



FAIRBANKS CITY COUNCIL
AGENDA NO. 2011-08
REGULAR MEETING April 25, 2011
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

PRELIMINARY MEETING

- I 6:00 PM New Charter School Proposal to Lease the Chena Building
-

REGULAR MEETING

- II 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

*a) Regular Meeting Minutes of April 11, 2011.

7. SPECIAL ORDERS

- a) The Fairbanks City Council will convene as a Board of Adjustment in the matter of the below-stated decision of the Fairbanks North Star Borough Planning Commission:

A request by Edward O'Leary for lot size variances in order to shift a lot line on Block 07 Graehl subdivision. (Located southeast of the Steese Highway and on the northeast side of Second Street).

***NOTE:** The board shall not hear arguments nor take additional testimony or other evidence. Only the material contained in the appeal packet shall be considered.

8. MAYOR'S COMMENTS AND REPORT

- a) Fluoride Task Force Final Report.
b) Legislative Lobbyist's End of Session Update (if available).

9. UNFINISHED BUSINESS

- a) Ordinance No. 5840 – An Ordinance Authorizing Conveyance of an Easement Upon City Property Requested by the Alaska Department of Transportation for Construction of the Illinois Street Reconstruction Project. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- b) Ordinance No. 5841 – An Ordinance Authorizing a Utility Easement for the Chief Andrew Isaac Health Center. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- c) Ordinance No. 5842 – An Ordinance to Amend FGC Sections 10-311 and 10-312, Adopting the 2009 Uniform Swimming Pool, Spa and Hot Tub Code. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- d) Ordinance No. 5843 – An Ordinance Amending the 2011 Budget Estimate for the First Time. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.
- e) Ordinance No. 5844 – An Ordinance Amending Fairbanks General Code Section 78-975 Authorizing Recovery of Ignition Interlock Devices from Impounded Motor Vehicles. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

- f) Ordinance No. 5845 – An Ordinance Adopting the 2011 City of Fairbanks Code for Abatement of Dangerous Buildings. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

10. NEW BUSINESS

- *a) Resolution No. 4470 – A Resolution Authorizing the Mayor to Submit a Petition to the Local Boundary Commission for the Detachment from the City of the Open Skies Commercial Park Subdivision, Located at the Intersection of Badger Road and the Old Richardson Highway. Introduced by Mayor Cleworth.
- *b) Ordinance No. 5846 – An Ordinance to Present to the Qualified Voters of the City the Question of Approving Additional City Services Through Pre-Paying the Outstanding Bond Debt for the Police Station. Introduced by Mayor Cleworth.

11. DISCUSSION ITEMS (INFORMATION AND REPORT)

- a) Committee Reports

12. COMMUNICATIONS TO COUNCIL

- *a) Public Safety Commission Meeting Minutes of March 8, 2011.
- *b) Code Review Commission Meeting Minutes of March 9, 2011.
- *c) Fluoride Task Force Meeting Minutes of March 29, 2011.
- *d) Fluoride Task Force Meeting Minutes of March 31, 2011.
- *e) Fluoride Task Force Meeting Minutes of April 5, 2011.

13. COUNCIL MEMBERS' COMMENTS

14. CITY ATTORNEY'S REPORT

15. CITY CLERK'S REPORT

16. EXECUTIVE SESSION – A Street Apartments Claim

17. ADJOURNMENT



FAIRBANKS CITY COUNCIL
REGULAR MEETING MINUTES, APRIL 11, 2011
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

The City Council convened at 7:00 p.m. on the above date, 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 - telephonic
Chad Roberts, Seat B
Bernard Gatewood, Seat C
Jim Matherly, Seat D
Emily Bratcher, Seat E

Absent: John Eberhart, Seat F - excused

Also Present: Stephen Anderson, Plumb/Mech Inspector
Clem Clooten, Electrical Inspector
Patrick B. Cole, Chief of Staff
Warren Cummings, Fire Chief
Paul Ewers, City Attorney
Janey Hovenden, City Clerk
Laren Zager, Police Chief

INVOCATION

The Invocation was given by City Clerk Janey Hovenden.

FLAG SALUTATION

Mayor Cleworth led the Flag Salutation.

CITIZEN'S COMMENTS

Tim Sovde, 402 Bonnifield, Fairbanks. Mr. Sovde spoke to the revision of the comprehensive economic development strategy plan currently on the Borough's agenda.

Helen Renfrew, 4097 Yvonne Road, Fairbanks. Ms. Renfrew presented a Certificate of Appreciation to Mr. Brian Newton of GVEA on behalf of the Fairbanks Convention and Visitor's Bureau.

Victor Buberger, PO Box 58192, Fairbanks. Mr. Buberger requested that the Council call on the Fact Finding Commission regarding an incident at Kodiak Jacks.

Frank Turney, 201 7th Ave., Fairbanks. Mr. Turney thanked the Mayor for dismissing the charges against the good samaritan who helped someone after a vehicle accident. Mr. Turney spoke

about the incident at Kodiak Jacks and asked that the Fact Finding Commission look into the incident and any police misconduct. Mr. Turney indicated that someone, not the Mayor, provided him with the information about Officer Stonecipher.

Lisa Peger, 3873 Peger Rd., Fairbanks. Ms. Peger spoke to the high price of gas and Senate Bill 99. She asked the Council to submit a resolution to the legislature to initiate an energy relief program.

David Lerman, 126 2nd Ave, Fairbanks. Mr. Lerman spoke about his newly created website, Renovation Fairbanks. He indicated he is actively campaigning for the next City election. Mr. Lerman spoke of the black smoke emanating from an outdoor boiler on Cushman Street. He asked that the Council look into sponsoring a PSA to inform the public of the particles that are being breathed in from these types of boilers.

David van den Berg, 410 Cushman Street, Fairbanks. Mr. van den Berg announced that the Polaris building was soliciting comments/remarks regarding the building at a performance art exhibit on the building itself. He provided an update on the Community Service Patrol and the limited expansion of the designated boundary area.

APPROVAL OF AGENDA AND CONSENT AGENDA

Mr. Gatewood, seconded by **Ms. Bratcher**, moved to APPROVE the Agenda and Consent Agenda.

Mr. Roberts, seconded by **Ms. Bratcher**, moved to INCLUDE the Fluoride Task Force meeting minutes on the Consent Agenda.

Mr. Roberts, pulled Resolution No. 4468 from the Consent Agenda.

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

City Clerk Hovenden read the Consent Agenda into the record.

APPROVAL OF PREVIOUS MINUTES

a) Meeting Minutes of March 21, 2011.

PASSED and APPROVED on the CONSENT AGENDA.

SPECIAL ORDERS

a) The Fairbanks City Council, Sitting as a Committee of the Whole, heard interested citizens concerned with the below-referenced Liquor License Application for renewal.

Lic #	Name	Type	Service Location	Owner Name
4950	Klondike Restaurant & Lounge	Beverage Dispensary-Tourism	1347 Bedrock Street	Harris S. Yang

Ms. Bratcher, seconded by **Mr. Matherly**, moved to WAIVE Protest of Renewal for Liquor License.

Mayor Cleworth called for Public Testimony and, hearing none, declared Public Testimony closed.

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

b) The Fairbanks City Council, Sitting as a Committee of the Whole, heard interested citizens concerned with the below-referenced Appeals of Denied Applications for City of Fairbanks Chauffeur Licenses.

i. Applicant: Anton Amin Gregory Caldwell

Mr. Roberts, seconded by **Mr. Gatewood**, moved to GRANT Appeal of Chauffeur License.

Mr. Caldwell provided the Council with a brief explanation for his appeal.

Mr. Buberger commented on the power of the Council to rule on these issues.

Mr. John O'Brian shared his support of Mr. Caldwell and encouraged the Council to grant the appeal.

Mr. Turney asked the Council to approve the appeal.

Mr. Lerman commented on equity and fairness.

Mr. Sovde commented on the burglary tools conviction.

Council discussion.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO GRANT APPEAL, AS FOLLOWS:

YEAS: None
NAYS: Roberts, Matherly, Gatewood, Bratcher, Stiver
Mayor Cleworth declared the MOTION FAILED.

ii. Applicant: Emil Georgiev Hugny-Farr

Mr. Roberts, seconded by **Mr. Matherly**, moved to GRANT Appeal.

Mr. Buberger repeated his comments regarding appeals.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO GRANT APPEAL, AS FOLLOWS:

YEAS: None
NAYS: Stiver, Matherly, Gatewood, Bratcher, Roberts
Mayor Cleworth declared the MOTION FAILED.

iii. Applicant: Trent Alexander Mueller

Mr. Roberts, seconded by **Mr. Gatewood**, moved to GRANT Appeal.

Mr. Mueller provided the Council with a brief explanation for his appeal and request to grant.

Council discussion.

Mr. Turney encouraged the Council to approve the appeal.

Mr. Buberger questioned the appeal process. He encouraged the Council to revise the Code.

Council discussion regarding appeal process, individual criteria, and the human element.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO GRANT APPEAL, AS FOLLOWS:

YEAS: None
NAYS: Bratcher, Roberts, Stiver, Matherly, Gatewood
Mayor Cleworth declared the MOTION FAILED.

MAYOR'S COMMENTS AND REPORT

Mayor Cleworth informed the Council that he attended the Civilian Military meeting at the Borough and shared the discussion. **Mayor Cleworth** indicated that he has had no contact with PSEA for about four weeks. **Mayor Cleworth** shared that there were abatements that needed to get done, but no money was budgeted. He indicated he would bring any matter to the Council. **Mayor Cleworth** spoke of the arbitration article in the Boston Globe. **Mayor Cleworth** shared that the City was not included in the capital projects list forwarded by the Senate and that the railroad bridge was not funded either.

Mr. Matherly, seconded by **Mr. Roberts**, moved to RESCHEDULE the Regular Meeting of the City Council from July 11, 2011 to July 18, 2011.

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

Mayor Cleworth shared that the City would be looking into residential recycling. **Mayor Cleworth** spoke of possible debt retirement with inclusion on the October ballot. **Mayor Cleworth** spoke to the appeal process for chauffeur licensing. He indicated that the appeal process is an important one and that the human element requires it. He asked the Council to think

about that process before changing the Code. **Mayor Cleworth** mentioned the incident at Kodiak Jacks and thanked those involved in the investigation. He indicated that the District Attorney has the case and it is under review.

UNFINISHED BUSINESS

- a) Ordinance No. 5836 – An Ordinance Amending FGC Section 14-167, Regarding the Procedure for Review of Alcoholic Beverage Licenses. Introduced by Mayor Cleworth and Council Member Stiver. SECOND READING AND PUBLIC HEARING.

Mr. Matherly, seconded by **Ms. Bratcher**, moved to ADOPT Ordinance No. 5836.

Mayor Cleworth called for Public Testimony and, hearing none, declared Public Testimony closed.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5836, AS FOLLOWS:

YEAS: Gatewood, Roberts, Matherly, Stiver, Bratcher

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and ORDINANCE NO. 5836 ADOPTED.

- b) Ordinance No. 5837 – An Ordinance to Amend FGC Sections 10-425 and 10-426, Adopting the 2009 International Fuel Gas Code with Amendments. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Gatewood, seconded by **Ms. Bratcher**, moved to ADOPT Ordinance No. 5837.

Mayor Cleworth called for Public Testimony and, hearing none, declared Public Testimony closed.

Mayor Cleworth called for objection and, hearing none, declared the MOTION CARRIED and ORDINANCE NO. 5837 ADOPTED.

- c) Ordinance No. 5838 – An Ordinance to Amend FGC Sections 10-101 and 10-102, Adopting the 2009 International Mechanical Code with Amendments. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Gatewood, seconded by **Mr. Matherly**, moved to ADOPT Ordinance No. 5838.

Mayor Cleworth called for Public Testimony and, hearing none, declared Public Testimony closed.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5838, AS FOLLOWS:

YEAS: Roberts, Matherly, Gatewood, Bratcher, Stiver
NAYS: None
Mayor Cleworth declared the MOTION CARRIED and ORDINANCE NO. 5838 ADOPTED.

- d) Ordinance No. 5839 – An Ordinance to Adopt the 2011 City of Fairbanks Administrative Code as Article II, Chapter 10, FGC Section 10-31. Introduced by Mayor Cleworth. SECOND READING AND PUBLIC HEARING.

Mr. Matherly, seconded by **Ms. Bratcher**, moved to ADOPT Ordinance No. 5839.

Mayor Cleworth called for Public Testimony and, hearing none, declared Public Testimony closed.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION TO ADOPT ORDINANCE NO. 5839, AS FOLLOWS:

YEAS: Stiver, Matherly, Gatewood, Bratcher, Roberts
NAYS: None
Mayor Cleworth declared the MOTION CARRIED and ORDINANCE NO. 5839 ADOPTED.

NEW BUSINESS

- a) Resolution No. 4465 – A Resolution Authorizing the City Mayor to Apply for and Accept a Preservation Assistance Grant for Smaller Institutions from the National Endowment for the Humanities. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- b) Resolution No. 4466 – A Resolution Authorizing the City Mayor to Apply for and Accept Grants from the Alaska Highway Safety Office for Fiscal Year 2012. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- c) Resolution No. 4467 – A Resolution Authorizing the City Mayor to Apply for and Accept a Grant for Protective Ballistic Vests for Fiscal Year 2012. Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- d) Resolution No. 4468 – A Resolution Authorizing the City Mayor to Apply for and Accept a Smart Policing Initiative Grant from the U.S. Bureau of Justice Assistance. Introduced by Mayor Cleworth.

Mr. Matherly, seconded by **Ms. Bratcher**, moved to APPROVE Resolution No. 4468. At the request of Mr. Roberts, Lt. Welborn and Chief Zager, provided a staff report.

A ROLL CALL VOTE WAS TAKEN, ON THE MOTION TO APPROVE RESOLUTION NO. 4468, AS FOLLOWS:

YEAS: Bratcher, Roberts, Stiver, Matherly, Gatewood

NAYS: None

Mayor Cleworth declared the MOTION CARRIED and RESOLUTION NO. 4468 APPROVED.

- e) Resolution No. 4469 – A Resolution Supporting Senate Bill 100, Regarding the Public Employee Retirement System (“PERS”). Introduced by Mayor Cleworth.

PASSED and APPROVED on the CONSENT AGENDA.

- f) Ordinance No. 5840 – An Ordinance Authorizing Conveyance of an Easement Upon City Property, Requested by the Alaska Department of Transportation, for Construction of the Illinois Street Reconstruction Project. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- g) Ordinance No. 5841 – An Ordinance Authorizing a Utility Easement for the Chief Andrew Isaac Health Center. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- h) Ordinance No. 5842 – An Ordinance to Amend FGC Sections 10-311 and 10-312, Adopting the 2009 Uniform Swimming Pool, Spa, and Hot Tub Code. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- i) Ordinance No. 5843 – An Ordinance Amending the 2011 Budget Estimate for the First Time. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- j) Ordinance No. 5844 – An Ordinance Amending Fairbanks General Code Section 78-975 Authorizing Recovery of Ignition Interlock Devices from Impounded Motor Vehicles. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

- k) Ordinance No. 5845 – An Ordinance Adopting the 2011 City of Fairbanks Code for Abatement of Dangerous Buildings. Introduced by Mayor Cleworth.

ADVANCED on the CONSENT AGENDA.

DISCUSSION ITEMS

- a) Committee Reports

Fairbanks Convention and Visitor's Bureau. Ms. Bratcher provided a brief report.

COMMUNICATIONS TO COUNCIL

- a) Fluoride Task Force Meeting Minutes of January 4, 2011.

ACCEPTED on the CONSENT AGENDA.

- b) Fluoride Task Force Meeting Minutes of February 1, 2011.

ACCEPTED on the CONSENT AGENDA.

- c) Fluoride Task Force Meeting Minutes of March 8, 2011.

ACCEPTED on the CONSENT AGENDA.

COUNCIL MEMBERS' COMMENTS

Ms. Stiver spoke about the inherent difficulties with the appeal process for chauffeur licenses. **Mr. Stiver** spoke favorably about the grant that was approved.

Mr. Matherly spoke to the new home for ICE Alaska at the fairgrounds. **Mr. Matherly** spoke to the difficulty inherent in the appeal process.

Ms. Bratcher explained that the City has an obligation to the public when considering chauffeur appeals. **Ms. Bratcher** asked to reschedule the June 20, 2011 council meeting to June 27.

Ms. Bratcher, seconded by **Mr. Matherly**, moved to RESCHEDULE the Regular Meeting of the City Council from June 20, 2011 to June 27, 2011.

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

Mayor Cleworth made some suggested modifications the Code regarding chauffeur licenses.

Mr. Gatewood suggested the possibility of shortening the ten year window to seven years.

Ms. Stiver suggested that Mr. Ewers put together a list of mitigating factors for consideration during the appeal process.

Mr. Gatewood spoke to the events he attended; including, interior baseball lions club banquet and reception for UAF ball player Parish West.

Mr. Roberts indicated that he would rather see a liberalization of the chauffeur license appeal process.

Mayor Cleworth indicated that staff would work on modifications to the chauffeur license appeal process to bring before the Council for consideration.

ADJOURNMENT

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

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

Mayor Cleworth declared the Meeting adjourned at 9:40 p.m.

JERRY CLEWORTH, MAYOR

ATTEST:

JANEY HOVENDEN, CMC, CITY CLERK


Transcribed by: DO

City of Fairbanks

**From the
Office of the City Attorney**

MEMORANDUM

TO: Mayor and Council Members

FROM: Paul Ewers, City Attorney 

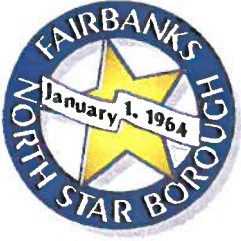
SUBJECT: Board of Adjustment Appeal (Edward O'Leary)
Scheduled for the 4/25/11 council meeting

DATE: April 19, 2011

Along with the Board of Adjustment Hearing Packet, you will also receive a memo from Borough Clerk Mona Drexler. Her memo contains important information on the appeal process. This Board of Adjustment appeal is an appeal "on the record." The council decides the matter on the written material contained in the Hearing Packet. It does not hear arguments or take additional testimony or other evidence.

The council may affirm or reverse the decision of the Planning Commission in whole or in part. The decision must be based upon findings and conclusions adopted by the council. In the past, the council has adopted written findings and conclusions. Based upon the council's deliberations at the hearing, I will prepare draft findings to be presented at the next council meeting for the council's review and approval.

If you have any questions about the appeal process, please give me a call.



Fairbanks North Star Borough

Borough Clerk's Office

809 Pioneer Road * PO Box 71267 * Fairbanks, Alaska 99707-1267 * (907)459-1401 FAX 459-1224

MEMORANDUM

TO: Board of Adjustment Members

FROM: Mona Lisa Drexler, MMC
Municipal Borough Clerk *Mona Lisa Drexler*

DATE: April 5, 2011

SUBJECT: BOARD OF ADJUSTMENT APPEAL REGARDING V2011-001 (O'Leary)

On Monday, April 25, 2011, at 7 pm, the Fairbanks City Council will sit as the Board of Adjustment for consideration of the following appeal. The meeting will take place in the City Council Chambers, 800 Cushman Street, Fairbanks, Alaska.

An appeal filed by George Stefan on behalf of Edward O'Leary on the denial of the following:

V2011-001 – A request by Edward O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. (Located southeast of the Steese Highway and on the northeast side of Second Street)

Please be advised that ex parte contacts shall be prohibited. Board members shall be impartial in all appeal matters, both in fact and in appearance. *No board member shall receive or otherwise engage in ex parte contacts with the appellant, other parties adversely affected by the appeal, or members of the public concerning the appeal.*

Note: The board shall not hear arguments nor take additional testimony or other evidence. Only the material contained in the appeal packet shall be considered.

Attached is your hearing packet. Please bring to the above referenced hearing.

Cc: Janey Hovenden, City Clerk (for distribution to Board)

BOARD OF ADJUSTMENT Hearing Packet

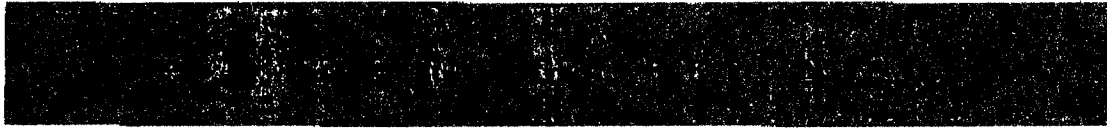
APPEAL OF V2011-001
Filed by George Stefan on behalf
of Edward O'Leary

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• No Reply filed	59
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BOA Specifics of Appeal
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Edward O'Leary

Print Name

Box 808

Bullhead City, AZ 96430

Mailing Address

928-754-1616

Telephone Number

Summer: Box 30027

Residence Address

Central, AK 99730

City, State, Zip Code

Winter: Box 808
Bullhead City, AZ 94430

FNSB Code 18.54.070 (C)(1) states that the Appeal must contain detailed and specific allegations of error. Please present those allegations. If you need you may enclose additional sheets.

See attached two (2) pages.

Edward O'Leary
Signature

Send all paperwork for Appeal.

Contact for Appeal:

George Stefan
RCH Security, Ltd
326 Driveway Street, Suite 102
Fairbanks, AK 99701
451-7411

Accepted by Mon Dush
12-28-10



Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

www.co.fairbanks.ak.us

MEMORANDUM

TO: Mona Lisa Drexler, Borough Clerk

FROM: Bernardo Hernandez, Director
Department of Community Planning *Bernardo*

DATE: December 15, 2010

SUBJECT: Conditions / Findings of Fact

RE: **V2011-001** A request by Edward N. O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. (Located southeast of the Steese Highway and on the northeast side of Second Street)

On Tuesday, December 14, 2010, the Fairbanks North Star Borough Planning Commission voted one (1) in favor, six (6) opposed, for denial of V2011-001, and adopted the following Findings of Fact in support of its decision:

FINDINGS OF FACT:

1. The proposed variance does not conform to the intent and purpose of Title 18 and other Ordinances and State Statutes.
2. Denial of the proposed variance will not deprive the applicant the use of his property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.
3. The proposed variance will not jeopardize public health, safety or welfare, traffic or parking conditions, or increased danger of fire.

If any additional information is needed or required, please let us know.

Appeal Due By 12/30/10

Notice of Appeal

Allegations of Error: V2011-001

1) Procedural Error:

- (i) FNSB Title 2.09.080.B. Rules Applicable to Public Hearing: *The person who has signed an application to rezone real property, or his representative, may speak during public hearing on the rezone request for not more than 10 minutes.*
There does not exist specific FNSB planning commission codified rules for public hearings, only the above cited rule for public testimony at Assembly meetings. As representative to the applicant Richard Heieren was given only three (3) minutes to give his presentation at the Planning Commission meeting of December 14, 2010.

2) Error in Application of Law:

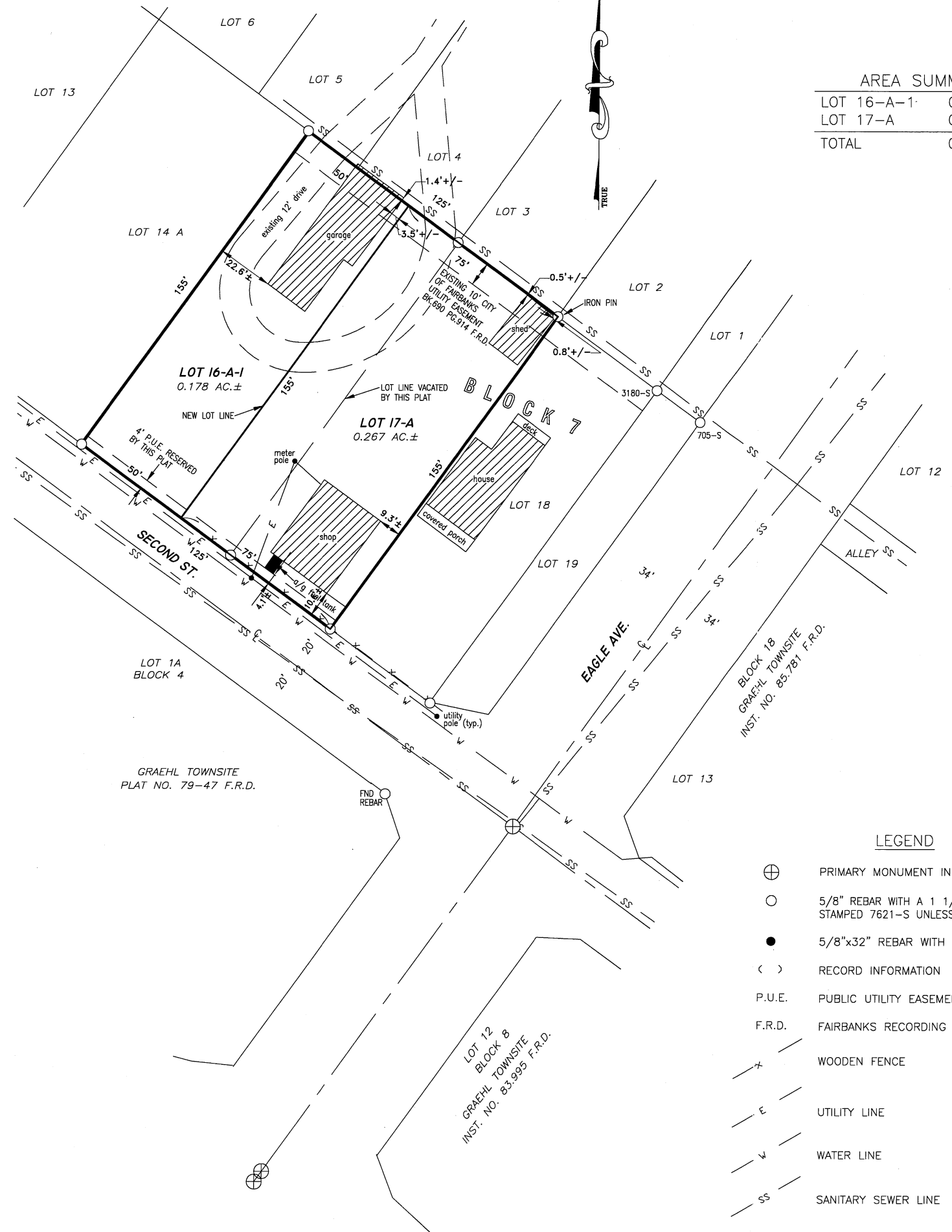
- (i) A.S.29.40.040.(b): *A variance from a land use regulation adopted under this section may not be granted if (1) special conditions that require the variance are caused by the person seeking the variance.*
The applicant was not the cause of this property and immediate area being rezoned from Unrestricted Use (UU) to General Use-1 (GU-1). This rezone occurred without the authorization or approval of the applicant.
- (ii) Why was this file required to be processed as a variance in the first place?
Our work for the applicant began as a replat of Lots 16-A and 17, Block 7, Graehl Townsite (See Exhibit A). This replat only involves the shift of the common lot line 25 feet to the west. The existing record lot areas are 11,610 square feet and 7,741 square feet. After the proposed replat the lot areas will be exchanged, maintaining the 11,610 square feet and 7,741 square feet.
- (iii) FNSB Title 18.04.020 Purpose: *This title is intended to protect private property rights, to promote the public health, safety, and general welfare of the residents of the borough...to promote economic development and the growth of private enterprise.*
The denial of the applicant's variance is in direct conflict with the purpose of Title 18. The applicant is trying to accommodate his neighbor, Dr. Michael Helmbrecht, for a revised site plan for his dental office in anticipation of the right-of-way take by ADOT, according to ADOT Project No. STP-MGL-M-0670(1)/62541 (See Exhibit B). Dr. Helmbrecht's acquisition of the westerly lot (proposed Lot 16-A-1) will accommodate an offset to the right-of-way take on 3rd Avenue. This acquisition provides for a more safe and practical internal flow of traffic for future improvements. The applicant's decision to replat his property is

based on progressive, amicable planning with Dr. Helmbrecht. This is the case of individuals who perceive a planned take by ADOT of 3rd Street properties. They simply wish to work together in response to the significant changes to be made to Block 7 of Graehl Townsite.

- (iv) With the planned 3rd Street widening, ADOT will be taking a portion of the 8 existing lots from Block 7, according to ADOT Project No. STP-MGL-M-0670(1)/62541. The Borough will be granting lot size variances to DOT and property owners for the project.

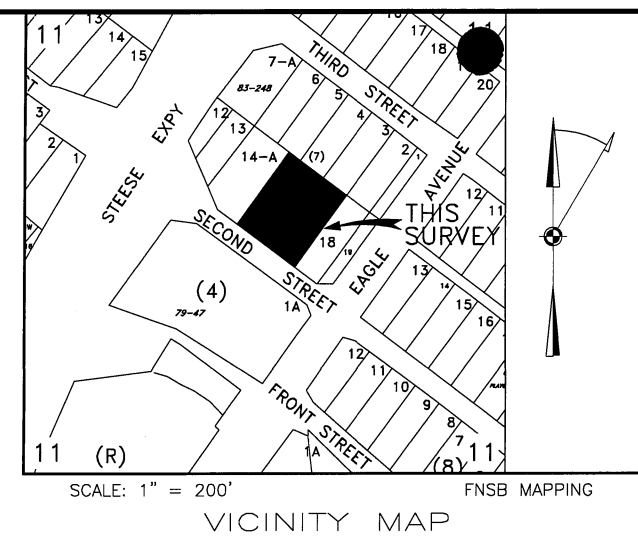
3) Findings and Conclusion Unsupported by Evidence:

- (i) Regarding the options proposed by the planning department's representative at the December 13 Planning Commission meeting (*FNSB planning option in italics*, response in regular font):
 - (a) *Pursue a rezone to General Commercial (GC)*. This option only substitutes another hardship for the hardship currently faced by the applicant. GC requires a minimum 20-foot front yard setback, thus placing the applicant's improvements in violation of this setback. Any potential plans for future replatting would require a variance to the front yard numerical standard. In addition, a rezone of the property to GC would be supporting a spot zone, as the majority of Graehl Townsite is currently zoned GU (See Exhibit C). No other property owners of adjacent lots have indicated their desire to participate in a rezone.
 - (b) *Include Lot 14A (Dr. Helmbrecht's property) in the replat, thereby enlarging both new lots so no variance to minimum lot size would be necessary.*
Dr. Helmbrecht has no intention of dealing with replatting or rezoning until the ADOT right-of-way take happens.
- (ii) If the FNSB planning staff believes the GU-1 zoning is an inappropriate zone for any property located within the Borough they should go through a due process of rezoning instead of blackmailing individuals into doing things against their wishes.



AREA SUMMARY

LOT 16-A-1	0.178 AC.±
LOT 17-A	0.267 AC.±
TOTAL	0.445 AC.±

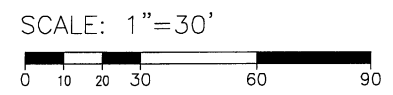


- UTILITY EASEMENTS
1. THERE WILL BE A 35' RADIUS EASEMENT AT EACH POLE LOCATION FOR GUYS, ANCHORS AND OTHER SUPPORTIVE STRUCTURES.
 2. A 15' WIDE STRIP OF LAND AS DETERMINED BY THE UTILITY COMPANIES IS GRANTED FOR THE INSTALLATION, MAINTENANCE, REPAIR OR REMOVAL OF YARD POLES.
 3. THE UTILITY COMPANIES SHALL HAVE THE RIGHT TO IDENTIFY AND THEN REMOVE ANY DEAD, WEAK, OVERHANGING OR OTHERWISE DANGEROUS TREES ADJACENT TO OR IN THE VICINITY OF THE EASEMENT.
 4. AN EASEMENT IS HEREBY RESERVED WITHIN ALL LOTS FOR SECONDARY AERIAL CROSSINGS AS DETERMINED NECESSARY BY THE UTILITY COMPANIES.

- NOTES
1. SOILS FOR THIS SUBDIVISION ARE SALCHAKET VERY FINE SANDY LOAM PER USDA SOILS MANUAL NO. 25, 1959 SERIES.
 2. THIS AREA IS WITHIN FLOOD ZONE "X" PER F.I.R.M. DATED 1-2-92.
 3. SEWER & WATER ARE SERVED BY GOLDEN HEART UTILITIES. THE LOCATIONS OF THESE MAIN LINES ARE BASED ON GHU SYSTEMS MAPS.
 4. THE TERRAIN IN THIS AREA IS RELATIVELY FLAT.
 5. THIS PROPERTY IS WITHIN THE CITY OF FAIRBANKS.
 6. THIS PROPERTY IS ZONED GU-1, OR GENERAL USE.

- LEGEND
- ⊕ PRIMARY MONUMENT IN CASING FOUND
 - 5/8" REBAR WITH A 1 1/2" ALUM. CAP, FOUND, STAMPED 7621-S UNLESS OTHERWISE NOTED.
 - 5/8"x32" REBAR WITH A 1 1/2" ALUM. CAP, SET.
 - < > RECORD INFORMATION
 - P.U.E. PUBLIC UTILITY EASEMENT
 - F.R.D. FAIRBANKS RECORDING DISTRICT
 - +— WOODEN FENCE
 - E— UTILITY LINE
 - W— WATER LINE
 - SS— SANITARY SEWER LINE

EXHIBIT A PHOTO-REDUCED



PRELIMINARY PLAT		
REPLAT LOTS 16A & 17 BLOCK 7		
GRAEHL TOWNSITE		
(PLAT # 77-160 & INST. NO. 83995 F.R.D.)		
LOCATION: WITHIN NW1/4 SEC. 11 T.1S., R.1W, F.M., AK.		
OWNER:	EDWARD O'LEARY 425 SECOND STREET FAIRBANKS, AK 99701	
SURVEYOR:	RCH SURVEYS LTD. (907) 326 DRIVEWAY STREET STE 102 451-7411 FAIRBANKS, ALASKA 99701	
FAIRBANKS RECORDING DISTRICT		
F.N.S.B. #: NA	DESIGNED: EO	CHECKED:
SCALE: 1" = 30'	DRAWN: JSL/GGS	DATE: 12-09-10

EXHIBIT B: ADOT TAKES, BLOCK 7 GRAEHL TOWNSITE

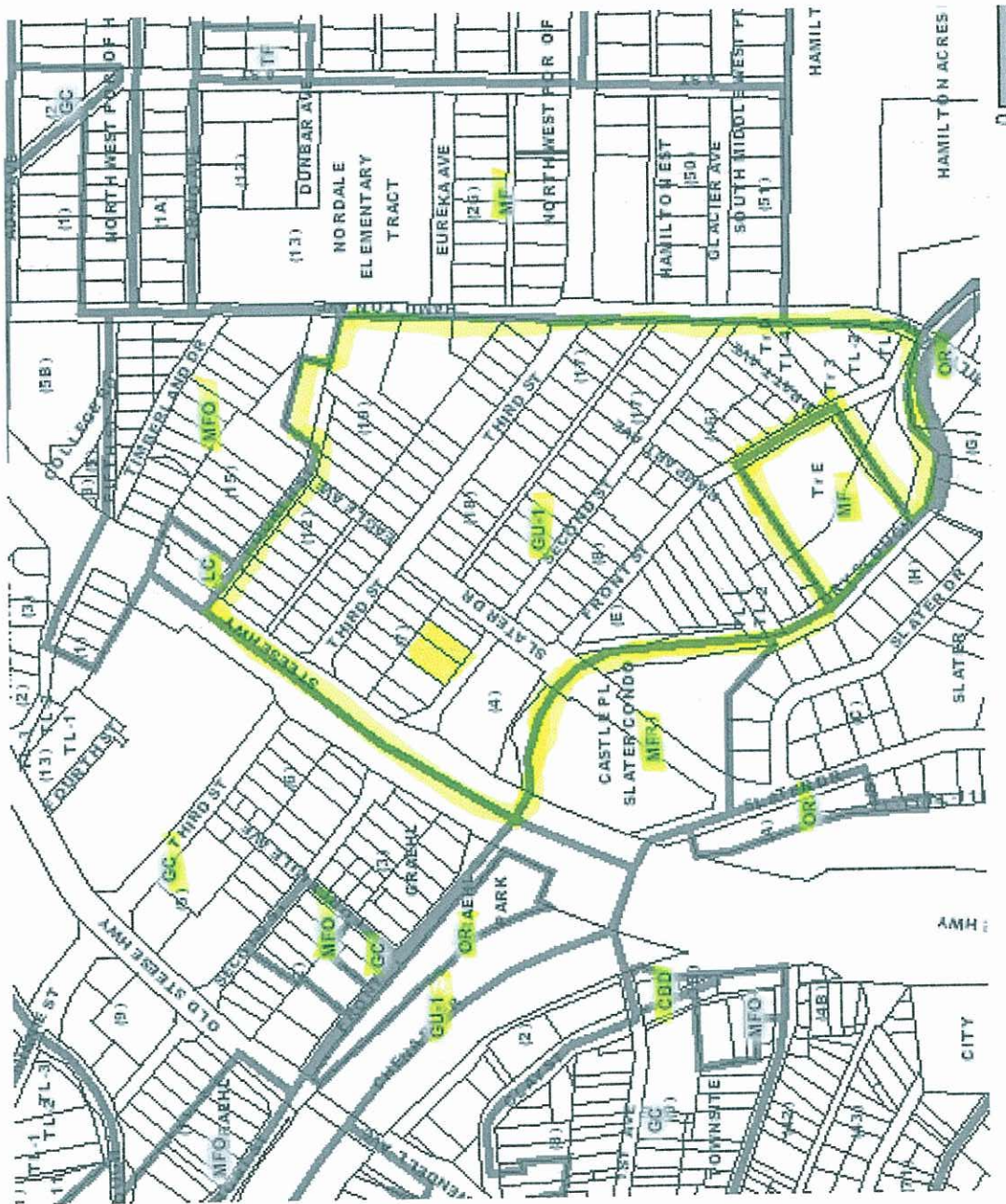
ADOT Project No. STP-MGL-M-0670(1)/62541

(Source: FNSB Planning)



EXHIBIT C: ZONING DESIGNATION MAP

(Source: FNSB GIS image)





MEMORANDUM

To: Mona Lisa Drexler

Through: Bernardo Hernandez, Community Planning Director *Bernardo*

From: Melissa Kellner, Planner II *MK*

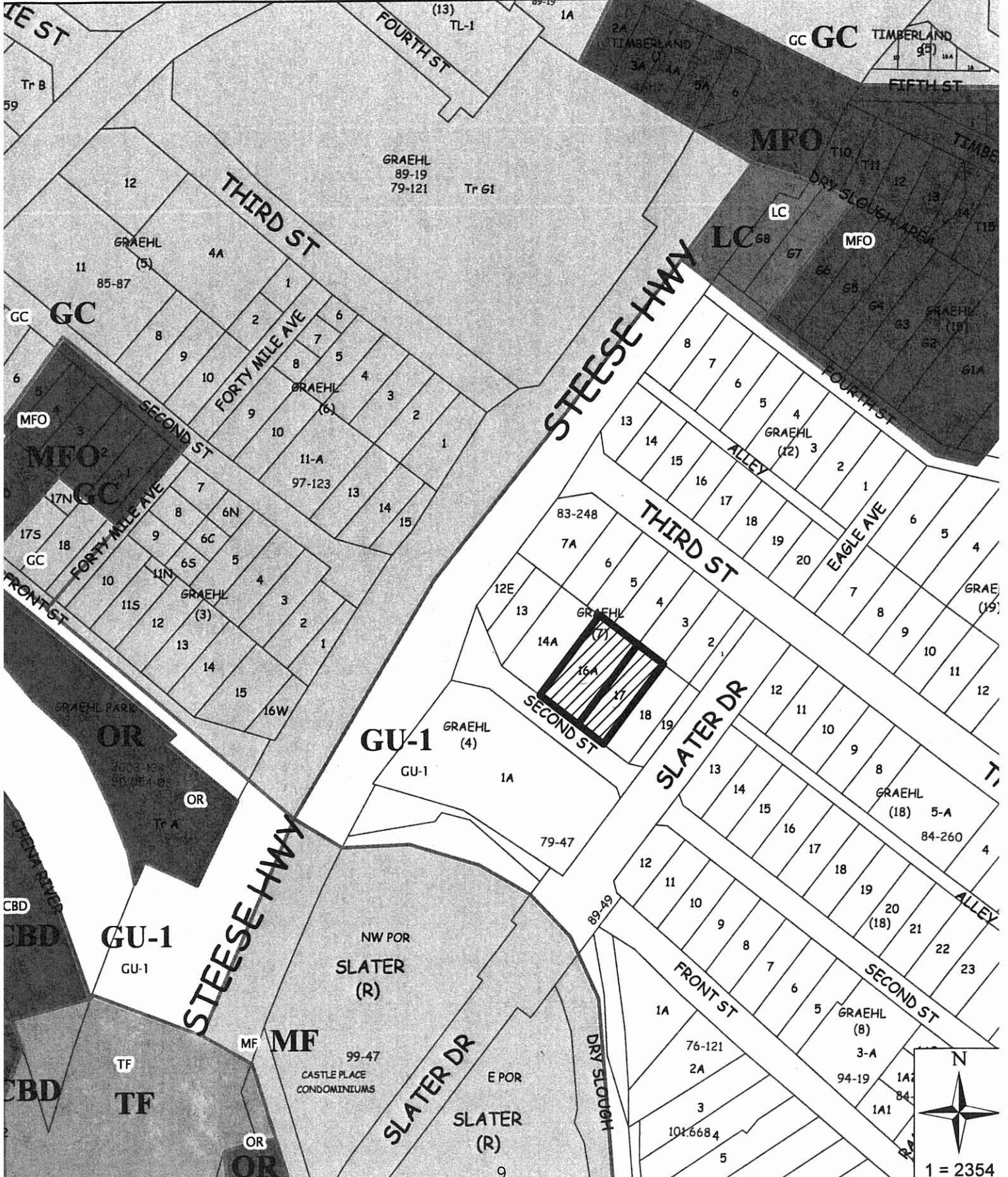
Date: January 25, 2011

Subject: Appeal of **V2011-001** O'Leary

Re: **V2011-001** A request by Edward N. O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. **(Located southeast of the Steese Highway and on the northeast side of Second Street)**

As requested, the materials submitted to the Planning Commission prior to its decision on V2011-001 are attached. These items are as follows:

- Planning Commission map
- Department of Community Planning staff report
- Zoning Report map
- Public hearing application with supporting narrative
- Photos (4 photos total on 2 pages)
- Email from George Stefan dated 12/7/2010
- Staff PowerPoint slide presentation (9 slides total on 5 pages)
- Minutes from 12/14/10 Planning Commission meeting (pages 1-5)
- Decision and Findings of Fact memorandum dated December 14, 2010



DEPARTMENT OF COMMUNITY PLANNING
STAFF REPORT

V2010-001

TO: Fairbanks North Star Borough Planning Commission

RE: **V2010-001** A request by Edward N. O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. **(Located southeast of the Steese Highway and on the northeast side of Second Street)**

I. GENERAL INFORMATION

- A. Purpose To allow two lot size variances to shift a lot line between two undersized lots in the GU-1 zone.
- B. Location On the northeast side of Second Street, between the Steese Highway and Slater Drive
- C. Access Third Street
- D. Size/PAN
- | Lot/TL | Sf. | PAN |
|--------|--------|-------|
| 16A | 11,610 | 67512 |
| 17 | 7,741 | 67521 |
- E. Existing Zone General Use-1
- F. Existing Land Use Residential
- G. Surrounding Land Use/Zoning
- North: Commercial
- South: Commercial
- East: Residential
- West: Residential
- H. Community Facilities
- Water/sewer: Golden Heart Utilities
- Electricity: Golden Valley
- I. Code Violations Structures encroach on neighboring lots (no complaints received)
- J. Flood Zone X500
- K. Zoning History Unrestricted Use to General Use-1 4/25/1988
- L. Ownership Edward O'Leary
PO Box 30027
Central, Alaska 99730
- M. Applicant Same

II. APPLICABLE PROCEDURES

Variances are governed by the following provisions of Title 18, Fairbanks North Star Borough Code of Ordinances and Title 29, Alaska Statutes:

Fairbanks North Star Borough Code of Ordinances

- A. *18.04.020 Purpose. The purpose of this title is to implement the Fairbanks North Star Borough comprehensive plan. This title is intended to protect private property rights, to promote the public health, safety and general welfare of the residents of the borough, and safety from fire and to promote the efficient distribution of water, sewage, schools, parks and other public requirements; to provide safe traffic flow on the public streets; to promote economic development and the growth of private enterprise.*
- B. *18.54.040(A) Procedure for Variances, Generally. The Planning Commission may allow a departure from the numerical regulations of this Ordinance pertaining to the size of yards and open space areas, building height and size, lot area, number and location of off-street parking spaces and loading areas, and other matters pertaining to the operation and construction of permitted uses.*
- C. *18.54.040(B) Procedures for Variances, Application for a Variance. An application for a variance must meet the following standards: 1) Special conditions exist which are peculiar to the land involved and which are not applicable to other land in the same zoning district, and 2) Strict interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.*

State of Alaska Statutes

- A. *Section 29.40.040(b). A variance from a land use regulation may not be granted if (1) special conditions that require the variance are caused by the person seeking the variance; (2) the variance will permit a land use in a district in which that use is prohibited; or (3) the variance is sought solely to relieve pecuniary hardship or inconvenience.*

III. ANALYSIS

A. Applicant's Request

The applicant wishes to shift the shared lot line between these two lots 25' to the west in order to increase the size of Lot 17 and decrease the size of Lot 16A in anticipation of the changes that will be brought about by the Third Street widening project. Lot 16-A is currently 11,610 sf in size; the proposed Lot 16-A-1 is approximately 7,750 sf in size. Lot 17 is currently 7,750 sf in size; the proposed Lot 17-A is approximately 11,610 sf. Mr. O'Leary has applied for approval of this replat (RP 023-11), which will be heard at the quick plat meeting December 16.

