

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8211 SENATE COMMUNITY & REGIONAL AFFAIRS

476

Boundary Commission's favor on the question of connecting the incorporation election with a tax proposal, as well as on the Voting Rights question. On May 21, 1992, the Court ruled in favor of the Commission with respect to all of the remaining points.

The Valleys Borough Support Committee subsequently filed an appeal with the State Supreme Court. The appellant's appeal brief was filed on December 16, 1992.

Jack Keane and Concerned Citizens of Bristol Bay vs. Local Boundary Commission.

As reported last year, a group describing themselves as an unincorporated association of Pilot Point area residents, property owners and fishermen filed an appeal of the LBC's decision to accept the petition to incorporate Pilot Point as a second class city. Appellants claimed lack of proper notice and abuse of discretion by the LBC.

On September 3, 1992, the Superior Court ruled in favor of the Local Boundary Commission in the matter. The decision of the Superior Court was subsequently appealed to the Supreme Court. Parties are currently preparing briefs in the matter.

VI. FUTURE ISSUES

Over the past year, the LBC and its DCRA staff have received questions and requests for information on a number of municipal boundary proposals. These are discussed below.

Potential City Incorporations

Potential exists for several incorporation petitions in the near-term. Interest has been evident in several communities, as described in the following narrative.

A group of resident voters in the Kenai Peninsula Borough developed a petition to incorporate a second class **City of Nikiski**, encompassing territory on both the east and west shores of Cook Inlet. Backers of the proposal intended to file the petition in 1992. However, an informal vote taken by Tyonek residents at a village meeting on May 21 reflected overwhelming opposition to inclusion in the proposed City. The Nikiski organizing committee has been considering whether to continue to pursue incorporation efforts with modified boundaries.

Residents of **Nelson Lagoon**, a community in the Aleutians East Borough have recently worked on preparing a petition to incorporate as a second class city. However, no petition has been filed yet.

Anchor Point residents contemplating city status requested and received information regarding municipal incorporation procedures and standards.

A group of **Talkeetna** residents requested and received technical assistance in exploring second class city incorporation.

Residents of the Kenai Peninsula Borough's **Bear Creek** Fire Service Area located 6 miles from Seward advised that they were exploring incorporation of a city. Local interest in annexation was reportedly prompted by the City of Seward's study of the merits of annexing approximately one-half of the service area.

Residents of **Gustavus** have recently discussed the option of incorporation as a second class city.

Residents of **Hyder** are also reportedly exploring the merits of forming a city government.

Takotna residents met to explore city incorporation.

Residents of **Glacier View** within the Matanuska-Susitna Borough have expressed interest in incorporation.

Potential Borough Incorporations

A number of other cities and communities have expressed interest in borough incorporation, and particularly in the formation of single-community boroughs. Borough formation remained an issue of widespread interest in 1992. Several factors may promote continued impetus toward borough incorporation. These include declining state budgets, local concerns over allocation and development of resources and legal challenges to the state's method of funding schools.

For nearly two years, **Wrangell** residents have been considering studying the question of forming a single-city borough. Local officials are reportedly in the initial stages of drafting a petition for incorporation.

Growing interest has been evident in incorporation of an organized borough which would include the **Dillingham** Census Area.

The City of **Pelican** has expressed interest in borough formation in recent years.

Potential City Annexations

Several cities have expressed interest in annexing territory during the near future. These include the following:

The **Fairbanks** City Council has adopted an ordinance authorizing annexation of 454.74 acres, inhabited by approximately 20 residents. The estimated value of the property is approximately \$16,850,000. The petition for annexation was filed with the Department on January 12, 1993.

As reported earlier in this report, the City of **Seldovia** has committed to seeking the annexation of 35 lots using the legislative review method. All of the lots exist as enclaves within the boundaries of the City.

The Council of the City of **Seward** has authorized the filing of a petition for annexation of approximately 8.125 square miles. Staff provided officials of the City of Seward with information and materials needed to develop the petition.

The City of **Soldotna** is considering an ordinance (#559) for voluntary annexation of certain commercial properties.

Staff met with officials of the City of **Akutan** concerning their interest in annexing upwards of 70 square miles (Akutan Island and the remainder of Akutan Bay). City officials have indicated that they plan to submit a petition for the annexation of this territory in the near future.

The City of **King Cove** expressed plans to submit a proposal for legislative review annexation of some 13 square miles inhabited by about 20 individuals. The territory includes the airport, a potential hydroelectric project, and territory suitable for use by floating fish processors (Leonard Harbor). Staff provided information and materials necessary for the development of the petition.

LOCAL BOUNDARY COMMISSION

The City of **Newhalen** has requested information regarding standards and procedures for annexation. We have been advised that the Newhalen City Council is preparing a proposal to annex adjacent unincorporated **Iliamna**.

Akhiok city officials are reportedly considering annexation of territory during 1993.

Officials of the City of **Betties** have been exploring the prospect of annexing the immediately adjacent settlement of **Evansville**.

Staff provided information to the City of **Chignik** concerning standards and procedures for annexation.

Potential Consolidations

Consolidation is the creation of a new municipality from two or more existing municipalities. The original municipalities are automatically dissolved when the consolidation takes effect. Unlike unification, consolidation does not require the joining of a borough with all the cities within its boundaries, nor does it prevent the incorporation of new cities within the borough boundaries. In order for consolidation to be approved, the new municipality must meet the appropriate standards for incorporation.

During 1992, three groups were seriously studying the merits of consolidating a city and a borough. Local government officials in Ketchikan are studying the merits of consolidating the City of **Ketchikan** with the Ketchikan Gateway Borough. Individuals in the Fairbanks area are reportedly circulating a petition to consolidate the **Fairbanks North Star Borough** with the **City of Fairbanks**. **Kodiak** officials are also considering the merits of consolidating the **City of Kodiak** and the **Kodiak Island Borough**. The LBC's staff has provided information to all three groups.

Potential Dissolutions

Due to staffing reductions, DCRA lacked resources to investigate the status of potentially inactive municipalities in the **Yukon-Kuskokwim** area pursuant to AS 29.06.450(b). At present, these include the inactive second class cities of **Atmautluak**, **Kasigluk**, **Newtok**, **Tununak** and **Tuluksak**. Staff will proceed with these investigations as resources permit. If the Commission concludes any of the municipalities meet the standards for dissolution, it would present its recommendations to the Legislature. The **Tuluksak** Tribal Council has reportedly decided to initiate dissolution proceedings for the non-functioning City of Tuluksak. DCRA regional office staff have committed to assist the Tuluksak Tribal Council in the preparation of the petition for dissolution.

Potential Detachments

A petition to detach **North Pole** and **Salcha**, from the **Fairbanks North Star Borough** has been filed and is under review.

Akutan residents and officials have expressed interest in detachment from the **Aleutians East Borough**.

Alexander Creek residents have been considering petitioning for detachment from the **Matanuska-Susitna Borough** and incorporation of a new borough.

Chiniak residents are contemplating detachment from the **Kodiak Island Borough** of Chiniak and several villages within the Borough. Chiniak is a community of 200 people, linked to Kodiak by some 40 miles of road.

LOCAL BOUNDARY COMMISSION

VII. RECOMMENDATIONS FOR ANNEXATION UNDER ARTICLE X, § 12, ALASKA CONSTITUTION

The Local Government Article of the Alaska Constitution provides that the Local Boundary Commission may present proposed boundary changes to the legislature during the first ten days of any regular legislative session. The change becomes effective 45 days after being presented to the legislature or at the end of the session, whichever comes first, unless a majority of the members of each house concurs in a resolution disapproving the change (Art. X, Sec. 12). The LBC presents the following five proposed changes for consideration by the legislature in 1993.

HOONAH

The City of Hoonah submitted a petition to annex about 18.5 square miles under the legislative review method.

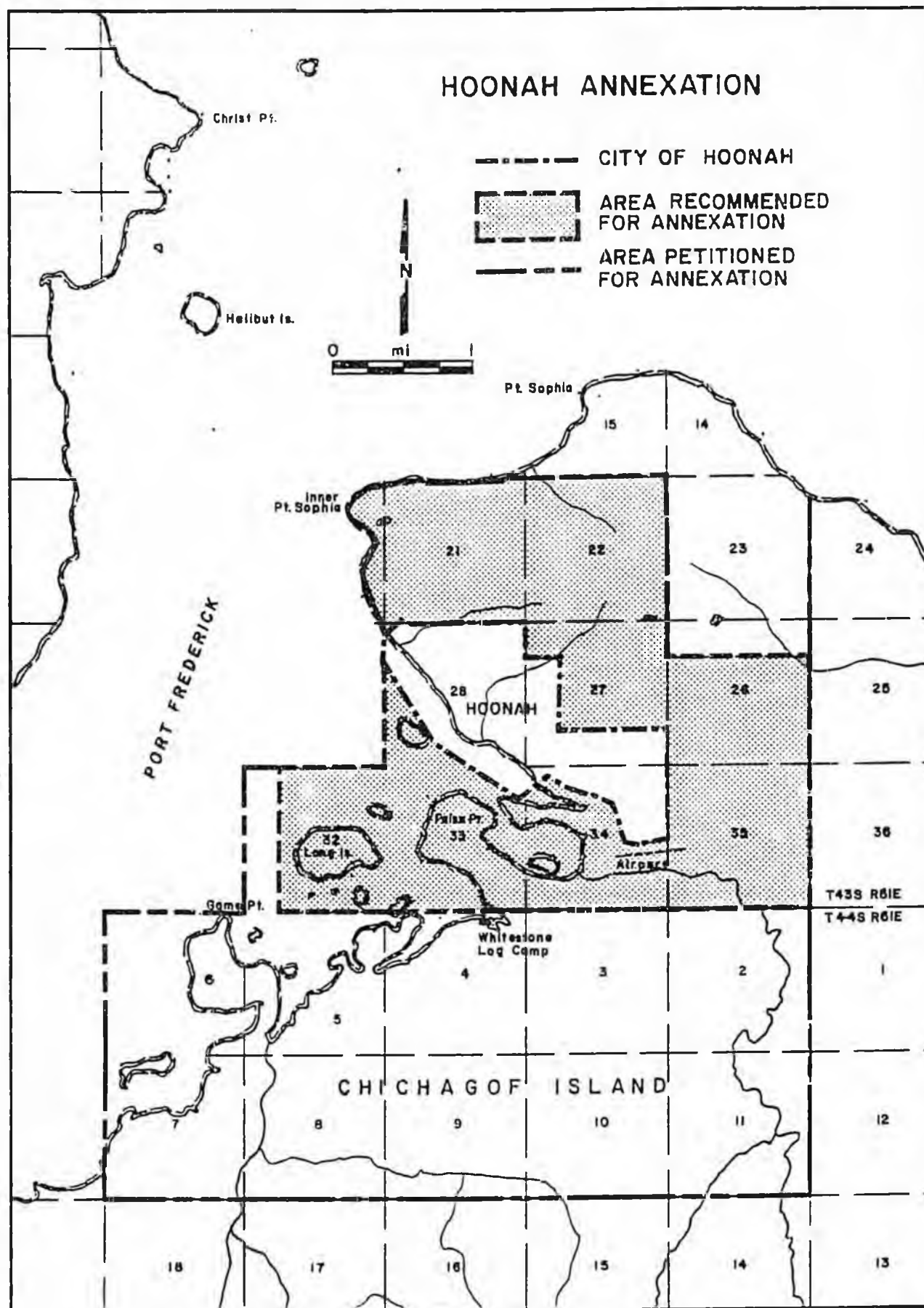
The Commission conducted a public hearing in Hoonah on October 10, 1992. On November 21, the Local Boundary Commission amended and approved the annexation petition of the City of Hoonah. The amendment reduced the territory to be annexed to approximately 7.25 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Hoonah's annexation petition are discussed in detail in the Commission's December 18, 1992, Statement of Decision. That document, comprising 18 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Hoonah:

Beginning at the protracted northeast corner of Section 22, T43S, R61E, Copper River Meridian (CRM);
thence, south to the protracted southeast corner of the northeast one-quarter of the northeast one-quarter of Section 27, T43S, R61E, CRM;
thence, east to the protracted northeast corner of the southeast one-quarter of the northeast one-quarter of Section 26, T43S, R61E, CRM;
thence, south to the protracted southeast corner of Section 35, T43S, R61E, CRM;
thence, west to a point within Port Frederick where the protracted southwest corner of the southeast one-quarter of the southwest one-quarter of Section 32, T43S, R61E, CRM; would be;
thence, north to a point within Port Frederick where the protracted northwest corner of the northeast one-quarter of the northwest one-quarter of Section 32, T43S, R61E, CRM; would be;
thence, east to a point within Port Frederick where the protracted northeast corner of Section 32, T43S, R61E, CRM would be;
thence, north to the intersection with the boundary of Alaska Tidelands Survey No. 29, approved by the Director of the Alaska Division of Lands on June 25, 1964 (hereinafter ATS No. 29);
thence, N 34° W to Corner No. 4 of ATS No. 29;
thence, N 51° E to the line of mean-low water;
thence, meandering along the line of mean-low water generally in a northerly and easterly direction to the intersection with extension of the protracted northern boundary of Section 21, T43S, R61E, CRM;
thence, east to the protracted northeast corner of Section 22, T43S, R61E, CRM; the point of beginning;
excluding therefrom, the territory currently within the boundaries of the City of Hoonah; containing 7.25 square miles, more or less, all in the Sitka Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

HAINES #1

On March 4, 1992, the City of Haines submitted a petition to annex about 4.75 square miles of land under the legislative review method. Following its October 9, 1992, public hearing on the matter, the LBC approved the petition.

