

**SUMMARY OF  
CITY OF GUSTAVUS, ALASKA  
PETITION FOR  
ANNEXATION BY LEGISLATIVE REVIEW  
May 2010**

**INTRODUCTION**

The City of Gustavus proposes to annex approximately 16 square miles including approximately 4 square miles of Falls Creek drainage uplands, and approximately 12 square miles of Icy Passage tidelands and submerged lands between present City limits and Pleasant Island.

As provided by Alaska's Constitution (Article X, Section 12), statutes (AS 29.06.040; AS 44.33.812(b)), and regulations (3 AAC 110.610(b); 3 AAC 110.090 - 110), the City proposes to annex this territory through the legislative review process.

The City has prepared a detailed petition to the State of Alaska's Local Boundary Commission to begin this legislative review annexation procedure. This document is a summary of that petition. Copies of the complete petition are available for public review; a list of locations where the petition is available for public review can be found at the end of this summary.

**GENERAL DESCRIPTION OF THE TERRITORY PROPOSED FOR ANNEXATION**

The territory proposed for annexation to the City of Gustavus is a single contiguous area totaling approximately 16 square miles and wrapping around the southern and eastern boundaries of the City. The territory proposed for annexation consists of two distinct areas. One of these, an upland area of approximately 4 square miles, generally includes the Falls Creek drainage. The other is approximately 12 square miles of Icy Passage tidelands and submerged lands lying between the present City limits and Pleasant Island.

A more detailed description of the proposed boundaries and a map depicting the City's present and proposed boundaries are attached to this Summary.

## **REASONS FOR PROPOSING ANNEXATION**

### **An Overview of the Reasons**

The Falls Creek and Icy Passage areas that the City proposes to annex are uninhabited; the City does not anticipate that either area will become inhabited in the foreseeable future. Nevertheless, the City believes that the relatively limited Falls Creek and Icy Passage areas proposed for annexation exhibit a reasonable need for city government as required by 3 AAC 110.090(a), and therefore annexation is appropriate at this time.

Gustavus is a stable, well- and long-established community; relatively recently the community incorporated as the City of Gustavus. The influence that Gustavus exerts on the area in which it is located does not begin or end abruptly at the City's boundaries. Gustavus, like all communities and municipalities, exert influences beyond its legally established and described boundaries.

As Gustavus residents and businesses conduct their daily activities, they often and regularly draw upon the resources of the nearby area. In particular, the community focuses on and relies upon the limited Falls Creek and Icy Passage areas proposed for annexation for subsistence (e.g. hunting, fishing, gathering, etc.), recreation (boating, hiking, camping, etc.), and resources (source of hydroelectric power, rock, potential community water supply, appropriate sites for moorage, anchoring, communication facilities, etc.).

Such community use of, interaction with and reliance upon the Falls Creek and Icy Passage areas proposed for annexation impose an urban impact upon those areas. In the few short years since the City's incorporation a number of circumstances have changed, which are intensifying and adding complexity to this interaction, and which prompt the City of Gustavus to petition to annex these territories. Several of these changed circumstances are "new" in the sense that they developed quickly, unexpectedly soon, after the City's incorporation. For example:

- Construction of the Falls Creek Hydroelectric Facility and related changes in road access, land ownership and land use within the Falls Creek area;
- Recent focus on Icy Passage as a source of tidal energy to generate electrical energy and related need for greater community control and influence over balancing potentially competing uses of Icy Passage resources; and

- Construction of the new public dock (now underway) and related changes in demand for access to the dock and limited nearby moorage.

Others are simply evolutions of circumstances that existed at the time of incorporation, but that recently have become more significant concerns. For example:

- A growing need for adequate safe moorage and anchoring;
- A growing need to identify and secure a community potable water supply to address a public health concern; and
- A growing concern about the need to manage community impacts on Falls Creek and Icy Passage areas proposed for annexation.

Each of these represents an aspect of the community that is increasingly exerting impacts and influences upon a limited territory immediately beyond the City's borders. These impacts will occur regardless of whether annexation is approved. Passage of time will only exacerbate this situation. These impacts on the territory proposed for annexation are appropriate responsibilities of the City of Gustavus. The community's presence and influence in the territory proposed for annexation suggests that annexation to the City of Gustavus is appropriate at this time.

