

Local Boundary Commission

Decision

Members

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In the Matter of the April 6, 2011,
Petition to incorporate a Petersburg
borough of approximately 3,365
square miles of land and 982 square
miles of water

Section I

Introduction

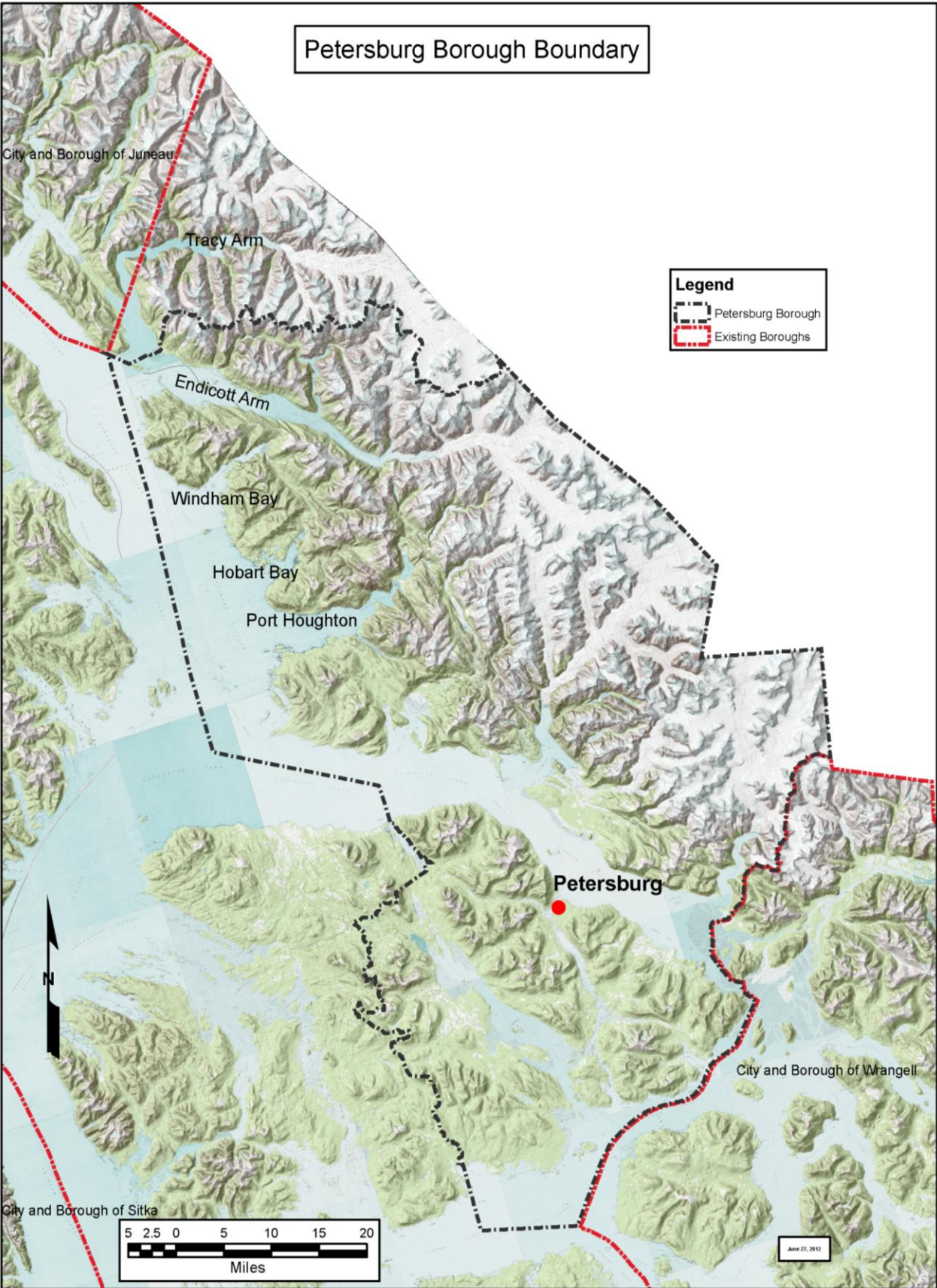
April 6, 2011, the petitioners (**hereafter “Petitioner”**), consisting of the qualified voters of the proposed borough who signed the petition in accordance with AS 29.05.060(7), petitioned the Local Boundary Commission (also referred to as “LBC” or “commission”) to incorporate a Petersburg borough. The area proposed for incorporation consists of approximately 3,365 square miles of land and 982 square miles of water for a total of 4,347 square miles of land and water.

The area includes the City of Petersburg; the City of Kupreanof; all of Mitkof Island including unincorporated residential areas at Fall's Creek, Papke's Landing, around Blind Slough, and Crystal Lake Hatchery; portions of Kupreanof Island, including the Wrangell Narrows-Beecher Pass-Keene Channel-Duncan Canal areas and adjacent area and the Lindenberg Peninsula; and Woewodski Island.

