

## Alaska Boundary Commission

To the commissioners of the Alaska Local Boundary Commission:

I ask that you reject the City of Hoonah's petition to form a new borough. While the petition may appear to meet the standards set forth in the Alaska Administrative Code in many ways, it falls short of meeting the intent of the law. A borough provides regional services and exercises powers on a regional basis. A borough should provide said services and powers to all communities and citizens that reside in the borough boundaries. The petition submitted by the City of Hoonah fails to be inclusive of all within its proposed boundary.

The most striking failure of the City of Hoonah's petition is in its lack of participation by other unincorporated communities that fall within its boundaries. The petitioners may have carved out little holes to exclude every other city that fall within the boundaries but they still exist in the region. A regional government should not serve one community. If the petition had any merit, then other communities in the region would support being part of it. Furthermore, it creates islands of unincorporated communities that are surrounded by other boroughs on all sides. This not only creates problems for those communities to develop the lands and resources that surround them, but it also makes it nearly impossible for these communities to form boroughs in the future. If these proposed boundaries are tactical, in essence forcing them to join a borough that surrounds them, then this is a very undemocratic tactic. Hence, the result is several regional communities fighting to stop the petition.

A major claim of the petitioner is that Hoonah is a regional hub for social and economic activity. They fall short of that claim. They don't provide a ferry service connecting the regional communities. Any Alaska State ferry service is dispatched out of Juneau. There are several private passenger ferries that connect communities with Juneau directly, but not with Hoonah. Alaska Seaplanes connects communities to Juneau, but must be chartered privately for direct service to Hoonah. Alaska Seaplanes delivers mail to all of the regional communities but they do so out of Juneau. Groceries are delivered to the regional communities from Juneau. Fuel and heating oil are delivered to the local communities from Juneau and Ketchikan. Building supplies are shipped out to local communities from Juneau. Hoonah doesn't supply electricity, water, solid waste, or sewage services to any regional community other than themselves. Hoonah doesn't supply telephone service, internet service, or public radio to any of the other communities in the region. Hoonah doesn't have a hospital, so anyone in the surrounding communities that need emergency medical care must travel to Juneau. Being a regional hub should include providing some unique service to the region.

The petitioner isn't providing any real services to anyone outside of the Hoonah Township service area. The petitioner's charter documents will only provide the bare minimum of services as required by law to residents that live outside of the township area. They will impose and collect taxes. They will impose building codes and they will subdivide land. They say they will pay for education but, because they don't include any other regional unincorporated cities, that means they only pay for the education of Hoonah residents. They won't provide EMS services or funding for any other communities that fall within their boundaries. They won't pay for infrastructure upkeep and maintenance outside of the township service area.

They are proposing a new tax on communities outside of the Hoonah Township, even though, as spelled out in the previous paragraphs, they aren't providing any real services to anyone that lives outside the Hoonah service area. The petitioner doesn't say exactly how those taxes will be used to benefit the communities that aren't Hoonah. So anyone that owns a business outside of the Hoonah Township Service Area will pay taxes to benefit the

government of the Hoonah Township Service Area. Paying new taxes and getting no increased services doesn't seem right.

The petitioner is placing an extra burden on the communities that reside outside of the Hoonah Township Service Area. For example, in Elfin Cove, the water system has been built and maintained through a combination of grant funds and donations from local residents and businesses. The same can be said for maintenance and upkeep of other community property. The local, non-profit government work is done on a volunteer basis. Now the community is faced with a tax. Money that used to go directly to the community must now be paid to benefit another community. The burden will make it harder to pay for maintenance. Also, the incorporation of Elfin Cove into a new borough means it will lose community grant funding from the State of Alaska because it will no longer be eligible for those funds. This hardship is not addressed in the petition.

I stand with the City of Pelican and the City of Gustavus in saying that we don't oppose the City of Hoonah forming a borough. We just oppose the formation of the borough as it is laid out in this petition. The City of Hoonah wants to grab the entire region for itself without benefitting anyone in the region but itself. The Alaska Local Boundary Commission should reject their petition in its current form. The commission should let the petitioner know that if they want to be the government for the region, then they should submit a petition that works for all of the communities in the region.

