

# **MATANUSKA-SUSITNA BOROUGH - SPECIAL MEETING**

**ASSEMBLY - JULY 10, 2001**

## **I. CALL TO ORDER**

The special meeting of the Matanuska-Susitna Borough Assembly was held on July 10, 2001, at the Matanuska-Susitna Borough Assembly Chambers, Palmer, Alaska. The meeting was called to order at 6 p.m. by Mayor Timothy L. Anderson. The purpose of the special meeting was to discuss IM No. 01-162, State Redistricting Plan.

## **II. ROLL CALL**

Assembly members present and establishing a quorum were:

Mr. Larry DeVilbiss, Assembly District No. 1  
Ms. Sara Jansen, Assembly District No. 2 (Deputy Mayor)  
Mr. Talis J. Colberg, Assembly District No. 3 (via teleconference)  
Mr. Dan Kelly, Assembly District No. 4  
Ms. Jody Simpson, Assembly District No. 5  
Mr. Jim Colver, Assembly District No. 6  
Ms. Kelly Lankford Ladere, Assembly District No. 7

Staff in attendance were:

Mr. John Duffy, Borough Manager  
Mr. Michael Gatti, Borough Attorney  
Ms. Sandra Dillon, Borough Clerk  
Ms. Sandra Garley, Planning Director  
Ms. Michelle M. McGehee, Borough Clerk's Secretary

Mayor Anderson noted that the audience would be provided an opportunity to testify on IM No. 01-062.

## **III. PLEDGE OF ALLEGIANCE**

The pledge of allegiance was led by Wasilla Mayor Palin.

## **IV. NEW BUSINESS**

### **A. State Redistricting Plan**

- IM No. 01-162

Ms. Garley provided a staff report regarding the state redistricting plan and the effects of the plan on the Mat-Su Borough.

Discussion followed regarding:

- the criteria as required by the Alaska Constitution regarding reapportionment; and
- the variations between the borough's redistricting plan and the state's redistricting plan.

Mayor Anderson opened audience participation.

The following spoke in favor of challenging the state's plan and defending the borough's proposed redistricting plan: June Burkhart; Mary Psenak; Jean Woods; Lucille Frye; Roy Burkhart; Barbara Miller; Eddie Grasser, and

Representative Scott Ogan.

There being no others who wished to be heard, audience participation was closed and discussion moved to the assembly.

Mr. Gatti:

- introduced Theresa Henneman and Colby Smith of the law firm of Homes Weddle & Barcott, PC.

## **V. EXECUTIVE SESSION**

**MOTION:** Assemblymember Jansen moved to enter executive session for (1) potential or pending litigation to which the Matanuska-Susitna Borough may become or is a party and (2) confidential attorney-client communications made for the purpose of facilitating the rendition of professional legal services to the borough. In particular to discuss potential litigation involving the state's redistricting plan.

Those in attendance to include the mayor, assembly, manager, attorney, clerk, planning director, Terry Henneman and her associate, Colby Smith.

Discussion ensued regarding the appropriateness of entering into executive session to discuss the matter.

Assemblymembers DeVilbiss, Colberg, Lankford Ladere, and Kelly expressed their support for holding discussion in an open forum.

Mr. Gatti:

- advised that discussion regarding this type of litigation is generally conducted in executive session in order to protect attorney-client privilege, as advice given in public may be utilized by others; and
- stated that Ms. Henneman has prepared a memorandum and a legal opinion for their review.

Mayor Anderson called a recess in order for the assembly to review the memorandum prepared by Ms. Henneman.

The special meeting recessed at 6:56 p.m. and reconvened at 7:10 p.m.

Ms. Henneman:

- stated that her office was hired to form a legal opinion on the issue of filing a lawsuit in regard to the borough's position in the state's redistricting plan;
- stated that they analyzed the weakness and strengths of the plan;
- advised that issues related to this discussion are protected under attorney-client privilege, which can be waived if so desired, but suggested that discussion of the borough's options take place in executive session; and
- noted that discussion can be generalized if the assembly decides to address the matter in an open forum.

**VOTE:** The motion, to enter executive session, passed with Assemblymembers Colberg, Lankford Ladere, and DeVilbiss opposed, and the assembly entered executive session at 7:15 p.m.

**MOTION:** Assemblymember Jansen moved to exit executive session.

**GENERAL CONSENT:** The motion passed without objection and the assembly exited executive session at 8:12 p.m.

## **IV. NEW BUSINESS (continued from page 2)**

## A. State Redistricting Plan

- IM No. 01-162

MOTION: Assemblymember Colberg moved to file suit to seek adequate representation in the state senate by correcting inequities in the state's proposed redistricting plan.

Discussion ensued regarding:

- the population of the borough warranting two senate seats;
- possibility of inadequate representation from a Fairbanks senator;
- the economic efficiency of supporting a lawsuit;
- the possibility of enjoining in a lawsuit filed by others or filing an amicus brief; and
- the chances of prevailing in a lawsuit first brought by the borough.

MOTION: Assemblymember Kelly moved a primary amendment to strike the phrase "to file suit" and insert the phrase "to file an Amicus Brief." *[motion was ruled out of order later during the meeting]*

Discussion followed regarding:

- the time frames associated with filing a lawsuit or an amicus brief; and
- generalizations regarding the benefits and drawbacks of filing an amicus brief instead of a formal lawsuit.

PREVIOUS QUESTION: Assemblymember Jansen moved the previous question (to stop debate) on the primary amendment.

VOTE: The motion to stop debate failed with Assemblymembers Kelly, Lankford Ladere, and DeVilbiss in support.

Discussion continued on the primary amendment.

RULING: After allowing considerable discussion, Mayor Anderson ruled Assemblymember Kelly's primary amendment, to strike the phrase "to file suit" and insert the phrase "to file an Amicus Brief," out of order.

Discussion continued on the main motion to file a suit.

VOTE: The main motion, to file suit to seek adequate representation in the state senate by correcting inequities in the state's proposed redistricting plan, failed with Assemblymembers Colberg, Lankford Ladere, and DeVilbiss in support.

MOTION: Assemblymember DeVilbiss moved to direct administration to provide borough records to any non-partisan groups who wish to use the borough's data to pursue litigation on redistricting.

RULING: The mayor ruled the motion out of order, citing that borough records are public records and the borough has an obligation and duty to provide them.

RECONSIDER: Assemblymember Jansen moved to reconsider the main motion to file suit.

RULING: The mayor ruled the motion out of order.

## VI. MAYOR AND ASSEMBLY COMMENTS

Assemblymember Lankford Ladere:

- expressed her disappointment regarding the assembly's decision not to pursue a lawsuit.

Assemblymember Kelly:

- reiterated his desire to see the borough file an amicus brief.

Assemblymember Jansen:

- spoke to the assembly's fiduciary responsibility to the citizens;
- believes that the assembly should watch the proceedings closely in order to determine the borough's future involvement.

(Assemblymember Colberg exited at 9:07 p.m.)

Assemblymember Simpson:

- spoke to her participation at Port MacKenzie regarding barging of the houses;

Mayor Anderson:

- reported on the last known status of the erosion at the Matanuska River between dikes 3 and 4;
- spoke to grants received under the capital grants projects fund;
- thanked everyone for their efforts during the meeting; and
- thanked the attorney's involved for their legal advice.

## **VII. ADJOURNMENT**

The special meeting adjourned at 9:13 p.m.

Minutes approved: July 17, 2001

*Signed copy available at the clerk's office*