

ALABAMA LEGISLATIVE COMMISSION ON THE JUDICIAL BRANCH

2213

SCRA

HJR 59

/

SJR 34

221

REPRESENTATIVE PETER GOLL
Pouch "V"
STATE CAPITAL
JUNEAU, ALASKA 99811

JANET KURZ
P.O. Box 778
HAINES, ALASKA 99827

HONORABLE PETER GOLL:

Dear Sir,

I am writing in regards of the annexation of lands near Haines by the City of Haines.

I strongly object the annexation or change of our government. I feel we should be left to the 3rd class Borough.

I sure would appreciate any and all help that you can be to stop the City of Haines and the Department of Community and Regional Affairs from doing something that we do not want.

Sincerely,
Janet M. Kurz

Box 86 Haines Alaska
99827

1-10-84

Re: Annexation of
lands by city
of Haines

The Honorable Peter Hall
Pouch v Juneau Alaska 99827

Dear Peter Hall,

I am opposed to the annexation of lands by the city of Haines because the majority of the people do not wish to be annexed. In a Democracy the will of the people should be ~~what~~ what decides this type of issue, not members of an appointed Commission or a vociferous minority.

Please do anything you can to prevent our Third Class Borough being destroyed by this forcing of a choice of annexation or a unified government, neither of which is wanted.

Sincerely,
Jerry Potter

P.O. Box 86
Haines, Alaska 99827

Mrs. Louise Hornsted

Box 87

Haines, Ok. 77527

1/17/84

Rep. Peter Holl

Room V State Capitol

Ottawa, Ok. 77811

Dear Rep. Peter Holl,

Regarding the proposed annexation to the City of Haines, as you know, the Boundary Commission passed it, because the Borough did not have Planning & Zoning -- which they do now have, since both City & outside City folks voted in Oct. election for powers of Planning, Platting & Zoning for the Borough -- so now there is no need for the annexation.

The City thought those outside were not paying their share of Taxes for benefits received. Well, everybody pays the sales tax & those outside the City, pay 2 1/2 mill property tax for Fire Protection. Also, the Borough maintains the Library, the Museum & the Child Care Center, which are all most beneficial to the City.

I would live inside the City, but if I lived outside, I would not wish to be annexed.

It is an unhappy situation which is not necessary at this time. We are pushing things too fast & destroying the natural loveliness of rural life.

Please vote against the proposed annexation to Haines.

Very sincerely,

Louise Hornsted

Haines, Alaska
99827
January 16, 1984

The Honorable Peter Goll
Representative, District 2
Pouch V, Juneau Alaska, 99801

Dear Peter Goll,

I am opposed to the proposed annexation of lands by the City of Haines because it is too large an area for the city to provide services to, inside a reasonable time frame. The voters clearly made their wishes known on this annexation in October 1983 vote, by voting against annexation.

The 2 year delay granted by the Boundary Commission before annexation takes place if



a Unified government is not in force, is nothing but a ploy to blackmail the people of the Haines Borough into accepting a form of government we do not want. Please do not allow our Third Class Borough to be destroyed by this strategy. Alaska may wish to have this form of government for remote and/or rural areas, ^{so they can tax} for the support of their schools, so should protect it for future use.

Best wishes,
Bonnie Pottes
P.O. Box 86
Haines, Alaska
99827

1-12-84

The Honorable Peter Holt
Pouch V
Jureau, Ar. 99811

Dear Representative Holt
I ask you as an
understanding representative
to vote No on the
annexation proposal.

I believe in a
Democratic system and
if this annexation
goes through
we will be
forced into
taxes we do
not want or
need.

In the City of Haines
we have a few power-
hungry people that
wish to dominate the
people in the proposed
annexed area. It's
against all principles
of democracy. ~~and~~
Please vote against
the Boundary Commission
recommendation to the
legislature of lands for
annexation to the
City of Haines.

Yours truly
Julie Myers

Julie Myers
Box 544
Haines, Ar.
99811

REPRESENTATIVE PETER GOLL
POUCH V
JUNEAU, AK. ~~99802~~ 99811

DEAR REPRESENTATIVE GOLL

AS A REPRESENTATIVE OF
THE PEOPLE OF HAINES, AND
~~OTHER~~ OTHER TOWNS AROUND, YOU
MUST HAVE SOME INPUT ON THE
HAINES ANNEXATION PROPOSAL
BY THE BOUNDARY COMMISSION.

I DON'T THINK WE WERE
FAIRLY HEARD AND UNDERSTOOD
IN THE PAST MEETINGS.
THE ONLY INPUT THE BOUNDARY
COMMISSION IS EXCEPTING IS
FROM CERTAIN PEOPLE WITH
OTHER REASONS, LIKE PROPERTY,
THEY WANT TO BE IN CITY LIMITS
SO VALUE WILL GREATLY INCREASE.
FOR RESALE.

I FEEL ALL THE PEOPLE
THAT LIVE HERE SHOULD
BE ABLE TO HAVE INPUT
IN THIS MATTER.

I AM ASKING YOU TO
GIVE THIS SOME THOUGHT AND
TO VOTE NO ON THE
ANNEXATION PROPOSAL

I FEEL IT WILL HAVE
ILL EFFECTS ON THE PEOPLE
IN THE HAINES VALLEY.

ALL WE ARE ASKING IS
LETS CONSIDER MORE ABOUT
THIS THAN JUST SOME
PERSONEL PROPERTY INVESTMENT
INTERESTS.

THANK YOU FOR YOUR HELP

~~EB~~

Jim Myers

JIM MYERS

BOX 544

HAINES, ALASKA

99827

1/9/84

Representative Peter Goll
Pouch V
State Capital
Juneau, Alaska 99811

Dear Representative Goll;

As a life long Alaskan, I am appalled at the powers of the Boundry Commission or Regional Affairs, and how they listen to the Special Interest Groups and not the majority who voted down annexation time and again.

People living outside the City of Haines only get fire protection and ambulance service (which is in limbo now) for which we pay taxes.

My husband, Niles, feels the same as I do.

Please vote NO on annexation.

Sincerely,

Hazel Englund
Niles Englund
P.O. BOX 15
Haines, Alaska 99827

*Hazel Englund
Niles F. Englund*

I am writing to ask that you take the necessary steps to introduce a bill to reject the local Boundary Commission's recommendation to the legislature for annexation of lands to the City of Haines.

As you know, Robbie and I have recently built a home outside the City of Haines in the Borough. It was our choice to live outside the City, beyond the utility serviced areas, and beyond the higher city taxes. If this annexation is allowed to go through, there will be only 300 of us left in the Borough who are not annexed into the City. Since we will then be only a mile and a half from the City limits, it will be just a matter of time until we too are annexed.

It seems to me that this process of annexing people into the City who have repeatedly said they don't want to be annexed goes against our whole form of government.

I don't favor any compromises with the City or two year writing periods or similar "deals". I feel the Borough residents outside the City made their feelings known at the Boundary Commission's Public Hearings and in the Oct. 4, 1983 Election (80% opposed).

I ask that you consider my concerns.
Thank you.

Sincerely,
Ed Hays

1.2.1983

January 4, 1984

Box 247 Haines, Alaska 99827

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

Dear Mr. Goll:

I am writing to urge you to vote against the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines. Please consider the following points.

When the Local Boundary Commission held public hearings in Haines, an overwhelming majority of the citizens testifying, opposed annexation. This opposition was further emphasized when sixty four percent (64%) of the entire borough (including the City of Haines), voted against annexation on the advisory ballot question in the October 4, 1983 Municipal election. Eighty percent (80%) of the borough residents residing outside the City of Haines voted against annexation in the same election.

The Local Boundary Commission is recommending that the city annex an area about three times the city's present size. This includes far removed areas such as the Haines Cannery and the airport. The city cannot possibly provide services such as water and sewer to many of these areas, however, they would raise taxes from the present 1.6 mills to 7.6 mills. There are already many residents in the present city boundaries who do not receive these services, but still pay the higher tax rate.

The Local Boundary Commission cited the lack of planning and zoning powers by the borough as one of the reasons for the city to annex such a large area. In the October 4, 1983 Municipal Election, the citizens of the Haines Borough voted in favor of planning, platting and zoning by service area, which enables each service area to make its own decisions on these matters, if the people of that area vote to enact such powers. All of the service areas in the proposed annexation currently have fire protection, which was voted on by each service area, and are taxed an additional rate of 1.0 to 2.2 mills, depending on the area.

Most of us who live outside the city made the choice to live beyond the services and higher taxes. I urge you to consider the above concerns and vote AGAINST the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines.

