

ALEUTIANS EAST BOROUGH ASSEMBLY

ALASKA OPEN MEETINGS ACT AND AGENDA-SETTING

MAY 18, 2023

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AGENDA

1. REVIEW THE PRINCIPLES OF LAW THAT GOVERN QUASI-JUDICIAL PROCEEDINGS

- **THE CONSTITUTIONAL GUARANTEE OF DUE PROCESS**
- **THE PROHIBITION AGAINST EX PARTE CONTACTS**
- **CONFLICTS OF INTEREST**
- **ALASKA OPEN MEETINGS ACT**

2. REVIEW ALEUTIANS EAST BOROUGH CODE AND POLICIES FOR MEETINGS AND AGENDA-SETTING

CLASSES OF DECISION-MAKING

CLASSES OF DECISION-MAKING

DECISIONS BY MUNICIPAL OFFICIALS GENERALLY FALL INTO THREE PRIMARY CLASSES:

Administrative

Legislative

Quasi-Judicial

ADMINISTRATIVE DECISIONS

ADMINISTRATIVE DECISIONS ARE THOSE THAT ARE MADE ON A MANAGERIAL BASIS, PURSUANT TO A MUNICIPAL OFFICIAL'S DISCRETION.

- **GENERAL OPERATIONAL DECISIONS.**
 - **MANAGERIAL DECISIONS REGARDING DAY-TO-DAY ADMINISTRATION.**
- **FIRST-LEVEL DECISIONS.**
 - **CLERK'S DECISION THAT A PERMIT APPLICATION IS INCOMPLETE.**

LEGISLATIVE DECISIONS

DECISIONS THAT MAKE OR INTERPRET BOROUGH POLICY AND AFFECT INDIVIDUALS (OR CLASSES OF INDIVIDUALS) IN THE COMMUNITY *EQUALLY*.

- **ENACTING ORDINANCES OF GENERAL APPLICABILITY.**
 - **I.E., PERMITTING STANDARDS, SETTING TAXES.**
- **ZONING OR RE-ZONING DECISIONS.**

QUASI- JUDICIAL DECISIONS

DECISIONS THAT INVOLVE THE APPLICATION OF ESTABLISHED RULES OR POLICY TO SPECIFIC FACTS IN ORDER TO DETERMINE THE RIGHTS OF A PARTICULAR PERSON, OR DISCRETE GROUP OF PERSONS.

- **PERMITTING DECISIONS.**
- **APPEALS OF TAX APPEALS.**
- **REVIEWING PROPOSED DISCIPLINARY ACTIONS AGAINST EMPLOYEES.**

**LEGAL PRINCIPLES APPLICABLE
TO THE
QUASI-JUDICIAL PROCESS**

GOVERNING LEGAL PRINCIPLES

- **THE CONSTITUTIONAL GUARANTEE OF DUE PROCESS**
- **THE PROHIBITION AGAINST *EX PARTE* CONTACTS**
- **CONFLICTS OF INTEREST**
- **THE OPEN MEETINGS ACT**

DUE PROCESS

DUE PROCESS

- **GUARANTEED BY UNITED STATES AND ALASKA CONSTITUTIONS.**
- **MADE UP OF TWO SEPARATE BUT RELATED COMPONENTS.**
- **ADDRESSES THE BASIC PRINCIPLE THAT, WHENEVER THE GOVERNMENT DEALS WITH CITIZENS, IT MUST DO SO FAIRLY.**

SUBSTANTIVE DUE PROCESS

- GUARANTEES THAT NO PERSON MAY BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY AS THE RESULT OF GOVERNMENT ACTION THAT IS **ARBITRARY OR UNREASONABLE**
- REQUIRES THAT ALL LOCAL GOVERNMENT POLICIES MUST BE REASONABLY RELATED TO A VALID GOVERNMENT PURPOSE AND BASED ONLY UPON THOSE FACTS BEFORE THE DECISION-MAKER.
- TYPICALLY ARISES IN RELATION TO A GOVERNMENT BODY'S **LEGISLATIVE ACTIONS.**

SUBSTANTIVE DUE PROCESS

“SUBSTANTIVE DUE PROCESS IS DENIED WHEN A LEGISLATIVE ENACTMENT HAS NO REASONABLE RELATIONSHIP TO A LEGITIMATE GOVERNMENTAL PURPOSE....

THE CONSTITUTIONAL GUARANTEE OF SUBSTANTIVE DUE PROCESS ASSURES ONLY THAT A LEGISLATIVE BODY'S DECISION IS NOT ARBITRARY BUT INSTEAD BASED UPON SOME RATIONAL POLICY.”

