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## State of Alaska Local Boundary Commission

# Statement of Decision

**IN THE MATTER OF THE APRIL 25, 2002  
PETITION BY THE CITY OF PALMER  
FOR ANNEXATION OF  
APPROXIMATELY 921.34 ACRES**

### SECTION I SUMMARY OF PROCEEDINGS

As allowed by Article X, § 12 of the Constitution of the State of Alaska, AS 44.33.812(a)(3), and 3 AAC 110.410, the City of Palmer (hereinafter “City”<sup>1</sup> or “Petitioner”) formally initiated efforts on April 25, 2002 to expand its boundaries to encompass an additional estimated 921.34 acres. The City did so by submitting a petition (hereinafter “Petition”) to the Local Boundary Commission (LBC) for “legislative review annexation” under Article X, §12 of the Constitution of the State of Alaska, AS 29.06.040(b), and AS 44.33.812(b)(2).

The Petition was accepted for filing by the Alaska Department of Community and Economic Development (hereinafter “DCED”) on April 30, 2002. DCED serves as staff to the Commission under AS 44.33.020(4).

Public notice of the filing of the Petition was given under 3 AAC 110.450. Notice of filing of the Petition was published by the Petitioner in the *Frontiersman*, a newspaper of general circulation in the territory, on May 3, 2002, May 10, 2002, and May 21, 2002.

DCED arranged for publication of the notice of filing of the Petition on the State of Alaska’s Internet Website, *Online Public Notices*.<sup>2</sup> The notice was also published on the LBC Internet Website maintained by DCED.

As required by 3 AAC 110.450(a)(2), on May 2, 2002, notice of the filing of the Petition was posted at prominent locations readily accessible to the public within the area proposed for annexation. Posting occurred at the following locations:

- on the south side of the Old Glenn Highway, approximately 400 feet east of the Airport Road intersection;
- at the intersection of North Glenn Avenue and the Glenn Highway;
- on the north side of Moore Road approximately 400 feet west of the Glenn Highway/Moore Road intersection.

On April 25, 2002 the City of Palmer conducted a duly-noticed public informational meeting, as required by 3 AAC 110.425(a).

At the informational meeting, oral comments regarding the proposed annexation were provided by the eleven individuals.

<sup>1</sup> In its lower case form, the word “city” refers to city governments in general.

<sup>2</sup> <http://notes.state.ak.us/pn/pubnotic.nsf>

On May 2, 2002, notice of the filing of the Petition was also posted within the existing boundaries of the City at Palmer City Hall, the Carrs Quality Center at the Palmer Shopping Center, the Public Palmer Library, and the Matanuska-Susitna Borough Headquarters building.

On May 10, 2002, notice of the Petition filing was mailed to 126 individuals and organizations.

Under 3 AAC 110.460(b), the Petition, including all exhibits, was made available for public review. The City designated the Palmer City Hall and Palmer Public Library as locations where Petition materials were to be made available to the public.

June 28, 2002 was set by the Commission Chairman as the deadline for filing responsive briefs and written comments in support of or in opposition to the annexation proposal.

On April 25, 2002 the City of Palmer conducted a duly noticed public informational meeting, as required by 3 AAC 110.425(a).

At the informational meeting, oral comments regarding the proposed annexation were provided by the following eleven individuals.

Name	Synopsis of Views
Pete and Linda Yannikos	Opposed to annexation
Donna Karsten	Opposed to annexation
Anton Meyer	Supporting annexation
Dan Hanrahan	Opposed to annexation
Raine and Rick Runyan	Opposed to annexation
Juanita Loyer	Opposed to annexation
Natalie Larson	Opposed to annexation

Three responsive briefs opposing annexation were filed with DCED by the June 28, 2002 deadline.<sup>3</sup> The respondents were Ray T. Briggs, John Nystrom<sup>4</sup> and Daniel Hanrahan.

In addition to the three responsive briefs, a total of 18 timely letters concerning the proposed annexation were received by DCED. Most of the letters expressed opposition to the proposed annexation, one letter expressed support for the proposed change, and one expressed non-objection.

Correspondent(s)	Date Received	Position Regarding Annexation Petition
1. James and Carol Ward	Received June 14, 2002	opposed
2. John and Gloria Brawford,	Received June 14, 2002	opposed
3. M. Dewey	Received June 21, 2002	opposed
4. John Nolin (2 letters)	Received June 10 & 21, 2002	opposed
5. Clarence E. Furbush,	Received June 28, 2002	opposed
6. Milton Gilmore	Received June 28 ,2002	supports
7. John and Cathy Glaser	Received June 28, 2002	opposed
8. Dan Hanrahan	Received June 28, 2002	opposed
9. Mary P. Cullison	Received June 28, 2002	opposed
10. Charles Blankenship	Received June 28, 2002	opposed
11. R.A. and LaRaine Runyon	Received June 28, 2002	opposed
12. John W. Kinter (2 letters)	Received June 28, 2002	opposed
13. Juanita Loyer	Received June 28, 2002	opposed
14. Daniel and Christine Schorr	Received June 28, 2002	opposed
15. June Bridges	Received June 28, 2002	opposed
16. Robert Meyer	Received June 28, 2002	opposed
17. Donna J. Karsten	Received June 28, 2002	opposed
18. Sandra Garley for Matanuska-Susitna Borough	Received June 28, 2002	no-objection

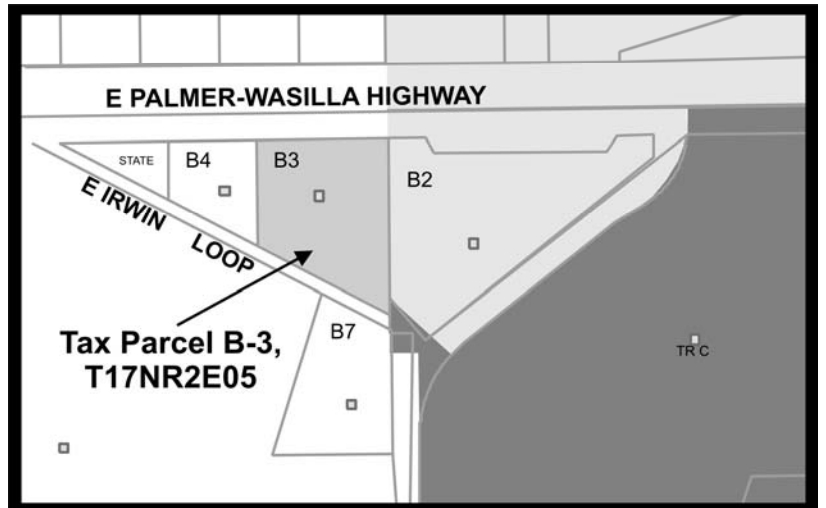
<sup>3</sup> 3 AAC 110.480(a) provides that “Any interested person or entity may file with the department a responsive brief.”

<sup>4</sup> Attached informal petition signed by eleven individuals: John Nystrom, Fotula M. Studie, Linda Yannikos, Pete Yannikos, Larry A. Zenor, David Stanton, Arlene J. Fox, Troy Huls, Lawrence Vansanoja, Lisa M. Johnson, John Edwin Johnson.

On July 18, 2002, the City of Palmer filed a ten-page Reply Brief.

In August, Rolf Dagg, owner of an uninhabited 1.5-acre parcel adjacent to the East Palmer Highway, requested annexation of that parcel to the City. The parcel is designated MSB tax parcel B-3, T17NR2E05.

Both the Matanuska-Susitna Borough and the City of Palmer expressed no objection to the annexation of the referenced parcel to the City of Palmer. Notice of Mr. Dagg's request was published three times in the *Frontiersman*, posted at the parcel and mailed to the Matanuska-Susitna Borough, the City of Palmer and owners of lots located adjacent to Mr. Dagg's parcel.



The deadline for public comment regarding the proposed addition of Mr. Dagg's parcel to the 921.34 acres sought for annexation to the City was November 15, 2002. No parties expressed objection to the request and the Matanuska-Susitna Borough expressed support for the proposed annexation of the subject parcel.

The Commission scheduled a public hearing on the Palmer annexation proposal on December 9, 2002. DCED arranged for notice of the hearing to be published in the *Frontiersman* on November 8, November 15, and November 22. In addition, DCED arranged for public notice of the hearing to be provided on the State of Alaska *Online Public Notice* system.

On November 8, 2002, DCED issued its *Final Report Regarding the City of Palmer's Proposal for Annexation of an Estimated 921.34 acres* (hereinafter "Final Report"). Timely comments regarding DCED's Preliminary Report were synopsized in DCED's Final Report. The Final Report recommended annexation of approximately 922.84 acres.

On December 9, 2002, members of the Commission inspected the territory proposed for annexation by automobile. The Commission convened its public hearing on the City's annexation proposal on December 9, 2002 at the Palmer City Hall at 7:03 p.m.

Neither the Respondents nor the City of Palmer called witnesses to provide sworn responsive testimony.

Public comment was received from the following individuals:

- |                     |                     |                      |
|---------------------|---------------------|----------------------|
| 1. John Nolin       | 6. Clarence Furbush | 11. Ron Elmore       |
| 2. Glen Jacob       | 7. Rolf Dagg        | 12. Nina Almandinger |
| 3. Fred Almandinger | 8. Janet Jacob      | 13. John Combs       |
| 4. Linda Yannikos   | 9. Tony Pippel      |                      |
| 5. John Nystrom     | 10. Larry Vasanoja  |                      |

The hearing concluded at approximately 9:45 p.m. Following the hearing the Commission convened a decisional session lasting approximately 90 minutes. Guided by the fourteen city annexation standards set out in State law, the Commission determined during the decisional session that it would be appropriate to reduce the size of the area proposed for annexation at this time from 922.84 acres to an area estimated to comprise 861.44 acres.

Section II of this Statement of Decision sets out the basis for the Commission's action. A legal description and a map of the territory approved for annexation are included in Section III of this Statement of Decision.

## SECTION II FINDINGS AND CONCLUSIONS

Based on the voluminous evidence<sup>5</sup> in this proceeding, which the Commission finds to be suitably complete to render a well-informed decision, the Commission reached the following findings and conclusions:

**A. Compatibility of the Character of the Territory Proposed for Annexation and the Area within the Existing Boundaries of the City.** The compatible territory standard is in 3 AAC 110.100.<sup>6</sup>

Generally, properties closer to the existing northern and southern boundaries of the City of Palmer (Mountain Rose Estates, Palmer West Subdivision and the Riverside Subdivision) are divided into smaller parcels and are developed to a greater extent. The predominant land use in the territory is residential development. Commercial enterprises in the area proposed for annexation are estimated by the City of Palmer to be “negligible”.

Population density within the territory proposed for annexation is 225 persons per square mile, as compared to 1,192 persons per square mile within the City of Palmer.

The existing per capita value of taxable real property in the territory proposed for annexation is estimated to be \$30,095. The comparable figure for the area within the City of Palmer is \$43,289.

Current property taxes in the territory proposed for annexation are 0.55 mills higher than property taxes levied within the City of Palmer. A 3% sales tax is levied within the City of Palmer, however the sales tax levy only applies to the first \$500 of transaction value.

Notwithstanding the diversity of the territory and its limited distinctions compared to the City of Palmer, That the area proposed for annexation is compatible in character with the City of Palmer. Some of the properties proposed for annexation are devoted to agricultural purposes and are not presently developed for residential purposes. Still, all of the territory is unmistakably part of the greater community of Palmer.

Based on the findings presented in this section of the Preliminary Report, the Commission concluded that the Petition for annexation of territory to the City of Palmer satisfies the compatible character standard set out in 3 AAC 110.100.

**B. Proposed New Boundaries of the City of Palmer in Relation to Boundaries of other Existing Local Governments.** The standard at issue is in 3 AAC 110.130(e).<sup>7</sup>

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<sup>5</sup> The evidence includes the Petition, Responsive Briefs of the three respondents, written comments on the Petition from 18 correspondents, Reply Brief, Preliminary Report, written comments on the Preliminary Report, Final Report, observations made by the Commission during its December 9, 2002 automobile tour of the territory petitioned for annexation and the area within the City of Palmer, and comments made at the public hearing concerning this matter conducted by the Commission on December 9, 2002.

<sup>6</sup> 3 AAC 110.100 provides as follows:

**3 AAC 110.100.** Character

The territory must be compatible in character with the annexing city. In this regard, the commission may consider relevant factors, including the

- (1) land use and subdivision platting;
- (2) salability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes; and
- (5) suitability of the territory for reasonably anticipated community purposes.

<sup>7</sup> 3 AAC 110.130(e) provides as follows:

If a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough, or detachment of the enlarged city

The Commission found that the record of the proceedings demonstrates that:

- The proposed expanded jurisdictional area of the City of Palmer lies entirely within the corporate limits of the Matanuska-Susitna Borough.
- Although the proposed expanded boundaries of the City of Palmer adjoin the corporate limits of the Matanuska-Susitna Borough they do not overlap the jurisdictional area of any existing city government.

**Conclusion.** The City of Palmer annexation proposal clearly satisfies the overlapping boundary standard set out in 3 AAC 110.130(e).

**C. Contiguity of the Territory with the City of Palmer.** 3 AAC 110.130(b) requires that territory proposed for annexation must be contiguous to the annexing city and that annexation would not create jurisdictional enclaves.<sup>8</sup> The Commission found that the territory proposed for annexation to the City of Palmer is contiguous to the area within the existing boundaries of the City and would eliminate existing enclaves.

**Conclusion.** The City of Palmer annexation proposal clearly satisfies the contiguity standard set out in 3 AAC 110.130(b).

**D. Effects of Annexation on Civil and Political Rights.** The civil and political rights standards are in 3 AAC 110.910, 42 U.S.C. § 1973, and 28 C.F.R. PART 51.1.<sup>9</sup>

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from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.

<sup>8</sup> (b) Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create enclaves in the annexing city, does not include all land and water necessary to allow for the full development of essential city services on an efficient, cost-effective level.

<sup>9</sup> 3 AAC 110.910 provides that:

A petition will not be approved by the commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

42 U.S.C., § 1973 provides that:

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 1973b(f)(2) of this title, as provided in subsection (b) of this section.

