

HB 516

COMMITTEE REPORT

HOUSE

Mr. Speaker:

Date _____

The Committee on _____ has had _____

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

Chairman

HOUSE RESOURCES COMMITTEE WORK SHEET

BILL NO.	DATE	PAGE	TITLE	SPONSOR	FURTHER REFERRALS
HB 516	1-31-74	1	An act relating to the development of the city of Lost River	Ferguson	Judiciary

This Bill If Enacted Would: _____

When Bill Considered by RA Committee: 2-6-74 3-1-74

Action Taken by Committee: _____

Amendments: Amended to Provide That: _____

Witnesses Testifying Before Committee: (summary of testimony) _____

Byron Mallet - Commissioner of Community & Regional Affairs

Pete Walsh (3-1-74)

Mrs. Chuck Regan - ^{ac. with so pass} ~~ac. with so pass~~ ^{with so pass}

6 do pass 3 papers Pass with do pass

Parker Rombalch

Signon started

Elison Fisher

Wray

Wilson

Gardner

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B-JUNE/J 99801

February 12, 1974

The Honorable Joe McGill
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

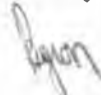
Dear Representative McGill:

In testimony before your Committee on Resources on House Bill 516 regarding the dissolution of the Development City of Lost River, I cited the phase out or impoundment of funds of principal federal community development programs as a critical factor in the City Council's inability to secure necessary funding.

Enclosed is an editorial from the latest issue of Nation's Cities, the publication of the National League of Cities which supports my contention. I commend it to the attention of the Committee.

I appreciate the courtesy of the Committee in asking me to testify. Should it be desired, I am available to discuss this matter at your convenience.

Sincerely,



Byron I. Mallott
Commissioner

BIM:mw

Enclosure

cc: City of Lost River Council

Community Development: Top Priority in '74

THE CITIES SHARE a growing national sense of frustration with the deceleration of the Administration's domestic program and the inability of the Congress to provide adequate alternatives. On the one hand, the Administration has engaged in the suspension and phase out of old categorical programs which helped cities and our citizens while, on the other, it has been unable to produce alternative solutions on Capitol Hill. Virtually all of its legislative initiatives are stagnant. This has left cities squarely in the vice of reduced federal outlays for domestic programs with no clear prospect of new tools to help us do our job.

This has produced a sense of frustration in city officials who, as the first line of responsible government, must act and must respond to local demands, however imperfectly. We have been told that our current program efforts will not be diminished in the "New Federalism" and that we will not lose our capacity to mount local efforts. And yet, each day of Congressional delay or Administration inaction, or both, brings us ever closer to the time when local momentum and problem-solving capacities disappear.

Phase out, close out, and shut out of established programs just does not make sense without replacement programs enacted and operational. For this reason, at the close of the 49th year of the National League of Cities, we have established the enactment of a new Community Development Bloc Grant Program as our number one priority; we shall, therefore, press ahead with all the vigor at our command to achieve this goal. We shall support legislation which decentralizes community development planning and decisionmaking into broad, flexible bloc grants but retains reasonable national standards and equitable protection of our vital interests. We expect to advocate a bill, acceptable to us, which can earn Congressional support and Presidential approval.

The energy crisis facing this nation must be of the highest priority for our federal government. We recognize that there are no simple solutions to this mounting problem. Indeed, we believe that we face a long-term energy shortage and only a tough, determined national program can deal with it. The cities of this nation sup-

port a comprehensive program in which we expect full partner status. We urge that sacrifices be shared as equitably as possible but insist that vital public health and safety services receive the priority consideration they require.

Institutionally, city governments have not been charged with responsibility for administering human service programs of manpower, health, education, and welfare programs. The failure, or minimal efficiency, of the other institutions in this field and the consequent impact on cities and our society compel us to take an ever-increasing, active role in the delivery-of-services area. We recognize this fact and we advocate an increasingly aggressive posture for city governments in the human services field. We are seeking prime sponsorship roles, more adequate governmental participation in program design and delivery and, indeed, better programs in and of themselves.

