

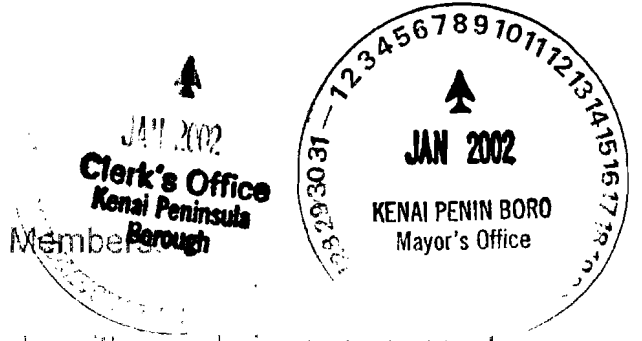
Status Report
January 15, 2002
For
Kenai Peninsula Borough
Submitted by
Steve Silver

Now that Congress has finally adjourned for 2001, it is time to begin preparations for 2002. Senator Stevens has not yet provided any guidance or time frame on when he wants communities to submit their FY2003 appropriation requests, but it will undoubtedly be in February or March. The Borough needs to begin formulating its lists so it is in a position to respond quickly to the annual request process. Additionally, Congressman Young will be looking more closely at transportation project requests as he begins the evaluation process for the renewal of TEA-21. While that is not scheduled until the 108th Congress (2003-2004), preliminary hearings on general issues (not specific Projects) will begin in 2002. It is wise for the Borough to begin formulating a list of TEA-21 eligible projects in anticipation of this process.

FY 2003 Appropriations and TEA Requests

There were some grant requests which were not funded or not fully funded. These can be resubmitted. Additional new grant requests can also be developed. Below is a partial list of types of funding requests that have been successfully funded in the past:

1. Multi-Purpose Building Construction
 2. Roads and Bridges
 3. Commuter Buses, Rail, and Garage Facilities
 4. Police Equipment
 5. Health Care Grants
 6. Cultural Grants for Education
 7. Ports and Harbors
 8. Museum Grants to Local Cities and Museums
 9. Medical Building Renovations
 10. Local Hospital/Medicare/Social Service Grants
 11. Technology Grants to Local Schools/Distance Education Grants
 12. -Water Related Infrastructure Authorizations
 13. Wet Weather Infrastructure Pilot Projects
 14. Aboveground Storage Projects
 15. Corps of Engineers Grants
 16. Mass transit grants Air and Highway
 17. HUD Community Development Grants
 18. Water and Sewer Grants.
 19. Boys and Girls Clubs Grants
 20. COPS technology Grants
 21. Fisheries Research Grants
 22. Technology Grants to Local Schools
-



Dear Mayor Bradley and Planning Commission Members

My name is Shawna Laws, and I've previously written and given my support to Robert and Rita McCurdy and their family members. the McCurdy families have lived in our community for many of years as homesteaders and are highly respected members by most all in our community.

My family and I do support in their endeavor to get their Public R.O.W. easement that runs east and west across the front of their land named.

I share their feelings as many of their friends do; and all of the 160 signatories that are on their petition in agreeing that the road should not be named using one individuals or family name on this R.O.W. easement.

I feel naming this R.O.W. after any one persons name would be to restrictive and possibly confusing to future business ventures.

It is my understanding that **there is a road that already exists bearing the name Mc Elroy's Trail'** that runs directly through a gate on Robert and Kari Nelson's private property behind their home; continuing on and throughout McElroy's property in front of McElroys home which is close to **exiting on Porcupine St;** which is a borough maintained road, then it continues on to Kalifonsky Beach Road;

This is the legal access to the McElroys residents off of Porcupine St; there mail box was on Kalifonsky Beach Road till they heard that the McCurdys were trying to name their ROW easement then they removed it.

Adding another road in the same area, with the same or similar name especially when the two intercept"each other would be very confusing".

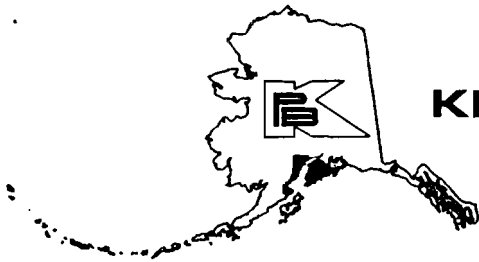
Since the Nelsons and the McElroys did not like the name Ram Ave... nor are ever subdividing or are they giving up any land towards improving the public R.O.W. to become a better road and possibly a borough maintained Road.

I would propose or encourage that the borough consider **naming the road something less restrictive** and agree with the suggestions that the McCurdy's have proposed... **(Ranch Ave)** or Farm Ave. something along the line of possible business pursuits for anyone in that area

The McCurdys and the Nelsons both are Ranchers and both have horses. I feel Ranch Ave would be appropriate for both families and anyone else using the Public R.O.W

Sincerely Shawna Laws
Shawna Laws 1/7/02

Routed from Mayor's Office
Clerk
Assembly
Legal
Finance
Assessing
Planning
Other
Date: 1-8-02
Bob Bright
Mona Swepp



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892

DALE BAGLEY
MAYOR

Memorandum

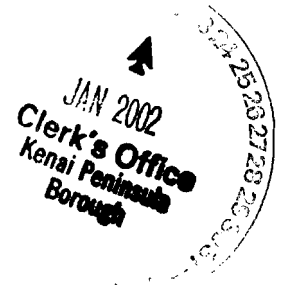
To: Timothy Navarre, Assembly President
Kenai Peninsula Borough Assembly Members

Thru: Dale Bagley, Borough Mayor *DLB*

From: Bob Bright, Planning Director *RB*

Re: Proposal to Submit Grants Requests to the State of Alaska and U.S.
Fish and Wildlife

Date: January 22, 2002



The State of Alaska is soliciting Coastal Impact Assistance Program grant proposals for \$2.9 million in available funds statewide. The borough automatically received over \$200,000 in CIAP grant funds as part of the federal allocation of these monies, however the state is seeking proposals for a portion of the state's allocation. Projects 1 through 9 would not require a match.

Attached is a list and description of 9 proposed projects for the State CIAP grant funds. These projects have been assembled by planning staff and seek to fill gaps in our resource needs, enhance customer service and to move the department's automation efforts forward. The total in the list for state CIAP funds is \$710,000. The deadline for these grant requests is February 8.

Project 10 on the attached would seek federal funds of \$25,000 for the West Side project. Federal funds require a match, and the already appropriated \$75,000 for the West Side project is envisioned as the match. The deadline for this grant request is February 15.

The attached list is being given to the Assembly as a laydown with this memo to enable you to review it prior to the next regular Assembly meeting on February 5. A resolution containing these projects will be placed on the Assembly agenda at that meeting for your consideration. It is hoped the Assembly will have time to review the projects prior to that meeting and evaluate them so that you can make any changes or additions at that time.

LAYDOWN

*Mayor,
Commodore Whole*

Introduced
Date: ~~Mayor, Navarre~~
January 22, 2002
Hearings: February 5, 2002
February 19, 2002
Action:
Vote:

**KENAI PENINSULA BOROUGH
ORDINANCE 2002- 05**

**AN ORDINANCE AUTHORIZING THE MAYOR TO
EXECUTE A LEASE AND OPERATING AGREEMENT WITH
CENTRAL PENINSULA GENERAL HOSPITAL, INC. FOR
CENTRAL PENINSULA GENERAL HOSPITAL AND
OTHER HEALTH CARE FACILITIES**

WHEREAS, Central Peninsula General Hospital is presently operated by Central Peninsula General Hospital, Inc., a private non-profit corporation ("CPGH, Inc.") under a Lease and Operating Agreement for the period beginning January 1, 1998 and ending December 31, 2002; and

WHEREAS, the existing contract, as amended, provides for an automatic five-year renewal unless notice of termination is given on or before February 28, 2002; and

WHEREAS, the administration identified some areas of the contract that it recommended be amended to clarify contractual expectations; and

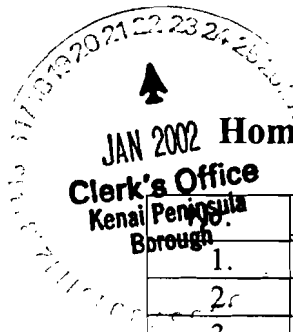
WHEREAS, the administration has conducted negotiations with a committee of the CPGH, Inc. Board of Directors, and has tentatively agreed with CPGH, Inc. upon a Lease and Operating Agreement which it believes addresses the borough's concerns with the existing contract; and

WHEREAS, at its meeting of February 4, 2002, the Central Kenai Peninsula Borough Hospital Service Area Board recommended _____;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. The assembly finds that leasing the hospital to CPGH, Inc. for less than fair market value is in the best public interest because CPGH, Inc. has successfully operated the hospital under the existing contract, demonstrating its capability to continue doing so, and, unlike a traditional facility lease, all revenues generated through the agreement remain borough property under the proposed agreement.

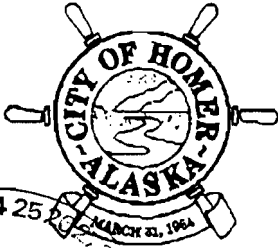
From RAY KRANICK
Homer City Council
to Assembly
Members



Homer Public Meetings Discussions Annexation Summary

	Meeting	Date	Meeting
1.	C - 1 - RM	08-23-99	City Council Meeting - Resolution 99-70. Comp Plan.
2.	C - 2 - RM	09-13-99	City Council Meeting - Resolution 99-70A. Comp Plan.
3.	C - 3 - RM	11-22-99	City Council Meeting - Annexation as way to increase revenues & strategic planning re: water & sewer.
4.	C - 4 - RM	12-13-99	City Council Meeting - Resolution 99-115 requesting City Manager develop annexation work plan & time-line.
5.	C - 5 - RM	02-28-00	City Council Meeting
6.	C - 6 - RM	03-13-00	City Council Meeting. Resolution 00-35 passed [Annex]
7.	C - 7 - RM	03-28-00	City Council Meeting
8.	LBC Staff - Homer 1-2	04-17-00	2 Public informational meetings - OAR
9.	LBC Staff - Homer 3	04-18-00	Public informational meeting - CCAA
10.	C - 9 - RM	04-24-00	City Council Meeting
11.	F/Worksession - 1 ¹	05-02-00	Planning & Zoning
12.	LBC Staff - Homer 4	05-02-00	Public informational meeting.
13.	C - 10 - RM	05-08-00	City Council Meeting
14.	F/Worksession - 2	05-15-00	Fire & EMS
15.	F/Worksession - 3	05-16-00	Roads
16.	Planning Comm. - 1	05-17-00	Report on KBAPC' vote against annexation - support fire.
17.	F/Worksession - 4	05-18-00	Water & Sewer
18.	C - 11 - RM	05-23-00	City Council Meeting
19.	F/Worksession - 5	05-30-00	Port & Harbor
20.	C - 12 - RM	06-12-00	City Council Meeting
21.	LBC Staff - Homer 5	06-14-00	Public informational meeting.
22.	Planning Comm. - 2	06-21-00	Discuss annexation issues.
23.	C - 13 - RM	06-26-00	City Council Meeting
24.	C - 14 - SM	07-21-00	City Council Meeting. Announced worksession.
25.	LBC Staff - Homer 6-7	07-31-00	2 Public informational meetings
26.	F/Worksession - 6	08-03-00	Boundaries & other issues
27.	C - 15 - RM	08-14-00	City Council Meeting. Memorandum 00-47 Boundaries.
28.	Planning Comm. - 3	08-16-00	Discuss annexation issues.
29.	F/Worksession - 7	08-21-00	Responsive briefs and City's Reply Brief.
30.	LBC Staff - Homer 8	08-24-00	Public informational meeting.
31.	C - 16 - RM	08-31-00	City Council Meeting. Resolutions 00-84, 00-85 & 00-86.
32.	C - 17 - RM	09-11-00	City Council Meeting. Resolution 00-86A.
33.	C - 18 - RM	09-25-00	City Council Meeting
34.	Port & Harbor - 1	09-27-00	Annexation comments.
35.	Parks & Rec. - 1	11-16-00	Public Comments
36.	C - 19 - RM	12-11-00	City Council Meeting. Records request issue.
37.	C - 20 - RM	12-18-00	City Council Meeting
38.	Planning Comm. - 4	01-03-01	Public Comments.
39.	C - 21 - RM	01-08-01	City Council Meeting
40.	C - 22 - RM	01-22-01	City Council Meeting
41.	C - 23 - RM	01-22-01	City Council Meeting

¹ Forum and/or Worksession



Office of the Mayor

Jack Cushing

from Borough Clerk's office to:
Assembly members
Assembly
Planning
Other

(907) 235-8121
Fax 235-3140

Homer City Hall 491 E. Pioneer Avenue • Homer, Alaska 99603-7624

JAN 22 23 24 25 26
JAN 2002
Clerk's Office
Kenai Peninsula
Borough

January 22, 2002

Greetings Borough Assembly and Mayor Bagley:

This letter is to give some insights, from my perspective, why we have this annexation issue before us today in the Homer Area.

The City of Homer is a service provider. The City of Homer and its citizens have traditionally been very generous to the lower peninsula. The City's port and harbor, a 100 million dollar asset, is clearly an economic engine of the area, and has been available to all without discrimination. Similarly, city water, the very commodity that allows area properties to be more easily **financed, insurable, and ADEC approvable**, has been available without distinction for years to any in the area. It is estimated that 25% of the city water customers are citizens outside of city limits, an important fact for an area with notoriously poor ground water. Until recently, Fire and Emergency Medical Services (EMS) were generously rendered in the same manner. These services are just the start. During the last decade, the City and its citizens and businesses have directly given moneys or support to the following organizations for the general area:

- Animal services
- Snomads Snowmachine Club
- Homer Head Start
- Playgrounds and picnic areas
- Homer Food Pantry
- Kachemak Ski Club (Olsen Mountain Rope Tow)
- Bunnell Street Gallery
- South Peninsula Women's Services
- Homer Hockey Association
- Kachemak Gun Club
- Homer Council on the Arts
- Kachemak Nordic Ski Club (Baycrest, Olsen Mt., & McNeil Canyon areas)

*Kenai Borough Assembly and Mayor Bagley
January 22, 2002*

Community Schools
Boys & Girls Club
Land for the South Peninsula Hospital
Homer Foundation
Girl's Softball
Little League, Tee Ball & Baseball
Adult Softball, New Fields
Pratt Museum

These organizations and facilities all serve the larger regional community. This year the City is funding \$45,000 of the Chamber of Commerce's budget, again a regional organization. This is in addition to the numerous times we are asked and willing to respond to requests for assistance with police protection and emergency road repairs or snow clearing.

We feel this generosity has been appreciated by the majority of this area's residents. Times have changed however, as State subsidies have diminished to a small fraction of what they were a decade ago but, there has been no less demand from this area for these services. In fact, the demand grows. The City of Homer had choices ranging from cutting services, to engaging more of the local area for greater participation in these services. We chose the present path in part, for the proven economic stimulus it provided the entire area, as well as our believe in the benefits these types of services provide to the area.

During the last decade, the City has brought these issues of dwindling state funding to the local area to consider. We felt many in the area chose to ignore or refused to participate in reaching solutions to mitigate these complex issues of an area which manifests greater needs, superimposed with decreasing state funds. Fire and emergency services are a classic example; nothing was initiated area-wide despite of City requests, until the annexation process was initiated. Meanwhile, it was unacceptable to us, in essence, to let our neighboring area's structures or businesses burn down, or allow threats life and property to go unanswered. The heart and soul of the City is to continue to make this an economically productive, safe, and great area to live.

Some maintain that many of these services have been brought to the area through State and Federal grants. True, but not without the countless hours

Subject: FW: Cable Broadcast

Date: Fri, 18 Jan 2002 11:26:51 -0900

From: "Murphy, Linda" <LMurphy@borough.kenai.ak.us>

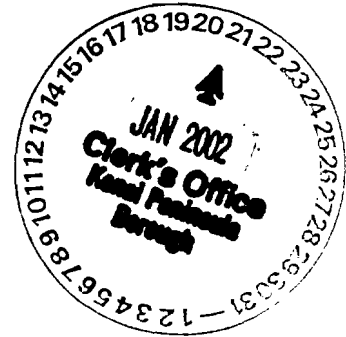
To: "Bill Popp (E-mail)" <billpopp@ptialaska.net>, "Chris Moss (E-mail)" <cmoss@xyz.net>, Gary Superman <gsuperman@gci.net>, "Grace Merkes (E-mail)" <merkes@ptialaska.net>, "Milli Martin (E-mail)" <millimom@xyz.net>, "Paul Fischer (E-mail)" <akpaulfischer@hotmail.com>, "Pete Sprague (E-mail)" <psprague@acsalaska.net>, "Ron Long (E-mail)" <rllms@ptialaska.net>, "Timothy Navarre (E-mail)" <tnavarre@alaska.net>

The following is being forwarded to you at the request of Mr. Sprague.

Linda

-----Original Message-----

From: Pete Sprague [<mailto:psprague@acsalaska.net>]
<<mailto:psprague@acsalaska.net>>
Sent: Friday, January 18, 2002 6:56 AM
To: Linda Murphy
Subject: Cable Broadcast

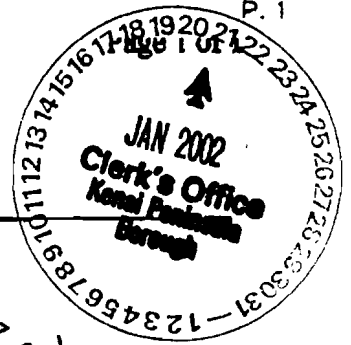


Linda- I have been in touch with Sharrie Sheridan at GCI about airing Assembly meetings. Could you please forward her response to all Assembly members; I would like to discuss this is our next meeting.
Thanks.
Pete

Hi Pete,

Looks as though we are still at the place where we would need to have you folks videotape the meetings and bring the videotape to us so that we can air the meetings on a tape delay basis. It would be best if it was only one tape so that we could put a VCR on a timer at the Head End facility and no manpower would be necessary to operate the equipment. Apparently this is how they do it in Seward and Homer and it seems to work well for them. I hope this will be satisfactory for you folks.
Let me know when you would like to start and I will purchase a VCR and a timer and get it hooked up at our facilities.
Sharrie

AGENDA ITEM N. 2. 6.



lois field

From: lois field <field@xyz.net>
 To: Ron Long <rims@ptialaska.net>
 Cc: grace Merkes <merkes@ptialaska.net>; gary superman <gsuperman@gci.net>
 Sent: Sunday, January 20, 2002 5:21 PM
 Subject: Fw: A resolution opposing Homer's petition to annex.

Memo to Clerk

----- Original Message -----

From: lois field
 To: rims@ptialaska.net
 Cc: pete sprague
 Sent: Sunday, January 20, 2002 4:56 PM
 Subject: A resolution opposing Homer's petition to annex.

Dear Assemblyman Long and others: I apologize for not writing to you all separately, but I am not a good typist. My wife Lois and I want to strongly appeal to you to adopt a Borough Assembly Resolution opposing Homer's annexation proposition !! There are so many things about it still up in the air including some legal matters still in The Supreme Court. We appeal to you as our real local government to speak up for us all, since so far, no one else has been our advocate. This is a most important issue not only for those of us being annexed, but for the whole Kenai and for the whole state of Alaska !! This legislative review annexation process is so sordidly undemocratic that it has been outlawed in many other states !! If Homer is successful in getting away with this it will continue to sweep into other areas of the Kenai and state !! Such anguish and chaos for everyone. We, and most of our neighbors agree, have nothing to benefit from being part of Homer !! We do not want to be governed by the Homer City Council, since we have observed carefully their management, and time has proven it is poor at best ! Please see to it that a resolution opposing annexation is adopted !! Respectfully yours, Lois and Paul Field, Box1617, Homer 99603, 907 235 4273

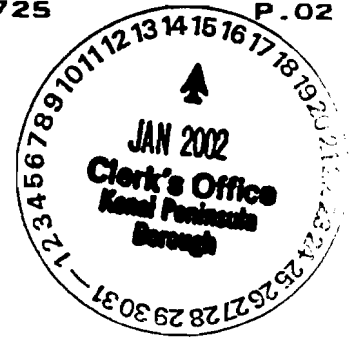


To: Borough Clerk

Please fwd the above to all Assembly Members except Sprague, Merkes & Superman - already sent to them.

Thanks!
 Paul Field
 1/20/02

AGENDA ITEM N2b



To: KPB Assembly Members

From: Mary Griswold 235-3725 (phone/fax) mgrt@xyz.net
P.O. Box 1417
Homer, AK 99603

Date: January 14, 2002

Re: January 22 Assembly meeting agenda item: Resolution asking legislators to veto Homer's annexation petition.

I support orderly municipal expansion. I accept legislative review annexation. However, I strenuously object to the legislature rubber stamping the LBC's paper shuffle to approve the DCED's gut feeling that Homer is right in asking for a larger tax base.

