



LOCAL BOUNDARY COMMISSION
2016 ANNUAL REPORT
TO THE FIRST SESSION OF THE THIRTIETH ALASKA STATE
LEGISLATURE

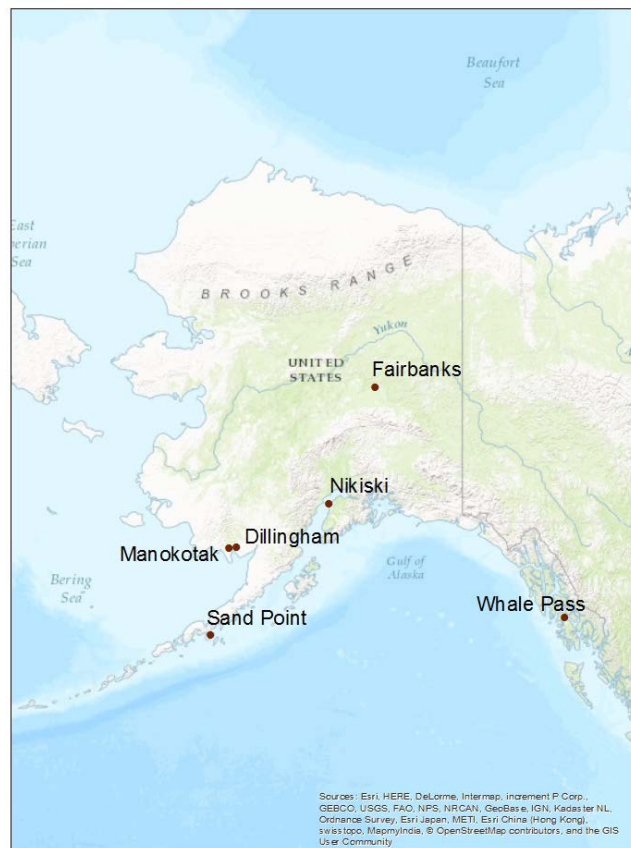
Lynn Chrystal, Chair

John Harrington, First Judicial District

Bob Harcharek, Second Judicial District

Darroll Hargraves, Third Judicial District

Lavell Wilson, Fourth Judicial District



Local Boundary Commission | Division of Community and Regional Affairs
Department of Commerce, Community, and Economic Development
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Graphic Illustration Only – The maps in this publication are intended to be used only as general reference guides. Source documents remain the official record.



LOCAL BOUNDARY COMMISSION

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ANCHORAGE, ALASKA 99501, 907-269-4559/4587, FAX: 907-269-4563

March 2017

Members of the Alaska State Legislature,

On behalf of all members of the Local Boundary Commission, I am pleased to present the report of the commission to the First Session of the Thirtieth Alaska State Legislature. Since our last report, the LBC met 15 times. Those meetings include hearings around the state as required by law, routine meetings via teleconference, and workshops to discuss important topics and hone their skills as decision makers.

This report contains details about the petitions that were active during 2016, and those that are ongoing in 2017. Several boundary changes took effect and the Local Boundary Commission also submitted one recommendation to the Legislature this session for an annexation to the City of Manokotak. The report also provides details about the research, analysis, and administrative work staff performed for active petitions. The commission also wishes to recognize the role the two person staff plays in providing information to the many citizens who contact the staff with questions or interest in pursuing boundary changes in their own communities.

The Local Boundary Commission has roots in the beginning of statehood in the constitution. John Rader, as a representative in the 3rd Alaska Legislature, introduced a bill in 1963 that was then called "For the Incorporation of First Class Organized Boroughs." The framers, as Rep. Rader wrote in the explanatory text accompanying that bill, sought to avoid:

- the pitfalls of older states with large numbers of local government units in relatively small land areas
- the lack of true regional governmental units, and
- a lack of consciousness of citizens of many urban and suburban communities of the implications and needs of the larger region of which they are part.

From the beginning, through its constitution and subsequent law, Alaska has sought to imbue local communities with the power of local control through cities and boroughs. However, the words written by John Rader in 1963 describing the need for the Mandatory Borough Act could easily be written today.

The constitution laid the framework for the relationship between local and state government. Perhaps it is time for the Legislature to revisit the status of the relationship between local (city governments), regional (boroughs) and the state. Discrepancies still exist between organized and unorganized areas, and local government is far from maximized—an identified goal of the Alaska constitution. As Rader and others have

suggested, incentives must exist for communities to govern themselves. We hope you as legislators will consider these issues as they read about the petitions that the Local Boundary Commission has had before it this past year and still has into this new year, and as you work to find solutions for all citizens of Alaska regardless of where they live.

The commission requests that the Legislature consider the account of activities and issues addressed in this report.

