

CLERK'S OFFICE

APPROVED

Date: 7-16-02

Submitted by: Assemblymember Tesche, Taylor

Prepared by: Department of Assembly

For reading: June 25, 2002

ANCHORAGE, ALASKA

AO NO. 2002-101

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 6.10, BUDGET AND APPROPRIATIONS GENERALLY, BY ENACTING A NEW SECTION 6.10.033 TO PROVIDE FOR PUBLIC ACCESS TO DOCUMENTS AND MATERIALS USED TO PREPARE ANNUAL AND OPERATING BUDGETS

THE ANCHORAGE ASSEMBLY ORDAINS:

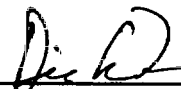
Section 1: That Anchorage Municipal Code Charter 6.10, Budget and Appropriations Generally, is amended by enactment of a new section .033 to read:

6.10.033 Public access to budget preparation materials.

- A. Except only where prohibited or restricted by State Statutes, the public shall be given full, free, and unrestricted access to all Municipal documents and records, including drafts, prepared by or for the Municipality in connection with annual operating and capital budgets.
- B. Public access to budget preparation materials shall not be restricted or denied by any Municipal official, employee, or entity on the basis of any claim of executive or deliberative process privilege.
- C. The terms "documents" and "records" use in this section shall have the same meaning as given those terms in AMC 3.90.020.
- D. The term "budget" used in this section means and includes periodic revisions to operating and capital budgets as well as proposed legislation making, repealing, or revising appropriations.

Section 2: That this ordinance shall take effect immediately upon passage and approval.

PASSED AND APPROVED by the Anchorage Assembly this 16th day of July, 2002.


Chair

ATTEST:


Municipal Clerk
EGJ/2002 ORDINANCES/AO20



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

NO. 571-2002

Meeting Date: June 25, 2002

1 **From:** Assemblymember Tesche

2 **Subject:** **AN ORDINANCE AMENDING AMC 6.10 BY ENACTING A NEW SECTION**
3 **TO PROVIDE FOR PUBLIC ACCESS TO DOCUMENTS AND MATERIALS**
4 **USED TO PREPARE ANNUAL AND OPERATING BUDGETS**
5
6

7 Since unification and with only a brief exception during 1997¹, Assembly staff and the
8 public have been given access to Municipal documents used to prepare annual operating
9 and capital budgets. Access to these materials during budget preparation aids in review
10 of operating and utility budgets and is particularly important because once budgets are
11 officially transmitted to the Assembly, the time for review and revision is necessarily limited.
12

13 Unfortunately, Assembly staff were recently advised by the Office of Management and
14 Budget that public access to the budget preparation materials, including Assembly access
15 through the City's Budget Preparation System has been terminated to protect the Mayor's
16 "executive" or "deliberative process privilege." The famous federal case of *United States*
17 *v. Nixon*, 418 U.S. 683 (1974) discussed the concept of "executive privilege" in the Federal
18 context.
19

20 In order to restore public access to budget preparation information, AO 2002-101 clarifies
21 Municipal law by guaranteeing that such information is indeed available to the public and
22 that the so called "executive or deliberative process privileges," while applicable to State
23 government, are not applicable to local government in Anchorage and should not bar public
24 access to budget preparation materials.
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26 Enactment of AO 2002-101 is recommended.

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28 Respectfully submitted,

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31 Allan Tesche, Chair
32 Assembly Finance Committee
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EGJ/2002MEMORANDUMS/AM31

¹ For a brief time in 1997, Mayor Mystrom suspended Assembly access to budget preparation information. Upon request of the Assembly Chair and following an editorial in the Anchorage *Daily News*, public access to those materials was restored.

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2002-101

Title: Amending AMC 6.10 to Provide for Public Access to Documents and
Materials used to Prepare Annual and Operating Budgets

Sponsor: Assemblymember Tesche

Preparing Agency: Department of Assembly

Others Impacted: All Departments

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	<u>FY02</u>	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$	\$	\$	\$	\$
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$	\$	\$	\$	\$

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

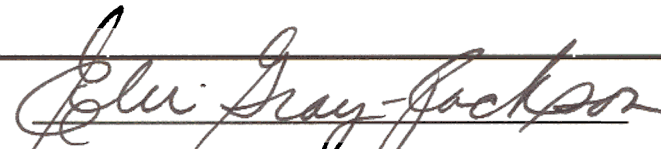
PUBLIC SECTOR ECONOMIC EFFECTS:

There are no substantial, if any, public sector economic effects anticipated.

PRIVATE SECTOR ECONOMIC EFFECTS:

There are no substantial, if any, private sector economic effects anticipated.

