



FAIRBANKS CITY COUNCIL  
AGENDA NO. 2012-21  
**REGULAR MEETING November 05, 2012**  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

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REGULAR MEETING

I 7:00 P.M.

1. ROLL CALL

2. INVOCATION

3. FLAG SALUTATION

4. CITIZENS COMMENTS, oral communications to Council on any item not up for Public Hearing. Testimony is limited to five (5) minutes. Any person wishing to speak needs to complete the register located in the hallway. Normal standards of decorum and courtesy should be observed by all speakers. Remarks should be directed to the City Council as a body rather than to any particular Council Member or member of the staff. In consideration of others, kindly silence all cell phone, electronic and messaging devices.

5. APPROVAL OF AGENDA AND CONSENT AGENDA

(Approval of Consent Agenda passes all routine items indicated by an asterisk (\*). Consent Agenda items are not considered separately unless a Council Member so requests. In the event of such a request, the item is returned to the General Agenda).

6. APPROVAL OF PREVIOUS MINUTES

\* Regular Meeting Minutes of October 08, 2012

7. SPECIAL ORDERS

a) The Fairbanks City Council, Sitting as a Committee of the Whole, will hear interested citizens concerned with the below-referenced Appeal of Denied

Application for new Chauffeur License. Public Testimony will be taken and limited to five (5) minutes.

Applicant: Michael R. Meyerkorth

- b) The Fairbanks City Council, Sitting as a Committee of the Whole, will hear interested citizens concerned with the below-referenced Appeal of Denied Application for new Chauffeur License. Public Testimony will be taken and limited to five (5) minutes.

Applicant: Jeffrey K. Webster

## 8. MAYOR'S COMMENTS AND REPORT

## 9. UNFINISHED BUSINESS

- a) Ordinance No. 5900 – An Ordinance Amending FGC Chapter 74, Taxation, Article III, Alcohol Beverage Sales Tax, Sections 74-69, 74-73(a), 74-73(d)-(e), 74-74.1(a), and 74-82(a)-(c) to Modify Factors Relating to Taxes Due and the Penalty Structure. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- b) Ordinance No. 5901 – An Ordinance Amending FGC Chapter 74, Taxation, Article IV, Hotel/Motel Tax, Sections 74-121, 74-125(a), 74-125(d)-(e), 74-127(a), and 74-135(a)-(c) to Modify Factors Relating to Taxes Due and the Penalty Structure. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- c) Ordinance No. 5902 – An Ordinance Amending FGC Chapter 74, Taxation, Article V, Tobacco Products Distribution and Excise Tax, Sections 74-154(a), 74-154(d)-(e), 74-154.2(a), and 74-157(a)-(c) to Modify Factors Relating to Taxes Due and the Penalty Structure. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- d) Ordinance No. 5903 – An Ordinance Amending FGC Chapter 34, Article VI, Section 34-201, to Allow Replacement of Hydronic Heaters. Introduced by Council Member Stiver. SECOND READING AND PUBLIC HEARING.
- e) Ordinance No. 5904 – An Ordinance Amending FGC Sec. 58-39 Regarding the Method for Property Owner Approval of Local Improvement Districts. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

10. NEW BUSINESS

- \* Resolution No. 4549 – A Resolution Authorizing the City of Fairbanks to Accept Funds from the Alaska Division of Homeland Security and Emergency Management Under the FFY2012 Homeland Security Grant Program. Introduced by Mayor Cleworth.

11. DISCUSSION ITEMS (INFORMATION AND REPORT)

Committee Reports

12. COMMUNICATIONS TO COUNCIL

- \* a) Appointment to the Hotel/Motel Discretionary Fund Committee
- \* b) Re-appointment to the Permanent Fund Review Board

13. COUNCIL MEMBERS' COMMENTS

14. CITY ATTORNEY'S REPORT

15. CITY CLERK'S REPORT

16. ADJOURNMENT



FAIRBANKS CITY COUNCIL  
REGULAR MEETING MINUTES, OCTOBER 8, 2012  
FAIRBANKS CITY COUNCIL CHAMBERS  
800 CUSHMAN STREET, FAIRBANKS, ALASKA

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The City Council convened at 7:00 p.m. on the above date, following a Work Session with the Permanent Fund Review Board, to conduct a Regular Meeting of the Fairbanks City Council at the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska, with Mayor Jerry Cleworth presiding and with the following Council Members in attendance:

Council Members Present: Vivian Stiver, Seat A  
Chad Roberts, Seat B  
Bernard Gatewood, Seat C  
Jim Matherly, Seat D  
Lloyd Hilling, Seat E  
John Eberhart, Seat F

Absent: None

Also Present: Pat Cole, Chief of Staff  
Warren Cummings, Fire Chief  
Paul Ewers, City Attorney  
Janey Hovenden, City Clerk  
Tony C. Shumate, Director Personnel/Purchasing/RM

**INVOCATION**

The Invocation was given by City Clerk Janey Hovenden.

**FLAG SALUTATION**

Mayor Cleworth led the Flag Salutation.

**CITIZEN'S COMMENTS**

Helen Renfrew, 4097 Yvonne Road, Fairbanks Convention and Visitor's Bureau (FCVB) – Ms. Renfrew introduced Charu Uppal as an ambassador for the Alaska Anthropological Association and presented her with a Certificate of Appreciation for bringing the organization to Fairbanks. She shared the estimated revenue brought to Fairbanks by that conference and thanked Ms. Uppal for her work in making it happen.

Lance Roberts, PO Box 83449, Fairbanks – Mr. Roberts expressed his displeasure on FPD's implementation of a quota. He stated that he hopes FPD doesn't acquire the same reputation as the North Pole Police with revenue being the primary motivation for traffic stops. He spoke to probable cause for vehicle searches and to citizens' right to privacy.

**Ms. Stiver** asked if Mr. Roberts was aware that the quota isn't tied to revenue. She explained that the quota doesn't require officers to issue a ticket to reach a quota. She asked Mr. Roberts how he would recommend evaluation of a federal grant-funded position. **Ms. Stiver** stated that officers cannot perform a traffic stop without a legitimate reason.

Mr. Roberts stated that he had read the newspaper article but argued that the quota would likely become all about revenue. He disagreed with Ms. Stiver, stating that police regularly stop drivers without a reason. Mr. Roberts spoke of ways to measure an officer's performance without hard numbers.

Frank Turney, 201 7th Avenue, Fairbanks – Mr. Turney agreed with Mr. Roberts' distaste for the new FPD quota. He spoke to his research into the federal grants and their requirements. He stated that the decision for a quota was an internal decision, not a requirement of the Alaska Highway Safety Office Grant. He expressed his belief that quotas set by law enforcement agencies are unconstitutional and that officers must have probable cause. Mr. Turney spoke to hemp products and to the many benefits of hemp. He stated that Wasilla Distillery was the first in the United States to use hemp seed to produce vodka. He spoke to the cultivation and processing of hemp in Alaska. He thanked local government officials for introducing the resolution urging the state legislature to support the legalization of cultivating industrial hemp in Alaska.

**Mr. Hilling** asked Mr. Turney how he would feel if he was breaking the law and was pulled over but not ticketed.

Mr. Turney replied that pulling someone over just to "check them out" violates the Fourth Amendment of the U.S. Constitution.

Robert McHattie, 1921 Capitol Avenue, Fairbanks – Mr. McHattie stated that he had testified before the Council in May of 2012 regarding the possibility of expanding public parking downtown. He distributed photos to the Council to illustrate his request for more parking on Third Avenue between Cushman Street and Lacey Street near Mt. McKinley Bank. Mr. McHattie stated that Mayor Cleworth had provided him with some information on the agreement between the City and the bank. He referenced his photographs, stating that there is clearly enough room for parking on both sides of Third Avenue in that particular section of the street. He spoke to the City's letters of agreement with Mt. McKinley Bank written in 2004. He indicated that there is no promise of a queuing lane on Third Avenue in the documents.

**Mayor Cleworth** stated that the City hopes to take out the bulbouts on Third Avenue and meet with Mt. McKinley Bank in regards to the potential parking area. He assured Mr. McHattie that he would be contacted before that meeting takes place.

David van den Berg, 332 Slater Drive, Director of Fairbanks Downtown Association – Mr. van den Berg spoke on behalf of the DTA Board of Directors in support of the advancement of Ordinance No's. 5898 and 5899 regarding Local Improvement Districts. He thanked Ms. Stiver for sponsoring both ordinances. He indicated that Ordinance No. 5898 would create a way for property owners to support services that they already enjoy and would determine whether or not they are willing to sustain those services long-term.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger spoke to a large pothole on Noble Street near Tenth Avenue and to numerous other pothole locations within the City. He scorned the implementation of FPD’s quota. He spoke to the burden that grant-funded positions place on the City and its taxpayers when the City employs those individuals beyond the grant-funded period. Mr. Buberger stated that he has been personally extorted by police officers in the state of Florida. He spoke to the unethical behavior of law enforcement across the nation and in other parts of the world and stated that police officers are human, just like everyone else.

### **APPROVAL OF AGENDA AND CONSENT AGENDA**

**Mr. Roberts**, seconded by **Ms. Stiver**, moved to APPROVE the Agenda and Consent Agenda.

**Mayor Cleworth** called for objection and, hearing none, so ORDERED.

City Clerk Hovenden read the Consent Agenda into the record.

### **MAYOR’S COMMENTS AND REPORT**

**Mayor Cleworth** stated that he anticipated comments on the News Miner article on the FPD quota, and has asked Chief Zager to speak to the issue at the next Regular Council Meeting. He spoke to the “regulars” of Public Testimony and to the value they can bring to the Council, however critical those individuals may be. He assured Mr. Buberger that the City would try to repair the potholes in a timely manner. **Mayor Cleworth** expressed sympathy for the loss of Dolores Heine and Margaret McCombs, both longtime residents of the Fairbanks area. He spoke to a recent article in the Anchorage Daily News regarding the budget of the Municipality of Anchorage. He stated that Mayor Sullivan is presenting the Assembly with two budgets: a “Plan A” that would cut 187 positions and a “Plan B” that would cut 92 positions. He indicated that the reason for the proposed cuts was due to an inherited labor contract that adds another \$16 million to the 2013 budget. **Mayor Cleworth** stated that the gas utility issue is progressing and expressed pleasure that the Governor had sent letters to several involved entities. He spoke to his belief in the community’s ability to come together for our “one shot” at getting natural gas to Fairbanks.

### **UNFINISHED BUSINESS**

- a) Ordinance No. 5895 – An Ordinance Approving the Conditional Transfer of Natural Gas Utility Power to the Fairbanks North Star Borough. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING. ADVANCED from the Regular Meeting of September 10, 2012.

**Mr. Matherly**, seconded by **Mr. Gatewood**, moved to ADOPT Ordinance No. 5895.

**Mayor Cleworth** called for Public Testimony (Note: a proposed, “as Amended” version of Ordinance No. 5895 was presented as part of the Council’s Agenda packet and was open for public distribution and testimony).

Luke Hopkins, 221 Glacier Avenue, Fairbanks, Mayor of FNSB – Mayor Hopkins spoke to the weight of the natural gas issue. He encouraged the Council to support the utility transfer as the City of North Pole did last week. He spoke to Ordinance No. 5895 and to its duplication of some items in Section 2 which are already in the Borough’s proposed ordinance. He addressed Section 2(b) regarding the Regulatory Commission of Alaska, disagreeing with the City’s condition that the Commission would not be called upon unless the Borough and the Cities of Fairbanks and North Pole approved that initiation. Mayor Hopkins spoke to Section 2(c) which addresses the compensation of the Interior Alaska Natural Gas Utility (IANGU) Board of Directors. He indicated that the Board Members would be working many more hours than Assembly Members and should be compensated at a higher rate. He spoke to Section 2(e) on the revocation of the transfer of power if the Borough does not exercise the power within three years and indicated that, if that happened, the public would likely have discussion about it. He addressed Section 3 of Ordinance No. 5895, as Amended, strongly urging the Council to keep the effective date of the transfer as November 15, 2012.

**Ms. Stiver** asked Mayor Hopkins if there was a roster of Board of Directors available.

Mayor Hopkins replied that he has several members of the community in mind, but has not asked for participation at this time. He named a few individuals that have already expressed interest in serving on the Board of Directors: Steve Haagenson and Andy Warwick.

**Mr. Roberts** asked Mayor Hopkins if the City of North Pole passed their utility ordinance without a time restriction.

Mayor Hopkins replied that North Pole’s ordinance was to be effective the day following adoption.

**Mayor Cleworth** clarified that the effective date of North Pole’s ordinance to transfer power is pursuant to its Charter which requires a 90-day waiting period.

**Mr. Roberts** asked if the Borough could proceed with the utility if either the City of North Pole or the City of Fairbanks did not approve the transfer of power.

Mayor Hopkins replied that the Borough could move forward but that the utility would have a “doughnut hole.” He explained that it would be difficult to proceed if both cities had a 90-day wait on the effective date because the Board of Directors would be incomplete.

**Mr. Matherly** asked for more clarification on the effective date of North Pole’s ordinance.

Mayor Hopkins explained that the effective date was the next business day following adoption; however, their charter prohibits them from relinquishing utility power until 90-days after adoption.

Tim Sovde, 402 Bonnifield Street, Fairbanks – Mr. Sovde spoke to Ordinance No. 5895, as Amended, and suggested that an additional board member be appointed to represent the City of Fairbanks on the Board of Directors. He stated that properties within the City limits of Fairbanks should be excluded when taxes are levied or bonds are guaranteed to fund the utility, justifying

his reasoning by pointing out that Fairbanks residents already have an entity available to perform the distribution. He spoke to the possibility of the City of Fairbanks “opting out” of the transfer and becoming what was referred to by Mayor Hopkins as a “doughnut hole” in the utility. He spoke to the necessity of a LNG Plant on the North Slope and stated that the plant should be funded by the State of Alaska.

**Mr. Hilling** asked for clarification on the “doughnut hole” Mr. Sovde referred to.

Mr. Sovde explained that if the City chose not to relinquish its utility power to the Borough, it would then be excluded from the government-run utility, creating a “doughnut hole” in the utility’s coverage area.

Diane Hutchison, 140 Falcon Drive, Fairbanks – Ms. Hutchison spoke as a co-sponsor of the Borough’s proposed ordinance to create a gas utility. She spoke to the difficulty of the decision to be made and expressed hope that all local municipalities could work together to reach a solution. She stated that all the opposition she has heard to the transfer of power to the Borough has been based on a political philosophy. She indicated that it is the role of government to provide infrastructure so that the private sector can succeed. Ms. Hutchison stated that the community is hurting and that local businesses are closing down due to high energy costs. She commented that the Borough cannot serve as a pass-through for state funding without the utility power. She clarified what seemed to be a misconception at the recent work session by stating that the only residents who would be paying back the revenue bonds are the ratepayers and that the utility could not impose general obligation bonds on anyone. Ms. Hutchison spoke to the possibility of the FNG Plant being owned by Alaska Industrial Development and Export Authority’s (AIDEA). She stated that she understood Gene Therriault to say that AIDEA typically does not own facilities. She indicated that if the City does not want to relinquish power, she would respect that. She also stated that if the City *does* want to give the Borough utility power, then she would recommend that Ordinance No. 5895 be less restrictive. Ms. Hutchison commented that she foresees the Board of Directors for the utility working harder than the Borough Assembly and that she would like to see Steve Haagenson serve as the Presiding Officer to the Board of Directors.