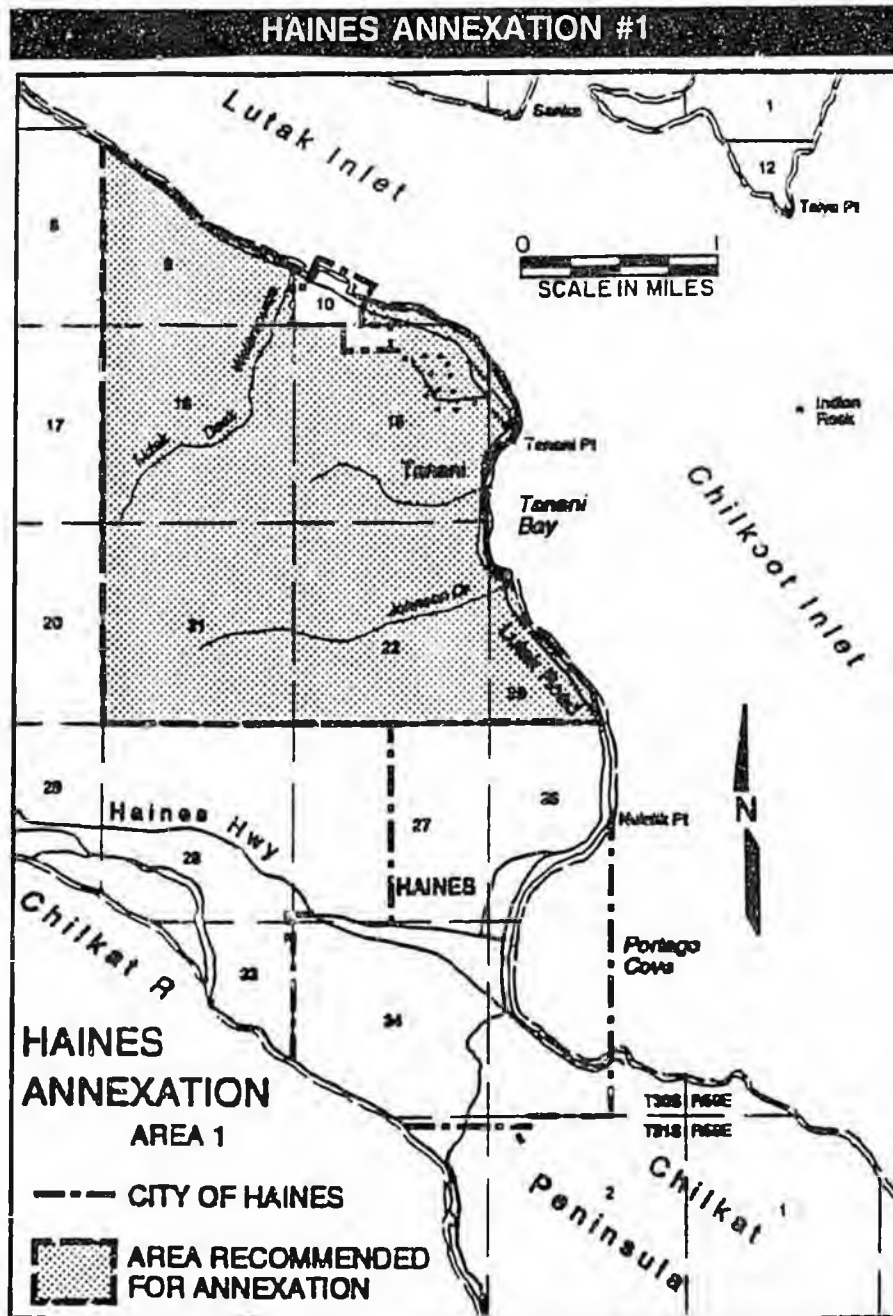
Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Haines' 4.75 square mile annexation petition are included in the Commission's November 5, 1992, Statement of Decision. That document, comprising 17-legal size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at:

Local Boundary Commission Staff
Department of Community and Regional Affairs
333 W. Fourth Avenue, Suite 220
Anchorage, AK 99501-2341
Telephone: 269-4500, Fax: 269-4520

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Haines:

All of Sections 16, 21 and 22, and the on-shore portions of Sections 9, 23, 14, 10 and 15, Township 30 South, Range 59 East, Copper River Meridian, Alaska, which are not already within the existing boundaries of the City of Haines.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

HAINES #2

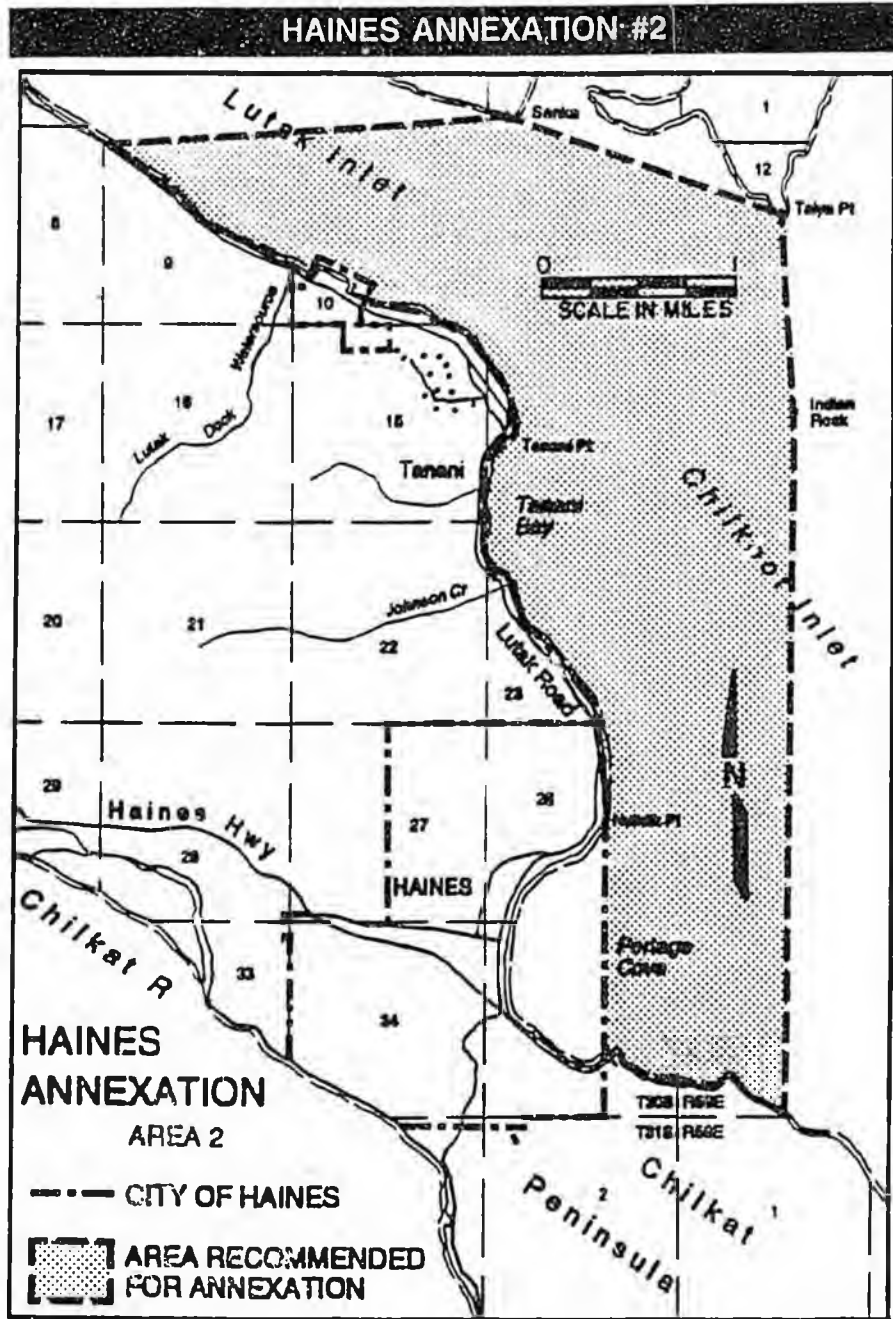
In addition to supporting the City's petition for the annexation of 4.75 square miles addressed on pages 42 and 43 of this report, DCRA recommended the annexation of an additional 7 square miles of adjacent tidelands. The Commission held a hearing on the matter on October 9. Following the hearing, the Commission provided an additional comment period, setting a November 27, 1992 deadline. On December 18, the Commission approved the annexation of the additional 7 square miles.

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning this annexation proposal are included in the Commission's December 18, 1992, Statement of Decision. That document, comprising 10 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Haines:

Beginning at the point where the western boundary of Section 9, T30S, R59E, Copper River Meridian (CRM) intersects with the line of mean high tide of Lutak Inlet;
thence, N 86° E (approximately), 11,000 feet more or less, across Lutak Inlet to U.S.G.S. triangulation station "Sanka";
thence, S 71° E (approximately), 8,000 feet more or less, to U.S.G.S. triangulation station "Taiya Pt";
thence, S 4° E (approximately) 5,250 feet more or less to the "Indian Rock Light";
thence, South (approximately) 18,750 feet, more or less, to the line of mean high tide of Chilkoot Inlet at the point of intersection of the southern boundary of Section 36, T30S, R59E, CRM, and the line of mean high tide;
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Portage Cove to the intersection with the eastern boundary of the City of Haines (said point also being Haines Townsite Boundary Corner No. 6);
thence, north along the eastern boundary of the City of Haines to the northern boundary of the City of Haines, a point where the northern boundary of Section 26, T30S, R59E, CRM intersects with the line of mean high tide of Chilkoot Inlet (said point also being Haines Townsite Boundary Corner No. 4);
thence, meandering northwesterly along the line of mean high tide of Chilkoot Inlet and Lutak Inlet to the point of intersection with the eastern edge of the non-contiguous boundary of the City of Haines (encompassing the Lutak port facilities);
thence, northeasterly, northwesterly, and southwesterly along the non-contiguous boundaries of the City of Haines to the point where the western edge of the non-contiguous boundaries of the City of Haines intersects with the line of mean high tide of Lutak Inlet;
thence, meandering northwesterly along the line of mean high tide of Lutak Inlet to the point of intersection with the western boundary of Section 9, T30S, R59E, CRM, the point of beginning; containing 7 square miles, more or less, all in the Haines Recording District, First Judicial District, State of Alaska.

A map of the area recommended for annexation is presented on the following page.



LOCAL BOUNDARY COMMISSION

CORDOVA

The City of Cordova filed a petition for annexation of about 180 square miles inhabited by an estimated 469 residents. On November 21, 1992, the Commission conducted a public hearing in Cordova. On January 4, 1993, the Commission amended the petition to reduce the size of the area proposed for annexation to 68.23 square miles and approved the amended petition.¹¹

Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Cordova's annexation petition are discussed in more detail in the Commission's January 8, 1993, Statement of Decision. That document, comprising 22 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at: Local Boundary Commission's Staff, Department of Community and Regional Affairs, 333 W. Fourth Avenue, Suite 220, Anchorage, AK 99501-2341, telephone: 269-4500, fax: 269-4520.

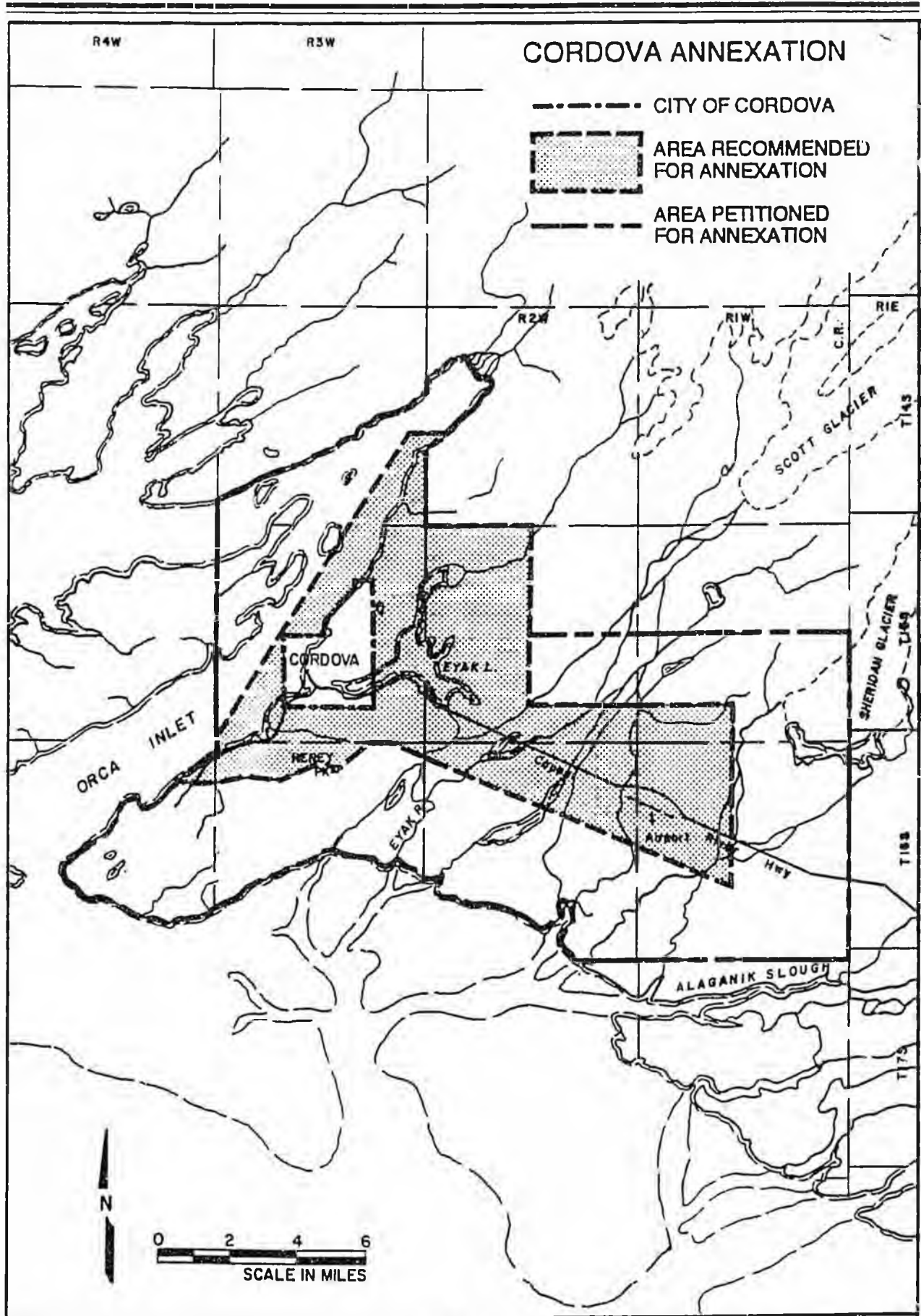
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following area to the City of Cordova:

