

HB

185

ALASKA STATE HOUSE OF REPRESENTATIVES

**Contact:**

Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

Sponsor Statement

House Bill 185 provides boroughs with a means of altering existing road service area boundaries to ensure taxpayer fairness among residents of service areas.

A service area is a taxing jurisdiction within a borough that has been established to provide special services such as road maintenance or fire protection. These services are requested and approved by voters residing within a specific area.

State law permits borough residents living outside a service area to use service area roads for their sole or legally required access. These residents derive a direct benefit equal to residents within the service area, yet they can refuse to contribute to the costs of construction or maintenance of these roads by voting down any annexation attempt. These state mandated annexation votes typically fail as individuals are reluctant to join a service area when they can instead use these maintained roads for free.

HB 185 amends state law by allowing a service area to annex property that uses its roads for their sole or legally required access without a separate vote of the property to be annexed.

A second issue arises where residents of a service area are required to pay into a service area even though they do not utilize the service area roads for access to their property. Service areas, however, are often reluctant to vote to remove property from the service area because it effectively raises taxes on the remaining property owners.

HB 185 amends state law by allowing a borough assembly to exercise its judgment to alter, by ordinance, a service area boundary to exclude a property that does not use service area roads as its sole or legally required access.



Fairbanks North Star Borough

Department of Law

809 Pioneer Road • PO Box 71267 • Fairbanks, AK 99707 - (907) 459-1318 FAX 459-1155

March 23, 2007

VIA FACSIMILE: 907-465-2819

Representative Anna Fairclough
State Capitol, Room 411
Juneau, AK 99801-1182

Representative Fairclough:

Thank you for the opportunity to comment on the questions posed by the Municipality of Anchorage, through Mr. Johnson's e-mail. After receiving a copy of the e-mail, I contacted Rhonda Fehlen Westover, Deputy Municipal Attorney for the Municipality of Anchorage. We agreed, after an extensive discussion of HB 185, including its impacts on our respective municipalities, to provide you with a joint response, and we are authorized on behalf of our respective governmental entities, to support HB 185.

We are both confident the new clause 3, at line 19, page 2, is constitutional. Alaska's Constitution provides that service areas "may be established, altered, or abolished" by the **Assembly**, subject to the provisions of law or charter. Thus, while state law could certainly add additional requirements, our Constitution only requires assembly approval. HB 185 preserves this constitutional requirement.

With respect to charter provisions, Alaska Statute 29.35.450 is one of the limitations on home rule powers, and supersedes charter provisions. A charter amendment is not necessary to implement HB 185 if approved by the legislature.

If you have any further questions, please feel free to contact either or both of us.

