

## Cover Letter to the Local Boundary Commission Responsive Brief regarding the formation of a Petersburg Borough

I've been doing some thinking about my motivation for being against borough formation. I started off by examining my thoughts and then tried to bring into focus what my neighbors have been saying about their reasons.

I am now a senior citizen. I started off my recent thinking by asking myself, "Am I opposed to the Borough because I am old and set in my ways and just plain suspicious of change?" The answer is "No." While not a fan of change for change's sake, I do not oppose the borough out of a mindless desire to maintain the status quo. Specifically, I do not want to be part of a group whose political and financial stances and practices are an anathema to me. I especially do not want to be forced into a situation where my money will be taken from me and mine to be used to support 'good ole boy' politics and 'tax and spend' economics.

There is also an odious undercurrent of subterfuge and misdirection running through this process. This is evident in official statements that there will be no enforcement of planning, zoning, permitting, or building codes while the current head of Petersburg Planning and Zoning tells two of my neighbors that she can hardly wait to get us into the borough and straighten us out by enforcing building codes. It is evident when one of my neighbors who has been vociferously leading the charge for borough formation can look me in the eye and tell me he has not made up his mind which way he will vote on the issue. It is evident in the reasons given in the petition itself with half-truths, scare tactics, and circular reasoning.

Now comes consideration of what the majority of my neighbors have been telling me. They asked me to summarize their feelings in a letter to the Local Boundary Commission. I did so for my Keene Channel neighbors and submitted that letter to Mr. Brent Williams on September 18, 2011. It was signed by 13 of the 18 persons who consider themselves permanent residents of this neighborhood (One neighbor was out moose hunting and I am convinced she would have signed had I been able to reach her). The signers adamantly oppose formation of the Petersburg Borough for reasons stated in that letter. Their reasons echo and reinforce mine.

There are 18 of us who live more or less full time along Keene Channel. If you continue on around into the Duncan Canal, there are an additional 6 persons who identify themselves as permanent residents. All 24 of us are registered to vote. 20 of the 24 oppose the formation of the Petersburg Borough. In the America I know and love, this percentage of the population should effortlessly prevail in political decisions but your regulations are on the verge of pitting us against 3,000 who will be inclined to see us as their financial salvation.

I implore you to make all of your findings lean towards rejection of the petition to form a Petersburg Borough whenever and wherever it is legally possible to do so. Thank you for your consideration.

George B. Cole  
Keene Channel, Alaska

## Responsive Brief against the formation of the Petersburg Borough

By: George B. Cole  
PO Box 2107  
Petersburg, AK 99833  
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907-723-0721

Local Boundary Commission  
Alaska Department of Commerce, Community, and Economic Development  
550 W. 7th Avenue, Suite 1770  
Anchorage, AK 99504

Dear Sirs and/or Madams:

This brief is divided into three sections. The first section discusses 3 AAC 110.045 and 3 AAC 110.055. The second section discusses Section 6 of the petition to form the Petersburg Borough and dissolve the City of Petersburg. The third section explores why this procedure should be delayed until the question of forming a recognized unorganized borough is resolved.

### Section One

#### 3AAC 110.045, Relationship of interests:

The regulation is in smaller italic case, arguments in normal larger case.

*(a) On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated 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 the*

The proposed Petersburg Borough fails to meet the standards set out in the above cited Administrative Code and in AS 29.05.031 when examining the listed criteria.

*(1) compatibility of urban and rural areas within the proposed borough;*

While there is genteel tolerance between the residents of the current City of Petersburg and those residing outside Petersburg, but inside the proposed borough, there are many distinct differences that make wedding them into a unified entity a bad idea. The two groups have different interests, goals, life styles, and approaches towards governance.

Residents who reside inside the current City of Petersburg have chosen an urban lifestyle, full of shoulder-to-shoulder living, structured entertainment, and municipal dependencies such as police, fire, and utilities. They want the security of having easy and ready access to grocery stores, hardware stores, theaters, saloons, and the like. Those outside the city,

but within the proposed borough, do not choose such a life-style. They prefer to be less structured and more self-reliant.

