

See AO 2009-64(S-2)

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor
Prepared by: Office of the Mayor
For reading: June 9, 2009

**ANCHORAGE, ALASKA
AO No. 2009-64 (S)**

AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE CODE CHAPTERS 5.10 EQUAL RIGHTS COMMISSION AND 5.20 UNLAWFUL DISCRIMINATORY PRACTICES.

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 5.10.010 is hereby amended to read as follows:

5.10.010 Policy.

The public policy of the municipality is declared to be equal opportunity for all persons. The assembly finds that invidious discrimination in the sale or rental of real property, financing practices, employment practices, public accommodations, educational institutions, and practices of the municipality, based upon race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability, adversely affects the welfare of the community. Accordingly, such discrimination is prohibited **as is provided in this title, subject to the Constitutional rights of freedom of expression, freedom of association, and free exercise of religion.**

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 1, 10-15-93; Ord. No. 2002-163, § 1, 1-7-03)

Section 2. Anchorage Municipal Code section 5.20.010, Definitions, is hereby amended to read as follows (*not all definitions in the referenced section are affected and therefore not every definition is set out; language indicating no amendment is included for context only*):

5.20.010 Definitions.

*** *** ***

Blockbusting means any effort, for profit, to induce or attempt to induce a person to sell or rent a dwelling based on representations that a change has occurred, or will or may occur regarding the entry into a block, neighborhood or area, in which the real property is located, of a person or persons of a particular race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability, including but not limited to lower property values, an increase in criminal or antisocial behavior or decline in the quality of the schools or other facilities.

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Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal or denial or any other act or practice of differentiation or preference in the treatment of a person because of race, color, religion, national origin, age, sex, sexual orientation, marital status, ~~[veteran's status,~~ or physical or mental disability, or the aiding, abetting, inciting, coercing or compelling thereof.

*** *** ***

Public accommodation means any business or professional activity, with the exception of a business operated in the business owner's home employing no more than four persons, that is open to, accepts or solicits the patronage of, or caters or offers goods or services to the general public, subject only to the conditions and limitations established by law and applicable alike to all persons.

*** *** ***

Sexual orientation means actual or perceived heterosexuality, homosexuality, bisexuality or gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a self-image, appearance, or behavior different from that traditionally associated with the sex assigned to that person at birth.

*** *** ***

~~[Veteran means a person who is an active member of the United States Army, Air Force, Coast Guard, Marine Corps, National Guard, or organized Military reserves, or a person who has separated from the military service of the United States Army, Air Force, Coast Guard, Marine Corps, National Guard, or organized Military reserves under conditions which are not dishonorable.]~~

(AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 96-99, § 1, 10-22-96; AO No. 2002-163, § 2, 1-7-03)

Section 3. Anchorage Municipal Code section 5.20.020 is hereby amended to read as follows (*language indicating no amendment is included for context only; other language is unaffected and therefore not set out*):

5.20.020 Unlawful practices in the sale, rental or use of real property.

- A. **With the exception of the practices identified in section 5.25.030 A., as "lawful practices,"** i [i]t is unlawful for the owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner's association having the powers of governance and operation of real property to:

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1. Refuse to sell, lease or rent, or to otherwise make unavailable, the real property to a person because of race, color, sex, sexual orientation, religion, national origin, marital status, age, ~~[veteran's status,]~~ or physical or mental disability.
2. Discriminate against a person because of race, color, sex, sexual orientation, religion, national origin, marital status, age, ~~[veteran's status,]~~ or physical or mental disability in a term, condition or privilege relating to the use, sale, lease or rental of real property.
3. Make a written or oral inquiry or record of the race, color, sex, sexual orientation, religion, national origin, marital status, age, ~~[veteran's status,]~~ or physical or mental disability of a person seeking to buy, lease or rent real property.
4. Offer, solicit, accept, use or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or sources in connection therewith because of a person's race, color, sex, sexual orientation, religion, national origin, marital status, age, ~~[veteran's status,]~~ or physical or mental disability.
5. Represent to a person that real property is not available for inspection, sale, rental or lease when in fact it is available, or refuse a person the right to inspect real property, because of the race, color, sex, sexual orientation, religion, national origin, marital status, age, ~~[veteran's status,]~~ or physical or mental disability of that person or because of any person associated with that person.
6. Engage in blockbusting for profit.
7. Circulate, issue or display, make, print or publish, or cause to be made or displayed, printed or published, any communication, sign, notice, statement or advertisement with respect to the use, sale, lease or rental of real property that indicates any preference, limitation, specification or discrimination based on race, color, sex, sexual orientation, religion, national origin, marital status, age, ~~[veteran's status,]~~ or physical or mental disability.

