

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7760 HOUSE • COMMUNITY & REGIONAL AFFAIRS - • - HOUSE HESS

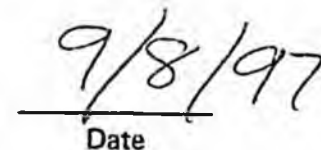


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Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, AK 99801-1182

April 15, 1994

MEMORANDUM

To: Representative Harley Olberg, Chair
House Community and Regional Affairs Committee

From: Senator Jay Kerttula

Re: SSSCR 14 name Hatchery at Main Bay: H.Z. Hansen

Please schedule the above Resolution at your earliest convenience. Attached are a sponsor statement and a zero fiscal from the Department of Fish and Game.

Thank you for your consideration of this request.

SPONSOR STATEMENT OF

SEN. JAY KERTTULA

On The

Sponsor Substitute For

Senate Concurrent Resolution No. 14

Naming of the Harold Z. Hansen Hatchery at Main Bay

Good day. I'd like to begin by thanking the Committee Chair and Committee Members for scheduling the Sponsor Substitute for Senate Concurrent Resolution No. 14 for a public hearing today.

I believe the resolution is clear. Essentially, the Sponsor Substitute for SCR 14 seeks to name the state's hatchery at Main Bay in Prince William Sound after the late Harold Z. Hansen.

Mr. Hansen was an early leader, supporter, and developer of commercial fishing in Southeastern Alaska, the Kodiak Island area, in the Prince William Sound area,

and in Cordova, where Mr. Hansen was a leader on the Cordova Fish and Game Advisory Board.

A strong supporter of the democratic process in Alaska, Mr. Hansen served with great ability and distinction in the Alaska House of Representatives and in the Alaska State Senate from statehood in 1959 until 1967. During this period, he helped develop and implement the state's fish hatchery program in the Prince William Sound region.

From 1971 to 1974, Mr. Hansen continued his active interest in Alaska's fishing resources and industry by serving as Director of the Office of International Fisheries in the Office of the Governor.

Because of his keen interest, participation in, and leadership of the state's fishing resources and industry, and because of his guidance in helping establish the Alaska's fish hatchery program, it seems only fitting that the state's Main Bay Hatchery in Prince William Sound be named after Mr. Harold Z. Hansen.

SSSCR14, Sponsor Statement, Page 3

**Accordingly, I respectfully urge the Chairman and
Committee Members to move the SS for SCR 14, and with
"do pass" recommendations.**

Thank you for considering this resolution today.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SSSCR 14

Revision Date: _____
 Title: Name Main Bay Hatchery
 Sponsor: Senator Kerttula
 Requestor: Senate Community and Regional Affairs

Dept. Affected: Fish and Game
 BRU: Commercial Fish Manage and Development
 Component: Development
 COMPONENT SERIAL NO. 1942

Expenditures/Revenues	(Thousands of Dollars)					
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()	0	0	0	0	0	0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Geron Bruce Phone: 465-6143
 Division: Commissioner's Office Date: 3/2/94
 Approved by Commissioner: [Signature]
 Agency: Alaska Department of Fish and Game Date: 3/2/94

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(7)

Date Referred: April 14, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4-26-94

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

SSSCR 14

SPONSOR SUBSTITUTE FOR SENATE CONCURRENT RESOLUTION NO. 14

NAME HATCHERY AT MAIN BAY: H.Z. HANSEN

Relating to the naming of the Harold Z. Hansen Hatchery at Main Bay in Prince William Sound.

RECOMMENDATIONS:

be replaced with _____ the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) Fish + Game

SIGNING <u>DO PASS</u>	DP	<u>OTHER RECOMMENDATIONS</u>	DNP	NR	AM
<i>Jerry Sanders</i>	✓				
<i>Joe ...</i>	✓				
<i>W.K. Williams</i>	✓				
<i>Cheryl ...</i>	✓				
<i>Harley Olberg</i>	✓				

Harley Olberg
CHAIRMAN'S SIGNATURE



HOUSE COMMUNITY AND REGIONAL AFFAIRS

DATE: 4/26/94

PLACE: Rm. 124

SUBJECT OF MEETING:
 SSSCR. 14 -
 SB 164 -
 SB 240 -

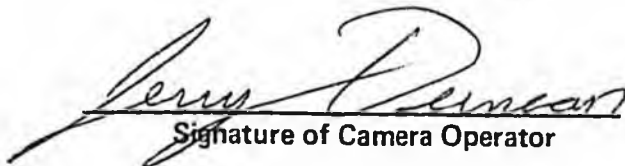
NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
DAN BOCKHORST	DCRA* LBC	333 West 4th Avenue, Suite 220 Anchorage	99501	376-4941	269-4559	<input checked="" type="radio"/> Y <input type="radio"/> N	SB 164
Bill Kelder	SEN. NEPTUNIA	427 Capitol Bldg	99801	373-2268	465-6600	<input checked="" type="radio"/> Y <input type="radio"/> N	SSSCR 14 if necessary -
Wendy Redman or Dion Elger	UofA	207 4th St. Juneau, Ak	99801	780-4818	463-3080	<input type="radio"/> Y <input type="radio"/> N	SB 240
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
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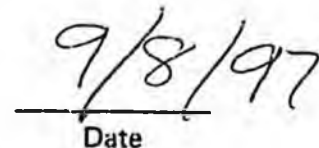


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Date

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These standards for annexation of territory to a city are briefly summarized as follows:

1. Willingness and Ability to Serve the Area (19 AAC 10.080)

It must be shown to the satisfaction of the Local Boundary Commission that the city is both willing and able to extend "full municipal services" to the area proposed for annexation. These services are defined as "all of the services that a municipality is providing to its residents with revenues raised from the municipality's general mill levy or sales or use taxes" (19 AAC 10.840(9)). It does not include services funded by user fees (e.g. utilities). Nor does it require the city to build roads, sidewalks, water and sewer utility extensions, or other capital projects to the area proposed for annexation.

If the area will not receive "full municipal services", the Commission may still approve the annexation if the city is willing to establish differential tax zones to compensate for the lower level of services.

In addition to standard

number 1, a proposal to annex territory contiguous to the existing boundaries of a city must meet at least one of nine other standards. These nine standards are summarized below.

A. Provision of Uncompensated Services 19 AAC 10.070(a)(8) This standard is met if residents or property owners in the area proposed for annexation receive or may be expected to receive city services without paying property taxes to the city. This standard may be satisfied even if the services are provided inside the current boundaries of the city.

B. Need for Services & Ability to Serve 19 AAC 10.070(a)(4) If the area proposed for annexation needs municipal services and the city can provide those services more efficiently than another municipality, this criteria is satisfied.

C. Urban Character 19 AAC 10.070(a)(3) and 19 AAC 10.070(d) This standard is met if the area proposed for annexation is similar in character to the area already within the city limits. In evaluating this standard, the Com-

mission may consider whether:

- the property in the area proposed for annexation is platted;
- the property is used for residential or commercial purposes;
- the property is suitable for urban purposes;
- the population density of the area proposed for annexation is similar to the area within the existing city limits;
- the population of the area proposed for annexation stems from growth beyond the boundaries of the city.

D. Growth and Development 19 AAC 10.070(a)(5) If the area proposed for annexation is likely to grow and develop, this standard may be met. However, the Commission must also conclude that the city will plan for and control that development.

E. Health, Welfare and Safety (19 AAC 10.070(a)(6) This standard may be met if the residents of the city are endangered by conditions existing or developing in the area proposed for annexation. To satisfy this standard, the Commission must also determine that annexation will enable the

city to relieve those conditions.

F. Need for Service Extension (19 AAC 10.070(a)(7))

If the city needs to include any of the territory proposed for annexation in order to extend services to an area currently within its boundaries, this standard is satisfied. Examples of such instances might include the need to develop a new site for a sanitary landfill, water source or sewage disposal facility, or the need to regulate the community's watershed.

G. City-owned Property (19 AAC 10.070(a)(2))

If the city owns property within the territory proposed for annexation, this standard is met.

H. Enclave within City Limits (19 AAC 10.070(a)(1))

If the territory proposed for annexation is surrounded by property already within the corporate limits of the city, this standard is satisfied.

I. Other Valid Public Purposes (19 AAC 10.070(a)(9))

This standard is satisfied if the Commission determines that the annexation proposal serves some legitimate public purpose other than those covered by the eight previously noted standards. An example might be the inclusion of adjacent industrial or commercial developments which are a natural part of the community in order to enhance the revenues of

the city. Another example might be extending voting rights to residents who are served by a municipal government, but have no right to vote in municipal elections.

3. Interlying Property (19 AAC 10.070(c))

The law provides that territory which does not meet any of the nine general standards discussed in the preceding section, may still be annexed if it lies between the current city boundaries and other territory which does meet one or more of those standards. This reflects a strong preference for avoiding "holes" in the jurisdiction of a municipal government.

CHAPTER 5 - SUMMARY AND RECOMMENDATION

SUMMARY

The proposal for annexation of 7.5 acres to the City of Palmer is justifiable. Based upon its analysis, the Department has concluded that:

- ☒ The City of Palmer is willing and able to serve the territory proposed for annexation.
- ☒ Road maintenance services are currently provided by the City of Palmer. There is a need for municipal planning services within and extending beyond the territory proposed for annexation. There is also a need for enhanced public safety, specifically animal control, in the territory proposed for annexation. The City of Palmer can provide the needed services most efficiently.
- ☒ The area proposed for annexation is urban in character as defined in the Local Boundary Commission's regulations.
- ☒ The City of Palmer has the willingness and ability to extend "full municipal services" to the area proposed for annexation.
- ☒ Annexation of the subject area would facilitate improvements to the area and would likely lead to an increase in property values for neighboring areas within the existing Palmer municipal boundaries.

of the parties involved in this annexation support the use of the legislative review process. This conclusion was reached on the basis of guidelines recently adopted by the Commission.

RECOMMENDATION

On the basis of the analysis presented in this report, the Department recommends that the Commission approve the annexation of the 7.5 acres requested by the City of Palmer.

Voter approval of the boundary change proposal is impractical in this instance, due to the absence of sufficient registered voters in the area proposed for annexation, the Department has concluded that the balanced interests

LOCAL BOUNDARY COMMISSION REGULATIONS

Article 3. Standards for Annexation to Cities

Section
65. Applicability

70. Annexable territory

Section

80. Application of standards

90. Annexation of incorporated territory

19 AAC 10.065. APPLICABILITY. The provisions of 19 AAC 10.070 — 19 AAC 10.090 apply to a proposal for annexation by local action (19 AAC 10.630 — 19 AAC 10.730), by legislative review (19 AAC 10.450 — 19 AAC 10.620) or by the step process (19 AAC 10.735 — 19 AAC 10.790). (EFF. 2/21/82, Register 81)

Authority: Art. X, Sec. 12, Ak. Const.
AS 44.47.567

19 AAC 10.070. ANNEXABLE TERRITORY. (a) Territory which is contiguous to a city may be annexed to that city if one or more of the following standards are met:

(1) the contiguous territory is totally surrounded by the city's boundaries;

(2) the land in the territory is wholly owned by the city;

(3) the territory is urban in character;

(4) the territory is in need of municipal services which the city can provide more efficiently than another municipality;

(5) there is a reasonable likelihood that future growth and development will occur within the territory and that annexation of the territory will enable the city to plan for and control that development;

(6) the health, welfare, or safety of city residents is endangered by conditions existing or developing in the territory and annexation will enable the city to remove or relieve those conditions;

(7) the extension into the territory of city services or facilities is necessary to enable the city to provide adequate service to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the city's boundaries;

(8) residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate property tax contributions, whether city services are rendered or received inside or outside the territory;

(9) the annexation is otherwise necessary to accomplish a valid public purpose.

