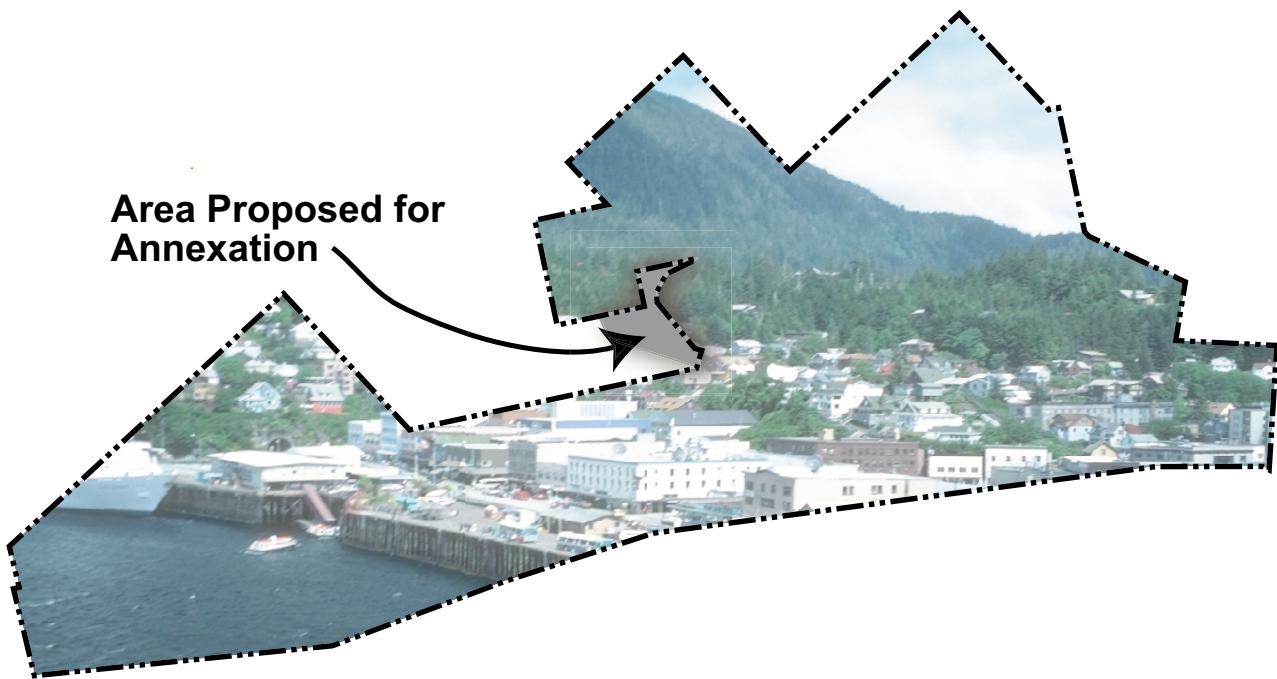


Preliminary Report

Regarding the City of Ketchikan's Petition for Annexation of 27.41 Acres in Bear Valley

July 2000



Tony Knowles
Governor

Deborah Sedwick
Commissioner





This is the preliminary report of the Alaska Department of Community and Economic Development (DCED) regarding the petition to annex territory to the City of Ketchikan. The report is also available on the internet at the following address:

http://www.dced.state.ak.us/mra/MRAD_lbc.htm

Further, copies of the report are also available for review through the City of Ketchikan.

DCED complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4560, or TDD 907-465-5437.



July 31, 2000

Attached is the preliminary report of the Alaska Department of Community and Economic Development (DCED) concerning the petition of the City of Ketchikan to annex 27.41 acres in Bear Valley. The petition was initiated at the request of the owners of all property in the territory proposed for annexation.

The preliminary report concludes that all standards for annexation set out in State law have been met with respect to the pending annexation proposal. As such, the report makes a preliminary recommendation that the Local Boundary Commission approve the City of Ketchikan's petition.

Written comments on the preliminary report are welcome. To be considered in the preparation of DCED's final report, comments on the preliminary report must be **received** at the following office on or before August 28, 2000:

Local Boundary Commission Staff
Department of Community and Economic Development
550 West 7th Avenue, Suite 1790
Anchorage, Alaska 99501-3510

Fax number: 907-269-4539

E-mail address: Dan_Bockhorst@dced.state.ak.us

The preliminary report is also available on the Internet at:

http://www.dced.state.ak.us/mra/Mrad_lbc.htm

Cordially,

A handwritten signature in black ink, appearing to read "Patrick K. Poland".

Patrick K. Poland
Director

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Acknowledgments

The following DCED policy makers provided policy direction concerning DCED's recommendation to the Local Boundary Commission in this matter:

- Deborah B. Sedwick, Commissioner, DCED
- Jeff Bush, Deputy Commissioner, DCED
- Patrick Poland, Director, Division of Community & Business Development, DCED

This Preliminary Report was written by:

- Dan Bockhorst, Local Boundary Commission Staff, DCED

Page layout by:

- Jennie Morrison, Publication Technician

The following individuals (listed in alphabetical order of last name) provided assistance to DCED in the review of the annexation proposal.

- Karl R. Amylon, City Manager, City of Ketchikan;
- Linda Auger, Administrative Assistant, City of Ketchikan;
- Gene Kane, Local Boundary Commission Staff, DCED;
- Jim Lowell, Alaska Department of Transportation and Public Facilities;
- George Plumley, Cartographer, DCED; and
- Jim Voetberg, Assistant City Manager, City of Ketchikan.