Petersburg city residents rely on police, courts, city councils, and municipal maintenance facilities and personnel to iron out the problems they might encounter in their lives. Those who live outside the city prefer to rely on themselves and each other. They work out any differences in a face-to-face manner. If a path needs fixing, or a neighbor gets hurt and needs winter firewood, or a fire breaks out, they gather together to address and handle the problem. Most residents inside the current proposed borough, but outside the current City of Petersburg, rely on generators or renewable energy, cisterns, septic systems, and satellite TV and satellite Internet. Many do not wish to be part of an organized utility system and even if they did, the proposed borough will be in no position to provide utilities.

*(2) compatibility of economic lifestyles and industrial or commercial activities;*

While some economic interests overlap, there are many that do not or are in opposition. This is especially true in how projects and physical plants are funded. Current city residents support borrowing in the form of bonds, loans, or grants to purchase items they want such as swimming pools, libraries, fire halls, pursuit police vehicles, and the like. Most of the non-city residents in the proposed borough do not support borrowing. They own their land and built on their land in a pay as you go manner.

The City of Petersburg and many of the proposed borough proponents support overly ambitious and fiscally questionable projects like the failed Inter Island Ferry System that cost millions of dollars. Residents outside the current city actively oppose this type of boondoggle. They believe such projects are a waste of time and resources. The current overly ambitious fire station is another example of freely spending the public's money and putting us further into the debt-fueled financial crisis our country is now experiencing. Those of us outside the current city oppose the kind of reasoning that wants bigger and more expensive government to support a declining population.

In a time of declining population and revenues, the City of Petersburg seems to be interested in expanding its police force and their attendant equipment. The recent purchase of high-speed pursuit vehicles is a prime example of the different goals of current city residents vs. those who live in the proposed borough. Most non-city residents feel such expenditure is of the highest folly since there are fewer than 50 miles of paved highway.

The City of Petersburg recently added additional police personnel bringing the total number of sworn officers serving 2900 citizens to 9. This is 1 officer for every 322 people. The national average for similarly sized towns is 1 officer for every 455 people. From reading the police blotter in the Petersburg Pilot, it is apparent Petersburg is not a violent or crime ridden community. Having excessive police personnel is directly contrary to the thinking and goals of those residing outside the city who would suggest a

reduction in personnel would be in order to serve a declining population. This shows an interest in empire building and is a waste of scarce municipal resources.

Another example of fiscally opposite views is the recent contract with North Star Destination Strategies. Petersburg is spending \$58,000 to have a Tennessee company 'brand' Petersburg. This 'branding' is supposed to attract businesses and new residents to Petersburg. It is considered a total waste of money by most of the folks I have talked to who live outside the city but within the proposed borough. If they insist upon spending money on such an ethereal pursuit, they should have contracted with local graphic artists, computer specialists, travel agencies, real estate firms, and the local chamber of commerce to advertise Petersburg's desirability as a business and residential community. This would have at least had the money circulating locally. We believe they can attract businesses and new residents by offering incentives such as lowering taxes, providing long term low cost leasing of city land, or easing zoning restrictions.

Although there are a few commercial fisher folk outside the current City of Petersburg, the overall economic lifestyle difference between Petersburg and the proposed borough is enormous. There are several fishing lodges in the proposed area and a smattering of other business. Most businesses are on the Mitkof Island road system. Off Mitkof Island, the mainstays of economic lifestyle are retirement and subsistence.

Other than 3 fishing lodges owned and operated by out-of-state residents, and a part time gravel pit, there are no other commercial activities that I know of off the Mitkof Island road system within the proposed borough. Although fishing, crabbing, and shrimping are commercial activities, they are controlled by the State of Alaska and need no regulation by a borough.

There is little or no industrial activity off Mitkof Island. There was mining exploration on Woewodski Island in the past but that seems to have been shut down. In any event, most of the land in the proposed borough is either State land or Federal land. If I am not mistaken, those entities control those activities and not the borough.

The current City of Petersburg appears to be headed into dire financial straits and seems to be casting about for free money. Taxing residents in the proposed borough without providing them with any services is one way of getting free money. This attempt is certainly not compatible with the economic lifestyles of those outside the current City of Petersburg. Most of them would opt for reduction of services, reduced municipal personnel, and smaller more reasonable municipal projects. They have maxed out their authorized mill rate and intend to circumvent the required vote to increase it by a sneaky ordinance that says if the people voted for a bond issue, that vote counts as a vote to increase the mill rate<sup>1</sup>.