Cordially,

The Local Boundary Commission

Lynn Chrystal
Chair

John Harrington
Commissioner

Robert Harcharek
Commissioner

Darroll Hargraves
Commissioner

Lavell Wilson
Commissioner

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CHAPTER 1: BACKGROUND

LOCAL BOUNDARY COMMISSION'S CONSTITUTIONAL FOUNDATION

Article X, section 12 of the Constitution of the State of Alaska created the Local Boundary Commission, also referred to as “LBC” or “commission.” It states that

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 commission is responsible for establishing and modifying proposed municipal government boundaries. The framers of the state constitution believed that local governments should have authority to determine which powers they would exercise. They also asserted their belief that the state should set municipal boundaries because “local political decisions do not usually create proper boundaries [. . .]”¹ Placing decision-making authority with a state body allows debate about boundary changes to be analyzed objectively, and to take areawide or statewide needs into consideration.²

LBC DUTIES AND FUNCTIONS

The LBC acts on proposals for several different municipal (cities and boroughs) boundary changes. These are:

- Incorporating municipalities
- Annexing to municipalities
- Detaching from municipalities
- Merging municipalities
- Consolidating municipalities
- Reclassifying municipalities
- Dissolving municipalities

¹ *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 543 (Alaska 1962) (citing Alaska Constitutional Convention Minutes of Committee on Local Government, November 28 and December 4, 1955).

² *Id.*

LBC MEMBERSHIP

The LBC is an autonomous commission with five members. The governor appoints LBC members for five-year overlapping terms.³ One member is appointed from each of Alaska's four judicial districts. The chair is appointed from the state at large. Commission members receive no pay for their service.

Members:



Lynn Chrystal, Chair, At Large, Wasilla

Terms Ends: January 31, 2018



John Harrington, First Judicial District, Ketchikan

Term Ends: January 31, 2021



Robert "Bob" Harcharek, Vice Chair, Second Judicial District, Utqiagvik (formerly Barrow)

Term Ends: January 31, 2019



Darroll Hargraves, Third Judicial District

Term Ended: January 31, 2017 (seat currently vacant)



Lavell Wilson, Fourth Judicial District, Tok

Term Ends: January 31, 2020

CONSTITUTIONAL ORIGIN

Alaska's constitution called for establishing an executive branch agency to advise and assist local governments (article X, section 14). That agency is the Alaska Department of Commerce, Community, and Economic Development (Commerce, or department).⁴ Commerce serves as staff to the LBC per AS 44.33.020(a)(4). Within Commerce, the

³ AS 44.33.810.

⁴ AS 44.33.020(a)(1) provides that Commerce "shall (1) advise and assist local governments."

Division of Community and Regional Affairs (DCRA) performs the local government agency's functions. This includes providing staff, research, and assistance to the LBC.

LBC STAFF ROLE

LBC staff is required by law to investigate and analyze each boundary change proposal and to make recommendations regarding it to the commission.⁵ For each petition, staff will write at least one report for the commission, each of which is a public document. Staff recommendations to the commission are based on properly interpreting the applicable legal standards and rationally applying those standards to each petition. Due process is best served by providing the commission with a thorough, credible, and objective analysis of every local boundary change proposal.