***CONCERNED CITIZENS OF SOUTH
KENAI PENINSULA V. KENAI
PENINSULA BOROUGH, 527 P.2D
447, 452 (ALASKA 1974).***

SUBSTANTIVE DUE PROCESS

“THE BURDEN OF DEMONSTRATING THAT THERE IS NO RATIONAL BASIS FOR THE CHALLENGED LEGISLATION IS ON THE PARTY CLAIMING TO HAVE BEEN DENIED SUBSTANTIVE DUE PROCESS.”

“[T]HIS BURDEN IS A HEAVY ONE, ‘FOR IF ANY CONCEIVABLE LEGITIMATE PUBLIC POLICY FOR THE ENACTMENT IS APPARENT ON ITS FACE OR IS OFFERED BY THOSE DEFENDING THE ENACTMENT, THE OPPONENTS OF THE MEASURE MUST DISPROVE THE FACTUAL BASIS FOR SUCH A JUSTIFICATION.’”

BALOUGH V. FAIRBANKS NORTH STAR BOROUGH, 995 P.2D 245, 263 (ALASKA 2000).

PROCEDURAL DUE PROCESS

GUARANTEES THAT NO PERSON MAY BE DEPRIVED OF LIFE, LIBERTY OR PROPERTY WITHOUT BEING GIVEN A FAIR AND REASONABLE OPPORTUNITY TO BE HEARD.

REQUIRES, AT A MINIMUM:

- **REASONABLE NOTICE.**
- **A FAIR HEARING.**
- **THE OPPORTUNITY TO PRESENT AN EFFECTIVE CASE.**

PROCEDURAL DUE PROCESS

“IT IS A FUNDAMENTAL ELEMENT OF DUE PROCESS THAT BEFORE PROPERTY RIGHTS CAN BE TAKEN OR INFRINGED UPON BY GOVERNMENT ACTION, THERE MUST BE NOTICE OF THE ACTION PROPOSED TO BE TAKEN AND AN OPPORTUNITY TO BE HEARD.”

***CITY OF HOMER V. CAMPBELL,
719 P.2D 683, 686 (ALASKA 1986).***

PROCEDURAL DUE PROCESS

“[A] FAIR TRIAL IN A FAIR TRIBUNAL IS A BASIC REQUIREMENT OF DUE PROCESS. THIS APPLIES TO ADMINISTRATIVE AGENCIES WHICH ADJUDICATE AS WELL AS TO COURTS. NOT ONLY IS A BIASED DECISION MAKER CONSTITUTIONALLY UNACCEPTABLE[,] BUT OUR SYSTEM OF LAW HAS ALWAYS ENDEAVORED TO PREVENT EVEN THE PROBABILITY OF UNFAIRNESS.”

BALOUGH V. FAIRBANKS NORTH STAR BOROUGH, 995 P.2D 245, 263 (ALASKA 2000).

PROCEDURAL DUE PROCESS

GOVERNMENT MUST PERMIT INDIVIDUALS TO:

- **REVIEW AND REBUT ALL EVIDENCE AGAINST THEM.**
- **BE REPRESENTED BY AN ATTORNEY.**
- **SUBMIT EVIDENCE, INCLUDING WITNESS TESTIMONY.**
- **CROSS-EXAMINE ADVERSE WITNESSES.**

EX PARTE CONTACTS

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- **DUE PROCESS ALSO REQUIRES AN UNBIASED TRIBUNAL.**
- **DUE PROCESS IS THREATENED WHEN MEMBERS HAVE *EX PARTE*, OR “ONE-SIDED,” CONTACTS REGARDING MATTERS RELATING TO A PENDING QUASI-JUDICIAL DETERMINATION.**
- **CREATES RISK THAT THE BODY’S DETERMINATIONS WILL BE PREJUDICED (I.E., THAT THE DECISION WILL AT LEAST IN PART BE MADE PRIOR TO THE PROCEEDINGS).**
- **EVEN IF NO ACTUAL BIAS RESULTS, MAY INVALIDATE THE ACTION BY CREATING AN “APPEARANCE OF IMPROPRIETY.”**

EX PARTE CONTACTS

EXAMPLES

- **DISCUSSIONS WITH INDIVIDUALS ABOUT PENDING QUASI-JUDICIAL DETERMINATIONS OUTSIDE OF THE OFFICIAL HEARING.**
- **SITE VISITS OR INSPECTIONS WHEN NOT ALL PARTIES ARE PRESENT.**
- **THE RECEIPT OF INFORMATION REGARDING PENDING QUASI-JUDICIAL PROCEEDINGS NOT AVAILABLE TO ALL OTHER DECISION-MAKERS AND INTERESTED PARTIES.**