(b) Territory which is not contiguous to a city may be annexed to the city if

(1) the land in the territory is wholly owned or leased by the city or used primarily for the performance of city functions; and

(2) annexation is necessary to enable the city to achieve adequate control, protection, or management of the property.

LOCAL BOUNDARY COMMISSION REGULATIONS
(continued)

(c) Territory which does not meet the standards of (a) of this section may be annexed to a city if the territory lies between the city boundary and other noncontiguous territory which meets the requirements of (a) of this section.

(d) In determining whether territory is urban in character for the purposes of (a)(3) of this section, the commission will, in its discretion and without limitation, consider whether the property is platted or held for sale for residential or commercial purposes, whether the population density of the territory approximates that of the annexing city, whether the population of the territory stems primarily from actual growth of the city beyond its legal boundaries, and whether the property is valuable primarily by reason of its suitability for prospective urban purposes.

(e) In determining whether the standard established in (a)(8) of this section is met, the commission will consider alternative methods available to the city for offsetting the cost of providing services to individuals or property beyond its property taxation powers. (Eff. 2/21/82, Register 81)

Authority: Art. X, Sec. 12, Ak. Const.
AS 44.47.567

Editor's notes. — 19 AAC 10.070 is based on a former version of 19 AAC 05.010.

19 AAC 10.080. APPLICATION OF STANDARDS. (a) The commission will not approve an annexation unless the annexing city demonstrates to the satisfaction of the commission that it is capable of extending, and is willing to extend, services to the annexed area as follows:

(1) full municipal services shall be extended to the annexed area immediately unless

(A) the annexation is pursuant to 19 AAC 10.735 — 19 AAC 10.790; or

(B) the immediate extension of full municipal services to the annexed area is impossible because of a lack of necessary facilities, in which case the annexing city shall satisfy the commission that it will provide the services within a reasonable time;

(2) if the annexation is under 19 AAC 10.735 — 19 AAC 10.790, the commission must be satisfied that the city's plan for gradual extension of services reasonably compares with a plan for gradual extension of taxation and provides for extension of full municipal services to the annexed area within the time period established under 19 AAC 10.740.

(b) The commission will, in its discretion, conduct public hearings or investigations after a detachment to determine if the service requirements of residents are being met. If the commission determines that the service requirements of the residents of the territory are not being met, it will, in its discretion, begin annexation proceedings under this chapter.

LOCAL BOUNDARY COMMISSION REGULATIONS
(continued)

(c) Notwithstanding the provisions of (a) of this section, the commission will, in its discretion, approve an annexation by a city which has authority to establish and operate differential taxation zones if the commission is satisfied that the city is willing and able to use that authority to

(1) provide the territory with such services as may be desired by residents of the territory; and

(2) insure that the annexed area is not subjected to unfair taxation for services not available in the annexed area. (Eff. 2/21/82, Register 81)

Authority: Art. X, Sec. 12, Ak. Const.
AS 44.47.567

Editor's notes. — 19 AAC 10.080 is based on a former version of 19 AAC 05.020.

19 AAC 10.090. ANNEXATION OF INCORPORATED TERRITORY. (a) For the annexation by a city of territory of another municipality, the commission will determine the method by which assets and liabilities are to be distributed between the city and the municipality formerly providing services. In determining the distribution of liabilities and assets, the commission will, in its discretion, approve an equitable agreement between the municipalities affected but will independently review the proposed agreement.

(b) Territory which is part of a city may not be annexed to another city unless the commission determines the annexation to be in the best interests of the annexing city, the city from which the annexed territory is taken, and the annexed area.

(c) Separate or additional proceedings are not required for detachment from a city or borough of territory which becomes annexed to another city; the detachment is effected by and at the same time as the annexation. (Eff. 2/21/82, Register 81)

Authority: Art. X, Sec. 12, Ak. Const.
AS 44.47.567

Editor's notes. — 19 AAC 10.090 is based on former versions of 19 AAC 05.030 and 19 AAC 15.040.

TO: MEMBERS OF THE LOCAL BOUNDARY COMMISSION

SUPPORTING BRIEF

ANNEXATION OF AN AREA TO THE CITY OF PALMER BY LEGISLATIVE REVIEW - APPROXIMATELY 7.5 ACRES

This brief, to the best of our ability, satisfies existing rules and regulations of 19 AAC 10.070-10.080 and the proposed regulations under 19 AAC 10.090-10.140, whereby the City of Palmer must exhibit reasonable need for annexing certain areas within Section 28, Township 18N, R2E of the Seward Meridian more specifically described as: Lot 22, Pribyl, Grasse and Grasse Subdivision; Lots 1 through 10 and Lots 20 through 27, Block 1 of Riverside Subdivision as well as a portion of the Alaska Railroad right-of-way.

The proposed area to be annexed abuts the current City of Palmer corporate limits on three sides. Further, this property fronts a major arterial street as designated in the 1985 City of Palmer Traffic Study prepared by Datum Engineering. In addition, sanitary sewer, storm sewer and water mains are adjacent to this property with more than ample capacity.

Presently, this property is located in the Matanuska-Susitna Borough which does not provide for areawide zoning, police protection, building code enforcement or health and sanitation enforcement. Since the Matanuska-Susitna Borough does not provide areawide zoning, the proposed area to be annexed is unzoned.

In 1990, the City received a petition signed by 61 area residents urging the City to annex this area because of the continued problems of loose dogs going onto adjoining property and getting into garbage cans, dogs harassing school children waiting for the school bus at a designated pick-up site, Matanuska winds depositing debris from this area into their yards, decreased property values by the continued accumulation of inoperable cars and trucks, and accumulation of used building materials, to name a few of the legitimate concerns. At that time, the City chose not to annex this property subject to the Legislative Review process with anticipation that the property owners would police themselves to alleviate the concerns of the City residents. A copy of the 1990 petition is attached and made a part of this exhibit.

However, since the property owners chose not to mitigate the problems and concerns, in 1991 the City chose to seek a

Legislative Review annexation of the aforementioned parcels.

The large number of unleashed and unrestrained dogs which the Matanuska-Susitna Borough allowed to be on the premises has taxed the City's police department for providing animal control to the City residents in this area. However, the number of animals has not decreased except when the Matanuska-Susitna Borough revoked the owner's kennel license which has subsequently been reissued.

On the aforementioned parcels, there are four houses and one garage, of which one is inhabited by the owner of record of the largest number of lots described above while three remaining houses are inhabited from time to time by various people. The City was informed by the resident that there is no water or sewer services to the property at this time. The City has no knowledge as to how the resident and other buildings on the aforementioned parcels of land dispose of the sewage.

The City of Palmer's sewer and water system have been designed and constructed to accommodate a population equivalent of 10,000 people. Presently the City's population is 3,008. Further, with the annexation of this property, the storm sewer which abuts this property is designed to carry any additional storm water runoff created.

The annexation of this property will not increase the Palmer police department's workload but in all probability will lessen particularly the dog call responses. At the same time, no additional burden will be placed on the public works department since it presently maintains East Eagle Street due to it being a direct access route to the Swanson and Sherrod Elementary Schools. The City of Palmer will not be increasing its labor force as a result of this annexation. Further, this property is presently receiving road maintenance benefit without paying for the service.

The continued health and safety concerns of the City of Palmer's residents can be mitigated upon annexation through the enforcement of city zoning ordinances and health ordinances which will require the removal of inoperable vehicles, mandatory garbage collection for all city residents, compliance with the Uniform Building Code, and compliance with the city's animal control ordinance, which limits the number of dogs and cats allowed in a single family resident as well as prohibits the harboring of livestock within the corporate limits. Further, the City of Palmer's nuisance ordinance requires that the property owner maintain his/her property free of debris as well as prohibits the animals from becoming an annoyance to the neighbors.

It is the City of Palmer's policy not to provide services to any area outside the corporate limits unless they are annexed. There has not been an exception to this policy since 1980, when the City undertook a multi-million dollar sewer and water system expansion.

The City of Palmer as late as February 20, 1992, has attempted to conduct an informal door-to-door census of the residents residing in the buildings, however we have received no responses. During the door-to-door survey attempt, the City asked the one resident if water and sewer service was provided to all the buildings in the area. The City of Palmer did contact the State Elections Office to determine there is one registered voter in the proposed area to be annexed.

**STATEMENT TO THE SENATE C&RA COMMITTEE
BY DARROLL HARGRAVES, CHAIRPERSON, LOCAL BOUNDARY COMMISSION
REGARDING THE ANNEXATION OF 7.5 ACRES TO THE CITY OF PALMER**

February 8, 1993

Thank you Mr. Chairman.

The Local Boundary Commission was created under Alaska's Constitution to ensure that proposals involving local government boundaries would be analyzed objectively, with consideration given to the interests of all of parties. In the case of the Palmer annexation, these include:

- the residents & property owners within the area proposed for annexation;
- the residents & property owners surrounding the area proposed for annexation;
- the City of Palmer; and
- the Matanuska-Susitna Borough.

Before the Commission acted on the Palmer annexation proposal, it considered hundreds of pages of written comments and other material. It also listened carefully to many hours of testimony. Our decision was a difficult one, but one that I strongly believe represents the balanced best interests of all involved.

Using the criteria set out in law, the Commission approved the City of Palmer's annexation petition based upon the following findings and conclusions:

1. The territory proposed for annexation is clearly part of the compact community of Palmer. Nothing separates that property from the adjoining property except the invisible corporate boundary of the City of Palmer.

As part of the community, the property in question should rightfully be governed by the same law and rules which apply to other property in the community. These laws and rules have been enacted by the duly elected representatives of the community.

2. ~~Conditions~~ existing in the area proposed for annexation represent a threat to the health, welfare or safety of adjacent residents.¹ Among these threats is a large number of dogs which are a major source of animal control

¹ The phrase "health, welfare, and safety" is interpreted by the Commission in a broad manner. The term includes the prosperity, well being, or convenience of the public at large, as distinguished from the advantage of an individual. It embraces the primary social interests of safety, order, morals, economic interests, and non-material and political interests.

**STATEMENT BY DARROLL HARGRAVES
PAGE TWO**

problems. Unfortunately, the dogs do not respect the invisible corporate boundaries of the City. The Commission heard many reports of historical and contemporary incidents of animal control problems stemming from the area in question.

The Commission was persuaded by the City's argument that the dog problems constitute a threat to the health, welfare and safety of City residents. The City cited the standard treatise on municipal law which noted that :

Dogs have been viewed as constituting nuisances, at least where they are ferocious or have the habit of jumping and biting at children or other people. Indeed, such a dog is a nuisance of the worst sort . . . Furthermore, the keeping of dogs may be a public nuisance by reason of their howling, barking and whining, the stench they cause, unsanitary conditions in which they are kept, or their disturbing of people in the reasonable use and enjoyment of property, or where any of these factors cause annoyance, discomfort or injury to the health or welfare of persons. 7 McQuillin, Municipal Corporations, §24.284 at 195, 196 (3d ed. 1989). See also 4 Am. Jur. 2d, Animals, §63 at 312; and 66 C.J.S., Nuisances, §32 at 786.