Sincerely,


Gary D. Matthews

REPRESENTATIVE
PETER GOLL



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

January 26, 1984

Mr. Gene Kennedy
Haines, Alaska 99827

Dear Mr. Kennedy:

Thank you for calling with questions about the annexation issue in Haines.

Senator Eliason and I have requested the Attorney General and the Legislative Affairs Agency to provide us with a legal analysis of the Local Boundary Commission's report on the Haines annexation. There are several legal questions to be answered. It is possible that the annexation language is itself illegal.

On Tuesday, January 31, between 7 p.m. and 9 p.m., Senator Eliason and I are sponsoring a teleconference to hear the concerns of the people on this question. I am working on getting teleconference facilities set up at the Mosquito Lake School in order for the Borough residents to testify without having to drive into town.

I will advise you of whatever final action is planned.

Best regards,

WHILE YOU WERE AWAY

FOR <u>P</u>	DATE <u>1/16</u>	TIME _____	A.M. P.M.
M <u>Gene Kennedy</u>			
OF <u>Haines</u>			
PHONE _____	TELEPHONED		
AREA CODE _____ NUMBER _____ EXTENSION _____	RETURNED YOUR CALL		
MESSAGE <u>annexation -</u>	PLEASE CALL		
<u>will there be another Board</u>	<u>WILL CALL AGAIN</u>		
<u>hearing? Seems to feel so</u>	CALL TO SEE YOU		
<u>I'll explain this one</u>	WANTS TO SEE YOU		
SIGNED _____	TOPS FORM 4002		

Dear Peter Goll,

We urge you to support Senator Ellabon in his opposition to this annexation. We are terribly discouraged by the representation at the borough level and their refusal to follow the mandate given them by their constituents in the 64% opposition to this annexation.

If they will not listen to this what will they listen to - ? The answer is, of course, big business that have plans for this area. You must help to

stop these individuals or this beautiful country will be at their mercy. And the salmon, eagles and quality of life here will be gone forever -

Yours
sincerely
Ellen + Scott
Carey

Dear Peter Goll,

Although we are newcomers here we do own land and pay taxes, and we are opposed to annexation. We have listened via KHNS to the latest developments regarding the question of constitutionality on the 2 year delay.

We have followed recent borough meetings and attended the latest one where the borough voted to go along with the 2 year delay. Very few people attended and we feel that there has been a feeling of discouragement because of the disregarding of the people's vote. Please take this vote into consideration and introduce a resolution to stop this annexation this session if the Boundary Commission does not withdraw it. Thank you for your work + concern

Sincerely, Scott + Ellen Cox

Box 405
Haines, Alaska
99827

Representative Peter Goll
Touch V
State Capital
Juneau, Ak. 99811

Dear Representative Goll,

I am very much against the annexation of any land by the city of Haines. I am also against a unified government for Haines.

I can see no way that the city can provide the "city services" that should go with annexation or a unified government. The only thing I can see is higher taxes, which no one needs.

Please vote against the Boundary Commission recommendation to the Legislature of lands for annexation to the city of Haines, Alaska.

Yours truly
Dorothy McLaughlin

Haines, Alaska

Jan. 13, 1984

Dear Peter Goll:

We are residents of the Burrough living on Small Tract Rd. We wish to express our opposition to any annexation with the City of Haines. The people of the Burrough have already expressed this opposition and we say it one more time that we are against annexation. We know there are powerful forces in the city to force this upon us yet we stand against it. There would be absolutely no benefit to us whatsoever to annex.

Sincerely,

Richard Fredricks
Susan Fredricks

Richard & Susan Fredricks

P.S. I am sure you are aware of this but we are enclosing it just to make sure!

Borough accepts commission's decision

In a special five minute meeting Monday, the Haines Borough Assembly voted unanimously to accept the local Boundary Commission's two year extension on annexation, and not to have Haines Representative Peter Goll pursue the matter in this year's legislative session.

Noting that the chance of defeating annexation in this year's legislative session would be "quite small," Borough Assembly Mayor Bob Henderson said that such a move at this time would

"cause a lot of problems and create a lot of hard feelings."

If annexation was followed through with, continued Henderson, "It would definitely cripple the third class borough financially and in other ways as well. It would mean that the people of the valley would have little or no representation in the borough assembly."

The two year extension was given by Henderson as a major reason for this decision. "By accepting the boundary commission's findings, we could at least

have a two year reprieve and conditions could change very greatly in two years," he said.

Henderson added that the only disadvantage of such a move would be that the "school board would be different from the borough assembly" and added that perhaps there was a way the borough charter could be worked out so it "would not be such a conflict in other areas."

Annexation
January 2
1984

Box 555

Juneau, Alaska 99827

Jan. 25, 1984

Dear Peter:

I understand that people are determined to destroy our 3rd class Borough either with a "unified Government" or by "annexation" & that the Boundary Commission can do that to us.

The Boundary Commission members are not elected representatives & it sounds very arbitrary to me. Now I went through all this in the Juneau area.

I hope that we do not have our type of government forced upon us.

Thank you for your consideration

With sincere best wishes

Janet Woodring

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

Dear Mr. Goll:

I am writing to urge you to vote against the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines. Please consider the following points.

When the Local Boundary Commission held public hearings in Haines, an overwhelming majority of the citizens testifying, opposed annexation. This opposition was further emphasized when sixty four percent (64%) of the entire borough (including the City of Haines), voted against annexation on the advisory ballot question in the October 4, 1983 Municipal election. Eighty percent (80%) of the borough residents residing outside the City of Haines voted against annexation in the same election.

The Local Boundary Commission is recommending that the city annex an area about three times the city's present size. This includes far removed areas such as the Haines Cannery and the airport. The city cannot possibly provide services such as water and sewer to many of these areas, however, they would raise taxes from the present 1.6 mills to 7.6 mills. There are already many residents in the present city boundaries who do not receive these services, but still pay the higher tax rate.

The Local Boundary Commission cited the lack of planning and zoning powers by the borough as one of the reasons for the city to annex such a large area. In the October 4, 1983 Municipal Election, the citizens of the Haines Borough voted in favor of planning, platting and zoning by service area, which enables each service area to make its own decisions on these matters, if the people of that area vote to enact such powers. All of the service areas in the proposed annexation currently have fire protection, which was voted on by each service area, and are taxed an additional rate of 1.0 to 2.2 mills, depending on the area.

Most of us who live outside the city made the choice to live beyond the services and higher taxes. I urge you to consider the above concerns and vote AGAINST the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines.

Sincerely,

Bridget Edwards
Box 744
Haines, Ak. 99827

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

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Sincerely,

Henry Chatterney

Box 683

Haines, AK 99827

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

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Sincerely,

Robert C Berg
Box 744 Haines
outside city.

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

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Sincerely,

Linda L. Matulis
B.V. 247
Haines, Alaska 99827

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

Dear Mr. Goll:

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Sincerely,

Rebecca Redwin Morse

Box 206

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

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Sincerely,

Deborah A. Ingram
General Delivery
Haines, Alaska

99827

December 5, 1983

Representative Peter Goll
Pouch V
State Capitol
Juneau, Ak. 99811

Dear Mr. Goll:

I am writing to urge you to vote against the Local Boundary Commission's recommendation to the Legislature for annexation of lands to the City of Haines. Please consider the following points.

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Sincerely,

*Wene Morris Shaw
Douglas Rick Shaw
PO 722 1/2 mi. F.A.A.R.D.
HAINE'S AK.
99827*



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

February 13-18, 1984

COMM. & REG. AFFAIRS Behrends 110 3:15 p.m.

465-3870 M-W-F

Monday, February 13
No meeting scheduled

Tuesday, February 14
*Joint House/Senate Community & Regional Affairs
public hearing/teleconference - HJR 59, SJR 34 -
LOCAL BOUNDARY COMMISSION
3:15 p.m., Beltz Room, Capitol

Wednesday, February 15
SSHB 442 re: state aid/volunteer fire
departments; ed.

