

Submitted by: ASSEMBLY MEMBER Drummond

For reading: March 23, 2010

**ANCHORAGE, ALASKA
AR NO. 2010-91**

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY TO AUTHORIZE ENGAGING THE SERVICES OF INDEPENDENT LEGAL COUNSEL TO REVIEW AND REPORT TO THE ASSEMBLY ON THE LEGAL AND CONTRACTUAL OBLIGATIONS, IF ANY, AND THE AUTHORITY OF THE ASSEMBLY, IF ANY, REGARDING PAYMENT OF \$193,000 IN MUNICIPAL FUNDS TO THE GEORGE M. SULLIVAN IRREVOCABLE LIFE INSURANCE TRUST, AND PROVIDING FOR AN APPROPRIATION.

WHEREAS, pursuant to Assembly Memorandum No. AM 76-2010, the Assembly was requested by and on behalf of the Mayor to appropriate One Hundred Ninety Three Thousand Dollars (\$193,000.00) from the Areawide General Fund (Fund 101) for disbursement to the George M. Sullivan Irrevocable Life Insurance Trust; and

WHEREAS, Assembly Memorandum No. AM 76-2010 declared that disbursement would be made under a life insurance contract; and

WHEREAS, Assembly Memorandum No. AM 76-2010 did not disclose that the George M. Sullivan Irrevocable Life Insurance Trust was administered by the Mayor in his private capacity as the son of George M. Sullivan and Trustee of the life insurance trust; and

WHEREAS, Assembly Memorandum No. AM 76-2010 did not disclose that no life insurance policy was in place and no written life insurance contract existed; and

WHEREAS, AR 2010-33 was passed and approved by the Assembly, on February 16, 2010, authorizing disbursement subject to receipt of proper documentation from the George M. Sullivan Irrevocable Life Insurance Trust; and

WHEREAS, the full circumstances purporting to legally obligate the Municipality to make a payout of \$193,000.00 in public funds are more complicated than provided in the summary under AM 76-2010; and

WHEREAS, the payout of \$193,000.00 in public funds for life insurance without a life insurance policy in place has raised many concerns in the mind of the public and one or more Assembly Members, including these questions:

- What is the legal basis for asserting the existence of a life insurance policy or contract?
- What is the legal basis for asserting a contractual obligation in the absence of a written contract?

- 1 • What is the legal authority of the Salary and Emoluments Commission to
2 authorize an employee benefit after employment has terminated?
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- 4 • Were the legal requirements, procedures and process under Charter Section
5 5.08 (c) properly followed?
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- 7 • What, if any, is the extent of a municipal obligation to make payment of \$193,000
8 in life insurance without a life insurance policy?
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- 10 • What is the current Assembly's authority to approve or disapprove a life
11 insurance payment in the absence of a life insurance policy?
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- 13 • Is this disbursement recognized in the FY 2010 General Government Operating
14 Budget?
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- 16 • What process should be used under the Ethics Code to ensure that an elected
17 public official does not sit on both sides of a municipal transaction?
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- 19 • Under what public purpose are public funds being disbursed as life insurance?
20 and
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22 WHEREAS, the current Mayor is also actively serving as Trustee of the George
23 M. Sullivan Irrevocable Life Insurance Trust, creating a situation in which he serves on
24 both sides of a significant financial transaction involving public funds; and
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26 WHEREAS, as Mayor, the incumbent is required to represent and act in the
27 Municipality's best interests; and
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29 WHEREAS, as Trustee of the George M. Sullivan Life Insurance Trust, the
30 Trustee has a fiduciary duty to the Trust to represent and act in the best interests of the
31 Trust and its beneficiaries;
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33 NOW, THEREFORE, the Anchorage Assembly resolves:
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- 35 1. Because the events surrounding the creation and administration of a
36 special benefit for the Honorable George M. Sullivan occurred after he
37 was no longer in office and over the course of several mayoral
38 successions without a full and public review before the Assembly, the
39 Assembly authorizes an independent legal review to include the following:
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 - 41 • The authority of the Salary and Emoluments Commission, after the
42 mayor or other elected official has left elected office, to authorize a
43 special life insurance benefit;

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- Whether a special life insurance benefit was legally effectuated for George M. Sullivan, when, and by whom or under what actions;
 - The legal obligations and risks to the Municipality concerning the special life insurance benefit (prior to payment);
 - The authority of the Mayor to request an appropriation when the Mayor also currently serves as Trustee of the George M. Sullivan Irrevocable Life Insurance Trust, without disclosure of the potential for conflict of interest;
 - The public purpose under which disbursement of public funds is allowed as life insurance proceeds, without a fair market life insurance policy or premium payments.
 - The authority of the Anchorage Assembly to approve an appropriation of public funds for this purpose.
2. The services of independent legal counsel shall be selected by the Internal Auditor, the Municipal Clerk and Assembly Counsel under a small procurement contract not to exceed [\$5,000 – \$10,000], and an appropriation of [\$ 10,000] for this purpose is approved.
3. Until the Assembly is assured by independent legal counsel that payment of \$193,000.00 in public funds is legally appropriate, the Mayor, in his private capacity as Trustee for the George M. Sullivan Irrevocable Trust, is respectfully requested to return any funds disbursed under AR 2010-33 to a special account to be held by the Municipality.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2010.

Chair

ATTEST:

Municipal Clerk