Beginning at the northeast corner of protracted Section 4, T15S, R2W, Copper River Meridian (CRM);
thence, south to the southeast corner of protracted Section 28, T15S, R2W, CRM;
thence, east to the northeast corner of the northwest 1/4 of the northeast 1/4 of protracted Section 33, T15S, R1W, CRM;
thence, south to the southeast corner of the southwest 1/4 of the southeast 1/4 of protracted Section 21, T16S, R1W, CRM;
thence, northwesterly, in a straight line, to the northwest corner of protracted Section 1, T16S, R3W, CRM;
thence, west, along the north boundary of protracted Section 2, T16S, R3W, to a point on the divide along the Heney Range separating the drainage into Orca Inlet from the drainage into the Copper River Delta and the Gulf of Alaska;
thence, southwesterly along said divide to Heney Peak;
thence, westerly in a straight line to the beginning of Hartney Creek;
thence, westerly along the thread of Hartney Creek to the point where it enters Hartney Bay;
thence, northerly and westerly along the line of mean high tide of the north shore of Hartney Bay to Bluff Point;
thence, meandering along the line of mean high tide to the intersection with the east boundary of protracted Section 1, T16S, R4W, CRM;
thence, north to a point in Orca Inlet at the northwest corner of the southwest 1/4 of the southwest 1/4 of protracted Section 31, T15S, R3W, CRM;
thence, northeasterly, in a straight line, to a point in Orca Inlet at the northwest corner of the southeast 1/4 of protracted Section 24, T14S, R3W, CRM;
thence, east to the line of mean high tide on Nelson Bay;
thence, meandering southwesterly along the line of mean high tide of Nelson Bay to the intersection with the west boundary of protracted Section 19, T14S, R2W, CRM;
thence, south, to the southeast corner of protracted Section 36, T14S, R3W, CRM;
thence, east to the northeast corner of protracted Section 4, T15S, R2W, the point of beginning; containing 74.58 square miles, more or less, all in the Cordova Recording District, Third Judicial District, State of Alaska.

Excluding therefrom, the territory currently within the boundaries of the City of Cordova, comprising 6.35 square miles, more or less. The net territory approved for annexation comprises 68.23 square miles, more or less.

A map of the area recommended for annexation is presented on the following page.

¹¹ The decision of the Commission concerning this annexation became final under 19 AAC 10.570(g) on January 8, 1993. Under 19 AAC 10.580, interested parties have until January 28, 1993 to file a request for reconsideration of the decision.



LOCAL BOUNDARY COMMISSION

PALMER

On February 28, 1992, the City of Palmer filed a petition for annexation of approximately 7.5 acres using the legislative review method.

The Commission conducted a public hearing on November 20, 1992, in Palmer. On December 18, the Commission approved the petition. Details concerning the annexation proceedings and the conclusions of the Local Boundary Commission concerning the City of Palmer's annexation petition are discussed in detail in the Commission's December 30, 1992, Statement of Decision. That document, comprising 11 legal-size pages, is available upon request from the Commission's staff in Anchorage. Staff may be reached at:

Local Boundary Commission Staff
Department of Community and Regional Affairs
333 W. Fourth Avenue, Suite 220
Anchorage, AK 99501-2341
Telephone: 269-4500 Fax: 269-4520

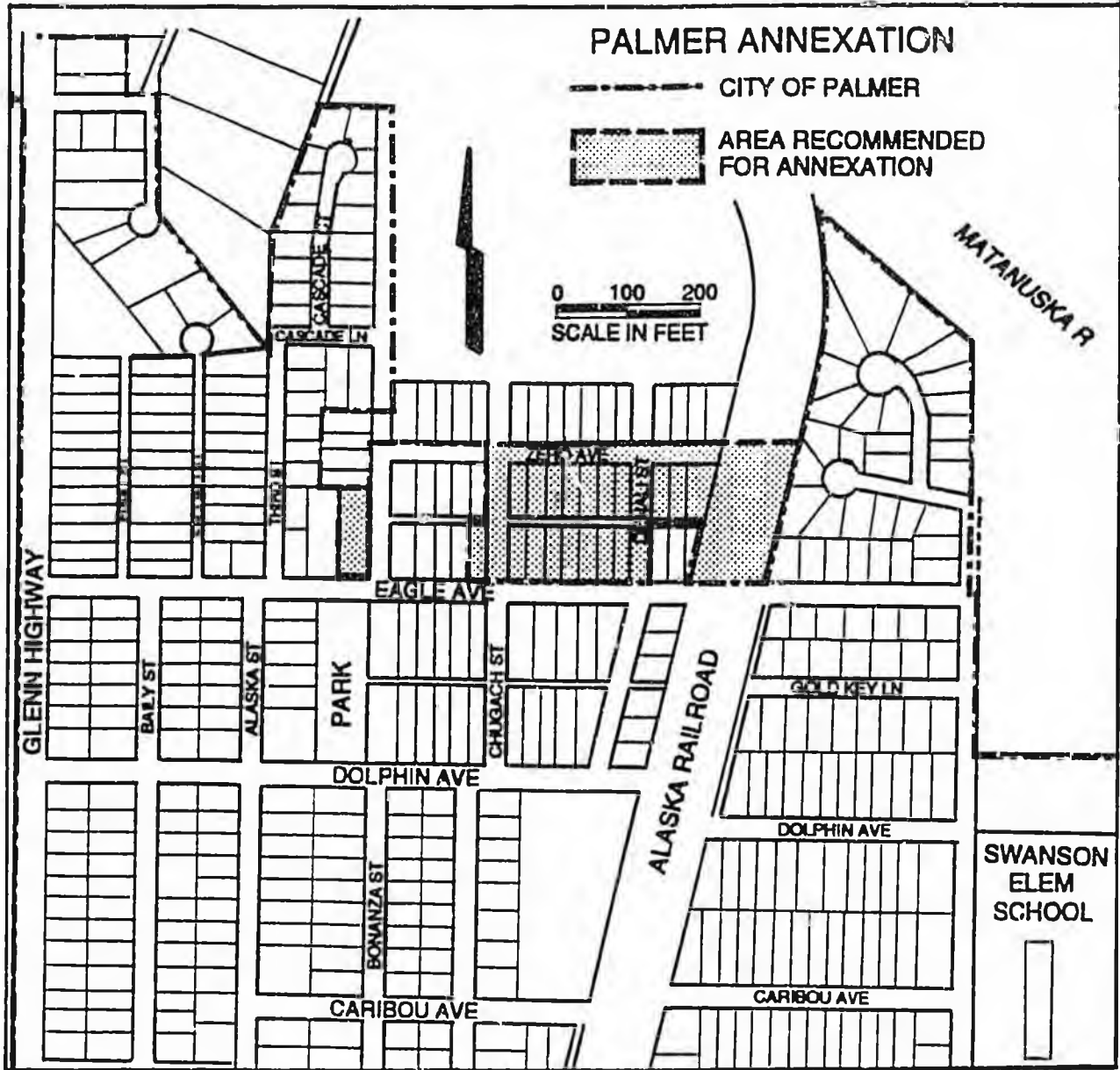
Pursuant to Article X, Section 12 of the Alaska Constitution, the Commission hereby recommends annexation of the following territory to the City of Palmer:

Within Section 28, Township 18N, Range 2E, Seward Meridian:

Pribyl, Grasse and Grasse Subdivision - Lot 22; Riverside Subdivision - Block 1, Lots 1 through 10 and Lots 20 through 27; and a portion of the right-of-way of the Alaska Railroad as shown on the City of Palmer's petition for annexation.

A map of the area recommended for annexation is presented on the following page.

PALMER ANNEXATION



APPENDIX A 1992 LOCAL BOUNDARY COMMISSION MEETINGS

JANUARY (3 Meetings)

January 17, 1992: Public hearing on City & Borough of Yakutat incorporation petition and model boundaries of Prince William Sound, Yakutat and Cross Sound/Icy Straits. Parties participated from **Whittier, Cordova, Valdez, Tatitlek, Elfin Cove** and **Yakutat**.

January 17, 1992: Public hearing in **Hoonah** on Yakutat and Cross Sound/Icy Straits Model Boundaries. Parties from **Gustavus, Juneau,** and **Pelican** participated via teleconference.

January 18, 1992: Public hearing in **Yakutat** on City and Borough of Yakutat incorporation petition and model boundaries for Prince William Sound, Yakutat and Cross Sound/Icy Straits areas.

FEBRUARY (2 Meetings)

February 5, 1992: Meeting in **Anchorage** with teleconference hookup to **Yakutat** to conduct decisional session on **Yakutat Borough** incorporation and dissolution of the City of Yakutat.

February 26, 1992: Continuation of February 5 meeting in **Anchorage** with teleconference hookup to **Yakutat** on Yakutat Borough incorporation and dissolution of the City of Yakutat.

Consideration of petition from the **City of Palmer** to annex **35 acres** of city-owned property.

MARCH (1 Meeting)

March 17, 1992: Continuation of February 5 and 26 meetings with teleconference hookup to **Yakutat**.

APRIL (1 Meeting)

April 10, 1992: teleconference from Anchorage, North Pole, Nome, Fairbanks and Ketchikan to adopt Statement of Decision approving dissolution of the City of Yakutat and the incorporation of the City and Borough of Yakutat.

MAY (5 Meetings)

May 8, 1992: Meeting in **Fairbanks** to review certain requests for reconsideration of decision approving City of Yakutat dissolution and Yakutat Borough incorporation. Determination of model unorganized borough boundaries of **Cross Sound/Icy Straits Model Boundaries** and **Prince William Sound** model boundaries.

May 8, 1992: Public hearing in **Delta Junction** on East Central model unorganized borough boundaries.

May 9, 1992: Public hearing in **Tok** on East Central model unorganized borough boundaries.

May 9, 1992: Public hearing in **Glennallen** on model unorganized borough boundaries of the Copper River Basin.

May 22, 1992: Teleconference originating from Anchorage to review additional requests for reconsideration of decision approving the dissolution of the City of Yakutat and incorporation of the City and Borough of Yakutat.

JUNE (1 Meeting)

June 6, 1992: Public hearing in **Tok** on Alaska Gateway Region Model Unorganized Borough Boundaries.

JULY (1 Meeting)

July 20, 1992: Teleconference originating from Anchorage for consideration/action on City of **Palmer's** petition to annex 2-acre William Fogg Property. Consideration/action on City of **Wasilla** petition to annex 252.34 acres of city-owned property (new airport site). Scheduling of hearings regarding annexation petitions from Cities of **Haines, Hoonah, Cordova, Palmer** and **Whittier**. Scheduling of **Greater Bristol Bay** model borough boundaries; **Calista** region model borough boundaries; **Aleutians/Pribilof** region model borough boundaries; **East Central** Alaska region model borough boundaries decision.

SEPTEMBER (1 Meeting)

September 25, 1992: Approval of **City of Seldovia's** annexation of approximately 110 acres of City-owned property (including the boat harbor). Training on due process, taking of evidence, evaluation of evidence on record, standards of review, Open Meetings Act and Executive Branch Ethics Act.

October (7 Meetings)

October 9 1992: Hearing and approval of **City of Haines'** petition for annexation of 4.75 square miles.

October 10, 1992: Public hearing in **Hoonah** concerning the City's proposed annexation of 18.5 square miles. The Commission deferred action on the matter principally because a City Council member testified that he and three newly elected Council members did not support the City's petition. In particular, the Council member opposed the annexation of the Mt. Bether Bible Center at **Game Creek** and the **Whitestone Logging Camp**.

October 20, 1992: Teleconference public hearing on Aleutian/Pribilof model unorganized borough boundaries. Representatives of **St. Paul, St. George** and the **Tanadusix Corporation** testified.

October 21, 1992: Teleconference hearing on Western Aleutian model unorganized borough boundaries was conducted with **Adak**.

LOCAL BOUNDARY COMMISSION

October 23, 1992: Aniak hearing on model unorganized borough boundaries for Kuspuk REAA.

October 23, 1992: St. Mary's hearing on model unorganized borough boundaries for Lower Yukon REAA model borough boundaries.

October 24, 1992: Bethel hearing on model unorganized borough boundaries for Lower Kuskokwim REAA.

NOVEMBER (6 Meetings)

November 5, 1992: Teleconference hearing regarding Western Aleutians model unorganized borough boundary. Akutan, Atka and Unalaska participated via teleconference. Adopted written decisional statement regarding Haines #1 legislative review annexation.

November 20, 1992: Public hearing regarding City of Palmer petition for annexation of 7.5 acres in Prybl, Grasse & Grasse subdivision.

November 21, 1992: Public hearing in Cordova regarding the Cordova annexation petition. Model boundaries were set for the following:

- Upper Tanana Basin (combining Delta Greely & Alaska Gateway REAAs);
- Copper River Basin (following boundaries of Copper River REAA);
- Lower Yukon (combining Lower Yukon and Kashunamiut REAAs);
- Lower Kuskokwim (combining Lower Kuskokwim and Yupiit REAAs);
- Kuspuk (following Kuspuk REAA);
- Pribilofs (following Pribilofs REAA);
- Aleutians West (from Aleutians East Borough to mid-point of Fenimore Pass;
- Aleutians - Military (from mid-point of Fenimore Pass to the western boundary of the State.

