

DCED Preliminary Report

City of Palmer Proposed Annexation of 921.34 Acres

October 2002



Deborah B. Sedwick
Commissioner



Tony Knowles
Governor

This is the Preliminary Report of the Alaska Department of Community and Economic Development (DCED) regarding the Petition to Annex 921.34 Acres to the City of Palmer. This report will also be made available on the Internet at the following address:

<http://www.dced.state.ak.us/cbd/lbc/lbc.htm>

The report is preliminary in the sense that it is issued as a draft for public review and comment in accordance with 3 AAC 110.530(b). The law requires DCED to issue a final report after considering written comments on the Preliminary Report.

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



Invitation to Comment

Readers are encouraged to review and submit written comments on this Preliminary Report. Comments may be sent by mail, fax, or e-mail as noted below. The deadline for receipt of written comments is 5:00 p.m., November 12, 2002. All timely comments will become part of the formal record in the Palmer annexation proceedings. Timely comments will be considered in development of DCED's final report on the proposal.

Submit comments to:

Local Boundary Commission staff
550 W. 7th Avenue, Suite 1770
Anchorage, AK 99501-3510

Fax: 907-269-4539
Email: Gene_Kane@dced.state.ak.us

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- John and Gloria Brawford
- June Bridges
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- Mary P. Cullison
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- Sandra Dillon, Matanuska-Susitna Borough
- Clarence E. Furbush
- Sandra Garley, Matanuska-Susitna Borough
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- Milton Gilmore
- John and Cathy Glaser
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- Mark Matson, Matanuska-Susitna Borough
- Robert Meyer
- John Nolin
- John Nystrom
- R.A. and LaRaine Runyon
- Daniel and Christine Schorr
- James and Carol Ward

Pictures contained in this report were provided by Solutions, Inc.

Data for the maps contained in this report was originally obtained from the Matanuska-Susitna Borough Office of Information Technology, and were used to create this product. The Matanuska-Susitna Borough assumes no responsibility for the completeness or accuracy of the data contained within.

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Section Introduction

On April 25, 2002 the Home Rule City of Palmer petitioned the State of Alaska for annexation 921.34 acres. The boundary change is proposed under the legislative review process authorized by Article X, Section 12 of the Constitution of the State of Alaska and AS 29.06.040(b).¹

The Alaska Department of Community and Economic Development (DCED) has a duty under State law to examine proposals for annexation and to provide non-

binding recommendations for consideration by the Local Boundary Commission (LBC). This report offers DCED’s preliminary analysis, conclusions, and recommendations concerning the City of Palmer’s Petition for annexation.

Section 1 provides background information about the pending annexation Petition. Included is an outline of the changes that annexation would bring about if the proposal is approved by both the Local

Boundary Commission and the legislature. Additionally, information is provided about the Local Boundary Commission and the legal standards that govern annexation of territory to cities in Alaska.

Effects of Annexation

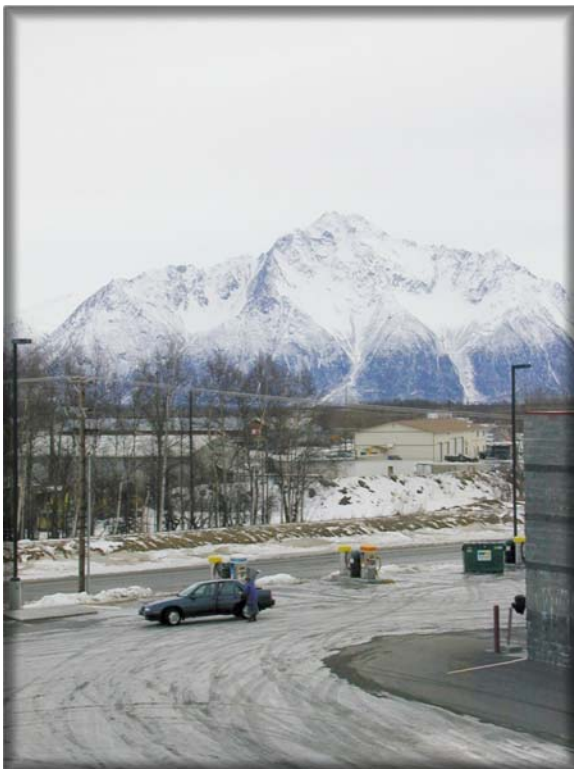
The following summarizes the effects of the proposed annexation on the structure of

¹ Article X, Section 12 states:

SECTION 12, BOUNDARIES. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

AS 29.06.040(b) states:

The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.



Pioneer Peak.

local government in Palmer if the Local Boundary Commission and the legislature approve the annexation proposal.

If implemented, the proposed annexation will increase the size of the area within the City of Palmer’s jurisdiction by 37%, from about 3.9 square miles to 5.3 square miles. Annexation would expand the property tax base of the City of Palmer by \$9,781,000. (at 11) The Petitioner estimated that the City’s population of 4,533 would increase to 4,858 if the boundary change is implemented as proposed by the Petition.²

The Petition estimates that the annual value of sales in the territory that would be subject to City sales tax upon annexation total about \$100,000. According to the Petition, levy of the City’s sales tax would generate an estimated \$3,000 annually. (at 11)

The Petition states that City services will be extended to the newly annexed areas as follows:

² Although estimates of the population of the area proposed for annexation range as high as 391, the Petitioner estimates that the aggregate population of the area proposed for annexation is about 325.

Fire Service

The City of Palmer Fire Department provides fire protection service 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.



City of Palmer Fire Department.

Public Safety Dispatch

The City operates a dispatch center that provides dispatch services to the City of Palmer, the City of Wasilla, the Matanuska-Susitna Borough (ambulance and fire), the City of Houston, and to a limited degree, the Alaska State Troopers. The State Troopers pay \$35,000 for this service, with the remaining costs shared 33% each by Palmer, Wasilla, and the Borough, with 1% provided by Houston.

Ambulance

The Borough operates the ambulance service. There are discussions presently taking place within the Borough that

could result in the City operating the Palmer ambulance under contract to the Borough. A date for this transfer, however, has not been determined.



Palmer City Police Department.

Police Service

The City police department provides police services inside the City, and the Alaska State Troopers are responsible for areas outside the City. After annexation, City police will provide service to the annexed areas. The State operates the Mat-Su Pretrial and Juvenile Center facilities.

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.

Library

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



Palmer City Library

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.

Utilities

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



Alaska Railroad tracks in downtown Palmer.

the delivery of solid waste collection service in the areas proposed for annexation.

City Services not to be Extended to the Area Proposed for Annexation

The Petition states, “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 15)

Matanuska-Susitna Borough

The second class Matanuska-Susitna Borough (MSB) was incorporated in 1964. In addition to the home rule City of Palmer, the borough encompasses the first class City of Wasilla, and the second class City of Houston. In addition,

the MSB encompasses several unincorporated communities, including Big Lake, Chickaloon, Knik, Petersville, Skwentna, Sutton, Talkeetna and Willow.

The Matanuska-Susitna Borough provides services proposed for annexation on an areawide, nonareawide and service area basis.³

Territory Proposed for Annexation

The 921.34 acres proposed for annexation are comprised of thirteen separate areas located north, south, east and west of the existing boundaries of the City of Palmer. The thirteen areas include five enclaves.

The Petitioner has divided the territory proposed for annexation into thirteen distinct areas, described as follows:

Area A consists of 115.91 acres, lying north of the current city boundaries and flanked by the Glenn Highway on the west and the Matanuska River on the east. Area A has an estimated population of 34.

Map 1 Matanuska-Susitna Borough



Area B is known as Sherrod Park and consists of 27.98 acres situated on a bluff overlooking the Matanuska River and bordered on the west by Gulkana Street. The Matanuska-Susitna Borough School District is currently negotiating with landowners in this area for parcels to be used as a potential site for a new school. One mobile home occupies this area and population is estimated to be 3 persons.

Area C is comprised of a 36.56-acre area adjacent to the Glenn Highway. The property lies immediately north of Scott Road and is occupied by three residents. A single home is located in the southeastern corner of Area C.

Area D is comprised of three parts with an aggregate size of 56.16 acres with a population

of eight. Area D is located on the banks of the Matanuska River. A gravel pit is located in the southern-most part of Area D.

Area E This five-acre enclave is the location of the Pioneer Cemetery. A private cemetery association owns the cemetery. The Old Glenn Highway fronts the property.

Area F This enclave is a T-shaped enclave 89.82 acres in size and occupied by an estimated three individuals. Area F is adjacent to and west of the Palmer Airport. The

³ Areawide services are those services provided throughout the Borough. Nonareawide services are provided in that portion of the Borough outside cities. Service area services are delivered in distinct areas within the Borough.

northern-most section is wooded, while the south and east is cleared grassland with minimal development.

Area G is an enclave comprised of 11.67 acres. Area G is undeveloped and uninhabited.

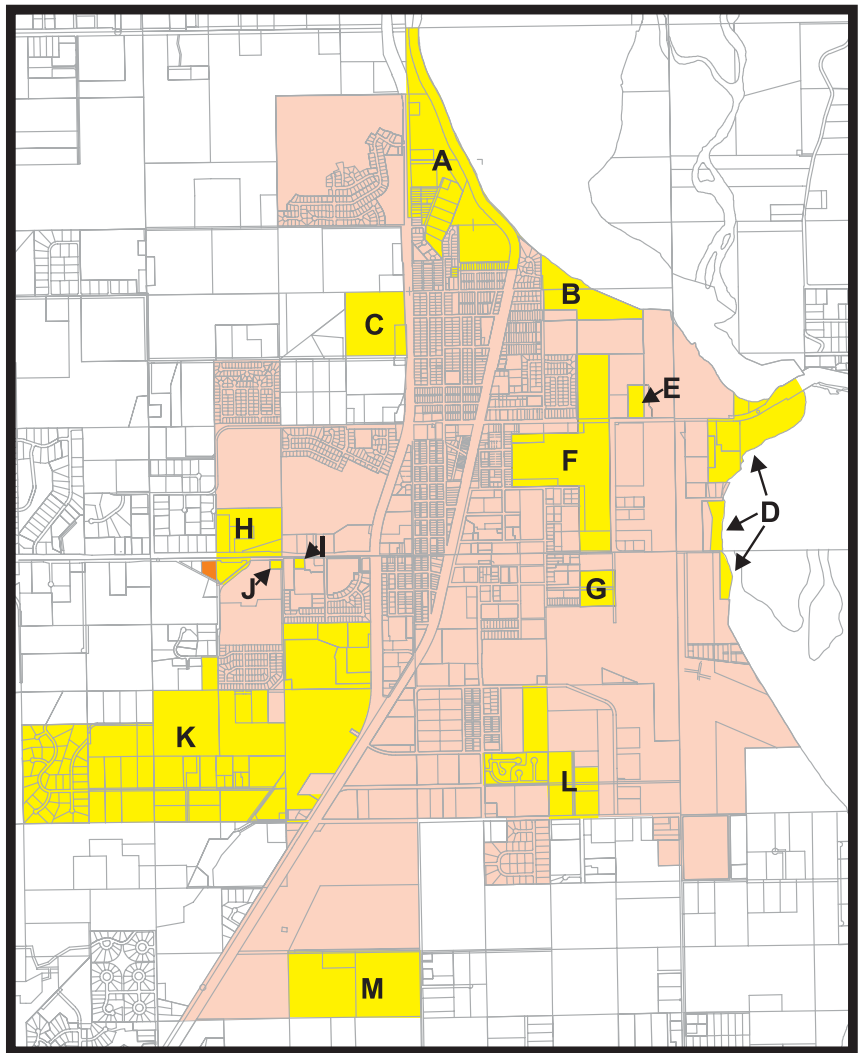
Areas H, I and J are comprised of three parcels with an aggregate size of 37.71 acres, an estimated eight residents, and two enclaves. The territory includes a home and outbuildings and encompasses property on both the north and south sides of the Palmer-Wasilla Highway.

Area K is comprised of 399.31 acres with an estimated population of 185. The Glenn Highway comprises the eastern boundary of this portion of the area proposed for annexation. The southern boundary begins at Moore Road and runs west, adjacent to Helen Drive to the Palmer West subdivision.

Area L is populated by 78 persons and known as the Cope Subdivision. Area L contains the City's main water well in its southeastern corner. The 61.23-acre area is also the location of the Dennis Smith Housing Development. The northern-most portion is comprised of a forested area and some open fields.

Area M is largely comprised of 79.99 acres adjacent to the City of Palmer's southern

Map 2 - Areas Proposed for Annexation



Legend

- Areas within the City of Palmer
- Areas proposed for annexation in 04/25/02 petition
- Rolf Dagg Parcel

An 11 x 17 inch version of this map is provided in Appendix A.

boundary. The area is owned by the Alaska State Fair, Inc., with the exception of a five-acre parcel situated halfway along the northern boundary. Area M includes an inactive gravel quarry. Alaska State

Fair, Inc. purchased this property for parking purposes. This property abuts the City of Palmer's southern boundaries. The Petitioner estimates that the Area M is populated by three individuals.



Palmer City Hall.

City of Palmer Background

Palmer Annexation History

During the 51 years since its incorporation, the City's boundaries have been expanded by 45 separate annexations, of which 42 have occurred since 1970. There have been as many as seven annexations to the City of Palmer during a single year (1984). This pattern of frequent small-scale annexations has occurred as a consequence of the City's practice of limiting annexation petitions to areas where property owners initiate the request for annexation. Five enclaves, totaling about 110 acres, exist within the City's jurisdiction. In 1992, concern over the proliferation of enclaves within the City led the LBC to deny a petition by the City to annex the 35-acre

Palmer Commercial Tract since annexation of that area at that time would have created an additional enclave within the City.

If approved, the annexation proposed at this time would eliminate five enclaves.

Local Boundary Commission

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

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

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

judgment, knowledge and ability in the field . . . and with a view to providing diversity of interest and points of view in the membership."

Members serve at the pleasure of the Governor. The Chairperson is appointed from the state at-large and one member is appointed from each of Alaska's four judicial districts. Members serve without compensation. Background about current members of the Commission follows:

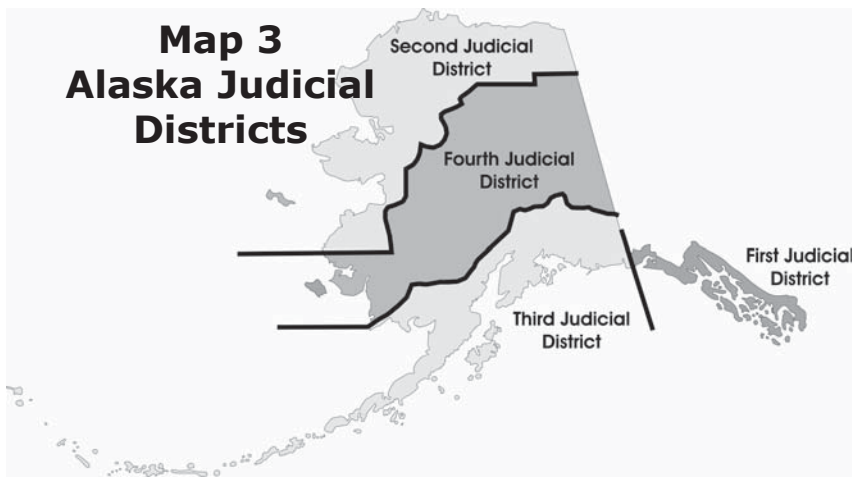


Kevin Waring, a resident of Anchorage, has served on the Commission since July 15,

1996. He was appointed as Chairperson on July 10, 1997. He was reappointed to a new term as Chairperson effective January 31, 1998.

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

Map 3 Alaska Judicial Districts



committees. His current term on the LBC expires January 31, 2003.



Myrna Gardner

serves from the First Judicial District and is a resident of Juneau. She was

appointed to the LBC on July 18, 2002. An Alaska Native, Myrna is Tlingit and Haida Indian. Her Tlingit name is X'éishx'w (Bluejay). She is Yéil Moiety, Duk'tool, Wéix' and comes from the Taakwaaneidi Hi't (Raven/Skulpin house) from the village of Sxwaan of the Hinyaa Kwaan (Klawock) people. She is Chankweidi Yadi (child of the Haida people on her father's side).

She has been in the private business sector over 15 years. Ms. Gardner has served in executive officer and management positions. She is presently a Business Development Specialist for an Alaska Tribe. Ms. Gardner has served in leadership positions

ranging from Chairman of Klawock Heenya Corporation, Vice-President of Klawock Island Dock Company, Klawock School Board, Private Lands Wildlife Management Vice-Chair and President of the Alaska Native Sisterhood Camp 14. Ms. Gardner's term on the Commission expires January 31, 2006.



Robert Harcharek

serves from the Second Judicial District. He was appointed to the

LBC on July 18, 2002. Mr. Harcharek has lived and worked on the North Slope for more than 20 years. He has been a member of the Barrow City Council since 1993 and a member of the North Slope Borough School Board since 1999. He is a Senior Planner and Social Science Researcher for the North Slope Borough Planning Department. Mr. Harcharek earned a Ph.D in International and Development

Education from the University of Pittsburgh in 1977. He has served as North Slope Borough Capital Improvement Projects and Economic Development Planner, Community Affairs Coordinator for the North Slope Borough Department of Public Safety, Director of the North Slope Higher Education Center, Socio-cultural Scientist for the North Slope Borough Department of Wildlife Management, Director of Technical Assistance for Upkeagvik Inupiat Corporation, and Dean of the Inupiat University of the Arctic. Mr. Harcharek served for two years as a Peace Corps Volunteer in Thailand and was also a Fulbright-Hays Professor of Multicultural Development in Thailand. He is a member of numerous boards of directors, including the Alaska Association of School Boards and the Alaska Municipal League Legislative Committee. His current term on the Commission expires on January 31, 2004.



Allan Tesche,
a resident of
Anchorage,
serves from
the Third

Judicial District. He was appointed to the LBC on July 10, 1997. A 28-year resident of Anchorage, he was first employed with the legal department of the former Greater Anchorage Area Borough. After unification of local governments in Anchorage, he served as Deputy Municipal Attorney. Before entering private practice in 1985, Mr. Tesche also served as Director of Property and Facility Management for Anchorage and as Borough Attorney for the Matanuska-Susitna Borough. He is presently a partner in a private firm where he specializes in administrative and municipal law. Mr. Tesche has served in leadership positions on twelve boards and commissions, ranging from the Anchorage Museum Association, the South Addition Community Council, and the Anchorage Police and Fire Retirement Board. He currently serves as a member of the Assembly of the Municipality of Anchorage. Mr. Tesche's term on the Commission expires January 31, 2002.



Ardith Lynch,
a resident of the
greater Fair-
banks area, is
the Vice-Chair
of the Commis-

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

Communications with the LBC

The LBC is a quasi-judicial board. To preserve the rights of petitioners, respondents and others to due process and equal protection, 3 AAC 110.500 prohibits private (ex parte) contact with the LBC on all matters pending before it. The law prohibits communication between the LBC and any party, other than its staff, except during a public meeting called to address the proposal. This limitation takes effect upon the

filing of a petition and remains effective through the last date available for the Commission to reconsider a decision under 3 AAC 110.580. Written communications to the Commission must be submitted through its staff.

Staff to the Commission

The Department of Community & Economic Development (DCED) provides staff to the LBC. The LBC's staff is required by law to evaluate petitions filed with the LBC and to issue reports and recommendations concerning such. The LBC and DCED are independent concerning policy matters. Therefore, DCED's recommendation in this or any other matter is not binding upon the LBC.



Legal Standards for Annexation to Cities

The criteria to be used by the Commission to evaluate the City of Palmer's annexation proposal are set out in 3 AAC 110.090 - 3 AAC 110.130, 3 AAC 110.900 and 3 AAC 110.910. A summary of the criteria follows:

1. There must be a reasonable need for city government in the territory proposed for annexation.
2. The territory may not be annexed if essential city services⁴ can be provided more efficiently and more effectively by another existing city or by an organized borough.
3. The territory must be compatible in character with the annexing city.
4. There must be sufficient human and financial resources in the proposed city boundaries (area within existing city, plus territory proposed for annexation) to provide essential city services on an efficient, cost-effective level.
5. The population within the proposed city boundaries must be sufficiently large and stable to support the extension of city government.
6. The proposed city boundaries must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level.
7. Absent a specific and persuasive showing to the contrary, the Local Boundary Commission will, in its discretion, presume that territory that is not contiguous to the annexing city does not meet the minimal standards required for annexation.
8. 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 annexation.
9. 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 annexation standards.
10. If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, 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 overlapping region from the existing organized borough, unified municipality, or city.
11. Annexation under provisions of 3 AAC 110.150(2) requires that the territory be contiguous to the existing boundaries of the city to which annexation is proposed and that the boundary change include petitions from all registered voters and property owners within the territory proposed for annexation.
12. A petition for annexation must include a practical plan:

⁴ "Essential city services" are defined by 3 AAC 110.990(8) to mean "those legal activities and facilities that are determined by the commission to be reasonably necessary to the community and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state; 'essential city services' may include: (A) assessing, levying, and collecting taxes; (B) providing primary and secondary education in first class and home rule cities in an unorganized borough; (C) public safety protection; (D) planning, platting and land use regulation; and (E) other services that the commission considers reasonably necessary to meet the local governmental needs of the community."

- demonstrating the annexing municipality's intent and capability to extend municipal services to the territory proposed for annexation in the shortest practicable time after the effective date of the proposed boundary change;
 - providing for the assumption of all relevant and appropriate powers, duties rights and functions exercised by an existing borough, city, service area or other entity located in the territory proposed for change;
 - providing for transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, service area or other entity located in the territory proposed for change. (3 AAC 110.900)
13. The Commission cannot approve annexation if the effect of the change would be to deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin. (3 AAC 110.910)
 14. The Commission is also guided by principles set forth in Article X of the Constitution of the State of Alaska in judging the merits of annexation proposals.

Section Proceedings

Submission and Review of Petition

The Petition was submitted to LBC staff on April 25, 2002 and accepted for filing on April 30, 2002.

Notice Mailed

On May 10, 2002, notice of the Petition filing was mailed to 126 individuals and organizations. Notice was published in the *Frontiersman* on May 3, 2002, May 10, 2002, and May 21, 2002.

Posting of Notice

On May 2, 2002 notice was posted at the following locations within the area proposed for annexation.

- 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 May 2, 2000, 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.

Deposit of Petition

On May 1, 2002 the City of Palmer made a full set of Petition documents available for public review at the Palmer Public Library and the Palmer City Hall.

Table 1
Timely Responsive Briefs Received by DCED

Respondent(s)	Date Received	Position Regarding Annexation Petition
Ray T. Briggs	June 28, 2002	opposed to annexation
John Nystrom (with 11 signatures ⁱ)	June 28, 2002	opposed to annexation
Daniel Hanrahan ⁱⁱ	June 28, 2002	opposed to annexation

ⁱ 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.

ⁱⁱ 14-page brief with 4 exhibits

Deadline for Initial Comments

The notice of filing invited written public comment concerning the either the proposed annexation was June 28, 2002. Timely briefs were received by the parties listed in the adjacent Table 1.

Comments were submitted to DCED by the parties listed in Table 2 on the following page.

Table 2
Timely Correspondence Received by DCED

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

ⁱ Mr. Nolin submitted two letters, one dated June 10, the other dated June 21.

ⁱⁱ Mr. Kinter submitted two letters, one dated June 22, the other dated June 27.

ⁱⁱⁱ Ms. Loyer's letter contained a statement from Natalie L. [last name illegible] objecting to annexation of her home "in Palmer West Subdivision."

Informational Meeting

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 listed in Table 3 on the following page. A copy of

the minutes of the meeting is included with this report as Appendix B.

Written comments regarding the proposed annexation were submitted to the City of Palmer by the individuals listed in Table 4 on the following page.

Petitioner's Reply Brief Filed

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

Deadline for Comments on Preliminary Report

The deadline for receipt of written comments concerning this report and recommendation by LBC staff is 5:00 p.m., November 12, 2002. Submit comments to:

LBC Staff
550 W. 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510
Fax: 907-269-4539
E-Mail:
Gene_Kane@dced.state.ak.us

Final Report

After receipt of written comments regarding DCED's Preliminary Report, a final report regarding the Palmer annexation proposal will be issued at least 21 days prior to the LBC's public hearing.

LBC Public Hearing

The date, time, and location of the Local Boundary Commission's hearing on the Palmer annexation proposal have not yet been determined. It is anticipated that the hearing will be held in December 2002.

Formal notice of the date, time, and place of the hearing will be published as a display ad no

Table 3
Comments Received at City of Palmer Informational Meeting

Name	Nature of Comment
Glenn Jacob	Supporting annexation
Clarence E. Furbush	Opposed to annexation
Michael Kolivosky	Supporting annexation
Eric Hohmann	Seeks amendment of Petition to a phased annexation
Linda Yannikos	Opposed to annexation
Brad Lewis	Opposed to annexation of six acre agricultural parcel
John Nystrom	Opposed to annexation
Winn Warren	Posed questions/did not state support or opposition
Jim Hermon	Support for annexation only if property classified for multiple use
Brian Herron	Opposed to annexation
Donna Karsten	Opposed to annexation

less than two columns by three inches in one or more newspapers of local circulation. The initial publication of the notice will occur at least thirty days prior to the hearing. Public notice of the hearing will also be posted in prominent locations throughout the community. Additionally, notice will be mailed to the Petitioner and each of the Respondents.

The hearing will begin with a summary by DCED staff of its conclusions and recommendations concerning the pending proposal.

Following DCED’s summary, the law allows the Petitioner to make an opening statement limited to ten minutes duration.

Following its opening statement, the Petitioner may present formal sworn testimony

No time limit on testimony by the Petitioner is established in law. However, the LBC Chairman will regulate the time and content of testimony to exclude irrelevant or repetitious testimony.

Following the testimony by the Petitioner, Respondents will be allowed to make opening statements and present formal sworn testimony by individuals with expertise in matters relevant to the pending annexation proposal. As is required for the Petitioner, the testimony of witnesses for the Respondents must relate to whether the pending annexation

by individuals with expertise in matters relevant to the pending annexation proposal. The testimony must relate to whether the pending annexation proposal meets the legal standards for annexation and whether the Petition should be granted.

proposal meets the legal standards for annexation and whether the Petition should be granted.

Here again, no time limit on testimony by the Respondents is established in law. However, the LBC Chairman will regulate the time and content of testimony to exclude irrelevant or repetitious testimony.

Because the Petitioner bears the burden of proving that its Petition meets the standards and should be approved, the Petitioner has the opportunity to provide sworn responsive testimony to refute testimony of the Respondents. Rebuttal witnesses of the Petitioner must have expertise in matters relevant to the proposed annexation about which they intend to testify.

The laws governing the Commission’s hearing make no provision for cross-examination of witnesses by the Petitioner

Table 4
Written Comments Received by City of Palmer

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

or Respondents. However, a member of the Commission may question any person appearing as a sworn witness. The Commission may also call additional witnesses.

At the conclusion of the testimony phase of the hearing, the Commission will receive public comment from any interested person, not to exceed three minutes per person. A member of the Commission may question persons providing public comment.

Following the period of public comment, the Petitioner is allowed to make a closing statement not to exceed 10 minutes. Next, the Respondents are allowed to make a closing statement not to exceed 10 minutes for each respondent.

Because the Petitioner bears the burden of demonstrating that its Petition should be granted, the City is allowed to reply to the closing statements of the Respondents. The reply is limited to five minutes.

No brief or other written materials may be filed at the time of the public hearing unless the Commission determines that good cause exists for such materials not being presented in a timely manner for consideration by DCED and others.



State of Alaska Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

AGENDA

Palmer Annexation Hearing & Decisional Session

- I. Public Hearing on the City of Palmer's petition for annexation
 - A. Summary of DCED's reports and recommendations
 - B. Opening statement by the Petitioner (limited to 10 minutes)
 - C. Sworn testimony of witnesses called by the Petitioner
 - D. Opening statement by Respondents (limited to 10 minutes each)
 - E. Sworn testimony of witnesses called by the Respondents
 - F. Responsive testimony by the Petitioner
 - G. Period of public comment by the general public (limited to 3 minutes per person)
 - H. Closing statement by the Petitioner (limited to 10 minutes)
 - I. Closing statement by the Respondents (limited to 10 minutes each)
 - J. Reply by the Petitioner (limited to 5 minutes)
- II. Decisional session (optional following the hearing)

Members: Kevin Waring, Chairperson; Myrna Gardner, First Judicial District; Robert Harcharek, Second Judicial District; Allan Tesche, Third Judicial District; Ardith Lynch, Vice-Chairperson, Fourth Judicial District

Draft Palmer hearing agenda.

In compliance with Title II of the Americans with Disabilities Act of 1990, DCED will make available reasonable auxiliary aids, services, and/or special modifications to individuals with disabilities who need such accommodations to participate at the hearing on this matter. Persons needing such accommodations should contact

DCED's staff to the Commission at 269-4560 at least one week prior to the hearing.

