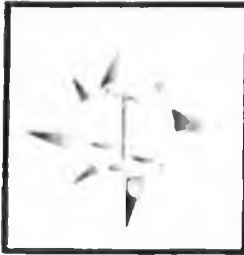


**LOCAL  
BOUNDARY  
COMM.  
OVERVIEW**



Local Boundary Commission Report to the  
**Second Session of the  
Twenty-Fourth Alaska Legislature**

January 2006



Darroll Hargraves, Chairman  
Georgianna Zimmerle, 1st Judicial District  
Robert Harcharek, 2nd Judicial District  
Robert Hicks, 3rd Judicial District  
Anthony Nakazawa, 4th Judicial District

Local Boundary Commission  
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The Local Boundary Commission complies with the Title II of the Americans with Disabilities Act of 1990. Upon request, this report will be made available in large print or other accessible formats. Requests for such should be directed to the Local Boundary Commission staff at 907-269-4560.

This report is also available on the Local Boundary Commission's website at:

<http://www.commerce.state.ak.us/dca/lbc/lbc.htm>

#### **Graphic Illustration Only**

The maps included in this publication are intended to be used as a general reference guide only. Source documents remain the official record and should be reviewed to determine the accuracy of the illustration.



## Message from the Chairman

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January 2006

Dear Members of the Alaska Legislature:

On behalf of the members of the Local Boundary Commission (LBC), I am pleased to present this report of the LBC to the Second Session of the Twenty-Fourth Alaska State Legislature.

Chapter 1 provides background information on the LBC. Chapter 2 describes activities of the LBC and its staff during 2005. Reflected in the report of 2005 activities is activity relating to the formation of a borough in the Delta/Ft. Greely area. A petition to incorporate the Deltana Borough for that area was submitted to the LBC on January 3, 2006. The proposed municipality would be a unified home-rule borough. An estimated 5,760 individuals live within the nearly 6,000 square-mile proposed borough.

Chapter 3 contains a discussion of public policy issues of particular interest to the LBC. The issues were raised in the LBC's annual report last year and in previous years. In brief, the issues relate to:

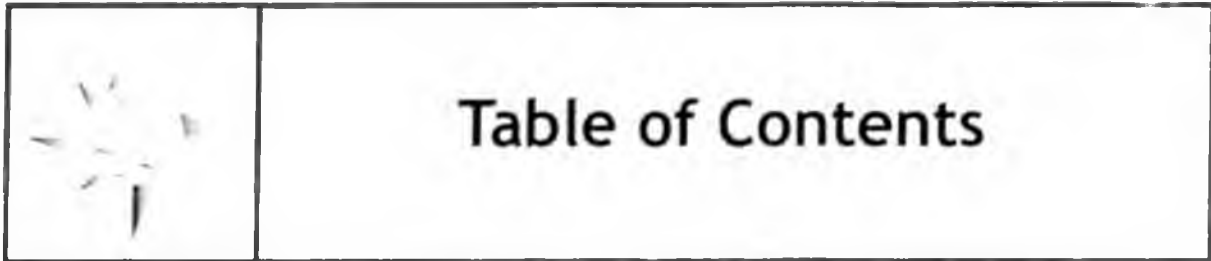
- lack of adequate inducements for incorporation of organized boroughs and annexation to existing boroughs;
- lack of standards providing for establishment of unorganized boroughs;
- funding for borough feasibility studies;
- the law curbing the escalating "tax" on borough and city school districts lacking provisions to deal with boundary changes; and
- 2004 school consolidation study prepared at the direction of the Legislature.

The LBC is aware that a number of the issues raised here were examined by the Alaska Advisory Commission on Local Government. The LBC looks forward to the opportunity to review and comment on the work of the Alaska Advisory Commission on Local Government.

Cordially,

A handwritten signature in dark ink, appearing to read "Darroll Hargraves". The signature is written in a cursive style with a large initial 'D'.

