

682

HCRRA

NOTEBOOK:

KODIAK

ANNEXATION

682



City of Kodiak

PHONE (907) 486 - 3224
P.O. BOX 1397
KODIAK, ALASKA 99615

November 14, 1977

Mr. Pat Poland
Local Government Specialist
Department of Community and
Regional Affairs
511 West Fourth Avenue
Anchorage, Alaska 99501

Dear Pat:

Enclosed is a copy of Kodiak Island Borough Ordinance 77-35-0. As you can see, it is establishing the Mill Bay-Monashka Service Area. Also enclosed is a map to give you an idea of the area this encompasses.

I am sending this to you for information purposes only as I feel that this action by the Borough is the kind of procedure we have been expecting for quite some time. In view of the fact that the City has requested the Local Boundary Commission to look into possible annexation of the very same area, I feel it is important that the Commission be made aware of this new development.

You did mention that the Commission has the power to prohibit this type of action from taking place in an area that could very well be annexed to the City. I believe the City could adequately show that this area is now being served in many ways by the City of Kodiak. I feel that if service areas are allowed there will be very little compulsion for these people to want to become residents of the City of Kodiak.

Under Section 29.63.090 (d), service areas, the following is a quote: "A new service area may not be established if, consistent with the purposes of Article X of the State Constitution, the new service can be provided by an existing service area, annexation to a city or by incorporation as a city" (emphasis added). It is obvious that if the Borough were to ask for water and sewer service areas they would have to use the City's facilities for these services. If road powers were the concern of the ordinance mentioned above, the Borough would have to contract or establish a new operation for servicing the roads in this area. At the present time the City has facilities, equipment and manpower to provide this service to the residents of the City of Kodiak. It is one thing to start from scratch or contract

Mr. Pat Poland
Page Two
November 14, 1977

with a private company or to provide a service. Since the City already has men, equipment, a shop, etc. it is obvious that this should be accomplished through annexation instead.

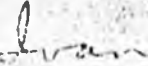
While it is one thing to overlook the State Statutes, I feel that if this service area is allowed it would be contradictory to the Constitution of the State of Alaska which is the supreme document in matters of this case.

I do not have any other information on what the Borough is doing; however, I am sure you have the resources to get the information you need. If I hear of anything more, I will be sure to let you know.

Thank you very much for your review of this most important matter.

Very truly yours,

CITY OF KODIAK


Ivan L. Widom
City Manager

ILW/lp

cc: Mr. Palmer McCarter

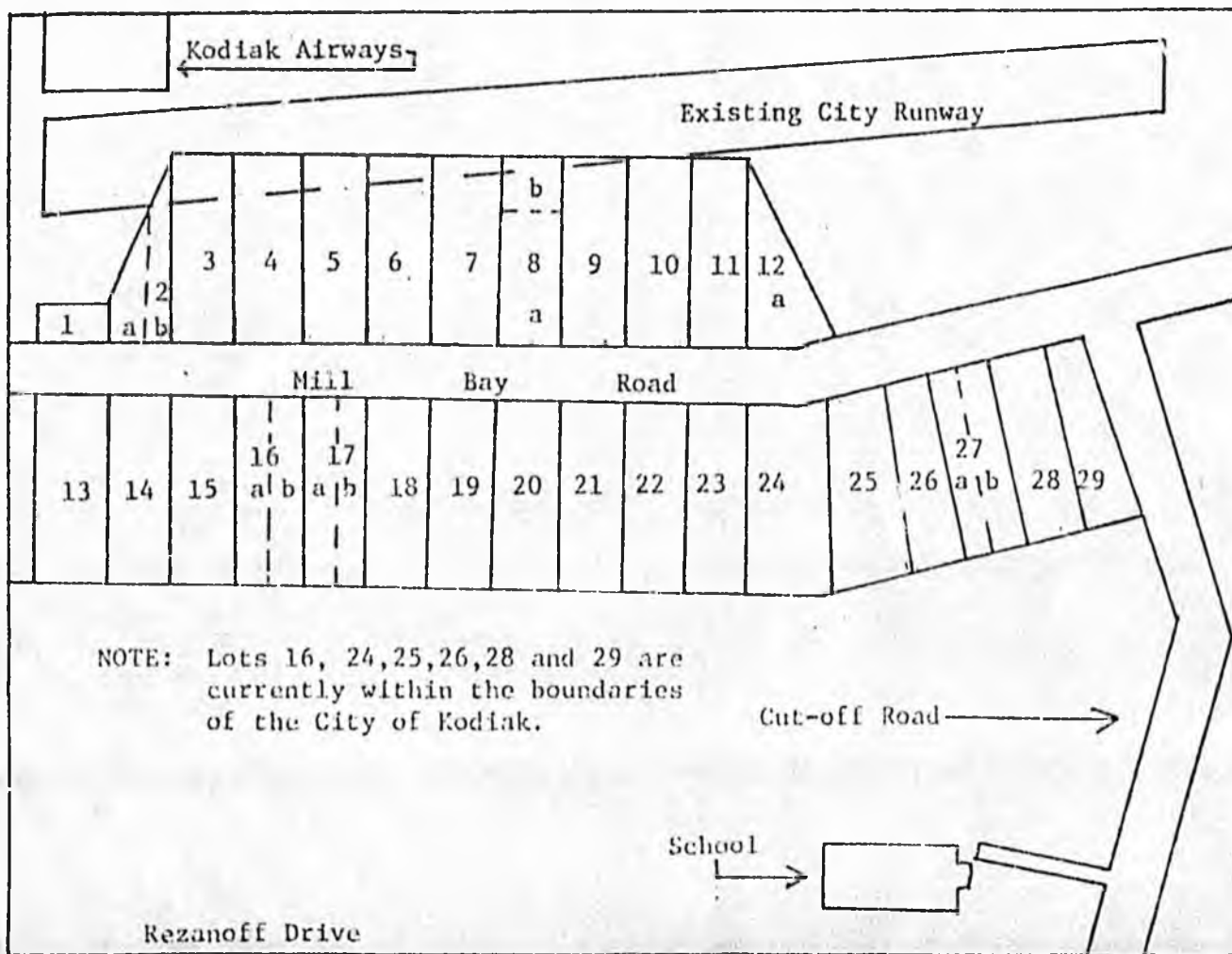
A

NOTICE OF PUBLIC HEARING

Pursuant to AS 44.19.290 and 19AAC 10.090 notice is hereby given that the Local Boundary Commission will conduct a public hearing on Monday, December 12, 1977, at 7:00 p.m. in the council chambers of the City of Kodiak. The purpose of the hearing is to obtain testimony of the public regarding the petition of the City of Kodiak proposing annexation of certain property located along Mill Bay Road to the City of Kodiak. The territory proposed for annexation is more specifically described as:

Lots 1, 2A, 2B, 3, 4, 5, 6, 7, 8A, 8B, 9, 10, 11, 12A, 13,
 14, 15, 17A, 17B, 18, 19, 20, 21, 22 and 23 of United
 States Survey number 3098, comprising some
 21.73 acres.

A map displaying the general location of the property is shown below.



Any person wishing to speak at the hearing may do so. Persons unable to attend the hearing may arrange to have someone speak in their behalf at the hearing or may present written testimony prior to the public hearing. Written comments should be mailed to:

Department of Community and Regional Affairs
Division of Local Government Assistance
511 West Fourth Avenue
Anchorage, Alaska 99501

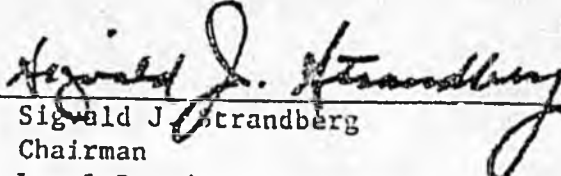
Following the conclusion of the public hearing the Local Boundary Commission may convene a decisional meeting. Pursuant to the authority granted the Local Boundary Commission by Article X, Section 12 of the Alaska Constitution and AS 44.19.260 the Commission may enter any one of three possible decisions:

- 1) To accept the petition as presented; or
- 2) To reject the petition; or
- 3) To amend the boundaries of the area proposed for annexation and accept the petition. Should the Commission decide to amend the boundaries of the area proposed for annexation, it may do so by decreasing the size of the territory proposed for annexation or by adding to the territory proposed for annexation any territory adjacent to the City of Kodiak.

Pursuant to the previously stated authority the Local Boundary Commission's decision is subject to legislative review.

Should bad weather or other factors preclude the conduct of the hearing at the scheduled time and place, the hearing is rescheduled for the following day, Tuesday, December 13, 1977 at the same time and location.

Dated this 9th day of November, 1977, at Anchorage, Alaska.



Sigvald J. Strandberg
Chairman
Local Boundary Commission



City of Kodiak

PHONE (907) 486 - 3224
P.O. BOX 1397
KODIAK, ALASKA 99615

December 16, 1977

Mr. Sigvald J. Strandberg
Chairman
Local Boundary Commission
Department of Community and
Regional Affairs
511 West Fourth Avenue
Anchorage, Alaska 99501

Kodiak Island Borough
KODIAK, ALASKA

RECEIVED

DEC 19 1977

7, 8, 9, 10, 11, 12, 13, 14, 15, 16

Dear Mr. Strandberg:

I do not envy the Commission's position when attempting to relate to the problems such as we have here in Kodiak. I respect your willingness to listen to many statements that are irrelevant; however, I do not believe they should bear much weight in your decision.

When I finished my initial remarks, I asked for an opportunity to reply to the Respondent's Brief. For one reason or another, you did not honor my request. I realize your desire not to prolong the hearing; however, there were many points that were made that were not true. It is too bad that you were not willing to give me an opportunity to clear them up for you and those attending the meeting.

I think it should be made known in what capacity your fellow Commission member, Ms. Gallagher, is working for the Borough. It is obvious that if her employment has anything to do with any of the issues mentioned in the annexation proceedings she should disqualify herself from any court proceedings, as well as Commission activities. Her ability to ask questions during the hearing that would bear on possible litigation would seem reason enough for her to disqualify herself. I would like to hear from you or Ms. Gallagher regarding this issue.

There are several points I would like to make that were brought out in the testimony of the citizens.

EXHIBIT A

1. The City sewage treatment plant is 100% funded by the Federal and State Governments and City of Kodiak. The City's portion is financed in part by general obligation bonds. There are no Borough funds involved in this sewage treatment plant.
2. It is obvious that the City is not going to reap any huge benefits from the annexation proposal. Half of the lots are in public ownership, there are no industries, pipelines, etc. that would constitute a windfall to the City if the annexation did occur.
3. Postponing the decision on this annexation until after the legislature begins is not fair. The merits are quite obvious. I should not have to go into any detail on this.
4. As far as I could ascertain, there was not one registered voter from the area in question who spoke against the annexation. If an election were held rather than the public hearing, none of those people would have been able to voice their opinions. I think it was incumbent upon the Commission to make this clear. One of the items I wished to make known was that no resident of the area spoke on the annexation. The only people involved were property owners and those renting or leasing for business purposes.
5. At the Borough meeting on December 1, I tried to explain that the annexation of the Mill Bay Road area was the only item to be considered at the hearing. The Borough overreacted and sent out notices to all post office box holders as well as the notices in the paper. I feel that it is this kind of activity that turns people off toward government and makes all our jobs more difficult.
6. As I understand it, there are five members of the Boundary Commission and since two can hold a public hearing but three need to make a decision, the other two members that were absent also need to concur in the decision to hold another public hearing on this annexation.

It is quite obvious that the residents of the Borough and City residents who own property in the Borough are against annexation because of the additional financial burden. As far as I am concerned, that is no reason for these people not to be annexed. From your comments, you seem to have similar feelings. I am going to ask the Council of the City of Kodiak to wait six months before meeting with the Boundary Commission again since no annexations can occur until 1979. The Borough will go ahead with their service areas and unnecessary duplication of taxing structures will automatically result. I am certain you are aware that as soon as an area gets water and sewer from the core City they have no need

Mr. Sigvald J. Strandberg
Page Three
December 16, 1977

to annex. This is especially true in the Kodiak urban area.

I would like to take this opportunity to thank you for visiting with us. I really feel that you have quite a burden on your shoulders. I appreciate that fact only too well; however, I still feel that you have accepted your positions of trust and you have a responsibility to the municipalities that are depending on you for proper decisions.

Very truly yours,

CITY OF KODIAK

Ivan L. Widom
City Manager

ILW/lp

cc: Commissioner MacAnerny
Governor Hammond
Senator Poland
Representative Snider

KODIAK ISLAND BOROUGH

C O N F I D E N T I A L M E M O R A N D U M

TO: Borough Manager
 FROM: Planning Director
 SUBJECT: Individual Breakdown of City and Borough Taxes
 RE: Information Required by Counsel
 DATE: December 6, 1977

During our discussions with Mrs. Joan Katz, she requested I prepare a breakdown of my estimated Kodiak Island Borough Real and Personal Property Tax as well as the amount of Sales Tax collected by the City for goods and services.