(b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

28 C.F.R. PART 51.1 provides that:

(a) Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, prohibits the enforcement in any jurisdiction covered by Section 4(b) of the Act, 42 U.S.C. 1973b(b), of any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on the date used to determine coverage, until either:

(1) A declaratory judgment is obtained from the U.S. District Court for the District of Columbia that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, or

(2) It has been submitted to the Attorney General and the Attorney General has interposed no objection within a 60-day period following submission. Additionally, State law provides with respect to annexation that, “A petition will not be approved by the commission if the effect of the proposed change denies any person the

Black’s Law Dictionary defines “civil rights,” “political rights,” and “creed” as follows:

Civil rights are such as belong to every citizen of the state or country, or, in a wider sense, to all of its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, protection by the laws, freedom of contract, trial by jury, etc. Or, as otherwise defined, civil rights are rights appertaining to a person in virtue of his citizenship in a state or community. Rights capable of being enforced or redressed in a civil action. Also a term applied to certain rights secured to citizens of the United States by the thirteenth and fourteenth amendments to the constitution, and by various acts of congress made in pursuance thereof.

Political rights consist in the power to participate, directly or indirectly, in the establishment or administration of government, such as the right of citizenship, that of suffrage, the right to hold public office, and the right to petition.

The word “creed” has been defined as “confession or articles of faith,” “formal declaration of religious belief,” “any formula or confession of religious faith,” and “a system of religious belief.”

The Commission noted further that the Alaska Supreme Court has ruled that the legislative review process for annexation does not infringe or deprive rights protected by the Fourteenth Amendment of the U.S. Constitution.<sup>10</sup> *Fairview Public Utility District Number One v. City of Anchorage*, 368 P.2d 540, 545 (Alaska 1962)

Although annexation would clearly affect the political rights of citizens of the area proposed for annexation, there is no evidence whatsoever that the effects are “because of race, color, creed, sex, or national origin.” Moreover, there is no indication in this proceeding that annexation would result in the imposition or application of voting qualifications, voting prerequisites, or standards, practices, or procedures to deny or abridge the right to vote on account of race or color or because a person is a member of a language minority group.

**Conclusion.** Based on the foregoing, the Commission concludes that the City of Palmer’s annexation proposal satisfies the standards set out in 3 AAC 110.910 and 42 U.S.C. Section 1973.

**E. Inclusion of Geographical Regions and Large Unpopulated Areas.** The relevant standard is found in 3 AAC 110.130(d).<sup>11</sup> The standard set out in 3 AAC 110.040(c) is aimed at prohibiting the annexation of a vast (borough-like) region to a city government. The standard does not preclude city governments from annexing territory that is only partially inhabited. Neither does 3 AAC 110.040(c) preclude the annexation of territory encompassing undivided parcels of land.<sup>12</sup>

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enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.”

<sup>10</sup> § 1, Amendment XIV of the US Constitution provides as follows:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

<sup>11</sup> 3 AAC 110.130(d) states as follows:

The proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.130.

<sup>12</sup> 3 AAC 110.040(c) provides “The boundaries of the proposed city may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.005 - 3 AAC 110.042.”

In comparison to other existing city governments in Alaska, the City of Palmer's existing and proposed boundaries are extremely constrained. Although the City of Palmer's population is the eighth largest among all Alaska cities, its boundaries are more compact than the norm. The average size of the jurisdictional area of the 57 cities in Alaska with populations exceeding 500 is about 42 square miles. The proposed annexation, if approved, would expand the City of Palmer's current 3.8 square mile jurisdiction to about 5.2 square miles. In terms of the City's post-annexation population, its rankings with respect to the proposed size of the City are certainly not unbalanced.

**Conclusion.** Given the foregoing circumstances, the Commission concludes that the City of Palmer annexation proposal satisfies the standard set out in 3 AAC 110.130(d) prohibiting the annexation of entire geographical regions and large unpopulated areas.

**F. Size and Stability of Population.** The population size and stability standard is in 3 AAC 110.120.<sup>13</sup> The U.S. Census Bureau reports that 4,533 residents inhabited the City of Palmer at the time of the 2000 census. The Commission accepts the Petitioner's estimate that the territory proposed for annexation was inhabited by 325 residents in 2002.

Among the 146 Cities in Alaska, the City of Palmer ranks eighth in terms of population. Palmer is in the 95th percentile for that measure among Alaska's 146 city governments. If the City of Palmer's annexation proposal is approved as proposed, the City of Palmer would become the seventh-most populous city government in Alaska. There are seven home rule cities in organized boroughs. The populations of the seven home rule cities ranges from 1,570 to 30,224. The mean population of the seven home rule cities in organized boroughs is 8,622 and their median population is 6,334.

The Commission finds from the preceding discussion that the population of the proposed expanded boundaries of the City of Palmer is consistent with annexation.

**Duration of Residency.** Specific data concerning the duration of residency within the territory proposed for annexation are not available. However, some broad indications of the duration of residency for those areas are provided by examining the percentage of population within households versus group quarters. Other indications of the duration of residency are offered by a review of the number of owner-occupied homes versus renter-occupied homes. The 2000 census recorded 1,472 occupied housing units within the City of Palmer. Of these, 949 (64.4%) were owner occupied.<sup>14</sup> This figure is consistent with the State as a whole, since about 34 percent of Alaskans live in rental housing.

Data from the 2000 census indicates that the City of Palmer has 391 persons living in group quarters. Of these, 192 were institutionalized in facilities such as correctional institutions (86) and nursing homes (66). The remainder (199) of Palmer residents living in group quarters were not institutionalized.

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<sup>13</sup> 3 AAC 110.120 provides as follows:

The population within the proposed boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission will, in its discretion, consider relevant factors, including:

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

<sup>14</sup> Source: U.S. Census Bureau, 2000 Census of Population & Housing, Summary File 1, July 2001

The percentage of residents in households and the percentage of owner-occupied housing suggest that the population both in the City of Palmer and the territory proposed for annexation is well established.

**Historical Population Patterns.** Census data show that the City of Palmer's population increased by 87% rate during the 1970s. During the 1980s, the rate of Palmer population growth moderated considerably, growing only 34% for that decade. Between 1990 and 2000, City of Palmer population growth again accelerated, reflecting a 58% increase over the decade.

**Conclusion.** The population within the proposed expanded boundaries of the City of Palmer is sufficiently large and stable to support the extension of city government. Thus, the City of Palmer's annexation proposal satisfies the standard set out in 3 AAC 110.120.

**G. Human and Financial Resources.** The standard is found in 3 AAC 110.110.<sup>15</sup>

**Reasonably Anticipated City Functions in the Territory.** Section 17 of the City of Palmer's Petition states that the City plans to provide the following services to the territory upon annexation:

- Palmer Police
- Public Safety Dispatch Service
- Fire and Rescue
- Water and Sewer services
- Garbage Collection services
- Land use planning and zoning services
- Building Inspection services
- Library services
- Road maintenance
- Airport services
- Golf Course

#### **Utilities**

The Petition states "The extension of water and/or sewer mains to annexed areas will depend on demand for those services, as well as funding. The City will use a combination of state grants, City of Palmer utility funds and special assessments to pay for water and sewer main extensions. The City will also evaluate the delivery of solid waste collection service in the areas proposed for annexation." (at 14)

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<sup>15</sup> 3 AAC 110.110. Resources provides as follows: The economy within the proposed boundaries of the city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city that would result from annexation;
- (3) actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
- (4) feasibility and plausibility of those aspects of the city's anticipated operating and capital budgets that would be affected by the annexation through the third full fiscal year of operation after annexation;
- (5) economic base of the city after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled persons to serve the city as a result of annexation.

**City services not to be extended to the annexed area.** The Petition states that “If and when water and sewer services are needed or demanded in the territories to be annexed that are not slated for service within the next three years, the City will evaluate the delivery of those services.” (at 14)

The Commission finds the list above to reflect the reasonably anticipated functions of the City of Palmer in the territory proposed for annexation.

**Reasonably Anticipated New Expenses of the City.** The City of Palmer projects that annexation will result in the following additional operating and capital expenses to the City.

<u>General Fund</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Administration <sup>16</sup>	\$0	\$0	\$0
Police <sup>17</sup>	500	500	500
Public Works <sup>18</sup>	20,000	20,000	20,000
<b>TOTALS</b>	<b>\$20,500</b>	<b>\$20,500</b>	<b>\$20,500</b>
<u>Enterprise Funds</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Water Utility	\$1,500	\$2,500	\$ 4,000
Wastewater Utility	2,000	2,500	3,000
Solid Waste Collection	3,000	4,000	5,000
<b>TOTALS</b>	<b>\$6,500</b>	<b>\$9,000</b>	<b>\$12,000</b>
<u>Capital Expenditures</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Water Utility <sup>19</sup>	\$25,000	\$940,000	\$200,000
Wastewater Utility <sup>20</sup>	20,000	200,000	200,000
Solid Waste Collection	0	0	0
<b>TOTALS</b>	<b>\$5,000</b>	<b>\$1,140,000</b>	<b>\$400,000</b>

**Actual Income and the Reasonably Anticipated Ability to Collect Local Revenue and Income from the Territory.** The City estimates that annexation would increase its property tax revenues by \$29,340 in 2004. The City based its property tax revenue estimates on the certified real property assessed values provided by the Matanuska-Susitna Borough.

<sup>16</sup> The City plans to add a planner position in either 2002 or 2003. Present staff workloads make it necessary to add this position regardless of annexation. Also, in 2002, the City plans to hire an additional utility/sales tax clerk in the finance department. The City recognized the need for this position two or three years ago. This position is necessary regardless of annexation. The 2001 Northern Economics study estimated that 2.1 general government employees are needed for each additional 1,000 residents. The annexation area’s estimated population of 325, therefore, would generate the need for 0.68 general government employees. The City believes that the addition of the two positions mentioned above will provide adequate additional staffing for any increased demands on general government services caused by the annexation, and does not assign any cost to them for the purposes of the annexation.

<sup>17</sup> The additional costs shown are additional vehicle operation costs to patrol annexed areas. The Northern Economics study estimated that each additional resident generates 1.21 calls per year for police service, but that an additional patrol officer position is needed only when 1,000 calls are generated. Using this calculation, the annexation area’s estimated population of 325 will generate 393 calls per year (1.21 x 325 = 393), which does not approach the 1,000 calls per year volume that creates the need for an additional patrol position. Therefore, no additional police department personnel are anticipated as a result of the proposed annexation.

<sup>18</sup> Road maintenance costs. There are an estimated 3.0 miles of existing or planned paved roads in the annexation area, and 1.25 miles of unpaved roads. Multiplying these distances by the Northern Economics study’s estimate of annual costs per mile for road maintenance of \$2,900 for paved roads and \$8,310 for gravel roads results in annual total road maintenance costs of \$19,090.

<sup>19</sup> Assumes the total cost of constructing a water main loop on Helen Drive in 2004, including an oversizing of the Spinell Homes development’s water system in 2003; plus \$200,000 in 2004 and 2005 for other water main extensions. 2003 costs are design costs. Costs to extend water mains within subdivisions by developers are not included.

<sup>20</sup> Assumes \$200,000 for construction of wastewater collection system improvements within annexation area. 2003 costs are design costs. Costs to extend wastewater mains within subdivisions by developers are not included.

The City also estimates that annexation would increase its sales tax revenues by \$3,000 in 2004. Specifically, the estimate was based on taxable sales reported to the Matanuska-Susitna Borough by businesses within the territory proposed for annexation. Potential sales tax revenues for the City of Palmer in the territory proposed for annexation are more reasonably estimated to be minimal.

It is estimated that annexation will result in the following additional revenues for the City during each of the first three years following annexation.

<b><u>General Fund</u></b>	<b><u>2003</u></b>	<b><u>2004</u></b>	<b><u>2005</u></b>
Property Tax <sup>21</sup>	\$0	\$29,340	\$34,100
Sales Tax <sup>22</sup>	3,000	3,000	3,000
Building Permit Fees <sup>23</sup>	12,800	12,800	12,800
Business License Fees (\$25 x 10)	250	250	250
State Revenue Sharing <sup>24</sup>	2,630	2,630	2,630
Safe Communities Revenue	5,650	5,650	5,650
<b>TOTALS</b>	<b>\$24,330</b>	<b>\$53,670</b>	<b>\$58,430</b>

<b><u>Enterprise Funds</u></b>	<b><u>2003</u></b>	<b><u>2004</u></b>	<b><u>2005</u></b>
<b>Utility Fee Revenues<sup>25</sup></b>			
Water Utility	\$5,500	\$8,000	\$10,500
Wastewater Utility	3,500	5,400	7,000
Solid Waste Collection	4,500	6,500	8,600
<b>TOTALS</b>	<b>\$13,500</b>	<b>\$19,900</b>	<b>\$26,100</b>

The Commission considers the City’s projections as a reasonable estimate of additional annual income that would result from annexation of the territory in question.

**Feasibility and Plausibility of the Anticipated Operating Budget of the City through the Third Full Fiscal Year of Operation after Annexation.** Given its long-established nature, size and scope of its operations, competency of its staff, and good financial reputation, the Commission considers the City’s projections of revenues and expenditures for the post-annexation City of Palmer to be credible.

The Commission finds that the budget should remain feasible and plausible through the third full fiscal year of operation after annexation absent notable changes in the: (1) population of the City of Palmer (apart from that due to annexation), (2) powers and duties of the Palmer city government, (3) rate of inflation, (4) local economic conditions, and (5) levels of State financial aid to local governments. While the population of the Palmer area is growing, changes to the other four factors are not currently anticipated. It can be reasonably anticipated that any increased costs associated with future population growth will likely be offset with increased tax revenues.

<sup>21</sup> The 2002 real property assessed value in the areas proposed for annexation is \$9.781 million. Because the annexation will not be in effect as of 1/1/03, no property tax revenue is shown for 2003. The estimate of 2004 tax revenue results from the City’s present 3 mil (.003) tax rate applied to the 2002 property value of \$9.781 million. The estimate of 2005 tax revenue results from the City’s 3 mil rate applied to a property value of \$11.381 million, which assumes construction of ten houses not subject to property tax exemption valued at \$160,000 each in one year.