EX PARTE CONTACTS

CURING EX PARTE CONTACTS

- **DISCLOSE THEM TO THE CLERK BEFORE THE HEARING, SO THAT APPROPRIATE ACTION MAY BE TAKEN.**
- **DISCLOSE THEM AGAIN AT THE HEARING, PRIOR TO ADDRESSING ANY OTHER MATTERS, TO ENSURE THAT ANY INFORMATION YOU HAVE RECEIVED IS INCLUDED IN THE RECORD AND IS AVAILABLE TO ALL PARTIES.**
- **CONSIDER OTHER CURATIVE ACTIONS, SUCH AS A CONTINUANCE.**

EX PARTE CONTACTS

PRACTICAL CONSIDERATIONS

- **AVOIDING THEM CAN BE ESPECIALLY DIFFICULT IN SMALLER COMMUNITIES.**
- **IF APPROACHED ABOUT A PENDING QUASI-JUDICIAL MATTER, EXPLAIN THAT YOU ARE PROHIBITED FROM DISCUSSING ITS MERITS.**
- **ASK THE PERSON TO SUBMIT ANY COMMENTS IN WRITING, OR TO PROVIDE LIVE TESTIMONY AT THE HEARING.**

FINANCIAL CONFLICTS OF INTEREST

A.S. 29.20.010(A)(4)

FINANCIAL CONFLICTS OF INTEREST

“A MEMBER OF THE GOVERNING BODY SHALL DECLARE A SUBSTANTIAL FINANCIAL INTEREST THE MEMBER HAS IN AN OFFICIAL ACTION AND ASK TO BE EXCUSED FROM A VOTE ON THE MATTER;”

“A MUNICIPAL EMPLOYEE OR OFFICIAL, OTHER THAN A MEMBER OF THE GOVERNING BODY, MAY NOT PARTICIPATE IN AN OFFICIAL ACTION IN WHICH THE EMPLOYEE OR OFFICIAL HAS A SUBSTANTIAL FINANCIAL INTEREST.”

A.S. 29.20.010(A)

FINANCIAL CONFLICTS OF INTEREST

FINANCIAL INTERESTS MAY EXIST WHEN AN INDIVIDUAL, A MEMBER OF THEIR IMMEDIATE FAMILY, OR A CLOSE BUSINESS ASSOCIATE STAND TO SUSTAIN A TANGIBLE FINANCIAL GAIN OR LOSS DEPENDING UPON THE OUTCOME OF THE QUASI-JUDICIAL DECISION.

FINANCIAL CONFLICTS OF INTEREST

REVIEW AEBC 2.20.100 REGARDING CONFLICTS OF INTEREST SO THAT:

- **YOU KNOW WHETHER YOU MAY PARTICIPATE.**
- **YOU CAN PROPERLY OVERSEE DISCLOSURE PROCESS.**

FINANCIAL CONFLICTS OF INTEREST

DISCLOSING CONFLICTS OF INTEREST

- **AT THE BEGINNING OF THE HEARING, EACH MEMBER SHOULD STATE ON THE RECORD WHETHER THEY HAVE ANY CONFLICT OF INTEREST.**
- **ANY CONFLICTED MEMBER SHOULD ASK THE CHAIR TO EXCUSE THE MEMBER FROM PARTICIPATION.**
- **CHAIR'S DECISION MAY BE OVERRIDDEN BY A MAJORITY VOTE OF ALL OTHER MEMBERS PRESENT.**

FINANCIAL CONFLICTS OF INTEREST

BUT WHAT ABOUT THE CHAIRPERSON?

BIAS AND THE APPEARANCE OF BIAS

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THE CONSTITUTIONAL RIGHT TO PROCEDURAL DUE PROCESS REQUIRES AN *IMPARTIAL TRIBUNAL*.

THIS GUARANTEES THAT THOSE WHO SERVE IN A QUASI-JUDICIAL CAPACITY:

- **WILL NOT MAKE UP THEIR MIND PRIOR TO THE PROCEEDING;**
- **ARE NOT PREDISPOSED TO FIND ONE WAY OR THE OTHER DUE TO THEIR PERSONAL BIAS.**

BIAS AND THE APPEARANCE OF BIAS

THE GUARANTEE OF IMPARTIALITY IS SO STRONG THAT, IN SOME CASES, IT MAY EVEN SERVE TO INVALIDATE QUASI-JUDICIAL DECISIONS RESULTING FROM PROCEEDINGS THAT MERELY *HAD THE APPEARANCE OF BIAS OR IMPROPRIETY.*

BEST PRACTICE:

IF MEMBERS FEEL THAT A PARTY COULD REASONABLY ARGUE THAT THE MEMBER IS BIASED

- **SUCH FACTS SHOULD BE DISCLOSED PRIOR TO TAKING UP BUSINESS**
- **THE MEMBER SHOULD STATE WHETHER AN UNBIASED DECISION MAY BE MADE, *AND***
- **ASK THE CHAIR TO RULE ON THE ISSUE.**

THE RULE OF NECESSITY

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WHAT HAPPENS WHEN ***A MAJORITY*** OF THE SEATED MEMBERS OF A QUASI-JUDICIAL BODY HAS A CONFLICT OF INTEREST, HAVE REPORTED ***EX PARTE*** CONTACTS, OR HAVE DISCLOSED FACTS REASONABLY INDICATING THE POSSIBILITY OF BIAS?

