



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Community and Regional Affairs

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Commissioner

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**Preliminary Report
to the
Local Boundary
Commission**

**Regarding the Local Action Petition
to Incorporate a Home Rule Borough of Petersburg
and Dissolve the Home Rule City of Petersburg**

February 2012

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This is the *Preliminary Report to the Local Boundary Commission Regarding the Local Action Petition to Incorporate a Home Rule Borough of Petersburg and Dissolve the Home Rule City of Petersburg*. The report was written by staff to the Local Boundary Commission. 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_Preliminary_Report

The report is preliminary and should be used for public review and comment in accordance with 3 AAC 110.530, which also 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. Background

Local Boundary Commission's Constitutional Foundation

Article X of the Constitution of the State of Alaska created the Local Boundary Commission (also referred to as "LBC" or "commission")¹. The commission is responsible for establishing and modifying proposed municipal government boundaries. Those Alaskans who drafted the state's constitution believed that local governments should have authority to determine which powers they would exercise. The drafters of the Alaska State Constitution also asserted their belief that the state should set municipal boundaries because "local political decisions do not usually create proper boundaries and that boundaries should be established at the state level."² Placing decision-making authority with a state body allows arguments for and against boundary changes to be analyzed objectively, taking areawide or statewide needs into account.³

Local Boundary Commission's Statutory Authority

Pursuant to 29.06.040(a) "the Local Boundary Commission may consider any proposed municipal boundary change." AS 29.06.040(a) further reads:

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

¹ Article X, section 12 states, "A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action."

² *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 543 (Alaska 1962) (citing *Alaska Constitutional Convention Minutes of Committee on Local Government*, November 28 and December 4, 1955).

³ *Id.*

LBC Duties and Functions

The LBC acts on proposals for several different municipal boundary changes. These are:

- Incorporating municipalities⁴
- Annexing to municipalities
- Detaching from municipalities
- Merging municipalities
- Consolidating municipalities
- Reclassifying municipalities
- Dissolving municipalities

In addition to the above, the LBC under AS 44.33.812 shall:

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

The LBC may present proposed local boundary changes to the legislature concerning boundary changes under article X, section 12 of Alaska’s constitution.

Nature of the Commission

Boards and commissions frequently are classified as quasi-executive, quasi-legislative, or quasi-judicial, based on their functions within the Alaska constitution’s separation of powers framework. The LBC is a quasi-legislative commission with quasi-executive and quasi-judicial attributes.

Quasi-Legislative

In 1974, 1976, and again in 1993, the Alaska Supreme Court stated that Alaska’s constitution gives the LBC legislative authority to make fundamental public policy decisions. The court stated that:

[T]he Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate. Necessarily, this is an exercise of delegated legislative authority to reach basic policy decisions. Accordingly, acceptance of the incorporation petition should be affirmed if we perceive in the record a reasonable basis of support for the Commission’s reading of the standards and its evaluation of the evidence.⁵

Under AS 44.33.812(a)(2), the LBC carries out another quasi-legislative duty when it adopts “regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution. . . .”⁶

⁴ The term “municipalities” includes both city governments and borough governments.

⁵ *Mobil Oil Corp. v. Local Boundary Comm’n*, 518 P.2d 92, 98-99 (Alaska 1974). See also *Moore v. State*, 553 P.2d 8, n. 20 at 36 (Alaska 1976); and *Valleys Borough Support v. Local Boundary Comm’n*, 863 P.2d 232, 234 (Alaska 1993).

⁶ See *U.S. Smelting, Refining & Min. Co. v. Local Boundary Comm’n*, 489 P.2d 140 (Alaska 1971), discussing applying due process requirements to develop boundary change standards and procedures in commission proceedings.

Quasi-Executive

Article X, section 12 of Alaska's constitution placed the LBC in the state's executive branch. The commission's duty under AS 44.33.812(a)(1) to "make studies of local government boundary problems" is one example of the LBC's quasi-executive nature.

Quasi-Judicial

Although it is part of the executive branch and exercises delegated legislative authority, the LBC also has a quasi-judicial nature. In particular, the 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.

The LBC's quasi-judicial nature requires that a reasonable basis of support exist for the LBC's reading of the standards and evaluating the evidence. The LBC's quasi-legislative nature provides it with considerable discretion in applying those standards and weighing evidence.

Limits on Directly Contacting the LBC

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

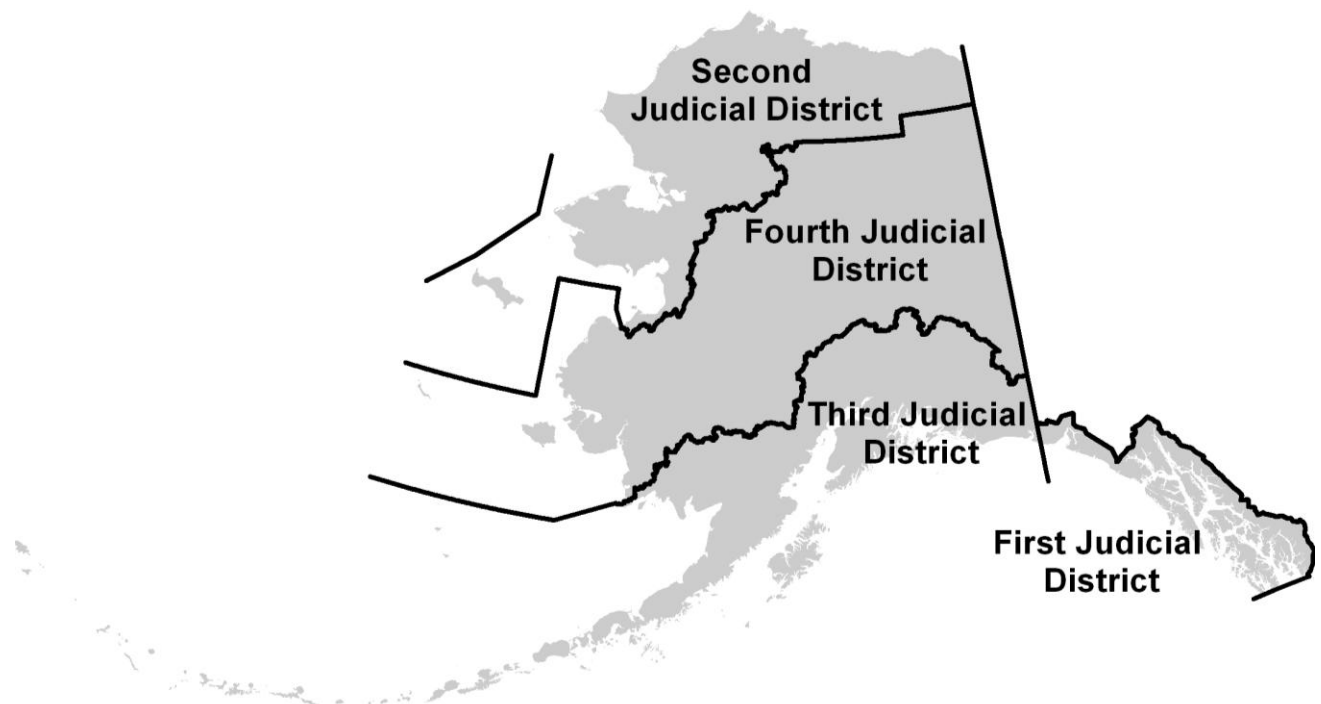
To regulate communications, the LBC adopted 3 AAC 110.500(b) which expressly prohibits private (*ex parte*) contact between the LBC and any individual, other than its staff, except during a public meeting called to address a municipal boundary proposal. The limitation takes effect upon a petition's filing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

LBC Membership

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

The LBC is comprised of five members (AS 44.33.810). One member is appointed from each of Alaska's four judicial districts. The chair is appointed from the state at large. LBC members receive no pay for their service.

ALASKA JUDICIAL MAP



The biographies of LBC members:



Lynn Chrystal, Chair, At Large Appointment, Valdez

Governor Palin appointed Lynn Chrystal as the member from the Third Judicial District on March 27, 2007. Governor Parnell appointed him as the Local Boundary Commission's chair on September 10, 2009. Mr. Chrystal is a current resident and former mayor of the City of Valdez, and former member of the Valdez City Council. He has lived in Valdez since 1975. Mr. Chrystal retired in 2002 from the federal government after four years in the Air Force and 36 years with the National Weather Service. He has worked in Tin City, Barrow, Yakutat, and Valdez. Chair Chrystal has served on the boards of several civic groups and other organizations including the Resource Development Council, Pioneers of Alaska, and Copper Valley Electric Cooperative. His current term on the LBC ends January 31, 2013.



John Harrington, First Judicial District, Ketchikan

Governor Parnell appointed John Harrington of Ketchikan as the member from the First Judicial District on the Local Boundary Commission on September 10, 2009. Mr. Harrington is a real estate manager and previously worked as an adult education coordinator in Ketchikan from 1985-97. He was also a special education teacher and administrator in Washington state from 1972-84. He served on the Ketchikan Gateway Borough Assembly 2005 through 2011, chairing the borough's Planning Liaison and Economic Development Advisory Committee among others. His community service includes chairing the North Tongass Fire and EMS Service Area Board from 2002-05, serving on the Ketchikan Charter Commission from 2003-04, and serving as an elected member of the Ketchikan Gateway Borough school board from 1988-94. Commissioner Harrington earned a bachelor's degree in psychology and history from Western Washington University and a master's degree in educational administration from Seattle University. His current term on the LBC ends January 31, 2016.



Robert "Bob" Harcharek, Second Judicial District, Barrow

Governor Knowles appointed Robert "Bob" Harcharek as the member from the Second Judicial District on the Local Boundary Commission on July 18, 2002. Governor Murkowski reappointed him to the LBC on March 24, 2004. He has served as the commission's vice chair. On March 9, 2009, Governor Palin reappointed him to the LBC. In 1977 he earned a Ph.D. in international and development education from the University of Pittsburgh. Commissioner Harcharek served for three years in Thailand as a Peace Corps volunteer. Dr. Harcharek has lived and worked on the North Slope for more than 30 years. Commissioner Harcharek recently retired from the North Slope Borough as the Community and Capital Improvement Projects (CIP) Planner for the Department of Public Works. He served as a member of the Barrow City Council for fifteen years, and is currently Mayor and Chief Administrative Officer for the City of Barrow. His current LBC term ends January 31, 2014.



Larry Semmens, Vice Chair, Third Judicial District, Soldotna

Governor Parnell appointed Larry Semmens of Soldotna as the member from the Third Judicial District on the Local Boundary Commission, on September 10, 2009. In May 2010, his fellow commissioners elected him to a three-year term as vice chair. Mr. Semmens is a certified public accountant and the manager of the City of Soldotna.

Previously, he was the finance director for the City of Kenai from 1996-2008. He also served the Kenai Peninsula Borough as finance director from 1995-96, controller from 1988-95, and treasury manager from 1981-88. Commissioner Semmens currently chairs the Alaska Public Entities Insurance Pool, and is a member of the Alaska Municipal Managers Association, the American Institute of Certified Public Accountants, and the International City Managers Association. Commissioner Semmens served in the U.S. Air Force from 1973-76 and earned a bachelor's degree in business administration from Boise State University. Mr. Semmens was the recipient of the Alaska Municipal League 2006 Vic Fisher Local Government Leadership Award. His current term on the LBC ended January 31, 2012.