Homer filed an interest in expansion instead of a bona fide annexation petition, freely identified as a work in progress by city representatives. The DECD staff did its best to create a petition using the city's information.

However, the burden of proof is on the city to meet rigorous standards, a mantra often repeated by the DCED staff throughout these proceedings.

The city does not have an adequate transition plan for assumption of services as required in 3 AAC 110.900 Transition. This is an issue of special relevance to the borough, with whom the city was supposed to work out transition of services before filing its petition.

The city did not show that borough services for road maintenance or fire protection are inadequate or that state trooper coverage is inadequate in any area proposed for annexation as it claimed in its petition. These are three of the most basic government services for which people expect to pay property taxes.

3 AAC 110.610. LEGISLATIVE REVIEW provides that the LBC "may determine during the course of proceedings that a legislative review petition should be amended and considered as a local action or local option petition, if the commission determines that the balanced best interests of the locality and the state are enhanced by local participation." The city did not include anyone from the public in its annexation planning process. Certainly a proposal as contentious as this one would benefit from local participation, yet the LBC chose to ignore this option.

For all these reasons, I ask you to direct the state legislature to oppose this annexation petition. Homer should show it can manage what it has, plan for future expansion, conduct public hearings, and then submit a reasonable, supportable petition to expand its boundaries. Please give me a call if you would like clarification on any points I have raised.

Sincerely,

Mary Griswold



ALASKA STATE LEGISLATURE

SENATOR JOHN TORGERSON

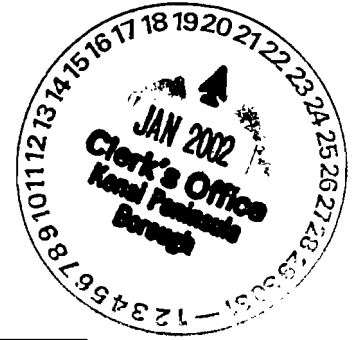
- ◆ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ◆ CHAIR, SENATE RESOURCES COMMITTEE
- ◆ CHAIR, JOINT COMMITTEE ON NATURAL GAS PIPELINES

Session:
 State Capitol, Room 427, Juneau, AK 99801
 Telephone 907/465-2828 Fax 907/465-4779

District:
 45457 Kenai Spur Hwy, Suite 101A, Soldotna, AK 99669
 Telephone 907/260-3041 Fax 907/260-3044

MEMORANDUM

DATE: January 2, 2002
 TO: Tam Cook, Legal Services
 FROM: Senator John Torgerson *J. Torgerson*
 RE: Legal Opinion – Annexation Issues



The Local Boundary Commission (LBC) has issued a decision on the City of Homer's 2000 annexation petition of some 25 square miles – they reduced it to some 4.5 square miles.

At this point, I have four specific issues which I need clarified.

1. Does the newly adopted language in HB 13 (passed in 2001) apply to this "detachment"?
2. When will the City be required to hold elections to provide representation for the newly annexed population?
3. Is the LBC able to make a determination that will result in a City's receiving more tax funds than it will expend for services in the new area?
4. Who is responsible for ensuring that the City of Homer complies with the service expansions and funding they have proposed to the LBC?

¹ As background, note that there are three service areas in the 4.58 detached area. One is a hospital service area, formed some 30 years ago, that affects all city and non-city residents in the lower peninsula. One is a road service area, formed some 20 years ago. The last is a fire service area, formed in 2000 as a direct reaction to the City's annexation petition.

² The population of the annexed area will increase the size of the municipal population by some 22%. Assuming the Legislative Review process is adopted according to the LBC determination, I believe the effective date is immediate. Discussion of issues like zoning, planning, road standards, and service provisions will presumably be undertaken by the City shortly after the effective date and without an election for city council, the newly annexed area will not have had the opportunity to determine representation.

³ For example, assume that the new area is expected to generate \$1.5 million in taxes but the only municipal service that can be provided, roads, is expected to cost only \$0.5 million, generating a net of \$1.0 million in profit to the municipality.

REPRESENTING THE KENAI PENINSULA

Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo
 Kusilof Lowell Point Moose Pass Nunavik Nulatoek Nimituk Port Graham Raccoon Seward Selkiana Seldovia Seldana Staruk Sterling Yocnesenka

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 9, 2002

SUBJECT: City of Homer annexation (Work Order No. 22-LS1270)

TO: Senator John Torgerson, Chair
Senate Community and Regional Affairs Committee

FROM: Tamara Brandt Cook
Director *TBC*

Along with other materials relating to the proposal, you have supplied me with a Statement of Decision by the Local Boundary Commission (LBC) in which the LBC has determined that it will submit a recommendation for the annexation of 4.58 square miles to the City of Homer to the legislature under Article X, sec. 12 of the state constitution. You also indicate that the area or portions of the area proposed for annexation are currently within three service areas: a hospital service area, a road service area, and a fire service area. The annexed area will increase the size of the city population by about 22 percent. You ask several questions about the proposed annexation.

(1) Does the newly adopted language in HB 13 (passed in 2001) apply to this "detachment"?

The LBC Statement of Decision notes on pages 41 and 42:

The Commission stipulates that, to the extent the 4.58 square miles approved for annexation to the City of Homer lies within the Kenai Peninsula Borough Road Service Area and the Kenai Peninsula Borough Kachemak Emergency Service Area, the annexed territory shall, under Article X, sec. 12 of the Constitution of the State of Alaska and other principles of law, be detached from those borough service areas as a result of annexation of the territory to the City of Homer.

The hospital service area already includes the City of Homer and will, apparently, continue to function as constituted so does not present an issue.

AS 29.35.450(c) was added by HB 13 (ch. 31, SLA 2001). That subsection prohibits the alteration of a service area that provides road or fire protection services unless the change is approved by the voters. However, AS 29.35.450(a) permits a borough to include a city in a service area only if the city agrees by ordinance. Furthermore, the LBC has a constitutional right to present any proposed local boundary change to the legislature and,

Senator John Torgerson
January 9, 2002
Page 3

(3) Is the LBC able to make a determination that will result in a city receiving more tax funds than it will expend for the services in the new area?

There is nothing that prevents such a determination. Under AS 29.45.010 a borough may levy an areawide tax for areawide functions, a nonareawide tax for functions limited to the area outside cities, and a tax in a service area for functions limited to the service area. However, a city normally taxes and provides services on a city-wide basis unless it chooses to use differential tax zones to provide for services not generally provided in the city. (AS 29.45.580.)

(4) Who is responsible for ensuring that the City of Homer complies with the service expansions and funding it has proposed to the LBC?

It is not clear that Homer will have a legally binding duty to provide any particular level of services to the area annexed. The LBC Statement of Decision notes at page 21:

The intent of 3 AAC 110.900(a) is to require each petitioner to demonstrate that it has given forethought to the manner in which it will extend services to the territory proposed for annexation. It must also demonstrate the petitioner's good faith to extend services... While the nine-page transition plan presented by the City of Homer in its Petition lacks minutiae regarding the manner in which services are proposed to be extended, the law does not require a petitioner to provide a detailed comprehensive plan for the extension of services. Again, each petitioner need only provide evidence that it has given forethought to what it must do to deliver municipal services to the area proposed for annexation.

Consequently, it will probably be up to the political process in the city itself to ensure that services are provided to the area annexed. Of course, nothing prevents the LBC from proposing at a later date that the annexed area be detached from Homer if it becomes convinced that the city acted in bad faith in requesting the annexation and that the area is not receiving appropriate services.

TBC:pjc
02-009.pjc

MEMORANDUM

State of Alaska

Department of Community & Economic Development

TO: Bruce M. Botelho
Attorney General

DATE: November 7, 2001

FILE NO:

THRU: Jim Ayers, Chief of Staff
Office of the Governor

TELEPHONE: 907-269-4580

FROM: Debby Sedwick, Commissioner

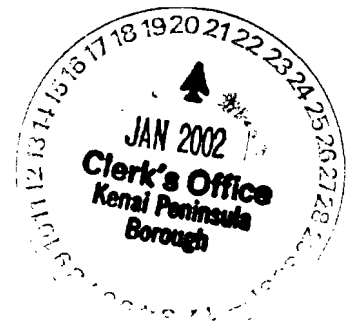
SUBJECT: Authority of LBC to truncate
Terms of governing body

Question: Does the Local Boundary Commission have authority to require truncation of terms of elected officials of an annexing municipality? If so, can it exercise such authority in the short-term absent regulations establishing standards and procedures for such?

Background: The City of Homer has petitioned the Local Boundary Commission for annexation of nearly 26 square miles. Based on 2000 Census data, it is estimated that 2,204 individuals live within the territory proposed for annexation. The 2000 Census counted 3,946 individuals living within the existing boundaries of the City of Homer. Thus, annexation of the area proposed by the City of Homer would result in a nearly 56% increase in the population of the existing City of Homer. Stated differently, if the City of Homer's Petition is granted, residents of the annexed territory will comprise almost 36% of the population of the expanded City of Homer.

Last month, DCED published its *Preliminary Report Regarding the City of Homer's Proposal for Annexation of an Estimated 25.64 Square Miles*. The Preliminary Report recommends amendment of the City of Homer's Petition to limit annexation to 3.3 square miles. It is estimated that 875 individuals inhabit the territory recommended for annexation by DCED. If DCED's recommendation is implemented, the population of the City of Homer will increase by more than 22%. In that case, residents of the annexed territory will comprise just over 18% of the population of the expanded City of Homer.

Under either scenario, a relatively substantial number of individuals who did not have a voice in the selection of the incumbent elected officials of the City of Homer would become citizens of the City of Homer. In addition to lacking a vote in the selection of the incumbents, newly-annexed residents would not, of course, have had an opportunity to seek elective office with the City of Homer. Absent the truncation of terms of elected officials, such circumstances would remain in effect for various elective positions for as long as thirty-one months as outlined below.



The Court held in *Egan* that the Governor's power to truncate terms of an incumbent legislator were incidental to his general reapportionment powers. We note that the Local Boundary Commission also has general powers with respect to the composition and apportionment of local governments regarding matters pending before the Commission. For example, former AS 29.06.130(a) expressly provided with respect to petitions for merger and consolidation of local governments that

... If the commission determines that the proposed boundaries or the composition and apportionment of the governing body can be altered to meet the standards, it may alter the proposal and accept the petition. .

Former AS 29.06.130 was replaced with a very broad statement of authority for the Commission to alter merger and consolidation petitions and to impose conditions on such. Specifically, current AS 29.06.130(a) states:

The Local Boundary Commission may amend the petition and may impose conditions for the merger or consolidation. If the commission determines that the merger or consolidation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, the municipality after the merger or consolidation would meet the standards for incorporation under AS 29.05.011 or 29.05.031, and the merger or consolidation is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition.

Similarly broad statutory language exists with respect to the Commission's power to act on petitions for city reclassification (AS 29.04.040[a]), incorporation (AS 29.05.100[a]), annexation and detachment (AS 29.06.040[a]), and dissolution (AS 29.06.500[a]).

The existing statutory language providing broad powers to the Local Boundary Commission reflects the expansive authority granted to the Commission by the Constitution of the State of Alaska. For example, the Alaska Supreme Court has held that:

The determination of what portions of a state shall be within the limits of a city involves an aspect of the broad political power of the state . . .³

The special function of the Commission to undertake a broad inquiry into the desirability of creating a political subdivision of the state, makes us reluctant to impose an independent judicial requirement that findings be prepared.⁴

S.Ct. 1907, 12 L.Ed.2d 1026 (1964); *Sims v. Amos*, 336 F.Supp. 924, 940 (M.D.Ala.1972); *Butcher v. Bloom*, 420 Pa. 305, 216 A.2d 457, 459 (1966).

³ *Fairview Public Utility District. No. One v. City of Anchorage*, 368 P.2d 540, 545 (Alaska 1962).

with respect to the statutory duty (AS 44.33.812) of the Commission to adopt regulations providing standards and procedures for annexation and other matters that come before the Commission.⁸

We see three purposes underlying the statutory requirement of annexation standards. First, such standards expose the basic decision-making processes of the commission to public view and thus subject commission action to broad corrective legislation.⁹ Second, the standards guide local governments in making annexation decisions and in preparing proposals for the commission. . . . Third, annexation standards objectify the criteria of decision-making and delineate the battleground for a public hearing.¹⁰

Of course, there are no existing regulations of the Commission dealing with truncation of terms of a governing body.

The Commission is scheduled to conduct a public hearing on the Homer annexation proposal beginning December 14, 2001. It would be appreciated if you would provide a legal opinion by that date indicating whether the Local Boundary Commission has authority to condition municipal annexation upon the truncation of terms of elected officials of the annexing municipality.

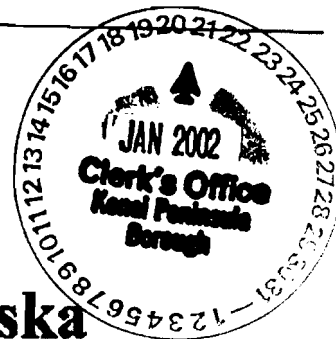
Please contact Dan Bockhorst at 269-4559 if we can provide further information concerning this matter.

cc: David Ramseur, Office of the Governor
Kevin Waring, Chairman, Local Boundary Commission
Kathleen S. Wasserman, Vice-Chairman, Local Boundary Commission
Ardith Lynch, Local Boundary Commission member
Allan Tesche, Local Boundary Commission member
Dan Bockhorst, Local Boundary Commission staff
Lamar Cotton, DCED

⁸ Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147, 1155 (Alaska 1974)

⁹ (footnote original) Our Nome opinion focused upon the commission's failure to heed the legislature's commands in exercising the commission's jurisdiction and publicly accounting for its decisional process: To (hold) otherwise would be to condone the commission's nonobservance of a valid legislative prerequisite to the exercise of the commission's discretion in matters of local boundary changes. United States Smelting, Refining & Mining Co. v. Local Boundary Commission, 489 P.2d at 142.

¹⁰ (footnote original) See Mukluk Freight Lines, Inc. v. Nabors Inc., 516 P.2d 408, 415 n. 23 (Alaska 1973).



MEMORANDUM

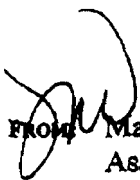
State of Alaska Department of Law

To: The Honorable Deborah Sedwick
Commissioner
Department of Community &
Economic Development

DATE: December 12, 2001

FILE NO.: 663-02-0091

TELEPHONE NO.: 465-3600


FROM: Marjorie Vandor
Assistant Attorney General
Governmental Affairs Section -
Juneau

SUBJECT: Effect of city annexation on
borough service area under
AS 29.35.450(c)

We have reviewed your November 7, 2001 opinion request for the Local Boundary Commission (LBC) which addresses whether the requirements of the recently amended statute, AS 29.35.450(c), apply to a service area of a borough that is to be included in the territory proposed to be annexed to a city located within that borough. The Local Boundary Commission will soon be dealing with a petition to annex territory to the City of Homer, a first class city in the Kenai Peninsula Borough that raises these issues. The Homer annexation petition is a legislative review annexation petition under Art. X, sec. 12 of the Alaska Constitution and AS 29.06.040(a) and (b), not an annexation by local action petition under AS 29.06.040(c).

In the opinion request, you specifically analyze the history of annexations by legislative approval in Alaska, the application of the constitutional requirements to annexations and the LBC's discretion afforded thereby, court cases applicable to annexations, as well as the legislative history of the recently amended service area statute, AS 29.35.450. Based upon your review of these sources, it is your belief that the requirements of AS 29.35.450(c) are not applicable to city annexations, particularly legislative review annexations. We concur with your opinion.

Due to time constraints, this office will not issue its own legal opinion on this matter. We believe the analysis and conclusion of your November 7, 2001 memorandum, is the correct legal conclusion.

If questions arise during your deliberations on the Homer annexation petition that the LBC would like us to address, they are welcome to call me.

cc: Dan Bockhorst, LBC Staff

Homer had provided fire protection and emergency medical service on an informal basis without compensation to the area in question for many years prior to the formation of the Kachemak Emergency Service Area. It is even more noteworthy that, after the service area was created, the City of Homer has contracted with the Kenai Peninsula Borough to formally provide fire protection and emergency medical services to the area within the Kachemak Emergency Service Area.

Road maintenance and fire protection are two of the more fundamental and substantial services proposed to be extended by the City upon annexation. For

The intent of the constitutional convention delegates regarding Article X, Section 5 is addressed in Borough Government in Alaska (at 42), a leading treatise on Alaska's unique form of regional government (footnotes omitted):

The stated purpose of preventing duplication of tax levying jurisdictions and providing for a minimum of local government units was directly responsible for the constitutional provision that "A new service area shall not be established if . . . the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city." The committee's objective was to avoid having "a lot of separate little districts set up . . . handling only one problem . . ."; instead, services were to be provided wherever possible by other jurisdictions capable of doing so. Moreover, an amendment to eliminate the preference given to city incorporation or annexation over establishment of new service areas was defeated by the convention.

In 1995, the Alaska Supreme Court examined Article X, Section 5 of the Constitution and AS 29.35.450(b) in the context of a proposal to incorporate a new city within an organized borough. The Court stated as follows in *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1243 (Alaska 1995) (footnotes omitted):

It is reasonable to interpret AS 29.35.450(b) and article X, section 5 as preferring incorporation of a city over the creation of new service areas. This interpretation is supported by legislative history and is not inconsistent with article X, section 1 of the Alaska Constitution. Constructing a barrier to approving an excessive number of government units does not prohibit the creation of them when they are necessary. Whether a service area or a city is established, another government unit is created. If numerous service areas are set up supplying only one or two services each, there is the potential for an inefficient proliferation of service areas. In contrast, once a city is established, it can provide many services, and other communities can annex to the city in the future. Although the framers entertained the idea of unified local governments, they realized that the need for cities still existed.

Based on the above discussion, we interpret AS 29.05.021(b) as follows: when needed or desired services can be reasonably and practicably provided on an areawide or nonareawide basis by the borough, they should be. As discussed *supra*, this inquiry is not limited to an evaluation of service areas. When it is established that the services cannot be provided reasonably or practicably, then the LBC is required to consider other available options. We also clarify that there is a statutory and constitutional preference for incorporation of cities over the establishment of new service areas. We believe these to be reasonable and practical interpretations of the Alaska Constitution in accordance with common sense. See *Arco Alaska*, 824 P.2d at 710.

Based on the plain language in both Article X, Section 5 and AS 29.35.450(b), DCED believes it is reasonable to extend the Court's holding in *Keane* to reflect a preference for city annexation over the creation of a new service area. (Note: DCED takes the view that exceptions to the constitutional and statutory preference for a city government versus a borough service area generally exist in cases involving merger, consolidation, or unification of city and borough governments. See *Preliminary Report on the Proposal to Consolidate the City of Fairbanks and the Fairbanks North Star Borough*, p 42-45, DCED [December 2000]. See also, *Statement of Decision in the Matter of the Petition for Consolidation of the City of Fairbanks and the Fairbanks North Star Borough*, p 19-20, LBC [June 7, 2001]).

As noted above, the City of Homer seeks to annex territory pursuant to Article X, Section 12 of the Constitution of the State of Alaska, which provides as follows:

A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

The plain language of the second sentence indicates that the Local Boundary Commission "may consider any proposed local government boundary change." Boroughs can (and most boroughs do) have three types of jurisdictional boundaries. These are (1) corporate boundaries encompassing areawide jurisdiction, (2) boundaries encompassing nonareawide jurisdiction, and (3) boundaries encompassing service area jurisdictions.⁵

By definition, any annexation to a city within a borough will alter the nonareawide jurisdictional boundaries of the borough (see AS 29.71.800[14]). Similarly, *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540 (Alaska 1962) seems to provide ample legal authority for the proposition that a service area will be deemed altered, as a matter of law, upon the effective date of annexation of the territory in question to a city.

In 1960, the Local Boundary Commission approved the annexation of the Fairview Public Utility District Number One to the City of Anchorage. The action was tacitly approved by the 1960 Legislature pursuant to Article X, Section 12 of the Constitution. The City of Anchorage sought a declaratory judgment asking the court to determine that the Fairview Public Utility District had been dissolved.

municipality within two years after the date of incorporation . . ." Yet, if AS 29.35.450(c) applied to a city incorporation, it would forbid integration unless voters in the entire service area approve such a proposition.

⁵ In the context of Article X, § 1 of Alaska's Constitution, the phrase "local government unit" has been construed by the Alaska Supreme Court to include borough service areas. (See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1243 [Alaska 1995].) Moreover, Vic Fischer, an expert in Alaska local government and a former Constitutional Convention delegate, also construes borough service areas to be local government units in the context of Article X, §§ 1 and 5. (See letter dated September 29, 1997 from Victor Fischer)

Indeed, there are strong indications that the Kachemak Emergency Service Area was created, in large part, in an attempt to weaken the arguments for the pending proposal for annexation to the City of Homer.