Other potential health, welfare and safety concerns relate to the existence of some fifty abandoned vehicles and untold quantities of other material on the property in question. The City characterized this circumstance as "an accident waiting to happen for City families to live next to an unregulated junkyard full of attractive nuisances" The City also stated that "[W]hile the Borough law, which is written for rural areas, allows this unsafe and unhealthy condition, the City Code requires its abatement. Cleaning up will not be unduly expensive . . ."

Again, unfortunately, children who might be lured into danger by the alleged attractive nuisances do not acknowledge the invisible corporate boundary of the City of Palmer.

Additionally, it has been noted that all of the dwellings in the territory proposed for annexation use pit privies. The City of Palmer noted that "It is unhealthy and unsafe for the City residents to live downhill from lots containing a dense population using privies for a sewerage system when such lots could not lawfully be established under current health and subdivision laws. These dangers would be eliminated by annexation as the

**STATEMENT BY DARROLL HARGRAVES
PAGE THREE**

property would be connected to the City's water and sewerage systems, which are DEC and EPA approved. The City has the capacity and is willing to serve the territory; and City water and sewer services presently abut the territory."

Here again, sewage and wastewater do not recognize the invisible corporate boundaries of the City of Palmer.

Collectively, the Commission viewed the circumstances in the area in question as a threat to the health, welfare, or safety of city residents.

Further, the Commission found evidence that neighbors and adjacent property owners, as well as local officials, have diligently attempted to resolve the problems stemming from the area in question over the past many years. However, those efforts have failed. Annexation will enable the City of Palmer to address the threats to health, welfare or safety.

In addition to the preceding findings and conclusions, the Commission determined that:

3. The City of Palmer is willing and able to serve the area proposed for annexation.
4. The City of Palmer provides road maintenance to the area proposed for annexation and receives no property tax payment for same.

These last two conclusions are far less significant than the first two, however, they warrant a brief mention.

In conclusion, I respectfully urge the Committee to support the legitimate need for the extension of the jurisdictional boundaries of the City of Palmer.

If you have any questions, I will attempt to answer them.

To: Shirley Armstrong, Senate C&RA **FAX 465-4979**

From: Dan Bockhorst

Date: February 8, 1993

Per your request, the following is a list of names and telephone numbers of owners of the property proposed for annexation to the City of Palmer:

Annex

<i>NO</i>	Dean & Melinda Dewey	(Anchorage)	248-2450 <i>243-7937</i>
<i>NO</i>	Robert Bailey	(Palmer)	745-3020
<i>NO</i>	Michael Dresnek	(Chugiak)	688-5649
	John Grasse	(Mequon, Wis.)	
<i>NO</i>	Alaska Railroad Corp	(Anchorage)	265-2300 <i>Bonnie Bailey</i>

The Alaska Railroad's interest is limited to a right-of-way.

Box 1203
Sitka, AK 99835
POSITION STATEMENT: Offered information on annexation

ACTION NARRATIVE

TAPE 93-5, SIDE A

Number 001

The Senate Community & Regional Affairs Committee was called to order by Chairman Randy Phillips at 9:10 a.m. He announced the first order of business would be taking testimony over the teleconference network on the Palmer annexation.

Number 025

DEAN DEWEY, testifying from Anchorage, stated he and his wife Melinda Dewey are the owners of three lots located in the area to be annexed and they are opposed to the annexation. The land is used for agricultural purposes as it has always been since they acquired it in 1975. He said he can see no benefit to having it annexed at this time, and it would only be another tax burden on him which the land cannot support. He noted that the land contains no animals, no buildings or trash on the property. He also noted that he has a quit claim deed to the adjacent railroad property in case that is ever abandoned.

Number 085

ROBERT BALEY testifying from Palmer said he is the main reason this annexation is being done and they are trying to force him to leave. He said he bought the property in 1967 and he was there 10 to 15 years before any other houses were built around him. When he bought the property, it was unrestricted land, and the things he has on it are the things that he has bought and collected over the years. He said what they are trying to do to him is un-American and he has opposed this annexation since its inception.

Number 125

MICHAEL DRESNEK testified from Anchorage in opposition to the Palmer annexation, stating he was the owner of a lot in the area to be annexed. He said it was an unrestricted lot when he bought it and that was the reason he bought it. He added that he sees no monetary gain by the City of Palmer by annexing it.

1/28/93

Dear Senator Phillips;

I am writing in response to the petition for legislative review annexation to as29.06.040 (B) of approximately 7.5 acres within section 28, Township 18 N, Range 2 E, s.m. As a property owner of lot 20, Block 1, of the revised plat of the Riverside Subdivision, I would like to express my deep concern regarding intentions to forcibly annex this property. I am strongly against such an action. I bought this property because it's unrestricted and I want to keep it that way. I Beg you to deny this petition.

Respectfully,

Michael T. Dresnek
Michael T. Dresnek

Marilyn A. Dresnek
Marilyn A Dresnek

21131 Eastside Dr.

Chugiak Alaska 99567

ALASKA RAILROAD CORPORATION

City Commission
7-23



P.O. Box 107500 • Anchorage, Alaska 99510-7500

July 11, 1991

RECEIVED
JUL 1 1991
CITY OF PALMER

Planning and Zoning Advisory Commission
City of Palmer
231 W. Evergreen Avenue
Palmer, Alaska 99645

Re: Riverside Subdivision, Lots 1 through 10 and Lots 20 through 27, Block 1

The Alaska Railroad Corporation is not in favor of the City of Palmer annexing the Alaska Railroad's right-of-way to the City of Palmer.

Sincerely,

Bonnie G. Bailey
Bonnie G. Bailey
Leasing Specialist

February 9, 1993

Senate Community & Regional Affairs Committee

Gentlemen:

Not being very comfortable with Public Speaking, yet needing to defend my character and my liberty against this annexation, I have decided to this letter faxed to you.

My animals have, again and again, been brought up as a reason to annex this property. I have found that it is very difficult to answer to outright lies that have been spread by a very few individuals, and the City of Palmer. Three small pages of lies takes volumes and volumes to respond to. The charges that were mentioned by Councilmember Melton this morning are stale and unsubstantiated. My dogs do not bark "day and night". If they were allowed to this alleged continuous barking, it would certainly be a bother to me; I share my cabin with them. The only two instances where my dogs have bitten anyone, which occurred years ago, resulted in the people involved apologizing to me for their inappropriate behavior around my dogs which directly led to the bite occurring. I have never even been cited for any dog bites.

The claim that a dog from this property killed Mr. Smith's peek-a-poo raised during this annexation is the first I can ever remember hearing of this incident. The was not my dog, but belonged to a tenant that was on the property when I purchased those lots.

In all the years that I have suffered this attack from these people, through all the Animal Control complaints lodged against me, and the complaints mentioned by the City today, the Matanuska Susitna Borough never was able to substantiate these accusations and the great bulk of these complaints were made over 3 years ago by mostly ~~the~~ same six people. In fact during the summer of 1989 when this ~~attack~~ intensified and a large volume of complaints were made, a crew that had worked in this area reported none of my dogs were seen or heard. Once the crew left, a large number of complaints, that were never substantiated by Animal Control, came flooding in.

I do not allow my dogs to run loose. They sleep with me inside my cabin at night. My dogs have occasionally escaped, over the years, but I am always prompt to catch them. I have picked up trash in this neighborhood, whether spread by my dogs, or one of the one hundred in this area. My dogs are continually being blames for behavior that is impossible for them to be doing.

There have never been any problems with my dogs and children. Children are over here every day without incidents. I am a grandfather, with 7 on the ground and three "in the pocket".

People may scorn me for my hobby of finding uses for what other's discard, but what those City people call junk is often useful and necessary items to people without. Some Valley mothers bring their children to my house to pick up clothing or other necessary items, for the entire family.

My dogs love children, and in light of the fact that I do not let them run loose, I deny that they have ever "harassed" children at a school bus. The City has not shown me any documents from the Borough that verify that anyone has ever had any problems with the School Bus Stop.

There is no trash or litter from spread my property. Stacks of pallets and antique cars are not litter. There is no "loose debris" on my property that could possibly be blowing into the neighbors yard. If the items in my yard could blow around, they would have long since ended up in the neighbor's yard. Eagle Street is a school route, and I am made to pick up blowing garbage as much as any resident of this Valley.

These people actually accuse me of devaluating their property, and continue to argue that they haven't been able to sell houses in this area because of me. A realtor stood up at the Local Boundary Commission hearing and stated that she had sold this person's home, but the buyers were unable to get financing.

Mr. Gallagher, with his usual respect for the truth, stated this morning that he has been on his property since 1982. I don't believe he became a neighbor to me until after 1989.

These people, including the City, have ever discussed what I would need to do to appease them. They have never spoken to me in a civil manner, or addressed me to "alleviate" their concerns.

They have instead threatened me repeatedly with annexation, and ridiculed ~~any~~ attempts that I have made to conform to their standards, ~~as~~ alleviate any concerns of theirs to my lifestyle, so far.

Mr. Snodgrass spoke this morning, saying that he was there first and the City grew around him, even condemning part of his property. Now they are doing this to me. Why is this not O.K. for him, but O.K. for me? Does he have City sewer and water on his property?

I am now and, to my knowledge, always have been within Borough Code. I have now fenced the entire property and double fenced my yard in an attempt to appease these neighbors.

They keep saying something about a refrigerator on my property that is dangerous to children. One tenant has a fish smoker that he made from a refrigerator, that is similar to one owned by my complaining neighbor, Mr. Vogt. This smoker couldn't suffocate anyone with the large holes that have been cut it. The City and the neighbors are just digging, with no substantial proof, for evidence of wrong doing on my part.

I am sorry that this annexation has affected 4 other property owners, innocent of anything to do with this. My neighbors outside of the City have always been good neighbors to me, and I am sorry that this has the potential to set a precedent against them as well. I have tried to appease my City neighbors, but nothing will appease them. I will not build a bunch of houses here as the City wants. I will continue to fight for my rights, especially my right to use my property for my own needs. My property Deed states "to have and to hold the same, with the tenements, hereditaments, and appurtenances there unto belonging or in anywise appertaining unto the said grantee(s), and to all its success's and assigned, forever." This means that my property is mine, and my children's forever. I strongly oppose this annexation and hope that you will also. Thank you!

Mr. Robert E. Bailey

Robert E. Bailey

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

SUBMITTED
1/4/93
TO THE LOCAL BOUNDARY COMMISSION

January 4, 1993

TO: LOCAL BOUNDARY COMMISSION
FROM: ROBERT ED. BAILEY *Robert Ed. Bailey*
THROUGH: Robert H. Knight, Jr., Consultant to Mr. Bailey *RHK*
SUBJECT: REQUEST FOR RECONSIDERATION OF
LBC DECISION TO APPROVE ANNEXATION

Mr. Bailey hereby requests the Local Boundary Commission to reconsider its December 30, 1992, decision to approve the City of Palmer's petition to annex Mr. Bailey's and four other property owners' land into the City of Palmer.

The essential elements requiring reconsideration involve due process issues as well as a significant difference with respect to views expressed about Mr. Bailey's fate if annexation goes through.

The other essential element derives from the decision document itself. That document was handed to Mr. Bailey's consultant after it was voted on by the Commission and not before Mr. Bailey's consultant had a chance to address the Commission; i.e., nothing was said at that time.

The contents of the decision document do not reflect the comments of the Commissioners when they first voted 3-2 in favor of the annexation on December 21, 1992. The comments of the dissenters are summarized in footnote 3 on page 3 of the decision. The views of the majority are not those set out in the decision, at least as expressed on December 21st.