Sincerely,

FAIRBANKS NORTH STAR BOROUGH

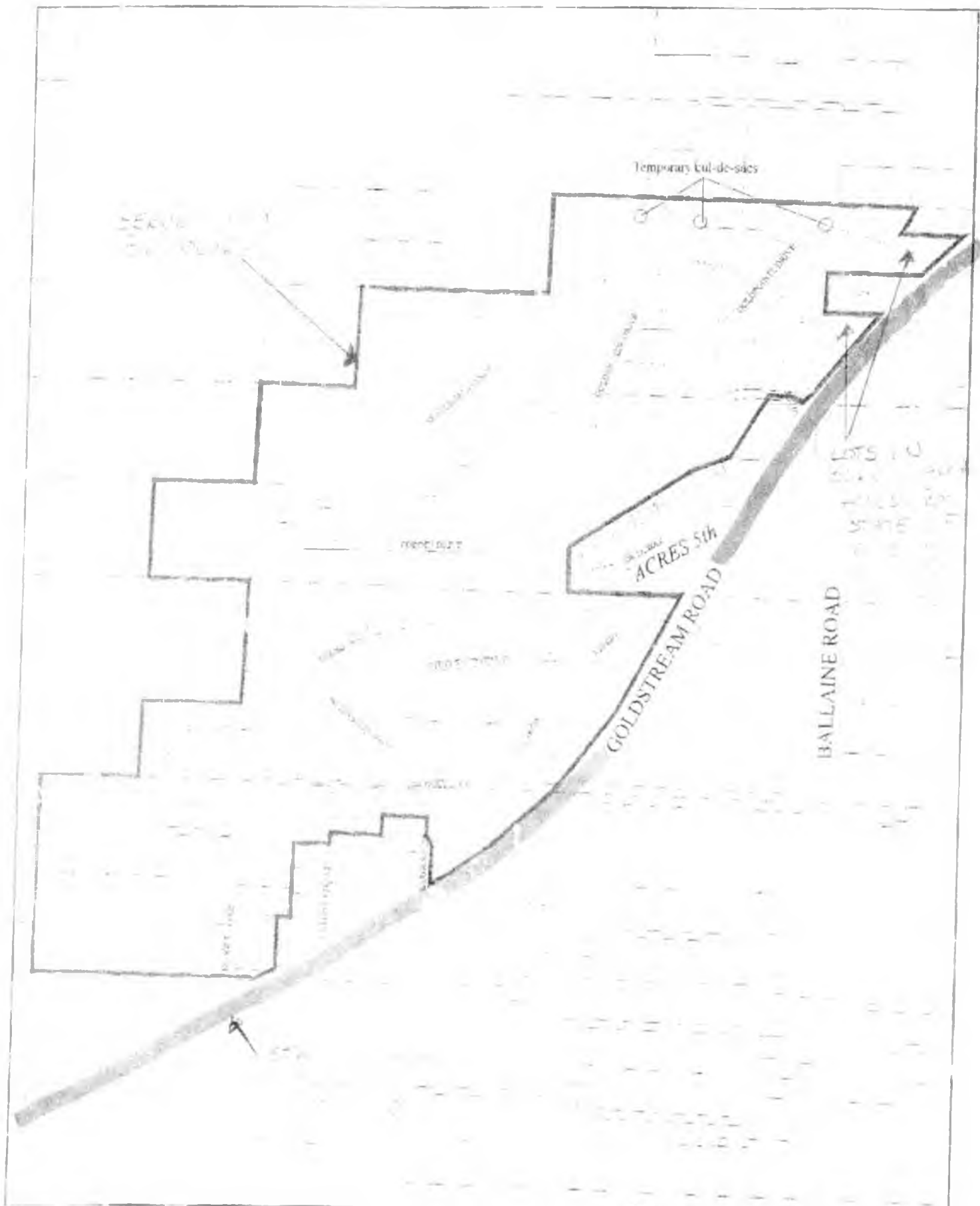
MUNICIPALITY OF ANCHORAGE

A. René Broker
Borough Attorney

Rhonda Fehlen Westover
Deputy Municipal Attorney



Cordes Drive Road Service Area



LEE LANE SERVICE AREA



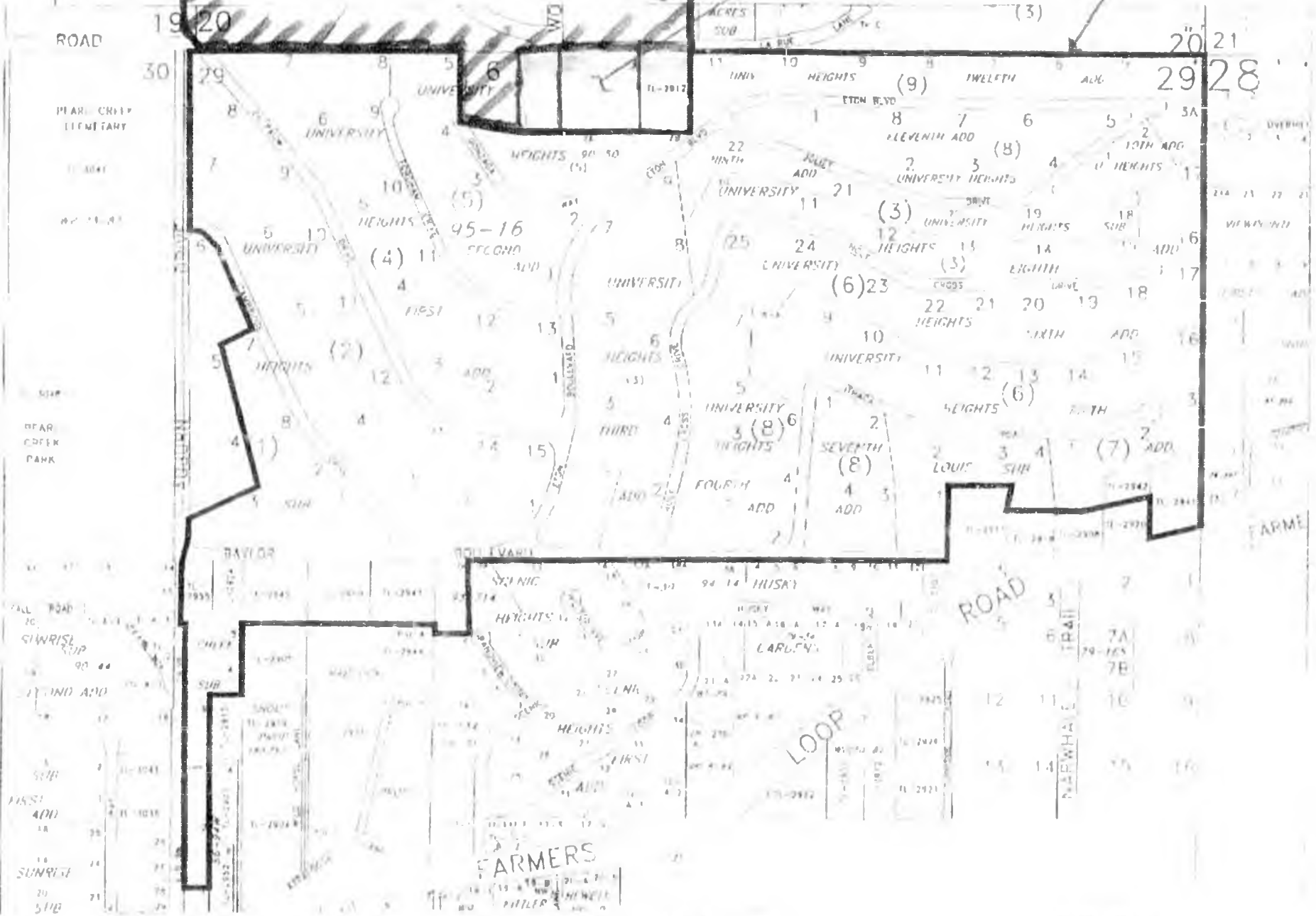
CHENA SLOUGH
BENSHOOF DRIVE



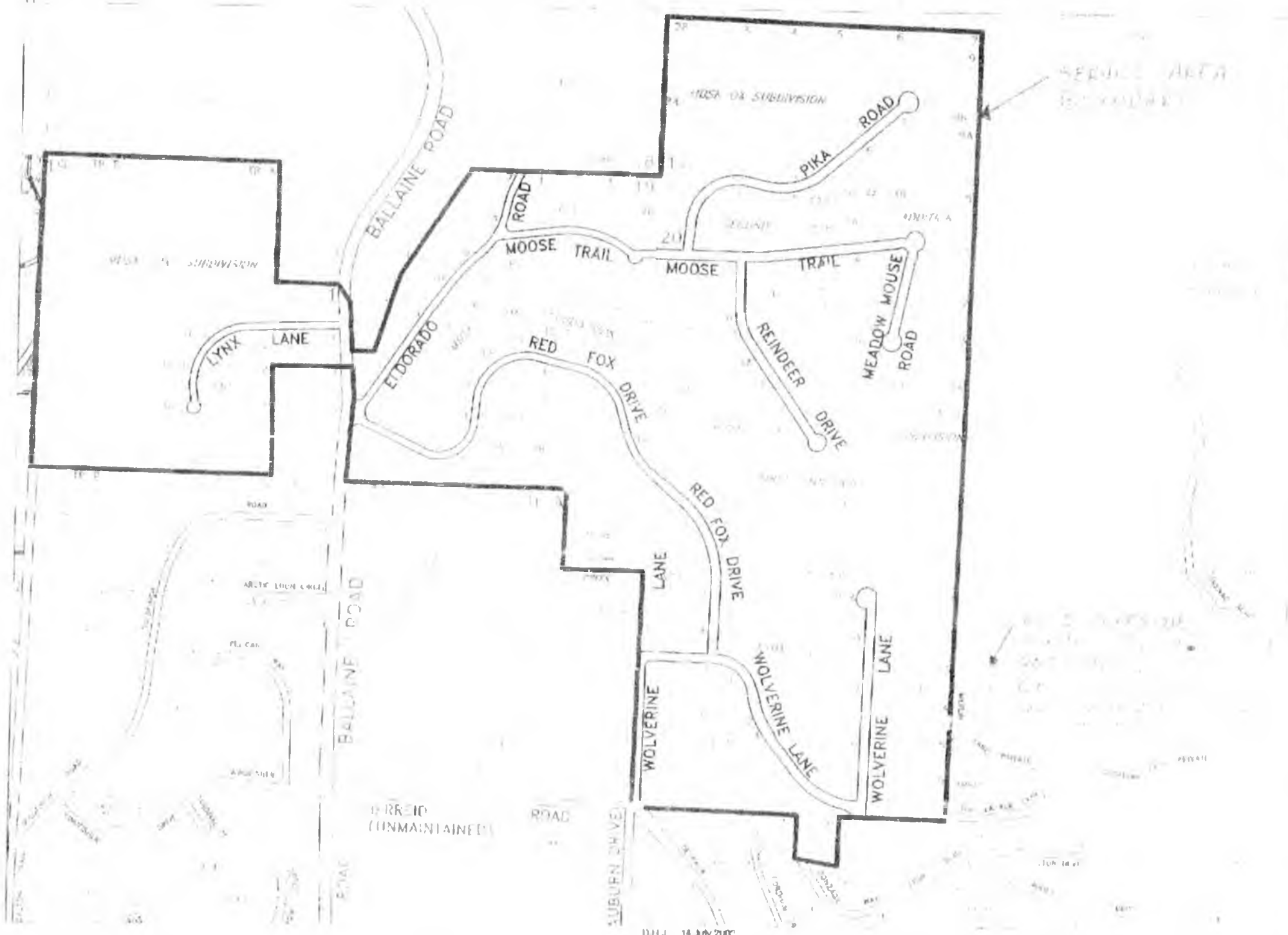
MASK OF ROAD
SERVICE AREA

LOTS OUTSIDE
SERVICE AREA.
ACCESS IS BY
SERVICE AREA ROADS

UNIVERSITY
HEIGHTS ROAD
SERVICE AREA



Musk Ox Road Service Area



The Constitution of the State of Alaska

Adopted by the Constitutional Convention February 5, 1956

Ratified by the People of Alaska April 24, 1956

Became Operative with the Formal Proclamation of Statehood January 3, 1959

Article 10 - Local Government

§ 1. Purpose and Construction

The purpose of this article is to provide for maximum local self-government with a minimum of local government units and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

