

ALASKA LEGISLATURE COMMITTEES 1900-1900 00/2
3827 SCRA LOCAL BOUNDARY COMMISSION (FILE 1) - (FILE 2) 283

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 7

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			Formal charter is as important in things it does you cannot do as in the powers it authorizes. Interest in organizing boroughs in rural Ak is growing.
	518		Rep Hall (questions) How Organization of gov't at local or regional level are desirable but should remain flexible. Something should be done about responsibility in self governing gov'ts.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 8

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			3rd class borough & call borough of limited powers V. Fischer
	652		2nd class borough came about through an accident.
	662		Rep Hall. I'm not sure organization of unorganized borough is good idea unless people want it. Strojnowski
	689		
	699		Rep Marrow has been in state 11 1/2 years.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 10

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER NO.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	778		Sturgeslewski
	801		U Fucher I would suggest dividing Ak into a series of unorganized boroughs.
	827		Rep. Goll Do people share your position.
	837	Rep. Goll	
	842		U Fucher Nanana + Bethel Persons would be organized if they did not have to assume taxation and school administration responsibilities.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 11

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			Not sure would be sensible to set up unorganized borough in Southeast Ala. Should ask what are the overriding common interests: transportation, power, etc. Could say to state as unorganized borough we have these overriding priorities.
	946		Jill Smythe We are on the receiving end. Guess there is proposed borough to include Baldiey, & Cordova.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 12

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	978		V. Fischer says the LBC should propose criteria.
	998		Smith We get 1 borough at a time
	997		Rep Hall
	1022		V. Fischer
	032		Rep. Marrou Would be opposed to making things easy to organize.

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 13

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	070		U. Zucher Things have escalated
	087		Joe Anderson The money incentive to organize a borough
	101		Rep Marrow Law Months \$100,000 over 3 years to areas petitioning to organize
	104		U. Zucher That is a tiny part of the whole
	111		De Vries That is well worth the money to get the rural areas to organize

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 14

DATE(S) _____

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	123		Bill Smythe
	128		Rep. Goll Prince of Wales Island. Idea of getting together is rejected. Have organized for health services that is functional. Tax issue worries them.
	192		Rep. Goll
	204		V. Zucker
	212		Rep. Marston Will never get people in unorganized areas to organize without

COMMITTEE TAPE LOG

TAPE No. 1

1985

LOG SHEET No. 15

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER NO.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
			removing incentives.
	235		U. Fischer ^{State providing} \$100,000 is irrelevant. Comes down to what taxable property they have + what potential revenues. *
	265		Jill Smythe Not sure long term benefit is derived from providing large sum of money to new ^{preparing} borough. They have no revenue to maintain new bldg(s).
	283		Rep. Marrou

COMMITTEE TAPE LOG

1985

TAPE No. 1

LOG SHEET No. 16

DATE(S) 2/19/85

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/ TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	296		Sen. DeVries Allow group wanting to organize to have an advisory vote.
	313		Jill Smythe ^{petition for} incorporation They do vote afterwards.
	324		Rep Holl Hardest things to deal with are people who falsify their voter registration
	344		Jill Smythe (Nabeena) There were 13 residents there. Most of the people were from Pune.

COMMITTEE TAPE LOG

1985

TAPE No. 1

LOG SHEET No. ~~16~~ 17

DATE(S) _____

COMMITTEE: _____

BILL NUMBERS:

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OTHER INFORMATION: _____

DATE/TIME	TAPE METER No.	BILL NUMBER	SIGNIFICANT INFORMATION (WITNESS/ACTION)
	366		Senator DeVries
	369		Jill Smythe In Nabesna Questionable there were 25 registered voters. Went to processing to provide local gov't serv.
	387		Jill Smythe (Nabesna) Asked if they had considered forming community assn. They had not.
	394		Rep Goll spoke about bill. Requires advisory vote. Area to be addressed would be Goll. Want to make

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

The nautical chart has been designed to promote safe navigation. The National Ocean Service encourages users to submit corrections, additions, or comments for improving this chart to the Director, Charting and Geodetic Services, Attention N/CG22, National Ocean Service, NOAA, Rockville, Maryland 20852.

173°

172°

171°

170°

169°

RADAR REFLECTORS

Radar reflectors have been placed on many floating aids to navigation. Individual radar reflector identification on these aids has been omitted from this chart.

POLLUTION REPORTS

Report all spills of oil and hazardous substances to the National Response Center via 800-424-8802 (toll free), or to the nearest U.S. Coast Guard facility if telephone communication is impossible (33 CFR 153).



UNITED STATES
ALASKA

**ALASKA PENINSULA AND
ALEUTIAN ISLANDS TO SEGUAM PASS**

Mercator Projection
Scale 1:1,023,188 at Lat. 56°00'
North American 1927 Datum

**SOUNDINGS IN FATHOMS
AT MEAN LOWER LOW WATER**

For Symbols and Abbreviations see Chart No. 1

COLREGS, 80.1705 (see note A)
International Regulations for Preventing Collisions at Sea, 1972.

The entire area of this chart falls seaward of the COLREGS Demarcation Line.

HEIGHTS

Heights in feet above Mean High Water.

AUTHORITIES

Hydrography and topography by the National Ocean Service, Charting and Geodetic Services with additional data from the Corps of Engineers, Geological Survey, Defense Mapping Agency, and U.S. Coast Guard.

LOCAL MAGNETIC DISTURBANCE

Differences from the normal variation of as much as 14° have been observed along the Alaska Peninsula between 158° and 160°W.

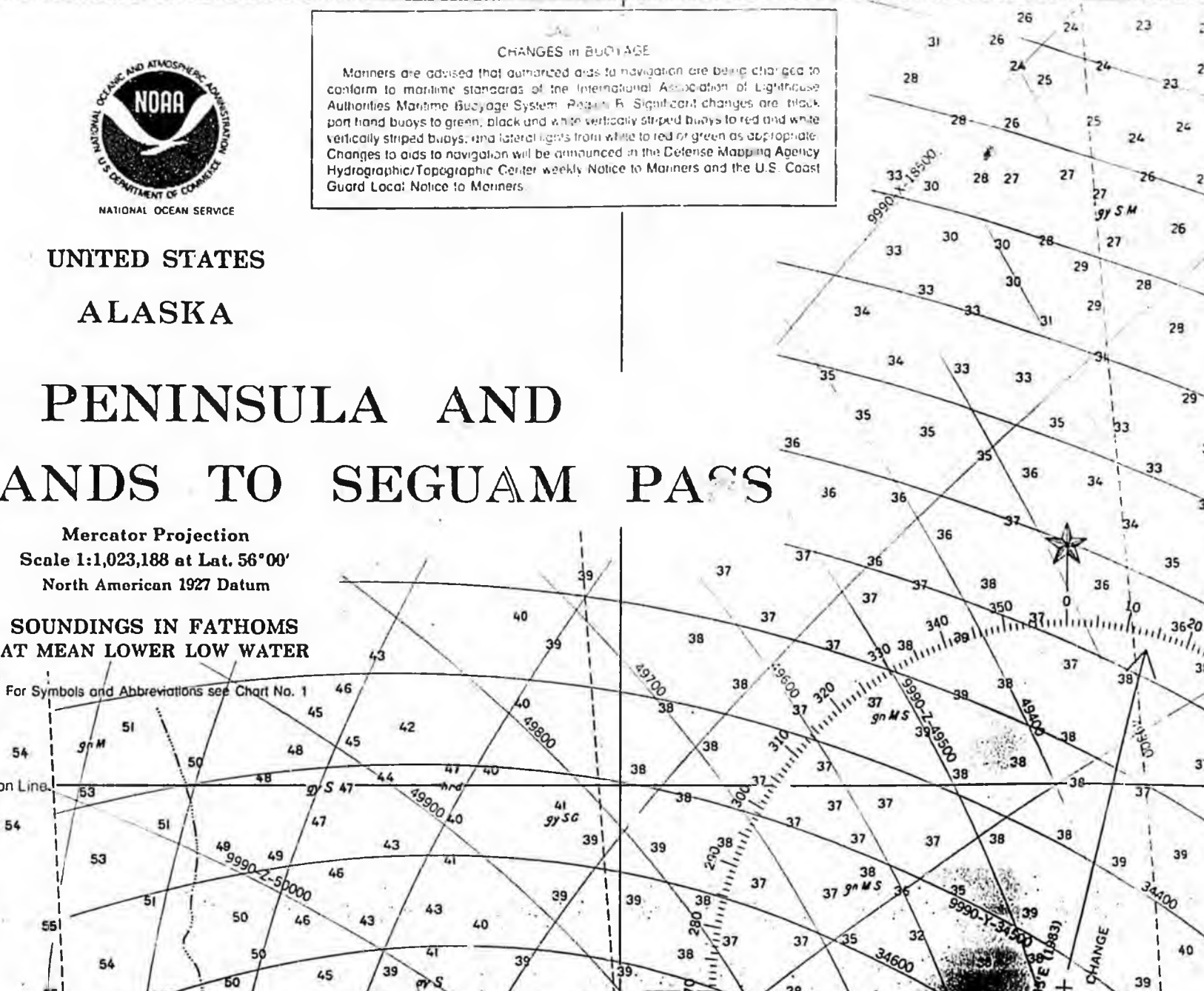
CHANGES in BUOYAGE

Masters are advised that demarcated aids to navigation are being changed to conform to maritime standards of the International Association of Lighthouse Authorities Maritime Buoyage System, Paper B. Significant changes are: black port hand buoys to green, black and white vertically striped buoys to red and white vertically striped buoys, and lateral lights from white to red or green as appropriate. Changes to aids to navigation will be announced in the Defense Mapping Agency Hydrographic/Topographic Center weekly Notice to Mariners and the U.S. Coast Guard Local Notice to Mariners.

59°

60

58°





RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

10/31/89
Date

Local

Boundary

Commission

2 of 4

BEFORE THE DEPARTMENT OF COMMUNITY
AND REGIONAL AFFAIRS OF THE STATE OF ALASKA

IN RE THE INCORPORATION OF)
THE PROPOSED NEW CHUGIAK - EAGLE)
RIVER BOROUGH WHICH INCORPORATES)
THE GREATER CHUGIAK - EAGLE RIVER)
AREA DETACHED FROM THE GREATER)
ANCHORAGE AREA BOROUGH.)

PETITION FOR INCORPORATION AS A BOROUGH OF THE SECOND CLASS

The undersigned qualified voters of the area to be incorporated petition the Department of Community and Regional Affairs to initiate the necessary and proper procedures pursuant to Title 29, Chapter 18, Article 2 of the Alaska Statutes (AS 29.18.050 - 29.18.150), to accomplish the following.

I. PETITIONERS: The designee of the petitioners is:

Chugiak - Eagle River Borough Association

Chairman Lee B. Jordan

1st Vice Chairman Leslie F. Fetrow

2nd Vice Chairman Ernest Brannon

Secretary Gene E. Merchant

Asst. Secretary - Treasurer

Robert C. Johnson

The following are co-sponsors of the Petition:

Charles Graham

Delores Steeby

Thomas Brewer

Ron Stephens

Elsie Oberg

Robert Robinson

Galen Atwater

Elaine Robinson

Frances Atwater

Ray Stith

Joe Kapella

Thilman Wallace

Marianna Koehler

Claire Muetz

The mailing address is P. O. Box 700, Eagle River, Alaska, 99577.

II. CLASS: The petitioners seek to incorporate a borough of the second class.

III. NAME: The name of the proposed borough shall be the Chugiak - Eagle River Borough.

IV. BOUNDARIES: The boundaries of the proposed borough, more particularly stated and illustrated by the map attached as Exhibit A are as follows:

All that land included in the Greater Anchorage Area Borough and lying northerly of the following line: commencing in Knik Arm on the west boundary of the Greater Anchorage Area Borough and on the south boundary of Section 17, T14N, R3W, S. M; thence east along the south boundary of sections 17, 16, 15, 14 and 13, T14N, R3W, S. M; thence east along the south boundary of sections 13, 17, and 16, T14N, R2W, S. M; thence south between sections 21 and 22, thence east along the south boundary of sections 22, 23, and 24, T14N, R2W, S. M; thence southeasterly to the southwest protracted corner of section 1, T12N, R1W, S. M; thence southeasterly to the southwest protracted corner of section 34, T12N, R2E, S. M; thence east along the south boundaries of townships 12N, ranges 2E, 3E, 4E and 5E to the east boundary of the Greater Anchorage Area Borough.