THIS CONGRESS OF CITIES has re-emphasized our forthright commitment to a clean environment. Our responsibilities to clean air and water will be executed, but we expect the application of the rule of reason in the administration of environmental programs. We refuse to be stampeded by an overzealous administrative agency and superactive pressure groups. We further urge and have a right to expect that achievement of national goals and objectives will receive national funding and the far-from-adequate city tax base cannot carry this burden.

This Congress of Cities gave close attention to our growing transportation needs. We reaffirm our support for a balanced national transportation program but place ever greater emphasis on mass transportation requirements. The energy crisis aside, we must improve our mass transit capacity and obtain capital and operational assistance in order to foster orderly growth and development and environmental quality. ■

Adopted as a "Sense of the Congress Statement" by the officers and Board of Directors of the National League of Cities at the close of the annual Congress of Cities Dec. 6, 1973 in San Juan, P.R.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH 8-JUNEAU 99801

WILLIAM A. EGAN, GOVERNOR

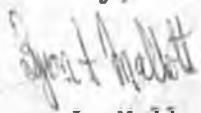
February 19, 1974

The Honorable Joe McGill
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Representative McGill:

Enclosed is a memorandum from the Department of Law addressing the several questions which were raised during the Resources Committee hearing on House Bill 516, an act to dissolve the City of Lost River.

Sincerely,


Byron I. Mallott
Commissioner

BIM:mw

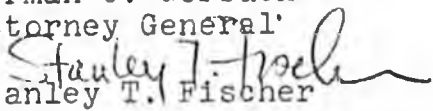
Enclosure

MEMORANDUM

TO: The Honorable Byron I. Mallott
Commissioner
Department of Community and
Regional Affairs

DATE: February 13, 1974

FILE NO:

FROM: Norman C. Gorsuch
Attorney General
By: 
Stanley T. Fischer
Assistant Attorney General

SUBJECT: Dissolution of the
Development City of
Lost River

On behalf of the Alaska House of Representative's Resources Committee, you have asked for our views on two questions pertaining to the dissolution of the development city of Lost River. The questions are:

(1) May the development city of Lost River be dissolved by the Local Boundary Commission under current statutory provisions relating to development cities?

(2) Does the development city of Lost River meet the requisite standards for dissolution under current statutory provisions relating to development cities?

The development city of Lost River was incorporated on June 8, 1972, by an act of the legislature. See ch. 110 SLA 1972. Dissolution of a development city may be accomplished by the Local Boundary Commission under AS 29.18.290(d), which provides as follows:

The Local Boundary Commission may dissolve a development city established under sec. 20 ^{1/} [sic] of this chapter if subsequent to its incorporation

(1) the major economic development projected does not occur within a period of five years; and

(2) if the development project had been reviewed as a new project the Local Boundary Commission determines it would have rejected the petition on the basis that it is improbable the proposed development would have taken place. (Emphasis added.)

^{1/} The proper reference is sec. 240 which permits incorporation of a development city either by petition to the Department of Community and Regional Affairs to be acted on by the Local Boundary Commission or by an act of the legislature. See AS 29.18.240.

The Honorable Byron I. Mallott
Commissioner

February 13, 1974
- 2 -

The language underscored in the provision above answers both of the questions presented. First, since the development city of Lost River was incorporated on June 8, 1972, a five year period of time has not expired from the time the development city was incorporated. Therefore, the Local Boundary Commission could not dissolve the development city of Lost River should it wish to do so at this time. Second, the duty of determining whether the statutory standards for dissolution have been met is entrusted to the Local Boundary Commission and not the Department of Law. Under AS 29.18.290(d), the Local Boundary Commission must determine "if the development project had been reviewed as a new project it would have rejected the petition on the basis that it is improbable that the proposed development would have taken place". Without this determination, the Department of Law is unable to advise you on whether the standards for dissolution have been met.

Since the legislature created the development city of Lost River, it has the power to dissolve that development city by repealing the legislation incorporating the development city should it choose to do so. Generally speaking, one legislature cannot abridge the authority of a succeeding legislature to repeal an existing law. See 50 Am. Jur. Statutes §516 (1944).

STF:md

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B--JUNEAU 99801

February 20, 1974

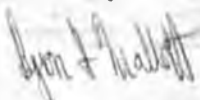
The Honorable Joe McGill
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Representative McGill:

Here is a copy of the opinion of Lost River City Attorney Martin A. Farrell, Jr., regarding the dissolution of the City of Lost River.

