STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Community and Regional Affairs

Sean Parnell, Governor
Susan K. Bell, Commissioner
Scott Ruby, Director

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

May 2012

550 W. 7th Avenue, Suite 1770, Anchorage, Alaska 99501
Telephone: (907) 269-4559 Fax: (907) 269-4539
Email: lbc@alaska.gov Website: http://www.commerce.alaska.gov/dca/lbc/lbc.htm

This is the *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.* The report was written by staff to the Local Boundary Commission ("LBC"). The staff is part of the Division of Community and Regional Affairs of the Alaska Department of Commerce, Community, and Economic Development (Commerce). The report can also be found at the following address:

http://commerce.alaska.gov/dca/lbc/2011_Petersburg_Borough_Incorporation/Reports/Petersburg_Borough_Incorporation_Final_Report

The report is issued in accordance with 3 AAC 110.530, which requires LBC staff to issue a final report after considering written comments regarding the preliminary report.

Commerce complies with Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Such requests should be directed to the Local Boundary Commission staff at 907-269-4559, 907-269-4587, TDD at 907-465-5437, or lbc@alaska.gov.

Graphic illustration only - This publication"s maps are intended to be used only as general reference guides. Source documents remain the official record.

Chapter 1 – Introduction

On February 24, 2012, Commerce issued its preliminary report regarding the Local Action Petition to Incorporate a Home Rule Borough of Petersburg and Dissolve the Home Rule City of Petersburg. In that report Commerce found that the borough incorporation standards were met. It recommended the LBC approve the petition as presented, with the exception that the LBC amend the petition by removing Tracy Arm and the Whiting River watersheds from the proposed borough. Notices of the report were posted and published.

A period for the public and parties to comment on the preliminary report initially lasted until Wednesday, March 28, 2012. On March 14, 2012, a supplemental notice was issued which gave notice of the LBC staff„s preliminary report recommendation that the LBC amend the petition boundaries. It also extended the public comment period to March 30, 2012.

Ten comments were received on the preliminary report. They are included in Appendix A of this report. Staff read and considered all the comments. After reviewing the comments, the staff reached the same recommendation that it did in the preliminary report – that the LBC approve the petition, but amend it by removing Tracy Arm and Whiting River watersheds. Commerce does not reanalyze its preliminary report findings, but adds to or changes the findings as appropriate.

The regulatory standards require that the LBC *must* examine some factors, and state that the LBC *may* (optional) consider others. The regulations do not require the LBC or staff to address optional considerations or examples.

On April 9, 2012, Commerce accepted the City and Borough of Juneau‟s ("Juneau") annexation petition for filing. Juneau‟s petition will be addressed and analyzed in the course of its petition proceedings. Its hearing and decisional meeting are tentatively scheduled for January 8 – 9, 2013.

Copies of this report will be distributed to the petitioner, the respondents, each LBC member, and others. Copies will be sent to be publically available at Petersburg City Hall, Petersburg library, Kupreanof City Building, and the City of Petersburg website, http://ci.petersburg.ak.us/. The materials are also available on the LBC website:

http://www.commerce.alaska.gov/dca/lbc/2011_Petersburg_Borough_Incorporation/.

The LBC will convene a public hearing under 3 AAC 110.550 regarding the proposed dissolution of the City of Petersburg and incorporation of a Petersburg Borough. The public hearing will be held on Wednesday, May 30, 2012, at 9:00 a.m. at City of Petersburg Council Chambers, 12 South Nordic Drive, Petersburg, AK, 99833. The May 30 public hearing may be continued through May 31, 2012 and a portion of June 1, 2012, if deemed necessary by the LBC chair. The LBC will convene a decisional meeting under 3 AAC 110.570 to act on the proposal as noted below at the same location on Friday, June 1, 2012, at 3:00 p.m. A copy of the notice for the hearing and decisional meeting is included in Appendix C.

Several commenters, both pro and con, addressed particular areas of the proposed borough and whether they were better suited to another existing or potential borough. But, the decisional meeting"s purpose is not to decide whether any of the areas within the proposed borough should instead go to another borough or petitioner. Instead, the purpose of the decisional meeting and this report is to address whether the Petersburg borough petition meets the necessary standards or not.

Under AS 29.06.040, at the decisional meeting "If the commission determines that the proposed change, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations and is in the best interests of the state, it may accept the proposed change. Otherwise, it shall reject the proposed change."

Further information is available from:

LBC staff
550 West Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Brent Williams: Telephone: (907) 269-4559
Don Burrell: Telephone: (907) 269-4587
Fax: (907) 269-4539
Email: LBC@alaska.gov

Chapter 2 – Analysis

3 AAC 110.045 Relationship of Interests

In its comments, Juneau argues that because its petition has been accepted for filing (which was not the case when the preliminary report was issued), the LBC and its staff ("staff" or "Commerce") should analyze the Juneau petition in concert with the Petersburg petition. The effect of this is analogous to consolidating the petitions, and/or postponing the Petersburg petition. The LBC unanimously voted against granting either of those requests in its December 14, 2011, meeting. As previously stated, Juneau"s petition will be addressed and analyzed in the course of its petition proceedings. Its hearing and decisional meeting are tentatively scheduled for January 8 – 9, 2013.

Art. X, sec. 3 of Alaska"s constitution states that "Each borough shall embrace an area and population with common interests to the maximum degree possible." Staff understands Juneau"s argument to be that Art. X, sec. 3 states that any areas sought by more than one potential or existing borough should go to the borough which has the stronger/strongest common interests.

Staff respectfully disagrees, and states that such an argument is not valid, based upon constitutional, statutory, and regulatory language and intent. Statutes implement the constitution, and regulations implement the statutes. Art. X, sec. 3 means that boroughs should comprise an area and population that/who have as much in common as possible. In other words, the constitution says that disparate boroughs should not be formed.

Neither the constitution, the statutes, nor the regulations call for areas to be part of the best possible borough. AS 29.35.031(a) states that "the population of the area is interrelated and integrated as to its social, cultural, and economic activities..." In other words, a borough should be integrated and interrelated as much as possible.

Regulations expand upon the statutes. 3 AAC 110.045 is entitled "Relationship of Interests." It states that "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 . . ." Again, a borough should be integrated and interrelated as much as possible. None of this language – constitutional, statutory, or regulatory – implies a comparison of separate boroughs.

Commerce has followed the standard set by Art. X, sec. 3, AS 29.35.031(a), and 3 AAC 110.045. AS 29.35.031(a) and 3 AAC 110.045 have not been found to be unconstitutional.

Juneau"s argument could also be taken to mean that the overlapping areas could be awarded not to the proposed Petersburg borough, or to the City and Borough of Juneau, but to any conceivable potential borough. That would make it very hard for the LBC to approve any borough incorporation petition because conceivably there could be a better possible borough to include the area in, whether or not such a borough, or even a petition, existed.

In reiterating the common interests of the entire proposed borough, Commerce found that those who live near the city of Petersburg, but outside of it (respectfully referred to as the "outliers"), have relationships to Petersburg due to shared services and functions, due to living in a maritime environment where water is a primary source of occupation or transportation, and other common interests. The people in the city of Petersburg also have common interests with each other due to their social, economic, and civic relationships. Significantly, the population of the area north of Cape Fanshaw consists of one solitary person, so it is difficult to analyze the common interests of *the population* north of Cape Fanshaw. But the relationships are not limited to just the outliers, the area where they live, or the residents of Petersburg.

Regarding common interests within the area that is the entire proposed borough, relationships also come from the spread and impact of fishing. Much of the fishing throughout the proposed borough is caught by Petersburg fishermen, or processed in Petersburg. This common bond not only pertains to the relationship of interests under 3 AAC 110.045, but also pertains to the boundaries of the proposed borough. It shows that there are common relationships and bonds in the entire proposed borough.

Further, the entire proposed borough has other relationships, including cultural, commercial, recreational, and historical common interests. For example, Petersburg was active in the 1980s Hobart Bay timber harvest. Petersburg provided supplies and support for the enterprises. Goldbelt has large holdings in Hobart Bay. In 2007, Goldbelt"s then president and CEO expressed Goldbelt"s then desire to be a part of the proposed Petersburg borough because of "a great many reasons including geography, historical ties, the abilities of the CBJ and the proposed Petersburg Borough to provide services, and past support by the City of Petersburg and the support of Petersburg businesses of our past logging operating in Hobart Bay."[1]

Also, some tourism or guiding companies originate their trips from Petersburg, or their clients arrive by air to Petersburg, or supply in Petersburg. In the words of commenter Dennis Rodgers, co-owner of Alaska Sea Adventurers, "[t]he area from Holkham Bay including Endicott Arm is used extensively by Petersburg based commercial fishing, charter and guides and Petersburg residents for recreation."

In sum, the entire proposed borough has many internal relationships and ties that bind the area and people together. Fishing is the largest one, but there are others as well.

Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.045 Relationship of Interests.

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[1] Per its comment on the preliminary report, Goldbelt currently prefers to be neither part of the proposed Petersburg Borough, nor annexed by the CBJ.

3 AAC 110.050 Population

In the preliminary report, Commerce analyzed the population of the proposed borough. Only one person lives in the area north of Cape Fanshaw, so naturally the determination of whether the population of the proposed borough was sufficiently large and stable focused upon where the people actually live. That is in the area south of Cape Fanshaw, particularly on Mitkof and Kupreanof Islands. Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.050 Population.

3 AAC 110.055 Resources

Some questions were raised about the proposed borough"s finances. If the borough petition is approved, by charter the City of Petersburg"s current assets and liabilities (except bond debt) will become the assets and liabilities of the borough. The city"s bond debt will become the obligation of Service Area 1, which would succeed the City of Petersburg. Any change of that liability would require a charter amendment, and would need to be voted upon.

Property taxes imposed only in Service Area 1 (those service area taxes above the four mill rate) will be allocated in Service Area 1, unless they are for general administrative costs. Any change to exceed the 10 mill rate cap (except to retire bond debt) would require a charter amendment, and would need to be voted upon.

After reviewing the comments submitted, Commerce reiterates its finding that the proposed borough has the human and financial resources necessary to provide the development of essential municipal services of an efficient, cost-effective level, including for education.

Education is presently a City of Petersburg function by law because it is home rule city in the unorganized borough. If the borough petition is approved, education would become a borough wide function. Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.055 Resources.

3 AAC 110.060 Boundaries

Although Goldbelt in its comment suggested a Chatham – Icy Strait borough, no such petition is before the LBC now, but people or entities are welcome to file such a petition. As was stated in the Introduction, the question before the LBC is not whether areas should go in a different borough, existing or potential, but whether the Petersburg borough petition meets the borough incorporation standards.

In the preliminary report, Commerce found that the borders conformed generally to natural geography because they follow ridgelines, watersheds, shorelines, or go across water bodies. Ridgelines, watersheds, shorelines, or bodies of water are natural geographical features, and that is why the petition"s boundaries conform generally to natural geography. The petition"s boundaries are similar to other Southeast boroughs, which are often defined by the Canadian border, shorelines, ridgelines, and go across bodies of water.

Regarding the recommendation that Commerce made to the LBC in its preliminary report for the proposed borough"s northern border, staff will clarify a point. 3 AAC 110.060 requires that the

“boundaries of a proposed borough must conform *generally* [emphasis added] to natural geography.” Staff had recommended that the border be amended to exclude the Tracy Arm and Whiting River watersheds from the proposed borough. 3 AAC 110.069 does not require that the entire boundary confirm to natural geography, only that the boundaries conform generally to natural geography**.**

The petition"s proposed northern border is an existing boundary - Juneau"s southern border. It is a diagonal line. That diagonal line splits Tracy Arm between both Juneau and the unorganized borough. That is why Commerce said in its preliminary report that such a line did not make sense because of the way that Juneau"s southern border was drawn. While Commerce still recommends a boundary different from the proposed border, the LBC could approve the petition"s proposed boundary and still comply with 3 AAC 110.060"s requirement that the boundary conform generally [not entirely] to natural geography.

Some of the comments have stated that if Tracy Arm and Whiting River watersheds are not included in the proposed Petersburg borough, they would go to Juneau. If the LBC approves the Petersburg borough petition and the LBC does not include them in the proposed Petersburg borough, then the Tracy Arm and Whiting River watersheds would remain in the unorganized borough until the LBC decides on the Juneau petition. If the LBC finds that those two watersheds meet the annexation standards for the Juneau petition, the LBC can then approve them for annexation to Juneau in the January, 2013, decisional meeting.

The regulatory standards require that the LBC examine some factors, and state that the LBC *may* (optional) consider others. The regulations do not require that the LBC or the staff address optional considerations or examples. Notwithstanding, many of those optional considerations were addressed in other standards, (e.g. maximum local self government, minimum number of local government units).

For example, the LBC *may* consider model borough boundaries – it is not required to do so. The model borough boundaries were first established over 20 years ago. Since that time, things have changed. For example, the proposed Wrangell/Petersburg borough did not occur. Had a Wrangell borough existed at the time, a Petersburg model borough boundary might have extended further north than the Wrangell/Petersburg model borough boundary.
Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.060 Boundaries.

3 AAC 110.065 Best Interests of State

In the preliminary report, Commerce found that the proposed borough met the best interests of the state standard. That is true of the entire borough. For example, if the petition is approved, it would promote a minimum number of local government units because a new borough would form, the City of Kupreanof would remain, and the City of Petersburg would dissolve. The number of local government units would remain constant.

Secondly, Commerce finds that the petition meets the best interests of the state for the entire proposed borough because it promotes maximum local self government. It empowers the borough residents in matters that affect them, even if it occurs in a part of the proposed borough

where few, if any people live. The proposed borough‟s residents can be affected by matters in all parts of the borough, whether it relates to fishing, natural resource development, or any other factor. Commerce finds that if a borough is formed, the borough would be able to speak about matters affecting it to the legislature and state agencies. A borough would have greater influence than individuals, or even a city would have, because it‟s a regional government.

This is in addition to the reasons articulated in the preliminary report that borough incorporation would promote the best interests of the state because it would give people living outside the cities a chance to participate in local government by voting and holding office. For example, non-Petersburg residents pay sales tax in Petersburg, but have no say in how that money is spent. If the Petersburg Borough were incorporated, all of the residents would have the right to participate in borough taxation decisions.

For all of these reasons, at a minimum, the petition meets the best interests of the state by promoting a minimum number of local government units and maximum local self government. Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.065 Best Interests of the State.

3 AAC 110.900 Transition

Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.900 Transition.

3 AAC 110.910 Statement of Nondiscrimination

Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.910 Statement of Nondiscrimination.

3 AAC110.970 Determination of Essential Municipal Services

Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.970 Determination of Essential Municipal Services.

3 AAC 110.981 Determination Maximum Local Self-government

Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.981 Determination Maximum Local Self-government.

3 AAC 110.982 Minimum Number of Local Government Units

Commerce reiterates its finding that the petition meets the standards of 3 AAC 110.982 Minimum Number of Local Government Units

Chapter 3 – Conclusion

In the preliminary report, Commerce found that the borough incorporation standards were met. Staff recommended that the LBC approve the petition, except that it amend the boundaries to remove the Tracy Arm and Whiting River watersheds from the proposed borough"s boundaries.

After carefully considering the comments submitted, Commerce reaffirms its findings. Staff finds that the standards are met, and recommends that the LBC amend the petition to exclude the Tracy Arm and Whiting River watersheds.

Appendix A: Public Comments

Alan Hunter

30 Mar 2012

Dear Commissioners,

I am opposed to the proposed Petersburg Borough. I don't believe that Petersburg should gain control over areas that have traditionally been used by the residents of Kake for subsistence. I believe that this land grab if not legally wrong it is at the very least morally and ethically wrong. As I read the statutes I also believe this land grab to be legally wrong as this is an area that we in Kake traditionally use and even if some of the area is also used by Petersburg they should not have "Control" of is by having it in their Borough. It is my belief that their boundary should be limited to Mitkof Island and perhaps a small area for the people that use Petersburg as a hub. So perhaps a 5 mile area in width but no more and should not include any of the mainland.

Thank You,

Alan Hunter

PO Box 195

Kake, AK 99830

907-785-3355

Alaska Adventures

From: Alaska Sea Adventures [dennis@yachtalaska.com]
Sent: Friday, March 23, 2012 1:41 PM
To: Commission, Boundary (CED sponsored)
Subject: Comment RE: Petersburg Borough Incorporation Preliminary Report

Dear LBC staff,
I would like to make a brief comment regarding the LBC staff recommendations outlined in the Petersburg Borough Incorporation Preliminary Report.

My wife and I own and operate a Petersburg based charter yacht business, Alaska Sea Adventures and spend probably more days and time in the Frederick Sound and lower Stephens Passage area than anyone else over the past 12 years. I agree with the staff boundary suggestions that the mainland shore line below Tracy Arm be included in the Petersburg Borough boundary. From our observations, there is very little if any commerce based nor public use of that area originating from Juneau and simple do not see the justification for City and Borough of Juneau to request an extension of the CBJ boundary to incorporate the area south of the current CBJ boundary to Cape Fanshaw.

The area from Holkham Bay including Endicott Arm is used extensively by Petersburg based commercial fishing, charter and guides and Petersburg residents for recreation. To extend the current CBJ boundary to include this area would create a significant economic shift from Petersburg to Juneau that does not currently exist.

I would be glad to provide more information or answer any questions. Please feel free to contact me at;
Dennis Rogers
PO Box 542
Petersburg, AK 99833
907-772-3137 home
907-518-0505 cell

Thank you for your time and effort. Sincerely,
Dennis Rogers

Bob Lynn

March 30, 2012
Mr. Brent Williams
Local Boundary Commission Staff
550 West Seventh Ave.
Suite 1770
Anchorage, AK 99501

Subject: Comments on Preliminary Report Regarding the Local Action Petition to Incorporate a Home Rule Borough of Petersburg and Dissolve the Home Rule City of Petersburg

After reviewing the above preliminary report my comments and questions follow:

1. At the top of Page 22 you make a statement-- "…current assets and liabilities will become the borough's…and then footnote a conversation with city attorney Sara Heideman. On page 31, first paragraph "The city's bonded indebtedness will become the obligation of Service Area 1 only." We have had numerous conversations regarding these statements. There are two schools of thought. The first says that the current assets and liabilities of the city become a responsibility of the borough not just Service Area 1. The second thought is that the bonded indebtedness would remain an obligation to Service Area 1 but could be changed by the Assembly without a vote of the people. In the final report would you provide a much more detailed interpretation?

2. The first paragraph on page 21 states-- "The borough would also provide land use, planning, and platting." Petersburg's Petition does not define these general terms. From your information and discussions with Petersburg, would you be more specific in what is intended? Obviously, that makes a big difference in costs and implementation.

3. In my October 17, 2011 Responsive Brief, page 12, I discussed the inequity of Petersburg's proposal to charge a 4 mil rate south of the Petersburg City limit sign and 11.02 mils on the north side of the line on Mitkoff Island. "The Petition proposes Service Area 1 which would include all of the current area within the City of Petersburg be subject to 11.02 mil rate while the rest of the proposed borough would be a 4 mil rate. Driving south on Mitkoff Highway we come to a City of Petersburg boundary sign. Stop at this point and take a look. To the north of the sign is a 11.02 mil rate; to the south is a 4 mil proposed rate. The services provided on both sides of that sign are the same. Is it equitable for residents on one side of the sign to pay 7.02 mils more for the same services when both have equal access to city services? The decision to draw this line is arbitrary and unfair as any court would determine." The issue was not addressed in the Preliminary Report. In fairness to the people living and owning property south of the Petersburg City limit sign on Mitkoff Island, the LBC needs to address this inequality and take a position in the final report.

4. Page 12, second paragraph-- you make the statement "they have the common interest of having water rule their lives…". Using the logic presented in the report, then, we have a common interest with Wrangell, Ketchikan and other southeast communities. There is a difference. When I lived in Petersburg, I got into the car and drove downtown or out the road. I could get by without a boat. I did not have to listen to the marine forecasts. It did not cost me $30 and most of a day each time I needed a part or supplies. If water is the common interest, then all of SE needs to be a single borough.

5. Page 15, you refer to the Lake and Peninsula Borough as a comparison to the Petersburg Borough proposal. When I compared the two charters, there are many differences. The Lake and Peninsula Borough has a much greater rural representation. The Lake and Peninsula Borough charter does a much better job in recognizing the distance and communication problems of its rural population. Petersburg's Petition p. 141 shows Service Area 1 as having 2661 voters to 223 voters outside the city. With such a lopsided representation, views will never be adequately represented.

6. Page 16 last two paragraphs--In Duncan Canal we receive little or no signal with any phone carrier. If we do happen to have a signal, it does not hold to complete a call. When I talked with ATT recently, I was told we are on the outer fringe of signal range and should not have any phone service. They also said we are too small a population to invest in the equipment necessary for service. (You would be welcome to bring your phone here and test it out.) We may be able to listen to KFSK 50% of the time, and the other 50% only infrequently with a booster.

7. Petersburg's Petition establishes Petersburg as Service Area 1. Alaska Statutes, Sec. 29.35.110 states "Borough revenues received through taxes collected on a nonareawide basis may be expended on general administrative costs and functions that render service only to the area outside all cities in the borough." Again there are two interpretations. The first school of thought says since the City of Petersburg is dissolved and will be Service Area 1, taxes collected in Service Area 1 can only be expended in Service Area 1. The second interpretation says it can be used throughout the borough. Please address this dichotomy of thought and concern in detail in the final report.

8. At the bottom of page 11 you make the statement "Commerce however finds …would you please provide me with a copy of the analysis that "Commerce" used to make this conclusion.

9. On page 32 there is a statement "Commerce finds that education … are essential municipal service." What costs and responsibilities for education are shifted from the state to the borough? In the final report, would you please provide an analysis that compares the States school funding to Petersburg before and after borough incorporation. Please include those costs that would shift to the borough.

10. Page A3 shows a table of "Current Assets" and "Current Liabilities". Would you please provide the table and background information that is included in these figures.

11. Page A7 shows a table of median income for Petersburg. Is there a more detailed table that you used to develop this information? If so, may I have a copy?

Respectfully,

R.E. Lynn

Bruce Simmonson

March 30, 2012
Mr. Brent Williams
Local Boundary Commission Staff
550 West Seventh Ave.
Suite 1770
Anchorage, AK 99501

RE:

Comments on Preliminary Report Regarding the Local Action Petition to Incorporate a Home Rule Borough of Petersburg and Dissolve the Home Rule City of Petersburg

Dear Commissioners,

Thank you for the opportunity to comment on the LBC preliminary report for the Petersburg Borough petition.

I have been a resident of Alaska since 1981, and lived in Juneau since 1989. I have also lived in Kodiak and Sitka, and have many good friends who live in Petersburg as well. I feel these experiences and my acquaintences with folks from coastal communities gives me a fair and balanced perspective on the issue before the LBC.

I have three chief concerns:

1) Since living in Juneau, I have visited Tracy Arm and Emdicott Arm many times, both as a tourist (with visiting friends and relatives), taking daylong cruises with small and mid-size commercial operators. I have also kayaked several times in the area, (and know the tides!), and have overnighted in Ford's Terror, for example.

   I take strong exception to the LBC decision to divide Tracy Arm and Endicott Arm between proposed Petersburg and existing Juneau boroughs. Many difficult and contentious discussions have been had over this area from a variety of stakeholders: all recognize that these watersheds are part of a combined system, both naturally and for human use. Dividing this important area between two boroughs will compromise many difficult decisions that have been made to manage this area in a fair way for those who wish to share it.

   I also feel that placing Endicott Arm, Harbor Island, and the majority of Holkham Bay in the proposed borough of Petersburg will be an assignment in name only. The vast majority of visitors to this area (by several orders of magnitude) originate from and terminate in Juneau. Should emergencies arise in this area, it is a certainty that Juneau will be the first (and perhaps only) responder.

   I recommend that the entire Tracy Arm and Endicott Arm watersheds be incorporated into the the Juneau Borough, by fixing a line westerly from Point League, for example, on the eastern shore of Stephens Passage.

2) I am very surprised that public notice of the LBC decision was not placed in the Juneau papers. I have at least a half dozen friends who have been very surprised

when I told them of the LBC decision, and haven't known how to comment on it.

3) I feel there are very strong arguments for extending the Juneau's borough south to Port Houghton, at least, and perhaps even to Cape Fanshaw. It is interesting to see that there no Petersburg comments (to date) that talk of historic uses of these lands, except for fishing the grounds in Stephens Passage. Given that the assigment of the land that is contested between the Petersburg and Juneau petitions will in no way affect fishing, and economies that derive from this industry, it seems particularly weak to argue that use of the ocean outside of this area is a reasonable justification for extending a petition for borough land to the Canada border.

Thank you again for the opportunity to comment on the Petersburg proposal. I do feel that if this decision were published in the Juneau papers, you would reasonably expect carefully considered input from the citizens of Juneau.

