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**MUNICIPALITY OF ANCHORAGE**  
**ANCHORAGE ASSEMBLY**

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

Minutes for Special Meeting of August 30, 2005, amended

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**1. CALL TO ORDER**

The Special Assembly Meeting was convened by Chair Fairclough at 5:07 p.m. in the Assembly Chambers, Room 108 of the Loussac Library, 3600 Denali Street in Anchorage, Alaska.

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

PRESENT: Allan Tesche, Janice Shamberg, Debbie Ossiander, Dan Sullivan, Anna Fairclough, Dan Coffey, Chris Birch, Ken Stout, Paul Bauer, Dick Traini and Pamela Jennings.

ABSENT: None.

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**3. PLEDGE OF ALLEGIANCE** Assemblymember Birch led the pledge.

Mayor Begich recognized two Municipal employees in the audience. APD Patrol Officer Mark Karstetter, with the Meth Lab Team, was also a Technical Sergeant in the Alaska Air National Guard, where he had served for the past 14 years. Officer Karstetter was currently a member of the 176<sup>th</sup> Maintenance Squadron, and in 2002, had been deployed to Khandahar, Afghanistan for eight months supporting Operation Enduring Freedom. APD Senior Patrol Officer Scott Lofthouse was the Gang Investigations Instructor and an Assault/Robbery Unit Detective. Officer Lofthouse was also a Master Sergeant with the Alaska Air National Guard, where he served as a Superintendent for the 3<sup>rd</sup> Security Forces Squadron. Mayor Begich presented community recognitions to these men and thanked each of them for serving the city and the country. Officer Karstetter thanked the Mayor, the Assembly and fellow officers present that evening, for their recognition and support of his service with the National Guard and Reserve, which made up nearly 65% of the forces stationed in Afghanistan.

Chair Fairclough thanked the men for their service to the community.

Ms. Jennings thanked them for their service to the country and thanked their families for their support. She hoped Officer Lofthouse and his unit would receive more assistance for their efforts in Afghanistan.

To Mr. Sullivan, Officer Karstetter acknowledged his understanding of an ordinance before the Assembly dealing with methamphetamine and responded that any regulation of the sale of Sudafed and those types of over-the-counter narcotics would make it harder for criminals and would assist police efforts in shutting down Meth labs in the area.

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**4. OLD BUSINESS**

4.A. Ordinance No. AO 2005-83, an ordinance amending Title 10 to add a new Chapter for **licensing of towing operators** in the Municipality, amending Section 10.05.025 to add a fine, and other matters; Legal Department.

1. Assembly Memorandum No. AM 442-2005.

2. Ordinance No. AO 2005-83(S), an ordinance amending Title 10 to add a new Chapter for licensing of towing operators in the Municipality, amending Section 10.05.025 to add a fine, and other matters; Legal Department. (*Public Hearing Closed 8-9-05; Postponed from 8-9-05*)

Chair Fairclough stated that Public Hearing was closed on August 9, 2005 and she called for a motion.

Mr. Traini moved, to approve AO 2005-83(S),  
Mr. Coffey seconded,

To Mr. Birch, Anchorage Police Department Impound Supervisor Mindy McCulley clarified specific requirements on signage, concerning allowances for one sign for the front of a business and the manufacturing costs of signs.

Mr. Sullivan stated the insurance requirements should be limited to companies involved with the rotational tow. Ms. McCulley responded that the Department of Risk Management created insurance requirements because of the value of vehicles and the high costs of accidents.

Mr. Sullivan moved, to amend AO 2005-83(S) on Page 2, Line 32, B & C, by  
Ms. Jennings seconded, adding, "for operators that tow on behalf of the Municipality  
and this was later withdrawn. of Anchorage,"

To Mr. Tesche, Mr. Sullivan responded his intent was to make insurance requirements for tow operators who participate with the rotation contract with the city. All other tow companies would be responsible for their own insurance programs. Mr. Tesche responded that Municipal Code had existing insurance requirements, offering protection to the public. To his question, Municipal Manager Michael Abbott responded there were different code requirements for tow operators involved with the rotational tow program, which involved single contracts where

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1 operators carried their own insurance, with no liability to the city. For tow operators who contracted on occasion, the  
2 insurance rates were included in the contract and were addressed in this ordinance. The Administration opposed the  
3 amendment and thought it would create a liability that currently did not exist. Mr. Tesche opposed the amendment.  
4

5 To Chair Fairclough, Ms. McCulley responded the current code requirements for insurance were listed on Page 2. She  
6 recommended consideration of State of Alaska minimum requirements.  
7

8 To Mr. Coffey, Ms. McCulley concurred there were no insurance requirements set for tow contracts, even if they  
9 contracted with the Municipality.

10 Ms. Shamberg stated the amendment was not necessary.

11 Mr. Sullivan stated that certain tow operators on contract with the city had insurance requirements. He withdrew his  
12 previous amendment with the concurrence of the second.

13 Mr. Sullivan moved, to amend AO 2005-83(S) on Page 2, Line 32, *by adding*  
14 Ms. Shamberg seconded, to A.4.b, to read: Commercial general liability insurance in  
15 limits of liability "as required by state law, where applicable,"  
16 [not less than \$1,000,000 combined single limit for bodily  
17 injury and property damage per occurrence, including  
18 coverage for any vehicle, or owned, hired and non-owned  
19 vehicles, and;],  
20  
21  
22  
23

24 To Mr. Tesche, Mr. Abbott responded the Administration approved of the higher insurance requirements and the  
25 amendment would provide a certain level of protection for the towed public.  
26

27 To Ms. Ossiander, Mr. Abbott responded that Risk Manager Glenn Smith had approved of the higher insurance  
28 requirement.  
29

30 To Ms. Shamberg, Mr. Abbott responded that Mr. Smith's intention was to offer liability protection. Ms. Shamberg  
31 stated that if his research was not based on local statistics, she would question the rate increases for these operators.  
32

33 Mr. Coffey supported the Sullivan Amendment. The state had established uniform standards and minimums for  
34 operations across the state. There were many accident cases when there was not adequate insurance to cover the  
35 claim.  
36

37 To Mr. Stout, Ms. McCulley responded the state insurance requirements involved a minimum of \$750,000 per case.  
38 Mr. Stout supported the Sullivan Amendment.  
39

40 and this passed without objection.

