

Final Report Concerning the Petition to Consolidate the First Class City of Haines and the Haines Borough

February 2002



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Commissioner

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PREFACE

State law requires the Alaska Department of Community and Economic Development (DCED) to prepare both a preliminary report and a final report regarding petitions to consolidate local governments in Alaska.

DCED's Preliminary Report on the pending proposal for consolidation of the City of Haines and the Haines Borough was published in July 2001. The Preliminary Report examined details concerning the Haines consolidation proposal in the context of the relevant standards set out in law. The Preliminary Report concluded that the standards were met.

The principal focus of this Final Report is twofold. First, it examines the timely comments received regarding DCED's Preliminary Report. Second, it addresses relevant developments that have occurred since the Preliminary Report was published seven months ago.

Documents relating to the consolidation proposal have been made available for public review at the Haines Borough Public Library and the Haines City Hall as they have been submitted. Materials have also been available on the Internet at:

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



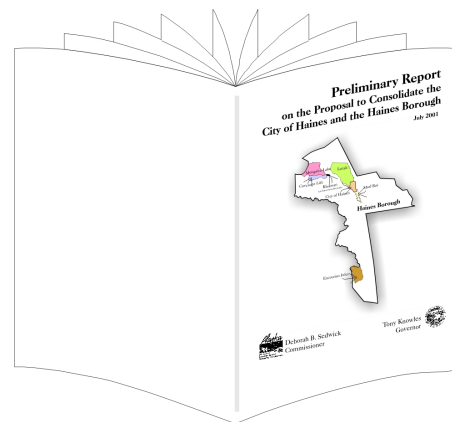
The Department of Community and Economic Development complies with the Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4560.

Background

Local interest in a combined city/borough government in Haines existed even before the formation of the Haines Borough.¹ Such interest has continued intermittently over the course of the past three decades.²

In 1998, the Haines Borough and City of Haines jointly filed a petition to consolidate the two local governments. The Local Boundary Commission approved the proposal. Voters, however, narrowly rejected consolidation by a vote of 542 (49.9%) in favor to 545 (50.1%) opposed. The City of Haines subsequently filed the presently pending consolidation petition in December 2000.

On July 10, 2001, DCED issued its *Preliminary Report on the Proposal to Consolidate the City of Haines and the Haines Borough* (hereinafter “Preliminary Report”). The Preliminary Report consisted of 122 pages of background, analysis, and supporting materials. A separate twenty-six page executive summary of the Preliminary Report was also prepared.



The Preliminary Report was distributed to seventy-five individuals. More than 550 copies of the executive summary were provided to individuals and organizations in Haines. Moreover, the report has been available for public review on the Internet since July of last year.

A detailed index of the topics addressed in DCED's Preliminary Report (including the executive summary) is included as Appendix A to this report.

¹ The Local Affairs Agency, predecessor to the Alaska Department of Community and Economic Development, reported as follows eight months before the incorporation of the Haines Borough:

The Local Affairs Agency has participated with the citizens in the Haines Area in various community discussions concerning municipal government in the area. . . . There has been considerable discussion of the desirability of dissolving the [City of Haines and the City of Port Chilkoot] and creating a service area within the proposed borough.

See Incorporation of the Haines Borough, Report to the Local Boundary Commission on a proposal to incorporate an organized borough in the Haines-Port Chilkoot area, Local Affairs Agency, page 10 (January 1968).

² Exhibit 2 of the Haines Borough's Responsive Brief indicates that formal propositions or advisory questions concerning unification, consolidation or other similar changes in the structure of local government in Haines were placed before the voters in 1975, 1979, 1983, 1984, 1990, 1992, and twice in 1998.

PART
2

Comments on DCED's Preliminary Report

As noted in the Preface, a principal purpose of this Final Report is to address comments made on DCED's Preliminary Report. Timely comments on DCED's Preliminary Report were received from the following (hereinafter "correspondents"):

- Andrews, Robert (two-page e-mail);
- City of Haines (two-page letter);
- Enticknap, Peter M. and Linda C. (two-page letter);
- Haines Borough (two-page letter);
- Tolles, Judith A. (one-page letter);
- Tolles, Rich (one-page e-mail);
- Weishahn, Carolyn (one-page e-mail)
- Weishahn, Ron (one-page e-mail);

The written comments on the Preliminary Report were made available for public review at the Haines Public Library, Haines City Hall, and on the LBC's web site. The comments are also included in Appendix B of this report.

A review of the pertinent comments follows.

Suitability of the Current Governmental Structure.

One of the correspondents commented that the Haines Borough "has functioned extraordinarily well in serving the needs of local residents during the past thirty-three years."

DCED acknowledges that the Haines Borough is clearly providing a growing level of services to meet the needs of its growing population. *Areawide*³ borough functions include:

- a system of public schools,
- assessment and collection of municipal taxes,
- public library,
- museum,
- cultural facility center,
- performing arts center,

³ "Areawide" is defined in law to mean throughout the entire borough.

- recreation (e.g., community youth development program),
- planning (e.g., development of a community action plan), and
- economic development (e.g., operation of a small business center, coordination of economic development, and preparation of an industrial park marketing plan).

Additionally, *nonareawide*⁴ functions provided by the Borough include:

- land use regulation (e.g., regulation of commercial helicopter flight-seeing tours), and
- hazardous substance control.

Lastly, functions which the Borough is authorized to exercise on a service area basis include:

- platting, planning, and land use regulation,
- fire protection,
- road maintenance,
- medical service,
- docks and harbors,
- emergency planning, and
- solid waste management.

DCED takes the view that the authority of a third class borough to provide certain of the areawide and nonareawide services listed above is tenuous. As such, DCED believes that there is some risk that an aggrieved citizen and/or taxpayer will successfully challenge the authority of the Haines Borough to provide such services. There is also potential for other adverse consequences stemming from the present arrangement. In particular, State and/or federal agencies may be unwilling to extend grants to fund certain Borough facilities or operations if there are significant questions about the Borough's authority to provide those facilities or operations.⁵

DCED is not alone in its assessment of the limitations on the third class borough. Three years ago, then-Senator Jerry Mackie and Representative

⁴ "Nonareawide" is defined in law to mean that portion of the borough outside the boundaries of city governments.

⁵ DCED expressed its opinion to the Haines Borough in letters dated January 6, 1999 and July 12, 1999 that it must adopt economic development powers to receive and expend grants relating to economic development. However, without doing so, the Haines Borough received "Economic Recovery Funding" from the U.S. Forest Service as follows: \$15,500 in federal FY 1999 to prepare a "community action plan and team"; \$6,000 in federal FY 2000 for a "small business center"; \$29,900 in federal FY 2001 for an "economic development coordinator", and \$10,500 in federal FY 2002 for an "industrial park market plan." (Personal communication, Peggy Cossaboom, US Forest Service.) It is understood that the "industrial park market plan" does not pertain to lands exclusively owned by the Haines Borough, in which case it could have been argued that the activity would be authorized under the general powers of all municipalities in Alaska to "acquire, manage, control, use, and dispose of real and personal property . . ." (AS 29.35.010[8]). According to the Haines Borough Clerk, at least some of the grants in question have been or are being administered by the City of Haines on behalf of the Haines Borough. That circumstance does not resolve the issue since the Haines Borough is the formal recipient of the grants in question.

Albert Kookesh issued a joint press release addressing the most recent annexation effort of the City of Haines.⁶ The press release stated:

. . . the annexation issue and other Haines' local government issues stem from the inadequacies of the 3rd class borough form of government. Indeed, at this time last year, this opinion was also the view of Haines City and Borough officials and the Haines Citizens Against Annexation leaders. All three organizations expressed the need for changes in the Haines local government structures and services. All three acknowledged that the annexation issue was only a small part of a larger question on the Haines local governments' suitability for its current size and growth.

Moreover, by a margin of 381 to 322, voters in the Haines Borough in 1998 expressed a preference for a form of borough government other than the third class borough.⁷

An alternative local governmental structure such as that offered by the pending consolidation proposal would create a local government for Haines that has clear authority to provide the level of services desired by its residents.

Separate Local Governments Preferred by Some.

Certain of the correspondents expressed or implied support for retaining separate city and borough governments. For example, one indicated that:

. . . separate city and borough governments provide a system of checks and balances that assures equitable representation for all of the citizens of this valley.