I requested Mr. Farrell's opinion after testifying before your Committee on House Bill 516.

Sincerely,


Byron I. Mallott
Commissioner

BIM:mw

Enclosure

1 MEMORANDUM - DISSOLUTION
2 OF THE CITY OF LOST RIVER

3 This memorandum may be used for presentation before
4 the Alaska State Legislature on pending legislation relative
5 to the dissolution of the City of Lost River.

6 Title 29, Municipal Government, Alaska Statutes, governs
7 all actions relative to the dissolution of the City of Lost
8 River. Chapter 18, Article 4 of the same title deals spec-
9 ifically with development cities. However, there are no
10 provisions within Article 4 which govern dissolution of de-
11 velopment cities. Therefore, reference must be made to A.S.
12 29.68.500 - 580: Dissolution, which governs the dissolution
13 of home rule and general law municipalities.

14 The City of Lost River, although a development city
15 not yet classified by the Department of Community & Regional
16 Affairs, should be considered a general law city for pur-
17 poses of dissolution.

18 A.S. 29.68.500: Method of Dissolution, provides the
19 methods by which a municipality may be dissolved. In this
20 instance, the local option method, with some variations, can
21 be used.

22 A.S. 29.68.520: Standards, allows a municipality to
23 petition for dissolution if (a) it is free of debt and (b)
24 if it ceases to use each and every one of its manda- y
25 powers or it no longer meets the minimum standards for in-
26 corporation prescribed by Chapter 18: Incorporation, of Title
27 29.

28 These conditions (a) and (b) are met here; because of
29 the uniqueness surrounding the City of Lost River they have
30 been met in such a way as to obviate the necessity of comply-
31 ing with certain provisions of A.S. 29.68.500 - 580.

32

1 I have reviewed the various agreements entered into by
2 the City; they do not result in any contractual or other obli-
3 gation by the City.

4 The City's several agreements with the mining corpora-
5 tion do not impose an indebtedness upon the City. The Decem-
6 ber 5, 1972 contract was unequivocally non-reimbursable. The
7 May 25, 1973 agreement providing for money advances called for
8 reimbursement by the City to the Corporation out of future rev-
9 enue sources only if the project should continue. The City
10 has not had, nor will it have, any revenue sources. The pro-
11 ject as it was then contemplated has failed. The dissolution
12 of the City will completely end the project as contemplated.
13 The City has no indebtedness.

14 The City fails to meet the requirements of Chapter 18:
15 Incorporation. Even were the City to contemplate staying in
16 existence aside from its failed role as a development city,
17 it could not. It has no permanent residents to incorporate
18 it even as a second class city, much less as a first class
19 city. Since there are no residents the provisions of A.S.
20 29.68.570, which require voting on the petition, do not apply.
21 Similarly, the petition is properly drawn when done so by the
22 City Council rather than by a percentage of municipal resi-
23 dents, pursuant to A.S. 29.68.510.

24 In short, legislation for repeal of the act enabling
25 the City of Lost River is in order. The standards set forth
26 in the Municipal Code, Title 29, for dissolution of munici-
27 palities have been met, in that the City cannot meet the in-
28 corporation requirements, and it has no debt.

29 The assets of the City of Lost River would upon disso-
30 lution pass to the State of Alaska. This is so because there
31

1 is no successor municipal government being provided for, and
2 because there will be no creditors who can make a claim upon
3 the assets. No manner is provided by law to cover the dispo-
4 sition of the assets. It is suggested that the personal prop-
5 erty be liquidated and a draft for the balance of remaining
6 funds after payment of final billings be sent to the Commis-
7 sioner, Department of Revenue, with appropriate covering ex-
8 planations to the Departments of Community & Regional Affairs,
9 Attorney General, and Administration. If the personal prop-
10 erty cannot be liquidated it is suggested that arrangements
11 be made with the State surplus property office to handle the
12 property, remaining funds to be transmitted to the Department
13 of Revenue.