41 Mr. Sullivan moved, to amend AO 2005-83(S) on Page 2, Line 37, *by adding to*  
42 Mr. Coffey seconded, A.4.c, to read: Automobile liability insurance in limits of  
43 and this passed without objection. liability "as required by state law, where applicable," ~~not less~~  
44 than \$1,000,000 combined single limit for bodily injury and  
45 property damage per occurrence, including coverage for any  
46 vehicle, or owned, hired and non-owned vehicles, and;],  
47  
48

49 Ms. Shamberg questioned operators who were just passing through Anchorage, like in the instance of a Seward  
50 operator towing to Palmer. Ms. McCulley responded that requiring licensing would apply to all businesses operating in  
51 the Municipality, which was backed by the majority of the towing industry in the city.  
52

53 Mr. Coffey moved, to amend AO 2005-83(S) on Page 4, Line 34, *by changing*  
54 Mr. Traini seconded, to read: ...shall be subject to a fine of [~~\$200.00~~] to "\$500.00,"  
55

56 Mr. Sullivan would not support the Coffey Amendment. The \$500 was too stiff of a penalty for not publishing a list.  
57

58 Mr. Traini supported the Coffey Amendment. The towing industry did not keep their towing fees up-to-date.  
59

60 Mr. Coffey stated that the substitute version referred to the failure of posting fees being subject to a fine. He thought  
61 the fees needed to be consistent throughout the document.  
62

63 To Ms. Ossiander, Ms. McCulley responded there had never been a fee for not posting rates. If rates were not posted,  
64 and a tow company towed a vehicle, the rates could be found in the Municipal Clerk's Office. If the rates were different  
65 than the charge, the owner could sue the tow company for three times the amount. She stated the higher fees would  
66 encourage them to comply.  
67

68 and the motion passed, 8-3.  
69

70 AYES: Tesche, Shamberg, Fairclough, Coffey, Stout, Bauer, Traini and Jennings.

71 NAYES: Ossiander, Sullivan and Birch.  
72

73 Mr. Coffey moved, to amend AO 2005-83(S) in Section 3, Page 5, Line 8, *by changing*  
74 Ms. Ossiander seconded, to read: This ordinance shall be effective  
75 [immediately upon passage and approval by the Assembly]  
76 "January 1," [~~2005~~] "2006."  
77

78 Mr. Coffey stated the businesses needed time to make all the changes. Mr. Abbott supported the date adjustment.  
79

1 and this motion was approved.

2  
3 AYES: Tesche, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
4 NAYES: Shamberg.

5  
6 Ms. Shamberg stated the ordinance had not addressed towing a vehicle if it was blocking the entrance to a home or  
7 business and there was no sign posted. Mr. Abbott responded that R-1 and similarly zones properties were exempt  
8 from these requirements. Ms. McCulley concurred and stated that a vehicle could be towed from private property.

9  
10 Mr. Coffey stated there had been numerous signed statements handed into the Municipal Clerk's Office, from long-  
11 term tow operators who supported the changes.

12  
13 Chair Fairclough put the Question on the main motion.

14  
15 and the main motion, as amended, was passed unanimously.

16  
17 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
18 NAYES: None.

- 19  
20 4.B. Ordinance No. AO 2005-84, an ordinance amending Anchorage Municipal Code Sections 9.54.030,  
21 9.54.050, and 14.60.030 to add new sections regarding **tow operator fees**, rate changes, signage,  
22 setting a fine for failure to publish towing fees and other matters; Anchorage Police Department.  
23 1. Assembly Memorandum No. AM 443-2005. (*Public Hearing Closed 8-9-05; Postponed from*  
24 *8-9-05*)  
25 2. Ordinance No. AO 2005-84(S), an ordinance amending Anchorage Municipal Code Sections  
26 9.54.030, 9.54.050, and 14.60.030 to add new sections regarding tow operator fees, rate  
27 changes, signage, setting a fine for failure to publish towing fees and other matters:  
28 Anchorage Police Department. (**Laid on the Table**)  
29

30 Chair Fairclough read the ordinance title and called the Question.

31  
32 Mr. Coffey moved, to approve AO 2005-84(S),  
33 Mr. Stout seconded,

34  
35 To Mr. Coffey, APD Impound Enforcement Officer Mindy McCulley responded the current size requirement for signs  
36 was 30x30 inches. She explained the changes in the substitute version.

37  
38 Mr. Coffey moved, to amend AO 2005-84(S) on Page 2, *by deleting* Lines 5-9,  
39 Ms. Shamberg seconded, and renumber, accordingly,

40  
41 Mr. Coffey stated that requiring the posting of minimum rates was not necessary.

42  
43 To Mr. Traini, Ms. McCulley responded the signs could be made out of any material selected by the businesses.

44  
45 To Ms. Jennings, Ms. McCulley responded that posting the minimum rates had been requested by tow operators. It  
46 would notify the violator that there would be a stiff fine. It was important to have good business practices and it was  
47 logical to post a minimum rate, to indicate that towing, impound and storage fees were expensive.

