

**ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

February 9, 2002

9:05 a.m.

HOUSE MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Carl Morgan, Co-Chair
Representative Andrew Halcro
Representative Drew Scalzi
Representative Lisa Murkowski
Representative Gretchen Guess
Representative Beth Kerttula

HOUSE MEMBERS ABSENT

All members present

SENATE MEMBERS PRESENT

Senator John Torgerson, Chair
Senator Randy Phillips (via teleconference)
Senator Alan Austerman

SENATE MEMBERS ABSENT

Senator Georgianna Lincoln
Senator Pete Kelly

COMMITTEE CALENDAR

PUBLIC TESTIMONY ON HOMER ANNEXATION

PREVIOUS ACTION

No previous action to record

WITNESS REGISTER

PETE ROBERTS, President
Citizens Concerned About Annexation
PO Box 1134
Homer, Alaska 99603

POSITION STATEMENT: Requested that the legislature veto the Homer annexation.

ABIGAIL FULLER, Vice President
Citizens Concerned About Annexation
PO Box 2845
Homer, Alaska 99603

POSITION STATEMENT: Requested that the committees introduce a resolution to disapprove Homer's annexation.

ROY HOYT, JR.
PO Box 2121

Homer, Alaska 99603

POSITION STATEMENT: Urged the committees to vote against the proposed annexation.

ALAN PARKS
PO Box 3339

Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

KARI ARNO
PO Box 1772

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

MARY GRISWOLD
PO Box 1417

Homer, Alaska 99603

POSITION STATEMENT: Requested that the committees veto the annexation petition.

PATRICIA CUE, Member
Homer City Council
3982 Mullikin Street
Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the approval of the annexation.

GARY PETERSON
PO Box 822

Homer, Alaska 99603

POSITION STATEMENT: Noted his vehement opposition to the proposed annexation.

TIMOTHY FULLER
PO Box 2845
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

JIM CLAUSS
PO Box 2845
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

BEVERLY CLAUSS
PO Box 2845
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

JIM HORNADAY
3691 Ben Walters Lane
Homer, Alaska 99603
POSITION STATEMENT: Urged the committees to follow the advice of the Legislative Research and Legal Services Division.

MICHAEL KENNEDY
844 Ocean Drive Loop
Homer, Alaska 99603
POSITION STATEMENT: Urged the legislature to veto the proposed annexation.

DENNIS LEACH
PO Box 1414
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed annexation.

ALEX FLYUM, JR.
267 W. City View Avenue
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed annexation.

MARGARET SEELYE
PO Box 962
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

MIKE ARNO

PO Box 1772

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

ROBERT KEYS

5601 Main Street, Number 8

Homer, Alaska 99603

POSITION STATEMENT: Expressed the need for the City of Homer to [work on the needs of those inside the city].

DAVID RASKIN

PO Box 2415

Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

MARGA RASKIN

PO Box 2415

Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

BILLY PEPPER

PO Box 882

Homer, Alaska 99603

POSITION STATEMENT: Expressed the need to meet all the standards for annexation.

BOB SHAVELSON

PO Box 1498

Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

SCOTT CARDOZA

PO Box 2817

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

DAN BOONE

PO Box 1783

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

KENTON BLOOM
1044 East Road, Suite A
Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

DORIS CABANA
PO Box 607
Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

BILL SMITH
PO Box 150
Homer, Alaska 99603

POSITION STATEMENT: Testified on the proposed annexation.

JONATHAN FAULKNER
4621 West Hill Road
Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

LEROY KRUMM
40625 Hancock Drive
Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

MARILYN HENDREN
69180 Karen Circle
Anchor Point, Alaska

POSITION STATEMENT: Testified in opposition to the proposed annexation.

JOANNE GREGORY
66600 Diamond Ridge Road
Homer, Alaska 99603

POSITION STATEMENT: Expressed concerns with the annexation.

LAURA BARTON
66600 Diamond Ridge Road
Homer, Alaska 99603

POSITION STATEMENT: Expressed the need to vote on the proposed annexation.

CHRIS NEWBY

PO Box 1124

Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

DOUG VAN PATTEN

PO Box 1348

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

LOREN KAUFFMAN

3684 Main Street

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

RAY KRANICH

PO Box 715

Homer, Alaska 99603

POSITION STATEMENT: Urged the committees to support the LBC's decision.

GARY MAYFORTH

PO Box 3514

Homer, Alaska 99603

POSITION STATEMENT: Testified on the fire and emergency service situation in relation to the proposed annexation.

STEVE ZIMMERMAN

PO Box 1291

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

LARENE ROGERS

PO Box 849

Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

POPPY BENSON

157 Island View Court

Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed
annexation.

DEAN BAUGH
60828 Horizon Court
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed
annexation.

BOB BARNETT
PO Box 132
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed
annexation.

PATRICIA BRENNAN
64966 Skyline Drive
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed
annexation.

MILLI MARTIN
61490 E. Skyline Drive
Homer, Alaska 99603
POSITION STATEMENT: Questioned whether the approval of the
proposed annexation would establish a precedent.

PAM BRANT
65299 Elliott Avenue
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed
annexation.

BOB BRANT
65299 Elliott Avenue
Homer, Alaska 99603
POSITION STATEMENT: Testified that in the long term, [everyone]
would be best served with the approval of annexation.

PETREA ARNO
PO Box 975
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed
annexation.

RAY ARNO

PO Box 975
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

CAREY MEYER
PO Box 905
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed annexation.

PAT MOSS
PO Box 1115
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed annexation.

TERRY JONES
PO Box 15165
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

CHARLES DAVIS
PO Box 906
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

EILEEN BECKER
Citizens Concerned About Annexation
PO Box 109
Homer, Alaska 99603
POSITION STATEMENT: Discussed flaws in the annexation process.

JIM REINHART
PO Box 834
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

LINDA REINHART
PO Box 834
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed annexation.

RICK LADD, Member
Homer City Council
PO Box 3364
Homer, Alaska 99603

POSITION STATEMENT: Testified on the proposed annexation.

CURT MARQUARDT, Member
Homer City Council
1849 Hiland Drive
Homer, Alaska 99603

POSITION STATEMENT: Discussed the transition plan.

MIKE YOURKOWSKII, Member
Homer City Council
3059 Kachemak Drive
Homer, Alaska 99603

POSITION STATEMENT: Testified on the proposed annexation and the transition plan.

JOHN FENSKE, Member
Homer City Council
PO Box 2112
Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

VI JERREL, Ph.D.
Alaskans Opposed to Annexation
PO Box 938
Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation, and discussed the legal case against the City of Homer.

KEN CASTNER
PO Box 558
Homer, Alaska 99603

POSITION STATEMENT: Testified in support of the proposed annexation.

ANITA CRITCHETT
PO Box 1798
Homer, Alaska 99603

POSITION STATEMENT: Testified in opposition to the proposed annexation.

MADRENE HOYT

PO Box 1
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed
annexation.

GEO BEACH
PO Box 2512
Homer, Alaska 99603
POSITION STATEMENT: Testified in opposition to the proposed
annexation.

SUSAN PHILLIPS CUSHING
1423 Bay Avenue
Homer, Alaska 99603
POSITION STATEMENT: Testified in support of the proposed
annexation.

JOHN FOWLER
10305 Maintree Drive
Anchorage, Alaska
POSITION STATEMENT: Testified in support of the proposed
annexation.

ACTION NARRATIVE

TAPE 02-3, SIDE A [House CRA tape]

CHAIR JOHN TORGERSON called the joint meeting of the House and Senate Community and Regional Affairs Standing Committees to order at 9:05 a.m. Representatives Morgan, Meyer, Scalzi, Murkowski, Guess and Senators Torgerson, Phillips (via teleconference), and Austerman were present at the call to order. Representatives Halcro and Kerttula arrived as the meeting was in progress. Representative Lancaster was also in attendance.

CHAIR TORGERSON announced that due to a large snow fall in Homer the record would be held open [for public testimony] until Monday [February 11, 2002] at noon. He reviewed the various methods in which the public could provide testimony to the committees.

PUBLIC TESTIMONY ON HOMER ANNEXATION

4.29

[The numbers reflect the elapsed time.]

PETE ROBERTS, President, Citizens Concerned About Annexation (CCAA), requested that the legislature veto the Homer annexation. In a general sense, the veto is recommended due to the [right of] self-determination and issues related to taxation without representation, he said. Mr. Roberts expressed the need for the committees to consider that the [annexation] process over the last 30 years has broken down in terms of fairness, due process, and citizen participation. He identified the city, the Local Boundary Commission (LBC), and the legislature as all sharing responsibility for this problem. He noted the people's sovereignty with regard to choosing their own local government and the amount [of government] they will have. Mr. Roberts related his belief that most people would agree that the best government is [the smallest government that can do the job]. He informed the committees that the area to be annexed has government, and the people in the area are satisfied with it.

7.39

ABIGAIL FULLER, Vice President, Citizens Concerned About Annexation, read the following statement:

We are here to ask you to bring forward a resolution to disapprove Homer's annexation. Our reasons are not based on where the city's boundaries should ultimately be, but on the serious problems with the way this particular annexation has been handled. Not only have we had no vote, but the city has been so adversarial that they have torn the Homer community apart. It is going to takes years to heal the wounds, only a veto will help us start the healing.

There are many things wrong with this annexation, from the poor decision made by the LBC, the way the city handled it, to the just plain lack of support from the community. This is being driven by a scant handful at the top, no one else wants it.

The Boundary Commission's Decision was wrong for a number of reasons. Perhaps the most serious is their refusal to recognize House Bill 13's requirement for a vote before service area boundaries can be changed. This bill, now codified as AS 29.35.450(c), was passed by this legislature last year, to enhance local control. The LBC wants to take that control away, and keep it for themselves. They are claiming authority

over service area boundaries, and state that HB 13 does not apply to a legislative review annexation. However, their claim relies on an assumption that service areas are local governments, which they are not. If this annexation is allowed to stand, they will have taken a large step toward establishing their control over changes to service areas, something they were never intended to have. The LBC does not like service areas, do you want to hand them the power and authority to control service area boundaries?

This denial of a vote comes from an agency that justifies annexation as "extending greater local self government" to the areas being annexed. Shouldn't local control mean our having control over whether or not we get annexed? Yet the LBC actually ignored their own regulations that provide guidelines for when the legislative review method can be used, if they had followed them they would have required a vote for this annexation. That's all we asked for, was a vote.

9.42

The city's original petition was to annex over 25 square miles of country, containing over 2,200 people. When the DCED recommended a much smaller area, about 15 percent, the city acquiesced, asking for only a few additional little pieces. At this point the LBC should have required the filing of an amended petition, but they did not. At the Hearing we were told that the whole 25 plus square miles was on the table, but it was apparent when they went to make their decision that they had already decided to approve the much smaller area. Without an amended petition we never had an opportunity to properly address the smaller area, and the LBC did not have suitable data to base their decision on. The budget projections for this reduced area were pure guess-work.

The LBC, in order to find that this annexation met all 14 required standards, interpreted them so broadly as to make them meaningless. Anything would qualify as long as it was somewhere outside the city, populated, and contiguous. On one standard they continued to use an erroneous assumption for sales tax revenue after the error was pointed out to them, and combined it

with unproven cost estimates to find the standard was met.