V. COMPOSITION AND APPORTIONMENT OF BOROUGH ASSEMBLY: The borough assembly shall consist of seven members for the first assembly following incorporation and until such time as the reapportionment is accomplished under law. The assembly shall be elected as follows: two members elected from Precinct 147; two members from Precinct 148; and one member each from Precincts 149, 150 and 151 but voted on at large in all three precinct. A mayor shall be elected at large. A school board consisting of five members shall be elected at large.

VI. POWERS: The proposed Chugiak - Eagle River Borough shall exercise the areawide powers and duties prescribed by law, (AS 29.33.250) including assessment and collection of taxes, education, planning, platting and zoning, sewers, health, transportation, dog control, library; all areawide and non-area-wide powers presently performed by the Greater Anchorage Area Borough in the defined area to be incorporated; and any additional areawide powers that may be required in accordance with AS 29.33.250, Additional Areawide Powers.

VII. MAPS, DOCUMENTS, AND OTHER INFORMATION:

- Exhibit A - Legal description of boundaries and map illustrating boundaries
- Exhibit B - 1970 Census and estimate of population
- Exhibit C - The assessed and estimated valuation of all taxable property in the area proposed for incorporation.
- Exhibit D - The rate or rates at which real and personal property are taxed in the area.
- Exhibit E - Narrative on school program
- Exhibit F - The amount and full explanation of any outstanding bonded indebtedness for which the area is wholly or partially responsible.
- Exhibit G - Affidavit of petitioners as to service of petition upon municipalities in or adjoining the area proposed for incorporation.
- Exhibit H - Transitional inter-municipal agreements
- Exhibit I - Affidavit of Petitioners as to sources of information.
- Exhibit J - Written brief supporting reasons

VIII. SIGNATURE AND RESIDENT ADDRESS:

Whereas 2,658 persons in the proposed Chugiak - Eagle River Borough voted in the last general election, November 1974, the following 15% or more petitioners hereby affix their signatures for the following purposes:

- A. To indicate their firm convictions in the allegations of this petition and that the incorporation of the proposed borough would be in the best interest of the communities affected and in the best interest of the State of Alaska as expressed in Article X, Section 3, of the Constitution of the State:

BOROUGHS

SECTION 3. "The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum

degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law."

B. The petitioners submit:

1. The population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support organized borough government.
2. The boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of local services.
3. The economy of the area includes the human and financial resources capable of providing local services; evaluation of an area's economy includes land use, property valuations, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough.
4. Land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated local government.

PETITION FOR INCORPORATION OF THE CHUGIAK - EAGLE RIVER AREA AS A SECOND CLASS BOROUGH

Petition No. 20B Page No. 1

Printed Name	Signature	Residence Address	Mailing Address	Voter Reg. No.
EDWARD A. BELLINGER	<i>Edward A. Bellinger</i>	MT. EKUTNA DRIVE	P.O. Box 90, CHUGIAK, AK	00423624
HARRIET S. BELLINGER	<i>Harriet S. Bellinger</i>	Mt. Ekutna Drive	P.O. Box 90 Chugiak, AK	00741371
Ronald L. Olson	<i>Ronald L. Olson</i>	Mile 18 ^{Old Glenn} Chugiak, AK	ST. RT. Box 445 Eagle River	00620054
EDITH D. WEST	<i>Edith D. West</i>	Ymate, Ak.	P.O. Box 836 Eagle River	00418509
ARLENE E. OLSON	<i>Arlene E. Olson</i>	St. Rt. H. 18, Old Glenn	St. Rt. Box 445, Eagle River	00620047
Rose Marie See	<i>Rose Marie See</i>	Juanita Sp Rd	P.O. Box 144 Eagle River	00418038
MERRY SMITH	<i>Merry Smith</i>	Juanita Sp. Rd.	P.O. Box 144 Eagle River	01743186
CHARLES JOHNSON	<i>Charles Johnson</i>	Juanita Sp Rd	P.O. Box 144 Eagle River	01290808
JACK J. SEE	<i>Jack J. See</i>	Juanita Sp Rd	P.O. Box 144 ER	01223650
LILA C. FERGUS	<i>Lila C. Fergus</i>	Curran Road off Birchwood	PO Box 186 Chugiak	00977611
RAY STITT	<i>Ray Stitt</i>	Coronado Rd.	P.O. Box 438 E.R. AK	00619569
ERNEST T. FOSTER	<i>Ernest T. Foster</i>	JUANITA LOOP Box 83	EAGLE RIVER, AK 99577	01814169
MARY GLORIA BREWER	<i>Mary Gloria Brewer</i>	WHIRLAWAY ST.	P.O. Box 643 ER: AK 99577	01984483
JOHN A. HUNTSMAN	<i>John A. Huntsman</i>	KLONDIKE ST	KLONDIKE ST. BOX 79 CHUGIAK AK 99567	00982132
HOLLY R. WRIGHT	<i>Holly R. Wright</i>	5 mile Eagle River Rd.	St. Site, Box 196-C, Eagle River	
WILTON B. CROSS	<i>Wilton B. Cross</i>	mile 15.5 old Glenn Hwy	Box 407 Eagle River AK	00619544
Eulalia E. Cross	<i>Eulalia E. Cross</i>	Mile 15.5 old Glenn Hwy	Box 407 Eagle River AK	Signature: <i>Eulalia E. Cross</i>

BEFORE THE DEPARTMENT OF COMMUNITY
AND REGIONAL AFFAIRS OF THE STATE OF ALASKA

IN RE THE DETACHMENT OF THE)
GREATER EAGLE RIVER - CHUGIAK)
AREA FROM THE GREATER ANCHORAGE)
AREA BOROUGH.)

PETITION FOR DETACHMENT

The undersigned qualified voters of the area to be detached from the Greater Anchorage Area Borough petition the Department of Community and Regional Affairs to initiate the necessary and proper procedures pursuant to Title 19, Chapter 15, Article 2 of the Alaska Administrative Code (19 AAC 15.170-15.270).

(1) The undersigned qualified voters represent more than 10% of the qualified 4,130 voters residing in the area to be detached.

(2) The designee of the petitioners is:

Chugiak - Eagle River Borough Association

Chairman Lee B. Jordan

1st Vice Chairman Leslie F. Fetrow

2nd Vice Chairman Ernest Brannon

Secretary Gene E. Merchant

Asst. Secretary - Treasurer

Robert C. Johnson

The following are co-sponsors of the Petition:

Charles Graham
Delores Steeby
Thomas Brewer
Ron Stephens
Elsie Oberg
Robert Robinson
Galen Atwater

Flaine Robinson
Frances Atwater
Ray Stith
Joe Kapella
Thillman Wallace
Marianna Koehler
Claire Muetz

The Chugiak - Eagle River Borough Association is an unincorporated association of registered voters of the Chugiak - Eagle River area.

The Chairman, Lee B. Jordan, mailing address P. O. Box 700, Eagle River, Alaska, 99577, is designated as attorney-in-fact to receive service, notice and all other correspondence relating to the proceedings in behalf of the petitioners.

(3) The boundaries of the area to be detached, known as the Chugiak - Eagle River area consisting of Fire Lake, Birchwood, Peters Creek, Eklutna, Eagle River Valley, South Fork, Chugiak and Eagle River, stated in the legal description and illustrated by the map attached as Exhibit A are as follows:

All that land included in the Greater Anchorage Area Borough and lying northerly of the following line: commencing in Knik Arm on the west boundary of the Greater Anchorage Area Borough and on the south boundary of Section 17, T14N, R3W, S.M; thence east along the south boundary of sections 17, 16, 15, 14 and 13, T14N, R3W, S.M; thence east along the south boundary of sections 18, 17, and 16, T14N, R2W, S.M; thence south between sections 21 and 22, thence east along the south boundary of sections 22, 23, and 24, T14N, R2W, S.M; thence southeasterly to the southwest protracted corner of section 1, T12N, R1W, S.M; thence southeasterly to the southwest protracted corner of section 34, T12N, R2E, S.M; thence east along the south boundaries of townships 12N, ranges 2E, 3E, 4E and 5E to the east boundary of the Greater Anchorage Area Borough.

(4) The 1970 Census of Population lists 5,832 persons living in the Eagle River - Chugiak community.

The Greater Anchorage Area Borough publication, Preliminary Comprehensive Development Plan, Volume 1, February 1973, states the following under the heading, "Population Characteristics of Small Areas:"

"Certain communities have shown significant increases in actual and relative population growth. Communities that have grown at a faster rate than the Borough as a whole are Muldoon, Lake Otis, Sand Lake and Eagle River - Chugiak." (Emphasis added)

The same publication projects the population of the Eagle River - Chugiak community as tabulated:

1970	5,832	(U. S. Census)
1975	10,010	(GAAB figures)
1980	12,063	
1985	16,979	
1990	23,524	

The Chugiak - Eagle River Borough Association agrees with the Greater Anchorage Area Borough that the estimated 1975 population is 10,010 based upon the data and evaluation listed in the attached Exhibit B.

(5) The quantity of land within the boundaries of the area to be detached is approximately 53,200 acres or approximately 830 square miles.

(6) The assessed value of all real and personal property within the area to be detached is shown as follows in the Greater Anchorage Area Borough Annual Budget, Fiscal Year 1975 - 1976:

	<u>1974</u>	<u>1975</u>
Eagle River	64,397,015	69,202,215
Chugiak	27,081,925	53,650,025
Balance - Service Area 70	13,203,910	16,424,760
	<hr/> 104,682,850	<hr/> 138,677,000

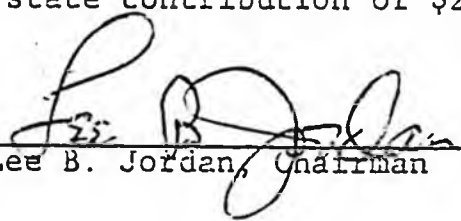
The foregoing assessed value is based on 1975 assessments. Supporting data and evaluation is listed in detail in Exhibit C.

(7) The current (Fiscal Year 1975) rates at which real and personal property are taxed in the area to be detached are as follows:

<u>Service Area</u>	<u>Rate</u>
Chugiak	12.445
Eagle River	13.445
Area outside service areas	12.045

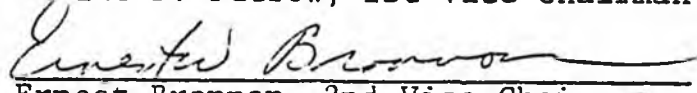
(8) Based on a percentage of assessed value, it has been determined that the area proposed for incorporation has an obligation for 5.27003629% of the 1975 debt of the Greater

Anchorage Area Borough. Of the total of \$107,995,000 principal and \$56,131,791.09 interest, the portion attributable to Chugiak - Eagle River totals \$8,649,540 combined principal and interest. Debt service for Chugiak - Eagle River in Fiscal Year 1976 would be \$560,960 less anticipated state contribution of \$266,456.