East of Frederick Sound and Stephens Passage, it includes all area from the southern boundary of the existing City and Borough of Juneau, to the Canadian border on the east, to include part of the Tracy-Arm Ford's Terror Wilderness area; Chuck River Wilderness area; Endicott Arm, Holkham Bay, Windham Bay, Hobart Bay, Port Houghton, Farragut Bay, Thomas Bay, Muddy River, Pt. Agassiz, and all surrounding lands and nearby islands, and the LeConte Glacier and Bay portion of the Stikine-LeConte Wilderness area abutting the northern boundary of the City and Borough of Wrangell.

The area includes uplands, tidelands and submerged lands. The boundary will pass through the centerline of the Stephens Passage, Frederick Sound and Sumner Strait waterbodies.

A depiction of the Petersburg Borough Boundaries are on the following page.



SECTION II PROCEEDINGS

- **Submission and Technical Review of Petition**

The petition was submitted to LBC staff (also referred to as “Commerce”) on April 6, 2011, returned for additional information after technical review, and accepted for filing on August 5, 2011.

- **Deposit of Petition**

On August 8 and 15, 2011, Petitioner’s representative Kathy O’Rear placed a copy of the prospective petition at the following locations:

- Petersburg’s City Hall
- Petersburg Library, Petersburg
- Kupreanof City Building
- City of Petersburg website

The petition materials were subsequently regularly updated to include public notice, public comments, briefs, and other petition materials and copies of the laws establishing standards and procedures.

- **Posting of Notice**

On August 8 and 19, 2011, notice was posted at the following locations within and surrounding the area proposed for incorporation:

- Petersburg City Hall;
- Kupreanof City Building
- US Post office, Petersburg
- Petersburg library;
- The Papke’s Landing boat launch and parking area
- Scow Bay fire station
- Top of gangways (4) at City of Petersburg harbor/docks
- On highway post nearest to the intersection of Papke’s Landing Road and the Mitkof Highway, viewed from inbound and outbound directions
- Trading Union and Hammer & Wikan bulletin boards
- City of Petersburg website

- **Public Notice**

Notice of the petition was published in the *Juneau Empire* and *Wrangell Sentinel* on August 11, 18, and 25, 2011, and in the *Petersburg Pilot* on August 4, 11, and 18, 2011.

On August 29, 2011, a public service announcement was sent to the following radio stations to request broadcast for 14 days:

KFSF Public Radio
KRSA radio
KTSK Stikine River Radio
KINY Juneau
KTOO Juneau
KTKN am/KGTW fm
Television scanner GCI in Petersburg

- **Service of Petition**

On August 8 and 15, 2011, a copy of the Notice of Petition was mailed or hand delivered to the City of Kupreanof, the City of Kake, the City of Angoon, the City and Borough of Juneau, the City and Borough of Wrangell, and the Ketchikan Gateway Borough.

On August 10, 2011, a copy of the Notice of Petition was mailed or hand delivered to the 57 individuals and organizations whose names and addresses are listed in Exhibit B of the petition (supplemented by additional names in the Petitioners' "Affidavit of Notice, Service, and Deposit of Incorporation Petition by the City of Petersburg by Local Action").

On August 15, 2011, the City of Kupreanof, the City of Kake, the City of Angoon, the City and Borough of Juneau, the City and Borough of Wrangell, and the Ketchikan Gateway Borough were served complete copies of the petition.

- **Commerce Informational Meeting**

Per 3 AAC 110.520, Commerce held two publically noticed public meetings. One was on Sunday, Sept. 18 at 3:00 in Keene Channel. The other was at 5:00 on Monday, Sept. 19 at the Sons of Norway hall in Petersburg, Alaska.

- **Deadline for Initial Comments and Responsive Briefs**

On May 24, 2011, the LBC relaxed the regulation (3 AAC 110.700(d)) that required commenters who filed a comment by email or fax to serve the original comment upon the LBC within 10 days. This relaxation eased the public comment process by eliminating the requirement that commenters file their comments again, if they had first filed electronically.

On August 5, 2011, the period for public comment started. The notice of filing of the petition invited written public comment concerning the proposed incorporation, due by October 26, 2011, at 4:30 p.m. Staff received responsive briefs from the City and Borough of Juneau, Mr. Tom Cole, Mr. George Cole, and Mr. Bob Lynn. Staff also received many public comments from individuals, municipalities, tribal governments, and other entities. Staff acknowledged each comment.

To ensure the fairness of the process and to allow every commenter the opportunity to have his or her comments addressed, staff requested that the LBC chair relax the relevant regulation (3 AAC 110.700(c)) to allow in the one comment that was submitted late. Staff felt it was in the interests of justice to allow all comments to be considered regardless of their position. The LBC chair approved the request under 3 AAC 110.700(c).

- **Petitioner's Reply Brief Filed**

On November 15, 2011, the Petitioners filed a reply brief in response to the comments and responsive briefs received during the petition's public comment period.