For instance, Commissioner Johnson expressed concern about "the children." A video tape which only Commissioner Cotten viewed contained footage about children in proximity to Mr. Bailey's property. Commissioner Cotten did not mention that or the other contents of the tape in his lengthy dissertation on the law and other matters as set out by the petitioner.

The Decision reflects none of this. The Decision appears to reflect the staff report efforts. Citing ~~video evidence~~ ~~from Police Chief Otte~~ on page 7 with regard to complaints and dogs when ~~nothing~~ ~~was reported~~ should not be the basis for a Commission decision. No expert testimony was provided or evidence produced with respect to pit privies as cited on page 8 of the Decision. The mere speculation about City residents living downhill does not speak to such technical matters as the depth of the water table, the direction of flow of that water any more than it cites a single problem ever produced by the use of these pit privies. The Commission should demand hard evidence when making a judgment on a hostile annexation. There is no hard evidence of any relevance. A dog incident more than 12 years old is cited in support of the decision. That dog did not belong to Mr. Bailey. The dog belonged to a tenant that Mr. Bailey had inherited that year when he bought that particular lot. The Staff has clearly reached as far as it could to try to justify the Commission's vote. The evidence cited is not relevant evidence. It is stale evidence. In a fair trial, a 12 year old misdemeanor would not be permitted in as evidence. The use of a 1988 incident is highly questionable in view of all the changes that have occurred since then.

Then Conclusion set out on page 8 of the Decision states that "viewed collectively" all of the problems thrown out by the petitioner constitute a threat to health and safety and welfare of city residents. **The only thing that the City proved in its testimony is that there were some unhappy people who petitioned in 1989.**

The due process element requires even in administrative proceedings something akin to the fair trial philosophy anyone receives under the Alaska and U.S. Constitutions. This fair trial element is clearly missing from these proceedings from the beginning to the end.

For instance, it has only recently come to Mr. Bailey's attention that Mr. Matera, a witness at the public hearing was one of the original petitioners and, after signing the petition, sat as a member of the Palmer Planning Commission reviewing the petition and voting it forward to the Palmer City Council. The very origins of the petition are invalid! Mr. Matera should have recused himself from the consideration of the petition because he was a petitioner. The LBC should reject the petition because it was fatally flawed at the outset.

The Commissioners should not overlook such flaws when the matter is a hostile annexation. Mr. Bailey respectfully suggests that he is entitled to fair play at every step in this matter and that he did not receive it when Mr. Matera voted as a member of the Planning Commission on the petition in the first place.

The Commission should have ignored Chief Otte's vague affidavit when it was shown from minutes of the Palmer City Council that a Council Member was agreeable to flooding the police with dog complaints.

The unlicensed vehicles on Mr. Bailey's property were never shown to be a hazard to anyone. In fact testimony was presented by several mothers of small children asserting that their children had played on Mr. Bailey's property without ever being harmed in any way.

The misreading of Ms. Hummel's October 19th letter by the Staff appears to be stretching. Ms. Hummel was never asked about that letter despite making personal efforts to be available as an expert witness to the Commission. Ms. Hummel intended that letter to point out the kinds of problems the City of Palmer might be creating for itself through the annexing of Mr. Bailey's property. ~~This information~~ was provided because Ms. Hummel had seen similar efforts in other parts of the ~~United~~ States. Misreading the letter without bothering to ask her about it and using it in support of the Commission's vote is stretching too far.

The lack of water and sewer facilities were addressed by only one certified sanitarian: Ms. Hummel. No expertise was ever summoned to refute her findings and conclusions. Only the idle speculation of unqualified persons was given to the Commission with respect to the petitioner's views on the matter of privies, etc. The LBC and the people of the State of Alaska deserve better than that.

Ms. Hummel's use of the word "nuisance" in her letter is not explained by the Staff. It is simply thrown out as though it were somehow significant. Mr. Bailey has asserted all along that if the

neighbors wanted to do something, their appropriate action was a nuisance suit in court. What is being made of the use of "nuisance" in Ms. Hummel's letter is not clear although it seems to be cited in support of this decision. Such vagueness should not be a part of the Commission's decision.

Footnote 7 on page 8 states only that efforts were made to arranged for a DEC person to go to Mr. Bailey's property. The full story is laid out in the materials submitted by Mr. Bailey. The footnote ignores the facts. Commission decisions should be on firmer ground. The Commissioners should revisit the decision and review point by point the materials submitted.

Commissioner Cotten spoke at some length about how Palmer bears Mr. Bailey no ill will in his comments prior to voting on December 21st. An affidavit is attached to this submission which indicates clearly that Commissioner Cotten's view is not shared by the Palmer police. That affidavit shows that a Palmer policeman asserted that he could not wait to arrest Mr. Bailey. Additionally, Mr. Bailey's son was stopped by the police and given an unsigned summons for something he asserts he did not do. Two other friends of Mr. Bailey's were stopped or arrested after the public hearing. An affidavit is attached showing that two persons saw Palmer police writing down the license numbers of the cars in the parking lot at the Hearing Chamber on the night of the Commission's public hearing (11/20/92). Clearly, Mr. Bailey's future in the City of Palmer is not a happy one. In view of the clear intention of the City of Palmer to arrest Mr. Bailey at the first opportunity, the Commission should reconsider this vote and deny the petition.

City Manager Soulak's personal observations on Mr. Bailey were reported in the Anchorage Daily News prior to the Commission's vote. The City Manager has ample opportunity to make known his personal views ever since the matter started. He has never done so. Expressing those views to the media may have been inadvertent, but the fact remains Mr. Soulak is an authority figure in the petitioner's organization and his views carry weight. Such views should not be permitted in the public just prior to the Commission's casting its votes on this matter. In particular, where the vote is close as it was in this matter, every element should be important.

Neither Mr. Soulak with his comments in the paper, nor any of the witnesses presenting testimony was ever subjected to questioning or cross-examination by Mr. Bailey or his representative. Specificity was lacking as to specifics at every turn, yet the testimony was allowed in as sworn testimony. (Not Mr. Soulak's newspaper quotes, but the others').

The Commission should take the time to reflect on the kangaroo court efforts to pillory Mr. Bailey and the lack of real or hard evidence to support such efforts.

Indeed, the final statement in the Decision's conclusion shows that the annexation is being put forward simply to solve a neighborhood problem that should have gone to court as a nuisance suit in the first place. The legislative review annexation process is clearly being used to support a City effort to force Mr. Bailey to forsake what is a legal lifestyle and live as the City of Palmer would have him live. It is an invasion of privacy, a violation of his civil rights to annex him so that a policeman can arrest him, a lack of due process and a lack of equal protection. These arguments are spelled out in detail in the October 21, 1992,

Review and Comments submitted by Mr. Bailey and as other violations occurred in subsequent submissions.

Commissioner Cotten missed the November 20, 1992, public hearing. He subsequently reentered the matter. He traveled out to Palmer to view Mr. Bailey's property without calling on Mr. Bailey. About the time he was supposedly visiting, Mr. Bailey saw two men come on to his property. He had never seen Commissioner Cotten and so would not have been able to identify him. Commissioner Cotten needs to state whether he was accompanied by anyone when he visited Mr. Bailey's property and whether he had any conversations with anyone besides Staff or other Commissioners regarding the matter.

Finally, Commissioner Cotten should have recused himself from participating or voting on the matter. In 1991, Mr. Bailey's consultant, Mr. Knight, was the Division Director of the Municipal and Regional Assistance Division in the Department of Community and Regional Affairs. A Deputy Division Director job came open under Mr. Knight. Mr. Cotten expressed strong interest in the job and was interviewed for it by Mr. Knight. Mr. Cotten was subsequently not selected for the job. Mr. Bailey thought that Commissioner Cotten's absence from the public hearing meant that Mr. Cotten did not intend to participate. It was not clear up until the time during the vote on December 21st when Mr. Cotten said how he would vote that Mr. Cotten intended to vote. Mr. Cotten did not reveal to his fellow commissioners that he had had the above described negative contact with Mr.

Bailey's consultant. The parties, though present at the vote meeting, were prohibited from speaking out at the vote meeting. No objection was taken then, but was entered at the next available opportunity to speak. Neither Mr. Bailey nor Mr. Knight wishes to raise a personal matter like this, but where the matter is a forced annexation and the vote is 3-2 and one of the majority has had a prior contact which should have caused him to recuse himself or absent himself from the vote, Mr. Bailey respectfully suggests that the Commission should revisit the decision, reconsider the vote, and vote again. Whether or not Mr. Cotten's views were or were not swayed by that prior contact is not as important as the integrity of the decision process itself.

A 2-2 tie vote would have meant a denial of the petition. Mr. Cotten's lengthy speech on behalf of Palmer was picked up and endorsed by Chairman Hargraves. Whether his vote was swayed in fact by Mr. Cotten's speech is not as important as the fact that Commissioner Hargraves endorsed what Mr. Cotten said. Had not Mr. Cotten said those things or had he revealed that he had had negative contact with Mr. Bailey's consultant and recused himself, the vote might well have been changed.

The Commission should reconsider its vote and disallow Commissioner Cotten's participation in the vote leaving the first vote at 2-2, rewrite its decision based upon the hard points made, and deny the petition.

The due process and basic fairness problems with this annexation effort started at the very beginning when unhappy neighbors attempted to use political might to force a neighbor to change his living patterns. The courts were and are available for such matters. The executive branch and the administrative process should not be available for such misuse as has occurred

here. The stretching of the Staff in drafting the Commission's decision shows that there is nothing of substance to support it. Commissioner Cotten's participation at this end of the process completely fouls the integrity of the process. The other elements are already set out in the materials sent to the Commission. They are incorporated here by reference. From Mr. Materz's participation as a petitioner and a planning commissioner to Commissioner Cotten's unrevealed negative contact with Mr. Bailey's consultant, the handling of this petition is flawed. The Commission must reconsider its decision.

Mr. Bailey wishes to express his personal appreciation for the personal courtesies he has been shown in his contacts with the Commission. He also wishes to express his appreciation for the professional handling of the matter by the Commission's Staff.

File No: 465 4979 3rd total

P.O. Box 244491
Anchorage, AK 99524-4491

February 10, 1993

Senator Randy Phillips, Chair
Community & Regional Affairs Committee
Alaska State Senate
Capitol Building
Juneau, Alaska

Dear Senator Phillips:

Thank you for holding the hearing on Palmer's hostile annexation of 7.5 acres. I was more than a little concerned that the "accused" in this matter, Mr. Bailey, had to go first. Justice requires that the accuser make the case before the accused has to respond. I recognize that a Committee hearing is not a court of law and the rules of the Committee are not the rules of a court. Nevertheless, this element of the hearing gives me pause for concern for the People of the State of Alaska.

That concern grows out of the history of this proceeding. The proceeding has been tainted from beginning to end. It started with a Planning Commission member's participation as both a petitioner to the Planning Commission and as a voting member of that Commission when it took up the matter back at the beginning. The procedural unfairness has continued through this hearing. The record at the Local Boundary Commission Staff's office in Anchorage (269-4559) has the complete file.

Those offering testimony in support of Palmer's petition have consistently attempted to downplay the facts and emphasize the emotional aspects of this matter. For instance, the story of the five pound dog's being killed by a dog from Mr. Bailey's property occurred over twelve years ago. The dog belonged not to Mr. Bailey, but to a tenant Mr. Bailey inherited when he bought the lot the preceding year. A person living under Palmer's law would not have been protected by Palmer's law in that case. A dog owner is allowed to have up to three dogs in Palmer. The tenant owned but one. How would annexation in any way solve that problem? It would not. It is a matter either for animal control or for the courts. It is not an appropriate matter for resolution by legislative annexation.