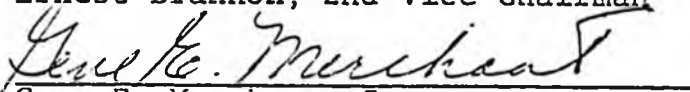


Lee B. Jordan, Chairman

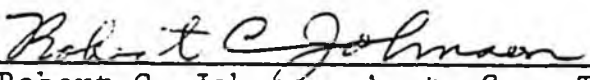
Leslie F. Fetrow, 1st Vice Chairman



Ernest Brannon, 2nd Vice Chairman



Gene E. Merchant, Secretary



Robert C. Johnson, Asst. Sec.-Treasurer

Printed Name	Signature	Residence Address	Mailing Address	Voter Reg. No.
EDWARD A. BELLINGER	<i>Edward A. Bellinger</i>	MT. EKUTNA DRIVE	P.O. Box 90 CHUGIAK.	004123624
EDWARD A. BELLINGER	<i>Edward A. Bellinger</i>	MT. EKUTNA DRIVE	P.O. Box 90, Chugiak	00741371 0041371
EDITH D. WEST	<i>Edith D. West</i>	W. West Dr.	P.O. Box 836, Eagle River	00418509
DONALD L. OLSON	<i>Donald L. Olson</i>	Mile 18 Old Glenn	St Rt Box 445 Eagle River	00620051
ARLENE F. OLSON	<i>Arlene F. Olson</i>	Mile 18 Old Glenn	St. Rt., Box 445, Eagle River	00620047
LEONARD SMITH	<i>Leonard Smith</i>	P.O. Box 144	P.O. Box 144 Eagle River	01743178
CHARLES JOHNSON	<i>Charles Johnson</i>	P.O. Box 144	P.O. Box 144 Eagle River	01290808
LILA G. FERGUS	<i>Lila G. Ferguson</i>	Barrow Rd off Birchwood	P.O. Box 186 Chugiak	00977611
RAY STITH	<i>Ray Stith</i>	Colorado Rd	P.O. Box 438 E. R. AK	00619569
ERNEST T. FOSTER	<i>Ernest T. Foster</i>	Summit Loop Box 83	Eagle River, AK. 99577	01814169
MARY GLORIA BREWER	<i>Mary Gloria Brewer</i>	WHIRLAWAY ST.	P.O. BOX 643 ER. AK	01984483
JOHN A. HUATSMAN	<i>John A. Huatman</i>	CLONDIKE ST. LOOP 5047	CHUGIAK AK. 99567 Box 79	00982132
HOLLY R. WRIGHT	<i>Holly R. Wright</i>	5 mile Eagle River Rd	St. Rt., Box 196-C, Eagle River, AK	
ALTON B. CROSS	<i>Alton B. Cross</i>	mile 15.5 Old Glenn Hwy	Box 407 Eagle River AK	00619544
EULALIA F. CROSS	<i>Eulalia F. Cross</i>	Mile 15.5 Old Glenn Hwy	Box 407 Eagle River AK.	00619015
SAM L. COTTEN	<i>Sam L. Cotten</i>	P.O. Box 296 Sunny side dr	P.O. Box 296 Eagle River AK.	00418285
KATHLEEN COTTEN	<i>Kathleen Cotten</i>	P.O. Box 296 - Eagle River	P.O. Box 296 Eagle River AK.	00702704

Alaska State Legislature

Senate

Committee on Community and Regional Affairs



Official Business

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghill

Senator Sturgulewski

Senator V Fischer

Pouch V

Juneau, Alaska 99811

Joint Meeting House/Senate C&RA Committees
February 6, 1986 -- Rm 17, Capitol

Local Boundary Commission Issues & Appearance by Mayor George Carte
and Members of Board of Directors of Alaska Municipal League
Legislative Review annexations in Angoon, Ketchikan, North Pole,
St. Paul, and Unalaska

Teleconference sites on line for listening and comment:

Fairbanks, Ketchikan, Angoon, St. Paul, Unalaska,
Sitka, and Wrangell--for LBC Member Jo Anderson.

- I. Mayor George Carte, 1st Vice President, AML Board of Directors
and other representatives of the Board

AML Policy Issues

- II. Public Hearing with Teleconference on LBC Annexations

A) City of Ketchikan annexations (Ketchikan on teleconference line)

B) City of Unalaska annexation (Unalaska on line)

C) City of Angoon annexation (Angoon and Sitka on line)

D) City of North Pole (Fairbanks on line)

E) City of St Paul (St. Paul on line)

- III. Committee Discussion/Action

Note to House & Senate Committee Members:

The Department of C&RA has provided a complete file of all exhibits/
attachments/legal briefs, etc. (six file boxes) of written material
that relate to the issue of North Slope Borough detachment.
The material is orderly labeled and categorized for easy reference.
It is available for your use in Senator Edna DeVries' office,
Room 425, Capitol. (ph 465-4989)

REPORT TO THE LOCAL BOUNDARY COMMISSION

PROPOSED DETACHMENT AND BOROUGH INCORPORATION OF THE CHUGIAK-EAGLE RIVER AREA

FROM

THE MUNICIPALITY OF ANCHORAGE

The Local Boundary Commission has before it the question of whether the detachment of the Chugiak Eagle-River area from Anchorage, and subsequent incorporation as a second class borough, is in the best interest of the citizens who reside in the area which is proposing detachment and incorporation, in the best interest of the population of the remainder of Anchorage, and in the best interest of the State.

The report to the Commission is based on the following standards, as cited from the Alaska Constitution, Alaska Statutes, and the Alaska Administrative Code.

Alaska Constitution, Article X, Local Government

Section 1. The purpose of this article is to provide for maximum local self-government with a minimum of local governmental units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

Section 2. All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Section 3. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Alaska Statutes, Title 29, Section 29.18.030, Organized Boroughs

An area may incorporate as an organized borough if it conforms to the following standards:

- (1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support organized borough government;
- (2) the boundaries of the proposed borough conform generally to natural geography and include all areas necessary for full development of local services;
- (3) the economy of the area includes the human and financial resources capable of providing local services; evaluation of an area's economy includes land use, property valuations, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed boroughs;
- (4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated local government.

Alaska Administrative Code, Title 19, Section 15.230

REVIEW BY LOCAL BOUNDARY COMMISSION. (a) The Local Boundary Commission shall review the petition, all exhibits thereto, the resolution and other pertinent data. Such review shall be limited to the following factors:

(1) whether the detachment would be inimical to the interests of the state or any municipality from which detachment of the territory is sought;

(2) whether the territory proposed for detachment is grossly disproportionate in size to the population residing therein, provided, however, that this provision shall not prohibit a detachment merely because the area to be detached consists of or contains uninhabited territory

The major factors to be considered by the Commission, as spelled out in the Constitution, Statutes, and Code, are as follows:

1. maximum local self-government with a minimum of local government units
2. prevention of duplication of tax-levying jurisdictions
3. interrelation and integration of an area's social, cultural, and economic activities based on standards of population, geography, economy, transportation, and any other relevant factors
4. contiguity of an area, or areas
5. health and safety, and the delivery of services
6. total impact on the proposed new borough and on the remaining borough

All of these factors must be considered within the framework of what will be in the best interests of the State, and the communities involved in the detachment. The detachment of the Eagle River-Chugiak community from Anchorage cannot

be considered as a single, isolated incident in the State. Consideration should be given to the question of whether a precedent will be set by the decision made by the Commission. What total effect will the Commission's decision have on local government in the State?

The Constitution calls for a "minimum of local government units". The major question then is whether the interests and needs of the Eagle River-Chugiak area are so basically different from those of the rest of the Anchorage Borough that creation of two boroughs, where one now exists, justifies maximizing "local government units". The same question must be asked in contemplating the creation of two tax-levying jurisdictions in an area where only one now exists. Is this a "duplication of tax-levying jurisdiction" which it is the intent of the Constitution to avoid in the State's planning for local governments?

The next factor to be considered is whether the detachment of the Eagle River-Chugiak community is justifiable because it is an area which is interrelated and integrated socially, culturally, and economically within its proposed boundaries. Or is the interrelationship and integration, as required in the statutes, existent between the Eagle River-Chugiak area and the remainder of Anchorage?

The basis for determination of the two factors of interrelationship and integration are population, geography, economy, transportation, and any other relevant factors. The following data and discussion focus on these criteria.

Population

Population estimates as of April 1975

Present total of Anchorage	173,768
Proposed new borough	8,402

Comparison of the proposed new borough's population with the rest of the boroughs in the State shows that the new borough would be larger in population than five of the existing boroughs, and smaller than six of the existing boroughs. A comparison with the Anchorage population is obvious, the proposed new borough being a relatively small fraction of the total Anchorage population.

Geography

Using the Eagle River shopping center as the population center of the proposed new borough, and downtown Anchorage as the nucleus of the entire area, there is a distance of 15 miles between the two. The two areas are separated by military land, but are not separated by any natural barriers such as unspanned rivers or mountains. Therefore, in one sense the proposed new borough might be considered non-contiguous to the rest of Anchorage because of the military land lying between the two areas. On the other hand, the lack of natural barriers, plus the Glenn Highway which joins the two areas, is an argument in favor of contiguity of the total municipality as it presently exists.

Although there are not other areas in Anchorage which are exactly comparable in character to the Eagle River-Chugiak area, there are areas where distance from the population center of Anchorage would be a stronger argument for non-contiguity. The City of Girdwood is approximately 40 miles from downtown Anchorage, and the community of Portage is approximately 50 miles from downtown Anchorage. However, both of these communities are far smaller in population than the Eagle River-Chugiak community.

Transportation

As has been mentioned, the Glenn Highway joins the proposed new borough and Anchorage. The State Highway Department is in the process of widening this highway to four lanes, the entire distance between Eagle River-Chugiak and Anchorage, because of the increasing volumes of traffic using the highway. The following average daily traffic counts for 1974 have been obtained from the State Department of Highways.

Glenn Highway weigh station (between Eagle River and the military base)

19,400 average daily trips

Muldoon Road and Glenn Highway (between the military base and Anchorage)

18,100 average daily trips

Mirror Lake on the Glenn Highway (between Eagle River-Chugiak and Palmer)

4,374 average daily trips

The last figure was obtained to ascertain how many of the average daily trips between Eagle River-Chugiak and Anchorage might be attributable to traffic coming from beyond the Eagle River-Chugiak area. There was no way of determining how many of the 4,374 average daily trips terminated in the Eagle River-Chugiak area, and how many passed through into Anchorage. However, the traffic counts taken at the other two points indicate a considerable amount of traffic between Eagle River-Chugiak and Anchorage.

The other mode of transportation between the two areas, in addition to vehicles, is by bus. The Anchorage Borough bus system includes a route between Eagle River and Anchorage. During the weeks of April 14 through April 26, 1975, Anchorage counted the number of passengers using the bus system. Following is the total bus ridership during that two-week period.

Eagle River-Anchorage route 1,158

Total of all routes in Anchorage 33,392

While bus ridership figures are not as indicative of intercourse between the two areas as is the traffic counts; the figures do demonstrate that ridership between Eagle River and Anchorage is fairly proportionate in relation to population. The population of Eagle River-Chugiak is about 5% of the total Anchorage population. Bus ridership between Eagle River and downtown Anchorage is approximately 3½ % of the total bus ridership for the Anchorage Borough. When it is taken into account that the bus route does not extend beyond Eagle River to serve the Chugiak area, and the fact that the Eagle River-Anchorage route is the longest bus route in the Anchorage Borough, the relative closeness of the two percentages is surprising.

Economy

The assessed property evaluations for the 1975-1976 tax year are as follows:

Total present municipality of Anchorage	\$ 2,785,686,960
Chugiak Service Area	53,049,995
Eagle River Service Area	70,648,490
Eagle River Landfill*	10,899,585

* The Eagle River landfill includes all the area outside the Chugiak Service area and the Eagle River Service Area using the sanitary landfill.

The figures on assessed property evaluation show that the total evaluation for the Eagle River-Chugiak area, which is \$134,598,035, is a relatively small portion of the total tax base of Anchorage. The tax base of Anchorage is large enough so that it will not feel the loss of that portion based on the property evaluations of the proposed new borough. The crucial question is whether the Eagle River-Chugiak tax base is large enough to support necessary services without the support of the larger tax base of the entire Anchorage area as it presently exists.

In addition to assessed property evaluations, consideration should be given to where present and future monies which supply tax dollars are spent. A look at the relatively undeveloped business community in Eagle River-Chugiak, the relatively highly developed business community in the Anchorage area, and the transportation between the two areas as shown by the traffic counts on the Glenn Highway, would indicate that a large portion of the dollars earned and spent by Eagle River-Chugiak residents are now, and will be for some time in the future, flowing into the Anchorage bowl area.

In turn, the larger tax base of Anchorage has helped provide bond monies for construction of schools in the proposed new borough, and supplies a wide range of services available to all Anchorage residents. In fact, according to information gathered on the provision of various services, a higher level of some services is being provided to Eagle River-Chugiak residents than to other outlying areas in Anchorage.

Eagle River is the only area lying outside the major population center of Anchorage which has a health center for the residents of that area. The health center provides a full range of services, including immunization, family planning, and well baby clinics on a regular basis. The clinic is part of the areawide health department, and is completely supported by areawide taxes.

Eagle River also has a library which is part of the non-areawide library power of the Anchorage Borough, and is also completely supported by the entire non-areawide tax base.

In contrast, the Rabbit Creek area, which is also a growing population center outside of central Anchorage, has neither a health clinic nor a library.

