



SOLDOTNA
City of Soldotna, Alaska

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City of Soldotna
Response to Comments
on
Petition to Annex 2.63 Square Miles
Using the Legislative Review Method
March 9, 2020

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INTRODUCTION

On December 2, 2019, the Department of Commerce, Community and Economic Development accepted for filing the City of Soldotna’s (“City”) petition to annex, via Legislative Review method, approximately 2.63 square miles of adjacent portions of land within the Kenai Peninsula Borough. Pursuant to 3 AAC 110.490, the City submits this reply to public comments.

PUBLIC COMMENT PERIOD

The petition was available for public review and comment through February 24, 2020. The deadline for receipt of comments was longer than normal because the public comment period included the winter holiday season.

PUBLIC COMMENTS RECEIVED

During the post-filing public comment review period, comments were received from eighteen (18) unique individuals, who are listed below. One additional comment was received late and accepted. No responsive briefs were received.

- | | |
|-----------------------|----------------------------|
| 1. Marc Crouse | 10. Renske Vinke |
| 2. Jim Fassler | 11. Lindsey Wolfe |
| 3. Leonard Perry | 12. Bruce Vadla |
| 4. Thomas Hippshman | 13. Dr. Edward Schmitt |
| 5. Audrey Salmon | 14. Mitchel Miller |
| 6. Pamela Castenholz | 15. Mitch Michaud |
| 7. Roxy Mills | 16. Penny Vadla |
| 8. Brian Olson | 17. Daniel Lynch |
| 9. Patricia Patterson | 18. Lauri Orth |
| | 19. Dan Green (late-filed) |

RESPONSES TO COMMON ISSUES RAISED

1. Legislative Review Method

One of the most prevalent comments in opposition to the City of Soldotna’s annexation petition, both in the written comments received by the Local Boundary Commission (LBC) and in public testimony in the multi-year process leading up to filing the petition, has nothing to do with the merits of annexation or whether the applicable statutory and regulatory standards are met. The most common point of contention is the City’s decision to submit a petition for review under the Legislative Review method. Comments received portray this process as ‘taxation without representation,’ un-democratic, and unfair¹.

¹ Vinke, Perry, Fassler, Wolfe, Olson, Miller

The Legislative Review process for municipal boundary changes is specifically provided for in the Alaska Constitution.¹ Each word in the Alaska Constitution was ratified by the voters of what was then the territory of Alaska on April 24, 1956.² This approval included the words of Article X, Sec. 12, allowing for boundary changes by legislative review. So it is not accurate to characterize legislative review as undemocratic. In fact, the legislative review process exists as the result of explicit voter approval in a free and fair democratic election.

The framers of Alaska’s Constitution expressed the reasons behind establishment of the Local Boundary Commission and providing for legislative review of Commission recommended boundary changes. The local government committee of the constitutional convention wanted boundary decisions to be made, “at a level where area-wide or statewide needs can be taken into account. By placing authority in [the Commission] arguments for and against boundary changes can be analyzed objectively.”³ As stated by the Alaska Supreme Court, “local political decisions do not usually create proper boundaries.”⁴

The local vote preferred by several persons commenting would turn this policy on its head. The annexation decision would be based entirely on the self-interest of a handful of people rather than the needs of the larger surrounding area and the State of Alaska. It is entirely proper for the City to proceed with annexation using a process which has existed since Alaska became a state.

The City did evaluate the different procedural methods offered for annexation to a city under Alaska law, and ultimately rejected the Local Option method for the following reasons:

- *The Local Option method allows some stakeholders to vote, but not all.*

The Territory proposed for annexation is a mix of residential and commercial land uses, and includes both developed and undeveloped land. Of the 304 parcels in the Territory, only 72 are in residential use. Therefore the vast majority (76%) of property owners and numerous business owners with interest in the Territory would not be afforded a vote under the Local Option method. The City’s public engagement process (described in detail starting on page 10 of the Petition), was specifically designed to engage all stakeholders equally, not just those residing in certain areas.

¹Article X, Section 12 says the Commission “may present proposed changes to the legislature during the first ten days of the regular session”.