We had shown clearly why those cost estimates were questionable, at best, but they accepted them anyway. They also played a little sleight of hand, finding that because we use general government services, therefore we need city government services. We already have the services we need through the Borough, fire and EMS, road maintenance, education, and health care, and the State Troopers provide police services. They also found the City was better than the Borough simply because it was closer! Closeness has nothing to do with their ability to provide services more efficiently and effectively. When judging these 14 standards they accepted all of the city's claims and rejected everything we said, without proof.

One area where they should have required proof was the city's estimates for the costs of annexation. The estimates in the petition are based on memos written by the various department heads to the city manager. When we asked to see these memos, so we could check the figures in the petition, we were told they were secret. Why would the department head figures that the estimates in the petition are based on be secret? We've gone to court to get these memos, a decision is pending at the Alaska Supreme Court, yet the LBC saw fit not to wait for that decision.

And just to add insult to injury, one of the commissioners had done work for the city shortly before the petition was filed. It was not the first time his firm had done work for them, and likely not the last, yet the commission found he did not have a conflict of interest? It sure looks like he did.

The city has not handled this annexation in a friendly manner. There are several other methods of annexation that could have been used here, but Homer used what should have been a last resort, the one method that does not allow a vote of the people affected. There was no public discussion about whether to try annexation, or how to go about it. Most of us only found out about it just prior to the release of a petition that was ready to file. There was so little notice CCAA went to court to try and slow things down.

This is not only a forced annexation, but also a stealth annexation. At least the stealth part won't happen again, as the LBC has changed the rules to require an initial hearing with 30 days notice. It's still a forced annexation, and there's no need of it. Why deprive us of a vote when there is no crisis looming?

Once the petition was filed the city was no better about public participation. They brag about some annexation forums they held, but at those forums they flatly refused to allow any discussion about the merits of annexation. When city residents tried an initiative to hold an advisory vote the city promptly squashed it. The city also refused to recognize or formally participate in a task force set up by some city residents to try and find alternative solutions to the issues the city was using to justify annexation.

There is no reason why the city needs to annex right now. There is no crisis looming, either health and safety or financial. The city residents are not subsidizing services to outsiders, quite to the contrary, we outsiders are subsidizing services for city residents. The city made one claim that was even close to valid, and that was that we were not paying for fire and emergency services. We were, in reality, paying quite a bit in sales taxes already that were intended to cover these and other services. But since the city wanted more money, we obliged, and formed a borough fire and emergency service area, which pays the city for these services. Apparently this wasn't enough, as they are now trying to claim the service area was formed illegally, even though they are getting hundreds of thousands of dollars from it.

The LBC claims that annexation is the concern of the state, but it is also the concern of the local community. The community is what has been left out of this particular annexation. The LBC presumes that the local government acts in the best interest of the local community, but in this case they have not. They are acting in their own self-interest and their actions have torn the community apart. The city went so far as to threaten to shut off the bulk water sales

that hundreds of families depend on. Is that any way to treat future citizens?

Not only was the public shut out of the planning process, there has in fact been very little planning at all! The city drew up what is really a work in progress, but instead of presenting it to the public and accepting their input, they shipped it off to the LBC. Almost two years have passed since then and still no planning has been done, not even an agreement with the Borough on the transfer of responsibilities! They intend to spend the next year drafting the promised 20 year master water and sewer plan, shouldn't that have been done before they looked at annexation?

15.09

This annexation is not supported by the community. This whole thing was the brainchild of a few Homer city officials. They did not ask the public what they thought, they did not even run it by their own planning commission. There is no public support from within Homer, there is no hue and cry from outside the city for extension of city services. If there are a few folks near the edges who do want to join, that's fine, but it's not an excuse to cram this down the throats of everyone else within reach. Kachemak City opposes this annexation, the Kenai Peninsula Borough Advisory Planning Commission opposes it, and those members of the Borough Assembly who are not closely tied to the city oppose it.

What we are lacking here is local control. This business of being completely shut out of the loop on a decision with significant impact on our lives is not acceptable in a free and democratic country. This is not a decision that should be made solely by the city government and approved by a state commission, shutting out the people.

This annexation is wrong, and we do not believe it was legal. We filed an appeal of the LBC decision on Thursday. We are not looking forward to a long court battle and would much prefer a veto. Please sponsor a resolution to disapprove Homer's annexation.

[Punctuation was provided.]

MR. ROBERTS related his belief that the LBC was biased. Furthermore, there is a definite appearance of a conflict of interest because [all the LBC members] are all "municipal people," who support strengthening and enlarging municipalities. Therefore, there are no provisions [in the process] for the protection for rural citizens. After pointing out that the Homer city manager makes good money, Mr. Roberts charged that this also has to do with money and power.

17.43

CO-CHAIR MEYER asked if there are any scenarios in which [Mr. Roberts and Ms. Fuller] would support some sort of annexation.

MS. FULLER replied yes. She specified that she would have no problem with annexation if there was a group that wanted to be annexed. Furthermore, there would be no objection if there was a public process and an attempt to develop a plan with which people were satisfied.

MR. ROBERTS remarked that having a remote government or commission "jam this down people's throats" isn't consistent with representative democracy and the first part of Alaska's constitution. "The power emanates from the people, not the other way around," he said.

CO-CHAIR MEYER related his understanding that the "preferred route" [for annexation] is through a vote of the people.

MS. FULLER agreed.

19.20

REPRESENTATIVE HALCRO recalled mention of the lack of local support for this annexation. He asked if there is support from within the existing city limits.

MS. FULLER replied no.

MR. ROBERTS informed the committees that there was a group in the city that attempted to place a referendum vote on the ballot in order to determine whether there was support for the annexation within the city. That attempt at a referendum was squashed by a legal opinion charging that [the referendum] was done improperly. The group didn't have the funds to go to

court. Mr. Roberts noted that there was also a telephone poll in which every sixth [registered] voter was called. That poll found that 65 percent were in opposition to the annexation. He recalled that between 10-19 percent [of those polled] thought the annexation would be a good idea. Those in opposition to the annexation were concerned with regard to an autocratic government. Furthermore, there was concern that their services would be watered down if the city greatly expanded.

20.53

REPRESENTATIVE SCALZI commented that all parties on both sides of this debate have been very cordial with his staff. Furthermore, Ms. Fuller's testimony states CCAA's willingness to participate in discussions once the current annexation attempt is concluded. Representative Scalzi pointed out that [if the legislature vetoes] this annexation, the city may put forth another petition under the legislative review process. There is no guarantee that there would be a vote. Therefore, he asked whether [CCAA] is willing to go through this process again when the results may remain the same.

MS. FULLER expressed the hope that any [new] process would begin with a public process. Although a vote would be preferable, having enough public input wouldn't "be as bad" with regard to a legislative review process. She pointed out that it would be two years before a new petition could be filled. Although Ms. Fuller acknowledged that in two years there could be the same result, she said that allowing this annexation to proceed would reward the city and the LBC with regard to how they handled it.

REPRESENTATIVE SCALZI inquired as to the amount of money that CCAA has collected and spent on this matter.

MS. FULLER answered that CCAA [has spent] over \$50 million.

MR. ROBERTS informed the committees that the LBC doesn't have to allow a city to choose legislative review. The LBC could simply [require] that a petition be filed and public forums be held. The LBC could then hold a hearing in the local area and choose the method of annexation. In such a situation, the city would have to put its best foot forward in order to convince the people and thus the situation wouldn't be adversarial.

24.43

REPRESENTATIVE MURKOWSKI related her understanding that the LBC acted within the letter of the law, but it had the discretion to broaden the public process. She said she understood CCAA to indicate that if the [public process had been broadened], then there wouldn't have been quite the objection to the annexation.

MR. ROBERTS replied yes. Mr. Roberts said, "We wanted access to the city documents and projections for providing costs to the community. That's one of the important standards, especially for the taxpayer." Although the city wouldn't provide that information, the LBC could've stopped the process until the information was released. The LBC wouldn't do that. Mr. Roberts noted that there are a number of other stipulations that the LBC could've [required]. This matter is in the supreme court, and on just this one issue [CCAA] has spent over \$40,000.

MS. FULLER interjected that it would've helped if [the LBC] had required filing an amended petition after the city agreed to the smaller area because that would've been tantamount to a fresh start.

26.24

REPRESENTATIVE KERTTULA inquired as to what [CCAA] is worried will change [with an annexation].

MS. FULLER said, "It's not so much the taxes, but is zoning [and] various other ordinances being under the city government. And there's a lot of concern that the city will not be able to provide any additional services than what we're already getting. And, so, what is it that's being promised in this thing?"

MR. ROBERTS reiterated that the city hasn't done any of the planning that was necessary. Mr. Roberts pointed out that his property is no longer part of the current annexation, as is the case with many of the people [testifying today]. "This is an issue of morals and principles, and our system that has brought us here rather than the taxes," he said.

CHAIR TORGERSON announced that testimony would be limited to three minutes. He also announced that he didn't intend to allow committee members to question the witnesses.

29.36

ROY HOYT, JR., testified via teleconference. He informed the committees that he resides within the city limits of Homer. Mr.

Hoyt urged the committees to vote against the Homer annexation petition, which was developed in an underhanded and vicious manner. There should've been a vote of the people inside [the city limits] and those impacted by the annexation. Mr. Hoyt charged that the administration and city council members are unapproachable; they have fractured the community to the point that it may never heal. Although some members of the council administration may say that the last council election was a mandate for annexation, that subject was avoided during that election. "The two councilmen were reelected by well organized environmental and nonprofit groups," he charged. With regard to the services the city provides to those outside and inside the city limits, he stressed that [those services are very costly]. "Should annexation take place, I am sure that those of us that live in the city will lose some of the few services we now have, which are far from adequate," he said. In conclusion, Mr. Hoyt, again, urged the committees to vote against this annexation petition. However, should the annexation be approved, Mr. Hoyt suggested that the mayor's position and all the city council positions should be truncated and a new election held.

32.18

ALAN PARKS testified via teleconference. He informed the committees that he is a Homer city resident who served on the Homer City Council from 1996-1999 and served on many boards, committees, and task forces that are associated with city issues. Mr. Parks specified that his comments reflect his own views. He stated that he is in favor of the annexation. He recalled his time on the city council and the struggle with city budget items associated with services the city provides to the outlying areas. Mr. Parks pointed out that increasing the tax base at a time of decreasing state revenue sharing would enable the city to better sustain and further develop Homer's infrastructure. It's estimated that 25 percent of the city water customers live outside the city limits. He highlighted that [city] water has been available for years to the areawide community. Since 1992, the City of Homer has budgeted in excess of \$1.5 million to areawide nonprofit organizations that support education, recreation, and cultural activities in the southern peninsula. He pointed out that 50 percent of those benefiting from these activities and programs live outside the city limits. Mr. Parks turned to the city council members, who he said have been vocal [on this annexation]. Four city council members and the mayor ran with this issue and were reelected. Mr. Parks reiterated his support of the annexation.

35.24

KARI ARNO testified via teleconference in opposition to the proposed annexation. She informed the committees that she lives outside the city limits because she choose to do so. She related her belief that the process was poorly planned. She echoed earlier testimony regarding the lack of accessibility of the records. Furthermore, Ms. Arno questioned why the city doesn't take care of the city residents by providing them water, sewer, and upgraded roads. She related that the area in which she lives is undeveloped and there's no reason for it to be annexed.