Lavell Wilson, Fourth Judicial District, Tok

Governor Palin appointed Lavell Wilson, a Tok resident, as the member from the Fourth Judicial District on the Local Boundary Commission, on June 4, 2007. Commissioner Wilson is a former member of the Alaska House of Representatives, serving the area outside of the Fairbanks North Star Borough in the Eighth State Legislature. He moved

to Alaska in 1949 and has lived in the Northway/Tok area since. Commissioner Wilson attended the University of Alaska Fairbanks and Brigham Young University. Commissioner Wilson worked as a licensed aircraft mechanic, commercial pilot, and flight instructor for 40 Mile Air from 1981-1995, retiring as the company's chief pilot and office manager. Mr. Wilson became a licensed big game guide in 1963. He has also worked as a surveyor, teamster, and construction laborer, retiring from the Operating Engineers' Local 302 in Fairbanks. As a member of Local 302, he worked for 12 years on the U.S. Air Force's White Alice system, the ballistic missile defense site at Clear, and the radar site at Cape Newenham. Commissioner Wilson has also taught a course at the University of Alaska for the past few years on the history of the Upper Tanana Valley. His current term on the LBC ends January 31, 2015.

Local Government Agency

Constitutional Origin

Alaska's constitution called for establishing an executive branch agency to advise and assist local governments (article X, section 14). The duty to serve as the constitutional local government agency is presently delegated to the Alaska Department of Commerce, Community, and Economic Development (Commerce) pursuant to AS 44.33.020(a)(4)⁷. Within Commerce, the Division of Community and Regional Affairs (DCRA) performs the local government agency's functions. In addition to its more general duty to aid local governments, DCRA provides staff, research, and assistance to the LBC.

LBC Staff Role

3 AAC 110.435 sets out the role of the LBC staff. LBC staff is required by 3 AAC 110.530⁸ to investigate and analyze each boundary change proposal and to make recommendations regarding the proposal to the LBC. For each petition, staff will write at least one report for the commission. The report(s) is made available to the public as well. Staff follows a reasonable basis standard in developing recommendations

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

⁸ Also see AS 29.04.040, AS 29.05.080, AS 29.06.110, and AS 29.06.480 - 29.06.490.

on matters before the LBC. Its recommendations to the LBC are based on properly interpreting the applicable legal standards, and rationally applying those standards to the proceeding's evidence. Due process is best served by providing the LBC with a thorough, credible, and objective analysis of every municipal boundary proposal.

The LBC staff provides support to the commission. The LBC's staff also delivers technical assistance to municipalities, to residents of areas impacted by existing or potential petitions to create or alter municipal governments, to petitioners, to respondents, to agencies, and to others.

Assistance the LBC staff provides includes:

- Answering citizen, legislative, and other governmental inquiries relating to municipal government issues
- Writing reports on petitions for the LBC
- Drafting LBC decisions
- Traveling to communities to hold meetings and to answer questions about proposed local boundary changes
- Drafting for the LBC an annual report to the legislature
- Developing and updating municipal incorporation or alteration forms
- Sending local boundary change forms and materials to interested persons
- Providing a link between the LBC and the public
- Maintaining incorporation and boundary records for Alaska's municipal governments
- Coordinating and scheduling LBC public meetings and hearings
- Developing orientation materials and providing training for new LBC members
- Maintaining and preserving LBC records in accordance with Alaska's public records laws

The LBC staff contacts:

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Petition Procedures

Procedures to establish and alter municipal boundaries and to reclassify cities are designed to ensure every proposal's reasonable and timely determination. The procedures are also intended to ensure commission decisions are based on an analysis of the facts and the applicable legal standards. Procedures are as follows:

Preparing and Filing a Petition

The LBC staff offers technical assistance, information, and forms to prospective petitioners. LBC staff routinely advises submitting drafts so staff can identify any technical deficiencies in form and content. This allows the petitioner to correct the draft before it is circulated for voter signatures, or before adoption by a municipal government. Once a formal petition is prepared, it is submitted to LBC staff for technical review. If it contains all the required information, the LBC staff accepts it for filing.

Public Notice and Public Review

Once a petition is accepted for filing, the staff arranges extensive public notice. There is ample opportunity for public comment during the process. Interested parties are given at least seven weeks to submit responsive briefs and comments supporting or opposing a petition. The petitioner is provided at least two weeks to file one brief replying to public comments and responsive briefs.

Analysis

Following the public comment period, the LBC staff analyzes the petition, responsive briefs, written comments, the reply brief, and other materials. The petitioner and the LBC staff can conduct informational meetings. 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.

The preliminary report is circulated for public review and comment typically for a minimum of four weeks. After reviewing the comments on its report, the LBC staff typically issues its final report⁹. The final report typically discusses comments received on the preliminary report, and notes any changes to the LBC staff's recommendations to the commission. The final report must be issued at least three weeks prior to the LBC's public hearing.

Commission Review of Materials and Public Hearings

LBC members review the petition, responsive briefs, written comments, reply briefs, and the staff reports. The LBC is an autonomous commission. While the commission is not obligated to follow the staff's recommendations, it has historically considered the LBC staff's analyses and recommendations to be critical components of the record in municipal boundary proceedings. The LBC considers the entire record when it renders a decision.

⁹ "Typically" refers to the fact that under 3 AAC 110.590, procedures for some kinds of local action petitions are modified. This pertains to annexations if the municipality already owns the property to be annexed, or if all the property owners and voters in the area proposed to be annexed petition the municipality's governing body.

The commission may tour the subject area before the hearing. Following extensive public notice, the LBC conducts at least one hearing in or near the affected area or territory. The commission must act on the petition within 90 days of its final public hearing.

The LBC may act by:

- Approving the petition as presented
- Amending the petition (e.g., expanding or contracting the proposed boundaries)
- Imposing conditions on approving the petition (e.g., requiring voter approval of a proposition authorizing levying taxes to ensure financial viability)
- Denying the petition

LBC Decisions Must Have a Reasonable Basis

LBC decisions regarding petitions must have a reasonable basis. Both the LBC's interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must be rational.¹⁰ The LBC must proceed within its jurisdiction, conduct a fair hearing and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law, or if the evidence does not support the LBC's decision.

While the law allows the commission 90 days following its last petition hearing to reach a decision, the LBC typically renders its decision within a few days of the hearing. Within 30 days of its decision date, the LBC must adopt a written decision stating the basis for its decision. Decision copies are provided to the petitioner, respondents, and others who request them.

At that point the decision becomes final, but any person may ask the LBC to reconsider its decision. Such requests must be filed within 18 days after the decision is mailed. The LBC may order reconsideration on its own motion. If the LBC does not approve any reconsideration requests within 30 days of the decision's mailing date, all such requests are automatically denied.

Implementation

3 AAC 110.630(a) specifies conditions that must be met before a LBC final decision is effective. If the LBC approves a petition, the proposal is typically subject to approval by voters or disapproval by the legislature, depending on whether it was filed as a local action petition, or a legislative review petition, respectively. A petition that has been approved by the commission takes effect upon satisfying any stipulations imposed by the commission. If an election was held, certification of the legally required voter approval of the LBC's final decision is needed from the director of elections or the appropriate municipal official. The action must also receive favorable review under the federal Voting Rights Act of 1965. If all of 3 AAC 110.630(a)'s requirements have been met, the department shall issue a certificate describing the effective change.

¹⁰ See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if the decision has a reasonable basis.

CHAPTER 2. ANALYSIS

Introduction

The petition, briefs, and comments were read and reviewed for this report. The comments are available at http://www.commerce.state.ak.us/dca/lbc/2011_Petersburg_Borough_Incorporation/. The report uses the term “Commerce” interchangeably with “LBC staff” and “we.” LBC staff work in the Division of Community and Regional Affairs (DCRA) within the Department of Commerce, Community, and Economic Development.

This is a preliminary report. There will be a public comment period on this report until March 28, 2012 (see notice in Appendix C). After reviewing the comments on the preliminary report, Commerce will issue a final report.

3 AAC 110.045 Relationship of Interests

(a) On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with [AS 29.05.031](#) (a)(1) and art. X, sec. 3, Constitution of the State of Alaska.

Article X, section 3 - Boroughs

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

Sec. 29.05.031. Incorporation of a borough or unified municipality

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

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

Constitutional Analysis

First, in examining article X, section 3 of the constitution, 3 AAC 110.045(a) 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, Constitution of the State of Alaska.” Article X, section 3 of Alaska’s constitution states that “[e]ach borough shall embrace an area and population with common interests to the maximum degree possible.”

There have been many articulate comments made on this point and others by petitioners and respondents, and by both opponents and proponents of the proposed borough. The full panoply of their arguments can be found in the petition, reply brief, and comments. They are not reproduced in full here.

Those favoring the borough argue that the proposed borough does “embrace an area and population with common interests to the maximum degree possible.” Petersburg is a home rule city in the unorganized borough. Under AS 29.35.260(b), home rule or first class cities in the unorganized borough must operate a school system. Proponents argue that many people outside the city attend the Petersburg school system. Proponents also state that many who live outside the city use many city services. Further they argue that forming a borough would give the residents a unified voice to be reckoned with in dealing with issue affecting that area.

Many opposing commenters feel that they are distinct from those who live in (and possibly near) the city. They feel that they differ from Petersburg residents because they prefer an independent, self sufficient life style away from Mitkof Island. They argue that they do for themselves (with the mutual assistance of neighbors). Many of those opponents felt that Petersburg spends too much. They worry about the fiscal stability of the proposed borough, and particularly the taxes that they would have to pay. They fear that the tax rate would increase over time. They argue that they would receive fewer benefits than many borough residents. Many of those commenters also feel that it is unfair that 15% of the population can initiate a petition that could conceivably result in a borough being formed (if approved by the voters, this being a local action petition). They also argue that because of their remote locations, and given that many of them have only open skiffs, that it would be difficult for them to attend borough assembly meetings. For all those reasons and others, they oppose the borough.

For those people living outside of the city, some live on Mitkof Island on the road system, some live on Mitkof Island along the shore, and the majority of the rest live on Kupreanof Island. Of those, the 2010 census shows 27 people living in the city of Kupreanof. The city of Kupreanof is separated by a half mile strait from Petersburg. Other resident Kupreanof Island residents live in the Keene Channel area, about 15 miles south of Petersburg (one of the Commerce informational meetings was held there). Others live further away in Beecher pass or Duncan Canal. A smaller number live on either Mitkof Island or Kupreanof Island.

The people living off Mitkof Island (“outliers” in one commenter’s term - we will use that phrase here to describe any resident in the proposed borough who live outside the city limits, and “off –islanders” to describe anyone who lives off Mitkof Island, although Kupreanof Island is also an island) are in many ways self sufficient. They have no roads. The off–islanders rely on generators for energy, cisterns and septic tanks for water and sewage, and cell phones, satellite TV, and satellite internet for communication. To get to Petersburg, they either boat to Petersburg, or boat to Papke’s Landing on Mitkof Island. From there they would dock the boat and travel by car about 11 to 12 miles to the city.

Clearly, traveling by boat is different than by car. The length of the daylight and the weather play a role. The outliers who travel by boat will visit Petersburg less often, and that their stays will be shorter.