Other services provided to the Eagle River-Chugiak area, under the areawide powers of Anchorage, are the three basic services of schools, planning and zoning, and assessment and collection of taxes, as well as transportation, dog control, solid waste management, and environmental protection.

Sewers and a treatment facility exist in the population center of Eagle River under a sewer assessment district. The treatment facility is a lagoon which has the capacity of serving 1,200 people. There are about 1,100 people now being served, so the facility is operating almost at capacity.

In the last legislative session \$100,000 was appropriated for planning and design to expand the system. The Anchorage Department of Public Works is, at this writing, interviewing consultants to perform the planning and design work.

Water in Eagle River-Chugiak is supplied from individual wells, and several small, private water systems, as it is in all areas of Anchorage outside of the major population center.

Two fire service areas provide fire protection to the population centers of Eagle River and Chugiak, respectively.

Formation of a service area for the provision of police protection was defeated at the polls in 1974. The residents have been able to work out an agreement with the Alaska State Troopers to provide "a level of service to the Eagle River-Chugiak area which is more concentrated than that afforded other areas of the State." (Coopers and Lybrand, Profiles of Alternative Municipalities for the Eagle River-Chugiak Area - P.26)

In summary, the basic services which are areawide, or non-areawide powers of Anchorage, are now being provided to the Eagle River-Chugiak area. Additional services are being provided, as in the case of fire protection and sewers, when the residents are willing to increase their taxes in order to pay for them.

Summary of Eagle River-Chugiak Service Area Elections

October 4, 1966--fire protection, Eagle River and Chugiak--failed

July 30, 1968--fire protection, Chugiak--passed

January 28, 1969--fire protection, Eagle River--passed

October 5, 1971--roads and drainage, Eagle River--failed

October 2, 1973--parks and recreation, Eagle River and Chugiak--failed

March 12, 1974--police protection, Eagle River and Chugiak--failed

The question of delivery of services is directly tied to an area's economy, and its willingness to support necessary services. Consideration of this question rests on the Commission's judgment as to whether the Eagle River-Chugiak area tax base will be able to support mandatory functions (schools, planning and zoning, assessment and taxation). Further, consideration must be given to whether the new borough will be able to support additional municipal services and functions such as health services and facilities, public safety, street and road maintenance, libraries, and other areawide, or non-areawide, functions.

OTHER FACTORS

Other factors to be considered include the status of land and water resources. Patented trust land, belonging to Anchorage, totalling 2,328 acres will lie within the boundaries of the proposed new borough. Most of this land is being used for parks and recreation, with the exception of 192 acres at Fire Lake which is also being used for gravel extraction and sanitary landfill. The loss of these lands by Anchorage serves to reduce considerably the municipality's total patented land. Anchorage's total patented acreage, at this point, is 3,745. This figure includes the 2,328 acres which will lie within the boundaries of the new borough, thus reducing Anchorage's total patented acreage to 1,417 acres if the new borough is formed.

The implications of the loss of this acreage is that Anchorage will need to look for other lands to meet its park and recreational needs. This is going to be difficult because of the shortage of available and useable lands now available in the Anchorage Bowl.

A similar situation exists regarding future need in the Anchorage area for additional water supplies. A report prepared by Tryck, Nyman, Hayes for The City of Anchorage Water Utility and Central Alaska Utility, pinpoints the Eagle River as the most economical source to meet future water requirements for the Anchorage area. The Federal Power Commission has withdrawn most of the Eagle River, and surrounding lands, for use as a future water resource. In the future, when this water resource will be needed, application will be made to the Federal Power Commission for its use. The problem as stated by Frank Nyman of Tryck, Nyman and Hayes regarding the proposed formation of another local government, will be that two local governments will be competing for permits to control the Eagle River water source.

A further complication concerning water sources occurs between two local governments if agreement cannot be reached relative to water uses. Title 29 addresses this question as follows:

29.48.037 (b) A municipality may adopt ordinances to protect its water supply and watershed and may enforce them outside its boundaries. Before this power may be exercised within the boundaries of another municipality, the approval of that municipality must be given by ordinance. This section applies to general law and home rule municipalities.

A hypothetical case in point might be a situation where Anchorage applies to the Federal Power Commission for a permit to divert water from the Eagle River for use in the Anchorage area. The Federal Power Commission issues the permit to Anchorage. The Eagle River lies within the boundaries of the Eagle

River-Chugiak Borough, thereby making it impossible for Anchorage to proceed with the permitted use unless allowed to do so, by ordinance, by the Eagle River-Chugiak Borough.

Considering the above mentioned facts concerning land and water resources, and their implications for Anchorage, it is respectfully proposed that if the Commission makes the determination in favor of detachment, and borough incorporation, the following be required.

1. passage of an ordinance by the new borough giving approval to Anchorage for use of the Eagle River as a future water resource
2. a requirement that all park lands presently belong to Anchorage and lying within the boundaries of the new borough, be held in perpetuity as park land.

Assets and Liabilities

In addition to the above proposals, a discussion, and recommendations, concerning the division of assets and liabilities is offered for Commission consideration in the event a decision is made favoring detachment and incorporation.

In the event of detachment Commission responsibility is fixed upon (1) an allocation of the assets and liabilities of Anchorage which may be due the Chugiak-Eagle River Borough on the basis of powers assumed and exercised by the latter, and (2) the division of the assets and liabilities of the respective areas during the transitional year, that is, an allocation of the assets and liabilities during adjustment proceedings.

Involvement of the Local Boundary Commission in such an equitable settlement is without precedent in the State of Alaska. No regulations have been

adopted by the Commission describing a method by which to undertake the division of assets and liabilities.

In the absence of Commission-adopted regulations, a body of state law and lack of precedent within the State, the Department has endeavored to review asset and liability apportionment schemes in other state jurisdictions. Our research was conducted primarily to determine whether there is some form of commonality in the allocation schemes adopted by other states. We believe the identification of such schemes might serve to identify a comprehensive scheme for adjustment and assignment of assets and liabilities in Alaska.

Boundary adjustment poses a most critical question - "What is to be done with the indebtedness and property of the entity which is losing territory in order to adjust for its loss?" Citing the Harvard Law Review: Four general approaches have been tried in other legislation.

(1) No indebtedness changes are effected and the financial status quo is maintained. This solution is common in incorporation legislation. California and North Carolina, for example, require no changes. But it can also be found occasionally in annexation and detachment. This is a highly unrealistic approach which will have two possible results. Whether great unfairness will result from the decreased tax base and continued indebtedness, or needed boundary adjustments will not be effected because undue financial burdens are likely to result.

(2) The second approach is to base allocations of indebtedness upon a formula which can be applied unswervingly in each case. For example, in Indiana the municipality shall be liable upon annexation or incorporation for "so much of such indebtedness of such civil townships in proportion that the assessed valuation of property in such...territory is to the valuation of all property in such townships...prior to the (boundary adjustment)....The approach is a perfect

solution in the normal case; but too often extraneous factors arise, such as the degree of amortization, the ability of the territory's residents to continue to use the facilities for which the indebtedness was incurred, the provisions of bonds limiting assignments, the existence of presently-contracted future obligations, and the degree to which the facility for which the indebtedness was incurred is revenue-producing. (Factors such as inflation impact, depreciation, facility acquisition cost and a multitude of variables could be contended with.) Such occurrences make a formula unattractive since it will too often produce inequities which can be avoided by a more flexible system. Further, the addition of variables into some formula incorporating such variables may well be so costly as to negate the benefit of adopting such formula.

(3) The third method is to require the territory to continue to be liable for all prior indebtedness and to be subject to municipal indebtedness only if it is incurred in the period after the boundary adjustment. Such a system is usual in detachment legislation, but it can be found in other contexts. It has not been widely adopted probably because of the administrative difficulties which would tend to result when different parts of the municipality are taxed at different rates by different entities. Further, political, and perhaps debt ceiling, problems might arise whenever the municipality wished to impose higher tax rates for new improvements since various areas would have different tax rates. Differing assessment practices might further complicate the situation. In addition, a problem might arise as to whether land should be assessed for the purpose of the old township tax on the basis of improvements made after the territory became part of the municipality, or on the value at the time of the boundary adjustment. Thus if a scheme can be established to eliminate overlapping tax jurisdiction, it would be impossible not to overlap tax jurisdictions in the case at hand. (This method may violate the State's Constitutional provision under Article X Section I "duplication of tax-levying jurisdictions" as cited on Pg. 2.)

(4) The fourth method seems to be the most acceptable. A general standard is prescribed as to how the allocation should be carried out and some board or court is empowered to adjust indebtedness in light of that standard. In this case the Local Boundary Commission is assigned a role similar to other Commissions, committees or bodies in other states. For example, in Virginia on incorporation the standard for the court's allocation is "just." In Ohio, upon incorporation the county probate court must make a "proper" allocation of indebtedness and funds. In Minnesota, the Municipal Commission apportions indebtedness upon incorporation, annexation, and detachment on the basis of what is "just and equitable."

This draft adopts this fourth method and uses "fairness and equity" as its basic standard, but is more specific in that it requires consideration of the interests of the groups most directly affected. The determination is made in light of the burdens and benefits resulting from the boundary adjustments as a whole and not just in light of the financial considerations. Thus the detriments of the other allocation methods--unfairness, bars to boundary adjustment, inability to adjust to situations outside the norm, and multiplicity of governments taxing in the territory--are all avoided. Without exception where other state laws address the question of dividing assets and liabilities between public concerns, in an attempt to be "fair and equitable," those state legislatures have adopted statutory criteria based on the concept of "a just proportion of existing debt and assets."

The formula for determining the pro rata share in division of liabilities and non-fixed assets are many and vary with specific circumstances. However, in general, the "just" proportion of existing debt to be assumed by a municipality is the ratio the assessed taxable value in the entire district prior to separation. The percentage figure so obtained is then applied to the total amount of existing debt for which the new municipality shares responsibility in the provision of services.

In addition to pro rata debt assumption and non-fixed assets assumption, in some jurisdictions a new municipality would also pay for a share of the value of public improvements contained within the new area. However, in the absence of state law requiring payment for public improvements from the new municipality to the former municipality, payment would not likely be upheld in a judicial proceeding. As challenged (Norfolk County v. City of Portsmouth 124 Va. 639, 659, 98 SE. 755, 761-762.)

Whenever compensation for existing public improvements has been allowed, (always by legislative action) the basis for compensation has been the valuation of the improvement.

In the State of Minnesota, state law proscribes that public improvements and/or real property are jointly owned between municipalities after detachment. Each municipality's interest in properties is proportional to their assessed valuation at the time of separation.

In the State of New Jersey, state law proscribes that any public improvements and/or real property shall be and remain the property of the municipality in whose limits the property lies after separation, and any indebtedness then existing which has been incurred for or on account of the property shall become the indebtedness of the municipality within whose limits the property lies.

The Department would recommend that the Division of fixed assets and assignable liabilities (public improvements, and real property) be effected by using the method proscribed under New Jersey law.

The overriding advantage of adopting a method such as proscribed in New Jersey for fixed property division is that no fixed assets and incidental debt remain in mutual contest between municipalities and the question is forever settled.

The Department recommends for Boundary Commission consideration that:

1. The "just and equitable" formula most frequently used in other state jurisdictions be used. i.e.

$$\frac{\text{Total assessed taxable value of Chugiak-Eagle River}}{\text{Total assessed taxable value of the Anchorage Area}}$$

...

equals

Pro rata share of Chugiak-Eagle River debt and non-fixed assets

- a) The percentage figure so obtained would be applied to all fund balances of Anchorage for which Chugiak-Eagle River has vested financial interest. The percentage attributable to Chugiak-Eagle River of the fund balance would become payable to Chugiak-Eagle River from Anchorage.
- b) Funds held by Anchorage that are the funds of a service area that will lie within the boundaries of Chugiak-Eagle River become the assets of Chugiak-Eagle River.
- c) Chugiak-Eagle River shall receive from Anchorage a cash payment equal to the pro rata percentage of value of all non-fixed assets owned by Anchorage on the date of detachment for which Chugiak-Eagle River has vested interest. The determination of value of non-fixed assets may be made by an appraisal of non-fixed properties.

