

HB

273

Minimum and Optional Local Government Services

Services	<u>Boroughs</u>				<u>Cities</u>	
	1st Class	2nd Class	3rd Class	Unorganized	1st Class	2nd Class
<u>Minimum</u>						
1. Assessment & Collection of Taxes						
-Authority	AS 29.33.030	AS 29.33.030	AS 29.41.010	—	—	—
-Mechanism	AS 29.53	AS 29.53	AS 29.53	—	—	—
2. Education						
-Authority	AS 29.33.050	AS 29.33.050	AS 29.41.010	AS 14.08	AS 29.43.030 <sup>1</sup>	—
-Mechanism	AS 14.14.060	AS 14.14.060	AS 14.14.060	AS 14.08	AS 14.14.065	—
3. Planning, Platting & Zoning						
-Authority	AS 29.33.070	AS 29.33.070	AS 38.05.037 AS 40.15.075	AS 38.05.037 AS 40.15.075	AS 29.43.040 <sup>1</sup>	—
-Mechanism	AS 29.33.070-245	AS 29.33.070-245	AS 38.05.037 AS 29.33.210-240	AS 38.05.037 AS 29.33.210-240	AS 29.33.070-245	—
<u>Optional</u>						
1. General	AS 29.48	AS 29.48	2	—	AS 29.48	AS 29.48
2. Areawide						
-Authority	AS 29.33.250	AS 29.33.250	—	—	—	—
-Mechanism	local election AS 29.33.270-290	local election AS 29.33.270-290	—	—	—	—
3. Nonareawide						
-Authority	AS 29.38.010	AS 29.38.020 AS 29.48.020	—	—	—	—
-Mechanism	ordinance <sup>3</sup> AS 29.38.010	local election AS 29.38.020-050	—	—	—	—
4. Service area						
-Authority	AS 29.63.090	AS 29.63.090	2	AS 29.03.020	—	—
-Mechanism	ordinance AS 29.63.090	local election AS 29.63.090	2	—	—	—

1. In the unorganized borough only.

2. See the January 6, 1977 Attorney General's opinion and January 26, 1977 Legal Services Division opinion.

3. Some statutory ambiguity.

→ need for planning depends on density  
→ does he agree how is ambiguous?

Finance -

~~Salary -~~



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Friday, February 11, 1977

# Borough powers: for education only?

by Bill Hartmann

A large public turnout packed the main school band room last Tuesday night during a special Borough meeting called to discuss what should be done concerning the new State attorney general's opinion concerning third class borough powers.

What the attorney general's opinion said was that the powers of a third class borough are limited to ONLY education. No service districts, or no powers of planning, zoning or platting may be exercised. This was in direct contradiction to an earlier attorney general's opinion, and went against what many in the Haines Borough understood as being the powers of the third class borough, of which Haines is the only one in the State.

At the invitation of the Borough Assembly, Jesse Dodson, special assistant to the governor, and Bruce Aronson of the Department of Community and Regional Affairs were in Haines to discuss the matter and what action Haines Borough officials should take.

The major problems that the attorney general's opinion poses for the Haines Borough is the withholding of some revenue sharing funds and the forbidding of any possibility of the Borough establishing fire service districts outside the City limits.

It was Mrs. Dodson's opinion that if the area needed more powers, it would have to form another form of government. This advice sparked a heated round of questions asking if, in effect, the State was trying to force Haines to form a second class borough. Although this was emphatically denied by the State officials, it was presented as one alternate solution to the present conflict.

It was pointed out by Mayor Gail Wallace that the City is acting illegally by extending fire services outside the City, and that this problem could have disastrous effects at any time. Fire Chief Frank Wallace stated that the department had a test run to enable people outside the City to obtain better insurance rates, but they are now told that these people must be within a service area to qualify.

Some people felt the best answer was to opt for forming a second class borough, the only additional mandatory powers being those of planning, plotting and zoning. This would also permit the borough to form any necessary service areas without problem. Only those residents in the area would be taxed for the added services. The major objection to the second class borough expressed by public comment was not wanting planning

or zoning outside the City. However, it was pointed out that the State could come in and plan and zone the borough if it wanted to, because any powers not granted to a borough automatically rest with the State. The State would then plan and zone the area and the area would pay for it eventually in some form.

Several more alternatives were discussed. One was to ask the legislature to pass a bill clarifying the powers of the third class borough. Another was to ask the legislature to initiate a class-action suit to determine: a) if the third class borough is legal, and, b) if the attorney general's opinion on borough powers is correct. Still further, the local borough could exercise the questioned powers and take the State to court if challenged.

Although no definitive action was taken at the meeting, the borough assembly will investigate questions raised at the meeting and then call another public meeting later. The Tuesday night meeting was ably chaired by Borough Mayor David Black, who along with other members of the Assembly and City made up the panel. The others, in addition to Dodson and Aronson were Mayor Gail Wallace, City Administrator Dan Bockhorst, Councilmen Harold Hannon and Jon Halliwill, and Borough Assembly members Pat Jones, Erwin Hartz and Paul Swift.

# HELP!

OVERALL ECONOMIC DEVELOPMENT COMMITTEE  
CITY OF HAINES  
Drawer D, Haines, Ak.  
99827

*House*

Mar. 4, 1977

The Hon. Mike Miller  
Majority Leader  
State Legislature  
Pouch Y  
Juneau, Alaska 99811

Dear Mike:

There has been a number of hearings regarding the 3rd Class Borough, the last of which had a good representation of the City and the outlying area. It was clear that the problems of a third class borough can only be corrected by having the Legislature take action to take the 3rd Class Borough Act off the books.

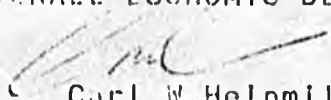
David Black, Borough Chairman gave me a copy of your Mar. 2nd letter with the copy of House Bill No. 273. I seriously question par. (b) as being legal. While service areas would be able to exercise the powers of 2nd Class borough, as stated in the proposed bill, I could see such a hodgepodge of problems that would be unbelievable. Example: Service area A has zoning and planning, adjoining service area B, does not. The unplanned area could be a mishmash of shacks, trailers, no sewers etc. and effect the development of the adjoining area.

The Haines Chamber of Commerce went on record at the last meeting to ask the Legislature to dissolve the Third Class Borough statute and require the 3rd Class borough to come a 2nd Class Borough. OR, have an election to determine whether the electorate desires to be 2nd, 1st or unified.

The State has caused a Frankenstein with the 3rd Class Borough and the sooner they do away with it, the better it will be. Then, these areas which are getting a free ride will have to pay taxes like the rest of us. The Legislature put us in this spot, it is up to them to get us out of it.

Best regards,

OVERALL ECONOMIC DEVELOPMENT COMMITTEE

  
Carl W. Holmiller  
Ex. Sec.

CWH/p  
CC: Boro  
City  
Haines C of C

MEMORANDUM

January 26, 1977

SUBJECT: Third Class Boroughs - Work Order #3146

TO: Representative Charles H. Parr

FROM: Billy G. Berrier  
Director, Legal Services Division

You have asked whether third class boroughs may exercise powers other than the areawide powers of education and tax assessment and collection. The statute on third class boroughs is ambiguous in this regard.