DOT's Third Street widening project will require the acquisition of 47' of Lots 1-7A on the northeastern half of this block and will reduce access off of Third Street. Dr. Michael Helbrecht's dental office will be affected by this project, and he has stated that he will be building a new office on Lot 5. He is working with Mr. O'Leary to secure alternative access. The new office will have access off Third Street and, through Lot 16-A-1, onto Second Street. Further, shifting the shared lot line westward will allow access to be maintained adjacent to the new shop that has been constructed on Lot 17. The shop is approximately 12.5' from the existing lot line. The replat will increase that by 25'.

This proposed replat reduces the size of Lot 16-A and increases the size of Lot 17. Decreasing the size of an already undersized lot requires a variance, whereas increasing the size of an undersized lot does not strictly require a variance. Mr. O'Leary has applied for a lot size variance for both lots.

B. Surrounding Land Use and Zoning

The subject lots, as well as the surrounding lots in all directions, are zoned General Use-1 (GU-1) and are already smaller than the minimum lot size of 40,000 sf. Graehl subdivision was originally platted March 30, 1921 (USS 1348), when no zoning was in place. Lots 14, 15 and 16 were replatted to create Lots 14-A and 16-A in 1977 (77-160), when the area was zoned Unrestricted Use, with no minimum lot size. A minimum lot size of 40,000 sf was not established until the zone change to GU-1 in 1988 when Title 18 was rewritten. These lots are therefore grandfathered for lot size.

The subject lots are currently being used for storage. There is a garage on Lot 16-A and a shed and shop on Lot 17. The garage and shed encroach onto the neighboring lot to the north. The proposed lot line shift does not increase or decrease this encroachment. The applicant has stated that the garage will be demolished. The applicant is willing to modify the shed so that it does not encroach onto the neighboring lot.

The neighborhood is a mix of residential and commercial uses. To the north is a dental office, a screen printing and embroidery shop, and a residence. Land use is currently residential to the west. The applicant's home is to the east. To the south across Second Street is the Alaska Club fitness center.

The lots in this neighborhood do not meet the minimum lot size for GU-1. The uses and lot sizes, as well as the urban location, are better suited to the General Commercial (GC) zone, and a rezone would be appropriate for this area. GC has no minimum lot size and includes a variety of permitted commercial and residential uses, including the uses that currently exist on this block. As this neighborhood continues to change, other lot line shifts may be desired. A rezone would bring these lots into conformity for lot size, allow future lot line shifts without the need for lot size variances, and protect the character of the neighborhood.

C. Title 18 Provisions

1. *18.04.020 Purpose. The purpose of this title is to implement the Fairbanks North Star Borough comprehensive plan. This title is intended to protect private property rights, to promote the public health, safety and general welfare of the residents of the borough, and safety from fire and to promote the efficient distribution of water, sewage, schools, parks and other public requirements; to provide safe traffic flow on the public streets; to promote economic development and the growth of private enterprise.*

Approval of the request will promote public health, safety and welfare. It will help improve safe traffic flow when the Third Street project commences. Shifting the lot line will facilitate the sale of 16-A, allowing Dr. Helmbrecht to provide access from Second Street for his patients. Shifting this lot line will also allow Mr. O'Leary to maintain access alongside his garage on Lot 17 to his home on Lot 18. Further, the lots are within city limits and are served by community water and sewer. Decreasing the size of Lot 16A will not affect public health and safety.

2. a. *Special conditions exist which are peculiar to the land involved and which are not applicable to other land in the same zoning district.*

There are no special conditions peculiar to these lots. These lots are undersized for the zone and likely grandfathered for lot size, similar to adjacent lots in the same zoning district. However, the desire to replat in order to sell a lot and facilitate access is not a special condition.

- b. *Strict interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.*

Strict interpretation of the provisions of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district. The applicant is already enjoying use of these lots for residential and storage purposes similar to others in the neighborhood. The owner is not currently denied any of the rights afforded by the zoning.

D. Title 29 Provisions

Section 29.40.040(b). *A variance from a land use regulation may not be granted if:*

1. *Special conditions that require the variance are caused by the person seeking the variance;*

The special conditions that require the variance are caused by applicant. The variance has been requested in order to shift a lot line so that one lot may be sold for access.

2. *The variance will permit a land use in a district in which that use is prohibited; or*

Approval of the request will not permit a prohibited land use. Lot 16-A-1 will become access to the dental office. Lot 17-A will remain developed with a shed and a shop, accessory uses to the residence on Lot 18.

3. *The variance is sought solely to relieve pecuniary hardship or inconvenience.*

The variance is sought to facilitate a sale that would improve access for several lots on the block. It will allow for redevelopment of an existing dental office after the DOT acquisition of the previous site for widening of Third Street. It will also allow for access off Second Street to the residential development on Lots 17 and 18. However, these objectives could be accomplished without shifting the lot line. It is the property owner's choice to shift the lot line because it allows the sale of only the land that will be used for access, while preserving space for the residential uses on Lots 17 and 18.

IV. RECOMMENDATION

Based on the staff analysis, the Department of Community Planning recommends denial of the request.

V. FINDINGS OF FACT

The Department of Community Planning further recommends adoption of the following findings of fact in support of approval:

1. The proposed variance does not conform to the intent and purpose of Title 18 and other Ordinances and State Statutes.
2. Denial of the proposed variance will not deprive the applicant the use of his property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.
3. The proposed variance will not jeopardize public health, safety or welfare, traffic or parking conditions, or increased danger of fire.

Respectfully submitted,



Melissa Kellner, Planner II
Division of Planning and Zoning

for

Bernardo Hernandez, Director
Department of Community Planning

Attachment

DPO's sent – 92

MMK:mb

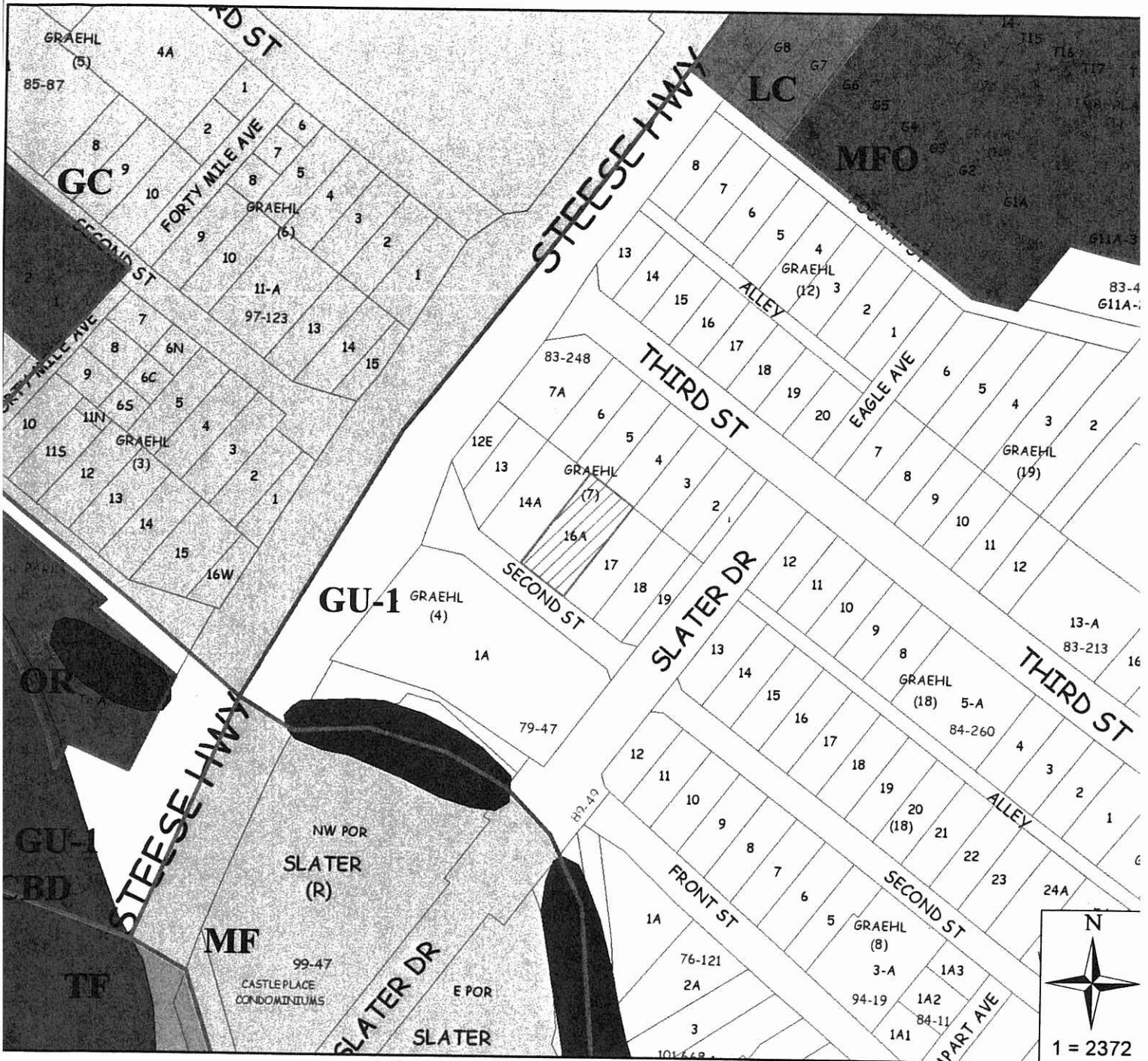


Fairbanks North Star Borough

Zoning Report

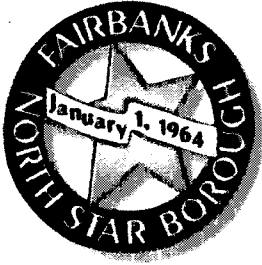
PAN# 0067512

Printed on: 12/09/2010



Property Information for PAN#: 0067512
 PROPERTY DESCRIPTION: GRAEHL, BLOCK: 07, LOT: 16A
 OWNER: O'Leary Edward N
 BILLING ADDRESS: PO BOX 30027 Central, AK 99730
 SITUS ADDRESS: N/A
 PARCEL SIZE: 11610 SF
 FLOOD ZONE: Zone X500 (100%)
 Special Reg. Areas: None
 ZONING: GU-1 (100%)
 ZONING PLAN: Urban Area (100%), Urban Boundary (100%)
 PLANNING DISTRICT: Fairbanks (100%)
 ROAD SERVICE AREA: City Of Fairbanks (100%)
 FIRE SERVICE AREA: City Of Fairbanks (100%)
 STRUCTURES: N/A
 COMMUNITY PLANNING PERMITS: NONE

Special Regulatory Areas (Levee and SECA)		FEMA Flood Hazard Area	
	LEVEE 250ft BUFFER		Floodway
	SALCHAKET HEIGHTS EROSION CONTROL AREA		Zone A
			Zone AE



Fairbanks North Star Borough Department of Community Planning

P.O. Box 71267
Fairbanks, Alaska 99707-1267
(907) 459-1260 Fax: (907) 459-1255
planning@co.fairbanks.ak.us

PUBLIC HEARING APPLICATION

File No. V 2011-001

Application is for Rezone (\$400) Variance (\$200) Conditional Use Approval (\$250)

Property Owner:	Owner's Representative (if any):
Name: <u>Edward N. O'Leary</u>	Name: <u>RCH Surveys, Ltd.</u>
Mailing Address: <u>P.O. Box 30027</u> <u>Central, AK 99730</u>	Mailing Address: <u>326 Driveway St., Ste. 102</u> <u>Fairbanks, AK 99701</u>
Phone: <u>452-2748</u>	Phone: <u>451-7411</u>
Fax:	Fax: <u>451-7413</u>
E-mail:	E-mail: <u>rgstefan@rchsurveys.com</u>

Property Information:	
Legal Description: <u>Lot 16-A and Lot 17 Block 7 Graehl Townsite</u> <u>(Plat No. 77-160 & Inst. No. 83,995)</u>	
Street Address: <u>425 Second St.</u> <u>Fairbanks, AK 99701</u>	Size: <u>0.445</u> <input checked="" type="checkbox"/> acres <input type="checkbox"/> square feet
Parcel Account Numbers (PAN): <u>0067512 & 0067521</u>	
Existing Zone: <u>GU-1</u>	Existing Use: <u>Residential</u>
Existing Water/Wastewater Providers: <input type="checkbox"/> Private <input checked="" type="checkbox"/> Public: <u>Golden Heart Utilities</u> (name of provider)	
For Rezones: Proposed Zone:	For Variances: <input checked="" type="checkbox"/> Lot Size <input type="checkbox"/> Setback <input type="checkbox"/> Parking <input type="checkbox"/> Other:
For Conditional Uses: Requested Use:	Description: <u>Lot 16-A = 11,610 s.f. (GU-1 minimum)</u> <u>Lot 17 = 7,750 s.f. (is 40,000 s.f.)</u>

I hereby certify that (I am) (I am authorized to act for) the owner of the property. I understand that payment of the application fee helps to cover the costs associated with processing this application, and that payment of the fee does not assure approval of the application.

* APPLICANT SIGNATURE: Edward O'Leary DATE: 11/4/10
OWNER SIGNATURE (if different): _____ DATE: _____

Received By: <u>MK</u>	Fee: <u>200</u>	Receipt No. <u>436912</u>	Proposed Meeting Date: <u>Dec 14</u>	Sign Issued? <input checked="" type="checkbox"/> Yes Sign #: <u>17</u>
Date: <u>4 Nov 2010</u>				

Public Hearing Application: Variance

Written Narrative

Is the variance the minimum necessary to develop the property?

The areas of the existing lots, Lot 16-A and Lot 17 Block 7 Graehl Townsite, are roughly 11,610 square feet and 7,750 square feet, respectively. Both lots are nonconforming in area, as the current zoning is GU-1 which sets the minimum lot size at 40,000 square feet. The owner of both lots, Edward N. O’Leary, plans to develop the property by subdividing. His intent is to vacate the common line between the two lots and establish a new common lot line roughly 25 feet to the west. No additional lots will be created by this action. The areas of the new lots—proposed Lot 16-A-1 and Lot 17-A—will be 7,750 square feet and 11,610 square feet, respectively. See the attached preliminary plat for a graphic representation of these proposed lots. That being said, this variance is the minimum necessary to develop the property.

How is the hardship involved in developing the property not of your own making?

The plat of Graehl Townsite, U.S. Survey No. 1348, was accepted on March 30, 1921. Numerous lots were created by this plat, with the smaller lots ranging in size from 2,497 square feet to 10,820 square feet. The later zoning designation of GU-1 was applied to this area, thereby creating a hardship in developing the property.

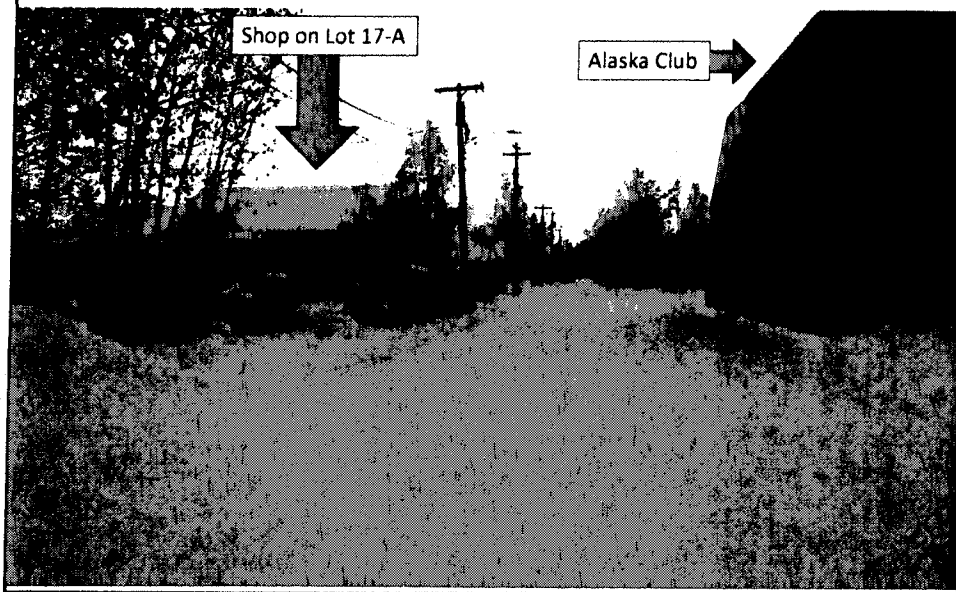
What are the special circumstances or conditions that apply to your property but do not apply to other properties in the same general area?

There are no special circumstances or conditions that apply to this property.

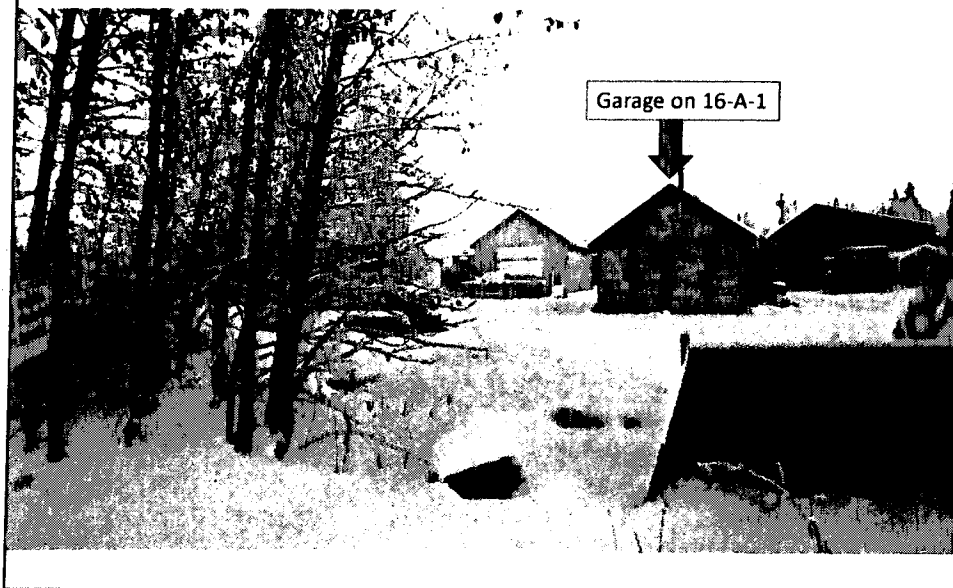
How does the strict application of the numerical standard (setback distance, lot size, etc.) deprive you of rights commonly enjoyed by other properties in the same general area?

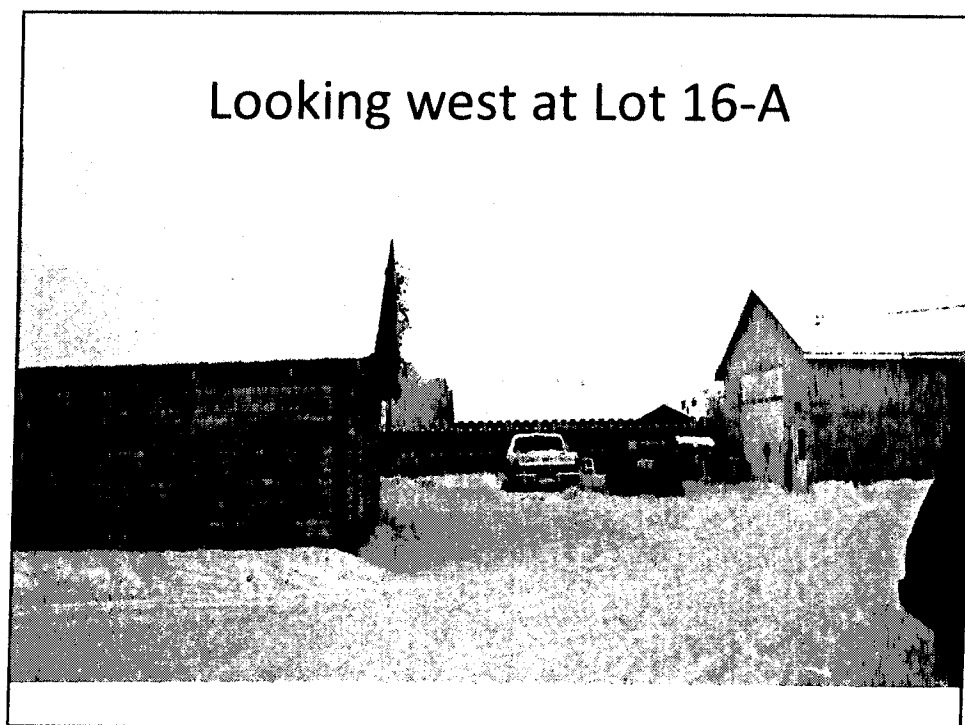
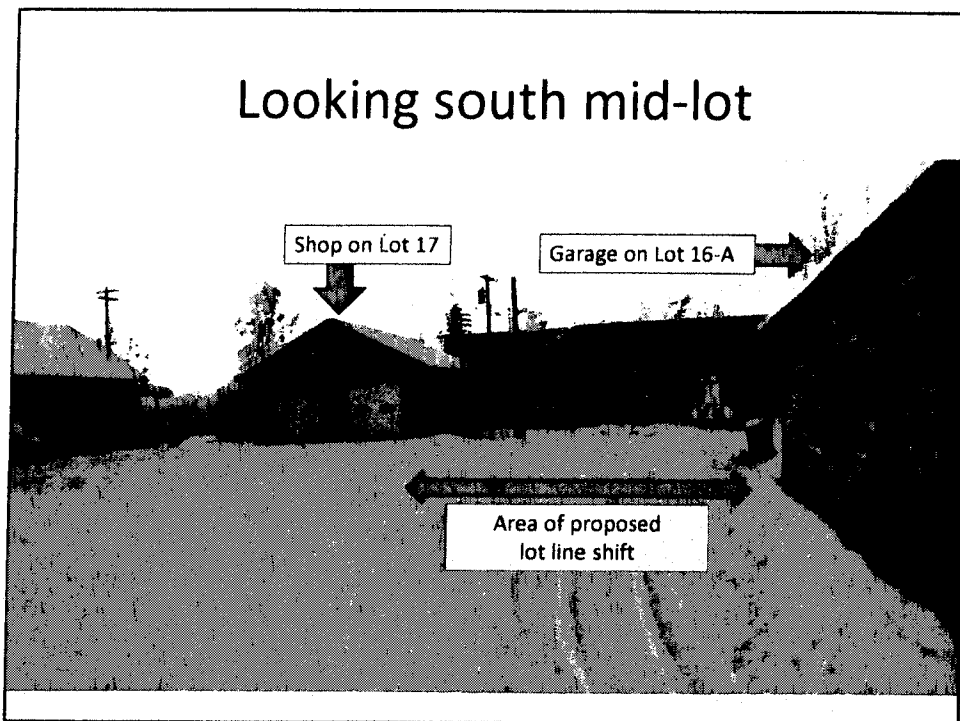
The GU-1 minimum lot size of 40,000 square feet is not conformed to by the majority of the properties in this area. Therefore the strict application of this minimum lot size deprives the owner of rights commonly enjoyed by other properties in the same general area.

Looking east down Second Street



Looking north from Second Street toward Lot 16-A-1





Melissa Kellner

From: George Stefan [gstefan@rchsurveys.com]
Sent: Tuesday, December 07, 2010 4:14 PM
To: Melissa Kellner
Subject: Graehl building offsets

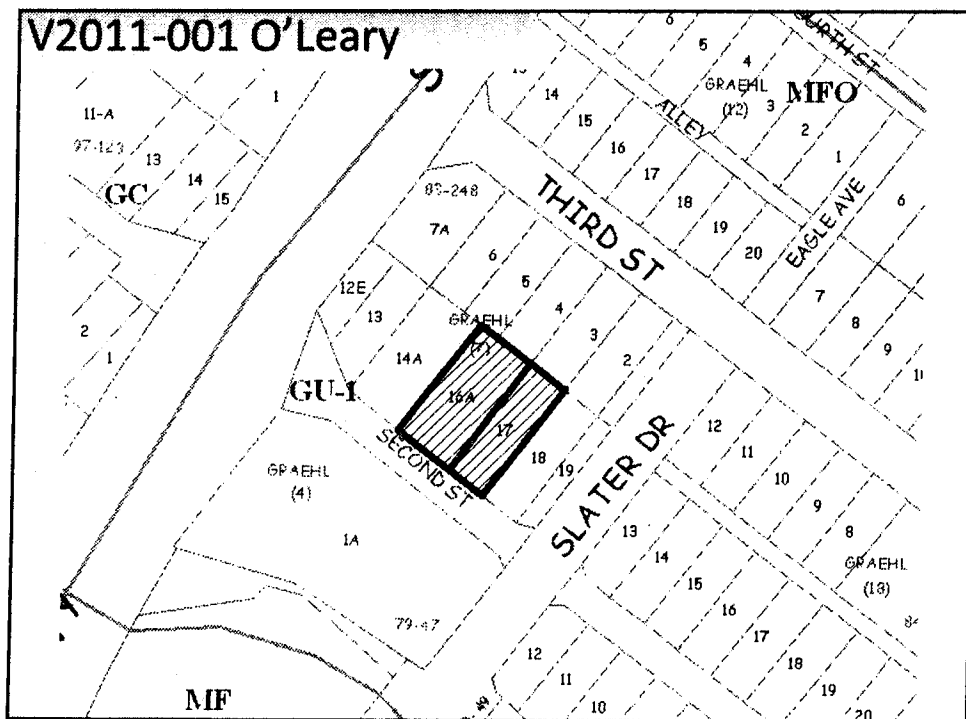
Hey Melissa,

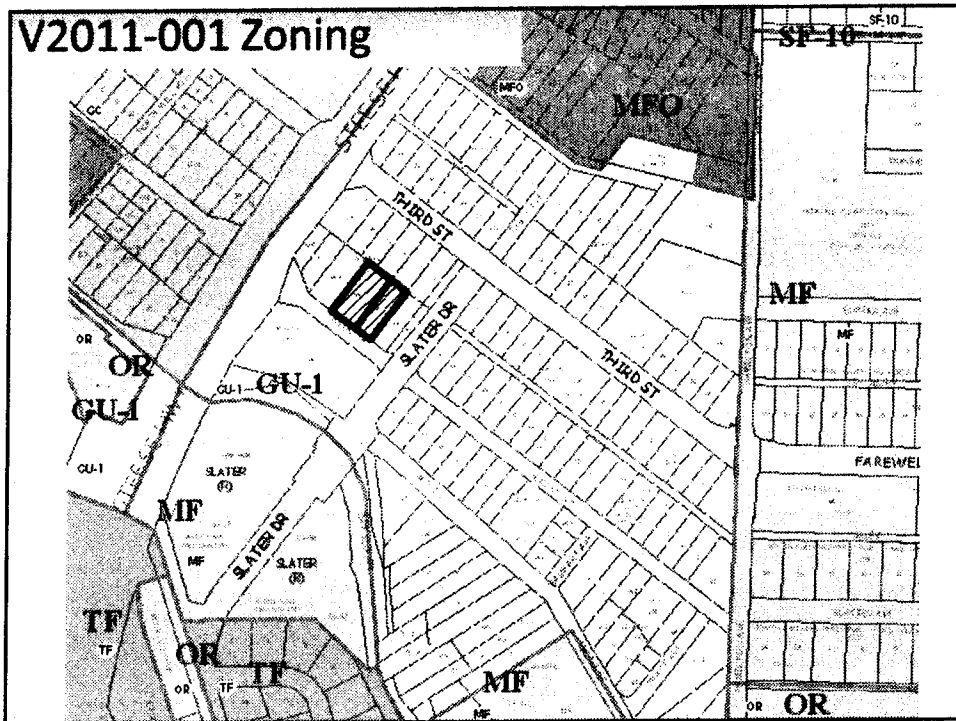
The garage is encroaching 1.4'+/- onto Lot 4; this does not include the additional 1.5' of eave overhang. I'll hopefully have the driveway permit info for you within a day or two.

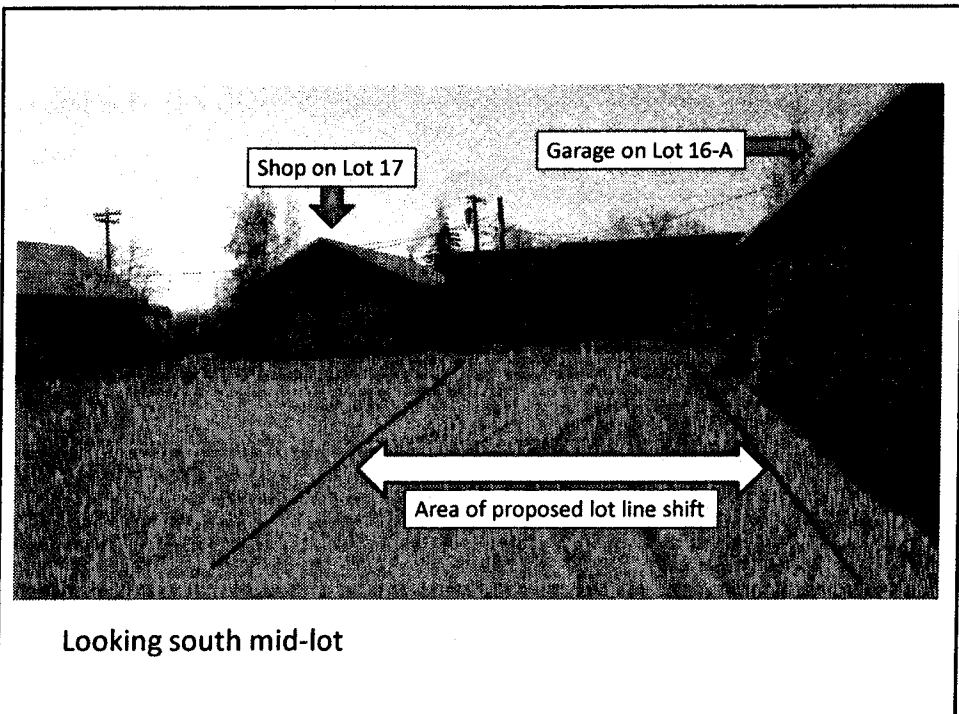
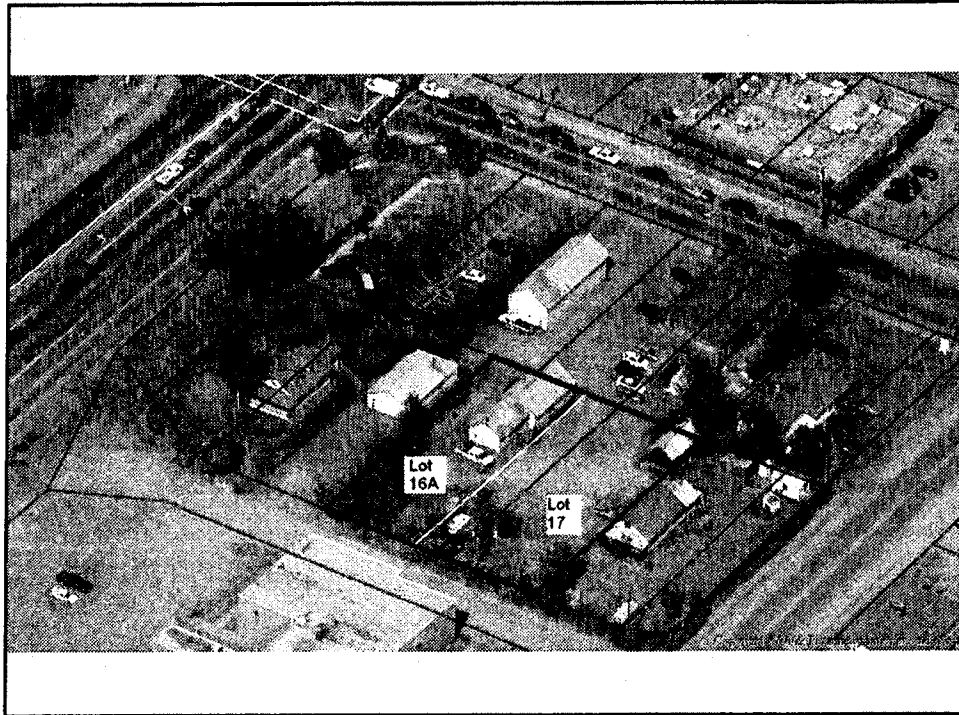
George Stefan
RCH Surveys Ltd.
(907)451-7411
(907)451-7413 (fax)

**FNSB Planning Commission
Public Hearing
December 14, 2010**

Photo courtesy of Joyce Kelso

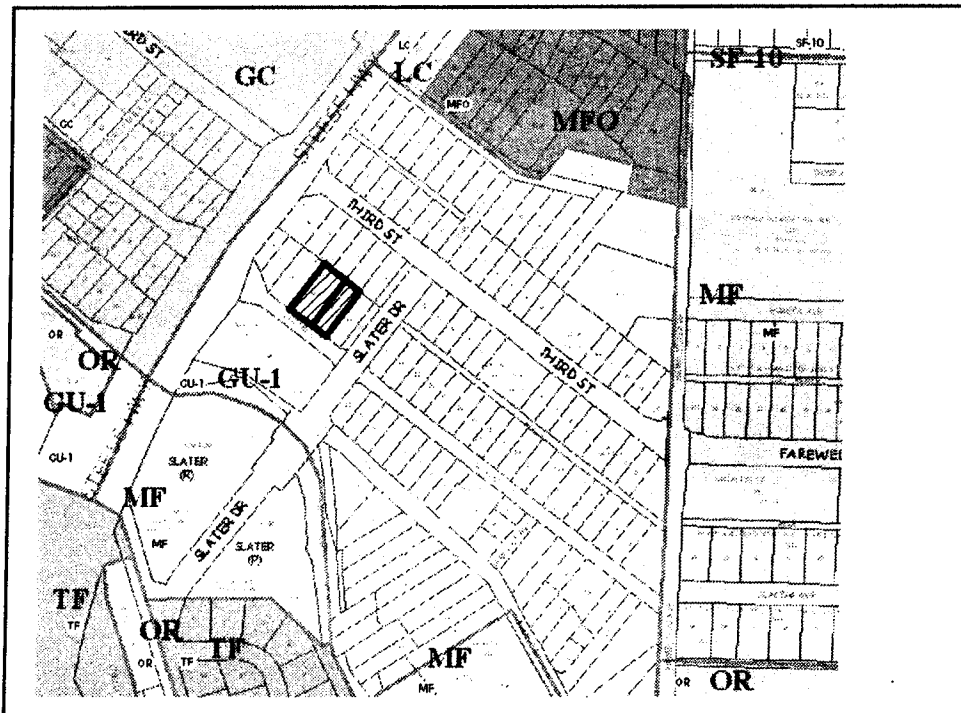








Looking north from Second Street toward Lot 16-A



Recommendation and Findings of Fact

The Department of Community Planning recommends denial and adoption of the following findings of fact in support of denial:

- 1. The proposed variance does not conform to the intent and purpose of Title 18 and other Ordinances and State Statutes.**
- 2. Denial of the proposed variance will not deprive the applicant the use of his property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.**
- 3. The proposed variance will not jeopardize public health, safety or welfare, traffic or parking conditions, or increased danger of fire.**

FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
December 14, 2010

A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Assembly Chambers, Borough Administration Center, 809 Pioneer Road, Fairbanks, Alaska. The meeting was called to order at 7:00 p.m. by Jennifer Peterson, Chairman.

MEMBERS PRESENT: Jennifer Peterson David Pruhs
Brian Flemming Nello Cooper
Michael Wenstrup Pamm Hubbard
Joy Huntington

MEMBERS ABSENT: Tom Marsh Tom Temple

OTHERS PRESENT: Bernardo Hernandez, Director of Community Planning
Jim Lee, Deputy Director of Community Planning
Melissa Kellner, Planner II
Cynthia Klepaski, Asst. Borough Attorney
Marnie Long-Boehl, Secretary

A. ROLL CALL

B. MESSAGES

1. Chairperson's Comments:
Ms. Peterson congratulated **Ms. Huntington** on the arrival of her new baby girl. She reminded the Commissioners to fill out the Boards/Commission application for the Mayors records.
2. Communications to the Planning Commission
Mr. Hernandez thanked the Commissioners on all the hard work they put in on the Grandfather Rights Ordinances – 6 evenings and 21 hours later.
3. Citizen's Comments – limited to three (3) minutes
 - a. Agenda items not scheduled for public hearing.
None
 - b. Items other than those appearing on the agenda.
None

C. *MINUTES

D. APPROVAL OF AGENDA AND CONSENT AGENDA

Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

MOTION: To approve agenda and consent agenda, including minutes of previous meetings, November 16th, November 30th, and December 7th by **Ms. Hubbard**, seconded by **Mr. Wenstrup**.

Objections

None

MOTION APPROVED

E. CONSENT AGENDA ITEMS

F. PUBLIC HEARING

V2011-001 A request by Edward N. O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. (Located southeast of the Steese Highway and on the northeast side of Second Street)

Melissa Kellner presented the staff report. Based upon staff analysis, the Department of Community Planning recommended denial of the proposed request.

Ms. Peterson asked if there were any questions for Staff.

Mr. Wenstrup asked to see the zoning map on the overhead. He asked how this area was still zoned GU-1.

Mr. Hernandez said that he didn't have an answer for **Mr. Wenstrup's** question. It was before his time at the Borough. He said that this area should be rezoned to General Commercial. The uses are commercial and the lots sizes are not appropriate for GU-1.

Mr. Wenstrup asked Legal if it would be possible to put an easement in for a driveway, leaving the lot lines where they currently are while still allowing the sale of lot 16-A.

Ms. Klepaski replied yes.

Mr. Hernandez stated that a long term solution would be to rezone this area to General Commercial.

Mr. Wenstrup asked if this is something that could be forward on to the Assembly.

Mr. Hernandez said that someone could recommend and ask that the Assembly initiate that zoning. There are not so many land owners in that area that they couldn't get together and apply for a rezone. We offered this solution to the applicant and said that if they wanted to change from a variance to a rezone, the Planning Department would apply their variance application fee to the rezone fee. The applicant decided to go forward with the variance.

Mr. Pruhs asked Staff if the request for the variance constituted any unsafe, unsound, unsanitary aspects to be of imminent danger to anyone in the area.

Ms. Kellner replied no.

Mr. Pruhs asked **Ms. Kellner** if she was doing a strict interpretation of zoning codes.

Ms. Kellner said yes because there is no restriction on the lot that grants the owner from getting use of his lot without a variance. The reason for the variance is to sell the lot. The owner is already enjoying use of the property similar to how other people are enjoying use of their property. He has enjoyed use of his property for many years without this variance.

Mr. Hernandez added that Staff could not substantiate the variance with State regulations and the FNSB variance procedure.

Mr. Cooper asked Staff about Lot 17 and the property line that showed on the overhead, was that the original lot line?

Ms. Kellner replied that the property line on Lot 17 is how it was originally platted in 1921.

Mr. Cooper asked Staff about Lot 16A and if the line on the overhead was the proposed lot line.

Ms. Kellner pointed out the proposed and existing lot lines on the overhead. She also said that the proposed replat is included in the Commissioners packet.

PUBLIC HEARING OPENED

Richard Heieren, representing the applicant, is contesting the way Staff is presenting the proposed variance. The hardship of adjusting the lot line was not created by the owner. The owner doesn't want to sell his property to Dr. Helmbrecht, he just wants to adjust the lot line. He questions the zoning process because of spot zoning; this would be a spot zone. The owner owned the property when it was Unrestricted Use (UU) zone and he doesn't believe that he should be held to a different standard. He asked about the widening of 3rd Street and when they do that project it will make the lots smaller, will the Borough grant variances to DOT or will the neighborhood have to rezone before the project is started? He encourages the Commissioners to vote against Staff recommendation and grant this variance.

Ms. Peterson asked if anyone had any questions for **Mr. Heieren**.

PUBLIC HEARING CLOSED

MOTION Move to approve **V2011-001** by **Mr. Pruhs**, seconded by **Mr. Cooper**.

Discussion

Mr. Pruhs stated that this is an old Fairbanks conglomerate of everything that we go through as Commissioners. We have ordinances that prevent the Commissioners from doing what is practical. If this variance is granted, there will be no detriment to anyone for any reason, under any circumstances. He is in favor of this variance.

Mr. Wenstrup is not sure which way he will be voting. He stated that he doesn't think anyone will be harmed by granting this variance, but to approve a variance like this could cause problems in the future. The statutes in our ordinance are against this type of variance. It is the Legislature and the Borough Assembly's job to change the laws. It is the Planning Commission's duty to make the best decision and stay within the law. This variance would not solve the problem but put a band aid on the problem. This neighborhood needs to be rezoned. It would not be a spot zone if enough neighbors were involved with the rezone. He agrees with the staff report on this variance.

Ms. Klepaski said that it could lead to future problems. Someone could look at this and do a comparison on variances and say that they are being treated differently and make an equal protection claim down the road. The Planning Commission needs to treat similar situations the same. The applicant might have not made the lot size small but he wants to shift the lot line because of a structure he built to have access to the garage.

Mr. Cooper said to solve the problem; just sell the property with an easement.

Ms. Huntington agrees with **Mr. Wenstrup**.

Ms. Hubbard has no comment.

Mr. Flemming said that he will use common sense. He is going to vote with a similar belief that **Mr. Pruhs** presented.

Ms. Peterson said that we typically do three things. One is conditional use and that is where we use common sense. The second is a variance where it limits our use of common sense because the law is more specific than it is with conditional uses. The third is a rezone.

ROLL CALL

One (1) in Favor: **Mr. Pruhs**.