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<sup>1</sup> Section 12.03 Proposed Borough Charter, page 120 of the petition: "The ad valorem tax on real property shall not exceed 10 mills, except ad valorem tax on real property necessary to retire debt approved by the voters is excluded from this limit."

I recently spoke with the long time manager of a local Petersburg enterprise. He told of being very concerned as he reaches retirement age that he will not be able to afford to stay in Petersburg. He spoke directly about the bonding issues and mill rate that he fears will drive the cost of maintaining his residence higher than he will be able to afford. He said the rationale that building extravagant public complexes to attract new residents begs the question, "What will they do for employment?" He compared this rationale as a 'Field of Dreams'. He rhetorically asked, "If they come, what will they do?"

The current City of Petersburg derives a substantial portion of its annual budget from the State of Alaska and the Federal Government. Those folks residing outside the current city, but within the proposed borough boundary, will make up about 10% of the proposed borough population. They will be entitled to receive direct benefit from 10% of future revenues from those sources. There is nothing in the proposed charter that addresses how this obligation will be met. It appears the current City of Petersburg expects to hold on to all such funding and simply ignore this injustice.

*(3) existence throughout the proposed borough of customary and simple transportation and communication patterns;*

The customary and simple transport and communication patterns throughout the proposed borough are not conducive to the free exchange of thoughts, ideas, goals, plans, and interests that are essential to good government. Establishing a borough will not improve or enhance the existing transportation or communication patterns. Again, no benefit will accrue to the people who will bear the brunt of this proposal.

*(4) extent and accommodation of spoken language differences throughout the proposed borough; and*

There are no major language differences throughout the proposed borough.

*(5) existence throughout the proposed borough of organized volunteer services such as fire departments or other emergency services.*

While there are organized volunteer emergency services within the current City of Petersburg, there is no such organization outside. The volunteers from Petersburg occasionally respond outside the city but within the proposed borough, but the vast majority of residents off the Mitkof Island road system are beyond reasonable response time for any emergency services. The current petition and proposed charter do not provide for extending such services beyond current boundaries if a borough is formed. Most people outside the city would not opt to set up a special service area to tax themselves for such services. They are satisfied with their current level of services.

While the petition for borough formation lists a number of calls made by emergency service personnel to locations outside the current City of Petersburg, it appears most of them involved current city residents. Additionally, when the ambulance does respond, the patient is charged for the call. Most emergencies outside the current City of Petersburg are handled by the local residents. In the past four or so years these included extinguishing two out of control beach fires, rescuing a stranded individual in a rented

skiff, rendering aid to a fishing boat that lost power and was about to hit the rocks, pulling a fishing lodge skiff back to the lodge after it wrecked its lower unit on a reef, providing aid and directions to a man and his dog who became disoriented in the dark, rushing an individual with a life threatening allergic reaction by boat to the Mitkof road system, providing a tie up to a fishing skiff caught in sudden severe weather, providing mechanical repairs to a fishing boat that was having engine trouble, just to name a few.

Thus, there would be no advantage to forming a borough as the majority of emergencies are handled without governmental assistance or involvement.

*(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 accordance with AS 29.05.031 (a)(4) and art. X, sec. 3, Constitution of the State of Alaska. In this regard, the commission may consider relevant factors, including*

*(1) transportation schedules and costs;*

There are no transportation schedules for residents who live outside the current City of Petersburg but within the proposed borough.

Costs for participation for those persons will be significantly higher than current city residents. Participation at council meetings would require an overnight stay, dining out, or other life scheduling accommodations such as arranging for pet care, arranging to keep wood fires burning overnight to avoid frost damage, canceling or changing social plans.

The petition does not address how the proposed borough would provide or encourage a transportation system that would give reliable and consistent access to the seat of government.

*(2) geographical and climatic impediments;*

Tides and darkness interfere with travel to and from the City of Petersburg for most residents who live off the Mitkof Island road system. Fall, winter, and early spring weather often precludes any travel at all except in the most dire of emergencies.