Darroll Hargraves  
Chair



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# Chapter 1

## Background

### Local Boundary Commission

#### Constitutional Foundation of the Commission

The framers of Alaska's Constitution adopted the principle that, "unless a grave need existed, no agency, department, commission, or other body should be specified in the constitution."<sup>1</sup> The framers recognized that a "grave need" existed when it came to the establishment and alteration of municipal governments by providing for the creation of the Local Boundary Commission (LBC or Commission) in Article X, Section 12 of the Constitution.<sup>2</sup> The LBC is one of only five State boards or commissions established in the Constitution, among a current total of approximately 120 active boards and commissions.<sup>3</sup>

The Alaska Supreme Court characterized the framers' purpose in creating the LBC as follows:

An examination of the relevant minutes of [the Local Government Committee of the Constitutional Convention] shows clearly the concept that was in mind when the local boundary commission section was being considered: that local political decisions do not usually create proper boundaries and that boundaries should be established at the state level. The advantage of the method proposed, in the words of the committee: "... lies in placing the process at a level where area-wide

<sup>1</sup> Victor Fischer, *Alaska's Constitutional Convention*, p. 124.

<sup>2</sup> Article X, Section 12 states, "A local boundary commission or board shall be established by law in the executive branch of state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the Legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action."

<sup>3</sup> The other four are the Commission on Judicial Conduct, the Judicial Council, the University of Alaska Board of Regents, and the (legislative) Redistricting Board.

or state-wide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively.”

*Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 543 (Alaska 1962).

## Duties and Functions of the LBC

The LBC acts on proposals for seven different municipal boundary changes.

These are:

- incorporation of municipalities;<sup>4</sup>
- reclassification of city governments;
- annexation to municipalities;
- dissolution of municipalities;
- detachment from municipalities;
- merger of municipalities; and
- consolidation of municipalities.



*Local participation at a LBC hearing.*

In addition to the above, the LBC has a continuing obligation under statutory law to:

- make studies of local government boundary problems;
- adopt regulations providing standards and procedures for municipal incorporation, annexation, detachment, merger, consolidation, reclassification, and dissolution; and
- make recommendations to the Legislature concerning boundary changes under Article X, Section 12 of Alaska's Constitution.

<sup>4</sup> The term "municipalities" includes both city governments and borough governments.

Further, the LBC is routinely assigned duties by the Legislature. For example, in February 2003, the LBC produced the 216-page report entitled *Unorganized Areas of Alaska that Meet Borough Incorporation Standards*. That report was prepared in response to the directive in Section 3 Chapter 53 SLA 2002. In February 2004, the LBC and Department of Education and Early Development published a 330-page joint report entitled *School Consolidation: Public Policy Considerations and a Review of Opportunities for Consolidation*. That report was prepared in response to the duty assigned in Section 1 Chapter 83 SLA 2003. The 2004 Legislature called for "a Local Boundary Commission project to consider options for forming a separate local government, independent of the Municipality of Anchorage, for the community of Eagle River" (Section 48 Chapter 159 SLA 2004).

### **LBC Decisions Must Have a Reasonable Basis and Must Be Arrived at Properly**

LBC decisions regarding petitions that come before it must have a reasonable basis. That is, both the LBC's interpretation of the applicable legal standards and its evaluation of the evidence in the proceeding must have a rational foundation.<sup>3</sup>

The LBC must, of course, proceed within its jurisdiction; conduct a fair hearing; and avoid any prejudicial abuse of discretion. Abuse of discretion occurs if the LBC has not proceeded in the manner required by law or if its decision is not supported by the evidence.

### **Limitations on Direct Communications with the LBC**

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

<sup>3</sup> See *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1241 (Alaska 1995). When an administrative decision involves expertise regarding either complex subject matter or fundamental policy formulation, the court defers to the decision if it has a reasonable basis; *Lake and Peninsula Borough v. Local Boundary Commission*, 885 P.2d 1059, 1062 (Alaska 1994); *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92, 97-8 (Alaska 1974). Where an agency action involves formulation of a fundamental policy the appropriate standard on review is whether the agency action has a reasonable basis; LBC exercises delegated legislative authority to reach basic policy decisions; acceptance of the incorporation petition should be affirmed if the court perceives in the record a reasonable basis of support for the LBC's reading of the standards and its evaluation of the evidence; *Rose v. Commercial Fisheries Entry Comm'n*, 647 P.2d 154, 161 (Alaska 1982) (review of agency's exercise of its discretionary authority is made under the reasonable basis standard) cited in *Stosh's I/M v. Fairbanks North Star Borough*, 12 P.3d 1180, 1183 nn. 7 and 8 (Alaska 2000); see also *Matanuska-Susitna Borough v. Hammond*, 726 P.2d 166, 175-76 (Alaska 1986).