Six (6) Opposed: **Mr. Cooper, Ms. Hubbard, Mr. Flemming, Mr. Wenstrup, Ms. Huntington, Ms. Peterson**.

MOTION TO APPROVE, FAILED.

Ms. Peterson stated the right to appeal the decision is 15 days in writing to the Clerk's office.

Ms. Klepaski announced that the Commissioners need to make Findings of Fact for the denial.

MOTION to approve **V2011-001** with Staff's three Findings of Fact by **Mr. Wenstrup**, seconded by **Mr. Pruhs**.

**MOTION TO APPROVE FINDINGS: PASSED
NO OBJECTIONS**

G. UNFINISHED BUSINESS

H. NEW BUSINESS

I. COMMISSIONER'S COMMENTS

1. FMATS

Mr. Wenstrup said that the committee has not met since our last meeting.

2. Title 17 Rewrite Project

Mr. Hernandez said that Title 17 Rewrite has been completed and is in the Legal department being reviewed.

3. Comprehensive Plan Advisory Board (CPAB)

Mr. Hernandez said that the Land Use Capability project is in the hands of the consultant. They are finishing the report on alternative futures of what our community will look like in 10-12 years.

4. Other Commission Comments

Ms. Huntington thanked the Commissioners for the card. She said that **Marnie Long-Boehl** was her first visitor with flowers and a card from Community Planning.

Mr. Cooper thanked **Jim Lee** and **Marnie Long-Boehl** for delivering a card and flowers from Community Planning during his illness.

Mr. Wenstrup asked Staff about all the variances that have shown up because they were in the process of a sale of the properties. He has never seen a variance from this neighborhood.

Mr. Pruhs added that this is an old neighborhood and nothing has changed or sold in a long time.

Ms. Hubbard asked Staff when the Grandfather Rights would come before the Assembly.

Mr. Hernandez replied, January 13, 2011.

Mr. Lee announced that he would like to hold a Planning and Platting retreat in March 2011. He will get back to the Commissioners, by email, on a specific date.

I. ADJOURNMENT

There being no further business the meeting was adjourned at 7:45 p.m.



Fairbanks North Star Borough

809 Pioneer Road

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Fairbanks, Alaska 99707-1267

907/459-1000

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MEMORANDUM

TO: Mona Lisa Drexler, Borough Clerk

FROM: Bernardo Hernandez, Director
Department of Community Planning

DATE: December 15, 2010

SUBJECT: Conditions / Findings of Fact

RE: **V2011-001** A request by Edward N. O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. (Located southeast of the Steese Highway and on the northeast side of Second Street)

On Tuesday, December 14, 2010, the Fairbanks North Star Borough Planning Commission voted one (1) in favor, six (6) opposed, for denial of V2011-001, and adopted the following Findings of Fact in support of its decision:

FINDINGS OF FACT:

1. The proposed variance does not conform to the intent and purpose of Title 18 and other Ordinances and State Statutes.
2. Denial of the proposed variance will not deprive the applicant the use of his property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.
3. The proposed variance will not jeopardize public health, safety or welfare, traffic or parking conditions, or increased danger of fire.

If any additional information is needed or required, please let us know.

Appeal Due By _____

FAIRBANKS NORTH STAR BOROUGH 19 AM 8:26

PLANNING COMMISSION MEETING
RECEIVED

December 14, 2010

COMMISSION MEMBERS: MS. JENNIFER PETERSON, CHAIR
MR. BRIAN FLEMMING
MS. JOY HUNTINGTON
MR. MICHAEL WENSTRUP
MR. NELLO COOPER
MR. DAVID PRUHS
MS. PAMM HUBBARD

OTHERS PRESENT: MR. BERNARDO HERNANDEZ, DIRECTOR OF
COMMUNITY PLANNING
MR. JIM LEE, DEPUTY DIRECTOR
OF COMMUNITY PLANNING
MS. MELISSA KELLNER, PLANNER II
MS. CYNTHIA KLEPASKI, ASST. BOROUGH
ATTORNEY
MS. MARNIE LONG-BOEHL, SECRETARY

1 P R O C E E D I N G S

2 (On record)

3 CHAIRMAN PETERSON: Welcome to the regularly
4 scheduled planning commission meeting of December 14th, 2010.
5 We ask that everyone please turn off your cell phones, as the
6 frequencies interrupt our recording system.

7 Marnie, will you please call the roll.

8 MS. LONG-BOEHL: Mr. Cooper?

9 MR. COOPER: Here.

10 MS. LONG-BOEHL: Mr. Flemming?

11 MR. FLEMMING: Here.

12 MS. LONG-BOEHL: Mr. Pruhs?

13 MR. PRUHS: Here.

14 MS. LONG-BOEHL: Mr. Temple? Mr. Wenstrup?

15 MR. WENSTRUP: Here.

16 MS. LONG-BOEHL: Ms. Hubbard?

17 MS. HUBBARD: Here.

18 MS. LONG-BOEHL: Ms. Huntington?

19 MS. HUNTINGTON: Here.

20 MS. LONG-BOEHL: Ms. Peterson?

21 CHAIRMAN PETERSON: Here.

22 Well, first of all, congratulations,

23 Ms. Huntington, on the birth of your unexpected girl. I know
24 you thought for sure it was going to be a boy.

25 We all have forms in front of us that we were

1 asked to fill out for the mayor's records. I'm told that we
2 don't have to actually fill out the -- the stuff that matters
3 concerning this stuff, so don't get scared.

4 Mr. Hernandez, do you have anything for us
5 tonight?

6 MR. HERNANDEZ: Yes, just one comment. Again,
7 thank you very much for all the hard work you guys did on the
8 Grandfather Rights Ordinance. You met on 6 different nights
9 and you spent 21 hours on that project. So thank you very
10 much. You did a great job.

11 CHAIRMAN PETERSON: Thank you. Next are
12 citizen's comments. Anyone wishing to speak to anything not
13 on tonight's agenda may do so now. You'll have three minutes.
14 Seeing none, citizen's comments closed. First up.....

15 UNIDENTIFIED SPEAKER: Use more authority.

16 CHAIRMAN PETERSON: This is my first time.
17 First up will be agenda item not scheduled for public hearing.
18 Oh, here we go. Okay. So seeing none, citizen's comments
19 closed.

20 UNIDENTIFIED SPEAKER: Better, better.

21 CHAIRMAN PETERSON: All right.

22 UNIDENTIFIED SPEAKER: You seem so forceful.

23 CHAIRMAN PETERSON: Okay. So next is approval
24 of the agenda and consent agenda. This will include approving
25 the minutes of the prior meetings, November 16th, 30th, and 7.

1 You have them in your packets. Do I hear a motion?

2 MS. HUBBARD: So moved.

3 CHAIRMAN PETERSON: And a second?

4 MR. WENSTRUP: Second.

5 CHAIRMAN PETERSON: Is the move and second to
6 approve the agenda and consent agenda for those three weeks?
7 Are there any changes to the agenda or minutes? And any
8 objections? Seeing none, agenda and minutes are approved
9 without objection.

10 We will now take up the first item of business,
11 which is Variance 2011-001. Marnie, will you please read
12 this.

13 MS. LONG-BOEHL: A request by Edward N. O'Leary
14 for lot size variances of 32,250 square feet and 28,390 square
15 feet for the General Use-1 minimum lot size requirement of
16 40,000 square feet in order to shift the lot line, resulting
17 in 7,750 square foot lot at Lot 16-A (Lot 16-A-1 after
18 proposed replat) and an 11,610 square foot lot at Lot 17 (Lot
19 17-A after proposed replat), Block 07 Graehl subdivision,
20 (Located southeast of the Steese Highway and on the northeast
21 side of Second Street.)

22 CHAIRMAN PETERSON: May we have a staff report.

23 MS. KELLNER: Yes. Thank you, Madam Chair. The
24 applicant has requested a variance in order to shift the
25 shared lot line between Lot 16-A and 17, decreasing the size

1 of 16-A, so moving this line 25 feet in this direction.

2 A variance is -- they've also applied for a
3 replat, which will go -- which will be heard on December 16th.
4 A variance is required to decrease an already undersized lot.
5 So decreasing the size of 16-A requires a variance.

6 It's not strictly required -- a variance is not
7 strictly required to increase the size of an undersized lot,
8 but the applicant has requested a variance for both lots.

9 These lots were originally platted in 1921, and
10 then 14-A and 16-A were platted out of lots 14, 15, and 16 in
11 1977. There was no minimum lot size at that time. The
12 minimum lot size was established in 1988 with the GU zone.

13 The lot line shift is desired in order to sell
14 16-A or what will be 16-A-1 to the adjacent property owner for
15 access. And I'll discuss that a little bit more later in my
16 staff report.

17 All of Graehl is zoned GU-1. It's a pocket of
18 GU-1 in the city. The subject lots themselves are surrounded
19 by GU-1, but you can see across the Steese to the west is
20 zoned general commercial, to the north is MFO, and light
21 commercial right here, and to the south and the east you have
22 multiple-family and two-family. Few of the lots in Graehl
23 meet the minimum lot size for GU-1. I think there are only
24 about three lots that meet the minimum lot size, and they're
25 all likely grandfathered for lot size.

1 The subject property is used for storage. It's
2 accessory uses to the applicant's residence. His residence is
3 right here. This is a garage and a shed. There's a new
4 garage constructed in this area, but it -- we don't have any
5 imagery that includes it.

6 To the left are residential uses, and I believe
7 Dr. Helmbrecht uses one of these houses as a lab. This is
8 Dr. Helmbrecht's dental office, another garage or storage
9 shed; the Trademark embroidery and screen printing shop, and a
10 restaurant. Across Second Street to the south is the Alaska
11 Club fitness center. This is another view of the property. I
12 tried to show the proposed shift of lot -- of lot lines; the
13 decreasing Lot 16 and increasing Lot 17. This would allow
14 Mr. O'Leary to maintain access around that -- that garage
15 that's built right here, so he would still have access around
16 here.

17 And then the Third Street project is going to be
18 taking 47 feet on the north side here. And Dr. Helmbrecht
19 wishes to relocate his -- his business and then he would need
20 access through Second -- through to Second. So he would like
21 to purchase this lot and get access through on this side.

22 And I have another PDF of that that I wanted to
23 show you guys. I don't know if this makes it a little bit
24 more clear. Again, shifting this lot line here, this is the
25 garage that's -- that was going to be built, and I'm just

1 showing you how there would still be access on this side for
2 Mr. O'Leary.

3 So, as I said, 16-A is the lot being reduced in
4 size. And the alternative to a variance might be available by
5 combining -- whoops -- from combining these two lots. This
6 lot is owned by Dr. Helmbrecht and he may wish to acquire this
7 lot by combining these two. He would be increasing that lot
8 size, and then, of course, you would be increasing the size of
9 Lot 17 as well. No variances are required if you're
10 increasing lot sizes. So that is one alternative if it meets
11 the needs of the property owners.

12 And this just shows, again, the area, the
13 proposed lot line shift. If you're standing in the middle of
14 the lots looking south, this is the new garage and this is the
15 old garage. This garage would be torn down to provide access
16 through there, and then Mr. O'Leary would have access through
17 here to his property and his residence over here.

18 Just another picture from the opposite
19 direction, you see the screen printing shop here, the garage
20 and shed here.

21 And a third alternative that I wanted to mention
22 is the potential to rezone that -- that block or however much
23 of Graehl wants to be included in a rezone. GU-1 is not
24 really an appropriate zone for this area. As I mentioned,
25 only, I think, only two or three of the lots meet the minimum

1 lot size. There's no minimum lot size in the general
2 commercial zone. The uses are suitable -- or general
3 commercial is an appropriate zone for the existing uses and
4 the lot sizes. And by rezoning to general commercial, they
5 would eliminate the need for any variances for future lot line
6 shifts.

7 And the neighborhood is hooked up to city water
8 and sewer, so public health and safety would not be
9 threatened.

10 We recommend denial of this variance with three
11 findings of fact. This concludes my staff report.

12 CHAIRMAN PETERSON: Are there any questions from
13 staff? Mr. Wenstrup.

14 MR. WENSTRUP: Yeah, I have a couple. Could we
15 go back to the zoning map?

16 MS. KELLNER: Sure.

17 MR. WENSTRUP: And I just -- I'd like to get a
18 sort of wider view on this (indiscernible) about something. I
19 mean, I'm just -- can you expand out from that?

20 MS. KELLNER: Sure.

21 MR. WENSTRUP: And then I guess I'd ask staff
22 also how is this area still GU-1? I'm just curious. I mean,
23 I.....

24 MR. HERNANDEZ: I don't have an answer. I don't
25 go back that far, so I don't know. But it's -- it's an area

1 that clearly probably should be zoned a general commercial
2 because all the uses are commercial in general, and the lot
3 sizes are just not appropriate for the GU-1.

4 MR. WENSTRUP: Well, and the big part of it is
5 also residential too. I mean.....

6 MR. HERNANDEZ: Yes, maybe further to the east.

7 MR. WENSTRUP: Yeah. Okay. And then I guess I
8 have a question that's for legal. In some of the alternates
9 that were given, could it -- is it possible for someone to
10 sell, basically, to make an easement for the driveway use and
11 sell the use of that easement, or to rent? You know, is
12 that -- would that be an option in this case also?

13 MS. KLEPASKI: To have an easement on.....

14 MR. WENSTRUP: Because it looks like he needs a
15 driveway and to basically just to put the driveway through
16 and.....

17 MS. KLEPASKI: Oh, to sell 16-A but then get an
18 easement across it, yes.

19 MR. WENSTRUP: Okay. That's all.

20 MR. HERNANDEZ: And just to reiterate. I think
21 a long-term solution really would be a rezone so that they
22 just don't have to mess around with these lot size issues
23 anymore, because I'm sure over time as this community -- as
24 this particular area continues to grow, and it will, you're
25 going to run into that problem.

1 MR. WENSTRUP: I guess I have one more question.
2 Is that -- if the neighborhood isn't necessarily looking to do
3 that, is that something that could be forwarded to the
4 assembly?

5 MR. HERNANDEZ: No, I think -- well, it could
6 be. You could recommend that somebody on the assembly
7 initiate that rezone. I mean, it's a possibility. But it
8 would probably be best if the land owners themselves got
9 together. And there are not many land owners for that
10 particular block, to get together and forward an application.

11 And, in fact, we offered to the applicant if
12 they wanted to go forward with the rezone, that we would use
13 the money they submitted with the variance and take that
14 and then \$102 more just go for the rezone. But they
15 decided that they wanted to come with this variance
16 request.

17 CHAIRMAN PETERSON: Are there any other
18 questions for staff? Mr. Pruhs.

19 MR. PRUHS: Ms. Kellner, does this request
20 constitute any unsafe, unsound, unsanitary aspects where if it
21 was granted, there would be an imminent danger of anyone in
22 that whole block in any way?

23 MS. KELLNER: No.

24 MR. PRUHS: So basically we have a -- you're
25 doing a strict interpretation of zoning code?

1 MS. KELLNER: Yes.

2 MR. PRUHS: Which is preconfined -- which is
3 confined what you can do on this lot?

4 MS. KELLNER: I guess I don't understand.

5 MR. PRUHS: It has -- you're making a strict
6 interpretation of what -- what the zoning code says, so we're
7 confined -- you're saying we're confined by what we can do.

8 MS. KELLNER: Well, because there's no physical
9 restriction on the lot that prevents the owner from getting
10 use over that lot without a variance. The reason for the
11 variance is to be able to sell it. And the owner is already
12 enjoying use of the property, similar to how other people are
13 enjoying use of their property and -- and, in fact, has been
14 enjoying use of the property for many years without the need
15 for a variance.

16 MR. HERNANDEZ: In other words, we couldn't
17 substantiate that through state regulations, state statutes,
18 and our own variance procedure in terms of special conditions
19 which were peculiar to land -- well, there really weren't any.
20 And the applicant is -- the one that's initiating this is
21 causing this need for variances. It's not something that
22 someone inherited. So we couldn't justify given the
23 parameters we were given.

24 MR. PRUHS: Thank you.

25 CHAIRMAN PETERSON: Any other questions for

1 staff? Mr. Cooper.

2 MR. COOPER: On Lot 17, that -- that property
3 line that moves to the northwest on Lot 17, is that -- is that
4 where the -- is that where the lot line originally started?

5 MS. KELLNER: 17 is -- right now 17 is as it was
6 originally platted in 1921.

7 MR. COOPER: Okay. So that's
8 (indiscernible). So that 16-A, is this -- is this the
9 proposed lot line right here?

10 MS. KELLNER: These are the existing lot lines.
11 The proposal -- the proposal is to move this line over
12 25 feet. And the propos- -- I forgot to mention that the proposed
13 replat is included in your packet.

14 MR. COOPER: Okay. All right. Okay. I just
15 wanted to make sure I understood where -- where the lot lines
16 were. Thank you.

17 CHAIRMAN PETERSON: Any other questions?
18 Seeing, none, public hearing is now open. Is the applicant
19 present? Does anyone else wish to speak to this item besides
20 the applicant?

21 MR. HEIEREN: Richard Heieren representing the
22 applicant. I diplomatically want to contest the way the staff
23 has presented this thing. The hardship and -- of being able to
24 adjust this lot line was not created by the owner, who
25 actually has lived there most of his life. And he is -- he's

1 in his mid 70s. He doesn't want to sell the prop -- property,
2 excuse me, to Dr. Helmbrecht, but I think it's simply
3 adjusting a lot line so you're not -- you're not creating a
4 problem any greater than exists today. In other words, you're
5 transferring the lot area from one to another and you're
6 ending up with the same lot size.

7 So you have to -- you have to use a little
8 common sense in things like this, and that's the reason why
9 you don't rely on staff entirely. You look at the -- look at
10 the sense of being able to deal with people as human beings
11 and realize this is just a lot shift, it's not anything more
12 complicated than that.

13 I would -- I would question the zoning process
14 because I don't know how many times I've heard the concept of
15 spot zoning. This definitely would be a spot zone if we went
16 GC and nobody else on the block did. So I don't really
17 think that, you know, it's kind of okay in one instance
18 and then not okay in the next. You've got to apply it
19 equitably to everybody.

20 He didn't create this lot size restriction. He
21 owned this property when it was UU, and so I don't think
22 it's -- it's right that -- that he should be held to a
23 different standard. It's not like you're selling the farm to
24 be able to allow this to happen.

25 When -- when the widening for Third Street comes

1 in, I'm not sure you're going to require -- and the lot sizes
2 will be substantially smaller because of the widening, are you
3 going to grant variances to DOT, or are you going to make
4 people rezone before they can widen the street? I mean, these
5 are questions that you don't have to answer today, but you
6 will have to answer later on.

7 So I think granting a variance is not that much
8 of a leap. And I don't -- I don't mean to offend the staff,
9 but I think it's an appropriate thing to do for a fellow
10 that's -- that was born and raised here in Fairbanks, his --
11 his homestead kind of thing. so he wants to -- he
12 wants to maintain the lot size for his house, and I encourage
13 you to -- to go against the staff and grant this variance.
14 Thank you.

15 CHAIRMAN PETERSON: Does anyone have any
16 questions for the applicant? Does anyone else wish to
17 testify? Seeing none, the public hearing is closed. I look
18 for a motion.

19 MR. PRUHS: Motion to approve rezone.....

20 UNIDENTIFIED SPEAKER: Variance.

21 UNIDENTIFIED SPEAKER: Variance.

22 MR. PRUHS: Excuse me, Variance 2011-001.

23 MR. COOPER: I'll second.

24 CHAIRMAN PETERSON: We have a motion and a
25 second for approval of Variance 2011-001. Who wants to start

1 discussion? Mr. Pruhs.

2 MR. PRUHS: This is an old Fairbanks
3 conglomerate of everything we ever go through. Here it is.
4 We have -- and we have an ordinance that wants to prohibit us
5 from doing what is practical and, therefore, my personal
6 thought is -- is if we grant this, there will be no detriment
7 to anyone for any reason under any circumstances. So with
8 that in mind, I think that we can review Title 18 and come up
9 with three to four very good reasons on why this should be
10 done.

11 CHAIRMAN PETERSON: Who's next? Mr. Wenstrup.

12 MR. WENSTRUP: I'm not sure which way I'm voting
13 on this one yet, but just to speak sort of the counterpoints
14 to Mr. Pruhs' argument.

15 That -- though I don't think anybody will be directly
16 harmed, there is an issue of precedence. When we approve a
17 variance in a situation like this, somebody else can come up
18 and ask for one again and again.

19 And the problem is, one, the statutes and our
20 ordinance -- the statute and our ordinances both are against
21 this, which is if the legislature and the borough assembly
22 want us to be making variances in this case, it's really their
23 job to change the law, not ours to basically decide what we
24 think is best, again, going against the law on -- on this
25 issue.

1 Also, I think if we grant variances in this case
2 and any other case, like this particular subdivision that
3 comes before us, we're really not solving the problem.
4 We're -- we're putting a Band-Aid on the problem, and no one
5 else is going to be encouraged to fix it if we continuously
6 put Band-Aids on.

7 The real issue here we talked about is this area
8 needs to be rezoned. It wouldn't be a spot zone if enough --
9 enough of the neighbors were involved to do it. There's
10 obviously -- they could go to any zone that's touching the
11 areas and would be fine, whether it would be multi-family,
12 mult -- office, multi-family -- I mean two families are down
13 there or business.

14 So I would tend to say that I would agree with
15 the staff report, that I -- I don't see how we can get out of
16 the law that we've sworn an oath to uphold on this commission.
17 That said, I'd like to grant it. And if I could hear a better
18 argument, I will go along with that, but right now I'm leaning
19 against it. No offense, Mr. Pruhs.

20 MR. PRUHS: Why, none taken, Mr. Wenstrup.
21 I'll -- I'll consider that the op-ed piece.

22 MS. KLEPASKI: Yes, I'd like to agree with
23 Mr. Wenstrup. It's not only a bad precedent just because
24 somebody has isn't hurt in this particular situation,
25 but there's also the equal protection argument.

1 Somebody down the road can come up with you're treating me
2 differently. And, you know, unfortunately Mr. Pruhs started
3 off his comments with this is an old family. So if somebody
4 could say we're an old Fairbanks family.....

5 MR. PRUHS: I didn't say this is an old family.

6 MS. KLEPASKI: Well, something to that.....

7 MR. PRUHS: I said this is an old Fairbanks
8 problem with the zoning.

9 MS. KLEPASKI: Oh, excuse me.

10 UNIDENTIFIED SPEAKER: He said family.

11 MS. KLEPASKI: There we go. So but we need to
12 treat, you know, similar situations the same. And so it might
13 not hurt anybody in this particular instance, but somebody
14 could make an equal protection claim later on down the road.
15 So for the precedential reasons, equal protection, and the
16 fact that the statute says that, you know, these are the times
17 you can give a variance.

18 And although Mr. O'Leary didn't cause the lot
19 sizes to be small, I do believe he wants to shift the lot
20 sizes because of a structure that he built so that he will
21 have access to his garage. That is the -- otherwise, why --
22 why -- why are we shifting the lot line?

23 CHAIRMAN PETERSON: Mr. Cooper.

24 MR. COOPER: Actually, it took my arguments away
25 (indiscernible). But I -- I simply don't believe that --

1 that -- I believe the problem can be resolved right now by
2 simply if he wants to sell his property, go ahead and sell it
3 and -- and sell it with -- with an easement. I believe that
4 would be the best way to resolve the problem right now, short
5 of a rezone.

6 CHAIRMAN PETERSON: Ms. Huntington.

7 MS. HUNTINGTON: I'm going to agree with the
8 other members and legal.

9 CHAIRMAN PETERSON: Ms. Hubbard.

10 MS. HUBBARD: I don't know.

11 CHAIRMAN PETERSON: Mr. Flemming.

12 MR. FLEMMING: I'm going to use common sense on
13 this one. I mean, I value Mr. Pruhs's opinion and think I'm
14 going to vote with the similar belief that Pruhs has personal
15 (indiscernible - banging noise).

16 CHAIRMAN PETERSON: So we typically do two
17 things when we're not talking about grandfather rights. We --
18 three things, but two are pertinent to this.

19 One is conditional use, and that is when we can
20 typically use our common sense and decide if something makes
21 sense for a neighborhood; and, two, we have variances which
22 very much limits our use of common sense because the law is
23 much more specific than it is with conditional use.

24 In the -- in the point of variances, we have
25 oftentimes felt that if the law was written a little

1 differently or if it was a conditional use process, that we
2 would approve a variance, but then we have looked at the law
3 and had decided that it can't be approved in the way that the
4 variance code is written.

5 And we -- we've had this discussion where, well,
6 maybe the variance code needs to be rewritten so that it's a
7 little bit more permissible and allows more wiggle room. And
8 that may well be the case, but we're not the legislature. The
9 variance code is unfortunately what it is and it's very
10 specific.

11 And unfortunately though this does not harm
12 anyone, I don't believe that we can make a case within the
13 code that a variance should be granted and -- and it's just
14 not -- it's not our job to throw out the law when -- when it
15 doesn't seem to make sense. The law approximates justice, it
16 is not justice. So I'm going to have to vote against it.

17 And -- you know, and I'm not going to cry about
18 it because there are several other options. I mean, a rezone
19 of this block should not be that complicated. There's only
20 four owners, two of whom we know would be for the rezone or --
21 or -- or an easement, which would be even easier.

22 So anyone else have anything to say? Marnie,
23 please call the roll.

24 MS. LONG-BOEHL: Mr. Cooper?

25 MR. COOPER: No.

1 MS. LONG-BOEHL: Mr. Flemming?

2 MR. FLEMMING: No.

3 MS. LONG-BOEHL: Mr. Pruhs?

4 MR. PRUHS: Yes.

5 MS. LONG-BOEHL: Mr. Wenstrup?

6 MR. WENSTRUP: No.

7 MS. LONG-BOEHL: Ms. Hubbard?

8 MS. HUBBARD: No.

9 MS. LONG-BOEHL: Ms. Huntington?

10 MS. HUNTINGTON: No.

11 MS. LONG-BOEHL: Ms. Peterson?

12 CHAIRMAN PETERSON: No.

13 Does anyone wish to change their vote? Motion
14 fails. So any person wishing to appeal this decision must
15 be.....

16 MS. KLEPASKI: Excuse me. I'm sorry. Do we not
17 need to.....

18 UNIDENTIFIED SPEAKER: Make findings of fact.

19 MS. KLEPASKI:make the findings, accept
20 the findings for the denial.

21 MR. WENSTRUP: Motion to approve staff's
22 findings of -- three findings of facts.

23 MR. PRUHS: Second.

24 CHAIRMAN PETERSON: Any objections? Findings
25 are approved.

1 So now if anyone wishes to appeal this decision,
 2 they must do so in writing within 15 days. Applications are
 3 available through the clerk's office. And that is the end of
 4 our public agenda items. And now we go to unfinished
 5 business.

6 (Off record)

7 (END OF REQUESTED PORTION)

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TRANSCRIBER'S CERTIFICATE

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I, Lynn DiPaolo, hereby certify that the foregoing pages numbered 2 through 21 are a true, accurate, and complete transcript of audio files in FNSB Planning Commission Meeting, December 14, 2010, transcribed by me from a copy of the electronic sound recording to the best of my knowledge and ability.

January 14, 2011
January 14, 2011

Lynn DiPaolo
Lynn DiPaolo, Transcriber

I/We George Stefan will not be filing a brief and waive the fifteen (15)
(INSERT APPELLANT NAME)
on behalf of Edward O'Leary
day brief filing period for the appeal of V2011-001.

RECEIVED
MAY 10 2011
CITY OF CHICAGO
CLERK OF BOARD OF ADJUSTMENT
111 N. LA SALLE ST.
CHICAGO, IL 60602
NA

George Stefan (on behalf of Edward O'Leary)
Signature

George Stefan
Printed Name

02-07-2011
Date



FAIRBANKS NORTH STAR BOROUGH

809 Pioneer Road ☆ P.O. Box 71267 ☆ Fairbanks, Alaska 99707-1267

Department of Community Planning

(907) 459-1260 ☆ FAX (907) 459-1254

To: Mona Lisa Drexler

Through: Bernardo Hernandez, Community Planning Director *Bernardo*

From: Melissa Kellner, Planner II *MK*

Date: March 4, 2011

Subject: Reply to Appeal of **V2011-001**

Re: **V2011-001** A request by Edward N. O'Leary for lot size variances of 32,250 square feet and 28,390 square feet to the General Use-1 minimum lot size requirement of 40,000 sf in order to shift a lot line, resulting in a 7,750-sf lot at Lot 16A (Lot 16-A-1 after proposed replat) and an 11,610-sf lot at Lot 17 (Lot 17-A after proposed replat), Block 07 Graehl subdivision. **(Located southeast of the Steese Highway and on the northeast side of Second Street)**

Attached please find the Community Planning Department's reply to Mr. Stefan's notice of appeal.

COMMUNITY PLANNING DEPARTMENT
907-459-1260
907-459-1254

The appellant has submitted allegations of error in procedure, application of law, and findings and conclusion unsupported by evidence. A discussion of each of these allegations follows.

1. Procedural error. In his notice of appeal, the appellant referenced FNSB Title 2, Rules of Procedure for the Assembly regarding the length of time an applicant has to testify, stating that an applicant is permitted ten minutes to testify. These rules of procedure are for the Assembly and do not apply to the Planning Commission. As the appellant acknowledged, there are not codified rules for Planning Commission public hearings. Mr. Heieren was allowed three minutes to testify, as is standard procedure for all who wish to testify before the Planning Commission.

2. Error in Application of Law.

(i) The appellant asserted that special conditions that require the variance are not caused by the person seeking the variance because the applicant himself did not rezone the property from Unrestricted Use (UU) to General Use-1 (GU-1). However, the special condition requiring a variance is not the fact that the property is zoned GU-1. The property has been zoned as such since 1988 without the need for a variance. Though the property is smaller than the minimum lot size required by GU-1, the property is likely grandfathered for lot size. The need for a variance only came about when the applicant decided to shift a lot line, decreasing the size of one lot. It is this decrease in lot size that requires a variance, and it was the applicant's decision to do so.

(ii) The appellant questioned why a variance was required for this action when all that was desired was a lot line shift. This lot line shift decreases the size of an already undersized lot, which requires a variance. Staff also discussed the possibility of a rezone to General Commercial (GC), which would alleviate any lot size issues since there is no minimum lot size for GC, or the possibility of combining lots in a way that only increased lot sizes and still met the needs of the applicant. Increasing lot sizes does not require a variance. The applicant's representatives did not wish to pursue a rezone or a different replat. The applicant's representatives chose to pursue the variance.

(iii) The appellant asserted that the denial of this variance is in direct conflict with the purpose of Title 18. Staff agrees that approval or denial of this variance would not likely negatively affect public health, safety and general welfare. However, denial of this variance protects private property rights by applying the code in a fair and consistent manner. Approval would open the door for arbitrary and capricious decisions in the future. Further, the denial of this variance upholds Title 18 because it follows the Procedures for Variances as established in 18.54.040(B).

3. Findings and Conclusion Unsupported by Evidence. In this section, the appellant does not address the findings and conclusion or the evidence, but rather discusses why the other options suggested by the Planning Department (rezone or replat) are not desirable to the applicant or the applicant's neighbor. An appeal cannot be based on the fact that other options, while available, may not be preferable to an applicant.

The decision was based on the following findings:

1. The proposed variance does not conform to the intent and purpose of Title 18 and other Ordinances and State Statutes.
2. Denial of the proposed variance will not deprive the applicant the use of his property in a manner equivalent to the use permitted to be made by the owners of property in the immediate area.
3. The proposed variance will not jeopardize public health, safety or welfare, traffic or parking conditions, or increased danger of fire.

I George Stefan will not be filing a reply brief and waive the ten (10) day reply brief filing period for the appeal of V2011-001.

George Stefan
Print Name

Gay H. Ill
Signature

03-14-2011
Date

2011 APR 25 11:10 AM

18.54.070 Appeals.

A. Initiation of Appeal. Decisions may be appealed to the board of adjustment or a hearing officer by:

1. An applicant for a conditional use or variance;
2. Any governmental agency or unit;

3. Any person aggrieved by a decision or determination made by the director of the department of community planning in the enforcement of this title, or by a decision of the planning commission concerning a request for conditional use or variance. To be considered a "person aggrieved," the person must present proof of the adverse effect the decision has or could have on the use, enjoyment, or value of his own property. The decision appealed from must personally affect a matter in which the person has a specific interest or property right in a way different from that of the general public. A request for variance from the terms of the land use regulations may be appealed when literal enforcement would deprive a property owner of rights commonly enjoyed by other properties in the district.

B. Appellees.

1. In the event a decision is appealed as provided in subsection (A) of this section, an appellee brief may be filed as provided in subsection (F)(2) of this section by:

- a. The party in whose favor the lower administrative body's decision was rendered;
- b. Any borough agency;
- c. Any person who would be aggrieved if the decision of the lower administrative body were reversed.

2. Appellees who wish to be notified by the clerk's office of the date the record is available and of the date the appellant's brief is filed must file a notice of intent to file a brief with the clerk's office on a form prescribed by the borough clerk, within 20 days after the decision of the lower administrative body from which the appeal is taken.

C. Notice of Appeal. An appeal must be perfected no later than 15 days after the decision of the administrative body from which the appeal is taken. The appeal is perfected by the filing of a notice of appeal, appeal fee and cost bond in accordance with this subsection.

1. The notice of appeal must be filed with the borough clerk on a form prescribed by the borough clerk and must contain detailed and specific allegations of error.

2. The appellant shall pay a nonrefundable appeal fee of \$75.00. In addition, the appellant shall file a cost bond of \$200.00. Following completion of the record, the appellant shall pay the actual cost of the record. However, should the decision of the lower body be reversed in whole or in part, the cost bond shall be refunded in full.

3. An untimely notice of appeal or a notice of appeal which does not conform with the requirements of this subsection shall be denied. No

further proceedings shall be made on a defective notice of appeal unless the defect is corrected within the period provided for an appeal.

D. New Evidence – Changed Circumstances. Appeals alleging new evidence or changed circumstances shall not be heard by the board of adjustment or hearing officer but shall be remanded forthwith by the clerk to the lower administrative body, which shall determine whether to rehear the matter.

E. Preparation of Record.

1. Upon timely perfection of an appeal, the borough clerk shall prepare an appeal record. The record shall contain:

a. A verbatim transcript of any proceedings before the administrative body from which the appeal has been taken prepared in accordance with subsection (E)(2) of this section;

b. Copies of all documentary evidence, memoranda and exhibits, correspondence and other written material submitted to the administrative body prior to the decision from which the appeal is taken;

c. A copy of the written decision of the administrative body, including its findings and conclusions.

2. The appellant shall arrange for the preparation of the transcript by a court reporter and shall pay the cost of such preparation. The appellant shall file this transcript with the borough clerk. If the appellant fails to file the transcript within 30 days of the filing of the notice of appeal, the appeal shall be automatically denied.

3. Upon completion of the record, the clerk shall notify the appellant by certified mail of the cost of its preparation. If the appellant fails to pay the costs within seven days of receiving the notice, the appeal shall be automatically denied. Upon timely payment of costs, the clerk shall, by certified mail, serve a copy of the record on the appellant. The clerk shall also notify by certified mail the appellees who have filed a notice of intent to file a brief that the record is available for pickup and the date the record was mailed to the appellant. Upon request, the clerk shall provide a copy of the record to an appellee or the public.

F. Written Argument.

1. Brief of the Appellant. The appellant may file a written brief of points and authorities in support of those allegations of error specified in the notice of appeal with the clerk's office not later than 15 days after mailing of the appeal record. The clerk shall deliver a copy of the appellant's brief to the borough staff assigned responsibility for the appeal. The clerk shall also notify by certified mail those appellees who have filed a notice of intent to file a brief that the appellant's brief is available for pickup. Upon request, the clerk shall provide a copy of the appellant's brief to appellees.

2. Brief of Appellee. The borough staff shall prepare and submit to the clerk a written reply to the notice of appeal and any brief in support thereof no later than 30 days after mailing of the appeal record. An appellee who has filed a notice of intent to file brief may also file with the

clerk's office a written reply to the notice of points on appeal and any brief in support thereof no later than 30 days after the mailing of the appeal record. The clerk shall notify the appellant by certified mail that appellee briefs have been filed.

3. Reply Brief. An appellant may file a written reply brief to the appellee briefs no later than 10 days after mailing of notice that the appellee briefs have been filed.

4. Form of Briefs. All briefs shall be typewritten on eight and one-half by 11-inch pages. The text of the brief shall be double-spaced other than quotations from the record, case law, or other applicable law or exhibits which cannot be retyped on eight and one-half by 11-inch pages. The brief of the appellant is limited to 25 pages exclusive of exhibits. The brief of appellee is limited to 25 pages exclusive of exhibits. The reply brief is limited to 10 pages exclusive of exhibits. The clerk shall not accept a brief unless it is in the form prescribed by this subsection.

5. Untimely Briefs. If a brief is not filed within the time prescribed by this section, the clerk shall notify the board of adjustment or hearing officer that the brief was filed late. The board or hearing officer shall determine whether to accept a late brief and whether to allow additional time for any qualified opposing party to file its brief.

G. Appeal Packet – Notice of Hearing. Following the time set for the receipt of written argument from the appellant, appellee and the borough staff, the clerk shall prepare and distribute to the board members or hearing officer an appeal packet containing only the notice of appeal, the appeal record and any briefs filed in accordance with subsection (F) of this section. Following distribution of the packets, a date shall be set for consideration of the appeal. Notice of consideration on the appeal shall be published in a newspaper of general circulation and shall be served by mail on the appellant and those appellees who have submitted briefs. Appeal packets shall be made available to the public upon demand.

H. Appeal Hearing. The meeting at which the board deliberates and decides an appeal shall be open to the public and a record of the hearing shall be made. The board or hearing officer shall not hear arguments nor take additional testimony or other evidence. Only the material contained in the appeal packet shall be considered.

I. Scope of Administrative Review.

1. An appeal shall be heard solely on the basis of the record established before the lower administrative body, the notice of appeal, appellant's argument and the reply thereto.

2. The board of adjustment or hearing officer may exercise its independent judgment on legal issues raised by the appellant. Legal issues as used in this subsection are those matters that relate to the interpretation or construction of ordinances or other provisions of law.

3. The board of adjustment or hearing officer shall, unless it substitutes its independent judgment pursuant to subsection (I)(4) of this section, defer to the judgment of the lower administrative body regarding

disputed issues or findings of fact. Findings of fact adopted expressly or by necessary implication by the lower administrative body may be considered as true if they are supported in the record by substantial evidence. Substantial evidence for the purpose of this subsection means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record affords a substantial basis of fact from which the fact in issue may be reasonably inferred, it shall be considered that the fact is supported by substantial evidence.

4. Notwithstanding the provisions of subsection (I)(3) of this section, the board of adjustment, by an affirmative vote of two-thirds of the fully constituted board, or the hearing officer, may substitute its independent judgment for that of the lower administrative body on any disputed issues or findings of fact. The judgment must be supported on the record by substantial evidence. For the purpose of this subsection, the fully constituted board of adjustment shall not include those members who do not participate in the appeal.

J. Decision.

1. The board of adjustment or hearing officer may affirm or reverse the decision of the lower administrative body in whole or in part. It shall decide an appeal on the basis of the record on appeal and the briefs of the parties to the appeal, in accordance with the standards of subsection (I) of this section. A majority vote of the fully constituted board is required to reverse or modify the decision appealed from. For the purpose of this subsection, the fully constituted board shall not include those members who do not participate in the appeal. Where an appeal has been referred to a hearing officer, the hearing officer alone shall decide the appeal. A decision reversing or modifying the decision appealed from shall be in a form which finally disposes of the case on appeal except where the case is remanded in accordance with subsection (K) of this section.

2. Every decision to affirm or reverse the decision of the lower administrative body shall be based upon findings and conclusions adopted by the board or hearing officer. Such findings must be reasonably specific so as to provide the community, and where appropriate, reviewing authorities, a clear and precise understanding of the reason for the decision. The board may seek the assistance of the borough attorney in the preparation of findings.

K. Remedies.

1. Where the board of adjustment or hearing officer reverses or modifies a decision of the lower administrative body in whole or in part, its decision shall finally dispose of the matter on appeal, except that the case shall be remanded to the lower body where it determines either:

- a. That there is insufficient evidence in the record on an issue material to the decision of the case; or
- b. That there has been a substantial procedural error which requires further public hearing.

2. A decision remanding a case shall describe any issue upon which further evidence should be taken, and shall set forth any further directions the board or hearing officer deems appropriate for the guidance of the lower administrative body.

3. The lower administrative body shall act on the case upon remand in accordance with the decision of the board of adjustment or hearing officer in the minimum time allowed by the circumstances.

L. Special Rules of Procedure Applicable to Appeal Hearings Before the Board of Adjustment or Hearing Officer.

1. Ex Parte Contacts Prohibited. Board members and the hearing officer shall be impartial in all appeal matters, both in fact and in appearance. No board member or hearing officer shall receive or otherwise engage in ex parte contacts with the appellant, other parties adversely affected by the appeal, or members of the public concerning the appeal or issues specifically presented in the notice of appeal either before the appeal hearing or during any period of time the matter is subject to reconsideration.

2. Decisions of the board of adjustment or hearing officer may be brought up for reconsideration or rehearing only if:

a. There was substantial procedural error in the original proceeding; or

b. The board or hearing officer acted without jurisdiction in the original proceeding; or

c. The original decision was based upon fraud or misrepresentation.

The appellant or appellee may seek reconsideration or a rehearing by filing a request with the borough clerk, together with materials supporting one or more of the grounds stated above, within 15 days of the original decision. The board, by majority vote, or hearing officer may schedule a rehearing only if it finds the allegations to be correct. A rehearing shall be conducted in the same manner as original proceedings.

M. Judicial Review. Either the appellant or appellee may appeal the decision of the board of adjustment or hearing officer to the superior court. Appeals shall be made in accordance with the Alaska Rules of Civil Procedure. (Ord. 94-003 § 2, 1994)

Office of the Mayor
City of Fairbanks

Proclamation

WHEREAS, the City of Fairbanks has fluoridated its water supply since 1959 in accordance with Fairbanks General Code.

WHEREAS, in February, 2010 the Fairbanks City Council passed a resolution introduced by then-Council Member Jerry Cleworth, establishing a task force charged with the responsibility to examine evidence related to fluoridation of the public water supply and to provide the City Council with a report containing a thorough analysis and recommendation.

WHEREAS, the Resolution appointed the following members to the Fluoride Task Force, each bringing their area of expertise to the mission:

Task Force Chair, Dr. Paul Reichardt, former Provost, Dean, and Professor at the University of Alaska Fairbanks, with a Ph.D. in Organic Chemistry;

Dr. Joan Braddock, most recently Dean of the College of Natural Science and Mathematics with a Master's Degree in Microbiology and a Ph.D. in Oceanography;

Dr. Beth Medford, Board Certified Pediatrician with a background in biochemistry; formerly at Eielson AFB before entering private practice;

Dr. Rainer Newberry, Professor in Geochemistry, Mineralogy, and Economic Geology, with a Ph.D. in Economic Geology;

Dr. Richard Stolzberg, Professor Emeritus of Chemistry at UAF, with a Ph.D. in Chemistry, who has done extensive research in the field of analytical chemistry;

Dr. Bryce Taylor, Doctorate of Dental Surgery, formerly serving in public health with the TCC, now in private practice.

WHEREAS, appreciation goes to the Clerk's Office for its support of the Task Force and its mission, with special recognition going to Debi Osterby for her assistance and professionalism.

WHEREAS, the Fluoride Task Force met for the first time on March 4, 2010, and continued to hold public meetings through April 5, 2011, allowing for public testimony on multiple occasions by both proponents and opponents of fluoridation.