Sincerely,

Bruce L. Simonson

Bruce Simonson

City and Borough of Juneau

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

In the Matter of the Petition of the City of	)
Petersburg to Dissolve the Home Rule City	)
and Incorporate as the Petersburg Borough	)
_____	)

CITY AND BOROUGH OF JUNEAU'S COMMENTS ON STAFF'S PRELIMINARY REORT TO THE LBC ON PETERSBURG'S PETITION TO DISSOLVE AS A CITY AND INCORPORATE AS A BOROUGH

The CBJ has no objection to the City of Petersburg being allowed to incorporate the area south of Cape Fanshaw. As stated in its Respondent's Brief, the CBJ respects the right of the people of Petersburg to seek incorporation, and only opposes their petition to the extent that it asks the LBC to approve incorporation of an area more appropriately annexed to the CBJ. Unfortunately, as to that area (referred to herein as the "overlap" or "contested" area), the Preliminary Report is virtually silent. It appears that Staff has applied a "first in time" approach with respect to analyzing Petersburg's petition – Petersburg filed its request for the contested area first and Staff appears to consequently be giving Petersburg's claim considerably more "weight." The Preliminary Report suggests granting Petersburg's petition almost in full, without any objective consideration of the CBJ's claim to the same area, or critical application of the requisite standards this Commission must apply.[1]

[1] It was fear of precisely this that the CBJ requested the LBC to consolidate the two petitions, which present a very similar situation to that before the Commission with respect to the Matanuska-Susitna Borough petition (filed in June of 1989) and the Valleys Borough and Denali petitions (both filed four months later), where there was significant overlap. In that case, consolidation was granted. Consolidation was not warranted with respect to the Ketchikan and Wrangell petitions, where there was only 191 square miles of overlap, and where the two petitions were filed close enough in time to allow for the Staff final reports on each to be provided to the Commission in the same month. It seems logical to surmise that it is for situations exactly like the one posed by the Petersburg and CBJ petitions that 3 AAC 110.640 and 3 AAC 110.430 were promulgated.

The Commission has two petitions before it seeking the same area.[2] There are no constitutional provisions, statutes or regulations that allow the Commission to make a determination on competing petitions based on which was filed first, or to engage in a less than thorough analysis of the later-filed petition. In describing its role to the Alaska Legislature, this Commission stated "[T]he LBC has a mandate to apply pre-established standards to facts, to hold hearings, and to follow due process in conducting petition hearings and rulings."[3] The Commission further explained that with respect to Staff's role, "due process" was "best served by providing the LBC with a thorough, credible, and objective analysis of every municipal boundary proposal."[4] It does not appear that occurred with respect to the Petersburg petition, and it certainly cannot occur with respect to the CBJ's annexation petition given the current procedural posture.[5]

The Alaska Constitution requires that boroughs "embrace an area and population with common interests <u>to the maximum degree possible</u>"[6] That constitutionally-mandated standard cannot, by its plain language, apply to more than one entity with respect to the same contested area. Either the post-annexation CBJ borough would embrace the overlap area to the maximum degree possible, or a newly-created Petersburg borough would. Given the Report's failure to critically analyze the CBJ's claim to the contested area, and the fact that the Report's

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[2] The CBJ has been informed by LBC Staff that its petition has been "informally accepted" for filing, and that the only reason public notice has not yet posted is due to staff shortage issues.
[3] *2011 Local Boundary Commission Report to the 27th Alaska State Legislature, 2nd Session* (February 2012), p. 3.
[4] *Id.* at p. 6.
[5] Indeed, it appears that Staff may have failed to hold the public meeting required by 3 AAC 110.520. *See* 2011 Local Boundary Commission Report, *supra,* at p. 8 and Preliminary Report, also at p. 8: "If the petition is for incorporation, the LBC staff must hold at least one public meeting within the boundaries proposed for incorporation. When it ends its analysis, the LBC staff issues a preliminary report including a recommendation to the LBC."
[6] Alaska constitution, article X, sec. 3. (Emphasis added).

recommendation as to the overlap area is based almost solely on rationale relevant only to that area south of Cape Fanshaw, any final determination based upon the Preliminary Report would be an abuse of the LBC's discretion.

I. THE PRELIMINARY REPORT FAILS BOTH TO THOROUGHLY ADDRESS THE CONTESTED AREA AND TO MAKE ANY OBJECTIVE FINDINGS WITH RESPECT TO THE CONTESTED AREA

The findings made in the Preliminary Report are premised almost entirely upon an examination of the people who reside in the areas outside Petersburg (whom are identified as "outliers" and none of whom live in or near the contested area), and how those people are "interrelated and integrated" to the required degree. There is no discussion or application of the requisite standards to the contested area.[7] While the CBJ recognizes the limitations that exist in applying some of the standards to the overlap area given the lack of population, that does not justify a recommendation on the overlap area being made based on the "outliers'" relationship to the City of Petersburg alone. The constitution requires an objective consideration of both the "population" and the "area." Yet, despite the fact that none of the conflicting evidence offered by the CBJ was discussed, or the fact that the arguments offered by Petersburg in support of its petition relate almost exclusively to that region south of the overlap area, or to the fact that the Report fails to make any critical findings related to the overlap area, Staff finds "the <u>entire proposed borough</u> embraces an area and population with common interest to the maximum degree possible."[8]

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[7] Staff does make one general, blanket comment that "residents of the proposed borough… have a common interest in fishing and hunting in the lands of the proposed borough," but Staff neither explains how it came to that conclusion, nor makes any reference to the CBJ's contradictory evidence. The report does engage in some discussion regarding commercial fishing, but there is no evidence or facts offered to support the comment regarding fishing for "private purposes."

[8] Report at p. 13. (Emphasis added).

An objective analysis of the overlap area illustrates that the area is more closely related to the CBJ than to Petersburg, and accordingly, annexation to the CBJ would satisfy the constitutional mandate that the area be part of the borough with which it has common interests to the maximum degree possible. This is true for many reasons, which were simply not addressed, considered, or acknowledged in the Preliminary Report.

A. Most of the privately-held land in the area proposed for annexation is owned by Juneau residents or Juneau-based companies (3 AAC 110.060(a)(1)).

It cannot be disputed that the majority of the privately-held land in the contested area is owned by Juneau residents or Juneau-based companies:

- Goldbelt, Incorporated, the Juneau-based Alaska Native, for-profit corporation organized under the Alaska Native Settlement Claims Act, owns approximately 30,000 acres of land in Hobart Bay[9] Placing this Goldbelt-owned land, a major business asset, in a different borough than its corporate headquarters are located complicates management and governance.

- Of the mining claims identified in the contested area, the largest claim holder is Hyak, based in Juneau. The Hyak companies hold approximately 36 claims located near Windham Bay, each reportedly 20 acres in size.[10]

- In Holkham Bay, Tracy Arm and Endicott Arm, Sealaska, an Alaska Native Corporation with its corporate offices in Juneau, owns subsurface rights to their own lands (290,000 acres) as well as subsurface rights to all village and urban corporation lands in the area proposed for annexation (a total of 280,000 acres).[11]

- The majority of privately-held property in Windham Bay is owned by Juneau residents.[12]

The Report does not refer to any privately-held land in the contested area being held by Petersburg-based companies or residents.

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[9] http://www.goldbelt.com/lands-real-estate/hobart-bay
[10] Annexation Petition, p. 43 (Reported by JEDC (Alaska Department of Natural Resources Land Records); interview with Hyak.)
[11] http://www.sealaska.com/page/sealaska-lands-myths-and-facts.html
[12] CBJ Responsive Brief, Exh. 2, p. 20; Annexation Petition, p. 43.

B. Administrative and Political Boundaries (3 AAC 110.060(b)).

3 AAC 110.060(b) provides that:

When reviewing the boundaries proposed in a petition for borough incorporation, the commission may consider

(1) model borough boundaries for the area within the proposed borough;

(2) regional boundaries, including

(A) boundaries of one or more regional educational attendance areas existing in that proposed borough area;

(B) federal census area boundaries;

(C) boundaries established for regional Native corporations under 43 U.S.C. 1601 -1629h (Alaska Native Claims Settlement Act); and

(D) boundaries of national forests. One topic that the Preliminary Report fails to mention in its discussion of the appropriate boundaries for the new Petersburg borough is the existing administrative and management links between the CBJ and the contested area (especially as it applies to that area from the existing CBJ southern border to, and including, Hobart Bay).

The Preliminary Report fails to address the existing administrative and management links between the CBJ and the contested area.

In 1997, the Commission published its Model Borough Boundaries Report. The purpose of the report was to create a "frame of reference" for the LBC to use "in the evaluation of future petitions."[13] The report recommends that essentially the same area Juneau now seeks to annex be made part of the CBJ. While the model borough boundary designations no longer carry a presumption, they are still meaningful and relevant. Yet there is no discussion in the Preliminary Report explaining why the LBC's prior findings with respect to this contested area should now be considered invalid. The Commission has previously referred to that area from the current CBJ boundary to Hobart Bay as the "unorganized remnant" of the CBJ, and has found it to be

[13] *Model Borough Boundary Report*, State of Alaska Department of Community and Regional Affairs, Revised 1997, p. 2.

most closely linked with the CBJ. The CBJ is unaware of any change or circumstance that would justify the Commission now reversing its prior findings.[14]

Additionally, four current state or federal designations make an administrative connection between the contested area and the CBJ for the purpose of facilitating area management of resources: the USDA Forest Service; Juneau Ranger District; Area 1C Alaska Fish and Game Management Unit; the Juneau Recording District; and the United States Custom's Port of Juneau "Area of Responsibility."[15] There is simply no discussion in the Preliminary Report to suggest that Staff considered or applied 3 AAC 110.060(b) to any of the contested area.

C. Tourism and Guiding Companies (3 AAC 110.060(a) and 3 AAC 110.045)

One piece of evidence relied upon in the Preliminary Report is the finding that "tourism or guiding companies originate their trips from Petersburg, or their clients arrive by air to Petersburg, or supply in Petersburg."[16] Yet in order to make a reasoned finding that this fact creates a connection with Petersburg to the "maximum degree possible," the Commission must find that the CBJ's claims to the area based on the same factor – use of the area by CBJ-related tourism and guiding companies – is less than Petersburg's. The Preliminary Report engages in no such analysis. In reality, the data for the area south of the current CBJ boundary to Hobart Bay indicates exactly the opposite. Tourism activity in this area is led by tourism and guiding companies either based in the CBJ or who report provisioning primarily in the CBJ. Through

[14] Additionally, under 3 AAC 110.060(b)(6), the Commission must find that the proposed "boundaries are the optimum boundaries for that region in accordance with art. X, sec. 3." Not only does the Preliminary Report fail to consider this standard, it does not explain why the Commission's prior findings concerning the optimum boundaries of the contested area – namely the model borough boundary – should not be relied upon.

[15] This is true historically as well. For example, the US Bureau of Mines designated the "Juneau Gold Belt" to run from the current CBJ to Windham Bay. United State Department of the Interior. Juneau Gold Belt Area, 1986 Update. Earl Redman, Ken Maas, Al Clough, Joseph Kurtak.

[16] Report, p. 27.

executive interviews with companies providing wilderness trips in the lands and waters between Tracy Arm and Port Houghton, the CBJ presented evidence of estimated annual economic activity of just over $9.4 million in 2011, and an annual visitor stream of 22,200, with a majority of the outfits being based in, or provisioning primarily in, the CBJ. The data shows much less use of the area by Petersburg tourism operators[17]

1. Land-Based Use

USDA Forest Service permits issued for land use in the contested area in 2010 show eleven permits were issued to Juneau-based tourism operators or guiding companies serving 247 clients, while only one permit was issued to a Petersburg-based organization, serving six clients. A multi-year look from 2006-2010 shows significantly more Juneau-based use and socio-economic connection and dependence to the overlap area than Petersburg can claim. According to the data reported by the CBJ in both its responsive brief and annexation petition, three Petersburg-based providers hosted 231 clients from 2006 – 2010, while sixteen Juneau-based land use tourism providers hosted 2,011 clients.[18]

2. Boat-Based Tourism Permits

Again, according to the USDA Forest Service, of the 29 US Forest Service permits issued in 2010 for boat use in the contested area from Juneau to Hobart Bay, 23 were issued to boats

[17] *See* CBJ's Responsive Brief, Exh. 2, at pp.48 – 51 and Annexation Petition at pp. 45 – 47. The Petitioners attempt to discredit the CBJ's findings by mischaracterizing the intent of the analysis, and by engaging in a likewise misleading "he-said, she-said" commentary (and even suggesting that some interviews didn't happen at all). Reply Brief at p. 41. In addition to the "hard data," reviewed by the Juneau Economic Development Council, extensive executive interviews were conducted with officials from 20 of the most significant tour operators using that area, in order to capture a sense of the total tourism-based economic activity in that area. The CBJ is happy to share full interview notes, names of the officials interviewed, along with interview dates and phone numbers. Interviewers contacted some of the larger operators up to three times to ensure that an accurate accounting of each company's activities was being captured.

[18] *See* CBJ's Responsive Brief, Exh. 2, at p. 48; CBJ Annexation Brief at p. 46 (Source: Bill Tremblay, US Forest Service.)

that provisioned in Juneau, including 17 vessels that were either solely provisioned in Juneau, or provisioned in Juneau and a community other than Petersburg. In comparison, four boats were provisioned solely out of Petersburg, or in combination with another non-Juneau community.[19]

This evidence indicates a large difference in the scale of tourism-based activities taking place in the contested the area with ties to Juneau versus Petersburg, yet this evidence is not objectively considered, or even acknowledged, in the Preliminary Report.

D. Commercial Fishing (3 AAC 110.045 and 3 AAC 110.060)

The Preliminary Report recognizes that a significant amount of fishing takes place in the contested area, and relies heavily upon that fact in making findings based on the standards outlined in 3 AAC 110.060.[20] While it is true that Petersburg fishers do engage in more fishing in the contested area, Juneau residents engage in a significant amount of commercial fishing in the contested area as well. Between 2005 and 2010, Juneau fishers landed approximately 311,000 pounds of seafood in the area between the current CBJ border to slightly past (and including) Hobart Bay, earning nearly $800,000 out of an approximately $5.4 million earned by all Southeast fishermen.[21] Thus, on average, between 2005 and 2010, Juneau fishermen realized 15% of the value of the seafood harvested in the overlap area, while Petersburg fishermen were responsible for 66% of the total catch landed by Southeast Alaska residents. Significantly, these percentages vary from year to year. For example, in 2005, Juneau residential fishermen brought in 25% of the total catch value.[22]

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[19] CBJ Responsive Brief, Exh. 2 at p. 50; CBJ Annexation Brief at p. 46 - 47. (Source: Bill Tremblay, US Forest Service.)
[20] Preliminary Report at p. 27.
[21] CBJ Responsive Brief, Exh. 2, p. 42.
[22] K. Iverson, Alaska CFEC, October 2011, "Analysis of Earnings by Residency of Permit Holders for Select Statistical Areas, Alaska Commercial Fisheries Entry Commission.

The seafood related income earned by Juneau fishermen in the area is important to the Juneau fishermen and their families, and to Juneau businesses. While as a whole Juneau fishermen realize less profit than Petersburg fishermen do from this area, the Juneau-related fishing is an important part of the total economic activity in the contested area, yet is completely discounted in the Preliminary Report. Petersburg-based commercial fishing efforts in the contested area do not occupy so much more of the market as compared to the CBJ-based commercial fishers to justify Staff's final recommendation.

In addition to ignoring the role Juneau-based commercial fishers have in the overlap area, the Preliminary Report is similarly silent as to the fact that the overlap area is populated with sockeye salmon from the Juneau based Douglas Island Pink and Chum's (DIPAC) Snettisham Hatchery. This hatchery—one of the largest smolt facilities in the state—incubates up to 33.5 million sockeye salmon at a time. It is disingenuous to discount the fact that these Juneau-produced salmon represent an enormous amount of economic activity for all fishermen in the area.

E. Hunting – Commercial and Recreational (3 AAC 110.045 and 3 AAC 110.060)

The Preliminary Report states that "Petersburg residents also use the area for hunting…"[23] However, there is not a single Petersburg-based guide licensed to lead hunts in the contested area. On the other hand, according to the Alaska Division of Corporations, Business and Professional Licensing, there were eight Juneau residents licensed as big game hunting guides for the contested area in 2011.[24]

[23] Report at p. 27.
[24] CBJ Responsive Brief, Exh. 2 at p. 37.

It is not just commercial hunting guides who present a stronger connection to the CBJ over Petersburg, it is the recreational hunters as well. Resident hunters using this area for recreational purposes are much more likely to be from Juneau than from Petersburg. According to the Alaska Department of Fish and Game, in the area between Hobart Bay and Tracy Arm, there were 108 Juneau hunters and just six Petersburg hunters between 2006 and 2010.[25]

F. The Availability of Charter Flight Service (3 AAC 110.045)

Determining the availability of charter flight service to the contested area is another way the Commission can make a finding that the proposed borough possesses the communication and exchange patterns sufficient to meet the requirements of 3 AAC 110.045(c).

The CBJ presented evidence that between September 2010 and September 2011, based on United States Department of Transportation data,[26] and interviews with air carriers,[27] there were 20 commercially chartered flights originating out of Juneau to Tracy Arm, Endicott Arm, Windham Bay, or other areas north of Hobart Bay; and only one commercial flight originating out of Petersburg. Many of the flights heading in and out of Hobart Bay are due to Goldbelt activity. South of Hobart Bay, the air traffic does become more dominated by Petersburg carriers.

Again, as to this factor, the CBJ presented competing evidence supporting its claim that it has a stronger tie to the contested area than Petersburg, yet this evidence was not considered or addressed in the Preliminary Report.

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[25] CBJ Responsive Brief, Exh. 2 at p. 33 and CBJ Annexation Petition, p. 42.
[26] CBJ Responsive Brief, Exh. 2, p. 54; Annexation Petition at pp. 48 – 49.
[27] Responsive Brief, Exh. 2 at pp. 53 – 54; Annexation Petition at pp. 48 – 49.

G. Competing Claims of Historical Ties Between the CBJ and the Contested Area were not Considered in the Preliminary Report (3 AAC 110.060).

The Preliminary Report relies upon a finding that "Petersburg was active in the 1980's Hobart Bay timber harvest" and "provided supplies and support for the enterprises" as additional support for determining the requirements of 3 AAC 110.060 satisfied.[28] While some of the timber harvesting support did come from Petersburg, the Hobart Bay timber harvest was conducted by Goldbelt Incorporated, the Juneau Alaska Native for-profit corporation. The base of the timber harvest operation was Juneau, and many of the service contracts were with Juneau-based companies.[29] The reason Goldbelt harvested its timber base in Hobart Bay was to engage in economic activities to support Goldbelt shareholders – 1,269 of whom live in Juneau, as opposed to the nine who reside in Petersburg. It is inaccurate and incorrect to characterize Goldbelt's timber activities as Petersburg-oriented, as the Preliminary Report suggests.

The Report also fails to compare or analyze connections either the CBJ or Petersburg has with respect to other historical ties recognized by the regulation. As outlined in both the CBJ's Responsive Brief and Annexation Petition, before there was a Juneau, the contested area was the domain of the Juneau-based tribes.[30] The area from Port Houghton to the north is reported to being validly claimed by the Taku and Sumdum tribes.[31] There is no discussion about the ethnic or cultural ties held by either the CBJ or Petersburg with respect to the contested area in the Preliminary Report.

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[28] Preliminary Report, p. 27.
[29] *See* CBJ's Responsive Brief, Exh. 2 at pp. 26 – 28; CBJ's Annexation Petition at pp. 55 – 56.
[30] *See* CBJ's Annexation Petition at pp. 58 – 59; Responsive Brief at Exh. 2, pp. 24 – 25.
[31] *Harvest and Use of Wild Resources by Residents of Petersburg, Alaska*, ADF&G. Division of Subsistence, 1988.

H. Including the Contested Area in the Petersburg Borough is not in the Best Interests of the State (3 AAC 110.065).

There is nothing in the Preliminary Report explaining the analysis Staff engaged in when applying the requisite standards contained in 3 AAC 110.065 to the contested area. Staff's analysis appears to have been exclusively as it relates to the "outliers" (again, none of whom reside in the contested area.)[32]

The CBJ presented evidence supporting its claim that annexation of the contested area to the CBJ met the standards outlined in 3 AAC 110.195 as the CBJ's current population already supports the provision of limited services to the proposed annexation area.[33] This competing claim was not considered in the Preliminary Report.

I. Staff's Findings and Recommendations Based on the Natural Geography (3 AAC 110.060)

The Commission must find that the post-annexation boundaries conform generally to the natural geography. The CBJ provided extensive evidence explaining how its proposed annexation boundaries conformed to the natural geography by using the boundaries of major watersheds in the area.[34] In the Preliminary Report, there is little but a conclusionary statement that as the proposed boundary "follows ridgelines, watersheds, or go across bodies of water, Commerce finds that they conform generally to naturally geography."[35] In reality, there are a number of issues related to the boundaries proposed in the Report:

- Using Point Coke as a boundary corner creates land fractions that are impractical or impossible to survey. It does not seem logical to place an important borough boundary corner on a beach head, as opposed to using

[32] Preliminary Report at pp. 28 – 29.
[33] Annexation Petition, p. 68.
[34] Annexation Petition, pp. 59 - 64
[35] Preliminary Report, p. 28.

published US coast and geodetic survey points, to create a more carefully defined and surveyable geometry.

- Running a boundary across an unnamed reef means there can be no surveyable monument for use in defining the corner of the proposed borough.

- The proposed borough boundaries meet in an acute angle at Midway Islands making it difficult to tell where the borough ends and begins with common place gear such as a G.P.S.

- There are safety concerns with splitting Holkham Bay between the two boroughs relating to vessel staging near Harbor Island.

- Separating Tracy Arm from Endicott Arm undoes existing management policies for these watersheds and will interfere with long-standing tourism management plans. These watersheds should be kept combined and intact, to honor historic and existing management practices and programs for the area.

- Splitting the Tracy Arm/Ford's Terror Wilderness Area, established in 1980 by A.N.I.L.C.A, under U.S.F.S. management, is counter to the public interest.

- Placing Harbor Island (the island at the mouth of Tracy and Endicott Arms) in the Petersburg Borough is unwarranted. This is an important confluence point controlling the traffic into Tracy Arm, and since the vast majority of the major tourism (and other) traffic for Tracy and Endicott originates or terminates in Juneau, Harbor Island should be part of the CBJ.

- The proposed boundaries offered in the Preliminary Report places a large majority of the available shoreline, a valuable resource both for access and development, with Petersburg. There are approximately 1000 linear miles of shoreline in the contested area. The Preliminary Report proposal assigns 987 to the Petersburg Borough, and only 61 miles to the CBJ. Furthermore, all of the CBJ's 61 miles are in Tracy Arm, a national wilderness area, and are undevelopable.

Given the lack of discussion in the Preliminary Report, it seems this factor was given little to no consideration as it applies to the contested area.

II. CONCLUSION

The CBJ has presented evidence supporting its claim that as to the contested area, with the strongest ties being to that area from the southern boundary of the CBJ to Hobart Bay (specifically the south boundary of the watershed that drains into Hobart Bay), it has **more**

common interests than Petersburg. This contested area should not be included in the Petersburg Borough and should instead be annexed to the CBJ. The LBC has accepted a petition to annex this area to Juneau and we urge the Commission and its staff to recognize the CBJ's significant common interests to this area. Incorporating the contested territory as part of a new Petersburg Borough, based on the reasoning in the preliminary report, would be an abuse of the LBC's discretion.

DATED March 30, 2012.

CITY AND BOROUGH OF JUNEAU

Amy Gurton Mead, Assistant City and Borough
Attorney for Petitioner

CBJ's Comments on Preliminary Report Regarding
City of Petersburg's Petition to Incorporate
Page 14 of 14

George Cole

From:	George Debi Cole
To:	Commission, Boundary (CED sponsored)
Cc:	kathi riemer; Terry Karil Miller; 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; Denny Heimdahl; Tom & Judy Reinarts; Bill Menish; Ruth Johansen; Bill Johansen; Candyce Jones
Subject:	Petersburg Borough
Date:	Friday, March 30, 2012 8:29:52 AM
Attachments:	School Funding 2.jpg

Dear Brent,

I read your Preliminary Report regarding the Incorporation of a Home Rule Borough of Petersburg and, not surprisingly, disagree with most of your findings. It was amusing to me that in many cases the reasoning I used to oppose the formation of a borough is exactly the same reasoning you used to support borough formation.

An example would be your dismissal of Kake's concern for their subsistence life style (Page 27). You reasoned that such activities are regulated by the state. This is exactly the point I made regarding Petersburg's right to fish and hunt in the proposed borough. Forming a borough will not have any impact on their right to hunt or fish in those locations. No impact = no reason. Yet, you spend several pages arguing that it means something. We might as well argue that the sky is blue and since we all like it that way, we should form a borough because it reflects a common interest.

