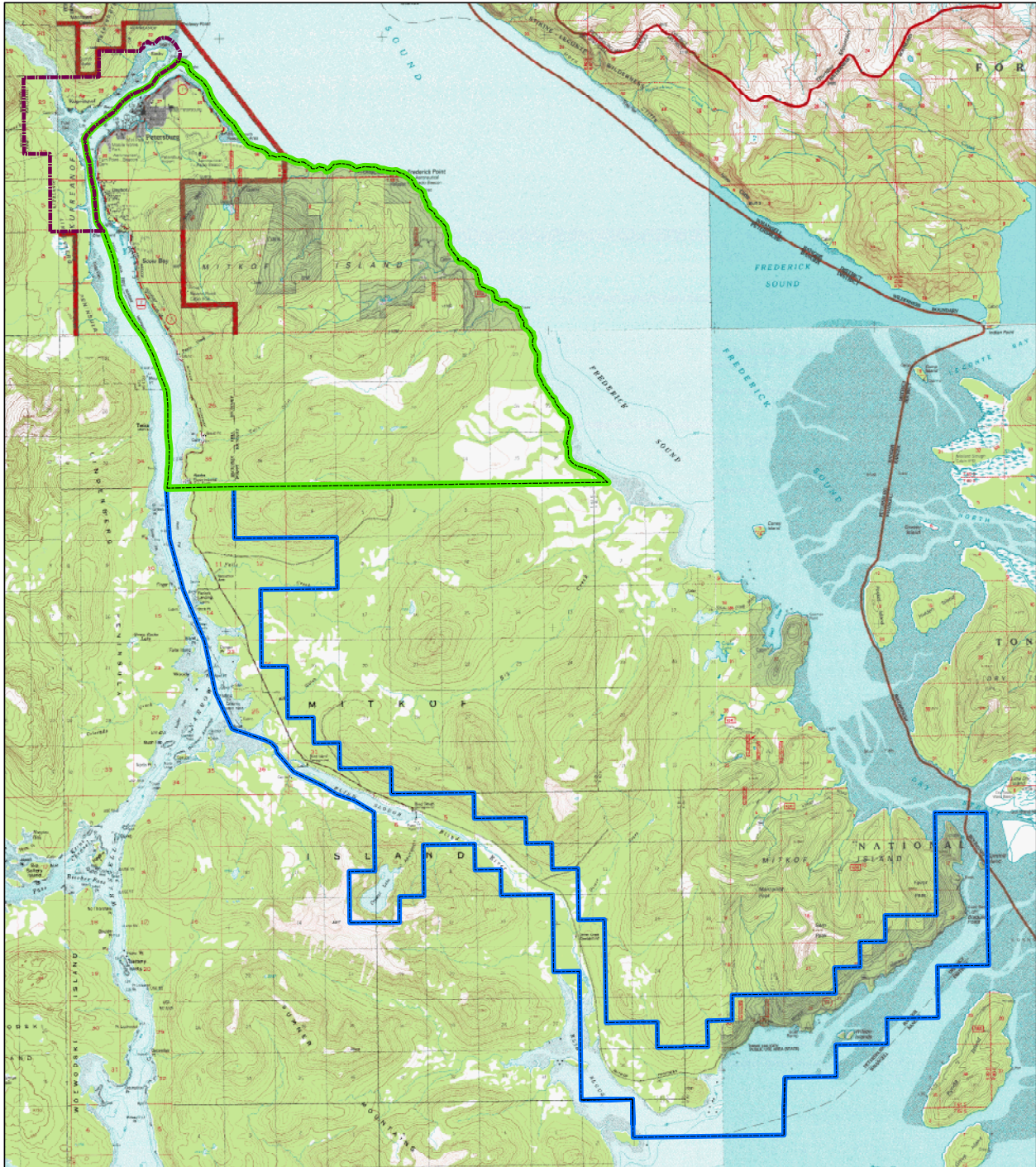



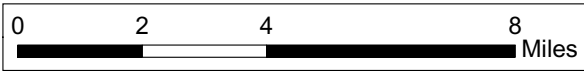


City of Petersburg Current and Proposed Boundaries



-  City of Kupreanof Boundary
-  City of Petersburg Since 1978
-  2005 Proposed Annexation



Chapter

Background

On October 14, 2004, the City of Petersburg (hereinafter "City" or "Petitioner") petitioned the Alaska Local Boundary Commission (hereinafter "LBC" or "Commission") for annexation of an estimated 34.2 square miles. The Petitioner estimated that the territory proposed for annexation was inhabited at the time by 162 individuals in approximately 78 residences and approximately eleven commercial businesses. The boundary change is proposed under the legislative review process authorized by Article X, Section 12 of the Constitution of the State of Alaska and AS 29.06.040(b).¹ This Petition for annexation will be subject to approval by a majority of the aggregate voters who will vote on the question within the area proposed for annexation and the annexing municipality.²

The Alaska Department of Commerce, Community, and Economic Development (Commerce) has a duty under State law to examine proposals for annexation and to provide non-binding recommendations for consideration by the Local Boundary Commission. This report offers Commerce's preliminary analyses, conclusions, and recommendations concerning the City of Petersburg's petition for annexation.

¹ Article X, Section 12 states:

SECTION 12. BOUNDARIES. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

AS 29.06.040(b) states:

The Local Boundary Commission may present a proposed municipal boundary change to the legislature during the first 10 days of a regular session. The change becomes effective 45 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

² Aggregate voting is provided for by regulation 3 AAC 110.600(c), which is authorized by AS 29.06.040(c) and AS 44.33.812(a)(2).

This chapter provides background information about the pending annexation Petition. Included is an outline of the changes that annexation would bring about if the proposal is approved by both the Commission and the legislature. Additionally, information is provided about the Commission and the legal standards that govern annexation of territory to cities in Alaska.

Appendix A provides a glossary of terms used in this report that have particular meaning in the context of the Petersburg annexation proposal.

1.1 Effects of Annexation

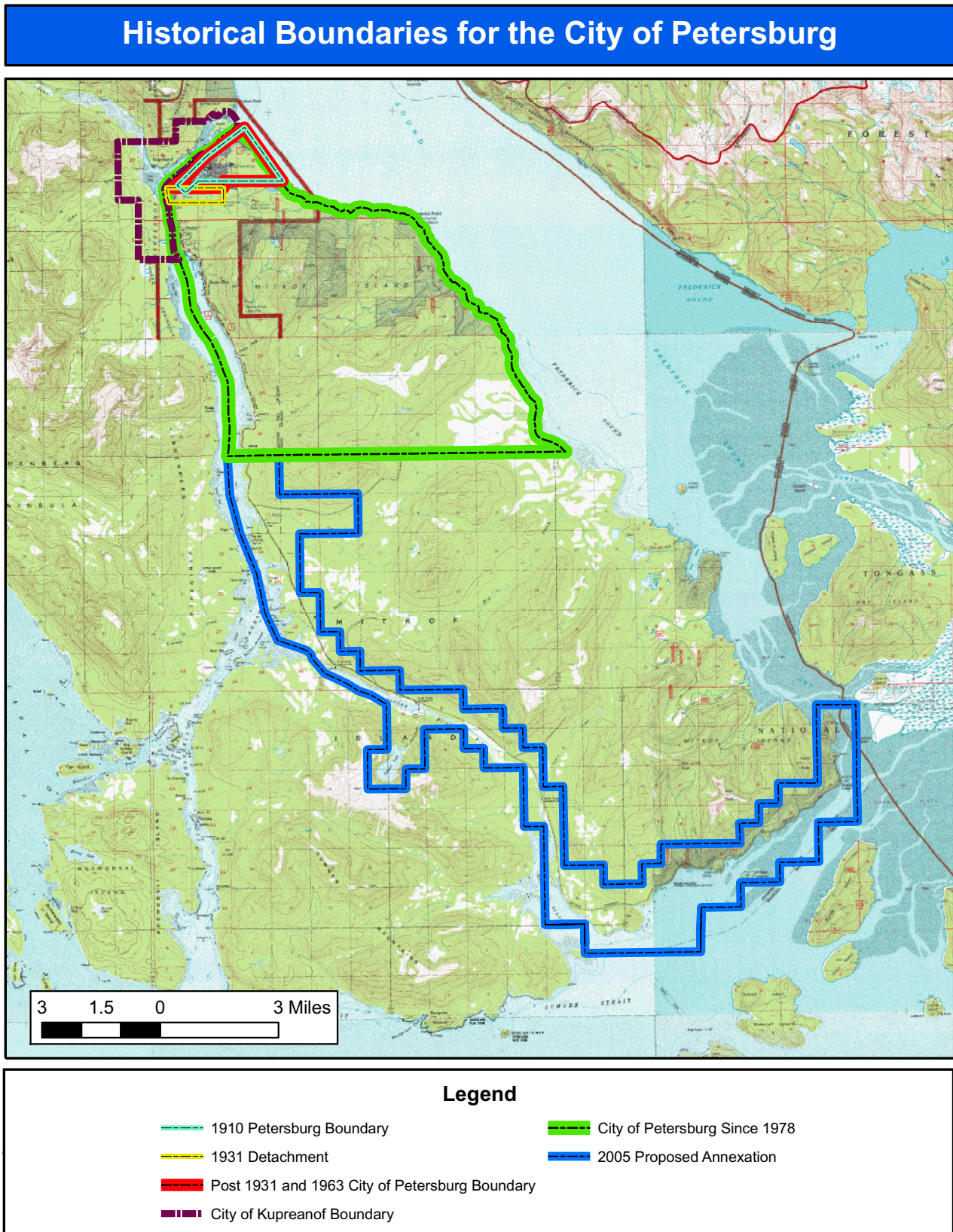
The following summarizes the effects of the proposed annexation on the structure of local government in Petersburg if the Local Boundary Commission and the legislature approve the annexation proposal.

The Petition estimates that the annual value of sales in the territory that would be subject to City sales tax upon annexation totals \$14,102,848. According to the Petition, levy of the City's sales tax would generate an estimated \$286,288 to the City General Fund, \$103,656 to the City Water & Sewer Fund and \$103,656 to the City Road Fund.]

The Petition states that City services will be extended to the newly-encompassed area as follows:

- increased police protection by adding an additional police officer to provide regular coverage for the area;
- improved snow removal service by providing snow removal and sanding services on non-state roads in the annexed area;
- improved fire protection including, in the second year after annexation, construction of a fire response substation at Papkes Landing that will house a fire truck and a plow truck for snow removal;
- improved EMS/search and rescue services;
- building code and fire marshal inspections;
- improved recreation facility management; and
- planning and zoning.

Figure 1-1. Historical Boundaries for the City of Petersburg.



1.2 Petersburg City Government

A. Incorporation, Prior Boundary Changes, and Form of Government

1) Incorporation of the City of Petersburg on April 11, 1910

On December 18, 1908, a petition seeking incorporation of the Town of Petersburg under Chapter XXI Part V, Laws of Alaska, was filed with United States District Judge Royal Arch Gunnison. The petition, which bore the signatures of 73 residents of Petersburg, stated that 350 permanent inhabitants resided in the territory proposed for incorporation. The territory reportedly included “one saw-mill with lumber yards attached; three general merchandise stores; two restaurant[s]; one barber shop; with more stores in the process of erection; one machine shop with shipways; one salmon cannery and one wharf for the transportation of passengers and freight.”

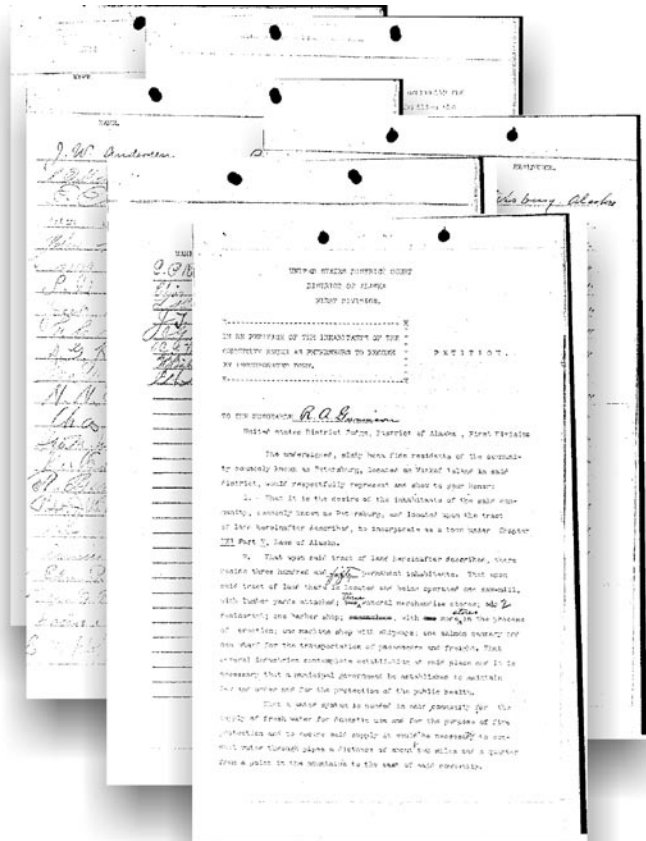
The boundaries proposed by the petitioners were described as follows:

Commencing at a point on the north line of survey numbered two-hundred and eighty three (283) on Mitkof Island, about twelve (12) chains west from the Northeast corner of said survey, to where said north line of said survey meets tide water of Wrangell Strait; then due East to Frederick Sound; thence northerly along the westerly shore of said Sound to the mouth of Wrangell Strait; thence in a Southerly direction along the easterly shore of said Wrangell Strait (commonly known as Wrangell Narrows) to the point of beginning.

The petitioners described the need for a municipal government as follows:

. . . it is necessary that a municipal government be established to maintain law and order and for the protection of the public health.

Figure 1-2. Voters in Petersburg petitioned for incorporation of the Town of Petersburg on December 18, 1908.



That a water system is needed in said community for the supply of fresh water for domestic use and for the purpose of fire protection and to secure said supply it would be necessary to conduct water through pipes a distance of about two miles and a quarter from a point in the mountains to the east of said community.

That there are thirty children of school age in said community and at present no school facilities. That there are several families who wish to settle in said community as soon as the same is incorporated so that provisions can be made for street improvement, fire protection, water supply, public schools and police protection.

Petition for Incorporation of the Town of Petersburg, pp. 1 - 2, 1908.

A hearing was scheduled on the petition on November 1, 1909, before Judge Edward E. Cushman in the Federal Court House in Juneau. The hearing was continued to November 15, 1909, in Skagway. At the November 15 hearing, the Judge determined that an insufficient number of qualified individuals had signed the petition. The Judge allowed the petition to be withdrawn for the purpose of gathering additional signatures.

The required additional signatures were obtained and the petition was refiled on December 1, 1909. A hearing on the petition was scheduled for January 17, 1910, at the Federal Court House in Juneau.

Following the January hearing, Judge Cushman determined that the boundaries proposed by the petitioners were "insufficient and should be extended." Judge Cushman amended the boundaries to read as follows:

Beginning at Corner No. 5 of U.S. Survey No. 283 on Mitkof Island, First Judicial Division of Alaska, at the mean high tide line of Wrangell Strait, whence corner No. 1 of U.S. Survey No. 283 bears N. 47 degrees 45 minutes E., 2367.42 feet distant; thence due East, 11,300 feet to deep water of Frederick Sound; thence North 35 degrees and 37 minutes West, 8800 feet parallel to the westerly shore of said Frederick Sound to the mouth of Wrangell Strait; thence South 52 degrees and 45 minutes west, 6300 feet along said Wrangell Strait; thence South 42 degrees and 30 minutes west, 3300 feet, along said Wrangell Strait, to a point opposite said corner No. 5 of U.S. Survey No. 283; thence South 47 degrees and 30 minutes east, 1500 feet to said corner No. 5 of U.S. Survey No. 283, the place of beginning. All courses and distances being approximate and the former being expressed with reference to the true Meridian, with a magnetic variation of 30 degrees east. Reference is hereby had to Chart #8170 of Wrangell Strait filed herein on the 20th day of January 1910;

Court Order No. 707-A, District Court for the District of Alaska, Division No. One, at Juneau, pp. 1 - 3, April 11, 1910; p. 5.

Following the expansion of the petitioners' boundaries, Judge Cushman declared:

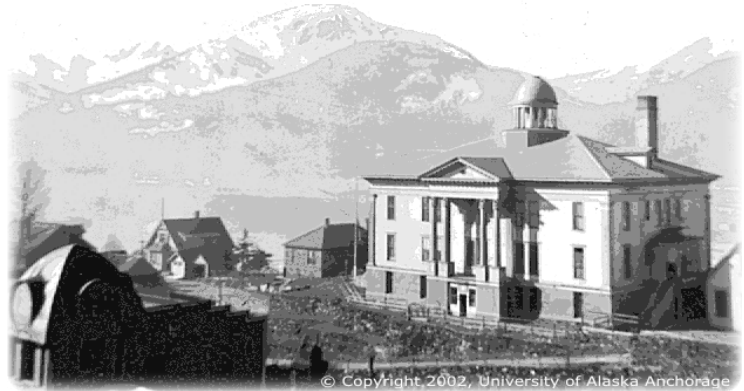
. . . the best interests and the well-fare of said community required that said community be incorporated as a Town and that the boundaries, as set forth in said petition, were insufficient and should be extended . . .

Id., p. 2.

Judge Cushman ordered an election on the proposed incorporation to be held February 28, 1910. At the election, 62 votes were cast. Fifty-five (88.7 percent) of the voters cast ballots in favor of incorporation. Following certification of the election results, on April 11, 1910, Judge Cushman declared the incorporation of the municipality as follows:

IT IS FURTHER ORDERED AND ADJUDGED, that the said Town of Petersburg, in the District of Alaska, being a Municipal Corporation, as aforesaid, have and possess all of the powers and privileges now by law conferred upon Municipal Corporations in the District of Alaska and such other powers and privileges as may hereafter be by law, given to such corporations.

Id., p 5.



At a hearing in Juneau on January 17, 1910, Federal District Court Judge Edward E. Cushman approved, with an amendment, the petition for incorporation of the Town of Petersburg.

2. Detachment of Territory from the City of Petersburg on November 10, 1931

In 1931, the City of Petersburg and owners of certain property within the boundaries of the City petitioned the Federal District Court to remove a tract of land from within the City's corporate boundaries. The tract of land in question was described as follows:

Commencing at corner No. 1, which is identical with corner No. 1, M.C. of survey No. 284 on Wrangell Strait, running thence east 6675 feet to corner No. 2, an iron pipe; thence north 1980 feet to corner No. 3; thence west 6000 feet to corner No. 4, which is identical with corner No.

3 M.C. of survey No. 1173 on Wrangell Strait; thence west to the median line of Wrangell Strait; thence in a southerly direction following the median line of Wrangell Strait to a point opposite corner No. 1; thence east to corner No. 1, the place of beginning.

Court Order No. 3202-A, District Court for the Territory of Alaska, Division No. One, p. 2, November 10, 1931.

The Court ordered an election to be held on October 31, 1931, regarding the proposed detachment. At the election, 108 votes were cast. Two of the votes were cast by residents of the territory proposed for detachment; both favored detachment. One hundred and six votes were cast in the remainder of the incorporated territory; all but four of those votes favored detachment. Judge Justin W. Harding declared the territory to be detached following a determination that voters had approved the proposal and:

. . . no objection has been filed or made herein by or on behalf of any person, to the exclusion of the property mentioned and described in said petition from the corporate limits and boundaries of the City of Petersburg, Alaska; and that all the provisions of the statutes for the exclusion of property from the limits of incorporated cities and towns in the Territory of Alaska have been substantially complied with.

The detachment took effect November 10, 1931. *Id.* Following the detachment, the corporate boundaries of the City of Petersburg encompassed an estimated 2.1 square miles. The post-detachment boundaries were described as follows:

Beginning at Corner No. 1, identical with Corner No. 3, M.C., U.S. Survey No. 1173; thence East a distance of 6,000.00 feet to Corner No. 2; thence North a distance of 920.00 feet to Corner No. 3; thence East a distance of 7,900.00 feet to deep water of Frederick Sound, Corner No. 4; thence North 35 degrees 37 minutes West parallel to the westerly shore of Frederick Sound a distance of 8,800.00 feet to the mouth of Wrangell Narrows, Corner No. 5; thence South 52 degrees 45 minutes West along Wrangell Narrows a distance of 6,300.00 feet to Corner No. 6; thence South 42 degrees 30 minutes West along Wrangell Narrows a distance of 3,300.00 feet to Corner No. 7; thence South 50 degrees 29 minutes 30 seconds west along Wrangell Narrows a distance of 3,396.50 feet to Corner No. 8; thence East a distance of 1,450 feet to Corner No. 1, the point of beginning.

3) Boundary Change(s) for Which Records are not Readily Available [Add info.]

4) Annexation Contemplated in 1975: Incorporation of the City of Kupreanof

In 1975, officials of the City of Petersburg earnestly contemplated a substantial municipal boundary expansion in two directions - one to the northwest and the other to the south. The former included the settlement commonly known then as West Petersburg, approximately one-half mile from Petersburg across the Wrangell Narrows on Kupreanof Island. Today, that settlement is known as Kupreanof.

The latter included the City's water supply system and properties along Mitkof Highway and Wrangell Narrows to Blind Slough, including the Crystal Lake watershed. (See letter from H.D. Scougal, Petersburg City Manager, to Local Boundary Commission dated May 20, 1975.)