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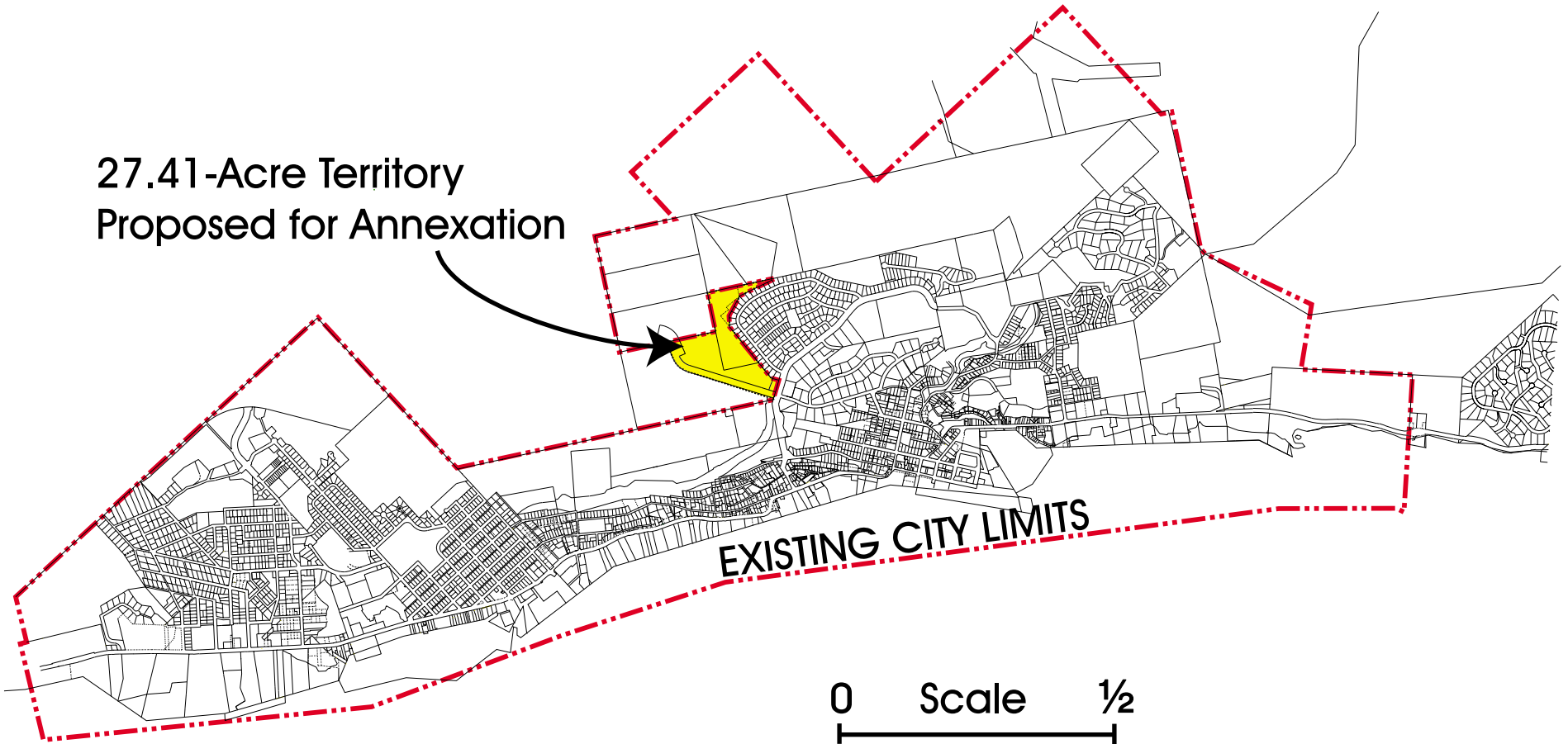
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27.41-Acre Territory
Proposed for Annexation

EXISTING CITY LIMITS

0 Scale 1/2
Miles



INTRODUCTION

The City of Ketchikan (City or Petitioner) has petitioned the Alaska Local Boundary Commission (LBC or Commission) for the annexation of an estimated 27.41 acres in Bear Valley (territory).

The territory is uninhabited and largely undeveloped. The territory is contiguous to the existing corporate boundaries of the City. All of the owners of real property within the territory have petitioned the City for annexation of their respective properties. The property in question is owned by four individuals or entities. These consist of George Lybrand (owner of approximately 20 acres), City of Ketchikan (owner of approximately 5.06 acres), Ketchikan Gateway Borough (Borough) (owner of approximately 1.83 acres), and the State of Alaska (owner of approximately 0.52 acres).

SECTION 1 PROCEEDINGS TO DATE AND FUTURE PROCEEDINGS

This section of the report summarizes the formal activities that have occurred to date with regard to the pending Petition. Information about future proceedings concerning this matter is also provided.

A. Petition accepted for filing.

The Petition of the City of Ketchikan for annexation of an estimated 27.41 acres was received by the Alaska Department of Community and Economic Development (DCED) on March 13, 2000. On March 30, DCED determined that the form and content of the Petition were technically sufficient. Accord-

ingly, the petition was formally accepted for filing on March 30, 2000.

B. Public notice of filing of the Petition.

Public notice of the filing of the petition was given in accordance with the requirements of 3 AAC 110.450. Details concerning the manner in which public notice was given are provided in this subsection.

On March 31, 2000, DCED provided public notice of the filing of the Petition to 39 agencies and individuals. These included the five members of the Local Boundary Commission and the head of each principal agency of the State of Alaska.

Notice of filing of the petition was published by DCED on the *State of Alaska Online Public Notice* website from March 31

through June 6, 2000. Additionally, notice of filing of the petition was published by the City in the *Ketchikan Daily News* on April 12, 19, and 26, 2000.

On April 3, 2000, the Petitioner mailed or delivered a copy of the notice of filing of the Petition to the following seven individuals and organizations:

- Ketchikan Gateway Borough;
- City of Saxman;
- George Lybrand;
- Alaska Department of Transportation and Public Facilities, Right-of-Way and Utilities, Design and Engineer Services Division;
- Alaska Department of Natural Resources, Division of Mining, Land & Water;
- Alaska Department of Transportation and Public Facilities, Southeast Regional Director; and

- Alaska Department of Transportation and Public Facilities, Southeast Regional Preconstruction Engineer.

On April 4, 2000, the City posted on its website (www.city.ketchikan.ak.us) information regarding the Petition. This included an abridged copy of the Petition in the section titled "What's New" and a copy of the notice of the filing of the Petition in "Public Notices."

On April 5, 2000, public notice of the filing of the Petition was posted by the City at the following three locations in the territory proposed for annexation:

- Intersection of Schoenbar Road and Forest Avenue;
- Scale shack on property owned by George Lybrand; and
- Construction trailer located on George Lybrand's property.

