

KENAI PENINSULA BOROUGH
REGULAR ASSEMBLY MEETING
MAY 22, 1986; 7:30 P.M.
BOROUGH ADMINISTRATION BUILDING
SOLDOTNA, ALASKA

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. INVOCATION: Assembly Member McGahan
- D. ROLL CALL

PRESENT: Assemblymembers Nash, Brown, Johnson, Mullen, Moore, Carey, Glick, McGahan, Dale, Skogstad, McLane, Keene; Mayor Thompson, Atty. Boedeker, Finance Director Barton, Public Works Director Hakert, Dpty. Borough Clerk DeLacee

EXCUSED: Assemblymembers Walli, Crawford, Sewall and Fandel

E. CONSIDERATION OF RESOLUTIONS

- (a) Res. 86-74 "Authorizing the Mayor of the Kenai Peninsula Borough to Proceed with the Contracts for the Architectural, Project Management Services and Construction of the 1985 School Bond Project, Central Peninsula High School" (Mayor)

The meeting was opened for public comment.

Frank Arbelovsky, North Kenai, recommended the Assembly postpone the bids or stagger the bid award and construction due to problems encountered on the two high school bid openings. He felt specifications were not complete indicated by 6 addendums, one issued the day of the bid opening and opening was postponed to Monday. He reported from an electrical standpoint the schools are totally goldplated as evidenced by \$80,000 telephone systems for each school. He noted other lighting specifications and motorized drapes indicating extravagance in engineering. He stated in 19 years bidding on the Peninsula this bid package is the worst he has seen. The bid process should be self explanatory to every contractor; instead the Borough attorney is required to make on the spot judgements as to whether each bid met the criteria. He suggested a removable sheet be included in every bid document listing the contractor's name, licenses, addendum acknowledgements and any other pertinent information. This would be attached to the bid envelope and if all requirements are not met the bid would be set aside as Mr. Hakert has done in the past. Recent involvement by the Borough Attorney in making judgements has caused a chaotic bid procedure. He stated items such as 50-60 poles to light the road from the school to the North Road is excessive and unfair to the taxpayers.

Dick Boysen, Soldotna, provided a letter to administration and addressed City sewer being brought out to the Central High School location without due process. It was not part of the contract and should not be a consideration in the bid award. He urged consideration of the contract documents only in making the award. Basics like water and sewer should be considered first and amenities added later. He recommended award of contract to Unit Co.

Larry Van Sky, Nikiski, stated his appreciation for the Assembly's effort and time spent on the issues. He spoke to the need for establishment of bid procedures as requisite to progress of the Borough. He stated if any of the bid requirements are neglected the bid should be set aside. There should be no need of the attorney's presence at bid openings. It is not reasonable for the Assembly to have to make decisions which could be handled through consistent procedures.

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

Jerry Holly, Mile 12 Funny River Rd., stated getting the sewer from Soldotna to the school across the topography and land variously owned will be a comprehensive project. He stated the alternates were well within the engineer's estimates, were competitive and he could see no reason to delete any of them. When a contractor works out a bid he sees it as a total package and documents state the Borough will award if the funds are available. He felt Alt. 5 to expand septic field was critical with soil conditions that exist until such time as the sewer system is built. If the sewer is installed earlier than expected, #5 could be deducted.

Marshall Cutting, Anchorage, stated if funds are available, the contract should be awarded to the low responsive bid. The disparity in bids on the alternates may be due to the fact the base bid is considered most critical and with many subcontractor bids coming in the afternoon of the bidding, it is difficult to carefully analyze each item of each alternate. The issue is who is the low responsive bidder in aggregate.

Rich Underkofler, Soldotna City Manager, stated he is present at the request of Mr. Best to explain potential sewer plans and provided copies of a schematic sewer plan. The city has a grant to pay for sewer and water extensions within the Salamatof property and build a 1 million gallon storage tank on the top of the hill, adjacent to the school property and sewer extension south of the tank as indicated. He stated it is not to the school site but is close. After discussions with borough and school administration, it was decided the well and septic systems should be included in the bid until it was known if the grant would be approved. If the grant goes through negotiations could be held with the contractor to delete the septic system although it would be best to keep the well. He reported the Salamatof property would be annexed to the City to facilitate provision of water and sewer. The system would be ready to use in the fall of 1987.

Tom Patmor, Clam Gulch, urged approval of the contract and make sure the same guidelines are used in each project.