*** *** ***

(CAC 8.36.090; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03; AO No. 2008-16, § 1, 3-18-08)

Section 4. Anchorage Municipal Code section 5.20.030 is hereby amended to read as follows (*language indicating no amendment is included for context only; other language is unaffected and therefore not set out*):

5.20.030 Unlawful financing practices.

A. It is unlawful for an insurance company, a financial institution or other commercial institution extending secured or unsecured credit, upon receiving an application for financial assistance or credit for the acquisition, construction, rehabilitation, repair or maintenance of a housing accommodation or other property or services, or the acquisition or improvement of unimproved property, or upon receiving an application for any sort of loan of money, or upon receiving an application for insurance, to permit one of its officials or employees during the execution of his or her duties to:

1. Discriminate against the applicant because of race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability, in a term, condition or privilege relating to the obtainment or use of the institution's financial assistance, insurance or credit.
2. Make or cause to be made a written or oral inquiry or record of the race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability, of a person seeking the institution's financial assistance, insurance or credit unless the inquiry is for the purpose of ascertaining the applicant's creditworthiness or insurability.
3. Refuse to extend credit, issue a credit card, insure or make a loan to a single, divorced, pregnant or married person who is otherwise creditworthy, if so requested by the person or to refuse to extend credit, issue a credit card, insure or make a loan to a creditworthy person based on that person's sexual orientation.

*** *** ***

(CAC 8.38.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

Section 5. Anchorage Municipal Code section 5.20.040 is hereby amended to read as follows (*other language is unaffected and therefore not set out*):

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5.20.040 Unlawful employment practices.

A. It is unlawful for:

1. An employer to refuse employment to a person, or to bar him or her from employment, or to discriminate against him or her in compensation, or in a term, condition or privilege of employment or to discharge, expel, reduce, suspend or demote him or her because of race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability, unless the reason for the discrimination is a bona fide occupational qualification.

a. This does not apply to a business operated in the business owner's home employing no more than four persons.

2. A labor organization to exclude or to expel a person from its membership or to discriminate against one of its members or an employer or employee because of race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability.

3. A person, employer or employment agency to broadcast, publish, print, circulate or cause to be broadcasted, published, printed or circulated a statement or advertisement in connection with prospective employment, or to use a form of application for employment that expresses, directly or indirectly, a limitation, specification, preference or discrimination as to race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability.

*** *** ***
(CAC 8.40.040; AO No. 92-116(S); AO No. 93-99; AO No. 93-77; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

Section 6. Anchorage Municipal Code section 5.20.050 is hereby amended to read as follows:

5.20.050 Unlawful practices in places of public accommodation.

A. It is unlawful for a person, whether the owner, operator, agent or employee of an owner or operator of a public accommodation, to:

1. Refuse, withhold from or deny to a person any of its accommodations, advantages, facilities, benefits, privileges, services or goods of that place on account of race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability.
2. Publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement which states or implies that:
 - a. Any of the services, goods, facilities, benefits, accommodations, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability; or
 - b. The patronage or presence of a person belonging to a particular race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability is unwelcome, not desired, not solicited, objectionable or unacceptable.
3. Make a written or oral inquiry concerning the race, color, sex, sexual orientation, religion, national origin, marital status, age, [veteran's status,] or physical or mental disability of an individual in connection with the solicitation, reservation, booking, sale or dispensing of its accommodations, advantages, facilities, benefits, privileges, services or goods.

(CAC 8.40.020; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

Section 7. Anchorage Municipal Code section 5.20.060 is hereby amended to read as follows (*language indicating no amendment is included for context only*):

5.20.060 Unlawful practices in educational institutions.

- A. It is unlawful for a person operating or assisting in the operation of an educational institution to:
 1. Refuse to admit or otherwise to discriminate against an individual with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution on account of race, color, sex,

1 sexual orientation, religion, national origin, marital status, age,
2 [veteran's status,] or physical or mental disability.

