



DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Local Boundary Commission Staff

April 2006

Preliminary Report to the Local Boundary Commission on Ketchikan Local Government Consolidation



This is the Department of Commerce, Community, and Economic Development's Preliminary Report to the Local Boundary Commission on Ketchikan Local Government Consolidation. The report can also be found on the Internet at the following address:

<http://www.commerce.state.ak.us/dca/lbc/ketchikan3.htm>

The report is preliminary in the sense that it is issued for public review and comment in accordance with 3 AAC 110.530(b), which also requires Commerce to issue a final report after considering written comments regarding the preliminary report.

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Table of Contents

Acknowledgements	i
Executive Summary of Preliminary Report on Ketchikan Local Government Consolidation	Executive Summary - 1
Chapter 1 Background	1
A. The Petitioner’s Stated Reasons for the Consolidation Proposal	1
B. Effects of the Pending Proposal to Consolidate the City and the KGB	1
C. Structure for Delivery of Municipal Services in the Greater Ketchikan Region Compared to Other Parts of Alaska.	16
D. Significant Historical Developments Regarding Local Government Structure Within the Greater Ketchikan Area	19
E. Proceedings to Date Regarding the Pending Consolidation Proposal.....	22
F. Future Proceedings Regarding the Pending Consolidation Proposal.....	32
Chapter 2 Evaluation of the Ketchikan Consolidation Proposal in Terms of Applicable Legal Standards	37
Part 1. Whether Consolidation Promotes Maximum Local Self-Government	37
Part 2. Whether Consolidation Promotes “A Minimum Number of Local Government Units”	43
Part 3. Whether the Boundaries of the Proposed Consolidated Borough Are Suitable	49
Part 4. Whether the Population of the Proposed Consolidated Borough Is Large and Stable Enough to Support Borough Government.....	71
Part 5. Whether the Economy of the Proposed Consolidated Borough Includes the Human and Financial Resources Capable of Providing Municipal Services.....	74
Part 6. Whether Facilities in the Proposed Consolidated Borough Allow the Communication and Exchange Necessary for Integrated Borough Government.....	96
Part 7. Whether the Proposed Consolidated Borough Serves the Best Interests of the State	98
Part 8. Whether the Transition Plan Included in the Amended Petition Is Complete and Otherwise Complies With the Requirements of Law.....	102

Table of Contents continued on next page

Table of Contents continued

Part 9. Whether the Proposed Consolidation Has a Racially Discriminatory Purpose, Would Make Minority Voters Worse Off, or Would Deny Civil or Political Rights in Violation of the Law	106
Chapter 3 Summary of Commerce’s Conclusions and Recommendations to the LBC	109
A. Summary of Conclusions	109
B. Recommendations	110
Glossary	115
Appendix A Background.....	A-1
Local Boundary Commission	A-1
Staff to the Commission	A-8
Appendix B Comparisons of Sales, Property, and Transient Occupancy Tax Levies	B-1
Appendix C Standards Applicable to the Ketchikan Consolidation Proposal	C-1
Applicable Standards Under the Constitution of the State of Alaska	C-1
Applicable Standards Under the Alaska Statutes	C-1
Applicable Standards Under the Regulations.....	C-2
Applicable Provisions Under the Federal Voting Rights Act	C-9
Appendix D Petition Exhibit F-1Three Year Annual Budget	D-1
Appendix E Excerpts from Ketchikan Coastal Management Plan	E-1



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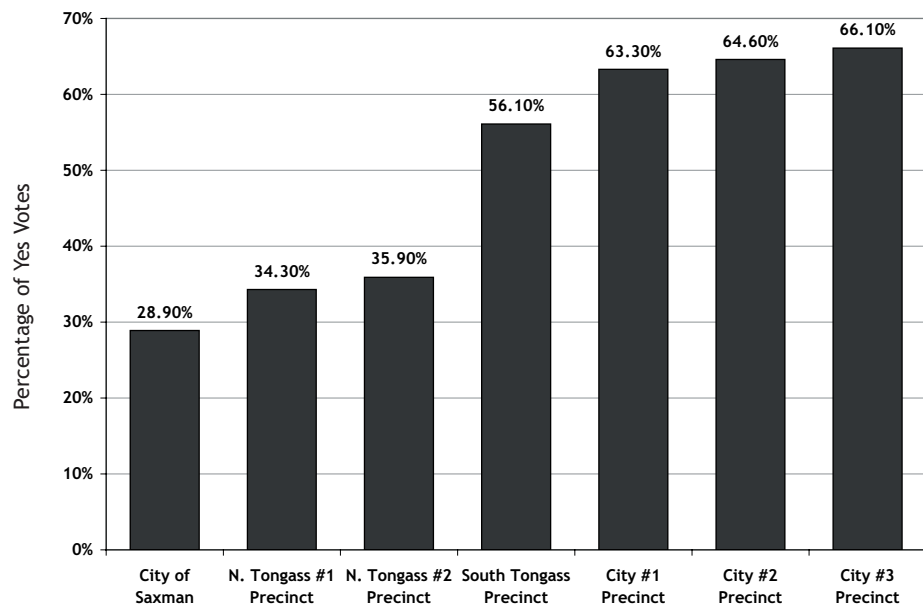
Executive Summary of Preliminary Report on Ketchikan Local Government Consolidation

April 2006

In 2003, members of the Greater Ketchikan Chamber of Commerce formed the "Ketchikan - One Government Committee" to promote consolidation of the City of Ketchikan ("City") and the Ketchikan Gateway Borough ("KGB"). Committee members drafted an initiative to create a seven-member board to petition the Alaska Local Boundary Commission ("LBC" or "Commission") for consolidation of the two local governments. The initiative required the board to file a petition with the LBC by September 2004. Under the initiative, the status of the City of Saxman was to remain unchanged.

The initiative was approved when nearly 55 percent of the KGB voters cast ballots in favor of the proposal in October 2003. It is noteworthy, however, that the tally of votes at the precinct level reflected faint support for the initiative in the two North Tongass precincts and the City of Saxman. Conversely, voters in the South Tongass Precinct and the three City precincts expressed solid support for the measure.

Results of 2003 Consolidation Initiative Election.



The pattern of votes cast with respect to the 2003 initiative - with the possible exception of the South Tongass Precinct - generally reflected voter attitudes regarding four prior attempts to combine Ketchikan area local governments. In 1973, 1979, 1986, and 2001, a majority of voters in the City supported such measures while most voters in the remainder of the KGB opposed them.

Following approval of the October 2003 initiative, voters went back to the polls in January 2004 to choose the seven board members who would draft the consolidation proposal. The initiative required three members to be City residents, three to be KGB residents outside the City, and one to be elected at-large.

The board, which called itself the Ketchikan Charter Commission ("KCC"), held its first meeting on January 21, 2004. Over the next eight months, the KCC met 30 times.

The KCC finished drafting the consolidation proposal on September 17, 2004. Mindful of the prior unsuccessful attempts by others to combine Ketchikan area local governments, KCC members expressed the view that their work reflected the diverse interests of KGB residents inside and outside the City. Members stressed that the composition of the KCC (three City members, three non-City members, and one member at-large) and an effective effort to garner public input were instrumental to that end. At the conclusion of the September 17 meeting, the seven KCC members voted unanimously to adopt the *Petition for Consolidation of the Ketchikan Gateway Borough and the City of Ketchikan to the Municipality of Ketchikan, A Home Rule Borough* ("Petition") and file it with the LBC.

Interested individuals and organizations then had two months to file formal comments on the proposal with the LBC. The City filed a 28-page Responsive Brief objecting to aspects of the proposal. In addition, the KGB Manager and the City Mayor filed written concerns regarding the proposal.

The Petitioner KCC then had an opportunity to reply to the concerns raised by the City and KGB. Beginning in January 2005, the KCC met nine times over the following ten months to consider amendments and to prepare its formal reply. Amendments to the Petition went forward with the unanimous support of KCC members. The amended proposal was filed with the LBC at the end of October 2005 and is hereinafter referred to as the "Amended Petition," the "current Petition," or the "pending Petition." KCC members stressed that the Amended Petition continued to represent a balanced plan that served the diverse interests of all KGB residents (KCC Reply Brief, p. 10).

A two-month opportunity was allowed for public comment on the changes. However, no further comments were submitted.

As staff to the LBC, the Alaska Department of Commerce, Community, and Economic Development ("Commerce") is required by State law (AS 29.06.110) to "investigate" the consolidation proposal and report its findings to the LBC. Additionally, Commerce is required to prepare a preliminary report and a final report regarding the consolidation proposal.

Commerce's Preliminary Report consists of three parts. Chapter 1 provides background information regarding consolidation. Chapter 2 examines whether the Amended Petition meets requisite standards set out in State law. Chapter 3 presents Commerce's recommendations to the LBC.

The background information in Chapter 1 includes a review of the reasonably anticipated effects of KCC's consolidation proposal. Commerce concludes, for example, that the proposal meets the Petitioner's objectives of creating a local government structure in which all KGB residents have an equal voice and uniform responsibility in areawide affairs (e.g., governance of Ketchikan Public Utilities, Ketchikan General Hospital, Port of Ketchikan, the six local boat harbors, Ketchikan Public Library, Gateway Center for Human Services, 911 dispatch services, and other facilities now operated by the City but serving all KGB residents).

Additionally, the Petitioner's goal of providing a more efficient local government would be attained. The pending proposal projects

savings similar to those outlined in

the 1993 *Ketchikan Local Government Consolidation Study* ("1993 study") and the City's 2000 consolidation proposal. The accompanying table summarizes the anticipated annual savings in personnel costs projected in the 1993 study, the City's 2000 petition,

and the KCC proposal.

Comparison of Anticipated Cuts in Personnel Costs.

	1993 Study	City's 2000 Petition	KCC's Amended Petition
	15.38 positions eliminated	16.25 positions eliminated	13.13 positions eliminated
	\$626,010 saved	\$594,839 saved	\$518,027 saved

Commerce recognizes that the City's 2000 consolidation petition projected total savings of \$950,000. (In addition to the nearly \$595,000 in personnel cuts reflected in the preceding table, the City projected savings of some \$355,000 in travel, training, audits, dues, supplies, contractual services, election costs, publications, and other costs.) Cuts beyond personnel costs were also anticipated in the 1993 study and KCC Petition; however, neither offered specific dollar figures. For example, the 1993 study (pp. 72 - 73) noted:

Consolidation also offers significant potential to effect direct cost savings or general improvements in overall local government efficiency beyond just those which are the result of combining overlapping departments or functions. The list of possible opportunities to consolidate or otherwise reorganize various local government functions to promote increased efficiency and economy is quite long. Although a more complete discussion of these opportunities can be found in an earlier chapter of this report, this study does not estimate the possible range of those savings. They would, however, be in addition to the estimate of \$626,010 in savings which is mentioned above.

Similarly, the KCC's October 2005 Reply Brief (p. 3) states:

The KCC did not attempt to cut combined staffing beyond obvious duplication at the executive level and the obvious duplication of Assembly/Council. This is definitely an area where some savings could be found. For example, the combined finance department would have a total of 23 employees and that may be excessive for an organization this size on an ongoing basis. There are other departments where savings could be made as well, but the KCC felt that those decisions were best left to the new Manager and Assembly.

When the merits of the pending consolidation proposal are considered, it is important to recognize that KCC's budget, financial plan, and projected taxes are heavily impacted by factors independent of consolidation. KCC stressed in its Reply Brief that, "financial circumstances unrelated to consolidation, forced a projected increase in taxes." In particular, KCC's Amended Petition includes significantly higher costs for public employee retirement benefits, health insurance, and workers' compensation insurance. It is especially important to keep this in mind when comparisons are made to prior consolidation proposals or studies.* The fiscal impacts of increased costs for retirement and insurance will occur regardless of the outcome of the pending consolidation proposal. Such increased costs only serve to make the prospect of consolidation more attractive to those focused on cutting the cost of government.

It is also fitting to recognize that variables render it impossible to precisely predict future costs and taxes of Ketchikan local governments, with or without consolidation. For example, in developing its three-year budget, KCC assumed that the taxable value of property in the consolidated borough would increase 1 percent annually after 2004. Noting, however, that Ketchikan's areawide property tax base had actually declined by 3.5 percent between 2002 and 2004, the City expressed the view in December 2004 that KCC's projection was too rosy. However, hindsight shows that KCC's projection actually substantially understated the growth in the property tax base for 2005 and 2006. During that interval, the taxable value of property in the KGB increased by 11 percent (5.5 times the growth rate projected by KCC).

In the second chapter of the Preliminary Report, Commerce examines the amended proposal in light of the requisite standards set out in State law. The LBC may grant a consolidation petition only if the proposal meets all applicable standards. Based on the analysis in Chapter 2, Commerce concludes that the Amended Petition does indeed all applicable standards.

* A comparison of projected changes in taxes outlined in the 1993 Study, the City's 2000 petition, and KCC's Amended Petition is provided in Exhibit B of the Preliminary Report.

Chapter 3 presents Commerce's preliminary recommendations to the LBC. While, the pending Petition meets all applicable standards, it must also pass the political test of areawide KGB voters if it is to succeed. It is fitting to quote from the 1993 *study* (p. i) in that regard:

Should Ketchikan consolidate its local governments? It would be wonderful if there [were] an easy "yes" or "no" answer to that question, but unfortunately, like most things in this world, the issue is not black and white - it's gray. Some of the analysis can be objective, but much of it is subjective. Basically, what's right for Ketchikan is what the people of Ketchikan want.

Whether the KCC's Amended Petition reflects "what the people of Ketchikan want" can only be determined at the polls. In the end, KCC expressed confidence that it had designed a proposal to serve the balanced best interests of all KGB residents:

The consolidation process is not meant to simply "wring out costs savings and make efficiencies." Those will hopefully come given time. Rather, it brings together all the people in a local geopolitical and economic area with one voice and one government for the betterment of all.

The City's 2000 petition failed because while transferring the burden of area-wide functions and cost to all taxpayers, it failed to consider existing support by non-city residents in the form of water subsidies and sales taxes. Thus, non-city residents rejected the tax burden. The KCC, on the other hand, started with the premise to keep the status quo in goods and services and *tax structure* to minimize the initial "shock of change". However, financial circumstances unrelated to consolidation, forced a projected increase in taxes. This projected increase in taxes may, or may not materialize as discussed previously.

Hopefully the changes to the Petition in this brief will change the City staff's opinion that "the Petition unreasonably harms City taxpayers". That was certainly never the intent and we do not believe that to be the case.

KCC Reply Brief, p. 10.

Commerce's Preliminary Report endorses the Amended Petition. Commerce recommends that the LBC approve the Amended Petition and place the matter of consolidation before the areawide voters of the KGB. The LBC will conduct a public hearing on the consolidation proposal on Monday, June 26, 2006, in the Ketchikan City Council Chambers. The hearing will start at 2 p.m. Public comment on the proposal will begin at 7 p.m.

Copies of Commerce's Preliminary Report in this matter have been provided to the City, KCC, KGB, City of Saxman, and others. The Preliminary Report is available for public review through the Ketchikan Public Library, KGB Clerk, and City Clerk. The Preliminary Report is

also available from Commerce upon request and may be viewed online at: <<http://www.commerce.state.ak.us/dca/lbc/ketchikan3.htm>>. Comments on the Preliminary Report received at the office listed below by 5 p.m. on May 18, 2006, will be considered in the final report.

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Chapter 1

Background

A. The Petitioner's Stated Reasons for the Consolidation Proposal

The Petitioner's rationale for the consolidation proposal is expressed in a four-page narrative included as Exhibit A to the Amended Petition. That exhibit lists seven fundamental reasons underlying the consolidation proposal. The following is excerpted from the Petitioner's explanation of the motives for consolidation:

1. Consolidation promotes maximum local self-government with a minimum of local government units.
2. Consolidation encourages efficiencies and economies of scale within local government. Neither the [City] nor the [KGB], when examined separately, are inefficient or poorly run. When one considers a total [KGB] population of 13,548, and the fact that sixty percent of its residents reside within the City, the inefficiency of maintaining two separate government structures becomes, however, readily apparent.
3. Consolidation establishes a single provider of municipal services and results in a more effective and accountable government structure.
4. A consolidated government enhances the community's ability to determine areawide policies and priorities and to represent itself in a unified manner when dealing with state and federal agencies.
5. Consolidation provides for an equitable distribution of the management and cost of providing regional community services.
6. Consolidation enhances local government's ability to provide for effective economic development and long-term planning.
7. Consolidation provides for a single government entity to represent an area that is socially and economically unified.

B. Effects of the Pending Proposal to Consolidate the City and the KGB

Details concerning changes in the structure for delivery of services that would result from consolidation are set out in the Amended Petition. In particular, such details are included in the 41-page budget and financial plan presented as the Exhibit F series

of the Amended Petition (Exhibit F - Exhibit F-5) and the 67-page Transition Plan presented as the Exhibit J series of the of the Amended Petition (Exhibit J - Exhibit J-8). The following summarizes those changes.

1. Local Government Structure

a) Fundamental Changes

The KGB, a second-class borough, would become the "Municipality of Ketchikan," a home-rule borough. The corporate boundaries of the consolidated borough would not be altered by the proposal.

The City, a home-rule municipal government, would be dissolved. In its place, a new borough service area ("Gateway Service Area") would be created. The boundaries of the Gateway Service Area would be identical to those of the existing City.

Citizens of the City would be governed by just one body, the assembly and mayor of the consolidated borough. Currently, the 7,685 citizens of the City are governed by two bodies: the Mayor and Assembly of the KGB and the Mayor and City Council of the City.

Governance of regional facilities and services would be broadened. For example, Ketchikan Public Utilities (KPU) is currently governed by the Ketchikan City Council. KPU provides electric, telephone (local and intrastate), Internet, and cable television utility service throughout its certificated service areas (most of the populated or developed areas of the KGB¹). KPU also provides water utility service within the boundaries of the City. KPU is presently owned and operated as an enterprise by the City. Thus, the Ketchikan City Council sets rates and terms of KPU services. Upon consolidation, KPU would be owned and operated by the consolidated borough.² Rates and terms of service would then be determined by the borough assembly. The same would occur with regard to other facilities and services currently owned and provided by the City that would become areawide functions following consolidation (e.g., harbors, library, and hospital).

Voters throughout the consolidated borough would also have the right to vote on propositions of areawide interest. Such would include, for example, bond propositions for port development and hospital improvements.

¹ The KGB also provides certain utility services inside its boundaries.

² This action also requires approval by the Regulatory Commission of Alaska under AS 42.05.281.

b) Fundamental Aspects That Would Not Change

The City of Saxman, a second-class city, would remain in existence. It would be a city government within the consolidated borough. The community of Saxman would continue to receive borough services.

2. Local Government Services

a) Fundamental Changes

Under the consolidation proposal, ten services and facilities currently provided by the City would become areawide borough services. Those consist of the following:

1. Ketchikan Public Library;
2. Ketchikan Museum, Totem Heritage Center, and Historical Commission;
3. Ted Ferry Civic Center;
4. Gateway Center for Human Services, which provides mental health and substance abuse programs;
5. Ketchikan General Hospital which provides acute and long-term health care;



Port of Ketchikan, one of the City services that would become an areawide borough service.

6. Ketchikan Public Health Center (operated by the Alaska Department of Health and Social Services, but funded, in part, by the City);
7. solid waste disposal;
8. emergency 911 dispatch services; and
9. port and harbors; including six boat harbors (Bar Harbor South, Bar Harbor North, Thomas Basin, Casey Moran, Knudson Cove, and Hole-In-The-Wall), three launch ramps, and the Port of Ketchikan.

Additionally, responsibility for collection, treatment, and discharge of wastewater within the existing City would become a nonareawide function of the consolidated borough. (The KGB currently provides wastewater collection, treatment, and discharge on a nonareawide basis. Upon consolidation, the City would be dissolved and become part of the nonareawide portion of the consolidated borough.)

b) Fundamental Aspects That Would Not Change

Seven services provided by the KGB on an areawide basis would be unchanged. The new borough would continue to provide the following services on an areawide basis:

1. education;
2. assessment and collection of property taxes, sales taxes, and transient occupancy taxes (bed taxes);
3. platting, planning, and land use regulation;
4. animal control;
5. economic development;
6. public transportation; and
7. parks and recreation.

The following services currently provided by the City would be provided by the consolidated borough within the Gateway Service Area:

1. police service;
2. fire suppression;
3. emergency medical service;
4. public works engineering;

5. street and road construction and maintenance (including street lighting);
6. solid waste collection;
7. public works facility and vehicle maintenance;
8. building code enforcement; and
9. sewer and septic service.



Fire protection is one of the services currently provided by the City that would be provided by the consolidated borough within the Gateway Service Area. (Photo courtesy of the City of Ketchikan.)

3. Fiscal Impacts

The City and the KGB are among Alaska's oldest, most populous, and most sophisticated municipal corporations. They have a combined age of nearly 150 years and provide a broader range of services than most other municipal governments of their type. The City, a home-rule city government, is the second-most populous among Alaska's 146 incorporated communities. It provides a full range of local services. The Petition indicates that the City employed approximately 315 individuals as of December 31, 2003. The KGB is the seventh-most populous borough government in Alaska. As of June 30, 2004, the KGB employed approximately 112 individuals excluding the school district. Collectively, the two governments have annual revenues and expenses of nearly \$100 million (excluding the school district). The two governments have more than 30 different funds.

As is detailed below beginning at page 9, consolidation would have the following four fundamental fiscal impacts:

- ➡ Gateway Service Area (City) residents and property owners will bear a smaller burden for certain services and facilities than is currently the case.
- ➡ Residents and property owners throughout the consolidated borough will shoulder an equal burden for areawide services.
- ➡ Areawide revenues for the consolidated borough will increase as a result of the extension of the existing City's 1 percent hospital sales tax levy and the 7 percent bed tax. Currently, the bed tax is 7 percent within the City and 4 percent in the remainder of the KGB.
- ➡ The cost of local government will decline.

Before details of the four fiscal impacts noted above are addressed, Commerce examines dynamic variables *unrelated to consolidation* that will also have fiscal impacts on local governments in Ketchikan. The City's 2000 petition also reflected such impacts. The City pointed out that those impacts colored the effects of its consolidation proposal (2000 petition, p. 84):

It is unfortunate that the consolidation will be taking place during a period of economic uncertainty for both the state and local economy. The State's financial condition has deteriorated to the point where funding for state revenue sharing and safe communities programs has been significantly reduced. The loss of funding for both of these programs has had an adverse impact on the amount of local revenues now required to be generated in order to support local government services. Both the City and the Borough General Funds are reporting operating deficits. The results of both these events is the basis for the increase in the areawide mill levy discussed above and the proposal contained within the financial plan to subsidize the Municipality of Ketchikan's General Fund with annual transfers in the amount of \$1 million from the Hospital Sales Tax Fund. With the exception of several funds, the proposed three-year budget balances revenues and expenditures in a responsible manner. The organization and the restructuring of the new government will be an on-going process that will take several years to complete. As the new assembly and the new management team work together to blend the two separate governments into a single, cohesive governmental unit, other cost saving measures will be identified or developed which will go towards further reducing the cost of local government and reducing the local tax burden.

On balance, the current fiscal climate presents greater financial challenges *unrelated to consolidation* than was the case six years ago. Contemporary variables that are *not connected to consolidation* but are likely to have fiscal impacts on local governments in Ketchikan include the following:

- Projections that 100,000 fewer cruise ship passengers will visit Ketchikan this year compared to last year. That, in turn, is expected to reduce 2006 local sales tax revenues by approximately \$475,000;³
- Significantly greater costs associated with the Alaska's public employees' retirement system, general insurance, public employee health insurance, and workers' compensation insurance;⁴
- Changes in the property tax base;⁵

³ The projected decline in the number of cruise ship passengers stems from four factors. Those are: (1) increased competition from other ports including Prince Rupert and Icy Strait Point near Hoonah, (2) increased use of Seattle as a port of embarkation, which diminishes the capability of foreign-flagged cruise ships to stop at other U.S. ports, (3) an adjustment in cruise ship deployments to Alaska, and (4) limited port capacity in Ketchikan. (See *Economic Indicators - 2005*, Ketchikan Gateway Borough, p. ix.) It was later reported that the reduction in the number of visitors was expected to reduce City of Ketchikan sales tax revenues in 2006 by \$276,000 (see *Sitnews*, March 9, 2006). Based on the projected loss in revenues from the City's 3.5 percent sales tax, Commerce projects that the KGB would lose approximately \$197,000 (\$197,143) from its 2.5 percent areawide sales tax levy.

⁴ In its 2004 Responsive Brief (pp. 4 - 5), the City projected increases of \$1.4 million over three years in employee retirement costs to the City and the KGB. Additionally, the City projected that its costs for general insurance, workers' compensation insurance, and employee health insurance would increase by \$483,000 in one year. In its reply brief (p. 2), the Petitioner noted that, "These extraordinary costs may be inevitable, but to include them in the consolidation budget skews the comparison between 'now' and 'then'." Nonetheless, the KCC ultimately modified its budget "to include a reasonable estimate of these cost increases and 'let the chips fall where they may'." (*Id.*) The Petitioner noted that the addition of those costs could result in a deficit of approximately \$2.1 million per year.

⁵ In its 2000 petition, the City had projected that the value of taxable property in the borough would increase annually by 2 percent. However, noting that the value of taxable property in the KGB had fallen from \$1,022,874,200 in 2002 to \$986,731,300 in 2004 (a drop of \$36,142,900 or 3.5 percent), the City took the position in its December 2004 Responsive Brief that the Petitioner's projections regarding property tax revenues were overstated. The Petitioner had assumed that the value of taxable property would increase 1 percent annually beginning in 2005. In its October 2005 reply brief, the Petitioner responded that the value of taxable property in 2005 had actually increased to \$1,024,185,000, a gain of 3.8 percent compared to 2004. Commerce notes further that preliminary

- The extent to which the City and the KGB are significantly drawing on financial reserves to fund operations in lieu of tax increases;⁶ and
- Whether the State of Alaska will reinstitute some measure revenue sharing to local governments.⁷

While such variables are important in terms of the operations of local governments in Ketchikan, their fiscal impact will be felt regardless of consolidation. Significant differences in the variables faced in 2000 compared to 2006, render it difficult to make ready comparisons between the pending proposal and the City's 2000 proposal. To the extent that the contemporary variables represent greater financial challenges for local governments in Ketchikan, they only serve to make consolidation more attractive financially.

Commerce's objectives in terms of the review of fiscal matters relating to the proposed consolidation are two-fold. First, Commerce must examine whether the proposed consolidated borough has an economy with the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. This is a standard established in law and must be met in order for consolidation to occur. Analysis of that standard is addressed in Part 5 of Chapter 2 of this report.

Footnote continued from previous page

2006 figures provided to Commerce by the KGB Assessor put the current areawide value of taxable property at \$1,095,500,000. That represents an increase of \$71,314,200 or 7.0 percent over the 2005 figure.

- ⁶ Commerce recognizes that the City's 2000 petition provided for a property tax increase of \$115,273 to eliminate a deficit in the budgets of the existing governments (*see* p. 97 of the City's 2000 petition). With regard to the pending proposal, Exhibit F of KCC's Amended Petition states:

The City's 2004 spending plan for its general fund will require a draw-down of general fund reserves in the amount of \$877,000. The [KGB's] 2005 spending plan required a draw-down of general fund reserves in the amount of \$54,000. The combined deficits total \$931,000.

- ⁷ In FY 2000, when the City filed its consolidation petition, State revenue sharing and municipal assistance for municipal governments throughout Alaska totaled nearly \$32 million. When the KCC petition was prepared, that funding had been eliminated. It is noted, however, that several proposals are pending before the Alaska Legislature to reinstitute some form of general financial aid for local governments. Those include HB 371 and SB 234, measures introduced at the request of the Governor.

Commerce's second goal in addressing the fiscal matters associated with consolidation is to provide an objective summary of the fiscal impacts that are reasonably expected to result from consolidation. To that end, Commerce elaborates on the four fundamental fiscal impacts identified earlier.

a) Gateway Service Area (City) Residents and Property Owners Will Bear a Smaller Burden for Certain Services and Facilities Than Is Currently the Case

As noted earlier, responsibility for 11 facilities and services currently provided by the City would become areawide or nonareawide responsibilities of the consolidated borough. It is notable that the local burden for certain of those services and facilities already extends broadly throughout the KGB. That is particularly the case with regard to solid waste disposal, the port and harbors, and, to a slightly lesser extent, the Ketchikan Public Library.

All residents of the KGB currently pay mandatory fees to support the Solid Waste Handling and Recycling Facility owned and operated by the City. Additionally, "tipping fees" are imposed for commercial users of the solid waste facility. With respect to port and harbor facilities, users fund the operating costs of those facilities. Regarding the Ketchikan Public Library, City residents and residents of the KGB outside the City fund the operations of that facility. KGB residents outside the City do so through a 0.9 mill non-areawide borough property tax levy.

With regard to the Ketchikan General Hospital, the 1 percent "hospital sales tax" is paid by every individual and entity that makes taxable purchases within the corporate boundaries of the City. The proceeds from that tax funds the Ketchikan General Hospital.⁸

All but one of the remaining services and facilities at issue are currently supported locally, in part, by sources of revenues other than local taxes. Those include the Ketchikan Museum and the Totem Heritage Center; Ted Ferry Civic Center; Gateway Center for Human Services; Bayview Cemetery; and emergency 911 dispatch services.

⁸ The budget in the Amended Petition (Exhibit F-1, p. 3) shows a relatively small and declining deficit in the hospital fund over the first three years. The deficit for the first year is \$58,290; the deficit in the second year falls to \$33,711; and the deficit in the third year drops to \$7,865.

The local contribution toward operation of the Ketchikan Public Health Center is funded through taxes. The Petitioner projects local tax support for all of those services in the amount of roughly \$1.4 million (\$1,408,979).⁹

b) Residents and Property Owners Throughout the Consolidated Borough Will Should an Equal Burden for Areawide Services

As noted in the preceding segment, the 1 percent “hospital sales tax” currently levied by the City within its boundaries would become an areawide borough sales tax levy. That is warranted because operation of the hospital would become an areawide function of the consolidated borough. The effect would be to increase by

⁹ Exhibit J-2 of the Amended Petition offers first-year projections of “direct revenue” and “direct expense” for each major operating budget component of the proposed consolidated borough. Any difference between the “direct revenue” and “direct expense” for each component is reported as a “net” figure. The “net” figure represents the projected level of funding that would be required from sources other than enterprise revenues, fees, grants, and the like. In other words, the net figure would generally be the amount funded by local taxes. The “net” figures for the Ketchikan Museum and the Totem Heritage Center; Ted Ferry Civic Center; Gateway Center for Human Services; Bayview Cemetery; and emergency 911 dispatch services, and the Ketchikan Public Health Center total \$1,408,979. Specifically, those figures are as follows:

- **Museum:** annual cost of \$791,150; of which \$223,166 would come from revenue sources other than local taxes, and the remaining \$567,984 would come from the general fund.
- **Ted Ferry Civic Center:** annual cost of \$311,675; of which \$98,838 would come from user fees, and the remaining \$212,837 would come from the general fund.
- **Gateway Center for Human Services:** the Mental Health Fund expenses would be \$2,102,332, with projected revenues of \$2,118,627 (surplus of \$16,295); the Substance Abuse Fund expenses would be \$1,512,711, with projected revenues of \$1,532,442 (surplus of \$19,729).
- **Cemetery:** annual cost of \$68,922; of which \$1,457 would come from fees, and the remaining \$67,465 would come from the general fund. Additionally, the cemetery operations and maintenance fund, cemetery development fund, and cemetery endowment fund are projected to cost, respectively, \$5,202, \$25,000, and \$5,202, which would be funded indirectly in amounts of, respectively, \$7,500, \$16,900, and \$2,500. This, results in a \$2,298 surplus in the Cemetery Operation and Maintenance Fund, but would require local support in the amount of \$8,100 for the development fund and \$2,702 for the endowment fund.
- **Emergency 911 Dispatch:** annual cost of \$606,861, of which \$104,040 would come from fees, and the remaining \$502,821 would be supported by the general fund.
- **Ketchikan Public Health Center:** expenses are projected to be \$85,394, with full funding through the general fund.

one percentage point the sales tax rate in effect within the consolidated borough outside the City (i.e., the nonareawide portion of the consolidated borough and the City of Saxman).

Although not affecting residents and property owners, in general, a 7 percent “transient occupancy tax” (bed tax) would be levied areawide by the consolidated borough. That would not represent any change within the current boundaries of the City (the proposed Gateway Service Area). However, it would represent an increase from 4 percent to 7 percent in the transient occupancy tax levy in that portion of the consolidated borough outside the boundaries of the City (i.e., the nonareawide portion of the borough and the City of Saxman). Currently, the proceeds from all bed taxes are allocated to the Ketchikan Visitors Bureau.

The Amended Petition also projects that the existing 0.9 mill nonareawide property tax levy (i.e., the tax levied exclusively on that portion of the KGB outside both the City and the City of Saxman) would be added to the areawide levy. (The tax currently funds the Borough’s contribution for library services on behalf of nonareawide residents. Upon consolidation, library services would become an areawide function of the consolidated borough.) At the same time, the service area property tax levy in the proposed Gateway Service Area (existing City) would be reduced by 0.9 mills. Thus, the net effect in all parts of the borough except the City of Saxman from those two changes would be no increase in property taxes. Under the proposal, the property tax rate in the City of Saxman would increase by 0.9 mills (\$90 for property with an assessed value of \$100,000). It is noted in that regard that the City of Saxman does not currently provide financial support for the Ketchikan Public Library.

The \$1.4 million burden noted in the preceding segment with regard to services to be extended areawide would be shared equally among all residents of the consolidated borough. Residents of the City already bear the burden for those services. Thus, the change would mean a slightly smaller financial burden for residents of the City and a slightly greater burden for the remainder the residents of the consolidated borough.

Savings anticipated to be achieved through consolidation (estimated by the Petitioner to be approximately \$518,000 the first year) could partially offset the financial impact upon those currently living outside the City. The impact could be further offset if the proceeds from the three percentage point increase in the bed tax outside the City were directed to help fund facilities used by visitors (e.g., Ted Ferry Civic Center). Based on figures reported for 2005, it is reasonably estimated that the extension of the 7 percent bed tax areawide would generate an additional \$50,000 annually.¹⁰

¹⁰ The Borough’s 4 percent tax levied outside the boundaries of the City reportedly generated \$70,451 in 2005 (*Alaska Taxable 2005*, p. 14, Commerce, January 2006). A 7 percent tax would have generated an additional \$52,838.

If the anticipated saving from a smaller government and proceeds of the increase in the bed tax were used to partially offset the impact of the change in areawide services, the additional amount of revenue needed to fund those services might be reduced from \$1.4 million to \$840,000.¹¹ On a per capita basis, that would amount to just over \$5 per resident per month.¹²

c) Areawide Revenues for the Consolidated Borough Will Increase as a Result of Two Tax Changes Proposed in the Petition

Under the consolidation proposal, the 1 percent City hospital sales tax will be extended areawide. Additionally, the 7 percent bed tax would be extended areawide; it is currently 7 percent in the City, and 4 percent in the remainder of the KGB. The Petitioner estimates that these changes will increase revenues by \$300,000. Based on 2005 figures, the Petitioner's estimate appears to be conservative.¹³

Beyond the property tax changes discussed in the preceding section, the Petitioner also projects a 2 mill increase in areawide property taxes. However, that increase was proposed largely, if not exclusively, to fund projected cost increases relating to the public employees' retirement system, general insurance, public employee health insurance, and workers' compensation insurance.¹⁴ The Petitioner stressed that without consolidation, the City and the KGB would still have to deal with increased retirement and insurance costs by raising taxes, decreasing services, drawing on financial reserves, obtaining financial aid from the State, or some combination of those alternatives. Commerce agrees fully with the Petitioner on that point and discounts consideration of any projected increase in property taxes due to matters unrelated to consolidation.

¹¹ \$1,408,979 - \$518,000 - \$52,838 = \$838,141.

¹² \$831,141 ÷ 13,125 residents = \$63.33 annually, or \$5.28 per month.

¹³ Based on 2005 data, Commerce estimates that a three percentage point increase in the bed tax levied outside the boundaries of the City would generate an estimated \$52,838 annually. With regard to the extension of the 1 percent hospital sales tax, data extrapolated from *Alaska Taxable 2005* (p. 14) indicates that each 1 percent sales tax levy by the KGB in 2005 generated \$2,808,655. The comparable figure for the City was \$2,447,620. The difference, \$361,035, reflects the additional revenue that would have resulted in 2005 from the extension of a 1 percent "hospital sales tax" to an areawide tax. That figure plus the \$52,838 projected from the extension of the bed tax total \$413,873 (\$113,873 or 38 percent more than the figure used by the Petitioner).

¹⁴ The City expressed the belief that some portion of the projected property tax increase appeared to stem from the Petition amendment providing that, upon consolidation, 100 percent of the City's General Fund would be transferred to a special revenue fund for the benefit of the Gateway Service Area. (See Memorandum from Ketchikan City Manager to Ketchikan City Council, pp. 3 - 4, September 29, 2005.) The original Petition had proposed that only 80 percent of the City General Fund would be transferred to a special revenue fund for the benefit of the Gateway Service Area.

Under Section 10.08 of the proposed charter, the consolidated borough would be prohibited from increasing areawide, nonareawide, or service area property taxes without approval by two-thirds of the assembly or a majority of voters in the respective area.

Appendix B of this report presents tables showing the existing property, sales, and transient occupancy taxes levied by the City, the City of Saxman, and the KGB. Projections of the property, sales, and transient occupancy taxes following consolidation are also included in Appendix B.

d) The Cost of Government Will Decline

In the early 1990s, the City and the KGB jointly funded an independent study regarding consolidation. The effort resulted in the 124-page study by Ginny Chitwood, James Van Altvorst, and James Nordale (March 1993). That study, also known as the “Chitwood Study,” has been widely cited in subsequent discussions over consolidation of Ketchikan local governments.

The 1993 study concluded as follows regarding potential cost savings that could reasonably be expected to result from consolidation of the City and the KGB:

A review of the organization charts of the City and the [KGB] shows five departments that are clear duplicates and should be combined if there is consolidation: Governing Body, Clerk, Manager, Attorney, and Finance (including Borough Revenue and Accounting). Following the transition period, it is estimated that there would be a reduction of eight elected officials and 6.5 staff members for a savings of \$626,010 - calculated in today's [1993] dollars and assuming the same services would be provided after consolidation that are currently provided.¹⁵

. . . .

Consolidation also offers the potential for savings in costs or improvements in efficiency in other areas, including Assessment, KPU and School District Finance, Purchasing, Building & Grounds Maintenance, Vehicles and Equipment Maintenance, Public Transit, Fire Departments, Community Development, and Road/Water/Sewer Maintenance. There also should be

¹⁵ The detailed analysis on pp. 21 - 45 of the study reflects an anticipated net reduction of 8 elected positions and the full-time equivalent of 7.38 staff positions.

increased efficiency from eliminating the time and energy the existing local governments spend in dealing with each other, both friendly and otherwise.