- **Preliminary Report Distribution**

On February 24, 2012, Commerce distributed copies of its *Preliminary Report to the Local Boundary Commission Regarding the Local Action Petition to Incorporate a Home Rule Borough of Petersburg and Dissolve the Home Rule City of Petersburg* to the commission members, petitioners, respondents, commenters, and others. A public notice was issued regarding the report's release on February 27, 2012.

- **Issuing of Supplemental Notice**

On March 14, 2012, Commerce issued a “Supplemental Notice to Public Notice of February 27, 2012 of Public Comment Period on the Preliminary Report Concerning the Petersburg Borough Incorporation Petition.” It gave notice of the LBC staff’s preliminary report recommendation that the LBC amend the petition boundaries to remove Tracy Arm and Whiting River watersheds in the extreme northeast corner of the proposed borough from the proposed boundaries. It also gave notice that the LBC chair had extended the deadline for written comments from March 28 to March 30, 2012.

- **Receiving Timely Comments on Preliminary Report**

The public comment period for the preliminary report was from February 25, 2012, to March 30, 2012. Commerce received several comments.

- **Final Report Distribution**

On May 7, 2012, Commerce distributed copies of its *Final Report to the Local Boundary Commission Regarding the Local Action Petition to Incorporate a Home Rule Borough of Petersburg and Dissolve the Home Rule City of Petersburg* to interested parties including commission members, the petitioners, respondents, commenters, and others.

- **Notice of Local Boundary Commission Public Hearing and Decisional Meeting**

The Local Boundary Commission chair scheduled a public hearing regarding the Petersburg borough incorporation petition. Formal notice of the hearing had been given by Commerce under 3 AAC 110.550 on April 19, 2012.

Commerce published the notice three times in the *Capital City Weekly*, the *Juneau Empire*, and the *Petersburg Pilot*. The notice was also posted on the internet through the state’s *Online Public Notice System*, and on the Division of Community and Regional Affairs and LBC websites. In addition, the parties and others were notified.

The Petitioners posted the notice for public review.

- **LBC Meeting**

On April 19, 2012, the LBC held a duly noticed public meeting in Anchorage. One of the items on the agenda was a review and discussion of procedures and requirements for the Petersburg hearing, including LBC amending powers and restrictions. The LBC also suspended 3 AAC 110.690(b) for the Petersburg hearing and decisional meeting to allow commenters to participate without bearing the cost of the call.

- **LBC Public Hearing Regarding the Proposed Borough Incorporation Petition**

In accordance with 3 AAC 110.550 and 3 AAC 110.560, the commission held a duly noticed public hearing beginning on Wednesday, May 30, 2012, at 9:00 a.m. regarding the Petersburg Borough incorporation petition. The hearing was held in the Petersburg City Council Chambers. The public hearing continued on May 31, and on the morning of June 1.

The commission heard sworn testimony from witnesses for the Petitioners, and from Respondents Mr. Bob Lynn and the City and Borough of Juneau. All the parties, including Respondents Mr. Tom Cole and Mr. George Cole, gave opening and closing statements, except that Mr. George Cole waived his opening statement. The commission also heard comments from numerous public members and entities, both for and against the proposed incorporation.

- **LBC Decisional Meeting Regarding the City of Petersburg’s Incorporation Petition**

In accordance with 3 AAC 110.570, the Local Boundary Commission held a duly noticed decisional meeting on Friday, June 1, 2012, regarding the Petersburg borough incorporation petition. The decisional meeting began on June 1 at 3:00 p.m. The commission voted 5 to 0 to amend the petition, as allowed under 3 AAC 110.570(c)(2), to follow the staff recommended boundaries, with the caveat that the northern line of the proposed borough would be set by Department of Commerce cartographers following natural boundaries. By that amendment, the LBC excluded the Tracy Arm and Whiting River watersheds from the proposed borough’s boundaries. The commission voted 4 to 1 to approve the petition as amended.

SECTION III FINDINGS AND CONCLUSIONS

The record in this proceeding includes the borough incorporation petition and supporting materials, written comments received on the petition, the responsive briefs, the Petitioners’ reply brief, Commerce’s preliminary report, comments received on Commerce’s preliminary report, Commerce’s final report, and testimony, opening and closing statements, and comments received at the LBC’s May 30 – June 1 public hearing on the petition.

3 AAC 110.045 Relationship of Interests

Relationships of Interests relates to several standards:

Under art. X, sec. 3 of the state constitution, the proposed borough must “embrace an area and population with common interests to the maximum degree possible.”

The City and Borough of Juneau (“Juneau” or “CBJ”) asserted that the proposed Petersburg borough must be compared to the existing City and Borough of Juneau in order to determine which borough would have common interests to the maximum degree possible with the overlapping area. After considering that claim, the LBC determines that that the question is instead whether the proposed borough has an area and population with common interests to the maximum degree possible. The commission finds that the proposed borough does embrace an area and population with common interests to the maximum degree possible.