Friday, February 17
No meeting scheduled

HISTORY OF HAINES ANNEXATION ISSUE

- 1977 - City purchased Lutak Dock from State.
- 1979 - City proposes annexation.
Area -wide advisory vote - 63% opposed annexation
Voters protest to city - annexation proposal withdrawn.
- Sept. 15, 1982 - City petitions State for annexation of 3.5 square miles. Made necessary by AG's opinion that operation of dock outside city's limit is illegal
- Oct. 6, 1982 - C&RA accepts petition.
- Oct. 19, 1982 - Borough resolution to allow the City to operate the dock facility exterritorially.
- Nov. 5, 1982 - C&RA written report to Local Boundary Commission -- recommends annexation of 6.9 square miles. They felt compelled to recommend annexation of larger area than petitioned for because the 3.5 mile annexation " didn't meet certain of the regulatory standards which apply" (i.e. urban in character), having an extremely low population density (4 persons per square mile) while " the Greater Haines Area meets more of the standards and to a far greater extent." (38 persons per square mile)
- Nov. 10, 1982 - Letter from C&RA to Local Boundary Commission - " anticipates substantial opposition from residents in area to be annexed, particularly in light of Department's recommendation."
- Nov 23, 1982 - Borough resolution rejects Local Boundary Commission's recommendation.
- Dec. 2, 1982 - 345 residents sign petition requesting City to withdraw annexation resolution.
- Dec. 12, 1982 - Local Boundary Commission holds public meeting in Haines, which is cut short by a power failure before all testimony can be heard.

Jan. 14, 1983 - Commission meets in Anchorage - recommends annexation of dock only. Due to letters received from Haines residents, the Commission decides to hold second public meeting in Haines on proposed annexation of territory other than the dock.

Annexation of dock is not disapproved by the First Session of the Thirteenth Legislature.

Jan. 20, 1983 - Borough requests Local Boundary Commission postpone the public hearing until fall because of planned proposition to be put before the public on Borough's acquiring the powers of planning and zoning and hopes that the new Administration would change attitude re: Third Class Borough.

There is a widespread perception in Haines that C&RA is intentionally trying to eliminate the Third Class Borough despite strong local support.

The suggested annexation of 6.9 miles would leave only 301 residents in the Borough crippling it as a political subdivision

Feb. 19, 1983 - Local Boundary Commission holds second public hearing in Haines, despite Borough's request to postpone until fall.

According to the Lynn Canal News, Feb. 24, 1983 almost 70 people were in attendance, the meeting lasted four hours and "besides the several city officials ... less than a handful of the audience was in favor of it" (the annexation).

March 26, 1983 - Local Boundary Commission holds decisional meeting in Anchorage finding:

1. Greater Haines Area is urban in character (population density greater than that which defines a community -14 persons per square mile.)

2. Greater Haines receives municipal services which can only be provided by the City.

3. Growth potential - need for planning and zoning.

4. Conditions exist which endangers health, welfare and safety of city residents (sewage contamination within Piedad Road area).

5. Direct and indirect benefits to Greater Haines Area from City without tax contributions.

Local Boundary Commission expands City's petition for annexation to fit C&RA's recommendation and approves annexation.

December, 1982 -

Legal Brief submitted by the Haines Citizen's Against Annexation claims:

1. The area to be annexed is not urban in character. The Commission would be well advised to utilize a lay definition of "urban"-"characteristic of a city as distinguished from country". (Webster's New World Dictionary)

2. 70% of City's budget is generated by 4% sales taxes which are paid by all residents. A further portion is generated by user fees from residents who live outside the City and pay for their own fire protection and water supply.

3. Borough provides all schools, the museum, the library, the swimming pool and the Chilkat Center for the Arts. The funding comes from municipal assistance and revenue sharing which depends on number of citizens living outside city. City residents do not contribute to these facilities.

4. Proposed annexation would halt development of 550 acres presently owned by the Borough which are presently planned for land disposal.

In addition Planning and Zoning was approved by Borough voters in October, prior to this annexation order.

October 1983 -

1. Area-wide vote on annexation question.

Total vote: 391 (64%) opposed;
216 approved.

Outside city: 243 opposed;
26 approved.

Inside city: 148 opposed;
190 approve.

2. Borough's voters approved planning, platting and zoning.

Total vote: 382 approve;
255 opposed.

Inside city: 193 approve;
172 opposed.

Outside city: 189 approve
53 opposed

3. Favored form of government.

Total vote: 284 - Third Class Borough
217 - Unified Government
52 - Second Class Borough

December 5, 1983 - Division of Legal Services memo in response to request for comments as to how citizen input into annexation decisions can be guaranteed within the limits of existing constitutional restraints:

- advisory vote best way to insure residents feelings being heard.

- Local Boundary Commission would be advised of majority's feeling.

- if after negative vote, Local Boundary Commission still approves annexation, the unpopularity of the decision would be immediately clear to the legislature. Legislature would undoubtedly take that into consideration.

- as a voca' minority can predominate at public hearings it is easier for any agency to ignore public input than to ignore a vote that reflects majority opinion.

- Dec. 7, 1983 - letter from City of Haines to Representative Goll stating agreement with Borough to request Local Boundary Commission to forestall effective date until Borough has opportunity to conduct elections on unification.
- December 29, 1983 - Borough letter to Local Boundary Commission requests reconsideration of annexation proposal and two year delay to allow the community to work together to solve its problems.
- January 7, 1984 - Local Boundary Commission approves two year extension.
- January 9, 1984 - Special meeting of Borough Assembly called at 4:03 p.m. to approve the two year extension. One of the Borough members opposing annexation arrived late, the 40 mile member was never called. Motion to accept LBC's decision passed.
- Jan. 17, 1984 - Local Boundary Commission's Report of 1983. Recommends annexation to become effective in two years if the City and Borough have not unified during that period. Different from agreement reached between City and Borough according to Borough.
- Jan 17, 1984 - Memo from Attorney General to Local Boundary Commission concludes that the LBC has the power to delay the effective date for two years.
- Jan 31, 1983 - Division of Legal Services Memo concludes that the Commission does not have the authority to itself unify local governments, although by annexation it can eliminate the Borough. But the result would not be that reached by unification.

Note: no Borough wide annexation was

recommended.

Expresses the opinion that the delayed effective date is clearly invalid. The change becomes effective at the time stated in the constitution. Local Boundary Commission is not empowered to vary the Constitution by providing a different effective date for the change.

Jan 31, 1984 - Senator Eliason and Representative Goll hold special teleconference with Haines sites to hear public opinion. Over 50 residents were in attendance. Of the thirty people testifying, 26 were in opposition to annexation.

Feb. 2, 1984 - Division of Legal Services opinion on validity of LBC's final recommendation with delayed effective date.

Indication that the LBC's primary intent was to recommend annexation rather than to recommend the delayed effective date.

Feb. 6, 1984 - Matching resolutions filed in the Senate and the House to disapprove the Local Boundary Commission's recommendation of Haines annexation.

EXCERPTS FROM PUBLIC TESTIMONY GIVEN AT LOCAL BOUNDARY
COMMISSION MEETING IN HAINES FEB. 19, 1983

From the LYNN CANAL NEWS

Feb. 24, 1983

Residents say to city: 'No trespassing please'

Pete LaRoque: "I was all for progress in Anchorage" years ago "and today I've yet to apologize to a lot of old timers for it. I'm sure we all like progress, but now that I'm older I'd like to see it come a little slower."

John Koehler: "We're being railroaded... why they keep trying to push this down our throats I don't know."

David Menaker: "I've got about all the government I can handle right now. I don't need anymore."

Tim June: "These are real people who bought property outside the city because they wanted to go their own way. There's no sense in making them part of the city when they originally chose not to live in it."

Paul Nelson: "After all my daily dealings with the city I'd say they'd be well advised to get their act together before they take on any more."

Joey Hinman: "People in the city go clear out the highway to get their water because they can't drink the city's water. Now, they want to give us city water too... no thanks."

Pete LaRoque: "I can flush my toilet at home (and it's clean), but when I come to the city and flush my toilet it looks like I just used it."

Marge Matthews: "Sewage isn't the issue here, it's our way of life."

City Mayor Jon Halliwill: "We do have differences of opinion" on annexation here.

Borough Mayor Bob Henderson: "It shouldn't be the boundary commission's intent to push one municipality against another in order to make one strong and one weak."

Gordon Sandy: "People in the city don't understand my problems. I'd rather deal with my neighbors who do."

Diane Benson: "People are getting tired. You guys won't leave them alone. It shouldn't be this way. The people voted it (annexation) down once and it should stay that way. What we want to know is why our vote doesn't count."

Bruce Gilbert: "My dog killed my neighbors chicken and their pig comes down and makes doo-doo's in my garage. It's an even exchange. We all get along. It's the city we don't get along with."

Buster Benson: "If my sawmill is annexed it'll probably put me out of business. I'm agin' annexation."

Ray Menaker: "I hope people who want to be annexed have an opportunity to be annexed and that those who don't want to be annexed aren't."

Borough Mayor Bob Henderson: "If the borough and the city spent as much time cooperating as they do fighting we'd be a much better place."

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

February 6, 1984

Senator Eliason Reports on the Haines Annexation Issue

Now that the proposed Haines Annexation has entered the Legislative arena it is important that everyone understand where things stand and how and why we are where we are.