36.16

MARY GRISWOLD testified via teleconference. She informed the committees that she lives outside the City of Homer. Ms. Griswold requested that the committees veto the annexation petition. Ms. Griswold pointed out that Homer filed an interest in expansion rather than a bona fide annexation petition. Furthermore, city representatives freely identified [the petition] as a work in progress. Although the city's [annexation] petition may have been minimally legal, it was grossly irresponsible and profoundly disrespectful of the public process. Even after widespread public protest and the Department of Community & Economic Development's (DCED) request to reduce the size of the annexation, the city didn't amend its petition. "The LBC should have sent Homer's petition back for reassignment instead of accepting the DCED's efforts to create a real petition using the city's materials," she said. Furthermore, the Alaska Administrative Code allows the LBC to turn a legislative review petition into a local action petition if that serves the community's and state's best interest. This option was never publicly reviewed.

MS. GRISWOLD explained that the city proposed to annex 25 square miles of primarily undeveloped land, but chose to exclude the 1.8 square miles of the neighboring community of Kachemak. She remarked that some of the residents of Kachemak receive more municipal services than do some residents of Homer. However, DCED didn't believe it could consider including the Kachemak area because it wasn't part of the original request. Ms. Griswold informed the committees that the city doesn't have an adequate transition plan for the assumption of services, as required by the Alaska Administrative Code. There are significant questions relating to property tax accrual and allocations that should've been resolved before the petition was

filed. Although DCED's 2000 report to the legislature recognized ambiguity in this matter, it failed to require consideration or resolution. "Homer is not facing a crisis; it is in the far better interests of all of us to allow constructive dialogue among city and area residents and officials to guide the structure of our government," she explained. She acknowledged that since beginning [the annexation] process, the city has taken steps to more responsibly allocate its resources. For example, there have been policy changes in animal control and bulk water delivery. Furthermore, the city is developing a master plan for water and sewer expansion, and has hired a new planning director. Ms. Griswold concluded by urging the committees to veto this annexation petition.

38.51

PATRICIA CUE, Member, Homer City Council, testified via teleconference in support of the approval of the annexation. She noted that she is a resident of the City of Homer. Ms. Cue provided the following testimony:

I am here today as an elected official on the Homer City Council and to represent the citizens of Homer. The citizens of Homer have carried the financial responsibility for building and maintaining the infrastructure of a community utilized by several hundreds, if not thousands, of people living outside the city boundary. I am here today with the expectation that the citizens of Homer will be given the representation due them by their elected representatives. CCAA has made several claims against the annexation petition and the process leading up to the petition. I would like to respond to some of these claims:

Number One: There were 54 public meetings and/or workshops dealing with annexation. At no time did members of the council or the city tell CCAA that they would be adjourned for stating their opinions. [The] CCAA is correct in that the forums held by the city were poorly attended by their membership, but through their own choice. [The] CCAA told their members to boycott the meetings.

Number Two: Homer residents and nonresidents use a host of services offered by the city and paid for by

taxes and user fees. While we all pay sales tax when shopping in Homer, only city residents pay a property tax - an expense not shared by service users living outside of Homer. The 5.5 mill property tax rate raises about 26 percent of the revenue used by the city's general fund. [The] CCAA financial claims that nonresidents contribute at least 50 percent of the sales tax cannot be verified.

Number Three: Not voting on the annexation petition is the complaint that gets a lot of attention. However, the process used by the City of Homer is constitutional. Framers of the constitution wanted to keep politics out of the decisions and make it objective, thereby creating a local boundary commission. There were attempts by the city to get users to vote for the creation of fire and EMS, and recreational service areas. Historically, these attempts failed resulting in city residents paying the cost for providing the services.

Number Four: The statements made by CCAA regarding the LBC's findings are filled with comments that have no basis in fact. I commend the members of the LBC for the time and energy they put into analyzing the City of Homer petition.

Number Five: [The] CCAA claims that they are willing to pursue this annexation in court if this is approved by the legislature. Threats of litigation only increase the animosity between residents and nonresidents. In the meantime, residents of the City of Homer will continue paying for services that are being used by noncitizens.

Number Six: The entire process has not been flawed. The City of Homer and the LBC have, to the best of their abilities, presented this petition to the legislature with the intent of reducing the disparity between residents and nonresidents.

I urge you to support the Local Boundary Commission's decision. Thank you very much.

41.43

GARY PETERSON testified via teleconference. He informed the committees that he lives outside the city limits of Homer. Mr. Peterson noted his vehement opposition to the annexation. He related his belief that the citizens should have the right to vote [on this matter]. Furthermore, only those in the proposed area to be annexed should be allowed to vote rather than having a vote of the entire community. He charged that "our government" is very manipulative at the federal, state, and local level. He reiterated his opposition to the annexation, and noted his support of a resolution that would veto any recent approval of annexation by the LBC.

43.15

TIMOTHY FULLER testified via teleconference. He informed the committees that he lives outside the city. Mr. Fuller provided the following testimony:

Noah Webster wrote: "Good intentions will always be pleaded for every assumption of authority. It is hardly too strong to say that the constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters." Perhaps Homer's city council had good intentions when they attempted to slither this annexation through with no public advisement. It is unfortunate that they didn't initially form a task force to evaluate the viability of an annexation. A task force might've developed a sound blue print for an annexation which could then have been approved or not at the polls by city residents and the folks in the area proposed for annexation. A reasonable plan buttressed by a well-documented cost-benefit analysis would likely have passed muster with the people, and the bitter animosity engendered by this forced annexation would've been averted.

... the double speak the LBC employs to justify this annexation's purported compliance with the 14 standards for annexation is a heinous manifestation of government gone awry. Some of their specious reasoning borders on the idiotic. This annexation palpably does not meet all the standards. At the very least, the LBC should've required that the city "rebriefed" for the smaller area. The LBC is a twig

on the executive branch that needs to be pruned by the legislature. This annexation merits a veto, the sooner the better. A veto will send a message to city governments throughout the state that in our constitutional republic, the rights of the people are paramount.

45.03

JIM CLAUSS testified via teleconference. He informed the committees that he lives outside of the city limits of Homer. Mr. Clauss stated his objection to the manner in which [the annexation] was done. He also stated his opposition to annexation.

BEVERLY CLAUSS testified via teleconference. She noted that she lives outside the city limits of Homer. Ms. Clauss said that she is opposed to this takeover, which is referred to as an annexation. She questioned why the city would be afraid of a vote if it's so confident that everyone wants annexation.

46.03

JIM HORNADAY testified via teleconference. He informed the committees that he lives within the City of Homer. Mr. Hornaday urged the committees to follow the advice of the Legislative Research and Legal Services Division. Although the city could've handled the annexation better from the public hearing standpoint, there were many public hearings. He related his belief that the city should've released the [secret] memos.

TAPE 02-3, SIDE B

MR. HORNADAY continued with remarks regarding the [service areas]. He commented that regardless of boundary lines [fire service personnel/neighbors] won't let the houses of friends burn down. Mr. Hornaday recalled 30 years ago when he served on the Kenai City Council and the Borough Assembly. He explained that he was "butchered up" in an annexation merger process when Kenai and North Kenai were working to form a separate borough, which was ultimately rejected. The present annexation issues have brought out similar emotions and issues.

MR. HORNADAY reiterated the need to give careful consideration to the opinions of the Legislative Research and Legal Services Division. Mr. Hornaday said that he hasn't come across any

legal reasons to stop the annexation, and it looks as if the process was followed. Therefore, he expressed the need for caution when changing the process. With regard to the discussions of a constitutional amendment on these annexation issues, Mr. Hornaday, again, expressed the need for caution before amending the constitution.

44.30

MICHAEL KENNEDY testified via teleconference. He noted that he is a resident of the City of Homer. Mr. Kennedy informed the committees that a member of the group Objective Annexation Review conducted a telephone poll of 100 randomly selected households in April 2000. The results of the poll indicated a 2:1 vote against annexation, with three-quarters of all respondents believing that annexation is an issue that should be decided by a vote. He pointed out that the results of this poll and comments by Pam Brody (ph) are included in the letter dated April 11, 2000, which was delivered to the Homer city mayor and city council. Mr. Kennedy related his belief that this sentiment still remains.

MR. KENNEDY noted that [Objective Annexation Review] completed an initiative petition in June 2000. This petition requiring a vote of the residents of the city and the areas to be annexed would've been on the fall 2000 ballot. Although the petition was done properly and was submitted to the City of Homer clerk, the petition was denied by the city manager. [The denial] was accompanied by a 14-page opinion by the city attorney. Therefore, no recourse, save court, was left. The group could ill-afford the legal fees, he said, and thus the group's rights were effectively stopped. In conclusion, Mr. Kennedy urged the legislature to veto the Homer annexation because annexation should be determined by a vote of the impacted people.

41.23

DENNIS LEACH testified via teleconference. He informed the committees that he resides within the city limits of Homer and owns three parcels within the proposed area to be annexed. From both those perspectives, Mr. Leach strongly supported annexation. He recalled that this annexation started almost ten years ago when the City of Homer's request for a fire and emergency service area was turned down by those in the areas outside the city. Mr. Leach said that he supports the annexation primarily because he wants the services that the city is able to offer.

MR. LEACH said that there has been much emotion surrounding this issue, while there have been [only] a few facts presented. The facts challenging how the city acted have been proven invalid; the city has followed the law - to the best of his knowledge - as has the LBC. If the legislature can find instances in which the city or the LBC hasn't followed the legal procedures, then their effort should be questioned. Mr. Leach requested that the legislature put emotion aside.

38.45

ALEX FLYUM, JR., testified via teleconference. He noted that he owns land within and outside of the City of Homer. Mr. Flyum announced his support of the proposed annexation of the 4.5 square miles. He said that he would send the committees page 7 of the February 6, 2002, Homer Tribune as part of his testimony. He said he would also send the scenario put forth by the "Homer Annex City Council" by the City of Homer as part of his testimony as well. Mr. Flyum stated accolades for the services provided by the City of Homer.

37.06

MARGARET SEELYE testified via teleconference. Ms. Seelye mentioned that she lives outside the city and outside the proposed area to be annexed. Ms. Seelye said that her main concern is in regard to how this annexation petition was introduced. [The annexation petition] first came up as a resolution on the consent agenda. The resolution requested that the city manager create a work plan and a time line for annexing outlying areas. The little discussion that occurred included the thought of annexation or service areas in order to assist with [the city's] budget issues. There were attempts to obtain information regarding what the city was doing and offer help. "At no time was anybody informed that a real petition was being created," she said. Therefore, the proposal to annex 25 square miles was a surprise. Ms. Seelye recalled one of the first meetings on this annexation during which the council member chairing the meeting announced that the council wasn't present to take input on the annexation but rather to discuss post-annexation issues. Therefore, she felt it's understandable why some chose not to attend meetings after that. With regard to a vote on fire and emergency services, Ms. Seelye said she wasn't aware of any such vote prior [to the annexation proposal]. She then turned to the services the area to be annexed will receive and pointed out that the only concrete statement in the petition

is that the city will spend half as much per road mile in the annexed area than it currently spends per road mile in the city limits. However, the area to be annexed receives far more snow than the area within the city limits, not to mention that the area to be annexed is farther from the city's shops. Ms. Seelye concluded by noting her opposition [to the proposed annexation].