**Mr. Matherly** asked Ms. Hutchison to elaborate on her feelings about the “doughnut hole” and how she believes that would affect presentation of the plan to the Governor.

Ms. Hutchison replied that she believes that Governor Parnell wants to see a consensus of local governments within the Interior.

**Mr. Matherly** asked Ms. Hutchison if she believes the restrictions outlined in Ordinance No. 5895 would diminish the unified voice.

Ms. Hutchison stated that she does not know how the Borough Assembly would proceed if the City adopted Ordinance No. 5895 as it currently reads because of the discrepancies it would create with North Pole’s ordinance.

**Ms. Stiver** asked if it would be problematic for the Assembly to move forward if the City passed Ordinance No. 5895 as-is.



Ms. Hutchison stated that she is unsure if the Assembly would postpone their ordinance to the following meeting or just try to work something out at their next meeting.

**Mr. Hilling** asked Ms. Hutchison who she would see as the ideal owner of the LNG Plant.

Ms. Hutchison indicated that she originally thought that the utility should be the owner who would contract operations to a private entity. She indicated that now she is unsure.

**Mr. Hilling** asked what stipend Borough Assembly Members receive.

Ms. Hutchison replied that net pay is roughly \$700 per month and that gross pay is \$900 per month.

Andy Warwick, 3190 Riverview Drive, Fairbanks – Mr. Warwick spoke to Mayor Hopkins' suggestion that he may be serving on the Board of Directors. He stated that he had not been approached and that this was the first time he had heard his name mentioned as a potential Board Member. He stated that he probably would not be able to be a member on the Board due to conflicts and that the proposed compensation would not be enough for the full-time job. Mr. Warwick agreed that the limitations outlined in Ordinance No. 5895 were too restrictive. He cautioned that too many limitations would breed failure. He acknowledged that very few Fairbanks residents want the Borough to get involved in the gas distribution business. He listed two significant disadvantages FNG would face if they attempted to perform the distribution independently: 1) it would be more difficult for FNG to solicit state funding for the utility than it would be for a government entity, and 2) if FNG were to be successful in obtaining state or federal grants, they would have to pay income taxes on the grants. He further explained that those taxes would be passed on to ratepayers. He stated that he does not see the Borough getting into the gas distribution business but that he believes it is important that they have the ability to do so if it becomes necessary for them to step in. Mr. Warwick urged the Council to do something and thanked them for their service.

**Ms. Stiver** stated that she sees the Borough as a facilitator for the funding of the plant and distribution system. She asked Mr. Warwick if he thought it would make a difference in the timeline of getting natural gas to Fairbanks if the Borough's role was strictly to be a facilitator for the contracts and funding.

Mr. Warwick replied that it is possible that the Borough could own the LNG Plant but that there are still many decisions to be made. He expressed his personal opinion that he would like to see Golden Valley Electric Association (GVEA) own the plant and stated that the owner of the facility should be a non-profit entity.

**Ms. Stiver** asked Mr. Warwick to speak to the difference in the Board of Directors' time investment if the Borough served only as a facilitator.

Mr. Warwick stated that he doesn't know how the process will turn out, but that he doesn't believe \$900 a month is going to be sufficient compensation for qualified Board Members.

**Mr. Matherly** asked Mr. Warwick if he believes that Ordinance No. 5895 should mirror the City of North Pole's gas utility ordinance.

Mr. Warwick replied that he isn't familiar with North Pole's ordinance but agreed with Mayor Hopkins in that the power should be given without many restrictions or not given at all. He stated that the goal should be to attract the best people to serve on the Board of Directors.

**Mr. Hilling** asked Mr. Warwick if FNG would still be required to pay federal and state taxes on grants if they owned the LNG Plant but did not make a profit on the construction of the facility.

Mr. Warwick replied that FNG would still be required to pay taxes under the regulatory process for the debt and equity return.

Jack Wilbur, 817 Lancaster Drive, Fairbanks – Mr. Wilbur encouraged the Council to come on board with the City of North Pole and the Borough so that the community can have a united voice to present to the legislature. He stated that he does not foresee any other entity having the best interest of the community as their primary concern. Mr. Wilbur stated that the lack of a unified voice has been detrimental in reaching an energy solution for the Fairbanks community for a number of years. He urged the Council to act now.

Lake Williams, 221 Glacier Avenue, Fairbanks – Mr. Williams stated that he never anticipated North Pole leading the way in the transfer of utility power but spoke to all the reasons why it makes sense that the North Pole community is in support of the utility. He stated that, overall, North Pole is hurting more than other areas within the Fairbanks community. Mr. Williams stated that he doesn't believe it is the City Council's job to pick winners and losers in the process of creating a utility. He expressed his opinion that FNG has had a monopoly on the natural gas utility and that they need competition. He stated that the Regulatory Commission of Alaska (RCA) needs to be involved to regulate the utility and to ensure fair and equitable rates to residents.

Jack Hebert, 1460 Goshawk Lane, Fairbanks – Mr. Hebert thanked the Council for allowing residents outside the City to speak during Public Testimony. He stated that he and his family have always lived in the outlying areas surrounding Fairbanks but have always thought of themselves as being "from Fairbanks." He stated that the community must come together and must no longer be divided. He cautioned that the Fairbanks community is in serious trouble and that something must be done now. Mr. Hebert urged the Council to relinquish utility powers to the Borough.

Roger Burggraf, 830 Sheep Creek Road, Fairbanks – Mr. Burggraf stated that he has resided in the Fairbanks area since 1959 and has seen Fairbanks go through many "ups and downs." He stated that the troubles the community is facing are very serious for Fairbanks' future economic viability. He agreed with other testimony that the Fairbanks community needs to come forward with a unified plan to resolve the energy crisis. He indicated that the LNG Plant may be Fairbanks' only opportunity to meet the PM<sub>2.5</sub> particulate standards set by the Environmental Protection Agency (EPA). Mr. Burggraf outlined three tasks that need to be accomplished in order to get natural gas to Fairbanks: 1) construction of a LNG Plant on the North Slope, 2) building a pipeline or a trucking system, and 3) creation of a distribution system. He expressed

hope that GVEA would come through and that a solid, unified plan could be formed before the state legislature convenes. Mr. Burggraf spoke about the Board of Directors for the utility, stating that each member must be carefully chosen. He commented that the City's transfer of power should not be too restrictive and that it should be similar to North Pole's ordinance. He thanked the Council for the opportunity to speak.

Merrick Peirce, PO Box 10045, Fairbanks, Alaska Gasline Port Authority Board Member – Mr. Peirce thanked the Mayor and Council for their service and for their time spent studying and discussing the utility issue. He stated that many businesses and residents are losing hope and that Ordinance No. 5895 is a well-crafted solution to the energy problem. He referenced the Port Authority study done by PDC Harris Group in 2011 which looked at the projected cost of gas in the Fairbanks area with a large-diameter pipeline and what would happen to the air quality once natural gas was being used. He shared excerpts from the study's results which projected a savings of 80% by the year 2021. He clarified that the study was based on two assumptions: 1) the use of a large diameter pipeline, and 2) no "doughnut holes" in the utility service area. He spoke to Section 2(b) of Ordinance No. 5895, stating that the City does not need to include that section since the RCA would take care of it. He reminded the Council that Cook Inlet is closer to Fairbanks than the North Slope, the gas from there contains less carbon dioxide than that on the North Slope, and promising things are happening in the Cook Inlet area. He asked the Council not to discount Cook Inlet as a resource.

Lance Roberts, PO Box 83449, Fairbanks – Mr. Roberts spoke to the GO bonds that the Borough may receive for the gas utility and suggested that City taxpayers will have to help pay for the expansion of the distribution system to areas outside City limits without reaping any benefits. He stated that although City residents could vote against the bonds, they would be far outnumbered by the rest of the FNSB residents. He briefly spoke to revenue bonds and to how some entity, whether state or local, would have to serve as a guarantor. He pointed out that the Borough's ordinance calls for two City-appointed board members for the utility while Ordinance No. 5895 only allows for one City-appointed member. Mr. Roberts spoke to the "doughnut hole" if Fairbanks were to opt-out of the gas utility. He stated that if that happened, Fairbanks residents could still receive natural gas service through FNG but would not be a part of the Borough's gas utility. He spoke to the lack of limitations in the Borough's ordinance regarding the transfer of utility power and commended the City Council for placing restraints in the Ordinance.

**Mayor Cleworth** clarified that the City would get to appoint two members to the Board of Directors initially. He explained that after the board is set up, four of its members would be elected officials and only three would be appointed: one by the City of Fairbanks, one by the City of North Pole, and one by the Borough.

Mr. Roberts again stressed the importance of the limitations set forth in Ordinance No. 5895.

Victor Buberger, PO Box 58192, Fairbanks – Mr. Buberger requested that the Council base their decision on what would benefit the most concentrated residential areas of the City of Fairbanks. He stated that the most populated areas should be given first preference to natural gas service.

Nadine Winters, 1670 Howling Dog Trail, Fairbanks – Ms. Winters spoke to the 2 most compelling reasons for the City to approve the transfer of utility power to the Borough: 1) there is no existing entity who's primary purpose is to provide affordable natural gas to everyone throughout the community, and 2) there are significant financial benefits to creating a public utility, such as tax exemptions and lower borrowing costs. She added that the Borough will use the most effective means to accomplish distribution to everyone in the community, whether its role is to facilitate or to provide the service. She urged the Council to adopt Ordinance No. 5895 with as few restrictions as possible. Ms. Winters addresses Section 2(b), stating that once a municipal utility begins competing with other entities, the financial benefits granted to it as a government entity begin to diminish. She indicated that Section 2(b) keeps the utility decisions in a political realm rather than in a regulatory realm where she believes they belong. She expressed concern that if Section 2(b) is adopted as part of Ordinance No. 5895, it may suggest that the private sector always offers lower costs. She concluded by stating that the transfer of utility power is the best strategy to getting lower-cost gas to Fairbanks.

**Mr. Matherly** expressed his confusion on the differences, if any, of ratepayers inside City limits versus those in outlying areas.

Ms. Winters stated that the utility would have access to revenue bonds, which are paid back by the utility's ratepayers. She explained that if City residents are not receiving the utility service, they would not be affected. She stated that general obligation bonds require a vote of the people and indicated that it is unlikely that a majority of Borough residents would be in favor of such an obligation.

Frank Turney, 201 7th Avenue, Fairbanks – Mr. Turney spoke to cheap, sustainable energy for the community through hemp cultivation. He encouraged everyone to educate themselves on the many benefits of hemp by visiting, [www.hemp4fuel.com](http://www.hemp4fuel.com).

Kathryn Dodge, 665 8th Avenue, Fairbanks – Ms. Dodge spoke in support of Ordinance No. 5895. She stated that FNG's certificate of need does not cover the entire City of Fairbanks area and pointed out that only about 1,100 structures are currently being served by natural gas. She stated that she doesn't foresee expansion of the gas utility in the near future without action. Ms. Dodge encouraged the Council to support a simple, less restrictive version of Ordinance No. 5895.

Dan Britton, 1006 Chena Pump Road, Fairbanks – Mr. Britton, President of FNG, thanked the Council for their consideration of the natural gas issue. He stated that since FNG is the only entity that has invested significant dollars in getting gas to Fairbanks, they have great interest in the matter. He spoke to supply being the limiting factor in the distribution of natural gas in the Fairbanks area. Mr. Britton stated that the proposition of a municipal utility was brought about by emotions and a desire to bring the lowest-cost gas to as many residents as possible. He shared his belief that the best way to accomplish that is through government involvement in the form of funding. He spoke to taxes that private companies are required to pay and suggested that if the City and Borough are concerned about ratepayers paying property taxes, they should exempt them. Mr. Britton stated that it is a misrepresentation to say that 100% of grant dollars go directly to a project when they are passed through a government agency. He explained that there are overhead costs associated with the administration of grants. He indicated that if the Borough

served only as a facilitator for bringing natural gas to Fairbanks, he could find a way to cooperate, but added that it seems the Borough may have other intentions. He stated that FNG is actively pursuing other projects and ways to get more natural gas to Fairbanks. Mr. Britton suggested that the biggest benefit to the community will be when GVEA and FNG come together with a joint request for project funding on the North Slope. He urged the Council to reject Ordinance No. 5895, but to keep the restrictions if they decided to adopt it.

**Ms. Stiver** asked Mr. Britton to speak to the “backstop” that the bond companies referred to in discussions about the gas utility.

Mr. Britton stated that loans have to be guaranteed by someone and that he believes the idea was for the state to be the guarantor. He indicated that if the state was unwilling to be the guarantor, the Borough would have to do so and a vote of the people would be required. He stated that he doesn't believe the Borough can put the taxpayer at risk unless the state refuses to guarantee the bonds.

**Mr. Matherly** thanked Mr. Britton for his testimony. He asked Mr. Britton to speak to his comment that “...the proposition of a municipal utility was brought about by emotions...”

Mr. Britton explained that people want to bring the lowest-cost gas to the most people and that talk of bringing natural gas to Fairbanks is an emotional issue. He stated that many lofty promises have been made to the community by a number of proponents over the years without a detailed plan to follow through. He stated that there is no definitive plan behind the Borough's utility that supports the suggestion that it will bring lower cost energy to the community. He indicated that the Borough's study was short, it ignored supply, and it referenced an overstatement of demand for the average customer.

**Mr. Eberhart** thanked Mr. Britton for coming. He asked Mr. Britton to discuss the permitting situation for the proposed LNG Plant.

Mr. Britton stated that FNG has a land lease with the State of Alaska for a pad and a 15-year gas supply. He added that FNG has improved that pad so that it is ready for construction. He stated that FNG also has a land use permit with the North Slope Borough, an air permit with Alaska Department of Environmental Conservation (ADEC), and a number of other minor permits. Mr. Britton stated that FNG is covered by a Certificate of Public Convenience and Necessity (CPCN) with the RCA.

**Mr. Eberhart** asked if permits would be needed for a trucking fleet.

Mr. Britton replied that no permits would be required for a trucking fleet. He stated that FNG currently has a 14-trailer fleet which will have to be expanded once the plant is constructed.

**Mr. Eberhart** asked if the Borough would have to go through a similar permitting process if they were granted the utility powers.

Mr. Britton replied that anyone who builds a gas facility has to go through the full permitting process. He stated that if the Borough became an operating entity of a utility, they would have to meet all the DOT's Federal Regulations (49 CFR 193) which are extremely onerous.

**Mr. Eberhart** asked how long the permitting process takes. He also asked Mr. Britton if permits could be transferred or shared.

Mr. Britton answered that it took FNG roughly three years to complete the permitting process. He stated that if the same site is used for construction of the plant, FNG's permits would remain valid and could be assigned to another entity. He explained that if the location of the construction site changed, the air permit and the land use permit would not be transferrable.

**Mr. Eberhart** asked if FNG was in an agreement with Exxon Mobil.

Mr. Britton replied that FNG has a 15-year contract with Exxon Mobil on the North Slope.