<sup>22</sup> Due to the predominant residential or agricultural character of the annexation area, commercial activity is estimated to be low, with residential rentals, home occupation sales, Fair parking fees and possible rock or gravel sales providing the only significant source of sales tax revenues. These revenues are estimated by applying the 3% sales tax rate to \$100,000 in taxable sales.

<sup>23</sup> Building permit fees are estimated assuming construction of ten \$160,000 houses in the annexation area each year. Primary areas of construction will be Mountain Rose Estates, and Spinell Homes, Inc.’s 120-lot subdivision in the annexation area.

<sup>24</sup> State Revenue Sharing and Safe Communities Program funds estimated by Bill Rolfzen, DCED, 2/27/02.

<sup>25</sup> Utility revenues are calculated using the number of existing services presently provided outside the City boundary for 2003 (23 services), then adding ten new services for each subsequent year. The water and wastewater utilities are separated here to specify the amount of rates, but are actually combined in a Utility Fund.

**Economic Base of the Territory after Annexation.** The territory proposed for annexation is predominantly residential or agricultural in character. The Petitioner anticipates a relatively low level of commercial activity. Residential rentals, home occupation sales, State Fair parking fees and possible rock or gravel sales are anticipated to generate the only significant source of sales tax revenues.

The administrative seat of the Matanuska-Susitna Borough is at Palmer. The MSB School District also delivers education to the area through the Palmer Middle School, Sherrod Elementary, Swanson Elementary and Palmer High School.

The State of Alaska and U.S. governments also represent a significant component of Palmer's economic base. Facilities operated by those governments within the existing boundaries of the City of Palmer include the following:

**State of Alaska**

Department of Administration  
Department of Corrections  
Alaska Court system  
Department of Environmental Conservation  
Department of Fish & Game  
Department of Health & Social Services - Family and Youth Services Division  
Public Health Nursing Division  
Public Assistance Division  
Department of Labor and Workforce Development Mat-Su Job Center  
Department of Law  
Motor Vehicle Division  
Department of Natural Resources  
Forestry Division  
State Recorder's Office  
Department of Public Safety  
State Troopers  
Fish and Wildlife

**Federal Government**

Alaska Tsunami Warning Center, National Oceanic & Atmospheric Administration  
Department of Agriculture Service Center  
Rural Development  
Farm Service Agency  
Natural Resources Conservation Service  
USDA Flight Service Station  
U.S. Post Office

**Property Valuations in the Territory Proposed for Annexation.** The taxable value of real property in the territory proposed for annexation amounts to \$9,781,100.

**Land Use in the Territory Proposed for Annexation.** Land use in the territory proposed for annexation was previously addressed extensively in this chapter under the examination of the first standard.

**Existing and Reasonably Anticipated Industrial, Commercial, and Resource Development.**

The record in this proceeding does reflect anticipated development in the area proposed for annexation. However most significant new growth in the area appears to be residential, even though industrial or commercial development may occur. Existing industrial, commercial, and resource development have been addressed earlier in this chapter under the examination of the first standard, as well as the examination of the standard at issue here.

The Petition notes that "The City of Palmer has a strong business community. The City is also the location of several government or institutional offices or facilities, including those of the Matanuska-Susitna Borough, the State Court for the Third Judicial District, the State Trooper Palmer Post, the Matanuska-Susitna Juvenile Facility, the Department of Transportation

maintenance facility, the Palmer Pioneer Home, and the Valley Hospital. Growth in the area has brought success to businesses and the downtown area is vibrant. The Greater Palmer Chamber of Commerce is active and meets weekly at the Moose Lodge in Palmer. While there are few, if any, commercial establishments in the area proposed for annexation, many residents in that area are part of the commercial workforce and trade of Palmer businesses.”

**Personal Income of Residents in the Territory and in the City.** The 2000 Census recorded a per capita personal income within the City of Palmer at \$17,203 and a Median Household Income of \$ 45,571.

Total Potential Work Force (Age 16+):	3,248
Total Employment:	1,869
Civilian Employment:	1,818
Military Employment:	51
Civilian Unemployed (Seeking Work):	21
Percent Unemployed:	10.8%
Adults Not in Labor Force (Not Seeking Work):	1,158
Percent of All 16+ Not Working (Unemployed + Not Seeking):	42.5%
Private Wage & Salary Workers:	1,183
Self employed Workers:	182
Government Workers (City, Borough, State, Federal)	453

The 2000 Census reported 552 Palmer residents (12.7%) with incomes below the poverty level.

**Need for and Availability of Employable Skilled and Unskilled People.** At pages 38 and 39 of its Petition, the City indicates that it will add a planner position “in either 2002 or 2003.” However, such a staff addition would be regardless of annexation.

General fund operating costs are reasonably projected to rise by nearly \$20,500 annually, enterprise fund costs are expected to rise by \$6,500 the first year after annexation, \$9,000 \$12,000 and capital expenditures are expected to rise by \$45,000 the first year after annexation \$ 1,140,000, the second year and \$400,000 the third year after annexation.

The greater Palmer community has a strong economic base. Population, property values, and taxable sales are rising in the greater Palmer area.

**Conclusion.** Given these circumstances, the Commission concludes that the economy within the proposed 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 set out in 3 AAC 110.110 is satisfied by the Palmer annexation proposal.

**H. Transition Plan for Extension of City Services.** A transition plan is required by 3 AAC 110.900.<sup>26</sup>

<sup>26</sup> 3 AAC 110.900 TRANSITION provides as follows:

(a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for city reclassification under AS 29.04, or municipal detachment or dissolution under AS 29.06, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after city reclassification, detachment, or dissolution.

(b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, and other appropriate entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city and unorganized borough service area, and must be designed

The Commission emphasizes that the standards relating to transition plans are written in a broad fashion to pertain to all existing and prospective city and borough governments that come before the Commission. These range from relatively basic institutions of local government such as the City of Kupreanof, a second class city in the unorganized borough with a population of twenty-three, to large and complex local governments such as the Municipality of Anchorage, a unified home rule borough with a population of 260,283.

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.

The City of Palmer is clearly one of the more substantial and sophisticated city governments in Alaska. Its resources and staff capabilities are superior to the majority of its 145 counterparts in the state.

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.** According to the Petition, Fire and rescue is presently provided by the City of Palmer to areas inside the City and in the Greater Palmer Fire Service Area #132. The Borough pays half of the fire department's costs to compensate the City for providing fire service in the Greater Palmer Fire Service Area. When properties are annexed to the City, the City will still provide fire service, but those property owners will stop paying fire service area taxes to the Borough. Fire service will be included in the property tax paid to the City. (at 57)

**Public Safety Dispatch.** The service is provided by the City of Palmer and serves the Core Matanuska-Susitna Area. This expanded service dispatches to the City of Palmer, the City of Wasilla, the Matanuska-Susitna Borough (fire and ambulance), the City of Houston, and to a limited degree, the Alaska State Troopers. The Alaska State Troopers pay \$35,000 for this service, with the remaining costs shared by Palmer (33%), Wasilla (33%), the Borough (33%) and the City of Houston (1%).

**Police.** Police service is provided by the City of Palmer Police Department inside the City and the Alaska State Troopers provide service outside the City. According to the Petitioner, "both departments offer backup to each other, thus allowing better coverage both inside and outside Palmer's boundaries. After annexation, City police will provide service to the annexed areas, with backup still available from the Alaska State Troopers. The State of Alaska operates the Matanuska-Susitna Pretrial and Juvenile Center facilities." (at 57-58)

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to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

(c) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included in the area proposed for the change, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

(d) Before approving a proposed change, the commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included in the area of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

The City does not anticipate significant impacts upon the staffing requirements of the City's police as a result of the proposed annexation.

**Animal Control Services.** Title 6 of the Palmer Municipal Code provides for animal control in the City. Regulations cover the number and type of animals that can be kept in the City, licensing, dog bites, impoundment, rabies control, enforcement and penalties. The City of Palmer Police Department, utilizing the Matanuska-Susitna Borough shelter, currently provides animal control. The City pays a small fee per animal housed at the shelter. This service would immediately expand into the annexed areas once annexation is approved.

**Planning.** As noted previously, the Petition states that the City was planning to supplement its planning staff with one additional employee, whether or not annexation occurs.

**Road Maintenance.** There are an estimated 3.0 miles of existing or planned paved roads in the territory proposed for annexation, and 1.25 miles of unpaved roads. The Petition states "Public works anticipates operating expenditures in the amount of \$20,000 per year for additional road maintenance costs. Upon annexation, the City will assume responsibility for maintaining the roads in the areas proposed for annexation currently maintained by the Matanuska-Susitna Borough. The State of Alaska maintains certain roads adjacent to the areas proposed for annexation and those would continue to be the responsibility of the State, such as the Old Glenn Highway, the Palmer-Wasilla Highway and the Glenn Highway. The City of Palmer's Public Works Department has reliable road maintenance equipment and experienced employees that maintain the roads within the City limits.

The City has the administrative staff, material and equipment support capabilities to extend road maintenance into the adjacent areas in a timely and cost-effective manner. The record reflects no basis to conclude that skilled people to fill those positions would be unavailable."

**Water Services.** The City already provides water service to portions of the territory proposed for annexation. The Petition states "Under annexation agreements, the City presently provides water in some of the territory to be annexed: two parcels in Area K, as well as to a subdivision in Area L." (at 58)

The Petition anticipates increased demand for water utility service from the City. "A potable water supply is paramount in many requests for annexation, particularly within the Palmer West Subdivision." (at 47) Further, according to the Petition, "...many of the homes in Palmer West (Area K) have inadequate sources of on-site drinking water. While development of utility infrastructure following annexation would address those concerns, it would also serve to encourage future growth in that area. (at 55)

Improvements to the water system that are already underway, according to the Petition. "The portion of Area L that is adjacent to the Springer Loop Road is directly adjacent on its eastern boundary to City property that contains Well No. 4, the main supply of drinking water for the City of Palmer. In the summer of 2002, the City intends to construct a second water supply well on this City property. It is reasonable that the City annex property adjacent to this critical municipal facility in order to have land use jurisdiction to address wellhead protection issues." (at 55)

**Sewer.** The Petition indicates that sewer service is "provided outside the current City boundaries in Area L. Area I has both water and sewer service. If annexation is approved, water main loops will be extended to Helen Drive (Area K), the area with the highest population figures. The City may pay for the over sizing of water or sewer mains in the proposed Spinell Home subdivision (Area K) to facilitate the extension of services west of that subdivision. Additionally, \$200,000 is included in a budget estimate in both 2004 and 2005 to extend water and sewer service to areas within the territory proposed for annexation as demand for those services arise." (at 58)

No significant impacts upon the City's building department or administration are anticipated as a consequence of annexation, according to the Petition. (at 39)

The Petition suggests that the extension of sewer services will "add costs in the provision of water, sewer and solid waste collection. However, fees and property taxes will serve to offset those expenses over time, as well as to resolve health and safety issues of concern to many

residents of the territory to be annexed. State and federal grants will also be utilized to assist in covering capital costs of providing these services.”(at 59)

**Library, Parks & Recreation.** Library services, parks and recreation services are already provided to the area proposed for annexation by the City of Palmer. Annexation will not, in the Petitioner’s view, require additional city staff or additional capital investment for those facilities.

The Petition indicates that legislative consent to annexation will permit the timely assumption of any remaining relevant and appropriate powers, duties, rights, and functions presently exercised within the territory proposed for annexation.

The Petition states that consultation with the Matanuska-Susitna Borough regarding the annexation proposal began in August 2001. The Petition indicates that consultation occurred between the City staff and MSB staff

The Petition states that there are no assets or liabilities to be transferred to the City as a consequence of annexation. Therefore, there is no prospect that transfer and integration of assets and liabilities would result in a loss of value in assets, loss of credit reputation, or a reduced bond rating. Further, the lack of a need to transfer assets and liabilities would negate a need for an agreement between the Borough and City of Palmer for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

Based on the review of Exhibit G of the Petition and the City’s Reply Brief, the Commission concludes that the City has provided a practical plan for the extension of City services and facilities into the territory proposed for annexation. The City of Palmer has demonstrated the intent and capability to extend essential services in the shortest practical time after annexation.

With the exception of water and sewer utilities, all other services would be extended to the territory within two years; most would be extended immediately upon annexation. As is typically the case with other municipal governments in Alaska, the City of Palmer operates its water and sewer utilities as enterprise funds, with extensions funded by property owners benefiting from such.

Given the substantial capital investment involved, the City of Palmer plans to undertake major water and sewer utility extensions over a long-term period, as demand and funding allow. However, that circumstance does not render the City of Palmer’s transition plan or its annexation proposal inadequate or unacceptable.

Such conditions are not uncommon in other municipalities in Alaska – even in Ketchikan, the most densely populated city in Alaska. Consider, for example, the findings and conclusions reached by the Local Boundary Commission regarding the annexation of the Shoreline Service Area to the City of Ketchikan. (See *Decisional Statement in the Matter of the 1999 Amended Petition of the City of Ketchikan for Annexation of Approximately 1.2 Square Miles*, pages 5, 8, and 11, LBC December 16, 1999.) (Emphasis added)

**Conclusion.** Based on the information contained in the record of these proceedings, the Commission concludes that the City of Palmer has satisfied the intent of 3 AAC 110.900(a).

**I. Inclusion of Areas Necessary to Provide Services on an Efficient, Cost-Effective Level.** The standard at issue is set out in 3 AAC 110.130(a).<sup>27</sup> On its surface, the standard at issue - 3

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<sup>27</sup> 3 AAC 110.130(a).

(a) The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;

AAC 110.130(a) - is typically applied in a manner to determine only whether the proposed expanded boundaries of a city are expansive enough to encompass “all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level.” However the standard can also be properly applied to determine whether parts of the territory proposed for annexation will hinder the efficient, cost-effective delivery of services if such are included within the expanded boundaries of the city.

Population density is another key measure of the ability of a city to provide efficient and cost-effective services. The population density of the City of Palmer is nearly seven times greater than the average population density of all cities in Alaska. The population density in the area is proposed for annexation is 29% greater than the average within cities statewide.