§ 2. Local Government Powers

All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

§ 3. Boroughs

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

§ 4. Assembly

The governing body of the organized borough shall be the assembly, and its composition shall be established by law or charter. [Amended 1972]

§ 5. Service Areas

Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

(907)-465-3719

FAX# (907)-465-3258

State Capitol
Room 204

Contact:

Interim Address:

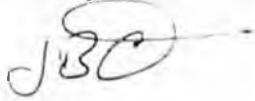
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: March 27, 2007

To: Representative Kyle Johansen, Chairman
Transportation Committee

From: Representative John Coghill 

Re: HB 185 Road Service Areas

I am requesting a hearing for HB 185 "relating to certain municipal service areas that provide road services" before the House Transportation Committee.

Attached are the sponsor statement and other information. A copy will be delivered to all Transportation Committee members.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB185-COM-DCA-03-21-07
 Bill Version: HB 185
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Municipal Road Service Areas RDU: Community Assist & Ec Dev (405)
 Component: Community Advocacy
 Sponsor: Coghil
 Requester: House Community & Regional Affairs Component No.: 2703

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 29.35.450 to add two exceptions to the law which requires a public vote before making certain changes to municipal service areas. The first exception states that a subdivision may be added to a service area without a public vote, if the roads provide the only access or are required by subdivision plat, regulation or ordinance. The second exception states that a subdivision may be excluded from a service area without a public vote, if the roads do not provide the only access or are required by subdivision plat, regulation or ordinance.

This legislation will have no fiscal impact on the operations of the division.

Prepared by: Mike Black, Director Phone 907 269 4535
 Division: Community Advocacy Date/Time 3/21/07 2:48 PM
 Approved by: Emil Notti, Commissioner Date 3/21/2007
 Agency: Commerce, Community, and Economic Development

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 185(CRA)
 (H) Publish Date: 3/28/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Municipal Road Service Areas RDU Community Assist & Ec Dev (405)
 Component Community Advocacy
 Sponsor Coghill
 Requester House Community & Regional Affairs Component No. 2703

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CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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 Agency Commerce, Community, and Economic Development

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

HB 185

HSE. TRANSPORTATION COMMITTEE -

Please Do Not Pass H.B. 185, this Amendment gives local governments the power to take Peoples ~~land~~ land. This amendment would allow local government to take land without just compensation, + certainly where people don't want to sale.

Please see the attached exhibits.

Treal Wayne Foutch

Post: c/o 1071 Chenakump Road

Fairbanks, Alaska,

Non-Domestic



Fairbanks North Star Borough Rural Services Division

3175 Peger Road PO Box 71267 Fairbanks, Alaska 99707-1267 (907)459-1223 FAX 459-1499

August 31, 2006

Fairbanks, AK 99701

Re: Notification of Public Information Meeting concerning the annexation of a portion of the common section line easement of Section 14 and 23, T.1S,R.2W,FM to the Chena Marina Road Service Area.

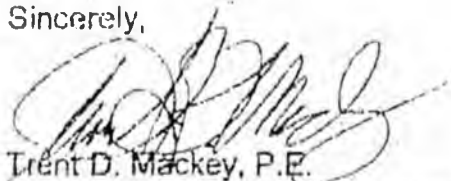
Dear Ms.:

Recent grant funds received by the Fairbanks North Star Borough have been allocated for the extension of Sea Way to Chena Pump Road. In order for the Borough to maintain the road after construction the section line easements must first be annexed into a road service area (RSA). The Chena Marina RSA commission supports the annexation of the Sea Way right-of-way to their RSA.

You are cordially invited to attend the public information meeting to discuss this annexation on September 12, 2006 at 6 PM at the Pioneer Park Civic Center. Please note, if the annexation is successful, TL 2324 will not be subject to road taxes collected for the Chena Marina RSA as the annexation is of the section line easement and not TL 2324.

If you would like to discuss this annexation proposal prior to the public meeting you can reach me at 459-1218. Thank you.

Sincerely,


Trent D. Mackey, P.E.
Rural Services Engineer/Manager

Attachments: Midchena Subdivision Plat 2004-101, Twin Lakes Subdivision Phase I Plat 99-77 indicating proposed annexation easements

cc: Chena Marina S/A Commissioner
Chena Hills S/A Commissioner

Note: This notification is addressed to the most recent Fairbanks North Star Borough billing address for the parcel identified as TL-2324, SEC 23, T1S-R2W. Additional notification has been posted in the Borough news section of the Fairbanks Daily News-miner and also mailed to Chena Marina RSA property owners and properties adjacent the proposed annexation area.

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By: Jim Whitaker, Mayor
Introduced: 09/14/06
Advanced: 09/14/06
Adopted: 10/12/06

FAIRBANKS NORTH STAR BOROUGH

ORDINANCE NO. 2006 - 60

AN ORDINANCE ALTERING THE BOUNDARIES OF THE CHENA MARINA ROAD SERVICE AREA TO INCLUDE A PORTION OF COMMON SECTION LINE EASEMENT OF SECTION 14 AND SECTION 23, T.1S, R.2W, FM, AND PROVIDE FOR AN ELECTION

WHEREAS, a portion of the section line easement located between the east boundary of the Chena Marina Service Area and Chena Pump Road within the proposed section line annexation will provide direct access to the Chena Marina Service Area and alleviate adjacent subdivision cut-through traffic; and

WHEREAS, grant funds are available to construct this extension of Sea Way to Chena Pump Road; and

WHEREAS, expenditure of service area taxes cannot be used for road maintenance outside of service area boundaries; and

WHEREAS, an election is required of the qualified voters in the Chena Marina Service Area; and no election is required within the proposed area that consists solely of section line easement.

NOW, THEREFORE, BE IT ORDAINED by the Assembly of the Fairbanks North Star Borough:

Section 1. Classification. This ordinance is not of a general and permanent nature and shall not be codified.

Section 2. Election. An election shall be held within 60 days of the effective date of this ordinance, within the area shown on the map Exhibit A, attached hereto, to place before the registered voters residing within the Chena Marina Service Area, the following question:

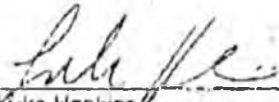
"Shall the Chena Marina Service Area annex the proposed area into the road service area for the purpose of road maintenance and construction powers within the area indicated on the attached map?"

The map attached to this ordinance (Exhibit A) shall accompany the ballot.

47 Section 3. Actions Upon Annexation. The boundaries of the Chena
48 Marina Service Area shall be amended to include the common section line easement
49 section 14 and section 23 T.1S, R.2W, FM AK commencing at the east boundary of the
50 Chena Marina Service Area to the Chena Pump Road right-of-way, as shown on Exhibit
51 A attached hereto. The Clerk of the Assembly shall adjust the official map to reflect this
52 alteration.