Sincerely,

Tony Magart  
Shearwater Pilot Boat Services, LLC  
PO Box 81, Lot 24  
Elfin Cove, AK. 99825

## Questions and Comments For Public Comment To The Alaska Boundary Commission

Authorship of a new government should take clarity, precision, and intention. These questions and comments are in no particular order and any mistakes and statements are mine. My intention is also not to brook offense on any party or individual. I am curious about this process and glad to be a part of it.

Sincerely,  
Tony Magart  
Registered Elfin Cove voter

### Budget and Finance Concerns

1. When the Xunaa Borough is formed, the Community of Elfin Cove Non-Profit Corporation (CECNPC) will lose it's IRIS SOA CAP money to the tune of \$25,000. The petition doesn't address this lost revenue and doesn't have a plan for replacing it.
2. In Exhibit W, Section C, "the sales tax levied and collected under subsection B of this section shall be appropriated for areawide purposes." However, in the projected budget (Exhibit D), there is no expenditure category for "areawide purposes." The petitioner needs to clarify how funds will be used in their budget.
3. The petitioners left some revenues and expenditures out of their budget. The 1% tax that directly funds the schools is not included in the budget.
4. Additionally, the petitioners argue in Paragraph 3, Subsection 4, Exhibit U, that "A fish-tax fueled Xunaa Borough School District would, we believe, be considerably more financially secure than Gustavus' status quo." However, again their projected budget shows a fish tax revenue that only increases using inflation projections. If the fish tax just stays flat, then funding stays flat. If the petitioner expects to generate more taxes, then they should account for it in their budget.
5. The budget doesn't show the school district revenue and expenditures. It would be fairly straightforward to show federal, state, and local contributions to the district in the revenue column and the cost of operating the district in the expense column. There must be a reason why the budget is incomplete but I don't want to make any assumptions.
6. In Exhibit D, the petitioners use a confusing metric to arrive at a sales tax estimate for Elfin Cove. In the "Notes on Proposed Xunaa Borough Budget," paragraph 2, subsection 3, they write "There are no sales tax figures available for Elfin Cove. In consultation with the Alaska State Assessor, Exhibit D begins the estimate of Elfin

Cove sales taxes by taking the 'Tax Base Per Capita' from the neighboring city of Pelican (which does assess a sales tax) for the most recent pre-Covid Year. *Alaska Taxable 2020* at 19 (\$19,412). That number is then multiplied by 80% (see above), by Elfin Cove's population (24) and then by 1% to yield projected 2026 tax revenues of \$3,727.10. Is this the number they are using in their projected budget? Is it absorbed into the row 1% Seasonal Sales Tax - May to October, Column 4 of Exhibit D? If they were going to simplify things, why didn't they just take the Pelican sales tax total from *Alaska Taxable 2020* of \$53,578 and divide it by residents (69) and come to the figure of \$776.50 and then multiply that number by the listed Elfin Cove number of residents (24) and arrive at \$18,636. I used their math and plugged in the City of Hoonah numbers  $931 \times .80 = 745$ .  $745 \times \$19412 = \$14,461,940$ .  $\$14,461,940 \times .01 = \$144,619.40$ . According to *Alaska Taxable 2020*, their reported sales tax revenue was actually \$2,265,582. (Hoonah population is listed as 782 in the *Alaska Taxable 2020* report). Is it possible to get a better estimate than the one in Exhibit D? The petitioner's budget is not complete. I don't know how the boundary commission can just look at this budget and have any confidence that the petitioner's projections are accurate.

