50(S), and Mr. Wuerch concurred.

Mr. Wohlforth pointed out that, in writing his ordinance, he was very careful not to violate the purposes of AO 98-45(S). He stated that the funds could be used for the purposes approved by the voters. As long as the same rules are applied, faith is being kept with the voters.

Mr. Kendall replied that the difference is that the \$15 million can be spent at any time by the Assembly, and reduces the fund by that amount.

Mr. Wuerch felt this discussion was a good reason to postpone.

Mr. Kendall encouraged the idea of passing the basic part of AO 99-50, although not necessarily the “S” portion. He suggested it would give the Assembly a starting point from which to build. Mr. Kendall pointed out that it could be amended, and would still allow for progress to be made in establishing the trust fund.

Question was called on the motion to postpone action on AO 98-193 until April 6, 1999 and it passed:

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

Mr. Wohlforth moved, to adopt AO 99-50 (S).
seconded by Mr. Wuerch,

Mr. Wohlforth moved, to divide the question in Section 1, subparagraphs A and B;
seconded by Ms. Clementson, from subparagraphs C.
and it passed without
objection,

Mr. Wohlforth moved, to amend AO 99-50(S) in Section 1-C, line 40, to delete the
seconded by Mr. Wuerch, words “and the ATU Trust Fund Reserve.”
and it passed without
objection,

In response to Mr. Wohlforth, Ms. Christian elaborated that the selection of the trust fund managers and the investment advisor would bring before the Assembly a number of investment firms for the Advisory Commission as well as the staff to review. The process would be based on a number of variables which would include historical performance, fees, and ability to comply with Assembly policy. Selection could occur from interviews with these investment firms or from others not yet considered. She explained that this would happen outside any RFP or bid processes. Final procurement rests with the Municipal Treasurer.

Mr. Wohlforth expressed his concern about exempting Title 7 requirements of the Municipal Code.

Mayor Mystrom suggested that subparagraph C-3 could be removed, thereby not exempting the ordinance from Title 7. He pointed out that it would still be sole source, but would come to the Assembly for approval.

Mr. Wohlforth moved, to amend AO 99-50(S) to delete in Section C-3, page 3,
seconded by Mr. Murdy, lines 8 – 10, the words “Procurement of investment
and it passed without management services related to the investment of the Fund’s
objection, assets shall be exempt from Title 7.”

(Clerk’s Note: Vice-Chair Clementson took the chair.)

Mr. Wuerch moved, to amend AO 99-50(S) on page 3, line 42, to change 60
seconded by Ms. Von Gemmingen, percent to 65 percent.
and it passed without
objection,

Ms. Von Gemmingen moved, to amend AO 99-50(S) on page 4, line 15, to change
seconded by Mr. Murdy, the rating to “BAA” above.
and it was withdrawn,

Michael O’Leary, Executive Vice-President with Callan and Associates, Investment Consultant, pointed out some possible confusion on the rating language in the ordinance and spoken to at a work session. He noted that the proposed ordinance, specifically line 25, on page 3, describes the lowest permissible rating. The discussion at the earlier work session suggested that that rating be higher, “A” rating, rather than a “BBB.” He explained that there are two primary rating services that essentially have the same rating system, with one calling the same rating BBB and the other calling it BAA. Mr. O’Leary offered that the question was whether the Assembly wanted to maximize the flexibility and keep this restriction as recommended by staff, or accept the Commission’s suggestion to restrict it to “A” or better.

Ms. Von Gemmingen withdrew her motion from the table, with the consent of Mr. Murdy.

Mr. Wohlforth confirmed with the Investment Advisory Commission members that the additional language of, “the Commission members will serve in an advisory capacity only,” satisfied their concerns. He also confirmed that the understanding of the Commission and the Assembly was that the Commission will not have liability for its advice.

Question was called on the motion to adopt the second half of the division of AO 99-50(S) as amended and it passed:

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

Mr. Wuerch moved, to postpone the first half of the division of AO 99-50(S) until
seconded by Mr. Carlson, April 6, 1999.

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

(Clerk’s Note: Chair Von Gemmingen resumed the Chair.)

- C. Ordinance No. AO 98-51, an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Chapters 11.10 - 11.40 governing the authority of the Anchorage Transportation Commission; changing the regulation of taxicabs, limousines, and vehicles for hire; **changing the regulation of chauffeurs operating taxicabs, limousines, and vehicles for hire; and changing the regulation of dispatch services**, Legal Department.
1. Assembly Memorandum No. AM 505-98.
 2. Assembly Memorandum No. AM 1169-98, Transportation Inspection.
 3. Ordinance No. AO 98-51(S), an ordinance of the Municipality of Anchorage amending Anchorage Municipal Code Chapters 11.10 - 11.40 governing the authority of the Anchorage Transportation Commission; changing the regulation of taxicabs, limousines, and vehicles for hire; changing the regulation of chauffeurs operating taxicabs, limousines, and vehicles for hire; and changing the regulation of dispatch services, Legal Department.
 4. Assembly Memorandum No. AM 276-99.
- (CONTINUED FROM 9-1-98, 11-17-98, 12-15-98, 1-26-99, AND 3-16-99)

Ms. Abney stated her intent to have public hearing tonight, but not to vote. She suggested a work session on April 6, 1999, as there was a misunderstanding involving the legal department, and certain parties will not be available until that time.