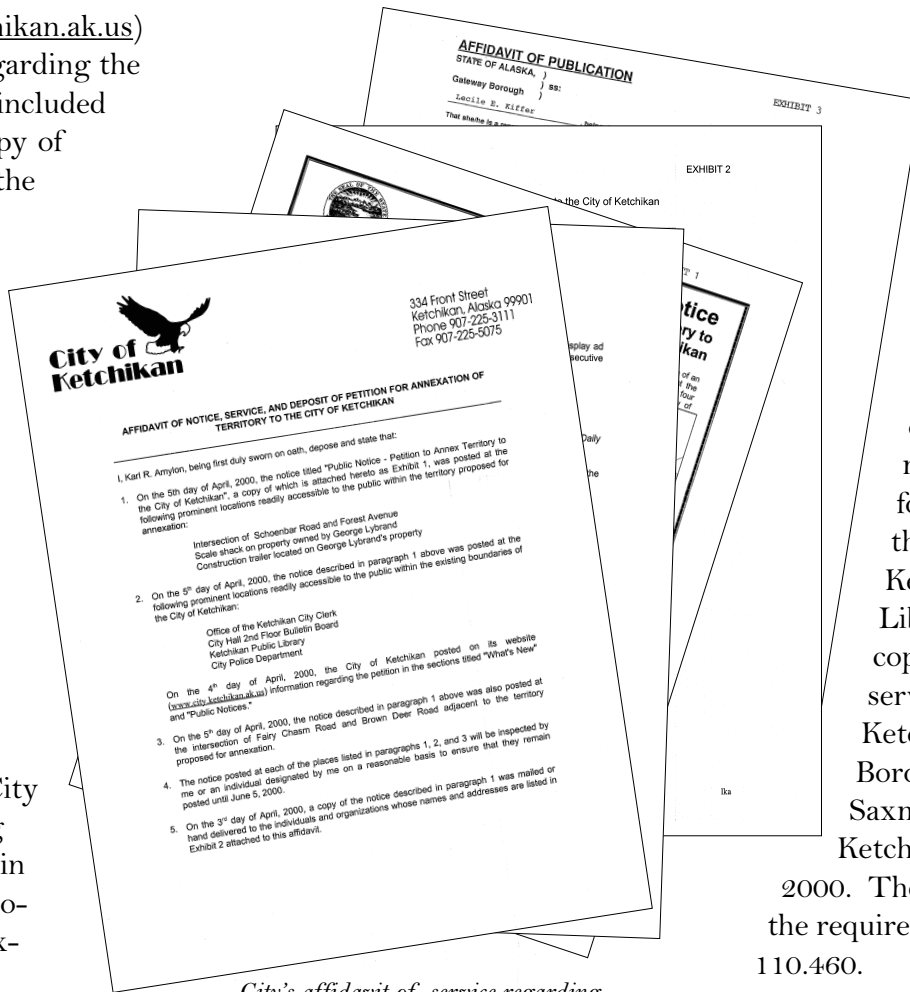
On April 5, 2000, the City also posted a copy of the notice

of filing the Petition at the intersection of Fairy Chasm Road and Brown Deer Road adjacent to the territory proposed for annexation.

- Ketchikan Public Library; and
- City Police Department.

C. Deposit and service of the Petition.

On March 13, 2000, the City of Ketchikan deposited a full set of Petition documents for public review at the Offices of the Ketchikan City Clerk. A second set of Petition documents was deposited for public review on the same day at the Ketchikan Public Library. Further, a copy of the Petition was served on both the Ketchikan Gateway Borough and the City of Saxman by the City of Ketchikan by April 21, 2000. These actions satisfied the requirements of 3 AAC 110.460.



City's affidavit of service regarding public notice of the filing of the petition for annexation.

Further, notice of the filing of the Petition was posted by the City at the following four locations within the existing boundaries of the City of Ketchikan on April 5, 2000:

- Office of the City Clerk;
- City Hall, Second Floor Bulletin Board;

D. Comments and responsive brief filed regarding the Petition.

In accordance with 3 AAC 110.480 and 3 AAC 110.640, the Chairman of the Local Boundary Commission set the deadline for filing responsive briefs and comments in this matter for June 5, 2000. No responsive briefs or comments regarding the matter were received by the deadline.

E. Routine waiver of regulations regarding conduct of hearing and notice of hearing.

The public notice described earlier also indicated that DCED proposed that the LBC suspend the requirements of 3 AAC 110.550(a) for the LBC hearing in or near the territory proposed for annexation. Instead, DCED proposed that the LBC conduct the hearing by teleconference. Further, DCED proposed that requirements of 3 AAC 110.550(b) for notice of the hearing be suspended. Instead, DCED proposed to provide written notice of the hearing to the property owners in question and to anyone who submits written comments or a responsive brief in this matter.

Suspensions of the nature proposed are typical for local action annexations and are allowed by 3 AAC 110.590 and 3 AAC 110.660. They are designed to allow the speedy and inexpensive determination of matters that come before the LBC.

The public notice described earlier stated that any objections to the proposed suspension of regulations must be submitted to LBC staff at the address noted above by June 5, 2000. No objections were received.

The LBC considered DCED's request to suspend the regulations in question at its meeting of June 27, 2000. The Commis-

sion unanimously approved DCED's request to suspend the regulations.

F. Review of preliminary report.

3 AAC 110.530 requires DCED to prepare a preliminary and final report on each annexation proposal. The reports must include recommendations to the Local Boundary Commission for action on the petition.

The law requires further that the preliminary report be provided to the petitioner and any respondents for review and comment. Further, 3 AAC 110.640 requires that at least 28 days be allowed for comment on the preliminary report from the date the report was mailed to the petitioner.

DCED has provided this report to the Local Boundary Commission, City of Ketchikan, the Ketchikan Gateway Borough, George Lybrand, and the Alaska Department of Transportation for review and comment.

Written comments on DCED's preliminary analysis, conclusions, and recommendation are welcome. All timely comments will be included in the formal record of this proceeding and will be considered in the development of DCED's final report on this matter. Comments must be received by August 28, 2000 at the following office:

Local Boundary Commission Staff
Alaska Department of Community
and Economic Development
 550 W. 7th Avenue, Suite 1770
 Anchorage, Alaska 99501
 Fax numbers: 907-269-4539
 e-mail address:
 Dan_Bockhorst@dcled.state.ak.us

G. Final report.

After written comments on the Preliminary Report have been reviewed by DCED, a Final Report will be issued. If comments on DCED's Preliminary Report or other circumstances do not warrant a change in the analysis or recommendation presented in the Preliminary Report, a letter announcing the adoption of the Preliminary Report as the Final Report will be issued to meet the legal requirement for the Final Report.

H. LBC public hearing.

The Local Boundary Commission will conduct a public hearing on the Petition by teleconference. A teleconference site will be established at the Ketchikan City Hall.

Formal notice of the hearing will be provided at least thirty days in advance of the hearing. Guidelines for testimony and public comment at the hearing will be provided in advance of the hearing.

Agenda. A sample hearing agenda is shown below.