² Harrison, *Alaska’s Constitution - A Citizen’s Guide* p. 3 (5th ed. 2018).

³Alaska Constitutional Convention Minutes of Committee on Local Government Nov. 28 and Dec. 4, 1955 cited in, Fairview Public Utility District No. 1 v. City of Anchorage.

⁴Fairview Public Utility District No. 1 v. City of Anchorage, 368 P.2d 540, 543(Alaska 1962)(legislative review method did not violate constitutional rights of residents of annexed territory).

- *An election under the Local Option method gives a very small number of voters who reside outside the existing City limits, an equal say in the overall outcome despite only representing 4% of the combined population that would be impacted by annexation.*

Under the Local Option method, two separate elections would be conducted; one among eligible City voters, and one among residents in the Territory. For annexation to be approved, both questions must independently pass by a majority of qualified voters.

There are an estimated 177 residents in the Territory, compared to approximately 4,333 residents of the City of Soldotna. According to election data from the Borough Clerk's office, only 15% of the borough population cast a ballot in the last regular municipal election.² A similar voter turnout in the annexation Territory would mean that just 14 votes would be enough for a majority. And if the proposal were rejected by residents in the Territory, it would not matter how City residents voted on the issue, despite outnumbering residents of the Territory by 24-to-1.

This is not a process designed to yield the greatest good for the greatest number. If allowing a minority veto was the preferred method for municipal boundary changes, the legislative review process would not exist.

- *The City of Soldotna has a responsibility to act in the best interest of its citizens, and deserves a process that is fair to all and free of local political influence.*

Despite best efforts to share accurate information about the impacts of annexation, throughout the process the City has been largely unable to contain the spread of misinformation in the community. In some instances, inaccurate comments were specifically designed to cause fear or mistrust of the City and its intentions, and had the potential to cause real harm. One alarming example of this occurred around the time of the pre-submission hearing, in September 2019. The local radio station was discussing Soldotna's annexation petition, when one area resident called in and said on-air that if property were annexed into the City of Soldotna, the City would show up and fill drinking water wells with concrete, rendering them useless (this is false). Before the caller was cut-off by the station manager, he suggested people ready themselves with firearms, and prepare for when that day comes.

Other times, false information has contributed to the further erosion of trust. For example, several written comments stated that annexation, "has been voted down multiple times by us, the residents that are affected by it," "the people have already spoke by casting their votes on this subject matter," and "the voters have said NO [to annexation] every time."³ In fact, there has never been a public vote on the City of

² October 1, 2019 Kenai Peninsula Voter Turnout / Ballots Cast

³ Mills, Hibpshman, Perry, Olson

Soldotna’s annexation petition. The City is now proposing the first significant modification to its boundaries, since Soldotna first incorporated in 1960.

Threats to unseat local elected officials has been another common circumstance, as one commenter noted, “They have used their wide distribution to threaten local elected officials with being voted out of office if they voiced support for annexation.”⁴ Elected officials choose a public life and should be held accountable by the voters for their decision-making. But elected officials were not the only ones in the community who felt threatened or intimidated by annexation opponents.

As noted in the Public Engagement Report (Appendix B of the petition), there was reluctance from those [community members] who do not hold strong opinions on the topic to get involved in the controversy. This resulted in a smaller group of individuals participating in the process. The report continued:

Additionally, there were a few reports about opposition signature-gatherers “bullying” people into signing opposition petitions at their homes, and one community conversation participant took a consultant aside to share personal experience with this. During community conversations, the consultant team also witnessed behaviors that further lend credence to this point, as one avid opponent actively attempted to take over portions of meetings to discount any expressed views that weren’t completely opposed to annexation, including at times stepping in between disagreeing participants and the discussion facilitator to block the person from speaking.

As such, the Legislative Review method is the best process for the City of Soldotna’s annexation petition to be considered by a neutral objective group of Alaskans who have been specifically tasked to review proposed boundary changes. This is most likely to ensure a fair outcome for both the City as well as impacted stakeholders in the Territory and the State of Alaska.