Approve annexation of 10 acres to the City of Seldovia.

November 23, 1992: Public hearing in Naknek regarding model boundaries of the Greater Bristol Bay region.

November 24, 1992: Public hearing in Togiak on model unorganized borough boundaries for Nushagak/Dillingham area.

November 24, 1992: Public hearing in Dillingham on model unorganized borough boundaries for Nushagak/Dillingham area, with teleconference participation from Chignik, Chignik Lake, Egegik, Kokhanok, Levelock, Newhalen, Nondalton, Pilot Point.

DECEMBER (4 Meetings)

December 4, 1992: Decisional meeting regarding City of **Palmer** petition for annexation of about 7.5 acres in Prybl, Grasse & Grasse subdivision. Decisional meeting regarding model unorganized borough boundaries for **Nushagak/Dillingham** region. Decisional meeting regarding annexation of 7 square miles of tidelands and submerged lands to the City of **Haines**.

December 18, 1992: Continuation of December 4 decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition. Adopted written decisional statements concerning Hoonah legislative review annexation and Haines #2 legislative review annexation,

December 21, 1992: Completion of decisional meeting regarding **Palmer** Prybl, Grasse & Grasse annexation petition.

December 30, 1992: Meeting to approve statement of decision regarding **Palmer** 7.5 acre Prybl, Grasse & Grasse annexation.

APPENDIX B

SUMMARY OF STANDARDS & PROCEDURES

Portions of the Alaska Constitution, statutes and regulations governing LBC matters are listed below, followed by a summary of standards and procedures.

On June 29, 1991, the Local Boundary Commission adopted a revised set of regulations. The revised regulations were fully implemented on September 14, 1992, when the U.S. Department of Justice granted preclearance under the Federal Voting Rights Act. The new regulations were published in the October, 1992, supplement to the Alaska Administrative Code.

Alaska Constitution

- Article X, Section 3 - Boroughs
- Article X, Section 7 - Cities
- Article X, Section 12 - Boundaries
- Article X, Section 14 - Local Government Agency

Alaska Statutes

- AS 29.05.011-031 - Standards for incorporation of cities and boroughs
- AS 29.05.060-150 - Procedures for incorporation of cities and boroughs
- AS 29.06.040-060 - Annexation and detachment
- AS 29.06.090-170 - Merger and consolidation
- AS 29.06.450-530 - Dissolution
- AS 44.47.565-583 - General provisions concerning the LBC

LBC Regulations

- 19 AAC 10.010-040 - Standards for incorporation of cities
- 19 AAC 10.045-060 - Standards for incorporation of boroughs
- 19 AAC 10.090-150 - Standards for annexation to cities
- 19 AAC 10.160-210 - Standards for annexation to boroughs or unified municipalities
- 19 AAC 10.220-230 - Standards for merger of municipalities
- 19 AAC 10.240-250 - Standards for consolidation of municipalities
- 19 AAC 10.260 - Standards for detachment from cities
- 19 AAC 10.270 - Standards for detachment from boroughs or unified municipalities
- 19 AAC 10.280-300 - Standards for dissolution of cities
- 19 AAC 10.310-330 - Standards for dissolution of boroughs or unified municipalities
- 19 AAC 10.400-660 - Procedures for petitioning
- 19 AAC 10.900-990 - General Provisions

City Incorporation

The standards for incorporation of a city relate to the following factors:

1. The need for city government.
2. The community's human and economic resources.
3. The size and stability of the community's population.
4. Suitable boundaries.
5. Whether annexation to an existing city, or services performed by a borough, is more appropriate.

All of the standards must be met for the LBC to approve an incorporation petition.

The procedure for incorporation:

1. Residents submit a petition with supporting brief to the Department of Community and Regional Affairs.
2. DCRA reviews the form and content of the petition and determines whether it has enough valid signatures.
3. DCRA assists the petitioners in correcting any deficiencies in the petition and assists petitioners in mailing and publishing notice of the petition.
4. Interested parties are allowed at least seven weeks to review and submit comments on the incorporation proposal.
5. Petitioners are allowed at least two weeks to respond to comments from interested parties.
6. DCRA examines the petition and comments, and otherwise investigates the incorporation proposal. DCRA holds a public informational meeting in the area proposed for incorporation.
7. DCRA prepares a draft report and recommendation for the Commission on the proposed incorporation. The draft is circulated for public review for a minimum of four weeks. Following consideration of the comments, DCRA issues its final report.
8. The LBC holds at least one public hearing in the area. Within 90 days, the LBC makes a decision on the petition. The Commission may change the proposed municipal boundaries, and it may impose conditions on the incorporation. These conditions can include a requirement for voter approval of authority to levy municipal taxes (to ensure that the city will be financially viable).
9. If the LBC approves the incorporation petition, the Director of the Alaska Division of Elections orders a local election. This election includes selection of council members and possible council authorization to levy municipal taxes. DCRA prepares and submits the request to the U.S. Justice Department for federal Voting Rights Act preclearance.
10. After the election is held, the Division of Elections certifies the results. If a majority of those voting approve the incorporation (with any stated conditions) DCRA issues a certificate of incorporation for the city.

LOCAL BOUNDARY COMMISSION

Borough Incorporation

The standards for incorporation of a borough relate to:

1. Social, cultural, and economic integration;
2. Population size and stability;
3. Human and financial resources to maintain and operate the mandatory powers of the borough on an efficient and cost-effective level;
4. The proposed boundaries and their conformance with the natural geography of the area and whether they include all of the territory necessary to provide the full development of borough services on an efficient, cost-effective level.

As with city incorporations, all of the borough incorporation standards must be met for the LBC to approve a petition. Borough incorporation procedures are the same as those set out above for city incorporation.

Boundary Change Procedures

Procedures for annexation, detachment, merger, consolidation and dissolution are similar in many respects to the procedures previously outlined for incorporation. However, there are some important differences.

Under current law, an incorporation petition can only be initiated by the resident voters. However, annexation, detachment, merger, consolidation and dissolution may be initiated in a variety of ways. Petitioners for those procedures may include a political subdivision of the State of Alaska, the Alaska Legislature, the Commissioner of DCKA, LBC staff or designee, or voters.¹²

In the case of simple and non-controversial boundary proposals, certain of the procedural steps can be eliminated. The Commission's new regulations give it flexibility to ensure that the rights of interested parties are protected while at the same time, the process used to consider the proposal is reasonable, speedy and inexpensive.

The method of final approval in these instances will vary. Some will involve elections conducted by the State or local government. In other cases final approval may be sought from the Legislature. In simple and non-contested boundary proposals, no approval beyond that of the Commission may be necessary.

¹² A political subdivision is defined under 19 AAC 10.990(a)(11) to mean a borough, unified municipality, city, regional educational attendance area, or coastal resource service area organized and operated under state law.

Details about a particular process are available from:

Local Boundary Commission Staff
Department of Community & Regional Affairs
333 West 4th Avenue, Suite 220
Anchorage, Alaska 99501-2341
Telephone: 269-4500 Fax: 269-4520

Annexation Standards

Standards for annexation to cities relate to:

1. The need for city government;
2. Whether the territory is compatible in character with the annexing city;
3. Whether the post-annexation boundaries of the city include the human and financial resources necessary to provide city services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries include a population sufficiently large and stable enough to support the extension of city government;
5. Whether the post annexation boundaries include all of the territory necessary to provide essential city services on an efficient, cost-effective level;
6. Whether the annexation serves the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

In order for any annexation to occur, the first five standards must be satisfied. In order for an annexation to be approved using the legislative review method for final approval, the sixth standard must also be met. In considering whether this sixth standard is met, the Commission may consider factors including whether the (1) territory is an enclave within the existing boundaries of the city; (2) health, safety, or general welfare of city residents is endangered, (3) extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, (4) residents and/or property owners receive benefits from the city without commensurate tax contributions, (5) annexation will enable the city to plan and control anticipated growth or development and (6) the territory is so sparsely inhabited or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

Standards for annexation to boroughs relate to:

1. Whether the social, cultural and economic characteristics of the people are interrelated and integrated;
2. Whether the area has sufficient population size and stability;
3. Whether the post-annexation boundaries of the borough include the human and financial resources necessary to provide borough services on an efficient, cost-effective level;
4. Whether the post-annexation boundaries conform to natural geography and include all of the territory necessary to provide essential borough services on an efficient, cost-effective level;
5. Annexation by the legislative review process requires a determination of whether the annexation services the balanced best interests of the state, the territory to be annexed and all political subdivisions affected by the annexation.

LOCAL BOUNDARY COMMISSION

The factors to be considered with respect to the interests of parties are similar to those noted earlier for annexation to cities.

Detachment Standards

Standards for detachment from cities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the city and the territory after detachment;
3. The ability of the city or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the area after detachment;
5. The historical pattern of providing to the territory municipal services that have been, or should be, supported by tax levies in the territory;
6. The historical pattern of cooperation and shared commitment between the people of the city and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining city to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining city, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Standards for detachment from boroughs and unified municipalities relate to:

1. The balanced best interests of the state, the territory to be detached and the political subdivisions affected by the detachment;
2. The health, safety and general welfare of the borough or unified municipality and the territory after detachment;
3. The ability of the borough or unified municipality or other governmental entity to efficiently and effectively provide reasonably necessary facilities and services to the territory after detachment;
4. The reasonably anticipated potential for, and impact of, future population growth or economic development that will require local government regulation in the territory after detachment;
5. The historical pattern of providing to the territory municipal services that have been or should be, supported by tax levies in the territory;

6. The historical pattern of cooperation and shared commitment between the people of the borough or unified municipality and the people of the territory;
7. The extent to which detachment might enhance or diminish the ability of the remaining borough or unified municipality to meet the standards for incorporation;
8. The extent to which a transition plan of a previous annexation has been implemented and is effective;
9. The effect on the long-term stability of the finances of the remaining borough or unified municipality, other municipalities, and the state;
10. Whether the proposed detachment will promote local self-government with a minimum number of governmental units;
11. Whether the territory's requirements for local government services will be adequately met following detachment.

Consolidation and/or Merger Standards

Consolidation of municipal governments is the creation of a new municipality from the union of two or more existing municipalities. Merger of municipalities is the absorption of one or more existing municipality by another existing municipality. The primary standard for either action is whether the successor municipality meets the applicable standards for incorporation for its type of municipality. Merger and consolidation are initiated with a petition to the LBC .

Municipal Dissolution Standards

The standards for dissolution of a municipality relate to the following factors:

1. Whether the municipality is free of debt, or has satisfied each of its creditors;
2. Whether the municipality has ceased to use each of its mandatory powers;
3. Whether dissolution is in the best interests of the state;
4. Whether the municipality continues to meet the standards for incorporation;
5. Whether the municipality still meets the standards for incorporation;
6. Whether the municipality has ceased to exercise its mandatory powers.

City of Palmer

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.

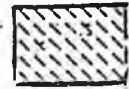
The continued health and safety concerns of the City of Palmer's residents can be mitigated upon annexation through the enforcement of city zoning ordinances and health ordinances which will require the removal of inoperable vehicles, mandatory garbage collection for all city residents, compliance with 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.

PROPOSED PALMER ANNEXATION

AREA PROPOSED FOR ANNEXATION



SCALE
 ┌──────────┐
 APPROX. 200 FEET

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.

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.

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

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.

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). (E/f. 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.

8-LS0567A

Cook

2/8/93

SENATE JOINT RESOLUTION NO. 20

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced:

Referred:

A RESOLUTION

1 **Disapproving the Local Boundary Commission recommendation regarding the**
2 **annexation of territory to the City of Palmer.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **WHEREAS**, under art. X, sec. 12, Constitution of the State of Alaska, the Local
5 Boundary Commission has presented to the legislature its recommendation regarding the
6 annexation of territory to the City of Palmer; and

7 **WHEREAS** the recommendation was received on January 20, 1993; and

8 **WHEREAS** a recommendation of the Local Boundary Commission presented to the
9 legislature becomes effective 45 days after presentation or at the end of the session, whichever
10 is earlier, unless disapproved by a resolution concurred in by the majority of the members of
11 each house;

12 **BE IT RESOLVED** by the Alaska State Legislature that the recommendation of the
13 Local Boundary Commission received January 20, 1993, regarding the annexation of territory
14 to the City of Palmer, is disapproved.

January 25, 1991

Dear Alaska State Legislator,

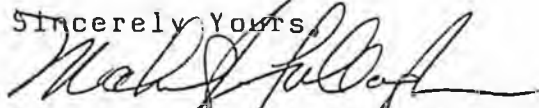
I am writing this letter in support of the proposed annexation of 7.5 acres in No. Palmer, Ak. I will spare you all the details of this issue and why I am in favor because there is just too much material to cover. However, I would like to point out that I have been involved in this issue as an interested 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,



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

Annual
Boundary
Comm. Rpt.



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

AGENDA

February 22, 1994
9:00 AM

Butrovich Room
Room 205

1. Call to Order (time and members present)
2. State of Alaska Local Boundary Commission
Briefing on 1994 Annual Report to Legislature

Chairman: Darroll Hargraves
CRA Staff: Dan Bockhorst
3. SB 291 = Borough Incorporation and Annexation

Sponsor - Senator Donley - will not be at the hearing
Staff - Alexis Miller
4. Adjourn

NOTICE OF MEETINGS

STATE OF ALASKA LOCAL BOUNDARY COMMISSION



Darroll Hargraves, Chair, At-Large
Shelley Dugan, Vice-Chair, Fourth Judicial District
H. Toni Salmeier, Third Judicial District
Myrtle Johnson, Second Judicial District
Frances Hallgren, First Judicial District



The Local Boundary Commission is scheduled to meet in Juneau as noted below to review 1993/1994 activities and issues.