Chair Von Gemmingen opened the public hearing and asked if anyone wished to speak. She pointed out that it was intended to close the public hearing at this meeting.

LARRY NICHOLSON, with Checker Cab, challenged certain sections of the ordinance, including, Section 11.40.051, regarding caller ID. Mr. Nicholson pointed out that although they had Caller ID with ATU, anything coming through another phone company is identified as an outside call. He felt this would decrease business for the cab company if service must be refused to all non-ID calls. He noted that ATU cannot rectify this situation. Secondly, he felt the requirements in Section 11.30.075 regarding the airport stand curbside hail were redundant, as all fares must be logged. Thirdly, requirements in 11.30.070 regarding reading, drinking, smoking or radio playing in the cab were not required, because there have been no complaints on these issues submitted to the cab company. Mr. Nicholson offered his experience in many aspects of the taxi business to add weight to his perspective, adding that non-smoking cabs were available upon request. He noted that drinking has never been the cause of a taxi traffic accident. Finally, he pointed out that it would be more accurate to say that the dispatch needs to notify the owner’s of the individual vehicles about dispatch service taxi cab rates, rather than the permit holder.

In response to Ms. Taylor, Mr. Nicholson pointed out that currently, a driver giving verbal notice of destination to the dispatcher acts as an alarm or warning, causing the dispatcher to keep special watch on that particular taxi. If all taxis were required to report verbally, it would remove this extra warning.

In response to Mr. Kendall, Ms. Abney answered for Mr. Nicholson, stating that language in section 11.30.070 was discussed in the community meetings, and consensus was not reached.

JOE LESTER, the owner of Eagle Custom Tours of Alaska, pointed out that, generally, people had a working definition of a taxi or limousine. The definition of a vehicle for hire offered by the Municipality is too specific, whereas the state and federal laws state that any business hauling passengers is a vehicle for hire business. Mr. Lester’s issue was on the restriction of the number of passengers. He pointed out that a larger transport, with more passengers, is regulated by state and federal law. Mr. Lester averred that under the vehicle for hire section, the ordinance discriminates against a certain segment of the transportation businesses in Anchorage. He elaborated, using an example of a family of eight visiting in Anchorage, traveling together, would not be in regulation with any vehicle trips they may take, such as to and from the airport via a hotel shuttle, within the city except if it was with a tour company. He expressed that this was a gray area, and only applies to one small part of the industry.

SAM HAYWARD, a dispatcher for Checker Cab, presented written comments to the Assembly. He urged that the vote on the ordinance be taken tonight. He suggested that the public hearing be kept open, if the Assembly postponed until for a work session on April 6. Mr. Hayward further suggested that at the work session, the Assembly include at least one representative from the taxi cab companies, and Mr. Brennan and Mr. Gross. He also discussed section 11.30.070. He expressed the belief

that the inclusion of unenforceable items would disgrace the entire title and make all of its language suspect. He pointed out that some of the items under the section were unrealistic. Mr. Hayward predicted, in reference to subsections D, E, and F, that there will be an increase of customer and driver complaints, as well as an increase in the adversarial relationship between the Transportation Inspection Office and the chauffeurs. Mr. Hayward then brought up section 11.40.051, stating that he saw this as a means to encourage companies to use the computerized dispatch. He also noted the reluctance and even refusal by some customers to provide information such as their names. Next, he pointed out that requirements in 11.30.075 are not feasible at this time in light of the amount of radio traffic that currently exists. He also noted this did not guarantee reliable information, and there might also be a question of Constitutional Rights.

In response to Mr. Meyer, Mr. Hayward stated that the number of passengers that smoke depends on a number of variables, but any of his customers that wish to, are allowed to smoke. He also noted that he rarely gets a request for a non-smoking cab that has not been smoked in previously. On the few occasions that a request for a cab clean of smoke order is requested, it can be provided. He also pointed out that customers to and from the airport have their last (before a flight) or first (after a flight) opportunity to smoke while in the taxi, and would not appreciate the restriction.

TIM MILLICAN, owner of the Magic Bus, noted that he had a 15-passenger van that is for hire and also some tour buses with larger passenger capacity. Mr. Millican pointed out an error by Mr. Lester, stating that vehicles with passenger capacity of more than 15 are regulated by the State Department of Transportation, which is why the Transportation Commission and others who assisted in drafting this definition set the number at 15. He also explained that the drivers of vehicles under the 15 passenger limit still must have a chauffeur's license, drug testing, and the vehicles must have all the insurance requirements to make it a safe vehicle, and are therefore regulated, inspected and a permit is required. A complimentary vehicle, such as a hotel shuttle, is permitted to operate as a non-regulated vehicle because they have not caused the community any concern currently. To include the complimentary vehicles would result in hardships.