2. Public Process / History

The City of Soldotna undertook an exhaustive and deliberative public process, spending several years evaluating the need and feasibility for annexation, and engaging the public to identify issues and concerns. These steps ensured that the community, City staff, Mayor and Council had enough information to decide whether to proceed with developing and submitting an annexation Petition to the LBC. Through this process, many concerns that were raised by community members have already been addressed. Others will be mitigated through additional tasks as described in the City’s Transition Plan (Exhibit D of the Petition). Overall, the effort was valuable in shaping the City’s approach and informing the Council’s decision. The

⁴ Michaud

specific steps and history of the process over the past five years is detailed in Section 1, pages 10-20 of the Petition.

Despite implementing a public process that went far and above what is required, one commenter still noted, “We were never notified of these actions or given an opportunity to oppose it.”⁵ This is not true. In fact, the City mailed individual notices and invitations to participate in the public engagement process to all land owners in the City and Territory,⁶ including to the person who made that comment.

In addition, during the timeframe from 2015 to 2019, City Staff and/or the City Council solicited and received public feedback in the following ways:

- Two City Council Ordinances with public hearings (May 2015 and December 2016);
- Five work sessions at City Hall (March 2015, June 2016, December 2017, March 2018, May 2018);
- Five City Council Resolutions considered at a regular Council meeting (July 2015, May 2017, June 2018, and two in September 2019);
- Four daytime open houses (2016-2017);
- Four evening ‘Community Conversations’ (2017);
- Dedicated online comment forum (open for 2 months, 2017); and a
- Lunchtime presentation and Q/A at the Chamber of Commerce (2017).

In total, there have been more than 20 public events in recent years that were advertised and promoted by the City, where the public was invited to participate and give feedback on annexation. These are in addition to the numerous one-on-one meetings that City staff, Council members, and the Mayor had with concerned community members or groups.

In addition to the City’s efforts to keep the public well informed, the local media also played a large role in announcing opportunities for engagement⁷. The KSRM Radio Group, which broadcasts over the central Kenai Peninsula, authored 59 separate news articles about the City of Soldotna’s annexation process from 2015 to present. Four separate stories ran during the LBC’s current public comment period alone, including: “*State Seeks Public Comment on Annexation*” (December 10, 2019); “*State Continues To Seek Public Comment on Annexation*” (January 2, 2020); “*Less Than One Month Left To Submit Comments on Soldotna Annexation*” (January 30, 2020); and “*Deadline To Submit Public Comments On Annexation Is Monday*” (February 23, 2020). These stories ran on the radio, KSRM’s website, and were shared on Social Media where their reach is broad.

⁵ Vinke

⁶ See, Soldotna Annexation Petition pp 337-338

⁷ Archives of the Peninsula Clarion, the local newspaper, show more than 49 results for stories and letters to the editor over the past few years.

The City takes strong exception to any comments suggesting that the public was not informed, nor given an opportunity to provide input.

3. Perceived Conflict of Interest

A comment was received, stating that Council Member Cox had a conflict of interest and should not have voted on any matters related to annexation.⁸ The City disagrees.

A conflict of interest is a substantial financial gain, as defined under Section 2.24 of the Soldotna Municipal Code. There cannot be a financial gain associated with merely studying a topic like annexation, so there would have been no need for Mr. Cox (or any other Council Member) to abstain during the fiscal impact or public engagement processes regardless of where they own property or may have business interests.⁹

After the City's draft petition was shared with the public, and during the pre-submittal hearing in September 2019, Council Member Cox declared the he may have a possible conflict of interest because he was an owner of one lot with rental property on it within the Territory. At that point, the City Council was no longer studying annexation in general, but would be considering whether to direct the City Manager to submit the Petition to the LBC for formal review and consideration.

At the time of the pre-submission hearing, the Territory included approximately 3.7 square miles, and Mr. Cox's parcel was one of 486 individual properties included. Vice Mayor Whitney, after consulting with the City Attorney, provided his ruling during the pre-submission hearing as transcribed on pages 190 and 191 of the Petition. To paraphrase, Vice Mayor Whitney listed the various items he considered in determining whether Mr. Cox had a potential for financial gain, and ultimately determined that Mr. Cox did not have a conflict of interest. However, he went on to say that:

"...because this is an issue of critical public importance, and to prevent even the appearance of conflict in the city council's actions, I will rule that Mr. Cox is not eligible to participate in the hearing today or the upcoming decision the council will make whether or not to submit the petition to the LBC for legislative review."