Another example is contained on Page 29 where you imply borough formation will aid in funding education. Any increase in funding provided by borough formation will be offset by a reduction in state contribution. Thus, there is no increased educational benefit. It is as if you are saying, "Let's form a borough so we can have no change in our educational system." You imply borough formation will improve the educational process while I assert there will be no change at all. In fact, any change is likely to be negative in nature. I suggest you examine the Gateway Borough's difficulty in supporting public education. They seem to be finding it very difficult to meet their budgetary requirements. I attached a chart that shows the impact borough formation will have on Petersburg's school funding.

At our very first meeting with you in Keene Channel, I asked you to define the standards for borough formation and you did so in an oblique and indecisive way. It now seems obvious why you were so vague in your answer. It appears your mandate is to usher us as quickly as possible into a borough and leaving standards defined in such a hazy fog allows you to spin any conclusion in such a way as to make that happen.

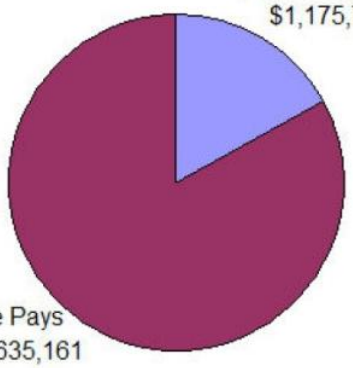
Bob Lynn has written a much more comprehensive reply to your report. I agree and support and subscribe by reference to the points he makes in his brief.

I appreciate your efforts as a state employee. You are obviously dedicated, efficient, and knowledgeable. I wish I could appreciate your conclusions.

Sincerely,
George Cole
Keene Channel

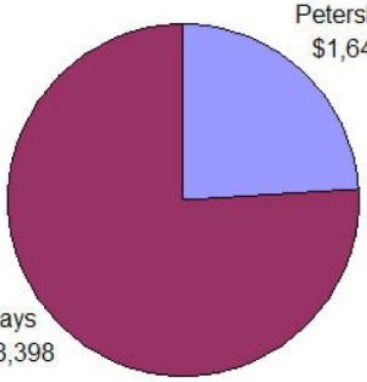
FY 12 School Funding as ***Petersburg City***
Total funding ***$6,810,935***

Total Funding Does Not Change



FY 12 School Funding as ***Petersburg Borough***
Total Funding ***$6,810,935***

The State Will Want An Extra $467,000
Borough Tax Will Get An Extra $184,000



Note - Amounts from Public School Funding Program Overview, Updated September 2011, Page 9 and from the Petition to Form the Petersburg Borough

Goldbelt Inc.

From: Derek Duncan [derek.duncan@Goldbelt.com]
Sent: Wednesday, March 28, 2012 1:37 PM
To: Commission, Boundary (CED sponsored)
Subject: Comment to the Preliminary Report- Petersburg Borough Formation Petition
Attachments: GB_PetersburgPrelimReport_Comment.pdf; GB_Attachment 1_comment_PburgPrelimReport.pdf; GB_Attachment 2_REAA_boundaries.pdf; GB_Attachment 3_ModBoroBoundaries.pdf

To whom it may concern:

Included in this email is Goldbelt's comment to the Petersburg preliminary report along with three attachments.

Thank you,
Derek

Derek Duncan
V.P. of Operations
Goldbelt, Inc.
(907) 790 - 1430 Direct
(907) 790 - 4999 Fax
derek.duncan@goldbelt.com
www.goldbelt.com

Goldbelt
3075 Vintage Blvd., Suite 200, Juneau, Alaska 99801-7109 (907) 790-4990 Fax (907) 790-4999

March 28, 2012

Local Boundary Commission
C/O Brent Williams
Division of Community, and
Regional Affairs
Department of Community, Commerce
And Economic Development
550 West 7th Ave. Suite 1770
Anchorage, Alaska 99501-3510

Re: Comments of Goldbelt, Incorporated regarding the Petersburg Borough Preliminary Staff Report

Dear Sirs:

I have been directed by the Board of Directors of Goldbelt Incorporated (Goldbelt) to submit the following comments to the Preliminary Staff Report identified above. Consistent with our earlier comment submitted on October 10, 2011 Goldbelt objects to having its 30,000 acres of ANCSA land included within the area selected by petitioner for inclusion in a home rule borough to be formed around the nucleus of what would become the former City of Petersburg. Goldbelt also wishes to go on record that it objects to being included in the territory identified by the City and Borough of Juneau (CBJ) for annexation to that municipality.

Goldbelt notes the amendments proposed by staff to the petition, which would remove parts of Tracy Arm and the Whiting River drainage from the area to be included in the new borough. However, Goldbelt requests that the staff consider recommending

1

Goldbelt
3075 Vintage Blvd., Suite 200, Juneau, Alaska 99801-7109 (907) 790-4990 Fax (907) 790-4999

additional changes to the petition. These changes would remove the territory depicted in Attachment #1 containing Goldbelt ANCSA lands from the area included in the Petersburg Borough petition. This territory should be left in the unorganized borough that could be organized to include the territory of Kake, Angoon, and Hoonah, Native communities located in the Chatham – Icy Strait region.

We recognize that the formation of a "Greater Chatham/Icy Strait Borough" would likely take several years, but the proposed annexation by Petersburg provides the impetus. While each of the Native communities would prefer no borough at all, we are convinced that the common bonds of culture, background, and families are far more appropriate together than any possible annexation that would couple these communities with largely non-Native urban areas.

The connections that allegedly tie Goldbelt's holdings in Hobart Bay with the proposed Petersburg borough are far too weak to justify the boundaries requested in the petition. The fishing effort in this area is insubstantial compared to other areas in Southeast Alaska. Goldbelt tends to agree with the CBJ that fishing is not a sufficient connection to territory to satisfy the incorporation standards. If fishing alone were a valid basis, then Petersburg would have a claim to many other areas in the state that are well outside of the northern Southeast Alaska region. The fisheries in the region are in some cases common property and some cases subject to limited entry, which makes it incongruous and unfair to use as a basis for establishing connection to uninhabited

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territory. While the evidence of fishing activity along the mainland shows some connection with Petersburg, it is tenuous at best and comes with the admission that fishing does not occur within the mainland bays or uplands, which this comment focuses upon.[1]

Goldbelt holdings in Hobart Bay are culturally close to Kake, Angoon, and Hoonah, and are in fact contiguous when considering the common seaways that connected these settlements for hundreds, if not thousands, of years. A borough inclusive of Native communities of such antiquity is far more defensible legally and politically than the territory that would comprise the new Petersburg Borough, or be added to the City and Borough of Juneau.[2]

A brief description of the history of Goldbelt should be set out here to help staff understand our position.[3] Goldbelt is one of four urban corporations out of more than 200 formed under the Alaska Native Claims Settlement Act of 1971. The designation recognized the special circumstances of Alaska Native settlements that became, in the modern era, surrounded by non-Native communities, and for this reason the ANCSA urban corporations were allowed to select lands beyond municipal boundaries. The rules

[1] Cathy Tide of the Department of Fish and Game was unable to provide specific landings for Hobart Bay, Windham Bay and Port Houghton because they were so limited in number that it would violate confidentiality rules which protect the information of individual permit holders.
[2] See *Hickel v. Southeast Conference*, 846 P.2d 38 (Alaska 1992) (land areas with open water between them can be considered contiguous because absolute contiguity of land masses is often impossible in Alaska).
[3] According to 3 AAC 110.060(a)(2) relevant factors for the commission to consider in determining boundaries are matters involving ethnicity and culture.

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of enrollment during the start-up phase allowed any Alaska Native residing in Juneau to enroll in Goldbelt. Consequently, unlike most other village corporations, Goldbelt's shareholders represent virtually every one of Alaska's indigenous groups, including those of Kake, Angoon, and Hoonah.

Originally Goldbelt selected ANCSA land on Admiralty Island where tribal members had established customary and traditional use going back before European contact. However, it came to pass that these lands were exchanged for lands in Hobart Bay in order to avoid expensive litigation brought by others to preserve the Admiralty Island Monument. Through this exchange, Goldbelt became a landowner within the territory traditionally belonging to the Kake tribe. Traditional and customary Kake tribal territory was verified by a study of Tlingit and Haida land use conducted in 1946 by Walter Goldschmidt and Theodore Haas.[4] Kake territory was generally agreed to include the present site of the city of Kake on Kupreanof Island and the Northern part of Kuiu Island. Goldschmidt and Haas further investigated the history of traditional and customary use in the region with a mission to

> . . . determine what lands the natives of Southeastern Alaska now have in their possession in actual use and occupancy which they similarly possessed or claimed in 1884 when the Organic Act was passed guaranteeing that their possession of such lands would not be disturbed.[5]

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[4] This study was published in 1998 in *Haa Anni' Our Land Tlingit and Haida Land Use and Rights,* Goldschmidt and Hass (U. of W. Press 1998)
[5] *Id* .at p. xvi.

Goldbelt
3075 Vintage Blvd., Suite 200, Juneau, Alaska 99801-7109 (907) 790-4990 Fax (907) 790-4999

They indentified territory beyond the readily established lands of the Kake Tribe that were also claimed by members of the tribe. Goldschmidt and Haas reported that traditional and customary territory of the Kake Tribe extended to the mainland as evidenced by a village located at Port Houghton.[6] Claims to ownership of Windham Bay were also made by a clan of the Kake Tribe.[7] Trapping occurred in Windham Bay and herring egg harvesting occurred in Hobart Bay.[8] This mainland territory was described as follows:

> Niblack(1890) on his map of Tlingit territory, indicates a section of the mainland coast from approximately Thomas Bay northward about to Windham Bay as constituting part of the territory assigned to the Kake people. Petrov (1884:31), in his listing of Kake villages, includes one located in Port Houghton. This delineation was apparently acceptable to Krause who reproduces Petrov's listing.[9]

Goldbelt owes a special obligation to help protect and advance the interests of the people of Kake who have acquiesced in our land ownership within their traditional territory. The customary and traditional lands of Kake, including Goldbelt lands, should not be considered a likely tax base for existing municipalities who are not completely invested in our common interests. Goldbelt encourages the development of a Chatham – Icy Strait Borough that would have a predominately Alaska Native population. This borough should include roughly the area encompassed by the existing REAA as adjusted

[6] *Id* at p. 92.
[7] *Id.*
[8] *Id.*
[9] *Id.*

Goldbelt
3075 Vintage Blvd., Suite 200, Juneau, Alaska 99801-7109 (907) 790-4990 Fax (907) 790-4999

to include the model borough boundaries for the Chatham region.[10] Respect for these common interests would leave room for some additional boundary adjustments north of Windham Bay and south of Cape Fanshaw to meet the needs of both Petersburg and the CBJ. Goldbelt leaves the precise determination of those boundaries to the sound discretion of the Local Boundary Commission.

Our Native values require us to sustain and improve our way of life in order to honor generations before us who prepared a better world for our use, and provide a brighter future for generations to come. Because we share these values with villages in the Chatham – Icy Strait region, we constantly strive to improve the communities of Northern Southeast Alaska and the economy of the region, provide jobs for Native and non-Native alike, help struggling villages and provide programs of social benefit to tribal member shareholders. The exclusion of the territory indicated on attachment 1 to this letter from the petitions of Petersburg and the CBJ would be an appropriate step toward reserving land area for a population sharing common interests residing in the Chatham – Icy Straits region.

Respectfully Submitted,

Karen A. Taug

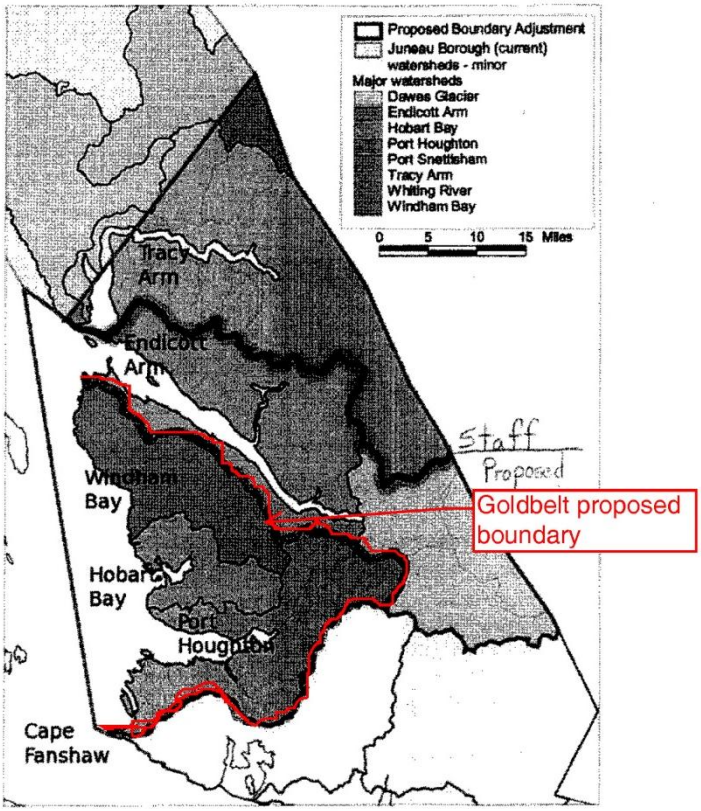
Karen Taug
Chairman of the Board of Directors

[10] According to 3 AAC 110.060(b) the commission may consider regional boundaries including existing boundaries of regional educational attendance areas. A map of the Chatham REAA is included as attachment #2 and a map of the model borough boundaries adopted for the Chatham region is included as Attachment #3.

Areas Proposed to be Annexed

The areas proposed to be annexed by the City and Borough of Juneau are shown in the following map. A brief description of each area follows.

Map of Proposed Annexation Area by the City & Borough of Juneau



Source: City and Borough of Juneau

JEDC Juneau Economic Development Council

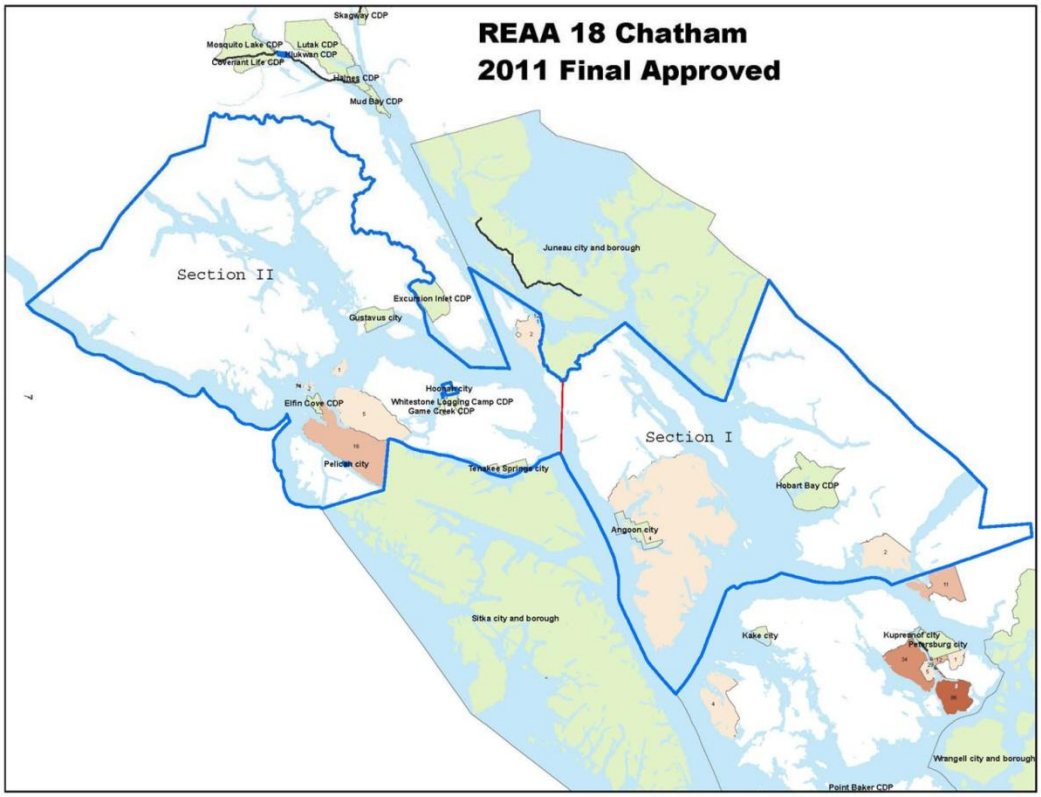
JEDC Research on CBJ Boundary Adjustment Page 19

B3 ATTACHMENT # 1

REAA #18 – CHATHAM

Nominates and Elects by Section

2 Sections, 5 Seats:
Section I – 2 seats: A, B
Section II – 3 seats: C, D, E

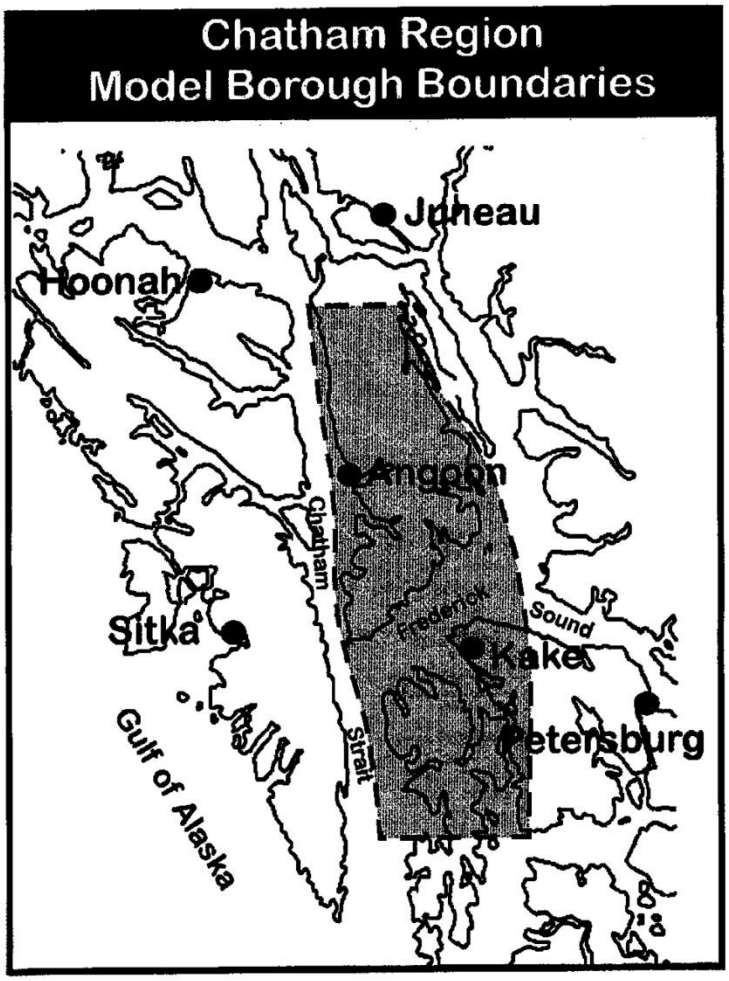


COMMUNITIES IN EACH SECTION

Section I	Section II
Angoon (city) Area (W of Angoon) Hobart Bay CDP Area (SE of Hobart Bay) Klukwan CDP	Elfin Cove CDP Areas (E of Elfin Cove) Areas (N of Elfin Cove) Game Creek CDP Gustavus (city) Whitestone Logging Camp CDP Tenakee Springs (city) Area (E of Tenakee Springs) Areas (SW of Juneau)

Rev 12/28/2011 Sectioning as of 12/19/2011
ATTACHMENT # 2

Chatham Region. In November 1990, the Commission conducted public hearings throughout the central portion of Southeast Alaska. Individuals in Gustavus, Haines, Skagway, Yakutat, Tenakee Springs, Pelican, Sitka, Elfin Cove, Port Alexander, Angoon, Hoonah, Kake and Cube Cove participated. On May 8, 1992, the Commission adopted model boundaries for the Chatham region encompassing Kake and Angoon. In 1990, the area had a population of 1,663.



ATTACHMENT # 3

John Parton

From:	John Parton
To:	Commission, Boundary (CED sponsored)
Cc:	John Parton
Subject:	Proposed Petersburg Borough
Date:	Friday, March 30, 2012 12:23:22 PM

I am writing this comment in response to the petition filed by the City of Petersburg to annex Kake and the surrounding lands and waterways to Petersburg borough and dissolve the city of Petersburg. It is unseemly that a community which is one of the richest in our state and nation per capita should be adding to their tax base a village which has 75% of its people living below poverty level. There is no benefit for the people of Kake to have this happen either financially or culturally, in fact the financial burden this will cause could push more of our people to continue to leave. At a time when our villages are slowly disappearing, it would seem that our government would be making every effort to keep that from happening. I strongly oppose the proposal made by Petersburg and would ask that the Local Boundary Commission would begin to take an active role in helping our villages to establish equitable and beneficial boundaries that would benefit the residents of those communities and not larger municipalities who will be looking out for their own interest at what we feel will be our expense.

Sincerely yours
John and Chris Parton

LOCAL BOUNDARY COMMISSION

STATE OF ALASKA

RECEIVED
MAR 30 2012
Local Boundary Commission

In re Petition to the Local Boundary)
Commission for Incorporation of the)
Petersburg Borough)
)

PETITIONERS' COMMENT TO FEBRUARY 2012 PRELIMINARY REPORT TO THE LOCAL BOUNDARY COMMISSION

The petitioners for incorporation of the Petersburg Borough agree with the analysis and recommendations of the Department contained in the Preliminary Report. The following comments address (1) updated budgetary information and other new information affecting the merits of the petition, (2) what petitioners perceive to be minor errors in the Report and (3) other significant new and intervening developments affecting the petition, including potential reinstatement of some form of district coastal zone management (CZM) state laws and the filing of an annexation petition by the City and Borough of Juneau.

I. Budget and Capital Projects.

Much of the Preliminary Report, including its attached Appendix A, addresses and analyzes the current City and proposed Borough budgets, to reach the conclusion that the statutory (AS 29.05.031(a)(3)) and regulatory (3 AAC 110.055) requirements regarding necessary human and financial resources are met. To provide further and more current information to the Commission and its staff, an updated conceptual Borough budget, with updated Notes, is attached hereto as Exhibit 1.[1] As the updated budget demonstrates, the Borough would maintain the sound fiscal policies established by the City, and experience healthy net revenues for each year of the first four years following borough incorporation.

This budget updates the budget found in the petition, and now commences in FY 12/13, rather than FY 11/12. Adjustments have been made for anticipated higher costs of certain items, and for cost-saving measures since instituted. For example, the Assisted Living payment out of the General Fund has decreased by $98,000[2], the Administration

[1] The budgets presented, here and in the petition, include the Borough's general fund only, and do not include debt service or the various enterprise funds, such as the electric utility, water, wastewater, sanitation, harbor, elderly housing and assisted living funds.

[2] An annual payment of $198,000 was previously budgeted for in the general fund. That amount has since been added to the City's debt service (increasing it by .77 mills) and the payment out of the General Fund established at $100,000. The recent passage by City residents of a $1.5 million bond for a new $7 million library (the bulk of which is being paid for by state funding and a Rasmussen Foundation grant) will result

expense figure has decreased by approximately $100,000[3], the expenses of the Police Department have decreased by $75,000, and the City's Information Technology costs has decreased by over $80,000.[4] Certain transition expenses have increased, to account for more recent estimates received by the City.[5] In conclusion, the anticipated expenses for the first year of the Borough are estimated at $8,970,774, a decrease of $212,654 from the initial budget found in the petition at page 35. Projected revenues have also decreased, by $270,362, most notably by 1) utilizing a 9 mill real property tax rate, versus a 10 mill, within Service Area 1 (see, Note 1 to updated budget)[6], 2) anticipating that the increase in state community revenue sharing due to borough formation (as set forth in AS 29.60.855) would likely begin in year two of the borough, rather than year one, and 3) decreasing anticipated investment income. Administrative contributions from the enterprise funds, into the general fund, are increasing however, beginning in FY 12/13, due to a new cost allocation formula. The end result is positive. Revenues exceed expenses by $189,334 in FY 12/13, year one of the conceptual borough budget. The other three years of the proposed borough budget also provide for substantial net revenues -- $450,029 in FY 13/14, $550,921 in FY 14/15 and $492,369 in FY 15/16.

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in an increase of .14 mills in debt service next year and .44 mills in the following years. As noted in the Preliminary Report (pp. 21-22), this will be paid for by the residents of Service Area 1 only, despite the fact that the library is frequently used by those currently living outside City boundaries. See, Section 19.07(A) of the proposed Borough Charter, which states that "Bonded indebtedness of the former City of Petersburg will, following borough formation, be the obligation of Service Area 1 only." Any amendment to this provision would require voter approval.

[3] This corrects a benefit cost figure which had erroneously been included twice.

[4] The City has outsourced its IT department, resulting in substantial savings.