TED CORNFORTH with Alaska SightSeeing/Cruise West, expressed concern about protecting the public's interest with respect to the price and quality of the service provided. He noted that regarding courtesy vehicles, the quality should not be in question as it is being offered without payment and will be self-monitored from a competitive stand-point. He pointed out that such vehicles are, in essence, a billboard for that company, and are not likely to undermine their own business. Mr. Cornforth continued, in regard to the regulations of courtesy vehicle drivers, on page 5, line 11. He urged that this sentence be deleted, as it offers a loop-hole of sorts.

In response to Mr. Kendall, Transportation Inspector Dave Llewellyn said that, the purpose of language on page 5, line 11, was to give the future option, should a need arise, to require a license for these drivers. Such drivers would then have to meet the other requirements of drug testing and insurance.

In response to Ms. Taylor, Mr. Llewellyn stated that it was discussed as to whether courtesy vehicles were infringing on the territory of vehicles for hire, by providing extended transportation, but no complaints have been submitted.

MATT GIVENS with Princess Tours pointed out that, from an industry stand-point, time was of the essence and urged the Assembly to vote on this ordinance as soon as possible. He noted that the tourist season was only six weeks away, and any changes need to occur soon so business can effectively prepare for them. Mr. Givens also wished to reiterate the concern about the regulations of courtesy vehicles, with regard to line 11 on page 5. He stated that they are providing a free service, which may be used to aid a customer in refilling a prescription, or assist customers who have missed connecting transportation. It is provided to assist the customer and, as with Princess Tours, many of the regulations are standard for these companies.

NITA BACCHUS with Microtel Inns & Suites, also voiced concerns with line 11, on page 5. She also urged the Assembly to vote on this ordinance at the present meeting.

JIM BRENNAN with the Anchorage Taxi Cab Owner's Association, noted that the process for this ordinance was long. He presented a letter to the members of the Assembly, addressing the remaining concerns of the Taxi Cab Owner's Association. Mr. Brennan wished to focus on the vehicle for hire issue, noting that it was also a source of on-going confusion. From the standpoint of taxi cab owners and chauffeurs, their business is constantly being eroded by vehicles for hire which are not regulated in the same manner. There is a substantial investment required to begin and run a taxi business. He pointed out that the Municipality has previously had the system of three separate, distinct types of transportation services; taxi cabs, limousines and vehicles for hire. The main distinction for vehicles for hire is that they were required to have a defined route, which had been the recognized law and the Municipal Attorney's interpretation. Mr. Brennan explained that the Transportation Commission, in recent years, has not been following this definition. It has allowed operation of vehicles, under the vehicles for hire definition, that do not have a defined route, making them more like taxi or limousine vehicles, and therefore competing with same, but not subject to the same requirement. He allowed that the Transportation Commission undertook the Title 11 commission to correct this problem, but has now presented the Assembly with a reversal on this point, on page 4, and offers no specific definition on a vehicle for hire. Mr. Brennan urged the ordinance re-written, making it very clear that vehicles for hire are limited to fixed or defined routes. He had requested that the Commission, at least, state that a vehicle for hire is intended to satisfy a specific public need, not served by taxis or limousines. He pointed out that, as the Commission was unwilling to do so, it appears to him they have no concern between maintaining the distinction between taxis and vehicles for hire.

In response to Mr. Meyer, Mr. Brennan stated that the taxi company permit would cost in excess of \$80,000 or one could be leased at an approximate rate of \$1,000 per month. In addition, it is required to subscribe to dispatch which is approximately \$450 per month and there is also the substantial cost of insurance. These expenses are not required of the vehicle for hire. Mr. Brennan also pointed out that the Municipality has adopted a system of a limited number of permits to protect the public from extremes of competition, and the permit charge is an indirect result. Mr. Brennan explained that the duty to serve the

public can result in some fares that are not profitable whereas vehicles for hire are not subject to those same restrictions and can choose their customers thereby having the opportunity for higher profit.

JOHN PAINE, the General Manager at the Best Western Barrett Inn, explained that in 1972 hotel/motel courtesy vehicles were only allowed to deliver guests to the airport, but not pick them up there; fortunately, this has since changed. In Mr. Paine's view, a giant step backward was being proposed. He stated his support of the Commission's decision not to regulate courtesy vehicles, pointing out that when the numbers of hotel rooms are regulated, that would be the time to regulate the courtesy vehicle.