Mr. Cox therefore did not participate in the September 7, 2019 pre-submission hearing, or in the subsequent City Council meeting on September 12, 2019 during debate and consideration of Resolution 2019-041, which would have authorized the City Manager to submit the petition to the LBC. However, on September 26, 2019, the Council adopted Substitute Resolution 2019-041(S), which further modified the Territory by removing a large

⁸ Vinke, Olson

⁹ See, *Griswold v. Homer*, 34 P.3d 1280, 1287 (Alaska 2001)(impact on value of property owned by city council member too speculative to constitute substantial financial interest).

area along Kalifornsky Beach Road, totaling 1.09 square miles. This motion was passed unanimously by the Council, with Mr. Cox abstaining.

With Substitute Resolution 2019-041(S) now before the Council, and a modified Petition including just 2.63 square miles of area, Mr. Cox’s property was no longer impacted. At that point, he was required¹⁰ to participate in the deliberation and vote. As noted in the Council meeting minutes of September 26, 2019 (page 149 of the Petition), Vice Mayor Whitney ruled that:

“with the amendment by Substitute Resolution 2019-041 being approved, the property owned by Council Member Cox was no longer in the area being considered for annexation; therefore, the appearance of a conflict no longer existed and Council Member Cox was eligible to participate in discussion and voting on Substitute Resolution 2019-041.”

The Vice-Mayor carefully evaluated the potential conflict of interest and ruled appropriately under the circumstances. Mr. Cox’s participation was proper, and in accordance with the rules and procedures of the Soldotna Municipal Code.

4. Need for Additional City Services

Some commenters claim that borough residents do not want additional City services. This is consistent with feedback the City received during the public engagement process. However, the Petition details numerous examples of a wide variety of City services used daily by non-residents.¹¹ One commenter noted that Soldotna provides many services that are valuable to all regardless if they live in or outside of the city,¹² and the City concurs.

The following section addresses specific City services mentioned in the written comments.

a. Water and Sewer Utilities

Many individuals want to keep their existing on-site wells.¹³ Existing City policy and code provide for this; annexation would not cause any individual to have to give up an existing on-site well (see Soldotna Municipal Code 13.16.150.C). Instead, City code prohibits any new or replacement wells, if a property was within 300 feet of public water mains.

Borough residents are not required to connect to City water and/or sewer mains outside City boundaries. Many property and business owners specifically ask to do so. The City is currently serving 23 properties in the Territory with municipal water and/or municipal sewer services including one property owned by a commenter voicing partial objection to

¹⁰ Soldotna Municipal Code Section 2.04.039.C requires every Council member present to vote on every question, unless required to abstain by law.

¹¹ See, Soldotna Annexation Petition, pp 31-33, and pp 122-123

¹² Michaud

¹³ Fassler

annexation.¹⁴ Another commenter correctly observed that “some properties in these tracts are already using city water and sewer” and annexation of these areas is logical.¹⁵ The City agrees.

One comment stated that the City’s water/sewer system “are maxed out and can’t be extended.”¹⁶ This is false. The City conducted an update of the Water and Wastewater Master Plans in 2015, and found that the existing sewage collection system has excess capacity to serve projected growth over the next 20 years,¹⁷ and that moderate expansion of the water system is possible but should include a thorough analysis.¹⁸

Critics of the City’s annexation petition note that the City has not served *all* City residents with water/sewer, therefore existing boundaries should not be expanded.¹⁹ This demonstrates a lack of understanding of how water/sewer utility expansion decisions are made. Because the Utility Fund is supported by user fees (as opposed to other City services paid for by the General Fund which is supported by tax revenue), it must be self-sustaining. The cost of the water/sewer system is borne by all municipal water customers, and therefore expansion must be done strategically and only in locations that are financially viable. In parts of the City where the predominant land use pattern is large-lot residential development, the cost of extending municipal water and sewer services would be prohibitive. This is not a failure of the City. Quite the opposite. It would be irresponsible to adopt a policy that aimed to expand the system to serve all property in the City, without considering the economic impact on existing and future customers. And like many of the commenters, some City residents enjoy living in more rural parts of Soldotna with private on-site water and septic systems.