33.54

MIKE ARNO testified via teleconference. He informed the committees that he lives just outside the city limits. Mr. Arno provided the following testimony:

I would like to say to my elected officials, that have been elected by the people to serve for the people, that the people have spoken in large numbers. We are against the annexation proposed by the City of Homer, especially how it was done. As a local businessman, I dump thousands of dollars into the local economy each year, without the higher taxation. I feel that I more than pay for my part of the services that I get from the City of Homer. As an excavating contractor, I also know that the numbers are inaccurate. The City of Homer cannot afford to provide road, water, and sewer services which are the basics to the area they now occupy, which has a much heavier population density than what they propose to annex. How can they expect to provide services to a much larger area with a smaller population density? Many questions are left unanswered: Is the city going to opt to upgrade the borough-maintained roads, which do not meet their minimum standard, and at what cost? Or, are they just going to lose their maintenance because they do not meet the minimum standard?

32.27

ROBERT KEYS testified via teleconference. Mr. Keys informed the committees that he lives within the city limits. Mr. Keys related his belief that the city has done a poor job with regard to improving the infrastructure of the City of Homer. He noted that 20 percent of the people in the city don't have water, sewer, or snowplowing services. Mr. Keys said that he hasn't run across anyone who would be impacted by this proposed annexation who is in support of it. There seem to be [many] disadvantages with the proposed annexation. He said that the City of Homer acts as if it has nothing but hostility to those

in opposition to the proposed annexation. Mr. Keys recalled [council members] nodding [off to sleep] during some of the meetings regarding the proposed Homer annexation. Furthermore, he only recalled one person testifying in favor of annexation. Mr. Keys expressed the need for Homer to cleanup its own act before telling those outside the city "how to cover theirs."

29.29

DAVID RASKIN testified via teleconference. He informed the committees that he is a resident of Kachemak City, which directly borders the proposed area to be annexed. Mr. Raskin provided the following testimony:

I strongly support annexation, and would have been pleased if Kachemak City were included. Like most who live near Homer, including the vocal opponents of annexation, my family relies on and greatly benefits from the facilities and services provided by the City of Homer, including water, sewer, and fire protection. We keep our boat in the Homer harbor and we regularly use the public library and city hall. The City of Homer has provided financial support to a myriad of community nonprofit organizations and free classroom facilities to the Kachemak Bay college campus. Of major concern is the lack of land use planning outside of Homer. Although our residential subdivisions prohibit commercial activity, Kachemak City and the proposed annexation area are plagued by massively, unsightly, and unsafe junkyards; noisy industrial operations; and uncontrolled development. The increasingly disruptive noise, unhealthy dust, and just plain ugliness degrade our quality of life and lower our property values. The City of Homer would address these problems with careful planning and suitable location, a major reason why my adjacent neighbors successfully requested that their more than 140 acres be added to the annexation. The inclusion of all of Kachemak City would serve similar good purposes.

The annexation opponents are a vocal small minority, most of whom do not even live in the currently proposed area. My friends and neighbors support annexation. And many business owners are reluctant to openly express their support. Opponents complain about the process, yet we have been continuously

bombarded for two years by their presentations and the many forums and meetings held for them to express their views and concerns. The lives of everyone in this area, including those who argue against annexation, would be radically changed if the City of Homer was unable to provide their current level of services and amenities. Our quality of life would be severely degraded, possibly in danger. I fail to understand those who willingly take advantage of these services, but are unwilling to pay their fair share of the relatively low cost. That is neither neighborly nor in the spirit of this community and Alaskans in general.

In the final analysis, it is the merit of the proposal not its history or controversy that is at issue. This proposed annexation is good for the City of Homer and its residents. It is good public policy and would benefit all who have chosen to live here because of the proximity of the City of Homer and the values that it provides to everyone. I strongly urge you to support the annexation. Thank you.

26.46

MARGA RASKIN testified via teleconference. She informed the committees that she is a resident of Kachemak City. Ms. Raskin provided the following testimony:

I strongly support annexation, and would've been pleased if Kachemak City were included. During this time of shrinking state revenue sharing, there is a compelling need to adequately increase the City of Homer's tax base. Since incorporation as a municipality in 1964, Homer has generously financed numerous community services that benefit city residents and those living outside its 21 square mile boundary. In the area proposed for annexation, population density exceeds that of Homer. The additional revenues guarantee continuation of water availability, police and fire protection, and the ongoing maintenance and upgrading of (indisc.) harbor. The funds will also support the necessary expansion of the library, a new town square with public art and gardens, and the reduction of juvenile crime by constructing an ice hockey rink and a skateboard park. The city will be able to continue its financial

assistance to the Boys and Girls Club, the Homer Council on the Arts, the Grant Museum, the Center for Alaskan Coastal Studies, (indisc.), the food pantry, and the animal (indisc.). Those residing outside the city boundaries should accept their civic responsibility to pay for the services they now receive from the city. The time has come for all to equitably share the modest cost for these numerous valuable services. The proposed annexation is needed to ensure a future that includes a vibrant and viable municipal center. I strongly urge you to support the annexation. Thank you.

24.44

BILLY PEPPER testified via teleconference. He informed the committees that he lives in the proposed area to be annexed, in the Raven Ridge subdivision. Mr. Pepper provided the following testimony:

Raven Ridge did submit a responsive brief to the city's annexation proposal. And when the homeowners of Raven Ridge met, we each took a look at the standards of annexation and tried to find where we could argue the issue. We found just a few that seemed not be met: Standards 1, 2, 3, 4, 8, and 12. And that's the standards we targeted in our responsive brief. In three minutes, I'll try to cover just two. "Standard 1: The territory must exhibit a reasonable need for city government." Need is such an arbitrary word and vague, especially when considered in the eyes of the one who is overseeing the process. And so far, that's been the LBC. What the LBC sees as a need for us to have city government, which I will state there's no record of our demands to be needing or asking for city government, they still found we need it. We still disagree with their judgment and are asking the legislature for help in this matter. We feel this standard is not met. And, as standards go, the city needs to meet all of the standards which are stated in DCED's preliminary report on page 147, and I quote, "A territory that meets all of the annexation standards may be annexed to a city by the legislative review process if the commission determines that annexation will serve the best balanced interest of the state."

If it is in the best balanced interest of the state, Standard 13, then why isn't Kachemak City considered in the process. Because as Mr. Waring stated on Thursday, the reason for annexation by legislative review was so that we don't have second class cities popping up all around Anchorage as would have been the case with Sandlake, the Hillside, and Spenard. But yet, Kachemak City, a second class city, would be an enclave of Homer; contracting services from the city with trunk lines for sewer and water already in place, but yet not being considered in the process. Someone is not looking out for the best balanced interest of the state.

And finally, on the same preliminary report by DCED. On page 355, under Recommendation 1, first page, first sentence, and I quote: "DCED has concluded that the proposal by the City of Homer's annexation of 25.64 square miles meets most of the annexation standards established in state law." Clearly, here is the difference. The law states that all the standards must be met, and yet the state official's report says "most have been met." Clearly, the glove doesn't fit. To quote Mr. Waring again on Thursday's comments: "Lessons Learned: There is no gain for a petition that is not well-grounded." And I agree. I want to thank you for the opportunity to comment. Good day.

21.58

BOB SHAVELSON testified via teleconference. He informed the committees that he is a resident of Homer who has been silent on this issue because he is already paying for the services in Homer. He related his belief that the people who are directly impacted come out the loudest, which he believes has been the case over the past few years. Mr. Shavelson said he believes that annexation is in the best interest of the residents of the lower peninsula and the residents of the state in general. Although Mr. Shavelson acknowledged that the process could've had better outreach at the beginning, he said there has been considerable debate on this issue. Furthermore, those in government must realize that municipalities must have the revenues necessary to provide the services for residents and nonresidents alike. "In truth, there's really not going to have a scenario where someone's going to vote to raise their own taxes, not in this day and age," he said. He expressed the need to look at the best interest of the local government and the

state government. Therefore, Mr. Shavelson urged the committees to support the annexation, and to not tamper with the constitution.

20.01

SCOTT CARDOZA testified via teleconference. He announced that he lives outside the city limits. Mr. Cardoza stated that he isn't opposed to growth so long as it includes common sense, integrity, and reason. Mr. Cardoza said that he is against the proposed annexation because he doesn't believe that it includes common sense, integrity, and reason. He related his belief that the city doesn't have his best interest in mind. If the annexation occurs, he predicted he would be treated "under the table" just as the annexation process has.

19.20

DAN BOONE testified via teleconference. He informed the committees that [he lives outside the city limits]. Mr. Boone provided the following testimony:

I'm opposed to the annexation. There are houses within the City of Homer that do not have sewer and water, and there are streets that are poorly maintained. It seems to me that before Homer takes on any additional responsibility, such as sewer, water, and streets, within the city should be well maintained and available to all residents. If services offered by the city were upgrades from what I presently have, I'd be happy to be in the city. But I do not believe this is true. I believe taxes will increase and we will actually see a decrease in services. Therefore, as stated before, I'm opposed to the annexation. Thank you.

KENTON BLOOM testified via teleconference. He informed the committees that he is a licensed surveyor and planner who has done planning documents for both the Kenai Peninsula Borough and the City of Homer. Mr. Bloom identified the best part of the debate over the annexation as the dedicated interest in resolving what's the best for this community. As a surveyor, Mr. Bloom expressed his personal frustration with the lack of planning. He pointed out that the borough doesn't have a building permit system so that folks know something is going to happen. He related that the city is more apt to do planning than the borough. With regard to the recreational issue, Mr.

Bloom pointed out that the City of Homer has, for over ten years, financially supported the Kachemak Nordic Ski Club in terms of funding for grooming. Again, the city has stepped up when the borough has basically been an obstruction. Mr. Bloom expressed the hope that this annexation would help [unify] the community. In response to Chair Torgerson, Mr. Bloom specified that he supported the proposed annexation.

15.02

DORIS CABANA testified via teleconference. She informed the committees that even with the amended boundaries two parcels of her land along with 900 other people's [land] will be taken. She pointed out that many people are still wondering whether they are included in the proposed annexation. "One thing about it, if I'm taken in, I will have a vote and a voice in the future," she said. Ms. Cabana related her belief that many people wouldn't be opposed to the annexation had the process been different. She indicated that many build outside the city limits in order to have the freedom for which they came to Alaska. Ms. Cabana turned to the tax issue and said, "I'm not against the taxes so much as the people that's running the city." The taxes are especially burdensome for the elderly. "I think if they would work with us, we wouldn't all be opposed to this," she stated. Furthermore, she didn't trust [those in city government] to look out for "our" welfare. Therefore, Ms. Cabana said she opposed the annexation.

11.35

BILL SMITH testified via teleconference. Mr. Smith informed the committees that he is a Kenai Borough Peninsula resident and a City of Homer resident. Furthermore, Mr. Smith is an ex officio member of the Kachemak Bay Advisory Planning Commission and a member of the Homer City Advisory Planning Commission. Mr. Smith provided the following testimony:

The borough, of which I'm a member, is my government. But, it is, emphatically, not local government. It's real clear to me that I can get a lot of stuff done in local government that's difficult or impossible at the borough level. So, that's why I like to work at the local level.