“Maximum degree possible” means to come as close as possible to finding common interests. This means that there might not be 100 percent common interests. Although the people might differ philosophically, there are still common interests. After considering all of the record and arguments, the commission finds that the standard is met. The area and population in the proposed borough do have common interests to the maximum degree possible.

Under AS 29.05.031(a)(1), the commission finds that population of the area is interrelated and integrated as to its social, cultural, and economic activities. People in the proposed borough have common ties because of cooperation and mutual dependence, and the population is interrelated. After considering all of the record and arguments, the commission finds that the standard is met.

Under AS 29.05.031(a)(4), the land, water, and air transportation facilities must allow the communication and exchange necessary for the development of integrated borough government. There is sufficient communication and exchange in the proposed borough, and it is continually improving. After considering all of the record and arguments, the commission finds that AS 29.05.031(a)(4) is met.

3 AAC 110.045(a) asks whether on a regional scale suitable for borough government, are the social, cultural, and economic characteristics and activities of the people in a proposed borough interrelated and integrated in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska.

The commission considered relevant factors including compatibility of urban and rural areas within the proposed borough, compatibility of economic lifestyles and industrial or commercial activities; existence throughout the proposed borough of customary and simple transportation and communication patterns, extent and accommodation of spoken language differences throughout the proposed borough; and existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services. For example, in the proposed borough, there aren't any language differences. But, there are transportation and communication systems, and organized volunteer services such as fire departments exist.

Although there are differences within the borough, the social, cultural, and economic characteristics and activities of the people in a proposed borough are interrelated and integrated. Further, there is diversity in many of Alaska's boroughs, so any diversity in the proposed Petersburg Borough would not deviate from that found in other boroughs. The commission finds that 3 AAC 110.045(a) is met.

Fifth, 3 ACC 110.045(c) asks if the communications media and the land, water, and air transportation facilities throughout the proposed borough allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with AS 29.05.031(a)(4) and art. X, sec. 3, Constitution of the State of Alaska. In considering factors such as transportation schedules and costs, geographical and climatic impediments, telephonic and teleconferencing facilities, and electronic media for use by the public, the commission finds that 3 ACC 110.045(c) is met because, among other reasons, the proposed borough has media and communications, including the facts that the hearing and decisional meeting were broadcast live on radio, and that electronic media are available in the public library.

Lastly, the commission considered 3 AAC 110.045(d), which states that in determining whether communications and exchange patterns are sufficient, the commission may consider whether all communities within a proposed borough are connected to the proposed borough seat 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, other customary means of travel including boats and snow machines, or sufficient electronic media communications; and whether communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough. The commission finds that the standard is met, and that the communications and exchange patterns are sufficient.

In sum, after considering all of the record and arguments, the commission finds that 3 AAC 110.045 is met.

3 AAC 110.050 POPULATION

Population relates to three standards.

First, AS 29.05.031(a)(1) asks whether the population of the area is large and stable enough to support borough government. The commission finds that the population is large enough because it is somewhere in the middle of the range of borough populations. There has been no shutdown of a particular area of commerce or business, and there has been a modest population increase providing evidence that the population is sufficiently stable.

Second, 3 AAC 110.050(a) asks whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including census enumerations, durations of residency, historical population patterns, seasonal population changes, age distributions, contemporary and historical public school enrollment data; and nonconfidential data from the Department of Revenue regarding applications under AS 43.23 for permanent fund dividends. As above, the commission finds that the population was sufficiently large and stable, and particularly notes the long durations of residency. The commission finds that the population of the proposed borough is sufficiently large and stable to support the proposed borough government in accordance with AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska. The standard is met.

Third, 3 AAC 110.050(b) asks if in determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, does a minimum of 1,000 permanent residents exist in the proposed borough boundaries? The commission finds that the borough has more than 1,000 permanent residents, and that the standard is met. For that reason the commission does not need to address the situation in which there is not a minimum of 1,000 permanent residents in the proposed borough boundaries, and hence whether there are specific and persuasive facts presented showing that a lesser number is adequate.

After considering all of the record and arguments, the commission finds that 3 AAC 110.050 is met.

3 AAC 110.055 RESOURCES

Resources relates to both statutory (AS 29.05.031(a)(3)) and regulatory standards (3 AAC 110.055).

First, under AS 29.05.031(a)(3), does the economy of the area include the human and financial resources capable of providing municipal services?

Second, 3 AAC 110.055 asks if in accordance with AS 29.05.031(a)(3), does the economy of a proposed borough include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level? In this regard, the commission

(1) will consider (the regulation includes all of the statute's factors, and is broader)

(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 revenue at the local level;

(D) the reasonably anticipated income of the proposed borough;

(E) the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough through the period extending one full fiscal year beyond the reasonably anticipated date

(i) for receipt of the final organization grant under [AS 29.05.190](#) ;

(ii) for completion of the transition set out in [AS 29.05.130](#) - 29.05.140 and 3 AAC [110.900](#); and

(iii) on which the proposed borough will make its first full local contribution required under [AS 14.17.410](#) (b)(2);

(F) the economic base of the area within the proposed borough;

(G) valuations of taxable property within the proposed borough;

(H) land use within the proposed borough;

(I) existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough; and

(J) personal income of residents within 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 government; and

(B) a reasonably predictable level of commitment and interest of the population in sustaining a borough government.