*(3) telephonic and teleconferencing facilities; and*

Most residents who reside outside of the current City of Petersburg do not have adequate phone service to insure they can be notified of meetings, changes, or updates. There is no way to teleconference for the vast majority of those residents. Additionally, current regulations prohibit those without landlines from participating in teleconferencing in the very hearings that are being held to decide their fate.

(4) *electronic media for use by the public.*

There are two radio stations available for Petersburg to send out informational messages to residents of the proposed borough. This is a one way and exclusively top down form of communication.

For these reasons, most residents who live off the Mitkof Island road system of the proposed borough will not be able to participate in an integrated borough government.

Many rural residents are acquiring Internet access through the Starband satellite system. In the future, this might be a way of providing two-way communication for participation in local government. Currently there are too few systems to serve more than a handful and the bandwidth is not sufficient for conferencing. Again, the petition makes no provision for providing or encouraging this medium for exchange of ideas or concerns.

(d) *In determining whether communications and exchange patterns are sufficient, the commission may consider whether*

(1) *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*

A number of the neighborhoods in the proposed borough are not connected by a public roadway. There are no regularly scheduled flights, no ferry service, nor any bus transportation in the proposed borough. Regular participation in government would require travel by skiff and would be seriously impeded by tides and darkness since most meetings are scheduled at night.

(2) *communications and exchange patterns will adequately facilitate interrelationships and integration of the people in the proposed borough.*

The communications and exchange patterns are not sufficient for effective governance of the people in the proposed borough. Communications from the proposed borough government can be sent through the radio but receiving input from the governed would be problematic at best. As stated above, improvement in the Starband network both in numbers of participants and bandwidth might address this issue.

One-way communication would exist in that the borough government can send out messages but any exchange patterns would be spotty. In some areas of the proposed borough, radio reception is hit and miss. Even in those areas where it is consistent, there is no guarantee any message from government is received, digested, understood, and either accepted or questioned by the affected population.

3 AAC 110.055, Resources:

3 AAC 110.055 requires resources be considered. While I am no expert in Petersburg's financial position, I do become aware of some of the City's use of resources, human, financial, and natural. I believe they will fail to meet most, if not all of the required tests under this section.

*The economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level.*

The Local Boundary Commission (LBC) is mandated to consider the reasonably anticipated functions and expenses of the proposed borough.

Since there is no plan to provide any services other than providing free public education and assessment for the purpose of taxation for the area outside the current city, it is unreasonable to consider they have met this test. If, as they say in their petition, they are only going to maintain the current level of services in the current area, there is no reason to expand their territory from the current 46 square miles to over 4200 square miles. There would be no effective service delivery to 90% of the area of which they propose to take possession.

It is highly likely that the cost of providing free public education for the entire area of the proposed borough will be far more than they can collect.

The petition says they anticipate gaining additional taxes in the amount of \$184,000 per year<sup>2</sup>. This amount of money will not allow them to govern, assess, serve, control, or even visit the area they say they can govern efficiently and in a cost-effective manner. The purchase price of a single boat that would allow them to visit the expanded area would cost more than they will collect and that does not include the cost of maintenance or operation or wages for a crew to run it. There is no way they can effectively govern an area unless they can access it and they have no viable plan to be able to do so.

Part of this section also requires the LBC to consider the economic base of the area within the proposed borough. At present, there is very little economic activity within the area of proposed expansion. Within the current City of Petersburg, the economic base is dwindling and the petition does not address how expansion in area will result in expansion of economic activity beyond taxation. They seem to not grasp that they cannot tax themselves into prosperity.

The LBC is also charged with making a prediction on the level of commitment and interest in sustaining a borough government. I can tell you with certainty that the overwhelming majority of persons residing outside the current City of Petersburg but within the proposed borough are opposed to a borough government. Given any opening, we will actively work for the dissolution of such a government should it come to pass.

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<sup>2</sup> Page 37, Note 1, Petition for Incorporation of the Petersburg Borough



## **Section Two**

### **Petersburg Borough Petition (Section 6)**

Starting on page 2 of the petition, Section 6 sets out the reasons for petitioning for incorporation. I believe there are a number of apparently false or misleading statements contained in this section. The appropriate quotes from the petition precede my discussion and are in italics.