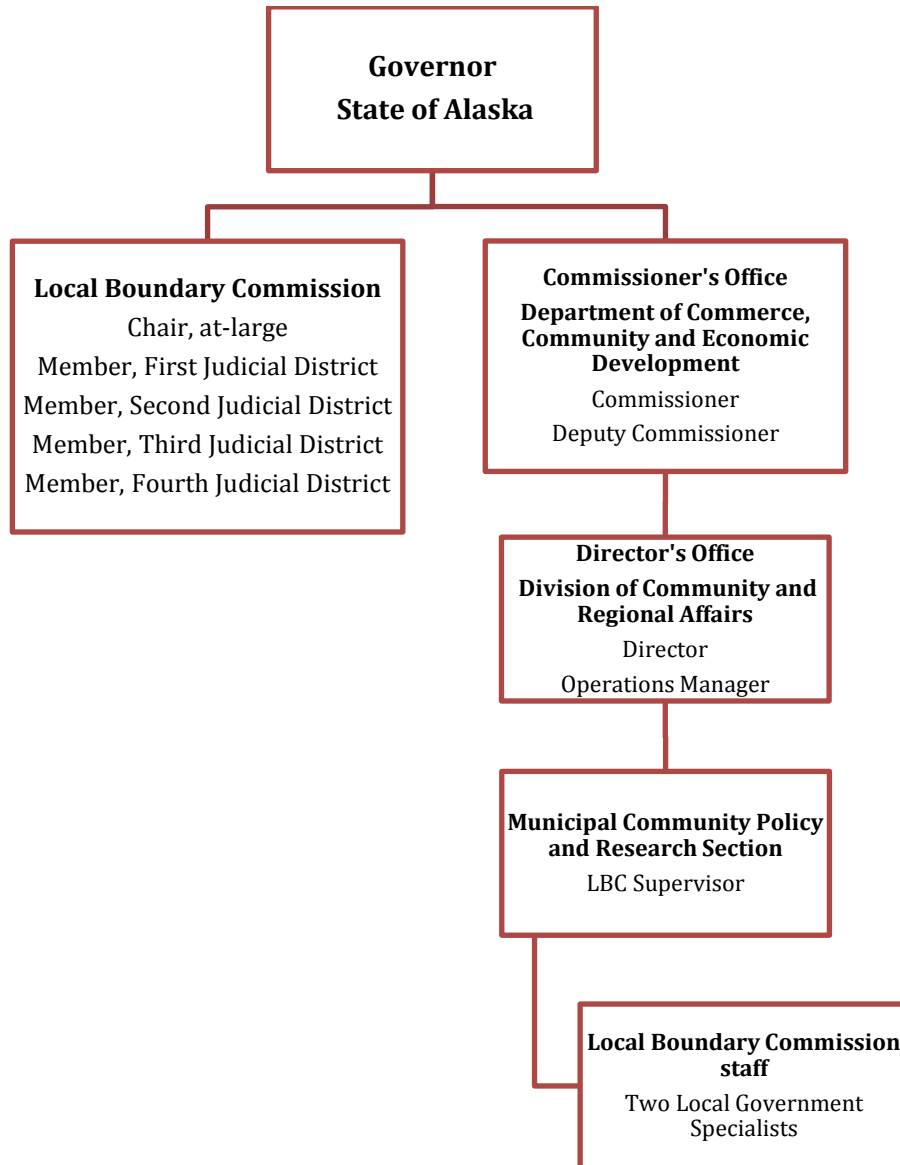
Besides providing support to the commission, the LBC staff also delivers technical assistance to municipalities, to petitioners, to residents of areas impacted by existing or potential petitions, to respondents, to agencies, and to the general public. Assistance the LBC staff provides includes:

- Answering public, legislative, and other governmental inquiries relating to municipal government issues
- Writing reports on petitions for the LBC
- Drafting LBC decisions
- Traveling to communities to conduct public meetings and answer questions about proposed local boundary changes
- Developing and updating municipal incorporation or boundary change forms