Id. pp. iii - iv.

The 2000 consolidation petition filed by the City projected that consolidation would initially save \$594,839 annually through a net reduction of 16.25 positions, including 8 elected positions. Additionally, the City anticipated savings beyond personnel costs. Those included, for example, cost reductions relating to travel and training, audit fees, dues, office supplies, contractual services for computer services, election costs, compensation for special meetings, and publications. Those additional projected savings amounted to roughly \$355,000 annually. In total, the City's 2000 petition projected annual savings of approximately \$950,000.

In the current proposal, the Petitioner projects that direct personnel costs under a consolidated government will be reduced by \$518,026 annually. The savings stem from the projected elimination of a net total of 13.13 full-time-equivalent positions, including 8 elected positions. (Amended Petition, Exhibit F, p. 4.) Unlike the City's 2000 proposal, the current Petition does not reflect anticipated cost reductions relating to matters such as travel and training, audit fees, dues, office supplies, contractual services for computer services, election costs, compensation for special meetings, and publications.

However, as was the case with the 1993 study and the City's 2000 petition, the current Petition anticipates that further savings can be achieved over time as a result of consolidation. Specifically, the Petitioner states on p. 4 of its Budget and Financial Plan (Exhibit F) as follows:

Since the restructuring of the Municipality of Ketchikan will continue long after the consolidation takes place, additional savings and economies of scale should be achieved. Some functions of the proposed new government that might warrant additional review are Administration (especially Finance), Public Works, the utilities and Community Development.

Table 1-1, shown on the next page, provides a comparison of savings in direct personnel costs projected in the 1993 study, the City's 2000 petition, and the current Petition.

**Table 1-1. Comparison of Anticipated Net Change in Number of Elected Officials and Staff
1993 Study - City's 2000 Petition - 2005 Current Petition**

Component	1993 Study (p. 45) -	City's 2000 Petition (Exhibits J-8 and J-9)	2005 Current Petition (Exhibit F-4)
Elected Officials	eliminate 8 positions - reduce costs by \$84,511 annually	eliminate 8 positions - reduce costs by \$52,752 annually	eliminate 8 positions - reduce costs by \$80,292 annually
Finance Department	eliminate 4.88 positions - reduce costs by \$250,454	eliminate 2.5 positions - reduce costs by \$130,396 annually*	eliminate 1.13 positions - reduce costs by \$108,665 annually
Law Department	no change in staff - reduce costs by \$429 annually	eliminate 1 position - reduce costs by \$49,390 annually	no net change in staff, but - reduce costs by \$16,911 annually
Clerk's Office	eliminate 1 position - reduce costs by \$107,479 annually	eliminate 2 positions - reduce costs by \$118,899 annually	no net change in staff, but - reduce costs by \$20,885 annually
Manager's Office, including personnel	eliminate 1.5 positions - reduce costs by \$183,137 annually	eliminate 2.75 positions - reduce costs by \$243,402 annually	eliminate 1.5 positions - reduce costs by \$111,996 annually
Computer System		no change	eliminate 1 position - reduce costs by \$52,945 annually
Public Works - waste-water		no change	eliminate 0.5 position - reduce costs by \$31,655 annually
Public Works - building maintenance		no change	eliminate 0.5 position - reduce costs by \$43,432 annually
Public Works - garage		no change	eliminate 0.5 position - reduce costs by \$43,432 annually
Public Works - Gateway Service Area Engineering		no change	no net change in staff, but - reduce costs by \$7,814 annually
Totals	eliminate 15.38 positions - reduce costs by \$626,010 annually	eliminate 16.25 positions - reduce costs by \$594,839 annually	eliminate 13.13 positions - reduce costs by \$518,027 annually

* The Finance Director for the City advised Commerce on March 23, 2006, that Exhibit J-8 in the City's 2000 petition understated the number of existing Finance Department staff. The figure should have been reported as 29, not 25. Additionally, the anticipated savings with respect to the Finance Department were incorrectly stated as \$118,748. The figure should have been reported as \$130,396. The figures above reflect the corrections to Exhibit J-8 of the City's 2000 petition.

C. Structure for Delivery of Municipal Services in the Greater Ketchikan Region Compared to Other Parts of Alaska.

There are currently 16 organized boroughs in Alaska. Nine of those are home-rule boroughs, and the remaining seven are second-class boroughs. If consolidation occurs, there would then be ten home-rule boroughs and six second-class boroughs.

Just over 58 percent of Alaskans who live within organized boroughs were residents of home-rule boroughs in 2005. The remainder lived within second-class boroughs.

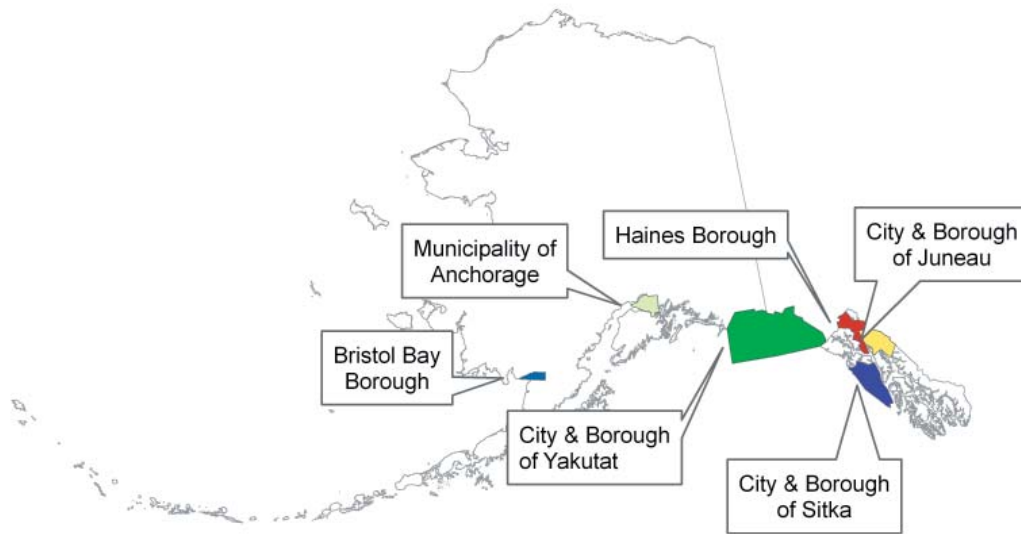
The figures above do not reflect the portion of Alaska outside the 16 organized boroughs, which constitutes a single unorganized borough. Approximately one-eighth of all Alaskans lived within the unorganized borough in 2005.

Table 1-2 lists the 2005 population of each borough and its classification.

Table 1-2. Classification and Population of Boroughs (ranked by classification in descending order of population)

Borough	Classification	2005 Population
Municipality of Anchorage	home-rule (unified)	278,241
City and Borough of Juneau	home-rule (unified)	31,193
City and Borough of Sitka	home-rule (unified)	8,947
Northwest Arctic Borough	home-rule (non-unified)	7,323
North Slope Borough	home-rule (non-unified)	6,894
Haines Borough	home-rule (non-unified)	2,207
Denali Borough	home-rule (non-unified)	1,823
Lake and Peninsula Borough	home-rule (non-unified)	1,620
City and Borough of Yakutat	home-rule (non-unified)	618
Subtotal of home-rule boroughs	home-rule	338,866
Fairbanks North Star Borough	second-class	87,650
Matanuska-Susitna Borough	second-class	74,041
Kenai Peninsula Borough	second-class	51,224
Kodiak Island Borough	second-class	13,638
KGB	second-class	13,125
Aleutians East Borough	second-class	2,659
Bristol Bay Borough	second-class	1,073
Subtotal of second-class boroughs	second-class	243,410
Unorganized borough	NA	81,385
Total	NA	663,661

Source: Population data provided by Alaska Department of Labor and Workforce Development



Six organized boroughs have no city governments within their boundaries.

In 2005, the KGB was inhabited by an estimated 13,125 residents. Of those, 7,685 lived within the City, and 405 lived within the City of Saxman. Nearly 62 percent of all residents of the KGB lived within the boundaries of the City or the City of Saxman.

The proportion of organized borough residents living within the boundaries of a city government is higher in the KGB than it is in all but 3 of the other 15 organized boroughs in Alaska. On average, just one in six organized borough residents in Alaska also lived inside the boundaries of a city government last year. The figure for the KGB was 3.7 times greater than the average.

Six of Alaska's 16 organized boroughs have no city governments within their boundaries. Those include Alaska's most populous borough (Municipality of Anchorage) and its least populous borough (City and Borough of Yakutat). It also includes every other organized borough in southeast Alaska (City and Borough of Yakutat, Haines Borough, City and Borough of Sitka, and City and Borough of Juneau).

Of the 582,582,276 residents of organized boroughs, 97,438 also live within the boundaries of city governments. In other words, 16.7 percent of organized borough residents also live within a city government. That reflects a considerable change from 1970, when nearly fifty percent of Alaskans who lived in organized boroughs also lived within city governments.

Table 1-3 lists the number of city governments within each borough. It also lists the 2005 total population within those cities. The percentage of residents living within cities is also provided for each borough.

Table 1-3. Number of Cities Within Boroughs - Percent of Borough Population Within Cities (ranked in ascending order of percentage of organized borough population within cities)

Borough	Number of Cities within Borough	Number of Borough Residents within Cities	Percent of Borough Population within Cities
Municipality of Anchorage	0	0 of 278,241	0.0
City and Borough of Juneau	0	0 of 31,193	0.0
City and Borough of Sitka	0	0 of 8,947	0.0
Haines Borough	0	0 of 2,207	0.0
City and Borough of Yakutat	0	0 of 618	0.0
Bristol Bay Borough	0	0 of 1,073	0.0
Matanuska-Susitna Borough	3	13,242 of 74,041	17.9
Denali Borough	1	546 of 1,823	30.0
Fairbanks North Star Borough	2	32,777 of 87,650	37.4
Kenai Peninsula Borough	6	19,387 of 51,224	37.8
Lake and Peninsula Borough	6	721 of 1,620	44.5
Kodiak Island Borough	6	6,837 of 13,638	50.1
KGB	2	8,090 of 13,125	61.6
Northwest Arctic Borough	10	6,588 of 7,323	90.0
North Slope Borough	7	6,663 of 6,894	96.6
Aleutians East Borough	5	2,587 of 2,659	97.3
Subtotal for organized boroughs	48	97,438 of 582,276	16.7
Unorganized borough	98	63,043 of 81,385	77.5
Totals	146	160,481 of 663,661	24.2

D. Significant Historical Developments Regarding Local Government Structure Within the Greater Ketchikan Area

- 1900:** Congress first authorized the formation of city governments in what was then the Civil and Judicial District of Alaska. Ninety-five residents of Ketchikan petitioned the U.S. District Court to incorporate the “Town of Ketchikan.” The Court granted the petition and set August 18, 1900, as the date for the incorporation election. One hundred and three votes were cast in the election. Of those, 82 (79.6 percent) voted in favor of incorporation; 18 (17.5 percent) voted against incorporation; and the remaining 3 were blank. The Town of Ketchikan became the third municipal government incorporated in Alaska.
- 1929:** Residents of Saxman petitioned the U.S. District Court for the incorporation of a “municipality of the second class.” An election was held on October 26, 1929. Voters approved the incorporation of Saxman.
- 1935:** The Alaska Territorial Legislature enacted laws allowing the creation of independent school districts and public utility districts. Each independent school district could encompass a city and adjoining unincorporated territory. This provided a mechanism through which taxes could be levied to support schools and voting rights could be extended beyond the boundaries of a city to the adjoining outlying areas. Public utility districts were allowed in areas outside city governments. Public utility districts had the capacity to provide a broad range of services including utilities, hospitals, dams, cold storage plants, warehouses, and canneries.¹⁶
- 1959:** Alaska became a state, at which time the Constitution of the State of Alaska took effect. The Constitution allowed municipal governments to adopt home-rule charters. It also provided for the division of all of Alaska into boroughs (organized or unorganized). Independent school districts and public utility districts were rendered unconstitutional; however, provisions were made to allow for a transition of those governments into city and borough governments.

¹⁶ The Ketchikan Independent School District was formed under Territorial law (date unknown). Its southern boundary encompassed Mountain Point, its northern boundary extended to the end of the North Tongass Highway, its western boundary encompassed a portion of Gravina Island and its eastern boundary ran along George Inlet. In 1963, it was reported that the value of taxable property in the City was \$40,626,918; the value of taxable property in the remainder of the Ketchikan Independent School District was \$19,777,343. (*Incorporation of the Gateway Borough*, report to the LBC, Local Affairs Agency, p. 3, May 1963.) The Mountain Point Public Utility District was also formed under Territorial law (date unknown). Its only function was to provide water utility service on a fee basis. It did not levy taxes. (*Id.* p. 5.)

- 1960:** The City became one of the first home-rule cities in Alaska when voters adopted a home-rule charter.
- 1961:** The Alaska State Legislature enacted standards and procedures for incorporation of boroughs using the local option method.
- 1963:** Concerned over the lack of progress in terms of borough formation, the Alaska State Legislature mandated that the greater Ketchikan region and seven other areas of Alaska form boroughs. The legislature declared that the purpose of the mandate was to “provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions. . . .” (Section 1, Chapter 52, SLA 1963.) The KGB was incorporated in September 1963.
- 1973:** Voters in the KGB considered a proposition to unify the City, the City of Saxman, and the KGB into a single borough government. In order to proceed, unification proposals had to be approved by two groups of voters: (1) those within first-class and home-rule cities (the City) and (2) the remainder of the KGB. Although the proposal was endorsed by a majority of all votes cast and by 78 percent of the voters inside the City, it failed when only 40 percent of the voters in the rest of the borough endorsed it.
- 1975:** The Mayor of the City appointed a “Study Committee for Local Government Efficiency.” The Committee concluded that “a consolidated form of government . . . offers the greatest promise.” The Mayors of the KGB and the City subsequently directed their respective staffs to refine the Committee’s report, in order that reorganization of the local government structure could be advanced. The City and the KGB prepared a consolidation study. However, no action followed to attempt consolidation of the local governments.¹⁷
- 1979:** A second attempt was made to unify the KGB, City, and City of Saxman. The 1979 proposal was approved by 55 percent of the voters in the City, but failed when only 22 percent of those in the remainder of the KGB endorsed it.

¹⁷ Unification is distinct from consolidation in a number of ways. Prominent among the differences is that unification requires all city governments to be combined with the borough. For example, it would require the KGB, City of Saxman, and City to be combined as a single government. In contrast, consolidation allows some existing city governments (e.g., City of Saxman) to remain in place. Another significant difference is that consolidation is decided by a majority of all votes cast. Under current law, a proposition to form a charter commission for unification must be approved by a majority vote in each home-rule and first-class city in the borough or (55 percent of all votes in such cities) and by a majority vote in the area of the borough outside of all home-rule or first-class cities.

- 1986:** A third unification effort was undertaken. The 1986 proposal was approved by 70 percent of the voters in the City; however, only 37 percent of the voters in the rest of the KGB supported it. Overall, even though the unification proposal was approved by 56 percent of the voters in the KGB, it still failed.
- 1990:** The Ketchikan Chamber of Commerce formed a study group to investigate the process and benefits of consolidating the City and the KGB. The efforts of this group resulted in the City and KGB jointly funding a local government consolidation study, which was published in 1993 (the 1993 study).
- 1994:** The City established a committee of citizens and local officials to draft a charter for a consolidated city and borough government. That work formed the basis of a proposal submitted in 2000.
- 2000:** The City petitioned the LBC for consolidation of the City and the KGB. That proposal, like the proposal current pending, left the City of Saxman in place.
- 2001:** On April 27, 2001, following a public hearing, the LBC approved the City's Petition for consolidation. On May 18, 2001, the State Division of Elections scheduled a special election on the proposed consolidation. The election was scheduled to be conducted by mail.

In June, the KGB Assembly formally expressed opposition to the City's consolidation petition. Noting that the Ketchikan City Council had appropriated \$25,000 to publish information supporting its consolidation proposal, the Assembly appropriated funds on June 20 to oppose consolidation. Specifically, Ordinance No. 1187 appropriated \$15,000 "for opposing the consolidation proposition through an informational process that presented the facts objectively for consideration by the public."

Ballots were mailed to voters on June 25. Voters were required to pay for return postage, and ballots had to be postmarked by July 7, 2001. At the time, some local residents had expressed concern that voter participation might be dampened by the requirement for voters to provide return postage.

The election results were certified by the Division of Elections on August 2, 2001. The outcome of the consolidation proposition was determined by a majority of the areawide vote. Borough voters rejected the consolidation proposal by a margin of 2,273 (58.1 percent) to 1,642 (41.9 percent).

Table 1-4 shows the 2001 election results and voter turnout within the City and the portion of the KGB outside the City. It is noteworthy that the proportion of registered voters who participated in the 2001 election was significantly greater outside the City than it was within the City. With a 49.2 percent turnout in the former and only a 32.6 percent turnout in the latter, three eligible voters outside the City cast ballots for every two eligible voters inside the City.

Moreover, while voters inside the City favored consolidation by a margin of nearly two to one, voters outside the City opposed consolidation by a margin of nearly four to one.

Table 1-4. Results of 2001 Consolidation Election and Voter Turnout

Portion of the Borough	Yes Votes	No Votes	Voter Turnout
City	1,205 (65.6%)	632 (34.4%)	1,837 of 5,629 (32.6%)
Portion of Borough Outside City	437 (21.0%)	1,641 (79.0%)	2,078 of 4,221 (49.2%)
Totals	1,642 (41.9%)	2,273 (58.1%)	3,915 of 9,850 (39.7%)

E. Proceedings to Date Regarding the Pending Consolidation Proposal

In 2003, members of the Greater Ketchikan Chamber of Commerce formed a group to promote consolidation of the City and the KGB. The following is an account of the formal proceedings that have occurred up to this point.

1. May 2003

On May 23, 2003, members of the “Ketchikan - One Government Committee” submitted a formal application for an initiative petition to the KGB Clerk. The application proposed to place the following proposition before the voters:

At the regular election, on October 7, 2003, the voters of the Ketchikan Gateway Borough shall consider the question “Shall a commission be elected to prepare a petition, including a home rule charter, to consolidate the City of Ketchikan and the Ketchikan Gateway Borough and shall the Ketchikan Gateway Borough file the petition, without modification, with the Local Boundary Commission by September 30, 2004?”

If the voters approve, the borough shall hold a special election within 90 days to elect the commission. The commission shall be comprised of seven seats: three filled by citizens residing within the boundaries of the City of Ketchikan, three filled by citizens residing within the boundaries of the Ketchikan Gateway Borough but outside the City of Ketchikan, and one filled by a citizen from the Ketchikan Gateway Borough at-large.

Commission candidates shall be nominated by a petition signed by at least 50 voters. The nomination petitions shall be filed with the municipal clerk at least 60 days prior to the election of the commission.

The commission shall prepare the consolidation petition, including the proposed home rule charter. The proposed consolidated borough shall be named the "Municipality of Ketchikan." The City of Saxman shall remain a city government and shall be part of the consolidated borough as it is presently part of the Ketchikan Gateway Borough. The Ketchikan Gateway Borough shall submit the consolidation petition, including the charter, to the Local Boundary Commission by September 30, 2004.

2. June 2003

On June 2, 2003, the KGB Clerk certified that the application for the initiative was in proper form and that it met other requirements in State law in that the proposal:

1. was not restricted by AS 29.26.100;¹⁸
2. included only a single subject;
3. related to a legislative rather than to an administrative matter;
and
4. would be enforceable as a matter of law.

On June 5, 2003, the KGB Clerk notified the sponsor of the proposed initiative that the Clerk had prepared the initiative petition forms. The sponsor was also advised that 598 valid signatures - 15 percent of the number of voters who voted in the last regular borough election - were required to place the proposed initiative before the voters.

3. August 2003

On August 13, 2003, the sponsor of the initiative submitted the initiative petitions to the KGB Clerk. The petitions contained nearly 900 signatures. On August 14, 2003, the KGB Clerk determined that the number of qualified signatures exceeded the requisite number of 598.

¹⁸ AS 29.26.100 provides that, "The powers of initiative and referendum are reserved to the residents of municipalities, except the powers do not extend to matters restricted by art. XI, § 7 of the state constitution."

4. October 2003

On October 7, 2003, KGB voters approved the initiative by a margin of 1,796 (54.5 percent) to 1,498 (45.5 percent). The election results were certified on October 13, 2003. Table 1-5 shows the election results by precinct. A majority of voters in each of the three precincts within the City approved the initiative by margins of nearly two to one. Additionally, a majority of the voters in the South Tongass Precinct outside the City approved the initiative by a slightly smaller margin. However, voters in the other three precincts outside the City opposed the proposition. Voters in the North Tongass Precinct Number 1 and North Tongass Precinct Number 2 opposed the initiative by a margin of nearly two to one. Opposition was strongest in the City of Saxman, where more than 70 percent of the voters opposed the initiative.

Table 1-5. Election Results Regarding Initiative to Petition for Consolidation (precincts ranked in descending order of percentage of votes favoring the initiative)

Precinct	Votes For The Initiative	Votes Against The Initiative
City Precinct Number 3	269 (66.1%)	138 (33.9%)
City Precinct Number 2	416 (64.6%)	228 (35.4%)
City Precinct Number 1	300 (63.3%)	174 (36.7%)
South Tongass Precinct	253 (56.1%)	198 (43.9%)
North Tongass Precinct Number 2	185 (35.9%)	331 (64.1%)
North Tongass Precinct Number 1	74 (34.3%)	142 (65.7%)
City of Saxman Precinct	26 (28.9%)	64 (71.1%)
Absentee Voters	193 (55.0%)	158 (45.0%)
Questioned Ballots	80 (55.2%)	65 (44.8%)
Totals	1,796 (54.5%)	1,498 (45.5%)

5. January 2004

On January 13, 2004, the KGB held a special election for voters to choose members of the KCC. Eight candidates filed for the three City seats, eleven candidates filed for the three seats for the area in the portion of the KGB outside the City, and two candidates filed for the at-large seat. On January 15, 2004, the Assembly certified the results of the election and declared the election of the following members of the KCC:

Commission members residing in the KGB but outside the City:

- ➡ Brad W. Finney;
- ➡ Jerry L. Kiffer;
- ➡ John A. Harrington.

Commission members residing in the KGB and inside the City:

- ➡ Mike Painter;
- ➡ Deborah Otte;
- ➡ Dennis McCarty.

Commission member residing in the KGB at-large:

- ➡ Glen Thompson (a resident of the KGB outside the City).

The KCC held its first meeting on January 21, 2004, and met again on January 30, 2004. Agendas, Minutes, and other records of all the KCC meetings have been made available to the LBC.

6. February 2004

The KCC met four times (February 6, 13, 20, and 27).

7. March 2004

Four meetings were conducted by the KCC (March 5, 12, 19, and 26).

9. April 2004

Members of the KCC met three times (April 2, 9, and 21).

10. May 2004

KCC members met twice (May 5 and 19).

11. June 2004

The KCC met four times (June 2, 11, 18, and 25).

12. July 2004

Four meetings were held by the KCC (July 7, 23, 29, and 30).

13. August 2004

The KCC met four times (August 6, 13, 20, and 27).

14. September 2004

KCC members held three meetings (September 3, 10, and 17). At the conclusion of the September 17 meeting, the KCC unanimously adopted the original Petition. The Petition was filed with the LBC on September 30.

15. October 2004

Commerce completed its technical review of the form and content of the original Petition in October. Commerce accepted the Petition for filing on that date. The Chair of the LBC set December 27, 2004, as the deadline for receipt of responsive briefs and comments concerning the original Petition. Extensive notice of the filing of the Petition and service thereof was provided by the Petitioner in accordance with law.

16. December 2004

On December 21, the KGB Manager filed with the LBC an eight-page letter commenting on the original Petition. The Borough Manager stated that the "consolidation petition, Charter, transition plan, and three-year budget, provide an adequate basis for creation of a new consolidated municipality." The letter stated that there are "likely innumerable specific policy issues or choices made in the petition which could be debated but never fully resolved to the satisfaction of all because not everyone shares the same opinions." However, the KGB Manager took the position that none of those issues "present legal defects with the petition or the organization proposed." The Manager also listed 24 specific issues that he asked the LBC to consider. For example, he noted that Exhibit J-1 of the original Petition provided a specific list of public policy issues that the KCC deferred for consideration by the assembly of the consolidated borough. The Manager questioned whether it would be better to address those issues now rather than waiting for consolidation to occur.¹⁹

¹⁹ Having reviewed those issues, Commerce concurs with Petitioner that they are matters more appropriately left to the discretion of the governing body and need not be resolved in the consolidation process.

On December 23, the City filed a 28-page Responsive Brief opposing the Petition as originally submitted. The Responsive Brief noted that the City's expertise with its own organizational structure and financial situation, coupled with the fact that the City had petitioned for consolidation four years earlier, gave it a unique perspective with regard to the proposal filed by the KCC.

The City noted in its Responsive Brief that the original Petition had drawn heavily on the one filed by the City in 2000. However, the City expressed concern that KCC's original Petition deviated from the City's 2000 petition in four particularly significant ways. Those deviations were proposals to:

1. institute a strict property tax cap;
2. impose a requirement that two-thirds of the assembly or a majority of the voters approve any increase in fees, sales tax levies, or property tax levies;
3. transfer 20 percent of the existing City General Fund balance for areawide purposes; and
4. reduce the sales tax levy for public works in the Gateway Service Area by 0.25 percentage points (from 1.5 percent to 1.25 percent).

The City also criticized the original Petition for using what the City considered to be unrealistic assumptions in its budget and financial plan. According to the City's Responsive Brief, those unrealistic assumptions resulted in a budget and financial plan that was neither feasible nor plausible. The City characterized the proposal as one that failed to reasonably anticipate the proposed consolidated borough's expenses. As a result, the City stated that the voters could not rely upon the budget and financial plan. The City's Responsive Brief concluded by stating:

The Petition should not be approved as written. The proposed budget and financial plan need to be corrected. The expenses and funding of services should be more fairly distributed between City and other taxpayers. Finally, the Petition should use the consolidation process to create those efficiencies which, regardless of tax caps, are the key to controlling tax rates.

Apart from the formal Responsive Brief of the City, the Mayor of the City submitted a three-page letter on December 27 expressing concerns over the KCC Petition as originally submitted.

The Mayor stressed, however, that he was a longtime proponent of consolidation for two reasons. The first was that "[h]aving two governments is not efficient in several respects, particularly duplication of management costs of operation." The second

was that “[a]reawide services should be supported on an areawide basis, not by only a portion of the people of a community as is the case here now with certain municipal services, e.g. museum and mental health.”

The Mayor of the City indicated that the original KCC proposal appeared to allocate areawide and service area functions of the proposed consolidated borough in a reasonable manner. However, he expressed what he perceived as three fundamental weaknesses in the original Petition. Specifically, the Mayor stated:

The proposed plan details very insignificant savings relative to the costs of operating two governments. Of note is that the proposed efficiencies are substantially less than those proposed by the City in its petition a few years ago. From my perspective, if there are no significant savings there is no reason to consolidate.

While the petition does outline the services that should be areawide in a reasonable manner, the way the services are proposed to be funded is not fair to City residents. It requires only basic arithmetic skills to conclude that if 100% of the people begin to pay for municipal services (such as museum and mental health) paid for by 60% of the people today, the cost to the 60% should decrease in a corresponding manner.

. . . .

The City is currently a home rule city, with an elected City Council making decisions about appropriate levels of taxation, utility rates, and fees by a majority vote. The proposed petition requires [that] any tax, rate or fee increase, including for utilities, would have to be approved by a super-majority, or 5 members, of the new assembly. Furthermore, the petition proposes a 10 mill tax cap, with voter approval required to increase it. This has the effect of changing the City’s current form of government to something significantly less representative than its current status.

Following receipt of the Responsive Brief and written comments on the original Petition, the LBC Chair set February 28, 2005, as the deadline for the Petitioner to file its Reply Brief. The Petitioner was advised that the LBC Chair would extend the deadline if necessary.

17. January 2005

The KCC met on January 21 to consider the Responsive Brief of the City and the comments from Mayor of the City and the KGB Manager.

18. February 2005

The KCC held two meetings (February 19 and 25) to conduct work sessions regarding the Responsive Brief of the City and the comments from Mayor of the City and the KGB Manager.

Following its meeting of February 25, the KCC requested an extension of the deadline for submission of its Reply Brief. In his February 27 response, the LBC Chair stressed that the original deadline was set with the understanding that additional time would be granted if such were needed to prepare a proper reply. The LBC Chair recognized that a proposal to consolidate the City and the KGB - two of Alaska's more sophisticated and longstanding municipal corporations - was a complex challenge. The LBC Chair also commended the KCC and officials of the City and KGB for working in good faith to address concerns. Specifically, the LBC Chair stated:

I am pleased that the [KCC] has clearly demonstrated its good faith by seeking additional time during which it will confer with officials of the two affected local governments. I am equally pleased that officials of those two local governments have also demonstrated their good faith by committing to work with the [KCC] in an effort to address their concerns.

19. March 2005

The KCC met twice (March 11 and 25) to consider the KCC Reply Brief and possible amendments to the original Petition.

20. April 2005

The KCC met once (April 22) to consider its Reply Brief and possible changes to the original Petition. At the conclusion of the April meeting, the Chair of the KCC reflected on the desirability of reaching a consensus on fundamental policy issues. The minutes of that meeting reflect the following comments by the Chair:

We have to have the stakeholders, the [KGB], the City and the Commission, as much as possible on the same page. That's not to say we're going to completely agree with everything and that's not to say that we're all going to get done with this process and say this is the greatest thing that's come down the pike. [The Chair] said he doubted that's going to happen, but at least we're going get to a point where we say that we don't like it, but we don't hate it, either. It will stand a lot better scrutiny and will actually go through their process a lot more efficiently and quickly if there is not this level of objection to it in the next go-around. That's what we need to work toward.

21. August 2005

The KCC met once (August 5) to consider possible amendments and its Reply Brief.

22. September 2005

The KCC met on September 16. At the conclusion of the meeting, the seven members of the KCC unanimously adopted the Reply Brief and amendments to the original Petition, with provision to allow further comment by the City and the KGB.

On September 29, the Manager of the City wrote a seven-page memorandum to the City Council outlining the modifications that had been made to the original Petition. A copy of the memorandum is included in the KCC Reply Brief. The City Manager concluded:

Although staff has had minimal time to review the reply brief and supporting documentation, it is clear that the Charter Commission has attempted to respond in good faith to a number of the issues raised by the City last December. At the same time, there are other concerns that remain unresolved. To that end, my office has forwarded a copy of this report to the Charter Commission and has requested a meeting with the Chair, Glen Thompson, prior to the October 6, 2005 City Council meeting. The purpose of this meeting is to discuss the issues referenced in this report. It is my hope that the Commission can either clarify information contained in its reply brief and/or resolve what appear to be discrepancies in the Financial Plan and Three-Year Budget. It is my intent to advise the City Council of the results of this meeting prior to any final action being taken. I have further encouraged members of the Commission to attend the City Council meeting of October 6, 2005.

23. October 2005

KCC Chair Glen Thompson and KCC member Debby Otte met with the City Finance Director on October 5. According to minutes of the KCC's October 18 meeting, the City was not "completely satisfied with all of our responses (naturally, there were some political decisions made), but they did feel that our response did meet the minimum requirements and they would have no objection to a recommendation that it be passed on to the voters."

On October 6, members of the City Council expressed no objection to allowing the City Manager to continue discussions with the KCC. (See excerpt of minutes of City Council meeting of October 6, 2005, included with the KCC Reply Brief.)

On October 17, the Assembly of the KGB unanimously adopted Resolution No. 1930. The resolution, included with the KCC Reply Brief, states, in relevant part:

WHEREAS, the KCC modified its petition to address the specific concerns raised by the City of Ketchikan and the Ketchikan Gateway Borough.

. . . .

. . . The Ketchikan Gateway Borough Assembly hereby authorizes the Borough Manager to formally notify the Alaska Local Boundary Commission that the Borough has reviewed the Ketchikan Consolidation Charter Commission's reply brief and finds that it meets the standards necessary to place the consolidation question before the voters of the Borough.

On October 18, the KCC met for the thirty-ninth and last time to date. At that meeting, the KCC voted to file its Reply Brief and Amended Petition with the LBC. A motion to do so was unanimously approved by the six members who were present at the meeting. The record of that meeting reflects that the seventh member of the KCC had previously endorsed the Reply Brief and Amended Petition.

KCC's Reply Brief and Amended Petition were submitted to the LBC on October 24, 2005. In transmitting the Reply Brief and Amended Petition, the KCC Chair stated:

The Ketchikan Charter Commission has spent the past 9 1/2 months revising the consolidation petition documents originally submitted to the . . . (LBC) in September of 2004, in an attempt to address the formal concerns raised by both the City and Borough administrations. We would like to thank you for your own assistance, and that of the City and Borough staff in reaching this juncture in our efforts.

We believe that we have successfully addressed all of the material errors and omissions, as well as the operational and organizational concerns raised in the formal Brief submitted by the City of Ketchikan and the letter from the Ketchikan Gateway Borough.

Substantive changes made by KCC in the Amended Petition are summarized below:

- ➡ the proportion of the City General Fund balance to be transferred to the Gateway Service Area was increased to 100 percent (up from 80 percent);
- ➡ the sales tax levy for public works in the Gateway Service Area was changed to maintain the current levy of 1.5 percent (the original proposal was to reduce it to 1.25 percent and allocate the 0.25 percent difference for areawide purposes);
- ➡ projected areawide property taxes were increased by 2 mills to pay for expected increased costs relating to retirement and insurance;

- a 2 mill limit was placed on annual areawide property tax levy increases, with provision that at least two-thirds of the assembly, with special public notice provisions, or a majority of the voters may authorize an increase greater than 2 mills above the previous year's levy (that provision replaced a 10 mill property tax cap set in the original petition);
- the original proposal to require at least two-thirds of the assembly or a majority of the voters to authorize any fee increase was eliminated;
- a provision was added that water utility services may only be provided on a service area basis; and
- fiscal data and projections throughout the Petition were updated and otherwise modified to reflect other amendments.

24. November 2005

The LBC Chair set December 30, 2005, as the deadline for comment on the Amended Petition. Formal notice of the Amended Petition was given in accordance with the requirements of law. The Petitioner also served a copy of the Amended Petition on the City.

25. December 2005

No comments on the Amended Petition were received by the December 30, 2005, deadline.

26. January 2006

LBC Staff provided each member of the LBC with a copy of the record in the proceeding. To date, that record consists of the (1) original petition and supporting documents (e.g., budgets of the City, KGB School District, and the KGB); (2) Responsive Brief from the City; (3) written comments from the KGB and Mayor of the City; (4) the October 2005 Amended Petition; and (5) the KCC Reply Brief.

F. Future Proceedings Regarding the Pending Consolidation Proposal

1. Opportunity to Comment on Commerce's Preliminary Report

Commerce's Preliminary Report has been provided to the Petitioner, Respondent City, KGB, and others. The LBC Chair has set the deadline for the receipt of written comments on the Preliminary Report for May 18, 2006 at 5 p.m.

Comments may be submitted by mail, courier, facsimile, or e-mail. To be considered, comments must be received at the following location by the deadline noted above:

Local Boundary Commission Staff
Department of Commerce, Community, and Economic Development
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Fax: 907-269-4539
e-mail: LBC@commerce.state.ak.us

2. Commerce's Final Report

After Commerce has considered any timely written comments on its Preliminary Report, it will issue a Final Report on the matter. The Final Report will be mailed to the Petitioner, Respondent, and others at least three weeks prior to the LBC's hearing on the Amended Petition.

3. Pre-Hearing Requirements

As described below ("LBC Public Hearing"), the Petitioner and Respondent will be allowed to present sworn testimony during the upcoming public hearing on the consolidation proposal. The public hearing will be conducted by the LBC in Ketchikan.

Witnesses providing sworn testimony must have expertise in matters relevant to the pending consolidation proposal. If the Petitioner and Respondent plan to provide sworn testimony, each must submit to the LBC a list of witnesses the party intends to call to provide sworn testimony. The list must be received by LBC Staff at least 14 days prior to the hearing.

The witness list must 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. Each party must also provide the other with a copy of its witness list.

4. LBC Public Hearing

The LBC will hold at least one public hearing on the consolidation proposal in Ketchikan. The hearing has been scheduled for Monday, June 26, 2006, beginning at 2 p.m. The hearing will be held in the City Council Chambers. The period for public comment will begin at 7 p.m. (See Figure 1.1, Hearing Agenda.)

Formal notice of the hearing will be published at least three times in the *Ketchikan Daily News*, with the initial publication occurring at least thirty days prior to the hearing. Public notice of the hearing will also be posted in prominent locations and mailed to the Petitioner and Respondent.

The hearing will begin at 2 p.m. Following introductory proceedings, LBC Staff will present of its conclusions and recommendations concerning the pending proposal.

Following the LBC Staff's summary, the Petitioner and Respondent will be allowed to make opening statements limited to ten minutes each.

Next, sworn testimony will be taken, beginning with that provided by the Petitioner. After sworn testimony by the Respondent, the Petitioner is also allowed to provide sworn responsive testimony.

The time and content of testimony will be regulated by the LBC Chair to exclude irrelevant or repetitious testimony. Commission members may question witnesses providing sworn testimony.

Following sworn responsive testimony by the Petitioner, the LBC will recess the hearing until 7 p.m. When the hearing reconvenes at 7 p.m., the public will have an opportunity to comment on the proposal. Three minutes will be allowed for each person who wishes to offer comments. Commission members may question persons providing public comment.


The hearing will conclude with a closing statement by the Petitioner not to exceed ten minutes, a closing statement by the Respondent not to exceed ten minutes, and a reply by the Petitioner not to exceed five minutes.

The hearing agenda is provided in Figure 1-1

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 the Petitioner, Respondents, and LBC Staff.

In compliance with Title II of the Americans with Disabilities Act of 1990, LBC Staff will make available reasonable auxiliary aids, services, and/or special modifications to individuals with

Figure 1-1. *Hearing Agenda.*



State of Alaska
Local Boundary Commission
550 West Seventh Avenue, Suite 1770 • Anchorage, AK 99501
Telephone: 907-269-4560 • Fax: 907-269-4539

AGENDA

MONDAY, JUNE 26, 2006
KETCHIKAN CITY COUNCIL CHAMBERS

- I. Call to order (2:00 p.m.)
- 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 Petition to Consolidate the City of Ketchikan and the Ketchikan Gateway Borough
 - A. Summary and presentation by LBC Staff 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

RECESS UNTIL 7:00 P.M.

- G. Summary of LBC Staff conclusions and recommendations (limited to 10 minutes)
- H. Summary by Petitioner (limited to 10 minutes)
- I. Summary by Respondent (limited to 10 minutes)
- J. Period of public comment by interested persons (limited to 3 minutes per person)
- K. Petitioner's closing statement (limited to 10 minutes)
- L. Respondent's closing statement (limited to 10 minutes)
- M. Petitioner's reply to Respondent's closing statement (limited to 5 minutes)
- VII. Decisional session regarding the Petition to Consolidate the City of Ketchikan and the Ketchikan Gateway Borough (optional at this time)
- VIII. Comments from Commissioners and staff
- IX. 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

disabilities who need such accommodations to participate at the hearing on this matter. Persons needing such accommodations should contact LBC Staff at least two weeks prior to the hearing.