If anyone attending the hearing does not have a fluent understanding of English, the Commission will allow time for translation. Unless other arrangements are made before

the hearing, the individual requiring assistance must arrange for a translator.

LBC Decisional Meeting

The LBC must render a decision within ninety days of the hearing (3 AAC 110.570). If the Commission determines that it has sufficient information to properly judge the merits of the annexation proposal following the hearing, the LBC is likely to convene a decisional session shortly after the conclusion of the hearing. During the decisional session, no new evidence, testimony, or briefing may be submitted. However, Commission members may ask their staff or another person for a point of information or clarification.

Within thirty days after the Commission has rendered its decision, it must adopt a written statement explaining all

major considerations leading to its decision concerning the City of Palmer's annexation Petition. A copy of the statement will be provided to the Petitioner, Respondents, and any others who request a copy.

Reconsideration

Any interested person or organization may ask the Commission to reconsider its decision in this matter. A request for reconsideration may be filed within twenty days after the written decisional statement has been mailed to the Petitioner and Respondents.

A reconsideration request must describe in detail the facts and analyses that support the request for reconsideration. Typically, the LBC will reconsider a decision only if:

- there was a substantial procedural error in the original proceeding;

- the original vote was based on fraud or misrepresentation; or
- new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.

If the Commission takes no action on a request for reconsideration within thirty days after the decisional statement was mailed to the Petitioner, the request is automatically denied. If the Commission grants a request for reconsideration, the Petitioner may file a responsive brief for consideration by the Commission. Ten days are allotted for the filing of such briefs.

Federal Voting Rights Act Preclearance

If the Commission approves the Petition for annexation, the boundary change will be subjected to review by the U.S. Department of Justice under the Federal Voting Rights Act.

Federal law (43 U.S.C. 1973) subjects municipal annexations in Alaska to review under the federal Voting Rights Act. The Voting Rights Act forbids any change to municipal jurisdiction that has the purpose or effect of denying or abridging minority voting rights.



Local Boundary Commission at a recent hearing.

The municipality proposing annexation is responsible for initiating the necessary review of the annexation proposal by the U.S. Justice Department or U.S. District Court for the District of Columbia. The review may be initiated once the opportunity for the LBC to reconsider its decision has expired under 3 AAC 110.580. A request for review prior to such time would be considered premature (see 28 CFR § 51.22). Annexation will not take effect until the City provides DCED with evidence that the Justice Department or U.S. District Court has favorably reviewed the annexation proposal (see 3 AAC 110.630). Commission staff are available to assist cities in meeting their obligations under the Voting Rights Act.

Judicial Appeal

A decision of the LBC may be appealed to Superior Court. The appeal must be made within thirty days after the last day on which the Commission may order reconsideration. (Alaska Rules of Appellate Procedure, Rule 601 et seq.)

Legislative Approval or Denial

The Alaska Legislature will review the proposed annexation if the City's Petition is granted in whole or in part by the LBC. More specifically, if the Petition is approved (with or without amendments and/or conditions), the LBC will file a recommendation for the annexation with the next regular session of the Alaska Legislature under the terms of Article X, § 12 of the Constitution of the State of Alaska. The Legislature will then have forty-five days to consider the recommendation. If the Legislature takes no action within the forty-five day review period, the recommendation is automatically approved. However, if the State Senate and House of Representatives adopt a joint resolution rejecting the recommendation, the annexation is denied.

If the legislature does not deny the Commission's recommendation, the boundary change will take effect on the date that the City provides the LBC staff with documentation that the annexation has successfully passed the requisite Federal Voting Rights Act review. After such documentation is received by DCED, a certificate of

boundaries for the City reflecting the annexation will be issued.

Other Issues

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. The City of Palmer and the Matanuska-Susitna Borough expressed no objection annexation of the referenced parcel to the City.

Notice of Mr. Dagg's request was published three times in the *Frontiersman*, posted at the parcel proposed for annexation, and mailed to owners of adjacent lots, the City of Palmer and the Matanuska-Susitna Borough. The deadline for submission of written comments regarding Mr. Dagg's request is November 15, 2002. A copy of the Notice of the Request to Amend the Petition is included in Appendix C.

Section Synopsis of Views Expressed in the Petition, Responsive Briefs, and Reply Brief Concerning Annexation Standards

This chapter synthesizes the views of the principal parties in this proceeding concerning the application of the formal annexation standards to the pending proposal. It includes the views expressed by the City of Palmer in its Petition and views of the three Respondents. Relevant comments by correspondents are also addressed. Lastly, the City's reply to the views of Respondents and correspondents is also addressed.

3.1 Compatibility of the Characteristics of the Territory Proposed for Annexation and the Area within the City of Palmer

- (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.

A. The Standard

3 AAC 110.100 provides that an area may be annexed to a city only if the LBC determines that it is compatible in character with the annexing city, stating:

. . . In this regard, the Commission, will, in its discretion, consider relevant factors, including the:

- (1) land use and subdivision platting;

B. Views Expressed in the Petition

The City's Petition states:

"Based on factors listed in 3 AAC 110.100 plus other relevant factors, the territory proposed for annexation is compatible in character with the area inside the current boundaries of the City.

The City of Palmer is a growing and dynamic community situated 42 miles northeast of Anchorage on the Glenn Highway. There is



Main Street in Palmer.

a wide array of commercial and recreational opportunities both inside the City and in the surrounding territory. Palmer serves as the seat of the Matanuska-Susitna Borough, which spans 23,000 square miles from the western slope of the Alaska Range to east of the Talkeetna Mountains, from Mt. McKinley to the Municipality of Anchorage. Palmer was settled by hardy pioneers who homesteaded the land when the railroad was built in the early 1900's, and by more than 200 farm families who came from the depressed mid-West in the mid-1930's to create the Matanuska Colony. Through more recent years the areas farmland has seen steady development, particularly in areas immediately adjacent to the boundaries of the City of Palmer. The City of Palmer was incorporated as a home rule municipality in 1951, and preceded the incorporation of the Matanuska-Susitna Borough by thirteen years.

The territories proposed for annexation comprise approximately 921.34 acres and include several enclaves within the City of Palmer. The Local Boundary Commission has addressed these enclaves in previous annexations, with the LBC encouraging the City of Palmer to take a more comprehensive approach in its annexation process. All territories proposed for annexation consist of primarily residential, minimal commercial, and vacant properties that are either under development currently or are anticipated to be developed in the near future. The residential development within the areas is comparable to those within the City. Land use is much like neighboring properties within the

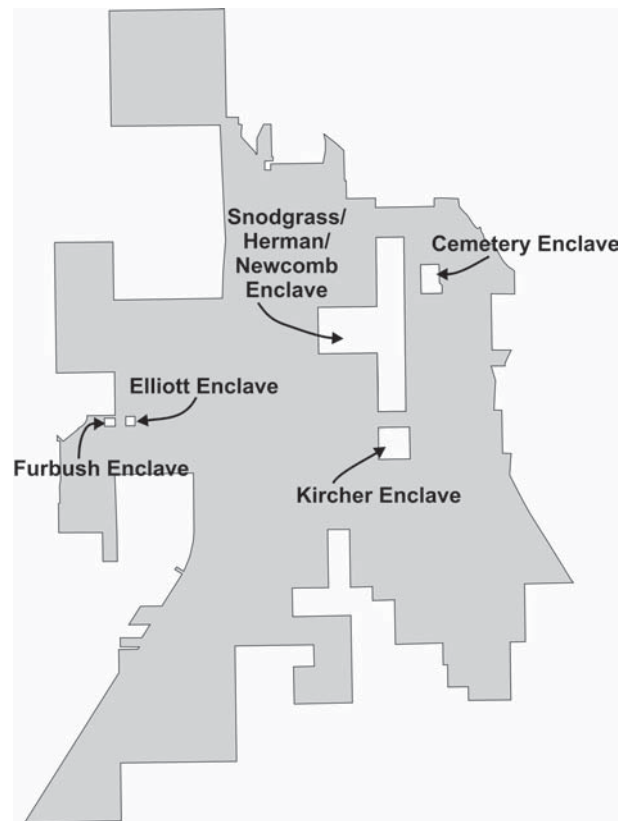
City. Three of the larger enclaves are either vacant land or land under active agricultural use. The fact that these vacant or agricultural use enclaves are essentially within the City suggests they are part of the overall land or agricultural tracts within the present City boundaries except for large areas of the airport property which are under agricultural use leases as an allowed incidental use on airport property." (at 47)

C. Respondents' Views

The June 28, 2002 Responsive Brief from Mr. Hanrahan suggests that his property is incompatible in character with the territory within the City of Palmer.

"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 poten-

Map 4 Current Enclaves within the City of Palmer



tial for more of the same in the future. (Daniel Hanrahan affidavit.) But the Palmer municipal code restricts animal activity within the city limits . . .⁵

The Hanrahan brief notes that:

"City of Palmer ordinances prohibit more than six dogs and or large animals, such as Hanrahan's horses. Even if they would be allowed on Mr. Hanrahan's parcel, considering its present size, the Palmer code provides that they may ' . . . never be closer than 25 feet from the exterior lot line.' This is just the tip of the iceberg of undesirable and incompatible Palmer characteristics. Hanrahan's has three horses and a dozen mushing dogs at this time. These numbers may grow. The City of Palmer is urban in character, Lots D 29 and D 30 and those proximate to them are not. The area is neither an economic or social part of the City of Palmer. The proposed annexation lines that encompass Lots D 29 and D 30 are not compact; they extend west well beyond any existing Palmer boundary line. The annexation lines should not be selectively extended so far west, much less unnecessarily encompassing Lots D 29 and D 30. Hanrahan has been a resident of lot D29 for some 20 years and built up his parcel accordingly. City of

Palmer government appears incompatible with the history and future of Lots D-29 and D-30 identified above." (at 5-6)

D. Views of Correspondents

A letter received on June 14, 2002 from Palmer West Subdivision residents John and Gloria Brawford stated:

"My family has lived at this address for over twenty years. The restrictions that would come with annexation would change the way of life that we love. The few benefits that we would receive are nothing [compared to] what we would lose. The intrusion into our lives is unwanted and not needed."

A letter submitted by Palmer West Subdivision residents James and Carol Ward stated, in part:

"My family and I moved to the Valley in 1986, We looked long and hard to find just the right mix of rural and urban amenities to suit us. We looked for a place where we could own and keep horses or even have a 4-H live-stock project for our kids. Palmer West Subdivision fit our needs perfectly. Even though it is unrestricted as far as covenants, our neighbors and us adhere to a live and let live attitude. We love our neighborhood wish

⁵ 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 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:

to keep it the way it is. Our area is a little short on water, but I would rather haul water for the rest of my life than to give up the life style we have now. The restrictions the city would put on us far out weigh any benefit we would gain.

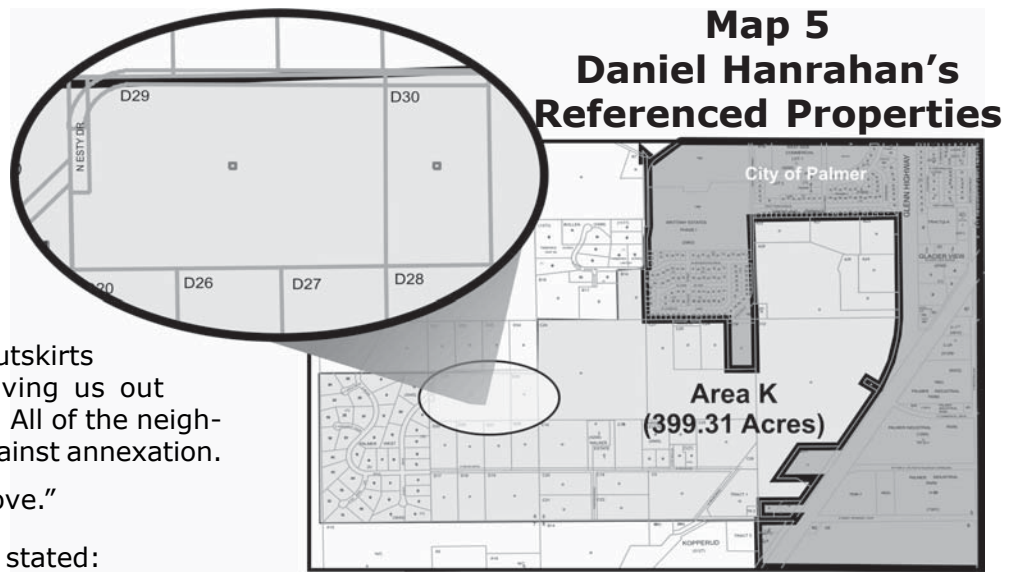
Our subdivision is on the outskirts of the city's plan and leaving us out would not form an enclave. All of the neighbors I have talked to are against annexation.

Please don't force us to move."

Mr. John Nolin's June 26 letter stated:

"As per 3 AAC 110.100, my property and the approximate 24 acres behind me are not being used as residential mine is being used as commercial and the 24 acres behind me is being used as a gravel pit. This use is not compatible to the land use the City would bring us in under."

Ms. Melinda Dewey's June 21, 2002 letter expressing opposition to her Riverside Subdivision property stated, in part, as follows:



"Be it known that I wish to file opposition to the proposed annexation. As the owner of the above named 2 parcels and adjoining 4 lots, I am not in favor of the annexation because as previously stated at least 5 times over the years when the City of Palmer has attempted to annex the property. My objections are the same as stated at previous hearings. This land is presently used for agricultural purposes as it has always been since we acquired it in 1975 and at this time I

Footnote continued from previous page

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)

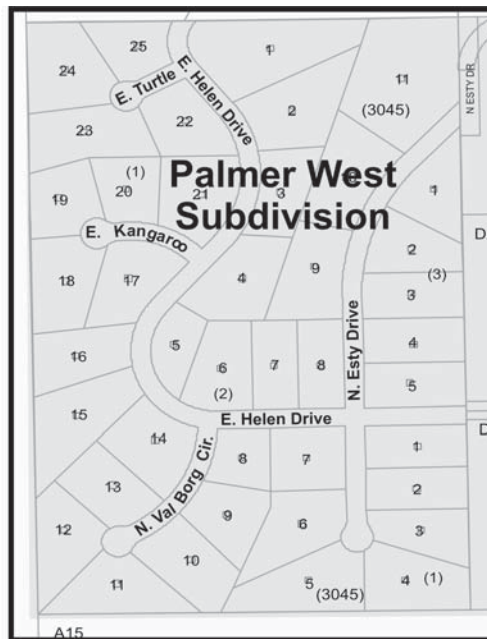
wish it to remain the same. It is presently in hay fields in its entirety. I can see no benefit to have it annexed at this time."

The June 28, 2002 letter from Palmer West Subdivision residents Cathy and John Glaser indicates that they do not consider land use on their property to be compatible with land use within the City of Palmer:

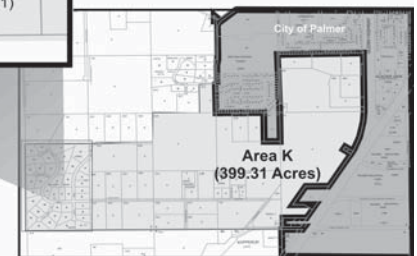
"We do not want to be annexed into Palmer. We live in an agriculture area with many animals. We do not want to pay city taxes and we do not need city services. We moved here to be able to have animals and live like we want. We are extremely opposed to being annexed."

Palmer West Subdivision resident Donna Karsten's June 28, 2002 letter objecting to annexation stated, in part:

"Residents of Palmer West have known there is bad water in the area. We are one of those residents who have to haul our drinking water for animals and ourselves. Yes, we could benefit from city water, but chose to haul water vs. having the City of Palmer's regulations imposed upon us."



**Map 6
Palmer West
Subdivision**



tion. The requirement in subsection (E) (4) that such animals not be closer than twenty-five feet from an exterior lot line is a reasonable fencing requirement for health and welfare purposes to assure there is a buffer between animal yards to mitigate odors and runoff impacts from animal yards on adjacent properties.

Hanrahan states that this separation requirement 'is just the tip of the iceberg of undesirable and incompatible Palmer characteristics,' and his brief goes on to list several differences between his property and properties within the City. These include a claim that there is a difference between the urban and rural character of the areas. There is some truth to the statement that some areas proposed for annexation are more rural than areas within the City, but this difference is not, in the City's opinion, significant to the point of classifying these areas as not of a similar character, particularly when there is a recognized trend toward subdivision and development of large lots adjacent to or near the present City boundary. Also, there are large, relatively undeveloped areas within the present City limits.

E. Views Expressed in Petitioner's Reply Brief

The City's Reply Brief states:

In regards to the Hanrahan brief's analysis of the character of the territory proposed for annexation, the brief claims that City ordinances, regulations and policies are 'incompatible with the Lot D29 and D30 activities.' The brief cites the keeping of animals on these properties as a potential incompatible use, and quotes City ordinance Section 6.08.020. Palmer municipal code provides that its restrictions on the keeping of a certain number or size of animal do not apply on lots exceeding one acre in size (PMC 6.08.020 (E) (4)). Therefore, the keeping of animals described by Hanrahan can continue on his or Cullison's properties following annexation because the properties are larger than one acre and eligible for this excep-

The City does not agree with Hanrahan's statement that this area is 'neither an economic or social part of the City of Palmer.' The only road access out of this area passes through the City of Palmer. The closest commercial center is in Palmer. While it can be said that Anchorage and Wasilla provide commercial and social opportunities for residents of the Palmer area, Palmer is the most convenient commercial and social center for the annexation area. If by his statement Hanrahan means that activities on his property are not related to the economic or social activity of Palmer, this addresses this characteristic in a narrow and individual fashion, and does not recognize the larger economic and social interaction that exists between neighborhoods and communities in and around Palmer." (at 8)

3.2 Overlapping Boundaries

A. The Standard

(e) If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, 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 overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat the annexation petition to the existing organized borough, or a detachment petition from the existing organized borough, unified municipality, or city.

The territory proposed for annexation does not overlap the boundaries of an existing organized borough or city. Alternatively, the brief also addresses that circumstance as required by 3 AAC 110.130(e).

B. Views Expressed in the Petition

The Petition contends that the territory proposed for annexation does not overlap the boundaries of another existing city government or an existing organized borough. (at 17)

The Petitioner also noted that:

"All areas proposed for annexation are within the Matanuska-Susitna Borough, and are contiguous to the Palmer City boundaries. The Borough collects a 13.133 mill property tax Borough-wide and a 3-mill property tax for the City of Palmer. Therefore, all areas proposed for annexation will be required to pay the City's three-mill property tax, if annexed. Per the Matanuska-Susitna Borough 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, the beginning of the City's budgeting year, the City chooses not to collect property tax revenues for 2003 from the Borough for the areas proposed for annexation. Beginning in 2004, the City projects additional property tax revenues for the proposed annexation area of \$29,340. (at 48)

Local Improvement Districts (LID's) are assessed for paybacks through the Borough property tax process.

Fire and Rescue services are currently provided to the Greater Palmer Fire Service Area by the Palmer Fire Department through a mutual agreement between the Borough and



E. Helen Drive in Area K.

the City of Palmer Fire Department. Fifty per cent of the City's Fire Department budget comes from the Borough and fifty per cent from the City's general fund budget. A 0.7 mill fire tax is assessed by the Borough to properties outside the City of Palmer in the Greater Palmer Fire Service Area. Therefore, tax revenues for the Greater Palmer Fire Service Area will be reduced by \$6,846 if the annexation is approved.

Property owners in the areas proposed for annexation are presently charged 2.50 mills by the Borough for road maintenance service in the South Colony Road Service Area. The annexation, if approved, will result in a reduction of \$24,452 of road service area tax revenue to the Borough for the South Colony Road Service Area (approximately 3.5% of the total service area tax revenue), as well as a proportionate reduction in State Revenue Sharing funds.

The Borough assesses a .35-mill levy for non-areawide services that would not be assessed after annexation, resulting in a loss of revenue to the Borough in the amount of \$3,423."

"... Property owners within the areas proposed for annexation are currently assessed for fire, road and non-areawide services that total 3.55 mills. The City currently levies a 3 mill property tax. Therefore, if annexed to the City of Palmer, owners of property will see a 0.55 mill reduction in their total property tax expense.

While the total reduction in revenue to the Borough as a result of the proposed annexation will be \$34,722, the annexation will put the City of Palmer in the Borough's place as the provider of the road, fire and non-areawide services. Presumably, the loss of revenue to the Borough service areas will be matched by a comparable reduction in Borough service area costs because these areas would be removed from the service areas.

Residents in the proposed areas to be annexed to the City of Palmer utilize the same library, shop at the same commercial facilities, attend the same churches, utilize the same government facilities, listen to the same radio stations and utilize the same medical facilities as those inside the City.



City of Palmer Fire-Rescue Emergency Response vehicle.

The area's major feeder streets and roads such as the Old Glenn Highway, the Glenn Highway, Scott Road, the Palmer-Wasilla Highway, Evergreen Avenue, and the Inner Springer Loop Road act as connectors with adjacent area roads within the areas proposed for annexation, and in fact, are immediately adjacent to some of the proposed territories. The areas proposed for annexation are a part of one reasonably compact urban community and its suburbs comprising the metropolitan area of Palmer. While the proposed areas for annexation will still be within the Matanuska-Susitna Borough boundaries, they will receive more direct services from the City, including city police services. They are currently served by the State Troopers who cover approximately 23,000 sq. miles of surrounding area, while the Palmer Police Department would service post-annexation territory of approximately 5.35 sq. miles with 11 full-time officers." (at 49)

C. Respondents' Views

Mr. Nystrom's Responsive Brief states, in part:

"We are posting another concern with the LBC to address the question of the City of Palmer overlapping boundary question with the Mat-Su Borough, regarding Area 'A.'" (at 1)

Mr. Hanrahan’s Brief states:

“If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, 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 overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat the annexation petition to the existing organized borough, or a detachment petition from the existing organized borough, unified municipality, or city.

Exclusion of Lots D 29 and D 30 is consistent with the foregoing sections, (c)-[3 AAC 110.130](e). The two parcels are not necessary to Palmer’s successful annexation petition. Lots D 29 and D 30 are implicated in the annexation by Petitioner’s desire to reach west to Palmer West. That contradicts the spirit of (c) and (d) above.” (at 11)

D. Views of Correspondents

Correspondents did not specifically address this standard.

E. Views Expressed in Petitioner’s Reply Brief

The City’s Reply Brief stated:

“Nystrom’s concern with the L.B.C. to address the question of the City of Palmer overlapping boundary question with the Mat-Su Borough, regarding Area ‘A’ appears to refer to 3 AAC 110.130 (e) regarding overlapping boundaries. It appears this standard is not applicable to this annexation because the present City of Palmer boundaries are entirely within the Matanuska-Susitna Borough boundary and do not ‘overlap’ the boundaries of the borough. No overlapping condition exists. This section’s provisions (in cases of overlapping boundaries, the annexation petition must address either annexation of the enlarged city to the existing organized borough, or detachment of the overlapping

region from the existing municipality) are not applicable in regards to the City’s present annexation petition.”

3.3 Contiguity

A. The Standard

An area may be annexed to a city provided, in part, that it is contiguous to the annexing city, unless a compelling reason exists for annexation of non-contiguous territory. Specifically, the law provides as follows:

3 AAC 110.130(b) Absent a specific and persuasive showing to the contrary, the commission will, in its discretion, presume that territory that is not contiguous to the annexing city does not meet the minimal standards required for annexation.

B. Views Expressed in the Petition

The Petition states:

“All territories proposed for annexation are contiguous to the City of Palmer’s present corporate boundaries. Also, annexation will eliminate the existing enclaves within the current City boundaries. Further, the territories consist of mostly residential and minimal commercial uses similar to uses that currently exist within the City of Palmer. These lands and lands presently in the City include all land and water necessary to allow for the full development of essential city services on an efficient, cost-effective level.

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 bound-

aries. Therefore, the PPD already provides some general public safety services to the areas proposed for annexation.

C. Respondents' Views

Mr. Hanrahan's brief states:

"Contiguous is defined as 'In close proximity, neighboring, adjoining, near in succession; in actual close contact, touching at a point or along a boundary; bounded by or traversed by.' Black's Law Dictionary, Fifth Ed. The western extreme of Palmer West, standing alone is not contiguous by any definition. The City asserts that some Palmer West occupants/owners support its annexation. But reaching to the west of Palmer West stretches the definition of 'contiguous'. If the Local Boundary Commission will let Palmer stretch the 'contiguosness' of Section 'K' as shown on petitioner's map, such that western Palmer West can be reached without itself being a remote enclave (which is presumptively to be disapproved), it can accomplish the same result just as well without Lots D 29 and D 30 as it can with them. Accordingly, approval of the city's proposal, as modified slightly by Hanrahan to exclude Lots D 29 and D 30 as shown on the Hanrahan plan in Exhibit C is warranted.

The city accomplishes its objectives of building a bridge to Palmer West in the west such that it may be annexed (and not be a remote enclave) and Hanrahan accomplishes his objective and Mary P. Cullison's objec-

tive, that of remaining outside the Palmer City limits, its regulating and taxing authority." (at 10-11)

On page 12 of his responsive brief, Mr. Hanrahan states:

"Lots D 29 and D 30 are not presently surrounded by the City of Palmer. They lie well west of Palmer's boundaries and practically speaking, are not even 'contiguous' to Palmer's existing boundaries."

Mr. Nystrom's Brief responsive brief states:

"As evidenced by the maps, the longest boundary of area 'A' is contiguous with the Matanuska River. There is no need for Palmer City services such as utilities to cross for any connection north or east. The next longest contiguous boundary to the west is shared with the Old Glenn Highway, adequately maintained by the State of Alaska. The few roads in this annexation proposal are only a few hundred feet in length and maintained."

D. Views of Correspondents

Correspondents did not raise issues pertinent to the standard.

E. Views Expressed in Petitioner's Reply Brief

The Petitioner's Reply Brief did not directly address the contiguity standard.

3.4 Voting Rights

A. The Standard

Any change that affects voting rights, practices, or procedures in Alaska is subject to review under the Federal Voting Rights Act. This includes any annexation to a city or borough. The Voting Rights Act is intended to prohibit the "denial or abridgement of the right of any citizen of the



Property within Area A.

United States to vote on account of race or color" or because a citizen is a "member of a language minority group." (42 U.S.C. 1973)

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 enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin." (3 AAC 110.910)

can-2.1%, Asian-1.1%, and other 0.3%. Annexation does not exclude any minority group as the proposed territory does not exclude any one because of their racial heritage.

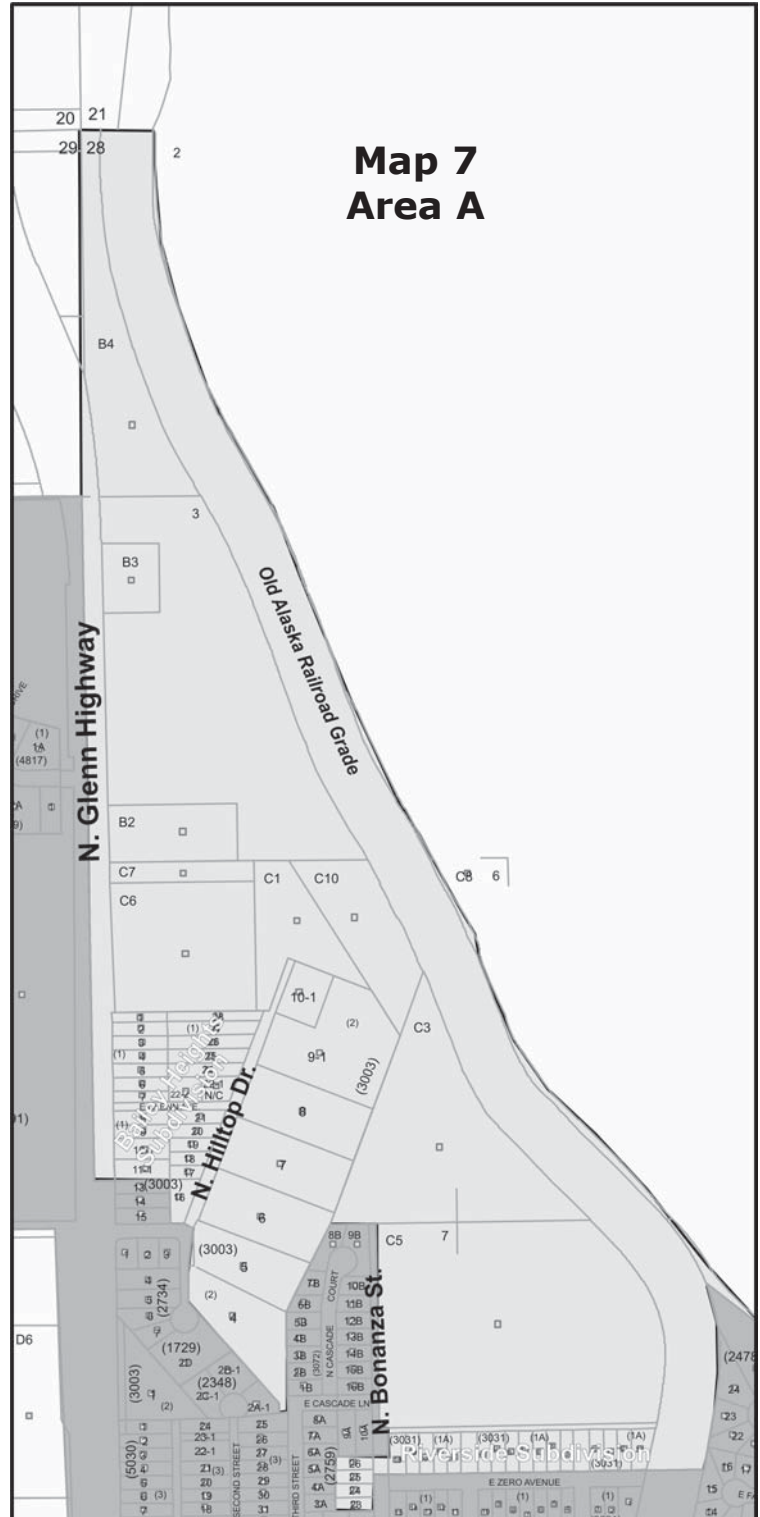
B. Views Expressed in the Petition

The Petition maintains that the proposed annexation to the City will not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin in accordance with 3 AAC 110.910. (at 50)

"All civil rights and political rights will be extended on an equal basis to residents of the areas proposed for annexation, just as they are extended to all residents of the City of Palmer. Nothing in the annexation denies or limits the exercise of any civil or political rights to any person.