Bob Mueller, Soldotna, stated for another \$20,000 the capacity of the septic system could be increased to provide for another 400 students. He referred to the \$35,000 difference in bids for Alt. #3 recommending deletion of this alternate if the low base bidder were chosen.

Public hearing was closed.

Mr. Mullen reported the Public Works Cmte. reviewed the bid sheets and recommended Atqasuk/Meade River with Alt. 1, 2, and 4 and totalling \$20,610,500.

ASSEMBLYMEMBER CAREY MOVED THE ADOPTION OF RES. 86-74 WITH A CORRECTION TO THE 2ND WHEREAS TO CHANGE "May 15" TO "May 19" AND IN SECTION INSERT "Unit Co./Fluor" IN THE AMOUNT OF \$20,694,000 AND IN SECTION 2 INSERT "522,380".

Mr. Carey stated he was basing his decision both on the low lump-sum bidder and the local hire aspect. By hiring an outside firm, additional children will be added to overcrowded schools along with outside construction workers.

Mrs. McGahan supported the motion stating with all alternates considered Unit Co./Fluor was the low bidder.

Mr. Keene was concerned that off Peninsula contractors would stop bidding if preference seemed to be given to local contractors through deletion of alternates. This would result in less competitive bids.

ASSEMBLYMEMBER JOHNSON MOVED TO AMEND SECTION 1 TO READ "1, 2, 3, 4 and 5" AND CORRECTION OF TYPO IN SECTION 6. MR. CAREY ACCEPTED THIS AS A FRIENDLY AMENDMENT TO HIS MOTION.

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

Mr. Nash stated it is important to establish that the bid is competitive first, then to encourage the contractor to hire locally.

Mr. Dale believed the bids should be awarded on the basis of what is actually needed as apparently the School Board did in recommending only Alternates 1, 2 and 4 be awarded as is consistent and prudent.

ASSEMBLYMEMBER DALE MOVED TO AMEND TO APPROVE BASE BID AND ALTERNATES 1, 2 AND 4 WITH AWARD TO ATQASUK/MEADE RIVER IN THE AMOUNT OF \$20,610,500.

Mr. McLane noted discussion of the alternates involves No. 5 for expansion of the septic field and realizing if the municipal system comes it is preferable, asked what the capabilities are of the septic system in the base bid. Ron Rozak, Project Mgr. for M/K, reported it is designed for 600 students for 8 to 10 years. He agreed it would be preferable to connect to the municipal system when it became available. In answer to other questions, Mr. Rozak stated the swimming pool was designed to drain into the septic system during the summer when the student population was very low. The cost to hook up to the sewer system when it becomes available would be \$250-350,000. This would be more costly up front but would provide a long term solution to a problem which becomes increasingly difficult situation to maintain with DEC concerns for groundwater contamination.

Mrs. McGahan asked if it was M/K's responsibility to see that projects adhered to the assembly's direction that the schools be practical and without frills, noting comments concerning electrical specifications. He reported he does not design projects but sees that certain items the owner wants included in projects, are; such as the street lighting for the Nikiski school in response to a problem in Homer. Certain items such as the motorized drapes are part of the program design. The drawings are prepared by architects and engineers and the project manager reviews them prior to bid.

Mr. McLane stated his firm did the geotechnical investigation on this project prior to his being elected to the Assembly, although he did not feel there was any conflict.

VOTE WAS CALLED AND THE DALE AMENDMENT FAILED BY A VOTE OF 3 YES TO 9 NO; Mullen, Dale and Skogstad voting Yes.

VOTE WAS CALLED ON THE MOTION TO ADOPT AND IT PASSED BY A VOTE OF 11 YES TO 1 NO; Glick voting No.

Pres. Glick called a 12 minute recess.

- (b) Res. 86-75 "Authorizing the Mayor of the Kenai Peninsula Borough to Proceed with the Contracts for the Architectural and Project Management Services and Construction of the 1985 School Bond Project, Nikiski High School" (Mayor)

Edward J. Warner, Soldotna, reported having heard the apparent low bidder might not be awarded the bid due to some seeming informalities in preparation of the bid. He did not feel the difference of \$1 million was justified under the circumstances and ensuing litigation could be costly.

Ruth Johnson, Nikiski, appreciated the assembly's process is good in allowing public input and urged award of the bid and construction of the school.