When one goes carefully through the accusations and proceedings, each element used to support the Palmer case comes unraveled under close scrutiny. The matter is an emotional one: not an appropriate subject for legislative annexation.

Normally, as I understand the policies involved, the legislature would be loathe to vote down the findings of the Local Boundary Commission unless some element of law or policy had been overlooked. This is a sound policy. Here, it is clear that the LBC has overlooked the procedural requirements of fairness in a hostile proceeding.

The LBC is a body of lay persons charged with a difficult job. It has recognized the difficulties by its adoption of more rigorous procedural rules. Those rules, however, do not permit the cross examination of hostile witnesses. Thus, the Commissioners have to rely on their untrained sensibilities to sort out truth from fiction from lies. That the Commissioners did not question closely the witnesses supporting the annexation petition was a clear oversight in the process and unfair to Mr. Bailey.

The rules do not permit a party to subpoena documents. Thus, Mr. Bailey was unable to bring into the record documentation that would have discredited witnesses or provided a different perspective on the history of this matter from the one offered by Palmer's witnesses.

Palmer has made clear from the outset that it regards Mr. Bailey as a "nuisance." It has never made an effort to take Mr. Bailey to court on a charge of nuisance -- either criminal or civil. The courts are the traditional and appropriate forum for nuisance complaints. It is a misuse of the legislative annexation process to substitute it for court action.

The record contains a myriad of detailed problems with the process. This letter is simply to ask that the Committee look into the record in a detailed way. Sending the matter off to be buried in another Committee will have the de facto effect of approving Palmer's actions. If not rejected within 45 days (by, I believe, March 6, 1993) this action will pass into law. The people of Alaska will be the loser.

The misuse of governmental power to accomplish an inappropriate emotional goal disrespects all the people. There are appropriate mechanisms in the courts with which to test one's feelings on a matter such as this. By voting down the petition, the legislature does not approve Mr. Bailey's lifestyle choices or disapprove his neighbors' unhappiness. What a vote against the petition will do will be to insure the integrity of the process.

Notions of Fundamental Fairness and notions of Fair Trial have been violated throughout these proceedings. A vote to restore the integrity of the process does not prohibit Palmer from taking appropriate action.

Palmer does not come with clean hands to this proceeding. The LBC has requested that they stop the piecemeal annexation approach and get their own house in order. The City Attorney's remarks about his 35 acre enclave within the City are more applicable to Mr. Bailey than they were to his own situation.

In the final analysis, this comes down to a question of whether Alaskans live under a rule of law or a rule of men. As a matter of policy, the Committee and the Legislature must be committed to a rule of laws. Politics are politics. There is no question that give and take and the human element enter into them. When, as here, all of our rights to fair process are at stake, then policy, not politics, should prevail.

In the strongest possible terms, I urge you and the members of the Committee and all the members of the legislature to reject the Palmer petition.

A correction for the record: I said I believed that Mr. Bailey was 68 years of age in response to another person's assertion that he was 58. I was under the impression that that was his age. I subsequently asked Mr. Bailey for confirmation. He told me that he was indeed 58. I therefore request that the record reflect the change.

Also for the record, I state that I was the consultant that worked with Mr. Bailey through the LBC proceedings and that I am no longer working with him as a consultant. My statement is my own based on my concern for the integrity of the process and my belief that the role of government is to protect the basic fairness and integrity of the system more than it is to serve any particular interest.

This case is about forcing an individual to change his lifestyle and using the force of law to make him do so even though he is in compliance with the laws of the jurisdiction in which he lives.

The matter has been appealed to the Superior Court under the rules of the legislative annexation process. A request for a stay has been filed with it to suspend the running of the clock in the legislature while the matter is considered in Superior Court and whatever other courts to which the controversy is elevated. In the event that the legislature does not wish to deny the petition, it might wish to consider a self-imposed suspension of the running of the clock to show that it is not only aware of the matter but sensitive to the issues raised.

Finally, I want to thank the Committee for the opportunity to testify at the hearing. I apologize for the delay in joining the proceeding. The number given me to call to hook in did not work. It took a six phone calls to find out what the problem was and how to connect. The LIO operator told me that they had had trouble making the connection with downtown Anchorage phones in the past. I seem to found out what the problem was and how to avoid it in the future in the process of getting hooked up. While I hope that that will save some trouble in the future, it made my tardiness unavoidable.

My work phone is (907)562-0774 and my fax is (907)561-5859 should you or anyone connected with this matter wish to contact me.

Very truly yours,


Robert H. Knight, Jr.



Alaska State Legislature

Please enter into the record my testimony to the SCR
committee name

committee on ANNEXATION of Territory dated 2-9-93
bill/subject

I do not know Mr. Bailey personally, however it seems to me that if the man's neighbors are allowed to use the law as the boundary commission recommends, all property rights in rural MATSU are conditional to meeting the approval of one's neighbors in the lawful conduct of one's affairs. If this annexation is allowed to go forward, please give me and other Alaskans substantial assurance that this won't happen to us as well. Without such assurance, I am against this annexation. Respectfully,

Signed: Maureen Pearson
Testifier

Representing (Optional)
1401 BOX 6754-L PALMER (out of city limits) 99669
Address
745-5963
Phone No.

I AM A NORTH PALMER RESIDENT AND I DO NOT CURRENTLY EXPERIENCE ANYTHING THAT LEADS ME TO BELIEVE THAT MY HEALTH, SAFETY, OR WELFARE IS BEING OR WILL BE ENDANGERED BY CONDITIONS EXISTING OR POTENTIALLY DEVELOPING IN THE AREA PROPOSED FOR ANNEXTION ON EAGLE STREET, PALMER.

NOV 20 1992
TO THE LOCAL BOUNDARY COMMISSION

Date	Printed Name	Signature	Address	Phn.#
1/12/92	KAREN HODGINS	<i>Karen Hodgins</i>	121 E. EAGLE	746-1136
1/12/92	Eldon Grodzinski	<i>Eldon Grodzinski</i>	121 E. Eagle, Palmer	746-1136
1-12-92	Robert Dellos	<i>Robert Dellos</i>	619 N. Denali	746-3184
-12-92	Renee Carriere	<i>Renee Carriere</i>	636 Third ST	746-0543
-12-92	R. Ky L. B. [unclear]	<i>R. Ky L. B. [unclear]</i>	765 North 3rd St.	746-1664
-12-92	GREG MARSHALL	<i>Greg Marshall</i>	153 3rd ST	745-7448
-12-92	Stecher		100 2nd St	745-7540
1-12-92	[unclear]			745-2445
1-12-92	S. H.			746-1560
-12-92	[unclear]			746-2527
12/92	TOM			None
-12-92	David			746-2730
1-13-92	David			745-2417
1-13-92	James			746-2734
1-13-92	E. L. A.			746-5644
	Robert Macek	<i>Robert Macek</i>	Palmer	745-2885
		<i>Robert Macek</i>		
-13-92	JAMES BOWLES	<i>James Bowles</i>	111 W AUKLET PALMER	745-6530
-13-92	Nicky Auld	<i>Nicky Auld</i>	36 N. Alaska St.	746-3777
1-13-92	Diane Reekie	<i>Diane Reekie</i>	359 N. Alaska	745-083
11/13/92	Frances R. O'Shea	<i>Frances R. O'Shea</i>	367 N. Alaska St.	745-1231
1-13-92	RUTH DAVENPORT	<i>Ruth Davenport</i>	441 E EAGLE	745-87
1-13-92	Adrian Mason		438 E EAGLE	746-
1/14/92	Robert C. Drake	<i>Robert C. Drake</i>	519 E. Eagle Ave	746-
1/14/92	RICHARD GIGIO	<i>Richard Gigio</i>	536 E Eagle St	746-2630 / 99675
1/14/92	Margaret J. Smith	<i>Margaret J. Smith</i>	74 N. GUL KANACT	7-

Petition:

347 residents of MatSu area signed opposing annexation.

Post-It™ brand fax transmittal memo 7871

of pages >

7

To: <i>Edwin Reinold</i>	From: <i>Debbie</i>
Co: <i>Juneau</i>	Co: <i>LIO-Hotsu</i>
Dept.	Phone: <i>376-3704</i>
Fa: <i>465-4779</i>	Fax #

Esteemed Senators:

I thank you for the opportunity to speak before you today concerning the City of Palmer's attempt to annex 7.5 acres. My name is Ronda Marcy, and I am a resident of the State of Alaska since 1963. I have several concerns which I would like to address:

Firstly, this annexation is no more than an attempt by the City of Palmer to bring one person into its jurisdiction for the sole purpose of significantly modifying his lifestyle. The City has attempted to buffer its malicious attitude toward this one individual by adding four other property owners under the guise of squaring its boundaries (which this annexation is still not quite doing). This action, launched with the full force and resources of the City of Palmer, including the City Attorney, Mr. Jack Snodgrass, whose own property is an agricultural enclave surrounded by the City of Palmer and whom the City has protected from its zoning ordinances, offered little protection in this annexation to property owners, affected property tenants, and most visably Mr. Robert Bailey, in whose defense I am compelled to speak before you today.

Mr. Bailey is a citizen of the United States of America, and is a resident of the State of Alaska since 1967, and as such, surely has protections through the Constitution of the United States of America which are made mandatory to the State of Alaska through Article VI - The Supremacy Article, of the United States Constitution. The City of Palmer has no jurisdiction to initiate the Legislative Review process simply to modify Mr. Bailey's lifestyle. The City of Palmer is not a party to the legally binding contract of purchase, entered between Morris R. Mooney on behalf of Mr. Bailey, and Mrs. Kay Sandlin, or any additional parcels contracted between Mr. Bailey and any other individual at any future time. Mr. Bailey, or parties on Mr. Bailey's behalf, entered into this legally binding contract on or about July 1967 within the jurisdiction of the State of Alaska with no intent expressed or implied by Mr. Bailey to comply with any additional covenants, restrictions, or requirements imposed other than those written. Mr. Bailey was enticed to develop his property in a manner suitable to his character and within the laws in effect at this time, and improvements thereto, over a period of time under this contractual agreement. If the State of Alaska allows the City of Palmer to violate this contractual agreement, Mr. Bailey has the right to insist on the enforcement of this contract or to expect damages from the State of Alaska and the City of Palmer. By the Local Boundary Commission allowing the City of Palmer to use the Legislative Review process in this manner, the State of Alaska has put itself in a "conflict of interest" situation that makes it responsible for representing the interests of both parties. Therefore, I believe this Legislative Review annexation is in direct violation of the Constitution of the State of Alaska Article I Section 15 - Prohibited State Action which specifically states "No law impairing the obligation of contracts...shall be passed."

This annexation appears contrary to Article I Section 1 - Inherent Rights, that guarantees Mr. Bailey to "have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry;" The City of Palmer only initiated this action to deny Mr. Bailey his natural right to liberty, the pursuit of happiness and the enjoyment of the rewards of his own industry, by annexing his property to the City of Palmer for the sole purpose of, under color of law, restricting his lifestyle, his lawful enjoyment of his current kennel license issued by the Matanuska-Susitna Borough, and by denying him the rewards of enjoying property that he has gathered through his lifetime of industry. Mr. Bailey has reached the years of his life when he should be able to enjoy the fruits of his lawful labors. The City of Palmer, if allowed jurisdiction, will have the authority to contract services to bring this property up to current City of Palmer ordinances, and add the cost of this service to Mr. Bailey's utility bill. This would result in undue financial burden on Mr. Bailey, directly and ultimately resulting in Mr. Bailey losing this property. The City of Palmer has barely masked it's malicious attitude towards Mr. Bailey. This was made evident to me, when while collecting signatures in the Eagle Street area, a Palmer City Police Officer stated to me personally that He "couldn't wait to arrest Mr. Bailey." in a blatant attempt to impugn Mr. Bailey's character.