As above, for reasons of lifestyle, travel, and philosophy, the outliers feel that they do not have much in common with Petersburg. Commerce, however, finds that the proposed borough *does* “embrace an area and population with common interests to the maximum degree possible” for many reasons.

First, the standard does not require that all in a proposed borough live the same lifestyle or have the same philosophy. In a state as diverse as Alaska, that would be a difficult bar to attain. It does not require that the borough be homogeneous. What it does say is that, the proposed borough “embrace an area and population with common interests to the *maximum degree possible*” (emphasis added). It is not possible for everyone to possess the same interest. Otherwise boroughs would need to be drawn with surgical precision, for fear of including any group with a different interest.

Here, there are many common interests. People both in and out of the city live in or near a small city in Southeast. This is much different than living in or near a small city in the Interior, for example. Residents of the proposed borough live in an area with a cool (sometimes cold), rainy climate. They have the common interest of having water rule their lives –either as a way of making a living, or as a primary method of transportation. They have the common interest of living in a part of the state that is declining in population in proportion to the rest of the state. The similarities are greater than the differences.

Further, although they might use Petersburg’s services more sparingly than city residents, the outliers do use them for many purposes beyond having a P.O. box (a federal function). First, there is education. The Petersburg City school system has 486 students. Of those about 20 live outside the city. A small increase in the student population is expected next year. The school system receive \$1.8 million from the city (although the state’s contribution is based on the number of students, no matter where they live). Currently there are no students from Kupreanof, although there have been some in the past. If a child is not enrolled in a “brick and mortar” school, she can either enroll in a correspondence course offered by many Alaska school systems, or be home schooled independent of a correspondence course. Those students are not assessed by the city to pay for their education.¹¹

Thus, at some of the outliers rely on the city to provide education. Not all do. Some might home school, or rely on a correspondence course. Others have adult children who attended schools when they were children. A well educated population benefits society, but it does cost. Having a well educated society is a common interest of all, even when one’s own children do not attend a school, or are grown.

Many outliers also shop in Petersburg. The question arises of whether they would live where they do at all if Petersburg did not exist. They could *conceivably* go to Wrangell or Kake for supplies. But, those boat trips would be longer, and would involve boating through the more open waters of Frederick Sound or Sumner Strait. So those options seem less practical.

Outliers might use other city services, too. There is a city dump. If they use the dump, they pay for it. But if they use it, that indicates a common interest in having a dump, regardless of who pays for it and how. The mere fact that outliers pay for it does itself make them independent of Petersburg.

As far as the library, anyone may use it. To staff’s knowledge, no evidence was submitted indicating that one must be a city resident to use the library. It was suggested that the library could impose a fee upon users who were not city citizens, but that seems contrary to the open purpose of libraries in general.

The residents of the proposed borough also have a common interest in fishing and hunting in the waters and lands of the proposed borough. The fishing is for both commercial and private purposes.

¹¹ Based on a February 9, 2012 conversation with Petersburg City Schools superintendent Dr. Robert Thomason.

For all of those reasons, the difference in interests between residents of this proposed borough is more of a gradient or spectrum, rather than two poles. There are many differences, but enough similarities to show a common interest. Although the outliers visit the city less frequently than others, and use city services and businesses less often, the fact that the city of Petersburg exists allows them to live where they do, and follow the lifestyle that they enjoy (and will continue to have). Staff regards the outliers as sturdy, independent folk - the epitome of independent Alaskans. But, even give their independence, they still have common interests with the rest the residents of the proposed borough. They rely on the city for some functions and services, and would rely on the borough for some functions and services. They are not completely independent.

Commerce finds that the entire proposed borough embraces an area and population with common interests to the maximum degree possible. The borough has the common interest of commercial fishing, which is the economic engine of the proposed borough. Fishing takes place through the waters of the borough.

For the above reasons, Commerce finds that the proposed borough meets the requirements of article X, section 3, by embracing an area and population with common interests to the maximum degree possible.

Statutory Analysis

Under AS 29.05.031(a)(1), the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated. As above, Commerce finds that the proposed borough embraces an area and population with common interests to the maximum degree possible. This relates to the statutory interrelated and integrated standard.

The social, cultural, and economic characteristics of most of the proposed borough revolve around the city. The city is where city residents and outliers get many of their business functions and services, whether it is shopping, medical, religious, or others.

The city is where the employment occurs or is based. Petersburg's economy is largely fishing and government based. Some of the outliers engage in commercial or subsistence fishing. Some are also retired civil servants. There are no other large scale economic activities in the proposed borough. For those reasons, Commerce finds that the economic characteristics and activities of the people in a proposed borough are interrelated and integrated.

Regarding the social and cultural characteristics and activities, Commerce finds that they are interrelated and integrated. The social and cultural activities are centered in the city. NPR station KFSK is in the city. It reaches many residents in the borough. English is the common language. Boating is a customary and simple method of transportation throughout the borough. People also fly in and out of Petersburg.

While it is been argued that the lifestyle and philosophy of the off-islanders is radically different from that of the city, there are still many common interests. For that reason, Commerce finds that the urban and rural areas are compatible. Petersburg, while a city, is a small city of less than 3,000 people. It is not a large urban area such as Anchorage, Fairbanks, or Juneau, let alone Seattle or New York. It is a smaller community where it is easier to know people.

Fishing also ties together the social, cultural, and economic characteristics and activities of the people in a proposed borough, and makes them interrelated and integrated. If they do not fish themselves, they live in an area whose economy is based upon fishing.

For the above reasons, Commerce finds that the social, cultural, and economic activities of the people in the proposed borough are interrelated and integrated.

Regarding AS 29.05.031's other requirements that the population of the area must be large and stable enough to support borough government, Commerce finds that the requirement is met. Please see the discussion of 3 AAC 110.050 *Population* on page 17.

Regulatory Analysis

In examining 3 AAC 110.045 Relationship of Interests, which states that:

- (a) *On a regional scale suitable for borough government, the social, cultural, and economic characteristics and activities of the people in a proposed borough must be interrelated and integrated in accordance with [AS 29.05.031](#) (a)(1) and art. X, sec. 3, Constitution of the State of Alaska.*

We examine whether the proposed borough is of a regional scale suitable for a borough government. If the petition is approved, the existing city of Petersburg ("the city") would be dissolved. A service area (the only service area – named Service Area 1) would replace it. The city of Petersburg is on Mitkof Island. The island has a road system. The proposed borough would have 3,365 square miles of land and 982 square miles of water. This totals 4,346 square miles of land and water. This makes it larger than six of the existing 18 boroughs, and smaller than 12. By way of comparison, the recently incorporated City and Borough of Wrangell ("Wrangell") has 3,465 total square miles. The adjoining City and Borough of Juneau ("Juneau") has 3,248 square miles (5,225 if its annexation petition is approved). The neighboring City and Borough of Sitka ("Sitka") has 4,530 square miles. In examining other Southeast boroughs, the Haines Borough has 2,730 square miles, and the Municipality of Skagway has 443 square miles.

In terms of population, the proposed borough would have 3,270 permanent residents. This would make it larger than eight of the existing 18 boroughs, and smaller than 10. In comparing the proposed borough's population with other Southeast boroughs, Wrangell has 2,369 residents, Juneau has 31,275, Sitka has 8,881, Haines has 2,508, Ketchikan Gateway Borough has 13,477, Yakutat has 662, and Skagway has 968.

No standard defines a precise area as being appropriate for a borough. But, given that the proposed borough's size is within the range of the other boroughs, Commerce finds that the size is of a regional scale appropriate for a borough. Further, the applicable standard (under 3 AAC 110.050(b) for the population of a proposed borough is presumed to be 1,000. The population of the proposed Petersburg borough meets that minimum. That will be addressed further under 3 AAC 110.050.

3 AAC 110.045(a)'s social, cultural, and economic characteristics and activities of the people standard was addressed in the statutory standard discussion above. It was found to be met. Commerce finds that 3 AAC 110.045(a)'s regional scale suitable for borough government is also met, as above. For those reasons, Commerce finds that 3 AAC 110.045's standards are met.

3 AAC 110.045(c) [Relationship of Interests](#)

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government in accordance with [AS 29.05.031 \(a\)\(4\)](#) and art. X, sec. 3, Constitution of the State of Alaska.

Sec. 29.05.031. Incorporation of a borough or unified municipality.

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

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

Constitutional Analysis

First, in examining article X, section 3 of the constitution, 3 AAC 110.045(a) refers to art. X, sec. 3, Constitution of the State of Alaska. The relevant part of section 3 states that “[t]he standards shall include population, geography, economy, transportation, and other factors.” Here we examine transportation (and communication) below.

Statutory Analysis

The question is whether the proposed borough’s transportation and communication allows the communication and exchange necessary to develop an integrated borough government. The proposed borough is similar to other Southeast boroughs in that it has a limited road system (only the Haines Borough and the Municipality of Skagway have highways leading out of their boroughs). As is typical for Southeast, topography and water limit having an extensive road system. Most of the proposed borough’s residents live near the city, and are on the road system. The road system is only on Mitkof Island.

Most of the transportation would be by boat and by plane. Some commenters have raised the point that they can only feasibly reach the present city by going at least part way by boat. They contend that given the vagaries of weather, daylight, and tide, it is difficult for them to reach the present city. Commerce acknowledges that those circumstances can make it difficult to reach the city, particularly in the short days of winter.

But, this is not a situation unique to the proposed borough. For example, residents of Meyers Chuck and Thom's Place would need to reach their borough seat of Wrangell by boat, or by plane. The LBC included those two communities into the City and Borough of Wrangell when it recently approved that borough’s incorporation. Lake and Peninsula Borough residents can pragmatically only reach the borough seat of King Salmon by plane, or possibly by boat. Their borough's seat is located in another borough (the Bristol Bay Borough). The Kodiak Island Borough’s seat is only reachable by plane or boat for the villages. In other boroughs, water transportation is not feasible. The fact that off-islanders can only reach the present city by boat (or plane) does not preclude borough formation.

Some commenters have said that they fear that they cannot participate in the proposed borough’s government because of the transportation difficulties. Again, given the size of Alaska’s boroughs, and given the fact that many of these boroughs are large and have limited road systems, this is not unique to

the proposed borough. If a borough is formed, then there will be six elected assembly members, and one elected mayor. These members will represent the entire borough at large. They will represent the residents in the city, and also the outliers. Off-islanders can contact their representatives and make their voices heard.

There should be ample opportunity to be aware of an ordinance. Article 3.02 of the charter states:

Ordinances shall be considered in first reading at a regular meeting. Prior to the final passage of any ordinance, a public hearing shall be held and the ordinance read and advanced at three separate meetings. The public hearing may be held in conjunction with the second or third readings of an ordinance. A proposed non-emergency ordinance may be read in full or by title only. No separate motion shall be entertained for entering an ordinance into the first, second, or third reading. No ordinance, except for an emergency ordinance, may finally be passed on the same day that it is introduced.

If there is an ordinance that they wish to comment on, there should be several opportunities to do so. Further, there is at least the theoretical possibility of holding at least some assembly meetings off-island. If it is difficult for those residents to come to the assembly, at least some of the time, perhaps the assembly could come to those people. Alternatively, perhaps some assembly meetings could be held early in the day to allow off-islanders to get to the meetings and back during daylight. Staff did not see any prohibition against such possibilities in the charter. The logistics might be difficult, but if it is allowable and possible, it is our recommendation that it be looked into. Further, teleconference or Skype accessible meetings could possibly be arranged, particularly as technology improves.