- February 21, 1994 at 1:30 p.m. in the Nugget Room of the Baranof Hotel, 127 North Franklin Street.
- February 22, 1994 at 9:00 a.m. in the State Capitol [the Commission will address the Senate Community and Regional Affairs Committee during a meeting of that Committee].
- February 22, 1994 at 1:00 p.m. in the State Capitol [the Commission will address the House Community and Regional Affairs Committee during a meeting of that Committee].

Additionally, the Chairman of the Local Boundary Commission is scheduled to testify before the Senate Judiciary Committee regarding CSSB 164(CRA) on February 23 at 1:30 p.m. in the State Capitol. CSSB 164(CRA) is a bill for an act entitled "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

CONTACT 269-4560 FOR MORE INFORMATION

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

FEB 4 1993

MUNICIPAL & REGIONAL ASSISTANCE DIVISION

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|--|--|--|---|
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BETHEL, ALASKA 99559-0348
PHONE: (907) 543-3475
FAX: (907) 543-4152 | <input type="checkbox"/> P.O. BOX 350
KOTZEBUE, ALASKA 99752-0350
PHONE: (907) 442-3696
FAX: (907) 442-2402 | <input type="checkbox"/> 710 MILL BAY ROAD
KODIAK, ALASKA 99615-6398
PHONE: (907) 486-9379
FAX: (907) 486-5960 |
| <input type="checkbox"/> P.O. BOX 112100
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4814
FAX: (907) 465-2948 | <input type="checkbox"/> 1001 NOBLE STREET, SUITE 430
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-7126
FAX: (907) 451-7251 | <input type="checkbox"/> P.O. BOX 290
DILLINGHAM, ALASKA 99576-0290
PHONE: (907) 842-5135
FAX: (907) 812-5140 | <input type="checkbox"/> P.O. BOX 41
NOME, ALASKA 99762-0041
PHONE: (907) 443-5457
FAX: (907) 443-2409 |

January 27, 1994

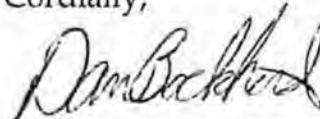
Ms. Shirley Armstrong
Senate Community & Regional Affairs Committee Staff
Room 103
State Capitol
Juneau, Alaska 99801-1182

Dear Ms. Armstrong:

This is to confirm arrangements for the Local Boundary Commission to meet with the Senate Community & Regional Affairs Committee on February 22 at 9:00 a.m. The purpose of the meeting is to discuss the Commission's report to the 1994 legislature, including the three recommendations for annexation presented in the report. The Commission has arranged for a similar meeting with the House Community and Regional Affairs Committee on the same date at 1:00 p.m.

In response to your request, I have prepared and enclosed a one-page summary of the principal effects of CSSB 164(CRA). I have also prepared and enclosed a three-page sectional analysis of the bill.

Cordially,



Dan Bockhorst
Local Boundary Commission Staff

Enclosures: CSSB 164(CRA) Summary
CSSB 164(CRA) Sectional Analysis

cc (w/enclosures): Kevin Sullivan, Senate Judiciary Committee Staff
Bruce Geraghty, Deputy Commissioner, DCRA

SUMMARY OF PRINCIPAL PROVISIONS OF CSSB 164(CRA)*

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Summary prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff,
Department of Community & Regional Affairs, telephone 269-4500*

- ❖ **Establishes mechanism for first class and home rule cities to reclassify as second class cities.** Under current law, such can only be done by dissolving the first class or home rule city and incorporating a second class city.
- ❖ **Provides State oversight concerning all municipal reclassifications.** The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough because it automatically creates new municipal school districts. There are 27 second class cities in the Unorganized Borough that could unilaterally reclassify to first class cities. That represents a potential 50% increase in the number of school districts. Communities which are presently unincorporated could add to that number.
- ❖ **Permits direct incorporation of home rule cities and unified municipalities, and confirms that home rule cities and home rule boroughs may be created through merger and consolidation.** Interest in such options is strong. In 1985, the law was amended to allow direct incorporation of home rule boroughs. Three of the four boroughs formed since that law took effect were home rule boroughs.
- ❖ **Confirms the discretion of the Local Boundary Commission in approving, denying or amending petitions.** The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in dealing with other petitions. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.
- ❖ **Confirms that the Local Boundary Commission has legislative authority to adopt regulations for incorporation and dissolution.** A superior court judge recently ruled that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, the judge noted that courts need not give the same level of deference to interpretative regulations as they must give to legislative regulations.

* For further analysis and details concerning the effects of CSSB 164(CRA), see the three-page "Sectional Analysis of CSSB 164(CRA)" prepared by DCRA on January 27, 1994.

SECTIONAL ANALYSIS

CSSB 164(CRA)

A bill for an act entitled, "An Act relating to municipal incorporation, reclassification, and dissolution, and municipal school districts."

*Sectional analysis prepared January 27, 1994 by Dan Bockhorst, Local Boundary Commission Staff,
Department of Community & Regional Affairs, telephone 269-4500*

Section 1 simply recognizes under AS 14.12.010 what is already provided by AS 29.35.260(b) – that a home rule city in the Unorganized Borough is a city school district.

Section 2 makes the following changes:

1. It permits a first class or home rule city to reclassify as a second class city.¹
2. It provides State oversight in the reclassification of any city government.²

Sections 3 - 5 amend procedures for municipal reclassification to further implement State review of reclassification proposals. **Section 3** requires a petition to the Local Boundary Commission to initiate a reclassification proposal. **Section 4** requires the Local Boundary Commission to notify the city upon approval of a reclassification petition, thereby triggering a municipal election on the matter. **Section 5** eliminates references to particular classes of city government, thereby acknowledging that any class of city may be reclassified.

Section 6 allows incorporation of a home rule city.³

Section 7 allows incorporation of a unified municipality.⁴

¹ Currently, this can be done only in effect by dissolving the home rule city or first class city and incorporating a second class city – a lengthy and difficult process.

² The State has legitimate interests in any city reclassification. Such interests are particularly significant in cases involving the reclassification of second class cities in the Unorganized Borough, since such automatically creates new municipal school districts. Yet, under current law the State has no provision to regulate municipal reclassification. There are a total of 27 second class cities in the Unorganized Borough that could reclassify as first class cities. Some are currently exploring the possibility of doing so. There are also 11 unincorporated communities in the Unorganized Borough that could incorporate as second class cities and subsequently reclassify as first class cities. Collectively, those 38 communities represent a potential 70 percent increase in the number of school districts in Alaska. CSSB 164(CRA) assigns responsibility to the Local Boundary Commission to oversee reclassification.

³ Under current law, forming a home rule city generally requires that a community first become a first class city and then undertake a separate process to adopt a home rule charter. Some communities have shown strong interest in allowing direct incorporation as a home rule city. State law was amended in 1985 to allow direct incorporation of home rule boroughs. Three of the four boroughs incorporated since then have incorporated as home rule boroughs. [Note: the Northwest Arctic Borough is not counted among the four. The Northwest Arctic Borough prepared its petition for incorporation before the 1985 law took effect. However, the Northwest Arctic Borough subsequently reclassified as a home rule borough.]

⁴ There are presently three unified municipalities in Alaska – Anchorage, Juneau and Sitka. Under current law, in order to form a unified municipality, there must be both an organized borough and at least one city government. Interest has been expressed in allowing other regions of the state to form unified municipalities. These include areas which may have neither a city government nor an organized borough, or only one of the two.

Sections 8, 10 - 13 and 19 provide procedures for the incorporation of home rule cities and unified municipalities. **Section 8** amends the law specifying the contents of a petition in the case of proposals for incorporation of home rule cities and unified municipalities. **Section 10** acknowledges that if voters approve incorporation of a home rule city or unified municipality, the home rule charter is adopted. **Section 11** adds a new section providing that incorporation of a unified municipality dissolves all other municipal governments within the boundaries of the unified municipality. **Section 12** extends organizational grants to newly formed unified municipalities, except those that occupy the area formerly occupied by an organized borough.⁵ **Section 13** extends transitional assistance to newly incorporated unified municipalities, again, except those that occupy the area formerly occupied by an organized borough. **Section 19** amends current law to acknowledge that any of the following may incorporate as a unified municipality: a) an area which has neither a city government nor an organized borough; b) an area which has one or more city governments, but no organized borough; or c) an area which has an organized borough, but no city governments.

Sections 9, 14, 17 and 21 confirm that the Local Boundary Commission has discretion in the approval of all petitions that come before it.⁶ The referenced sections also confirm that the Commission has broad power to amend such petitions.⁷ **Section 9** does so with respect to municipal incorporation, **Section 14** concerns municipal annexation and detachment, **Section 17** addresses merger and consolidation, and **Section 21** confirms the Commission's discretion and authority to amend a dissolution petition; and expressly extends requisite "best interests" determinations to all dissolutions.

Section 15 confirms that a home rule city or home rule borough may be formed through merger or consolidation.

Sections 16 and 18 amend existing procedures for merger or consolidation relating to home rule cities and home rule boroughs. **Section 16** provides that a home rule charter must be included with a petition to form a home rule city or home rule borough through merger or consolidation. **Section 18** states that a charter for a home rule city or home rule

⁵ Boroughs would remain eligible for organizational grants under this bill. The term "municipality" which is substituted for the term "borough" currently used under AS 29.05.190(a) and (b) does not mean only a unified municipality, but includes both boroughs and unified municipalities.

⁶ The Local Boundary Commission has explicit discretion in acting on petitions for annexation and detachment. However, the statutes do not expressly recognize the Commission's discretion in other matters. This may create unintended consequences. For example, it is widely interpreted that AS 29.06.500 may not give the Commission any discretion in dealing with a proposal presently being developed to dissolve the City of Seldovia. This is so even if the Kenai Peninsula Borough were to refuse to form a service area to assume any responsibility in terms of succeeding to the assets, duties, powers, functions and liabilities of the City of Seldovia. Under those circumstances, AS 29.06.520 dictates that the State of Alaska would be burdened with such responsibilities.

⁷ The Department of Law has concluded that the Local Boundary Commission implicitly possesses such authority. For example, with respect to incorporations, the Department of Law noted, "[the statutes] do not bind the commission to either accept or reject the petition in its entirety . . . the commission is exercising a delegated fact finding function when it considers the creation of a new municipal government. The commission stands in the shoes of the state legislature when it considers these matters. Absent an express limitation on the powers of the commission, the commission should be presumed to possess the same powers as the legislature in this area." (Assistant Attorney General James L. Baldwin, inf. op. July 7, 1987; see also Assistant Attorney General James L. Baldwin, inf. op. May 30, 1984.)

borough proposed to be formed through merger or consolidation is adopted upon voter approval of the merger or consolidation proposition.

Section 20 makes the statutes consistent in the use of the last regular election of a municipality as the basis for determining the number of signatures needed to file a petition to dissolve that municipality. This is currently the case in all instances except AS 29.06.470(a)(3), which bases the requirement on the last [State] general election.

Sections 22 - 28 make amendments relating to the creation of a home rule city or home rule borough through merger or consolidation, or the incorporation of a home rule city or unified municipality. **Section 22** acknowledges that a home rule charter may be adopted through merger or consolidation, or as a result of the incorporation of a home rule city or unified municipality. **Section 23** provides that a proposed charter for a home rule municipal government is to be filed with the petition for incorporation, merger or consolidation. **Section 24** requires the Department of Community and Regional Affairs to prepare a model charter for a home rule city and a unified municipality. **Section 25** provides that the proposed charter for a home rule municipality to be formed by incorporation, merger or consolidation must be submitted to the voters for approval. **Section 26** stipulates that, upon certification of favorable election results, the charter becomes the organic law of a home rule municipal government formed by incorporation, merger or consolidation. **Section 27** states that if the voters reject a proposal to incorporate, merge or consolidate as a home rule municipal government the charter is rejected. **Section 28** requires a home rule municipality to file a copy of any amendments to its charter with certain officials.⁸

Section 29 removes any question that the Local Boundary Commission has legislative authority to adopt regulations providing standards and procedures for municipal incorporation and dissolution.⁹

Section 30 makes the following changes:

1. It repeals the requirement that a city council hold a public hearing on a proposed reclassification of the city.¹⁰
2. It repeals the provision that allows a second class city with a population of at least 3,500 permanent residents and jurisdictional boundaries encompassing at least 35 square miles to adopt a home rule charter.¹¹

⁸ AS 29.10.080 presently requires a home rule municipal government to file a charter only upon its adoption. Current law requires no filing of amendments.

⁹ Superior Court Judge Michael A. Thompson ruled on June 7, 1993 (case No. 1JU-92-1126 CI), that the Commission has legislative authority to adopt regulations for annexation, detachment, merger and consolidation. However, he concluded that the Commission has only interpretative authority to adopt regulations concerning municipal incorporation. The ruling never addressed the Commission's authority to adopt regulations concerning dissolution. In making his ruling, Judge Thompson noted that courts need not give the same level of deference to interpretative regulations as it must give to legislative regulations.

¹⁰ Section 2 of CSSB 164(CRA) requires the Local Boundary Commission to conduct such a hearing.

¹¹ The current law applies to only one of Alaska's 116 second class cities.

Prepared Remarks to the Senate Community & Regional Affairs Committee
by Darroll Hargraves, Chairman, Local Boundary Commission
February 22, 1994

Introduction. Mr. Chairman, members of the Committee: Thank you for the opportunity to address you this morning. I am Darroll Hargraves from Ketchikan, Chair of the Local Boundary Commission. With me are Shelley Dugan, Vice Chair from Fairbanks; Myrtle Johnson, member from Nome; Frances Hallgren, member from Sitka; and Toni Salmeier, member from Anchorage.

