

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY REPEALING THE MANAGER PLAN OF GOVERNMENT AND SUBMITTING THE PROPOSAL TO THE QUALIFIED VOTERS AT THE NOVEMBER 3, 2020 REGULAR BOROUGH ELECTION.

AGENDA OF: May 5, 2020

ASSEMBLY ACTION:

*Amended & defeated with
Assembly members Sumner, McKee, &
Gundt opposed 22-21*

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER: _____

Route To:	Department/Individual	Initials	Remarks
	Originator	For	Assemblymember Sumner
	Finance Director	<i>OX</i>	
	Borough Attorney	<i>NS</i>	
	Borough Clerk	<i>Sum 4/20/20</i>	<i>(Signature)</i>

ATTACHMENT (S): Fiscal Note: YES X NO _____
Ordinance Serial No. 20-046 (10 pp)

SUMMARY STATEMENT: This ordinance is sponsored by Assemblymember Sumner to place a ballot question before the voters to repeal the manager plan of government currently in the Matanuska-Susitna Borough.

Alaska Statute Title 29 governs the structure of boroughs in Alaska. Under the statute AS 29.20.460, municipalities may adopt a manager plan of government by petition or motion of the governing body.

The manager plan of government is often referred to as "strong manager" or "weak mayor," and is the current structure in the Matanuska-Susitna Borough. Under a manager plan of government, the borough manager is the chief administrator and exercises all administrative powers granted by state law and local ordinance. The manager hires and supervises employees, carries out the directives of the assembly, exercise custody over all property of the borough, and performs all duties required by the assembly.

Because the Matanuska-Susitna Borough has a manager plan of government, the current mayor has limited powers to: act as ceremonial head of the borough; execute official documents on authorization of the governing body; preside over assembly meetings; participate in Assembly debate; vote on assembly actions in case of a tie; make appointments to boards and commissions; and, veto assembly actions.

Under AS 29.20.520, a repeal of the manager plan of government follows the same procedures as adopting a manager plan "except the question shall be whether the manager plan should be repealed." If repealed, the government has 60 days to reorganize the municipal executive and administrative functions.

If the manager plan is repealed, the Matanuska-Susitna Borough would become a "strong mayor" form of government. The mayor would retain his current powers to act as ceremonial head of the borough; execute official documents on authorization of the governing body; participate in Assembly debate; make appointments to boards and commissions; and, veto assembly actions. The mayor would gain all the powers and duties of the manager and he would be chief administrator of the Borough. The only powers the mayor would lose would be the power to preside over Assembly meetings and vote in case of tie. The Assembly would need to immediately select a presiding officer to run the Assembly meetings.

The proposed ordinance here contains the code changes necessary to reorganize the Matanuska-Susitna Borough's executive and administrative functions.

The ballot question in this ordinance is simply written "Shall the manager plan of government for the Matanuska-Susitna Borough be repealed?" This is because of the case of Boucher v. Bomhoff, 495 P.2d 77 (1972). In Boucher, there was an election challenge to ballot language regarding calling for a constitutional convention. Article XIII, section 3, of the Constitution of Alaska, provides, in part:

If during any ten-year period a constitutional convention has not been held, the lieutenant governor shall place on the ballot for the next general election the question: 'Shall there be a Constitutional Convention?'

In addition, AS 15.15.030(9) provides that:

The general or special election ballot shall be designed with the question of whether a constitutional convention shall be called placed on the ballot in the following manner: 'Shall there be a constitutional convention?'

Provision shall be made for marking the question 'Yes'
or 'No.'

The actual language placed before the voters at the 1970 election
was:

REFERENDUM

As required by the Constitution of the State of Alaska

Art. XIII, Section 3

Shall there be a constitutional convention?

YES

NO

The court found serious problems with the language added and wrote
"Despite the explicit requirement of article XIII, section 3, as
to the language of the question, and specification of the form of
the ballot provided for in AS 15.15.030(9), for some unexplained
reason the ballot pertaining to the constitutional convention
referendum proposition was worded to read" as noted above.

The Alaska Supreme Court untimely invalidated the election results
calling for a constitutional convention because of the added
language. Due to this holding, the ballot language in the question
here now for the Matanuska-Susitna Borough is simply "Shall the
manager plan of government for the Matanuska-Susitna Borough be
repealed?" so that the Borough is following the explicit mandate
of AS 29.20.520.

RECOMMENDATION OF ADMINISTRATION: Introduce and set for public
hearing.

MATANUSKA-SUSITNA BOROUGH FISCAL NOTE

Agenda Date: May 5, 2020

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ORIGINATOR: N. Spiropoulos for Assemblymember Sumner

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT: YES NO
AMOUNT REQUESTED <u>121,100</u>	FUNDING SOURCE <u>Budget Appropriation</u>
FROM ACCOUNT # <u>100.XXX.XXX.411.100</u>	PROJECT
TO ACCOUNT:	PROJECT #
VERIFIED BY: <u>[Signature]</u>	CERTIFIED BY:
DATE: <u>4/27/2020</u>	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personnel Services		<u>*121.1</u>	<u>—————→</u>			
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL						
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REVENUE						
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FUNDING:

(Thousands of Dollars)

General Fund		<u>*121.1</u>	<u>—————→</u>			
State/Federal Funds						
Other						
TOTAL						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

*Amount is subject to Election results and FY21 Budget Approval

PREPARED BY:

DEPARTMENT:

APPROVED BY:

Chapenne Blank

PHONE:

DATE:

DATE:

4/27/2020

PROPOSED AMENDMENT

Assemblymember Sumner

ORDINANCE 20-046

This amendment is being proposed so that Ordinance Serial No. 20-046 contains only the ballot question to be placed before the voters. The reason is that Assembly action placing the question before voters is not subject to Mayoral veto. Other portions Ordinance Serial No. 20-046 are subject to veto and combining those portions with a non-vetoable item can create confusion and a poor legislative record.

If Ordinance Serial No. 20-046 is adopted by the Assembly and the ballot question is passed by the voters, the Matanuska-Susitna Borough Assembly will have 60 days to enact the changes to code in order to reorganize from a Manager plan of government to a “strong Mayor.”

Therefore,

I MOVE to amend Ordinance 20-046 as follows:

- Strike Sections 2 through 10 of the ordinance such that only the ballot question remains.
- In Section 12 of the ordinance strike all language after the first sentence.