Since the beginning of the annexation process, I have been critical of the boundaries that were originally proposed. I put a lot of effort into analyzing and

proposing alternative scenarios. These were presented to the Homer City Council and the Local Boundary Commission. There are those that have been concerned about the process. I have also been concerned about the process. I do not see a balanced approach by [Representative] Drew [Scalzi] and [Senator] John [Torgerson]. They have unfairly used emotionally prejudiced terms to describe the city's actions while ignoring the actions of others. The city does not act in a vacuum. When the city was preparing this annexation petition, they consulted closely with the DCED to ensure that all requirements were met. Hindsight, being a wonderful thing, we can see that the city should've been advised to do some public outreach prior to filling the petition. However, that advice was not given and the driving force became the timelines of the LBC. When I listen to the problems people had with the petition, I thought it was a point well taken that we needed more community discussion. To that end, I proposed the city council hold discussions with the community on annexation issues and on the boundaries. The council did convene a series of forums and the CCAA promptly called a boycott. In an attempt to hear some of the concerns of the CCAA, I attended some of their meetings. The stated intent of the CCAA leadership was to oppose any annexation whatsoever in order to keep the group together. They vowed to fight annexation of every neighborhood, subdivision, and lot regardless of merit. The CCAA has evolved the mantra: "We will talk with the city, but only when our conditions are met."

About 18 months ago I wrote a letter to the editor stating the city should go forward with the petition. The CCAA began an effort to create a fire service area to blunt annexation. This has been discussed by the LBC. Creating a service area to avoid annexation is illegal. To provide confirmation of intent, I direct you to the web page maintained by Abigail Fuller. And I would like to quote from her web page: "The CCAA has put wheels in motion to form a borough fire/EMS service area in an effort to remove one of Homer's best arguments for annexation. Success will also make it more difficult for Homer to annex any areas in the future." Thank you very much.

8.06

JONATHAN FAULKNER testified via teleconference. Mr. Faulkner informed the committees that he is a resident of Homer and owns and operates the Lands End Resort. Mr. Faulkner noted that he is one of the aforementioned homeowners without services. He related his belief that Lands End Resort is the largest private sector taxable entity within the city. The resort collects about \$2,000 a year in borough sales tax, pays water and sewer rates that are approximately three times that of the rest of the city. Even with these contributions to the city, Lands End Resort recently had to pay the city to pave [the city's] land at the entrance to the resort's parking lot. Mr. Faulkner said that he is the first to admit that the city isn't fully cooperative on many issues.

MR. FAULKNER noted his support of the proposed annexation. Homer is growing rapidly and the community needs to remain as one, he said. Mr. Faulkner opined that the city council and government have always been swayed by those outside the city limits. Therefore, many issues that impact Mr. Faulkner's business are greatly impacted by those outside the city limits, which Mr. Faulkner said was fine. Mr. Faulkner stressed that the amenities, such as libraries, hockey rinks, soccer fields, museums, and roads, are disproportionately paid for by taxable entities within the city. "To grow as one community, not as those in or out, ... we need to support annexation," he said.

4.58

LEROY KRUMM testified via teleconference. He noted that he isn't subject to the current proposed annexation. However, Mr. Krumm said that he remains opposed to the annexation primarily because of the process. Mr. Krumm recalled that not too long ago Homer had a beach problem that led to a gathering of various user groups who met and arrived at a consensus [in a] cooperative [fashion]. This annexation, on the other hand, has been confrontational. Mr. Krumm characterized the relationship between those residing in the city limits and those outside as symbiotic. Without the financial support, volunteer support, et cetera, of those outside the city limits, the city wouldn't be nearly as well off today. Furthermore, those outside of the city limits wouldn't have their lifestyle without the close proximity of the city. Mr. Krumm specified that his point is that the public was shunned in this process. The process began with a secret memo from the city manager, which has led to court proceedings to obtain information that should be available

to the public. With regard to the hearings touted as being about annexation, those hearings were really about how to implement annexation once approved. Mr. Krumm turned to a recent memo to the borough [from the assembly]. In the memo the assembly specified, "the assembly having a position on this annexation was going to war with the city." Mr. Krumm didn't see it that way. [The memo] also specified that the council's vote to oppose annexation was 5:4. In conclusion, Mr. Krumm stated his opposition to the annexation, and belief that the lack of a legislative veto would reward bad behavior.

1.18

MARILYN HENDREN testified via teleconference. Ms. Hendren said that she was pulled into the annexation by the secret memo. She echoed earlier testimony regarding the frustration with the process. Ms. Hendren noted her opposition to the proposed annexation.

TAPE 02-4, SIDE A

JOANNE GREGORY testified via teleconference. Ms. Gregory informed the committees that although her property isn't included in the current proposed annexation, her property was included in the original proposal. Ms. Gregory provided a quote that referred to Nazi Germany. She quoted the following: "When they came for the Jews, I didn't protest because I wasn't a Jew. When they came for the Catholics, I didn't protest because I wasn't a Catholic. When they came for me there was no one left to protest." Ms. Gregory said she didn't want to be left without anyone to protest when her property is annexed. With regard to the services provided by the city, she said that the borough maintains the roads in [her neighborhood] while the city seems to have trouble maintaining roads that receive less snow than in [her neighborhood]. Ms. Gregory objected to the economic grounds that are used to support the annexation. To that claim, she questioned where the 3.5 percent sales tax she pays on groceries and other purchases goes. Ms. Gregory said that she would be willing to pay user fees for the library, museum, and any other city maintained facility. A user fee would afford people the ability to choose not to use a facility rather than have one's house taken because of the inability to pay the land taxes. Ms. Gregory noted her contributions to city library. With regard to the references to city water, Ms. Gregory related her understanding that the city was given control of the water to manage it for area residents, not just

for those in the city limits. She then turned to the fire service area, and charged that "the city played dirty pool."

3.37

LAURA BARTON testified via teleconference. She, too, specified that her property isn't included in the current proposed annexation, but was included in the original proposal. With regard to allegations that a fire service area was turned down in the past, Ms. Barton mentioned that in a city report the city noted that a fire service area would decrease the chances of a future annexation. She said that there was never a vote on this fire service area. Ms. Barton echoed earlier testimony with regard to "most of the requirements" being met for annexation, although the law requires that all standards must be met. In closing, Ms. Barton expressed her dislike of a government that [places matters] before the people at the last minute.

6.02

CHRIS NEWBY testified via teleconference. He noted that he is a resident of Homer who strongly supports the proposed annexation. He identified the issue as one of fairness. Everyone pays sales tax and property tax in the area. For years, the city has provided areawide services, and therefore the city provides the basic infrastructure. This is important to the growth of the community. Mr. Newby expressed the need to come together in order to provide the most cost effective way to provide services to more of the community. Perhaps, more importantly, the proposed annexation provides a mechanism to broaden the representation of the community because more people would be able to vote. Over the years, those outside the city limits haven't had a voice and thus this [annexation] would provide a way in which to get more people involved and develop a more positive community.

8.10

DOUG VAN PATTEN testified via teleconference. He informed the committees that he lives in the proposed annexation area. He also informed the committee that for the past 11 years he has been a member of the Homer Volunteer Fire Department. Mr. Van Patten announced his opposition to the proposed annexation for the following reasons:

Number One: There was no meaningful opportunity for public participation in the process. That constitutes poor government.

Number Two: The city did not demonstrate, through the standards established in state law for annexation, that they would be the best governing body. Raven Ridge Homeowners Association filed a responsive brief. The city's reply brief only answered three of the six standards we addressed. The city reply trivialized our concerns and was contradictory to their own petition. I'd like to refer to Exhibit 1 in the petitioner's brief. Section 1, I quote, "The borough provides road maintenance on borough roads. This maintenance is minimal and inadequate." I'd like to quote Raven Ridge responsive brief. Paragraph 3: "The petitioner states that the borough provides road maintenance on borough roads. This maintenance is minimal and inadequate." While this is a petitioner's perspective, Raven Ridge has found that borough road maintenance in our subdivision to be adequate or better. Roads adjacent to our subdivision, which are within the city, become impassable during breakup, and after heavy snowfalls receive delayed clearing. I want to refer to the city reply brief to Raven Ridge. Roman numeral 3, N III ... "The city's public works department has never referred to borough road maintenance as minimal and inadequate." But, of course, somebody from the city made that assertion in the petitioner's brief. If this is indicative of the city's inability to verify their claims, then other assertions have to be suspect also.

Health and waste water was another one of our concerns. From the petitioner's brief, Section 12, paragraph 6, I quote, "The failure of septic systems is so great that swimming in Beluga Lake is a health hazard because of the high fecal count in the water. A fresh water lake located within the city limits should be a jewel for recreation and fishing not an open sore." From our response brief, Section 12, I quote, "Most of Beluga Lake's water shed is within the city. If failed septic systems or outhouses are responsible for an open sewer, then it is because the city has been unable to provide sewer service to its current residents." The petitioner is correct about soil limitations for septic systems on the lower

bench, but problem soils are not addressed in this annexation.

In summary, I think it's very presumptuous that a few people in the city hall could fashion a better city than could be developed from the input of all its residents. The fate of the community should not be dictated by city hall without full citizen participation. I'd like you to please veto this annexation. Thank you.

11.15

LOREN KAUFFMAN testified via teleconference. Mr. Kauffman informed the committees that he lives within the area to be annexed. Mr. Kauffman announced his opposition to the proposed annexation because those impacted don't have a voice in the process, that is those [in the area to be annexed] don't have a vote. This is contrary to principles on which America was founded. Mr. Kauffman acknowledged the services [those outside the city limits] receive from Homer and thus he announced his willingness to pay an assessment for fire services and other services which [those outside the city limits] receive from the city.

12.03

RAY KRANICH testified via teleconference. Mr. Kranich specified that although he is a member of the Homer City Council, he is speaking on his own behalf today. Mr. Kranich urged the committees to review the LBC's statement of decision and the seven-page transcript of their deliberations, which he felt would reveal that the LBC has been thorough. Mr. Kranich also urged the committees to send a statewide message for stable local government in an environment conducive to orderly growth. Everyone is watching closely to see what message the legislature sends with regard to the Homer annexation. Mr. Kranich urged the committees to support the LBC's decision. In regard to the charges that this annexation is a heck of way to treat one's neighbors, Mr. Kranich said, "Well, it is a heck of a way for our neighbors to treat us in the fact that they want to continue to utilize city facilities and infrastructure without paying the same share [as] those residing inside the city." He concluded by urging the committees to approve the proposed annexation.

14.00

GARY MAYFORTH testified via teleconference. Mr. Mayforth said that he resides in the proposed annexation area. Mr. Mayforth turned to the fire and ambulance service, and pointed out that the area served will continue to be larger than any annexed area. Under the system of the service area contracting with the City of Homer to provide service, an adversarial contractual relationship has been established. Such a situation will continue to divide the community. Mr. Mayforth pointed out that the volunteers for the fire and [emergency] services are pulled from inside and outside of Homer, which must continue in order to maintain volunteer service. "Emergency services deals with life safety and property conservation. It should not be used as a negotiating chip," he stressed. He noted that Councilman Yourkowskii has been quoted by the local [Homer] newspaper as threatening to cut services if funding isn't supplied. Mr. Mayforth said that currently the appropriate governmental body can provide service under a "one voice order" with the service area. In summary, Mr. Mayforth offered the following quotation: "You need to do the right thing the right way."