The following reflects the assessed valuation of the real property I lease:

<u>Land</u>	<u>Building</u>	<u>Total</u>	<u>KIB Mill Rate</u>	=	<u>Amount of Tax</u>
\$8,900	\$32,890	\$41,790	\$9.50	=	\$397.00

Personal Property:

<u>Description</u>	<u>Valuation</u>	<u>Mill Rate</u>	<u>Amount of Tax</u>
1965 Dodge $\frac{1}{2}$ Ton P.U. w/Camper	\$ 500		
1974 Buick 2 Dr. H.T.	2,975		
1973 Chevrolet K5 Blazer	2,900		
1969 5-HP Outboard Motor	<u>50</u>		
Total	\$6,425	x \$9.50	<u>\$ 61.04</u>
Total Amount of Tax Revenue Collected by K.I.B.			<u><u>\$440.04</u></u>

The following reflects the estimated Sales Taxes I pay:

CONFIDENTIAL MEMORANDUM

To: Borough Manager
From: Planning Director
Subject: City and Borough Taxes, Individual Breakdown
Date: December 6, 1977

Page 2

Sales Taxes:

<u>Item</u>	<u>Amount of Tax</u> <u>(Month)</u>
Food	\$ 21.00
Telephone	2.25
Electricity	2.55
Fuel Oil (Furnace)	7.50
Clothing	3.00
Automobile Gas and Oil	1.80
Tire Repair	.54
Cosmetics	1.00
Water	.42
Dry Cleaning	.60
Cable Television	.51
Entertainment (Movies)	.75
Appliances (Large & small, Replace & repair)	1.05
Cards, Gifts, Candy	1.50
Books, Magazines, Newspaper	1.00
Meals Out	6.00
Beverages	<u>5.00</u>

Average Amount of Sales Tax Paid to City of Kodiak, \$ 56.47 per Month;

Total Yearly Amount Sales Tax Paid to City (x 12), \$ 677.64

Average of Combined City and Borough Taxes for non-City Resident, \$1,117.68

Percentage of Total Tax Paid to the City of Kodiak, 60.629%

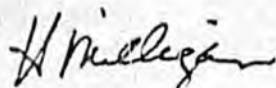
Percentage of Total Tax Paid to Kodiak Island Borough, 39.370%.

Of the \$440.04 paid to the Borough, 2.27 Mills or \$109.44 were paid over to the City of Kodiak for fire protection, thus leaving the Borough with a net tax collected in the amount of \$330.60, and the City of Kodiak with a total \$787.08.

Percentage of Adjusted Total Tax Paid to the City, 70.421%,

Percentage of Adjusted Total Tax Paid to the Borough, 29.579%.

Respectfully submitted,



Harry Milligan

CITY OF KODIAK
RESOLUTION NUMBER 23-77

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK REGARDING
THE ESTABLISHMENT OF A JOINT COMMITTEE TO STUDY UNIFICATION

WHEREAS, major changes are occurring in the entire Kodiak Island
Borough, and

WHEREAS, the tax base is not sufficient to support excessive government
and

WHEREAS, the relationships between the City of Kodiak and the Kodiak
Island Borough demand close cooperation and coordination, and

WHEREAS, unification of the two governments might be in the best interest
of the residents of the Kodiak Island Borough;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak
wishes to participate in a study task force along with the Borough Assembly
members and private citizens to study the advantages and disadvantages of
unification and to recommend whether or not unification would be in the best
interest of the residents of the Kodiak Island Borough. The Council respectfully
requests the Borough Assembly to participate in this task force and to meet
with the Council in worksession to determine how best to implement this study
group.

PASSED AND APPROVED this 27th day of October, 1977.


MAYOR

ATTEST:


CITY CLERK

EXHIBIT C

April 18 election opposed

Council votes to sue

Kodiak Mirror, March 28, 1978

The Kodiak City Council voted yesterday to file suit against the Kodiak Island Borough to prevent the borough from holding a scheduled April 18 election to establish a Monashka-Mill Bay Service district.

The suit will be filed by a special attorney, Don Johnson of Anchorage, City Manager Ivan Widom told the Mirror this morning.

The council's decision to file suit was reached after city and borough council members failed to reach any agreement at a joint borough-city meeting Saturday.

The joint meeting was held to discuss who would provide sewer service to the Monashka-Mill Bay area after the city sewage treatment plan is in operation.

"The city is not trying to stop people from voting," city councilman Gary Stevens told the Mirror this morning, explaining that the city feels the special service district election would be illegal.

"We're trying to save the voters the \$1,500 it would cost to

hold the election," Stevens said. "The city's point is," he explained, "that our interpretation of state law is that as long as an area is adjacent to the municipality and the city provides services, a new service district is illegal. The area should be annexed."

If the borough did establish a special service district for the Monashka-Mill Bay area, Stevens said, the borough would probably then contract with the city to provide sewer and water services.

"Hopefully the borough isn't going to start an additional water department," Stevens said.

"If the borough goes in there and builds the water district and then contracts with the city to maintain and operate it," he explained, "the city is at a disadvantage because it was not in on the planning. We will have the same problems we had on Larch Street."

"We want to be in on the planning to assure the system is compatible with ours," Stevens said. "We don't want to waste the taxpayers' money."

Further, he explained, the borough planners have determined that the urban Kodiak area will eventually extend to

(Continued on Page 2)

From page 1

the end of Spruce Cape. "If this is true," Stevens said, "and I believe it is true...it's foolish for there to be two urban areas, one outside and one inside the city." "I hope what is going to

happen," Stevens said, "is that when people see the squabble they will demand unification." Juneau, Sitka and Anchorage went to unification, Stevens said, adding, "It's the answer for Kodiak. Unification would get rid of duplication, squabbling and lawsuits."

City of Kodiak

PHONE (907) 486 - 3224

P.O. BOX 1397

KODIAK, ALASKA 99615



April 24, 1978

Local Boundary Commission
Department of Community and
Regional Affairs
511 West Fourth Avenue
Anchorage, Alaska 99501

RECEIVED
MAY 3 1978

DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

Gentlemen:

As I understand it, the Boundary Commission is holding a hearing in Kodiak to consider three items. The first is to make a decision on the Mill Bay Road annexation. This was heard by the Boundary Commission on December 12, 1977. The second item is to discuss two 100% annexations; one involving the City's airport property and the other is the Frontier Southern Baptist Church property. The third item is to discuss the boundary question in the total urban area of Kodiak.

The City of Kodiak has supplied the Boundary Commission with a great deal of information regarding the Mill Bay annexation. The Borough has gone ahead with their plans to create a service area in the Kodiak urban area adjacent to the city limits. The City of Kodiak has decided to stop this service area creation through the court system. If it turns out that the courts will not allow the service area to be created, the responsibility will be placed on the City of Kodiak to provide services to the projected service area.

There is another area that I would like to bring to your attention as well. This involves the Coast Guard Base adjacent to the City of Kodiak. At the present time, the State of Alaska leases part of the Coast Guard Base for the State airport and is currently considering expansion of that facility. The Coast Guard Base, including the airport, is not within the boundaries of the Kodiak Island Borough; therefore, we have a difficult situation.

The City of Kodiak Police Department is the security agency involved at the airport. Our police officers provide the necessary anti-hijacking protection for the State. There are areas at the airport that are leased to individuals and the property is not taxed in any way. As the airport grows and develops, increased commercial activity will be present at that facility. It is obvious that the Kodiak Island Borough

April 24, 1978

is missing out on a great deal of personal property tax at the airport. I am not certain about the real property taxes since it is Federal property.

Another issue is the fact that Koniag Native Corporation is receiving excess property from the Coast Guard. There are plans to develop this property, of course. As long as the property remains outside of the jurisdiction of the Planning and Zoning function, the area could be developed without adequate controls. I feel it is important that the Boundary Commission take a look at this situation as well.

The immediate concern is to annex the State airport. I believe that part of the Coast Guard Base could be annexed without any residents taken in. I realize this is another whole dimension to the boundary situation in the Kodiak urban area; however, I think that if you are going to be looking at the total urban area around the City of Kodiak, the Coast Guard facility and State airport should be taken into consideration.

I have done some research regarding the formation of boroughs and utilization of service areas in the context of what is happening currently in the Kodiak urban area. I must apologize that the amount of research done and the limits of my resources does not make this study a complete one; however, the basic issues as I see them are presented below.

The most adequate source of information is a publication called "The State and Local Government System" by Thomas A. Morehouse and Victor Fisher. I was only able to find the SEG interim report #23, March, 1970.

I would like to take the liberty of quoting the specific paragraphs and furnishing you with Xerox copies of specific pages of the report. By utilizing this method, I will not take things out of context and give you incomplete information. This, of course, will make this communication to you a rather lengthy one; however, I think the end result will be much more convincing.

Since the subject report was published in March of 1970, I am certain the research was done in 1969 and before. That means that at least for the last nine years the State of Alaska has been aware of the problems existing between cities and boroughs. There are references to other publications in this study that show that the State of Alaska has been aware of the problem prior to 1969. Due to lack of resources and adequate time, I will not go into a long dissertation regarding the Constitutional Convention, creation of boroughs and other instrumentalities of local government. However, I do plan to dwell on the issues that were brought out by Mr. Morehouse and Mr. Fisher that relate to the specific problem that the Boundary Commission is concerned with in the Kodiak urban area.

On Page I-18, the situation that we now have here is presented. At the top of the page, it mentions the Boundary Commission's responsibilities and ability to affect the necessary controls. The next paragraph talks about the borough form of government and I quote: "In its current stage of evolution, then, the borough possesses the form but not the substance of authoritative area-wide government. It is 'general government' within which a powerful special government--the school district--has maintained and even increased its autonomy. It has 'exclusive authority' for area-wide functions, but in practice, its functions are divided and shared with independent city and school administrations. It is a 'regional government' but it competes with city government for both territory and function. It speaks of promoting 'area-wide' policy and programs but it is so structured as to facilitate the expression of local selfinterest and localized service area needs"

The next paragraph on Page I-18 and I-19 further develop this idea: "The basic problem is that in most areas two forms of local government--the city and the borough--are attempting to occupy political and physical 'space' where there is room only for one. This is so particularly where a borough centers on a single urban core served by a well established city (Anchorage, Fairbanks, Sitka, Ketchikan). The case for a single urban area-wide governmental unit for these places would seem clear. Much less clear, however, is the rationale used for superimposing the borough as a second unit for local general government on the existing municipal base in these more developed regions of the State. On the other hand, where the borough, as a regional government, might serve smaller areas of settlement and rural areas, as well as region-wide needs, more room could be considered available for both borough and city governments (e.g. Kenai, Kodiak, Matanuska-Susitna)."

The fact that growth in the last nine years has placed the City of Kodiak in the same situation as Anchorage, Fairbanks, Sitka and Ketchikan is pointed out by your addressing the same issues as discussed in the report.

On Page I-25, at the top of the page, there is a discussion regarding cities. "City boundaries should be so located as to encompass an entire 'natural' socio-economic and political community. Since most of Alaska's urban settlements are small and relatively compact, there is no technical reason why this criterion cannot easily be met. This would minimize the need for service areas in organized boroughs to perform urban services that can be performed by a city."

On the same page there is a discussion regarding service areas. This goes on to the next page as well and is certainly germane to the discussion at hand. "While it is generally desirable that matters of government organization and functions

be determined locally, past experience of borough-city conflict over annexation and the creation and operation of service areas indicate that the State probably through the Boundary Commission should review local action and play a mediating role. The purpose would be to insure that appropriate incorporation and annexation standards are met, that a new service area is actually warranted and, if so, that it is properly constituted. Any area bordering on a city should be subject to annexation rather than permitting its establishment as a borough service area or its incorporation as a separate city. If annexation or incorporation is not feasible or desirable, expansion of an existing service area would be considered providing that a determination is made that the existing service area should not itself be annexed or incorporated. Only after each of these options is considered in order should it be permissible to establish a new service area and then only with a clear understanding that it is subject to future adjustment within the broader system of organized local government."

Further on in the study, on Page IV-37, the same kind of information is presented. "The State was to assume a continuing responsibility for the overall design and performance of the local governmental system. Specifically for this purpose two new State agencies were mandated by the Constitution: a Local Boundary Commission and a 'local government agency'. The Boundary Commission would assure that borough and city boundaries were properly aligned in the first instance and subsequently were responsive to changing needs and conditions. The Commission was thus authorized by the Constitution to 'consider any proposed local government boundary changes' and subject to legislative veto it could implement such changes."

On Pages VI-16 and VI-17 there is a discussion of city versus borough. "It was apparent from the start that a potential stalemate between cities and boroughs was built into the new local governmental system set forth in the Constitution. Boroughs and the cities within them were very likely to compete with each other for territorial jurisdiction over urbanizing areas outside city limits. To service these places the borough would need to acquire additional powers or create special service areas. If additional area-wide powers were sought, these would be at the direct expense of city authority since area-wide powers assumed by the borough are denied to the cities. If nonarea-wide (outside city) powers were sought or if service areas were created, these could constitute blocks to city expansion."

On Page VI-18, there is a discussion of annexation versus service areas. "As viewed by the Public Administration Service (PAS) in its report to the Statehood Committee in 1959, there were two contrasting approaches to local government reorganization in the more urbanized areas of the state. On the one hand, the borough could be established with a view toward eventual absorption of the city within it. On the other, the jurisdiction of the city could be expanded through annexation of the urbanizing areas around it. In most of urban Alaska, there appeared to be no need for more than one unit of local government to provide urban services.

Population and economic bases were small and duplication of governmental machinery would be wasteful. 'By all odds' reported PAS, 'the most direct and least complicated line of evolution for many communities would be expansion of the central city with all of its existing plant, political structure, credit and fiscal base and political know-how'. But 'if this line of reasoning is valid, what foreseeable use is there for organized boroughs . . . ?'

PAS concluded: "It may be that the best solution for the problems of urban government in most areas will be to concentrate the full responsibility in a single level, the city, or the completely consolidated city-borough. On the other hand, it may be that the borough will provide a very useful agency in rural Alaska for the exercise of local responsibility for administration and at least partial financing of education and a growing list of local or regional services such as local roads, fire protection, utilities (water, sewer and others), health, recreation, etc., some of which would be provided on a borough-wide basis and some in special service areas organized and governed under the authority of the borough."