As you know, the boundary change question has had much debate at the local level but the Legislature also has an oversight role mandated by state law in boundary changes. The statutes require the Local Boundary Commission (which is under the Department of Community & Regional Affairs) to submit a report of its proposed changes in local boundaries to the Legislature during the first 10 days of the session. The Haines annexation was submitted this session and referred to the Community & Regional Affairs Committees of each house. The Legislature then reviews these reports and can 1) take no action which then results in the change taking place as proposed or 2) within 45 days of receiving the report, pass a resolution disapproving the change which effectively kills it. Generally the chairpersons of the C& RA Committees will follow the lead of the representatives and senators of the district wherein the boundary changes are proposed. This is where my involvement and that of Rep. Goll come in.

I respect the autonomy of individual communities and am very careful not to interfere with issues best left for resolution at the local level. But in this instance I fear that Haines has already suffered some interference by the state in its efforts to manage its own affairs.

I see my role as one of making sure that everyone understands the process and their rights, and that any annexation that takes place is done properly. Rep. Goll and I held the teleconference last week to discuss the whole issue with the people of the area and get a feel for the questions and concerns. I thank everyone who attended and participated in the teleconference. It was constructive and informative. I know many of you traveled some distance to be there.

Several major concerns have convinced me to take action to insure that the issue and the options remain alive. My main concerns include: (1) The Local Boundary Commission initiated this annexation. While not illegal it seems unwise and a dangerous loss of local autonomy. The Legislature has an obligation to see that the state bureaucracy doesn't get out of hand and begin usurping local initiative. (2) The local vote was against this annexation. We don't want to risk undermining the people's trust in the public input process which becomes a charade if it is ignored and powerless. (3) The clause calling for annexation to kick-in in two years unless unification takes place first. The Attorney General says the delayed effective date is okay but the Legislature's Legal Staff says it is not. But the ringer is the most recent legal opinion, obtained since the teleconference, which says that if the two-year clause were thrown out by a court, the rest of the annexation proposal would stand, meaning the annexation would be immediately in effect. That circumvents the intent to allow time to consider unification and abolishes the compromise which made the proposal palatable to the parties who did sign off on it. (4) I am worried about the precedent set by holding a hatchet over a community's head to "unify or else". Annexation and unification ought to each be weighed and decided on their own merits. Also the big plus in any possible decision to unify is the "custom-built" charter which could, if given enough time and consideration, be drawn up to respond to the variety of special needs and goals of different areas within a unified city and borough. Such a charter could allay many of the objections and fears and allow the community to enter into a unification willingly and comfortably.

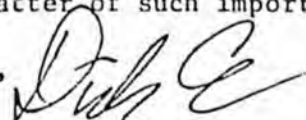
Few annexations go through without some objections. Certainly no one would expect 100% consensus on this in Haines where feelings have been strong on these matters for years. But I believe there needs to be more discussion and so I introduced Senate Joint Resolution 34 in the Senate (and Rep. Goll introduced the same one in the House) to disapprove of the proposed annexation.

Now the matter is in the two C& RA Committees which plan to hold hearings and a teleconference. If the Legislature passes the resolution within the 45 days allowed, the annexation as proposed would die and the matter goes back to the drawing board.

So that's where we are right now. I believe we are being fair and sensible in our consideration and action on this matter and hope the people of Haines will agree. I urge your continued involvement in this process and your efforts to make the C& RA Committee members aware of your opinions and concerns as they deliberate on whether to pass the resolutions of disapproval.

I thank the Lynn Canal News for the opportunity to present my viewpoint on this matter of such importance to its readers.

Sincerely,



Senator Dick Eliason

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1984

SUBJECT: Annexation of territory
to Haines (W.O. 13-1776)

TO: Senator Richard I. Eliason

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

You have asked whether the annexation of territory to the City of Haines will take place within the time required by the constitution or whether the entire annexation is invalid if the delayed effective date provided in the Local Boundary Commission's Recommendation Number One is invalid.

Recommendation Number One contains two parts. The first part of the recommendation states in part the annexation ". . . will become effective two years from the date of the Legislature's approval of the commission's recommendation and then only if the City of Haines and the Haines Borough have not unified. . ." The second part of the recommendation provides for the actual annexation of territory. The question of what happens to the second part of the recommendation if the first part is invalid is essentially a separability question. In the area of statutory construction the general rule is that separability questions are to be determined according to either the will of the legislature or its manifested meaning. (Sutherland Statutory Construction, section 44.03) While the recommendation at issue here is not a statute, it seems likely that a court faced with determining the validity of the recommendation will use those principals of statutory construction that it commonly relies on.

It is clear that the Local Boundary Commission possesses the authority to recommend a boundary change to the legislature, (Art. X, sec. 12, Constitution of the State of Alaska). In this particular case, it is also clear from the letter of recommendation itself that the commission intended to

Senator Eliason
Page 2
February 2, 1984

approve the annexation and only added the delayed effective date later at the request of the municipalities concerned. (See paragraphs 4 and 5 of "Recommendation Number One to the Second Session of the Thirteenth Legislature", Senate and House Joint Journal Supplement No. 16). This appears to be an indication that the Local Boundary Commission's primary intent was to recommend annexation rather than to recommend the delayed effective date. While it is a very close question, I believe that a court would be more likely to find the annexation valid and effective within the time required by the constitution in order to carry out the will of the commission rather than finding the annexation invalid and, thus, thwarting the constitutional power of the commission to recommend boundary changes.

However, this question cannot be resolved with certainty until the issue is presented and decided by the court. The entire problem will, of course, be avoided if the legislature acts to disapprove the annexation.

TBC:csh
C2/134

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1984

SUBJECT: Haines Annexation Recommendation

TO: Representative Peter Goll

FROM: Billy G. Berrier *BGB*
Director
Division Legal Services

You have asked several questions concerning the Recommendation for the Annexation of Territory to the City of Haines by the Local Boundary Commission which is Recommendation No. 1 to the Second Session of the Thirteenth Legislature dated January 17, 1984.

You have asked whether this recommendation essentially ordered unification and whether the commission has the power to order unification.

A local boundary commission is mandated by the Constitution of the State of Alaska and is constitutionally given broad power over local government boundary changes.

Section 12 of Article X provides:

SECTION 12. A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five 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. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

Representative Peter Goll
Page 2
January 31, 1984

The Commission was established by law (AS 44.47.565) and is generally regulated by AS 29.18.011 - 150. It has regulations at 19 AAC 10.

Our Supreme Court has had questions before it concerning the Local Boundary Commission several times. It has stated the purpose for the commission saying, for example, in Oesau v. City of Dillingham 439 P.2d 180 (Alaska 1968):

The basic purpose for creating the boundary commission and conferring upon it the powers that it possesses was to obviate the type of situation that existed here where there was a controversy over municipal boundaries which apparently could not be settled at the local level. As we pointed out in the Fairview case, the concept that was in mind when the local boundary commission section of the Constitution was being considered by the constitutional convention was that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The purpose of the boundary change effected in this case by the boundary commission and the legislature was to establish boundaries at a state level, and resolve a conflict that could not be properly solved at the local level, by doing away with two separate governments in a single community and avoiding multiplication of facilities and services, duplication of tax burdens, and inevitable jurisdictional conflict and chaos.

The Commission does not have authority to itself unify local governments. That procedure is established in AS 29.68.240 - 440 and requires approval at an election.

However, the commission does have broad power and, even though a boundary changed its purposes would result in dissolution of a municipality without following the dissolution procedure, that is within its power. In the case cited above the commission extended the boundaries of the City of Dillingham to encompass all of the City of Wood River. The court held this valid stating:

When the boundary change became effective, the city of Wood River was extinguished as a municipal corporation and its property, powers and duties were then vested in the City of Dillingham.

Representative Peter Goll
Page 3
January 31, 1984

Therefore in my opinion the boundary change is within the power of the Commission even if it were to include all the borough territory and effectively dissolve the borough. It should be noted that the result is not the result reached by unification under AS 29.68.240 - 440 since the result is not one home rule unit of local government.

You have also asked whether the part of the recommendation which reads:

1. The annexation of territory to the City of Haines, as herein described, will become effective two years from the date of the Legislature's approval of the Commission's recommendation and then only if the City of Haines and the Haines Borough have not unified pursuant to the provisions of AS 29.68.240 - 580; and

is valid in our opinion.

In my opinion it is clearly invalid.

The constitution itself clearly states the effective date of a proposed change. In Sec. 12 of Article IX the constitution states:

The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five 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. (emphasis added)

There is no ambiguity. The change becomes effective at the time stated and that phrase clearly refers to "any proposed local government boundary change." The annexation is the boundary change, not the recommendation, and the Commission is not empowered to vary the constitution by providing a different effective date for that change.

