

Postponed
Indefinitely
8-30-05

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Department of Law
For reading: August 9, 2005

ANCHORAGE, ALASKA
No. AO 2005- 104

1 AN ORDINANCE AMENDING ASSEMBLY ORDINANCE 98-1 TO ADJUST CERTAIN SPECIAL
2 ASSESSMENTS FOR STREETS AND STREET LIGHT IMPROVEMENTS ON PROPERTY
3 SPECIALLY BENEFITED IN PAVING SPECIAL ASSESSMENT DISTRICT 8P79 AND SETTING A
4 PAYMENT DATE FOR ADJUSTED SPECIAL ASSESSMENTS.
5

6
7 WHEREAS, on April 14, 1998, the Assembly approved AO 98-1, an ordinance assessing certain
8 benefited property for street and street light improvements on property located in special assessment
9 district 8P79; and

10
11 WHEREAS, in September 1998, eighteen (18) affected property owners filed suit against the
12 Municipality challenging this assessment; and

13
14 WHEREAS, in April 2001, the superior court ordered this matter remanded to the Anchorage Assembly
15 for further consideration, including detailed findings of fact and conclusion of law; and

16
17 WHEREAS, the Assembly retained outside legal counsel to assist and advise it, in response the superior
18 court's remand, and as a result of the court's remand and the advice of outside counsel, the Assembly
19 after receipt of public testimony and debate on March 4, 2003, adopted a 22-page "Findings in Support of
20 Special Assessment" by a vote of 7 to 1; and

21
22 WHEREAS, following the Assembly's action, the residents initiating the lawsuit in 1998 renewed the
23 appeal of their assessments to the superior court; and

24
25 WHEREAS, on January 24, 2005, the superior court affirmed the decision of the Assembly, and affirmed
26 the Amended Assessment Roll approved by the Assembly in 1998; and

27
28 WHEREAS, the residents have appealed the superior court decision to the Alaska Supreme Court and at
29 this time briefing before the Supreme Court has not yet commenced; and

30
31 WHEREAS, the residents to this appeal and the Municipal Attorney's office have engaged in settlement
32 discussions, and the Municipal Attorney recommends settlement of this long pending dispute by
33 amending the Amended Assessment Roll to reduce the assessments for each litigant in an agreed upon
34 amount which, in the aggregate, is equal to approximately a ten percent (10%) reduction in the total of the
35 assessments against all of the litigants; now, therefore,

36
37 THE ANCHORAGE ASSEMBLY ORDAINS:
38

39 **Section 1.** The Amended Assessment Roll adopted and approved in Section 7 of AO 98-1 is hereby
40 amended and approved as shown on the attached table, **Exhibit A** to this ordinance. Any assessments not
41 shown in **Exhibit A** are unchanged.

1
2 **Section 2.** As to each parcel described in **Exhibit A**, Section 8 of AO 98-1 is repealed and the
3 following shall apply to each such parcel: The assessment amount set forth in **Exhibit A** in Section 1 of
4 this ordinance shall be due and payable in full within sixty (60) days of the effective date of this
5 ordinance.

6
7 **Section 3.** This ordinance shall be effective immediately upon its passage and approval by the
8 Assembly.

9
10 PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2005.

11
12
13
14
15 _____
16 Chair of the Assembly

17
18 ATTEST:

19
20
21 _____
22 Municipal Clerk
23
24
25

MUNICIPALITY OF ANCHORAGE

Summary of Economic Effects -- General Government

AO Number: 2005-104

Title: AN ORDINANCE AMENDING ASSEMBLY ORDINANCE 98-1 TO ADJUST CERTAIN SPECIAL ASSESSMENTS FOR STREETS AND STREET LIGHT IMPROVEMENTS ON PROPERTY SPECIALLY BENEFITED IN PAVING SPECIAL ASSESSMENT DISTRICT 8P79 AND SETTING A PAYMENT DATE FOR ADJUSTED SPECIAL ASSESSMENTS.