If AS 29.35.450(c) applied to annexations, any time citizens of an area proposed for annexation to a city wanted to thwart annexation, they could simply initiate efforts to create a borough service area. Doing so would contravene the intention of the Constitutional Convention delegates as discussed by the Supreme Court in the *Fairview* case (at 543):

Article X was drafted and submitted by the Committee on Local Government, which held a series of 31 meetings between November 15 and December 19, 1955. An examination of the relevant minutes of those meetings shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level.¹³ The advantage of the method proposed, in the words of the committee –

* * * lies in placing the process at a level where area-wide or statewide needs can be taken into account. By placing authority in this third-party, arguments for and against boundary change can be analyzed objectively.

DCED notes further that AS 29.35.450(a) provides that a city government or its residents must expressly authorize the inclusion of a city in a service area. Specifically, AS 29.35.450(a) states: ". . . The borough may include a city in a service area if (1) the city agrees by ordinance; or (2) approval is granted by a majority of voters residing in the city, and by a majority of voters residing inside the boundaries of the proposed service area but outside of the city." By that statute, a borough has no authority to exercise service area powers within a city without that city's approval. There are no qualifiers to suggest it matters whether the service area precedes the city in the area concerned.

The Commission is scheduled to conduct a public hearing on the Homer annexation proposal beginning December 14, 2001. It would be appreciated if you would render a legal opinion by that date indicating whether a borough service area adjoining a city is altered, as a matter of law, by annexation of all or part of that service area to the city.

¹³ (footnote original) Alaska Constitutional Convention Minutes of Committee on Local Government, Nov. 28 and Dec. 4, 1955. (This and all subsequent statements and quotes concerning proceedings of the Alaska Constitutional Convention refer to Records of the Alaska Constitutional Convention, now in the custody of the Secretary of State, Juneau, Alaska.)

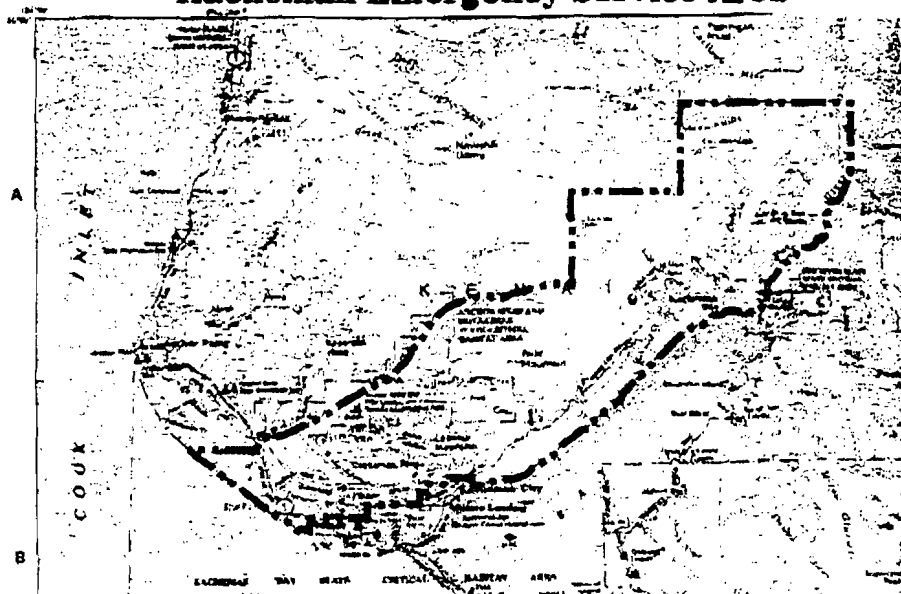
The City's transition plan was prepared prior to the creation of the Kachemak Emergency Service Area (KESA). KESA was created by the Kenai Peninsula Borough to provide fire protection and emergency medical services. As shown in Figure 4-AU, the KESA boundaries encompass all of the territory proposed for annexation except Millers Landing. The City of Homer provides fire protection and emergency medical services to the Kachemak Emergency Service Area pursuant to a contract with the Kenai Peninsula Borough.

The City's transition plan describes the City's intent and capability to extend essential city services into the territory proposed for annexation in the shortest practicable time after the effective date of the proposed change. The plan is summarized as follows.

Fire Protection. Fire suppression service will be enhanced "over a period of no more than two years" with financing from the issuance of general obligation bonds or general fund revenues as described earlier in this chapter. The plan states that:

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**Figure 4-AU
Boundaries of the
Kachemak Emergency Service Area**



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RECEIVED
SEP 29 1997
Local Boundary Commission
DCRA/IRAD

September 29, 1997

Local Boundary Commission Staff
333 West 4th Avenue, Suite 220
Anchorage, Alaska 99501

Re: City of Haines Annexation Petition

I have reviewed the DCRA draft report on the City of Haines' petition for annexation. While many interesting issues are discussed in the report, I will here address only those issues raised by the various parties that are pertinent to provisions of Article X, Local Government, of the Constitution of the State of Alaska.

1. The Section 1 purpose of providing for a *minimum of local government units* was definitely meant to cover service areas and other types of single or multiple service districts. The Local Government Committee Minutes and Constitutional Convention Proceedings make it perfectly clear that the delegates sought to avoid the multiplicity of special districts that characterized most American urban areas (e.g., Chicago) and then already developing around the City of Anchorage.

Note in this connection that Section 2 states that *All local government powers shall be vested in boroughs and cities*. It clearly does not state that cities and boroughs shall be the only local government units. This means that other local government units (e.g., REAA's and other service areas) can exist, but they are not vested with local government powers -- they can exist only as a creature of a borough as set forth in Section 5. (This should be clear enough without going into definitions of "local government" by the U.S. Census and other authorities.)

2. The purpose of minimizing the number of local government units could not have been clearer reflected in the constitution than it is in Section 5:

A new service area shall not be established if, consistent with the purposes of this article the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city.

In the Haines case, I would go further than the City's argument that creation of services areas is "inconsistent" with Section 5 of the constitution -- I believe it violates both the intent and specific language of this section.

3. The position that establishment of new service areas is the constitutionally preferred alternative to city annexation or on par with cities is completely wrong, it's nonsense. There is no basis whatsoever to support that view. All provisions of Article X make it

Unocal Corporation
2141 Rosecrans Avenue, Suite 4000
El Segundo, California 90245



NEWS RELEASE

Contact: Roxanne Sinz (Media - Alaska)
907-263-7623
Robert Wright (Investors)
310-726-7665

Unocal announces discovery of significant natural gas reservoir on Alaska's Kenai Peninsula

Anchorage, Alaska, Jan. 22, 2002 -- Unocal Corporation (NYSE: UCL) today announced the discovery of a new natural gas reservoir on Alaska's Kenai Peninsula.

The Grassim Oskolkoff #1 (GO#1) well, the first exploration well drilled under a joint operating agreement between Unocal and Marathon in the Ninilchik Exploration Unit, indicates significant natural gas accumulations. GO#1 is located 35 miles south of Kenai, Alaska, on the Kenai Peninsula.

A 39-foot interval in the Miocene formation yielded restricted flow rates of up to 11.2 million cubic feet of gas per day. The zone tested was at 9,822 feet. The well was drilled to a total depth of 11,600 feet. Several significant untested intervals exist elsewhere in the well. Exploration efforts also continue at several other wells in the unit.

Unocal holds a 40-percent working interest in the well and the 25,000-acre Ninilchik exploratory unit. Marathon Oil Company is operator and holds the remaining interest.

"We are pleased with the initial results of our south Kenai gas exploration program and we look forward to working with Marathon Oil to fully appraise the potential of the Ninilchik structure," said Chuck Pierce, vice president of Unocal Alaska.

Pierce said that Unocal has begun a separate three-well exploration program on the southern Kenai Peninsula. Unocal anticipates it will complete this initial program by May 2002.

Unocal has acquired a total position in excess of 30,000 net acres. The company believes the net unrisks resource potential of the Ninilchik Unit and the additional prospects Unocal plans to test by mid-2002 could be between 100 and 600 billion cubic feet. By the end of 2002, Unocal expects to have completed and tested eight wells on the trend -- five wells in the Ninilchik Unit, and three wells on the other Unocal prospects.

"These wells have major implications for natural gas development of the southern Kenai Peninsula. Based on the results of the Marathon - and Unocal-operated



Message

From: Donna Peterson

Subject:

To: District News
 Building administrators

Cc: School Board
 Terri_Campbell@eed.state.ak.us

Bcc:

To: District Employees
From: Donna Peterson, Superintendent
Date: January 22, 2002

It is strange to write from my heart in memo format but it is the only way to get information to all of you quickly. Many of you took advantage of the opportunity for public comment regarding negotiations, as provided for in state law, during the January 21st School Board meeting. It was extremely difficult for us to not respond to you individually and collectively, but that is part of our job and honors the integrity of the bargaining process. The ground rules portion of the negotiation process was referred to over and over again in a negative way. Since the January 18 meeting was a closed session, I would ask only that those of you who were not present Friday to consider the possibility that there might be another side to the story. But, as they say, that was then, and this is now, and my hope is that we can all move forward.

In an effort to channel the energy from the School Board meeting in a positive direction, here are some concrete things that can happen:

- a) Open the negotiations process to the public beginning with the next ground rules setting session scheduled for Saturday, February 9 at the Borough building.
- b) Have all who wish to assist in telling the story to the legislature by traveling to Juneau consider using the "constituent fare" coupon included in the January Alaska Airlines mileage statements. Our peninsula legislative delegation has been very supportive of educational funding efforts but until a statewide solution is reached, the picture is not likely to substantially change. Perhaps we can work together to send a large group on a given date with a single message. We are working on the legislative brochure and will be distributing it to site councils and schools. The District priority is

receiving additional dollars in the foundation formula - specifically we support the recommendations of the Education Task Force:

- 1) \$108 added to the base allocation per student
- 2) \$74 continued funding for Learning Opportunities Grants BUT adding the amount to the foundation formula to assure the funds are recurring
- 3) Inflation proof the formula at a minimum, automatic rate of 1.5%

c) Cancel the Long Range Planning meeting scheduled for March 7th. Our efforts really need to be focused on the short term for right now and setting priorities for the future seems like it can and should wait until later.

Understand that we're in a world of hurt. The District will have lost 659 students between 1998 and the FY03 enrollment projections. Even though the staffing formulas have not changed, we are already faced with reducing staff by 26 teachers for next year - 15 because of reduced enrollment and 11 because of the uncertainty of the Class Size Reduction Grant funding (tied up in the "Leave No Child Behind" national legislation).

We have also instituted a hiring freeze for the remainder of this school year, with each vacancy reviewed for need and funding source before a decision made to advertise and/or fill. We see no other way to assure we can cover costs for this year, especially if we have another cold snap resulting in higher utility costs.

The budget proposed at the 2:00 p.m. work session on January 21 is status quo with frozen salaries - there are allowances for column movement and for increased health costs. If we had built in "steps" the budget would be out of balance by over \$3M; we have received past criticism of the "wish list" budgeting method where we build in what should happen and then cut. It is too early in the legislative session to have a picture of our revenue and the Borough already funds us to the maximum amount allowed by law. For 10+ years we have made all the possible cuts - there simply is nothing else to cut and yet, we've got to find a way to deliver a balanced budget, and that is going to mean cutting almost \$1.5M more. I urge each of you to attend one of the five public budget hearings at 7:00 p.m. February 5-12 throughout the peninsula (5th Seward; 6th Soldotna; 7th Kenai; 11th Homer; 12th Nikiski) so that you have a thorough understanding of the constraints and concerns. Arm yourself with information.

One thing you have to hear and know - you are valued and you are respected by the District and by the School Board. We are proud of the accomplishments of the Kenai Peninsula Borough School District employees. I can just hear you saying, "Yeah, that a \$1 will get you a soda!" but it is true. I didn't change when I became Superintendent. I didn't forget what it is like to be a teacher or a principal. As with your job, the rewards are getting fewer and fewer but we're all in this together and only together, can we make a difference for our children and grandchildren. When I started

this job three years ago, I knew were "near the wall" financially. Well, my friends, we have hit the wall and it is solid stone. I am hoping for and working for adequate funding that assures that education is indeed the number one state priority. As was said many times, this is a problem for all of us. We need to work together to solve the problem. I don't know how, but I'm personally looking for a miracle.

AGENDA ITEM N.2.b.

Kenai Peninsula Borough Assembly

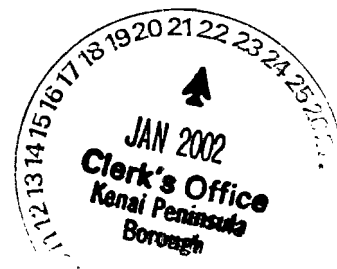
My name is Jim Reinhart and I live near, but not in Homer. Our property is within the original 25.6 square mile annexation, but outside of the pared down 4.6 square mile area. I first came to territorial Alaska in 1954. I was an F-89D Scorpion pilot in the 449th Fighter Interceptor Squadron at Ladd Field in Fairbanks. Our job was to chase Soviet intercontinental bombers back to their side of the Arctic Ocean. Even back then, when I was 10 feet tall and bullet-proof, I was a hard core opponent of hostile annexation.

Annexation, in the sense that we are presently speaking of, is a privilege extended only to city government. No individual, group, corporation, borough, state or nation may unilaterally claim the property or the person of a neighbor. Annexation by cities should be allowed only in very rare situations where clearly the overwhelming majority of all those involved favor the annexation and benefit from it. The Local Boundary Commission's standard # 13 states this very clearly. It says "Annexation will serve the balanced best interest of the state, the territory to be annexed, and all political subdivisions affected by the annexation." This standard and several others have not been met. Clearly, there is a need for legislative review of this Annexation by Legislative Review.

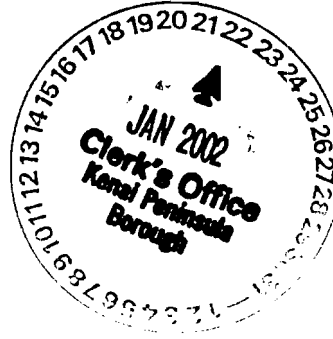
One of Homer's many claims of needing this annexation is rapid growth. This claim is specious, at best. Homer's population in 1990 was 3,650. In 2000 the population is 3,995. The growth rate is less than 1% per year - a growth rate well below just about anyplace else on earth. There are 2 real reasons why Homer desires this annexation. They want our sales taxes, our property taxes and our per capita pass-through taxes, and they want to control our lives. They want our taxes so that they can spend them. In 1990 the Homer city budget was about \$4.2 million. This year it is about \$12 million.

When we moved to the Kenai Peninsula 33 years ago we deliberately bought property well outside of Homer. We chose to be borough residents, not city residents. We are rural people. Linda grew up on a farm in Louisiana. I grew up on a farm in Minnesota. We do not want sidewalks, paved streets, city water and sewer, and cable TV. Most of all, we do not want and will not allow unwarranted control of our private lives. Those opposed to this annexation have worked hard for 2 years against very difficult odds. We have spent 10s of thousands of our own dollars battling a disingenuous city government which is able to fight us with our own tax money. DISINGENUOUS? You bet they are. The city chose Annexation by Legislative Review rather than Annexation by a vote of the people. They made that choice because they knew they would lose the vote. Now that the time for legislative review is here, they've changed their minds and are opposing legislative review. Is this what Nikolai Lenin meant when he said, "We will hang you with your own rope"? The Kenai Peninsula Borough has an absolute obligation to defend us from this unwarranted attack by the city of Homer. We chose you as our government and you accepted us. We are mutually compatible - we like living by your rules. I ask each of you to help us get that legislative review we were promised by the city and by the state.

Jim Reinhart, Box 834, Homer, AK 99603 235-8650



AGENDA ITEM N. 2. 6.



A REQUEST FOR SUPPORT FOR RESOLUTION 2002-12

From Linda S. Reinhart
PO Box 834, Homer AK 99603
Reinhart@xvz.net

January 21, 2002

A summary of legal and policy questions regarding the annexation proposed by the City of Homer and why the Kenai Peninsula Borough Assembly should support a legislative veto of it.

judge “compatibility”? It is certain, though, that any compatibility we once enjoyed has been seriously diminished as a result of this annexation.

Some standards might only be resolvable by litigation: “2. The territory does not overlap the boundaries of another local government” raises the question of whether the change in the service area boundaries *requires* a vote.

Standard number 8: “the City of Homer has provided a practical plan for the extension of services into the territory” is clearly unmet. Homer’s rhetoric boils down to, “We’ll take care of that later.” In testimony before the LBC, Borough Attorney Colette Thompson testified that the City of Homer had made no plan for the transfer of responsibilities from the borough to the city. Councilman Kranich commented in a council meeting that he hoped we would stay active after annexation since they expected it would take at least two years to plan how to serve the area. Obviously, the city is saying, “We’ll do the planning in the future.” This does not meet Standard number eight: “The City of Homer *has provided* a plan ...”

Standard number 11: “the City of Homer is best able to provide essential city services to the territory” raises the question, “what are ‘essential city services’?” We have definitely shown that the services city residents consider “essential” are very different from what we consider “essential”. They consider water and sewer from the city “essential” and many city residents feel strongly that for the city to undertake the serving of additional territory before they provide for those already in the city is not right. We foreigners do not consider city water and sewer a service we want or need and have so testified repeatedly. Yet a city councilman dares to accuse us in public testimony of *asking* for free water and sewer from the city! (This is “compatibility”?) Services we do want and need are road and fire/EMS services, which are very adequately addressed with our service areas. Policing, what little we need, is provided by State Police at a fraction of the cost of city protection. The City of Homer is not better able to provide us with the services *we* consider essential.

Standard number 12: “a reasonable need for city government exists in the territory proposed for annexation” is obviously not true. If we needed governing by the city, obviously we would be the petitioner. The city has totally failed to show in what way *we* need city government. Their petition is based solely on how badly *they* need *us*. Standard number 12 is clearly unmet.

Standards number 13 and 14 deal with annexation meeting the best interests of all concerned. Certainly the additional revenue brought to the City of Homer by annexation will swell its coffers; it is more difficult to prove that annexation is in the best interests of the Borough or State. Certainly it is *not* in the best interests of those to be annexed, and they *are* one of the groups Standard 13 specifically lists. Standard 13 is clearly unmet.

Remember, if *any one* of these standards is unmet, the petition should have been denied by the LBC.

HOMER NEWS

Homer, Alaska • Vol. 29, No. 3

Thursday, January 17, 2002

75 Cents

Best weekly newspaper

- 1997, 1998 & 1999, Alaska Press Club

Homer Council battles borough over annexation

by Joel Gay

Staff Writer

As the city prepares to defend its annexation petition to the Alaska Legislature, the Homer City Council wants the Kenai Peninsula Borough Assembly to butt out.

Assemblywoman Milli Martin of Homer said Borough Mayor Dale Bagley had written a resolution asking the Legislature to deny the city's annexation petition. Because most of her constituents support that view, she asked to sign on as a co-sponsor.

The resolution cites the familiar litany of objections voiced by annexation opponents – that the city held no public hearings or vote; that borough service area boundaries would be reduced without a vote, contrary to state law; and that city officials' terms will not be cut short.

In a preemptive move, the Council on Monday launched a lobbying effort aimed at derailing the Bagley/Martin resolution. After discussing the issue for 90 minutes behind closed doors, council members emerged and

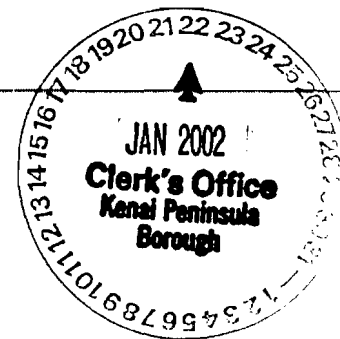
See CITY, Page 6

Anchor Point stresses emergency self-reliance

by Carey James

Essert, Sue Ellen

AGENDA ITEM N.2.b



From: John and Michele [jafmmb@xyz.net]
Sent: Tuesday, January 22, 2002 4:10 PM
To: assemblyclerk@borough.kenai.ak.us
Subject: RESOLUTION 2002-012

Hello Linda,
 Will you please put these in the assembly members packets for tonight.
 Thank you,

John A. Fejes and Michele M. Bournonville

Date: 1/21/02

To: Honorable Dale Bagley

Kenai Peninsula Borough Mayor

Assembly members:

Bill Popp

Timothy Navarre

Gary Superman

Pete Sprague

Grace Merkes

Ron Long

Paul Fischer

Chris Moss

Milli Martin

Colette Thompson

From: John A. Fejes and Michele M. Bournonville

(Kenai Peninsula Borough residents)

P.O. Box 679

Homer, Alaska 99603

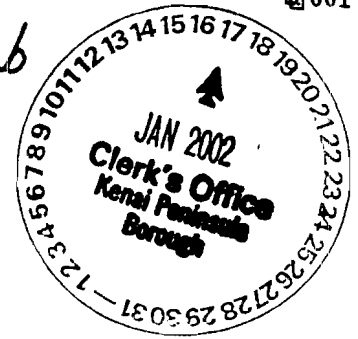
Subject: Opposition to Annexation by the City of Homer

1/22/02

Routed from Borough Clerk's office to:
 Assembly members _____
 Mayor _____
 Finance _____
 Accounting _____
 Planning _____
 Legal _____
 Other _____

AGENDA ITEM *N. 2.6*

STEVEN A CRAIG
 PO BOX 984
 HOMER, AK 99603
 Phone 907-235-8861
 Fax 907-235-4839
 Home Phone 907-235-8755



January 17, 2002

ATTENTION: *Grace Merkes*

I AM WRITING YOU TO ASK FOR YOUR SUPPORT OF THE PROPOSED RESOLUTION TO
 OPPOSE THE ANNEXATION OF 4.58 SQUARE MILES IN THE HOMER AREA. CURRENTLY THIS AREA
 IS GOVERNED BY THE BOROUGH AND I DO NOT WISH TO SEE IT BECOME PART OF THE CITY OF
 HOMER. I AM LOOKING TO YOU TO STAND UP FOR THE PEOPLE IN THIS AREA.