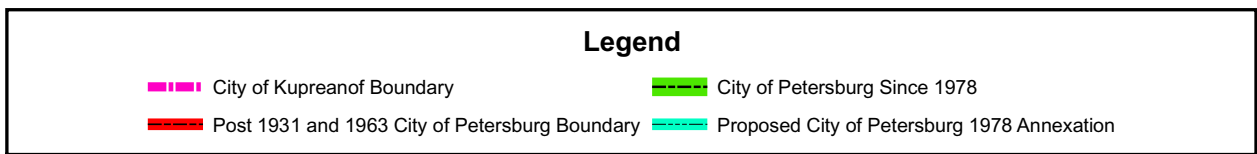
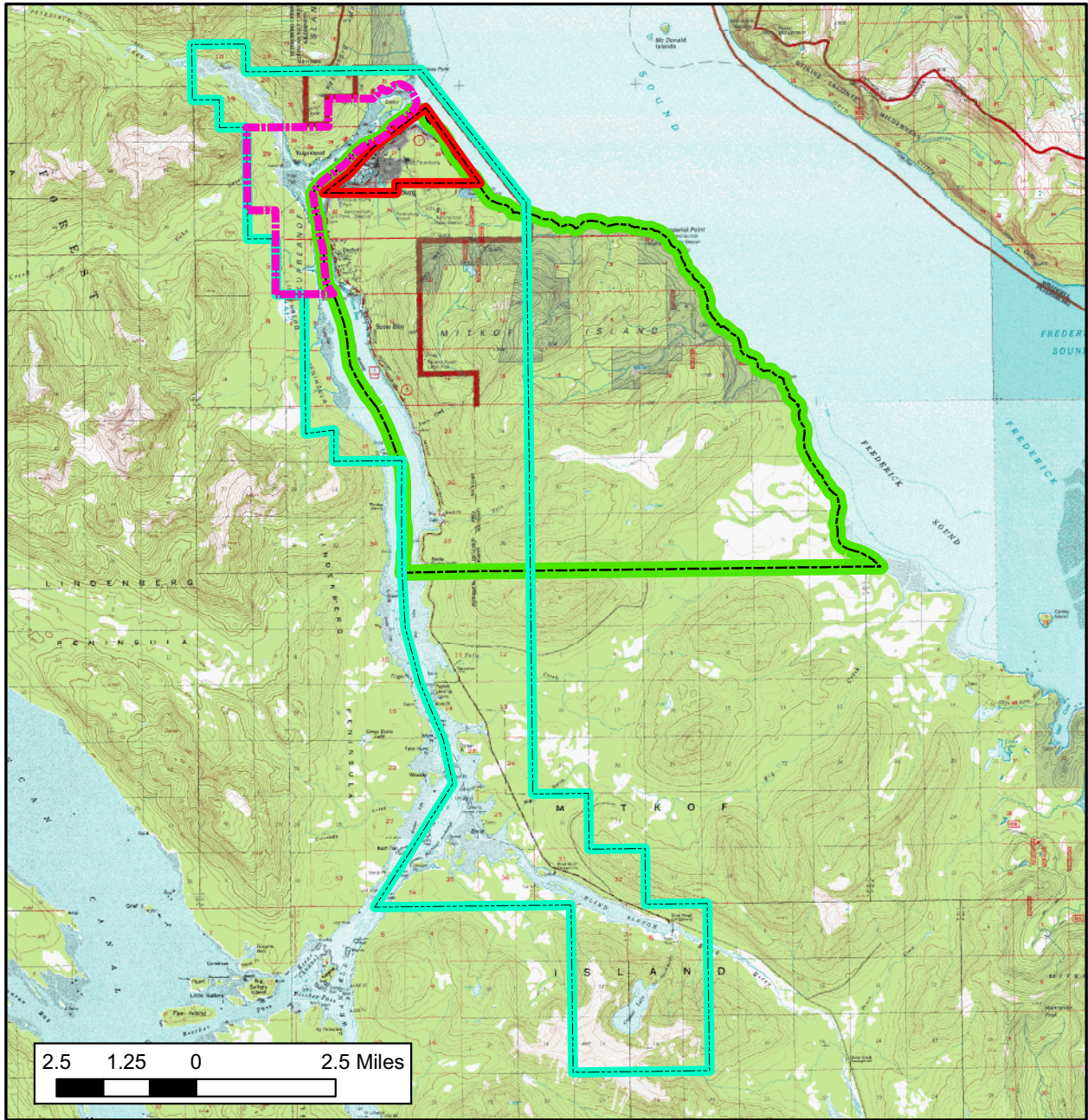
On April 18, 1975, while Petersburg officials were contemplating annexation, residents of West Petersburg filed a petition to incorporate a second-class city to be named the City of Kupreanof. Among the reasons for the incorporation proposal that were stated in the petition was the following:

Recently, the City of Petersburg has proposed annexation of West Petersburg. The residents of West Petersburg are unanimously opposed to this action. We prefer to form our own government so we who live there will be able to control our destiny and protect our way of life. In the past we have requested no assistance from the City of Petersburg and do not intend to in the future. West Petersburg does not meet any of the basic requirements for annexation; it is not contiguous, there is no intent for providing reasonable services such power, water, sewers or fire and police protection. We have nothing to gain and a great deal to lose. We are presently self-sufficient and prefer to remain that way.

Petition for Incorporation of the City of Kupreanof, Attachments, April 18, 1975.

Just as Commerce is required to do today, in 1975 its predecessor, the Department of Community and Regional Affairs (DCRA), was required to investigate and make recommendations to the LBC concerning municipal boundary proposals. DCRA

1975 City of Petersburg Proposed Annexation and City of Kupreanof Incorporation



recommended that the LBC reject the proposal to incorporate the City of Kupreanof as indicated in the following excerpt of the agency's formal report:

In reviewing the petition for the incorporation of west Petersburg as a second class city, the Department of Community and Regional Affairs would like to call several items to the attention of the Local Boundary Commission.

First, the boundaries of the proposed city appear to be too expansive for efficient local government. Further, they appear to be inordinately large in comparison with the population residing therein. (.076 persons per square mile.)

Second, west Petersburg has not demonstrated that it is a permanently located community having a population large and stable enough to support local government. At present, the community supports business interests outside the proposed city. No single business exists within the proposed municipal boundaries that is capable of contributing revenue to the proposed city.

Finally, the petitioners have presented numerous points in favor of incorporation. The majority of these points emphasize:

- (1) Opposition to annexation to the City of Petersburg
- (2) Desire to protect "our existing way of life"
- (3) A preference to "provide our own services"

The above points are questionable reasons for incorporation in view of the fact that little potential for the provision of municipal services currently exists.

It must be noted that in many second class cities whose population is below 100 persons (12 municipalities) the effectiveness of the council is questionable.

Conclusion

Pursuant to AS 29.18.100, Decision on City Incorporation, the Department recommends that in view of the boundaries presented and the reasons for incorporation which accompanied the petition, the petition for incorporation of "Kupreanof" be rejected.

. . . .

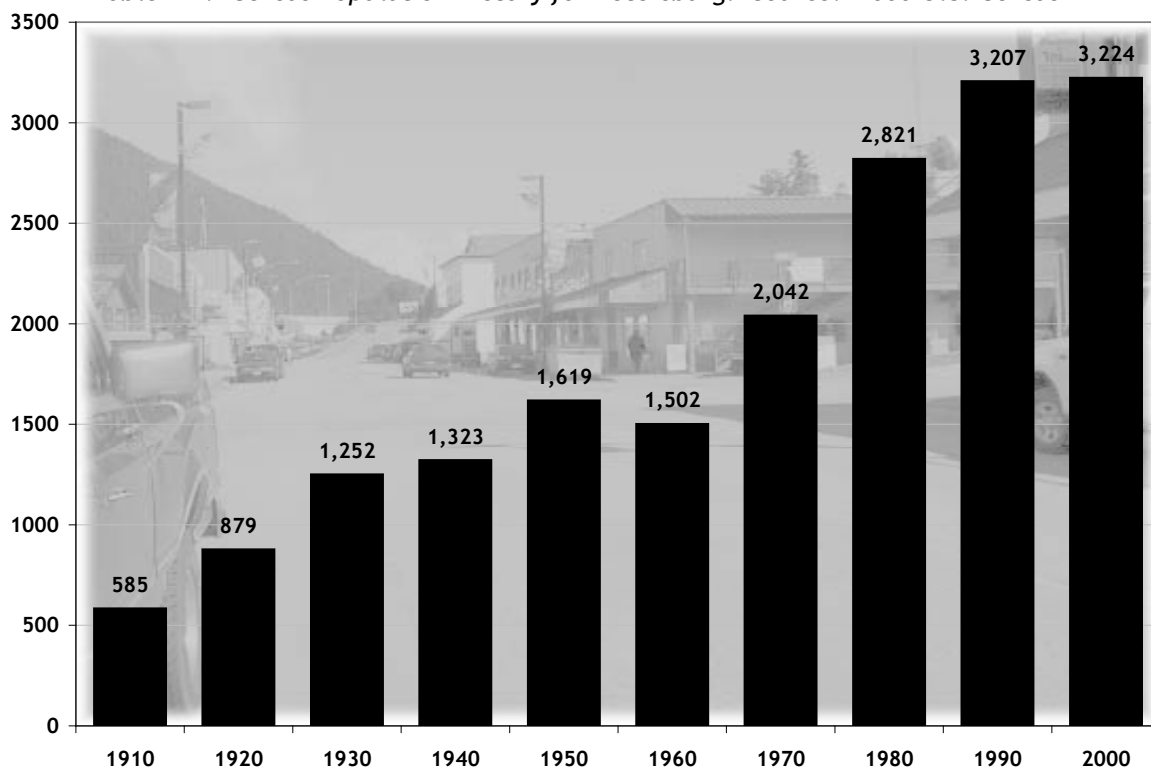
Since it is clear that employment, supply goods, and education are inextricably linked with the City of Petersburg, it appears that annexation to the City of Petersburg is an eventuality.

Report to the Local Boundary Commission on the proposed incorporation of Kupreanof as a city of the second class, Department of Community and Regional Affairs, April 30, 1975, pp. 4-5.

The LBC scheduled a hearing on the proposed incorporation of the City of Kupreanof to be held on May 24, 1975.

On May 19, 1975, the Petersburg City Council adopted Resolution No. 499-R, "declaring the City of Petersburg's opposition to the incorporation of Kupreanof as a second-class city." In addition to formally expressing opposition to the Kupreanof incorporation proposal, the resolution asked the LBC to postpone the May 24 hearing to allow consideration of a proposal for annexation of West Petersburg by the City of Petersburg."

Table 1-1. Census Population History for Petersburg. Source: 2000 U.S. Census



1.3 City of Petersburg

A. Location and Climate

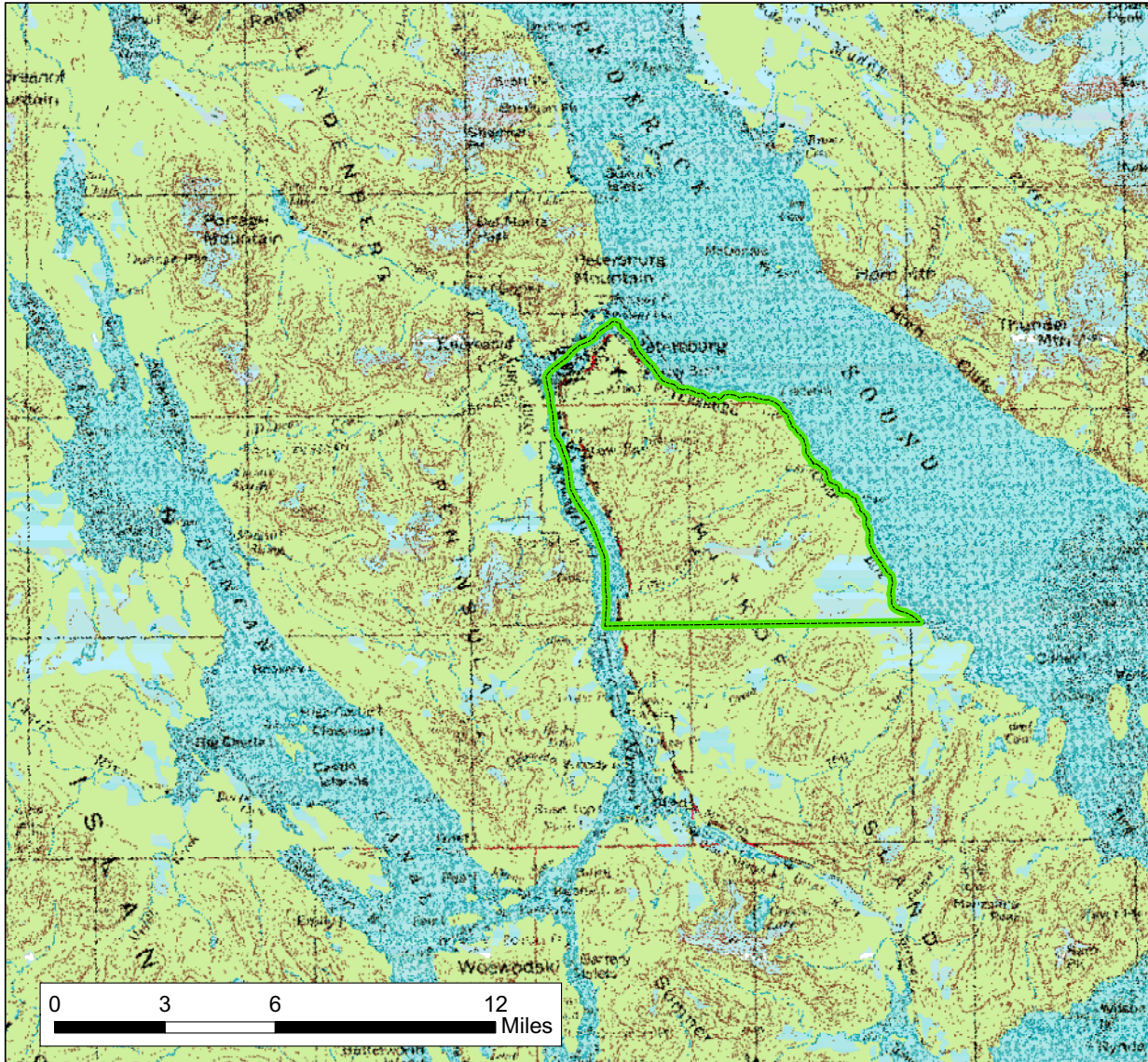
Petersburg is located on the northwest end of Mitkof Island, where the Wrangell Narrows meets Frederick Sound. It lies midway between Juneau and Ketchikan, about 120 miles from either community. The community lies at approximately 56.8125° North Latitude and -132.95556° West Longitude in Section 27, Township 58 South, Range 79 East, Copper River Meridian. Petersburg is located in the Petersburg Recording District. The area encompasses 43.9 square miles of land and 2.2 square miles of water. Petersburg's climate is characterized by mild winters, cool summers and year-round rainfall. Average summer temperatures range from 40 to 56 degrees Fahrenheit; winters average from 27 to 43 degrees. Annual precipitation averages 106.3 inches, including 97 inches of snow.

B. History, Culture and Demographics


Tlingit Indians from Kake utilized the north end of Mitkof Island as a summer fish camp. Some reportedly began living year-round at the site, including John Lot. Petersburg was named after Peter Buschmann, a Norwegian immigrant and a pioneer in the cannery business, who arrived in the late 1890's. He built the Icy Strait Packing Company cannery, a sawmill, and a dock by 1900. His family's homesteads grew into this community, populated largely by people of Scandinavian origin. In 1910, a City was formed. By 1920, 600 people lived in Petersburg year-round. During this time, fresh salmon and halibut were packed in glacier ice for shipment. Alaska's first shrimp processor, Alaska Glacier Seafoods, was founded in 1916. A cold storage plant was built in 1926. The cannery has operated continuously and is now known as Petersburg Fisheries, a subsidiary of Icycle Seafoods, Incorporated. Across the narrows is the town of Kupreanof, which was once busy with fur farms, a boat repair yard and a sawmill. Petersburg has developed into one of Alaska's major fishing communities.

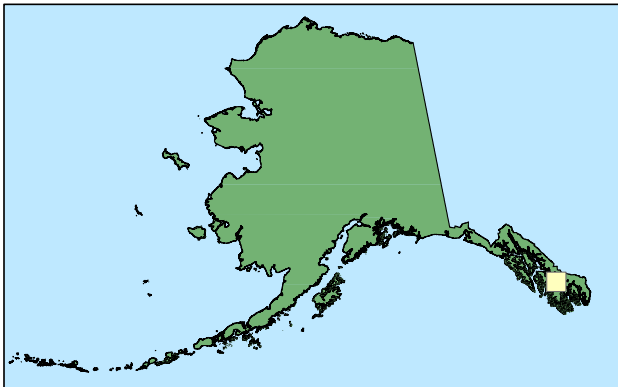
A federally-recognized tribe is located in the community -- the Petersburg Indian Association. The population of the community consists of 12% Alaska Native or part Alaska Native and/or American Indian. The community maintains a mixture of Tlingit and Scandinavian history. It is known as "Little Norway" for its history and annual Little Norway Festival in May. The 2000 U.S. Census reported 1,367 housing units in total, with 1,240 of those being occupied households and 127 vacant houses. Of those vacant households, 27 were vacant due to seasonal use. The 2000 census data also showed 1,528 residents were employed. The unemployment rate at that time was 10.28 percent, although 36.44 percent of all adults were not in the work force. The median household income was \$49,028, per capita income was \$25,827, and 4.97 percent of residents were living below the poverty level.

Petersburg Area Map



Legend

 City of Petersburg Since 1978



C. Facilities, Utilities, Schools and Health Care

Water is supplied by Cabin Creek Dam, a 50-million gallon water reservoir. The water is treated, stored in a 600,000-gallon tank and distributed via pipes to 80 percent of the households. A few homes use individual wells or water delivery. Nearly all homes are plumbed. Piped sewage receives primary treatment. The City is extending piped water to Scow Bay to replace individual wells.

The City currently ships baled refuse to Washington State. A recycling and resource re-use facility, with a balefill and hazardous waste disposal, is under development.

Electricity is provided by Petersburg Municipal Power & Light , which operates the Crystal Lake Hydro Facility and three diesel-fueled generators. Petersburg Municipal Power & Light also purchases electricity from the Tye Lake Hydro Facility.

There are three schools located in the community, attended by 623 students.

Local hospitals or health clinics include Petersburg Medical Center (772-4291) and Petersburg Public Health Center (772-4611). The hospital is a qualified Acute Care and Long Term Care facility. Specialized Care is provided by the Petersburg Council on Alcoholism. Petersburg is classified as a large town or regional Center. It is found in EMS Region 3A in the Southeast Region. Emergency Services have limited highway, marine, airport and floatplane access. Emergency service is provided by 911 Telephone Service and volunteers. Auxiliary health care is provided by Petersburg Volunteer Fire Dept./EMS (772-3355/772-3830).

D. Economy and Transportation

Since its beginning, Petersburg's economy has been based on commercial fishing and timber harvests. Petersburg is currently one of the top-ranking ports in the U.S. for the quality and value of fish landed. 469 residents hold commercial fishing permits. Several processors operate cold storage, canneries and custom packing services.

The state runs the Crystal Lake Hatchery which contributes to the local salmon resource. Residents include salmon, halibut, shrimp and crab in their diet. Petersburg is the supply and service



Petersburg harbor.

center for many area logging camps. Independent sportsmen and tourists utilize the local charter boats and lodges, but there is no deep water dock suitable for cruise ships.

Petersburg is accessed by air and water. It is on the mainline State ferry route. The State-owned James A. Johnson Airport and Lloyd R. Roundtree Seaplane Base (on the Wrangell Narrows) allow for scheduled jet and float plane services. The asphalt runway is 6,000 feet long by 150 feet wide. Harbor facilities include three docks, two petroleum wharves, two barge terminals, three boat harbors with moorage for 700 boats, a boat launch and boat haul-out. Freight arrives by barge, ferry or cargo plane. There is no deep water dock for large ships such as cruise ships; passengers are lightered to shore.

E. Organizations with Local Offices

Chamber of Commerce - Petersburg
Chamber of Commerce & Visitor
Information
P.O. Box 649
Petersburg, AK 99833
Phone 907-772-3646
Fax 907-772-2453
E-mail pcoc@alaska.net
Web <http://www.petersburg.org>

City - City of Petersburg
P.O. Box 329
Petersburg, AK 99833
Phone 907-772-4519
Fax 907-772-3759
E-mail clerk@ci.petersburg.ak.us
Web <http://www.ci.petersburg.ak.us>

Electric Utility - Petersburg Municipal
Power & Light
P.O. Box 329
Petersburg, AK 99833
Phone 907-772-4203
Fax 907-772-9287
E-mail pmpl@ci.petersburg.ak.us
Web <http://www.ci.petersburg.ak.us>

Media - Petersburg Pilot
P.O. Box 930
Petersburg, AK 99833
Phone 907-772-9393
Fax 907-772-4871
E-mail pgspub@mitkof.net
Web <http://www.petersburgpilot.com>

School District - Petersburg City Schools
P.O. Box 289
Petersburg, AK 99833-0289
Phone 907-772-4271
Fax 907-772-4719
E-mail terholtz@psgsd.k12.ak.us

Village Council - Petersburg Indian
Association
P.O. Box 1418
Petersburg, AK 99833
Phone 907-772-3636
Fax 907-772-3637
E-mail piatrd@gci.net

Regional Organizations

School District - Petersburg City Schools
P.O. Box 289
Petersburg, AK 99833-0289
Phone 907-772-4271
Fax 907-772-4719
E-mail terholtz@psgsd.k12.ak.us

Regional Native Corporation - Sealaska Corporation
One Sealaska Plaza #400
Juneau, AK 99801
Phone 907-586-1512
Fax 907-586-2304
E-mail chris.mcneil@sealaska.com
Web <http://www.sealaska.com/>

Regional Native Health Corporation - Southeast Alaska Regional Health Consortium
3245 Hospital Dr.
Juneau, AK 99801
Phone 907-463-4000
Fax 907-463-4075
E-mail ken.brewer@searhc.org
Web <http://www.searhc.org/>

Regional Native Non-Profit - Central Council Tlingit & Haida Indian Tribes of Alaska
320 W. Willoughby Ave., Suite 300
Juneau, AK 99801
Phone 907-586-1432
Fax 907-586-8970
E-mail econdev@ccthita.org
Web <http://www.ccthita.org>

Native Housing Authority - Tlingit-Haida Regional Housing Authority
P.O. Box 32237
Juneau, AK 99803
Phone 907-780-6868
Fax 907-780-6895
E-mail thrha@thrha.org
Web <http://www.thrha.org/>

Regional Development - Southeast Conference
P.O. Box 21989
Juneau, 99802
Phone 907-463-3445 x23
Fax 907-463-4425
E-mail rollo@seconference.org
Web <http://www.seconference.org>

1.4 Local Boundary Commission

The Local Boundary Commission is a State commission that will decide whether to grant the Petition as presented, amend the petition, impose conditions, or deny it altogether. The Commission consists of five members appointed by the Governor for overlapping five-year terms. Members are appointed “ . . . *on the basis of interest in public affairs, good judgment, knowledge and ability in the field . . . and with a view to providing diversity of interest and points of view in the membership.*” (AS 39.05.060)

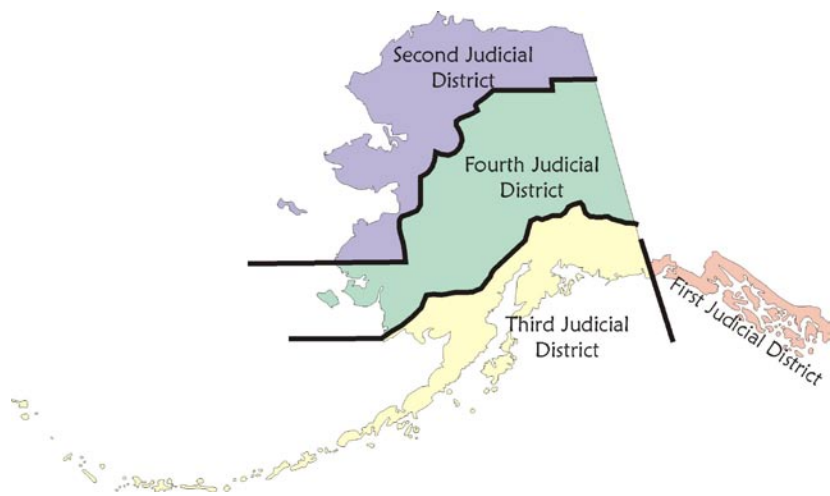
The Commission was created under Alaska's Constitution to render objective, independent decisions from a statewide perspective regarding proposals for the creation, alteration, or abolition of city governments and organized boroughs. Of the 130 or so State boards and commissions, the LBC is one of only five with constitutional origins.³

All petitions for establishing or altering the boundaries of local governments in Alaska are subject to approval by the LBC. The Commission is a State board with jurisdiction throughout Alaska. (See Article X, § 12, Alaska Constitution; AS 29.04, AS 29.05, AS 29.06, and AS 44.33.810 - 44.33.828.) In addition to petitions for annexation to municipal governments, the LBC acts on petitions for the following:

- consolidation of cities and boroughs;
- incorporation of cities and boroughs;
- detachment from cities and boroughs;
- merger of cities and boroughs;
- dissolution of cities and boroughs; and
- reclassification of cities.

