

Presented 2/8/99 H.

WASILLA CITY COUNCIL INFORMATION MEMORANDUM

IM No. 99-18

SUBJECT: Attached Letters

PREPARED BY: Administration

DATE: January 27, 1999

FOR AGENDA OF: February 8, 1999

SUMMARY:

FYI:

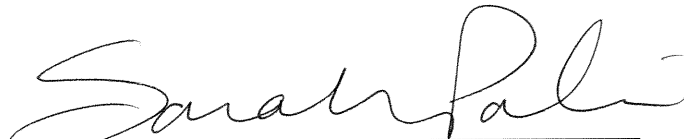
Please see attached correspondence:

- Kathy Krell re: an Eagle Scout project to build a second pavilion at Iditapark
- John Horn's letter re: KGB pathway
- Attorney Correspondence re: Parks Powers
- Senator Halford's Trail Liability Legislation
- Borough Manager Mike Scott's letter re: Spruce Road cost sharing

FISCAL IMPACT: No Yes, amount requested: \$

Fund:

RECOMMENDED ACTION:



Reviewed by: SARAH PALIN, Mayor

Attachments: Kathy Krell Letter
John Horn Letter
Parks Powers Letter
Senator Halford's Trail Liability Legislation
MSB Mike Scott's Letter



SARAH H. PALIN
MAYOR

CITY OF WASILLA
290 E. Herning Ave.
Wasilla, Alaska 99654-7091
Phone: (907) 373-9055
Fax: (907) 373-9096

January 26, 1999

Kathy Krell
PO Box 870901
Wasilla, AK 99687

Iditapark Pavilion

Dear Kathy:

I support the Eagle Scout who will be building a second pavilion at Iditapark, near the Wonderland Playground.

As per our conversation today, it is my understanding that Friends of Wonderland and other organizations will be financing the project through donations and other means.

We look forward to cooperating in the efforts of this project to see it come to fruition. Please notify Don Shiesl at 373-9095 as soon as you know more details and continue working with him throughout the duration of the project.

Sincerely,

Sarah Palin
Mayor

SP/ss

cc: Don Shiesl, Public Works Director

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

REGIONAL DIRECTOR, CENTRAL REGION

TONY KNOWLES, GOVERNOR

4111 AVIATION AVENUE
P.O. BOX 196900
ANCHORAGE, ALASKA 99519-6900
(TDD 269-0674)
(907) 269-0770 (FAX 269-0775)

RECEIVED

January 19, 1999

JAN 26 1999

Re: Knik Goose Bay Pathway

CITY OF WASILLA, ALASKA

Mayor Sarah Palin
City of Wasilla
290 E. Herning Avenue
Wasilla, Alaska 99654-7091


Dear Mayor Palin:

Thank you for your letter requesting the construction of the Knik Goose Bay Road Pathway be advanced to FY'00. We will consider your request as we review the proposed FY'99-FY'00 Statewide Transportation Improvement Program Amendment. Any change to the current program may impact the schedule of other important projects. We need to confirm if the project can realistically be delivered earlier. The need to acquire right of way or relocate utilities may preclude earlier construction.

I appreciate your interest in this project. I will keep you informed of any changes to its schedule. Please contact me if you have any questions.

Thank you.

Sincerely,


John D. Horn, P.E.
Regional Director

MMO\ldm

January 18, 1999

Senator Robin Taylor
Alaska State Senate
State Capitol
Juneau AK 99801-1182

Representative Vic Kohring
Alaska State House of Representatives
State Capitol
Juneau AK 99801-1182

Re: City of Wasilla Parks Powers
Requested Amendment to AS 29.35.250

Dear Robin and Vic,

I am writing this letter on behalf of the City of Wasilla, Alaska, to request the introduction and passage of an amendment to AS 29.35.250. This amendment is not strictly limited to parks powers, but allows a borough to delegate all or part of various areawide powers to a city within the borough. I discussed this proposed amendment with Robin at the Alaska Municipal League meeting in Fairbanks, and Sarah Palin, mayor of Wasilla, discussed this with Vic last week. You both indicated that you would assist the City of Wasilla in the introduction and passage of this legislation.

The City of Wasilla desires to exercise the parks powers within the city boundaries. The City is presently spending substantial public funds to upgrade the parks and recreation facilities in the City, and believes that it should be exercising the parks power in order to avoid any legal questions. If the city does acquire the parks power, it will be able to provide additional parks and recreation facilities within the City, and provide greater recreational opportunities for residents of and visitors to Anchorage and the entire Valley area.