BGB:ojb
J3/019

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1984

SUBJECT: Local boundary commission recommendations
TO: Senator Richard Eliason
FROM: Richard A. Bradley **B**
Legislative Counsel

Rocky Plotnick has asked whether the effective date of the recommendations of the local boundary commission may be delayed for a year or more.

It seems that they may not.

The Alaska Constitution provides at art. X, sec. 12 (in part):

It (the commission) may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five 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.

While I have not seen the particular recommendation that is of concern (because it has not been presented), at this time I do not see how a recommendation with delayed effectiveness can be squared with art. X, sec. 12.

If I may be of further assistance, please advise.

RAB:lmb
L3/086

MEMORANDUM

State of Alaska

TO: Jim Sanders
Local Boundary Commission

DATE: January 17, 1984

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Delaying effective
date of boundary
change

By: *James L. Baldwin*
James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

By: *Fran Bremer*
Fran Bremer, Legal Intern
Governmental Affairs-Juneau

You have asked us whether the local boundary commission can validly delay the effective date of a boundary change for two years, contingent on the holding of an election for the unification of the Borough and City of Haines. The answer is yes.

Article X, section 12 of the Alaska Constitution provides for the establishment of a local boundary commission, which may present a proposed boundary change to the legislature within the first 10 days of the session. Section 12 provides, "[t]he change shall become effective forty-five 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." AS 44.47.583 repeats essentially the same language: "the change becomes effective 45 days after the presentation"

An examination of the minutes of the constitutional convention shows that the wording of section 12 was not intended to set a definite date on which the boundary change was to physically occur. 4 Proceedings of the Alaska Constitutional Convention 2750-2753 (Jan. 20, 1956). Rather, the language was intended as a limit on the legislature's power to disapprove a proposed boundary change.

At the convention, an amendment was introduced which required active legislative approval of a proposed boundary change. The delegates discussed the merits of permitting the proposed change to occur without legislative intervention, and rejected the amendment. 4 Proceedings at 2751. It is clear from comments made during floor debate that the delegates' main concern was the potential for delay caused by conditioning a boundary change on legislative approval. A delegate noted that a boundary change could be "difficult to get through if it is going

to affect somebody's constituents." Id. Others noted that changes must be submitted to the legislature "but in the press of business ... they may not get around to consider such little things as a minor boundary change ..." and that "this little boundary adjustment will go from session to session ... because they won't have time to make it approved." Id. The 45-day limit on the legislature's power to disapprove avoided the possibility that the boundary change could go "from session to session" without being decided. See also A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980) (discussion of article X, section 12 in terms of the power of the legislature to veto executive action).

We believe the provisions of section 12 do not restrict the power of the local boundary commission to delay the operative date of the boundary change. Alaska courts have recognized that annexation decisions involve policy choices that are incapable of judicial resolution. Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); U.S. Smelting, Refining & Mining Co. v. Local Boundary Comm'n, 489 P.2d 140 (Alaska 1971). The local boundary commission was created to provide an expert and experienced agency to make these policy choices within the guidelines set out by law and regulation. See Town of Stillwater v. Minn. Municipal Comm'n, 219 N.W.2d 82, 87 (Minn. 1974) (commenting on the Minnesota Municipal Commission, whose structure and function is similar to that of the local boundary commission). Accordingly, the statutory scheme grants the commission broad power in matters affecting local boundaries. AS 44.47.565 -- 44.47.583. There is no express provision in either the statute or the regulations dictating the time that a boundary change is to become operative. Therefore, the only restriction on the agency's choice of annexation method is the requirement that there be no abuse of discretion. Port Valdez, 522 P.2d at 788. The commission's decision to allow a two-year delay was a reasoned choice between the competing objectives of encouraging cooperation between the city and borough, and that of settling boundary questions promptly to facilitate planning and assure responsiveness to current conditions. The commission's choice of method -- to delay the operative date -- is analogous to an agency's power to delay the effective date of a regulation under AS 44.62.180(4). We, therefore, conclude that the commission has the power to delay the operative date of the annexation for two years.

HAINES BOROUGH

P.O. BOX H
HAINES, ALASKA 99827
(907) 766-2711

February 6, 1984

The Honorable Don Gilman
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Gilman:

I am writing you because you have been interested in the Haines Borough and I have a great respect for your integrity.

I am requesting your support for a resolution that Senator Eliason (Goll) will introduce against the annexation of some 7 square miles by the City of Haines.

The proposed annexation will pull into the City some 500 citizens now living outside the city. This will give the City of Haines a population of some 1500, while only 300 would remain outside. Since municipal assistance is based on population of a borough outside of a city, the borough would have just 300 citizens and our State funds would be reduced to a very low level. Furthermore, the city has 3 members on the current Assembly, the outside area 2 members and 1 member-at-large who now comes from the outside area. If annexation occurred, only 1 member would come from outside and five from the new city. This would not give outside citizens much representation on our Assembly.

In the October election 382 citizens voted against annexation and 255 citizens favored annexation (66% favored).

Both City and Borough have been trying to work out our problem. We feel that a unified government would solve our problem. At a joint meeting of the Council and Assembly, we agreed to request the Local Boundary Commission to delay the effective date of the annexation petition for two years or until the City and Borough have completed the unification process.

Unfortunately, the Local Boundary Commission delayed the annexation for two years, only. Thus on March 3, 1986, if the unification process is not completed, annexation will occur. I do not feel that a Charter Commission, to do the best job, should have to meet deadlines. We have a diversity of people and it is going to take a long time to get a charter that the majority can approve.

Senator Don Gilman
February 6, 1984

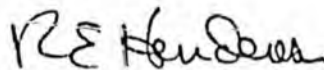
Page 2

Furthermore, there seems to be a question of legality as to whether the Local Boundary Commission can set a date (other than 45 days of legislature after the petition is introduced), as well as specify the kind of government that must be formed. Some legal opinions also tell us that if the present petition is approved by the Legislature and it is challenged in court and found at fault, then annexation would occur immediately.

Because of all these questions, I believe that the Local Boundary Commission recommendation should be rejected. This would allow the City and Borough of Haines to work out our differences and hopefully come up with a unified government that we can all live with that would benefit us all and thereby solve the annexation problem that disrupts our community every few years.

I sincerely hope that you will help us in any way you can to resolve this issue.

Sincerely,



R. E. Henderson
Mayor

REH:AMJ

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

RECOMMENDATION NUMBER ONE TO THE
SECOND SESSION OF THE THIRTEENTH LEGISLATURE

RECOMMENDATION FOR THE ANNEXATION OF TERRITORY
TO THE CITY OF HAINES

On September 22, 1982 the City of Haines submitted a petition to the Local Boundary Commission (hereinafter "Commission") through the Department of Community and Regional Affairs (hereinafter "Department") in accordance with the applicable laws and regulations of the State of Alaska. The petition proposed the annexation of territory comprising approximately 3.5 square miles of territory extending north from the current City boundaries to and including the City-owned port facilities on Lutak Inlet. On October 6, 1982 the Department determined the petition to be acceptable as to form and content.

On December 12, 1982 the Commission held a public hearing in Haines on the petition for annexation which was prematurely concluded due to a power outage. On January 14, 1983 the Commission rendered its decision amending the City of Haines' proposed annexation to include only the noncontiguous Lutak Port facility. Subsequently, the First Session of the Thirteenth Legislature approved the annexation of the Lutak Harbor facility.

The Commission notified the City of Haines and the Haines Borough that it was going to consider the annexation of additional territory to the City (hereinafter referred to as the "Greater Haines Area") during 1983. On February 19, 1983 the Commission conducted a public hearing in Haines on the annexation of additional territory to the City making the Lutak Port facility contiguous and extending the City's boundaries to include Haines Borough residents receiving City services but not paying commensurate property taxes.

On March 26, 1983 the Commission conducted a decisional meeting on the proposed annexation of additional territory to the City of Haines and did approve the annexation;

On January 7, 1984 the Commission, at the request of the Haines Borough and the City of Haines, conducted a decisional meeting on proposed changes to the Commission's Statement of Decision on the annexation of territory to the City of Haines. These

changes would set an effective date for the annexation two years from the date of legislative approval of the Commission's recommendation. The annexation would not occur if the City of Haines and the Haines Borough unified during the two year period following legislative approval of the annexation. The Commission approved the requested changes to the Statement of Decision.