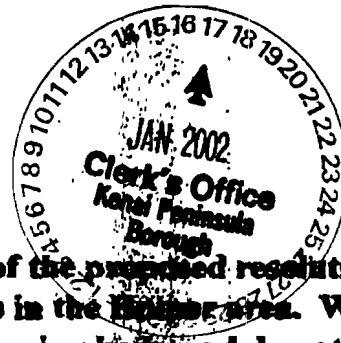
I PERSONALLY HAVE LIVED AND WORKED IN THE HOMER/ ANCHOR POINT AREA ALL MY
 LIFE. THIS ANNEXATION ISSUE WILL DRASTICALLY EFFECT MY FAMILY AND MANY OTHERS IN
 THE AREA. I HAVE WORKED AT KACHEMAK AUTO BODY & PAINT FOR THE LAST 12 YEARS
 (SINCE HIGHSCHOOL) AND CURRENTLY MY WIFE HAS WORKED THERE FOR THE PAST 3 YEARS.
 THIS IS OUR ONLY SOURCE OF INCOME FOR OURSELVES AND OUR TWO CHILDREN. AS A
 BUSINESS THAT WILL BE ADVERSELY EFFECTED BY THE ANNEXATION, OUR ENTIRE
 HOUSEHOLD INCOME MAY VERY WELL COME TO A COMPLETE HALT. MY FAMILY IS ONLY 1
 EFFECTED BY THIS DECISION - COUNT THE MANY OTHERS PLEASE. SOME MAY LOOSE NOT
 ONLY THERE BUSINESSES AND INCOMES BUT IN REALITY THEIR VERY HOMES.

I AM ASKING THAT YOU PLEASE USE YOUR POWER AND INFLUENCE TO STOP THIS
 ANNEXATION ISSUE ONCE & FOR ALL.

THANK YOU FOR TAKING THE TIME TO STOP AND CONSIDER THIS VERY IMPORTANT
 ISSUE.

SINCERELY,

Steven A. Craig & Rita M. Craig
 STEVEN A CRAIG & RITA M CRAIG

AGENDA ITEM *N. 2. b.*Attention: *Grace Merkes*

I am contacting you to ask for your support of the proposed resolution to oppose the annexation of 4.58 square miles in the Homer area. We are very happy with the Borough as our governing body and do not wish to become part of the city of Homer. We look to the Borough to look out for us. If you do not stand up for the people on this issue who will?

This can happen anywhere in the Borough and I would not wish this on any other community. I have lived in this area all my life and this issue has caused irreparable harm to our town. I am afraid there are hard feelings that will never be healed. It has been a real nightmare.

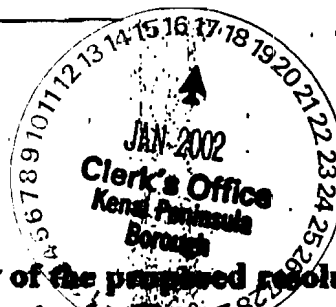
This annexation affects the Borough through two Borough service areas and I feel strongly that this needs to be stopped and put before the people for a vote. Kachemak City is also opposed to the action that has been taken by the city of Homer.

As a business owner in the proposed annexation area I am afraid if this goes through it will cause us to have to close our doors. That will do irreparable harm to us and the five households that depend on the jobs that our business provide for their sole support. We can not afford the added tax burden nor the cost of the new regulations. If by some slim chance the water and sewer were ever extended to our area there is no way we could ever afford the cost of the extension. This truly will be taxation without representation and no benefit to the businesses or public. This needs to be a two way street...the city can not be the only one that benefits from this annexation.

Please Help. Thank you for your time and consideration.

Sincerely,

Randel L. Jones, President
Kachemak Auto Body & Paint, Inc.

AGENDA ITEM N.2.bAttention: Grace Merkes

I am contacting you to ask for your support of the proposed resolution to oppose the annexation of 4.58 square miles in the ~~Blount~~ area. We are very happy with the Borough as our governing body and do not wish to become part of the city of Homer. We look to the Borough to look out for us. If you do not stand up for the people on this issue who will?

This can happen anywhere in the Borough and I would not wish this on any other community. I have lived in this area all my life and this issue has caused irreparable harm to our town. I am afraid there are hard feelings that will never be healed. It has been a real nightmare.

This annexation affects the Borough through two Borough service areas and I feel strongly that this needs to be stopped and put before the people for a vote. Kachemak City is also opposed to the action that has been taken by the city of Homer.

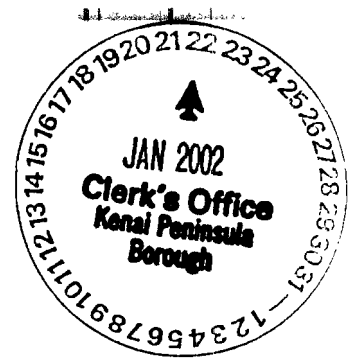
As a business owner in the proposed annexation area I am afraid if this goes through it will cause us to have to close our doors. That will do irreparable harm to us and the five households that depend on the jobs that our business provide for their sole support. We can not afford the added tax burden nor the cost of the new regulations. If by some slim chance the water and sewer were ever extended to our area there is no way we could ever afford the cost of the extension. This truly will be taxation without representation and no benefit to the businesses or public. This needs to be a two way street...the city can not be the only one that benefits from this annexation.

Please Help. Thank you for your time and consideration.

Sincerely,

 Terry Jones, Vice President
 Kachemak Auto Body & Paint, Inc.

AGENDA ITEM N.2. b



January 22, 2002

Kenai Peninsula Borough Assembly Members
Soldotna, Alaska

Esteemed Assembly Members:

I am writing to ask for your support of the resolution opposing annexation by the City of Homer. I have no interest or desire to be annexed into the City of Homer.

The City of Homer has no right to annex my property! We are not a political subdivision of the City of Homer. The City of Homer should not presume to speak for me. I did not vote (nor have any opportunity to vote) for the elected officials of the City of Homer. I did not have any opportunity to vote on the annexation. That they presume to tell me what services I need, and tax me accordingly is a blatant case of taxation without representation.

The City will argue that no one will vote to increase taxes on themselves. Consider this evidence to the contrary. My neighbors and I did vote to tax ourselves, via the Kachemak Emergency Services Area. KESA had overwhelming support because there was a recognized need for the service

I live in a semi-rural area outside the current city limits. All of the properties in my subdivision are served by wells and septic tanks. Fire and emergency services are provided through the Kachemak Emergency Services Area. Police services (which are rarely if ever required) are provided by the Alaska State Troopers. The Borough road service area tends the roads. The City has nothing to offer us.

User fees are the best method to fund services (if any) used by people living outside the City. I frequently meet visitors from Asia and Europe who use the Homer airport and harbor. Should the City of Homer annex Japan or Western Europe to make sure these folks pay their fair share? Many of the city's services (harbor, sewer and water etc.) were established as self-supporting enterprise funds. Should I be required to supply additional funds so their mismanagement can continue?

I understand that under the current Alaska law forced annexation is allowed, however this does not make it right. The law is flawed and needs to be changed. The State legislature will I hope remedy this flaw during the current session. I urge you to please support my effort not to be unfairly annexed, by supporting the resolution to oppose the City of Homer's annexation proposal.

Thank you for your consideration in this matter.

Steve Rykaczewski
PO Box 3853 Homer AK 99603

AGENDA ITEM N. 2.6.

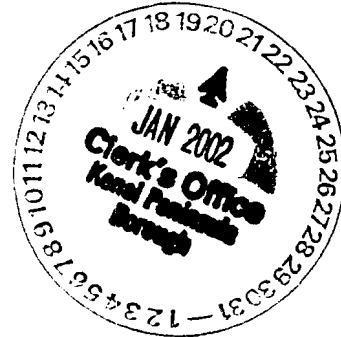
Murphy, Linda
From: Tim and Abby Fuller [fuller@homernet.net]
Sent: Sunday, January 20, 2002 12:25 PM
To: LMurphy@borough.kenai.ak.us
Subject: comments for Tuesday's Assembly meeting

Comments on Ordinance 2001- 48

I support this ordinance. The original intent with KESA was to include the triangle, or Millers Landing, area within the fire and emergency services area. I'm not sure I fully understand how it got left out, except that it was an error that no-one caught. I do know that it was supposed to be included, and that the residents of the area who voted on it thought they were included. When I testified before this Assembly in August of 2000, in committee, I was supporting the whole area including the triangle be included within the service area. I was a member of the group that organized to promote a yes vote on the proposal at the polls, and we advertised the area as including the triangle. I still support the inclusion of the triangle.

You may wonder, when the area has been approved for annexation, why bother? Because it has not been annexed yet, and there is still a chance the annexation will not go through. It could get vetoed by the Legislature, and it could be thrown out by the courts on appeal. As vice president of CCAA, I can tell you the annexation will be appealed. It would be prudent to add the triangle to KESA now rather than wait to see what happens and risk ending up with the area unprotected. And even if annexation does go through, it will not be until March 9.

Abigail Fuller
PO Box 2845
Homer, AK 99603





AGENDA ITEM L. 1
and N. 2, b.

CITY OF HOMER

CITY HALL

491 East Pioneer Avenue

Homer, AK 99603-7645



January 17, 2002

Timothy Navarre, Assembly President
Members of the Assembly
Kenai Peninsula Borough
144 N. Binkley
Soldotna, Alaska 99659

Re: Ordinance 2001-48 (Enlarging Kachemak Emergency Services Area), and Proposed Resolution Opposing Homer Annexation

Dear President Navarre and Members of the Assembly:

At your December 11, 2001, meeting Milli Martin introduced Ordinance 2001-48 to amend the boundaries of the Kachemak Emergency Service Area ("KESA") to include the area known locally as Miller's Landing. On January 22, 2002, Milli Martin, with the support of Mayor Dale Bagley, plans to introduce a resolution asking the Legislature to veto the City of Homer annexation that has been approved by the Local Boundary Commission. These proposals constitute a direct assault against the City of Homer, and they are not in the interests of either the greater Homer area or the people of the Borough as a whole. For many valid reasons, you should defeat both of these proposals.

Ordinance 2001-48

First, Ordinance 2001-48 conflicts with the state constitutional preference for city annexations over the establishment of new service areas. Alaska Constitution, art. X, sec. 5 provides:

Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes,

January 17, 2002

Page 3

City, promptly upon final approval of the annexation, appropriate funding and responsibility for all road and emergency service area functions within the area annexed. While the proposed amendment to the boundaries of the service area in the meantime is not necessarily inconsistent with that promise to cooperate, it certainly looks that way in the context of Milli Martin's continuing efforts to defeat any and all annexation by Homer. Because that appears to be the underlying motive and purpose for this ordinance, the City strenuously objects to its passage.

Fourth, approval of this ordinance could compound a potential looming problem and cause the taxpayers of Miller's Landing to pay unnecessary extra taxes. The opponents of the City's annexation effort adamantly maintain that the boundaries of any Borough service area cannot be altered without the approval of a majority of the voters residing in the entire service area, as well as a majority of the voters in the area affected by the alteration, citing recently enacted AS 29.35.450(c). The City does not perceive how this could be a legally correct interpretation when the service area boundary is inexorably affected by an city annexation approved by the LBC and the Legislature in review. The alteration of city boundaries in this fashion is expressly provided for in the Constitution, art. X, sec. 12, and if AS 29.35.450(c) purports to prevent that from happening, it is unconstitutional. Nevertheless, if it is assumed that AS 29.35.450(c) means what the annexation opponents claim, then the boundaries of both KESA and the road service area cannot be altered without majority approvals from the voters in all affected areas. Further assume, as most often happens, that the Legislature does not veto the recommendation and the annexation automatically becomes effective, as provided in the Constitution. Then, the effect of the combination of annexation without automatic alteration of service area boundaries is that the residents of the territory newly annexed to the City will be real property taxpayers both in the Borough service areas and in the City. Therefore, they would be subject to taxation at the full rates of levy by both the City and the Borough service areas. Please understand that they will not be getting double levels of service, but they will be paying duplicative taxes as property owners of both the City and Borough service areas. Assuming the opponents of annexation advocating this interpretation of AS 29.35.450(c) are correct, then the passage of Ordinance 2001-48, will cause the property owners of Miller's Landing to be doubly taxed for the same services. They can avoid this double taxation only if a subsequent election is held and the alteration of service area boundaries is approved by majorities of voters of both service areas, both within and outside of the annexed areas. The resulting legal quagmire could be terribly complicated. For example, what will the Borough do if the voters outside the annexed areas refuse to approve the release of the annexed area from the service area

January 17, 2002

Page 5

Rather than amend the boundaries of KESA now to include even more areas that are going to be annexed to the City, the Assembly should be focusing Borough efforts on how to amend the service areas to exclude the soon-to-be annexed areas. It makes no sense to approve Ordinance 2001-48 and compound the problems — unless the Assembly actually decides to take sides with all annexation opponents across the Borough against every city's well-founded annexation petition. Confident that the Borough Assembly will not choose such an alliance against the cities of this borough, Homer strongly advocates the defeat of Ordinance 2001-48.

Proposed Resolution Requesting Legislative Disapproval of Annexation

Mayor Bagley forwarded to the KPB Clerk's Office a Memorandum, dated January 22, 2002, and a proposed resolution opposing Homer's annexation entitled "Resolution Requesting the State Legislature To Disapprove by Resolution the Boundary Change Proposed by the City of Homer and Recommended by the Local Boundary Commission." The resolution also bears the sponsorship of Milli Martin and will be introduced on January 22, 2002. Ms. Martin, who has always personally opposed annexation is now joining the KPB Mayor in crossing a line that the Borough should not cross.

The annexation process is prescribed by the Constitution of the State of Alaska, and the City of Homer has in every respect properly followed that process, as verified by the Local Boundary Commission findings. Homer's annexation is a matter of both intense city interest and statewide concern, but it is not a matter for the Borough to manipulate. The Borough does not run the City of Homer, the City of Soldotna, the City of Seward, the City of Kenai, the City of Seldovia or Kachemak City - - this annexation is simply not a Borough issue.

Mayor Bagley's Memorandum states: "You will hear people say that this is not a Borough issue and that the Borough should stay out of this fight." What an odd thing to say considering that this is exactly what the Mayor had instructed the Borough Attorney to report to the Local Boundary Commission - - which she faithfully did at the hearings held in Homer last December.

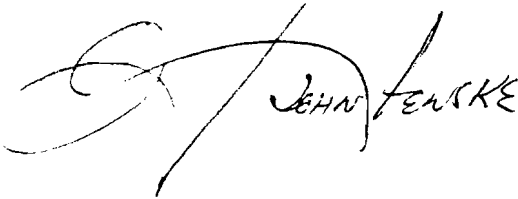
What has caused the Mayor to join with the others in declaring war against the City of Homer is not clear, but it is clear that this threat to the sovereignty of the cities located in the Kenai Peninsula Borough cannot be ignored. The cities are not puppets of the Borough. Like the Borough, each of the cities is an independent political

Is the success of a much needed and long overdue city boundary change going to depend on the relative political power of whoever happens at the time to be in the positions of Borough Mayor or Assembly Member? It has never been the case since our Constitution was adopted, and it should never be the case now or in the future. The setting of local boundaries is far too important to the health and welfare of the cities and residents of this borough to be dictated by such irrelevant factors.

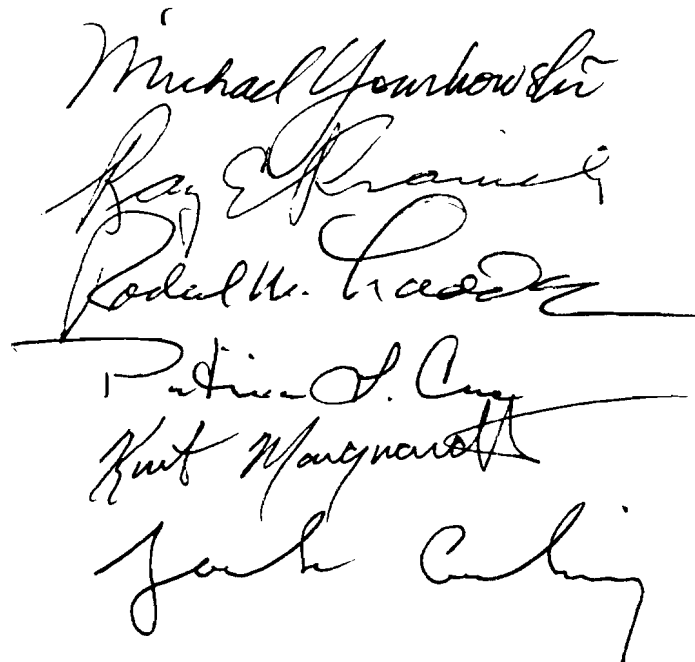
Both of these proposals are deserving of decisive and rapid defeat. The City does not want a war with the Borough over these issues or any others. Instead, the City simply asks that the Borough live up to its very recent promise to the LBC to cooperate reasonably with the City in an amicable transfer of service area responsibilities and funding promptly after the annexation becomes effective.

As the elected representatives of the people of Homer, we urge you in the strongest of terms to defeat both Ordinance 2001-48 and the proposed resolution.

Respectfully submitted,

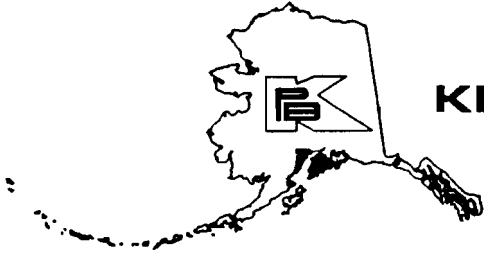


JOHN FENSKE



Michael Yourkowski
Ray E. Kravich
Rodal W. Lacey
Patricia S. Amy
Kurt Marguerath
John Anthony

CC: City of Kachemak
City of Kenai
City of Seldovia
City of Seward
City of Soldotna



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892

DALE BAGLEY
MAYOR

MEMORANDUM

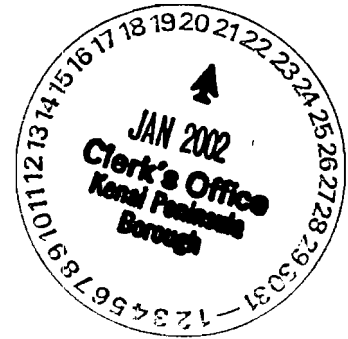
TO: Timothy Navarre, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Dale L. Bagley, Borough Mayor *DLB*

FROM: Bob Bright, Planning Director *BB*

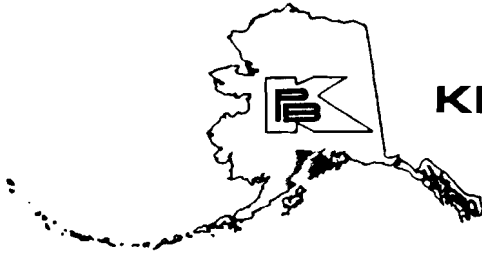
DATE: January 21, 2002

SUBJECT: Resolution 2002-010: A Resolution Authorizing the Rental of Office Space in Seward for a Branch Borough Office



The Planning Commission reviewed the subject resolution during their regularly scheduled meeting of January 14, 2002.

A motion to recommend adoption of the resolution passed by a unanimous consent. Draft, unapproved minutes of the pertinent portion of the meeting are attached.



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907)262-1892

DALE BAGLEY
MAYOR

Memorandum

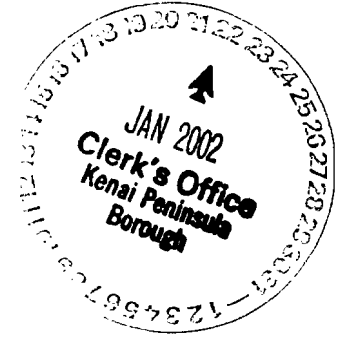
To: Timothy Navarre, Assembly President
Kenai Peninsula Borough Assembly Members

Thru: Dale Bagley, Borough Mayor *DLB*

From: Bob Bright, Planning Director *RB*

Re: Proposal to Submit Grants Requests to the State of Alaska and U.S.
Fish and Wildlife

Date: January 22, 2002



The State of Alaska is soliciting Coastal Impact Assistance Program grant proposals for \$2.9 million in available funds statewide. The borough automatically received over \$200,000 in CIAP grant funds as part of the federal allocation of these monies, however the state is seeking proposals for a portion of the state's allocation. Projects 1 through 9 would not require a match.

