

**Mayor's Report
For**

August 17, 2020 Assembly Meeting

- 1. Open Meetings Act Violation Accusations:** At the August 3, 2020 Assembly meeting during Persons to be Heard Unrelated to the Agenda, Borough resident David Beebe referred to possible Open Meetings Act (OMA) violations regarding a meeting with Congressman Young and Senator Stedman that was attended by 3 Assembly members and Manager Giesbrecht in July. The Borough Attorney was asked to listen to Mr. Beebe's testimony and provide an opinion of whether the meeting in any way violated the OMA. Attorney Heideman's opinion follows:

"[Mr. Beebe's] un-cited Alaska Supreme Court quote -- to the effect that "the question is not whether a quorum of a governmental unit was present at a private meeting. Rather, the question is whether activities of public officials have the effect of circumventing the OMA." -- was from the 1985 case of Brookwood Area Homeowners Ass'n v. Municipality of Anchorage, 702 P.2d 1317, 1323 n. 6. In that case, a quorum of the Anchorage Assembly had meet privately with a developer a week prior to the public hearing on the developer's rezoning application. The quote references the fact that the presence, or not, of a quorum was not necessarily definitive to the court's ruling.

However, in 1994, nine years after the Brookwood case, the Alaska Legislature amended the Open Meetings Act to definitively define a "meeting" for purposes of that Act as a gathering of members of a governmental body when "more than three members or a majority of the members, whichever is less, are present....". A.S. 44.62.310(h)(2). Thus, following the statutory amendment, a gathering of members of a governing body which does not meet that threshold was no longer considered a 'meeting' under the Act. This amendment would supersede the Supreme Court's statement quoted by Mr. Beebe, made under the earlier version of the OMA."