Additionally, the LBC has the duty to make studies of local government boundary problems.

Commission members serve at the pleasure of the Governor. The Chairman is appointed from the state at-large and one member is appointed from each of Alaska's four judicial districts. Members serve without compensation.



Alaska Judicial Districts.

³ The others are the University of Alaska Board of Regents, the Judicial Council, the Commission on Judicial Conduct, and the Redistricting Board.

The following is biographical information on the current members of the LBC:



Darroll Hargraves, Chair, At-Large Appointment.

Governor Murkowski appointed Darroll Hargraves of Wasilla as Chair of the LBC in March 2003. Commissioner Hargraves holds a Masters degree and an Education Specialist degree from the University of Alaska Fairbanks. Additionally, Oakland City University awarded him the Doctor of Humane Letters. Commissioner Hargraves has been school superintendent in Nome, Ketchikan, and Tok. He was the Executive Director of the Alaska Council of School Administrators from 1998 to 2002. He is currently a management/communications consultant working with school districts and nonprofit organizations. Commissioner Hargraves previously served as Chair of the LBC from 1992-1997 under Governors Hickel and Knowles. His current term on the LBC ends January 31, 2008.



Georgianna Zimmerle, First Judicial District.

Georgianna Zimmerle serves from the First Judicial District. She is a resident of Ketchikan. Governor Murkowski appointed Commissioner Zimmerle to the LBC on March 25, 2003. An Alaska Native, Commissioner Zimmerle is Tlingit and Haida. She worked for the Ketchikan Gateway Borough for 27 years, serving five years as the Borough Manager and 22 years in the Borough Clerk's Office. Her current term on the LBC ends January 31, 2011.



Robert Harcharek, Second Judicial District.

Robert Harcharek serves from the Second Judicial District. Then-Governor Knowles appointed him to the LBC on July 18, 2002. Governor Murkowski reappointed him to the LBC on March 24, 2004. Mr. Harcharek has lived and worked on the North Slope for more than 25 years. He has been a member of the Barrow City Council since 1993 and a member of the North Slope Borough School Board since 1999. He is currently the Community and Capital Improvement Projects (CIP) Planner for the recently created North Slope Borough Department of Public Works. Mr. Harcharek earned a Ph.D. in International and Development Education from the University of Pittsburgh in 1977. He has served as North Slope Borough Senior Planner and Social Science Researcher, CIP and Economic Development Planner, Community Affairs Coordinator for the North Slope Borough Department of Public Safety, Director of the North Slope Higher Education Center, Sociocultural Scientist for the North Slope Borough Department of Wildlife Management, Director of Technical Assistance for

Upkeagvik Inupiat Corporation, and Dean of the Inupiat University of the Arctic. Mr. Harcharek served for three years as a Peace Corps volunteer in Thailand and was also a Fulbright-Hays Professor of Multicultural Development in Thailand. He is a member of numerous boards of directors, including the Alaska Association of School Boards and the Alaska School Activities Association. His current term on the LBC ends January 31, 2009.



Bob Hicks, Vice-Chair, Third Judicial District. Governor Murkowski appointed Bob Hicks to the LBC from the Third Judicial District in March 2003. His fellow commissioners elected him as Vice-Chair of the LBC. Commissioner Hicks is a graduate of Harvard Law School. From 1972-1975, he served as Executive Director of the Alaska Judicial Council. He practiced law in Alaska from 1975-2001. One of the fields in which he specialized as an attorney was the field of local government, including LBC matters. Since 2001, Commissioner Hicks has served as the Director of Corporate Affairs and the Dive Officer at the Alaska SeaLife Center in Seward. Commissioner Hicks' current term on the LBC ends January 31, 2007.



Dr. Anthony Nakazawa, Fourth Judicial District. Anthony "Tony" Nakazawa serves from the Fourth Judicial District and is a resident of Fairbanks. He was appointed to the LBC on February 14, 2003. Commissioner Nakazawa is employed as the State Director of the Alaska Cooperative Extension Service, USDA/ University of Alaska Fairbanks, which includes district offices in fifteen communities throughout Alaska. He previously served as the Director of the Division of Community and Rural Development for the Alaska Department of Community and Regional Affairs under Governor Walter J. Hickel. Commissioner Nakazawa, an extension economist and UAF professor, has been with the Cooperative Extension Service since 1981 and with the Hawaii Cooperative Extension system in 1979-1980. From 1977-1979, he served as the Economic Development Specialist for the Ketchikan Gateway Borough. His past activities include board service with the Alaska Rural Development Council, RurAL CAP, Alaska Job Training Council, and Asian-Alaskan Cultural Center. Commissioner Nakazawa received his B.A. in economics from the University of Hawaii Manoa in 1971 and his M.A. in urban economics from the University of California Santa Barbara in 1974. He received his M.S. (1976) and Ph.D. (1979) in agriculture and resource economics from the University of California Berkeley. His current term on the LBC ends January 31, 2010.

1.5 Limitations on Direct Communications with the Commission

When the LBC acts on a petition for a municipal boundary change, it does so in a quasi-judicial capacity. LBC proceedings regarding a municipal boundary change must be conducted in a manner that upholds the right of everyone to due process and equal protection. Ensuring that communications with the LBC concerning municipal boundary proposals are conducted openly and publicly preserves rights to due process and equal protection.

To regulate communications, the LBC adopted 3 AAC 110.500(b) which expressly prohibits private (*ex parte*) contact between the LBC and any individual, other than its staff, except during a public meeting called to address a municipal boundary proposal. The limitation takes effect upon the filing of a petition and remains in place through the last date available for the Commission to reconsider a decision. If a decision of the LBC is appealed to the court, the limitation on *ex parte* contact is extended throughout the appeal, in the event the court requires additional consideration by the LBC.

In that regard, all communications with the Commission must be submitted through staff to the Commission.

1.6 Staff to the Commission



The Alaska Department of Commerce, Community, and Economic Development (Commerce) serves as staff to the LBC. Commerce staff to the Commission is required by law to evaluate petitions filed with the LBC and to issue reports and recommendations to the Commission concerning such. The Commerce staff serving the Local Boundary Commission may be contacted at:

Local Boundary Commission Staff
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510
Telephone: (907) 269-4559
Fax: (907) 269-4539
Alternate Fax: (907) 269-4563
E-mail: LBC@commerce.state.ak.us

The Local Boundary Commission and the Alaska Department of Community and Economic Development are independent of one another with regard to policy matters.

1.7 Legal Standards Relating to City Annexation

Essential city services” are defined by 3 AAC 110.990(8) to mean “those legal activities and facilities that are determined by the commission to be reasonably necessary to the community and that cannot be provided more efficiently and more effectively either through some other agency or political subdivision of the state, or by the creation or modification of some other political subdivision of the state; ‘essential city services’ may include: (A) assessing, levying, and collecting taxes; (B) providing primary and secondary education in first class and home rule cities in an unorganized borough; (C) public safety protection; (D) planning, platting and land use regulation; and (E) other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

The pending proposal for annexation is subject to the satisfaction of particular criteria established in law. The constitutional, statutory, and regulatory standards governing annexation to a city within an organized borough require that:

1. The territory must be compatible in character with the annexing city. [3 AAC 110.100]
2. The territory proposed for annexation may not overlap the boundaries of an existing organized borough or city unless the petition also addresses and demonstrates satisfaction of detachment standards. [3 AAC 110.130(e)]
3. The area proposed for annexation must, with limited exceptions, be contiguous to the existing boundaries of the city to which annexation is proposed. [3 AAC 110.130(b)]
4. The proposed annexation to the city may not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin. [3 AAC 110.910]
5. The proposed boundaries of the city must not include entire geographical regions or large unpopulated areas, except when boundaries are justified by application of standards in 3 AAC 110.090 - 3 AAC 110.130. [3 AAC 110.130(d)]
6. The population within the proposed post-annexation boundaries must be sufficiently large and stable to support the extension of city government. [3 AAC 110.120]
7. The proposed post-annexation boundaries must include the resources necessary to provide essential city services on an efficient, cost-effective level. [3 AAC 110.110]
8. A practical transition plan must be provided for the assumption of appropriate powers, assets, and liabilities on the part of the annexing city. [3 AAC 110.900]

9. The proposed post-annexation boundaries must include all areas necessary to provide the full development of essential city services on an efficient, cost effective level. [3 AAC 110.130(a)]
10. The post-annexation city boundaries must be limited to the developed areas and areas subject to impending development. [3 AAC 110.130(c)]
11. Territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough. [3 AAC 110.090(b)]
12. The territory must exhibit a reasonable need for city government. [3 AAC 110.090(a)]
13. Legislative review annexations must serve the balanced best interests of the state, the territory to be annexed, and all political subdivisions affected by the annexation. [3 AAC 110.140]
14. Annexations must serve the best interests of the state. [AS 29.06.040]

1.8 LBC Options Regarding the Petition

Applied to the Petersburg annexation Petition, AS 29.06.040(a) provides that the Local Boundary Commission:

1. may amend the Petition;
2. may impose conditions for annexation;
3. *may* approve the Petition *if* the LBC determines that the annexation proposal, with or without amendments and conditions:
 - a. meets applicable standards under the Constitution of the State of Alaska,
 - b. meets standards for annexation under Alaska Statutes 29.06.040(a);
 - c. meets standards for annexation under 3 AAC 110.090 - 3 AAC 110.140 and 3 AAC 110.900 - 3 AAC 110.920.

4. *shall* deny the Petition *if* the LBC determines that the annexation proposal, with or without amendments and conditions:
 - a. does not meet applicable standards under the State Constitution;
 - b. does not meet standards for city annexation under AS 29.06.040(a);
 - c. does not meet applicable standards under the Alaska Administrative Code.

Chapter 2 of this report discusses past and future proceedings. Chapter 3 synthesizes the views of the Petitioner, the Respondent, and numerous correspondents regarding the application of the standards. Chapter 4 presents Commerce's application of the standards to the Petersburg proposal. The recommendations to the Local Boundary Commission are found in Chapter 5.

Chapter

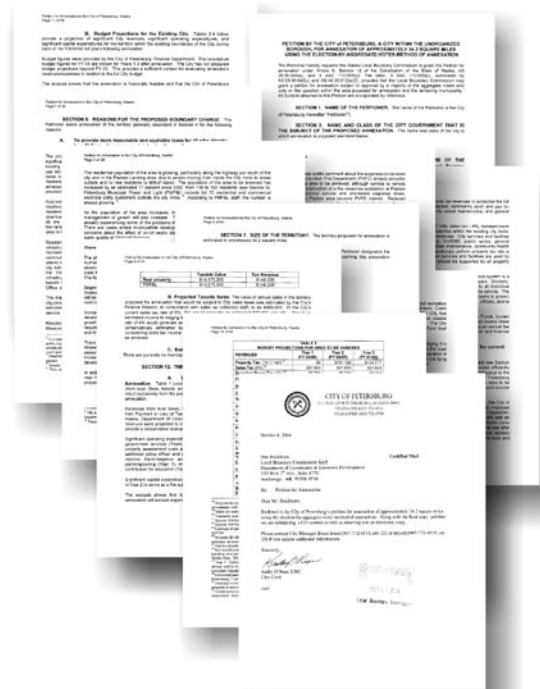
Proceedings to Date and Future Proceedings

This chapter summarizes the formal activities that have occurred to date with regard to the pending Petersburg annexation proposal. Information about future proceedings is also provided.

2.1 Petition Filed

As allowed by Article X, Section 12 of Alaska's Constitution, AS 44.33.812(a)(3), and 3 AAC 110.410(a)(4), the City of Petersburg petitioned the Local Boundary Commission for annexation of what the Petitioner estimates is 34.2 square miles. The Petition was submitted to Commerce on October 24, 2004. On December 13, 2004 Commerce completed its technical review of the form and content of the Petition. Based on that review, the Petition was formally accepted for filing.

City of Petersburg Petition to Annex 34.2 Square Miles of Territory



2.2 Notice of Filing of the Petition

The Chairman of the LBC set April 18, 2005 as the deadline for receipt of responsive briefs and comments on the Petition. Notice of filing of the Petition was published by the Petitioner in the *Petersburg Pilot*, a newspaper of general circulation in the territory, on December 23 and December 30, 2004, and on January 6, 2005.

Commerce arranged for publication of the notice of filing of the petition on the State of Alaska's internet website, *Online Public Notices*.⁴ The notice was also published on the LBC internet website maintained by Commerce.

As required by 3 AAC 110.450(a)(2), on December 22, 2004, notice of the filing of the Petition was posted at prominent locations readily accessible to the public within the area proposed for annexation. Posting occurred at the following locations:

- at the Papkes Landing boat launch and parking area;
- on a highway post nearest to the intersection of Papkes Landing Road and the Mitkof Highway, viewed from inbound and outbound directions; and
- on a highway post at or near 14-mile Mitkof Highway, viewable from inbound and outbound directions.

Notice of the filing of the Petition was also posted by the Petitioner at the following locations within the existing boundaries of the City of Petersburg on December 22, 2004:


- U.S. Post Office, 1201 Haugen Drive;
- Petersburg City Hall, 12 South Nordic Drive; and
- Petersburg Court House, 14 North Sing Lee Alley.

On December 22, 2004, the Petitioner sent a copy of the notice of filing of the Petition to the following parties:

- City of Wrangell; and
- City of Kupreanof.

Commerce staff sent notice of the filing of the Petition to State officials, including members of the Local Boundary Commission, and the heads of principal agencies.

Public Notice Issued December 22, 2004 Announcing the Petition for Annexation



Public Notice
Petition to Annex Territory to
the City of Petersburg

The City of Petersburg (City) has petitioned the Alaska Local Boundary Commission (LBC) for the annexation of an estimated 34.2 square miles on Mitkof Island including areas along the east shore of Wrangell Narrows and along the Mitkof Highway south and southeast of the City's current boundaries, to the highway's end. The area proposed to be annexed includes primarily uplands and some tidelands and submerged lands. The proposed new City boundaries, if approved, would encompass approximately 80.3 square miles. The petition seeks annexation using the election-by-aggregate-voter-method.

Complete petition materials, including detailed maps of the territory, are available for public review at the following locations:

Petersburg City Hall
Monday – Friday (8 a.m. – 5 p.m.)

Petersburg Public Library
Monday - Thursday (12 Noon – 9 p.m.)
Friday - Saturday (12 Noon – 4 p.m.)

The City's petition is also available for review on the Internet at:
<http://www.commerce.state.ak.us/dca/lbc/lbcactivities.htm>

Responsive briefs supporting or opposing the City's annexation proposal may be filed in accordance with 3 AAC 110.480. Informal written comments on the petition are also welcome. The legal criteria governing annexation to cities are found in 3 AAC 110.090 - 3 AAC 110.140. The procedures governing annexation are set out in 3 AAC 110.400 – 3 AAC 110.680 and 3 AAC 110.900- 3 AAC 110.990. A copy of these and other applicable laws is available for review with the petition materials at the Petersburg City Hall and Public Library. Information about the standards and procedures for annexation is also available on the Internet site listed above.

To be considered, responsive briefs filed under 3 AAC 110.480 and informal written comments supporting or opposing the petition must be *received* at the following address by **April 18, 2005**: LBC Staff, 550 West Seventh Avenue, Suite 1790; Anchorage, AK 99501-3510; Fax: 907-269-4539; e-mail: LBC@commerce.state.ak.us

Inquiries concerning this matter may also be directed to LBC Staff at 907-269-4559.

⁴ <http://notes.state.ak.us/pn/pubnotic.nsf>

In accordance with 3 AAC 110.460(b), the Petition, including all exhibits, was made available for public review. The City designated the Petersburg City Hall and Petersburg Public Library as locations where Petition materials were made available to the public.

2.4 Responsive Briefs and Public Comments Filed

A. Respondent

On April 18, 2005, LBC staff received a 55-page Respondent's Brief (Responsive Brief) from Gerry Merrigan of Petersburg.

B. Comments from Correspondents

A total of 16 timely letters and e-mail messages concerning the proposed annexation were received by Commerce.

- Mike Stocks, 1-page email in opposition to the annexation;
- Jerry Collision, 3-page email in opposition to the annexation;
- Gehard Hiller, 1-page letter in opposition to the annexation;
- Keith H. Gerlach, 2-page letter in opposition to the annexation;
- Bill and Beth Flor, 2-page letter in opposition to the annexation;
- Peter J. Pellerito, 3-page e-mail in opposition to the annexation;
- John Murgas, 2-page letter in opposition to the annexation;
- Walt Payne, 1-page e-mail in opposition to the annexation;
- Bob Tepley, 1-page e-mail in opposition to the annexation;
- Cynthia Wallesz, 1-page e-mail in conditional support of the annexation;
- George P. Meintel, 1-page e-mail in opposition to the annexation;

Public Comment



- Pam Payne, 1-page e-mail in opposition to the annexation;
- Mona Christian and Dave Kensinger, 1-page letter in conditional support of the annexation;
- Jeremy and Marissa Collison, 1-page e-mail in opposition to the annexation;
- Jessica Phillips, 1-page e-mail in opposition to the annexation; and
- Daniel Savone and Kerry Shakarjian, 2-page letter in opposition to the annexation.

In addition to the Responsive Brief, Gerry Merrigan submitted a copy of the “*City of Petersburg Analysis of Annexation Options*” to Commerce during the public comment period. Mr. Merrigan did not include further written public comments with this report.

2.5 City’s Reply Brief Filed

On July 27, 2005, the City of Petersburg filed the *Reply Brief of the City of Petersburg Supporting Its October 2004 Petition for Annexation to the City of Petersburg on Mitkof Island* (hereinafter “Reply Brief”) in answer to the Responsive Brief and the written comments.

Petitioners Reply Brief



2.6 Local Informational Meetings

On _____, LBC staff conducted a public informational meeting in Petersburg at the _____. The agenda for the _____ informational meeting is shown in Figure 2-B.

[Information details on meeting will go here.]

2.7 Commerce’s Preliminary Report

In accordance with 3 AAC 110.530, Commerce prepared this Preliminary Report examining the pending Petition. The Preliminary Report has been provided to the Petitioner and Respondent as required by law. Additionally, Commerce has made

multiple copies of the report available for public review at the Petersburg Library. The report will also be available for review on the internet at <http://www.commerce.state.ak.us/dca/lbc/petersburg.htm>. An executive summary of the report has been provided to all correspondents.

3 AAC 110.640 provides that at least 28 days must be allowed for comment on the Preliminary Report from the date that the report was mailed to the Petitioner. The deadline for the **receipt by LBC staff** of written comments on the Preliminary Report in this case is 5:00 p.m., _____. Comments may be submitted by mail, hand delivery, fax, or e-mail. To be considered, comments must be received by the previously noted deadline at the following location:

LBC Staff
Department of Commerce, Community,
and Economic Development
550 W. 7th Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: (907) 269-4539
E-mail: LBC@commerce.state.ak.us

2.8 Future Proceedings

A. Commerce's Final Report

After Commerce has considered timely written comments on its Preliminary Report, it will issue its Final Report on the matter. The Final Report will be mailed to the Petitioner and Respondent at least three weeks prior to the Commission's hearing on the proposal, as required by law. Multiple copies of the Final Report will also be provided to the Petersburg Public Library and the City Clerk.

B. Petitioner and Respondent Asked to Provide Witness Lists

The Petitioner and Respondent will be allowed to present *formal* sworn testimony during the public hearing to be conducted by the Local Boundary Commission in Petersburg regarding the annexation proposal. In addition to the *formal* testimony, there will be an opportunity for *informal* general comment on the proposal by the public.

Witnesses called by the Petitioner or Respondent to provide *formal* sworn testimony must have expertise in matters relevant to the pending annexation proposal about which they will testify. The Commission recognizes expertise in either of two forms.

First, *formal* witnesses may be specialists in relevant subjects such as municipal finance, municipal law, public safety, public works, public utilities, and municipal planning. Alternatively (or in addition), *formal* witnesses may be long-standing members of the community who are directly familiar with social, cultural, economic, geographic, and other relevant characteristics of the greater Petersburg area.

As it routinely does in other proceedings involving the Commission, Commerce requests that the Petitioner and Respondent submit a list to Commerce of witnesses that each of the parties intends to call to provide sworn testimony during the hearing. The list should include the name and qualifications of each witness, the subjects about which each witness will testify, and the estimated time anticipated for the testimony of each witness.

The lists and details should be provided to Commerce at least fourteen days prior to the hearing.



Local residents and the Local Boundary Commission at a recent hearing.

C. Pre-Hearing Inspection of the Territory by the Commission

Before the hearing begins, the Local Boundary Commission will spend several hours touring the territory proposed for annexation.

Of course, rules barring *ex parte* communication with the Commission as outlined in Section 1.5 will be in place during the inspection of the territory proposed for annexation. Therefore, neither the Petitioner, Respondent, nor any other member of the public may address the Commission regarding the annexation proposal during the inspection.

D. LBC Public Hearing

The date, time, and location of the Local Boundary Commission's hearing on the Petersburg annexation proposal have not yet been determined. It is anticipated that the hearing will be held sometime between _____ of this year.

Formal notice of the date, time, and place of the hearing will be published as a display ad no less than two columns by six inches in one or more newspapers of local circulation. The initial publication of the notice will occur at least thirty days prior to the hearing. Public notice of the hearing will also be posted in prominent locations throughout the community. Additionally, notice will be mailed to the Petitioner and the Respondent. Further, Commerce will request that one or more broadcasters serving the Petersburg area make public service announcements of the hearing.

The hearing will begin with a summary by Commerce staff of its conclusions and recommendations concerning the pending proposal.


Following Commerce's summary, the law allows the Petitioner to make an opening statement in support of its Petition. The Petitioner's opening statement will be limited to ten minutes.

Following its opening statement, the Petitioner may present formal sworn testimony by individuals with expertise in matters relevant to the pending annexation proposal. The testimony must relate to whether the pending annexation proposal meets the legal standards for annexation and whether the Petition should be granted.

No time limit on testimony by the Petitioner is established in law. However, the LBC Chairman will regulate the time and content of testimony to exclude irrelevant or repetitious testimony.