The Commission may amend the order of the hearing proceedings and change allotted times, if such will promote efficiency without detracting from the LBC's ability to make an informed decision. The LBC Chairperson will regulate the time and content of testimony to exclude irrelevant or repetitious testimony. A member of the Commission may question persons providing public comment or testimony as a sworn witness. The Commission may also call additional witnesses.

The Petitioner will have the opportunity to provide sworn testimony to the Commission. This allows the petitioner to present witnesses possessing particular expertise or credibility about the specific topics addressed in testimony. It is an opportunity to present relevant facts and analysis and not intended to provide a forum for individuals to make general comments and "swear or affirm" that they sincerely believe what they are stating.

A brief or document may not be filed at the time of the public hearing unless the Commission determines that good cause exists for the failure to present the submission in a timely manner.

In compliance with Title II of the Americans with Disabilities Act of 1990, reasonable auxiliary aids, services, and/or special modifications to accommodate individuals with disabilities will be provided to those requiring such accommodations to participate at the hearing. To secure such arrangements, persons requiring special accommodations must contact LBC staff at 269-4500, or TDD 800 930-4555 at least one week prior to the hearing.

If anyone attending the hearing does not have a fluent understanding of English, the LBC will allow time for translation. Unless other arrangements are made prior the hearing, the individual requiring assistance must arrange for a translator. Upon request, and if local facilities permit, arrangements can be made to connect other sites to the hearing by teleconference.



Members


Kevin Waring
Chairperson
At-Large

Kathleen Wasserman
Vice-Chairperson
First Judicial District

Nancy Galstad
Member
Second Judicial District

Allan Tesche
Member
Third Judicial District

Ardith Lynch
Member
Fourth Judicial District



STATE OF ALASKA
LOCAL BOUNDARY COMMISSION

Sample Agenda

With teleconference sites in Anchorage, Fairbanks,
Kotzebue, Pelican, & Ketchikan.
Other sites may be added.

- I. Call to order
- II. Roll call & determination of quorum
- III. Approval of agenda
- IV. Comments by members of the Local Boundary Commission
- V. Comments by members of the public concerning matters *not* on the agenda
- VI. Public hearing on petition by the City of Ketchikan for annexation of 27.41 acres in Bear Valley
 - A. Report by Staff
 - B. Opening statement by City of Ketchikan
 - C. Sworn testimony presented by the City of Ketchikan
 - D. Comments from the public
 - E. Sworn responsive testimony presented by the City of Ketchikan
 - F. Closing statement by the City of Ketchikan
- VII. Decisional session concerning the Ketchikan annexation proposal (optional)
- VIII. Comments from Commissioners and staff
- IX. Adjourn

Sample Commission Agenda

I. LBC decisional meeting

Depending on the circumstances, the LBC may render a verbal decision immediately upon conclusion of the hearing. During the decisional meeting, no new evidence, testimony or briefing may be submitted. However, the LBC may ask its staff or another person for a point of information or clarification.

After a verbal decision is rendered, the LBC will adopt a written statement explaining all major considerations leading to its decision concerning the City of Ketchikan annexation petition. A copy of the statement will be provided to the petitioner and to others who request a copy. A decision of the LBC becomes final once the written statement of decision is mailed to the petitioner and others who request a copy at the time of the decision.

The provisions of 3 AAC 110.580 relating to reconsideration do not expressly apply to this type of annexation proceeding. Absent a decision by the Commission to impose such provisions under the Commission's discretionary authority set out in 3 AAC 110.590(b), the proposed annexation would become effective upon Commission approval and following receipt of evidence of compliance with the federal Voting Rights Act as provided by 3 AAC 110.630.



The Local Boundary Commission at a recent hearing

SECTION 2 ANALYSIS OF THE ANNEXATION PROPOSAL

The pending proposal for annexation is subject to the satisfaction of particular criteria established in law. These require that:

- A. The territory proposed for annexation exhibits a reasonable need for city government as required by 3 AAC 110.090(a).
- B. The City is capable of providing "essential city services" (as defined by 3 AAC 110.990(8)) more efficiently and more effectively to the territory proposed for annexation than another existing

city or organized borough as required by 3 AAC 110.090(b).

- C. The territory proposed for annexation is compatible in character with the area inside the current boundaries of the City as required by 3 AAC 110.100.
- D. The area within the proposed post-annexation boundaries of the City (i.e., the territory proposed for annexation and the area within the existing boundaries of the City) includes the human and financial resources needed to provide essential city services on an efficient, cost-effective level as required by 3 AAC 110.110.
- E. The population within the proposed post-annexation boundaries of the City is

sufficiently large and stable to support the extension of city government as required by 3 AAC 110.120.

F. The proposed post-annexation boundaries of the City encompass all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level as required by 3 AAC 110.130(a).

G. The proposed post-annexation boundaries of the City include only that area comprising the local community plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation as required by 3 AAC 110.130(c).