17.20

STEVE ZIMMERMAN testified via teleconference. He informed the committees that he intentionally lives just outside the City of Homer because he dislikes how the city does business. Mr. Zimmerman noted that as he drove out of his freshly plowed borough-maintained road, he passed unplowed city-maintained roads. He predicted that his [road] would be [unplowed] if the annexation is approved. Mr. Zimmerman related his belief that [those outside the city limits] pay their way mostly through the sales tax, as well as through fuel taxes and various other taxes. Furthermore, the harbor puts money into the city's coffers. Mr. Zimmerman also pointed out that people pay to have water hauled outside the city. "They don't give anything away in this city," he said. As far as Mr. Zimmerman could tell, the service areas are working. The service areas are working far better than the city services will ever work, he charged. Moreover, the city asked for more money than it proved that it spent, before the service area was even used. Therefore, the city is just looking for more money, he charged. Mr. Zimmerman opined that he has had better response from the borough than the city. In conclusion, he specified his opposition to the proposed annexation.

19.13

LARENE ROGERS testified via teleconference. She noted that she has lived in Homer all her life. Ms. Rogers provided the following testimony:

Please oppose the annexation proposed by the City of Homer. My husband, Lawrence, and myself are very much opposed to the City of Homer's annexation of the 4.58 square miles. We have lived on our original homestead for 50 years, and have enjoyed a rural lifestyle without the City of Homer's restrictions. We don't intend to develop or subdivide this property. The proposed annexation boundaries include large unpopulated areas such as our homestead on Bay Crest hill. We are happy with the Kenai Peninsula Borough's form of government and do not want to live in the City of Homer with its restrictions. We can only see more taxation with no benefits such as city water and sewer I know of several City of Homer residents who would like to have this water and sewer, but cannot get these services. The City of Homer should first provide these services to their current residents before trying to annex more miles. Also, we do not like the way the annexation process was proposed. Please veto the City of Homer's annexation proposal. Thank you for the opportunity to speak.

20.56

POPPY BENSON testified via teleconference. She informed the committees that she resides within the City of Homer. She stressed that she didn't want to derail this annexation process. When considering derailing the annexation process, [the legislature] will need to consider whether the decision is bad and whether everyone should have to go through this process again. She pointed out that even [if the annexation is stopped] the problem isn't solved because there is a city with boundaries that were established 40 years ago. Although Ms. Benson acknowledged that this annexation process didn't start out well, she questioned whether that is reason to [go through the process again]. Ms. Benson noted her interest in annexation from the time she first came to town and the shock she had that [those outside the city limits] have no vote in regard to the future of the City of Homer. Ms. Benson said:

We've got a situation here in Homer, with these boundaries that haven't been addressed in 40 years, where less than half of the people, only about a third

of our community members, ... are vested in Homer - meaning they've got their own money on the table and they have the power to determine the future of Homer, the power to elect leadership, to supply leadership, and to vote on all matters concerning the future direction of Homer. We can't run one little town here at the end of the road with only a third of the people having any responsibility and any power. It's ludicrous.

MS. BENSON announced that she would've supported the original annexation proposal. She stressed her belief that at least half of Homerites should be vested in Homer. She characterized the current annexation proposal as very modest. The neighborhoods in the current annexation proposal are heavily subdivided and developed, similar to the neighborhoods within the city limits. "Let's be one town," she said. She questioned whether there would be a better or different decision if the annexation is [vetoed]. Having listened to two years of testimony and letters to the editor, Ms. Benson has surmised that if people can have their town without any responsibility, that's what they'll choose.

24.21

DEAN BAUGH testified via teleconference. He informed the committees that he lives on a borough-maintained road, which he and his neighbors plowed this morning. Mr. Baugh specified that he lives within the area to be annexed. He also specified that he supports annexation because he feels the city will do a good job providing services. Furthermore, annexation will allow him to have a vote in the community where he lives, his children attend school, and where he purchases services. Mr. Baugh informed the committees that he has a low Insurance Services Office (ISO) rating for fire insurance because of the availability of fire protection provided by the City of Homer. Although the Kachemak Emergency Service Fire Area has been created and may eventually be up to par with the service provided by the City of Homer, it took many years for the City of Homer to acquire this low ISO rating. With regard to the allegations of a bad process, Mr. Baugh pointed out that the City of Homer followed the process set out in state law. Therefore, if people don't like the process, they have to request that the legislature change it. The city and the LBC can't be held to a process that isn't written. Mr. Baugh also pointed out that many of the vocal opposition don't live in the proposed annexation area or the City of Homer. It didn't make

sense that those outside of the area to be annexed should have any say with regard to the fate of those in the area to be annexed, he said. More weight should be given to the words of those within the area to be annexed.

27.11

BOB BARNETT testified via teleconference. He noted that he is a resident of Homer who has served one term on the Spenard Public Utility [Committee] and one term on the Homer City Council. Mr. Barnett provided the following testimony:

I think the City of Homer was chartered in 1964, with a population of 800. Over the years, the population of Homer and the adjoining area has increased approximately 1,000 percent. It is overwhelming the city's ability and desire to continue service to those beyond the city limits who, except for the right to vote, have been treated the same as city residents. The net result has been urban sprawl and higher city taxes. It's time to concentrate on the creation of a city with orderly development and guidance. It's time to organize the different factions in the area in an effort to solve area problems. It's time to stop the backbiting, friction, and turmoil. In my opinion, annexation is the only sensible solution and it has been too slow in coming. In closing, let me say that I was around when the state laws and regulations were made. And as I recall, [state laws and regulations] did not entitle people to vote for or against any annexation if they were receiving services from the city that was trying to annex the area. It is also my opinion that until we get everybody in the area qualified to vote in city elections, we will continue to have the problems that we're having today. Thank you.

29.38

PATRICIA BRENNAN testified via teleconference. She noted that she lives within the proposed area to be annexed. Ms. Brennan announced her opposition to the proposed annexation, and requested that the legislature introduce a resolution opposing it. People weren't allowed a vote on this matter, although two service areas will be impacted. Such a situation is in direct conflict with HB 13, which was passed by this legislature last year. She requested that the City of Homer be sent a message to

return to the discussion table with those living in the area in order to work this out. Ms. Brennan pointed out that the City of Homer isn't user-friendly and hasn't been cooperative with regard to information as to any costs that have been involved in this matter and any services that [those in the area to be annexed] will receive upon annexation. She opined that the city is not going to give those who live in the annexation area any city services at all as far as water and sewer. With regard to road service, she said that the city won't be able to provide [better service] than the service already in the annexation area. The city is merely going to take the tax dollars of those in the annexation area and use them for their projects, she charged. Therefore, Ms. Brennan requested that the [legislature require] the city to develop a plan for what will occur in the area to be annexed and then a vote can be taken.

31.19

MILLI MARTIN testified via teleconference. She informed the committees that she lives within the 25 square mile petition area. She mentioned that she is a member of the Kenai Peninsula Borough Assembly which considered a resolution that would've opposed the proposed annexation. That resolution was defeated by a 5:4 vote. One of the assembly member's comments cited Article I of the Alaska State Constitution, and noted that the Kenai Peninsula Borough Assembly does have the power to say that it disagrees with the process. Ms. Martin related her belief that the [legislature] also has that power. She echoed earlier testimony with regard to the badly flawed process and the large amount of community opposition. Ms. Martin said, "You have the obligation to determine what is ultimately in the best interest of the state. If this annexation is approved, will it set a precedent for land grabs that do tear communities apart."

34.01

PAM BRANT testified via teleconference. She informed the committees that she lives outside the city limits. Ms. Brant provided the following testimony:

The original 25 square mile annexation area would've required me to pay increased property taxes with a certainty of no benefits, either now or in the foreseeable future. I concur with opponents of the annexation issue regarding the process involved, and the existing lack of due public participation. I also have concerns regarding the city's ability to

adequately address the current needs within the existing city limits, i.e. infrastructure improvements, and planning, and zoning enforcement. These concerns do not, however, outweigh my sincere belief that the ability to vote and to be one community working together is a far greater benefit. It is always up to the citizenry to hold the elected officials' feet to the fire in order for the community concerns to be heard and action to be taken. One community allows for a greater unified voice. I, therefore, strongly support annexation. And thank you for the opportunity to comment.

35.18

BOB BRANT testified via teleconference. He said that he also [lives outside the city limits]. Mr. Brant said that he supports widespread annexation in the Homer area, and has been promoting such in this current situation. Mr. Brant specified that he wanted to have a voice and standing in Homer because the choices of the city government are critical to everyone in the area. He said that he would like those testifying today to [be able] to contribute to the development of Homer through the city. In 50-150 years, Mr. Brant predicted that this area will be one large municipality. Today, there is the opportunity to begin to grow into the larger body and head in a new, less divisive direction. Although Mr. Brant related his belief that the city could've promoted the annexation better and the process could've been more democratic, he viewed those as separate issues to this proposed annexation. He identified the issue today as whether "we're going to be better served in the long term by all being citizens of the city." Mr. Brant urged the committees to make a decision based on what is best for Homer in the long term rather than the short term.

38.43

PETREA ARNO testified via teleconference. She informed the committee she currently lives outside the city limits. She mentioned that she has greatly contributed to this area during her time inside and outside of the city limits. Ms. Arno announced her strong opposition to the proposed annexation because of the negative foundation of this annexation. She questioned how one could build on a negative foundation and develop something good. Therefore, she suggested correcting the foundation before working on this problem [annexation].

39.53

RAY ARNO testified via teleconference. He informed the committees that he currently lives outside the city limits. He also informed the committees that he is the president of the Alaska Bible Institute, which is in the area to be annexed. The institute has spent tens of thousands of dollars to develop its own water and sewer systems. Although this institute isn't a taxed group, it will be governed by the city. Mr. Arno related his belief that less government is better government. With regard to the notion that expansion is necessary to obtain more involvement, Mr. Arno questioned where one would stop. He said he felt that Homer is already large enough, and beyond the ability to meet the [current] water and sewer [needs]. Mr. Arno encouraged the committees to do what they could to keep the city as it is, and therefore [he requested their opposition] to the proposed annexation.

41.22

CAREY MEYER testified via teleconference. He noted that he lives within the proposed annexation area. Mr. Meyer announced that he is in support of the proposed annexation. He stressed that he wants a vote and wants to be part of the community. Furthermore, he wanted sewer service extended to his property, and he was willing to pay for that.

42.12

PAT MOSS, testifying via teleconference, noted that she lives within the area to be annexed. Ms. Moss related her belief that there isn't an easy way to add new taxes. Furthermore, she was offended by people complaining about taxes when they live in a state with no state income tax and a dividend. Ms. Moss specified that Homer is her community. Because the city was incorporated, there is access to state and federal money, which has resulted in the port and harbor, the hospital, and the police department. "If my community needs my financial support, I'm happy to help," she stated. Ms. Moss concluded, "Let's get on with this. Let's go for annexation."

43.33

TERRY JONES testified via teleconference. Ms. Jones informed the committee that she is a business owner in the proposed annexation area. Ms. Jones said, "This has been the worst thing that has ever happened to Homer in my entire life. Please help

us stop this annexation. " She explained that her family-run automotive repair facility is located 3.5 miles from Homer, which isn't an ideal location because people have to go out of their way to access the business. It is a struggle to keep the business going now. The added cost of taxes, regulation, and cost of service extension will put the store out of business, and possibly into bankruptcy. She informed the committees that she has been in close contact with other businesses in the area that feel the same way; "Homer is trying to annex an unhealthy business district."