3
4 2. Make or use a written or oral inquiry or form of application for
5 admission that elicits information concerning the race, color,
6 sex, sexual orientation, religion, national origin, marital status,
7 age, [veteran's status,] or physical or mental disability, of an
8 applicant for admission.

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10 3. Require or cause to be required that a photograph of an
11 applicant for admission be submitted with an application for
12 admission.

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14 4. Publish, circulate or display, or cause to be published,
15 circulated or displayed, a written, printed, oral or visual
16 communication, advertisement or catalog or any other form of
17 publicity relating to admission that expresses or indicates a
18 preference, limitation, specification or discrimination on
19 account of the race, color, sex, sexual orientation, religion,
20 national origin, marital status, age, [veteran's status,] or
21 physical or mental disability, of an applicant for admission.

22
23 5. Establish, announce or follow a policy of denial or limitation of
24 education opportunities for members of a group on account of
25 race, color, sex, sexual orientation, religion, national origin,
26 marital status, age, [veteran's status,] or physical or mental
27 disability.

28
29 6. Use in the recruitment of potential applicants for admission, a
30 service or agency that discriminates against individuals on
31 account of race, color, sex, sexual orientation, religion,
32 national origin, marital status, age, [veteran's status,] or
33 physical or mental disability.

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35 (CAC 8.40.030; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 4, 1-7-03)

36
37 **Section 8.** Anchorage Municipal Code section 5.20.070 is hereby amended to
38 read as follows:

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40 **5.20.070** **Unlawful practices by municipality.**

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42 A. It is unlawful for the municipality or any public agency of the
43 municipality to:

44
45 1. Refuse, withhold from or deny to a person any local, state or
46 federal funds, services, goods, facilities, advantages or

1 privileges because of race, color, sex, sexual orientation,
2 religion, national origin, marital status, age, [~~veteran's~~
3 ~~status,~~] or physical or mental disability.
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5 2. Publish, circulate, issue, display, post or mail a written or
6 printed communication, notice or advertisement which states
7 or implies that any local, state or federal funds, services,
8 goods, facilities, advantages or privileges of the office or
9 agency will be refused, withheld from or denied to a person of
10 a certain race, color, sex, sexual orientation, religion, national
11 origin, marital status, age, [~~veteran's status,~~] or physical or
12 mental disability, or that the patronage of a person belonging
13 to a particular race, color, sex, sexual orientation, religion,
14 national origin, marital status, age, [~~veteran's status,~~] or
15 physical or mental disability is unwelcome, not desired or not
16 solicited.
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18 B. Where the provisions of this section 5.20.070 conflict with provisions
19 of title 7, this section 5.20.070 shall govern.
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21 (AO No. 91-173(S); AO No. 92-116(S); AO No. 93-99; AO No. 93-149, § 2, 10-15-93; AO No. 2002-
22 163, § 5, 1-7-03)
23

24 **Section 9.** Anchorage Municipal Code section 5.20.080 is hereby amended to
25 read as follows:
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27 **5.20.080 Lawful practices.**
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29 **A.** Notwithstanding any provision of this chapter, it shall not be unlawful
30 for a person in connection with the sale or rental of real property,
31 financing practices, employment practices, public accommodations,
32 educational institutions, and practices of the municipality to make or
33 keep records identifying race, color, sex, sexual orientation, religion,
34 national origin, marital status, age, [~~veteran's status,~~] or physical or
35 mental disability, if the purpose of the record is to comply with federal
36 or state equal opportunity laws or regulations or in furtherance of a
37 program designed to ensure compliance with this title.
38

39 **B.** **The prohibition of discrimination based on sexual orientation**
40 **imposed by this chapter does not apply to discrimination**
41 **because of one's biological gender in matters such as access to**
42 **restrooms, nor does it change the rights of employers and**
43 **operators of public accommodations to impose reasonable**
44 **dress codes, work rules or other rules of general application.**
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46 (AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 7, 1-7-03)

Section 10. Anchorage Municipal Code section 5.20.090 is hereby amended to read as follows:

