



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of Commerce, Community,
and Economic Development**

DIVISION OF COMMUNITY AND REGIONAL AFFAIRS

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Final Report to the Local Boundary Commission

Concerning the Petition for Detachment from and
Concurrent Annexation to the City of Allakaket

August 2014



This is the *Final Report to the Local Boundary Commission Concerning the Petition for Detachment from and Concurrent Annexation to the City of Allakaket*. The report was written by staff to the Local Boundary Commission (hereafter LBC or commission). The LBC staff are part of the Division of Community and Regional Affairs of the Alaska Department of Commerce, Community, and Economic Development (hereafter “Commerce” or “department”). This report can also be found at the following address: [commerce.alaska.gov/dca/lbc/2014 Allakaket Detachment and Concurrent Annexation Petition/](http://commerce.alaska.gov/dca/lbc/2014_Allakaket_Detachment_and_Concurrent_Annexation_Petition/)

This report is issued in accordance with 3 AAC 110.530(b) which requires Commerce to issue a final report after considering written comments regarding the preliminary report. No comments were received for or against this petition in response to the filing of the petition or in response to the preliminary report.

Commerce 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. Such requests should be directed to the LBC staff at 907-269-4559 or 907-269-4587, TDD at 907-465-5437, or LBC@alaska.gov.

Graphic illustration only - this publication's maps are intended to be used only as general reference guides. Source documents remain the official record.

Chapter 1. Introduction

On July 9, 2014, the department issued its *Preliminary Report to the Local Boundary Commission Concerning the Petition for Detachment from and Concurrent Annexation to the City of Allakaket*. In that report Commerce found that both the city detachment and city annexation standards were met. The report recommended that the LBC amend the petition to make it a legislative review petition, approve the petition, and present it to the legislature.

The public comment period on the preliminary report lasted until August 8, 2014. No comments were received regarding this petition.

All petition related materials are available for public review at the Allakaket city office, the Allakaket tribal office, the Alatna tribal office, and the LBC website: commerce.alaska.gov/dca/lbc/2014_Allakaket_Detachment_and_Concurrent_Annexation_Petition. Copies of this report will be distributed to the petitioner, the LBC members, and others.

The LBC staff contacts:

Local Boundary Commission
550 West Seventh Avenue, Suite 1640
Anchorage, Alaska 99501-3510
Fax: (907) 269-4563
LBC@alaska.gov

<http://commerce.alaska.gov/dnn/dcra/LocalBoundaryCommission.aspx>

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Petition's Future Procedures

Public Hearing and the Decisional Meeting

The next step after the final report is the LBC's public hearing per [3 AAC 110.550](#) regarding the proposal to detach from and concurrently annex territory to the City of Allakaket. The public hearing will start on October 14, 2014 in Allakaket. At the hearing the LBC will hear evidence presented by the petitioner, and any comments presented by the public regarding the petition. The hearing procedures are governed by [3 AAC 110.560](#). A copy of the notice for the hearing and decisional meeting is included in Appendix A of this report.

Immediately after the hearing in the same location, the LBC will convene a decisional meeting under [3 AAC 110.570](#). At the decisional meeting, the commission will consider the entire record, and decide whether the petition meets the detachment standards and the annexation standards. The LBC will then approve, amend, or deny the petition.

After the decisional meeting, the LBC will meet again in Anchorage to approve or amend a draft written decision stating the basis for its decision. The final written decision is issued within 30 days of the decisional meeting. Decision copies are issued to the petitioner, any respondents, and others who request them.

At that point the decision becomes final, but is subject to reconsideration. Under specific grounds listed in [3 AAC 110.580](#), any person may ask the LBC to reconsider its decision. The LBC may order reconsideration on its own motion as well. If the LBC does not act on a reconsideration request within 30 days of the decision's mailing date, the reconsideration request is automatically denied.

LBC Decisions Must Have a Reasonable Basis

LBC decisions regarding petitions must have a reasonable basis. Both the LBC's interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must be rational.¹ The LBC must proceed within its jurisdiction, conduct a fair hearing, and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law, or if the evidence does not support the LBC's decision.

Implementation

If the commission approves a petition, the proposal is typically subject to either voter approval, or disapproval by the legislature. This depends on whether the petition was filed as a local action petition or a legislative review petition, respectively. If an election is held, the Division of Elections director or the appropriate municipal official needs to certify that election.

[3 AAC 110.630\(a\)](#) specifies conditions that must be met before an LBC approval becomes effective.² If all of [3 AAC 110.630\(a\)](#)'s requirements have been met, the department shall issue a certificate describing the boundary change.

¹ See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if the decision has a reasonable basis.

² 3 AAC 110.630(a)(1) states that notification of compliance with the Voting Rights Act of 1965 is required. Due to a recent U.S. Supreme Court ruling, that compliance is no longer required.

Chapter 2 – Department’s Analysis

Introduction

The proposed detachment consists of approximately 174 acres, and the proposed annexation size consists of 12.3 square miles. If the proposed detachment and annexation are approved, the size of the city would be approximately 17 square miles. The petition and all pertinent documents are available at: commerce.alaska.gov/dca/lbc/2014_Allakaket_Detachment_and_Concurrent_Annexation_Petition.