One commenter claimed the City dumps “contaminated sewage” into the Kenai River.²⁰ This is false. Soldotna operates under an APDES permit, granted by the Alaska Department of Environmental Conservation pursuant to delegated federal authority, to regulate the release of treated effluent into the Kenai River. The Soldotna wastewater treatment plant is an activated sludge system (secondary treatment) with a design capacity of 1.08 million gallons per day (MDG) and is currently operating with an average flow of 0.6 MGD. Major upgrades in 2006 and 2018 included expanded treatment capacity, addition of a larger clarifier, new blowers, and conversion to ultraviolet disinfection. The City’s permit contains strict water quality limits and most assuredly does not allow Soldotna to contaminate the Kenai River.

¹⁴ Crouse, February 23, 2020

¹⁵ Vadla

¹⁶ Crouse, February 23, 2020

¹⁷ City of Soldotna 2015 Wastewater Master Plan, p. 37;

<https://www.soldotna.org/home/showdocument?id=5393>

¹⁸ City of Soldotna 2015 Water Master Plan, p. 35;

<https://www.soldotna.org/home/showdocument?id=5395>

¹⁹ Olson, Patterson

²⁰ Olson

b. Farm Animals and Animal Control

The City of Soldotna's current zoning allows for the keeping of farm animals in 5 of the 9 zoning districts, and is allowable in a sixth zoning district if the parcel is 1.5 acres in size, or greater.²¹ As noted in the transition plan, the city would review current zoning regulations to ensure they are appropriate for new areas incorporated into the City, but the City anticipates there will be no conflicts between City Zoning, and the keeping of farm animals and maintaining an agricultural lifestyle.

It was noted by one commenter that the City of Soldotna recently entered into an agreement with the City of Kenai for animal control, therefore this should no longer be considered a reason for annexation.²² The comment implies that Soldotna no longer 'has animal control,' but that is incorrect. Soldotna and Kenai entered into an intergovernmental agreement, for shared animal shelter services. This partnership resulted in both municipalities (whose city limits are separated by only a few miles) consolidating animal shelter services at a single location in the City of Kenai, thereby lowering the cost of delivering this service to the residents of Kenai and Soldotna while improving the quality of the service provided.

The City of Soldotna maintains a full-time Animal Control Officer. This person is tasked with enforcing ordinances which were enacted to protect the health and safety of the community, and also to prevent the cruel treatment of animals by setting minimum care standards. In addition, the Animal Control Officer routinely patrols the City and is available on an on-call basis to reconnect pets who have lost their owners.²³ No similar staff or protections exist in the Territory.

c. Law Enforcement

In response to the comment that, "The City will have to hire more police to cover the expanded Territory and will cost more than the tax dollars received,"²⁴ the City agrees in part. The City recognizes that additional police officers may be needed to maintain current response times and level of service in the expanded City limits following annexation. The City's annexation transition plan calls for the monitoring of staffing needs, call volume, and police responses.²⁵ If additional law enforcement resources and staffing are necessary, the 2015 fiscal impact study concluded that additional revenue would be sufficient to cover the added expense.

One comment was received that only one person wants SPD over the Alaska State Troopers.²⁶ The State of Alaska has reduced law enforcement services across the State through

²¹ SMC Chapter 17.10.365

²² Olson

²³ SMC Chapter 6.04.

²⁴ Crouse, February 23, 2020

²⁵ See, Soldotna Annexation Petition, p. 105

²⁶ Olson

significant budget cuts. The governor's current proposed state budget has a \$1.5 billion deficit.²⁷ It is obviously in the best interests of the State of Alaska to reduce the demand for state funded law enforcement services in the Territory.