If anything, the current proposal seems to have raised even more concerns by eliminating election of Assembly members from area districts. I believe district representation is vital to all forms of fair and honest governments.

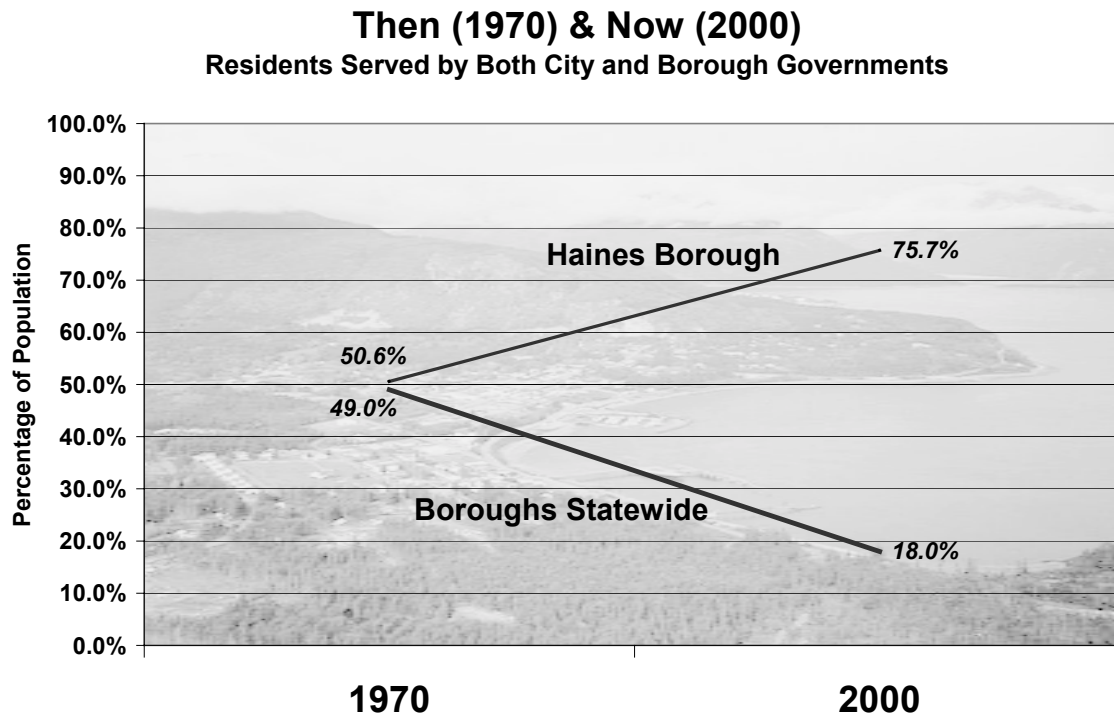
The question whether it is better to have one or two local governments in Haines is, of course, at the core of the question of consolidation. If the pending Petition is approved, voters in the Haines Borough will have the opportunity to make that determination formally.

It is relevant to note that following creation of the Haines Borough in August 1968, a second local government – either the City of Haines or the City of

⁶ February 9, 1999 Press Release from Senator Jerry Mackie and Representative Kookesh.

⁷ Haines Borough Responsive Brief, Exhibit 2.

Port Chilkoot – served slightly more than half (50.6%) of the residents of the Haines Borough.⁸ At that time, the number of Haines citizens served by two local governments was roughly comparable to the average for all organized boroughs in Alaska (49%). However, over the past thirty years, the local trend and statewide trend have taken divergent paths. During that interval, the relative number of citizens of the Haines Borough served by two local governments has *increased* by half (from 50.6% to 75.7%) while the statewide average has *decreased* by nearly two-thirds (from 49% to 18%).



Character of the Haines Borough in Terms of Concentration of Population.

One correspondent claimed that DCED incorrectly characterized the population of the Haines Borough as being concentrated in a single community.

DCED did not suggest that the Haines Borough is comprised of a single settlement. Rather, given the fact that more than seventy-five percent of the residents of the Haines Borough live within the City of Haines, DCED noted that the population of the Haines Borough was concentrated in Haines. While there are distinctions among the various settlements in the Haines Borough, DCED views those settlements to be socially, culturally, and economically

⁸ The 1970 Census reported that 463 of the 1,351 residents of the Haines Borough (34.3%) lived within the City of Haines, while 220 of the residents (16.3%) lived in the City of Port Chilkoot. The City of Haines and City of Port Chilkoot were combined into one local government in 1970.

interrelated and integrated. Moreover, DCED considers the residents of the Haines Borough to exhibit common interests to the maximum degree possible.

Assertion that Reconstitution of City into a Service Area Violates State Law.

One correspondent asserted that, “The creation of a large city service area appears to violate state law and legislative intent.”

There is nothing in State law that renders it inappropriate to create a service area comprising a former city. In fact, the creation of such service areas has been an invariable characteristic of every proposal for city/borough unification and consolidation in Alaska. Service areas were created in Douglas and Juneau when city governments serving those communities unified with the Greater Juneau Borough in 1970. The Alaska Supreme Court reviewed and endorsed the service area arrangement in Juneau and Douglas. That same arrangement was utilized in connection with unification of local governments in Sitka (1971) and Anchorage (1975). Moreover, the same model was adopted in Ketchikan and Fairbanks during recent consolidation efforts proposed in those areas. It was also proposed during the 1998 Haines consolidation effort.

The proposed Townsite Service Area (existing City of Haines) encompasses 20.9 square miles. Its size is actually modest when compared to many service areas in Alaska. Some service areas in organized boroughs encompass more than 25,000 square miles and are inhabited by more than 30,000 individuals.⁹

Assertion that there has been no Demonstration of the Advantages of Consolidation.

One correspondent asserts that DCED’s Preliminary Report “fails to demonstrate any cost savings, improved delivery of services or efficiencies resulting from consolidation.”

Understandably, questions regarding the effects of consolidation in terms of government efficiency and costs arise with respect to virtually every proposal for unification or consolidation of local governments.

Projections of cost savings resulting from consolidation were not provided in either the 1998 consolidation proposal filed jointly by the City of Haines and the Haines Borough, or the 2000 petition filed by the City of Haines. City

⁹ The Kenai Peninsula Borough Road Service Area encompasses an estimated 25,600 square miles comprised of that portion of the Kenai Peninsula Borough excluding the area within the boundaries of city governments and the unincorporated community of Halibut Cove. The area in question is inhabited by an estimated 31,866 individuals.

officials stated that “a management study would very likely reflect staffing efficiencies, such as in the obvious areas of accounting and municipal clerk.”

When considering the issue of government efficiency and costs, residents of Haines have the opportunity to reflect on the de facto consolidation of the City of Haines and the City of Port Chilkoot that occurred in 1970. While consolidation of two city governments is not identical to the consolidation of a city and borough government, they may, nonetheless, find it useful to consider how efficient and effective local government operations would be today in the core area if the City of Haines and the City of Port Chilkoot remained as separate city governments.

Moreover, as noted earlier, there has been a clear statewide trend over the past thirty years favoring the delivery of service by a single local government. There is a strong sense among current and former officials of combined city/borough governments that a better form of local government was achieved when the local governments joined.¹⁰

Lastly, after reviewing the recent Ketchikan consolidation proposal at the request of the Ketchikan Gateway Borough, local government expert Vic Fischer concluded as follows:¹¹



Local government expert and Alaska Constitutional Convention delegate Vic Fischer

While one may argue about the specific efficiencies and savings that may be achieved, local government economics and effectiveness are bound to improve through consolidation.”

Assertion that Consolidation is Designed to be a Financial Bailout for the City.

One correspondent asserted that the City’s “accounts are in total disarray.” The correspondent asks, “What will prevent the City service area residents from tapping the Borough’s accounts to pay for the City’s financial mess once they gain control of the government?”

Matters relating to the issues raised by the correspondent were addressed in DCED’s Preliminary Report on pages 78 – 82. In short, DCED found characterizations of the City’s financial accounting such as those expressed above to be unfounded and provocative. DCED’s Preliminary Report stressed that Section 19.11(b)-(c) of the proposed home rule charter for the consolidated borough provides that the debts for the 1989 Water/Sewer

¹⁰ This conclusion is based on anecdotal accounts from local government experts such as Vic Fischer, and from current and former officials of the Municipality of Anchorage, City and Borough of Juneau, and City and Borough of Sitka Anchorage. These include former Mayor George Sullivan, former State Senator and former Anchorage Assembly member Arliss Sturgulewski, former Juneau Assembly member and former Juneau Attorney Lee Sharp, former Juneau Mayors Ernie Polley and Ginny Chitwood, Former Juneau Charter Commissioner Mike Grummett, former Greater Juneau Borough Attorney Billy G. Berrier, and former Sitka Mayor John Dapceovich.