Commerce finds that AS 29.05.031(a)(4) is met.

Regulatory Analysis

While AS 29.05.031 only discussed transportation, 3 AAC 110.045(c) also discussed communication media. Communication media in the city of Petersburg is good. KRSA and KFSK radio air in the proposed borough. KFSK carries the city council meetings. KFSK's signal strength can vary. With a good antenna and some fine tuning, people have been able to pick up the KFSK our signal as far south as northern Prince of Wales Island, as far north as Warm Springs Bay on southern Baranof Island, or in Angoon on western Admiralty Island. It can also be picked up on the outskirts of Kake. The KFSK signal is now streamed live via computer or smart phone.¹²

There is also a weekly newspaper, the *Petersburg Pilot*. The US mail service is not as helpful, because one must go to the present city to drop off and pick up mail.

The communication facilities are not as good for those living off-island, but they do exist. Off-island, satellite internet is also available. Cell phone service (although irregular) exists too. Much of this technology is recent, and it is reasonable to assume that it would improve. Two new GCI towers were expected to be ready by the end of 2011. They would increase internet speed.

Overall, the communication media seems to be adequate to allow for the development of an integrated borough government available. For that reason, Commerce finds that 3 AAC110.045(c) is met.

¹² Based on an email from KFSK staff on February 21, 2012.

3 AAC 110.050 Population

(a) The population of a proposed borough must be sufficiently large and stable to support the proposed borough government in accordance with [AS 29.05.031](#) (a)(1) and art. X, sec. 3, Constitution of the State of Alaska.

Article X, section 3 - Boroughs

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

Sec. 29.05.031. Incorporation of a borough or unified municipality

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

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

Constitutional Analysis

First, in examining article X, section 3 of the constitution, 3 AAC 110.050(a) refers to art. X, sec. 3, Constitution of the State of Alaska. The relevant part of section 3 states that “[t]he standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible.” We have analyzed the second sentence above and found that it was met. Here we examine the first sentence, specifically population, through the statutory and regulatory analysis below.

Statutory Analysis

Under AS 29.05.031(a)(1), the population of the area must be interrelated and integrated as to its social, cultural, and economic activities, and large and stable enough to support borough government. As above, Commerce finds that the population is interrelated and integrated as to its social, cultural, and economic activities.

We now analyze the second point, whether the population is large and stable enough to support borough government. The 2000 census figure for the city of Petersburg was 3,224¹³. The city’s 2010 census data population was 2,948. Although the population is gradually declining, the trend is not necessarily a continuum. There is no indication that the city of Petersburg’s population decline is sudden or unexpected. No key industry is shutting down, for example.

¹³ It is possible to get population figures for the cities of Petersburg and Kupreanof, and for the entire Petersburg Census Area. The census area includes those two cities and the city of Kake. It also includes Port Alexander at the southern tip of Sitka’s Baranof Island, and a remainder known as the “balance.” It is not clear to staff how much of the balance is included in the proposed borough. Given that, and that the cities of Port Alexander and Kake are not part of the proposed borough, we only use the data for the cities of Petersburg and Kupreanof.

Staff expects that Petersburg will continue to have the population necessary to maintain a borough.¹⁴ In support of that we note that the city of Petersburg's population estimate was 3,030 in July 2011.¹⁵ This is an increase over the 2010 population figure of 2,948. For Kupreanof, the 2000 population figure was 23. The 2010 U.S Census figure rose to 27. The 2011 estimate is also 27.¹⁶

Southeast's population in general rose nearly 2.6% between April 2010 and July 2011. This compares favorably with the growth in the Mat-Su area of 3% in the same period. The Mat-Su area is one of the fastest, if not the fastest, growing borough or census areas of the state. The 2011 population estimates are not a correction of the 2010 census figures, but are based on the 2010 census and on administrative record data (primarily data from the Alaska Permanent Fund).¹⁷

It is difficult for demographers to make predictions at all. With each year further out their uncertainty increases greatly. They make projections for 25 years forward based on past trends, but these aren't ever predictions. There's simply a lot of uncertainty in population projections, and more so for smaller areas.¹⁸

The state has made population projections up through 2034. However, as indicated in footnote 2, they are for the census area, and do not include the cities of Petersburg or Kupreanof, or the entire proposed borough.

Southeast in general has an aging population. A valid question is whether the 65 and over population stays in Petersburg or not. The answer to that is not yet available. But the proposed Petersburg borough has a larger population than other Southeast boroughs.¹⁹

Wrangell has 2,369 residents, Juneau has 31,275, Sitka has 8,881, Haines has 2,508, Yakutat has 662, Ketchikan has 13,477, and Skagway has 968. With a projected population of 3,270, the proposed Petersburg borough would be smaller than the population of Juneau, Sitka, and Ketchikan, and larger than Haines, Wrangell, Yakutat, and Skagway.²⁰

As will be discussed in the Resources section, the City of Petersburg has recently built or voted to build several new facilities. This does not indicate an unstable population, but instead a population that is vibrant.

In conclusion, given that the recent decline might not be a constant, given that there was slight population increase in the past year, given that the proposed borough's population is bigger than over half of the other Southeast boroughs, and because new infrastructure is planned or has been planned, Commerce finds that the proposed Petersburg borough is large and stable enough to support borough government.

Commerce finds that AS 29.05.031(a)(1) is met.

¹⁴ The city of Petersburg's population would constitute most, but not all of the borough's population.

¹⁵ <http://labor.alaska.gov/research/pop/popest.htm>.

¹⁶ *Id.*

¹⁷ Based on communications with state demographer Eddie Hunsinger on February 14 – 16, 2012.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ <http://labor.alaska.gov/research/pop/popest.htm>.

Regulatory Analysis

The language of 3 AAC 110.050 (a) is nearly identical to that of AS.05.031(a)(1). There is no need to do a repetitive regulatory analysis.

(b) In determining whether the population of a proposed borough is sufficiently large and stable to support the proposed borough government, the commission will presume that a minimum of 1,000 permanent residents is required unless specific and persuasive facts are presented showing that a lesser number is adequate.

The 2009 estimated population for the proposed borough was 3,270. There is a presumption that 1,000 permanent residents are needed to form a borough. As 3,270 far exceeds 1,000, Commerce finds that this requirement is met.

Commerce finds that 3 AAC 110.050 is met.

3 AAC 110.055 Resources

In accordance with [AS 29.05.031](#) (a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level, In this regard, the commission

(1) will consider

(A) the reasonably anticipated functions of the proposed borough;

(B) the reasonably anticipated expenses of the proposed borough;

(C) the ability of the proposed borough to generate and collect revenue at the local level;

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

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

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

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

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

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

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

(H) land use within the proposed borough;

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

(J) personal income of residents within the proposed borough; and

(2) may consider other relevant factors, including

(A) the need for and availability of employable skilled and unskilled persons to serve the proposed borough government; and

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

Article X, section 3 - Boroughs

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

Sec. 29.05.031. Incorporation of a borough or unified municipality.

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

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

Constitutional Analysis

As the regulatory standards are much broader than the statutory or constitutional standards, and include both of them, we will examine the regulatory analysis.

Statutory Analysis

As the regulatory standards are much broader than the statutory or constitutional standards, and include both of them, we will examine the regulatory analysis.

Regulatory Analysis

In accordance with [AS 29.05.031](#) (a)(3), the economy of a proposed borough must include the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level, In this regard, the commission

(1) will consider

(A) the reasonably anticipated functions of the proposed borough;

In determining what the essential municipal services are, please see the analysis of [3 AAC 110.970, Determination of Essential Municipal Services](#). There Commerce finds that the proposed borough's essential municipal services include the assessing, levying, and collection of taxes, without which a municipality cannot function. Another essential municipal service would be providing a public school system in the borough, although that would be centered around the existing city of Petersburg. The borough would also provide land use, planning, and platting.

In analyzing 3 AAC 110.150(1)(A), the standard addresses whether the proposed borough is going to have more functions that its human and financial resources can handle. No new services appear to be added. On page 44 the petition lists the areawide (throughout the entire borough) services that it would provide. These functions are presently provided by the City of Petersburg. If the Local Boundary Commission approves the proposed borough, the existing home rule city of Petersburg will be dissolved, and a service area will take its place. This would be the only service area upon borough formation, although others could form later. The existing second class city of Kupreanof will remain.

The number of people who live outside the proposed borough is less than 10% of the existing city of Petersburg's population. Adding those individuals would seem to be well within the capabilities of the existing city because they would require few services (if outside the service area), and because the City of Petersburg is currently carrying out those functions with its present human and financial resources.

Some commenters have expressed concern over how the borough will be able to assess all of the properties. They further ask if such an effort would cost more than it would gain. Given the limited amount of private property in the borough outside of the existing City of Petersburg, and given that Petersburg is currently assessing those properties, such assessing would seem to be well within the borough's abilities. The city has a boat with a cabin. It could use that to reach most of the roadless properties.

As the city currently has employees who carry out the municipal functions that the borough would have, and as the borough would have essentially the same functions as the existing city, Commerce finds that the reasonably anticipated functions of the proposed borough show that the proposed borough has the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level.

(B) the reasonably anticipated expenses of the proposed borough;

The petition lists the borough's budget, including revenue and expenses. If approved, the proposed borough will get \$600,000 in transition grants from the state over a three year period. The grants will be \$300,000 the first year, \$200,000 the second year, and \$100,000 the third year. Those grants will produce budget surpluses of roughly \$200,000 in each of those years. In FY 14/15, the transition grants would end, and there is a budget surplus of \$16,969.

Petersburg recently approved a \$6.78 million library. Its costs to the city (and then to the service area) will be about \$1.5 million. The bond will take 20 years to repay. Not taking interest into account, that means another \$75,000 annually. With the necessary interest, the annual cost will be higher. The budget in the petition is an estimate. As the petition was prepared before the bond was approved, the petition does not take that library bond into account. The budget, by necessity, will need to be adjusted, but only

for the service area. This is because the service areas will be responsible for all pre-borough bond debt that the city incurred. But, its current assets and liabilities will become the borough's.²¹

Commerce finds that the city is in sound fiscal shape. For further analysis, please see "City of Petersburg, Alaska, Interpreting Local Government Financial Statements for Fiscal Years 2009, 2010, and 2011" in Appendix A. The author, Mr. Tom Sutton, is an auditor with DCRA. After considering the budget provided, the comments and briefs regarding the city's financial position, and Mr. Sutton's analysis, Commerce finds the reasonably anticipated expenses of the proposed borough show that the proposed borough has the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level.

(C) the ability of the proposed borough to generate and collect revenue at the local level;

The ability of the proposed borough to collect revenue at the local level has discussed in (A) above. Regarding the ability to generate revenue, Commerce finds that the expected borough expenses and revenue will not greatly exceed that of the current city. The bond indebtedness will transfer to the service area that will succeed to the City of Petersburg. The current national financial situation is not good, but that should improve with time. Such an improvement would only help Petersburg, including with tourism and demand for fish. The city also has a number of funds, some restricted, and some not.

