

AIR POLLUTION CONTROL COMMISSION AGENDA

Tuesday August 9, 2016
6:00 P.M.

Juanita Helms Administration Center
Assembly Chambers
809 Pioneer Road
Fairbanks, AK 99701

1. Call meeting to order
2. Introductions
3. Approval of minutes
4. Messages from the Borough Mayor
5. Public comments on items not on the agenda, limited to 3 min. ea.
6. New Business
 - a. Introduction of APCC RESOLUTION NO. 2016-02: “A Resolution To Amend The Rules Of The APCC By Promulgating New Rules Regarding Participation In Quasi-Judicial APCC Hearings.” (Includes review of accompanying forms) (Sponsor: Kathleen Hook).
 - i. Public Comments, limited to 3 minutes each.
 - ii. Commission discussion and recommendations. (Action Item)
 - b. Discussion of FNSB Assembly Ordinance 2016-20-1A “AN ORDINANCE AMENDING THE FY 2016-17 BUDGET BY APPROPRIATING \$290,400 FROM THE GENERAL FUND, FUND BALANCE TO THE TRANSIT ENTERPRISE PROJECTS FUND TO DESIGN AND OPERATE AN AIR QUALITY MONITORING NETWORK.” Presentation by Ron Lovell.
 - i. Public Comments, limited to 3 minutes each.
 - ii. Commission Discussion and Recommendations.
 - c. Update on Air Quality Improvement Program.
7. Commissioner comments
8. Adjournment

1 RESOLUTION NO. 2016-2

2
3 A RESOLUTION TO AMEND THE RULES OF THE AIR POLLUTION CONTROL
4 COMMISSION BY PROMULGATING NEW RULES REGARDING PARTICIPATION IN
5 QUASI-JUDICIAL AIR POLLUTION CONTROL COMMISSION HEARINGS
6

7 WHEREAS, the Fairbanks North Star Borough's (FNSB) Assembly
8 recently passed Ordinance No. 2015-74 amending FNSB code applicable to the Air
9 Pollution Control Commission;

10
11 WHEREAS, the changes require the Air Pollution Control Commission to
12 promulgate rules allowing for various forms of participation in quasi-judicial hearings;

13
14 NOW, THEREFORE, BE IT RESOLVED that the Air Pollution Control
15 Commission adopts the following rules:

16
17 RULE 1. INTERESTED PERSON DETERMINATION. A person who did not
18 receive a public announcement letter but who wishes to participate in a quasi-
19 judicial matter before the Air Pollution Control Commission may seek an
20 interested person determination. A person may apply for an interested person
21 determination at the quasi-judicial hearing for the matter or the person may apply
22 in advance of the hearing. All interested persons may provide testimony at the
23 matter. An interested person who possesses a significant property interest that
24 is not adequately represented by existing parties may fully participate in the
25 quasi-judicial matter. A pre-hearing application for an interested person
26 determination shall be on a form prescribed by the Air Pollution Control
27 Commission and received by the Fairbanks North Star Borough Legal
28 Department before the close of business (5 p.m.) no less than 5 working days
29 before the scheduled quasi-judicial hearing at which the applicant wishes to

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30 testify. An applicant wishing to testify as an interested person must provide an
31 affidavit establishing that the applicant:

- 32 1. Possesses a specific property interest;
- 33 2. Which may be significantly affected by the proposed action; and
- 34 3. The property interest may be affected in a way different than the general
35 public's interest.

36 An applicant wishing to fully participate in a matter as an interested person must
37 provide an affidavit establishing that the applicant:

- 38 1. Possesses a specific property interest;
- 39 2. Which may be significantly affected by the proposed action;
- 40 3. The property interest may be affected in a way different than the general
41 public's interest; and
- 42 4. The applicant's interest is not adequately represented by the existing
43 parties.

44 The Chair of the Air Pollution Control Commission or the Chair's designee shall
45 make the interested person determination with reasonable promptness and the
46 Legal Department shall notify the applicant of the decision with reasonable
47 promptness.

48
49 RULE 2. TELEPHONIC TESTIMONY. A party, witness, or interested person
50 wishing to testify telephonically at a quasi-judicial matter may apply for telephonic
51 testimony on a form prescribed by the Air Pollution Control Commission and by
52 demonstrating good cause for the request. The request must be received by the
53 Fairbanks North Star Borough Legal Department before the close of business (5
54 p.m.) no less than 5 working days before the scheduled quasi-judicial hearing at
55 which the applicant wishes to testify. Upon receipt of an application for telephonic
56 testimony the Legal Department shall promptly notify the Air Pollution Control
57 Commission and opposing parties. The Chair of the Air Pollution Control
58 Commission or the Chair's designee may deny the request for telephonic

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59 testimony upon finding that the applicant failed to demonstrate good cause for
60 the request or upon finding that substantial prejudice to another party will result
61 from the telephonic participation. Opposing parties may assert that an
62 applicant's telephonic participation will result in substantial prejudice by
63 submitting their argument to the Legal Department before the close of business
64 no later than 3 working days before the scheduled hearing. The Chair or the
65 Chair's designee shall grant or reject the application and the Legal Department
66 shall notify the applicant and opponents of the decision no less than 2 working
67 days before the scheduled quasi-judicial hearing. If the telephonic testimony is
68 allowed, the applicant is responsible for making proper arrangements to
69 accomplish the telephonic testimony and for payment of associated telephone
70 charges. An applicant's telephonic testimony must be offered from a landline
71 telephone.