The present population of the City of Palmer is 4,533 with 3,093 registered voters. The Matanuska-Susitna Borough Planning Department estimates that there are 325 residents in the territories proposed for annexation, and Division of Elections states there are 139 registered voters within those territories. All are residents within the Matanuska-Susitna Borough, and the annexation will have no impact on the number of eligible voters in areawide Borough elections. The annexation will, however, change the voting powers of those areas proposed for annexation, qualifying them to vote in City elections as well as the other Borough, State and Federal elections. Annexation will permit the voters in the areas to run for City office, to vote on City propositions and fully serve on appointed Boards and Commissions. This will also allow residents to be franchised to vote on propositions concerning City Enterprise Funds.

The 2000 Census for the City of Palmer shows a minority mix of American Indian and Alaska Native-8.2%, Black or African Ameri-



All officials elected in the City of Palmer are elected at large. Every elector's vote has the same value as any other elector's vote, regardless of cultural distinction or race.

Participation in the development of the annexation plan has been open to all members of the Administration and elected officials within the City of Palmer regardless of race, ethnicity, or any other factors.

The predominant language spoken within the City of Palmer and the areas proposed for annexation is English. English is the primary, if not sole language of the Native population, while Asian and other minorities may have any degree of fluency with the English language. The Migrant Education Program of the Matanuska-Susitna Borough School District identifies 103 students who utilize English as a second language out of a student population numbering 2,881 students in schools within the City of Palmer and the areas proposed for annexation. Based on this information, English is the predominant language used by the Matanuska-Susitna Borough School District. The English language is used and understood by virtually all residents of the area, including the territories proposed for annexation."

C. Respondents' Views

Mr. Briggs' brief states:

"The only result the annexation of my property will have is litigation costing the State, and others considerable sums of money and resources to assist the City in an attempt to violate my rights under the 5th and 14th Amendments to the Constitution of the United States and the Constitution of the State of Alaska, and it is my opinion that the annexation of my property is directly intended to deprive me of my full rights to the use and enjoyment of my property, and/or steal my property outright. In either event, it constitutes an Uncompensated Taking, and a violation of 42 USC 1985." (emphasis original)

D. Views of Correspondents

Mr. Clarence Furbush wrote:

"There is no provision for all the property owners who would be annexed to vote on the issue."

John Nolin wrote that the proposed annexation would breach the basic freedoms of the annexed property owners.

E. Views Expressed in Petitioner's Reply Brief

The Petitioner's Reply Brief challenges the assertions by Mr. Briggs that annexation of his property is intended to deprive him of his rights.

"Briggs does not specify how the City's annexation will deprive him of rights to use and enjoy his property, or how the annexation will 'steal [his] property out right.' The extension of city services and regulations through annexation is a legitimate exercise of municipal powers. Annexation of territory to a city does not constitute an 'uncompensated taking.' Annexation does not convey to the City any property right in annexed properties. (at 3-4)

Municipalities can obtain an interest in private property either by lease or purchase negotiated with the owner, or through eminent domain or tax foreclosure. Alaska Statute Sec. 29.35.030 grants to municipalities, including home rule municipalities such as Palmer, the power of eminent domain and declaration of taking, provided the municipality follows the procedures set out in AS 09.55.250—09.55.460. The fact that the City has this power and that this power would extend to the annexed lands following the effective date of annexation does not mean the City will use this power. The City also has the authority to foreclose on property due to tax delinquency. The Matanuska-Susitna Borough, in which Briggs' property is located, also has the power of eminent

domain and declaration of taking, as well as the ability to foreclose on property for tax delinquency. Briggs, like all property owners in an Alaskan municipality, has been subject to these municipal powers for as long as he has owned his property. There will be no change in this condition following annexation of Briggs' property to the City, except that the City will be added to the list of government entities that already hold tax foreclosure or eminent domain powers in this area. While the City may possess the power of eminent domain and to foreclose on property due to delinquent tax payments, no such actions are proposed by the annexation or anticipated following annexation." (at 3-4)

3.5 Exclusion of Large Unpopulated Regions

A. The Standard

An area may be annexed to a city provided, in part, that the proposed boundaries exclude large uninhabited areas, except when justified by other annexation standards. Specifically, the law provides as follows:

3 AAC 110.130(d) 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.

B. Views Expressed in the Petition

The Petition states:

"As required by 3 AAC 110.130(d), the proposed post-annexation boundaries of the City exclude entire geographical regions or large

unpopulated areas, except where justified by the application of the city annexation standards in 3 AAC 110.090 - AAC 110.130.

The proposed annexation does not take in entire geographical regions or large unpopulated areas. The territory proposed for annexation consists of enclaves within the current City of Palmer boundaries, enclaves between the City boundary and the Matanuska River, and other areas exhibiting the need for municipal services due to existing or potential development. These territories are generally similar in development



Portion of Area J.

characteristics, economics and demographics with areas within the City of Palmer. These territories are surrounded by or adjacent to the City of Palmer and their residents share a great deal in common with residents of the City.

The growth of the Palmer/Wasilla area in the past decade has been extraordinary when compared with other areas of the State of Alaska. Recognizing established trends of population growth in the Matanuska-Susitna Valley and in the Palmer area, it is reasonable to project that the population of these areas will continue to expand as development continues. Residents of the areas pro-

posed for annexation use Palmer as their commercial center, just as the current residents within the City of Palmer boundaries. It can be assumed that they work, shop, seek services and recreate within the City of Palmer, as do its current residents. It is reasonable to assume that the areas proposed for annexation will continue to develop as a result of their proximity to the City of Palmer and to the main transportation and commuter routes of the Glenn Highway and the Palmer-Wasilla Highway." (at 51-52)

C. Respondents' Views

Mr. Hanrahan's Responsive Brief offers the following statements relevant to application of the standard to his parcels in the territory proposed for annexation.

- "Lots D 29 and D 30 are sparsely populated, one full-time inhabitant over 20 acres."
- "Lots D 29 and D 30 presently have only one inhabitant and collectively those parcels amount to 20 acres."

D. Views of Correspondents

None of the correspondents directly addressed this standard.



Territory within Area D.

E. Views Expressed in Petitioner's Reply Brief

The City addressed Mr. Hanrahan's statement as follows:

Exclusion of Lot D29 and Lot D30 from the annexation boundary could result in a piecemeal dismantling of the very basis for the proposed annexation, which is to approach the issue of the City's boundaries with a more comprehensive view to consolidating small, individual annexations, and to provide suitable boundaries that address the growth and development of the area around the present municipal boundaries. A history of small, individual annexations in Palmer has resulted in a restricted, inefficient municipal boundary that is often not suited to addressing issues of population growth and development. If Lots D29 and D30 are excluded from the annexation for reasons particular to those properties, several other properties in the proposed annexation could also be excluded, with the result that the historically irregular pattern of Palmer municipal boundaries would be perpetuated, to the detriment of efficient provision of services and effective planning and development of the community.

Finally, as a general statement, the City believes its annexation should be viewed properly in the context of the long term nature of municipal boundaries. In Hanrahan's and other commenters' responses, there is often a claim that land use or other characteristics of individual properties *at this time* render the property not suitable for annexation. The process to establish municipal boundaries must look beyond present situations toward reasonable expectations of change in the future in order to provide for the effective delivery of municipal services and more efficient boundaries. The City's petition is based upon this longer term view."

The Petitioner made the following observation with respect to Area K:

"The areas proposed for annexation, including area "K", are not "entire geographical regions or large unpopulated areas." These areas are subdivided and occupied, sometimes at relatively low densities, but, nonetheless, they are similar in character and

population to areas within the City. The western portion of area "K" has demonstrated a need for municipal services through requests for a public water system and increasing land development and population."

- (4) seasonal population changes; and
- (5) age distributions.

3.6 Population Size and Stability

A. The Standard

State law allows an area to be annexed to a city provided, in part, that the LBC determines the population within the proposed *post-annexation* boundaries of the city is large and stable enough to support the extension of city government. In that respect, the law provides as follows:

3 AAC 110.120. POPULATION.

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;

B. Views Expressed in the Petition

The Petition states:

"The population within the current boundaries of the City of Palmer is 4,533. The Matanuska-Susitna Borough established two estimates of population, either 391 or 325. The areas for which the information was requested are outside of a Census Designated Place (CDP), and currently Block Level information is not readily available for them. The first population estimate was done using the persons per household and vacancy rates household and vacancy rates of the City of Palmer. for the nearest CDP. The second estimate was determined using the persons per household and vacancy rates of the City of Palmer.

The Matanuska-Susitna Borough Planning staff recommends using the larger estimate. The predominate housing type for the areas estimated is single family residential. This housing type typically has a larger number of persons per household. The City of Palmer has a slightly lower persons per-household rate. This can generally be explained by inferring that multi-family housing usually has fewer persons per household. The City of Palmer has a relatively larger number of multi-family units than the areas outside the City. The City feels the number of 391 may be excessive, and prefers to use the lower estimate of 325 persons. Therefore, the City of Palmer's post-annexation total population would be 4,858 persons.

There is no single recreational or industrial entity that affects population within a particular season within the City of Palmer or the surrounding area. The growth of the area within the last ten years is indicative of the attraction of the Matanuska-Susitna Valley as a residential and retirement community, which leads



Property within Area K.



Housing development within Area L.

to a sufficiently large and stable population to support the extension of city government.” (at 52)

C. Respondents’ Views

Mr. Nystrom’s Brief states, in part:

“The history of this area (‘A’), was one of agriculture, terrain allowing, in the 1930’s through the 1940’s. The 1950’s to present have seen this area to become in most part single family residential homes, a medium to low density population.” (at 1)

The Nystrom Brief also contains the following statement:

“Further examination of this area will reveal that it is in better character than the City of Palmer, regarding its light population density, better land use with large, well-groomed yards and a very strong neighborhood spirit.” (at 1)

Mr. Hanrahan’s Brief states:

“Daniel Hanrahan has lived on lot D 29 for some 20 years and is the sole full-time resident. The population for the proposed annexed areas, absent Lots D 29 and D 30, is more than sufficient to support the extension of City of Palmer government to those areas that desire it. The annexation petition does not need Lots D-29 or D-30.

Thus, if the territory is sparsely settled, situated remotely from the thickly settled portion of the municipality, would receive no advantage of benefits from annexation, but would be burdened with additional taxes, and residents of the territory prefer to remain without the municipality, it should not be annexed. McQuillin Municipal Corporations, Third Ed. Rev., Sec. 7.23.50, 1996 Ed.” (at 9)

D. Views of Correspondents

Milton Gilmore’s June 28, 2002 letter expressed support for the annexation because of the pattern of population growth in the greater Palmer area.

“I and my wife Cynthia M. Lee are for, we want, annexation into Palmer, (the city). We also look forward to all that comes, or will, with that annexation. We believe it is time. The population in the valley will only continue to swell. Codes and some regulations are needed as logic recommends.”

E. Views Expressed in Petitioner’s Reply Brief

The Petitioner’s Reply Brief did not specifically address the standard.



Residential property within Area K.

- (2) reasonably anticipated new expenses of the city;
- (3) actual income and the reasonably anticipated ability to collect local revenue and income from the territory;
- (4) feasibility and plausibility of the anticipated operating budget of the city through the third full fiscal year of operation after annexation;
- (5) economic base of the territory 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 people.

3.7 Resources of the Proposed Expanded City

A. The Standard

State law allows an area to be annexed to a city provided, in part, that the LBC determines the area within the proposed *post-annexation* boundaries of the city has the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. Specifically, the law provides as follows:

3 AAC 110.110. Resources.

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 will, in its discretion, consider relevant factors, including the:

(1) reasonably anticipated functions of the city in the territory being annexed;

B. Views Expressed in the Petition

The Petition supports the contention that the area within the proposed post-annexation boundaries of the City includes the human and financial resources needed to provide essential city services on an efficient, cost-effective level with the following statement.

“The territories proposed for annexation exhibit a need for planning and zoning, and for additional services. Ten individual property owners in the Palmer West subdivision have petitioned the City for annexation via letter, as have two other property owners with land positioned along Helen Drive. Also, within Area K, the 120-lot Spinell Homes, Inc.’s Hidden Ranch Subdivision has formally requested annexation to the City and is presently negotiating annexation and subdivision agreements with the City. The City also received requests for annexation and has executed annexation agreements for the 5 acre

Kolivosky property located immediately north of the Spinell development and a 6.55 acre tract located along Moore Road on the south side of Palmer, and just behind the Colony Kitchen Restaurant on the Glenn Highway.

In Area C, the owner requested the City annex the 33.79 acre parcel that lies adjacent to the Glenn Highway on the eastern boundary and Scott Road on the southern boundary.

Area L (Cope Subdivision) includes the D. G. Smith Builders housing development, Mountain Rose Estates. The City and [the] property owner have signed annexation and subdivision development agreements for this property and the construction of this 64-unit housing development is approximately two-thirds complete.

With four partially developed housing developments within the areas proposed for annexation, it is crucial that the City of Palmer be properly prepared to address health and safety issues as they arise in order to provide the greatest degree of services to all

residents. Three of the four developments have requested annexation due to the health and safety issues surrounding the properties and the need for City services.

The post-annexation boundaries of the City of Palmer are not far-reaching, but are based more on a need to address safety, health and zoning issues in areas contiguous to the City that are either experiencing growth, or enclaves within the City that are being added at the urging of the Local Boundary Commission in previous annexation decisions.

Based on the City's three-year Revenue/Expense projections for the areas proposed for annexation, (2003-2005), the general fund revenues exceed expenses by \$74,930, while the enterprise funds revenues exceed expenses by \$32,000. Total capital expenditures of \$1,585,000 amortized over a fifty-year period would be \$31,700/yr. This demonstrates that the City has the ability to provide for the extension of services into the proposed areas and that there is sufficient development and property value in these areas to generate adequate tax revenues to support the extension and provision of municipal services." (at 53)



Dwelling within Area A.

C. Respondents' Views

Mr. Hanrahan's Brief contains the following statements regarding the resources standard:

"The City does not need Lots D 29 and D 30 for delivering services to the balance of the city as it exists or as it is expanded, absent Lots 29 and D 30. Nothing irreplaceable will be lost by the City of Palmer if the Hanrahan and Cullison lots are excluded from the annexation. Only one person, Daniel Hanrahan, occupies the parcels, and that is Lot D 29. The city's annexation proposal, plus or minus one person and two superfluous parcels won't cripple the City of Palmer's petition. Lots D 29 and D 30 should be excluded consistent with the owners' wishes.

Further, Lots D 29 and D 30 are some of the more remote lots from current City of Palmer boundaries and the city core. There is no pending industrial development or other developmental activities on Lots D 29 and D 30 that would even benefit the City of Palmer other than for taxing purposes. The Palmer proposal expressly excludes the Local 302

operators school located to the north, suggesting industrial development is not even an important consideration to Palmer. Annexation for taxation alone is impermissible, Lots D 29 and D 30 should be excluded. *Odessa v. Carroll*, 512 S.W.2d 862 (Mo. App. 1974). The annexation must be fair to the property owners. Id.. Where an area sought to be annexed, was not in need of additional municipal services and the only benefit was to the annexing town in the form of a 'boom' in taxes annexation was not permitted. *Odessa v. Carroll*, 512 S.W.2d 862 (Mo. App.). As for Lots D 29 and D 30 in this case annexation is not appropriate and it is not fair." (at 8-9)



Property within Area C.

Mr. Briggs's Responsive Brief states:

"I was informed by the City that they have no plans to provide my property with any Municipal services such as sewer and water, and as a resident of the Borough Core Area, and living along a State maintained road my property is adequately served by local services. As such, I will receive no benefit from annexation."

long distance away from the property line in a paved street. The cost of hooking up to them would be very high and I see no advantage to have this piece of property in the city."

Melinda Dewey, owner of 2 parcels comprising about 20 acres and adjoining four lots, addressed land use issues when she wrote:

"This land is presently used for agricultural purposes as it has always been since we acquired it in 1975 and at this time I wish it to remain the same. It is presently in hay fields in its entirety. I can see no benefit to have it annexed at this time. It would only create another tax burden on me which the land can not support. I own approximately 25 acres of which this is a part of. The Riverside Subdivision was created as a paper subdivision many years ago and was never surveyed. Most of it was vacated and if I decide to subdivide it at a future date I would want to vacate these lots and subdivide the entire 25 acre to properly fit the lay of the land. As I have previously stated, this property is used as hay meadow. There are no animals. It is kept clean and neat. There are no buildings or trash on this property."

D. Views of Correspondents

James and Carol Ward made the following statement regarding land use in the area proposed for annexation:

"My family and I moved to the Valley in 1986, we looked long and hard to find just the right mix of rural and urban amenities to suit us. We looked for a place where we could own and keep horses or even have a 4-H livestock project for our kids. Palmer West Subdivision fit our needs perfectly. Even though it is unrestricted as far as covenants, our neighbors and us adhere to a live and let live attitude. We love our neighborhood wish to keep it the way it is."

John Nolin wrote:

"I purchased this property because it was out of the city of Palmer, (I also own property within the city of Palmer) This property is on private services and city services are a

D. Views Expressed in Petitioner's Reply Brief

The Petitioner's Reply Brief included the following statement regarding existing and reasonably anticipated industrial, commercial, and resource development in the territory proposed for annexation:

"In regards to reasonably anticipated development, the property immediately east of Cullison's Lot D30 is planned for construction of a subdivision containing approximately 120 lots. The City is also aware of interest by other property owners or developers to subdivide and develop other large lots in area 'K', such as lots C3 and C5 in Section 5. These developments indicate a trend toward increased population density and property development in this area. This trend may or may not touch the Hanrahan or Cullison properties, but the City believes it is reasonable to include areas that show a trend toward development in order to plan for infrastructure and transportation facilities to serve those developing areas, as well as to provide planning and land use regulation in order to assure the orderly and compatible development of property."

3.8 Transition Plan

A. The Standard

3 AAC 110.900 requires that a petition for annexation to a city include:

- a practical plan demonstrating the intent and capability of the annexing city to provide essential city services in the shortest practicable time after the effective date of annexation;
- a practical plan demonstrating the manner in which all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough or other entity located in the territory proposed for change will be assumed by the annexing city; and

- a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough or other entity by the annexing city government.

B. Views Expressed in the Petition

The Petition states:

"The City has prepared, in consultation with others as required by 3 AAC 110.900, a practical transition plan for the assumption of relevant powers, rights, duties, functions, assets, and liabilities from existing service providers. The plan also demonstrates the City's capacity to extend services to the existing territory proposed for annexation and otherwise addresses the requirements of 3 AAC 110.900.

The proposed annexation plan has been discussed with officials of the Matanuska-Susitna Borough. A letter of support for the proposed annexation was requested of the Borough Manager and is included with this petition. If annexation of the proposed territory is approved, the City of Palmer will cooperate with the Matanuska-Susitna Borough to effect the transition of powers and services. Any commercial activities within the territory to be annexed will be subject to sales tax no earlier than the second quarter of 2003. The City of Palmer will not impose property taxes until 2004 as the proposed annexation will not take place until after January 1, 2003, which is the date for determining the taxability of property for that year.



Property within Area K.

A public informational meeting was held on January 28, 2002. This meeting was for the sole purpose of giving affected residents an opportunity to discuss and ask questions about the impacts of annexation. Approximately 38 people attended the first informational meeting. Maps, LBC standards and timeline information were made available through handouts. The City Manager discussed what had taken place thus far, followed by a question and answer period. A Palmer City Council hearing is scheduled for April, 2002. Landowners in the territory to be annexed (representing approximately 200 lots) have written letters to the City of Palmer requesting annexation due to health and safety concerns.

The City of Palmer has had meetings with department heads to discuss the provision of services, appropriate timelines, financial requirements, infrastructure needs and capital projects. The results from these meetings have been discussed with the Matanuska-Susitna Borough, as well. The Borough will lose only a small amount of non-areawide taxes (.35 mills) and service area taxes in the area to be annexed. However, they will no longer be responsible for the road maintenance of those areas. This an-

nexation will not impose negative impacts on either the Borough or the City of Palmer.” (at 54)

C. Respondents’ Views

Respondents did not specifically address the transition requirements set forth in 3 AAC 110.900.

D. Views of Correspondents

The Matanuska-Susitna Borough’s letter of June 28, 2002 states:

“The summary also points out that the City of Palmer has been working with the borough during this process to ensure a smooth transition of powers and services.”

E. Views Expressed in Petitioner’s Reply Brief

This matter was not specifically addressed in the Petitioner’s Reply Brief.



Property within Area A.

3.9 Inclusion of All Necessary Areas

A. The Standard

An area may be annexed to a city provided, in part, that the enlarged boundaries include all areas needed to provide city services in an efficient and cost-effective manner. Specifically, the law provides as follows:

3 AAC 110.130(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 will, in its discretion, consider relevant factors, including:

- (1) land use and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.



Palmer Police Department.

B. Views Expressed in the Petition

The Petition states:

“The territory proposed for annexation includes lands with the potential for many diverse uses. There are a few newly planned and existing high-growth subdivisions in the territory proposed for annexation. Residents of these areas have communicated with the City concerning their desire to be annexed. The City of Palmer is one of the fastest-growing areas in Alaska, and the City must have the ability to plan this development to avoid overcrowding and haphazard, incompatible development.

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.

There is land throughout the territory proposed for annexation that is desirable for commercial and industrial uses. Inquiries have been made concerning retail establishments on properties adjacent to the Glenn

Highway. That corridor is an appropriate location for commercial development and the fact that some of these potential commercial areas lie along the Glenn Highway immediately across the highway from the City suggests that these properties be annexed to allow for development that is compatible with City standards.

Some of the 13 areas consist of land presently either undeveloped or in agricultural use. Areas to the north (Area A), the south (Area L) and the southwest (Area K) have a substantial number of residential properties, as well as potential commercial and industrial sites for future business growth. While some areas in the territory proposed for annexation are uninhabited with little or no development, (Areas C, F, G and M) they exhibit land use characteristics similar to land use patterns in some relatively undeveloped areas within the City of Palmer. Areas to the north and the southwest have population densities similar to those in the City of Palmer.

Transportation corridors throughout the area proposed for annexation are simply continuations of main arterial highways and other transportation modes transecting the for several years, the Alaska Railroad right-of-way and tracks transect City of Palmer. Although it has seen little if any railroad use north of downtown Palmer south to north and directly border two of the thirteen areas

proposed for annexation (Areas A & K). The Glenn Highway travels in a north/south direction through Palmer and borders three of the thirteen areas proposed for annexation (Areas A, C & K). The Old Glenn Highway passes through three of the thirteen areas proposed for annexation (Areas F, E & D), and the Palmer-Wasilla Highway travels through or adjacent to four of the thirteen areas proposed for annexation (Areas D, F, G, H, I & J). Scott Road, slated for connection to the west to Bogard Road, a main thoroughfare to Wasilla, is adjacent to one area proposed for annexation (Area C)." (at 55)

C. Respondents' Views

Mr. Hanrahan's Responsive Brief contends that there are no essential city services required at his property.

"... no new City of Palmer government or 'essential services' as defined in their petition is necessary or desired. Hanrahan is satisfied with his water and septic facilities, nothing more is desired. Street access via Helen Drive is adequate, no other access is necessary." (at 4)

He proposes that the area proposed for annexation be amended as a remedy.

"Daniel Hanrahan opposes annexation of Lots D-29 and D-30 in section 'K' of petitioners map. Daniel Hanrahan urges the Local Boundary Commission to apply its discretionary authority to modify the petitioner's proposed boundaries by dropping the northern boundary from Lots D-29 and D-30 to the southern boundary of both. This will effect the desire of Hanrahan and Cullison to be excluded from the present annexation. This result is more just overall than the alternative remedies of denying the City of Palmer's entire petition or denying annexation with regard to the entire section 'K' on petitioner's map. The city of Palmer doesn't need these two parcels to accomplish its objectives, and exclusion of the parcels will meet Daniel Hanrahan's and Mary P. Cullison's objectives." (at 11)

Mr. Nystrom's Responsive Brief claims that there are differences in land use and ownership patterns between his neighborhood and territory within the City of Palmer.

"Further examination of this area [Area A, located immediately northeast of the existing jurisdiction of the City of Palmer] will reveal that it is in better character than the City of Palmer, regarding its light population density, better land use with large, well-groomed yards and a very strong neighborhood spirit."

D. Views of Correspondents

In her letter received June 21, 2002, Melinda Dewey wrote:

"I own approximately 25 acres of which this is a part of. The Riverside Subdivision was created as a paper subdivision many years ago and was never surveyed. Most of it was vacated and if I decide to subdivide it at a future date I would want to vacate these lots and subdivide the entire 25-acres to properly fit the lay of the land. As I have previously stated, this property is used as hay meadow. There are no animals. It is kept clean and neat. There are no buildings or trash on this property."



Subdivision development in Area L.

E. Views Expressed in Petitioner's Reply Brief

The City's Reply Brief emphasizes the comprehensive approach taken in developing the pending annexation proposal.

"The City's primary purpose of this annexation is to take a more comprehensive approach to an annexation effort, rather than to continue an inefficient policy of petitioning for annexation of relatively small parcels of land and only at the property owner's request. This more comprehensive approach intends to annex enclaves to the City and to create more effective and efficient City boundaries." (at 1)



Development in Area L.

In addressing specific issues relating to the proposed boundaries, the City's Reply Brief offers further justification for the configuration of the annexation proposal.

"A history of small, individual annexations in Palmer has resulted in a restricted, inefficient municipal boundary that is often not suited to addressing issues of population growth and development. If Lots D29 and D30 are excluded from the annexation for reasons particular to those properties, several other properties in the proposed annexation could also be excluded, with the result that the historically irregular pattern of Palmer municipal boundaries would be perpetuated, to the detriment of efficient provision of services and effective planning and development of the community.

Finally, as a general statement, the City believes its annexation should be viewed properly in the context of the long term nature of municipal boundaries. In Hanrahan's and other commenters' responses, there is often a claim that land use or other characteristics of individual properties *at this time* render the property not suitable for annexation. The process to establish municipal boundaries must look beyond present situations toward reasonable expectations of change in the future in order to provide for the effective delivery of municipal services and

more efficient boundaries. The City's petition is based upon this longer term view." (at 9)

3.10 Boundaries Limited to Local Community and Next Decade of Growth

A. The Standard

An area may be annexed to a city provided, in part, that it is limited to the "existing local community", plus areas projected for growth and service needs during the next ten years. Specifically, the law provides as follows:

3 AAC 110.130(c) 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 ten years following the effective date of annexation of that city.

B. Views Expressed in the Petition

The Petition states:

"The City of Palmer is aware that its annexations in the past have not incorporated a comprehensive approach to community growth and development. The present annexation proposal, however, looks at the predictable growth, development and public safety needs during the ten years following the effective date of annexation to avoid annexing more land than can be justified under 3 AAC 110.130(c). The proposed post-annexation boundaries of the City represent a conservative estimate of predictable growth. All of the urban sections of the area proposed for annexation are experiencing growth and development. The annexation of enclaves serves to resolve previous piecemeal annexation issues. The Local Boundary Commission has requested that Palmer take on fewer, yet more comprehensive changes rather than small, frequent and piecemeal changes. This particular annexation addresses that request.