¹¹ Victor Fischer, *Preliminary Report on Municipal Consolidation Petition*, August 11, 2000, p. 4.

Refunding Bonds, Water System Revenue Bonds, Sewer System Revenue Bonds, and Drinking Water Fund Loan must remain obligations of the Townsite Service Area (former City of Haines).

The only other long-term debt of the City of Haines is the principal due on the Port Chilkoot Dock General Obligation Bonds. It is conceivable that, as outlined under Section 19.11(b) of the proposed Charter, the assembly of the consolidated borough may determine that (1) the Port Chilkoot Dock is an areawide facility, (2) that the debt should be assumed on an areawide basis, and (3) that the debt should be paid with areawide revenues. However, because sales taxes are used to fund those bonds, Section 19.11(b) of the proposed Charter specifically prohibits the extension of the debt or the sales tax to the area beyond the former City of Haines unless the voters outside the former City of Haines vote in favor of such.

Corrections Regarding Property Taxes.

The Haines Borough commented correctly that DCED had erred in stating in its Preliminary Report that the Borough had enacted an optional property tax exemption for senior citizens/disabled veterans and that the Borough had elected to have the State levy a tax on motor vehicles.

DCED acknowledges the inadvertent errors. The error regarding the optional property tax exemption for seniors and disabled veterans was, however, the result of a reporting error on the part of the Haines Borough. The Borough filed a report with DCED explicitly stating that the value of “Senior Citizen/Disabled Veteran [property] **over** the \$150,000 mandated exemption” in 2000 was \$1,468,500.¹² (Emphasis original) Since the Borough grants no such optional exemption, the value of such should have been reported as zero.

Concern that City Governments may be Created within a Consolidated Borough.

One correspondent questioned whether the fact that city governments can be formed within a consolidated borough government conflicts with the constitutional provisions encouraging minimum numbers of local government units.

DCED finds no conflict. Simply because city governments *may* be formed in a consolidated borough government does not mean that they *must* or *will* be formed. The oldest organized borough government in Alaska, the Bristol Bay Borough, is, in effect, a consolidated borough. So, too, is the City and Borough of Yakutat. It is possible that any of the communities within the Bristol Bay Borough and the City and Borough of Yakutat could seek to form city governments. However, citizens of those communities have not chosen to do so. If they did petition for incorporation of a city, the proposals would be reviewed in the context of all relevant standards, including the constitutional provision calling for minimum numbers of local governments.

¹² *Annual Report on Assessment and Taxation*, page 4, Haines Borough (September 8, 2000)

DCED continues to maintain, however, that consolidation provides greater flexibility compared to unification, including the option to create cities where deemed appropriate. It is noted in this regard that State Representative Fred Dyson is currently exploring the merits of reconstituting the borough in Anchorage from a unified borough government to a consolidated borough government in order that city governments might be formed in areas such as Girdwood and Eagle River.

Funding of Police, Fire Protection, Tourism Promotion, and Capital Improvements in City Service Area.

One correspondent implies that it is unfair for police, fire protection, tourism, and capital improvements in the Townsite Service area to be funded, at least in part, by sales taxes levied in the service area (which are paid by anyone who shops in the service area). Specifically, the correspondent states,

So borough residents outside city limits will have the benefit of paying twice for fire and police. Once in their own area if they form a fire or police protection service area and again when their sales tax dollars pay for police and fire within the old City of Haines. They may vote to extend these services areawide, but the vote would be dependant on voters in the old City of Haines agreeing to share sales tax revenue areawide thereby raising their property tax mill rate by from 2-4 mills.

The structure proposed in the pending consolidation Petition maintains the status quo with respect to police, fire protection, tourism, and capital improvements. Given the flexibility of the consolidation process, there is ample opportunity to amend the Petition to arrange for such services to be provided on an areawide basis. However, it is doubtful that such an amendment would be endorsed by a majority of voters outside the City of Haines at this time.

Assertion of Bias on the Part of DCED.

Five of the correspondents asserted that DCED's Preliminary Report and/or DCED staff were biased. The allegations of bias were largely non-specific. However, the following three particular assertions of bias were made or implied.

- Two of the correspondents implied or asserted that there was bias or a lack of fairness stemming from the fact that the author of DCED's Preliminary Report had been employed as the Haines City Administrator from 1976 – 1980.

- One of the correspondents seemed to imply that DCED acted unfairly to limit access to letters commenting on the Petition. Specifically, the correspondent stated, “Naturally, the general public never saw those letters in your one-sided report, as you neglected to include them in an appendix.”
- One of the correspondents asserted that DCED treated the City with favoritism. Specifically, the correspondent asserted that, “The DCED has shown extreme bias. After discovering the City did not plan to respond to the Borough’s Responsive Brief and did not do so within the prescribed deadline, DCED staff contacted the City and encourage them to submit a rebuttal to the Borough’s brief and gave the City additional time to do so.”

The word “bias” has various meanings. One definition of the term in *Webster’s New Collegiate Dictionary* is “an inclination of temperament or outlook”. Another definition of bias in the same dictionary is “a highly personal and unreasoned distortion of judgment.”

DCED readily acknowledges that it has an “inclination of temperament or outlook” favoring consolidation of city and borough governments in general, and consolidation of the City of Haines and the Haines Borough in particular. The basis for such inclinations is outlined below.

1. Propensity to Support Consolidation in General.

DCED’s inclination to support consolidation of city and borough governments in general is well-anchored in Alaska’s Constitution. As noted on pages 85 – 87 of DCED’s Preliminary Report, Alaska’s Constitution encourages combining city and borough governments. This is not simply DCED’s view, but also the expressly stated positions of the Alaska Supreme Court and the Alaska Local Boundary Commission (see page 87 of Preliminary Report). Moreover, the legislature has enacted a fundamental policy of encouraging consolidation of local governments as reflected in the laws governing consolidation.¹³

2. Inclination to Support Consolidation of the City of Haines and Haines Borough in Particular.

DCED’s particular inclination to favor consolidation of the City of Haines and the Haines Borough is also rooted in Alaska’s Constitution. As noted in the discussion on pages 82 – 85 of the Preliminary Report, Article X, Section 1 of the Constitution promotes maximum local self-government. That includes providing local government with the legal capacity to exercise whatever range of powers is necessary to pursue local governance in the manner desired by the local citizens. While all other forms of borough government possess that capacity, the third class Haines Borough does not.

¹³ The consolidation standards enacted by the legislature require only that: (1) the consolidated government meets the standards for incorporation; and (2) consolidation serves the broad public interest.

State law permits a third class borough to exercise only two functions areawide.¹⁴ The first is to establish, maintain, and operate “a system of public schools on an areawide basis as provided in AS 14.14.060.” The second is to “assess and collect property, sales, and use taxes that are levied in its boundaries.” The third class borough was originally conceived principally as a school district with taxing powers. Over time, however, the scope of the Haines Borough’s authority to provide “education” has been construed locally to include a public library, museum, cultural facility center, performing arts center, and community youth development program.¹⁵ Moreover, the Borough recently began to exercise areawide functions relating to the development of a community action plan, operation of a small business center, coordination of economic development, and an industrial park marketing plan.

In addition to the limitations on areawide powers, a third class borough is limited to the exercise of only one power on a nonareawide basis (i.e., the area of the borough outside city governments).¹⁶ The only nonareawide power permitted for a third class borough relates to control of hazardous materials. The Haines Borough, in fact, exercises that power. However, in addition to hazardous materials control, a “service area” to regulate commercial helicopter flight-seeing tours throughout the nonareawide portion of the Haines Borough was established last year. The result appears to be that the Haines Borough is now exercising a nonareawide power beyond the only one permitted by law.

This latest action seems to effectively nullify the statutory limitations on the exercise of nonareawide powers by a third class borough.

Clearly, a service area may be established by a third class borough to provide “services not provided by a borough on an areawide or nonareawide basis in the borough or a higher or different level of service than that provided

¹⁴ See AS 29.35.160, 29.35.170, and AS 29.35.220(b).