48  
49 To Ms. Shamberg, Ms. McCulley responded that her goal was to be fair to the public, preparing them for an expensive  
50 fine for the violation. Ms. Shamberg stated that 'a minimum' could mean \$1.00.

51  
52 and this motion passed, 8-3.

53  
54 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch and Traini.  
55 NAYES: Stout, Bauer and Jennings.

56  
57 Mr. Coffey moved, to amend AO 2005-84(S) in Section 3, Page 3, Line 2 *by*  
58 Ms. Ossiander seconded, *changing* to read: This ordinance shall be effective  
59 [~~immediately upon passage and approval by the Assembly~~]  
60 "on January 1," [2005] "2006,"  
61

62 Mr. Coffey stated it was necessary to allow time for the tow operators to make the changes.

63  
64 and this was approved without objection.

65  
66 Mr. Sullivan moved, to amend AO 2005-84(S) on Page 1, Lines 15 -16  
67 Ms. Ossiander seconded, changing [~~\$500.00~~] "\$300.00,"

68  
69 Mr. Sullivan stated the city had increased all fees and fines over the years and this would allow a more gradual  
70 increase.

71  
72 To Mr. Birch, Mr. Abbott responded there was no limitation on how frequently the fine could be charged, which would  
73 be levied through the Clerk's Office. Municipal Clerk Barbara Gruenstein responded this was establishing a new fee  
74 system and history had not been established. Mr. Coffey responded that normally a code violation fine was levied per  
75 day and an amendment would be appropriate, pertaining specifically to this issue. Municipal Attorney Fred Boness  
76 responded that it was understood that the Municipal Clerk would advise the person that they had had not complied,  
77 give them a reasonable amount of time to file and if they failed to comply, the Municipal Clerk could issue an additional  
78 fine. Additional language was not necessary.  
79

1 To Mr. Traini, Ms. Gruenstein responded that her office had requested that all records of towing fee schedules be  
2 updated. She responded there were some records that were ten years old. Mr. Traini stated he would not support a  
3 grace period of ten years.

4  
5 and this motion passed, 9-2.

6  
7 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Bauer and Jennings.  
8 NAYES: Stout and Traini.

9  
10 Ms. Shamberg stated it was important for the signs to include where rates would be posted, with either a phone  
11 number or the address of the Municipal Clerk's Office, to verify rates. Ms. McCulley concurred.

12  
13 Ms. Shamberg moved, to amend AO 2005-84(S) on Page 2, *by adding* a new  
14 Mr. Stout seconded, "Section 3" to read: "Rates posted with Municipal Clerk's  
15 Office at 343-4311," and *by renumbering*, accordingly,  
16

17 Mr. Coffey stated it was reasonable to believe that people knew that if they parked illegally, they would be towed and  
18 there would be a fine.

19  
20 and this motion failed, 3-8.

21  
22 AYES: Tesche, Shamberg and Jennings.  
23 NAYES: Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer and Traini.

24  
25 Mr. Coffey proposed additional language that would encourage compliance. Municipal Attorney Fred Boness  
26 concurred.

27  
28 Mr. Coffey moved, to amend AO 2005-84(S) on Page 1, Line 16, *by adding*  
29 Mr. Sullivan seconded, "; and ten (\$10) dollars for each additional day that the fees  
30 and this was passed without objection. are not published, as required by law, after written notice is  
31 sent to the tow operator,"  
32

33 Question was called on the main motion.

34  
35 and the main motion, as amended, was passed.

36  
37 AYES: Tesche, Shamberg, Ossiander, Sullivan Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
38 NAYES: None.

39  
40 Mr. Sullivan thanked Ms. McCulley, Ms. Gruenstein and the Administration for their work with this issue.

41  
42 Chair Fairclough thanked Ms. McCulley, Mr. Abbott and the tow operators, for their involvement with the ordinance.

#### 43 44 5. CONTINUED PUBLIC HEARINGS

45 5.A. Resolution No. AR 2005-202, a resolution of the Anchorage Municipal Assembly appropriating  
46 \$245,002 from the U.S. Department of Justice, Office of Justice PrograMs., Edward Byrne Memorial  
47 Justice Assistance Grant and \$8,860 as a contribution from the Anchorage Police Service Area Fund  
48 (151), Anchorage Police Department 2005 Operating Budget, to the Federal Categorical Grants Fund  
49 (241), Anchorage Police Department, for the purpose of underwriting projects to **reduce crime and**  
50 **improve public safety**; Anchorage Police Department.

51 1. Assembly Memorandum No. AM 547-2005. (*Carried Over from 8-23-05*)

52  
53 Chair Fairclough read the resolution title and opened Public Hearing. With no public testimony, she closed Public  
54 Hearing and called the Question.

55  
56 Ms. Ossiander moved, to approve AR 2005-202,  
57 Mr. Sullivan seconded,

58  
59 To Mr. Stout, Anchorage Police Chief Walt Monegan responded the overtime was associated with training, which  
60 involved training officers during their hours of duty. Their replacements needed to be paid for the additional hours on  
61 duty.

62  
63 and this motion was passed, 10-0.

64  
65 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Birch, Stout, Bauer, Traini and Jennings.  
66 NAYES: None.

67 (*Clerk's Note: Mr. Coffey was temporarily out of Chambers at the time of the vote.*)

68  
69 5.B. Resolution No. AR 2005-203, a resolution accepting and appropriating a State of Alaska grant per  
70 Senate Bill 46 in the amount of \$10,000,000 to the Municipality of Anchorage Port of Anchorage  
71 Capital Fund (571) for the **Port Intermodal Expansion Project**; Port of Anchorage. (*Carried Over*  
72 *from 8-23-05*)

73 1. Assembly Memorandum No. AM 548-2005.

74  
75 Chair Fairclough read the resolution title and opened Public Hearing. With no one to testify, she closed Public Hearing  
76 and called the Question.