*1. ...having an alternative borough government or borough boundary imposed by the State; or being annexed into another borough.*

This first statement in the petition is misleading. There is no indication that the State or another borough is considering annexing or incorporating the area proposed in this petition<sup>3</sup>. The overwhelming majority of persons I have spoken to in the proposed area to be seized by Petersburg would prefer to remain in the unorganized borough. This is true even if the State assumes the powers and functions of an assembly of an organized borough.

*2. This incorporation proposal will retain our (Petersburg's) regional identity.*

This second statement is self-serving and a bit delusional. While Petersburg has a regional identity, most of the persons who reside in the City of Kupreanof and the area Petersburg proposes to take control of would disagree that they identify with Petersburg or that Petersburg's identity describes them. While most of the people I know identify themselves as fiscally conservative self-reliant rugged individualists, our varied and eclectic backgrounds defy a single 'identity'. Petersburg is rightly and proudly identified as 'Little Norway'. That identity and heritage binds them together. Those of us in the hinterlands are bound together by our love of remote living with maximum freedom to live as we desire and by our admiration, love and respect for our surroundings and each other.

*3. The territory north [of Petersburg] has traditionally been and is currently used primarily by Petersburg area fishermen, hunters and recreationalists. The proposed Petersburg Borough boundary ensures this land and water remains within the larger Petersburg regional area.*

This third statement leans towards the ludicrous. The lands and water north of Petersburg are not going anywhere. They are, and will remain, accessible to Petersburg for fishing, hunting, and recreational use. There is no indication Juneau or anyone else is going to seize this area and deny Petersburg use of it. Is it not true that people from Petersburg hunt, fish, and recreate in the entire State of Alaska? The implication that they will lose

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<sup>3</sup> There has been recent activity reported in local papers and on Internet radio that Juneau and Kake are going to oppose seizure of some areas that they traditionally use for their activities. I believe both entities are going to file briefs outlining their positions so I will not speculate as to what they will say.

access to the land north of them if they don't seize it is mind-boggling. Article 8, Section 3 of the Alaska Constitution insures they will always have the right to fish, hunt and recreate in these areas.

*4. Residents of the proposed borough, outside of the current city limits of Petersburg, use and rely upon some public and private infrastructures provided by, or within, the current City of Petersburg. Borough formation would allow the development of an equitable system of taxation from new areas to support existing and new public services and public infrastructure.*

This fourth statement is very misleading and misrepresents reality. We do use Petersburg as a resource the same as Petersburg residents use Juneau, Seattle, New York, Phoenix, and everywhere else that they travel to or buy things from. We are not here because Petersburg is near. We use Petersburg because it is near. Most of us pay taxes when we shop in Petersburg. Most of us are residents of Alaska and of the United States and they are the source for most of the public infrastructure residents outside the current city use. As far as private infrastructures, the fact that we use their services and buy their goods is sufficient to support them. Petersburg relies heavily upon the State and Federal Governments for financial support and they get to use our share of that money without providing us with any direct services.

*5. Borough incorporation will unite the area and its residents within a single home rule borough government that emphasizes individual rights and public participation.*

This fifth statement clearly states why we don't want to be included in their land grab. We currently are in an unorganized borough that emphasizes individual rights and public participation. Putting even the most loosely fitting governmental chain around our necks will reduce our individual rights. We already frequently gather together to help each other solve problems, engage in fellowship, and handle emergencies. Governmental tentacles inserted into our lives will reduce our participation in areas of mutual concern rather than enhance them.

*6. Borough incorporation will enfranchise all residents of the region enabling them to vote on issues affecting not only their immediate neighborhoods and service areas, but also borough-wide issues. Currently, residents outside the city limits, except residents of the City of Kupreanof, have no say in a local government.*

This sixth statement calls to mind what is called a circular argument. Petersburg proposes to give us an opportunity to vote in a local government. We don't want a local government. They are arguing that they should be a borough so that they can give us something we don't want! We already have a right to vote in Federal and State elections and that is sufficient for us to have a say in issues affecting our neighborhoods. And, exactly what service areas are they referring to anyway? Since there are none, they propose to give us the right to vote to influence organizations that don't and won't exist.