I have enclosed a letter dated October 29, 1987, from Lee Sharp, former Matanuska-Susitna Borough attorney to former representative Curt Menard. This letter discusses the problems seen by Mr. Sharp when he reviewed the applicable statutes and represented an amendment. The amendment that we are proposing is somewhat different from the language proposed by Mr. Sharp, however.

The City of Wasilla hereby requests the introduction and passage of the following amendment:

- (1) Redesignate present AS 29.35.250(d) as AS 29.35.250 (e).

Senator Robin Taylor
Representative Vic Kohring
January 18, 1999
Page 2

(2) Create a new AS 29.35.250(d) to read as follows:

If a city in a borough consents by ordinance, the borough assembly may by ordinance delegate to the city all or any part of an areawide power or function it has acquired pursuant to AS 29.35.200, 29.35.210(b), or 29.35.310 through 29.35.330 inclusive.

There is no any reference to rescinding the delegation because this issue can be resolved at the time the delegation is made. The borough is able, at that time, to place any conditions on the delegation which it desires to place, including under what conditions the power would be returned to the borough. If the borough is dissatisfied as to any conditions of delegation, it may simply refuse to enact the delegation ordinance. I did not include a reference that the borough could unilaterally rescind the delegation because that would state that the borough could unilaterally rescind the delegation regardless of any agreement between the borough and the city at the time the power was delegated.

The City hopes that this amendment may be enacted as soon as possible during this session. It intends to proceed with substantial parks and recreation projects in the near future, and desires legal protection before proceeding with these projects.

If you have any particular questions, please let me know. Also, please let me know from time to time how this matter is proceeding, and I will provide whatever assistance to you that I can.

Thank you very much for your help in this matter.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By 

Kenneth P. Jacobus

cc

Sarah Palin, Mayor of Wasilla
Mike Gatti, Matanuska-Susitna Borough attorney
Alaska Municipal League



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)566-1025, Fax (907) 463-5480

January 26, 1999

Kenneth Jacobus, P.C.
425 G St. Suite 920
Anchorage, AK 99501-2140

Dear Mr. Jacobus,

Attached is the 1999 AML/ACoM Policy Statement supporting delegation of powers from a borough to a city.

We will provide support and testimony to support the adoption of this provision. I will forward to letter to our municipal legal scholars (Tom Boedeker, Michael Gatti, Lee Sharp) to get their reaction to the language. Please keep us informed of the development of the draft bill. Thank you.

Sincerely,

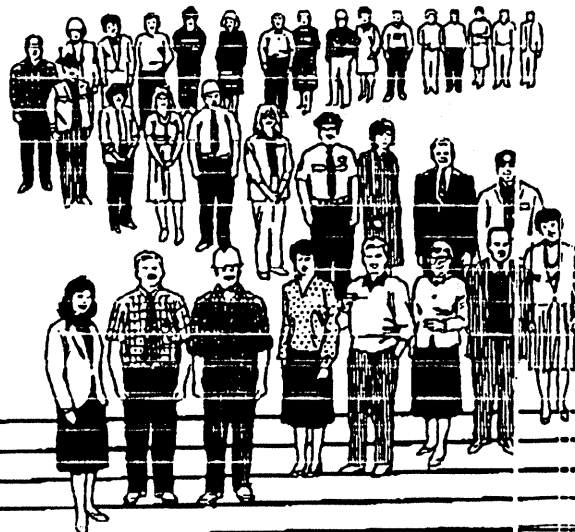

Kevin Ritchie
Executive Director

cc: Legislative Committee Chairs
Local Government Powers Subcommittee
Mayor Sarah Palin
Legal scholars:
Michael Gatti
Lee Sharp
Tom Boedeker

ALASKA MUNICIPAL LEAGUE



**1999
Municipal
Policy Statement
and
Resolutions**



7. **Eminent Domain:** The League supports legislation amending Title 29 to limit municipal authority to exercise the power of eminent domain, including the declaration of taking, in areas outside their boundaries to only those instances necessary for public service.

8. **State Mandated Vote on Service Area Consolidation and Alteration:** The League strongly opposes any legislation to mandate fragmented service area votes in home rule, first class and second class boroughs. The Constitution mandates that municipal governments are "local government," not service areas. Mandating autonomy to service areas violates the intent of the Alaska Constitution by fragmenting local governments, eliminates a statutory home rule power, and may significantly increase costs and lower efficiency for taxpayers as a whole. (11/98)

9. **Local Construction:** The League supports amendments to Title 36, the Public Contracts Code, to permit local governments to establish their own notice, reporting, local hire, and prevailing wage requirements and methods for local construction.