Phil Thingstad, Palmer, stated his concern for the bidding process. He believed some of the bids were not responsive; in the past, bids which were in question were not even read. He stated the Borough has the responsibility to set forth a practice of reliability and integrity even though it costs. In this case it would mean going to the 3rd lowest bidder.

Frank Arbelovsky, Nikiski, asked the borough to go back to previous bid procedures when the two elementary schools are bid next week. He requested the integrity of the borough be restored through award of the Nikiski High School project to Unit Co. He was asked if in his opinion all the bids should be thrown out and begun again and he stated to start over would be disastrous. He was hopeful future bids would remain unopened if the bid documents were not correct. In the past, only one subcontractor was listed for each portion of the general contract and if there were more, it should be as surely non responsive as to list none.

Larry Van Sky, North Kenai, stressed the importance of integrity in the bidding process; he supported award of the contract to the 3rd bidder.

David Anderson, of Anchorage and Portland, introduced himself as the general contractor, H. A. Anderson Co., stating they have built Fred Meyer stores and theaters in Alaska. He felt there was misunderstanding; the bidding instructions are found in the specifications; specifications vary from job to job. The specifications for the Nikiski school asked that subcontractors be listed. In response to questions, he stated they plan to use the labor force built up in other projects, many of whom live in Kenai. The company has built some state buildings in Oregon, but this is the first school. The wood structure is similar to buildings they have built. Two subcontractors were submitted for the electrical and mechanical because of their importance and being unfamiliar with the companies or how they would work in Alaska.

David Bannon, Anchorage, selected project superintendent for H. A. Anderson Co., believed the lowest bidder was the finest contractor.

Bill Fox, Cooper Landing, stated he had worked for H. A. Anderson and found them to be a reputable company with a record of hiring local workers.

Gary Stevens, Anchorage, stated he is a vice president of an Alaskan contractor, who has supplied construction materials to H. A. Anderson for over 25 years. They are the prime contractor for all the Thunderbird/Red Lion hotels and motels in the U.S. with over \$500 million worth of construction. They take pride in quality work and local hire. In response to Mr. Nash's question regarding school building experience, Mr. Stevens advised H.A. Anderson has build federal and state buildings which wouldn't be unlike school construction. He felt employing more personnel to oversee bid quotes was not the answer as it was the nature of bidding that quotes from subcontractors are taken in the very last few minutes. He said a prudent contractor will not use a subcontractor unless he has a written verification of his quotes.

Floyd Rich, Sterling, advised he'd worked for H.A. Anderson, Co. and found that they treat their help well and would hire a lot of local help.

W.C. Novier, Anchorage, is the chief estimator for Ready Electric who was one of the two bidders listed for electrical subcontracting. Regarding allegations of "bid shopping" by listing two subcontractors, Mr. Novier said he appeared to unequivocally state in no case had they been approached by H.A. Anderson, Co. as a bid shopping procedure. They felt the reason they were listed was they had previously worked with them successfully. He felt H.A. Anderson was not incorrect in listing two subcontractors but instead were trying to do a good job. He said he'd also worked with Unit Fluor and had the same thing happened to them, he'd have appeared to say the same thing for them.

Terry Johnson, Anchorage, appeared in support of H.A. Anderson, Co. and their stance that they had not bid shopped bids. Mr. Johnson is an estimator for Frontier Construction Co. who had bid on site work. He said prior to the bid and subsequently, Frontier Construction was not "shopped" by H.A. Anderson, Co.

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

Marshall Cutting, Anchorage, stated the issue at this meeting was not the integrity of H.A. Anderson, Co. but the Borough bid process. He cited his experience since 1978 with the Borough bid process in which any irregularities were reason to not accept a bid. He felt the past few weeks' bids were out of line in that irregularities in bids were not declared nonresponsive, but accepted. Specifically, he talked of the Nikiski Elementary School/Kenai Elementary School bids of which forty-one were submitted. Of these, fourteen were nonresponsive bids with missing bid bonds, no business license, no qualification statement which were opened and read which he felt was a travesty. He said at the pre-bid conference, Public Works Director Hakert advised the contractors that if after the bid the contractor could prove to the Assembly that there is a problem with a subcontractor listed -- not bondable, not qualified, or whatever, they would be allowed to change a subcontractor. Therefore, he felt if all of the contractors at the pre-bid conference were aware of this, H.A. Anderson, Co.'s stance that they weren't familiar with the one subcontractor so listed two including one who they'd worked with was not valid. He strongly urged the Borough to get back to the bid procedures as written. He stated that schools are not easy to build and not similar to other types of building construction. He urged the Assembly to deem Anderson's bid as nonresponsive and award the contract to the lowest responsive bidder.