Mr. Bailey is also unable to afford any increases in his property taxes and would ultimately lose the property for failure to pay City of Palmer property taxes. The other affected property owners, depending on their financial situation, could be adversely effected in this same manner. This would result in the City of Palmer taking Mr. Bailey's property, or other effected owner's property, without any just compensation, and the violation of Article I Section 18 - Eminent Domain which clearly states "Private property shall not be taken or damaged [Emphasis added] for public use without just compensation". Mr. Bailey's property is clearly damaged when he will no longer be able to live in the legal manner which he contracted to live when he purchased the property. Clearly, The Dewey's are similarly damaged when they are no longer able to continue the agricultural use of their property. The City of Palmer has also asserted that it intends to make Mr. Bailey reduce the number of dogs he is allowed to have, from the 15 on his current kennel license, to three (3), without any compensation for his loss, therefore further violating Article I Section 18.

That this Petition originated out of Palmer City Council as evidenced in city meeting minutes, not due to "concerned citizens" as the city has purported, and early City of Palmer meetings concerning this annexation violated Article I Section 1 that states "all persons are equal and entitled to equal right, opportunities and protection under the law"

③

The City of Palmer did violate due process by not properly redressing concerns, or counting public opinion, that authorized the City of Palmer, under color of law, to continue with this annexation. City Manager, David Soulak, acting as a interested party, and accounting for official tally for responses from his June 11, 1992 correspondence to area residents, did not do so properly, and in acting in both of these manners, again violated the property owner's guarantee of equal protection under the law. City of Palmer did violate due process by filing a "Final Appeal" that raised new charges concerning Mr. Bailey and that the Local Boundary Commission violated due process by accepting City of Palmers Final Brief, violated due process by not allowing Mr. Bailey adequate time or forum, such as cross examination under oath, for Mr. Bailey to respond to City of Palmer's accusations. City of Palmer again violated due process and equal protection clauses by raising two more issues in the Anchorage Daily News on December 18, 1992 which may of affected the decisions of Local Boundary Commissioners, most notable Anchorage Commissioner Mr. Lamar Cotton.

City of Palmer did trespass unlawfully on Mr. Bailey's property in attempting "to take an informal survey of his tenants", and used this illegally gained information to form documentation used as argument for taking his property into City of Palmer's jurisdiction. This violates Article I Section 1 and Section 7 of the Constitution of the State of Alaska. City of Palmer Police did again trespass unlawfully, under color of law, when it followed a tennant on to Mr. Bailey's property because he at the time was alleged to have failed to stop at a stop sign some blocks away, and proceeded to arrest this tennat though the tennant was not in the jurisdiction of the City of Palmer Police Department at the time of this arrest. City of Palmer Police have taken an active and as mentioned earlier, vocal part in this annexation, though when questioned about the Palmer Police's involvement, the Mayor of Palmer denied that he had requested their involvement. I am concerned by what I perceived as continued harrasment of Mr. Bailey by the City of Palmer, and officials thereof.

I am concerned by the Mat-Su Boroughs actions in this annexation as well. I have asked my assembly representative Mr. Robert Wells, to look into why Mr. Bailey was not personally notified when his name personally appeared in a Borough Ordinance. I would think this personal notivity should afford Mr. Bailey a bit more notice than the standard obscure newspaper announcement.

Also, by allowing City of Palmer ex post facto jurisdiction, ie., making Mr. Bailey conform to city laws developed prior to the effective date of this annexation, City of Palmer will violate, and has stated its intention to do so, Article I Section 15 - Prohibited State Action which states "...no ex post facto

(4)

law shall be passed." This would also abridged Mr. Bailey "privileges and immunities" granted by the Matanuska-Susitna Borough and protected under United States Constitution Article I Section 14. Though I don't know whether I have phrased this concern adequately, I am addressing Mr. Bailey's Grandfather Rights.

Article VIII Section 18 - Protection of Rights establishes the Constitutional guarantee that "No person shall be involuntarily divested of his rights to ... his interests in lands, or improvements...except for a superior beneficial use or public purpose and then only with just compensation and by operation of law. This petition initiated without merit by the City of Palmer and passed by the Local Boundary Commission to the State Legislature is directly contrary to Mr. Bailey's rights as articulated in Article VIII Section 18.

The Local Boundary Commission does not have expertise or authority to deem Mr. Bailey's property "a health, safety or welfare threat", and to any extent that there is any merit to this claim, the property is being annexed for Public Welfare, and would then be deemed being annexed for a public use, and Mr. Bailey should be justly compensated as defined by Article I Section 18. The only knowledgeable and factual documentation concerning his property was reported by Ms. Cathy Hummel, a Sanitation expert from Alaska Health Project, who stated to the Local Boundary Commission that no health threat existed on the property. Ms. Hummel is in attendance today and prepared to answer any questions that you may have for her.

Due to the lack of the Local Boundary Commission's knowledge in the health, safety, and welfare, standards, and in light of no valid ordinances passed that legally deemed this area a threat to public health, safety or welfare, that by denial of Mr. Bailey or his Consultant to cross-examine witnesses, and by allowing false or erroneous information to be entered as sworn testimony and lack of substantial evidence, this procedure did not establish adequate safeguards for Mr. Bailey who is affected by this administrative action and therefore violated Article I Section 7 of the Constitution of the State of Alaska.

In the absence of any substantial evidence that would support a valid "threat to health, safety or welfare", and in light of a State Certified Sanitarians report supporting Mr. Baileys position, this action is arbitrary and discriminatory, hence an unnecessary and unwarranted interference with Mr. Bailey's liberty. Assessments from improvements that are not warranted or requested, place a substantial undue burden on Mr. Bailey, which could ultimately and in all likelihood lead to Mr. Bailey having his property taken without just compensation. This action violates Mr. Bailey's Constitutional Rights under Article I Section 1, Section 7 and Section 18.

subjected to violations of his Constitutional Rights at City level meetings without equal protection as evidenced by earlier annexation attempts from City Planning and Zoning that labeled "this parcel a health hazard". "Health Hazard" as defined by AS is "a substance capable of causing a threat to the health..." yet no evidence was presented that substantiated any evidence of such substance. Further Violation of this Section is evidenced by the fact that Mr. Robert Maturea, whom it appears authored the 1989 petition against Mr. Bailey, and who's signature appears first on said petition, was the Acting Chairman of the City of Palmer Planning and Zoning Commission. A petition that Councilmember Henderson requested at a previous City Council meeting. It should be further stated here that portions of this annexation proceeding may have been in direct violation of Federal criminal statues 18 USC 241 - Conspiracy to Violate Civil Rights, and 18 USC 242 - Violation of Civil Rights under color of law. Mr. Bailey is in the process of securing council to determine if he has cause for action under these sections, and if in the course of a judicial appeal of this annexation, further evidence is presented that these violations have occurred. City of Palmer again violated Article I Section 1 when it began annexation procedures merely because the Court had ordered the Borough to return Mr. Bailey's Kennel License. City of Palmer did, knowingly and intentionally mislead the Local Boundary Commission in its February 26, 1992 Supporting Brief which states:

In 1990, the City received a petition signed by 61 area residents (Which, I noted, by the way, is less than 2% of the population of Palmer.) urging the City to annex this area because of the continued problems of loose dogs going onto adjoining property and getting into garbage cans, dogs harassing school children waiting for the school bus at a designated pick-up site, Matanuska winds depositing debris from this area into their yards, decreased property values by the continued accumulation of inoperable cars and trucks, and accumulation of used building materials, to name of few of the legitimate concerns. [Emphasis Added]

This petition was presented to, after being requested by, the City of Palmer in August of 1989, as shown by City Council meeting minutes. The City of Palmer has also added a few more of what they deem "legitimate concerns" in the above paragraph than what actually appear in the original petition. Though this petition, stated as received in 1990, was itself not dated, and the attached letters are dated July and August of 1989. It should be noted that City of Palmer had used this petition at an earlier annexation attempt that was voted down in City Council. City of Palmer again used this petition to start this annexation attempt, without evidence in City Council minutes of further involvement by any "concerned citizens".

It is stated in the City of Palmer's supporting brief that:
 At that time [January 23, 1990] the City chose not to annex this property subject to the Legislative Review

(6)

would police themselves to alleviate the concerns of the City residents. (Emphasis Added)

Meeting minutes from this period do not support this statement one iota. Mr. Bailey has clearly been coerced, under color of law, by the City of Palmer to conform to laws to which have no jurisdiction over him. Evidence of this type of coercion appears at the July 23, 1991 Public Hearing:

Mayor Carte' mentioned if the Council votes to proceed with this annexation, it won't become effective until 1993. If Mr. Bailey continues to work on cleaning up his property like he has (Emphasis added), in two years he probably won't be violating any codes.

It was insinuated by the Mayor that Mr. Bailey was in violation of code, and if he "continues to work on cleaning up his property", as though the City of Palmer was already coercing him to alter his lifestyle to fit City of Palmer jurisdiction. On top on this, they state in the brief that he did "nothing to alleviate his neighbor's concerns."

City of Palmer cites Fairview Utility v. City of Anchorage as proof that they do not need any property owners permission to annex privately owned property. I find it doubtful that Fairview Utility v. City of Anchorage meant to establish the Legislative Review process to subject property owners to "policing themselves" to laws under which they had no jurisdiction merely to "alleviate the concerns of City residents." City of Palmer certainly did nothing to alleviate the concerns of its residents. They clearly engendered untrue accusations and further violations of Mr. Baileys rights.

The City's Supporting Brief continues:

The large number of unleashed and unrestrained dogs which the Matanuska-Susitna Borough allowed to be on the premises has taxed the City's Police department.

Yet further in the proceedings the City states that they can do a better job than the Borough in offering Animal Control. Contrary to the City's supporting brief are the April 14, 1992 City Council meeting minutes which tell an entirely different story. Less than two months after the city filed its supporting brief, Mayor Carte' addressing the City Council states that he spoke with the Chief of Police and they do not receive that many dog complaints. City Councilmember Long, whose signature also appears on the 1989 Petition arbitrarily states "she can flood the Police Department with calls if that's what is needed." (This statement was not made in direct reference to Mr. Bailey, though it illustrates the complaint tactics employed by the residents.) This discussion also focuses on the problems a Canine Officer faces trying to handle animal control complaints. Clearly, Senators, Mr. Bailey has been repeatedly denied, through the use of this process his Inherent Rights enumerated in Article 1

(7)

Though I have centered this discussion on Mr. Bailey, my concerns are far greater for the precedent that this annexation sets, especially formed under a malicious pretext such as this. In Seward Chapel, Inc., v. City of Seward, 655 P.2d. 1293 the court explained

[s]ubstantive due process is denied when a legislative enactment has no reasonable relationship to a legitimate government purpose. It is not a court's role to decide whether a particular statute or ordinance is a wise one; the choice between competing notions of public policy is to be made by elected representatives of the people. The constitutional guarantee of substantive due process assures only that a legislative body's decision is not an arbitrary one but instead based upon some rational policy.

To allow the City to continue with this annexation, based upon the information I have presented would certainly be arbitrary on the part of this committee.

I submit with this quote from the late Senator Robert A. Taft who authored this lasting definition of liberty.