7. According to *Alaska Taxable 2020*, their reported sales tax revenue was \$2,265,582. In *Alaska Taxable 2022*, their sales tax numbers are only \$1,005,185. How could their sales tax numbers be so much higher during covid than they were during a full cruise ship season in which they had 500,000 tourists visit?
8. With just a rough estimate, the businesses of Elfin Cove gross over \$5 million dollars in sales. The petitioners project only roughly \$372,000 in gross sales. Are the petitioners hiding the amount of revenue they project to receive from Elfin Cove from the boundary commission? It is because it turns out to be a significant amount of money that they will in turn have to provide zero services for.
9. Will the Xunaa Borough tax Elfin Cove's fuel dock sales? The fuel dock is owned by the community non-profit.
10. Same question for the Elfin Cove Utility Commission sales?
11. Same question for the Cross Sound Marketing Association's Elfin Cove General Store sales?
12. Exhibit D, Year 2 Youth Sales Tax, becomes seasonal between May 1 and October 31. However, in Exhibit W, the seasonal sales tax is only collected between May 1 and September 30. Is there a reason for the discrepancy or does it point to an incomplete and sloppy petition.
13. Is the City of Hoonah currently collecting any tax revenue from any or all tourism activities at Icy Strait Point? At what tax rate? Is Icy Strait Point inside or outside the proposed service area? According to their boundary maps, ISP is located inside

the City Of Hoonah. Does the ISP operation dodge sales tax because the funds generated are paid to The Huna Totem Corporation? I ask these questions because the petitioner's budget is incomplete. The budget is a placeholder to a real budget document. I don't see how the commission can approve to move forward with such a weak budget proposal.

14. If the petition's budget is deemed incomplete or if the petitioner's budget calculations or estimations are deemed to be vague, inaccurate, or misleading, is this enough evidence to compel the commission to reject the petition? Under Exhibit I, Section 9.03, Subsection A, it reads "Complete Financial Plan. The budget shall be a complete financial plan for all the operations of the borough, showing all reserves, all estimated revenues from all sources, all proposed expenditures for all purposes." Exhibit I, Section 9.03, Subsection B reads "Form. The budget shall contain at least the following: 1. A comparative statement of actual expenditures and actual revenues for the preceding fiscal year. 2. Estimated expenditures and estimated revenues for the current fiscal year." The petition's budget should achieve the same standard as set forth in its charter. It does not even come close to meeting this standard. When I submitted a business plan to banks when I formed my business, I submitted a proposed budget that far exceeds what the petitioner is proposing to the state to form an entire new government! I know for a fact that if I took the budget that has been submitted to a bank it would be returned as incomplete. The boundary commission should look no further than Exhibit D to determine that the petition, in its current form, should be rejected.
15. Exhibit I, Section 16.10, Budget, The borough assembly shouldn't need to modify the budget of the proposed borough during the fiscal year in which the Assumption Date occurs unless it is incomplete or incapable of meeting the needs of the borough in its current form.
16. The new 1% seasonal sales tax will make it harder for rural communities and rural residents to pay for their existing infrastructure maintenance and improvements.

#### Standards Concerns

17. 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.
18. 3 AAC 110.045 Community of interests, "In determining whether communications and exchange patterns are sufficient, the commission may consider [regularity of schedule transportation, and whether the communications and exchange patterns will adequately facilitate

interrelationships and integration of the people in the proposed borough].”

There are no public ferries and no scheduled flights that connect Hoonah and Elfin Cove. There is also no communication pattern between the existing local governments. This insufficiency of interrelations creates a problem for borough formation. Furthermore, travel by boat is often very dangerous and is always expensive. To get there by boat one first has to travel through Inian pass, the second most dangerous in Alaska. Then they must travel 35 miles through Icy Straits, home to dangerous currents and dramatic winds. To fly from Elfin Cove to Hoonah, one must first fly to Juneau. As of Jan 21, 2024, a round trip ticket costs \$861 per adult. To travel from Elfin Cove to Hoonah by Alaska State Ferry, one must first fly to Juneau and then board the ferry there.

19. Furthermore, “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. The public notice of filing was placed, for review, at two locations in the City of Hoonah. This is one example of Hoonah not providing the level of communications necessary to develop an integrated government.
20. In Exhibit F, Section 9.0 the petitioner lays out the steps they took to reach out to the communities that will be most affected by a new borough. There was no one from Elfin Cove on the initial task force in 2017. There was no one to represent Elfin Cove on the Borough Formation Commission in 2019.
21. Elfin Cove joins Pelican in the fact that Juneau is our regional hub, not Hoonah. Our fuel is brought out from Juneau. Our groceries come from Juneau. Our phone service comes from Juneau. We have private seasonal ferry’s running from Elfin Cove to Juneau at least 4 days a week. Alaska Seaplanes is dispatched out of Juneau. Alaska Seaplanes brings mail and freight from the Post Office in Juneau to the Post Office in Elfin Cove. Our Fish buying station is owned by Alaska Glacier Seafoods and the fish delivered there are transported to Juneau.
22. Will new voting precincts be created by the Alaska Division of Elections?
23. Are only registered voters considered residents? There are certainly more residents, albeit seasonal ones, who form the Community of Elfin Cove. Certainly Hoonah doesn’t only claim registered voters as its residents. There are upwards of 100 seasonal residents in Elfin Cove.