[5] Comprehensive planning expenses have been increased by $60,000 and assessor fees by $20,000. The assessor has already commenced pulling status and subdivision plats for the area, and establishing legal descriptions and ownership. He has already traveled through a number of areas of the proposed Borough, by boat and by plane, including Wrangell Narrows, Duncan Canal and areas on the mainland. He estimates that there are approximately 220 taxable parcels in private ownership located within the Borough boundaries, and outside the existing City limits, and that the assessment inspections would take approximately one month to complete. The substantial majority of lands outside the existing City limits are in federal or Alaska Native corporation ownership. Conversations with Mike Renfro, March 13 and 20, 2012. As part of the process to inform area residents in regard to future borough assessments, several residents living outside the existing City limits volunteered to have assessments conducted on their properties, at the City's expense, and the assessor completed those 8 assessments in January of 2011.

[6] The proposed Borough Charter caps the permitted ad valorem tax at 10 mills, excluding debt service. See, Section 12.03, proposed Borough Charter. The Borough Assembly would annually establish the mill rate, subject to the 10 mill cap. Any increase above the 10 mills would require an amendment to the Borough Charter, under Article 18, which requires voter approval. See, Section 18.02. Any suggestion that the Assembly could by ordinance establish a mill rate exceeding 10 mills is incorrect. See, Preliminary Report, p. 29, 4th paragraph.

While this would allow for any necessary increase in the general fund reserve (see, Preliminary Report, p. 23), those reserves are in fact now already well within the range of the Unrestricted Fund Balance Policy adopted by the City Council in February of last year. See, Exhibit 2. In City Council Resolution #1959, the Council, to protect the City against unexpected revenue shortfalls or expenses, established a target range of no less than four months' operating expenses, and no more than six months' operating expenses, for the unrestricted fund balance of the general fund.[7] As of June 30, 2011, the end of the fiscal year, the Unassigned General Fund balance equaled $3,625,460, and the Total Fund Expenditures equaled $8,280,322, resulting in a reserve account totaling 5.25 months' operating expenses, well within the targeted range. See, audited financial statements of the City of Petersburg, pp. 20, 22, relevant portions of which are attached hereto as Exhibit 3.[8]

The budget slightly increases the amount being paid to the Petersburg School District (PSD) from the Forest Receipts Fund.[9] The total contributions to the PSD would equal $1.8 million in FY 12/13 and FY 13/14, increasing to $1,850,000 in FY 14/15 and FY 15/16, with $600,000, or about 1/3rd of each payment, being paid from the Forest Receipts Fund and the remainder coming from general fund monies (i.e. real property taxes). These payments far exceed the minimum required local contribution.[10] For

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[7] The Government Accounting Standards Board (GASB) recommends a one to two month target range. Thus, the policy adopted by the City exceeds that recommended, and establishes a prudent and fiscally conservative policy for the City.

[8] If one includes transfers out of the general fund to other City funds, including enterprise funds, or to City capital projects, the expenditures total $8,999,448, resulting in a reserve account totaling 4.8 months' operating expenses, still suitably within the targeted range. The Unassigned Fund Balance ($3,625,460) vis-à-vis Total Fund Revenues ($8,177,267) for the City, year ending June 30, 2011, was 44.3%, also far exceeding the recommended 5-15% range established by the GFOA. Id. If transfers into the general fund from the Timber Receipts Fund are included, the Total Fund Revenues figure would equal $8,777,128, and the ratio would be 41%, still greatly exceeding the target range. Id.

[9] This is the Fund which holds the payments received from the Forest Receipts/Secure Rural Schools program, and which currently has a balance of $3,976,137. As was set out in Petitioners' earlier reply brief, this Fund was set up a number of years ago in order to save a portion of each forest receipts payment, as the City anticipated the eventual loss of this federal program.

[10] The report, at p. 23, last paragraph, states that the education contribution "should not change from what the city is already contributing, as the student population is not expected to change as a result of borough formation." This is not technically correct. The required local contribution portion of the school funding mechanism mandates that a municipality contribute to its school district an amount equal to a 4 mill tax levy on the taxable real and personal property value within that municipality, with a base year adjustment. See, 14.17.410(b)(2). Since the taxable property value will increase upon borough formation, the required local contribution will increase accordingly. However, the amount budgeted for contribution by the borough, as set out in Exhibit 1, (and in fact, the amount already being contributed by the City) exceeds the borough's anticipated required local contribution, which would total approximately $1.3 million. Another commenter alleges that the increase in borough funding would be wholly offset by a reduction in the state's educational contribution, and thus "there is no increased educational benefit", attaching a pie chart to support that allegation. See, G. Cole comment, March 30, 2012. However, the

budgetary purposes, receipt of Secure Rural Schools (SRS) funding is anticipated for FY 12/13 only, though continued funding for the SRS program, at least for the immediate future, appears guardedly promising at this time. The SRS program is contained in the FY 2013 federal budget proposed by President Obama, and one year's program funding is also included in the Transportation Bill currently pending in the US Senate via a recent amendment proposed by Senator Baucus, which passed with an 82-16 vote. Additionally, there is apparent bipartisan support in the Senate for a five year continuation of the program. E-mails with Bob Weinstein, Office of Senator Mark Begich, Field Representative, Southern Southeast Alaska, March 9, 2012.

The Forest Receipts Fund is one of a number of "savings accounts" established outside the City's general fund. These include the Economic Development Fund, with a current balance of $4 million, the Motor Pool Fund, with a current balance of $3.5 million[11], and the Harbor Special Revenue Fund, with a current balance of $2.93 million.[12] The funds in the Harbor account are slated to be used on a large harbor improvement project, getting underway in the next several months.

The Preliminary Report notes a number of on-going and future capital improvement projects, which demonstrate a vibrant community (see, Preliminary Report, p.18). The planned harbor improvements are good examples of such projects, which support both area residents and vital commercial interests. Harbor-related projects constitute two of the top three Capital Improvement projects, as submitted to the Alaska Legislature, and include the North Harbor Reconstruction Project, the Commercial Dock Drive Down Facility, the Scow Bay Haulout and Wash Down Pad, the South Harbor Maintenance Dredge, and the Crane Dock Upgrade.

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commenter erroneously fails to take into account the base year adjustment contained in the funding formula (AS 14.17.510), and thus significantly overstates the Petersburg Borough anticipated required local contribution, while understating the State's contribution. Proper calculations would show that the increased funding resulting from borough formation is only partially offset by a reduction in the state's contribution, and that the 4 mill property tax to be collected outside of Service Area 1 exceeds that reduction. This information will be presented in detail at the May, 2012 hearing.

[11] This is the fund out of which the two police patrol cars, discussed in the petitioners' reply brief (p. 10), were purchased. Each City Department which utilizes vehicles contributes a portion of their budget to this fund, so that a reserve is established for the purchase of future vehicles. These include vehicles for the police department, as well as vehicles and trucks for the public works department, the fire department, and the various enterprise funds (including the water and sanitation departments and the harbor).

[12] There is also a fund from which RAC (USFS Resource Advisory Committee) money is administered, and there are several ongoing projects at this time, including three located outside the current City limits. These include improvements at Green Camp, Banana Pt. Boat Launch Improvements, and Wilson Creek access site improvements. These are all located on south Mitkof Island, and these improvements will benefit residents on an areawide basis.

Work is now commencing on the North Harbor Reconstruction Project.[13] The Army Corps of Engineers is in the process of putting out for bid a $3.4 million dredging contract for Phase 1 of the project, and the City is positioned to receive a $3.5 million Municipal Harbor 50/50 match grant from the State, to complete Phase 2, which involves demotion and reinstallation of the float system and public access improvements. $2.3 million in Phase 3 funding is currently being sought, which would complete the project. Phase 3 involves uplands improvements, including parking. Attached as Exhibit 4 is a conceptual site plan for a portion of this project.

The City is also in the process of funding a $16 million Commercial Dock Drive Down Facility, which will be located a short distance south of the South Harbor. This facility will include a new heavy duty vehicle transfer bridge and vehicle accessible float, which will allow direct transfer of equipment and goods from a vehicle onto a boat or skiff. This type of facility is to the substantial benefit to not only Petersburg's commercial fishing and tourist charter fleet but to residents of outlying areas of the proposed borough, as it would enable them to transfer larger pieces of equipment and furniture directly onto their vessels from vehicles, for transport to outlying residences. The sum of $5.2 million has already been secured for this project, which will pay for Phase 1 and a portion of Phase 2. $5.6 million is currently being requested from the State for completion of Phase 2, and this project is number three on Petersburg's CIP list. A conceptual drawing of this facility is attached hereto as Exhibit 5.

Three other harbor-related projects are in the planning stages – a South Harbor dredging project, an upgraded and widened Crane Dock facility, which will increase efficiency for the commercial fishing fleet and improve public access to the north end of the South Harbor (a drawing of which is attached hereto as Exhibit 6), and a Scow Bay Haulout and Wash Down Pad. This last project will allow for haul out and pressure washing of vessels up to 100 tons, with full environmental protections in place. Like many other marine communities, Petersburg is currently relying upon tidal grids for this type of work, and is planning for the future, anticipating future restrictions or prohibitions on use of grids.

These projects demonstrate a City improving its infrastructure in order to support both local area residents and vital local industry, namely the commercial fishing fleet, but also its growing tourist charter business. The commercial fishing fleet fishes throughout the boundaries of the proposed Borough, and dominates the various fisheries in the Stephens Passage area.

II. Coastal Zone Management Plan.

Another development since submission of the petition is the significant potential for reinstatement of a Coastal Zone Management Program in Alaska. As the Commission

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[13] The North Harbor is one of the City's three harbors.

Members and staff are probably aware, this vital program was allowed to expire last year, leaving Alaska as the only maritime state without such a program, and with no voice at the federal level to be heard on coastal lands and water development. A state-wide initiative which would reinstate an Alaska Coastal Zone Management Program has now been certified by the Lt. Governor's office, and a bill has been introduced in the Alaska Legislature (House Bill 325) which, if enacted, would reenact a coastal management program and likely obviate the need for the initiative to be addressed.

Under House Bill 325 and the proposed initiative, a statewide Coastal Policy Board would be established within the Department of Commerce, Community and Economic Development, charged with implementing a coastal management program in conformity with the Coastal Zone Management Act of 1972 (16 USC 1451-1464). This would include establishing the criteria and process for preparation and approval of district coastal management plans[14], and subsequent review and approval of such plans. The program will allow a municipality to establish a comprehensive plan or statement, setting out its objectives and standards governing the use and conservation of resources within the coastal area of the municipality, establishing enforceable policies where not otherwise preempted by federal or state law. Before permitting by a federal or state agency can occur within the coastal area of a municipality, a consistency review would occur within the newly established Division of Coastal Management, giving the proposed borough the opportunity to consult and comment.

A Coastal Zone Management Program would be of substantial benefit to the proposed Borough. The establishment of permitted Borough policies, and participation in the consistency review, would give the Borough a voice in the process of coastal area permitting. The economy of the area is dominated by commercial fishing, and having a say in coastal matters, especially those affecting fisheries and fisheries watershed protection, would be of considerable advantage.[15]

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[14] In the past, district boundaries were concurrent with borough boundaries.

[15] Under HB 325 and the initiative, coastal zone boundaries of areas of the State located within the Unorganized Borough would be based upon the boundaries of Regional Educational Attendance Areas (see, HB 325, Sec. 46.40.400, and the initiative, Sec. 46.41.110), with the ability to divide an existing REAA into two or three different 'coastal resource service areas.' Id. In Southeast Alaska, and in the region encompassed by the proposed Petersburg Borough, there are two REAAs – Chatham REAA and Southeast Island REAA, each of which covers a large geographical area. The boundaries of Chatham REAA run from Cape Fairweather, to the north, down to Kupreanof Island, including Glacier Bay, Icy Straits, Stephens Passage and part of Frederick Sound, and includes the communities of Gustavus, Angoon and Tenakee Springs. Southeast Island REAA includes Kupreanof Island and portions of the mainland, all the way to the southern tip of Prince of Wales Island, and includes the communities of Coffman Cove, Kasaan and Hyder, among others. Conceivably, if a Petersburg Borough is not formed, Stephens Passage, an area of the proposed borough which is most heavily used by Petersburg residents and the Petersburg commercial fishing fleet, could be encompassed within a coastal resource service area which will not include the City of Petersburg.

III. Communications and Transportation.

The Preliminary Report, at pp. 15-16, discusses the existing communications media and transportation facilities, and, noting that the proposed borough is similar to other existing Southeast boroughs, finds that the statutory and regulatory requirements are satisfied. In that discussion, the reports suggests that "perhaps some assembly meetings could be held early in the day to allow off-islanders to get to the meetings and back during daylight" (Id. at p. 16), responding to several comments discussing the potential difficulty of some individuals in attending evening Assembly meetings. There is in fact no prohibition against this in the Borough Charter, and there is support for this idea among existing City Council members and City staff, especially as to meetings at which subjects are going to be addressed which may present special interest to those residents outside Service Area 1.

Several other ideas for facilitating participation in Borough government by off-island residents have been raised and discussed by the Council, including 1) making available for public use two sleeping areas, located in the new Fire Hall, for those who wish to attend an evening Assembly meeting, and who cannot return to their homes via boat until the following morning due to darkness; and 2) establishing a central location, off island and potentially in the Keene Channel/Beecher Pass area, at which teleconferencing capabilities could be established by the Borough, and which could serve as a satellite facility for participating in a Borough Assembly meeting.[16] Communications capabilities within the proposed Borough will continue to improve as new towers are installed, internet connections are improved, and new audio and visual teleconferencing technology, such as Skype, is developed.

Upon Borough formation, these are the types of ideas and requests which can be presented to, and discussed with, members of the Borough Assembly, and the Assembly can work with the residents to best ascertain what is both most feasible and cost effective.

IV. City and Borough of Juneau Annexation Petition.

A. CBJ's Proposed Annexation, Even If Approved By The Commission, May Not Be Approved By A Majority Of Voters In The Area To Be Annexed.

Petersburg petitioners have been aware for some time that the City and Borough of Juneau ("CBJ") intended to file a petition for annexation; CBJ announced this intention in its opposition brief, indicating that it opposed the Petersburg petition insofar as it

[16] At the present time, some Keene Channel residents have both cellular phone and internet connections, and existing coverage can be improved. Existing technology reportedly can provide reliable communications through antennas and booster units. Aside from furthering participation in local government matters, such a centralized facility would serve public safety purposes.

extended northward beyond Cape Fanshaw. However, after CBJ's petition was submitted to DCRA for technical review, the CBJ annexation petition was not made available to the Petersburg petitioners until March 16, 2012. At that time, they first learned that CBJ is not pursuing a typical "legislative review" type annexation, but rather a "local action" by election petition which requires approval by a majority of voters residing in the area to be annexed. See A.S. 29.06.040(c)(2). This method of annexation is rarely used, because it is rarely the case that voters who reside outside of a city or borough are agreeable to annexation so as to thereby become subject to local government taxation or regulation.[17] The Petersburg petitioners are surprised that CBJ elected to choose this unusual method of annexation.

Under a local action by election annexation petition, approval of the annexation by the LBC is subject to being rejected if a majority of the voters in the area to be annexed vote against annexation. In this case, the Juneau petition itself (p. 4) represents that

> The population of the territory proposed for annexation is estimated to be 1, who is reported to be a Goldbelt employee who acts as a caretaker at Hobart Bay. (The State Division of Elections reports there are two people claiming a physical residence in Hobart Bay, both with Juneau mailing addresses, and no other persons claiming residence in the proposed annexation area.)

Assuming this to be true, and that by the time of an election following any LBC approval of an annexation of the area sought by CBJ, there will be at least one voter residing in the annexation area, then if that voter participates in the election, he or she would need to vote in favor for the annexation to occur. If there are two voters, both of them would have to vote in favor of annexation to constitute a "majority" approval as required by statute. Given the general propensity of rural/remote Alaskan residents to oppose being included in a municipal government and thereby become subject to local taxes and regulation, it seems improbable that any LBC approval of annexation which includes Hobart Bay will be approved by its few voters. If the LBC disapproves inclusion of this area in a Petersburg Borough incorporation, in favor of including it within a CBJ

[17] A review of all of the LBC's online annual reports to the Legislature since 1998 reflects that, of the 24 city or borough annexations during the last 14 years, only 2 were attempted through a "local action" by election petition. In these 2 cases, the results are instructive. A 2010 city of Dillingham annexation was approved by the LBC in December, 2011, and is now awaiting an election; however, because there are no voters in the area to be annexed, it will presumably be approved. By contrast, the City of Kodiak filed a local action by election annexation petition in 1999. It was approved unanimously by the LBC, but was rejected by an 88%/12% vote by the voters residing in the area to be annexed. In the other 22 annexation efforts, all of which were successful, 10 were done by legislative review method, and 12 annexations were accomplished through the local action by "unanimous consent" method under AS 29.06.040(c)(4), in which an area adjoining the municipality may be annexed by ordinance without an election if all property owners and voters in the area petition the governing body for annexation.

annexation, it is likely that the area will remain in *neither* borough, frustrating the Alaska Constitution's purpose of favoring inclusion of more areas of Alaska into boroughs.[18]

As previously discussed, the CBJ refused for many years to grasp its opportunity to extend local government into the contested area, notwithstanding the LBC's encouragement for such annexation by identifying model borough boundaries, and notwithstanding Petersburg's lengthy and public effort to bring its borough incorporation petition before the LBC. Even now, however, the annexation petition which CBJ seeks to juxtapose against the Petersburg petition is half-hearted and uncertain. If the Commission denies the contested area to Petersburg and instead approves its annexation to CBJ, this may well come to naught, in that CBJ has selected an annexation method which is conditioned upon approval by the voters in the annexation area, which is unlikely to occur. It is both unfortunate and unnecessary that the Commission's resolution of this contentious issue should be subject to such uncertainty.[19]

If the Commission adopts the northern Petersburg Borough boundary recommended by the Department, CBJ's annexation of the remaining Tracy Arm area would not be subject to this same election uncertainty. There are no voters residing in the Tracy Arm annexation area, threatening to defeat the annexation in an election.

B. DCRA's Recommended Northern Boundary of a Petersburg Borough Is Sensible.

The Petersburg petitioners have previously indicated that it would be reasonable for the LBC to redraw the petition's proposed northern boundary to cede all of Tracy Arm to the CBJ while leaving areas southward, including Holkham Bay, Endicott Arm and other southward areas on the east side of Stephens Passage in the Petersburg Borough. This is because (1) the current southern boundary of the CBJ is an arbitrary straight line

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[18] See Mobil Oil Corporation v. Local Boundary Commission, 518 P.2d 92, 99 (Alaska 1974), stating

> We read [Article X, Section 1 of the Alaska Constitution] to favor upholding organization of boroughs by the Local Boundary Commission whenever the requirements for incorporation have been minimally met.

The courts further stated that "[O]ur constitution encourages their [borough governments] creation. Id. at p.101.

[19] It is true that the petition for incorporation of a Petersburg Borough, if approved by the Commission, will also be subject to voter approval, but this was not a matter of choice to the Petersburg petitioners; this is the only procedure for incorporating a borough short of a "mandatory borough" enacted by Legislature. Moreover, the Petersburg borough will be subject to approval by a majority of the total number of voters in the proposed borough, lumping together voters from within the existing city of Petersburg with those outside the City. CBJ, on the other hand, had the option of filing a legislative review petition, which would not have been subject to the uncertainties of voter approval, particularly an approval which must be given by a majority of voters in the area to be annexed.

which does not confirm to natural geography, (2) Juneau's tourism business connection with the area contested between Juneau and Petersburg is primarily concentrated in Tracy Arm and (3) Petersburg's strong commercial fishing ties with the contested area are relatively small within Tracy Arm.

The Department's recommended modification to the boundary, reflected in Appendix B3 of its Preliminary Report, is acceptable to the Petersburg petitioners. After crossing the mouth of Tracy Arm from Pt. Coke, the staff's proposed boundary would follow the watershed ridge line eastward on the continent to the Canadian border, conforming to natural geography in a manner consistent with the Commission's recent decisions utilizing watershed dividing ridges as borough boundaries. The watershed divide method is particularly sensible in Southeast Alaska, where much human activity is oriented toward coastal shorelines and adjacent bays, and is affected by the creeks and rivers draining the watersheds. The City of Petersburg's mapping technician believes that the line drawn by the Department accurately depicts the watershed divide.

The watershed issue is also addressed in CBJ's recently-filed Petition for Annexation, at pp. 64-68. DCRA's proposed boundary between CBJ and the Petersburg borough would, in fact, place the entire watersheds of Port Snettisham, the Whiting River and Tracy Arm in the CBJ. The entire watersheds of Endicott Arm, Windham Bay, Hobart Bay and Port Houghton would be included in the Petersburg borough. No watershed area would be divided between the two boroughs.

The Preliminary Report correctly describes Petersburg's predominant economic interest in commercial fishing in the entire contested area including Holkham Bay[20] and Endicott Arm, and notes that the bulk of the fish harvested in the contested area are also processed in Petersburg. In addition to the commercial salmon and shellfish harvesting in the contested area, as described in the Preliminary Report, substantial groundfish (halibut and black cod) volumes are harvested by Petersburg fishermen in the contested area districts; these are depicted as groundfish statistical areas 335732, 335733, 335731, 335734, 335701, 335704 and 335703, as shown on Attachment 12 (ADF&G Groundfish Districts) to Petitioner's Reply Brief. These areas include the east shore of Stephen's Passage as well as Holkham Bay, Endicott Arm, Windham Bay, Hobart Bay and Port Houghton. As shown by the statistical analysis performed by the State Commercial Fisheries Entry Commission (Attachment 13, Petitioner's Reply Brief), 93.1% of the commercial fishing harvest of salmon, crab, shrimp and groundfish in the

[20] The only quibble Petersburg has with the statements from ADF&G representatives at pp. 26-27 of the Preliminary Report is that there is, in fact, a salmon gillnet fishery in Holkham Bay, in which Petersburg fishers participate. See area 11C (statistical area 111-20), depicted on Attachment 11, Exhibit 3 (ADF&G Petersburg Management Areas Statistical Districts) to Petitioners' Reply Brief dated November 15, 2011. Testimony will be presented regarding this at hearing.

contested area is by Petersburg-based fishers, with 88.8% of the value of all fish, crab and shrimp harvested in this area being processed in Petersburg.[21]

C. Commercial Fisheries.

The CBJ annexation petition (p. 64) arbitrarily asserts that the northern Southeast Alaska management districts for groundfish are "Juneau waters", without basis for this assertion. Nearly all of these harvests are by Petersburg fisheries, delivering the halibut and black cod to Petersburg for processing. With regard to salmon fishery regulation, *all* of the waters in the contested area are within what ADF&G characterizes as the "Petersburg Management Area".[22] Because commercial fisheries are easily the largest economic activity in the contested area, this is significant.

D. Other Administrative Boundaries.

Less significant are the various administrative boundaries related to USFS Ranger Districts, ADF&G Game Management Units and US Census Tracts, the purposes of which bear no resemblance to the purposes of borough boundaries and to natural geography and which, in any case, each also depart markedly from the proposed CBJ boundaries set forth in its annexation petition. The CBJ's petition also asserts that all of the Tracy Arm-Fjord's Terror Wilderness Area should be contained within one borough; this is not supported by any rationale or precedent. The Admiralty Island National Monument-Kootznoowoo Wilderness exists partly within the City and Borough of Juneau, and partly in the remainder of Admiralty Island outside of any borough. The Stikine Leconte Wilderness area lies partly within the City and Borough of Wrangell, and partly in the area now sought for inclusion in the Petersburg Borough. Part of Glacier Bay National Park is in the City and Borough of Yakutat, and part is south of and outside that borough. The entire Tongass National Forest is divided among a number of Southeast Alaska boroughs.

E. CBJ's Asserted Economic Ties With The Contested Area.

The CBJ's annexation petition (p. 46) simply repeats the same assertions of tourism activity by "Selected Small Operators" as was contained in CBJ's prior brief filed in opposition to the Petersburg borough petition. Petersburg previously responded in detail to these assertions[23], demonstrating that CBJ's asserted economic connections were (1) grossly exaggerated, overstating tourism revenues in the area that are properly

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[21] These percentages are based upon a Petersburg vs. Juneau ratio, not against all fishers or processing ports.

[22] See Petitioners' Reply Brief, exhibit 3, ADF&G map of "Southeast Alaska Petersburg Management Area."

[23] See Petersburg Reply Brief, pp.40-43 and Attachment 14 thereto.

associated with Juneau, (2) misrepresentative in claiming greater Juneau connections based upon some operators who had equal or greater connections with Petersburg and (3) primarily based upon information regarding operators whose primary connection is with Tracy Arm, rather than with the remainder of the contested area. The annexation petition also asserts that most privately-held properties in the Holkham Bay area is owned by Sealaska Corporation, failing to note that this consists of only subsurface ownership. Finally, the annexation petition fails to note that the small private lodge structure in Windham Bay has been closed for some years and is for sale. While it may be purchased by Allen Marine, this is a company based in Sitka, not Juneau.