The Alaska State Troopers and the State of Alaska Department of Public Safety (DPS) are currently working on a plan to further reduce their staffing presence on the Kenai Peninsula. Earlier this year, DPS announced that it would be consolidating 911 dispatch services in Anchorage. This would mean that Troopers in the Borough would be dispatched out of Anchorage (after the call was first received and routed there from Soldotna), rather than being dispatched locally through the Soldotna Dispatch Center. Significant concerns have been raised by local residents and elected officials (including Borough Mayor Charlie Pierce), that this approach will result in an overall reduction in the level of emergency response in our area. That will NOT occur within current or expanded Soldotna boundaries. The Soldotna Police Department will continue to be dispatched locally through the Soldotna Dispatch Center.

d. Building Regulations

The Petition noted that commercial plan review in the Territory is conducted by the State Fire Marshall's office. At the time of submitting the Petition, their website indicated a 6-8 week timeframe for scheduling services. We now believe the current timeframe is closer to 10 weeks. This is another example of state funded services impacted by cuts to the State's operating budget.

One potential consequence of this situation was made clear recently, when a group of local area churches in the Kenai/Soldotna area planned on setting up a network of cold weather homeless shelters. Participants included churches both inside and outside City limits. After a coordination phone call among area Fire Marshalls (including the State of Alaska, City of Kenai Kenai, Central Emergency Services, City of Soldotna, and others), a plan was discussed to perform inspections to ensure the safety of people utilizing Churches as temporary shelter during extreme cold weather events.

The Central Emergency Services Fire Marshall and Soldotna Building Official performed a walk-through of the participating church inside Soldotna city limits, identifying minor safety items needing to be addressed. When inquiring recently about the status of other churches in the program, the City was informed that the churches located outside incorporated cities 'dropped out,' because it was going to be close to 10 weeks before they could schedule the State Fire Marshall review, to ensure the facility was safe for temporary overnight occupation.

This example demonstrates how expansion of local boundaries is in the best interest of the State for reasons beyond cost savings. Reductions in the time required for a building inspection positively impacts commercial businesses, and improves our community's ability to

²⁷ <https://www.alaskapublic.org/2019/12/11/after-bruising-first-year-new-dunleavy-budget-trades-cuts-for-big-pfds-and-deficit-spending/>

provide much-needed (and potentially life saving) social services. It is clearly in the best interests of the State of Alaska and local residents to deliver this service at the local level.

e. Zoning

Several years ago, the City started tracking ‘frequently asked annexation questions’ and providing answers to questions or concerns on the City’s website and in public meetings. Commonly, these concerns about annexation involved assumptions about how Zoning regulations would negatively impact people’s lives. Unfortunately, despite a concerted effort to provide accurate and thorough information to the larger community, mis-information and assumptions prove difficult to correct. For example, one commenter stated that the cost to pave their parking lot would exceed \$100,000 if the property were annexed into the City.²⁸ This is incorrect, because paving requirements in the Soldotna Municipal Code only apply to parking lots with driveway access to a paved street, which this property does not have.²⁹

A second commenter expressed concern about the City passing an ordinance to disallow a person from living in their business.³⁰ There are currently dozens of commercial properties in Soldotna that function as both a business and residence. The City’s zoning standards specifically recognize this as an allowable accessory use in the Commercial district,³¹ and one that is important to the City’s desire to promote a thriving commercial downtown area.

Additionally, properties that are legally existing at the time new regulations become effective – as would be the case with all properties in the Territory including the two properties referenced above – would be deemed legally non-conforming (i.e. ‘Grandfathered,’) and allowed to continue without modification until some substantial remodel or change of use occurred.³² There is a perception that after annexation, all commercial businesses will be forced to make expensive upgrades. This is simply not the case. In fact, there are numerous examples of signs, landscaping, site plans and businesses in the current City limits which are legally non-conforming and do not meet current zoning standards, nor are they required to.

As one commenter accurately wrote, “It has been clearly stated that property owners in the areas concerned are grandfathered in with regard to current land uses.”³³ They went on to suggest that residents have been scared into thinking that their rights will be restricted if they become city residents.

²⁸ Patterson

²⁹ SMC 17.10.330.F

³⁰ Crouse, February 23, 2020

³¹ SMC 17.10.265

³² SMC 17.10.325.

³³ Vadla

f. Environmental Protection

A comment was received that suggested that environmental protection should not be a reason for annexation, as the Borough, State and Federal governments already provide such services.³⁴ While multiple jurisdictions have the authority to regulate for environmental safeguards, adopted standards and policies are typically not comprehensive in nature nor are they entirely capable of addressing local issues and circumstances.