"Ignoring these considerations, the State layered borough government over the cities of urban Alaska and established no borough units in rural Alaska."

On Page VI-20, this thought continues. "At the same time, the borough service area has been available as a vehicle for meeting service needs for developed enclaves outside the city. This tends to neutralize whatever attraction city annexation may have for those seeking more and higher quality urban services. With the borough service area, residents outside the city may select the particular mix of services they wish and be assured of paying, through differential mill rates, only for those additional services directly received in their immediate area of residence. For this reason, however, service areas also fragment the borough. The separate suburban enclaves develop, a built-in resistance to unified or consolidated area tax and service structures, and service area status insulates their residents from the cost of city facilities and services that they share or benefit from, perhaps most obviously as owners of property whose value is enhanced simply because the city is accessible."

I find that the above paragraph gets to the heart of the problem and I think that to go further would just elaborate this very same thinking and belabor the point.

One of the outgrowths of the current Kodiak Borough-City conflict has been the idea of unifying the governments in the Kodiak Island Borough. Resolutions have been passed by both the City of Kodiak and the Kodiak Island Borough regarding unification. At the Borough Assembly meeting on April 7, the Borough Assembly

April 24, 1978

did adopt a Resolution to put the question on the ballot next October. Hopefully, the Boundary Commission will look at the problem in the immediate context of what is going on now rather than what might happen in the future. I am certain that you are aware of the unification procedures and the fact that the Kodiak Island Borough is fragmented with a home rule city, five second class cities and the Borough. In addition, there are many residents outside of the cities that compound the complexity of unification. While I personally see unification as the only answer and ultimately it is bound to occur, the process will probably take two to three years before unification becomes a reality.

The Boundary Commission is the only body that has the power, authority and responsibility to mediate the conflicts described above. I feel that the State of Alaska is certainly at fault by allowing the borough-city annexation-service area conflicts to exist in the first place. In the last nine or ten years the situation has gotten worse and it has even reached Kodiak Island which in itself is isolated from the rest of Alaska. This is certainly not the time nor the place to lay blame but to look at answers within the context of legalized solutions.

The obvious is clear. The Boundary Commission should consider steps to annex the total urban area into the City of Kodiak by using the stipulation for differential taxation as described in 19AAC 05.020 (3) and (4). Without the total picture being reviewed and the Boundary Commission taking appropriate action, I see this situation continuing for a number of years. Since the Boundary Commission decided not to act on the Mill Bay Road annexation when you were here in December because of a decision to look at the entire urban area, I think it is incumbent that the Boundary Commission act positively to stop the squabbling and hassles that have resulted because of the City-Borough conflicts.

If Kodiak were an isolated case and our problems were unique to Alaska, I would be the first one to bring that to your attention; however, it is clear that since the creation of the Kodiak Island Borough and the fact that City Council-members do not sit on the Borough Assembly and removal of the weighted voting provision, many conflicts were bound to result. Only through the good offices of the Boundary Commission will the Kodiak Island taxpayers and residents see a resolution to their problem.

Hopefully, unification is the final solution to the problems, perhaps, that is what this is all about. The Constitutional Convention was aware that unification was probably the only answer; however, they did not deem it practical to mandate that from the beginning. It seems as though the only answer is unification; however, in the meantime we must look to the political realities of that process. As mentioned above, the City is taking legal action against the Borough to stop the formation of the service district immediately outside of the city limits. The Borough plans on utilizing City water and sewer to serve the residents of these service areas. As long as the Boundary Commission refuses to take positive annexation action,



City of Kodiak

PHONE (907) 486 - 3224

P.O. BOX 1397

KODIAK, ALASKA 99615

April 13, 1978

*Eric,
Here were
the enclosed.
Ivan.*

Mr. Eric Simpson
Local Government Specialist
Community and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Eric:

Enclosed are the copies of the letters we discussed on the phone.

As I mentioned to you, I would like to have some more information on what the Boundary Commission is going to be doing in Kodiak. My request is made in part because of the potential misunderstandings that might result due to the number of issues involved. As I see it now, there are three specific issues. One, the Mill Bay Road annexation. Two, the two one-hundred percent annexations that the City processed and three, the entire Kodiak urban area.

I would like to know if these are the issues that the Boundary Commission is going to be discussing. Does the Boundary Commission want me to present all the material on the Mill Bay Road annexation over again or is what they have previously received adequate?

There are many issues involved in discussions about the boundaries in the total Kodiak urban area. I am not certain that I can prepare adequately for that type of discussion in advance unless I have further information from the Boundary Commission. If at all possible, I would like to get additional information so that I can prepare an adequate report on the issues involved. I realize this is putting a burden on you; however, I do not want to get into a position where the City of Kodiak is not given a fair opportunity to present its case.

Please let me know as soon as possible what is on the agenda and the specific issues.

Very truly yours,

CITY OF KODIAK

Ivan
Ivan I. Widom
City Manager

RECEIVED
APR 17 1978

DEPT. OF COMMUNITY
AND REGIONAL AFFAIRS

built into the borough structure. Another method of city representation (e.g., borough sections, at-large, or some combination of both) would not mean the elimination of conflict. Indeed, it is possible that confrontations between completely separate city and borough governments might even be more intense in the absence of assembly "screening" and internal stalemating. However, these confrontations would more likely occur in political arenas larger than the assembly structure, often forcefully presenting themselves for more definitive resolution at the state level.

Annexation Vs. Service Areas

As viewed by the Public Administration Service (PAS) in its report to the Statehood Committee in 1959, there were two contrasting approaches to local government reorganization in the more urbanized areas of the state. On the one hand, the borough could be established with a view toward eventual absorption of the city within it. On the other, the jurisdiction of the city could be expanded through annexation of the urbanizing areas around it. In most of urban Alaska, there appeared to be no need for more than one unit of local government to provide urban services. Population and economic bases were small, and duplication of governmental machinery would be wasteful. "By all odds," reported PAS, "the most direct and least complicated line of evolution for many communities would be expansion of the central city with all of its existing plant, political structure, credit and fiscal base, and political know-how." But, "if this line of reasoning is valid, what foreseeable use is there for organized boroughs . . . [?]"²¹ PAS concluded:

²¹PAS, op. cit., p. 71.

would need to acquire additional powers or create special service areas. If additional areawide powers were sought, these would be at the direct expense of city authority, since areawide powers assumed by the borough are denied to the cities. If non-areawide (outside city) powers were sought, or if service areas were created, these could constitute blocks to city expansion. Moreover, borough assemblymen from outside the city could be expected to resist city annexation cutting into their constituency. And if, at the same time, this meant that assemblymen from the city would acquire the weighted vote advantage because of an increase of the city population (to a majority of the borough population), the resistance would be all the more intense.

Assembly Structure

Since the city is represented on the assembly by city council members, the ground is already prepared for city-suburban splits and polarization because of the assembly's own internal structure. This can directly channel and reinforce the internal divisions that would in any case exist because of the normal political reality of competition and conflict among the different interests that assemblymen are elected to represent.¹⁹ Direct city representation, as required by the constitution,²⁰ enhances certain naturally unstable aspects of the political process that have already been

¹⁹Cf. Paul Ylvisaker, "Some Criteria for a 'Proper' Areal Division of Governmental Powers," Area and Power, Arthur Maass, ed. (Glencoe, Ill.: The Free Press, 1959), p. 39.

²⁰Alaska, Constitution, Article X, Section 4. This, it should be noted, is the only instance in which the article prescribes a specific feature of internal organization, a practice otherwise avoided, and deliberately so, by the article's framers.

serve the city and is obligated to work with the borough planning staff. In the hopeful words of the state's Attorney General, "the system is a carefully balanced one which demands a great deal of cooperation between city and borough."¹⁷

Thus, although the borough presumably has "exclusive" planning and zoning authority, effective arrangements are anything but clear-cut. They are, in part, the outcome of practical, and often unstable, compromises in the writing and interpretation of statutory provisions. Complicating the issue in this case is a concept of planning that does not account for differences in scale or level. Consequently, political and administrative accommodations must be reached at the local level in order that even routine planning tasks -- at project, neighborhood, city, and areawide levels -- can be accomplished. By denying planning authority to the city, the borough act tended to complicate rather than clarify borough-city administrative relationships -- it helped create a structure within which conflict was bound to occur, and one that has in some cases operated to eliminate city planning functions altogether. But the planning conflict only reflects larger differences between the city and borough.

City Vs. Borough

It was apparent from the start that a potential stalemate between cities and boroughs was built into the new local governmental system set forth in the constitution. Boroughs and the cities within them were very likely to compete with each other for territorial jurisdiction over urbanizing areas outside city limits.¹⁸ To service these places, the borough

¹⁷Quoted in Alaska, Local Affairs Agency, Alaska Local Government, Vol. VII, No. 7, October 1964, p. 4.

¹⁸See PAS, op. cit., pp. 63-73.

to the long term goal of a unified local governmental system, and provisions were included in the constitution for the purpose of encouraging close cooperation between boroughs and cities within them.

Cities, then, would continue to exist within the new boroughs and, between them, they would eventually exercise all local government powers in the state. Special districts, including school districts and public utility districts, would be absorbed into these two constitutional forms of local government. While elective school boards could remain in existence, they would be under the general budgetary control of the borough assemblies.

The state was to assume a continuing responsibility for the overall design and performance of the local governmental system. Specifically for this purpose, two new state agencies were mandated by the constitution: a local boundary commission and a "local government agency." The boundary commission would assure that borough and city boundaries were properly aligned in the first instance, and subsequently were responsive to changing needs and conditions. The commission was thus authorized by the constitution to "consider any proposed local government boundary change" and, subject to legislative veto, it could implement such changes. The local government agency, on the other hand, would broadly "advise and assist local governments . . . review their activities," and perform other functions assigned by law.

Within this very open and apparently simple constitutional framework, the state legislature was to specify and elaborate essential features of local government and state-local relations. The ultimate goal, however, was not state control, but maximum local control of the internal

indicate that the state, probably through the Boundary Commission, should review local action and play a mediating role. The purpose would be to ensure that appropriate incorporation and annexation standards are met, that a new service area is actually warranted, and, if so, that it is properly constituted. Any area bordering on a city should be subject to annexation rather than permitting its establishment as a borough service area, or its incorporation as a separate city. If annexation or incorporation is not feasible or desirable, expansion of an existing service area would be considered, providing that a determination is made that the existing service area should not itself be annexed or incorporated. Only after each of these options is considered in order, should it be permissible to establish a new service area, and then only with clear understanding that it is subject to future adjustment within the broader system of organized local government.

Functions and Finances

Issues of governmental structure, functions, and finances are closely interrelated; one cannot properly be considered in isolation from the others. State policies such as the following would help create and reinforce the local government structure outlined above.

1. Financial incentives. State financial aid policies should be designed to (a) eliminate current disincentives to local incorporation or annexation, and (b) provide positive incentives for performance of urban area functions by cities and regional functions (including special service areas) by boroughs. The state should re-examine all provisions of law and fiscal relations (e.g., tax and revenue sharing) that tend

3. Cities. Cities are viewed as the basic units of local government, located both within and outside of organized boroughs. City boundaries should be so located as to encompass an entire "natural" socio-economic and political community. Since most of Alaska's urban settlements are small and relatively compact, there is no technical reason why this criterion cannot easily be met. This would minimize the need for service areas and organized boroughs to perform urban services that can be performed by a city.

The city classification scheme should parallel the borough's. That is, there should be but two classes of municipal corporation -- home rule and general law. As in the case of organized boroughs, general law cities should have the option of assuming home rule status and privileges.

4. Service Areas. Service areas in organized and unorganized boroughs would be vehicles primarily for meeting special service needs and applying differential tax rates, as at present. In unorganized borough areas, they would be directly under the jurisdiction of the state and the advisory councils. The service area should not be used as a substitute for organized borough or city status. The determination of the need to establish a service area should be based upon consideration of settlement patterns within the borough, proximity to a city or existing service area, the desire for special types and levels of service on the part of the area's residents, and their capacity to provide the additional revenues necessary to support the desired types and levels of services.

While it is generally desirable that matters of government organization and functions be determined locally, past experience of borough-city conflict over annexation and the creation and operation of service areas

"space" where there is room only for one. This is so particularly where a borough centers on a single urban core served by a well established city (Anchorage, Fairbanks, Sitka, Ketchikan). The case for a single, urban areawide governmental unit for these places would seem clear. Much less clear, however, is the rationale used for superimposing the borough, as a second unit of local general government, on the existing municipal base in these more developed regions of the state. On the other hand, where the borough, as a regional government, might serve smaller areas of settlement and rural areas, as well as region-wide needs, more room could be considered available for both borough and city governments (e.g., Kenai, Kodiak, Matanuska-Susitna).

Borough government does not exist at all in most of Alaska, for the "unorganized borough" does not function. Current developments in unorganized Alaska suggest, however, that the social and political conditions for increased local self-government are now emergent. Therefore, in considering the governmental needs for unorganized Alaska, it will be necessary to avoid outmoded notions of the "readiness" of its residents for self-government. In the absence of formal governmental institutions, Native leaders are building their own regional organizations and promoting local participation in a number of federally funded social and economic development programs. Unless these realities are taken fully into account, local government policies developed at the state level will meet with no more success in rural Alaska during the 1970's than did state policies concerning the organized borough in urban Alaska during the 1960's.

The momentum of the statehood movement has been spent, making it all the more difficult to effect basic alterations in the existing scheme.