**Mr. Roberts** spoke to the joint work session on September 25th in North Pole. He stated that around that time, FNG had a press release that they had gone before the RCA to become a regulated utility. He asked Mr. Britton to speak to the driving force behind that endeavor.

Mr. Britton stated that it seems the community would rather have rate regulation than rate exemption. He explained that the original reason behind exemption was to provide flexibility of operation and the highest level of benefit to consumers. He added that the RCA had also found exemption to be in the best interest of consumers. Mr. Britton stated that in 2008 RCA began investigating rate regulation and FNG participated in the investigation. He stated that FNG has acknowledged the difficulty in obtaining state funding without following RCA's rate regulations.

**Ms. Stiver** asked why there is no supply for FNG available through Cook Inlet.

Mr. Britton replied that he would rather obtain supply from Cook Inlet than the North Slope, but indicated that there is no long-term gas supply available from Cook Inlet at this time. He stated that demand currently exceeds supply in the Cook Inlet, and that while FNG is excited and hopeful about the level of activity in the area, it has not proven to change the dynamics of the market yet.

**Mr. Hilling** asked Mr. Britton if FNG would still pursue the construction of the Liquefaction Plant and distribution system without state funding as long as there was no chance of a Borough utility.

Mr. Britton replied that if FNG had a long-term contract with GVEA to purchase the North Slope supply, they would build the plant.

**Mr. Hilling** asked if the Fairbanks community's demand would be significant enough to justify FNG's construction of the plant.

Mr. Britton explained that moving forward with plant construction under those circumstances would be more challenging because it would place FNG in a “if you build it, they will come” scenario. He spoke to the significance of the investment in building a liquefaction plant.

**Mr. Hilling** asked Mr. Britton if it was safe to say that FNG would need some sort of guarantee of no competition in order to proceed with construction of the plant.

Mr. Britton explained that the RCA does not grant guarantees of non-competition. He stated that they do grant a certificate to serve an area, which limits the ways in which other entities may compete within that defined area.

**Mr. Hilling** asked Mr. Britton about his scheduled meeting with the Governor. He asked if a representative from GVEA would be present at that meeting.

Mr. Britton replied that they are looking to have the meeting during the week of October 22nd and that he hopes to see GVEA representation. He indicated that FNG would like to meet with Flint Hills and FEDC prior to the meeting with the Governor.

**Mr. Hilling** asked Mr. Britton to speak to what he foresees happening if Ordinance No. 5895 is not adopted and the meeting with the Governor is unsatisfactory.

Mr. Britton stated that FNG would continue in their discussions with GVEA to work towards a joint project on the North Slope to bring natural gas to Fairbanks. Mr. Britton spoke to servicing outlying areas once the supply is established, stating that residents requesting service to uneconomical areas may have to provide a contribution before receiving service.

**Mr. Eberhart** read excerpts from a Borough document which spoke to the powers of the RCA. He asked Mr. Britton if it is conceivable that the Borough could put FNG out of business if they were granted utility powers.

Mr. Britton replied that it is conceivable and that it is a concern of FNG. He expressed concern with all the discussion about Borough utility competition.

**Mr. Eberhart** asked how long FNG has been in operation.

Mr. Britton answered that FNG has been serving customers since 1998.

**Mr. Eberhart** asked what costs FNG has incurred from performing studies and going through the permitting process.

Mr. Britton replied that FNG has incurred about \$4 – 5 million in costs for the North Slope project to date. He stated that FNG pays the state \$140,000 per year to lease the pad.

**Mr. Roberts** asked Mr. Britton to speak to the financial risks that must be taken as an expanding entity.

Mr. Britton stated that the first rule under the RCA is that “cost-causer is cost-payer.” He stated that RCA looks at those things when they establish rates and the ways in which you can operate. He stated that even a municipal utility would have to follow that model.

**Ms. Stiver** asked if the cost of getting service into less-densely populated areas of the Borough would be shared by all ratepayers under a Borough-ran utility system.

Mr. Britton replied that the additional cost would be distributed among all Borough utility ratepayers.

Steve Haagenson, 1826 Hilton Avenue, Fairbanks – Mr. Haagenson stated that he had been asked to serve on the Board of Directors for the Borough utility, but did not accept due to the uncertainty of its formation. He stated that he was a member of the management team for the gas distribution study that was done. He stated that the management team deployed a cooperative concept with a goal of expanding the service area as quickly as possible to the most people as possible with “postage stamp” rates. He defined “postage stamp” rates as uniform rates to all ratepayers without regard to their location within the Borough. Mr. Haagenson spoke to the history of utility services and rates to outlying areas and to low-interest loans for funding the expansion of services. He shared his opinion that the issue isn’t about bonds, rather it is about asking the state to help Fairbanks in the form of low-interest loans. He spoke to the many different opinions and views on the issue, but stated that there is a unified goal in the community: bringing natural gas to Fairbanks to lower energy costs. He stated that the Governor has indicated that the state is willing to help and cautioned on squandering the opportunity. Mr. Haagenson referenced a step-down graph and spoke to the 2-3 year process of building a LNG Plant and distribution system. He spoke to the projected energy cost savings to Borough residents by way of the trucking system and added that once a large-diameter pipeline comes through, costs will drop even more. Mr. Haagenson referenced other diagrams which illustrated the cash flow of state funding and how it would affect the build-out of a natural gas utility and distribution system. He spoke to the importance of one entity serving as the facilitator with one vision. He concluded by urging the Council to ensure that the language in Ordinance No. 5895 sets the utility up for success.

**Mr. Hilling** asked Mr. Haagenson if he had a study to back up his statement that over 80% of the Borough could be serviced at the \$15/Mcf rate.

Mr. Haagenson replied that the projected rate came from the FNG distribution study. He added that the study predicted that 86% of the Borough would be served by pipe and the remainder would be served by propane.

**Mr. Gatewood** asked Mr. Haagenson what he believes would be an appropriate stipend for IANGU Board members if the utility came to fruition.

Mr. Haagenson answered that he did not know Board members would be paid. He stated that members should want to serve because they have a passion for the issue, not because of the money. He added that the Executive Officers should be paid at a market rate.



**Ms. Stiver** stated that many people are concerned with the growth of the utility. She asked Mr. Haagenson if it is possible that the utility could receive money and contract everything out without growing the Borough utility itself.

Mr. Haagenson replied that he believes that is a possibility. He expressed his aversion to government-run “anything” but pointed out that the Borough would not be pursuing utility power unless they had to. He spoke in favor of the Borough contracting out as much as possible.

**Mr. Matherly** asked Mr. Haagenson if he believes the transfer of utility power to the Borough is the best possible chance of receiving state support in getting natural gas to Fairbanks.

Mr. Haagenson replied that the short answer is “yes.” He went on to explain that a unified plan is the single-most critical factor in gaining state support. He indicated that a plan needs to be established before consideration of other options.

**Mr. Eberhart** asked Mr. Haagenson if he would expect to see a business plan at this stage of the proposal.

Mr. Haagenson replied that the Fairbanks distribution study was modeled after a business plan and format. He stated that the study did not ignore supply, but it remained neutral. He stated that even if natural gas was available and unlimited right now, residents would not be able to use it until a distribution system was put into place. He remarked that the community should agree on a business and distribution plan first, then look for a supply source.

Hearing no more requests for public comment, **Mayor Cleworth** declared Public Testimony closed.

**Mayor Cleworth** called for a five-minute recess.

**Mayor Cleworth** informed the Council that the original version of Ordinance No. 5895 was before them, but stated that there is also a proposed, amended version. He recommended that the Council propose one amendment at a time instead of substituting the amended version.

**Ms. Stiver**, seconded by **Mr. Gatewood**, moved to AMEND Section 2(b) of Ordinance No. 5895 by striking the word “private” and replacing with the word “non-governmental.”

**Mr. Hilling** asked if GVEA is privately owned.

**Mayor Cleworth** replied that there had been discussion on the matter and that he believes it is privately owned.

**Mr. Hilling** commented that replacing “private” with “non-governmental” would only be more confusing.

**Ms. Stiver** stated that sometimes citizens are confused when it comes to the ownership of utility companies such as GVEA and that her intention for the amendment is to make the language more clear.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5895, AS FOLLOWS:

YEAS: Gatewood, Roberts, Eberhart, Stiver  
NAYS: Matherly, Hilling  
**Mayor Cleworth** declared the MOTION CARRIED.

**Mr. Roberts**, seconded by **Mr. Matherly**, moved to AMEND Section 2(b) of Ordinance No. 5895, as Amended, by striking the language “Fairbanks North Star Borough, the City of Fairbanks and the City of North Pole by separate resolutions. In the event such authority is given, IANGU is only authorized to operate via a contract with a non-governmental entity unless this option is not available” and replacing with “Regulatory Commission of Alaska.”

**Mr. Roberts** explained that his reason behind the proposed amendment is that he is uncomfortable with the political nature of Section 2(b). He expressed his concern that if the language is left as it is and the ordinance is adopted, there will be too much controversy for progress to be made. **Mr. Roberts** stated that he doesn’t feel qualified enough to speak to the CPCN and that it should be left to the RCA to regulate.

**Mr. Hilling** expressed concern that the RCA could independently damage or destroy the investments of private entities. He defended the existing language in Section 2(b) by stating that it protects against potential injustices by the RCA.

**Mr. Roberts** spoke to the regulatory method proposed in the language of Section 2(b) and to the likelihood that local elected officials could be politically swayed. He indicated that it may be better to leave the regulation of the utility up to the RCA.

**Mr. Matherly** expressed concern that by keeping the existing language of Section 2(b), the City of Fairbanks would be imposing a requirement on the City of North Pole and the Borough that may not be welcome.

**Mayor Cleworth** spoke to the origination of the language in Ordinance No. 5895. He spoke to the possibilities of joint partnership, but stated that he was not in support of a municipal-operated gas utility. **Mayor Cleworth** stated that the original intent in creating a municipal utility was to have a financing mechanism for obtaining low-interest loans and grants and to be an implementing corporation, not an operating company. He shared his feeling that the idea of a municipal utility competing directly with a certificated company does not appeal to him. **Mayor Cleworth** spoke to Section 2(b) as protection for the City of Fairbanks in the transfer of utility power to the Borough and stated that he doesn’t see the requirement of Section 2(b) as a monumental hurdle.

**Mr. Roberts** agreed that the utility should be a facilitator, but indicated that the existing language makes the regulation more political.

**Mayor Cleworth** spoke to the requirement in Section 2(b) as being a much smaller hurdle than what the RCA would demand. He stated that it is not government's business to create utilities to compete with the private sector.

**Mr. Roberts** spoke to his duties as a Council Member. He stated that it is not a Council Member's job to determine whether or not it's appropriate for there to be competition from the private sector.

**Ms. Stiver** pointed out that the language of Section 2(b) requires a resolution which, unlike an ordinance, doesn't have "teeth."

**Mr. Roberts** argued that this type of resolution would be different.

**Mr. Matherly** asked what would happen if the language in Section 2(b) remained and the Council voted down a resolution to approve direct competition.

The Council debated whether or not the RCA could approve competition if the City Council voted not to approve such a resolution.

**Mr. Hilling** spoke to the Council's ability to make complex and educated decisions on such matters.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND SECTION 2(b) OF ORDINANCE NO. 5895, AS AMENDED, BY STRIKING THE LANGUAGE "FAIRBANKS NORTH STAR BOROUGH, THE CITY OF FAIRBANKS AND THE CITY OF NORTH POLE BY SEPARATE RESOLUTIONS. IN THE EVENT SUCH AUTHORITY IS GIVEN, IANGU IS ONLY AUTHORIZED TO OPERATE VIA A CONTRACT WITH A NON-GOVERNMENTAL ENTITY UNLESS THIS OPTION IS NOT AVAILABLE" AND REPLACING WITH "REGULATORY COMMISSION OF ALASKA" AS FOLLOWS:

YEAS: Matherly, Roberts, Gatewood  
NAYS: Hilling, Stiver, Eberhart, Cleworth  
**Mayor Cleworth** declared the MOTION FAILED.

**Mr. Matherly**, seconded by **Ms. Stiver**, moved to AMEND Section 2(b) of Ordinance No. 5895, as Amended, by striking "the Fairbanks North Star Borough, the City of Fairbanks and the City of North Pole by separate resolutions" and replacing with "the City of Fairbanks by resolution."

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND SECTION 2(b) OF ORDINANCE NO. 5895, AS AMENDED, BY STRIKING "THE FAIRBANKS NORTH STAR BOROUGH, THE CITY OF FAIRBANKS AND THE CITY OF NORTH POLE BY SEPARATE RESOLUTIONS" AND REPLACING WITH "THE CITY OF FAIRBANKS BY RESOLUTION" AS FOLLOWS:

YEAS: Roberts, Matherly, Gatewood, Hilling, Eberhart, Stiver  
NAYS: None  
**Mayor Cleworth** declared the MOTION CARRIED.

**Ms. Stiver**, seconded by **Mr. Eberhart**, moved to AMEND Ordinance No. 5895, as Amended, by adding Section 2(f) to read, "Should any grant funds awarded to the IANGU or awarded for gas utility projects be administered by the Borough, the fee for administering such grants (by either the IANGU or the Borough) may not exceed 0.25%."

**Ms. Stiver** spoke to the large dollar amount of the grants that may be obtained by the Borough for the gas utility and stated that 0.25% of the grant funds should more than cover the costs of administration.

**Mr. Roberts** asked how the Borough would recover administration costs for smaller grants if they were limited to 0.25% for all grants.

**Ms. Stiver** stated that she believes that the negative impact absorbed by the Borough for administering smaller grants would be minimal. She expressed her opinion that every dime possible be passed on for the benefit of the ratepayer.

**Mr. Hilling** stated that he would not support Ms. Stiver's amendment.

**Mr. Roberts** asked why the Borough would be granted any administrative funds if the IANGU is a separate entity.

**Ms. Stiver** replied that since the IANGU entity has not yet been formed, she wanted to ensure that the administrative costs were recoverable by including the Borough in the Section 2(f) language.

**Mayor Cleworth** explained that the Borough would be involved with the formation of the utility for one year, then it would be operated by the IANGU unless the Borough Assembly chose to fund the utility. He stated that the Council can make changes to restrictions in the future if things change in regards to the utility.

**Mr. Roberts** asked what the basis of the 0.25% was.

**Ms. Stiver** replied that she based the percentage on the \$150 million estimated cost to build the LNG Plant.

**Mr. Gatewood** acknowledged Ms. Stiver's logic in passing as much savings as possible on to ratepayers but indicated that the 0.25% seems low.

**Mr. Matherly** requested that Mayor Hopkins come forward to speak to the administrative costs.

Mayor Hopkins referred to lines 81 and 82 of the Borough's proposed ordinance on the utility transfer. He stated that the grants are intended to be directed to the municipal gas utility, not the Borough.

**Mayor Cleworth** stated that if grants were obtained within the first year after the transfer there likely would be no IANGU staff in place. He asked Mayor Hopkins if the Borough would then have to administer those grant funds until the IANGU was functional.

Mayor Hopkins replied that there is a \$3 million appropriated grant in place for the gas distribution planning and construction that could be designated for immediate staffing and operation of the IANGU. He suggested that all administrative funds be directed to the utility, not the Borough.