If anyone attending the hearing lacks a fluent understanding of English, the LBC may 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, reasonable arrangements can be made to connect other sites to the hearing by teleconference.

5. LBC Decision

The LBC has the option of making a decision immediately upon conclusion of the hearing. Alternatively, if circumstances warrant, the LBC may defer its decision for a period not to exceed 90 days following its last hearing on the Petition.

During the decisional session, no new evidence, testimony, or briefing may be submitted to the LBC. However, the LBC may ask its staff or another person for a point of information or clarification.

After the LBC renders its decision, it must adopt a written statement explaining all major considerations that led to its decision. A copy of the statement will be provided to the Petitioner, Respondent, and all others who request a copy.

6. Opportunity to Seek Reconsideration

The LBC may grant a request for reconsideration or, on its own motion, order reconsideration of its decision if

1. a substantial procedural error occurred in the original proceeding;
2. the original vote was based on fraud or misrepresentation;
3. the LBC failed to address a material issue of fact or a controlling principle of law; or
4. new evidence not available at the time of the hearing relating to a matter of significant public policy has become known.

Details regarding procedural requirements for reconsideration are set out in 3 AAC 110.580.

7. Election(s)

If the LBC approves the Amended Petition for consolidation, the Director of the Alaska Division of Elections will be notified. Within thirty days, the Elections Director must set the date and terms of the election. The election must be conducted not less than thirty or more than ninety days from the date of the election order.

If a majority of voters area-wide approve the proposition for consolidation, the Elections Director must then conduct a second election to allow voters to choose a new mayor and assembly of the consolidated borough. A new school board would not be elected.²⁰

The Federal Voting Rights Act (42 U.S.C. § 1973) applies to municipal consolidations and other municipal boundary changes in Alaska. The Voting Rights Act forbids any change affecting voting rights that has the purpose or effect of denying or abridging the right to vote for racial reasons. The U.S. Department of Justice or U.S. District Court in Washington D.C. will review the consolidation proposal, method of the consolidation election, and the proposed date for the consolidation election. The review typically takes about 65 days.

8. 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 reconsideration may be ordered by the Commission. (Alaska Rules of Appellate Procedure, Rule 601, *et seq.*)

²⁰ AS 29.06.140(c) provides, in part, that “If merger or consolidation is approved, the director of elections shall, within 10 days, set a date for election of officials of the new municipality.” In this case, elected officials consist of the mayor, assembly, and school board. Exhibit D of the Amended Petition emphasizes that the composition and apportionment of the existing school board is “unaffected by this petition.” Exhibit J, the Transition Plan, states, “Because consolidation will not result in any change in the composition, apportionment, powers, or duties of the school board, this consolidation proposal will not require the election of a new school board.” In its 2000 consolidation proposal, the City took the same position. After conferring with the State Attorney General’s office on the matter, LBC Staff took the position that absent a change in the composition, form of representation, or responsibilities of the school board; and lacking a formal school board policy opposing or supporting consolidation, it would be permissible to limit the election of new “officials” under AS 29.06.140(c) to just the mayor and assembly. The LBC Staff maintains that view regarding the pending Petition.

Chapter 2

Evaluation of the Ketchikan Consolidation Proposal in Terms of Applicable Legal Standards

This chapter presents Commerce’s analysis of the extent to which the Ketchikan consolidation proposal meets the requirements of State law. The provisions of AS 29.06.130(a) set out those requirements as follows:

The Local Boundary Commission may amend the petition and may impose conditions for the merger or consolidation. If the commission determines that the merger or consolidation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, the municipality after the merger or consolidation would meet the standards for incorporation under AS 29.05.011 or 29.05.031, and the merger or consolidation is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition.

The laws applicable to this consolidation proposal are set out in Appendix C of this report. Those include article X, sections 1 and 3 of the Alaska Constitution, AS 29.06.130(a) and 29.05.031, 3 AAC 110.240 - 3 AAC 110.250, 3 AAC 110.045 - 3 AAC 110.065, and 3 AAC 110.910 - 3 AAC 110.980. Additionally, provisions in the federal Voting Rights Act²¹ apply to consolidation of local governments in Alaska.

Commerce’s analysis of the consolidation proposal with regard to the applicable standards is presented below.

Part 1. Whether Consolidation Promotes Maximum Local Self-Government

Article X, section 1 of the Alaska Constitution promotes “maximum local self-government.” As reflected below in the background discussion regarding this particular standard, maximum local self-government under Alaska’s Constitution can be reached

²¹ 42 U.S.C. § 1973.

in at least one of two ways. One is through the extension of a municipal government structure (city or a borough government) where none currently exists. The other is through home-rule status.²²

By definition, consolidation results in combining two or more existing local governments in the form of a new local government. By itself, consolidation does not extend local government jurisdiction beyond the area or territory served by the existing local governments. Ketchikan residents formed a city government in 1900, and Saxman residents did likewise in 1929. The KGB was incorporated in 1963, creating overlapping municipal structures in the territories encompassed by the Ketchikan city government and the City of Saxman and extending municipal jurisdiction to nearly 1,750 square miles beyond those two city governments.

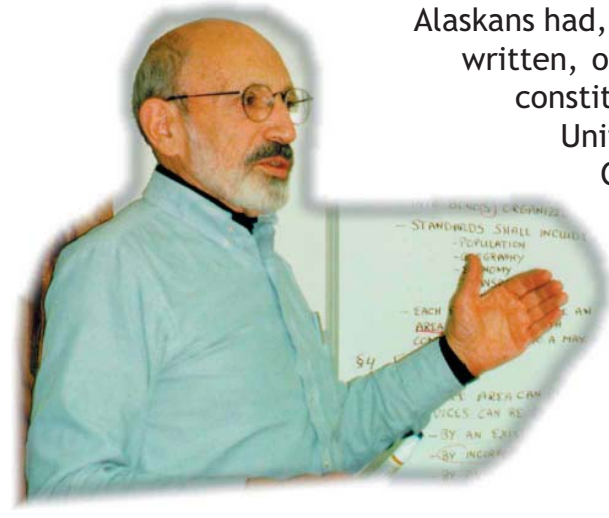
As is also outlined in the background section regarding this standard, the framers of Alaska's Constitution took the view that home-rule status offers the highest form of self-government. The Ketchikan city government became a home-rule municipality when voters adopted a charter on October 4, 1960. The KGB, however, has remained a general law borough since its incorporation in 1963. Thus, the 7,685 residents of the City receive services from a home-rule city and a general law borough. The 5,035 nonareawide residents of the KGB receive services exclusively from a general law borough. The 405 residents of the City of Saxman receive services from a general law city and a general law borough.

Among the five organized boroughs in southeast Alaska, the KGB is the only general law borough. However, if the pending proposal is implemented, home-rule status will be extended to all residents of the consolidated borough. Given that change, Commerce concludes that the pending proposal fosters maximum local self-government and meets the standard at issue.

²² Commerce notes further that even if a consolidation proposal does not extend home-rule status to areas or territories governed by general law local governments, the LBC has held that it can still satisfy the maximum local self-government standard. In 2000, voters in the greater Fairbanks area petitioned the LBC for consolidation that would have (1) dissolved the home-rule City of Fairbanks and the general law Fairbanks North Star Borough and (2) incorporated a new general law borough with boundaries identical to those of the existing borough. Opponents argued that the elimination of the city government structure and loss of home-rule status represented a diminution of local self-government for residents of the City of Fairbanks. The LBC concluded, however, that maximum local self-government "is a matter of local residents having access to local government and an optionally broad range of power to pursue local government as they wish." Consequently, the LBC determined that the standard was met in that case. (*See Statement of Decision in the Matter of the Petition for Consolidation of the City of Fairbanks and the Fairbanks North Star Borough*, p. 18, LBC, June 7, 2001.)

A. Background on the Maximum Local Self-Government Clause of Alaska's Constitution

As reflected below in the writings of Victor Fischer, citizens of the Territory of Alaska faced significant restrictions on their capacity to exercise self-government:



Victor Fischer, *Delegate to the Alaska Constitutional Convention and member of the Committee on Local Government at the Convention.*

Alaskans had, at the time the constitution was being written, only such rights and privileges as were constitutionally granted to all citizens of the United States and as provided by the U.S. Congress for the Territory. Federal law thus served as Alaska's constitution prior to statehood. In some cases, Congress specified what rights and rules would apply to Alaska; in others, it permitted the territorial legislature to act (or prohibited it from acting).

One of the basic arguments for statehood was this lack of self determination and self governance under the federal administration. . . .

Victor Fischer, *Alaska's Constitutional Convention*, p. 69 (University of Alaska Press 1975).

Mr. Fischer stressed that restrictions were particularly evident at the local government level:

Under territorial status, local institutions had undergone only limited development; there was little self-determination at the territorial and even less at the local level. Federal law prescribed the powers of the territorial legislature, severely limiting the scope and types of local government and restricting the powers that could be exercised by cities. For example, counties could not be established, bonding criteria were strictly delimited, and home rule could not be extended to cities.

Id. p. 116.

The Committee on Local Government at Alaska's Constitutional Convention endeavored to design a local government system that fostered local responsibility and control. Mr. Fischer, wrote as follows regarding that effort:

The first draft article [on local government] presented to the convention stated the general purpose was to provide a maximum of self-government to the people in all parts of Alaska. To meet this goal, two basic local government units were established - boroughs and cities. This framework was designed to accommodate today's needs and tomorrow's growth and development.^[23] The committee then set forth the principles underlying the proposed local government system:

1. Self-Government. The proposed article bridges the gap now existing in many parts of Alaska. It opens the way to democratic self-government for people now ruled directly from the capital of the territory or even Washington, D.C. The proposed article allows some degree of self-determination in local affairs whether in urban or sparsely populated areas. The highest form of self-government is exercised under home rule charters which cities and first class boroughs could secure.

Id. p. 117.

As outlined below, as a practical matter, the nature of the powers to which a general law municipality in Alaska has access are substantially the same as those of a home-rule municipality. Rather than affording local governments the opportunity to take on greater powers, home-rule status today may be more significant in terms of the opportunity to place limitations on local government. For example, the home-rule charter in the pending consolidation proposal provides that building code enforcement may only be exercised on a service area basis (see Section 12.03 of the proposed charter) and that new service areas cannot be created or existing service areas expanded without voter approval (see Section 12.04 of the proposed charter).

General law local governments like the KGB derive their powers from laws enacted by the State legislature. The principle of liberal construction of local government powers set out in article X, section 1 is widely reflected in laws enacted by the legislature granting powers to general law governments. Among such are the following provisions that apply to general law local governments

Sec. 29.35.400. General construction. A liberal construction shall be given to all powers and functions of a municipality conferred in this title.

²³ [Footnote 89 in original] *Proceedings*, Appendix V, p. 47.

Sec. 29.35.410. Extent of powers. Unless otherwise limited by law, a municipality has and may exercise all powers and functions necessarily or fairly implied in or incident to the purpose of all powers and functions conferred in this title.

Sec. 29.35.420. Enumeration of powers. Specific examples in an enumerated power or function conferred upon a municipality in this title is illustrative of the object and not a limitation on or exclusion from the exercise of the power or function.

Largely, Alaska's courts have also recognized that general law local governments have broad powers. In particular, the Alaska Supreme Court concluded in a 1983 case that a second-class general law borough had powers beyond those expressly stated in law.

The Court held that even though State statutes did not specifically authorize a second-class borough to dispose of land by lottery, that power was "fairly implied." (*Gilman v. Martin*, 662 P.2d 120, 124 (Alaska 1983).)

In reaching its conclusion that a general law government had implied powers, the court cited the irreconcilable conflict rule that it had utilized in a case involving a home-rule municipality. (*Jefferson v. State*, 527 P.2d 37, 43 (Alaska 1974).) The court made no distinction regarding the deference due to a home-rule municipal enactment compared to an enactment by a general law municipality. The application of the irreconcilable conflict rule in *Gilman v. Martin* clearly enhanced the powers of general law municipalities in Alaska.



Alaska State Capitol Building.

Those powers were further enhanced to a great degree in 1985 when the Alaska Legislature repealed an enumerated list of regulatory powers of general law municipalities (former AS 29.48.035) and an enumerated list of authorized facilities and services of general law municipalities (former AS 29.48.030). The enumerated lists were replaced with the broadest possible grant of powers to general law municipalities; i.e., “any power not otherwise prohibited by law.” (AS 29.35.200(a) and (c); 29.35.210(c) and (d); 29.35.220(d); 29.35.250(a); 29.35.260(a).)

The statutory grant of powers to general law municipalities has no general limitations such as “any municipal power” or “any local government power” which would imply that the granted powers were limited to those that the court might think of as typical or appropriate local government powers. Finding such an implied limitation would be difficult in light of the language of article X, section 1; *Liberati v. Bristol Bay Borough*, 584 P.2d 1115, 1120 (Alaska 1978); *Gilman v. Martin*; and the literal language of the statutory grant of powers.

Similarly, it may be relevant that the second sentence of article X, section 1 reads, “A liberal construction shall be given to the powers of local government units” instead of, “A liberal construction shall be given to the powers of local government powers.” The latter implies that there is some definition or judicial understanding of what constitutes local government powers and invites a court to define what is encompassed by the term before it applies a liberal construction to the power being questioned. If it is not typically a “local government power” as envisioned by the courts across the nation, then the court need not apply a liberal construction to it. The actual language of Alaska’s Constitution does not lend itself as easily to such an interpretation and, coupled with the granting language of Title 29 (“any power not otherwise prohibited by law”), would make it difficult for a court to resort to limiting Alaska municipal powers to those that are commonly understood to be traditional municipal powers.

Article X of the Alaska Constitution.



Part 2. Whether Consolidation Promotes “A Minimum Number of Local Government Units”

In addition to promoting maximum local self-government, article X, section 1 of Alaska’s Constitution encourages a minimum number of local government units.

Three local governments currently serve residents of the KGB. Residents of the City and the City of Saxman are served by overlapping local governments. As reflected in Table 2-1, while the geographic size of the overlapping municipal jurisdictions in the KGB is relatively insignificant (6.6 square miles, which represents less than four-tenths of one percent of the area within the KGB), the population within those overlapping jurisdictions is substantial (8,090 or 61.6 percent of the KGB population).

Table 2-1. Geographic Size and Population of City, KGB, and City of Saxman.

Jurisdiction	Geographic Size	2005 Population
City of Ketchikan	5.6 square miles (0.3 percent of KGB area)	7,685 residents (58.5 percent of KGB population)
City of Saxman	1.0 square miles (0.1 percent of KGB area)	405 residents (3.1 percent of KGB population)
KGB - nonareawide (outside the City of Ketchikan and City of Saxman)	1745.4 square miles (99.6 percent of KGB area)	5,035 residents (38.4 percent of KGB population)
KGB areawide	1,752.0 square miles (sum of above)	13,125 residents (sum of above)

If consolidation occurs, overlapping local government structures will be reduced to the 1 square mile territory within the corporate boundaries of the City of Saxman. At that point, only some 3 percent of the population of the consolidated borough would reside within the boundaries of a city government. Given the circumstances outlined above, Commerce concludes that the pending proposal serves to minimize the number of local governments serving the residents of the greater Ketchikan area.

A. Background on the Minimum Number of Local Government Units Clause

The Committee on Local Government at Alaska’s Constitutional Convention considered a borough without city governments to be the ideal structure of municipal government. However, the framers rejected a proposal for the *immediate* abolition of cities. Nonetheless, the Committee on Local Government anticipated that boroughs and cities within them would gradually evolve into single unit governments.

In 1968, before any city and borough governments had combined, the following views regarding the constitutional provisions involving city/borough relationships and the efforts in the late 1960s to enact legislation to allow unification of local governments were expressed by local government experts Jerome R. Saroff and Ronald C. Cease:

During the Constitutional Convention when Alaskans were considering the structure and organization of local government, the Committee on Local Government pondered several alternatives. One of these was "Abolition of cities and their reconstitution as special urban tax districts within the larger units [i.e., the borough]."^[24]

Though the committee seriously considered the possibility of a single unit of local government for urban areas, it rejected the idea as an immediate goal for

. . . [It] was the opinion of the Committee that while . . . [the abolition of cities] had very definite advantages of one completely unified government . . . it was too drastic a step to take at one point . . . to abolish these units altogether.^[25]

As a practical solution, the committee proposed a dual system of local government - borough and city. Significantly, however, it "viewed the long-term relationships between the borough and the city as a gradual evolution to unified government."^[26] The committee hoped that there would be cooperation between the two units, and that "where functions overlapped, they would be integrated."^[27] It intended that those functions of government that could best be performed on an areawide basis would be handled by the larger unit, the borough. However, the relationship between boroughs and cities has been characterized more by conflict than by cooperation.

Conflict, in fact, has so often been the hallmark of the relationship that many people in the more urbanized parts of the State have begun to agitate for the unification of the two units. Accordingly, there is a recent

²⁴ [Footnote 1 in original] *Minutes of the Committee on Local Government, No. 19.*

²⁵ [Footnote 2 in original] John H. Rosswog in *Minutes*, p. 2612.

²⁶ [Footnote 3 in original] *Final Report on Borough Government*, p. 17.

²⁷ [Footnote 4 in original] *Minutes*, p. 2625.

interest in legislation which would bring about borough-city-integration, without waiting for the slow, gradual, and perhaps painful absorption of city functions by boroughs.

Late in 1965, the mayor of the City of Anchorage, who felt that the existence of two units of local government was wasteful and productive of needless conflict, discussed with various local leaders, including the Anchorage borough chairman, the desirability of merging or consolidating the city and borough.^[28] The reception was favorable.

A prominent member of the House of Representatives, Ted Stevens of Anchorage, working closely with city and borough officials, provided a draft of a bill designed to permit unification of city and borough. Before formally introducing the bill, he brought it to the House Local Government Committee for review and suggested changes. After some discussion and study, the bill was redrafted and introduced as House Bill No. 409. Mr. Stevens introduced the bill, which was cosponsored by John L. Rader (the original sponsor of the Mandatory Borough Act), the chairman of the House Local Government Committee from Kodiak, and a Juneau area legislator. The sponsorship indicated support from several major areas of the State. The news media gave House Bill No. 409 wide coverage. Editorial comment was almost uniformly favorable:

We believe local officials have taken a bold step in advancing the idea of a new form of local government. It demonstrates awareness of a problem too often ignored - the problem of conflicting boundaries, overlapping services and expensive conflicts of jurisdiction. . . . The proposal as it has been sketched could represent a pioneering form of local government that avoids mistakes made elsewhere.^[29]

Ronald C. Cease and Jerome R. Saroff (eds), *The Metropolitan Experiment in Alaska*, Frederick A. Praeger, Publishers, New York, 1968, pp. 357 - 359.

²⁸ [Footnote 5 in original] In this chapter "merger" and "consolidation" are used as they are colloquially, i.e., simply as catch-alls for unification. Actually, the two terms are not the same. "Merger" means dissolution of a municipality and its absorption by another municipality. "Consolidation" means dissolution of two or more municipalities and their incorporation as a new municipality.

²⁹ [Footnote 6 in original] "What About the Merger?" *Anchorage Daily News*, February 14, 1966.

In 1971, Thomas Morehouse and Victor Fischer offered additional insights concerning the views of the Local Government Committee regarding the constitutional relationship between cities and boroughs.

Given the general direction and character of their thinking on boroughs, the Local Government Committee was faced with the question of what to do about existing and future cities. Consideration was given to the possibility of doing away with cities altogether, even though they were the only units of general local government then existing in Alaska.

Abolition of cities and their reconstitution as urban service areas under the borough was considered as one way of promoting joint use of facilities and services and avoiding duplication of taxing jurisdictions. But other ways of achieving these objectives were also considered: extension of city boundaries to cover entire urban areas, and eventual unification or consolidation of borough and city governments. It was also recognized that cities had over the years developed distinct corporate identities and a substantial array of facilities and services; any sudden change from municipal status to uncertainty under the borough was not likely to be acceptable to city residents.^[30]

It was decided that the status of cities should not be changed directly by the constitution; they would continue to exist. It was stipulated, however, that the city be a "part" of the borough in which it was located, and other provisions were made with the intent of encouraging cooperation between cities and boroughs. These included joint service of city councilmen on the legislative bodies of both the city and the borough,³¹ joint performance of functions, and voluntary transfer of functions from the city to the borough.

³⁰ [Footnote 27 in original] *Minutes*, 14th, 15th, and 19th Meetings.

³¹ In 1972, Alaskans voted to amend article X, section 4 to delete the requirement that "[e]ach city of the first class, and each city of any other class designated by law, shall be represented on the assembly by one or more members of its council. The other members of the assembly shall be elected from and by the qualified voters resident outside such cities." In a 1987 publication, Victor Fischer characterized the former constitutional provision as one that "caused constant friction between the two blocks representing city and non-city parts of most boroughs." He noted further that the 1972 amendment "reduced dissention on borough assemblies and permitted them to deal more peacefully with areawide matters." (See *Alaska State Government and Politics*, p. 49, 1987.)

Commerce adds to Mr. Fischer's insights that the requirement for equal representation under the State and federal constitutions also rendered the provision in article X, section 4 impractical. For example, if the constitutional provision were in place today, the City of Seldovia (population 243)

Footnote continued on next page

While designing an ideal model, delegates were not unaware of the potential for local government conflict. Indeed, the Alaska local political scene at the time was highlighted by disagreements between cities and school districts, battles over annexation, and troubles between cities and public utility districts.^[32] Delegates were also aware of interjurisdictional problems existing among cities, counties, and special districts in the larger urban areas of other states. They thus sought to create a system in which conflict would be minimized.

Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, Institute of Social, Economic & Government Research, pp. 43-44, (1971).

It is also noteworthy that in 1971, the Alaska Supreme Court concluded that unification of local governments serves the minimum of local governments clause in article X, section 1. The ruling stemmed from a challenge by the former home-rule City of Douglas regarding the unification of local governments in the greater Juneau area. While “unification” is distinct in certain respects from “consolidation,” both result in the reduction of the number of local governments. When the City of Juneau and the City of Douglas were abolished through unification in 1970, each was reconstituted as a separate urban service area with boundaries identical to the respective former cities.³³ Therefore, the Court’s holding in that case that “[u]nification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units” is relevant and applicable to the pending consolidation proposal. The Court stated in 1971:

Footnote continued from previous page

would be guaranteed at least one representative on the Kenai Peninsula Borough Assembly. The equal representation clauses of the State and federal constitutions would then entitle the City of Kenai (population 6,777) to 28 representatives on the Assembly; while the Assembly for the whole Kenai Peninsula Borough (population 51,224) would have to be comprised of 211 members.

³² [Footnote 28 in original] See *Minutes*, 12th, 35th, and 40th Meetings, *Proceedings*, pp. 2637-38.

³³ Section 16.10 of the Charter of the City and Borough of Juneau, Alaska provides as follows:

FUNCTIONS TO CONTINUE. Subject to Article XI of this Charter, service areas in existence on June 30, 1970, shall continue to exist. The area of the former cities of Douglas and Juneau shall each comprise a service area. The functions of local governments and service areas being exercised immediately prior to July 1, 1970, may continue insofar as consistent with this Charter, except that the assembly may alter, consolidate, or abolish service areas and may add or eliminate services as provided by this Charter.

Appellants further contend that unification is barred by an implied constitutional requirement that cities not be dissolved in favor of boroughs.^[34] On this theory appellants challenge the constitutionality of AS 29.85.170, which provides that upon ratification of the unification charter, local government units within the unified area are dissolved. We think appellants' challenge is for the most part disposed of by our discussion pertaining to the constitutionality of AS 29.85.160(c). *Unification is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units.* Article X, section 2 merely authorizes but does not require the coexistence of cities and boroughs. In view of the express constitutional policy of minimizing the number of local government units, the grant to the legislature of the power to decide on the manner of dissolution of cities, found in article X, section 7, and the absence of either an explicit ban against unification, or a persuasive basis for inferring such a prohibition, we hold AS 29.85.170 constitutional.

City of Douglas v. City and Borough of Juneau, 484 P.2d 1040, 1044 (Alaska 1971). (Emphasis added.)

In 1991, at the request of the Alaska Municipal League, the Alaska Legislature established the Task Force on Governmental Roles to define optimum federal, state, and local responsibilities in providing public services in Alaska. The Task Force was charged with three principal tasks, one of which was to review "the most efficient means of funding public services." (See Governor's Office of Management and Budget and the Alaska Municipal League, *Task Force of Governmental Roles - Final Report*, p. 5, July 10, 1992.) The Task Force concluded with regard to local governmental efficiencies that:

Another main organizational thrust embodied in the state constitution is to develop a streamlined system of local government. There are four available means of unification. The first is conventional unification. Juneau, Sitka and Anchorage chose to unify [sic] and Fairbanks and Ketchikan have

³⁴ [Footnote 22 in original] The Constitutional provisions from which appellants infer a bar against unification are art. X, §§ 1, 2, 4, 7, 9, and 13. These six sections provide, respectively, that (1) the purpose of the local government article is to "provide for maximum local self-government with a minimum of local government units"; (2) "[a]ll local government powers shall be vested in boroughs and cities"; (4) cities are to be represented on borough assemblies; (7) cities are to be incorporated, merged, consolidated, and dissolved as provided by law and shall be part of the boroughs in which they are located; (9) home rule charters may be repealed by the voters of the city or borough having the charter; (13) cities may transfer powers or functions to boroughs unless prohibited by law or charter and may revoke the transfers. Appellants' argument is that these sections show that their draftsmen contemplated the continuation of cities within boroughs rather than the swallowing up of the former by the latter.

both considered and rejected this approach. The second is a merger in which one or more municipalities merge into an existing municipality with the latter becoming the surviving municipality. The third is consolidation, where one or more municipalities consolidate into a new unit of government with all of the former units disappearing. This is the method that was looked at by the City of Kodiak and Kodiak Island Borough and is currently being explored by the Ketchikan Gateway Borough and the City of Ketchikan. The fourth method involves cities within a borough dissolving under the procedures set out in Title 29 whereby the borough succeeds to the responsibilities of the dissolved cities. This is currently being examined by the Northwest Arctic Borough. The Task Force endorses all of these methods.

Unification of borough and city administrations should be encouraged wherever possible for more efficient and cost-effective service delivery.

Id. p. 15.

As noted earlier, the pending consolidation petition would leave the City of Saxman in place. However, it would consolidate approximately 97 percent of the population of the KGB under a single government.

Boroughs were first formed in Alaska during the 1960s. The 1970 census indicated that nearly fifty percent of Alaskans who lived in organized boroughs also lived within city governments. Today, that figure stands at 16.7 percent. It is a testament to the effectiveness of Alaska's constitutional policy of promoting city and borough consolidation that more than one-third of all organized boroughs in Alaska (6 of 16) have no city governments within them and that more than 83 percent of organized borough residents receive municipal services exclusively from their borough government.

Lastly, Commerce notes with respect to minimum numbers of local government units that Victor Fischer, former Constitutional Convention delegate and expert on Alaska local government, was retained by the KGB to review the City's 2000 consolidation proposal. Mr. Fischer concluded that the City's 2000 proposal "meets the constitutional goal of maximizing self-government while *minimizing the number of government units.*" (Commerce, *Preliminary Report on Municipal Consolidation Petition*, p. 3, August 11, 2000, quoting Victor Fischer, emphasis added.)

Part 3. Whether the Boundaries of the Proposed Consolidated Borough Are Suitable

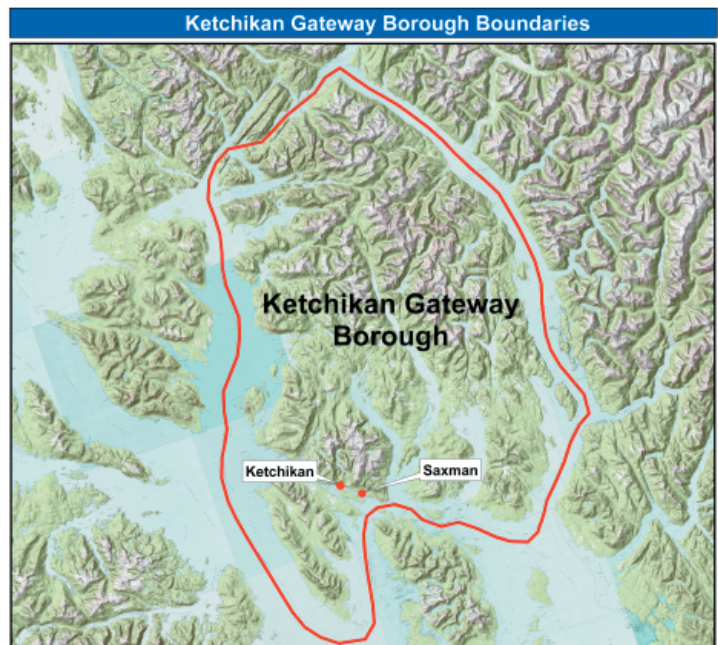
Article X, section 3 of the Alaska Constitution promotes boroughs that embrace a large, natural region. Additionally, AS 29.05.031(a)(1) requires that each borough encompass a socially, culturally, and economically interrelated and integrated population. The provisions of 3 AAC 110.045(a) set out specific factors to consider regarding

social, cultural, and economic integration and interrelationship. The provisions of 3 AAC 110.045(b) establish the presumption that each borough encompass at least two communities. Further, AS 29.05.031(a)(2) requires that the boundaries of each borough conform generally to natural geography and include all areas necessary for full development of municipal services. The provisions of 3 AAC 110.060 add further specific requirements concerning borough boundaries. Those include presumptions favoring model borough boundaries and school district boundaries and a presumption that the boundaries will be contiguous and without enclaves. There is also a requirement that the boundaries not overlap an existing borough. As noted at the beginning of this chapter, all applicable standards are set out in Appendix C of this report.

The boundaries of the proposed consolidated borough are identical to those of the existing KGB.³⁵ Those boundaries have been in place since September 13, 1963. As reflected in the background discussion in this part of the report, before the boundaries of the KGB were formally established nearly 43 years ago, the LBC substantially modified the proposal submitted by that petitioner. The boundaries set by the LBC encompass an area more than 23 times greater than that proposed by the petitioner in 1963.

In terms of whether the 43-year-old boundaries of the KGB meet existing borough boundary standards, it is important to note that the standard set out in article X, section 3 of the Alaska Constitution has not changed since it was adopted in 1956. Further, the borough boundary standards in AS 29.05.031(a)(1) and (2) are substantially the same as those in effect when the LBC determined the appropriate

KGB boundaries since incorporation on September 13, 1963.



³⁵ Commerce notes that on February 14, 2006, the KGB filed with the LBC a petition for annexation of an estimated 4,701 square miles. The area proposed for annexation lies wholly within the KGB model borough boundaries. Unless the LBC provides otherwise, consideration of the KGB annexation petition will occur in proceedings separate from these consolidation proceedings.

boundaries for the KGB (former AS 07.10.030(1) and (2)).³⁶ Regulations setting out borough incorporation standards did not exist when the KGB was incorporated. Such standards were not adopted until 1982.

Commerce notes that in April 1999, the LBC implicitly affirmed that the area within the existing boundaries of the KGB is socially, culturally, and economically inter-related and integrated. That implicit affirmation stemmed from a ruling by the Commission on the February 1998 petition by the KGB for annexation of approximately 5,524 square miles. Although the proposed annexation was not approved, the LBC concluded as follows with regard to the compatibility of the area within the existing KGB and the territory proposed for annexation.

There appears to be compatibility between the residents of the Borough and the residents of the territory proposed for annexation even though most Borough residents live a somewhat urban lifestyle while the territory proposed for annexation is rural. The compatibility between the areas in question includes economic lifestyles, industrial and commercial activities, transportation facilities and patterns, language, and other social, cultural, and economic considerations.

Conclusion: The Commission concludes that the standard set out in 19 AAC 10.160(a) is satisfied.³⁷

Statement of Decision in the Matter of the February 28, 1998 Petition of the Ketchikan Gateway Borough for Annexation of 5,524 Square Miles, p. 10, LBC, April 16, 1999.

In the proceedings relating to the City's 2000 consolidation proposal, Commerce took the position that, absent significant changes in the social, cultural, and economic characteristics of the population of the KGB since 1963, the circumstances outlined

³⁶ Former AS 07.10.030(1) and (2) stated:

(1) The population of the area proposed for incorporation shall be interrelated and integrated as to its social, cultural, and economic activities. The population shall be qualified and willing to assume the duties arising out of incorporation, shall have a clear understanding of the nature of the undertaking for which they ask, and shall be large enough and stable enough to warrant and support the operation of organized borough government.

(2) The boundaries of the proposed organized borough shall conform generally to the natural geography of the area proposed for incorporation, shall include all areas necessary and proper for the full development of integrated local government services, but shall exclude all areas such as military reservations, glaciers, icecaps, and uninhabited and unused lands unless such areas are necessary or desirable for integrated local government.

³⁷ Former 19 AAC 10.160(a) has been renumbered as 3 AAC 110.160(a).

above created a strong presumption that the existing boundaries of the KGB were suitable in terms of the boundary standards relating to consolidation. (See *Preliminary Report on the Proposal to Consolidate the City of Ketchikan and the Ketchikan Gateway Borough*, Commerce, February 2001.) The LBC concurred and found that the applicable boundary standards were met. The LBC specifically cited article X, section 3 of the Alaska Constitution, AS 29.05.031(a)(1) and (2), 3 AAC 110.045(a) and (b), and 3 AAC 110.060. (See *Statement of Decision in the Matter of the Petition for Consolidation of the City Of Ketchikan and the Ketchikan Gateway Borough*, pp. 6-9, LBC, April 7, 2001.)

Commerce maintains the position that the circumstances outlined here create a presumption that the existing boundaries of the KGB meet the applicable boundary standards for consolidation and that there is no evidence to overcome that presumption.³⁸ Commerce concludes that the boundaries of the proposed consolidated borough:

- embrace an area and population with common interests to the maximum degree possible as required by article X, section 3 of the Alaska Constitution;
- encompass a population that is interrelated and integrated as to its social, cultural, and economic *activities* as required by AS 29.05.031(a)(1) and 3 AAC 110.045(a); and is also interrelated and integrated as to its social, cultural, and economic *characteristics* as further required by 3 AAC 110.045(a);
- include at least two communities - Ketchikan and Saxman - as required by 3 AAC 110.045(b);³⁹

³⁸ Those circumstances are that (1) the existing boundaries of the KGB were set by the LBC; (2) the KGB boundaries have been in place for nearly 43 years, (3) the boundary standard in article X, section 3 has never changed, (4) the statutory boundary standards in place in 1963 are substantially the same as those currently in place, (5) the April 1999 implicit affirmation by the LBC that the area within the existing boundaries of the KGB is socially, culturally, and economically interrelated and integrated, and (6) the April 2001 determination by the LBC that the existing KGB boundaries met the borough consolidation standards.

³⁹ Determinations by the LBC whether a locality constitutes a community are made under 3 AAC 110.920. With regard to the factors set out in 3 AAC 110.920, Commerce notes that the 2005 population of the City of Saxman and the City was, respectively, 405 and 7,685. The 2005 population density of the City of Saxman was 405 persons per square mile. The 2005 population density of the City was 1,372 persons per square mile. Thus, inhabitants of Saxman and Ketchikan reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living. Moreover, residents of Ketchikan and Saxman residing permanently at their respective locations each comprise a discrete and identifiable social unit as indicated by such factors as voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

- ➡ conform generally to natural geography and include all areas necessary for full development of essential municipal services as required by AS 29.05.031(a)(2) and 3 AAC 110.060(a);⁴⁰
- ➡ do not extend into the model borough boundaries of another region in conformance with 3 AAC 110.060(b);
- ➡ conform to the boundaries of the existing regional (borough) school district in accordance with 3 AAC 110.060(c);⁴¹
- ➡ encompass a contiguous area that does not contain enclaves in accordance with 3 AAC 110.060(d); and
- ➡ do not overlap the boundaries of an existing organized borough in accordance with 3 AAC 110.060(e).

⁴⁰ The KGB currently exercises the following essential services on an areawide basis: education; assessment and collection of property, sales, and transient occupancy taxes; platting, planning, and land use regulation; animal control; economic development; public transportation; and parks and recreation. Under consolidation, those services would continue to be provided on an areawide basis. Moreover, the City currently provides the following essential services: Ketchikan Public Library; Ketchikan Museum, Totem Heritage Center, and Historical Commission; Ted Ferry Civic Center; Gateway Center for Human Services (providing mental health and substance abuse programs); Ketchikan General Hospital; Ketchikan Public Health Center (operated by the Alaska Department of Health and Social Services, but funded, in part, by the City); Bayview Cemetery; solid waste disposal; emergency 911 dispatch services; port; and harbors. Under consolidation, those services would be provided on an areawide basis. The KGB also provides the following essential services on a non-areawide basis: funding for solid waste disposal; funding for the library; and wastewater collection, treatment and discharge. Upon consolidation, those services would continue to be provided to areas currently served. Further, electric, telephone (local and intrastate), Internet, and cable television utility service would also be provided by the consolidated borough to areas currently served.

⁴¹ The provisions of 3 AAC 110.060(c) establish the presumption that the boundaries of any new borough will conform to those of the existing regional educational attendance area (REAA). The provisions of 3 AAC 110.060(c) reflect the fact that boundary standards set out in AS 14.08.031 for REAAs are similar to the boundary standards set out in AS 29.05.031 for organized boroughs. However, because REAAs exist only in the unorganized borough, 3 AAC 110.060(c) is either inapplicable to a borough consolidation proposal or the standard should be applied in the context of the borough school district boundary.

A. Background Regarding Article X, Section 3 of the Alaska Constitution

The Alaska Supreme Court has characterized article X, section 3 as a “constitutional mandate” that each borough embrace an area and population with common interests to the maximum degree possible. Further, the Supreme Court has stated that the LBC must apply the statutory standards for borough incorporation in the context of that key constitutional provision. Specifically, the Court stated:

To avoid conflict with the constitutional mandate that each borough “embrace an area and population with common interests to the maximum degree possible,” the provisions of AS 29.05.100(a) dealing with the rejection, acceptance, and alteration of proposed boroughs must be interpreted to require that the LBC apply the statutory standards for incorporation in the relative sense implicit in the constitutional term “maximum degree possible.” In other words, AS 29.05.100(a) must be construed to mean that, in deciding if the statutory standards for incorporation have been met, the LBC is required to determine whether the boundaries set out in a petition embrace an area and population with common interests to the maximum degree possible.

Petitioners for Incorporation of City and Borough of Yakutat v. Local Boundary Commission, 900 P.2d 721, 725 (Alaska 1995).