The City of Soldotna has found that the adoption of additional standards are necessary to protect riparian habitat along the Kenai River, to prevent unlawful discharges into storm sewers, and to provide waste disposal and nuisance provisions that protect our quality of life and environment.³⁵ These provisions are in addition to, not duplicative of, other jurisdictional standards and are further described on pages 39-40 of the Petition.

5. Land Use / Compatible in character

A comment was received that annexation should not break up neighborhoods.³⁶ The City agrees, and in fact, the City's Petition adopts this concept. The enclave of property along Funny River Road that lies outside the City limits, for example, is indistinguishable from the land inside the City. The same is true of the section of Kalifornsky Beach Road where one side of the highway is inside the City limits, while the other side is outside. Area 7 is currently bisected by the existing City limits at a location that has no relationship to the community that has grown up around it. These neighborhoods are already "broken up" between city and borough jurisdiction. Annexation seeks to mend existing breaks in neighborhoods.

It is true there will be developed areas that remain outside the city, that are adjacent to areas inside the city. This is the case, generally, wherever a boundary line exists. The choice of where to draw the specific lines for the Territory, was the result of significant public input over a five-year process. If the City's sole criteria was to propose a boundary that kept all existing developed areas intact, the resulting City of Soldotna would be several times the size of the current City of Soldotna.

The claim that the City "chose rich" and "avoided poor" areas³⁷ is false. Study Area 6 was evaluated during the Fiscal Impact Analysis and the Public Engagement process, but ultimately left out of the Territory. But other areas that could be considered "richer," were also removed. As noted previously, the City Council removed 1.09 square miles from the Petition during the September hearing. These areas would have generated almost half of all the new revenue projected to result from annexation - more than one million dollars annually. The City was

³⁴ Olson

³⁵ SMC 17.10.285, SMC 12.28.050, SMC 9.04

³⁶ Patterson

³⁷ Patterson

clearly not motivated to only achieve the best financial outcome. Instead, it weighed the cost of delivering services along with numerous other important considerations.

One comment was received that annexation will disrupt a neighborhood due to increased traffic.³⁸ The City anticipates no change to existing traffic patterns or volume, as a result of annexation. The same people will use existing streets to move from place to place within the Territory. Any increase in traffic will result from organic growth not whether city boundaries are expanded.

Lastly, one comment suggests that the character of the City of Soldotna is not similar to the character of Area 7.³⁹ The City disagrees. The land use patterns in Area 7 (and the other parts of the Territory) are nearly identical to land use and development status in the current City boundaries. Specifically, Area 7 includes highway-centric commercial properties, of similar size and development to properties inside the City that front the Kenai Spur and Sterling Highways.⁴⁰

Area 7 also includes larger, undeveloped lots with limited access and little (if any) development, due to the presence of wetlands. These same characteristics exist in large areas within current City limits – specifically the lands along the Soldotna Creek drainage and out East Redoubt Avenue in the eastern portion of the City of Soldotna. These areas are largely zoned ‘Rural Residential,’ to differentiate the appropriate land uses and development patterns given their lower density and lack of infrastructure such as sidewalks, curb/gutter, etc. that exist in the more ‘urban’ parts of Soldotna.

Two positive comments reflect on compatibility and how the annexation Territory is already considered part of Soldotna. One states that “Not only will I become part of the city I live in, but my taxes will decrease and I will get much better services.”⁴¹ Another writes that “The very small amount of property involved is considered to be part of Soldotna by everyone when talking about location.”⁴²

6. Economy and Taxes

Some comments received suggest that businesses in the Territory will be forced to raise prices, and will lose business if annexed into the City. The City does not believe this is the case. As indicated in the Petition, property tax paid by those businesses will decrease after annexation thereby reducing the cost of doing business. One commenter aptly points out that