Background. The Local Boundary Commission acts on petitions for city and borough incorporation, annexation, detachment, dissolution, merger and consolidation. The Commission's role is to objectively consider arguments for and against such proposals, taking areawide and statewide needs into consideration. The Commission is one of five boards or commissions with origins in Alaska's Constitution.

The Commission consists of five members. One is appointed from each of Alaska's four judicial districts; the fifth member is appointed at-large. Procedures used by the Commission are designed to secure the reasonable, timely and inexpensive determination of municipal boundary proposals. These procedures include extensive public notice and opportunity for comment, thorough study, public informational meetings, public hearings, a decisional meeting of the Commission and opportunity for reconsideration. A summary of these procedures is provided on pages 2 - 5 of the Commission's January 19, 1994 report to the Legislature.

Decisions of the Commission are based upon criteria or standards set out in statutes and regulations. The Department of Community and Regional Affairs provides staff support to the Commission.

During 1993, the Commission held 20 meetings. Annexations were implemented or approved in Cordova, Palmer, Hoonah, Haines, Fairbanks, Seldovia, Soldotna, Thorne Bay and King Cove. The Commission also denied one annexation proposal.

Annexations Subject to Review by 1994 Legislature. The Commission filed three formal recommendations for annexation with the Legislature on January 19, 1994. Under provisions of the Constitution and statutes, the Legislature has 45 days to consider the proposed annexations (or until the end of the Session, whichever occurs first). If the Legislature takes no action, the annexations gain automatic legislative approval 45 days after the recommendations were filed by the Commission. In this case the 45-day review period expires Saturday, March 5, 1994. Alternatively, the Legislature may deny any one or more of the annexations by adopting "a resolution concurred in by a majority of the members of each house" on or before March 5.

decisional documents. Of course, the Commission will also attempt to answer any questions you may have at this time.

Pending Legislation. There are three bills that I wish to address briefly.

CSSB 164(CRA) I want to thank this Committee for introducing Senate Bill 164 last year and forwarding it to the Senate Judiciary Committee. The bill makes technical amendments to the law that have been sought by the Local Boundary Commission for the past several years. The need for the amendments is discussed in detail on pages 38 and 39 of the Commission's report to the Legislature. While this Committee has already acted on the measure, the Commission would appreciate your support as the measure receives further consideration. The Senate Judiciary Committee is scheduled to conduct a hearing on the bill tomorrow.

SB 291, is an Act whose express purpose is, "... to eliminate the unorganized borough by including all regions of the state in an organized borough or unified municipality." The Commission recognizes that there are legitimate arguments on both sides of that very thorny issue. In the Commission's view, the matter is a political issue to be addressed by the Legislature.

Members of the Commission have agreed that it is appropriate for our quasi-judicial body to remain neutral in any debate over SB 291. The Commission feels that a neutral stance is critical to maintaining the integrity of its mission - to objectively consider arguments for and against the establishment or alteration of specific municipal boundaries. By either supporting or opposing SB 291, the Commission is certain to be viewed by residents of this state as having a bias when it comes to considering a boundary proposal for their particular region.

HB 427, provides compensation for the Commission. While the Commission recognizes that today's economic climate is less than ideal for such a proposal, it feels strongly that the matter deserves serious consideration. The Commission urges you to review the discussion of this long-standing issue on pages 39 - 41 of its report to the Legislature. The Department of Community and Regional Affairs has issued a position paper in support of the measure. If you concur that the matter warrants consideration, the Commission urges this Committee to introduce and support a measure comparable to HB 427.

Prospective 1994 Activities. I will end my prepared remarks with a brief summary of proposals currently being contemplated for presentation to the Local Boundary Commission. These are based upon reports from the Department of Community and Regional Affairs. In nearly all cases, the reports stem from direct contact between the Department and local officials or residents.

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FOLLOWING
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by Darroll Hargraves, Chairman, Local Boundary Commission
February 22, 1994

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Remarks to Senate C&RA Committee
February 22, 1994
Page Two

The three recommendations for annexation are addressed in moderate detail on pages 18 through 37 of the Commission's report to the Legislature. However, I will discuss them very briefly here:

King Cove. The first involves the proposed annexation of 21 square miles to the City of King Cove. King Cove is located 1,100 miles southwest of here in the Aleutians East Borough. While the area proposed for annexation is inhabited by only 8 residents, it holds substantial development. The area includes all of one subdivision and part of another, the community's airport, a portion of the City's landfill and the City's hydroelectric project (currently under construction). The area also includes sites proposed for the construction of a new port facility and a new water utility system. I will pass around a map showing the area proposed for annexation.

Seldovia. The second and third recommendations involve the proposed annexation, respectively, of 42.8 acres and 1.8 acres to the City of Seldovia. Seldovia is a community located 650 miles west of here in the Kenai Peninsula Borough. Most of the territory proposed for annexation consists of that portion of the Seldovia airport not presently within the boundaries of the City. Because the City's boundaries bisect the community's airport, confusion and uncertainty exist with respect to the levy of city sales taxes and property taxes at the airport. The same holds true for the extension of municipal services and other jurisdictional issues at the airport. The remaining area proposed for annexation contains 13 enclaves or "holes" in the area under the City's jurisdiction. Until recently, those enclaves were believed to have been formally included within the corporate boundaries of the City. For the past 25 years or so, the City has taxed those properties and has extended full services to them. The enclaves are reportedly inhabited by three individuals.

I will pass around three maps showing the collective 44.6 acres proposed for annexation to the City of Seldovia. The first map shows the enclaves that comprise 6.2 acres. The second shows the airport property identified in the City's annexation petition. Together, those two areas comprise the 42.8 acres addressed by the Commission's formal Recommendation Number Two.

Again, the third recommendation proposes a separate annexation of 1.8 acres to the City of Seldovia. That area consists of a segment of the airport that the City had inadvertently omitted from its petition. The Commission filed a separate recommendation for the annexation of that property for procedural reasons.

If the Committee desires additional details concerning any of the three recommended annexations, I can provide you with a copy of the appropriate

Remarks to Senate C&RA Committee
February 22, 1994
Page Three

decisional documents. Of course, the Commission will also attempt to answer any questions you may have at this time.

Pending Legislation. There are three bills that I wish to address briefly.

CSSB 164(CRA) I want to thank this Committee for introducing Senate Bill 164 last year and forwarding it to the Senate Judiciary Committee. The bill makes technical amendments to the law that have been sought by the Local Boundary Commission for the past several years. The need for the amendments is discussed in detail on pages 38 and 39 of the Commission's report to the Legislature. While this Committee has already acted on the measure, the Commission would appreciate your support as the measure receives further consideration. The Senate Judiciary Committee is scheduled to conduct a hearing on the bill tomorrow.

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Members of the Commission have agreed that it is appropriate for our quasi-judicial body to remain neutral in any debate over SB 291. The Commission feels that a neutral stance is critical to maintaining the integrity of its mission - to objectively consider arguments for and against the establishment or alteration of specific municipal boundaries. By either supporting or opposing SB 291, the Commission is certain to be viewed by residents of this state as having a bias when it comes to considering a boundary proposal for their particular region.

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Prospective 1994 Activities. I will end my prepared remarks with a brief summary of proposals currently being contemplated for presentation to the Local Boundary Commission. These are based upon reports from the Department of Community and Regional Affairs. In nearly all cases, the reports stem from direct contact between the Department and local officials or residents.

However, in a few cases, the accounts may stem from unsubstantiated reports. While it is not possible to accurately predict how many of these proposals will be formally presented to the Commission, the length and diversity of the list suggest that 1994 will be another active and interesting year for the Commission.

Generally, the list of prospective activities includes proposals for incorporation of eight boroughs and six cities, annexation to one borough and eight cities, detachment from four boroughs and two cities, dissolution of twelve cities and one borough, and merger or consolidation of municipal governments in three regions. More specifically, the contemplated proposals entail:

- ❖ Borough incorporations in the following regions: Dillingham, North Pole, Wrangell, Petersburg, Kake, Glacier Bay, Portage Pass, and Susitna.
- ❖ Borough annexation by the Ketchikan Gateway Borough.
- ❖ Borough detachments involving the following boroughs: Matanuska-Susitna (as many as 3 proposals), Municipality of Anchorage, Kodiak Island, and Fairbanks North Star (as many as 2 proposals).
- ❖ Borough dissolution of the Matanuska-Susitna Borough.
- ❖ City incorporations in the following communities: Cantwell, Egegik, Nikiski, Gustavus, Sterling, and Port Protection.
- ❖ City annexations by the following cities: Ketchikan, Kodiak, Fairbanks (multiple proposals), Sand Point, Craig, Whittier, Newhalen, and Haines.
- ❖ City detachments in the cities of Unalaska and St. Mary's.
- ❖ City dissolutions involving the following cities: Seldovia, Chefornak, Mekoryuk, Quinhagak, Toksook Bay, Nightmute, Atmoutluak, Kasigluk, Newtok, Tuluksak, Tununak and Angoon.
- ❖ City and borough consolidations or mergers in the Northwest Arctic Borough, Fairbanks North Star Borough and the Ketchikan Gateway Borough.

Conclusion. That concludes my prepared remarks. If you have any questions or would like me to elaborate on any of the points that I have covered, please ask. Also, if there are any other issues involving the Commission that you would like to raise, please feel free to do so.

SENATE AND HOUSE JOINT JOURNAL SUPPLEMENT

January 19, 1994

Wednesday

No. 13

RECOMMENDATIONS

BY

THE LOCAL BOUNDARY COMMISSION

IN ACCORDANCE WITH AS 44.47.567

AND

ARTICLE X, SECTION 12

CONSTITUTION OF THE STATE OF ALASKA

Received
January 19, 1994
8:30 a.m.

City Of Seldovia

P.O. Drawer B

Seldovia, Alaska 99663

Phone (907) 234-7643

FAX (907) 234-7430

January 25, 1994

Senator Randy Phillips
Alaska State Legislature
Chair, Community and Regional Affairs
Room 103
Juneau, AK 99801-1182

Dear Senator Phillips:

The City of Seldovia has petitioned the Local Boundary Commission to annex the balance of the airport as well as what everyone always believed to be inside the City limits. That annexation has been approved by the Local Boundary Commission and was given to the Alaska State Legislature for consideration by its members on January 19th.

The City has worked long and hard to deal with a very difficult situation. The fact that all of the City's waterfront, boat harbor, city offices and dock in addition to other public and private properties were found to be outside of the City limits was quite a shock to us all.

The City has had to put itself "back together" through the process of three separate annexations. The first involved City-owned property. The second involved those property owners who petitioned the City for annexation. This third annexation is the final piece of the process to make the City "whole again." This last annexation included the balance of the State airport, property owners who submitted their petitions too late and those who failed to petition for annexation. Other than at the airport, in no case has the City attempted to annex any individuals or property except for those who had always believed they were in the City, paid taxes to the City and/or voted in City elections in the past.

In the best interests of the City of Seldovia, and according to the Local Boundary Commission, the best interests of the State of Alaska, we ask the Alaska State Legislature support the Local Boundary Commission's recommendations. To accomplish that end, the Legislature is required to have a non-objection to the City's annexation. With this letter, I am asking for your support of non-objection to the City's annexation.

If you have any questions, please call me at 234-7643.

Sincerely,

Ivan L. Widom

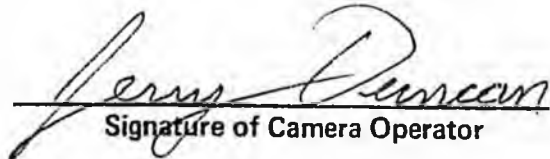
Ivan L. Widom
City Manager
cc: Mayor and City Council

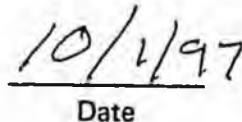


RECORDS CERTIFICATION



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


Signature of Camera Operator


Date

LBC

Recommend

to Title 29



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Rick Halford
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P O. Box 142
Eagle River, Ak 99577
(907) 694-4949

AGENDA

9:00 am

March 11, 1993

1. Call to Order (time and members present)
2. Discussion of Local Boundary Commission recommendations relating to incorporation, reclassification and dissolution changes in Title 29
3. Motion to introduce the draft as a CRA committee bill.
4. Adjourn

WORK ORDER REQUEST FORM

W.O. [18] LS-0837

KEYWORDS: BOUNDARIES ASSIGNED: Cook

MUNICIPALITIES

REQUEST FOR: New Bill TAKEN BY: Imbsen

SUBJECT: Municipal Incorporation, Reclassification & Dissolution

REQUESTED FOR: SC SCRA BY: S. Armstrong PHONE: 465-2661

DELIVER TO: Sen. Randy Phillips, Attn: Shirley, Cap 103

INSTRUCTIONS: Prepare draft duplicating 7-LS2032\A, dated 2/18/92 - 17th legislature, relating to municipal incorporation, reclassification, and dissolution.

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED []
AUTHORIZED TO CONFER WITH _____

RETURN _____
_____ TO REQUESTOR

APPROVED: X DIRECTOR, LEGAL SERVICES

REVIEWED _____

IN 03/10/93 DUE _____

TYPED: Draft _____ Date _____

Final _____ Date _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS to TYPING/PROOFING

Request for DRAFT

IV. SPECIAL ISSUES

Suggested Changes to Title 29

The LBC and its DCRA staff work with many of the state's municipalities each year. As a result, the Commission routinely confronts requirements and procedures which appear, in practice, to have a different result for municipalities or the state than the legislature probably intended when enacting the statute. The following are some suggested changes to Title 29 which the Commission believes would be in Alaskans' best interest.

- Allow direct incorporation of home rule cities and unified municipalities.
- Provide state oversight in the reclassification of 2nd class cities in the unorganized borough.
- Technical amendments to laws relating to municipal dissolution.