Prepared by:



Telephone: 4751

Approved by:


Director/Municipal Clerk

Date: 6/21/02

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

AO 2002-101

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT		DATE PREPARED	
	An Ordinance Amending AMC Chapter 6.10, Budget and Appropriations		21-Jun-02	
			Indicate Documents Attached	
			<input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
2	DEPARTMENT NAME		DIRECTOR'S NAME	
	Assembly		Greg Moyer	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY		HIS/HER PHONE NUMBER	
	Elvi Gray-Jackson		343-4751	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE	
	Mayor			
	Heritage Land Bank			
	Merrill Field Airport			
	Municipal Light & Power			
	Port of Anchorage			
	Solid Waste Services			
	Water & Wastewater Utility			
	Municipal Manager			
	Cultural & Recreational Services			
	Employee Relations			
	Finance, Chief Fiscal Officer			
	Fire			
	Health & Human Services			
	Office of Management and Budget			
	Management Information Services			
	Police			
	Planning, Development & Public Works			
	Development Services			
	Facility Management			
	Planning			
	Project Management & Engineering			
	Street Maintenance			
	Traffic			
	Public Transportation Department			
	Purchasing			
	Municipal Attorney			
	Municipal Clerk			
	Other			
5	Special Instructions/Comments			
	<div style="display: flex; justify-content: space-between;"> <div> <p>CLERK'S OFFICE</p> <p>2002 JUN 21 PM 2:56</p> <p>M.O.A.</p> </div> <div style="font-style: italic;"> <p>9.F.5. [Signature]</p> </div> </div>			
6	ASSEMBLY HEARING DATE REQUESTED		7	PUBLIC HEARING DATE REQUESTED
	<i>6/25/02</i>			<i>7/16/02</i>



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 672-2002

Meeting Date: July 16, 2002

FROM: Mayor

SUBJECT: AO 2002-101 Making Amendments Related to Access to Budget Documents

AO 2002-101 appears to have been prompted by OMB's decision to limit access by Assembly staff to the mainframe-based Budget Preparation System that departments use to develop their individual department annual operating budget. No one outside of OMB has municipal-wide access, which requires a password and user identification, to the Budget Preparation System. Throughout the budget development process, information in the Budget Preparation System constantly changes as decisions are refined and priorities re-examined. Information extracted from the Budget Preparation System during the budget development process is merely a snapshot view at that point in time and may have no relationship to the final proposed budget. Distribution of such information can be misleading. Municipal-wide access by the Assembly staff will be available once the Administration presents its budget to the Assembly as required by Section 13.03 of the Anchorage Municipal Charter.

The Administration has made no change to the public's access to budget documents.

The traditional framework of American government follows a separation of powers doctrine, with governmental authority distributed among three branches: the executive, the legislative, and the judicial. The Anchorage Municipal Charter embodies a strong Mayor form of government, which requires the Mayor to submit a proposed operating and capital budget to the Assembly. Preparing a proposed budget is a complex task. To do it properly requires a candid exchange of opinions, advice, and recommendations within the administration, followed by close consideration of the fiscal and policy implications of detailed budget issues, ultimately resulting in a carefully considered proposed budget. Because of the importance and sensitivity of budget issues, the need for frank, give-and-take communication within the administration regarding fiscal and policy issues is, perhaps, greater than in any other area of executive responsibility. The proposed ordinance unnecessarily and inappropriately invades the prerogative and ability of the Mayor to fully discharge his responsibility under the Charter to prepare and submit a proposed budget.

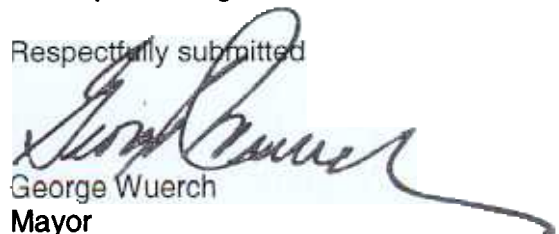
Concur:


Harry J. Kieling
Municipal Manager

Prepared by:


Cheryl Frasca
OMB Director

Respectfully submitted


George Wuerch
Mayor

Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

Am 672-2002

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT AO 2002-101 Making Amendments Related to Access to Budget Documents	DATE PREPARED July 12, 2002	
		Indicate Documents Attached <input type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM	
2	DEPARTMENT NAME Office of Management and Budget	DIRECTOR'S NAME Cheryl Frasca	
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Cheryl Frasca	HIS/HER PHONE NUMBER 343-4490	
4	COORDINATED WITH AND REVIEWED BY	INITIALS	DATE
X	Mayor		
	Heritage Land Bank		
	Merrill Field Airport		
	Municipal Light & Power		
	Port of Anchorage		
	Solid Waste Services		
	Water & Wastewater Utility		
X	Municipal Manager	<i>MF</i>	<i>7/15</i>
	Cultural & Recreational Services		
	Employee Relations		
	Finance, Chief Fiscal Officer		
	Fire		
	Health & Human Services		
X	Office of Management and Budget	<i>CF</i>	<i>7/11/02</i>
	Management Information Services		
	Police		
	Planning, Development & Public Works		
	Development Services		
	Facility Management		
	Planning		
	Project Management & Engineering		
	Street Maintenance		
	Traffic		
	Public Transportation Department		
	Purchasing		
	Municipal Attorney		
X	Municipal Clerk		
	Other		
5	Special Instructions/Comments <i>addendum</i> <i>14.6. New Public Hearings</i>		
6	ASSEMBLY HEARING DATE REQUESTED <i>7/16/02</i>	7	PUBLIC HEARING DATE REQUESTED

2002 JUL 15 PM 3:35
 CLERK'S OFFICE
 M.O.A.