- d) Chugiak-Eagle River Borough accepts a pro rata share of all incidental debt of Anchorage not associated with fixed or real property for which Chugiak-Eagle River has vested interest. The amount of the debt associated therewith and assignable to Chugiak-Eagle River shall be paid by cash from Chugiak-Eagle River to the Anchorage Area.

- e) All fixed assets (public improvements on real property) shall become and remain the property of the borough in which they lie. All debts associated with fixed assets shall become the debt of the borough in whose territory the fixed assets lie.
 - 1.) The new borough would be ordered to pass an ordinance giving approval and permission to the Anchorage area to use Eagle River as a possible future water resource.

 - 2.) All lands designated park lands presently belonging to Anchorage, lying within the boundaries of the proposed new borough, would be restricted to the status of park lands

On the basis of the foregoing Anchorage area and petitioners in the Chugiak-Eagle River Area would place before the Commission their respective claims to assets and liabilities. The Commission would be required to arbitrate settlement based on respective argument.

The Commission would need to determine a possible date for which detachment would be effected, so that the formula proposed could be uniformly applied.

Harold S. ABRAMS et al., Appellants,
v.

STATE of Alaska et al., Appellees,
v.

Lee B. JORDAN, Mayor of the Second Class
Borough in the Eagle River-Chugiak
Area, et al., Appellees.

Lee B. JORDAN, Mayor of the Second Class
Borough in the Eagle River-Chugiak
Area, et al., Cross-Appellants,
v.

Harold S. ABRAMS et al., Cross-Appellees.
Nos. 2407, 2418.

Supreme Court of Alaska,
April 15, 1975.

Action was instituted to determine validity of formation of the Eagle River-Chugiak Borough. The Superior Court, Third Judicial District, Anchorage District, Eben H. Lewis, J., upheld validity of the borough and appeal was taken. The Supreme Court, Connor, J., held that statute pertaining to the organization of the Eagle River-Chugiak Borough was special and local in nature; that nothing in nature of the Eagle River-Chugiak area justified departure from general law scheme of incorporating new boroughs and, therefore, the statute pertaining to creation of the borough contravened constitutional prohibition against passage of local or special acts when a general act can be made applicable; and that constitutional provision requiring division of state into boroughs did not grant power to enact special and local laws creating boroughs notwithstanding the prohibition against passage of local or special acts.

Reversed and remanded.

Erwin and Fitzgerald, JJ., did not participate.

1. Statutes \Rightarrow 77(1)

Legislative act may affect only one of a few areas and yet relate to a matter of statewide concern and common interest

and, thus, not constitute a local or special act within constitutional prohibition against such acts. Const. art. 2, § 19.

2. Statutes \Rightarrow 77(1)

In determining whether a legislative act is a local or special act within constitutional prohibition against such acts, ultimate question is whether the act is reasonably related to a matter of common interest to the whole state. Const. art. 2, § 19.

3. Statutes \Rightarrow 76(2)

Statute pertaining to organization of Eagle River-Chugiak Borough constituted both special and local legislation within constitutional prohibition against passage of local or special acts if a general act can be made applicable. Laws 1974, c. 145; AS 29.18.030 et seq.; Const. art. 2, § 19.

4. Statutes \Rightarrow 76(2)

Nothing in nature of Eagle River-Chugiak area justified departure from general law scheme of incorporating new boroughs; thus, special and local legislation pertaining to organization of the Eagle River-Chugiak Borough violated constitutional prohibition against passage of a local or special act when a general act can be made applicable. Laws 1974, c. 145; AS 29.18.030 et seq.; Const. art. 2, § 19.

5. Statutes \Rightarrow 76(2)

Constitutional provision requiring division of state into boroughs and giving legislature broad power over methods by which boroughs may be organized, incorporated or dissolved did not empower legislature to enact special or local laws pertaining to organization of boroughs despite constitutional prohibition against passage of local and special acts when general acts can be made applicable. Laws 1974, c. 145; AS 29.18.030 et seq.; Const. art. 2, § 19; art. 10, § 3.

6. Statutes \Rightarrow 76(1)

Constitutional prohibition against enactment of a local or special act if a general act can be made applicable governs exercise of all legislative powers expressly granted by other portions of the Constitution. Const. art. 2, § 19.

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7. Constitutional Law 15

Different provisions of Constitution should be read so as to avoid conflict whenever possible.

George A. Dickson & John Hedland, David Engles of Rice, Hoppner, Blair & Hedland, Anchorage, for appellants in 2407.

Gerald L. Sharp, City-Borough Atty., Juneau, amicus curiae for appellants in No. 2407.

William F. Tull, Palmer, amicus curiae on behalf of Mat-Su Borough.

John Ken Norman & Gary Thurlow, Anchorage, amicus curiae on behalf of Greater Anchorage Area Borough.

Charles Cranston & Vernon L. Snow, of Gallagher, Snow & Cranston, Anchorage, for appellees in 2407; Cross-Appellants in 2418.

Peter Argetsinger, Asst. Atty. Gen., Anchorage, Avrum Gross, Atty. Gen., Juneau, for State of Alaska.

OPINION

Before RABINOWITZ, C. J., CONNOR and BOOCHEVER, JJ., and DIMOND, J. Pro Tem.

CONNOR, Justice.

This appeal and cross-appeal present the question of whether the formation of the Eagle River-Chugiak Borough was validly accomplished under the Alaska Constitution. At the center of the conflict are two constitutional provisions:

"The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected." Alaska Const., art. II, § 19.

"The entire State shall be divided into boroughs, organized or unorganized.

They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law." Alaska Const., art. X, § 3.

Appellants assert that the prohibition against local or special acts renders invalid Ch. 145 SLA 1974 by which the Eagle River-Chugiak Borough was organized. They argue that the legislature created a borough by a local or special law when a general law could have been made applicable, and that the "general law" constitutional provision controls the operation of legislative power under art. X, § 3, of the Alaska Constitution. They conclude, therefore, that Ch. 145 SLA 1974 is unconstitutional and that the borough created by the legislature is invalid.

Appellees support the validity of the borough by arguing that the legislative act was not local or special legislation, that even if it was local or special legislation the constitutional prohibition does not apply because a general law cannot be made applicable to the particular subject matter of the legislative act, and that the legislature possesses independent power under art. X, § 3, of the Alaska Constitution, apart from the provisions of art. II, § 19, to create the Eagle River-Chugiak Borough.

I.

The Eagle River-Chugiak area extends from the northeast limits of the City of Anchorage to the Knik River Bridge, and comprises about 738 square miles, slightly less than one-half of the total area of the Greater Anchorage Area Borough as it previously existed. It is located wholly within what was the Greater Anchorage

Area Borough. The area has a population of about 8,500 persons, about 2,500 of whom live in what is regarded as the community of Eagle River. There are no cities of any statutory class within the area. The area is largely residential in land use and most of its work force is employed within what has been the Greater Anchorage Area Borough.

In 1974 the legislature passed Ch. 145 SLA 1974, which became law without the governor's approval. The act provided for an election concurrent with the next statewide election following its passage, to be conducted solely within the Eagle River-Chugiak area, on the question of whether the area should be incorporated as a second class borough. If a majority voted "no" in the first election, the act provided for a subsequent election in which the voters would decide whether the area should be incorporated as a second class city. The election on borough incorporation took place on August 27, 1974, and the proposition passed by a vote of 1,233 to 979. Under the terms of the act, the area then became incorporated.

The act required the Local Boundary Commission to hold a public hearing before the election, and to review the boundaries set forth in the act after the election. Additionally, the Commission was required to promulgate a plan of apportionment, after which the Lieutenant Governor was required to, and did, on December 3, 1974, conduct an election for municipal officers.¹

1. Other transitional steps include a determination by the Local Boundary Commission, subject to judicial review, of the allocation of debts and assets between the new borough and the Greater Anchorage Area Borough, and written notice by the new borough of its intention to assume its powers. These steps have not been taken, but the act requires that the new borough assume its powers no later than the end of the current fiscal year, i. e., June 30, 1975. In the meantime the Greater Anchorage Area Borough

Prior to the enactment of Ch. 145 SLA 1974 there existed, and still exists, a comprehensive statutory system for the incorporation of boroughs, including those to be established within the boundaries of boroughs already in existence.² The general law scheme for organizing a borough consists of a petition to the Department of Community and Regional Affairs, a review of that petition for form by the Department, public hearings by the Local Boundary Commission, and a decision by the Commission as to whether the standards set out in the statutes have been met. In the event of favorable Commission action, an election can be held within the area proposed for incorporation. When a new borough is to be created within an existing one, both a new incorporation and a change in existing boundaries must occur, and the action must be approved at an election within the new borough. The action may also be conditioned upon electoral approval within the existing borough, and it must be submitted to the legislature.

Appellants brought an action on October 30, 1974, seeking to have Ch. 145 SLA 1974 declared unconstitutional and void and seeking to have enforcement of that statute enjoined. On November 22, 1974, appellants sought a preliminary injunction against conducting the election for municipal officers which was scheduled for December 3, 1974. On November 27, 1974, the superior court entered a temporary restraining order which allowed the election to proceed but prohibited certification of the results pending a further hearing. That further hearing was held on Decem-

ber 12, 1974. The court must continue to assess and collect taxes in the new borough until that date, and allocate to the new borough an amount to be determined by the Local Boundary Commission, subject to judicial review. Under the act the Greater Anchorage Area Borough has been prohibited from transferring assets or authorizing bonded indebtedness in the new borough since September 12, 1974.

2. See AS 29.18.030 et seq.

her 20, 1974. On December 20, 1974, oral argument was presented to the superior court, and that court entered a declaratory judgment to the effect that Ch. 145 SLA 1974 was local and special legislation, but was not violative of art. II, § 19, of the Alaska Constitution. Appellants filed this appeal on December 23, 1974, and were granted a stay pending the decision of the appeal. This court also entered an order expediting the appeal because the questions presented obviously should be decided promptly for the benefit of the affected governmental entities and the public.

II.

[1] The first question is whether Ch. 145 SLA 1974 is a local or special act. Our previous opinions in *Boucher v. Engstrom*, 528 P.2d 456 (Alaska 1974), and *Walters v. Cease*, 394 P.2d 670 (Alaska 1964), provide background for the resolution of this question. In *Walters v. Cease*, we held that the Mandatory Borough Act, Ch. 52 SLA 1963, was local and special legislation, and that it could not constitutionally be submitted to the voters for adoption by referendum.³ In *Boucher v. Engstrom*, we held that an initiative to relocate the state capital did not amount to special or local legislation, and thus could be placed upon the ballot. We observed that legislation does not become "local" merely because it operates only on a limited number of geographical areas rather than on a statewide geographical basis. A legislative act may affect only one of a few areas and yet relate to a matter of statewide concern or common interest. *Boucher v. Engstrom*, *supra*, 528 P.2d at 461-62.

[2] *Boucher v. Engstrom* does represent a retrenchment on the definition of

3. Alaska Constitution, art. XI, § 7, provides: "The initiative shall not be used to dedicate revenues, make or repeal appropriations, create courts, define the jurisdiction of courts or prescribe their rules, or enact local or special legislation. The referendum shall not be applied to dedications

"local" and in *Walters v. Cease*. But the ultimate question is whether a legislative act, attacked as "local" or "special", is reasonably related to a matter of common interest to the whole state.⁴

[3] In the case at bar it appears that Ch. 145 SLA 1974 is both special and local legislation. The act provides a method of creating a new borough which is peculiar to the locality where it is applicable. The subject matter can hardly be said to be of statewide interest or impact.

Specifically, the operation and scope of the act are limited to the Greater Anchorage Area Borough. The act creates law which affects only the governmental structure of the Greater Anchorage Area Borough and the Eagle River-Chugiak area lying within it. It can have no effect upon any other part of the state. It purports to create a new local government, and does so without regard to the general statutory provisions that prescribe the method that otherwise governs the creation of new local governmental entities from existing ones. In our opinion the legislation is clearly special and local in nature.

III.

[4] This brings us to the next question. Appellees argue that even if Ch. 145 SLA 1974 is a local or special act, it is permissible legislation. The Alaska Constitution forbids local or special acts only "if a general act can be made applicable." Whether a general act can be made applicable is subject to judicial determination. We find AS 29.18.030 et seq. to be an applicable general law.

Appellees argue that the Eagle River-Chugiak area is unique and that this justifies the special treatment given to it by the legislature. The trial court found that the

of revenue, to appropriations, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety."