When I say liberty, I mean liberty of the individual to think his own thoughts and live his own life as he desires to think and live.

In "Profiles in Courage" by John F. Kennedy, he says of Senator Taft.

This was the creed by which Senator Taft lived and he sought in his own fashion and in his own way to provide an atmosphere in America in which others could do likewise.

I ask now that you protect this "atmosphere", protect and uphold, as you are sworn to do, the rights of Mr. Bailey, and the other affected property owners. Protect me, and my family, from the precedent this annexation sets, and from the loss of any of Mr. Dewey's agricultural land that would directly affect the amount of local grown hay available for my livestock. This I ask of you, my elected representatives. Please stop this abuse of the annexation process and this assault to basic liberty! Thank you!!!

Ronda L. Marcy
HC 33 Box 3169
370-22302

02/15/93
09:25:13

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE PHI Phillips

POMS100
LSNCSLA

From: Mr Mark Chryson
2140 Wolverine Circle

Wasilla

AK 99687

Tel: 376-8285

Bill# Title:
Subject BOUNDARIES

NOT RELATED TO SPECIFIC LEGISLATION

Message: NO FORCED ANNEXATION. STOP PALMER'S INSATIABLE APPETITE
FOR GOVERNMENT GROWTH.

Entered By: LIOCCCC on 2/11/93 PomID 2093 Distribution 59
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

ë-ë27 LINE 1 COL 1

02/15/93
09:24:33

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE PHI Phillips

POMS100
LSNCSLA

From: Ms Catherine Ladow
231 w cedar st

Palmer

AK 99645

Tel: 745-2574

Bill# Title:
Subject BOUNDARIES

NOT RELATED TO SPECIFIC LEGISLATION

Message: PLEASE VOTE IN SUPPORT OF SJR 20. YOU DON'T NEED THE BOUNDARY
COMMISSION TO SETTLE NUISANCE PROBLEMS. RECOMENDATION WILL NOT STRAIGHTEN
LINES OR RESOLVE SANITARY OR SAFETY PROBLEMS. MR BAILEY'S NEIGHBORS BOUGHT
THEIR HOMES KNOWING HE WAS THERE.

Entered By: LIOCCCC on 2/11/93 PomID 2080 Distribution 60
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

ë-ë27 LINE 1 COL 1

02/15/93
09:23:53

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE PHI Phillips

POMS100
LSNCSLA

From: Mr. John Brown
Box 2129

Kodiak

AK 99615

Tel: 487-4928

Bill# Title:
Subject BOUNDARIES

NOT RELATED TO SPECIFIC LEGISLATION

Message: I SUPPORT ED BAILEY. I URGE YOU TO STOP THE PALMER ANNEXATION.

Entered By: LIOCTIN on 2/ 9/93 PomID 1906 Distribution 17
MSG:
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

ë-ë27 LINE 1 COL 1

02/15/93
09:22:52

PUBLIC OPINION MESSAGE SYSTEM
MEMBER OFFICE PHI Phillips

POMS100
LSNCSLA

From: Mr. TerryN. Clark
P.O. BOX 871441

Palmer

AK 99645

Tel: 376-2326

Bill# Title:
Subject BOUNDARIES

NOT RELATED TO SPECIFIC LEGISLATION

Message: MR. BAILEY HAS BEEN AROUND FOR A LONG TIME. HIS PROPERTY DOESN'T
LOOK ANY WORSE THAN ALOT OF PLACES AROUND THE STATE. THIS IS ALASKA AND I
THINK THAT THEY OUGHT TO LEAVE THE GUY ALONE. THE CITY OF PALMER OUGHT TO
REVAMP THEIR THINKING, ALFER ALL, PALMER WAS ORIGINALLY A PIONEER TOWN.

Entered By: LIOCDAL on 2/ 9/93 PomID 1835 Distribution 5
MSG: 4 TOTAL POMS SELECTED FOR VIEWING
Enter Next Message PF4 Menu PF6 WasteBasket PF7 Previous POM PF10 BigWaste

4BÜ

ë-ë27 LINE 1 COL 1

February 9, 1993

Members of House and Senate
Juneau, Alaska 99801

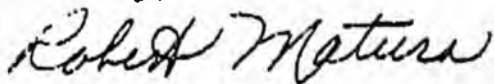
RE: Proposed Annexation of Properties Outlined by the City of
Palmer, Specifically Those of Robert E. Bailey

Dear Members of House and Senate:

Please be advised that I, Robert Matura, a long time resident of the City of Palmer and neighbor in close proximity to Mr. Bailey, do fully and without reservation support said annexation.

It is my contention that after many public hearings and exhaustive research by the Planning and Zoning Advisory Commission, the Palmer City Council and the Local Boundary Commission, their voted on decision to annex should be honored and supported by this community and our elected representatives.

Sincerely,



Robert Matura
545 N. Denali
Palmer, Alaska 99645

PLEASE DISTRIBUTE COPIES TO ALL
MEMBERS OF HOUSE & SENATE.

2/9/93

THANK YOU,
[Signature]

Dear Alaska State Legislator,

I am writing this letter in support of the proposed annexation of 7.2 acres in No. Palmer, Ak. I will spare you all the details of the issue and why I am in favor because there is just too much material to cover. However, I would like to point out that I have been involved in this issue as an interested party. I live directly across the street from this property and have first hand knowledge of the situation that exists.

Since 1990, I have had to attend numerous Palmer City Council meetings and have given sworn testimony at the Local Boundary Commission public hearing. All parties involved have been afforded due process with time extensions on deadlines, appeals, etc. After this long drawn out process, the Local Boundary Commission voted to approve the annexation and subsequently voted to deny a reconsideration of the issue.

As a Legislator, you may be inundated with letters and/or phone calls from people acting on behalf of Mr. Ed Bailey, the only one of several land owners in the affected area to be so opposed to the issue. Several of his acquaintances have gone so far as to form the "Alaska Citizens Awareness Committee", initially founded for the sole purpose of opposing this annexation. Due to the fact that Mr. Bailey has persuaded his friends, relatives, and acquaintances to support him in his opposition, you may well receive more letters against the annexation than in favor. This has been the pattern in the past, but obviously the City Council Members, L.B.C. staff and the L.B.C. Commissioners were able to see this for what it was.

In closing, I urge you to support the L.B.C. decision and support this annexation for the good of the residents of North Palmer.

Sincerely Yours,

[Signature]
Michael J. Gallagher Family
546 No. Chupach St./P.O.B. 2991
Palmer, Ak. 99645
746-0527

February 9, 1993

Members of House and Senate
Juneau, Alaska 99801

RE: Issue of ANNEXATION OF PROPERTIES BY THE CITY OF PALMER,
namely those lots owned by ROBERT BAILEY.

As a supporter of this proposal for annexation, I urge the
members of the Senate and House to please comply with the
decision of the local Boundary Commission and follow thru with
this annexation.

Sincerely,



Robert M. Henderson
555 N. Alaska St.
Palmer, Alaska 99645

TO: MATANUSKA-SUSITNA BOROUGH MAYOR AND ASSEMBLY MEMBERS

We, the undersigned, feel we must bring to your attention an issue where we feel we have been grossly unfairly dealt with by one of your Department Heads; namely Mr. Jerry Pineau as Animal Control Officer.

We all reside in North Palmer, on N. Denali and E. Eagle Streets, in the City of Palmer. Our specific problem is one Robert Edgar (Ed) Bailey who lives on E. Eagle, but not in the City limits. Mr. Bailey owns Lots 4-10 & 21-17 in Block 1 of Riverside Revd.Subd. On these 14 lots he has an accumulation of approximately 35 non-running vehicles; shabby run-down shacks (which he, at times, rents out or at least allows people to reside there); old grocery carts; bicycle parts; stacks of old lumber; etc. etc -and DOGS!!!

For years we have been forced to put up with, by Mr. Bailey's own admission in Court, over 50 dogs who bark all hours of the day and night; who roam freely and strew garbage everywhere; who frighten children waiting for school buses and adults walking or jogging. We finally had all we could take of this abuse and in the summer of 1989 we contacted Animal Control as to just what could be done about the situation. We were instructed we would need to keep specific logs of times, dates and descriptions of the offending animals. We did this for over six weeks, which was a full-time job in itself. After turning this over to Animal Control we were then summoned to Court to testify and were present in Court on 10-5-89 when Magistrate O'Connell revoked Mr. Bailey's kennel license and restricted him to no more than 3 dogs. Officers of Animal Control were present also. Please see enclosed letter from Animal Control to Mr. Bailey dated 10-10-89. We again appeared in Court on 11-28-89 because Mr. Bailey still had more than the allotted number of dogs and was not controlling them. By the summer of 1990 Mr. Bailey's dog population was steadily increasing in spite of the Court Order.

In February of 1991 the situation was again out of control. We phoned Mr. Pineau's Office and asked that he return our call. He did not return the call but instructed Animal Control to call us. We told them of our problems and they came and said we would need to fill out complaints again. We questioned why this was necessary since there was an existing Court Order prohibiting him having more than 3 dogs. They stated that Mr. Pineau said it was necessary and required. Animal Control officers went directly from our home (Vogts) to Mr. Bailey's on 2-20-91 and served complaints. They counted 14 dogs. Mr. Bailey was again to appear in Court on March 12, 1991.

In between the time he was served and his Court appearance he again applied for another Kennel License. When he went to Court under Magistrate Swink, he told the Magistrate he had applied for a Kennel License and his case was suspended on the grounds that he was complying.

When we learned of this we (Vogts) ^{WENT} ~~WROTE~~ to see Mr. Pineau who stated he had had no recent complaints and that he intended to issue him the Kennel License!!

We then went to Animal Control who informed us that Mr. Pineau most certainly was aware of the complaint and that he had, in fact, instructed the officers to go canvass the neighborhood the next day - which they did and received more complaints. They were also instructed by Mr. Pineau to make an inspection of Mr. Bailey's facilities on 3-14-91. We, (Vogts and Mr. Matura) went and spoke with Barbara Lacher regarding this problem.

IN spite of all of this, Mr. Bailey received his Kennel License on March 24,1991!

It is obvious to us that Mr. Pineau's actions are certainly not in the best interest of the majority of the people concerned here - only Mr. Bailey's. Perhaps he has too many duties and cannot expend the necessary time needed to perform as Animal Control Officer. Perhaps this position should be delegated to the Supervisor of Animal Control as he and his staff are the ones who respond and view the problems in the field. They MOST certainly do their jobs and the Borough expends a considerable amount of revenue here. They (Animal Control) have a thick file on Mr. Bailey. Again we stress all of the below signed complaints (which are on file with Animal Control) BEFORE Mr. Bailey had his license re-issued.

We also understand the City of Palmer has recently contacted you (The Assembly) in regard to this on-going problem.

We, the undersigned, ask for some *consideration* of this problem and strongly recommend that Mr. Pineau be relieved of this particular duty.

If you need any of us to attend an Assembly Meeting for further discussion or clarification of the matter, PLEASE feel free to contact us!!

Encl (1)

Signed:

Mr. + Mrs. Richard E. Vogt

PH: 745-3351

Mr. + Mrs. Carl T. Scheibel

PH: 746-4546

Mr. + Mrs. David W. Ward

RH: 745-2774

Mr. + Mrs. Robert Matura

PH: 745-2296

Roger K. Smith

PH 745-4506

February 9, 1993

Dear Alaska State Legislator(s):

We are writing to urge you to support the proposed annexation of the 7.5 acres in Riverside Revd. Sub. in Palmer, Alaska.