WHEREAS, the Fluoride Task Force tirelessly reviewed volumes of reports, publications, studies, and data. A final report was published by the Task Force on April 25, 2011 with a 54 page analysis, including four recommendations for Council review and consideration.

WHEREAS, the commitment and tireless dedication to this effort by the individual members of the Fluoride Task Force is commended and deeply appreciated by the Fairbanks City Council, Fairbanks residents, and visitors to this community.

IN WITNESS WHEREOF, I have hereunto set my Hand and caused the Seal of the City of Fairbanks to be affixed this 25th day of April in the year of our Lord Two Thousand Eleven.



Jerry Cleworth
Jerry Cleworth, Mayor

Janey Hovenden
Janey Hovenden, CMC, City Clerk

Report of the Fairbanks Fluoride Task Force

April 25, 2011

Prepared for the Fairbanks City Council
Fairbanks, Alaska

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Chapter 1 Introduction

In response to concerns expressed by community members, on February 8, 2010, the Fairbanks City Council passed a resolution (Appendix A) establishing a committee charged with the responsibility to examine evidence related to fluoridation of public water supplies and to provide the City Council with a report containing analysis and recommendations. The committee was to obtain documentation provided by both proponents and opponents of fluoridation and to supplement this documentation with information from other appropriate sources. The committee was to make its final report to the City Council by early July, 2010, but the committee was unable to meet this deadline due to the complexity of the assignment and the schedules of the committee members.

The committee, referred to in this report as the Fairbanks Fluoride Task Force (FFTF), is composed of the following members:

Paul Reichardt, Ph.D. (Chair)
Professor of Chemistry Emeritus
University of Alaska Fairbanks

Bryce Taylor, D.D.S.
Dentist
Fairbanks

Richard Stolzberg, Ph.D.
Professor of Chemistry Emeritus
University of Alaska Fairbanks

Joan Braddock, Ph.D.
Professor of Microbiology Emeritus
University of Alaska Fairbanks

Rainer Newberry, Ph.D.
Professor of Geochemistry
University of Alaska Fairbanks

Beth Medford, M.D.
Tanana Valley Clinic
Fairbanks

The FFTF met for the first time on March 4, 2010, and continued to hold public meetings approximately twice a month through March 8, 2011. At the invitation of the FFTF, both proponents and opponents of fluoridation of the Fairbanks water system (operated by Golden Heart Utilities) made presentations at the March 16, 2010, meeting. Public testimony was received at each of the ten public meetings during the period March 16, 2010, through June 22, 2010. Numerous comments and pieces of information were submitted to the FFTF electronically. Members of the FFTF supplemented this information with relevant articles from the professional literature and results of personal interviews and research.

All documents and information received by the FFTF during the period in which public testimony was being accepted are cited on the References section of the FFTF website (www.ci.fairbanks.ak.us/boardscommissions/fluoridetaskforce/fluoridetaskforcereferencematerials.php). While FFTF members considered the entire body of information submitted and collected, only some of the materials listed on the References website were used in preparing this report. Those materials are listed as references at the end of this report. There is a massive amount of relevant information on this topic. For example,

in 2008, C. A. Yeung did a review of the efficacy and safety of fluoridation that began with over 5,000 relevant citations. The approach the FFTF took to assessing and using this information was to rely on reviews and studies published between 2000 and 2008 to assess the evidence for and against fluoridation of drinking water as it existed up to 2008 and to supplement this body of literature with key professional articles published in the last several years.

Although the FFTF examined all aspects of water fluoridation, it focused most of its review of the literature on exposure of individuals to fluoride, the efficacy of fluoridated water in caries prevention, and the risks associated with consumption of fluoride. While the task force's major concerns were about populations exposed to 0.7 to 1.2 parts per million (ppm) fluoride in their water supplies, it did examine and consider evidence related to populations receiving both higher and lower concentrations of fluoride in their drinking water. The FFTF's review and analysis of relevant information was organized around the topics that became the chapters of this report. After a series of discussions and work sessions in which all members voiced their observations and concerns about each of the topics, assignments were made to individual task force members for lead responsibility in producing an initial draft of each chapter. The entire task force was subsequently engaged in the process of chapter revision that led to a draft report, which went out for public review and comment. After consideration of comments submitted electronically as well as at two public hearings (March 29 and 31, 2011), the task force made corrections and edits at its meeting on April 5, 2011. The subsequent final report (including recommendations) will be submitted to the City Council.

Some technical terms and abbreviations are used throughout this report. In an attempt to make the report more readable for the general public, a few key definitions are given below:

concentration: the relative content of a component, often expressed as amount in a given volume (e.g., ppm)

DMFS: decayed, missing, and filled surfaces in permanent teeth

DMFT: decayed, missing, and filled permanent teeth

dmft: decayed, missing, and filled deciduous (baby) teeth

dose: measured quantity of an agent to be taken at one time

g (gram): 0.001 kg

kg (kilogram): a basic unit of mass and weight equal to 2.2 pounds

mg (milligram): 0.001 g

L (liter): a basic unit of volume equal to about a quart

LD₅₀ (lethal dose, 50%): dose of a toxin required to kill 50% of a group of test organisms

ppm (parts per million): a unit of concentration, defined for this report as one mg/L

Chapter 2

Recommendations

The Fairbanks Fluoride Task Force makes a set of four recommendations. We anticipate that the community's focus will be on Recommendation #1, but as a committee we feel strongly that Recommendations 2, 3, and 4 should be implemented along with Recommendation #1 as part of a cohesive plan to address dental health issues in our community.

1. Primarily because (1) the ground water used for Fairbanks public water contains an average of 0.3 ppm fluoride, and (2) higher concentrations of fluoride put non-nursing infants at risk, the task force recommends that supplemental fluoridation of the Fairbanks public water supply be terminated. The task force further recommends that the Fairbanks community be informed of possible dental health implications from not fluoridating the water.

Rationale: Not fluoridating Fairbanks water will reduce the fluoride content from 0.7 ppm to 0.3 ppm, which is the fluoride concentration of the raw water used by Golden Heart Utilities (GHU). This will reduce, but not eliminate, the risk of significant incidence and severity of fluorosis, especially fluorosis associated with the use of GHU water to prepare infant formula. Doing so will also address ethical concerns raised during the task force's public testimony. However, the effect of this reduction in fluoride concentration on the caries rate in the Fairbanks community, while most likely small, is unknown and unpredictable. Those who depend on 0.7 ppm fluoride in tap water for their dental health need to be informed of the possible adverse consequences to their dental health caused by reducing the fluoride content of Fairbanks tap water from 0.7 ppm to 0.3 ppm and of the measures that can be taken to address these possible adverse consequences.

The task force has made this recommendation to terminate fluoridation of GHU water with full knowledge of and respect for the positions of the American Dental Association (ADA), the Centers for Disease Control and Prevention (CDC; part of the U.S. Department of Health and Human Services), the World Health Organization, and the Alaska Department of Public Health in support of fluoridation of public water supplies. While the task force members agree that water fluoridation may be an important element of an effective dental health program in many communities, the majority of members are not convinced that it is necessary in Fairbanks because of the fluoride content of the city's ground water and the alternate sources of fluoride available in the community. Five task force members, with various degrees of conviction, support this recommendation, while one member (Dr. Taylor) supports continuing fluoridation at 0.7 ppm.

2. The Fairbanks City Council's decision-making process on fluoridation should involve representatives of the Fairbanks North Star Borough government.
Rationale: At least 25% of area residents who receive GHU water reside outside the city limits.
3. Local dentists and physicians should be encouraged to provide their patients with up-to-date information on the benefits and risks associated with fluoride.
Rationale: If nothing else, the recent notice that the secretary of the U.S. Department of Health and Human Services has proposed a new recommendation on fluoridation of public water supplies

indicates that the citizenry should be informed about the state of contemporary research findings and analysis related to the role of fluoride in dental health. All of the members of the task force went into this project with incomplete and in some cases incorrect information about the issue. We suspect that we are not unique in that respect.

4. The Fairbanks City Council should encourage the local school system to review and modify, as appropriate, its approach to promoting good dental health practices.

Rationale: The local schools have an excellent opportunity to help all families in the community to learn about and to implement good dental health practices, which can include optional opportunities at school for topical fluoride treatment (in the form of rinses and tooth brushing, for example) as well as techniques for minimizing unnecessary and/or unwanted exposure to fluoride.

Chapter 3

History of Fluoridation of Public Water Supplies

Fairbanks

A version of Fairbanks City Code dated July 1, 1959, contained a section (Article III, Section 10.301) that authorized and directed the Municipal Utilities System to develop and implement a fluoridation plan that fulfilled the requirements of the Alaska Department of Health. A slightly rewritten version of Article III, Section 10.301 of the City Code was adopted on January 12, 1960, and on August 21, 1962, the mandated fluoridation of city water was implemented in the city of Fairbanks. In 1996, the city water plant was sold by the Municipal Utilities System to Golden Heart Utilities (GHU). The fluoridation program continued under the auspices of GHU, and in 1999 the rewritten Fairbanks General Code (FGC 82-1) continued the mandate for fluoridation under the administration of Golden Heart Utilities. The present version of the Fairbanks City Code retains the language of Section 82-1 as it existed in 1999.

The only formal attempts to discontinue the fluoridation program took place in 2008. On February 25 of that year a proposed ordinance to prohibit the addition of fluoride to the GHU water supply failed in a vote of the City Council. In July 2008, a city resident submitted an application for an initiative proposing that FGC 82-1 be repealed and reenacted to read:

Fluoride should not be added to City community water systems. Water utilities that own or operate community water distribution systems in the City shall not add fluoride, in any form, to the water system. All water utilities owning or operating community water systems in the City shall conduct periodic water quality testing.

The required signatures were not submitted by the deadline of August 12, so the initiative did not go on the October ballot. The city took no additional action on the fluoridation issue until February 8, 2010, when the City Council passed Resolution No. 4398, establishing a task force to research issues related to the fluoridation of the municipal water supply.

United States

In the early 1900s, research, largely by dentist Frederick McKay and Dr. G. V. Black of the Northwestern University Dental School, documented that many residents in several areas of the western U.S. had mottled teeth and, in severe cases, brown stains (“Colorado brown stain”) on their permanent teeth. McKay also noticed that the mottled teeth were resistant to decay. By the 1930s it had been determined that these conditions (today known as fluorosis) were caused by high concentrations of fluoride (ca. 4–14 ppm) in drinking water. In the ensuing years, Dr. H. Trendley Dean conducted a series of epidemiological studies and reported that (1) fluoride concentrations of up to 1.0 ppm in drinking water did not cause the more severe forms of dental fluorosis and (2) a correlation existed between fluoride levels in drinking water and reduced incidence of dental decay

(Dean et al., 1941). Dean's work led Dr. Gerald Cox and associates to publish in 1939 the first paper in which fluoridation of public water supplies was proposed (Cox et al., 1939).

In the 1940s, four classic, community-wide studies were carried out to evaluate the addition of sodium fluoride as a caries-reduction strategy in Grand Rapids, MI; Newburgh, NY; Brantford, Ontario; and Evanston, IL. Based on the overwhelmingly positive evaluations of these pilot studies by scientists and dental professionals, water fluoridation programs were instituted in a number of large U.S. cities in the following two decades. In addition, alternative methods of administering fluoride to combat caries were developed, the most notable being the introduction of fluoridated toothpaste in 1955.

However, as water fluoridation programs spread, so did opposition to the practice. In 1965, the first lawsuit in the U.S. contesting the legality of fluoridation of public water supplies was settled by the New York State Supreme Court, which denied the plaintiff's case "at least until some proof is advanced that fluoridation has harmful side effects" (Graham and Morin, 1992, p. 215). In the ensuing years a number of lawsuits contesting fluoridation of public water supplies have been pursued, but in no case have the plaintiffs been successful in stopping the practice (see Legal/Ethical Issues, chapter 4).

The relevant federal, state, and professional organizations have endorsed and promoted the fluoridation of public water supplies for the past fifty years. As a result, in 2008, forty-six of the country's fifty largest cities provided fluoridated water, and approximately 60% of the U.S. population consumed fluoridated water (Fagin, 2008). The U.S. Public Health Service (USPHS) has set a goal of "at least 75% of the U.S. population served by community water systems should be receiving the benefits of optimally fluoridated water by the year 2010" (U.S. Department of Health and Human Services [HHS], 2000, p. 205). However, the actions of communities on this front are mixed. One summary (Juneau Fluoride Study Commission, 2006) indicates that from 1998 to 2005 approximately two hundred communities in the U.S. moved to fluoridated water or decided to retain it while approximately one hundred chose to discontinue the practice. The situation in Alaska, where the fluoridation of public water systems is encouraged by the Alaska Department of Public Health (www.hss.state.ak.us/dph/targets/ha2010/PDFs/13_Oral_Health.pdf), roughly mirrors the national picture. In 2006, 64% of the Alaska population received fluoridated water, up from 47% in 1993 (Whistler, 2007). However, today's statewide figure may be below that of 2006 because Juneau discontinued its fluoridation program in January 2007.

International

According to the British Fluoridation Society (British Fluoridation Society, 2010), over 400 million people in sixty countries were served by fluoridated public water supplies in 2004. Countries and geographic regions with extensive water fluoridation programs include the U.S., Australia, Brazil, Canada, Chile, Columbia, Ireland, Israel, Malaysia, New Zealand, Hong Kong, Singapore, Spain, and the United Kingdom. However, especially during the period of 1970 to 1993, Japan and a number of European Countries (Federal Republic of Germany, Sweden, Netherlands, Czechoslovakia, German Democratic Republic, USSR, and Finland) discontinued water fluoridation programs. In 2003, Basel, Switzerland, ended its water fluoridation program, and in 2004 Scotland rejected plans to fluoridate water supplies.

In most or all of these situations, dental health continued to improve following cessation of water fluoridation (Ziegelbecker, 1998), presumably due to factors including enhanced dental hygiene programs, fluoride-containing table salt, fluoridated toothpaste, and improved diets. There are data to support the contention that in recent years caries rates in many areas have declined irrespective of the concentrations of fluoride in water supplies. World Health Organization (WHO) data (Peterson, 2003: Fig. 7) indicate substantial declines in DMFT among twelve-year-olds in developed countries (from about 4.7 to about 2.5) during the period 1980 to 1998 but little change among this age group in developing countries (from about 1.8 to about 2.3). Nevertheless, the World Health Organization continues to consider community water fluoridation to be an effective method to prevent dental caries in adults and children. However, it recognizes that other approaches, including fluoridated salt and milk fluoridation, have “similar effects” (www.who.int/oral_health/strategies/cont/en/index.html). It also recognizes the value of fluoridated toothpaste and fluoride-containing mouth rinses and gels.

For Alaska communities, perhaps the most relevant international situation is that in the neighboring country of Canada. According to the Health Canada website (www.hc-sc.gc.ca), each Canadian municipality retains the authority to decide on fluoridation of its water supply; in 2005, 43% of the Canadian population was served by fluoridated water supplies (Federal-Provincial-Territorial Committee on Drinking Water, 2009). The Guidelines for Canadian Drinking Water Quality set a maximum allowable fluoride concentration of 1.5 ppm in drinking water, a level at which Health Canada believes there are no undue health risks (Health Canada, 2010). Although Canadian provincial and territorial governments regulate the quality of drinking water in their jurisdictions, Health Canada has recommended to communities wishing to fluoridate their water supplies that “the optimal concentration of fluoride in drinking water to promote dental health has been determined to be 0.7 mg/L” (Health Canada, 2010).

The Controversy

From the very beginning of efforts to implement water fluoridation programs in 1945, there has been controversy (Connett et al., 2010). By the 1950s the sides were pretty well drawn. On one side were dentists and scientists from government and industry, who promoted the addition of fluoride to drinking water as a protection against dental decay. On the other side were mostly activists who contended that water fluoridation was essentially compulsory mass medication, thus a violation of individual rights, and that the risks of fluoridation had not been studied adequately. The advocates of fluoridation won the argument, in part by ridiculing the unlikely arguments of some of the opponents (e.g., the John Birch Society, which contended that fluoridation was a communist plot to poison the citizens of the USA).

A series of court cases from the mid-1960s through the mid-1980s established that local and state governments have the constitutional authority to implement fluoridation programs. These decisions were based largely on the principle that the “government interest in the health and welfare of the public generally overrides individual objections to health regulation” (American Dental Association [ADA], 2005, pp. 47–49). In light of these decisions, the argument against “compulsory mass medication” has emphasized ethical rather than legal issues (see, for example, Bryson, 2004).

During this same period, a number of scientific investigations into potential adverse effects of drinking fluoridated water were undertaken. None of these studies produced results that were generally accepted as demonstrating serious adverse health effects of water containing “optimal levels” of fluoride ion (0.7 to 1.2 ppm). However, a number of them raised significant questions about potential risks by showing some adverse health effects at fluoride concentrations of greater than 2 ppm (for example, Kurttio et al., 1999; Freni, 1994).

Around the turn of the century, a comprehensive review of the scientific literature related to water fluoridation was undertaken under the auspices of York University in the United Kingdom. The report from this review (McDonagh et al., 2000), often referred to as the York Report, noted the generally poor quality of the evidence for both beneficial and adverse effects of fluoridation. The resulting uncertainties about the benefits and risks of consuming fluoridated water fueled the controversy in that it allowed each side to discount the opposition’s arguments because of the “poor quality” of the evidence on which positions were based. While there are many examples of the arguments put forward by the two sides, two representative accounts are an antifluoridation article by Colquhoun (1998) and a profluoridation article by Armfield (2007).

Another key review of the effects of fluoride in drinking water was published by the U.S. National Academy of Sciences in 2006 (National Research Council, 2006). This review and associated recommendations were focused on EPA standards for drinking water (Maximum Contaminant Level, MCL, of 4 ppm and Secondary Maximum Contaminant Level, SMCL, of 2 ppm) and did not directly address the USPHS regulations on the lower concentrations in fluoridated public water supplies in the U.S. (0.7 to 1.2 ppm). Nevertheless, the report contains information and data relevant to the safety of fluoridated water. Evidence in the scientific literature led the review committee to conclude that water containing 4 ppm fluoride “puts children at risk for developing severe enamel fluorosis” and was “not likely to be protective against bone fracture” (National Research Council, 2006, p. 2). This review also contains analyses of a number of other adverse health effects that have been alleged to be related to fluoride ingestion, but the authors found that these allegations were either not supported by good evidence or required further study before any meaningful conclusions could be drawn. As with the York Report, the uncertainties about the risks of fluoride-containing water (compounded, in this case, by uncertainties about how conclusions based on consideration of fluoride concentrations of 2 ppm or higher relate to lower concentrations) have given both advocates and opponents of fluoridation data and arguments that they have selectively employed in supporting their opposing positions.

As time has gone on, particularly since the publication of the York and National Research Council reports, a number of professionals with expertise in dental health and toxicology have joined the opposition to fluoridation. They include dental researchers who were originally supporters of fluoridation (e.g., Colquhoun, 1998; Limeback, 2000), dentists (e.g., Osmunson, 2010a), and EPA employees (e.g., Thiessen, 2006, 2009a, 2009b, 2010; Hirzy, 2000). A “Professionals’ Statement to End Fluoridation” (www.fluoridealert.org/prof_statement.pdf) had over three thousand signers as of July 2010 (although many of the signers are not identified with respect to their areas of expertise, so it is not clear that all these “professionals” have expertise in relevant areas). However, professional and governmental organizations remain supportive of water fluoridation, and to our knowledge, the majority of dental health practitioners in the United States continue to support it.

There is no shortage of information; the literature search for a recent review of the efficacy and safety of fluoridation turned up over five thousand citations. However, after application of exclusion/inclusion criteria related to the quality of the research and after review of the full text of each remaining article, the author of the review selected just seventy-seven citations for inclusion (Yeung, 2008). Why has so much of the fluoridation literature been deemed to be of less than high quality? There are at least four difficulties inherent in these studies:

1. as with all epidemiological studies, those focused on the safety and efficacy of water fluoridation are complicated by a multitude of confounding variables (e.g., Taubes, 2006), not the least of which is the tremendous variability in water consumption and related fluoride dose of individuals (EPA, 2004);
2. in many cases the data cannot be interpreted without the application of sophisticated statistical methods, and even then statistical correlations do not necessarily imply causative relationships (e.g., Sigfried, 2010);
3. some of the alleged adverse effects of fluoride are associated with very rare conditions (e.g., osteosarcoma), making it difficult to detect small, but potentially significant, differences in study populations;
4. the results from studies with laboratory animals are often not complicated by confounding variables, but their relevance to humans and the concentrations of fluoride in public water supplies is often difficult to determine (Hayes, 2008, pp. 330–332).

In recent years, the difficulties associated with critical evaluation of research findings and associated conclusions have been exacerbated by the widespread use of the internet as a medium for distributing information and opinions. The opponents of fluoridation in particular have used the internet to advance their arguments and point of view. Although many of these sites contain useful information and cogent arguments, the sites and the information on them are not uniformly of high quality. In many instances it is difficult to evaluate the quality of material posted on websites focused on fluoride and fluoridation without a fairly thorough knowledge of the peer-reviewed literature.

While these scientific issues continue to be debated, it appears that within the general public the major concern is related to ethics, not quality of the research on benefits and adverse effects of water fluoridation. Thus, many opponents of water fluoridation would remain opposed to “mass medication” even if the safety and efficacy of the practice were clearly documented. So, today the controversy continues unabated. The situation is described quite well in a recent journal article:

Plans to add fluoride to water supplies are often contentious. Controversy relates to potential benefits of fluoridation, difficulty in identifying harms, whether fluoride is a medicine, and the ethics of a mass intervention. We are concerned that the polarised debates and the way that evidence is harnessed and uncertainties glossed over make it hard for the public and professionals to participate in consultations on an informed basis. (Cheng et al., 2007, p. 699)

Findings

Throughout the United States, and in many countries around the world, the incidence of tooth decay has decreased significantly over the past several decades. Although claims have been made that adding fluoride to drinking water has been one of the main reasons for this decline, the data indicate that in many countries and communities progress in preventing caries has been made without fluoridated water.

For many years professional organizations and federal, state (including Alaska), and local governments in the United States have promoted the fluoridation of public water supplies, and these organizations and relevant government agencies still strongly support the practice. However, there has also been opposition to the practice since its inception in the 1940s. Although it appears that most dental practitioners and researchers still support fluoridation of municipal water supplies, it also seems that the number of practitioners and researchers who oppose the practice has increased. At this time the claims most often cited by opponents of fluoridation of water supplies are:

- lack of definitive evidence for efficacy,
- evidence indicating risk of adverse effects, and
- ethical issues related to mass medication.

Chapter 4

Legal and Ethical Issues

As indicated by testimony to the Fairbanks Fluoride Task Force, legal and ethical issues are perhaps the biggest concerns of the local residents who are opposed to fluoridation of Fairbanks' public water supply. The testimony received by the task force was overwhelmingly against fluoridation. During the ten task force meetings at which public testimony was invited, sixty-two testimonies were presented by thirty individuals (at the extremes eighteen individuals presented testimony just once, and one individual submitted testimony on six different occasions). The positions of the testifying individuals, as described by themselves or ascertained by the task force from the nature of the testimonies, were twenty-six against fluoridation, three in favor, and one with no clearly stated opinion. The major concerns voiced by the opponents of fluoridation were:

1. toxic and harmful effects of fluoride;
2. lack of high-quality evidence that fluoride in public water supplies effectively prevents dental caries;
3. unethical aspects of "mass medication," including lack of informed consent;
4. fluoridation of public water supplies interferes with freedom of choice, infringes on individual rights, and results from an overreach of governmental powers; and
5. the risk that fluoridation of public water supplies may do more harm than good.

While testimony and evidence on all five of these concerns were presented to the task force, concerns 3, 4, and 5 were highlighted for the task force by both the frequency and passion of testimonies related to them. They have also been voiced in the larger debate over water fluoridation. The "mass medication" argument is that fluoridation of public water supplies administers medication to an unaware and in some cases, unwilling public (see, for example, www.fluoridedebate.com/question34.html; Cross and Carton, 2003). The "individual rights" concern (#4) is related to the previous concern in that it questions governmental authority to implement the "mass medication" (Cross and Carton, 2003). The concern that water fluoridation may do more harm than good brings into the argument the "first, do no harm" precept of medical ethics. This precept basically says that in a given situation it may be better to do nothing if the action to be taken may cause more harm than good.

The legal concerns brought to the task force were considered in light of a rather lengthy history of legal challenges to fluoridation of public water supplies (Graham and Morin, 1999). Although fluoridation has been challenged numerous times in at least thirteen states, and while cases decided primarily on procedural grounds have been won and lost by both proponents of and opponents to fluoridation, no final ruling in any of these cases has stopped a proposed fluoridation program or ruled in favor of elimination of an existing program (Block, 1986; ADA, 2005; Pratt et al., 2002). In the process, the U.S. Supreme Court has declined to review fluoridation cases at least thirteen times (ADA, 2005).

In contrast to the legal question, which has repeatedly been addressed by the courts, the ethical issues remain problematic. On the one hand, opponents of fluoridation cite concerns about the propriety of forced "mass medication" and the integrity of at least some of the individuals and organizations that promote the practice (see, for example, Bryson, 2004; Cheng et al., 2007; Connett et al., 2010). On

the other hand, some proponents have argued that those who potentially have the most to gain from fluoridation of public water supplies—the economically and educationally disadvantaged and those with limited access to proper health care—do not have a voice in the development of health policies and practices unless those in power are looking out for their interests (McNally and Downie, 2000). Cohen and Locker (2001), observe that the conflict between beneficence of water fluoridation and autonomy remains unresolved and that “there appears to be no escape from this conflict of values, which would exist even if water fluoridation involved benefits and no risks” (p. 578). Further, they argue that although recent studies indicate that water fluoridation continues to be beneficial, critical analysis indicates that the quality of evidence provided by these studies is generally poor. Thus, they argue that from an ethical standpoint, past benefits of fluoridation cannot be used to justify continuation of the practice, and they call for new guidelines that “are based on sound, up-to-date science and sound ethics” (p. 579).

Chapter 5

Exposure

Fluorine, which exists in its elemental form as fluorine gas, is one of the most reactive elements. Its chemical reactivity is characterized by its propensity to accept electrons and to undergo reduction to the fluoride ion. While elemental fluorine is found in just one form, the fluoride ion exists in a number of compounds, including the common minerals fluorite and especially fluorapatite. Fluorine is also found in a group of compounds called “organic fluorides,” compounds in which fluorine is chemically bonded to carbon. Some pharmaceuticals, consumer products, and pesticides are organic fluorides.

Concerns about the safety and efficacy of artificially fluoridated water revolve around one species, the fluoride ion—often referred to in this report as fluoride. Fluoride is easily absorbed in the human alimentary tract, is distributed to most—if not all—tissues, and is cleared from the blood and tissues by uptake into bone and by excretion (Whitford, 1996; National Research Council, 2006). It is capable of inhibiting certain enzymes (Scott, 1983, p. 166; National Research Council, 2006) and of affecting bacterial metabolism, including reducing the capability of plaque-forming bacteria to produce acid (Featherstone, 2000; Jones et al., 2005), which is the bacterial product responsible for caries. Given that fluoride has these biochemical properties, it is not surprising to find that it is toxic. The acute toxic dose of fluoride is 5 to 10 grams for a 155-pound person (Hodge and Smith, 1965; ADA, 2005). More precise determinations of toxicity have been performed with pure chemicals and laboratory rats, and these studies indicate, for example, that sodium fluoride is about ten times less toxic than sodium cyanide and about fifty times more toxic than sodium chloride (table salt).

The fluoride-containing compound of most interest in the Fairbanks situation is sodium fluorosilicate, the compound that Golden Heart Utilities (GHU) uses to fluoridate the water it distributes. Sodium fluorosilicate is toxic; for rats its LD50 is 125 mg/kg (that is when laboratory rats were given single doses of 125 mg of sodium fluorosilicate per kg of body weight, 50% of the test animals died). According to the National Institute of Health’s TOXNET website (<http://toxnet.nlm.nih.gov/cgi-bin/sis/search/a?dbs+hsdb:@term+@DOCNO+770>), the acute toxic dose of sodium fluorosilicate for a human is between 3.5 and 35 grams. However, the low concentration of this compound in treated water (around 1.5 mg per liter) ensures that there is no acute toxicity threat associated with the treated GHU water. Nevertheless, concerns have been voiced about risks related to the use of sodium fluorosilicate in water fluoridation programs. In particular, a correlation was reported between use of sodium fluorosilicate to fluoridate water in various locales in the state of New York and levels of lead in the blood of children residing in these communities (Masters and Coplin, 1999; Masters et al., 2000). However, this correlation was not verified in a subsequent study (Macek et al., 2006). Furthermore, a causative link between the use of sodium fluorosilicate and elevated lead levels in blood of children who consume the fluoridated water would require that sodium fluorosilicate incompletely dissociates when it dissolves in water, a proposition put forward by Westendorf (1975) but which is inconsistent with the best contemporary evidence (Urbansky, 2002).

Because fluoride is found in a number of common minerals, it is not surprising to find that it is naturally present in water. The concentration of fluoride in the oceans is approximately 1.3 ppm (Turekian, 1969). In the United States, fluoride concentrations in wells, lakes, and rivers range from below detection to 16 ppm (National Research Council, 2006). For example, Lake Michigan's fluoride level is 0.17 ppm, wells in Arizona have concentrations up to 7 ppm, and groundwater in Bauxite, Arkansas, has up to 14 ppm fluoride (ADA, 2005). In Alaska, a voluminous DEC data sheet (Alaska Department of Environmental Conservation, 2010) demonstrates that although many natural water systems around the state have undetectable levels of fluoride, one area (Wales) has 2 ppm fluoride in groundwater, and several sources of groundwater in the Fairbanks area have from 0.1 to 0.3 ppm fluoride. Several independent studies of domestic, commercial, and monitoring wells in the greater Fairbanks area show that fluoride is present at concentrations ranging from 0.1 to 1.6 ppm (Fig. 5.1; USGS, 2001; Mueller, 2002; Verplanck et al., 2003).

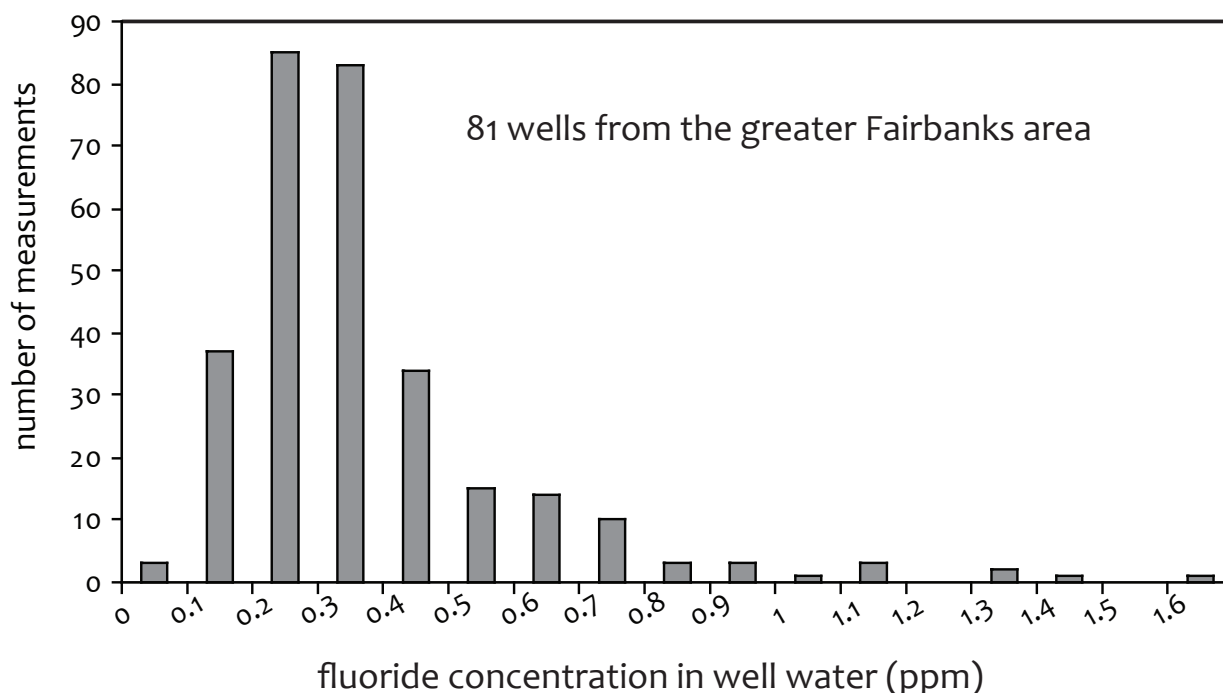


Figure 5.1. Histogram of fluoride concentrations in 81 wells in the Fairbanks area. The median value is between 0.2 and 0.3 ppm, and the bulk of values are between 0.1 and 0.7 ppm. Wells in metamorphic rocks contain the higher fluoride concentrations; those tapping the sedimentary aquifer have values of 0.2 to 0.4 ppm. Data from USGS, 2001; Mueller, 2002; Verplanck et al., 2003; and Alaska Department of Environmental Conservation, 2010).

Wells employed for Fairbanks city water are at depths greater than 100 feet below the surface and tap the sedimentary aquifer of the Fairbanks floodplain. The several hundred feet of sediment is essentially uniform in mineralogy and mineral compositions, hence, by reaction with groundwater it creates water with an essentially constant composition. The fluoride content of raw water from these wells has been tested numerous times between 1987 and 2008 yielding an average fluoride concentration of 0.34 ± 0.1 ppm (Fig. 5.2). Given the constant substrate for groundwater in the Fairbanks floodplain, there is every reason to consider this fluoride concentration to be the same for a very long time to come.

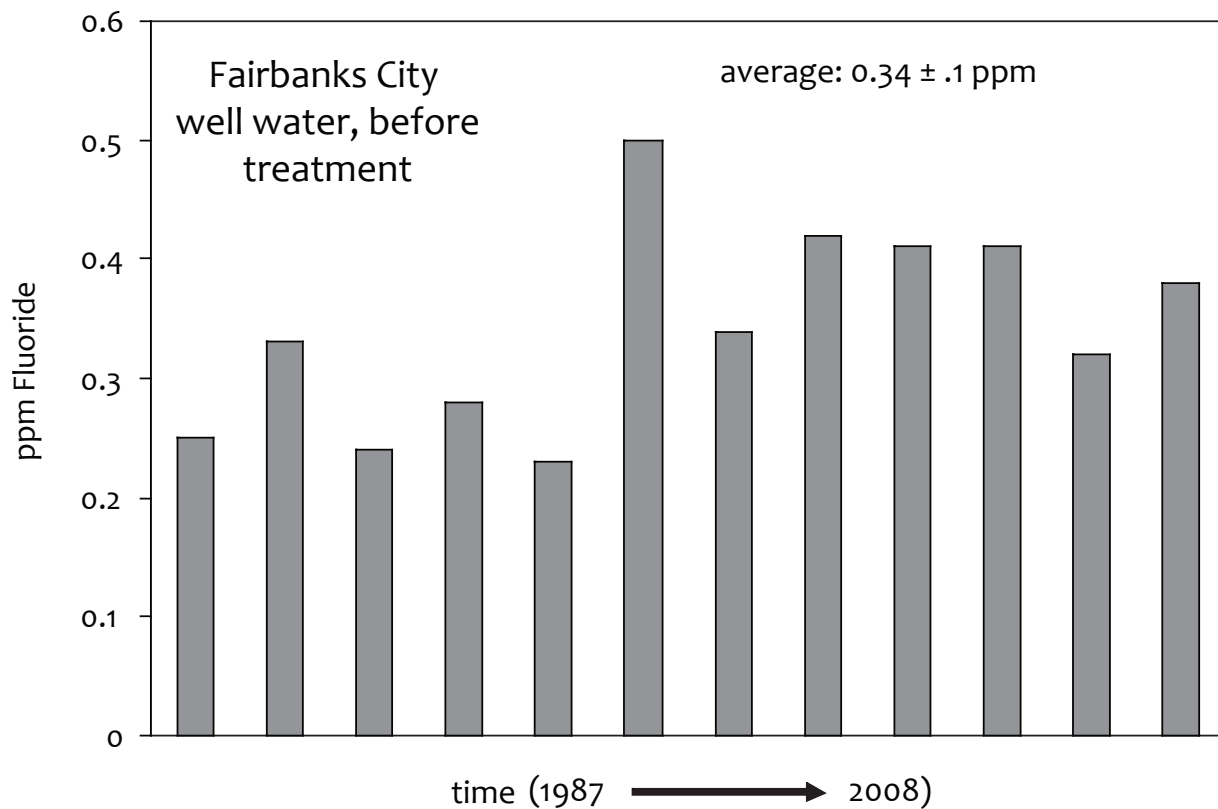


Figure 5.2. Fluoride concentrations in Fairbanks municipal raw well water prior to treatment and fluoridation. Each bar represents a single measurement. Based on checks of fluoride standards, the uncertainty of a given measurement is approximately 0.05 ppm. Data supplied by GHU.

A major source of exposure to fluoride for many Americans, including those who receive GHU water, is drinking water. While this exposure is clearly related to the concentration of fluoride in the water, it is important to distinguish between concentration and dose. The amount of fluoride (dose) an individual receives from drinking water depends on the concentration of fluoride in the water and the amount of water consumed. Thus an individual who drinks one liter of water containing 0.5 ppm fluoride receives the same dose of fluoride as another individual who drinks two liters of water containing 0.25 ppm. Various surveys have found that the amount of drinking water consumed by individuals varies considerably. For example, an EPA report (2004) states that the results from surveys done in the 1990s indicate that very young children consume an average of about 0.3 liter of drinking water per day and adults about 1 liter, as opposed to earlier EPA and WHO estimates of 1 liter and 2 liters, respectively. More importantly, the ranges of consumption are enormous: among the study subjects, infants less than one year old had water consumptions ranging from 0.03 liter to 1.5 liters, and the range among adults was from 0.1 liter to over 4 liters. The situation is further complicated by the fact that certain metal ions present in many water supplies can react with fluoride ions (before consumption) in a way that alters the uptake of fluoride from drinking water by humans (Institute of Medicine, 2000; Urbansky, 2002). For example, in seawater about one-half of the total fluoride is actually present as the MgF^+ complex ion (Bethke, 1996). Therefore, it is very difficult to determine how much fluoride any individual actually consumes from drinking water on a daily basis. Furthermore, “average consumption” is meaningful for a relatively small segment of the population (see Fig. 5.3 for one representation of the situation).

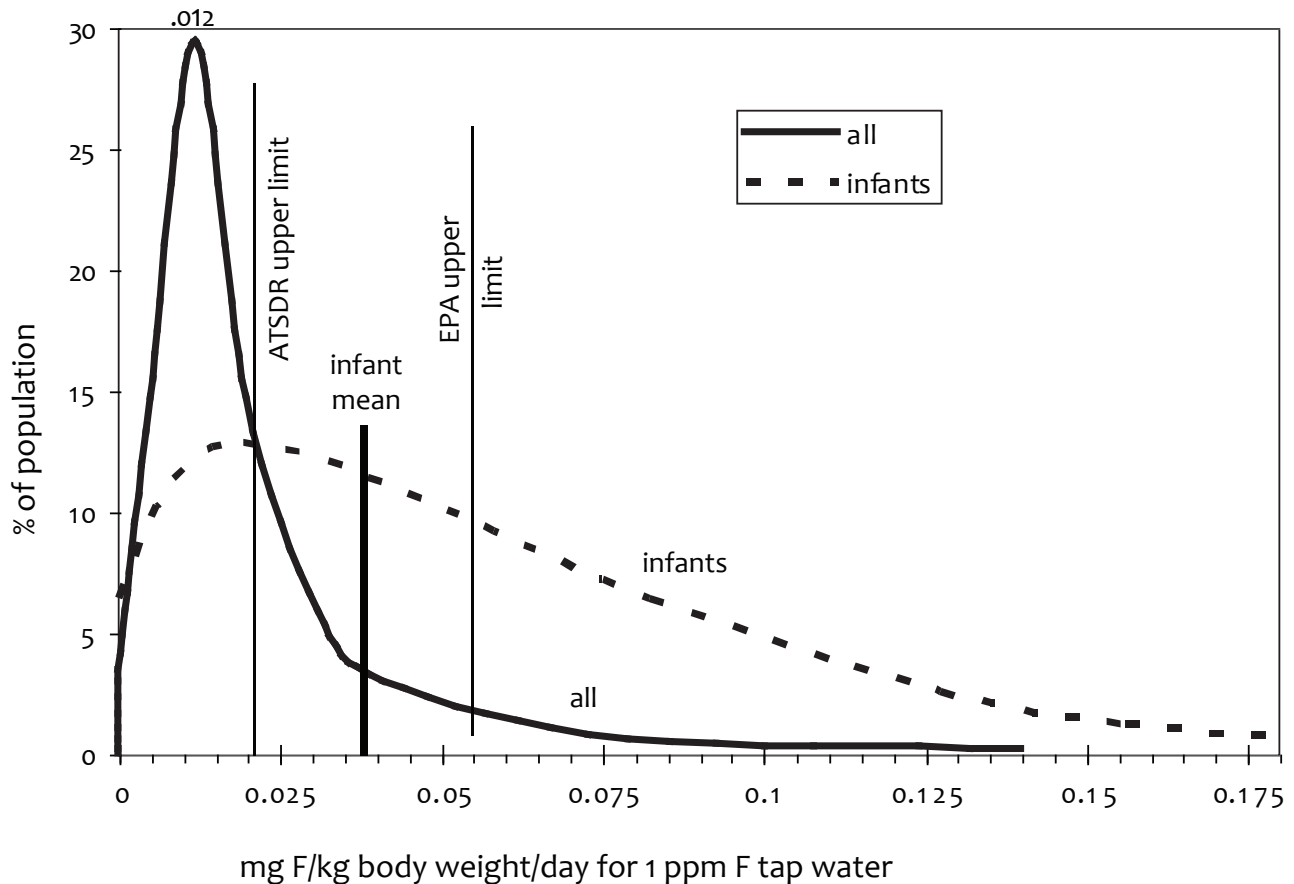


Figure 5.3. Fluoride consumption from tapwater distribution for total population (dark, solid curve) and for infants (dashed curve). Note that only a small proportion of the population receives the target dose from tap water and that a large proportion of infants receive a dose considerably higher than the target dose. Graph constructed from data in EPA (2000).

Agencies of the U.S. federal government, taking into account information that documents the adverse effects of human consumption of large doses of fluoride, have issued regulations and recommendations on the concentrations of fluoride ion in drinking water. The U.S. Environmental Protection Agency (EPA) has set a maximum contaminant level (MCL) for fluoride at 4 ppm and a secondary maximum contaminant level (SMCL) of 2 ppm (to provide a margin of safety against development of fluorosis from exposure to fluoride in drinking water—see Chapter 7). In 1962 the U.S. Public Health Service adopted standards that call for fluoride concentrations between 0.7 ppm and 1.2 ppm in public water supplies that have been “artificially fluoridated” or have “adjusted” levels of fluoride. This range of concentrations was selected based on estimates of water consumption that take into account differences based on climate and the assumption that people in warmer climates drink more tap water than do residents in cooler climates.