DICK LOCKNER, with the Anchorage Limousine Owner's Association, addressed the definitions, in G, concerning limousines. He requested the Commission to eliminate the last part, involving the ratio of no more than 50 percent of the current permitted limousines of that company. Mr. Lockner pointed out that the limousine industry is small in Anchorage, with some owners owning only one limousine. He also asked the ordinance be amended to end the definition with the word "company" to read *luxury limousine company*. Secondly, Mr. Lockner referred to 11.20.260, limousine service, under B. He pointed out that this makes no distinction between limousines and executive sedans on cost. He requested that the Assembly amend by adding the words, *for limousines*, and *\$45.00 for executive sedans*. Mr. Lockner explained empirical evidence and statistics from the National Limousine Association. The national standard is \$40.00 an hour for executive sedans. He also noted that, according to National Limousine Association, Anchorage is the only U.S. city of its size that does not have executive sedans, so there is a segment of the traveling public that is not being serviced here. Mr. Lockner also recommended that paragraph two of the same section read, *\$45.00 an hour, based on two consecutive hours for limousines, and \$35.00 and hour for executive sedans*. Mr. Lockner pointed out that, the Mayor's proposal of last July and the mission statement for the Commission was to provide quality transportation at reasonable cost. In Mr. Lockner's view, the prices suggested are quite reasonable.

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

Ms. Abney moved, to adopt AO 98-51(S),
seconded by Mr. Meyer,

Ms. Abney moved, to postpone action on AO 98-51 (S) until April 6, 1999,
seconded by Mr. Murdy,
and it passed without
objection,

Chair Von Gemmingen announced there would be a work session on this topic on April 6 in the Mayor's Conference Room.

12. NEW PUBLIC HEARINGS:

- A. Resolution No. AR 99-47, a resolution to appropriate to the Federal Categorical Grants Fund (241) \$317,110 of **Rental Rehabilitation Program Income** for the **AnCHOR Loan Program** and the **Housing Rehabilitation Loan Program** and \$1000 of additional **1997 Home Partnership Agreement grant funds** for administration of \$100 and to **Anchorage Housing Initiatives** of \$900, Community Planning and Development.
1. Assembly Memorandum No. AM 247-99.

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

LORRIE PAPE stated the opinion that it did not seem reasonable to give \$25,000 to people who earn \$45,000 annually, when the Beyond Shelter Program is so needy for money. She pointed out that the Beyond Shelter Program had to turn away 170 homeless households because they were at capacity, and it was anticipated that the numbers will continue to increase as Welfare Reform reduces and eliminates benefits. Ms. Pape elaborated that approximately 130 of the Anchor Home Loan applicants were told there was money, only to return later and be told there was none available. She requested that if the Assembly insisted on putting that money in the Anchor Home Program, to at least establish a lottery program.

In response to Mr. Wohlforth, Ms. Pape clarified that in a lottery, those that are eligible could submit their names to a lottery for receiving these loans, in order to equalize the opportunity. Ms. Pape reiterated her concern about the ethics of giving grant funds to those people with relatively high incomes.

Mr. Murdy pointed out that, under the federal guidelines for such money, a lottery would not be allowed. He suggested another method might be found.

Ms. Pape suggested that, instead, this money be given out as a soft second loan, so that the money comes back and can be reused, because the need is so great, the gift of such funds does not seem reasonable.

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

Mr. Murdy moved, to approve AR 99-47,
seconded by Mr. Wohlforth,

Community Planning and Development Director Caren Mathis responded to Mr. Wohlforth's concerns that this might be a case of only those who happen to be aware of the program are the ones to receive it. Ms. Mathis stated that First National Bank is the institution that actually administers the Anchor Loan Program. This program gets some disabilities through a HUD website, and has been determined to be one of HUD's best practices. She noted that it was always possible to improve marketing or out-reach, although it is a popular program noted in public forums and First National Bank itself.

Mr. Wohlforth noted that, still, it was most likely that the first to apply would be the most sophisticated. He asked how it was determined who received the loans.

Ms. Mathis replied that there were eligibility requirements. She stated she would check on the order of who receives the loans with the loan administrator. At Mr. Wohlforth's request, Ms. Mathis said she would provide the Assembly with a memo on how the money is allocated and disbursed.

Question was called on the motion to approve AR 99-47 and it passed:

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

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

- B. Resolution No. AR 99-48, a resolution of the Municipality of Anchorage appropriating \$1,294,118 from the State of Alaska Department of Community and Regional Affairs to the State Categorical Grants Fund (231) for the **Day Care Assistance Program** in the Department of Health and Human Services.
1. Assembly Memorandum No. AM 248-99.

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 99-48.
seconded by Mr. Wohlforth,

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

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

- C. Resolution No. AR 99-52, a resolution of the Municipality of Anchorage appropriating \$425,000 from the Anchorage Parks and Recreation Service Area (APRSA) Fund (161) to the APRSA Capital Improvement Program Fund (461) for **major maintenance and upgrade of APRSA facilities**, Office of Management and Budget.
1. Assembly Memorandum No. AM 256-99.

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 99-52.
seconded by Mr. Meyer,

In response to Mr. Wohlforth and Mr. Wuerch, Dan Moore of the Office of Management and Budget replied that a list of projects this money would be used for was included in the approved Capital Improvement Program. He also pointed out that this money was needed immediately to provide the local match for the 1999 projects. Mr. Moore added that the money would also go to fund projects in the years 2000 and 2001, and that the local match that had been provided a couple of years before was exhausted.