Attached is a list and description of 9 proposed projects for the State CIAP grant funds. These projects have been assembled by planning staff and seek to fill gaps in our resource needs, enhance customer service and to move the department's automation efforts forward. The total in the list for state CIAP funds is \$710,000. The deadline for these grant requests is February 8.

Project 10 on the attached would seek federal funds of \$25,000 for the West Side project. Federal funds require a match, and the already appropriated \$75,000 for the West Side project is envisioned as the match. The deadline for this grant request is February 15.

The attached list is being given to the Assembly as a laydown with this memo to enable you to review it prior to the next regular Assembly meeting on February 5. A resolution containing these projects will be placed on the Assembly agenda at that meeting for your consideration. It is hoped the Assembly will have time to review the projects prior to that meeting and evaluate them so that you can make any changes or additions at that time.

able to perform work tasks (entry, mapping) we will upgrade assistant's ArcView Application to ArcGIS 8.1, onto a new computer.

This project is envisioned as a pilot for other divisions within the Planning Department.

5. Documents and Image Management System, \$60,000. This project will take the first step toward "paperless" document management. It will provide valuable insight for other departments and divisions that are interested in moving in that direction. Presently, the Federal Government agencies have apparently received some direction to move toward online and other digital systems. Currently, we regularly receive entire application and project packets from Oil/Gas companies that are on CD-Rom. It is our desire to find an effective means of (1) converting all our files to digital format, managing a new digital file system, integrating that into the geographic database. This information will provide valuable means for applicants to understand previous project reviews and better assure that all necessary documents are included in current applications. This project will require a contractor to design the system and establish connectivity with database, some new equipment, and a temporary staff (could be coordinated with Kenai River Center temporary staff) to assist in scanning and data entry. 10% included.

This project is envisioned as a pilot for other divisions within the Planning Department.

6. KPB Resource Analysis, \$100,000. The Kenai Peninsula Borough needs an updated, comprehensive, systematically developed Resource Analysis document. Which will become a very useful tool for decision-making on all levels of local government. It will also serve as foundation for future meaningful planning for activities, which benefit our communities. This document will be based upon a systematic compilation of information related to the resources of the Kenai Peninsula Borough. It will directly contribute to the meaningful resource planning within the borough, updates to the Comprehensive Plan and provide a basis for any future updates of the Kenai Peninsula Borough Coastal Management Plan.

7. Interactive Computer-Based Resource Analysis Information Tool, \$90,000. This product integrates all of the information developed in the updated KPB Resource Analysis into an effective multi-media information tool that will be available to business-minded entrepreneurs, client-applicants, private sector and public sector (i.e. Administration, Assembly, local government, chambers of commerce, etc.) interests. It will allow an average user to expediently ask questions of interest, and investigate topics of interest related to the updated KPB resource analysis. As a model, we note that the private sector regularly develops computer-based training tools that bring "consumers" much needed information in a coherent, well-organized fashion. This product will leverage the Internet and intranets to provide fluid, interactive instructional and decision making tools for all audiences. This project will pilot multimedia system modules accessible via menu-driven CD-Rom (or DVD-Rom), and the Internet/intranet. 10% included.

Kenai Peninsula Borough Assembly

Legislative Committee

January 22, 2002

8:30 AM

Borough Assembly Chambers, Soldotna

Ron Long, Chair Grace Merkes, Vice Chair

**REVISED
AGENDA**

ITEMS NOT APPEARING ON THE REGULAR MEETING AGENDA

- 1. Steve Silver, Federal Lobbyist - Federal Legislative Update
- 2. Discussion of Federal Legislative Priorities Book
- 3. Senate Bill 231: "An Act Relating to Correctional Facilities"

N. NEW BUSINESS

- 2. Resolutions
 - *a. Resolution 2002-011: Requesting the State of Alaska Take Necessary Actions to Provide for Protection of the Environment and Adjacent Property During the Personal Use Dipnet and Gillnet Fisheries Near the Mouth of the Kasilof River (Fischer) **44**
 - *b. Resolution 2002-012: Requesting the State Legislature to Disapprove by Resolution the Boundary Change Proposed by the City of Homer and Recommended by the Local Boundary Commission (Mayor, Martin) **47**

[Clerk's Note: A teleconference site will be established at the Kenai Peninsula Borough Homer Annex Building to receive public testimony on the above resolution.]

*** Consent Agenda Items**

Staff requested:
Borough Clerk



AGENDA ITEM 1.

Status Report
January 15, 2002
For
Kenai Peninsula Borough
Submitted by
Steve Silver

Now that Congress has finally adjourned for 2001, it is time to begin preparations for 2002. Senator Stevens has not yet provided any guidance or time frame on when he wants communities to submit their FY2003 appropriation requests, but it will undoubtedly be in February or March. The Borough needs to begin formulating its lists so it is in a position to respond quickly to the annual request process. Additionally, Congressman Young will be looking more closely at transportation project requests as he begins the evaluation process for the renewal of TEA-21. While that is not scheduled until the 108th Congress (2003-2004), preliminary hearings on general issues (not specific Projects) will begin in 2002. It is wise for the Borough to begin formulating a list of TEA-21 eligible projects in anticipation of this process.

FY 2003 Appropriations and TEA Requests

There were some grant requests which were not funded or not fully funded. These can be resubmitted. Additional new grant requests can also be developed. Below is a partial list of types of funding requests that have been successfully funded in the past:

1. Multi-Purpose Building Construction
2. Roads and Bridges
3. Commuter Buses, Rail, and Garage Facilities
4. Police Equipment
5. Health Care Grants
6. Cultural Grants for Education
7. Ports and Harbors
8. Museum Grants to Local Cities and Museums
9. Medical Building Renovations
10. Local Hospital/Medicare/Social Service Grants
11. Technology Grants to Local Schools/Distance Education Grants
12. -Water Related Infrastructure Authorizations
13. Wet Weather Infrastructure Pilot Projects
14. Aboveground Storage Projects
15. Corps of Engineers Grants
16. Mass transit grants Air and Highway
17. HUD Community Development Grants
18. Water and Sewer Grants.
19. Boys and Girls Clubs Grants
20. COPS technology Grants
21. Fisheries Research Grants
22. Technology Grants to Local Schools



**Providence Health System in Alaska
Providence Alaska Medical Center
Administration Department**

3200 Providence Drive

PO Box 196604

Anchorage, AK 99519-6604

PAMC Main No.: (907) 562-2211 / Administration Main No.: (907) 261-3675

FAX COVER SHEET

DATE: 1/22/2002
FAX TO: Timothy Navarre
FAX #: (907)262-8615
COMPANY: Kenai Peninsula Borough
RE: Invitation to tour Providence Facility
PHONE NO.:
FROM: Jerome Selby
DEPARTMENT: PHSA Administration
PHONE #: (907) 261-3134 **FAX #:** (907) 261-2042
OF PAGES TO FOLLOW: 1

CONFIDENTIALITY NOTICE

THIS TRANSMISSION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED, AND CONTAINS INFORMATION THAT IS PROTECTED. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE NOTIFIED THAT ANY DISCLOSURE, DISTRIBUTION, OR COPYING OF THIS INFORMATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (CALL COLLECT AT (907)261-3675), AND RETURN THE ORIGINAL DOCUMENTS TO US AT THE ABOVE ADDRESS VIA THE UNITED STATES POSTAL SERVICE. THANK YOU FOR YOUR COOPERATION.



MESSAGE / COMMENTS:



3200 Providence Drive
P.O. Box 196604
Anchorage, Alaska
99519-6604

Tel 907.562.2211

January 22, 2002

VIA FACSIMILE: (907) 262-8615

Timothy Navarre, President
Kenai Peninsula Borough
144 North Binkley
Soldotna, Alaska 99669

Re: Invitation to Tour Providence Facility in Anchorage

Dear President Navarre:

It has come to our attention that the Kenai Peninsula Borough is in the process of considering whether to renew the lease/operational agreement with CPGH, Inc. for the operation of the Central Peninsula General Hospital. As you know, Providence Alaska Medical Center would also be interested in entering into an operational agreement with the Kenai Peninsula Borough to operate the hospital. We would like to have the opportunity to bid on the operation.

Before you make a final decision to renew the lease/operational agreement, we would like to invite any interested assembly members or interested members of the elected service area board to tour our facility in Anchorage to discuss other possible options for the operation of the Central Peninsula General Hospital and to discuss future health care issues that hospitals are facing in Alaska. Dates that we have available are from 10:00 a.m. to 12:00 p.m. on Thursday, January 31, 2002 or 10:00 a.m. to 12:00 p.m. Friday, February 1, 2002.

Please extend our invitation to the assembly and the elected service area board. Thank you for your consideration.

Sincerely,

Jerome Selby
Director of Planning and Development
Providence Health System in Alaska

LEASE AND OPERATING
AGREEMENT

FOR

CENTRAL PENINSULA
GENERAL HOSPITAL

Effective [date]

Approved by Kenai Peninsula Borough Assembly [date]

Approved by Central Peninsula General Hospital, Inc. Board of Directors
[date]

Tentatively Agreed January 22, 2002

Kenai Peninsula Borough: *Edie L. Bagley*

CPGH, Inc.: *Marie Griffin*

[Draft Agreement -- 1/22/02]

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the property described in this agreement or the operation and management of the Hospital.

2. **DESCRIPTION OF LEASED ~~PROPERTY~~ FACILITIES.** Lessor leases the following described property to the Lessee/*Operator (hereinafter the "Hospital and other leased facilities") for the term of this agreement and any extension thereof:*

a. The Central Peninsula General Hospital facility and its grounds, located at 250 Hospital Place, Soldotna, Alaska, more particularly described as:

In the Southwest one-quarter (SW1/4), Section 29, Township 5 North, Range 10 West, Seward Meridian, within the Jerome Faa homestead in Soldotna, Alaska:

Commencing from the U.S.G.L.O. quarter section corner monument common to Sections 29 and 30, Township 5 North, Range 10 West, of the Seward Meridian, Alaska. Proceed East along the East West center line of Section 29, a distance of 1320.50 feet to the center West 1/16th corner, thence South 0°08' East, 30.00 feet to the true point of beginning, this being a point on the South edge of a 60 foot street right-of-way and corner 1, thence East 270.00 feet to corner 2, thence South 0°08' East, 270.00 feet to corner 3, thence West 270.00 feet to corner 4, thence North 0°08' West 270.00 feet to the true point of beginning, thus embracing 1.674 acres of land, more or less;

and

Commencing from the U.S.G.L.O. quarter section corner monument common to Sections 29 and 30, Township 5 North, Range 10 West, Seward Meridian, thence East along the East-West center line of Section 29 a distance of 1320.50 feet to the center West 1/16th corner, thence South 0°08' East, 360.00 feet to a point, thence East 30.00 feet to the true point of beginning and corner 1 of this survey, thence continue East 600.00 feet to corner 2, thence South 0°08' East, 600.00 feet to corner 3, thence West 600.00 feet to corner 4, thence North 0°08' West 600 feet to the true point of beginning.

b. *The Kenai Health Center and its grounds, located at [insert street address], Kenai, Alaska, more particularly described as:*

[insert legal description here]

facilities. Notwithstanding the foregoing, CPGH, Inc. shall not be required to convey to the Borough its lease payments specified in paragraph 5 below and such cash, income or other assets, if any, as are received by CPGH, Inc. from sources independent of and unrelated to this agreement.

5. LEASE PAYMENT. CPGH, Inc. shall pay the Borough an annual lease payment in the sum of one dollar (\$1.00) per year to lease the property described in this agreement.

6. NOTICES. All notices, reports or documents, required or allowed to be given by one party to the other party to this agreement, pursuant to this agreement, shall be in writing and delivered personally or by depositing the same in the United States mail, postage prepaid, certified, return receipt requested, and addressed to the parties as hereinafter provided:

FOR THE BOROUGH:
Mayor
Kenai Peninsula Borough
144 N. Binkley Street
Soldotna, AK 99669

FOR CPGH, INC.
President, Board of Directors
CPGH, Inc.
250 Hospital Place
Soldotna, AK 99669

Notice shall be effective upon the date of personal delivery or, if mailed, upon the date of delivery as shown by certified receipt. The Mayor of the Borough shall be responsible for forwarding any such notice, report or document to the Borough Assembly or its designee, Borough departments or boards, or any other appropriate individual or agency for consideration or action. The President of CPGH, Inc. shall be responsible for forwarding any such notice, report or document to the CPGH, Inc. board members, chief executive officer, or any other appropriate individual or agency for consideration or action.

7. ~~REPORTS TO ASSEMBLY~~ **COMMUNICATIONS WITH BOROUGH.** The Lessee/Operator shall provide the following written reports to the Borough Assembly or its designee: (a) a monthly financial report which shall include a balance sheet, a statement of cash flow, an income statement, and operating statistics; and (b) a quarterly activity report, which shall include all the items as in the monthly financial report, plus a statement of activities, issues and events, which shall in addition be orally presented by a representative of the Lessee Operator to the Borough Assembly or its designee. Monthly reports shall be delivered within 30 days after the end of the month. Quarterly reports shall be delivered within 30 days after the end of the quarter.

8. UTILITIES. The Lessee/Operator shall pay for the utilities necessary to operate the Hospital, including, but not limited to: electricity, heat, water, sewer service, garbage collection, snow removal and sanding, and telephone service.

11. MAINTENANCE AND REPAIR.

a. Routine Repair. The Lessee/Operator shall be responsible for all routine maintenance and repair of the leased property, including the upkeep and maintenance of the walkways, roads and grounds.

b. Major Repairs. The Borough will authorize the Lessee/Operator to make, or will ratify the Lessee/Operator's decision to make, major repairs to the extent funds are available; or will provide major repairs necessary to keep the leased property in good condition, subject to the availability and appropriation of funds.

12. PROPERTY AND EQUIPMENT PURCHASES.

a. Replacement. The Lessee/Operator may replace Hospital property, improvements, fixtures, and equipment at the end of either the projected or the actual useful life. Subject to availability and appropriation of funds the Borough may replace Hospital property, improvements, fixtures and equipment, at its own expense, at the end of either the projected or the actual useful life. The Lessee/Operator shall be responsible for requesting the replacement in a timely manner. Such property, improvements, fixtures or equipment shall be owned by the Borough, *subject to the leasehold interest of CPGH, Inc. during the term of this agreement.*

b. Borough Purchases. The Borough may purchase new equipment and personal property to be used in the operation and management of the Hospital. At the termination of this agreement, the Borough will retain ownership of this equipment.

c. Capital Improvements. Subject to availability and appropriation of funds, the Borough will provide for capital improvements to the leased property, necessary for the provision of services and functions to meet the needs of the residents of the Service Area, ~~when authorized by the Borough Assembly or its designee~~ *to the extent approved and appropriated by the Borough Assembly.* The Lessee/Operator may submit proposals for such capital improvements, either through the annual Service Area capital budget process, the fund described in paragraph 13(b) of this agreement, or otherwise; and the Borough ~~shall~~ *may* consider any such proposal. *Prior to expending funds in excess of \$100,000 for the purpose of analyzing and/or planning for capital improvement projects expected to cost in excess of \$1.5 million, the Lessee/Operator shall first notify and confer with the Borough Contract Administrator or designee. All capital improvement projects costing in excess of \$100,000 must be approved by the Borough Assembly, before which they will normally be presented to and reviewed ~~be recommended~~ by the Service Area Board and approved by the Borough Assembly. All capital improvement projects shall be completed under the management of the borough capital projects director or CPGH, Inc. personnel, as determined by mutual agreement of the parties. If the parties*

13. FINANCES.

a. Operating Revenue. *During the term of this agreement, all* ~~All~~ revenue and cash collections from patients, third-party payers, including, but not limited to, Medicaid and Medicare, and all other sources billed and collected by CPGH, Inc., and arising out of or related to services rendered during the term of this agreement, or any renewal or extensions thereto, shall first be used *by Lessee/Operator* to pay the *usual and customary expenses of operating* ~~to operate and manage~~ the Hospital *and other leased facilities leased pursuant to this agreement*, and the expenses of compliance with the terms and conditions of this agreement. CPGH, Inc. shall maintain an operating reserve of not more than ninety (90) days cash on hand (“the operating reserve amount”). For purposes of the operating reserve amount, “cash on hand” is calculated based on the “days cash on hand ratio” used in the health care industry. On a quarterly basis, CPGH, Inc. shall transfer all accumulated revenues in excess of the operating reserve amount to the paragraph 13(b) fund. If accumulated revenues are less than the operating reserve amount at any time, then CPGH, Inc. may transfer an amount from the paragraph 13(b) fund to its operating reserve to maintain the operating reserve amount, by CPGH, Inc. Board action.

b. Plant, Replacement and Expansion Fund. CPGH, Inc. shall maintain a fund designated as a source of funds for major repairs, for replacement of Hospital property, improvements, fixtures, and equipment, for acquisition of new Hospital property, improvements, fixtures and equipment, and to replenish the operating reserves, as provided in paragraph 13(a), above. Except for purposes of replenishing the operating reserve, and ~~approved budgeted~~ capital items *approved by the Borough Assembly*, CPGH, Inc. shall not spend or transfer funds in excess of \$100,000.00 per item from this designated fund without the prior approval of the Borough *Assembly by ordinance*. Any transfer in or out of this fund shall be approved by the CPGH, Inc. Board.

c. State of Alaska Grants or Revenue. The Borough shall apply, on an annual basis, to the State of Alaska for state aid to municipalities for hospitals, and state municipal assistance funds, and may pay over any such funds received for the use and benefit of the Service Area to CPGH, Inc.

d. Service Area Revenue. Taxes assessed, levied and collected by the Borough for the Hospital and Service Area activities administered by CPGH, Inc. shall be held by the Borough and may be paid over to CPGH, Inc. for the Hospital and Service Area activities administered by CPGH, Inc.

e. Debt Service. The Borough, or Service Area, shall be ultimately obligated to pay debt service due on any debt issued to finance the acquisition of Hospital, or Service Area, facility, plant, and equipment, to the extent such debt is authorized by the Borough Assembly or its designee. For purposes of this agreement,

b. Service Area Capital Budget Proposal. CPGH, Inc. shall prepare and submit a proposal to the Borough for the annual Service Area capital budget, which may contain anticipated funding needs for repairs, renovations or additions to the Hospital or other Service Area health facility property and equipment, and capital expenses of compliance with the Borough's duties under this agreement, and any other such item by mutual agreement of the parties. The Borough shall notify CPGH, Inc. in advance of the dates when the Service Area capital budget proposal is due.

c. Service Area Final Budget. The Borough shall review the Service Area operating and capital budget proposals, and adopt a Service Area budget, designating revenues available to fund Service Area capital expenditures and operations, and the mill rate necessary to fund the Service Area's portion of the budget.

16. ACCOUNTING/AUDIT/REPORTING.

a. Accounting. CPGH, Inc. shall account for all financial transactions involving Service Area funds and all other funds received from the operation of, or to operate, the Hospital or any other authorized Service Area activity administered by CPGH, Inc. Both parties shall maintain accounting records involving Service Area operations in a manner that complies with generally accepted accounting principles.

b. Investment of Funds. Investment of funds received must meet the requirements established by KP 5.10, "Investment of Moneys", and any policies adopted pursuant to it.

c. Audit. The Borough shall perform annual audits of the Hospital operations, at its expense, to comply with single audit requirements and to incorporate into the Borough's financial statements, through an independent auditing firm selected by the Borough.

d. Financial Reports. The Lessee/Operator shall provide written monthly financial reports to the Borough showing cash flow, receipts and disbursements for the Hospital operation, and any other authorized Service Area activity administered by CPGH, Inc., with an additional copy to be delivered to the Borough director of finance.

e. Management Contract. ~~Within 90 days of execution of this agreement, Lessee/Operator shall submit to the Assembly the selection criteria and process that CPGH, Inc. will use to award the contract for management of the hospital~~ ***Unless a management or consulting contract is already in place as of the effective date of this agreement,*** ~~Within 120 days of Assembly approval of the selection criteria and process,~~ CPGH, Inc. shall enter into a contract for the management of the hospital, or shall hire a hospital administrator, in accordance with the ~~approved~~ selection criteria

Unless otherwise agreed, the Borough shall be named as an additional insured on all policies.

b. Borough Insurance. During the term of this agreement the Borough shall, at all times, maintain and provide fire and property damage insurance in amounts sufficient to replace the leased property and contents. The Lessee/Operator must provide an updated schedule of all Borough property and contents located on the leased premises, when requested by the Borough.

c. Notice of Claims. Each party shall immediately notify the other party to this agreement of any law suits or claims asserted against either the hospital or the Borough related to the hospital, or of any potential claims that may be asserted.

d. Extended Reporting Period or Tail Coverage. Except as otherwise provided below, the Borough shall obtain, carry and maintain tail or extended reporting period coverage for all types of insurance coverage obtained pursuant to paragraph 18(a) of this agreement, effective as of the date of termination of this agreement, in the same amounts as or more than existing coverage at the time of termination for the named insureds. The Borough is not required to obtain such tail or extended reporting period coverage for workers' compensation insurance or for other coverage obtained on a per occurrence basis. CPGH, Inc. and all of its directors who served as directors during the term of this agreement shall be named insureds. The Borough may contract with a subsequent operator of the hospital to provide such tail or extended reporting period coverage through operating revenues of the hospital, or may authorize CPGH, Inc. to provide such tail or extended reporting period coverage through operating revenues of the hospital.