In January 2011, just as the Fairbanks task force was finalizing the first draft of its report and recommendations, two federal agencies initiated formal processes to change policy and regulations related to fluoride exposure. In early January, the secretary of the U.S. Department of Health and Human Services (HHS) issued a notice that HHS was seeking public comment on a proposed new recommendation that communities that are fluoridating or choose to fluoridate their public water

supplies adjust the fluoride concentration to 0.7 ppm (http://www.hhs.gov/news/press/2011pres/01/pre_pub_frn_fluoride.html). This recommendation is based on the considerations that (1) scientific evidence indicates that water fluoridation is effective in preventing dental caries, (2) fluoride in drinking water is now just one of several sources of fluoride, (3) the prevalence and severity of dental fluorosis has increased in recent years, and (4) the water consumption of children and adolescents is independent of ambient temperatures. At this writing, the HHS action is limited to initiating the public comment period and does not constitute a formal change in the HHS recommendation. A few weeks later, the EPA initiated a “Registration Review” of the pesticide sulfur fluoride. This chemical, used for controlling insect pests in a variety of stored agricultural products, breaks down during application to release fluoride ions. Although the fluoride residue from sulfur fluoride contributes negligibly to the fluoride exposure of individual humans, this proposal is based on the EPA’s assessment that “aggregate fluoride exposure is too high for certain identifiable subpopulations in the United States, in particular children under the age of seven who live in areas with higher fluoride concentrations in drinking water resulting from natural background sources” (EPA, 2011; Office of Pesticide Programs, 2011). Under the Federal Food, Drug, and Cosmetic Act, EPA must withdraw sulfur fluoride under these circumstances, and the action initiated at this point (invitation for public comment) is the first step in the withdrawal process.

The exposure of a given individual in the Fairbanks area to fluoride from drinking water is very difficult to assess because of the various sources of drinking water available in the area. However, for the purposes of this report, we will focus on individuals who are served by the Golden Heart Utilities water system. This distribution includes about 30,000 people (approximately 6,500 hookups) in the city of Fairbanks and an additional 10,000 to 25,000 individuals (approximately 2,200 hookups, including several water delivery services) in the surrounding area served by College Utilities. Until January of 2011 the drinking water supplied to these individuals contained, on average, 1.0 ppm fluoride. The GHU records examined by the task force demonstrated that over an extended period of time, the range of fluoride concentration in the distributed water was from 0.8 to 1.1 ppm. The variability in the concentration of fluoride was probably due to measurement uncertainties and to the fluctuation in fluoride concentration in the feed water for the GHU process—averaging 0.3 ppm but ranging from 0.2 to 0.4 ppm (Fig. 5.2). In response to the HHS action described in the previous paragraph, in January of 2011 GHU reduced the concentration of fluoride in distributed water from 1.0 ppm to 0.7 ppm. Thus the GHU fluoridation process presently raises the fluoride concentration from about 0.3 ppm in the groundwater to 0.7 ppm in the distributed water.

The process used by GHU to produce water containing 0.7 ppm fluoride is one of the two most common approaches used elsewhere in the United States. A calculated amount of sodium fluorosilicate (SFS) is added to the raw water in a rather sophisticated treatment process. The SFS originates at KC Industries in Mulberry, Florida, where it is manufactured and purified as a byproduct from the domestic phosphate fertilizer industry. Each lot of SFS is analyzed and verified as meeting or exceeding American Water Works Association standards of purity before it is shipped. The material used by GHU is shipped from Florida by truck and container ship to Univar in Anchorage then by truck to Fairbanks. Univar has on record the certificates of assurance for the purity of each lot of SFS that it receives (R. Holland, personal communication). A member of the Fairbanks Fluoride Task Force conducted a laboratory analysis of a sample of SFS provided by GHU and found it to be impressively pure (Table 5.1) relative to typical laboratory chemicals. When used in the fluoridation

process, the calculated concentrations of metal ions added from the SFS are in the parts per trillion range, well below limits set by the EPA. While there are no guarantees against accidents in which fluoride levels in distributed water could rise to a dangerous point, the GHU fluoridation process is well run and has controls in place to provide a high level of assurance of safe operation. Each year since 2006 GHU has received a “Water Fluoridation Quality Award” from the Alaska Oral Health Program (Alaska Division of Public Health). The fluoride concentration in drinking water is measured three times each day, and the concentrations of eleven metals and radionuclides are analyzed on schedules that range from every three to nine years.

Table 5.1a. Major elemental components of a random sample of KC Industries’ sodium fluorosilicate^a

Element	Weight %	Element	Weight %
Silicon	14.8	Fluorine	60.3
Sodium	24.9	Chlorine	0.24

Table 5.1b. Trace elements in a random sample of KC Industries’ sodium fluorosilicate^a

Element	ppm	Element	ppm
Aluminum	25	Arsenic	<4
Barium	<5	Bromine	132
Cobalt	<1	Chromium	<1
Copper	<5	Iron	35
Iodine	35	Nickel	<2
Phosphorous	34	Lead	<1
Antimony	<5	Thorium	<0.5
Vanadium	<1	Tungsten	<2
Zinc	<2		

Table 5.1c. Approximate concentrations of elements added to Fairbanks water after the fluoride concentration has been adjusted to 0.7 ppm

Element	ppm	Element	ppm
Silicon	0.1	Fluorine	0.4
Sodium	0.2	Chlorine	0.002
Element	ppt ^b	Element	ppt ^b
Aluminum	21	Arsenic	<4
Barium	<4	Bromine	11
Cobalt	<1	Chromium	<1
Copper	<4	Iron	28
Iodine	28	Nickel	<1
Phosphorous	28	Lead	<1
Antimony	<4	Thorium	<0.4
Vanadium	<1	Tungsten	<1
Zinc	<2		

a. Analysis by XRF at the University of Alaska Fairbanks, Advanced Instrumentation Lab; R. Newberry, analyst

b. ppt = parts per trillion

Exposure of individuals to fluoride from dental products was not an issue when fluoridation of public water supplies was first introduced in the 1940s. Fluoridated toothpaste became commercially available in 1955, and it rapidly became widely accepted as an agent for caries prevention. However, inadvertent intake of fluoride from toothpaste can be a problem, especially with children who may have poor control of the swallowing reflex. Detailed studies of fluoride ingested by children from swallowing toothpaste have led to ingestion estimates ranging from 0.1 to 0.4 mg per brushing (Ophaug et al., 1985; Levy and Zarei-M. 1991; Rojas-Sanchez et al., 1999). A USPHS report (Institute of Medicine, 2000) summarized the findings by concluding that an average of about 0.3 mg of fluoride is introduced with each episode of tooth brushing in young children. Additional, and highly variable, amounts of fluoride may be ingested by individuals who take fluoride supplements (e.g., drops) or receive topical fluoride application by dental professionals.

Many foods and beverages contain detectable amounts of fluoride. The USDA National Fluoride Database on the fluoride content of a wide range of beverages and foods (USDA, 2004) contains an extensive list. Some representative entries from the USDA database are displayed in Table 5.2.

Table 5.2. Fluoride concentrations in selected foods and beverages available in the United States. Adapted from USDA National Fluoride Database of Selected Beverages and Foods (2004) and Lalumandier and Ayers (2000).

Food or Beverage	Mean (ppm)	Standard Deviation	Range (ppm)
Dairy Products	0.25	0.38	0.02–0.82
Grain and Cereals	0.42	0.40	0.08–2.01
Potatoes	0.49	0.26	0.210–0.84
Leafy Vegetables	0.27	0.25	0.21–0.84
Fruits	0.06	0.03	0.02–0.08
Sugar and Substitutes	0.28	0.27	0.02–0.78
Tea (brewed)	3.7	0.6	2.6–5.3
Soda Pop or Cola	0.5	0.1	0.05–0.8
Bottled Water ^a	NA	NA	0.02–0.94

a. An analysis of bottled water available in Scotland found some European bottled waters to contain nearly 6 ppm (MacFayden et al., 1982).

Part of the variation in fluoride concentrations in foods reflects differences in plant metabolism (for example, tea leaves seem to sequester higher concentrations of fluoride than do the leaves of lettuce or kale). However, one notable aspect of the range of fluoride concentrations in prepared foods is what is called the “halo effect”—the result of the use of fluoridated water to prepare foods and beverages (Griffin et al., 2001). Thus, the fluoride content of processed foods and beverages reflects, in large part, the fluoride concentrations in the water used in their processing.

While the halo effect is manifested in a variety of products, perhaps the most obvious is bottled water, a product of special interest to residents of communities with fluoridated water supplies because it provides an alternative to tap water. The fluoride content of bottled water is regulated by law (see National Research Council, 2006), and it can contain up to 2.4 ppm fluoride with no requirement for a statement of fluoride content on the label, unless fluoride has been added. The large range of

allowable concentrations of fluoride and the lack of a requirement for notification of fluoride content clearly compromises the utility of bottled water (as opposed to distilled water) as an alternative to fluoridated community water.

A final source of fluoride, or at least fluorine in some form, is from the air. This is largely due to trace amounts of pesticides and other industrial chemicals in the atmosphere. For the most part the fluoridated substances in the air are organic fluorides (as are some medications such as Prozac and Ciprofloxacin) rather than the fluoride ion found in water, dental products, foods, and beverages. Although our knowledge of the fate of fluorine from organic fluorides as the result of metabolism in the human body is very limited, it seems unlikely that the “fluoride” that comes from atmospheric sources adds significantly to the fluoride ion burden in humans.

Various estimates of the total fluoride exposure of individuals in the United States have been made, but the most comprehensive effort is probably that of an NRC committee (National Research Council, 2006). Tables 5.3 through 5.5, below, were constructed by the Fairbanks Fluoride Task Force from data in that report. The NRC committee’s estimates of fluoride exposure from water were based on estimates of water consumption (EPA, 2000), which had been used in many of the studies considered by the committee. Because updated estimates of water consumption are now available (EPA, 2004), the task force substituted the updated estimates of water consumption and repeated the calculations used to construct Tables 5.3 through 5.5. The results are displayed in Tables 5.6 through 5.8.

Table 5.3. Estimated fluoride exposure (mg/kg body weight/day) of U.S. populations on water with 1.0 ppm fluoride, based on water intakes estimated in NRC (2006)

Population	water ^a	toothpaste ^b	background food ^b	pesticides & air ^b	total exposure ^c	% from water
Nursing infant	.0260		.0046	.0019	.033	79
Non-nursing Infant	.0860		.0114	.0019	.099	87
1–2 year old	.0314	.0115	.0210	.0020	.066	48
3–5 year old	.0292	.0114	.0181	.0012	.060	49
6–12 year old	.0202	.0075	.0123	.0007	.041	49
13–19 year old	.0152	.0033	.0097	.0007	.029	52
20–49 year old	.0196	.0014	.0114	.0006	.033	59
50+ year old	.0208	.0014	.0102	.0006	.033	63

a. Assuming all water, tap plus other, at 1.0 ppm

b. NRC (2006), Table 2-9

c. NRC (2006), Table 2-11

Table 5.4. Estimated fluoride exposure (mg/kg body weight/day) of U.S. populations on water with **0.7 ppm fluoride**, based on water intakes estimated in NRC (2006)

Population	water ^a	toothpaste ^b	background food ^b	pesticides & air ^b	total exposure ^c	% from water
Nursing infant	.0182		.0046	.0019	.025	73
Non-nursing Infant	.0602		.0114	.0019	.074	81
1–2 year old	.0220	.0115	.0210	.0020	.056	39
3–5 year old	.0204	.0114	.0181	.0012	.051	40
6–12 year old	.0141	.0075	.0123	.0007	.035	40
13–19 year old	.0106	.0033	.0097	.0007	.024	44
20–49 year old	.0138	.0014	.0114	.0006	.027	51
50+ year old	.0146	.0014	.0102	.0006	.027	54

a. Calculated from Table 5.3, assuming all water, tap plus other, at 0.7ppm NRC (2006)

b. NRC (2006), Table 2-9

c. NRC (2006), Table 2-11

Table 5.5. Estimated fluoride exposure (mg/kg body weight/day) of U.S. populations on water with **0.3 ppm fluoride**, based on water intakes estimated in NRC (2006)

Population	water ^a	toothpaste ^b	background food ^b	pesticides & air ^b	total exposure ^c	% from water
Nursing infant	.0078		.0046	.0019	.014	56
Non-nursing Infant	.0258		.0114	.0019	.039	66
1–2 year old	.0094	.0115	.0210	.0020	.044	20
3–5 year old	.0088	.0114	.0181	.0012	.040	22
6–12 year old	.0061	.0075	.0123	.0007	.027	23
13–19 year old	.0046	.0033	.0097	.0007	.018	26
20–49 year old	.0059	.0014	.0114	.0006	.019	31
50+ year old	.0062	.0014	.0102	.0006	.018	34

a. Calculated from Table 5.3, assuming all water, tap plus other, at 0.3ppm

b. NRC (2006), Table 2-9

c. NRC (2006), Table 2-11

Table 5.6. Estimated fluoride exposure (mg/kg body weight/day) of U.S. populations on water with **1.0 ppm fluoride**, based on water intakes estimated by EPA in 2004

Population	water ^a	toothpaste ^b	background food ^b	pesticides & air ^b	total exposure	% from water
Nursing infant	.017		.0046	.0019	.024	71
Non-nursing Infant	.055		.0114	.0019	.068	81
1–2 year old	.029	.0115	.0210	.0020	.064	45
3–5 year old	.026	.0114	.0181	.0012	.057	46
6–12 year old	.017	.0075	.0123	.0007	.038	45
13–19 year old	.014	.0033	.0097	.0007	.028	50
20–49 year old	.018	.0014	.0114	.0006	.032	56
50+ year old	.018	.0014	.0102	.0006	.030	60

a. Calculated from Table 5.3, assuming all water, tap plus other, at 1.0ppm

b. NRC (2006), Table 2-9

Table 5.7. Estimated fluoride exposure (mg/kg body weight/day) of U.S. populations on water with **0.7 ppm fluoride**, based on water intakes estimated by EPA in 2004

Population	water ^a	toothpaste ^b	background food ^b	pesticides & air ^b	total exposure	% from water
Nursing infant	.012		.0046	.0019	.019	63
Non-nursing Infant	.039		.0114	.0019	.052	75
1–2 year old	.020	.0115	.0210	.0020	.055	36
3–5 year old	.018	.0114	.0181	.0012	.049	37
6–12 year old	.012	.0075	.0123	.0007	.033	36
13–19 year old	.010	.0033	.0097	.0007	.024	42
20–49 year old	.013	.0014	.0114	.0006	.026	50
50+ year old	.013	.0014	.0102	.0006	.025	52

a. Calculated from Table 5.4, assuming all water, tap plus other, at 0.7ppm

b. NRC (2006), Table 2-9

Table 5.8. Estimated fluoride exposure (mg/kg body weight/day) of U.S. populations on water with **0.3 ppm fluoride**, based on water intakes estimated by EPA in 2004

Population	water ^a	toothpaste ^b	background food ^b	pesticides & air ^b	total exposure	% from water
Nursing infant	.0051		.0046	.0019	.012	43
Non-nursing Infant	.017		.0114	.0019	.030	57
1–2 year old	.0087	.0115	.0210	.0020	.043	20
3–5 year old	.0078	.0114	.0181	.0012	.039	20
6–12 year old	.0051	.0075	.0123	.0007	.026	20
13–19 year old	.0042	.0033	.0097	.0007	.018	23
20–49 year old	.0054	.0014	.0114	.0006	.019	28
50+ year old	.0054	.0014	.0102	.0006	.018	30

a. Calculated from Table 5.5, assuming all water, tap plus other, at 0.3 ppm

b. NRC (2006), Table 2-9

Several things must be kept in mind when interpreting the data in these tables:

- The average intakes of water are based on two different estimates of water consumption (NRC, 2006; EPA, 2004). The following pairs of tables allow direct comparison of the overall estimated exposures based on the differences in estimates of water intake: Tables 5.3 and 5.6, Tables 5.4 and 5.7, Tables 5.5 and 5.8.
- The range of water intakes among individuals is quite large.
- For simplicity of calculation, the estimated intake of fluoride from water assumes that all water has the fluoride concentration indicated in each table. This clearly is not the case for someone who uses several sources of water (for example, well, public system, and bottled) on a regular basis. This assumption, coupled with the range of fluoride concentrations in commercial bottled water, injects quite a bit of uncertainty into the results of these calculations.
- The estimated amounts of fluoride ingested by individuals from toothpaste are for individuals who regularly brush twice daily with fluoridated toothpaste and who have control over swallowing.
- Estimates of intakes from food (and beverages) are really just educated guesses because of variability in diets and in the magnitude of the halo effect.

Despite the limitations on the validity of the estimates of exposure, the data in the tables can be evaluated in light of recommendations made by relevant organizations of health professionals. There

have been a number of recommendations through the years, and the situation is complicated by the fact that some recommendations are in terms of mg per individual per day and others in terms of mg per kg per day. In the opinion of the task force, the key recommendations on fluoride are:

- Adequate daily intake (Institute of Medicine, 1997):
 - 0.0014 mg/kg/day for infants 0–6 months
 - 0.06 mg/kg/day for infants 7–12 months
 - 0.05 mg/kg/day for other children and all adults
- Upper limits:
 - Agency for Toxic Substances and Disease Registry (ATSDR): 0.023 mg/kg/day
 - Environmental Protection Agency (EPA, 2010): 0.06 mg/kg/day
 - Institute of Medicine tolerable upper intake (Institute of Medicine, 1997):
 - 0.1 mg/kg/day for newborns through age 8
 - 0.15 mg/kg/day for ages 9 through adult

The ATSDR limit (MRL, minimal risk level) is an estimate of the daily human exposure to sodium fluoride that is likely to be without appreciable risk of adverse noncancer health effects (set, in the case of sodium fluoride, by the lowest level of fluoride judged to be correlated with increased bone fracture rates and then divided by a “safety factor” of ten). The ATSDR “upper limit” of 0.023 mg/kg/day for fluoride cited in this report takes into account the fluoride content of sodium fluoride for which the ATSDR has set an MRL of 0.05 mg/kg/day. The EPA limit (“reference dose”) is based on a “no observed adverse effect level” for mottling of the teeth. The Institute of Medicine limits (tolerable upper intake limits, or UL’s), which were also endorsed by the American Dental Association in 1994 and the American Dietetic Association in 2000, are set to minimize the risk of dental fluorosis but are at or near those that have been associated with mild (Institute of Medicine, 1997) or even crippling (National Research Council, 1993) skeletal fluorosis. While these upper limit recommendations have been used in formulation of a number of public health programs, the opponents of fluoridation have often critiqued and questioned the propriety of the recommendations and have called for lower limits for exposure to fluoride (see, for example, Connett et al., 2010). The problems associated with using these guidelines to develop public policy is perhaps best illustrated by the observation that the adequate daily intakes recommended by the Institute of Medicine for individuals greater than six months of age are equal to or greater than upper limits recommended by the ATSDR and the EPA.

The relationships between estimated fluoride exposures of several subpopulations of Fairbanks residents consuming drinking water with 0.7 or 0.3 ppm fluoride can be analyzed with the aid of Figs. 5.4 and 5.5 (derived from Tables 5.7 and 5.8, respectively). In analyzing these data, it is important to keep in mind that the numbers represent “average” individuals and that the consumption of drinking water varies widely among individuals (Fig. 5.1). In the existing scenario (0.7 ppm fluoride in drinking water, Fig. 5.4), it is apparent that nursing infants (NI) are estimated to be exposed to daily fluoride doses well below those established by ATSDR, EPA, and IOM; those over twenty years of age (20+ YR) have exposure well below EPA and IOM upper limits and about at the limit recommended by ATSDR. However, non-nursing infants (NNI) and one to five year-olds receive daily doses significantly above the ATSDR recommendation, marginally below that recommended by EPA, and significantly below that recommended by IOM. In contrast, while drinking water with 0.3 ppm fluoride does place non-nursing infants and one to five year-olds at risk of exceeding ATSDR upper limits, the exposure of other age groups remains below the ATSDR recommendation. Furthermore, no age group risks exposure greater than the recommended upper limits of the EPA or IOM (Fig. 5.5).

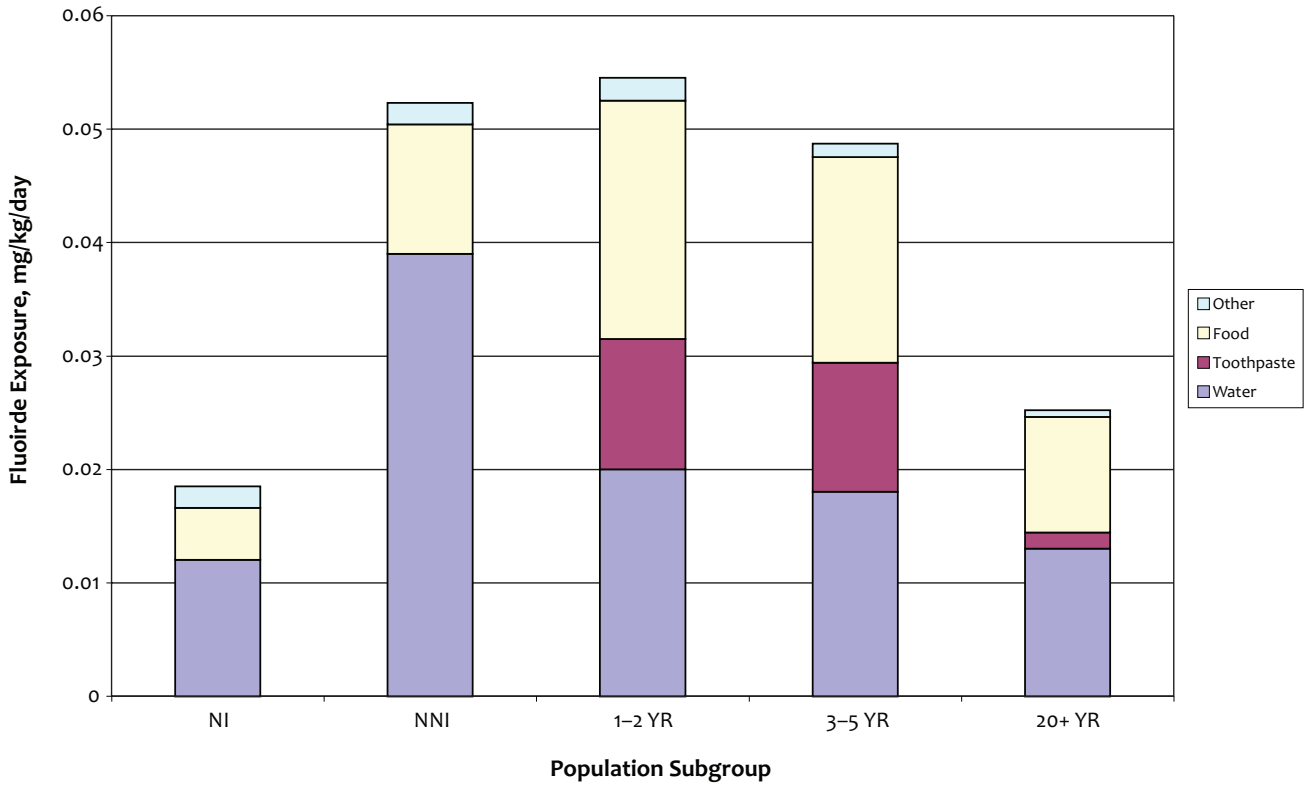


Figure 5.4. Estimates of fluoride exposure of individuals with 0.7 ppm fluoride in drinking water (data from Table 5.7)

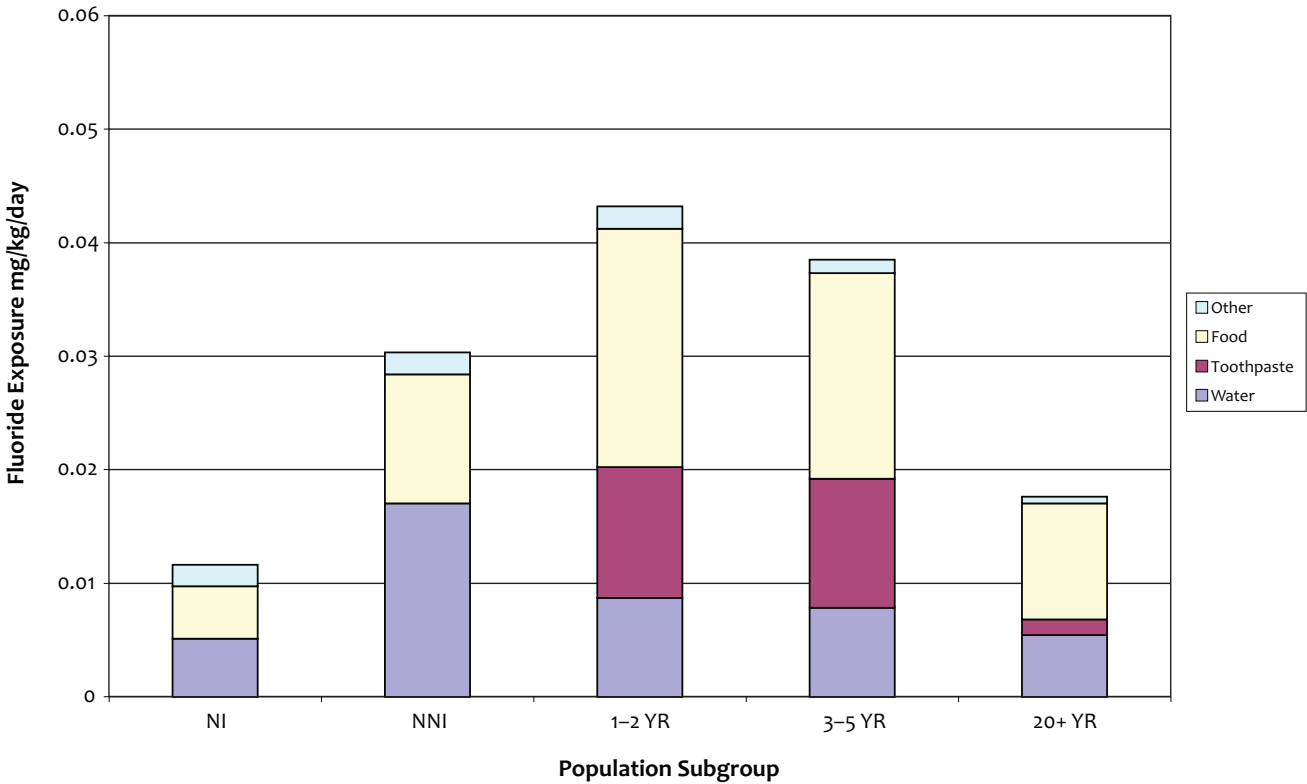


Figure 5.5. Estimates of fluoride exposure of individuals with 0.3 ppm fluoride in drinking water (data from Table 5.8). NI = nursing infant, NNI = non-nursing infant

In addition to the officially defined upper and lower limits for exposure to fluoride, there has been a widely accepted “optimal intake” of fluoride of 0.05 to 0.07 mg/kg/day. The optimal intake was thought to be a narrow range of doses that provide protection from caries but do not cause dental fluorosis. However, recently the concept of an “optimal” intake has been called into question because of (1) the overlap in fluoride intakes of groups of children who are caries-free and groups of children diagnosed with fluorosis and (2) the high variability in individual fluoride intakes (Warren et al., 2009).

Because the Fairbanks Fluoride Task Force had concerns about exposure of infants to fluoride and about the uncertainties associated with estimates of drinking water consumption, we performed some independent calculations. The results of the calculations for infants are displayed in Table 5.9. While the values in Table 5.9 are not identical with corresponding entries in Tables 5.3 through 5.5, the task force judges that they are sufficiently consistent, given the uncertainties and assumptions involved.

Table 5.9. Average fluoride intake per day by non-nursing infants (mg/kg/day)

Age	1 ppm F in water	0.7 ppm F in water	0.3 ppm F in water	upper limit
Birth	0.164	0.115	0.049	0.023, ^a 0.10 ^b
1 mo.	0.161	0.113	0.048	0.023, ^a 0.10 ^b
2 mo.	0.179	0.125	0.054	0.023, ^a 0.10 ^b
4 mo.	0.130	0.091	0.039	0.023, ^a 0.10 ^b
8 mo.	0.089	0.064	0.027	0.023, ^a 0.10 ^b
10 mo.	0.070	0.049	0.021	0.023, ^a 0.10 ^b
12 mo.	0.065	0.045	0.019	0.023, ^a 0.10 ^b

a. ATSDR

b. IOM (1997)

Findings

1. The problematic relationship between fluoride concentration in drinking water and “fluoride dose,” due to varying amounts of water consumed by individuals and to other sources of ingested fluoride, severely complicates attempts to determine both health risks and benefits associated with 0.7 ppm fluoride in drinking water. In particular, commonly available foods and beverages contain from high (greater than 2 ppm) to negligible levels of fluoride, and fluoridated toothpaste is variably used and swallowed. We believe that these factors grossly complicate interpretation of drinking water studies and explain why the numerous studies conducted have come to a variety of conclusions that, in some cases, are quite different.
2. The concentration of fluoride in raw Fairbanks city water averages 0.3 ppm and is adjusted to 0.7 ppm in the treatment process. Because removing the fluoride from the raw water is impractical, the City of Fairbanks does not seem to have a realistic option for “fluoride free” city water (for a discussion of fluoride-removal processes see Fawell et al., 2006). Whatever benefits and detriments are caused by fluoride in drinking water will continue to a smaller degree if Fairbanks city water is no longer fluoridated.
3. Fluoride concentrations in Fairbanks area well water vary from 0.1 to greater than 1.0 ppm. Thus, some well water in the Fairbanks area contains more fluoride than fluoridated city water.

4. Fluoridation of Fairbanks city water has ramifications throughout the surrounding area because of the distribution of GHU water by College Utilities and several suppliers of trucked water.
5. The practice of fluoridation as carried out in Fairbanks has sufficient safeguards to protect public health beyond whatever health effects are associated with 0.7 ppm fluoride. The chemical employed is of sufficient purity and the manner in which it is added and monitored meets or exceeds standard practices.
6. An analysis of the estimates in Tables 5.3 through 5.8 and Figures 5.4 and 5.5 indicates that two segments of the Fairbanks area population must be considered separately with respect to professional recommendations on upper limits of fluoride exposure: (1) the average consumer of GHU water (fluoride concentration of 0.7 ppm) who is greater than five years of age is projected to consume less than the daily upper limits set by the EPA and IOM and just about at the upper limit set by ATSDR, and (2) children less than six years of age (with the exception of nursing infants) are projected to have total fluoride exposures that remain below the upper limits set by IOM and EPA but exceed those of ATSDR. It appears that drinking water with a fluoride concentration of 0.3 ppm would bring total fluoride exposure for those over 20 years of age well below even the most stringent of the recommendations of upper limits (ATSDR) and would significantly reduce concerns about overexposure of infants and young children. However, due to the tremendous variability in amount of drinking water consumed by individuals, the fluoride exposures of significant portions of the population are not adequately represented by the average values.
7. Nevertheless, the estimates of Table 5.9 highlight additional concerns about fluoride exposure of non-nursing infants in their first year. The use of fluoridated water to make up infant formula leads to levels of fluoride consumption that exceed recommended upper limits. While the magnitude of the problem obviously declines with a decline in fluoride concentration in the water used to make up formula, the most conservative of the upper limits of fluoride exposure would be approached or exceeded even when using GHU well water (fluoride concentration averaging 0.3 ppm) to which no fluoride has been added. While bottled water would seem to be the water of choice, the data of Table 5.2 indicate that not all bottled waters available in the United States would provide this level of protection. The use of bottled water for this purpose is further complicated by the absence of information about fluoride content on the labels of most bottled water. The only certainty for consumers seems to be that the distilled water sold in supermarkets has an undetectable concentration of fluoride.

Efficacy of Community Water Fluoridation

Evaluation of Efficacy Before 2000

The addition of fluoride was effective in reducing caries in those municipalities that were the subject of reports in the primary dental literature during the mid-twentieth century. The Ft. Collins report gives the historical background that led to widespread fluoridation of public water systems:

In 1901, a Colorado Springs dentist recognized that his patients with teeth with a brown stain or mottled dental enamel also had a very low prevalence of cavities (also called caries) (Centers for Disease Control and Prevention [CDC], 1999b). At this time in history, extensive dental caries were common, so this observation and its subsequent correlation with high amounts of fluoride ion in the water supply (2.0–12.0 milligrams per liter, mg/L) proved to be significant. Another dentist, H. T. Dean, DDS, took this information and conducted a survey of dental caries in relation to natural concentrations of fluoride in drinking water of 21 U.S. cities (Committee to Coordinate Environmental Health and Related Programs, USPHS [USPHS], 1991, pp. 18–19; CDC, 1999a, p. 934). Dean observed that at a concentration of 1 mg/L, fluoride would significantly reduce caries while causing a low incidence of mottled enamel, now called fluorosis, of the mostly very mild type. Beginning in 1945 and 1946, community trials were conducted over 13–15 years in four pairs of cities in the U.S. and Canada. These studies found a 50–70% reduction of caries in children following addition of fluoride (in the form of sodium fluoride) to community water supplies at 1 mg/L. The incidence of mild fluorosis remained low (CDC, 1999a, p. 936). Some of the early studies were criticized for lacking appropriate controls, not applying randomization, and not controlling for potential examiner bias (Sutton, 1960). However, the large effect sizes in these trials, along with replication of these findings in subsequent studies, led to the acceptance of community water fluoridation as a public health approach to caries prevention. (Fluoride Technical Study Group, 2003)

Many reviews and meta-analyses, which combine the results of several studies that address a set of related research hypotheses, support the hypothesis that water fluoridation reduces the incidence of caries. The York Report (McDonagh et al., 2000) is a systematic review made to assess the evidence of the positive and negative effects of population-wide drinking water fluoridation strategies to prevent caries. It is a summary of 254 studies published from the mid-1960s to mid-1999, which were chosen for relevance from over 3,000 studies identified in the literature. The authors of the York Report identified five objectives to make their assessment.

Their first objective was to answer the question: “What are the effects of fluoridation of drinking water supplies on the incidence of caries?” Of the 254 studies, twenty-six were relevant to this question. They are optimistic about the caries reductions caused by water fluoridation, yet cautious.

The best available evidence suggests that fluoridation of drinking water supplies does reduce caries prevalence, both as measured by the proportion of children who are caries free and by

the mean change in dmft/DMFT score. The studies were of moderate quality (level B), but of limited quantity. The degree to which caries is reduced, however, is not clear from the data available. The range of the mean difference in the proportion (%) of caries-free children is -5.0 to 64%, with a median of 14.6%. . . . The range of mean change in dmft/DMFT score was from 0.5 to 4.4, with a median of 2.25 teeth. . . . It is estimated that a median of six people need to receive fluoridated water for one extra person to be caries-free. . . . The best available evidence from studies following withdrawal of water fluoridation indicates that caries prevalence increases, approaching the level of the low fluoride group. Again, however, the studies were of moderate quality (level B), and limited quantity. The estimates of effect could be biased due to poor adjustment for the effects of potential confounding factors. (McDonagh et al., 2000, p. xii)

Their second objective was to answer the question: “If water fluoridation is shown to have beneficial effects, what is the effect over and above that offered by the use of alternative interventions and strategies?” Of the 254 studies, nine conducted after 1974 were relevant to this question. Again, their summary statement is positive toward the extra benefits of water fluoridation in the presence of other sources of fluoride:

In those studies completed after 1974, a beneficial effect of water fluoridation was still evident in spite of the assumed exposure to non-water fluoride in the populations studied. The meta-regression conducted for Objective 1 confirmed this finding. (McDonagh et al., 2000, p. xii).

A summary of observed effects of fluoridation on caries in children is presented in Figs. 6.1 and 6.2 (McDonagh et al., 2000, pp. 12–13).

An examination of twenty-one studies, half of which were published between 1990 and 2000, came to a similar conclusion, although without as many caveats: “According to *Community Guide* rules of evidence, strong evidence shows that CWF (community water fluoridation) is effective in reducing the cumulative experience of dental caries within communities” (Truman et al., 2002, p. 28; see <http://www.thecommunityguide.org/index.html> for more about Community Guide).

A meta-analysis of twenty studies concluded that fluoride prevents caries among adults of all ages (Griffin et al., 2007). Some details are worth noting. Water fluoridation was responsible for preventing 27% of the caries. Self- and professionally applied topical fluoride was responsible for the remaining 73% reduction. For studies published after 1980, fluoride from all sources annually averted 0.29 carious coronal and 0.22 carious root surfaces per person. The authors point out the value of all types of fluoride for low-income adults and the elderly, who may not be receiving routine dental care. Note that the York Report (McDonagh et al., 2000) does not support this conclusion.

An epidemiological study in the United Kingdom addressed the question of differences in effect of water fluoridation over a range of socioeconomic groups (Riley et al., 1999). They conclude that water fluoridation reduced dental caries more in materially deprived wards than in affluent wards. In addition, the introduction of community water fluoridation substantially reduced inequalities in dental health. This conclusion is supported to an extent in the York Report (McDonagh et al., 2000, p. xii), although with considerable caution due to the low quality of the evidence and the general lack of variance

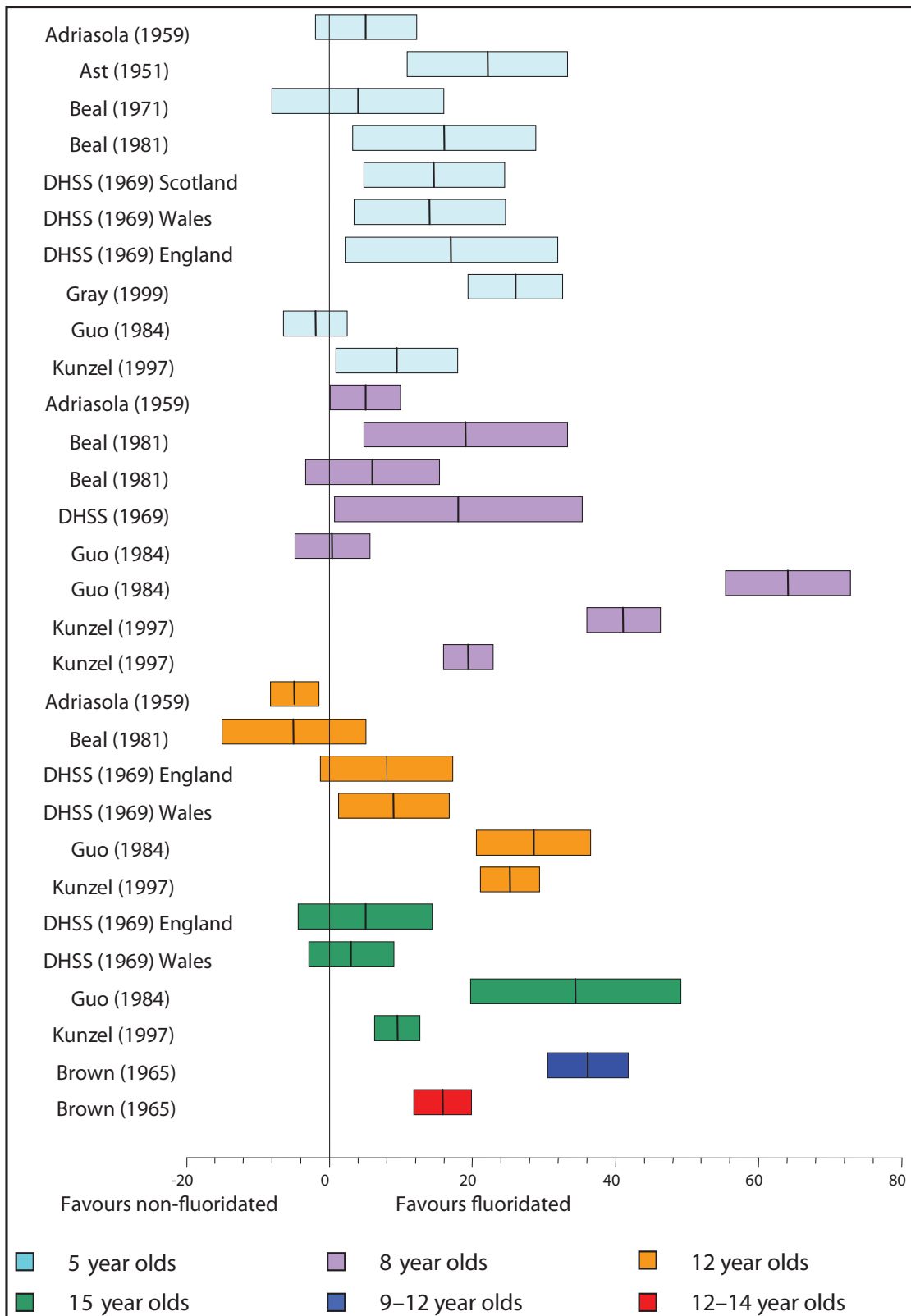


Figure 6.1. The mean difference of the change in the proportion (%) of caries-free children in the exposed (fluoride) group compared with the control group (low fluoride), for all ages extracted (color coded by age), for studies in which fluoridation was initiated after the baseline survey (McDonagh et al., 2000, p. 12)

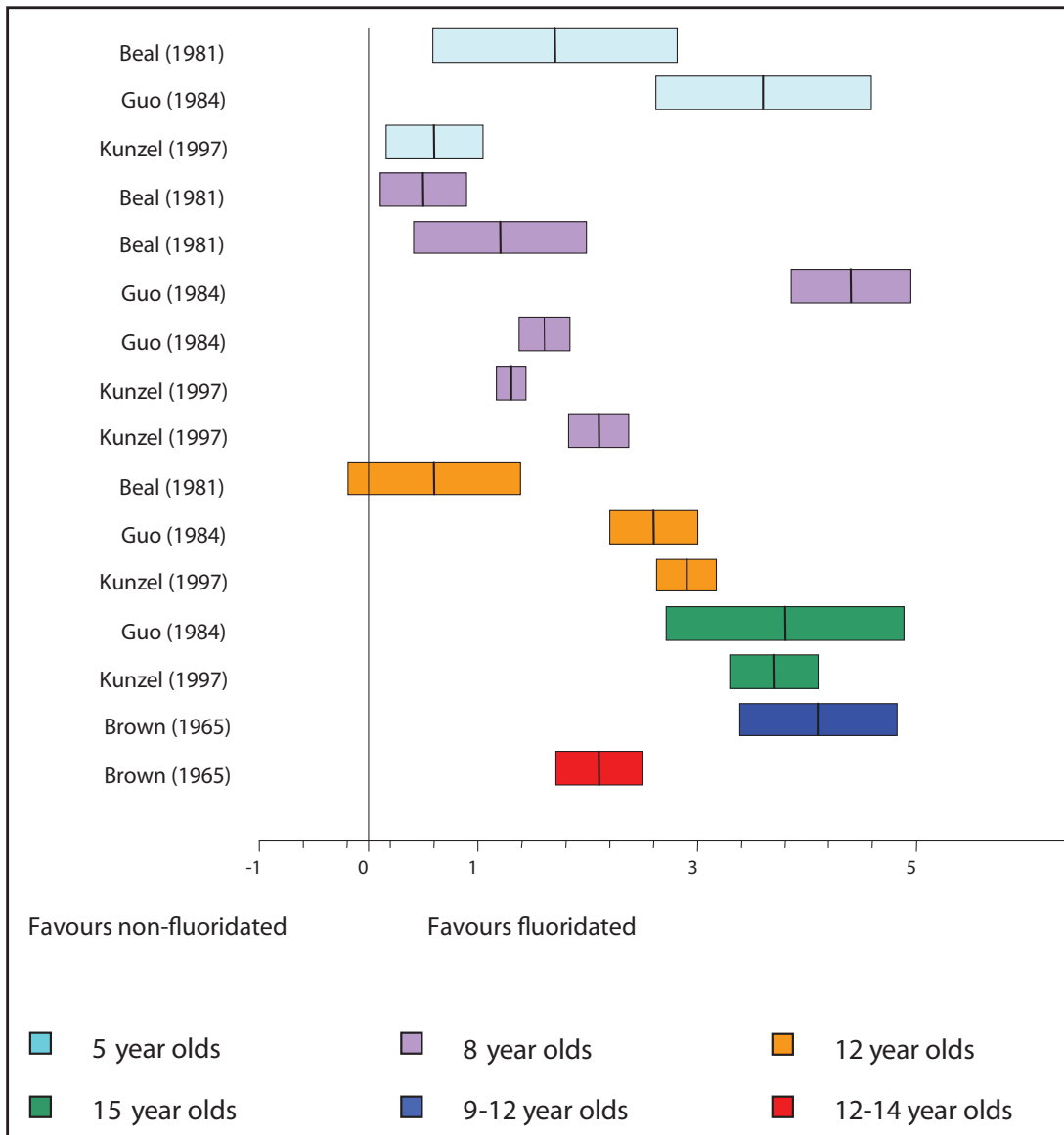


Figure 6.2. Change in dmft/DMFT Score (mean difference and 95% CI) (McDonagh et al., 2000, p. 13)

estimates in the fifteen studies. To objective 3, “Does water fluoridation result in a reduction of caries across social groups and between geographical locations, bringing equity?”, their response was

There appears to be some evidence that water fluoridation reduces the inequalities in dental health across social classes in 5 and 12 year-olds, using the dmft/DMFT measure. This effect was not seen in the proportion of caries-free children among 5 year-olds. The data for the effects in children of other ages did not show an effect. The small quantity of studies, differences between these studies, and their low quality rating, suggest caution in interpreting these results. (McDonagh et al., 2000, p. xii)

It is apparently difficult to design and execute good studies to test the hypothesis that fluoridation of public water systems decreases the incidence of caries. Questions have been raised on a regular basis about the design and analysis of studies investigating the efficacy of municipal water fluoridation for the reduction of caries incidence. Concerns about experimental design and examiner bias were raised long ago (Sutton, 1960). The York Report (McDonagh et al., 2000), a meta-analysis of 214 studies published before 2000, presented relatively positive results for efficacy, with many caveats. In particular, they note the general lack of analysis, lack of control for potentially confounding factors, and the lack of any measure of variance for the estimates of decay. The difficulties of an accurate analysis and interpretation of data from a large and carefully designed longitudinal trial have been pointed out, with the observation made that “our analysis shows no convincing effect of fluoride-intake on caries development” in the permanent first molars in children between 7 and 12 years of age (Komárek et al., 2005, p. 145).