77  
78 Mr. Tesche moved, to approve AR 2005-203,  
79 Ms. Jennings seconded,

1 and this motion was passed, 11-0.

2  
3 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
4 NAYES: None.

5  
6 5.C. Resolution No. AR 2005-204, a resolution of the Municipality of Anchorage appropriating \$1,896,054  
7 to the State Categorical Grants Fund (231) from the Federal Highway Administration through the  
8 Alaska Department of Transportation and Public Facilities to provide funding for congestion mitigation  
9 and air quality improvement program through **expansion of public transportation services** within  
10 the Municipality of Anchorage; Public Transportation Department.

11 1. Assembly Memorandum No. AM 549-2005. *(Carried Over from 8-23-05)*

12  
13 Chair Fairclough read the resolution title and opened Public Hearing. With no one to testify, she closed Public Hearing  
14 and called the Question.

15  
16 Ms. Jennings moved, to approve AR 2005-204,  
17 Mr. Traini seconded,  
18 and this motion was passed, 11-0.

19  
20 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
21 NAYES: None.

22  
23 5.D. Ordinance No. AO 2005-109, an ordinance approving borrowing up to \$5,000,000 under the United  
24 States Department of Housing and Urban Development's Section 108 Loan Guarantee Program, and  
25 securing repayment thereof with the Municipality's present and future Community Development Block  
26 Grants and Brownfields Economic Development Initiative Grants; appropriating \$5,000,000 in  
27 guaranteed loan funds and \$2,000,000 in Brownfields Economic Development Initiative Grant funds to  
28 Federal Categorical Grant Fund (241); and approving a combined loan and grant of \$2,800,000 to  
29 **Anchorage Community Land Trust**; Office of Economic & Community Development. *(Carried Over*  
30 *from 8-23-05)*

31 1. Assembly Memorandum No. AM 562-2005.

32  
33 Chair Fairclough read the ordinance title and opened Public Hearing. With no one to testify, she closed Public Hearing  
34 and called the Question.

35  
36 Mr. Traini moved, to approve AO 2005-109,  
37 Ms. Jennings seconded,

38  
39 To Ms. Ossiander, Economic and Resource Coordinator Merten Bangemann-Johnson responded the facility was fully  
40 pre-leased. Businesses would be able to expand in the facility and create 150 new jobs over the next five years. The  
41 facility still needed to be rehabilitated. According to HUD, all new jobs created were considered low income.

42  
43 To Ms. Jennings, Mr. Bangemann-Johnson responded this was considered a University of Alaska, Anchorage  
44 Incubator Program. He responded this involved loan programs. and would involve Community Development Block  
45 Grants. Mayor Begich responded it was a very secure program.

46  
47 and this motion was passed, 11-0.

48  
49 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
50 NAYES: None.

51  
52 5.E. Ordinance No. AO 2005-104, an ordinance amending Assembly Ordinance 98-1 to adjust certain  
53 special assessments for streets and street light improvements on property specially benefited in  
54 **Paving Special Assessment District 8P79** and setting a payment date for adjusted special  
55 assessments; Legal Department.

56 1. Assembly Memorandum No. AM 554-2005. *(Carried Over from 8-23-05)*

57  
58 Chair Fairclough stated the Administration intended for this item to be postponed indefinitely. She read the ordinance  
59 title and opened Public Hearing. With no one to testify, she closed Public Hearing and called the Question.

60  
61 Mr. Coffey moved, to postpone indefinitely AO 2005-104,  
62 Mr. Birch seconded,  
63 and this motion was passed.

64  
65 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
66 NAYES: None.

67  
68 5.F. Ordinance No. AO 2005-105, an ordinance authorizing the Municipality of Anchorage to **extinguish all**  
69 **unpaid penalty, interest and administrative debt** on property listed on Exhibit A (PID 051-471-12 –  
70 Sleepy Hollow #1 Lot 1 Block 1; PID 051-822-29 – Tract A Sampson Estates Commons Area); Real  
71 Estate Services.

72 1. Assembly Memorandum No. AM 555-2005. *(Carried Over from 8-23-05)*

73  
74 Chair Fairclough read the ordinance title and opened Public Hearing. With no one to testify, she closed Public Hearing  
75 and called the Question.

76  
77 Mr. Coffey moved, to approve AO 2005-105,  
78 Ms. Jennings seconded,

79

1 To Mr. Sullivan, Heritage Land Bank Executive Director Robin Ward responded these debts were over ten years old  
2 and were considered 'uncollectible.' The city was to sell those properties and the collected money would pay for the  
3 debt owed.

4  
5 and this motion was passed, 11-0.

6  
7 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
8 NAYES: None.

9  
10 5.G. Ordinance No. AO 2005-102, an ordinance amending Anchorage Municipal Code Section 11.20.100  
11 to reduce regulated **vehicle minimum liability insurance requirements**; Transportation Inspection.  
12 (*Carried Over from 8-23-05*)

13 1. Assembly Memorandum No. AM 552-2005.

14  
15 Chair Fairclough read the ordinance title and opened Public Hearing. With no one to testify, she closed Public Hearing  
16 and called the Question.

17  
18 Mr. Coffey moved, to approve AO 2005-102,  
19 Ms. Jennings seconded,

20  
21 To Mr. Sullivan, Deputy Municipal Manager Michael Abbott responded this was being addressed upon  
22 recommendation of the Taxi Commission, representing taxi drivers. It was also supported by the Administration.

23  
24 and this motion was passed, 11-0.

25  
26 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.  
27 NAYES: None.