53
54 Section 4. Effective date. Section 2 of this ordinance shall be effective at
55 5:00 p.m. on the first Borough business day following its adoption. Section 3 shall
56 become effective on the day following certification of the election; if a majority of those
57 qualified voters casting their ballots vote in favor of the issue.

58
59 PASSED AND APPROVED THIS 12th DAY OF OCTOBER 2006.
60


Luke Hopkins
Presiding Officer

ATTEST:


Mona Lisa Drexler, CMC
Municipal Borough Clerk

61
62
63 Ayes: Beck, Hargesheimer, Sattley, Tharnien, Rex, Hopkins
64 Noes: None
65 Excused: Bartos, Foote, Frank

P. 05
FAX NO. 901/4563346
SENATOR THUMBS
HPK-04-01 WED 04:32 PM

§ 16-1-21

Governor's Court

thereto. Such council shall also designate the time and place or places at which the polls will be open within such city and in such territory so proposed to be annexed, which place or places shall be those usually used for that purpose within such city and also within such territory, if any such there be. Such council shall also appoint and designate in such notice the names of the judges and clerks of election. The judges and clerks before entering upon the discharge of their duties at such election shall each take and subscribe before an officer authorized to administer the same, an oath for the honest and faithful discharge of his or her duties as such judge or clerk. In case of the absence or inability of any judge or clerk appointed to act at such election, the qualified electors present at the polls before proceeding to vote, may choose an elector to act in his or her place from among their number, who shall duly qualify as aforesaid before entering upon the discharge of his or her duties as judge or clerk at such election. Such council shall meet on the Monday next succeeding the day of such election at one o'clock p. m. and canvass the votes cast thereat, and the council shall issue under their hands, and the seal of the city, a certificate showing the number of votes cast in favor of annexation and the number of votes cast against the annexation, separately stating the number of votes for or against in the city and in the territory sought to be annexed. Said certificate together with all the ballots cast and the oaths of the judges and clerks of election shall immediately be filed with the clerk of the district court in the proceedings authorizing said election. [1, 1923, ch 97, § 53, p 216; C.A. 1933, § 2420.]

COLLATERAL REFERENCES

19 Am Jur 215, 240, 245.

§ 16-1-24. Declaration of annexation. If it shall appear to the district court or the judge thereof from the certificate of election filed with the district court as aforesaid, that two-thirds of the votes cast at said election in the territory sought to be annexed were in favor of the annexation and that a majority of the votes cast in the city were also in favor of the annexation, and that the provisions of law relating to annexation have been substantially complied with, then the district judge shall by an order in writing entered in the records of the court duly adjudge and declare such annexation and the said territory shall, from henceforth, be a part of the city. Such order shall describe the boundaries of the territory annexed and give the name of the city to which it is annexed. [1, 1923, ch 97, § 53, p 217; C.A. 1933, § 2421.]

§ 16-1-26. Proceedings for exclusion of territory. Territory may be excluded from any city in the same manner and following the

FIRST CLASS CITIES—CITY COUNCIL § 16-1-28

same procedure as in the case of annexation, except that if territory is to be excluded, the petition to be filed shall be signed by a majority of property owners as herein provided for, owning property within the territory sought to be excluded, and the electors shall be invited to vote upon such proposition by placing upon their ballots the words "for exclusion from the city of" or "against exclusion from the city of" and the votes shall be canvassed, the results of the election certified and all other steps taken in like manner as in this Article provided relating to the annexation of territory. [1, 1923, ch 97, § 54, p 217; C.A. 1933, § 2422.]

COLLATERAL REFERENCES

37 Am Jur 452.

Note: 147 ALR 267 (power to detach land from municipality).

§ 16-1-26. Fees: Subpoenas: Procedure. In proceedings under this Article, the court, marshal and witnesses shall be entitled to the same fees as are allowed in the trial of civil actions in the district court, and subpoenas may be issued and the procedure provided for in civil actions shall be followed as far as practicable. [1, 1923, ch 97, § 55, p 218; C.A. 1933, § 2423.]

§ 16-1-27. Filing copies of order of annexation or exclusion. Whenever the court shall by order annex any territory to a city or exclude any territory therefrom, a certified copy thereof shall be filed in the office of the Auditor of the Territory, another in the office of the commissioner of the precinct in which the corporation is situated and a third in the office of the city clerk of the city in which the territory has been annexed or from which the territory has been excluded. [1, 1923, ch 97, § 56, p 218; C.A. 1933, § 2424.]

See L. 1929, ch 113, § 6, p 242, transferring to the Auditor local or Territorial duties or functions of the Secretary of the Territory.

§ 16-1-28. Qualifications of electors. The qualifications of an elector for election in this Article provided for, shall be as follows: He or she shall be a person of the age of twenty-one years or more and shall be the owner of substantial property interests in land, buildings or improvements on land or tideland within said city or within the territory proposed to be annexed, or excluded from said city. [1, 1923, ch 97, § 57, p 219; C.A. 1933, § 2425.]

Article 3

City Council: Powers: Food Regulations

§ 16-1-31. Election and qualifications of council members.

§ 16-1-32. Canvass of votes for council members: Certificate of their election.

Fairbanks Daily News-Miner, Sunday, October 15, 2006

Sorenstam finally seizes c

The Associated Press

PALM DESERT, Calif. -- The birdie putt found the heart of the cup to give Anika Sorenstam a three-shot lead at Bighorn, a course where she has never lost, and it all looked so routine.

Sorenstam sure didn't feel that way.

Walking off the 10th green after her 12-foot putt Saturday in the Samsung World Championship, she offered a few polite waves to the gallery, turned and privately pumped her fist two times.

Going for her record sixth title

in this elite tournament, and the 70th of her LPGA Tour career, Sorenstam shows no quit. She was mildly angry at herself for letting her attention waver in the third round, a fault that has kept her from being her best this year.

"I was trying to get myself going a little bit," Sorenstam said after a 6-under 66, the best score of the week to build a three-shot lead over Lorena Ochoa. "My mind was wandering. I can't focus long enough. I'm playing in a superb tournament, and all of a sudden I'm having a tough time

concentration. I made that put and I was like, 'C'mon, you can't it. Stay focused'"