14
15 MARTIN A. FARRELL, JR.
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CITY OF LOST RIVER, ALASKA

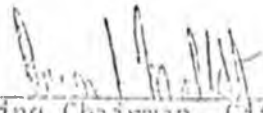
Resolution 74-00

Resolution Recommending Dissolution of the City of Lost River

WHEREAS, it is agreed among the principal parties of interest, namely the City of Lost River, the Lost River Mining Corporation and the Bering Straits Native Corporation that the City of Lost River be dissolved.


THEREFORE, BE IT RESOLVED, that it is the position of the City Council of Lost River that the Development City of Lost River be dissolved.

BE IT FURTHER RESOLVED, that the City request that legislation effecting dissolution be introduced by the State of Alaska and/or area legislators before the Second Session of the Eighth Alaska Legislature.



Acting Chairman, City Council
City of Lost River

ATTEST:



John J. Trautner, Executive Director
City of Lost River, Alaska

MINUTES OF THE MEETING OF THE CITY COUNCIL
OF THE
CITY OF LOST RIVER, ALASKA

January 17, 1974

The meeting was called to order by Councilman Byron I. Mallott on the 17th day of January, 1974, in Juneau, Alaska, at the offices of Byron I. Mallott, Commissioner, Department of Community & Regional Affairs, State of Alaska.

Councilmen attending the meeting were: Byron I. Mallott, Pearse M. Walsh, Martin Olson and Emmitt Wilson. Council Chairman John M. Asplund was unable to attend the meeting due to illness.

Mr. Wilson moved, seconded by Pearse M. Walsh, that Councilman Byron I. Mallott preside over the meeting as Acting Chairman in the absence of Chairman John M. Asplund. Motion passed. Mr. Mallott immediately assumed the duties of Acting Chairman.

Mr. John Trautner, Executive Director of the City of Lost River, was also in attendance at the meeting. Mr. Mallott also noted for the record the presence of Mr. Joe Acker, as a guest, and Mr. Ron Sheardown, Vice President, Lost River Mining Corporation.

Mr. Wilson moved, seconded by Mr. Walsh, that the minutes of the meeting of December 19, 1973 be approved and adopted. Motion passed unanimously.

Acting Chairman Mallott then called upon Mr. Trautner to give his Executive Director's report to the Council.

Mr. Trautner reported that the letter from the Maritime Study Group in Seattle was a request for permission to establish a tide monitoring gage at the dock facility at Lost River. The letter from Maritime has been referred to the Lost River Mining Corporation.

After discussion the letter from Pacific Architects & Engineers, Inc. dated January 11, 1974 was delayed for any action necessary until the final draft of the PAE study was discussed under "Old Business" on the agenda.

Mr. Trautner read a letter to the Council from the Department of Labor concerning the data used by that Department in preparing their input to the State's Review of the Preliminary Feasibility Study of the City of Lost River. Mr. Trautner has also written to the Department of Health & Social Services of the State of Alaska requesting the same information but no reply has been received.

Mr. Trautner brought to the Council's attention his memorandum of January 15, 1974 concerning his recommendations for the closure of the City offices and business. Mr. Mallott noted that the Council should address itself to those items which deal with satisfying financial obligations and the closure of the City offices. Those items outlined in the memorandum that deal with the dissolution of the City of Lost River should be considered separately.

Mr. Trautner was requested to give the Council a rundown on the meeting held in the Attorney General's office earlier in the day. Mr. Trautner stated the Lost River City Council; himself; members of the State Administration, including Norman Gorsuch, Tom Davis, Charles Herbert, Rod Pegues, Bob Dittman, Stan Fisher, and Warren Wiley; Ken Beck; Gary Longley; Ron Sheardown; and Bill Laughlin, had met to discuss the current status of the Development City of Lost River and its future. As a result of that meeting the City of Lost River City Council, Lost River Mining Corporation, and Bering Straits Native Corporation had all agreed that it was best to dissolve the City of Lost River. Subsequently it was agreed at a later meeting that each of the principals involved would write the Governor of Alaska indicating their support for the dissolution of the City of Lost River.

Resolution No. 74-00 entitled "Resolution Recommending Dissolution of the City of Lost River" was read into the record by Mr. Mallott. Mr. Walsh moved that the Resolution as read by Mr. Mallott be approved and asked for unanimous consent. Motion seconded by Mr. Wilson. Motion passed unanimously upon roll-call vote:

Martin Olson	Yes
Emmitt Wilson	Yes
Pearse M. Walsh	Yes
Hyron L. Mallott	Yes

Resolution No. 74-00 was approved and adopted and reads as follows:

"Resolution Recommending Dissolution of the City of Lost River.