As many of the parcels are enclaves, the people living in these areas are part of a discrete and identifiable unit. They attend the same schools as city residents, share the same employers, go to the same libraries, shop at the same stores, attend the same churches and clubs, read the same newspapers, listen to the same radio stations, utilize the same medical facilities and have frequent personal contact through a close geographical proximity. The residents of the areas proposed for annexation live in either enclaves or in areas adjacent to the City of Palmer and their existence is dependent upon that community and its social infrastructure. The density of the area proposed for annexation is higher in subdivision areas and lower close to agricultural areas. The City of Palmer also has areas of high density, interspersed with areas of lower density. Many of the people living in the area proposed for annexation work in the City of Palmer, while



Property within Area K.

some work in Wasilla or Anchorage. This is true of the population of the City of Palmer, as well as with much of the Matanuska-Susitna Borough.

The proposed annexation area is compact. It eliminates enclaves and creates more efficient municipal boundaries. Although the majority of dwelling units in the City of Palmer and in the territory proposed for annexation are permanent constructed dwellings, there are a few mobile homes in the areas proposed for annexation. City code prohibits mobile homes except in mobile home parks. Lot sizes vary both within and outside the City of Palmer.

The Matanuska-Susitna Borough is in the midst of developing a Core Area Zoning Plan. The City of Palmer is working with the Matanuska-Susitna Borough in order to attempt to integrate zoning designations allowing for a smooth transition between area-wide and non-area-wide parcels.

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.” (at 56-57)

C. Respondents’ Views

Mr. Hanrahan’s Brief states:

“Exclusion of Lots D 29 and D 30 is consistent with the foregoing sections, (c) - (e). The two parcels are not necessary to Palmer’s successful annexation petition. Lots D 29 and D 30 are implicated in the annexation by Petitioner’s desire to reach west to Palmer West. That contradicts the spirit of [3 AAC 110.130] (c) . . .”

D. Views of Correspondents

Correspondents did not specifically address the standard.



Property on the west side of Area M.

E. Views Expressed in Petitioner’s Reply Brief

The Petitioner’s Reply Brief addresses the standard with the following statement.

“There is some truth to the statement that some areas proposed for annexation are more rural than areas within the City, but this difference is not, in the City’s opinion, significant to the point of classifying these areas as not of a similar character, particularly when there is a recognized trend toward subdivision and development of large lots adjacent to or near the present City boundary. Also, there are large, relatively undeveloped areas within the present City limits.” (at 8)

3.11 Comparative Abilities of the City and Borough to Deliver Essential Services

A. The Standard

3 AAC 110.090(b) provides that 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. The phrase “essential city services” as used in 3 AAC 110.090(b) is defined in 3 AAC 110.990(8) as:

...those legal activities and facilities that are determined by the commission to be reasonably necessary to the community and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state...

B. Views Expressed in the Petition

The Petition states:

"The territory proposed for annexation totals approximately 921.34 acres and consists of enclaves within the current boundaries as well as land extending north, south, east and west of the current boundaries. The territory is primarily made up of residential property with a very small number of commercial properties. The rationale for annexing these properties is simple and direct.

Seventeen letters have been received by the City from landowners representing approximately 200 lots. These letters have all requested that the City of Palmer proceed with annexation in their respective areas so as to furnish safe and potable drinking water and sewer service. 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.

The City of Palmer currently provides the following services to the residents of the City of Palmer and upon annexation, will provide these same services to the territory to be annexed:

- 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.
- Police Service is provided by the City of Palmer Police Department. They provide services inside the City and the Alaska State Troopers provide service outside the City. However, both departments



Property within Area M.

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.

- Public Safety Dispatch 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%).
- Road Maintenance. The City public works department presently maintains 33 miles of City roads as well as some State roads inside the City of Palmer boundaries. The State of Alaska 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. If areas are annexed containing roads

maintained by the Borough, the City will take over maintenance of those roads with the cost of road maintenance paid by property owners through City property taxes.

- Library services are provided by the City through the Palmer Library. The Borough provides a grant to the City for 45% of the Library's annual budget. About 75% of Palmer Library users live outside the City of Palmer. 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 services include four small Borough parks inside the City, which are maintained by the City with funding assistance from the Borough. The City has asked the Borough to grant the City parks and recreation powers within the City limits and to convey four neighborhood parks, as well as little league baseball fields and a soccer field to the City.
- Utilities, including water, sewer service and solid waste collection, are presently provided in the City of Palmer. 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." (at 57-59)

C. Respondents' Views

Mr. Nystrom's brief states as follows:

Area 'A' is served sufficiently (in close proximity within 2 miles) by the Matanuska-Susitna Borough, Governing authority. Fire, medical, and police services are just blocks apart, respectively.

No further enhancements to the health, safety and general welfare conditions can be made by annexation to the City of Palmer. Water and onsite systems in area 'A' are very sufficient.

Mr. Hanrahan's Brief states as follows:

"Hanrahan is satisfied with the Matanuska-Susitna Borough (Mat-Su) government presently in place. (Daniel Hanrahan affidavit.)

Hanrahan has occupied his parcel for some 20 years, the borough's essential services are fine and no new City of Palmer government or 'essential services' as defined in their petition is necessary or desired. Hanrahan is satisfied with his water and septic facilities, nothing more is desired. Street access via Helen Drive is adequate, no other access is necessary, Hanrahan and/or his predecessors have previously granted transportation easement(s) in and about the area. If sidewalk or other reasonable easement or contract rights are desired by City of Palmer, Hanrahan would be amendable to negotiating such rights with the City if necessary and so long as his property is outside the city limits.

The Mat-Su Borough currently provides sufficiently efficient, effective, and essential services that are necessary to the lots. Lots D29 and D30 must be excluded from the annexation boundaries. The Palmer petition admits that services and facility development are not certain in exchange for annexation, taxes and regulation. (March 2002 Petition by the City of Palmer, p. 60 (Ex. D).) Palmer admits that 'Annexation does not automatically dictate that property owners will re-

ceive all city services as a trade off for taxes.' The petition states that water/sewer services, even if desired will not be immediately available. But in exchange for the new burden of city taxes, the property owner will only receive such 'essential' city services as planning, zoning, assessing, levying, and collecting taxes, and conducting elections, among other things. (Ex. D.) Essential services, according to the Reply Brief, are 'more than adequately handled presently by the Matanuska-Susitna Borough and State of Alaska.' (at 4-5)

On page 13 of his Responsive Brief, Mr. Hanrahan states:

"The City of Palmer's rules and ordinances are incompatible with the historic and prospective use of the parcels. Mat-Su Borough regulation is adequate. Hanrahan is satisfied with the current and anticipated level of Mat-Su borough "essential services" which obviate the desirability or necessity of superimposing Palmer City government on the parcels.

D. Views of Correspondents

Donna J. Karsten wrote:

"As residents of the Borough we already have access to emergency, fire, road maintenance, and library services provided by the Mat-Su Borough, and protection by the State Troopers if needed."

E. Views Expressed in Petitioner's Reply Brief

The City's Reply Brief addressed concerns raised in Mr. Briggs' Brief as follows:

"Briggs claims he will receive no benefit from annexation because, according to Briggs, the City has 'no plans to provide my property with any Municipal Services such as Sewer or Water,' and that by living in the Borough Core Area and along a State-maintained road, his property 'is adequately served by local services.'

As a Borough resident outside the City, Briggs is served by Borough fire protection and road maintenance service areas (although the Old Glenn Highway adjacent to his property is maintained by the State of Alaska), and by other Borough and state services. He is correct that the City does not have definite plans to extend water or sewer utilities to his property. Such an extension is not required by City code, provided an occupied dwelling or building is more than 150 feet from existing City utilities, which is the case with Briggs' residence."

The City's Reply Brief also addressed concerns raised in Mr. Nystrom's Brief as follows:

"Nystrom's brief focuses on the annexation standard at 3 AAC 110.090, Needs of the Territory, and claims that annexation area 'A' is served sufficiently by the Matanuska-Susitna Borough, and that 'no further enhancements to the health, safety and general welfare conditions can be made by annexation to the City of Palmer.' He also states that 'water and onsite systems in area "A" are very sufficient.'

This area and others proposed for annexation by the City are served by Borough and State of Alaska services, to the extent that a case may be made that basic public health and safety needs are presently being met. In that regard, the City believes it can provide higher levels of service to this and other annexation areas, as well as planning and zoning services and infrastructure development or improvement.



Palmer Fire and Rescue Crew.



Fire safety training provided by the Palmer Fire Department.

For example, law enforcement services in the areas proposed for annexation are presently provided by the Alaska State Troopers. Following annexation, the Palmer police department will provide service in these areas. There will be significant improvements in response time and the level of service provided by the Palmer police department over service presently provided by the Troopers. The Palmer Trooper Post serves an area encompassing thousands of square miles and hundreds of miles of road in Southcentral Alaska. Continued state operating budget cuts have resulted in fewer state troopers on duty, with the result that those troopers on duty must now cover larger areas. Due to these limitations, troopers are not able to respond to relatively low priority public safety service calls, or are sometimes not available for a rapid response to an emergency call. Annexation will result in a higher level of public safety service in the annexation areas, including area 'A'. This level of improved service contradicts Nystrom's statement that 'no further enhancements to the health, safety and general welfare conditions can be made by annexation to the City of Palmer.'

Nystrom states that the 'few roads in this annexation proposal are only a few hundred feet in length and maintained.' However, at a public meeting on the annexation petition prior to its submittal, a resident of area 'A' expressed concern that property owners in this area are paying taxes to the Borough road maintenance service area, but are not receiving any Borough road maintenance services. This is presumably due to the sub-

standard width of N. Glenn Avenue and N. Hilltop Drive, or the lack of an adequate turn-around at the end of N. Hilltop Drive.

While Nystrom's brief concentrates on the level and sufficiency of municipal services, the City reiterates that there are other reasons to justify the proposed annexation of this and the other areas proposed for annexation. As stated above and in the City's petition, this annexation takes a comprehensive approach to annexation in order to establish more efficient and effective boundaries, to improve service delivery, and to eliminate enclaves. The proposed annexation also addresses the need to address economic development of areas close to the City."

3.12 Need for City Government in the Territory Proposed for Annexation

A. The Standard

State law 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. Specifically, 3 AAC 110.090(a) states as follows:

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.

B. Views Expressed in the Petition

The Petition contends that the territory proposed for annexation exhibits a reasonable need for city government and thus satisfies 3 AAC 110.090(a).

“Per the 2000 Census, Palmer has demonstrated that it has been one of the fastest growing areas of the State during the past 10 years, and the areas proposed for annexation are indicative of that growth. 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.

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.

Having a reliable source of quality drinking water, as well as sewer service, is one of the major factors for the seventeen requests for annexation from property owners in the territories to be annexed, particularly in the Palmer West Subdivision.

All of the areas proposed to be annexed already enjoy some of the benefits of City services and facilities. They work and play within the City, utilizing the same library, streets and roads, government buildings, parks, medical facilities, and the City owned airport.

Although portions of the water and sewer utility systems lie outside City boundaries, the City does not exercise express extrater-

ritorial powers. City policy is that properties must be annexed to the City prior to receiving utility services. The City has provided for sewer and/or water services to 22 property owners who have signed annexation agreements within the territory proposed for annexation. These properties are in close proximity to the City’s existing utility mains. The property in Area I has water and sewer services but no documentation exists for provision of those services.

There is no other nearby municipality that can provide for essential city services more efficiently and effectively than the City of Palmer.” (at 59)

C. Respondents’ Views

As noted in the context of 3 AAC 110.090(b), Mr. Nystrom’s Brief contends that his property is “served sufficiently by the Matanuska-Susitna Borough,” and that “no further enhancements to the health, safety and general welfare conditions can be made by annexation to the City of Palmer.”

Mr. Hanrahan’s Brief states:

“There is no current or reasonably anticipated future need for city government covering Lots D29 and D30. Cullison has indicated no desire to be annexed. (Ex. A.) Hanrahan is satisfied with the Matanuska-Susitna Borough (Mat-Su) government presently in place. (Daniel Hanrahan affidavit.)

Hanrahan has occupied his parcel for some 20 years, the borough’s essential services are fine and no new City of Palmer government or ‘essential services’ as defined in their petition is necessary or desired. Hanrahan is satisfied with his water and septic facilities, nothing more is desired. Street access via Helen Drive is adequate, no other access is necessary, Hanrahan and/or his



City of Palmer Fire Department’s ladder truck.



City of Palmer public works.

predecessors have previously granted transportation easement(s) in and about the area. If sidewalk or other reasonable easement or contract rights are desired by City of Palmer, Hanrahan would be amendable to negotiating such rights with the City if necessary and so long as his property is outside the city limits. (Daniel Hanrahan affidavit.)

The Mat-Su Borough currently provides sufficiently efficient, effective, and essential services that are necessary to the lots. Lots D29 and D30 must be excluded from the annexation boundaries. The Palmer petition admits that services and facility development are not certain in exchange for annexation, taxes and regulation. (March 2002 Petition by the City of Palmer, p. 60 (Ex. D).) Palmer admits that 'Annexation [] does not automatically dictate that property owners will receive all city services as a trade off for taxes.' The petition states that water/sewer services, even if desired will not be immediately available. But in exchange for the new burden of city taxes, the property owner will only receive such 'essential' city services as planning, zoning, assessing, levying, and collecting taxes, and conducting elections, among other things. (Ex. D.) The essential services such as those are more than adequately handled presently by the Matanuska-Susitna Borough and State of Alaska." (at 4-5)

D. Views of Correspondents

Palmer West Subdivision residents John & Gloria Brawford wrote:

"The restrictions that would come with annexation would change the way of life that we love. The few benefits that we would receive are nothing what we would lose. The intrusion into our lives is unwanted and not needed."

James and Carol Ward, also Palmer West Subdivision residents, wrote:

"We love our neighborhood wish to keep it the way it is. Our area is a little short on water, but I would rather haul water for the rest of my life than to give up the life style we have now. The restrictions the city would put on us far out weigh any benefit we would gain."

Palmer West resident Raine Runyan wrote that he opposes annexation of his property into the City of Palmer because such would "adversely affect my quality of life."

Milton Gilmore wrote:

"We believe it is time [for annexation]. The population in the valley will only continue to swell. Codes and some regulations are needed as logic recommends."

E. Views Expressed in Petitioner's Reply Brief

The Petitioner's Reply Brief addresses claims asserted in Mr. Hanrahan's Responsive Brief that the standard is not met with respect to his property.

"Hanrahan's property, or an easement adjacent to his property, may soon be involved in infrastructure development associated with nearby property, and, if annexation is approved, a water main to be built adjacent to his property. The City is negotiating a subdivision agreement with the developer of the Hidden Ranch Subdivision immediately

east of the Cullison property and the agreement addresses the need to oversize a proposed water main to be constructed in the Hidden Ranch Subdivision so it could be extended west of that subdivision to serve as part of a new looped water system to serve Palmer West Subdivision and the Helen Drive area. The Hidden Ranch plat includes a street that meets the easement that runs along the north boundary of the Cullison and Hanrahan properties. When the water main is extended, it would be built west from Hidden Ranch in this right-of-way and its location would benefit adjacent properties, including Hanrahan's and Cullison's, by improving land value as a result of a public water system being adjacent to their property. In this regard, perhaps the City should have included in its annexation petition properties north of the Hanrahan and Cullison properties, which would receive equal benefits from the construction of a water main within this easement." (at 4-5)

(3) 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; and

(6) territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

3.13 Balanced Best Interests

A. The Standard

3 AAC 110.140 sets out the "best interests" standard relating to legislative review annexation proposals as follows:

Territory that meets all of the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.130 may be annexed to a city by the legislative review process if the commission also determines that annexation will serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. In this regard, the commission will, in its discretion, consider relevant factors, including whether the

(1) territory is an enclave surrounded by the annexing city;

(2) 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;

B. Views Expressed in the Petition

The Petitioner contends that annexation will serve the broad public interests.

"The balanced best interest of the state must take into consideration the assurance to local governments of a strong tax base needed to provide local services. Absent the tax base provided at the local level, the State is the only other source of revenue and services. It does not serve the interests of the State or the City to have an expanding sales and property tax base located contiguous to the City's boundaries, while that same area utilizes those services provided within the City.

The City is the business, commercial and residential center of the Greater Palmer area. The proposed annexation will eliminate several enclaves within the City that could potentially be used for business, commercial or industrial purposes that would, under the current scenario, avoid the collection of the City's 3% sales tax and 3 mill property tax. This would deprive the City of revenues for



Property within Area K.

services that the entity may already be receiving, by virtue of being essentially inside the City.

Maximum local self-government is best preserved when local governments represent a cohesive land and water mass which allows for an orderly expansion of services into perimeter areas as those areas reach the level of development to require services. One such area is the Palmer West Subdivision where a large number of individual property owners have requested annexation because of a clear need to address health and safety issues, primarily water.

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 in-

spection, 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. The owners of property in the areas proposed for annexation currently pay (in addition to the 13.3 mill Borough property tax), a 0.7 mill fire service area tax, a 2.50 mill road service area tax and a 0.35 mill non-areawide tax. With annexation, these service area and non-areawide taxes would go away and would be replaced

by the City's 3 mill property tax. The result would be a 0.55 mill reduction in property tax for the annexed properties.

The City has demonstrated a reasonable, three-year budget, allowing for logical expansion of city services into the areas proposed for annexation, which is in the best interest of the state." (at 60)

C. Respondents' Views

Mr. Brigg's brief states:

"While the City claims that the Airport operation and the annexation does not affect the Borough, this is in error. An error which has resulted in the City operating the Airport under 'Declared Distance' concepts, *i.e.* Pretending that the last several hundred feet of the end of Runway 15 is not used by any air traffic." (Exhibit 1 P.4)

D. Views of Correspondents

Correspondents did not specifically address the balanced best interests standard.

E. Views Expressed in Petitioner’s Reply Brief

The City’s Reply Brief states:

“The City understands that the annexation as proposed will not be unanimously accepted by property owners in areas to be annexed. The City believes, however, that it is capable of providing higher levels of service and a municipal government that is more responsive to citizen’s municipal service needs, and, given present property tax rates, at less cost. The City also believes that the orderly growth of the City and its surrounding areas depends on planning for the community’s future. Palmer has a history of a planned community dating from the federal government’s Colony project that established much of the core infrastructure and planned layout of Palmer that exists today. The City wishes to maintain quality of life benefits that come from good community planning and good infrastructure planning and development. Palmer has demonstrated capabilities in that regard. The annexation proposal takes a significant step to meet those goals.” (at 9)

standards under the state constitution and commission regulations *and is in the best interests of the state*”.

B. Views Expressed in the Petition

The Petition states:

“All of the territories proposed for annexation are either enclaves within the current boundaries of the City of Palmer or are immediately adjacent to the current boundaries of the City.

Four housing subdivisions lie within the areas proposed for annexation, three of which have requested annexation, representing approximately 200 lots. The three developers have negotiated agreements with the City of Palmer to meet the City’s subdivision standards. In addition, fourteen additional individual property owners have requested annexation, citing health and safety reasons.

The City of Palmer does not have express extraterritorial powers granted by the Matanuska-Susitna Borough, and only through the granting by the City of an annexation agreement to the property owner can water/sewer services be extended. Thus, it is impossible for the City to extend services unless the territories are within the City’s boundaries or are subject to an an-

3.14 Best Interests of the State

A. The Standard

AS 29.06.040(a) provides, in part, that the Commission may approve any proposed municipal boundary change if the Commission determines “ . . . that the proposed change, as amended or conditioned, if appropriate, meets applicable



Property within Area B.



Palmer Visitor and Information Center.

nexation agreement. An annexation agreement is granted by the City when conditions warrant reasonable proximity to City services and provides that the property owner will comply with appropriate City Building Codes and regulations.

The City of Palmer has demonstrated that it has the financial capabilities to provide services to the areas proposed for annexation. Annexation of the territories proposed will enable the City to plan for reasonably anticipated growth and development that could otherwise potentially adversely impact the City." (at 61)

C. Respondents' Views

Mr. Briggs' Brief states:

"The only result the annexation of my property will have is litigation costing the State, and others considerable sums of money and resources to assist the City in an attempt to violate my rights under the 5th and 14th Amendments to the Constitution of the United States and the Constitution of the State of Alaska, and it is my opinion that the annexation of my property is directly intended to deprive me of my full rights to the use and enjoyment of my property, and/

or steal my property outright. In either event, it constitutes **an Un-compensated Taking, and a violation of 42 USC 1985.**" (emphasis added)

D. Views of Correspondents

Correspondents did not specifically address the standard.

E. Views Expressed in Petitioner's Reply Brief

As noted in the context of 3 AAC 110.090(b), the Petitioner's Reply Brief contends that although the territory proposed for annexation is served by the Matanuska-Susitna Borough and the State of Alaska, the City believes it can provide higher levels of service to the territory.

As an example, the Petitioner's Reply Brief asserts that law enforcement services in the territory proposed for annexation are presently provided by the Alaska State Troopers and the Palmer police department will provide public safety services in the territory following annexation. According to the City, such would produce:

". . . significant improvements in response time and the level of service provided by the Palmer police department over service presently provided by the Troopers. The Palmer Trooper Post serves an area encompassing thousands of square miles and hundreds of miles of road in Southcentral Alaska. Continued state operating budget cuts have resulted in fewer state troopers on duty, with the result that those troopers on duty must now cover larger areas. Due to these limitations, troopers are not able to respond to relatively low priority public safety service calls, or are sometimes not available for a rapid response to an emergency call." (at 5)

Section

Application of the Annexation Standards by DCED

4.1 Character of the Territory Proposed for Annexation

This chapter of the Preliminary Report presents DCED’s application of the formal annexation standards to the City of Palmer’s annexation proposal. It begins with examination of the standards relating to the character of the territory proposed for annexation, followed by examination of those standards that are relatively objective. The chapter concludes with DCED’s examination of the more subjective and complex standards.

A. Standard Established in Law

Territory may be annexed to a city only if it is compatible in character with the area presently inside the corporate boundaries of the city to which annexation is proposed. Specifically, the law provides as follows:

3 AAC 110.100 CHARACTER. The territory must be compatible in character with the annexing city. In this regard, the commission will, in its discretion,⁶ consider relevant factors, including:

- (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.

3 AAC 110.100 lists six factors (counting land use and subdivision platting as two distinct factors) that the Local Boundary Commission may choose to consider in its application of the compatible character standard. However, the Commission is also free to consider other relevant factors in its application of the standard.

B. Application of the Comparable Character Standard to the City of Palmer Petition

1) Introduction

The provision in law limiting annexation of territory to that which is “compatible in character to the annexing city” does not require the respective areas to be identical or even similar in character. For example, in 1999, the Local Boundary Commission approved the annexation of 19.5 square miles to the City of Kodiak. Approximately one-eighth of the territory approved for annexation (2.4 square miles) was urban and densely populated (as was the area within the existing boundaries of the City of Kodiak). About one-quarter of the territory (5.4 square miles) was rural and sparsely populated. The remaining 11.7 square miles were uninhabited and otherwise undeveloped.

The uninhabited 11.7 square mile area was comprised of large tracts of publicly-owned land. Although the area within the corporate boundaries of the City of Kodiak was densely populated, heavily developed, extensively subdivided, and largely privately owned, the Commission determined that all of the areas

⁶ In plain language, the phrase “the commission will, in its discretion, consider” means that the “Commission may consider.” (See *Drafting Manual for Administrative Regulations*, page 61, 14th Edition, September 2000, Alaska Department of Law.)

proposed for annexation were, nonetheless, compatible. The 11.7 square mile area noted earlier served as the watershed for the area within the boundaries of the City of Kodiak and was, therefore, an important component of the community. (See *Decisional Statement in the Matter of the March 19, 1999 Petition of the City of Kodiak for Annexation of Approximately 19.5 Square Miles*, page 10, LBC September 3, 1999.)

The characteristics of the territory proposed for annexation to the City of Palmer are examined here in the context of the standard at issue. Moreover, the territory is reviewed in supplemental terms to provide a more comprehensive description of the territory proposed for annexation beyond the factors enumerated 3 AAC 110.100.

2) The Facts in this Case

a) Land Use

There are 180 tax parcels in the 921.34 acres proposed for annexation. The parcels vary greatly in size. For example, area M is comprised of nearly 80 acres occupied by three persons. Area F includes nearly 90 acres and is reportedly also occupied by only three residents. Conversely, Area L is comprised of 61.23 acres and is reportedly occupied by 78 individuals.

The Petition notes that issues relating to land use in the area proposed for annexation is a subject of local concern and special current interest. The matter was the focus of substantive discussion at an informational meeting on Monday, January 28, 2002, at the Palmer Community Center. The Petition characterizes that discussion as follows:

“One specific area of concern expressed by some property owners attending the meeting is that the City of Palmer’s current zoning regulations require all newly-annexed properties to enter the City with an R-1, Single-Family Residential zoning district designation. The City planning commission must then review the zoning of the property within 60 days of the effective date of the annexation and may recommend a different zoning designation. Some property owners expressed concern over a perceived uncertainty of this process. An exception to this code provision is that land annexed to the City that is owned by

a governmental entity enters the City with a P, Public zoning district designation regardless of the Borough zoning designation.”⁷

There is considerable residential development in the territory, but the Petitioner notes that a significant portions of the territory proposed for annexation is vacant or devoted to agricultural or purposes.

“All territories proposed for annexation consist of primarily residential, minimal commercial, and vacant properties that are either under development currently or are anticipated to be developed in the near future. The residential development within the areas is comparable to those within the City. Land use is much like neighboring properties within the City. Three of the larger enclaves are either vacant land or land under active agricultural use. The fact that these va-

⁷ Page 2-27 of the City of Palmer Comprehensive Plan (June 1999), states as follows:

“Zoning of Annexed Area. At the present time, areas annexed to the City of Palmer are automatically classed as R-1, with any needed zoning adjustments being made within 60 days following the annexation action. It is recommended that the City of Palmer continue to implement this policy. However, regardless of future recommended land uses in areas proposed for annexation, it is recommended that existing uses in such areas be treated as “uses by right” (i.e., as a permitted use) and be given grandfather rights within the 60-day period following annexation. In other words, existing land use and zoning in annexed areas will initially be synonymous.

Two exceptions to the ‘use by right’ policy are recommended. The first is to extend screening and buffering requirements contained in Palmer’s zoning regulations to annexed areas and require compliance for all new development. The second exception is where an existing use poses a threat to health and safety. In such cases, the use will be required to be brought to an acceptable standard or otherwise abated.’

The words ‘use by right’ have led to some confusion, which prompted the City to consider a proposed multi-use transitional district ordinance.”

cant or agricultural use enclaves are essentially within the City suggests they are part of the overall land or agricultural tracts within the present City boundaries except for large areas of the airport property which are under agricultural use leases as an allowed incidental use on airport property.” (at 47)

According to the Petition, “The territory proposed for annexation includes lands with the potential for many diverse uses. There are a few newly planned and existing high-growth subdivisions in the territory proposed for annexation.” (at 54)

The Petitioner notes that “Several property owners have requested annexation by the City of Palmer, citing health and safety issues as their major concern. Lack of potable water and sewer service is a driving force behind formal annexation agreements between property owners and the City of Palmer.”

The Petitioner’s Brief describes residential development occurring in various portions of the area proposed for annexation.