**Mayor Cleworth** asked Mayor Hopkins if he envisions leftover funding from the \$3 million dollars going directly to the IANGU after the utility is up and running.

Mayor Hopkins replied that he is unsure where the leftover funding would go. He stated that there are still questions waiting to be answered by the gas distribution consultants.

**Ms. Stiver** asked if the legislature determines who the recipient of the grant should be and if it's possible that they could award grants to the Borough for the utility.

Mayor Hopkins replied that if the legislature granted funding to the Borough for the utility, it would be passed through directly to the utility.

**Mr. Eberhart** stated that he doesn't see the harm in Ms. Stiver's proposed amendment.

**Mr. Hilling** pointed out that Ms. Stiver's amendment would not only affect the Borough's limit on administrative costs but also that of IANGU.

**Mr. Eberhart** asked Ms. Stiver to speak to her intent of the amendment to add Section 2(f).

**Ms. Stiver** replied that the amendment is intended to limit the administrative fees for either the Borough or the IANGU.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5895, AS AMENDED, BY ADDING SECTION 2(F) TO READ, "SHOULD ANY GRANT FUNDS AWARDED TO THE IANGU OR AWARDED FOR GAS UTILITY PROJECTS BE ADMINISTERED BY THE BOROUGH, THE FEE FOR ADMINISTERING SUCH GRANTS (BY EITHER THE IANGU OR THE BOROUGH) MAY NOT EXCEED 0.25%" AS FOLLOWS:

YEAS: Stiver, Gatewood, Hilling, Eberhart, Roberts

NAYS: Matherly

**Mayor Cleworth** declared the MOTION CARRIED.

**Mr. Eberhart**, seconded by **Ms. Stiver**, moved to AMEND Ordinance No. 5895, as Amended, by adding Section 2(g) to read, "During the term for which elected and for one year thereafter, no local elected municipal official may be directly or indirectly employed by the Utility in any paid position or nominated, elected or appointed to the Board if the Board was created or the salary, compensation, or emoluments of the Board were increased during the elected official's

term of office. For the purposes of this subsection, the term “employment by the Utility” includes payment from any business entity that contracts with the Utility and any contractual or consulting arrangement between the Utility and with any business entity partially or wholly owned by the elected municipal official or in which the elected municipal official has an interest.”

**Mr. Eberhart** stated that the intent of the amendment would be to prevent an Assembly Member from leaving office and immediately going to work for the utility.

**Mayor Cleworth** asked Mr. Ewers if the language “local elected municipal official” would include City of Fairbanks elected officials.

Mr. Ewers replied affirmatively.

**Mr. Roberts** asked, hypothetically, if he would be able to lease office space to the utility as a real estate broker and a Council Member under Mr. Eberhart’s amendment.

**Mr. Eberhart** replied that he was unsure of the answer to Mr. Roberts’ question. He suggested that Mr. Roberts find a way to amend the language to allow for such a hypothetical situation to occur.

Mr. Ewers stated that the language in the proposed amendment would be broad enough to disallow a Council Member to lease office space to the utility.

**Mr. Matherly** spoke to ways to modify Section 2(g) to allow for a hypothetical situation such as the one offered by Mr. Roberts.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5895, AS AMENDED, BY ADDING SECTION 2(g) TO READ AS STATED ABOVE AS FOLLOWS:

YEAS: Hilling, Eberhart, Roberts, Stiver, Matherly  
NAYS: Gatewood

**Mayor Cleworth** declared the MOTION CARRIED.

**Ms. Stiver**, seconded by **Mr. Eberhart**, moved to AMEND Section 2(b) of Ordinance No. 5895, as Amended, by adding the language, “Regardless of the method of operation, maintenance operational costs may not exceed industry standards per distribution mile adjusted for Interior Alaska.”

**Ms. Stiver** stated that it is important to the public for a government utility to monitor their costs in wages, maintenance and operations. She stated that she believes setting the parameters in the amendment is a good way to provide for a monitoring system.

**Mr. Matherly** stated that he is unsure if Ms. Stiver’s amendment has a place in the City’s ordinance. He suggested that it may be more appropriate for that language to appear in the utility’s bylaws.

**Mr. Hilling** asked Ms. Stiver if her amendment refers to “maintenance operational costs” of a competitor.

**Ms. Stiver** stated that she may wish to move the language of her amendment to its own new section in Ordinance No. 5895, as Amended. She stated that the intent of the language was not meant in reference to competitors.

**Ms. Stiver**, with the concurrence of the second, WITHDREW the motion to AMEND Section 2(b) of Ordinance No. 5895, as Amended.

**Ms. Stiver**, seconded by **Mr. Eberhart**, moved to AMEND Ordinance No. 5895, as Amended, by adding Section 2(h) to read, “Regardless of the method of operation, maintenance operational costs may not exceed industry standards per distribution mile adjusted for Interior Alaska.”

**Mr. Roberts** spoke in opposition to the amendment, stating that it would be the job of the Board to manage and regulate the utility.

**Mr. Hilling** agreed with Mr. Roberts, but expressed appreciation for Ms. Stiver’s intent in presenting the amendment.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND ORDINANCE NO. 5895, AS AMENDED, BY ADDING SECTION 2(h) TO READ, “REGARDLESS OF THE METHOD OF OPERATION, MAINTENANCE OPERATIONAL COSTS MAY NOT EXCEED INDUSTRY STANDARDS PER DISTRIBUTION MILE ADJUSTED FOR INTERIOR ALASKA” AS FOLLOWS:

YEAS: Stiver  
NAYS: Gatewood, Roberts, Eberhart, Matherly, Hilling  
**Mayor Cleworth** declared the MOTION FAILED.

**Ms. Stiver**, seconded by **Mr. Hilling**, moved to AMEND Section 3 of Ordinance No. 5895, as Amended, by striking “November 15, 2012” and replacing with “the effective date of the City of North Pole’s transfer of natural gas utility power pursuant to North Pole Ordinance 12-18 and Section 9.1 of the North Pole’s City Charter.”

**Ms. Stiver** stated that she believes the Cities of North Pole and Fairbanks should transfer their utility powers at the same time and that she doesn’t believe that the delay in the transfer would hinder the formation of the IANGU Board of Directors. She asked Mr. Ewers to speak to the effective date.

Mr. Ewers stated that the Borough and City Mayors could make appointments to the Board of Directors before the date of transfer so that the Board could be in place at the time of the utility transfer. He stated that the Board will be unable to take any official action until the transfer is complete.

**Mr. Hilling** asked if it is true that North Pole’s City Charter does not allow them to transfer their utility power until January, 2013.

Mr. Ewers replied that North Pole’s City Charter requires a 90-day waiting period from the time of the utility transfer ordinance to the date the transfer can take place.

**Mr. Hilling** asked what the Borough could do to make progress during that 90-day waiting period. He asked Ms. Winters to return to the stand to speak to the issue.

Ms. Winters explained that, although North Pole’s ordinance was effective immediately, they have a Charter provision that prevents the transfer of power from taking place until the 90-day waiting period is over. She stated that the Board of Directors could be formed and begin taking action if the City of Fairbanks transferred powers immediately, and that North Pole could “catch up” with the process after the 90 days.

**Ms. Stiver** spoke to the unity of a simultaneous transfer of power by both Cities.

**Mr. Hilling** spoke against Ms. Stiver’s amendment.

**Mr. Matherly** questioned the purpose of delaying the transfer of power and spoke against the amendment.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO AMEND SECTION 3 OF ORDINANCE NO. 5895, AS AMENDED, BY STRIKING “NOVEMBER 15, 2012” AND REPLACING WITH “THE EFFECTIVE DATE OF THE CITY OF NORTH POLE’S TRANSFER OF NATURAL GAS UTILITY POWER PURSUANT TO NORTH POLE ORDINANCE 12-18 AND SECTION 9.1 OF THE NORTH POLE’S CITY CHARTER” AS FOLLOWS:

YEAS: Stiver, Gatewood, Eberhart  
NAYS: Matherly, Roberts, Hilling, Cleworth  
**Mayor Cleworth** declared the MOTION FAILED.

**Mr. Gatewood** stated his support for the concept of the gas utility and stated that it offers a chance for the Interior to present a unified voice to the state legislature. He spoke to the many potential partnerships and plans that have come to light since discussions about the gas utility began and spoke to the momentum in the community instigated by the consideration of a utility. **Mr. Gatewood** spoke to the Borough’s interest in the utility as being neutral with a sole purpose of bringing affordable energy to its residents. He stated his support for Ordinance No. 5895, as Amended.

**Mr. Eberhart** thanked everyone for their comments and expressed the difficulty of the decision to be made. He referenced the savings projected in the distribution study that was done. He recognized the years of effort and investment by FNG to get a natural gas supply to Fairbanks. **Mr. Eberhart** spoke to his uneasiness with the lack of a business plan in place for the utility and to his fear of what might happen if the Borough could not obtain GO bonds. He stated that a big hurdle in the process has been supply and indicated that it’s possible that GVEA and FNG have



already addressed that issue. He spoke to the experience of FNG with gas storage and distribution and pointed out that a new utility would have no experience. **Mr. Eberhart** stated that if the goal is to get natural gas to City residents in the most economical way possible, he would be inclined to agree with Mr. Britton's comments regarding the subsidy of outlying areas. He commended the Lowell Group for its work in forming a viable plan to solve the energy issue. He spoke to the lack of substance in Flint Hills' statement that was read at the Joint Work Session and to his disappointment that they were not represented at the meeting. He again expressed the significance and difficulty of the decision ahead.

**Mr. Roberts** stated that he would like to see the IANGU as a facilitator, not an operator. He stated that he sees the creation of the utility as progress and a step in the right direction. He spoke to his belief that the City of Fairbanks would wither away without the residents of the entire Borough. **Mr. Roberts** spoke to the importance of community and to working together for the greater good of all residents. He stated his support for Ordinance No. 5895, as Amended.

**Ms. Stiver** echoed Mr. Eberhart's comments on the issue at hand. She expressed her hesitancy in moving forward with the ordinance since FNG has already laid so much groundwork in a plan to bring natural gas to Fairbanks. She stated that she can find some justification for the utility in that the City alone cannot get gas to Fairbanks. **Ms. Stiver** expressed fear that there may not be enough supply to make gas affordable enough for residents. She explained her struggle to support the ordinance after the Borough had the opportunity to present the issue to voters and chose not to do so. She spoke to her displeasure with how the Borough ordinance came about.

**Mr. Matherly** apologized to Mayor Cleworth for speaking out of turn during the meeting. He expressed appreciation for all the opinions and testimonies presented at the meeting. He spoke to the importance of a unified community voice. He stated that several of his own friends have had to relocate from Fairbanks due to high energy costs. **Mr. Matherly** spoke in support of the utility transfer as being a proponent and a facilitator in bringing gas to Fairbanks.

**Mr. Hilling** stated that the utility transfer is the most difficult issue he has ever considered in his service on the City Council. He stated his respect for capitalism and the private sector. He stated that he does not believe state funding is required to move forward with the construction of a LNG Plant. **Mr. Hilling** indicated that City residents should not have to pay more to subsidize outlying areas. He spoke to the private industry's desire to build out and expand, but stated that regulation has prohibited them from doing so. He spoke to the urgency of the energy issue, but stated that he feels it is worth more time to see a solution from the private industry. He stated that he distrusts the idea of having government develop or operate the utility and voiced his intent to vote against Ordinance No. 5895, as Amended.

**Mr. Gatewood** voiced respect for Mr. Hilling's opinion on the issue, but stated that allowing the Borough to facilitate the utility is the best way to go. He added that it is the best hope for Fairbanks.

**Mr. Eberhart** expressed hope that the private entities can work together with the Borough to make the project successful and timely.

**Mr. Gatewood** stated that he believes the lure of low-interest loans and grants is what makes the IANGU appealing. He spoke to his doubts that gas distribution to Fairbanks could be accomplished without state funding.

**Ms. Stiver** stated that nothing is “fail-safe.” She stated that the consensus of the Council seems to be supportive of the utility power transfer as long as the Borough serves as a facilitator only.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5895, AS AMENDED, AS FOLLOWS:

YEAS: Eberhart, Gatewood, Stiver, Matherly, Roberts

NAYS: Hilling

**Mayor Cleworth** declared the MOTION CARRIED and Ordinance No. 5895, as Amended, ADOPTED.

- b) Ordinance No. 5896 – An Ordinance to Amend FGC Section 58-34 Regarding Local Improvement Districts. Introduced by Council Member Stiver. SECOND READING AND PUBLIC HEARING.

**Mr. Matherly**, seconded by **Mr. Roberts**, moved to ADOPT Ordinance No. 5896.

**Mayor Cleworth** called for Public Testimony.

David van den Berg, 332 Slater Drive, Director of Fairbanks Downtown Association – Mr. van den Berg spoke in support of Ordinance No. 5896 on behalf of the Downtown Association’s Board of Directors.

Hearing no more requests for public comment, **Mayor Cleworth** declared Public Testimony closed.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5896, AS FOLLOWS:

YEAS: Roberts, Matherly, Gatewood, Hilling, Eberhart, Stiver

NAYS: None

**Mayor Cleworth** declared the MOTION CARRIED and Ordinance No. 5896 ADOPTED.

### **NEW BUSINESS**

- a) Resolution No. 4546 – A Resolution Accepting Conveyance of Public Improvements Constructed by Northside Investors, LP, Necessary for Northside Business Park. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Ordinance No. 5897 – An Ordinance Amending the 2012 Capital Appropriations Fund Budget for the First Time. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- c) Ordinance No. 5898 – An Ordinance Creating a Downtown Local Improvement District. Introduced by Council Member Stiver.

ADVANCED on the CONSENT AGENDA.

- d) Ordinance No. 5899 – An Ordinance Amending FGC Section 58-34(a) Regarding Limits on Funding for Local Improvement Districts for Services. Introduced by Council Member Stiver.

ADVANCED on the CONSENT AGENDA.

### COMMUNICATIONS TO COUNCIL

- a) Local Improvement District Meeting Minutes of September 14, 2012.

ACCEPTED on the CONSENT AGENDA.

- b) Local Improvement District Meeting Minutes of September 21, 2012.

ACCEPTED on the CONSENT AGENDA.

### COUNCIL MEMBERS' COMMENTS

**Mr. Gatewood** had no comments.

**Mr. Roberts** had no comments.

**Ms. Stiver** expressed concern for the newly-implemented FPD quota. She stated that there has been a lot of buzz in the community on the issue and expressed her fear that the public has blown the issue out of proportion. She stated that the article published in the News Miner was poorly written and that the media has created problems for both the public and for police officers. **Ms. Stiver** defended the efforts of City police officers and requested that the public come to the Council with their complaints. She expressed her sympathy in the passing of Margaret McCombs. She stated that Margaret was a very warm and welcoming person with a delightful spirit. **Ms. Stiver** spoke to her research on the energy issue and to the difficulty of the decision that had been made by the Council. She stated that she is looking forward to her last meeting as a Council Member.