- Sending local boundary change forms and materials to interested persons
- Providing a link between the LBC and the public
- Maintaining Alaska municipal incorporation and other boundary change records
- Coordinating, scheduling, and attending LBC public meetings and hearings
- Developing orientation materials and providing training for new LBC members
- Maintaining and preserving LBC records in accordance with Alaska's public records laws

Two staff members serve the Local Boundary Commission and are located in Anchorage.

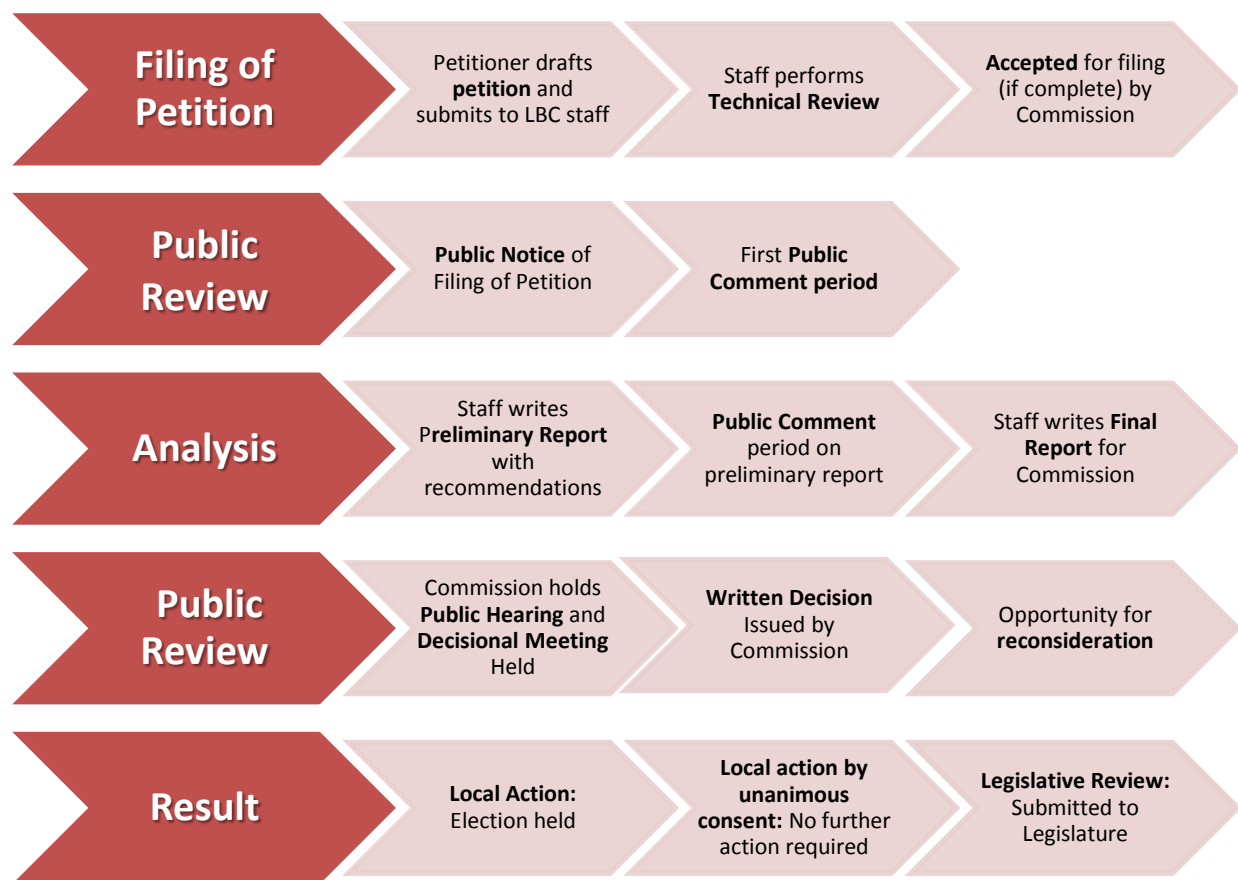
⁵ See AS 29.04.040, AS 29.05.080, AS 29.06.110, and AS 29.06.480 - 29.06.490; 3 AAC 110.530.