Regarding the reasonably anticipated functions of the proposed borough, the existing City of Petersburg already provides essential services such as education, assessing, collecting and levying of taxes, land use, planning, and platting. The commission finds that those functions will be provided by the proposed borough on an efficient, cost effective level.

Regarding the reasonably anticipated expenses of the proposed borough, the ability of the proposed borough to generate and collect revenue at the local level, and the reasonably

anticipated income of the proposed borough, the commission finds that the borough can collect revenues, and finds that the income is adequate in regard to expenses.

Regarding the feasibility and plausibility of the anticipated operating and capital budgets of the proposed borough, the economic base of the area within the proposed borough, valuations of taxable property within the proposed borough, land use within the proposed borough, existing and reasonably anticipated industrial, commercial, and resource development for the proposed borough, and personal income of residents within the proposed borough, the commission received voluminous materials regarding the fiscal status of the proposed borough. The commission finds that those criteria indicate that the economy of a proposed borough includes the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level.

After considering the materials which it received, the arguments, testimony, and written comments, and all of the record, the commission finds that AS 29.05.031(a)(3) and 3 AAC 110.055 are met.

3 AAC 110.060 BOUNDARIES

3 AAC 110.060 relates to several standards.

First, AS 29.05.031(a)(2) asks if 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.

The proposed northern border does not follow not natural geography, but instead is a straight line. The northern border of the proposed borough is also the southern border of the City and Borough of Juneau. The LBC staff had recommended a different border that excluded the Tracy Arm and Whiting River watersheds from the proposed borough. The commission considered the testimony from the City and Borough of Juneau indicating that the staff recommended northern border did not follow natural geography.

The proposed borough partly overlaps the area that Juneau seeks to annex by a separate petition. The commission considered Juneau's claim to the overlapping area. The LBC also considered Juneau's advocacy of its ties to the area containing the Goldbelt Inc. and others' holdings. The commission further considered Juneau's claim to Tracy Arm, and that Juneau has tourism and other ties to Tracy Arm.

The LBC felt that Goldbelt's land should not be split between two boroughs, that instead it would be much easier for Goldbelt if it only had to deal with one borough. It was noted that Goldbelt had previously supported the borough incorporation.

After considering those and other arguments, the commission finds that the proposed boundaries do conform generally to natural geography and include all areas necessary for full development of municipal services. After considering all of the record and arguments, the LBC finds that AS 29.95.031(a)(2) is met.

Second, 3 AAC 110.060(a) asks if in accordance with AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska, if the boundaries of a proposed borough conform generally to natural geography, whether the boundaries are on a regional scale suitable for borough government, and whether the boundaries include all land and water necessary to provide the full development of essential municipal 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) *was repealed in 2008*
- (4) *existing and reasonably anticipated transportation patterns and facilities;*
- (5) *natural geographical features and environmental factors;*
- (6) *was repealed in 2008*

(7) existing and reasonably anticipated industrial, commercial, and resource development within the proposed borough

Regarding land use and ownership patterns, the LBC considered those optional factors above.

The representatives of Goldbelt and Kake gave comment regarding ethnicity and cultures, and the commission considered testimony that the borough boundaries were kept away from Kake tribal lands.

The commission also considered existing and reasonably anticipated industrial, commercial, and resource development, specifically harbor development.

After considering 3 AAC 110.060(a), including optional factors, and the record concerning it, the LBC finds that the boundaries conform generally to natural geography, are on a regional scale suitable for borough government, and include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level. The commission finds that 3 AAC 110.060(a) is met.

Third, 3 AAC 110.060(d) states that in determining whether communications and exchange patterns are sufficient, absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.

The LBC finds that there are no enclaves, that the proposed borough is contiguous, and 3 AAC 110.060(d) is met. That makes moot the question of whether the area proposed for incorporation includes all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.

Fourth, 3 AAC 110.060(e) asks if the petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough. If so, the incorporation petition must also address and comply with all standards and procedures for detachment of the overlapping boundaries from an existing organized borough.

The LBC finds that the petition does not describe boundaries overlapping the boundaries of an existing organized borough. That makes moot the question of whether the petition for incorporation also addresses and complies with all standards and procedures for detachment of overlapping boundaries from an existing organized borough.

Fifth, 3 AAC 110.060(f) asks if the boundaries of the proposed borough include only a portion of the territory of an existing city government. The LBC finds that it does not.

In sum, after considering all of the record and arguments, the commission finds that 3 AAC 110.060 is met.