Jerry Holley, said he felt the issue was certainly the bidding requirements demanded by the Borough. He said with all the jobs he had bid at the Borough, it was his prime responsibility to interpret the documents from cover-to-cover. He said the clearest portion of these bid documents are the first couple pages requiring the specific items to be supplied in order to bid the project.

John Ahlers, Anchorage attorney, advised his firm has represented interests of H.A. Anderson, Co. on several occasions and found them to be an exceptional company. He commented on issues specifically relating to the bid. He said during the pre-bid phase, documents provided the general contractor could list names of subcontractor(s) - clearly not a prohibition on listing more than one name. Listing of these subcontractors does not reflect a contractual agreement with the company. He said after submission of Anderson's bid, it was opened and not rejected. He cited Alaska Statutes, if one follows the invitation for bid to the letter with no irregularities the bid is then responsive. He said since the paragraph listed subcontractor(s) is in the plural and Anderson responded by listing subcontractors, they were responsive. He advised the Assembly has discretionary powers to waive minor irregularities and he suggested if it were found an irregularity did take place, it certainly didn't warrant throwing out the low responsive bid.

Tom Patmor, Clam Gulch, urged the Assembly to take advantage of the fact that the bonding is approved by the voters and that the State is willing to fund such a high percentage of the total cost of the projects. He said he didn't challenge the integrity of Anderson, but firms bidding in the state should be familiar with the procedures. He said a subcontractor is liable to file a lawsuit which can be as damaging to a completion date as a prime contractor so listing of two increases the chance of lawsuit.

Blake Johnson, said it seemed to him that all the other contractors understood that only one sub was to be listed, so he didn't understand why H.A. Anderson, Co. didn't and felt their bid should have been thrown out as non-responsive.

ASSEMBLYMEMBER MC GAHAN MOVED ADOPTION OF RES. 86-75.

ASSEMBLYMEMBER MC GAHAN MOVED TO AMEND SECTION 1., LINE 2 AND 3, STRIKE/ADD: "award of contract to [H.A. Anderson Construction Company] Unit Co. Fluor in the amount of [\$20,800,000] \$21,700,000 for construction of Nikiski High School."

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

ASSEMBLYMEMBER MOORE MOVED TO AMEND SECTION 1., LINE 2 AND 3 TO ORIGINAL LANGUAGE AS SUBMITTED: "award of contract to H.A. Anderson Construction Company in the amount of \$20,800,000 for construction of Nikiski High School."

Mr. Moore felt while all the arguments stated were valid, in point the irregularity was a minor technicality. By the Assembly not waiving the minor technicality, the cost to the Borough taxpayers would be \$900,000 by awarding to the next lowest bidder. He pointed out Item 7, (c) in the bid documents states, 'bids which are incomplete, conditioned in anyway, or which contain items not called for in the bids may be rejected as nonresponsive.' Item 11(a) states, 'The owner reserves the right to reject any or all bids and to waive any irregularities.' Item 12 states, 'All bidders are required to furnish with the bid copies of the current valid contractor's license, an Alaska business license. Failure to submit all required documents is a valid basis for rejection of the contractor's bid.' Section 14A, 'The general contractor shall list the names of the masonry, roofing, flooring, painting, mechanical and electrical subcontractors on the back of the bid envelope containing the bid. If the contractor intends to do any work in any of these categories, he shall list himself. Bids that fail to provide the list, will be deemed nonresponsive and will be returned unopened.' Mr. Moore said this is criteria to throw a bid out, but per his understanding the bid under discussion did not fit that category or any other categories mentioned above. He felt although there was a minor irregularity, he didn't feel it serious enough to penalize the taxpayers \$900,000.

ASSEMBLYMEMBER MOORE WITHDREW HIS AMENDMENT AS OUT OF ORDER AND ASKED THAT HIS REMARKS BE APPLIED TO THE MC GAHAN AMENDMENT.