F. Native Territory.

The CBJ annexation petition substantially revises its prior assertion that most or all of the territory on the east side of Stephens Passage in the contested area was the territory of Juneau area tribes. Petersburg has previously pointed out that the Taku Tribe, unlike the Auk Tribe, was not associated with the Juneau area, in that the Taku occupied territories further east and south. Even if one includes Taku territory, however, CBJ now acknowledges that with respect to areas south of Tracy Arm, the historical territory of the Taku Tribe is "less clear". (Annexation petition, p. 62.) Now citing only to a recognized historical/anthropological source, rather then to a far less credible ADF&G subsistence study, CBJ acknowledges that the Taku Tribe has a tenuous historical connection with the lands in the contested area. The Goldschmidt and Haas treatise states that no Taku witness claims territory further south than Holkham Bay area where the old village Sumdum was situated.[24]

G. CBJ Erroneously Claims That It Will Bear Public Service Costs For Commercial Development In The Contested Area Even If Not Annexed To The CBJ.

In its Annexation Petition, at p. 54, the CBJ asserts that upon expanded commercial development in the contested area, there will be a likely increase in the demand for services and that "[S]hould" that occur without annexation, the residents of the CBJ would be forced to subsidize any public service costs." There is no support for this assertion.

Directly following this, at pp. 55-56 of its petition, the CBJ lists the "following services" it anticipates providing to the contested area if it is annexed. The first is fire services, which it does not provide now and would not provide if the area is not annexed to the CBJ. Second is police services, for which, even if there is an annexation, "no additional identifiable costs" are identified. Third is the transportation costs associated with assessment of properties, but this would obviously not be incurred by the CBJ if the contested area is not annexed to it. Fourth, the petition notes that there would be no

[24] Haa Aani, Our Land, Tlingit and Haida Land Rights and Use, Goldschmidt and Haas (1998), excerpt included in Attachment 4 to Juneau Annexation Petition.

additional costs associated with sales tax, which obviously would be the case if the area is not annexed to the CBJ. Fifth and finally, the petition notes that there would be costs associated with planning, zoning and permitting, but that these would all be recovered from the developers. If the area is not included in the Juneau annexation, these costs would not be incurred by the CBJ in the first place.

V. Goldbelt.

Goldbelt is a Juneau-based urban ANCSA corporation. Four years ago, Goldbelt issued a letter of support for inclusion of its Hobart Bay properties in the proposed Petersburg Borough, expressing its "desire that our lands at Hobart Bay be part of the proposed Petersburg Borough and not part of the City and Borough of Juneau." See, Exhibit 7. Goldbelt based its statement upon,

> a great many reasons including geography, historical ties, the abilities of the CBJ and the proposed Petersburg Borough to provides services, and past support by the City of Petersburg and the support of Petersburg businesses of our past logging operations in Hobart Bay. Id.

Now, under different leadership, Goldbelt is objecting to the Preliminary Report's recommendation that its Hobart Bay properties be included in the Petersburg Borough, precisely what it was supporting four years ago. Instead, it is now requesting that the LBC 'carve out' its property in Hobart Bay from the Petersburg Borough leaving it in the Unorganized Borough. Goldbelt states that its property could later be included in a borough "that could be organized to include the territory of Kake, Angoon, and Hoonah...." See, Goldbelt's March 28, 2012 comment to Preliminary Report.

Goldbelt's argument for remaining in the Unorganized Borough is based upon an artificial effort to tie together (1) the Juneau corporation's Hobart Bay landholdings with (2) Kake's historic, but not contemporaneous connections with the contested area on the east (mainland) side of Stephens Passage. These are actually two separate and distinct matters, neither of which warrants withholding portions of the contested area from the Petersburg Borough. Furthermore, a Chatham-Icy Strait Borough has been under discussion for many years, has never been seriously pursued and remains unlikely to be voluntarily formed any time in the foreseeable future.

The two connections of Kake-Angoon-Hoonah asserted by Goldbelt are addressed separately.

A. Goldbelt Ownership of Hobart Bay Lands.

The landholdings of Goldbelt in Hobart Bay have nothing to do with cultural or economic connections with the contested region of Kake, Angoon or Hoonah. Goldbelt is not the

village corporation for these villages. Each of these villages have their own village corporations: Kake Tribal Corporation, Huna Totem Corp (Hoonah) and Kootznoowoo, Inc. (Angoon). Assuming, as Goldbelt asserts, that its shareholders include members of "virtually every one of Alaska's indigenous groups", this does not convert Goldbelt into the representative village corporation for Kake, Angoon and Hoonah, each of which have their own village corporations.

Moreover, Goldbelt itself admits that its landholdings in Hobart Bay were not based upon customary and traditional use. Instead, as is set out at p. 4 of its comment, Goldbelt selected ANCSA land on Admiralty Island, on the opposite (western) side of Stephens Passage, based upon its customary and traditional use of that area, but these lands were exchanged for lands in Hobart Bay to resolve legal and political issues.

In short, Goldbelt's ownership of Hobart Bay lands was not a product of even its own customary and traditional use, much less of such use by Kake, Angoon or Hoonah tribes. Land ownership by the Juneau-based corporation is certainly no basis for reserving this territory to a speculative future Chatham-Icy Strait Borough.

B. Kake, Angoon, Hoonah Traditional Use/Territory.

The Petersburg petitioners acknowledge the assertion that Kake (as opposed to Angoon and Hoonah, both of which are distant from the subject area) is recognized as having made some traditional use of the contested area south of Tracy Arm, contrary to CBJ's assertion that this was traditional territory of the Taku Tribe. However, such historical and non-contemporary connections are insufficient on their own to support reserving this area for a potential Chatham-Icy Strait Borough, in the face of an existing Petersburg Borough petition based upon strong contemporary economic connections.

The Goldschmidt and Haas treatise upon which all parties rely was based upon a report made by the authors in 1946, which was generally based upon 19th century writings and upon recollections of elders regarding usages up to the early 20th century. The traditional usages describe therein thus concerned activities more than a century ago. The Petersburg petitioners are respectful of this history and acknowledge that, if there were a bona fide petition to incorporate a Chatham-Icy Strait Borough, this would have had some relevance to the A.S.29.05.031(a)(1) standard that a borough be interrelated and integrated as to its social, cultural and economic activities. However, historical connections have less relevance to this standard than current, contemporaneous "social, cultural and economic activities", and Goldbelt has not identified any contemporary connections between Kake or the other villages and the subject area. No current commercial or subsistence activities of Kake residents in this area are set forth.[25]

[25] Goldbelt attached the Chatham Region Model Borough Boundaries adopted by the LBC in 1990 but, interestingly, this included only parts of Admiralty, Kupreanof and Kuiu Islands, and not the subject area on the mainland east of Stephens Passage.

The primary modern connection of the virtually uninhabited contested area is with commercial fishing and processing, based in Petersburg. Goldbelt characterizes this as "some" connection which is "tenuous at best", yet the petitioners have documented Petersburg's domination of this industry and the economic value of the fishery created there by the residents of Petersburg.[26] Goldbelt further asserts that the Petersburg petitioners have made an "...admission that fishing does not occur within the mainland bays". This is flatly *untrue*. There are in fact substantial Petersburg-based commercial fisheries activities within each of the bays in the contested area. Petersburg will present testimony at hearing as to commercial fishing in each of the subject bays, addressed from south to north as follows:

Port Houghton
- Salmon Seining
- Halibut Fishing
- Dungeness Crab Fishing
- Herring fishing
- Pot Shrimping

Hobart Bay
- Dungeness Crabbing
- Salmon Seining (Ordinarily open to seiners into where the bay narrows, with special periodic seine openings into the inner bay)
- Sac Roe Herring Gillnetting (Some but not all years.)

Windham Bay
- Dungeness Crabbing
- Salmon Seining (Ordinarily open to seiners into where the bay narrows, with special periodic seine openings into the inner bay)
- Sac Roe Herring Gillnetting (Some but not all years.)

Endicott Arm
- Tanner Crabbing
- Some Halibut Fishing[27]

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[26] The Preliminary Report notes the "strong" Petersburg fishing connections with this area. See, Preliminary Report, p. 26. Goldbelt claims that the landings in the Bays are "so limited in number" that disclosure of the numbers would violate the confidentiality rules of ADF&G. In fact, the agency's confidentiality rules, when utilizing CFEC data, apply a "rule of four" and relate to permits, vessels and processors, not landings. For example, in order for catch data to be disclosable, there must be at least four permits, by each gear type, reporting data for each particular statistical subdistrict. Goldbelt's statement that the landings are "so limited in number" as to trigger confidentiality constraints should not be taken to mean that the overall number of vessels, permits and processors harvesting the contested area is small; it is not.

[27] The above information is based upon a conversation with Mark Jensen, 3/29/2012; and a conversation with Troy Thynes, ADF&G Petersburg, 3/29/2012. As previously stated, upland usages directly affect

In short, Goldbelt's assertions are based upon an insufficient understanding of the Petersburg fisheries and the fisheries data.

In any case, it is highly questionable whether a Chatham-Icy Strait Borough will ever be formed, resulting in an area of the mainland with significant current economic ties to Petersburg being left as an enclaved remnant of the Unorganized Borough between the Petersburg Borough and the CBJ. In June, 2006, the City of Hoonah prepared an "Initial Feasibility Study" for what it termed a "Glacier Bay-Chatham Borough", excerpts of which are attached hereto as Exhibit 8. The Feasibility Study explored two different options, one a small borough and one (which is mapped as Figure 2 in the Exhibit hereto) which would have included Kake and Angoon, extending south to include parts of Admiralty, Kupreanof and Kuiu Islands, but not eastward across Stephens Passage to the mainland "contested area" now at issue. According to the Feasibility Study, at p. 5, representatives of Kake participated in the meeting to discuss the proposed Glacier Bay-Chatham Borough depicted in Figure 2 of the Exhibit. According to p. 4 of the Feasibility Study, one "organizing principle" for the borough was, at item 8, "No borough property tax." Unsurprisingly, the Feasibility Study did not result in the filing of an actual borough petition.

VI. Demonstrative Exhibits at Hearing.

The Petitioners anticipate the use of a number of demonstrative exhibits at the scheduled hearing which are large, poster-sized charts and maps which are not appropriate for attachment to a brief or comment. While these exhibits are not "evidence" under 3 AAC 110.560(e), the petitioners herein provide a list of these demonstrative exhibits so that other interested parties may view them prior to the hearing date. Exhibits may be added or deleted as work on the Petitioners' hearing presentation proceeds.

- Nautical Chart No. 17360, Etolin Island to Midway Islands, (www.charts.noaa.gov/OnLineViewer/17360.shtml);
- Nautical Chart No. 17375, Wrangell Narrows; Petersburg Harbor (www.charts.noaa.gov/OnLineViewer/17375.shtml);
- Tongass National Forest, Alaska 2005, United States Forest Service;
- United States Geological Service, Alaska Topographic Series, quadrant maps titled Petersburg, Alaska-Canada, Sumdum, Alaska-Canada, and Taku River, Alaska-Canada, scale 1:250,000;
- United States Geological Service, Southeastern Alaska, Sheet No. 37 (compiled 1967, revised 1972);

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drainages, fish streams and maritime habitats, and therefore have a direct connection with Petersburg's important economic activities in the contested area.

- DCCED map, **Communities and Regions of Alaska**, issued August 5, 2010;
- Two maps prepared by City of Petersburg Mapping Technician, showing Southeast Alaska boroughs and the proposed Petersburg Borough, and the DCRA staff recommended northern boundary.
- Map of revised northern boundary line, as recommended by LBC staff, prepared by City of Petersburg Mapping Technician.
- Map of a portion of the proposed borough, generally including the entirety of Mitkof Island, the mainland up to Pt. Agassiz and the most easterly portion of Kupreanof Island, prepared by City of Petersburg Mapping Technician.

Respectfully submitted this 30th day of March, 2012.

Hedland Brennan & Heideman
Attorneys for Petitioners

James T. Brennan

Sara E. Heideman

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Exhibit 1

Four-Year Borough Operating & Transition Estimated Budgets

Projected Principal Revenues

	Adopted City Budget FY 11/12	Conceptual Borough Budget				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	Note #
Property Tax (minus exemptions and debt service pymnts	$2,319,977	$2,337,395	$2,337,395	$2,521,395	$2,521,395	1
Federal PILT	$500,000	$510,000	$510,000	$510,000	$510,000	2
Sales Taxes	$2,857,256	$2,832,028	$2,931,921	$2,961,240	$2,990,853	3
Transient Occupancy Tax	$43,000	$42,347	$45,662	$45,662	$45,662	3
Penalties and Interest	$11,000	$15,000	$15,000	$15,000	$15,000	4
Licenses & Permits	$9,300	$10,650	$10,650	$10,650	$10,650	5
Federal Grants	$60,000	$60,000	$60,000	$60,000	$60,000	6
State Shared Revenue	$1,044,529	$1,014,500	$1,314,500	$1,314,500	$1,314,500	7
State Grants for Operating Expenses	$239,522	$591,089	$491,089	$306,250	$206,250	8
State Revenues for Local Services	$298,837	$344,449	$344,449	$344,449	$344,449	9
Charges for Services	$237,900	$250,000	$250,000	$250,000	$250,000	10
Fines & Forfeits	$16,550	$17,000	$17,000	$17,000	$17,000	11
Misc. Revenues/Land Leases and Sales	$154,000	$100,500	$150,500	$150,500	$150,500	12
Contributions from Enterprise Funds	$368,077	$539,450	$544,845	$550,293	$555,796	13
Motor Vehicle Registration	$36,000	$34,000	$34,000	$34,000	$34,000	14
Proceeds of General Fixed Assets	$1,700	$1,700	$1,700	$1,700	$1,700	15
Transfer in from Forest Receipt Fund to Pay for School	$599,861	$600,000	$600,000	$600,000	$600,000	16
Total Operating Revenue	**$8,797,509**	**$9,300,108**	**$9,658,710**	**$9,692,639**	**$9,627,754**	

Projected Operating Expenditures

	Adopted City Budget FY 11/12	Conceptual Borough Budget				
		FY 12/13	FY 13/14	FY 14/15	FY 15/16	Notes
City/Borough Council	$142,043	$140,000	$145,000	$145,000	$145,000	17
Administration	$374,225	$382,967	$386,797	$390,665	$394,572	18
Attorney	$65,000	$80,000	$50,000	$50,000	$50,000	17B
Information System	$167,424	$81,452	$82,267	$83,089	$83,920	17C
Finance	$592,957	$584,424	$540,268	$545,671	$551,128	19B.
Police	$1,123,817	$1,175,570	$1,187,326	$1,199,199	$1,211,191	19
Jail	$317,967	$333,342	$336,675	$340,042	$343,443	19
Fire/EMS (less SAR)	$513,927	$489,489	$494,384	$499,328	$504,321	19
Public Works	$1,217,545	$1,229,720	$1,242,018	$1,254,438	$1,266,982	19
Community Development	$179,297	$181,090	$182,901	$184,730	$186,577	19
Facilities Maintenance	$448,482	$452,967	$457,496	$462,071	$466,692	19
Community Services	$209,000	$211,090	$213,201	$215,333	$217,486	19
Library	$283,863	$286,702	$289,569	$292,464	$295,389	19
Parks & Recreation	$651,877	$658,396	$664,980	$671,630	$678,346	19
Non-Departmental	$206,500	$223,565	$225,801	$228,059	$230,339	20
State PERS Relief	$150,000	$200,000	$200,000	$200,000	$200,000	
Disaster Planning/ Emergency Response Search & Rescue	$7,000	$10,000	$10,000	$10,000	$10,000	21
Assisted Living	$0	$100,000	$100,000	$100,000	$100,000	22
Harbors & Ports - Fish tax	$300,000	$350,000	$350,000	$350,000	$350,000	23
***Contribution to Petersburg Public Schools	($599,861 + $1,200,139) $1,800,000	($600,000 + $1,200,000) $1,800,000	($600,000 + $1,250,000) $1,850,000	($600,000 + $1,250,000) $1,850,000	($600,000 + $1,250,000) $1,850,000	
Total Operating Expenses	**$8,750,924**	**$8,970,774**	**$9,008,682**	**$9,071,718**	**$9,135,386**	

TRANSITION EXPENDITURES (Capital and Operating)	Adopted City Budget FY 11/12	Conceptual Borough Budget		
		FY 12/13	FY 13/14	FY 14/15
Borough Comprehensive Plan Update	$0		$50,000	$50,000
Borough Zoning update	$0		$30,000	
Updating maps /integrating into Borough GIS system	$0	$75,000	$25,000	
Purchase of new Property Data Software. Update borough land/parcel records for taxes & planning	($50,000 in finance budget)	($50,000 in finance budget of operating expense)	$20,000	
Transition contract to assessor	$0	$45,000	$45,000	$10,000
Transition legal fees	($25,000 in attorney budget)	($40,000 in FY12/13 attorney budget)	$10,000	
Communications, Meeting Travel & Public Noticing	($20,000 in Council Budget)	$10,000	$10,000	
Disaster Planning & Response/Search & Rescue	$0	$10,000	$10,000	$10,000
Total Transition Expenditures	**$0**	**$140,000**	**$200,000**	**$70,000**

NET CONCEPTUAL BOROUGH BUDGET					
	Adopted City Budget FY 11/12	Conceptual Borough Budget			
		FY 12/13	FY 13/14	FY 14/15	FY 15/16
Annual Operating Revenues	$8,797,509	$9,300,108	$9,658,710	$9,692,639	$9,627,754
Annual Operating Expenditures	$8,750,924	$8,970,774	$9,008,682	$9,071,718	$9,135,386
Transition Expenditures	$0	$140,000	$200,000	$70,000	$0
NET	**$46,585**	**$189,334**	**$450,029**	**$550,921**	**$492,369**

BUDGET NOTES

General:

The projected borough budget has been prepared with very conservative, but likely to be realized, estimates for revenues with little or no projections for inflation or increased land values. The expenditure portion of the budget has been prepared in most areas anticipating some inflation of an approximate 1% increase in operation costs. The four year borough budget projects that the borough will have generally the same financial position as currently experienced by the city, or slightly better.

Note 1:

Property Tax: The property tax revenue for the Petersburg Borough will increase. The additional revenues from property tax will likely not be realized until year three of Borough formation, depending upon when Borough formation occurs. It is estimated that the real property value for taxable lands outside of the current City of Petersburg (future Service Area 1) is $46,000,000.00. A 4 mill levy for this assessed value is $184,000.00 in FY 14/15. Property values within the City of Petersburg are beginning to stabilize, so no expectation of increased property values are shown after the first year of borough revenues. The revenue figures used for property tax income is a net total for area wide services after deducting all existing debt obligations of the City of Petersburg (future Service Area 1) and considering State mandated senior and disabled veteran tax exemptions. The budgeted property tax revenue figure assumes a 9 mill base levy in Service Area 1 in fiscal year 12/13 and beyond. As of January 2012 Gross Assessed property value in the City was $288,811,500 and exemptions $29,100,855. 9 mills of $259,710,645 is $2,337,395.

Note 2:

Payment in Lieu of Taxes: The City of Petersburg receives payment in lieu of taxes from the State of Alaska annually, as would the Borough.

Note 3:

Sales and Transient Room Taxes: These taxes will be an immediate area wide tax at 6% (sales) and 4% (room). Taxable sales outside the current City of Petersburg are expected to generate an additional, yet modest, borough income of $148,358 annually ($141,728 sales tax and $6,630 room tax). FY 12/13 Sales Tax anticipates a base sales tax of $2,761,164 (which is a 5% increase from FY 2011 City actuals) plus 50% of $141,728 representing ½ year. FY 13/14 consists of $2,761,164 + 141,728 + 1%. For years three through four, an annual 1% increase in Sales Tax has been considered. Transient room tax for FY 12/13 anticipates a 5% increase from FY 2011 City actual revenue plus 50% of the projected $6,630, and 100% of the projected $6,630 in FY 13/14. No 1% increase is projected for the following years.

Note 4:

Penalty and Interest income are based on City of Petersburg's penalties and interest received for late payment and filing of property and sales taxes. It is expected this figure will be relatively constant after borough formation, fluctuating slightly up or down in any given year dependent on area economy.

Note 5:
Licenses & Permits: This revenue is generated from fees for a variety of licenses and permits, such as building, zoning, variance, and/or special use permits and transient merchant and driver's license fees. The revenue is not expected to increase much over current city income levels,

Note 6:
Federal Grants: The City has a contract to perform some public safety activities on Forest Service land. In addition, the City receives pass-through federal money to fund drug enforcement operations in Southeast. It is expected that these services and funds will continue at approximately the same level after borough formation.

Note 7:
State Shared Revenue includes fisheries business taxes (DPOR, DCCED), liquor licenses and state revenue sharing, the latter of which is estimated to increase by $300,000 beginning in FY 13/14 based upon borough formation.

Note 8:
The City of Petersburg receives a small grant ($8,000-$10,000) each year for library operations. This line item also includes the borough formation grants for the first three years of borough incorporation - $300,000 in FY12/13, $200,000 in FY 13/14, and $100,000 in FY 14/15. Also included are grant funds for an additional police officer the State will be funding for the first two years of the budget ($84,000); In FY 14/15, the borough will have to fund the position. State PERS relief in the amount of $200,000 is also included in this figure, to draw down the municipality's PERS unfunded liability

Note 9:
The City has contracted with the State to provide limited incarceration services. In the last two years the contract has increased from approximately 202,000 to $250,000. Also included in this line is approximately $90,000 for the police to provide additional security at the airport during flights.

Note 10:
Charges for Services represent the revenues received from collection of user fees for services from departments that are mostly supported by general tax dollars. This income consists of, but is not limited to: recreational activity fees, ambulance fees, contracted police services and miscellaneous public works charges. This revenue is expected to increase from its current level, not due to borough formation but rather to inflationary increased costs of operation.

Note 11:
Fines and Forfeits represent revenues received from court and library fines; and animal and vehicle impoundment. This income is projected to remain approximately the same after borough formation because the fines and forfeits received from the animal and vehicle impoundment services will only be provided in Service Area 1 (former City of Petersburg).

Note 12:
Miscellaneous income represents income earned from borough (prior city) investments as well as existing land leases and sales at the time of borough formation. Miscellaneous income is expected to decrease in FY12/13 because of continued low interest rates on investments and lost revenue of the Romiad building leases. An increase of $50,000 per year after that is provided, as the borough begins to sell off or lease entitlement lands received from the state due to borough incorporation.

Note 13:
Each Enterprise Fund/Operation of the City of Petersburg (all utilities; harbor, elderly & assisted living) contribute money to the General Fund to represent their costs for overall general administration, information services and financial accounting for the departments (i.e., each fund contributes to pay for city administration, computer assistance, finance personnel and other cost associated with them). Beginning in FY 12/13, a new cost allocation formula has been adopted by the City, which result in increased payments. It is anticipated that this will be retained after borough formation. The proposed budget contains a 1% annual increase to represent expected increased labor contract provisions.

Note 14:
Motor Vehicle Registration: Proceeds from State on vehicle registrations.

Note 15:
Each year the city conducts an auction for the disposal of no longer needed surplus equipment. This surplus auction is expected to continue after borough formation. The budgeted figure is the average annual dollars collected at the auction.

Note 16:
Secure Rural School Funding (National Forest Receipts): Like all communities in Southeast Alaska located within the National Forests, the Petersburg area has been reliant upon federal subsidy to compensate for the loss of local economy related to the near non-existent timber industry. The long term possibility of this funding source, that many communities have become dependent upon to supplement their education needs, has been, and continues to be, in jeopardy. At this time the Senate just passed the Baucus Amendment to extend Secure Rural Schools for one year at 95% of last year's level. At this time the City's Timber Receipts fund contains approximately $4 million. Currently, the City has decided to keep the transfer at a flat amount of $600,000 each year into the General fund due to this new development.

Notes 17, 17B and 17C:
A small increase over current city costs is included, beginning in FY 13/14, to provide for the expected added expense of elected borough officials. The increase in attorney fees is due to Borough Attorney costs in FY 12/13. The General Fund is in the process of restructuring their IT department and is contracting out this service to create more efficiencies and save on personnel costs.

Note 18:
This figure is approximately $100,000 less than that provided in the initial borough budget, as a benefit cost was originally included twice. A 1% annual increase in the new figure has been provided, and $5,000 additional election expenses anticipated.

Notes 19 and 19B:
A 1% annual increase is provided for. The Finance budget includes a $50,000 expenditure for property tax software in FY 12/13; the budget should drop back down by $50,000 the next year.

Note 20:
A 1% annual increase is provided, plus an added $15,000 annual increase for liability insurance.

Note 21:
It is anticipated that additional funding will be needed to provide better emergency communication and coordination throughout the borough, including the emergency command center at Mt. View Manor.