¹⁵ DCED recognizes that both Article X, Section 1 of the Alaska Constitution and AS 29.35.400 provide for a liberal construction of municipal powers. Moreover, DCED recognizes that there is educational value in public libraries, museums, cultural facility centers, performing arts centers, youth development programs, and, for that matter, a multitude of other activities not yet undertaken by the Haines Borough. However, DCED has reservations whether such functions can legitimately be construed to be within the scope of the Borough’s education functions. The financial audit of the Haines Borough classifies the library, museum, cultural center, and community youth development program as “discretely presented component units” that are “legally separate” functions. (See *Haines Borough General Purpose Financial Statements with Additional Information*, page 12, Peterson Sullivan P.L.L.C., June 30, 2000.) Moreover, the Borough’s audit indicates that while those “discretely presented component units” are accounted for in the Borough’s general purpose financial statements, accounting for the Haines Borough School District is done by separately by a different accounting firm. Further, other municipal governments exercising powers such as libraries, museums, cultural centers, performing arts centers, and youth recreation programs do not construe them to be a component of the education function. (See *Alaska Municipal Officials Directory*, 2001, DCED and the Alaska Municipal League)

¹⁶ The limitations are set out in AS 29.35.220(d) and (e); the term “nonareawide” is defined by AS 29.71.800(14).

on an areawide or nonareawide basis” (emphasis added).¹⁷ For example, the Haines Borough could establish a service area encompassing a portion of the territory outside the City of Haines to provide a higher level of hazardous materials control (e.g. cleanup of a hazardous waste site) than that which is provided in the area outside the City of Haines as a whole.

However, DCED believes that serious questions arise over any effort for the Borough to exercise powers other than hazardous materials control on a nonareawide basis by simply calling them “service area” functions.

The creation of the “nonareawide service area” to regulate land use has effectively annulled all fundamental distinctions between a third class borough and other classes of organized boroughs. Such an interpretation would seem to allow the third class borough to perform any municipal function on either an areawide or a nonareawide basis by merely calling it a service area. Moreover, for the first time, the entire jurisdiction of the Haines Borough is now subject to some form of municipal land use regulation.

To be clear, DCED has no objection to the provision of municipal land use regulation, libraries, museums, cultural centers, performing arts centers, youth development programs, community action plans, small business centers, coordination of economic development, and industrial park marketing plans, provided that the government carrying out those actions is authorized to do so.

Given the narrow limitations of the third class borough, the Alaska legislature prohibited the creation of new third class boroughs in 1985. State law also prohibits the formation of third class boroughs through consolidation. Those provisions reflect a “bias” – an inclination – against the third class borough on the part of State lawmakers.

For similar reasons, the Local Boundary Commission has opposed provisions in Senate Bill 48 (*CS FOR SENATE BILL NO. 48[FIN] am*) that would allow the creation of new third class boroughs.¹⁸ Moreover, as noted previously, former Senator Jerry Mackie and Representative Albert Kookesh characterized the third class borough form of government as no longer being suitable for Haines. Lastly, as also noted earlier, a majority of the voters of the Haines Borough themselves has expressed support for a form of borough government other than a third class borough.

3. Allegations of Highly Personal and Unreasoned Distortions of Judgment.

While DCED acknowledges its inclination favoring consolidation in general, and consolidation of the City of Haines and Haines Borough in particular, it categorically rejects any assertion that its position reflects “a highly personal and unreasoned distortion of judgment.”

¹⁷ AS 29.35.450(a).

¹⁸ See *Report of the Local Boundary Commission to the Second Session of the Twenty-Second Alaska State Legislature*, pages 26-27, January 23, 2002.

Any suggestions that the views expressed in DCED's Preliminary Report reflect such bias or that any party in this proceeding has been treated unfairly are taken seriously. Given the comments on the Preliminary Report, DCED policy makers carefully reviewed the allegations made by the five correspondents regarding bias and then re-examined the Preliminary Report. They concluded that the Preliminary Report offers a candid and proper assessment of the issues surrounding the pending consolidation proposal in the context of the Constitutional, statutory, and other principles of local government in Alaska.

While five individuals, groups, or organizations asserted "bias" on the part of DCED, one other correspondent took the opposite view commenting that the Preliminary Report "provides excellent background on the subject and well-reasoned descriptions of the pertinent issues raised to date." The perception of "bias" may be linked to the views of the correspondents regarding consolidation in general. Four of the five correspondents who alleged "bias" had submitted comments on the record in opposition to the pending consolidation proposal prior to the publication of the Preliminary Report. The correspondent that made favorable remarks about the Preliminary Report endorsed consolidation.

Again, many of the allegations of bias were non-specific, which, of course, defy a response. However, DCED replies to the three specific assertions as follows.

(a) Allegation that report author is biased because he once served as the Administrator of the City of Haines.

While the Preliminary Report was authored by one individual, it reflects the views of DCED.¹⁹ It was prepared under the policy direction of the individuals identified in the report and was reviewed by those policy makers and others in the agency prior to publication.

The fact that the author of DCED's Preliminary Report worked for the City of Haines twenty-two years ago provides no legitimate basis whatsoever to assert bias.

State law (AS 39.52.110 -- the Executive Branch Ethics Act) sets standards to prohibit substantial and material conflicts of interest on the part of State employees. It provides that a public employee may not represent, advise, or assist a person for compensation in matters pending before the employee's administrative unit, and may not represent, advise or assist a person for compensation if it is to benefit the employee's personal or financial interest. Neither the author nor any other DCED employee who was involved in preparing the Preliminary Report has any personal or financial interest in the matter.

¹⁹ DCED presumes that the same holds true for both the Haines Borough's Responsive Brief, which was written by one individual, and the City of Haines' petition, which was principally written by one individual.

Moreover, the Executive Branch Ethics Act prohibits, for a period of two years, a former State employee from working on any matter on which the former public employee had personally and substantially participated through official action while formerly employed by the agency. In this instance, correspondents are suggesting that an individual formerly employed by the City of Haines twenty-two years ago (11 times the analogous limit set out in the Executive Branch Ethics Act) should be barred from working on a matter involving the City of Haines.

(b) Allegation that access to public comments was restricted.

The apparent concern that DCED limited public access to comments on the Petition is unfounded. The comments were included with the record available for public review at City Hall, the Haines Borough public library, and through the Commission's web site.

Moreover, it would have been unfitting to append comments regarding the Petition without also appending the petition itself, along with the Responsive Brief. That would have added more than 300 pages to the report. DCED does not routinely include such materials in its reports because of the size of the record.²⁰

(c) Allegation that DCED showed favoritism toward the City of Haines.

The assertion that DCED treated the City with favoritism is without foundation. DCED has a responsibility to advise and assist all individuals and organizations that wish to express their views to the Local Boundary Commission.

The correspondent who asserts that DCED treated the City with favoritism failed to note, for example, that DCED also provided the Haines Borough with assistance and information in its efforts to prepare its responsive brief in opposition to consolidation. For example, DCED provided the Haines Borough with a sample responsive brief developed by a party in a different proceeding to oppose consolidation.

It was both proper and appropriate for DCED to encourage the City of Haines to reply to the Borough's Responsive Brief and other comments concerning the City's Petition. Submission of a Reply Brief by the City ensured a more complete record.

Lastly, assertions that DCED granted extensions to the City of Haines for the filing of its Reply Brief are based on an incorrect reading of the law. The law provides that the Chairman of the Local Boundary Commission will set the schedule for the filing of responsive briefs and reply briefs. The law provides further that the schedule set by the Commission Chairman must allow *at least*

²⁰ In the most recently concluded proceeding of the Commission, the record includes a stack of documents 14 inches high, weighing 35 pounds.

minimum periods to file responsive briefs and reply briefs. The City's Reply Brief was filed according to the schedule set by the Commission Chairman. The schedule set by the Chairman of the Commission allowed more time than the minimum required by law both for the filing of the Borough's responsive brief and for the City's Reply Brief.

Economic Development and Tourism.

DCED noted in its Preliminary Report that the consolidation Petition contained potentially conflicting provisions about the manner in which economic development and tourism would be carried out by the consolidated borough. One part of the Petition (page 10 of Exhibit H) indicated that economic development and the promotion of tourism will be carried out on a service area basis within the Townsite Service Area unless voters approve the assumption of such powers on an areawide basis. However, the listing of functions to be provided in the Townsite Service Area (Exhibit E-3) did not include economic development or tourism. Moreover, page four of the Petition listed economic development and tourism as proposed areawide powers.