MS. JONES turned to a list of issues that she received [from the city]. With regard to the library, Ms. Jones acknowledged that she uses it. However, she pointed out that she has donated books and tapes to the library over the years. Regarding the police, Ms. Jones said that each time she needed the police, the troopers have responded with good service. On the issue of the Homer Volunteer Fire Department, Ms. Jones informed the committees that her son was a volunteer for several years, although he lived outside the city limits. In regard to public works, she highlighted that she pays for her water and sewer. To the reference to the city clerk's office, Ms. Jones stated that she has probably only been in that office four times. As to the animal shelter, she noted that she and her family have adopted many pets over the years. On the issue of planning, Ms. Jones charged that the city has been fairly effective in stopping development of business inside the city limits. With regard to city support of areawide organizations, Ms. Jones questioned why the city is funding nonprofit organizations. She related her belief that such organizations shouldn't be funded by the city tax dollars rather the city should fund roads, sewer, water, police, and the harbor. On the issue of the Homer Chamber [of Commerce], Ms. Jones informed the committees that she would have to pay about \$160 a year to leave a brochure promoting her business in their building.

MS. JONES turned to the comments that those living outside the city limits are foreigners and don't pay their way. To that she disagreed. For instance, she purchases auto parts from two stores located in the city limits. In conclusion, Ms. Jones reiterated her plea to stop the annexation.

TAPE 02-4, SIDE B

CHARLES DAVIS, testifying via teleconference, informed the committees that he lives within the city limits. He mentioned that he had to walk through unplowed city streets to get to the

[Legislative Information Office]. Mr. Davis recalled that Allen Tesche, Member, LBC, testified that there was no knowledge or history that the city had not provided city services nor was there an unfair division of city services. Mr. Davis said that was a lie. After living [within the city limits] for 24 years, Mr. Davis informed the committee that he receives no city services. He then turned to a statement by Mr. Cushing that the city is a generous provider of city services to the greater area. However, Mr. Davis pointed out that providing those services to the greater Homer area was done without proper jurisdiction. In regard to the issue of people being reelected on this issue, Mr. Davis highlighted that 75-80 percent of the people didn't vote for any of the existing council members or the mayor. "The public doesn't need the opportunity to speak, they require the opportunity to be heard," he specified. He indicated that this may have to proceed to court in order to "get this worked out." Mr. Davis expressed the need for due process, even in the face of procedural complications. Mr. Davis said:

Do the proper thing. Stop this unethical and unconstitutional annexation. Send it back to the city to do the minimum requirements of the local government; i.e. hold the necessary public hearings before taking such drastic action without a city policy of annexation, and without the rules for annexing property to the city enacted and in place. A vote of the affected citizens would certainly be a big help. What a novel idea, letting the people vote. This is the proper way to conduct the people's business.

MR. DAVIS said that the LBC has created its own record by ignoring all the evidence opposing the record it created. Albeit a false record, it's the record that has been presented to the legislature. Therefore, the legislature should reject forced annexation. Mr. Davis surmised that there would be "big bucks" if this annexation is approved because the matter will probably continue to court. In conclusion, Mr. Davis likened the City of Homer to Enron.

42.04

EILEEN BECKER began by informing the committees that she lives outside the city. She mentioned that she has been in Juneau most of the week on her own dime. Ms. Becker specified that she isn't opposed to growth as her business depends upon it. However, the growth should be done in the correct manner. Ms.

Becker stressed that she is in opposition to forced annexation, which is the case over the past two years. This annexation process has had many problems, such as lack of communication, public input, planning, and accessible information. Ms. Becker informed the committees that when the annexation process began she offered her media services to the LBC because she has four radio stations and twelve translators. She told them to keep her in tune with what is happening [through] public service announcements and such. In the two years of this process, the LBC never contacted her. Anything that she did over her stations was done on her own.

MS. BECKER said, "We are either a citizens' run government, which I thought we were and I think we are, or we're desperately headed to a police state, and that's my concern." If the annexation is approved, she questioned what would happen next.

39.05

MR. ROBERTS turned to the decisional meeting held by the LBC. He noted that the meeting was held after 13 total hours of meeting. The decisional portion of the meeting lasted an hour and 45 minutes, which allows for about seven to eight minutes for each of the 14 standards. Although the tapes and transcripts would indicate that each standard was deliberated, Mr. Roberts disagreed. Having attended the meeting, he said that the decisions were read as though it was deliberation. If the hearing had any value, he questioned why would there be prepared statements.

MR. ROBERTS addressed the fire service area that was created, which has a 1.75 mills tax. That fire service area was established by a vote of 80:20 percent. "People do vote to tax themselves when it's needed," he said. However, the LBC hearing had 65 people testify, of which 5 supported the proposed annexation and 58 opposed it. Therefore, he questioned where all these current supporters were when the official hearing was held in Homer. Mr. Roberts pointed out that many of the supporters of the annexation specify that the ends justify the means, which is true in an autocratic system. However, in a democracy appearances are everything. Mr. Roberts informed the committees that many of those testifying in support of the proposed annexation are either past city council members or [employees] of the city council.

35.29

MS. FULLER informed the committees that she resides within the original proposed annexation area and owns property within the current proposed annexation area. Ms. Fuller said that she opposes the proposed annexation because what the city has done is wrong. Although the city's actions may have been within the letter of the law, it doesn't make it right. If this annexation [is approved], she predicted that the next annexation will proceed in the same hostile and aggressive manner. Ms. Fuller informed the committees that when this annexation began one of the first things she did was request copies of all of the annexation-related documents. In response to that request, Ms. Fuller said she received copies of the two resolutions the council had approved; there were no supporting documents. The next request Ms. Fuller submitted was a 67-item list all related to material in the city's petition; in order to obtain a response, Ms. Fuller said she had to appeal to the council. The eventual response included many denials, including all requests for information from which the cost estimates in the petition were derived. The CCAA appealed those denials to the city council, who backed the city manager. Therefore, CCAA appealed to the Alaska Supreme Court where a decision is pending. "The result is that not only ... have we not had access to the information provided to the city manager by the department heads, but neither has the DCED, the LBC, or yourselves," she pointed out. Since that time, things have deteriorated. Ms. Fuller concluded:

They planned the annexation in secret, refused to have any public dialogue and withheld supporting documents. The city should not be rewarded for behaving this badly toward its future citizens. Please support a veto. Think about what message you will send to other cities if you let this poorly handled annexation go through.

33.10

JIM REINHART stated that he lives outside the city limits, although not in the current proposed area to be annexed. Mr. Reinhart returned to the original memo, which is referred to as the secret memo. This memo was written by City Manager Drathman in response to a request by the city council to investigate the possibility of annexing areas adjacent to the city. Mr. Reinhart characterized the memo as a full-blown proposal to annex 25.6 square miles, which is an area larger than the size of the existing city. "The memo requested input from the mayor, council, and department heads with the caveat that both the memo

and the responses to it must be kept secret from the public," he explained. Still secret are some of the documents submitted by department heads, and those documents are part of the previously mentioned lawsuit. "The secret memo and the petition to annex which followed are replete with linguistic gerrymandering," Mr. Reinhart charged. For example, the cost of annexation was likened to the cost of an occasional hamburger. However, annexation will transfer tens of millions of dollars from private to public ownership, and will cost the equivalent of a college education for one child in each family in each generation. To the mayor's claim that city residents [using] water were subsidizing those outside the city who used water, Mr. Reinhart pointed out that the water and sewer is an enterprise fund into which everyone pays the same gallon rate and surcharges. Mr. Reinhart informed the committees that he requested, in writing and at a council meeting, to justify the aforementioned accusation but there was no response. Similarly, those outside the city limits were accused of not paying for driving on city streets, library and museum services, police protection, and for not paying property taxes. However, there is no [supporting documentation]. The only area where there was an inequity was with regard to the fire and EMS services, which led to a vote that resulted in overwhelming approval of taxation for those services. Mr. Reinhart specified that the next step in this annexation process is the legislature. He recommended the veto of Homer's annexation petition and the writing of new laws to avoid this kind of annexation.

29.38

LINDA REINHART stated that she, too, lives outside the city limits. She also stated her opposition to the annexation. Ms. Reinhart turned to the lack of planning related to this annexation, and pointed to the significant change in the amount of area to be annexed. She then turned to the 14 standards that the annexation must meet. Although the deficiencies have been shown in at least six of the standards, she highlighted the most egregious lack to be in Standard 8. The LBC agreed that the City of Homer had provided a practical plan for the extension of services into the territory because it felt Homer had "thought about it." Ms. Reinhart predicted that the approval of this annexation will result in dire consequences for Homer and the state. "Not only will Homer turn right around and do this again, but other cities, fearing a budget crunch, will see what worked and do the same thing," she predicted. She asked whether anyone wanted such division in their district.

MS. REINHART said:

Here, at the very last moment, Homer is finally trying to promote its ideas. They've stopped invoking the will of the silent majority, and have started calling their friends to testify in their behalf. The councilmen have made a grand stand offer to stand down if you give them their annexation. But, I want to ask you: What kind of leader is it that builds a fire in the ship and then jumps overboard? We've proven that we're willing to work for the good of the area, even spend tens of thousands of our own dollars for the common good. We've been proactive and formed a fire service area. We have been reactive and fought this hostile annexation. If you deny this petition, we are willing to work together with the city as soon as they are ready. We do not have to be a house divided against itself. Please deny the petition. We do need to be one community so we can begin healing the process and working together again for the best interest of all.

26.41

RICK LADD provided the following remarks:

Even though the city has met all necessary conditions for annexation as certified by the Local Boundary Commission, Homer's annexation bid has stirred more debate and provoked more ill-feeling among Homer residents than any other issue I've experienced while living on the Kenai. The very process in which Homer was required to follow in compiling and submitting our annexation proposal is now in question. When considering this proposal, I urge the legislature to repair the road not the vehicle traveling the road. Our journey was certainly not a Cadillac ride. Perhaps it might be better compared or described as a Yugo adventure. If asked, I will certainly encourage future municipalities, who may be thinking annexation, to better prepare for the ambiguities of the process and to extend the public communication that's beyond the letter of the law. The means to the end must be tempered with frequent and open work sessions to bridge contentious issues, even though some opinions may not be changed or people may not want to participate. Along with other city council members, I

am anxious to fully explore all aspects of transition with community members through open dialogue at our regularly scheduled council meetings, could be at our work sessions prior to, or at any other forum that is mutually agreed upon. The question has been raised regarding the right to vote and truncation of terms. I believe those issues have been addressed. Six of seven city officials have said that they will either stand down or opt for election this October. I will honor this commitment, and yes, all residents within the proposed annexation [area] will have the right to run for an elected office. I have been asked by some if Homer's necessary expenses surpassed revenues, then why not cut services to [the] outlying area. In short, stop services, initiate a two-tiered fee structure. This attitude is not my focus nor is it sound for our community.

24.05

CURT MARQUARDT, Member, Homer City Council, addressed the transition plan should the petition move forward. A transition plan is required by the Alaska Administrative Code (AAC) in matters of annexation. He explained:

This transition plan shall set out a practical proposal to implement the proposed change to the assumption, transfer, or surrender of relevant powers, duties, assets, and liabilities of effected citizens, organized boroughs, and the service areas of the unorganized borough. This transition plan shall be prepared in consultation with officials of the effected entities, allowing the Local Boundary Commission to amend it following a public hearing on the petition and this transition plan, when included in a petition that takes effect has the force and effect of law.