4. *Boucher v. Engstrom*, 528 P.2d 456, 463 (Alaska 1974).

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5. *Accord*,
328 P.2d
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v. Swinab
(1964).

6. *Accord*,
Cal.2d 62

Eagle River area has a separate identity, that it has been a distinct community in the Anchorage bowl, and that it is the only large "exurban" community in Alaska. Appellees point out additionally that the area is separated from the rest of the Greater Anchorage Area Borough by the Chugach Mountains, the Chugach State Park, and by military reservations. A majority of the electorate of the area has voted against a unified Greater Anchorage Area Borough and against extension of areawide power by the borough over the area.

We do not find this justification persuasive. Numerous other localities within organized boroughs can also claim to be unique in certain respects. Examples come readily to mind.

Douglas, with a 1970 population of 1,243, located on an island across from the state capital, can claim to be distinct, providing a largely residential community for persons working in the capital city. Historically Douglas was a city proudly separate from Juneau. Similarly, it could be claimed that College, with a 1970 population of 3,434, is the only community surrounding the central state university. Nearly every neighborhood or locality within an existing borough can assert some peculiarity or characteristic which distinguishes it from the rest of the borough. If this is all that is needed to justify a departure from general law, then the legislature could, by special act, create many new boroughs out of old ones on an ad hoc basis. We do not think this is what the framers of our constitution intended.⁵

We find nothing in the nature of the Eagle River-Chugiak area which justifies a departure from the general law scheme of

incorporating a new borough. Those unusual aspects which appellees have ascribed to the area present no insurmountable barriers to creating a new borough by following the procedures set forth in AS 29.18.030 et seq. Therefore, we hold that Ch. 145 SLA 1974 contravenes the provisions of art. II, § 19, of the Alaska Constitution.

IV.

[5] Finally, appellees urge that under Art. X, § 3, of the Alaska Constitution the legislature is given broad power over the methods by which boroughs may be organized, incorporated, or dissolved. From this, it is argued, the legislature derives power to enact such laws as Ch. 145 SLA 1974 despite the prohibition of art. II, § 19, of the Alaska Constitution.

[6] But Art. II, § 19, governs the exercise of all legislative powers expressly granted by other portions of the constitution. There is no intimation in its language or in the articles concerning local government which would create an exception to this prohibition against local or special laws.

[7] It is an undisputed maxim of constitutional construction that different provisions of the document shall be read so as to avoid conflict whenever possible. Thus, "[w]henver possible, all provisions should be given effect, and each interpreted in light of the others, so as to reconcile them, if possible, and to render none nugatory." *Lemon v. Bossier Parish School Board*, 240 F.Supp. 743, 744 (W.D.La.1965).⁶ We have carefully read the debates and discussions during Alaska's constitutional convention as they relate to the import of art.

5. *Accord*, *State v. Hodgson*, 183 Kan. 272, 328 P.2d 752, 762 (1958); *see also* *Albuquerque Met. Arroyo Flood Control Authority v. Swinburne*, 74 N.M. 487, 394 P.2d 998 (1964).

6. *Accord*, *People v. Western Air Lines*, 42 Cal.2d 621, 268 P.2d 723, 732 (1954), appeal

dismissed, 348 U.S. 859, 75 S.Ct. 87, 99 L.Ed. 677; *Cooper Motors v. Board of County Commissioners*, 131 Colo. 78, 279 P.2d 685, 698 (1953); *Latting v. Cordell*, 197 Okl. 369, 172 P.2d 397, 399 (1946).

II, § 19. and art. X.⁷ We find nothing in these discussions which would indicate that art. X, § 3, was intended to operate as an exception to the "general law" rule of art. II, § 19. Indeed, if every grant of power were read as an exception to the "general law" provision, that provision would be rendered wholly nugatory in its effect.

We conclude that nothing in the local government articles of the Alaska Constitution overrides the prohibition of art. II, § 19.

Having found the questioned act invalid, we reverse the judgment below and remand for the entry of a judgment in favor of appellants.

7. See Const.Conv.Min. pp. 1760-70, 1774, 1824-27, 2768-71 (Jan. 10-25, 1956).

2/6/86

C&RA Joint House/Senate Meeting

Edna,

Teleconference moderator in Juneau requests that you allow her to check with each of the on-site locations before beginning the official hearing.

Also requests that you remind all Committee members to switch their microphone on before talking.

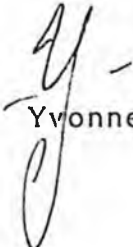
If you can keep people from answering questions from the back of the room, it will help the minutes be more accurate (usually you don't have anything to do with it...they sorta yell out..)

Some questions you might consider asking the LBC.....

- 1) When do you notify parties in interest that the Local Boundary Commission has made a decision..... and to whom is the information sent?

- 2) When is the Legislature notified that the Local Boundary Commission has received a request for boundary determination that requires Legislative review?

Under DISCUSSION/ACTION I do have copies of the Ketchikan Resolution --- It has not been introduced (of course)....


Yvonne

Attached is the agenda.



CITY OF SAINT PAUL

POUCH 1
SAINT PAUL ISLAND, ALASKA
99880
(907) 546-2331
Telecopy (907) 546-2365

IN REPLY
REFER TO:

February 5, 1986

Honorable Fred Zharoff
Alaska State Senator
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Re: Saint Paul Island Annexation

Dear Senator Zharoff:

The purpose of this letter is to set the record straight with respect to statements made by the Chief Executive Officer of Tanadgusix Corporation (TDX) who wrote to you on December 12, 1985 concerning the above-captioned matter.

To state, as he does in the first paragraph of his letter that: "For the past several months this community has been in an uproar over discussion of the issue on annexation . . ." is a mis-statement of fact. The TDX Chief Executive Officer is simply not telling the truth. At three public meetings on the matter, all of which were well advertised -- each of which were publicized, posted, and noticed in letters to each home on the Island -- fewer than twelve persons appeared, in total! At the formal public hearing conducted by the Local Boundary Commission, of the 41 persons in attendance, only seven persons presented testimony in the negative. All other testimony was in favor of the proposition. You should note that even the opponents were arguing for local control. This is contradictory to their opposition.

The record does not support the allegation that: "Both Tanadgusix Corporation of Saint Paul, and the Aleut Community of Saint Paul, through their respective Board of Directors and Councils, have taken formal positions in opposition to the annexation . . ." In fact, a copy of a letter by the incoming Aleut Community of Saint Paul (I.R.A.) President is attached in furtherance of the petition of the citizens and the City Council of Saint Paul.

Honorable Fred Zharoff
February 5, 1986
Page 2

The City feels that there was a great deal of public involvement with this matter and that the suggestion for a referendum is merely an effort to provide a vehicle for a protracted, negative campaign mounted not just by TDX but by well financed off-island special interest groups who have been looking for such an opportunity in this state. The inadvisability of such a course is evident. Please read the copy of Larry Mercurieff's testimony before the Local Boundary Commission. It clearly demonstrates what we mean.

The TDX CEO's letter continues with paragraph after paragraph of invective commentary, most of which is not related to the issue. Through and between these lines it can be seen there exists true confusion as to the role of TDX, a non-governmental, private, for-profit corporation, and, the statutory responsibilities of a municipal government. Though regrettable, that situation has nothing whatever to do with annexation.

We respectfully call to attention the next to the last paragraph of the TDX CEO's letter wherein he states, quote:

"We are not opposed to local controls over the waters surrounding Saint Paul, to having powers over fishermen dumping garbage in our waters . . . (etc) . . ."

He wants to postpone the annexation action until such time as annexation control can be passed to TDX and then to the I.R.A. Under Alaska law only a political subdivision of the State government may exercise jurisdiction. The I.R.A. does not so qualify, nor does TDX. The real issue is that TDX's CEO wants the I.R.A. to have authority not permitted by State law. The Local Boundary Commission and the City expended a great deal of effort to insure citizen understanding of the issue. The problem is that the CEO of TDX disagrees philosophically with the laws of Alaska. It is not a question of understanding; it is a question of what can be done under Federal and State law.

Just for the record, the comments and statements concerning the Saint Paul Island Trust are totally without foundation and should not be considered as fact. For accurate information about the Trust, interested persons are invited to be in touch directly with Mr. Jay S. Gage, Trustee, Saint Paul Island Trust, 1111 Third Avenue, Seventh Floor, Seattle, WA 98105, (206) 682-7848.

Honorable Fred Zharoff
February 5, 1986
Page 3

We hope this has clarified the issues raised in the TDX
CEO's letter of December 12, 1985 and that no need will be seen
to oppose the petition of the City of Saint Paul, which has
received approval of the citizens of Saint Paul and the Local
Boundary Commission.

Very truly yours,

THE CITY OF SAINT PAUL

Vern C. McCorkle
Vern C. McCorkle
City Manager

Mik Zacharof
Michael Zacharof
Mayor

VCM:afg

Enclosure

Tribal Government of St. Paul

P.O. Box 86, St. Paul, AK 99660

(907) 546-2211

Maxim Lestenkof, Sr.

President

Nlna Simeonoff

Vice President

Simeon Swetof, Jr.

Secretary-Treasurer

Council Members

Adrian Melovidov, Sr.

Anthony Philemonoff

Terenty Philemonoff, Jr.

Michael Zocharof

January 31, 1986

Honorable Fred F. Zharoff
Senator District "N"
Alaska State Legislature
The State Capitol
Pouch "V" (MS 3100)
Juneau, Alaska 99811

SUBJ: SAINT PAUL ANNEXATION

Dear Senator Zharoff:

This is to let you know that the IRA of Saint Paul (Tribal Government of Saint Paul) has taken no action in opposition to the above captioned matter.

As the newly elected President of the Saint Paul IRA I am aware that the issue may soon be coming before you and the State Legislature and I wanted to be certain that you knew of our position.

Very truly yours,

TRIBAL GOVERNMENT OF SAINT PAUL

Adrian Melovidov Sr.
Adrian Melovidov, Sr.
President

RECEIVED FEB -3 P 2:41

DEPARTMENT OF
GENERAL SERVICES & SUPPLY

REPORT TO THE LOCAL BOUNDARY COMMISSION OF THE
STATE OF ALASKA ON THE
PETITION TO DETACH THE LAKE LOUISE AREA FROM THE
MATANUSKA-SUSITNA BOROUGH

Department of Community and Regional Affairs
Division of Local Government Assistance

September 9, 1982

I. INTRODUCTION

The Matanuska-Susitna Borough was incorporated on January 1, 1964 under the provisions of Chapter 52, SLA 1963, known as the "Mandatory Borough Act". The Borough is comprised of approximately 20,544 square miles and has an estimated population of 19,123.

The Matanuska-Susitna Borough is the second largest in the State (behind the North Slope Borough), with a land mass exceeding the combined areas of the Haines Borough, Bristol Bay Borough, Kodiak Island Borough, Ketchikan Gateway Borough, City and Borough of Sitka, City and Borough of Juneau and the Municipality of Anchorage. Although much of the Matanuska-Susitna Borough is accessible by road, there are large areas which are remote and inaccessible.

The area of Lake Louise is located in the extreme eastern portion of the Matanuska-Susitna Borough. The area is accessed by an 18 mile road leading from the Glenn Highway to the southern end of Lake Louise. The community, based at the southern end of Lake Louise, is approximately 136 highway miles from Palmer and 45 highway miles from Glennallen. The map at the end of this report identifies the area proposed for detachment from the Matanuska-Susitna Borough.

The majority of the Lake Louise residents are seasonally employed during the summer months. The three lodges on the southern end of Lake Louise provide the economic and population base for the community. The majority of the land within the territory proposed for detachment is owned by the State. The Matanuska-Susitna Borough owns no land within the territory proposed for detachment.

The petition proposes to detach 432 square miles of territory from the Matanuska-Susitna Borough. The area proposed for detachment comprises 2.10% of the Borough territory, and the Lake Louise population (33) represents 0.17% of the Borough population. Of the 432 square miles proposed for detachment, 216 square miles are uninhabited State land.