To resolve the conflict, DCED recommended in its Preliminary Report that economic development and tourism be deleted from the areawide powers listed in the Petition. DCED further recommended that economic development and tourism be listed as service area powers to be exercised within the former City of Haines.

The City of Haines commented as follows regarding that particular recommendation in the Preliminary Report:

There is still one issue that requires further clarification. It involves your recommended technical revision number four, regarding deletion of economic development and tourism from the list of areawide powers. These powers have been difficult to classify. Clearly, although currently offered only through the City, both of them are, for all intents and purposes, provided areawide. Economic development in particular should be classified as an areawide power. In the previous fiscal year, the economic development effort was partially funded by a grant through the Borough. The oversight board included Borough representation. The City suggests that economic development remain classified as an areawide power.

A similar argument could be made for Tourism Promotion; however, this power is currently funded by a 1% City sales tax. The City (Townsite Service Area) expects to continue exercising this function as in the past, which provides areawide benefits; however, since it would require extension of the 1% sales tax outside the City, this should be addressed by the voters after consolidation.

Given the City's clarification, DCED modifies its recommendation for the fourth technical amendment outlined on pages 102 – 103 of its Preliminary Report. It would be appropriate to provide that economic development and tourism promotion will be exercised on an areawide basis, but that those areawide services will be exercised at a higher level on a service area basis within the Townsite Service Area. As DCED noted previously, AS 29.35.450(a) allows a service area to be created to provide a higher or different level of service than that provided on an areawide basis.

Since DCED's recommended approach would provide the consolidated borough with both areawide and service area authority to exercise the economic development and tourism promotion powers, it would be essential to maintain strict accounting standards to ensure the proper expenditure of service area taxes and areawide taxes.²¹

²¹ AS 29.35.110 and 29.35.470 provide that areawide taxes may be used only for areawide functions and service area taxes may be used only for service area functions.



Developments Since Publication of DCED Preliminary Report

DCED reports five developments relevant to the proposed consolidation of the City of Haines and Haines Borough that have occurred since DCED's Preliminary Report on the consolidation was published.

Reapportionment of Borough Assembly.

In accordance with AS 29.20.080, the Haines Borough Assembly determined, based on 2000 Census data, that it was not apportioned in a manner that was consistent with the equal representation standards of the Constitution of the United States.

At the time, the assembly was comprised of six members. Three members were elected from within the City of Haines, two from the area outside the City of Haines, and one was elected at-large.

To conform to the constitutional equal representation standards based on 2000 Census data, the Assembly proposed a redistricting plan that provided for three members to be elected from the area within the City of Haines, one member to be elected from the area outside the City of Haines, and two members to be elected at-large.

The redistricting plan was presented to Borough voters at the October 2, 2001 election. Voters approved the plan for reapportionment of the Borough Assembly by a margin of 742 to 281.

Establishment of New Borough Service Area.

At the October 2, 2001 regular election of the Haines Borough, a majority (209 to 133) of ballots cast by voters residing outside the City of Haines approved an initiative to adopt Haines Borough Ordinance 01-15 creating a service area to regulate commercial helicopter flights. The ordinance allows the Haines Borough to:

- Regulate and permit commercial helicopter flight-seeing tours.
- Protect public resources, health, safety, and the environment.
- Establish procedures for limiting commercial helicopter flight-seeing tours.
- Prohibit new commercial helicopter flight-seeing tours from landing in the service area from the date of passage of the ordinance.

Schedule for LBC Hearing.

The Local Boundary Commission will conduct a public hearing on the pending consolidation proposal beginning at 10:00 a.m., Saturday, March 9, 2002, in the Haines City Council Chambers.

Notice of the March 9 hearing has been published and posted as required by law. The notice is also included in this document as Appendix C. The agenda for the March 9 hearing is included as Appendix D. *Tips for Effective Public Comment* at the hearing is included as Appendix E.

Joint Meeting of the Haines Borough Assembly and the Haines City Council to Discuss Consolidation.

On February 4, 2002, the Haines Borough Assembly and the Haines City Council convened a special joint meeting to address the pending consolidation proposal. During the meeting, various members of both governing bodies emphasized their interest in serving the common good of all citizens of the Haines Borough.

On February 8, the *Chilkat Valley News* reported on the meeting as follows:

Official opposition to the city's petition to consolidate local governments is softening. After a joint meeting with city council representatives on Monday, a majority of borough assembly members said they are in favor dropping the borough's official opposition to the City of Haines consolidation petition.

Local and state officials say that would be a major step toward combining governments in Haines.

The *Chilkat Valley News* report suggested that the relationship between the Haines City Council and the Haines Borough Assembly has become more harmonious since dismissal of the Haines Sanitation lawsuit last spring.

Reportedly, the Borough Assembly will consider a resolution supporting the consolidation Petition at the February 19 Assembly meeting.

The chances for success in terms of the pending consolidation proposal would likely be substantially enhanced if the two local governing bodies reconcile their differences regarding consolidation. DCED applauds the efforts of local officials of the Haines Borough and the City of Haines to discuss the matter.

It is important to note here that the consolidation process established in State law is flexible enough to allow whatever reasonable opportunity may be needed to attempt to resolve any obstacles which may stand in the way of

support for the pending consolidation proposal on the part of both local governments. While the Local Boundary Commission will conduct a hearing on the proposal on March 9, the Commission may defer action on the proposal should local officials express the need for more time to address issues of mutual concern.

Legislation to Modify Consolidation Procedures.

The last significant development noted here concerns the introduction of House Bill No. 296 to modify procedures for consolidation. A copy of the legislation is included as Appendix F. If House Bill No. 296 became law in its present form, it would require approval by a majority of the votes in each of the municipalities proposed to be consolidated. Currently, consolidation of a city and borough is subject only to an areawide borough vote.

The requirements of House Bill No. 26 for voter approval are certainly not as stringent as is the case for unification (which would require approval by a majority of the votes cast outside the City of Haines as well as a majority of the votes cast inside the City of Haines). Nonetheless, if the bill became law, it is possible that a greater level of support by the voters in Haines would be required to consolidate than is the case under current statutes.

Additionally, House Bill No. 296 provides that, "A question involving a service area required to be submitted to voters under AS 29.35.450 or 29.35.490 may not be part of the merger or consolidation petition submitted under AS 29.06.100 or part of the merger or consolidation question."

House Bill No. 296 has been referred to the House Community and Regional Affairs Committee. The Commission has yet to schedule a review of the bill.



Final Recommendation

DCED concluded in its Preliminary Report that the pending Petition for consolidation of the City of Haines and the Haines Borough satisfies all applicable legal standards. DCED concluded further that there are fundamental public policy reasons that favor consolidation of the City of Haines and the Haines Borough. Accordingly, DCED endorsed consolidation of the City of Haines and the Haines Borough with certain technical amendments.

Following consideration of the comments on DCED's Preliminary Report and relevant developments noted in the preceding portion of this report, DCED reaffirms its support for consolidation of the City of Haines and the Haines Borough. Consequently, DCED urges the Local Boundary Commission to approve the Petition with the following technical amendments to remedy inadvertent omissions in the original Petition, to reflect the intent of the Petitioner, and to address the creation of the service area to regulate certain commercial helicopter flights.

- 1) Stipulate that the Haines Borough currently operates the Solid Waste Management Service Area, Letnikof Subdivision Road Maintenance Service Area, and Riverview Drive Road Maintenance Service Area. Additionally, it should be recognized in the Petition that the Borough now operates the commercial helicopter flight-seeing regulation service area in that portion of the Borough outside the City of Haines.
- 2) Stipulate that the Letnikof Subdivision Road Maintenance Service Area and Riverview Drive Road Maintenance Service Area will remain in place after consolidation. (Note: the Petition clearly recognizes that Fire Service Area Number 1; Fire Service Area Number 2; Fire Service Area Number 3; Four Winds Subdivision Road Maintenance Service Area; Twenty-Five Mile Road Maintenance Service Area; Chilkat State Park Road Maintenance Service Area; and The Historic Dalton Trail Road Maintenance Service Area will also remain in place following consolidation.)
- 3) Stipulate that the Solid Waste Management Service Area will be dissolved and solid waste management will become an areawide power of the consolidated borough.
- 4) Stipulate that economic development and tourism promotion will be exercised as areawide powers of the consolidated borough.
- 5) Stipulate that financing of capital improvements, economic development, and tourism promotion will be exercised on a service area basis within the Townsite Service Area.