4. The state was to control local government boundary changes that could be made objectively in response to changes in urban population and economic growth patterns. Just as the Boundary Commission was unable to substitute its authority for local determinations in the initial setting of borough boundaries, so it has since played a minor role in controlling subsequent alterations of borough and city boundaries. As in pre-statehood days, most significant boundary changes are subject to several procedural checks and to elections in the areas immediately affected. The "commission has not been in a position to counter or withstand the political pressures brought to bear, particularly when proposed boundary changes are perceived as affecting values associated with local autonomy, suburban separatism, or tax and service independence.

In its current stage of evolution, then, the borough possesses the form but not the substance of authoritative areawide government. It is a "general government" within which a powerful special government -- the school district -- has maintained and even increased its autonomy. It has "exclusive authority" for areawide functions, but in practice these functions are divided and shared with independent city and school administrations. It is a "regional government," but it competes with city governments for both territory and functions. It speaks of promoting "areawide" policies and programs, but it is so structured as to facilitate the expression of local self-interest and localized service area needs.

The basic problem is that in most areas two forms of local government -- the city and the borough -- are attempting to occupy political and physical

It may be that the best solution for the problems of urban government in most areas will be to concentrate the full responsibility in a single level, the city, or the completely consolidated city-borough. On the other hand, it may be that the borough will provide a very useful agency in rural areas for the exercise of local responsibility for administration and at least partial financing of education and a growing list of local or regional services such as local roads, fire protection, utilities (water, sewer, and others), health, recreation, etc., some of which would be provided on a borough-wide basis and some in special service areas organized and governed under the authority of the borough.²²

Ignoring these considerations, the state layered borough governments over the cities of urban Alaska and established no borough units in rural Alaska.

As described above, the state was confronted with the problem of "integrating" all areas served by special districts. City annexation of all, or even a larger part, of these surrounding areas appeared to be politically out of the question. Even in the case of a small public utility district completely encompassed by the city of Anchorage, opposition to city annexation was intense, although the annexation was finally accomplished. In this case, the Boundary Commission exercised its constitutional prerogative of ordering the annexation, subject to legislative veto, without a vote of the residents of the district. Its action was upheld by the state Supreme Court.²³ This was a relatively simple case of a special district that was required under the constitution to be integrated into a city or borough. Completely surrounded by Anchorage, it was an obviously practicable and logical move for the city to annex it. On the other hand, the Boundary Commission had been most respectful of political realities in cases where suburban residents, often fearing that the cost in new taxes will outweigh the benefits of additional services received, object

²² ibid.

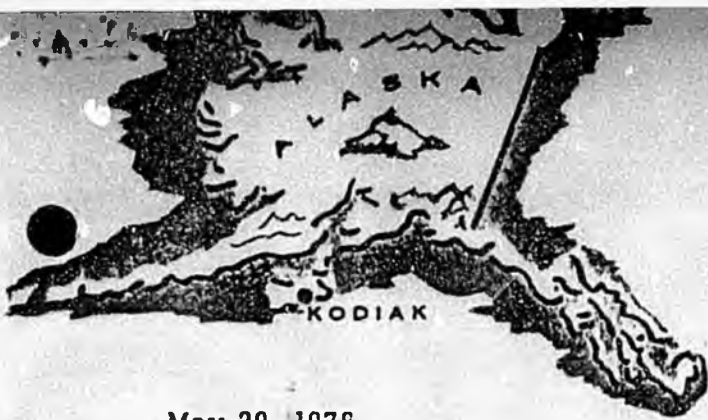
²³ City of Anchorage vs. Fairview Public Utility District No. 1, Alaska Supreme Court (1962).

to city annexation. Certain groups of outside-city residents have also been extremely possessive of their identity and autonomy, much in the tradition of suburban and rural separatism, with central cities often cast in somewhat morally suspect roles.²⁴

At the same time, the borough service area has been available as a vehicle for meeting service needs of developed enclaves outside the city. This tends to neutralize whatever attraction city annexation may have for those seeking more and higher quality urban services. With the borough service area, residents outside the city may select the particular mix of services they wish and be assured of paying, through differential mill rates, only for those additional services directly received in their immediate area of residence. For this reason, however, service areas also fragment the borough. The separate suburban enclaves develop a built-in resistance to unified or consolidated area tax and service structures, and service area status insulates their residents from the cost of city facilities and services that they share or benefit from, perhaps most obviously as owners of property whose value is enhanced simply because the city is accessible.

So, following the line of least relative resistance, boroughs were established in large part to solve the special district problem. Critical by-products of this action were the blocking of significant annexation activity by the cities within them and, in several cases, the fragmenting of the urban area. This outcome was foreseen by PAS in its 1959 report: "The conclusion is inescapable that it would often be more difficult to

²⁴ Although Alaska's "central cities" are really small and medium-sized towns by U.S. standards, such anti-city sentiments often seem to be magnified here. This is, in part, the result of Alaska's peculiar socio-economic characteristics and political "culture" as described in Chapter III above, as well as traditional American attitudes toward the "city."



City of Kodiak

PHONE (907) 486 - 3224

P.O. BOX 1397

KODIAK, ALASKA 99615

May 20, 1978

Ms. Sheila Gallagher, Chairwoman
Local Boundary Commission
Dept. of Community & Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Ms. Gallagher:

In response to your letter of May 1, 1978, I would like to give you the following information.

One of the keys to the situation in the Kodiak urban area is the fact that the City of Kodiak is already providing many services to those outside the City that they are not fully paying for. The City of Kodiak is a full service city. The ongoing services now provided include library, parks and recreation, road (grading, snow removal, pavement patching, storm drainage etc.), water, sewer, sewage treatment, cargo dock (port), boat harbor, ferry dock, fire (and ambulance), police (and animal control), engineering, landfill, museum, airport and cemetery. In addition, the City financially supports the following: Kodiak Council on Alcoholism, Kodiak Senior Citizens, Chamber of Commerce, Head Start, Kodiak-Baranof Productions and similar organizations.

The first service is the library. At the present time, the City of Kodiak has the library and receives a \$15,000 contribution from the Borough. The current library budget is \$143,602. The Borough is contributing 9.57% of the total budget. As of December 31, 1977, there was a total of 2,363 registered borrowers in the library. 1,438 were City residents and 925 were Borough residents. That is equal to 41% of the borrowers coming from the Borough. At the end of March, 1978, there were 1,598 City and 1,066 Borough registered borrowers, for a total of 2,664. The most current figures show that 40% of the registered borrowers are Borough residents. I might also mention that 80% of the locally collected tax dollars that the Borough collects and spends, come from within the City of Kodiak. In other words, \$12,000 of that \$15,000 is paid for by the City of Kodiak residents.

Regarding parks and recreation, we have a similar situation where the City of Kodiak taxpayers fund a recreation program that is a benefit to all. We do not charge more for Borough residents than we do for City residents to participate. This includes the use of the High School swimming pool for public purposes before and after school, weekends and summer months. The City has a contract with the School District to operate and maintain the pool. The City also has a cross country skiing program, a summer youth recreation program, basketball for children, teen-

May 20, 1978

agers and adults and many other winter and summer recreation programs. All the parks in the Kodiak urban area are part of the City of Kodiak's parks and recreation program, other than the State Park at Fort Amhercrombie. The parks and recreation budget for the current fiscal year is \$132,311. The Kodiak Island Borough contributes to this program by allowing the recreation program to utilize Borough buildings, ie. school buildings and playgrounds. As stated with the library, I feel that it is important that you note that the citizens and taxpayers of the City of Kodiak contribute 80% of the funds locally collected and spent by the Borough.

The total police department budget for the current fiscal year is \$871,619. The City Police Department does provide back-up service for the State Troopers when necessary. A copy of the report on Kodiak Police Department activity outside the City is attached.

The Police Department also provides dispatching service after regular hours for the State Troopers, as well as the jail facility for those incarcerated by the Troopers-- this includes Bristol Bay and the Aleutian Chain.

Also provided are alcoholism services through an agreement with the Kodiak Council on Alcoholism for the sleep off center that is located behind the police station. The alcoholism problem in Kodiak is severe and certainly does not limit itself to residents of the City. Currently the City is providing \$12,120 to the Kodiak Council on Alcoholism for their services.

There is currently a fire district in the area in question. The City of Kodiak charges the fire district for service based on the dollar amount of property valuation. The current fire department budget is \$357,135. The amount received from the Borough service area is \$54,646. In addition to providing fire protection, the City also provides the ambulance service. Since the Borough has health powers, the Borough is not compensating the City adequately for this service. There are presently two ambulances utilized by the fire department, one of those was provided by the Kodiak Island Borough. However, the real cost of ambulance service is the time of the emergency medical technicians who actually work with the ambulances. At the present time, the City of Kodiak's taxpayers are subsidizing the Borough in this regard. This goes for the residents of the area in question for annexation, as well as for the entire Kodiak Island Borough including the villages. There are many times when the fire department responds to a medi-vac and takes people from the State airport to the Kodiak Island Borough Hospital.

The City of Kodiak provides the services at the Cargo Dock. Since this is an enterprise fund, the City does not contribute funds out of the general fund unless there are exceptional circumstances involved. This current year is an example. There are \$73,926 going into the Cargo Terminal Fund from the general fund as a loan. The City of Kodiak provides the mechanism for cargo to come across the dock. If the City were not in the business, it would probably be private enterprise offering the same service and making a profit. This, of course, would raise the cost of freight.

depend a great deal on the area involved. Library services will not be expanded. Parks and recreation services could be extended if the City were to annex the area, because additional land would be available that we could use for parks, trails etc. The cargo dock and boat harbor would not change in any way. As the area in question grows, police services will become more of an issue. However, at the present time, the City Police are backing up the State Troopers and as the area grows and develops, there will be more of a need for police services. The City of Kodiak would be able to provide police services to the newly annexed areas as the need develops. To reflect reduced services, differential taxation could be utilized to the extent required.

The City and Borough have been discussing an additional fire station to better serve the residents of the area in question. While the people out there are already served by the Kodiak Fire Department, there is the problem of reaching a fire in an adequate amount of time. From what I understand, there is little desire for the residents in the fire service area to create their own fire department. The City would be called on to provide these services. It is obvious to me that the City should build the building, purchase the equipment and coordinate, in every way possible, with the main fire department.

The creation by the Borough of the service area for water, sewer and roads plays an important part in these annexation proceedings. As described above, the City of Kodiak now provides water and sewer service to the areas in question. New sewer and water lines are needed in the Island Lake area. Since it is the City of Kodiak that is to provide these services through its water system and sewage treatment plant, it is obvious that we can best serve the residents of these areas through annexation. At the present time, the City of Kodiak is in court with the Borough over the creation of this service area because it is in conflict with the State Constitution and Statutes.

If water and sewer lines are built and are supposed to be connected onto the City systems, then it is only proper that the City design these lines and have control over their construction. The other key point is that, as I understand it, it is the intent of the Borough and service area to contract with the City for water and sewer services. This means that the City of Kodiak's employees will actually be doing the work such as repairing lines, making connections and so forth. It is very difficult for me to understand how this can be provided by anyone else without starting up a whole new public works department. Either through the new public works department or by contracting with the City, the costs for water and sewer services would be more than if the area were annexed to the City and it became part of the City's system. No matter how the water and sewer lines are built, there will be assessments or taxes against the property for construction costs. No money will be saved by the residents through the service area for water and sewer service.

The same holds true with road powers. As I understand it, it is the intent of the Kodiak Island Borough not to start a new road department. Therefore, the people would be served by the City of Kodiak Road Department or a private contractor through contract. This, of course, is a very expensive way to go and the City would pass on administrative as well as other costs to provide these services. It is only logical that the area be annexed and that road service be provided by the City of Kodiak. It is also important to note that the fire service depends on the ability to get the fire engine to the scene of the fire. If the roads are not cleared and maintained properly, then the City's ability to service in this regard is questionable. If these were both City functions it would be much simpler to provide the necessary fire and road service through coordinated efforts.

The new Borough Comprehensive Plan describes future growth as going into the Spruce Cape, Island Lake and adjacent areas. In fact, the plan promotes growth in that direction. It is difficult for me to understand how the Borough can promote growth and development of the area and then oppose annexation at the same time. You have been given maps that show the projected increases in population and extension of water and sewer into the subject area. This is a map prepared for the Borough by their consultant.

By your letter of May 1, you requested that we address ourselves to questions relating to the services which the City feels the areas adjacent to Kodiak should receive, the level of those services and the expense and income associated with those services. It is the feeling of the City that the areas defined by the staff of the Department of Community and Regional Affairs as the Mission Road Area and the Mill Bay Road area should receive all services available from the City of Kodiak and that those services should be provided at the same level as they are provided within the existing City. Water, sewer and road service have been determined to be needed as a result of the election to create a service district to provide those services. Fire and ambulance service are currently being provided by contract between the service district and the City of Kodiak. Police service has not been requested for any service area and that service is currently provided by the Alaska State Troopers with back up from the City of Kodiak. If annexed it is probable that the State Troopers will discontinue that service.

It is also the belief of the City of Kodiak that those services should be provided at the same level as they are provided within the existing City. By contract, fire and ambulance service is provided at that level, and there is no reason to believe that water, sewer, road service or police protection will be needed at a lower level.

The estimated expenses and income related to providing all services at a level consistent with the level of such services in the City is as follows:

ANNEXATION BUDGET

Library - no change, already serving the residents at no cost. However, those annexed would help pay for services that they are already receiving.

Parks and Recreation - no change unless additional facilities are built in newly annexed area. However, those annexed would help pay for services that they already are receiving.

Police - depends on level of service provided. For full service:

3 new police officers	\$75,000
1 desk officer	\$20,000
Supplies	\$ 5,000
Repairs & Maintenance	\$ 8,000
2 vehicles	\$14,000 (Sales Tax)
TOTAL	\$122,000

Fire - a new fire station will have to be built in the next year or so in the subject area. If not annexed, the costs would be borne by residents of the Fire Service District. New fire engines will also be needed. This would be from a bond issue or sales tax.