**Mr. Matherly** expressed appreciation for those who participated and ran for candidacy in the municipal election. He addressed Public Testimony and reminded citizens that they need to be respectful and that their comments should be “directed to the City Council as a body rather than to any particular Council Member or member of the staff.” He expressed grief in the loss of

Margaret McCombs. **Mr. Matherly** stated that he learned a great deal during the discussions regarding the gas utility and thanked everyone for their input throughout the process.

**Mr. Hilling** spoke to the challenging decision made by the Council on the transfer of power to the Borough. He compared it to the City Council's decision on whether or not to implement a sales tax a number of years ago. He spoke to the sincerity and accountability of his fellow Council Members.

**Mr. Eberhart** congratulated Renee Staley and Perry Walley for their success in the recent municipal election. He announced that the Public Safety Commission would meet on October 9, 2012, at 11:30 A.M. in Council Chambers. He stated that he believes department reports and the public safety officer concept would be on the meeting agenda.

**Mayor Cleworth** spoke to the Council, stating that they may be criticized for the decisions made in the meeting. He stated his belief that the utility can be a tool and that it is a big step forward. He spoke to the enormous task that lies before the IANGU Board of Directors. **Mayor Cleworth** spoke to the FPD "quota." He indicated that the City's intent was not to set a quota but to place a greater emphasis on traffic. He stated that Chief Zager would be present at the next meeting to answer questions. He thanked Ms. Staley and Mr. Walley for staying the entire meeting and stated that the election would be certified at the next Regular City Council Meeting.

#### **ADJOURNMENT**

**Mr. Roberts**, seconded by **Mr. Hilling**, moved to ADJOURN the meeting.

**Mayor Cleworth** called for objection and, hearing none, so ORDERED.

**Mayor Cleworth** declared the Meeting adjourned at 11:50 P.M.

---

JERRY CLEWORTH, MAYOR

ATTEST:

---

JANEY HOVENDEN, CMC, CITY CLERK

Transcribed by: DS

# MEMORANDUM

City of Fairbanks Clerk's Office

Janey Hovenden, CMC, City Clerk

---

Date: October 19, 2012  
To: Mayor Jerry Cleworth  
City Council Members  
From: Janey Hovenden, CMC, City Clerk  
Re: Denial of Application for City of Fairbanks Chauffeur License  
Michael R Meyerkorth

---

Attached is a copy of Mr. Meyerkorth's application for a City of Fairbanks Chauffeur License. The City Clerk has denied this request for license pursuant to FGC Section 86-77(a)(4)(b):

- (a) All applications for issuance or renewal of a chauffeur's license shall be made upon forms provided for this purpose by the city clerk, and the applications shall be submitted to the city clerk for review. The requirements to be fulfilled prior to issuance of a chauffeur's license shall be as follows:
  - (4) The applicant must not have had a conviction within 24 months of:
    - (b) Reckless or negligent driving;

Page two of Mr. Meyerkorth's application for licensure indicates a positive response to "A moving violation which resulted in the suspension or revocation of your driver's license" and "Reckless or negligent driving." Please note that both "yes" responses stem from the same offense. The criminal background check attached to the application indicates that on November 10, 2011, Mr. Meyerkorth was convicted of Reckless Driving, a misdemeanor offense.

Mr. Meyerkorth was informed of the option to appeal the decision of the City Clerk to the City Council, and requested to be placed on this agenda for your consideration.

Attachments

CONFIDENTIAL

Visit us on the Web at [www.fairbanksalaska.us](http://www.fairbanksalaska.us)



# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

(907)459-6715

Fax (907)459-6710

## REQUEST FOR APPEAL FORM

DATE: 10 19 12

TO: Janey Hovenden, City Clerk

FROM: Michael Meyer-Kortz  
(Please Print)

RE: Request for Appeal Hearing (Chauffeur's License)

Please consider this document a request for an APPEAL HEARING before the Fairbanks City Council in regards to the denial of my Chauffeur's License Application. I understand that the City Council will not consider an appeal if the reason for the denial is a conviction for a sexual offense, for a felony drug offense, for driving while intoxicated, for refusal within the time indicated in Sec. 86-77, or if the applicant has more than one conviction for offenses listed in Sec. 86-77(6)(a)-(g) within the time indicated.

I can be present at the City Council Meeting scheduled for:

Monday, November 5<sup>th</sup> at 7:00 P.M.

(Meetings are held in the Council Chambers located at 800 Cushman Street, 2<sup>nd</sup> Floor)

By signing below, I understand that the information and supporting documentation contained in my Chauffeur's License Application will be copied and provided to the Fairbanks City Council. I understand that there will be a public hearing, on the above date, at which time the Council will discuss my appeal. I understand that the public hearing may be reproduced electronically, digitally, and/or transmitted over the air waves. I understand that I have no right to expect privacy of the records or information contained in my application, or of any discussions that may occur during the public hearing.

Michael Meyer-Kortz  
Acknowledgement by Applicant

Official Use Only: Clerk's Initials: DS Date Received: 10/19/12

Visit Us on the Web at [www.fairbanksalaska.us](http://www.fairbanksalaska.us)



# CITY OF FAIRBANKS

**RECEIVED**  
OCT 19 2012  
CITY CLERKS OFFICE

## CHAUFFEUR LICENSE APPLICATION

Office of the City Clerk, 800 Cushman Street  
Fairbanks, AK 99701, (907) 459-6702

TYPE OF LICENSE: NEW  RENEWAL  FEES DUE/COLLECTED: \$175.00 APP FEE

Name: <u>Michael Meyer Korth</u>		Other Name(s) Used:
Physical Address: [REDACTED]		City, State, Zip: [REDACTED]
Mailing Address: [REDACTED]		City, State, Zip: [REDACTED]
Home Phone:		Work/Cell Phone: [REDACTED]
AK Driver's License No: [REDACTED]		E-mail Address: [REDACTED]
Date of Birth: [REDACTED]	SSN: [REDACTED]	Place of Birth: [REDACTED]

**Application Requirements**

**\$75.00 Non-Refundable Application Fee for New Applications and Renewals**  
**\$100.00 Biennial License Fee for New Applications and Renewals**  
**Complete Application, Including Authorization to Obtain Criminal History Record**  
**Copy of Current State of Alaska Driver's License**

**Length of Residency**

Length of Alaska Residency in Consecutive Years 3 Length of FNSB Residency in Consecutive Years \_\_\_\_\_

**Previous Address(es)**

Previous City and State of residence, other than Fairbanks, for the past 8 years:

[REDACTED] From: [REDACTED] To: [REDACTED]

\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

\_\_\_\_ From: \_\_\_\_\_ To: \_\_\_\_\_

**Employment**

Cab Company Applying for or Employed By: KING CAB

Address: \_\_\_\_\_

Date Employment Began or Will Begin: \_\_\_\_\_ Phone: \_\_\_\_\_

Previous Chauffeur License Held (City & State): NO

<b>Record of Conviction(s)</b>								
<b>PLEASE ANSWER YES OR NO TO THE FOLLOWING QUESTIONS:</b>								
<p>Within the past <b>24 months</b>, have you had a conviction for any of the following:</p> <ul style="list-style-type: none"> <li>• A moving violation which resulted in the suspension or revocation of your driver's license pursuant to AS 28.15.221 - AS 28.15.261?</li> <li>• Reckless or negligent driving?</li> <li>• Driving while license is limited, suspended, or revoked?</li> </ul>	<p>YES or NO</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">Yes</td></tr> <tr><td style="text-align: center;">Yes</td></tr> <tr><td style="text-align: center;">NO</td></tr> </table>	Yes	Yes	NO				
Yes								
Yes								
NO								
<p>Within the past <b>5 years</b> (or within the past <b>8 years</b> if a felony conviction) have you received a conviction for either of the following:</p> <ul style="list-style-type: none"> <li>• Operating or driving a vehicle while intoxicated?</li> <li>• Refusing to submit to a chemical test as defined in AS 28.35.032?</li> </ul>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> </table>	NO	NO					
NO								
NO								
<p>Within the past <b>8 years</b> have you had a felony or within <b>4 years</b> a misdemeanor conviction for any of the following:</p> <ul style="list-style-type: none"> <li>• Prostitution or promotion of prostitution?</li> <li>• Sale, transportation, possession or use of any controlled substance as defined in AS 11.71.140 - AS 11.71.190?</li> <li>• Any crime which includes as an element of the offense, the use or threat of force upon a person?</li> <li>• Burglary, felony larceny, fraud, or embezzlement?</li> <li>• Any sexual offense?</li> <li>• Any homicide or assault involving operation of a motor vehicle?</li> <li>• Two separate felony convictions of any type?</li> </ul>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> </table>	NO	NO	NO	NO	NO	NO	NO
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NO								
<p>An Answer of YES to any of the above questions regarding your criminal history and/or driving record is grounds for denial of a Chauffeur License. Please explain on a separate sheet of paper any convictions that meet the look-back criteria as noted above; including charges, places, dates, and sentences imposed. An Applicant may have the right to appeal a denial by the City Clerk after submission of a completed application and payment of the application fee. An Appeal Form can be obtained at the City Clerk's Office. See FGC Section 86-95 to determine if you are eligible for an appeal.</p>								
<b>Citizenship Status</b>								
<p>Are you a natural born or fully naturalized citizen of the United States? <u>YES</u></p>								
<p>If not, where did you obtain a permit or visa? _____</p>								
<p>Date of entry into the United States: _____ Alien Registration No. _____</p>								

The Fairbanks General Code is attached to this application for your convenience; it is provided as a courtesy, but is the responsibility of the Applicant to understand the requirements and to be compliant. The Applicant, through signing of the above Oath, acknowledges having read the Code and certifies that he/she understands it. If the Applicant has any questions regarding those responsibilities, the questions should be asked prior to issuance of a license.

**Please make all necessary copies for your records before submission of your application to the Clerk's Office.** There will be a per page charge for any copying requested in accordance with FGC Sec. 2-775. Thank you in advance for your cooperation.

The City Clerk's Office may require 24 hours to process applications and does not accept licensing applications after 4:00 PM. Hours of operation are Monday through Friday, 8:00 AM to 5:00 PM. The City of Fairbanks observes national and state holidays.



**Applicant's Statement for Chauffeur License and  
Authorization Statement for Criminal History Record Check**

I, Michael Meyer Kortz being first duly sworn, depose and state that I am the individual making application for license and that the answers to the foregoing questions and other statements contained herein are true and complete to the best of my knowledge and belief. I understand that any materially false statement on this application may be subject to revocation or denial of a license.

I certify that I am at least 21 years of age or older, that I can read, write, and speak the English language, that I am not addicted to the use of intoxicants or narcotics, that I am of good moral character and repute, that I have been a resident within the Fairbanks area for a minimum of 30 days immediately prior to this application, that I am not subject to the registration requirements of AS 12.63 (sex offender or kidnapper), that I have read and understand Fairbanks General Code Sections 86-76 thru 86-96, and that I understand the requirements for licensure.

Further, I hereby authorize the City of Fairbanks to obtain information pertaining to any charges and/or convictions I may have had for violation of municipal, county, state or federal laws. This information will include, but not be limited to, allegations regarding, and convictions for, crimes committed upon minors. I understand that this information will be gathered from any law enforcement agency of this state or any state or federal government, or from third-party providers of information originally obtained from law enforcement or court records.

As an applicant for a chauffeur license, I hereby attest to the truthfulness of the representations I have made. Except as I have disclosed, I have not been found guilty of, or entered a plea of nolo contendere or guilty to any offense.

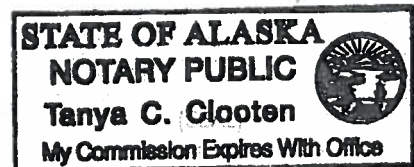
I understand that I must be truthful and, if any statement I have made is found to be false, I will be denied the license for which I am making application.

Michael R Meyer Kortz  
Signature of Applicant

10 19 12  
Date

Sworn to before me this 19<sup>th</sup> day of October, 2012

Tanya C Clooten  
Notary Public for the State of Alaska  
My Commission Expires: with office



**Administrative Use Only**

Approved By:	Date:
Denied By: <u>Tanya Clooten</u>	Date: <u>10/19/12</u>
Reason for Denial: <u>Reckless Driving 2011</u>	

For additional information and/or forms, please visit the City of Fairbanks web site at:  
[www.fairbanksalaska.us](http://www.fairbanksalaska.us)

**Sec. 86-77. - Application for chauffeur's license.**

(a) All applications for issuance or renewal of a chauffeur's license shall be made upon forms provided for this purpose by the city clerk, and the applications shall be submitted to the city clerk for review. The requirements to be fulfilled prior to issuance of a chauffeur's license shall be as follows:

- (1) The applicant must be 21 years of age or older and furnish proof if requested.
- (2) The applicant must be able to read, write and speak the English language.
- (3) The applicant must be in possession of a current Alaska State Driver's License.
- (4) The applicant must not have had a conviction within 24 months of:
  - a. A moving traffic violation which results in suspension or revocation of the applicant's driver's license pursuant to AS 28.15.221 through 28.15.261;
  - b. Reckless or negligent driving;
  - c. Driving while license is limited, suspended or revoked;
- (5) The applicant must not have had his driver's license suspended or revoked within two years prior to the application date.
- (6) Except as otherwise provided in this subsection, the applicant must not have had a felony conviction within eight years or a misdemeanor conviction within four years of:
  - a. Prostitution or promotion of prostitution;
  - b. Any offense under AS Title 11, Chapter 71 Controlled Substances.
  - c. Any felony or misdemeanor which includes as an element the use or threat of force upon a person;
  - d. Burglary, felony larceny, fraud or embezzlement;
  - e. Any sexual offense;
  - f. Any homicide or assault involving operation of a motor vehicle;
  - g. Two separate felony convictions of any type;
  - h. Operation or driving a vehicle while intoxicated within five years or within eight years for a felony conviction;
  - i. Refusal to submit to a chemical test as defined in AS 28.35.032 within five years or within eight years for a felony conviction.
- (7) The applicant must not be addicted to the use of intoxicants or narcotics.

(8) The applicant must be of good moral character and repute.

(9) The applicant must not be a sex offender or kidnapper subject to the registration requirements of AS Title 12, Chapter 63.

(b) The city clerk's office shall procure an online criminal history report for each applicant, the cost of which will be included in the chauffeur license application fee in the city schedule of fees and charges for services.

(Code 1960, § 8.201(c)(1)—(6); Ord. No. 5484, § 1, 5-11-2002; Ord. No. 5562, § 1, 3-13-2004; Ord. No. 5853, § 1, 8-13-2011; Ord. No. 5875, § 1, 2-27-2012)

### **Sec. 86-95. - Appeals.**

(a) An applicant claiming a factual or clerical error must provide any relevant document to the city clerk at which time the city clerk, upon verification, may reverse the license denial.

(b) The city council may consider appeals of an applicant whose application for a chauffeur's license has been denied by the city clerk. The city council will not consider an appeal if the reason for the denial is a conviction for a sexual offense, for a felony drug offense, for driving while intoxicated, or for refusal within the time indicated in section 86-77 or if the applicant has more than one conviction for offenses listed in section 86-77(6)(a)—(g) within the time indicated.