The fourth sentence of article X, section 3, which provides that “[e]ach borough shall embrace an area and population with common interests to the maximum degree possible,” is particularly significant with regard to the area properly included within a borough. That sentence, by itself, does not indicate the territorial or socioeconomic scale at which the commonality of interests ought to be evaluated. However, the minutes of the Alaska Constitutional Convention, provide compelling evidence as to the framers’ intent with respect to the character and scope of boroughs.

The proposed Local Government Article of Alaska’s Constitution was formally considered by the Convention delegates in plenary session on January 19 and 20, 1956. In the following exchange on January 19, John Rosswog, Chairman of the Committee on Local Government (“Committee”), responded to a question from delegate John Coghill about the intent of the Committee regarding the language that each borough must embrace an area and population with common interests to the maximum degree possible.

COGHILL: Further on in Section 3, I would like to ask you, Mr. Rosswog, on line 6 of page 2, “Each borough shall embrace, to the maximum extent possible, an area and population with common interests.” My question here is directed to you to find out what the Committee’s thinking was as to



Alaska Constitutional Convention, February 1956. (Photo courtesy of University of Alaska, Fairbanks, Archives.)

boundary areas of local government. Could you give us any light on that as to the extent? I know that you have delegated the powers to a commission, but you have said that each borough shall embrace the maximum extent possible. I am thinking now of an area that has maybe five or six economic factors in it -- would they come under one borough?

ROSSWOG: We had thought that the boundaries should be flexible, of course, and should be set up so that we would not want too small a unit, because that is a problem that has been one of the great problems in the states, the very small units, and they get beyond, or they must be combined or extended.

Proceedings of the Alaska Constitutional Convention, Alaska State Legislature, Legislative Council, pp. 2620 - 2621 (1963).

A similar question arose on the floor of the Convention later that same day. Delegate Barrie White inquired about the Committee's intent with respect to the term "maximum extent possible." Committee member James Doogan and Committee Chairman John Rosswog responded.

WHITE: Mr. President, on page 2, Section 3, I would like to ask the Committee, on line 4, if the words "to the maximum extent possible" could be construed to mean the largest possible area?

PRESIDENT EGAN: Mr. Doogan.



Delegate Doogan speaking to the Alaska Constitutional Convention delegates. (Photo courtesy of University of Alaska Fairbanks, Archives.)

DOOGAN: I think that is the intent. It was pointed out here that these boroughs would embrace the economic and other factors as much as would be compatible with the borough, and it was the intent of the Committee that these boroughs would be as large as could possibly be made and embrace all of these things.

WHITE: Is it the thinking of the Committee that the largest possible area, combining area and population, with common interest, would be the most desirable type of borough?

PRESIDENT EGAN: Mr. Rosswog.

ROSSWOG: Could I answer on that? I think that was the idea or the thinking of the Committee that they would have to be fairly large but the wording here would mean that we should take into consideration the area and population and common interest to the maximum extent possible because you could not say definitely that you were taking it all in, but as much as you possibly could.

Id. p. 2638.

Additionally, the following dialogue concerning the size of boroughs occurred among Delegate James Hurley, Committee Chairman John Rosswog, Committee member Eldor Lee, and Delegate John Hellenthal.

HURLEY: Mr. President, going back to Section 4, the matter has been mentioned many times about the possible thinking as to the size of the boroughs. I took occasion to check back into the criteria which would be used for the establishment of election districts. I find that except for two different words they are the same as the criteria that you use for the establishment of boroughs: population, geographic features, and the election districts say integrated socio-economic areas, and you say economy and common interests which I think means the same thing. Consequently, I might be led to the conclusion that your thinking could well be carried out by making election districts and boroughs contiguous or congruous, the same area, is that true?



Delegate James Hurley. (Photo courtesy of University of Alaska Fairbanks, Archives.)

ROSSWOG: It was thought this should be left very flexible. Of course, you would not say they should be the same as election districts because of rather unwieldiness for governing. It would more possibly, and should, take more study of whether the size should bear on whether your governing body would be able to supervise an area of that size.

PRESIDENT EGAN: Mr. Lee.



Delegate Eldor Lee. (Photo courtesy of University of Alaska Fairbanks, Archives.)

LEE: Mr. Hurley, I think we are unanimous in the opinion that many of these boroughs will be substantially the same as election districts but that is just the idea that we had in mind. Some of them won't be feasible, but in our thinking I consider that form of boroughs we felt they would be much the same as an election district.

PRESIDENT EGAN: Mr. Hellenenthal.

HELLENTHAL: Did any of you think that they might ever be greater than the election districts in size?

LEE: If that question is directed to me, we did not give it any consideration because actually we have not made any statement about the size. But in our thinking we didn't consider that thought, but it is certainly very possible.

HELLENTHAL: In other words, that the boundaries of the election districts could possibly be maximums governing the size of the boroughs?⁴²

LEE: It is possible. It is up to the legislature to decide.

HELLENTHAL: Would it be desirable to make them minimums?

LEE: That would take away the flexible portion which we wish to keep here.

HELLENTHAL: I gather then you would not desire to make them minimums but probably would have little objection to making them maximum.

LEE: I can't speak for the Committee. I would have no objection, personally.

Id. pp. 2641 - 2642.

On January 20, 1956, delegate Katherine Nordale revisited the question about the meaning of the fourth sentence of Section 3. Victor Fischer, Local Government Committee Secretary, responded.

NORDALE: Mr. President, I think this was brought up yesterday, but I have sort of forgotten what was said. It is just a question. On line 4, page 2 of Section 3, there was some discussion of the wording, "Each borough shall embrace to the maximum extent possible an area and population with common interests." Does that mean to the greatest degree it shall be a group of people with common interests? Nothing to do with the area -- I mean the square mile?

V. FISCHER: What it means is that wherever possible, "Each borough shall embrace an area and population with common interests."

NORDALE: Yes. Then "the maximum extent possible" refers to the common interests, not to the area, the size?

V. FISCHER: No, that is right.

Id. p. 2711.

⁴² It is worth noting that election districts were used by the Alaska Legislature to define the prospective boundaries of each of the eight regions that were required to form boroughs under the 1963 Mandatory Borough Act.

Commerce considers the January 20 exchange between Delegates Nordale and Fischer to be ambiguous. It is included here only because others have suggested that it reflects a viewpoint that conflicts with those of other members of the Committee on Local Government expressed during the proceedings of January 19, 1956.

Commerce respectfully disagrees and offers an interpretation that harmonizes the brief exchange with the earlier discussions regarding the size of boroughs. Delegate Fischer's "No" declaration is more likely to have been a correction of Delegate Nordale's misconstrual of his prior reply. In other words, it is plausible that Delegate Fischer's "No" was a negative response to Delegate Nordale's, "Yes. Then 'the maximum extent possible' refers to the common interests. . ."⁴³ Further, Delegate Fischer's statement "that is right" may be credibly interpreted as his concurrence with Delegate Nordale's question whether emphasis is given to "the area, the size."

This alternative reading of the entire dialogue is the only one that is consistent with the views expressed the previous day (January 19, 1956) on the very same point by Committee Chair John Rosswog and Committee member James Doogan.⁴⁴

⁴³ Although the *Proceedings of the Constitutional Convention* were certified on May 14, 1965, as a "faithful and correct transcript of the official magnetic-tape records of all the plenary sessions of the convention," Commerce urges caution in parsing the 122-word exchange between Delegates Nordale and Fischer. Prominence given to punctuation can greatly affect nuances of the transcribed spoken words. Perhaps there was a much longer pause or different emphasis in Delegate Fischer's comments than is reflected in the transcript (e.g., "No. That is right." or "No! That is right." rather than "No, that is right." Commerce is aware of other apparent punctuation errors in the transcript of the Constitutional Convention that substantially change the meaning of the spoken words. For example, one delegate is quoted as saying: "It cannot be held, I don't think soundly, that any one area stands by itself alone and for itself." (*Proceedings*, p. 2615.) Clearly, the speaker did not say that he was not a sound thinker. Yet, parsing the sentence as it is punctuated in the *Proceedings* would lead to such interpretation. John C. Doyle, Executive Director of the Legislative Council, noted with respect to the preparation of the transcript that the "typing and proofreading chores were shared by regular and temporary staff whenever this important but necessarily side project could be worked on along with regular duties." (See certification of the minutes of the Constitutional Convention.) Commerce has found other punctuation errors in the transcript of the Constitutional Convention that clearly indicate a very careful attribution of significance to punctuation in the transcript of the *Proceedings*.

⁴⁴ Even assuming, for the sake of argument, that Delegate Fischer's exchange with Delegate Nordale reflected views that conflicted with those expressed by other members of the Committee, those conflicting views would not prevail. The Alaska Supreme Court has held that an interpretation of a standing committee at the Constitutional Convention that was "diametrically opposed" to the view of a single delegate "stands on more solid footing than an opinion voiced by any individual member of the convention and may be resorted to by this court in determining the intent of the constitutional convention." *Walters v. Cease*, 388 P 2d, 263, 265 (Alaska 1964) (emphasis added).

Moreover, it is noteworthy that Committee Chairman John Rosswog and members James Doogan and Eldor Lee - all of whom spoke in the formal session on January 19 about the size of boroughs - were present during the January 20 exchange between Delegates Nordale and Fischer.⁴⁵ If Delegate Fischer's January 20 remarks regarding such a fundamental issue had been interpreted as being in conflict with the views expressed on January 19 by Committee Chairman Rosswog,⁴⁶ Committee member Doogan,⁴⁷ and Committee member Lee,⁴⁸ it is difficult to conceive that none of those delegates would have addressed the conflict.

The Committee's formal views concerning the general size of boroughs are clearly stated in its December 19, 1955, *General Discussion of Local Government Under Proposed Article*. That document provides:

Under terms of the proposed article, all of Alaska would be subdivided into boroughs. Each would cover a large geographic area with common economic, social and political interests. (Emphasis added.)

The Committee's *General Discussion of Local Government Under Proposed Article* was submitted to the Constitutional Convention delegates along with the proposed Local Government Article. It is a formal record included in Appendix V to the Minutes of the Constitutional Convention.

Moreover, Commerce's reading of the dialogue between Delegates Nordale and Fischer is consistent with views expressed by Mr. Fischer in other contexts. For example, in his book *Alaska's Constitutional Convention*, Mr. Fischer notes:

As the committee was evolving these principles, its members agreed that some type of unit larger than the city and smaller than the state was required to provide both for a measure of local self-government and for

⁴⁵ See roll call, *Proceedings*, p. 2696.

⁴⁶ "[W]e would not want too small a unit, because that is a problem that has been one of the great problems in the states." (Emphasis added.)

⁴⁷ "[B]oroughs would embrace the economic and other factors as much as would be compatible with the borough, and it was the intent of the Committee that these boroughs would be as large as could possibly be made and embrace all of these things. . . . [T]hey would have to be fairly large but the wording here would mean that we should take into consideration the area and population and common interest to the maximum extent possible because you could not say definitely that you were taking it all in, but as much as you possibly could." (Emphasis added.)

⁴⁸ "[W]e are unanimous in the opinion that many of these boroughs will be substantially the same as election districts but that is just the idea that we had in mind." (Emphasis added.)

performance of state functions on a regionalized basis. . . . The result was the borough concept - an areawide unit that while different from the traditional form of the counter, was in effect a modernized county adapted to Alaska's needs."

Alaska's Constitutional Convention, pp. 118-119 (emphasis added, footnotes omitted). Similar statements are made in *Borough Government in Alaska* (p. 37).

One of the most direct judicial interpretations of the constitutional framework for boroughs is reflected in a 1977 ruling by Judge James K. Singleton. In an appeal of the LBC's decision to reject a proposal to carve an Eagle River-Chugiak borough out of the Anchorage borough, Judge Singleton stated:

The constitution mandates that in setting boundaries the commission strive to maximize local self government, i.e., as opposed to administration by the state government, but with a minimum of local government units preventing where possible the duplication of tax levying jurisdictions. See art. X, sec. 1. Further, the constitution tells us that each borough should embrace an area and population with common interests to the maximum degree possible. See art. X, sec. 3. Finally, while the constitution encourages the establishing of service areas to provide special services within organized boroughs it cautions that "a new service area shall not be established, if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city . . . " See art. X, sec. 5.

The constitution is thus clear that if large local governmental entities can provide equal services small governmental entities shall not be established.

. . . .

Appellants' criticism of each of the commission's fact findings is based on the false assumption that the question to be decided is limited to whether Chugiak-Eagle River could survive if independent while the commission correctly recognized that the true question posed by constitution and statute is whether the area could function as part of the [Anchorage borough]. It is only if the facts support a negative answer to this question, e.g. that the [Anchorage borough] either couldn't or wouldn't furnish needed services, that the commission could lawfully permit detachment.

. . . .

In reaching these conclusions, I have not overlooked the sincere aspirations of appellants for political autonomy or their strongly held belief, so eloquently argued by their counsel, that Chugiak-Eagle River will be

better governed if governed separately from Anchorage. But decision for union or separation is political, not judicial and committed by constitution, statute and regulation to the Local Boundary Commission not the court. Thus my views regarding the wisdom of the proposed secession are irrelevant. A judge must always remember that his function is a limited one, to apply the law to the facts before him, not to use a strained interpretation of statutes or constitution to foist his political, ethical and moral views on the parties or the public. To forget this limitation is to abandon the judicial restraint without which an independent court cannot be permitted to function in a republic.

Chugiak-Eagle River Borough Association v. Local Boundary Commission, No. 76-104, slip op. (Alaska, March 16, 1977) (emphasis added).

Commerce notes that Judge Thomas Stewart, former Secretary to the Constitutional Convention and retired Superior Court Judge, recently expressed an opposite view:

I personally do not believe the Constitutional framers envisioned the “very large” boroughs that we see in Alaska today.

. . . .

The framers of the Alaska Constitution envisioned that boroughs would encompass the geographic area actually used by the people of a particular area. The governments of Haines and Skagway are separate and distinct and the residents of Haines and Skagway use separate and distinct geographic areas for commerce and recreation. The communities are not reliant upon each other neither for their economies nor for transportation services. I am aware that the Haines Borough passed a resolution of support for the Skagway Borough petition. Such a resolution should have substantial influence on the Local Boundary Commission because it confirms what the delegates at the convention intended, namely that a borough should encompass the geographic area actually used by the people seeking to form the borough. The area proposed in the Skagway borough petition does encompass the entire geographic area based on the economic, social, and cultural ties of the people using that area.

Letter from Thomas Stewart, December 14, 2005.

In a 1996 review of the Local Government Article of Alaska’s Constitution, sponsored by the LBC, Judge Stewart outlined similar views regarding the nature of boroughs:

Judge Thomas Stewart: My strong thought is, that the legislature and the governor, and the Department and the Commission, have failed to give weight to that word. You are talking about local government, not regional government. And too many of the boroughs that have been formed, are



Constitutional Convention review panel, left to right: Judge Thomas Stewart, Victor Fisher, Dr. George Rogers, and facilitator Bob Hicks, February 1996.

regional in nature, and in my judgment, never should have been. If there are taxable properties out there like Prudhoe Bay, that should have been in an unorganized borough administered by the State. Barrow has no business managing Prudhoe Bay -- that, they never used. They didn't have anything to do with it. It's not local. It's regional, in my judgment. And you should confine those boundaries down to the land surface that the local people have traditionally used, that have those characteristics of population, geography, economy, transportation that are local. The word "local" has not been adequately recognized.

Bob Hicks: Are you saying that "local" for boroughs should be a very, very small equivalent of a very small county, shouldn't be that expansive . . . ?

Judge Thomas Stewart: Absolutely.

Bob Hicks: Then how do we deal with this one -- "common interest to a maximum degree" -- when we talk about all of these factors here? Each borough shall embrace an area that is of common geography and population to a maximum.

Judge Thomas Stewart: Because to a maximum degree, the local unit has those common interests. And the moment you start moving away from local, then they don't have those common interests.

Transcript - Review of Article X of the Alaska Constitution, pp. 23 - 24, February 13 and 14, 1996.

A no less prominent public figure offered conflicting views. Former Constitutional Convention Delegate Victor Fischer,⁴⁹ who also participated in the 1996 review of the Local Government Article, reacted to Judge Stewart's comments by declaring, "We finally have a disagreement." *Id.* p. 25.

Mr. Fischer proceeded to offer his view of the nature of a borough:

Vic Fischer: The concept in the Constitution is a two, actually a three tier level. You have the State level, you have the city level, and between the State and the cities, you have a regional borough. The boroughs were conceived as regional units.

If Naknek wants to have its own local, local, local, local area, they form a city. Dillingham is a city. There are lots of cities there. You cannot get more local than a city. You don't need a borough to create a city. Juneau-Douglas has done this. But essentially they've taken in a lot of hinterlands because you have combined a city and what would be a regional borough. But if you were talking of strictly local, you would draw the boundary right around the settled area out the highways a little bit, and that would be the City of Juneau-Douglas. Then you don't need a borough for the other side of the island.

⁴⁹ Mr. Fischer is recognized by the Alaska Supreme Court as "an authority on Alaska government." *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1244 (Alaska 1995). The Court has relied on his work in the *Keane* case (1242, 1243) and in *Mobil Oil Corp., v. Local Boundary Commission*, 518 P.2d 92, 98 (Alaska 1974). Mr. Fischer was a Delegate to the Alaska Constitutional Convention 1955-1956. During the Convention, he was a member of the Committee on Local Government and the Style and Drafting Committee. He held the position of Secretary for the former. The Court has also relied on Mr. Fischer's work and expertise on constitutional matters in numerous other cases not related to local government issues.

Mr. Fischer received a bachelor's degree from the University of Wisconsin in 1948 and a Master's Degree in Community Planning from the Massachusetts Institute of Technology in 1950. He also received the Littauer Fellowship in public administration from Harvard University (1961-1962). Mr. Fischer has held several planning related positions in Alaska. Mr. Fischer has written and co-authored a number of books and publications concerning state and local government in Alaska. These include *The State and Local Governmental System* (1970); *Borough Government in Alaska* (1971); *Alaska's Constitutional Convention* (1975); testimony before U.S. Congress, Joint Economic Committee *Regional Planning to Solve Social and Economic Problems*, 1970; Victor Fischer in Partnership within the States: Local Self-Government in the Federal System, *Home Rule In Alaska*, University of Illinois, 1976; and *Alaska State Government and Politics* (1987).

Mr. Fischer also served in Alaska's Territorial House of Representatives (1957-1959) and the Alaska State Senate (1981 - 1986). He was a member of the faculty of the University of Alaska Fairbanks and of the University of Alaska Anchorage (UAA). He was the first director of the Institute for Social and Economic Research (ISER), a part of the College of Business and Public Policy at UAA. Currently, he is Professor Emeritus of Public Affairs for ISER. In May 2005, Mr. Fischer was awarded an Honorary Doctor of Laws degree from UAA in recognition of his achievement and contributions to the state.

So, essentially we have to think of terms of one local level is the city, and the other local level, is the local regional level. Just as you have the Kenai Peninsula as a whole series of cities, each of which has it's own local interest. Then you have the local regional interests that comes together as the borough, which does regional planning and education.

Id. p. 26.

Judge Stewart responded by stating:

I don't really have an argument with you Vic. But let me put a little different picture on that -- he's better informed than I am. He was on the committee, and I wasn't a delegate, and I didn't deal with it that closely. . . .

Id. (Emphasis added.)

Later in that same 1996 review, Judge Stewart seemed to express the view that a borough must have multiple communities.

Bob Hicks: Well, we have two levels of local governments. We have the cities and we have a borough. Why do you say it's not local? You have a lot of plausible arguments, I'm not arguing with you -- I'm playing a devil's advocate here.



Members of the LBC and a panel of constitutional experts in Juneau, February 1996.

Judge Thomas Stewart: Because it is the community that's the focus --the central focus of it. Barrow, doesn't really, has not traditionally had, and it goes beyond their interests today. It's only out to reach a tax base that wasn't really there.

Bob Hicks: So the city should be the central focus of the formation of the borough?

Judge Thomas Stewart: No. The formation of the borough, it seems to me, comes when you have more than one concentration of population, that does have common interests, that can be operated by that second level of government, the borough, but not whether it was only one, like Barrow.

Vic Fischer: It seems to me though, that the North Slope Borough's really a perfect example of a region that has a common interest. It's an ethnic region, it does have a series of . . .

Dr. George W. Rogers: . . . regional corporation as its boundaries . . .

Vic Fischer: . . . regional corporation, Native association before the borough was formed. Their communities, Point Hope all the way to Kaktovik have a common language, a common tradition of whaling. It's very much an integrated culture. One problem they've had is you can't say they have a common sort of transportation as a common link. They've been trying to deal with that by establishing some local linkages, air linkages. But I would say that, that is, in terms of a regional borough, it's a very, very logical unit. Just like the NANA region is.

Id. pp. 85-86.

B. Background Regarding Incorporation of the KGB

On January 23, 1963, voters in Ketchikan petitioned the LBC to form the KGB. The boundaries encompassed only the Ketchikan Independent School District, an area of approximately 75 square miles. At the time of the petition, only one organized borough existed in Alaska. That borough, the Bristol Bay Borough, encompassed only 850 square miles.

Just five days after the KGB petition was filed, the 1963 State legislature convened. John Rader, who was a member of the State House of Representatives at the time, considered the issue of borough government to be the most pressing issue facing the legislature:

My experience as the Anchorage City Attorney and the State Attorney General led me to believe that the greatest unresolved political problem of the State was the matter of boroughs. As near as I could see, no reasonable solutions were being propounded. A great opportunity to create something of value could be lost. A state of the size, population density, and distribution of Alaska makes State administration of local problems impossible. Anyone who had ever worked in Alaska on the local level or on the State level could see the frustrations of honest attempts repeatedly failing because of the simple fact that there was no governmental structure upon which to hand necessary governmental functions. I therefore decided to do what I could.



Former Attorney General John Rader.

Metropolitan Experiment in Alaska, p. 93.

Representative Rader proceeded to draft a bill that mandated borough incorporation for certain regions of the state. Those included Ketchikan, Saxman, and the Annette Island Indian Reservation, Sitka, Juneau, Haines-Skagway-Icy Strait-Yakutat, Kodiak Island, Kenai Peninsula, Anchorage, Matanuska-Susitna valleys, and Fairbanks. Representative Rader explained:

We considered many areas as possibilities for mandatory borough incorporation. However, after looking over the available information on taxable wealth, I concluded that the areas we proposed as boroughs, together with cities such as Nome, Wrangell, Petersburg, Cordova, Valdez, and others not included in any boroughs, encompassed roughly 90 per cent of the taxable wealth in the State and approximately 80 per cent of the population. These cities had not outgrown their corporate boundaries and did not have significant suburban development. Nor was it necessary to the tax equalization features of the bill that they be within a borough.

Id. p. 102.

The Annette Island Indian Reservation, the Haines-Skagway-Icy Strait-Yakutat area, and military reservations were excluded from the bill by the House of Representatives. The bill passed the House with 27 votes in favor - six more than the required minimum. John Rader noted:

It is probably true that many of the rural representatives who voted for the bill would have voted against it had their areas been included. Actually, most of these areas could not possibly have supported or

operated a borough successfully.⁵⁰ Surprisingly, even though I had therefore omitted great expanses of rural undeveloped areas, the representatives from these areas still feared the bill because they realized that it provided for a general tax equalization and that they were the only ones who were not being “equalized.” They were easily persuaded by some of the opponents of the bill that they would be “equalized” by the next legislature. This was particularly true in the Senate, where one of my strong supporters on the last day on the last critical vote switched his vote from “Yes” to “No” after being persuaded that the next step would be further equalization affecting his area. The people who were continuing to benefit from the inequity of taxes recognized that if the bill passed, they would have a hard time politically maintaining the inequity in the future because their numbers would be diminished substantially. People benefiting from tax inequities do not like to discuss tax reforms; they never know when reform will finally reach home.

Id. p. 117.

Following approval by the House, the bill passed the Senate by one vote. The governor subsequently signed the act into law on April 12, 1963. Section 1 of the act stated as follows:

Declaration of Intent. It is the intention of the legislature to provide for maximum local self-government with a minimum number of local government units and tax-levying jurisdictions, and to provide for the orderly transition of special service districts into constitutional forms of government. The incorporation of organized boroughs by this Act does not necessarily relieve the state of present service burdens. No area incorporated as an organized borough shall be deprived of state services, revenues, or assistance or be otherwise penalized because of incorporation. . . .

Chapter 52, *Session Laws of Alaska*, 1963.⁵¹

⁵⁰ Although Mr. Rader asserted generally that “most” of the areas excluded from the Mandatory Borough Act “could not possibly have supported or operated a borough successfully,” seven boroughs have formed since the Mandatory Borough Act was passed. Further, in the 1980’s Commerce’s predecessor, the Department of Community and Regional Affairs (DCRA), conducted borough feasibility studies of most of the unorganized borough. Those studies concluded that with the possible exception of one region, the study areas had the financial capacity to support borough government. (See *Synopsis of Borough Feasibility Studies Conducted During 1988 and 1989*, DCRA, September 1989.)

⁵¹ Ironically, while the Mandatory Borough Act promised that boroughs would not be deprived of State revenues or penalized because of incorporation, the fact that many areas were allowed to remain unorganized precluded the fulfillment of that promise from the very beginning. Forty-three years after the Mandatory Borough Act was passed, organized boroughs received \$168,189,416 less in State education foundation aid for Fiscal Year 2006 alone as compared to the level of State aid had those areas remained unorganized.

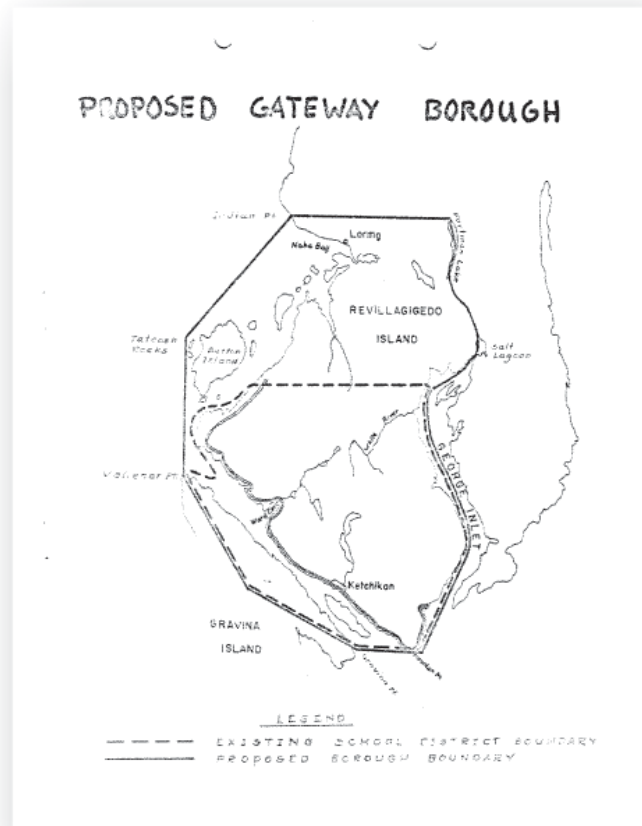
Section 3(a)(7) of the Mandatory Borough Act stipulated that if Ketchikan voters did not incorporate a borough voluntarily, one would be established by legislative fiat with boundaries corresponding to "*Ketchikan Election District #2 as designated in Sec. 3, Art. XIV, of the State Constitution, except the Annette Island Indian Reservation created by Act of Congress dated March 3, 1961, 26 Stat. 1101.*"

The Ketchikan borough boundaries set out in the Mandatory Borough Act encompassed an area 95 times larger than the boundaries proposed by the local voters. The Mandatory Borough Act boundaries for Ketchikan are virtually identical to the model boundaries of the KGB as defined by the LBC in 1991.

The Local Affairs Agency (the predecessor to the Division of Community Advocacy in Commerce) which served as staff to the LBC, considered the boundaries proposed in the January 23, 1963, Ketchikan petition to be arbitrary. The Local Affairs Agency recommended that the LBC enlarge the boundaries to include all of Gravina and Revillagigedo Islands. (See *Report to the Local Boundary Commission on a Proposal to Incorporate an Organized Borough in the Ketchikan Area*, Local Affairs Agency, May 1963.)

The boundaries recommended by the Local Affairs Agency took in more than 23 times the area requested by the then petitioner, but only about one-quarter of the area described under the Mandatory Borough Act. In recommending the larger boundaries, the Local Affairs Agency stressed that the KGB would gain additional National Forest Receipts while it would incur minimal added expense:

The additional expense to the borough if the entire area of the two islands is incorporated would be minimal, since the population outside the Ketchikan urban area is limited. The forest service stumpage fees accruing to the borough with the enlarged area, however, would provide an important yearly revenue to the borough.

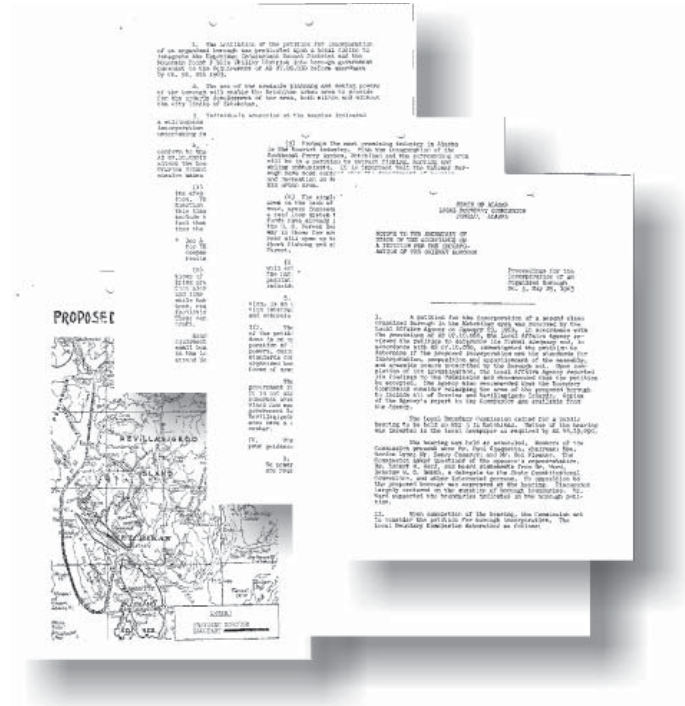


Area petitioned for incorporation in 1963 by the voters in the now KGB.

On May 3, 1963, the LBC held a hearing on the petition in Ketchikan. Following the hearing, the LBC amended the petition to expand the boundaries as recommended by the Local Affairs Agency. However, the LBC concluded that the proper boundaries of the KGB should be even larger. Specifically, the Commission stated:

The boundaries of the proposed borough do not conform to the natural geography of the area as required by AS 07.10.030(2) [now AS 29.05.031]. Pursuant to AS 07.10.110 [now AS 29.05.100], the Commission alters the boundaries to include all of Revillagigedo and Gravina Islands, as well as several lesser islands. The Commission makes this boundary change for the following reasons:

(1) The Ketchikan trading area is much larger than the area proposed by the sponsor for borough incorporation. The trading area includes and roughly approximates Election District # 1. The Commission does not wish at this time to alter the proposed borough boundaries to include the entire election district. It does, however, feel that the borough should be significantly larger than the Independent School District.



1963 LBC Notice of Acceptance of Petition for the KGB.

Notice to the Secretary of State of the Acceptance of a Petition for the Incorporation of the Gateway Borough, LBC, May 25, 1963.

On September 6, 1963, voters were presented with the proposition to form the KGB. On September 13, 1963, Hugh Wade, Secretary of State, certified that "a majority of votes were cast for incorporation." The KGB was incorporated on September 13, 1963.

Part 4. Whether the Population of the Proposed Consolidated Borough Is Large and Stable Enough to Support Borough Government

AS 29.05.031(a)(1) and 3 AAC 110.050(a) require that the population of a proposed borough be large and stable enough to support borough government. Additionally, 3 AAC 110.050(b) creates a presumption that at least 1,000 permanent residents must live in the proposed borough.

It is noteworthy that the population size and stability requirements of AS 29.05.031(a)(1) are substantially the same as those that were in place when the KGB was formed in 1963.⁵² During the 1963 KGB incorporation proceedings, the Local Affairs Agency reported to the LBC as follows regarding the population of the proposed borough:

Information was requested from the Director of the Bureau of Vital Statistics, Department of Health and Welfare, as to the estimated census of the area. From the 1960 census figures available, the area contains a population in excess of 8,874 persons, 277 of which are military personnel. This includes 6,483 persons in the City of Ketchikan and 2,391 persons in the Ketchikan Independent School District outside the city. Exact population figures for that portion of the proposed borough outside the school district are not available. The population, however, is less than 100 persons. The 1960 census population for old Election District #2, minus the Ketchikan Independent School District and the communities of Ketchikan, Hyder, Metlakatla, and Annette, was only 126.

The population within the proposed borough area has increased since 1960. No reliable figures on population growth, however, are available.

Report to the Local Boundary Commission on a Proposal to Incorporate an Organized Borough in the Ketchikan Area, Local Affairs Agency, May 1963, p. 1.

As noted previously, the 2005 estimated population of the KGB was 13,125. That figure is obviously well above the minimum 1,000 person threshold set out in 3 AAC 110.050(b).

In 2005, the KGB was the seventh most populous of Alaska's 16 organized boroughs. The population of organized boroughs ranged from a low of 618 (Yakutat) to a high of 278,241 (Anchorage).

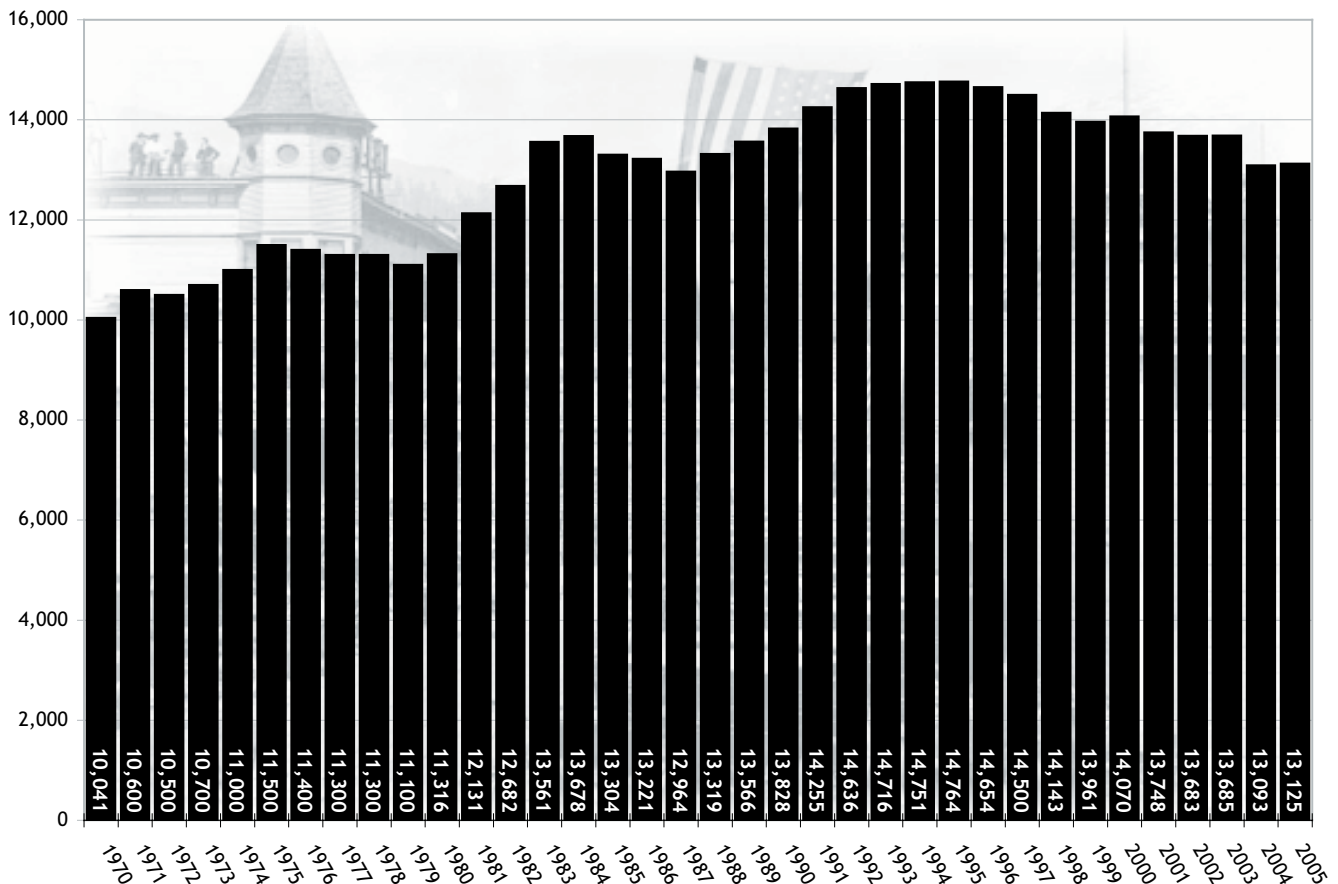
⁵² Former AS 07.10.030(1) stated, in relevant part, "The population . . . shall be large and stable enough to warrant and support the operation of organized borough government."

The 2005 population mean of the 16 organized boroughs was 36,392. That figure was skewed by the Anchorage borough, which accounted for 47.8 percent of Alaska's organized borough population. Without the Anchorage borough, the 2005 population mean of the remaining 15 organized boroughs was 20,269. The 2005 median population of all 16 organized boroughs was 8,135.

Based on the foregoing, Commerce concludes that the population of the proposed consolidated borough is certainly large enough to support borough government.

In terms of population stability, Figure 2-1 lists the annual population of the KGB for each of the past 36 years. During that period, the KGB population ranged from a low 10,041 (in 1970) to a high of 14,764 (in 1995). The estimated 13,125 residents in the KGB in 2005 was 1,639 (11.1 percent) less than the 1995 peak.

Figure 2-1. Annual population of the KG, 1970 - 2005.



The KGB population losses since the mid-1990s are generally attributed to declines in southeast Alaska's timber industry and, in particular, the closure of the Ketchikan Pulp Company operations in March 1997. The latter resulted in the loss of nearly 500 jobs.

Table 2-2 shows the changes in the population of the KGB in both absolute and relative terms in each of the last 10 years. After the peak in 1995, the population of the KGB declined in each of the years through 1999. In 2000, the population increased slightly. Since the 2000 federal census, the estimated popu-

Table 2-2. *Change in KGB Population from 1996 - 2005.*

Year	Population	Change from Prior Year (Absolute)	Change from Prior Year (Relative)
1996	14,654	-110	-0.75%
1997	14,500	-154	-1.05%
1998	14,143	-357	-2.46%
1999	13,961	-182	-1.29%
2000	14,070	109	0.78%
2001	13,748	-322	-2.29%
2002	13,683	-65	-0.47%
2003	13,685	2	0.01%
2004	13,093	-592	-4.33%
2005	13,125	32	0.24%

lation of the KGB has declined in three of the past five years. Two of the years saw sharp reductions. The net change between 2000 and 2005 was a loss of 945 residents (6.7 percent).