Note 22:
Mt. View Manor Assisted Living is a new facility constructed in 2003 and opened for services in 2004. It provides both subsidized and non-subsidized room, board and assisted living services to qualified individuals as well as independent living apartments to the older adult population. The accounting for the facility was established on an "Enterprise" basis, whereas the facility's charges for services were expected to pay for the facility's total operating and debt costs. Since its opening, the facility has not raised revenues sufficient to pay for all costs of operations. The City has been providing General Fund funding up to $280,000 annually to address the facility's 24 hours cost of service needs. $198,000 annually will be paid by tax payers as of FY 2012, in a property tax additional debt service millage amount, but the Assisted Living Fund still requires an annual payment of $100,000 from the General Fund.

Note 23:
In fiscal year 2008/09 the City implemented a new policy of transferring any Fish Tax Revenue (traditionally a general fund revenue) above $400,000 annually to the Harbors & Ports operating budget. This policy was established to alleviate the need to further increase moorage and user fees at the harbors. Use of the Raw Fish Tax for harbor purposes was justified, as the City's fishing fleet is the main economic resource of the region. This new policy may or may not remain in practice in the future, dependent on other burdens upon the General Fund (education and basic services). However, the new policy has been carried over to the borough budget.

Exhibit 2

City of Petersburg's Resolution # 1959

CITY OF PETERSBURG, ALASKA

RESOLUTION # 1959

A RESOLUTION ESTABLISHING POLICY ON THE UNRESTRICTED FUND BALANCE THAT IS DESIRED TO BE MAINTAINED IN THE GENERAL FUND

WHEREAS, to protect the City against potential shock of unanticipated circumstances and events, such as revenue shortfalls or unexpected expenditures, and

WHEREAS, to act as a guide to be used in the budgeting process, and

WHEREAS, the City Auditor has recommended a Fund Balance Policy be established.

THERERFORE BE IT RESOLVED that the City Council of the City of Petersburg by this resolution implements an unrestricted fund balance policy for the General Fund. It is desired that the unrestricted Fund Balance of the General Fund be maintained in the target range of no less than four months and no more than six months of operating expenses.

RESOLVED FURTHER, this policy may be amended by future resolutions.

Mark Jensen, Vice Mayor

Passed: 2/2/2011

ATTEST:

Kathy O'Rear, City Clerk

Exhibit 3

Basic Financial Statements, Supplementary Financial Information, and Single Audit Reports for the Year Ended June 30, 2011 (excerpts)

CITY OF PETERSBURG, ALASKA

Basic Financial Statements,
Supplementary Financial Information, and
Single Audit Reports

Year Ended June 30, 2011

Exhibit B-1

CITY OF PETERSBURG, ALASKA
Governmental Funds
Balance Sheet
June 30, 2011

Assets	General	Major Funds: National Forest Receipts - School Special Revenue	Major Funds: Fire/EMS Facility Capital Project	Nonmajor Funds	Total Govern-mental Funds
Cash and investments	$ 2,812,952	3,316,214	-	6,450,805	12,579,971
Receivables, net of allowance for doubtful accounts:					
Property taxes	33,601	-	-	-	33,601
Sales taxes	313,128	-	-	-	313,128
Grants and shared revenues	-	-	686,287	215,502	901,789
Accounts	94,430	-	-	-	94,430
Interest	-	-	-	4,209	4,209
Prepaid insurance	51,699	-	-	-	51,699
Due from other funds	637,517	-	-	-	637,517
Total assets	$ 3,943,327	3,316,214	686,287	6,670,516	14,616,344
Liabilities and Fund Balances					
Liabilities:					
Accounts payable	112,065	-	282,474	46,241	440,780
Accrued payroll and related liabilities	150,311	-	-	543	150,854
Deferred revenue	3,792	-	-	30,668	34,460
Due to other funds	-	-	378,531	40,044	418,575
Total liabilities	266,168	-	661,005	117,496	1,044,669
Fund balances:					
Nonspendable	51,699	-	-	-	51,699
Restricted	-	3,316,214	-	247,186	3,563,400
Committed	-	-	25,282	6,190,645	6,215,927
Assigned	-	-	-	123,479	123,479
Unassigned (deficit)	3,625,460	-	-	(8,290)	3,617,170
Total fund balances	3,677,159	3,316,214	25,282	6,553,020	13,571,675
Total liabilities and fund balances	$ 3,943,327	3,316,214	686,287	6,670,516	14,616,344

See accompanying notes to basic financial statements.

Exhibit B-3

CITY OF PETERSBURG, ALASKA
Governmental Funds
Statement of Revenues, Expenditures and Changes in Fund Balances
Year Ended June 30, 2011

	Major Funds				
	General	National Forest Receipts - School Special Revenue	Fire/EMS Facility Capital Project	Nonmajor Funds	Total Govern-mental Funds
Revenues:					
Property taxes	$ 2,653,336	-	-	-	2,653,336
Sales taxes	2,638,867	-	-	-	2,638,867
Other taxes	72,067	-	-	-	72,067
Intergovernmental	1,958,400	1,357,487	2,197,247	884,169	6,397,303
Licenses and permits	20,266	-	-	-	20,266
Charges for services	338,420	-	-	-	338,420
Fines and forfeitures	27,316	-	-	-	27,316
Overhead charges	341,105	-	-	-	341,105
Investment income	100,608	29,806	-	633,247	763,661
Sale of property	-	-	-	44,935	44,935
Other	26,882	-	-	64,905	91,787
Total revenues	8,177,267	1,387,293	2,197,247	1,627,256	13,389,063
Expenditures:					
Current:					
General government	1,758,851	-	-	-	1,758,851
Public safety	1,806,087	-	-	45,396	1,851,483
Public works	1,735,673	-	-	2,811	1,738,484
Community services	225,564	-	-	258,116	483,680
Culture and recreation	954,147	-	-	35,899	990,046
Education - contribution to school distri	1,800,000	-	-	-	1,800,000
Debt service	-	-	-	816,506	816,506
Capital outlay	-	-	2,197,247	359,388	2,556,635
Total expenditures	8,280,322	-	2,197,247	1,518,116	11,995,685
Excess of revenues over (under) expenditures	(103,055)	1,387,293	-	109,140	1,393,378
Other financing sources (uses):					
Transfers in	599,861	-	-	5,163,775	5,763,636
Transfers out	(719,126)	(599,861)	-	(4,982,485)	(6,301,472)
Net other financing sources (uses)	(119,265)	(599,861)	-	181,290	(537,836)
Net change in fund balances	(222,320)	787,432	-	290,430	855,542
Fund balances at beginning of year	3,899,479	2,528,782	25,282	6,262,590	12,716,133
Fund balances at end of year	$ 3,677,159	3,316,214	25,282	6,553,020	13,571,675

See accompanying notes to basic financial statements.

22

Exhibit 4

North Harbor Reconstruction Concept No. 6 Phase 3 Site Plan

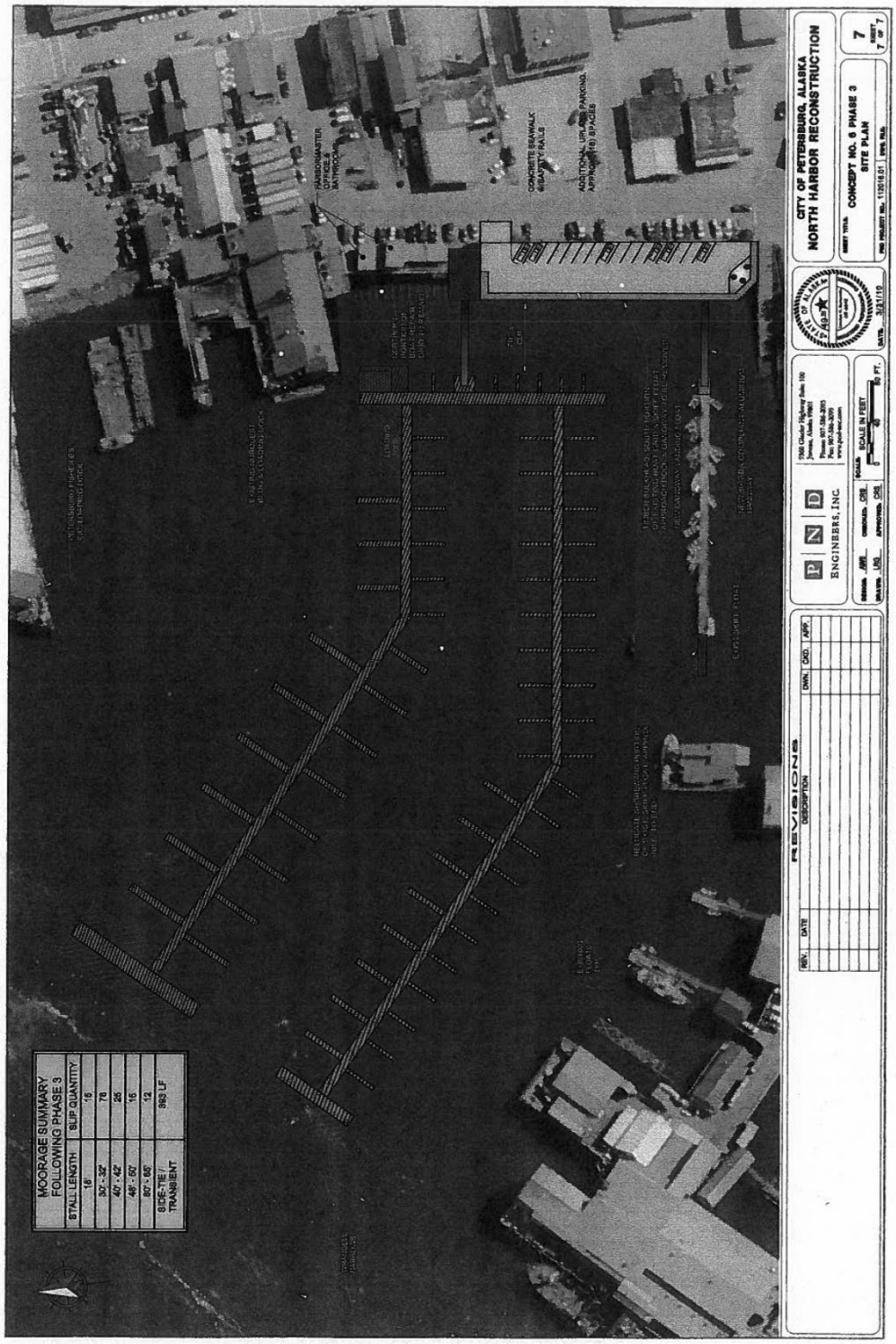

MOORAGE SUMMARY
FOLLOWING PHASE 3
STALL LENGTH | SLIP QUANTITY
18' | 15
30' - 32' | 78
40' - 42' | 25
48' - 50' | 16
60' - 65' | 12
SIDE-TIE / TRANSIENT | 393 LF
HARBORMASTER OFFICE & BATHROOM
CONCRETE SEAWALK & SAFETY RAILS
ADDITIONAL UPLAND PARKING APPROX. (16) SPACES
CITY OF PETERSBURG, ALASKA
NORTH HARBOR RECONSTRUCTION
CONCEPT NO. 6 PHASE 3
SITE PLAN
7
REVISIONS
REV. | DATE | DESCRIPTION | DWN. | CKD. | APP.
ENGINEERS, INC.
SCALE IN FEET
0 40 80 FT.

Exhibit 5

Conceptual Site Plan for Drive Down Facility Development Plan

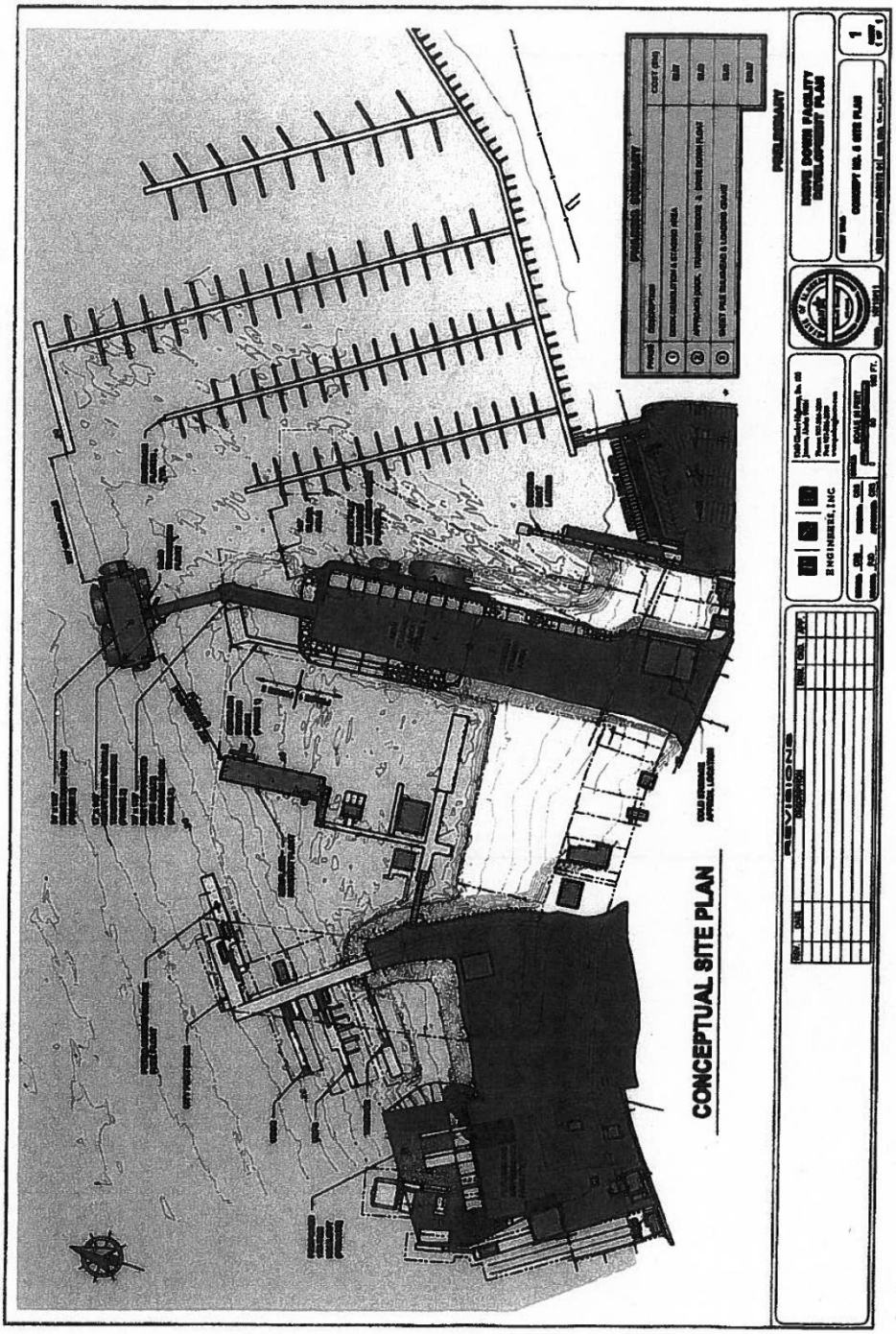

CONCEPTUAL SITE PLAN
REVISIONS
ENGINEERS, INC
PRELIMINARY

Exhibit 6

South Harbor Crane Dock Drawing

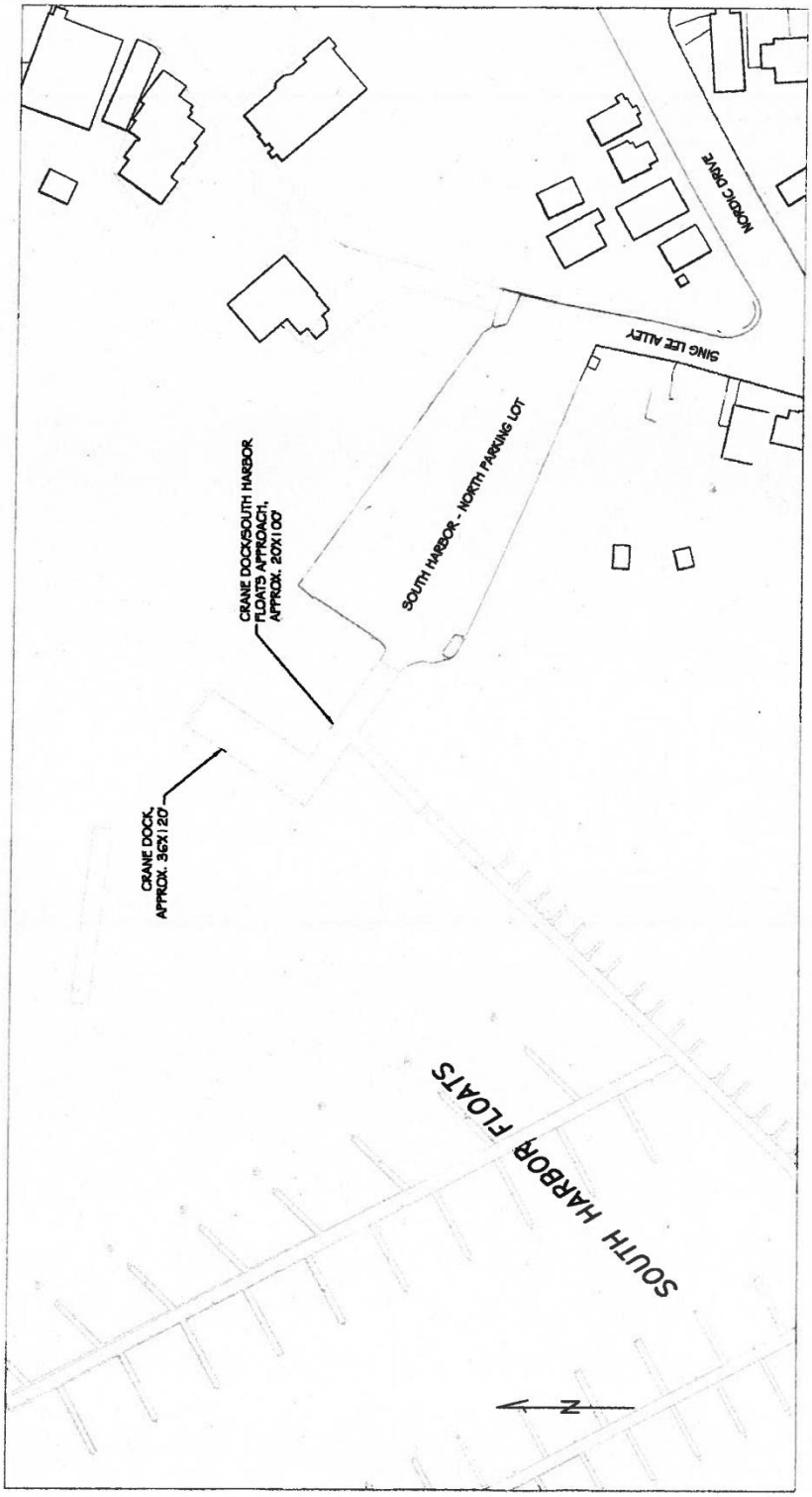

NORDIC DRIVE
SING LEE ALLEY
SOUTH HARBOR - NORTH PARKING LOT
CRANE DOCK/SOUTH HARBOR FLOATS APPROACH, APPROX. 20X100'
CRANE DOCK, APPROX. 36X120'
SOUTH HARBOR FLOATS
N
SOUTH HARBOR CRANE DOCK
City of Petersburg, Alaska
Drawn by SJC City of Petersburg Dept. of Community Development January, 2011

Exhibit 7

December 13, 2007 Letter to City of Petersburg from Goldbelt

Goldbelt
3076 Vintage Blvd., Suite 200, Juneau, Alaska 99801-7109 (907) 790-4990 Fax (907) 790-4999

December 13, 2007

Ms. Kathy O'Rear
Acting City Manager
City of Petersburg
PO Box 329
Petersburg, Alaska 99833

Dear Ms. Rear:

As expressed to Mr. Jones and to the Alaska Local Boundary Commission, and as directed by our Board of Directors, Goldbelt, Incorporated hereby expresses its desire that our lands at Hobart Bay be part of the proposed Petersburg Borough and not part of the City and Borough of Juneau.

We express this desire for a great many reasons including geography, historical ties, the abilities of the CBJ and the proposed Petersburg Borough to provide services, and past support by the City of Petersburg and the support by Petersburg businesses of our past logging operations in Hobart Bay.

We remain open to discussion and will be available to answer any questions you may have.

Sincerely,

J. Gary Droubay
President and CEO
Goldbelt, Incorporated

copies: Alaska Local Boundary Commission
City and Borough of Juneau

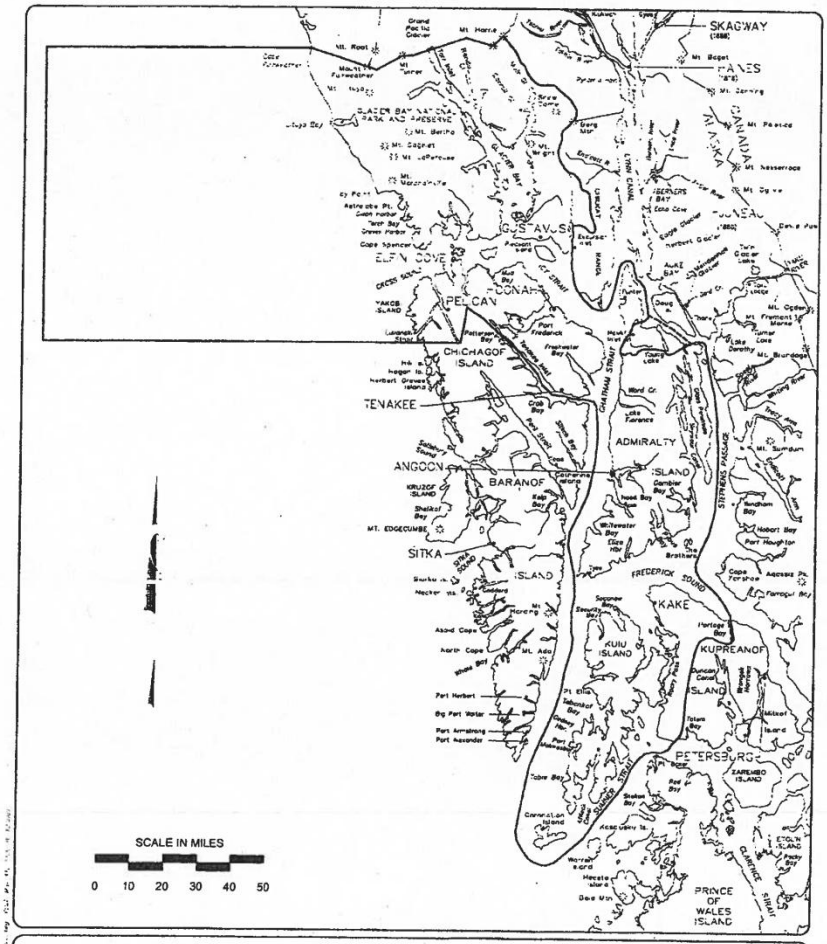
Exhibit 8

Glacier Bay – Chatham Borough Initial Feasibility Study, June 2006, Prepared by City of Hoonah

Glacier Bay - Chatham Borough
INITIAL FEASIBILITY STUDY

June 2006

prepared for review
and discussion within our region



PROPOSED GLACIER BAY
CHATHAM BOROUGH

Prepared by City of Hoonah

Glacier Bay - Chatham Borough
INITIAL FEASIBILITY STUDY

June 2006

prepared for review
and discussion within our region

1.0 Questions for Review and Consideration

The City of Hoonah is planning to prepare a petition to form a borough in late 2006. We recognize that we must work together on this effort and that ultimately the majority in our region must support this idea. We are proposing a meeting of our region in late September (immediately preceding the Southeast Conference annual meeting) to get together to discuss borough formation. We hope to have funding to help subsidize some travel and lodging. Following are some questions to keep in mind as you read this report. If you would like to send comments on these questions or this report for consideration before or at this meeting, please send to them to the City of Hoonah, P.O. Box 360, Hoonah, AK 99829.

1. Section 2 - Introduction and Background, Section 3 - Organizing Principles for Our Borough, and Section 4 – Why a Glacier Bay-Chatham Borough, lay out the case for forming a borough in our region. Do you agree with the material presented? Why or why not?

2. Borough finances are much stronger, including state and federal funding, and our regional 'clout' is higher when we join together to form the Glacier Bay-Chatham Borough, rather than forming two separate boroughs. However, this will make movement and communication within our borough more challenging. Two ways we propose to address this are installation and allocating operating funds to run high speed video-conferencing equipment (like what SEARHC and some Chatham REAA school sites have) in each community to be used for assembly and school district meetings as well as other borough meetings. Second, we have funding for assembly and planning commission travel in the borough budget. What are your thoughts?

3. What questions do you have regarding the proposed borough budget? Do you favor the $1.9 or $2.5 million dollar option, why? Which local tax option do you find least objectionable and why?