Following the testimony by the Petitioner, the Respondent will be allowed to make opening statements and present formal sworn testimony by individuals with expertise in matters relevant to the pending annexation proposal. As is required for the

Sample hearing agenda



State of Alaska
Local Boundary Commission

550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4660 • Fax: 907-269-4539

SAMPLE AGENDA

Petersburg Annexation Proposal

- 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 that are neither on the agenda nor pending before the Commission
- VI. Public hearing regarding the annexation of territory to the City of Petersburg
 - A. Summary and presentation by Commerce of its conclusions and recommendations
 - B. Petitioner's opening statement (limited to 10 minutes)
 - C. Respondent's opening statement (limited to 10 minutes)
 - D. Sworn testimony of witnesses called by the Petitioner
 - E. Sworn testimony of witnesses 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 to Respondent's closing statement (limited to 5 minutes)
- VII. Decisional session regarding the Petition to annex territory to the City of Petersburg (optional at this time)
- VIII. Discussion regarding communications with staff and among Commissioners
- IX. Comments from Commissioners and staff
- X. Adjournment

Members: Darroll Hargraves, Chair; Georgianna Zimmerle, First Judicial District; Robert Harcharek, Second Judicial District; Bob Hicks, Third Judicial District; Tony Nakazawa, Fourth Judicial District

Petitioner, the testimony of witnesses for the Respondent must relate to whether the pending annexation proposal meets the legal standards for annexation and whether the Petition should be granted.

Here again, no time limit on testimony by the Respondent is established in law. However, the LBC Chairman will regulate the time and content of testimony to exclude irrelevant or repetitious testimony.

Because the Petitioner bears the burden of proving that its Petition meets the standards and should be approved, the Petitioner has the opportunity to provide sworn responsive testimony to refute testimony of the Respondent. Rebuttal witnesses of the Petitioner must have expertise in matters relevant to the proposed annexation about which they intend to testify.

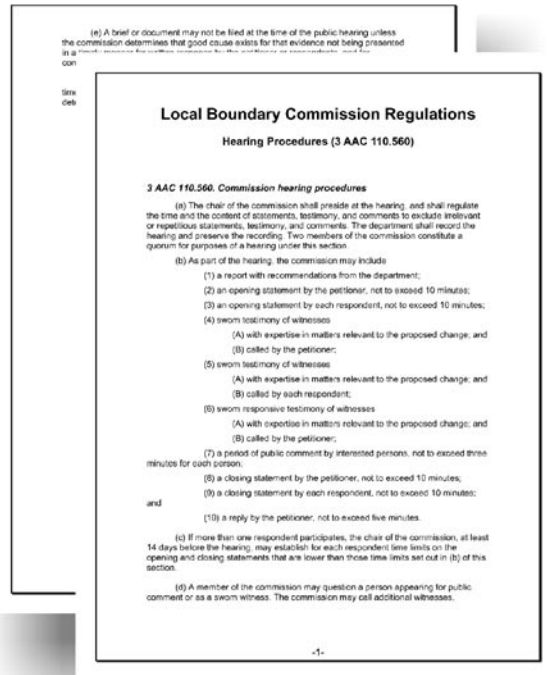
The laws governing the Commission’s hearing make no provision for cross-examination of witnesses by the Petitioner or Respondent. However, a member of the Commission may question any person appearing as a sworn witness. The Commission may also call additional witnesses.

At the conclusion of the testimony phase of the hearing, the Commission will receive public comment from any interested person, not to exceed three minutes per person. A member of the Commission may question persons providing public comment. Appendix ____ consists of a one-page guide intended to assist the public in increasing the effectiveness of their comments to the Commission regarding the Petersburg annexation proposal. Copies of this guide were available at Commerce’s public informational meetings held on _____.

Following the period of public comment, the Petitioner is allowed to make a closing statement not to exceed 10 minutes. Next, the Respondent is allowed to make a closing statement not to exceed 10 minutes.

Because the Petitioner bears the burden of demonstrating that its Petition should be granted, the City is allowed to reply to the closing statements of the Respondent. The reply is limited to five minutes.

Regulatory procedures for LBC Hearings.



No brief or other written materials may be filed at the time of the public hearing unless the Commission determines that good cause exists for such materials not being presented in a timely manner for consideration by Commerce and others.

In compliance with Title II of the Americans with Disabilities Act of 1990, Commerce will make available reasonable auxiliary aids, services, and/or special modifications to individuals with disabilities who need such accommodations to participate at the hearing on this matter. Persons needing such accommodations should contact Commerce's staff to the Commission at 269-4501 at least one week prior to the hearing.

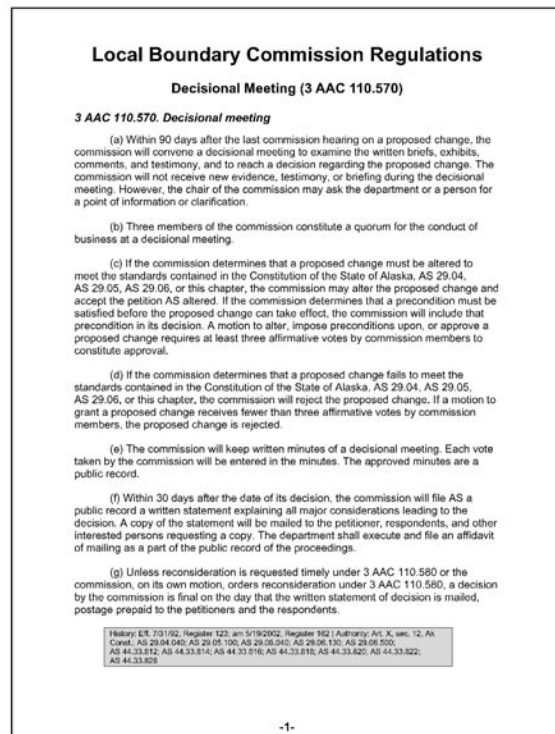
If anyone attending the hearing does not have a fluent understanding of English, the Commission will allow time for translation. Unless other arrangements are made before the hearing, the individual requiring assistance must arrange for a translator. Upon request, and if local facilities permit, arrangements can be made to connect other sites to the hearing by teleconference.

E. LBC Decisional Meeting

The LBC must render a decision within ninety days of the hearing (3 AAC 110.570). If the Commission determines that it has sufficient information to properly judge the merits of the annexation proposal following the hearing, the LBC is likely to convene a decisional session shortly after the conclusion of the hearing. During the decisional session, no new evidence, testimony, or briefing may be submitted. However, Commission members may ask their staff or another person for a point of information or clarification.

Within thirty days after the Commission has rendered its decision, it must adopt a written statement explaining all major considerations leading to its decision concerning the City of Petersburg's annexation Petition. A copy of the statement will be provided to the Petitioner, Respondent, and any others who request a copy.

Regulatory standards for a LBC decisional meeting.



F. Reconsideration

Any interested person or organization may ask the Commission to reconsider its decision in this matter. A request for reconsideration may be filed within twenty days after the written decisional statement has been mailed to the Petitioner and Respondent.

A reconsideration request must describe in detail the facts and analyses that support the request for reconsideration. Typically, the LBC will reconsider a decision only if:

1. there was a substantial procedural error in the original proceeding;
2. the original vote was based on fraud or misrepresentation; or
3. new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.

If the Commission takes no action on a request for reconsideration within thirty days after the decisional statement was mailed to the Petitioner, the request is automatically denied. If the Commission grants a request for reconsideration, the Petitioner may file a responsive brief for consideration by the Commission. Ten days are allotted for the filing of such briefs.

G. Federal Voting Rights Act Preclearance

If the Commission approves the Petition for annexation, the boundary change will be subjected to review by the U.S. Department of Justice under the Federal Voting Rights Act.

Federal law (43 U.S.C. 1973) subjects municipal annexations in Alaska to review under the federal Voting Rights Act. The Voting Rights Act forbids any change to municipal jurisdiction that has the purpose or effect of denying or abridging minority voting rights.

The municipality proposing annexation is responsible for initiating the necessary review of the annexation proposal by the U.S. Justice Department or U.S. District Court for the District of Columbia. The review may be initiated once the opportunity for the LBC to reconsider its decision has expired under 3 AAC 110.580. A request for review prior to such time would be considered premature (see 28 CFR § 51.22). Annexation will not take effect until the City provides Commerce with evidence that the Justice Department or U.S. District Court has favorably reviewed the annexation proposal (see 3 AAC 110.630). Commission staff is available to assist cities in meeting their obligations under the Voting Rights Act.

H. Judicial Appeal

A decision of the LBC may be appealed to Superior Court. The appeal must be made within thirty days after the last day on which the Commission may order reconsideration. (Alaska Rules of Appellate Procedure, Rule 601 et seq.)

I. Legislative Approval or Denial

The Alaska Legislature will review the proposed annexation if the Petition is granted in whole or in part by the LBC. More specifically, if the Petition is approved (with or without amendments and/or conditions), the LBC will file a recommendation for the annexation with the next regular session of the Alaska Legislature under the terms of Article X, § 12 of the Constitution of the State of Alaska. The Legislature will then have forty-five days to consider the recommendation. If the Legislature takes no action within the forty-five day review period, the recommendation is automatically approved. However, if the State Senate and House of Representatives adopt a joint resolution rejecting the recommendation, the annexation is denied.

If the legislature does not deny the Commission's recommendation, the boundary change will take effect on the date that the City provides the LBC staff with documentation that the annexation has successfully passed the requisite Federal Voting Rights Act review. After such documentation is received by Commerce, a certificate of boundaries for the City reflecting the annexation will be issued.

Chapter 3

Arguments Concerning the Application of the City Annexation Standards - A Synopsis of the Petition, Written Comments Regarding the Petition, Responsive Brief, and Petitioner's Reply Brief

This chapter of the Preliminary Report synthesizes the views of the parties in this proceeding concerning the application of the formal annexation standards to the pending proposal. In the interest of preserving the authenticity and tenor of the communication, written responses and public comments are transcribed verbatim and spelled as originated by the author.

The chapter is divided into fourteen sections, one for each legal standard for annexation of territory to a city government. Each section begins with a statement of the complete standard established in law. That is followed by a summary of the views regarding that standard expressed by the City of Petersburg in its Petition. Any views expressed by the seventeen correspondents who submitted timely written comments concerning the Petition and the Respondent who filed a Responsive Brief opposing the Petition regarding each standard are then summarized. Each section concludes with a summary of the City's Reply Brief in answer to the written comments and Responsive Brief.

Section 3.1 - Whether the Territory Proposed for Annexation Exhibits a Reasonable Need for City Government

A. The Standard Established in Law

The first standard is set out in 3 AAC 110.090(a). That standard requires:

The territory must exhibit a reasonable need for city government. In this regard, the commission may consider relevant factors, including

- (1) existing or reasonably anticipated social or economic conditions, including the extent to which residential and commercial growth of the community has occurred or is reasonably expected to occur beyond the existing boundaries of the city;
- (2) existing or reasonably anticipated health, safety, and general welfare conditions;

- (3) existing or reasonably anticipated economic development;
- (4) adequacy of existing services;
- (5) extraterritorial powers of the city to which the territory is proposed to be annexed and extraterritorial powers of nearby municipalities; and
- (6) whether residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of services and facilities provided by the annexing city.

B. City's Views Expressed in the Petition

This petition is built on the premise that there is a reasonable need for city government in the area to be annexed. According to the City, the existing and reasonably anticipated social, health, safety and economic problems in the area demonstrate the need for annexation. The City contends that it already provides key services to the area to be annexed, for which it does not receive adequate remuneration as explained below. The City acknowledges that the delivery of some services is inadequate or non-existent at this time, but is confident that annexation would provide the mechanism to improve and expand city services in this territory.

Addressing each of the factors provided in 3 AAC 110.090(a), the City presented its position on why a reasonable need for city government exists at Exhibit H of the Petition.

1) Existing or Reasonably Anticipated Social or Economic Conditions, Including the Extent to Which Residential and Commercial Growth of the Community has Occurred or is Reasonably Expected to Occur Beyond the Existing Boundaries of the City

"Existing and anticipated social and economic conditions in the Petersburg area support the need for city government in the annexed area.

- The annexation would allow for collection of taxes from an existing and growing population that currently benefits from city services and infrastructure, but does not pay taxes. While this population pays fees for some services, it does not pay higher fees than those paid inside the city limits, so it does not contribute to needed subsidies for some fee services.

- The City of Petersburg already provides essential services to the area to be annexed including schools, fire/EMS, police (supplemental to State Troopers), hospital and other health services, roads and streets, electrical services (most properties), solid waste disposal, parks and recreation, library and other services. The annexation would allow for improvement and extension of city services.”

2) Existing or Reasonably Anticipated Health, Safety, and General Welfare Conditions

- “The existing City of Petersburg has hospital, ambulance, fire and police services. Based on existing conditions, or projected growth, providing these services will add to economies of scale, and will provide new services to the annexed area. The City will provide new services to the annexed area. The City will provide police, fire and EMS services to the area to be annexed. It will construct a new fire substation in the second year after annexation that will provide the capacity for improved fire response, particularly if additional volunteers from the Papkes Landing area become trained to serve with the Petersburg Volunteer Fire Department. Reduced response times would lower fire insurance premiums.
- The general health, safety and welfare of the area will be enhanced by orderly development fostered by planning and zoning, and by building and fire marshal inspections for new development.
- The City provides and will continue to provide solid waste collection and disposal services to the area to be annexed.
- The general welfare will be enhanced by giving residents of the area to be annexed a voice in City government as well as the ability to serve on City boards and commissions and to hold elective office in City government.”

“ . . . general welfare will be enhanced by giving residents of the area to be annexed a voice in City government as well as the ability to serve on City boards and commissions and to hold elective office in City government.”
Petitioner

3) Existing or Reasonably Anticipated Economic Development

- “The area to be annexed is currently growing. It has seen approximately 17% population growth since the 2000 census.
- The South Mitkof Island Ferry Terminal is funded for construction in 2005 and should be functional by 2006. The terminal is expected to bring additional recreational and travel related activities to the area to be annexed as well as promoting commercial and other development in the area to be annexed.
- Both subdivided and un-subdivided acreage is available to support development including private land, University of Alaska land, and Alaska Mental Health Trust Land,
- An industrial timber-related operation has been discussed and may locate within the area to be annexed.
- There is active mineral exploration on nearby Woewodski Island, which would likely be accessed via the Mitkof Highway and terminal, and would likely stimulate additional activity and development on South Mitkof Island.”

4) Adequacy of Existing Services

“The annexation will offer the opportunity to improve many services in the area to be annexed.

- Police service would be provided to the annexed area, via an additional police officer.
- Snow plowing would be improved with annexation to ensure emergency access.
- Fire protection would be improved with the addition of a fire substation to house a fire truck.
- Building and fire marshal inspection, and municipal planning and zoning do not currently exist in the proposed annexation area.”

5) Extraterritorial Powers of the City to Which the Territory is Proposed to be Annexed and Extraterritorial Powers of Nearby Municipalities

- “The City of Petersburg currently supplies electrical power to the area. The municipal-owned Crystal Lake Hydroelectric Facility is located on State land within the area to be annexed.

- The City provides fire emergency and police services outside its corporate boundaries.
- The City's target range is located in the area to be annexed.
- The City has an agreement with the State of Alaska to maintain and provide solid waste disposal services to two recreation sites on South Mitkof Island and has obtained federal funds to upgrade these sites, plus a third site in the area to be annexed."

6) *Whether residents or Property Owners within the Territory Receive, or may be Reasonably Expected to Receive, Directly or Indirectly, the Benefit of Services and Facilities Provided by the Annexing City*

"Residents of the area to be annexed can anticipate receiving the following:

- Construction of a fire substation at Papkes Landing, the most densely developed residential neighborhood in the proposed annexation area, which will provide the capacity for improved service, shortened response times, and potentially lower fire insurance rates;
- Increased police and EMS protection;
- Improved snow plowing to assure emergency access;
- As a result of applying planning and zoning to the annexed area residents may protect their enjoyment of their own property, and property values by avoiding incompatible uses;
- As a result of building and fire marshal inspection, greater assurance that their property will be protected from damage or loss;
- An opportunity to use the existing local government structure to plan for, finance and implement extension of water and sewer services in the long-term;

" . . . Residents of the area to be annexed can anticipate receiving the following: . . . Construction of a fire substation at Papkes Landing . . . Increased police and EMS protection; . . . Improved snow plowing to assure emergency access . . . " *Petitioner*

- Potential improvements and extension of existing city services, supported by the enlarged tax base due to annexation.”

C. Correspondents' Views

The overwhelming consensus of public comments was in opposition to the proposed land annexation. The Correspondents, most of whom are residents in the area to be annexed, stated that they did not solicit, want or need annexation to the City of Petersburg. Correspondents did not believe annexation would significantly improve their health, safety or general welfare conditions. They expressed concern about being taxed at the full mill rate without receiving essential city services in return. In support of their position, several Correspondents pointed out that this is exactly what happened subsequent to Petersburg's 1978 annexation.

Jeremy and Marissa Collison, e-mail dated April 18, 2005.

“. . . [F]or 27 years the people who live in that area [Frederick Point] have been paying taxes at full mill rate, and the ONLY services provided have been city schools. Even the people who live along Mitkof Highway, past 4 mile, still don't have water and sewer.”

Michael Stocks, e-mail dated January 17, 2005.

“. . . I nor any of my neighbors, nor any people who live out here that I have talked to have solicited or sought this annexation proposal. In fact, all of us seem to be unaimously opposed to it. We see this action as hostile and land-grabbing.”

Daniel Savone and Kerry Shakarjian, letter dated April 18, 2005.

“We chose to live outside city limits because we don't require city services. The services that we do have an option to use like electricity and phone, already have an increased rate because of our distance from city limits.

. . . .

As residents of Mitkof Island, we are responsible and willing to pay local taxes to support services supplied to us by the city of Petersburg. In past annexation moves the City of Petersburg (1978) has made promises to provide essential (fire protection) services, then failed to do so. The city has offered differential tax rate to areas (Scow Bay and Frederic Point) for disparities in services, and subsequently increased rates to full mill rate without providing full essential services.”

Keith Gerlach, letter dated March 29, 2005.

"The City of Petersburg does not provide City water or City sewer service to some of the areas presently within the existing City Limits and when I questioned about providing these services to the area now being considered for annexation I was informed that neither service would be

" . . . The City has indicated that the tax rate within the area being considered for annexation would be the same as residents presently living within the existing City however all services available to City residents would not be available." Keith Gerlach, March 29, 2005 letter

provided to the area for many years. The City has indicated that the tax rate within the area being considered for annexation would be the same as residents presently living within the existing City however all services available to City residents would not be available."

Bill and Beth Flor, letter dated April 12, 2005.

" . . . [T]he city of Petersburg has a poor track record on previous annexations. Many areas in the 1978 annexation of the east side of Mitkof Island still do not receive any of the most basic essential services yet pay full millage rates."

Jerry M. Collison, e-mail dated Feb. 15, 2005.

" . . . [T]here is no way the city of Petersburg can provide us with "essential services." We are too remote to reach by fire truck, ambulance or police vehicle. Even if the city owned a fireboat, it couldn't get into our cove most of the time, it's too shallow. We haven't asked for help from the city of Petersburg. The only way to reach us in a timely manner with emergency equipment would be by helicopter."

John Murgas, letter dated April 13, 2005.

" . . . [T]he Annexation Petition, implies, and the general public is assuming, a significant increase in fire protection and related benefits to the territory after annexation, specifically:

1) The Petition implies reduced response times with construction of a fire substation at Papke's Landing, and states 'Reduced response times would lower fire insurance rates and would allow homeowners to choose from a broader range of insurance programs.' Contrary to the Petition, Shattuck and Grummett, Inc. of Juneau (my agent for my Homeowner's Insurance Policy), and Allstate Insurance Co. of Chicago, IL (my insurer), have told me my fire insurance rates, as well as other Territory policyholder's rates, will not be reduced with such a substation."

D. Respondent's Views

According to the Respondent, the area south of Papkes Landing has considerably less need for city government. Residents in this remote, rural, and undeveloped territory chose to

live there for these very qualities.

Respondent contends that utilities, growth rate, land use regulation and police services in the area to be annexed are not critical needs at this time.

" . . . the current and future provision of fire protection to the former DNR lottery subdivision is highly unlikely and problematic as this subdivision is 400 to 800 yards of the road system. " *Gerry Merrigan, Responsive Brief*

Respondent addressed delivery of essential services in the proposed annexation area. According to the Responsive Brief, the Petition overstates the level of services that the City currently provides to the area to be annexed. Respondent asserts that the long and narrow configuration of the proposed annexation precludes the efficient and cost-effective provision of essential services. He contends that fire protection is supplied in "a highly opportunistic basis" only to road accessible areas adjacent to the existing municipal boundary. In addition, Respondent states that State Troopers currently provide a satisfactory level of law enforcement, and additional coverage by the City is not needed.

The Responsive Brief discussed fire suppression of lots without direct road access.

" . . . [T]he Petersburg Fire Department does not have the capability to fight structure fires more than 250 yards off the road system (personal communication with PVFD Fire Chief). Therefore, the current and future provision of fire protection to the former DNR lottery subdivision is highly unlikely and problematic as this subdivision is 400 to 800 yards of the road system. This area has saltwater access but only at high tide as there are extensive tide flats. This area does not receive any electric, sewer, water, or solid waste collection service from the City." (at 8)

Respondent pointed out that there are other approaches to incorporation that should be considered. In particular, Respondent suggested user fees and borough formation as possible options.

E. City's Answer to the Correspondents and Respondent

The standard was not specifically addressed in the Reply Brief. However, the City did respond to public comments directed at other standards of relevance to this analysis. See the *City's Answer to the Correspondents and Respondent* in Sections 3.2, 3.3, and 3.5.

Section 3.2 - Whether Essential City Services can be Provided by Another Existing City or Borough Government

A. The Standard Established in Law

The second city annexation standard is set out in 3 AAC 110.090(b). Additionally, 3 AAC 110.970(c) and (d) guide the LBC in the determination of essential city services. Those two provisions are listed below.

3 AAC 110.090(b) states as follows:

Territory may not be annexed to a city if essential city services can be provided more efficiently and more effectively by another existing city or by an organized borough on an areawide basis or non-areawide basis, or through an existing borough service area.

3 AAC 110.970(c) and (d) provide as follows:

(c) If a provision of this chapter provides for the identification of essential city services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

- (1) are reasonably necessary to the community; and
- (2) cannot be provided more efficiently and more effectively
 - (A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or
 - (B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

- (d) The commission may determine essential city services to include
- (1) levying taxes;
 - (2) for a city in the unorganized borough, assessing and collecting taxes;
 - (3) for a first class or home rule city in the unorganized borough, providing primary and secondary education in the city;
 - (4) public safety protection;
 - (5) planning, platting, and land use regulation; and
 - (6) other services that the commission considers reasonably necessary to meet the local governmental needs of the community.