5.20.090 Religious exemptions.

It shall be lawful for a bona fide religious or denominational institution, organization, corporation, association, educational institution, or society, to limit, select or give preferential treatment in employment, admissions, accommodations, advantages, facilities, benefits, or services, to persons of the same religion or denomination, that is reasonably calculated to promote the religious principles for which it is established or maintained. **[SUCH ORGANIZATIONS OTHERWISE REMAIN SUBJECT TO THE OTHER PROVISIONS IN THIS TITLE WITH REGARD TO RACE, COLOR, SEX, SEXUAL ORIENTATION, RELIGION, NATIONAL ORIGIN, MARITAL STATUS, AGE, VETERAN'S STATUS, OR PHYSICAL OR MENTAL DISABILITY.]**

(AO No. 92-116(S); AO No. 93-99; AO No. 2002-163, § 4, 1-7-03)

Section 11. This ordinance shall become effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2009.

Chair

ATTEST:

Municipal Clerk

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MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. 342-2009

Meeting Date: June 9, 2009

1 **From: ACTING MAYOR**

2
3 **Subject: AO 2009-64S**

4 **An ordinance of the Anchorage Municipal Assembly Amending Anchorage Code**
5 **Chapters 5.10 Equal Rights Commission and 5.20 Unlawful Discriminatory Practices**

6 Nondiscrimination laws ensure that people have equal access to employment, housing, and
7 other opportunities, free from unfair discrimination based on personal characteristics that
8 should not matter. Current Municipal Code provisions protect people from discrimination –
9 in employment, education, housing, public accommodations, financial practices and practices
10 of the Municipality -- on the basis of religion, race, sex, nationality, age, marital status, and
11 physical and mental disability.

12
13 This ordinance adds “sexual orientation” to the list of personal characteristics protected from
14 discrimination. The reason for this change is that a person’s sexual orientation or gender
15 identity has nothing to do with job performance or qualifications as a good tenant or
16 customer.

17
18 More than 100 communities and a dozen states across the country have laws in place
19 prohibiting discrimination on the basis of sexual orientation and gender identity. The State
20 of Alaska has included “sexual orientation” in its anti-discrimination policy applicable to all
21 executive branch agencies since 2002. Federal government agencies and major corporations
22 also prohibit this form of discrimination.

23
24 In response to public discussions about the original version of this ordinance (AO 2009-64,
25 introduced May 12, 2009), a substitute version (A) 2009-64(S) was drafted. It modifies the
26 original proposal in the following ways:

27
28 1. The characteristic of “veteran status,” proposed to be added by this ordinance has
29 been deleted at the recommendation of the MOA’s Military and Veteran Affairs (MVA)
30 Commission. The MVA Commission recognizes the importance of preventing discrimination
31 against military personnel and veterans and their families, but was apprehensive about the
32 implications of the proposed amendment for current military discount offers and privileges.
33 The MVA Commission has requested a joint meeting with the Equal Rights Commission to
34 explore the issue.

35
36 2. The second sentence in the “religious exemption” section (AMC 5.20.090.A) was
37 deleted to eliminate redundancy and possible confusion. This section of the Code states that
38 a religious organization as defined in 5.020.090 may give preferential treatment to persons of
39 the same religion if such preference is for the purpose of promoting religious principles.
40 Some felt that the second sentence might be interpreted as limiting in some way the breadth

1 and generality of the exemptions stated in the first sentence. (The deleted sentence is: "Such
2 organizations otherwise remain subject to the other provisions in this title with regard to race,
3 color, sex, sexual orientation, religious, national origin, marital status, age, veteran's status,
4 or physical or mental disability.")

5
6 3. Language was added to clarify that the addition of "sexual orientation" to the Code
7 does not change the rights of employers and operators of public accommodations to impose
8 reasonable dress codes and other work rules, or to restrict access to gender-specific restrooms
9 to those of the same biological gender. This clarification was made in response to concerns
10 about cross-dressing in the workplace or men dressed as women using women's restrooms. It
11 does not limit employers and operators of public accommodations from reasonably
12 addressing restroom use in light of all circumstances.

13
14 4. A provision has been added to make it clear that exemptions in Ch. 25 apply to Ch.
15 20. These are the exemptions under the Fair Housing Act, applicable to certain residential
16 situation such as owner-occupied buildings with up to four separate living units. This is
17 consistent with current interpretation by the Anchorage Equal Rights Commission.