Third class boroughs were authorized by Ch. 156, SLA 1968. The relevant sections are AS 07.17.020 and the second sentence of AS 07.17.010. No change has been made in these sections except the second sentence of AS 07.17.010 became the second sentence of AS 29.41.010 in the revised municipal code adopted in 1972 and the phrase "and if" which appeared in that sentence was omitted as redundant. In my opinion this is only a matter of organization of material and has no effect on the legal meaning. This opinion was shared by the free conference committee on the revised municipal code where the changes were made. The committee report which the free conference meeting adopted stated on page 7 "Third class borough powers are unchanged." (Supplemental Report to Free Conference Committee Report on SCS CSHB 208 am S and CSHB 208 am (Revised Municipal Code) June 16, 1972.) The relevant present statute is AS 29.41.010(a) and (b). A copy of the 1972 Act, all amendments since that date that relate to this, the present law, and the material parts of the committee report are attached.

Since the 1968 Act adopted the provisions in question and these provisions have been unchanged since it is to that Act we must look if the meaning is ambiguous. It seems reasonably clear that the third class borough may not exercise areawide powers other than those enumerated. The limitation to the two named powers seems apparent when the bill is read in the context of the law existing at that time under which provision for three "mandatory" areawide powers and detailed means of arguing other areawide powers existed.

Representative Charles H. Parr  
January 26, 1977  
Page #2

A distinct ambiguity is created by AS 07.17.020(b) relating to service areas. This term by 1968 had acquired a firm usage under the constitution and statute. (Sec. 5, art. X, Alaska Constitution). It refers to an area less than the whole area of the borough in which different and additional services are provided with power to tax within the area served only to pay for this service. No powers, other than the two areawide powers, have ever expressly been granted to third class boroughs. Service areas are an inappropriate device to utilize areawide powers. The sharp distinction between services performed on a service area basis or on a nonareawide basis (this is in the entire borough area outside cities) was clearly recognized early and was underscored by the provision that once a borough exercised an areawide power no city within the borough could exercise that power. (This was provided by AS 07.15.310 then and now is law as AS 29.33.010.) The differences were so clearly apparent in the law (as they still are) between areawide power and service area power that a claim that service area formation was considered necessary or useful in exercising areawide power strains creditability.

However, the service area is merely a device for providing services otherwise authorized to an area lesser in extent than the whole borough and having those services financed by the area served. The essential purpose is to eliminate the general rule in municipal law that taxes must be uniform throughout the municipality.

Following the usual rule of statutory construction that all parts of the law are presumed to have some effect, at least two creditable interpretations of the addition of the power to form service areas by a third class borough with no grant of powers exercisable on a service area basis are possible.

One is to interpret the second sentence of AS 07.17.010 (now in AS 29.41.010(a)) which provides:

"Provisions of law relating to first and second class organized boroughs apply with respect to third class boroughs only if and to the extent they are consistent with this chapter."

as a grant to the third class boroughs of all powers, other than areawide powers, that could then or in the future be exercised by first or second class boroughs. This stretches the language of what on its face appears to be a procedural provision very considerably.

Representative Charles H. Parr  
January 26;,1977  
Page #3

In my opinion a more plausible interpretation of the intent in allowing creation of service areas is to be found when section 2, article X of the constitution is considered. That section provides:

"All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only."

A substantial effect of this provision was the abolition of the prestatehood independent school districts. The primary characteristic of the independent school district was that it possessed the power of education and of taxation and assessment over the entire area of the district. There is a slight distinction between the third class borough powers and that of the independent school district since the borough exercises its areawide power independent of the cities within it while the school district did not have this full independence of cities. This slight distinction may be and probably is, sufficient to avoid the constitutional mandate but it at best leaves an insecure constitutional foundation for a municipal government.

An obvious answer is to differentiate the structure. A reasonable way to do that is to create a mechanism by which the third class borough could exercise powers in addition to those granted but to reserve the actual grant of additional powers for consideration at a later date. The 1968 Act accomplished this.

Research has disclosed nothing materially helpful in determining intent of the legislature in 1968. Statements by legislators of what they understood the intent to be are not admissible as proof of the intent of the legislature. I find no committee reports on this point and the rejection of an amendment (one of a series) offered on the floor of the house to add new language reading:

"except third class boroughs may not exercise additional areawide powers or powers in the area outside cities only." (House Journal 1968, page 808)

can be explained in too many ways to be helpful.

My conclusion is that the questions cannot be answered with that degree of certainty necessary. None of the suggested interpretations are in my opinion compelling although the argument that the service area is only a mechanism to exercise powers if additional powers are granted in the future and that no additional powers were granted by the 1968 Act appears more solidly based than the others.

EGB:smh

Enclosures

HB 273 -

shd. have had AG's opinions  
" " " Chensworth  
" " " LAA opinion

Dick Brown, Fairbanks

3<sup>rd</sup> class Boro Com. Chair -

4000 signatures for 3<sup>rd</sup> class Boro in Fbks.  
Zoning ords. gave rise to effort.

Jensen Co RA told them 3<sup>rd</sup> class Boro  
do not have ~~5~~ serv. area powers.

*Copies for members files*

Box 1166  
Fairbanks, Alaska  
March 11, 1977

Community & Regional Affairs Committee  
Lisa Rudd, Chairman  
Pouch V  
Juneau, Alaska 99801

Re: HB 273

Dear Representative Rudd:

The Third Class Borough Committee met on March 7, 1977 to consider HB 273 and resolved that they are in favor of the bill as written. My views, along with the views of other persons at the meeting, differed from that of the Third Class Borough Committee. Therefore, I will state my view of the bill as written and propose amendment thereto.

The original purpose of the proposed legislation was to clarify the law as already written with respect to powers of third class boroughs. The committee should look to this purpose as a guide in evaluating and amending HB 273. For this reason I am enclosing a letter addressed to myself from Daniel T. Saluri, an attorney at Fairbanks, dated February 3, 1977, and entitled Powers of Third Class Boroughs. The new legislation should not substantially alter the powers of third class boroughs, but rather should clarify those powers and supplement existing legislation with provisions providing for a smooth transition from second to third class status.

7.  
Enclosed please find a copy of HB 273 amended by me in such a way as to clarify existing third class borough powers and providing for an orderly transition from second to third class status. The second sentence of Subpart (a) of HB 273 should be deleted as it substantially limits the exercise of areawide borough powers, which third class boroughs presently have authority to exercise. Subsection (b) of AS 29.51.010 need not be amended. As amended by HB 273, service areas could not be established by voter petition and election. Again, HB 273 would substantially change the law rather than clarify existing law. I have added Subsection "(e)" for clarification purposes only. I believe that Subsection (b) as written makes provision for establishment of service areas in the manner provided for second class boroughs.

Community & Regional Affairs Committee  
Lisa Rudd, Chairman  
Page Two

March 11, 1977

There exists almost no legislation about transition from second class to third class status. AS 29.33.290 (c) provides that the new third class borough will succeed to the debts and obligations of the present borough and that the third class borough could levy and collect special charges or taxes for the purpose of continuing the same services in the new borough. That subsection also provides for "consultation" between the old and new boroughs for purposes of arranging an orderly and equitable transfer of power from the old to the new borough, including the transfer of existing services.

Transition would be facilitated by legislation allowing the new borough to continue to exercise powers exercised by the old borough at time of reclassification for a stated period of time, during which time the new borough would hold public hearings so that the people living in various areas of the borough could be given an opportunity to approve the continuation of these services on a service area basis. Elections could then be held by service area for approval of various borough services to be provided in each area. In this manner an immediate lack of services borough wide upon reclassification would be avoided and all areas of the borough would have the opportunity of continuing to receive services on an uninterrupted basis. This appears to be the general intent of AS 29.33.290.

I hope that these comments will be of some assistance to your committee.