MR. MARQUARDT said:

The City of Homer has clearly demonstrated in our petition that we have given consideration to the services presently available or to be extended to the territory proposed for annexation. Moreover, we have expressed a good faith intention to extend all services provided by the city with the exception of water and sewer utilities within the shortest possible

and practical time following annexation. Given the substantial capital investment involved in water and sewer utility extensions, we plan to undertake these extensions over a long-term period as demand and funding allow. Based on the information that we have provided in our petition and the reply brief, which was analyzed by [DCED] ... the Local Boundary Commission concluded that we have satisfied the intent of Alaska Administrative Code 110.900. The Local Boundary Commission has further expressed its confidence in our abilities to ... deliver services by stating, and I quote, "The City of Homer is clearly one of the more ... substantial and sophisticated governments in Alaska. It's resources and staff capabilities are superior to the majority of its 145 counterparts in the state."

MR. MARQUARDT continued:

While our nine-page transition plan lacks the details regarding the manner in which services are proposed to be extended, the law does not require us to provide a detailed comprehensive plan for the extension of these services. Again, each petitioner need only provide evidence that it has given forethought to what it must do to deliver municipal services to the area proposed for annexation.

To conclude, our mayor has asked me, on his behalf, to state that it is his hope to have the city council, with the help of staff, begin the process of working out these details by holding work sessions prior to our regularly scheduled meetings. With the concurrence of the council, I believe we accomplish the task of implementing this transition plan.

19.24

MIKE YOURKOWSKII, Member, Homer City Council, began by saying that every annexation is controversial and contentious. He pointed out that the framers of the constitution knew that finding common ground amidst the disharmony would be difficult, and therefore the objective third party with expertise and professionalism, the boundary commission, is the result. For that, he noted his thanks to the framers. Although Mr. Yourkowskii said he would like to offer some suggested improvements, he opined that the basic legislative review

process isn't flawed. He related that the city council envisions inclusive methods dealing with the inevitable growth of municipalities. There is no desire to establish a restrictive system of fees in what is obviously one community. Mr. Yourkowskii said, "It is unclear to me how anyone can say that the LBC did not listen to the public when they reduced the annexed territory by 80 percent." Furthermore, the preliminary report cited public input many times. Mr. Yourkowski also said, "It's also unclear to me how it can be said that we, on the council, didn't listen when we held many meetings with opportunities for input, and are willing to stand for reelection." He echoed earlier testimony regard the need for citizens to pay for the services they receive. He informed the committee that road improvements and sewer and water extensions are done via the local improvement district (LID) process, which the city facilities and will do so in the area to be annexed.

MR. YOURKOWSKII turned to the transition plan and quoted page 29 of the annexation petition as follows:

The City of Homer presently uses the following advisory committees: Parks and Recreation, Library Advisory Board, Planning Commissions, Economic Development Commission, Port and Harbor Commission. Membership on these commissions is by mayoral appointment with confirmation by the city council. Mayor and council will make future appointments in the manner that ensures representation for citizens in the annexed area. Participation on all council and commissions will be encouraged for all residents of the city. The city manager and all the department heads will be available for weekly meetings concerning annexation transition problems, until the problems are solved and annexation is complete.

MR. YOURKOWSKII, as a council member, made the commitment that the [council] will at least hold monthly meetings to solve these transitional problems. In conclusion, Mr. Yourkowskii reminded the committees of the legislative attorney's opinion on this matter.

16.10

JOHN FENSKE, Member, Homer City Council, informed the committees that he lives within the City of Homer. Mr. Fenske acknowledged that there are things [within the annexation process] that could be done differently, perhaps should've been done differently,

and may be done differently in the future. However, Mr. Fenske stressed that the council and the city pursued the annexation with the best information that was available and state experts were contacted. He thanked the [committees] for being part of the process. Mr. Fenske noted his support of the proposed annexation because it is necessary in order to meet the needs of the community.

13.25

VI JERREL, Ph.D., Alaskans Opposed to Annexation, informed the committee that she lives outside the City of Homer, within the original annexation proposal. Dr. Jerrel, Ph.D., said that she would submit some of the findings of Robert C. Erwin, Erwin and Erwin, regarding the proposed annexation. Mr. Erwin, a former Alaska Supreme Court Justice, is representing Alaskans Opposed to Annexation, Dr. Jerrel, Ph.D., and Ms. Cabana. Dr. Jerrel, Ph.D., requested that the committees introduce a resolution requesting the veto of the Homer annexation petition. She quoted the following portions from Mr. Erwin's June 5, 2000, opposition letter: "In this case, the property owners in the area to be annexed have never been given the notice of the claims of the City of Homer or a reasonable opportunity to be with regard to the City of Homer's Petition for Annexation." In this letter Mr. Erwin cites the United States Supreme court case Fuentes v. Shevin regarding the constitutional right to be heard, and the Joint Anti-Fascist Refugee Committee v. McGrath regarding the requirement of notice and opportunity to be heard; all of which, he charges, have been denied in this proposed annexation. Dr. Jerrel, Ph.D., turned to Mr. Erwin's December 21, 2001, legal opinion to the LBC, which told the LBC that it has to follow the law. The law, AS 29.35.450(c), requires a vote of the people to be annexed before there is an attempt to alter a service area.

9.37

KEN CASTNER told the committees that he lives within the City of Homer and is in support of the annexation. Mr. Castner informed the committees that the entire assessed value of everything in the City of Homer amounts to about \$404 million of which \$144 million is for such things as schools and hospitals. There is \$20 million of exempt senior housing, and about \$20 million of churches and nonprofits. Therefore, \$182 million, 45 percent, of Homer's tax value is off the tax rolls and thus the tax base needs to be expanded. He said that the exemptions only increase each year.

MR. CASTNER said that within nation building, three things have proven most troublesome, which are the following: annexation, partition, and apportionment. These are troublesome because they aren't win-win situations, and there isn't an easy way to reach middle ground. Mr. Castner informed the committees that over 20 years ago he sued the City of Homer over a voter's right matter with regard to the City of Homer's three-year residency requirement. However, the Alaska Supreme Court explained the difference between the rights and interests of the state as a whole and an individual's limited right as a voter. Mr. Castner related his belief that this is the issue with the proposed annexation.

6.11

ANITA CRITCHETT, testifying via teleconference, announced her opposition to the proposed annexation. She expressed her desire to have voted on the proposal because it impacts her parents' over 75 acre homestead. She discussed the tree planting taking place on the property in order to restore it to pre-Spruce Bark Beetle infestation. Ms. Critchett discussed the ability of future generations to enjoy this land with ATVs, which may be prevented if the land is annexed. Furthermore, Ms. Critchett said that if the city services are brought by this large parcel of land, [she] would be forced to sell some land in order to pay for the large services estimate. In conclusion, Ms. Critchett urged the committees to vote against the proposed annexation.

4.12

MADRENE HOYT testified via teleconference. She informed the committees that she lives within the original area to be annexed. Ms. Hoyt requested that the committees veto this poorly executed annexation. She specified that the petition was unacceptable to begin with, and the LBC, which seemed to have already made the decision, seemed to merely be going through the motions. "I was sorry and appalled to see the commission virtually yawn in our faces," she said. She urged the committees to listen to the people.

3.05

GEO BEACH testified via teleconference. Mr. Beach provided the following testimony:

Lately there's been a lot of high and mighty talk from a small group of special interest politicians from Homer about Alaska's constitution. Nearly 50 years ago when the Alaska Constitutional Convention convened - and oh yes, the people were able to vote for their delegates to that convention - it was a different century and a different world. Alaska was a still a territory and Homer was not yet a city. It was before the residents of the area had voted for themselves to make it a city. The 1950s were a different time and a different world, and the warm glow some people want you to feel when they invoke the constitution was more like hell fire for many people. When Alaska's constitution was written in the 1950s there were words that some people thought were fine to say Look, a constitution is a piece of paper that describes how things are put together, how their constituted to begin with; it's not magic and nothing about it makes right injustices which are clearly wrong, morally, ethically, spiritually wrong. And how a thing is put together to begin with doesn't [make it] immutable; a child should grow up to be an adult.

You can add to that word, another one: nuts. That's what Homer's small group of special interest politicians would have you think about folks who live outside the city. Well, they're not nuts, they're neighbors. And they're good neighbors. Homer's city manager calls them foreigners. They're not foreigners, they're Alaskans and Americans. Think about how they should be treated. It's a new day and a new world in the Twenty-First Century in Alaska. We think differently about Japanese Americans and African Americans and Native Americans; they're allowed to vote. For that, I'm thankful to legislators, real statesman, who changed the old ways because they were wrong. The various constitutions, executive branches, and judicial branches cowardly ... [tape changes in midspeech]

TAPE 02-5, SIDE A

MR. BEACH concluded:

Vote down this annexation.

SUSAN PHILLIPS CUSHING testified via teleconference in support of the proposed annexation. Ms. Cushing informed the committee that she moved within the city limits of Homer in order to live within the economic infrastructure that it offered. In regard to complaints about how the process was handled, Ms. Cushing said that [the complaints] wouldn't be any different if the process was done in a "warm, fuzzy" way. She said that many people do support annexation, but don't want to come forward due to the intimidation tactics by those vocal opponents to the process. She asked, "Do you call death threats and comparison to Hitler marching the Jews into gas chambers a civil response to government?" She related her belief that the city council has shown incredible courage and patience with this process. She further related her belief that many of those opposed to annexation would be opposed to any process or anything that represents the system. Ms Cushing said:

Homer is suffering from growing pains, this is one of the pains, because change causes pain. The father's of our constitution wrote a sound document that has held up through hundreds of annexations in other Alaskan communities. You, as a legislature, cannot diminish Homer's municipal funds and then nullify this attempt to provide by its own constitutional measures. I earnestly advise you to stay with the constitution, and let's move forward.

3.15

JOHN FOWLER testified via teleconference. He informed the committees that he owns areas within the original annexation proposal. He explained that he met with the city manager and mayor in order to clarify his issues with annexation. After the annexation proposal was changed to its current configuration, Mr. Fowler said that he requested that his property be included in the final area to be annexed. Mr. Fowler noted his support of annexation. Although annexation is a complex issue, it's necessary. Mr. Fowler said that the mayor and the members of the council are good people who are doing a tough job. He turned to the matter of Homer's lack of a true recreation area because most of the recreation is done on private property. He explained that through his property and other property work is being done on an open space and trail network that wraps around Homer. He related his belief that there is incredible opportunity to move forward with a vision for Homer. In order for a city to grow toward the vision of interconnectedness, open spaces, and trails, those lands have to be within the city.

Otherwise, the borough would control development. In conclusion, Mr. Fowler expressed his hope that the committees would support the proposed annexation.

SENATOR TORGERSON reiterated that the record would be open until 12:00 p.m. on Monday. He echoed earlier testimony regarding how well everyone, on both sides of the issue, has handled themselves.

ADJOURNMENT

There being no further business before the committees, the joint meeting of the House and Senate Community and Regional Affairs Standing Committees was adjourned at 12:25 p.m.