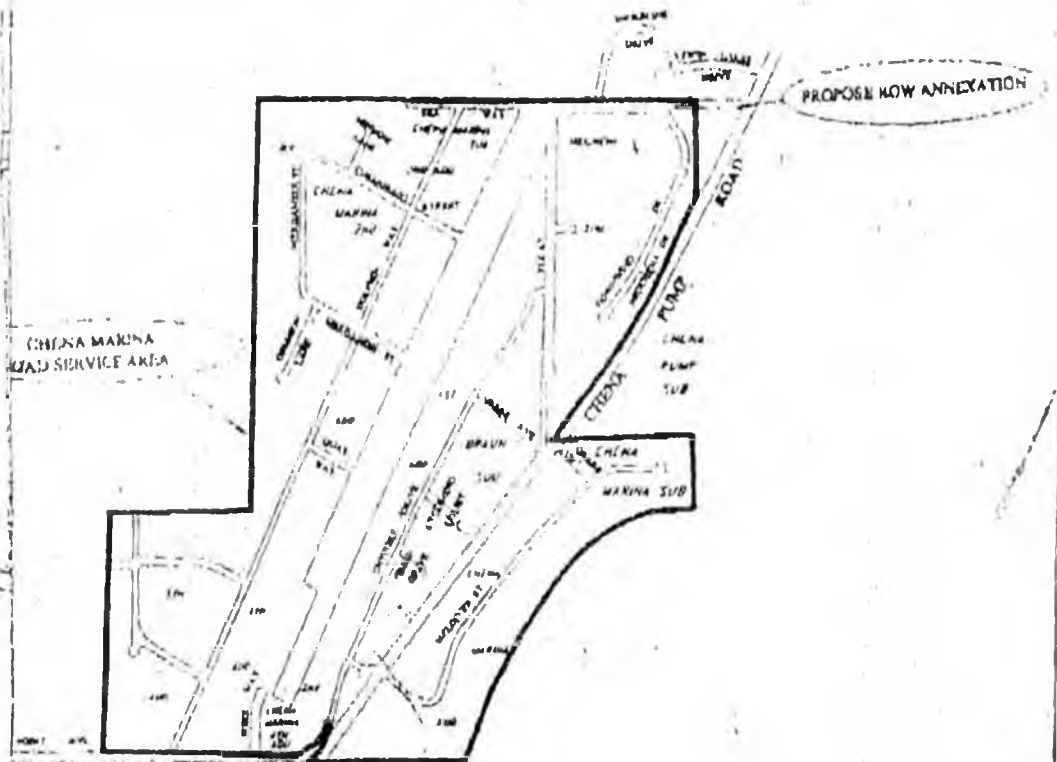
She held it together with consecutive birdies early in the third round to quickly build a lead. At this time, she made it last.

Sorenstam finished off the round with a 12-foot birdie on the 18th and was at 12-under 20 reviving her hopes of winning LPGA Player of the Year for the sixth straight season.

Leading the points-based race for player of the year is Ochoa and she still holds all the cards.

SEARCH AREA

CHENA MARINA ROAD SERVICE AREA



"Shall the Chena Marina Service Area annex the proposed area into the road service area for the purpose of road maintenance and construction powers within the area indicated on the attached map?"

Informational Meeting...

Chena Marina Road Service Area / Portion of Common Section Line Easement Sec 14 & 23 Boundary Change Request

WHERE: Pioneer Park
Civic Center

WHEN: Tuesday
September 12, 2006

TIME: 6—7:30 PM



For more information contact Dan Jordan,
FNSB Rural Services, 459-1217.

Dear Property Owner:

The location of the proposed area is east of the Service Area boundary, as shown on the map.

- ▶▶ This meeting will provide general information on this request.
- ▶▶ The FNSB Assembly will hold a public hearing in October. Only one election is required of the qualified voters in the Chena Marina Road Service Area. A YES vote in this election will authorize the Fairbanks North Star Borough to assume road maintenance and construction powers for the portion of the common section line easement of section 14 and section 23, T.1S, R.1W, FM and will allow the Chena Marina Road Service Area to provide public road maintenance for this area.
- ▶▶ Existing Chena Marina Road Service Area property owners will not see an increase in taxes.
The current mill levy for road maintenance within the Chena Hills Road Service Area is 0.825.

The Borough Clerk's office will mail a public hearing notice and an application to request a ballot by mail to all property owners. Residents can also request a ballot directly by contacting the Clerk's Office at 459-1401.

Informational Meeting...

Chena Marina Road Service Area / Portion of Common Section Line Easement Sec 14 & 23 Boundary Change Request

WHERE: Pioneer Park
Civic Center

WHEN: Tuesday
September 12, 2006

TIME: 6—7:30 PM



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Local

EVENTS

Road service areas

A bill that would change annexation rules for road service areas left the House Community and Regional Affairs Committee on Tuesday following a pair of committee hearings.

The bill, which is being sponsored by Rep. John Coghill, R-North Pole, would give neighbors

See BILLS, Page B2

BILLS: Road access

Continued from Page B1

in an existing service area the ability to incorporate other properties that rely on the district's roads for access. It would also empower local residents to change a road district's boundaries and would make it easier for state lawmakers to create

committee had questioned the proposed change, which would stem largely let neighbors and local officials force some property owners to join a road district. Fairbanks officials, however, have supported the proposed change, saying it would correct problems with a bill passed by the Legislature six years ago and the bill passed Tuesday with no objection from members of the committee.

The bill, House Bill 185, now heads to the House Transportation Committee. Contact staff writer Brian Mikowski at 478-6141 or brianmikowski@news-miner.com.

PHOTO COURTESY OF THE FAIRBANKS POLICE DEPARTMENT

HB 185

- The next bill is HB 185. It is sponsored by Rep. Coghill. His staff Carol Beecher should be in the audience to present the bill to the committee.
- Witnesses
 - Rene Broker, Fairbanks North Slope Borough, Attorney
 - Randy Frank, Fairbanks North Slope Borough Assemblyman
 - Other witnesses?

Alaska State Legislature

Rep. Sharon Cissna
Rep. Nancy Dahlstrom
Rep. Mark Neuman
Rep. Kurt Olson
Rep. Woodie Salmon



State Capitol, Room 124
Juneau, AK 99801-1182
Co-Chairs
Rep. Gabrielle LeDoux
(907) 465-3882 FAX 465-4956
Rep. Anna Fairclough
(907) 465-3777 FAX 465-2819

COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Date: March 27, 2007
To: Randy Ruaro, Transportation Committee Aide
From: Sonya Hymer, CRA Committee Aide *SH*
Re: HB 185

Here is the referral packet for CSHB185, which was reported out of the House CRA Committee today.

Alaska State Legislature

Rep. Sharon Cissna
Rep. Nancy Dahlstrom
Rep. Mark Neuman
Rep. Kurt Olson
Rep. Woodie Salmon



State Capitol, Room 124
Juneau, AK 99801-1182
Co-Chairs
Rep. Gabrielle LeDoux
(907) 465-3882 FAX 465-4956
Rep. Anna Fairclough
(907) 465-3777 FAX 465-2819

COMMUNITY & REGIONAL AFFAIRS COMMITTEE

Facsimile Transmittal

DATE: March 27, 2007
TO: Legal Services
FROM: Sonya Hymer, Legislative Aide
RE: CS with conceptual amendment to HB 185 (25-LS0687\A)

This morning the House CRA Committee passed HB 185 with a conceptual amendment (see attachment). I would like to order a final CS of this bill to conform with the amendment. Please let me know if I can provide any further information. Thank you.