- 6) Stipulate that public works will be exercised in the Townsite Service Area.
- 7) Stipulate what effect consolidation will have on the commercial helicopter regulation service area established in October of last year. Since the service area was created after the Petition was filed, the new service area is not addressed in the Petition. All other service areas are addressed in the Petition. The Petition should be modified to specify how consolidation would affect the service area. There are two options. One is to dissolve the service area recognizing that the consolidated borough would have areawide planning, platting, and land use responsibilities. The other option is to maintain the service area following consolidation. DCED recommends that the Commission render its decision based on local input, particularly that from officials of the Haines Borough and City of Haines.

Following the amendment of the Petition, DCED urges the Commission to approve the Petition and submit the matter to the voters of the Haines Borough for their consideration.

Appendix A

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Appendix B

Timely Received Public Comment
on DCED's Preliminary Report Concerning the Petition to
Consolidate the City of Haines and the Haines Borough

Subject: Comments on Preliminary Report on Haines Consolidation Proposal

Date: Wed, 08 Aug 2001 22:34:05 -0800

From: Weishahn <weis@aptalaska.net>

To: Dan_Bockhorst@dced.state.ak.us

CC: weis@aptalaska.net

To Dan Bockhorst, author of The Preliminary Report... Haines Consolidation Proposal

From Ron Weishahn, Haines resident

I will keep my comments brief so as to save you the time and energy you are accustomed to employing in distorting and selectively analyzing those comments.

In your report you pull comments from anywhere you find them, be they verbal or from newspaper articles, letters to the editor and from actual submissions, the latter being the only authentic source for your report.

You attack the subject from a mind made up and acting as if it was your responsibility to debate the subject and win the argument pro consolidation, at any cost. The cost is your reputation as an objective observer and contributor to the process.

Incredible that no writer whether private or public [the borough brief] had anything but "unfounded" verbiage. Thinking that you represented some sort of pro consolidation lobby made it easier to read. Now I await the report that will be presented by another member of your agency that represents the anti consolidation lobby. To do otherwise is to make a mockery of your participation.

Since you served as Haines' City Manager promoting consolidation the very first time consolidation was promoted, your report also served to look like some personal vendetta toward accomplishing something you weren't able accomplish earlier. I thought this until I conversed with Ketchikan officials today, where consolidation failed by a wide margin.

I learned that your preliminary and final reports were "extremely biased, written with a style which was critical, humiliating and belittling to concerns you regarded as inconsequential". I agree.

Consolidation requires concerted political dealing and distortion to be successful and if it passes in Haines, it will be due to those manipulations. While Fairbanks presently votes on the issue, Ketchikan has rejected consolidation. It is my understanding that consolidation has not yet passed anywhere in Alaska, which in itself is a statement about the ordinary wisdom of the enlightened voter.

I would make further comment on the contents of the document, but your one sided analysis has created a 'what's the use' attitude in me. Perhaps that is what is so often meant when consolidation is advertised as 'bringing people together'. In fact, people have said as much...consolidate and we can 'control' that segment or that population. There you have it and you are a significant party to that kind of community building.

Can you live with it?

Ron Weishahn



HAINES BOROUGH Box 1209, Haines, Alaska 99827 (907) 766-2711 FAX 766-2716

8-09-01

Local Boundary Commission
550 West 7th Ave., Suite 1770
Anchorage, AK 99501-3510
FAX 269-4539

Re: Written Comment on Preliminary Report on the Proposal to Consolidate the City of Haines and the Haines Borough.

To Whom It May Concern:

This is in regards to DCED's preliminary report mentioned above. After reviewing the report we were disappointed at the error's and omissions in this very biased document. It is surprising that a Alaska State employee would be allowed to show such bias. The report is full of what would have to be considered sarcastic and snide remarks aimed at the Haines Borough. We had hoped to look to your agency as an information source and an unbiased agency and that we would be allowed to debate the issue of consolidation locally with all the information available. The venom and sarcasm displayed by your staff is very unprofessional. We as residents of the Haines Borough can and do have reasons both for and against consolidation and have some right to be biased one way or another. You don't have that right. You work for all of us. We submit that having a former City of Haines Administrator overseeing this process is not fair to any of the parties involved and is especially not fair to your staff person.

Other than numerous typographical error's you may want to change the following:

Error's

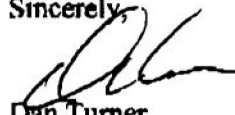
Page 66 The Haines Borough has not enacted an optional exemption for Seniors over \$150,000.

The Haines Borough has not elected to have the State levy the motor vehicle registration tax.

Comment

- Page 54 Neither the petitioner nor LBC staff mention the 1.5% sales currently used for police and fire protection within the City. This tax along with the 1% tourism tax and the 1.5 % for capitol improvements will continue to be spent within the City limits. Even though it is paid by all borough residents. So borough residents outside city limits will have the benefit of paying twice for fire and police. Once in their own area if they form a fire or police protection service area and again when their sales tax dollars pay for police and fire within the old City of Haines. They may vote to extend these services areawide, but the vote would be dependant on voters in the old City of Haines agreeing to share sales tax revenue areawide thereby raising their property tax mill rate by from 2-4 mills. Not likely.
- Page 87 If the Local Boundary Commission found in a recent proceeding that there is a preference for the gradual elimination of cities within boroughs then why is the Local Boundary Staff pushing a form of government that allows for multiple cities within a borough. Local Boundary Staff has even used the argument that we can have multiple cities after consolidation as one of the benefits of consolidation.

Sincerely,



Dan Turner
Assessor/Land Manager

For

Jerry Lapp
Haines Borough Mayor

Subject: Consolidation

Date: Fri, 10 Aug 2001 16:43:04 -0800

From: "Rich Tolles" <santaak@hotmail.com>

To: Dan_Bockhorst@dced.state.ak.us

I am responding to the Executive Summary on the proposal to Consolidate the City and Borough of Haines.

I have not been convinced that the consolidation will accomplish any good for the rural residents of the Haines Borough. I have lived in Alaska for many years, but I have lived in many other states as well. Nowhere have I seen this type of government work the rural "county" or "borough" residents do not get fair representation. The numbers of voters in the city can and will over power the lesser numbers of rural residents.

It was demonstrated very clearly to me at The latest helitour meeting that the city has no interest in the opinions of the rural voters. Consolidation will only enhance the position of the city.

Get your FREE download of MSN Explorer at <http://explorer.msn.com/intl.asp>

Local Boundary Commission
550 West 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510

Friday, August 10, 2001

Fax# 907-269-4539

I am submitting to you my written comments on the Executive Summary , Preliminary Report - Proposal to Consolidate the City of Haines and the Haines Borough.

As a Haines Borough resident and property owner I am opposed to the consolidation of these two governments because I believe separate City and Borough governments provide a system of checks and balances that assures equitable representation for all the citizens of this Valley

If anything, the current proposal seems to have raised even more concerns by eliminating election of Assembly members from area districts. I believe district representation is vital to all forms of fair and honest Governments.

Sincerely,

Judith A. Tolles
HC 60 Box 4012
Haines, Ak 99827

PETER M. & LINDA C. ENTICKNAP

PO BOX 1086 HAINES, ALASKA 99827

Phone (907) 766-2257 ♦ Fax 766-2455

RECEIVED

AUG 10 2000

Local Boundary Commission

August 8, 2001

Local Boundary Commission
550 West 7th Avenue, S-1770
Anchorage, AK 99501-3510

RE: Consolidation of Haines Borough and City of Haines

The Haines Borough has existed since 1968. It has functioned extraordinarily well in serving the needs of local residents during the past thirty-three years. The DCED report Executive Summary dated July 2001 fails to demonstrate the benefits or costs of consolidation and does not answer numerous valid questions raised by the Borough's Responsive Brief.

The Haines Borough is about the size of the State of Delaware. Its population is very diverse with many geographic, social and culturally unique communities. There are at least seven separate communities within the Borough, some as different as night and day from one another. Many still live the independent Alaska pioneer life depending on subsistence and without modern conveniences while others live in a dense suburban environment and earn their living in a 9-5 office. The Executive Summary (Page 9) states that Haines is like other organized boroughs that have populations concentrated in one or two communities. This is obviously not true as evidenced by the very separate and distinct communities shown on the Executive Summary cover.