ORGANIZATIONAL CHART FOR LBC STAFF



LOCAL BOUNDARY COMMISSION PETITION PROCESS

When the department receives a petition, staff performs a technical review to ensure a petition has all required elements. When staff finds a petition complete, it is accepted for filing. At this stage, staff works with the petitioner to ensure the public is notified and the petition is available for review as required by regulations. There are two public comment periods and two staff reports to the commissioners before the matter comes before the commissioners in a public hearing. At the public hearing, the commission listens to the petitioners, any responding parties, and to any public comments given. At the decisional meeting, the commission discusses the record, and reaches a decision. It may amend, approve, or deny a petition. Depending on the type of petition, either legislative review or local action, and if the LBC approves the petition, the decision is either submitted to the Legislature for the chance to disapprove the LBC’s decision, or to the Division of Elections or existing municipality to hold a vote, respectively.

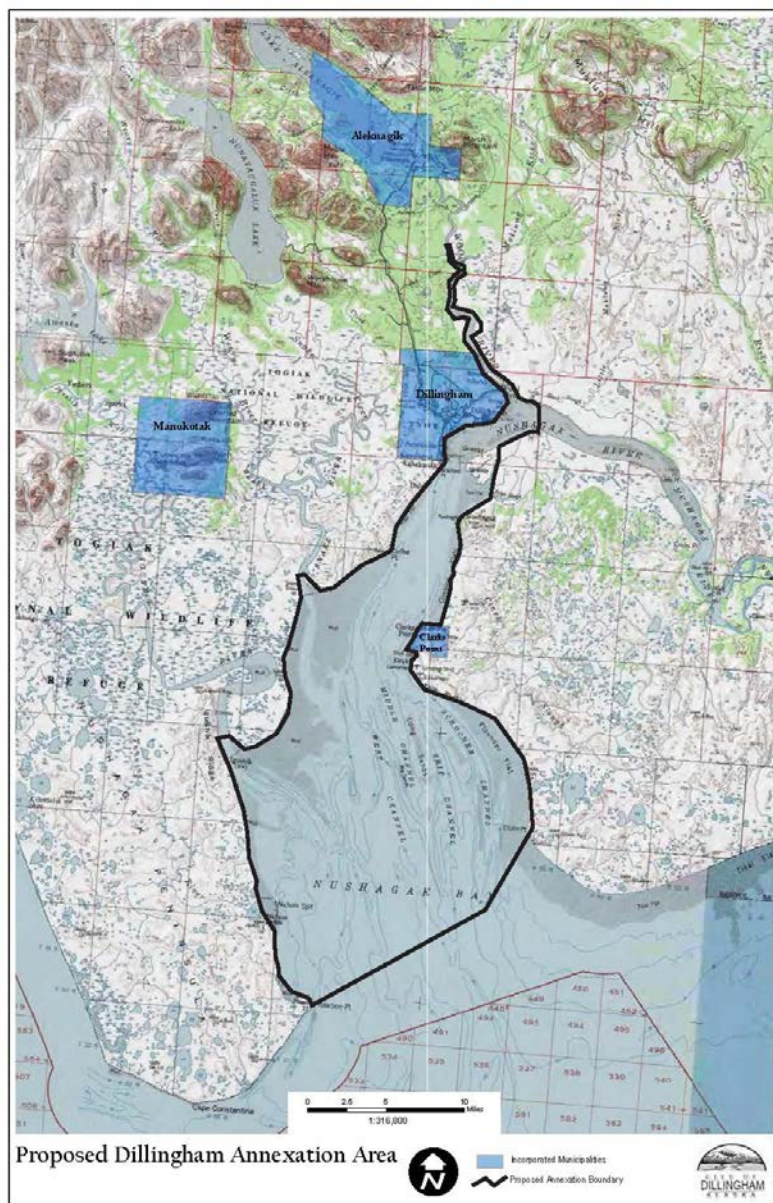


CHAPTER 2 – LOCAL BOUNDARY CHANGES AND ACTIVITIES

COMPLETED PETITIONS

All maps and documents described in this report can be found on the LBC website for petitions: <https://www.commerce.alaska.gov/web/dcra/LocalBoundaryCommission/CurrentPetitions.aspx>.

CITY OF DILLINGHAM ANNEXATION



PETITION STATUS: ANNEXATION REJECTED BY LBC

The City of Dillingham, a first class city of 2,395 residents, submitted a legislative review annexation petition in early 2015 seeking to annex approximately 399 square miles of land and water in Nushagak Bay, part of Bristol Bay in southwest Alaska. LBC staff accepted it for filing in June 2015. In September, staff received a petition from the City of Manokotak with an annexation proposal with boundaries that overlapped those of the City of Dillingham petition. For more details on the City of Manokotak's proceedings please see that entry below. The LBC chair consolidated Manokotak and Dillingham's petitions in order for both petitions to proceed on the same schedule, and be considered side by side.

Staff released a preliminary report to the commission in June 2016, which recommended denial of both petitions. After a second, extended public comment period, a final report

was published on October 28, 2016, in which staff also recommended denial. Three commissioners and one staff member traveled to both Dillingham and Manokotak to

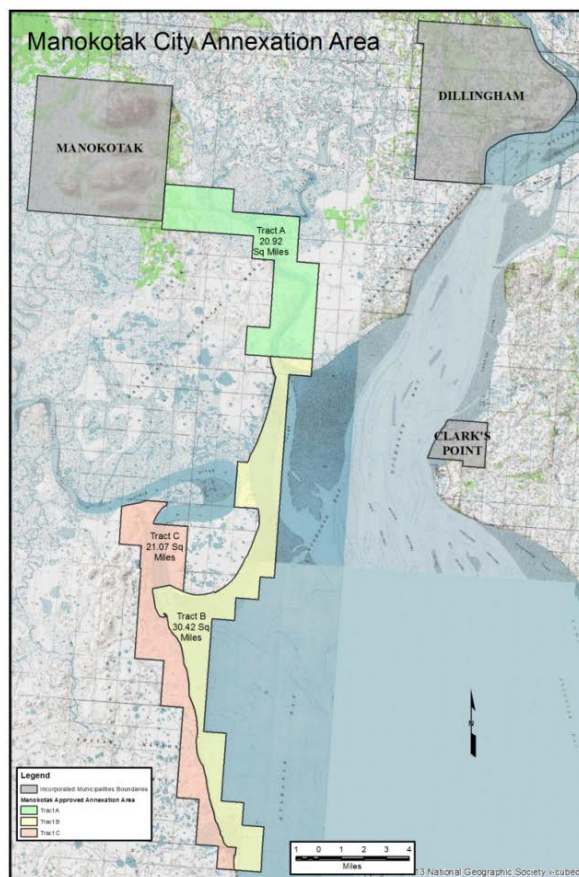
convene a multi-day public hearing over November 28-30, 2016. Two commissioners and other staff participated by phone. The LBC returned to Anchorage, and held a decisional meeting on December 1, 2016. The LBC approved Dillingham's petition with amended boundaries after approving Manokotak's competing petition in full. The amended petition was approved by five commissioners.

Requests to reconsider both the Dillingham and Manokotak decisions were filed on January 4, 2017, and the LBC granted both requests. On January 24, 2017, the LBC reconsidered its December 1, 2016, decision on Dillingham and voted to reject Dillingham's annexation proposal entirely. The written statement of decision rejecting Dillingham's petition on reconsideration was mailed on January 30, 2017. Because the LBC rejected the petition, its decision was not sent to the Legislature.

The City of Dillingham filed an appeal in superior court on February 21, 2017, challenging the LBC's decision rejecting its annexation petition on reconsideration. A briefing schedule has not yet been set.