IN SUCH INSTANCES, **ANY AND ALL** CONFLICTED MEMBERS MAY STILL BE PERMITTED TO PARTICIPATE, BY OPERATION OF THE “**RULE OF NECESSITY.**”

SUFFICIENCY OF FINDINGS

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THE CONSTITUTIONAL RIGHT TO DUE PROCESS ALSO REQUIRES THAT QUASI-JUDICIAL ADMINISTRATIVE PROCEEDINGS PRODUCE A *REVIEWABLE RECORD* FOR THE PURPOSES OF JUDICIAL APPEAL.

A QUASI-JUDICIAL BODY ONLY FULFILLS THIS OBLIGATION IF IT SETS FORTH IN THE RECORD THE SPECIFIC REASONS FOR ITS DECISION.

IF THE BASIS FOR THE DECISION IS NOT EVIDENT FROM ITS FINDINGS, A SUPERIOR COURT MAY REMAND THE MATTER TO THE BODY TO ENTER SUCH FINDINGS.

ALASKA OPEN MEETINGS ACT (OMA)

A.S. 44.62.310 – A.S. 44.62.312

OPEN MEETINGS ACT

**APPLIES TO EVERY “GOVERNMENTAL BODY”
OF A “PUBLIC ENTITY.”**

- **STATE OF ALASKA**
- **UNIVERSITY SYSTEM**
- **POLITICAL SUBDIVISIONS**
- **BOARD, COMMISSIONS, AGENCIES, MUNICIPALITIES,
SCHOOL DISTRICTS, PUBLIC AUTHORITIES AND
CORPORATIONS**

OPEN MEETINGS ACT

WHAT CONSTITUTES A “MEETING” UNDER THE ACT?

FOR DECISION-MAKING BODIES, A MEETING IS “A GATHERING OF MEMBERS OF A GOVERNMENTAL BODY WHEN...

MORE THAN THREE MEMBERS OR A MAJORITY OF THE MEMBERS, WHICHEVER IS LESS, ARE PRESENT, **[AND]**

A MATTER UPON WHICH THE GOVERNMENTAL BODY IS EMPOWERED TO ACT IS CONSIDERED BY THE MEMBERS COLLECTIVELY....”

A.S. 44.62.310(h)(2)(A)

OPEN MEETINGS ACT

APPLIES WHENEVER A GROUP GATHERS, INCLUDING:

- **FOR COFFEE OR LUNCH.**
- **A WORK SESSION.**
- **IRRELEVANT WHETHER
GATHERING IS FORMAL OR
INFORMAL.**
- **ON SOCIAL MEDIA.**

NUMBER NECESSARY TO CONSTITUTE A MEETING:

**FOR DECISION-MAKING
BODIES, FOUR MEMBERS,
OR A MAJORITY OF THE
TOTAL MEMBERSHIP,**

WHICHEVER IS LESS.

OPEN MEETINGS ACT

TELEPHONE CALLS AND EMAILS CAN BE “MEETINGS”

- A SERIES OF PHONE CALLS OR EMAILS BETWEEN MEMBERS COULD BE CHALLENGED AS AN ATTEMPT TO CIRCUMVENT THE REQUIREMENTS OF THE OPEN MEETINGS ACT.
- ALASKA LAW REQUIRES THAT ***SUBSTANTIVE*** MATTERS BE DISCUSSED OPENLY IN A PROPERLY NOTICED MEETING.
- HOWEVER, MERELY ***PROCEDURAL OR ADMINISTRATIVE*** MATTERS MAY BE ADDRESSED THROUGH TELEPHONE POLLING OR EMAIL.

OPEN MEETINGS ACT

NOTICE REQUIREMENTS

- **THE BOROUGH ASSEMBLY MUST GIVE REASONABLE NOTICE OF ANY SCHEDULED QUASI-JUDICIAL PROCEEDING.**
- **WHAT IS “REASONABLE” WILL DEPEND UPON THE CIRCUMSTANCES.**

OPEN MEETINGS ACT

RULE OF THUMB

**FOLLOW THE ENTITY'S
NORMAL NOTICE PRACTICES.**

THE REQUIREMENT FOR "SUPER NOTICE"

**MATTERS THAT ARE
CONTROVERSIAL OR THAT MAY
HAVE A SIGNIFICANT EFFECT
MAY REQUIRE "SUPER NOTICE"
OF A MEETING REGARDING A
PROPOSED ACTION.**

OPEN MEETINGS ACT

NOTICES MUST INCLUDE:

- **DATE, TIME AND LOCATION**
- **IF THE MEETING WILL OCCUR BY TELECONFERENCE, THE INFORMATION ABOUT THE TELECONFERENCE FACILITIES**
- **THE MATTER(S) TO BE DISCUSSED, IF THEY ARE KNOWN OR REASONABLY SUSPECTED TO BE OF PARTICULAR INTEREST OR CONTROVERSIAL.**

NOTICES MUST BE POSTED AT PRINCIPAL OFFICE.