WHEREAS, it is agreed among the principal parties of interest, namely the City of Lost River, the Lost River Mining Corporation and Bering Straits Native Corporation that the City of Lost River be dissolved.

THEREFORE, BE IT RESOLVED, that it is the position of the City Council of Lost River that the Development City of Lost River be dissolved.

BE IT FURTHER RESOLVED, that the City request that legislation effecting dissolution be introduced by the State of Alaska and/or area legislators before the Second Session of the Eighth Alaska Legislature."

Mr. Mallott as Acting Chairman directed an appropriate letter be drafted by the Executive Director for approval by the Council for the signature of Chairman.

John M. Asplund prior to the close of the Council meeting, and that a copy of Resolution No. 74-00 be attached thereto. Further, the letter to the Governor shall request that he support legislation to dissolve the City of Lost River.

Mr. Mallott suggested that similar letters be drafted to Senator Willie Hensley, Representative Chuck Degnan and Representative Frank Ferguston, requesting them to support or introduce legislation seeking dissolution of the City of Lost River. Mr. Walsh so moved, asking unanimous consent. Motion passed.

Mr. Trautner continued his report, stating he had met with Mr. Vic Fischer of the University of Alaska in Fairbanks. Mr. Fischer indicated that Professor Pernela is going to take the proposed rail route in Northwestern Alaska as a separate project, along with the Department of Transportation, and coordinate it with the Regional corporations to continue discussions.

Mr. Trautner reported on the effects of the fuel crisis the Nation is now facing as it relates to the City of Lost River. Mr. Trautner's findings were that if the mine develops because it is mining an essential mineral there would be no problem in getting fuel to support the community.

Resolution Nos. 74-01 through 74-06 were placed before the Council.

Regarding Resolution No. 74-01, concerning the modification of authorized signatures on the bank account, Mr. Olson pointed out that Chairman John M. Asplund had offered his services free to the Council in closing out the affairs of the City upon the termination of Mr. Trautner's contract. Therefore, the resolution should be acted upon. Mr. Walsh moved that Byron J. Mallott be placed on the bank account as an authorized signature, along with John M. Asplund, and his name be inserted upon Resolution No. 74-01, and said resolution be approved and adopted. Motion seconded by Mr. Olson, and unanimously passed. A copy of Resolution No. 74-01 is attached hereto and made a part hereof as though fully set out.

Resolution No. 74-02 regarding the closure of the City's physical offices was brought before the Council. Mr. Wilson moved that the date of March 1st, 1974 be inserted on the resolution as the date for the closure of the physical offices of the City of Lost River, and the resolution be approved and adopted. Motion seconded by Mr. Walsh, and unanimously passed. A copy of Resolution No. 74-02 is attached hereto and made a part hereof as though fully set out.

Mr. Walsh moved, seconded by Mr. Wilson, that Resolution No. 74-03, regarding a final audit of the City's financial records, be tabled until the next meeting. Motion passed unanimously.

Resolution No. 74-04, regarding the disposal of the personal property acquired by the City of Lost River, was discussed. Mr. Olson suggested that the personal property be returned to the Lost River Mining Corporation as they had totally funded the City. Mr. Sheardown, of the Lost River Mining Corporation, stated his corporation would accept the property if it was the decision of the Council to give it to them. Mr. Wilson stated he had no objections to giving the personal property to the Lost River Mining Corporation since the City was funding entirely by that Corporation, but felt the legalities of such a move should be looked into prior passing on a resolution to do so. Mr. Wilson then moved, seconded by Mr. Walsh, that Resolution No. 74-04 be tabled. Motion passed unanimously.

Mr. Wilson moved, seconded by Pearse Walsh, that legal counsel research the legalities of the disposition of the personal property, with specific reference as to whether or not it can be given to the Lost River Mining Corporation in light of the fact that the funding was provided by them. Motion passed unanimously.