While the population of the KGB has declined overall in recent years, including a loss of 592 residents (4.33 percent) in 2004, optimism exists that the population loss has bottomed out. A recent KGB publication, *Economic Indicators - 2005*, predicts that recent losses in the local economy and population will be reversed, particularly as a result of a planned \$65 million Ketchikan Shipyard completion project and the potential \$315 million Gravina Bridge construction project. The publication notes that full-time employment at the shipyard is anticipated to increase from the present level of 100 jobs to over 300 jobs. Details of such prospective developments are provided in excerpts of *Economic Indicators - 2005* in Part 5 of this chapter.

Recent population declines reported in this part of the report do not generate concerns on the part of Commerce in terms of the stability of the population of the proposed consolidated borough. The examination in Part 5 of this chapter regarding the economy of the proposed consolidated borough supports a conclusion that there is reason to be optimistic concerning future population trends. Consequently, Commerce concludes that the proposed consolidated borough has a population large and stable enough to satisfy the requirements set out in AS 29.05.031(a)(1) and 3 AAC 110.050.

Part 5. Whether the Economy of the Proposed Consolidated Borough Includes the Human and Financial Resources Capable of Providing Municipal Services

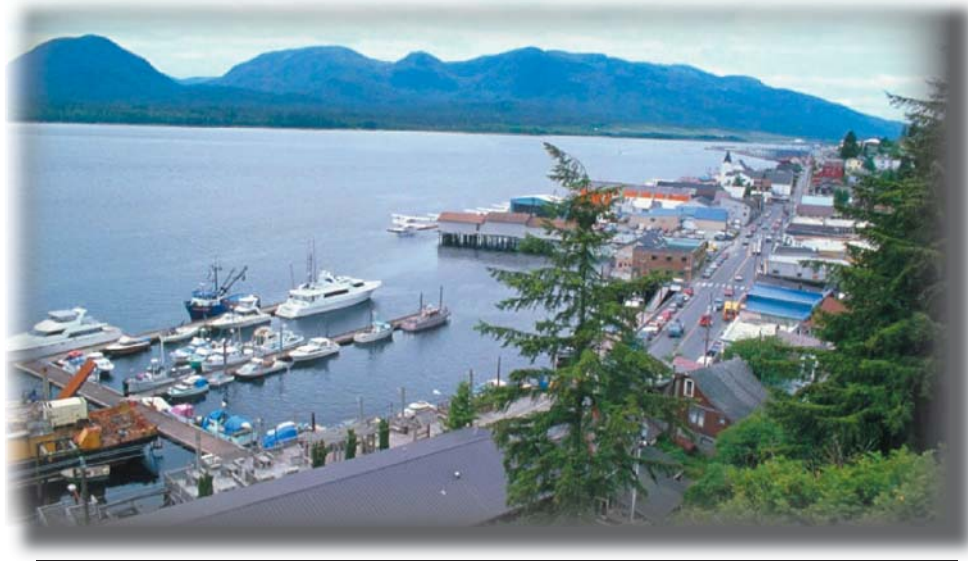
AS 29.05.031(a)(3) provides that the LBC may approve the consolidation petition only if it determines that the economy of the proposed consolidated borough includes the human and financial resources capable of providing municipal services. The provisions of 3 AAC 110.055 require that those resources must be capable of providing *essential* borough services *on an efficient, cost-effective level*.

In applying these standards, the LBC is required to consider a number of factors. Those include the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation. The LBC is also required to consider the economic base; property valuations; land use; existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and personal income of residents of the proposed borough. Moreover, the LBC may consider other relevant factors, including the need for and availability of employable skilled and unskilled persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government.

A. The Reasonably Anticipated Functions of the Proposed Consolidated Borough

The Amended Petition provides that the consolidated borough would provide the following 17 essential areawide services and facilities:

1. education;
2. assessment and collection of property, sales, and transient occupancy taxes;
3. platting, planning, and land use regulation;
4. animal control;
5. economic development;
6. public transportation;
7. parks and recreation;
8. Ketchikan Public Library;



The City's six boat harbors, three launch ramps, and the Port of Ketchikan are some of the facilities that would be operated by the proposed consolidated borough.

9. Ketchikan Museum, Totem Heritage Center, and Historical Commission;
10. Ted Ferry Civic Center;
11. Gateway Center for Human Services, which provides mental health and substance abuse programs;
12. Ketchikan General Hospital (a facility owned by the City that provides acute and long-term care);
13. Ketchikan Public Health Center (operated by the Alaska Department of Health and Social Services, but funded, in part, by the City);
14. Bayview Cemetery;
15. solid waste disposal;
16. emergency 911 dispatch services; and
17. port and harbors, including six boat harbors (Bar Harbor South, Bar Harbor North, Thomas Basin, Casey Moran, Knudson Cove, and Hole-In-The-Wall), three launch ramps, and the Port of Ketchikan.

Additionally, the consolidated borough would provide for collection, treatment, and discharge of wastewater on a nonareawide basis. Further, the consolidated borough would maintain KPU services (electric, local and intrastate telephone, Internet, and cable television utility service) throughout its certificated service areas.

Lastly, the consolidated borough would provide the following nine essential services within the proposed new Gateway Service Area (existing City):

1. police service;
2. fire suppression;
3. emergency medical service;
4. public works engineering;
5. street and road construction and maintenance (including street lighting);
6. solid waste collection;
7. public works facility and vehicle maintenance;
8. building code enforcement; and
9. sewer and septic service.

Moreover, the consolidated borough would continue to provide the same essential services currently provided by the KGB in the ten existing service areas. Those service areas consist of the following:

1. Forest Park Service Area (sewer; road construction and maintenance);
2. Gold Nugget Service Area (sewer; road construction and maintenance);
3. Mud Bight Service Area (road construction and maintenance services; also authorized to provide, but not currently providing, water supply, treatment and distribution services);
4. South Tongass Service Area (fire protection and emergency medical services (EMS));
5. North Tongass Fire and EMS Service Area;
6. Waterfall Creek Service Area (sewer; road construction and maintenance);



KGB services include Animal Control. (Photo courtesy of the KGB.)

7. Nichols View Service Area (road construction and maintenance; minimal water service);
8. Deep Bay Service Area: (road construction and maintenance; construction, maintenance, operation, and regulation of docks and other marina facilities);
9. Long Arm Service Area (road construction and maintenance; construction, maintenance, operation, and regulation of docks and other marina facilities); and
10. Vallenar Bay Service Area (road construction and maintenance).

B. The Reasonably Anticipated Expenses of the Proposed Borough

Projected expenditures of the proposed consolidated borough during the first three years are set out in Exhibit F-1 of the Amended Petition. For the convenience of readers, a complete copy of the Petitioner's Exhibit F-1 is included as Appendix D of this report.

State law (3 AAC 110.420) requires that all petitions to the LBC include three-year budget projections. In most instances, the three-year projections are necessary to gain a proper perspective of the long-term forecast for the proposal because

transition measures can create significant fluctuations during the initial years. For example, a newly formed borough has the ability under AS 29.05.130 - 29.05.140 to defer responsibility for assumption of schools for as long as two years. Moreover, once the new borough assumes responsibility for education, it has the ability under AS 14.17.410(e) to phase in required local contributions for schools. Additionally, a new borough is entitled to organization grants under AS 29.05.190 in each of the first three years. Lastly, a new borough is subject to transitional measures under AS 43.75.130(d) concerning State shared fisheries business taxes.

However, such transitional provisions do not apply to the proposed consolidation of the City and the KGB. Thus, the "Year One" projections set out in Exhibit F-1 are, naturally, likely to be the most accurate. It is appropriate here to note that the 1993 study on consolidation (p. 9) stressed that "local government in Ketchikan or elsewhere is not static; and, as a result of the day-to-day decisions and actions of



Point Higgins Elementary School, part of the KGB School District.

elected and appointed officials, such a snapshot quickly becomes dated, increasingly inaccurate and gradually irrelevant.” Given these circumstances, Commerce focuses in this part of the report on Year One expenditure and revenue projections.

The Amended Petition projects that Year One expenditures in the General Fund will total nearly \$22 million. By far, the biggest component of the General Fund expendi-



Ketchikan High School.

tures is the nearly \$8.4 million allocated for schools. The figure represents approximately 38 percent of total General Fund expenditures. Included in the \$8.4 million is the consolidated borough’s four-mill equivalent “local contribution” for schools required under AS 14.17.410(b)(2). For FY 2006, that required local contribution amounts to \$4,406,742.⁵³ The additional \$4 million is a voluntary contribution allowed under AS 14.17.410(c) to supplement education funding available from the State and federal government. The General Fund of the proposed consolidated borough would also support 911 emergency dispatch, public health, animal control, public works, transit, library, museum, recreation, civic center, borough attorney, borough clerk, borough manager, planning and zoning, and the mayor and assembly.

⁵³ The required local contribution under AS 14.17.410(b)(2) does not increase the level of funding for the borough school district. Instead, it merely offsets a reduction in State financial aid imposed by the State exclusively on borough and city school districts (but not regional educational attendance areas). In that regard, the required local contribution is, in effect, a State tax levied exclusively on organized boroughs and home-rule and first-class cities in the unorganized borough.

Total expenditures and net transfers out of all 34 funds of the proposed consolidated borough for Year One are projected to be \$93,391,830. A summary of those projected expenditures and net transfers is provided in Table 2-3. Again, the Petitioner's detailed projections are included in this report as Appendix D.

Table 2-3. \$93,391,830 in Projected Expenditures and Net Transfers Out of Funds During the First Year

Fund	Year One
General Fund	\$21,925,036
Gateway Service Area	\$9,837,609
Hospital Sales Tax	\$2,663,424
Transient Occupancy Tax (expenditures)	\$268,158
Transient Occupancy Tax (net transfers out)	\$114,444
Recreation Sales Tax	\$1,089,914
Solid Waste Services	\$1,854,321
Wastewater Services	\$2,745,046
GSA Economic & Parking Development	\$0
Areawide Economic Development	\$0
Ketchikan Boat Harbor	\$963,340
Mental Health	\$2,102,332
Substance Abuse	\$1,512,711
Special Assessment Guarantee	\$0
US Marshall Property Seizure	\$0
State and Federal Grants	\$25,000
Cemetery Operations & Maintenance (transfers from)	\$5,202
Cemetery Development	\$25,000
Cemetery Endowment (transfers from)	\$5,202
Community Facilities Development	\$0
Land Trust Repair and Maintenance (expenditures)	\$738,065
Land Trust Repair and Maintenance (net transfers out)	\$364,140
North Tongass Fire and EMS SA	\$473,690
South Tongass SA	\$418,998
Nichols View SA	\$500
Waterfall SA	\$8,600
Mud Bight SA	\$500
Forest Park SA	\$60,822
Gold Nugget SA	\$10,175
GO Debt Service (School Bonds)	\$4,419,378
Major Capital Improvements	\$0
Self Insurance (expenditures)	\$3,489,174
Self Insurance (net transfers out)	\$72,828
Port	\$2,077,836
KPU	\$32,036,280
Airport	\$3,612,047
Passenger Facilities	\$472,058
Total	\$93,391,830

N.B. SA means service area

C. The Reasonably Anticipated Income of the Proposed Borough

Projected revenues of the proposed consolidated borough during the first three years are shown in Exhibit F-1 of the Amended Petition. As noted above, Exhibit F-1 is included in this report as Appendix D.

Enterprise operations account for much of the projected revenue of the proposed consolidated borough. For example, KPU operations represent nearly 31 percent of all projected income of the proposed consolidated borough. Operations relating to solid waste, wastewater, harbors, port, and airport account for nearly 17 percent of all revenues. General Fund property and sales taxes make up roughly 15 percent of projected revenues, while other General Fund revenues account for an additional 6 percent of the total financial resources. Property and sales taxes in the proposed Gateway Service Area (existing City) comprise approximately 9 percent of all revenues; other sources of revenues account for an additional 2 percent of the resources for that service area. The "hospital sales tax," recreation sales tax, school bond sales tax, and transient occupancy tax account for about 7.5 percent of projected revenues. The remaining 12.5 percent or so of revenues is projected to come from a variety of sources.

Total revenues and net transfers into funds for Year One are projected to be \$99,854,406. A summary of those projected revenues and net transfers is provided in Table 2-4 on the following page.

D. The Ability of the Proposed Borough to Generate and Collect Local Revenue

Since its incorporation in September 1963, the KGB has been responsible for the assessment and collection of taxes levied within its boundaries. The KGB has long demonstrated its capacity to generate and collect local revenue.

E. The Feasibility and Plausibility of the Anticipated Operating and Capital Budgets Through the Third Full Fiscal Year of Operation

Commerce is aware that the KCC, with extensive cooperation and support from officials of the City and KGB, devoted extraordinary time and effort toward constructing a three-year budget for the proposed consolidated borough. Commerce considers the budget in the Amended Petition to be a thorough and credible proposal.

As reflected in Table 2-3, expenditures and net transfers out of funds are projected to be \$93,391,830. Revenues and net transfers into funds reflected in Table 2-4 are projected to be \$99,854,406. The difference between those two figures represents an overall projected surplus of \$6,462,576.

Table 2-4. \$99,854,406 in Projected Revenues and Net Transfers Into Funds During the First Year

Fund	Year One
General Fund property taxes	\$10,371,431
General Fund sales taxes	\$5,154,182
General Fund (other revenues)	\$5,511,524
General Fund (net transfers into)	\$1,394,136
Gateway Service Area property taxes	\$3,089,416
Gateway Service Area sales taxes	\$5,944,223
Gateway Service Area (other revenues)	\$1,948,379
Hospital Sales Tax	\$2,605,134
Transient Occupancy Tax	\$380,688
Recreation Sales Tax	\$1,034,086
Solid Waste Services	\$1,812,377
Wastewater Services	\$2,637,620
GSA Economic & Parking Development	\$1,200
Areawide Economic Development	\$571,500
Ketchikan Boat Harbor (revenues)	\$889,010
Ketchikan Boat Harbor (net transfers into)	\$78,030
Mental Health (revenues)	\$1,780,497
Mental Health (net transfers into)	\$338,130
Substance Abuse (revenues)	\$1,017,444
Substance Abuse (net transfers into)	\$514,998
Special Assessment Guarantee	\$2,550
US Marshall Property Seizure	\$125
State and Federal Grants	\$25,000
Cemetery Operations & Maintenance	\$7,500
Cemetery Development	\$16,900
Cemetery Endowment	\$2,500
Community Facilities Development	\$2,000
Land Trust Repair and Maintenance	\$1,110,839
North Tongass Fire and EMS SA	\$495,772
South Tongass SA	\$446,273
Nichols View SA	\$400
Waterfall SA	\$5,720
Mud Bight SA	\$8,700
Forest Park SA	\$54,139
Gold Nugget SA	\$7,982
GO Debt Service (School Bonds)	\$3,518,832
GO Debt Service (School Bonds - net transfers into)	\$899,946
Major Capital Improvements	\$68,347
Self Insurance	\$3,401,524
Port	\$8,057,510
KPU	\$30,737,682
Airport	\$3,435,791
Passenger Facilities	\$474,369
Total	\$99,854,406

N.B. SA means service area

Table 2-5 illustrates the surplus or deficit projected during Year One for each of the 34 funds listed in the Amended Petition.

Table 2-5. Projected "Year One" Surpluses and Deficits	
Surplus (deficit)	Year One
General Fund	\$506,237
Gateway Service Area	\$1,144,409
Hospital Sales Tax	-\$58,290
Transient Occupancy Tax	-\$1,914
Recreation Sales Tax	-\$55,828
Solid Waste Services	-\$41,944
Wastewater Services	-\$107,426
GSA Economic & Parking Development	\$1,200
Areawide Economic Development	\$571,500
Ketchikan Boat Harbor	\$3,700
Mental Health	\$16,295
Substance Abuse	\$19,731
Special Assessment Guarantee	\$2,550
US Marshall Property Seizure	\$125
State and Federal Grants	\$0
Cemetery O&M	\$2,298
Cemetery Development	-\$8,100
Cemetery Endowment	-\$2,702
Community Facilities Development	\$2,000
Land Trust Repair and Maintenance	\$8,634
North Tongass Fire and EMS SA	\$22,082
South Tongass SA	\$27,275
Nichols View SA	-\$100
Waterfall SA	-\$2,880
Mud Bight SA	\$8,200
Forest Park SA	-\$6,683
Gold Nugget SA	-\$2193
GO Debt Service (School Bonds)	-\$600
Major Capital Improvements	\$68,347
Self Insurance	-\$160,478
Port	\$5,979,674
KPU	-\$1,298,598
Airport	-\$176,256
Passenger Facilities	\$2,311
Net	\$6,462,576
N.B. SA means service area.	

F. The Economic Base of the Proposed Borough

Table 2-6 presents 2000 census data regarding the occupations of employed civilians in the KGB at least 16 years of age. Data for the entire state are also provided for comparison.

Table 2-6. Occupation of Employed Civilian Population 16+ Years Old - KGB Compared to Alaska - 2000 Census Data.

Occupation	Ketchikan Employed Civilian Population	Percentage of Ketchikan Employed Civilian Population	Percentage of Alaska Employed Civilian Population
Management, professional, and related occupations	2,003	28.5%	34.4%
Service occupations	1,194	17.0%	15.6%
Sales and office occupations	1,934	27.6%	26.1%
Farming, fishing, and forestry occupations	158	2.3%	1.5%
Construction, extraction, and maintenance occupations	777	11.1%	11.6%
Production, transportation, and material moving occupations	951	13.6%	10.8%

In addition to the information provided in Table 2-6, the *KGB Economic Indicators 2005* (pp. vii - viii) provides the following contemporary overview of the economic base of the proposed borough.

Ketchikan's population, employment and personal income grew through the early 1990's then declined through 2004. During this time the impacts of the Ketchikan Pulp Co. mill closing and the general decline in Alaska's timber industry were partially offset by a healthy and stable fishing industry, growth in Ketchikan Shipyard employment, and a major increase in cruise ship visitor traffic and related gross business sales.

As shown in Table and Figure 1, Ketchikan's population and total employment increased substantially from 1990 through 1995, then decreased beginning in 1996. Population declined to approximately its 1990 level by

mid-1999 increasing slightly in Census 2000, declining substantially again through 2004, below its 1990 level. Total employment declined to 95.2% of its 1990 level in 2000, with a further small decline through 2003. Insured wage and salary employment.^[54] declined to 90.2% of its 1990 level in 2000, and to 81.7% of its 1990 level in 2004.

From 1990 through 1995 total employment increased in spite of a gradual decline in manufacturing employment, such as in the timber industry. During this period, growth in other sectors of the local economy outweighed timber's decline. From 1995 through 1998, timber employment declined more severely; including the Ketchikan Pulp Co. mill closure a total of 558 manufacturing jobs were lost from 1995 through 1998, a reduction of 37% in this sector. Manufacturing employment increased in 1999, to almost its 1997 level, then declined again in 2000, averaging just 54.1% of its 1990 level in that year. Since 2000 manufacturing employment has declined still further, to 31.0% of its 1990 level.

The severe loss of manufacturing employment from 1995 through 1999 led to job loss in other sectors as well: Total insured wage and salary employment dropped by 956 from 1995 through 1998, a reduction of 12.0% recovering 99 jobs by 2000. The percentage loss of employment in manufacturing was somewhat mitigated by better performance of non-timber industries especially transportation equipment, which increased from 26 in 1996 to 114 in 2001. However, these modest gains have not offset the additional decline in the timber industry since 2000.

Table and Figure 2 illustrate that total personal income declined along with employment from 1996 through 1999 then increased substantially through 2003. Insured Wage and Salary Earnings^[55] fell from its peak in 1995 to approximately its 1990 level in 2000 falling again through 2003, then increasing slightly over its 1990 level by 2004. But personal income from manufacturing decreased 38.7% from 1995 through 1998, and further decreased 43.4% through 2004.

⁵⁴ [Footnote "a" in original] "Total Employment," and "Total Personal Income", reported by the U.S. Department of Commerce, Bureau of Economic Analysis, includes all wage and salary employment and income, plus domestic workers, piece workers such as timber fallers, proprietors, fishers and military personnel. "Insured Wage and Salary Employment and Earnings", reported by the Alaska Department of Labor, includes only employees eligible for Unemployment Insurance, excluding domestic workers, piece workers, proprietors, fishers and military personnel.

⁵⁵ [Footnote "a" in original]

Loss of total personal income to residents was mitigated by a substantial reduction in employment of non-residents, by a large increase in transfer payments, including unemployment insurance, and by a continuing increase in proprietors' income. From 1995 through 1999, total personal income declined only 3.1%, but increased 15.2% from 1999 through 2004. Table 3 and Figures 3(a) and 3(b) indicate total personal income per capita for the years 1990-2003 and average annual insured wage and salary earnings for the years 1990- 2004. In current dollars each of these measures increased from 1990 through 2004. In constant dollars, deflated using the Anchorage Consumer Price Index, All Urban Consumers (Anchorage CPI (U)), per capita income declined 5% from 1990 through 1999, but increased 13.6% from 2000 through 2003. A decline of 14.9% was indicated in average insured wage and salary earnings per wage earner from 1990 through 2000. In the private sector from 1990 through 2000, these earnings declined 17.7%, in the public sector 4.0%. From 2000 through 2004, private sector earnings have remained stable-to-declining, while public sector earnings have increased slightly.



Downtown Ketchikan.

Gross business sales are a leading indicator of local economic performance. These data are reported quarterly, and usually can be compiled within six to ten weeks of the end of the quarter reported. These data correlate generally over the long term with total personal income and more closely in the short term with insured wage and salary earnings. These data are reported on a consistent basis from 1995 as summarized in table and Figure 4. Comparing gross business sales in 1995 with subsequent years indicates

a sharp non-recurring decline after 1995; construction of Ketchikan High School greatly affected increased gross sales by contractors in 1995. For the years 1996 through 2000, the period encompassing the pulp mill closing, annual gross sales increased 13.9%. During the years 1996 through 2000 gross sales for the first two quarters increased 7.7%, but fell sharply in 2001 ending that year at only 87.9% of their 1996 level, a further decline was experienced in 2002, followed by a 14.4% increase in 2003 and a further 14.7% increase in 2004. Annual gross sales reflect the impact of increasing sales of goods and services to visitors; first and second quarter sales, less affected by visitors, were stable-to-declining from 1995 through 2003, but increased sharply in 2004 and 2005, an increase attributable to the second quarter only.

G. Property Valuations for the Proposed Borough

The 2005 assessed value of taxable property in the KGB was \$1,024,185,800. The 2006 preliminary figure is \$1,095,500,000. Table 2-7 shows the KGB assessed values since 2000, including the 2006 preliminary figure. The table also shows the change from the prior year, both in absolute and relative terms.

While the assessed value of the KGB dropped in 2002, 2003, and 2004, the value has since rebounded. The 2006 preliminary figure represents an all-time high, which is \$51,892,700 (5 percent) greater than the previous high figure (in 2001).

Table 2-7. Assessed Value of Property in the KGB, 2000 - 2006 (preliminary)

<i>Year</i>	<i>Assessed Value</i>	<i>Change From Prior Year</i>	<i>Percentage Change From Prior Year</i>
2000	\$1,014,686,000	NA	NA
2001	\$1,043,607,300	\$28,921,300	2.85%
2002	\$1,022,874,200	-\$20,733,100	-1.99%
2003	\$1,001,896,000	-\$20,978,200	-2.05%
2004	\$986,731,300	-\$15,164,700	-1.51%
2005	\$1,024,185,800	\$37,454,500	3.80%
2006 (preliminary)	\$1,095,500,000	\$71,314,200	6.96%

Source: KGB Assessor

The previous table shows the values for the entire KGB. Table 2-8 on the following page shows the assessed value of taxable property in the City in each year since 2000. The 2006 preliminary figure is also included. Changes from each prior year are also shown.

As was the case for the entire KGB, the assessed values for the City dropped in 2002, 2003, and 2004, but have since rebounded. Here again, the 2006 preliminary figure represents an all-time high. In this case, the 2006 preliminary figure is which is \$26,783,400 (4.4 percent) greater than the previous high figure (in 2001).

Table 2-8. Assessed Value of Property in the City, 2000 - 2006 (preliminary)

Year	Assessed Value	Change From Prior Year	Percentage Change From Prior Year
2000	\$535,803,200	NA	NA
2001	\$607,216,600	\$71,413,400	13.33%
2002	\$596,304,300	-\$10,912,300	-1.80%
2003	\$589,537,900	-\$6,766,400	-1.13%
2004	\$583,361,200	-\$6,176,700	-1.05%
2005	\$597,076,700	\$13,715,500	2.35%
2006 (preliminary)	\$634,000,000	\$36,923,300	6.18%

Source: KGB Assessor

The assessed values shown in the preceding tables, of course, reflect only the value of taxable property. Excluded from the figures is the value of property that is exempt from taxation under State law (AS 29.45.030). Also excluded is the value of property that the KGB and City, in their discretion, have exempted from taxation as allowed by AS 29.45.050. Optional exemptions granted by the KGB are set out in Section 45.11.025 of the KGB Code of Ordinances. Those include, for example, business inventories, certain properties used exclusively for community purposes, and certain properties used in manufacturing. As allowed by AS 29.45.055, the KGB also levies a flat tax on boats and vessels.

Given the broad discretion among municipalities in terms of the optional property tax exemptions allowed under AS 29.45.050, Commerce is required by AS 14.17.510 and AS 29.60.030 to determine the “full and true value” of property in all organized boroughs and some cities. Those determinations provide for uniform comparisons that are utilized in funding calculations under Alaska’s education foundation formula. The State Assessor describes the full value determination as follows:

In brief, the Full Value Determination (FVD) is the sum total of the full and true value established for every piece of taxable real and personal property within a municipality’s boundary regardless of any optional exemption which may have been enacted by local ordinance. AS 29.45.110 specifies that the full and true value is the “estimated price that the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer

both conversant with the property and with the prevailing general price levels.” This section also requires the assessor to assess property at its full and true value as of January 1 of the assessment year.

Alaska Taxable 2005, p. 7.

The 2005 KGB assessed value figure of \$1,024,185,800 compares to the 2005 KGB full value figure of \$1,178,492,700. The 2005 full value figure is \$154,306,900 (15.1 percent) greater than the 2005 assessed value figure.

Table 2-9 compares the 2005 full and true value of taxable property among all 16 organized boroughs. In per capita terms, the 2005 full value of taxable property in the KGB was \$89,790 per resident. Comparable data for other boroughs ranged from a high of \$1,502,630 per resident in the North Slope Borough to \$33,033 per resident in the Lake and Peninsula Borough. The average for all boroughs was \$105,505 per resident. The median figure is \$88,601. The figure for the KGB is \$1,189 (1.3 percent) greater than the median.

Table 2-9. 2005 Full Value of All Organized Boroughs in Alaska (ranked in descending order of per capita value)

Borough	2005 Full Value Determination	2005 Population	2005 Per Capita Full Value
North Slope Borough	\$10,359,130,075	6,894	\$1,502,630
Bristol Bay Borough	\$132,182,200	1,073	\$123,189
City and Borough of Juneau	\$3,522,159,000	31,193	\$112,915
Kenai Peninsula Borough	\$5,766,580,547	51,224	\$112,576
Haines Borough	\$245,183,300	2,207	\$111,093
Municipality of Anchorage	\$25,077,495,890	278,241	\$90,129
City and Borough of Sitka	\$804,947,500	8,947	\$89,968
KGB	\$1,178,492,700	13,125	\$89,790
Denali Borough	\$159,351,900	1,823	\$87,412
City and Borough of Yakutat	\$52,065,800	618	\$84,249
Matanuska-Susitna Borough	\$6,049,408,756	74,041	\$81,703
Kodiak Island Borough	\$1,095,488,400	13,638	\$80,326
Fairbanks North Star Borough	\$6,458,961,200	87,650	\$73,690
Northwest Arctic Borough	\$382,139,300	7,323	\$52,183
Aleutians East Borough	\$96,072,577	2,659	\$36,131
Lake and Peninsula Borough	\$53,513,000	1,620	\$33,033
Total	\$61,433,172,145	582,276	\$105,505

Sources: 2005 full value determination from *Alaska Taxable 2005*, Commerce, January 2006;
2005 population figures from Alaska Department of Labor and Workforce Development

With more than \$10.3 billion in taxable property related to the oil industry - nearly 17 percent of the total full value for all organized boroughs in Alaska - the North Slope Borough skews the per capita value figures. Additionally, Commerce notes that four boroughs (Denali, Northwest Arctic, Aleutians East, and Lake and Peninsula) do not levy property taxes.

Table 2-10 provides full value comparisons of the 11 organized boroughs exclusive of the North Slope Borough and the 4 boroughs that do not levy property taxes. With a per capita figure of \$89,790, the KGB is just slightly above the average of \$89,656 for the 11 boroughs listed in Table 2-9. In this case, the KGB is just under the median figure of \$89,968.

Table 2-10. 2005 Full Value of Selected Organized Boroughs in Alaska (ranked in descending order of per capita value)

Borough	2005 Full Value Determination	2005 Population	Per Capita Full Value
Bristol Bay Borough	\$132,182,200	1,073	\$123,189
City and Borough of Juneau	\$3,522,159,000	31,193	\$112,915
Kenai Peninsula Borough	\$5,766,580,547	51,224	\$112,576
Haines Borough	\$245,183,300	2,207	\$111,093
Municipality of Anchorage	\$25,077,495,890	278,241	\$90,129
City and Borough of Sitka	\$804,947,500	8,947	\$89,968
KGB	\$1,178,492,700	13,125	\$89,790
City and Borough of Yakutat	\$52,065,800	618	\$84,249
Matanuska-Susitna Borough	\$6,049,408,756	74,041	\$81,703
Kodiak Island Borough	\$1,095,488,400	13,638	\$80,326
Fairbanks North Star Borough	\$6,458,961,200	87,650	\$73,690
Total	\$50,382,965,293	561,957	\$89,656

Sources: 2005 full value determination from Alaska Taxable 2005, Commerce, January 2006;
2005 population figures from Alaska Department of Labor and Workforce Development

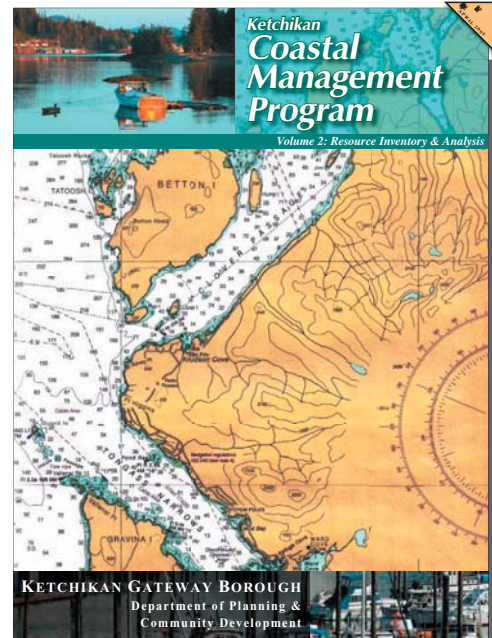
H. Land Use for the Proposed Borough

Contemporary KGB planning documents offer the following overview of land ownership and management within the existing KGB:

The Ketchikan Gateway Borough covers approximately 1,752 square miles of land. The primary landowners or managers are the U.S. Forest Service (USFS), (Ketchikan Ranger District); the State of Alaska Department of Natural Resources (DNR), Division of Lands; the Alaska Mental Health Trust Authority; the Ketchikan Gateway Borough; the University of

Alaska; and private (including Native Corporations). See *Map Figures 2.9 and 2.10*, Generalized Borough-wide Land Ownership-South and Generalized Borough-wide Land Ownership-North and *Map Figure 2.11*, Land Ownership Detail. Issues pertaining to specific land ownership rights persist since the reevaluation and reapportionment of the Alaska Mental Health Trust Authority lands approximately three years ago. Clearly defining some property boundaries and ownership in the Borough is problematic. The borough's 1996 Comprehensive Plan provides the following distribution of ownership in the borough:

Federal	94.63%
Native	2.87%
State	1.41%
Private	0.78%
Borough	0.38%
City	0.01%



Ketchikan Coastal Management Program, Volume 2: Final Draft Plan Amendment.

Ketchikan Coastal Management Program, Volume 2: Final Draft Plan Amendment, p. 24, December 7, 2005.

The land ownership characteristics reflected above are typical for regions in southeast Alaska. Details of land ownership and use within the KGB are provided in the KGB's *Coastal Management Program Final Draft Plan Amendment*. For the convenience of readers a 10-page excerpt from that document (pp. 25 - 34) detailing the land use in the KGB is included in this report as Appendix E.

I. Existing and Reasonably Anticipated Industrial, Commercial, and Resource Development for the Proposed Borough

At the time of the 2000 census, it was reported that 7,017 KGB residents were at least 16 years of age and employed in the civilian workforce. Table 2-11 presents 2000 census data regarding the specific industries in which those workers were employed. Data for the entire state are also provided for comparison.

Table 2-11. Occupation by Industry of Employed Civilian Population 16+ Years Old - KGB Compared to Alaska - 2000 Census Data

Industry	Ketchikan Employed Civilian Population	Percentage of Ketchikan Employed Civilian Population	Percentage of Alaska Employed Civilian Population
Agriculture, forestry, fishing and hunting, and mining	330	4.7%	4.9%
Construction	557	7.9%	7.3%
Manufacturing	415	5.9%	3.3%
Wholesale trade	159	2.3%	2.6%
Retail trade	762	10.9%	11.6%
Transportation and warehousing, and utilities	764	10.9%	8.9%
Information	179	2.6%	2.7%
Finance, insurance, real estate, and rental and leasing	378	5.4%	4.6%
Professional, scientific, management, administrative, and waste management services	399	5.7%	7.6%
Educational, health and social services	1,323	18.9%	21.7%
Arts, entertainment, recreation, accommodation and food services	654	9.3%	8.6%
Other services (except public administration)	321	4.6%	5.6%
Public administration	776	11.1%	10.7%

Table 2-12 shows the classification (e.g., private wage and salary, and government) of the 7,017 KGB civilian workers in the KGB at the time of the last census. Data for the entire state are also provided for comparison. The figures for the KGB are virtually identical to those of the state as a whole.

Table 2-12. Class of Worker of Employed Civilian Population 16+ Years Old - KGB Compared to Alaska - 2000 Census Data

Classification	Ketchikan Employed Civilian Population	Percentage of Ketchikan Employed Civilian Population	Percentage of Alaska Employed Civilian Population
Private wage and salary workers	4,545	64.8%	64.9%
Government workers	1,886	26.9%	26.8%
Self-employed workers in own not incorporated business	566	8.1%	8.0%
Unpaid family workers	20	0.3%	0.3%

Existing and reasonably anticipated development in the KGB is summarized in the following excerpt from the KGB *Economic Indicators 2005* (pp. viii - ix).

Ketchikan's outlook for future growth and development provides a marked contrast to recent years' decline. Ketchikan's current short-term outlook includes the \$315 million Gravina Bridge construction project, to begin in 2007 and continue for three to four years.

It also includes the \$65 million Ketchikan Shipyard Completion project, also scheduled to begin by 2007 and continue for approximately seven years. These two major public sector construction projects are unprecedented in size for Ketchikan, and will have a significant short-term impact on its population, employment and personal income.

During the Ketchikan Shipyard Completion project, the shipyard's lessee and operator plans concurrent development of the yard's manufacturing capabilities. This major improvement will begin with construction of the "E-craft", an innovative vessel type now under contract with the U.S. Navy and the Matanuska-Susitna Borough. The Ketchikan Shipyard has also become one of the three U.S. West Coast yards qualified for U.S. Army shiprepair, and has to date completed its first refit contract on U.S. Army LSV landing ship. The yard has also just become a certified HUB-zone contractor, as a result of new federal legislation, which also extends this advantage to other Ketchikan firms. Following the yard's completion, with its expanding shiprepair and newbuilding orderbook, the operator expects to increase full-time employment from the present 100 jobs to over 300.

Concurrent development of long-term growth opportunities facilitated by the Gravina bridge project has not yet begun, however, it is clear that the bridge can provide basic access necessary for development of the 120-acre South Gravina Fisheries Industrial Park, outlined in the Ketchikan Gateway

Economic Indicators 2005



"Economic Indicators 2005" published by the KGB.

Borough's Central Gravina and Airport Reserve Area Plan. The Gravina bridge will also facilitate expansion of Ketchikan International Airport's role in the economy of southern Southeast Alaska, enabling expansion of its use by general aviation and airmotive services.

Ketchikan's visitor industry is also capable of future growth, however its near-term outlook includes a decline of about 100,000 cruise visitors in 2006 and possible stabilization beyond that year. This adjustment results from competition from other ports, including Prince Rupert and Icy Strait Point, increasing use of Seattle as a cruise port of embarkation, which reduces foreign-flag ship's availability in other U.S. ports, and an adjustment in cruise ship deployments to Alaska. Ketchikan's current port berthage and anchorage are also fully utilized on certain days of the week during the peak cruise season.

J. Personal Income of Residents of the Proposed Borough

The U.S. Department of Commerce Bureau of Economic Analysis gathers personal income data. The Alaska Department of Labor characterizes personal income as "a good measure of economic wellbeing because it includes income generated through work and investments, as well as transfer payments (essentially government payments)." (*Economic Trends*, p. 4, Alaska Department of Labor and Workforce Development, November 2005.) The Bureau of Economic Analysis' formal definition of *personal income* is:

[T]he income received by all persons from all sources. Personal income is the sum of net earnings by place of residence, rental income of persons, personal dividend income, personal interest income, and personal current transfer receipts. Net earnings is earnings by place of work (the sum of wage and salary disbursements (payrolls), supplements to wages and salaries, and proprietors' income) less contributions for government social insurance, plus an adjustment to convert earnings by place of work to a place-of-residence basis. Personal income is measured before the deduction of personal income taxes and other personal taxes and is reported in current dollars (no adjustment is made for price changes).

Table 2-13 on the following page shows the per capita personal income of residents of the KGB from 1969 to 2003. Comparable data are provided for the entire state from 1969 to 2004. Since 1986, per capita income in the KGB has been higher than the figure for all of Alaska. In 2003, the latest year for which data are available for the KGB, per capita personal income in the KGB was 16.1 percent higher than it was in the entire state.