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

In that regard, all communications with the Commission must be submitted through staff to the Commission. The LBC

staff may be contacted at the following address, telephone number, facsimile number, or e-mail address:



*The LBC conducting a 2005 public hearing.*

Local Boundary Commission Staff  
550 West Seventh Avenue, Suite 1770  
Anchorage, Alaska 99501-3510  
Telephone: (907) 269-4559  
Fax: (907) 269-4539  
Alternate fax: (907) 269-4563  
E-mail: [LBC@commerce.state.ak.us](mailto:LBC@commerce.state.ak.us)

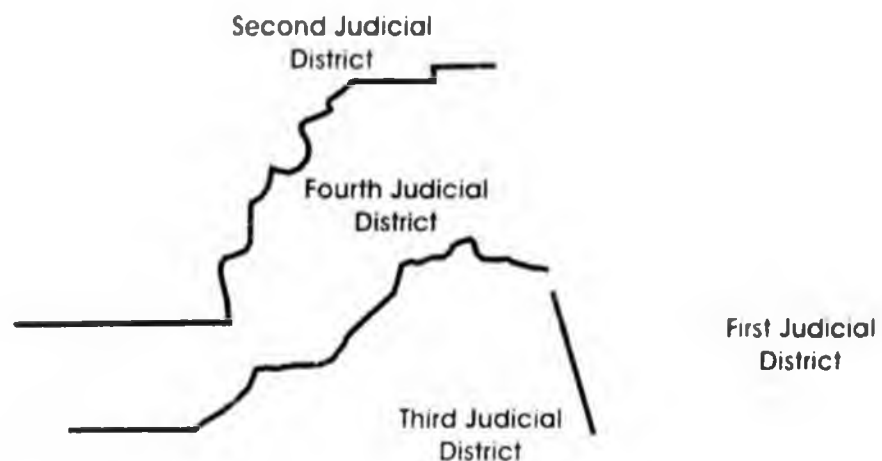
## LBC Membership

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

The LBC is comprised of five members. One member is appointed from each of Alaska's four judicial districts. The fifth member is appointed from the state at-large and serves as Chair of the LBC.

State law provides that LBC members must be appointed "on the basis of interest in public affairs, good judgment, knowledge and ability in the field of action of the department for which appointed, and with a view to providing diversity of interest and points of view in the membership." (AS 39.05.060)

LBC members receive no pay for their service. However, they are entitled to reimbursement of travel expenses and per diem authorized for members of boards and commissions under AS 39.20.180.



The following is a biographical summary of the current members of the LBC.



**Darroll Hargraves, Chair, At-Large Appointment.** Governor Murkowski appointed Darroll Hargraves of Wasilla Chair of the LBC in March 2003. Commissioner Hargraves holds a Masters degree and an Education Specialist degree from the University of Alaska Fairbanks. Additionally, Oakland City University awarded him the Doctor of Humane Letters. Commissioner Hargraves has been school superintendent in Nome, Ketchikan, and Tok. He was the Executive Director of the Alaska Council of School Administrators from 1998 to 2002. He is currently a management/communications consultant working with school districts and nonprofit organizations. Commissioner Hargraves previously served as Chair of the LBC from 1992-1997 under Governors Hickel and Knowles. His current term on the LBC ends January 31, 2008.



**Georgianna Zimmerle, First Judicial District.** Georgianna Zimmerle serves from the First Judicial District. She is a resident of Ketchikan. Governor Murkowski appointed Commissioner Zimmerle to the LBC on March 25, 2003. An Alaska Native, Commissioner Zimmerle is Tlingit and Haida. She worked for the Ketchikan Gateway Borough for 27 years, serving five years as the Borough Manager and 22 years in the Borough Clerk's Office. Her current term on the LBC ends January 31, 2006.