NOW, THEREFORE, based upon the extensive briefing of the petitioner, the investigation of and report on the petition by the Department, and the information obtained from the public hearing conducted on the matter, the Commission made the following findings of fact and entered its decision pursuant thereto:

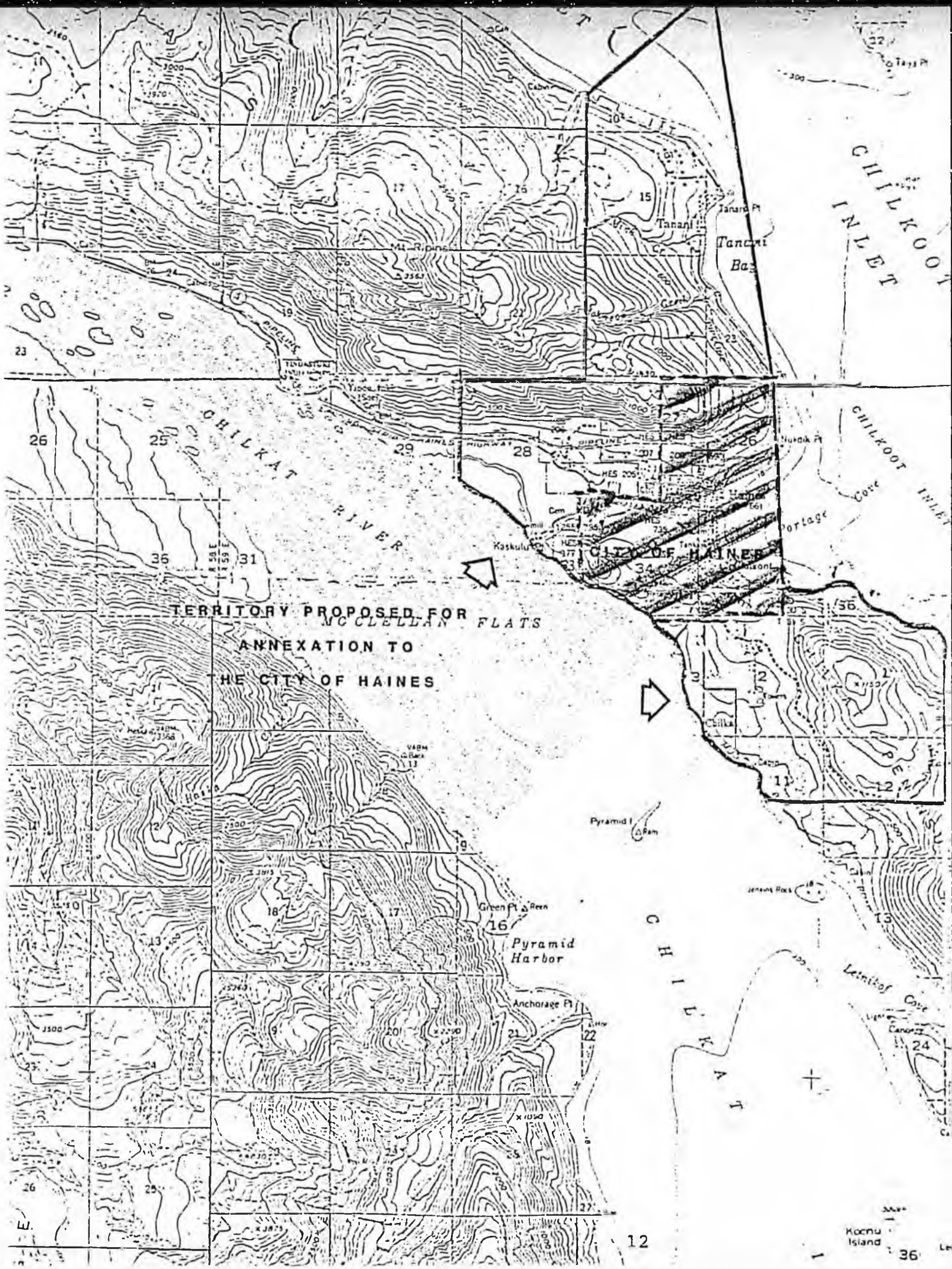
1. The Greater Haines Area is urban in character. The population density of this area is greater than the population density standard used by the Department to determine whether a group of people living in a geographically defined area constitutes a community.
2. The Greater Haines Area is currently receiving municipal services which at this time only the City is capable of providing.
3. There is a reasonable likelihood that growth and development will occur within the Greater Haines Area. There is a need for the provision of planning and zoning in the territory.
4. There are conditions existing within the Greater Haines Area which endanger the health, welfare and safety of City residents. Of particular concern is the sewage contamination found within the Piedad Road area.
5. The residents and property owners within the Greater Haines Area receive direct and indirect benefits of City government without commensurate property tax contributions.

The Commission amended and subsequently approved the City of Haines' petition for annexation dated September 15, 1982 to provide for the annexation of territory which would result in the boundaries herein described for the City of Haines.

THEREFORE, the Commission hereby makes the following recommendations to the Second Session of the Thirteenth Legislature of the State of Alaska:

1. The annexation of territory to the City of Haines, as herein described, will become effective two years from the date of the Legislature's approval of the Commission's recommendation and then only if the City of Haines and the Haines Borough have not unified pursuant to the provisions of AS 29.68.240-580; and
2. Annexation of territory to the City of Haines will result in the following legal description for the City of Haines:

Beginning at the NW corner of protracted Section 28, T30S, R59E, Copper River Meridian (C.R.M.); thence east to the NW corner of protracted Section 27, T30S, R59E, C.R.M.; thence north to the line of mean high tide of Lutak Inlet; thence northeasterly along a line of sight to the U.S.C.G.S. monument named "Sanka" which is located on the north shore at the mouth of Lutak Inlet within Section 2, T30S, R59E, C.R.M.; thence southeasterly along a line of sight to the point where the common line between Sections 23 and 26, T30S, R59E, C.R.M. intersects with the line of mean high tide of Chilkoot Inlet; thence meandering said line of mean high tide in a southerly direction to a point identical with the southeasterly meander corner of Lot 2, protracted Section 26, T30S, R59E, C.R.M.; thence southerly across Portage Cove to the point where the line of mean high tide of Portage Cove intersects with the northerly extension of the easterly side lines of Lots 16 and 5, Section 35, T30S, R59E, C.R.M.; thence meandering easterly along the mean high tide line of Portage Cove and Chilkoot Inlet to the intersection with the east boundary of protracted Section 1, T31S, R59E, C.R.M.; thence south to the southeast corner of the N1/2 of protracted Section 12, T31S, R59E, C.R.M.; thence west to the intersection with the line of mean high tide of Chilkat Inlet; thence meandering northwesterly along the line of mean high tide of Chilkat Inlet and the line of mean high water of the Chilkat River to the intersection with the west boundary of Section 28, T30S, R59E, C.R.M.; thence north to the NW corner of protracted Section 28, T30S, R59E, C.R.M., the true point of beginning, containing 10.79 square miles more or less, all in the First Judicial District of the State of Alaska.



**TERRITORY PROPOSED FOR
ANNEXATION TO
THE CITY OF HAINES**

MEMORANDUM

State of Alaska

TO: Jim Sanders
Local Boundary Commission

DATE: January 17, 1984

FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Delaying effective
date of boundary
change

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

By: Fran Bremer, Legal Intern
Governmental Affairs-Juneau

You have asked us whether the local boundary commission can validly delay the effective date of a boundary change for two years, contingent on the holding of an election for the unification of the Borough and City of Haines. The answer is yes.

Article X, section 12 of the Alaska Constitution provides for the establishment of a local boundary commission, which may present a proposed boundary change to the legislature within the first 10 days of the session. Section 12 provides, "[t]he change shall become effective forty-five 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." AS 44.47.583 repeats essentially the same language: "the change becomes effective 45 days after the presentation"

An examination of the minutes of the constitutional convention shows that the wording of section 12 was not intended to set a definite date on which the boundary change was to physically occur. 4 Proceedings of the Alaska Constitutional Convention 2750-2753 (Jan. 20, 1956). Rather, the language was intended as a limit on the legislature's power to disapprove a proposed boundary change.

At the convention, an amendment was introduced which required active legislative approval of a proposed boundary change. The delegates discussed the merits of permitting the proposed change to occur without legislative intervention, and rejected the amendment. 4 Proceedings at 2751. It is clear from comments made during floor debate that the delegates' main concern was the potential for delay caused by conditioning a boundary change on legislative approval. A delegate noted that a boundary change could be "difficult to get through if it is going

to affect somebody's constituents." Id. Others noted that changes must be submitted to the legislature "but in the press of business ... they may not get around to consider such little things as a minor boundary change ..." and that "this little boundary adjustment will go from session to session ... because they won't have time to make it approved." Id. The 45-day limit on the legislature's power to disapprove avoided the possibility that the boundary change could go "from session to session" without being decided. See also A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980) (discussion of article X, section 12 in terms of the power of the legislature to veto executive action).