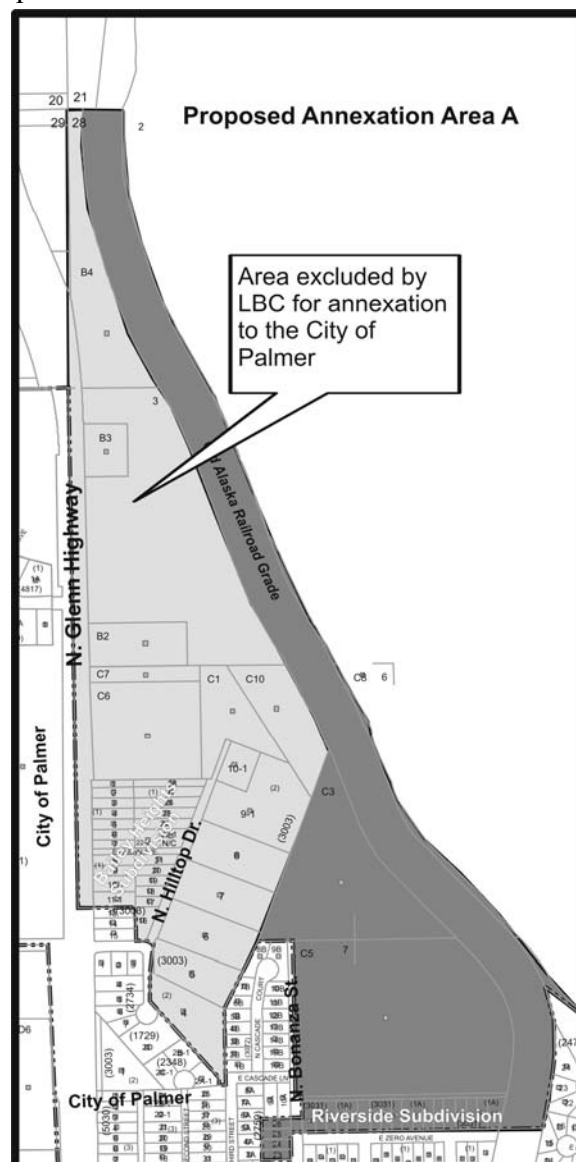
Ultimately, however, as the area proposed for annexation continues to grow and develop, so too may the ability of the City of Palmer to serve that territory efficiently and effectively. There are many individuals and organizations with overlapping interests regarding the future delivery of essential local government services to the area in question on an efficient and cost-effective level. Those individuals and organizations clearly include the Palmer city government, residents and property owners within the City of Palmer, the Matanuska-Susitna Borough government, along with residents and property owners of the territory proposed for annexation.

The Commission found that the all of the area in the northernmost area proposed for annexation, variously described as “Beta Hill”, or “Bailey Hill” did not meet the standard. Respondent Nystrom and other residents of that area indicated that their neighborhood was self-sufficient and did not require city services from the City of Palmer. Residents of that area indicated that the neighborhood had been developed prior to incorporation of the City of Palmer and that they considered it separate from the City.

**Conclusion.** The standard set out in 3 AAC 110.130(a) is best met *at this particular* time if the expansion of the boundaries of the City of Palmer excludes about 61.4 acres in Area A.

**J. City Boundaries Limited to Community plus Ten Years’ Growth.** The standard at issue is set out in 3 AAC 110.130(c).<sup>28</sup> The Commission reached the following findings and conclusions:

3 AAC 110.130(c) is intended to urge petitioners to identify all proximate areas that are part of the existing community and that may reasonably warrant inclusion within the city during the next decade. This standard reflects the fact that development of an annexation petition requires a substantial commitment of time and



- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.

<sup>28</sup>

3 AAC 110.130(c) provides as follows:

The proposed boundaries of the city must include 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.

energy and that, in general, municipal governments, residents, and property owners are often better-served if municipal boundary changes are few in number and comprehensive in scope rather than small, frequent, and piecemeal.

It is generally the case that each city government in Alaska encompasses all or portions of a single community. Therefore, in addressing the factor of whether people in the proposed expanded boundaries of the City of Palmer reside in close geographic proximity, it is useful to compare the population density of the proposed expanded City of Palmer with other existing city governments in Alaska.

The population density of all cities in Alaska averages about 175 residents per square mile of land. The figure for the area proposed for annexation is 28% higher than the statewide average.

It is plainly evident that residents in most of the territory proposed for annexation live in neighborhoods that are closely linked to the City of Palmer in terms of proximity and access.

**Finding.** The Commission concludes that residents of the proposed expanded boundaries of the City of Palmer reside within close geographic proximity that allows frequent personal contacts.

**School Enrollment.**

The Matanuska-Susitna Borough operates several schools serving the greater Palmer community. Matanuska-Susitna Borough schools located within the corporate boundaries of the City of Palmer include:

Sherrod Elementary, enrollment 472  
Swanson Elementary, enrollment 388  
Palmer High School, enrollment 977  
Palmer Middle School enrollment 735

Generally, public school enrollment of any area in Alaska makes up roughly one-fifth (20%) of that area's total population. The Matanuska-Susitna Borough conforms to the general rule of thumb almost precisely. In October 2000, there were 2,572 students enrolled in Matanuska-Susitna Borough schools in Palmer. The 2000 census reported 4,533 people living in the City of Palmer. Thus, public school students attending Palmer schools equaled 56% of the total population of the City of Palmer during 2000.<sup>29</sup> This is much higher than the norm and is indicative of students residing outside the City attending schools within the boundaries of the City.

The Commission finds that school enrollment patterns for schools in the Palmer area suggest that the boundaries proposed by the Petitioner are within the community of Palmer.

**Sources of Employment.** Community level employment figures from the 2000 census demonstrate that residents of the community were employed in a broad range of public and private sector employment opportunities. As stated in DCED's community database, "Palmer's economy is based on a diversity of retail and other services, and city, borough, state and federal government. Some light manufacturing occurs. Many are employed in Anchorage."

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<sup>29</sup> The 2000 census counted 626,932 residents in the state. Of these, 133,356 were students enrolled in public schools in Alaska. Thus, statewide, public school students comprised 21.27 percent of the total population.

<b>Employment by Industry of Palmer Residents</b>	
Agriculture, Forestry, Fishing & Hunting, Mining:	70
Construction:	116
Manufacturing:	37
Wholesale Trade:	67
Retail Trade:	231
Transportation, Warehousing & Utilities:	118
Information:	41
Finance, Insurance, Real Estate, Rental & Leasing:	82
Professional, Scientific, Management, Administrative & Waste Mgmt:	100
Education, Health & Social Services:	465
Arts, Entertainment, Recreation, Accommodation & Food Services:	191
Other Services (Except Public Admin):	125
Public Administration:	175

On the basis of the foregoing, the Commission finds that employment opportunity patterns indicate that the territory proposed for annexation is not readily distinguishable from the rest of the Palmer community.

**Precinct Boundaries.** The Matanuska-Susitna Borough has 33 precincts. The area within the City of Palmer is within Precinct 13-025. The territory proposed for annexation is within Greater Palmer Precinct 13-010.

**Permanency of Dwelling Units.** The territory proposed for annexation contains dwelling units ranging from mobile homes to newly developed single-family subdivision homes. The Commission considers the dwelling units in the City of Palmer and the territory proposed for annexation to be, with the possible exception of mobile homes, permanent.

Based on the foregoing findings, the Commission concludes that, with the exception of a portion of Area A, the area proposed for annexation is a part of one reasonably compact urban community and its suburbs comprising the metropolitan area of Palmer. Corporate boundaries notwithstanding, the remainder of the area proposed for annexation is, without question, part of the social and economic fabric of the greater Palmer community.

People in the proposed expanded boundaries of the City of Palmer attend the same schools, utilize the same governmental offices and facilities, patronize the same library, shop at the same commercial facilities, attend the same clubs, associations, and churches, read the same newspapers, listen to the same radio stations, and utilize the same medical service facilities. Moreover, many of the area’s major local streets and roads bind portions of the territory proposed for annexation with adjacent areas within the current City boundaries.

**Conclusion.** Given the facts in this matter, with the exception of about 61.4 acres within Area A, the City of Palmer annexation proposal satisfies the standard set out in 3 AAC 110.130(c).

**K. Comparative Ability to Provide Essential Municipal Services.** 3 AAC 110.090(b) provides that the Commission may approve annexation to the City of Palmer only if the City is best able to provide essential city services to the territory proposed for annexation.<sup>30</sup> The phrase “essential city services” as used in 3 AAC 110.090(b) is defined in 3 AAC 110.990(8).<sup>31</sup>

<sup>30</sup> 3 AAC 110.090(b) provides that :

(b) Territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough on an areawide basis or non-areawide basis, or through an existing borough service area.

<sup>31</sup> 3 AAC 110.990(8) states:

"mandatory power" means an authorized act, duty, or obligation required by law to be performed or fulfilled by a municipality in the course of its fiduciary obligations to citizens and taxpayers; "mandatory power" includes one or more of the following:

(A) assessing, levying, and collecting taxes;

(B) providing education, public safety, public health, and sanitation services;

3 AAC 110.090(b) does not list specific factors for the Commission to consider in determining whether an annexing city is best able to provide services. However, certain factors merit obvious consideration. These include (1) proximity of other municipalities, (2) geographic features, (3) legal capacity of municipalities, (4) fiscal capacity, (5) existing capital facilities, and (6) staff capabilities.

**Existing Municipal Governments within the Vicinity of the Territory Proposed for Annexation and Geographic Limitations.** Four municipal governments have jurisdictional boundaries within a fifty-mile radius of the territory proposed for annexation, the Matanuska-Susitna Borough, City of Wasilla, City of Houston, and the Municipality of Anchorage.

The corporate boundaries of the Matanuska-Susitna Borough wholly encompass (and extend well beyond) the territory proposed for annexation, but no other city adjoins the territory proposed for annexation. There is nothing in the record of the proceedings relating to the Palmer annexation proposal that relates to potential inclusion of the area proposed for incorporation in any other city.

Several of the correspondents have expressed satisfaction with and a preference for continuation of the status quo, receipt of municipal services from the Matanuska-Susitna Borough, in lieu of annexation to the City of Palmer.

The MSB was incorporated as a general law second class borough in 1964. The MSB has a manager form of government. Incorporation and original boundaries of the Matanuska-Susitna Borough were mandated by the State legislature. The MSB's initial boundaries were set to conform to the "Palmer-Wasilla-Talkeetna Election District #7" under the terms of Section 3 of Chapter 52, SLA 1963 (Mandatory Borough Act).

The Matanuska-Susitna Borough encompasses an estimated 25,260 square miles. Three cities are located within the MSB, the second-class City of Houston, the home rule City of Palmer, and the first class City of Wasilla. The areawide, nonareawide, and service area functions within the territory proposed for annexation are as follows.

The MSB exercises the following powers on an areawide basis:

- education,
- planning, platting, land use regulation,
- emergency medical services,
- assessment and collection of property taxes,
- transient accommodations taxation (bed taxes),
- parks and recreation,
- air pollution control,
- day care facilities,
- historic preservation, and
- port development.

The Borough's FY 2002 property tax levy for areawide services was 13.133 mills. The FY 2002 property tax levy for nonareawide services was 0.35 mills, for a combined areawide and nonareawide tax rate of 13.483 mills. The areas proposed for annexation are subject to MSB road service area taxes of 2.50 mills for the South Colony Road Service Area #16 and 0.70 mills for the Greater Palmer Fire Service Area #132. The Matanuska-Susitna Borough also levies a 5% transient accommodation tax.

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(C) planning, platting and land use regulation;

(D) conducting elections; and

(E) other acts, duties, or obligations required by law to meet the local governmental needs of the community;

The MSB’s nonareawide (exercised outside cities) services and powers consist of:

- solid waste disposal,
- libraries,
- animal control,
- regulation of fireworks,
- water pollution control,
- septic tank waste disposal,
- economic development,
- regulation of motor vehicles and operators,
- regulation of snowmobiles,
- regulation of obscene nude dancing and public displays of nudity,
- limited health and social services authority, and
- authority to establish natural gas and electric local improvement districts.

The City of Palmer was established in 1951, thirteen years prior to establishment of the Matanuska-Susitna Borough. Information about the municipal boundaries and functions of the City of Palmer was provided previously. The City of Palmer provides the following municipal services:

- Palmer Police
- Public Safety Dispatch Service
- Fire and Rescue
- Water and Sewer services
- Garbage Collection services
- Land use planning and zoning services
- Building Inspection services
- Library services
- Improved road maintenance
- Airport services
- Golf Course

**Legal capacity of the municipalities to provide services.**

Article X, Section 1 of the Alaska Constitution states, in part that, “A liberal construction shall be given to the powers of local government units.” In 1978, the Alaska Supreme Court ruled as follows with regard to the liberal construction clause in a matter involving the Bristol Bay Borough, a second class borough (like the Matanuska-Susitna Borough) and a general law municipality (like all three governments in question).<sup>32</sup>

The constitutional rule of liberal construction was intended to make explicit the framers’ intention to overrule a common law rule of interpretation that required a narrow reading of local government powers.<sup>33</sup>

Further, the legislature has enacted broad statutory provisions consistent with Article X, Section 1 concerning the construction of general law municipal powers. Those provisions state as follows:

**Sec. 29.35.400. General construction.** A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

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<sup>32</sup> *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978).

<sup>33</sup> (Footnote original) The rule, called Dillon’s rule states:

[a] municipal corporation possesses and can exercise the following powers and not others. First, those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable.

*Merrian v. Moody’s Executors*, 25 Iowa 163, 170 (1868). The minutes of the constitutional convention reveal that the liberal construction clause of Article X, Section 1 was intended to assure that general law municipalities, as well as those having home rule powers, would not be governed by this rule, but would have their powers liberally interpreted.