(c) In considering whether to grant an appeal, the council may consider whether the applicant:

(1) Has made significant efforts at rehabilitation, including successful completion of any court-ordered treatment program; applicant must provide a copy of a certificate showing completion of the recommended program. If the denial was based upon conviction for a crime involving domestic violence, as defined under Alaska Law, the applicant must provide a certificate of completion of a program for rehabilitation of perpetrators of domestic violence that is approved by the State of Alaska Department of Corrections.

(2) Has successfully completed any period of probation;

(3) Has made positive contributions to society in general.

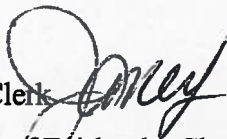
(Ord. No. 5853, § 1, 8-13-2011)

# MEMORANDUM

City of Fairbanks Clerk's Office

Janey Hovenden, CMC, City Clerk

---

Date: October 29, 2012  
To: Mayor Jerry Cleworth  
City Council Members  
From: Janey Hovenden, CMC, City Clerk   
Re: Denial of Application for City of Fairbanks Chauffeur License  
Jeffrey K Webster

---

Attached is a copy of Mr. Webster's application for a City of Fairbanks Chauffeur License. The City Clerk has denied this request for license pursuant to FGC Section 86-77(a)(6)(c):

- (a) All applications for issuance or renewal of a chauffeur's license shall be made upon forms provided for this purpose by the city clerk, and the applications shall be submitted to the city clerk for review. The requirements to be fulfilled prior to issuance of a chauffeur's license shall be as follows:
  - (6) Except as otherwise provided in this subsection, the applicant must not have had a felony conviction within eight years or a misdemeanor conviction within four years of:
    - (c) Any felony or misdemeanor which includes as an element the use or threat of force upon a person;

Page two of Mr. Webster's application for licensure indicates a positive response to "Any crime which includes as an element of the offense, the use or threat of force upon a person." The criminal background check attached to the application indicates that on January 19, 2012, Mr. Webster was convicted of Assault in the 4<sup>th</sup> Degree, a Class A misdemeanor offense.

Mr. Webster was informed of the option to appeal the decision of the City Clerk to the City Council, and requested to be placed on this agenda for your consideration.

Attachments

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# City of Fairbanks

Office of the City Clerk

800 Cushman Street

Fairbanks, AK 99701

(907)459-6715

Fax (907)459-6710

## REQUEST FOR APPEAL FORM

**RECEIVED**  
OCT 29 2012  
CITY CLERKS OFFICE

DATE: Oct 29, 2012

TO: Janey Hovenden, City Clerk

FROM: Jeffrey Webster  
(Please Print)

RE: Request for Appeal Hearing (Chauffeur's License)

Please consider this document a request for an APPEAL HEARING before the Fairbanks City Council in regards to the denial of my Chauffeur's License Application. I understand that the City Council will not consider an appeal if the reason for the denial is a conviction for a sexual offense, for a felony drug offense, for driving while intoxicated, for refusal within the time indicated in Sec. 86-77, or if the applicant has more than one conviction for offenses listed in Sec. 86-77(6)(a)-(g) within the time indicated.

I can be present at the City Council Meeting scheduled for:

Monday, November 5<sup>th</sup> at 7:00 P.M.

(Meetings are held in the Council Chambers located at 800 Cushman Street, 2<sup>nd</sup> Floor)

By signing below, I understand that the information and supporting documentation contained in my Chauffeur's License Application will be copied and provided to the Fairbanks City Council. I understand that there will be a public hearing, on the above date, at which time the Council will discuss my appeal. I understand that the public hearing may be reproduced electronically, digitally, and/or transmitted over the air waves. I understand that I have no right to expect privacy of the records or information contained in my application, or of any discussions that may occur during the public hearing.

Jeffrey Webster  
Acknowledgement by Applicant

Official Use Only: Clerk's Initials: JS

Date Received: 10/29/12

Visit Us on the Web at [www.fairbanksalaska.us](http://www.fairbanksalaska.us)



# CITY OF FAIRBANKS

**RECEIVED**  
OCT 29 2012

CITY CLERKS OFFICE

## CHAUFFEUR LICENSE APPLICATION

Office of the City Clerk, 800 Cushman Street  
Fairbanks, AK 99701, (907) 459-6702

TYPE OF LICENSE: NEW  RENEWAL  FEES DUE/COLLECTED: \$75.00

Name: <u>Jeffrey Webster</u>	Other Name(s) Used:
Physical Address: [REDACTED]	City, State, Zip: [REDACTED]
Mailing Address: [REDACTED]	City, State, Zip: [REDACTED]
Home Phone: [REDACTED]	Work/Cell Phone: [REDACTED]
AK Driver's License No: [REDACTED]	E-mail Address:
Date of Birth: [REDACTED] SSN: [REDACTED]	Place of Birth: [REDACTED]

**Application Requirements**

**\$75.00 Non-Refundable Application Fee for New Applications and Renewals**  
**\$100.00 Biennial License Fee for New Applications and Renewals**  
**Complete Application, Including Authorization to Obtain Criminal History Record**  
**Copy of Current State of Alaska Driver's License**

**Length of Residency**

Length of Alaska Residency in Consecutive Years 2.5 Length of FNSB Residency in Consecutive Years 2.5

**Previous Address(es)**

Previous City and State of residence, other than Fairbanks, for the past 8 years:

[REDACTED] From: [REDACTED] To: [REDACTED]

From: \_\_\_\_\_ To: \_\_\_\_\_

From: \_\_\_\_\_ To: \_\_\_\_\_

**Employment**

Cab Company Applying for or Employed By: ARTIC TAXI

Address: 2750 PICKET FAIRBANKS, AK

Date Employment Began or Will Begin: 2012 Phone: 455-0000

Previous Chauffeur License Held (City & State): \_\_\_\_\_

<b>Record of Conviction(s)</b>									
<b>PLEASE ANSWER YES OR NO TO THE FOLLOWING QUESTIONS:</b>									
<p>Within the past <b>24 months</b>, have you had a conviction for any of the following:</p> <ul style="list-style-type: none"> <li>• A moving violation which resulted in the suspension or revocation of your driver's license pursuant to AS 28.15.221 - AS 28.15.261?</li> <li>• Reckless or negligent driving?</li> <li>• Driving while license is limited, suspended, or revoked?</li> </ul>	<p><b>YES or NO</b></p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> </table>	NO	NO	NO					
NO									
NO									
NO									
<p>Within the past <b>5 years</b> (or within the past <b>8 years</b> if a felony conviction) have you received a conviction for either of the following:</p> <ul style="list-style-type: none"> <li>• Operating or driving a vehicle while intoxicated?</li> <li>• Refusing to submit to a chemical test as defined in AS 28.35.032?</li> </ul>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">NO</td></tr> <tr><td style="text-align: center;">NO</td></tr> </table>	NO	NO						
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NO									
<p>An Answer of YES to any of the above questions regarding your criminal history and/or driving record is grounds for denial of a Chauffeur License. Please explain on a separate sheet of paper any convictions that meet the look-back criteria as noted above; including charges, places, dates, and sentences imposed. An Applicant may have the right to appeal a denial by the City Clerk after submission of a completed application and payment of the application fee. An Appeal Form can be obtained at the City Clerk's Office. See FGC Section 86-95 to determine if you are eligible for an appeal.</p>									
<b>Citizenship Status</b>									
<p>Are you a natural born or fully naturalized citizen of the United States? <u>YES</u></p> <p>If not, where did you obtain a permit or visa? _____</p> <p>Date of entry into the United States: _____ Alien Registration No. _____</p>									

The Fairbanks General Code is attached to this application for your convenience; it is provided as a courtesy, but is the responsibility of the Applicant to understand the requirements and to be compliant. The Applicant, through signing of the above Oath, acknowledges having read the Code and certifies that he/she understands it. If the Applicant has any questions regarding those responsibilities, the questions should be asked prior to issuance of a license.

**Please make all necessary copies for your records before submission of your application to the Clerk's Office.** There will be a per page charge for any copying requested in accordance with FGC Sec. 2-775. Thank you in advance for your cooperation.

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## Applicant's Statement for Chauffeur License and Authorization Statement for Criminal History Record Check

I, Jeffrey K Webster, being first duly sworn, depose and state that I am the individual making application for license and that the answers to the foregoing questions and other statements contained herein are true and complete to the best of my knowledge and belief. I understand that any materially false statement on this application may be subject to revocation or denial of a license.

I certify that I am at least 21 years of age or older, that I can read, write, and speak the English language, that I am not addicted to the use of intoxicants or narcotics, that I am of good moral character and repute, that I have been a resident within the Fairbanks area for a minimum of 30 days immediately prior to this application, that I am not subject to the registration requirements of AS 12.63 (sex offender or kidnapper), that I have read and understand Fairbanks General Code Sections 86-76 thru 86-96, and that I understand the requirements for licensure.

Further, I hereby authorize the City of Fairbanks to obtain information pertaining to any charges and/or convictions I may have had for violation of municipal, county, state or federal laws. This information will include, but not be limited to, allegations regarding, and convictions for, crimes committed upon minors. I understand that this information will be gathered from any law enforcement agency of this state or any state or federal government, or from third-party providers of information originally obtained from law enforcement or court records.

As an applicant for a chauffeur license, I hereby attest to the truthfulness of the representations I have made. Except as I have disclosed, I have not been found guilty of, or entered a plea of nolo contendere or guilty to any offense.

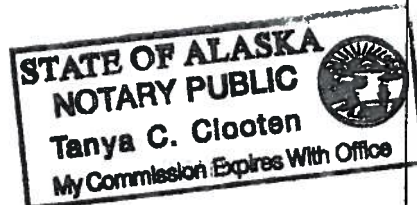
I understand that I must be truthful and, if any statement I have made is found to be false, I will be denied the license for which I am making application.

Jeffrey K Webster  
Signature of Applicant

10-29-12  
Date

Sworn to before me this 29<sup>th</sup> day of October, 2012

Tanya C. Clooten  
Notary Public for the State of Alaska  
My Commission Expires: with office



Administrative Use Only	
Approved By:	Date:
Denied By: <u>Tanya Clooten</u>	Date: <u>10/29/12</u>
Reason for Denial: <u>assault 4 conviction 06/2011</u>	

For additional information and/or forms, please visit the City of Fairbanks web site at:  
[www.fairbanks.ak.us](http://www.fairbanks.ak.us)



**Sec. 86-77. - Application for chauffeur's license.**

(a) All applications for issuance or renewal of a chauffeur's license shall be made upon forms provided for this purpose by the city clerk, and the applications shall be submitted to the city clerk for review. The requirements to be fulfilled prior to issuance of a chauffeur's license shall be as follows:

- (1) The applicant must be 21 years of age or older and furnish proof if requested.
- (2) The applicant must be able to read, write and speak the English language.
- (3) The applicant must be in possession of a current Alaska State Driver's License.
- (4) The applicant must not have had a conviction within 24 months of:
  - a. A moving traffic violation which results in suspension or revocation of the applicant's driver's license pursuant to AS 28.15.221 through 28.15.261;
  - b. Reckless or negligent driving;
  - c. Driving while license is limited, suspended or revoked;
- (5) The applicant must not have had his driver's license suspended or revoked within two years prior to the application date.
- (6) Except as otherwise provided in this subsection, the applicant must not have had a felony conviction within eight years or a misdemeanor conviction within four years of:
  - a. Prostitution or promotion of prostitution;
  - b. Any offense under AS Title 11, Chapter 71 Controlled Substances.
  - c. Any felony or misdemeanor which includes as an element the use or threat of force upon a person;
  - d. Burglary, felony larceny, fraud or embezzlement;
  - e. Any sexual offense;
  - f. Any homicide or assault involving operation of a motor vehicle;
  - g. Two separate felony convictions of any type;
  - h. Operation or driving a vehicle while intoxicated within five years or within eight years for a felony conviction;
  - i. Refusal to submit to a chemical test as defined in AS 28.35.032 within five years or within eight years for a felony conviction.
- (7) The applicant must not be addicted to the use of intoxicants or narcotics.

(8) The applicant must be of good moral character and repute.

(9) The applicant must not be a sex offender or kidnapper subject to the registration requirements of AS Title 12, Chapter 63.

(b) The city clerk's office shall procure an online criminal history report for each applicant, the cost of which will be included in the chauffeur license application fee in the city schedule of fees and charges for services.

(Code 1960, § 8.201(c)(1)—(6); Ord. No. 5484, § 1, 5-11-2002; Ord. No. 5562, § 1, 3-13-2004; Ord. No. 5853, § 1, 8-13-2011; Ord. No. 5875, § 1, 2-27-2012)

**Sec. 86-95. - Appeals.**

(a) An applicant claiming a factual or clerical error must provide any relevant document to the city clerk at which time the city clerk, upon verification, may reverse the license denial.

(b) The city council may consider appeals of an applicant whose application for a chauffeur's license has been denied by the city clerk. The city council will not consider an appeal if the reason for the denial is a conviction for a sexual offense, for a felony drug offense, for driving while intoxicated, or for refusal within the time indicated in section 86-77 or if the applicant has more than one conviction for offenses listed in section 86-77(6)(a)—(g) within the time indicated.

(c) In considering whether to grant an appeal, the council may consider whether the applicant:

(1) Has made significant efforts at rehabilitation, including successful completion of any court-ordered treatment program; applicant must provide a copy of a certificate showing completion of the recommended program. If the denial was based upon conviction for a crime involving domestic violence, as defined under Alaska Law, the applicant must provide a certificate of completion of a program for rehabilitation of perpetrators of domestic violence that is approved by the State of Alaska Department of Corrections.

(2) Has successfully completed any period of probation;

(3) Has made positive contributions to society in general.

(Ord. No. 5853, § 1, 8-13-2011)

Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

## ORDINANCE NO. 5900

### AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE III, ALCOHOL BEVERAGE SALES TAX, SECTIONS 74-69, 74-73(a), 74-73(d)-(e), 74-74.1(a), AND 74-82(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

**WHEREAS**, it is the Mayor's mandate to remove all active programs from the AS400; and

**WHEREAS**, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

Section 1. That FGC Sections 74-69, 74-73(a), 74-73(d)-(e), 74-74.1(a), and 74-82(a)-(c) are amended as follows [new text in **underline/bold** font; deleted text in ~~striketrough~~ font]:

#### **Sec. 74-69. - Obligation of seller to collect.**

Every seller making sales taxable under this article shall collect the taxes from the buyer at the time of sale, or with respect to credit transactions at the time of collection of sales price, and shall deliver the same to the City of Fairbanks in accordance with the requirements in this article. The seller shall be compensated the amount of two percent of the taxes transmitted to the city for the use of seller's resources in collecting the taxes. This compensation shall only occur when the seller submits reports and pays ~~transmits~~ the taxes on time.

#### **Sec. 74-73. - Sales tax returns; transmittal; and payment of taxes due.**

(a) Every seller possessing a current certificate of registration shall, on or before the 15th day of the month, file a properly completed return for the preceding month upon forms furnished by the city and ~~setting forth~~ **remit payment for** the amount received from the following:

- (1) All sales, retail or otherwise, rentals and services made within the city.
- (2) The amount received from nontaxable sales, rentals and services.
- (3) The amount received from all taxable sales, rentals and services.
- (4) The amount of tax.
- (5) The taxes collected.
- (6) Such other information and supporting papers as the chief financial officer may require.