According to the Borough, there are 28 registered voters and 213 dwellings in the Lake Louise area. Most of these dwellings are recreational in nature. There are 363 tax parcels in private ownership in the Lake Louise area. The property tax to be generated from the territory proposed for detachment during the current fiscal year is approximately \$37,485. The total assessed valuation of the real and personal property at Lake Louise is \$6,941,700 or 0.67% of the total assessed value of the Borough (\$1,037,000,000). The residents of the Lake Louise area contend that they receive no Borough services. The Borough, however, does maintain a public landfill in the Lake Louise area and

offers an educational program for Lake Louise students if they choose to attend school in Glennallen. According to Paul Holliand, petitioners' representative, there were no children from Lake Louise attending the Glennallen school last year nor will there be this year. There are only two children in Lake Louise of school age. These students from Lake Louise have chosen a home teaching option which is provided by the Borough and the State of Alaska. The Borough also exercises planning on an areawide basis. Although the effect of the planning activities may not be readily apparent in Lake Louise, the prospect of several thousand new land owners in the area (details below) establishes the need for planning of future growth and development in the Lake Louise area.

According to the Borough, the State of Alaska is going to subdivide and distribute land in the Lake Louise area in the immediate future. An additional 2,635 parcels of land will be transferred from State ownership to private ownership. Therefore, there will likely be significant growth in the Lake Louise area within the next several years. According to the Alaska Department of Natural Resources, the State has classified 102.87 square miles of this territory for remote parcel distribution. In the State fiscal year 1983, approximately 23.44 square miles of this land will be distributed in 30 acre parcels. Additionally, 22.6 square miles of land around the lake have been classified for subdivision disposal. Approximately 3,200 acres (5 square miles) will be distributed by the State during fiscal years 1983 and 1984. These parcels will be 5 to 10 acre plots.

II. PROCEEDINGS TO DATE

On July 29, 1982 the Department received the Lake Louise petition to detach 432 square miles of territory from the Matanuska-Susitna Borough by the "local action - election" process. This petition was submitted to replace the withdrawn Legislative Review detachment petition submitted on April 20, 1982. After reviewing the current petition for accuracy and completeness it was forwarded to the Matanuska-Susitna Borough on August 6, 1982. In accordance with 19 AAC 10.640, the Matanuska-Susitna Borough Assembly held a public review (August 17) of the petition and returned the petition with the Borough's Answering Brief to the Department on August 20, 1982.

Proper notice has been given for the Local Boundary Commission's public hearing and decisional meeting on the Lake Louise detachment petition. This hearing is scheduled for September 25, 1982 at 1:00 p.m. in the Evergreen Lodge at Lake Louise.

III. STANDARDS FOR DETACHMENT FROM AN ORGANIZED BOROUGH

The following discussion outlines the considerations the Local Boundary Commission must weigh according to statutes and regulations in reaching a decision on the petition to detach the Lake Louise area from the Matanuska-Susitna Borough.

WILL THE DETACHMENT BE IN THE BEST INTEREST OF THE STATE, THE LAKE LOUISE AREA AND THE MATANUSKA-SUSITNA BOROUGH?
(19 AAC 10.230)

The issue of best interest must be addressed at each level before an overall consensus can be achieved on this issue. It is difficult to determine what effect the detachment of the Lake Louise area would have upon the State as a whole.

It is fair to state that the Alaska Constitution anticipates that the entire State would be divided into organized boroughs with some areas of the State that could not economically support a borough, becoming the unorganized borough. More than 26 years have passed since the Constitution was ratified by the voters, yet only 25 per cent of the area of the State is organized through borough governments. In the past 18 years only one borough (the North Slope Borough) has been established. No boroughs have been formed in the past 10 years.

The borough form of government establishes a means of providing local government for an area of the State which is culturally, economically and geographically related. If the Lake Louise territory was allowed to detach, it would become part of the unorganized borough. In essence, the detachment would remove a portion of an organized borough which has been functioning and providing services on a regional basis for the past eighteen years. The Lake Louise area would then become a part of the State's administrative responsibility. Given the fact that the Matanuska-Susitna Borough was formed by legislative action, and that the removal of the Lake Louise area would only transfer the responsibility of service delivery to the State, the Department finds no best interest to be achieved for the State. Perhaps most significant with respect to the issue of the State's interest, the Lake Louise area is characteristic of vast areas within the eleven existing organized boroughs and unified municipalities. If this area detaches it could set a precedent that could readily be followed by similar areas. Such would have a significant adverse effect on the State.

The Matanuska-Susitna Borough would be adversely affected by the

detachment of the Lake Louise area. It would reduce the assessed value by \$6,941,700 (0.67%), which would negatively affect the bonding capacity of the borough. As the bonding ability of the Borough is based upon the level of taxable property, the uncertain future of current boundaries could have a debilitating effect upon the Borough's bond rating and capacity to issue bonds. In addition, there are other regions within the Matanuska-Susitna Borough that are in a similar situation to the Lake Louise area and this detachment could, again, set a precedent for future detachment proceedings from the Matanuska-Susitna Borough. Therefore, it would not be possible for the Borough to assure the bonding market of a consistent future valuation.

The residents of the Lake Louise community feel that there are definite benefits in detaching from the Matanuska-Susitna Borough. Primarily they would not be paying taxes for services which they feel are not received. Currently, 73% of the Borough's areawide mill levy is for education, 2% for parks and recreation, 3% for planning, 2% for civil engineering, 2% for assessment and property management and 18% for other costs. The residents of this area feel that the unorganized borough which borders the Lake Louise lake system offers an opportunity to continue living the same lifestyle without the burden of taxation without reciprocal benefits. While the desire to avoid taxation is readily appreciated, this approach ignores the potential for growth following the State distribution of 2,635 parcels of land in the Lake Louise area. When this growth does begin to occur, the need for borough areawide services (education, fire and planning) will become evident.

ARE THE SOCIAL, CULTURAL AND ECONOMIC CHARACTERISTICS OF THE POPULATION OF LAKE LOUISE SUBSTANTIALLY DIFFERENT OR IN CONFLICT WITH THE REMAINDER OF THE POPULATION OF THE BOROUGH?
(19 AAC 10.230)

The Matanuska-Susitna Borough has 20,544 square miles with a population of 19,123. Within this immense area there is a diversity of social, cultural and economic settings. More than 70 per cent of all borough residents live outside the four largest communities (Palmer, Wasilla, Houston and Talkeetna). The rural population of the Borough has many similarities in that it is distributed along the road system, it experiences high unemployment and seasonal work, and has moved to the rural areas of the Borough within the last twenty years. There are no indications that the residents of the Lake Louise community differ substantially from the majority of Borough residents residing in the rural areas of the Borough.

IS THE GEOGRAPHIC LOCATION OR CONFIGURATION OF THE TERRITORY PRECLUDING THE PROVISION OF BOROUGH SERVICES PROVIDED OTHER AREAS OF THE BOROUGH OR MAKING THE PROVISION OF BOROUGH SERVICES IMPRACTICAL? (19 AAC 10.230)

The Matanuska-Susitna Borough currently levies an areawide mill rate of 4.9 mills and a non-areawide mill rate of 0.5 mills. The areawide functions are primarily concerned with the education, school bond debt service, planning, land management and taxation. The non-areawide functions are primarily concerned with libraries, emergency medical services, solid waste disposal and animal control. The geographic location of the Lake Louise area and its small school age population make the provision of education services to the community impractical at this time. As there is no school in the Lake Louise area, all of the students have opted for education correspondence courses. However, the students do have a choice between the Borough administered correspondence course or the State administered course. The Borough is also willing to pay the Copper River Regional Educational Attendance Area \$2,180 for each child from the Lake Louise area who chooses to attend school in the Glennallen school. The Matanuska-Susitna Borough has made arrangements with the State of Alaska's Department of Education Student Transportation Office for school bus transportation for Lake Louise children who wish to attend the Glennallen school.

The remoteness and insignificant school aged population of Lake Louise has, from a practical standpoint, limited Borough services. However, that is not to say with the future anticipated growth within the Lake Louise area that the residents and future residents would not receive services commensurate with the rest of the Matanuska-Susitna Borough and the potential for such service will encourage the area's growth.

IS THE LACK OF TRANSPORTATION FACILITIES PRECLUDING THE COMMUNICATION AND EXCHANGE NECESSARY FOR RESPONSIVE AND INTEGRATED LOCAL GOVERNMENT? (19 AAC 10.230)

Communications with the Lake Louise area are more difficult than in many other areas of the Matanuska-Susitna Borough. The community has limited telephone service in that it can only be reached through a radio patch phone service in Anchorage. This does make immediate communication between the Borough government and the community relatively difficult. However, the community of Lake Louise is accessible by road on a year-round basis. This enables the community to receive scheduled mail service. Therefore, it can be concluded that although communication and transportation services to the Lake Louise area are relatively difficult they do not preclude the exchange necessary for responsive and integrated local government.

IV. CONCLUSIONS AND RECOMMENDATIONS

The detachment proposal has almost total support among the residents of the Lake Louise community. The residents of this area feel that they are paying an inequitable amount of Borough taxes and are being ill-served by a more urban based Borough government. To some degree, the concerns of the Lake Louise residents are justified. Some areawide services provided by the Borough to Lake Louise residents are not available at the same level as those provided to the more populated and accessible areas of the Borough.

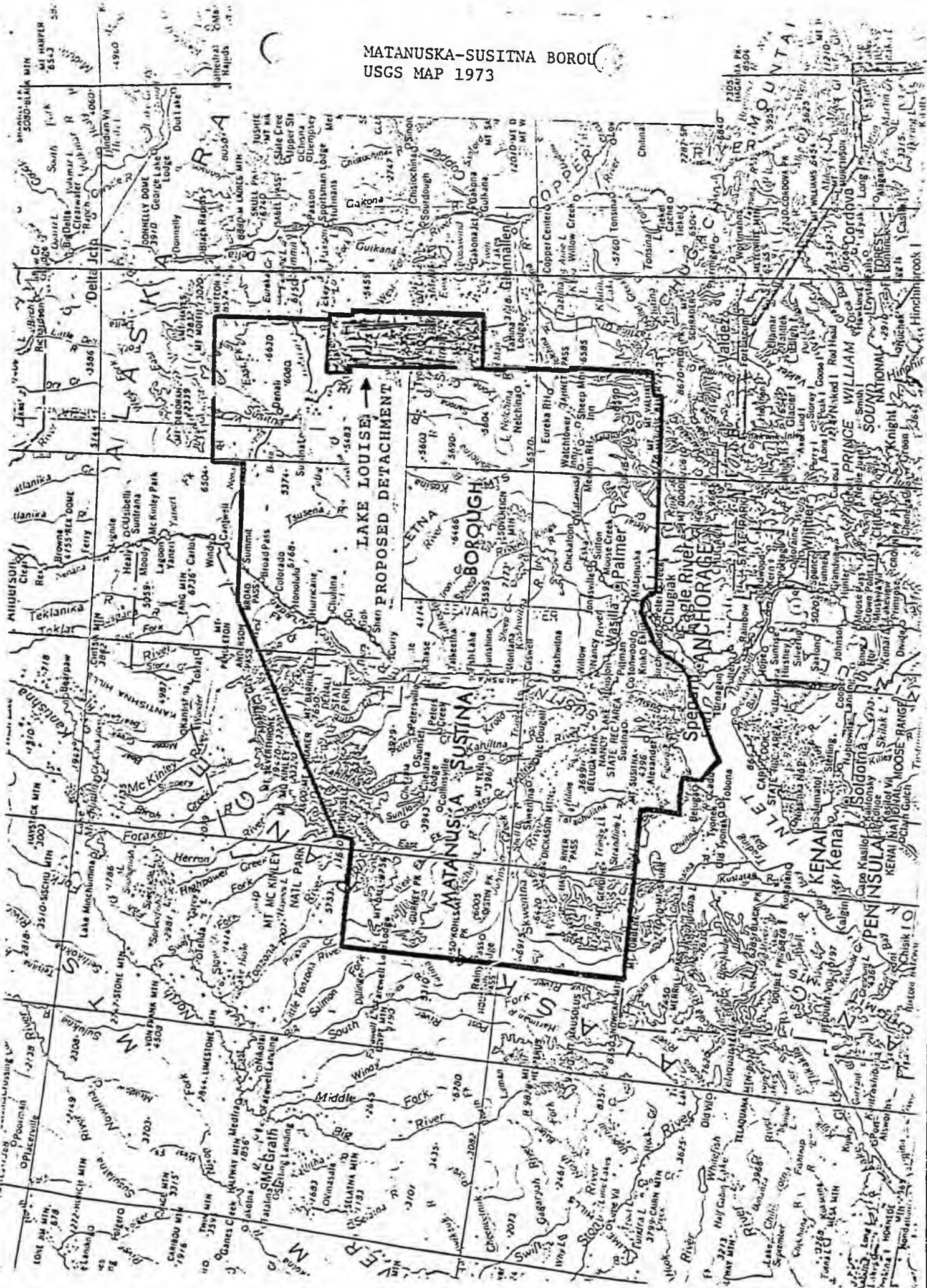
However, as the Matanuska Susitna Borough continues to grow and particularly the Lake Louise area begins to enter a development phase, the commonality of social, cultural and economic interests of both groups will begin to merge.

