

*Postponed Indefinitely
5/24/11*

Submitted by: ASSEMBLY MEMBER DRUMMOND
ASSEMBLY MEMBER GRAY-JACKSON
ASSEMBLY MEMBER TRAINI
Prepared by: Anchorage Water and Wastewater Utility
Board of Directors
Reviewed by: Assembly Counsel
For reading: May 10, 2011

**ANCHORAGE, ALASKA
AO NO. 2011-62**

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING CERTAIN SECTIONS WITHIN TITLE 31 OF THE ANCHORAGE MUNICIPAL CODE TO IMPLEMENT RECOMMENDATIONS FROM THE ANCHORAGE WATER AND WASTEWATER UTILITY (AWWU) BOARD OF DIRECTORS TO ENHANCE BUSINESS PRACTICES AND COMMUNICATIONS.

WHEREAS, at its May 4, 2011 meeting, the Board of Directors of the Anchorage Water and Wastewater Utility gave final review and approval to proposed revisions to Title 31, and these changes are hereby submitted for review and approval by the Assembly after public hearing; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 31.10.020 is hereby amended to read as follows (*ordinance language indicating no amendment is included for context only; other subsections not affected are not set out*):

31.10.020 Governing Body.

A. The Anchorage Water and Wastewater Utility shall be governed by a Board of Directors consisting of seven members. All Directors shall be citizens of the United States, and residents of and registered voters in the Municipality of Anchorage. At least four of the Directors shall be customers of the Anchorage Water and Wastewater Utility, and one Director shall be an employee of the municipality representing the administration. Board members shall be qualified as follows:

1. One member shall be a member in good standing of the Alaska Bar with experience in utility matters;
2. One member shall be a registered professional engineer in Alaska with experience in utility matters;
3. One member shall have experience in finance, accounting, or business administration with experience in utility matters;
4. One member shall be a public health professional;

5. One member shall be a municipal employee representing the administration;

6. Two members shall be at large.

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C. When transmitting to the assembly for confirmation the name of appointees to the board, the mayor shall cause a notice of a ten (10) day comment period inviting public comment on the qualifications of such appointees to be published or posted [IN A NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY]. The notice shall state that comments must be in writing, and must be filed with the municipal clerk. Upon receipt of such comments, the municipal clerk shall forward the comments to the mayor and the assembly. The assembly shall take no action on confirmation of the appointees until after the close of the public comment period.

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(AO No. 2005-107, § 1, 9-13-05; AO No. 2009-44, § 1, 5-12-09)

Section 2. Anchorage Municipal Code section 31.10.030 is hereby amended to read as follows (*ordinance language indicating no amendment is included for context only; other subsections not affected are not set out*):

31.10.030 Powers of the Board of Directors.

*** **

B. The Board may also:

*** **

3. Annually review the compensation of utility employees, [, AND] Annually set compensation levels of general manager and utility division directors in accordance with Chapter 31.30; provided that the compensation of the general manager shall be approved by the mayor.

*** **

9. Engage the Municipal attorney as the attorney for the Board and utility; and as such the Municipal attorney shall [BE THE ATTORNEY FOR THE UTILITY AND SHALL] advise and assist the utility on legal matters; [. T] the Board may obtain other appropriate professional services as required;

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(AO No. 2005-107, § 1, 9-13-05; AO No. 2009-44, § 1, 5-12-09)

Section 3. Anchorage Municipal Code section 31.20.010 is hereby amended to read as follows (*ordinance language indicating no amendment is included for context only*):

31.20.010 Fiscal Management.

The chief fiscal officer shall be advisor regarding the utility's financial affairs, including but not limited to establishing and maintaining the utility's funds. The chief fiscal officer, auditors appointed by the chief fiscal officer, and the internal auditor may examine and audit the books and records of the utility regarding its financial affairs, and the chief fiscal officer and the internal auditor may make recommendations to the utility, the mayor and the assembly regarding the utility's financial affairs. The chief fiscal officer shall be custodian of the utility's funds. The board shall submit a quarterly financial statement to the chief fiscal officer and the Assembly summarizing the status of the utility's financial affairs.