Mr. Wuerch moved, to postpone action on AR 99-52 for two weeks pending
seconded by Mr. Wohlforth, receipt of a list of the associated projects.

In response to Mr. Wohlforth, Mr. Moore explained that a couple of years ago, the Assembly created the Maintenance Upgrade Fund. At that time, a series of operating fund balances were used that were contributed to the capital side. Since then, there was created the Anchorage Parks and Recreation Fund, and its initial deposit has been spent. A second influx of money is now required for the program, so the Anchorage Parks and Recreation Operating Fund Balance was being contributed to the capital side to assist in continuing the program. Mr. Moore added that the other funds are still functional at this time. Mr. Moore continued, saying that the Anchorage Parks and Recreation Bond that was expected to sell in 1998, was instead to be sold in 1999. The money left over in 1998 did not go to debt service, but was instead applied to this program.

Question was called on the motion to postpone action on AR 99-52 until April 6, 1999 and it passed without objection.

- D. Ordinance No. AO 99-50, an ordinance amending Anchorage Municipal Code Chapter 6.50 to add a new Section 6.50.060 to establish the **ATU Trust Fund**, relevant definitions, authorized investments for the investment of the ATU Trust Fund assets and to provide for the management of said Trust Fund; and to amend Anchorage Municipal Code Section 4.50.090 to increase the membership of the Investment Advisory Commission and specify new duties and responsibilities for said Commission relating to the investment of municipal funds including the ATU Trust Fund, Finance.
1. Assembly Memorandum No. AM 234-99.
 2. Ordinance No. AO 99-50(S), an ordinance amending Anchorage Municipal Code Chapter 6.50 to add a new Section 6.50.060 to establish the ATU Trust Fund, relevant definitions, authorized investments for the investment of the ATU Trust Fund assets and to provide for the management of said Trust Fund; and to amend Anchorage Municipal Code Section 4.50.090 to increase the

membership of the Investment Advisory Commission and specify new duties and responsibilities for said Commission relating to the investment of municipal funds including the ATU Trust Fund, Finance. **(LAID ON THE TABLE)**

This item was considered earlier in the meeting. See during item 11.B.

- E. Resolution No. AR 99-53, a resolution **authorizing the Municipality of Anchorage to purchase the East 220 Feet of Block 34A, East Addition to Anchorage Townsite, Anchorage, Alaska**, to enable Municipal Light and Power to expand their site and provide an alternate pole yard, Municipal Light and Power.
1. Assembly Memorandum No. AM 257-99.

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

TOM MCGRATH stated he expected a work session to be scheduled on this issue. He pointed out spending \$975,000 for a 66,000 square foot lot equals approximately \$15.00 per square foot; the average price for land in town is about \$2.00 per square foot. He questioned who owns the lot, and what the assessment is on the lot. He suggested that sometimes when something is close at hand, it is difficult to see things in perspective. He also pointed out that there would be an additional cost for the building that would be needed on the site. Mr. McGrath stated that this was not in the Capital Improvement Plan for the Municipality or the six-year plan, and questioned where the planning was. He suggested that such things as a pole yard or installing poles could be subcontracted out to Chugach Electric or Newberry, for example, or the administration could take advantage of a bill passed in 1986 that allows for adding four percent to the cost of utilities for the purposes of under-grounding. He pointed out that Municipal Light and Power's coverage area will never expand, which should result in fewer poles as time progresses and power lines are under-grounded. Mr. McGrath expressed his amazement that such a situation should exist.

Mr. Wohlforth agreed that the administration should address this, and questions about the lot ownership, assessment and the building cost. He also questioned why more poles would be required.

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

Mr. Murdy moved, to approve AR 99-53.
seconded by Mr. Kendall,

Mr. Murdy moved, to postpone action on AR 99-53 until April 6, 1999.
seconded by Mr. Meyer,

Mr. Wohlforth requested that answers to the following questions be provided to the Assembly: how the price of the property was determined and its relationship to the tax appraisal, what is being gained and given in relation to the old property and what funds will be used to purchase the property.

Mr. Meyer added a request for: the current owner of the property; the total cost including construction of the building; information on costs of future under-grounding versus poles; whether the work could be performed by a private contractor.

Mr. Wuerch added the question of whether Municipal Light & Power staff expected an increase in revenues that would offset these costs, and he requested that the revenue forecast that generated the need for this be provided.

Question was called on the motion to postpone action on AR 99-53 until April 6, 1999 and it passed without objection.

- F. Ordinance No. AO 99-47, an ordinance amending the zoning map and providing for the rezoning from B-3 (General Business District) and I-2 (Heavy Industrial District) to PLI (Public Lands and Institutions) for **Tracts A and C, Block 28F, East Addition Subdivision**, generally located south of Third Avenue and west of Post Road (Fairview Community Council) (Planning and Zoning Commission Cases 99-002 and 99-002-2), Community Planning and Development.
1. Assembly Memorandum No. AM 231-99.