B. City's Views Expressed in the Petition

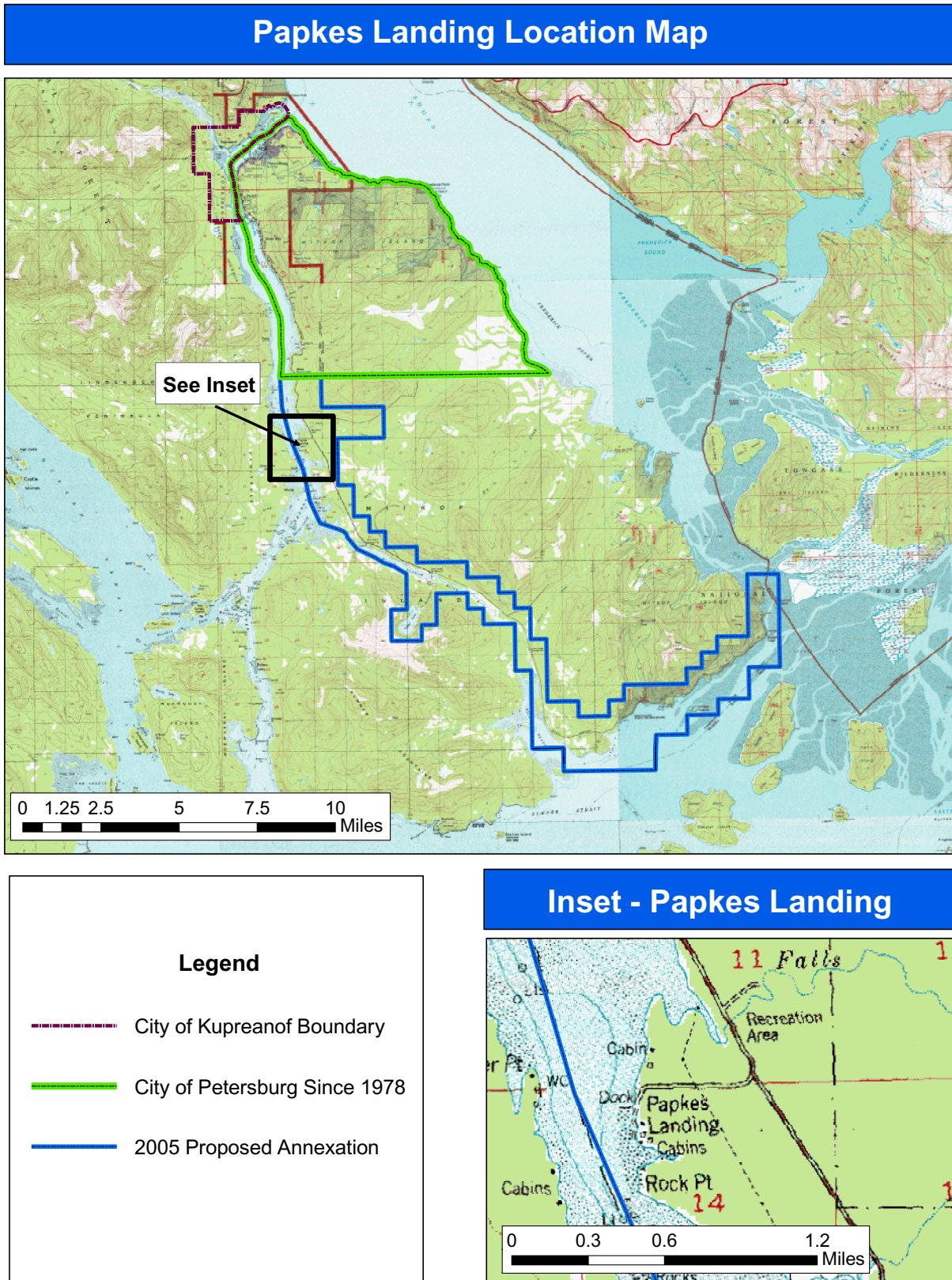
The City claims that it is in the best position to efficiently and effectively deliver essential services to residents in the area to be annexed.

“. . . Essential city services can be provided efficiently and effectively by the City of Petersburg to the area to be annexed . . . Petersburg has the financial resources necessary to provide essential city services within the area to be annexed . . . There is no other existing city or borough that could provide these services.” (at 3)

According to the Petition, the City already provides the proposed annexation area with fire/EMS/search and rescue, public schools, police services as a supplement to the State Troopers, solid waste collection/disposal and electrical services. The Petition states:

“In addition to continuing the services already provided . . . Petersburg will provide increased police protection, improved snow removal service, improved fire protection and EMS/search & rescue services, building code and fire marshal inspection, improved recreation facility management, and planning and zoning. The City will add an additional police officer to provide regular coverage for the area. The City will provide snow removal and sanding services on non-state roads in the annexed area. In the second year after annexation, the City will construct a fire substation at Papkes Landing, the most densely populated residential area in the area to be annexed. The substation will house a fire truck and a plow truck for snow removal.” (at 3)

Figure 3-____. Location of Papkes Landing.



Improving fire suppression services in the area to be annexed is a major concern. The Petersburg Volunteer Fire Department (PVFD) responds to calls now. The City's position is that construction of a fire substation at Papkes Landing will facilitate improved service and faster response times. The City also plans to recruit and train PVFD volunteers from the residents in the annexation area, require fire marshal and building code inspections, zone for construction setbacks, and install dry hydrants along the road corridor to address fire suppression needs.

C. Correspondents' Views

Correspondents expressed that it is not feasible or practicable for the City to provide adequate essential services to the proposed annexation area. The difficulty of installing and maintaining roads and utilities in this remote area, the linear configuration of the proposed annexation, and the City's lack of adequate financial resources to extend its services were the major reasons given. Correspondents stated that the existing police protection provided by the State Troopers and state road maintenance were satisfactory, and that the City's plans to assume these services, as presented in the Petition, were unrealistic, inadequate and underfunded.

Bill and Beth Flor, letter dated April 12, 2005.

"In the event of annexation Petersburg will not be able to provide essential services. Our primary concern is lack of fire protection. The Petersburg fire chief has stated that there is no way, short of a helicopter, that fire suppression could be provided in time for those houses south of Papkes's Landing located way off Mitkof Highway."

Jerry M. Collison, e-mail dated Feb. 15, 2005.

". . . [T]here is no way the city of Petersburg can provide us with "essential services." We are too remote to reach by fire truck, ambulance or police vehicle. Even if the city owned a fireboat, it couldn't get into our cove most of the time, it's too shallow. We haven't asked for help from the city of Petersburg. The only way to reach us in a timely manner with emergency equipment would be by helicopter."

Michael Stocks, e-mail dated January 17, 2005.

"The city states that they will maintain and plow the roads at Papke's, yet at their current status, they can't even keep up with what they do have now. Currently, the road and landing is a State owned and maintained facility with currnet adequate maintenance. We have a State Trooper that currently gives us law enforcement coverage. We do not need, neither is it practicable to add a city policeman to cover us[.]"

George Meintel, e-mail dated April 18, 2005.

"I would be forced to pay the full tax rate regardless of receiving any new level of services. There are not adequate funds for a fire hall. No added personnel for Public Works, EMTs, or firemen are planned. We are promised a police patrol which I feel is not needed as the state Troopers already cover this area. "

D. Respondent's Views

Although an organized borough does not yet exist, Respondent contends that essential city services could best be provided by a borough form of government, stating:

"The City is attempting to do through annexation what is better addressed by borough formation. The City wishes to exert control over a large rural area that is mostly undeveloped and has a very low population density. Boroughs are intended to provide local government for large regions that are rural in nature." (at 4)

Respondent asserted that the remote and undeveloped nature of the annexation area lacked the compatible characteristics necessary for annexation. In addition, Respondent claimed that the City lacked the budgetary resources necessary to provide effective public safety.

"No area should be considered for annexation if essential services cannot be provided in an effective and cost-efficient manner. In that regard, the transition plan needs considerable revision particularly in terms of providing fire suppression. At present, the capital and operating budget is inadequate to provide effective public safety in any area of the proposed annexation (including Papke's). The proposed budget for the fire hall and equipment is insufficient." (at 4)

According to the Respondent, the City implied that it provides key benefits to residents in the annexation area, which are actually covered by federal or state entities. In particular, Respondent pointed out that the City has no ownership in the ferry terminal, airport, or post office facilities, and should not take any credit for them as inferred in the Petition.

E. City's Answer to the Correspondents and Respondent

The City stated that the approximately 162 residents and 11 commercial businesses within the proposed annexation area regularly use City Services and infrastructure. However, since they are exempt from most local taxes, they do not contribute to the city coffers at a level proportionate to the cost of services from which they benefit. The City pointed out that residents of the area to be annexed do not pay property

taxes, and the businesses do not pay transient and sales taxes. Annexation would assure a more equitable distribution of the costs as well as benefits of City services. The City expressed that it is committed to the continuation of existing services in the area to be annexed including: public education through Petersburg Public Schools; public library access; parks and recreation usage; healthcare facilities; harbor usage; fire/EMS/search & rescue; and ancillary police services.

The City acknowledged that not all residents in the area to be annexed received the full range of City services, and reiterated that one of the reasons for the annexation was to improve the provision of City services along the Mitkof Highway corridor. The City's immediate goal is to improve service delivery in public safety protection. In addition, the City will initiate planning, platting, zoning, and building code enforcement in the annexed area to ensure orderly growth and development.

The City assures that it has the financial capability to provide these services, as discussed in the Petition, Sections 11 and 12. It is committed to provide the services even if the costs exceed those estimated in the petition for annexation.

The City explained that services such as electrical, water and sewer are funded through Enterprise Funds, which receive revenues through user fees rather than property taxes. Residents in the area to be annexed would only pay for what they use. Thus, they would not be subsidizing utility services

In reply to Respondent's claim that the Petition inferred that the post office, ferry facility and airport were city-funded, the City offered clarification.

"It merely noted that the area to be annexed is not truly remote, but benefits from being adjacent to an established municipality which gives them access to these types of federal and state facilities and services."
(at 6)

Section 3.3 - Whether the Territory Proposed for Annexation is Compatible in Character with the Annexing City

A. The Standard Established in Law

The third standard governing annexation to a city is set out in 3 AAC 110.100. That standard provides:

The territory must be compatible in character with the annexing city. In this regard, the commission may consider relevant factors, including the

- (1) land use and subdivision platting;

- (2) salability of land for residential, commercial, or industrial purposes;
- (3) population density;
- (4) cause of recent population changes; and
- (5) suitability of the territory for reasonably anticipated community purposes.

B. City's Views Expressed in the Petition

According to the City's Petition, the area to be annexed is compatible with the character of the City of Petersburg. The City contends that a comparative analysis of the characteristics between the two, based on the factors listed in 3 AAC 110.100, demonstrates that there are no significant impediments to annexation. The City's Petition states (footnotes excluded):

1) Land Use and Subdivision Platting

"The land uses within the proposed annexation are compatible with the character of the City. For example:

- Land uses within the City include municipal harbors and water access. Land use in the proposed annexation includes compatible water access activities - including the (to be constructed) South Mitkof Island ferry terminal and the boat landing facility at Papkes Landing.
- Residential land exists both within the proposed annexation, and within the City. Similar considerations for residential subdivision platting would apply to subdivisions within the City, and to subdivisions within the proposed annexation.
- Land use within the City includes commercial development and resource processing. Land use within the proposed annexation includes timber related or commercial development in the land currently owned by the University of Alaska or State of Alaska.
- Land owned by the Alaska Mental Health Land Trust and by other private landowners may be developed into commercial or residential lots.
- The area around Papke's Landing just south of the existing City limits is developing with residential and light commercial businesses. These developments are also consistent with the existing land uses within the City."

2) Salability of Land for Residential, Commercial, or Industrial Purposes

“The ability to sell land for residential, commercial or industrial purposes would be facilitated by the annexation. Municipal planning would be available to manage subdivision of land for residential sales. Planning would help assure that commercial and industrial uses are allowed in appropriate locations. Orderly and reliable development and approved uses should appeal to and encourage investors.”

3) Population Density

“Growth is already occurring. Population in the proposed annexation has increased by an estimated 17 percent since 2000. The population density in the areas nearest to the southern boundaries of the City is increasing. While the population density within the proposed annexation does not approach that of larger cities, it is increasing and causing concerns about incompatible land uses.”

4) Cause of Recent Population Changes

“Causes of recent population changes are not well documented, but include the resettlement of existing Petersburg residents onto property within the area to be annexed as well as new residents to Mitkof Island.”

5) Suitability of the Territory for Reasonably Anticipated Community Purposes

“The territory in the proposed annexation is similar to the territory in the existing City boundary and is developable. The area is served by the existing Mitkof Highway, which would facilitate its development. Much of the land has water access. Electrical service would also be available from Petersburg Municipal Power & Light, which would facilitate development for community purposes.” (at 44)

C. Correspondents' Views

The Correspondents emphasized how different the area to be annexed was from the City of Petersburg. They pointed out the remoteness, sparse population, inaccessibility of the home sites from the highway, lack of modern amenities, and “bush” lifestyle characteristic of the Mitkof Highway corridor.

In their e-mail message of April 18, 2005, Jeremy and Marissa Collison described the undeveloped nature of the area in which they live:

"I am writing this letter in opposition of the Petersburg annexation petition. I park at 12.5 mile Mitkof Highway, and then walk a half mile to my perminant residence. I have no city power. No city sewer. No police protection. No fire protection, and no other city services with the exception of public schools[.]"

Bill and Beth Flor wrote in their letter dated April 12, 2005:

"With the exception of Papke's Landing, the area is not at all similar in population density (south of Papke's Landing there are eight homes not the 20 listed in the proposal). It is mostly raw land. This is an extremely large annexation, increasing Petersburgs size by 75%."

Jerry Collison remarked about the salability of property from the 1978 annexation in his e-mail dated February 15, 2005.

"I ask the commission to please look into the track record of the city of Petersburg in following through in good faith with thier promises to Scow Bay and especially Frederick Point E. In the case of the later, it is a fact that property in Frederick Point E is hard to sell because the properties are subject to (now) the same 10 mills as town and there are no benifits to the area. This results in a the current deflated actual value."

In his e-mail message dated April 15,2005, Papkes Landing resident Walt Payne wrote:

"A good share of the property in question is state owned, national forest and church property which are all tax exempt."

Michael Stocks, e-mail dated January 17, 2005.

"I live at Papke's Landing, I have a cistern for water so I'm not on any city water. The city water only runs to approximately 4 mile, and the current city limits is at 8 mile. They will never be able to deliver city water or sewer to my address. As far as fire protection, I'm 30 minutes from town, which means my house will burn down before they get there."

Jessica Phillips, e-mail dated April 18, 2005.

"There are no fire hydrants or other facilities nearby Each homeowner uses a cistern in order to collect rainwater for household drinking and usage. Most do not have television, although a few homes in the outlying areas do have satellite dishes."

Jerry Collison, e-mail dated February 15, 2005.

“. . . [I]f the petition is approved, we (who live a lifestyle more attuned to the ‘bush’) we, would be subject to the same city ordinances as the rest of the city: No discharging of firearms, no hunting, the same leash law, and same curfew laws, etc. This is totally out of step with our location and living conditions. It’s ridiculous.”

D. Respondent’s Views

The Respondent asserts that the proposed annexation area does not meet the standard of compatibility with the City’s character, offering several reasons to support this argument. The respondent cites low population density, primary land ownership (98.6%) by USFS and the State with the City having no land ownership in the area to be annexed, and a lower need for city government services south of Papkes Landing.

“The petition attempts to justify annexation of a very large geographic area of 34.2 sq. mi. that would result in a 74.2% increase in total area for the City but with only a 5% increase in total population. The area proposed for annexation is predominately rural, undeveloped, and not compatible in character to the City. The annexation area has approximately one mile (out of approximately 70 miles of proposed boundary lines) that is contiguous to existing municipal boundaries of the City.” (at 3)

E. City’s Answer to the Correspondents and Respondent

The Petitioner reaffirmed its position that the territory proposed for annexation is fully compatible in character with the areas within the existing City boundaries.

“At issue is the extent to which the proposed annexation meets the applicable State standards that regulate the character and configuration of the area to be annexed. . . . [T]he proposed annexation meets these standards.” (at 3)

Section 3.4 - Whether the Proposed Expanded Boundaries of the City Include the Human and Financial Resources Necessary to Provide Essential City Services

A. The Standard Established in Law

The fourth city annexation standard is set out in 3 AAC 110.110, which provides as follows:

The economy within the proposed boundaries of the city must include the human and financial resources necessary to provide essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including the

- (1) reasonably anticipated functions of the city in the territory being annexed;
- (2) reasonably anticipated new expenses of the city that would result from annexation;
- (3) actual income and the reasonably anticipated ability to generate and collect local revenue and income from the territory;
- (4) feasibility and plausibility of those aspects of the city's anticipated operating and capital budgets that would be affected by the annexation through the third full fiscal year of operation after annexation;
- (5) economic base of the city after annexation;
- (6) property valuations in the territory proposed for annexation;
- (7) land use in the territory proposed for annexation;
- (8) existing and reasonably anticipated industrial, commercial, and resource development;
- (9) personal income of residents in the territory and in the city; and
- (10) need for and availability of employable skilled and unskilled persons to serve the city as a result of annexation.

B. City's Views Expressed in the Petition

The City contends that it has the resources necessary to provide essential city services on an efficient, cost-effective level within the area to be annexed.

"The City of Petersburg already provides many services to the area to be annexed . . . and seeks to improve services. Essential city services can be provided efficiently and effectively by the City of Petersburg to the area to be annexed, which is contiguous to the existing city and connected by a well-maintained state highway corridor. The City of Petersburg has the financial resources necessary to provide essential city services within the area to be annexed. . . ." (at 3)

Sections 11-13 of the Petition summarize tax data, three-year budget projections, and long-term municipal indebtedness to demonstrate that the City has the financial resources available to support annexation. The additional tax revenue from property, sales and transient room taxes collected from the newly annexed area is reflected here, as are anticipated operating and capital expenses associated with the annexation. The City made a point of this stating (footnotes omitted):

“These residents and businesses presently use city services and infrastructure, but do not pay property taxes nor collect transient room taxes or sales taxes to support them. This will resolve an existing inequity between city residents and businesses that pay the full suite of municipal taxes, and those in the area to be annexed, who currently do not. The annexation will also increase the tax base to support the provision of essential city services.

Approximately 162 residents live within the area proposed for annexation, in approximately 78 residences. There are approximately eleven commercial businesses in the area.” (at 2)

According to the figures provided in the Petition, the estimated value of taxable property in the area to be annexed is \$14,575,000, with a property tax revenue estimate of \$148,228 (10.17 mills). The City’s Finance Director and sales collection staff estimated that the annexation area would bring in \$27,600 in sales taxes (6%), and \$5,700 in transient room taxes (4%) annually. Taxable sales and room taxes were conservatively estimated based upon benchmarks from businesses similar to those operating in the annexation area.

Figure 3-____. Taxable property valuations outlined in the Petition to Annex Territory.

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	Taxable Value	Tax Revenue
Real property	\$14,575,000	\$148,228
TOTAL	\$14,575,000	\$148,228

B. Projected Taxable Sales. The value of annual sales in the territory proposed for annexation that would be subject to City sales taxes was estimated by the City’s Finance Director, in consultation with sales tax collection staff, to be \$460,000. At the City’s current sales tax rate of 6%, this would generate an estimated \$27,600 annually. Based on estimated income to lodging businesses in the area to be annexed, the City’s transient room tax rate of 4% would generate an estimated \$5,700 annually. Taxable sales and room taxes were conservatively estimated based upon consultation with the City Finance Department, considering sales tax income from businesses similar to those currently operating in the area to be annexed.

C. Existing Taxes in the Territory Proposed for Annexation.
There are currently no municipal taxes in effect in the territory proposed for annexation.

SECTION 12. THREE-YEAR BUDGET PROJECTIONS.

A. Budget Projections for the Territory Proposed for Annexation. Table 1 provides a listing of significant City operating expenditures, revenues (from local, State, federal, and other sources), and significant capital expenditures projected to result exclusively from the proposed annexation during each of the first three full years following annexation.

Revenues from local taxes, licenses and permits were estimated conservatively. Revenues from Payment in Lieu of Taxes (PILT) and Shared Fish Tax were obtained from the State of Alaska, Department of Community and Economic Development (DCED). Local property tax revenues were projected to increase by 2% annually and other revenues were held constant, to provide a conservative scenario for revenue generated from annexation.

Significant operating expenditures related to annexation include: an annual increment to general government services (Years 1-3); a one-time increment in general government services for property assessment costs and the cost of the municipal election for annexation (Year 1); one additional police officer and equipment/fuel (Years 1-3); costs for snow removal (Years 1-3) to improve fire/emergency access; a one-time increment in community development for planning/zoning (Year 1); mapping expenses (Years 1-3); and additional required minimum contribution for education (Year 3).

Significant capital expenditures are limited to construction of a new building at Papkes Landing in Year 2 to serve as a fire substation and staging building for snow removal equipment.

The analysis shows that by Year 3 following annexation, revenues generated from the annexation will exceed expenditures (Table 1).

Table 1 in Section 12 presents the budget projections for the first three years following annexation for the area to be annexed. The first year post annexation shows a deficit of \$118,390. This

reflects that no property taxes are to be collected in the annexation area until Year 2 when an estimated \$151,193 in property taxes will be collected. This lowers the deficit in Year 2 to approximately \$18, 803. By Year 3 when property tax revenues are estimated to be \$154,217 and expenses have leveled off, projections show a surplus of \$18,707.

Expenses in Table 1 reflect the startup costs for the annexation in Year 1 including one-time increment for property assessment costs and the cost of the municipal election of annexation, and a one-time increment in community development for planning/zoning. This is in addition to expenses that will be expected every year for such items as general government service, education, snow removal, mapping, and cost associated with the additional police officer.

Figure 3-____. Budget as outlined in the Petition to Annex Territory.

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TABLE 1 BUDGET PROJECTIONS FOR AREA TO BE ANNEXED			
REVENUES	Year 1 (FY 05/06)	Year 2 (FY 06/07)	Year 3 (FY 07/08)
Property Tax (10.17 mill) ¹⁸	\$0	\$151,193	\$154,217
Sales Tax (6%) ¹⁹	\$27,600	\$27,600	\$27,600
Transient Room Tax (4%) ²⁰	\$5,700	\$5,700	\$5,700
PILT - Public Law 97-258 ²¹	\$7,030	\$7,030	\$7,030
Shared Fish Tax ²²	\$280	\$280	\$280
City Licenses and Permits ²³	\$1,000	\$1,000	\$1,000
TOTAL REVENUE	\$41,610	\$192,803	\$195,827
OPERATING EXPENSES			
General Government	\$41,000 ²⁴	\$5,000	\$5,000
Police & Jail	\$69,000 ²⁵	\$69,000	\$69,000
Public Works	\$13,650 ²⁶	\$13,650	\$13,650
Community Development	\$36,350 ²⁷	\$11,350	\$11,350
Facilities Maintenance	\$0	\$0	\$2,000 ²⁸
Community Services (incl. education)	\$0	\$0	\$76,120 ²⁹
TOTAL OPERATING EXPENSES	\$160,000	\$99,000	\$177,120
CAPITAL EXPENSES			
Public Works	\$0	\$75,000 ³⁰	\$0
TOTAL CAPITAL EXPENSES	\$0	\$75,000	\$0
REVENUE MINUS EXPENSES	<-\$118,390>	<-\$18,803>	+\$18,707

¹⁸ Sources for property tax revenue estimates included 2000 census, search of basic land status information, and consultation with the City Finance Department and Assessor.
¹⁹ Sales tax estimates provided by City of Petersburg, Finance Department, 3/12/04
²⁰ Transient room tax estimates provided by City of Petersburg, Finance Department, 3/12/04
²¹ Source: Bill Rolitzen, DCED, 3/8/04.
²² Source: Bill Rolitzen, DCED, 3/8/04.
²³ Estimate of additional building permit fees provided by City of Petersburg, Community Development Department, 2/27/04
²⁴ Includes \$5,000 increment for general government services, and one-time expense for annexation including assessor services (\$30,000) and municipal election regarding annexation (\$6,000).
²⁵ Additional police officer (\$59,000) and equipment/fuel (\$10,000). Source: City of Petersburg, City Manager, 3/1/04.
²⁶ Estimated cost to provide snow removal services and road sanding, using existing equipment (staged at Papkes Landing) and personnel, assuming 32 days of snow removal/sanding per year. Source: City of Petersburg, Public Works Dept., 5/25/04.
²⁷ Year 1: Estimated cost for Comprehensive Plan supplement and zoning for area to be annexed (\$25,000) and annual cost to locate, map, and plan for properties in areas to be annexed. Years 2 & 3: \$11,350 each year to complete mapping and planning.
²⁸ Estimated annual operations and maintenance cost for new Papkes Landing substation. Source: City of Petersburg, Public Works Dept., 2/27/04.
²⁹ Increase in minimum required contribution to education, equivalent to 4 mill of estimated Full True Value of real property in area to be annexed (based on estimates of assessed property values and Alaska Taxable 2003).
³⁰ Construction cost for storage building at Papke's Landing to house snow removal and fire suppression vehicles and equipment. Source: City of Petersburg, Public Works Dept., 2/27/04.