*7. This proposal creates a borough with boundaries that reflect historic and current common interests; social, cultural and economic ties; natural geography; and will have the resources to provide a stable regional government into the future.*

The seventh statement contains erroneous information and inferences. How can they say that dividing Kupreanof Island is creating a boundary that reflects natural geography? I suspect they did so to exclude Kake, as I am certain that Kake would unanimously oppose being included. I believe that had Kake been included, Petersburg never would have gotten the signatures they needed to even submit this petition. To artificially divide Kupreanof Island to exclude Kake is like the schoolyard bully choosing the victim he knows he can whip. As far as social, cultural and economic ties are concerned, those of us in the bush are no more bound to Petersburg than we are to Wrangell, Point Baker, Juneau, Ketchikan, or Kake. We visit and shop in Petersburg because it is the most convenient community, not because we are tied to it. If Petersburg disappeared today, by tomorrow we would be visiting and shopping in those other communities. Another test of social ties would be to inquire how many residents outside the current city of Petersburg belong to their social clubs such as the Moose or Elks, or who belong to their Chamber of Commerce. I do not know of a single person living off the Mitkof Highway system who belongs to those social organizations.

*8. This proposed incorporation will strengthen our area's regional voice and more effectively advocate for our regional priorities and needs.*

The eighth statement is self-serving and erroneous. Most of us in the bush are not going to speak with one voice on any subject. The idea that adding our cacophony to Petersburg will somehow enhance their regional voice is laughable. Like adding a hammer drill to an already discordant symphonic orchestra. And, if they truly believed this statement, they would seek to join all of Southeast Alaska into a single borough to more effectively and successfully interact with the larger boroughs in the interior of Alaska.

*9. Incorporation will create a regional government that provides services in an efficient, equitable, and cost-effective manner as determined by the residents. Incorporation will enable the area to plan for future use and development of the region.*

This ninth statement demands you suspend all credulity if you are to believe it. They cannot govern themselves efficiently or effectively right now. They certainly do not do so in a cost effective manner. They say in the petition that they are not going to provide us with any services. So, what leap of logic allows them to say they will provide them in an efficient and equitable and cost effective manner? They are going to efficiently and fairly give us nothing! And, they will save money doing it by adding employees to the public trough.

*10. Incorporation will enable the selection of municipal entitlement lands that will support and enhance the current life styles practiced in the area and help spur economic development and opportunities within the area.*

The tenth statement begs one to inquire how effectively they used land given to them when they incorporated as a city. Seems to me like people are leaving Petersburg. Seems to me like school enrollment is down. Seems to me like businesses are downsizing in Petersburg. Seems to me that they have plenty of city-owned land while they are considering bonding themselves for \$1.58 million to buy private land for a storage yard. Notwithstanding the fact the proposed bonding will add to their debt, they would be removing that land from the tax rolls. At 10 mills, that is \$15,800 they are tossing aside. That is just short of 10% of what they say they will gain in taxes by forming a borough. On a recent program broadcast on KFSK, Petersburg Council Person Susan Flint, who is on the finance committee, said a \$25,000 drop in the city's tax revenue 'would be painful' and would 'hurt'. Why don't they use some of their current city-owned property for a storage yard and save themselves a painful loss of tax income?

In summation: Almost all the reasons for incorporating as a borough are susceptible to interpretation. Most the reasons given in the petition are subject to being refuted by logic and facts. In my opinion, the petition is totally self-serving to bureaucrats and politicians who want to build an empire on the backs of Alaskans who had the gumption to go out into the bush and build homes, lives, and futures. They look at us and see dollars they can wrest from our years of hard work. Borough formation will diminish the lifestyles and freedom of those who live in the areas of proposed seizure and will do nothing to enhance the lives of the current residents of the City of Petersburg.

### **Section Three**

Section 1.6 Alaska Constitution gives citizens the right to petition the government. In a series of communications with the Local Boundary Commission<sup>4</sup>, I requested information on an apparent conflict between the Alaska Constitution and AS 29.03.010. I specifically asked Mr. Scott Ruby, Director of the Division of Community and Regional Affairs, for a legal clarification of this apparent conflict and if he could not provide one to please direct me to someone who could. His answer was to quote AS 29.03.010 as being the legal authority for itself and to suggest I hire an attorney. He did not address the apparent conflict other than to say it was an interesting concept. I cannot afford to hire an attorney and my request to him to advise me how to pursue my inquiry was ignored.