The purpose of the final report is to analyze the comments submitted that addressed the preliminary report. For this petition however, LBC staff received no comments on the preliminary report. As no comments were submitted, it is unnecessary to repeat the analysis of the standards. No new evidence was introduced that could lead the staff to consider changing its recommendation, nor is there any other basis for the staff to change its recommendation. The staff reaches the same findings and recommendations found in the preliminary report. Specifically, Commerce finds that both the city detachment standards and the annexation standards are met for the legislative review method.

While this final report does not repeat all of the analysis found in the preliminary report, it does expand on the need for the commission to amend the petition, and to suspend [3 AAC 110.425](#).

The proposed detachment cannot proceed under the local action method because there are no registered voters residing in the territory proposed for detachment. Amending the petition from a local action petition to a legislative review petition will ensure that the proposed detachment can proceed. This is in the best interests of the state because, among other reasons, the proposed detachment would promote maximum local self government for the people who live outside of the city limits. Presently, those people have no local self government. Commerce recommends that the LBC amend this local action petition to make it a legislative review petition, approve the petition, and present it to the Legislature.

Regarding the need to suspend a regulation, per [3 AAC 110.660](#) the LBC “by a vote of at least three members, may relax or suspend a procedural regulation if the commission determines that a strict adherence to the regulation would work injustice, would result in a substantially uninformed decision, or would not serve relevant constitutional principles and the broad public interest.” [3 AAC 110.425](#) requires a prospective petitioner to hold a hearing before submitting the petition to the LBC for filing, but only for legislative review

annexation petitions. As the city filed the petition as a local action petition, it was not required to hold a pre-submittal hearing, and consequently did not hold one.

While the intent of [3 AAC 110.425](#) is to provide notice of the petition and engage the public before the petition is submitted, no comments were submitted for or against the petition. That indicates that there is no opposition to the petition. Further, the affected communities of Allakaket and Alatna each have a tribal organization which submitted a resolution requesting the LBC to amend the petition to use the legislative review method. That indicates local support both for the petition, and to change the petition to the legislative review method. Both councils said that they wanted the “issues of annexation and detachment finally settled.”

The petition, as submitted, cannot be amended to make it a legislative review petition unless [3 AAC 110.425](#) is suspended so that the petitioner is not required to hold a pre-submission hearing. Strict adherence to the procedures would work injustice because the proposed detachment could not proceed, unless [3 AAC 110.425](#) is suspended. For that reason, for this particular petition Commerce recommends that the LBC suspend [3 AAC 110.425](#) under [3 AAC 110.660](#).

Conclusion

Commerce finds that the city detachment and concurrent annexation standards are met. The proposed detachment cannot proceed under the local action method because there are no registered voters residing in the territory proposed for detachment. Amending the petition from a local action petition to a legislative review petition will ensure that the proposed detachment can proceed.

Commerce recommends that the LBC amend this city detachment and concurrent annexation local action petition to make it a legislative review petition, suspend [3 AAC 110.425](#), and approve the petition to be presented to the legislature.

APPENDIX A: Public Notice

State of Alaska
Local Boundary Commission (LBC)

**Notice of an LBC Public Hearing and Decisional Meeting Regarding the
Proposed Detachment from and Concurrent Annexation of Territory to the City of Allakaket**

The LBC will convene a public hearing under 3 AAC 110.560 regarding the proposal to detach approximately 174 acres of land and water and concurrently annex approximately 12.3 square miles of land and water to the City of Allakaket. The public hearing will be held in:

**The Allakaket Tribal Office, Allakaket, AK 99720
October 14, 2014 at 3:00 pm**

The LBC will convene a decisional meeting under 3 AAC 110.570 immediately after the hearing in the same location to act on the proposal.

Once the hearing and decisional meeting agendas are prepared, they can be obtained prior to October 14, 2014 from:

LBC staff
550 West Seventh Avenue, Suite 1640
Anchorage, Alaska 99501-3510
(907) 269-4559/4587 Fax: (907) 269-4563
LBC@alaska.gov

The legal description of the proposed detachment and concurrent annexation is set out in the Petition. The petition and related documents, including a map of the territories proposed for detachment and concurrent annexation, are available for public review at the following locations, days, and times:

The Allakaket city office	P.O. Box 30, Allakaket, AK 99720	Monday – Friday: 9:00 am to 2:00 pm
The Allakaket tribal office	P.O. Box 50, Allakaket, AK 99720	Monday – Friday: 9:00 am to 5:00 pm
The Alatna tribal office	P.O. Box 70, Allakaket, AK 99720	Monday – Friday: 9:00 am to 2:00 pm

LBC's petition's website
commerce.alaska.gov/dca/lbc/2014_Allakaket_Detachment_and_Concurrent_Annexation_Petition/

The *Final Report to the Local Boundary Commission Concerning the Petition for Detachment from and Concurrent Annexation to the City of Allakaket* will be released on or before September 19, 2014. To obtain a copy, please contact LBC staff through the above contact information. This report will also be available through the LBC's petition website listed above.:

Persons interested in receiving future LBC notices, updates, and materials by email may subscribe to the LBC notice list server by visiting list.state.ak.us/index.htm, selecting "DCED-Local Boundary Commission," clicking "join or leave," and following the instructions.

Teleconference sites for the proceedings may be added for the convenience of the public and/or LBC members. To participate in the teleconference, please call 1-800-315-6338 toll free and use access code 94587#. Individuals with disabilities who need auxiliary aids, services, or special modifications to participate must contact LBC staff by October 7, 2014.

The petition, if amended and approved by the LBC, will be submitted to the legislature in accordance with AS 29.06.040, 3 AAC 110.140, and 3 AAC 110.265.