Mr. Olson moved, seconded by Mr. Wilson, that Resolution No. 74-05 entitled "Resolution for method of disposing of City of Lost River, Alaska excess funds upon the close of the City's business" be tabled until the next meeting. Motion passed unanimously.

Mr. Wilson moved that legal counsel review the question of disposition of excess funds upon the closing of the City's business, with specific regard as to whether excess funds may be returned to the Lost River Mining Corporation and that legal counsel deliver a written opinion at the earliest possible date. Motion seconded by Mr. Walsh and unanimously passed.

Mr. Wilson moved and asked for unanimous consent for the adoption of Resolution No. 74-06. Motion seconded by Mr. Olson and passed unanimously. Resolution No. 74-06 entitled "Resolution requesting establishment of permanent repository for official City files of the Development City of Lost River, Alaska" is attached hereto and made a part hereof as though fully set out.

Mr. Ron Sheardown requested all reports furnished to the Council over one copy be returned to the Lost River Mining Corporation, with a list of agencies or persons to whom they had been given.

Mr. Wilson moved, seconded by Mr. Walsh, that Resolution No. 73-5 regarding the classification of the City of Lost River be tabled indefinitely. Motion passed unanimously.

Mr. Wilson moved, seconded by Mr. Walsh, that the Council adopt the fiscal year beginning July 1 and ending June 30 of the following year, retroactive to the start of business of the City of Lost River. Motion passed unanimously.

The letter from Pacific Architects & Engineers, Inc. dated January 11, 1974, requesting the City Council accept the report as submitted was read to the Council by Mr. Trautner.

After discussion of the draft final Comprehensive Development Plan and Long Range Capital Improvements and Finance Plan submitted by Pacific Architects & Engineers, Inc. and the technical recommendations outlined in a memorandum to the Council by Mr. Trautner dated January 15, 1974, Mr. Wilson moved that the Council accept the report submitted as the final report, subject to the corrections outlined in Mr. Trautner's January 15, 1974 memorandum with the addition of a notation that Item 11 on Page Two of the memorandum be incorporated in the feasibility study as a notation versus a correction. Motion seconded by Mr. Walsh and unanimously passed.

Page Four

Minutes - City Council - 1/17/74

Pacific Architects & Engineers, Inc. will be contacted and a request made that all materials given to them in preparing the feasibility study for the City of Lost River be returned to the Council.

The Environmental Impact Statement contract with Kross & Associates was discussed as to completeness and monies due under the contract. Mr. Trautner reported that Mr. Kross has indicated that he cannot give the Council a completed Environmental Impact Statement but is willing to submit to the Council everything he has accumulated in final form.

Mr. Walsh moved, seconded by Mr. Olson, that the matter of the contract with Kross & Associates on the Environmental Impact Statement be deferred until the next meeting to meet with Mr. Kross. Motion passed unanimously.

Mr. Wilson, after a brief discussion, moved that Jan Palmer, Secretary to the City of Lost River, be notified that because of the possible dissolution of the City on March 1, 1974, her services will no longer be needed and that she be given the highest recommendation possible for future employment, with notice and recommendation to be signed by Chairman Asplund. The motion was amended that the secretary be given the option of remaining after her termination date to work on a part time basis if her services are deemed necessary. Motion seconded by Pearse Walsh and passed unanimously.

The Council directed that insurance policies involving the City of Lost River offices and staff be terminated as of March 1, 1974. A news release regarding the closure of the City of Lost River offices on March 1st will also be drafted and released so that proper notice is given.

Mr. Wilson moved, seconded by Mr. Walsh, that the Council designate the Anchorage office of the Department of Community & Regional Affairs as the common place of U.S. Mail delivery and the U.S. Post Office be so notified. Motion passed unanimously.

The Council shall meet prior to the closure of the City offices on March 1st in Anchorage, Alaska and the Chairman is directed to contact all Council Members and arrange a date.

Mr. Mallott commented for the record that Mr. Trautner had taken on quite a job as Executive Director of the City of Lost River and has carried out his duties in an admirable fashion and the Council really appreciated it. Mr. Mallott moved that his statement be made a part of the record. Motion seconded by Mr. Wilson and passed unanimously.

Meeting adjourned at 6:10 P.M. January 17, 1974.