Table 2-13. Per Capita Personal Income - KGB and Alaska - 2004 - 1969

Year	KGB	Alaska	Difference (KGB - Alaska)	Relative Difference
2004	NA	\$34,085	NA	NA
2003	\$38,343	\$33,015	\$5,328	16.1%
2002	\$37,237	\$32,316	\$4,921	15.2%
2001	\$36,568	\$31,704	\$4,864	15.3%
2000	\$34,389	\$29,867	\$4,522	15.1%
1999	\$31,799	\$28,100	\$3,699	13.2%
1998	\$31,506	\$27,560	\$3,946	14.3%
1997	\$31,258	\$26,759	\$4,499	16.8%
1996	\$31,192	\$25,805	\$5,387	20.9%
1995	\$31,377	\$25,504	\$5,873	23.0%
1994	\$30,397	\$25,050	\$5,347	21.3%
1993	\$30,029	\$24,538	\$5,491	22.4%
1992	\$28,415	\$23,786	\$4,629	19.5%
1991	\$27,849	\$23,161	\$4,688	20.2%
1990	\$28,258	\$22,804	\$5,454	23.9%
1989	\$25,241	\$21,628	\$3,613	16.7%
1988	\$23,303	\$19,907	\$3,396	17.1%
1987	\$22,710	\$19,357	\$3,353	17.3%
1986	\$21,643	\$19,807	\$1,836	9.3%
1985	\$20,434	\$20,321	\$113	0.6%
1984	\$18,109	\$19,503	-\$1,394	-7.1%
1983	\$18,164	\$19,174	-\$1,010	-5.3%
1982	\$17,610	\$18,538	-\$928	-5.0%
1981	\$15,978	\$16,569	-\$591	-3.6%
1980	\$16,447	\$14,866	\$1,581	10.6%
1979	\$14,146	\$13,219	\$927	7.0%
1978	\$12,457	\$12,501	-\$44	-0.4%
1977	\$11,321	\$12,405	-\$1,084	-8.7%
1976	\$10,518	\$12,125	-\$1,607	-13.3%
1975	\$8,734	\$10,683	-\$1,949	-18.2%
1974	\$8,603	\$8,148	\$455	5.6%
1973	\$7,724	\$6,823	\$901	13.2%
1972	\$6,384	\$5,956	\$428	7.2%
1971	\$5,510	\$5,600	-\$90	-1.6%
1970	\$5,100	\$5,263	-\$163	-3.1%
1969	\$4,556	\$4,769	-\$213	-4.5%

Source: Alaska Department of Labor and Workforce Development

K. The Need for and Availability of Employable Skilled and Unskilled Persons to Serve the Proposed Borough

Table 2-14 compares 2000 census data regarding educational attainment of the KGB population and population of the entire state (25 years of age and older). The data show that a slightly higher percentage of KGB residents completed high school, while a slightly lower percentage received a bachelor's degree or higher.

Table 2-14. Educational Attainment of Population 25+ Years Old - KGB Compared to Alaska, 2000 Census Data

Educational Attainment	KGB Population 25+ Years Old	Percent of KGB Population 25+ Years Old	Percent of Alaska Population 25+ Years Old
Less than 9th grade	205	2.3%	4.1%
9th to 12th grade, no diploma	727	8.1%	7.5%
High school graduate (includes equivalency)	2,673	29.7%	27.9%
Some college, no degree	2,961	32.9%	28.6%
Associate degree	619	6.9%	7.2%
Bachelor's degree	1,289	14.3%	16.1%
Graduate or professional degree	525	5.8%	8.6%

Given that the KGB has operated successfully for more than forty-two years and the City has operated effectively for more than a century, it is axiomatic that local residents have the employable persons needed to operate the proposed consolidated borough.

L. The Reasonably Predictable Level of Commitment and Interest of the Population in Sustaining a Borough Government

As noted above, residents of the greater Ketchikan area have successfully operated local governments for generations. Here again, it is evident that residents of the region have a level of commitment and interest in sustaining a borough government.

M. Conclusion

The foregoing analysis of the reasonably anticipated functions, expenses, and income of the proposed borough; the ability of the proposed borough to generate and collect local revenue; and the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation reflect a fiscally viable proposal. The economic base, property valuations, land use, existing and reasonably

anticipated development, and personal income are evidence of an economy that is fully capable of continuing to support borough government. Lastly, the availability of employable persons to serve the proposed borough and the reasonably predictable level of commitment and interest of the population in sustaining a borough government reflect positively on the region. Accordingly, Commerce concludes that the standards set out in AS 29.05.031(a)(3) and 3 AAC 110.055 regarding the human and financial resources are fully satisfied by the Amended Petition.

Part 6. Whether Facilities in the Proposed Consolidated Borough Allow the Communication and Exchange Necessary for Integrated Borough Government

In order to grant the consolidation proposal, AS 29.05.031(a)(4) requires the LBC to determine that the land, water, and air transportation facilities in the area allow the communication and exchange necessary for the development of integrated borough government. The provisions of 3 AAC 110.045(c) require that the LBC also consider communications media in terms of communication and exchange. Additionally, 3 AAC 110.045(c) lists a number of factors that may be considered by the LBC in judging whether the communications and exchange standard is satisfied. Those include transportation schedules and costs, geographic and climatic impediments, telephonic facilities, and public electronic media. Further, 3 AAC 110.045(d) establishes the presumption that all communities within the proposed consolidated borough are connected by roadway or air service.

A. Land Transportation Facilities

As noted in Part 3 of this chapter, the proposed consolidated borough will encompass two communities - Ketchikan and Saxman - that meet the particular characteristics set out in 3 AAC 110.920. The Tongass Highway links those two communities and provides arterial access to virtually all other developed areas of the KGB. The northern terminus of the highway is Settler's Cove State Recreation Site, located approximately 18 miles from downtown Ketchikan. The southern terminus is Beaver Falls Powerhouse, approximately 12 miles from downtown Ketchikan. Additionally, the City maintains 22.65 miles of streets and roads, the KGB maintains 1.56 miles of roads, and the City of Saxman maintains 4.27 miles of roads.



KGB's bus service. (Photo courtesy of the KGB.)

B. Water Transportation Facilities

The City operates and maintains six boat harbors. Those consist of Bar Harbor South, Bar Harbor North, Thomas Basin, Casey Moran, Knudson Cove, Hole-In-The-Wall, and the Port of Ketchikan. Additionally, the City maintains three boat launch ramps.



One of the six boat harbors operated by the City.

The communities within the Ketchikan area are served by three different marine ferry systems. The Alaska Marine Highway System (AMHS) operates five mainline and two feeder vehicle/passenger ferries in southeast Alaska. Ketchikan is the midpoint between Bellingham and Skagway for the AMHS mainline vessels. Additionally, the Inter-Island Ferry Authority (IFA) provides transportation between Ketchikan and Hollis on Prince of Wales Island. In 1997, the IFA was formed by city governments in Craig, Klawock, Thorne Bay, Coffman Cove, Wrangell and Petersburg as a public corporation under Alaska's Municipal Port Authority Act. Lastly, the KGB operates ferries to provide access to between Ketchikan and the Ketchikan International Airport on nearby Gravina Island. During the winter, the KGB operates one ferry every half-hour. During the summer, the KGB operates two ferries to provide access every fifteen minutes.

C. Air Transportation Facilities

The Ketchikan International Airport (KIA) is the primary air hub in the southern portion of southeast Alaska. KIA is owned by the State of Alaska but is operated and maintained by the KGB. KIA serves air carrier, commercial, general aviation, cargo, and military air traffic.

Several accommodations for floatplanes exist. These include the Ketchikan Harbor Seaplane base, which consists of a 10,000- by 1,500-foot water runway on the north side of the Tongass Narrows adjacent to the Ketchikan road system. Additionally, Murphy's Pullout Seaplane Base is owned by the KGB and managed by the State of Alaska. Murphy's Pullout, located near the northern boundary of the City, consists of a 10,000- by 2,000-foot water runway with eight spaces for transient floatplane aircraft. Floatplanes can also be accommodated at two facilities near the west end of KIA runway. One provides three transient docking spaces, and the other has the capacity to serve 12 Twin Otter aircraft. A concrete ramp is located in the area to facilitate removal of floatplanes for maintenance or storage.

D. Communications Media

Table 2-15 lists the communications media serving the proposed consolidated borough.

Table 2-15. *Communications Media Serving the Proposed Consolidated Borough*

Local Exchange Telephone Service	KPU
Interstate and Intrastate Long-Distance Telephone Service	AT&T Alascom; General Communication, Inc. (GCI); ACS Long Distance
Wireless/Radio Telephone Service	KPU; ACS Wireless
Internet Service Provider:	KPU (www.kpunet.net); ACS Internet (www.acsalaska.net); AT&T WorldNet (www.worldnet.att.net); GCI (www.gci.net); SkyTalkwest Telecom (www.soapys.com)
TV Stations:	KUBD Channel 4 -- CBS; GCI Public Access Channel 11
Radio Stations:	KRBD-FM; KFMJ-FM; KGTW-FM; KTKN-AM
Cable Provider:	KPU; GCI Cable, Inc.
Teleconferencing:	City; Alaska Teleconferencing Network; Legislative Information Office;
Newspapers	<i>Ketchikan Daily News; Sitnews; The Local Paper</i>

E. Conclusion

The land, air, and water transportation facilities in the proposed consolidated borough are well-developed and integrated. The two communities in the proposed consolidated borough are linked by road, thus satisfying the standard set out in 3 AAC 110.0459d). The communication media serving the proposed consolidated borough are extensive.

The transportation facilities and communication media clearly allow the communication and exchange necessary for the development of integrated borough government. Consequently, Commerce concludes that the standards set out in AS 29.05.031(a)(4) and 3 AAC 110.045(c) - (d) are satisfied.

Part 7. Whether the Proposed Consolidated Borough Serves the Best Interests of the State

AS 29.05.130(a) provides that the LBC may grant the consolidation Petition only if the Commission determines that the proposal is in the best interests of the State. The LBC is guided by 3 AAC 110.065 and 3 AAC 110.980 in making the requisite best interests determination. Those provisions call for the LBC to consider whether the proposal promotes the constitutional principles of “maximum local self-government” and “a minimum number of local government units.” The regulations also allow consideration of other relevant factors.

Part 1 of this chapter presents Commerce's extensive analysis of whether the proposed consolidation promotes maximum local self-government. Based on that analysis, Commerce concluded earlier that the proposal does indeed serve that fundamental constitutional principle. In particular, the pending consolidation proposal would do so by extending home-rule status for the consolidated borough. Currently, only the residents of the City (who comprise 58.5 percent of the KGB population) enjoy home-rule status. As noted in the earlier analysis of this issue, the KGB is the only general law organized borough government in southeast Alaska. Following consolidation of the general law Haines Borough and the general law City of Haines as a home-rule borough on October 17, 2002, KGB was left as the only general law borough in southeast Alaska; all others are home-rule.

In Part 2 of this chapter of the report, Commerce analyzed whether the pending consolidation proposal fosters a minimum number of local government units. Commerce's conclusion is that the proposal clearly serves that important constitutional principle. Currently, two municipal governments serve about 62 percent of the KGB residents. Consolidation of the City and the KGB would result in a single local government serving 97 percent of the area's residents (residents of the City of Saxman, comprising 3 percent of the population, would continue to be served by two local governments). As noted earlier, the KGB is the only organized borough in southeast Alaska in which city governments exist. All other boroughs in southeast Alaska are the sole municipal government within their respective areas.

In addition to the two critical constitutional principles, Commerce takes the position that the broad public interest is also served by promoting equity in the delivery of municipal services and also in promoting a governmental structure in which all residents have a voice in the delivery of municipal services to those residents.

In Chapter 1, Commerce examined the reasonably anticipated effects of consolidation. Commerce concluded that consolidation would extend responsibility for area-wide services to all residents of the consolidated borough. Such would foster greater equity in the structure for the delivery of services.

Commerce also concluded in Chapter 1 that governance of regional facilities and services would be broadened because of consolidation. For example, consolidation would give all residents of the consolidated borough an equal voice in the governance of KPU, which provides electric, telephone, Internet, and cable television utility service to most of the populated and developed areas of the region. The same would occur with regard to other essential local facilities and services such as harbors, library, hospital, 911 emergency dispatch, the Gateway Center for Human Services, and the Port of Ketchikan.

With regard to the latter issue, the *Ketchikan Daily News* commented on the importance of such in an August 2005 editorial:

Borough voters didn't like it that their city peers exclusively decided the outcome of the August port ballot measure.

The Ketchikan City Council asked city voters to approve selling \$70 million in [bonds] to expand the port to accommodate the tourism industry's larger cruise ships. The expansion included extending the dock north from the tunnel and building a dock on the waterfront at the foot of Schoenbar Road; it also would have paid for street, sidewalk and similar improvements.

The majority of those who chose to vote that day - only 23 percent of registered city voters - cast ballots against the investment, much to the chagrin of borough voters who wanted to cast ballots. But, it was a city election, and that meant only city voters got to decide.

That will be the case until the community agrees to become one. If the city and the borough had been one government on Aug. 16, all eligible voters would have had a say on the ballot measure.

Borough residents at the time of the election complained that they are as invested in what happens at the city's docks as city residents. They own property in the city; their businesses are located in the city; and they hold jobs in the city, many of those jobs dependent on the tourism industry.

All is true. They also use city facilities and services (and city residents use borough facilities and services) - libraries, museums, and hospital. Borough residents want to have their say on those and other city-controlled services as well.

Ketchikan Daily News, August 26, 2005.

As noted above, the general law Haines Borough and the general law City of Haines consolidated less than four years ago. The fundamental change to the structure of local government in Haines is the latest development in a 35-year trend to combine city and borough governments. In 1970, nearly fifty percent of Alaskans who lived in organized boroughs also lived within city governments. Through unification and consolidation over the past 35 years, the proportion of borough residents who also live within city governments has declined by two-thirds. Today, less than 17 percent of organized borough residents in Alaska also live within a city government. Moreover, nearly sixty percent of organized borough residents live in home-rule boroughs.

The Manager of the Haines Borough recently offered the following reflections on consolidation:

Prior to consolidation, more than 75 percent of the residents of the Haines Borough lived within the City of Haines. Having two mayors, two governing bodies, two municipal clerks, two sets of lawyers, and even two planning commissions proved cumbersome and inefficient. That was particularly the case when the two local governments represented opposing factions within the area rather than the region as a whole. It was even worse when the two governments were on opposite sides of litigation - local taxpayers got to pay for both sides!

Naturally, conflicts still arise in the region; however, the consolidated borough government seeks solutions that are balanced in the best interests of the whole. It seems to be quite successful in that regard.

The home-rule Charter of the Haines Borough provides for a good balance of powers. Service area powers are restricted to the specific needs of residents and property owners who desire them. There is a lot of room in the "general use" zone for those who not interested in (or not ready for) higher levels of regulation.

In either case, having a single local government has many benefits. One of the biggest benefits is having one set of elected leaders to give guidance to staff in setting community priorities, a vision for economic development, and fiscal certainty. It also provides for seamless administration of powers, equipment, and personnel, allowing for the greatest level of efficiency. And, it gives the citizenry a central focal point to hold responsible for all functions of government. Moreover, in the midst of all this, a good education for all takes place.

The October 2002 vote on consolidation in Haines was an event. The actual consolidation is a work in progress that is finally taking root and beginning to bear fruit in Haines.

Before I became manager of the consolidated borough, I was on the commission to draft the home rule charter for the consolidated borough. I was on the side of those who favored the nonregulatory aspects of the third-class borough and resisted the "melting-pot" proposal. I worked hard to build in as many of those principles as possible - which is the real beauty of the home-rule charter. It can be custom made for the unique needs of those it serves.

I don't know if it works everywhere else, but consolidation is the best thing that has happened to local government in Haines!

Robert Venables, Manager of the consolidated Haines Borough, electronic mail to Commerce, April 10, 2006.

In view of the discussion in this part of the report, Commerce concludes that the Ketchikan consolidation proposal serves the best interests of the State. It promotes the constitutional principles favoring maximum local-self government and a minimum number of local government units. It also remedies inequities found in the current structure for delivery of municipal services in Ketchikan. Further, it would create a better governmental structure in which all residents would have a voice in the delivery of local services. Thus, the standard set out in AS 29.05.130(a) and 3 AAC 110.065 is met by the Amended Petition.

Part 8. Whether the Transition Plan Included in the Amended Petition Is Complete and Otherwise Complies With the Requirements of Law

The provisions of 3 AAC 110.900 require the Petitioner to reasonably demonstrate through a transition plan the capability of the proposed consolidated borough to serve the area, implement consolidation in a timely manner, and do so without loss in value of municipal assets or credit. The Petitioner was required to develop the transition plan in consultation with officials of the City and KGB.

The original petition presented a 33-page transition plan (Exhibit J). Nine ancillary exhibits relating to transition matters accompanied the transition plan. Those ancillary exhibits comprised an additional 33 pages and consisted of the following:

- **Exhibit J-1** - Recommendations to the New Assembly (3 pages);
- **Exhibit J-2** - Sample Operating Budget Summary Sheet (2 pages);
- **Exhibit J-3** - Excerpt of Minutes, Public Hearing, August 13, 2004 (3 pages);
- **Exhibit J-4** - Excerpt of Minutes, Public Comments & Hearing, August 20, 2004 (12 pages);
- **Exhibit J-5** - Excerpt of Minutes, Public Hearing, August 28, 2004 (1 page);
- **Exhibit J-6** - Excerpt of Minutes, Public Hearing, September 17, 2004 (3 pages);
- **Exhibit J-7** - Excerpt from the City Council Minutes of August 19, 2004, and Minutes of the Special City Council Meeting to Discuss the 2004 Draft Consolidation Petition, August 23, 2004 (5 pages);
- **Exhibit J-8** - Correspondence with the Alaska Department of Public Safety and the Alaska Department of Transportation and Public Facilities (4 pages);

- Some critical transition measures were also included in the home-rule charter (Exhibit H, Sections 16.05 - 16.09). When the Petition was amended in October 2005, changes were reflected in the Transition Plan (Exhibit J) and in two of the ancillary exhibits (Exhibits J-1 and J-2). Section 16.06(b) of the proposed charter was also amended.

The transition plan clearly reflects that the Petitioner consulted extensively with officials of the City and KGB in the development of the original Petition (see Exhibit J, pp. 1-2). The amended transition plan does not reflect the additional consultation that occurred between the Petitioner and officials of the City and KGB; however, other documents included with the Amended Petition reflect such. The record in this proceeding shows remarkable consultation and cooperation among the Petitioner, City, and KGB through the filing of the Amended Petition in October of last year.

The transition plan, as amended, demonstrates to Commerce's satisfaction that the proposed consolidated borough would have the capacity to extend essential borough services in the shortest practicable time after the effective date of consolidation. Thus, the requirement set out in 3 AAC 110.900(a) is satisfied.

Petition Exhibit J - Transition plan.

Further, the amended transition plan includes a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by the City and KGB. Thus, the provisions of 3 AAC 110.900(b) are satisfied.



Lastly, the modified transition plan includes a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of the KGB and City. As such, the requirements of 3 AAC 110.900(c) are met.

The provisions of 3 AAC 110.900(d) allow the LBC to require the KGB and City to execute an agreement for the assumption of powers, duties, rights, and functions and for the transfer and integration of assets and liabilities. Commerce considers such unnecessary in this case, particularly given provisions in the Alaska Statutes regarding consolidation and the provisions in the charter of the proposed consolidated borough.

The Alaska Statutes establish the following transition provisions for consolidation:

Sec. 29.06.150. Succession to rights and liabilities. (b) When two or more municipalities consolidate, the newly incorporated municipality succeeds to the rights, powers, duties, assets, and liabilities of the consolidated municipalities.

Sec. 29.06.160. Transition. After merger or consolidation, the ordinances, resolutions, regulations, procedures, and orders of the former municipalities remain in force in their respective territories until superseded by the action of the new municipality.

The amended charter of the proposed consolidated borough, which would become the organic law of the consolidated borough, prescribes the following transition provisions:

Section 16.05 Ordinances and Resolutions.

Except as otherwise provided by this Charter or by the transition plan, the ordinances and resolutions of local governments to be dissolved shall continue in full force and effect in their respective jurisdictions until expressly reaffirmed, revised, or repealed by the Assembly.

Section 16.06 Pre-Consolidation Assets, Liabilities, Sales Taxes, Reserves and Franchises, and Collective Bargaining Rights

(a) Assets and Liabilities. The Municipality shall succeed to all the assets and liabilities of the former City of Ketchikan and of the former Ketchikan Gateway Borough. Bonded indebtedness incurred before consolidation shall remain the obligation of the area that was subject to the debt unless the asset for which the bonded indebtedness was incurred is used for an areawide purpose or is used for the benefit of a larger area, in which case the obligation shall become the obligation of the area benefited by the asset's use. The obligation to repay revenue bonds issued by the City of Ketchikan d/b/a Ketchikan Public Utilities shall not be affected by this Charter.

(b) Sales and Use Taxes. All sales and use taxes levied within the former City of Ketchikan and the former Ketchikan Gateway Borough shall remain in effect until changed as provided in this Charter. Within one year from the first election under this Charter, the Assembly shall apply the levy of the former City of Ketchikan's one percent (1%) Hospital and other purposes sales tax on an areawide basis throughout the Municipality, with the revenues from the areawide levy being appropriated for the Municipality. The ratification requirement of Section 10.05(b) shall not apply to this initial one percent areawide levy.

The two-and-one-half percent (2.5%) of the former City of Ketchikan's sales tax shall be appropriated for the Gateway Service Area. Sales tax levies required by this section shall remain in effect until changed as provided in this Charter.



A 2.5 percent sales tax would be levied for services and facilities within the proposed Gateway Service Area.

(c) Reserves. Any pledged reserve accounts of the prior local governments shall remain committed to the purposes for which they were originally dedicated.

(d) Franchises. All existing franchises of the governments to be consolidated shall continue after ratification of this Charter until they expire, are extended, renewed, or revoked by the Assembly.

(e) Salaries. Until changed as provided in Section 2.06, the salaries and expenses of the mayor and assemblymembers will be the same as paid to the mayor and council members of the former City of Ketchikan.

Collective Bargaining. If the Municipality opts out of the Alaska Public Employment Relations Act [Alaska Stats. 23.40.070 - 23.40.260 (1998)], the Assembly shall adopt and may thereafter amend an employment relations ordinance that will extend to eligible municipal employees the right to bargain collectively on wages, hours, and such terms and conditions of employment as are permitted by ordinance. The ordinance shall provide

for the recognition and de-certification of collective bargaining units and shall define the scope and nature of collective bargaining. Those collective bargaining units and their representatives that were previously recognized by the Ketchikan Gateway Borough or the City of Ketchikan will, unless de-certified or modified by vote of the represented employees, continue to be recognized by the Municipality for the purpose of collective bargaining under the ordinance.

Section 16.07 Continuance of Actions.

The adoption of this Charter shall not abate or otherwise affect any action, claim, or proceeding, civil or criminal, by or against, a local government to be consolidated and which had accrued at the time of the effective date of this Charter. All applications, petitions, hearings, and other proceedings pending on the effective date before a local government to be consolidated shall be continued before the Municipality.

Section 16.08 Intergovernmental Relations.

The Municipality may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement with any one or more local governments, the State of Alaska, or the United States, or any agency or instrumentality of those governments.

Section 16.09 Transition Plan.

Other provisions concerning the transition shall be governed by the transition plan as approved by the Local Boundary Commission and any changes made thereto by the Assembly.

Based on the foregoing, Commerce concludes that the requirements relating to transition set forth in 3 AAC 110.900 are fully satisfied with respect to the Amended Petition.

Part 9. Whether the Proposed Consolidation Has a Racially Discriminatory Purpose, Would Make Minority Voters Worse Off, or Would Deny Civil or Political Rights in Violation of the Law

Under federal law (42 U.S.C. Section 19; 28 C.F.R. Part 51) and State law (3 AAC 110.630), consolidation of municipal governments is subject to the federal Voting Rights Act. The Voting Rights Act requires demonstration to federal authorities that municipal boundary changes do not have a racially discriminatory purpose or will not make minority voters worse off than they were prior to consolidation. Additionally, State law (3 AAC 110.910) provides that, "A petition will not be approved by the [local boundary] 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."

As described in Chapter 1, consolidation will result in the dissolution of the KGB. A new consolidated borough government will be formed in its place. The composition of the governing body of the proposed consolidated borough (a seven-member assembly) and its form of representation (election of assembly members at large by voters throughout the borough) are identical to the current composition and form of representation of the Assembly of the KGB.

Consolidation will also result in the dissolution of the City. Unlike the borough, however, the City will not be reconstituted in a form that has a governing body. Currently, the City is governed by a mayor and seven-member city council.

Commerce underscores the fact that there is no guarantee or expectation that Alaskans will have multiple local governments to serve and represent them. In fact, article X, section 1 of the Alaska Constitution encourages consolidation of local governments. Commerce finds, therefore, that the dissolution of the City and the elimination of eight elected officials is not pertinent with regard to this standard.

Saxman, which is inhabited predominantly by Natives, will retain its city government under the consolidation proposal. During the proceedings for the City's 2000 consolidation proposal, the Mayor of the City of Saxman wrote that "Saxman has consistently expressed its desire to retain its independent status as a separate municipal entity and to preserve its Native culture, the former being viewed as a means to the latter."

Commerce notes that there has been no assertion in this proceeding that the proposed consolidated borough will (1) have a racially discriminatory purpose, (2) make minority voters worse off than they were prior to consolidation, or (3) deny any civil or political right to any party for any of those reasons enumerated in the law.

Commerce emphasizes that the City's 2000 consolidation proposal was reviewed by the U.S. Department of Justice in terms of the federal Voting Rights Act. On July 10, 2001, the Acting Chief of the Voting Section in the Civil Rights Division of the U.S. Department of Justice wrote that the U.S. Attorney General did not "interpose any objection" to the proposed consolidation.

Given the foregoing, Commerce concludes that no voting qualifications, prerequisites to voting, standards, practices, or procedures will be applied as a result of the proposed consolidation which would deny or abridge the right to vote on account of race or color or because a person is a member of a language minority group. Commerce concludes further that the proposed consolidation will not deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin. Thus, the standards set forth in 42 U.S.C. Section 1973, 28 C.F.R. Part 51, and 3 AAC 110.910 are satisfied by the proposal to consolidate the City and KGB.

Chapter 3

Summary of Commerce's Conclusions and Recommendations to the LBC

Chapter 3 presents a summary of the conclusions reached by Commerce in the previous chapter. It also presents Commerce's formal recommendations to the LBC.

A. Summary of Conclusions

The following summarizes the fundamental conclusions reached by Commerce in the previous chapter.

- The consolidation proposal would create a home-rule borough to serve all residents of the consolidated borough. The framers of Alaska's Constitution considered home-rule to be the highest form of self-government. Thus, the consolidation proposal promotes the "maximum local self-government" principle in article X, section 1 of the Alaska Constitution.
- Nearly 62 percent of the residents of the KGB are currently served by two local governments. If consolidation occurs, that figure will drop to only 3 percent (residents of the City of Saxman). That fundamental change fosters a "minimum of local government units" as favored by article X, section 1 of the Alaska Constitution.
- The boundaries of the proposed consolidated borough are identical to those of the existing KGB. Those boundaries satisfy all of the constitutional, statutory, and regulatory borough boundary standards.
- The existing population of the KGB meets the size and stability requirements for consolidation.
- The consolidation proposal is fiscally viable. The Ketchikan economy is certainly capable of supporting the consolidated borough. Accordingly, the standards regarding the human and financial resources are fully satisfied by the Amended Petition.
- The communication media and the land, air, and water transportation facilities in the KGB are well developed and integrated. The standards regarding such are fully satisfied.

- ➡ Consolidation is in the best interests of the State, not only because it promotes maximum local self-government and a minimum of local government units, but because it also provides residents throughout the borough with an equal voice in the operation of essential areawide services. Those essential services include the Port of Ketchikan, KPU, Ketchikan General Hospital, 911 emergency dispatch, harbors, library, and the Gateway Center for Human Services. Additionally, consolidation promotes taxpayer equity in that all residents will be equally responsible for areawide services and facilities.
- ➡ The Amended Petition provides a plan for suitable transition to a consolidated borough.
- ➡ Consolidation would not violate any provision of the federal Voting Rights Act or other laws concerning civil and political rights.

Thus, Commerce concludes that the Amended Petition satisfies all legal standards applicable to consolidation. Those include article X, sections 1 and 3 of the Alaska Constitution, AS 29.06.130(a) and 29.05.031, 3 AAC 110.240 - 3 AAC 110.250, 3 AAC 110.045 - 3 AAC 110.065, 3 AAC 110.910 - 3 AAC 110.980, and provisions of the federal Voting Rights Act.

B. Recommendations

Because the Amended Petition meets all applicable legal standards, the LBC may approve the Amended Petition with or without conditions and/or further amendments.

At this point, Commerce does not offer any particular amendments or conditions regarding the pending consolidation proposal. Commerce emphasizes, however, that if consolidation occurs, the charter (in whatever form is approved by the LBC) will become the organic law of the consolidated borough. In other words, the charter will serve as the equivalent of a local government constitution for the consolidated borough. As such, it is desirable that every reasonable effort be made to ensure that such a seminal document is as technically sound as possible.

Commerce recognizes that a great effort has been invested in the proposed charter over the past many years. The current document is founded upon previous efforts to develop a charter for a prospective consolidated borough in Ketchikan. In 1994, a committee of citizens and local officials was formed to prepare a charter for a prospective consolidated borough government. In 1997, at the invitation of the drafters of the charter, Commerce conducted a technical review and provided comments on the proposal. Further refinements of the charter followed. The document was

ultimately included in the City's 2000 consolidation petition. Steven Schweppe, City Attorney, outlined the support from his office and others with regard to development of the charter and other aspects of the City's 2000 consolidation petition:

[C]onsolidation has been a ten year project with numerous people involved from time to time over that period. I have worked on consolidation year in and year out over this time period with most of my work occurring prior to 2000. I do not have a record of the time I spent on this project over all of these years. I can merely state that consolidation has been a major project in my office during most of these years. Other offices have had a more concentrated involvement. The City Finance Director estimates that he spent 500 hours on consolidation over the past year. The City Manager's office estimates that the three employees in that office spent 25% of their time during 1999 and 2000 on the consolidation petition. The City Clerk's office estimates that in 1999 and 2000 its two employees spent 5% of their time on consolidation. Borough employees have also spent considerable time on this issue.

The City and Borough have also spent money on outside consultants. The Chitwood Study in 1993 cost \$25,000, half of which was paid by the City and half by the Borough. In 1997, the City hired Gordon Lewis to assist in preparing its consolidation petition. The City spent \$19,736 on this effort. In addition, the Borough recently hired Vic Fischer.

Letter from Steven Schweppe, September 19, 2000.

The KCC, of course, has added substantially to the earlier investment by others in shaping the charter in its current form. As noted in Chapter 1 of this report, KCC members met 30 times over the course of eight months to draft the original Petition, including the charter. Following comments by the City, Mayor of the City, and KGB, the KCC met an additional nine times over a nine and one-half month period to refine the charter and other Petition documents.

Commerce commends KCC members for their exemplary commitment and dedication to their mission, including the development of the charter. Still, Commerce envisages that benefit would be derived from a technical (i.e., "nonpolicy") review of the proposed charter by this agency, the City, and the KGB.⁵⁶ Commerce recognizes that,

⁵⁶ Consider, as a case in point, Section 10.08 of the proposed charter, which states as follows:

Section 10.08 Taxation: Supermajority Requirement to Raise Taxes

Any ordinance or resolution that will increase the rate of sales tax levies or increase the rate of property tax levies on an areawide, nonareawide or service area basis above the rate levied in the prior fiscal year shall require the affirmative vote of

Footnote continued on next page

at the invitation of the KCC, City and KGB officials have reviewed and commented on portions of the charter as it was being developed and later amended. However, Commerce is unaware that those officials have undertaken a comprehensive review of the charter as amended by KCC. Moreover, Commerce has not yet conducted a thorough review of the document, in part, because of limited staff resources, the press of other business, and a desire not to appear officious or intrusive in terms of the work of the Petitioner.

Footnote continued from previous page

two-thirds (2/3) of the Assembly or be approved by a majority of the qualified voters who vote on the ordinance or resolution at a general or special election. If the increase in the rate of levy of the general sales tax or use tax is limited to a service area or is nonareawide, the vote is limited to those qualified to vote in that area.

Commerce finds what may be some inconsistencies and ambiguities in the language of Section 10.08. For example, the first sentence refers to “sales tax levies” while the second sentence refers to a “*general* sales tax.” It is unclear whether the use of the term “general” sales tax as used in the second sentence but not the first sentence has significance. Moreover, it is unclear whether a “general” sales tax is one that applies to a broad (general) range of goods and services (as opposed to the proposed 7 percent “transient occupancy tax”) or whether it is a tax used for *general* government purposes (as opposed, for example, to the proposed 1 percent “hospital sales tax,” or the 0.5 percent “recreation sales tax”). Further, while the first sentence refers to “sales tax levies” and “property tax levies,” it makes no reference to use taxes. However, the second sentence refers to a use tax, but does not refer to a property tax. It is unclear whether such was intentional. Lastly, Commerce notes that the first sentence refers to a “general” borough election while other provisions of the charter refer to the “regular” borough election. Largely, State law reserves the term “general election” in terms of State elections and utilizes the term “regular election” for municipal elections.

Before making any formal recommendations for amendment, Commerce would confer with the Petitioner. However, Commerce offers the paragraph below as an example of how Section 10.08 might be redrafted to eliminate the apparent ambiguities and inconsistencies noted above (underlined text would be added, bracketed text would be deleted):

Any ordinance or resolution that will increase the rate of levy of a sales tax, use tax, or property tax [SALES TAX LEVIES OR INCREASE THE RATE OF PROPERTY TAX LEVIES] on an areawide, nonareawide, or service area basis [ABOVE THE RATE LEVIED IN THE PRIOR FISCAL YEAR] shall require the affirmative vote of two-thirds (2/3) of the Assembly or [BE APPROVED BY] a majority of the qualified voters who vote on the ordinance or resolution at a [GENERAL] regular or special election. If the increase in the rate of levy of the [GENERAL] sales tax, [OR] use tax, or property tax is limited to a service area or is nonareawide, the vote is limited to those qualified to vote in that area.

Nonetheless, if the LBC directs or the KCC requests that Commerce conduct a thorough technical review of the 50-page charter, Commerce is prepared to do so (in consultation with the KCC, City, and KGB) and will offer any recommendations for change in Commerce's Final Report. However, this course of action necessitates an expeditious directive from the LBC or request from the KCC.

In closing, Commerce again commends the dedication and hard work of the KCC, along with the cooperation of officials of the City and KGB. Commerce looks forward to the formal deliberations of the LBC regarding this latest proposal for consolidation of the City and the KGB. Assuming that the LBC will ultimately approve the proposal (with or without amendments and conditions), voters will have the final say in the matter at an election likely to be conducted this fall.

Glossary

In this report, unless otherwise provided or the context otherwise requires:

“Amended Petition” means the *Petition for Consolidation of the Ketchikan Gateway Borough and the City of Ketchikan to the Municipality of Ketchikan, A Home Rule Borough*, filed with the LBC on September 30, 2004, as modified by the Petitioner through the *2004 Ketchikan Consolidation Petition - 2005 Amendments*, filed with the LBC on October 24, 2005.

“Areawide” means throughout an entire borough, both inside and outside the boundaries of all city governments within that borough (AS 29.71.800(1)).

“Assembly” means the governing body of a borough (AS 29.71.800(2)).

Borough means a general law borough (first class, second class, or third class), a non-unified home rule borough, or a unified home rule borough (unified municipality) (3 AAC 110.990(1)). In general terms, the word ‘borough’ means a place organized for local government. Boroughs exist in certain other states in this country and in other countries; however, they bear no similarity to boroughs in Alaska.

After much debate, Alaska’s Constitutional Convention Delegates chose the term *borough* over alternatives such as county, canton, division, and province. They did so because they felt that the term *borough* did not carry the connotations of the other terms. The Delegates wanted to preclude rigid thinking and the application of restrictive court decisions based on the extensive body of county law developed in the existing states. (See, Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, 1971, p. 37.)

In Alaska, a borough is a regional unit of municipal government (See, Victor Fischer, *Alaska’s Constitutional Convention*, 1975, pp. 116 - 123); Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, 1971, pp. 37 - 41; *Mobil Oil v. Local Boundary Commission*, 518 P.2d 92, 100 (Alaska 1974); and Alaska State Legislature, Legislative Counsel, *Proceedings of the Alaska Constitutional Convention*, 1963, pp. 2638 and 2641.)

“Charter” is the organic law of a home-rule municipality describing the rights and responsibilities of the municipality and its citizens (AS 29.04.010).

“City” means a general law (first-class or second-class) city or a home rule city (AS 29.71.800(4)). In this report, “City” refers to the City of Ketchikan.

“City of Ketchikan” is a home-rule city inhabited by an estimated population of 7,685 in 2005. The corporate boundaries of the City encompass an estimated 5.6 square miles. The City was incorporated in August 1900. It became a home-rule city in 1960.

“Commerce” means the Alaska Department of Commerce, Community, and Economic Development, the State agency that serves as staff to the Alaska Local Boundary Commission and also serves as the local government agency mandated by article X, section 14 of the Constitution of the State of Alaska (formerly the Alaska Department of Community and Economic Development, Department of Community and Regional Affairs, and Local Affairs Agency).

“Community” means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920 (3 AAC 110.990(5)).

“Consolidation” means dissolution of two or more municipalities and their incorporation as a new municipality (AS 29.71.800(6)).

“Contiguous” means, with respect to territories and properties, adjacent, adjoining, and touching each other (3 AAC 110.990(6)).

“Gateway Service Area” is the proposed new borough service area that would be formed upon dissolution of the City of Ketchikan through the pending consolidation. The Gateway Service Area boundaries would be identical to those of the existing City of Ketchikan.

“General law municipality” means a municipal corporation and political subdivision of the State of Alaska that has legislative powers conferred by State law; it may be an unchartered first class borough, second-class borough, third class borough, first class city, or second-class city organized under the laws of the State of Alaska (AS 29.04.020).

“KCC” means the seven-member Ketchikan Charter Commission. KCC members elected to seats in the Ketchikan Gateway Borough but outside the City are Brad W. Finney, Jerry L. Kiffer, and John A. Harrington. KCC members elected to seats inside the City are Mike Painter; Deborah Otte; and Dennis McCarty. The KCC member elected to the seat at large, who is also Chair of the KCC, is Glen Thompson.

“KGB” means the Ketchikan Gateway Borough. The KGB was incorporated in September 1963. Throughout its existence, the KGB has been a general law, second-class borough. Its corporate boundaries currently encompass an estimated 1,752 square miles.

“Ketchikan Charter Commission” see “KCC.”

“LBC” means the Alaska Local Boundary Commission.

Local Boundary Commission is the independent commission established under Alaska’s Constitution (article X, section 12) to render judgments regarding proposals municipal consolidation, merger, incorporation, dissolution, detachment, annexation, and city reclassification. . The LBC is one of only five boards of the State of Alaska with constitutional origins. It is an autonomous commission. The Governor appoints members of the LBC for five-year overlapping terms. Notwithstanding the

prescribed length of their terms, LBC members serve at the pleasure of the Governor (AS 39.05.060(d)). The LBC is comprised of five members. One member is appointed from each of Alaska's four judicial districts. The fifth member is appointed from the state at large and serves as Chair. State law provides that LBC members must be appointed "on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership" (AS 39.05.060). LBC members receive no pay for their service. Further information concerning the LBC is provided in Appendix A to this report.

"Merger" means dissolution of a municipality and its absorption by another municipality (AS 29.71.800(12)).

"Model borough boundaries" means those boundaries set out in the Commission's publication *Model Borough Boundaries*, revised as of June 1997 and adopted by reference (3 AAC 110.990(9)).

"Municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality (AS 29.71.800(13)).

"Nonareawide" means that portion of a borough outside the corporate boundaries of city governments (AS 29.71.800(14)).

"Petition" means the *Petition for Consolidation of the Ketchikan Gateway Borough and the City of Ketchikan to the Municipality of Ketchikan, A Home Rule Borough*, filed with the LBC on September 30, 2004.

"Petitioner" means the KCC, which prepared and filed the Petition on behalf of the KGB in accordance with the initiative approved by the voters in October 2003.

"Respondent" means the City of Ketchikan, which became a respondent by filing *The City of Ketchikan's Responsive Brief* with the LBC on December 23, 2004.

"Service Area" is a portion of a borough designated for the provision of services not provided by a borough on an areawide or nonareawide basis in the borough or a higher or different level of services than that provided on an areawide or nonareawide basis. Service areas may be established, operated, altered, or abolished by ordinance, subject to AS 29.35.450. A service area is not a legal entity.

"Unification" means the uniting of a borough and all cities in the borough to form a single unit of home rule government by complying with AS 29.06.190 - 29.06.410.

Appendix A

Background

Local Boundary Commission

Constitutional Foundation of the Commission

The framers of Alaska’s Constitution adopted the principle that, “unless a grave need existed, no agency, department, commission, or other body should be specified in the constitution.”¹ The framers recognized that a “grave need” existed when it came to the establishment and alteration of municipal governments by providing for the creation of the Local Boundary Commission (LBC or Commission) in Article X, Section 12 of the Constitution.² The LBC is one of only five State boards or commissions established in the Constitution, among a current total of approximately 120 active boards and commissions.³

The Alaska Supreme Court characterized the framers’ purpose in creating the LBC as follows:

An examination of the relevant minutes of [the Local Government Committee of the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper

¹ Victor Fischer, *Alaska’s Constitutional Convention*, p. 124.

² Article X, section 12 states, “A local boundary commission or board shall be established by law in the executive branch of 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. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.”

³ The other four are the Commission on Judicial Conduct, the Judicial Council, the University of Alaska Board of Regents, and the (legislative) Redistricting Board.

boundaries and that boundaries should be established at the state level. The advantage of the method proposed, in the words of the committee: " . . . lies in placing the process at a level where area-wide or state-wide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively."

Fairview Public Utility District No. 1 v. City of Anchorage, 368 P.2d 540, 543 (Alaska 1962).

Duties and Functions of the LBC

The LBC acts on proposals for seven different municipal boundary changes.

These are:

- incorporation of municipalities;⁴
- reclassification of city governments;
- annexation to municipalities;
- dissolution of municipalities;
- detachment from municipalities;
- merger of municipalities; and
- consolidation of municipalities.



Local participation at a LBC hearing.

In addition to the above, the LBC has a continuing obligation under statutory law to:

- make studies of local government boundary problems;
- adopt regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution; and

⁴ The term "municipalities" includes both city governments and borough governments.

- make recommendations to the Legislature concerning boundary changes under article X, section 12 of Alaska’s Constitution.

Further, the LBC is routinely assigned duties by the Legislature. For example, in February 2003, the LBC produced the 216-page report entitled *Unorganized Areas of Alaska That Meet Borough Incorporation Standards*. That report was prepared in response to the directive in Section 3 Chapter 53 SLA 2002. In February 2004, the LBC and Department of Education and Early Development published a 330-page joint report entitled *School Consolidation: Public Policy Considerations and a Review of Opportunities for Consolidation*. That report was prepared in response to the duty assigned in Section 1 Chapter 83 SLA 2003. The 2004 Legislature called for “a Local Boundary Commission project to consider options for forming a separate local government, independent of the Municipality of Anchorage, for the community of Eagle River” (Section 48 Chapter 159 SLA 2004).

LBC Decisions Must Have a Reasonable Basis and Must Be Arrived at Properly

LBC decisions regarding petitions that come before it must have a reasonable basis. That is, both the LBC’s interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must have a rational foundation.⁵

The LBC must, of course, proceed within its jurisdiction; conduct a fair hearing; and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law or if its decision is not supported by the evidence.

⁵ See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if it has a reasonable basis; *Lake and Peninsula Borough v. Local Boundary Commission*, 885 P.2d 1059, 1062 (Alaska 1994); *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92, 97-8 (Alaska 1974). Where an agency action involves formulation of a fundamental policy the appropriate standard on review is whether the agency action has a reasonable basis; LBC exercises delegated legislative authority to reach basic policy decisions; acceptance of the incorporation petition should be affirmed if the court perceives in the record a reasonable basis of support for the LBC’s reading of the standards and its evaluation of the evidence; *Rose v. Commercial Fisheries Entry Comm’n*, 647 P.2d 154, 161 (Alaska 1982) (review of agency’s exercise of its discretionary authority is made under the reasonable basis standard) cited in *Stosh’s I/M v. Fairbanks North Star Borough*, 12 P.3d 1180, 1183 nn. 7 and 8 (Alaska 2000); see also *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 175-76 (Alaska 1986).

Limitations on Direct Communications with the LBC

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 bound-

ary 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. The LBC Staff may be contacted at the following address, telephone number, facsimile number, or e-mail address:

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 LBC conducting a 2005 public hearing.

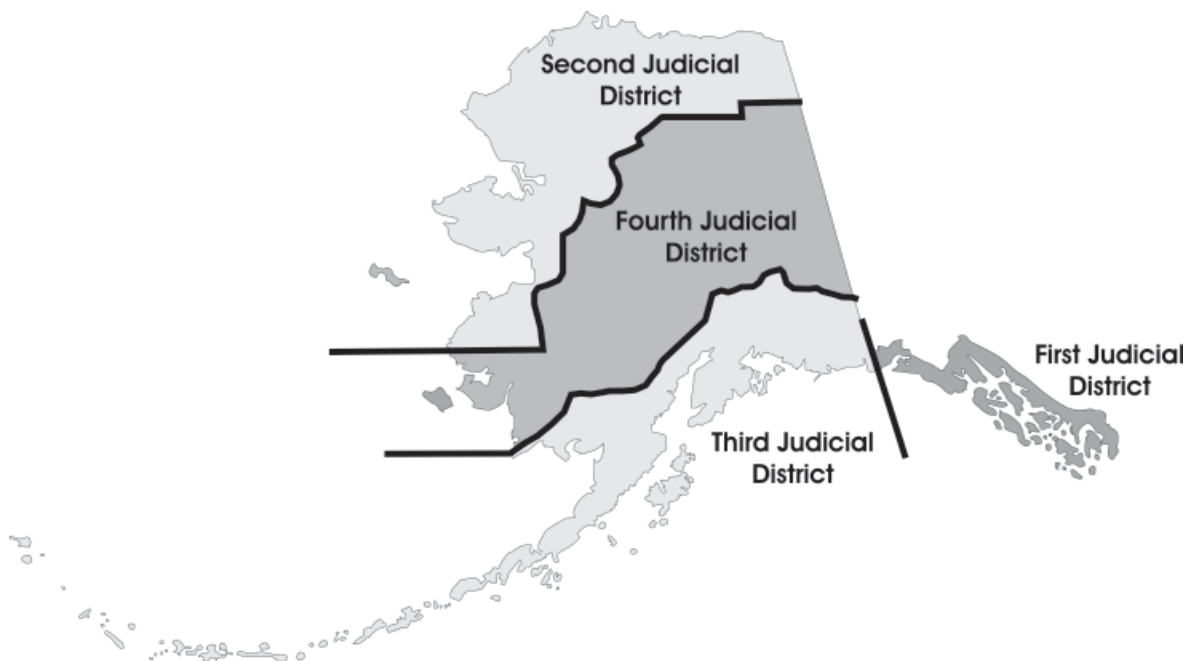
LBC Membership

The LBC is an autonomous commission. The Governor appoints members of the LBC for five-year overlapping terms (AS 44.33.810). Notwithstanding the prescribed length of their terms, however, members of the LBC serve at the pleasure of the Governor (AS 39.05.060(d)).

The LBC is comprised of five members. One member is appointed from each of Alaska's four judicial districts. The fifth member is appointed from the state at-large and serves as Chair of the LBC.

State law provides that LBC members must be appointed "on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership." (AS 39.05.060.)

LBC members receive no pay for their service. However, they are entitled to reimbursement of travel expenses and per diem authorized for members of boards and commissions under AS 39.20.180.



The following is a biographical summary of the current members of the LBC.



Darroll Hargraves, Chair, At-Large Appointment. Governor Murkowski appointed Darroll Hargraves of Wasilla 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.

Staff to the Commission

The Alaska Department of Commerce, Community, and Economic Development (Commerce), Division of Community Advocacy (DCA) provides staff to the Commission.

Constitutional Origin of the Local Government Agency



As noted in the preceding discussion regarding the background of the LBC, the framers of Alaska's Constitution followed a principle that no specific agency, department, board, or commission would be named in the Constitution "unless a grave need existed." In addition to the previously noted five boards and commissions named in the Constitution, the framers provided for only one State agency or department - the local government agency mandated by article X, section 14 to advise and assist local governments.⁶ It is worth noting that of the six boards, commissions, and agencies mandated by Alaska's Constitution, two deal with the judicial branch, one deals with the legislative branch, one deals with the University of Alaska, and the remaining two - the LBC and the local government agency - deal with local governments. The constitutional standing granted to the LBC and the local government agency reflects the framers' strong conviction that successful implementation of the local government principles laid out in the Constitution was dependent, in large part, upon those two entities.

The framers recognized that deviation from the constitutional framework for local government would have significant detrimental impacts upon the constitutional policy of maximum local self-government. Further, they recognized that the failure to properly implement the constitutional principles would result in disorder and inefficiency in terms of local service delivery.

The duty to serve as the constitutional local government agency is presently delegated to the Department of Commerce, Community, and Economic Development.⁷

Commerce Serves as Staff to the LBC

Within the Department, the Division of Community Advocacy carries out the duty to advise and assist local governments. Commerce also serves as staff to the LBC pursuant to AS 44.47.050(a)(2). The LBC Staff component is part of the Division of Community Advocacy.

⁶ Article X, section 14 states, "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law."

⁷ AS 44.33.020 provides that the Department "shall (1) advise and assist local governments."

Commerce is required by AS 29.05.080 and 3 AAC 110.530 to investigate each municipal incorporation proposal and to make recommendations regarding such to the LBC. As previously noted, LBC decisions must have a reasonable basis (i.e., a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding). Accordingly, Commerce adopts the same standard for itself in developing recommendations regarding matters pending before the LBC. That is, the LBC Staff is committed to developing its recommendations to the LBC based on a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding. The LBC Staff takes the view that due process is best served by providing the LBC with a thorough, credible, and objective analysis of every municipal boundary proposal.

Commerce's Commissioner, Deputy Commissioners, and the Director of DCA provide policy direction concerning recommendations to the LBC.

The recommendations of the LBC Staff are not binding on the LBC. As noted previously, the LBC is an autonomous commission. While the Commission is not obligated to follow the recommendations of the LBC Staff, it has, nonetheless, historically considered Commerce's analyses and recommendations to be critical components of the evidence in municipal boundary proceedings. Of course, the LBC considers the entire record when it renders a decision.

The LBC Staff also delivers technical assistance to municipalities, residents of areas subject to impacts from existing or potential petitions for creation or alteration of municipal governments, petitioners, respondents, agencies, and others.

Types of assistance provided by the LBC Staff include:

- conducting feasibility and policy analysis of proposals for incorporation or alteration of municipalities;
- responding to legislative and other governmental inquiries relating to issues on municipal government;
- conducting informational meetings;
- providing technical support during Commission hearings and other meetings;



LBC Staff providing information to local residents and officials regarding local government options for their area.

- drafting decisional statements of the LBC;
- implementing decisions of the LBC;
- certifying municipal boundary changes;
- maintaining incorporation and boundary records for each of Alaska's 162 municipal governments;
- coordinating, scheduling, and overseeing public meetings and hearings for the LBC;
- developing orientation materials and providing training for new LBC members;
- maintaining and preserving LBC records in accordance with the public records laws of the State; and
- developing and updating forms and related materials for use in municipal incorporation, alteration, or dissolution.

Appendix B

Comparisons of Sales, Property, and Transient Occupancy Tax Levies

- B-1 Existing Sales Tax Levies by the City, KGB, and City of Saxman**
- B-2 Proposed Sales Tax Levies by the Consolidated Borough and City of Saxman**
- B-3 Existing Property Tax Levies by the City, KGB (areawide and nonareawide only), and City of Saxman**
- B-4 Projected Property Tax Levies by the Consolidated Borough (areawide, nonareawide, and Gateway Service Area only) and City of Saxman**
- B-5 Existing Transient Occupancy Tax Levies by the City, KGB, and City of Saxman**
- B-6 Proposed Transient Occupancy Tax Levies by the Consolidated Borough and City of Saxman**
- B-7 Comparison of Tax Changes Projected in 1993 Study, City's 2000 Consolidation Proposal, and KCC's Amended Proposal**

Table B-1
Existing Sales Tax Levies by the City, KGB, and City of Saxman

Municipality Levying Sales Tax	Levies Within the City of Ketchikan	Levies Within the City of Saxman	Levies Within Remainder of KGB
City (for public works)	1.5%		
City (for public safety)	1.0%		
City (for Hospital)	1.0%		
KGB (for general government)	1.5%	1.5%	1.5%
KGB (for recreation)	0.5%	0.5%	0.5%
KGB (for school bonds)	0.5%	0.5%	0.5%
City of Saxman		3.5%	
Totals	6.0%	6.0%	2.5%

Table B-2
Proposed Sales Tax Levies
by the Consolidated Borough and City of Saxman
(Changes to existing rates and structure emphasized by bold type)

Municipality Levying Sales Tax	Levies Within Gateway Service Area	Levies Within City of Saxman	Levies Within Remainder of the Borough
Borough (for public works in the Gateway Service Area)	1.5%		
Borough (for public safety in the Gateway Service Area)	1.0%		
Borough (areawide for hospital)	1.0%	1.0%	1.0%
Borough (for general government)	1.5%	1.5%	1.5%
Borough (for recreation)	0.5%	0.5%	0.5%
Borough (for school bonds)	0.5%	0.5%	0.5%
City of Saxman		3.5%	
Totals	6.0%	7.0%	3.5%

Table B-3 Existing Property Tax Levies by the City, KGB (areawide and nonareawide only), and City of Saxman			
Municipality Levying Property Tax	Area Within City	Area Within City of Saxman	Area Within Remainder of KGB
City	6.4 mills		
KGB areawide levy	7.5 mills	7.5 mills	7.5 mills
KGB nonareawide levy			0.9 mills
City of Saxman		0.0 mills	
Totals	13.9 mills	7.5 mills	8.4 mills

Table B-4 Projected Property Tax Levies by the Consolidated Borough (areawide, nonareawide, and Gateway Service Area only) and City of Saxman (Changes to existing rates and structure emphasized by bold type)			
Municipality Levying Property Tax	Gateway Service Area	Area Within City of Saxman	Area Within Remainder of the Borough
Borough in Gateway Service Area	5.5 mills		
Borough areawide levy	10.4 mills	10.4 mills	10.4 mills
Borough nonareawide levy	0.0 mills		0.0 mills
City of Saxman		0.0 mills	
Total	15.9 mills	10.4 mills	10.4 mills
Note: The anticipated changes above reflect a 2 mill increase in property taxes in the Gateway Service Area and the nonareawide portion of the consolidated borough. That increase was proposed largely, if not exclusively, to fund projected cost increases relating to the public employees' retirement system, general insurance, public employee health insurance, and workers' compensation insurance. Commerce discounts consideration of any projected increase in property taxes due to matters unrelated to consolidation.			

Table B-5 Existing Transient Occupancy Tax Levies by the City, KGB, and City of Saxman			
Municipality Levying Transient Occupancy Tax	Area Within City	Area Within City of Saxman	Area Within Remainder of KGB
City	7.0%		
KGB	0.0%	4.0%	4.0%
City of Saxman		0.0%	
Totals	7.0%	7.0%	7.0%

Table B-6 Proposed Transient Occupancy Tax Levies by the Consolidated Borough and City of Saxman (Changes to existing rates and structure emphasized by bold type)			
Municipality Levying Transient Occupancy Tax	Gateway Service Area	Area Within the City of Saxman	Area Within the Remainder of the Borough
Borough	7.0%	7.0%	7.0%
City of Saxman		0.0%	
Totals	7.0%	7.0%	7.0%

Table B-7
Comparison of Tax Changes Projected in
1993 Study, City's 2000 Consolidation Proposal, and KCC's Amended Proposal

Tax	1993 Study	City's 2000 Petition	KCC's Amended Petition
Areawide property tax		+1.5 mills	+2.9 mills
Nonareawide property tax	NA	-0.93 mills	-0.9 mills
City of Ketchikan property tax	-3.2 mills	-3.6 mills	-0.9 mills
Greater Ketchikan EMS Service Area property tax	NA	+0.8 mills	NA
Areawide sales tax	NA	+1.0%	+1.0%
City of Ketchikan sales tax	NA	-1.0%	-1.0%
Transient occupancy tax outside the City of Ketchikan	NA	+2.0%	+3.

As stressed in Chapter 1 of the Preliminary Report, circumstances that significantly affect fiscal operations of Ketchikan local governments **but are not related to consolidation** have changed over time. Thus, comparisons among the 1993 study, 2000 petition, and 2005 Amended Petition are difficult. For example, in 2000, the Alaska Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) were fully funded. In 2005, however, PERS and TRS had unfunded liabilities totaling \$6.942 billion. As a result, costs to Ketchikan local governments for retirement benefits are markedly greater today than they were in 2000. Insurance costs have also increased significantly. In order to balance its budget to reflect greater costs for retirement benefits and insurance, the KCC increased the projected areawide property tax levy by 2 mills and re-instituted fund transfers as a subsidy to the General Fund (see Reply Brief, p. 13). If those costs were not reflected in the KCC proposal, the projected 2.9 mill increase in the areawide levy would have been only 0.9 mills (a change equal to the figure projected in the 1993 study).

Commerce notes further that the City's 2000 consolidation proposal provided for a balanced budget, whereas the budgets of the City and KGB were not balanced at the time. Exhibit F-3 of the 2000 petition stated, for example, that the combined City/KGB property tax in the City at the time was 13.9 mills, but a balanced budget would have required a levy of 16.4 mills. Under consolidation, a levy of 12.6 mills would have balanced the budget and still reduced the rate by 1.3 mills (3.8 mills less than the 16.4 mill balanced budget figure for the existing governments). In the City of Saxman, the property tax in effect at the time was 7.5 mills (an 8.6 mill levy would have been required for a balanced budget). The post-consolidation rate was projected to be 9.8 mills. That would have represented an increase of 2.3 mills in the levy within the City of Saxman (or 1.2 mills under an existing balanced budget scenario). The City's 2000 petition also proposed creating a new service area (Greater Ketchikan EMS Service Area) encompassing what was then the City of Ketchikan (including the former Shoreline Service Area), South Tongass Fire Department Service Area, City of Saxman and certain adjoining territory.

Sources for 1993 and 2000 projections listed in Table B-7: 1993 study, p. 75; City's 2000 petition, pp. 4, 62, 83, 137, and Exhibit F-3.

Appendix C

Standards Applicable to the Ketchikan Consolidation Proposal

Applicable Standards Under the Constitution of the State of Alaska

Article X, Section 1. Purpose and Construction. The purpose of this article is to provide for maximum local self-government with a minimum of local government units, and to prevent duplication of tax-levying jurisdictions. A liberal construction shall be given to the powers of local government units.

. . . .

Article X, Section 3. Boroughs. The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Applicable Standards Under the Alaska Statutes¹

AS 29.06.130(a). Decision. The Local Boundary Commission may amend the petition and may impose conditions for the merger or consolidation. If the commission determines that the merger or consolidation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, the municipality after the merger or consolidation would meet the standards for incorporation under AS 29.05.011 or 29.05.031, and the merger or consolidation is in the best interests of the state, it may accept the petition. Otherwise, it shall reject the petition.

. . . .

¹ Because the pending consolidation proposal provides for the consolidation of a city government and a borough government wherein the existing city government would be dissolved, the standards for borough incorporation under AS 29.05.031(a) apply.

AS 29.05.031. Incorporation of a borough or unified municipality. (a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

Applicable Standards Under the Regulations²

3 AAC 110.240. Standards. (a) Two or more municipalities may consolidate to form a new municipality if the new municipality meets the standards for incorporation of

(1) cities, as set out in AS 29.05 and 3 AAC 110.005 - 3 AAC 110.042; or

(2) boroughs, as set out in the Constitution of the State of Alaska, AS 29.05, and 3 AAC 110.045 - 3 AAC 110.065.

(b) Separate proceedings are not required for dissolution of the consolidating municipalities. Dissolution occurs automatically at the time of consolidation.

3 AAC 110.250. Local option. Municipalities that meet the consolidation standards required under 3 AAC 110.240, and are approved by the commission for local option consolidation, may consolidate if the petition for consolidation was submitted by

² Because the pending consolidation proposal provides for the consolidation of a city government and a borough government in which the existing city government would be dissolved, the applicable standards include those for borough incorporation under 3 AAC 110.045 - 3 AAC 110.065.

the number of voters required under AS 29.06.100 (a), and if a majority of the voters in the proposed new municipality vote in favor of the consolidation in a subsequent election. The election shall be held in accordance with AS 29.06.140.

. . . .

3 AAC 110.045. Community of interests. (a) The social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. In this regard, the commission may consider relevant factors, including the

- (1) compatibility of urban and rural areas within the proposed borough;
- (2) compatibility of economic lifestyles, and industrial or commercial activities;
- (3) existence throughout the proposed borough of customary and simple transportation and communication patterns; and
- (4) extent and accommodation of spoken language differences throughout the proposed borough.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission may consider relevant factors, including

- (1) transportation schedules and costs;
- (2) geographical and climatic impediments;
- (3) telephonic and teleconferencing facilities; and
- (4) electronic media for use by the public.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications.

3 AAC 110.050. Population. (a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government. In this regard, the commission may consider relevant factors, including

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

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough.

3 AAC 110.055. Resources. The economy of a proposed borough must include the human and financial resources necessary to provide essential borough services on an efficient, cost-effective level. In this regard, the commission

- (1) will consider
 - (A) the reasonably anticipated functions of the proposed borough;
 - (B) the reasonably anticipated expenses of the proposed borough;
 - (C) the ability of the proposed borough to generate and collect local revenue, and the reasonably anticipated income of the proposed borough;
 - (D) the feasibility and plausibility of the anticipated operating and capital budgets through the third full fiscal year of operation;
 - (E) the economic base of the proposed borough;
 - (F) property valuations for the proposed borough;
 - (G) land use for the proposed borough;
 - (H) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and
 - (I) personal income of residents of the proposed borough; and
- (2) may consider other relevant factors, including

(A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough; and

(B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

3 AAC 110.060. Boundaries. (a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including

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

(b) Absent a specific and persuasive showing to the contrary, the commission will not approve a proposed borough with boundaries extending beyond any model borough boundaries.

(c) The proposed borough boundaries must conform to existing regional educational attendance area boundaries unless the commission determines, after consultation with the commissioner of education and early development, that a territory of different size is better suited to the public interest in a full balance of the standards for incorporation of a borough.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is non-contiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential borough services on an efficient, cost-effective level.

(e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping region from the existing organized borough. The commission will consider and treat that petition for incorporation as also being a detachment petition.

3 AAC 110.065. Best interests of state. In determining whether incorporation of a borough is in the best interests of the state under AS 29.05.100(a), the commission may consider relevant factors, including whether incorporation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units;
- (3) will relieve the state government of the responsibility of providing local services; and
- (4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution.

. . . .

3 AAC 110.900. Transition. (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 effect 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.

3 AAC 110.910. Statement of non-discrimination. 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.

3 AAC 110.920. Determination of community. (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.

3 AAC 110.970. Determination of essential city or borough services. (a) If a provision of this chapter provides for the identification of essential borough 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 territory; 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.

(b) The commission may determine essential borough services to include

(1) assessing and collecting taxes;

(2) providing primary and secondary education;

(3) planning, platting, and land use regulation; and

(4) other services that the commission considers reasonably necessary to meet the borough governmental needs of the territory.

(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.

3 AAC 110.980. Determination of best interests of the state. 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.

Applicable Provisions Under the Federal Voting Rights Act

Federal law (42 U.S.C. § 1973) subjects municipal consolidations in Alaska to review under the federal Voting Rights Act. This federal requirement ensures that changes in voting rights, practices, and procedures (including those brought about by consolidation) will not result in “*a denial or abridgement of the right of any citizen of the United States to vote on account of race or color*” or because a citizen is a “*member of a language minority group.*” (42 U.S.C. § 1973)

The aspects of the federal Voting Rights Act applicable to the pending consolidation are set out in regulations of the U.S. Department of Justice at 28 C.F.R. Part 51 Subpart F. These include the following:

§ 51.52 Basic standard.

(a) *Surrogate for the court.* Section 5 provides for submission of a voting change to the Attorney General as an alternative to the seeking of a declaratory judgment from the U.S. District Court for the District of Columbia. Therefore, the Attorney General shall make the same determination that would be made by the court in an action for a declaratory judgment under section 5: Whether the submitted change has the purpose or will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. The burden of proof is on a submitting authority when it submits a change to the Attorney

General for preclearance, as it would be if the proposed change were the subject of a declaratory judgment action in the U.S. District Court for the District of Columbia. See *South Carolina v. Katzenbach*, 383 U.S. 301, 328, 335 (1966).

(b) *No objection*. If the Attorney General determines that the submitted change does not have the prohibited purpose or effect, no objection shall be interposed to the change.

(c) *Objection*. An objection shall be interposed to a submitted change if the Attorney General is unable to determine that the change is free of discriminatory purpose and effect. This includes those situations where the evidence as to the purpose or effect of the change is conflicting and the Attorney General is unable to determine that the change is free of discriminatory purpose and effect.

§ 51.53 Information considered.

The Attorney General shall base a determination on a review of material presented by the submitting authority, relevant information provided by individuals or groups, and the results of any investigation conducted by the Department of Justice.

§ 51.54 Discriminatory effect.

(a) *Retrogression*. A change affecting voting is considered to have a discriminatory effect under Section 5 if it will lead to a retrogression in the position of members of a racial or language minority group (i.e., will make members of such a group worse off than they had been before the change) with respect to their opportunity to exercise the electoral franchise effectively. See *Beer v. United States*, 425 U.S. 130, 140-42 (1976).

(b) *Benchmark*. (1) In determining whether a submitted change is retrogressive the Attorney General will normally compare the submitted change to the voting practice or procedure in effect at the time of the submission. If the existing practice or procedure upon submission was not in effect on the jurisdiction's applicable date for coverage (specified in the Appendix) and is not otherwise legally enforceable under section 5, it cannot serve as a benchmark, and, except as provided in subparagraph (b)(4) of this section, the comparison shall be with the last legally enforceable practice or procedure used by the jurisdiction.

(2) The Attorney General will make the comparison based on the conditions existing at the time of the submission.

(3) The implementation and use of an unprecleared voting change subject to section 5 review under § 51.18(a) does not operate to make that unprecleared change a benchmark for any subsequent change submitted by the jurisdiction. See § 51.18(c).

(4) Where at the time of submission of a change for section 5 review there exists no other lawful practice or procedure for use as a benchmark (e.g., where a newly incorporated college district selects a method of election) the Attorney General's preclearance determination will necessarily center on whether the submitted change was designed or adopted for the purpose of discriminating against members of racial or language minority groups.

§ 51.55 Consistency with constitutional and statutory requirements.

(a) *Consideration in general.* In making a determination the Attorney General will consider whether the change is free of discriminatory purpose and retrogressive effect in light of, and with particular attention being given to, the requirements of the 14th, 15th, and 24th amendments to the Constitution, 42 U.S.C. 1971(a) and (b), sections 2, 4(a), 4(f)(2), 4(f)(4), 201, 203(c), and 208 of the Act, and other constitutional and statutory provisions designed to safeguard the right to vote from denial or abridgment on account of race, color, or membership in a language minority group.

(b) *Section 2.* Preclearance under section 5 of a voting change will not preclude any legal action under section 2 by the Attorney General if implementation of the change demonstrates that such action is appropriate.

§ 51.56 Guidance from the courts.

In making determinations the Attorney General will be guided by the relevant decisions of the Supreme Court of the United States and of other Federal courts.

§ 51.57 Relevant factors.

Among the factors the Attorney General will consider in making determinations with respect to the submitted changes affecting voting are the following:

(a) The extent to which a reasonable and legitimate justification for the change exists.

(b) The extent to which the jurisdiction followed objective guidelines and fair and conventional procedures in adopting the change.

(c) The extent to which the jurisdiction afforded members of racial and language minority groups an opportunity to participate in the decision to make the change.

(d) The extent to which the jurisdiction took the concerns of members of racial and language minority groups into account in making the change.

§ 51.58 Representation.

(a) *Introduction.* This section and the sections that follow set forth factors--in addition to those set forth above--that the Attorney General considers in reviewing re-districtings (see § 51.59), changes in electoral systems (see § 51.60), and annexations (see § 51.61).

(b) *Background factors.* In making determinations with respect to these changes involving voting practices and procedures, the Attorney General will consider as important background information the following factors:

(1) The extent to which minorities have been denied an equal opportunity to participate meaningfully in the political process in the jurisdiction.

(2) The extent to which minorities have been denied an equal opportunity to influence elections and the decisionmaking of elected officials in the jurisdiction.

(3) The extent to which voting in the jurisdiction is racially polarized and political activities are racially segregated.

(4) The extent to which the voter registration and election participation of minority voters have been adversely affected by present or past discrimination.

§ 51.59 Redistrictings.

In determining whether a submitted redistricting plan has the prohibited purpose or effect the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(a) The extent to which malapportioned districts deny or abridge the right to vote of minority citizens.

(b) The extent to which minority voting strength is reduced by the proposed redistricting.

(c) The extent to which minority concentrations are fragmented among different districts.

(d) The extent to which minorities are overconcentrated in one or more districts.

(e) The extent to which available alternative plans satisfying the jurisdiction's legitimate governmental interests were considered.

(f) The extent to which the plan departs from objective redistricting criteria set by the submitting jurisdiction, ignores other relevant factors such as compactness and contiguity, or displays a configuration that inexplicably disregards available natural or artificial boundaries.

(g) The extent to which the plan is inconsistent with the jurisdiction's stated redistricting standards.

§ 51.60 Changes in electoral systems.

In making determinations with respect to changes in electoral systems (e.g., changes to or from the use of at-large elections, changes in the size of elected bodies) the Attorney General, in addition to the factors described above, will consider the following factors (among others):

(a) The extent to which minority voting strength is reduced by the proposed change.

(b) The extent to which minority concentrations are submerged into larger electoral units.

(c) The extent to which available alternative systems satisfying the jurisdiction's legitimate governmental interests were considered.

Appendix D

Petition Exhibit F-1

Three Year Annual Budget

Municipality of Ketchikan, Alaska

Three Year Annual Budget

Exhibit F-1

PERS Adjusted

Page 1 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
General Fund			
Revenues			
Taxes			
Real and business property taxes	10,371,431	10,475,146	10,579,897
Senior citizen local contribution	(503,294)	(513,359)	(523,627)
Sales taxes	5,154,182	5,308,808	5,468,072
All other taxes	(282,341)	(287,988)	(293,748)
Penalties and interest	129,298	130,591	131,897
Total taxes	14,869,276	15,113,196	15,362,491
Payment in lieu of taxes	1,408,806	1,436,982	1,465,721
Licenses and permits	2,549	2,600	2,652
Intergovernmental revenues	731,347	731,347	731,347
Charges for services	1,866,234	1,903,559	1,941,630
Fines and forfeitures	59,166	59,757	60,355
Interdepartmental revenues	1,900,419	1,938,427	1,977,196
Other revenues	199,341	203,327	207,394
Total revenues	21,037,137	21,389,196	21,748,786
Expenditures			
Mayor and assembly	527,732	549,369	560,356
Municipal attorney	518,147	539,391	550,179
Municipal clerk	336,552	350,351	357,358
Manager	1,006,039	1,047,286	1,068,232
Planning and zoning	632,092	658,007	671,168
Finance	2,824,852	2,940,671	2,999,484
Assessment & Risk Mgmt	510,360	531,284	541,910
911 emergency dispatch	606,861	631,743	644,378
Animal protection	306,890	319,472	325,862
Library	761,127	792,333	808,180
Museum	791,150	823,587	840,059
Civic Center	311,675	324,454	330,943
Recreation	1,316,750	1,370,737	1,398,152
Public health	85,394	88,895	90,673
Public works - cemetery	68,922	71,748	73,183
Public works - maintenance and operations	1,279,285	1,331,736	1,358,371
Public works - buildings	195,832	203,861	207,939
Transit	564,276	587,411	599,159
Education	8,399,788	8,744,179	8,919,063
Grants	110,415	110,415	110,415
Non-departmental, Interfund & Automation	140,538	146,300	149,226
Capital Projects, Non City Svc	630,359	630,359	630,359
Total expenditures	21,925,036	22,793,591	23,234,647
Excess (deficiency) of revenues over (under) expenditures	(887,899)	(1,404,395)	(1,485,861)
Transfers from other funds	1,524,186	1,554,670	1,585,763
Transfers to other funds	(130,050)	(132,651)	(135,304)
Net transfers (to) from other funds	1,394,136	1,422,019	1,450,459
General Fund Surplus	506,237	17,624	(35,402)

Municipality of Ketchikan, Alaska

Three Year Annual Budget

Exhibit F-1

PERS Adjusted

Page 2 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Gateway Service Area (Former City of Ketchikan)			
Revenues			
Taxes			
Real and business property taxes	3,089,416	3,120,310	3,151,513
Senior citizen local contribution	(273,625)	(279,098)	(284,680)
Sales taxes, PS 1.0%	2,365,807	2,436,781	2,509,885
Sales taxes, PW 1.5%	3,578,416	3,685,768	3,796,341
Penalties and Interest	49,985	50,485	50,990
Total taxes	8,809,998	9,014,246	9,224,049
Payments in Lieu of Taxes (PILT)	782,381	798,028	813,989
Licenses and permits	41,616	42,448	43,297
Charges for services	322,524	328,974	335,554
Solid Waste Collection	840,562	848,968	857,458
Fines and forfeitures	117,312	118,485	119,669
Other revenues	67,626	68,978	70,358
Total revenues	10,982,018	11,220,128	11,464,374
Operating Expenditures			
Fire	1,949,759	2,029,699	2,070,293
Police	3,478,676	3,621,302	3,693,728
Public works - engineering	849,668	884,504	902,194
Public works - streets	1,304,276	1,357,752	1,384,907
Public works - garage	454,314	472,941	482,399
Public works - buildings	65,277	67,954	69,313
Public works - solid waste collection	718,069	747,510	762,460
Capital Expenditures			
Fire	147,000	147,000	147,000
Police	29,950	29,950	29,950
Engineering	38,000	38,000	38,000
Streets	767,000	767,000	767,000
Building Maintenance	35,620	35,620	35,620
Total expenditures	9,837,609	10,199,231	10,382,864
Gateway Service Area Surplus	1,144,409	1,020,897	1,081,510

Municipality of Ketchikan, Alaska Three Year Annual Budget Exhibit F-1

PERS Adjusted

Page 3 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Hospital Sales Tax Fund			
Revenues			
Taxes			
Sales taxes	2,589,832	2,667,527	2,747,553
Other revenues	15,302	15,455	15,609
Total revenues	2,605,134	2,682,981	2,763,162
Expenditures			
Public Health			
Total expenditures	-	-	-
Excess (deficiency) of revenues over (under) expenditures	2,605,134	2,682,981	2,763,162
Transfers from other funds			
Transfers to other funds	(2,663,424)	(2,716,692)	(2,771,026)
Net transfers (to) from other funds	(2,663,424)	(2,716,692)	(2,771,026)
Hospital Sales Tax Fund Surplus	(58,290)	(33,711)	(7,865)
Transient Occupancy Tax Fund			
Revenues			
Taxes			
Transient occupancy	380,688	392,109	403,872
Total revenues	380,688	392,109	403,872
Expenditures			
Administration	268,158	273,521	278,991
Total expenditures	268,158	273,521	278,991
Excess (deficiency) of revenues over (under) expenditures	112,530	118,588	124,880
Transfers from other funds			
Transfers to other funds	(114,444)	(116,733)	(119,068)
Net transfers (to) from other funds	(114,444)	(116,733)	(119,068)
Transient Occupancy Tax Fund Surplus	(1,914)	1,855	5,813

Municipality of Ketchikan, Alaska
Three Year Annual Budget
Exhibit F-1

PERS Adjusted

Page 4 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Recreation Sales Tax Fund			
Revenues			
Taxes			
Sales taxes	1,034,086	1,065,108	1,097,062
Total revenues	1,034,086	1,065,108	1,097,062
Expenditures			
Recreation	1,089,914	1,111,712	1,133,946
Total expenditures	1,089,914	1,111,712	1,133,946
Excess (deficiency) of revenues over (under) expenditures	(55,828)	(46,604)	(36,885)
Transfers from other funds	-	-	-
Transfers to other funds			
Net transfers (to) from other funds	0	0	0
Recreation Sales Tax Fund Surplus	(55,828)	(46,604)	(36,885)
Solid Waste Services Fund			
Revenues			
Charges for services - Disposal	1,781,165	1,816,788	1,853,124
Other revenues	31,212	31,836	32,473
Total revenues	1,812,377	1,848,624	1,885,597
Expenditures			
Public works - solid waste Disposal	1,711,321	1,745,547	1,780,458
Capital Expenditures	143,000	143,000	143,000
Total expenditures	1,854,321	1,888,547	1,923,458
Solid Waste Services Surplus	(41,944)	(39,923)	(37,861)
Wastewater Services Fund			
Revenues			
Charges for services	2,622,014	2,674,454	2,727,943
Other revenues	15,606	15,918	16,236
Total revenues	2,637,620	2,690,372	2,744,180
Expenditures			
Public works - wastewater	2,134,796	2,222,322	2,266,769
Capital Expenditures	610,250	610,250	610,250
Total expenditures	2,745,046	2,832,572	2,877,019
Wastewater Services Fund Surplus	(107,426)	(142,200)	(132,839)