A look at the city's budget from FY 05/06 to FY 09/10 shows that the city has a net revenue over expenditures²² of \$551,675 in FY 06/07 actual, of (\$1,497,265) in FY 07/08 actual, of (1,067,043) in FY 08/09 actual, of (\$178,487) in FY 09/10 actual, of (\$485,496) in FY 10/11 approved budget, and of \$54,084 in FY 11/12 approved budget.²³

The adopted budget of FY11/12 states that:

Overall the Petersburg utility funds are surviving with balanced finances since necessary, not too onerous, revenue increases have been made and staff has done well to contain increasing costs. They have also benefitted from general fund revenues for certain revenue bond payoffs. The General Fund has not fared as well. A reduction in reserves for approved expenditures and projects in the past has been significant to the point that we are at our recommended minimum reserve level. When revenue growth returns the city must rebuild this reserve level.²⁴

While figures indicated by parentheses are generally in thought of as losses or deficits, that is not the case here. Here money was moved from the general fund to other funds. This can be seen by comparing page 7 of the 2012 budget with page 43 of the budget, particularly the lines and figures included in "Other Expenses."²⁵ This resulted in a cash allocation indicated by (). That indicates a reduction in the general fund, not a city deficit *per se*.

²¹ Based on a February 14, 2012 conversation with city attorney Sara Heideman. See also section 19.07 of the charter.

²² The net revenue over expenses represents the net change in the fund balance, not the cash balance.

²³ <http://www.commerce.state.ak.us/dcra/commfin/Petersburg/PetersburgFY12Budget.pdf>, 13th page.

²⁴ *Id.* at 4th page.

²⁵ The pagination of the budget is confusing. There is an unnumbered cover, followed by a two page resolution. Although unnumbered, these two pages are apparently pages 1 and 2. After that comes the five unnumbered pages of the city manager's report, followed by the contents table, which starts at page 3. Therefore, if referring to a numbered page, we say "page X." If it has no page number, we describe where it appears in the document.

Notwithstanding, Commerce agrees that the reductions of the general fund over several years is of concern. The petitioner should be able to show a plan to rebuild the general fund level. Commerce notes, however, that the reduction took place in a severe recession. It further notes that the total expenditures in the FY 11/12 approved budget are not indicated by (). Further, the cash allocation's size has gradually (if not consistently) gone down, and that the city still had a cash balance of \$3,312,526 in FY 09/10 actual.²⁶

After analyzing the financial data, including Mr. Sutton's report, Commerce finds that the ability of the proposed borough to generate and collect revenue at the local level shows that the proposed borough has the human and financial resources necessary to provide the development of essential municipal services on an efficient, cost-effective level.

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

Most of the proposed borough is generally unpopulated. There is fishing throughout the waters of the proposed borough. There has been timber harvesting in the Hobart Bay area, and could be future tourism development there too by Goldbelt. In the Petersburg area, the local economy has fishing, fish processing, government, tourism, and services. As indicated in (C), the national economy is suffering, but is starting to show signs of improvement.

There are some signs of concerns. Federal spending is expected to decline nationally. The loss of USFS forest receipts is a reasonable possibility given the federal budget situation (although Petersburg has already accumulated funds in anticipation of that possible loss). The high price of fuel also makes expenses high, including fuel for the fishing boats.

But, those factors are true in many parts of the country. It is difficult to predict the future income levels of the proposed borough, but Commerce finds no reason why the reasonably anticipated income of the proposed borough should not remain at a rate necessary for borough sustainability.

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

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

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

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

If the proposed borough is formed, the borough would receive grants for three years totaling \$600,000. As discussed in (B), in FY 13/14, the transition grants would end, and there is a budget surplus of \$16,969 in FY 14/15, one year afterwards. The transition would be completed before then. Regarding the education contribution, that 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.

²⁶ *Id.*

In sum, the anticipated operating and capital budgets of the proposed borough are feasible and plausible through the period extending one full fiscal year beyond the reasonably anticipated date of receiving the final organization grant, for completing the transition, and for when the proposed borough will make its first full local contribution.

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

Addressed in (D) above

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

One source of tax revenues would come from the land currently in the City of Petersburg. It is already taxed. The borough would receive that tax revenue (although the service area which would succeed to the city would be able to have anything over the areawide mill rate).

Another source of revenue would be the properties in the borough outside the present City of Petersburg. The total property tax is expected to be \$184,000.

A third source would be the sales tax from businesses outside the present City of Petersburg. That would amount to \$148,000 annually. Adding the \$184,000 and the \$148,000 yields a sum of \$332 for additional borough tax income, beyond what the city already realizes.

A fourth source would be some of the current state lands. Under AS 29.65.030, a newly formed municipality can choose 10% of the maximum total of vacant, unappropriated, unreserved land within the municipal boundaries. That land in the proposed borough amounts to about 1,700 acres. The proposed borough would be able to select land, and then sell it or keep it. If it sells it, it would be able to tax that land.

The petition envisions a property tax of \$2,568,913 in FY 11/12 and 12/13, and then rising to \$2,752,913 in FY 13/14 and 14/15.

(H) land use within the proposed borough;

Much of the land is unsettled. In some cases it is designated as wilderness. There is the city of Petersburg, the city of Kupreanof, and a smaller population living outside those two cities, mainly on Mitkof and Kupreanof Islands. Mitkof Island has a road system.

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

Commerce sees no real plans for development in the proposed borough. There are some mining claims, but apparently none being worked. There has been some timber harvesting by Goldbelt in Hobart bay, but apparently none is being cut now. There has also been some discussion about tourism development in the Hobart Bay area.

(J) personal income of residents within the proposed borough

The annual median household income in the present city of Petersburg is \$62,317. This compares to figures of \$58,198 and \$49,445 for Alaska and the United States respectively.

Commerce finds that 3 AAC 110.055 is met.

3 AAC 110.060 Boundaries

(a) In accordance with [AS 29.05.031](#) (a)(2) and art. X, sec. 3, Constitution of the State of Alaska, the boundaries of a proposed borough must conform generally to natural geography, must be on a regional scale suitable for borough government, and must include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level.

(d) Absent a specific and persuasive showing to the contrary, the commission will presume that an area proposed for incorporation that is noncontiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.

(e) If a petition for incorporation of a proposed borough describes boundaries overlapping the boundaries of an existing organized borough, the petition for incorporation must also address and comply with all standards and procedures for detachment of the overlapping boundaries from the existing organized borough. The commission will consider that petition for incorporation as also being a detachment petition.

(f) The boundaries of a borough may not include only a portion of the territory of an existing city government.

(g) Requirements relating to limitation of community, as set out in 3 AAC [110.040\(b\)](#), do not apply to boroughs

Sec. 29.05.031. Incorporation of a borough or unified municipality.

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

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

Article X, section 3 - Boroughs

The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include

population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

Constitutional Analysis

As the constitution speaks broadly about “geography,” and as more detailed standards is set out in the statute and regulations, we will examine those standards.

Statutory Analysis

As the regulation includes the statutory standards, we will proceed to the regulatory analysis.

Regulatory analysis

In analyzing 3 AAC 110.060(a) above, Commerce finds that the proposed borough has a strong ties to and interest in fishing. This is so in Sumner Strait to the south of Mitkof and Kupreanof Islands; in Frederick Sound into the north and east of those islands; and in Duncan Canal between those islands. There is also a strong Petersburg fishing felt presence further in the borough in Stephens Passage, which lies between Admiralty Island and the mainland. The fleet is also in Port Houghton, Hobart Bay, and Windham Bay; and in Holkham Bay, Endicott Arm, and Tracy Arm.

As indicated in 3 AAC 110.045, that presence of fishing through those waters indicates a relationship of interests in the borough. The fishing presence seems to be stronger in the more open waters such as Sumner Strait and Frederick Sound, than in the bays.

Commercial salmon and shellfish harvesting takes place in Windham Bay (WB), Hobart Bay (HB), and Port Houghton (PH). These bays are open to commercial salmon fishing for at least a portion of the season in most years and salmon harvest in these areas can be significant. When open, some parts of each bay are closed, particularly close to the head of the bay. Dungeness Crab, spot prawns and Tanner crab are annually harvested in WB, HB, and PH. Red king crab are harvested in these areas as well, but this fishery has historically not opened on an annual basis. Herring may also be commercially harvested in these bays when a quota is established. The last herring fishery took place in 2010.

The Petersburg fishing fleet has a presence in WB, HB, and PH. How much depends on the kind of fishery. The Petersburg fleet has a significant presence in the salmon, herring, Dungeness crab, Tanner crab and red crab fisheries that occur in these 3 bays.

There is very little to no commercial salmon fishing activity in Tracy Arm, Endicott Bay, and Holkham Bay. There is little Dungeness crab and spot prawn harvest from these bays. Tanner Crab harvest occurs annually in Tracy Arm, Endicott Bay, and Holkham Bay. When the red king crab fishery is open, red king crab are harvested in these bays, and these bays.

The Petersburg fishing fleet typically has significant presence in Tanner crab and red king crab fisheries that occur in Tracy Arm, Endicott Arm and Holkam Bay.²⁷

²⁷ Quoted from an email from Troy Thynes of the Alaska Department of Fish and Game on February 22, 2012.

From another source,

Holkham Bay is in the District 11 (Section 11-C) salmon management statistical area. This area is only open to gillnet and troll gear for targeting salmon according to Board of Fisheries regulations. There is little if any commercial salmon fishing that occurs in Tracy Arm, Endicott Arm, and Hokham Bay because only small numbers of pink salmon are produced from streams in this area. Also gillnet permit holders are primarily interested in sockeye and chum salmon rather than pink salmon. Therefore, gillnet effort is small and concentrates in Stephens Passage where interception of sockeye and chum salmon migrating to the Taku River and Port Snettisham is common. Occasionally commercial trollers will work the area targeting king or Coho salmon. Also commercial pot shrimpers utilize this area during the spot shrimp commercial season in the fall/winter months.

South of Holkham Bay lies Windham Bay, Hobart Bay, and Port Houghton. These bays are in the District 10 salmon management statistical area. District 10 is only open to seine and troll gear. This part of the mainland produces very large numbers of pink salmon which attracts a significant sized seine fleet most years. Seining occurs near the approaches to these bays while the inner bays are closed by regulation. However, the area manager has the flexibility to open the entire bay in years of very large returns of pink salmon (if escapement needs are met). The seine fishery is directed on and primarily interested in pink salmon unlike the gillnet fishery which target sockeye, chum and coho salmon. In most years these bays remain closed to protect the salmon that are needed for escapement and mill in the bay for several days to a week or more waiting for the optimum conditions to enter fresh water. These terminal fish are very vulnerable to commercial exploitation and in most years are needed to achieve spawning escapement goals for this area.²⁸

Commerce also looked at the charts and maps showing fishing data in the petitions and briefs. Staff finds that that information strengthens the spread and impact of fishing throughout the borough. Much of the fish is caught by Petersburg fishermen, or is processed in Petersburg. This common bond is not only pertinent to the relationship of interests under 3 AAC 110.045, but is significant to the boundaries. It shows that there are common ties and common bonds in the proposed borough.