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

JONATHAN STEELE, an architect whose firm is under contract with the Municipality for the design of the Anchorage Jail, offered to answer any questions.

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 99-47.
seconded by Mr. Kendall,

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

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

- G. Ordinance No. AO 99-51, an ordinance **amending the Hillside Wastewater Management Plan**, Anchorage Municipal Code 21.05.030M., to remove the area recommended for public sewerage at minimum densities of three (3) dwelling units per acre the western twelve (12) acres of Tract A-1, Villages Subdivision, as noted on

Plat S-10334 as Lots 1 and 2, Villages Estates Subdivision, generally located at the southern end of the Hillside Area, south of Potter Creek, Community Planning and Development.

1. Assembly Memorandum No. AM 235-99.

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 adopt AO 99-51.
seconded by Mr. Kendall,

Mr. Bell pointed out that this legislation would reduce the density allowed on this property. He felt this should occur, and recommended a “yes” vote.

Question was called on the motion to adopt AO 99-51 and it passed:

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

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

The meeting recessed at 10:10 p.m., and reconvened at 10:25 p.m.

13. BOARD OF ADJUSTMENT/ASSEMBLY APPEALS:

A. Appeal S-10209, **Goldenview Gate Subdivision**, Clerk's Office.

Mr. Wuerch submitted that the appellant has raised six issues and proposed to move forward with each of those issues sequentially. He explained that at the end of the process there would be an overall motion that would conclude the deliberation.

Mr. Wuerch stated the first issue which was *did the developer submit an adequate site plan?*

Mr. Wuerch moved, that the question be remanded to the Platting Board to
seconded by Ms. Taylor, conduct a public hearing and reach a decision on
site-plan approval.

Mr. Wuerch pointed out the record indicated that the applicant submitted a site plan, but the record is silent on recommendations by the staff and advertising to the public about the public hearing on site-plan approval.

Mr. Kendall noted that the public notice did not specifically mention a site-plan, but rather subdividing. He pointed out that in the staff recommendations, Board approval, and findings of fact are on page 177, item number five; page 184, item number five and on page 220. He stated that the condition refers to conforming the plat with the notes on the site plan, so there was some review although it is not clear that the Board made specific action on approving. It was his belief that the Board could have remedied this by simply making a motion approving the site-plan.

Question was called on the motion to remand to the Platting Board for a decision on site-plan approval and it passed:

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

Mr. Wuerch stated that the second issue was that the developer was required to submit a master plan for the entire parcel of which the three-phase subdivision was a part.

Mr. Wuerch moved, there was not substantial evidence that a master plan was
seconded by Mr. Wohlforth, necessary.

Mr. Wuerch pointed out that the appellant cites the Municipal code which would support his claim. He stated that the procedure for Municipal plats, according to Municipal Code 21.15.110, requires only that land under contiguous ownership be shown, and parcels not being subdivided be shown as tracts. The site approval process provided by Municipal Code 21.15.030 requires a statement only for each phase of the proposal and various maps of the property that is the subject of the application. Mr. Wuerch also noted that these provisions leave it up to the applicant to determine how much property it wishes to bring forward in the process at any given time. The developer did bring forward what he felt was appropriate and the requirements of the codes have been met.

Question was called on the motion to that there was not substantial evidence that a master plans was necessary, and it passed.

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

Mr. Wuerch stated that the third issue was regarding a procedural error in the Board’s process for dealing with the alleged conflict of interest of member Robin Ward.

Mr. Wuerch moved,
seconded by Ms. Taylor,

that the Assembly finds that the appellant's claim of the Board's procedural error is without merit.

Mr. Wuerch elaborated that in the sequence of events, Ms. Ward had participated in earlier session. He noted that there were seven times that this developer appeared before the Platting Board on this particular issue. Mr. Wuerch explained that until Ms. Ward's husband testified, the Board had no knowledge of any particular conflict of interest. It was then that the Board immediately addressed the issue and disqualified Ms. Ward from further participation. Ms. Ward did not participate in extensive continued public hearings held after she was disqualified, and also did not participate in the Board's deliberation on the plat. Mr. Wuerch stated that the issue is, did the Board act appropriately? The motion is that the Assembly finds that the appellant's contention is therefore merit-less.

Mr. Wohlforth stated that he would support the motion because he believed that the Board took every possible action to avoid a conflict. He also believed it was clear that the final action was not prejudiced by the conflict. Mr. Wohlforth desired that the decision of the Board of Adjustment show that it is the Assembly's view that conflicts should be declared before the public hearing commences, and any member aware of a conflict should make that declaration and the Board should make that decision before a public hearing. He noted that the Code states that the conflict declaration should take place before debating or voting on a decision. It was Mr. Wohlforth's contention that the public hearing is really a debate, and the person with a conflict has a strong ability to prejudice by the questioning of the witnesses. He reiterated that he would like the Assembly's decision to state that and also that the Board did make the ruling as soon as it was made known and there was no apparent prejudice.