-Sonya

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE

TO: HB 185

Page 2, Line 19:

Insert: "or parcel"

Immediately following the word "subdivision" at the end of line 19

Page 2, Line 21:

Insert: "or parcel"

Immediately following the word "subdivision" in the middle of line 21

Page 2, Line 22:

Insert: "or parcel"

Immediately following the word "subdivision" at the start of line 22

Page 2, Line 25:

Insert: "or parcel"

Immediately following the word "subdivision" at the start of line 25

Page 2, Line 26:

Insert: "or parcel's"

Immediately following the word "subdivision's" in the middle of line 26

Alaska State Legislature

Rep. Sharon Cissna
Rep. Nancy Dahlstrom
Rep. Mark Neuman
Rep. Kurt Olson
Rep. Woodie Salmon



State Capitol, Room 124
Juneau, AK 99801-1182
Co-Chairs
Rep. Gabrielle LeDoux
(907) 465-3882 FAX 465-4956
Rep. Anna Fairclough
(907) 465-3777 FAX 465-2819

COMMUNITY & REGIONAL AFFAIRS COMMITTEE

AGENDA

House Community & Regional Affairs

Tuesday, March 27, 2007

Room 124, State Capitol

1. Bills Previously Heard:

HB 185 – MUNICIPAL ROAD SERVICE AREAS

The Committee is currently working off version A of the bill.

The Public Hearing has been closed.

25-LS0687AE
Cook
3/21/07

CS FOR HOUSE BILL NO. 185()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE COGHILL

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain municipal service areas that provide road services."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 29.35.450(c) is amended to read:

4 (c) If voters reside within a service area that provides road, fire protection, or
5 parks and recreation services, abolishment of the service area is subject to approval by
6 the majority of the voters residing in the service area who vote on the question. A
7 service area that provides road, fire protection, or parks and recreation services in
8 which voters reside may not be abolished and replaced by a larger service area unless
9 that proposal is approved, separately, by a majority of the voters who vote on the
10 question residing in the existing service area and by a majority of the voters who vote
11 on the question residing in the area proposed to be included within the new service
12 area but outside of the existing service area. A service area that provides road, fire
13 protection, or parks and recreation services in which voters reside may not be altered
14 or combined with another service area unless that proposal is approved, separately, by
15 a majority of the voters who vote on the question and who reside in each of the service

1 areas or in the area outside of service areas that is affected by the proposal. This
2 subsection does not apply

3 (1) to a proposed change to a service area that provides fire protection
4 services that would result in increasing the number of parcels of land in the service
5 area or successor service area if the increase is not more than six percent and would
6 add not more than 1,000 residents;

7 (2) [. THIS SUBSECTION DOES NOT APPLY] in a second class
8 borough to abolishment of a road service area or consolidation of two or more road
9 service areas if

10 (A) [(1)] taxes have not been levied in the service area for road
11 maintenance or construction during the last 12 months and there is no balance
12 in any account available to pay for these road services for the service area;

13 (B) [(2)] during the last 12 months, the service area board has
14 not met with a quorum present and in accordance with law; or

15 (C) [(3)] there are no road maintenance contracts in effect for
16 the service area or the existing road maintenance contracts fail to provide for
17 minimum road standards required by law that are necessary to protect the
18 borough from civil liability;

19 (3) to require approval by the voters residing on property
20 proposed to be added to a road service area if roads maintained by the service
21 area provide the only access to the property or provide access to the property
22 that is required by a subdivision plat or by other regulation or ordinance;

23 (4) to a change in the boundaries of a road service area to exclude
24 property that does not rely on the use of roads maintained by the service area for
25 the property's only access or for access to the property that is required by a
26 subdivision plat or by other regulation or ordinance.

Amendment to HB 185 – Municipal Road Service Areas

Page 2, lines 19-27

(3) to require approval by the voters residing in a property subdivision proposed to be added to a road service area if roads maintained by the service area provide the only access to the property subdivision or provide access to the property subdivision that is required by the subdivision plat or by other regulation or ordinance;"

(4) to a change in the boundaries of a road service area to exclude a property subdivision that does not rely on the use of roads maintained by the service area for the property's subdivision's only access or for access to the property that is required by the subdivision plat or by other regulation or ordinance.



Fairbanks North Star Borough

Department of Law

809 Pioneer Road • PO Box 71267 • Fairbanks, AK 99707 - (907) 459-1318 FAX 459-1155

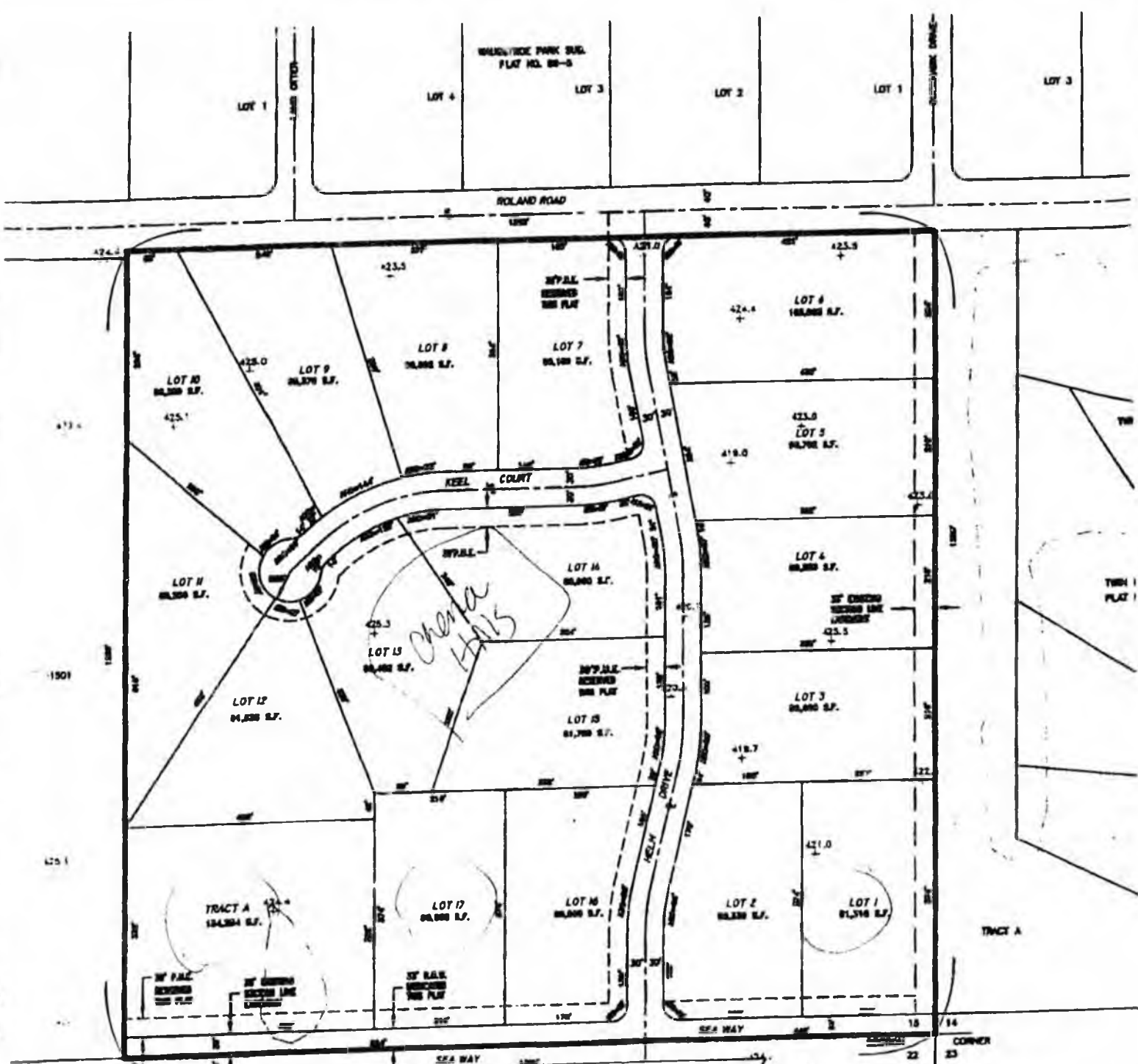
MEMORANDUM

TO: Rynniva Moss, Legislative Aide
FROM: Rene Broker, Borough Attorney *RB*
DATE: March 19, 2007
SUBJECT: HB 185 Service Area Roads

Our subdivision ordinances generally require, for plat approval, legal, constructed road access to the subdivision. [See FNSBC 17.60.070] That required road access must connect to either a state-maintained roadway or a roadway previously approved for subdivision access. Access that is simply platted or dedicated but not constructed would not normally qualify. Also, access utilizing roads that have not been constructed to appropriate subdivision standards (width, drainage, stable road bed, etc.) would not qualify. Finally, access that is not on a dedicated right-of-way would not qualify.