CITY OF MANOKOTAK ANNEXATION

The City of Manokotak, a second class city on the west side of Nushagak Bay in southwest Alaska with approximately 500 residents, submitted its first annexation petition to the LBC in September of 2015. The petition sought to annex approximately 155 square miles of land and water. Because the territory in question partially overlapped the area sought by Dillingham's annexation petition, the City of Manokotak requested consolidation of its proceedings with Dillingham's. The LBC granted that request. As described earlier in this report, both the staff preliminary report and final report regarding the consolidated petitions from the cities of Manokotak and Dillingham recommended denial of both annexation petitions. A public hearing for the petition was held in Manokotak and Dillingham over three days in November 2016. Following a December 1, 2016 decisional meeting, the commission voted with three in favor to approve the Manokotak petition as presented.



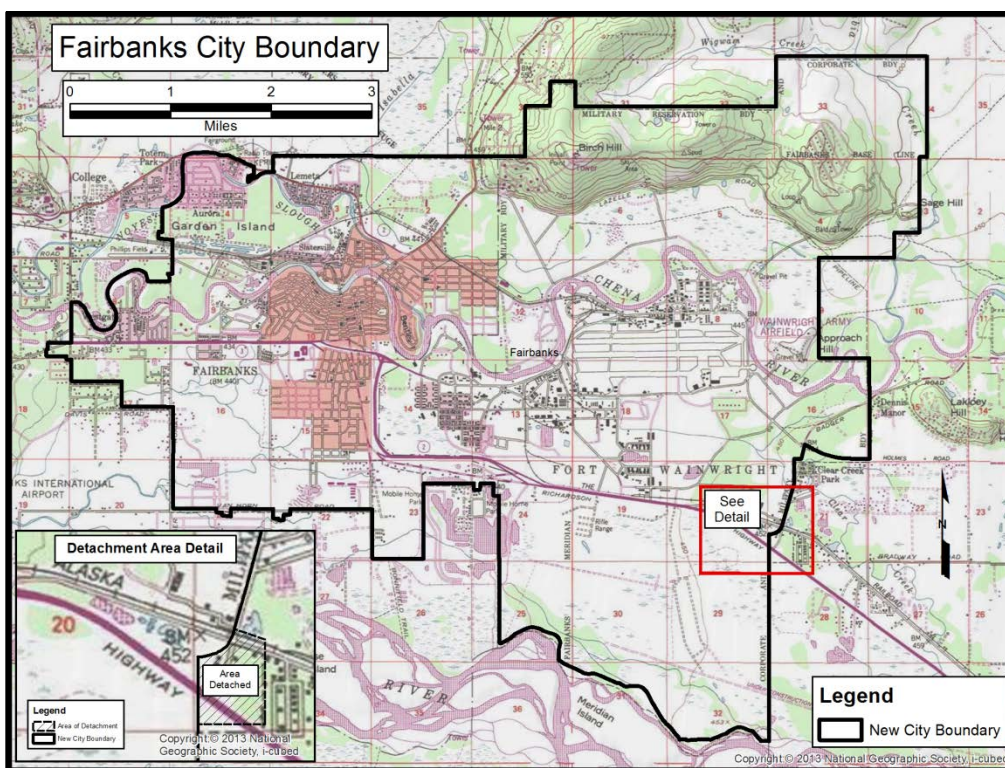
PETITION STATUS: DECISION SUBMITTED TO LEGISLATURE

Staff received a request for reconsideration on

January 4, 2017, and the commission granted that request for reconsideration on January 10, 2017. The LBC met to reconsider its decision on January 24, 2017. In that meeting, the LBC approved the Manokotak petition with amended boundaries shown in the map above. The decision on reconsideration, approved in writing on January 25, 2017, reduced the boundaries from the original proposal of 155 square miles of land and water to approximately 72 square miles of land and water. Because it was a legislative review petition, the written statement of decision was submitted to the Legislature within the first ten days of the regular session of the Legislature as required by the Alaska constitution.

The City of Manokotak filed an appeal in superior court on February 21, 2017, challenging the LBC's decision approving its annexation petition with amendments on reconsideration. A briefing schedule has not yet been set.