24. If Elfin Cove were to form a home rule city before the ratification of the petition, could it join with Tenakee Springs, Pelican, and Gustavus and opt out of the Xunaa Borough?
25. Hoonah chose not to include any community that had its own school in its borough. If all of the communities in the region were interrelated, they would all be clamoring to band together in a unified regional government. In fact this proposed borough would further divide the region and make it less interrelated. If the borough as proposed were such a great idea for the region, then there wouldn't be such strong opposition to it.
26. In Exhibit F, Section 1, Subsection D, nominations for initial borough office shall be made by petition signed by at least (50) registered voters. This is to satisfy Alaska Statutes Title 29 Sec 29.05.120, Election of initial officials. In subsection B, it says that a nomination must include the signature and resident address of 50 voters in the area of the proposed municipality. In Article V of Exhibit I, Section 5.01 General Requirements, Subsection E, the charter only requires 25 signatures by qualified voters of the borough. In Exhibit F, Section 16, the petitioners claim that the 7 assembly members will be elected at large; therefore there are no issues of apportionment or overrepresentation of a district. How can this be true of those new residents who find themselves outside of the Xunaa service area? A nominee from Elfin Cove would very likely have to gather a signature from every registered voter in Elfin Cove, and then incur the cost of travel to the Xunaa service area and face the daunting task of gathering 26 signatures from strangers with different values who are most likely to vote for nominees who reside in the service area. Why would anyone who lives in a service area want an outsider to be on the board? Would a resident of Hoonah run for office in Elfin Cove if they had to gather the signature of every registered voter in the Elfin Cove? It would be nearly impossible. The truth of the matter is that Xunaa township service area members will dominate the board, leaving those who reside outside of the township unrepresented. The Xunaa Borough creates a gerrymandered voting district and their Charter and transition plan leaves Elfin Cove on the outside looking in.
27. Exhibit I, Section 11.02, One Percent Seasonal Areawide Sales Tax, Subsection E again states that proceeds from the areawide seasonal sales tax shall be appropriated for areawide functions. Where in the petition does it define this term "areawide functions" or give any example of how this money might be used. Would they return it to the communities from which it is taken? Without a voice on the assembly, it is taxation without representation.

28. Exhibit I, Section 15.11, Community Participation, Who are the “non-voting representatives,” how will they be chosen, and by what means will the assembly convey them to assembly meetings?
29. In Exhibit I, Section 2.07 Compensation, “The assembly, by ordinance, shall provide for compensation of assembly members.” The petitioner hasn’t provided the details of this ordinance in the petition. How can people vote to incorporate without voting for a blank check for assembly members?
30. According to 3 AAC 110.060, The commission must presume that the petition doesn’t include all land and water necessary to allow for the full development of essential municipal services on an efficient, cost-effective level.
31. If annexation compels the Community of Elfin Cove Non Profit Corporation Community Association to petition the state to form a recognized local municipality government, does that do the opposite of promoting “a minimum number of local government units, as determined under 3 AAC 110.982 and in accordance with Article X, Section 1 of the Alaska Constitution.
32. If the Xunaa Borough creates enclaves such as Gustavus and Pelican and Tenakee Springs, will it create a hardship for further or new borough formation as these communities will not share a physical boundary with a new borough? Will it force these communities into organized boroughs of which, up until now, have not made a case for their annexation?
33. The petitioners are claiming that they can provide better local government for Elfin Cove according to 3 AAC 110.981 Section 11 Sub B without showing us how.