Mr. Wuerch stated he would not disagree with Mr. Wohlforth's statement; however, the issue is the procedural error on the Board's part.

Question was called on the motion that the Assembly finds that the appellant's claim of the Board's procedural error is merit-less and it passed:

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

Mr. Wuerch stated that the fourth issue was the dedication of a right-of-way for access to Henson's property required by Municipal ordinance.

Mr. Wuerch moved,
seconded by Mr. Wohlforth,

that the Assembly finds there is no legal requirement that Goldenview Gate Drive be extended to the Henson property.

Mr. Wuerch explained that there are three provisions of the Subdivision Standards which bear on this issue. He found that the most relevant was Municipal Code 21.80.200.B, which requires extensions to the boundaries of the proposed subdivision, not to the boundaries of all contiguous land under the same ownership. Mr. Wuerch stated that the two other provisions require that street rights-of-way be dedicated to the public, that is AMC 21.80.010, and that all lots have frontage on a publicly dedicated street in accordance with AMC 21.80.330A. He elaborated that these sections together indicated an over-all intent of the standards that the developer provided for streets for the lots proposed to create, not future lots. Mr. Wuerch noted that there is the authority for the Platting Board to require access streets according to AMC 21.85.070A, and defined access streets as ones constructed to provide physical access to a subdivision in AMC 21.75.035B. He stated that this has no bearing on claims that a street should provide access to adjacent properties. Mr. Wuerch concluded that there is no legal requirement that Goldenview Gate Drive be extended to the appellant's property.

Question was called on the motion to find there is no legal requirement that Goldenview Gate Drive be extended to the Henson property and it passed:

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

Mr. Wuerch presented the fifth issue, which was the Platting Board's decision to not require dedication of right-of-way access to Henson's property supported by substantial evidence.

Mr. Wuerch moved,
seconded by Mr. Wohlforth,

that the Assembly finds that there is substantial evidence supporting the Board's decision to not require dedication of access roads beyond the immediate proposed subdivision.

Mr. Wuerch stated that the staff's reports on the project took no position with respect to whether the right-of-way should be extended to the property boundary on the east. At the May 6, 1998 hearing, Mr. Weaver indicated that the staff would have no objection to the dedication following the existing road. The staff analysis submitted prior to the July 15th meeting, recommended a plat condition of dedicating a 60-foot right-of-way to the eastern boundary of the property. He also stated that at the July 15th hearing, Mr. Weaver withdrew that condition and substituted Plat 9-J which the board adopted. Mr. Wuerch noted that plat conditions which do not have a close nexus with, or are not roughly proportional to the mitigation of problems created by land-owners for post-development, have been held to create takings within the meaning of the Fifth Amendment of the U.S. Constitution, and require payment of compensation to the regulatory agency. He cited the court cases of Dolan versus City of Tigard, 512 U.S. 374, 391 (1994), and Nollan versus California Coastal Commission, 483 U.S. 825 in 1987. Mr. Wuerch pointed out that there is substantial evidence that the decision is well founded.

Question was called on the motion to find that there is substantial evidence supporting the Board's decision to not require dedication of access roads beyond the immediate proposed subdivision and it passed:

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

Mr. Wuerch gave the sixth and final issue as being the temporary variance from the cul-de-sac legal length requirement for Goldenview Gate Drive.

Mr. Wuerch moved, that the variance is not essential and should simply be
seconded by Mr. Wohlforth, reversed and denied.

Mr. Wuerch explained that the fact that Goldenview Gate Drive is there for future expansion and the configuration, as proposed by the developer, was not a cul-de-sac as defined by Municipal Code, but rather a stub street to un-subdivided properties as per Municipal Code 21.75.035B. He encouraged the Assembly to reverse and deny the variance as found by the Platting Board.

Mr. Wohlforth wished to clarify the reasoning as denying the variance because the variance is not needed.

Mr. Wuerch agreed and thanked Mr. Wohlforth for the clarification.

Mr. Kendall elaborated that if this truly was a cul-de-sac it would need a variance, but the intention is shown by the developer that the street will be needed for further expansion within his subdivision. He also pointed out that it may even be extended beyond his property. Mr. Kendall noted that at the point where a cul-de-sac is put at the end of the road, then a variance would be needed. He stated that the road is reserved for further development within this property and may be used by development beyond his property.

Question was called on the motion to find that the variance is not essential and should simply be reversed and denied, and it passed:

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

Chair Von Gemmingen stated that the Assembly had addresses all six issues that had come before the Board of Adjustment, and the appeal has been concluded. She asked if there was anything further necessary.

Mr. Kendall stated in summary, that the appeal could have been done in one motion. But the Board of Adjustment approved the plat with the exception of the temporary variance for the cul-de-sac, and remanded it to the Platting Board, very narrowly, to look at the-site plan, to have a public hearing on the site-plan, and to give approval of the site-plan relating to the cluster plat that was approved.