**Sec. 29.35.410. Extent of powers.** Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title.

Those powers were further enhanced to a great degree in 1985 when the State legislature eliminated the enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and the enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists of powers were replaced with the broadest possible grant of powers to general law municipalities; i.e., “...any power not otherwise prohibited by law.” [AS 29.35.200(a) & (c); 210(c) & (d); 220(d); 250(a); 260(a)]

This grant has no general limitations such as ‘any municipal power’ or ‘any local government power’ which might imply that the granted powers were limited to those that the court might think of as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of Article X, § 1, *Liberati v. Bristol Bay Borough*, *Gilman v. Martin*, and the literal language of the grant.

Similarly, it may be relevant that the second sentence of Article X, § 1 reads “A liberal construction shall be given to the powers of local government units” instead of, “A liberal construction shall be given to local government powers.” The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a “local government power” as envisioned by the courts across the nation, then the court need not apply a liberal construction to it. The actual language of Alaska’s Constitution does not lend itself as easily to such an interpretation. The constitutional language coupled with the language of the AS 29 grants (“any power not otherwise prohibited by law”), would make it difficult for a court (in a well briefed case) to resort to limiting Alaska municipal powers to common understandings of what powers are traditional municipal powers.

As a practical matter, the nature of the powers to which a general law municipality has access under current AS 29 are substantially the same as those to which a home rule municipality has access, bearing in mind the specific AS 29 limitations that apply to general law municipalities.

For example, AS 29.35.250 states that, “A city inside a borough may exercise any power not otherwise prohibited by law.” Thus, the home rule City of Palmer has the authority to employ any power that is not barred by law.

Moreover, AS 29.35.490(a) provides that “A second class borough may exercise in a service area any power granted a first class city by law . . .” Since a home rule city can exercise any power “not otherwise prohibited by law,” that same authority is available to a second class borough in a service area. However, the exercise of powers on a service area basis by a second class borough is subject to approval by the voters (AS 29.35.490).

A second class borough has the same broad powers available to it on a nonareawide basis and areawide basis. However, with the exception of a limited number of powers, voter authorization for the assumption of additional areawide and nonareawide powers is required.<sup>34</sup>

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<sup>34</sup> AS 29.35.210. Second class borough powers.

(a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

- (1) provide transportation systems;
- (2) regulate the offering for sale, exposure for sale, sale, use, or explosion of fireworks;
- (3) license, impound, and dispose of animals;
- (4) subject to AS 29.35.050 , provide garbage, solid waste, and septic waste collection and disposal;
- (5) provide air pollution control under AS 46.14.400;
- (6) provide water pollution control;

If the Matanuska-Susitna Borough were to extend services such as water utility service, sewer utility service, and police protection to the territory proposed for annexation, it would seem more reasonable and practical for it to do so on a service area basis rather than an areawide or nonareawide basis. To do otherwise would require substantially greater resources. It would also require approval by the voters in a far more expansive area. Under those circumstances, voters in areas beyond the territory proposed for annexation are less likely to accept a proposal to extend services that are arguably needed in the territory proposed for annexation, but perhaps not so in all other parts of the Borough's areawide or nonareawide jurisdictions. The Commission finds from these circumstances that it is unlikely to be reasonable or practical for the Borough to provide such services on an areawide or nonareawide basis.

Alaska's Constitution and statutes place particular limitations on the creation of new service areas. Specifically, Article X, Section 5 of the Constitution states:

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, charges, or assessments within a service area to finance the special services.

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."<sup>35</sup> 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.<sup>36</sup> Moreover, an amendment to eliminate

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(7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation;

(8) provide for economic development;

(9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 - 19.30.251;

(10) establish an emergency services communications center under AS 29.35.130;

(11) subject to AS 28.01.010, regulate the licensing and operation of motor vehicles and operators;

(12) engage in activities authorized under AS 29.47.460;

(13) contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this paragraph in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210.

(b) A second class borough may by ordinance exercise the following powers on an areawide basis:

(1) provide transportation systems;

(2) license, impound, and dispose of animals;

(3) provide air pollution control under AS 46.14.400;

(4) provide water pollution control;

(5) license day care facilities.

(c) In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the power has been approved at an election by a majority of voters living in the borough but outside all cities in the borough.

(d) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.

<sup>35</sup> Constitution of the State of Alaska, Article X, Section 5.

<sup>36</sup> *Alaska Constitutional Convention Proceedings*, November 1955 to February 1956, Alaska Legislative Council at 2715.

the preference given to city incorporation or annexation over establishment of new service areas was defeated by the convention.

Additionally, AS 29.35.450(b) states:

A new service area may not be established if, consistent with the purposes of Alaska Const., art. X, the new service can be provided by an existing service area, by annexation to a city, or by incorporation as a city.

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):

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.<sup>37</sup> Constructing a barrier to approving an excessive number of government units does not prohibit the creation of them when they are necessary.<sup>38</sup> 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.<sup>39</sup> Although the framers entertained the idea of unified local governments, they realized that the need for cities still existed.<sup>40</sup>

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.<sup>41</sup> As discussed *supra*, this inquiry is not limited to an

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<sup>37</sup> See Morehouse & Fischer, *supra*, at 42 (“the stated purpose of preventing duplication of tax levying jurisdictions and providing for a minimum of local government units was directly responsible for [article X, section 5 of the Alaska Constitution].”); see also 4 Proceedings of the Alaska Constitutional Convention (PACC) 2714-15 (January 20, 1956) (Delegate Rosswog stated that the main intention of section 5 was “to try not to have a lot of separate little districts set up . . . handling only one problem.”) It is noteworthy that an amendment to eliminate the option of “incorporation as a city” from article X, section 5 was defeated by the convention. 4 PACC 2712-17 (January 20, 1956).

Indeed, the LBC has recognized that the provisions for service areas in article X, section 5 would be “particularly applicable to conditions in Alaska. Thus many areas which have not yet attained a sufficient tax base or population to incorporate as a city will be assisted.” Local Boundary Commission, First Report to the Second Session of the First Alaska State Legislature at I-7 to I-8 (1960).

<sup>38</sup> Victor Fischer, an authority on Alaska government, “advises that the ‘minimum of local government units’ language . . . was aimed at avoiding special districts such as health, school, and utilities districts having separate jurisdiction or taxing authority. He notes no policy was stated limiting the number of cities and boroughs.” *DCED Report to the Alaska Local Boundary Commission on the Proposed Yakutat Borough Incorporation and Model Borough Boundaries for the Prince William Sound, Yakutat, Cross Sound/Icy Strait Regions* 50 (December 1991) [hereinafter *Yakutat Report*]. Nonetheless, in *City of Douglas v. City and Borough of Juneau*, 484 P.2d 1040 (Alaska 1971), we noted that article X, section 1 “expresse[s] [a] constitutional policy of minimizing the *number* of local government units.” *Id.* at 1044 (emphasis added). The Commission believes that “the constitutional language ‘minimum of local government units’ does admonish the LBC to guard against approving the creation of an excessive number of local governments.” *Yakutat Report, supra* at 52. We note that neither view supports the addition of unnecessary government units.

<sup>39</sup> Delegate Doogan referred to a city as a “combination of service areas within a borough.” 4 PACC 2652 (January 19, 1956).

<sup>40</sup> In an attempt to simplify local government and prevent the overlapping of governmental functions,” consistent with the purpose of article X, section 1, “the framers of the constitution . . . considered establishing a single unit of local government with the abolition of cities altogether.” *City of Homer v. Gangl*, 650 P.2d 396, 400 (Alaska 1982). Although advantageous, the framers considered it a “concept whose time had not yet come.” *Id.* “Section 2 of Article X presents the compromise solution: ‘All local government powers shall be vested in boroughs and cities. The state may delegate taxing powers to organized boroughs and cities only.’ ” *Id.* (quoting Alaska Const. art. X, Sec. 2).

<sup>41</sup> We reject Keane’s interpretation that incorporation of a city is allowed only when it is theoretically impossible for a borough to provide services. To accept such an interpretation would render the LBC

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), the Commission considers it reasonable to extend the Court's holding in *Keane* to reflect a preference for city annexation over the creation of a new service area.<sup>42</sup> Thus, it is the Commission's view that the Matanuska-Susitna Borough cannot legally create a new service area to serve the territory proposed for annexation if the desired service can be provided by an existing service area, an existing city, or a new city.<sup>43</sup>

Based on the foregoing, the Commission finds that the City of Palmer possesses the greatest legal capacity to extend services to the territory proposed for annexation.

**Property tax base.** The per capita assessed values of taxable real property within the City of Palmer is \$40,392.84. The per capita assessed value of taxable real property within the territory proposed for annexation is \$30,095.

**Sales tax base.** The MSB does not levy a sales tax. The Petitioner estimates the value of taxable sales in the area proposed for annexation to total only about \$3,000 per year.

The City of Palmer's 3% sales tax levy has been increasing over the past decade. In real dollars, City of Palmer sales tax receipts increased 215% between 1990 and 2000. After adjusting the 1990 revenue to the amount of revenue that would have been collected at a 3% tax rate (Palmer increased its sales tax rate in 1996 from 2% to 3%), sales tax revenues increased 110% in this ten-year period, an average annual rate of 11%.

**Other considerations regarding the City of Palmer's fiscal capacity.** For the year ending December 2000, the total general fund revenue from all sources of income was \$4,965,656, while expenses were \$4,001,172, leaving net revenue of \$964,484. The City of Palmer's budget continues to be quite healthy.

The Commission considers the City of Palmer to have superior fiscal capacity to provide services to the territory proposed for annexation.

Key existing capital facilities and staff resources of the City are as follows.

**Water and Sewer Service.** The City of Palmer is the only municipal government with existing capital facilities to provide water service to any portion of the territory proposed for annexation.

Moreover, the City of Palmer has the only trained technical staff to support the operation and maintenance of a complex water utility system to provide a reliable source of water for residential, commercial, and industrial purposes, and to provide water for fire suppression.

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powerless to approve the incorporation of any new city that is located within an organized borough because all organized boroughs have the power to provide services. *See* Alaska Const. Art. X, § 5; AS 29.35.450.

<sup>42</sup> 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).

<sup>43</sup> It should also be noted here again that AS 29.05.021(b) provides that, "A community within a borough may not incorporate as a city if the services to be provided by the proposed city can be provided on an areawide or nonareawide basis by the borough in which the proposed city is located, or by annexation to an existing city." Thus, a new service area or new city cannot be created if the services can be provided by annexation to an existing city.

Similarly, the City of Palmer is the only municipal government with capital facilities to provide prospective service to any of the territory proposed for annexation.

Under annexation agreements, the City presently provides water in some of the territory to be annexed: two parcels in Area K, as well as to a subdivision in Area L. Sewer service is also provided outside the current City boundaries in Area L. Area I has both water and sewer service. If annexation is approved, water main loops will be extended to Helen Drive (Area K), the area with the highest population figures. The City may pay for the over sizing of water or sewer mains in the proposed Spinell Home subdivision (Area K) to facilitate the extension of services west of that subdivision. Additionally, \$200,000 is included in a budget estimate in both 2004 and 2005 to extend water and sewer service to areas within the territory proposed for annexation as demand for those services arise.

The Petition indicates that extension of water and sewer services to the entire territory proposed for annexation will not occur immediately. "Annexation to cities does not automatically dictate that the property owners will receive all City services as a trade-off for taxes. Upon annexation, the City will extend all "essential city services" and mandatory powers as defined in 3 AAC 110.990 (public safety protection, road maintenance, planning and zoning, assessing, levying and collecting taxes, and conducting elections). Other services that will be provided upon annexation include the city-owned airport, building inspection, library and golf course. The services that will not be immediately extended are water/sewer utilities, simply because they require large amounts of capital, extensive planning and physical infrastructure which require time to address." (at 60)

**Fire and Rescue Service.** Fire and rescue is presently provided by the City of Palmer to areas inside the City and in the Greater Palmer Fire Service District. The Borough pays half of the fire department's costs to compensate the City for providing fire service in the Greater Palmer Fire Service District. When properties are annexed to the City, the City will still provide fire service, but those property owners will stop paying fire service area taxes to the Borough. Fire service will be included in the property tax paid to the City.

**Library services.** The City operates the Palmer Library. The Borough provides a grant to the City for about 45% of the Library's annual budget. About 75% of Palmer Library users live outside the City. The Borough also maintains an automated library system for all libraries in the Borough and also assists the libraries through bulk purchasing and intra-library book loans.

**Parks and recreation.** The City maintains four small Borough parks inside the City with funding assistance from the Borough. The City has requested that the Borough turn over Park and Recreation powers inside the City to the City of Palmer, to exclude school fields and the Matanuska River Park. The Borough currently pays the City \$10,000 for Parks and Recreation. This revenue to the City would probably be discontinued if the City's request is honored.

**Road Maintenance.** The City maintains about 33 miles of City roads and some State roads inside the City of Palmer. The State pays the City to maintain S. Chugach St., S. Colony Way, S. Alaska St., W. Evergreen Ave., and Arctic Ave. west of the Glenn Highway. A Borough road maintenance service area maintains Borough roads outside the City. The City will take over maintenance of roads presently maintained by the Borough, with the cost of road maintenance paid by property owners through City property tax.

**Planning services.** The Petition states that the City plans to add a planner position in either 2002 or 2003. Present staff workloads make it necessary to add this position regardless of annexation. Also, in 2002, the City plans to hire an additional utility/sales tax clerk in the finance department. The City recognized the need for this position two or three years ago. This position is necessary regardless of annexation. The 2001 Northern Economics study estimated that 2.1 general government employees are needed for each additional 1,000 residents. The territory proposed for annexation has an estimated population of 325. Therefore, it would generate the need for 0.68 general government employees. The City believes that the addition of the two positions will provide adequate additional staffing for any increased demands on general government services caused by the annexation, and does not assign any cost to them for the purposes of the annexation. (at 12)

The fact that the City of Palmer is currently providing a full range of services and facilities that directly or indirectly benefit the territory proposed for annexation is prima facie evidence of its greater capability to provide those services to the territory proposed for annexation.

The Commission recognized that the Matanuska-Susitna Borough provides efficient and effective services to the area proposed for annexation but also recognizes that the legal ability of the Matanuska-Susitna Borough to provide services to the territory proposed for annexation is circumscribed by the provisions of Article X, Section 5 of the Constitution of the State of Alaska and AS 29.35.450(b).