New station	\$210,000
New engines	\$100,000
TOTAL	\$310,000

Manpower depends on level of service desired. For the first few years there could be volunteers and then paid personnel. If paid personnel immediately, then costs would be very high since it would be necessary to have a least 2 firefighters on 24 hours to cover adequately.

7 firefighters, 3 shifts and 1 to cover in case of vacation, sick leave etc.	\$150,000
Supplies, utilities etc.	\$ 25,000
TOTAL	\$175,000

The important thing to remember about fire is that the new station and employees are needed now. By annexing, the City would spread the cost to all the City taxpayers. If not annexed, it would be the responsibility of the residents of the Fire Service Area.

Cargo Dock - no change, already serving the residents.

Boat Harbor and Ferry Dock - already serving the residents.

Public Water - New water lines are needed. The residents would be assessed for any improvements. They would not have to pay the 37-1/2% surcharge they pay now. No new employees or vehicles would be needed in the near future.

Sewer - New sewer lines are needed in Island Lake now. The residents will be assessed for any improvements. There is no surcharge on sewer service at the present time. No new employees or equipment are needed in the near future until the sewer lines are constructed. The costs to provide sewer lines would be no different if the City or Borough applied for Federal and State funds because each is eligible for the same grants and loans.

Roads - The City would have to purchase new equipment and hire several new employees. However, this would have to be done anyway if it were contracted out by the service area to the City. This would be more expensive because of having to contract with the City and paying additional costs.

2 new employees	\$45,000
1 new dump truck	\$45,000 (Sales Tax)
1 new grader	\$80,000 (Sales Tax)
Supplies etc.	\$ 5,000
1 Pickup truck	\$ 6,500 (Sales Tax)
TOTAL	\$181,500

Solid Waste - The City's ordinance and contract would probably have to be modified to fit the needs of the new residents. All the new residents would be required to pay something towards the operation of the landfill based on actual costs. Mandatory trash pickup and payment is now part of the monthly utility billing for all City residents. Service is provided by contract and would continue at the level desired.

Cemetery - The newly annexed residents pay a proportionate share of costs.

Municipal Airport - If the area were to be annexed, the City would have more revenue to draw from.

Income to the City is another matter. Since the residents now pay sales tax on almost everything they buy in Kodiak, no change would be made there unless new businesses are started in unannexed areas. There are currently before the Planning and Zoning Commission applications for business zoning in the subject area.

The only change would be an increase in the mill levy. This is a very complicated issue. At the present time, the City of Kodiak has no personal property tax.

Our real property tax mill levy is 9.10. The Borough does have a personal property tax. Some years ago, the City of Kodiak agreed to pay the Borough personal property tax for City residents. The current Borough mill rate is 7.23 mills. Under the present situation, the City would pay the Borough personal property tax for the residents if annexed.* This would lower their tax bill for personal property tax to zero.

However, they would then have to pay an additional 9.10 mills to the City for real property. This is further confused by the fact that the residents of the area in question already pay 2.27 mills for fire service. After annexation this would be included in the 9.10.

	Borough Current	Borough If Annexed
CITY MILL LEVY (Real Property)		9.10 (Real Property)
BOROUGH MILL LEVY (Real & Personal)	7.23	7.23 (Real Property)
FIRE SERVICE AREA (Borough Residents)	2.27	None

Here is an example of what the costs will be:

\$70,000 House (Real Property)
\$ 5,000 Car (Personal Property)

BOROUGH RESIDENTS

7.23 (General) Real and Personal Tax
2.27 (Fire) Real and Personal Tax
9.50 TOTAL

9.50 x \$70,000 = \$665
9.50 x \$ 5,000 = \$ 48
\$713

37-1/2% Water
Surcharge 45
TOTAL \$758

CITY RESIDENTS - Full service,
police, road maintenance etc.

9.10 City Taxes
7.23 Borough Taxes
16.33 TOTAL

16.33 x \$70,000 = \$1143
* - 0 - x \$ 5,000 = - 0 -
\$1143

CITY TAXES \$1143
BOROUGH TAXES
w/fire service) 758
\$385 Difference

*Note In December of 1977 the City Council adopted an ordinance effective December 31, 1978, which will repeal the exemption of personal property within the City from Borough taxes. If that ordinance becomes effective, the above will not apply.

The current City mill levy is 9.10 mills. The only logical way to apportion costs to new residents would be to break the 9.10 mill down according to the separate general fund departments. The Water and Sewer Fund is separate and is self-supporting except for capital improvements. These are paid for out of sales tax revenues.

If the City were to provide full service to the residents of Mission Road, Spruce Cape, Mill Bay, Island Lake and Monashka (all the area presently within the Fire Service Area (the revenues would be according to Attachment #2). The revenues

based on assessed valuation (\$14,749,160) of the total area would be \$134,217. State Revenue Sharing for all City provided services would add another \$56,199. These revenues could increase by 50% if current State legislation is passed. Federal General Revenue Sharing and Federal Anti-Recessional Assistance would add approximately another \$50,000. This would total \$240,416. The operation and maintenance costs as stated above approximate \$333,000. This does not include the building of a new fire station (which would come from a bond issue or sales tax) but does include 7 new fire fighters.

There would be a shortfall of revenue of approximately \$92,584 which could come from additional sales tax revenues. This is how the rest of the general fund departments are supplemented.

It would appear that the Monashka Bay area, if annexed to the City would be provided with fewer services or services at a lower level and the use of differential taxation would therefore seem appropriate. Based on the petition for the incorporation of Spread Eagle, Alaska, it seems that many people in the urbanized portion of the Monashka Bay area do not desire any additional services. They are currently in a fire service district and receive service under contract from the City of Kodiak, except to the extent prohibited by the lack of road maintenance services.

Under AS 29.18.100 (b), the Commission could reject the petition for incorporation of Spread Eagle if it determined that desired municipal services can be more practically and economically provided by the Borough or by annexation to an existing city. If the municipal boundary of the City of Kodiak is extended to annex areas adjacent to the proposed Spread Eagle it would appear that any additional services could be provided more practically and economically by that contiguous city. It may therefore be logical to annex the area to the City with provisions for the establishment of differential taxation until it receives the same services at the same level as provided in other portions of the City.

The only portion of the Coast Guard base that could reasonably require any City services at the present time is that area encompassing the airport facilities. The services would seem to be limited to police services. In view of the fact that all other services are provided by the Coast Guard and would presumably be continued by the Coast Guard. The City of Kodiak would request that annexation of all or any portion of the base, including the airport, be deleted from consideration until the City has had an adequate opportunity to consult and coordinate with the Coast Guard and determine whether additional services could or should be provided, and evaluate the revenue and expense factors of such annexation. If determined to be appropriate, a petition for annexation will be submitted in the future.

SUMMARY

The City of Kodiak feels there are areas that should be annexed to the City. The Mill Bay Road annexation originally petitioned for is just a small part of the total picture as the Boundary Commission has realized. The City has shown that many

Sheila Gallagher, Chairwoman

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May 20, 1978

residents outside the City area are already using City services and utilities. However, the City feels those utilizing the services should bear a fair share by becoming part of the City and having an opportunity to participate in where and how these services are provided.

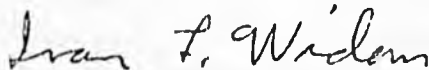
Along with that, is the concept of utilizing the City utility system, ie. water and sewer, on a contract basis. This places a burden on the City to plan for areas not within its jurisdiction. Annexation of the Mill Bay - Monashka Service Area would bring our utility system into a proper position for planning and control.

The final point is that we live on an island and essentially are groups of similar people who have chosen to live here. Having a City and adjacent service areas through the Borough is not correct according to the State Constitution and Statutes. We are only talking about 8,000 people. Our similarities far outweigh our differences and the situation we are now confronting must be resolved. As mentioned in my April 24th letter, service areas seem to divide the population and cause problems such as you are considering tonight.

Thank you for your time and attention.

Sincerely,

CITY OF KODIAK



Ivan L. Widom

City Manager

ILW/yb

Enclosures

BOUNDARY

Comm.

§ 44.19.230

ALASKA STATUTES

§ 44.19.260

Editor's note. — The repealed section derived from § 7, ch. 101, SLA 1955.

Sec. 44.19.230. Rural development fund.

Repealed by § 1 ch 69 SLA 1964.

Editor's note. — The repealed section derived from § 8, ch. 101, SLA 1955.

Sec. 44.19.240. Rural and remote areas defined.

Repealed by § 1 ch 69 SLA 1964.

Editor's note. — The repealed section derived from § 3, ch. 101, SLA 1955.

Sec. 44.19.250. Local boundary commission. There is in the Department of Community and Regional Affairs a local boundary commission. The local boundary commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four major senatorial election districts and one from the state at large. The member appointed from the state at large is the chairman of the commission. (§ 7 ch 64 SLA 1959; am § 5 ch 200 SLA 1972)

Cross reference. — As to appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions, see AS 39.05.060.

Effect of amendment. — The 1972 amendment substituted "Department of Community and Regional Affairs" for "Local Affairs Agency" in the first sentence.

When constitutional provision effective. — The method for making

boundary changes, contemplated by art. X, § 12, of the Alaska Constitution, was operative upon the enactment of AS 44.19.250 and 44.19.260. Fairview Pub. Util. Dist. No. 1 v. Anchorage, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (1962), cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962).

Cited in Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

Sec. 44.19.260. Powers and duties. (a) The local boundary commission shall

- (1) make studies of local government boundary problems;
- (2) develop proposed standards and procedures for changing local boundary lines;
- (3) consider a local government boundary change requested of it by the legislature, the commissioner of community and regional affairs, or a political subdivision of the state; and
- (4) develop standards and procedures for the extension of services and ordinances of incorporated cities into contiguous areas for limited purposes upon majority approval of the voters of the contiguous area to be annexed and prepare transition schedules and prorated tax mill levies as well as standards for participation by voters of these contiguous areas in the affairs of the incorporated cities furnishing services.

(b) The local boundary commission may

(1) conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into contiguous areas and matters related to extension of services; and

(2) present to the legislature during the first 10 days of a regular session proposed local government boundary changes, including gradual extension of services of incorporated cities into contiguous areas upon a majority approval of the voters of the contiguous area to be annexed and transition schedules providing for total assimilation of the contiguous area and its full participation in the affairs of the incorporated city within a period not to exceed five years. (§ 7 ch 64 SLA 1959; § 2 ch 45 SLA 1960; am §§ 1, 2 ch 55 SLA 1964; am §§ 1, 2 ch 161 SLA 1966; am § 6 ch 200 SLA 1972)

Cross reference. — For further statement of powers of local boundary commission, see Alaska Constitution, art. X, § 12.

Effect of amendment. — The 1972 amendment substituted "commissioner of community and regional affairs" for "director of local affairs" in paragraph (3) of subsection (a).

Editor's note. — Section 9, ch. 200, SLA 1972, provides: "Where the titles 'Local Affairs Agency' or 'Rural Development Agency' appear in the law of this state, they shall be read as the 'Department of Community and Regional Affairs.'"

Section 11, ch. 200, SLA 1972, provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended or repealed by this Act or functions which may be transferred by this Act, remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by a law amended or repealed by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1972, remain in effect until revoked, or modified under the provisions of this Act. Appropriations, records, equipment and other property of agencies of the state integrated with the Department of Community and Regional Affairs

established under this Act are transferred to the department. Appropriations and other money available and to become available to agencies the functions, powers and duties of which have been transferred to the Department of Community and Regional Affairs established under this Act shall be available for the objects and purposes for which appropriated or otherwise made available, subject to the terms, restrictions, limitations or other requirements imposed under this section or federal law."

Legislative committee report. — For legislative committee report on ch. 161, SLA 1966, see House Journal (1966), p. 575.

Powers and duties of local boundary commission. — When grouped together, the powers and duties of the local boundary commission are as follows: (1) To consider any local government boundary change (§ 12, art. X, Alaska Constitution); (2) to present proposed changes to the legislature (§ 12, art. X, Alaska Constitution; § 7, ch. 64, SLA 1959); (3) (subject to law) to establish procedures whereby boundaries may be adjusted by local action (§ 12, art. X, Alaska Constitution); (4) to make studies of local government boundary problems (§ 7, ch. 64, SLA 1959); (5) to develop proposed standards and procedures for changing local boundary lines (§ 7, ch. 64, SLA 1959); (6) to hold hearings on proposed boundary changes (§ 7, ch. 64, SLA 1959). 1959 Ops. Att'y Gen., No. 30.

The local boundary commission has the power and authority to recommend borough boundaries to the legislature. 1959 Ops. Att'y Gen., No. 30.

By this section and AS 44.19.340 it is provided that the commission must make studies of local government boundary problems, develop proposed standards and procedures for changing boundaries, and consider boundary changes requested of it by political subdivisions. The commission may conduct hearings on boundary changes and present proposed changes to the legislature. The change becomes effective unless the legislature disapproves; legislative silence permits the change. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

When constitutional provision effective. — See same catchline in note to AS 44.19.250.