**Robert Harcharek, Second Judicial District.** Robert Harcharek serves from the Second Judicial District. Then-Governor Knowles appointed him to the LBC on July 18, 2002. Governor Murkowski reappointed him to the LBC on March 24, 2004. Mr. Harcharek has lived and worked on the North Slope for more than 25 years. He has been a member of the Barrow City Council since 1993 and a member of the North Slope Borough School Board since 1999. He is currently the Community and Capital Improvement Projects (CIP) Planner for the recently created North Slope Borough Department of Public Works. Mr. Harcharek earned a Ph.D. in International and Development Education from the University of Pittsburgh in 1977. He has served as North Slope Borough Senior Planner and Social Science Researcher, CIP and Economic Development Planner, Community Affairs Coordinator for the North Slope Borough Department of Public Safety, Director of the North Slope Higher Education Center, Sociocultural Scientist for the North Slope Borough Department of Wildlife Management, Director of Technical Assistance for Upkeagvik Inupiat Corporation, and Dean of the Inupiat University of the Arctic. Mr. Harcharek served for three years as a Peace Corps volunteer in Thailand and was also a Fulbright-Hays Professor of Multicultural Development in Thailand. He is a member of numerous boards of directors, including the Alaska Association of School Boards and the Alaska School Activities Association. His current term on the LBC ends January 31, 2009.



**Bob Hicks, Vice-Chair, Third Judicial District.** Governor Murkowski appointed Bob Hicks to the LBC from the Third Judicial District in March 2003. His fellow commissioners elected him as Vice-Chair of the LBC. Commissioner Hicks is a graduate of Harvard Law School. From 1972 - 1975, he served as Executive Director of the Alaska Judicial Council. He practiced law in Alaska from 1975 - 2001. One of the fields in which he specialized as an attorney was the field of local government, including LBC matters. Since 2001, Commissioner Hicks has served as the Director of Corporate Affairs and the Dive Officer at the Alaska SeaLife Center in Seward. Commissioner Hicks' current term on the LBC ends January 31, 2007.



**Dr. Anthony Nakazawa, Fourth Judicial District.** Anthony "Tony" Nakazawa serves from the Fourth Judicial District and is a resident of Fairbanks. He was appointed to the LBC on February 14, 2003. Commissioner Nakazawa is employed as the State Director of the Alaska Cooperative Extension Service, USDA/ University of Alaska Fairbanks, which includes district offices in fifteen communities throughout Alaska. He previously served as the Director of the Division of Community and Rural Development for the Alaska Department of Community and Regional Affairs under Governor Walter J. Hickel. Commissioner Nakazawa, an extension economist and UAF professor, has been with the Cooperative Extension Service since 1981 and with the Hawaii Cooperative Extension system in 1979-1980. From 1977-1979, he served as the Economic Development Specialist for the Ketchikan Gateway Borough. His past activities include board service with the Alaska Rural Development Council, Rural CAP, Alaska Job Training Council, and Asian-Alaskan Cultural Center. Commissioner Nakazawa received his B.A. in economics from the University of Hawaii Manoa in 1971 and his M.A. in urban economics from the University of California Santa Barbara in 1974. He received his M.S. (1976) and Ph.D. (1979) in agriculture and resource economics from the University of California Berkeley. His current term on the LBC ends January 31, 2010.

## Staff to the Commission

The Alaska Department of Commerce, Community, and Economic Development (Commerce), Division of Community Advocacy (DCA) provides staff to the Commission.

### Constitutional Origin of the Local Government Agency



As noted in the preceding discussion regarding the background of the LBC, the framers of Alaska's Constitution followed a principle that no specific agency, department, board, or commission would be named in the Constitution "unless a grave need existed". In addition to the five boards and commissions named in the Constitution previously noted, the framers provided for only one State agency or department – the local government agency mandated by Article X, Section 14 to advise and assist local governments.<sup>6</sup> It is worth noting that of the six boards, commissions, and agencies mandated by Alaska's Constitution, two deal with the judicial branch, one deals with the legislative branch, one deals with the University of Alaska, and the remaining two – the LBC and the local government agency – deal with local governments. The constitutional standing granted to the LBC and the local government agency reflects the framers' strong conviction that successful implementation of the local government principles laid out in the Constitution was dependent, in large part, upon those two entities.

The framers recognized that deviation from the constitutional framework for local government would have significant detrimental impacts upon the constitutional policy of maximum local self-government. Further, they recognized that the failure to properly implement the constitutional principles would result in disorder and inefficiency in terms of local service delivery.