The City of Palmer enjoys superior fiscal capacity, capital facilities, and staff resources to serve the territory proposed for annexation as compared to other existing municipal governments.

**Conclusion.** The record demonstrates that no other existing city government or organized borough can provide essential city-type services to the area proposed for annexation more efficiently or more effectively than the City of Palmer. Thus, the Commission concludes that the City of Palmer’s annexation proposal satisfies the comparative ability standard set out in 3 AAC 110.090(b).

**L. Need for City Government.** 3 AAC 110.090(a) specifies that an area may be annexed to a city provided, in part, that the LBC determines there is a reasonable need for city government in the area.<sup>44</sup>

**Existing or Reasonably Anticipated Social or Economic Problems.** The record in this proceeding indicates that land use issues, particularly regarding the City’s animal control ordinance, is a social problem regarding the proposed annexation.

As noted in Chapter 3 of this document, responsive briefs and correspondence contain multiple expressions that the animal control issue renders the territory incompatible in character with the territory within the City of Palmer.

Mr. Hanrahan’s Responsive Brief defines the issue “The City of Palmer, with its ordinances, regulations and policies is incompatible with the Lot D29 and D30 activities. Lot 29 for instance, contains 3 horses, 12 dogs with potential for more. The property has previously held hogs, cattle and chickens, with potential for more of the same in the future. (Daniel Hanrahan affidavit.) But the Palmer municipal code restricts animal activity within the city limits . . .”<sup>45</sup>

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<sup>44</sup> 3 AAC 110.090 NEEDS OF THE TERRITORY provides as follows:

(a) The territory must exhibit a reasonable need for a city government. In this regard, the commission will, in its discretion, consider relevant factors, including:

- (1) existing or reasonably anticipated social or economic problems;
- (2) existing or reasonably anticipated health, safety, and general welfare problems;
- (3) existing or reasonably anticipated economic development;
- (4) adequacy of existing services; and
- (5) extraterritorial powers of adjacent municipalities.

<sup>45</sup> Section 6.08.020 provides in part that:

- A. A person shall not, in the city, keep or harbor any live pig, swine, cattle, horse, mule, sheep, goat, llama, alpaca, or any other animal weighing over two hundred fifty pounds.
- B. No more than a total of three live large domestic birds, made up of but not limited to the following--chickens, turkeys, ducks, geese, and swans—may be kept or harbored on any lot, tract, or parcel of land in the city. In addition, no more than a total of three live adult rabbits may be kept or harbored on any lot, tract, or parcel of land in the city. An adult who has the right to possession of such lot, tract, or parcel of land will be responsible for the failure to comply with this subsection.
- C. A person shall not, in the city, keep or harbor more than a total of six live animals consisting of the types described in subsection B of this section, dogs over six months of age, and cats over six months of age.
- D. No more than a total of six live animals consisting of the types described in subsection B of this section, dogs over six months of age, and cats over six months of age may be kept or harbored on

Mr. Hanrahan's Brief notes that City of Palmer ordinances prohibit more than six dogs and or large animals, such as horses. Even if they would be allowed on a parcel, considering its present size, the Palmer code provides that they may never be closer than 25 feet from the exterior lot line.

**Existing or Reasonably Anticipated Health, Safety, and General Welfare Problems.**

**Water and sewer utilities.** The City maintains that seventeen letters have been received by the City from property owners in the territory proposed for annexation requesting that the City of Palmer proceed with annexation in their respective areas to facilitate extension of safe and potable drinking water and sewer service. The Petition also notes that "Many of the homes in Palmer West (Area K) have inadequate sources of on-site drinking water. While development of utility infrastructure following annexation would address those concerns, it would also serve to encourage future growth in that area." (at 57)

The Petition addresses the water and sewer issue at page 58.

"Under annexation agreements, the City presently provides water in some of the territory to be annexed: two parcels in Area K, as well as to a subdivision in Area L. Sewer service is also provided outside the current City boundaries in Area L. Area I has both water and sewer service. If annexation is approved, water main loops will be extended to Helen Drive (Area K), the area with the highest population figures. The City may pay for the over sizing of water or sewer mains in the proposed Spinell Home subdivision (Area K) to facilitate the extension of services west of that subdivision. Additionally, \$200,000 is included in a budget estimate in both 2004 and 2005 to extend water and sewer service to areas within the territory proposed for annexation as demand for those services arise.

All of the above services are presently being provided in the City of Palmer and paid for by its residents. Annexation will add costs in the provision of water, sewer and solid waste collection. However, fees and property taxes will serve to offset those expenses over time, as well as to resolve health and safety issues of concern to many residents of the territory to be annexed. State and federal grants will also be utilized to assist in covering capital costs of providing these services."

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any lot, tract, or parcel of land in the city. An adult who has the right to possession of such lot, tract, or parcel of land will be responsible for the failure to comply with this subsection.

- E. The restrictions set out in subsections A, B, C, and D of this section do not apply if such are animals kept or harbored in an area:
1. Zoned agricultural district;
  2. Constituting the fairgrounds for a fair with annual attendance over fifty thousand people;
  3. Constituting a circus duly permitted by the city;
  4. On a lot exceeding one acre in size or on contiguous lots owned by the same person, the total area of which exceeds one acre in size, provided such animal is never closer than twenty-five feet from an exterior lot line;
  5. For a period not to exceed seventy-two hours on the premises of a duly permitted slaughterhouse. In addition, such animals may be carefully ridden or carefully tended during a parade duly permitted by the city and in immediate preparation for such parade and immediately after such parade.
- F. No person shall tie, stake or fasten any animal within the traveled portion of any street, alley or public place, or in such a manner that the animal has access to the traveled portion of any street, alley or public place.
- G. No person shall keep or harbor any exotic animal in the city, except that such animal may be kept or harbored in an area constituting the fairgrounds for a fair with annual attendance over fifty thousand people or at a circus duly permitted by the city. (Ord. 538 Section 6, 1999: Ord. 277 Section 4 (part), 1983)

Other aspects concerning fire protection and emergency medical services in the territory proposed for annexation are addressed under the next factor regarding this standard (3 AAC 110.090(a)(2), “existing or reasonably anticipated health, safety, and general welfare problems”).

In prior proceedings, the Alaska Department of Environmental Conservation has expressed the general view that growth and development can be constrained by the lack of water and sewer utilities. Specifically, in the 1999 Ketchikan annexation proceedings, the Local Boundary Commission noted, and the Alaska Department of Environmental Conservation (DEC) agreed, that future development in the territory is constrained by the lack of public water and sewer utilities.

As is the case with the prospective extension of water utilities, the extension of sewer utilities to the territory proposed for annexation would be a major undertaking requiring considerable capital investment. Given the concentrated development, without annexation, future growth in the area proposed for annexation may be constrained because of the lack of a sewer utility service.

Here again, the lack of sewer and water utilities can represent a significant threat to public health, particularly in heavily developed areas. That issue is also addressed with regard to the factor dealing with existing and or anticipated threats to public health.

In prior proceedings, DEC has expressed the general view that significant public health risks may arise in areas of concentrated development that lack water and sewer utilities.<sup>46</sup>

**Police services.** The Petition describes police service delivery problems caused by the City’s current irregular boundary configuration.

“Annexation of existing enclaves will eliminate the confusion City personnel experience when providing service. It is particularly confusing for police personnel to know which properties are currently within the City and which are not.”

**Existing or Reasonably Anticipated Economic Development.** The record demonstrates that economic development is occurring in the area proposed for annexation. As noted in the Petition, “There are four housing subdivisions in various stages of development within the areas proposed for annexation, with some indication of others in the planning stages. Commercial development is anticipated to continue, particularly in areas adjacent to the Glenn Highway. There is a need to manage growth that is compatible with adjacent land uses within the City.” (at 59)

The City anticipates construction of ten \$160,000 houses in the area proposed for annexation annually for the next three years, primarily in the Mountain Rose Estates subdivision and at Spinell Homes, Inc.’s 120-lot subdivision area. (at 11)

According to the Petitioner, “The three [subdivision] developers have negotiated agreements with the City of Palmer to meet the City’s subdivision standards.” (at 61)

**Adequacy of Existing Services.** The City of Palmer has historically provided a range of services, directly or indirectly, to portions of the area proposed for annexation. For example, the City already provides water service to two parcels in Area K, as well as to a subdivision in Area L under provisions of annexation agreements. Several of the Respondents and correspondents in

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<sup>46</sup> In the 1999 Ketchikan annexation proceedings, the Local Boundary Commission recounted the following (Decisional Statement at 5).

. . . Shoreline and DEC also share the view that significant public health risks often arise in areas of concentrated development that lack sewer and water utilities. Further, several correspondents, including the Borough, criticized the City because it lacked specific plans for the extension of water and sewer utility service into the territory. DEC expressed its support for the City’s annexation proposal in the hope that it would lead to the extension of City sewer and water utilities into the territory. The Commission finds from these circumstances that there is a need for water and sewer utility service in the territory proposed for annexation.

this proceeding have indicated that they are satisfied with the level of services provided by the Matanuska-Susitna Borough.

The lack of water and sewer utility service potentially restricts growth and development. It also represents a potential health hazard in developing areas. The need for police protection is arguably greatest in those areas with the most substantial residential and commercial development. It is reasonably assumed that by virtue of proximity to the City and residents of the territory proposed for annexation generally make use of City facilities and services. It is also apparent that no extraterritorial powers of adjacent municipalities constitute an impediment to annexation by the City of Palmer.

**Conclusion.** Given the above findings, the Commission concludes that there is a clear need for city services in the area proposed for annexation and that the standard set out in 3 AAC 110.090(a) is satisfied by the petition.

**M. Legislative Review.** 3 AAC 110.140 provides that the Commission may approve a legislative review annexation only if it is demonstrated that the boundary change meets certain criteria.<sup>47</sup>

**Whether the territory is an enclave surrounded by the annexing city.** This factor reflects the long-standing municipal boundary principle of eliminating existing enclaves or avoiding the creation of new enclaves within the corporate boundaries of municipalities. Enclaves diminish efficiency and effectiveness in the delivery of local government services. The City of Palmer's current boundaries encompass five enclaves. Implementation of the City of Palmer's annexation proposal would eliminate them all. The annexation, as proposed, would eliminate a long standing problem with respect to its boundaries.

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<sup>47</sup> 3 AAC 110.140 provides as follows:

Territory that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 may be annexed to a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the territory is an enclave surrounded by the annexing city;
- (2) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
- (3) the extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
- (4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;
- (5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city;
- (6) repealed 5/19/2002;
- (7) annexation of the territory will promote local self-government with a minimum number of government units;
- (8) annexation of the territory will enhance the extent to which the existing city meets the standards for incorporation of cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042;
- (9) the commission determines that specific policies set out in the Constitution of the State of Alaska or AS 29.04, 29.05, or 29.06 are best served through annexation of the territory by the legislative review process.

The Commission considers the prospect of altering the boundaries of the City of Palmer in a manner that would eliminate the five enclaves to be appropriate and consistent with general and long-standing principles relating to the creation and alteration of municipal boundaries.<sup>48</sup>

Whether the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions.

The degree to which ground water and surface water is contaminated or threatened by contamination as a consequence of conditions existing or developing in the area proposed for annexation is open to argument. However, as noted in the discussion of the previous standard (need for city government), DEC has advised the Commission in prior proceedings that, generally, significant public health risks may arise in areas of concentrated development that lack sewer and water utilities.

It is evident that the City of Palmer, residents and property owners of the area proposed for annexation have a mutual interest in addressing water and sewer matters in concert.

Therefore, the Commission considers the City's proposed annexation to be consistent with enabling the City of Palmer to regulate or control the detrimental effects of existing and potential conditions in those portions of the territory proposed for annexation.

The factor at issue also calls for consideration of whether annexation will enable the City to regulate or control the detrimental effects of those conditions, over time.

**Whether extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city.** The Petition describes how the irregular configuration of the City of Palmer's current boundaries is detrimental to effective land use planning. "Many areas now within the City but adjacent to areas proposed for annexation are zoned for single-family residential use. Presently, there are few land use restrictions in the areas outside the City (including the enclaves "inside" the City). Also, residential development of these areas is not subject to the Uniform Building Code and other uniform codes, which are enforced within the City. The result is that incompatible uses could occur on lands adjacent to the City, with the potential to adversely affect residential uses and property values within the City. The proposed annexation addresses the potential for these land use and building standards conflicts by bringing those adjacent or enclave areas into the City and under the same land use and building standards. These factors involve the City's ability to reasonably plan and control community growth and development." (at 5)

**Whether residents or property owners within the territory proposed for annexation receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits.** The Commission considers the Petitioner's contention that the City of Palmer delivers a range of services to residents in all or portions of the territory proposed for annexation to be valid. For example, as noted on page 50 of the Petition, the City Fire Department already provides fire and rescue service to the areas proposed for annexation through their mutual aid agreement and funding mechanism for the greater Palmer area with the Borough, whereby the Borough provides fifty per cent of the Palmer Fire Department's annual budget and the City provides the remaining fifty per cent of funding. It is difficult for the Palmer Police Department (PPD) personnel to differentiate between the enclave areas and the areas within the current City boundaries. Therefore, the PPD already provides some general public safety services to the areas proposed for annexation.

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The City of Palmer is one of only two of Alaska's 162 municipal governments that have such enclaves. The other is the Haines Borough. The Commission has expressed public policy concerns about the existence of such enclaves in prior proceedings involving both of those governments. Moreover, the Commission has denied boundary proposals for other municipal governments that would have created enclaves.

Since all areas proposed for annexation are immediately adjacent to or within the existing boundaries of the City, it is evident that residents of those areas utilize City of Palmer services and infrastructure. Property owners and renters of these enclaves and adjacent areas work, recreate, shop, drive and attend to other daily affairs within the City limits. Residents in the areas proposed for annexation use all services such as the Palmer Library; road maintenance; police; dispatch services; fire and rescue; and the airport.