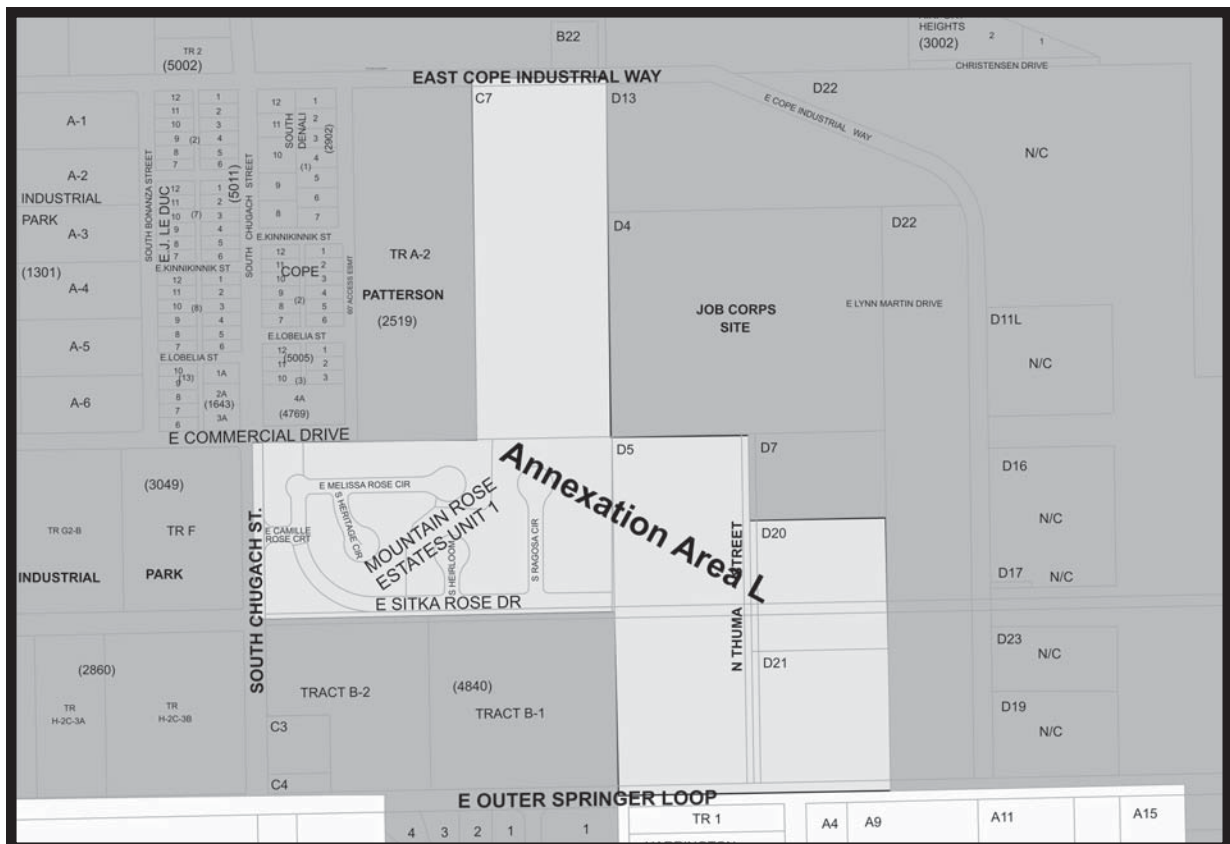
“Also, within Area K, the 120-lot Spinell Homes, Inc.’s. Hidden Ranch Subdivision has formally requested annexation to the City and is presently negotiating annexation and subdivision agreements with the City. The City also received requests for annexation and has executed annexation agreements for the 5 acre Kolivosky property located immediately north of the Spinell development and a 6.55 acre tract located along Moore Road on the south side of Palmer, and just behind the Colony Kitchen Restaurant on the Glenn Highway.

In Area C, the owner requested the City annex the 33.79 acre parcel that lies adjacent to the Glenn Highway on the eastern boundary and Scott Road on the southern boundary.

Area L (Cope Subdivision) includes the D. G. Smith Builders housing development, Mountain Rose Estates. The City and property owner have signed annexation and subdivision development agreements for this property and the construction of this 64-unit housing development is approximately two-thirds complete.

With four partially developed housing developments within the areas proposed for annexation, it is crucial that the City of Palmer be properly prepared to address health and safety issues as

Map 8 - Area L



they arise in order to provide the greatest degree of services to all residents. Three of the four developments have requested annexation due to the health and safety issues surrounding the properties and the need for City services.” (at 52-53)

Few commercial properties have been developed within the territory proposed for annexation. The City of Palmer describes commercial properties in the territory proposed for annexation as “currently negligible”. (at 6)

However, the Petition indicates that commercial development in portions of the territory proposed for annexation is impending. “Commercial development and retail growth is expanding to the south of the City of Palmer along the Glenn Highway. This commercial corridor compares to other business districts within the City.”

Like the territory proposed for annexation, the area within the corporate boundaries of the City of Palmer exhibits diverse land use characteristics. Land use inside the existing corporate boundaries of the City of Palmer is typical of development patterns in Alaska communities.

A greater proportion of the land within the City of Palmer is used for institutional functions (government offices, schools, airport, etc.) than is the case within the territory proposed for annexation. The same is true with respect to commercial land use

The area within the existing corporate boundaries of the City of Palmer also includes a substantial amount of vacant land, although relatively less than the territory proposed for annexation.

Based on the preceding analysis, DCED finds that although there are certain distinctions between the two areas with respect to land use, those distinctions are not substantive enough to render the territory proposed for annexation incompatible with the territory inside the corporate boundaries of the City of Palmer.

b) Subdivision Platting

The territory proposed for annexation encompasses multiple residential subdivisions, including the Palmer West Subdivision, Mountain

Rose Estates and the Riverside Subdivision. Further, the Sherrod Park area has been described as suitable for residential development.⁸

DCED finds that the subdivision characteristics of the territory proposed for annexation do not render the territory proposed for annexation incompatible with the area inside the City of Palmer.

c) Natural Geography

There is no aspect of natural geography rendering the territory proposed for annexation incompatible with the area inside the current boundaries of the City of Palmer.

d) Salability of land for residential, commercial, or industrial purposes

The salability of land – the extent to which it is capable or fit to be sold – depends largely upon natural geography and ownership.

Land in the territory proposed for annexation is predominately privately owned.

The record no aspect of the salability of land in the territory proposed for annexation to suggest that the salability of land in the territory proposed for annexation is an issue.

e) Population density

The City of Palmer conservatively estimates that 325 individuals inhabit the territory proposed for annexation. The City developed that population estimate using 2000 U.S. Census data and information provided by the Matanuska-Susitna Borough.

Thus, the population density in the area proposed for annexation is approximately 225 persons per square mile.

⁸ 1999 City of Palmer Analysis of Annexation Alternatives, (at 3-5)



Palmer Pioneer Cemetery, Area E.

For comparison purposes, the average population density of all cities in Alaska is 174.7 residents per square mile of land.

The population densities of Alaska's 146 city governments range from 2,330 persons per square mile of land in the City of Ketchikan to 0.9 people per square mile of land in the City of Platinum.

Population densities throughout various portions of the territory proposed for annexation differ significantly. The least densely populated include area 'E', a five-acre cemetery enclave and the 79.99 acre area 'M', which has been purchased for use as State Fair parking lot expansion. The more densely populated areas include the 61.23-acre area 'L', which contains the Mountain Rose Estates Subdivision with its estimated population of 78. However, variations in population density from parcel to parcel is not inconsistent with portions of the territory within the existing boundaries of the City of Palmer, such as the large areas of the airport property which are under agricultural use leases as an allowed incidental use on airport property. Further, such circumstances are typical of areas within and adjoining city government jurisdictions throughout in Alaska.

Based on the foregoing discussion, DCED considers there to be no aspect of the population density of the territory proposed for annexation

that renders it incompatible in character with the area inside the existing corporate boundaries of the City of Palmer.

f) Cause of recent population changes

Specific figures for population growth in the territory proposed for annexation are not available. However, the Matanuska-Susitna Borough

indicates generally that the southern portion of the Peninsula is experiencing rapid population growth and other development. The following trends are evident in the MSB core area:

- the core area of the Matanuska-Susitna Borough is growing;
- the population is growing at a fast rate;
- the labor force is growing;
- development is occurring both outside and inside of cities.

DCED finds the recent population change within the territory proposed for annexation to be consistent with the rapid population growth in the 'core area' of the Matanuska-Susitna Borough (MSB).

g) Suitability of the territory for reasonably anticipated community purposes

In a narrow context, the phrase "reasonably anticipated community purposes" relates to existing and prospective roads, airports, utilities, public safety facilities, health facilities, educational facilities, parks and recreation, cemeteries, and other governmental functions.

In a broader context, the phrase "reasonably anticipated community purposes" could include properties that are suitable for private purposes in addition to those listed above (e.g., residential, recreational, commercial, and

industrial). In that case, virtually all the territory is suitable for community purposes.

Based on its analysis, DCED finds that the extent to which the territory is suitable for reasonably anticipated community purposes – even in a narrow context – allows the territory proposed for annexation to be characterized as compatible with the area inside the adjoining City of Palmer.

h) General Demographic Characteristics

The 325 residents of the territory proposed for annexation live in either enclaves or in areas adjacent to the City of Palmer. The density of the area proposed for annexation is higher in subdivision areas and lower close to agricultural areas. The City of Palmer also has areas of high density, interspersed with areas of lower density. Many of the people living in the area proposed for annexation work in the City of Palmer, while some work in Wasilla or Anchorage. This is true of the population of the City of Palmer, as well as with much of the Matanuska-Susitna Borough.

i) Property Values

The City indicates that real property in the territory proposed for annexation was \$9,781,100 at the time the Petition was filed.

The current taxable value of real property in the territory proposed for annexation amounts to \$30,372 for annexation is \$43,288 (42%) greater than the taxable value of real property within the corporate boundaries of the City of Palmer.

j) Property and Sales Taxes

The Borough collects a 13.133 mill property tax Borough-wide and a 3-mill property tax for the City of Palmer. Therefore, all areas proposed for annexation will be required to pay the City’s 3-mill property tax, if annexed. Per the Matanuska-Susitna Borough the 2002 real

property assessed value in the areas proposed for annexation is \$9.781 million.

The City anticipates that if the annexation proposal is approved, additional property tax revenues generated by the newly-annexed area will total \$29,340 annually after the levy begins in 2004.

Property owners within the areas proposed for annexation are currently assessed for fire, road and non-area-wide services that total 3.55 mills. The City currently levies a 3-mill property tax. Therefore, if annexed to the City of Palmer,

owners of property will see a 0.55 mill reduction in their total property tax expense.

The City anticipates that the City’s 3% sales tax will generate revenues totaling about \$3,000 per year.

3) Conclusion

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. There are — housing units in the area in question. Significant commercial development also exists in the territory proposed for annexation. Commercial enterprises in the area proposed for annexation are estimated by the City of Palmer to be “negligible”.

Population density in 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.

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 921.34 acres in question is compatible in character with the City of Palmer. DCED acknowledges that the portion of the territory closest to the existing northern boundaries of the City of Palmer generally has the greatest residential, commercial, and other development. Some of the properties 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, DCED concludes that the Petition for annexation of territory to the City of Palmer satisfies the compatible character standard set out in 3 AAC 110.100.

4.2 Proposed New Boundaries of the City of Palmer in Relation to Boundaries of other Existing Local Governments

A. Standard Established in Law

The Commission cannot approve the extension of a city government so that it encompasses a portion of more than one borough (organized or unorganized). Similarly, the Commission cannot approve the expansion of a city government so that it overlaps the corporate boundaries of another existing city government without providing for detachment from or dissolution of the other city. Specifically, 3 AAC 110.130(e) provides as follows:

If a petition for annexation describes boundaries overlapping the boundaries of an existing organized borough, unified municipality, or city, 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 overlapping region from the existing organized borough, unified municipality, or city. The commission will consider and treat the annexation petition to the existing organized borough, or a detachment petition from the existing organized borough, unified municipality, or city.

B. Application of the Overlapping Boundary Standard to the City of Palmer Petition

1) Facts in this Proceeding

The circumstances of the pending Petition relating to this standard are uncomplicated and unambiguous. The proposed enlarged jurisdictional territory of the City of Palmer lies entirely within the corporate limits of the Matanuska-Susitna Borough. The proposed expanded boundaries of the City of Palmer do not overlap the jurisdictional area of any existing city government.

2) Conclusion

Given the simple facts in this matter, the City of Palmer annexation proposal clearly satisfies the overlapping boundary standard set out in 3 AAC 110.130(e).

4.3 Proximity of the Territory to the City of Palmer

A. Standard Established in Law

State law presumes that territory proposed for annexation to a city will be contiguous to that city. If the territory is not contiguous, the presumption can be overcome by demonstrating a compelling need for annexation. Specifically, 3 AAC 110.130(b) states as follows:

Absent a specific and persuasive showing to the contrary, the commission will, in its discretion, presume that territory that is not contiguous to the annexing city does not meet the minimal standards required for annexation.

B. Application of the Proximity Standard to the City of Palmer Petition

1) Facts in this Proceeding

As was the case with regard to the overlapping boundary standard, the circumstances relating to the proximity standard are simple and unequivocal. The territory proposed for annexation to the City of Palmer is contiguous to the area within the existing boundaries of the City. Further, four of the areas proposed for annexation (areas 'F', 'E', 'J', and 'I') are clearly enclaves within the current jurisdiction of the City of Palmer.

2) Conclusion

Given the specific facts in this matter, DCED concludes that the City of Palmer annexation proposal clearly satisfies the proximity standard set out in 3 AAC 110.130(b).

4.5 Effects of Annexation on Civil and Political Rights

A. Standard Established in Law

Annexation is prohibited if it will deny any person the enjoyment of any civil or political right, including voting rights because of race, color, creed, sex, or national origin.

Two separate laws apply here. The first is 3 AAC 110.910, which states as follows:

3 AAC 110.910 STATEMENT OF NON-DISCRIMINATION. 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.

The second law is the Federal Voting Rights Act of 1965, codified as amended at 42 U.S.C. Section 1973. The Voting Rights Act prohibits political subdivisions from imposing or applying 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. Specifically, the federal law provides as follows:

42 USC Sec. 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites; establishment of violation.

(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.

B. Application of the Civil and Political Rights Standard to the City of Palmer Petition

1) Background

It may be helpful to review certain of the terms used in the State and Federal laws relating to the standards at issue. Specifically, Black's Law Dictionary (Revised Fourth Edition) 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."

Because the U.S. Justice Department must provide an independent review of any annexation in the context of the Voting Rights Act, it may also be helpful to provide background concerning the Federal Voting Rights Act and its application to Alaska. The Voting Rights Act was passed in 1965, at which time the U.S. Justice Department established standards to determine which jurisdictions nationwide would be required to "preclear" changes in voting rights and practices under Section 5 of the Act.

The standards provided that if the U.S. Justice Department determined that a state or political subdivision maintained a "test or device,"⁹ and if the Census Bureau determined that fewer than 50% of the voting-aged residents of the jurisdiction were either registered to vote or voted in the 1964 presidential election, the state or political subdivision was covered by the Act.

At that time, Alaska had both low voter registration and turnout. The U.S. Justice Department also determined that Alaska maintained a literacy test, which was a prohibited test or device. Therefore, at the outset, Alaska was among the jurisdictions that were required to comply with the preclearance provisions of Section 5 of the Voting Rights Act.

However, as expressly authorized by the Voting Rights Act, Alaska immediately filed a lawsuit asserting that the State had not applied a test or device with the prohibited discriminatory purpose or effect. The Justice Department concurred with the State's position and Alaska was allowed to withdraw from the preclearance requirements.

The Federal Voting Rights Act was amended in 1970, at which time Alaska was again made subject to the preclearance requirements. With the concurrence of the Justice Department, Alaska again withdrew from the requirement to preclearance changes affecting voting.

In 1975, the Voting Rights Act was amended again. The amendments expanded the definition of "test or device" to apply to a jurisdiction that conducted elections only in English if 5% or more of the residents were members of a single language minority. Because Alaska conducted most aspects of its elections in English and because all Alaska Natives were considered to be members of a single language minority, Alaska and all of its local governments were once again required to preclear all changes affecting voting. The 1975 amendment was retroactive to cover any changes made after November 1, 1972. Alaska and its political subdivisions have remained subject to the Section 5 Voting Rights Act requirements since 1975.

In addition to the definitions of certain terms and background on the Voting Rights Act, it is appropriate to note here that in 1962, the Alaska Supreme Court held that the legislative review process for annexation – the same one employed in this proceeding by the City of Palmer – does not infringe or deprive rights protected by the Fourteenth Amendment of the U.S. Constitution. Specifically, the Court stated as follows in

⁹ "Test or device" was defined as "any requirement that a person as a prerequisite for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement of his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

Fairview Public Utility District Number One v. City of Anchorage, 368 P.2d 540, 545 (Alaska 1962):

Appellants next contend that their constitutional rights were violated when they were not permitted to hold an election and vote as to whether annexation should take place. They rely specifically on the due process clause of the Fourteenth Amendment, and on the Fifteenth Amendment as applied in the recent case of *Gomillion v. Lightfoot*.¹⁰

Appellants do not point out, nor do we perceive, in what respect there has been a deprivation of 'liberty, or property, without due process of law.'¹¹ The determination of what portions of a state shall be within the limits of a city involves an aspect of the broad political power of the state which has always been considered a most usual and ordinary subject of legislation.¹² The state may permit residents of local communities to determine annexation questions at an election. But when this has been done, the state is not irrevocably committed to that arrangement. If the citizens of the state, in adopting a constitution, decide that it is in the public interest to establish another election procedure, there is no constitutional obstacle to that course of action. Those who reside or own property in the area to be annexed have no vested right to insist that annexation take place only with their consent. The subject of expansion of municipal boundaries is legitimately the concern of the state as a whole, and not just that of the local community.¹³ There has been no infringement or deprivation of rights protected by the Fourteenth Amendment.

The Fifteenth Amendment and the Supreme Court's decision in the *Gomillion*¹⁴ case are not pertinent. They are concerned with the denial of a citizen's right to vote because of his race or color. That factor is not involved in this case.

The Alaska Supreme Court's interpretation is consistent with a U.S. Supreme Court ruling one hundred and twenty years ago. In *Kelly v. City of Pittsburgh*, 104 U.S. 78 (1881), a taxpayer claimed that taxes assessed by a city into which his land had recently been annexed without his vote, deprived him of his property without due process of law. The court said:

What portion of a State shall be within the limits of a city and be governed by its authorities and its laws has always been considered to be a proper subject of legislation. ... Whether territory shall be governed for local purposes by a county, a

city, or a township organization, is one of the most usual and ordinary subjects of State legislation.

2) Facts in this Case

The record in this proceeding lacks any compelling argument that annexation will diminish any civil right of any person within the territory proposed for annexation. However, annexation would alter a number of political rights of citizens in the territory proposed for annexation. Certain political rights would be gained. For example, any qualified voter annexed to the City of Palmer in 2003 as a result of the ongoing proceedings could vote in City elections and assume elected City office.

The City of Palmer utilizes two advisory commissions: Airport Advisory Commission and Planning Commission. When vacancies occur, the City requests letters of interest. The mayor then nominates members, with confirmation by the Palmer City Council. Upon annexation, residents of the newly annexed areas will be eligible for consideration to serve on these commissions.¹⁵

Since City residents also vote in Borough elections, the annexation will have no effect on the number of eligible voters in areawide

¹⁰ 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110 (1960).

¹¹ U.S.Const. amend. XIV, § 1.

¹² *Kelly v. City of Pittsburgh*, 104 U.S. 78, 81, 26 L.Ed. 658, 659 (1881); 1 Antieau, *Municipal Corporation Law* § 1.15 at 30 (1958).

¹³ Cf. *Hunter v. City of Pittsburgh*, 207 U.S. 161, 28 S.Ct. 40, 52 L.Ed. 151 (1907); *Mount Pleasant v. Beckwith*, 100 U.S. 514, 524 525, 25 L.Ed. 699, 701 (1880).

¹⁴ *Gomillion v. Lightfoot*, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed.2d 110 (1960).

¹⁵ Presently, the City allows limited non-resident membership on the Airport Advisory Commission. This provision will continue in effect following annexation, according to the Petitioner.

Borough elections. Elections for all City officers are at large, while Borough elections are by district. If the territory proposed for annexation is annexed to the City and detached from the Matanuska-Susitna Borough's South Colony Road Service Area #16, and the Matanuska-Susitna Borough's Greater Palmer Consolidated Fire District #132, it will eliminate the right of voters in the area in question to vote on service area matters and the right to be appointed to service area boards of supervisors. However, the Petition states that the City of Palmer is not aware of any issue brought to the voters of the Matanuska-Susitna Borough Road Service Area and the Matanuska-Susitna Borough Fire Service area in recent years.

If the proposed annexation becomes effective, it will eliminate the right of voters to vote on any non-areawide Borough propositions. However, annexation would permit voters in the newly-annexed area to run for City office; to vote on City propositions and to serve on appointed boards and commissions.

Although the Local Boundary Commission will make a determination concerning the standard at issue, the U.S. Justice Department will conduct an independent review under the terms of the Federal Voting Rights Act of any annexation approved for the City of Palmer.

3) Conclusion

Although annexation would 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.

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

4.5 Inclusion of Geographic Regions and Large Unpopulated Areas

A. Standard Established in Law

Annexation of geographical expanses or large unpopulated areas to a city government is prohibited, except where justified by the application of the city annexation standards. Specifically, 3 AAC 110.040(c) states as follows:

The boundaries of the proposed city must not include entire geographical regions or large unpopulated areas, except when such boundaries are justified by the application of the standards in 3 AAC 110.010 - 3 AAC 110.040.

B. Application of the Regional Standard to the City of Palmer Petition

1) Background

Certain of the fundamental terms in 3 AAC 110.040(c) are clearly subjective. "Entire geographical regions" and "large unpopulated areas" mean different things to different people.

The standard set out in 3 AAC 110.040(c) was first instituted in 1992. Its purpose was to underscore distinctions between city governments and borough governments, and to deter proposals for the expansion of city governments to encompass large natural regions.

Boundaries encompassing expansive natural regions are appropriate for boroughs, but not cities. The Constitution requires that every area of Alaska – regardless of its remoteness, suitability for municipal purposes, level of development, and other factors – must be within a borough. Specifically, Article X, Section 3 of the Constitution of the State of Alaska provides as follows (emphasis added):

Table 5 Populous City Governments in Alaska (1,000+ Residents) Ranked in Descending Order of Jurisdictional Area (Land and Water)					
City	Land (sq. mi.)	Water (sq. mi.)	Total (sq. mi.)	Rank	2000 population
Valdez	222.0	55.1	277.1	1	4,036
Unalaska	111.0	101.3	212.3	2	4,283
Cordova	61.4	14.3	75.7	3	2,454
Wrangell	45.3	25.6	70.9	4	2,308
Bethel	43.8	5.1	48.9	5	5,471
Petersburg	43.9	2.2	46.1	6	3,224
Dillingham	33.6	2.1	35.7	7	2,466
Kenai	29.9	5.6	35.5	8	6,942
Fairbanks	31.9	0.8	32.7	9	30,224
Kotzebue	27.0	1.7	28.7	10	3,082
Homer	15.2	11.9	27.1	11	4,844
Houston	22.4	1.1	23.5	12	1,202
Nome	12.5	9.1	21.6	13	3,505
Seward	14.4	7.1	21.5	14	2,830
Haines	13.5	8.0	21.5	15	1,811
Barrow	18.4	2.9	21.3	16	4,581
Wasilla	11.7	0.7	12.4	17	5,469
Craig	6.7	2.7	9.4	18	1,397
Hooper Bay	8.7	0.1	8.8	19	1,014
Soldotna	6.9	0.5	7.4	20	3,759
Kodiak	3.5	1.4	4.9	21	6,334
North Pole	4.2	0.0	4.2	22	1,570
Ketchikan	3.4	0.8	4.2	23	7,922
Palmer	3.9	0.0	3.9	24	4,533

AAC 110.040(c) was adopted, some city governments (particularly those in the unorganized borough) proposed large-scale annexations of uninhabited and undeveloped territory. A few city governments in Alaska have boundaries that encompass large uninhabited areas. For example, in 1980, the City of Skagway annexed approximately 432.10 square miles. The City of Skagway has the most expansive boundaries of any city government in Alaska.¹⁶

2) Facts in this Case

Census data demonstrates that, in terms of the size of its jurisdictional territory, the City of Palmer ranks 24th of 24 among the Alaska cities with populations greater than 1,000. If the pending annexation proposal were approved, the City of Palmer would move up in the ranking to the 21st position.

3) Conclusion

As noted above, 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

The *entire* State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Organized boroughs in Alaska range in size from 850 square miles to 94,770 square miles. The average size of Alaska’s sixteen organized boroughs is 17,599 square miles. The Matanuska-Susitna Borough encompasses an estimated 25,260 square miles.

In contrast to boroughs, which are regional municipal governments, cities are community-based units of municipal government. Before 3

¹⁶ Residents of the City of Skagway petitioned to dissolve the City of Skagway and reconstitute the local government as an organized borough with boundaries identical to those of the City of Skagway.

only partially inhabited. Neither does 3 AAC 110.040(c) preclude the annexation of territory encompassing undivided parcels of land.

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 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. If the proposed annexation is approved, the City of Palmer's current 3.9 square mile jurisdiction would be expanded to about 5.3 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.

Given the foregoing circumstances, DCED concludes that the City of Palmer annexation proposal satisfies the standard set out in 3 AAC 110.040(c) prohibiting the annexation of entire geographical regions and large unpopulated areas.

4.6 Size and Stability of Population

A. Standard Established in Law

Territory may be annexed to a city only if the expanded boundaries of the city will encompass a population that is well established and big enough to support the expanded government. Specifically, 3 AAC 110.120 states 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.



Mountain Rose Estates, Area L.

B. Application of the Resources Standard to the City of Palmer Petition

1) *The facts in this case*

a) Census Enumeration

The U.S. Census Bureau reports that 4,533 residents inhabited the City of Palmer at the time of the 2000 census. As noted in this chapter under the examination of the first standard, DCED 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.

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

b) Duration of Residency

Specific data concerning the duration of residency within the territory proposed for annexation is 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.¹⁷ This figure is consistent with the State as a whole, since about 34 percent of Alaskans live in rental housing.

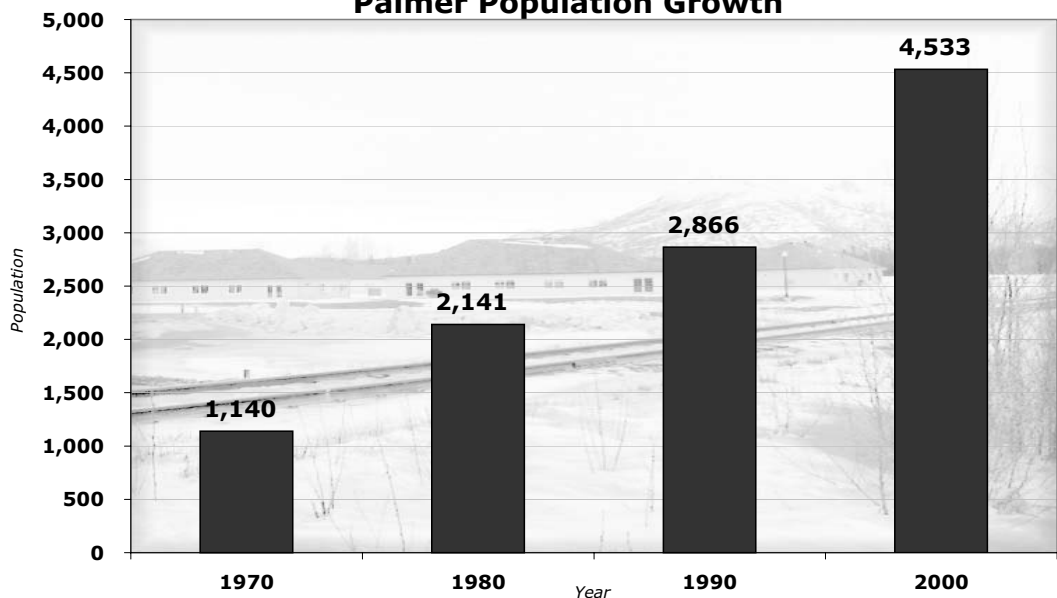
Data from the 2000 census indicates that the City of Palmer has 391 persons living in group quarters. Of these, 192 were institutionalized in facilities such as correctional institutions (86) and nursing homes (66). The remainder (199) of Palmer residents living in group quarters were not institutionalized.

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 stable.

c) Historical Population Patterns

Census data show that the City of Palmer’s population grew at a very substantial 87% rate during the 1970s. During the 1980s, the rate of Palmer population growth moderated considerably, growing only 34% for that decade.

**Table 6
Palmer Population Growth**



Between 1990 and 2000, City of Palmer population growth accelerated, reflecting a 58% increase over the decade.

d) Seasonal Population Changes

DCED’s community profiles summarize Palmer’s economy and seasonal population in the following general fashion:¹⁸

“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. 73 area residents hold commercial fishing permits. The University has an Agricultural and Forestry Experiment Station Office and a district Cooperative Extension Service office here. The University’s Matanuska Research Farm is also located in Palmer.”

Palmer is a stable, year-round community.

¹⁷ Source: U.S. Census Bureau, 2000 Census of Population & Housing, Summary File 1, July 2001

¹⁸ See < http://www.dced.state.ak.us/cbd/commdb/CF_BLOCK.cfm >

e) Age Distributions

The 2000 census recorded the following age distribution data.

The City of Palmer’s population was comprised of 1,525 persons under the age of 18, and 3,008 age 18 and over. Palmer residents age 62 and over totalled 463.

The median age in the City of Palmer is 28.8.

The data reflects age distribution patterns consistent with a residential community.

2) Conclusion

Based on the foregoing, DCED concludes that 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, in DCED’s view, the City of Palmer’s annexation proposal satisfies the standard set out in 3 AAC 110.120.

4.7 Human and Financial Resources

A. Standard Established in Law

The resources standard provides that territory may be annexed to a city only to the extent that the expanded boundaries of the city include the human and financial resources needed to provide essential city services on an efficient and cost effective level. Specifically, 3 AAC 110.110 states 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 will, in its discretion, 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;
- (3) actual income and the reasonably anticipated ability to collect local revenue and income from the territory;

- (4) feasibility and plausibility of the anticipated operating budget of the city through the third full fiscal year of operation after annexation;
- (5) economic base of the territory 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 people.