10. **Plumbing and Electrical Codes:** The League supports the expeditious updating of state safety codes to eliminate the conflict between state and local plumbing and electrical codes.

11. **Delegation of Powers:** The League supports an amendment to Title 29 to permit a borough to delegate to a city the authority to exercise a part of an areawide power, providing the city accepts the delegated power.



B. ELECTIONS AND REAPPORTIONMENT

1. **Amendment to National Voter Registration Act (Motor Voter):** The League supports efforts by the Division of Elections to seek amendments to the NVRA to allow for the removal of voters names from the list of registered voters when voters have not voted in four calendar years.

2. **Qualification for School Board Members:** The League supports legislation that would include provisions in Title 29, the Municipal Code, and Title 14, the Education Code, for municipalities to set qualifications for school board members.

3. **Election Date:** The League opposes legislation that would diminish the authority of municipalities to conduct their own elections, including setting the date of such elections.

4. **Reapportionment:** The League supports legislation that would allow for municipal reapportionment after state districts have been reapportioned. (am 11/98)

LAW OFFICES OF
KENNETH P. JACOBUS, P.C.

425 G STREET, SUITE 920
ANCHORAGE, ALASKA 99501-2140
TELEPHONE (907) 277-3333
FAX (907) 273-4819

CC Loc. Gov. Powers
Subcommittee

January 19, 1999

Alaska Municipal League
217 Second Street, #200
Juneau AK 99801

Re: City of Wasilla Parks Powers
Requested Amendment to AS 29.35.250

Dear Sir or Madam,

I am writing this letter on behalf of the City of Wasilla, Alaska, to inform you that we are requesting the introduction and passage of an amendment to AS 29.35.250. This amendment is not strictly limited to parks powers, but allows a borough to delegate all or part of various areawide powers to a city within the borough. At one time, from reading Lee Sharp's letter, enclosed, I believe that this type of change was on your list of priorities.

For your information, I have enclosed copies of the letters that I have written. They are self-explanatory.

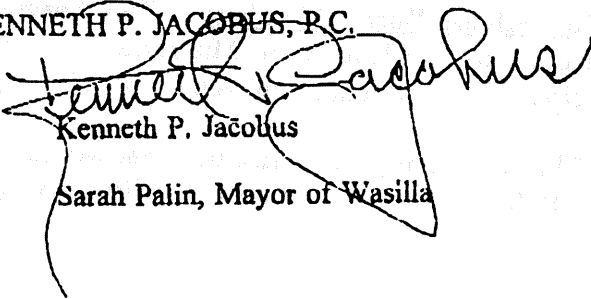
If this is still one of your priorities, I would appreciate whatever assistance that you can provide to the City of Wasilla in securing its passage. In any event, I did want to apprise you as to what the City of Wasilla was doing.

If you have any particular questions, please let me know. Thank you for your interest and possible assistance.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By


Kenneth P. Jacobus

cc Sarah Palin, Mayor of Wasilla



Official Business

Alaska State Legislature

Senate

RICK HALFORD

State Capitol
Juneau, Alaska
99801-1180
Phone (907) 465-4958

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

FAX TRANSMITTAL

TO: Interested Organizations &
individuals RE: SB 45

FROM: Bill Stoltze

TRAIL LIABILITY LEGISLATION

Senator Rick Halford's Office

FAX #:

FAX #: (907) 465-4928

PHONE #:

PHONE #: (907) 465-4958

DATE: January 26, 1999

PAGES: (including cover sheet) *Four*

RECEIVED

JAN 26 1999

CITY OF WASILLA, ALASKA

MESSAGE:

Per the telephone conversation of 1/5/98, I am forwarding copies of SB 45 and Senator Halford's sponsor summary. It is Senator Halford's intent to try to expedite passage of this legislation. It could be up in committee for consideration fairly soon. Letters of support from you and/or your organization would be very helpful in efforts to secure passage of SB 45. Please don't hesitate to contact our office if you have any questions.

As soon as SB 45 is scheduled for a public hearing in the Senate Judiciary Committee (Senator Robin Taylor, Chairman) we will provide notification so you can alert your membership.

If you have difficulties receiving this fax, please call 1-907-465-4958.



Official Business

Alaska State Legislature

Senate

**RICK
HALFORD**

State Capitol
Juneau, Alaska
99801-1182
Phone (907) 465-4958
Fax (907) 465-4928

P.O. Box 670190
Chugiak, Alaska 99567
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Fax (907) 694-0519

600 E. Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 376-4958

Senate Bill 45 Sponsor Statement

"An Act relating to tort immunity for personal injuries or death occurring on land; relating to the vacation by the state or a municipality of rights-of-way acquired by the state under former 43 U.S.C. 932; and providing for an effective date."