Table 2 and Table 3 show the projected revenues and expenses for the City of Petersburg for the same three year period following annexation. Budget figures were prepared by the City of Petersburg Finance Department. Total revenue projections for each of the three years are \$7,069,731, The City of Petersburg asserts the analysis shows that the annexation is financially feasible and that the City of Petersburg has the financial resources and resilience to successfully annex and provide essential city services to the annexed area.

“The City of Petersburg operates with a balanced budget. In addition, the City of Petersburg has both restricted and unrestricted reserve funds that it has not accessed in recent years and to which is regularly deposits additional unrestricted funds at years end. Reserve funds would be available to cover the costs of annexation, if necessary, until revenues begin to exceed expenditures beginning in Year 3 . . .” (at 11)

C. Correspondents' Views

Correspondents were not convinced that the human and financial resources necessary to support the annexation were available. There was a general sense that the proposal was underfunded, and lacked the personnel to provide any of the proposed essential services.

George Meintel, e-mail dated April 17, 2005.

“ . . . [T]he annexation is way too large for the city’s budget. There are no adequate plans to provide the funds for such a large expansion and there is no plan for providing utilities . . . [T]here are not adequate funds for a fire hall. No added personnel for Public Works, EMTs, or firemen are planned. We are promised a police patrol which I feel is not needed as the state Troopers already cover this area.”

Peter Pellerito, letter dated April 8, 2005.

“The amount of taxable land to support this venture is not there. Over 90% of the land mass is in State of Alaska Lands or Federal Forest Land. With no guaranteed way of insuring funding in the form of land sales etc. Especially with the Alaska University Lands transfer has not been settled, and a lot of these lands are out of the proposed annexation area. This is another example of no tax revenue to the City of Petersburg.

. . . .

Figure 3-____. Table 2 of the Budget as outlined in the Petition to Annex Territory.

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B. Budget Projections for the Existing City. Tables 2-4 below provide a projection of significant City revenues, significant operating expenditures, and significant capital expenditures for the territory within the existing boundaries of the City during each of the first three full years following annexation.

Budget figures were provided by the City of Petersburg, Finance Department. The conceptual budget figures for FY 05 are shown for Years 1-3 after annexation. The City has not prepared budget projections beyond FY 05. This provides a sufficient context for evaluating annexation revenues/expenses in relation to the full City budget.

The analysis shows that the annexation is financially feasible and that the City of Petersburg has the financial resources and resilience to successfully annex and provide essential city services to the area. The City of Petersburg operates with a balanced budget. In addition, the City of Petersburg has both restricted and unrestricted reserve funds that it has not accessed in recent years and to which is regularly deposits additional unrestricted funds at years end. Reserve funds would be available to cover the costs of annexation, if necessary, until revenues begin to exceed expenditures beginning in Year 3 (see Table 1).

TABLE 2 CITY OF PETERSBURG PROJECTED REVENUES			
REVENUES	Year 1 (FY 05/06)	Year 2 (FY 06/07)	Year 3 (FY 07/08)
City Property Tax – real property tax + PILT + motor vehicle registration + other (10.17 mill)	\$2,276,000	\$2,276,000	\$2,276,000
City Sales Tax (6%) + Transient Room Tax (4%)	\$2,249,000	\$2,249,000	\$2,249,000
Licenses and Permits	\$6,500	\$6,500	\$6,500
Federal Grants	\$51,214	\$51,214	\$51,214
Shared State Revenue (Fisheries Business Tax + Shared Fish Tax + Liquor licenses)	\$621,000	\$621,000	\$621,000
State Grants for Operating Expenses (Library)	\$6,000	\$6,000	\$6,000
State Charges for Services (Jail and special services contract)	\$159,000	\$159,000	\$159,000
Charges for Services (fees)	\$215,258	\$215,258	\$215,258
Fines & Forfeits	\$8,300	\$8,300	\$8,300
Misc. Revenues	\$203,700	\$203,700	\$203,700
General Fund Overhead	\$536,259	\$536,259	\$536,259
Proceeds of General Fixed Assets	\$37,500	\$37,500	\$37,500
Interfund Transfers (National Forests Receipts – Schools)	\$700,000	\$700,000	\$700,000
TOTAL REVENUE	\$7,069,731	\$7,069,731	\$7,069,731

There are a lot of land locked properties that have road easements to them and need to have roads constructed and Electric utilities to their properties before they pay full taxation. And to provide services to the needed area can not be done with a zero tax base. The perfect example is the Homer Annexation approximate. Five sq. mi. It will add 898 persons compared with Petersburg's 162 persons to 34.2 sq. miles. And noting the capitol expenses Homer \$1,089,600.00 Petersburg \$75,000.00 Who is trying to fool who? This clearly shows that Petersburg Annexation is not going to make any money, and will not support it's self or add to the existing community."

Bill and Beth Flor, letter dated April 12, 2005.

". . . In the Papke's area the \$75,000 budgeted for a firehall/snowplow storage building seems woefully inadequate. Does this include heat, water storage, a staff person, and septic system?

. . . .

The proposed additional policeman does not seem to include a vehicle. Recent local news stories indicate that the police force will be providing extra patrol coverage on the east side of the island due to homeland security obligations around the city's cabin creek reservoir. Their protection is already thinning."

John Murgas, letter dated April 13, 2005.

"The Petition specifies only \$75,000 for construction of a fire substation, including vehicles and equipment, which I respectfully state is not realistic. If \$75,000 is correct, I would be concerned of the quality of the location, construction and capability of the safety equipment inside.

. . . .

To operate a firefighting apparatus (fire truck) requires a minimum 5 firefighter crew. Ideally, there would need to be 10 to 15 volunteers in the immediate Territory to typically get 5 to respond to a call. The demographics of the Territory make it unlikely there would ever be an adequate number of local, trained and certified firefighters to man a Territory fire sub-station. (At present, I am the only currently certified 'Firefighter I' residing in the Territory."

Walt Payne, e-mail dated April 15, 2005.

". . . They want to take in another 34 sq. mi. and they can't take care of what they have now. They don't plan on hiring any more people to take up the slack of the extra area because they can't afford it!! It will take

at least 8 years before they break even on the purposed area and that's if they think they can build a fire hall for \$75,000. I was a building contractor for over 20 years and there is know way it can be done for that price."

Keith Gerlach, letter dated March 29, 2005.

"The City of Petersburg indicates that only one additional Police Officer will be required to provide protection to the area. The main road distance from the existing City Limit to the other end of the proposed will be around 20 or more miles. I do not believe that only one officer can provide adequate service.

The City of Petersburg indicated that some snow removal from the roads in the proposed annexation area would be provided. Yet I was informed that only roads meeting City standards would be plowed. Except for the State Highway and the road from the State Highway to the Papke Landing parking area I believe most of the other roads are private and would not meet City standards."

Gerhard Hiller, letter dated March 20, 2005

"I do not think the City of Petersburg is ready to annex all the area they claim to aquire. . . . They have several areas in their own city limits which are not up to "standard". No sewer, no water. As for Frederick Point South, no electricity.

. . . .

I hope the City of Petersburg will clean up their own areas first before they think of annexing more land."

Michael Stocks, e-mail dated January 17, 2005.

"The city proposal states that they are allotting \$73,000 for fire protection at Papke's for a fire hall. That small amount can't even come close to even preparing the muskeg and purchase the site FOR a fire hall. Their proposal is ridiculous.

. . . .

. . . To add on an additional officer to cover out the road duties will cost tens of thousands of dallors. Other ciry maintenance staff and equipment will also cost at least tens of thousands of dollars. All of these expenses can not possibly be covered by the meager residential property taxes that could be generated by the proposed annexed area."

Jerry Collison, e-mail dated February 15, 2005.

"The petition states that an approx. 25 residents with an est. \$150,000 property appraisal for those 10 mills would generate revenue to pay for essential services to us. Those figures are wa[s]y over-estimated at best and exaggerated at least. My personal count puts the figures as follows: There are 6 actual resident households between Papke's Landing and the Crystal Lake fish hatchery, with a total of 11 adult residents. There are 6 fishing shacks or cabins within the same area. None of these has road access or utilities. Most of these properties would appraise for far less than the estimated dollars stated. The city revenues generated for this area would be far lower than estimated, and essential services are impossible to provide. Besides the fact that no one wants these "essential services," because we already take care of ourselves."

Mona Christian and Dave Kensinger, fax dated April 17, 2005.

"The maintenance and supervision of the Papke's Landing dock, ramp, and parking areas should be the responsibility of the Petersburg harbor department. Issues in this area are: extensive repair and maintenance, and possible enlargement, of the existing site developing a plan for parking vehicles and boat trailers removing abandoned vehicles, boat trailers, and other equipment garbage collection[.]"

Daniel Savone and Kerry Shakarjian, letter dated April 18, 2005.

"The City of Petersburg's \$75,000 estimate of costs for essential services seems unrealistic, and based on the City's past track record, probably an attempt to deceive and sway local voter sentiment towards annexation through promised increased tax revenue. . . We fail to believe that the City of Petersburg can afford to supply us with essential services based on full mill rate charge."

D. Respondent's Views

Respondent found the Petition and transition plan to contain several inaccuracies and misstatements. Revenues are overstated and the costs of providing essential services are underestimated. However even with these numbers, the transition plan indicates that the City will have a net loss until the seventh year of annexation. Respondent claims that a revised transition plan, which more accurately reflects costs and revenues would show even larger net losses to the City.

"In its draft petition, the City had a worksheet for calculating taxable values of properties in various categories in the annexed area. This worksheet was not contained in the final petition but the totals are

the same in the worksheet and the final petition. In the category of *'Residential lot/home: Developed - Unroaded or off highway S of Papke's - fire protection less feasible'*, the worksheet states that there are 20 homes/lots at an assessed value of \$120,000 each. However, in that category (where the Respondent resides), there are only 11 buildings on ten lots. Of these eleven buildings, five are unoccupied small cabins of small square footage and value. The transition plan overstates taxable property in this category by approximately 140%.

. . . .

. . . The transition plan omits some costs and understates other costs. There is no increased budget for providing EMS service to the end of the road. There is no additional budget for improving communication support for emergency, fire, and police vehicles. The entire annual budget for administering the 74.2% increase in the size of the City is \$5000 annually. The addition of a police officer (but without a vehicle) does not provide any assurance of the deployment of the officer in area proposed for annexation. The cost of the additional police officer might better be spent on personnel to man the proposed Papke's fire hall and to provide public works support in the annexation area. The cost of providing fire suppression is extremely underfunded." (at 8-9)

Respondent also expressed specific concerns about fire suppression in the proposed annexation area. He found the \$75,000 allocated to build and equip the new fire hall to be insufficient and unrealistic. Respondent was convinced that the lack of adequate resources, coupled with many other challenges facing volunteers responding to fire alarms along the 24-mile Mitkof Highway corridor, will impede adequate fire protection.

"There is no funding provision for staffing the fire hall. There does not appear to be a plan or funding for recharging fire vehicles out the road via a water storage reservoir (not subject to freezing). The petition indicates that dry-hydrants will be installed out the road in 2005. It is not clear if these fixtures will be operable in the winter during freezing weather. There is no funding for off-road firefighting equipment, though a large portion of the annexed area is not road accessible. There doesn't appear to be any funding for personal firefighting equipment at all." (at 10)

E. City's Answer to the Correspondents and Respondent

The City directed its response to the public comments and Respondent's remarks claiming inadequacy of funding and planning of fire suppression in the area to be annexed. The City's Public Works Director provided a detailed estimate for the construction of a fire substation building at Papkes Landing that will store an existing fire truck and existing snow removal equipment.

"The building is planned to be a simple, two-bay 40' x 50' metal building constructed on a perimeter foundation with a gravel floor (no slab). The structure will be heated and have electrical service, but no water or sewer system. The estimated cost of construction . . . is \$58,740. The City expects to be able to construct the building on land that it can acquire through negotiations and mutual agreement with another public land owner, such as the Alaska Mental Health Land Trust Office or the Alaska Department of Transportation and Public Facilities. The City has had success in the past with negotiating such land deals that are beneficial to both parties. . . . Total capital cost of the project is \$58,740, with an allowance for land of \$10,000 (that may not be needed) and a project contingency of 10%, for an estimated total of \$75,000." (at 15)

Several Correspondents commented on how unreceptive the City Council was to considering a differential tax rate for the area to be annexed. On the contrary, the City Council contended that it did explore a number of options for a differential tax rate for the area proposed for annexation. The Council ultimately decided that it was in the best interest of the community at large to continue to apply a uniform property tax to all properties within the city limits.

The City explained that property taxes make up 31% of the City's general fund revenues. The general fund supports education, police, fire/EMS, public works, general government administration, community development, facilities maintenance, community health services, library, parks & recreation and more.

". . . The City of Petersburg's commitment to a uniform property tax is based on the conviction that these types of generally-funded services and facilities are used by and/or provide benefit to the community as a whole and should be supported by all property owners." (at 16)

Several Correspondents expressed that paying property taxes should be commensurate to the level of utility services received. Thus, city residents who receive little or no utility services should not have to pay property taxes at all. The City gave no merit to this argument, and responded with:

“An argument that a property that does not receive utility services should not pay property taxes is not supportable. Water, sewer, and electrical services are Enterprise Funds, funded through user fees rather than property tax revenues. Property owners who do not receive these services do not pay for them. Further, the assessed values of properties (which determine property tax liability) are based on market value. Properties that do not receive certain services may be less desirable on the market and may therefore have a lower property tax assessment.”
(at 17)

Section 3.5 - Whether the Proposed Expanded Boundaries of the City Include a Population that is Sufficiently Large and Stable to Support the Extension of City Government

A. The Standard Established in Law

The fifth standard established in law for annexation to a city is set out in 3 AAC 110.120. That standard provides as follows:

The population within the proposed boundaries of the city must be sufficiently large and stable to support the extension of city government. In this regard, the commission may consider relevant factors, including

- (1) total census enumeration;
- (2) duration of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

B. City’s Views Expressed in the Petition

The Petition addressed each of the factors as follows (at 46):

- (1) total census enumeration

The total population of the City of Petersburg within the current boundaries is 3060 (State demographer estimate, 2003).

- (2) duration of residency;

The City has a stable population with many long term residents.

(3) historical population patterns;

The City of Petersburg Comprehensive Plan (2000) notes that the population of the city is relatively stable and permanent, with expectations that the population will grow at a rate of approximately 1% per year.

(4) seasonal population changes; and

The City supports a seasonal population of workers in the fishing, fish processing and tourism industries.

(5) age distributions.

The 2000 census provides the following age distributions for the Wrangell Petersburg census area. Age distribution within the City of Petersburg and the area to be annexed would be similar to the following:

Age Range	Number	Percent
0-19 years	2,102	31%
20-39 years	1,532	23%
40-59 years	2,169	33%
60-79 years	723	11%
80+ years	158	2%

C. Correspondents' Views

The factors for this standard were not specifically addressed. Correspondents did describe the area to be annexed as sparsely populated, especially south of Papkes Landing. Their comments did not typically indicate duration of residency. However, Jerry Collison indicated that he had lived on his property south of Papkes Landing for ten years, and Bill and Beth Flor stated that they purchased their land and built their house in 1981.

In his e-mail dated February 15, 2005, Jerry Collison referenced some cabins in the area, which suggest the likelihood of a seasonal fluctuation change.

"There are 6 actual resident households between Papke's Landing and the Crystal Lake fish hatchery, with a total of 11 adult residents. There are 6 fishing shacks or cabins within the same area. None of these has road access or utilities."

Bill and Beth Flor wrote in their letter dated April 12, 2005:

“With the exception of Papke’s Landing, the area is not at all similar in population density (south of Papke’s Landing there are eight homes not the 20 listed in the proposal). It is mostly raw land. This is an extremely large annexation, increasing Petersburgs size by 75%.”

Peter Pellerito, letter dated April 8, 2005.

“. . . [T]o provide services to the needed area can not be done with a zero tax base. The perfect example is the Homer Annexation approximate. Five sq. mi. It will add 898 persons compared with Petersburg’s 162 persons to 34.2 sq. miles. And noting the capitol expenses Homer \$1,089,600.00 Petersburg \$75,000.00 Who is trying to fool who? This clearly shows that Petersburg Annexation is not going to make any money, and will not support it’s self or add to the existing community.”

D. Respondent’s Views

Respondent presented the proposed annexation area as a combination of two subsections: 1) 8.76-mile to Papkes Landing; and 2) the area south of Papkes Landing.

Respondent described the annexation area closest to town as being the most populated and compatible in characteristics with the City.

“Approximately 85% of the population in the area proposed for annexation is within 2.5 miles of the existing municipal boundaries. The population in the area proposed for annexation is concentrated in the area immediately adjacent and contiguous to the existing municipal boundary (8.76-mile) and south to and including the roaded portion of the Papke’s Landing area. This area is road accessible and currently receives some extraterritorial services such as electric and garbage service (but no sewer or water service). Given the lengthy response time, it is debatable that this area currently receives fire suppression service.” (at 5)

Respondent described the area south of Papkes Landing as largely undeveloped and sparsely populated, stating:

“The character of area proposed for annexation changes immediately south of Papke’s Landing Road. Below this turnoff (and for the next 20 miles), there are no residences adjacent to the highway and no intersecting residential streets. Approximately 24 persons live south of the Papke’s area of which 13 people reside in the DNR land lottery subdivision (respondent’s area). The lots in this subdivision do not

have road access nor receive electric, sewer, water, fire suppression, or garbage collection service. Thirty out of forty lots in this subdivision are vacant. Five lots have residences with full time occupancy. There are no privately-owned lots with occupied dwellings south of this subdivision. At the Crystal Lake Hatchery, there are resident staff and families (approximately 11 persons).” (at 5)

The Responsive Brief provided the following comparison of population density between the City and area south of Papkes Landing.

“The population density for the annexation area south of Papke’s Landing is estimated to be 0.76 persons/sq. mi. (24 persons in 31.45 sq. mi.). The density of the current City of Petersburg is 70 persons/sq. mi. or ninety-two times (92 X) the population density in the proposed annexation area south of Papke’s Landing.” (at 5)

E. City’s Answer to the Correspondents and Respondent

The City made the following comment concerning population size and stability.

“Population growth is already occurring in the area proposed for annexation. Population in the proposed annexation has increased by an estimated 17 percent since 2000, with the highest density in the Papke’s Landing area just south of the City boundary.” (at 4)

The City conveyed that the trend in increasing population in the area to be annexed, raised concerns about the need for land management and the importance of:

“. . . ensuring that existing and new residents of this growing area contribute to the costs of existing and expanded City infrastructure and services.” (at 4)

Section 3.6 - Whether the Proposed Expanded Boundaries of the City Include All Land and Water Necessary to Provide the Full Development of Essential City Services on an Efficient, Cost-Effective Level

A. The Standard Established in Law

The sixth standard governing city annexation is set out in 3 AAC 110.130(a), which provides:

The proposed boundaries of the city must include all land and water necessary to provide the full development of essential city services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

- (1) land use and ownership patterns;
- (2) population density;
- (3) existing and reasonably anticipated transportation patterns and facilities;
- (4) natural geographical features and environmental factors; and
- (5) extraterritorial powers of cities.

B. City's Views Expressed in the Petition

The City anticipates that the proposed annexation would have little effect on its ability to provide and develop essential city services.

“When considering the (1) land use and ownership patterns; (2) population density; (3) existing and reasonably anticipated transportation patterns and facilities; (4) natural geographical features and environmental factors; and (5) extraterritorial powers of cities . . . there is ample land and water to provide for a thriving, livable and cost effective municipality.” (at 47)

According to the City, there are available lands well suited to support growth and development in the area to be annexed. To begin with, the annexation will add a 640-acre state-owned parcel on the road system to the City. The Petition states that “this land is designated for settlement and commercial uses and is considered by the state to be appropriate for land disposal.” The Petition further claims that there are approximately 300 acres of private land in the area, including land available for future development. Papkes Landing and the waterfront farther south also offered available land in subdivided lots and unsubdivided acreage.

The Alaska Mental Health Land Trust (AMHLT) was identified as another source of potential land to support growth in the annexation area. AMHLT owns approximately 1,800 acres within the proposed annexation. The City was confident that Trust lands would play a significant role in commercial and residential development over the next ten years.

“The AMHLT owns the Papkes landing boat launch area and an adjacent five acres. They are interested in entering into a commercial lease for that property. The AMHLT’s 24-lot Falls Creek subdivision is being marketed for sale; four lots have sold and sale/build-out would be expected over the coming ten years. As these lots sell, the AMHLT will consider additional subdivisions along the highway frontage.” (at 6)

The Petition added that the University of Alaska owns approximately 900 acres of land on South Mitkof Island to the east of the ferry terminal site. At a future date, this land will also be available for commercial, residential or industrial uses to generate revenue for the University.

C. Correspondents' Views

Some Correspondents did not think the tax base existed to support the proposed annexation.

In a letter dated April 8, 2005, Peter Pellerito gave his opinion about this.

“. . .The amount of taxable land to support this venture is not there. Over 90% of the land mass is in State of Alaska Lands or Federal Forest Land. With no guaranteed way of insuring funding in the form of land sales etc.”

Jerry Collison, e-mail dated February 15, 2005.

“The Petition states that an approx. 25 residents with an est. \$150,000 property appraisal for those 10 mills would generate revenue to pay for essential services to us. Those figures are wa[s]y over-estimated at best and exaggerated at least. My personal count puts the figures as follows: There are 6 actual resident households between Papke's Landing and the Crystal Lake fish hatchery, with a total of 11 adult residents. There are 6 fishing shacks or cabins within the same area. None of these has road access or utilities. Most of these properties would appraise for far less than the estimated dollars stated. The city revenues generated for this area would be far lower than estimated. . .”