(AO No. 2005-107, § 1, 1-1-07; AO No. 2009-44, § 1, 5-12-09)

Section 4. Anchorage Municipal Code section 31.20.030 is hereby amended to read as follows (*ordinance language indicating no amendment is included for context only; other subsections not affected are not set out*):

31.20.030 Rates, Fees, and Charges.

*** *** ***

C. Tariff rate, fee, or charge adjustments recommended by the board shall be submitted to the assembly for approval either:

1. As part of the utility's annual budget, after public notice and public hearing for any associated tariff rate, fee, or charge adjustment prior to scheduled assembly budget hearings; or
2. Outside the annual budget process, after public notice and public hearing for associated tariff rate, fee, or charge adjustment.

*** *** ***

(AO No. 2005-107, § 1, 1-1-06)

Section 5. Anchorage Municipal Code section 31.20.040 is hereby amended to read as follows (*ordinance language indicating no amendment is included for context only; other subsections not affected are not set out*):

31.20.040 Utility Budget.

- 1
2 A. The utility's annual budget, capital improvement budget, capital improvement
3 program and [LONG RANGE] six year financial plan shall be prepared,
4 submitted to the mayor for approval by the assembly, in accordance with
5 Chapter 6.10. Additionally, the utility will submit the 15-year long range
6 financial plan for both the water and sewer utility to the Assembly.
7

8 *** **

9 (AO No. 2005-107, § 1, 9-13-05)
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11 **Section 6.** Anchorage Municipal Code section 31.20.090 is hereby amended to read as
12 follows (*ordinance language indicating no amendment is included for context only*):
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14 **31.20.090 Annual and quarterly reports.**
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- 16 A. The utility shall make available an annual report to the mayor, the assembly,
17 and its customers covering the operational and financial results from the
18 previous year. The annual report shall be issued not later than 30 days
19 following the publication of the municipality's comprehensive annual financial
20 report. The utility shall annually make a strategic plan available to the mayor,
21 the assembly and its customers.
22
23 B. The Utility shall report quarterly, in an information memorandum, to the Mayor
24 and the Assembly, an activity report to include: activities by Utility division,
25 program management progress report on asset management, and a financial
26 statement summarizing the status of the Utility's financial affairs.
27
28 C. The Board shall request a Work Session with the Assembly after submittal of
29 the annual report. The Board will report on the key elements of the Utility's
30 performance, its challenges and their relationship to Utility planning.
31

32 (AO No. 2005-107, § 1, 1-1-07)
33

34 **Section 7.** Anchorage Municipal Code section 31.20.120 is hereby amended to read as
35 follows (*ordinance language indicating no amendment is included for context only*):
36

37 **31.20.120 Complaints and appeals.**
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39 The board shall establish procedures for reviews of formal and informal complaints
40 from customers, and for appeals of decisions on such complaints. A decision on a
41 formal complaint, which decision was not made by the board, may be appealed to the
42 board within 30 days after notice of the decision has been mailed to the parties.

Decisions of the board on a formal complaint may be appealed to the ombudsman within 30 days after notice of the board's decision has been mailed to the parties. appeals of utility decisions not received by the board or the ombudsman, as appropriate, within the time set forth herein shall be dismissed. The Board will report quarterly all complaints and appeals in an informational memorandum to the mayor and Assembly.

(AO No. 2005-107, § 1, 1-1-06; AO No. 2009-44, § 1, 5-12-09)

Section 8. Anchorage Municipal Code section 31.30.010 is hereby amended to read as follows (*ordinance language proposed for deletion is [BRACKETED IN ALL CAPITAL LETTERS] and new language is underlined*):

31.30.010 Board powers on employment matters.

- A. The board shall use the same personnel rules applicable to executive, utility division directors, and non-represented employees of the utility, contained in Title 3, except as modified in Title 31.

[THE BOARD SHALL ADOPT AND RECOMMEND TO THE ASSEMBLY FOR APPROVAL PERSONNEL RULES APPLICABLE TO EXECUTIVE, UTILITY DIVISION DIRECTORS AND NON-REPRESENTED EMPLOYEES OF THE UTILITY. REPRESENTED EMPLOYEES SHALL ONLY BE SUBJECT TO THESE RULES TO THE EXTENT ALLOWED BY THEIR RESPECTIVE COLLECTIVE BARGAINING AGREEMENTS OR BY LAW. THE PERSONNEL RULES IN EFFECT IN TITLE 3 SHALL REMAIN APPLICABLE TO UTILITY EMPLOYEES UNTIL SUCH TIME NEW PERSONNEL RULES ARE APPROVED BY THE ASSEMBLY.]