28  
29 5.H. Ordinance No. AO 2005-88, an ordinance amending Anchorage Municipal Code Section 3.30.127,  
30 *Length of Service*, regarding **service recognition pay**; Employee Relations. (*Carried Over from 7-26-*  
31 *05, 8-9-05 and 8-23-05*)

32 1. Assembly Memorandum No. AM 481-2005.

33 2. Ordinance No. AO 2005-88(S), an ordinance amending Anchorage Municipal Code Section  
34 3.30.127, *Length of Service*, regarding service recognition pay, Employee Relations.

35 3. Assembly Memorandum No. AM 551-2005.

36  
37 Chair Fairclough read the ordinance title and opened Public Hearing, which included the substitute version.

38  
39 ELIZABETH ZIB, 15-year Municipal employee, opposed the ordinance. She read from the Municipal personnel rules,  
40 and stated that there would be a greater disparity between contract and non-represented employees and it conflicted  
41 with the Administration's actions and intentions of closing that gap in 2003.

42  
43 JOYCE MUCHA, 14-year non-represented Municipal employee, opposed the ordinance because non-represented  
44 employees were not eligible. She made recommendations for changes and urged the Assembly to vote NO.

45  
46 MARY BATTENSMITH non-represented Municipal employee opposed and urged the Assembly to vote NO.

47  
48 DEIRDRE BRUST testified it would change her retirement plans by three years.

49  
50 With no additional public testimony, Chair Fairclough closed Public Hearing and called the Question.

51  
52 Mr. Coffey moved, to approve AO 2005-88(S),  
53 Ms. Shamberg seconded,

54  
55 Ms. Ossiander stated there was merit to the AMEA Union's opposition of this recommendation. Mayor Begich  
56 responded this change had been initiated before he took office. Service recognition and longevity programs were  
57 expensive for the city to maintain and his recommendations offered alternatives. The Administration was intending to  
58 bring forward other changes so all employees would be treated the same. The proposed changes would continue to  
59 be negotiated with the bargaining agreements.

60  
61 Ms. Jennings questioned if the Mayor was suggesting there were municipal employees who were less than productive.  
62 Mayor Begich responded there were better ways to utilize resources to ensure productivity. His recommendations  
63 would correct the problem. He responded that the Human Resource Advisory Committee and the Administration were  
64 examining other alternatives for employee work incentives.

65  
66 To Mr. Tesche, Mayor Begich responded that approval of the ordinance would not diminish service recognition pay  
67 currently in any existing municipal labor contract. It was an effective way to save money and recognize employees.  
68 Employee Relations Director Dave Otto responded that many unions would be negotiating out the service recognition  
69 and they were working on pay-for-performance systems.

70  
71 Mr. Coffey read a letter from the Human Resources Advisory Board, supporting the ordinance.

72  
73 To Mr. Sullivan, Mayor Begich responded there were different agreements with each union negotiation. All contracts  
74 were different and some of the unions cooperated more than others.

75  
76 To Ms. Jennings, Mr. Otto responded that this change would not significantly affect the recruitment of qualified people.

77  
78 To Mr. Bauer, Mayor Begich responded that each union used a type of service recognition, which they called the merit  
79 system. In reality, the recognition was based on time served.

1  
2 To Ms. Shamberg, Mayor Begich responded they were still in the process of drafting a merit-pay reward system. Mr.  
3 Otto responded they were gathering information from across the country and working with the Human Resource  
4 Advisory Board.

5  
6 Chair Fairclough stated that she had been contacted by employees, concerned about the language on Line 15, 'except  
7 executive employees.' Mayor Begich responded that executive employees had never received service recognition,  
8 and their length of service was at the will of the Mayor.

9  
10 Mr. Tesche supported the Mayor's intentions and approved of a system of employment compensation based on merit  
11 and performance. He recommended this issue be addressed after completing contract negotiations and he  
12 encouraged the Mayor to address Municipal Code, to legally pursue this issue. He would not support the ordinance.

13  
14 Mr. Coffey supported the Mayor's ordinance. This was an issue that needed to be dealt with.

15  
16 and this motion failed, 5-6.

17  
18 AYES: Shamberg, Fairclough, Coffey, Birch, Stout and Jennings.

19 NAYES: Tesche, Ossiander, Sullivan, Bauer, Traini and Jennings.

20  
21 Mayor Begich stated the Administration would continue to work on this issue and would present it again in the near  
22 future.

23  
24 5.I. Resolution No. AR 2005-173, a resolution confirming and levying special assessments for **Special**  
25 **Assessment District 1SR02** which reconstructed Warwick Drive, and setting the date of assessment  
26 installment payments, interest on unpaid assessments, and providing for penalties and interest in the  
27 event of delinquency; Project Management & Engineering.

28 1. Assembly Memorandum No. AM 476-2005. (*Carried Over from 7-26-05, 8-9-05 and 8-23-05*)

29  
30 Chair Fairclough read the resolution title and opened Public Hearing.

31  
32 Mr. Coffey moved, to approve AR 2005-173,  
33 Ms. Jennings seconded,

34  
35 To Chair Fairclough, Deputy Municipal Manager Michael Abbott responded the contractor was Cullip Excavating,  
36 which had bid the contract under cost, and it would cost taxpayers less than originally estimated.

37  
38 Ms. Jennings moved, to amend AR 2005-173 on Page 1, Line 22 *by adding* Mr.  
39 Traini seconded, "August 30," on Line 32 "1<sup>st</sup>," and "November," and on  
40 and this was passed without opposition. Line 33 "November 1<sup>st</sup>,"

41  
42 and the main motion, as amended, was passed, 10-0.

43  
44 AYES: Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.