The phrase “essential city services” has a specific meaning as it relates to this standard. It is defined by 3 AAC 110.990(8) as follows:

“essential city services” means those legal activities and facilities that are determined by the commission to be reasonably necessary to the community and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state; “essential city services” may include

- (A) assessing, levying, and collecting taxes;
- (B) providing primary and secondary education in first class and home rule cities in an unorganized borough;
- (C) public safety protection;
- (D) planning, platting and land use regulation; and
- (E) other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

B. Application of the Population Standard to the City of Palmer Petition

1) The facts in this case

a) 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)

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)

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

b) Reasonably Anticipated New Expenses of the City

The City of Palmer projects that annexation will result in additional operating and capital expenses to the City. These additional expenses are outlined in Tables 7, 8, and 9.

Table 7 Anticipated Additional General Fund Expenditures			
General Fund	2003	2004	2005
Administration*	\$0	\$0	\$0
Police**	500	500	500
Building	0	0	0
Public Works***	20,000	20,000	20,000
TOTALS	\$20,500	\$20,500	\$20,500

Notes:

* 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.

** 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.

*** 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.

Table 8 Anticipated Additional Enterprise Fund Expenditures			
Enterprise Funds	2003	2004	2005
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
TOTALS	\$ 6,500	\$ 9,000	\$ 12,000

It is estimated that annexation will result in additional revenues for the City during each of the first three years following annexation. These revenue estimates can be found on Tables 10 and 11, located on the following pages.

DCED considers the City's projections as reasonable estimates of additional annual income that would result from annexation of the territory in question.

c) 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 \$xxx annually. The City based its property tax revenue estimates on the certified real property assessed values provided by the Matanuska-Susitna Borough.

The City also estimates that annexation would increase its sales tax revenues by \$30,000 per year. 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.

d) 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, DCED considers the

Table 9 Anticipated Additional Capital Expenditures			
Capital Expenditures	2003	2004	2005
Water Utility*	\$ 25,000	\$ 940,000	\$ 200,000
Wastewater Utility**	20,000	200,000	200,000
Solid Waste Collection	0	0	0
TOTALS	\$ 45,000	\$ 1,140,000	\$ 400,000
Notes:			
* 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.			
** 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.			

**Table 10
Anticipated Additional General Fund Revenues**

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

Notes:

* 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.

** 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.

*** 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.

**** State Revenue Sharing and Safe Communities Program funds estimated by Bill Rolfson, DCED, 2/27/02.

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.

e) 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.

City's projections of revenues and expenditures for the post-annexation City of Palmer to be credible.

DCED finds further 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

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

- U.S. Post Office

f) 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.

g) 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. To avoid redundancy, the topic will not be addressed here.

h) 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 are 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

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

Table 11 Anticipated Additional Enterprise Fund Revenues			
Enterprise Funds	2003	2004	2005
Utility Fee Revenue*			
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
TOTALS	\$ 13,500	\$ 19,900	\$ 26,100
Notes:			
* 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.			

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.”

i) 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.

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

j) 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.

2) Conclusion

General fund operating costs are reasonable 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.

Table 12 Palmer Employment	
Total Potential Work Force (Age 16+):	3,248
Total Employment	1,869
Civilian Employment	1,818
Military Employment	51
Civilian Unemployed (Seeking Work)	221
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 (in own not incorporated business)	182
Government Workers (City, Borough, State, Federal)	453

Source: 2000 Census

Contemporary personal income figures at the community level are not available. Census figures indicated that median household income in the City of Palmer was \$45,571 in 2000.

Given these circumstances, DCED 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.

4.8 Plan for Extension of City Services

A. Standard Established in Law

Any city seeking to annex territory is required to provide a plan to the Local Boundary Commission for the extension of services and facilities to the annexed area. The plan must demonstrate to the satisfaction of the Commission that the annexing city has the intent and capability to extend essential services "in the shortest practical time" following annexation.

In this case, the plan must also address the assumption by the City of Palmer of relevant and appropriate powers, duties, rights, and functions presently exercised within the territory by the Matanuska-Susitna Borough. The City of Palmer's plan is also required to address the transfer to and integration of any relevant and appropriate assets and liabilities of the Matanuska-Susitna Borough on the part of the City of Palmer. The City of Palmer is required by law to consult with officials of the Matanuska-Susitna Borough in the development of the plan.

Specifically, 3 AAC 110.900 provides as follows:

TRANSITION.

(a) A petition for incorporation, annexation, merger or consolidation must include a practical plan in which the municipal government demonstrates its intent and capability 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 detachment or dissolution must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment.

(b) A petition for a proposed action by the commission 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, service area, or other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city or service area, and must be designed 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) A petition for a proposed action by the commission must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, service area or other entity located in the

territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, or service area affected by 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 occurs 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 will, in its discretion, require that all affected boroughs, cities, service areas, or other entities 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.

B. Application of the Transition Plan Standard to the City of Palmer Petition

1) Facts in this Case

The Petitioner's transition plan is comprised of nine pages included in the Petition as Exhibit G.

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)

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

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.

"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)

"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 oversizing of water or sewer mains in the proposed Spinell Home subdivision (Area K) to facilitate the extension of services west of that subdivision." *City of Palmer Annexation Petition, at 58.*

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 oversizing 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)

Other. 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 the following MSB staff.

- John Duffy, MSB Manager
- Tim Anderson, Mayor, MSB
- Ron Swanson, MSB Community Development Director,
- Sandra Garley, Planning Director, MSB
- Karl Borglum, Assessor, MSB
- Idris Van Sant, Assessing Dept., MSB
- Sandra Dillon, Borough Clerk, MSB
- Beth McKibben, Planner, MSB

- Mark Matson, GIS Coordinator, MSB
- Kelly Veech, Borough Comptroller
- Chuck Kaucic, Borough Project Manager
- Marcy Orth, Secretary for Federal Programs, Bilingual Department, MSB School District. (at 44)

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.

"To the best of the City's knowledge, there are no relevant and appropriate assets and liabilities of the Matanuska-Susitna Borough or other entity serving the territories proposed for annexation that will have to be assumed by or integrated into the City of Palmer. For example, according to the Matanuska-Susitna Borough comptroller, Kelli Veech, the South Colony Road Service Area fund balance as of June 30, 2001 (the end of the Borough's fiscal year), was \$94,000. The proposed annexation areas are all within this road maintenance service area, though the service area extends far beyond the proposed annexation areas. According to Veech, the Borough budgets road maintenance service areas to project a zero balance at the end of the fiscal year. Due to variations in actual maintenance costs and revenues received, however, the year-end fund balance is rarely zero. Nevertheless, the Borough projects a zero fund balance in the South Colony Road Service Area for the 2002 fiscal year. It is therefore a guessing game to estimate what assets or liabilities in the form of a fund balance the taxpayers living in the South Colony Road Service Area will have when the annexation of that portion of the road service area becomes effective. Also, according to Chuck Kaucic, a Borough project manager, the Borough plans no road capital improvement projects in FY02 in the proposed annexation areas presently in the South Colony Road Service Area.

In regards to the Greater Palmer Fire Service Area, according to the Borough comptroller, the 6/30/01 fund balance was \$381,000 and the 6/30/02 fund balance is projected to be the same. The Borough pays the City half of the cost to

operate the Palmer Fire Department in exchange for the Palmer Fire Department providing fire protection for the portions of the Greater Palmer Fire Service Area outside City boundaries. Due to the relatively insignificant percentage of the total property within this service area represented by the property within the proposed annexation area, the City estimates the fund balance will not be affected by this annexation, as the City fire department will continue to serve those areas.

Therefore, for the purposes of the City's petition, and based on the Borough's general approach to budget for a zero fund balance at the end of each fiscal year, the City estimates that there will be no annual maintenance assets or liabilities to be assumed by the City in the portions of the South Colony Road Service Area or the Greater Palmer Fire Service Area proposed for annexation." (at 42)

2) Conclusion

Based on the review of Exhibit G of the Petition and the City's Reply Brief, DCED 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)

Based on the foregoing facts in this matter, DCED concludes that the City of Palmer annexation proposal satisfies the transition plan standard set out in 3 AAC 110.900.

cient, cost-effective level. In this regard, the commission will, in its discretion, consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.

4.9 Inclusion of Areas Necessary to Provide Services on an Efficient, Cost-Effective Level

A. Standard Established in Law

State law provides that an expansion of city boundaries must include all areas needed by the annexing city to provide full development of essential city services on an economical basis. Specifically, 3 AAC 110.130(a) states as follows:

The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an effi-

B. Application of the 'Areas Necessary for Efficient Services' Standard to the City of Palmer Petition

1) Facts in this Case

a) Land Use and Ownership Patterns

Land use characteristics and land ownership patterns in the territory proposed for annexation were addressed extensively earlier in this chapter under the examination of the first standard.

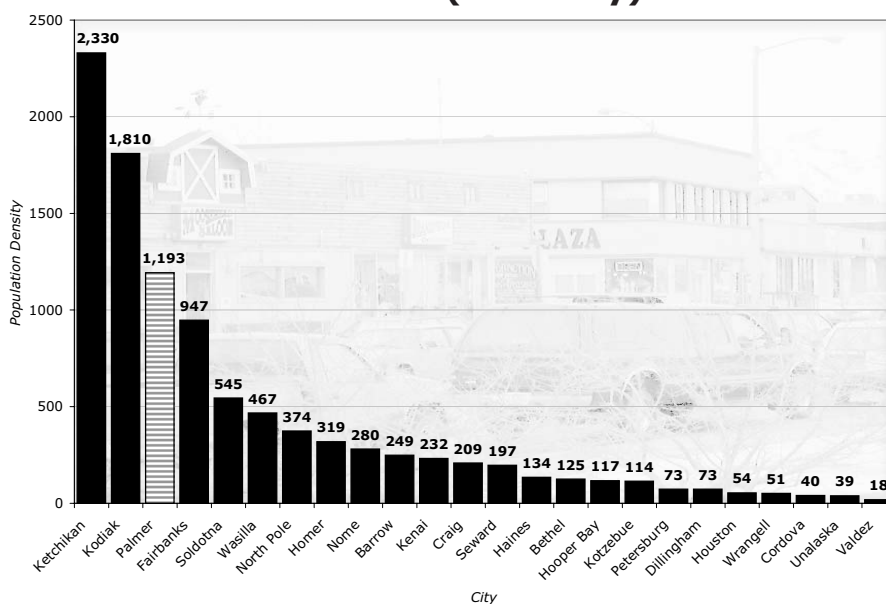
b) Population Density

Aspects of population density were explored earlier in this chapter with regard to the first

standard. However, it is relevant to recognize that that the City of Palmer is the third most densely populated city in Alaska.

As noted in the *City of Palmer Analysis of Annexation Alternatives*, (Petition, Exhibit U) "As City boundaries now exist, there is very little area for future growth. Large blocks of property are taken up by the Palmer Airport, the Alaska State Fair, and other recreational and institutional uses."(at 1-2)

Table 13
Population Densities of Most Populous Cities in Alaska (land only)



DCED considers the population density of the territory proposed for annexation to be consistent with inclusion of the territory within the City of Palmer's jurisdiction.

c) Existing and Reasonably Anticipated Transportation Patterns and Facilities

According to the Petitioner, the Matanuska-Susitna Borough School District is currently negotiating with landowners in the Sherrod Park area (Area B) for a potential school site. If a new school is built at the Sherrod Park location, neighborhood transportation patterns will undoubtedly be affected.

d) Natural Geographical Features and Environmental Factors

Natural geography and environmental factors were addressed previously in this chapter under the standard relating to the character of the territory proposed for annexation. DCED has nothing to add concerning such factors that is relevant to the standard at issue.

e) Extraterritorial Powers of Cities

AS 29.35.020 authorizes municipal governments to exercise certain powers beyond their corporate boundaries under certain conditions.

The Petition notes "City policy is that properties must be annexed to the City prior to receiving utility services. The City has provided for sewer and/or water services to 22 property owners who have signed annexation agreements within the territory proposed for annexation. These properties are in close proximity to the City's existing utility mains. The property in Area I has water and sewer services but no documentation exists for provision of those services." (at 59)

Several of the properties proposed for annexation are enclaves totally surrounded by City property. These are, at times, served by the City of Palmer police department inadvertently, as jurisdictional boundaries are difficult to distinguish during emergency situations. While it

has not yet become an issue, annexation of the enclaves will eliminate the exposure for potential liability, as all areas will then be within City boundaries.

2) Conclusion

On its surface, the standard at issue – 3 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 statewide average within cities.

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.

Based on the foregoing, DCED concludes that the standard set out in 3 AAC 110.130(a) is met.

4.10 City Boundaries Limited to Community

A. Standard Established in Law

A city government is permitted to annex only the area comprising that portion of the existing community lying beyond the current corporate boundaries of the city, plus areas in which the community may be reasonably expected to grow over the next decade. Specifically, 3 AAC 110.130(c) states 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 of that city.

State law sets out criteria for determining a community for purposes of the Local Boundary Commission's deliberations. Specifically, 3 AAC 110.920 provides as follows:¹⁹

DETERMINATION OF COMMUNITY.

(a) In determining whether a population comprises a community or social unit, the commission will, in its discretion, consider relevant factors, including whether the people

(1) reside permanently in a close geographical proximity that allows frequent personal contacts and has a population density that is characteristic of neighborhood living;

(2) residing permanently at a location are a discrete and identifiable unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community or social unit if

(1) public access to or the right to reside at, the location of the population is restricted;

(2) the population is contiguous or closely adjacent to a community or social unit and is dependent upon that community or social unit for its existence; or

(3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.

B. Application of the Community Standard to the Palmer Petition

1) Background

The City of Palmer Alaska historically approached annexation in a piecemeal and inefficient fashion. The City undertook forty-two annexations from 1970 – 1992. In 1992, the standard at issue here was adopted to encourage petitioners to take a more comprehensive and long-term approach to annexation.

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 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.

¹⁹ While 3 AAC 110.920(a) is relevant to defining the "community of Palmer", provisions in 3 AAC 110.920(b) are relevant only to determinations regarding petitions for city incorporation. As such, they are not relevant to these proceedings.

2) Facts in this Proceeding

a) Whether people in the proposed expanded boundaries of the City of Palmer reside permanently in close geographical proximity that allows frequent personal contacts and whether the area has a population density that is characteristic of neighborhood living.

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.

As noted earlier in this chapter, 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 29% higher than the statewide average.

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

Thus, DCED finds that the residents within 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 2000.²⁰ This is much higher than the norm and is indicative of students residing outside the City attending schools within the boundaries of the City.

DCED finds from the foregoing that the 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."

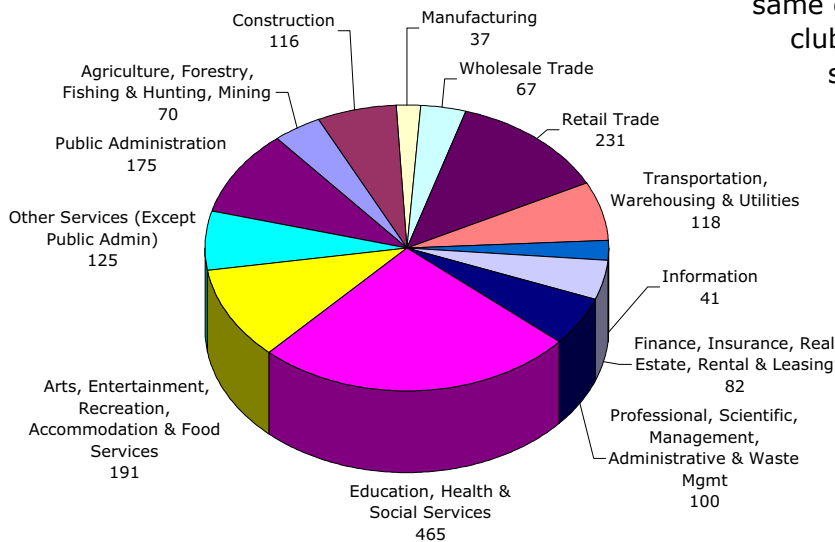
On the basis of the foregoing, DCED finds that employment opportunity patterns indicate that the territory proposed for annexation is part of the community of Palmer.

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. Map 9 showing the above reference precincts is located on the following page.

Permanency of Dwelling Units. The territory proposed for annexation contains dwelling units ranging from mobile homes to newly developed single-family subdivision homes. DCED considers that the dwelling units in the City of Palmer and

²⁰ In 2000, 133,356 students were enrolled in public schools in Alaska in October of last year. The 2000 census counted 626,932 residents in the state. Thus, statewide, public school students comprised 21.27 percent of the total population.

**Table 14
Employment by Industry of Palmer Residents**



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.

Although the two areas are divided by an invisible political boundary, the record indicates that the de facto Palmer community encompasses the territory proposed for annexation. Given the facts in this matter, the City of Palmer annexation proposal satisfies the standard set out in 3 AAC 110.130(c).

the territory proposed for annexation are, with the possible exception of mobile homes, permanent.

Community Commercial Establishments and other Service Centers. The Palmer Chamber of Commerce Internet web site <http://www.palmerchamber.org/DCED> provides an extensive listing of commercial providers of virtually every category of service consistent with a community with the City of Palmer’s population. DCED considers the record to reflect that character of commercial establishments and other service providers in the proposed post-annexation boundaries of the City of Palmer to be consistent with the definition of a community provided by 3 AAC 110.920.

3) Conclusion

Based on the foregoing findings, DCED concludes that 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 area proposed for annexation is, without question, part of the social and economic fabric of the greater Palmer community.

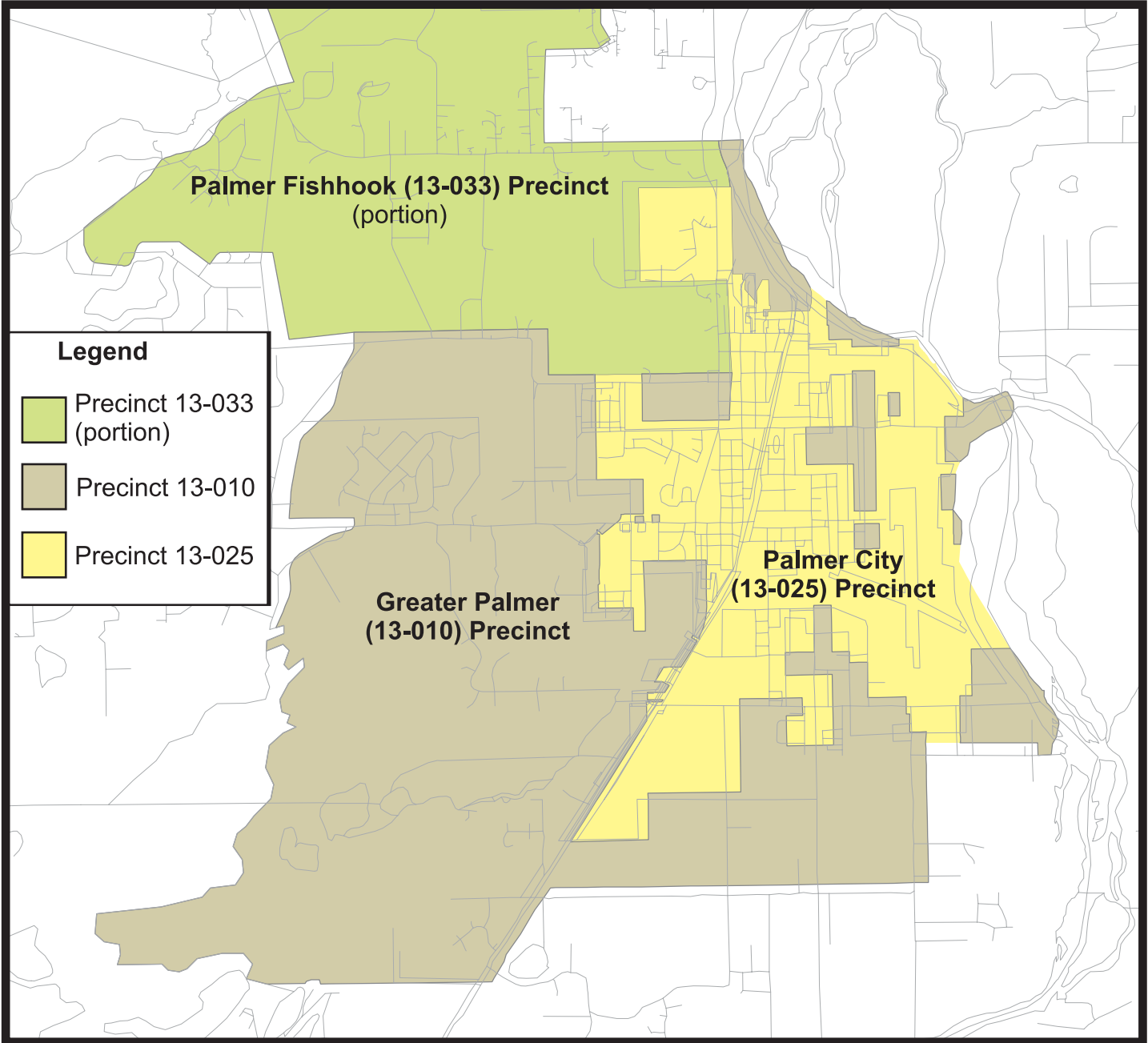
4.11 Comparative Ability to Provide Essential Municipal Services

A. Standard Established in Law

In order to be successful in its annexation bid, the annexing city must demonstrate to the satisfaction of the Local Boundary Commission that it is better able to provide needed services to the territory proposed for annexation than another existing city or an organized borough. Specifically, 3 AAC 110.090(b) provides:

A 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.

Map 9 Precincts



B. Application of the Comparative Ability Standard to the City of Palmer Petition

1) Background

3 AAC 110.090(b) does not list any 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.

First, it is appropriate to identify all existing municipal governments that, by virtue of their proximity to the territory proposed for annexation, might have the ability to serve the territory. Next, consideration should be given to geographic features that limit the ability of any of the identified municipalities to provide services to the territory proposed for annexation. It is essential then to examine the legal capacity of

the municipalities to provide needed services. Further, it is appropriate to review the fiscal capacity of the municipal governments in question, existing municipal capital facilities, and, lastly, current staff capabilities.

2) Facts in this Proceeding

a) Existing Municipal Governments within the Vicinity of the Territory Proposed for Annexation and Geographic Limitations.

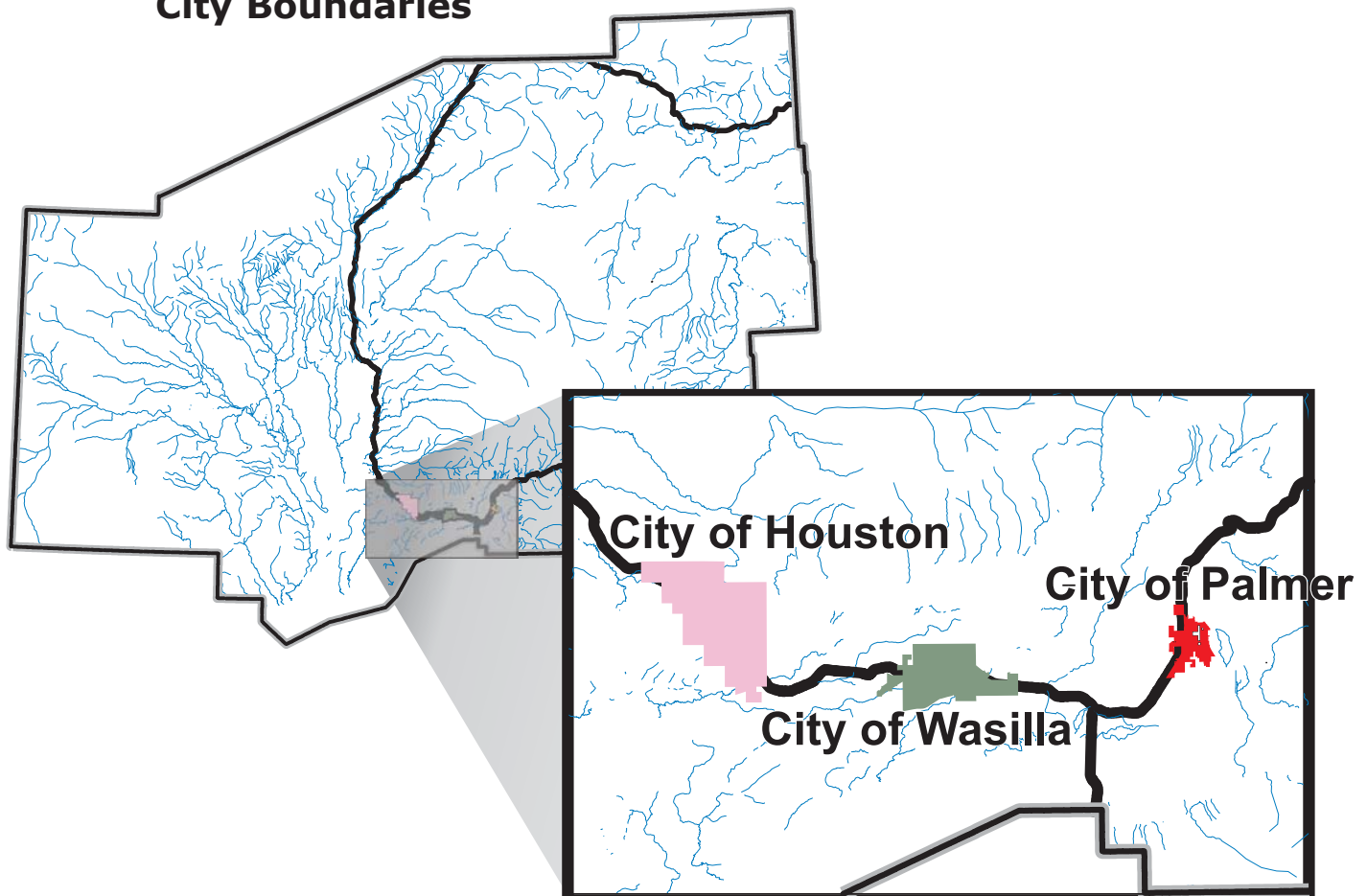
Five municipal governments have jurisdictional boundaries within a fifty-mile radius of the territory proposed for annexation, the City of Palmer, the Matanuska-Susitna Borough, City of Wasilla, City of Houston, and the Municipality of Anchorage.

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

**Map 10
Matanuska-Susitna Borough &
City Boundaries**



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.

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, and
- Golf Course.

b) 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):²¹

²¹ *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978).

The constitutional rule of liberal construction was intended to make explicit the framers' intention to overrule a common law rule of interpretation which required a narrow reading of local government powers.²²

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.

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

²² (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. The following colloquy between delegates Helleenthal and Victor Fischer is illustrative:

HELLENTHAL: Is there a compelling reason for the retention of the last sentence in the section?

V. FISCHER: Mr. President, we were advised by our committee consultants that due to the fact that in the past, courts have very frequently, or rather generally interpreted the powers of local government very strictly under something called "Dillon's Rule", or something like that, that a statement to this effect was rather important, particularly in connection with the local government provisions of the article to make sure that it would be interpreted to give it the maximum amount of flexibility that we desire to have in it and to provide the maximum powers to the legislature and to the local government units to carry out the intent of this article.

. . . .

HELLENTHAL: Now I refer to Section 11. Doesn't Section 11 clearly reverse this rule that you refer to as Dillon's Rule?

V. FISCHER: That would apply to home rule, cities and boroughs, but the point is that there may be a lot of local government units in Alaska over the years that may not be granted the home rule authority by the legislature and it may not want to adopt a home rule charter. Alaska Constitutional Convention Proceedings, Part 4, 2690 – 96.

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.



Residential use within Area K.

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. Specifically, AS 29.35.210 provides as follows:

Sec. 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;
- (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.

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



City owned airport.

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. DCED 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. Thus, for purposes of analyzing the capacity of the Matanuska-Susitna Borough to serve the territory, DCED will focus on the Borough's legal capacity to provide services on a service area 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 intent of the constitutional convention delegates regarding that provision is addressed in *Borough Government in Alaska* (at 42), a leading treatise on Alaska's unique form of regional government:²³

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."²⁴ 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 whenever possible by other jurisdictions capable of doing so.²⁵ Moreover, an amendment to eliminate 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):

²³ *Borough Government in Alaska*, University of Alaska, March 1971, was written by Thomas Morehouse and Victor Fischer. Misters Morehouse and Fischer are regarded as experts in matters relating to borough government in Alaska. Both individuals have published a number of works dealing with the topic. Further, Victor Fischer was not only a delegate to the Alaska Constitutional Convention, but was secretary to the Convention's Committee on Local Government. Moreover, the Alaska Supreme Court relied on *Borough Government in Alaska* in *Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92 (Alaska 1974) and in *Keane v. Local Boundary Commission*, 893 P.2d 1239 (Alaska 1995).

²⁴ Constitution of the State of Alaska, Article X, Section 5.

²⁵ *Alaska Constitutional Convention Proceedings*, November 1955 to February 1956, Alaska Legislative Council at 2715.