A subdivision plat itself must show these approved access routes and otherwise show compliance with our subdivision code in order to obtain approval by the platting board. Subdivision plats can also preclude access onto certain streets.

Currently, I believe only our subdivision laws would fit the term "other regulation or ordinance". I do not believe the borough has any other regulations or ordinances, other than our subdivision laws, that require access to subdivisions.



15.

SOILS FOR THIS SUBDIVISION ARE LEMERA POZI, TAMANA SILT LOAM, AND GOLDSTREAM SILT LOAM, 6 TO 3 PERCENT SLOPES, PER USDA SOIL MANUAL NO. 28, 1939 SERIES.

A PORTION OF THIS AREA IS WITHIN FLOOD ZONE "X", THE PORTION WITHIN ZONE "X" HAS A S.F.E. OF 436 FT. BASED PER F.A.R.M. MAPPING DATED 1/2/82

A SEPTIC TANK AND ITS SOIL ABSORPTION SYSTEM MAY NOT BE PLACED WITHIN 100' HORIZONTAL, OF ANY HOLE, OR MAN-MADE LAKE, OR SLough OR CHANNEL, NEAR OR AT THE EDGE, THE SOIL ABSORPTION SYSTEM BE A MINIMUM OF 4 FEET ABOVE THE SEASONALLY HIGH GROUND WATER TABLE.

ALL ON-SITE WASTEWATER DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALABAMA DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE TERRAIN IN THIS AREA IS RELATIVELY FLAT WITH AN MEAN ELEV. OF 423.06'

- UTILITY EASEMENTS**
1. THERE WILL BE A 30' RIGHTS EASEMENT AT EACH POLE LOCATION FOR DUCTS, ANCHORS AND OTHER SUPPORTING STRUCTURES.
 2. A 15' WIDE STRIP OF LAND AS DETERMINED BY THE UTILITY COMPANIES IS GRANTED FOR THE INSTALLATION, MAINTENANCE, REPAIR OR REMOVAL OF WIRE POLES.
 3. THE UTILITY COMPANIES SHALL HAVE THE RIGHT TO SERVICE ALL THEIR SERVICE AND DRAIN, UNDER OVERTHROW OR OTHERWISE, THROUGH THIS ADJACENT TO OR IN THE VICINITY OF THE EASEMENT.
 4. AN EASEMENT IS HEREBY RESERVED WITHIN ALL LOTS FOR SECONDARY ADJACENT CROSSINGS AS DETERMINED NECESSARY BY THE UTILITY COMPANIES.

AREA SUMMARY

LOTS 1-17	32.22 AC.
TRACT A	3.08 AC.
R.O.W.	3.80 AC.
TOTAL	39.11 AC.

PL-2204

CHENA MARINA SECOND ADDITION
 PLAT NO. 02-006 (REPLAT OF 036-00)

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By: Randy Frank
Tim Beck
Introduced: 02/08/07
Substituted: 02/08/07
Adopted: 02/08/07

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2007 - 04

A RESOLUTION ASKING THE ALASKA STATE LEGISLATURE TO MODIFY STATE LAW CONCERNING SERVICE AREA ALTERATIONS

WHEREAS, it is the responsibility of local governments to ensure service areas are established, operated, and altered in a manner consistent with the constitutional purpose of service areas and the overall public good; and

WHEREAS, the Fairbanks North Star Borough Assembly supports legislative changes that would enable local governments to exercise appropriate control and management of its service areas; and

WHEREAS, the Assembly recently placed a request for a state law change concerning service area alterations on its 2007 legislative priority list; and

WHEREAS, the previously suggested language would only permit the assembly to include property in a road service area if the property utilizes the road services area's roads; and

WHEREAS, as a matter of fairness, the assembly should also have the right to remove property from a road service area if the property does not utilize the road service area's roads.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks North Star Borough supports the following change to AS 29 35.450(a):

(a) A service area to provide special services in a borough or unified municipality may be established, operated, altered, or abolished by ordinance, subject to (c) of this section except that:

(1) no vote of the area proposed to be included into a road service area shall be required if the area proposed to be included utilizes the road service area's roads for either its sole or its legally required subdivision access; and

(2) no vote should be required to alter the boundaries of a road service area to exclude an area that does not utilize the road service area's roads for either its sole or its legally required subdivision access.

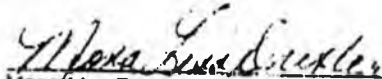
47 BE IT FURTHER RESOLVED that the Assembly requests the Alaska
 48 State Legislature to modify the current language in AS29.35.450(e) concerning service
 49 area alterations as noted above.

50
 51 BE IT FURTHER RESOLVED, that copies of this resolution shall be sent
 52 to the Alaska Interior Delegation.

53
 54 PASSED AND APPROVED THIS 8th DAY OF FEBRUARY 2007.


 Luke Hopkins
 Presiding Officer

ATTEST.


 Mona Lisa Drexler, CMC
 Municipal Borough Clerk

55
 56 Ayes: Bartos, Beck, Frank, Foote, Winters, Musick, Tharrien, Rex, Hopkins
 57 Noes: None
 58

Sonya Hymer

From: Sonya Hymer
Sent: Wednesday, March 21, 2007 3:06 PM
Subject: HB 185: Road Services in Municipal Service Areas
Importance: High
Attachments: HB0185A.pdf

Dear Community Leaders,

Gabrielle's committee, the House Committee on Community & Regional Affairs, will meet tomorrow at 8:00 a.m. to consider HB 185: "An Act relating to certain municipal service areas that provide road services." Representative Coghill has proposed this legislation.

Please forward this email to local road board members. Please let us know your position on this bill. If you would like to testify at the committee hearing tomorrow, go to the Kodiak LIO, or call in to the meeting at 1 888 295 4546. The bill will move to the House Committee on Transportation next

Best regards,
Sonya

Sonya Hymer, Legislative Aide
Representative Gabrielle LeDoux
State Capitol
District 36
phone: (907) 465-2487
fax: (907) 465-4956

Sonya Hymer

From: Rep. Anna Fairclough
Sent: Wednesday, March 21, 2007 2:41 PM
To: SchnellSD@ci.anchorage.ak.us
Cc: AbbottMK@ci.anchorage.ak.us; CER Chamber Susan Gorski; ossainder@muni.org; starrwe@muni.org; RoddaJH@ci.anchorage.ak.us; RamseurDS@ci.anchorage.ak.us
Subject: HB 185
Importance: High
Attachments: HB0185A.pdf

Scott,

Community and Regional Affairs will meet tomorrow at 8:00 a.m. to consider HB 185, I have spoken with David Ramseur at the Muni (a few minutes ago), but want local road board members perspective on this legislation.