Further, the proposed borough has other ties. Petersburg was active in the 1980s Hobart Bay timber harvest. Petersburg provided supplies and support for the enterprises. Further, tourism or guiding companies originate their trips from Petersburg, or their clients arrive by air to Petersburg, or supply in Petersburg. Petersburg residents also use the area for hunting, noncommercial fishing, and recreation. There are historical ties as well. In sum, the proposed borough has many internal relationships and ties. Fishing is the largest one, but there are others as well. The brevity of the above remarks doesn't indicate a brevity in connections other than fishing.

Regarding the boundaries on Kupreanof Island, Commerce finds that they conform generally to natural geography because they generally follow watershed lines (generally north south). The nearest point of the proposed borough appears to be about 15 miles from the city of Kake. It is not a straight line. Both in written comments and phone calls, Kake people and entities objected to the proposed borough boundaries cutting across the island. They feel that none of Kupreanof Island should be included. In particular, they are concerned that the borough formation would adversely affect their economy, particularly their subsistence living.

²⁸ Quoted from an email from F&G biologist Kevin Monagle on February 21, 2012.

While their concerns are respected, borough formation would not affect their hunting, fishing, and subsistence activities. Those activities of the Kake people would be unaffected because the regulation of those activities is a state function, not a borough function. They could still continue their hunting, fishing and subsistence activities.

As the proposed borough boundaries follows ridgelines, watersheds, or go across bodies of water, Commerce finds that they conform generally to natural geography. As found in the analysis of 3 AAC 110.045, they are on regional scale suitable for borough government. As the boundaries include thousands of square miles of land and water, including many rivers and streams, Commerce find that the boundaries include all land and water necessary to provide the full development of essential municipal services on an efficient, cost-effective level.

While the boundaries conform generally to natural geography, as present the southern borders of Tracy Arm would be in the proposed borough. The next quarter of the arm would remain in the City and Borough of Juneau (Juneau). The inner half would be in the proposed borough. Commerce finds that although this is the existing border of Juneau, such a border neither makes sense or conforms to natural geography. Commerce recommends that the proposed borough's boundaries be amended by the LBC to exclude Tracy Arm and its watershed, as well as the Whiting River watershed in the extreme northeast corner of the proposed borough (see maps in Attachment 2. One of them will have a staff recommended redrawn boundary).²⁹ The watersheds conform to natural geography.

In analyzing (d), Commerce finds that the proposed borough is contiguous. It does not contain enclaves. Further, Commerce found above that the area proposed for incorporation does include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.

In analyzing (e), the petition for incorporation of a proposed borough does not describe boundaries overlapping the boundaries of an existing organized borough. Therefore, the petition need not address detachment as well.

In analyzing (f), the boundaries of this proposed borough do not include only a portion of the territory of an existing city government. (f) is therefore met.

In conclusion, Commerce finds that 3 AAC 110.060 is met.

3 AAC 110.065 Best Interests of State

In determining whether incorporation of a borough is in the best interests of the state under [AS 29.05.100](#) (a), the commission may consider relevant factors, including whether incorporation

(1) promotes maximum local self-government, as determined under 3 AAC [110.981](#);

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

(3) will relieve the state government of the responsibility of providing local services; and

²⁹ One of the maps comes from the petition, and the other from the Juneau Economic Development Corporation research, which was part of the City and Borough of Juneau's responsive brief.

(4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough's dissolution.

Commerce finds that the incorporation would promote maximum local self government, as it would give people who live outside the cities of Petersburg and Kupreanof a say in local affairs that affect them. They could voice comments, speak to their assembly members, and hold office themselves. Currently, when they shop in Petersburg, they pay sales taxes but have no say in how that money is spent.

Further, this would promote a minimum number of local government units, as one city will dissolve, one city will remain, and one borough would incorporate. There are presently two local governments. After incorporation, there would still be two.

Some outliers have expressed a preference in remaining in the unorganized borough. They are concerned that if they become residents in the proposed Petersburg borough, that they will give up certain freedoms. Staff is unaware of any freedoms that they will lose. They will, however, have to pay property tax.

Some borough opponents are concerned that their taxes will increase over time. Per section 12.03 of the charter, the "ad valorem tax on real property shall not exceed 10 mills." This does not include debt service, per AS 29.45.100. If that 10 mil rate is raised, it is done by assembly ordinance. This is distinguishable from an increase in sales or use taxes, which must be authorized by both ordinance and voter approval.

There is no state imposed limit to the tax that the assembly may impose on a service area.³⁰ Any such increase would not be imposed on people outside the service area. Some outliers are concerned that their tax rate could go to the maximum of 10 mills. It is the opinion of the state assessor that such an increase, without a commensurate increase in services, would not withstand judicial scrutiny.³¹ Some commenters said that some city residents (e.g. those in Frederick Point East) do not have water and sewer service, but pay the full mill rate regardless. Water and sewer service is not covered in a property owner's mill rate, but instead is a separate service. Those who receive such a service are billed separately, independent of the mill rate based real property tax.³²

Further, AS 29.45.030(e) state that real property that is a primary residence has a \$150,000 tax exemption for those 65 and over, a disabled veteran, or by a widow or widower of a person who qualified for the first two exemptions. This would further lower the tax bill for those senior citizens and disabled veteran) who meet the criteria.

As Alaska no longer has an education head tax, nor an income tax, those residents would be paying property taxes that they are not currently paying. This helps the borough pay for the school system. A well educated population is in the best interests of the state.

Commerce finds that the proposed incorporation is in the best interests of the state, and that 3 AAC 110.065 is met.

³⁰ Based on conversations with State Assessor Steve Van Sant in February, 2010.

³¹ *Id.*

³² *Id.*

3 AAC 110.900. Transition

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

The Petitioner filed a transition plan in Exhibit D of its petition. It shows that all borough residents will be eligible to use areawide borough facilities and services, immediately upon borough formation. Commerce finds that this demonstrates the capacity of the municipality to extend essential municipal services into the boundaries proposed for change in the shortest practicable time after the effective date of the proposed change. Commerce also finds that the petition includes a practical plan demonstrating the transition or termination of municipal services in the shortest practicable time after detachment, dissolution, or city reclassification.

(b) Each petition must include a practical plan for the assumption of all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, or other appropriate entity located within the boundaries proposed for change. The plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change.

Commerce finds that the petition must include a practical plan to assume all relevant and appropriate powers, duties, rights, and functions presently exercised by an existing borough, city, unorganized borough service area, or other appropriate entity located within the boundaries proposed for change. The existing city of Petersburg will dissolve, and become the boroughs only service area. Some present city functions would become areawide borough functions. The borough would delegate planning and land use powers within the City of Kupreanof to Kupreanof.

Commerce finds that the plan must be prepared in consultation with the officials of each existing borough, city, and unorganized borough service area and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of the proposed change. The school district officials in particular were consulted.

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

Commerce finds that the petition has a transition plan, in which the borough will succeed to the assets and liabilities of the present City of Petersburg. The city's bonded indebtedness will become the obligation of Service Area 1 only. The new Petersburg Borough School District will succeed the former Petersburg School District.

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

(e) The transition plan must state the names and titles of all officials of each existing borough, city, and unorganized borough service area that were consulted by the petitioner. The dates on which that consultation occurred and the subject addressed during that consultation must also be listed.

Commerce finds that the petition did state the names and titles of officials consulted.

(f) If a prospective petitioner has been unable to consult with officials of an existing borough, city, or unorganized borough service area because those officials have chosen not to consult or were unavailable during reasonable times to consult with a prospective petitioner, the prospective petitioner may request that the commission waive the requirement for consultation with those officials. The request for a waiver must document all attempts by the prospective petitioner to consult with officials of each existing borough, city, and unorganized borough service area. If the commission determines that the prospective petitioner acted in good faith and that further efforts to consult with the officials would not be productive in a reasonable period of time, the commission may waive the requirement for consultation.

Commerce finds this point moot because the petitioners were able to consult with officials.

In conclusion, Commerce finds that 3 AAC 110.090 is met.

3 AAC 110.910 Statement of Nondiscrimination

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

Nothing in these proceedings suggest that the proposed incorporation will deny any person the enjoyment of any civil or political right, including voting rights, because of race, color, creed, sex, or national origin. Commerce finds that the standard of 3 AAC 110.910 is met.

3 AAC 110.970. Determination of essential municipal services

(a) If a provision of this chapter calls for the identification of essential municipal services for a borough, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that

(1) are reasonably necessary to the area; and

(2) promote maximum local self-government.

(b) The commission may determine essential municipal services for a borough to include

(1) assessing the value of taxable property if the proposed or existing borough proposes to levy or levies a property tax;

(2) levying and collecting taxes if the proposed or existing borough proposes to levy or levies taxes;

(3) establishing, maintaining, and operating a system of public schools on an areawide basis as provided in [AS 14.14.065](#) ;

(4) planning, platting, and land use regulation; and

(5) other services that the commission considers reasonably necessary to meet the borough governmental needs of the residents of the area

Commerce finds that education, land use, planning, and platting, and levying and collecting taxes are essential municipal service. The borough will offer these (and other services).

3 AAC 110.981 Determination of Maximum Local Self-Government

In determining whether a proposed boundary change promotes maximum local self-government under art. X, sec. 1, Constitution of the State of Alaska, the commission will consider

(1) for borough incorporation, whether the proposal would extend local government on a regional scale to a significant area and population of the unorganized borough;

If formed, the borough would extend local government to over 4,000 square miles of land and water. While much of the proposed borough is unpopulated, it has no local government now, except for the cities of Kupreanof and Petersburg. Commerce finds that the proposal would extend local government on a regional scale to a significant area and population of the unorganized borough.

(14) whether the petition proposes incorporation of a home rule municipality.

The petition does propose incorporating the borough as a home rule borough, which is a municipality. Commerce finds that 3 AAC 110.981 is met.

3 AAC 110.982 Minimum Number of Local Government Units

Among the factors to be considered in determining whether a proposed boundary change promotes a minimum number of local government units in accordance with art. X, sec. 1, Constitution of the State of Alaska, the commission will consider

(1) for borough incorporation, whether a new borough will be created from the unorganized borough and whether the proposed boundaries maximize an area and population with common interests;

The proposed borough is currently in the unorganized borough, and so it would be created from it. As was found in the analysis of 3 AAC 110.045, the proposed boundaries maximize an area and population with common interests.

Commerce finds that 3 AAC 110.982 is met.

Conclusion

Commerce finds that the borough incorporation standards are met. It recommends that LBC approve the petition as presented, with the exception 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.

APPENDIX A

CITY OF PETERSBURG, ALASKA
INTERPRETING LOCAL GOVERNMENT FINANCIAL STATEMENTS
FOR FISCAL YEARS 2009, 2010 and 2011

**CITY OF PETERSBURG, ALASKA
INTERPRETING LOCAL GOVERNMENT FINANCIAL STATEMENTS
FOR FISCAL YEARS 2009, 2010 and 2011**

Prepared By: Tom Sutton, Internal Auditor, DCRA/DCCED

Date: February 10, 2012

Recipient Name: Brent Williams, LOCAL BOUNDRY COMMISSION/DRCA/DCCED

Analysis of: City of Petersburg's Audited Financial Statements for Fiscal Years 2009, 2010 & 2011 and the City's Economic Condition

Background and Purpose: The financial reports of a local government provide a wealth of information to anyone with an interest in the government's economic condition. While local governments have economic goals, their primary objective is to provide social services to its citizens. It is common for the private sector to speak of a "bottom line" for evaluating financial performance. Local government financial statements offer no single measurement suitable for this purpose. As a result, users of local government financial statements must assess a local government's financial health from three different perspectives—**near-term financing, financial position** and **economic condition**.