CITY OF FAIRBANKS DETACHMENT

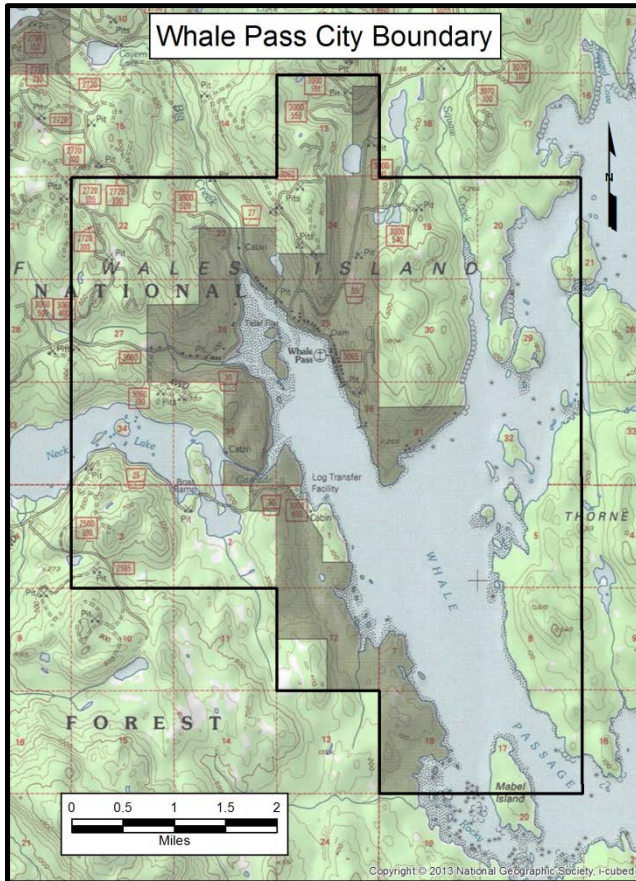


PETITION STATUS: DETACHMENT COMPLETE

Prior to 2016, the City of Fairbanks submitted a petition to detach a parcel of about 0.076 square miles on the edge of town. The detachment proceeding stemmed from a landowner who realized the land was inside the city though the city had not levied taxes on the property in many years. The city and Fairbanks North Star Borough issued a memorandum of agreement not to charge any back taxes incurred as a result of the clerical boundary error. The petition for detachment was approved unanimously at a February 9, 2016, public hearing convened by the LBC via teleconference. After the LBC approved the written statement of decision, the LBC notified the City of Fairbanks clerk regarding the next step,

administering an election. The City of Fairbanks conducted a by-mail election for the detachment. That required vote of one person was favorable. The election result was certified, and the detachment took effect on August 22, 2016. The petition detached approximately 40 acres from the city.