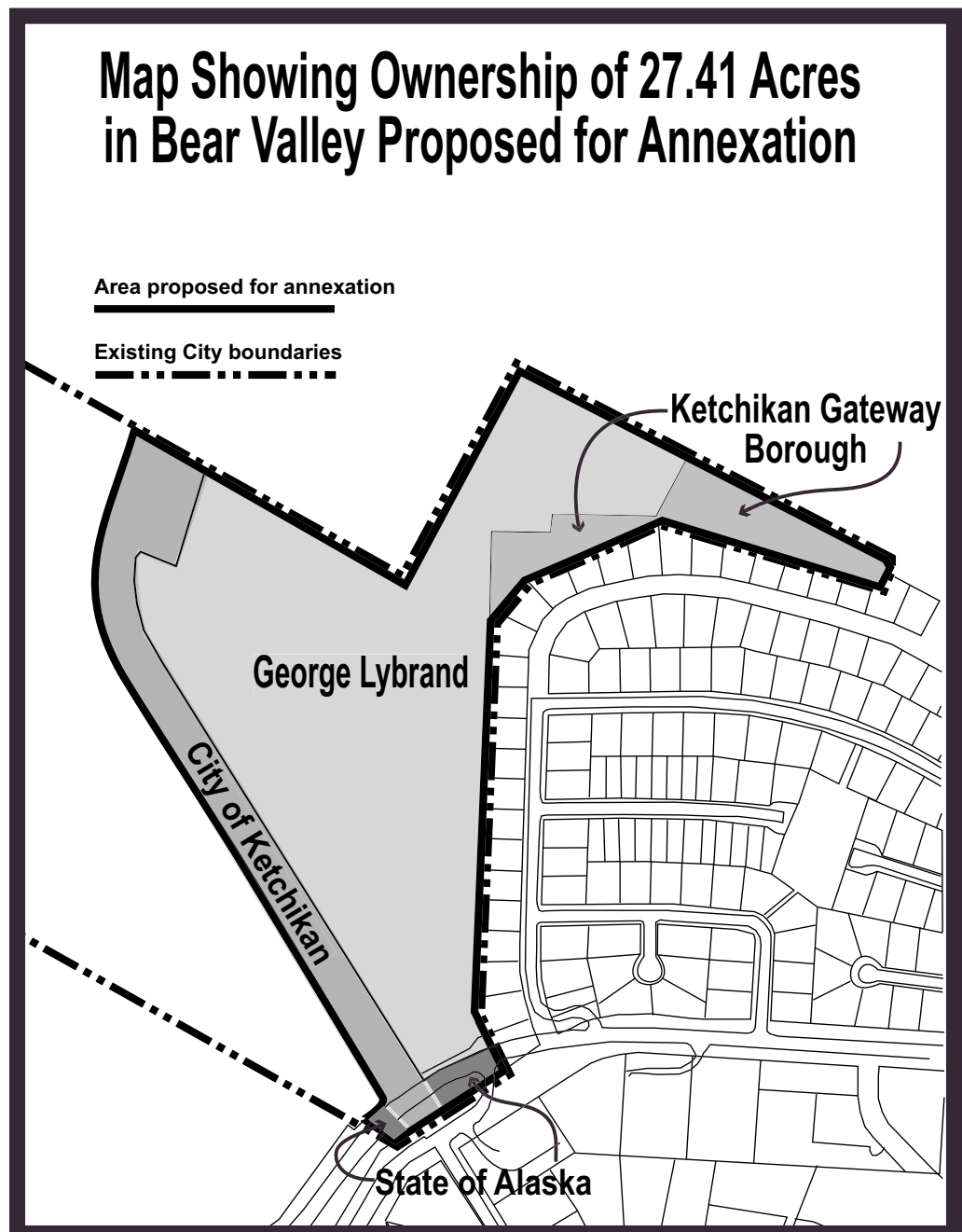
H. As required by 3 AAC 110.130(d), the proposed post-annexation boundaries of the City exclude entire geographical regions or large unpopulated areas, except where justified by the application of the city annexation standards in 3 AAC 110.090 - 3 AAC 110.130.

I. The territory proposed for annexation does not overlap the boundaries of any other City.

Alternatively, the brief also addresses that circumstance as required by 3 AAC 110.130(e).

J. The City has provided an adequate transition plan for the implementation of annexation in accordance with 3 AAC 110.900

K. The proposed annexation to the City will not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin in accordance with 3 AAC 110.910.



- L. All voters and property owners of the territory proposed for annexation signed a petition requesting annexation of their respective properties within the territory.
- M. The territory proposed for annexation is contiguous to the City's present corporate boundaries as presumed by 3 AAC 110.130(b) and as required by 3 AAC 110.150.
- N. The City's annexation proposal is in the best interests of the state.

Based on the evidence in the record of this proceeding, DCED has reached the preliminary findings and conclusions set out below.

A. The 27.41-acre territory proposed for annexation exhibits a reasonable need for city government.

Because of the need for sewer and water utility services, the City of Ketchikan extended such utilities to the twenty-acre portion of the territory owned by George Lybrand. The extension of utilities was carried out under the terms of a November 1998 agreement with Mr. Lybrand (see Petition, Exhibit J-1). Properties owned by the City, Borough, and State of Alaska that

adjoin the Lybrand property were included in the annexation proposal to create logical boundaries.

The need for City public works services (e.g., street maintenance) will result from pending development in the area.

project until 2002. (Personal communication, Jim Lowell, Alaska Department of Transportation and Public Facilities, July 2000).

The Third Avenue extension project is intended to relieve traffic congestion on Tongass



City of Ketchikan fire station

The State of Alaska has contracted for the extension of Third Avenue, which transects the southern portion of the territory proposed for annexation. Work on that project is currently underway. Originally scheduled for completion in September 2001 at a cost of \$12 million, the Third Avenue extension project has encountered some unexpected difficulties. The complications will substantially increase the construction cost and delay completion of the

Avenue. Once completed, the extension is projected to serve 6,900 vehicles daily. The Alaska Department of Transportation and Public Facilities has indicated that the City of Ketchikan has agreed to maintain the Third Avenue extension once it is completed.

In addition to City water service, sewer service, and public works, the territory will need police and fire protection once it develops. The character and zoning of the twenty-acre parcel

owned by George Lybrand readily allow it to be used for commercial purposes or residential development. According to the Petition, the 1.83-acre parcel owned by the Borough in the territory proposed for annexation has been identified as a potential site for a new school.

Officials of the City of Ketchikan indicate that they have no plans for the use of the 5.06-acre City-owned parcel of land within the area proposed for annexation. That parcel was originally purchased by the Borough to be used as a road corridor around the more congested parts of the community. However, the bypass project was abandoned and the property was conveyed to the City. The long, narrow configuration of the City-owned parcel may limit its use to that of a road corridor or for utility access to adjacent properties.

Based on the findings outlined above, DCED concludes that the 27.41-acre territory proposed for annexation exhibits a reasonable need for city government. Therefore, the standard set out in 3 AAC 110.090(a) is fully satisfied.

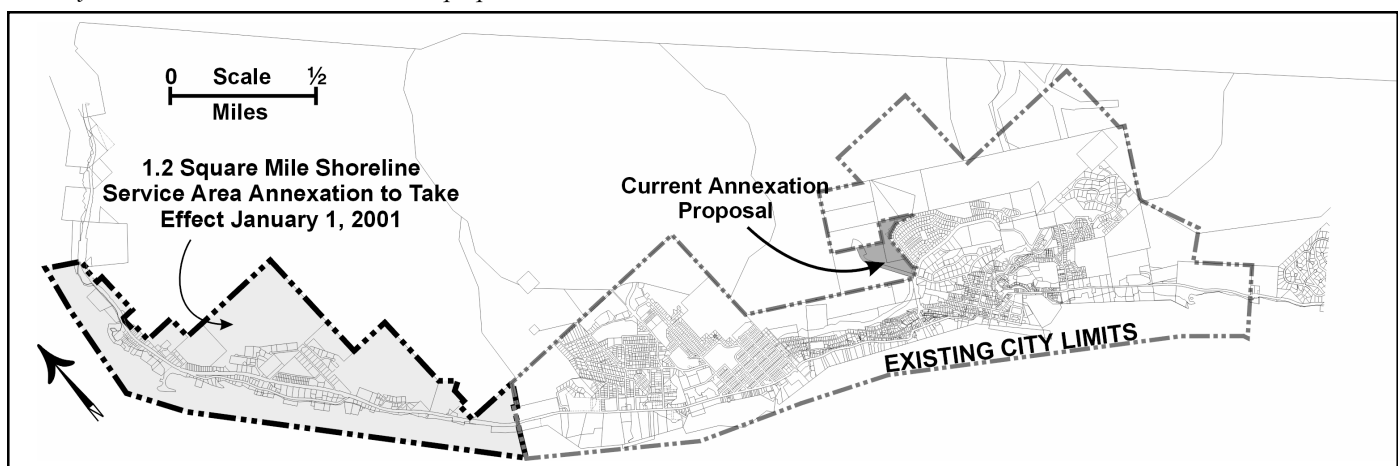
B. The City of Ketchikan is best able to serve the territory's need for essential city government services identified with respect to the previous standard.