Property owners in the territory proposed for annexation pay no City property taxes however those who regularly patronize commercial establishments within the existing boundaries of the City of Palmer – as many in the territory proposed for annexation presumably do – contribute to the City of Palmer’s sales tax revenues. Annexation is the most appropriate means to ensure that the City of Palmer acquires the jurisdiction necessary to deliver services that benefit the residents of both the City and the outlying areas. Empowering the City of Palmer by expanding its jurisdiction is in the interests of the residents and property owners of the City as well as those in the territory proposed for annexation. Absent annexation, the City cannot efficiently deliver essential services to those living in the area proposed for annexation. Such could place greater burdens on the Matanuska-Susitna Borough and the State of Alaska.

**Whether annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city.** The Commission considers the record to clearly demonstrate that the territory proposed for annexation has undergone substantial residential growth and that the area is reasonably anticipated to continue to grow and develop in the foreseeable future. Palmer has been one of the fastest growing communities in Alaska. According to the U.S. Census, the City of Palmer’s 1990 population was 2,866. The 2000 U.S. Census set the City’s population at 4,533, a population increase of 58%. This population growth was primarily the result of development within the City boundaries, as the City did not annex lands containing significant populations in that period.

The Petitioner notes that urban development is occurring throughout the Matanuska-Susitna Borough’s core area, not just the territory proposed for annexation. Between 1990 and 2000, the population of the Matanuska-Susitna Borough grew from 37,114 to 59,322, a growth rate of 59%. As the Borough seat and the hub of regional government activity, the City of Palmer is heavily impacted by regional population growth. The *City of Palmer Analysis of Annexation Alternatives* notes that “The area within Palmer’s existing boundaries is expected to experience growth in both institutional and residential uses. Many local and state government offices are located in Palmer. For example, the Alaska Courthouse and the Mat-Su Pretrial Facility anchor many of their legal-related services in Palmer. As the population grows, demand for such services within the MSB grows, and such organizations require more office space.” (at 1-2)

The record suggests that unless annexation occurs, both the City and the area proposed for annexation could be negatively affected because, absent planning, development detrimental to both areas will occur.

**Whether the territory proposed for annexation is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.** The record does not demonstrate that the territory proposed for annexation is extensively inhabited by persons who are not landowners.

**Shift of appropriate responsibilities to the government unit closest to the citizens.**

Extending the City’s jurisdiction would benefit the Matanuska-Susitna Borough and the State of Alaska by relieving each of responsibility for the delivery of services assumed by the City.

For the Borough, annexation would shift planning related functions, fire protection, emergency medical services, and responsibility for road maintenance within any territory added to the City of Palmer. Annexation would also relieve the Alaska State Troopers of primary responsibility for serving those areas. The jurisdiction of Alaska State Troopers is, of course, statewide. Nevertheless, annexation would shift additional responsibility for local law enforcement duties in

those areas to the City of Palmer and to a limited extent relieve some of the burden of service delivery currently borne by the Alaska State Troopers.

Empowerment of qualified local governments to assume greater responsibilities is appropriate when such local governments exhibit the willingness and capability to do so. In a prior proceeding, the Local Boundary Commission expressed the following policy views concerning such matters<sup>49</sup> (LBC Decisional Statement on 1999 Ketchikan annexation, page 12.)

Annexation will also shift responsibility for certain local services in the territory from the State to local government. These consist of police service and maintenance of certain roads. Annexation may also foster the extension of water and sewer utilities to the territory. The Commission finds that, as a matter of public policy, where communities have the resources to assume responsibility for local services, the State should transfer those responsibilities to the local government. (Emphasis added.)

**Enfranchisement of community residents.** The Commission recognizes that certain actions taken by the Palmer City government can have considerable effect (or the potential for such) upon residents beyond the corporate boundaries of the City. There are a number of aspects of the daily lives of residents in the territory proposed for annexation that are affected by decisions rendered by elected and appointed officials of the City of Palmer (e.g.; public safety issues, maintenance of streets where people shop, go to work, attend schools and churches, et cetera).

Moreover, when residents of the territory proposed for annexation shop at businesses within the existing boundaries of the City of Palmer they pay a 3% sales tax to the City of Palmer on all taxable purchases made within the corporate boundaries of the City of Palmer. However, they have no formal role in determining how those monies will be spent. In an informal sense, such amounts to “taxation without representation.” Ideally, regularly recurring sales tax contributions should reasonably be reflected by direct participation of the taxpayers in the body politic of the City of Palmer.

The Commission considers it preferable to enfranchise citizens of the territory proposed for annexation in order to provide them with a formal voice in the affairs of a local government that generally affects their daily lives.

**Potential for proliferation of local government units.** If the City of Palmer’s boundaries are not adjusted, the demand for establishment of additional local governmental units (borough service areas) to provide services in the territory proposed for annexation will likely grow as the area’s population and level of development increases.

**Conclusion.** The balanced best interest standard would be satisfied if all of the area proposed for annexation, with the exception of 61.4 acres within Area A, is annexed to the City of Palmer. For example, doing so would extend City of Palmer citizenship to residents of an area who are part of the community of Palmer, who already rely on the City of Palmer for a number of essential services, and who are otherwise significantly affected by that local government. It would also address, in a more comprehensive fashion, concerns over the provision of services without commensurate local tax contributions.

The Commission concludes that the balanced best interest standard is satisfied with respect to most of the territory sought by the Petition. The City of Palmer’s proposed post-annexation boundaries meet the requirements set out in 3 AAC 110.140.

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<sup>49</sup> The 1999 Ketchikan annexation involved a limited transfer of road maintenance responsibility from the State to the City of Ketchikan. The City of Ketchikan had volunteered to accept the additional road maintenance responsibility. Annexation to the City of Palmer will not bring about any transfer of road maintenance responsibility from the State to the City per se. Of course, if annexation occurs, the City may, at some future time, agree to maintain some of the roads in the territory that are currently being maintained by the State (just as the City maintains some of the State roads within the existing boundaries of the City).

**N. Best Interests of the State.** In order to approve annexation, AS 29.06.040(a) and 3 AAC 110.135 provide that the Local Boundary Commission must determine that annexation is in the best interests of the state.<sup>50</sup>

The shift of appropriate responsibilities to the government unit closest to the citizens. Extending the City's jurisdiction would benefit the Matanuska-Susitna Borough and the State of Alaska by relieving each of responsibility for the delivery of services assumed by the City.

For the Borough, annexation would shift planning related functions, fire protection, police, and responsibility for road maintenance within any territory added to the City of Palmer. Annexation would also relieve the Alaska State Troopers of primary responsibility for serving those areas. The jurisdiction of Alaska State Troopers is, of course, statewide. Nevertheless, annexation would shift additional responsibility for local law enforcement duties in those areas to the City of Palmer and to a limited extent relieve some of the burden of service delivery currently borne by the Alaska State Troopers.

Empowerment of qualified local governments to assume greater responsibilities is appropriate when such local governments exhibit the willingness and capability to do so. In a prior proceeding, the Local Boundary Commission expressed the following policy views concerning such matters.<sup>51</sup> (LBC Decisional Statement on 1999 Ketchikan annexation, page 12.)

Annexation will also shift responsibility for certain local services in the territory from the State to local government. These consist of police service and maintenance of certain roads. Annexation may also foster the extension of water and sewer utilities to the territory. The Commission finds that, as a matter of public policy, where communities have the resources to assume responsibility for local services, the State should transfer those responsibilities to the local government. (Emphasis added.)

**Enfranchisement of community residents.** The Commission recognizes that certain actions taken by the Palmer City government can have considerable effect (or the potential for such) upon residents beyond the corporate boundaries of the City. There are a number of aspects of the daily lives of residents in the territory proposed for annexation that are affected by decisions rendered by elected and appointed officials of the City of Palmer (e.g.; public safety issues, maintenance of streets where people shop, go to work, attend schools and churches, et cetera).

Moreover, when residents of the territory proposed for annexation shop at businesses within the existing boundaries of the City of Palmer they pay a 3% sales tax to the City of Palmer on all taxable purchases made within the corporate boundaries of the City of Palmer. However, they have no formal role in determining how those monies will be spent. In an informal sense, such amounts to "taxation without representation." Ideally, regularly recurring sales tax contributions should reasonably be reflected by direct participation of the taxpayers in the body politic of the City of Palmer.

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<sup>50</sup> AS 29.06.040(a) provides that, "The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. 3 AAC 110.135 states: "In determining whether annexation to a city is in the best interests of the state under AS 29.06.040 (a), the commission may consider relevant factors, including whether annexation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units; and
- (3) will relieve the state government of the responsibility of providing local services."

<sup>51</sup> The 1999 Ketchikan annexation involved a limited transfer of road maintenance responsibility from the State to the City of Ketchikan. The City of Ketchikan had volunteered to accept the additional road maintenance responsibility.

The Commission considers it preferable to enfranchise citizens of the territory proposed for annexation in order to provide them with a formal voice in the affairs of a local government that generally affects their daily lives.

**Potential for proliferation of local government units.** If the City of Palmer's boundaries are not adjusted, the demand for establishment of additional local governmental units (borough service areas) to provide services in the territory proposed for annexation will likely grow as the area's population and level of development increases.

**Conclusion.** Based on the foregoing, the Commission concludes that the "best interests of the state" as set out in AS 29.06.040(a) are served to the greatest degree if the expansion of the boundaries of the City of Palmer. However, the annexation should be amended to include the approximately 861.44 acres approved for annexation.

### SECTION III ORDER OF THE COMMISSION

Based on the findings and conclusions set out in Section II of this Statement of Decision, the Local Boundary Commission determines that all of the relevant standards and requirements for annexation to a city are satisfied to the greatest degree by the annexation to the City of Palmer of the approximately 861.44 acres approved for annexation by the Commission.

Accordingly, the Commission hereby approves annexation of approximately 861.44 acres under Article X, § 12 of the Constitution of the State of Alaska and other principles of law. In accordance with Article X, § 12, the annexation shall be recommended to the legislature as two separate boundary changes, with annexation of the area identified below as Annexation #2 contingent upon annexation of the approval of Annexation #1.

Annexation #1. Collectively comprising approximately 859.94 acres consisting of thirteen areas.

Annexation #2. Comprised of 1.5 acres designated Matanuska-Susitna Borough tax parcel B-3, T17NR2E05.

Approval of the annexations will result in the following metes and bounds description of the City of Palmer.

Beginning at the section corner common to Section 3, Section 4, Section 9 and Section 10, Township 17 North, Range 2 East, Seward Meridian, Alaska, and running thence in a westerly direction along the section line common to Section 4 and Section 9, N 89°58'00"W a distance of 1,637.99 feet;

thence continuing on said Section line for 1,000.00 feet to the one-quarter corner

common to sections 4 and 9, Township 17 North, Range 2 East, and the centerline of Outer Springer Loop Road;

thence S 0°03'30"E for 1318.98 feet to the southeast corner of the Palmer Commercial Center Subdivision, Plat 95-46;

thence N 89°56'16"W for 1319.84 feet to the southwest corner of the Palmer Commercial Center Subdivision;

thence N 00°02'42"W for 851.89 feet to the southwest corner of the Willis Subdivision, Plat 81-149;

thence S 89°58'03"E for 467.37 feet to the southeast corner of Willis Subdivision;

thence N 0°08'33"W for 466.66 feet to the section line common to Sections 4 and 9, Township 17 North, Range 2 East, Seward Meridian and the centerline of Outer Springer Loop Road;

thence N 89°55'24"W on the section line a distance of 1516.35 feet to the section corner common to Section 4, Section 5, Section 8 and Section 9, Township 17 North, Range 2 East, Seward Meridian, Alaska;

thence along the section line common to Section 8 and Section 9, S 00°07'00"W a distance of 2,640.00 feet to the one-quarter corner common to Section 8 and Section 9 marking the southeast corner of the State Fair, Inc., property;

thence continuing on said section line South 00°07'West a distance of 1,322.64 feet to the south one-sixteenth corner common with Sections 8 and Section 9;

thence S 89°58'00" W for a distance of 2,638.68 feet to the center-south one-sixteenth corner of Section 8;

thence S 89°58'00"W along the one-sixteenth line a distance of 2,208.77 feet to a point on the west right-of-way of the Glenn Highway;

thence along the west right-of-way of the Glenn Highway N 32°58'30"E a distance of 4,050.48 feet to the north-south one-quarter line of Section 8;

thence along the one-quarter line of Section 8 N 00°08'00"W a distance of 562.68 feet to the north section line of Section 8;

thence S 89°56'00" W on the north boundary of Section 8 a distance of 2,2640.00 to the Section corner common with Sections 5, 6, 7, and 8, Township 17 North, Range 2 East;

thence S 89°59'00" W on the line common with Section 6 and Section 7 for 2,640.00 to the southwest corner of Palmer West Subdivision, plot file No. 72-28;

thence north on the west boundary of said Palmer West Subdivision for 1,981.28 feet to the northwest corner of Palmer West Subdivision;

thence continuing easterly for 1,320.00 feet to the North-South 1/64 corner common to Section 5 and Section 6;

thence N 00°10'00" W on the section line for a distance of 660.00 feet to the one-quarter corner common to Section 5 and Section 6;

thence east 990.00 feet to the Center-East-West-West 1/256 corner Section 5;

thence north 660.00 feet to the Center-East-SouthWest-NorthWest 1/256 corner Section 5;

thence east for 330.00 feet to the Center-South-NorthWest 1/64 Section 5;

thence N 00°13'57" W on the west boundary of Brittany Estates Subdivision Phase 1, plat file No. 85-68 a distance of 560.73 feet

continuing on the said boundary S 89°56'57" E a distance of 50 feet;

continuing on the said boundary N 00°13'57" W a distance of 920.00 feet;

continuing on the said boundary N 89°56'57" W a distance of 50 feet;

continuing on the said boundary N 00°13'57" W for approximately 35.27 feet to a point lying 465 feet distant from the west one-sixteenth corner common with Section 5, Township 17 North, Range 2 East and Section 32, Township 18 North, Range 2 East lying within the East Palmer-Wasilla Highway;

thence N 51°25'52" W on the Wasilla-Fingerlake-Palmer Road, presently known as Irwin Loop Road, for approximately 385 feet to a point lying 300.00 feet distant from the west 1/16 Subdivisional line of Section 5 and 225.00 feet distant from the north boundary of Section 5;