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.²⁶ Constructing a barrier to approving an excessive number of government units does not prohibit the creation of them when they are necessary.²⁷ 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.²⁸ Al-

though the framers entertained the idea of unified local governments, they realized that the need for cities still existed.²⁹

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.³⁰ As discussed *supra*, this inquiry is not limited to an evaluation of service areas. When it is established that the services cannot be provided reasonably or practicably, then the LBC is required to consider other available options. We also clarify that there is a statutory and constitutional preference for

²⁶ 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).

²⁷ 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). In addition, the DCED has concluded 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.

²⁸ Delegate Doogan referred to a city as a “combination of service areas within a borough.” 4 PACC 2652 (January 19, 1956).

²⁹ 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).

³⁰ 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 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.

incorporation of cities over the establishment of new service areas. We believe these to be reasonable and practical interpretations of the Alaska Constitution in accordance with common sense. See *Arco Alaska*, 824 P.2d at 710.

Based on the plain language in both Article X, Section 5 and AS 29.35.450(b), DCED believes it is reasonable to extend the Court’s holding in *Keane* to reflect a preference for city annexation over the creation of a new service area.³¹ Thus, it is DCED’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.³²

Based on the foregoing, DCED 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 value 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.

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%.

c) 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 budget has been and continues to be quite healthy.

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

d) Existing capital facilities and staff resources.

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.

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.

³¹ DCED stresses that exceptions to the constitutional and statutory preference for a city government versus a borough service area generally exist in cases involving merger, consolidation, or unification of city and borough governments. See *Preliminary Report on the Proposal to Consolidate the City of Fairbanks and the Fairbanks North Star Borough*, p 42-45, DCED (December 2000). See also, *Statement of Decision in the Matter of the Petition for Consolidation of the City of Fairbanks and the Fairbanks North Star Borough*, p 19-20, LBC (June 7, 2001).

³² 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.

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 clearly states 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.



City of Palmer Fire Department storage building.

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.



Railroad Park located near downtown Palmer.

3) Conclusion

The fact that the City of Palmer is currently providing a 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.

DCED concludes 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.

In sum, 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, DCED concludes that the City of Palmer's annexation proposal satisfies the comparative ability standard set out in 3 AAC 110.090(b).

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)

4.12 Need for City Government

A. Standard Established in Law

3 AAC 110.090 NEEDS OF THE TERRITORY.

(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.

B. Application of the Need for City Government Standard to the City of Palmer Petition

1) Introduction

The issue of the need for city government in the territory proposed for annexation requires consideration of local government service needs that are presently being met, not just those that are unfulfilled.

2) Facts in this Case

a) 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 . . ." ³³

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

b) 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.

33 See footnote 5 for text of Section 6.08.020 (in part).

State and federal grants will also be utilized to assist in covering capital costs of providing these services.”

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 as follows (Decisional Statement at 5).

Shoreline conceded in its responsive brief, 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.³⁴

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.”

c) 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)

³⁴ 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.

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

3) Conclusion

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.

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

4.13 Balanced Best Interests of the State, Territory, and Affected Political Subdivisions

A. Standard Established in Law

Any expansion of municipal boundaries utilizing the legislative review process must first be determined by the Local Boundary Commission to serve, on balance, the best interests of the state, territory proposed for annexation, and affected

political subdivisions. The law lists six discretionary factors that the Commission may apply in making its determination regarding this standard. However, the Commission is free to consider other factors that it determines are relevant to the particular proposal at issue. Specifically, 3 AAC 110.140 provides as follows:

Territory that meets all of the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.130 may be annexed to a city by the legislative review process if the commission also determines that annexation will serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. In this regard, the commission will, in its discretion, consider relevant factors, including:

(1) whether the territory is an enclave surrounded by the annexing city;

(2) 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;

(3) whether 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) whether 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) 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; and

(6) whether the territory is so sparsely inhabited, or so extensively inhabited by persons who are not landowners, that a local election would not adequately represent the interests of the majority of the landowners.

B. Application of the Balanced Best Interest Standard to the City of Palmer Petition

1) Facts in this Case

a) 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 City of Palmer boundaries.

DCED 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.³⁵

b) 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, DCED 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.

c) 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

³⁵ Only two of Alaska’s 162 municipal governments have enclaves. Those are the City of Palmer and the Haines Borough. The Commission and DCED have 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.

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)

d) 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.

DCED 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.

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.



Area H-Southside Palmer-Wasilla Highway.

DCED considers the City’s argument about the lack of commensurate property tax contributions to be legitimate. Burdening City taxpayers for services provided, directly or indirectly to residents in the territory proposed for annexation may be rationalized on the basis that those residents render their proportionate contribution for City services they may have directly or indirectly received through paying the City’s sales tax for those services. However, that argument ignores the 3-mill property tax paid by owners of taxable property located within the City.

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.

e) 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.

DCED 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.

f) 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.

g) Other considerations.

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.³⁶ (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.

DCED 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.

In DCED's view, it would be 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 (cities or 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.

2) Conclusion

The balanced best interest standard would be satisfied if all 921.34 acres were 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.

DCED concludes that the balanced best interest standard is satisfied. The City of Palmer's proposed post-annexation boundaries meet the requirements set out in 3 AAC 110.140.

4.14 Best Interests of the State

A. Standard Established in Law

For decades, State law required the Local Boundary Commission to apply the "best interests test" addressed in Section 4.13 of this

³⁶ 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).

chapter only to legislative review annexations. However, in 1999, the legislature modified the statutes governing annexation to require a “best interests of the state” determination before the Commission could approve any annexation. Specifically, AS 29.06.040(a), as amended in 1999, provides as follows (emphasis added):

The Local Boundary Commission may consider any proposed municipal boundary change. 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. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

The “best interests of the state” standard set out in AS 29.06.040(a) and the balanced best interest standard set out in 3 AAC 110.140 are essentially redundant. That redundancy will be eliminated when recently adopted amendments to the Local Boundary Commission’s regulations take effect. However, to avoid any assertion that failure to address that standard separately would constitute a procedural flaw, DCED addresses the best interests standard set out in AS 29.06.040(a) here as a separate standard.

On July 27, 2001, the Local Boundary Commission adopted a definition of the “best interests of the state.” The definition has not yet been formally implemented; however, it serves here as an informal guide for interpreting the phrase. The definition adopted by the Commission provides as follows:

“best interests of the state” means the broad policy benefit to the public statewide; the concept is applied by the Local Boundary Commission on a case-by-case basis; a determination of the best interests of the state is substantially guided by the applicable provisions of the Alaska Constitution, Alaska Statutes, and Alaska Administrative Code to reflect the exigencies of any petition as is necessary to develop appropriate local government boundaries which, in turn, serve the balanced interests of citizens in the area proposed for change, affected local governments, and other public interests which the Local Boundary Commission, in its discretion, considers to be relevant;

B. Application of the Best Interest of the State Standard to the City of Palmer’s Annexation Petition

The facts outlined with respect to the preceding standard apply equally to this standard. To avoid repetitiveness, that analysis will not be restated or summarized here.

Conclusion

The “best interests of the state” as set out in AS 29.06.040(a) are served by the proposed annexation.

Section General Conclusion and Recommendation

Based on the findings and conclusions set forth in Section 4 of this report, DCED concludes that all of the relevant standards and requirements for annexation are satisfied by the City of Palmer's Petition.

One of the goals stated in the City of Palmer's June, 1999 comprehensive plan is to, "Establish annexation conceptual boundaries to take place within the next twenty years." An annexation study undertaken by the City concluded that those conceptual boundaries encompass about 13.3 square miles. Relative to the long-term goal stated in the comprehensive plan, annexation of 921.34 acres to the 3.93 square miles currently within the City of Palmer's jurisdiction would be an incremental but significant improvement to the current constricted boundaries of the City of Palmer. The proposed post-annexation boundaries of the City of Palmer encompass 5.36 square miles. DCED recognizes that the size of the proposed annexation is larger than the most recent annexation by the City, which favorably reflects on the City's efforts to submit annexation petitions of larger scope.

DCED considers the proposed boundaries of the City of Palmer to be a notable improvement over the City's existing boundaries. The proposed boundary change would eliminate all enclaves within the City's boundaries and would facilitate efficient delivery of the City of Palmer's services and promote orderly development in the territory proposed for annexation.

Therefore, DCED recommends that the Commission approve the April 25, 2002 Petition of the City of Palmer for the annexation of approximately 921.34 acres.

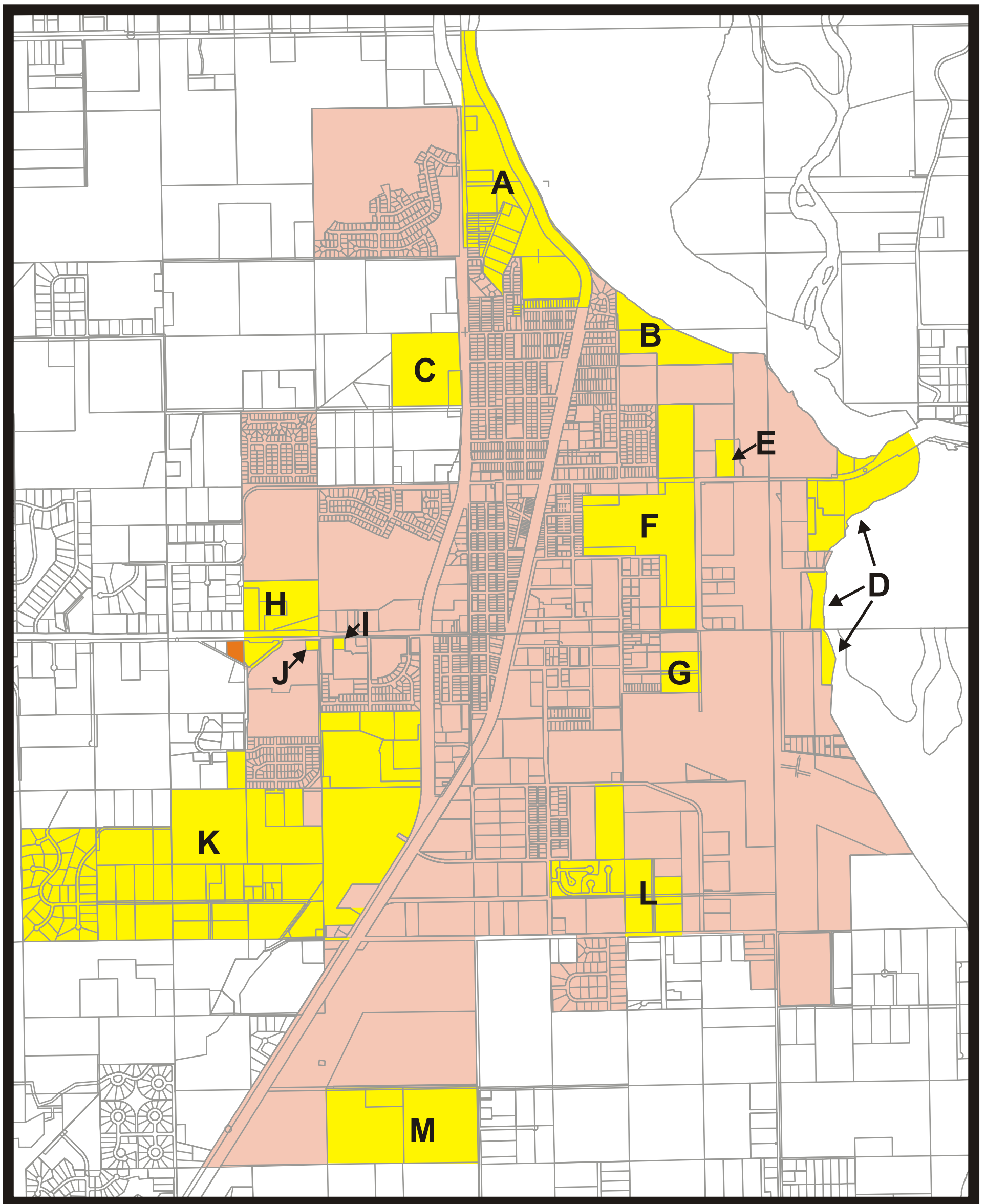
Further, DCED recognizes that there has been a request for concurrent annexation of a 1.5-acre uninhabited parcel adjacent to the 921.34 acres identified in the City of Palmer's Petition. Pursuant to the public notice regarding that request, comments regarding the annexation of that 1.5-acre parcel concurrent with legislative review annexation requested by the Petition are being solicited.³⁷ At this juncture, DCED considers the annexation of the 1.5-acre parcel to be non-controversial and characteristic of annexations proposed under provisions of AS 29.06.040(c)(3). DCED recommends that the request for annexation of the 1.5-acre parcel be granted, if the City of Palmer's annexation Petition is approved.

³⁷ A copy of the notice of the request to annex the referenced 1.5-acre parcel is included in this report as Appendix C.




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Appendix A

Areas Proposed for Annexation



Legend

-  Areas within the City of Palmer
-  Areas proposed for annexation in 04/25/02 petition
-  Parcel requested to be included in annexation

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Appendix B
Minutes of April 25, 2002
Public Informational Meeting

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**CITY OF PALMER
SPECIAL CITY COUNCIL MEETING
THURSDAY, APRIL 25, 2002
6:30 PM - MATANUSKA-SUSITNA BOROUGH
ASSEMBLY CHAMBERS**

1. CALL TO ORDER: at 6:30 PM by Mayor Cooper in MSB Assembly Chambers
2. ROLL CALL, DETERMINATION OF A QUORUM: Present: Mayor Cooper and Council members Long, Pippel, Combs, Hanson, and Carrington. A quorum was established. Council member Vanover was absent and excused. Also present: City Manager Thomas Healy, and Acting Recording Secretary Pam Whitehead, and others. Mayor Cooper introduced council members to the audience.
3. NEW BUSINESS:
 1. PUBLIC HEARING - Regarding Proposal to Annex 921.34 Acres to the City of Palmer.

MOVED PIPPEL, SECONDED COMBS, for adoption; there were no objections.

Mayor Cooper opened the Public Hearing at 6:32 p.m. He briefly instructed as to the procedure that would follow and noted that there was printed information on the table at the back that would answer many questions concerning the proposed annexation; further noted that the city map posted on the wall indicated those areas proposed for annexation colored in yellow.

Manager Healy gave an overview as follows [transcribed verbatim]:

The purpose of the meeting tonight is for the council to consider the adoption of an ordinance that authorizes the submittal of a petition to the State of Alaska to annex approximately 921 acres of land to the City of Palmer and also to conduct a public hearing on the second reading and proposed adoption of the ordinance. This hearing is also required by the State prior to the submittal of an annexation petition.

I'd like to give a brief history that some of you may be familiar with in terms of annexation in Palmer, and this may help to explain what has generally brought us here today. As many of you may now, Palmer has had numerous annexations over the past several years. I believe I saw a statistic where over the past 20 years there have been 40 separate annexations that the city has done. All of these, except one, have been voluntary annexations – that is, the property owner is requesting to be annexed, primarily to obtain utility services.

Given that history and the process involved with annexation, which is a fairly extensive administrative public process through the state, the Local Boundary Commission, which administers and judges annexations, has urged the City of Palmer over the past several years to take a more comprehensive approach to annexation to avoid small piecemeal annexations and the administrative exercise and time that each one of those require. In 1999, the City of Palmer adopted a Comprehensive Plan. Among its recommendations is a recommendation that the city adopt the sewer service area boundary as a “conceptual” boundary for the expansion of the city. That service area boundary is the – on the map closest to the back of the room next to the flag – there is a line that goes out sort of to the edge of the map, along the river, and down. As you can see, that extends well beyond the existing boundaries of the city which are shown there. But this was recommended by the Comprehensive Plan as a conceptual boundary.

In 2001, the City commissioned an economic analysis of four annexation phases which would take the boundaries of the city from its present boundary out to that sewer service area boundary. We had the economic consultant do a study on that – it was mostly to look at the affects of increasing the city, a need for increased services, the level of increased staff, and that sort of thing, required. Also the increased tax revenue, and just sort of the economic affects of those different phases.

In December, 2001, the city council established a preliminary proposed annexation boundary to pursue, and that is the boundary that is contained in this petition. Those boundaries of the annexation are shown in the material that I

hope you received and on the back table there is a map there. And the proposed annexation area is shown in yellow on the map closer to me. From that recommendation the council directed that the City prepare a petition for review and submittal. The City hired Solutions, Inc., consultants to help us prepare that petition. One of its principals is here with us this evening.

The general reasons for this annexation were to annex properties whose owners have requested annexation. In the past two or three years the City has received I think four or five requests from property owners to annex to the city, primarily again, to receive sewer or water services. Another reason was to annex properties that are enclaves or that are entirely surrounded by the city. There are several of those within the city boundaries. To annex properties that are affected enclaves – that is, with boundaries within the city and the Matanuska River – to allow the city to plan for reasonably anticipated growth and development, and to annex properties that would become enclaves of other properties that are annexed, and finally to make the city boundaries more efficient and effective.

If I could just briefly point out to you just a brief summary of the process here. This is what we call a legislative annexation, as opposed to a local action annexation. A local action annexation would be a voluntary annexation because there are some properties within this annexation which have voluntarily requested annexation. However, there are many others who have not. Therefore, this falls under what the state calls a legislative annexation and that requires an additional step in this long process where eventually the recommendation of the Boundary Commission will be presented to the Alaska State Legislature, and the Legislature has 45 days – and this will be its next session next year if this goes through – they have 45 days to deny the petition. If they don't deny it, it goes into affect. If the ordinance is adopted this evening and proceeds, this would authorize the city to submit the petition to the state.

On the back table, and I would hope that you would pick one of these up or will at some point, there is a sheet with a heavy, dark box at the top, it says Summary of Legislative Review Annexation Process in Alaska.. I urge you to review that carefully. If you have one in front of you now, the step we are at is Step 3, Local Public Hearing. You will notice that it is Step 3 of 17 steps. I want to stress that this is a process mandated by the state for annexations that involves a great amount of review and opportunities for public input. This evening will not be your only opportunity to comment on this petition. As you can see following, if this ordinance is adopted this evening, it is filed with the state. The state then does a technical review. They provide public notice that the petition has been filed. There is, at Step 8, a public comment on the petition where the notice of the petition being filed is given to everyone involved. Anyone has an opportunity in that period, and they allow at least seven weeks, to file what they call a responsive brief. These are written comments on the annexation proposal, which can either support or oppose the proposal. At the close of that – and it's a very important step in terms of your comment on this annexation. So take note of that. It's an important opportunity to provide additional comment.

Step 9, following the close of that comment period, the city (in this case, the petitioner) has two weeks to respond in writing to the written comments which have been submitted. That then goes to the Boundary Commission staff, which is DCED (Department of Community and Economic Development). The staff for the boundary commission is within that department. They could determine at that point, based on the issues, under Step 10, that additional information and meetings are required, in which case the city would conduct additional meetings. Following that, the state provides a preliminary report and – reading under Step 12 on page 2 – this is then against circulated for public review and comment for a minimum of four weeks. Following that, the state staff reviews the comments and prepares a final report on the matter. It is then sent to the boundary commission for a public hearing. Under Step 14, there is a public hearing before the boundary commission itself. By this time, we're probably into November or December. That is another very important step in this process, and the boundary commission will certainly be here for that hearing. Either at that hearing or thereafter, they can make a decision on it. There is an opportunity for reconsideration, which is an administrative step, and then they would present the petition and their recommendation to the State Legislature within the first 10 days of Legislature's session – that would be the 2003 session of the Legislature, which if this goes through, it would be next January.

So that is a brief summary of the very long and extensive process. I would again underscore that if you have concerns or interests in this, if you pay particular attention to the notices and these comment periods, and that the city certainly urges comments and input into this. Also, as was mentioned, on the back table there is a yellow sheet of paper. If you have comments this evening or questions that you would like the city to respond to, or any sort of inquiry you might have, I would urge you to fill those out and to get those to us.

Special Council Meeting- April 25, 2002

Mayor Cooper encouraged any audience members who hadn't already signed up to speak to please add their names to the list. He thanked the audience for attending the meeting and noted the importance of the issue to the public as well as to the city council; noted further that public input was very much appreciated.

PUBLIC HEARING

The following people listed on the sign-up sheet were called to testify. Mayor Cooper requested that they state their names for the record, spell their last names, and indicate the location of their properties on the map of the proposed annexation areas. (The following testimony is transcribed verbatim.)

GLENN JACOB testified as follows:

We're in Palmer West, right at the back of this large area [indicating on the map] that is proposed. My name is Glenn Jacob. The last name is spelled J-A-C-O-B. Our physical location is 650 Esty Drive and that's in the Palmer West Subdivision. We've lived there for 18 years. We've had extremely poor water, undrinkable water the whole time. The initial well on the property that was purchased was assumed to be good, but not tested, and they quickly found out it's not drinkable. We are able to use it for other things but I have replaced plumbing fairly regularly and have gone to plastic because our water has an incredibly high amount of sodium. We are obviously on top of a sodium deposit. It's 7,000 parts per million, which is about half the amount in sea water. Although it's not salty water, it's just sodium water. Anyway, the long and short of it is we've been hauling drinking water for 18 years. Of course we're on a septic also. We strongly support the annexation of our area and are not – from what we've seen up to this point, any increased cost, any assessments to bring water or sewer up to that area would not discourage us from continuing to support that. I'm trying to think of what else I was supposed to say. We just really support that annexation. Thank you.

CLARENCE E. FURBUSH testified as follows:

I have a piece of property located right here [indicating on the map]. My name is Clarence E. Furbush, F-U-R-B-U-S-H. They just mentioned that they have four or five requests for annexation and I guess the rest of them haven't made requests to be in the area to be annexed. I certainly don't want to be annexed. It doesn't seem to me like four or five requests should be a burden to the Local Boundary Commission to handle even if they had to have that many every year. I haven't had a chance to read all this Ordinance number 590. It's got all these A-A-C numbers in it – the Alaska Statutes or something – but without reading those, I don't know what you're talking about, so I'd like the chance I guess – it looks like we're going to have a chance to have an opportunity to further look at those ordinances. I personally don't see any big reason to annex me. I certainly don't want to be in and pay a burden of more taxes and having to attend more meetings, and just having to watch my back all the time. I get along good with my neighbors. I take care of my own garbage. I just don't feel I need your services at all. I was forced into taking city water at my opposition. I don't like that chlorinated water. When you took my property to – my well, you had to give me city water and I don't want city water. I'd rather have my own water. I would like to be removed from the annex proposal. I don't suppose or see any reason why I should be there. It's just a little bit of land that isn't bothering anybody. Nobody has ever bitched to me about problems that I have with my neighbors or anything.

It will certainly make a big lifestyle change to me. I've been there since '68. I've accumulated things that I enjoy having around me. I don't know how I could possibly have the fleet of cars that I have under the city permits. I've got one vehicle that is an historical vehicle and other vehicles that are running. Some I just like to have around because I like them. It's my lifestyle to live the way I live. I've lived there since '68 and no one has ever bothered me. I can sure as hell bet that you're going to raise hell with me if I get inside the city limits. That's a sure bet. It's certainly not going to add value to my property by being inside the city limits. If anything, you'll want more from me. The city only wants to annex to get more money for city expenses. That's the reason – basically the reason as I understand it. Taking property rights without compensation is I think not very constitutional and that's the way I look at it. I will keep watching the activities and try to participate with the government and the proposal. I will try to get me excluded from your proposal. I don't think I need to be included in there. And again, I don't feel so damn sorry for the boundary commission having to handle four or five requests from Palmer a year. Thank you.

MICHAEL KOLIVOSKY testified as follows:

We have a five-acre parcel off of Woodstock Drive. It's right next to – adjacent to Brittany Estates. My name is Michael Kolivosky, K-O-L-I-V-O-S-K-Y. My wife, Melinda, is with me as well. We have requested annexation to the

city. It's hard to believe, but I transferred into the Valley here 30 years ago in April and that's why I have gray hair and have started looking older, because I am getting older, but my wife and I have lived off the Parks Highway – a kind of no-man's-land – for about 26 years. We had purchased five acres several years ago. We like the Palmer area. We like the town of Palmer. We like the way that Palmer's growth has been somewhat planned. For us, requesting annexation included a lot of things. One of them was the chance to hook up to the city water. We have city water and frankly we both love city water and we have no problems with it.

One of the things that we thought about when we moved to Palmer was the unregulated growth where we lived for 26 years. I know that there's going to be a huge hearing down the road involving the borough, but I guess for the chance to just say that we like the planned growth, we like the zoning, and from a personal standpoint, we like the ability to have police protection. It's going to be a little bit more in the way of consistent, we feel, if we're in the city, and we have the ability to go down and talk to the local officials or talk to the police department. I'm a retired state trooper and I know that the guy in Palmer is the same as the guy in Talkeetna, or the guy in Sheep Mountain, where we've got so many acres to cover and so many miles. A lot of the things that the City of Palmer offers – zoning, good clean water, and, I think, hopefully a chance for some planned growth.. I've listened to a lot of arguments back and forth, but for us, I don't want to live next to a racetrack and I don't want to live next to a porno shop. No one else does either, but everybody seemed to think leave me alone, let me run my land, and I guess those guys would like to see them next to the porno shop or the racetrack. So that was a conscious decision on our part to come over to Palmer. We like it. Were looking forward to becoming part of the city. And I think as far as I am concerned, and my wife is concerned, we're very happy.

One of the things that I would comment on that I think is pretty good is kind of closing up the donut holes. I always wondered – and like I say, I moved to Palmer 30 years ago and I could never understand how there was just pockets of people right in downtown areas that were outside the city. I think that this is a real good step in trying to clean up that and make the city more uniform, and I think, frankly, probably offers a better position for annexation when you've got your own house in order, so to speak. So from my perspective, and my wife's perspective, we welcome the zoning. I wish you guys luck with the rest of it, but I certainly think that planned growth and the ability to sit down and talk to the council, go to a council meeting if you have a problem. I've been to some of the council meetings and I've listened to people complain about a whole bunch of things, but they're outside the city limits. And everyone that's for free – let me do what I want with my property is okay until it becomes next to you. We made the conscious decision to move from an area where there is no zoning and we were just waiting for whatever next spring brings. So we're looking forward to this and I wish you guys well with it. I think it's a good plan from what we've been able to research and read. And again, I really like the water.

ERIC HOHMANN testified as follows:

Good evening. The parts of land that I'll be speaking of is 75 acres southwest of Brittany Estates. My name is Eric Hohmann, that's H-O-H-M-A-N-N. What I wanted to do – and I don't think I brought enough maps, maybe not enough to go around. I represent Spinell Homes and what I handed you was a proposed subdivision called Hidden Ranch. Right now – well to start off, we requested annexation back in December, 2001, prior to some – we just had preliminary costing at that time, but to date we have better costing. My concern right now with the full annexation of that 75 acres is as this property gets developed, my concern is how in development of phase one, the city standards may impose additional financial impacts that I may not be fully aware of at this time. What my request is, is to go in with annexation of this first phase that's 28 lots. These are large parcel lots. They're not the 5,000-6,000 square foot lots, similar to Brittany. That is where the concern comes in is that I cannot get the density that may be required to pay for some of the city standards that come with annexation. So, once again, my request would be to allow me to annex per phases. Now it may be that after my first phase, it can be proved that these could be affordable developed lots. They're minimum 20,000 square foot lots, so we'd be requesting that we only approve water. We have been approved for some variances to the city standards, but once again, it may be proved that these may be affordable and we would seek full annexation of the following phases all at one time, but we want to have that option and not have city standards and avoid a denser development because we feel that the residents in Palmer would prefer a larger-lot development with some space. We don't want to create another Brittany. That's all I have to say.

LINDA YANNIKOS testified as follows:

My name is Linda Yannikos, and it's Y-A-N-N-I-K-O-S. We're in this section here [indicating on the map], the "A" section. I kind of speak, not just for myself, but for most of the people in our area there. We never asked for annexation. We don't want it. We've got good wells, we've got good sewage, and there's nothing that being annexed that would help us, especially at this time. We were told we were in on the annexation for helping to square up the boundaries of the city. If you'll notice, the only thing to the east-northeast of us is the river. The only thing to the north of us is more

neighbors that don't want to be annexed, and that's only two other neighbors. I own approximately 10 acres in there. There's just nobody around us that wants to be annexed. If you wanted to square up the boundaries I could see you going more to the west and squaring up the – I mean you can see it. There's a lot there that could be squared up. There's just nothing that anybody is going to get from us because we're right up to the bank that just overlooks the river. So we just prefer not to be included in the annexation. We don't see why we're being included into the annexation to begin with because there's just nothing there that can really benefit the city at this point. Maybe at the – the very lower section is below the hill, so that's down here in the city area. Maybe that portion – maybe there's people down there that do want to be annexed, but at this point what you're looking at is all of this [indicating on the map] is below the hill. We're on the hill after, as you're going out of town, after you go up the two hills, then this is us. And we're just like country there. But the below part is a whole different ball game. They've even made the section A a really unlikely triangle, because it doesn't really triangle up. If you want to even square up the city, you know you could square it at the bottom where you're still including the people below the hillside who might need or might be onto the streets that need to be paved or the city water or the sewage. I mean that's below the hillside, so I really have no idea what is down there. I'm still rather new to the city. We've had the house – my husband has lived here for years, but I'm new to the area so I really don't have a lot of input into what's below the hillside there. I just know that all of us up on the hillside are all pretty much just farmers and we're trying to just grow gardens and we don't see how that can add to the city. Thank you.