(d) ~~If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day.~~ **All returns must be received by the City Clerk's Office no later than 4:00 p.m. on the 15<sup>th</sup> day of the month following tax collection. Postmarks will not be considered.**

(e) ~~A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

**Sec. 74-74.1. - Administrative appeals.**

(a) A seller or buyer may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. **The penalty for failure to file a return shall not be subject to appeal.** Any appeal must be filed within 30 days after the notice of any decision is mailed to the seller or buyer. The failure to appeal a decision of the chief financial officer renders the decision final.

**Sec. 74-82. - Penalty for violations.**

(a) *Failure to file.* A seller who has made sales in the city and who thereafter fails to file a sales tax return as required by this article shall incur a civil penalty of **\$100 if the return is received later than the last day of the month in which it is due. A \$1,000.00 civil penalty shall be assessed for delinquent filings received later than the last day of the second month following the due date.** ~~50 percent of the sales tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be \$500.00 for each tax return not submitted on time.~~

(b) *Failure to remit.* A seller who has collected sales tax and who thereafter fails to transmit ~~pay~~ the collected sales tax as required by this article shall incur a **one-time** civil penalty of ~~five percent of the collected taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent of the tax due.~~ In an action to recover the penalty if the failure of the seller to transmit the collected taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeals process outlined in section 74-74.1

(c) ~~[Additional penalty.] A seller shall pay an additional \$1,000.00 civil penalty if the seller's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul Ewers, City Attorney

**CURRENT PENALTY STRUCTURE**

DUE BY THE 15TH OF THE MONTH FOLLOWING COLLECTION OF THE TAX	FIRST PENALTIES Within 30 Days of the Due Date	SECOND PENALTY/SUBSEQUENT MONTH Within 60 Days of Original Due Date	THIRD PENALTIES/SUBSEQUENT MONTH Within 120 Days of Original Due Date
Failure to File:	\$500 or 50% of the Tax Due whichever is less up to 30 days past due, then it's \$500	Additional \$1,000	
Failure to Remit	VARIES - Depending on Monthly close date	5% per month up to 100% of tax due	

**PROPOSED PENALTY STRUCTURE**

DUE BY THE 15TH OF THE MONTH FOLLOWING COLLECTION OF THE TAX	FIRST PENALTIES Day 1 through the End of the Month	SECOND MONTH	THIRD MONTH
Failure to File:	\$0	\$100	\$1,000
Failure to Remit	\$0	100% of the Tax Due	

**SAMPLE COMPARISON OF A LATE RETURN PENALTY STRUCTURE**

<b>CURRENT</b>	<b>FILED AND PAID ON TIME</b>	<b>IF "FILED" TIMELY BUT NOT PAID BEFORE DUE DATE (15th)</b>	<b>IF FILED LATE, BUT BEFORE CLOSING OF NEXT BILLING CYCLE*.</b>	<b>IF NOT FILED PRIOR TO THE END OF THE NEXT BILLING CYCLE*</b>
1 Total Gross Sales	50,000.00	50,000.00	50,000.00	50,000.00
2 Less: Non-taxabel Sales	-5,000.00	-5,000.00	-5,000.00	-5,000.00
3 Total Taxable Sales	45,000.00	45,000.00	45,000.00	45,000.00
4 Taxes Due (.08 X Line 3)	3,600.00	3,600.00	3,600.00	3,600.00
5 Penalty & Interest	0.00	45.00 **	545.00 ***	1590.00 ****
6 Less: Seller's Collection Discount (.02 X Line 4 - If filed on time)	-72.00	0.00	0.00	0
7 Net Taxes Due (Lines 4 + 5 + 6)	3,528.00	3,645.00	4,145.00	5,190.00
8 Amount Paid with this Rreturn				

\* BILLING CYCLE IN THE AS400 IS AFTER THE 15TH OF EACH MONTH & WHEN A MAJORITY OF FILLINGS ARE RECEIVED I.E. TO CAPTURE POSTMARK DATES OF THE 15TH.

\*\* INTERESTED ACCURED AT 18% PER ANNUM (ACCURED ONLY AFTER YOU HAVE A FILING)

\*\*\* \$500.00 OR UPTO THE TAX OWED (WHICHEVER IS LESS)

\*\*\*\* \$1000.00 IS INCREMENTAL W/ THE \$500.00 PREVIOUSLY ASSESSED.

<b>PROPOSED</b>	<b>FILED AND PAID ON TIME</b>	<b>IF FILED TIMELY BUT NOT PAID BEFORE END OF MONTH</b>	<b>IF FILED LATE BUT BEFORE END OF MONTH</b>	<b>IF FILED PRIOR TO THE END OF THE NEXT MONTH</b>	<b>IF FILED PRIOR TO THE END OF THE NEXT MONTH</b>
1 Total Gross Sales	50,000.00	50,000.00	50,000.00	50,000.00	50,000.00
2 Less: Non-taxabel Sales	-5,000.00	-5,000.00	-5,000.00	-5,000.00	-5,000.00
3 Total Taxable Sales	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00
4 Taxes Due (.08 X Line 3)	3,600.00	3,600.00	3,600.00	3,600.00	3,600.00
5 Penalty & Interest	0.00	0.00	0.00	145.00	1190
6 Less: Seller's Collection Discount (.02 X Line 4 - If filed on time)	-72.00	-72.00	0.00	0.00	0.00
7 Net Taxes Due (Lines 4 + 5 + 6)	3,528.00	3,528.00	3,600.00	3,745.00	4,790.00
8 Amount Paid with this Rreturn					

Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

**ORDINANCE NO. 5900, AS AMENDED**

**AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE III, ALCOHOL BEVERAGE SALES TAX, SECTIONS 74-69, 74-73(a), 74-73(d)-(e), 74-74.1(a), AND 74-82(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE**

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

**WHEREAS**, it is the Mayor's mandate to remove all active programs from the AS400; and

**WHEREAS**, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

Section 1. That FGC Sections 74-69, 74-73(a), 74-73(d-e), 74-74.1(a), and 74-82(a-c) are amended as follows [new text in **underline/bold** font, deleted text in ~~striketrough~~ font]:

**Sec. 74-69. - Obligation of seller to collect.**

Every seller making sales taxable under this article shall collect the taxes from the buyer at the time of sale, or with respect to credit transactions at the time of collection of sales price, and shall deliver the same to the City of Fairbanks in accordance with the requirements in this article. The seller shall be compensated the amount of two percent of the taxes transmitted to the city for the use of seller's resources in collecting the taxes. This compensation shall only occur when the seller submits reports and **pays** ~~transmits~~ the taxes on time.

**Sec. 74-73. - Sales tax returns; transmittal; and payment of taxes due.**

(a) Every seller possessing a current certificate of registration shall, on or before the 15th day of the month, file a properly completed return for the preceding month upon forms furnished by the city and ~~setting forth~~ **remit payment for** the amount received from the following:

- (1) All sales, retail or otherwise, rentals and services made within the city.

- (2) The amount received from nontaxable sales, rentals and services.
- (3) The amount received from all taxable sales, rentals and services.
- (4) The amount of tax.
- (5) The taxes collected.
- (6) Such other information and supporting papers as the chief financial officer may require.

(d) ~~If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day~~ **All returns must be received by the City Clerk's Office no later than 4:00 p.m. on the 15th day of the month following tax collection. Postmarks will not be considered.**

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

**Sec. 74-74.1. - Administrative appeals.**

(a) A seller or buyer may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. Any appeal must be filed within 30 days after the notice of any decision is mailed to the seller or buyer. The failure to appeal a decision of the chief financial officer renders the decision final.

**Sec. 74-82. - Penalty for violations.**

~~(a) *Failure to file or remit.* A seller who has made sales in the city and who thereafter fails to file a sales tax return or remit the collected tax as required by this article shall incur a civil penalty of **\$100.00 if the return or the tax is received later than the last day of the month in which it is due and shall incur a civil penalty of \$1,000.00 if the return or the tax is received later than the last day of the next month following the month in which it was due** 50 percent of the sales tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be 500.00 for each tax return not submitted on time.~~

~~(b) *Failure to remit.* A seller who has collected sales tax and who thereafter fails to transmit the collected sales tax as required by this article shall incur a civil penalty of five percent of the collected taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent. In an action to recover the penalty if the failure of the seller to transmit the collected taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeals process outlined in section 74-74.1~~

~~(c) *[Additional penalty.]* A seller shall pay an additional \$1,000.00 civil penalty if the seller's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~



Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

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**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

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Janey Hovenden, CMC, City Clerk

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Paul Ewers, City Attorney

Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

## ORDINANCE NO. 5901

### AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE IV, HOTEL/MOTEL TAX, SECTIONS 74-121, 74-125(a), 74-125(d)-(e), 74-127(a), AND 74-135(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

**WHEREAS**, it is the Mayor's mandate to remove all active programs from the AS400; and

**WHEREAS**, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

Section 1. That FGC Sections 74-121, 74-125(a), 74-125(d)-(e), 74-127(a), and 74-135(a)-(c) are amended as follows [new text in **underline/bold** font; deleted text in ~~strikethrough~~ font]:

#### **Sec. 74-121. - Obligation of operator to collect.**

Every operator making rentals taxable under this article shall collect the taxes from the guest at the time of rental, or with respect to credit transactions at the time of collection of rentals, and shall deliver the same to the City of Fairbanks in accordance with the requirements in this article. The operator shall be compensated the amount of two percent of the taxes transmitted to the city for the use of operator's resources in collecting the taxes. This compensation shall only occur when the operator submits reports and ~~transmits~~ **pays** the taxes on time.

#### **Sec. 74-125. - Sales tax returns; transmittal; and payment of taxes due.**

(a) Every operator possessing a current certificate of registration shall, on or before the 15th day of the month, file a properly completed return for the preceding month upon forms furnished by the city and ~~setting forth~~ **remit payment for** the amount received from the following:

- (1) All sales, retail or otherwise, rentals and services made within the city.
- (2) The amount received from nontaxable sales, rentals and services.
- (3) The amount received from all taxable sales, rentals and services.
- (4) The amount of tax.
- (5) The taxes collected.
- (6) Such other information and supporting papers as the chief financial officer may require.

~~(d) If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day. **All returns must be received by the City Clerk's Office no later than 4:00 p.m. on the 15<sup>th</sup> day of the month following tax collection. Postmarks will not be considered.**~~

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

**Sec. 74-127. - Administrative appeals.**

(a) An operator may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. **The penalty for failure to file a return shall not be subject to appeal.** Any appeal must be filed within 30 days after the notice of any decision is mailed to the operator. The failure to appeal a decision to the chief financial officer renders the decision final.

**Sec. 74-135. - Penalty for violations.**

(a) *Failure to file.* An operator who has rented rooms in the city and who thereafter fails to file a sales tax return as required by this article shall incur a civil penalty of **\$100 if the return is received later than the last day of the month in which it is due. A \$1,000.00 civil penalty shall be assessed for delinquent filings received later than the last day of the second month following the due date.** ~~50 percent of the sales tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be \$500.00 for each tax return not submitted on time.~~

(b) *Failure to remit.* An operator who has collected sales tax and who thereafter fails to transmit **pay** the collected sales tax as required by this article shall incur a **one-time** civil penalty of five percent of the collected taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent **of the taxes due.** In an action to recover the penalty if the failure of the operator to transmit the collected taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeal process outlined in section 74-127

~~(c) *[Additional penalty.]* An operator shall pay an additional \$1,000.00 civil penalty if the operator's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul Ewers, City Attorney

Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

## ORDINANCE NO. 5901, AS AMENDED

### AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE IV, HOTEL/MOTEL TAX, SECTIONS 74-121, 74-125(a), 74-125(d)-(e), 74-127(a), AND 74-135(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

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#### **Sec. 74-121. - Obligation of operator to collect.**

Every operator making rentals taxable under this article shall collect the taxes from the guest at the time of rental, or with respect to credit transactions at the time of collection of rentals, and shall deliver the same to the City of Fairbanks in accordance with the requirements in this article. The operator shall be compensated the amount of two percent of the taxes transmitted to the city for the use of operator's resources in collecting the taxes. This compensation shall only occur when the operator submits reports and ~~transmits~~ **pays** the taxes on time.

#### **Sec. 74-125. - Sales tax returns; transmittal; and payment of taxes due.**

(a) Every operator possessing a current certificate of registration shall, on or before the 15th day of the month, file a properly completed return for the preceding month upon forms furnished by the city and ~~setting forth~~ **remit payment for** the amount received from the following:

- (1) All sales, retail or otherwise, rentals and services made within the city.

- (2) The amount received from nontaxable sales, rentals and services.
- (3) The amount received from all taxable sales, rentals and services.
- (4) The amount of tax.
- (5) The taxes collected.
- (6) Such other information and supporting papers as the chief financial officer may require.

(d) ~~If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day~~ **All returns must be received by the City Clerk's Office no later than 4:00 p.m. on the 15th day of the month following tax collection. Postmarks will not be considered.**

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

#### **Sec. 74-127. - Administrative appeals.**

(a) An operator may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. Any appeal must be filed within 30 days after the notice of any decision is mailed to the operator. The failure to appeal a decision to the chief financial officer renders the decision final.

#### **Sec. 74-135. - Penalty for violations.**

~~(a)~~ *Failure to file or remit.* An operator who has rented rooms in the city and who thereafter fails to file a sales tax return **or remit the collected tax** as required by this article shall incur a civil penalty of **\$100.00 if the return or the tax is received later than the last day of the month in which it is due and shall incur a civil penalty of \$1,000.00 if the return or the tax is received later than the last day of the next month following the month in which it was due** 50 percent of the sales tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be 500.00 for each tax return not submitted on time.

~~(b) *Failure to remit.* An operator who has collected sales tax and who thereafter fails to transmit the collected sales tax as required by this article shall incur a civil penalty of five percent of the collected taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent. In an action to recover the penalty if the failure of the operator to transmit the collected taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeal process outlined in section 74-127.~~

~~(c) *[Additional penalty.]* An operator shall pay an additional \$1,000.00 civil penalty if the operator's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

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**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

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Janey Hovenden, CMC, City Clerk

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Paul Ewers, City Attorney

Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

## ORDINANCE NO. 5902

### AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE V, TOBACCO PRODUCTS DISTRIBUTION AND EXCISE TAX, SECTIONS 74-154(a), 74-154(d)-(e), 74-154.2(a), AND 74-157(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

**WHEREAS**, it is the Mayor's mandate to remove all active programs from the AS400; and

**WHEREAS**, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

Section 1. That FGC Sections 74-154(a), 74-154(d-e), 74-154.2(a), and 74-157(a-c) are amended as follows [new text in **underline/bold** font; deleted text in ~~strikethrough~~ font]:

#### **Sec. 74-154. - Tax returns; transmittal; and payment of taxes due.**

(a) On or before the 15th day of each calendar month, the distributor shall file with the chief financial officer a tax return **and remit payment** for the preceding month upon forms furnished by the city for each place of business. The tax return shall state the wholesale value of tobacco products sold by the distributor during the preceding calendar month, and other information which the chief financial officer requires. If a distributor ceases to sell tobacco products, the distributor shall immediately file with the chief financial officer a return for the period ending with the cessation.