Near-term financing. One concern of a local government is the near-term financing situation. Common questions are:

- Is the city government able to meet its short-term financial obligations in a timely manner?
- Are its operating inflows adequate to cover its operating outflows?
- Is the city financially prepared for contingencies, such as, budgetary shortfalls and natural catastrophes?

Financial position. It would be shortsighted to concentrate exclusively on the near-term. Therefore, an equally important concern is a city's overall financial position as represented by the totality of its assets and liabilities. Financial position is an essential point of reference for determining whether a city's overall financial situation is improving or deteriorating.

Economic condition. Ultimately, a city's financial position will be affected by its circumstances. For example, the vitality and diversification of the local economy and the depth of the government's tax base. A review of the city government's past record is vital to predicting future developments. Some good questions are:

- Have the governmental revenues been increasing or decreasing?
- Has the government's population been growing or is it shrinking?

Consideration of such factors is necessary when interpreting current year financial data. In other words, evaluating an economic condition focuses on the likelihood that a current financial position will improve or deteriorate.

Assessing City of Petersburg's Near-Term Financing Situation

As required by Governmental Accounting Standards Board, local governments present financial activities through government-wide financial statements. All of the funds in the government-wide statements may be divided between two categories: governmental funds and proprietary funds (also known as enterprise funds).

Governmental Funds. Most of the City’s basic services (i.e. fire, police and maintenance) are reported in governmental funds. An analyst would want to focus on how money flows into and out of those funds and the balances left at year-end. Particularly, the year end balances that are available for spending in the future. Reviewing the year end balances is useful in determining: the City’s short term financial requirements and whether there are more or fewer financial resources to finance the City’s programs.

- **Governmental Funds--Balance Sheet Analysis.** Not all assets and liabilities are relevant to short-term financing requirements. There are “non-current” or “long-term” assets that cannot be used to pay bills. Buildings, equipment and infrastructure are assets that are not convertible to cash in the short term. Likewise there are some liabilities that are not due in the short-term. Long term debt does not use the cash resources in the near-term. Non-current assets and long-term liabilities are excluded from the governmental funds to arrive at the net assets and liabilities that are well suited for the purpose of evaluating near-term financing needs. There is a common liquidity ratio that assess a city’s ability to pay it most immediate obligations—the current ratio.

LIQUIDITY RATIO

$$\text{Current Ratio} = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

The current ratio is a measure of liquidity. The greater the liquidity, the easier it is to respond to short-term needs for financial resources. The current ratio identifies the assets that the City has available on a short-term basis as a ratio. As the ratio increases, liquidity increases. At a minimum the current ratio should equal 2.

Calculation Inputs—From FY 2011 Financial Statements

Current Assets	Current Liabilities	Ratio
\$15,463,659	\$694,362	22.27

The City’s ratio at 22.27 is an extraordinary figure and indicates a sign of economic strength.

- **Governmental Funds--Balance Sheet Analysis--Continues**

The difference between the governmental fund assets and liabilities is known as the fund balance. The fund balance is composed of five components. These components are non-spendable, restricted, committed, assigned and *unassigned*. In particular the *unassigned* fund balance is useful measure of government’s net resources available for spending at year end. As another measure of governmental funds’ liquidity it is useful to compare *unassigned* fund balances to total fund expenditures.

The general fund is the chief operating fund of the governmental funds. The Government Finance Officers Association (GFOA) has formally recommended that the minimum level of unreserved (or unassigned) fund balance in the general fund be no less than 5% to 15% of the regular general fund operating revenues or 1 to 2 months of regular general fund operating expenditures.

UNASSIGNED FUND BALANCE

Fund Balance = Assets – Liabilities
 Unassigned Fund Balance = Fund Balance – Non-spendable, Restricted, Committed & Assigned

Calculation Inputs—From FY 2011 Financial Statements

Unassigned Fund Balance	Total Fund Revenues	Percentage
\$3,625,460	\$13,389,063	27%

Unassigned Fund Balance	Total Fund Expenditures	Operating Months
\$3,625,460	\$10,190,385	2.8

The results above indicate a margin that exceeds the “standard” for both calculations. However, smaller governments do not enjoy the benefits of revenue diversification as the larger counterparts do. Therefore, it is prudent of the City to maintain higher levels of unassigned fund balances.

- Governmental Funds--Statement of Revenues, Expenditures and Changes in Fund Balance.**
 The key measure is the *excess of revenues over expenditures*. It is expected that expenditures would not exceed revenues for a fiscal year. However, it is hard to predict economic and fiscal conditions. Some years there are surpluses and other years—shortfalls. The best analysis of revenues over expenditures is to consider the results over extended periods of time (e.g. 4 years).

	GOVERNMENTAL ACTIVITIES			
	2008	2009	2010	2011
TOTAL REVENUES	10,372,077	11,157,796	13,029,297	13,389,063
TOTAL EXPENDITURES	9,342,813	10,038,515	9,988,100	10,190,385
INCREASE IN NET ASSETS	1,029,264	1,119,281	3,041,197	3,198,678

Proprietary Funds— and the Statement of Revenues, Expenses and Changes in Net Assets. In the public sector its *service* rather than *profit* that motivates the business like activities reported in proprietary funds. Public policy considerations often cause city governments to set fees and charges for services at levels lower than what would be needed to recover all the costs of the activity. The issue of cost recovery for proprietary funds is more complex than the simple profit and loss consideration in a private sector business. For example, it may be a city’s policy to aim for a partial cost recovery for a transit authority fund. Yet the same city may decide to have a full cost recovery in an electric utility fund. The upshot, the cost recovery goals may differ from--fund to fund and--city to city. However, any deficits in operating income need to be funded from somewhere, most likely the general fund. To relieve “pressure” on the general fund, the majority of the propriety funds should financially support their operations. The City has 7 proprietary

funds consisting of: Electric Fund, Water Fund, Wastewater Fund, Sanitation Fund, Harbor and Port Facilities Fund, Elderly Housing Fund and the Assisted Living Fund. The following table displays the results of all the proprietary funds as stated in the “Statement of Revenues, Expenses and Changes in Net Assets”.

	PROPRIETARY FUNDS			
	2008	2009	2010	2011
TOTAL REVENUES	10,986,508	11,341,750	12,128,756	10,473,217
TOTAL EXPENDITURES	11,362,732	11,294,604	11,501,523	12,080,498
INCREASE (DECREASE) IN NET ASSETS BEFORE TRANSFERS	(376,224)	47,146	627,233	(1,607,281)
TRANSFERS-FROM GOVERNMENTAL FUNDS	2,859,329	1,086,307	1,022,206	580,667
NET INCREASE (DECREASE) IN NET ASSETS	2,483,105	1,133,453	1,649,439	(1,026,614)

The results of 2011 indicate a **decrease** in net assets of **\$1,026,614**. This decrease is due to a significant reduction in revenues and in particular capital contributions in 2011. Capital grants and contributions for FY 2010 and FY 2011 were respectively, \$2,295,297 and \$157,641. If one were to exclude the year 2011 and consider only the *Increase or Decrease in Net Assets Before Transfers*, one could surmise the City’s cost-recovery has been moderately successful at recovering operating expenses through fees and charges. It should be noted that Total Expenses for each year includes the “depreciation of assets” as an expense. Depreciation expense does not require a current outlay of cash. The accounts involved in recording depreciation are depreciation expense and accumulated depreciation. The depreciation expense involves allocating the cost of a long-term asset to an expense over the useful life of the asset. The depreciation expense for 2009, 2010 and 2011 was respectively; \$2,649,821, \$2,800,054 and \$2,838,234. As a result of expensing depreciation the City is recovering the future cost of replacing aging plant and equipment.

Assessing City of Petersburg's Financial Position

As stated in earlier, the Governmental Accounting Standards Board establishes the standards by which local governments present financial activities. All of the funds (both governmental and proprietary) are presented in the government-wide financial statements. From the viewpoint of *financial position*, the most important element in the government-wide financial statements is the *changes in net assets*. The amount reported as changes in net assets from one year to the next measures the extent the City's *financial position* has deteriorated or improved. Deterioration or improvement is caused by economic conditions and the results of events or transactions. By comparing the year to year--net increase or decrease of net assets, one may gain an appreciation of the long-term economic impact of the near-term financing activities.

GOVERNMENT WIDE FINANCIAL STATEMENTS				
	2008	2009	2010	2011
ENDING NET ASSETS	106,851,089	108,017,516	111,685,946	113,277,343
INCREASE (DECREASE) IN NET ASSETS		1,166,427	3,668,430	1,591,397

FY 2008 – 2009 Financial Activities. The \$1,166,427 net increase is due to the following key elements and significant changes:

- Sales tax and property tax revenue remained **flat** compared to 2008.
- **Increases** in revenues from charges for services, operating and capital grants totaled \$562,670.
- Total investment income **decreased** \$464,428 from 2008 due to the effect of adverse market conditions on investments.
- Primarily due to capital contributions, the overall assets of the Electric Utilities Fund **increased** \$686,958.
- The Harbor Fund **increased** its unrestricted net assets by \$534,051. The increase is due to the amount of fish tax received.

FY 2009 – 2010 Financial Activities. The net increase of \$3,668,430 and the key elements associated with this significant gain consist of:

- Sales tax revenue **decreased** \$200,555 or 7% as compared to 2009.
- **Increases** in revenues from charges for services, operating and capital grants totaled \$1,625,791.
- Total investment income **increased** \$603,385 from 2009 due to the effect of market conditions.
- Operating expenses **decreased** \$50,415 from 2009.
- Primarily due to capital contributions, the overall assets of the Electric Utilities Fund **increased** \$838,627
- The Harbor Fund **increased** its unrestricted net assets by \$416,399. The increase is similar to last year's increase.
- The Sanitation Fund **increased** its unrestricted net assets by \$213,992. The increase is due to a 5% increase in fees, a lowering of operating expenses and a capital contribution.

FY 2010 – 2011 Financial Activities. The net increase of \$1,591,397 and the key elements associated with this gain consist of:

- Sales tax and property tax revenue remained **flat** compared to 2010.
- General Fund expenditures and transfers out were \$309,000 **under budget**.
- The Economic Fund’s investments **increased** net assets by \$254,616.
- The National Forest Receipts – School Fund retained \$787,432 of the \$1.36 million **receipts** the fund received this year.
- For the Governmental Funds, capital grants and contributions **increased** by \$881,515 as compared to the previous year.
- Collectively, the Proprietary Funds net assets **decreased** by \$1 million due to a significant reduction in capital grants and contributions.

Assessing City of Petersburg’s Economic Conditions

The final item to review of a local government’s financial analysis is to focus on their economic condition. What economic factors will affect the likelihood that today’s financial condition will improve or deteriorate in the future? Much of the information needed for assessing economic condition involves nonfinancial data, such as, population trends and unemployment.