19. RISK MANAGEMENT. The Lessee/Operator shall establish a program of training and loss prevention designed to maintain high quality medical care in the Hospital facility and other authorized service area activities provided by CPGH, Inc. and to prevent unnecessary expense from liability. Each party shall immediately notify the other party of any lawsuits or claims asserted, or of any potential claims that may be asserted, against the Borough, Service Area, Hospital or CPGH, Inc. that relate to the operation and management of the Hospital or any other authorized Service Area administered by CPGH, Inc., or the lease of property pursuant to this agreement.

20. DESTRUCTION OF THE PREMISES. In the event of damage to, or destruction of all or part of the leased property, the Lessee/Operator shall have authority to make such arrangements as reasonably necessary to continue to operate the Hospital or provide the services it was providing. In such event, the Lessee/Operator shall have authority to suspend or reduce services it determines cannot be provided until such time, if any, building, repair or replacement of the Hospital facility has been completed. Lessee/Operator shall immediately notify the

d. Disclosure of Other CPGH, Inc. Business. In the event that CPGH, Inc. engages in other business activities unrelated to the activities required or authorized by this agreement, CPGH, Inc. shall notify the Borough Contract Administrator of the nature and extent of such other business activities, including upon request a disclosure of financial reports reflecting revenues and expenses, so that the Borough Contract Administrator may determine that they do not conflict with this agreement, or otherwise impair either parties' rights or obligations under this agreement. It is agreed that records of such other business activities are not public records. Disclosure to the contract administrator of records under this provision shall not be deemed to convert such records to public records. In no case will the assets generated or provided through this agreement be used to capitalize or otherwise fund any activities of CPGH, Inc. conducted outside the scope of this agreement.

22. APPOINTMENTS TO THE MEDICAL STAFF. CPGH, Inc. shall establish written policies for privilege to practice in the Hospital or other facility in which application for privilege to practice is required. These must allow all qualified physicians or other licensed health care practitioners who meet the requirements in such policies to be permitted to practice without discrimination on the basis of race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood, or any other classification prohibited by law. The language in this paragraph does not prohibit CPGH, Inc. from entering into an exclusive contract for the professional services of a specialist if CPGH, Inc. deems there to be business justification for the exclusive contract.

23. NONDISCRIMINATION IN ADMISSIONS. All persons in need of hospitalization shall be admitted to the Hospital without regard to race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy, parenthood, or the financial ability to pay for such hospitalization to the extent required by law.

24. MEDICAL RECORDS. *During the term of this agreement, Lessee/Operator shall have the full use and control of all medical records, and shall be responsible for the complying with all applicable federal and state laws regarding the maintenance, security and privacy thereof.* Medical records ~~are the property of the Borough and shall remain on the Hospital premises or other facility under the supervision and control of the Lessee/Operator so long as it is the Operator as provided for in this agreement. If the Lessee/Operator ceases at any time to be the Operator as provided for herein, the Borough shall reacquire the full use and control of~~ ~~retain an~~ such medical records, ~~and but~~ shall be required to preserve the same for such period of time as is required by Alaska or Federal laws, but, in any event, a minimum of five (5) years following the date on which the Lessee/Operator ceases to be the Operator. After the Lessee/Operator ceases to be the Operator and so long as such medical

affecting the status of CPGH, Inc. as a ~~§503(e)(3)~~ 501(c)(3) non-profit, private corporation or bringing CPGH, Inc. within the scope of the Alaska Open Meetings Act, AS 44.62.310-.312.

a. Privileged or Confidential Information. As used herein, the term “privileged or confidential information” means the following records or information in the possession of CPGH, Inc.:

i. Medical records, patient information and patient billing files, except patient information that may be disclosed without violating patient privacy rights;

ii. Medical review organization information and records prepared and retained pursuant to AS 18.23.010 – 18.23.070;

iii. Employee records and information including but not limited to background and reference checks, substance abuse tests, employee credit checks, employee grievances, employee disciplinary actions and workplace investigations;

iv. Physician and other health-care provider records and information including but not limited to credentials and disciplinary files;

v. Director records and information except the name, mailing address of each director, and term of office and mailing address of each director;

vi. Records and information regarding pending or threatened litigation by or against CPGH, Inc. or the Borough, the disclosure of which could adversely affect the finances or litigation strategy of CPGH, Inc., the Borough, the Hospital or other leased facilities;

vii. Records and information regarding the business plans of CPGH, Inc., the disclosure of which could be used by competitors or others to the detriment of CPGH, Inc., the Borough, or the Hospital or other leased facilities;

viii. Information and records that pertain exclusively to CPGH, Inc. and not to activities performed pursuant to this agreement; and

ix. All other records and information that CPGH, Inc. is required or permitted by applicable federal, state or local law to ~~kept~~ keep confidential.

Privileged or confidential information and records may be discussed by the CPGH, Inc. board of directors privately, in executive session. Nothing herein shall be deemed as precluding the CPGH, Inc. board of directors from holding private work sessions, training sessions and informational meetings at which no board action is taken.

b. Board of Director Meetings. It is agreed and understood that prior to final board action on any matter referred to a board committee, the board will fully disclose verbally or in the text of a resolution, at the discretion of the board, the substance of committee consideration of the matter, except for any of the above-referenced confidential matters. The parties further agree that the board may, on occasion, refer authority for final action to the executive committee. All such final

Lessee/Operator and not those of the Borough or the Service Area. The restrictions in this agreement on Lessee/Operator's activities are imposed for the protection of the public funds contributed by the Borough as provided in this agreement.

28. INSPECTION. The Borough reserves the right to enter and inspect the books and records of the Hospital, the leased premises, and any other authorized Service Area activity or facility operated by CPGH, Inc. at any reasonable time during normal business hours for administrative personnel, for the purpose of determining the adequacy of the maintenance, upkeep and repair of the Borough's property, and any other matters relating to this agreement.

29. ASSIGNMENT AND SUBLEASING. The Lessee/Operator shall not have any power to assign its rights or interests under this agreement without the prior approval of the Borough. The Lessee/Operator may not lease or sublease all or any part of the property it manages and operates, unless the Borough first approves such lease or sublease, and such lease or sublease is in furtherance of the purposes of this agreement.

30. AMENDMENT. The parties may amend any term in this agreement by written agreement signed by both parties.

31. GOOD FAITH AND FAIR DEALING. The respective contract administrators for the parties will interpret the provisions of this agreement in good faith. The parties will act in accordance with good faith and fair dealing in carrying out their obligations under this agreement.

32. BREACH AND REMEDIES.

a. By Lessor. If the Borough breaches this agreement by failing to comply with any of the terms and conditions herein and has not cured the breach within sixty (60) days of receipt of written notice thereof from CPGH, Inc., CPGH, Inc. may terminate this lease.

b. By Lessee/Operator. If CPGH, Inc. breaches this agreement by failing to comply with any of the terms and conditions herein, and has not cured the breach within sixty (60) days of receipt of written notice thereof from the Borough, the Borough may terminate this lease.

33. TERMINATION. Either of the parties hereto may for the reasons hereinafter set forth in this paragraph terminate this agreement by giving the other party ninety (90) days' prior notice in writing, sent by certified mail, return receipt requested, or personally delivered. Grounds for such termination are:

37. SUCCESSORS AND ASSIGNS BOUND. The covenants and conditions herein contained shall apply to bind the successors and assigns of the parties hereto.

38. TIME OF THE ESSENCE. Time is declared to be of the essence in this agreement and each and every term and provision hereof.

39. WAIVER. The waiver by a party hereto of any term covenant or condition herein contained shall not be deemed to be a waiver of such term, condition, covenant, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

40. VENUE. Any suit regarding enforcement or application of this agreement shall be filed and prosecuted in Kenai venue district, Third Judicial District, State of Alaska.

41. NO RIGHTS CONFERRED. Nothing in this agreement shall be construed to confer any right or cause of action or suit, either at law or in equity, upon any person, group of persons, firm, corporation or public officer, other than the parties signing this contract, and the Lessee/Operator shall have no authority to bind the Borough or create any liability on the Borough's part, unless expressly authorized in this agreement.

42. NON-COMPETITION. The parties understand and agree that during this agreement and upon its termination of this agreement for any reason whatsoever, CPGH, Inc. and any successor organization shall not engage in any activities that compete with ongoing hospital service area activities within the boundaries of the Kenai Peninsula Borough for a period of five years from the date the agreement is terminated. Nothing herein shall be deemed as precluding any person who serves or served as an officer or director of CPGH, Inc. from engaging in the practice of medicine or other healthcare-related endeavors.

43. CONTRACT ADMINISTRATION. The Borough Mayor is the Borough Contract Administrator under this agreement. ~~administrator of this agreement on behalf of the Borough.~~ The President of CPGH, Inc. is the administrator of this agreement on behalf of CPGH, Inc.

44. INTEGRATION. This agreement constitutes the entire agreement between the parties. This Agreement supersedes all previous communications, memoranda, correspondence, proposals, understandings, agreements and contracts, both verbal and written, between these parties. Both parties specifically acknowledge that, in entering into and executing this agreement, they rely solely upon the representations and agreements contained in this agreement and no others. No oral statements or prior written material not specifically incorporated herein shall be

Kenai Peninsula Borough Assembly

Legislative Committee

January 22, 2002

8:30 AM

Borough Assembly Chambers, Soldotna

Ron Long, Chair Grace Merkes, Vice Chair

REVISED AGENDA

ITEMS NOT APPEARING ON THE REGULAR MEETING AGENDA

1. Steve Silver, Federal Lobbyist - Federal Legislative Update
2. Discussion of Federal Legislative Priorities Book
3. Senate Bill 231: "An Act Relating to Correctional Facilities"

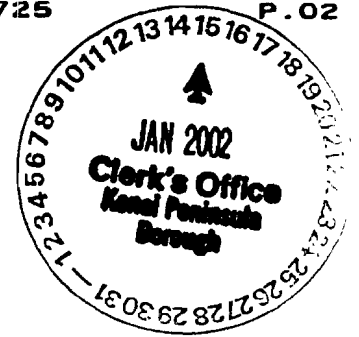
N. NEW BUSINESS

2. Resolutions
 - *a. Resolution 2002-011: Requesting the State of Alaska Take Necessary Actions to Provide for Protection of the Environment and Adjacent Property During the Personal Use Dipnet and Gillnet Fisheries Near the Mouth of the Kasilof River (Fischer) 44
 - *b. Resolution 2002-012: Requesting the State Legislature to Disapprove by Resolution the Boundary Change Proposed by the City of Homer and Recommended by the Local Boundary Commission (Mayor, Martin) 47

[Clerk's Note: A teleconference site will be established at the Kenai Peninsula Borough Homer Annex Building to receive public testimony on the above resolution.]

* Consent Agenda Items

Staff requested:
Borough Clerk

AGENDA ITEM N26

To: KPB Assembly Members

From: Mary Griswold 235-3725 (phone/fax) mgrt@xyz.net
P.O. Box 1417
Homer, AK 99603

Date: January 14, 2002

Re: January 22 Assembly meeting agenda item: Resolution asking legislators to veto Homer's annexation petition.

I support orderly municipal expansion. I accept legislative review annexation. However, I strenuously object to the legislature rubber stamping the LBC's paper shuffle to approve the DCED's gut feeling that Homer is right in asking for a larger tax base.

Homer filed an interest in expansion instead of a bona fide annexation petition, freely identified as a work in progress by city representatives. The DECD staff did its best to create a petition using the city's information.

However, the burden of proof is on the city to meet rigorous standards, a mantra often repeated by the DCED staff throughout these proceedings.

The city does not have an adequate transition plan for assumption of services as required in 3 AAC 110.900 Transition. This is an issue of special relevance to the borough, with whom the city was supposed to work out transition of services before filing its petition.

The city did not show that borough services for road maintenance or fire protection are inadequate or that state trooper coverage is inadequate in any area proposed for annexation as it claimed in its petition. These are three of the most basic government services for which people expect to pay property taxes.

3 AAC 110.610. LEGISLATIVE REVIEW provides that the LBC "may determine during the course of proceedings that a legislative review petition should be amended and considered as a local action or local option petition, if the commission determines that the balanced best interests of the locality and the state are enhanced by local participation." The city did not include anyone from the public in its annexation planning process. Certainly a proposal as contentious as this one would benefit from local participation, yet the LBC chose to ignore this option.

For all these reasons, I ask you to direct the state legislature to oppose this annexation petition. Homer should show it can manage what it has, plan for future expansion, conduct public hearings, and then submit a reasonable, supportable petition to expand its boundaries. Please give me a call if you would like clarification on any points I have raised.

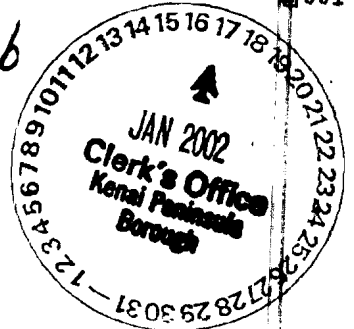
Sincerely,

Mary Griswold

Routed from Borough Clerk's office to:
 Assembly members _____
 Mayor _____
 Finance _____
 Appending _____
 Planning _____
 Engral _____
 Other _____

AGENDA ITEM *N. 2.6*

STEVEN A CRAIG
 PO BOX 994
 HOMER, AK 99603
 Phone 907-235-8861
 Fax 907-235-4839
 Home Phone 907-235-6756



January 17, 2002

ATTENTION: *Grace Merkes*

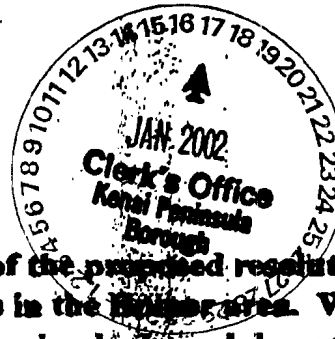
I AM WRITING YOU TO ASK FOR YOUR SUPPORT OF THE PROPOSED RESOLUTION TO
 APPOSE THE ANNEXATION OF 4.58 SQUARE MILES IN THE HOMER AREA. CURRENTLY THIS AREA
 IS GOVERNED BY THE BOROUGH AND I DO NOT WISH TO SEE IT BECOME PART OF THE CITY OF
 HOMER. I AM LOOKING TO YOU TO STAND UP FOR THE PEOPLE IN THIS AREA.

I PERSONALLY HAVE LIVED AND WORKED IN THE HOMER/ ANCHOR POINT AREA ALL MY
 LIFE. THIS ANNEXATION ISSUE WILL DRASTICALLY EFFECT MY FAMILY AND MANY OTHERS IN
 THE AREA. I HAVE WORKED AT KACHEMAK AUTO BODY & PAINT FOR THE LAST 12 YEARS
 (SINCE HIGHSCHOOL) AND CURRENTLY MY WIFE HAS WORKED THERE FOR THE PAST 3 YEARS.
 THIS IS OUR ONLY SOURCE OF INCOME FOR OURSELVES AND OUR TWO CHILDREN. AS A
 BUSINESS THAT WILL BE ADVERSELY EFFECTED BY THE ANNEXATION, OUR ENTIRE
 HOUSEHOLD INCOME MAY VERY WELL COME TO A COMPLETE HALT. MY FAMILY IS ONLY 1
 EFFECTED BY THIS DECISION - COUNT THE MANY OTHERS PLEASE. SOME MAY LOOSE NOT
 ONLY THERE BUSINESSES AND INCOMES BUT IN REALITY THEIR VERY HOMES.

I AM ASKING THAT YOU PLEASE USE YOUR POWER AND INFLUENCE TO STOP THIS
 ANNEXATION ISSUE ONCE & FOR ALL.

THANK YOU FOR TAKING THE TIME TO STOP AND CONSIDER THIS VERY IMPORTANT
 ISSUE.

SINCERELY,
Steven A. Craig & Rita M. Craig
 STEVEN A CRAIG & RITA M CRAIG

AGENDA ITEM *N. 2. b.*Attention: *Grace Merkes*

I am contacting you to ask for your support of the proposed resolution to oppose the annexation of 4.58 square miles in the Homer area. We are very happy with the Borough as our governing body and do not wish to become part of the city of Homer. We look to the Borough to look out for us. If you do not stand up for the people on this issue who will?

This can happen anywhere in the Borough and I would not wish this on any other community. I have lived in this area all my life and this issue has caused irreparable harm to our town. I am afraid there are hard feelings that will never be healed. It has been a real nightmare.

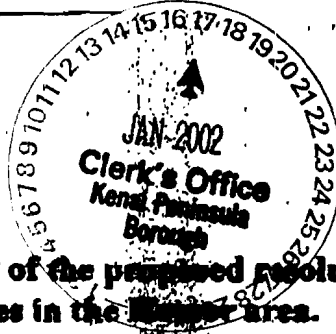
This annexation affects the Borough through two Borough service areas and I feel strongly that this needs to be stopped and put before the people for a vote. Kachemak City is also opposed to the action that has been taken by the city of Homer.

As a business owner in the proposed annexation area I am afraid if this goes through it will cause us to have to close our doors. That will do irreparable harm to us, and the five households that depend on the jobs that our business provide for their sole support. We can not afford the added tax burden nor the cost of the new regulations. If by some slim chance the water and sewer were ever extended to our area there is no way we could ever afford the cost of the extension. This truly will be taxation without representation and no benefit to the businesses or public. This needs to be a two way street...the city can not be the only one that benefits from this annexation.

Please Help. Thank you for your time and consideration.

Sincerely,

Randel L. Jones, President
Kachemak Auto Body & Paint, Inc.

AGENDA ITEM N.2.6Attention: Grace Merkes

I am contacting you to ask for your support of the proposed resolution to oppose the annexation of 4.58 square miles in the Homer area. We are very happy with the Borough as our governing body and do not wish to become part of the city of Homer. We look to the Borough to look out for us. If you do not stand up for the people on this issue who will?

This can happen anywhere in the Borough and I would not wish this on any other community. I have lived in this area all my life and this issue has caused irreparable harm to our town. I am afraid there are hard feelings that will never be healed. It has been a real nightmare.

This annexation affects the Borough through two Borough service areas and I feel strongly that this needs to be stopped and put before the people for a vote. Kachemak City is also opposed to the action that has been taken by the city of Homer.

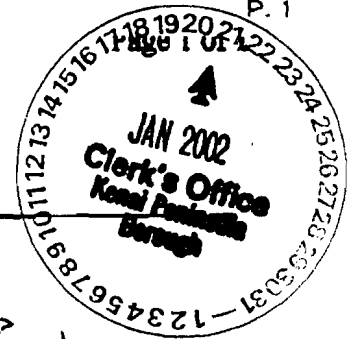
As a business owner in the proposed annexation area I am afraid if this goes through it will cause us to have to close our doors. That will do irreparable harm to us and the five households that depend on the jobs that our business provide for their sole support. We can not afford the added tax burden nor the cost of the new regulations. If by some slim chance the water and sewer were ever extended to our area there is no way we could ever afford the cost of the extension. This truly will be taxation without representation and no benefit to the businesses or public. This needs to be a two way street...the city can not be the only one that benefits from this annexation.

Please Help. Thank you for your time and consideration.

Sincerely,

Terry Jones, Vice President
Kachemak Auto Body & Paint, Inc.

AGENDA ITEM N. 2 6.



lois field

From: lois field <field@xyz.net>
 To: Ron Long <rims@ptialaska.net>
 Cc: grace Merkes <merkes@ptialaska.net>; gary superman <gsuperman@gci.net>
 Sent: Sunday, January 20, 2002 5:21 PM
 Subject: Fw: A resolution opposing Homer's petition to annex.

Want to beta

— Original Message —

From: lois field
 To: rims@ptialaska.net
 Cc: pete sprague
 Sent: Sunday, January 20, 2002 4:56 PM
 Subject: A resolution opposing Homer's petition to annex.