→ Amend AS 29.05.011 to Permit Incorporation of Home Rule Cities - Currently, residents of an unincorporated community may not directly incorporate as a home rule city. Instead, the community must first incorporate as a first or second class city, and then go through the process of adopting a charter. In 1985, the Legislature amended state law to allow home rule boroughs to form directly. The LBC believes it would be sensible and more cost-efficient to allow an unincorporated city with a least 400 permanent residents (the minimum number of residents required for first class city status) to incorporate directly as a home rule city in a one-step process.

→ Amend AS 29.04.040 and AS 29.10.010 to Require LBC Approval of Reclassification of a Second Class City in the Unorganized Borough - State law currently allows a second class city with a population of at least 400 to reclassify as a first class city without approval from the state. A second class city with 3,500+ residents and an area of at least 35 square miles may also become a home rule city without approval from the state. Such a reclassification in the unorganized borough is an event of major state interest because first class and home rule cities in the unorganized borough must operate municipal school districts. Although AS 14.17.139 requires Department of Education approval for the formation of any new district with less than 250 students, DOE has indicated that it and the Attorney General's office have doubts about the enforceability of that requirement. Without state approval being required for reclassification, the state faces the prospect of a sharp increase in the number of small city school districts. Presently, there are 24 second class cities in the unorganized borough which could, under the current rules, reclassify to first class status. There are also six unincorporated communities with enough population to incorporate and then reclassify to first class. The LBC recommends that these reclassifications be treated similarly to direct incorporation of first class cities, requiring a petition to the LBC.

→ **Amend AS 29.06.190 to Allow Direct Incorporation of Unified Municipality** - Residents of a number of regions in Alaska's unorganized borough have expressed an interest in being permitted to incorporate unified municipalities. Currently, only incorporated cities and an organized borough may unify. The Commission believes it would be beneficial to allow the direct incorporation of unified municipalities in regions with multiple communities, whether or not those communities or a borough were incorporated prior to unification.

→ **Amend AS 29.06.470 & AS 29.06.500 to Clarify Dissolution Standards** - In 1988, the Legislature amended sections .470 and .500 to authorize the dissolution of a municipality if more than 50% of the voters in the last general election petitioned for dissolution and if the LBC determined that dissolution was in the best interests of the state. However, when the dissolution laws are read as a whole, it appears that the LBC, regardless of the state's best interests, may have no discretion to reject a dissolution petition when the municipality is free of debt or has satisfied its creditors with a method of repayment, and either a) ceases to use each of its mandatory powers or b) no longer meets the standards for incorporation. The LBC believes it should have the discretion to consider the state's best interests in all dissolutions, and recommends that the language be clarified.

In addition, AS 29.06.470 refers to the last "general" election in the municipality when describing how to determine the required number of signatures on a dissolution petition filed under AS 29.06.470(a)(3). However, AS 29.06.460 uses last "regular" election as the basis for determining the required number of signatures on a dissolution petition filed under its provisions. Under state law, municipal elections are called "regular" elections, while "general" election usually refers to a state election. If the Legislature intended that the number of required signatures required under AS 29.06.470 be based upon the turnout in the last municipal election, then, to be clear, the term should be changed from "general" to "regular."

MEMORANDUM

State of Alaska

Department of Community
and Regional Affairs

TO: Senator Randy Phillips

DATE: Tuesday, March 2, 1993

FILE NO: S RPhillips/3-2

THRU:

TELEPHONE:(907) 465-4700

FROM: Bruce R. Geraghty *B.R.G.*
Deputy Commissioner

SUBJECT: Legislative Issues
Important to DCRA

You have asked for "one liners" describing current legislative issues that concern the department. The following is the short list. I have not included all the bills, or issues, the department is tracking. This list represents items the department supports.

1. Local Boundary Commission.

- A. City of Cordova annexation of 68.23 square miles.
 - B. City of Haines annexations of 4.75 and 7 square miles.
 - C. City of Hoonah annexation of 7.25 square miles.
 - D. City of Palmer annexation of 7.5 acres.
 - E. Suggested changes to Title 29.
 1. Amend AS 29.05.011 to permit direct incorporation of Home Rule Cities.
 2. Amend AS 29.04 040 and AS 29.10.010 to require LBC approval of reclassification of a Second Class City in the Unorganized Borough.
 3. Amend AS 29.06.190 to allow direct incorporation of Unified Municipalities.
 4. Amend AS 29.06.470 and AS 29.06.500 to clarify dissolution standards.
2. SB 57 reauthorization of the State Training and Employment Program (STEP).
 3. SB 102/HB 66 creating an optional municipal property tax exemption for senior citizens and disabled veterans, and repealing the renter's rebate program.
 4. Funding reductions to the municipal assistance and revenue sharing programs, recommended by the economic summit, while at the same time exempting small communities with little or no present means to replace "across the board" style reductions. Reduction proposed 25 percent and implementation of \$25,000 base amount in municipal assistance program.
 5. SB 88 and SB 89, creation of Capital Matching Grant Program.

Staff at the Department of Community and Regional Affairs have completed their review of the work draft (dated 2/18/92) of a bill entitled "An Act relating to municipal incorporation, reclassification, and dissolution." Generally, the draft does an excellent job of addressing the changes to Title 29 of the Alaska Statutes suggested by the Local Boundary Commission on pages 26-27 of its 1991 Annual Report.

The following comments are offered for consideration:

I. RECLASSIFICATION OF CITIES.

A. Include Provisions for Reclassification of First Class and Home Rule. On February 11, members of the Senate C&RA Committee (particularly Senator Sturgulewski) expressed the need to provide standards and procedures for reclassification of home rule or first class cities. Currently, the law makes no provision for such reclassification. The Local Boundary Commission, a majority of whom were present at the February 11 meeting of the Senate C&RA Committee, informally agreed that provisions allowing such reclassifications are needed. The Department of Community and Regional Affairs also feels that such provisions are necessary.

It would appear that the work draft could be readily modified to accommodate this desired change. This could be done by either eliminating specific references to second class cities in the Section 1 - 3 of the work draft, or alternatively adding appropriate references to first class and home rule cities. Other provisions of AS 29.04.040 which do not appear in the work draft would also have to be modified (e.g. modification of the section title "Reclassification of second class cities").

B. Add Regulatory Authority. The Department recommends that consideration be given to adding language which explicitly grants authority to the Local Boundary Commission to adopt regulations concerning reclassifications. However, care should be taken to ensure that the effect of doing so does not adversely impact the Commission's authority in other areas.

The Commission has clear authority to adopt regulations to provide standards and procedures for "changing local boundary lines" (AS 44.47.567). The term "changing local boundary lines" has long been interpreted by the Commission, this agency and the Attorney General's office to include municipal incorporations.

As was discussed with the Senate C&RA Committee on February 11, questions have recently arisen concerning the Commission's authority to adopt regulations concerning municipal incorporation. This issue is included in the pending appeal concerning the proposed incorporation of the Valleys Borough (see pages 24-25 of 1991 Annual Report).

Post-it brand fax transmittal memo 791	# of pages 10
From Don Bryhorst	To Shirley Armstrong
cc Dept	cc Shirley Armstrong
Phone # 219-4500	Dept.
Fax # 219-4500	Fax

The Department is concerned that by explicitly providing authority to the Commission to adopt regulations to reclassify municipalities, it may somehow weaken the case that the Commission has authority to regulate incorporations. Perhaps the best manner to address this concern would be to also provide explicit authority for the Commission to adopt regulations for incorporation in the fashion which has been done for annexations, detachments, mergers, consolidations and dissolutions (AS 29.06.040(c), 29.06.090(b)(1), 29.06.450(a)(1)).

Provisions explicitly authorizing the Commission to adopt municipal incorporation regulations would not seem at all out of place in the draft bill (e.g. Section 4).

C. Modify Requirement for Council Hearings. Section 3 of the draft retains the requirement in existing law that the city council hold a hearing on the proposed reclassification. However, the draft amends AS 29.04.040(c) to require the city council to conduct the hearing after the LBC has accepted the petition. There is little point in the council holding a hearing and "then evaluat[ing] the ability of the city to assume first class status" after the Commission has already approved a petition for reclassification.

The Department believes that there is merit in promoting public deliberation on any proposed reclassification before a petition is filed. Consequently, the Department recommends that AS 29.04.040(c) be repealed, but that Section 2 of the draft be amended at line 8 to read to the effect of the following: "(2) the council may propose reclassification if it determines, on the basis of at least one public hearing, that the city has the human and financial resources necessary to assume the classification proposed."

Additionally, AS 29.04.040(d) should be modified to reflect any change of the requirement for the hearing by the council.

II. INCORPORATION OF UNIFIED MUNICIPALITIES.

A. Scope. It should be clear that a unified municipality could form whether or not city government(s) or borough government(s) exist prior to incorporation of the unified municipality. Perhaps it would be best to explicitly state such in the bill.

B. Effect. It should also be clear that incorporation of a unified municipality dissolves all cities and boroughs within its boundaries. Again, perhaps it would be best to make an explicit statement to this effect in the bill. Language similar to that in AS 29.06.370 would seem to be suitable.

C. Assistance. Sections 8 and 9 of the bill concerning organizational grants and transitional assistance contain language that exempts the application of these provisions to "a unified municipality that occupies the area formerly occupied by a borough." The Department supports appropriate limitations to avoid abuse of the opportunity for such assistance. However, it would be ideal to craft language which does not preclude such assistance where it may be truly warranted.

For example, an area within a borough might wish to join with a large unincorporated region to form a single borough or unified municipality (e.g. the 25,000 square mile Lake and Peninsula Borough and the 22,000 square mile Dillingham Census Area). Since a substantial portion of such a new municipality would include territory which was previously part of the unorganized borough, it would seem appropriate to extend the organizational grant and transitional assistance to the municipality. Obviously, some standard would have to be developed to determine the circumstances under which this provision would apply.

Further, a borough or unified municipality which encompasses previously unincorporated territory should be eligible to receive a municipal land entitlement under AS 29.65 for that portion of the municipality not previously within a borough.

CONCLUSION

We appreciate the opportunity to review and comment on the working draft at this time. We look forward to the opportunity to provide further comments as this matter progresses.

7-LS2032A ✓
Cook
2/18/92

Sen. Frank

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to municipal incorporation, reclassification, and dissolution."**

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

3 *** Section 1. AS 29.04.040(a) is amended to read:**

4 (a) A second class city may be reclassified as a first class city [BY HOLDING AN
5 ELECTION ON THE QUESTION,] if it meets the standards for incorporation as a first class
6 city under AS 29.05.011(a). Reclassification is proposed by filing a petition with the
7 department. The department shall investigate the proposal and report its findings to the
8 Local Boundary Commission with its recommendations. The commission shall hold at least
9 one public hearing in the city on the proposal. If the commission determines that the city
10 meets the standards for incorporation as a first class city and that reclassification is in the
11 best interests of the state, it shall accept the petition. If the commission determines that the
12 city does not meet the standards or that reclassification is not in the best interests of the
13 state, it shall reject the petition. The decision may be appealed under the Administrative
14 Procedure Act (AS 44.62) [THE DEPARTMENT DETERMINES FROM THE BEST FIGURES

1 AVAILABLE THAT THE POPULATION OF THE CITY HAS REACHED 400 PERMANENT
2 RESIDENTS].

3 * Sec. 2. AS 29.04.040(b) is amended to read:

4 (b) A petition proposing [AN ELECTION ON THE QUESTION OF] reclassification
5 may be filed by [INITIATED IN TWO WAYS:]

6 (1) a number of voters equal to 15 percent of the number of votes cast in the city
7 at the preceding regular election [MAY FILE A PETITION WITH THE COUNCIL]; or

8 (2) the council may propose reclassification.

9 * Sec. 3. AS 29.04.040(c) is amended to read:

10 (c) If the Local Boundary Commission accepts a petition for reclassification, the
11 [THE] council shall hold at least one public hearing in the city on the question of reclassification.
12 The council shall then evaluate the ability of the city to assume first class status and make its
13 findings public.

14 * Sec. 4. AS 29.05.011(a) is amended to read:

15 (a) A community that meets the following standards may incorporate as a first class or
16 home rule city:

17 (1) the community has 400 or more permanent residents;

18 (2) the boundaries of the proposed city include all areas necessary to provide
19 municipal services on an efficient scale;

20 (3) the economy of the community includes the human and financial resources
21 necessary to provide municipal services; in considering the economy of the community, the Local
22 Boundary Commission shall consider property values, economic base, personal income, resource
23 and commercial development, anticipated functions, and the expenses and income of the proposed
24 city, including the ability of the community to generate local revenue;

25 (4) the population of the community is stable enough to support city government;

26 (5) there is a demonstrated need for city government.

27 * Sec. 5. AS 29.05.031(a) is amended to read:

28 (a) An area that meets the following standards may incorporate as a home rule, first
29 class, or second class borough, or as a unified municipality:

30 (1) the population of the area is interrelated and integrated as to its social,
31 cultural, and economic activities, and is large and stable enough to support borough government;

1 (2) the boundaries of the proposed borough or unified municipality conform
2 generally to natural geography and include all areas necessary for full development of municipal
3 services;

4 (3) the economy of the area includes the human and financial resources capable
5 of providing municipal services; evaluation of an area's economy includes land use, property
6 values, total economic base, total personal income, resource and commercial development,
7 anticipated functions, expenses, and income of the proposed borough or unified municipality;

8 (4) land, water, and air transportation facilities allow the communication and
9 exchange necessary for the development of integrated borough government.