Very truly yours,



WOLFGANG FALKE

DTS:nw

cc: Committee Members

Fairbanks Caucus Members

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February 3, 1977

File No. F-2766-9-1

Wolfgang J. Falke  
918 7th Avenue  
Fairbanks, Alaska

Re: Powers of a Third Class Borough

Dear Mr. Falke:

Alaska law, Title 29, provides for classification of general law municipalities into five classes: First, Second, and Third Class Boroughs and First and Second Class Cities. AS 29.08.030. Provision is made for reclassification of a Second Class Borough to Third Class Borough and for the election of an assembly, "to serve as the combined assembly and school board of the Third Class Borough if reclassification is approved." AS 29.08.040(h).

The powers of a Third Class Borough are all those powers granted to general law municipalities under Title 29 and not limited by the special provisions therein specifically relating to powers of Third Class Boroughs. A Third Class Borough is a "municipality" by definition, §AS 29.78.10(8) and may exercise those powers applicable to all municipalities as provided by Chapter 48 of Title 29. This grant includes the exercise of whatever powers may be necessary to provide for enumerated public facilities and services, including sewers and sewage treatment facilities, flood control facilities, police protection, water and power utilities, transportation systems, libraries, recreation facilities, airport facilities, garbage and solid waste collection and disposal, and fire protection. AS 29.48.030.

Chapter 41 specially provides for the powers of Third Class Boroughs. It is provided that, with respect to education and tax assessment, those powers shall be exercised on an area-wide basis by a Third Class Borough in the same manner as provided for a Second Class Borough. The exercise of these two available powers is mandatory. AS 29.33.050 provides that each

Wolfgang J. Falke  
February 3, 1977  
Page 2

first and second class borough constitutes a borough school district and establishes, maintains and operates a system of public schools on an area-wide basis. AS 29.33.030 and 29.53.010 provide for the levy of area-wide property tax by general law boroughs, regardless of their class. A general law borough includes a Third Class Borough. The third area-wide power provided for under Chapter 33 is zoning. AS 29.33.070. Only First and Second Class Boroughs are granted the zoning power under this Section. Only First and Second Class boroughs may acquire additional area-wide municipal powers. AS 29.33.250. | ?

The 1968 opinion of the Attorney General was that a Third Class Borough had only the area-wide powers of education and taxation in that only these two powers are referred to by Chapter 17 (now Chapter 41) and therefore the other general area-wide power, that of zoning, expressed by Chapter 15 (now Chapter 33) does not apply. That opinion held that the Third Class Borough had power to exercise non area-wide powers to the extent they are consistent with Chapter 17 (now Chapter 41), the Chapter providing that: "Provisions of law relative to First and Second Class Organized Boroughs apply with respect to Third Class Boroughs only to the extent they are consistent with this Chapter".

The area-wide power of zoning is not specifically denied by Chapter 41; however, it is not specifically designated. The Attorney General's opinion of 1968 therefore chose to conclude that Third Class Boroughs do not have zoning powers. The 1968 opinion does not cite or refer to the legislated general intent of Title 29 as expressed by AS 29.48.310, 29.48.320 and 29.48.330, which provide that a liberal construction shall be given to all powers and functions of boroughs conferred by Title 29; that unless otherwise limited by law, boroughs have all powers necessarily or fairly implied or incident to the object or purpose of all powers conferred in Title 29; and, that specific examples within an enumerated power or function conferred upon boroughs in Title 29 are illustrative of the object and not a limitation on or exclusion from the exercises of the power or function. It would seem from these provisions that a Third

Wolfgang J. Falke  
February 3, 1977  
Page 3

Class Borough has whatever powers are consistent with law, i.e. the general powers conferred upon municipalities and the area-wide powers conferred upon boroughs, but only to such a degree as may be consistent with the object of Chapter 41. Even zoning, so long as it related to the education function, might be a function properly exercised on an area-wide basis by a Third Class Borough, in the same manner as First and Second Class Boroughs. For example, the zoning of areas around schools throughout the Borough should be a proper function of the Third Class Borough.

Non area-wide powers of a Third Class Borough are the same as those of First and Second Class Boroughs, only to the extent that they are consistent with Chapter 41, i.e., only so long as the exercise of such power may be consistent with the object of Chapter 41. The 1968 opinion of the Attorney General found that AS 29.41.010(b) relating to the establishment of service areas by Third Class Boroughs expanded the "object" of Third Class Boroughs as expressed by Chapter 41, to something beyond that relating directly to the area-wide education power. I would have to agree, not only because of the general construction provisions of Title 29 cited in the previous paragraph, and the provisions for general powers to all municipalities, but also because Subsection (b) is a specific expression of the additional power conferred, is not limited by Subsection (a) of that Section, and refers to AS 29.63.090 which provides for service areas to provide for "special services within a borough", which include, "services not provided on an area-wide basis within the borough". This power by definition must be in addition to the education power in that the education function is area-wide and Subsection (b) relates to services not on an area-wide basis within the borough.

In conclusion the law as written and as previously construed by the Attorney General provides for Third Class Boroughs and makes them different from First or Second Class Boroughs in that the only area-wide functions or powers to be exercised by Third Class Boroughs are those of education, taxation and possibly zoning; and that the exercise of these area-wide

Wolfgang J. Falke  
February 3, 1977  
Page 4

powers is proper only to the extent that the same is consistent with the function of education and tax assessment. The Third Class Borough may exercise all additional powers that it has to create service areas for special services within the borough on a non area-wide basis and then only in the same manner as a Second Class Borough.

Your observation that a Third Class Borough is included within the legislative definition of municipality and that the general powers conferred to all municipalities are not mandatory and are not limited to exercise on a non area-wide basis is a point well taken. As noted previously, these powers include the "providing" of libraries and fire protection. The term "to provide the following public facilities and service" (emphasis added), as stated in AS 29.48.030, could very well be interpreted to include the establishment of the necessary facilities and the expenditure of monies by the borough for these capital expenditures, and the operation of such facilities on an area-wide basis once those facilities have been acquired.


To answer your question about the zoning powers of a Third Class Borough, I have already noted that a Third Class Borough does have some area-wide power to zone. A Third Class Borough, as a municipality, also has the power to provide for housing and urban renewal, rehabilitation and development, may establish building, housing and related codes, may provide for the abatement of public nuisances, and exercise other powers and functions affecting the health and welfare of inhabitants. AS 29.48.030 and 29.48.035. Because the Third Class Borough has some zoning authority, the State of Alaska, Department of Natural Resources, Division of Lands, would not become the zoning authority for the Third Class Borough. The Division of Lands has zoning authority only in areas of "unorganized borough where there is no political subdivision of the State with a zoning power". AS 38.05.37. A Third Class Borough is an organized borough, and therefore does not qualify as an "unorganized borough". Also, note that AS 38.05.37 assumes that all organized boroughs

Wolfgang J. Falke  
February 3, 1977  
Page 5

have zoning powers, and has never been amended by the legisla-  
ture to read otherwise.

Very truly yours,

JOHNSON, CHRISTENSON,  
SHAMBERG & GLASS, INC.



Daniel T. Saluri  
Attorney at Law

DTS:nw



# ALASKA MINERS ASSOCIATION, INC.

## FAIRBANKS BRANCH

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March 25, 1977

Community & Regional Affairs Committee  
Attn: Liza Rudd, Chm.  
Pouch V  
Juneau, Alaska 99881

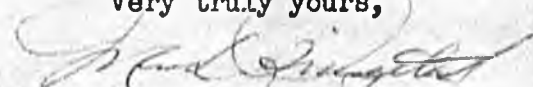
Dear Ms. Rudd:

I would like to comment on HB-273 which I believe is presently before your committee.