18
19 5. A provision has been added to make it clear that the anti-discrimination provisions
20 of AMC 5.20 apply to the MOA's procurement activities under AMC Title 7, again reflecting
21 current practice.

22
23 6. Language has been added to give express recognition to the fact that nothing in this
24 law impacts the constitutional rights of freedom of speech, freedom of association, and free
25 exercise of religion. Although these rights exist regardless of whether the Code
26 acknowledges their existence, it seemed prudent to include reference to them because they
27 may limit the applicability of anti-discrimination laws.

28
29
30 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AO 2009-64S**
31 **An ordinance of the Anchorage Municipal Assembly Amending Anchorage Code**
32 **Chapters 5.10 Equal Rights Commission and 5.20 Unlawful Discriminatory Practices**

33
34 Prepared by: Marge Larson
35 Approved by: Patty Ginsburg
36 Concur: James N. Reeves, Municipal Attorney
37 Concur: Michael K. Abbott, Municipal Manager
38 Respectfully submitted: Matt Claman, Acting Mayor
39

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2009-64S

Title: An ordinance of the Anchorage Municipal Assembly Amending Anchorage Code Chapters 5.10 Equal Rights Commission and 5.20 Unlawful Discriminatory Practices

Sponsor: MAYOR
 Preparing Agency: Department of Mayor's Office
 Others Impacted: Anchorage Equal Rights Commission

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)				
	FY0X	FY0X	FY0X	FY0X	FY0X	
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 were 46 complaints filed in the year after sexual orientation was added to the equal rights law in Washington. (<http://www.hum.wa.gov/documents/Briefings/sexorlent1yrpt092807.doc>) Approximately eleven hundred complaints are filed with the State of Washington annually. Thus, the 46 complaints based on sexual orientation amounts to 4% of the State of Washington's total complaints. In 2008, the Anchorage Equal Rights Commission (AERC) filed approximately 84 complaints. If, similar to the State of Washington, there was a 4% increase in complaint filings, that would amount to 3.36 new complaints for the Anchorage Equal Rights Commission.

The State of Washington had .6% of their total complaints based on veteran or military status in FY 2008. For the AERC that would amount less than one case per year (.5 case).

Four new complaints a year to the AERC would not increase the staffing needs for the Commission.

PRIVATE SECTOR ECONOMIC EFFECTS:

None we are aware of.

Prepared by:

Marge Larson with input from AERC.

Telephone: 343-7115

CLEMNS OFFICE
 2009 JUN 10 PM 12:33
 M.O.A.

Content ID: 007831**Type:** Ordinance - AO

Title: AO 2009-64S - AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING ANCHORAGE CODE CHAPTERS 5.10 EQUAL RIGHTS COMMISSION AND 5.20 UNLAWFUL DISCRIMINATORY PRACTICES.

Author: maglaquijp**Initiating Dept:** Mayor**Date Prepared:** 6/5/09 9:54 AM**Assembly Meeting Date:** 6/9/09**Public Hearing Date:** 6/9/09

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	6/5/09 3:21 PM	Exit	Heather Handyside	Public	007831
MuniMgrCoord_SubWorkflow	6/5/09 3:21 PM	Approve	Heather Handyside	Public	007831
MuniManager_SubWorkflow	6/5/09 3:21 PM	Approve	Heather Handyside	Public	007831
MuniManager_SubWorkflow	6/5/09 1:54 PM	Checkin	Joy Maglaqui	Public	007831
Legal_SubWorkflow	6/5/09 12:49 PM	Approve	Rhonda Westover	Public	007831
Finance_SubWorkflow	6/5/09 11:42 AM	Approve	Nina Pruitt	Public	007831
OMB_SubWorkflow	6/5/09 10:18 AM	Approve	Bruce Holmes	Public	007831
Mayor_SubWorkflow	6/5/09 9:58 AM	Approve	Joy Maglaqui	Public	007831
AllOrdinanceWorkflow	6/5/09 9:57 AM	Checkin	Joy Maglaqui	Public	007831

NEW PUBLIC HEARING
~~CONSENT AGENDA - INTRODUCTION~~