DCED considers that water utility service, sewer utility service, public works, police, and fire protection are "essential city services" as defined by 3 AAC 110.990(8). Further, DCED finds that the City of Ketchikan is best able to provide those essential services to the territory. That finding reflects the fact that

the Ketchikan Gateway Borough does not provide any of the essential services referenced earlier to the territory on an areawide, non-areawide, or service area basis. Additionally, as noted, the Alaska Department of Transportation has already reached an agreement with the City that the City will maintain the Third Avenue extension once it is constructed. Further, the Alaska State Troopers do not presently patrol the area.

Based on the foregoing findings, DCED concludes that the City can provide essential city services more efficiently and more effectively to the territory proposed for annexation than any other existing city or any organized borough. Consequently, the standard set out in 3 AAC 110.090(b) is satisfied.

The map below shows the existing city boundaries, the 1.2 square mile Shoreline Service Area annexation that will take effect on January 1, 2001, & the current annexation proposal.



C. The 27.41-acre territory proposed for annexation and the five square mile-area within the approved boundaries of the City are compatible in character.

The present corporate boundaries of the City of Ketchikan encompass approximately 3.8 square miles. In a separate proceeding concluded in March of this year, the Local Boundary Commission and State legislature approved the expansion of the City's boundaries to include an additional 1.2 square miles. That annexation has a deferred effective date of January 1, 2001. Together, those two areas encompass approximately five square miles.

The 27.41 acre territory proposed for annexation would represent a modest increase (0.8 percent) to the five square miles in question. Each of the various parcels comprising the 27.41 acres proposed for annexation is contiguous to the existing corporate boundaries of the City.

Given the relatively small size of the territory proposed for annexation and its proximity to the existing boundaries of the City, DCED concludes that the territory proposed for annexation and the area within the current boundaries of the City are compatible in character.



Ketchikan City Hall

Thus, the standard set out in 3 AAC 110.100 is satisfied.

D. The area within the City's proposed post-annexation boundaries includes the human and financial resources necessary to provide essential services on an efficient, cost-effective level.

At least until the property is developed, annexation per se will result in virtually no demands on the human and financial resources of the City. Water and sewer utilities have already been extended to the territory. Addi-

tionally, the City has agreed to maintain the Third Avenue extension irrespective of annexation.

The territory proposed for annexation is presently uninhabited. The twenty-acre privately-owned portion of the territory is used as a storage area for a construction company owned by George Lybrand.

As was noted with respect to the previous standard, the territory proposed for annexation would represent a modest 0.8 percent increase in the size of the area that will be under the jurisdiction of the City of

Ketchikan at the beginning of next year. In terms of tax base, the character of the territory proposed for annexation exhibits an even more modest relationship to the area within the existing City. The territory carries an assessed value of \$200,000. That figure is 0.04 percent of the \$491,550,200 assessed value of the City. When the \$62,880,600 taxable value of the Shoreline Service Area (1999 figure) is factored in, the relative taxable value of the territory drops to 0.036 percent of the value of the area to be within the City on January 1, 2001.

E. The population within the proposed expanded City boundaries is both large and stable enough to support the extension of City services.

In the recently concluded proceedings for annexation of the Shoreline Service Area, the Local Boundary Commission concluded that this standard had been met. There have been no significant changes in the size or stability of the City's population since then.

extension of city government. As such, the standard set out in 3 AAC 110.120 is met.

F. The proposed boundaries are inclusive of all areas needed to provide essential city services on an efficient, cost-effective level.

The standard at issue concerns whether areas outside the five square miles encompassed by the proposed post-annexation boundaries of the City (including the Shoreline Service Area) are *crucial* to the City's ability to provide essential city services efficiently and cost-effectively.

The Local Boundary Commission concluded on December 16, 1999, with respect to the previously noted Shoreline Service Area annexation that, *"cursory evidence suggests that in addition to Shoreline, other areas outside the City might also meet the standards for annexation to the City. These include the Ward Cove area, Ketchikan International Airport, and other areas. While the City's proposed post-annexation boundaries may not be perfect, the Commission finds the boundaries proposed by the City are logical and reasonable in light of the imminent significant commercial development in the territory."*

Findings made by the Commission in the Shoreline annexation also included a determination that it had not been demonstrated that *"areas outside the five square miles in question are essential*



City of Ketchikan solid waste disposal facility.

Based on the findings set out above, DCED concludes that the economy within the proposed expanded boundaries of the City includes the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. Thus, the standard at 3 AAC 110.110 is met.

As noted previously, the territory proposed for annexation is uninhabited. Because the annexation will impose virtually no demands on the resources of the City, DCED concludes that the population within the proposed post-annexation boundaries of the City is sufficiently large and stable to support the



City of Ketchikan wastewater facility.

to the capacity of the City to operate efficiently and effectively.”

DCED concludes from the findings above that the proposed boundaries of the City include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. This satisfies the standard set out in 3 AAC 110.130(a).

G. The five square miles within the City's proposed post-annexation boundaries do not extend beyond the existing community plus reasonably predictable growth, development, and public safety needs over the next decade.

In its December 16, 1999 decision concerning the Shoreline annexation, the Commission stated:

... cursory evidence suggests that the City's proposed new boundaries may be under-inclusive. However, the Commission finds that conformance, on land, with the Shoreline boundaries is a logical and appropriate approach at this particular time.