Everyone I have talked to here in the Fairbanks area believes it is too restrictive being strictly confined to education. The language of the bill should include the possibility of any area to have a service area by majority vote of the people owning property within the area.

Mr. Wolfgang Falke is personally carrying the wishes of the Fairbanks people to your committee to express our feelings in more detail.

Very truly yours,



Mark B. Ringstad



March 26, 1977  
Dean G. Barnard  
SR Box 20096  
Fairbanks, Alaska

Representatives  
Parr, Bennett, Brown  
Carpenter and Smith

Re. House Bill No.273

The new legislation should not substantially alter the powers of Third Class Boroughs but rather should clarify existing powers. Also the Third Class Boroughs may have the powers-on a area wide bases to form-alter or abolish service areas for any borough wide services. And the right of the people to petition for additional services.

The new legislation should provide for the transfer of power from the old to the new borough in a orderly manor so that they could exercise powers existing, till the public could vote on approval of the continuation on a service area basis.

I feel this House Bill no.273 with the proper amendments should be passed and put into law soon as possible. I feel a clear and concise law on the Third Class Borough will help other none classified boroughs to become Third Class Boroughs if they see fit. This is not a Fairbanks problem. This is a state wide problem, with towns such as Haines in mind.

I hope you as representatives of the people of Alaska are able to act on our wishes soon as you can.

Very truly yours,  
Third Class Borough Member.

*Dean G. Barnard*

MILLERS FALLS  
ERAZER  
COTTON CONTENT

TO COMMITTEE MEMBERS CONCERNING H.B. 273

The question of the amount of government necessary to supply the services required by the residents of the area is frequently raised and there are always complaints about excessive taxes and governmental interference.

When the condition exists where large concentrations of people develop, a governmental body such as a town or city government is necessary to perform the daily tasks that the residents do not have time for. These tasks include police and fire protection, garbage collection, street cleaning, sewer and water systems and other social services requested by the majority plus taxation and collection to pay for these services. Within the limits of the town or city all residents share equally in whatever the elected government does or doesn't do because of the proximity of the residences. In these areas complaints of excessive government and taxes are seldom aimed at the local government body because most people realize that the services supplied are required to maintain a level of social relationship that they desire within their town.

In the areas away from large concentrations of people, towns and cities, the social relationship and the amount of government necessary to maintain the social relationship is changed. In these outlying areas what a resident does has no effect on his neighbors simply because he has no neighbors in the same sense as a town resident.

The town resident accepts local government and the cost of that government because he realizes that he cannot provide the same services at the same cost and he cannot be assured of protection of his property and his life unless his neighbors are subject to the same laws that govern his actions. All town residents realize that any action by one directly affects the other, socially and economically. As a resident of the town he has ready access to all services provided by the government and is willing to pay for these services.

Conversely the outlying resident has little or no access to any services provided by the local government.

Since the North Star Borough is a second class borough, property is taxed at the same rate as town property in order to pay for services that only the town people can utilize.

At present approximately 40% of the North Star Borough population lives in towns that cover 3% of the total land area. Because of this concentration of people in two locations, Fairbanks and North Pole, 60% of the people are paying for services they are not able to utilize unless they live within several minutes drive from one of the towns where the bulk of the North Star Borough tax money is spent.

In addition to the general tax imposed by the borough government all residents of this North Star Borough must pay an additional tax to support the services they want for their area such as police protection, Fairbanks and North Pole, garbage collection, (Fairbanks and North Pole or by contract services areas,) Sewer and water systems, (Fairbanks and North Pole or by paying for installation of septic tanks and wells).

As stated above 60% of the residents of the North Star Borough are paying for services they cannot receive in addition to those services they desire. These residents have indicated a desire to express a choice between a second class borough and a third class borough in the form of a petition to place reclassification from a second to a third class borough on the ballot.

The petition signatures have in no way stated nor indicated that they want no government only that they want a government of which they can share the benefits equally. As a third class borough all service areas required or requested by the residents will be continued or formed for whatever class of service fits the needs and desires of those affected while being relieved of the tax burden that a second class borough government adds.

Respectfully,

*Donald Fiscus*

Box 1166  
Fairbanks, Alaska  
March 11, 1977

Dear Legislator:

Please find enclosed a copy of my letter addressed to Lisa Rudd, Committee Chairman, Community and Regional Affairs, respecting HB 273. I hope that my comments therein will be of some assistance in formulating necessary legislation facilitating the transfer of borough powers should re-classification take place.

Very truly yours,

  
WOLFGANG FALKE

DTS:nw

Enclosures

# MEMORANDUM

State of Alaska

TO: *Lee McAnerney*  
*Commissioner*  
*Dept. of Community & Regional Affairs*

DATE: *January 5, 1977*

FILE NO:

Avrum Gross  
*Attorney General*

TELEPHONE NO:

FROM: *Rod Pegues*  
*Assistant Attorney General*

SUBJECT: *Powers of third class borough*

*This responds to your request for an opinion on this subject of December 29, 1976. Pursuant to your request we have reviewed our informal opinion of August 8, 1968, on this subject and AS 29.41.*

*We agree with your views on the matter. The third class borough's sole function is to provide education. It is empowered to levy and collect taxes, to borrow money, and to establish service areas to that end. It has no other function. It would be inconsistent with AS 29.41 for a third class borough to exercise a power of a first or second class borough which is not in furtherance of its assigned function and prescribed powers. Thus, in order to collect taxes, a third class borough obviously must possess the power to file tax liens and foreclose on them. To operate a school system, it must possess the power to acquire and manage property and enter into contracts. This is what the last sentence of AS 29.41.020, which constitutes the assembly the school board as well is conclusive on this point. It is irrefutable evidence of the legislature's intent that the third class borough has no other function.*

*The opinion on this subject of August 8, 1968, is in error on these points and is overruled.*

*DJ:sg*

MEMORANDUM

State of Alaska

COMMUNITY AND REGIONAL AFFAIRS

RECEIVED  
Department of Law  
Juneau, Alaska

DEC 30 1976

AM  
7:30 PM  
12/30/76

Rod Peques, Esquire  
Assistant Attorney General

DATE: December 29, 1976

FILE NO:

TO:

The Honorable Avrum Gross  
Attorney General

TELEPHONE NO:

Lee McAnerney  
Commissioner *Lee*

SUBJECT: Request for Opinion

As you are undoubtedly aware, there is an effort being made by residents of the Fairbanks North Star Borough, a second-class borough, to reclassify that borough as a third-class borough. As a function of the reclassification process, the borough assembly must evaluate and issue findings relative to the ability of the borough to function subsequent to reclassification, AS 29.08.040(g) and AS 29.33.260. However, before it can perform that responsibility the assembly must know what the powers of a third-class borough are. The Fairbanks Borough Assembly believes, and we concur, that the powers of a third-class borough are not clearly defined in Title 29. Accordingly, this request for your opinion.

There is an unnumbered opinion dated August 8, 1968, signed by then Assistant Attorney General Robert E. Price which reaches certain conclusions relative to the powers of a third-class borough. Summarized, the opinion states that the only powers that can be exercised on an area-wide basis by a third-class borough are tax assessment and collection and education, but that the borough may on a service area or non area-wide basis, exercise all other municipal powers except planning and zoning, which may not be exercised at all. A copy of the subject opinion is attached.