Sponsor:
 Preparing Agency:
 Others Impacted:

Mayor
 Manager's Office

CHANGES IN EXPENDITURES AND REVENUES:					
(In Thousands of Dollars)					
	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</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:	\$ 128				
POSITIONS: FT/PT and Temp					

PUBLIC SECTOR ECONOMIC EFFECTS:

As with other Road Improvement Districts, this project was paid for with a mix of property owner contributions and ARDSA bond proceeds. As a result of this settlement, the litigants will pay \$128,596 (<10%) less than previously expected and the contribution from ARDSA bond proceeds will be correspondingly higher.

PRIVATE SECTOR ECONOMIC EFFECTS:

As with other Road Improvement Districts, this project was paid for with a mix of property owner contributions and ARDSA bond proceeds. As a result of this settlement, the litigants will pay \$128,596 (<10%) less than previously expected and the contribution from ARDSA bond proceeds will be correspondingly higher.

Prepared by:

Telephone:

EXHIBIT A

Municipality of Anchorage Assessment Roll for
Street and Street Light Assessment District Number
8P79-North East Turnagain Paving and Street Lights
As Amended Pursuant to Settlement of
Golden View Fisheries, Inc v. Municipality of Anchorage and
Anchorage Water and Wastewater, Case No. 3AN-98-9126 Civil

<u>Tax Number</u>	<u>Legal Description</u>	<u>Original Total Assessment + Interest</u>	<u>Settlement Amt.</u>	<u>New Assessment</u>
001-121-14	Lot 2A-1-1	\$76,822.89	\$9632.65	\$67,190.24
001-121-15	1B1	\$75,564.51	\$8101.64	\$67,462.87
001-121-16	1C1	\$90,739.15	\$9129.59	\$81,609.86
001-121-18	1A2-1	\$68,655.25	\$9820.62	\$58,834.63
001-132-58	19B	\$39,410.28	\$4914.03	\$34,496.25
001-132-70	18C1	\$56,278.84	\$7077.43	\$49,201.41
001-132-78	2A2-1	\$58,770.02	\$10,992.35	\$47,777.67
001-132-79	3A1	\$53,127.31	\$7229.57	\$45,879.74
001-132-80	4A1	\$68,597.49	\$8216.94	\$60,380.55
001-132-81	5A1	\$68,570.91	\$8214.37	\$60,356.54
001-132-82	6A1	\$53,045.01	\$7221.67	\$45,823.34
001-132-83	7A1	\$68,515.09	\$8209.04	\$60,306.05
001-132-84	8A1	\$68,488.14	\$8206.44	\$60,281.70
001-132-91	10B	\$158,775.61	\$21,629.51	\$137,146.10

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 554-2005

Meeting Date: August 9, 2005

1 **From:** MAYOR

2
3 **Subject:** AN ORDINANCE AMENDING ASSEMBLY ORDINANCE 98-1 TO ADJUST
4 CERTAIN SPECIAL ASSESSMENTS FOR STREETS AND STREET LIGHT
5 IMPROVEMENTS ON PROPERTY SPECIALLY BENEFITED IN PAVING
6 SPECIAL ASSESSMENT DISTRICT 8P79 AND SETTING A PAYMENT DATE
7 FOR ADJUSTED SPECIAL ASSESSMENTS.
8

9 In January 1998, the Assembly approved three assessment districts. One was for paving and street
10 lighting, one for a lateral sewer line improvement and one for water improvement facilities. All three
11 districts related to development in North East Turnagain. The total amount of assessments for all three
12 districts was \$1,943,952.
13

14 In September 1998, eighteen property owners filed suit challenging these assessments. In addition, a
15 separate case was filed by one landowner and the two cases were consolidated. In April 2001, the
16 superior court remanded the matter to the Assembly because it concluded there were insufficient
17 findings of fact to support the Assembly's decision. In response, the Assembly retained outside legal
18 counsel to assist it and, in March 2003, the Assembly adopted a 22-page "Findings in support of Special
19 Assessment."
20