#### **More Specific Reasons for Annexing the Falls Creek Area**

The City proposes to annex the Falls Creek area because the area exhibits a need for city government as evidenced by the following factors:

- The Falls Creek area is the single area with sufficient water resources to meet most local hydroelectric power needs. Ensuring that Gustavus is able to meet most of the community's electrical demands with relatively inexpensive hydroelectric power is central to the community's long-term viability.
- Development of the Falls Creek Hydroelectric Facility significantly changed public access to the area, and altered area land use and ownership patterns. Given the importance of the Facility and the related Falls Creek drainage area to the community, these changes clearly suggest the need for municipal planning, regulation and services.
- The Falls Creek area is the only practical source of water to supply a municipal water utility, which may ultimately be necessary to resolve certain public health needs.
- The Falls Creek area includes rock resources adequate to meet local construction needs; and

- The Falls Creek area includes sites suitable for developing, expanding and otherwise supporting critical community communication services.

Although uninhabited, the Falls Creek area proposed for annexation also exhibits reasonable need for city government. Largely as a result of the recent completion of the Falls Creek Hydroelectric Facility, this area is experiencing increasing commercial, recreational, and other community-related activity that demonstrates that the area is in need of city government. These activities include those associated with the day-to-day operation and maintenance of the Falls Creek Hydroelectric Facility. They also include gradually increasing public use of and interest in the Falls Creek drainage. This growing public interest and use is largely due to the fact that the Falls Creek Hydroelectric Facility project included construction of the first permanent road access into the area.

Significantly, this access road originates with a connection to the City's road system. Although intended to support the construction and operation of the hydroelectric plant, this road dramatically improved public access to the area as well. Improved access combined with project-related changes in land ownership has resulted in increased public and private activity and interest in the area; the City anticipates that public and private activity in the area will continue to increase with time.

All of these activities represent aspects of the community that are increasingly exerting impacts and influences upon a limited portion of Falls Creek immediately adjacent to the City's existing borders. These impacts will occur regardless of whether annexation is approved. Passage of time will exacerbate this situation. The nature of these impacts is essentially urban in character and reflects a need for city government. The territories proposed for annexation need city government to mitigate the impacts upon the area through planning, exercising its powers, and otherwise to balance the overall best interests of the community and the territories proposed for annexation. These conditions demonstrate that the area of Falls Creek proposed for annexation "exhibit[s] a reasonable need for city government" as required by 3 AAC 110.090(a). Therefore, annexation to the City of Gustavus, as proposed, is appropriate.

### **More Specific Reasons for Annexing the Icy Passage Area**

The City proposes to annex the Icy Passage area because the area exhibits a need for city government as evidenced by the following factors:

- Icy Passage is the sole corridor for accessing the community via water-based modes of transportation, and for residents and visitors

to access nearby natural resources, particularly Pleasant Island and nearby Icy Strait.

- Icy Passage enjoys recognized potential to be a source of hydrokinetic-generated electric power.
- Icy Passage is a rich marine habitat; the community depends upon the bounty of both for recreation and sustenance.

Importantly, the Icy Passage area proposed for annexation, though uninhabited, also exhibits reasonable need for city government. In general, community use of, interaction with and reliance upon the Icy Passage area proposed for annexation impose an urban impact upon the area. Since the City's incorporation, this area has experienced increasing commercial, recreational, and other community-related activity that demonstrates the area is in need of city government. For example, the limited portion of Icy Passage proposed for annexation

- Has recently been identified as a source for tidal generation of electrical energy, which raises issues related to the need for greater community control and influence over balancing potentially competing uses of Icy Passage resources;
- Will soon see the impact of the operation of the new public dock (construction now underway) and related changes in demand for access to the dock and limited nearby moorage;
- Is likely the only reasonable solution to a growing community need for adequate safe moorage and anchoring; and
- Faces increasing community-related development pressures that could compete or conflict with the community's interest in preserving Icy Passage's rich marine resources and habitat.

Each of these circumstances represents an aspect of the community that is increasingly exerting impacts and influences upon a limited portion of Icy Passage immediately adjacent to the City's existing borders. Passage of time will exacerbate this situation. The impacts will occur regardless of whether annexation is approved; the nature of these impacts is essentially urban in character.

The territory proposed for annexation needs city government to mitigate the impacts upon the area through planning, exercising its powers, and otherwise to balance the overall best interests of the community and the territories proposed for annexation. The identified circumstances are appropriate functions and responsibilities of city government. Therefore, annexation to the City of Gustavus, as proposed, is appropriate.

## **Summary of Need to Annex**

In summary, the territory proposed for annexation would benefit from annexation for this essential reason: Commercial and recreational uses of the territories proposed for annexation exist at the present level because of the proximity of the City of Gustavus and the Glacier Bay National Park. These uses make an impact on the territories proposed for annexation; the nature of these impacts is essentially urban in character. Recent changes in the community and in the territories proposed for annexation suggest clearly that the level of these uses and related impacts will increase. The territories proposed for annexation need city government to mitigate the impacts upon the area through planning, exercising its powers, and otherwise to balance the overall best interests of the community and the territories proposed for annexation. The identified circumstances are appropriately functions and responsibilities of city government. The areas proposed for annexation have a present, continuing and increasing need for city government.