Mr. Dale asked Public Works Director Hakert if he had ever seen a situation prior to the Anderson bid where more than one subcontractor was listed. Mr. Hakert said he had not. Mr. Dale asked what the total difference - high and low - was between the two bids by the listed subcontractors. Mr. Hakert said he is not privileged to know that information. Mr. Dale said he felt this figure important and would be useful in addressing this legislation. Mr. Hakert said while he didn't know the difference, he had a conversation with one of the subcontractors who had not been listed on any of the bids who indicated one of the electrical subcontractors was the apparent low bidder and the other electrical bidder was substantially higher. Mr. Dale expressed support for the McGahan amendment as he also didn't think the irregularity was minor. He felt Anderson's interpretation of the language, listing more than one subcontractor in some areas, was the least plausible.

Mr. Johnson said he had a real problem with the section as ambiguous with interpretation up to the discretion of the reader. He was of the opinion that the printed document takes precedence over verbal communication. He felt the bids of subcontractors shouldn't be considered as the general contractor makes a lump sum bid. He voiced opposition to the McGahan amendment.

Mr. McLane said the language quoted by Mr. Moore says specifically what deems a non-responsive bid - non-submittal of the list, not listing two subcontractors.

Mr. Carey said in considering the term "honest mistake" or "minor irregularity" both "honest" and "minor" were adjectives modifying "mistake" and "irregularity". He felt when there is a mistake or irregularity it should be called that and dealt with as such.

Mr. Mullen said he felt the bid instructions were clear in their intent to allow the owner to waive irregularities and he felt these questions of semantics were not in the right direction. He felt the right thing to do was to vote against the McGahan amendment and save \$900,000.

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

Mr. Nash asked how many of these irregularities exist with this particular bid. Mr. Hakert responded on the Anderson bid, the irregularity is the listing of two subcontractors in two different categories. On the Grizzly bid, he said there is an irregularity in the failure to submit a copy of the contractor's license, although he did list his contractor's license number on the bid form which to his best knowledge were the only irregularities. Mr. Nash voiced the opinion that it is extremely important the Borough maintain integrity on the bidding process but also extremely important that the price of these terribly expensive schools be kept as low as possible. Mr. Nash asked if there had ever been a situation on contracts where the lowest bidder omitted a copy of the license. Mr. Boedeker said he believed there had been and in that situation, the irregularity was waived because he did have a valid license number on the bid form.

Mr. Brown pointed out Section 14(a) of the Bidder Qualifications reads, 'The general contractor shall list the names of the masonry, roofing, flooring, painting, mechanical and electrical subcontractors on the back of the bid envelope in submitting the bid. If the contractor intends to do the work in any of the categories, he shall list himself. Bids that fail to provide the list will be deemed nonresponsive and will be returned unopened.' He continued that there are several sections in the bidder qualification which uses "may", but this section uses "shall".

ASSEMBLYMEMBER MC GAHAN MADE A TECHNICAL CORRECTION TO HER AMENDMENT IN SECTION 1: THE BIDS OF H.A. ANDERSON CONSTRUCTION CO. AND GRIZZLY CONSTRUCTION ARE REJECTED AS NON-RESPONSIVE.

Mrs. McGahan said while it was very important to save money, she felt it was very, very important to follow the proper bidding procedures. She stated this irregularity situation had happened before and she read from the attorney's memo, "The question of whether a requirement is waivable or not goes to the materiality of the requirement." She continued with a case example from the memo where the bid listed alternate subcontractors for a single category of work and was rejected as non-responsive to the subcontractor listing requirement. She further quoted, "It is, therefore, a material requirement pertaining to bid responsiveness." She said it was really hard for her to make an amendment on anything that raises a price, but the Assembly has to come to a point of when do we stop, what is the requirement and when do we stop.

Mr. Skogstad said he'd originally felt the \$900,000 was paramount in importance, but after testimony tonight he felt it was really important in the remaining bids that very strict procedures would be followed. He also felt that spending the additional \$900,000 was worth spending to uphold the integrity of the Borough.

Mr. Keene asked the attorney if the language in Section 14 pertaining to subcontractors was the same language in the documents for bidding on the Central Peninsula High School and all previous contracts awarded in the last couple years. Atty. Boedeker said it was not exactly the same but the differences were just in syntax, not in content. Mr. Keene asked if in these previous ones had there been a problem with someone submitting two subcontractors. Mr. Boedeker responded this had not been a problem to his knowledge.

Mr. Moore asked confirmation the general contractor does not have to use the subcontractor listed on the outside of the bid envelope. Mr. Hakert said that was correct. The Borough documents do not have any binding provisions that force the general to use the listed subcontractor.