Other concerns:

34. Will the docks, pilings, floats, ramps, grid, and support structures that make up Elfin Cove’s harbors, which at this moment are owned, maintained, and managed by the Alaska DOT, become borough property? If there is a change in government, would it compel the state to give ownership to the new entity? I don’t think the State of Alaska can give Elfin Cove ownership of the harbor because we aren’t a city. Will Xunaa charge moorage and appoint a harbormaster? Can the Alaska DOT weigh in?
35. Would the Xunaa Borough entertain the idea of setting aside 1 assembly seat for a resident who lives outside of the Xunaa service area so that rural residents have a voice in the borough government? This is the only way that rural residents will have any voice in the local government.
36. Would the petitioners allow for Elfin Cove to form a service area that encompasses all of its current properties and assets? After all, the petitioner isn’t going to provide



EMS services to Elfin Cove. They aren't going to provide any utilities. They aren't going to pay for schools. They will tax us to pay for those services in the Hoonah Township, though.

37. Elfin Cove has its own voluntary EMS services. There is a small medical room with basic first aid equipment, and some fire pumps and other fire fighting equipment. When one of the lodges burned and threatened to consume more of the town, two regional communities responded. Pelican and Gustavus. If someone needs medical attention outside of basic first aid, they go to Juneau, not Hoonah.
38. Has the Local Boundary Commission ever been sued for changing or amending a petition?

3 AAC 110 65  
Best Interest of State

Constitution of State of Alaska  
Article X Sec 1

Purpose of this article is to provide for a maximum local self-government with a minimum of local government units...  
and a liberal construction shall be given to the powers of local government units.

Article X Sec 6

The Legislature shall provide services as it deems necessary or advisable in the unorganized borough, allowing for maximum local participation and responsibility.

The Constitution firmly endorses local government in Article X Sec 1 and 6. Community associations were created under Alaska Statute in order for villages, towns, areas of population outside of an organized borough, would have access to State monies that the oil wealth generated to the State. In 1981 Elfin Cove filed Articles of Incorporation, created a set of By-Laws and paid a filing fee to form the Community of Elfin Cove Non-Profit Corporation (CECNPC) as a community association. As a non-profit CECNPC is tax exempt as all money received through revenue sharing grants, state or federal grants or loans awarded are spent on community services. Though lacking taxation, zoning and planning powers, other Alaskan community associations such as CECNPC have also been able to develop, improve and maintain their communities.

Through necessity, CECNPC successfully has assumed the responsibilities of local government and even services often provided by the private sector. Through the use of legislative grants, revenue sharing grants, and other state grants and loan programs, CECNPC has developed, improved and maintained the community access to fuel, electricity, safe water, emergency medical services, U.S. Postal Service, an indoor recreation area, meeting and record keeping rooms, a repository of the community's past in The Elfin Cove Museum, and a continuing effort to secure alternative energy as hydropower.

A legislative grant provided for a reconnaissance level alternative energy study compiled in the early 1980's. Additional grants since financed a hydro electric project application which was submitted to FERC in 2021 and was approved 1/26/24. Grants paid for the area-wide electrical distribution system and diesel generator house and generators that were not in place and needed to be prior to a hydro system construction. The entity Elfin Cove Utility Commission (ECUC) was formed under the regulatory commission to sell electricity. ECUC employs two people.

Grants paid for the land and construction of a Community Building. The building leases space to the United States Postal Service for the local post office. A lease for school space with the REAA Chatham School District was also in place during the years 1984 to 1998. There is a medical room that volunteers have maintained through various EMS

grants. Also in this building are a local museum, multi-purpose room, a kitchen, a meeting room, two offices and two restrooms. The building is operated and maintained by volunteers.

When the private owner of the fuel facility and marine fuel dock went out of business, ECNPC used grants to buy the tank yard and pipelines to the dock. In 1995 an EPA inspection condemned the fuel tanks. A no interest 30 year loan was procured by CECNPC from the State for new tanks, fuel lines and dock upgrades. That loan has continued to be repaid on time annually. The tidelands under the fuel dock were bought as part of the sale of the property of the land under the community building and generator house. CECNPC also leases dock space adjacent to its fuel dock to a seasonal commercial fish buyer. The fuel dock employs a manager, a fuel dock attendant and a bookkeeper.