Correspondents also conveyed that they thought there was not enough water available for fire suppression. The lack of water supply, compounded by the inability of fire hoses to reach off road homesites, caused Correspondents to be skeptical that annexation would make any difference.

Jerry Collison, e-mail dated February 15, 2005.

“. . . [T]here is no way the city of Petersburg can provide us with “essential services.” We are too remote to reach by fire truck, ambulance or police vehicle. Even if the city owned a fireboat, it couldn't get into our cove most of the time, it's too shallow. We haven't asked for help from the city of Petersburg. The only way to reach us in a timely manner with emergency equipment would be by helicopter. That or the cost was not addressed in the petition.”

Keith Gerlach, letter dated March 29, 2005.

“At present, the only existing water source near by are two small streams and the City would have to develop some method for obtaining water from those streams. The City indicates that some sort of ‘dry’ hydrants would be built. However, when I inquired about what a ‘dry’ hydrant was there did not seem to be any idea what the cost would be to build one or if any parking area would have to be built to enable the fire truck to access the ‘dry’ hydrant.”

Bill and Beth Flor, letter dated April 12, 2005.

“Our primary concern is lack of fire protection. The Petersburg fire chief has stated that there is no way, short of a helicopter, that fire suppression could be provided in time for those houses south of Papke’s Landing located well off Mitkof highway.

. . . .

. . . The fact is that for any building south of Papke’s Landing and especially those off the road it would be impossible to provide any fire protection.”

Correspondents pointed out that there were areas within the city limits that still did not have city water and sewer, in particular areas that were annexed back in 1978. The idea of being expected to pay full mill rate on property tax due to annexation, but not receiving these basic services for years to come, if ever, did not sit well with them. Sentiments were that they had only to look at what had transpired with the 1978 annexed territories to see what to expect.

Gerhard Hiller, letter dated March 20, 2005.

“They have several areas in their own city limits which are not up to ‘standard’. No sewer, no water. As for Frederick Point South, no electricity.”

Jeremy Collison, letter dated April 18, 2005.

“. . . for 27 years the people who live in that area have been paying taxes at full mill rate, and the ONLY services provided have been city schools. Even the people who live along Mitkof Highway, past 4 mile, still don’t have water and sewer. It is quite clear to me that the City of Petersburg would rather spend 22 million TAX dollars on a harbor expansion project than to provide the services to the people who are being taxed.”

George Meintel, e-mail dated April 18, 2005.

"In the past the City of Petersburg's track record of providing services to areas annexed I believe is less than perfect and I have no reason to think that will change. People living in the area last annexed (Fredrick Point) are paying the full tax rate for no new services after a promise of a decreased rate."

Bob Tepley, e-mail dated April 15, 2005.

"The City of Petersburg claims the Annexation Brief of 1977 is non-binding as it was signed by a previous administration; in particular terms regarding differential tax zones predicated on differing amounts of services provided to different areas. For example the subdivision of Frederick Point East is taxed at full mill rate and receives no services; in total disregard of the annexation brief of 1977. If the Annexation Brief of 1977 is non-binding, what is the purpose of the Annexation Brief of 2004? If the proposed annexation is to compensate for future services in the to-be-annexed area, maybe areas which received no services over the last 20 years and are not slated to receive future services should be deannexed."

D. Respondent's Views

See Section 3.5 - *Respondent's Views* at page ___ of this report.

E. City's Answer to the Correspondents and Respondent

The City responded to claims that the area to be annexed did not have enough taxable property to pay for essential services and other costs of annexation. The Reply Brief explained how property tax revenues were determined to be sufficient. Applying Petersburg's 10.17 mill property tax, the City provided the following discussion:

"Property tax would not be collected by the city until Year 2 following annexation . . . To be conservative, the revenue estimates assumed a conservative 2% annual growth in residential property tax revenues in Year 2-3 after annexation (based on the advice of the city assessor), but no other growth in tax revenue.

. . . .

Property tax revenues were estimated at \$151,193 for Year 2, the first year in which the tax would be collected. This number was reached by estimating the total assessed value of residential property in the area proposed for annexation in Year 1 (Table 1), and applying a 2% annual

growth rate to obtain a value for Year 2. Assessed values were estimated using information from the 2000 census; research of land use and land status information; and consultation with the City Finance Director, city assessor (Canary & Associates Appraisals) and sales tax administrator. Property tax estimates were not made for the existing commercial properties in the area, since there was not enough information on which to base an estimate. Excluding commercial property values from property tax estimate further assures that revenue estimates are conservative.” (at 12-13)

Section 3.7 - Whether the Territory Proposed for Annexation is Contiguous to the Existing City and Whether Annexation Would Create Enclaves

A. The Standard Established in Law

The seventh city annexation standard is set out in 3 AAC 110.130(b). That standard provides as follows:

Absent a specific and persuasive showing to the contrary, the commission will presume that territory that is not contiguous to the annexing city, or that would create enclaves in the annexing city, does not include all land and water necessary to allow for the full development of essential city services on an efficient, cost-effective level.

B. City’s Views Expressed in the Petition

The City asserted that the contiguity standard was met, stating:

“The territory proposed for annexation is contiguous to the existing boundaries of the City and would not create enclaves within the expanded boundaries of the City. Alternatively, under 3 AAC 110.130(b), a specific and persuasive showing is made that annexation of noncontiguous territory or territory that would create enclaves includes all land and water necessary to allow, on an efficient, cost-effective level, the full development of services determined to be essential city services under 3 AAC 110.970.” (at 19)

C. Correspondents' Views

Only one public comment was directed at the contiguous nature of the annexation.

In describing the area to be annexed in their April 12, 2005 letter, Bill and Beth Flor stated,

“This is an extremely large annexation, increasing Petersburgs size by 75%. It stretches the definition of contiguous since only about 1 1/2 miles actually adjoin the present city.”

Peter Pellerito stated in his letter of April 8, 2005 that “the plan creates two enclaves on either side of the Mitkof Hwy,” but did not elaborate on what he meant.

D. Respondent's Views

Respondent asserts that the proposed annexation is barely contiguous to the existing municipal boundary. In support of this claim, Respondent points out that the annexation area has approximately one mile, out of approximately 70 miles of proposed boundary lines, that is shares a common boundary with the City.

Respondent further contends that the proposed annexation will bisect southern Mitkof Island, and create two noncontiguous areas on either side of the annexation area.

“While the proposed annexation may not technically result in the creation of enclaves, it does result in creating two large non-contiguous areas on Mitkof I in the unorganized borough area. These two areas on Mitkof I. would be: 1.) the area west of the proposed annexation Blind Slough to the Wrangell Narrows and Sumner Strait, and 2.) the area east and north of the proposed annexation towards Frederick Sound. In the event of future borough formation, this may prove to be an inhibiting and complicating factor.” (at 7)

E. City's Answer to the Correspondents and Respondent

The City maintains its position that the proposed annexation is contiguous to the City. The common border between the city limits and proposed annexation consists of a one mile expanse where the southern end of town joins the northernmost tip of the long, narrow area to be annexed. The proposed boundary was drawn to comply with the State requirement (3 AAC 110.130) to include only the existing city and area necessary for “reasonably predictable growth, development and public safety needs during the 10 years following the date of annexation.” The City explained that the elongated shape was dictated by existing land ownership patterns and the expectation that growth would concentrate along the highway corridor.

In addition, the City assured that the proposed boundary would not create enclaves, stating:

“The boundary excludes only those areas on Mitkof Island that do not meet the State standards for annexation . . . The excluded areas are wholly outside the proposed contiguous boundary, not enclaves within the boundary.” (at 5)

Section 3.8 - Whether the Proposed Expanded Boundaries Include Only the Existing Community Plus Territory Needed for Reasonably Predictable Growth, Development, and Public Safety Over the Next Ten Years

A. The Standard Established in Law

The eighth standard regarding city annexation is set out in 3 AAC 110.130(c). Additionally, 3 AAC 110.920 guides the LBC in determining the extent of a community. Those provisions are set out below:

3 AAC 110.130(c) states as follows:

The proposed boundaries of the city must include only that area comprising an existing local community, plus reasonably predictable growth, development, and public safety needs during the 10 years following the effective date of annexation.

3 AAC 110.920 states:

- (a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the
- (1) settlement is inhabited by at least 25 individuals;
 - (2) inhabitants reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living; and
 - (3) inhabitants residing permanently at a location are a discrete and identifiable social unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if

- (1) public access to or the right to reside at the location of the population is restricted;
- (2) the population is adjacent to a community and is dependent upon that community for its existence; or
- (3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.

B. City's Views Expressed in the Petition

The Petition states:

"The post annexation boundaries of the City represent a reasonable prediction of the community needs during the ten years following the annexation. The area includes an existing local community of residents . . . and areas expected to experience growth and development in the coming ten years." (at 48)

The City contends that much of the area to be annexed is already settled, especially just south of the city limits along the Mitkof Highway and at Papkes Landing. Significant residential and light commercial ventures have developed in this area.

The City projects additional growth and development in the coming ten years along the entire Mitkof Highway corridor. The Petition identified several catalysts for additional growth and development. There is the imminent construction of the South Mitkof Island Ferry Terminal. Increased ferry traffic will bring more visitors to the area and boost the local economy. This will encourage additional commercial and industrial development, residential settlement and recreation use on South Mitkof Island. Possible mine development and mine-related industry, and an industrial timber-related operation could also stimulate the local economy.

Predicted growth and increased traffic on the south island and the Mitkof Highway corridor will also increase the demand for essential services in the area. The city anticipates that there will be a need for:

". . . increased emergency response, search & rescue services, police services, and supervision, maintenance and upgrade of public recreation areas." (at 4)

According to the City, annexation will serve to coordinate and ensure orderly growth and development in the area. The Petition states:

“Planning, platting and zoning will ensure that development on adjacent property is compatible, protects property values, and meets the interests and needs of the residents and businesses in the area.

. . . .

. . . The annexation will allow the City to manage orderly development in a way that is compatible with and will benefit the community. It will give the City the tools and financial resources to plan for and manage growth, ensure that lands and waters are available for the full range of uses that will need to be accommodated - including residential, commercial, industrial, waterfront access - and provide the services needed to meet the public health and safety needs of residents and visitors.” (at 4)

C. Correspondents’ Views

Comments by Correspondents emphasized the remoteness of the territory south of Papkes Landing. Several correspondents pointed out that there are few houses along the Mitkof Highway past that point, and that those houses lack road accessibility. Their remarks indicated that they did not live close enough to one another to allow frequent personal contacts characteristic of neighborhood living.

Jeremy and Marissa Collison, e-mail dated April 18, 2005.

“I am writing this letter in opposition of the Petersburg annexation petition. I park at 12.5 mile Mitkof Highway, and then walk a half mile to my perminant residence. I have no city power. No city sewer. No police protection. No fire protection, and no other city services with the exception of city schools.”

Bill and Beth Flor wrote in their letter dated April 12, 2005:

“With the exception of Papke’s Landing, the area is not at all similar in population density (south of Papke’s Landing there are eight homes not the 20 listed in the proposal). It is mostly raw land. This is an extremely large annexation, increasing Petersburgs size by 75%.”

Jerry Collison, e-mail dated February 15, 2005.

“. . . If the petition is approved, we (who live a lifestyle more attuned to the 'bush') we, would be subject to the same city ordinances as the rest of the city: No discharging of firearms, no hunting, the same leash law, and same curfew laws, etc. This is totally out of step with our location and living conditions.”

D. Respondent's Views

Respondent claimed that the Petitioner was attempting to annex a large area, which he felt was better suited for borough development. He felt that the Petitioner had not met the standard for annexing only the territory needed for reasonably predictable growth, development, and public safety over the next ten years, and still needed to honor the commitments made during the 1978 annexation.

“. . . The City wishes to exert control over a large rural area that is mostly undeveloped and has a very low population density. Boroughs are intended to provide local government for large regions that are rural in nature. . . The City has not been able to demonstrate that it has the intent or the resources to provided essential services to the area proposed for annexation. . . The City has yet to fulfill commitments from the previous annexation. . .” (at 4)

“. . . The proposed annexation would increase the jurisdictional area of City of Petersburg by 74.2%, making it 80.3 sq. mi. and the third largest city in Alaska (of cities with a 1000 + residents). The average land area of cities in Alaska is 19.9 sq. mi. (mean) and 7.6 sq. mi. (median). . . .This increased size will increase the difficulty of providing efficient cost-effective services to the entire area.” (at 7)

“The petition attempts to justify annexation of a very large geographic area of 34.2 sq. mi. that would result in a 74.2% increase in total area for the City but with only a 5% increase in total population. The area proposed for annexation is predominantly rural, undeveloped, and not compatible in character to the City. The annexation area has approximately one mile (out of approximately 70 miles of proposed boundary lines) that is contiguous to existing municipal boundaries of the City.” (at 3)

Respondent questioned the reliability of the Petitioner's assumptions about growth in the area to be annexed.

“The petition assumes a uniform growth rate for the entire area. The petition relies on the 2000 census information which has 138 people living in the area proposed for annexation. The City then applies a 17%

growth rate obtained from the Department of Labor (derived from the 'remainder' areas of Petersburg-Wrangell) to come up with a population of 162 persons. First, the actual number of people residing in the area proposed for annexation should be determined (and not derived). Additionally, the actual number of homes and businesses should be determined and not estimated. Second, this growth rate is applied as if growth is uniform across all portions of the area proposed for annexation. Of course, this is not the case, as the potential for growth is dissimilar in different portions of the area proposed for annexation. This petition makes numerous generalized sweeping statements that are inaccurate. For example, the petition states (p. 4) that the area proposed for annexation is "settled" when in fact over 95% appears to be unsettled and undeveloped." (at 12)

Respondent pointed out the highly speculative nature of the Petitioner's claims about growth and development in the proposed annexation.

"In regards to the potential for growth in area proposed for annexation, the petition cites projects that have yet to be constructed as well as projects that are tenuous and a considerable time period into the future. For example, the petition refers to the construction of a ferry terminal on the south end of Mitkof I. to be completed in two to four years. Construction has not begun on this project. This project does not replace the downtown ferry but will augment service. The south terminal will be small and not have the volume of service as the existing facility. Initially the terminal will only be used for a local IFA ferry (as yet not in service)." (at 12)

In support of his position, Respondent included an excerpt from an article in the Petersburg Pilot dated March 3, 2005.

"The petition cites the prospect for mineral development on an adjacent island (Woewodski I.). The chairman of this venture recently stated, 'We still need to see how economically viable this is. It is still a high risk venture - it's not a sure thing. Capitalization remains a challenge. . . .We do not have sufficient volume. . . .A zero in any phase kills the project.'" (at 13)

E. City's Answer to the Correspondents and Respondent

See Section 3.7 - E. *City's Answer to the Correspondents and Respondent* at page ___ of this report.

Section 3.9 - Whether the Proposed Expanded Boundaries Include Entire Geographical Regions or Large Unpopulated Areas

A. The Standard Established in Law

The ninth standard governing city annexation is set out in 3 AAC 110.130(d). That standard states as follows:

The proposed boundaries of the city may not include entire geographical regions or large unpopulated areas, except if those boundaries are justified by the application of the standards in 3 AAC 110.090 - 3 AAC 110.135.

B. City's Views Expressed in the Petition

The City claims that the area to be annexed does not contain any large geographical regions. The boundaries of the proposed annexation closely follow the Mitkof Highway for approximately 20 miles creating a long, narrow configuration. The City stated that the size of the annexation is limited to areas that are expected to grow and develop in the next ten years, with construction of the South Mitkof Island Ferry Terminal and other anticipated commercial and industrial projects slated for construction.

C. Correspondents' View

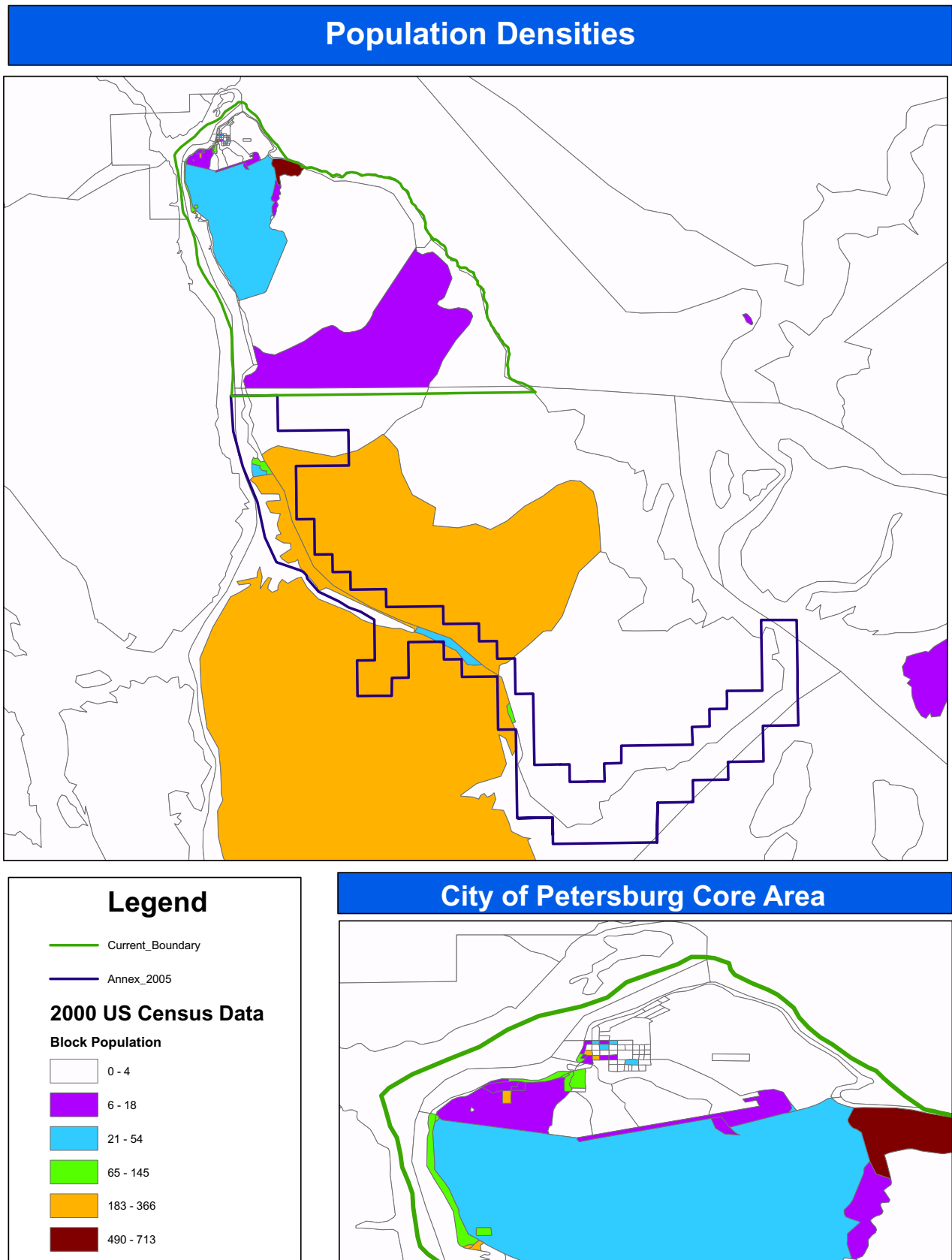
See Section 3.8 - *C. Correspondents' View* at page ___ of this report.

D. Respondent's Views

The Respondent pointed out how large, rural and unsettled the proposed annexation is, stating in the Responsive Brief:

"The area proposed for annexation is a large geographic area (34.2 sq. mi.) with a low population density (4.7 persons per sq. mi.). The City currently has a density of 70 persons/sq. mi. The vast majority (98.6%) of the land in the proposed annexation is owned by government entities (USFS and the State) and is mostly unsettled. Only 1.4% (300 acres) of the proposed annexation (21,906 acres) is privately owned and this private land is also largely undeveloped. The proposed annexation area (in its entirety) is not compatible in character with the City." (at 5)

Figure 3-____. Population densities in the Petersburg area. Source: 2000 U.S. Census



E. City's Answer to the Correspondents and Respondent

In the Reply Brief, the City assured that this standard was met, stating:

"In compliance with 3 AAC 110.130(d), the proposed boundary does not include large geographical regions on Mitkof Island. And, it does not include areas that would not be expected to develop as a community due to land ownership (U.S. Forest Service lands)." (at 5)

Section 3.10 - Whether the Proposed Expanded Boundaries Overlap the Boundaries of an Organized Borough

A. The Standard Established in Law

The tenth standard governing city annexation is set out in 3 AAC 110.130(e). That standard states as follows:

If a petition for annexation to a city describes boundaries overlapping the boundaries of an existing organized borough, the petition for annexation must also address and comply with the standards and procedures for either annexation of the enlarged city to the existing organized borough, or detachment of the enlarged city from the existing organized borough. If a petition for annexation to a city describes boundaries overlapping the boundaries of another existing city, the petition for annexation must also address and comply with the standards and procedures for detachment of territory from a city, merger of cities, or consolidation of cities.

B. City's Views Expressed in the Petition

The Petitioner states that the territory proposed for annexation does not overlap the boundaries of another existing city government or an existing organized borough. (at Exhibit H, p. 8).

C. Correspondents' Views

The Correspondents did not specifically address this standard.

D. Respondent's Views

Respondent did not specifically address this standard.

E. City's Answer to the Correspondents and Respondent

N/A

Section 3.11 - Whether the Proposed Annexation is in the Best Interests of the State

A. The Standard Established in Law

The eleventh city annexation standard is set out in AS 29.06.040(a) and 3 AAC 110.135. Additionally, 3 AAC 110.980 guides the LBC in the determination of the State's best interest. AS 29.06.040(a) states as follows (emphasis added):

The Local Boundary Commission may consider any proposed municipal boundary change. The commission may amend the proposed change and may impose conditions on the proposed change. If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise it shall reject the proposed change. A Local Boundary Commission decision under this subsection may be appealed under AS 44.62 (Administrative Procedure Act).

The standard addressed in 3 AAC 110.135 states as follows:

In determining whether annexation to a city is in the best interests of the state under AS 29.06.040 (a), the commission may consider relevant factors, including whether annexation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units; and
- (3) will relieve the state government of the responsibility of providing local services.

3 AAC 110.980, which guides the LBC's determination of best interests of the State reads as follows:

If a provision of AS 29 or this chapter requires the commission to determine whether a proposed municipal boundary change or other commission action is in the best interests of the state, the commission will make that determination on a case-by-case basis, in accordance

with applicable provisions of the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, and this chapter, and based on a review of

- (1) the broad policy benefit to the public statewide; and
- (2) whether the municipal government boundaries that are developed serve
 - (A) the balanced interests of citizens in the area proposed for change;
 - (B) affected local governments; and
 - (C) other public interests that the commission considers relevant.

B. City's Views Expressed in the Petition

As stated in the Petition, the annexation will serve the best interests of the state by:

- "Promoting maximum local self-government. The annexation will provide self-government to the population in the annexed area.
- Promoting a minimum number of local government units by incorporating the residents of the annexation area into the existing City of Petersburg, rather than creating a new governmental unit to provide essential services.
- Relieving the state government of responsibility for providing local services in part by requiring that the population in the annexed area contribute to the education tax base." (at 48)

C. Correspondents' Views

The majority of Correspondents did not think the proposed annexation was in the best interest of the State. They felt that the Petition, as written, was not viable. Over and over again, Correspondents expressed concerns about underfunding and who was ultimately going to end up paying for the annexation.