IS THIS A MEETING?

IS EITHER ONE A MEETING UNDER THE OMA?

1. As Assembly member posted an opinion on Facebook about an upcoming issue. During the day, five of the sitting Assembly members make comments about the post.

1. YES. Even if they precede their posting with “IMHO”. If more than 3 members of a body, or a majority if that number is less, collectively consider a topic upon which the body has authority to act, outside of a properly noticed meeting, that is a violation.

2. Now consider the same scenario and five of the Assembly members just click “like” to the post?

2. Probably not, since there was no “collective consideration”, but why take the chance?

EXECUTIVE SESSIONS

AEBC 2.08.050

- **EXCEPTION TO THE GENERAL REQUIREMENT THAT ALL PUBLIC BUSINESS BE CONDUCTED IN A PUBLIC MEETING.**
- **ONLY THOSE INVITED MAY ATTEND AN EXECUTIVE SESSION.**

EXECUTIVE SESSIONS

AEBC 2.08.050

- **MUST BE CONVENE ACCORDING TO CERTAIN PROCEDURES:**
 - **MUST FIRST CONVENE A PROPERLY NOTICED, OPEN MEETING.**
 - **THE BODY MUST PASS A MOTION TO CONVENE THE EXECUTIVE SESSION MUST BE PASSED.**
 - **THE MOTION MUST CLEARLY DESCRIBE THE SUBJECT WITHOUT DEFEATING THE PURPOSE OF CONVENEING THE SESSION.**
 - **ONLY THOSE TOPICS DESCRIBED IN THE MOTION MAY BE DISCUSSED DURING EXECUTIVE SESSION UNLESS VERY RELATED.**

EXECUTIVE SESSIONS

AEBC 2.08.050

ONLY CERTAIN TOPICS MAY BE DISCUSSED:

- 1. POTENTIAL OR PENDING LITIGATION TO WHICH THE BOROUGH MAY BECOME OR IS A PARTY.**
 - DISCUSSIONS REGARDING WHETHER TO ACCEPT AN OFFER TO SETTLE LITIGATION.**

EXECUTIVE SESSIONS

AEBC 2.08.050

ONLY CERTAIN TOPICS MAY BE DISCUSSED:

2. **MATTERS, THE IMMEDIATE KNOWLEDGE OF WHICH WOULD CLEARLY HAVE AN ADVERSE EFFECT UPON THE FINANCES OF THE GOVERNMENT UNIT.**
 - **DISCUSSIONS REGARDING WHETHER TO ACCEPT AN OFFER TO SETTLE LITIGATION.**

EXECUTIVE SESSIONS

AEBC 2.08.050

3. SUBJECTS THAT TEND TO PREJUDICE THE REPUTATION AND CHARACTER OF ANY PERSON.

- **EMPLOYMENT EVALUATIONS FOR
HIGH-LEVEL MUNICIPAL
OFFICIALS.**
- **INDIVIDUAL MUST BE GIVEN
SPECIFIC NOTICE OF THE
EXECUTIVE SESSION, AND THE
OPPORTUNITY TO DEMAND THAT
THE DISCUSSION OCCUR IN AN
OPEN MEETING.**

EXECUTIVE SESSIONS

AEBC 2.08.050

4. MATTERS WHICH BY LAW, MUNICIPAL CHARTER OR ORDINANCE MUST BE KEPT CONFIDENTIAL.

- **SOME PRIVILEGED ATTORNEY
COMMUNICATIONS**
- **MATTERS THAT, IF MADE PUBLIC,
WOULD VIOLATE AN
INDIVIDUAL'S CONSTITUTIONAL
RIGHT TO PRIVACY**

EXECUTIVE SESSIONS

AEBC 2.08.050

5. MATTERS INVOLVING THE REVIEW OR CONSIDERATION OF GOVERNMENT RECORDS THAT BY LAW MUST BE KEPT CONFIDENTIAL.

- **AS 40.25.120(A) PROVIDES SOME
EXAMPLES**
- **RECORDS MADE CONFIDENTIAL BY
MUNICIPAL ORDINANCE; HOWEVER,
THE MUNICIPALITY BEARS THE
BURDEN OF DEMONSTRATING NEED**
- **RECORDS INVOLVING DELIBERATIVE
PROCESS**