The Commission finds further that the same evidence that led to its conclusion that the territory and City are compatible in character (3 AAC 110.100) is supports the satisfaction of this particular standard.

The nature of the current proceeding is a routine local action annexation. That fact, coupled with the 1999 determination by the Commission, leads DCED to conclude that the proposed post-annexation boundaries of the City encompass only that area comprising an existing local community, plus reasonably predictable growth, development, and

public safety needs during the 10 years following the effective date of annexation. Thus, the standard set out in 3 AAC 110.130(c) is satisfied.

H. The proposed post-annexation boundaries of the City do not include entire geographical regions or large unpopulated areas.

As noted previously, the territory proposed for annexation comprises 27.41 acres. The January 1, 2001 boundaries of the City will encompass approximately 5 square miles.

The Commission observed with regard to the Shoreline Service Area annexation, that the City's proposed new boundaries would encompass an area that is 82% smaller than the average jurisdictional territory of all 145 city governments in Alaska. Further, the City's expanded boundaries would encompass an area that is 93% smaller than the average of the other ten most populous cities in Alaska.

DCED concludes from the findings that the territory proposed for annexation does not include entire geographical regions or large unpopulated areas. This satisfies the standard established at 3 AAC 110.130(d).

I. The territory does not overlap the boundaries of any other city.

The 27.41 acres proposed for annexation are wholly within the Ketchikan Gateway Borough and lie outside any incorporated city government. Thus, the standard set out in 3 AAC 110.130(e) is satisfied.

J. The City has provided an adequate transition plan.

The City's annexation petition includes a two-page transition plan that outlines its proposal for the assumption of appropriate powers, duties, rights, functions, assets, and liabilities relating to annexation. The small size of the territory proposed for annexation coupled with its uninhabited and undeveloped nature will make for an uncomplicated transition.

It appears that the City at least implicitly conferred with the Borough in terms of the annexation proposal. The Petition was filed with support from the Borough, a copy of the Petition was served on the Borough, and the Borough has not objected to the proposal.

DCED concludes that the City has provided an adequate transition plan that meets the requirements of 3 AAC 110.900.

K. Annexation will not deny civil or political rights to anyone because of race, color, creed, sex, or national origin.

DCED found no evidence in the record that would support a conclusion that annexation will breach civil or political rights in a discriminatory manner. DCED

concludes, therefore, that annexation will not infringe on the enjoyment of any civil or political rights because of race, color, creed, sex, or national origin. Thus, the standard established by 3 AAC 110.910 is met.

L. The 27.41 acres proposed for annexation are contiguous to the existing boundaries of the City.

The map on page 6 clearly indicates that the territory proposed for annexation adjoins the boundaries of the City. In fact, as noted previously, each of the various individual parcels making up the 27.41 acres is contiguous to the current boundaries of the City. DCED finds from this evidence, and concludes from that finding, that the territory and the City are contiguous. As such, the standards established in 3 AAC 110.130(b) and 3 AAC 110.150 are met.

M. All voters residing in the territory and all owners of property in the territory have petitioned the City for annexation.

The Petition includes evidence that each of the four individuals and organizations that owns property in the territory proposed for annexation have petitioned for annexation of their respective properties. No one lives in the territory. Thus, the requirements of AS 29.06.040(c)(3) that "all property



Bar Harbor within the existing boundaries of the City of Ketchikan.

owners and voters in the area petition the governing body" for annexation is satisfied. Virtually identical provisions in 3 AAC 110.150 are also satisfied.

N. The City's annexation proposal is in the best interests of the state.

AS 29.06.040 requires that in order for the Local Boundary Commission to approve an annexation, it must determine that the annexation "*is in the best interests of the state.*"

The pending matter is a routine local action annexation proposal. It carries the endorsement of the two local governments serving the community. It is also endorsed by all property owners in the territory proposed for annexation. No one has objected to the proposal during the opportunity allowed for public comment on the matter. In sum, the record indicates that the pending annexation proposal is devoid of any public policy concerns.

Alaska's Constitution ensures that the boundaries of municipal governments in Alaska will be flexible to accommodate growth and development. *See Article X, Section 12 of the Constitution of the State of Alaska.* The boundary change in question is being undertaken for that very reason.

Alaska's Constitution also promotes strong local governments. *See Article X, Section 1 of*



Moran Float within the current boundaries of the City of Ketchikan.

the Constitution of the State of Alaska. In that the pending proposal is endorsed by both affected local governments, it is reasonable to assume that the annexation proposal is in the best interest of each.

DCED concludes from the findings noted above that the annexation proposal serves the constitutional principles set out in Article X, §§ 1 and 12, albeit in a minimal fashion. In the absence of overriding considerations to the contrary, such is sufficient to permit the Local Boundary Commission to determine that the pending annexation proposal serves the best interests of the state. Thus, the requirement set out in AS 29.06.040 is satisfied.

SECTION 3 RECOMMENDATION TO THE LOCAL BOUNDARY COMMISSION

Based on the findings and conclusions set out in Section II of this preliminary report, DCED takes the position that all of the relevant standards and requirements for annexation are satisfied in this instance. Accordingly, DCED hereby recommends that the Local Boundary Commission approve the Petition of the City of Ketchikan for annexation of the 27.41 acres in question.

APPENDIX

A. Local Boundary Commission

The Local Boundary Commission (LBC or Commission) must review City annexation petitions. The LBC is a State board with jurisdiction throughout Alaska. In addition to petitions for city annexation, the LBC acts on petitions for the following:

- annexation to boroughs;
- incorporation of cities and boroughs;
- detachment from cities and boroughs;
- merger of cities and boroughs;
- consolidation of cities and boroughs;
- dissolution of cities and boroughs; and
- reclassification of cities.

The LBC consists of five members appointed by the Governor for overlapping five-year terms. Members are appointed, *"on the basis of interest in public affairs, good judgment, knowledge*

and ability in the field . . . and with a view to providing diversity of interest and points of view in the membership." Members serve at the pleasure of the Governor. The Chairperson is appointed from the state at-large and one member is appointed from each of Alaska's four judicial districts. Members serve without compensation.

Background about current members of the Commission follows.