Pam Payne, e-mail dated April 18, 2005.

"They can't afford to take care of what they already have. The City doesn't plan on hiring any more people to take care of us out here. Basically they want us to become our own community but pay them. It is going to take at least eight years for the City to break even if they annex us.

One of the issues is fire protection. A figure of \$75,000 was brought up to build a fire hall. I have done some research and the actual cost will be at least three times that and that does not include the property. Who's going to pay for that??? The City can't afford it."

In terms of balanced interests of residents, Jessica Phillips had this to say in her e-mail dated April 18, 2005.

"For the City of Petersburg to annex the 34.2 square miles as proposed, to tax citizens of Mitkof Island for city services that are not available nor received is inappropriate and unfair. The only way this proposition would be appealing to the homeowners it will affect is to provide city sewer, water and fire protection to a recognizable level so that our insurance premiums will be reduced, thereby easing the burden on the homeowners."

Mona Christian and Dave Kensinger, fax dated April 17, 2005.

"Taxes levied on property should reflect the services provided. (Will we receive full police and fire protection, ambulance service, street and highway maintenance where applicable to city jurisdiction, and other services covered by property taxes if the full rate is levied?)

. . . .

Established business operations should be able to continue unhindered by possible new zoning regulations. (Restrictions on activities such as commercial truck operation and parking, 3 phase power hookup and usage, back up generator operation, and retail sales, among others, would have severe negative economic impact on many residents and their businesses.)

. . . .

We hope the annexation process is seen by the city and the state as a way to offer affected residents necessary services through the responsible collection of applicable property taxes, and not just as a means to collect property taxes without returning the benefits of those taxes to the residents."

Jerry Collison, e-mail dated February 15, 2005.

". . . I am glad to pay my fair share, but this petition is not fair nor balanced. It will discriminate against us who will have no benefit. Everything we do out here is harder and costs more as it is. That is our choice. But this proposed petition as stated will create an unfair and undue hardship on many of us."

In his letter dated March 20, 2005, Gerhard Hiller expressed why he felt it was premature for the City to annex more land.

"I do not think the City of Petersburg is ready to annex all the area they claim to acquire . . . They have several areas in their own city limits which are not up to 'standard'. No sewer, no water. As for Frederick Point South, no electricity.

. . . .

I hope the City of Petersburg will clean up their own areas first before they think of annexing more land."

Several comments supported borough formation instead of the annexation to the City of Petersburg.

Peter Pellerito, e-mail dated April 8, 2005.

"The State's plan to revise the borough and annexations plan should be done first, Before any more lands are considered for annexation. This annexation is not in the best interest of the state. It will create more need for state funding to upgrade this area.

. . . .

I also have a problem with the statement that we are not contributing to the tax base. All the sales tax we pay for services in Petersburg goes directly into the general fund. Then they are being dispersed to all departments for funding. We are not going to get any thing for the taxes we are going to pay. As far as taxes we have an issue with the mill rate. It has been changed by a vote of the town, and is different from that of the application to the boundary commission. We didn't vote on this last tax change and it would be levied on us. This appears to be taxation without representation.

. . . .

. . . I do support the proposed borough formation. This would spread the tax burden over a far larger territory with far more taxable land base and opportunity for income to the borough and city. The borough areas could use the funding from all types of revenues coming into it to build up for their public safety issues that would be for all in this area. Especially funding for the schools, which are getting hit real hard with budget cuts?"

John Murgas, letter dated April 13, 2005.

“ . . . Petersburg and area residents and businesses have ongoing, contentious issues concerning sales and property tax not being collected from nearby areas outside of the city limits, including the City of Kupreanof, Kupreanof Island, and Wrangell Narrows, all of whom use Petersburg services. The proposed annexation would not resolve these issues. An organized borough would very well resolve these issues. In 2004, I testified at a City of Petersburg council work session with Sheinberg and Associates (consultant for the City for proposed annexation) suggesting borough formation instead of annexation. I was disappointed there was no substantive response.”

Bill and Beth Flor, letter dated April 12, 2005.

“ . . . Petersburg’s only real interest is in the ferry terminal area to be built at the south end of the island, which would be a connection with Wrangell and strengthen ties with that city. The idea of a Petersburg-Wrangell borough has state backing.”

Some Correspondents voiced a lack of confidence in the City’s good faith efforts in pursuing this annexation. They did not feel like they were being heard by the City Council or that this was likely to change based on past annexation history.

Michael Stocks, e-mail dated January 17, 2005.

“ . . . The so-called ‘hearings’ that the city council held at the reading of this proposal, completely blew off any comments that out-the-road residents had to say. It appears they are trying to fast-track this land-grab. It is also very apparrant to me and all of us out here, that we will have no proper nor true representation at future city councils. We are appealing to you to please reconsider this proposal, we have been given no consideration by the City of Petersburg nor do they seem to care.”

Daniel Savone and Kerry Shakarjian, letter dated April 18, 2005.

“As residents of Mitkof Island, we are responsible and willing to pay local taxes to support services supplied to us by the city of Petersburg. In past annexation moves the City of Petersburg (1978) has made promises to provide essential (fire protection) services, then failed to do so. The city has offered differential tax rate to areas (Scow Bay and Frederic Point) for disparities in services, and subsequently increased rates to full mill rate without providing full essential services. This may be the way

the City of Petersburg does business, promising services for tax dollars then keeping the dollars and withholding services, but that does not make it ethical, moral, or right to do so.

. . . .

. . . We do not believe the City of Petersburg intends to honor their proposal to supply essential services to outlying Papke's landing area residents. The City of Petersburg's \$75,000 estimate of costs for essential services seems unrealistic, and based on the City's past track record, probably an attempt to deceive and sway local voter sentiment towards annexation through promised increased tax revenues.

. . . .

The only way annexation works for Petersburg is if we are annexed and taxed and not supplied essential services.”

George Meintel, e-mail dated April 18, 2005.

“In the past the City of Petersburg's track record of providing services to areas annexed I believe is less than perfect and I have no reason to think that will change. People living in the area last annexed (Fredrick point) are paying the full tax rate for no new services after a promise of a decreased rate.”

Cynthia Wallesz, e-mail dated April 16, 2005.

“I don't believe it is realistic for Papke's Landing area residents and others to pay the same mill rate as inner city residents of Petersburg pay such as being proposed. It is unrealistic, and historically proven with Frederick Point, to think we will ever gain the same resources (water, road maintenance and more) as residents in town. Thus there is no reason for us to pay the same amount. An adjusted rate for the various annexed regions needs to be addressed and implemented if annexation does occur.”

D. Respondent's Views

Respondent stated in the Brief:

“. . . The City included differential tax zones in its previous 1978 annexation, but reneged on its commitments at a later date. The City has yet to provide essential services to all areas of the previous annexation. While in theory, the City may be the current government entity situated to provide essential services to the area, the petition,

transition plan, and previous track record make it clear that the City does not intend nor has the resources to provide these services. Formation of a borough and local service area would better address the issues raised in the petition and may be in the best interests of the State, City, and residents.” (at 3)

E. City’s Answer to the Correspondents and Respondent

There were several comments suggesting that the City had not operated in good faith or honored its commitments from the 1978 annexation. Remarks typically stated that the City had promised a differential tax rate to the residents of the 1978 annexation and then reneged. Correspondents asserted that these residents have been paying the full property tax rate since 1978, but are still denied the full suite of city services. In response to these comments, the City stated:

“Unfortunately, there has been misunderstanding and contention over the 1978 annexation since it took place. Many residents of the annexed area believed that the City “promised” them sewer, water and other services. It took many years for the City to provide water and sewer to Scow Bay, given the expense of the installation and service. . . . No one has ever provided the City with written documentation of specific services that were promised at the time of annexation, and former City Council members who served at the time of annexation do not believe that such promises were made.” (at 21)

The Reply Brief reiterated that property taxes make up one-third of the City’s General Fund, which pays for a wide range of public services such as education, police and fire/EMS. The Brief went on to explain why the City Council decided that it was most appropriate to apply a uniform property tax to all properties within the city limits.

“The City Council’s commitment to a uniform property tax rate is based on the conviction that these services and facilities are used by and/or provide benefit to the community as a whole and should be supported by all property owners. Water, sewer, solid waste and electric services are fee-based services which are only paid for by property owners who receive them. Further, the assessed values of properties (which determine property tax liability) are based on market value. Properties that do not receive certain services may be less desirable on the market and may therefore have a lower assessment.” (at 21)

In hopes of avoiding misunderstandings about the pending annexation, the City made special effort to communicate, in the Petition and the Reply Brief, which services residents could realistically expect to receive. Clarification on the City’s intent

regarding provision of services was addressed in a September 10, 2004 letter from Mayor Ted Smith to Keith H. Gerlach, a copy of which was added to the Reply Brief as Appendix A.

Mayor Smith's letter discussed the City's plans for fire suppression, increased police presence, and snow removal as had been done previously. He also discussed road maintenance and water and sewer infrastructures. His remarks bear repeating here:

"None of the roads in the area proposed for annexation will be maintained by the City until they are dedicated and accepted by the City. The right-of-ways within the subdivision will be dedicated to the City, but the existing roads will not be maintained until such time that the roads are brought to a standard that meets minimum city specifications. This should provide developers with an incentive to upgrade inferior roads in order to dedicate them to the City, after which the roads would be maintained by the City. Should annexation occur, all new roads for major subdivisions will have to be constructed to meet minimum city standards.

There are no immediate plans to construct water and sewer infrastructure within the annexation area. The cost to provide these services would be substantial and the resultant high user fees would be cost prohibitive to the residents in the annexed area. If the annexation does occur, all new private sewer systems would have to be inspected and approved by the City as a condition of obtaining a building permit and a Certificate of Occupancy." (at Appendix A, p. 1)

In response to comments about whether or not to enforce city ordinances regarding discharging firearms, hunting, leash laws, traffic, etc., the City expressed that it will apply all ordinances to the annexation even if the area is rural and remote.

One Correspondent recommended that established businesses be exempt from new zoning regulations if the area is annexed, because of anticipated negative economic impact on residents and businesses. The City responded:

"The State of Alaska defines planning, platting and land use zoning to be essential city services. The City of Petersburg will extend land use planning, zoning regulation and building code enforcement to the area to be annexed, beginning in the first year after annexation. The area to be annexed would be incorporated into an updated Comprehensive Plan and zoning code. . . . Appropriate zoning for the area to be annexed would be determined through a comprehensive public process, involving the Planning Commission and approval by the City Council. Opportunities for public input would be provided through informal neighborhood meetings, commission work sessions, written comment opportunities, and public hearings." (at 18)

Section 3.12 - Whether the Proposed Annexation Meets the Requirements for Local Action Annexation

A. The Standard Established in Law

The twelfth standard for city annexation is set out in 3 AAC 110.150.⁵ That standard provides as follows:

Territory contiguous to the annexing city, that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 and has been approved for local action annexation by the commission, may be annexed to a city by any one of the following actions:

⁵ Alternatively, the LBC may amend the Petition and approve it for legislative review. In that case, the proposal would have to satisfy the standard set out in 3 AAC 110.140. That standard states as follows:

Territory that meets the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 may be annexed to a city by the legislative review process if the commission also determines that any one of the following circumstances exists:

- (1) the territory is an enclave surrounded by the annexing city;
- (2) the health, safety, or general welfare of city residents is or will be endangered by conditions existing or potentially developing in the territory, and annexation will enable the city to regulate or control the detrimental effects of those conditions;
- (3) the extension of city services or facilities into the territory is necessary to enable the city to provide adequate services to city residents, and it is impossible or impractical for the city to extend the facilities or services unless the territory is within the boundaries of the city;
- (4) residents or property owners within the territory receive, or may be reasonably expected to receive, directly or indirectly, the benefit of city government without commensurate tax contributions, whether these city benefits are rendered or received inside or outside the territory, and no practical or equitable alternative method is available to offset the cost of providing these benefits;
- (5) annexation of the territory will enable the city to plan and control reasonably anticipated growth or development in the territory that otherwise may adversely impact the city;
- (6) repealed 5/19/2002;
- (7) annexation of the territory will promote local self-government with a minimum number of government units;
- (8) annexation of the territory will enhance the extent to which the existing city meets the standards for incorporation of cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042;
- (9) the commission determines that specific policies set out in the Constitution of the State of Alaska or AS 29.04, 29.05, or 29.06 are best served through annexation of the territory by the legislative review process.

- (1) city ordinance if the territory is wholly owned by the annexing city;
- (2) city ordinance and a petition signed by all of the voters and property owners of the territory;
- (3) approval by a majority of voters residing in the territory voting on the question at an election;
- (4) approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing city;
- (5) approval by a majority of the voters who vote on the question within the annexing city if the territory is uninhabited.

B. City's Views Expressed in the Petition

After meeting the annexation standards specified in 3 AAC 110.090 - 3 AAC 110.135 and upon LBC approval of the territory for local action annexation, the City hopes to annex 34.2 square miles subject to:

“approval by a majority of the aggregate voters who vote on the question within the area proposed for annexation and the annexing municipality.” (at 1)

C. Correspondents' Views

The correspondents did not specifically address this standard. However, concerns about voting and representation were raised in comments such as the following.

Michael Stocks, e-mail dated January 17, 2005.

“The so-called “hearings” that the city council held at the reading of this proposal, completely blew off any comments that out-the-road residents had to say. It appears they are trying to fast-track this land-grab. It is also very apparrant to me and all of us out here, that we will have no proper nor true representation at future city councils. . . . [W]e have been given no consideration by the City of Petersburg nor do they seem to care.”

Peter Pellerito, e-mail dated April 8, 2005.

“I also have a problem with the statement that we are not contributing to the tax base. All the sales tax we pay for services in Petersburg goes directly into the general fund. Then they are being dispersed to all

departments for funding. We are not going to get any thing for the taxes we are going to pay. As far as taxes we have an issue with the mill rate. It has been changed by a vote of the town, and is different from that of the application to the boundary commission. We didn't vote on this last tax change and it would be levied on us. This appears to be taxation without representation.”

D. Respondent's Views

Respondent did not specifically address this standard.

E. City's Answer to the Correspondents and Respondent

The Reply Brief stated:

“City Council members are currently elected at-large in Petersburg. There is no requirement that with annexation the City establish a different system for representation. The annexation will enfranchise residents of the area proposed for annexation, giving them the right to vote in local elections and serve on local councils and boards.” (at 20)

Section 3.13 - Whether the Petitioner has Provided a Proper Transition Plan

A. The Standard Established in Law

The thirteenth standard for city annexation is set out in 3 AAC 110.900. That standard provides as follows:

(a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for city reclassification under AS 29.04, or municipal detachment or dissolution under AS 29.06, must include a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after city reclassification, detachment, or dissolution.

(b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, and other appropriate entity located in the territory

proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city and unorganized borough service area, and must be designed to affect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

(c) Each petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of an existing borough, city, unorganized borough service area, and other entity located in the territory proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included in the area proposed for the change, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

(d) Before approving a proposed change, the commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included in the area of the proposed change execute an agreement prescribed or approved by the commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

B. City's Views Expressed in the Petition

The Petitioner's transition plan was included at Exhibit E to the Petition. Petitioner presented the transition plan as a practical plan that demonstrates the City's capability to 1) expeditiously extend essential city services into the proposed annexation area; 2) assume all relevant and appropriate municipal powers and duties, rights and functions; and 3) provide for the orderly, efficient and economical transfer and integration of all relevant and appropriate assets and liabilities.

Petitioner refers the reader to Section 14B of the Petition for a detailed explanation of how essential city services and functions will be extended into the area to be annexed in the shortest practical time after annexation. There are plans to immediately provide for police service in the annexed area. Fire protection/EMS will initially be staged from within the city limits by the Petersburg Volunteer Fire Department, with plans to construct a fire substation at Papkes Landing equipped with a fire truck by Year 2. Utility service in the annexation area will maintain the status quo, with no interruption in existing service delivery and no extension in service planned. There are plans to implement property assessment upon annexation and to

levy a property tax in Year 2. Sales and Room taxes will be collected in the annexed area beginning in Year 1 as well. The Petitioner also provides provisions for land use planning and roadway maintenance.

The Petitioner presents the projected operating and capital expenditures in the transition plan, acknowledging that expenses would exceed revenues for the first years following annexation.

“The City would initially be “investing” in the annexation, as expenses would exceed revenues by approximately \$118,000 in Year 1 and \$18,000 in Year 2. Beginning in Year 3, projected revenues from the annexation would exceed projected expenditures and this is expected to be the case in the following years, as property and businesses continue to develop in the area to be annexed. The city expects to be able to cover the Year 1 and Year 2 costs for the annexation through its annual operating budget. However, it can access its existing reserve funds to cover these costs, if necessary.” (at 37)

C. Correspondents’ Views

Correspondents’ comments convey little confidence in the City’s transition plan for the proposed annexation area. Several Correspondents felt that the transition plan is not financially sound. They indicated that the plan’s budget overstates revenues and understates expenses, especially the costs for provision of essential city services, such as public safety (fire and police), utility installation and road maintenance and snow removal.

Walt Payne, e-mail dated April 15, 2005.

“Please revue the petition and ask just what they have planned. I went to public meeting and as far as I could see they don’t have one. They hired a consultant and of course they’re going to say what the city want them to say. . . . They used a percentage of growth over the years to make it sound like it’s and other city in those 34 sq. mi and in reality most of the land is used up. I think it’s a mistake to take this extra land when, like I said , they can’t take care of what they have now.”

Pam Payne, e-mail dated April 18, 2005.

“They can’t afford to take care of what they already have. The City doesn’t plan on hiring any more people to take care of us out here. Basically they want us to become our own community but pay them. It is going to take at least eight years for the City to break even if they annex us.

. . . .

We choose to live out here because we want to. Please review the petition and ask what their long range plan is going to be because to me it doesn't sound like they have one."

George Meintel, e-mail dated April 18, 2005.

"First of all the annexation is way too large for the city's budget. There are no adequate plans to provide the funds for such a large expansion and there is no plan for providing utilities. Petersburg has refused to consider a differential tax rate. I would be forced to pay the full tax rate regardless of receiving any new level of services. There are not adequate funds for a fire hall. No added personnel for Public Works, EMTs, or firemen are planned. We are promised a police patrol which I feel is not needed as the state Troopers already cover this area."

Cynthia Wallesz, e-mail dated April 16, 2005.

". . . [T]he Annexation Proposal that the City of Petersburg is working on appears to be too general and unexplainatory. I would like to see a more expanded description of each service that will be gained with annexation. This should include an itemized budget with personnel to deal with each service. Their proposal includes a phenomenal 75% increase of land the city would be responsible for. More explanations of how all this will be managed would be helpful in understanding the efforts behind such an all-encompassing plan."

Peter Pellerito, letter dated April 8, 2005.

"There is not even a plan for public Safety. There are a lot of land locked properties that have road easements to them and need to have roads constructed and Electric utilities to their properties before they pay full taxation. And to provide services to the needed areas can not be done with a zero tax base."

D. Respondent's Views

Respondent pointed out that the transition plan indicates "the City will have a net loss until the seventh year of annexation" (at 3). Respondent asserts that the petition and transition plan includes numerous inaccuracies and misstatements. He claims revenues are overstated and costs of providing essential services, particularly fire suppression, are underestimated. Respondent recommends a revised transition plan to reflect realistic costs and revenues.

"The transition plan overstates revenues . . . In the category of '*Residential lot/home: Developed - Unroaded or off highway S of Papke's - fire protection less feasible*', the worksheet states that there

are 20 homes/lots at an assessed value of \$120,000 each. However, in that category (where the Respondent resides), there are only 11 buildings on ten lots. Of these eleven buildings, five are unoccupied small seasonal cabins of small square footage and value. The transition plan overstates taxable property in this category by approximately 140%.” (at 8)

Respondent identified several weaknesses with the Petitioner’s transition plan in support of his contention that the costs are understated.

- “The transition plan does not adequately consider provision of essential services particularly public safety” (at 9);
- “The transition plan underestimates the cost of constructing, equipping, maintaining and staffing a fire hall” (at 10);
- The transition plan does not include consideration of a differential tax zones (at 10); and
- “The transition plan budget is inadequate and disproportional for the costs of providing services to the annexation area” (at 12).

Respondent also pointed out that no provision is included in the transition plan for providing communications (emergency or otherwise) to the proposed ferry terminal. The existing hard wire phone service ends at Papkes Landing, and cell phone service is spotty with many dead areas of no reception. Respondent stated that if the remote ferry terminal was one of the main driving forces for the annexation, the transition plan certainly did not reflect this.

E. City’s Answer to the Correspondents and Respondent

The City’s transition plan, including an analysis of the financial support for and ramifications of annexation, is provided in the original Petition. The City was conservative in its estimation of potential revenues from annexed areas. The financial analysis in the Petition shows that by Year 3 following annexation, revenues generated from the annexation will exceed expenditures.

The City has stated very clearly, in the petition and in this reply brief, which services it will provide to the area to be annexed and which services it would not be practicable or feasible to provide at this time.

The City has stated that it will pay for the services that it is explicitly committing to provide, even if the cost exceeds the estimate provided in the petition.

Section 3.14 - Whether Annexation Would Deny Any Person the Enjoyment of Any Civil or Political Right Because of Race, Color, Creed, Sex, or National Origin

A. The Standard Established in Law

The fourteenth and last standard for city annexation is set out in 3 AAC 110.910. That standard provides as follows:

A petition will not be approved by the commission if the effect of the proposed change denies any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin.

B. City's Views Expressed in the Petition

According to the City, the proposed annexation will not deny any person the enjoyment of any civil or political right because of race, color, creed, sex or national origin.

"Elections in the City of Petersburg are on an at large, area wide basis. There are no voting districts that may pose a potential for gerrymandering or other manipulation to deny any person of civil or political rights." (at 49)

The City claims that the annexation would not significantly affect the percentage of minorities living in Petersburg, and that the race distribution is not significantly different between the City and annexation area.

"DCED's records based on the 2000 census show the percentages of races living in the City of Petersburg as: white 82%, Alaska Native 7.2%, black 0.03%, Asian 2.8%, Hawaiian Native 0.2%, other 1.9%, two or more races 6%. The 2000 census for the annexed area show the following percentages for race: white 89%, Alaska Native 1%, Hawaiian Native 1%, two or more races 9%." (at 39)

The City anticipates that annexation would add approximately 162 residents to Petersburg's population of 3060 (in 2003). The Alaska Division of Elections has identified 2,230 registered voters in Petersburg, which is 77% of the population. By applying this same percentage to the annexation area's population, the City estimates that an additional 125 voters (5.6 percent) would be eligible to vote in local elections. The overall effect on City elections was expected to be small. However, the City pointed out that annexation would enfranchise residents previously ineligible to vote in local elections although they were users of Petersburg's city services.

C. Correspondents' Views

The Correspondents did not specifically address this standard.

D. Respondent's Views

Respondent did not specifically address this standard.

E. City's Answer to the Correspondents and Respondent

N/A.