EXECUTIVE SESSIONS

AEBC 2.08.050

- 6. CONFIDENTIAL ATTORNEY-
CLIENT COMMUNICATIONS
MADE FOR THE PURPOSE OF
FACILITATING THE RENDITION
OF PROFESSIONAL LEGAL
SERVICES TO THE BOROUGH.**

THE OPEN MEETINGS ACT AND QUASI-JUDICIAL PROCEEDINGS

QUASI-JUDICIAL PROCEEDINGS ARE “MEETINGS” UNDER THE OMA

SUBJECT TO GENERAL REQUIREMENTS

- **PROPER NOTICE.**
- **SUPER NOTICE TO ALL “INTERESTED PARTIES”**
- **MOST BUSINESS CONDUCTED IN AN OPEN MEETING.**

DELIBERATIONS

- **DELIBERATIONS OF A QUASI-JUDICIAL BODY ARE NOT “MEETINGS” FOR THE PURPOSES OF THE OPEN MEETINGS ACT.**
- **MEMBERS OF QUASI-JUDICIAL BODIES MAY FREELY COMMUNICATE WITH ONE ANOTHER DURING THE DELIBERATIVE PERIOD.**
- **DOCUMENTS CREATED BY QUASI-JUDICIAL BODIES, INCLUDING EMAILS, DRAFT DECISIONS, DURING THE DELIBERATIVE PERIOD ARE CONFIDENTIAL AND ARE NOT CONSIDERED PUBLIC RECORDS.**

AEB CODE REQUIREMENTS FOR ASSEMBLY MEETINGS

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ORDINANCE 23-05 HAS BEEN INTRODUCED TO REVISE PARTS OF AEB CODE TITLES 1 AND 2 TO BRING MORE CONSISTENCY AND CLARITY TO THE REQUIREMENTS FOR ALL TYPES OF AEB ASSEMBLY MEETINGS.

PUBLIC NOTICE OF MEETING

AEB CODE 2.20.030

REASONABLE PUBLIC NOTICE SHALL BE GIVEN OF ALL MEETINGS OF AN ADMINISTRATIVE BODY, BOARD, COMMISSION, COMMITTEE, SUBCOMMITTEE, AUTHORITY, AGENCY OR OTHER ORGANIZATION INCLUDING SUBORDINATE UNITS OF THE ABOVE GROUPS OF THE BOROUGH INCLUDING BUT NOT LIMITED TO ASSEMBLY, PLANNING COMMISSION, SCHOOL BOARD, PLATTING BOARD, COMMISSIONS OR ORGANIZATIONS ADVISORY OR OTHERWISE OF THE BOROUGH.

PUBLIC NOTICE OF MEETING

CURRENT AEB CODE 2.20.040

FOR THE PURPOSE OF GIVING NOTICE OF MEETINGS, REASONABLE PUBLIC NOTICE IS GIVEN IF A STATEMENT CONTAINING THE DATE, TIME AND PLACE OF THE MEETING IS PUBLISHED IN ACCORDANCE WITH THE PUBLICATION REQUIREMENTS OF SEC. 1.12.010 NOT LESS THAN TWENTY-FOUR HOURS BEFORE THE TIME OF THE MEETING.

PROPOSED NEW AEB CODE 2.20.040 (ORDINANCE 23-05)

FOR THE PURPOSE OF GIVING NOTICE OF ALL MEETINGS, INCLUDING WORK SESSIONS, AND EXCEPT AS PROVIDED IN SECTION 1.20.030 (ORDINANCES) AND SECTION 2.12.030(A) (SPECIAL MEETINGS), REASONABLE PUBLIC NOTICE IS GIVEN IF A STATEMENT CONTAINING THE DATE, TIME AND PLACE OF THE MEETING IS PUBLISHED ~~IN ACCORDANCE WITH THE PUBLICATION REQUIREMENTS OF SEC. 1.12.010~~ NOT LESS THAN TWENTY-FOUR (24) HOURS BEFORE THE TIME OF THE MEETING.

TYPES OF ASSEMBLY MEETINGS

Type of Meeting	AEB Code
Regular Assembly Meeting	2.08.010, 2.12.030(A), 2.20.030 and 2.20.040
Special Assembly Meeting	2.08.020, 2.12.030(A), 2.20.030 and 2.20.040
Emergency Assembly Meeting	2.20.050
Assembly Work Session	2.12.030(B), 2.20.030 and 2.20.040