~~(d) If the 15th of the month is Saturday, Sunday, or a federal, state or city holiday, the due dates under this section shall be extended until the next business day.~~ **All returns must be received by the City Clerk's Office no later than 4:00 p.m. on the 15<sup>th</sup> day of the month following tax collection. Postmarks will not be considered.**

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

#### **Sec. 74-154.2. - Administrative appeals.**

(a) A distributor may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. **The penalty for failure to file a return shall not be subject to appeal.** Any appeal must be filed within 30 days after the notice of any decision is mailed to the distributor. The failure to appeal a decision of the chief financial officer renders the decision final.

**Sec. 74-157. - Penalties for violations.**

(a) *Failure to file.* A distributor having taxable transactions under this article in the city and who thereafter fails to file a tobacco tax return as required by this article shall incur a civil penalty of **\$100.00 if the return is received later than the last day of the month in which it is due. A \$1,000.00 civil penalty shall be assessed for delinquent filings received later than the last day of the second month following the due date.** ~~50 percent of the tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be \$500.00 for each tax return not submitted on time.~~

(b) *Failure to remit.* A distributor who fails to transmit ~~pay~~ the applicable tobacco tax as required by this article shall incur a **one-time** civil penalty of ~~five percent of the applicable taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent~~ **of the taxes due.** In an action to recover the penalty if the failure of the distributor to transmit the tobacco taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeals process outlined in section 74-154.2

~~(c) [Additional penalty.] A distributor shall pay an additional \$1,000.00 civil penalty if the distributor's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

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**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

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Janey Hovenden, CMC, City Clerk

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Paul Ewers, City Attorney



Introduced by: Mayor Cleworth  
Finance Committee: October 16, 2012  
Date: October 22, 2012

**ORDINANCE NO. 5902, AS AMENDED**

**AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE V, TOBACCO PRODUCTS DISTRIBUTION AND EXCISE TAX, SECTIONS 74-154(a), 74-154(d)-(e), 74-154.2(a), AND 74-157(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE**

**WHEREAS**, City tax reports are to be filed and taxes remitted on or before the 15<sup>th</sup> day of the month for the preceding month; and

**WHEREAS**, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

**WHEREAS**, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

**WHEREAS**, it is the Mayor's mandate to remove all active programs from the AS400; and

**WHEREAS**, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

Section 1. That FGC Sections 74-154(a), 74-154(d-e), 74-154.2(a), and 74-157(a-c) are amended as follows [new text in **underline/bold** font; deleted text in ~~strikethrough~~ font]:

**Sec. 74-154. - Tax returns; transmittal; and payment of taxes due.**

(a) On or before the 15th day of each calendar month, the distributor shall file with the chief financial officer a tax return **and remit payment** for the preceding month upon forms furnished by the city for each place of business. The tax return shall state the wholesale value of tobacco products sold by the distributor during the preceding calendar month, and other information which the chief financial officer requires. If a distributor ceases to sell tobacco products, the distributor shall immediately file with the chief financial officer a return for the period ending with the cessation.

~~(d) If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day~~ **All returns must be received by the City Clerk's Office no later than 4:00 PM on the 15th day of the month following tax collection. Postmarks will not be considered.**

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

**Sec. 74-154.2. - Administrative appeals.**

(a) A distributor may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. Any appeal must be filed within 30 days after the notice of any decision is mailed to the distributor. The failure to appeal a decision of the chief financial officer renders the decision final.

**Sec. 74-157. - Penalties for violations.**

~~(a) *Failure to file or remit.* A distributor having taxable transactions under this article in the city and who thereafter fails to file a tobacco tax return or remit the collected tax as required by this article shall incur a civil penalty of \$100.00 if the return or the tax is received later than the last day of the month in which it is due and shall incur a civil penalty of \$1,000.00 if the return or the tax is received later than the last day of the next month following the month in which it was due 50 percent of the tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be \$500.00 for each tax return not submitted on time.~~

~~(b) *Failure to remit.* A distributor who fails to transmit the applicable tobacco tax as required by this article shall incur a civil penalty of five percent of the applicable taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent. In an action to recover the penalty if the failure of the distributor to transmit the tobacco taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeals process outlined in section 74-154.2~~

~~(c) *[Additional penalty.]* A distributor shall pay an additional \$1,000.00 civil penalty if the distributor's report or remittance is not received by the city within 60 days of the original due date provided under this section.~~

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.

\_\_\_\_\_  
**JERRY CLEWORTH, MAYOR**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul Ewers, City Attorney

**ORDINANCE NO. 5903**

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE  
CHAPTER 34, ARTICLE VI, SECTION 34-201, TO ALLOW  
REPLACEMENT OF HYDRONIC HEATERS**

**WHEREAS**, in 2008, the EPA declared part of the Fairbanks North Star Borough a non-attainment area for fine particulate pollution (PM<sub>2.5</sub>); and

**WHEREAS**, except for a small portion of land along the Tanana River, the entire City of Fairbanks is within the non-attainment area; and

**WHEREAS**, in 2009, the City enacted Ordinance No. 5775, as amended, that placed a moratorium on the installation of hydronic heaters in the City until such time as the City Council adopted appropriate standards; and

**WHEREAS**, since the passage of Ordinance No. 5775, as amended, the Council has not adopted such standards; and

**WHEREAS**, new models of hydronic heaters have been certified by the U.S. Environmental Protection Agency as meeting federal emission standards; and

**WHEREAS**, it is appropriate that owners of hydronic heaters within the City not only be allowed to upgrade their current units to EPA approved units but should also be encouraged to do so; and

**WHEREAS**, the current moratorium on the installation of hydronic heaters is keeping the owners of hydronic heaters that were installed before the June 8, 2009, moratorium from upgrading their units,

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA**, as follows:

**SECTION 1.** That Fairbanks General Code Chapter 34, Article VI, Section 34-201, is hereby amended as follows [new text in **underline/bold** font]:

**Sec. 34-201. Hydronic heaters.**

No hydronic heater may be installed inside the City of Fairbanks after June 8, 2009, without a permit issued by the City of Fairbanks **Building Department**. No permit shall be issued until standards are adopted by the Fairbanks City Council. **However, permits for the upgrade or replacement of existing hydronic heaters may be issued if the upgraded or replacement heater is certified by the U.S. Environmental Protection Agency as meeting the federal emissions limit standard appropriate for that type of heater.**

**Section 2.** That the effective date of this Ordinance shall be \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Jerry Cleworth, City Mayor**

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul J. Ewers, City Attorney

**ORDINANCE NO. 5904**

**AN ORDINANCE AMENDING FGC SEC. 58-39 REGARDING THE  
METHOD FOR PROPERTY OWNER APPROVAL OF LOCAL  
IMPROVEMENT DISTRICTS**

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF  
FAIRBANKS, ALASKA, as follows:**

**SECTION 1.** That Fairbanks General Code Section 58-39 is hereby amended as follows [new text in **bold/underline** font; deleted text in ~~striketrough~~ font]:

**Sec. 58-39. Plans; resolution; publication of notice; filing of objections; plats;  
revision; readvertising.**

(a) The city council, planning to make local public improvements at the expense, in whole or in part, of the owners of the property benefited, shall have plans prepared for the work and estimates of the cost of the work, and then before proceeding with the work, shall be resolution determine the necessity of and method of payment for such local public improvements; shall publish a notice at least once a week for two consecutive weeks in some newspaper published within the corporate limits; and shall provide the owner of each lot, tract or parcel affected by the proposed improvement notification, in writing, of the proposal.

(b) The published notice shall state the nature, extent and approximate cost of such improvements, and list the lots, tracts or parcels, on which the cost will be assessed and their owners or reputed owners and a statement of the estimated cost of the improvement that will be assessed against each such lot, tract or parcel, and shall also contain a date not less than 30 days from the beginning of such publication, on or before which time the owners of the property affected may file their objection to **or concurrence with the proposed local public improvement** ~~work~~. The written notice shall be similar in content; excepting however, only the specific lot, tract or parcel owned by the addressee and associated estimated assessment shall be stipulated.

(c) A plat shall be made and filed with the city clerk before such publication showing the extent of the proposed improvement with the various lots, tracts and parcels of land that will be affected, together with a list of such various lots, tracts and parcels of land and their owners or reputed owners and a statement of the estimated cost of the improvement that will be assessed against each such lot, tract or parcel. Five days or more after the termination of the 30-day period described in subsection (b) of this section, the city council may proceed with the proposed **local public** improvement **only if it is approved by the owners of property who would bear more than** ~~unless objection is filed in writing with the~~

city clerk, either severally or by petition, by owners of property bearing 50 percent or more of the estimated assessed cost of the improvements. **The approval of the property owners must be in writing in a form designated by the City Clerk.** ~~In case objections are so made by the owners of property bearing 50 percent of the estimated assessed cost of the improvement or improvements, the proposed improvement or improvements shall not be proceeded with unless~~ **If the local public improvement is not approved by the owners of property who would bear more than 50 percent of the assessed cost of the improvements,** the city council **may** ~~shall first~~ revise the plans to meet the objections raised; and upon such revision being made in the plans, the city council shall, if it determines to proceed with the proposed improvements under such revised plan, readvertise the proposed improvement and be subject to the same limitation as required in the first instance except that the notice period shall be 15 days, ~~and may repeat such procedure until the objections have been reduced to less than 50 percent referred to in this section.~~

**Section 2.** That the effective date of this Ordinance shall be the \_\_\_\_\_, 2012.

\_\_\_\_\_  
Jerry Cleworth, City Mayor

AYES:  
NAYS:  
ABSENT:  
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul J. Ewers, City Attorney

Introduced by: Mayor Jerry B. Cleworth  
Finance Committee Review: October 30, 2012  
Date: November 5, 2012

**RESOLUTION NO. 4549**

**A RESOLUTION AUTHORIZING THE CITY OF FAIRBANKS TO ACCEPT FUNDS FROM THE ALASKA DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT UNDER THE FFY2012 HOMELAND SECURITY GRANT PROGRAM**

**WHEREAS**, the Fairbanks City Council wishes to upgrade and modernize its response capabilities for Homeland Security as well as natural disaster preparedness needs; and

**WHEREAS**, the City of Fairbanks wishes to accept a grant in the amount of **\$414,048.86** under the State Homeland Security Program for Emergency Operations Center and Continuity of Operations Equipment (\$82,388.86), Emergency Operations Plan (\$45,000), Video Surveillance System (\$263,000), Alaska Shield Exercise (\$14,560), and Incident Command System Training (\$9,100); and

**WHEREAS**, this program does not require a match;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council that the Mayor is authorized to execute any and all documents required for accepting funds and requesting adjustments on behalf of the City for this project.

**PASSED AND APPROVED THIS 5TH DAY OF NOVEMBER 2012.**

\_\_\_\_\_  
**Jerry Cleworth, City Mayor**

AYES:  
NAYS:  
ABSENT:  
APPROVED:

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Janey Hovenden, CMC, City Clerk

\_\_\_\_\_  
Paul Ewers, City Attorney

**CITY OF FAIRBANKS**  
**FISCAL NOTE**

**I. REQUEST:**

Ordinance or Resolution No: 4549

Abbreviated Title: FY2012 Homeland Security Grant Program

Does the adoption of this ordinance or resolution authorize:

- 1) additional costs beyond the current adopted budget?      Yes \_\_\_\_\_      No   x
- 2) additional support or maintenance costs?                      Yes   x                        No \_\_\_\_\_
- If yes, what is the estimate? \$4,800 yearly
- 3) additional positions beyond the current adopted budget?      Yes \_\_\_\_\_      No   x
- If yes, how many positions? \_\_\_\_\_
- If yes, type of positions? \_\_\_\_\_ (F - Full Time, P - Part Time, T - Temporary)

**II. FINANCIAL DETAIL:**

<b>ESTIMATED EXPENDITURES</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Beyond</b>	<b>Total</b>
Personnel Wages					\$0
Personnel Benefits					\$0
Supplies					\$0
Contractual	\$45,000				\$45,000
Equipment	\$345,389				\$345,389
Administration					\$0
Travel	\$23,660				\$23,660
<b>TOTAL</b>	<b>\$414,049</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$414,049</b>

<b>ESTIMATED FUNDING SOURCES</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>Beyond</b>	<b>Total</b>
General Fund					\$0
Capital Fund					\$0
Federal Grant	\$414,049				\$414,049
State Grant					\$0
Local Contract					\$0
Cash Match					\$0
In-Kind Match					\$0
Other					\$0
<b>TOTAL</b>	<b>\$414,049</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$414,049</b>


Reviewed by Finance Department:                      Initial   mb                        Date 10/24/2012



*City of Fairbanks*



**MEMORANDUM**

To: City Council Members  
From: Jerry Cleworth, City Mayor   
Subj: Request for Concurrence – Bed Tax Discretionary Fund Committee  
Date: October 23, 2012

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In order to fill the vacancy of Seat E on the Bed Tax Discretionary Fund Committee, I request your concurrence to the nomination of the following member:

Ms. Vivian Stiver – permanent member

Term to Expire: June 30, 2015

Thank you.

DDS/



CITY OF FAIRBANKS  
 Office of the City Clerk  
 800 Cushman Street  
 Fairbanks, Alaska 99701-4615  
 Office: 907 459-6774  
[jihovenden@ci.fairbanks.ak.us](mailto:jihovenden@ci.fairbanks.ak.us)

**BOARDS AND COMMISSIONS  
 APPLICATION FORM**

DATE: 10/18/2012  
 NAME: Vivian STIVER  
 BOARD: BED TAX

The information provided below will be made available to the public. The Clerk's Office will provide a mailing address, at least one phone contact, and an e-mail address, please indicate your preferred method of contact with the public by placing a check mark in the appropriate box(es).

- RESIDENCE ADDRESS: 523 2nd Ave, FAIRBANKS AK 99701
- MAILING ADDRESS: SAME
- BUSINESS ADDRESS: SAME
- CELL PHONE: 907 347-2102       WORK PHONE: 907 451-2806
- HOME PHONE: ( ) -       E-MAIL: \_\_\_\_\_

**Statement of Interest:**

Interest in the many organizations that contribute to putting FAIRBANKS in the spot light in an economic and positive way.

**Brief Personal Biography (or attach resume):**

RESIDENT 34 years, Businesswoman 12 years to current, Legislative Aide at Legislature, President of Moore St. Seniors Board, PAST CHAIR BED TAX COMMITTEE

**Professional Licenses/Training:**

Please return this application to the City Clerk's Office.

**FOR INTERNAL USE ONLY**

Date Seated on Board	Date of Resolution or Council Action	Term Dates

*City of Fairbanks*



**MEMORANDUM**

To: City Council Members  
From: Jerry Cleworth, City Mayor *JC*  
Subj: Request for Concurrence – Permanent Fund Review Board  
Date: October 29, 2012

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The term of Seat B on the Permanent Fund Review Board currently filled by Ms. Patty Mongold will expire on November 30, 2012.

Ms. Mongold wishes to continue on this board and I hereby request your concurrence to the re-appointment of:

Ms. Patty Mongold – re-appointment only. To ensure consistency in the month of expiration, Ms. Mongold's term will expire: December 31, 2015

Thank you.

DDS/