- [B. SUBJECT TO THE APPROVAL OF ANY AGREEMENTS BY THE ASSEMBLY, THE BOARD SHALL HAVE THE POWER TO NEGOTIATE AGREEMENTS WITH COLLECTIVE BARGAINING GROUPS REPRESENTING SOME OR ALL OF THE UTILITY'S EMPLOYEES BUT NOT EMPLOYEES IN OTHER AREAS OF MUNICIPAL GOVERNMENT OR NUMICIPAL ENTERPRISE ACTIVITIES. COLLECTIVE BARGAINING AGREEMENTS COVERING EMPLOYEES OF THE UTILITY IN EFFECT AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN IN FULL FORCE AND EFFECT IN ACCORDANCE WITH THEIR RESPECTIVE TERMS.]

(AO No. 2005-107, § 1, 1-1-06/1-1-07)

Section 9. This ordinance shall become effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2011.

Chair

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 296-2011

Meeting Date: May 10, 2011

From: Assembly Member Drummond
Assembly Member Gray-Jackson
Assembly Member Traini

Subject: Amendments to Title 31 of Anchorage Municipal Code

Title 31 of the Anchorage Municipal Code was established by action of the Assembly in approving Assembly Ordinance AO 2005-107 on September 13, 2005. The intent of the ordinance was to provide for the independent operation and management of the Anchorage Water and Wastewater Utility (AWWU) and to establish AWWU as a public corporate authority of the municipality. It was not intended to be an experiment, but was viewed as a long lasting commitment by the Assembly to a more efficient and transparent ways of doing business – to the benefit of utility customers and the city as a whole. Title 31 has been twice amended, in summer of 2008 and again in spring of 2009, to make modest adjustments to the language as the community gained experience with the code. In making those adjustments, the Assembly found no cause to dismantle the code or regress to the old ways of operating. Clearly the basic concepts of operating AWWU under Title 31 were well-founded.

The Assembly did not venture into this approach to governance of the Utility without a significant degree of research and planning. With support from the Anchorage Water and Wastewater Advisory Commission, governance models from peer utilities across the country were compared and evaluated. A Board of Directors type of governance was recommended by the Advisory Commission as the most effective and efficient way to manage water and/or wastewater utilities in the United States. The Board of Directors model was selected on the basis of a number of advantages over the preceding Advisory Commission. Title 31 established the Board as a team of seasoned professionals with specific knowledge of the industry, including unique concerns of ratemaking, capital asset management, environmental regulations, water and wastewater technology, and a solid grounding in the relationship between sustainable utility systems and the advancement of public health. Most importantly, the Board would be imbued with the fiduciary responsibility for the business of the Utility, with direction to putting strong fiscal management and system integrity above political concerns. The Board would be continually focused on the needs of a complex and specialized business, with responsibility for what is certainly one of the most far-reaching and capital intensive enterprises serving the city.

As the Assembly has heard repeatedly in recent public hearings, the effect of Title 31 on efficient business processes of the utility, on responsiveness to customers, and on the long term integrity of the utility infrastructure has been overwhelmingly positive. We have learned that the productivity of utility workers is enhanced with the availability of local support:

- Use of decentralized purchasing, for example, has expedited turnaround on procurement of numerous large scale construction contracts, saving hundreds of thousands of dollars in interest expense.
- Faster turnaround in payments to vendors through decentralized accounts payable has benefitted our business partners directly as well as leading to secondary economic effects throughout the city with improved cash flow.
- Human resources staff based at the utility are more responsive to employee concerns, thereby preventing drains in productivity associated with a central, remote processing center.
- Information technology staff embedded in the Utility ensures accountability and responsiveness whether implementing new hardware and software, restarting after a service disruption, providing training, or answering a simple question.
- The culture of continuous improvement espoused by the Board has led to significant improvement in worker safety, with tangible benefits accruing to the city via reduction in claims and lost time.

That said, the culture of continuous improvement requires ongoing evaluation and adjustment. The Board endorses that approach of making incremental improvements wherever and whenever possible to support the mission and vision of the Utility. To that end, it has become apparent that communication between AWWU, the Municipal Administration, and the Assembly needs to be improved.

The attached proposed Assembly Ordinance provides a few more adjustments to the code to address that concern. The AWWU Board wants to ensure that there is clear and regular communication on utility business with both the executive and legislative branches of municipal government.