Being somewhat familiar with Ch. 122, SLA 1968, I am inclined to disagree with the conclusions reached in the earlier opinion. As you know, the third-class borough concept was created for one purpose: to respond to the absence of a legal entity to assume the duties and responsibilities of the former Haines Independent School District which was dissolved in 1963. I do not believe that the Legislature intended to simply create another class of borough that was different from second and first-class boroughs only by virtue of the absence of the planning and zoning power and the inability to exercise powers on an area-wide basis. Moreover, it would seem that Mr. Price's conclusion that no municipal powers except education and tax assessment and collection may be exercised on an area-wide basis, is in direct conflict with Section 1, Article X, of the Alaska Constitution which calls for ". . . a minimum number of local government units . . ." Quite obviously, creation of a regional municipality lacking authority to provide services on a region-wide basis creates, not dissipates, the need for additional governmental structures.

After carefully and thoroughly reviewing the provisions of Title 29, pertaining to third-class boroughs, and it is my conclusion that third-class boroughs have

authority to exercise the education and tax assessment and collection powers only. It seems that the crux of this issue is the second sentence of AS 29.41.010(a), which provides that "Provisions of law relative to first and second-class organized boroughs apply with respect to third-class boroughs only to the extent they are consistent with this chapter." Because Chapter 41 mandates the exercise of the education and tax assessment and collection powers only, I read the subject sentence to mean that in exercising the education and tax assessment and collection powers, the third-class borough must operate substantially the same as a first or second-class borough. I do not, as Mr. Price apparently has, read the subject sentence to extend to the third-class borough all powers, duties, rights and responsibilities normally associated with first or second-class borough status so long as those powers, duties, rights and responsibilities are not in conflict with the provisions of Chapter 41.

AS 29.41.010(b) extends authority to third-class boroughs to establish service areas. This provision seems to me to mean that service areas may be established to provide a higher or lower level of education service than that provided on an area-wide basis; I do not read it to mean that a service area may be created to provide any municipal service.

Would you please review the 1968 opinion and AS 29.41, and let me know if you agree with my conclusions?

Attachments

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K. STATE CAPITOL - JUNEAU 99901

August 8, 1968

MEMORANDUM

RECEIVED

TO: Larry Montgomery, Director  
Local Affairs Agency  
Office of the Governor

AUG 8 1968

LOCAL AFFAIRS AGENCY

FROM: G. Kent Edwards  
Attorney General

*REP*

By: Robert E. Price  
Assistant Attorney General

RE: Third Class Borough Law

This is in response to your memorandum of August 2 in which you requested the opinion of this department on several questions from John D. Gustafson, Presiding Officer of the Fairbanks North Star Borough Assembly. These questions are:

1. Is a third class borough limited to the exercise of the two mandatory areawide powers of education and tax assessment and collection?
2. In what manner and to what extent may the third class borough exercise the power of flood control?
3. Would bonds be sold on an areawide basis or just on the established service area?"

ANSWER 1.

29. 41. 010  
AS 07.17.020(a) states:

^  
"The third class borough shall exercise the areawide powers of education and tax assessment and collection [as] provided for second class boroughs. (in this title)"

*IN THE MANNER*

The reference in this section to the areawide powers of the second class boroughs is to AS 07.15.310 (Scope of

29. 33. 010

370 - 330

Larry Montgomery, Director  
Local Affairs Agency

27.33.030

27.33.030  
27.37.250  
Areawide Powers), AS 07.15.320 (Assessment and Collection) and AS 07.15.330 (Education). The specific inclusion of Education (AS 07.15.330) and Tax Assessment and Collection (AS 07.15.320) as areawide powers of the third class borough infers the exclusion of other powers set out in AS 07.15 (Article 2<sup>nd</sup> Scope of Areawide Powers), i.e., AS 07.15.340 (Planning and Zoning), AS 07.15.350 (Additional Areawide Powers), and AS 07.15.360 (Dog Control). See the discussion of the maxim "Expressio unius est exclusio alterius" in Southerland on Statutory Construction, Vol. II, § 4915. Therefore, the third class borough is limited to the exercise of the two mandatory areawide powers of education and tax assessment and collection.

ANSWER 2.

The third class borough may exercise the power of flood control either (1) on the basis of the exercise of the power of a second class borough in the area outside cities only or (2) on the basis of a service area, provided, that, in either case, the project complies with the statutory grant of power.

AS 07.17.010 states, in part: "Provisions of law relating to first and second class organized boroughs apply with respect to third class boroughs only if and to the extent they are consistent with this chapter."

First, on the question of non-areawide power of a third class borough, there is no explicit reference to it in AS 07.17. However, in accordance with the provision of AS 07.17.010 above cited, the third class borough has such non-areawide power because there is no apparent basis why this power would be inconsistent with AS 07.17. The third class power should comply with AS 07.15.720 (Powers of Second Class Borough) in its exercise of this power. A first class city has the authority for flood control under AS 29.10.117. On the authority of a borough to carry out a reclamation project, I attach to this memo for your consideration an informal opinion of the Attorney General on 12/30/65. It will be a technical question, of course, whether or not the borough can undertake a flood control project through the use of a non-areawide power only.

Second, on the question of a service area of a third class borough, AS 07.17.020(b) states:

"The third class borough may establish, operate, alter or abolish service areas as provided for second class boroughs in this title."

The reference to the power of second class boroughs over service

areas is to AS 07.15.050, which states:

- (a) Service areas to provide special services within a first or second class borough may be established, operated, altered, or abolished by the assembly by ordinance.
- (b) The assembly may levy or authorize the levying of taxes, charges, or assessments in service areas to finance the special services. No special assessment may be levied except as provided by law for first class cities.
- (c) The assembly may provide for appointed or elected boards to supervise the furnishing of special services in service areas.
- (d) A new service area may not be established if the new service can be provided by an existing service area, or by annexation to a city, or incorporation as a city.
- (e) The assembly may delegate any of the powers prescribed in § 710 of this chapter to a service area. In a second class borough each delegated power must be approved by a majority of the qualified voters voting on the question who reside within the service area. The rate of taxation and the issuance of bonds shall remain subject to the approval of the assembly."

Further, on the same subject, the Alaska Constitution, Art. X, § 5 states:

"Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services."

There is the inference in these quoted provisions that a service area may not encompass an area which is coterminous or substantially coterminous with the borough boundaries. The Final Report on Borough Government, prepared by the Alaska Legislative Council and the Local Affairs Agency and published in January, 1961, states, at p. 43: "The need may arise within a borough for services not required throughout its entire jurisdiction." Therefore, it was the thought of those who prepared the Borough Act of 1961 and the inference of the language of the provisions of that legislation itself that service areas were only to encompass an area less than the entire area of its jurisdiction. The provisions of the borough system in Alaska are unique and the decisions of other jurisdictions on the same question are not relevant to this opinion. Cf. McQuillin on Municipal Corporations, Vol. 14, § 38.52. See The Metropolitan Experiment in Alaska, edited by Ronald C. Cease and Jerome R. Saroff, 1968, pp. 11, 16, 42. It will be a technical question, of course, whether or not the borough can undertake a flood control project through the use of a service area which is not coterminous or substantially coterminous with the boundaries or area of the borough.

ANSWER 3.

AS 07.15.030 states in part:

"First and second class boroughs may incur indebtedness in the same manner and to the same extent as first class cities

\* \* \*

(3) on a service area basis for functions performed in a service area only; payment of debt principal and interest as well as other costs shall be limited to the service area, except that, subject to the election requirements of AS 07.30.010(b), the full faith and credit of the entire borough may be pledged to guarantee payment of principal and interest."

This provision is applicable to third class boroughs because it is "consistent", in accordance with the principle of AS 07.17.010, with the service area power of AS 07.17.020(b).

Therefore, third class borough service area bonds must limit payment of debt principal and interest as well as other costs to the service area.

GKE/REP/er

Att.