Alaska Const., art. X, § 12 established two methods by which local boundaries might be changed: (1) by direct action of the local boundary commission subject to legislative disapproval, and (2) by establishment by the commission of procedures for the adjustment of boundaries by local action. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Step annexation allows for gradual assimilation. — As an alternative to immediate annexation, the step-annexation provision allows for gradual assimilation of contiguous areas into incorporated cities where direct annexation would be premature or impractical. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

How step annexation commenced. — Ordinarily, a step annexation will be commenced by a municipality's petition specifically requesting that alternative, although presumably the commission could require the municipality to annex by the step method. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Section implements Alaska Const., art. X, § 12. — The legislature implemented Alaska Const., art. X, § 12 by enacting AS 44.19.260. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The intention of Alaska Const., art. X, § 12 and this section was to provide an objective administrative body to make state-level decisions regarding local boundary changes, thus avoiding the chance that a small, self-interested group could stand in the way of boundary changes which were in the public interest. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op.

No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The duties imposed upon the commission in subsection (a) are mandatory. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

And those in subsection (b) are discretionary. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

The development of standards is a precondition to the commission's exercise of its discretion under subsection (b) of this section. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

The exercise of the commission's discretion under subsection (b) of this section is conditioned upon the development of standards and procedures for changing local boundary lines under subsection (a)(2) of this section. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Under subsection (a) of this section the legislature requires the commission to develop standards in order to recommend boundary changes. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Since mandatory terms were used, the legislature clearly intended the local boundary commission to adopt regulations concerning modification of local boundary lines. *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 577 (File No. 1870), 516 P.2d 408 (1973).

There are three purposes underlying the statutory requirement of annexation standards. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

First, such standards expose the basic decision-making processes of the commission to public view and thus subject commission action to broad corrective legislation. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Second, the standards guide local governments in making annexation decisions and in preparing proposals for the commission. Frustration of these purposes cannot harm the opponent of annexation. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Third, and the criteria delineate the hearing, but perceive the delineation and fair exposure at the hearing. *Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Continued standards are voidable. *Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Failure of annexation substantial. *Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The duty to consider implies a duty. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Hence, the characteristics of continuing. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Alaska the legislative actions. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

But such compel the compliance. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Alaska 44.19.340 whether the law. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Legislation known state boundary constitution duty of implementation complies with known state of local boundary.

Third, annexation standards objectify the criteria of decision-making and delineate the battleground for a public hearing, but the supreme court cannot perceive how the absence of such delineation in any manner prevented full and fair expression of an opposing position at the hearing on an annexation. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Continued failure to have promulgated standards made an annexation a fortiori voidable and prima facie illegal. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Failure to promulgate standards for annexations was not an error so substantial as to result in injustice. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The duty under subsection (a) (3) to consider requested boundary changes implies a reasonable time limitation. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Hence, not all of subsection (a) can be characterized as comprehending continuing duties and not conditions. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Alaska Const., art X, § 12, empowers the legislature to veto commission actions. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

But such section does nothing to compel the legislature to review for compliance with its own requirements. *United States Smelting, Ref. & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Alaska Const., art. X, § 12, and AS 44.19.340 do not make the decision as to whether the commission has complied with the law exclusively legislative. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Legislature handicapped in absence of known standards governing change of boundary lines. — Under Alaska's constitution, the supreme court has the duty of insuring that administrative action complies with the laws of Alaska. Absent known standards governing the changing of local boundary lines, the legislature's

ability to make rational decisions as to whether to approve or disapprove proposed local boundary changes of the commission is seriously handicapped. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Existing cities with local boundary commission created boundaries remain unaffected by the holding, under the de facto municipality doctrine, in *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Doctrine of de facto municipal incorporation applied to annexations. — See *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The doctrine of de facto municipal incorporation insulates from collateral attack annexations not impeccably effected where the annexation is attempted under a proper statute, a good faith effort is made to comply with the statute, the statute is colorably complied with, and the municipality has exercised its powers in good faith within the annexed territory. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

All annexations will have the purpose and effect, in part, of extending city services. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The post-annexation creation of differently served and treated areas does not impugn the reasonableness of the annexation. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Standing to contest annexation. — An aggrieved property owner in an area to be annexed has standing to contest the annexation. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

Annexations effected through local boundary commission procedures receive a full administrative hearing, followed by legislative review, before they are subjected to judicial scrutiny. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Common challenge is to attack procedures. — The more common challenge to local boundary commission action attacks the procedures by which the substantive decisions were made. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op.

No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

The selection of annexation method made by the commission and approved by the legislature is controlling. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Judicial review. — There are questions of public policy to be determined in annexation proceedings which are beyond the province of the court. Examples are the desirability of annexation, as expressed in published standards. Judicial techniques are not well adapted to resolving these questions. In that sense, these may be described as "political questions," beyond the compass of judicial review. But other annexation issues, such as whether statutory notice requirements were followed, are readily decided by traditional judicial techniques. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 110 (1971).

The policy decision as to the mode of annexation is an exercise of lawfully vested

administrative discretion which the supreme court will review only to determine if administrative, legislative or constitutional mandates were disobeyed or if the action constituted an abuse of discretion. *Port Valdez Co. v. City of Valdez*, Sup. Ct. Op. No. 1044 (File No. 1996), 522 P.2d 1147 (1974).

Wood River made part of city of Dillingham. — When the legislature failed to disapprove of the commission's proposal, the commission's local boundary change, which consisted of the abolition of the boundary of Wood River and the confirmation of the boundary of the city of Dillingham, had the effect of making Wood River a part of the city of Dillingham. When the boundary commission's proposal for boundary change became effective, the city of Wood River was dissolved, even though the statutory procedures for dissolution of cities were not followed. *Oesau v. City of Dillingham*, Sup. Ct. Op. No. 467 (File No. 856), 439 P.2d 180 (1968).

Sec. 44.19.270. Meetings and hearings. The chairman of the commission or the commissioner of community and regional affairs with the consent of the chairman may call a meeting or hearing of the local boundary commission. All meetings and hearings shall be public. (§ 3 ch 45 SLA 1960; am § 7 ch 200 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "commissioner of community and regional affairs" for "director of local affairs" in the first sentence.

Sec. 44.19.280. Minutes and records. The local boundary commission shall keep minutes of all meetings and hearings. If the proceedings are transcribed, minutes shall be made from the transcription. The minutes are a public record. All votes taken by the commission shall be entered in the minutes. (§ 3 ch 45 SLA 1960)

Sec. 44.19.290. Notice of public hearings. Public notice of a hearing of the local boundary commission shall be given in the area in which the hearing is to be held at least 15 days before the date of the hearing. The notice of the hearing shall include the time, date, place, and subject of the hearing. The director of local affairs shall give notice of the hearing at least three times in the press, through other news media, or by posting in a public place, whichever is most feasible. (§ 3 ch 45 SLA 1960)

Sec. 44.19.300. Quorum. Three members of the commission constitute a quorum for the conduct of business at a meeting. Two members constitute a quorum for the conduct of business at a hearing. (§ 3 ch 45 SLA 1960)

Sec. 44.19.310. Boundary change. A majority of the membership of the local boundary commission must vote in favor of a proposed boundary change before it may be presented to the legislature. (§ 3 ch 45 SLA 1960)

Sec. 44.19.320. Expenses. Members of the local boundary commission receive no pay but are entitled to the travel expenses and per diem authorized for members of boards and commissions. (§ 4 ch 45 SLA 1960)

Sec. 44.19.330. Hearings on boundary changes. No local government boundary change may be proposed to the legislature unless a hearing on the change has been held in or in the near vicinity of the area affected by the change. (§ 2 ch 45 SLA 1960)

Sec. 44.19.340. When boundary change takes effect. When a local government boundary change is proposed to the legislature during the first 10 days of any regular session, the change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. (§ 2 ch 45 SLA 1960)

By this section and AS 44.19.260 it is provided that the commission must make studies of local government boundary problems, develop proposed standards and procedures for changing boundaries, and consider boundary changes requested of it by political subdivisions. The commission may conduct hearings on boundary changes and present proposed changes to the legislature. The change becomes effective unless the legislature disapproves; legislative silence permits the change. *United States Smelting, Refining & Mining Co. v. Local Boundary Comm'n*, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

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This section and Alaska Const., art. X, § 12, do not make the decision as to whether the commission has complied with the law exclusively legislative. *United States Smelting, Refining & Mining Co. v.*

Local Boundary Comm'n, Sup. Ct. Op. No. 727 (File No. 1461), 489 P.2d 140 (1971).

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Report to the Local Boundary Commission
on the proposal to annex certain lands
to the CITY OF KODIAK

Department of Community
and Regional Affairs
Anchorage, Alaska

December 8, 1977

I. PROCEEDINGS TO DATE

Initial consideration of the City of Kodiak's current annexation proposal by the Department of Community and Regional Affairs (DCRA) began in late September when City Manager Ivan Widom contacted DCRA and stated the city's annexation plans (attachment #1). Shortly thereafter, on October 17, City Manager Widom submitted a memorandum outlining reasons why he felt a number of areas immediately surrounding the City should be annexed to the City (attachment #2).

On October 19, the City submitted a formal petition for annexation. Initial review of the petition and supporting documents indicated that they were in substantial¹ compliance with the statutory and regulatory provisions² pursuant

1. The petition was deficient in three areas addressed by the Local Boundary Commission's regulations. However, because:

1) the deficiencies were a product of the Local Boundary Commission's regulations and not statutory law; and 2) the Commission is specifically authorized to waive deviations from the regulations (19AAC 10.150); and 3) a delay in accepting the petition would almost surely preclude consideration of the petition by a Local Boundary Commission prior to the beginning of the upcoming legislative session, it was the determination of your staff that the substantial rights of interested parties would not be prejudiced by accepting the petition.

Deficiencies of the petition and corrective action taken, if any, are set forth below.

- 1) Petitioners failed to attach a copy of the City Council resolution authorizing filing of the petition as required by 19AAC 10.040(4). The required resolution was received on November 25.
- 2) The Notice of Filing of Annexation Petition required by 19AAC 10-080 was published prior to formal acceptance of the petition. No corrective action was considered necessary as the defect was harmless.
- 3) The affidavit required by 19AAC 10.060 was presented in the form of a sworn statement, not notarized. As in 2), the defect was considered harmless.

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2. AS 44.19.2600340 (Local Boundary Commission)
AS 29.68 (Alteration of boundaries)
19AAC 10 (Procedures for Boundary Changes)
19AAC 05.010-030 (Standards for Annexation to Cities)

to which the petition was submitted. Accordingly, a letter stating acceptance of the petition was issued on November 9 (attachment #3); that same letter also notified petitioners that the Local Boundary Commission would conduct a public hearing on the annexation proposal on December 12.

Formal notice (attachment #4) of the Local Boundary Commission's hearing was also provided to the Kodiak Island Borough and published in the Kodiak Daily Mirror (attachment #5), editions dated November 23, 25, 27 and December 2 and 9, 1977.

II. PRIOR BOUNDARY CHANGES

The following is a synopsis of prior changes to the City of Kodiak's boundaries.

Action and Date: Annexation - March, 1960
Character of Property: Undeveloped lands - no road access
Description: Near Island, Gull Island, Popoff Island, Uski Island, Holiday Island, Crooked Island

Action and Date: Annexation - March, 1960
Character of Property: City watershed
Description: U.S. Survey 3945

Action and Date: Detachment - , 1960
Character of Property: Undeveloped lands - no road access
Description: Holiday Island, Crooked Island

Action and Date: Annexation - January, 1970 - vetoed by legislature
Character of Property: Residential, industrial and commercial
✓ Description: Entire urban area of Kodiak outside of current city boundaries

Action and Date: Annexation - March, 1973
Character of Property: Residential
Description: Lots 16A, B and C of U.S. Survey 3098

Action and Date: Annexation - March, 1973
Character of Property: Residential
Description: Lots 26A, B, C, and D. of U.S. Survey 3098

Action and Date: Annexation - June 1974
Character of Property: Residential
Description: U.S. Survey 3098 - Lot 25

Action and Date: Annexation - April, 1975
Character of Property: Highway right-of-way, gravel pit.
Description: Lots 7-16, U.S. Survey 2537-B

Action and Date: Annexation - April, 1976
Character of Property: Residential
Description: Lot 24, U.S. Survey 3098

Action and Date: Annexation - April, 1976
Character of Property: Industrial - Canneries
Description: Gibson Cove

Action and Date: Annexation - June, 1977
Character of Property: Municipal Cargo Dock
Description: Tidelands adjacent to U.S. Survey 2537-B

Action and Date: Annexation - September, 1977
Character of Property: Residential
Description: Lot 1, Block 1, U.S. Survey 3066 A and B

\$ 70,000	Bond payments
50,000	Contingency
33,000	Other

General Fund Estimated Revenues

1. Taxes	\$1,915,000
2. Licenses and Permits	20,570
3. Intergovernmental Revenues	392,550
4. Charges and Services	342,210
5. Miscellaneous Revenue	34,070
6. Non-Revenue Receipts	<u>1,364,867</u>
Total General Fund Estimated Revenue	\$4,069,267

Capital Project Funds Estimated Expenditures*

1. Federal Revenue Sharing Trust	\$ 261,000
2. Federal Unit-Recession Fiscal Assistance Fund	53,500
3. Street Improvement	140,000
4. Building Improvement	7,000
5. Water Source Expansion	1,305,000
6. Water/Sewer Line Construction	110,000
7. Sewage Treatment Plant	7,643,105
8. Cargo Pier Construction	873,775
9. HUD Block Grant	1,274,660
10. Major Equipment Purchases	<u>41,000</u>
Total Capital Project Funds Estimated Expenditure	\$11,709,040

* Revenues for capital project funds are identical.

Enterprise Funds Estimated Expenditures*

1. Cargo Terminal	\$ 905,097
2. Boat Harbor	369,265
3. Water/Sewer Utilities	<u>1,109,007</u>
Total Enterprise Funds Estimated Expenditures	\$2,383,369

*Enterprise Fund revenues equal expenditures.