Additionally, while Title 31 provided for the transition of personnel administration to the AWWU Board, it is recognized that if rules for personnel administration differ between various departments of the Municipality, the result would lead to inequity among municipal staff and cumbersome and uneven implementation of policy. To that end, the attached proposed Assembly Ordinance eliminates the requirement for AWWU under Section 31.30.10 to assume responsibility for implementation of a distinct set of personnel rules and eliminates the requirement to undertake independent negotiations with collective bargaining units.

Similarly, it is necessary to recognize that the Municipality as a whole needs coherent and consistent legal advice. To that end, it is important to emphasize that the Municipal Attorney is at the center of legal issues. The proposed change to Section 31.20.030(B)(9) underscores that understanding.

The AWWU Board has authorized and endorsed the language of the attached proposed Assembly Ordinance, through adoption of its Board Resolution 2011-5, at its regular monthly meeting of May 4, 2011. The Board encourages consideration and adoption by the Assembly of this language in lieu of other actions that would dismantle Title 31 and with that dismantling, negate the progress the enterprise has made in building a business model of efficiency and transparency.

Prepared by: Anchorage Water and Wastewater Utility
Recommended by: Anchorage Water & Wastewater Utility Board of Directors
Respectfully Submitted: Harriet Drummond, Assembly Member-Section 3
Elvi Gray-Jackson, Assembly Member-Section 4
Dick Traini, Assembly Member-Section 4



ANCHORAGE WATER AND WASTEWATER UTILITY
BOARD RESOLUTION
No. 2011-5

AUTHORITY BOARD
APPROVED

Date: May 4, 2011
Meeting Date: May 4, 2011
Amended & Approved

1 **Recommending Amendments to Title 31 of the Anchorage Municipal Code**

2
3 WHEREAS, the Municipal Assembly enacted Assembly Ordinance AO 2005-107 on September
4 13, 2005, creating Title 31 of the Anchorage Municipal Code; and establishing a Board of Directors
5 empowered to operate and manage the Anchorage Water and Wastewater Utility (AWWU); and,
6

7 WHEREAS, Title 31 was created for AWWU to be more independent to support the
8 implementation of best business practices that would enable more efficient implementation of new
9 programs or technologies; and,
10

11 WHEREAS, Title 31 created a Board responsible for strong fiscal management and system
12 integrity while allowing customers to have better access to policy makers; and,
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14 WHEREAS, the Board embraces the philosophy of incremental continuous improvement,
15 recognizing that, from time-to-time, additional refinements to code are appropriate, based on thoughtful
16 consideration and working experience with the code; and,
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18 WHEREAS, amendments to Title 31 were further enacted by AO 2008-85 on August 12, 2008,
19 and AO 2009-44 on May 12, 2009; and,
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21 WHEREAS, Utility operations under the existing Board governance provide for a higher degree
22 of accountability, transparency and access in providing services to customers; and,
23

24 WHEREAS, Utility operations under the existing Board governance have been shown to provide
25 increased efficiency in business processes over the previous governance structure as an enterprise
26 department of general government, benefiting both ratepayers and the Municipality as the owner of the
27 Utility; and,
28

29 WHEREAS, the Municipality has benefitted through expeditious closure of capital projects to
30 plant, leading to decreased interest expense and faster capture of expenditures in rate base; and,
31

32 WHEREAS, members of the Assembly have expressed a desire for stronger channels of
33 communication between AWWU and the Assembly; and,
34

35 WHEREAS, the Board recognizes potential for confusion regarding the application of multiple
36 sets of personnel rules suggested by the existing Section 31.30.010 of the Code.
37

38 NOW, THEREFORE, THE AWWU BOARD OF DIRECTORS RESOLVES:

39
40 **To recommend changes to Anchorage Municipal Code as outlined in the attached proposed**
41 **Assembly Ordinance and described further in the draft Assembly Memorandum. The Board**
42 **desires this Assembly Ordinance to be introduced on May 10, for a public hearing to be held on**
43 **May 24, in conjunction with AO 2011-24.**
44

45 Passed and approved by the Anchorage Water & Wastewater Utility Board of Directors this 4th day of
46 May, 2011.

47
48 *Timothy M. Sullivan, Sr.*
49 _____
50 Timothy M. Sullivan, Sr.
51 Chair, AWWU Board of Directors