I still feel there is a glaring conflict between the Alaska Constitution and AS 29.03.010. The statute lumps widely disparate peoples into one borough with vastly different cultures, economies, resources, and languages. This is clearly in conflict with the Constitution that mandates forming boroughs, both organized and unorganized, into cohesive groups of peoples.

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<sup>4</sup> Copy of emails appended

My reading of the Constitution would seem to indicate we could petition the State to recognize us as a specific unorganized borough and as such we should have standing to effectively oppose being absorbed by Petersburg. This might give us the right to demand that a majority of us express desire to be joined with Petersburg rather than the 15% under the current standard.

It is my feeling that Mr. Ruby's actions, as shown in the appended email exchanges, have effectively denied me the right to petition the government as guaranteed in the Alaska Constitution. I request this process be put on hold until a legal opinion is obtained from the Attorney General and the Department of Law.

Summation:

The current City of Petersburg would be better served if it concentrated on becoming fiscally sound and attracting residents and businesses that want to live and thrive in an urban environment. The proposed petition and charter seem to do exactly the opposite with proposed tax increases and possible inclusion of personal property on the tax rolls. Any business on the financial bubble will be driven under by these proposals. The petition and charter seem to only be favorable to an increase in government. The predictable result will be more and more government for fewer and fewer citizens.

The residents outside the current City of Petersburg, but within the proposed borough, would be better served by having this petition rejected. They will have little say or input into the proposed borough. The vast majority of them would be much better off by remaining an Unorganized Borough.

I believe the petition as well as the process to form a borough and dissolve the City of Petersburg is flawed for all the reasons listed above and should be denied.

Appendix

Email Correspondence to and from LBC Regarding Constitutional Issues:

From: George Debi Cole [mailto:geo3deb@netscape.com]  
Sent: Thursday, July 28, 2011 8:11 AM  
To: Commission, Boundary (CED sponsored)  
Cc: Don & Charlene Anderson; Ron Daun Bromenschenkels; Thea Greenfield; Ron and Janie Reed; Ken Laura Howard; Jeff Ray; Gary & Arlene Williams; Dana and Russ Thynes; Cathy Villasenor; Bob & Ione Lynn; Dona Malhiot Laubhan; Jerry Laubhan; Wilson, Peggy A (LAA)  
Subject: Constitutional Question

Dear Sirs:

Section 10.3 of the Alaska Constitution states:

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.

The operative wording seems to be shall be divided into boroughs, organized or unorganized. Then the requirements of population, geography, economy, transportation and other factors and population with common interests to the maximum degree possible seem to command you to consider a request to be recognized as a specific unorganized borough if a majority of citizens in a defined area meet those factors and request such recognition.

I realize that the last 2 sentences in 10.3 give great latitude in how this might be accomplished but the Constitution should trump any statutes or administrative codes that would violate the spirit and intent of the first 4 sentences in that section.

This would seem to indicate we could petition you to recognize us as a specific unorganized borough. If true, what would be the steps we would need to take to accomplish this?

Thank you for your consideration and timely response. You are presently considering an application by the City of Petersburg to swallow us up against our will and against our interests.

Sincerely,  
George Cole

Keene Channel

From: Williams, Brent R (CED) On Behalf Of Commission, Boundary (CED sponsored)  
Sent: Thursday, July 28, 2011 8:25 AM

To: Ruby, Scott (CED)  
Subject: FW: Constitutional Question

Good Morning Scott,

FYI. Mr. Cole has previously communicated with the state about public meetings and ballot groups.

Thanks,

Brent  
Brent Williams  
Local Boundary Commission  
Alaska Department of Commerce, Community, and Economic Development  
550 W. 7th Avenue, Suite 1770  
Anchorage, AK 99504  
(907) 269-4559  
(907) 269-4539 (fax)

Please be sure to send all email correspondence regarding Local Boundary Commission matters through the following email address: [lbc@alaska.gov](mailto:lbc@alaska.gov). This ensures that all LBC staff receive your correspondence in a timely manner. Thank you.