The report does not find any substantive fault with the current government. The Borough government provides only those essential services required by it's residents. Those needing additional services such as road maintenance, can form a service area, tax themselves and manage the services to be provided. This is democracy in its purist form with no intrusive government, bureaucracy or taxes that are not supported by and directly benefit the voters in the service area.

The DCED has shown extreme bias. After discovering the City did not plan to respond to the Borough's Responsive Brief and did not do so within the prescribed deadline, DCED staff contacted the City and encouraged them to submit a rebuttal to the Borough's brief and gave the City additional time to do so. This bias is demonstrated throughout the Executive Summary. The report simply attempts to put down any views opposed to consolidation while side stepping the serious and valid concerns raised by the Borough's Responsive Brief. The city allowed only 43 minutes of public testimony on their consolidation plan before the Mayor pounded his gavel and said "Enough of this coffee shop talk, let's get on with it". So much for public involvement.

Consolidation is obviously the DCED pre-determined choice. The report fails to demonstrate any cost savings, improved delivery of services or efficiencies resulting from consolidation. The creation of a large city service area appears to violate state law and legislative intent. The only potential 'benefit' is that the new government can address the departure of Royal Caribbean International (a convicted Federal felon) from Haines with "one voice." One voice means that other voices of opposing views will not be heard. The Borough residents were never given the opportunity to vote for the cruise ship dock. This city's debt burden without ships to pay for it has now placed the city in financial difficulties. Is consolidation now designed to bail out the City? The City has debts of over - \$3,500,000. A recent shake up in the City's accounting department revealed that their accounts are in total disarray. What will become of the Borough's +\$6,000,000 cash and investment balance? What will prevent the City service area residents (the population majority by 75.7%) from tapping the Borough's accounts to pay for the City's financial mess once they gain control of the government? With 75.7% of the voters in the City, will there be any voice of opposition or contrary opinion in the new government?

"...the City's debt load and fiscal mistakes in the past {that}[suggest] this petition is an attempt [to] obtain borough resources to pay down the City's debt."

Who will pay for consolidation and at what cost? Tax revenue from all borough residents will pay for capital improvements, road maintenance, service area administration and service area police and fire service in the Townsite Service Area. This plan sounds more like an attempt to consolidate power, grab the Borough's cash and silence minority views. The report is silent of these critical issues.

Without elected district representation for the consolidated government and proposed planning commission it is likely that power will shift to the City service area with a population of 76% of all borough residents. The distinct and unique communities currently served by the Haines Borough will be disenfranchised. Long fought for community planning and zoning such as the Mud Bay and Lutak Land Use Service Areas may be wiped off the table. Elected boards will be dissolved. These communities will once again have to fight for local planning with a board appointed by the new mayor. Will we have one voice or no voice without local representation? The new government is under no obligation to honor these existing Land Use Service areas, which have functioned effectively in representing the interests of these separate communities. Upon consolidation the new General Use zone will permit any use with no possibility of protest or appeal (Haines Consolidation petition Exhibit J pages 7-8) So much for democracy!

This consolidation proposal is simply annexation of the remaining Haines Borough by the City. Unique communities will likely lose local planning and zoning and all representation in both government and the new zoning board. Residents who were recently annexed by the City say the only benefit they have experienced since being forced into the city has been a **50% increase in their taxes**.


If this plan included district representation, an elected planned board by districts, retention of existing service areas and guarantees that the Borough's funds cannot be used for city debts we would support it.

The Executive Summary does not address issues raised by the Borough's response:

- What are the financial costs and benefits of consolidation?
- What will likely happen to property taxes?
- How does consolidation reduce government units by creating a massive townsite service area?
- How will delivery of services improve?
- What will prevent a raid on the Borough's accounts to pay for City debts?
- What assurances are there that current Service Area planning will not be eliminated?
- How many times do we have to VOTE NO to understand the meaning of NO?
- One voice or no voice without local representation?

With one voice we say NO TO CONSOLIDATION WITHOUT REPRESENTATION!

Yours,



Linda C. Etickney



CITY OF HAINES, ALASKA

P.O. BOX 1049

HAINES, ALASKA 99827

(907) 766-2231 • TOURISM (907) 766-2234 • FAX (907) 766-3179

RECEIVED

AUG 10 2000

August 10, 2001

Local Boundary Commission

Local Boundary Commission
550 West 7th Avenue, Suite 1770
Anchorage, AK 99501-3510

RE: Comments on the Preliminary Report on the Proposal to
Consolidate the City of Haines and the Haines Borough

Local Boundary Commission:

I have received and reviewed the preliminary report for the Haines consolidation. The report is well put together and informative. It provides excellent background on the subject and well-reasoned descriptions of the pertinent issues raised to date. The City of Haines will be distributing the executive summary widely to help inform the community on this issue. My thanks to your staff for their substantial work on this.

There is still one issue that requires further clarification. It involves your recommended technical revision number four, regarding deletion of economic development and tourism from the list of areawide powers. These powers have been difficult to classify. Clearly, although currently offered only through the City, both of them are, for all intents and purposes, provided areawide. Economic development in particular should be classified as an areawide power. In the previous fiscal year, the economic development effort was partially funded by a grant through the Borough. The oversight board included Borough representation. The City suggests that economic development remain classified as an areawide power.

Haines Comments To Local Boundary Commission
August 10, 2001

Page Two

A similar argument could be made for Tourism Promotion; however, this power is currently funded by a 1% City sales tax. The City (Townsite Service Area) expects to continue exercising this function as in the past, which provides areawide benefits; however, since it would require extension of the 1% sales tax outside the City, this should be addressed by the voters after consolidation.

It is interesting to note that yesterday an initiative was approved by the Borough to allow a vote on establishing a service area for helicopter tourism. The service area would be defined as the area of the Borough outside of the City of Haines. If approved, the measure will allow the small percentage of Borough voters outside the City of Haines to dictate all aspects of an industry that has a substantial impact on Borough residents within the City. The same tactic could be used to regulate many other businesses that operate from the City of Haines, but provide services outside the City limits. This situation shows how the will of a majority of Borough residents could be overridden by a handful of residents outside the City. This Balkanization of our community will continue until we consolidate under one government.

Other than the item of clarification regarding economic development, the City of Haines agrees with the preliminary report and looks forward to approval of the petition by the Commission. Thank you for your consideration.

Sincerely,



Donald E. Otis
Mayor
CITY OF HAINES

Subject:

Date: Fri, 10 Aug 2001 00:58:32 -0800

From: Andrews <andrews@denali.aptalaska.net>

To: Dan_Bockhorst@dced.state.ak.us

To: Dan_Bockhorst@dced.state.ak.us

From: Robert Andrews

Re: Response to Preliminary report on Haines Consolidation Proposal

Dan Bockhorst,

I have read your attempt at justification of the Haines Consolidation Proposal. It is positively unbelievable! I find it amazing that you were able to negate each and every comment made in letters to you. Naturally, the general public never saw those letters in your one-sided report, as you neglected to include them in an appendix. The entire slant of this remarkable work of fiction was based on the premise that consolidation was the only answer.

Imagine what a bunch of dummies we are here in Haines, that we couldn't come up with even one viable point for discussion.

I feel your report could just as easily have been written before any public input as it is apparent the decision was made long beforehand. You have demeaned the public process and made a mockery of those you are supposed to be serving.

As we discuss this issue, thousands of people along India's Narmada River are being displaced by a series of dams being built. Homes and farmland are being inundated while people are left to shift for themselves. All these events have happened after the people voted against the dams and were given

assurances by the government that all would end well.

Why this mention of far-off India? It seems to me to be a similar situation. People of Haines voted AGAINST consolidation, were given assurances that our concerns would be met, and now are being ignored. Consolidation is being crammed down our throats no matter what the facts might be.

Why the facade of "public process"? Is the state of Alaska that anxious to experiment with consolidation at Haines' expense? Why has every other community considering this voted it down?

As a public servant, I feel you owe the community of Haines an unbiased report - that would be one in which BOTH sides of the issue are presented. In this, you have failed miserably.