Grants, one Revenue Sharing and one Village Safe Water were used to improve the Cove's drinking water supply. This includes two spring boxes, a water tank and distribution lines to every residence and two public docks in Elfin Cove. The water is certified by DEC and water tests are routinely submitted for lab analysis. There is no charge for the water and volunteers perform testing duties and maintenance. Donations from users are received and used for upkeep and maintenance. There is no paid water operator. Volunteers perform any tasks required.

There have been many government to government interactions since 1981. Some examples of interactions are CECNPC with State of Alaska DOT concerning boardwalks and docks, CECNPC with USFS concerning various forest management programs, CECNPC with US Army Corp Engineers concerning harbor dredging projects and CECNPC leasing community building space to the USPS for a post office and NOAA for a tide gauge station. CECNPC was awarded over \$500,000 by the federal government for compensation when the feds closed down Glacier Bay. CECNPC voted to give half of the funds to a local non-profit, Cross Sound Marketing Association (CSMA), to buy upland and waterfront property and buildings. CSMA concentrated on marketing local caught fish, operating a store, liquor store, laundromat, rental units and providing dock space. CSMA's endeavours benefit the commercial fishing fleet and others and that helps keep the local economy diversified.

A volunteer fire department is in existence. There is a fire department building owned by CECNPC which houses the fire fighting equipment. We also shovel and plow snow to keep the State boardwalks walkable and State public floats from sinking and taking private boats down with them.

CECNPC has been very successful in establishing, developing, and maintaining all the services necessary to support rich social, economic, and family life. These efforts include maintaining and repairing State of Alaska owned systems that the State has ignored for many years. It is hard to believe that should a Xunna borough be formed that includes Elfin Cove that they would be sending maintenance people over to repair a

collapsed boardwalk plank or a broken dock piling bracket on their now owned State property. We have been successfully self-sufficient and desire to continue.

The preceding duties and responsibilities of CECNPC are not all inclusive as some things may have been unintentionally overlooked.

3 AAC 110.981

"Commission will consider for merger or consolidation of municipalities, whether the proposal would expand or diminish the level of local government currently provided by the municipalities being merged or consolidated."

Including Elfin Cove in the Xunna borough would definitely diminish the existing level of local government. CECNPC can now make decisions at local meetings attended by members and take action accordingly. This ability to manage our affairs would be diminished under Borough management. Management would shift to the Borough assembly located in Hoonah. The overlay of Borough government would eliminate local government, CECNPC, and could quite possibly curtail any desire of Elfin Cove citizens to engage in active participation with the Xunna Borough.

We also feel insecure about what a distant Xunna borough would do when it acquires the three parcels of State land adjacent to our townsite, USS 12199 Lots 1,2 and 3. It could develop and establish businesses or enterprises that our existing infrastructure could not support and destroy the balance of responsibility and effort we employ as volunteers to keep our community vital and viable.

Elfin Cove, organized as a community association, should as the Constitution and laws stipulate, receive full consideration as any other Alaskan municipality in terms of being recognized as a local governmental entity.

Boundaries

3 ACC 110.060 (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 development of essential municipal services on an efficient, cost-effective level."

CECNPC has addressed numerous LBC standards which present a " ...specific and persuasive showing to the contrary... ". 3 ACC 110.060 (d) stipulates consideration as to why the LBC should consider leaving Elfin Cove in the unorganized borough. There is more unorganized borough land in SE Alaska than organized borough land. In fact in all of Alaska the unorganized borough occupies more land than boroughs. Allowing Elfin Cove to remain in the unorganized borough is just a matter of the size of exclusion designated.

The incorporated communities of Tenakee, Pelican, and Gustavus were asked by Hoonah and have told Hoonah they don't want to be included in the Xunna Borough. Hoonah has excluded them within their proposed Xunna borough boundary. Elfin Cove was never asked, not by Hoonah's 2018-18 outreach nor in a letter sent to CECNPC in 2022. CECNPC does not want to be included in the Xunna Borough. CECNPC requests that LBC adjust such, as per their authority granted by the Constitution, Article X Sec 12, any potential Xunna borough boundary will not include Elfin Cove.