We believe the provisions of section 12 do not restrict the power of the local boundary commission to delay the operative date of the boundary change. Alaska courts have recognized that annexation decisions involve policy choices that are incapable of judicial resolution. Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147 (Alaska 1974); U.S. Smelting, Refining & Mining Co. v. Local Boundary Comm'n, 489 P.2d 140 (Alaska 1971). The local boundary commission was created to provide an expert and experienced agency to make these policy choices within the guidelines set out by law and regulation. See Town of Stillwater v. Minn. Municipal Comm'n, 219 N.W.2d 32, 37 (Minn. 1974) (commenting on the Minnesota Municipal Commission, whose structure and function is similar to that of the local boundary commission). Accordingly, the statutory scheme grants the commission broad power in matters affecting local boundaries. AS 44.47.565 -- 44.47.583. There is no express provision in either the statute or the regulations dictating the time that a boundary change is to become operative. Therefore, the only restraint on the agency's choice of annexation method is the requirement that there be no abuse of discretion. Port Valdez, 522 P.2d at 1151. The commission's decision to allow a two-year delay was a reasoned choice between the competing objectives of encouraging cooperation between the city and borough, and that of settling boundary questions promptly to facilitate planning and assure responsiveness to current conditions. The commission's choice of method -- to delay the operative date -- is analogous to an agency's power to delay the effective date of a regulation under AS 44.62.180(4). We, therefore, conclude that the commission has the power to delay the operative date of the annexation for two years.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 11, 1984

SUBJECT: Local boundary commission recommendations
TO: Senator Richard Eliason
FROM: Richard A. Bradley ^B
Legislative Counsel

Rocky Plotnick has asked whether the effective date of the recommendations of the local boundary commission may be delayed for a year or more.

It seems that they may not.

The Alaska Constitution provides at art. X, sec. 12 (in part):

It (the commission) may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five 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.

While I have not seen the particular recommendation that is of concern (because it has not been presented), at this time I do not see how a recommendation with delayed effectiveness can be squared with art. X, sec. 12.

If I may be of further assistance, please advise.

RAB:lmb
L3/086

Rep. Mike Miller
Juneau
Alaska

Feb. 8, 1984

Dear Sir:

Would you please help us by not allowing the annexation proposed for the city of Haines. The city has gone against the wishes of the majority of the people and is trying to get the annexation through.

I see this as the first step in annexing more people to the city. If this goes through the Borough will be left with so few people that we won't have a say in any rules and regulations that the city will want the Borough to make.

Even though our area (27 mile Haines Highway) isn't in this annexation plan, it will still affect us with higher taxes. Also, the idea that the annexation will go through if we don't get a unified government, doesn't leave us the choice to stay as we are. Under the unified plan we

would have planning and zoning
which we don't want, but nothing
in the way of "conveniences."

Please say "no" to the annexation.

Sincerely,
Dorothy McLaughlin
Box 405
Haines, Alaska
99827

A. W. Jurgeleit

Box 292

Haines, Alaska 99827

February 10, 1984

Representative Mike W. Miller
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Miller:

We have been advised that Senator Richard Eliason and Representative Peter Goll have introduced resolutions opposing the annexation recommendations of the Local Boundary Commission.

We sincerely hope that as a member of the Community and Regional Affairs Committee you will support these resolutions which reflect the views of the majority of the people in this area.

Thank you.

Yours truly,

A. W. Jurgeleit
Harriet L. Jurgeleit

Box 621

Haines

Feb. 9, 1984

Rep. Mike W. Miller Chair

Community and Regional

Affairs Committee

Juneau, Alaska 99811

Dear Rep. Miller

I am writing to state our strong opposition to the proposed plan of annexation presented by the Local Boundary Commission. This is a plan imposed from "the top" totally against the expressed desire of the people of the area concerned.

We are residents of the Haines Borough and wish to make this our permanent residence. Presently we are living on Small Tract Rd.

The Local Boundary Commission's statement calling our area "The Greater Haines Area" is a creation of their imagination. There simply is no such entity and they obviously do not grasp what is the nature of this area. This becomes even more evident when they classify it as urban in character. I don't care how you stretch the word "urban", it simply can not be applied to this area.

The Borough Assembly does have the power now to plan and zone in its territory and also to create service areas. There is no need to belong to the city to do this.

Finally, we question the motivation involved in the extreme pressure to push this annexation. The City Council can not meet its financial obligation of past bills and is simply looking for more to share their bad investments claiming it's for our good that we be annexed.

Thank you for your attention on this matter.

Richard Fredricks
Susan Fredricks

Richard & Susan Fredricks
Haines, Alaska

Hays
Box 98
Haines, AK.
99827

Boards &
January 7, 1984
Commissions

RECEIVED
JAN 15 1984

Dear Mr. Miller,

I am writing to ask you to vote against the local Boundary Commission's recommendation to the legislature for annexation of lands to the City of Haines.

My wife and I recently built a home outside the City of Haines in the Borough. It was our choice to live outside the City, beyond the utility serviced areas, and beyond the higher city taxes. If this annexation is allowed to go through, there will be only 300 of us left in the Borough who are not annexed into the City. Since we will then be only a mile and a half from the City limits, it will be just a matter of time until we too are annexed.

It seems to me that this process of annexing people into the city who have clearly said they don't want to be annexed goes against our whole form of government. Borough residents outside the city let it be known both at the Boundary Commission's Public Hearings and in the Oct. 4, 1983 election (80% opposed), that

- 2 -

they didn't want to be annexed.

I ask that you consider my concerns.

Thank you. .

Sincerely,

Ed Hays

10 1/2 Mile Mud Bay Rd

Box 98

Haines, AK. 99827

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON

LABOR AND COMMERCE COMMITTEE, CHAIRMAN
RESOURCES COMMITTEE
JUDICIARY COMMITTEE
FISHERIES SUB-COMMITTEE



P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4916

February 6, 1984

Senator Eliason Reports on the Haines Annexation Issue

Now that the proposed Haines Annexation has entered the Legislative arena it is important that everyone understand where things stand and how and why we are where we are.

As you know, the boundary change question has had much debate at the local level but the Legislature also has an oversight role mandated by state law in boundary changes. The statutes require the Local Boundary Commission (which is under the Department of Community & Regional Affairs) to submit a report of its proposed changes in local boundaries to the Legislature during the first 10 days of the session. The Haines annexation was submitted this session and referred to the Community & Regional Affairs Committees of each house. The Legislature then reviews these reports and can 1) take no action which then results in the change taking place as proposed or 2) within 45 days of receiving the report, pass a resolution disapproving the change which effectively kills it. Generally the chairpersons of the C & RA Committees will follow the lead of the representatives and senators of the district wherein the boundary changes are proposed. This is where my involvement and that of Rep. Call come in.

I respect the autonomy of individual communities and am very careful not to interfere with issues best left for resolution at the local level. But in this instance I fear that Haines has already suffered some interference by the state in its efforts to manage its own affairs.

I see my role as one of making sure that everyone understands the process and their rights, and that any annexation that takes place is done properly. Rep. Goll and I held the teleconference last week to discuss the whole issue with the people of the area and get a feel for the questions and concerns. I thank everyone who attended and participated in the teleconference. It was constructive and informative. I know many of you traveled some distance to be there.

Several major concerns have convinced me to take action to insure that the issue and the options remain alive. My main concerns include: (1) The Local Boundary Commission initiated this annexation. While not illegal it seems unwise and a dangerous loss of local autonomy. The Legislature has an obligation to see that the state bureaucracy doesn't get out of hand and begin usurping local initiative. (2) The local vote was against this annexation. We don't want to risk undermining the people's trust in the public input process which becomes a charade if it is ignored and powerless. (3) The clause calling for annexation to kick-in in two years unless unification takes place first. The Attorney General says the delayed effective date is okay but the Legislature's Legal Staff says it is not. But the ringer is the most recent legal opinion, obtained since the teleconference, which says that if the two-year clause were thrown out by a court, the rest of the annexation proposal would stand, meaning the annexation would be immediately in effect. That circumvents the intent to allow time to consider unification and abolishes the compromise which made the proposal palatable to the parties who did sign off on it. (4) I am worried about the precedent set by holding a hatchet over a community's head to "unify or else". Annexation and unification ought to each be weighed and decided on their own merits. Also the big plus in any possible decision to unify is the "custom-built" charter which could, if given enough time and consideration, be drawn up to respond to the variety of special needs and goals of different areas within a unified city and borough. Such a charter could allay many of the objections and fears and allow the community to enter into a unification willingly and comfortably.