Ms. Clementson clarified that there are specific standards to be met in order to approve a variance and what was desired from the lower boards and commissions was that they actually go through the process of making a finding and adopting it.

(Clerk's Note: Written Findings and Conclusions for Case S-10209 were approved on April 6, 1999.)

14. SPECIAL ORDERS:

A. Mr. Wohlforth noted that the May 4th meeting will likely fill up with public hearings and other issues.

Mr. Wohlforth moved, to limit the May 4th agenda to certification of the election,
seconded by Ms. Clementson, swearing-in of new members, the election of new officers, and
Special Orders.

Mr. Meyer requested that Consent Agenda items also be taken up at the May 4th meeting.

Mr. Wohlforth moved, to amend his motion to include Consent Agenda items
seconded by Ms. Clementson, and action on Consent Agenda items that are pulled.
and it passed without
objection,

Question was called on the motion to schedule a May 4, 1999 Special Meeting with the above topics and it passed without objection.

B. Ms. Clementson passed out a proposed meeting schedule for the rest of the year, which gives two-to-three Tuesdays off in a row during the summer. She strongly recommended and requested approval. She noted that this would accommodate Mr. Wohlforth's motion as well.

Chair Von Gemmingen pointed out that there were now two competing schedules. She and Ms. Clementson decided work together on the Assembly schedule changes.

C. Mr. Wohlforth expressed concern about the precedent set by the Mayor's decision to award the animal control contract to Doyon Universal Services. While he appreciated that they could disagree on the policy, he believed there

was also an issue of the power of the Assembly. Mr. Wohlforth desired to have a special legal review contracted by the Assembly Office Director on the subject of the contract award and its authority.

Mr. Wohlforth moved,
seconded by Ms. Abney,

to direct the director of the Assembly Office to contract
for an independent legal review of the award of the contract
for animal control.

Mr. Bell expressed his belief that a lawsuit has already been filed against the City on this issue. He was unsure why it would be necessary for the Assembly to take action before seeing what comes out of that lawsuit.

Mr. Wuerch corrected the record, stating that the person in question had filed for a temporary restraining order, based on the Mayor's authority.

Mr. Wohlforth pointed out that his concern was with the Assembly's interests and powers within the Municipal Government. He suggested that it might be justified, if there is litigation, that any report received be confidential so it does not cause prejudice in court. He stated it was his desire to know where the Assembly stood.

Ms. Abney noted that she has received numerous calls from constituents complaining this issue did not go before the Assembly. She concurred with Mr. Wohlforth's motion.

Mr. Wuerch expressed his concern that the actions of the Assembly or staff could end up embroiled in an on-going lawsuit. He felt a postponement necessary to find out where things stood.

Mr. Wuerch moved,
seconded by Mr. Bell,

to postpone action on Mr. Wohlforth's motion until April 6,
1999.

Ms. Clementson concurred with Mr. Wuerch's motion. She stated she has not heard from her constituents on this and believed it would be wise to ascertain what position can be taken.

Mr. Wohlforth agreed that he would be willing to wait. He suggested that any opinion be attorney-client privilege which would keep it from becoming disclosed in a court case.

Question was called on the motion to postpone action on Mr. Wohlforth's motion until April 6, 1999, and it passed:

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

NAYS: Wohlforth, Abney, Murdy.

15. ASSEMBLY COMMENTS:

Mr. Wuerch noted that he would be out of town for the next two weeks. He would return on April 5, 1999.

16. UNFINISHED AGENDA: None.

17. AUDIENCE PARTICIPATION:

ROBERT HAYES spoke as a State of Alaska licensed Fire Alarm Technician and the parent of two elementary school children. Mr. Hayes wished to address the subject of the Anchorage School District Life Safety Fire Alarm System problems. He stated that this is a public matter and there are problems that were built into the systems. He noted that he was hired by the School Contractor to find and report on, and it turned into a Whistle-Blower problem for him. His job and income were lost, causing a lot of hardship and stress. He stated that he recently discovered that the Municipality has a Whistle-Blower Act that should have protected him and he was unsure why no one spoke to him about this. He pointed out that the person brought these actions against him and caused the loss of his job was a Municipal employee. He stressed that something should have been done. According to a report he discovered on the Municipal website, his claims were unsupported, and his former co-workers were told by the owner not to speak to him or anyone else about what happened. He also wanted to say that he proved in Unemployment Court that claims against him were unsupported and false. In closing, he stated that his children were supposed to go to College Gate Elementary School, and he wished to transfer them because of the smoke detectors. It was his belief that Ms. Clementson and Mr. Meyer, in a community meeting, noticed there were no smoke detectors, only sprinklers which are not Life Safety devices. He also pointed out that these sprinklers could not be tested properly due to the lack of a test device. He hoped something could be done about getting that school a smoke detection system.

18. EXECUTIVE SESSIONS: None.

19. ADJOURNMENT:

The meeting adjourned at 11:00 p.m.

Chairman

ATTEST:

Municipal Clerk

Date Minutes Approved: September 28, 1999

VC/kron

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