Equally important to the critical evaluation of the efficacy of water fluoridation to prevention of caries is “The Mystery of Declining Tooth Decay,” which was reported in the journal *Nature* (Diesendorf, 1986). He notes in summary that “large temporal reductions in tooth decay, which cannot be attributed to fluoridation, have been observed in both unfluoridated and fluoridated areas of at least eight developed countries over the past thirty years” (p. 125). The magnitude of the reductions observed in unfluoridated areas were generally comparable with those observed in fluoridated areas over similar periods. In his discussion of the why’s of the reductions, the author emphasized the literature that suggests changes in diet, immunity, and perhaps topical fluoride exposure with time are more likely candidates than fluoridated municipal water. The magnitude of the decrease in tooth decay is demonstrated in World Health Organization data, which was put into graphical form (Fig. 6.3) for the antifuoridation Fluoride Action Network (FAN) (Osmunson, 2010b).

The European experience has been one of generally decreasing DMFT scores. This is reported for fluoridated regions, nonfluoridated regions, and regions where fluoridation has been discontinued. In East Germany, the introduction of water fluoridation in Spremberg and Zittau brought about caries reduction averaging 48%. Surprisingly, caries levels for the twelve-year-olds of both towns significantly decreased following the cessation of water fluoridation (Kunzel et al., 2000). In Spremberg, DMFT fell from 2.4 to 1.4 (~40 %) and in Zittau from 2.5 to 2.0 (~20%). In Tiel (The Netherlands), where water fluoridation was discontinued in 1973, DMFS scores varied somewhat less consistently. The mean DMFS score increased between 1968/1969 and 1979/1980 from 10.8 to 12.7 (+18%) and then decreased to 9.6 (-26%) in 1987/1988. Overall the mean DMFS score decreased by 11% from 1968/1969, when water was fluoridated, to 1987/1988, when the town water had been

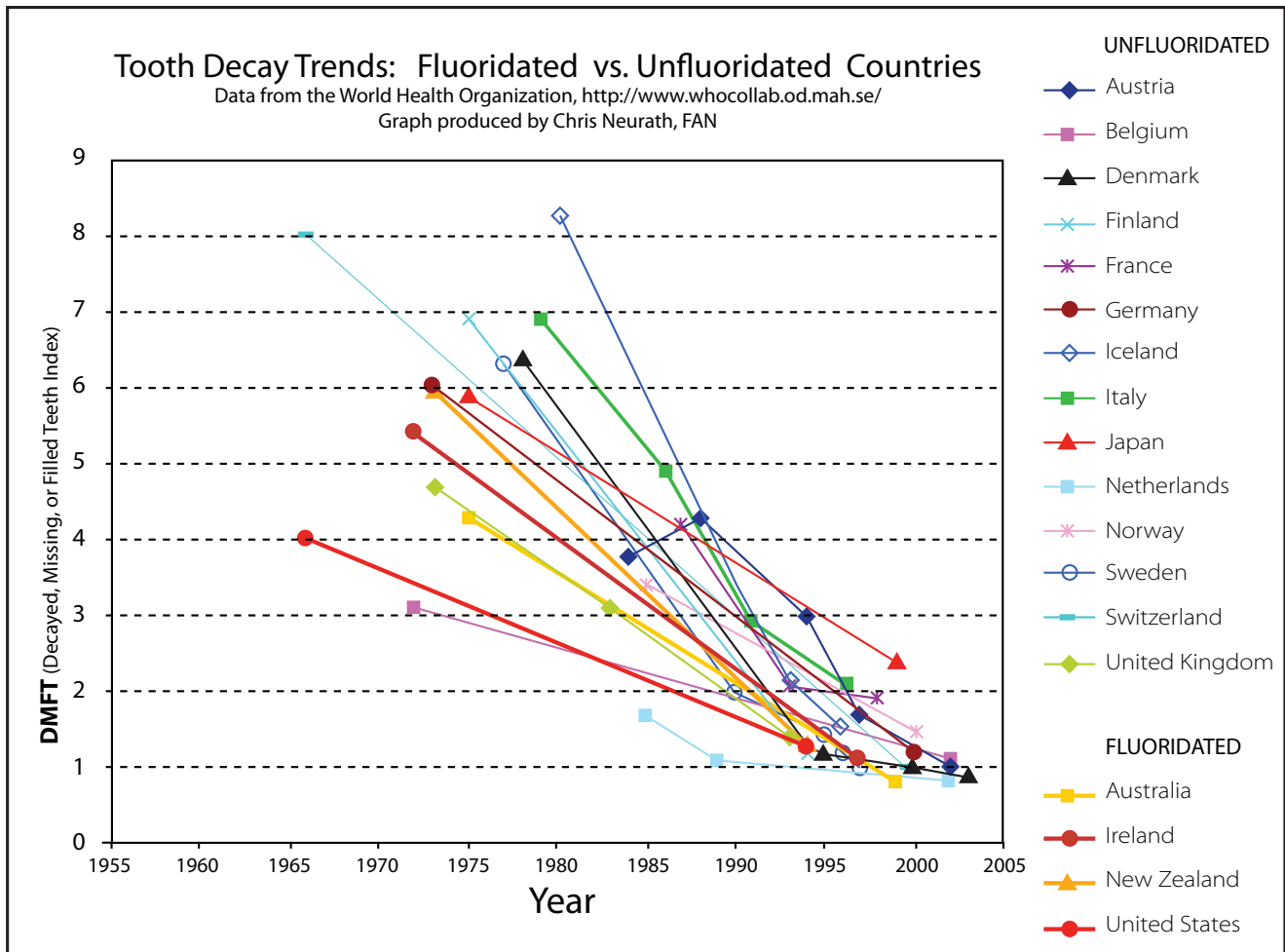


Figure 6.3. Tooth decay trends internationally in countries with fluoridated vs. unfluoridated water

unfluoridated for fourteen years. In Culemborg, where the water was never fluoridated, the mean DMFS score decreased from 27.7 in 1968/1969 to 7.7 in 1987/1988. This decrease of 72% occurred with no fluoridation of the public water supply (Kalsbeek et al., 1993). Presuming the application of existing preventive measures, the question as to whether water fluoridation would have had an additional effect if it had been continued cannot be answered, because no communities in The Netherlands now fluoridate water.

Evaluation of Efficacy After 2000

A recent review of community water fluoridation and caries prevention considers only recent data (Pizzo et al., 2007). Using MEDLINE as the primary database, the authors reviewed articles published from January 2001 to June 2006. They conclude that community water fluoridation is not necessary for caries prevention in modern, industrialized societies. Because the primary cariostatic action of fluoride occurs after tooth eruption, the use of topical fluoride is a more effective approach in communities where caries levels have become low. This line of thought is noted in a recent analysis published in the *British Medical Journal* (Cheng et al., 2007). The average number of decayed, missing, and filled teeth in twelve-year-old children in a number of European countries is near 1.5, and half of children have no cavities. There is no correlation in the downward trends with degree of

water fluoridation. Pizzo and coworkers are cautious, however, and these cautions may be germane in Fairbanks. They state that “water fluoridation may still be a relevant public health measure in populations where oral hygiene conditions are poor, lifestyle results in high caries incidence, and access to a well-functioning oral health care system is limited” (p. 192).

An evaluation of three reviews culled from fifty-nine publications published between 2000 and 2008 resulted in positive support for the effectiveness of water fluoridation in prevention of dental caries (Parnell et al., 2009). Two of the reviews have been discussed previously and they include mostly older literature (McDonagh et al., 2000; Griffin et al., 2007). The third review (National Health and Medical Research Council, 2007) identified one systematic review (Truman et al., 2002) and one cessation study (Seppa et al., 2000) published since the York Report (McDonagh et al., 2000). As noted above, the Truman study was strongly positive toward water fluoridation. In contrast, the Seppa study showed no evidence of increased caries when a previously fluoridated town reverted to nonfluoridated water. Parnell et al. concluded that the two new studies do not change the findings of the York Report that “the existing body of evidence strongly suggests that water fluoridation is beneficial at reducing dental caries” (p. 143).

A recent, somewhat indirect, study makes an association between lack of water fluoridation and inclusion of Nevada youth in the high caries prevalence group (Ditmyer et al., 2010). For adolescents in the study group (the 30% highest DMFT scores, DMFT > 4.0), 27.3% lived in a water-fluoridated community. For the control group (caries free, DMFT score = 0), 64.7% lived in a water-fluoridated community. Thus, participants living in nonfluoridated communities were almost twice as likely to be in the highest DMFT group as those living in fluoridated communities.

Discussions of efficacy may sometimes revolve around the mode of action of fluoride in optimally fluoridated water. The theoretical mechanism by which fluoride prevents caries has undergone significant revision since the introduction of community water fluoridation. The original systemic theory was that fluoride had to be ingested to incorporate into tooth mineral during its development (Dean et al., 1942). By the 1970s, doubts emerged regarding the exclusively pre-eruptive effect of fluoride. Numerous clinical studies suggested that fluoride action is predominantly post-eruptive (topical). While there are conflicting results, most recent epidemiological and laboratory studies indicate that topical application of fluoride plays the dominant role in caries prevention (CDC 2001; Hellwig and Lennon, 2004).

Fluoride’s effect depends on its being in the right amount in the right place at the right time. It works primarily after teeth have erupted, especially when small amounts are maintained constantly in the mouth, specifically in dental plaque and saliva. The fluoride in saliva aids in enamel remineralization in enamel lesions by inducing apatite formation from calcium and phosphate ions present in saliva (Fejerskov et al., 1981). The effectiveness of toothpaste in decreasing the prevalence of caries is particularly clear. When introduced into the mouth, fluoride in toothpaste is taken up directly by dental plaque and demineralized enamel. Brushing with fluoride toothpaste increases the fluoride concentration in saliva 100- to 1,000-fold for one to two hours. Some of this salivary fluoride is taken up by dental plaque. The ambient fluoride concentration in saliva and plaque can increase during regular use of fluoride toothpaste (CDC, 2001).

In its recommendations, the CDC (2001) makes a strong argument supporting the topical mode of action in caries prevention. That said, they report that people living in communities with optimally fluoridated water who also use topical fluoride on a regular basis have a lower incidence of caries than people who use only optimally fluoridated drinking water or who only use topical fluoride. Thus the mode of action has been established in the modern literature as predominantly topical. Yet the epidemiological evidence, at least as reported a decade ago by CDC, still shows an empirical effect for fluoride in drinking water. Drinking fluoridated water prevents caries.

When fluoridated water is the main source of drinking water, a low concentration of fluoride is routinely introduced into the mouth. Some of this fluoride is taken up by dental plaque; some is transiently present in saliva, which serves as a reservoir for plaque fluoride; and some is loosely held on the enamel surfaces. Frequent consumption of fluoridated drinking water and beverages and food processed in fluoridated areas maintains the concentration of fluoride in the mouth. (CDC 2001)

Thus, although the mode of action for fluoride in drinking water was initially thought to be systemic, its true action is predominantly topical in caries prevention, as is the action of the fluoride present in toothpaste, supplements, mouth rinse, and professionally applied gels and varnishes.

Publications and a federal proposal made even in the past year show that the jury is very much 'out' with respect to questions about the efficacy of community water fluoridation at 1 ppm fluoride and about the benefit-to-risk assessment.

- A proponent of community water fluoridation has recently written of the existing uncertainties associated with the efficacy of community water fluoridation (Newbrun, 2010). These include the effect of reducing the concentration of fluoride below 1 ppm, the expected result of discontinuing community water fluoridation in a community, and the role of socioeconomic factors in the importance of continuing water fluoridation.
- On January 7, 2011, the U.S. Department of Health and Human Services (HHS) announced a proposal recommending that water systems practicing fluoridation adjust their fluoride content to 0.7 ppm, as opposed to the previous temperature-dependent optimal levels ranging from 0.7 ppm to 1.2 ppm (<http://www.hhs.gov/news/press/2011pres/01/20110107a.html>, accessed January 27, 2011).
- An opponent of community water fluoridation has noted the 15% difference in the proportion of caries-free children reported in the York Report and the 20% to 40% reduction in tooth decay reported by the American Dental Association (Thiessen, 2009a). She has no apparent objection to the numerical accuracy. However, she does put these values in context: "which would translate to < 1 decayed, missing, or filled permanent tooth (DMFT) in older children and adolescents (based on U.S. data from CDC 2005). Is this adequate justification for imposing inadequately characterized risks?" (Thiessen, 2009a, p. 3).

Findings

1. There has never been a double blind, randomized, long-term study of the effectiveness of community water fluoridation on decreasing the incidence of caries. Nor has there been a comparable study on the effect of discontinuing water fluoridation on the incidence of caries.

2. The degree of caries reduction due to community water fluoridation was large and significant in the first decades that it was done. In recent decades, the degree of caries reduction attributed to community water fluoridation has decreased as other sources of fluoride have come into common use and as effective dental health measures have become more prevalent. The relative importance of water fluoridation is currently much smaller, more variable among populations, and perhaps unknowable.
3. The problematic relationship between fluoride concentration in drinking water and “fluoride dose” (due to varying amounts of water consumed by individuals and to other sources of ingested fluoride) severely complicates attempts to determine both health risks and benefits associated with 1 ppm fluoride in drinking water. In particular, at this time commonly available foods and beverages range from high (greater than 2 ppm) to negligible fluoride content, and fluoridated toothpaste is variably swallowed. We believe that these factors grossly complicate interpretation of drinking water studies and explain why the numerous studies conducted have come to a variety of different conclusions.
4. Studies of the relative effectiveness of community water fluoridation among socioeconomic groups give contradictory results. Dietary habits, dental hygiene, and intervention by health/dental providers are independent factors that confound the investigation of the efficacy of fluoridation of water on caries prevalence.

Chapter 7

Adverse Effects

Introduction

Fluoride can clearly lead to adverse health effects in humans. However, as for most chemicals, the dose that one is exposed to is a critical factor in determining the effect(s). For example, many drugs with therapeutic benefit are toxic at higher-than-recommended doses. Further, some drugs may have a very narrow window of therapeutic benefit. That is, the dose at which the drug provides benefit may be only slightly lower than the dose leading to ill effects. We focused primarily on studies that examined the effects on humans of drinking water with fluoride concentrations of less than 2 ppm (or 2 mg/L).

In Fairbanks (Golden Heart Utilities), the water is fluoridated to a concentration of 0.7 ppm. One challenge in understanding possible adverse effects is that, depending on water consumption and other possible sources of fluoride exposure (such as toothpaste or heavy tea consumption), individuals may be exposed to widely different doses of fluoride. Another challenge is that the average expected dose may also vary by age (an infant receiving most nutrition from formula reconstituted with fluoridated water vs. an infant who is breast fed), health (for example, patients with kidney problems vs. people with normal kidney function), or other confounding factors.

In this section we rely heavily on several comprehensive review studies. Notably, we frequently cite the 2006 National Research Council (NRC) report by the Committee on Fluoride in Drinking Water, *Fluoride in Drinking Water: A Scientific Review of EPA's Standards*. Although the purpose of this well-researched report was to determine if the Environmental Protection Agency's drinking water standard of 4 ppm maximum allowable concentration for fluoride protects the public from harmful effects of fluoride, the report also provides valuable information about possible effects of drinking water containing lower concentrations of fluoride, such as those found in Golden Heart Utilities water. We supplemented information from this report with other comprehensive reviews and with refereed literature, particularly those papers published since the NRC report came out in 2006.

Dental Fluorosis

Dental fluorosis, a mottling and/or pitting of the tooth surface due to fluoride exposure, develops in children during tooth formation when exposure to excess fluoride leads to disruption of the crystalline-enamel structure. Fluoride has a strong affinity for developing pre-eruptive enamel, leading to integration of fluoride into the crystal lattice. Teeth appear to be most susceptible to fluorosis at early maturation stages, which vary for different tooth types. For example, central incisors of the upper jaw are most susceptible at age 15 to 24 months for boys and age 21 to 30 months for girls (Fluoride Recommendations Work Group, 2001).

Infants primarily ingesting formula reconstituted with fluoridated water, even at concentrations recommended for municipal systems, may receive doses of fluoride that could lead to more than mild fluorosis or possibly other adverse health effects from fluoride. For example, a recent study (Levy et

al., 2010) found that participants with fluorosis of permanent incisors (generally rated as mild) had significantly greater intake of fluoride from reconstituted powdered infant formula or other beverages with added water than those without fluorosis. The clinical implication suggested by the authors is that avoiding ingestion of formula or other drinks mixed with fluoridated water can reduce the likelihood of fluorosis.

Due to the increased risk of fluorosis for non-nursing infants, in 2007 the American Dental Association (ADA) made an interim recommendation that infant formula be reconstituted with water that is fluoride-free or containing low levels of fluoride (ADA, <http://www.ada.org/1767.aspx>). In January 2011, the ADA rescinded the interim recommendation and issued a new recommendation based on research by the ADA's Council on Scientific Affairs (Berg et al., 2011). The new recommendations "for infants who consume reconstituted infant formula as the main source of nutrition" are (1) "Continue use of liquid or powdered concentrate infant formulas reconstituted with optimally fluoridated drinking water while being cognizant of the potential risk for enamel fluorosis" and (2) "Use ready-to-feed formula or liquid or powdered concentrate formula reconstituted with water that is either fluoride-free or has low concentrations of fluoride when the potential risk for enamel fluorosis is a concern." These "evidence-based" recommendations were ranked by the ADA as being "based on lower levels of evidence" (ADA, http://ebd.ada.org/contentdocs/ADA_Evidence-based_Infant_Formula_Chairside_Guide.pdf).

The results of fluoride exposure on developing teeth range from mild discoloration to highly stained and pitted teeth, depending on the concentration of fluoride and to a certain degree the susceptibility of the individual (NRC, 2006; Fagin, 2008). Severe enamel fluorosis characterized by pitting results in teeth that are very susceptible to dental caries. Severe fluorosis is estimated to occur at a rate of about 10% among children drinking water at the current EPA maximum allowable fluoride concentration (4 ppm) (NRC, 2006). The incidence of severe dental fluorosis is near zero where fluoride in water is below 2 ppm (NRC, 2006). But fluoride ingestion at levels commonly used to fluoridate water (1 ppm) can lead to mild to moderate levels of fluorosis. In its mildest form, fluorosis leads to opaque areas on the teeth. Estimates in the literature on the incidence of fluorosis vary, but it can be expected that at least 30% of school-aged children who consume water with between 0.7 and 1.2 ppm fluoride will have very mild or more severe dental fluorosis (Heller et al., 1997). A more recent study reported that the incidence of fluorosis has increased since the 1980s, and an analysis of data from 1999 to 2004 found that the prevalence of dental fluorosis in adolescents aged 12 to 15 is 41% (Centers for Disease Control and Prevention, 2010b). This condition has not been linked to other adverse health effects (Fagin, 2008). However, even mild fluorosis is considered by some to be of cosmetic concern. Since fluorosis cannot be reversed, treatment requires costly cosmetic dentistry where teeth are coated to hide the effects.

For slightly older children (16 to 36 months), fluorosis risk increases with higher fluoridated toothpaste ingestion. To avoid fluorosis, it is recommended that ingestion of toothpaste should be reduced through parental supervision and using only a small smear of toothpaste when brushing (Levy et al., 2010).

There are challenges to determining the relationship between fluorosis and dental caries. One challenge is consistent diagnosis of mild dental fluorosis, which is subjectively rated using various rating scales. Another challenge is that there is some evidence that fluoride delays the eruption of permanent teeth, thus affecting studies comparing caries rates in children of different age groups

exposed to varying fluoride concentrations (NRC, 2006). A final challenge that affects all studies linking water fluoridation to both positive and negative health effects is that the concentration in water can lead to widely different individual doses, depending on water consumption and exposure to other sources of fluoride.

Bone Effects and Skeletal Fluorosis

Since about 50% of ingested fluoride not excreted is deposited in bone, and 99% of the fluoride in a human body is contained in the skeleton (cited in Bassin et al., 2006), a number of studies have examined the effects of fluoride on bone. Ingestion of fluoride at very high concentrations results in thickened bone and can lead to bone deformities (skeletal fluorosis). Debilitating skeletal fluorosis is rare in the U.S. (NRC, 2006), and there is no evidence that ingestion of fluoride at levels used to treat drinking water leads to significant skeletal fluorosis. However, exposure to fluoride at relatively high concentrations has been linked to an increased risk of bone fractures because fluoride incorporation, while increasing bone density, also leads to a decrease in bone strength. The Committee on Fluoride in Drinking Water (NRC, 2006) found that people consuming drinking water containing 4 ppm or greater fluoride over their lifetime had an increased risk of bone fractures. However, they could not reach a conclusion about the relationship between consumption of water containing lower concentrations of fluoride and risk of bone fractures.

There are a number of studies on the relationship between fluoride consumption and bone fractures. Interestingly, since fluoride is known to increase bone density, treating patients at risk of osteoporosis with fluoride was once a clinically accepted strategy. However, studies suggesting, at best, no protection against fractures and a high level of side effects have led to a decline in fluoride treatment (Vestergaard et al., 2008). Studies are confounded by factors that include the possibility that fluoride may affect different bones differently (NRC, 2006). Two comprehensive reviews of the literature have concluded that there is no clear association between hip fractures (either positive or negative) or osteoporosis and water fluoridation (McDonagh et al., 2000; Yeung, 2008). Overall, the data suggesting an increased risk of bone fractures in populations drinking fluoridated water in the concentration range recommended for drinking water are not conclusive.

Cancer

The potential link between fluoride and cancer, most specifically osteosarcoma, is an area of recent controversy. Since fluoride incorporates readily into developing bone and increases the proliferation of osteoblasts, it has been hypothesized that there could be a link between fluoride and osteosarcoma. Published studies have drawn different conclusions about whether or not there is a relationship, in part complicated by the relative rarity of this type of cancer. But several studies have indicated a potential link, including a 1990 study conducted by the U.S. National Toxicology Program (Bucher et al., 1991). In this study, where rats were exposed to high levels of fluoride, there appeared to be a relationship between osteosarcoma frequency in male rats and the level of exposure to fluoride.

A more recent paper by Bassin et al. (2006) on humans used a case-control approach to assess the patient history of 103 patients with osteosarcoma matched with 215 controls. The authors concluded “our exploratory analysis found an association between fluoride exposure in drinking water during

childhood and the incidence of osteosarcoma among males but not consistently among females.” Interestingly, Dr. Bassin’s PhD supervisor, Chester Douglass, challenged the data in a rebuttal published in the same issue of the journal that the Bassin et al. paper appeared (Douglass and Joshipura, 2006). In that rebuttal he suggested that a paper was forthcoming with more extensive data that would show no link. To date, no such paper has been published. Our task force committee chair contacted Dr. Douglass by e-mail to try to get more information. Dr. Douglass was not forthcoming with information, only stating that: “A paper has been submitted to a scientific journal for publication. Thank you for your interest.” A literature search in late November 2010 did not find a publication on this topic by Dr. Douglass.

While the Bassin paper is intriguing, the authors admit that the results are in contrast to several other case control studies (see Bassin et al., 2006) that found no link between fluoride consumption and osteosarcoma. They were careful to outline limitations to their preliminary study, including lack of data on actual consumption of fluoride by their subjects, lack of data on other potential unidentified factors, and selection bias. The authors cautiously referred to their study as “exploratory” and urged that “further research is required to confirm or refute this observation.” Unfortunately, as of 2010 it appears that no more comprehensive studies have been published that might shed light on a possible link between fluoride consumption and osteosarcoma. We find that although there may be such a link, the data published to date suggesting a link are limited and published studies are conflicting in their conclusions. This conclusion is supported by comprehensive reviews of the literature (Yeung, 2008; McDonagh et al., 2000), which both concluded that there is no clear association between water fluoridation and overall cancer incidence and mortality.

Other Effects

Endocrine Effects: Fluoride exposure has been shown to affect some endocrine glands and may function as an endocrine disruptor. Although fluoride is generally not thought to accumulate in soft tissues, there is evidence that it may accumulate in the thyroid where exposure can lead to decreased thyroid function. According to the NRC’s *Fluoride in Drinking Water* report (2006), many effects of low-dose fluoride exposure may be “subclinical effects, meaning there are no adverse health effects.” However, they also point out that “borderline hormonal imbalances” might lead to an increased risk of adverse health effects. Their report concluded that studies to date on the effects of fluoride on endocrine function have limitations and that further research is needed to explore the possible connections between fluoride, particularly at low doses, and endocrine function. Additional research is important since there is some indication that concentrations of fluoride in drinking water of 4 ppm or less may affect endocrine function in “young children” or in “individuals with high water intake.”

Neurotoxicity and Neurobehavioral Effects: A number of studies have reported changes to the nervous system following fluoride exposure that could lead to functional effects. Of the neurobehavioral studies, epidemiological studies suggesting a link between fluoride exposure and cognitive abilities are of particular interest. For example, several Chinese studies have consistently reported lower IQs in children drinking water containing 2.5 to 4 ppm fluoride (e.g., see NRC, 2006). The mechanism of the action of fluoride on IQ is not clear (Tang et al., 2008) but could be related to changes in membrane lipids in brain cells or to effects of fluoride on thyroid activity. It is unclear how the Chinese studies relate to U.S. populations, since U.S. populations are generally

exposed to drinking water with less than 2.5 ppm and there may be other confounding factors affecting the Chinese communities studied. Although the NRC's Fluoride in Drinking Water committee (2006) did not include neurological effects on their list of adverse effects not protected by the current EPA maximum allowable concentration for fluoride in drinking water, they did strongly advise that because of the "consistency of the results" in studies, such as those conducted on Chinese populations, additional research on the effects of fluoride on intelligence and on other neurological processes is warranted. A literature search conducted in December 2010 did not find published results that provide new information. It appears that there is reasonably good evidence that fluoride in drinking water at concentrations above 4 ppm may have neurological effects, including an effect on cognitive abilities. But the effects, if any, at lower concentrations of fluoride are not clear.

Effects on Other Organ Systems: Other systems that may be affected by fluoride exposure include the gastrointestinal system, kidneys, liver, and immune system. The NRC committee (2006) found a lack of well-documented studies on humans exposed to drinking water at 4 ppm or less for all of these systems. They concluded that the risk of adverse effects was likely to be low for most individuals drinking water with fluoride at 4 ppm but that there is a possibility of adverse effects in particular subpopulations such as those with renal impairment. In an apparent response to the possibility of an increased risk of adverse health effects for renal-impaired patients, the National Kidney Foundation recently changed its position on fluoridated water from "safe" to "takes no position" and "further research is needed" (www.kidney.org/atoz/pdf/Fluoride_Intake_in_CKD.pdf).

Findings

1. The problematic relationship between fluoride concentration in drinking water and "fluoride dose" (due to varying amounts of water consumed by individuals and to other sources of ingested fluoride) severely complicates attempts to determine both health risks and benefits associated with 1 ppm fluoride in drinking water. In particular, at this time commonly available foods and beverages range from high (greater than 2 ppm) to negligible fluoride content, and fluoridated toothpaste is variably swallowed. We believe that these factors grossly complicate interpretation of drinking water studies and explain why the numerous studies conducted have come to a variety of different conclusions.
2. The only commonly agreed-upon adverse effect related to drinking water with 1 ppm fluoride is mild dental fluorosis. Although debate continues concerning the quality of the studies, there are a large number that report deleterious effects from elevated fluoride in drinking water. On the other hand, numerous communities around the world use drinking water with natural fluoride concentrations of 1 ppm with no obvious ill effects, aside from mild dental fluorosis.
3. A fluoride concentration in water of 4 ppm is not protective for several adverse effects, including bone effects. That means that at best there is only a safety factor of about six for persons drinking Fairbanks water fluoridated to 0.7 ppm.
4. Although there may be a link between fluoride and osteosarcoma, the data published to date suggesting a link are limited and published studies are conflicting in their conclusions.
5. Fluoridated water is not recommended for all consumers. Recently several organizations have expressed concern about using fluoridated water to reconstitute infant formula. Consequently, the American Dental Association has recommended that parents of infants who primarily consume

reconstituted formula consult with their health care providers about the potential risks of using fluoridated water to make up infant formula. Despite those recommendations and cautions, pediatricians in the Fairbanks area (polled by committee member Dr. Medford) were not aware of these recommendations. The National Kidney Foundation has also changed its position on fluoridated water from “safe” to “takes no position” and “further research is needed.”

6. Research on possible adverse effects of drinking fluoridated water (at concentrations less than 2 ppm) on the endocrine glands, nervous system, or other organ systems has showed mixed results, with many studies showing no effects. However, studies involving extensive review of the literature (e.g., McDonagh et al., 2000; NRC, 2006) recommend that more high-quality research is warranted.

Chapter 8

Socioeconomic Issues

One of the public policy arguments put forward for fluoridation of public water supplies has been that it reduces disparities in dental health among populations. The argument goes that, if fluoridated water reduces the incidence of caries, it seems reasonable that the availability of fluoridated water for an entire community should provide particular benefit to those with the greatest risk of developing caries. This argument has been strongly put forward by professional organizations and government officials, including former U.S. Surgeon General David Satcher who “noted that water fluoridation is a powerful strategy in efforts to eliminate health disparities among populations” (ADA, 2005, p. 46).

For decades it has been noted that members of lower socioeconomic categories have significantly higher rates of caries than those who are more fortunate (Kozol, 1992; CDC, 2010a), so fluoridation should provide particularly valuable benefits to these groups. The refereed literature contains numerous reports that support (for example, Riley et al., 1999; Jones and Worthington, 2000) and refute this proposal (for example, Bradnock et al., 1984; Carmichael et al., 1989). McDonough et al. (2000) could reach no clear consensus on whether this public policy argument is valid, and shortly thereafter Cohen and Locker (2001) concluded that there is “little evidence that water fluoridation has reduced social inequalities in dental health” (p. 579). However, the most recent reviews of the matter tend to be guardedly positive (Cheng et al., 2007; Pizzo et al., 2007; Parnell et al., 2009; Newbrun, 2010). Newbrun’s review provides a good example of the dilemma. It cites evidence in support of the proposition but concludes by stating, “whether fluoridation reduces disparities in caries is a continuing research question.”

Arguments that members of lower socioeconomic groups disproportionately benefit from fluoridation of public water supplies raise questions about the existence of evidence that these groups also bear elevated risk of adverse effects from consuming fluoridated water. While the task force could find no good evidence on this topic, it does note that there is documentation that breast-feeding rates among mothers from lower socioeconomic groups are lower than those of their more affluent counterparts (Scanlon et al., 2010). Thus the task force’s concerns about the exposure of formula-fed infants to fluoride (see Chapter 5) are particularly directed toward those from lower socioeconomic groups.

Finding

Although claims are made both that the detriments and the benefits of fluoridated water are greater for those in lower socioeconomic status, documentation of this is not conclusive.

Chapter 9

Cost

The proponents of water fluoridation continue to tout its cost effectiveness. For example, both the Centers for Disease Control and Prevention (CDC, 2010a) and the American Dental Association (ADA, 2005) claim that the fluoridation of public water supplies in the United States costs between approximately \$0.50 and \$3.00 per person per year and provides something on the order of \$40 per person in annual benefits (decreased costs of dental care) for every dollar invested. However, both costs and benefits are very difficult to identify and quantify in any generally agreed upon and reliable way, so there is widespread disagreement about the legitimacy of any of these estimates.

In Fairbanks, the only clearly quantifiable cost of the water fluoridation program is the annual GHU expenditure for sodium fluorosilicate, which is \$10,000 to \$12,000 per year. The additional indirect costs to GHU for handling the material, adding it to the water, and monitoring the concentration of fluoride in the distributed water are difficult to estimate but are probably negligible in that these duties are incorporated into the work schedules of employees who dedicate the majority of their time and effort to other responsibilities. Similarly, while there are real costs associated with the purchase, operation, and maintenance of equipment used in the fluoridation process, those costs have never been documented but are probably modest.

If GHU discontinues its fluoridation process, it will have to adjust its protocol for conditioning the distributed water. While the task force did not investigate the projected costs of the required changes (mostly focused on maintenance of an appropriate pH), it seems likely that they will not be significant.

No attempts have been made to quantify indirect medical and dental costs or benefits resulting from the fluoridation of Fairbanks water.

Finding

There is little in the way of reliable data that can be used to estimate the cost of fluoridating Fairbanks' water or the net savings or costs associated with discontinuing the existing fluoridation process.

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Appendix A Resolution

Introduced By: Council Member Cleworth
Introduced: February 8, 2010

RESOLUTION NO. 4398

A RESOLUTION ESTABLISHING A TASK FORCE TO RESEARCH CURRENT POLICY REGARDING FLUORIDATION OF THE MUNICIPAL WATER SUPPLY.

WHEREAS, the health and security of Fairbanks citizens are a primary concern of the City Council; and

WHEREAS, the use of fluoride in the City's water supply was established in 1960 (FGC Sec. 82-1) as a way to enhance dental care; and

WHEREAS, this practice has raised questions regarding potential long-term effects caused by the use of fluoride; and

WHEREAS, it is advisable to periodically reanalyze this policy to make sure the potential benefits outweigh any potential side effects associated with fluoridation; and

WHEREAS, the amount of research available on this subject is voluminous and often extremely technical.

NOW, THEREFORE, BE IT RESOLVED, that a committee is formed consisting of the six individuals listed below to research documentation provided by both proponents and opponents of fluoridation through public hearings and to supplement this information with any other sources deemed appropriate. A final report along with analysis and recommendations will be presented to the City Council no later than early July. Legal notifications and assistance will be given by the City Clerk's office. The committee consists of individuals having extensive backgrounds in chemistry, biology, dentistry, and medicine, who have expressed a strong interest in objectively analyzing research regarding fluoridation.

Committee Chair: Dr. Paul Reichardt, former Provost, Dean, and Professor at UAF, with a Ph.D. in Organic Chemistry;

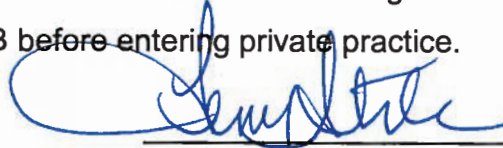
Dr. Dick Stolzberg: Professor Emeritus of Chemistry at UAF, with a Ph.D. in Chemistry, who has done extensive research in the field of analytical chemistry;

Dr. Rainer Newberry: Professor in Geochemistry, Mineralogy, and Economic Geology, with a Ph.D. in Economic Geology;

Dr. Bryce Taylor: Doctorate of Dental Surgery, formerly serving in public health with the TCC, now in private practice;

Dr. Joan Braddock: Most recently Dean of the College of Natural Science and Mathematics, with a Master's Degree in Microbiology and a Ph.D. in Oceanography;

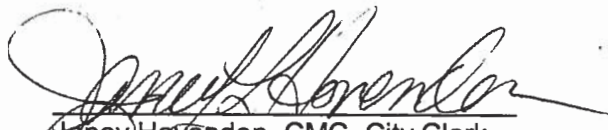
Dr. Beth Medford: Board Certified Pediatrician with a background in biochemistry; formerly at Eielson AFB before entering private practice.



Terry Strle, City Mayor

AYES: Roberts, Eberhart, Gatewood, Bratcher, Cleworth, Stiver
NAYS: None
ABSTAIN:
ABSENT:
ADOPTED: February 08, 2010

ATTEST:



Janey Hovenden, CMC, City Clerk

APPROVED AS TO FORM:



Paul J. Ewers, City Attorney

ORDINANCE NO. 5840

**AN ORDINANCE AUTHORIZING CONVEYANCE OF AN EASEMENT UPON
CITY PROPERTY REQUESTED BY THE ALASKA DEPARTMENT OF
TRANSPORTATION FOR CONSTRUCTION OF THE ILLINOIS STREET
RECONSTRUCTION PROJECT**

WHEREAS, the Alaska Department of Transportation (ADOT) has funding for design and right of way acquisition for the "ILLINOIS STREET RECONSTRUCTION PROJECT STP-F-M-0663(4)/63102" (the "Project") affecting Barnette and Illinois Streets, and

WHEREAS, the Project will construct a new Barnette Street Bridge over the Chena River, reconstruct the Cushman Street Bridge, Cushman and Illinois Streets from First Avenue to Minnie Street, providing wider driving lanes, sidewalks, storm drains, and other amenities, providing pedestrians and the traveling public with safer and more convenient routes; and

WHEREAS, construction of the Project will require ADOT acquisition of utility pole easement on City-owned Lot 1, Block 4, Fairbanks Townsite, adjoining the Cushman Street Bridge at First Avenue, as shown on attached "Exhibit A", for the purpose of relocating an existing traffic signal pole; and

WHEREAS, ADOT has performed an internal appraisal of the property by which the value was established at \$3,400; and

WHEREAS, the City Property Manager has reviewed said appraisal and finds the value conclusion reasonable and supported; and

WHEREAS, ADOT, by letter shown as attached "Exhibit B", has agreed to compensate the City in the amount of \$3,400, in accordance with the full appraised value; and

WHEREAS, it is the sense of the City Council that a conveyance of an easement over the specified City owned real property to ADOT for the purposes mentioned hereinabove is in the best interest of the public.

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

SECTION 1. That the Mayor is hereby authorized to execute the easement document shown on attached "Exhibit C" conveying rights to said Lot 1, Block 4, Fairbanks Townsite from the City to ADOT, and to

execute such other instruments as necessary to transfer the easement to ADOT, and the City Clerk is hereby authorized and directed to attest and affix the City Seal to said instruments.

SECTION 2. That conveyance of the property shall be subject to a thirty-day permissive referendum period as required under Fairbanks General Code of Ordinances Section 70-42, and the City Charter.

SECTION 3. That the effective date of this ordinance shall be the ____ day of April, 2011.

Jerry Cleworth, Mayor

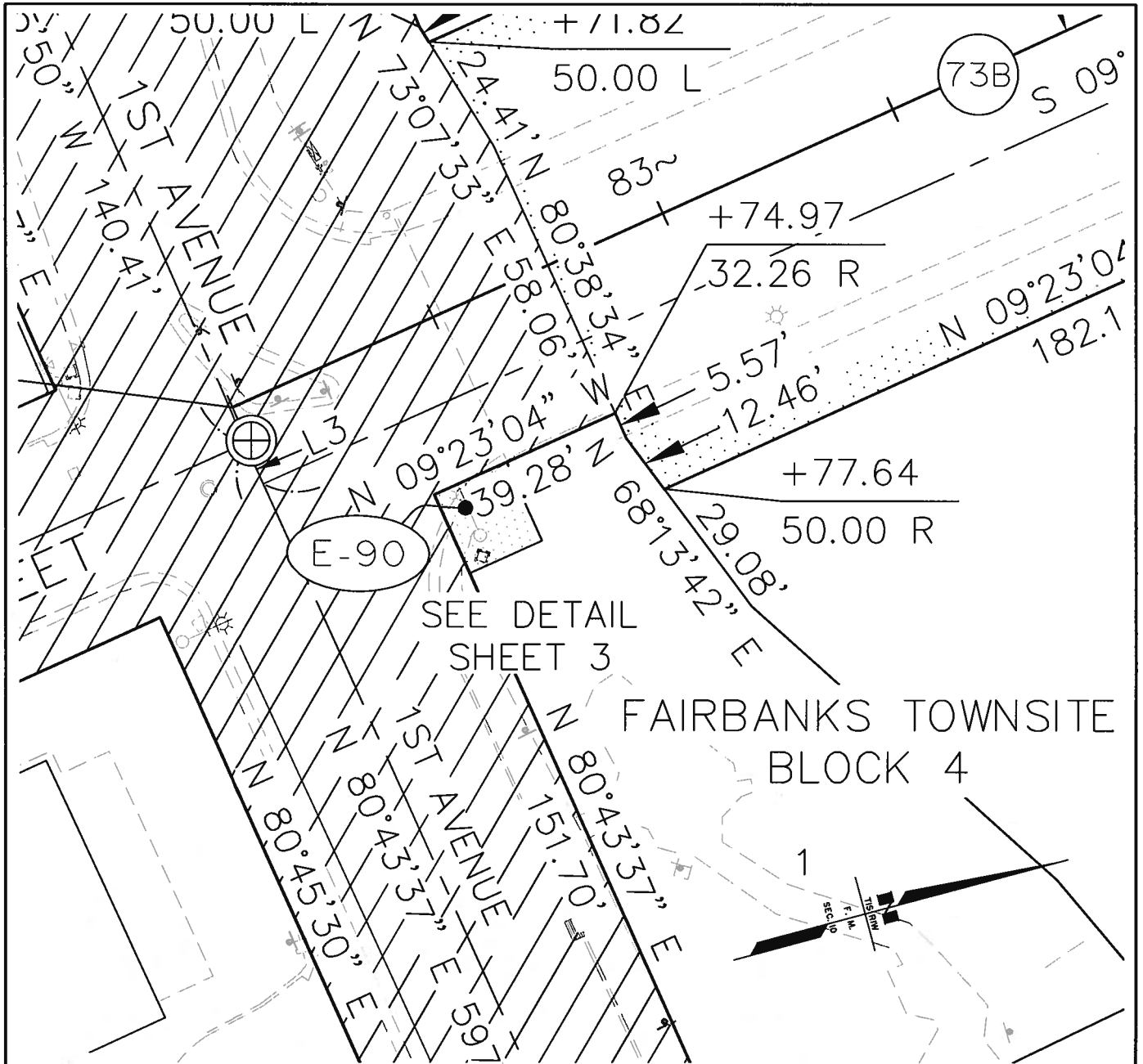
AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM

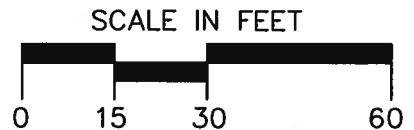
Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney



BARNETTE - PROJECT CENTERLINE		
B STATION	BEARING	DISTANCE
BOP=500+00.00	N 15°41'15" E	281.31'
PC=502+81.31		

OWNER: CITY OF FAIRBANKS



SHEET 2 OF 3

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RIGHT OF WAY REQUIRED FOR
ILLINOIS ST. RECONSTRUCTION
 STP-F-M-0663(4) / 63102

OWNER'S INITIAL _____
 ATTACHED TO _____
 PAGE ___ OF ___ DATED _____

GROSS ACQUISITION _____ 270 S.F.
 NET ACQUISITION _____ 270 S.F.
 DRAWN BY DJJ REMAIN _____ 0 S.F.
 CHECKED BY _____ DATE 01/28/11 **PARCEL NO. E-90**

EXHIBIT 'A' TO ORD. 5840

SEAN PARNELL, GOVERNOR

2301 PEGGER ROAD
FAIRBANKS, ALASKA 99709-5399
TELEPHONE: (907) 451-5407
TDD: (907) 451-2363
FAX: (907) 451-5411
1-800-475-2464

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NORTHERN REGION, PRECONSTRUCTION

November 16, 2009

Re: Illinois Street Reconstruction
Project No. STP-F-M-0663(4)/63102
Parcel E90

Patrick Smith
City of Fairbanks
800 Cushman St.
Fairbanks, Alaska 99701

Dear Mr. Smith:

As you are aware, the State of Alaska, Department of Transportation and Public Facilities (DOT/PF) proposes to reconstruct the Barnette Street and Illinois Street corridor in downtown Fairbanks. The overall project includes new roadway construction, roadway reconstruction, bridges, traffic signals, drainage, lighting, sidewalks and safety improvements.