Poverty Rate		Annual Median Household Income	
Petersburg (%)	9.7	Petersburg	\$ 62,317
State (%)	9.1	State	\$ 58,198
U.S. (%)	15.3	U.S.	\$ 49,445

Unemployment Rate—Average of 2011		Population		
		Year	2001	2011
Petersburg (%)	8.9	Petersburg	3,240	3,030
State (%)	7.5	State	632,716	722,190
U.S. (%)	10.5			

Poverty Rate – The poverty rate is the number of people below the poverty threshold divided by the U.S. population (per 2010 Census Bureau). A poverty rate for a community that is greater than the poverty rate for the state or the nation is a sign of relative economic weakness. *However, the City’s rate is only sixth tenths of 1% more than the state and is deemed immaterial.* The City’s poverty rate is 5.6 points below the national average which indicates relatively strong economy.

Unemployment Rate—Average of 2011 – The unemployment rate was provided by the State Department of Labor and Workforce Development. The average of 2011 was used between of the seasonal swings of employment during the course of the year (e.g. Christmas hiring, construction). An unemployment rate for a community that is greater than the state or the nation is a sign of economic weakness. The City is *1.4 points higher than the state and 1.6 points below the national average.* Due to the City’s unemployment rate scoring between the state and the nation it is this author’s opinion the City’s unemployment rate has a minor effect on the relative economic condition of the City.

Annual Median Household Income – The median income calculation divides the income distribution into two equal groups, one group having incomes above the median, and the other having incomes below the median (per 2010 Census Bureau). *Median household income for the City is higher than the state and the nation—this is a sign of economic strength.*

Population – The population estimates were provided by the State Department of Labor and Workforce for the 2011 and 2001 population figures. Another way to measure the economic status of a community is evaluating population decline or growth. It appears that over the course of 10 years the City has experienced a **6.4% or 210 residency decline** in population. It might be helpful to examine the population trends in other communities in Southeast Alaska:

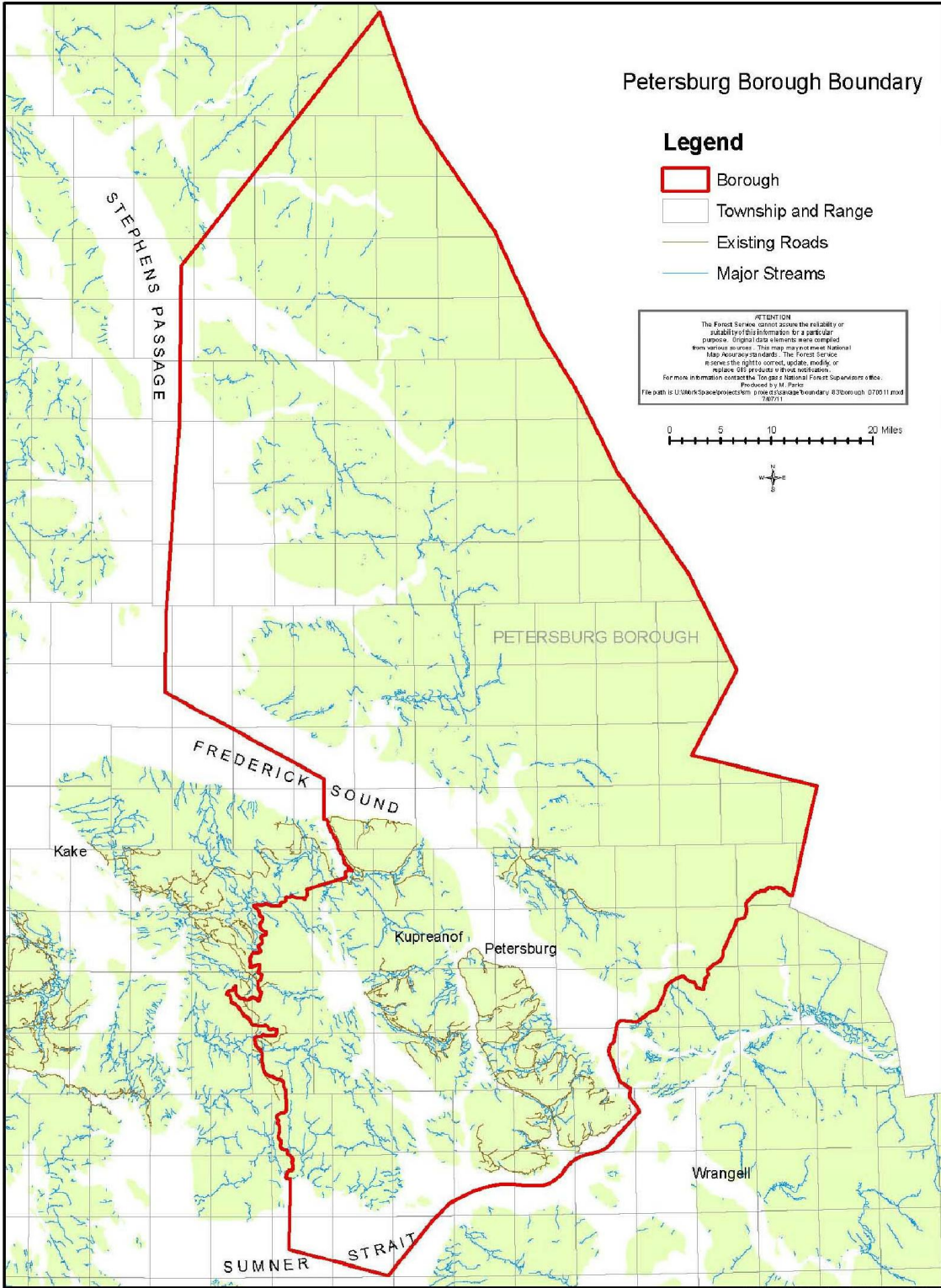
Community	Populations		Differences	%
	2001	2011		
Juneau	30,482	32,290	1,808	5.9%
Ketchikan	8,293	8,142	(151)	(1.8%)
Sitka	8,737	8,985	248	2.8%

Although Juneau and Sitka gained residents between 2001 and 2011 population estimates, there is an opinion that population in Southeast Alaska is shrinking. Consider the January—2012 publication titled “Alaska Economic Trends” by the Alaska Department of Labor and Workforce Development. It states in part, “Southeast’s total population shrank by 1,400 with six of the boroughs and census areas losing residents. The areas’ median age continues to rise, and a big question is whether young replacements will arrive as workers retire and possible relocate, leaving the area’s long-term economic future uncertain. The outlook may seem bleak from a population perspective, but larger communities and villages have found a balance in seasonal employment; low growth; specialization in health care; seafood; marine manufacturing and a stable government base”.

APPENDIX B

MAPS

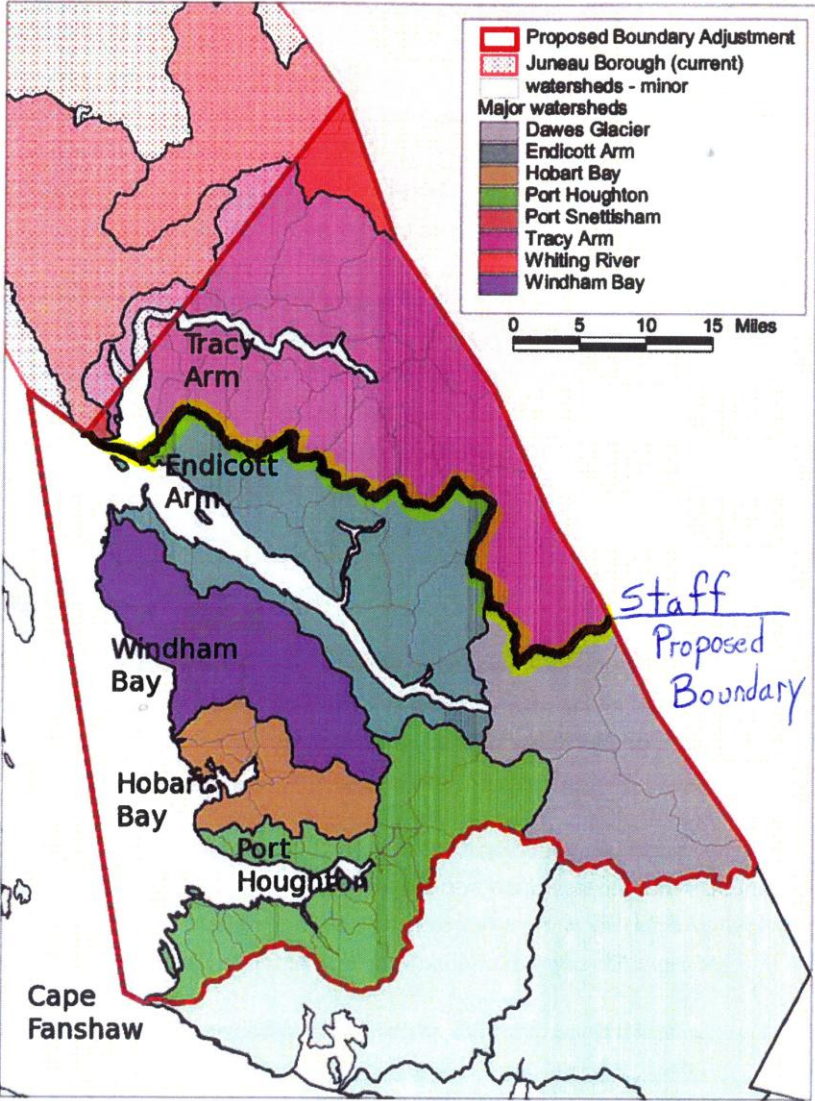
Petersburg Borough Incorporation Petition and Related Materials



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



APPENDIX C

NOTICE

PUBLIC NOTICE

NOTICE 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 has been released. 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.

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](http://commerce.alaska.gov/dca/lbc/2011_Petersburg_Borough_Incorporation/Reports/Petersburg_Borough_Incorporation_Preliminary_Report).

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. Written comments must be received in the office by 4:30 pm on Wednesday, March 28, 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. 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.

APPENDIX D

LIST OF COMMENTERS (Including briefs)

Charlene Anderson
 Don Anderson
 William Cheney
 Susan Christensen
 Mona Christian

 George Cole
 Thomas Cole
 Debra Cole
 Concerned Citizens of the Duncan
 Canal Subdivision
 Al Dwyer
 Althea M. Dybvik
 Susan Flint
 Goldbelt, Incorporated
 Andreas F.
 & Ludmila Grauel
 James M. Greenfield
 John Hoag
 Oliver Hofstad
 Sarah Hofstad
 Anna Holmes
 David Holmes
 Kenneth W. Howard
 Laura J. Howard
 Icicle Seafoods, Incorporated
 Beulah Johnson
 City and Borough of Juneau
 City of Kake
 Kake City School District
 Organized Village of Kake
 Keene Residents Against the Borough

David Kensinger
 Don Koenigs
 City of Kupreanof
 Cindi Lagoudakis
 Pauline S. Lee
 Ron Loesch
 Bob Lynn
 Ione Lynn
 Colyn &
 Carleen Lyons
 Patricia Norheim
 Kathy O'Rear
 Jeremy L Parker & Family
 Petersburg Economic
 Development Council
 Petitioners' Reply Brief
 Kari Petersen
 Jeff Ray
 Janey Reed
 Ron Reed
 Thomas M Reinarts
 Albert L. Shaw
 Dr. Robert Thomason
 Dana Thynes
 Emily Thynes
 Russell Thyness
 Bill Tremblay
 Cathy Villasenor
 Arlene Williams
 Carl & Beverly Williams
 Gary E. Williams