REGULAR ASSEMBLY MEETING

AEBC
2.08.010,
2.12.030(A),
2.20.030 AND
2.20.040

- **ALL REGULAR MEETINGS OF THE ASSEMBLY SHALL BE HELD ON THE SECOND THURSDAY OF EACH MONTH AT 3:00PM.**
- **THE REGULAR PLACE OF ASSEMBLY MEETINGS SHALL BE AT THE BOROUGH OFFICE AT SAND POINT, ALASKA. IN ORDER TO GIVE THE PUBLIC A GREATER OPPORTUNITY TO ATTEND AND PARTICIPATE IN MEETINGS OF THE BOROUGH ASSEMBLY, THE ASSEMBLY MAY HOLD REGULAR AND SPECIAL MEETINGS IN PUBLIC LOCATIONS THROUGHOUT THE BOROUGH OTHER THAN AT THE REGULAR MEETING PLACE. WHEN THE ASSEMBLY DETERMINES TO HOLD A MEETING AT A DATE, TIME OR PLACE OTHER THAN THE REGULAR PLACE, THE BOROUGH CLERK SHALL GIVE NOTICE OF SUCH MEETING. THE NOTICE SHALL BE IN ACCORDANCE WITH THE PUBLICATION REQUIREMENTS OF ~~SEC. 1.12.010~~, **SECTION 2.20.040** AT LEAST ~~THREE~~ **DAYS-TWENTY-FOUR (24) HOURS** PRIOR TO THE SCHEDULED MEETING.**

AEBC 2.08.010 (C-E) HAVE NOT BEEN INCLUDED HERE FOR BREVITY.

RED FONT DENOTES CHANGES PROPOSED BY ORD. 23-05.

REGULAR ASSEMBLY MEETING

AEBC
2.08.010,
2.12.030(A),
2.20.030 AND
2.20.040

- **ALL REPORTS, COMMUNICATIONS, ORDINANCES, RESOLUTIONS, CONTRACT DOCUMENTS, OR OTHER MATTERS TO BE SUBMITTED TO THE ASSEMBLY, ARE DUE TO THE BOROUGH CLERK AT LEAST SEVENTY-HOURS (72) PRIOR TO EACH ASSEMBLY MEETING.**
- **MAYOR ARRANGES LIST OF MATTERS ACCORDING TO ORDER OF BUSINESS.**
- **BOROUGH CLERK FURNISHES MEETING PACKET TO ASSEMBLY, ~~AND~~ THE MAYOR ~~AND THE~~ **BOROUGH ADMINISTRATOR** AT LEAST 48 HOURS PRIOR TO ASSEMBLY MEETING BY ELECTRONIC MAIL.**

***RED FONT DENOTES CHANGES PROPOSED BY
ORD. 23-05.***

SPECIAL ASSEMBLY MEETING

**AEBC
2.08.020,
2.12.030(A),
2.20.030 AND
2.20.040**

- **IF A MAJORITY OF THE MEMBERS OF THE ASSEMBLY ARE GIVEN AT LEAST 24 HOURS ORAL OR WRITTEN NOTICE AND REASONABLE EFFORTS ARE MADE TO NOTIFY ALL MEMBERS, A SPECIAL MEETING CAN BE CALLED BY THE MAYOR OR AT LEAST THREE MEMBERS OF THE ASSEMBLY..**
- **A SPECIAL MEETING MAY BE CONDUCTED WITH LESS THAN 24 HOURS' NOTICE IF ALL MEMBERS OF THE ASSEMBLY ARE PRESENT OR IF ABSENT MEMBERS HAVE WAIVED IN WRITING THE REQUIRED NOTICE.**
- **THE NOTICE OF SPECIAL MEETING MUST SPECIFY THE TIME, PLACE AND SUBJECT MATTER OF THE MEETING.**

PARTS OF AEBC 2.08.020 HAVE NOT BEEN INCLUDED HERE FOR BREVITY.

***RED FONT DENOTES CHANGES PROPOSED BY ORD.
23-05.***

SPECIAL ASSEMBLY MEETING

**AEBC
2.08.020,
2.12.030(A),
2.20.030 AND
2.20.040**

- **ALL REPORTS, COMMUNICATIONS, ORDINANCES, RESOLUTIONS, CONTRACT DOCUMENTS, OR OTHER MATTERS TO BE SUBMITTED TO THE ASSEMBLY, ARE DUE TO THE BOROUGH CLERK AT LEAST SEVENTY-HOURS (72) PRIOR TO EACH ASSEMBLY MEETING.**
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***RED FONT DENOTES CHANGES PROPOSED BY
ORD. 23-05.***

SPECIAL ASSEMBLY MEETING

**AEBC
2.08.020,
2.12.030(A),
2.20.030 AND
2.20.040**

- **A SPECIAL MEETING MAY BE CALLED ON A SHORTER TIME FRAME IN ACCORDANCE WITH THE PROVISIONS OF AEB CODE 2.08.020(A). IN THAT INSTANCE, MATERIALS FOR THE SPECIAL MEETING MUST BE DELIVERED TO THE BOROUGH CLERK AS SOON AS REASONABLY PRACTICABLE, WITH DISTRIBUTION BY THE CLERK TO THE ASSEMBLY, THE MAYOR AND THE BOROUGH ADMINISTRATOR. PUBLIC NOTICE OF THE MEETING WILL BE PROVIDED AT THE SAME TIME.**