The duty to serve as the constitutional local government agency is presently delegated to the Department of Commerce, Community, and Economic Development.<sup>7</sup>

### Commerce Serves as Staff to the LBC

Within the Department, the Division of Community Advocacy carries out the duty to advise and assist local governments. Commerce also serves as staff to the LBC pursuant to AS 44.47.050(a)(2). The LBC Staff component is part of the Division of Community Advocacy.

<sup>6</sup> Article X, Section 14 states, "An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities, collect and publish local government information, and perform other duties prescribed by law."

<sup>7</sup> A.S. 44.33.020 provides that the Department "shall (1) advise and assist local governments."

Commerce is required by AS 29.05.080 and 3 AAC 110.530 to investigate each municipal incorporation proposal and to make recommendations regarding such to the LBC. As previously noted, LBC decisions must have a reasonable basis (i.e., a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding). Accordingly, Commerce adopts the same standard for itself in developing recommendations regarding matters pending before the LBC. That is, the LBC Staff is committed to developing its recommendations to the LBC based on a proper interpretation of the applicable legal standards and a rational application of those standards to the evidence in the proceeding. The LBC Staff takes the view that due process is best served by providing the LBC with a thorough, credible, and objective analysis of every municipal boundary proposal.

Commerce's Commissioner, Deputy Commissioners, and the Director of DCA provide policy direction concerning recommendations to the LBC.

The recommendations of the LBC Staff are not binding on the LBC. As noted previously, the LBC is an autonomous commission. While the Commission is not obligated to follow the recommendations of the LBC staff, it has, nonetheless, historically considered Commerce's analyses and recommendations to be critical components of the evidence in municipal boundary proceedings. Of course, the LBC considers the entire record when it renders a decision.

The LBC Staff also delivers technical assistance to municipalities, residents of areas subject to impacts from existing or potential petitions for creation or alteration of municipal governments, petitioners, respondents, agencies, and others.

Types of assistance provided by the LBC Staff include:

- conducting feasibility and policy analysis of proposals for incorporation or alteration of municipalities;
- responding to legislative and other governmental inquiries relating to issues on municipal government;
- conducting informational meetings;
- providing technical support during Commission hearings and other meetings;



*LBC Staff providing information to local residents and officials regarding local government options for their area.*

- drafting decisional statements of the LBC;
- implementing decisions of the LBC;
- certifying municipal boundary changes;
- maintaining incorporation and boundary records for each of Alaska's 162 municipal governments;
- coordinating, scheduling, and overseeing public meetings and hearings for the LBC;
- developing orientation materials and providing training for new LBC members;
- maintaining and preserving LBC records in accordance with the public records laws of the State; and
- developing and updating forms and related materials for use in municipal incorporation or alteration.

## Procedures of the Commission

Procedures for establishing and altering municipal boundaries and for reclassifying cities are designed to secure the reasonable, timely, and inexpensive determination of every proposal to come before the Commission. The procedures are also intended to ensure that decisions of the Commission are based on analysis of the facts and the applicable legal standards, with due consideration of the positions of interested parties. The procedures include extensive public notice and opportunity to comment, thorough study, public informational meetings, public hearings, a decisional meeting of the Commission, and opportunity for reconsideration by the Commission. A summary of the procedures follows.

### Preparation and Filing of the Petition

The LBC Staff offers technical assistance, sample materials, and petition forms to prospective petitioners. The technical assistance may include feasibility and policy analysis of prospective proposals. LBC Staff routinely advises petitioners to submit petitions in draft form in order that potential technical deficiencies relating to petition form and content may be identified and corrected prior to circulation of the petition for voter signatures or formal adoption by a municipal government sponsor.

Once a formal petition is prepared, it is submitted to LBC Staff for technical review. If the petition contains all the information required by law, the LBC Staff accepts the petition for filing.

## **Public Notice and Public Review**

Once a petition is accepted for filing, extensive public notice is given. Interested parties are typically given at least seven weeks to submit responsive briefs and comments supporting or opposing a petition. The petitioner is typically provided at least two weeks to file one brief in reply to responsive briefs.