4. Are there services or powers besides the required education, taxation and planning that it would be beneficial for the borough to provide to your community? This study suggests that economic development be added so the borough is empowered to advocate and seek funding for projects our region and community's desire. What about transportation, trails and recreation, or solid waste?

3.0 Organizing Principles for Our Borough

The eight principles below are important to people in the Glacier Bay-Chatham region. Our borough will be formed around and promote these ideals.

1. High quality education;
2. Keep our communities independent and unique;
3. Use our strong regional voice to advocate for both borough and each community's priority capital needs and projects;
4. Use borough resources to foster and support our communities and our regional needs;
5. Continued ability of residents to engage in subsistence harvesting and gathering activities;
6. Regional emphasis on reducing electrical rates, high quality docks and harbors, and a strong, sustainable marine highway ferry system;
7. Install and maintain high speed video-conferencing capability in all communities to support and enhance Assembly, School Board and citizen communication; and
8. No borough property tax.

Finally, it is safe to say that every resident of every community in the region, including Hoonah, is leery about creating multiple layers of government. How do we create a borough that has functioning cities within it and prevent this? Here are some ideas:

Make sure, from day one, that duties and responsibilities between the borough and cities do not overlap.

Learn from other Alaskan boroughs that are doing this. Aleutians East Borough, Kenai Peninsula Borough, Kodiak Island Borough, Matanuska Susitna Borough, North Slope Borough and Northwest Artic Borough are all boroughs that have cities and villages within them like what we are proposing (some are 2nd class boroughs, others are home rule boroughs). We need to hear from them about what is working well and what could be better and use these ideas as we write our petition and set our rules.

We should consider co-locating the main borough offices with city offices in the communities where they are located. We should be able to share rent and some administrative and overhead expenses between cities and the borough, and hopefully between schools and the borough school district.

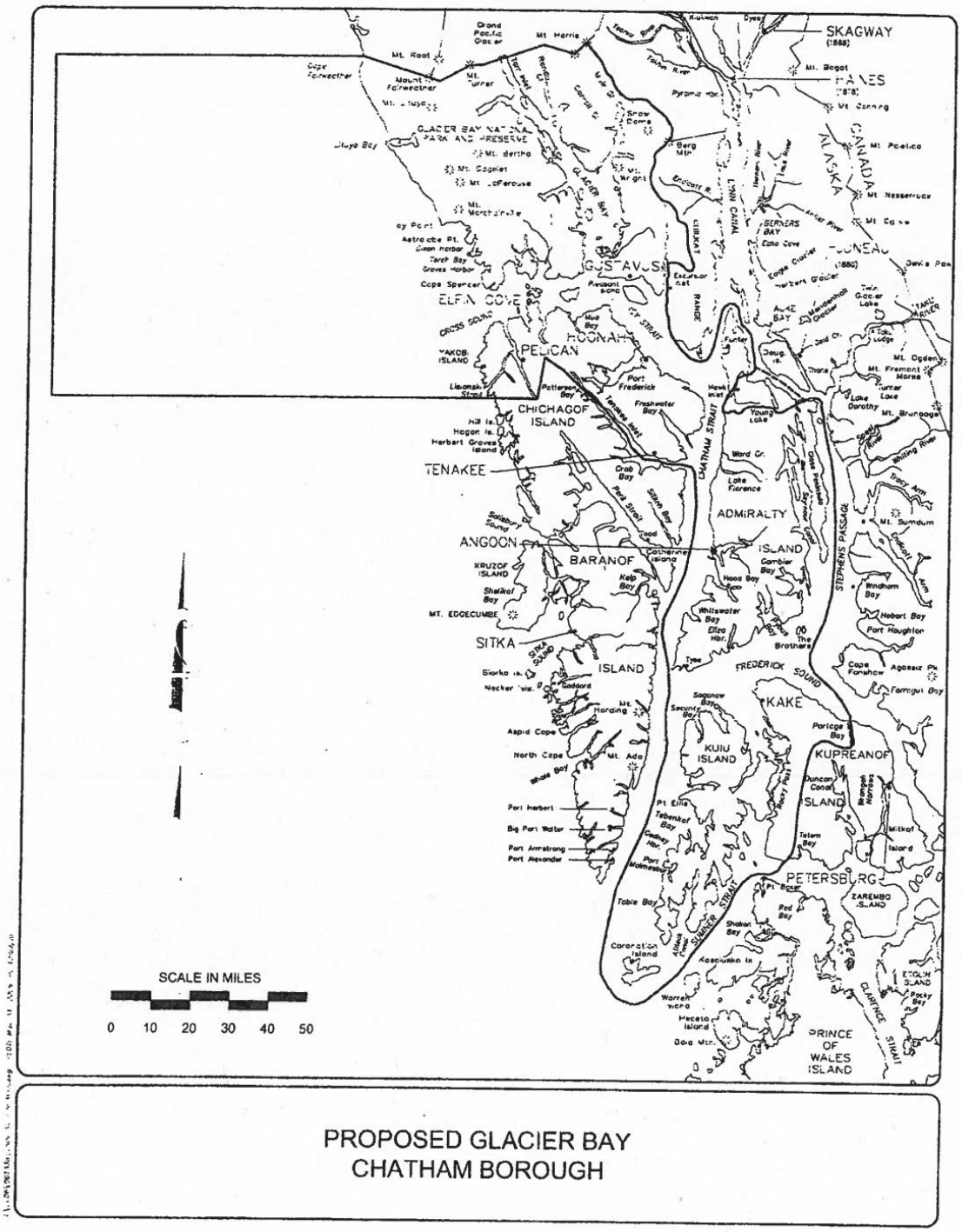
4.0 Why a Glacier Bay - Chatham Borough?

Initially, we were focused on the Glacier Bay Borough. This is the area depicted on Figure 1 and includes Pelican, Elfin Cove, Gustavus, Hoonah, Tenakee Springs and Glacier Bay National Park and Preserve. This is one of the state's "model boroughs" for Southeast Alaska. Instead, we are now strongly considering pursuit of a borough that also includes Angoon, Kake and all of Admiralty and Kuiu Islands as well as that part of Kupreanof Island that is home to Kake. This Glacier Bay-Chatham Borough is seen in Figure 2. Representatives from all involved communities had an opportunity to discuss this idea together for the first time in late March 2006 in Juneau. This borough would combine two of the state's model boroughs plus some additional territory. We think this makes more sense for three main reasons:

- More people and territory gives depth and strength to support borough government. This borough option results in significantly more state and federal revenue for our region and a larger borough land entitlement. Since there will be local taxation to support education (and other borough responsibilities) this option allows distributing this burden/responsibility out over more people and territory and thereby reducing it for any one individual or business.
- Joining several traditional Tlingit areas and people together under the umbrella of one regional government would create a strong Alaska Native voice in this part of Southeast Alaska.
- Some communities in this region have more economic activity going on than others, however, major activities and opportunities are similar throughout:
  - Subsistence Harvest and Gathering: Hoonah, Kake, Angoon, Gustavus, Pelican, Tenakee Springs, Elfin Cove
  - Sport fishing: Hoonah, Kake, Angoon, Gustavus, Pelican, Tenakee Springs, Elfin Cove
  - Commercial Fishing: Hoonah, Kake, Angoon, Gustavus, Pelican, Tenakee Springs, Elfin Cove
  - Fish Processing: Hoonah, Kake, Gustavus, Pelican
  - Large cruise ship tourism: Hoonah, Glacier Bay
  - Independent tourism: Hoonah, Kake, Angoon, Gustavus, Pelican, Tenakee Springs, Elfin Cove and Glacier Bay
  - Industrial Support (timber, mining): Hoonah
  - Significant Government Sector Employment (school, local, tribal, state, federal): Hoonah, Kake, Angoon, Pelican

Finally, you may notice a dashed line around the Greens Creek mine area on Admiralty Island (Figure 2). This small part of Admiralty Island is already in the City and Borough of Juneau. Angoon residents have very strong historic and cultural ties to this area; many have not forgiven the state Local Boundary Commission for assigning this piece of their traditional territory and island to Juneau for governmental purposes. Our borough formation petition could include asking that this area be detached from Juneau and become part of our borough. However, this would likely generate strong objection from Juneau, and there are ties now between mine operation and Juneau. Our proposal does not include this option, but we are interested in the region's views on this matter. (We also have not talked yet with the mine owner about this option.).

Figure 2
PROPOSED
Glacier Bay-Chatham Borough



PROPOSED GLACIER BAY
CHATHAM BOROUGH

Tom Cole

Thomas Cole
c/o P.O. Box 794
Petersburg Alaska

(1)

March 20-12

To Commerce and the City of Petersburg,

Regarding Borough Incorporation
From Blacks Law dictionary 6th Edition

Page 1017 Municipal Corporation. A Legal Institution formed by Charter from Sovereign (State Power) erecting a populous Community of a prescribed Area into a body Politic and Corporate with Corporate Name ... and for the purpose and with the Authority of subordinate Self government and Improvements and local administration of Affairs of State.

Populous - Full of People, Crowded, thickly populated - Websters New world College dictionary 1996

Improvements Blks 6th. A valuable addition made to Property ... Generally has Reference to Buildings, but may also include any permanent structure or other development such as Streets, Sidewalks, Sewers, Utilities + etc.

Municipal Corporation is a body Politic and Corporate created to administer the Internal Concerns of the district embraced in matters peculiar to such Place

(2)

And not common to the state at large
Peculiar Blks 6th, particular or special
particular .... local ... [like local as in local Gov't]
Special Blks 6th ... Unusual extraordinary
Municipal function Blks 6th, One created
or granted for the special benifit
and Advantage of the Urban Community
embraced within the corporate boundries.
Benifit, Blks 6th Advantage profit, fruit,
gain. interest .... Benifit are something
to advantage of or profit to recipient
.... "Benifits of contract are advantage
which results results to either party
from performance by other ...
and so they provide extraordinary
benifit!
Advantage W.N.W.C. Dictionary ....(2) a favorable
position, circumstances, event, etc
(3) Gain or Benifit.

Municipality: A legally incorporated
or duly association of inhabitants of
limited area for local Gov't or other
public purposes, A Body Politic created
by the incorporation of the people of a
prescribed [Area] locality, ...
A, City borough, town township or village,

municipal purpose, public or gov't (3)
purpose as distinguished from private...
It may comprehend all activities
essential to the Health, [Safety] morals,
protection, and welfare of the municipality,
, Charter Blks 6th an instrument, ... in the nature
of a grant, either to the whole nation,
or to a class or portion of the people
[ie a local gov't] or to a colony or
dependency, assuring to them certain
rights, liberties, or powers. Such
as the "Great Charter" or "Magna Carta"
...
We have established that a municipality
"or Borough". So, far
is composed of
(1) a populous community,
(2) improvements such as streets, sidewalks
sewers utilities etc
(3) it administers the concerns of the
district embraced in matters peculiar to
such place, and not common to the state
at large
(4) its formed for the special benefit and
advantage of urban community, within
boundaries
(5) that the people are incorporated,
(6) that its for the Health Safety & Welfare

of the Municipality, (4)

(7) And that a Charter is a Grant of [Special Priveledge] ie certain Rights, liberties, or powers, to All the people. Certain, Blks 6th Ascertained, precise, settled, exact; definitive, clearly known; unambiguous; or, in how capable of being Identified ....

Lets now move to American Jurisprudence 56 Am Jur 2nd § 4. of the Book on Municipal Corporations

§4 A Corporation is not Municipal unless it is organized for the Government of a single city, town or village, or other Compact Community of persons.

56 Am Jur 2nd § 16 .... A municipal Corporation must have both Territory and Inhabitants; Both are Indispensible to its existance ... it Remains a local Community, a body of persons, the sum total of its Inhabitants, and the proper custodian and guardian of their Collective Rights.

56 Am Jur 2nd § 18 .... Municipal Corporations, on the other hand are more amply endowed with Corporate life and function - the exist under General or Special Charter conferred at the direct solicitation or [and] by the free concent of the people who compose

them, and are created chiefly for the (5)
interest, advantage, and convenience
of their inhabitants.

56 Am Jur 2nd § 39 .... The concept of
a municipal corporation ... includes the
[requirement] that the territory within
the boundaries .... be principally urban
or non rural, since the purpose of
municipal incorporation is to furnish
local self-gov't and co-operative services.
the needs of the municipality and the
benifits to the property. and the residents
is sole justification [for formation]

56 Am Jur 2nd § 42 When a municipal corporation
is bounded by a tidal navigable watercourse,
its territorial limits extend only to the
low watermark. When it is bounded by
a fresh-water or unnavigable [stream] watercourse
its territorial limits extend to the middle
of the stream ....

56 Am Jur 2nd § 69 Requirements of and
what constitutes contiguity.
The legal as well as popular idea
of a municipal corporation in this
country is that of oneness,
community, locality, vicinity; a

collective body, not several bodies; (6)
A collective body of inhabitants, that is
A body of people collected or gathered
together in one mass, not separated
into distinct masses, and having
A community of interest because
residents of the same place, not
different places. So as to territorial
extent the idea of A [municipality
or borough] city is one of unity, not
plurality; of compactness or contiguity,
not separation or segregation; contiguity
is generally required even in the absence
of statutory requirements to that effect...
It has even been held, it is not within the
power of the legislature ... to create
A single municipal corporation out of
several detached parcels, because
the idea of A municipal corp is that
of unity, not plurality. And that
A thing essentially single cannot
by legislative fiat [or administrative]
be given A plural existence. All suburban
lands other than directly contiguous ...
must be regarded as unplatted ...
... Attempts to annex outly territory
to A municipality ... by A narrow sinuous
strip of land are looked upon with
disfavor by the courts ....

5 Vestal v Little Rock, 54 Ark 321, 15 SW (7)
891, motion to modify refused, 54 Ark
329 16 SW 291; Chicago & N.W.R Co v Oconto
50 Wis 189, 6 NW 607 Holding that in
consolidating or adding territory, the
Legislature has no power to include
in the same tract entirely separated
from each other
where tracts of land are separated by the
waters of a bay Half a mile wide, and
to reach them from the other by land it
necessary to travel 16 miles and to pass
through another [community] another municipality
they are detached tracts within a statute
providing for organization of municipal
corporations, which does not permit the
incorporation of disconnected tracts.
Ocean Beach Heights v Brown-Crummen Invest Co
302 U.S. 614 82 L Ed 475 58 S Ct 385 reh den 303 US
666 82 L Ed 1123, 58 S Ct 608.

Now lets look at some court rulings
regarding taxes and use of property
in the case of Store v. General Contract
Purchase Corp 7 So 2nd 806 808 (1942)
the Supreme Court of Mississippi stated
the distinction between a property tax
and a licence or privilege tax
imposed for revenue is that the function

of the property Tax is To Raise Revinue by virtue of the fact That the property is within the Juristiction of the Taxing Power, And No Condition or Restriction is Imposed thereby upon the Use of the property Taxed, While the license or privilege Tax, even though passed To Raise Revinue, is imposed upon the Right To exercise Privilege, And its payment is made in condition To the exercise or continuance in the exercise of the privilege, business, or Vocation involved. [ie Corporate activity] (Authorities cited) See Also Reser v Umatilla County. 48 Ore 326, 330, 86 Pac 595

the Supreme Court off Illinois Stated That A Property Tax is levied for the purpose of Raising Revinue And is levied Against Property. It does No seek or in Any wise Attempt To Control the use, operation, or Regulation of the property ... A Property Tax has Nothing whatever To do with the question of Privilege, licence, or permission Reif v Barrett 188 NE 889 892 355 Ill 104

where the ostensible object of an enactment is To Secure the Public Comfort, welfare or safety it must Appear To be adopted To that end.

(9)

IT CANNOT INVADE the RIGHTS OF PERSONS AND PROPERTY under the guise of a mere Police Regulation. City of MT. Vernon v Julian 369 Ill 447 451 (1938)

BUT the Police Power, even as thus defined, vague and vast as it is ... by State or UNITED STATES CONSTITUTIONS has its limitations, IF this were NOT so ... [government] and the Police Power were superior TO the CONSTITUTION AND IF IT extended TO ALL OBJECTS which could be embraced within the meaning OF "General welfare" in the CONSTITUTION would be so much waste paper, because NO RIGHT OF the Individual would be beyond its reach. AND every property RIGHT AND personal privilege and IMMUNITY OF the CITIZEN would be INVADED AT the will OF the STATE ... Tighe v Osborne 149 Md 349 357 181 A 801, 803

PROPERTY IN A thing is NOT merely in its OWNERSHIP and possession, but in the UNRESTRICTED RIGHT OF USE, enjoyment and disposal. ANY thing which destroys ANY of these elements OF property. TO that extent destroys the property itself, ... IF the RIGHT OF USE is DENIED [OR RESTRICTED] the VALUE OF the PROPERTY IS ANNIHILATED

(10)

AND ownership is Rendered a-barren Right ... Since the Right of the citizen to use his property as he chooses so long as he harms nobody is inherent and .... [gauranteed by the Constitution]. The Police Power cannot be invoked for the abridgement of a particular use of Property, unless such use Reasonably endangers or threatens the Public Health, Safety or welfare. Spann v City of Dallas 235 S.W 513 ~~[illegible]~~ 514-15

So far as such use of one's property may be Had without Injury to others it is a lawful use which cannot be absolutely prohibited by the legislative department under the guise of police Power

In Re Kelso 147 Cal 609. 612

ownership is not a privilege conferred by Gov't but is one of the Rights Governments were organized to Protect. Consequently no Tax can be Imposed on the Right of ownership which is NOT a Tax on Property

Thompson v Kreutzer. 72 So 891 892 112 Miss 165 Jenson v Henneford 53 P2d 607 610 (wash 1936)

An excise cannot be on ownership of Property Even when excises are upon Corporations they

(11)

Are not "Imposed directly on property of the Corporation but rather upon its commodity or privilege of carrying on or doing business in the State" United Shoe Machine Corp v Gale Shoe Mfg Co, 49 NE 2d 913 922

A Tax, whether prohibitive or restrictive on the right of ownership and use of property is forbidden ... if one were not guaranteed the right to aquire, own, and use property, then there would be no property. Sims v Ahrens 271 S.W 720, 725 167 Ark 557

The fundamental maxims of a free government seems to require that rights of personal liberty and private property should be held sacred ... Wilkinson v Leland 27 U.S. 627; Lawrence E Tierney Coal Co v Smith's Guardian 203 SW 735; Thiede v Town of Scandia Valley 217 Minn 218 225

The Individual, unlike the Corporation cannot be taxed for the mere privilege of existing. The Corporation is an artificial entity which owes its existence and charter powers to the State. But the Individuals right to live and own property are natural rights for the enjoyment of which an excise cannot be imposed Redfield v Fisher 292 P 813 819 135 Ore 161 (1930)

(12)

CONSTITUTIONS ARE INTENDED TO PRESERVE PRACTICAL AND SUBSTANTIAL RIGHTS...
DOUIS V MILLS 194 U.S 451, 457

UNDER OUR SYSTEM OF JURISPRUDENCE A PERSON'S CONSTITUTIONAL RIGHTS ~~STAND~~ STAND ABOVE ANY AND ALL RULES AND LAWS THAT MAY BE ADOPTED. ROCHOLL V CITY OF FLORENCE 188 So 247 250 (Ala. 1939)

THE RIGHT TO ENJOY PROPERTY WITHOUT UNLAWFUL DEPRIVATION IS A PERSONAL RIGHT, WHETHER THE PROPERTY IN QUESTION IS A WELFARE CHECK, A HOME, OR A SAVINGS ACCOUNT. IN FACT A FUNDAMENTAL INTERDEPENDENCE EXIST BETWEEN A PERSONS RIGHT OF LIBERTY AND THE PERSONAL RIGHT IN PROPERTY. NEITHER COULD HAVE MEANING WITHOUT THE OTHER.
LYNCH V HOUSEHOLD FINANCE CORP 405 US 538 (1970)

NO ONE CAN MAKE UP GIVE UP OUR RIGHTS AND MAKE THE CORPORATION (MUNICIPAL) THE CUSTODIAN OF OUR COLLECTIVE RIGHTS AS PREVIOUSLY MENTIONED IN 56 AM JUR 242 § 16
"WAIVERS OF CONSTITUTIONAL RIGHTS NOT ONLY MUST BE VOLUNTARY THEY MUST BE KNOWING INTELLIGENT ACTS DONE WITH SUFFICIENT AWARENESS OF THE RELEVANT CIRCUMSTANCES & CONSEQUENCES"
BRADY V US 397 742 0 748 (1970)

(13)

the very Idea that Kuprenoff is one big watershed, And the geographical Boundries of the Borough are Straitines ~~to~~ would make quite a good case for a fraud action.

The Geographical & Climatic Impeadments can't be twisted in to meaning ~~meaning~~ the standards are met. - Nice Try Williams!

the stat AS 29 05-011

An "Area" that meets the following standards may form a Borough

The Term "Area" is a Technical word that has a fixed meaning in this science art or profession

"Area" Blks 6th under the Civil Law a part of a city thats vacant.

Civil Law Blks 6th in law of Nations. Commonwealth. or city more properly Call Municipal Law.

The Proposed Borough is not a part of a city thats vacant.

You Have Ignored my first Brief - Transportation carry Person or Property for Hire Blks 6th and the word or as it applies to the reg Entire Borough is connected by a system of roads ... or sufficient media [illegible]

The 375 Suppression of the Truth is (17)
Equivalent of Suggesting Something to False
In the Alaska Constitution Ancitizens
Guide 1992 Legislative Research
Agency page 192 Article X speaks
of Two Types of Boroughs, organized,
And unorganized. the sparsely Populated
Rural Areas are to be provided with
Local Government Services by the
Legislature through unorganized
Boroughs (section 6),
I think that Should make it Clear

To Mr Brennan we are NOT A Democracy
we are A Constitutional Republic.
And our Rights are Protected From
Mere Majority votes by Article 4 Sect 4
of the American Constitution, And by
Section 3 of the Alaska Statehood Act
The Alaska Constitution will Always
Be Republican in Form and will never
Be Repugnant to the Constition of the
United States or the principles of
The Declaration of Independence.
our Rights don't Come From government they Come from God Almighty.
And they Can't be Taken Away,
Traded Away, or Voted Away
See INRE Duncan (139 US 461)

(15)

The Borough-petion admits that they can't provide Emergency Services in a Timely Manner, it Doesn't Matter How many Times you've Respondi if its Too Late

5 or so years ago 2 Houses burn it To the ground, Because ~~you~~ Petersburg Couldn't Respond Timely at Green Rocks

A few short years ago another House burned just so of City of Kupreno Fr Because Petersburg Couldn't Respond Timely

in August of 2005 2 men were Shooting it out with each other, A May day went out at 7 AM, The police arrive at 9 AM, But it Took another Hour To Find A place To get out of their Boats because they didn't want to get their Feet wet, there can't Be Restricted Access! that is the Regulations, If they were more Serious About their work there might Have been some serious Injuries or worse

In the 70's someone opened a store at Scow bay. So Petersburg Annexed them

Around 1980 someone opened a gas station at 6 mile, so they Annexed them.

Around 1990 someone opened a store at Twin Creeks. So they Annexed them

As soon as a store opens outside of Petersburg they Annex them

Don't Tell me we use your stores

All the Highways are public Ways

As you very well know mr Brennan I could give you 30 or 40 court cites to that extent but I shouldn't have too

there is a maxim of the Common Law which as you know is the Law of the Land

That a man who uses all argument that something would ~~something~~ create an inconvenience if allowed has made a good argument

In Closing Thomas Cole is (17)
Not A Person as that word
is defined in AS 01 10 060 or
Any other deceptive definitions in
the Fraudulent Statutes

And Statutes cannot defeat my
Constition Rights Guaranteed in
the 1st Amendment To Counter
Attack your Legal And Illegal
Arguments
Nor Can my due Process Right
be defeated by Statutes
I Take No Rights From the Alaska
so Called Constition.
Artical 1 Sec 1 makes it Clear
with word Industry that means
much labor & capital Expended
is A Corporation
I Am Not Under The Law, Corporations
Are, My Rights come From the Common
Law, the Statutes prior To the Revolution
And the English Constition that the Founders

(18)

Expounded on, The 3rd ~~[illegible]~~ Line Says All persons Have A Corrisponding obligation To the People And the State.

ITS Clear that the Person IS NOT ONE of the people. And the State IS NOT the people IN their Collective Capacity

See Texas v White 7 WALL 700

Further The Due Process Clause of the Alaska Constitution, AT Art 1 Sec 7 Attempts To defeat that Right,

The Blurb on page 22 of the Alaska Const A Citizens Guide Says AND I Quote "... IT does not Simply mean that A legislative body must pass A law before it may deprive Someone of life. Liberty or Property" Enough said

This is the STUFF that Communist Constitutions Are Made of. Thats Treason good by for know

From the Quill of His especial Sovereign

[illegible]

Appendix B: LBC Public Hearing and Decisional Meeting, Regulations, and Tips for Public Comment

Below is a provided format that may be followed at the Petersburg Public Hearing. At this time, the format of the public hearing has not been set, and may differ from the format presented below.