MR. YANNIKOS testified as follows:

We just have nothing to benefit with the city up there.

BRAD LEWIS testified as follows:

The area that I'm concerned with tonight is – I believe we'll call it E-21 here [indicating on the map]. It represents six acres. My name is Brad Lewis, that's L-E-W-I-S. We currently reside at 727 East Elmwood. My wife and I and two sons have been there for 15 years. Previous to that, since about 1978, we actually lived on this six acres. My business is I'm a potato farmer. This six acres here represents my headquarters, if you will. It's where I store all my farm equipment, at least during the winter. It's all scattered out during the summer, obviously, in the fields. It's also where I store all my potatoes. It's also where we process, if you will – that's kind of a poor word, but we wash the potatoes and bag them up and they're shipped out of there to head to the stores. I kind of feel kind of like General Custer did in those last few minutes. I've realized for years that I'm surrounded by the city and this is probably the third time that I have spoken to you folks in the last 10 years. The annexation has come up before and I've always opposed it and I always will, but not for all the wrong reasons. I just always feel in my heart that the city limits and farming probably aren't the best mix. Now I will be honest and mention the fact that right here [indicating on the map] – there's 49 acres right here. I believe that has been included in the city boundaries and I currently am a co-owner of that property with another farmer and I really haven't seen any problems at all at being annexed into the city with that property. The difference between that property – and I wasn't in favor of that either of course – but the difference is that this six acres, what goes on there in the day-to-day operations, probably I'm violating a number of city ordinances, whether it's burning something or something to do with the chemicals occasionally, or fertilizers. I'm certain that there are some violations of noise with equipment or what-have-you, but I try to run a clean operation and I have a good well and septic system there. There's a mobile home there that we've rented out over the last 15 years to folks. Obviously I drink the water and my employees drink the water there. So I'm not going to ever do anything to try to jeopardize that, but at the same time I feel that if I am annexed into the city, there might be some potential problems that would come along in the future. I'm not sure that I could deal with all of them in a way that the city would want me to. I would try, but I would feel that it's a very real possibility that being annexed would in some way jeopardize the future of my operation. While I should be at the age of thinking of retirement, everybody knows that farmers rarely retire the way we should. So I'll go on record as saying I am opposed to the annexation of the six acres there, and if we are annexed, I hope you won't keep too close an eye on me. I'll try to go on as good as I can. Thank you.

JOHN NYSTROM testified as follows:

My area – our area is the "A" area right about in here [indicating on the map], about a .9 tenths acre. My name is John Nystrom, spelled N-Y-S-T-R-O-M. I'm speaking in strong opposition to annexation to the city of Palmer. I've been here for – in Alaska four generations and in the Valley for the last 30 years, and on this property for a near 20. We have a very fine well and to my knowledge in the entire area there are very good wells and adequate septic. I know of no one in that area with a bad well, but I know certain people really love city water. It's quite good too, but our wells are fine. And there's a number of questions here with the Ordinance 590. In the very first public hearing there was talk of, and brought up by a good neighbor, Linda Yannikos, that we are an enclave – or there are enclaves where other people in the surrounding areas need services, but our largest boundary basically is the river, so you really don't need us to get across us

to serve anybody else, unless there's need for some work towards the fish or something like that. I question here – the proposition for annexation exhibits a reasonable need for city government. Well we've been basically neglected by the borough. We've been a self-help area – kind of the Alaskan tradition of self-help. We have a small road in there that we all maintain. It's called Eastland Way on the hill top. We could never seem to get the borough's attention. We've faithfully went down there for years. It was just sub-pioneer grade, so we've just been able to work it up and take care of it ourselves. But the borough has been very faithful with this RSA taxes on us. When we did meet with Mr. Jim at the borough, they gave us a stop sign, and they did give us a borough sign because we have two 911 people with heart conditions in my area, or at least we have one remaining, so at least the 911 services knew where we were. And let's see, I've got a couple more here. Again, we're not an enclave in such an area that you need to be going through us to serve another area. And again, I'd like to – and our family goes on record strongly opposing annexation because you just simply don't need that area. Some good folks here have areas that they need annexing and I can see way. It's understandable, but we're doing just fine. Thank you very much.

WINN WARREN testified as follows:

We live at the end of Palmer West Subdivision. I have several questions for you and I don't know if you can answer. My name is Winn Warren, W-A-R-R-E-N. Physical address is 955 Helen. I'm representing my partner and friend, Douglas Carpenter. This is his property and he's out of town at present. Water and septic on our property is fine. Now the first gentleman who spoke lives right around the corner from us and he has complaints. Ours, fortunately for us, are fine, so we don't have any wish for city water or sewer. If this were to take affect, the formula for the tax assessment and cost running those lines, how would they go about crossing my property? I have approximately 700 feet of road frontage that they would cover.

MR. HEALY: Let's say water in this case. If the city puts in a utility improvement, some of it would depend on the design. Let's assume that a water line in this case has to run down the street adjacent to your property to serve other properties. Incidentally, the city does have in its budget for the annexation petition and we do estimate that we'll plan to put in a water main loop around Helen Drive and up in that area. That's one of the reasons was to provide water out in that area. If your question was one of assessment or what cost would be assessed to you for the improvement, there's a city utilities information sheet here. There are basically three sources of funding to pay for those sorts of things: state grants for water and sewer improvements, city utility funds, and assessment fees paid by the property owners of the properties benefitted by the improvement.

MR. WARREN: Well that's what I'm asking. This would not benefit me personally because my water and septic are fine.

MR. HEALY: As I understand it, the properties adjacent to an improvement – a water line for example down the street – can be assessed for all or a portion of that cost on the basis of there's a general benefit that accrues to the property by having that utility in there whether you connect to it or not. Certainly if you connect to it, then you'd have the use of it, and you'd pay monthly user fees as well, but I think you can be assessed for a portion or all of the cost of a sewer assessment district if it runs by your property and you don't connect to it. Now we haven't worked out the details on exactly how the funding for that proposed water main is going to occur, but we do have several hundred thousand dollars in the budget, anticipating that we will extend a water main out that way. It could be a portion of it paid by state grants, by city funds, or by assessments.

MR. WARREN: Okay. What I'm looking at is I feel the end of what you're proposed annexes the property directly adjacent to mine, isn't going to be part of your annexation. They have 10-acre parcels apiece. The properties across the street will be, so whether they want city water or not will be entirely up to them. So is it the funds I'm looking at, someone is going to turn around and send me a bill for several thousand dollars for something I don't want and I never had?

[Response not audible]

MR. WARREN: Okay. Another question is why aren't the other properties being annexed in your proposal? It's all part of that subdivision.

MR. HEALY: I'm not sure exactly – you mean – are you referring to the properties to the north of you?

MR. WARREN: Yes.

MR. HEALY: I'm not sure if they are actually part of that subdivision itself, as in the terms of Palmer West. They may be. I just don't know specifically, but

MR. WARREN: Well all I know is that's the only way they can get into their property is by that road. Existing businesses amongst those property owners – I'm not alone. There's several that have horses, small farms, and small businesses out of their single-family homes. What does this do as far as affecting those businesses?

MAYOR COOPER: In general terms, we have a use-by-right, and if something that has been – if you have typically over an acre of property – if you're a farmer and it's determined it is an agricultural district, it will remain an agricultural district and you will be able to do what you've been doing in the past. If you have a legitimate business that's being performed on your property, you will be allowed to continue to do that as long as it doesn't violate any of the other codes that Palmer has. If you're over 20,000 square feet, you're not required to hook up to sewer or water as well.

MR. WARREN: Okay. But yet you would still charge me to run the line past my property.

MAYOR COOPER: Yes.

MR. WARREN: Maybe I could send you the bill. If this takes affect, what time frame are you talking as far as doing this transition of services from the borough to the city?

MR. HEALY: If this goes through according to the schedule – a routine schedule for this annexation, it will go to the legislature in January. They have 45 days to reject it. If they don't reject it, that would be some time in March of 2003. There is then a 60-day period for a voting rights act review, so I estimate July, August – sometime between June and August, 2003 is when the annexation will go into effect.

MR. WARREN: Thank you.

JIM HERMON testified as follows:

Our property is unit "F" – this piece right here [indicating on the map]. The only way I'd want to be annexed is if we could have multiple use of the property. The borough now, they've got it listed as family, I believe, so I'd be in favor of annexing it into the city. It was a business property years ago. You probably know it was Johnny Martin's property. We cleaned it all up and things went kind of kaput in the '80s so we didn't develop it. We don't know what we're going to do with it yet. The school asked us to negotiate with them on the property but evidently they don't like our price, so nothing has been decided yet. So that's my feeling. If we have any say on what the property should be used for, then we'd enjoy being into the city. Thank you.

BRIAN HERRON testified as follows:

We've got 8.8 acres right in this area here [indicating on the map].

MAYOR COOPER: That's that northern part of parcel "B", sir?

MR. HERRON: Yes. My name is Brian Herron, H-E-R-R-O-N. We purchased this property in August of 2000. When we purchased this, I looked around for about a year at properties. We found this piece and kept coming back to it because of the beauty of the area. The land was already cleared and it saved me a lot of money there. We purchased it with the intent of building a house and starting a small business. Now when we purchase it, I inquired with the borough and with the city at that time. I don't know if this was in the plans then or not. I was told nothing about annexation at this time. Otherwise, I would have gone elsewhere to buy property. I'm opposed to this. We have good water. I've got \$2,000 invested in water. How much is it going to cost me to hook up to the city to run a line 300 foot to my house when I build? That's a cost that I don't need. It took me a lot of years to get the money up to be able to purchase this property. It's taken me quite a few more years to save up enough money to build a house, which I'm planning on doing as soon as the ground thaws, and hopefully starting some kind of a small business. If annexation is going to prevent me from doing this, I don't want to have anything to do with it. I'm asking \$100,000 for the property. If you guys chip in and give me a hundred grand, I'm on my way. I will buy elsewhere. Everything that we've planned for the past 20 years is going to be kyboshed again and I don't see any need for that at all. Now next door to us on the property, they're out there surveying right now and they're getting ready to build something there – I think a school, I'm not sure. I haven't checked into it thoroughly, but

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I think they're going to build another school there. That's fine. That's not my property. They can put whatever they want there – whatever they want, that's not my property. I have to live next door to it, whatever it is, that's fine. I bought the property and I'll have to deal with whatever they build there. If this does happen, if it is annexed, like the fellow that was just up here, how much of a fight am I going to have to put up to have that property kept zoned residential-agricultural so I can do there what I might want to do there? Is that going to cost me a lot more money to fight to have that rezoned or whatever might be involved with all that? Just looking over the things here, would I be able to subdivide that property if it is annexed? I don't know. If so, go ahead and annex it. I'll subdivide it and make some money and I'll go away again. Again, hooking up to city water – trash pickup. We haul our own trash from there. I understand that wouldn't be an option for us even then, to have garbage pickup. I don't know. If not, then why not? And I guess that's about all I've got to say. I'm just opposed to it – any annexation of my property there in that area. Thanks.

MAYOR COOPER: Sir, I probably have a couple of answers for you. When property comes into the city, it's zoned as R-1, and the zoning commission has 60 days in which to review that property and then to make an appropriate determination on what it is. If you are, in fact, an agricultural person, there's a possibility that would remain agricultural. So that is one of the things that you were concerned about. And absolutely, you could subdivide it if you'd like to. That's at your own discretion. On the water, the requirement is if you are within 150 feet of an existing water line, then you have to hook up, but you were saying that you're at least 300 feet. And if you're over 20,000 square feet in your property, then you do not have to hook up to sewer and/or water as well.

MR. HERRON: Okay. So if I built my house at least 300 feet from the existing

MAYOR COOPER: 150 feet.

MR. HERRON: 150 feet from the existing?

MR. HEALY: If I could clarify that. I believe that is if the property is 150 feet away, but the Mayor mentioned the 20,000 square foot exemption where the city has an ordinance that if you meet the state's requirements for onsite water or sewer, either a water well or a septic, if you meet those requirements, which generally requires more than 20,000 square feet of property, then you're excepted from the requirement to hook up to city water and sewer.

MR. HERRON: Okay, thank you.

GLENN JACOB further testified as follows:

One of the things that I forgot to address was the concern about the quality of water in our area as it develops or just with the existing properties. My wife worked with another resident of our subdivision about three years ago when this was first speculated that it might occur. They went around to as many neighbors as they could talk to, and there was about a 50/50 split on people that wanted water in Palmer West and people that did not want any of those services. Some of the people that had good water, but slow-producing wells, were concerned that with more development or the existing development that their wells could get contaminated, just by having more development or even the existing people since we're all on septic, that that could damage the good water. That whole subdivision a number of years ago did have an LID for natural gas. We had three properties and we got three assessments. We were totally dependent on firewood, but we paid those assessments with the understanding that it would improve the value of the land. We eventually did hook up to the natural gas, but the first few times Enstar called and said do you want to put in a furnace? We said, oh no, we're burning our firewood. I know there's a lot of personal issues, but I think I can speak for 50 percent of the residents in Palmer West that there are a fair amount of us with similar situations that we've got absolutely the worst water. We have neighbors right across the street that we would go over and have tea with. They could boil their water a little bit – and I didn't boil it – and we could drink tea with them and it didn't bother us a bit, but they still hauled their water. So their's a lot of variance, but I would say very concretely half the people in our area have water problems or are concerned about the water problems. Thank you.

DONNA KARSTEN testified as follows:

I live in the area of the Palmer West, B-18. My name is Donna Karsten, K-A-R-S-T-E-N. I wrote a letter to the City Manager, Mr. Healy, and submitted it. You should all have a copy of that. I submitted it today. I would like to just put on for the record and just highlight some of the letter. I am opposed to this annexation. As I said, I do live in that Palmer West Subdivision. We selected and purchased our property in the Mat-Su Borough, outside the city limits of Palmer 10 years ago. As a resident of the borough, I already have access to the emergency fire, road maintenance, and

library services provided by the borough, and protection by state troopers if needed. Out of the approximately 60 Palmer West property owners, there was a list that was submitted of 11 people and letters in January of 2001. Two of those original names should be removed from the list. One has moved out of the neighborhood and the other has changed the mind in regards to this matter. I talked to that person personally. They were going to be at the meeting tonight. So that leaves nine names from that pre-existing list, which is less than 50 percent of the owners. I attended several of the neighborhood meetings in the fall of 1989 when it was proposed to annex Palmer West because of the water situation. I am sorry to differ with Mr. Jacob, but the majority of the residents were against the proposal at that time. There is more than 11 people that live on the whole stretch of Helen Drive.

There are several issues that I'd like the city to consider in regards to the annexation. I wish each proposed area to be considered separately. You have all these areas and you're putting them all together to propose them, but each area has a different issue and I wish you'd propose them as separate issues in separate areas. Whether the land being proposed is undeveloped land or already a pre-established neighborhood with individual property owners, those are two separate issues. Undeveloped land that is going to be subdivided, I see no reason not to annex, because then people that are buying into that subdivision, they are purchasing that property already established in the city limits. But with our neighborhood, it is a pre-existing neighborhood. It's already developed. You are imposing your regulations on us. Property owners should have the right and the option to be exempt from this annexation. We are one of those residents who have to haul our drinking water. We have bad water. We've replaced pipes. We've done the whole thing. Yes, we could benefit from city water, but we choose to haul our water instead of having the city's regulations. Thank you very much.

Mayor Cooper called for anyone else in the audience who wished to speak. There was no response. He noted for the record the names of those who have written letters for or against annexation. They are as follows:

NATALIE LARSON	Palmer West Subdivision, Lots 23 & 24
DAN HANNRAHAN	Opposed T17N, R2E, Sec E29, Palmer West
RICHARD RUNYON	Opposed Palmer West
JUANITA LOYER	Opposed Palmer West
ANTON MEYER	Opposed C-3, Helen Drive In Favor

The Mayor thanked everyone for their testimony.

2. Ordinance No. 590 - An Ordinance Authorizing the Annexation of Territory to the City of Palmer.

MOVED COMBS, SECONDED PIPPEL, for adoption of Ordinance No. 590.

COUNCIL MEMBER PIPPEL: We have a responsibility here as a city council, in my opinion, to act in the best long-term interests of the City of Palmer and its residents. I think there are clearly good and valid and strong reasons for us to be considering annexation. I think that what we're proposing overall is reasonable. I want to note that there are – if I counted these right – over 200 individual properties here. I know we don't represent 200 owners, because there are some multiple ownerships, but there must be at least 150 property owners or more that are affected by this annexation. As a property owner myself, I would say that annexation into the municipality would be a significant issue for me as a property owner. Therefore, I would be interested in it, and I suspect, at least for myself, if I had reasons to be against it or not favor

it, I think I would let somebody know. Now I know not all people do, and some people just blow stuff off and don't care, but that's what I would do. I note that there are a total of – I know these don't represent everybody because not everybody wants to get up in public and speak – but there were 11 people either who wrote letters, if my count is right, or spoke here tonight that were opposed to annexation. Some had good and valid reasons. Some I think is they don't know, and I suspect when they get answers to some of their questions, they will be somewhat relieved by what they find out. But I think 11 or 12 out of 150-plus is a relatively low number. I have to assume that the majority of the folks who are not here tonight or did not write a letter are maybe not tickled pink or excited or really in favor, but I can't imagine that they are adamantly opposed or I think we would have heard something from them. Out of all the things that I heard tonight – and we've been working on this a while. We've talked about this at any number of meetings and work sessions. These properties selected for annexation are not arbitrary. We've sat and discussed every single thing and why and wherefore. I would say for me, the only argument that would persuade me at all are the ones from the folks up on North Bailey Hill there. What they had to say, and I'm looking at the map, and I think maybe they have a point. Other than that, I'd have to say that I'm in favor of this. I haven't heard or seen anything that would lead me to believe that there is strong public opposition to this annexation proposal. I would also like to point out that if this thing passes, and I know there's people here tonight and perhaps some others that are going to be unhappy or disappointed, however, there are multiple opportunities to continue to fight this. If you feel strongly enough about it, you're going to have two or three more bites at this apple here, and it will have to go through the Local Boundary Commission and through the Legislature and none of those things are certain deals. Homer had an annexation here in the last several years and it was very controversial and didn't get through the legislature until major changes were made to it and so on, so it isn't like this thing is put on a rail and you guys are out of luck. You do have other options. And I guess my last comment is for those of you who are opposed to this and would be unhappy to be part of the city, it would be some small consolation to you, I'm sure, in the event you are annexed that you'll get the opportunity to vote me out of office the next time I'm on the ballot. Thank you.

COUNCIL MEMBER COMBS: What surprised me was that we actually had six people here who spoke in favor of the annexation because generally you only get out if you're really opposed to something. I agree with everything that Mr. Pippel said, with the exception of the North Bailey Hill area. The plan is actually to go all the way to the Palmer Fishhook eventually. Other than that, it has pretty much been said my feelings about it.

COUNCIL MEMBER HANSON: I support this ordinance as well. Like has been noted, we've worked a considerable amount of time on the pros and cons of annexation and I've come to believe, working on this over the last seven years, that the pros outweigh the cons significantly. The City of Palmer, as Mr. Pippel mentioned, has a responsibility to its residents and also the residents of all of greater Palmer to provide it with services and amenities that are necessary for a community. One of the problems with the City of Palmer at present is that we have no room to grow. We have no room or ability to provide better services and better amenities. So this is the first step to become a better community, one that we can all take greater pride in. There are some significant problems still to deal with, with respect to this annexation from the city's perspective. One of the reasons it has taken seven years is because consciously we have worked on some of the objections that a lot of people have. One being the requirement of city sewer. All of the city services, up until nine months ago or so, it was mandatory that you hooked up. Well we as a city council I think recognize that there are circumstances and there are situations that warrant exception to some rules. Furthermore, we are continually trying to mitigate the concerns. The agriculture exemption I think is a concern, and I'm not sure it is specifically addressed in the code, but from my perspective, it is absolutely mandatory considering the history of Palmer that it is tackled. There are other issues and that's why I welcome these public hearings because really what we are trying to do is listen to the concerns of everybody and take those into consideration, and where it's warranted and where we're able, we're going to make corrections to the city code so that it is equitable. That's what I have to say. Thank you.

COUNCIL MEMBER CARRINGTON: I would agree with Councilman Hanson as far as if there's any town in Alaska that should be able to at least begin to understand farmers, I would hope that it's Palmer. One of the things with government is nothing is actually ever static, so if there are issues such as how the code is written for agricultural zones or other zones, then please bring them to us to look at it and we can try to work on solutions that make sense. Something that I know many people don't even recognize is that Palmer actually has been growing. It's been more of a slow and steady growth over the years, as opposed to some other towns, but we are growing and we're trying to accommodate more and more people, more diversity of what people's lifestyles are. Again, I'd give an invite – and actually I should mention I even live off of Hilltop Drive, on the top of the hill, and I'm in the city of course, but I would be willing to talk to people about their concerns or what issues we could change. To go even further than Mr. Pippel, not only can you vote for or against somebody once you're in the city, but you can run for city council. That's even better.

COUNCIL MEMBER LONG: I'm probably the one that has the most reservations about annexation and I'm probably also the only one who has been through many annexation processes over the years. I am extremely concerned

about agriculture and I know we've discussed it as a council many times. I don't want to lose any agricultural use in existence right now, unless the property owner wants to subdivide. I also have concerns about the folks up on the hill up in very North Palmer. I'm not so sure they really need to be annexed. However, and I've been working on this proposition in my head and in my soul for a long time and I really think the good outweighs the bad. I echo a lot of what the rest of the council people said. I do have a lot of concerns and I'm going to follow the process real close, but I'm thinking that I have to be in favor of it overall.

MAYOR COOPER: I'd like to sum up with just a few comments of my own. We're concerned with the enclaves in the city obviously and the potential enclaves that any future annexation would create. I understand the concerns of the folks up in North Palmer, but as Mr. Combs stated, Palmer is growing and we will be probably annexing within the next few years possibly up to the Fishhook and out further west. By eliminating some areas today that creates an enclave tomorrow is not acceptable. I don't think it's acceptable to the City of Palmer and it's not acceptable to the Local Boundary Commission. So I think that we have to look at it very carefully. One of the areas in which we have a constraint is that the annexation boundaries of the city comprise an area that is reasonable predictable growth in the next 10 years. I see the city limits of Palmer moving outward in the next 10 years. We can't remain static. I don't think status quo is an option for Palmer. The other concern I have is Palmer has always been known as a very quaint and charming town. Everybody loves Palmer. People are friendly here. It's a great town to walk through. To protect that area, we have to annex. Anything that is currently outside the city limits of Palmer that complies with borough regulations can be built. It might be things that we just don't want in and around Palmer. I guess that's what the council is saying, is we have to really be concerned about the future and what that might bring to us. Currently there is a racetrack. I don't think that people would want that right along the Palmer-Wasilla Highway. There are just numerous other endeavors or businesses that can be built literally between Hemmer Road and Palmer that are not in the city limits that are probably very objectionable to the folks who live here or live right around there. So I think that's what the council has been fighting for a long, long time. I, too, am concerned about the agriculture and I think that we have the ability to – we do have an agricultural district in the code and if they, in fact, fall within that, that I think we will probably make those agricultural. As Mr. Carrington said, this is the beginning of a process. There is a lot of opportunity for other comments to be made to us, to the Local Boundary Commission, to the State Legislature, all those folks. I appreciate all the comments that you've made today and to come out and spend the time with us. If you go through the requirements of what we have to do to prove that annexation is a good thing, I think you'll find that we fit that bill very well.

COUNCIL MEMBER PIPPEL: If you take a look at that map of the existing City of Palmer, there is about 5,000 people who live in not too many square miles. We have the highest population density of any city in the state by probably a factor of four, or something like that. That's one of the reasons that the City of Palmer can operate relatively efficiently as a municipality. If you're running a garbage truck and stopping six times a block, it is cheaper to do it than if you're stopping six times a mile. And it's the same thing with water and sewer service, and it's a function of density. If we're living in a rural environment, then we really don't need lots of city services, and that's true. We need agricultural zoning to protect agricultural land, not because the city is going to provide great services to land that is agricultural. We may have to take agricultural land to accommodate other uses on other properties that aren't agricultural uses. So I think we should do that too, but in effect, there is very little undeveloped property within the current boundaries of the city. One of the things I hear often is we need a Wal-Mart, we need a Fred Meyer, we need some place to shop. You know if they came to us today and said we'd like to set up in your town, I'm not certain that we'd have one single suitable site within our boundaries to accommodate them. And that's just for like retail stuff. It's for anything. Looking around here, most of you folks have been here a while and I don't have to tell you how it's changing. I don't have to tell you how it's filling up, how things are densifying. I don't have to tell you how the traffic jams are little worse down at the Chevron station at 4:30 and 5:00 than they were seven, eight, or 20 years ago. I've been here my entire life. I see it and feel it and it's there in a hundred different ways. And the fact is some of the old timers really struggle with this concept, but we're not a little town in the country anymore. We're a fairly good-sized city in the middle of a rapidly suburbanizing neighborhood and country. The rational way to deal with population growth and increasing densities is for a municipality, like a city, is to step in and provide those services. At a certain density, water and sewer work better than well and septic. At a certain density, if you get your neighbors too close, you're going to have problems and you might need a police department to help settle those problems for whatever it is, or animal control, or all the various services that the city provides. Frankly, in my opinion, I see this as almost a belated response to conditions that are already happening on the ground. We're kind of reacting to what is already there and happening. If it were my druthers, I would rather have seen us been proactive and done it sooner so that some of the things that have been developed here would have been developed in ways that are better long term for our community. But we have a real need to do this, and has been mentioned here, we have kind of a long-term plan, and the long-term plan is to get bigger. There are going to be other annexations in the future. We're going to continue to grow out our boundaries to accommodate, in my opinion, the legitimate needs of the city and its residents. Thank you.

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Question to Motion [to approve Ordinance No. 590]: MCU.

The Mayor thanked the audience for coming and encouraged continued input into the process.

4. ADJOURNMENT: at 8:00 p.m.

JIM COOPER, MAYOR

ATTEST:

THOMAS HEALY, CITY CLERK

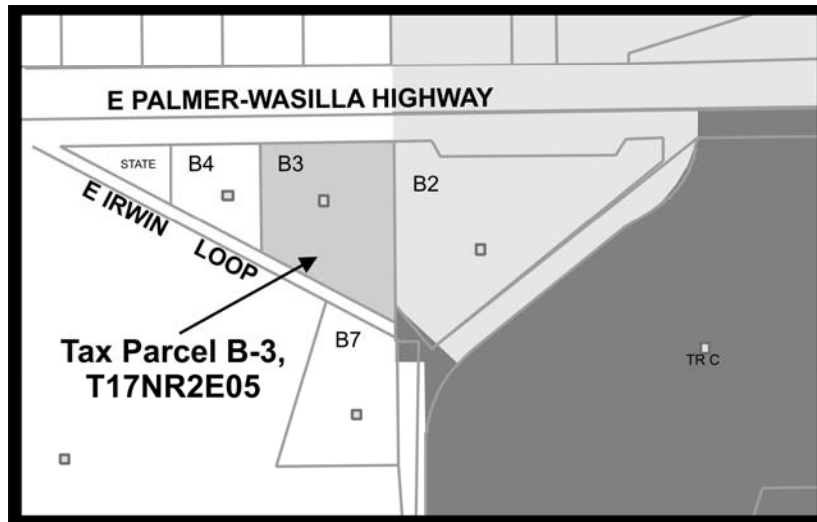
Appendix C
Public Notice of Request to
Amend Petition to Annex
921.34 Acres to the
City of Palmer

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Public Notice

Notice of Request to Amend Petition to Annex 921.34 Acres to the City of Palmer

The owner of a 1.5-acre parcel (tax parcel B-3, T17NR2E05) adjoining the 921.34-acre area proposed for annexation to the City of Palmer on April 25, 2002, has requested that the 1.5 acre parcel be annexed to the City of Palmer. The location of the referenced 1.5-acre parcel is shown below.



Questions concerning the proposal may also be directed to LBC staff in Anchorage at 269-4557, where a copy of the annexation petition and supporting materials is also available for public review.

The opportunity now exists for the filing of comments in support of or in opposition to annexation of the referenced 1.5 acre parcel to the City of Palmer. Comments must be received by **LBC Staff at 550 West 7th Avenue, Suite 1770, Anchorage, AK 99501-3510 (fax: 907-269-4539) not later than 5:00 p.m., November 15, 2002.**

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