45 NAYES: None.

46 (*Clerk's Note: Mr. Tesche was temporarily out of Chambers at the time of the vote.*)

47  
48 5.J. Resolution No. AR 2005-193, a resolution of the Anchorage Municipal Assembly approving an  
49 amendment to an alcoholic beverages conditional use in the B-3 District for a beverage dispensary  
50 use per AMC 21.40.180 D.8 for **The Setter**, located on Lot 1, Fantasies Subdivision and Lots 4, 5 and  
51 6, Block 26C, Fourth Addition Subdivision; site address being 1911 East 5th Avenue, generally located  
52 between East 4<sup>th</sup> and East 5<sup>th</sup> Avenues, on the east side of Sitka Street (Mountain View Community  
53 Council) (Case 2005-103); Planning Department. (*Carried Over from 8-9-05*)

54 1. Assembly Memorandum No. AM 519-2005. (***Continued to 9-27-05, 8:00 p.m.***)

55  
56 Chair Fairclough called for discussion on Assemblymembers' conflicts of interest or ex parte contact which needed to  
57 be addressed.

58  
59 Chair Fairclough declared that she had a conflict of interest with her association as the Executive Director of Standing  
60 Together Against Rape (STAR). The Board of STAR had passed a resolution opposing AR 2005-193 and had  
61 supported Mr. Traini's proposed 1000-foot separation between under-21 adult-oriented businesses and establishments  
62 with liquor licenses.

63  
64 Mr. Coffey stated the Question.

65  
66 Mr. Coffey moved "Does Assembly Chair Fairclough have a substantial financial  
67 Mr. Traini seconded, interest in the matter before the Assembly?"  
68 and his was later amended.

69  
70 To Mr. Tesche, Chair Fairclough responded she had no personal financial interest with any of the businesses that  
71 were subjects of this application. Her employment with STAR was not contingent upon her discussion and action of  
72 this matter before the Assembly. She responded that she could participate as an Eagle River Chugiak Representative  
73 and make a fair and impartial decision on this matter. She stated her action taken upon this resolution may be  
74 misperceived by the public or argued legally, depending upon the outcome of the vote. She viewed this matter as a  
75 land use issue, and there had been much discussion on issues that were not applicable.

76  
77 Mr. Sullivan stated that he had served with Chair Fairclough for the last seven years and he was confident that she  
78 would be able to participate with this proceeding with impartiality. The resolution from a board was not a compelling

1 document and the board had not made their decision based on her position. He would vote that she did not have a  
2 conflict of interest.

3  
4 To Mr. Coffey, Chair Fairclough responded that her participation on this matter would not affect her professional  
5 association with the board, because they understood and could clearly differentiate between the issues. The staff she  
6 worked with, however might view it differently, because they worked closely with the community on a personal basis  
7 and might not be able to separate the difference between victimization and a land use issue. She responded that she  
8 could vote impartially. Mr. Coffey stated that her being able to vote impartially was the key issue for Assemblymember  
9 to decide, and not public perception.

10  
11 Ms. Ossiander stated that she had witnessed Chair Fairclough in discussion and she was able to remain focused on  
12 the issue. All Assemblymembers, as representatives, were engaged with the community and were shaped with their  
13 experiences, but there was no economic impact for Ms. Fairclough and her employers would remain impartial with her  
14 participation. Ms. Ossiander stated there was no conflict of interest.

15  
16 Mr. Coffey proposed for the original motion to include additional language to address the appearance of a conflict of  
17 interest. Municipal Attorney Fred Boness responded that officials, boards or commissions, while acting in their quasi-  
18 judicial capacity, shall remain impartial in all matters, both in fact and appearance. He stated that Chair Fairclough  
19 was acting in a quasi-judicial capacity with the decision before the Assembly. Mr. Tesche concurred, that it  
20 summarized the question before the Assembly. Mr. Coffey stated the question of Ms. Fairclough's participation boiled  
21 down to the question of her impartiality.

22  
23 Mr. Coffey moved, to amend the Coffey Motion, *by adding* to read: "Does  
24 Mr. Tesche seconded, Assembly Chair Fairclough have a substantial financial  
25 interest, **impartiality or the appearance of a conflict**  
26 **of interest** in the matter before the Assembly?"

27  
28 Mr. Stout stated that many Assemblymembers had appearances of conflicts of interests, regardless of the outcome,  
29 and the question was their impartiality.

30  
31 Mr. Coffey put the Question. Ms. Jennings requested a roll call vote.

32  
33 and this motion, as amended, failed.

34  
35 AYES: None.

36 NAYES: Tesche, Shamberg, Ossiander, Sullivan, Coffey, Birch, Stout, Bauer, Traini and Jennings.

37 ABSTAIN: Fairclough.

38  
39 Mr. Birch moved the Question, "Does Assemblymember Coffey have a substantial financial  
40 Ms. Shamberg seconded, interest, impartiality or the appearance of a conflict of  
41 interest in the matter before the Assembly?"

42  
43 Mr. Coffey disclosed that in 1999 he had represented a former owner of the Irish Setter, and had heard discussions of  
44 the establishment's square footage and the addition of Fantasies next door. In June of 2003 he had worked with the  
45 current owner on permitting for a conditional use. He had declined to complete that representation, formally notified  
46 the owner, returned funds that he had been paid and closed the file with this matter.

47  
48 To Mr. Tesche, Mr. Coffey responded that he had had no further professional involvement with any of the applicants or  
49 the business since that time. He responded his law firm dealt with many land use issues and had dealt with many  
50 conditional uses associated with liquor licenses. Mr. Coffey stated his legal expertise involved land use issues, and he  
51 clearly understood the matter before the Assembly. He responded that he could make a fair and impartial decision as  
52 an Assemblymember.

53  
54 Ms. Shamberg stated there was the appearance of a conflict of interest.

55  
56 Ms. Ossiander stated that while she wanted to rely on Mr. Coffey's knowledge of land use and Title 21, she stated  
57 there was the appearance of a conflict of interest.