----- Original Message -----

From: Ruby, Scott (CED)  
To: [geo3deb@netscape.com](mailto:geo3deb@netscape.com)  
Cc: Williams, Brent R (CED) ; Wilson, Peggy A (LAA)  
Sent: Thursday, July 28, 2011 2:36 PM  
Subject: FW: Constitutional Question

Mr Cole,

Please excuse the previous e-mail, I hit send button while trying to pull up some additional e-mail addresses.

Your question was referred to me by the staff of the Local Boundary Commission. You bring up an interesting concept regarding multiple unorganized boroughs. Alaska Statute 29.03.010 states:

Areas of the state that are not within the boundaries of an organized borough constitute a single unorganized borough.

The statute is consistent with the second sentence of Art X., section 3 which states: "They shall be established in a manner and according to standards provided by law."

The law addressed the manner of establishment of the unorganized borough, specifying it to be "a single unorganized borough." With the specificity of this statute, the Local Boundary Commission would be prevented from considering any petition to form multiple unincorporated boroughs.

I was not able to forward this response to any of the people that you had cc'd on your original question, other than Representative Wilson, who's e-mail I was able to pull up off the state system. Please forward it to them.

Scott  
Scott Ruby  
Director  
Division of Community and Regional Affairs  
550 W 7th Ave., Suite 1640  
Anchorage, AK 99501  
Work: (907) 269-4569  
Email: scott.ruby@alaska.gov

From: George Debi Cole [mailto:geo3deb@netscape.com]  
Sent: Friday, July 29, 2011 7:59 AM  
To: Ruby, Scott (CED)  
Cc: Williams, Brent R (CED); Wilson, Peggy A (LAA)  
Subject: Re: Constitutional Question

Director Ruby:

I respectively insist that your interpretation of the Alaska Constitution Article 10.3 vs. AS 29.03.010 is wrong. The wording of this section clearly indicates the intent of the framers that there be more than one unorganized borough. This is bolstered by several sections of this Article and by the wording of Article 10.6 that clearly states, "The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs..." The references to "boroughs, organized or unorganized," and "They shall be established," and "unorganized boroughs" clearly points to the intent that there be more than one unorganized borough.

The framers went on to delineate how the boroughs, both organized and unorganized, would be established and defined. They clearly state the basic criteria for the formation of them in their wording, "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." This wording clearly shows that the framers realized there are differences in lifestyles, economies, transportation, and other factors such as culture, language, and communications, between residents of Southeastern



Alaska and, for example, St. Paul Island or the Aleutian Chain or the Yukon Delta. This adds overwhelming credence to the intent that multiple unorganized boroughs be established to serve the interests and needs of the disparate peoples of Alaska.

Please request a legal opinion regarding this issue. If you cannot request such an opinion, please direct me to who might be able to do so. I believe that the Alaska Constitution should be the deciding legal authority on this matter. It is clear that simply dumping most of Alaska into one borough as per AS 29.03.010 is in violation of the Alaska Constitution and thus unconstitutional.

Thank you very much for your consideration and time.

George Cole  
Keene Channel

----- Original Message -----

From: Ruby, Scott (CED)  
To: George Debi Cole  
Cc: Williams, Brent R (CED) ; Wilson, Peggy A (LAA)  
Sent: Monday, August 01, 2011 11:17 AM  
Subject: RE: Constitutional Question

Mr. Cole,

Following review of your July 29, 2011 email, my previous response stands.

While there may be disagreement concerning the constitution's language, there is no doubt that currently under state law, there can be only one unorganized borough.

You might find it helpful to contact an attorney in private practice for advice on this matter. If you do not know of one the Alaska Bar Association might be able to direct you to one or more as it provides a lawyer referral service and may be reached at (800) 770-9999.

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----- Original Message -----

From: George Debi Cole  
To: Ruby, Scott (CED)

Cc: Williams, Brent R (CED) ; Peggy Wilson  
Sent: Monday, August 01, 2011 2:23 PM  
Subject: Re: Constitutional Question

Director Ruby;

Thank you for your time and patience. I appreciate you taking a second look at the same question.

Sincerely,  
George Cole  
Keene Channel