Mr. Johnson asked if the bid amendment on the subcontractor language had been sent out on the Central Peninsula High School. Mr. Hakert said that was correct. The addendum had been sent out after opening of the Nikiski bid opening and the filing of a protest.

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

Mr. Nash asked if the Assembly, before voting on any particular contractor, should decide whether or not a particular irregularity is waived or not waived. Atty. Boedeker said from a technical standpoint it was probably the way it should be done. Mr. Nash asked if the Assembly would be clearing up the record if each thing is taken individually. Mr. Boedeker said in some situations it would be a lot cleaner if addressed individually, but in the final analysis he didn't think it that important.

THE MC GAHAN AMENDMENT FAILED ON A VOTE OF 7 YES, 5 NO; Johnson, Mullen, Moore, Glick and McLane voting No.

ASSEMBLYMEMBER MOORE MOVED TO AMEND SECTION 1. LINE 3, "Nikiski High School, hereby waiving the irregularity of submitting two subcontractors on the bid package."

Mr. Nash expressed concern that if the difference is great enough the Assembly should consider rejecting all of them and putting the project to another bid. Mr. Boedeker said he didn't feel the irregularity was great enough to compel the Assembly to go back and rebid the project, although the Assembly has that option. If the irregularity were not waived but still didn't wish to go to the higher bid, bids could be rejected. Mr. Nash asked how long would it take to go back for another bid. Mr. Hakert said if the bids were rejected, a minimum of six weeks delay and possibly more. He said effectively this construction season would be lost and occupation would not be until 1989. Mr. Nash asked if this would effect the bonding requirements. Mr. Boedeker said the federal legislation requiring a three-year time line had fallen by the wayside and unless resurrected it would not apply.

ASSEMBLYMEMBER BROWN MOVED TO AMEND RES. 86-75, ALL BIDS ARE REJECT AND A NEW BID PACKAGE WILL BE ISSUED BY JUNE 5, 1986 AND THE BIDS WILL BE OPENED ON JUNE 10, 1986.

ASSEMBLYMEMBER CAREY MOVED THE ASSEMBLY VOTE ON THE MOTION BEFORE THEM AND THAT NO OTHER MOTIONS BE ALLOWED. THE CAREY MOTION WAS APPROVED BY UNANIMOUS CONSENT.

THE BROWN AMENDMENT FAILED ON A VOTE OF 10 NO, 2 YES; Brown and Carey voting Yes.

Pres. Glick advised the Carey motion limited debate entirely and no other discussion was permitted. Mr. Dale asked explanation of that as he'd never heard of it before. Pres. Glick deferred to Parliamentarian Carey for explanation. Mr. Carey referenced Mason's, Section 357, page 255, "When debate is closed or limited its effect adheres to those questions (motions) preventing debate until they are all finally disposed of or until the order is changed of the motion." Mr. Dale asked if this included the main motion. Mr. Carey said this was his understanding unless the order was changed.

THE MOORE AMENDMENT FAILED ON A VOTE OF 7 NO, 5 YES; Johnson, Mullen, Moore, Dale and McLane voting Yes.

Mr. Nash raised a point of order stating if the irregularity were not waived, what does the Assembly accomplish. Pres. Glick said the bid would be left as is and it was her understanding per Mr. Boedeker by award of the contract, the irregularity in effect is waived.

*RES. 86-75 FAILED ON A VOTE OF 8 YES, 4 No; Brown, Carey, Glick and Keene voting No. *See Page 9, vote subsequently corrected and the resolution adopted.

ASSEMBLYMEMBER BROWN GAVE NOTICE OF RECONSIDERATION ON RES. 86-75.

ASSEMBLYMEMBER MC LANE MOVED FOR ADJOURNMENT. Pres. Glick advised per her understanding, public comments must be given before adjournment.

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

Mr. Keene asked if he might have the floor. He stated he'd tried to gain attention prior as his vote on Res. 86-75 should have been a "Yes" instead of "No". Pres. Glick advised generally once the vote is read it is not possible to change. Mr. Keene indicated he'd raised his hand as soon as the vote appeared on the voting board, but he hadn't been recognized. Pres. Glick announced she would rule that Mr. Keene be allowed to change his vote, unless there was objection.

RES. 86-75 WAS ADOPTED ON A VOTE OF 9 YES, 3 NO; Brown, Carey and Glick voting No.