58  
59 Mr. Sullivan stated that many clients of Mr. Coffey had been before the Assembly. Mr. Coffey had represented many  
60 in the past and would represent many in the future, which might be potentially thousands of businesses in the city. But  
61 he was not currently representing and had no financial interest in those clients. He would not support a conflict.

62  
63 Mr. Stout stated that because the word 'appearance,' had been included, it would qualify many Assemblymembers for  
64 having conflicts of interest. He trusted Mr. Coffey to remain fair and impartial with his participation and he would not  
65 support a conflict of interest.

66  
67 Mr. Tesche stated that, for many reasons, he would vote that Mr. Coffey did have a conflict of interest.

68  
69 Mr. Birch put the Question.

70  
71 and this motion failed.

72  
73 AYES: Tesche, Shamberg, Ossiander and Jennings.

74 NAYES: Sullivan, Fairclough, Birch, Stout, Bauer and Traini.

75 ABSTAIN: Coffey.

76  
77 To Chair Fairclough, Mr. Boness responded it was recommended to disclose which Assemblymembers had had ex  
78 parte contact by visiting the site or being exposed to outside information. Mr. Sullivan, Mr. Tesche, Ms. Jennings, Mr.  
79 Traini, Ms. Fairclough, Mr. Bauer, Mr. Stout indicated they had visited the site.



1  
2 Other than attending the Assembly Worksession and reviewing the information that had been prepared by the  
3 Assembly Office, Assemblymembers disclosed information they had been exposed to, concerning the matter. Mr.  
4 Tesche had viewed an email from the STAR Board. Ms. Shamberg stated she had reviewed arrest records, prior to  
5 Assemblymembers being advised not to have ex parte contact. Ms. Ossiander had received 3 or 4 short phone calls  
6 on this matter. Ms. Jennings had only reviewed the prepared packet. Mr. Traini had read the public documents of  
7 police arrest and investigation records of the owner's sons. Mr. Bauer had not viewed any other records. Mr. Stout  
8 stated that he had talked with the two owners while he was at the site. Mr. Birch had only viewed the packet  
9 information. Mr. Coffey had only reviewed the previous billings in his office, previously related to this matter. Ms.  
10 Fairclough had received one phone call.

11  
12 Chair Fairclough put the Question, "For those of you, who visited the site, does your site visit in any way make you  
13 incapable of being able to listen to testimony and vote in an impartial manner?" There was no response.

14  
15 To Chair Fairclough, Planning Administrator Jerry Weaver responded that the request was to increase the square  
16 footage for the bar area by 40%. The increase in size was the basis for their recommendation that this matter was a  
17 major amendment.

18  
19 To Mr. Bauer, Mr. Weaver responded this was the first case before any Anchorage Assembly deciding a matter of this  
20 kind.

21  
22 Chair Fairclough put the Question, "Shall we consider this a Major Amendment, which would require a Public  
23 Hearing?" Mr. Tesche moved to amend the document with reference to this question.

24  
25 Mr. Tesche moved, to amend AR 2005-193 under 21.15.030.G, *by adding* "For  
26 Ms. Jennings seconded, purposes of amending the application for modification to  
27 and this motion was passed unanimously. a conditional use permit is MAJOR and should be considered  
28 by the Assembly only after Public Hearing,"  
29

30 AYES: Tesche, Shamberg, Ossiander, Sullivan, Fairclough, Coffey, Birch, Stout, Bauer, Traini and Jennings.

31 NAYES: None.

32  
33 Chair Fairclough read the resolution title and opened Public Hearing.

34  
35 KARA NIQUIST, Director of Advocacy for Covenant House, spoke of many activities on the premises. She opposed  
36 adding the liquor license and opposed the resolution. To Mr. Tesche, Ms. Niquist responded the approval of this  
37 permit would only make the situation worse. To Mr. Sullivan, she responded there was reference to an employee  
38 having been offered \$1,000, which happened all the time. To Mr. Traini, Ms. Niquist responded the management had  
39 assisted the girls in getting fake identification (*ID*). She identified the management as the Gonzalez brothers. To Ms.  
40 Shamberg, she had spoken with many girls, formerly Fantasies employees, who reported inappropriate touching. To  
41 Ms. Jennings, she responded there had been a rape in the parking lot reported, and the management had not allowed  
42 the use of the phone to call authorities. To Mr. Bauer, she responded that in her two years with Covenant House, she  
43 had personally interviewed at least five women from Fantasies, but that did not indicate the total numbers of women  
44 from that establishment that they had assisted. To Ms. Shamberg, the Supreme Court Decision had indicated that  
45 local government had the responsibility to review and regulate the secondary effects to the community, concerning  
46 land use. She stated there were now a pornographic store and a motel right next door to this establishment.

47  
48 JENNIFER JOHNSON, former dancer and former girlfriend of Marcos Gonzalez, opposed the resolution. She had  
49 been choked in the establishment and thought it was a dangerous spot. To Ms. Jennings, she responded employees  
50 paid the house to work there. To Mr. Bauer, she responded there should be restrictions and consequences made to  
51 the owners. To Mr. Traini, she responded the owner's three sons, the Gonzalez brothers, were considered the  
52 management. To Ms. Shamberg, she responded that no liquor was served in Fantasies. To Ms. Jennings, she  
53 described the layout of the establishment, with the common use of one bathroom. To Mr. Tesche, she responded the  
54 testimony from Ms. Niquist was accurate. To Mr. Coffey, she responded that she had recently quit dancing. To Mr.  
55 Stout, she responded they would not be able to control the new facility.

56  
57 DR. BECKY USRY, a 25-year practicing sociologist, opposed the resolution.