## **Analysis**

Following the public comment period, the LBC Staff analyzes the petition, responsive briefs, written comments, reply brief, and other materials as part of its investigation. The petitioner and the LBC Staff may conduct informational meetings. At the conclusion of its investigation, the LBC Staff issues a preliminary report for public review and comment. The report includes a formal recommendation to the LBC for action on the petition.

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

## **Commission Review of Materials and Public Hearings**

Members of the LBC review the petition, responsive briefs, written comments, reply brief, and the LBC Staff reports. If circumstances permit, LBC members also tour the area at issue prior to the hearing in order to gain a better understanding of the area. Following extensive public notice, the LBC conducts at least one hearing in or near the affected territory. The Commission must act on the petition within ninety days of its final public hearing.

The LBC may take any one of the following actions:


- approve the petition as presented;
- amend the petition (e.g., expand or contract the proposed boundaries);
- impose conditions on approval of the petition (e.g., voter approval of a proposition authorizing the levy of taxes to ensure financial viability); or
- deny the petition.

While the law allows the Commission ninety days following its last hearing on a petition to reach a decision, the LBC typically renders its decision within a few days of the hearing. Within thirty days of announcing its decision, the LBC must adopt a written statement setting out the basis for its decision. Copies of the decisional statement are provided to the petitioner, respondents, and others who request it. At that point, the decision becomes final, but is subject to reconsideration. Any party may ask the LBC to reconsider its decision. Such requests must be filed

within eighteen days of the date that the decision becomes final. If the LBC does not approve a request for reconsideration within twenty days of the date that the decision became final, the request for reconsideration is automatically denied.

### **Implementation**

If the LBC approves a petition, the proposal is typically subject to approval by voters or the legislature. A petition that has been granted by the Commission takes effect upon the satisfaction of any stipulations imposed by the Commission. The action must also receive favorable review under the Federal Voting Rights Act. The LBC Staff provides assistance with Voting Rights Act matters.

	<h1>Chapter 2</h1> <h2>Activities and Developments</h2> <h3>During 2005</h3>
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### Section I. City Annexation

City annexation activities occurred in the following localities during 2005:

- |             |              |
|-------------|--------------|
| ★ Akutan    | ★ Nome       |
| ★ Bethel    | ★ Palmer     |
| ★ Fairbanks | ★ Petersburg |
| ★ Homer     | ★ Valdez     |
| ★ Hoonah    | ★ Wasilla    |



## Akutan

<b>Location:</b>	Akutan is located on Akutan Island in the eastern Aleutian Islands. It is 35 miles east of Unalaska, and 766 air miles southwest of Anchorage. The area encompasses 14 sq. miles of land and 4.9 sq. miles of water.	
<b>Population:</b>	771 (2004 State Demographer estimate)	
<b>City Classification:</b>	Second Class City	
<b>Borough:</b>	Aleutians East Borough	
<b>School District:</b>	Aleutians East Borough School District	

In September 2004, the City of Akutan filed a petition for annexation of approximately 54.35 square miles. After a technical review by LBC staff, the petition was accepted for filing in November 2004. The Chair of the LBC set February 25, 2005 as the deadline for filing of responsive briefs and comments supporting or opposing the annexation proposal.


In May 2005, LBC staff met with the Petitioner to discuss the proposal. The petition anticipated construction of an airport and development of a geothermal energy project within the territory proposed for annexation. However, it was later ascertained that the Alaska Department of Transportation and Public Facilities had concluded that the construction and operation of an airport on Akutan Island was not feasible, and that nearby Akun Island was now under consideration as a possible site. The status of the geothermal energy project was also brought up. It was indicated that the project was still under study and that no progress had occurred or would be taking place in the near future. In view of these developments, the LBC expressed concern that the petition did not meet the standards for annexation.



*A boardwalk through a residential area of Akutan.*

Shortly after the meeting, the City of Akutan withdrew its annexation petition. City officials decided that it would be more prudent to defer filing a new annexation petition until the projects were in place and the level and extent of municipal services could be assessed more accurately.