10 * Sec. 6. AS 29.05.060 is amended to read:

11 Sec. 29.05.060. PETITION. Municipal incorporation is proposed by filing a petition with
12 the department. The petition must [SHALL] include the following information about the
13 proposed municipality:

14 (1) class;

15 (2) name;

16 (3) boundaries;

17 (4) maps, documents, and other information required by the department;

18 (5) composition and apportionment of the governing body;

19 (6) a proposed operating budget for the municipality projecting sources of income
20 and items of expenditure through the first full fiscal year of operation;

21 (7) for a borough or unified municipality, based on the number who voted in
22 the respective areas in the last general election, the signature and resident address of 15 percent
23 of the voters in

24 (A) home rule and first class cities in the area of the proposed borough
25 or unified municipality; and

26 (B) the area of the proposed borough or unified municipality outside
27 home rule and first class cities;

28 (8) for a first class borough or unified municipality, a designation of areawide
29 powers to be exercised;

30 (9) for a second class borough, a designation of areawide and nonareawide powers
31 to be exercised;

1 (10) for a first class, [OR] second class, or home rule city, a designation of the
2 powers to be exercised;

3 (11) for a first class or home rule city, based on the number who voted in the
4 area in the last general election, the signatures and resident addresses of 50 voters in the proposed
5 city or of 15 percent of the voters in the proposed city, whichever is greater;

6 (12) for a second class city, based on the number who voted in the area in the last
7 general election, the signatures and resident addresses of 25 voters in the proposed city or of 15
8 percent of the voters in the proposed city, whichever is greater;

9 (13) for a home rule city, home rule borough, or unified municipality a
10 proposed home rule charter.

11 * Sec. 7. AS 29.05.110(d) is amended to read:

12 (d) A home rule charter included in an incorporation petition under AS 29.05.060(13)
13 is considered to be part of the incorporation question. The home rule charter is adopted if the
14 voters approve incorporation of the city, borough, or unified municipality.

15 * Sec. 8. AS 29.05.190 is amended to read:

16 Sec. 29.05.190. ORGANIZATION GRANTS TO BOROUGH AND UNIFIED
17 MUNICIPALITIES. (a) For the purpose of defraying the cost of transition to borough
18 government and to provide for interim governmental operations, each borough or unified
19 municipality incorporated after December 31, 1985, is entitled to organization grants as follows:

20 (1) \$300,000 for the municipality's [BOROUGH'S] first full or partial fiscal
21 year;

22 (2) \$200,000 for the municipality's [BOROUGH'S] second fiscal year; and

23 (3) \$100,000 for the municipality's [BOROUGH'S] third fiscal year.

24 (b) The department shall disburse the first organization grant to a borough or unified
25 municipality within 30 days after certification of the [INCORPORATION] election favoring
26 incorporation [OF A BOROUGH], or as soon after that as money is appropriated and available
27 for the purpose. The second grant shall be disbursed within 30 days after the beginning of the
28 municipality's [BOROUGH'S] second fiscal year, or as soon after that as money is appropriated
29 and available for the purpose. The third grant shall be disbursed within 30 days after the
30 beginning of the municipality's [BOROUGH'S] third fiscal year, or as soon after that as money
31 is appropriated and available for the purpose.

1 (c) This section does not apply to a borough incorporated by consolidation or to a unified
2 municipality that occupies the area formerly occupied by a borough.

3 * Sec. 9. AS 29.05.210 is amended to read:

4 Sec. 29.05.210. TRANSITIONAL ASSISTANCE TO BOROUGH AND UNIFIED
5 MUNICIPALITIES. (a) Within 30 days after the date of incorporation of a borough or unified
6 municipality incorporated after December 31, 1985, the department shall determine the
7 population of the borough or unified municipality.

8 (b) The department shall provide assistance to each borough and unified municipality
9 incorporated after December 31, 1985, in

10 (1) establishing the initial sales and use tax assessment and collection department
11 if the borough or unified municipality has adopted a sales or use tax;

12 (2) determining the initial property tax assessment roll if the borough or unified
13 municipality has adopted a property tax, including contracting for appraisals of property needed
14 to complete the initial assessment.

15 (c) This section does not apply to a borough incorporated by consolidation or to a unified
16 municipality that occupies the area formerly occupied by a borough.

17 * Sec. 10. AS 29.06.470(a) is amended to read:

18 (a) Except as provided in (b) of this section, voters of a municipality may petition for
19 dissolution when the municipality is free of debt, or, if in debt, each of its creditors is satisfied
20 with a method of repayment and

21 (1) the municipality no longer meets the minimum standards prescribed for
22 incorporation by AS 29.05, or former AS 29.18.030 if it is a third class borough;

23 (2) the municipality ceases to use each of its mandatory powers; or

24 (3) the dissolution petition filed under AS 29.06.460 is signed by a number of
25 voters of the municipality proposed to be dissolved greater than 50 percent of the number of
26 votes cast in the last regular [GENERAL] election in that municipality.

27 * Sec. 11. AS 29.06.500(a) is amended to read:

28 (a) If the Local Boundary Commission determines that a municipality fails to meet the
29 standards for dissolution, it shall reject the petition. [IF THE COMMISSION DETERMINES
30 THAT THE MUNICIPALITY MEETS THE STANDARDS UNDER AS 29.06.470(A)(1) OR
31 (2), IT SHALL ACCEPT THE PETITION.] If the commission determines that the petition meets

1 the standards under AS 29.06.470(a)(1), (2), or (3) [AS 29.06.470(a)(3)] and that dissolution of
2 the municipality is in the best interest of the state, it shall accept the petition.

3 * Sec. 12. AS 29.10.010(b) is amended to read:

4 (b) A second class city that exceeds 35 square miles in area may adopt a charter for its
5 own government and reclassify as a home rule city if the department determines from the best
6 figures available that the population of the city is at least 3,500 permanent residents.
7 Reclassification is proposed by filing a petition with the department. The department shall
8 investigate the proposal and report its findings to the Local Boundary Commission with its
9 recommendations. The commission shall hold at least one public hearing in the city on the
10 proposal. If the commission determines that the city meets the standards under this section
11 and that reclassification is in the best interests of the state, it shall accept the petition. If
12 the commission determines that the city does not meet the standards or that reclassification
13 is not in the best interests of the state, it shall reject the petition. The decision may be
14 appealed under the Administrative Procedure Act (AS 44.62).

15 * Sec. 13. AS 29.10.010(c) is amended to read:

16 (c) At an incorporation election [FOR BOROUGH INCORPORATION], an area in the
17 unorganized borough may adopt a charter for its own government and incorporate as a home rule
18 city, borough, or unified municipality.

19 * Sec. 14. AS 29.10.010(f) is amended to read:

20 (f) The proposed charter for an unincorporated area [OF THE UNORGANIZED
21 BOROUGH] shall be prepared by the petitioners and filed under AS 29.05.060 with the petition
22 to incorporate a home rule city, borough, or unified municipality.

23 * Sec. 15. AS 29.10.020 is amended to read:

24 Sec. 29.10.020. MODEL CHARTERS. The department shall prepare at least one model
25 home rule charter for a city, borough, and unified municipality. The model charters
26 [CHARTER] shall be made available to persons interested in filing a petition to incorporate a
27 home rule municipality [BOROUGH] under AS 29.05.060.

28 * Sec. 16. AS 29.10.070 is amended to read:

29 Sec. 29.10.070. CHARTER ELECTION. The proposed home rule charter for an existing
30 municipality shall be submitted to the voters at an election held not less than 30 days or more
31 than 90 days after the proposed charter is published. The proposed home rule charter for an

1 unincorporated area [IN THE UNORGANIZED BOROUGH] shall be submitted to the voters
2 at an incorporation election held under AS 29.05.110.

3 * Sec. 17. AS 29.10.080(a) is amended to read:

4 (a) If a majority of those voting in an existing municipality favor the proposed charter
5 or if a majority of those voting in an unincorporated area [IN THE UNORGANIZED
6 BOROUGH] favor incorporation of a home rule municipality [BOROUGH], the proposed charter
7 becomes the organic law of the municipality effective on the date the election is certified.
8 Thereafter, a court shall take judicial notice of the charter. The new home rule municipality shall
9 file the indicated number of copies of the charter with

- 10 (1) the lieutenant governor - two copies;
11 (2) the department - two copies;
12 (3) the district recorder - one copy;
13 (4) the municipal clerk - one copy.

14 * Sec. 18. AS 29.10.090(b) is amended to read:

15 (b) If incorporation of a home rule municipality [BOROUGH] is rejected by the voters
16 in an unincorporated area [IN THE UNORGANIZED BOROUGH], the proposed charter is
17 rejected.

Whittier

Re-devlop.

& Urban

Design



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

AGENDA

April 14, 1994
9:00 AM

Butrovich Room
Room 205

1. Call to Order (time and members present)
2. Presentation Whittier Redevelopment & Urban Design
Mr. Gary Williams - City Manager - Whittier
Mr. Jim Barnett - City Attorney
3. Adjourn

THE CITY OF WHITTIER
Redevelopment and Urban Design Plan
March 1994

I--Purpose of the Project

A. Answer two questions:

1. How should the City and State respond to expected impact from visitation as a result of new Whittier access?
2. Who benefits from the visitation and by how much?

B. Market Based Examination

1. Analysis of anticipated visitation tells the City who will come and how often they will return.
2. This demand analysis suggests likely scenarios for public and private investment to provide facilities to meet the demand.

C. Key Factors Affecting the Demand for Whittier Visitation

1. Whether new access is constructed.
2. Which alternative is selected.
3. Cost of access, especially whether there is a toll if a road is constructed.
4. The attractiveness of Whittier as a destination and its ability to provide amenities to meet the demand.

II--Funding of the Project: Consultants Involved

A. Funding of the Project

1. Alaska Railroad Corporation
2. Alaska Dept. of Transportation and Public Facilities
3. Alaska Dept. of Commerce and Economic Development
4. City of Whittier

B. Consultants Working on the Project

1. International Tourism and Resort Advisors (INTRA)
2. Peratrovich, Nottingham and Drage (PN&D)

3. Gary Peterson Associates, Inc.
4. Kenneth Morton Associates
5. David L. Martin, C.P.A.

III--Projected Visitation to Whittier with New Access

A. Information from Northern Economics Study for EIS

1. Current visitation over ARRC Shuttle system is about 200,000 persons per year.
2. If no new access is provided, and no new visitor facilities are constructed in the town, visitation and city population will grow only very gradually.
3. If improved rail shuttle access is provided, visitation will grow by 100,000 in the first year, and increase steadily to 539,000 in 2015. Whittier population will grow from 300 in 1997 to 440 in 2015.
4. If a new road is constructed, visitation will grow rapidly, with 900,000 visitors after the road opens, and over 1.4 million visitors by 2015. Whittier population will increase from 360 in 1997 to 1,120 in 2015.

B. Economic Opportunity from Visitation.

1. Assuming no toll, summer visitation will be larger than the number of visitors to Portage Glacier, with over 4,000 visitor parties on peak weekends.
2. A \$15 toll reduces summer visitation by one-third, as the bulk of visitors are day sightseers.
3. Annual no-toll visitation generates over \$29 million in annual visitor expenditures on lodging, transportation, tours, food and beverages, and related tourism expenses.
4. In ten years, Whittier employment will exceed 200 employees on average, with 400 employees in the summer with an annual payroll of nearly \$4 million.

IV--Achieving Projected Visitation and Economic Opportunity

A. City of Whittier Redevelopment Strategy

1. The City must adopt the suggested urban design concept plan and map as a part of its zoning and

comprehensive plan in support of a tourism-based marine-oriented lifestyle.

2. City residents must achieve consensus and commit their time and resources to the redevelopment concept.
3. The City must establish long term partnerships to implement the plan and keep the focus on redevelopment separate from daily City functions.

B. Involvement of Other Entities and Agencies

1. The City and ARRC must enter a development contract for the Core Area of Whittier. The ARRC owns or leases 50% of this area and 70% of the waterfront. Although much of this land is already committed to the proposed uses, another \$1.75 million is required to modify ARRC operations and commence new construction in this area.
2. The City must assure State support for the Whittier Access Project, to include road infrastructure within the core area. DOT/PF should minimize any toll required.
3. The Marine Highway System should construct a new ferry dock at an adjacent location as it continues to upgrade ferry operations in Prince William Sound.
4. The City must enlist support of other governmental agencies and private parties to fund dock and harbor developments to facilitate expanded day cruise and recreational boating opportunities, as well as the return of the cruise ship industry.

V--Redevelopment Concept Required to Meet Expected Visitation

A. Phase I of Redevelopment, Required Prior to New Access

1. Move Ferry Terminal to the east end of the Railroad dock (\$4.5 million).
2. Realignment and paving of major road access and support roads (\$3.1 million).
3. Expand small boat harbor and day cruise operations inland from current harbor (\$6.7 million).
4. Rehabilitate Railroad Dock and Wharf Building to accommodate cruise ships, day and ferry operations and

related commercial enterprises (\$3.3 million).

5. Provide paved and unpaved parking to support road access and peak visitation (\$1.6 million).

6. Establish boat launch ramps and dry storage for small craft and transient moorage (\$3.8 million public expenditure and \$3.7 million private investment).

7. Construct waste water treatment facility and related utilities (\$1.6 million).

8. Private investment in retail and food & beverage services (\$4.8 million).

9. Summary: \$25.0 million public investment and \$8.5 million private investment.

B. Phase II of Redevelopment, after opening of new access

1. Further retail, commercial and food & beverage services (\$2.9 million).

2. Harbor and visitor services (\$3.0 million).

3. RV and campground facilities (\$1.1 million).

4. Summary: \$ 8.5 million private investment without significant further public investment.

C. Phase III of Redevelopment, complementing harbor development with inland projects, after Phase II.

1. Expanded waste water services (\$1.3 million).

2. Commercial and retail construction (\$8.5 million).

3. Professional services (\$6.0 million).

4. Apartments and town homes (\$36.5 million).

5. Government & public recreation (\$1.5 million).

6. Single family construction (\$7.0-\$11.0 million).

7. Summary: \$1.8 million additional government and \$60.0 million or more additional private investment.

D. In conclusion, once this concept is fully implemented in ten years, about \$28.0 million of government funds invested in Whittier results in a projected \$80.0 million in private investment in the three phases of development.