"An Act relating to certain municipal service areas that provide road services." Representative Coghill has proposed this legislation.

Please forward to local road board members. I have included the Chamber, our Assembly members and Park and Rec.

My cell is 748.4506, I know this is short notice, but, we haven't heard from the municipality on this issue. I do not want to move forward with anything that could harm our service areas or cause an unintended consequence. The bill will move to transportation next.

Unfortunately the municipality has not been testifying in C&RA on some issues that effect Anchorage. Please let me know as soon as possible your position.

Representative Anna Fairclough

State Capitol: 907.465.3777

Eagle River: 907.694.8944

Representative_anna_fairclough@legis.state.ak.us



Municipality of Anchorage


P O Box 196650 • Anchorage, Alaska 99519-6650 • Telephone: (907) 343-4431 • Fax: (907) 343-4499 <http://www.muni.org>

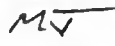
Mayor Mark Begich

Office of the Mayor

Memorandum

TO: The Honorable Anna Fairclough, Chair
Community and Regional Affairs Committee

THROUGH: Mayor Mark Begich 

FROM: Michael Johnson 
Mayor's Office

DATE: March 23, 2007

SUBJECT: House Bill 185

With the benefit of additional time to review the matter, I write to clarify Mayor Begich's position on House Bill 185 relating to service areas within a 1st Class Borough. Contrary to my email of Wednesday the 21st, Mayor Begich supports the passage of House Bill 185 with minor amendments.

As has been transmitted to you under separate cover, our Municipal Attorney's office, working with their counterparts in the Fairbanks North Star Borough, have resolved both our constitutional and charter concerns with this measure. With those items addressed, we wish only to suggest a minor amendment. In new section 3, beginning on line 19, we suggest the addition of the words "or parcel" immediately following the word "subdivision" at the end of line 19, in the middle of line 21 and at the start of line 22.

I thank again for the opportunity to comment on this legislation, and I regret any confusion caused by my previous email.

Community, Security, Prosperity

Sonya Hymer

From: Tammie Wilson [wilson6t@yahoo.com]
Sent: Sunday, March 25, 2007 2:17 PM
Subject: RE: HB185

Dear Rep. LeDoux:

I am writing to you concerning HB185: Road Service Areas and am asking that you do not pass this legislation.

Here is the current process in the Fairbanks North Star Borough to become a road service area. First you must get a petition signed by 51% of those residents whose names are on the tax record, not registered voters. Then it goes to the borough assembly to be voted on and a public hearing is held. It then goes to two separate votes, one by the service area they are wanting to join and the other by the group wanting to join, only registered voters in the area can vote on the issue, if you have property there but don't live there you have no vote. If the vote is unsuccessful the area may go back the following year and become their own service area and they don't have to join with anyone else. Furthermore, private roads can also be placed in road services but yet they are not eligible for snow removal or maintenance, unlike public roads, even though those homeowners are required to pay into the road service area. This is extremely unfair.

They say this is to keep things fair. The system currently isn't fair and to me this can allow abuses within the system and also make the jobs of the volunteer road service commissioners. Here are a few examples:

1. When an area wants to become a road service area they can draw the lines to keep out potential no votes and then later ask the borough to annex the group in.
2. It can cause hostility from residents forced into an area that they may choose to try to dissolve the road service or try to cut back the mill-rate so that they roads cannot be maintained.
3. It gives road powers to a borough that in my opinion is not allowed to have by law. People have a right to vote especially when it concerns adding a greater burden of property tax to a group already feeling the pressure.

I believe it is time for the Fairbanks North Star Borough to revisit how road services are set up and maintained. There are many problems with the current system and to me this only adds more problems. The borough talks about fairness, is it truly fair that those with higher assessed homes pay more to maintain the road than those of less value. If you want to be fair then it should be a fixed amount. Don't let the borough keep trying to fix piece by piece by to look at the whole system and see what truly needs to be done to make it work. Please vote this bill down. Thank you.

Sincerely,
Tammie Wilson
571 Canoro Road
North Pole, AK 99705

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http://advision.webevents.yahoo.com/mailbeta/features_spam.html



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the CRA
 Committee on Road Service Areas HB185 Dated 3/21/07
Committee Name
Title / Subject

Please do not pass HB185. This bill can cause many negative effects. The following things can happen.

- ① Properties can be left out of vote if those circulating petition feel it would have a better chance to pass and then force without a vote into a road service area.
- ② Private roads in FNSB are currently put into road service areas yet not maintained like the public roads.
- ③ If a section/subdivision is forced in they may choose to petition for a vote to dissolve the road area.
- ④ On fairness, it is not fair that service areas are funded based on the value of ones home instead of a flat fee. In addition, only those registered voters in a proposed area get to vote not necessarily property owners with property elsewhere.
- ⑤ The borough does not need anymore powers that they don't fund.

SIGNED: Janine Wilson
 Testifier

Resident FNSB
 Representing

571 Concord Rd N.P. 99705 490-0312
 Address / Phone Number

Sonya Hymer

From: Rep. Anna Fairclough
Sent: Tuesday, March 27, 2007 9:02 AM
To: Dan&Ann Swift
Cc: Kim Skipper; Renee Limoge
Subject: RE: HB 185

Dan,

Thank you for taking the time to write and express your support on HB 185.

The bill moved from committee today.

Representative Anna Fairclough

State Capitol: 907.465.3777
Eagle River: 907.694.8944
Representative_Anna_Fairclough@legis.state.ak.us

From: Dan&Ann Swift [mailto:dswift@acsalaska.net]
Sent: Monday, March 26, 2007 8:21 PM
To: Rep. Anna Fairclough
Subject: HB 185

Representative Anna Fairclough:

I am writing in support of HB 185 that would allow a borough assembly to add neighborhoods to existing road service areas when the neighborhood uses a service area road for primary access to its neighborhood. It would also allow an assembly to remove a neighborhood from a service area if its residents are in a position of having to pay for maintenance on service area roads it does not use. The need for this legislation stems from the fact that residents of a neighborhood are usually not altruistic enough to give up a freebie if they don't have to. I am chairman of a local road service area. We have one family who is paying service area assessments, but does not use our roads. It is just too cumbersome a process to hold a service area election to let them off from paying our assessment. We also have two driveways that have sprung up on our roads from property that is not in our service area. As a matter of fairness to the other assessment payers, we feel that the owners of the properties these driveways serve should contribute to the roads they use.

The Friday's Fairbanks News-Miner had an article on HOB 185, indicating skepticism on the part of some CAR members the wisdom of having some 107 separate service areas in the Fairbanks North Star Borough. I tend to agree that it may not be the most efficient way of managing our local roads, but for various historical reasons that is what we have to deal with. We are simply asking for the Legislature to make things a little easier for us to take care of our patchwork of local roads

Sincerely,
Daniel WE. Swift, Ch
Edanella Heights Road Service Area

3/27/2007