³⁸ Vinke

³⁹ Castenholz

⁴⁰ See, Soldotna Annexation Petition pp 41, 47-49, 362

⁴¹ Schmitt

⁴² B. Vadla

businesses along the Spur Highway corridor (Area 7) already benefit from their proximity to the city.⁴³

a. Sales tax

The City does not believe that an additional 3% general sales tax will negatively impact existing businesses in the Territory. Some business owners, in speaking with City staff, have indicated that a change in sales tax will not impact their business or its profitability. The additional sales tax is passed on to the consumer, and small incremental changes are unlikely to impact people's purchasing habits. One commenter agrees with the City's assessment and states, "I doubt that the additional 3% on the first \$500 would be the end of their business."⁴⁴

It is theoretically possible that a business dependent on customers whose sole decision on who to do business with is driven by avoiding paying the City's 3% sales tax would lose customers. But this assumption may prove untrue. And, a theoretical negative impact to a specific business or group of businesses is not among the regulatory criteria to be applied when reviewing a proposed annexation.

In response to the comment that the City of Soldotna is second only to the Kenai Peninsula Borough in sales tax revenue,⁴⁵ the City agrees. However, the City disagrees that this fact means there is no merit in changing City boundaries to more closely align with areas receiving (and paying for) city services.

Businesses in the 7.4 square mile City of Soldotna generate more taxable sales than any other City in the Kenai Peninsula Borough. This speaks to the high density of commercial development in Soldotna, the large portion of the area population that buy their goods and services in the City, and the success of the local business community. And as pointed out in the Petition,⁴⁶ it also illustrates the circumstances which make it advantageous for businesses to locate very close to (but often outside) the City limits, in order to participate in the strong local economy and higher level of municipal services.

b. Property tax

One comment noted that the reduction in property tax is a 'temporary' gain, because the City of Soldotna can raise the mill rate at any time.⁴⁷ This is true, in the same way that the other entities levying a mill rate on the property in the Territory (the Kenai Peninsula Borough, Central Emergency Services, Central Peninsula Hospital Service Area, and Central Peninsula Road Service Area) can also change mill rates annually.

⁴³ B. Vadla

⁴⁴ Michaud

⁴⁵ Olson

⁴⁶ See, Soldotna Annexation Petition pp 6

⁴⁷ Olson

It's worth noting, that the City of Soldotna has not raised its mill rate in the last 35 years.⁴⁸ In that same timeframe, the City Council has lowered the mill rate five times, most recently in 2013 when it was set at 0.5 mills, the same rate that exists today. Historical facts do not support the contention the city's lower mill rate is "temporary." And many annexations have been approved by the LBC, even when the result was increased taxation of newly added property owners.

c. Marijuana tax

One comment expressed concern that the City's sales tax and marijuana tax would make it difficult to compete against other marijuana stores.⁴⁹ There are currently four marijuana retail stores operating in the nearby City of Kenai,⁵⁰ with an effective tax rate of 6%. There is currently one marijuana retail store operating in the City of Soldotna and a second with a valid state-issued license pending final inspection, both of which will have an effective tax rate of 7.5%. All of these businesses currently operate at a higher sales tax rate than the single marijuana retail store in the Territory, which is located just 1/3 of a mile from Soldotna city limits and approximately 2 miles from Kenai city limits.

The City understands the commenter's perspective, but believes that an adjustment to the Soldotna city limits is necessary to provide equity among businesses (and residents) who receive municipal services, and those who are collecting and remitting taxes that enable the municipality to pay for the services.

CONCLUSION

The comments received in response to the City of Soldotna's petition are not surprising, as they repeat issues previously considered by the City over the past 5 years during the process to analyze, engage the public, and consider whether to submit an annexation petition. The City has gone to great lengths to address concerns raised throughout the process, and in many instances has addressed the underlying issues through modification of the Petition, or through a well-thought out transition plan which provides for maximum protection for those values that area residents expressed most strongly.

A careful review of the facts and application of regulations to those facts compels the conclusion that granting the City of Soldotna's legislative review annexation petition is in the best interests of the State of Alaska.

⁴⁸ The last time the City of Soldotna raised its mill rate was in 1983, when the City levied a mill rate of 7.5 mills.

⁴⁹ Patterson

⁵⁰ See Alaska and Marijuana Control Office website, at: <https://www.commerce.alaska.gov/web/amco/>