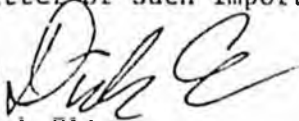
Few annexations go through without some objections. Certainly no one would expect 100% consensus on this in Haines where feelings have been strong on these matters for years. But I believe there needs to be more discussion and so I introduced Senate Joint Resolution 34 in the Senate (and Rep. Goll introduced the same one in the House) to disapprove of the proposed annexation.

Now the matter is in the two C& RA Committees which plan to hold hearings and a teleconference. If the Legislature passes the resolution within the 45 days allowed, the annexation as proposed would die and the matter goes back to the drawing board.

So that's where we are right now. I believe we are being fair and sensible in our consideration and action on this matter and hope the people of Haines will agree. I urge your continued involvement in this process and your efforts to make the C& RA Committee members aware of your opinions and concerns as they deliberate on whether to pass the resolutions of disapproval.

I thank the Lynn Canal News for the opportunity to present my viewpoint on this matter of such importance to its readers.

Sincerely,



Senator Dick Eliason

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 2, 1984

SUBJECT: Annexation of territory
to Haines (W.O. 13-1776)

TO: Senator Richard I. Eliason

FROM: Tamara Brandt Cook *TBC*
Deputy Director
Division of Legal Services

You have asked whether the annexation of territory to the City of Haines will take place within the time required by the constitution or whether the entire annexation is invalid if the delayed effective date provided in the Local Boundary Commission's Recommendation Number One is invalid.

Recommendation Number One contains two parts. The first part of the recommendation states in part the annexation ". . . will become effective two years from the date of the Legislature's approval of the commission's recommendation and then only if the City of Haines and the Haines Borough have not unified. . ." The second part of the recommendation provides for the actual annexation of territory. The question of what happens to the second part of the recommendation if the first part is invalid is essentially a separability question. In the area of statutory construction the general rule is that separability questions are to be determined according to either the will of the legislature or its manifested meaning. (Sutherland Statutory Construction, section 44.03) While the recommendation at issue here is not a statute, it seems likely that a court faced with determining the validity of the recommendation will use those principals of statutory construction that it commonly relies on.

It is clear that the Local Boundary Commission possesses the authority to recommend a boundary change to the legislature, (Art. X, sec. 12, Constitution of the State of Alaska). In this particular case, it is also clear from the letter of recommendation itself that the commission intended to

Senator Eliason
Page 2
February 2, 1984

approve the annexation and only added the delayed effective date later at the request of the municipalities concerned. (See paragraphs 4 and 5 of "Recommendation Number One to the Second Session of the Thirteenth Legislature", Senate and House Joint Journal Supplement No. 16). This appears to be an indication that the Local Boundary Commission's primary intent was to recommend annexation rather than to recommend the delayed effective date. While it is a very close question, I believe that a court would be more likely to find the annexation valid and effective within the time required by the constitution in order to carry out the will of the commission rather than finding the annexation invalid and, thus, thwarting the constitutional power of the commission to recommend boundary changes.

However, this question cannot be resolved with certainty until the issue is presented and decided by the court. The entire problem will, of course, be avoided if the legislature acts to disapprove the annexation.

TBC:csh
C2/134



Official Business

Alaska State Legislature

House of Representatives

Committee on

Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

February 13-18, 1984

COMM. & REG. AFFAIRS Behrends 110 3:15 p.m.

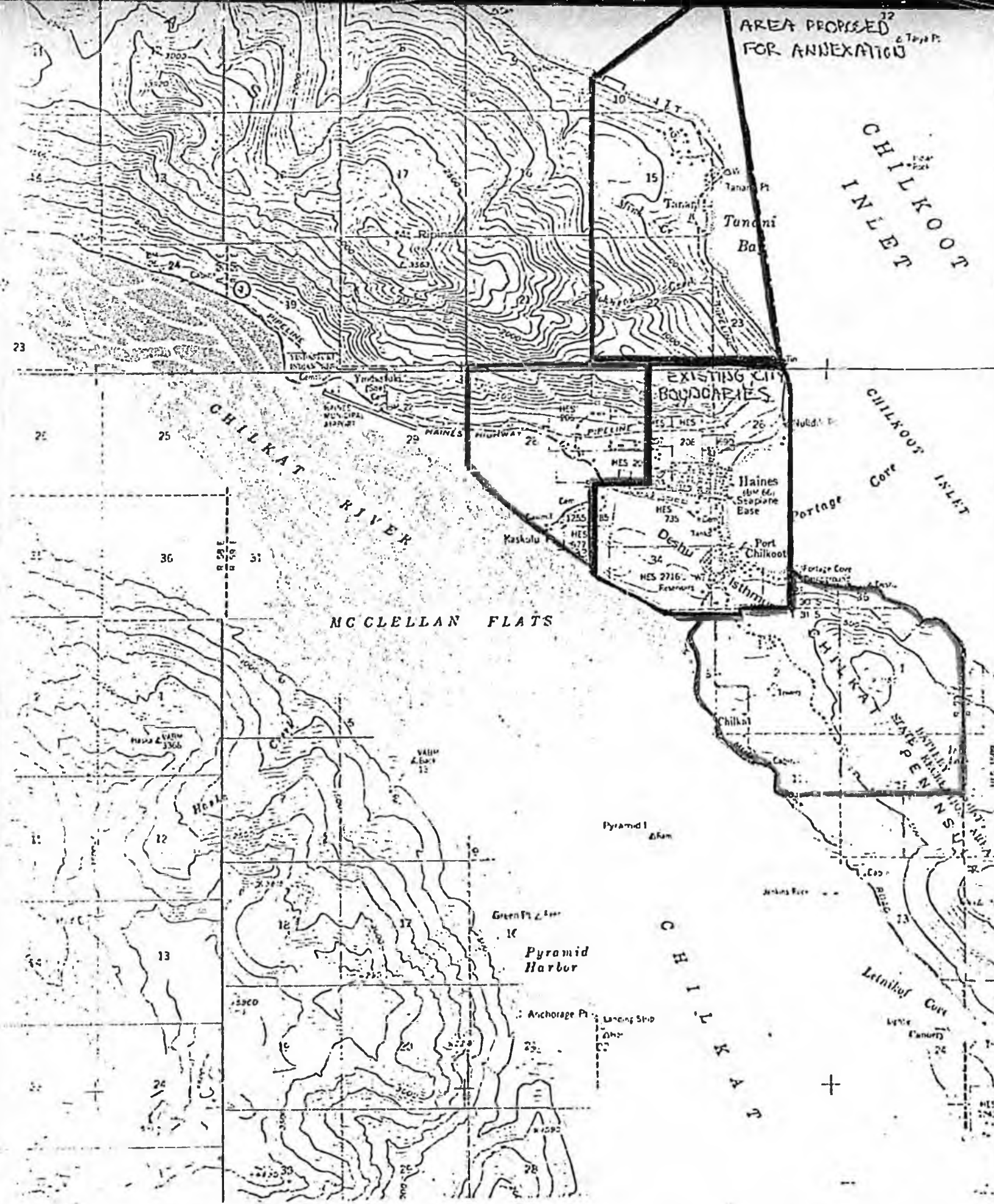
465-3870 M-W-F

Monday, February 13
No meeting scheduled

Tuesday, February 14
*Joint House/Senate Community & Regional Affairs
public hearing/teleconference - HJR 59, SJR 34 -
LOCAL BOUNDARY COMMISSION
3:15 p.m., Beltz Room, Capitol

Wednesday, February 15
SSHB 442 - re: state aid/volunteer fire
departments; ed.

Friday, February 17
No meeting scheduled



AREA PROPOSED FOR ANNEXATION

CHILKOOT INLET

CHILKAT RIVER

MCCLELLAN FLATS

CHILKAT STATE PENINSULA




Pyramid Harbor

Scale: 1 inch to 1 mile

PROPOSED CORPORATE LIMITS
CITY OF HAINES, ALASKA

EXHIBIT C

PROPOSED ANNEXATION OF 3.5 MILES - PETITIONED FOR BY CITY 1982

-  SHOWS AREA INCLUDED BY C+RA TO EXPAND CITY'S PETITION TO ~~INCLUDE~~ ANNEX 3.5 MILES TO INCLUDE 8.1 MILES OF TERRITORY
-  ORIGINAL 3.5 SQ MILE PROPOSED ANNEXATION
-  EXISTING CITY BOUNDARY