21 The landowners again appealed the assessment to the Superior court. In January 2005, the superior
22 court affirmed the Assembly's action. The Plaintiffs appealed the superior court's decision to the
23 Alaska Supreme Court. In March 2005, the Municipality settled the case filed by the individual
24 landowner. The terms of that settlement were payment of the assessment amount by the landowner
25 within 60 days but waiver of all interest, penalties, and attorneys' fees.
26

27 The Department of Law has now negotiated a settlement with the 18 landowners who are continuing to
28 pursue their appeal to the Alaska Supreme Court. This settlement allows for a 9.9% reduction in the
29 total amount of the original assessment and requires the landowners to pay the full amount of the new,
30 reduced assessment within 60 days.
31

32 The Municipal Attorney recommends approval of this settlement, implemented through an amendment
33 to the original assessment role. It is the Municipal Attorney's opinion it is likely the Municipality will
34 prevail on the appeal before the Alaska Supreme Court. However, it is not a certainty. The case
35 involves a large number of issues and a lengthy and complicated set of facts. This creates the possibility
36 the Supreme Court will find some part of the record inadequate or insufficiently supported and remand
37 the case for additional findings. Such a ruling will likely delay final resolution of this matter by several
38 additional years and cause both sides to incur additional expense. (The Municipality is been represented
39 in this matter by outside counsel and will incur additional direct legal expenses for continued litigation.)
40

1 In the opinion of the Municipal Attorney, a modest concession to the Plaintiffs is appropriate to avoid
2 further litigation and bring this matter, pending for almost 7 years, to resolution.

3
4 THE ADMINISTRATION RECOMMENDS APPROVAL OF THE ORDINANCE AMENDING
5 ASSEMBLY ORDINANCE 98-1 TO ADJUST CERTAIN SPECIAL ASSESSMENTS FOR STREETS
6 AND STREET LIGHT IMPROVEMENTS ON PROPERTY SPECIALLY BENEFITED IN PAVING
7 SPECIAL ASSESSMENT DISTRICT 8P79 AND SETTING A PAYMENT DATE FOR ADJUSTED
8 SPECIAL ASSESSMENTS.

9
10 Prepared by: Department of Law
11 Approved by: Frederick H. Boness, Municipal Attorney
12 Concur: Denis C. LeBlanc, Municipal Manager
13 Respectfully submitted: Mark Begich, Mayor
14
15

Content Information

Content ID : 003130

Type: Ordinance - AO

Title: AN ORDINANCE AMENDING ASSEMBLY ORDINANCE 98-1 TO ADJUST CERTAIN SPECIAL ASSESSMENTS FOR STREETS AND STREET LIGHT IMPROVEMENTS ON PROPERTY SPECIALLY BENEFITED IN PAVING SPECIAL ASSESSMENT DISTRICT 8P79 AND SETTING A PAYMENT DATE FOR ADJUSTED SPECIAL ASSESS

Author: fehlenrl

Initiating Dept: Legal

Description: AN ORDINANCE AMENDING AO 98-1 TO ADJUST SPECIAL ASSESSMENTS FOR STREETS, LIGHT IMPROVEMENTS ON PROPERTY BENEFITED IN ASSESSMENT DISTRICT 8P79

Keywords: Turnagain NE, Assessment District 8F79

Date Prepared: 7/29/05 4:37 PM

Director Name: Frederick H. Boness

Assembly Meeting Date 8/9/05
MM/DD/YY:

Public Hearing Date 8/23/05
MM/DD/YY:

M.O.A.
 2005 AUG - 1 AM 11:41
 CLERKS OFFICE

Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOrdinanceWorkflow	7/29/05 4:42 PM	Checkin	fehlenrl	Public	003130
Legal_SubWorkflow	7/29/05 4:43 PM	Approve	fehlenrl	Public	003130
OMB_SubWorkflow	7/29/05 4:53 PM	Approve	mitsonjl	Public	003130
MuniManager_SubWorkflow	7/29/05 5:00 PM	Approve	leblancdc	Public	003130
MuniMgrCoord_SubWorkflow	7/29/05 5:04 PM	Approve	curtiscr2	Public	003130