Construction of this project requires acquisition of property for new right of way. An easement is necessary at the corner of Lot 1, Block 4 located at the corner of 1st Avenue and Cushman Street in Fairbanks, Alaska. I am the DOT&PF agent assigned to complete this transaction.

The property has been examined by qualified appraisers who have considered all the elements that contribute to its market value. The market value of your property has been determined to be \$3,375.00 for approximately 270 square feet at \$12.50 per square foot. This letter constitutes an offer to purchase parcel E90, for the market value of ~~\$4,000.00~~ **\$ 3,400.00**. A copy of the appraisal is provided for your review and records.

Enclosed is an Easement with a legal description of the parcel. I have also included a Memorandum of Agreement and Purchase Voucher for your consideration and approval.

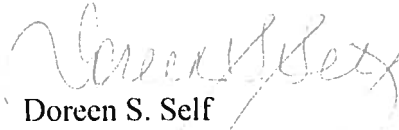
The enclosed documents will need to be signed, dated, and notarized where indicated. For your convenience, I am a Notary Public for the State of Alaska. Once the documents have been completed, they should be returned to me for processing.

EXHIBIT 'B' TO ORD. 5840

"Providing for the movement of people and goods and the delivery of state services."

The enclosed brochure will provide additional information about the right of way acquisition procedures. Please feel free to contact me at 451- 5448 or via e-mail at Doreen.Self@Alaska.Gov with any questions or comments. I look forward to hearing from you.

Sincerely,



Doreen S. Self
Right of Way Agent

DSS

Enclosures: Easement
Parcel Plats
Right of Way Map
Appraisal
Memorandum of Agreement
Purchase Voucher
Brochure

"Providing for the movement of people and goods and the delivery of state services."



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

EASEMENT

(Municipal/Corporate/Partial Property)

PROJECT NAME: ILLINOIS ST. RECON.

STATE PROJECT #: 63102

FEDERAL-AID PROJECT #: STP-F-M-0663(4)

PARCEL #: E90

The GRANTOR, the City of Fairbanks, whose mailing address is 800 Cushman Street, Fairbanks, Alaska 99701, for and in consideration of Three Thousand Four Hundred and 00/100 (\$3,400.00) DOLLARS, and other valuable consideration, in hand paid, conveys and warrants to the GRANTEE, STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, whose mailing address is 2301 Peger Road, Fairbanks, Alaska 99709, its successors or assignees, a perpetual, full and unrestricted easement and right-of-way along, over, and across the following-described tract of land located in the State of Alaska: All that part of the following-described land:

A parcel of land located within Lot One (1), Block Four (4), Fairbanks Townsite, according to the L.S. Robe Map of 1909 reproduced by Karl Theile U.S. Surveyor General in 1922, Records of the Fairbanks Recording District, Fourth Judicial District, State of Alaska, and more particularly described as follows:

Commencing at the Southwest corner of said Lot 1, said corner also being at the intersection of the right of way of 1st Avenue and Cushman street and the **True Point of Beginning**;

Thence N 09°19'40" W along said Cushman Street Right of Way a distance of 15.71 feet to a point;

Thence N 80°43'37" E a distance of 17.13 feet to a point;

Thence S 09°19'40" E a distance of 15.71 feet to a point on said 1st Avenue Right of Way line;

Thence S 80°43'37" W along said Right of Way line a distance of 17.13 feet to the **True Point of Beginning**;

Said parcel contains 270 square feet [0.006 acres +/-].

which lies within the easement of right-of-way lines of Alaska Project No. 63102, delineated as to said tract of land on the plat attached hereto and made a part hereof as page five through seven of this instrument and designated as Parcel No. E90. Said parcel, containing 270 square feet, more or less, in addition to existing right-of-way, is hereby granted to the State of Alaska for the purpose of installing and maintaining a new utility/signal pole.

The Grantor hereby covenants with the State of Alaska that the Grantor has good title to the above-described tract of land and covenants that the State of Alaska shall have quiet and peaceable possession thereof; and shall have a free and unrestricted right to maintain said facilities as long as the right-of-way of which this easement area is a part, remains a public way.

Dated this _____ day of _____, 2_____.

ATTEST:

City of Fairbanks

Janey Hovenden, City Clerk

By: _____
Jerry Cleworth, Mayor

Approved as to Form:

By: _____
Paul Ewers, City Attorney

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES, Grantee herein, acting by and through its Commissioner, hereby accepts for public purposes the real property, or interest therein, described in this instrument and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2____.

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

By: _____
For the Commissioner

Filed for Record at the Request of and
Return to:

State of Alaska
DOT&PF – Right of Way
2301 Peger Road
Fairbanks, AK 99709

State Business – No Charge

ORDINANCE NO. 5841

**AN ORDINANCE AUTHORIZING A UTILITY EASEMENT FOR THE
CHIEF ANDREW ISAAC HEALTH CENTER**

WHEREAS, Tanana Chiefs Conference (TCC) is advancing construction of a new seventy-million dollar health center (the "Project") on lands adjacent to City-owned property, located on Cowles Street, north of the Fairbanks Memorial Hospital; and

WHEREAS, as part of the Project, TCC must relocate a GVEA power line, which power line will be reconstructed almost entirely on TCC property; and

WHEREAS, a 50-foot segment of the new GVEA power line must cross over City property at the corner of Lathrop Street and Sixteenth Avenue, known as Lot 2, Tanana Chiefs Medical Center Subdivision, and shown on attached "Exhibit A"; and

WHEREAS, GVEA has requested a grant of easement for the purposes stated above; and

WHEREAS, the City Property Manager has reviewed said easement request and finds negligible impact on City property; and

WHEREAS, it is the sense of the City Council that a conveyance of an easement over the specified City owned real property to GVEA for the purposes mentioned hereinabove is in the best interest of the public.

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

SECTION 1. That the Mayor is hereby authorized to execute the easement document shown on attached "Exhibit B" conveying easement rights to a portion of Lot 2, Tanana Chiefs Medical Center Subdivision from the City to GVEA, and to execute such other instruments as necessary to transfer the easement to GVEA, and the City Clerk is hereby authorized and directed to attest and affix the City Seal to said instruments.

SECTION 2. That conveyance of the property shall be subject to a thirty-day permissive referendum period as required under Fairbanks General Code of Ordinances Section 70-42, and the City Charter.

SECTION 3. That the effective date of this ordinance shall be the 25th day of April, 2011.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM

Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney

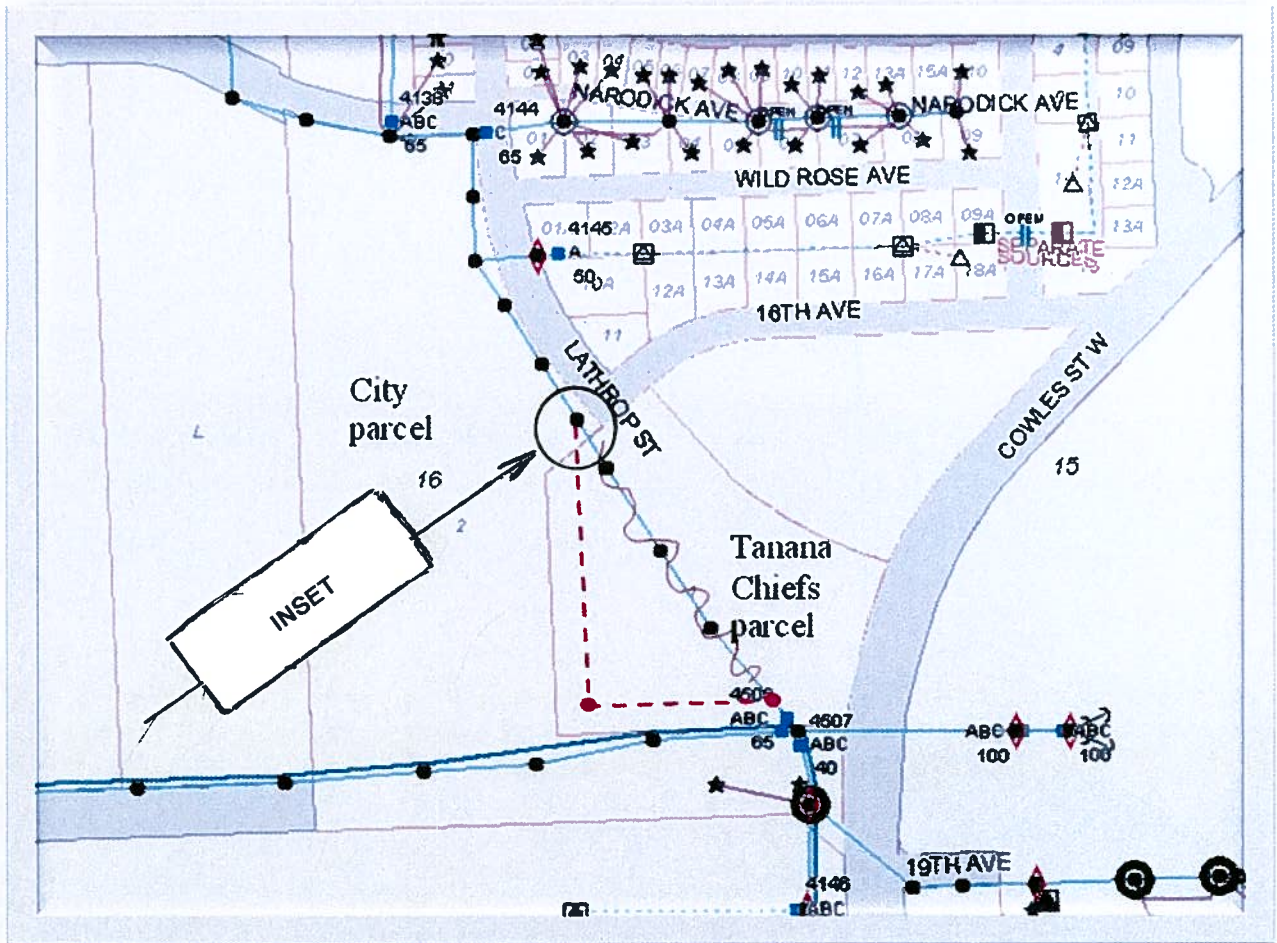
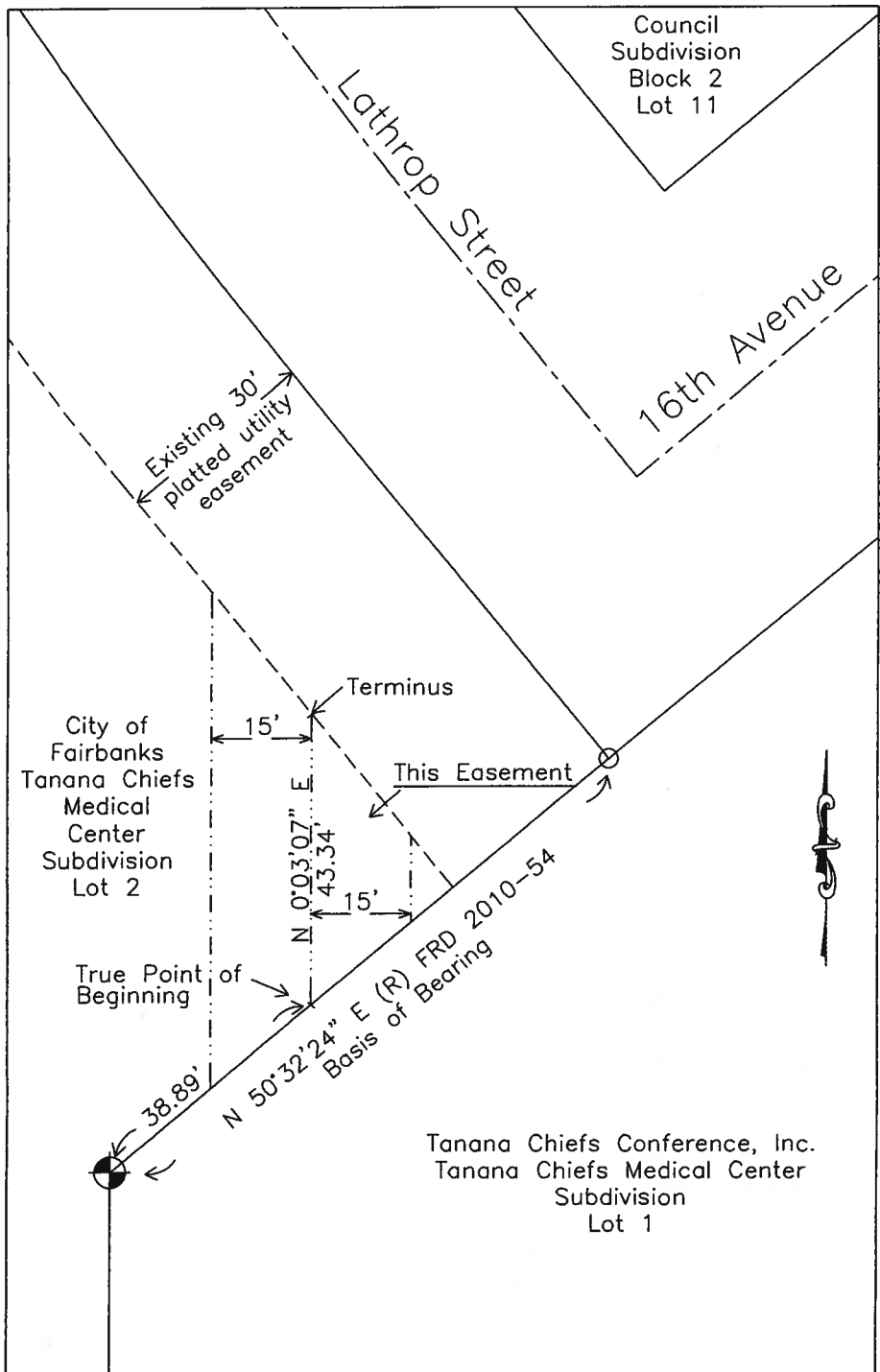


EXHIBIT "A", Page 1 of 2
Ordinance 5841



Recovered Primary Survey Monument	⊙	LEGEND	New GVEA Centerline	— — — — —
Recovered Secondary Survey Monument	○		Existing Power Pole	●
Recovered Concrete Highway Monument	□		New Power Pole	○

GV Exhibit "A"	Golden Valley Electric Association Right of Way Exhibit			
	NAME	: City of Fairbanks		
	LOCATION	: Lathrop Street at 16th Avenue		
	SUBDIV.	: Tanana Chiefs Medical Center	BLOCK	: 1
	CONTROL		LOT	: 2
	TOWNSHIP	: 1S	RANGE	: 1W
	GVEA MAP	: 3-0101D	SECTION	: 16
DRAWING	: o:\Staking\McNeil\BigPro\TCC-Medical\201100007e.dwg	SCALE	: 1"=20'	
		DATE	: 3/18/11	
		BY	: BCM	

**EXHIBIT 'A' PG. 2 OF 2
ORDINANCE 5841**

Return to: Golden Valley Electric Association
PO Box 71249, Fairbanks, AK 99707

GVEA RIGHT-OF-WAY EASEMENT

FOR VALUE RECEIVED, the City of Fairbanks, with an address of 800 Cushman St., Fairbanks, AK 99701 ("Grantor") hereby grants and conveys to GOLDEN VALLEY ELECTRIC ASSOCIATION, INC., an Alaska non-profit cooperative corporation of Fairbanks, Alaska ("Grantee"), and to its successors, assignees, licensees and permittees, a perpetual right-of-way easement for the construction, operation, maintenance, upgrade, and removal of electrical distribution, fiber, and/or telecommunications facilities and related equipment, and specifically including the right of ingress and egress to and from the right-of-way easement. The Grantee shall at all times have the right to cut and keep clear the right-of-way easement of all trees, limbs, vegetation, and other obstructions including trees on adjoining land owned by Grantor which, were they to fall, might damage Grantee's facilities or related equipment.

Grantor agrees that all such facilities and equipment installed on the described right-of-way easement at Grantee's expense shall remain the property of Grantee.

Within Lot 2 of TANANA CHIEFS MEDICAL CENTER, located in Section 16, T.1S, R.1W, F.M., according to Plat No. 2010-54 filed on May 25, 2010; records of the Fairbanks Recording District, Fourth Judicial District, Alaska.

Easement description

A 30-foot wide strip of land within said Lot 2, the sidelines to be lengthened or shortened as necessary to terminate at property boundaries, as shown and described on the attached Exhibit A.

SIGNED, ACCEPTED, AND AGREED upon on _____ by the undersigned on behalf of the Grantor, who acknowledges that he has read and understands this document and any attachments to it, and having the authority to do so, hereby conveys and warrants the right-of-way easement described above.

CITY OF FAIRBANKS, ALASKA

(CITY SEAL)

JERRY CLEWORTH, MAYOR

ATTEST:

APPROVED AS TO FORM:

JANEY HOVENDON, City Clerk

PAUL EWERS, City Attorney

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss
FOURTH JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of April, 2011, before me, the undersigned, a NOTARY PUBLIC in and for the State of Alaska, personally appeared Jerry Cleworth, the Mayor of the City of Fairbanks, and Janey Hovenden, the City Clerk of the City of Fairbanks, and that they acknowledged before me that they executed same of behalf of said municipal corporation. IN WITNESS WHEREOF, my hand and seal.

Notary Public in and for Alaska
My Commission Expires: _____

GVEA No. _____

**EXHIBIT 'B'
ORDINANCE 5841**

ORDINANCE NO. 5842

**AN ORDINANCE TO AMEND FGC SECTIONS 10-311 AND 10-312,
ADOPTING THE 2009 UNIFORM SWIMMING POOL, SPA AND HOT
TUB CODE**

WHEREAS, the Building Code Review and Appeals Commission has reviewed the 2009 Uniform Swimming Pool, Spa and Hot Tub Code and has recommended adoption; and

WHEREAS, the City Council desires to accept the recommendation of the Building Code Review and Appeals Commission;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, AS FOLLOWS:

Section 1. Fairbanks General Code Section 10-311 is hereby repealed and re-enacted as follows:

Sec. 10-311. Adoption.

The Uniform Swimming Pool, Spa and Hot Tub Code, 2009 Edition, as published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by the City of Fairbanks.

Section 2. Fairbanks General Code Section 10-312 is hereby repealed.

Section 3. That the effective date of this Ordinance shall be the ____ day of _____ 2011.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney

ORDINANCE NO. 5843

**AN ORDINANCE AMENDING THE 2011 BUDGET ESTIMATE
FOR THE FIRST TIME**

WHEREAS, this ordinance incorporates the changes outlined on the attached summary to amend the 2011 operating budget.

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

SECTION 1. There is hereby appropriated to the 2011 budget from the following sources of revenue for the City of Fairbanks in the amount indicated to the departments named for the purpose of conducting the business of said departments of the City of Fairbanks, Alaska, for the fiscal year commencing January 1, 2011 and ending December 31, 2011

	Approved Budget	As Amended
Taxes, (all sources)	\$ 19,683,042	\$ 19,087,916
Charges for Services	3,960,860	3,960,860
Intergovernmental Revenues	2,804,208	3,279,208
Licenses & Permits	1,474,370	1,454,570
Fines, Forfeitures & Penalties	906,587	906,587
Interest & Penalties	135,000	135,000
Rental & Lease Income	224,663	224,663
Other Revenues	216,500	216,500
Other Financing Sources	3,013,493	3,013,493
Total Appropriation	\$ 32,418,723	\$ 32,278,797

SECTION 2. There is hereby appropriated to the 2011 budget expenditures for the City of Fairbanks in the amount indicated:

DEPT	DESCRIPTION	Approved Budget	As Amended
10	Mayor and Council	\$ 470,242	\$ 472,130
11	Office of the City Attorney	161,613	163,423
12	Office of the City Clerk	283,667	288,335
13	Finance Department	854,411	877,069
14	Information Technology	1,219,319	1,292,445
15	General Account	5,364,743	5,370,868
16	Risk Management	1,580,967	1,583,636
17	Property Management	58,870	58,959
20	Police Department	5,962,722	6,017,287
21	Dispatch	1,835,724	1,840,347
30	Fire Department	5,869,697	5,883,931
50	Department of Public Works	6,318,158	6,590,261
51	Engineering Division	503,557	519,816
60	Building Department	633,960	652,624
Total General Fund Appropriation		\$ 31,117,650	\$ 31,611,131
12/31/10 (Estimated) General Fund Balance		\$ 11,399,614	\$ 12,763,194
Increase/(Decrease) to Fund Balance		1,301,073	667,666
Reserve for 2011 Encumbrances			(174,436)
Designated for 21st Street Project		(33,302)	
Designated for Snow Removal		(250,000)	(250,000)
Designated for Abatements		(5,940)	(5,940)
Estimate Self Insurance Reserve		(631,706)	(577,896)
12/31/11 Projected Unreserved Balance		\$ 11,779,739	\$ 12,422,588
12/31/10 (Estimated) Unreserved Fund Balance		\$ 9,760,101	\$ 11,754,922
Designations from 2010 Revenue and OFS		718,565	-
Increase to Unreserved Fund Balance		1,301,073	667,666
2011 Projected Undesignated Fund Balance		\$ 11,779,739	\$ 12,422,588

SECTION 3. All appropriations made by this ordinance lapse at the end of the fiscal year to the extent they have not been expended or contractually committed to the departments named for the purpose of conducting the business of said departments of the City of Fairbanks, Alaska, for the fiscal year commencing January 1, 2011 and ending December 31, 2011.

SECTION 4. The effective date of this ordinance shall be the _____ day of _____, 2011.

Jerry Cleworth, MAYOR

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM

Janey Hovenden, CMC, City Clerk

Paul J. Ewers, City Attorney

**SUMMARY OF ORDINANCE 5843
AS SUBSTITUTED
AMENDING 2011 GENERAL FUND BUDGET**

ESTIMATED REVENUES
\$(139,926) DECREASE

1. Taxes – (\$595,126) Decrease for PILT Agreement and increase in new construction
2. Interest & Penalties – No Change
3. Licenses & Permits – (\$19,800) Decrease for overpayment refund
4. Fines, Forfeitures, & Penalties – No Change
5. Other Intergovernmental Revenues – \$475,000 Increase for PILT Agreement
6. Charges for Services – No Change
7. Rental & Lease Income – No Change
8. Other Revenues – No Change
9. Other Financing Sources & Uses – No Change

ESTIMATED EXPENDITURES

\$493,481 INCREASE

1. Mayor & Council – \$1,888 Increase
 - a. \$ 7,744 increase to salaries – IBEW CBA
 - b. \$ 278 increase to holidays – IBEW CBA
 - c. \$(4,684) decrease to benefits – IBEW CBA
 - d. \$(1,450) decrease to interdepartmental – IBEW CBA
2. City Attorney's Office – \$1,810 Increase
 - a. \$ 6,262 increase to salaries – IBEW CBA
 - b. \$ 272 increase to holidays – IBEW CBA
 - c. \$(3,505) decrease to benefits – IBEW CBA
 - d. \$(1,219) decrease to interdepartmental – IBEW CBA
3. City Clerk's Office – \$4,668 increase
 - a. \$ 7,868 increase to salaries – IBEW CBA
 - b. \$ 282 increase to holidays – IBEW CBA
 - c. \$(3,482) decrease to benefits – IBEW CBA
4. Finance Department – \$22,658 increase
 - a. \$ 28,798 increase to salaries – IBEW CBA
 - b. \$ 1,031 increase to holidays – IBEW CBA
 - c. \$(9,271) decrease to benefits – IBEW CBA
 - d. \$ 2,100 increase for 2010 encumbrances
5. Information Technology – \$73,126 increase
 - a. \$ 19,796 increase to salaries – IBEW CBA
 - b. \$ 710 increase to holidays – IBEW CBA
 - c. \$(4,880) decrease to benefits – IBEW CBA
 - d. \$ 5,700 increase to benefits to correct original budget
 - e. \$50,000 increase to other outside contracts to correct original budget
 - f. \$ 1,800 increase for 2010 encumbrances

6. General Account – \$6,125 Increase
 - a. \$ 6,125 increase for 2010 encumbrances

7. Risk Management – \$2,669 Increase
 - a. \$2,669 increase to interdepartmental charges

8. Property Management – \$89 Increase
 - a. \$89 increase for 2010 encumbrances

9. Police Department - \$54,565 Increase
 - a. \$ 4,212 increase to salaries – IBEW CBA
 - b. \$ 151 increase to holidays – IBEW CBA
 - c. \$(177) decrease to benefits – IBEW CBA
 - d. \$50,379 Increase for 2010 encumbrances

10. Dispatch - \$4,623 Increase
 - a. \$ 3,971 increase to salaries – IBEW CBA
 - b. \$ 142 increase to holidays – IBEW CBA
 - c. \$(1,140) decrease to benefits – IBEW CBA
 - d. \$ 1,650 Increase for 2010 encumbrances

11. Fire Department – \$14,234 Increase
 - a. \$ 8,688 increase to salaries – IBEW CBA
 - b. \$ 307 increase to holidays – IBEW CBA
 - c. \$(2,337) decrease to benefits – IBEW CBA
 - d. \$ 7,576 increase for 2010 encumbrances

12. Public Works – \$272,103 Increase

- a. \$ 6,735 increase to salaries – IBEW CBA
- b. \$ 240 increase to holidays – IBEW CBA
- c. \$(1,939) decrease to benefits – IBEW CBA
- d. \$109,602 Increase to salaries – AFLCIO CBA
- e. \$ 3,930 Increase to holidays – AFLCIO CBA
- f. \$ 44,992 Increase to benefits – AFLCIO CBA
- g. \$ 45,361 Increase to salaries – Add laborer
- h. \$ 1,626 Increase to holidays – Add laborer
- i. \$ 31,935 Increase to benefits – Add laborer
- j. \$(78,922) Decrease to temporary labor – Offset laborer
- k. \$ 4,078 Increase to salaries – increase to packer driver
- l. \$ 212 Increase to holidays – increase to packer driver
- m. \$ 62 Increase to benefits – increase to packer driver
- n. \$ 104,191 Increase for 2010 encumbrances

13. Engineering – \$16,259 Increase

- a. \$15,832 increase to salaries – IBEW CBA
- b. \$ 568 increase to holidays – IBEW CBA
- c. \$(4,921) decrease to benefits – IBEW CBA
- d. \$ 2,048 increase to salaries – AFLCIO CBA
- e. \$ 74 increase to holidays – AFLCIO CBA
- f. \$ 2,132 increase to benefits – AFLCIO CBA
- g. \$ 526 Increase for 2010 encumbrances

14. Building Department – \$18,664 Increase

- a. \$22,595 increase to salaries – IBEW CBA
- b. \$ 761 increase to holidays – IBEW CBA
- c. \$(7,053) decrease to benefits – IBEW CBA
- d. \$ 2,212 increase to salaries – Merit increase
- e. \$ 115 increase to holidays – Merit increase
- f. \$ 34 increase to benefits - Merit increase

ORDINANCE NO. 5844

**AN ORDINANCE AMENDING FAIRBANKS GENERAL CODE SECTION 78-975,
AUTHORIZING RECOVERY OF IGNITION INTERLOCK DEVICES FROM
IMPOUNDED MOTOR VEHICLES**

WHEREAS, it is the intent of the City Council to amend current City ordinances so that the owner of an ignition interlock device can retrieve that device from impounded vehicles,

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

Section 1. Fairbanks General Code Section 78-975 is amended as follows (new text in **underlined bold** font, deleted text in ~~strikeout~~ font):

Sec. 78-975. - Custody of vehicle; police department of public safety; private corporations; inventory, retrieval of ignition interlock devices.

(a) A motor vehicle seized for the purpose of forfeiture or impoundment should be held in the custody of the ~~City department of public safety~~ or a private **impound yard** ~~corporation~~ authorized by the ~~City department~~ to retain custody of the vehicle, subject only to the orders and decrees of the court having jurisdiction over any forfeiture or impoundment proceedings. When a motor vehicle is seized, the **Police Chief** ~~director of public safety~~ or an authorized designee may:

- (1) Remove the motor vehicle and any contents in the vehicle to a place designated by the court; or
- (2) Take custody of the motor vehicle and any contents of the vehicle and remove it to an appropriate location for disposition; **and**
- (3) Allow the owner of an ignition interlock device installed in a vehicle held pending forfeiture to retrieve the device upon a showing of proof of ownership and execution of a written agreement to assume liability for damage caused during retrieval. The City will cross check impounded vehicles against a data base provided by ignition interlock owners and notify device owners of vehicle impound. The fee for this service and access shall be as provided in the City Schedule of Fees and Charges for Service.**

(b) Following a forfeiture, the **Police Department** ~~of public safety~~ shall make an inventory of the contents of any motor vehicle seized. Personal property can be recovered from the vehicle in the same manner as set forth in section 78-973.

(c) A person in a forfeiture action claiming an interest in the property shall file, within 30 days after service or completion of publication, a notice of claim setting out the nature of the interest, the date it was acquired, the consideration paid, and an answer to the city's allegations. If a claim and answer is not filed within the required time, the motor vehicle must be forfeited to the city without further proceedings. For a regulated lienholder, the notice of claim and answer is met by the filing of information required in section 78-966 and by adding to the affidavit a statement of the original amount of the loan giving rise to the lien and the current balance due on that loan.

(d) A claimant may petition the court for sale of a motor vehicle before final disposition of court proceedings. The court shall grant a petition for sale upon a finding that the sale is in the best interest of the city. Proceeds from the sale plus interest to the date of final disposition of the court proceedings become the subject of the forfeiture action.

SECTION 2. That the effective date of this Ordinance shall be the ___ day of _____ 2011.

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. 5845

**AN ORDINANCE ADOPTING THE 2011 CITY OF FAIRBANKS CODE
FOR ABATEMENT OF DANGEROUS BUILDINGS**

WHEREAS, in 2002 the City Council adopted the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings; and

WHEREAS, the 1997 Uniform Code for the Abatement of Dangerous Buildings is now out of print, and there is a need to adopt a code that serves the community; and

WHEREAS, after extensive review and study, the Building Official and the Building Code Review and Appeals Commission recommend a new abatement code that best reflects local conditions; and

WHEREAS, the City Council desires to accept the recommendations of the Building Official and the Building Code Review and Appeals Commission.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, AS FOLLOWS:

Section 1. The attached 2011 City of Fairbanks Code for the Abatement of Dangerous Buildings is hereby adopted. Copies of this Abatement Code shall be made available at the Building Department and published online at the City of Fairbanks website.

Section 2. Section 10-206 of the Fairbanks Code of Ordinances, is hereby repealed and replaced as follows:

Sec. 10-206. Adoption.

The 2011 City of Fairbanks Code for the Abatement of Dangerous Buildings is hereby adopted by the City of Fairbanks.

Section 3. Section 10-207 of the Fairbanks Code of Ordinances is hereby repealed.

Section 4. The effective date of this ordinance shall be the ____ day of April 2011.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

JANEY HOVENDEN, City Clerk

PAUL EWERS, City Attorney

**2011 CITY OF FAIRBANKS
CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS**

**CHAPTER 1
TITLE AND SCOPE**

SECTION 101 – TITLE

These regulations shall be known as the Abatement of Dangerous Buildings Code, may be cited as such, and will be referred to herein as “this code” or the “Abatement Code.”

SECTION 102 – PURPOSE AND SCOPE

102.1 Purpose. It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the construction codes as adopted by the City of Fairbanks, or otherwise available by law, whereby buildings or structures, which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, will be repaired, vacated, demolished or removed.

The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

Section 102.2 Scope. The provisions of this chapter apply to all dangerous buildings or structures, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

SECTION 103 – ALTERATIONS AND REPAIRS

All buildings or structures required to be repaired under the provisions of this chapter are subject to the provisions of the International Building Code, as adopted by the City of Fairbanks.

**CHAPTER 2
ADMINISTRATION AND ENFORCEMENT**

SECTION 201 - GENERAL

201.1 Administration. The building official and fire chief are hereby authorized to enforce the provisions of this code.

The code official shall have the authority and duty to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations will be in conformity with the intent and purpose of this code.

201.2 Inspections. The building official and fire marshal are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of entry. When it is necessary to make an inspection to enforce the provisions of this code or when the code official or the code official's authorized representative has reasonable cause to believe there exists in a building or structure a condition which is contrary to or in violation of this code and makes the building or structure dangerous or unlawful, the code official may enter the building or structure at reasonable times to inspect or to perform the duties imposed by this code, provided if such building or structure be occupied that credentials be presented to the occupant and entry requested. If such building or structure is unoccupied, the code official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or structure and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

SECTION 202 – ABATEMENT OF DANGEROUS BUILDINGS

All buildings or structures or portions thereof which are determined after inspection by the building official to be dangerous, as defined in this code, are hereby declared to be public nuisances and will be abated by repair, demolition, or removal in accordance with the procedure as specified in Section 401 of this code.

SECTION 203 – VIOLATIONS

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

SECTION 204 – INSPECTION OF WORK

All buildings or structures within the scope of this code and all construction or work for which a permit is required are subject to inspection by the building department in accordance with inspection requirements as set forth by the Administrative Code as adopted and amended by the City of Fairbanks. All work will be inspected and approved by the code official before it is covered.

SECTION 205 – APPEALS BOARD

205.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, an appeals board is hereby created. The composition of the appeals board and its general rules of procedure, duties and powers are set forth in the Fairbanks General Code of Ordinances, Sections 2-481 through 2-484.

205.2 Limitations of Authority. The appeals board shall have no authority relative to interpretations of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

CHAPTER 3 DEFINITIONS

SECTION 301 – GENERAL

For the purpose of this chapter, certain terms, phrases, words and their derivatives will be construed as specified in either this chapter or as specified in the code. Where terms are not defined, they will have the ordinary accepted meanings within the context with which they are used. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

Abandoned Structure is a structure that has been vacant for a period in excess of 12 months or any period less than 12 months when a vacant structure or portion thereof constitutes an attractive nuisance or hazard to the public as determined by the Building Official. A structure will not be considered abandoned if it is available for lease and ready for occupancy in compliance with the applicable provisions of chapter 10 of the Fairbanks General Code.

Beyond Economic Feasibility to Repair is when the estimated cost of repair exceeds the estimated replacement cost of the entire structure.

Building Code is the most current edition of the International Building Code as adopted by the City of Fairbanks.

Code or Codes are the relevant codes, as adopted by this jurisdiction.

Code Official is the building official, fire official or their designee.

Dangerous Building is any building or structure deemed to be dangerous under the provisions of section 302 of this code.

Derelict Building is any building, structure or portion thereof which is unoccupied and meets any of the following criteria:

1. Has been ordered vacated by the Building Official pursuant to the provisions of this code.
2. Has been issued a correction notice by the Building Official pursuant to the provisions of this code.
3. Has been posted for violation of this code more than once in any two year period.
4. Is unsecured.

Habitual means customarily or by frequent practice or use. It does not mean entirely or exclusive.

Imminent or immediate means near or at hand, or left unattended to, on the point of happening. An observable structural, electrical, mechanical or plumbing failure to the extent that a reasonable person may believe that possesses a serious threat to life and safety.

Record Owner – any legal interest of record disclosed from official public records.

Unfit for Human Occupancy – A building or structure is unfit for human occupancy whenever the code official finds such structure is unsafe, unlawful or because of the degree to which the building or structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the building or structure, constitutes a hazard to the occupants of the building or structure or to the public. A building which is unfit for human occupancy is classified as a dangerous building and shall be abated as determined by the building official in accordance with this code.

Unsafe Building or Structure – is one found to be dangerous to the life, health, property or safety of the public or the occupants of the building or structure by not providing the minimum safeguards to protect or warn occupants in the event of fire, or because such building or structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. An unsafe building shall be abated as determined by the building official in accordance with this code. Abatement may consist of correction and repair in accordance with an approved work agreement or demolition.

Unsafe Equipment – includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the building or structure in such disrepair or condition that such equipment is a hazard to life, health, property or safety.

Unoccupied means not being used for lawful occupancy.

Unsecured means the lack of a secure means of ingress and egress thus allowing for occupancy or use of a building or structure by unauthorized persons.

Work Agreement Contract to Repair is a written agreement between the owner of a building and the City of Fairbanks wherein the owner agrees to carry out required repair/work on any abandoned, unsafe, dangerous structure or structures between a specified commencement and completion date.

SECTION 302- DANGEROUS BUILDING

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described is deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the code for buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent the structural strength or stability thereof is materially less than before such catastrophe and is less than the minimum requirements of the code for buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building or structure, or any member, appurtenance or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the code for such buildings or structures.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar construction.
8. Whenever the building or structure, or any portion thereof, because of:
 - a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building or structure;
 - d. The deterioration, decay or inadequacy of its foundation; or
 - e. Any other cause;is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is unsafe for the purpose of which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
 - a. An attractive nuisance to children;
 - b. A harbor for vagrants, criminals or immoral persons; or
 - c. Enables persons to resort thereto for the purpose of committing unlawful or immoral acts.
13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion, less than sixty-six (66) percent of the:
 - a. Strength;
 - b. Fire-resisting qualities or characteristics; or
 - c. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building or structure of like area, height and occupancy in the same location.
 - d. This subsection does not apply to strength required to resist seismic loads.
15. Whenever a building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the code official to be unsanitary, unfit for human occupancy or in such a condition it is likely to cause sickness or disease.
16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the code official to be a fire hazard.
17. Whenever any building, structure or grounds are in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or structure or portion thereof an attractive nuisance or hazard to the public.

CHAPTER 4 NOTICE AND ORDER OF BUILDING OFFICIAL

SECTION 401 - GENERAL

401.1 Commencement of Proceedings. When the building official has inspected or caused to be inspected any building or structure and has determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, demolition, or removal of the building or structure.

401.2 Notice and Order. The code official shall issue a notice and order directed to the record owner of the building or structure. The notice and order will contain:

1. The street address and a legal description sufficient for identification of the property upon which the building or structure is located.
2. A statement that the code official found the building or structure to be dangerous or unlawful with a brief and concise description of the conditions found to render the building or structure dangerous or unlawful under the provisions of section 302.
3. A statement of the action required to be taken as determined by the building official:
 - 3.1 If the building official has determined that the building or structure must be repaired or removed, the order shall require all required permits be secured therefore and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all the circumstances.
 - 3.2 If the building official has determined that the building or structure must be vacated, the order shall require the building or structure shall be vacated within a time certain from the date of the order as determined by the code official to be reasonable.
 - 3.3 If the building official has determined the building or structure must be demolished, the demolition will be completed within such time as the building official determines is reasonable and will be specified on the Notice and Order. A minimum notification of 60 days is required for all

building demolitions unless the building or structure represents an immediate danger to the public health, safety and welfare.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and posted to prevent further occupancy until the work is completed and (ii) may proceed to cause the work to be done and charge the costs thereof against the property and/or its owner.
5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the appeals board provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

401.3 Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, must be served upon the record owner and posted on the property; and one copy thereof must be served on each of the following if known to the building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the code official to serve any person required herein to be served will not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

401.4 Method of Service. Service of the notice and order will be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the property tax records of the Fairbanks North Star Borough or as known to the code official. If no address of any such person so appears or is known to the code official, then a copy of the notice and order will be mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice will not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided will be effective on the date of mailing.

401.5 Proof of Service. Proof of service of the notice and order will be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgement of receipt by certified mail, will be affixed to the copy of the notice and order retained by the building official.

SECTION 402 – RECORDATION OF NOTICE AND ORDER

If the notice and order has not been complied with in the time specified therein, and no appeal has been properly and timely filed, the code official shall file in the Fairbanks District Recorder's Office a certificate describing the property and certifying:

1. The building or structure is a dangerous building; and
2. The owner has been so notified.

When the corrections ordered have been completed or the building or structure demolished so it no longer exists as a dangerous building or structure on the property described in the certificate, the code official shall file a new certificate with the Fairbanks District Recorder certifying the building or structure has been removed, demolished or all required corrections have been made so that the building or structure is no longer dangerous, whichever is appropriate.

402.1 Transfer of ownership. It is unlawful for the owner of any building or structure who has received a notice and order under this Abatement Code to sell, transfer, mortgage, lease or otherwise dispose of such building or structure to another until the provisions of the notice and order have been complied with, or until such owner has furnished the grantee, transferee, mortgagee or lessee a true copy of any notice and order issued by the code official and furnished the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice and order or notice of violation fully accepting the responsibility without condition for making corrections or repairs required by such notice and order or notice of violation.

SECTION 403 – REPAIR VACATION AND DEMOLITION

The following standards will be followed by the Building Official (and the Appeals Board if an appeal is taken) in ordering the repair vacation or demolition of any dangerous, abandoned or derelict building or structure or public nuisance defined herein.

1. Any building declared a dangerous, abandoned or derelict building as classified by this code will be made to comply by the owner with one of the following options:
 - 1.1 The building will be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair. All work will be permitted and inspected as required by the applicable building code as adopted by the City of Fairbanks.
 - 1.2 The building or structure may be demolished at the option of the owner.
2. If the building or structure is in such condition as to make it immediately dangerous to life, limb, property or safety of the public or its occupants, it will be ordered to be vacated and, if repairs are not begun within 60 days as stipulated by the notice and order, demolished.

3. If one or more of the following conditions exists, the building or structure may be ordered to be demolished:
 - a. The building is in imminent danger of collapse due to structural failure.
 - b. The building has not been properly secured or maintained so that it is habitually used as a harbor for vagrants or is an attractive nuisance to children.
 - c. The building is beyond economic feasibility to repair.
 - d. The building remains abandoned or derelict 180 days after notice pursuant to the provisions of this code.

SECTION 404 – NOTICE TO VACATE

404.1 Posting. Every notice to vacate, in addition to being served as provided in Section 401.3, will be posted at or upon each exit of the building and will be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building or to remove or deface this notice.
Building Official
City of Fairbanks**

404.2 Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under section 401.2 identifying the emergency or circumstances and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

404.3 Summary Abatement. The building official may abate any public nuisance without notice in an emergency where the safety of the public is endangered and where immediate action is necessary and timely notice cannot be given. All other abatement proceedings, except the necessity and the manner and method of giving notice, will apply to the nuisance summarily abated, including the recovery of the costs of the summary abatement.