Dear Assemblyman Long and others: I apologize for not writing to you all separately, but I am not a good typist. My wife Lois and I want to strongly appeal to you to adopt a Borough Assembly Resolution opposing Homer's annexation proposition !! There are so many things about it still up in the air including some legal matters still in The Supreme Court. We appeal to you as our real local government to speak up for us all, since so far, no one else has been our advocate. This is a most important issue not only for those of us being annexed, but for the whole Kenai and for the whole state of Alaska !! This legislative review annexation process is so sordidly undemocratic that it has been outlawed in many other states !! If Homer is successful in getting away with this it will continue to sweep into other areas of the Kenai and state !! Such anguish and chaos for everyone. We, and most of our neighbors agree, have nothing to benefit from being part of Homer !! We do not want to be governed by the Homer City Council, since we have observed carefully their management, and time has proven it is poor at best ! Please see to it that a resolution opposing annexation is adopted !! Respectfully yours, Lois and Paul Field, Box1617, Homer 99603, 907 235 4273



To: Borough Clerk

Please fwd the above to all Assembly Members except Sprague, Merkes & Supermax - already sent to them.

Thanks!
 Paul Field
 1/20/02



ALASKA STATE LEGISLATURE

SENATOR JOHN TORGERSON

- ♦ CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
- ♦ CHAIR, SENATE RESOURCES COMMITTEE
- ♦ CHAIR, JOINT COMMITTEE ON NATURAL GAS PIPELINES

Session:
 State Capitol, Room 427, Juneau, AK 99801
 Telephone 907/465-2828 Fax 907/465-4779

District:
 45457 Kenai Spur Hwy, Suite 101A, Soldotna, AK 99669
 Telephone 907/260-3041 Fax 907/260-3044

MEMORANDUM

DATE: January 2, 2002
 TO: Tam Cook, Legal Services
 FROM: Senator John Torgerson *J. Torgerson*
 RE: Legal Opinion – Annexation Issues



The Local Boundary Commission (LBC) has issued a decision on the City of Homer's 2000 annexation petition of some 25 square miles – they reduced it to some 4.5 square miles.

At this point, I have four specific issues which I need clarified.

1. Does the newly adopted language in HB 13 (passed in 2001) apply to this "detachment"?¹
2. When will the City be required to hold elections to provide representation for the newly annexed population? ²
3. Is the LBC able to make a determination that will result in a City's receiving more tax funds than it will expend for services in the new area?³
4. Who is responsible for ensuring that the City of Homer complies with the service expansions and funding they have proposed to the LBC?

¹ As background, note that there are three service areas in the 4.58 detached area. One is a hospital service area, formed some 30 years ago, that affects all city and non-city residents in the lower peninsula. One is a road service area, formed some 20 years ago. The last is a fire service area, formed in 2000 as a direct reaction to the City's annexation petition.

² The population of the annexed area will increase the size of the municipal population by some 22%. Assuming the Legislative Review process is adopted according to the LBC determination, I believe the effective date is immediate. Discussion of issues like zoning, planning, road standards, and service provisions will presumably be undertaken by the City shortly after the effective date and without an election for city council, the newly annexed area will not have had the opportunity to determine representation.

³ For example, assume that the new area is expected to generate \$1.5 million in taxes but the only municipal service that can be provided, roads, is expected to cost only \$0.5 million, generating a net of \$1.0 million in profit to the municipality.

REPRESENTING THE KENAI PENINSULA

Anchor Point Bear Creek Clam Gulch Cooper Landing Crown Point Fritz Creek Happy Valley Halibut Cove Homer Hope Kachemak City Kachemak Selo
 Kaslof Lowell Point Mouse Pass Nunavut Nuktootuk Nuvitchik Penikesean Rusdolna Seward Selkiana Solikiana Stariski Sterling Voznesenka

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 9, 2002

SUBJECT: City of Homer annexation (Work Order No. 22-LS1270)

TO: Senator John Torgerson, Chair
Senate Community and Regional Affairs Committee

FROM: Tamara Brandt Cook
Director *TBC*

Along with other materials relating to the proposal, you have supplied me with a Statement of Decision by the Local Boundary Commission (LBC) in which the LBC has determined that it will submit a recommendation for the annexation of 4.58 square miles to the City of Homer to the legislature under Article X, sec. 12 of the state constitution. You also indicate that the area or portions of the area proposed for annexation are currently within three service areas: a hospital service area, a road service area, and a fire service area. The annexed area will increase the size of the city population by about 22 percent. You ask several questions about the proposed annexation.

(1) Does the newly adopted language in HB 13 (passed in 2001) apply to this "detachment"?

The LBC Statement of Decision notes on pages 41 and 42:

The Commission stipulates that, to the extent the 4.58 square miles approved for annexation to the City of Homer lies within the Kenai Peninsula Borough Road Service Area and the Kenai Peninsula Borough Kachemak Emergency Service Area, the annexed territory shall, under Article X, sec. 12 of the Constitution of the State of Alaska and other principles of law, be detached from those borough service areas as a result of annexation of the territory to the City of Homer.

The hospital service area already includes the City of Homer and will, apparently, continue to function as constituted so does not present an issue.

AS 29.35.450(c) was added by HB 13 (ch. 31, SLA 2001). That subsection prohibits the alteration of a service area that provides road or fire protection services unless the change is approved by the voters. However, AS 29.35.450(a) permits a borough to include a city in a service area only if the city agrees by ordinance. Furthermore, the LBC has a constitutional right to present any proposed local boundary change to the legislature and,

Senator John Torgerson
January 9, 2002
Page 3

(3) Is the LBC able to make a determination that will result in a city receiving more tax funds than it will expend for the services in the new area?

There is nothing that prevents such a determination. Under AS 29.45.010 a borough may levy an areawide tax for areawide functions, a nonareawide tax for functions limited to the area outside cities, and a tax in a service area for functions limited to the service area. However, a city normally taxes and provides services on a city-wide basis unless it chooses to use differential tax zones to provide for services not generally provided in the city. (AS 29.45.580.)

(4) Who is responsible for ensuring that the City of Homer complies with the service expansions and funding it has proposed to the LBC?

It is not clear that Homer will have a legally binding duty to provide any particular level of services to the area annexed. The LBC Statement of Decision notes at page 21:

The intent of 3 AAC 110.900(a) is to require each petitioner to demonstrate that it has given forethought to the manner in which it will extend services to the territory proposed for annexation. It must also demonstrate the petitioner's good faith to extend services... While the nine-page transition plan presented by the City of Homer in its Petition lacks minutiae regarding the manner in which services are proposed to be extended, the law does not require a petitioner to provide a detailed comprehensive plan for the extension of services. Again, each petitioner need only provide evidence that it has given forethought to what it must do to deliver municipal services to the area proposed for annexation.

Consequently, it will probably be up to the political process in the city itself to ensure that services are provided to the area annexed. Of course, nothing prevents the LBC from proposing at a later date that the annexed area be detached from Homer if it becomes convinced that the city acted in bad faith in requesting the annexation and that the area is not receiving appropriate services.

TBC:pjc
02-009.pjc

MEMORANDUM

State of Alaska

Department of Community & Economic Development

TO: Bruce M. Botelho
Attorney General

DATE: November 7, 2001

THRU: Jim Ayers, Chief of Staff
Office of the Governor

FILE NO:

FROM: Debby Sedwick, Commissioner *for*

TELEPHONE: 907-269-4580

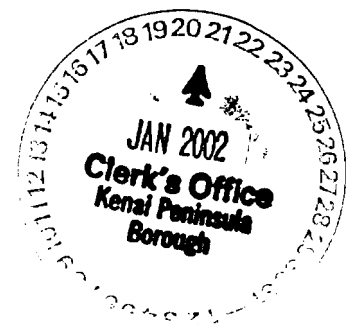
SUBJECT: Authority of LBC to truncate
Terms of governing body

Question: Does the Local Boundary Commission have authority to require truncation of terms of elected officials of an annexing municipality? If so, can it exercise such authority in the short-term absent regulations establishing standards and procedures for such?

Background: The City of Homer has petitioned the Local Boundary Commission for annexation of nearly 26 square miles. Based on 2000 Census data, it is estimated that 2,204 individuals live within the territory proposed for annexation. The 2000 Census counted 3,946 individuals living within the existing boundaries of the City of Homer. Thus, annexation of the area proposed by the City of Homer would result in a nearly 56% increase in the population of the existing City of Homer. Stated differently, if the City of Homer's Petition is granted, residents of the annexed territory will comprise almost 36% of the population of the expanded City of Homer.

Last month, DCED published its *Preliminary Report Regarding the City of Homer's Proposal for Annexation of an Estimated 25.64 Square Miles*. The Preliminary Report recommends amendment of the City of Homer's Petition to limit annexation to 3.3 square miles. It is estimated that 875 individuals inhabit the territory recommended for annexation by DCED. If DCED's recommendation is implemented, the population of the City of Homer will increase by more than 22%. In that case, residents of the annexed territory will comprise just over 18% of the population of the expanded City of Homer.

Under either scenario, a relatively substantial number of individuals who did not have a voice in the selection of the incumbent elected officials of the City of Homer would become citizens of the City of Homer. In addition to lacking a vote in the selection of the incumbents, newly-annexed residents would not, of course, have had an opportunity to seek elective office with the City of Homer. Absent the truncation of terms of elected officials, such circumstances would remain in effect for various elective positions for as long as thirty-one months as outlined below.



The Court held in *Egan* that the Governor's power to truncate terms of an incumbent legislator were incidental to his general reapportionment powers. We note that the Local Boundary Commission also has general powers with respect to the composition and apportionment of local governments regarding matters pending before the Commission. For example, former AS 29.06.130(a) expressly provided with respect to petitions for merger and consolidation of local governments that

. . . If the commission determines that the proposed boundaries or the composition and apportionment of the governing body can be altered to meet the standards, it may alter the proposal and accept the petition. . .

Former AS 29.06.130 was replaced with a very broad statement of authority for the Commission to alter merger and consolidation petitions and to impose conditions on such. Specifically, current AS 29.06.130(a) states:

The Local Boundary Commission may amend the petition and may impose conditions for the merger or consolidation. If the commission determines that the merger or consolidation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, the municipality after the merger or consolidation would meet the standards for incorporation under AS 29.05.011 or 29.05.031, and the merger or consolidation is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition.

Similarly broad statutory language exists with respect to the Commission's power to act on petitions for city reclassification (AS 29.04.040[a]), incorporation (AS 29.05.100[a]), annexation and detachment (AS 29.06.040[a]), and dissolution (AS 29.06.500[a]).

The existing statutory language providing broad powers to the Local Boundary Commission reflects the expansive authority granted to the Commission by the Constitution of the State of Alaska. For example, the Alaska Supreme Court has held that:

The determination of what portions of a state shall be within the limits of a city involves an aspect of the broad political power of the state . . .³

The special function of the Commission to undertake a broad inquiry into the desirability of creating a political subdivision of the state, makes us reluctant to impose an independent judicial requirement that findings be prepared.⁴

S.Ct. 1907, 12 L.Ed.2d 1026 (1964); *Sims v. Amos*, 336 F.Supp. 924, 940 (M.D.Ala.1972); *Butcher v. Bloom*, 420 Pa. 305, 216 A.2d 457, 459 (1966).

³ *Fairview Public Utility District. No. One v. City of Anchorage*, 368 P.2d 540, 545 (Alaska 1962).

Bruce Botelho
November 7, 2001
Page 5

with respect to the statutory duty (AS 44.33.812) of the Commission to adopt regulations providing standards and procedures for annexation and other matters that come before the Commission.⁸

We see three purposes underlying the statutory requirement of annexation standards. First, such standards expose the basic decision-making processes of the commission to public view and thus subject commission action to broad corrective legislation.⁹ Second, the standards guide local governments in making annexation decisions and in preparing proposals for the commission. . . . Third, annexation standards objectify the criteria of decision-making and delineate the battleground for a public hearing.¹⁰

Of course, there are no existing regulations of the Commission dealing with truncation of terms of a governing body.

The Commission is scheduled to conduct a public hearing on the Homer annexation proposal beginning December 14, 2001. It would be appreciated if you would provide a legal opinion by that date indicating whether the Local Boundary Commission has authority to condition municipal annexation upon the truncation of terms of elected officials of the annexing municipality.

Please contact Dan Bockhorst at 269-4559 if we can provide further information concerning this matter.

cc: David Ramseur, Office of the Governor
Kevin Waring, Chairman, Local Boundary Commission
Kathleen S. Wasserman, Vice-Chairman, Local Boundary Commission
Ardith Lynch, Local Boundary Commission member
Allan Tesche, Local Boundary Commission member
Dan Bockhorst, Local Boundary Commission staff
Lamar Cotton, DCED

⁸ Port Valdez Co., Inc. v. City of Valdez, 522 P.2d 1147, 1155 (Alaska 1974)

⁹ (footnote original) Our Nome opinion focused upon the commission's failure to heed the legislature's commands in exercising the commission's jurisdiction and publicly accounting for its decisional process: To (hold) otherwise would be to condone the commission's nonobservance of a valid legislative prerequisite to the exercise of the commission's discretion in matters of local boundary changes. United States Smelting, Refining & Mining Co. v. Local Boundary Commission, 489 P.2d at 142.

¹⁰ (footnote original) See Mukluk Freight Lines, Inc. v. Nabors Inc., 516 P.2d 408, 415 n. 23 (Alaska 1973).



MEMORANDUM

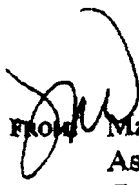
**State of Alaska
Department of Law**

To: The Honorable Deborah Sedwick
Commissioner
Department of Community &
Economic Development

DATE: December 12, 2001

FILE NO.: 663-02-0091

TELEPHONE NO.: 465-3600


FROM: Marjorie Vandor
Assistant Attorney General
Governmental Affairs Section -
Juneau

SUBJECT: Effect of city annexation on
borough service area under
AS 29.35.450(c)

We have reviewed your November 7, 2001 opinion request for the Local Boundary Commission (LBC) which addresses whether the requirements of the recently amended statute, AS 29.35.450(c), apply to a service area of a borough that is to be included in the territory proposed to be annexed to a city located within that borough. The Local Boundary Commission will soon be dealing with a petition to annex territory to the City of Homer, a first class city in the Kenai Peninsula Borough that raises these issues. The Homer annexation petition is a legislative review annexation petition under Art. X, sec. 12 of the Alaska Constitution and AS 29.06.040(a) and (b), not an annexation by local action petition under AS 29.06.040(c).

In the opinion request, you specifically analyze the history of annexations by legislative approval in Alaska, the application of the constitutional requirements to annexations and the LBC's discretion afforded thereby, court cases applicable to annexations, as well as the legislative history of the recently amended service area statute, AS 29.35.450. Based upon your review of these sources, it is your belief that the requirements of AS 29.35.450(c) are not applicable to city annexations, particularly legislative review annexations. We concur with your opinion.

Due to time constraints, this office will not issue its own legal opinion on this matter. We believe the analysis and conclusion of your November 7, 2001 memorandum, is the correct legal conclusion.

If questions arise during your deliberations on the Homer annexation petition that the LBC would like us to address, they are welcome to call me.

cc: Dan Bockhorst, LBC Staff

Homer had provided fire protection and emergency medical service on an informal basis without compensation to the area in question for many years prior to the formation of the Kachemak Emergency Service Area. It is even more noteworthy that, after the service area was created, the City of Homer has contracted with the Kenai Peninsula Borough to formally provide fire protection and emergency medical services to the area within the Kachemak Emergency Service Area.

Road maintenance and fire protection are two of the more fundamental and substantial services proposed to be extended by the City upon annexation. For

The intent of the constitutional convention delegates regarding Article X, Section 5 is addressed in *Borough Government in Alaska* (at 42), a leading treatise on Alaska's unique form of regional government (footnotes omitted):

The stated purpose of preventing duplication of tax levying jurisdictions and providing for a minimum of local government units was directly responsible for the constitutional provision that "A new service area shall not be established if . . . the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city." The committee's objective was to avoid having "a lot of separate little districts set up . . . handling only one problem . . ."; instead, services were to be provided wherever possible by other jurisdictions capable of doing so. Moreover, an amendment to eliminate the preference given to city incorporation or annexation over establishment of new service areas was defeated by the convention.

In 1995, the Alaska Supreme Court examined Article X, Section 5 of the Constitution and AS 29.35.450(b) in the context of a proposal to incorporate a new city within an organized borough. The Court stated as follows in *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1243 (Alaska 1995) (footnotes omitted):

It is reasonable to interpret AS 29.35.450(b) and article X, section 5 as preferring incorporation of a city over the creation of new service areas. This interpretation is supported by legislative history and is not inconsistent with article X, section 1 of the Alaska Constitution. Constructing a barrier to approving an excessive number of government units does not prohibit the creation of them when they are necessary. Whether a service area or a city is established, another government unit is created. If numerous service areas are set up supplying only one or two services each, there is the potential for an inefficient proliferation of service areas. In contrast, once a city is established, it can provide many services, and other communities can annex to the city in the future. Although the framers entertained the idea of unified local governments, they realized that the need for cities still existed.

Based on the above discussion, we interpret AS 29.05.021(b) as follows: when needed or desired services can be reasonably and practicably provided on an areawide or nonareawide basis by the borough, they should be. As discussed *supra*, this inquiry is not limited to an evaluation of service areas. When it is established that the services cannot be provided reasonably or practicably, then the LBC is required to consider other available options. We also clarify that there is a statutory and constitutional preference for incorporation of cities over the establishment of new service areas. We believe these to be reasonable and practical interpretations of the Alaska Constitution in accordance with common sense. See *Arco Alaska*, 824 P.2d at 710.

Based on the plain language in both Article X, Section 5 and AS 29.35.450(b), DCED believes it is reasonable to extend the Court's holding in *Keane* to reflect a preference for city annexation over the creation of a new service area. (Note: DCED takes the view that exceptions to the constitutional and statutory preference for a city government versus a borough service area generally exist in cases involving merger, consolidation, or unification of city and borough governments. See *Preliminary Report on the Proposal to Consolidate the City of Fairbanks and the Fairbanks North Star Borough*, p 42-45, DCED [December 2000]. See also, *Statement of Decision in the Matter of the Petition for Consolidation of the City of Fairbanks and the Fairbanks North Star Borough*, p 19-20, LBC [June 7, 2001]).

AGENDA ITEM N.2.6.

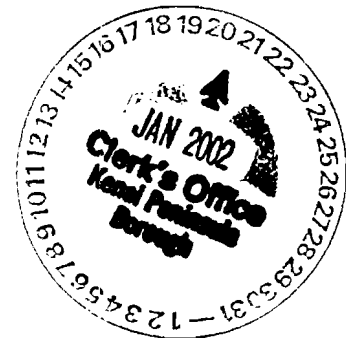
Murphy, Linda:
From: Tim and Abby Fuller [fuller@homernet.net]
Sent: Sunday, January 20, 2002 12:25 PM
To: LMurphy@borough.kenai.ak.us
Subject: comments for Tuesday's Assembly meeting

Comments on Ordinance 2001- 48

I support this ordinance. The original intent with KESA was to include the triangle, or Millers Landing, area within the fire and emergency services area. I'm not sure I fully understand how it got left out, except that it was an error that no-one caught. I do know that it was supposed to be included, and that the residents of the area who voted on it thought they were included. When I testified before this Assembly in August of 2000, in committee, I was supporting the whole area including the triangle be included within the service area. I was a member of the group that organized to promote a yes vote on the proposal at the polls, and we advertised the area as including the triangle. I still support the inclusion of the triangle.

You may wonder, when the area has been approved for annexation, why bother? Because it has not been annexed yet, and there is still a chance the annexation will not go through. It could get vetoed by the Legislature, and it could be thrown out by the courts on appeal. As vice president of CCAA, I can tell you the annexation will be appealed. It would be prudent to add the triangle to KESA now rather than wait to see what happens and risk ending up with the area unprotected. And even if annexation does go through, it will not be until March 9.

Abigail Fuller
PO Box 2845
Homer, AK 99603





Status Report
January 15, 2002
For
Kenai Peninsula Borough
Submitted by
Steve Silver

Now that Congress has finally adjourned for 2001, it is time to begin preparations for 2002. Senator Stevens has not yet provided any guidance or time frame on when he wants communities to submit their FY2003 appropriation requests, but it will undoubtedly be in February or March. The Borough needs to begin formulating its lists so it is in a position to respond quickly to the annual request process. Additionally, Congressman Young will be looking more closely at transportation project requests as he begins the evaluation process for the renewal of TEA-21. While that is not scheduled until the 108th Congress (2003-2004), preliminary hearings on general issues (not specific Projects will begin in 2002. It is wise for the Borough to begin formulating a list of TEA-21 eligible projects in anticipation of this process.