## Bethel

<b>Location:</b>	Bethel is located at the mouth of the Kuskokwim River, 40 miles inland from the Bering Sea. It lies in the Yukon Delta National Wildlife Refuge, 400 air miles west of Anchorage. The area encompasses 43.8 sq. miles of land and 5.1 sq. miles of water.	
<b>Population:</b>	5,888 (2004 State Demographer estimate)	
<b>City Classification:</b>	Second Class City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Lower Kuskokwim Regional Educational Attendance Area	

The LBC staff provided written materials regarding annexation to Bethel's City Manager in response to an inquiry made in 2004 regarding the standards and procedures for annexation.


At the request of the Bethel Chamber of Commerce, LBC staff addressed the Chamber of Commerce in May 2005. Topics of discussion included

borough incorporation, city annexation, city reclassification, and certain pending legislative proposals such as the unorganized borough head tax (SB 112) and the Kuskokwim Port Authority (SB 40 and SB 41).



*A partial view from the air of Bethel.*

## Fairbanks

<b>Location:</b>	Fairbanks is located in the heart of Alaska's Interior, on the banks of the Chena River in the Tanana Valley. It lies 358 road miles north of Anchorage. The area encompasses 31.9 sq. miles of land and 0.8 sq. miles of water.	
<b>Population:</b>	29,954 (2004 State Demographer estimate)	
<b>City Classification:</b>	Home Rule City	
<b>Borough:</b>	Fairbanks North Star Borough	
<b>School District:</b>	Fairbanks North Star Borough School District	


On January 14, 2005, officials of the City of Fairbanks advised LBC staff that they were considering a fairly substantial annexation proposal, using the aggregate local option method.

In July the City of Fairbanks submitted a draft annexation petition for technical review by LBC staff. The draft petition proposed the annexation of 13.9 square miles inhabited by an estimated 3,746 individuals. Also in July, the draft proposal was released by the City of Fairbanks for public review and comment.

In September, the Fairbanks City Council rejected a proposal to levy a 3 percent sales tax to be collected under the City's revenue cap. If the Council had adopted the sales tax proposal, City property taxes would have been eliminated. In the view of City officials, that would have made the prospect of annexation to the City of Fairbanks very attractive. According to supporters of the measure, the proposed sales tax would have shifted the cost of City services, such as fire, police and roads, to the estimated 150,000 residents of and visitors to the greater Fairbanks area that regularly shop within the corporate boundaries of the City of Fairbanks. Currently, the City's principal source of locally generated revenue is property taxes paid by an estimated 8,000 property owners. The proposal called for the sales tax to be suspended once the revenue cap, an estimated \$11 million, was reached.

In spite of the defeat of the sales tax proposal, the Fairbanks city annexation proposal is still under consideration. On December 5 the Mayor announced that the City Officials had concluded the extension of City fire protection, road services, and police service in the territory in question would result in higher taxes. However, the Mayor maintained that annexation of a smaller area - one including Fred Meyer West and the site of a proposed new Wal-Mart - made sense. The Mayor presented findings to the City Council during a work session that evening. The City Council showed general interest in the subject. City officials indicate that they plan to continue discussions on the topic in early 2006.

## Homer

<b>Location:</b>	Homer is located on the north shore of Kachemak Bay on the southwestern edge of the Kenai Peninsula. It is 227 road miles south of Anchorage, at the southern-most point of the Sterling Highway. The area encompasses 10.6 sq. miles of land and 11.9 sq. miles of water.	
<b>Population:</b>	5,332 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Kenai Peninsula Borough	
<b>School District:</b>	Kenai Peninsula Borough School District	

On December 26, 2001, the LBC approved an annexation of 4.58 square miles to the City of Homer. Following tacit approval by the 2002 Alaska State Legislature, the annexation took effect on March 20, 2002.

The annexation was appealed to superior court. On December 4, 2003, the superior court ordered a remand to the LBC to discuss the effect of the annexation on the Kachemak Emergency Service Area (KESA) created by the Kenai Peninsula Borough.


On January 5, 2005, following an opportunity for written comments by the public, analysis by staff, and a public hearing before the Commission in Homer, the LBC affirmed the December 26, 2001 decision granting annexation of 4.58



*Millers Landing, a portion of the surrounding community that was included in the 2001 annexation and affirmed by the LBC in 2005, to the City of Homer.*

square miles to the City of Homer. A decisional statement setting out the basis for the January 5 ruling was adopted by the LBC on February 4 and distributed to all interested parties. This action was followed by a formal request for reconsideration of the Homer annexation remand decision, which the LBC denied for failure to meet the criteria for reconsideration set out in the law. Appeals by Abigail Fuller and the Kachemak Area Coalition, Inc., d/b/a Citizens Concerned About Annexation (CCAA) of the LBC's February 4, 2005 decision followed and are currently pending.