WHALE PASS INCORPORATION



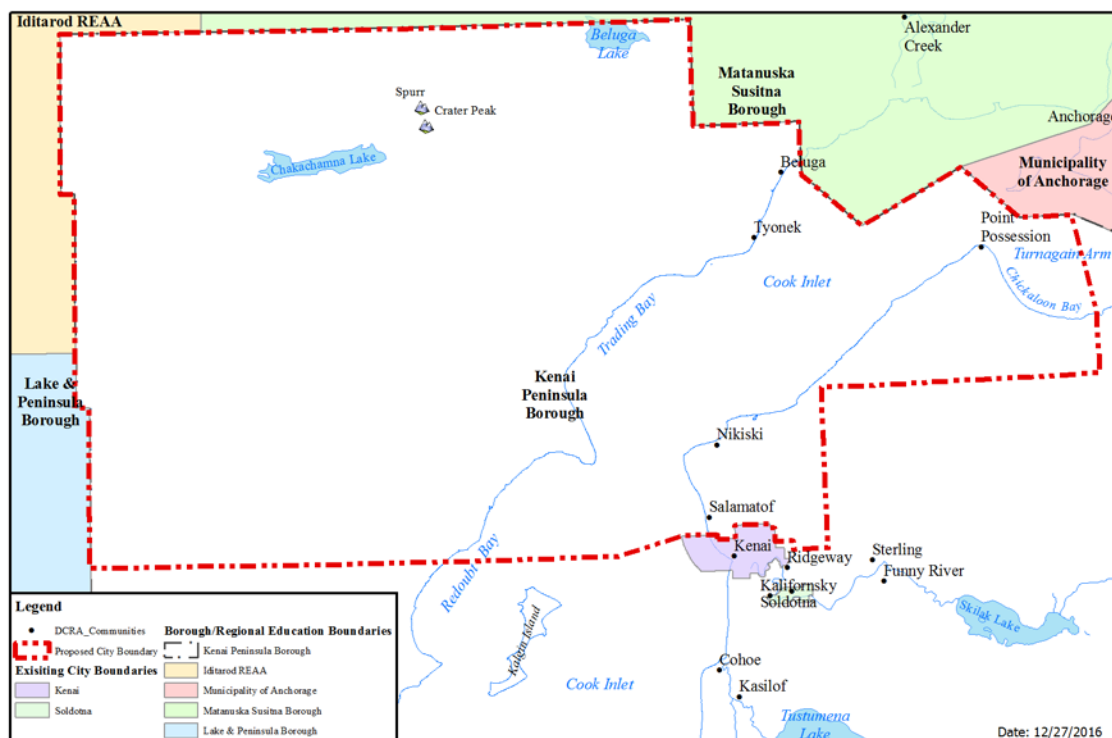
PETITION STATUS: INCORPORATION COMPLETE

In late 2015, citizens of Whale Pass, a community of about 50 year round residents, located in Southeast Alaska on Prince of Wales Island, submitted a petition to incorporate as a second class city. The proposal included approximately 26 square miles of land and water. The LBC accepted it for filing in January 2016. One staff member visited the community in April to host a required information session. Staff's preliminary report, released on April 22, 2016, recommended approval of the city as presented in the petition. Following a second public comment period, the final report, released on June 24, 2016, recommended again that the LBC approve the petition. On August 2, 2016, two commissioners and one staff member traveled to Whale Pass, and convened a hearing and subsequent decisional meeting regarding the Whale Pass incorporation petition. An estimated 30 residents attended. The four commissioners participating in

person and via teleconference voted unanimously to approve the incorporation on August 2, 2016. They met again on August 24, 2016 to approve the written decision. LBC staff notified the Division of Elections, who administered a by-mail vote in January of 2017. The vote, which was certified on January 19, 2017, was 34-12 in favor of incorporation. Whale Pass becomes the 116th second class city in Alaska.

ACTIVE PETITIONS

NIKISKI INCORPORATION



PETITION STATUS: ACCEPTING PUBLIC COMMENTS

In October 2016, residents of the community of Nikiski in the Kenai Peninsula Borough submitted a local action petition to incorporate Nikiski as a home rule city. On December 30, 2016, LBC staff accepted the Nikiski incorporation for filing. The petition’s public comment period began on January 4, 2017, and will continue until March 8. The petition submitted by citizens of Nikiski is for incorporation of a home rule city in the northwest section of the Kenai Peninsula Borough. The proposed city would be 5,480 square miles, and include Nikiski, a portion of Cook Inlet, include Tyonek and Beluga and border Lake and Peninsula Borough to the west, Matanuska-Susitna Borough to the north, and the Municipality of Anchorage to the northeast. Staff traveled to Nikiski as required by regulations to host an information session regarding the petition process on February 21, 2017. The preliminary report containing staff recommendations to the LBC is due to be released May 10, 2017. That report, based on a review of public comments and briefs as well as an analysis of the petition based on regulations and statutes, will trigger a second public comment period and lead to a second, final report. A public hearing is scheduled tentatively for August 2017. If the LBC approves the petition, the question of incorporation would then be put to a vote by qualified voters within the proposed home rule city boundaries. Incorporation elections inside and outside organized boroughs are administered by the state Division of Elections.

ACTIVITIES OF THE BOARD AND STAFF

The Local Boundary Commission has met more than 15 times since the 2015 annual report. Two workshops, three hearings, and 10 regular meetings were held in Anchorage and around the state as required by law. Staff fielded questions from residents all over the state as well as from municipalities and persons interested in boundary changes.

One commissioner resigned his post at the end of his term in January 31, 2017. Commissioner Darroll Hargraves served on the Local Boundary Commission as a member beginning in 1991 and as chair in 1992, through 1997, from 2003-2007, and again as a member from the third judicial district from 2013-2017. The seat is currently vacant.

CHAPTER 3: CONCLUSION

The Local Boundary Commission is made up of five commissioners appointed by the governor to serve the entire state of Alaska. Boundary changes come before the LBC from communities for many reasons, but many communities in the last year have indicated that reductions in state aid is a primary reason to pursue annexation or incorporation. Unlike nearly all other U.S. states, Alaska is not entirely covered by an organized form of local government. There are many opportunities for communities to maximize their local government by incorporating, but there are significant barriers in the incentives the state provides to do so. Communities, like the state overall, are facing reduced revenues and the Local Boundary Commission petition process can offer a number of solutions. However, LBC petitions do also include dissolutions and reclassifications, as some communities indicate that they wish to explore options to reduce the obligations that come with their current status as incorporated municipalities. The changes happening in Alaska will likely have an impact on the Division of Community and Regional Affairs and specifically, within this agency called for in the Alaska constitution to assist local affairs and to oversee boundary changes with a statewide perspective.

Indeed, the LBC is pleased to continue serving the people of Alaska by fulfilling its constitutionally mandated authority to consider any proposed local government boundary change. The staff is also pleased to continue providing assistance to the public and potential petitioners. There are presently two active local boundary change petitions before the Local Boundary Commission, both of which will likely come before the commission for a public hearing in 2017. Staff expects to field questions on many more potential boundary changes in the coming year. This report serves to illuminate the work that the LBC and its staff are doing within the larger role of DCRA and DCCED for the state of Alaska.