Respectfully submitted,


JANICE I. PALMER, Secretary

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: The file

DATE: January 3, 1974

FROM: Byron I. Mallott
CommissionerSUBJECT: Status--City of Lost River
and some observations

On October 25 the mining corporation by letter informed the Lost River City Council that it would exercise its right to end its financial commitment to the city effective November 1.

Observations:

1) At the time the City of Lost River was established the possibility of significant federal program assistance was a decisive factor in the total support the legislation received. The mining company obviously also felt that the legislation would allow access to state financial assistance.

Subsequently, the Nixon Administration, on a wholesale basis either did away with all major community development programs or impounded program funds. The state has remained insistent that fiscal constraints preclude any significant state funding, including guarantee of municipal bonds. The city therefore has been completely unable to secure the funding necessary to construct the city as originally envisioned.

It was in the mining company's interest to provide financial support to the city recognizing that having the city fund the port and major community facilities would reduce the company's initial capital investment by almost one half. I recall that under Murray Watts' leadership one of the company's state policy considerations was a desire to keep their initial capital requirements sufficiently low so as to allow them to capitalize without having to give up corporate control to major investors. The City of Lost River thus served the corporate interest of the company in more ways than one.

2) In early August Murray Watts was removed from control by a number of major investors who assumed control themselves. It was at this point that the city's relationship with the corporation changed abruptly. Several of these investors had opposed Mr. Watts' commitment of financial support to the city at the time it was originally made. Immediately the new company leadership notified the city that further financial support in the form of payments under the December 5 agreement would not be forthcoming. This position was subsequently modified under pressure from the city and payment was made.

(3) This waning faith in the city on the part of the corporation can be attributed largely to the growing realization that neither the state and federal governments nor the municipal bond market were realistic alternatives to corporate financing at least in the near-term future. Also the personal concern of Murray Watts that corporate capital requirements be kept sufficiently low so as to allow him and essentially hand-picked investors to retain corporate control was mooted when he lost control of the corporation.

(4) The city council had right from the start exercised jealously its autonomy as a municipal corporation responsible principally to the interests of the State of Alaska. The mining corporation obviously had expected a much more significant role in council activity as evidenced in its initial insistence that the council's executive director be Mr. Ron Sheardown, the corporation's vice president. The council, however, at no time ignored the legitimate interests and concerns of the corporation as evidenced by the following examples:

- (a) the appointment at the council's first meeting of Mr. Sheardown as executive coordinator, a position created to give the corporation direct and formal access to the council;
- (b) the full participation of the corporation in all council deliberations to the extent that often council meetings were arranged to accommodate the corporation's schedules;
- (c) the council meeting especially to establish a working relationship between the corporation and the city's contractor, Pacific Architects and Engineers, to allow for the negotiating of concerns expressed by the corporation over P A & E's preliminary feasibility study. (This, on the very day the corporation posted a letter announcing new management and a decision to discontinue further financial support to the city).

(5) As a contrast, in both instances that the corporation decided to discontinue city funding, the city was not forewarned and notice was given only days before payment was due.

(6) Statements by the corporation that the preliminary feasibility study caused them serious problems are self serving and are made only to mask the more obvious reasons for terminating financial support to the city. The preliminary study is just that. The corporation was involved with the city in the study from the inception; was invited to review sessions held every nine days during the preparation of the preliminary plan and at no time prior to completion of the preliminary study raised any objection. The fact that the study was completed hurriedly in 90 days to accommodate the schedule of the corporation indicates the preliminary nature of the study and therefore the need for the corporation and the city to sit down and, using the preliminary study, accommodate the

requirements of each in a final plan. This step was not taken by the corporation because it was then apparent to it that the city was not able to, in a timely manner, financially assist the corporation.

As of December 19, the city had not yet determined its future course. The corporation is firm in its decision to provide no further funding and would be pleased to see the city dissolved. The Lost River City townsite includes three townships withdrawn for Alaska Native Claims Settlement Act village deficiency selection purposes which poses further difficulty for the city, it not wanting to endanger any village selections but finding itself thereby without land to build upon. Commissioner Herbert has purportedly informed the Bering Straits Native Corporation that he is obliged by the Development Cities Act to seek state selection of those deficiency withdrawals. Thus, the City of Lost River has become an impediment not only to the mining corporation but to the Diomedea (Inalik) corporation and the Bering Straits Native Corporation.