ASSEMBLYMEMBER MC LANE WITHDREW HIS MOTION TO ADJOURN.

Mr. Moore asked if Mr. Brown would still give notice for reconsideration on Res. 86-75. Mr. Brown advised he was.

ASSEMBLYMEMBER CAREY RAISED A POINT OF ORDER THAT MOTIONS TO GIVE NOTICE OF RECONSIDERATION WERE NOT ALLOWABLE ON LEGISLATION PASSED BY 3/4's VOTE.

ASSEMBLYMEMBER MOORE CLARIFIED, AS SPONSOR OF THE 3/4's APPROVAL LEGISLATION, THAT THE ORDINANCE STIPULATES 3/4's OF THE TOTAL MEMBERSHIP OF THE ASSEMBLY.

PRES. GLICK RULED MR. BROWN'S MOTION GIVING NOTICE OF RECONSIDERATION IN ORDER.

- (e) Res. 86-76 "Approving the Purchase of City of Seward Land for the Use by the Kenai Peninsula Borough School District as a School Site" (Mayor)

There was no public comment.

ASSEMBLYMEMBER SKOGSTAD MOVED ADOPTION OF RES. 86-76. ASSEMBLYMEMBER JOHNSON ASKED UNANIMOUS CONSENT.

RES. 86-76 WAS ADOPTED BY UNANIMOUS CONSENT.

- (e) Res. 86-77 "Providing for Broadcasting of Regular and Special Assembly Meetings and Awarding Contracts to Radio Stations KSRM, KGTL, and KRXA for Fiscal Year 1986-87 to Provide Broadcasting" (Mayor)

There was no public comment.

ASSEMBLYMEMBER BROWN MOVED ADOPTION OF RES. 86-77 AND ASKED UNANIMOUS CONSENT.

RES. 86-77 WAS ADOPTED BY UNANIMOUS CONSENT.

- (f) Res. 86-66 "Adopting a Policy of Centralization of Disposal of Special Wastes Within the Borough" (Mayor @ Req. Waste Comm.) MOTION TO RECONSIDER FILED BY ASSEMBLYMEMBER MC LANE MAY 6, 1986

ASSEMBLYMEMBER MC LANE WITHDREW HIS REQUEST FOR RECONSIDERATION.

L. PENDING LEGISLATION

(This item lists legislation which will be addressed at a later time as noted; not for action this meeting.)

- (a) Ord. 86-8 POSTPONED TO 6/17/86
- (b) Ord. 86-25 POSTPONED TO 6/3/86
- (c) Ord. 86-27 POSTPONED TO 6/3/86
- (d) Ord. 86-37 HEARING 6/3/86
- (e) Ord. 86-38 HEARING 6/3/86
- (f) Ord. 86-39 HEARING 6/3/86
- (g) Ord. 86-40 HEARING 6/3/86
- (h) Res. 85-161 POSTPONED
- (i) Res. 86-27 POSTPONED
- (j) Res. 86-28 POSTPONED

KENAI PENINSULA BOROUGH CONTINUED MEETING OF ASSEMBLY, MAY 22, 1986

M. FORMAL PRESENTATIONS WITH PRIOR NOTICE UPON SUBJECTS NOT ON THE MEETING AGENDA

- (a) Tom Scott, Southern Region Emergency Medical Services Counsel 2
- (b) Jim Dunn, Chairman Kenai Peninsula Emergency Medical Service Council 3

N. MAYOR'S REPORT

- (a) Landscape Maintenance Various Schools 1986 - Bid Tabulation

O. OTHER BUSINESS

P. ASSEMBLY AND MAYOR'S COMMENTS

Q. PUBLIC COMMENTS AND PUBLIC PRESENTATIONS UPON MATTERS NOT CONTAINED IN THE ASSEMBLY'S AGENDA

There was no member of the public wishing to comment.

R. INFORMATIONAL MATERIALS AND REPORTS

- (a) DOT Request for Comment - Summit Lake to Bertha Creek Proj.

S. NOTICE OF NEXT MEETING AND ADJOURNMENT (May 22, 1986)

After considerable discussion, Pres. Glick determined the Assembly would meet on May 28, 1986 to consider the Notice of Reconsideration on Res. 86-75 and then continue with a budget work session.

Pres. Glick adjourned the meeting at approximately 12:45 a.m.

Date Approved July 22, 1986

Betty J. Glick, Assembly President

ATTEST:

Jeanne Bradley
Borough Clerk