February 23, 1977

Daily News-Miner  
200 N. Cushman  
Fairbanks, Alaska 99701

Dear Editor:

In yesterday's front page news "3rd Class Election: Still no date", you (or who?) stated "The Third Class Borough Committee, which collected the signatures, has asked for a change in the law so that it specifically states that service areas for powers besides education are allowed."

This statement is far and away from the truth. The fact is that a Third Class Borough has the specific power to establish, operate, alter or abolish service areas in the same manner as provided for Second Class Boroughs to exercise those powers applicable to all municipalities (which include flood control, recreation, libraries, fire protection, etc.) There is no such thing as a service area for education. Education and tax assessment and collection must be exercised by a Third Class Borough on an area wide basis in the same manner as provided for Second Class Boroughs. This is the law, plain and clear!

The Third Class Borough Committee has asked its Fairbanks legislators to clarify the law, not to change it, so that the governor and his aides, his attorney general in specific, must agree with the law.

On January 5, 1977, the attorney general issued an opinion requested by the Department of Community and Regional Affairs. That opinion of the attorney general stated: "The Third Class Borough's sole function is to provide education."

It is impossible for me not to believe this opinion by our appointed attorney general was made with full knowledge that it was not according to law and would not be upheld by our courts. The sole function of the opinion was, and is, to mislead the residents of the Fairbanks North Star Borough and thereby discourage them from voting in favor of Third Class reclassification of the borough.

Can the attorney general do this? True, it is the function of the courts to interpret the law, but they won't until an actual case or controversy exists. As stated by Assistant Attorney General Rod Pegues on a recent television interview, an actual case or controversy will not exist until the Third Class Borough comes into existence and the State or some group attempts to prevent the new borough from exercising its municipal powers.

Because the court will not interpret the law until after an actual case or controversy has arisen, the only alternative method of enjoining the publication of this clearly erroneous opinion of the attorney general is to pressure our governor to require the attorney general to re-evaluate his opinion. This is why the Third Class Borough Committee went to Juneau. We wanted to make the legislator aware of the problem and to clarify existing legislation, not to change powers already existing in Third Class Boroughs.

Very truly yours,

FALKE WOLFGANG  
Box 1166, Fairbanks, Alaska

FW:nw

P.O. Box 1166  
Fairbanks, Ak. 99707  
March 17, 1977

Daily News-Miner  
200 N. Cushman  
Fairbanks, Alaska 99701

Dear Editor:

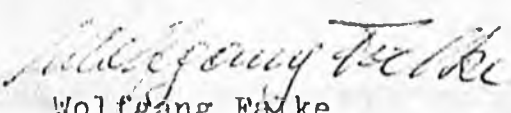
In response to Mr. Wm. F. Humpheries letter to the editor of 3-2-'77:  
Under a third class borough what would become of the borough powers  
such as animal control and borough transit?

Under present law, those powers, as well as all municipal powers, will  
be continued by the new third class borough in the same manner as  
they are provided by the second class borough.

Under a new third class borough administration of course there could,  
and I am confident that there will, become before the voters the  
question in which form the people wish to have those powers administered.  
Public hearings shall be held for each power in question to establish  
boundaries for service areas throu-out the borough and the people in  
each area and in each city then determen by vote if they wish to have  
those services to be continued. Sound's fair, doesn't it?

This is another reason why a third class borough indeed would be able  
to serve the people of Fairbanks and its souraunding areas so much  
better than our present administration.

Very truly yours,

  
Wolfgang Falke

#### A couple questions

322 2nd St., Graehl  
Fairbanks  
March 2, 1977

Dear Editor:

Following are a couple of questions  
maybe you or someone on the Third  
Class Borough Committee could an-  
swer.

Under a third class borough what  
would become of important borough  
powers such as animal control (takes  
care of loose and vicious dogs), and  
borough transit? I think that many  
persons who now oppose public tran-  
sportation because of the higher tax  
load, or other reasons, may be very  
glad to have borough transit around  
when President Carter's energy con-  
servation proposals are unveiled and  
become law this Spring! I am quite sure  
oil companies will be ordered to make  
much more home heating oil and much  
less gasoline. I'm sure the President  
and Congress will feel that warm  
homes are more important than  
unrestricted private auto driving in  
Alaska and the U.S.A. Then borough  
transit will become much more im-  
portant to many people than it is now.  
William F. Humpheries

Room 620  
Judith Pinero

## FAIRBANKS NORTH STAR BOROUGH

Box 1267, Fairbanks, Alaska 99707

### MEMORANDUM

TO: Butch Stain, Borough Assemblyman  
FROM: Ronald A. Garzini, Staff Director RAG  
SUBJECT: Third Class Borough  
DATE: January 27, 1977

I have put together some things which you should be aware of when discussing the declassification of the Fairbanks North Star Borough from second to third class with our legislators. I have kept to the facts as well as I can with my obvious bias.

It appears that the major objections to the present second class Borough arise from zoning administration and enforcement and the expansion of the borough budget with no obvious increase in service. I think you could point out to our legislative delegation our efforts at straightening out our present zoning problems and, in fact, the impetus for the third class movement began at a zoning hearing where we were attempting to resolve some of the problems.

The spread sheet entitled "Initial Allocations of the Borough Budget" pretty well shows the percent dedicated to each program in the Borough. It's interesting to note that if you eliminate the programs that would not exist in a third class Borough, you would only remove 15% from the existing Borough budget. (Certainly over time that could change.)

Some specific thoughts are:

1. With a third class Borough, the mayor of the municipality is selected from the Assembly rather than elected at-large. I frankly think the people of the Fairbanks area prefer having a separately elected mayor who they can hold accountable for administration. I am sure you realize that with the workload the present Assembly has and the workload the present

School Board has, combining these two workloads would be unbelievably difficult. The Board/Assembly would be the Board of Equalization, School Board, tax collector, service area coordinator, and central treasurer, etc.

2. Assessment and Collection of Taxes

a. The third class borough assembly would hold the central treasury for Fairbanks local government. Having a board, whose primary function is education, hold the central treasury for municipal governments in an area is highly irregular and I'm sure it's not good management by any existing precedent.

b. We presently have fifteen service areas and three more underway. If a third class borough were to come into being, I predict we would have fifty service areas in short order and just dealing with the fifteen we have is becoming a major problem. We are presently working with ninety service area commissioners.

3. Education - The school board would cease to exist with a third class Borough and the workload of the school board/assembly would once again include handling their insurance, their engineering, data processing, assessing, and all the other functions we provide for education. I feel that these additional duties thrust upon the education function would prevent the elected body from spending the time they really should on educational matters. The Superintendent would have duties unheard of in municipal experience.

4. Flood Control - The Borough is obligated for the maintenance of the flood levee. We own all the land within the levee; we are obligated to 1% of the final cost of the project, and we are responsible for land acquisition, rights of way, relocation, and coordination. We are responsible for protecting the levy and works by controlling surface activity adjacent to them. A third class Borough service area for flood control would be phenomenally complex, extremely dull to the average citizen, and probably something the State of Alaska would unwillingly assume if a third class Borough were formed.

5. Planning and Zoning - The responsibility for subdivisions; i.e, platting, it appears, would go to the State Division of Lands. It would be interesting to see how third class Borough people would like to relate to state government types for approval of their subdivisions. My impression is that the only thing third class Borough people like less than Borough employees is state and federal employees. We are undertaking a major effort presently to relocate our landfill. We expect that the proper place for the landfill will turn out to be above the flood plain, outside the city. Presently the operation of our solid waste program runs about \$300,000 per year. I assume the State of Alaska would not like to operate the landfill; I doubt if the City of Fairbanks would like to bear the capital expense, which we estimate at two million dollars, to establish a solid waste disposal system for the Fairbanks area.