The city's funds will be depleted by March 1, compelling the council to give notice to its executive director, John Trautner, effective January 21, 1974, for a month's termination pay is included in his contract. Our only other employee, Jan Palmer, secretary, has been forewarned and is probably already and understandably on the lookout for other employment. At its December 19 meeting the council decided to seek a meeting in January in Juneau with appropriate state officials, the mining corporation, and the Bering Straits Native Corporation, to discuss the future of the city of Lost River.

Observations:

(1) The city council must decide before the legislative session whether to seek the introduction of a bill to dissolve the City of Lost River.

(2) If a decision is made to seek dissolution there must be an understanding among the state, the city, the corporation and Bering Straits Native Corporation in the event that anyone attempts to make political hay of the dissolution.

(3) Most observers assume that without the support of the Bering Straits Native Corporation and the mining corporation, the city, without local political support, funding or support from the principal developer, is doomed no matter what it does--and they have a point.

(4) The Development Cities legislation was supported by the Administration in part as an alternative to a laissez-faire policy with respect to mineral extraction in Alaska. That is, the state would provide a mechanism to allow public funding of capital improvements which would benefit the private mining venture as well as the community built to serve it. The public good would be served by the establishment of a

municipality well planned and a positive addition to the state, which provided decent housing and other amenities to gainfully employed citizens. The mining venture would be freed of the need to make large capital investments in sewer, water, electricity, housing, transportation facilities, etc. The development city would be a disincentive to "high grading" and transient mining camps.

In the instances of the City of Lost River, the mining corporation has withdrawn its support for good and sufficient corporate reasons before the merit of the Act can be proven. My experience as a council member though leads me to doubt whether the Act in most instances would be anything but an exercise in the "tail wagging the dog." For the principal developer will almost always be in a dominant position with respect to the council unless the council right from the start is adequately funded from public sources. Conversely, developers will want to make sure of the prospects for major public funding and the timeliness thereof before becoming involved with the Act unless they themselves are willing and able to purchase the required municipal debt offerings. In any event, unless any municipal corporation established under the Act can create or attract alternate sources of employment for its residents there exists the strong possibility that a single-industry community will have been created dependent upon the benevolence of the corporate owners and the accident of the life of the mineral being extracted; not, in my judgement, a high priority setting for major expenditure of public funds in a state with literally hundreds of communities with long-standing needs.

(5) Although these observations may seem to reflect harshly on the Lost River Mining Corporation it must be pointed out that the city enjoyed an honest and forthright relationship with the corporation under Murray Watts' leadership. There were certainly times of strain and misunderstanding due largely to the inherent conflict of a private corporation concerned ultimately with corporate profit and a municipal corporation concerned similarly with the protection and advancement of the public good. But difficulties were generally able to be worked out for the corporation was one of enlightened self interest which to the degree its corporate designs allowed was willing to accommodate the public interest. The corporation, however, did not, at the point it came to comprehend that the city probably would not be able to obtain funding and get under construction within the corporation's time requirements, make an effort to discuss alternatives with the city except for an offer briefly made and withdrawn to design and construct the mine such that the city could "plug in" to its facilities as the city was later built.

So long then as the city and the corporation's interests might coincide all was well. But corporate interests overrode any commitment to the Development Cities Act at the first sign of major difficulty. A case

of "summertime soldiers" maybe; but the city's inability to obtain funding had become a major difficulty that in the expressed corporate view threatened the entire project. The corporation had letters of intent to market its product, so they said, that would be jeopardized if construction did not begin in 1974 for marketing in late 1976 or early 1977.

In the corporation's view the city was fast becoming a burden rather than an asset and a decision had to be made for the corporation had already invested upward of three hundred thousand dollars in the city.

(6) Some questions come to mind: If the city is dissolved what then is the relationship between the corporation and the state or between the state and any similarly situated developer in the future that chooses not to utilize the Development Cities Act? How is the public interest to be served?

If the city is not dissolved what is its relationship between the corporation and the city even should other funding sources be found, which is not likely?

Under the intent of the legislation can the city proceed without the active support and involvement of the principal developer?