FY 2003 Appropriations and TEA Requests

There were some grant requests which were not funded or not fully funded. These can be resubmitted. Additional new grant requests can also be developed. Below is a partial list of types of funding requests that have been successfully funded in the past:

1. Multi-Purpose Building Construction
2. Roads and Bridges
3. Commuter Buses, Rail, and Garage Facilities
4. Police Equipment
5. Health Care Grants
6. Cultural Grants for Education
7. Ports and Harbors
8. Museum Grants to Local Cities and Museums
9. Medical Building Renovations
10. Local Hospital/Medicare/Social Service Grants
11. Technology Grants to Local Schools/Distance Education Grants
12. -Water Related Infrastructure Authorizations
13. Wet Weather Infrastructure Pilot Projects
14. Aboveground Storage Projects
15. Corps of Engineers Grants
16. Mass transit grants Air and Highway
17. HUD Community Development Grants
18. Water and Sewer Grants.
19. Boys and Girls Clubs Grants
20. COPS technology Grants
21. Fisheries Research Grants
22. Technology Grants to Local Schools



AGENDA ITEM L.1
3rd N.2.6.

CITY OF HOMER

CITY HALL

491 East Pioneer Avenue

Homer, AK 99603-7645



January 17, 2002

Timothy Navarre, Assembly President
Members of the Assembly
Kenai Peninsula Borough
144 N. Binkley
Soldotna, Alaska 99659

Re: Ordinance 2001-48 (Enlarging Kachemak Emergency Services Area), and Proposed Resolution Opposing Homer Annexation

Dear President Navarre and Members of the Assembly:

At your December 11, 2001, meeting Milli Martin introduced Ordinance 2001-48 to amend the boundaries of the Kachemak Emergency Service Area ("KESA") to include the area known locally as Miller's Landing. On January 22, 2002, Milli Martin, with the support of Mayor Dale Bagley, plans to introduce a resolution asking the Legislature to veto the City of Homer annexation that has been approved by the Local Boundary Commission. These proposals constitute a direct assault against the City of Homer, and they are not in the interests of either the greater Homer area or the people of the Borough as a whole. For many valid reasons, you should defeat both of these proposals.

Ordinance 2001-48

First, Ordinance 2001-48 conflicts with the state constitutional preference for city annexations over the establishment of new service areas. Alaska Constitution, art. X, sec. 5 provides:

Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes,

January 17, 2002

Page 3

City, promptly upon final approval of the annexation, appropriate funding and responsibility for all road and emergency service area functions within the area annexed. While the proposed amendment to the boundaries of the service area in the meantime is not necessarily inconsistent with that promise to cooperate, it certainly looks that way in the context of Milli Martin's continuing efforts to defeat any and all annexation by Homer. Because that appears to be the underlying motive and purpose for this ordinance, the City strenuously objects to its passage.

Fourth, approval of this ordinance could compound a potential looming problem and cause the taxpayers of Miller's Landing to pay unnecessary extra taxes. The opponents of the City's annexation effort adamantly maintain that the boundaries of any Borough service area cannot be altered without the approval of a majority of the voters residing in the entire service area, as well as a majority of the voters in the area affected by the alteration, citing recently enacted AS 29.35.450(c). The City does not perceive how this could be a legally correct interpretation when the service area boundary is inexorably affected by an city annexation approved by the LBC and the Legislature in review. The alteration of city boundaries in this fashion is expressly provided for in the Constitution, art. X, sec. 12, and if AS 29.35.450(c) purports to prevent that from happening, it is unconstitutional. Nevertheless, if it is assumed that AS 29.35.450(c) means what the annexation opponents claim, then the boundaries of both KESA and the road service area cannot be altered without majority approvals from the voters in all affected areas. Further assume, as most often happens, that the Legislature does not veto the recommendation and the annexation automatically becomes effective, as provided in the Constitution. Then, the effect of the combination of annexation without automatic alteration of service area boundaries is that the residents of the territory newly annexed to the City will be real property taxpayers both in the Borough service areas and in the City. Therefore, they would be subject to taxation at the full rates of levy by both the City and the Borough service areas. Please understand that they will not be getting double levels of service, but they will be paying duplicative taxes as property owners of both the City and Borough service areas. Assuming the opponents of annexation advocating this interpretation of AS 29.35.450(c) are correct, then the passage of Ordinance 2001-48, will cause the property owners of Miller's Landing to be doubly taxed for the same services. They can avoid this double taxation only if a subsequent election is held and the alteration of service area boundaries is approved by majorities of voters of both service areas, both within and outside of the annexed areas. The resulting legal quagmire could be terribly complicated. For example, what will the Borough do if the voters outside the annexed areas refuse to approve the release of the annexed area from the service area

January 17, 2002

Page 5

Rather than amend the boundaries of KESA now to include even more areas that are going to be annexed to the City, the Assembly should be focusing Borough efforts on how to amend the service areas to exclude the soon-to-be annexed areas. It makes no sense to approve Ordinance 2001-48 and compound the problems — unless the Assembly actually decides to take sides with all annexation opponents across the Borough against every city's well-founded annexation petition. Confident that the Borough Assembly will not choose such an alliance against the cities of this borough, Homer strongly advocates the defeat of Ordinance 2001-48.

Proposed Resolution Requesting Legislative Disapproval of Annexation

Mayor Bagley forwarded to the KPB Clerk's Office a Memorandum, dated January 22, 2002, and a proposed resolution opposing Homer's annexation entitled "Resolution Requesting the State Legislature To Disapprove by Resolution the Boundary Change Proposed by the City of Homer and Recommended by the Local Boundary Commission." The resolution also bears the sponsorship of Milli Martin and will be introduced on January 22, 2002. Ms. Martin, who has always personally opposed annexation is now joining the KPB Mayor in crossing a line that the Borough should not cross.

The annexation process is prescribed by the Constitution of the State of Alaska, and the City of Homer has in every respect properly followed that process, as verified by the Local Boundary Commission findings. Homer's annexation is a matter of both intense city interest and statewide concern, but it is not a matter for the Borough to manipulate. The Borough does not run the City of Homer, the City of Soldotna, the City of Seward, the City of Kenai, the City of Seldovia or Kachemak City - - this annexation is simply not a Borough issue.

Mayor Bagley's Memorandum states: "You will hear people say that this is not a Borough issue and that the Borough should stay out of this fight." What an odd thing to say considering that this is exactly what the Mayor had instructed the Borough Attorney to report to the Local Boundary Commission - - which she faithfully did at the hearings held in Homer last December.

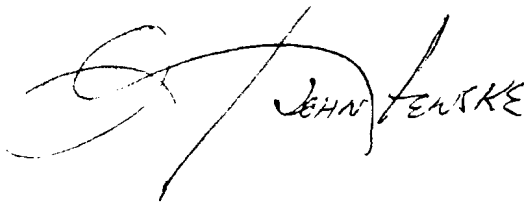
What has caused the Mayor to join with the others in declaring war against the City of Homer is not clear, but it is clear that this threat to the sovereignty of the cities located in the Kenai Peninsula Borough cannot be ignored. The cities are not puppets of the Borough. Like the Borough, each of the cities is an independent political

Is the success of a much needed and long overdue city boundary change going to depend on the relative political power of whoever happens at the time to be in the positions of Borough Mayor or Assembly Member? It has never been the case since our Constitution was adopted, and it should never be the case now or in the future. The setting of local boundaries is far too important to the health and welfare of the cities and residents of this borough to be dictated by such irrelevant factors.

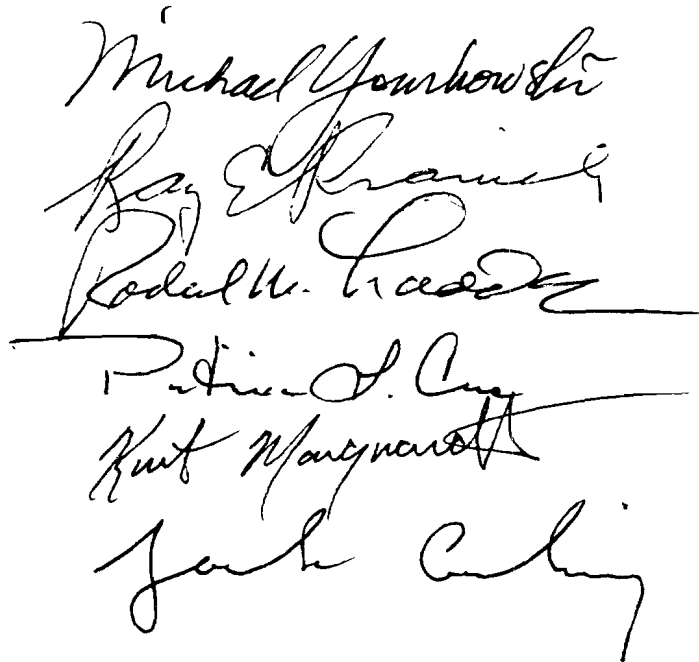
Both of these proposals are deserving of decisive and rapid defeat. The City does not want a war with the Borough over these issues or any others. Instead, the City simply asks that the Borough live up to its very recent promise to the LBC to cooperate reasonably with the City in an amicable transfer of service area responsibilities and funding promptly after the annexation becomes effective.

As the elected representatives of the people of Homer, we urge you in the strongest of terms to defeat both Ordinance 2001-48 and the proposed resolution.

Respectfully submitted,

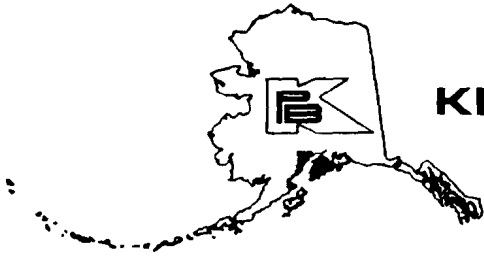


JOHN FENSKE



Michael Yourkowski
Ray E. Kravich
Rodal W. Lacey
Patricia J. Amy
Kurt Margenau
Jack Anthony

CC: City of Kachemak
City of Kenai
City of Seldovia
City of Seward
City of Soldotna



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907)262-1892

DALE BAGLEY
MAYOR

MEMORANDUM

TO: Timothy Navarre, Assembly President
Kenai Peninsula Borough Assembly Members

THRU: Dale L. Bagley, Borough Mayor *DLB*

FROM: Bob Bright, Planning Director *RB*

DATE: January 21, 2002

SUBJECT: Resolution 2002-010: A Resolution Authorizing the Rental of Office Space in Seward for a Branch Borough Office



The Planning Commission reviewed the subject resolution during their regularly scheduled meeting of January 14, 2002.

A motion to recommend adoption of the resolution passed by a unanimous consent. Draft, unapproved minutes of the pertinent portion of the meeting are attached.

Kenai Peninsula Borough Assembly

Committee of the Whole

January 22, 2002

3:00 PM

Borough Assembly Chambers, Soldotna

Tim Navarre, Chair

REVISED
AGENDA

DISCUSSION ITEMS

1. Discussion of Items Appearing on the Mayor's Report 1
2. Tape Delayed Broadcast of Assembly Meetings

*Consent Agenda Items

Staff requested:
Borough Clerk

Subject: FW: Cable Broadcast

Date: Fri, 18 Jan 2002 11:26:51 -0900

From: "Murphy, Linda" <LMurphy@borough.kenai.ak.us>

To: "Bill Popp (E-mail)" <billpopp@ptialaska.net>, "Chris Moss (E-mail)" <cmoss@xyz.net>, Gary Superman <gsuperman@gci.net>, "Grace Merkes (E-mail)" <merkes@ptialaska.net>, "Milli Martin (E-mail)" <millimom@xyz.net>, "Paul Fischer (E-mail)" <akpaulfischer@hotmail.com>, "Pete Sprague (E-mail)" <psprague@acsalaska.net>, "Ron Long (E-mail)" <rllms@ptialaska.net>, "Timothy Navarre (E-mail)" <tnavarre@alaska.net>

The following is being forwarded to you at the request of Mr. Sprague.

Linda

-----Original Message-----

From: Pete Sprague [<mailto:psprague@acsalaska.net>]

<<mailto:psprague@acsalaska.net>>

Sent: Friday, January 18, 2002 6:56 AM

To: Linda Murphy

Subject: Cable Broadcast



Linda- I have been in touch with Sharrie Sheridan at GCI about airing Assembly meetings. Could you please forward her response to all Assembly members; I would like to discuss this is our next meeting.

Thanks.

Pete

Hi Pete,

Looks as though we are still at the place where we would need to have you folks videotape the meetings and bring the videotape to us so that we can air the meetings on a tape delay basis. It would be best if it was only one tape so that we could put a VCR on a timer at the Head End facility and no manpower would be necessary to operate the equipment. Apparently this is how they do it in Seward and Homer and it seems to work well for them. I hope this will be satisfactory for you folks.

Let me know when you would like to start and I will purchase a VCR and a timer and get it hooked up at our facilities.

Sharrie

Kenai Peninsula Borough Assembly

Committee of the Whole

January 22, 2002

3:00 PM

Borough Assembly Chambers, Soldotna

Tim Navarre, Chair

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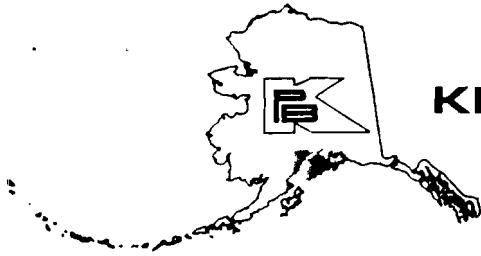
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Sharrie



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DALE BAGLEY
MAYOR

Memorandum

To: Timothy Navarre, Assembly President
Kenai Peninsula Borough Assembly Members

Thru: Dale Bagley, Borough Mayor *DLB*

From: Bob Bright, Planning Director *RLB*

Re: Proposal to Submit Grants Requests to the State of Alaska and U.S.
Fish and Wildlife

Date: January 22, 2002



The State of Alaska is soliciting Coastal Impact Assistance Program grant proposals for \$2.9 million in available funds statewide. The borough automatically received over \$200,000 in CIAP grant funds as part of the federal allocation of these monies, however the state is seeking proposals for a portion of the state's allocation. Projects 1 through 9 would not require a match.

Attached is a list and description of 9 proposed projects for the State CIAP grant funds. These projects have been assembled by planning staff and seek to fill gaps in our resource needs, enhance customer service and to move the department's automation efforts forward. The total in the list for state CIAP funds is \$710,000. The deadline for these grant requests is February 8.

Project 10 on the attached would seek federal funds of \$25,000 for the West Side project. Federal funds require a match, and the already appropriated \$75,000 for the West Side project is envisioned as the match. The deadline for this grant request is February 15.

The attached list is being given to the Assembly as a laydown with this memo to enable you to review it prior to the next regular Assembly meeting on February 5. A resolution containing these projects will be placed on the Assembly agenda at that meeting for your consideration. It is hoped the Assembly will have time to review the projects prior to that meeting and evaluate them so that you can make any changes or additions at that time.

PROPOSED CIAP GRANT PROPOSALS

1. Developing a FEMA Flood Insurance Rate Map for the North Fork of the Anchor River. This project was partially funded under the CIAP grant to the Kenai Peninsula Borough. Of the projected \$140,000 cost to complete phase one of the project, \$34,765 was awarded. This proposal would ask for an additional \$100,000 to complete the contour-mapping portion of the flood study. This must be done prior to hydrological and hydraulic modeling is accomplished. Future funds would be sought for surveying, modeling and a final report.

2. Developing a FEMA Flood Insurance Rate Map for the Kenai River in the Cooper Landing Area (between the outlet of Kenai Lake and Cooper Creek). This project includes the contour mapping, hydrological and hydraulic modeling, surveying and final report for this three-mile stretch of river. This area was targeted due to the flood risk and the relatively large amount of privately held land in the area. Total grant request is \$95,000. Some cost savings may be possible if recent AK DOT flight data is shared with the Borough.

3. Tabular Database System, Coastal Zone Program, \$65,000. This is an automation project (i.e. "on-line") which will lay the ground work for all the following suite of projects. In turn, these will lay the ground work for significant automation efforts within the KPB intended to make the borough more efficient and "client friendly." The database will be integrated into the proposed "Online Application System." We will hire a contractor to evaluate the existing KPBCMP database, uses, and develop a project plan. (this project may require generating new data; temporary staff: \$15K). This project will be a pilot of potential automation projects elsewhere in the KPB which will assist the "client-applicant" Develop a new Access database, based upon the existing one, with expanded query, analysis, and reporting capabilities which will be accessible to all users and also incorporated into the online Coastal Project Questionnaire tool

This project is envisioned as a pilot for other divisions within the Planning Department.

4. Geographic Database System, \$50,000. This concept-project has been discussed with, and received preliminary approval of GIS. The out-come of automation project (i.e. "on-line") will also contribute to the following suite of projects to help lead the borough to more efficient and "client friendly" service. The geographic database will be integrated into the proposed "Online Application System." This project will take the work developed in #1 and make the geographic associations within existing geographic mapping paradigms. There may be some "macro" programming required of the contractor. We will create a geographic database of all previous KPBCMP project reviews for all previous data linked to the Access Database (Shape file point data with attribute data containing cross-reference to all related projects; updateable) these will associate the tables (and cross-references) to location mapping. In this project the contractor will develop the batch routine that geo-codes the data and creates the link to the mapping software. Create the means of integrating all future reviews In order to be

able to perform work tasks (entry, mapping) we will upgrade assistant's ArcView Application to ArcGIS 8.1, onto a new computer.

This project is envisioned as a pilot for other divisions within the Planning Department.

5. Documents and Image Management System, \$60,000. This project will take the first step toward "paperless" document management. It will provide valuable insight for other departments and divisions that are interested in moving in that direction. Presently, the Federal Government agencies have apparently received some direction to move toward online and other digital systems. Currently, we regularly receive entire application and project packets from Oil/Gas companies that are on CD-Rom. It is our desire to find an effective means of (1) converting all our files to digital format, managing a new digital file system, integrating that into the geographic database. This information will provide valuable means for applicants to understand previous project reviews and better assure that all necessary documents are included in current applications. This project will require a contractor to design the system and establish connectivity with database, some new equipment, and a temporary staff (could be coordinated with Kenai River Center temporary staff) to assist in scanning and data entry. 10% included.

This project is envisioned as a pilot for other divisions within the Planning Department.

6. KPB Resource Analysis, \$100,000. The Kenai Peninsula Borough needs an updated, comprehensive, systematically developed Resource Analysis document. Which will become a very useful tool for decision-making on all levels of local government. It will also serve as foundation for future meaningful planning for activities, which benefit our communities. This document will be based upon a systematic compilation of information related to the resources of the Kenai Peninsula Borough. It will directly contribute to the meaningful resource planning within the borough, updates to the Comprehensive Plan and provide a basis for any future updates of the Kenai Peninsula Borough Coastal Management Plan.

7. Interactive Computer-Based Resource Analysis Information Tool, \$90,000. This product integrates all of the information developed in the updated KPB Resource Analysis into an effective multi-media information tool that will be available to business-minded entrepreneurs, client-applicants, private sector and public sector (i.e. Administration, Assembly, local government, chambers of commerce, etc.) interests. It will allow an average user to expediently ask questions of interest, and investigate topics of interest related to the updated KPB resource analysis. As a model, we note that the private sector regularly develops computer-based training tools that bring "consumers" much needed information in a coherent, well-organized fashion. This product will leverage the Internet and intranets to provide fluid, interactive instructional and decision making tools for all audiences. This project will pilot multimedia system modules accessible via menu-driven CD-Rom (or DVD-Rom), and the Internet/intranet. 10% included.

8. KPB Online Application System for the Planning Department, \$50,000.

Increasingly, the internet is becoming a useful means for local governments to reach out to the public, the private sector, and other government entities. The private sector regularly develops computer-based online tools which effectively lead applicants in a coherent, well-organized process. This kind of orderly communication is important for any local government that wants to provide effective means for applying for permits, and for tracking those permits in a logical, efficient fashion. Specifically related to KPB lands and other resource uses, and it's getting easier and more effective with several products that leverage the Internet and intranets to provide fluid, interactive medium that helps the Kenai Peninsula Borough implement appropriate technology in resource management, which also improves efficiency, via the Internet/intranet.

This project is envisioned as a pilot for other divisions within the Planning Department.

9. Digital Elevation Model for the Peninsula Shoreline to monitor change, \$100,000.

Developing a coastline map using Digital Elevation Models (DEM) from Anchor Point to Kachemak Bay. This stretch of coastline has experienced the most significant erosion and therefore property and habitat loss. Digital Elevation Models is the ability to visualize environmental landscape phenomena in 3-dimension and over time greatly enhance our ability to understand natural processes (coastal) and explain them to others. In addition, where land degradation is occurring, an understanding of the processes in a spatial and temporal context facilitates preventative measures. These include the proper selection and placement of remediation and mitigation measures. This initial imagery will establish a baseline for measuring erosion loss rates and wetland dynamics over time.

10. Digital Elevation Model for the West Foreland Special Study Area, \$25,000.

Obtain digital topography to greatly assist in the planning efforts for the Kustatan Ridge area on the West Forelands. This will help in the planning and engineering of the area including access improvements and planning for any future subdivisions. This project is being applied for from federal sources and requires a 40% match. The match is envisioned to come from the already appropriated \$75,000 for the West Side Project.