There is need for planning coordination with the Highway Department and the State Division of Lands in the area of transportation and water and sewer planning, as well as hydrological and soils coordination with the appropriate state and federal agencies. We have a strong input into the development of state roads and trails within the Fairbanks area. I can't see the formation of a service area to provide a vehicle for local input; therefore, I assume the state, again, would have to bear the burden of determining what the public sentiment is through hearings and employee growth. The two cities would definitely need to create planning and zoning departments.

6. Animal Control - I cannot envision the Fairbanks area without an Animal Control program. With over 50% of the population now outside the City of Fairbanks, and with the majority of our collections now being outside the city limits, I personally don't think that having the city run an Animal Control program would be very effective. It would be like taking a cup of water out of a bowl. The dogs would just drift in from the outlying areas. We are presently catching 500 animals per month and expect this year, if present trends continue, to dis-

pose of 4,000 animals. Rabies is on the increase in Alaska and we expect to hold two free rabies clinics this year to do what we can to prevent rabies getting started in the interior.

7. Parks & Recreation - As Chairman of the Parks & Recreation Committee, I'm sure you are more aware than most of the level of recreation activity that the Borough has in the area. The City, which has a tax base one-third the size of the Borough's would be sore pressed to continue the level of service we now provide. In addition, a number of our activities in recreation have long term agreements in them. Specifically, Fairbanks Lions Park - the Lions are putting up \$25,000 per year for four years for the Borough to develop the facility. Most of our BOR grants have a 25 year contract inherent with them (I wonder if we would have to give the money back.) An attached sheet shows an inventory of our park properties.

8. Solid Waste - We presently have a North Pole Solid Waste Transfer Station which has been extremely successful and well received; and we have a Salcha Landfill. I am sure that these would become individual service areas. Our main concern, however, lies with the current Fairbanks landfill which must be moved and the tax base of the City of Fairbanks would probably not be able to deal effectively with the capital costs of re-establishing a new landfill.

9. Air Pollution - We presently spend on air pollution only what we get from State and Federal agencies. Our program costs us nothing locally; therefore, eliminating it would save us nothing. However, the ability of local people to govern the air quality enforcement program and bring some local sensibility to it, we feel, is a highly desirable asset. Our local pollution control commission has the authority to grant variances from the regulations which we propose when the situation is appropriate. I have no doubt the State of Alaska or the Federal government would very quickly leap in and do just what we are doing or more in the way of air quality control.

10. Public Transportation has been voted on by the people in the Fairbanks area twice. It received approximately 55% of the vote in a borough-wide election, and approximately 60% in a city election. Our ridership and support from the public has increased dramatically. We presently plan starting July 1 to serve our rural areas where it is feasible. We have spent state grant money to buy equipment and I assume we would have to sell it. I also predict that we would have a transit service area, because the people appear to consistently vote yes in elections regarding transit.

11. Library - We expect this summer to open up the Fairbanks Regional Library which was overwhelmingly voted on by the people of Fairbanks. It is a beautiful structure, one which we should be proud of (fig trees and all). It is a 47,000 square foot building with a 5.9 million dollar cost and, I'm sure, an operating budget of at least three-quarters of a million dollars. Designed to serve all of Northern and Central Alaska, I frankly doubt that the City of Fairbanks can afford, with its current financial problems, to operate this facility. If they were to charge us to check out books, I doubt very many people would check out books at \$1.50 apiece.

12. Local Service Roads. We currently receive, as a result of state bond issues, money for local borough roads. This funding level has averaged a half a million dollars per year and the Planning Commission and the Borough Assembly have a great deal to say about where and in what priority our roads are built. I assume the roads would continue to be built, however, I see state government being involved in this decision making process in our absence.

13. Finances - For the past couple of years, we have made a concerted effort to develop a substantial savings account so that we could deal with fire protection and the heavy cost of capitalization when area-wide or non-area-wide fire protection came to pass. Our billion dollar tax base is really the only hope the foothills have of meeting the capital costs of adequate fire

protection.

The City of Fairbanks is presently trying to establish user fees for the water and sewer system and finding it very difficult. Experience has shown that the costs of collecting user fees quite often exceeds the funds collected. For instance, our Parking Management Study shows that if the city took the parking meters out, they would actually save money. I can't imagine attempting to apply user fees to Parks and Recreation facilities, summer playgrounds, the landfill, the library, animal control; with the city establishing city resident rates and borough resident rates in an attempt to equitably share the burden for the level of service requested by our 60,000 citizens. We presently have a five year lease on our building and we are in our first year; the building would certainly be far to large for a third class Borough.

I think a great deal can be said at this time in the way of criticism of our present second class borough. It is certainly an inferior form of government for the Fairbanks area; it's a very unresponsive form of government for an area this size; suffice to say a third class borough would be worse. I personally view the only logical form of government for an area with our characteristics would be a first class borough or unified municipality. Within such a governmental structure, service areas could be designed so that people only paid for the level of service they receive; whereas a resident of the City of Fairbanks might receive a high level of service and a 20 mill tax rate, a resident of 50 Mile Steese Highway might well only have a 4 mill tax rate since he receives little service beyond education. A classic example of our problem is the fact that we presently have the financial ability to provide fire protection to the foothills, and it appears the the people want fire protection in the foothills, however, due to the innumerable problems - including the third class borough controversy - we are unable to do anything. Area-wide fire protection is the only sensible approach, however, our major concern is what will the reaction be of the city residents if we do what we really know we should do.

We should be doing something about roads outside the city limits also, and duplicating the city's public works staff is ridiculous. We already have too many managers and assistants, finance directors, attorneys, purchasing agents, labor relations experts, computers, etc. Financially, we're in excellent shape and looking to lowering taxes (since we have no power to provide services) while the city is laying off workers.

In conclusion, a third class borough with fifty service areas is not the solution, nor is continuing as we are. I hope this limited analysis is of some aid in your briefing.

RAG:cmo

cc Department Heads  
cc Borough Assemblymen

FAIRBANKS NORTH STAR BOROUGH  
Initial Allocations per original Borough Budget - 7/1/76  
Ordinance No. 76-20

ACCOUNT	APPROPRIATION	OTHER REVENUE	LOCAL TAX	PER CENT OF LOCAL TAX
Education	\$ 6,092,476	\$ -0-	\$ 6,092,476	46%
Assembly Reserve *	1,063,895	-0-	1,063,895	8
Assembly	214,290	-0-	214,290	2
Mayor's Office	230,885	-0-	230,885	2
Transit**	45,000	-0-	45,000	0
Impact Information	62,000	-0-	62,000	0
Elections	27,300	-0-	27,300	0
Finance***	1,432,117	17,000	1,415,117	11
Assessing	507,783	-0-	507,783	4
Law	123,665	-0-	123,665	1
Planning & Zoning	498,568	125,900	372,668	.
Engineering	220,180	-0-	220,180	2
Environmental Services	596,679	163,400	433,279	3
Town & Village Assoc.	34,914	-0-	34,914	0
Community Service	55,900	-0-	55,900	0
Animal Control	273,299	16,000	221,299	2
Parks & Recreation	537,756	304,900	232,856	2
Library	385,913	5,000	380,913	3
North Pole Library	98,796	-0-	98,796	0
Unallocable****	-0-	1,385,000	(1,385,000)	-(10)
Capital Outlay	743,135	743,35	-0-	0
Debt Service	<u>3,829,419</u>	<u>1,000,000</u>	<u>2,829,419</u>	<u>21</u>
	<u>\$ 17,037,970</u>	<u>\$3,760,335</u>	<u>\$ 13,277,635</u>	<u>100%</u>