58  
59 GORDON SCHADT, an attorney representing the applicant, testified it was a land use issue, concerning a conditional  
60 use permit and the changes were improvements. To Mr. Traini, Mr. Schadt described the plastic partition separating  
61 the dance floor and the bar. To Mr. Tesche, he responded there had been only three liquor-related incidents in the last  
62 two years. He responded that Carol Hartman was the owner of the property, the building and the Setter. Her sister,  
63 Kathy Hartman, owned Fantasies. There were two separate business licenses. To Mr. Tesche, Mr. Traini, Mr. Coffey  
64 and Ms. Jennings, Mr. Schadt responded to questions concerning the girls' activities, his knowledge of the Gonzalez  
65 brothers, the premise entrance, the viewing wall and the modifications under the license.

66  
67 JUDY MUNOZ, former Setter bartender, testified against principles of the establishment concerning serving drunks.  
68 To Mr. Coffey, she responded that she had complained to her employees union. To Mr. Traini, she responded that  
69 Marcos Gonzalez used to be a disc jockey and was probably a bartender now. To Ms. Jennings and Mr. Bauer, she  
70 responded children were allowed in the bar only.

71  
72 KACY TELFER, Mary Magdalene Home Alaska Executive Director, opposed the resolution and stated it was a land  
73 use issue. To Mr. Sullivan, she responded that if this conditional use was approved, it would increase the amount of  
74 alcohol served.

75  
76 LYNNE BALLEW, Safe Harbor Inn owner and neighbor to the Setter, stated it was a land use issue. Fantasies and the  
77 Setter had been good neighbors. She thanked Mr. Bauer for his complements on her well-maintained property. To  
78 Mr. Tesche, she responded that they handled 120-130 people daily and 50% were children.

1 SAM O'CONNOR, West Side Community Patrol President, testified on the criminal history of the Gonzalez brothers.  
2 To Mr. Tesche and Mr. Traini, he responded to issues concerning the health and safety of the girls and a strip club at  
3 the Showboat. To Mr. Traini, Mr. O'Connor responded he was concerned for the girls' safety.

4  
5 DALE FOX, Executive Director of Alaska CHARR, testified that the Hartmans had always been up front with their plans  
6 and were honest, caring and contributing members of the community. They had invested their life savings in these  
7 improvements to the establishment. They had followed all the rules and he urged Assembly support. To Ms.  
8 Shamberg, Mr. Fox responded he supported the business.

9  
10 TOM McGRATH testified against allowing these two businesses to locate together. He urged the Assembly to deal  
11 with this as a land use problem. To Mr. Coffey, Ms. Jennings, Mr. Tesche and Mr. Traini, Mr. McGrath responded to  
12 their questions on legally licensing, revoking conditional uses, unrestricted intimate sexual activities, defining lap  
13 dances and allowed physical contact.

14  
15 TERI INCH, with Mary Magdalene Home and mother of three, testified against allowing the conditional use. To Mr.  
16 Stout, she responded about stripping and its affects and the girls' growth and development.

17  
18 STACIE PAPINEAU, Anchorage Women's Commission Chair, opposed the resolution, because of the secondary  
19 effects of establishments such as these, including violence and abuse. To Mr. Traini, she responded that she had  
20 visited the premises for about an hour and described totally-nude, sexual interaction between the dancers and patrons.

21  
22 LEANNE CHRISTENSEN, limousine chauffer for the Setter and former dancer, testified in support of the resolution.  
23 To Mr. Tesche, she responded that the two businesses should remain separated and secured by guards. The glass  
24 viewing wall improved the business in the bar. To Mr. Traini, she responded that Marcos Gonzalez was the disc  
25 jockey.

26  
27 BROOKE HARVEY, dancer at Fantasies, testified it was a good place to work and she supported the building  
28 expansion.

29  
30 WILLIAM SMITH testified this was a land use issue and he did not support the resolution.

31  
32 TROY MAULDIN supported this resolution and supported Carol and Kathy's expansion for their businesses. He had  
33 visited the premises and did not see any questionable activity. He urged Assembly support.

34  
35 Mr. Coffey moved, to extend the Assembly Meeting until midnight,  
36 Mr. Bauer seconded,

37  
38 Mr. Sullivan moved, to amend the Coffey Amendment *by changing* to extend  
39 Ms. Jennings seconded, the Assembly Meeting until [~~midnight~~] "11:30,"  
40 and this failed with many members opposing.

41  
42 and the main motion failed.

43  
44 KIM KINGSFORD, janitor with Fantasies, supported the establishment.

45  
46 Mr. Coffey moved, to Continue AR 2005-115 to 8:00 p.m. on  
47 Mr. Sullivan seconded, September 27, 2005,  
48 and this motion was passed unanimously.

49  
50 **6. NEW PUBLIC HEARING**

- 51 6.A. Resolution No. AR 2005-207, a resolution of the Anchorage Assembly approving the **Heritage Land**  
52 **Bank 2005-2006 Work Program** and 2007-2011 Five-Year Management Plan; Heritage Land Bank.  
53 1. Assembly Memorandum No. AM 563-2005. (***Carried Over to 9-13-05***)

54  
55 **7. ADJOURNMENT**

56  
57 Chair Fairclough adjourned the meeting at 11:00 p.m.

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ANNA FAIRCLOUGH, Assembly Chair

ATTEST:

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BARBARA GRUENSTEIN, Municipal Clerk  
Date Minutes Approved: February 28, 2006, as amended.  
MC/BG

(Copies of Approved Meeting Minutes are available from the Municipal Clerk's Office, 632 West 6<sup>th</sup> Avenue, Suite 250, Anchorage,  
Alaska, (907)343-4505, or on the Municipal Web Site, [www.muni.org](http://www.muni.org) ~Assembly~Minutes~year~month~day)