<u>TOTAL ESTIMATED REVENUE</u>	\$18,161,676
<u>TOTAL ESTIMATED EXPENDITURES</u>	\$18,161,676

The City of Kodiak is located within the Kodiak Island Borough which is a borough of the second class. In addition to the mandatory powers of education, tax assessment and collection, and planning, platting and zoning, the borough also has the areawide power of hospitals and non-area powers of parks and recreation and building inspection. On a service area basis the borough provides fire protection to the area adjacent to the city and the village of Karluk and provides road maintenance to the Bells Flats area. The borough is currently considering the establishment of a road maintenance service area for the road systems north of the City of Kodiak.



The basic thrust of petitioners arguments seem to be that the area is urban in nature (19AAC05.010 (3))³ and requires city services - most notably sewer and water (it is the policy of the City of Kodiak not to extend sewer and water beyond the city's boundaries). In support of this argument, petitioners simply state that the property is similar to existing property inside the City of Kodiak. Petitioners have apparently concluded that the subject territory is so obviously urban in character that detailed evidence, beyond the basic information required by regulation and included in the petition, supporting that statement is not needed; our investigation substantiated that conclusion.

VI. CONCLUSIONS AND RECOMMENDATIONS

That the area proposed for annexation is identical in nature to other areas in the city - that is, urban in character - seems relatively obvious. Given that conclusion, the issue then resolves to one of determining who should provide municipal services to the area. We believe firmly that the language of Article X, Section 5⁴ of the Alaska Constitution

-
3. 19 AAC 05.010. ANNEXABLE TERRITORY. (a) Territory which is contiguous to the city may be annexed to that city if one or more of the following standards are met: (3) the territory is urban in character. In determining whether territory is urban in character, the commission may consider, without limitation, whether the property is platted or held for sale for urban, residential or commercial purposes, whether the population density of the territory approximates that of the annexing city, whether the population of the territory stems primarily from actual growth of the city beyond its legal boundaries, and whether the property is valuable primarily by reason of its suitability for prospective urban purposes.
 4. Section 5. 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.

encourages the provision of municipal services by cities and discourages the provision of services by boroughs on a service area basis, except when unique circumstances dictate otherwise. Accordingly, we recommend acceptance of the petition as submitted.⁵

However, it is also our conclusion that the subject petition represents only the tip of the iceberg with respect to the question of who shall provide municipal services in the Kodiak area. As this report is being finalized we have just received a petition for incorporation of a first-class city in the Monashka Bay area. Additionally, the Kodiak Island Borough has just adopted an ordinance calling for a vote on the question of establishing a road service area consisting of the Kodiak urban area exclusive of the City of Kodiak. We have also received correspondence from the City of Kodiak indicating that it feels that it should be the provider of municipal services to the Kodiak urban area. In the opinion of the Department of Community and Regional Affairs these series of events represent a mandate to the Local Boundary Commission to find an immediate answer to the question: what municipal entity shall provide municipal services to the Kodiak urban area? Accordingly, we further recommend that the Local Boundary Commission:

- 1) Schedule a public hearing on the above stated question and notify the public that a potential answer to the question is annexation of significant portions of the Kodiak urban area to the City of Kodiak; and
- 2) Order officials of the City of Kodiak and the Kodiak Island

5. The petition actually contained two descriptions of property to be annexed. The written description omitted Lot 27 of U.S. Survey No 3098 while the map indicated that it was to be included. Subsequent correspondence (attachment #6) from the City indicates their desire to involve it in the annexation proposal.

Borough to submit to the Commission prior to the public hearing
a ~~five year schedule of services to~~ be provided to areas
currently outside of the City of Kodiak complete with narratives
describing the level of service to be provided and costs
associated therewith.

REPORT TO THE LOCAL BOUNDARY COMMISSION
ON THE PROPOSAL TO ANNEX CERTAIN LANDS
IN THE KODIAK URBAN AREA
TO THE CITY OF KODIAK

Department of Community
and Regional Affairs
Juneau, Alaska

May 17, 1978

I. INTRODUCTION

On December 12, 1977, the Local Boundary Commission conducted a public hearing to take testimony respecting a petition (attachment #1) submitted by the City of Kodiak proposing annexation of certain properties to the City. As a result of that hearing the Commission elected to postpone action on the City's petition and subsequently submitted petitions for 100% annexations until it considered the broader issue of who --the City of Kodiak or the Kodiak Island Borough-- should be the principal provider of municipal services to residents of the Kodiak ~~urban~~ area. The Commission directed the Department of Community and Regional Affairs, in its capacity as staff advisor to the Commission, to prepare a report stating specific recommendations as to which areas, if any, ought to be annexed to the City of Kodiak.

II. AUTHORITY AND NOTICE

Article X, Section 12 of the Alaska Constitution grants authority to the Local Boundary Commission to "consider any proposed local government boundary change" and to "present proposed changes to the legislature during the first ten days of any regular session". Alaska Statutes grant the Commission authority to "conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into a contiguous area and matters related to extension of services".

In accordance with AS 44.19.290, notice of the Local Boundary Commission's forthcoming public hearing and decisional meeting was ordered published in the Kodiak Daily Mirror editions dated May 4, 8, 15, and 19. A copy of the Notice is appended as attachment #3. Notice was also sent, by certified mail, to the manager of the Kodiak Island Borough, the manager of the City of Kodiak, and the Commanding Officer of the U.S. Coast Guard Station in Kodiak. Additionally, notice of the hearing was transmitted over radio station KVOK and TV station KOTV at least three times during the period May 1 to May 19.

III. GENERAL INFORMATION

The following is a brief description of each of the four areas identified in the Notice of Public Hearing:

Mission Road Area: Generally this area consists of the territory located between the northeast boundary of the City of Kodiak and the terminus of Mission Road, located at Spruce Cape. Although the area is largely residential in character, it does contain several small service businesses. There are several mobile home courts located in the area, as well as a Baptist Mission. The only notable public facility is the Kodiak sewage treatment plant presently operated by the City. The Borough contends that the Kodiak sewage treatment plant is a regional facility which should be jointly operated by the City and the Borough.

Staff of the Kodiak Island Borough estimated the population of the area to be 790 residents as of 1977. There are at least 316 water taps in the Mission Lake, Outer Mission Road and Spruce Cape Areas. The City

indicated the population estimate of 790 residents is low. The Borough will provide the estimated value of taxable property at the public hearing. The population is projected to be 1,390 by 1985, a 76% increase over current figures.

Mill Bay Road Area: Generally includes that area extending from the northwest boundary of the City of Kodiak to the point where Mill Bay Road splits to Otmeloi Point and Fort Abercrombie, including the area around Island Lake, Beaver Lake and the relatively newly developed area of East Mill Bay.

Like the previously discussed territory, the area is primarily residential in character, although several businesses do operate in the area. The land most heavily populated is that surrounding Island Lake, while the remainder of the population is fairly evenly scattered throughout the Island Lake area. Population density is moderate to low. Borough estimates made in 1977 show a population of 400 for the Island Lake area and a total area population of 550. There are 100 water taps in the Island Lake Area and numerous wells. The City indicated the current population estimate of 400 residents is low. Estimates project a population of 900 for the Island Lake area by 1995. The only public facility of any consequence is the City of Kodiak's municipal airport. A Catholic school, teaching grades 1-8, is also located in the area. The Borough will provide an estimated value of taxable property at the public hearing.

Monashka Bay: Generally includes the area adjacent to Otmeloi Point and Fort Abercrombie roads. Much of this land is dedicated to public purposes such as the Fort Abercrombie State Park, the City of Kodiak Ram

Site -- a local outdoor theatre, a VFW site and the land fill site operated by the City on Borough land, water reservoir and transmission facilities. The remainder of the area is either undeveloped or very lightly developed. In 1978 Borough staff estimated the population of the area at 100. The current assessed value of property for Mission Road, Mill Bay and Monashka Bay areas is approximately \$21 million.

All of the previously described areas receive certain services from the Kodiak Island Borough, including the areawide services of education, planning, platting and zoning, tax assessment and collection and hospitals and health facilities; the non-areawide power of parks and recreation is not provided at this time; and, on a service area basis, fire protection, road maintenance, sewer and water service. The latter three services were only approved by voters in April of this year so actual implementation of the service has yet to begin. Fire protection is, in fact, provided by the City of Kodiak through a contract with the Kodiak Island Borough.

The City is providing 440 water taps and 48 sewer taps to the Mission Road Area, Mill Bay Area, and the Monashka Bay Area.

Coast Guard Base: The reservation, which is excluded from the Kodiak Island Borough boundaries, abuts the City of Kodiak's southern boundary and is totally self-sufficient, containing all facilities and providing all services necessary for the well-being of Coast Guard personnel. The Kodiak Island Borough operates an elementary school on base, while junior high and high school students attend school in downtown Kodiak.

We are not aware of any significant private property on the reservation with the exception of the Wien Air Alaska airport facility. The current estimated population of the U.S.C.G. station is approximately 3,000. An estimate of the potential taxable property at the U.S.C.G. station is between \$200,000 and \$400,000.

133,200	Bond payments
26,841	Contingency
93,136	Other

General Fund Estimated Revenues

1. Taxes	\$2,023,000
2. Licenses and Permits	28,870
3. Intergovernmental Revenues	434,016
4. Charges and Services	366,802
5. Miscellaneous Revenue	39,734
6. Non-Revenue Receipts	<u>1,279,491</u>
Total General Fund Estimated Revenues	\$4,171,913

Capital Project Funds Estimated Expenditures*

1. Federal Revenue Sharing Trust	\$ 261,000
2. Federal Anti-Recession Fiscal Assistance Fund	79,516
3. Street Improvement	673,300
4. Building Improvement	153,135
5. Water Source Expansion	1,320,655
6. Water/Sewer Line Construction	381,037
7. Sewage Treatment Plant	7,643,105
8. Cargo Pier Construction	873,775
9. HUD Block Grant	1,335,007
10. Major Equipment Purchases	<u>111,780</u>
Total Capital Project Funds Estimated Expenditures	\$12,832,310

*Revenue for capital project funds are identical.

Enterprise Funds Estimated Expenditures*

1. Cargo Terminal	\$ 919,917
2. Boat Harbor	368,876
3. Water/Sewer Utilities	<u>1,283,501</u>
Total Enterprise Funds Estimated Expenditures	\$ 2,572,294

*Enterprise Fund revenues equal expenditures.

<u>TOTAL ESTIMATED REVENUES</u>	\$19,576,517
<u>TOTAL ESTIMATED EXPENDITURES</u>	\$19,576,517

The City of Kodiak is located within the Kodiak Island Borough, which is a Borough of the second class. In addition to the mandatory powers of education; tax assessment and collection; and planning, platting and zoning, the Borough also has the areawide power of hospitals and non-areawide powers of parks and recreation and building inspection. *not as building code* On a service area basis the Borough provides fire protection through a city contract to the area adjacent to the City and to the village of Karluk and provides road maintenance to the Bells Flats area. The Borough has very recently established the Monashka service area to provide water, sewer, and maintenance for the road systems north of the City of Kodiak. On March 23, 1978 the City filed a complaint for declaratory judgment and injunction against the establishment of the Monashka service district claiming the services of water, sewer and road maintenance can be provided by the City without any necessity for creating the service district.

(Attachment #5)

V. STANDARDS FOR ANNEXATION

Title 19 of the Alaska Administrative Code, Section 05.010, Alaska Statutes 29.63.909 and Article X Section 5 of the Alaska Constitution¹ set forth specific standards and requirements which provide guidelines for annexation. Realizing that annexation may be proposed if any one of these standards are met, the Department will indicate the applicable standard and summarize any appropriate issues raised as follows:

(1) Mission Road Area. In accordance with 19 AAC 05.010, the Department suggests that the following applicable standards appear to be satisfied because the territory between Mission Lake and Spruce Cape is:

(a) contiguous to the City as evidenced by the Kodiak Island Borough map prepared by Kramer, Chin, & Mayo Inc.

(b) essentially or will be urban in character as noted in the Kodiak Island Borough map prepared by Kramer, Chin & Mayo inc.

¹ "Section 5. 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."

Resident Population Estimates

(provided by Borough)

	<u>1977</u>	<u>1985</u>	<u>1995</u>
Mission Road	520	720	920
Mission Lake	270	470	870
Mid Cape	0	200	600
Spruce Cape	<u>0</u>	<u>0</u>	<u>600</u>
TOTAL	790	1,390	2,990

At least one-third of the total land area is undeveloped and the largest portion is the former U.S. Coast Guard LORAN Station whose operation of this facility will be terminated on December 31, 1979. Additionally, the former U.S.C.G. LORAN station was declared surplus and has been selected by one of the Kodiak Island Native corporations formed under the Alaska Native Claims Settlement Act. While no immediate development plans appear to exist, it is anticipated that the property will see development, primarily for residential purposes, in the future. The current borough planning estimates project a population of 600 on the former U.S.C.G. LORAN station by 1995 and 600 residents for the Mid Cape Territory. The U.S.C.G. LORAN facility currently has a population of 4 residents.

(c) presently in need of municipal services of water, roads, and fire protection which the City should be able to provide more efficiently than the Borough could by using differential tax zones.

The Department would suggest that the City and the Borough should more appropriately respond to the question of who can provide the specific services more efficiently by whatever means they desire. However, the Department would make the following observations:

Sewer and water facilities are provided to the majority of the area by the City of Kodiak. The previous sewer and water lines were constructed under the auspices of a public utility district prior to statehood and were subsequently taken over by the City of Kodiak. The majority of the water line was put in after the earthquake ruined the wells. Several private sewer lines were also built at that time. According to a 1970 agreement between the Borough and the City, the City has long been designated as the agency responsible for implementation of water and sewer projects within the area of the road system in the Kodiak Island Borough. The City recently installed a sewer interception to the treatment plant.