These conditions demonstrate that the area of Icy Passage proposed for annexation “exhibit[s] a reasonable need for city government,” because it exhibits the following factors that are relevant under 3 AAC 110.090(a):

- Existing or reasonably anticipated social or economic conditions, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city during the 10 years following the effective date of annexation;
- Existing or reasonably anticipated health, safety, and general welfare conditions;
- Existing or reasonably anticipated economic development;
- Adequacy of existing services; and
- Extraterritorial powers available to the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities.

## **TERRITORY PROPOSED FOR ANNEXATION MEETS THE STANDARDS FOR ANNEXATION TO THE CITY**

The Alaska Administrative Code (AAC) at sections 3 AAC 110.090 – 3 AAC 110.140 establishes the standards that the City’s proposed annexation must meet in order to be approved. The City has included a detailed explanation of how the proposed annexation meets the applicable standards as part of its petition. That explanation, the Supporting Brief, is Exhibit 6 to City’s petition.

In summary, the City's Supporting Brief demonstrates that:

- With regard to the need for the proposed annexation,
  - The territory proposed for annexation exhibits a reasonable need for city government as required by 3 AAC 110.090(a); and
  - The City is capable of providing “essential municipal services” more efficiently and more effectively to the territory proposed for annexation than another existing city or organized borough as required by 3 AAC 110.090(b), 3 AAC 110.970(c) and 3 AAC 110.970(d).
- The territory proposed for annexation is compatible in character with the area inside the current boundaries of the City as required by 3 AAC 110.100.
- The economy within the proposed expanded boundaries of the city must include the human and financial resources necessary to provide essential municipal services on an efficient, cost-effective level as required by 3 AAC 110.110.
- The population within the proposed expanded boundaries of the City is sufficiently large and stable to support the extension of city government as required by 3 AAC 110.120.
- With regard to the boundaries of the territory proposed for annexation and the resulting boundaries for the City assuming annexation is approved,
  - The proposed post-annexation boundaries of the City include all land and water necessary to provide the development of essential municipal services on an efficient, cost-effective level as required by 3 AAC 110.130(a);
  - The territory proposed for annexation is contiguous to the City's present corporate boundaries as presumed by 3 AAC 110.130(b);
  - The proposed post-annexation boundaries of the City include only that area comprising the local community plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation as required by 3 AAC 110.130(c);
  - As required by 3 AAC 110.130(d), the proposed post-annexation boundaries of the City exclude entire geographical regions or large unpopulated areas, except where justified by the application of the city annexation standards in 3 AAC 110.090 - 3 AAC 110.130; and
  - The territory proposed for annexation does not overlap the boundaries of any other existing borough or city, and the brief addresses that circumstance as required by 3 AAC 110.130(d).

- The City’s Supporting Brief also demonstrates that the proposed annexation to the City is in the best interests of the state under AS 29.06.040(a) and as required by 3 AAC 110.135.
- The City’s proposal to annex the described territory via the legislative review process is appropriate because it meets one or more of the conditions established set forth in 3 AAC 110.140. Specifically, the City’s proposed annexation satisfies
  - 3 AAC 110.140(3); because 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;
  - 3 AAC 110.140(5); because 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;
  - 3 AAC 110.140(7); because annexation of the territory will promote maximum local self-government, as determined under 3 AAC 110.981; and will promote a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;
  - 3 AAC 110.140(8); because annexation of the territory will enhance the extent to which the existing city meets the standards of incorporation of cities, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.005 – 3 AAC 110.042; and
  - 3 AAC 110.140(9); because annexation of the territory by the legislative review process will serve the specific policies set out in the Constitution of the State of Alaska and AS 29.06, and is in the best interests of the state.
- As required by 3 AAC 110.910, the City’s proposed annexation 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.

**ANTICIPATED EFFECTS OF ANNEXATION**

The City currently offers the following six primary services and facilities: library, recycling and refuse disposal, emergency response, road maintenance, Internet service, and small boat facilities and services. The City intends to extend those City functions to the annexed territory immediately upon the effective date of the annexation.

The City already provides EMS services on an extraterritorial basis in the territory proposed for annexation. The City would continue offering existing levels of EMS service throughout the territory after annexation. The transition in this regard would be seamless and immediate.

The City also would immediately integrate the territory proposed for annexation into its existing planning functions in response to community growth and development issues.

However, because the territory proposed for annexation is uninhabited, and unlikely to be developed in the immediately foreseeable future, the City believes annexation will not impose any burdens on City services or facilities. However, the City is prepared to respond to changes in the need for services or facilities as necessary, basing its decisions in such cases on its ability to fund the desired service extensions or added facilities at that time.