There are no geographic configurations which preclude the provision of Borough services to the area, and there are facilities which adequately allow proper communication between the Lake Louise area and the Borough seat of government. Further, it is apparent that the proposed detachment is not in the best interests of the State or the Matanuska-Susitna Borough.

In the Department's view the standards for detachment as prescribed in 19 AAC 10.230. have not been met in the Lake Louise petition to detach from the Matanuska-Susitna Borough. Therefore, the Department of Community and Regional Affairs recommends that the Local Boundary Commission deny the detachment proposal in the Lake Louise petition.

The Department further recommends that the Local Boundary Commission, in its annual report to the legislature, address the issue and status of borough government throughout the State. Particularly, there is a need for a thorough review of the inequitable burden for the payment of local services (particularly education) which currently exists within organized boroughs. Hopefully, this would encourage the State to develop a means of resolving this longstanding inequity.

MATANUSKA-SUSITNA BOROU
USGS MAP 1973



Supplemental Report to the State of Alaska
Local Boundary Commission
on
The Proposed Detachment
of
Lake Louise
from
the Matanuska-Susitna Borough

November 1, 1982

On September 25, 1982 the Local Boundary Commission (LBC) conducted a public hearing in the Lake Louise Evergreen Lodge. This gathering addressed the proposed detachment of 432 square miles of territory surrounding Lake Louise from the Matanuska-Susitna Borough. Several issues were raised by members of the public testifying before the LBC. The Commission felt it could not make a decision on the proposed detachment until additional information was provided to the public and the LBC.

The related issues under examination are: the incorporation proceedings of the Matanuska-Susitna Borough and the rationale for including the Lake Louise area while excluding the Cantwell and Glennallen areas; whether the residents of the Lake Louise area were aware of borough incorporation activities; and what, if any, boundary changes have been made to the original Matanuska-Susitna Borough. Another issue under discussion concerns the distribution of State lands in or adjoining the Lake Louise territory proposed for detachment.

The following section of this report poses the questions central to these issues and reports the information obtained through research by the Department.

Why was Lake Louise included in the original boundaries of the Matanuska-Susitna Borough?

It is evident that the Lake Louise area was included in the original Borough as a result of compliance with the Mandatory Borough Act (Chapter 52, Session Laws of Alaska 1963). This Act provided that Election District 7 would be designated the Matanuska-Susitna Borough. The eastern boundary of Election District 7 fell east of the Lake Louise area and therefore it was included as a result of being within the Election District.

This action was a matter of direct application of boundary determination provisions as contained in the Mandatory Borough Act. For a comprehensive understanding of this action it is necessary to follow the genesis of this aspect of the Mandatory Borough Act from the Alaska State Constitution.

Article X of the Alaska Constitution provides for the creation of local governments throughout the State. Under provisions of this Article, all of Alaska was to be subdivided into boroughs (organized and unorganized) based upon economic, geographic, social and political factors. It further establishes the standards for the determination of these boundary lines.

It was recognized by the framers of the Alaska Constitution that establishing borough government boundaries was "quite an important question and should be under some agency which can establish them along the proper lines. They (boundaries) should not be left to the local community; they should be established by a higher authority". [Alaska Constitutional Convention, "Minutes of the Convention", 1955-56, January 19, 1956 A.M. p. 14.] It is evident that it was the intention of the Constitutional Convention to ensure that local government boundaries should not, in large part, be determined by the local populace but by the State. Following this thinking, Section 12 of Article X of the Alaska Constitution requires that a "local boundary commission or board" be established. "The commission or board may consider any proposed local government boundary change." However, the ultimate authority for acceptance of such boundary issues reviewed by the LBC would lie with the State Legislature.

As explained by the Alaska Supreme Court in Fairview Public Utility District No.1 v. City of Anchorage, 368 P 2d 540 (Alaska 1962), the drafters of Alaska's Constitution gave broad control over local government boundaries to the State because:

". . . The advantage of the method proposed, in the words of the [convention's local government] committee . . . lies in placing the process at a level where area-wide or statewide needs can be taken into account. By placing authority in this third party, (Local Boundary Commission) arguments for and against the boundary change can be analyzed objectively". [The Metropolitan Experiment in Alaska - A Study of Borough Government, Edited by Ronald C. Cease and Jerome R. Saroff, p. 139]

The 1961 State legislature created a borough incorporation deadline by mandating that all school districts (nine) and public utility districts (six) throughout the State could continue to function only until July 1, 1963. Special districts, including school districts and public utility districts, were to be absorbed into these constitutional forms of government (boroughs).

Prior to the convening of the legislature in January, 1963, Representative John L. Rader formulated in broad outline what he thought to be the basic requirements of what would later become the essence of the Mandatory Borough Act of 1963. Among the eleven basic requirements of such a bill was one which is particularly germane to this issue. The bill would need to provide for definite borough boundaries.

In formulating House Bill 90, Mr. Rader decided that defining a borough as either metropolitan or regional in nature would be detrimental. As a practical matter, a bill which provided ultimately for mandatory incorporation must state boundaries with precision. He considered definitions in terms of mountain ranges, shorelines, rivers and water sheds and in terms of longitude and latitude. Finally it was decided that election district lines, which were precise and known to everyone, would be used.

The bill did not force the immediate dissolution of existing school and public utility districts but rather left it to the boroughs to assimilate these units more or less at their convenience but with an ultimate transfer date. Existing local government units would be integrated into constitutional forms of government. If there was no succeeding governmental entity the properties of school districts and public utility districts would revert to the State. "If . . . there is no borough incorporated by local initiative in the populated areas of the State then the bill would provide that the election district lines in which the populations are located are the temporary borough lines until adjusted . . ." [The Metropolitan Experiment in Alaska - A Study of Borough Government, Edited by Ronald C. Cease and Jerome R. Saroff, p. 106] That is, as an expedient for establishing boroughs, election district boundaries were to be used as borough boundaries.

The legislature passed the Mandatory Borough Act in 1963. The act mandated the incorporation of boroughs as of January 1, 1964 in eight areas of the State containing public utility and independent school districts. In some cases the districts were considered too large and in others too small. The areas concerned, however, had the option of petitioning for incorporation and proposing borough boundaries in the time remaining before the deadline. The LBC held public hearings and reviewed local proposals. No agreement between the LBC and the local populace could be reached on boundaries.

Residents of the affected areas were afforded the opportunity to accept the boundaries proposed by the LBC through election. Local option borough elections were held in the fall of 1963. Four local option boroughs were established in the 1963 election under the threat of mandatory incorporation. These were Ketchikan, Sitka, Juneau and Kodiak Island. Borough incorporation election propositions were defeated in the Anchorage, Fairbanks, Kenai Peninsula and Matanuska-Susitna Borough areas. These were mandatorily incorporated on January 1, 1964.

Although given the opportunity to express opinions and suggestions for borough boundaries, the voters within the area containing the proposed Matanuska-Susitna Borough rejected incorporation along the lines provided by the LBC. They thus relinquished boundary determination to the State Legislature.

Accordingly the boundaries for the present Matanuska-Susitna Borough were defined on January 1, 1964 as:

"Palmer-Wasilla-Talkeetna Election District #7".

On February 1, 1966 the LBC recommended that the State Legislature change the boundaries of the Matanuska-Susitna, Greater Anchorage Area and the Kenai Peninsula Boroughs by describing them by metes and bounds. Until this time the areas of election districts defining these boroughs were described by means of river drainages, mountain ridges and other general terms. It was felt that such descriptions were too imprecise to accurately define the corporate limits of municipalities and such loosely defined boundaries may cause future conflicts. It was the LBC's opinion that conflicts could be avoided if the borough boundaries were described by use of precise reference points. It was at this time that the present eastern boundary of the Matanuska-Susitna Borough was described. To see how this compares to the original Election District 7 boundary, see Exhibits "A" and "B".

It is clear then that the Lake Louise area of the Matanuska-Susitna Borough was included in the Borough because it was located within the boundaries of Election District #7. The Alaska Constitutional Convention established the magnitude of the importance of boundary determination. The Alaska Constitution established the authority for the legislature to provide boundary determination. The legislature exercised this authority.

What was the level of public involvement in the Borough incorporation?

It does appear that people in general were aware of incorporation proceedings. In particular, residents in the Wasilla, Palmer and Bay City areas were involved in public hearings and expression of opinion regarding incorporation along the proposed borough boundaries. Upon reviewing testimony presented at public hearings held in Anchorage, Palmer and Wasilla on May 24 and 25, 1963 concerning the Captain Cook Borough, Matanuska-Susitna Borough and Lake George Borough proposals, it can be determined that people were aware of the activities and were holding local meetings to ascertain local opinion regarding boundaries for borough incorporation. However, the testimony presented at these meetings did not evidence any comment from individuals identified as residing within the Lake Louise area.

Have there been any boundary changes affecting Lake Louise subsequent to incorporation of the Borough?

No subsequent changes to the eastern boundary of the Matanuska-Susitna Borough (with the exception of the 1966 redefinition of borough boundaries) have been made.

Why was the Community of Cantwell excluded from the Matanuska-Susitna Borough?

Cantwell was not a part of "Palmer-Wasilla-Talkeetna Election District #7" and therefore was not included within the original boundaries of the Matanuska-Susitna Borough. However, as a result of the February 1, 1966 redescription of borough boundaries in terms of metes and bounds, the LBC recommended inclusion of the Cantwell area in the Matanuska-Susitna Borough. It was subsequently found that the citizens of Cantwell did not have notice of the LBC hearing on June 26, 1965 regarding this recommendation. The LBC thus conducted a hearing in Cantwell on July 26, 1967 and at Palmer on January 25, 1968 to consider whether the Cantwell area should remain in the Matanuska-Susitna Borough. It was found that the citizens of Cantwell and the officials of the Matanuska-Susitna Borough concurred with the recommendation that the Cantwell area was inappropriately included in the Matanuska-Susitna Borough. Exclusion of the Cantwell area would not exclude territory from the Matanuska-Susitna Borough which was included prior to February 1, 1966. The LBC determined that it would be in the best interest of Cantwell area citizens, the Matanuska-Susitna Borough and the State of Alaska for the area to be excluded from the Matanuska-Susitna Borough. Therefore, in accordance with Article X, Section 12 of the Alaska State Constitution, on January 31, 1968 the LBC transmitted to the Alaska State Legislature for consideration the recommendation that the boundaries of the Matanuska-Susitna Borough be changed to exclude the Cantwell area. It was subsequently approved.

Why was Glennallen not included in the Matanuska-Susitna Borough?

Glennallen was excluded because it is located in an election district outside the boundaries of the Matanuska-Susitna Borough Election District. Further, because it contained no special service districts (public utility or school districts), the Valdez-Cordova-Copper River Valley area (assumed to include Glennallen) was not included in the Mandatory Borough Act of 1963. No boroughs have since been established in this part of Alaska.

What is occurring with the State land disposal in the Lake Louise area?

According to Wayne Monday, Resource Manager with the Department of Natural Resources (DNR), there will be a significant land disposal effort in the Lake Louise area during the next three years. The acreage for disposal in the original report dated September 9, 1981 to the LBC on the Lake Louise Detachment accurately reflects the intended land disposals planned by DNR.

The north end of Lake Louise, including Cliff Bay and Dog Bay has been patented to the State. Approximately 270 acres of this land will be disposed this spring (1983). Tentative patent has been given to the State for the west sides of Lake Louise and Lake Susitna. It is anticipated that these lands will be patented to the State by the end of November (1982).

Additionally, the State has received tentative patent to the lands proposed for disposal on the east side of Lake Louise and Lake Susitna. It is hoped that the State will receive patent to these lands within the next twelve months.