We live across the street from this property and Robert Edgar Bailey and have lived here since 1977. We have had to contend with a constant growing "junkyard" of old cars, old shopping carts, old lumber, etc; he and his tenants numerous animals consisting of horses, cows, goats and pigs coming in our yard doing damage and his ever-growing horde of dogs (over 50 by his own admission in court) that have barked day and night, tore apart our garbage, attacked our chained dog (per Palmer ordinance) on more than one occasion and even coming into our garage and eating salmon we were thawing to can. We have filed repeated complaints with Animal Control and appeared in Court three different times to testify. Please see the attached letter which we and our neighbors submitted to the Mat-Su Borough regarding this situation. Although we were unable to attend the teleconference today, we understand Mr. Knight stated Mr. Bailey was in court once and that he won. This is totally untrue and the Court records can verify this! Should you wish to obtain these records you may request:

MSB 1637 thru 1641
1646
1649
1797
1799
2056

from the Courts in Palmer.

I, Mr. Vogt, have had by-pass surgery twice - in 1982 and again in 1992 - and could not even recuperate decently in my own home due to these animals constantly barking. I, Mrs. Vogt, had a heart attack in 1987 and the same applied in my case.

We have tried every possible means to find an end to this - keeping a written log of times and events as instructed by Animal Control, going to Court to testify, personally gathering signatures on a petition, presenting this and attending numerous City Council meetings and meeting with the Local Boundary Commission.

We urge you to please consider us who have to live with this situation day in and day out, as well as numerous other Palmer residents who want to see this "mess resolved and ask that you stand behind the City of Palmer and the Local Boundary Commission in their recommendations.

Thank you.

Sincerely,

Richard E. & Eleanor L. Vogt
564 N. Denali
Palmer, Ak. 99645

Please Copy And Distribute In The House & Senate

February 9, 1993

Dear Legislator,

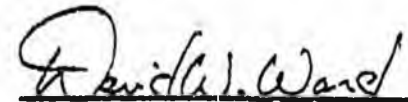
We urge you to inform yourselves of all the facts regarding the proposed City of Palmer's Annexation.

The Local Boundary Commisions Report and Recommendation was in favor of the annexation. We have read their facts and findings and feel they support our views regarding this issue.

The above agency as well as others have voted in favor of annexation based on facts.

Our family was born and raised in Palmer with roots dating back to the Colonist of 1933, and have lived across from said property. ^{12 years} We believe in the Alaska lifestyle and all Citizens of the United States of America have the right to live their own lifestyle as long as you don't infringe on other peoples rights.

We are in favor of the proposed annexation and urge you to vote in favor of annexation. Please base this decision on facts, not newspaper articles or personal opinion. Thanks for your support.



David W. Ward



Cynthia K. Ward



Border feud entangles courts, state

By BRIAN O'DONOGHUE
Daily News reporter

PALMER — Lawmakers and the courts are getting drawn into Ed Bailey's feud with neighbors angry about his noisy dogs, abandoned cars and other rusting treasures scattered across his property.

A state Senate committee is scheduled today to review Palmer's bid to expand city limits to include Bailey's property. The annexation, if approved, would give the city authority it now lacks to force the old pioneer to get rid of most of the mutts and clean up

his land.

Under city ordinances, Bailey and his six tenants would also have to quit using outhouses and hook up the shacks on the property to Palmer's municipal sewer and water service.

The city's request to redraw its borders was approved last December by the state's Local Boundary Commission. Lawmakers have until the end of the month to block the annexation, or the commission's decision becomes law.

The Senate Community and Regional Affairs Committee will

discuss Bailey's case and other boundary commission issues during a hearing starting at 9 a.m., according to the office of committee chairman Sen. Randy Phillips, R-Anchorage. The hearing will be teleconferenced to the Mat-Su Legislative Information Office.

Bailey, 58, wants nothing to do with the city or his suburban neighbors, who moved into the area long after he did. This fall, he and his friends took scrap materials and threw up a ram-

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shackle fence, partially screening "God's Garden," as Bailey calls his noncommercial junkyard, from the critics. The fence failed to appease city officials.

Last week, Bailey took his plea to be left alone to court.

In a seven-page appeal, filed without an attorney, Bailey complained that Palmer shouldn't be allowed to use the annexation process to cure a local dispute.

Decisions by several gov-

ernmental boards involved were also influenced by conflicts of interest, he said.

For example, according to Bailey, the member of the Palmer Planning Commission who cast the deciding vote against him could have been disqualified if the man had already filed a petition requesting the city's help against him.

Bailey's lawsuit was assigned to Judge Beverly Cutler of the Alaska Superior Court in Palmer. No date has been set for the first hearing.

Boundary dispute reaches Capitol

ADN 2/11/93

By BRIAN O'DONOGHUE
Daily News reporter

PALMER — Ed Bailey's feud with his neighbors now has lawmakers choosing sides in the state Capitol.

On Wednesday, a resolution was introduced in the state Senate to block Palmer's attempt to force Bailey and his friends to clean up his property and get rid of the dogs that have the neighbors so upset.

The city wants to expand its borders to include Bailey's 2.5 acre tract and four other landowners' lots on the edge of town. If the annexation takes place, it would allow Palmer to enforce city ordinances that ban unregistered vehicles and limit a person to three dogs.

Though Bailey's lifestyle is clearly at odds with his more urban neighbors, his argument — that he was there first — is attracting support in Juneau.

Palmer city officials contend they need such powers to deal with the "public nuisance" posed by Bailey and his seven friends, who live in a cluster of unplumbed shacks, surrounded by 50 rusting cars and trucks, and sometimes as many noisy dogs.

The state's Local Boundary Commission approved Palmer's annexation plan in a close vote in December. Unless the House and Senate

say otherwise before March 7, the annexation will take effect.

Though Bailey's lifestyle is clearly at odds with his more urban neighbors, his argument — that he was there first — is attracting support in Juneau.

"People knew he was already there when they moved in. They chose to be there," said Sen. Randy Phillips, R-Eagle River and chairman of the Senate Com-

munity and Regional Affairs Committee.

Following a hearing Tuesday before Phillips' committee, Senate President Rick Halford, R-Chugiak, called for a resolution opposing the city's plan. The committee is scheduled to vote on the resolution next week. If it's approved, it could move quickly to the Senate floor for a vote, Phillips said.

Angry neighbors and city officials say it's unreasonable for Bailey to think he can fence out the subdivision that's grown up around him since he bought land on the edge of town in 1967.

"If Mr. Bailey wanted to taste old Alaska, I suggest he should have moved far-

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BORDER: Lawmakers start choosing sides

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ther away than across the street," Palmer Councilwoman Marsha Melton told lawmakers from a teleconference site in Wasilla.

Senate Majority leader Robin Taylor, R-Wrangell and a member of the committee, expressed amazement that the legislature had been drawn into the local squabble.

"I've never seen this before in the eight years I've been here," Taylor said, chuckling.

Taylor said he was struck by the testimony from city attorney Jack Snodgrass, who acknowledged his family's farm has become an enclave, surrounded by, yet not part of, Palmer.

"The community doesn't wish to annex land it completely surrounds, but wants to annex this man's property for essentially a nuisance problem?" Taylor asked. "I really don't think that's the place the boundary commission should be involved."

The legislature's involvement spells trouble for Rep.

Ron Larson, D-Palmer, who's lived a few blocks away from Bailey for more than 20 years.

"He doesn't bother me one way or the other," Larson said in a phone interview from Juneau.

Larson said he's not eager to take a stand on the city's annexation plan. Passions on both sides are running high back home.

"I couldn't tell you how I'd vote at this time," Larson said. "Some of my friends like it and some of my friends don't. Right now,

I agree with my friends."

Sen. Jay Kerttula, Palmer's voice in the legislature for 30 years, rose in opposition Wednesday as Phillips requested permission from the Senate to act on the resolution without delay. Kerttula's protest, the bill will sit in committee an extra five days, a move that allows time for further hearings but brings the deadline for halting the annexation ever closer.

Kerttula did not return calls Wednesday.

FACTS CONCERNING THE CITY OF CORDOVA'S PROPOSED ANNEXATION

1. At the conclusion of the initial stages of the annexation petition process - Filing of the Petition, DCRA Technical Review, and Public Notice (8/3/92):

- * 186 letters were received by the LBC in opposition to the proposed annexation
- * no correspondence was received by the LBC in favor of annexation.

2. The City of Cordova was given the opportunity to respond to all written comments received by the LBC. The City's comments were incorporated into a Draft Report for a short review period (10/23/92):

- * 3 letters were received by the LBC in opposition to the City's comments
- * no correspondence was received by the LBC in support of the City's comments.

3. DCRA staff recommendations were prepared in a Final Report form prior to a Local Boundary Commissions (LBC) Public Hearing (11/21/92):

- * over 50 people made public statements in opposition including several *residents of the City of Cordova.*
- * less than 10 residents/city officials spoke in favor of the annexation.

4. Following the public testimony, the LBC decided to extend the public comment period to 12/17/92 because the *City of Cordova could not show adequate reasons for approval of their petition.*

- * 48 letters were received by the LBC in continuing opposition to the annexation.
- * no letters were received by the LBC in favor of the annexation.

5. A Decisional Meeting was held on 1/4/93 wherein DCRA staff presented the same Draft Report to the LBC with a few modifications reflecting the concerns of all (pro and con). The LBC's discussion centered around DCRA staff recommendations and the petition was approved with reduction in size modifications.

6. On 1/20/93, a 15 minute LBC hearing was held to discuss the merits of 3 requests for reconsideration. No action was taken to dismiss or approve those requests.

7. On 2/2/93, another LBC hearing was held to discuss the merits of 2 requests for reconsideration:

- * a formalized request by a local law office representing 75 residents so affected by the petition, and
- * The Eyak Corporation.

Upon the recommendation of DCRA staff, the LBC took official and formalized action to dismiss these 2 reconsideration requests.

8. On 2/5/93, a formalized appeal was filed by those 75 represented and affected citizens and a lawsuit was filed in protest by those same 75 represented and affected citizens.

SUMMARY:

DCRA estimates the population in the proposed annexation area is 496. The City of Cordova assessor has estimated 96 residences in the same area. Dividing the population estimate by the residence estimate yields 5.17 people per residence. Assuming 2 adults per household this would result in 192 adult residents. School records indicate that 91 students live in the proposed annexation area. Adding the 91 students to the 192 adults yields a population of 283. Subtracting this number from the population estimate of 496 yields 213 persons who are neither adults or in school (preschoolers?). Over 100 letters from people who actually pay taxes were received by DCRA opposing the annexation. Over 75 households are currently represented in a lawsuit opposing the annexation. This represents 90% of the voting population which is opposed to the annexation.

The common threads throughout this annexation process seemed to center basically around two points:

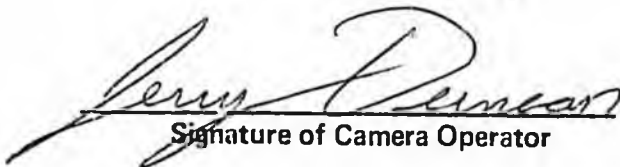
- * It was the perception of the City and the DCRA staff, and theirs alone, that the citizens outside existing City limits wanted and needed City services. They do not.
- * The City, DCRA staff and the LBC were unwilling throughout the process to even consider the possibility of allowing the democratic process of allowing a vote of the people in the proposed annexation area.

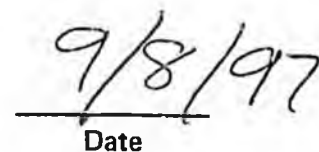


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