Robert Andrews
Haines, Alaska

Subject: Comments on Preliminary Report, July 2001

Date: Fri, 10 Aug 2001 03:08:09 -0800

From: Weishahn <weis@aptalaska.net>

To: Dan_Bockhorst@dced.state.ak.us

To: Dan Bockhorst, Local Boundary Commission

The Preliminary Report on the Proposal to Consolidate the City of Haines and the Haines Borough was disappointing on several accounts: it was totally one-sided in support of consolidation; comments were made on selected respondents--out of context--and only regarding those respondents who sited problems with consolidation; there was no appendix of responses received so all could draw their own conclusions; and the DCED made the bold assumption that they have unique insights into our community, far surpassing those of the residents of Haines. Instead of telling us that consolidation is the "best" government for Haines, the DCED should handle legal requirements and procedures for placing the issue before the voters, facilitate public hearings, provide information, answer questions, and then leave the discussion of pros and cons up to the voters. There is no "right" or "wrong" outcome of this vote--only what the majority decides is best for Haines. We are very capable of determining our preferred form of government--be it to consolidate or retain the status quo.

In future reports, I recommend the DCED include all comments, in toto, for consideration by the voters, and don't assume you know what is best for our community.

Sincerely, Carolyn Weishahn

P.S. My neighbor, Judy Tolles, sent a comment via email to you and she was not listed as a respondent. Perhaps it was an oversight in the list?



Members

Kevin Waring
Chairperson

*First Judicial
District*

*Second Judicial
District*

Allan Tesche
Member
Third Judicial
District

Ardith Lynch
Member
Fourth Judicial
District



Appendix C

State of Alaska
Local Boundary Commission (LBC)

NOTICE OF PUBLIC HEARING **Regarding Proposal to Consolidate the City of Haines** **and Haines Borough**

The LBC will conduct a public hearing as noted below to consider and act upon the December 20, 2000 petition by the City of Haines for consolidation of the City of Haines and the Haines Borough.

**Hearing Date & Time: Saturday, March 9, 2002, beginning
at 10:00 a.m.**

**Hearing Location: Haines City Hall
Council Chambers
Haines, Alaska**

Other hearing sites may be established by teleconference.

The hearing will be conducted in accordance with 3 AAC 110.560. Immediately following the hearing, the LBC may conduct a decisional session on the matter in accordance with 3 AAC 110.570.

Individuals with disabilities who need reasonable accommodations to participate at the hearing should contact LBC staff by February 20, 2002. Questions regarding the hearing may be directed to:

LBC Staff
Department of Community and Economic Development
550 W. 7th Avenue, Suite 1770
Anchorage, Alaska 99501-3510
Telephone: (907) 269-4559
Fax: (907) 269-4539



Members

*Kevin Waring
Chairperson
At-Large*

*First Judicial
District*

*Second Judicial
District*

*Allan Tesche
Member
Third Judicial
District*

*Ardith Lynch
Member
Fourth Judicial
District*



Appendix D

Agenda

Public Hearing

Haines Consolidation Petition

10:00 a.m., March 9, 2002
Haines City Council Chambers

- I. Call to order
- II. Roll call & determination of quorum
- III. Approval of agenda
- IV. Comments by members of the Local Boundary Commission
- V. Comments by members of the public concerning matters **not** on the agenda
- VI. Public hearing on petition for consolidation of the City of Haines and the Haines Borough
 - A. Summary by DCED of its conclusions & recommendations
 - B. Petitioner's (City of Haines) opening statement (limited to 10 minutes)
 - C. Respondent's (Haines Borough) opening statement (limited to 10 minutes)
 - D. Sworn testimony of witnesses with relevant expertise called by the Petitioner
 - E. Sworn testimony of witnesses with relevant expertise called by the respondent
 - F. Sworn responsive testimony of witnesses called by the Petitioner
 - G. Period of public comment by interested persons (limited to 3 minutes per person)
 - H. Petitioner's closing statement (limited to 10 minutes)
 - I. Respondent's closing statement (limited to 10 minutes)
 - J. Petitioner's Reply (limited to 5 minutes)
- VII. Decisional session concerning the Haines consolidation petition (optional)
- VIII. Comments from Commissioners and staff
- IX. Recess or Adjourn



Members

Kevin Waring
Chairperson
At-Large

Member
First Judicial District

Member
Second Judicial District

Allan Tesche
Member
Third Judicial District

Ardith Lynch
Member
Fourth Judicial District



Appendix E

TIPS FOR EFFECTIVE PUBLIC COMMENT

If you plan to offer comments at the public hearing before the Local Boundary Commission (LBC) on the proposed consolidation of the City of Haines and the Haines Borough, the following tips are offered to make your comments more effective.

1. Come prepared and informed. Plan your comments in advance. Prior to the hearing you may wish to review:

- ♦ the consolidation standards and procedures established in State law (see summary below);
- ♦ the consolidation petition; responsive briefs, and written comments on the petition,
- ♦ DCED's preliminary report, public comments on the preliminary report, and DCED's final report.

The above materials are available at the Haines Library and the Haines City Hall. The documents are also available on the LBC web site at <http://www.dced.state.ak.us/cbd/lbc/lbc.htm>.

2. Provide relevant comments or testimony. The LBC's decision on the consolidation proposal will be based on standards established in law and applied to the facts of the proposal. Comments that address those standards will be most helpful to the LBC. In summary, the relevant standards relate to whether the proposed consolidated borough:

- ♦ embraces an area and population with common interests to the maximum degree possible;
- ♦ includes an area with transportation and communication facilities which allow communication and exchange necessary for development of integrated borough government;
- ♦ includes a population large and stable enough to support the proposed borough government;
- ♦ has boundaries that conform generally to natural geography and include all areas necessary for full development of municipal services on an efficient, cost-effective level;
- ♦ has boundaries that do not extend beyond the model borough boundaries adopted by the Commission or overlap another existing borough;
- ♦ has sufficient human and financial resources to operate a borough government;
- ♦ does not propose to consolidate as a third class borough;
- ♦ would not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin as a result of consolidation;
- ♦ would provide for an appropriate transition with respect to services, rights, powers, duties, assets, and liabilities of the former local governments;
- ♦ promotes maximum local self-government;
- ♦ promotes a minimum of local government units;
- ♦ serves constitutional principles regarding preferred methods of service delivery (city governments vs. borough service areas); and
- ♦ serves the best interests of the State of Alaska.

3. Observe the rules.

- ♦ New written materials may not be filed at the hearing unless good cause for such is shown.
- ♦ Public comment will be limited to 3 minutes per speaker (does not apply to Petitioners' Representative and respondents) to ensure that the LBC will be able to hear from all persons who wish to speak. Please honor the time limits.

4. Avoid repetition. If an earlier speaker has addressed certain points to your satisfaction, you may wish to simply note that you agree with the earlier remarks, and then spend your allotted time on topics that have not yet been addressed.

Appendix F

HOUSE BILL NO. 296

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE WHITAKER

Introduced: 1/14/02

Referred: Community and Regional Affairs

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to mergers and consolidations of municipalities."**

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

3 * **Section 1.** AS 29.06.100(a) is amended to read:

4 (a) Residents of two or more municipalities may file a merger or consolidation
5 petition with the department. The petition must be signed **during a period that does**
6 **not exceed 365 consecutive days** by a number of voters of each existing municipality
7 equal to at least 25 percent of the number of votes cast in each municipality's last
8 regular election.

9 * **Sec. 2.** AS 29.06.140(a) is amended to read:

10 (a) The Local Boundary Commission shall immediately notify the director of
11 elections of its acceptance of a merger or consolidation petition. Within 30 days after
12 notification, the director of elections shall order an election in the area to be included
13 in the new municipality to determine whether the voters desire merger or
14 consolidation. The election shall be held not less than 30 or more than 90 days after
15 the election order. A voter who is a resident of the area to be included in the proposed

1 municipality may vote. **If a majority of the votes in each of the municipalities**
2 **proposed to be merged or consolidated favors the merger or consolidation, the**
3 **proposal is approved.**

4 * Sec. 3. AS 29.06.140(b) is amended to read:

5 (b) **A question involving a service area required to be submitted to voters**
6 **under AS 29.35.450 or 29.35.490 may not be part of the merger or consolidation**
7 **petition submitted under AS 29.06.100 or part of the merger or consolidation**
8 **question.** A home rule charter in a merger or consolidation petition submitted under
9 AS 29.06.100(b)(5) is part of the merger or consolidation question. The charter is
10 adopted if the voters approve the merger or consolidation. The director of elections
11 shall supervise the election in the general manner prescribed by AS 15 (Election
12 Code). The state shall pay all election costs.