

STATE OF ALASKA

LOCAL BOUNDARY COMMISSION

**In the Matter of the Petition by the City) Petition Accepted
of Hoonah for the Incorporation of the) For Filing on
Xunaa Borough as a Home Rule Borough) November 30, 2023
And Dissolution of the City of Hoonah)**

**STATEMENT OF DISSENT TO
THE LOCAL BOUNDARY COMMISSION’S DENIAL OF MOTIONS FOR
RECONSIDERATION OF ITS DECEMBER 20, 2024, DECISION**

The Local Boundary Commission (“Commission” or “LBC”) conducted a decisional meeting on February 18, 2025, to review, discuss, and decide requests for reconsideration pertaining to its December 20, 2024, decision approving the petition of the City of Hoonah for the incorporation of the Xunaa Borough and for the dissolution of the City of Hoonah. By a majority 3-2 vote, the Commission denied the requests for reconsideration and has filed its written statement explaining major considerations leading to this decision.

Pursuant to the Commission’s Bylaws, commissioners disagreeing with the majority’s vote may submit their dissenting opinion in writing. Accordingly, we respectfully disagree with our colleagues’ majority decision denying reconsideration and further explain our dissenting opinion here. Our differing view was also expressed at LBC’s February 18, 2025, meeting to consider the requests for reconsideration.

First, we agree with the majority's discussion explaining the procedural history of this matter described in its Part I and much of the text in its Part II, Analysis and Discussion. However, as the written decision observes, the LBC commissioners parted ways when it came to determining whether the boundaries and best interests of the state standards for borough formation were satisfied by the City of Hoonah.

Our major considerations explaining why these two standards were not satisfied by the City of Hoonah's petition were expressed in our December 20, 2024, Statement of Dissent to the Decision of the Local Boundary Commission. We reaffirm and fully incorporate our earlier statement into today's dissent. For the reasons we have previously explained, the Commission's best course is to grant reconsideration of its findings related to the boundaries and best interests of the state standards.

We reiterate and summarize reasons supporting our view below:

- To create a borough that is truly regional in character, as evidenced by the model borough, REAA, national forest, voter district, and census area boundaries, the new borough boundaries should not exclude Gustavus, Pelican, and Tenakee Springs.
- The new borough boundaries do not embrace an area and population with common interests to the maximum degree possible. As even noted by petitioner, they are not the optimum boundaries for the region.ⁱ Moreover, a borough that includes all of the Glacier Bay communities is not "impossible."
- The proposed borough does not promote maximum local self-government nor minimize it for the entire area. As our staff's report determined, the petition merely substitutes city for borough government. Boroughs should not be prematurely formed when the expansion of an existing city

could meet the local government needs of the area. Hoonah can achieve maximum local self-governance by adopting a home rule charter for the City of Hoonah rather than incorporating as a borough government.

- Excluding the neighboring communities of Gustavus, Pelican, and Tenakee Springs, which are surrounded by the very waters and lands of the new Xunaa Borough that the petitioner noted are abundant and rich in resources, denies those communities a seat in the new regional government's decision-making regarding those resources and denies them a portion of their collective benefits. In turn, the excluded communities' reliance on state resources for education, law enforcement, and other support may persist well into the future. In short, the new borough's projected revenues and its efficiencies of scale should be shared within the entire region.
- The majority's emphasis upon a more technical view of the meaning of "enclave" in our regulations is certainly worthy of consideration, but it misses a "30,000 foot" view of this issue. That is, the Xunaa Borough creates effective enclaves of Gustavus, Pelican, and Tenakee Springs in that it will be nearly impossible for the isolated communities to form their own boroughs in the future and certainly regional ones. And, joining neighboring boroughs leads to the serious problems described in our staff's report.
- Of course, there is an important distinction between a city and borough. "Allowing a small-population city to become a single-community inappropriately fixes boundaries which may be very difficult to change later. Allowing cities to transform themselves into single-community boroughs also increases costs to the state, through the various minimum entitlements that 'new boroughs' (as opposed to expanding cities) receive [referring to start up grants] * * *. Borough boundaries which extend beyond the area the city might reasonably annex also give the single community increased revenue sharing and fish-taxes [and National Forest receipts] * * *, money which would otherwise go to the state-funded REAA's and to other city school districts."ⁱⁱ

In conclusion, we believe that LBC did not have a reasonable basis to determine that the boundaries and best interests of the state standards for borough incorporation have been minimally met by the City of Hoonah's petition because it excludes nearly half of the population and all of the other

municipalities of the region from the proposed borough's anticipated benefits, revenues, and responsibilities, as well as its efficiencies and opportunities. We cannot find that such an extraordinary precedent supporting this result was established by the Commission's earlier decisions approving single-city boroughs.

However, in pointing out potential frailties in the majority's decision we do not intend to overstate our case. "The majority correctly observes that the courts will defer where they can to Commission decisions that are supported by Alaska law and have a reasonable basis for them."ⁱⁱⁱ

Lastly, we restate an unintended consequence of the majority's decision to approve the incorporation of the Xunaa Borough. That is, the communities and residents of the Glacier Bay region should be strongly motivated to abandon past disagreements regarding borough formation. They could take advantage of a fleeting opportunity during any appeal to work together -- on a level playing field caused by uncertainty of its outcome -- to expend their energies and costs on cooperatively designing and developing a truly regional plan that best serves their common interests.^{iv}

Committed and good faith participation by all concerned in mediation overseen by the appellate court can convert a "pipe dream" into a reality which benefits everyone.