CHAPTER 5 APPEAL

SECTION 501 – GENERAL

501.1 Form of Appeal. Any person entitled to service under sections 401.3 may appeal any notice and order or any action of the code official under this code by filing at the office of the building official a written appeal within (30) days from the date of service of such notice and order of the building official; provided, however, if the building or structure is in such condition as to make it immediately dangerous to the life, limb, health, morals, property, safety or welfare

of the general public or their occupants and is ordered vacated and is posted in accordance with section 404, such appeal must be filed within ten (10) days from the date of the service of the notice and order of the code official. The written appeal must contain:

- a) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
- b) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
- c) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
- d) The signatures of all parties named as appellants and their official mailing addresses.

501.2 Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the appeals board.

501.3 Scheduling and noticing appeal for hearings. As soon as practicable after receiving the written appeal, the appeals board shall fix a date, time and place for the hearing of the appeal by the board. Such date will not be less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the code official. Written notice of the time and place of the hearing will be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

SECTION 502 – EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of section 501 will constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SECTION 503 – SCOPE OF HEARING ON APPEAL

Only those matters or issues specifically raised in the notice and order or actions by any persons with authority under this chapter will be considered in the appeal hearing.

SECTION 504 – STAYING OF ORDER UNDER APPEAL

Except for vacation orders made pursuant to section 404, enforcement of any notice and order of the code official issued under this chapter will be stayed during the appeal there from which is properly and timely filed.

**CHAPTER 6
PROCEDURES FOR CONDUCT OF HEARING APPEALS**

SECTION 601 - GENERAL

601.1 Hearing Examiners. The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

601.2 Record. A record of the entire proceedings will be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.

601.3 Continuances. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

601.4 Oaths-Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

601.5 Reasonable Dispatch. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

SECTION 602 - FORM OF NOTICE OF HEARING

The notice to appellant will be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before (the appeals board or name of hearing examiner) on the ____ day of _____, 20__, at __:__ a.m./p.m., at _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefore with (appeals board or name of hearing examiner)."

SECTION 603 – SUBPOENAS

603.1 Filing of Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena will be obtained upon the filing of an affidavit therefore which states the name and address of the proposed witness; specifies the exact things sought to be produced

and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

603.2 Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas will be obtained through the examiner.

603.3 Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls, as required by any subpoena served upon such person as provided for herein is guilty of a misdemeanor.

SECTION 604 - CONDUCT OF HEARING

604.1 Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

604.2 Oral Evidence. Oral evidence will be taken only on oath or affirmation.

604.3 Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but is not sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

604.4 Admissibility of Evidence. Any relevant evidence will be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

604.5 Exclusion of Evidence. Irrelevant and unduly repetitious evidence will be excluded.

604.6 Rights of Parties. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence; and
6. To be represented by anyone who is lawfully permitted to do so.

604.7 Official Notice.

604.7.1 What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.

604.7.2 Parties to be notified. Parties present at the hearing will be informed of the matters to be noticed, and these matters will be noted in the record, referred to therein, or appended thereto.

604.7.3 Opportunity to refute. Parties present at the hearing will be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

604.7.4 Inspection of the premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn there from. Each party then will have a right to rebut or explain the matters so stated by the board or hearing examiner.

SECTION 605 - METHOD AND FORM OF DECISION

605.1 Hearing before Board Itself. When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

605.2 Hearing before Examiner. If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report will contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also will contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiners' reports filed with the board will be matters of public record. A copy of each such report and proposed decision will be mailed to each party on the date they are filed with the board.

605.3 Consideration of Report by Board-Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

605.4 Exceptions to Report. Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach

thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.

605.5 Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

605.6 Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Section 605.5, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board will comply with the provisions of this section.

605.7 Form of Decision. The decision will be in writing and will contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision will be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

605.8 Effective Date of Decision. The effective date of the decision will be as stated therein.

CHAPTER 7 ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE APPEALS BOARD

SECTION 701 – COMPLIANCE

701.1 General. After any order of the building official or the appeals board made pursuant to this code becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

701.2 Failure to Obey Order. If, after any order of the building official or the appeals board, made pursuant to this code, becomes final, the person to whom such order is directed fails, neglects or refuses to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**DANGEROUS BUILDING
DO NOT OCCUPY**

It is a misdemeanor to occupy this building or to remove or deface this notice.

**Building Official
City of Fairbanks**

2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris there from removed and the lot cleaned. Any such repair or demolition work will be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, will be paid to the person or persons lawfully entitled thereto.

SECTION 702 - EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 180 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

**SECTION 703 - INTERFERENCE WITH REPAIR OR DEMOLITION WORK
PROHIBITED**

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building, which has been ordered repaired, vacated or demolished under the provisions of this code or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any

necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

CHAPTER 8 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 801 – GENERAL

801.1 Procedure. When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue an order to the director of public works, and the work will be accomplished by city personnel or by private contract under the direction of the director. Plans and specifications may be prepared by the director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures will be followed.

801.2 Costs. The cost of such work will be paid from the general fund and may be made from a special assessment against the property involved and/or a personal obligation of the property owner, as the city council shall determine appropriate.

CHAPTER 9 RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 901 - ACCOUNT OF EXPENSE, FILING OF REPORT

The director of public works shall keep an itemized account of the expense incurred in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, the director shall prepare and file with the city clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.

SECTION 902 - NOTICE OF HEARING

Upon receipt of the report, the city clerk shall present it to the city council for consideration. The council shall fix a time, date and place for hearing the report and any protests or objections thereto. The clerk shall publish notice of the hearing once in a newspaper of general circulation in this jurisdiction and shall mail a copy of the notice by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the borough's property tax records, if it appears, or as known to the clerk. In addition, the building official shall cause notice of the hearing to be posted upon the property involved. Such notice will be given at least 10 days prior to the date set for the hearing and will specify the day, hour and place when the council will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

SECTION 903 - PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of the protest or objection. The clerk shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the council at the time set for the hearing, and no other protests or objections will be considered.

SECTION 904 - HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the council shall hear and pass upon the report of the director, together with any objections or protests. The council may make such revision, correction or modification in the report or the charge as it may deem just; and when the council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, will be confirmed or rejected. The decision of the council on the report and the charge, and on all protests or objections, will be final and conclusive.

SECTION 905 - PERSONAL OBLIGATION AND PROPERTY LIEN

905.1 General. The council may order that the charge be made a personal obligation of the property owner and/or a lien against the property.

905.2 Personal Obligation. If the council orders that the charge be a personal obligation of the property owner, it shall direct the city attorney to collect the charge on behalf of the city by use of all appropriate legal remedies.

905.3 Property Lien. If the council orders that the charge be made a lien against the property, it shall direct that the lien be recorded. The lien will be paramount to all other liens except for state and borough property taxes with which it will be upon a parity. The lien will continue until paid in full.

905.4 Interest. All charges imposed by the council remaining unpaid after 30 days from the date of recording will become delinquent and will bear interest at the legal rate from and after that date.

SECTION 906 – CONTEST

Any action to contest the council's action under Sections 904 or 905 must be commenced within 30 days.

RESOLUTION NO. 4470

**A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT A PETITION
TO THE LOCAL BOUNDARY COMMISSION FOR THE DETACHMENT
FROM THE CITY OF THE OPEN SKIES COMMERCIAL PARK
SUBDIVISION, LOCATED AT THE INTERSECTION OF BADGER
ROAD AND THE OLD RICHARDSON HIGHWAY**

WHEREAS, in 1973, the State of Alaska approved annexation of Fort Wainwright in 1973 into the City of Fairbanks; and

WHEREAS, Fort Wainwright includes land situated east of Badger Road; and

WHEREAS, tracts of land situated east of Badger Road have been transferred from military ownership; and

WHEREAS, parcels described as Lots 1 & 2, US Survey 11793, located at the intersection of Badger and Holmes Road, were transferred to the Fairbanks North Star Borough for use as a solid waste refuse collection site. The City consented to the detachment of these lots from the territory of the City of Fairbanks; and

WHEREAS, land described as Open Skies Commercial Park Subdivision, situated at the corner of Badger Road and the Old Richardson Highway, was transferred from military ownership and is now privately owned; and

WHEREAS, while it is the policy of the City Council of the City of Fairbanks that Fort Wainwright is an essential part of the City, detachment of territory that has been transferred from military ownership such as Open Skies Commercial Park Subdivision is appropriate under the regulatory standards adopted by the Local Boundary Commission.

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

Section 1. The City Council authorizes the City Mayor to prepare and submit a Petition for Detachment of Open Skies Commercial Park Subdivision, Fairbanks Recording District, via the local option method in which the affirmative vote of a majority of eligible voters will be required. In the event that the local option method is not available due to no eligible

voters residing in the territory to be detached, the legislative review method of Detachment is authorized. All costs, including staff time, are to be paid by the owner of the land requesting Detachment.

Section 2. That the effective date of this Resolution shall be the ___ day of _____ 2011.

Jerry Cleworth,
City Mayor

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul J. Ewers, City Attorney



CERTIFICATE OF L.L.C. OWNERSHIP, DEDICATION AND COMPLIANCE.

I HEREBY CERTIFY THAT OPEN SKIES, LLC IS THE OWNER OF COMMERCIAL PARK WITH ITS FREE CONSENT AND DEEDS, ALL STREETS, SIZES TO BE MADE AND OTHER DESIGNATED PUBLIC UTILITIES TO BE MADE.

I FURTHER CERTIFY THAT ALL REQUIRED IMPROVEMENTS TO THE SAID PLAT HAVE BEEN MADE AND THAT THE SAID PLAT IS IN ACCORDANCE WITH THE SUBDIVISION, FAIRBANKS NORTH STAR BOROUGH CODE.

DATE August 20, 2009
 OPEN SKIES, LLC
 OWNER

August 20, 2009
 BY COMMISSION EXPRES

BY COMMISSION EXPRES



CERTIFICATE OF REGISTERED LAND SURVEYOR
 I, ROBERT C. HERREN, A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF ALASKA, DO HEREBY CERTIFY THAT THE SAID PLAT IS A TRUE AND CORRECT COPY OF THE ORIGINAL PLAT AS FILED IN THE OFFICE OF THE DIVISION OF MINING, LAND AND GEOLOGY, FAIRBANKS, ALASKA, ON AUGUST 20, 2009. I HAVE REVIEWED THE SAID PLAT AND THAT ALL REQUIREMENTS OF THE ALASKA PROFESSIONAL LAND SURVEYING ACT AND THE FAIRBANKS NORTH STAR BOROUGH CODE, AND THAT THE DISTANCES AND BEARINGS ARE CORRECT AND THAT ALL REQUIREMENTS OF THE ALASKA PROFESSIONAL LAND SURVEYING ACT AND THE FAIRBANKS NORTH STAR BOROUGH CODE HAVE BEEN SET.

DATE 8-20-09

SCALE: 1" = 100'



OPEN SKIES COMMERCIAL PARK	
(SUBDIVISION OF GOVT LOT 7 SECTION 21, T.6, R.1E., 14, AK)	
LOCATION: WITHIN W1/2 SW1/4 SEC 21, T.6, R.1E., 14, AK	
OWNER: OPEN SKIES, LLC, FAIRBANKS, AK 99707	
SURVEYOR: RICH SURVEYS STREET 451-7411 FAIRBANKS, ALASKA 99701	
FAIRBANKS RECORDING DISTRICT	
FNSB: F 50 09-09	DECORDED: BALC
SCALE: 1" = 100'	DRAWN: BM / GSS
DATE: 08-20-09	CHECKED:

LEGEND

- PRIMARY MONUMENT FOUND, STAMPED AS NOTED.
- 5/8"-32" REBAR WITH A 1/2" ALUM. CAP. SET.
- () RECORD INFORMATION
- () PUBLIC UTILITY CASHEMENT
- F.A.D. FAIRBANKS RECORDING DISTRICT

CERTIFICATE OF PAYMENT OF TAXES.

I, THE UNDERSIGNED, BEING DULY APPOINTED AND QUALIFIED TAX COLLECTOR FOR THE FAIRBANKS NORTH STAR BOROUGH, DO HEREBY CERTIFY THAT THE TAXES DUE TO THE RECORDS OF THE FAIRBANKS NORTH STAR BOROUGH HAVE BEEN PAID IN FULL AND THAT THE SAID PLAT IS IN ACCORDANCE WITH THE SUBDIVISION, FAIRBANKS NORTH STAR BOROUGH CODE.

DATE August 20, 2009
 TAX COLLECTOR
 FAIRBANKS NORTH STAR BOROUGH

CERTIFICATE OF APPROVAL BY THE PLATING AUTHORITY

I HEREBY CERTIFY THIS SUBDIVISION PLAT HAS BEEN FOUND TO COMPLY WITH THE FAIRBANKS NORTH STAR BOROUGH CODE OF ORDINANCES, AND THAT SAID PLAT HAS BEEN APPROVED.



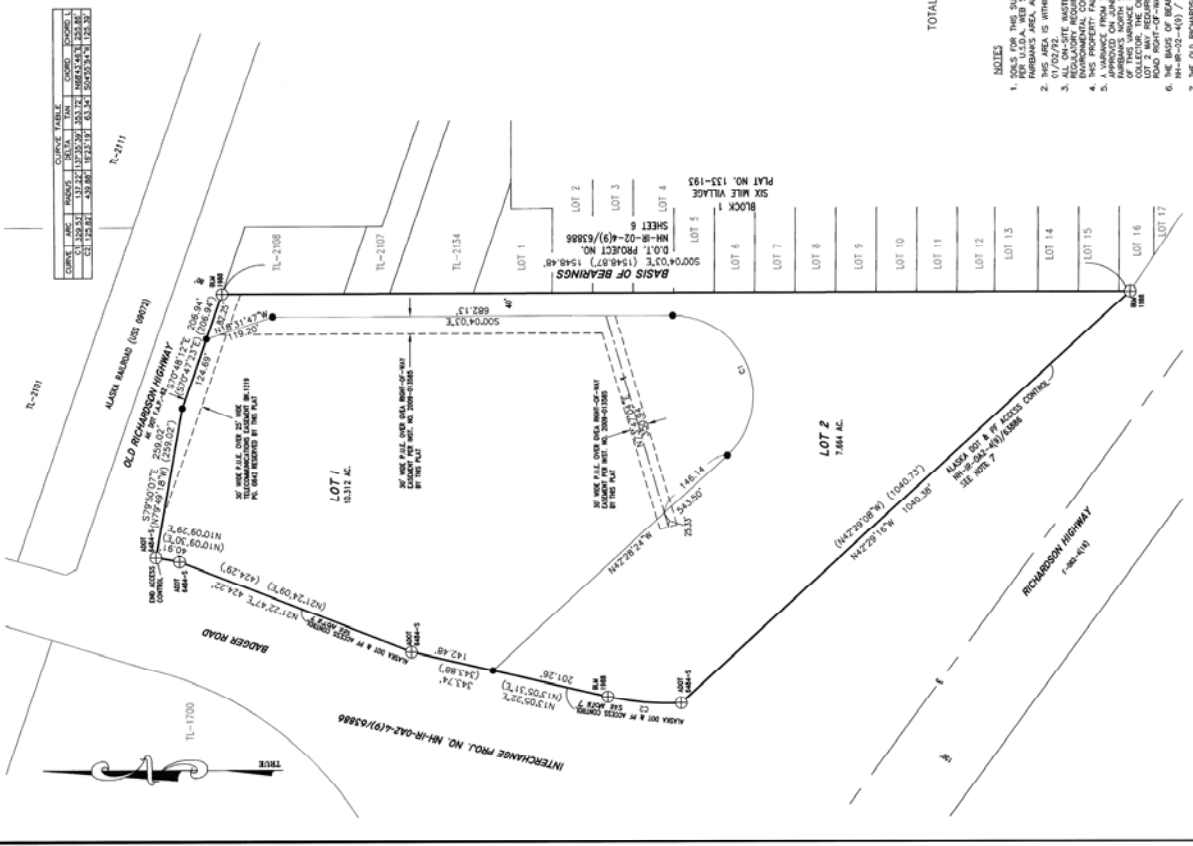
- UTILITY CASHEMENTS**
- THERE WILL BE A 30' BUFFER EXISTENT AT EACH POLE LOCATION FOR CUTS, ANCHORS AND OTHER SUPPORTIVE STRUCTURES.
 - THE UTILITIES OF THE SAID PLAT ARE TO BE MAINTAINED BY THE UTILITY COMPANIES IS GRANTED FOR THE INSTALLATION, MAINTENANCE, REPAIR OR REMOVAL OF THE UTILITIES.
 - THE UTILITY COMPANIES SHALL HAVE THE RIGHT TO OBTAIN ACCESS TO THE SAID PLAT FOR THE INSTALLATION, MAINTENANCE, REPAIR OR REMOVAL OF THE UTILITIES. OTHER DANGEROUS TREES ADJACENT TO OR IN THE VICINITY OF THE DOCUMENT.
 - AN AGREEMENT IS HEREBY RESPECTED WITHIN ALL LOTS FOR THE SAID PLAT AS A REQUIREMENT FOR THE INSTALLATION OF THE UTILITY COMPANIES.

AREA SUMMARY

LOT 1 = 10.312 AC.
 LOT 2 = 7.664 AC.
 TOTAL AREA = 17.976 AC.

NOTES

- THE BASIS FOR THIS SUBDIVISION ARE THE ALASKA MAPPING ACT, 1978, AND THE ALASKA MAPPING ACT, 1978, AS AMENDED.
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- THE BASIS FOR THIS SUBDIVISION ARE THE ALASKA MAPPING ACT, 1978, AND THE ALASKA MAPPING ACT, 1978, AS AMENDED.





Municipal Government

Detachment from a City Government

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[Applicable Laws](#)

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"Detachment" from a city means to shrink the corporate boundaries of the city by the removal of territory formerly within its control. There are two methods available to detach territory from a city. One involves an election among the voters in the territory proposed for detachment ([AS 29.06.040\(c\)\(1\)](#)). The other involves legislative review (Article X, Section 12, [Alaska Constitution](#).)

The detachment process requires a big commitment of time and other resources. Before any decision is made to begin work on detachment, a lot of thought should be given to the need for detachment, the method to use, and the likelihood of success. This topic provides a brief overview of basic detachment information, however, this is a complex matter that cannot be covered completely in this brief overview. This overview provides information and links to applicable law and staff available to provide assistance and answer questions on detachment.

Frequently Asked Questions [Back to Top](#)

Who can initiate a detachment petition?

A petition for detachment may be initiated by:

- a city;
- a borough;
- a regional educational attendance area;
- a coastal resource service area;
- at least 10% of the resident registered voters of a city, borough, regional educational attendance area, or coastal resource service area;
- at least 25% of the resident registered voters of the area proposed for detachment;
- the state legislature;
- the Commissioner of the Department of Commerce, Community, and Economic Development (Commerce);
- a party designated by the Local Boundary Commission.

Are disagreements with the city government a basis for detachment?

Occasionally, a petitioner is motivated by disagreements with the city over policy issues, land use regulation, tax rates, apparent differences between levels of service and taxes or fees, or similar issues. Such disagreements are not a basis for detachment. Detachment is not intended to be a means to settle group or individual disagreements with local governments. Detachments rarely occur. A proposal to detach territory will be granted only if it meets all applicable standards established in law.

Who can provide information regarding detachment from cities?

Commerce's [Local Boundary Commission \(LBC\) staff](#) are available to provide technical assistance, petition forms, and sample detachment materials to potential petitioners and to other interested parties.

If an individual, group, or organization does not want detachment, does the state assist them as well?

Yes. Commerce's [LBC staff](#) are available to provide technical assistance and sample materials to those who may wish to oppose a detachment proposal. Interested parties may file a responsive brief. This allows any interested party to be identified as a "respondent" in the detachment proceeding. Being identified as a respondent results in a higher level of notice about action on the detachment and provides certain procedural rights at the Local Boundary Commission's public hearing.

Can a petition be changed after it is filed?

The petition may be changed by the petitioner. The LBC can also change it or add conditions to a proposal following a public hearing. Ideally, however, with careful planning and consultation before filing a petition, changes can be avoided. Changing a petition may, under certain circumstances, cause delays in the process.

How long does it take to detach?

It typically takes several months (in some cases a year or more depending on the local effort) to prepare a proper petition. Petitioners are encouraged to work closely with LBC staff in developing a petition. The process for review of the proposal by the LBC depends, in part, on other actions the Commission is working on. There are many procedural steps required by law that take time to complete. In general, plan for it to take one year or longer from the filing of a petition until final action.

Narrative [Back to Top](#)

Detachment Through Election by Voters in the Territory Proposed for Detachment. Territory may be detached, upon approval by the Local Boundary Commission, if an election is held and a majority of the voters living in the territory to be detached vote to approve it. To pass, the proposition must be approved by a majority of those voting on the question.

Detachment by Legislative Review. Territory may be detached without approval by the voters or property owners under the legislative review process. Such proposals require approval by the Local Boundary Commission as well as review and tacit approval by the State legislature under Article X, Section 12 of Alaska's constitution. Tacit approval means the action is approved unless specific action is taken to deny the action within a set period of time. Legislative review is initiated when the LBC files a recommendation for the detachment with the legislature. Such recommendations may be filed only during the first 10 days of a regular session of the legislature. The recommendation is rejected only if the legislature adopts a concurrent resolution to deny the action within 45 days of the date that it was filed. Otherwise, the proposal is tacitly approved by the legislature.

Additional Resources [Back to Top](#)

Internet links:

- Department of Community and Economic Development (Commerce), [Local Boundary Commission \(LBC\) Staff](#)
- [Alaska Municipal League](#)
- Alaska Legislature "Folio Infobase" - [The Current Alaska Statutes](#)
- Alaska Legislature "Folio Infobase" - [The Alaska Administrative Code](#)
- Alaska [Department of Law](#)
- [Alaska Constitution](#)

Applicable Laws [Back to Top](#)

[Alaska Constitution](#) - Article X

- Section 1. Purpose and Construction, local self-government, local government units.
- Section 7. Cities.
- Section 12. Boundaries, authority for tacit legislative approval, authority for LBC to establish procedures for boundary adjustment.
- Section 14. Agency to advise and assist local governments.

Alaska Statutes (See [Current Alaska Statutes](#))

- [AS 29.06.040](#). Local Boundary Commission.
- [AS 44.33.810](#). Local Boundary Commission, appointment.
- [AS 44.33.812](#). Powers and Duties.

- AS 44.33.814. Meetings and Hearings.
- AS 44.33.816. Minutes and Records.
- AS 44.33.818. Notice of Public Hearings.
- AS 44.33.820. Quorum.
- AS 44.33.822. Boundary Change, majority vote.
- AS 44.33.824. Expenses.
- AS 44.33.826. Hearings on boundary changes.
- AS 44.33.828. When boundary changes take effect.

Alaska Regulations (See [The Alaska Administrative Code](#))

- 3 AAC 110.260. Best interest finding, factors considered in determining best interest.
- 3 AAC 110.400. Applicability.
- 3 AAC 110.410. Petitioners, authorized petitioners, signature requirements.
- 3 AAC 110.420. Petition, form, supporting brief, exhibits.
- 3 AAC 110.430. Consolidation of petitions.
- 3 AAC 110.440. Technical review of petitions, Commerce review, deficient petition.
- 3 AAC 110.450. Notice of petition, time limit and method for providing notice.
- 3 AAC 110.460. Service of petition, recipients and method of delivery, availability of all petition documents for public review.
- 3 AAC 110.470. Proof of notice and service.
- 3 AAC 110.480. Responsive briefs and written comments, filing with Commerce, affidavit of delivery to petitioner.
- 3 AAC 110.490. Reply brief, filing with Commerce, affidavit of delivery to respondent.
- 3 AAC 110.500. Limitations on advocacy, adherence to regulations, commission contact with interested parties.
- 3 AAC 110.510. Informational sessions, Commerce determination of adequate public information sessions, affidavit.
- 3 AAC 110.520. Departmental public meetings, notice, affidavit of posting, presiding officer, meeting summary, postponement, relocation.
- 3 AAC 110.530. Departmental report, draft review and comment.
- 3 AAC 110.540. Amendments and withdrawal, time limit, petition signatures, notice, service.
- 3 AAC 110.550. Commission public hearing, notice, public service announcement, postponement, relocation.
- 3 AAC 110.560. Commission hearing procedures, presiding officer, commission quorum, limit on comments, witnesses, sworn testimony, timely submission of documents.
- 3 AAC 110.570. Decisional meeting, time limit, commission quorum, change to comply with law, minutes, statement of considerations, decision, affidavit.
- 3 AAC 110.580. Reconsideration, time limit, denial or acceptance of request.
- 3 AAC 110.600. Local action/local option elections, election by director of elections under AS 15, election by municipality.
- 3 AAC 110.610. Legislative review, amendment to consider as local action/option procedure, legislative review of commission decision.
- 3 AAC 110.620. Judicial review, appeal and judicial review in accordance with Administrative Procedure Act.
- 3 AAC 110.630. Effective date and certification, Voting Rights Act approval, certification of election, legislative review deadline, certificate of change, recordation.
- 3 AAC 110.640. Scheduling, chairperson order setting/ amending schedule, timeline, postponement.
- 3 AAC 110.650. Resubmittals and reversals, denial of previous similar petition, request for reversal of decision.
- 3 AAC 110.660. Purpose of procedural regulations; relaxation or suspension of procedural regulation, commission discretion, guidelines.
- 3 AAC 110.900. Transition, submission of transition plan; assumption of powers, duties, responsibilities, assets, and liabilities; time limit on execution of plan; approved agreement.
- 3 AAC 110.910. Statement of non-discrimination.
- 3 AAC 110.920. Determination of community, factors considered in determining whether the term community applies.
- 3 AAC 110.970. Determination of essential city or borough services, guidelines.
- 3 AAC 110.980. Determination of best interests of the state, guidelines.
- 3 AAC 110.990. Definitions.

Revised 3/24/03

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PRINTING NOTE TO USER:

Some printers do not capture the full page when printing. To adjust for this, select "Landscape" in the print properties window when printing one of the LOGON chapters.

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Webmaster

Alaska Statutes

Sec. 29.06.040. Municipal boundary changes.

(a) The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise, it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

(b) The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(c) In addition to the regulations governing annexation by local action adopted under AS 44.33.812 , the Local Boundary Commission shall establish procedures for annexation and detachment of territory by municipalities by local action. The procedures established under this subsection must include a provision that

- (1) a proposed annexation must be approved by a majority of votes on the question cast by voters residing in the annexing municipality;
- (2) a proposed annexation or detachment must be approved by a majority of votes on the question cast by voters residing in the area proposed to be annexed or detached;
- (3) municipally owned property adjoining the municipality may be annexed by ordinance without voter approval; and
- (4) an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body.

(d) A boundary change effected under (a) and (b) of this section prevails over a boundary change initiated by local action, without regard to priority in time.

Alaska Administrative Code

Article 7 Standards for Detachment from Cities

3 AAC 110.257. Standards for detachment from cities

In accordance with AS 29.06.040 (a), the commission may approve a proposal for detachment from a city only if the commission determines that the proposal

- (1) meets applicable standards under the Constitution of the State of Alaska;
- (2) meets standards in 3 AAC 110.257 - 3 AAC 110.260 and 3 AAC 110.900 - 3 AAC 110.970; and
- (3) is in the best interests of the state.

3 AAC 110.260. Best interests of state

(a) In determining whether detachment from a city is in the best interests of the state under AS 29.06.040, the commission may consider relevant factors, including

- (1) the health, safety, and general welfare of the proposed remnant city and the territory after detachment;
- (2) the ability of the proposed remnant city to efficiently and effectively provide reasonably necessary facilities and services after detachment;
- (3) the reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
- (4) the historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
- (5) the historical pattern of cooperation and shared commitment between the people of the proposed remnant city and the people of the territory;
- (6) the extent to which detachment might enhance or diminish the ability of the proposed remnant city to meet the standards for incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, 3 AAC 110.005 - 3 AAC 110.042, and 3 AAC 110.900 - 3 AAC 110.970;
- (7) the extent to which a transition plan of a previous annexation has been implemented and is effective;

(8) the effect of the proposed detachment on the long-term stability of the finances of the proposed remnant city, other municipalities, and the state;

(9) whether the proposed detachment will promote

(A) maximum local self-government, as determined under 3 AAC 110.981; and

(B) a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;

(10) whether the territory's requirements for local government services will be adequately met following detachment;

(11) contemporary and historical public school enrollment data; and

(12) nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends.

(b) If, to fulfill the requirements of (a)(10) of this section, the petitioner has proposed, or the commission requires, incorporation of the territory into a new municipality, the commission may condition the approval of the detachment upon voter approval of the incorporation.

(c) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment that would create noncontiguous parts of the city or enclaves within the city does not meet the standards for detachment.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for detachment from a city in an unorganized borough is a diminution of maximum local self-government and does not meet the standards for detachment.

(e) In order to promote a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, a petition for detachment that also seeks to incorporate a new city must propose that the new city will encompass a substantially larger population and territory than the population and territory proposed for detachment.

3 AAC 110.263. Legislative review

Territory that meets the detachment standards specified in 3 AAC 110.257 - 3 AAC 110.260 may detach from a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

(1) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and detachment will enable the city to regulate or control the detrimental effects of those conditions;

(2) it is impossible or impractical for the city to extend facilities or services to the territory;

(3) residents or property owners within the territory have not received, and do not reasonably expect to receive, directly or indirectly, the benefit of city government without significant additional tax contributions;

(4) the commission determines that specific policies set out in the Constitution of the State of Alaska, AS 29.04, AS 29.05, or AS 29.06 are best served through detachment of the territory by the legislative review process, and that detachment is in the best interests of the state.

3 AAC 110.265. Local action

Territory that meets the detachment standards specified in 3 AAC 110.257 - 3 AAC 110.260 and has been approved for local action detachment by the commission may be detached from a city upon approval by a majority of voters residing in the territory voting on the question at an election.

Introduced by: Mayor Jerry Cleworth
Finance Committee: April 19, 2011
Introduced: April 25, 2011

ORDINANCE NO. 5846

AN ORDINANCE TO PRESENT TO THE QUALIFIED VOTERS OF THE CITY THE QUESTION OF APPROVING ADDITIONAL CITY SERVICES THROUGH PRE-PAYING THE OUTSTANDING BOND DEBT FOR THE POLICE STATION

WHEREAS, Fairbanks voters in 2000 approved borrowing \$7,000,000 to build the new Police Station; as of December 31, 2011, \$1,890,000 will remain owing; and

WHEREAS, under the current payment schedule, the bonds will be paid in full in 2014; and

WHEREAS, the City Charter's Tax Cap provides that the maximum amount of taxes levied in any year includes annual debt payments; and

WHEREAS, paying off the outstanding debt in 2011 will end the need for annual payments; the total of 2011 payments is \$695,380; and

WHEREAS, pre-payment of this debt presents an opportunity to use the avoided debt service expense for additional City services without any increase in taxes,

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

Section 1. That the following proposition be presented to the qualified voters of the City at the next general October election as follows:

Do you approve the City Mayor and City Councils' recommendation to pay off the full Police Station debt in 2011 and adjust the Tax Cap to use the \$695,380 in savings to provide additional City services annually?

And that the following information be provided to the voters:

INFORMATION REGARDING CITY PROPOSITION ____. The City is proposing to increase revenues by paying off existing debt instead of raising current taxes. Under the City Tax Cap, reduction of annual debt payments decreases the total amount of taxes that may be levied. The City Mayor and City Council are proposing to pay off the entire remaining Police Station bond debt in 2011 and request voter approval to use the annual savings of \$695,380 to fund additional City services by adjusting the annual Tax Cap by that amount on a recurring basis.

Section 2. That the effective date of this ordinance shall be the ___ day of _____ 2011.

Jerry Cleworth, Mayor

AYES:
NAYS:
ABSTAIN:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM:

Janey Hovenden, CMC, City Clerk

Paul Ewers, City Attorney

PUBLIC SAFETY COMMISSION

**March 8, 2011
11:30 AM
Fairbanks Police Department**

PSC Members:	Peter Stern (Seat C - 2013)	Buzzy Chiu (Seat D - 2011)
	Frank Eagle (Seat E - 2012)	Robert Hall (FPD Appointee)
	John Eberhart (Seat A - 2011)	Greg Taylor (FFD Appointee)
	Bill Satterberg (Seat B - 2012)	

Meeting Minutes

CALLED TO ORDER: 11:35 am

ATTENDANCE:

PSC Members: Peter Stern, Frank Eagle, John Eberhart, Buzzy Chiu, Robert Hall and Greg Taylor
PSC Members Absent: Bill Satterberg
Others in attendance: Laren Zager, Stephanie Johnson, Ernie Misewicz, Mayor Cleworth, Dave Burglin, Bonnie Nolan, Lisa Howard

ADOPT AGENDA: Agenda adopted without change.

PUBLIC COMMENT: None

OLD BUSINESS:

CSP & Housing First Updates

Ms. Chiu reported that TCC is hoping to receive a grant for the Housing First project by the end of March. Various area agencies are still discussing the details of how to have a plan for next winter to try to prevent exposure related deaths. CSP has extended its response area slightly, but the biggest problem remains in the eastern Johansen Expressway area.

NEW BUSINESS:

FPD REPORT Chief Zager had the following report:

- Meeting with Correctional Center staff and FMH staff has been postponed, as the State has a hiring freeze on and there is no staff to deal with the issue of the jails not accepting individuals cleared by the hospital. It is hoped that the increase in beds at the Detox Center may resolve the issue as they have RN's on staff.
- There are 2 ½ unanticipated vacancies with Ben & Pearl Holston leaving Fairbanks and Corey Rupee returning to Homer. This will be a multi-month set back to reach full authorized staffing again.
- Though not the primary cause, forced overtime is sited as having a measurable effect on job satisfaction. In addition, a second measurable factor is the uncertainty of the contract. Impact of Tier 4 not clearly identified.
- With the defunding of a dedicated traffic enforcement officers, the Department has adopted a balanced but vigorous traffic enforcement policy for all officers. The citation numbers have gone up dramatically, but more importantly, good traffic enforcement is the single largest impact action a police department can do to improve public safety.

as approved (4/12/11)

Page 1 of 2

- FPD is passing on an opportunity for a 2nd canine unit as it requires about 2100 staff hours to complete the training required for a canine and FPD does not have the staffing to spare.
- In response to a question regarding long it takes to get a new officer on the street after the hiring process is completed – and the answer is 4 to 12 months depending on the individuals experience and background.
- Review of statistics generated from the new records management system was presented by Robert Hall. Willing to provide statistics on specific types of incidents the PSC is interested in getting.

FFD REPORT Asst. Chief Misewicz reviewed the February 2011 FFD statistics. He also reported:

- Negotiations are starting for the FFA contract with the City.
- Federal grants are all currently on hold until the Federal budget is approved.
- Still a continued problem with multiple emergency calls.

FECC REPORT Director Johnson reports:

- OSSI records management system is on line and once data fields are populated will significantly decrease dispatch and officer data entry time. Potential of Citizen Self Serve to gain access to their accident reports and other authorized information – this part of the system still has some processes, approvals and procedures to ensure appropriate security before implementation.
- All dispatch positions are filled, with three individuals still in training.
- The FECC management plan is still in development phase as they work with the Fairbanks North Star Borough.

CLOSING COMMENTS:

Mayor Cleworth – Reported he only recently learned that under Tier 4, the City still pays \$0.22 of every dollar earned by employees to fund the trust. The employee's contribute \$0.06.

Greg Taylor – The two biggest draw backs to Tier 4 are there are no guaranteed retirement benefits and no health insurance. This is having a significant impact on recruiting public employees. Basically Tier 4 is a 401K.

NEXT MEETING: April 12, 2011 – Fairbanks Fire Department

MEETING ADJOURNED at 1245 pm

Respectfully submitted,
Lisa Howard, FFD



800 Cushman Street
Fairbanks, AK 99701

Phone (907) 459-6723
Fax (907) 459-6719

CODE REVIEW COMMISSION MEETING

Date: 3/9/2011

Meeting #8

**Meeting Location and Time: City Hall Council Chambers 800 Cushman Street
11:30 am 3/9/2011**

Members Present:

Pete Jacobsen, Jim Movius, John Ellingson, Richard Tilly, Jerry Mustard, Spenser Damschroder, Martha Hanlon, Bill Gryder

Others Present: S. Shuttleworth, Marty Woodrow, Clem Clooten, Steve Anderson, Ernie Misewicz

Agenda: Review and Evaluation of the Administrative Code, Abatement Code and the Swimming Pool Code.

The meeting began at 11:50 am. The minutes from meeting #7 were read and approved as submitted.

The continuation of the review of the Administrative Code was presented jointly by the fire and building department. Most of the changes to the Administrative Code are editorial wherein the responsibility of the Fire Chief to enforce and interpret the Fire Code is now clearly identified. Building permit exemptions were expanded to include detached structures not exceeding 200 square feet. Further exemptions for building permits include: fences of all heights, exterior siding and uncovered decks not more than 30 inches above grade.

After further discussion Mr. Movius moved to adopt the Administrative Code, Martha Hanlon seconded the motion – the motion passed unanimously.

The Abatement Code was presented by the building official. Previously the Abatement Code was the 1997 edition as published by the International conference of Building Officials. Since 2000 that model code group has partnered with the ICC code group and that particular Abatement Code is no longer published. Therefore this code was reproduced with local code amendments and is now referred to as the City of Fairbanks Abatement Code. For the most part this code has remained without substantial change. Most of the revisions occur in chapter 9, Recovery of Abatement Costs. These changes accurately reflect the current recovery process

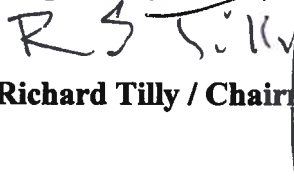
utilized by the City of Fairbanks. These changes were recommended by the City Attorney.

Bill Gryder moved to approve the adoption of the Abatement Code with revisions, the motion was seconded by Mr. Movius – the motion was unanimously approved.,

The Swimming Pool Code was briefly presented to the commission as there were no recommendations to provide local amendments or revise existing code language. This code is used very little but is used when new community swimming pools are constructed or when new athletic facilities are constructed utilizing hot tubs and therapeutic pools. The commission unanimously recommended to adopt the current 2009 edition of the Swimming Pool Code.

The meeting was adjourned at 12:45 pm

Respectfully submitted,


Richard Tilly / Chairman



FLUORIDE TASK FORCE
MARCH 29, 2011
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

Committee Members Present: Dr. Paul Reichardt, Chair
Dr. Joan Braddock
Dr. Beth Medford
Dr. Rainer Newberry
Dr. Dick Stolzberg

Absent: Dr. Bryce Taylor

Also Present: Debi Osterby, Deputy City Clerk

NEW BUSINESS

- a) Roll Call
- b) Housekeeping

Dr. Reichardt explained to the public that the task force would entertain comments from the public regarding the March 15, 2011 draft report. He indicated that there were three avenues to express opinions: online comment form, public meeting tonight, and public meeting on 3/31/11. Testimony to be limited to five minutes and specific to comments on the report.

- c) Public Testimony

Scott Calder, PO Box 75011, Fairbanks. Mr. Calder provided feedback on the report, indicating that the report was clear and well researched.

Peggy Despain, 739 Chena Ridge Rd., Fairbanks. Ms. Despain provided feedback on the ease in which the report could be read, especially for the lay person.

- d) Discussion

Task Force members discussed revealing to the public how each individual voted in regards to leaving fluoride in the water supply, removing fluoride, and reducing the fluoride additive. It was decided that the public had a right to know how each individual voted.

Task Force members discussed edits and corrections to the draft report, dated March 15, 2011.

Dr. Braddock to prepare revised statement based on the new ADA recommendation regarding infant formula reconstituted with fluoride free water.

Members discussed Dr. Reichardt's edits (e-mail dated 3/26/11).

Dr. Stolzberg reported on reviews regarding systemic vs. topical fluoride. Systemic approach to be discussed in draft report.

NEXT MEETING(S)

March 31, 2011, 7:00 PM, Council Chambers

ADJOURNMENT

Dr. Reichardt declared the Meeting adjourned at 9:30 p.m.

A handwritten signature in black ink, appearing to read "Paul Reichardt", written over a horizontal line.

Dr. Paul Reichardt, Chair

Transcribed by: DO



FLUORIDE TASK FORCE
MARCH 31, 2011
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

Committee Members Present: Dr. Paul Reichardt, Chair
Dr. Joan Braddock
Dr. Beth Medford
Dr. Rainer Newberry
Dr. Dick Stolzberg

Absent: Dr. Bryce Taylor

Also Present: Debi Osterby, Deputy City Clerk

NEW BUSINESS

- a) Roll Call
- b) Public Testimony

Phil Osborn, 1451 Flat Mountain Road, Fairbanks. Mr. Osborn thanked the committee for its work and indicated that he agreed with the recommendation.

Sharon Aldon, 159 Kniffen Road, Fairbanks. Ms. Aldon spoke to the reference in the report on the National Kidney Foundation's statement regarding the Kidney Health Australia. She thanked the task force for the work.

Susan Yanish, 508 Monroe St., Fairbanks. Ms. Yanish thanked the committee for its work and indicated that she agreed with the recommendation.

Martha Rich, 1451 Flat Mountain Road, Fairbanks. Ms. Rich thanked the committee for its work and indicated that she agreed with the recommendation.

Allan Yanish, 508 Monroe St., Fairbanks. Mr. Yanish thanked the task force for helping to inform the citizens of the true effects of fluoride.

Chris Henry, 3030 Forest Drive, Fairbanks. Dr. Henry reminded the committee that the government reduced the mandated fluoride level to .07, while encouraging the continuation of fluoridation of water. He asked the committee to ask the Council to put this to a vote of the public opposed to passage by ordinance.

Lee Despain, 1006 4th Ave., Fairbanks. Mr. Despain thanked the task force for its work and indicated that he agreed with the recommendation. He asked that the Council make the decision and not the public by way of vote.

d) Discussion

Task Force members continued to review changes to March 15, 2011 draft report.

Task Force members reviewed comments from the public (personal testimony, online comments, and e-mailed comments) and potential changes to the draft report.

Dr. Braddock explained her changes to the report based on the new ADA recommendation regarding infant formula reconstituted with fluoride free water.

Members to reread rationale for recommendation number one, to make sure that it is correct. Members to read online comments for possible modifications to report.

NEXT MEETINGS

April 5, 2011, 7:00 PM, Council Chambers

ADJOURNMENT

Dr. Reichardt declared the Meeting adjourned at 9:30 p.m.



Dr. Paul Reichardt, Chair

Transcribed by: DO



FLUORIDE TASK FORCE
APRIL 5, 2011
FAIRBANKS CITY COUNCIL CHAMBERS
800 CUSHMAN STREET, FAIRBANKS, ALASKA

Committee Members Present: Dr. Paul Reichardt, Chair
Dr. Joan Braddock
Dr. Beth Medford
Dr. Rainer Newberry
Dr. Dick Stolzberg

Absent: Dr. Bryce Taylor

Also Present: Debi Osterby, Deputy City Clerk

NEW BUSINESS

- a) Roll Call
- b) Discussion

Task Force members continued to review changes to March 15, 2011 draft report. Final changes to be presented to report writer for inclusion in final report. Report to be available on or before April 20, 2011, for presentation to the Council.

NEXT MEETINGS

Task Force meetings are concluded. Members to attend regular City Council meeting of April 25, 2011, to present report and recommendation to the Council.

ADJOURNMENT

Dr. Reichardt declared the Meeting adjourned at 9:30 p.m.

A handwritten signature in blue ink that reads "Paul Reichardt".

Dr. Paul Reichardt, Chair

Transcribed by: DO