Municipality of Ketchikan, Alaska Three Year Annual Budget Exhibit F-1

PERS Adjusted

Page 5 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
GSA Economic & Parking Development Fund			
Revenues			
Other revenues	1,200	1,200	1,200
Total revenues	1,200	1,200	1,200
Expenditures	-	-	-
Total expenditures	-	-	-
Econ & Parking Develop Fund Surplus	1,200	1,200	1,200
Areawide Economic Development Fund			
Revenues			
Other revenues	571,500	571,500	571,500
Total revenues	571,500	571,500	571,500
Expenditures	-	-	-
Total expenditures	-	-	-
Areawide Economic Development Fund	571,500	571,500	571,500
Ketchikan Boat Harbor Fund			
Revenues			
Intergovernmental revenues	15,000	15,000	15,000
Charges for services	866,653	883,986	901,666
Fines & forfeitures	1,530	1,545	1,561
Interdepartmental revenues	3,745	3,820	3,897
Other revenues	2,081	2,122	2,165
Total revenues	889,010	906,474	924,289
Expenditures			
Harbors	865,840	883,156	900,820
Capital Expenditures	97,500	97,500	97,500
Total expenditures	963,340	980,656	998,320
Excess (deficiency) of revenues over (under) expenditures	(74,330)	(74,182)	(74,031)
Transfers from other funds	78,030	79,591	81,182
Transfers to other funds			
Net transfers (to) from other funds	78,030	79,591	81,182
Ketchikan Boat Harbor Fund Surplus	3,700	5,409	7,151

Municipality of Ketchikan, Alaska Three Year Annual Budget

Exhibit F-1

PERS Adjusted

Page 6 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Mental Health Fund			
Revenues			
Intergovernmental revenues	810,231	818,333	826,516
Charges for services	718,916	733,295	747,961
Other revenues	251,350	256,377	261,505
Total revenues	1,780,497	1,808,005	1,835,982
Expenditures			
Mental health	2,102,332	2,144,379	2,187,266
Total expenditures	2,102,332	2,144,379	2,187,266
Excess (deficiency) of revenues over (under) expenditures	(321,835)	(336,374)	(351,285)
Transfers from other funds	338,130	344,893	351,790
Transfers to other funds	-	-	-
Net transfers (to) from other funds	338,130	344,893	351,790
Mental Health Fund Surplus	16,295	8,519	506
Substance Abuse Fund			
Revenues			
Intergovernmental revenues	550,211	555,713	561,271
Charges for services	276,746	282,281	287,927
Other revenues	190,486	194,296	198,181
Total revenues	1,017,444	1,032,290	1,047,379
Expenditures			
Substance abuse	1,512,711	1,542,966	1,573,825
Total expenditures	1,512,711	1,542,966	1,573,825
Excess (deficiency) of revenues over (under) expenditures	(495,268)	(510,675)	(526,446)
Transfers from other funds	514,998	525,298	535,804
Transfers to other funds	-	-	-
Net transfers (to) from other funds	514,998	525,298	535,804
Substance Abuse Fund Surplus	19,730	14,623	9,358

Municipality of Ketchikan, Alaska
Three Year Annual Budget
Exhibit F-1

PERS Adjusted

Page 7 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Special Assessment Guarantee Fund			
Revenues			
Other revenues	2,550	2,576	2,602
Total revenues	2,550	2,576	2,602
Expenditures	-	-	-
Total expenditures	-	-	-
Special Assessment Guarantee Fund Surplus	2,550	2,576	2,602
US Marshall Property Seizure Fund			
Revenues			
Other revenues	125	125	125
Total revenues	125	125	125
Expenditures	-	-	-
Total expenditures	-	-	-
US Marshall Property Seizure Fund Surplus	125	125	125
State and Federal Grant Fund			
Revenues			
Intergovernmental	25,000	25,000	25,000
Total revenues	25,000	25,000	25,000
Expenditures			
Public health	25,000	25,000	25,000
Total expenditures	25,000	25,000	25,000
State and Federal Grant Fund Surplus	0	0	0
Cemetery O & M Fund			
Revenues			
Charges for services	7,500	7,500	7,500
Total revenues	7,500	7,500	7,500
Expenditures			
Public works - cemetery	-	-	-
Total expenditures	-	-	-
Excess (deficiency) of revenues over (under) expenditures	7,500	7,500	7,500
Transfers from other funds			
Transfers to other funds	(5,202)	(5,306)	(5,412)
Net transfers (to) from other funds	(5,202)	(5,306)	(5,412)
Cemetery O & M Fund Surplus	2,298	2,194	2,088

Municipality of Ketchikan, Alaska Three Year Annual Budget

Exhibit F-1

PERS Adjusted

Page 8 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Cemetery Development Fund			
Revenues			
Charges for services	15,000	15,000	15,000
Other revenues	1,900	1,900	1,900
Total revenues	16,900	16,900	16,900
Expenditures			
Capital Expenditures	25,000	25,000	25,000
Total expenditures	25,000	25,000	25,000
Cemetery Development Fund Surplus	(8,100)	(8,100)	(8,100)
Cemetery Endowment Fund			
Revenues			
Charges for services	2,500	2,500	2,500
Total revenues	2,500	2,500	2,500
Expenditures			
Public works - cemetery	-	-	-
Total expenditures	-	-	-
Excess (deficiency) of revenues over (under) expenditures	2,500	2,500	2,500
Transfers from other funds			
Transfers to other funds	(5,202)	(5,306)	(5,412)
Net transfers (to) from other funds	(5,202)	(5,306)	(5,412)
Cemetery Endowment Fund Surplus	(2,702)	(2,806)	(2,912)
Community Facilities Development Fund			
Revenues			
Other revenues	2,000	2,000	2,000
Total revenues	2,000	2,000	2,000
Expenditures			
Economic development	-	-	-
Total expenditures	-	-	-
Community Facilities Development Fund Surplus	2,000	2,000	2,000

Municipality of Ketchikan, Alaska
Three Year Annual Budget
Exhibit F-1

PERS Adjusted

Page 9 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Land Trust Repair & Maint Fund			
Revenues			
Other revenues	1,110,839	1,121,947	1,133,167
Total revenues	1,110,839	1,121,947	1,133,167
Expenditures			
Land Trust	738,065	752,826	767,883
Total expenditures	738,065	752,826	767,883
Excess (deficiency) of revenues over (under) expenditures	372,774	369,121	365,284
Transfers from other funds			
Transfers to other funds	(364,140)	(371,423)	(378,851)
Net transfers (to) from other funds	(364,140)	(371,423)	(378,851)
Land Trust Repair & Maint Fund Surplus	8,634	(2,302)	(13,567)
North Tongass Fire & EMS Fund			
Revenues			
Taxes	495,772	505,688	515,802
Total revenues	495,772	505,688	515,802
Expenditures			
Fire Protection	473,690	493,111	502,973
Total expenditures	473,690	493,111	502,973
North Tongass Fire & EMS Surplus	22,082	12,577	12,828
South Tongass Service Area			
Revenues			
Taxes	446,273	455,199	464,303
Total revenues	446,273	455,199	464,303
Expenditures			
Fire Protection & EMS	418,998	436,177	444,900
Total expenditures	418,998	436,177	444,900
South Tongass Service Area Surplus	27,276	19,022	19,403
Nichols View Service Area			
Revenues			
Other revenues	400	400	400
Total revenues	400	400	400
Expenditures			
Water	500	500	500
Total expenditures	500	500	500
Nichols View Service Area Surplus	(100)	(100)	(100)

Municipality of Ketchikan, Alaska Three Year Annual Budget Exhibit F-1

PERS Adjusted

Page 10 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Waterfall Service Area			
Revenues			
Intergovernmental revenues			
Charges for services	5,720	5,720	5,720
Total revenues	5,720	5,720	5,720
Expenditures			
Road maintenance	8,600	8,600	8,600
Total expenditures	8,600	8,600	8,600
Waterfall Service Area Surplus	(2,880)	(2,880)	(2,880)
Mud Bight Service Area			
Revenues			
Charges for services	8,700	8,700	8,700
Total revenues	8,700	8,700	8,700
Expenditures			
Road maintenance	500	500	500
Total expenditures	500	500	500
Mud Bight Service Area Surplus	8,200	8,200	8,200
Forest Park Service Area			
Revenues			
Taxes	54,139	55,222	56,327
Total revenues	54,139	55,222	56,327
Expenditures			
Road maintenance	60,822	62,038	63,279
Total expenditures	60,822	62,038	63,279
Forest Park Service Area Surplus	(6,682)	(6,816)	(6,952)

Municipality of Ketchikan, Alaska Three Year Annual Budget Exhibit F-1

PERS Adjusted

Page 11 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Gold Nugget Service Area			
Revenues			
Charges for services	7,982	8,141	8,304
Total revenues	7,982	8,141	8,304
Expenditures			
Road maintenance	10,175	10,379	10,586
Total expenditures	10,175	10,379	10,586
Gold Nugget Service Area Surplus (Deficit)	(2,194)	(2,237)	(2,282)
GO Debt Service Fund (School Bonds)			
Revenues			
Intergovernmental revenues	3,518,832	3,598,521	3,680,085
Total revenues	3,518,832	3,598,521	3,680,085
Expenditures			
Debt service	4,419,378	4,507,766	4,597,921
Total expenditures	4,419,378	4,507,766	4,597,921
Excess (deficiency) of revenues over (under) expenditures	(900,547)	(909,244)	(917,837)
Transfers from other funds	899,946	917,945	936,304
Transfers to other funds	-	-	-
Net transfers (to) from other funds	899,946	917,945	936,304
GO Debt Service Fund Surplus	(601)	8,700	18,467
Major Capital Improvements Fund			
Revenues			
Other revenues	68,347	69,030	69,720
Total revenues	68,347	69,030	69,720
Expenditures	-	-	-
Total expenditures	-	-	-
Major Capital Improvements Fund Surplus	68,347	69,030	69,720

Municipality of Ketchikan, Alaska Three Year Annual Budget Exhibit F-1

PERS Adjusted

Page 12 of 13

	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Self Insurance Fund			
Revenues			
Interdepartmental revenues	3,373,434	3,440,902	3,509,720
Other revenues	28,091	28,653	29,226
Total revenues	3,401,524	3,469,555	3,538,946
Expenditures			
Non-departmental	3,489,174	3,663,633	3,846,815
Total expenditures	3,489,174	3,663,633	3,846,815
Excess (deficiency) of revenues over (under) expenditures	(87,650)	(194,078)	(307,869)
Transfers from other funds			
Transfers to other funds	(72,828)	(74,285)	(75,770)
Net transfers (to) from other funds	(72,828)	(74,285)	(75,770)
Self Insurance Fund Surplus	(160,478)	(268,363)	(383,639)
Port Fund			
Revenues			
Charges for services	8,002,369	8,242,440	8,489,713
Other revenues	55,141	56,244	57,369
Total revenues	8,057,510	8,298,684	8,547,082
Expenditures			
Port	1,743,336	1,814,813	1,851,109
Capital Expenditures	334,500	334,500	334,500
Total expenditures	2,077,836	2,149,313	2,185,609
Port Fund Surplus	5,979,674	6,149,371	6,361,473
Ketchikan Public Utilities			
Revenues			
Charges for services	30,737,682	31,352,435	31,979,484
Total revenues	30,737,682	31,352,435	31,979,484
Expenditures			
Electric, telephone and water utilities	28,274,539	29,179,325	29,762,911
Capital Expenditures	3,761,741	3,836,976	3,913,715
Total expenditures	32,036,280	33,016,300	33,676,626
Ketchikan Public Utilities Fund Surplus	(1,298,599)	(1,663,865)	(1,697,142)

Municipality of Ketchikan, Alaska
Three Year Annual Budget
Exhibit F-1

PERS Adjusted

Page 13 of 13

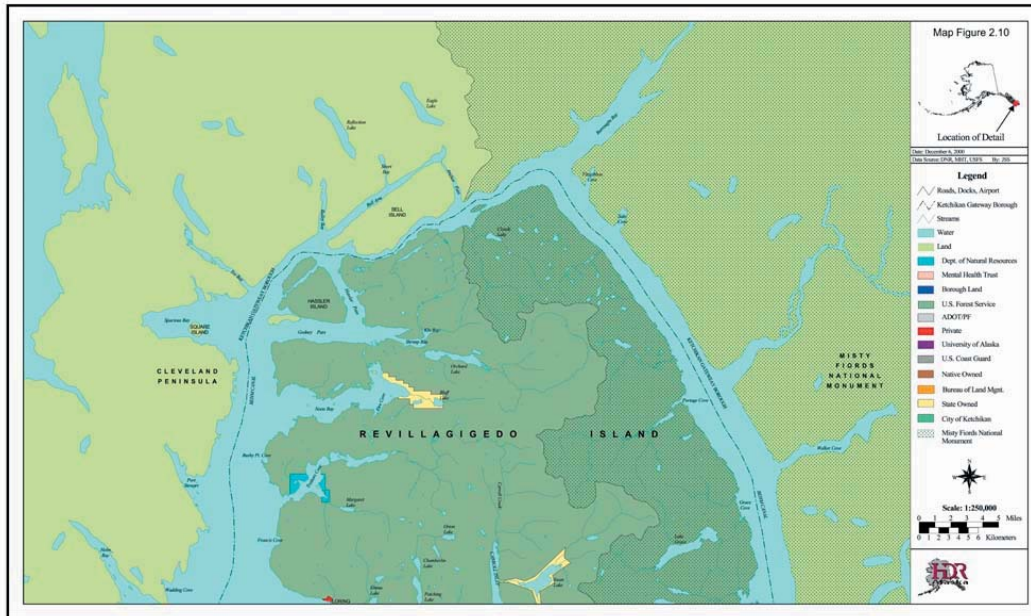
	Year One 2006-07	Year Two 2007-08	Year Three 2008-09
Airport Fund			
Revenues			
Intergovernmental revenues			
Charges for services	3,435,791	3,504,507	3,574,597
Total revenues	3,435,791	3,504,507	3,574,597
Expenditures			
Transportation	3,612,047	3,727,633	3,802,185
Total expenditures	3,612,047	3,727,633	3,802,185
Airport Fund Surplus (Deficit)	(176,256)	(223,126)	(227,588)
Passenger Facilities			
Revenues			
Charges for services	474,369	488,600	503,258
Total revenues	474,369	488,600	503,258
Expenditures			
Public works - maintenance and operations	472,058	481,499	491,129
Total expenditures	472,058	481,499	491,129
Passenger Facilities Fund Surplus	2,311	7,101	12,129

Appendix E

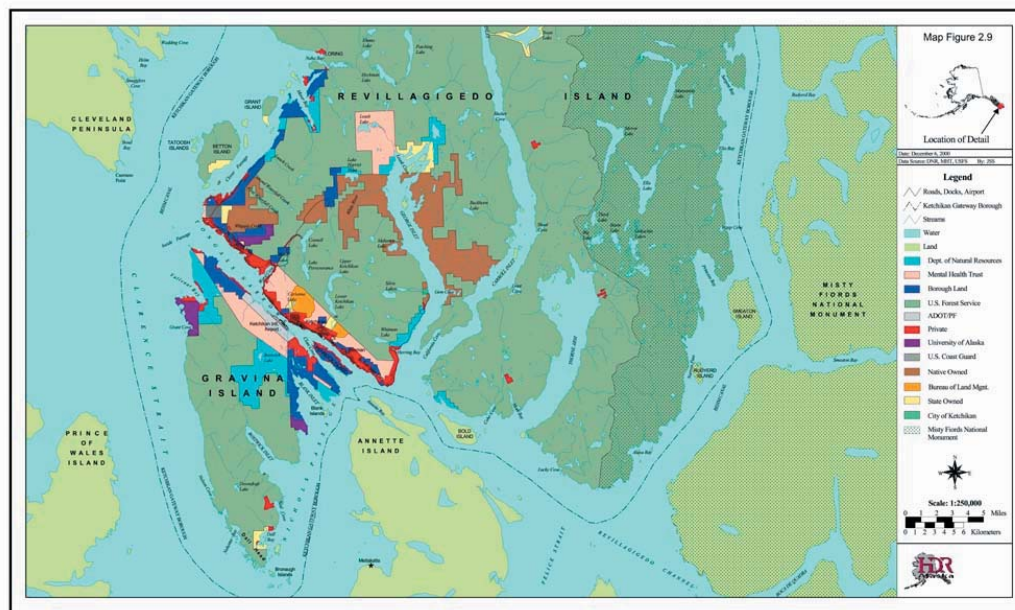
Excerpts from Ketchikan Coastal Management Plan

Ketchikan Coastal Management Plan

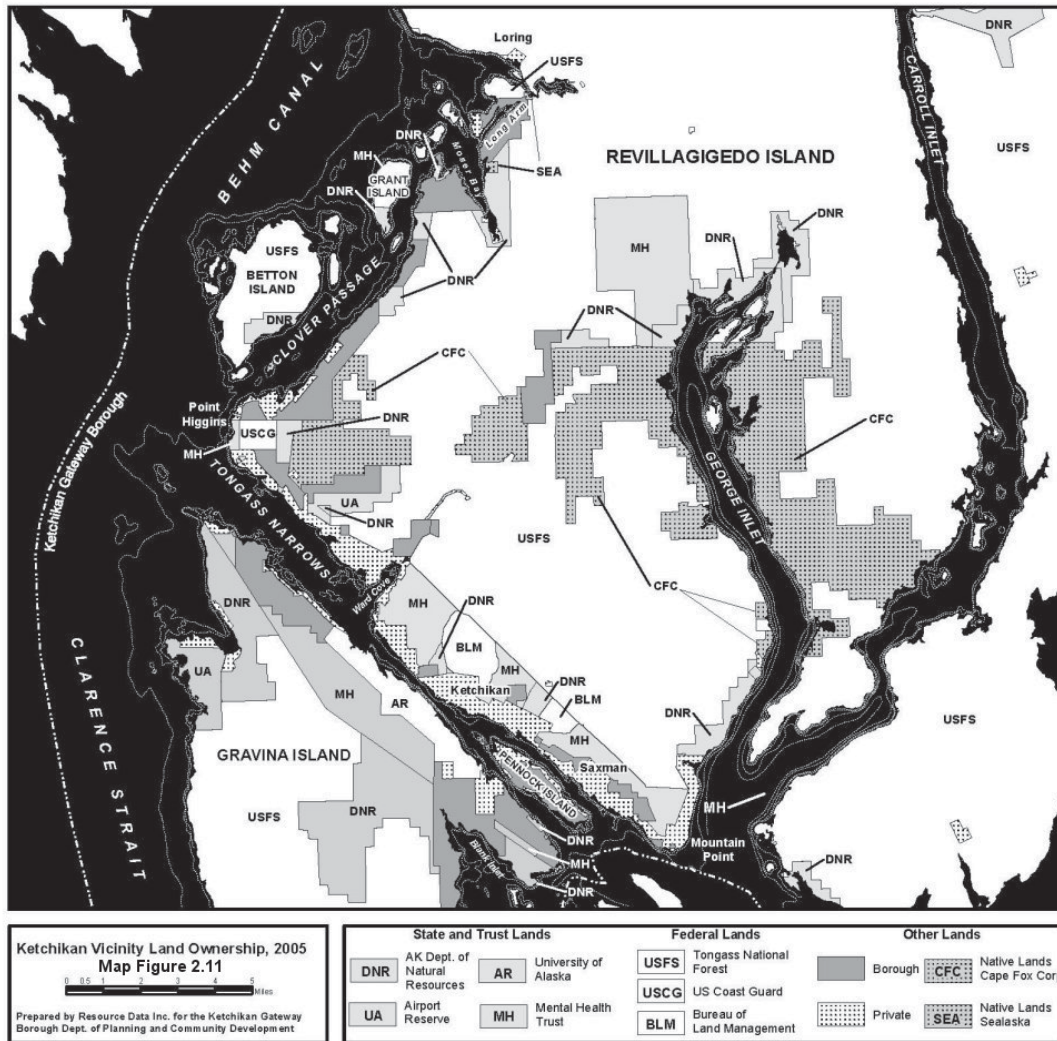
Volume 2



*Consult Parcel Records for specific ownership information



*Consult Parcel Records for specific ownership information



U.S. Forest Service

The land managed by the USFS in the Ketchikan Gateway Borough is part of the Tongass National Forest. The USFS provides a variety of land activities, uses, and resources in the Tongass National Forest.

The USFS owns the majority of land on Revillagigedo Island. The east coast along Behm Canal is part of Misty Fiords National Monument. Inland portions, dispersed throughout the region, are managed for timber production, remote and semi-remote recreation areas, scenic viewshed areas permitting timber harvest, natural landscapes permitting timber harvest, and maintenance of old-growth forests. Two parcels just outside the City of Ketchikan are managed as special interest areas: (1) the Ward Lake area established in 1948 and classified as a recreation area and managed for recreational, archaeological, historical, scenic, geological, botanical, or zoological values; and (2) Upper and Lower Ketchikan Lake area, managed as a municipal watershed. Orchard Creek in the northern portion of Revillagigedo Island will be managed as a wild, scenic, or recreational river to maintain and enhance the values of the river. The Naha River Recreation Area is designated a roadless area and is managed to permit fish and wildlife improvements and primitive recreation areas. The Naha River will be managed as a wild, scenic, or recreational river.

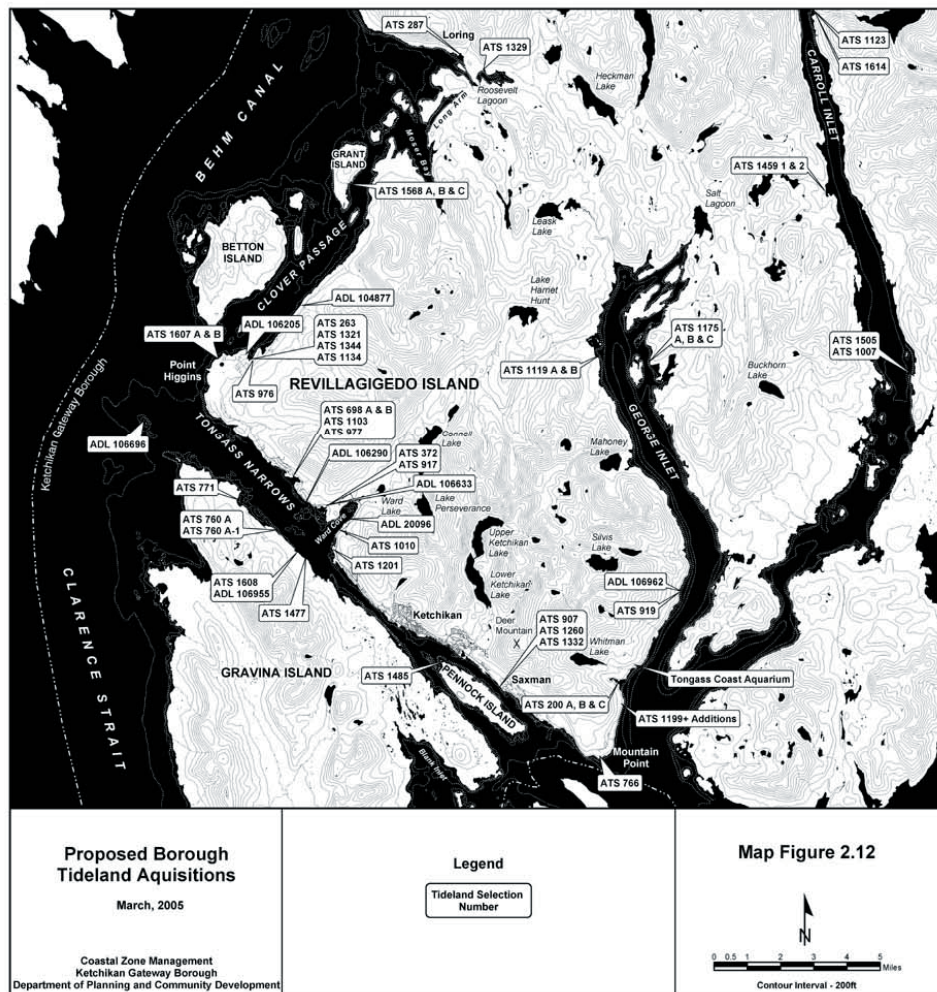
The USFS land on Gravina Island encompasses the western portion of the island along Clarence Strait and includes land parcels managed for several different resources. For example, the southern-most point of Gravina Island provides a scenic viewshed while permitting timber harvest. Some areas of southern Gravina Island are managed as potential mineral exploration sites, such as the Dall Head area. A large portion of the western coast of Gravina Island, along with other smaller parcels, has been classified to maintain old-growth forests for wildlife and fish habitat. The remaining USFS land on Gravina is in the middle of the island and on the southeastern coast, and is managed for maximum long-term timber production.

Further information on USFS land management is available from Tongass National Forest Land Management Plan Revision Final, August 11, 1996. Further information on Gravina Island can be found in the Gravina Island Development Plan (2005).

Department of Natural Resources

The DNR land ownership consists of 13,657 acres on Revillagigedo Island, and 7,959 acres on Gravina Island. The largest parcels of state land on Gravina Island are located in the more remote areas south of California Ridge and in the Bostwick Lake/Creek area. The state also owns parcels of land scattered along the road system of Revillagigedo Island and near the Ketchikan International Airport on the northern shore of Gravina Island. Most of the state owned lands consist of tideland and submerged areas. Tideland units are located in 67 sites along the coast, representing the more sensitive habitat and environmental areas. During the planning period, the Borough expects to petition the state for local acquisition of key community interest tidelands. The tidelands proposed for acquisition are shown on *Map Figure 2.12*.

DNR manages its lands for a variety of uses, depending on size and location. Recreation, timber, habitat/wildlife, settlement, anadromous stream, marine-related recreation areas, and estuarine wetlands are some of DNR's managed resources. The following are the management prescriptions for some of the more prominent DNR holdings.



- Unit K-39, the west coast of Upper George Inlet north of Herring Bay on Revillagigedo Island, is managed for recreation, scenic viewshed, habitat/wildlife, and public facilities (aquarium).
- Unit K-21, the Upper Trollers Creek Watershed on Revillagigedo Island, is managed for settlement, timber, anadromous stream, and water supply.
- Unit K-41, a large parcel of land located in central Gravina Island, including Curve Mountain and Bostwick Creek drainage and Bostwick Lake, is managed for recreation, timber, wetlands, and habitat/wildlife.
- Unit K-25, in the northern peninsula of Gravina Island, is managed for commercial forest, dispersed recreation activity primarily related to hunting, and maintenance of important habitat areas and wildlife movement corridors.
- Unit K-28, a coastal plain on Gravina Island, is managed for estuarine wetlands and anadromous streams.

The Central/Southern Southeast Area Plan Public Review Draft (December 1999) contains detailed information on DNR-owned land, including more specific data on the above-mentioned units and all other units owned and managed by DNR.

Mental Health Lands Trust

The Mental Health Lands Trust owns a considerable amount of land within and adjacent to the City of Ketchikan, and on Pennock and Gravina Islands. Trust Lands are managed solely in the best interest of the Alaska Mental Health Trust and its beneficiaries in compliance with the following key principles and objectives:

- Loyalty to the Trust and its beneficiaries
- Maximization of long-term revenue from Trust Land
- Protection and enhancement of Trust assets
- Encouragement of a diversity of revenue-generating activities on Trust Land
- Accountability to the Trust and its beneficiaries
- To be a good neighbor

Trust lands contain revenue resources such as timber, settlement, and recreation. It is expected that these will be developed during the planning period.

University Land

The University of Alaska Lands Trust holds title to land located at Vallenar Bay and Blank Inlet on Gravina Island, and on Revillagigedo Island at Whipple Creek, Settlers Cove, Mountain Point, and Leask and Bat coves. The Whipple Creek land was harvested in the early 1990s. The basic intent of the University's holdings is management for eventual disposal or income generation from revenue sources such as timber, settlement, and recreation.

Ketchikan Gateway Borough

The Ketchikan Gateway Borough owns land on Revillagigedo, Gravina, and Pennock Islands. The Borough lands are primarily managed for potential residential and community development, recreation, watersheds, commercial, and industrial uses. Also, disposal of lands to private individuals is intended and expected. Borough land is managed according to the goals of the Ketchikan Gateway Borough's 1996 Comprehensive Plan. In particular, the following excerpts from the plan covers management and disposal of the Borough's land holdings:

Goal: Manage Borough lands for the health, welfare, and economy of the community.

Strategy 1: Manage Borough Lands for a variety of uses.

Strategy 2: Manage Borough-owned lands in an economically efficient manner.

Strategy 3: Identify Borough-owned lands suitable for industrial, commercial, recreational, and residential development.

Strategy 4: Identify Borough-owned lands suitable for quality, affordable housing.

Strategy 5: Identify Borough-owned lands for green belts and neighborhood parks (and incorporate into neighborhood plans).

Strategy 6: Identify and designate Borough-owned lands for passive use and other uses, such as recreation, visual quality, habitat, education, cultural, open space, and natural areas.

Strategy 7: Consider and recognize uses of adjacent lands when designating Borough land use.

Strategy 8: The Borough should encourage, whenever possible, the State of Alaska and Division of Natural Resources to facilitate the transfer of title of Borough Lands.

Strategy 9: Conserve natural resources.

Strategy 10: Maintain clean air and water.

The Ketchikan Gateway Borough's 1996 Comprehensive Plan and the 1989 CMP include a detailed description of land management practices in the Borough.

Private Land Ownership

Privately owned lands on Revillagigedo Island are generally concentrated along Tongass Narrows. Moser Bay, Vallenar Bay, Upper George Inlet, and Carroll Inlet also include privately owned lands from previous Borough, state, and Native corporation remote shareholder subdivisions. The Cape Fox Native Corporation is the largest holder of private land. The Cape Fox land is managed both to generate income for the Native shareholders and to provide timber, fish, and wildlife opportunities, for future generations. Privately owned lands are managed according to the Ketchikan Gateway Borough Comprehensive Plan (1996), the CMP, and the borough zoning code.

Major Land and Water Uses

Land and water use alternatives in Ketchikan are constrained by an insufficient supply of flat, dry, privately owned, road accessible land. As a result, residential, recreational, institutional, industrial, and service commercial land development is concentrated along a narrow, 30 mile long strip of shoreline. This sometimes results in land use conflicts and makes community expansion difficult and expensive. In fact, many areas downtown and some outside the city are built upon piers in the inter-tidal area due to the lack of suitable upland areas. Some parts of this road accessible shoreline also have high natural resource values such as salmon streams, estuaries, and

near shore fish habitats. Map Figures 2.13 and 2.14 illustrate the developed and developing areas of the Borough as well as areas suitable various types of community expansion. The adjacent waterfront is also an area of high commercial, residential and recreational marine traffic. Impacts to these resources can sometimes be unavoidable due to community growth needs and the lack of private, accessible land elsewhere in the community. The minimization of impacts to coastal resources in these areas presents an additional cost to developing the limited land supply. In addition, it is important to adequately consider the effects of new development on other important aspects of the community including mountain and water views and public access to the waterfront. Figure 2.6 illustrates developed areas of the Borough and those areas likely to develop further during the planning period. Figure 2.7 illustrates those areas, located within the existing land supply, that are suitable for industrial, commercial, and residential expansion.

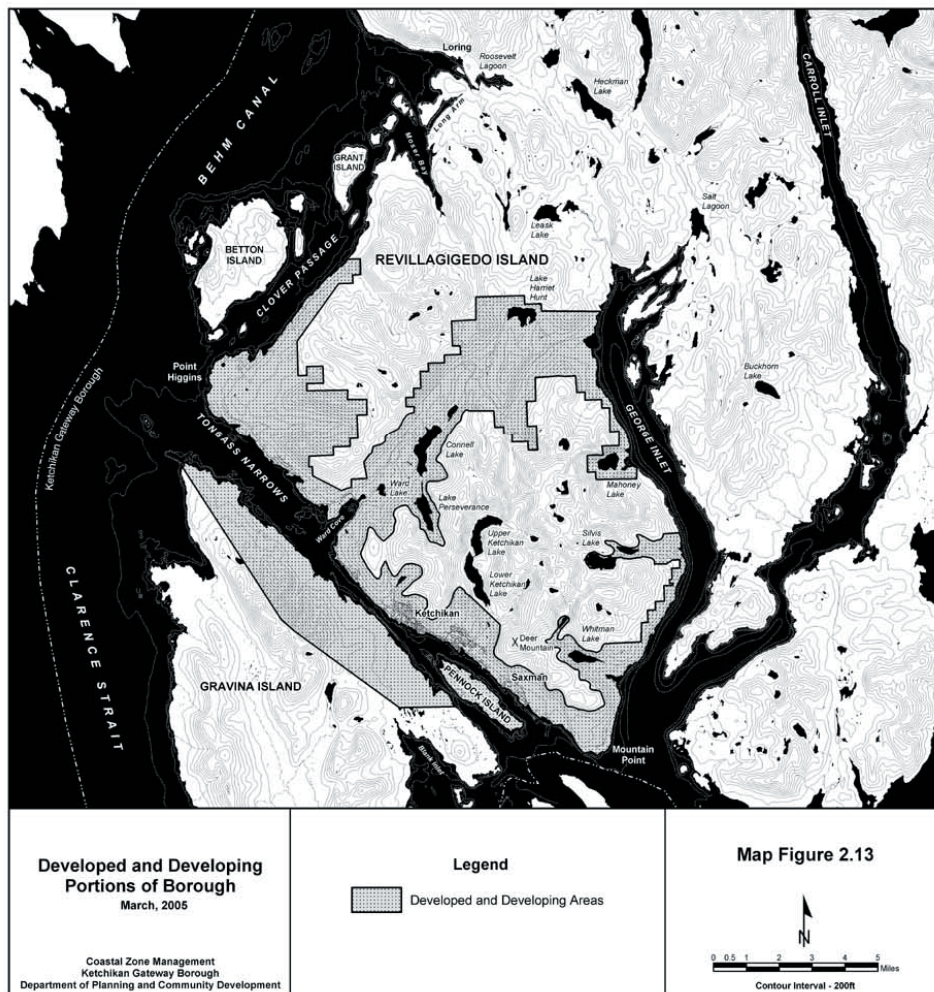
The need for access to developable land has been described in many planning studies conducted over the past twenty years. Most recently, the Gravina Access Draft Environmental Impact Statement (DEIS) (August 6th, 2003) described the various problems posed by the scarcity of suitable vacant land for community expansion and the need for improved access to Gravina Island. It noted the following:

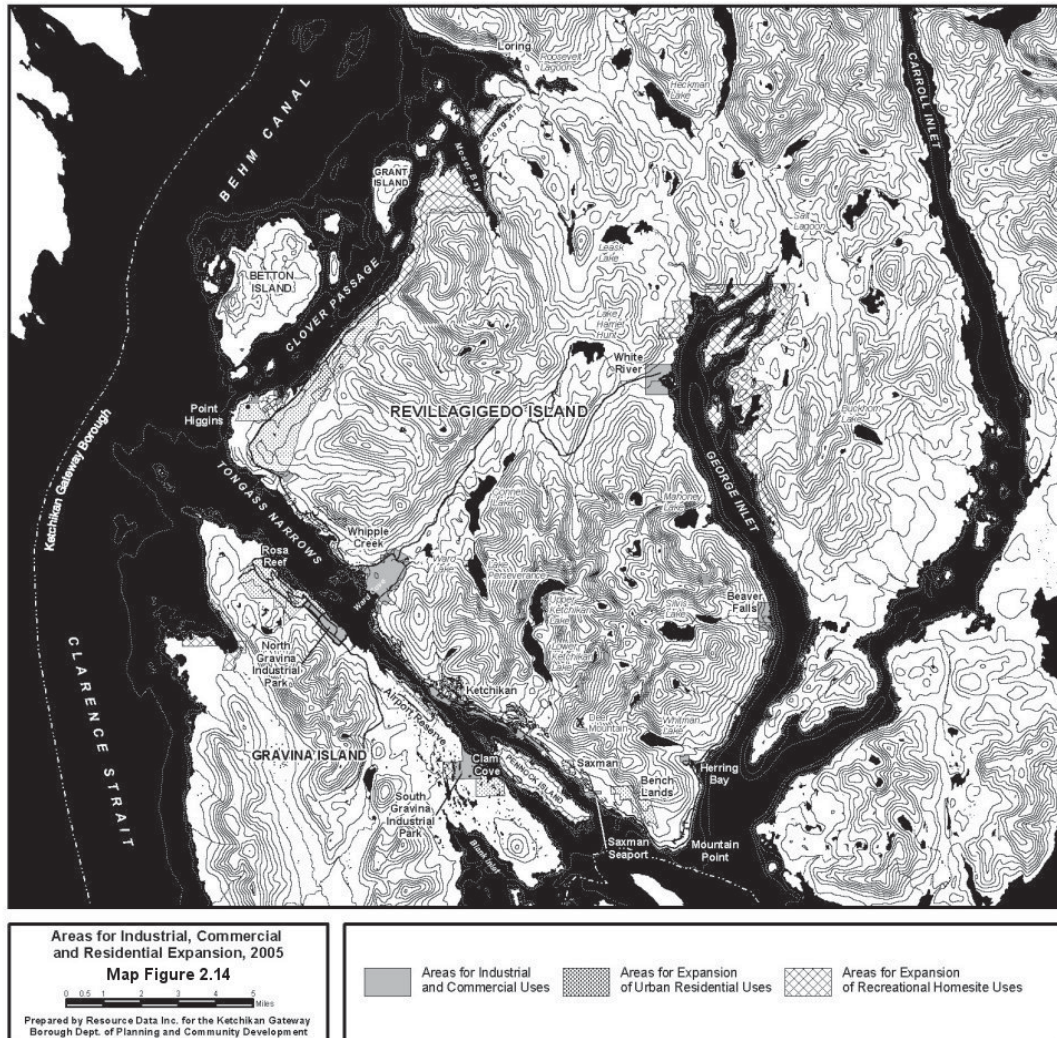
- Relatively high community land costs (due to low supply and high demand)
- Loss of business opportunities
- Increased pressure to develop lands that are environmentally marginal in terms of development potential (e.g. wetlands and steep slopes), which is an unsound land management practice
- High land development costs (because developing the environmentally marginal lands is extremely costly)
- Development patterns that result in inappropriate or incompatible land use for some geographic locations (e.g., waterfront development that excludes water access dependent industries).

The DEIS goes on to note that without access to expansion areas, development will continue to crowd the waterfronts of Revillagiedo and Gravina Islands simply because the waterfronts are accessible from the road system.

In the fall of 1995, the Borough conducted a vacant land-use survey along the waterfront road system from Settler's Cove to Herring Cove. Although the survey identified approximately 1,250 vacant parcels of land, the Borough's 1996 Comprehensive Plan noted that "topographical constraints might physically rule out development on many of these sites, or make them prohibitively expensive to develop." The plan observed that while there appeared to be a "sufficient land base to satisfy the community's short-term future needs for residentially zoned property", that commercial and industrial properties, particularly those with waterfront access were "perceived to be in short supply."

A 1996 survey of actual land-use along the waterfront road system determined that, with few exceptions, commercial and industrial development occurred adjacent to the highway corridor, interspersed with residential development either immediately adjacent to it or directly opposite across the highway. The survey concluded that "In part, because of the scarcity of developable land for commercial and industrial purposes, adjacent conflicting land uses are prevalent in the Borough"





Ketchikan's limited land supply coupled with anticipated community growth needs will continue to place increasingly difficult demands on coastal resource management. In some cases, coastal expansion lands and near shore habitats will be only marginally suitable for development. Resource suitability will drive the need for thorough consideration of public need and development alternative analysis during project review. In summary, there is a reasonable and foreseeable need to manage the placement of fill and structures in coastal waters in a manner that balances the needs of adjacent upland property owners against the community-wide public needs for access, navigation, views, and habitat management.