3 AAC 110.065 BEST INTERESTS OF STATE

3 AAC 110.065 concerns several standards.

First, AS 29.05.100(a) asks if the incorporation is in the best interests of the state. In considering that, the commission turns to 3 AAC 110.065, which asks whether the incorporation of a borough is in the best interests of the state under AS 29.05.100(a). Per 3 AAC 110.065, the commission may consider relevant factors, including whether incorporation:

- (1) promotes maximum local self-government, as determined under 3 AAC 110.981;*
- (2) promotes a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with art. X, sec. 1, Constitution of the State of Alaska;*
- (3) 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.*

The commission finds that the proposed incorporation would promote maximum local self-government because there are two governments now (the cities of Petersburg and Kupreanof), and if the petition is approved, there would still be only two (the City of Kupreanof and the Petersburg Borough). Also, the people outside of the current city would now be able to have a voice in local government.

Also, the proposed incorporation would promote a minimum number of local government units, as indicated above.

The proposed incorporation would relieve the state government of the responsibility of providing local services, because the borough school system would take on the present state responsibility of educating children residing outside the city.

The proposed incorporation is not 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. The commission finds that the proposed borough would be financially stable, and that dissolution is an unlikely possibility.

In sum, after considering all of the record and arguments, the commission finds that the standards of AS 29.05.100(a) and 3 AAC 110.065 are met.

3 AAC 110.900(a) TRANSITION PLAN

3 AAC 110.900(a) asks whether the petition includes a transition plan that demonstrates the capacity of the municipal government to extend essential municipal services into the boundaries proposed for change in the shortest practical time after the effective date of the proposed change. The commission finds that the petition does include such a transition plan.

3 AAC 110.900(b)

3 AAC 110.900(b) asks whether the petition includes 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, or other appropriate entity located within the boundaries proposed for change. The LBC finds that such a practical plan exists because the unorganized borough is providing no functions or services there now. The City of Petersburg would dissolve, and a borough would form and assume that city's powers, duties, rights, and functions.

3 AAC 110.900(b) also asks if the plan was prepared in consultation with the officials of each existing borough, city, and unorganized borough service area. The petitioners met with Kupreanof city officials. The commission finds that plan was so prepared.

3 AAC 110.900(b) also asks if the plan is designed to affect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change. The LBC finds that it is so designed.

3 AAC 110.900(c)

3 AAC 110.900(c) asks, among other criteria, if the petition includes 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 entities located within the boundaries proposed for change. The commission finds that the City of Petersburg's bond debt would be assumed by the service area, and the city's assets would go to the borough.

Also, was the plan prepared in consultation with the officials of each existing borough, city, and unorganized borough service area wholly or partially included within the boundaries proposed for change? The LBC finds that there was such consultation.

Also, is the plan designed to affect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of the proposed change? The commission finds that it is so designed.

3 AAC 110.900(c) also asks whether the plan 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. The LBC finds that it does.

3 AAC 110.900(d)

The commission may require that all boroughs, cities, unorganized borough service areas, or other entities wholly or partially included within the boundaries 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. The commission finds that it was not necessary to require that optional agreement.

3 AAC 110.900(e)

3 AAC 110.900(e) asks if the transition plan states the names and titles of all the officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The commission finds that it does.

3 AAC 110.900(e) also asks if the dates on which that consultation occurred, and the subject addressed during that consultation also listed. The commission finds that the dates for consultation with Kupreanof are listed.

3 AAC 110.900(f)

3 AAC 110.900(f) asks if the prospective petitioner was unable to consult with officials of an existing borough, city, or unorganized borough service area because those officials have chosen not to consult or were unavailable during reasonable times to consult with a prospective petitioner. The commission finds that the prospective petitioner was able to consult with officials, and hence it is not necessary to address the below questions:

The prospective petitioner may request that the commission waive the requirement for consultation with those officials.

Has such a request been submitted? If yes, does the request for a waiver document all attempts by the prospective petitioner to consult with officials of each existing borough, city, and unorganized borough service area?

Does the commission determine that the prospective petitioner acted in good faith and that further efforts to consult with the officials would not be productive in a reasonable period of time?

If yes, the commission may waive the requirement for consultation. Does the commission waive that requirement?

3 AAC 110.910 STATEMENT OF NONDISCRIMINATION

3 AAC 110.910 asks whether 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. After considering all of the record and arguments, the commission finds that the petition does not deny any person the enjoyment of any civil or political right, and so the standard is met.

3 AAC 110.970(a) DETERMINATION OF ESSENTIAL MUNICIPAL SERVICES

3 AAC 110.970(a) asks whether a provision of this chapter calls for the identification of essential municipal services for a borough.

If yes, do those services consist of those mandatory and discretionary powers and facilities that:

(1) are reasonably necessary to the area;

(2) promote maximum local self-government;

After considering all of the record and arguments, the LBC finds that the standard is met. The home rule borough will assume the powers that the existing home rule city of Petersburg has, including education, tax levying and collection, and land use and planning. The powers are reasonably necessary to the area and promote maximum local self-government.

3 AAC 110.981(1) DETERMINATION OF MAXIMUM LOCAL SELF GOVERNMENT

3 AAC 110.981(1) asks that in determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, for borough incorporation, whether the proposal extends local government on a regional scale to a significant area and population of the unorganized borough. After considering all of the record and arguments, the commission finds that the standard is met.