Kevin Waring, a resident of



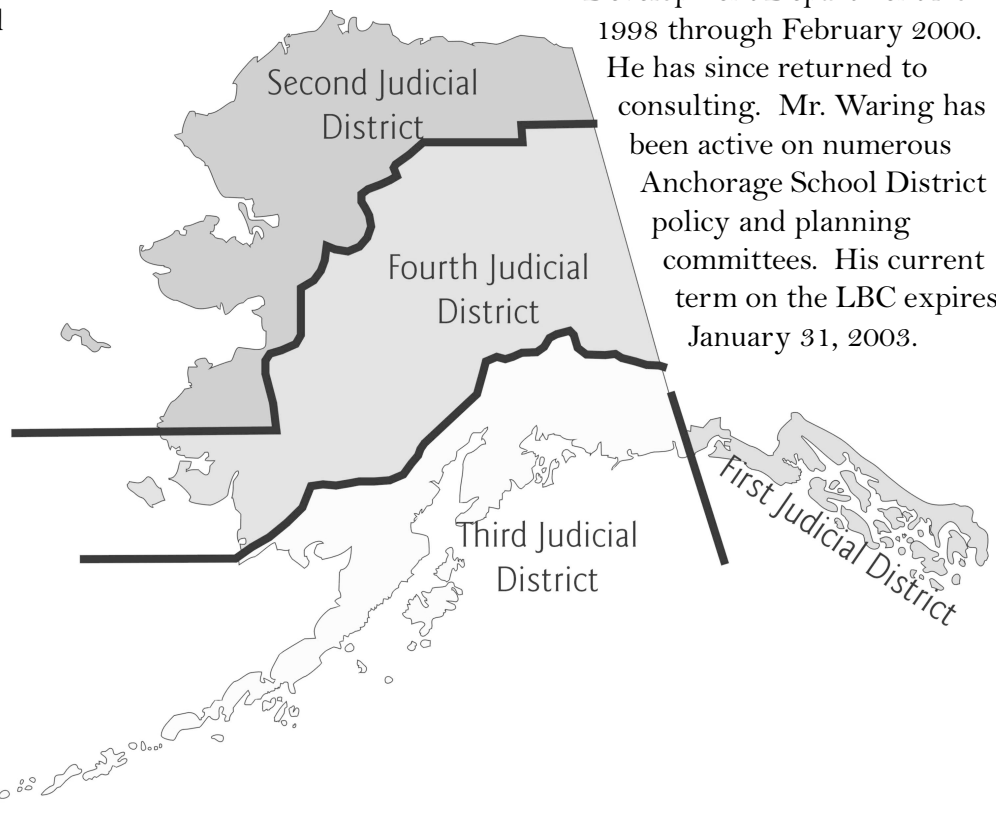
Anchorage, has served on the Commission since July 15, 1996.

He was

appointed as Chairperson on July 10, 1997. He was reappointed to a new term as Chairperson effective January 31, 1998.

Commissioner Waring was one of the former Department of Community and Regional Affairs' original division directors (1973-1978). Between 1980 and the spring of 1998, he operated a planning/economics consulting firm in Anchorage. Commissioner Waring served as manager of physical planning for the Municipality of Anchorage Community Planning and Development Department from 1998 through February 2000.

He has since returned to consulting. Mr. Waring has been active on numerous Anchorage School District policy and planning committees. His current term on the LBC expires January 31, 2003.



Kathleen Wasserman, a resident of Pelican, is the Vice-Chairperson of the Commission. She serves from



Alaska's First Judicial District. She was first appointed to the Commission for an unexpired term on September 14, 1995. She was reappointed to a new term beginning January 31, 1996. Commissioner Wasserman currently serves as Mayor of the City of Pelican. She is also a member of the Board of Directors of the Alaska Municipal League. In the past, Commissioner Wasserman has served as a member of the Assembly of the City and Borough of Sitka and as Mayor of the City of Kasaan. Additionally, she has served as President of the Southeast Island Regional Educational Attendance Area School Board. Commissioner Wasserman is self-employed. Her present term on the Commission expires January 31, 2001.

Nancy E. Galstad serves from the Second Judicial District. She was appointed to the LBC on September 14, 1995 and reappointed to a new term effective January 31, 1999. Formerly Special Assistant to the Commissioner of the



Alaska Department of Labor, Ms. Galstad now serves as the Manager of the City of Kotzebue. She is currently Second Vice-President of the Alaska Municipal Managers' Association. Ms. Galstad was a member of the Alaska Safety Advisory Council for eight years and currently serves as Vice-Chair of the Alaska Municipal League Joint Insurance Association. She also served as a member of the State's Task Force on Education Funding in 1995. Ms. Galstad's current term on the LBC expires January 31, 2004.

Allan Tesche serves from the Third Judicial District and is a resident of Anchorage. He was appointed



to the LBC on July 10, 1997. A 25-year resident of Anchorage, he was first employed with the legal department of the former Greater Anchorage Area Borough. After unification of local governments in Anchorage, he served as Deputy Municipal Attorney. Before entering private practice in 1985, Mr. Tesche also served as Director of Property and Facility Management for Anchorage and as Borough Attorney for the Matanuska-Susitna Borough. He is presently a partner in a private firm where he specializes in administrative and municipal law. Mr. Tesche has served in leader-

ship positions on twelve boards and commissions, ranging from the Anchorage Museum Association, the South Addition Community Council, and the Anchorage Police and Fire Retirement Board. He currently serves as a member of the Assembly of the Municipality of Anchorage. Mr. Tesche's term on the Commission expires January 31, 2002.

Ardith Lynch serves from the Fourth Judicial District and lives in the greater Fairbanks area. She



was appointed to the LBC on December 21, 1999. Ms. Lynch is the Borough Attorney for the Fairbanks North Star Borough. She has also worked for the State of Alaska as an Assistant Attorney General and as Deputy Director of the Child Support Enforcement Division. Ms. Lynch has served on the Board of Governors of the Alaska Bar Association and is a past president of the Alaska Municipal Attorneys' Association. Her term on the Commission expires December 21, 2004.

B. Communications with the Local Boundary Commission

The LBC is a quasi-judicial board. To preserve the rights of the petitioner, respondents and others to due process and equal protection, 3 AAC 110.500

prohibits private (ex parte) contact with the LBC on all matters pending before it. The law prohibits communication between the LBC and any party, other than its staff, except during a public meeting called to address the proposal. This limitation takes effect upon the filing of a petition and remains effective through the last date available for the Commission to

reconsider a decision under 3 AAC 110.580. Written communications to the Commission must be submitted through its staff.

C. Staff to the Commission

The Department of Community & Economic Development (DCED) provides staff to the LBC. The LBC's staff is re-

quired by law to evaluate petitions filed with the LBC and to issue reports and recommendations concerning such. The LBC and DCED are independent concerning policy matters. Therefore, DCED's recommendation in this or any other matter is not binding upon the LBC.