The City does not anticipate significant increases in revenues or expenses as a result of the proposed annexation.

## **ADDITIONAL INFORMATION**

Copies of the City's annexation petition are available for public review at the following locations:

- City Clerk's Office, 1/8 Mile Parker Road;
- Gustavus Public Library, 1.5 Mile Airport Road;
- U.S. Post Office Lobby, 2 Mile Airport Road; and
- Glacier Bay National Park Headquarters, 7 Mile Park Road.
- The petition is also available online at <http://cms.gustavus-ak.gov>.

Additional copies of this summary document are available at no charge at the Gustavus City Clerk's Office (907-697-2451).

## **CONTACT INFORMATION**

Contact Mayor Paul Berry at 907-697-2451 for more information.

Attachments:

- Metes and bounds description of the proposed boundaries
- Map showing the present boundaries of the City of Gustavus and the proposed boundaries if annexation as proposed is approved

**EXHIBIT 1**  
—  
**CITY OF GUSTAVUS, ALASKA**  
**PETITION FOR**  
**ANNEXATION TO THE CITY OF GUSTAVUS**  
**BY**  
**LEGISLATIVE REVIEW**

**Legal Description of Territory Proposed for Annexation**

The territory proposed for annexation contains 18 square miles, more or less, and is generally described as all lands and waters contained within the following metes and bounds:

Beginning at the NE corner of Gustavus Municipal lands (NE corner Sec 3, T40S, R59E CRM);

Thence along the N boundary of Sec 2 (T40S, R59E CRM);  
Thence along the W, N, and E boundaries of Sec 36 (T39S, R59E CRM), to the NW corner of Sec31 (T39S, R60E CRM);

Thence due S to the N shore of Icy Passage; Thence due S across Icy Passage to the Mean High Tide (MHT) line of Pleasant Island;

Thence along the MHT meander line along the N shore of Pleasant Island to the Island's westernmost tip;

Thence approximately WNW to the SW corner of the Gustavus Municipal Boundary at a point in Icy Strait;

Thence approximately ENE along the Gustavus Municipal Boundary through Icy Passage, to the SE corner of the Gustavus Municipal Boundary at a point in Icy Passage;

Thence N along the Gustavus Municipal Boundary to the point of origin.

**EXHIBIT 2**  
—  
**CITY OF GUSTAVUS, ALASKA**  
**PETITION FOR**  
**ANNEXATION TO THE CITY OF GUSTAVUS**  
**BY**  
**LEGISLATIVE REVIEW**

**Legal Description of City Should Annexation Be Approved**

The territory of the City, should the proposed annexation be approved, is generally described as all lands and waters contained within the following metes and bounds:

Beginning at the northeast corner of section 3 (T40S, R59E, Copper River Meridian); as shown on USGS Quadrangle Juneau (B-5) (minor revisions 1966), the true point of beginning;

Thence along the north boundary of Section 2 (T40S, R59E);

Thence along the west and north boundaries of Section 36 (T39S, R59E);

Thence south along the eastern boundaries of section 36 (T39S, R59E), section 1 (T40S, R59E) and section 12 ((T40S, R59E), approximately 2.75 miles to the north shore of Icy Passage;

Thence south across Icy Passage to the mean high tide line of Pleasant Island;

Thence along the mean high tide meander line following the north shore of Pleasant Island to the island's westernmost tip;

Thence approximately west-northwest across Icy Strait to a point in Icy Strait 1.2 miles south of the mean high tide line along the common boundaries of sections 20 and 21 (T40S, R58E);

Thence continuing north along said section line to the northwest corner of section 9 (T40S, R58E);

Thence east to the northeast corner of section 9 (T40S, R58E);

Thence north to the northwest corner of section 3 (T40S, R58E);

Thence west along the township line dividing T39S and T40S, to the mean high tide line of Glacier Bay;

Thence continuing west approximately 375 feet to a point in Glacier Bay;

Thence north 1 mile to a point in Bartlett Cove;

Thence east  $\frac{1}{2}$  mile to a point in Bartlett Cove; Thence northeast (N45 degrees east) approximately  $\frac{3}{4}$  mile to a point in Bartlett Cove;

Thence east approximately  $\frac{1}{4}$  mile to a point where the line of mean high tide meets the south boundary of the northeast  $\frac{1}{4}$  of section 29 (T39S, R58E);

Thence continuing east to the protracted center of section 25 (T39S, R58E);

Thence southeast to the northwest corner of section 5 (T40S, R59E);

Thence east to the northeast corner of section 3 (T40S, R59E), the true point of beginning.