thence N 00°13'57" W, parallel with aforesaid west 1/16 subdivision line, for 225.00 feet to the north boundary of Section 5;

thence East on the north boundary of Section 5, Township 17 North, Range 2 East, common with Section 32, Township 18 North, Range 2 East, for 300.00 feet to the west 1/16 one-sixteenth corner;

thence north for a distance of 990.00 feet to the center-north-south-southwest (C-N-S-SW) 1/256 corner Section 32;

thence N 00°07'00"W a distance of 2,970.00 feet to the northwest one-sixteenth corner of section 32;

thence east a distance of 1,319.17 feet to the center-north one-sixteenth corner of section 32;

thence S 00°07'00"E a distance of 1,295.45 feet to a point on the north right-of-way of Hemmer Road (also known as W. Arctic Ave.);

thence along the north right-of-way of Hemmer Road (also known as W. Arctic Ave.) east a distance of 1,320.00 feet;

thence continuing along the north right-of-way of Hemmer Road N 89°55'59"E a distance of 1,270.17 feet to a point of 50.00 feet west of and 30.00 feet north of the one-quarter corner common to Section 32 and Section 33, Township 18 North, Range 2 East, Seward Meridian, Alaska;

thence on a line 50.00 feet west of and parallel to the section line common to Section 32 and Section 33, Township 18 North, Range 2 East, Seward Meridian, Alaska, N 00°08'00"W a distance of 1,288.27 feet to the north 1/16 corner common to Section 32 and Section 33;

thence west on the center line of Scott rd to the north east one-sixteenth corner of Section 32 a distance of 1,270.00 feet;

thence North a distance of 1,320.00 feet to the east sixteenth corner common to Section 29, and Section 33;

thence East 1,270.00 feet to a point 50.00 feet west of the section corner common to Section 28, Section 29, Section 32 and Section 33, Township 18 North, Range 2 East, Seward Meridian, Alaska;

thence continuing on a line 50.00 feet west of and parallel to the section line common to Section 28 and Section 29 N 00°04'00"W a distance of 1,316.34 feet to the south one-sixteenth line of said Section 29;

thence N 89°56'48"W a distance of 1,269.25 feet to the southeast one-sixteenth corner;

thence N 89°56'47"W a distance of 1,319.33 feet to the center-south one-sixteenth corner;

thence N 00°04'18"W a distance of 1,318.30 feet to the center one-quarter corner;

thence N 00°06'13"W a distance of 1,316.41 feet to the center-north one-sixteenth corner;

thence N 89°54'39"E a distance of 1,317.78 feet to the northeast one-sixteenth corner of said Section 29;

thence N 89°57'54"E a distance of 1,320.21 feet to the north one-sixteenth corner common to Section 28 and Section 29, Township 18 North, Range 2 East, Seward Meridian, Alaska;

thence along said section line, S 00°06'00"E a distance of 2,460.03 feet to a point 50.00 feet west of the northwest corner of Lot 13, Block 1 of Bailey Heights Subdivision;

thence east passing through the northwest corner of Lot 13, and running along and with the north line of Lot 13, a distance of 250.00 feet to the northeast corner of Lot 13, Block 1, Bailey Heights Subdivision;

thence south along the east line of Lot 13, Lot 14 and Lot 15, Block 1, Bailey Heights Subdivision, a distance of 160.00 feet to the southeast corner of Lot 15, Block 1, said corner being on the north side of Albrecht Avenue;

thence along the north side of Albrecht Avenue, east a distance of 95.28 feet;

thence south, passing through the northeast corner of Lot 2, Block 2, Bailey Heights Subdivision in Section 28, Township 18 North, Range 2 East, Seward Meridian, Alaska, and along the west side of a 20.00 foot wide street, a distance of 284.79 feet to the southeast corner of Lot 2, Block 2;

thence along the east line of Lot 3, Block 2, Bailey Heights Subdivision, S 40°51'00"E a distance of 548.58 feet to the southeast corner of Lot 3, Block 2, being on the west side of a 54.00 foot wide street;

thence along the west side of Diamond Willow Estates Subdivision N 00° 01'04"W a distance of 361.94 feet to a point marking a joint corner of Lot 4 and Lot 5, Block 2 of Bailey Heights Subdivision;

thence continuing along the west side of Diamond Willow Subdivision N 27°35'48"E a distance of 355.70 feet;

thence leaving the west side of Diamond Willow Subdivision, running on the east boundary of Bailey Heights Subdivision N 21°30" E for approximately 737.00 feet to the east angle point Lot 10, Block 2;

thence N 21°30' E for approximately 250.00 feet to the westerly right-of-way of the Alaska Railroad;

thence running northeasterly on the west right-of-way for approximately 3,380.00 feet to its intersection with the north boundary of Section 28, Township 18 North, Range 2 East, Seward Meridian;

thence east on the north boundary of Section 28 for approximately 200.00 feet to a meander point of the right bank of the Matanuska River;

thence along the right bank of the Matanuska River as its meander to the South East 6,430.00 feet to its intersection with the south boundary of section 28;

thence continuing 1,625.00 feet on the meanders of the right bank of Matanuska River to its intersection with the east boundary of section 33;

thence within section 34 and continuing on the sinuous meanders of the west and right bank of the Matanuska River southeast, east, northeast, south, southwest and south for a distance of 7,716.00 feet to its intersection with the south boundary of section 34, Township 1E North, Range 2 East; and section 3, Township 17 North, Range 2 East;

thence along said section line, S 00°06'00"E a distance of 2,460.03 feet to a point

thence along the west side of the Matanuska River as it meanders as follows: S 10°45'00"W, 154.10 feet; S 04°30'00"W, 270.60 feet; S 21°30'00"E, 323.40 feet; S 27°15'00"E, 239.58 feet; S 27°30'00"E, 153.78 feet; S 25°15'00"E, 116.82 feet; S 30°00'00"E, 130.68 feet; S 26°15'00"E, 275.22 feet; S 32°45'00"E, 127.38 feet; S 35°30'00"E, 318.78 feet; S 27°15'00"E,

147.18 feet; S 33°15'00"E to the south one-sixteenth line of said Section 3 a distance of 1,094.40 feet;

thence leaving the river along the one-sixteenth line, N 89°59'00"W to the southwest one-sixteenth corner a distance of 1,146.49 feet;

thence S 00°11'00"E to the west one-sixteenth corner common to Section 3 and Section 10, a distance of 1,320.00 feet;

thence along the section line common to Section 3 and Section 10, Township 17 North, Range 2 East, N 89°59'00"W to the centerline of Deland Street, Lepak Subdivision, Plat 85-77, a distance of 348.47 feet;

thence along said centerline S 00°05'00"E to the northerly one-sixteenth line of said Section 10, which is the centerline of Branch Road, a distance of 1,319.42 feet;

thence along said one-sixteenth line S 89°55'25"W to the north one-sixteenth corner common to Sections 9 and 10, a distance of 971.20 feet;

thence on the section line, which is the centerline of Outer Springer Loop Road, N 00°05'00"W a distance of 311.82 feet more or less;

thence West a distance of 465.39 feet;

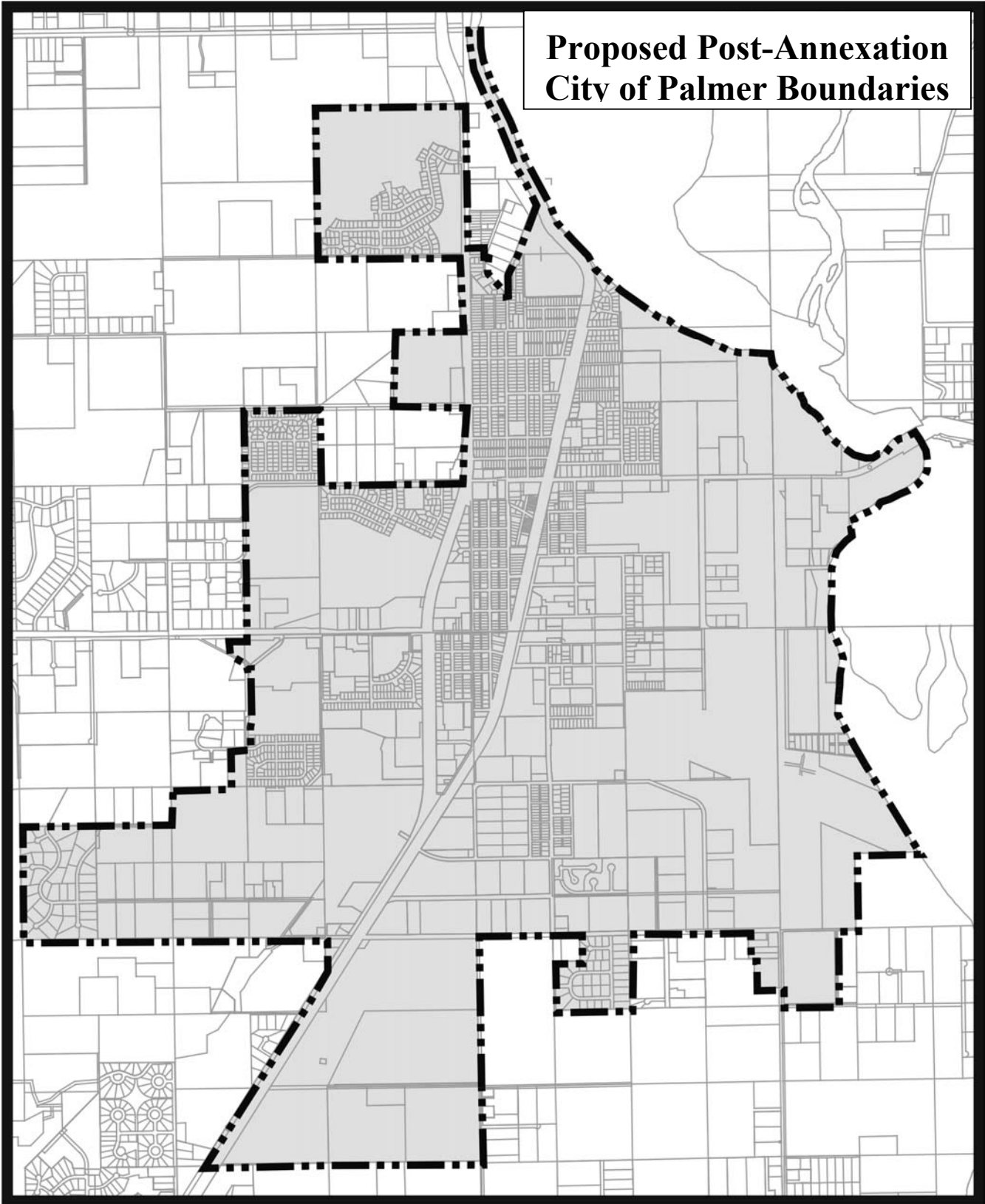
thence North a distance of 512.00 feet to the south boundary of the Mohan Subdivision, Plat 87-7;

thence West 26.58 feet to the southwest corner of Mohan Subdivision;

thence North 495.00 feet to the North boundary of Section 9;

thence East on the section line a distance of 560.77 feet to the corner common to Sections 3,4,9 and 10, Township 17 North, Range 2 East, which is the Point of Beginning.

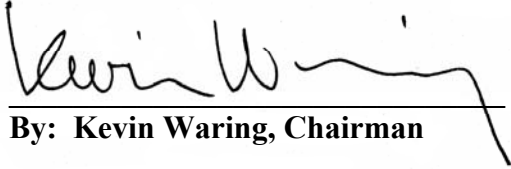
A map of the boundaries of the City of Palmer including the territory approved for annexation is appended to this decisional statement.



The Commission will submit the two recommendations for the annexation of the referenced areas separately to the First Session of the Twenty-Third Alaska Legislature under Article X, §12 of the Constitution of the State of Alaska.

Approved in writing this 19th day of December 2002.

**LOCAL BOUNDARY COMMISSION**

  
By: **Kevin Waring, Chairman**

Attest:

  
**Dan Bockhorst, Staff**

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**RECONSIDERATION BY THE COMMISSION**

Within eighteen days after the Commission's written statement of decision is mailed under 3 AAC 110.570(f), a person or entity may file an original and five copies of a request for reconsideration of all or part of that decision. Within twenty days after a written statement of decision is mailed under 3 AAC 110.570(f), the Commission may, on its own motion, order reconsideration of all or part of that decision. A request for reconsideration from a person or entity must describe in detail the facts and analyses that support the request for reconsideration.

A person or entity filing a request for reconsideration must provide DCED with a copy of the request for reconsideration and supporting materials in an electronic format. DCED may waive the requirement if the person or entity requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format.

A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the Petitioner by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for reconsideration is founded in fact, and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.

If the person or entity filing the request for reconsideration is a group, the request must identify a representative of the group. The Commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision if the Commission determines that

- (1) a substantial procedural error occurred in the original proceeding;
- (2) the original vote was based on fraud or misrepresentation;
- (3) the commission failed to address a material issue of fact or a controlling principle of law; or
- (4) new evidence not available at the time of the hearing relating to a matter of significant public policy has become known. The law provides that if the Commission does not act on a request for reconsideration within twenty days after the decision was mailed under 3 AAC 110.570(f), the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within twenty days after the decision was mailed under 3 AAC 110.570(f), the Commission will allow the Petitioner ten days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The Petitioner shall provide DCED with a copy of the responsive brief in an electronic format, unless DCED waives this requirement because the Petitioner lacks a readily accessible means or the capability to provide items in an electronic format. the day that the written statement of decision is mailed, postage prepaid, to the Petitioner.

Within ninety days after DCED receives timely filed responsive briefs, the Commission, by means of the decisional meeting procedure set out in 3 AAC 110.570(a)-(f), will issue a decision on reconsideration. A decision on reconsideration by the Commission is final on the day that the written statement of decision is mailed, postage prepaid, to the Petitioner.

### **JUDICIAL APPEAL**

A judicial appeal of this decision may also be made under the Alaska Rules of Appellate Procedures, Rule 601 et seq. An appeal to the Superior Court must be made within thirty days after the last day on which reconsideration can be ordered.

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