72
73 RULE 3. TESTIMONY BY AFFIDAVIT. A party, witness, or interested
74 person wishing to testify by affidavit at a quasi-judicial matter may apply for
75 testimony by affidavit on a form prescribed by the Air Pollution Control
76 Commission. The applicant must submit the affidavit containing the proposed
77 testimony with the application form to the Fairbanks North Star Borough Legal
78 Department before the close of business (5 p.m.) no less than 5 working days
79 before the scheduled quasi-judicial hearing at which the applicant wishes to
80 testify. Upon receipt of an application for testimony by affidavit the Legal
81 Department shall promptly notify and distribute the affidavit to the Air Pollution
82 Control Commission and opposing parties. Opposing parties may invoke the
83 right to cross-examination by submitting to the Legal Department questions
84 relevant to the affidavit before the close of business no less than 3 working days
85 before the scheduled quasi-judicial hearing. If after reviewing an opposing
86 party's submission the Chair of the Air Pollution Control Commission or the
87 Chair's designee determines that cross-examination is reasonably necessary to

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88 explore matters which contradict, modify, or explain the testimony contained in
89 the applicant's affidavit then the Chair or the Chair's designee may reject the
90 application for testimony by affidavit. The Chair or the Chair's designee shall
91 grant or reject the application and the Legal Department shall notify the applicant
92 and the opposing parties of the decision no less than 2 working days before the
93 scheduled quasi-judicial hearing.

94
95 Rule 4. CONCURRENT APPLICATIONS. A party wishing to testify either
96 telephonically or by affidavit may submit concurrent applications. Each
97 application must comply with the respective requirements and procedures
98 outlined in Air Pollution Control Commission Rules 2 and 3. The party shall notify
99 the Legal Department whether the party prefers to testify by affidavit or
100 telephonically. If the party fails to specify a preference and the Chair of the Air
101 Pollution Control Commission grants both applications then the Commission will
102 provide for telephonic testimony only and the requirements stated in Air Pollution
103 Control Commission Rule 2 shall apply.

104
105 RULE 5. HOLIDAYS. With respect to Air Pollution Control Commission rules 1
106 through 3, any deadline that falls on a Borough-observed holiday will thereby be
107 due the following business day. If a deadline falls on a holiday and the foregoing
108 rule is not practicable under the particular circumstances, the Chair or the Chair's
109 designee may modify the deadline in writing issued reasonably in advance of the
110 deadline.

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THIS __ DAY OF _____, 2016.

, Chair
FNSB Air Pollution Control Commission

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1 By: Karl W. Kassel, Mayor
2 Kathryn Dodge
3 John Davies
4 Introduced: July 28, 2016
5

6 FAIRBANKS NORTH STAR BOROUGH

7
8 ORDINANCE NO. 2016-20- 1A
9

10 AN ORDINANCE AMENDING THE FY 2016-17 BUDGET BY APPROPRIATING \$290,400
11 FROM THE GENERAL FUND FUND BALANCE TO THE TRANSIT ENTERPRISE
12 PROJECTS FUND TO DESIGN AND OPERATE AN AIR QUALITY MONITORING
13 NETWORK
14

15 WHEREAS, In 2009 the Environmental Protection Agency (EPA) designated
16 Fairbanks a "PM2.5 Non-Attainment" area; and
17

18 WHEREAS, The Fairbanks North Star Borough (FNSB) returned regulatory
19 air quality monitoring responsibilities to the State of Alaska in FY 2017; and
20

21 WHEREAS, The FNSB has designed a community based Air Quality
22 Monitoring Plan that will enhance real-time decision making and provide actionable inputs
23 for improved air quality; and
24

25 WHEREAS, The FNSB Air Quality Division will integrate several different
26 monitor types to identify, in real-time, high PM2.5 emissions sources, resulting in targeted
27 and increased community engagement actions; and
28

29 WHEREAS, The last comprehensive Air Quality speciation study was
30 conducted by the FNSB in 2013; and
31

32 WHEREAS, This funding will be used for, but not limited to, the purchase of a
33 variety of monitor types, a maintenance and deployment contract, equipment hosting
34 contracts, equipment operating supplies, and a speciation study; and

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35 WHEREAS, This Community-Based Air Quality Monitoring Program is
36 estimated to last three years and funding in subsequent fiscal years for operating the
37 program (FY18 and FY19) are intended to be included in the Mayor's recommended
38 budgets for those years.

39
40 NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks
41 North Star Borough:

42
43 Section 1. Classification. This ordinance is not of a general and
44 permanent nature and shall not be codified.

45
46 Section 2. General Fund Appropriation. The FY 2016-17 budget is hereby
47 amended by appropriating \$290,400 to the General Fund budgetary guideline entitled
48 "Contribution to Transit Enterprise Projects Fund" and by increasing Contribution from Fund
49 Balance by a like amount.

50
51 Section 3. Transit Enterprise Projects Fund Appropriation. The FY 2016-17
52 budget is hereby amended by appropriating \$290,400 to the Transit Enterprise Projects
53 Fund budgetary guideline entitled "Community-Based Air Quality Monitoring Program" and
54 increasing Contribution from General Fund by a like amount.

55
56 Section 4. Lapse of Funds. Upon completion or abandonment of the
57 project, any unexpended, unencumbered funds will lapse to the General Fund fund
58 balance.

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60 Section 5. Effective Date. This ordinance is effective at 5:00 p.m. on the
61 first Borough business day following its adoption.

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PASSED AND APPROVED THIS _____ DAY OF _____, 2016.

John Davies
Presiding Officer

ATTEST:

APPROVED:



A. Rene Broker
Borough Attorney

Nanci Ashford-Bingham, MMC
Borough Clerk

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