\*Contains reserves for transit, wage settlements, swimming pools

\*\*Local cost this year expected to be \$51,000

\*\*\*Contains rent, insurance, central duplication, communications, (\$23,000 day care) etc

\*\*\*\*Interest income, tobacco tax, land sales, mineral revenues, etc. Not able to apply to any specific department

## FUNCTIONS OF FAIRBANKS NORTH STAR BOROUGH

<u>FUNCTION</u>	<u>DATE OF ASSUMPTION</u>	
Assessment and Collection of Taxes	January 1, 1964	)
Education	January 1, 1964	)
Planning & Zoning	January 1, 1964	)
Animal Control	Election - October 5, 1965	)
Flood Control	Election - October 5, 1965	)
Hospital	Election - June 21, 1966 (not exercised at present)	)
Library	Election - June 21, 1966	)
Fireworks Control	February 8, 1968 (29.48.020)	)
Air Pollution Control	May 14, 1970 (29.48.035)	)
Disaster and Civil Defense	August 27, 1970 (29.48.035)	)
Construction and Maintenance of Local Service Roads	A.S. 19.30.251 (SLA 1971)	)
Garbage and Solid Waste Disposal	September 28, 1972 (29.48.030) (transfer from cities)	)
Parks & Recreation	Election - October 3, 1972	)
Public Transportation System	June 20, 1974 (29.48.030) Election - October 7, 1975	)

) Mandatory with  
) formation of  
) Borough

FAIRBANKS NORTH STAR BOROUGH  
PARKS AND RECREATION DEPARTMENT

PROPERTY INVENTORY

<u>PARKS</u>	<u>LOCATION</u>	<u>FACILITIES</u>	<u>ACRES</u>
Birch Hill Park	Birch Hill	I,N,U,V,H	439.69
Fairbanks Park	Lathrop St/16th Ave/22nd Ave	F,G,H,M,O,R,T,X	159.00
Crowden	2nd Ave/Crosson/Wilbur	A,B,C,L,P,S	73.00
Peirce Park	University Ave/Geist Rd	I,N,U,H	21.81
Allridge Park	Cowles/24th Ave.	A,S,X	10.14
Nussbaumer Park	Haines/E Street	A,L,P,X	4.46
South Fairbanks Park	22nd Ave/Kellum/Gilmore	U,W	3.62
Griffin Park	Wendell/Chena River	P,S,Y	3.00
Wien Park	Airport Way	Z	3.00
Lazelle Coasting Hill	Lazelle Road	E	2.31
Baseball Park	19th Ave/Gillam	B	2.22
Bluebell Park	Bluebell/16th	A,P,Z	1.35
Noble St. Park	12th Ave/Noble St	A,Z	1.04
Bentley Park	South Tip Chena River	A,P	1.00
Baranof Park	Baranof/E/F Sts.	A,P	0.60
Mercier Playground	22nd/Mercier St	A	0.30
Graehl Park	Near Wendell St Bridge	A,K	0.30
Riverside Park	Island Homes/Slater Dr	P,Z	0.50
North Pole Park	North Pole	A,C,N,P,X	10.00
Ringstad Park	Crosson/Stewart Sts.	U,W	3.00
Aurora Playground	Central/Dogwood	A	0.20
Bjerremark Playground	Bjerremark (B35,L50)	U	0.40
Graehl Playground	Second Ave (B18,L15)	U	0.40
Johnston Playground	Tamarac/Noyes Slough (B5,L6)	U	0.40
Leneta Playground	Kathryn/Noyes Slough	U	0.20
Townsite Park	4th/3rd/Clay/Cemetery	U	5.00
Two Sites - Chena River & Pikes Landing Road		K,U	5.00
South Bank Chena River - East of Wendell St. Bridge		A,K,X	0.50
Lions Playground	15th/Turne	A	0.20
Hamilton Acres Park	Hamilton/Glacier	W	13.44
Slaterville Park	Slater/Church	U	1.80
Noyes Slough Park	College Road/Noyes Slough	U	24.99
Kendall Subdivision	Mattie Lane/Robana Rd.	U	2.00

FACILITIES KEY

A - Playground	N - Nature Trail
B - Baseball Field	O - Park/Recreation Division Offices
C - Camper Park	P - Picnic Area
D - Day Camp	Q - Soccer Field
E - Coasting Hill	R - Recreation Center
F - Football Field/Track	S - Softball Field
G - Skating Rinks	T - Tennis Courts
H - Hockey Rink	U - Undeveloped
J - Cross Country Ski Trail	V - Summer Camp
J - Historical Site	W - Wilderness
K - Boat Launch Ramp	X - Restrooms
L - Little League Baseball Field	Y - Horseshoe Courts
M - Meeting Room	Z - Landscaped Area



# Alaska State Legislature

POUCH Y, STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

Feb. 8, 1977

Mr. Richard Brown, Chr.  
Third Class Borough Committee  
SR Box 10657  
Fairbanks, AK 99701

Dear Richard:

Your Fairbanks Caucus met Feb. 1, 1977, to discuss the problems confronting the Third Class Borough Committee.

We agreed with Senator John Butrovich -- the Attorney General's opinion notwithstanding -- that the legislative intent of Senate Bill 328 in 1968 was to establish a third class borough with service areas which could self-impose powers beyond education, tax assessment and collection.

We further agreed to seek legislation from two directions. First, Senator John Huber will draft a bill designed to allow local option on some areawide borough powers under Title 29, Chapter 33 (Areawide Borough Powers & Duties). His bill would permit voters in the borough to exempt themselves from Sec. 29.33.090 (Zoning). Next, Representative Charles Parr will draft a bill designed to clarify the authority of third class boroughs under Title 29, Chapter 41 (Powers of Third Class Boroughs). The idea would be to give the force of law to the intent expressed by Senator Butrovich in SB 328.

Both Senator Huber and Representative Parr have stated they will review drafts of their bills with our entire Fairbanks Caucus before introduction to allow co-sponsors. At that time, each of us will make individual decisions on the bills.


Mr. Richard Brown

-2-

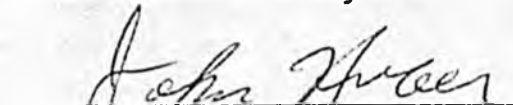
Feb. 8, 1977

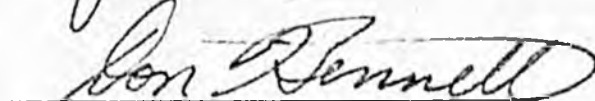
Thank you for appearing Jan. 28th at our caucus luncheon.  
We understand your concern on this matter.


Sincerely,

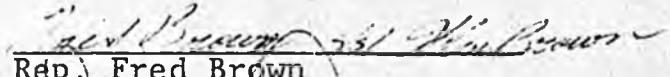
  
Sen. John Butrovich

  
Sen. Glenn Hackney

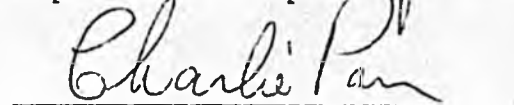
  
Sen. John Huber

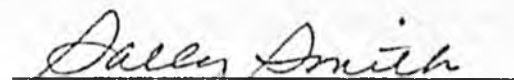
  
Rep. Don Bennett

  
Rep. Larry Carpenter

  
Rep. Fred Brown

  
Rep. Steve Cowper

  
Rep. Charles Parr

  
Rep. Sally Smith