3 AAC 110.982(1) MINIMUM NUMBER OF LOCAL GOVERNMENT UNITS

In determining whether a proposed boundary change promotes a minimum number of local government units under art. X, sec. 1, Constitution of the State of Alaska, for borough incorporation, will a new borough be created from the unorganized borough? The commission finds that the proposed borough is presently within the unorganized borough.

3 AAC 110.982(1) also asks if the proposed boundaries maximize an area and population with common interests. The commission finds above that it does.

After considering all of the record and arguments, the LBC finds that 3 AAC 110.982 is met.

SECTION IV ORDER OF THE COMMISSION

The commission concludes that all of the relevant standards and requirements for incorporation of the Petersburg Borough are met. The commission reaches that conclusion after fully considering the all of the parties' arguments, as well as the public comments, and the rest of the record in this proceeding. That record includes the borough incorporation petition and supporting materials, written comments received on the petition, the responsive briefs, the Petitioners' reply brief, Commerce's preliminary report, comments received on Commerce's preliminary report, Commerce's final report, and testimony, opening and closing statements, and comments received at the LBC's May 30 – June 1 public hearing on the petition.

The staff had recommended that the commission amend the petition to exclude Tracy Arm and Whiting River watersheds from the proposed borough. Commissioner Harcharek made a motion to amend the petition to go back to the staff recommended boundaries, with the caveat that a final northern line of the proposed borough will be set by the cartographers following the natural boundaries. That has been done.

After considering Juneau's claim to that area, the commission unanimously voted to amend the petition. The commission then approved the amended petition by a 4 – 1 vote.

The LBC staff drafted proposed boundaries, and they were reviewed by cartographers within the Division of Community and Regional Affairs. The boundary description is indicated below. The borough contains approximately 3,829 square miles, more or less, a portion of which is in the Petersburg Recording District, and a portion of which is in the Juneau Recording District. Both recording districts are in the First Judicial District, State of Alaska.

PETERSBURG BOROUGH CORPORATE BOUNDARIES

Beginning at the line of mean high tide at Point Coke (Sumdum (D-6), Alaska, 1951, with minor revisions 1963) North 57° 47' 34" Latitude and West 133° 41' 50" Longitude; the TRUE POINT OF BEGINNING hereof;

Thence southeasterly to the line of mean high tide at the northwestern most point on Harbor Island;

Thence northeasterly to the line of mean high tide at the westernmost point of land in Section 28, Township 47 South, Range 73 East, Copper River Meridian (northeast of Sand Spit) (Sumdum (D-5), Alaska, 1955, with minor revisions 1981);

Thence easterly along the natural divide between the Tracy Arm and Endicott Arm watersheds, including glaciers (identifiable through the USGS National Hydrography Boundary Dataset, 2012) to its intersection with the Alaska-Canada Boundary Line in Section 19, Township 49 South, Range 80 East, Copper River Meridian approximately 3600 feet Southwest of Boundary Peak 75 on the Alaska-Canada Boundary Line (Sumdum (B-2), 2000);

Thence southeasterly along the Alaska-Canada Boundary Line to Kate's Needle, also known as Boundary Peak No. 70;

Thence southwesterly, further along the Alaska-Canada Boundary Line to a point on the watershed divide between LeConte Bay and the Stikine River (northeastern boundary of the City and Borough of Wrangell);

Thence southwesterly along the boundary of the City and Borough of Wrangell (based on certificate of incorporation dated May 30, 2008) in a generally southwesterly direction to a point in Sumner Strait south of McArthur Reef at approximately North 56° 21' 18" Latitude and West 133° 10' 60" Longitude (where the Petersburg/Wrangell Ranger Districts and Thorne Bay Ranger District meet);

Thence westerly along Sumner Strait to a point between Totem Bay on Kupreanof Island and Buster Bay on Prince of Wales Island, at North 56° 23' 40" Latitude and West 133° 25' 03" Longitude;

Thence northerly to the line of mean high tide on the south shore of Kupreanof Island in Totem Bay and at the southernmost end of the watershed divide between Duncan Canal and Rocky Pass, at North 56° 29' 39" Latitude and West 133° 24' 49" Longitude;

Thence northerly through Kupreanof Island along the watershed divide between Duncan Canal and Rocky Pass which passes through Township 62 South, Range 77 East, Sections 4, 5, 8, 9 and 17; Township 61 South, Range 77 East, Sections 5, 7, 8, 18, 19, 30, 31 and 32; Township 60 South, Range 76 East, Sections 4, 5, 6, 7, 8, 17, 18, 20, 27, 28, 29, and 34; Township 59 South, Range 75 East, Sections 10, 11, 13, 14, 15, 23, 25, and 36; Township 59 South, Range 76 East, Sections 6, 7, 18, 31, 32, and 33; Township 58 South, Range 75 East, Sections 25 and 36; Township 58 South, Range 76 East, Sections 5, 6, 7, 8, 17, 18, 19, 30, and 31; and Township 57 South, Range 76 East, Section 31 to a point on said divide, just northwest of Towers Lake at North 56° 52' 58" Latitude and West 133° 30' 23" Longitude;