***RED FONT DENOTES CHANGES PROPOSED BY
ORD. 23-05.***

EMERGENCY ASSEMBLY MEETING

AEBC 2.20.050

- **AN EMERGENCY MEETING OF THE ASSEMBLY MAY BE HELD AFTER SUCH PUBLIC NOTICE AS IS REASONABLE UNDER THE CIRCUMSTANCES WITHOUT REGARD TO THE PUBLICATION REQUIREMENTS IN SEC. 2.20.040, UPON THE AFFIRMATIVE VOTE OF ALL MEMBERS PRESENT, OR THE AFFIRMATIVE VOTE OF THREE-QUARTERS OF THOSE ELECTED THAT A PUBLIC EMERGENCY AFFECTING LIFE, HEALTH, WELFARE OR PROPERTY EXISTS AND THAT REASONABLE PUBLIC NOTICE OF THE MEETING HAS BEEN GIVEN. ANY ACTION TAKEN AT AN EMERGENCY MEETING IS VALID ONLY FOR SIXTY DAYS.**

EMERGENCY ASSEMBLY MEETING

AEBC 2.20.050

- **ANY WRITTEN MATERIAL TO BE CONSIDERED IN AN EMERGENCY MEETING SHALL BE DELIVERED TO THE BOROUGH CLERK AS SOON AS REASONABLY PRACTICABLE, WITH DISTRIBUTION BY THE BOROUGH CLERK TO ASSEMBLY MEMBERS, THE MAYOR, AND THE BOROUGH ADMINISTRATOR.**

***RED FONT DENOTES CHANGES PROPOSED BY
ORD. 23-05.***

ASSEMBLY WORK SESSION

AEBC
2.12.030(A),
2.20.030 AND
2.20.040

- **ANY MATTER TO BE CONSIDERED BY THE ASSEMBLY IN WORK SESSIONS SHALL BE LISTED IN AGENDA FORM ~~BY THE CLERK AND BE GIVEN TO THE ASSEMBLY AT LEAST THREE DAYS PRIOR TO SAID WORK SESSION. AND DELIVERED TO THE BOROUGH CLERK, ALONG WITH ANY WRITTEN MATERIALS TO BE CONSIDERED IN THE WORK SESSION AT LEAST SEVENTY-TWO (72) HOURS PRIOR TO SUCH WORK SESSION. ANY WRITTEN MATERIAL FOR SAID WORK SESSION SHALL BE FURNISHED BY THE BOROUGH CLERK TO THE MAYOR, ASSEMBLYMEN AND BOROUGH ADMINISTRATOR THREE DAYS IN ADVICE OF THE SCHEDULED DAY FOR SAID WORK SESSION.~~**

***RED FONT DENOTES CHANGES PROPOSED BY
ORD. 23-05.***

ASSEMBLY WORK SESSION

**AEBC
2.12.030(B),
2.20.030 AND
2.20.040**

- **THE BOROUGH CLERK SHALL DISTRIBUTE SUCH AGENDA AND ANY WRITTEN MATERIALS TO THE ASSEMBLY, MAYOR AND THE BOROUGH ADMINISTRATOR AT LEAST FORTY-EIGHT (48) HOURS PRIOR TO SUCH WORK SESSION.**
- **REASONABLE PUBLIC NOTICE FOR WORK SESSIONS OF THE ASSEMBLY SHALL BE REQUIRED.**

*Red font denotes changes proposed by
Ord. 23-05.*

AEB AGENDA-SETTING PROCESS

AGENDA SETTING PROCESS

THE AGENDA FOR ALL TYPES OF ASSEMBLY MEETINGS IS GENERALLY SET BY THE BOROUGH ADMINISTRATOR IN CONSULTATION WITH THE MAYOR. CERTAIN AGENDA ITEMS ARE REQUIRED BY LAW, AND OTHERS ARE SELECTED BASED ON THE ASSEMBLY'S ESTABLISHED GOALS.

- **ASSEMBLY MEMBERS CAN REQUEST ITEM(S) TO BE PLACED ON A FUTURE ASSEMBLY AGENDA UPON CONSENSUS OF AT LEAST THREE ASSEMBLY MEMBERS.**
- **MEMBERS OF THE PUBLIC CAN REQUEST ITEM(S) TO BE PLACED ON A FUTURE ASSEMBLY AGENDA THROUGH ASSEMBLY MEMBERS. A CONSENSUS OF THREE MEMBERS IS REQUIRED AS STATED ABOVE.**

QUESTIONS?