Senate Bill 45 expands the limited immunity granted under AS 09.65.200 to include improved land as well as unimproved land, providing that the land was entered onto for purpose of recreation and that there was no compensation paid for the access or use of the land.

This legislation comes forward in response to the desire to preserve and to expand recreational access for Alaskans, and for visitors to the State. The ability to access lands for purposes of skiing, hiking, hunting, fishing, snow-machining and numerous other outdoor recreational activities is an important aspect to enjoying the benefits of our great state. The potential for liability and litigation for private landowners who allow the public free access to their lands for recreational purposes has created pressure to further restrict entry and a disincentive to the establishment of other outdoor activity.

Promoting recreational opportunity and establishing additional trail systems has become a priority for a number of groups and organizations around the state. We have received requests and/or support for this legislation from numerous entities including: the State Division of Parks, the Municipality of Anchorage, the Anchorage Economic Development Corporation, the City of Wasilla, the Wasilla, Palmer, Fairbanks and State Chambers of Commerce, the Alaska Snowmachine Association, the Mat-Su Motor Mushers, the Alaska Boaters' Association, and the Alaska Outdoor Council.

SB 45 also makes a technical correction to the statutes governing vacation of RS 2477 rights-of-way and section line easements granted under former 43 U.S.C. 932. In addition, SB 45 provides concise direction in Title 29, the statutes pertaining to local governments, that is reflective of the procedures for easement vacation existing in Title 19.

SB 45 will assist in the effort to expand recreational opportunity for Alaskans and visitors alike. I urge your support for this legislation.

SENATE BILL NO. 45

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR HALFORD

Introduced: 1/25/99

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tort immunity for personal injuries or death occurring on
2 land; relating to the vacation by the state or a municipality of rights-of-way
3 acquired by the state under former 43 U.S.C. 932; and providing for an effective
4 date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. AS 09.65.200(a) is amended to read:

7 (a) An owner of [UNIMPROVED] land is not liable in tort, except for an act
8 or omission that constitutes gross negligence or reckless or intentional misconduct, for
9 damages for the injury to or death of a person who enters onto or remains on the
10 [UNIMPROVED PORTION OF] land if

11 (1) the injury or death resulted from a natural condition of the
12 [UNIMPROVED PORTION OF THE] land or the person entered onto the land for
13 recreation; and

14 (2) the person had no responsibility to compensate the owner for the

1 person's use or occupancy of the land.

2 * Sec. 2. AS 19.30.410 is amended to read:

3 **Sec. 19.30.410. Vacation of rights-of-way.** Notwithstanding another provision
4 of law, the Department of Natural Resources, the Department of Transportation and
5 Public Facilities, or another agency of the state may not vacate a right-of-way acquired
6 by the state under former 43 U.S.C. 932 unless

7 (1) a reasonably comparable, established alternate right-of-way or
8 means of access exists that is sufficient to satisfy all present and reasonably
9 foreseeable uses;

10 (2) the right-of-way is within a municipality, the municipal assembly
11 or council has requested the vacation, a reasonable alternative means of access is
12 available, and the vacation is in the best interests of the state; or

13 (3) the vacation is approved by the legislature.

14 * Sec. 3. AS 29.10.200 is amended by adding a new paragraph to read:

15 (59) AS 29.35.090(b) (certain vacations of rights-of-way prohibited).

16 * Sec. 4. AS 29.35.090 is amended by adding a new subsection to read:

17 (b) Notwithstanding AS 29.40.160 or other provisions of law, a municipality
18 may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932. This
19 subsection applies to home rule and general law municipalities.

20 * Sec. 5. AS 09.65.200(c) is repealed.

21 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).



MATANUSKA-SUSITNA BOROUGH

Borough Manager

350 E. Dahlia Avenue, Palmer, Alaska 99645-6488
Phone (907) 745-9689 FAX (907) 745-9669

January 25, 1999

RECEIVED

JAN 27 1999

CITY OF WASILLA, ALASKA

Sarah H. Palin, Mayor
City of Wasilla
290 E. Herning Ave.
Wasilla, AK 99654-7091

Dear Mayor Palin:

Thank you for your letter dated January 20, 1999 regarding the Spruce Road Paving Project. The billing for our share of the project is being processed for payment.

We are pleased to be able to work in partnership with the City of Wasilla.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. J. Scott".

Michael J. Scott
Borough Manager

MJS/kmw

cc: Jim Swing, Public Works Director
Tammy Clayton, Finance Director

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