Hearing Procedures (3 AAC 110.560)

3 AAC 110.560. Commission hearing procedures

(a) The chair of the commission shall preside at the hearing, and shall regulate the time and the content of statements, testimony, and comments to exclude irrelevant or repetitious statements, testimony, and comments. The department shall record the hearing and preserve the recording. Two members of the commission constitute a quorum for purposes of a hearing under this section.

(b) As part of the hearing, the commission may include

(1) a report with recommendations from the department;

(2) an opening statement by the petitioner, not to exceed 10 minutes;

(3) an opening statement by each respondent, not to exceed 10 minutes;

(4) sworn testimony of witnesses

(A) with expertise in matters relevant to the proposed change; and

(B) called by the petitioner;

(5) sworn testimony of witnesses

(A) with expertise in matters relevant to the proposed change; and

(B) called by each respondent;

(6) sworn responsive testimony of witnesses

(A) with expertise in matters relevant to the proposed change; and

(B) called by the petitioner;

(7) a period of public comment by interested persons, not to exceed three minutes for each person;

(8) a closing statement by the petitioner, not to exceed 10 minutes;

(9) a closing statement by each respondent, not to exceed 10 minutes;

(10) a reply by the petitioner, not to exceed five minutes; and

(11) points of information or clarification by the department.

(c) If more than one respondent participates, the chair of the commission, at least 14 days before the hearing, may establish for each respondent time limits on the opening and closing statements that are lower than those time limits set out in (b) of this section.

(d) A member of the commission may question a person appearing for public comment or as a sworn witness. The commission may call additional witnesses.

(e) A brief, document, or other evidence may not be introduced at the time of the public hearing unless the commission determines that good cause exists for that evidence not being presented in a timely manner for written response by the petitioner or respondents or for consideration in the reports of the department under 3 AAC 110.530.

(f) The commission may amend the order of proceedings and change allotted times for presentations to promote efficiency if the amendment does not detract from the commission's ability to make an informed decision.

(g) If the petition at hearing is for municipal incorporation subject to AS 29.05.060 - 29.05.110 and the department has recommended an amendment to or conditional approval of the petition, during the hearing the commission will invite specific comments on that recommendation.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185 | Authority: Art. X, sec. 12, Ak Const.; Art. X, sec. 14, Ak Const.; AS 29.04.040; AS 29.05.090; AS 29.06.040; AS 29.06.120; AS 29.06.490; AS 44.33.020; AS 44.33.812; AS 44.33.814; AS 44.33.816; AS 44.33.820; AS 44.33.826

Decisional Meeting (3 AAC 110.570)

3 AAC 110.570. Decisional meeting

(a) Within 90 days after the last commission hearing on a proposed change, the commission will convene a decisional meeting to examine the written briefs, exhibits, comments, and testimony and to reach a decision regarding the proposed change. During the decisional meeting,

(1) the commission will not receive new evidence, testimony, or briefing;

(2) the chair of the commission or a commission member may ask the department or a person for a point of information or clarification; and

(3) the department may raise a point of information or clarification.

(b) Repealed 1/9/2008.

(c) If the commission determines that a proposed change must be altered or a condition must be satisfied to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, and be in the best interests of the state, the commission may alter or attach a condition to the proposed change and accept the petition as altered or conditioned. A motion to alter, impose conditions upon, or approve a proposed change requires at least three affirmative votes by commission members to constitute approval. If the proposed change is a

(1) municipal annexation, detachment, deunification, dissolution, merger, or consolidation, a city reclassification, or a legislative-review borough incorporation under AS 29.05.115 , and if the commission determines that the proposed change must be altered or a condition must be satisfied before the proposed change can take effect, the commission will include that condition or alteration in its decision; or

(2) municipal incorporation subject to AS 29.05.060 - 29.05.110, and if the commission determines that an amendment to the petition or the placement of a condition on incorporation may be warranted, the department shall provide public notice and an opportunity for public comment on the alteration or condition before the commission amends the petition or imposes a condition upon incorporation; if the department recommended the proposed change or condition and the public had an opportunity to comment on the proposed change or condition at a commission hearing, an additional notice or comment period is not required.

(d) If the commission determines that a proposed change fails to meet the standards contained in the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, or this chapter, or is not in the best interests of the state, the commission will reject the proposed change. If a motion to grant a proposed change receives fewer than three affirmative votes by commission members, the proposed change is rejected.

(e) The commission will keep written minutes of a decisional meeting. Each vote taken by the commission will be entered in the minutes. The approved minutes are a public record.

(f) Within 30 days after the date of its decision, the commission will issue a written decision explaining all major considerations leading to the decision. A copy of the statement will be mailed to the petitioner, respondents, and other interested persons requesting a copy. The department shall execute and file an affidavit of mailing as a part of the public record of the proceedings.

(g) Unless reconsideration is requested timely under 3 AAC 110.580 or the commission, on its own motion, orders reconsideration under 3 AAC 110.580, a decision by the commission is final on the day that the written statement of decision is mailed, postage prepaid, to the petitioners and the respondents.

History: Eff. 7/31/92, Register 123; am 5/19/2002, Register 162; am 1/9/2008, Register 185 | Authority: Art. X, sec. 12, Ak Const.; Art. X, sec. 14, Ak Const.; AS 29.04.040; AS 29.05.100; AS 29.06.040; AS 29.06.130; AS 29.06.500; AS 44.33.020; AS 44.33.812; AS 44.33.814; AS 44.33.816; AS 44.33.818; AS 44.33.820; AS 44.33.822; AS 44.33.826

Tips for Effective Public Comment

Maximize the Effectiveness of Your Comments to the LBC Regarding the Petersburg Borough Proposal

Prepared by Department of Commerce, Community and Economic Development for Petersburg Borough Public Hearing – City of Petersburg Council Chambers ● May 30, 2012 ● 9:00am

If you plan to offer remarks during the public comment portion of the Local Boundary Commission (LBC) hearing concerning the Petersburg Borough proposal, the following tips are offered to make your comments more effective.

A. Come Prepared and Informed

Carefully plan your comments. Before the hearing, you may wish to review the following materials (available at the Petersburg City Hall, Petersburg Public Library, Kupreanof City Building, Petersburg website, and LBC Web site):

1. The standards established in state law for incorporation of boroughs.
2. The Petersburg borough incorporation petition.
3. The Preliminary Report and the Final Report of the Alaska Department of Commerce, Community, and Economic Development (Commerce) regarding the Petersburg Borough proposal.

The Local Boundary Commission Public Hearing on the Petersburg Borough proposal will be held:

May 30, 2012 – 9:00 a.m.
City of Petersburg Council Chambers
Petersburg, Alaska

For more information, please contact:

Brent Williams, Local Government Specialist V
Don Burrell, Local Government Specialist IV
Local Boundary Commission Staff
Department of Commerce, Community, & Economic Development
550 W. Seventh Avenue, Suite 1770
Anchorage, AK 99501-3510
Telephone: 907-269-4559/4587 – Fax: 907-269-4539
Email: LBC@alaska.gov

B. Provide Relevant Comments

The LBC"s decision on the pending proposal must be based on standards established in law that are applied to the particular facts of the proposal to dissolve the City of Petersburg and incorporate a Petersburg Borough. Accordingly, comments that address those standards and facts will be most helpful to the LBC.

A summary of the eleven standards is provided below. These are abbreviated summaries of the standards governing borough incorporation. Standards governing the borough incorporation are established in Article X, Constitution of the State of Alaska; AS 29.05.031; 3 AAC 110.045 – 3 AAC 110.067; and 3 AAC 110.900 – 3 AAC 110.990. Procedures governing borough incorporation by local action method are set out in Article X, Section 12 of Alaska"s constitution, AS 29.05.060 - AS 29.050.150, and 3 AAC 110.400 – 3 AAC 110.700. Use of the below summaries should only be for illustrated purposes and not reference to the official standards outlined above.

In summary, approval of the petition may be granted only if the LBC determines in this case that:

1. The social, cultural, and economic characteristics and activities of the

residents of the proposed borough are interrelated and integrated.[i]

2. Communications and transportation facilities allow communication and exchange necessary to develop an integrated borough government.[ii]
3. The population is large and stable enough to support the proposed Petersburg borough. [iii]
4. 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. The budget included in the Petition is feasible and plausible.[iv]
5. The boundaries of the proposed borough 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. [v]
6. The territory proposed for incorporation is contiguous and without enclaves unless it is demonstrated that a non-contiguous area or area with enclaves allows efficient and effective service. [vi]
7. The territory proposed for incorporation does not overlap any area currently within the boundaries of another existing organized borough. [vii]
8. Incorporation of the proposed Petersburg borough is in the best interest of state. [viii]
9. The transition plan in the petition is adequate[ix]
10. Incorporation of the proposed borough would not deny civil or political rights because of race, color, creed, sex, or national origin.[x]
11. Identifies the essential municipal services for a borough.[xi]
12. Incorporation promotes maximum local self-government.[xii]
13. Incorporation promotes a minimum number of local government units.[xiii]

Even if the Commission determines that the Petition meets all of the standards, the LBC has discretion to amend the proposal or impose conditions. Therefore, comments to the Local Boundary Commission at the hearing may address the proposed amendments or imposition of conditions.

C. Observe the Rules

1. New written materials may not be filed at the hearing unless allowed by the LBC Chair upon the showing of good cause.
2. To ensure that everyone who wishes to speak during the public comment phase of the hearing will have an opportunity to do so, individuals should plan to limit their comments to three minutes or less each. Different time limits will apply to the Petitioner and respondents.

D. Avoid Repetition

If another speaker has addressed points to your satisfaction, you may wish to simply note that you agree with the earlier remarks, and spend your allotted time on relevant topics that have not yet been addressed.

Appendix C: Notices

SUPPLEMENTAL NOTICE TO PUBLIC NOTICE OF FEBRUARY 27, 2012 OF PUBLIC COMMENT PERIOD ON

THE PRELIMINARY REPORT CONCERNING THE PETERSBURG BOROUGH INCORPORATION PETITION

The Local Boundary Commission (LBC) staff preliminary report concerning the petition to incorporate a Petersburg borough and dissolve the City of Petersburg by local action was released and distributed on February 27, 2012. The territory 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. This is a SUPPLEMENTAL NOTICE to the NOTICE OF PUBLIC COMMENT PERIOD ON THE PRELIMINARY REPORT CONCERNING THE PETERSBURG BOROUGH INCORPORATION PETITION issued on February 27, 2012, giving notice of the LBC STAFF„S RECOMMENDATION IN THE PRELIMINARY REPORT THAT THE LBC AMEND THE PETITION BOUNDARIES TO REMOVE TRACY ARM AND ITS WATERSHED, AS WELL AS THE WHITING RIVER WATERSHED IN THE EXTREME NORTHEAST CORNER OF THE PROPOSED BOROUGH, FROM THE PROPOSED BOUNDARIES.

The report, petition, and other related documents are available for public review at the following locations open to the public: Petersburg City Hall, Petersburg Public Library, Kupreanof City Building, City of Petersburg website, http://ci.Petersburg.ak.us, and the LBC website http://commerce.alaska.gov/dca/lbc/2011_Petersburg_Borough_Incorporation/Reports/Petersburg_Borough_Incorporation_Preliminary_Report.

The report includes a LBC staff recommendation that the LBC amend the boundaries to remove Tracy Arm and its watershed, as well as the Whiting River watershed in the extreme northeast corner of the proposed borough, from the borough‟s proposed boundaries. The recommendation can be found on pages 28 and 33 of the report, as well as in a map in Appendix B, page B3.

Standards governing borough incorporation are established by article X of the Constitution of the State of Alaska, AS 29.05.031, 3 AAC 110.045 – 3 AAC 110.067, and 3 AAC 110.900 – 3 AAC 110.990. Procedures governing borough incorporation are set out in article X of the constitution and in AS 29.05.060 – AS 29.05.150.

Any interested person, party, or entity may file with the LBC written comments regarding the preliminary report, including comments on the recommendation. Comments on the recommendation must be filed on or before the same date as comments on the preliminary report under 3 AAC 110.640(b)(3). THE DEADLINE FOR WRITTEN COMMENTS HAS BEEN EXTENDED FROM March 28 to March 30, 2012. Written comments must be received in the office by 4:30 pm on Friday, March 30, 2012. THAT IS THE LAST OPPORTUNITY TO SUBMIT WRITTEN COMMENTS ON THIS PETITION. Questions concerning the proposed incorporation may be directed to LBC staff at the below mailing address, email address, fax number, or phone

number. See 3 AAC 110.480 and 3 AAC 110.700 for the procedural requirements to file written comments.

Local Boundary Commission staff, 550 West Seventh Avenue, Suite 1770, Anchorage, AK 99501-3510 Phone: 907-269-4559 Fax: 907-269-4539 Email: lbc@alaska.gov.

The LBC has waived 3 AAC 110.700(d)"s requirement that commenters send a paper original of an electronically submitted comment. Commenters may instead submit comments either electronically or by hard copy. Following receipt and consideration of comments on the preliminary report, LBC staff will issue its final report. Procedures governing departmental reports are set out in 3 AAC 110.530.

The LBC will then hold a public hearing on the proposal, which is scheduled for May 30 and 31, 2012. The schedule is subject to change. Oral comments, including oral comments on a recommendation for amendment or conditional approval, may also be provided at the public hearing under 3 AAC 110.560. Per 3 AAC 110.560(e), a brief, document, or other evidence may not be introduced at the time of the public hearing unless the commission determines that good cause exists for that evidence not being presented in a timely manner for written response by the petitioner or respondents or for consideration in the reports of the department under 3 AAC 110.530. A decisional meeting is scheduled for June 1, 2012.

State of Alaska
Local Boundary Commission (LBC)
Notice of Local Boundary Commission Public Hearing and Decisional Meeting Regarding the Proposed Petersburg City Dissolution and Borough Incorporation

The LBC will convene a public hearing under 3 AAC 110.550 regarding the proposed dissolution of the City of Petersburg and incorporation of a Petersburg Borough. The proposed borough would consist of approximately 4,347 square miles of land and water. The public hearing will be held:

Wednesday, May 30, 2012 – 9:00 a.m.
at City of Petersburg Council Chambers
12 South Nordic Drive
Petersburg, AK, 99833

The May 30 public hearing may be continued through May 31, 2012 and a portion of June 1, 2012, if deemed necessary by the LBC chair.
The LBC will convene a decisional meeting under 3 AAC 110.570 to act on the proposal as noted below.

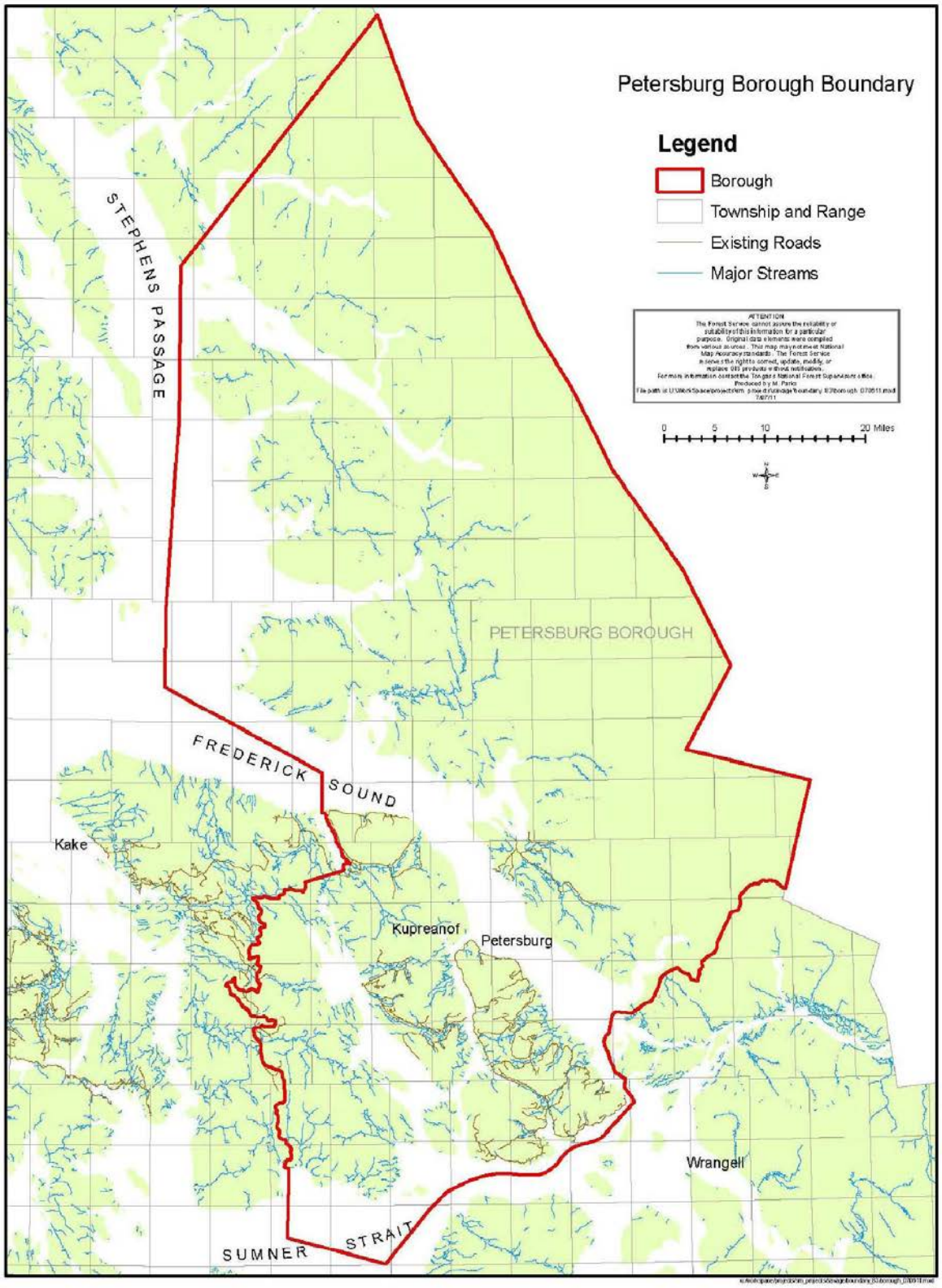
Friday, June 1, 2012 – 3:00 p.m.
City of Petersburg Council Chambers
12 South Nordic Drive
Petersburg, AK, 99833

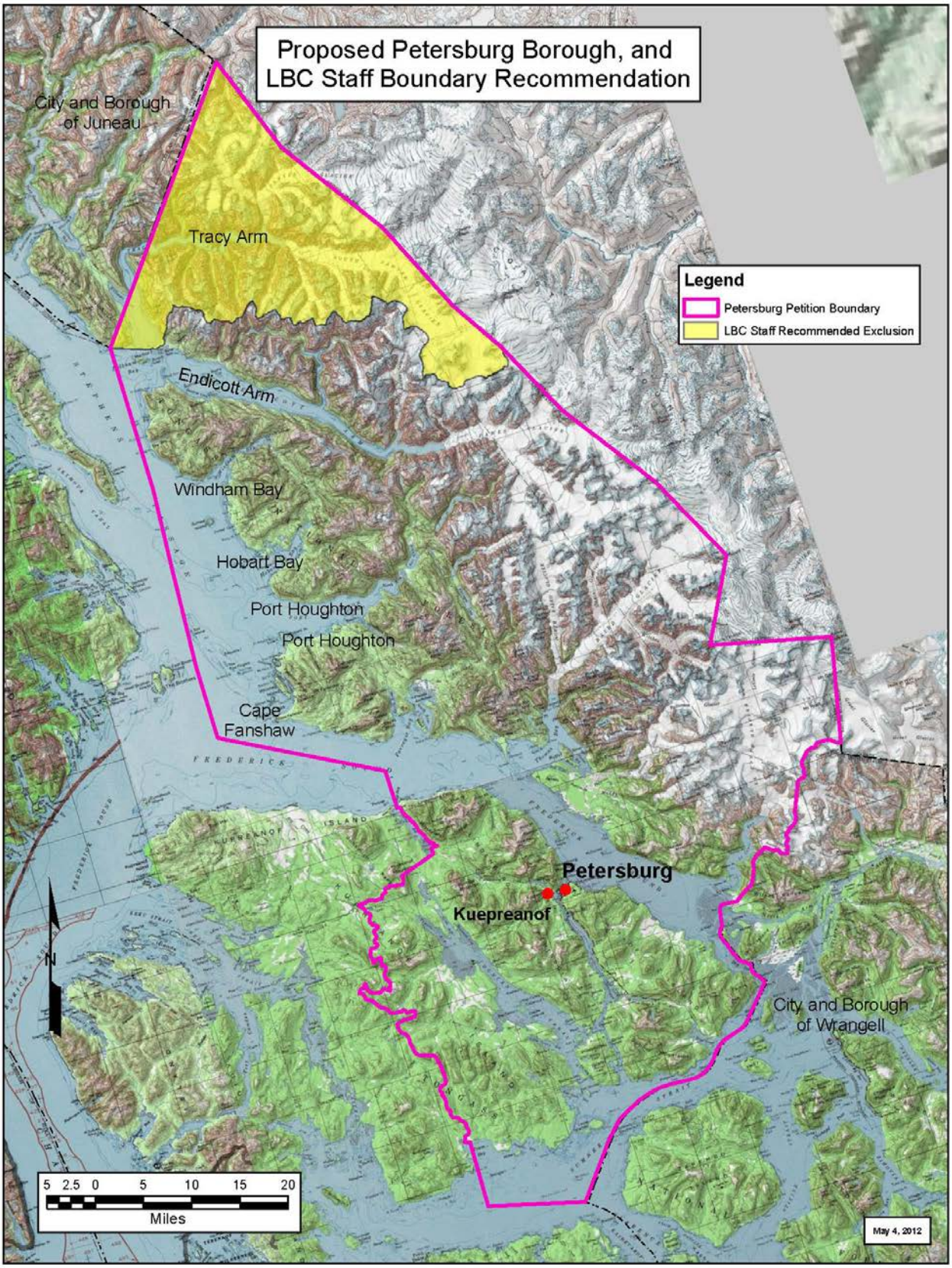
The hearing and decisional meeting agendas may be obtained on or after Wednesday, May 23, 2012, from:

LBC staff
550 West Seventh Avenue, Suite 1770
Anchorage, Alaska 99501-3510
Brent Williams: (907) 269-4559
Don Burrell: (907) 269-4587
Fax: (907) 269-4539
Email: LBC@alaska.gov

All petition materials are available for public review at Petersburg City Hall, Petersburg public library, Kupreanof City Building, and the City of Petersburg website, http://ci.petersburg.ak.us/.
The materials are also available on the LBC website:
http://www.commerce.alaska.gov/dca/lbc/2011_Petersburg_Borough_Incorporation/.
Persons interested in receiving future LBC notices by email may subscribe to the LBC notice list service by visiting http://www.commerce.alaska.gov/dca/lbc/lbcnotices.htm, clicking on the link to the *LBC Subscription Service*, and following the instructions.
Teleconference sites for the proceedings may be added for the convenience of the public and/or LBC members. They must be requested in writing of LBC staff by Friday, May 18, 2012.
Individuals with disabilities who need auxiliary aids, services, or special modifications to participate must also contact LBC staff by Friday, May 18, 2012.

Appendix D: Maps




Proposed Petersburg Borough, and
LBC Staff Boundary Recommendation
City and Borough of Juneau
Tracy Arm
Endicott Arm
Windham Bay
Hobart Bay
Port Houghton
Port Houghton
Cape Fanshaw
Petersburg
Kuepreanof
City and Borough of Wrangell
Legend
Petersburg Petition Boundary
LBC Staff Recommended Exclusion
N
5 2.5 0 5 10 15 20
Miles
May 4, 2012

End Notes

[i] *See 3 AAC 110.045(a) Relationship of Interests, AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska.*

[ii] *See 3 AAC 110.045(c) Relationship of Interests, AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska.*

[iii] *See 3 AAC 110.050(a) Population, AS 29.05.031(a)(1) and art. X, sec. 3, Constitution of the State of Alaska.*

[iv] *See 3 AAC 110.055 Resources, AS 29.05.031(a)(3) and art. X, sec. 3, Constitution of the State of Alaska.*

[v] *See 3 AAC 110.060(a) Boundaries, AS 29.05.031(a)(2) and art. X, sec. 3, Constitution of the State of Alaska.*

[vi] *See 3 AAC 110.060(d) Boundaries.*

[vii] *See 3 AAC 110.060(e) Boundaries.*

[viii] *See 3 AAC 110.065 Best Interest of State.*

[ix] *See 3 AAC 110.900 Transition Plan.*

[x] *See 3 AAC 110.910 Statement of Non-Discrimination.*

[xi] *See 3 AAC 110.970 Determination of essential municipal services.*

[xii] *See 3 AAC 110.981 Determination of maximum local Self government.*

[xiii] *See 3 AAC 110.982 Determination of Minimum number of local government units*