Thence northeasterly further along said divide which passes through Township 57 South, Range 76 East, Sections 24, 25, 26, 27, 31, 32, 33, and 34 to a point northwest of the north end of Duncan Canal on Kupreanof Mountain (Elevation 1806) at approximately North 56° 54' 22" Latitude and West 133° 22' 07" Longitude;

Thence easterly to a point on the line of mean high tide at the southernmost end of Portage Bay to a point, at approximately North 56° 55' 19" Latitude and West 133° 16' 25" Longitude;

Thence northwesterly along the line of mean high tide of the east shore of Portage Bay to East Point at the entrance to Portage Bay, at approximately North 57° 00' 15" Latitude and West 133° 19' 30" Longitude;

Thence to a point in Frederick Sound, at North 57° 03' 49" Latitude and West 133° 19' 30" Longitude;

Thence along Frederick Sound to a point west of Cape Fanshaw, at the south end of Stephens Passage, at North 57° 11' 09" Latitude and West 133° 44' 19" Longitude;

Thence along Stephens Passage to a point between the Five Fingers and the Brothers, at North 57° 17' 48" Latitude and West 133° 44' 19" Longitude;

Thence along Stephens Passage to a point east of Point Hugh on Admiralty Island, at North 57° 34' 08" Latitude and West 133° 42' 17" Longitude;

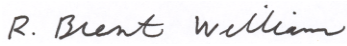
Thence northeasterly along Stephens Passage to Point Coke near Holkham Bay at North 57° 47' 34" Latitude and West 133° 41' 50" Longitude the TRUE POINT OF BEGINNING; hereof;

Containing approximately 3,829 square miles, more or less, a portion of which is in the Petersburg Recording District, and a portion of which is in the Juneau Recording District, First Judicial District, State of Alaska.

Approved in writing this 22nd day of August, 2012.

LOCAL BOUNDARY COMMISSION

By:  x
Lynn Chrystal, Chair

Attested by:  x
Brent Williams, Staff

RECONSIDERATION BY THE COMMISSION

3 AAC 110.580 (Reconsideration) states that:

“(a) Within 18 days after a written statement of decision is mailed under 3 AAC 110.570(f), a person may file an original and five copies of a request for reconsideration of all or part of that decision, describing in detail the facts and analyses that support the request for reconsideration.”

“(b) Within 30 days after a written statement of decision is mailed under 3 AAC 110.570(f), the commission may, on its own motion, order reconsideration of all or part of that decision.”

(c) A person filing a request for reconsideration shall provide the department with a copy of the request for reconsideration and supporting materials in an electronic format, unless the department waives this requirement because the person requesting reconsideration lacks a readily accessible means or the capability to provide items in an electronic format. A request for reconsideration must be filed with an affidavit of service of the request for reconsideration on the petitioner and each respondent by regular mail, postage prepaid, or by hand-delivery. A request for reconsideration must also be filed with an affidavit that, to the best of the affiant's knowledge, information, and belief, formed after reasonable inquiry, the request for reconsideration is founded in fact and is not submitted to harass or to cause unnecessary delay or needless expense in the cost of processing the petition.

(d) If the person filing the request for reconsideration is a group, the request must identify a representative of the group. Each request for reconsideration must provide the physical residence address and mailing address of the person filing the request for reconsideration and the telephone number, facsimile number, and electronic mail address, if any, for the person or representative of the group.

(e) The commission will grant a request for reconsideration or, on its own motion, order reconsideration of a decision only if the commission determines that

(1) a substantial procedural error occurred in the original proceeding;

(2) the original vote was based on fraud or misrepresentation;

(3) the commission 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.

(f) If the commission does not act on a request for reconsideration within 30 days after the decision was mailed under 3 AAC [110.570\(f\)](#), the request is automatically denied. If it orders reconsideration or grants a request for reconsideration within 30 days after the decision was mailed under 3 AAC [110.570\(f\)](#), the commission will allow a petitioner or respondent 10 days after the date reconsideration is ordered or the request for reconsideration is granted to file an original and five copies of a responsive brief describing in detail the facts and analyses that support or oppose the decision being reconsidered. The petitioner or respondent shall provide the department with a copy of the responsive brief in an electronic format, unless the department waives this requirement because the petitioner or respondent lacks a readily accessible means or the capability to provide items in an electronic format.

(g) Within 90 days after the department receives timely filed responsive briefs, the commission, by means of the decisional meeting procedure set out in 3 AAC [110.570\(a\)](#) - (f), will issue a decision on reconsideration. A decision on reconsideration by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioner and the respondents.

JUDICIAL APPEAL

A decision of the LBC may be appealed to the Superior Court under AS 44.62.560(a) and Rules of Appellate Procedure 602(a)(2).