The territory is presently in need of local road maintenance as evidenced by the recent service area election to provide the service. However, the Department of Transportation is presently responsible for road maintenance on the Spruce Cape road. In determining which governmental agency can most efficiently provide the service for the area it is noted that the City has the only existing Public Works Department capable of providing road maintenance. The Borough has chosen to provide road maintenance through private contracts rather than through a Municipal Public Works Department.

Fire protection is provided by the Borough through a contractual arrangement with the City because the City has the only municipal fire department.

(2) Mill Bay Area. According to 19 AAC 05.010, the Department suggests that the following applicable standards appear to have been satisfied for the territory adjacent to Mill Bay Road extending from Kodiak Subdivision to the turn-off to Fort Abercrombie.

(a) The territory is contiguous to the City as evidenced by the Kodiak Island Borough map prepared by Kramer, Chin and Mayo Inc.

(b) The territory is essentially urban in character as noted in the Kodiak Island Borough map prepared by Kramer, Chin and Mayo Inc.

Resident Population

	<u>1977</u>	<u>1985</u>	<u>1995</u>
Beaver Lake	30	130	730
East Island Lake	310	510	710
West Island Lake	70	120	170
East Mill Bay	50	150	250
West Mill Bay	<u>70</u>	<u>120</u>	<u>170</u>
TOTAL	530	1,030	2,030

The land most heavily populated is surrounding Island Lake, while the remainder of the population is fairly evenly scattered throughout the Island Lake area.

(c) The territory is presently in need of municipal services of water and sewer, roads and fire protection, which the City should be able to provide more efficiently than the Borough could by using differential tax zones.

Here again the Department would suggest that the City and the Borough should more appropriately respond individually to this question of which municipality can provide the service more efficiently. However, the Department would make the following observations:

City water is provided to portions of the area surrounding Island Lake--the water line used is a temporary one, and water pressure is often very low. No sewage collection or treatment facilities operate in the Island Lake area. Consequently, due to the population density, water table, and lack of a collection system, a serious water pollution problem exists at Island Lake (attachment #4).

The territory is presently in need of municipal road maintenance as evidenced by the recent service area election to provide the service. The Department notes that the City has the only existing Public Works Department capable of providing road maintenance.

Fire Protection is provided by the City through a contracted arrangement with the Borough because the City has the only municipal fire department.

(3) The Monashka Bay area. In accordance with 19 AAC 05.010, the Department suggests that the following standards appear to be satisfied for the territory adjacent to Mill Bay Road and extending to the Fort Abercrombie extension to the end of Mill Bay Road, including the Pillar Creek, Virginia Creek and Monashka Creek water shed.

(a) The territory is contiguous to the western boundary of the City as shown by the Kodiak Island Borough map as prepared by Kramer, Chin and Mayo Inc.

(b) Portions of the territory should be annexed to enable the City to achieve adequate control, protection or management of the land fill site and the water shed of city water supply.

The area surrounding Monashka Bay Area #21 is not populated as shown on the Kodiak Island map. The surrounding land is primarily dedicated to public purposes such as the Fort Abercrombie State Park, the Kodiak Ram Site -- local outdoor theatre, VFW, and the land fill site operated by the City on Borough property, water reservoir and transmission facilities. If this area were annexed and included the water shed of Monashka Creek, Virginia Creek and Pillar Creek, the City would have direct jurisdiction over the territory within its boundaries (see Attachment #2).

However, according to the 1978 Kodiak Island Borough's regional plan and development strategy draft summary report, the current water storage capacity at Pillar Creek is inadequate to guarantee a supply of water to industrial users during periods of low stream flow. Potentially,

large fish production losses could occur during peak harvests and this could discourage construction of new processing plants. An Outer Continental Shelf service base would also require large amounts of fresh water to supply drill rigs. Further economic development will require increasing water storage capacity. The most readily apparent alternative is for the City to go ahead with raising the Monashka Creek Dam.

The Department notes that this project is a city function on land purportedly owned by the Borough. The City claims the Borough has said that the land will be turned over to the City. The Department would suggest clarification should be made as to whether this land will be turned over to the City, and who should ultimately provide the service.

(4) The Coast Guard Base: The Department now suggests that the entire U.S.C.G. station be considered for annexation. In accordance with 19 AAC 05.010 the Department would suggest that the following standards appear to be satisfied for the territory proposed.

(a) The territory is urban in character as evidenced by the U.S.C.G.'s own estimate of population to be approximately 3,000 residents.

(b) There is a likelihood that future growth and development will occur within the territory particularly at the State airport which is leased from the U.S.C.G.

(c) Part of the territory (i.e. airport) is presently in need of municipal services of police protection, roads, and fire protection, which the City, using differential tax zones, should be able to provide more efficiently than the Borough using the service area mechanism.

The City of Kodiak Police Department is the security agency at the airport. The City provides the anti-hijacking protection for the airport. The City contends this area is in need of police protection, including the parking lot and restaurant which is being built. As the airport grows and develops, increased commercial activity as well as private aircraft will be at the facility. The Division of Aviation has plans to develop the airport further to handle private craft, and the City has indicated an interest in closing its existing airport.

At the present time the U.S.C.G. Station provides security police services, fire protection (in conjunction with the City), and airport maintenance (in conjunction with the FAA and the Department of Transportation), water sewers and sewer treatment facilities, crash services, and garbage and solid waste collection and disposal on the base.

Another issue is the fact that Koniag Native Corporation is hoping to receive excess property at the airport for further development. However, the U.S.C.G. has no immediate plans to dispose of any excess property.

According to Article X Section 7, City annexation of the Coast Guard Base (including the State Airport) would also extend the Kodiak Island Borough boundaries as well. Should annexation occur, the Borough would acquire a tax base of the territory and could exercise all of its powers in the area. The U.S.C.G. personnel could then exercise their rights as city and borough residents.

The Department would suggest that the City determine whether there is sufficient taxable property at the U.S.C.G. station to justify police protection or any other services. However, additional State and Federal grants should be available to assist with providing these services such as State and Federal Revenue Sharing. Apparently the Kodiak Island Borough has previously negotiated with the U.S.C.G. concerning 100% annexation without success.

Recommendation

The basic problem appears to be that the City and the Borough are attempting to provide the same municipal services and occupy the same political and physical space. While it is generally desirable that matters of government organization be determined locally, conflicts have occurred over annexation with creation of the Monashka Bay Service area and the request for incorporation of a first class city in the Monashka Bay area. These conflicts would indicate that the Local Boundary Commission should review the activities and assume a mediating role to resolve these conflicts.

The Department believes firmly the language of Article X, Section 5 of the Alaska Constitution² encourages the provision of municipal services by cities and discourages the provision of services on a service area basis by a borough when those services can be provided by a city through annexation. Any territory bordering on a city should be encouraged to annex rather than permitting it to remain as a borough service area, providing the annexation standards are met. Ideally the boundaries should encompass an entire natural socio-economic and political area which is urban in character.

We believe that the four areas studied in this report adequately fall within the urban socio-economic and political influence of the City of Kodiak and generally meet annexation standards.

²Ibid.

The final solution for the problem of the Kodiak urban area may be complete unification or consolidation of the city and borough governments. Resolutions have been passed by both the City of Kodiak and the Kodiak Island Borough regarding unification. At the Borough Assembly meeting on April 7, the Borough Assembly did adopt a Resolution 78-34-R to put the question on the ballot next October. The City Manager has stated that without the total picture of annexation being reviewed and the Local Boundary Commission taking appropriate action, the City believes the present situation would prevail for a number of years. The Borough Manager stated that unification could take place as soon as mid-1979. Also, the Borough Manager contends the most economical solution to the problem would be to dissolve the City and provide municipal services on a service area or areawide basis.

The Department recommends that the Local Boundary Commission consider annexation to the City of the territories proposed based upon (1) the standards of annexation which appear to be satisfied for areas proposed; (2) the city and borough testimony in response to the standards raised and the feasibility of services which would be provided; and (3) the testimony of the residents which will be given at the public hearing.

The Bells Flats-Russian Creek Service area, located immediately adjacent to the Coast Guard Base, was not included in the Official Notice of Public Hearing as an area to be considered. The Department would also recommend that the Local Boundary Commission consider this area for future annexation to the City in view of its relative small size, the estimated borough population of 160 as of 1977, the fact that the Borough has created a service area for road maintenance, and the potential taxable property is estimated to be \$3,600,000.

misc.

HELLO

Rep.

PARLER

HKA BAY

proposed annex boundary



existing city area

kodiak island

PRESENTATION FOR

JOINT COMMITTEES OF COMMUNITY & REGIONAL AFFAIRS

KODIAK, ALASKA

FEBRUARY 10, 1979

BY WILLIAM H. BULEN, PRESIDENT KODIAK SANITATION, INC.

HONORABLE SENATORS AND ASSEMBLYMEN
LADIES AND GENTLEMEN

My name is William Bulen. My son Richard Bulen and I own and operate Kodiak Sanitation, Inc.. We have a lot of interest in the matter before you and obviously most of it is financial. Therefore, asking us how we feel about the matter is like getting a wolf to watch the sheep.

However, there is one aspect to the present situation which we think is grossly unfair and I will confine my remarks to this problem.

We have many complaints from our commercial customers regarding the unauthorized use of dumpsters. Only this week I received a call from someone at Kodiak Community College asking what they could do to stop people from using their dumpster. I had to advise them that for all practical purposes their only recourse was to talk to the people involved. As you can understand, this would serve no purpose beyond causing the offenders to find another dumpster.

In the area you are considering today we serve 89 homes and all trailer parks. We estimate that there are 315 additional residential units in the area, which are the ones without refuse service. Some of these people take their trash to the dump but a large percentage of them take it to town and place it in a convenient dumpster. The other day I heard someone remark that they had seen someone transferring trash to the dumpster at the new Post Office while people in two other cars waited to do likewise.

I do not mean to infer that all borough residents are garbage freeloaders but I will have to admit that even some of my friends are numbered among them. For some strange reason, otherwise honest people will not hesitate to steal service.

The only practical solution to this and other garbage related problems is mandatory garbage service, which would be achieved by annexation. In this we do have a financial interest so I will say no more.

Thank you

TESTIMONY OF NORMAN D. WOOTEN

BOX 3016

KODIAK, ALASKA

99615

486-4415

Februrary 10, 1979

My greatest concern over this entire matter is the fact that we as residents had no say in a decision that has so much effect on us. If an election were to be held in the area and the people were for the annexation then I would abide with that decision.

I own and reside on a one acre lot in the Dark Lake area. This lot is covered with spruce trees and berry bushes. I and my neighbors plow and maintain our own road. I haul and dispose of my own trash. Certainly this is extra work and less convenient for me than if I were in the city and entitled to all these services as a citizen. I purposely chose this lifestyle though. I desire to live in an uncongested area such as I do for several reasons. My two small daughters have the run of a fairly large area without me having the worries of a typical "town" parent of traffic-pedestrian hazards. My dog is free to roam over this same area without the city animal restrictions. I'm able to enjoy a clear view of the lake.

What does all this have to do with annexation? Even though according to city publicity I am to be in the zone paying 35% of assessed tax rate I am uncomfortable with this promise. If and when the time arrives that I am to pay full taxation I am not at all certain I will be able to afford the tax on a one acre lot. If my property were valued at \$50,000.00, my present tax at 7.0 mills would be \$350.00 per year. Under the city assessment of 16.1 mills it would jump to \$855.00 per year plus the assessments for any proposed improvements in services. This being the case I would have to subdivide to be able to retain a place to live that I could afford. This is an unacceptable risk to me.

TAX CONSULTANT

ACCOUNTANT

4186

PHONE: 496-9359

BOOKKEEPER

"Jo" Hajdu

P. O. Box 627

Kodiak, Alaska 99615

February 11, 1979

Joint Committee Hearing
Senate & House Community & Regional Affairs Committees
Kodiak, Alaska

Members of the Legislature, Ladies and Gentlemen:

I am appearing before you today both as a spokesman for the Borough Residents for Autonomy and as a resident, property owner and business person in the Spruce Cape area. So I would like to speak both in general terms and also as to how annexation might affect me as an individual residing in the area proposed for annexation.

First of all, it seems to us as a group that the only instance in which the Boundary Commission should exercise its statutory right to force an annexation without an assenting vote by the people affected by their decision should be in a circumstance where it can be clearly and irrefutably documented that there is an overriding public need. This is not the case in Kodiak. Testimony at the public hearings has been conflicting and documented facts are nearly non-existent. No detailed study has been performed by any independent agency as to the true costs to the residents of the area proposed for annexation, nor to the residents of the existing City of Kodiak. No time schedule for the provision of services had been furnished the Boundary Commission at the time of its decision. At no time has there been a real dialogue between the City administration and representatives of the area proposed for annexation (who have not been hand-picked by the City) as to what services they desire, if any.

The decision of the Boundary Commission appears to have been based on several assumptions:

1. That there is a need for water and sewer services in the area proposed for annexation.
2. That the residents of the area proposed for annexation are enjoying City services without paying their share of the costs.
3. That annexing this large area into the City would reduce conflicts between City and Borough governments and provide for greater efficiency.
4. That since many of us do our shopping and find employment in the City of Kodiak, that it is only logical that we should be governed by its administration.

It is certainly true that certain areas are in dire need of water and sewer. However, by far the greater portion is very large lots, sparsely settled. Individual water and sewer systems have been installed and are functional. Also, the City has indicated that it is beyond its physical and economic capability to provide sewer to these sparsely populated tracts. The residents have voted for