## Hoonah

<b>Location:</b>	Hoonah is a Tlingit community located on the northeast shore of Chichagof Island, 40 air miles west of Juneau. The area encompasses 6.6 sq. miles of land and 2.1 sq. miles of water.	
<b>Population:</b>	841 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Hoonah City School District	


On April 29, 2005, LBC Staff provided information to the City of Hoonah regarding standards, procedures, and methods for annexation. City officials indicated that they were contemplating a proposal to annex the former Whitestone logging camp.

In 1991, the City of Hoonah petitioned for annexation of 18.5 square miles, including the Whitestone logging camp. The LBC amended the petition to exclude the Whitestone logging camp, in large part because "[m]any residents of the community testified . . . that they were concerned the annexation of the Whitestone logging camp would have adverse effects on Native voting strength." The LBC also noted that the camp was a temporary facility that was expected to close in two to five years. Lastly, the LBC concluded that annexation of the Whitestone logging camp would result in a net loss of revenues ranging from \$38,861 to \$44,437 annually for the City of Hoonah.



*The City of Hoonah in Southeast Alaska.*

## Nome

<b>Location:</b>	Nome was built along the Bering Sea, on the south coast of the Seward Peninsula, facing Norton Sound. It lies 539 air miles northwest of Anchorage. The area encompasses 12.5 sq. miles of land and 9.1 sq. miles of water.	
<b>Population:</b>	3,473 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Nome City School District	


In early 2004, the *Nome Nugget* published an editorial advocating the expansion of the boundaries of the City of Nome. The editorial was responding to the increased development outside the current city limits and the prospect of further expansion stemming from proposed mining activities. It also addressed the issue that the City of Nome, while not having a legal obligation to provide fundamental services, does have a moral obligation to serve residents of the territory in question. In November of 2004,

*Aerial view of Nome.*

the City followed up with a request for information about annexation. LBC Staff provided this information regarding the standards and procedures for annexation.

In 2005, LBC Staff conferred with a consultant representing NovaGold Resources, Incorporated, regarding the Rock Creek Project and Saddle Project near Nome. The Rock Creek and Saddle deposits contain more than one million ounces of gold. Based on completion of the final feasibility study and receipt of the construction permits, gold production at the Rock Creek is targeted to begin by 2006. LBC staff advised the consultant that there have been recent inquiries regarding the prospect of expanding the boundaries of the City of Nome.

## Palmer

<b>Location:</b>	Palmer is located in the center of the Matanuska Valley, 42 miles northeast of Anchorage on the Glenn Highway. The area encompasses 5.2 sq. miles of land.	
<b>Population:</b>	5,197 (2004 State Demographer estimate)	
<b>City Classification:</b>	Home Rule City	
<b>Borough:</b>	Matanuska-Susitna Borough	
<b>School District:</b>	Matanuska-Susitna Borough School District	


There were inquiries about two separate city annexation proposals in Palmer. In early July 2005 the City of Palmer's Community Development Director advised LBC Staff that Palmer City officials were exploring the possibility of a substantial annexation. LBC Staff provided information about standards and procedures for annexation. No particular territory had yet been identified in terms of the prospective annexation proposal. Once City officials define the proposed annexation boundaries, the City intends to use a consultant to examine the fiscal viability of annexation. Initially, the City of Palmer anticipated that a petition might be filed early in 2006. However, City officials informed LBC staff in October 2005 that they extended their timeline by one year. The City plans to use the extra time to complete its comprehensive plan update, conduct an economic analysis of annexation options, and to revise its land use code.



*Palmer.*

In an unrelated matter, City of Palmer officials advised LBC Staff in October that the Matanuska-Susitna Borough recently obtained a 159-acre uninhabited parcel contiguous to the City's boundary. The property is subject to a lease between the City and the property owner (formerly State, now Borough) for public use of the property. City officials want to annex the parcel. They indicate that the property owner consents to the annexation. LBC staff provided information about the standards and procedures for the annexation.

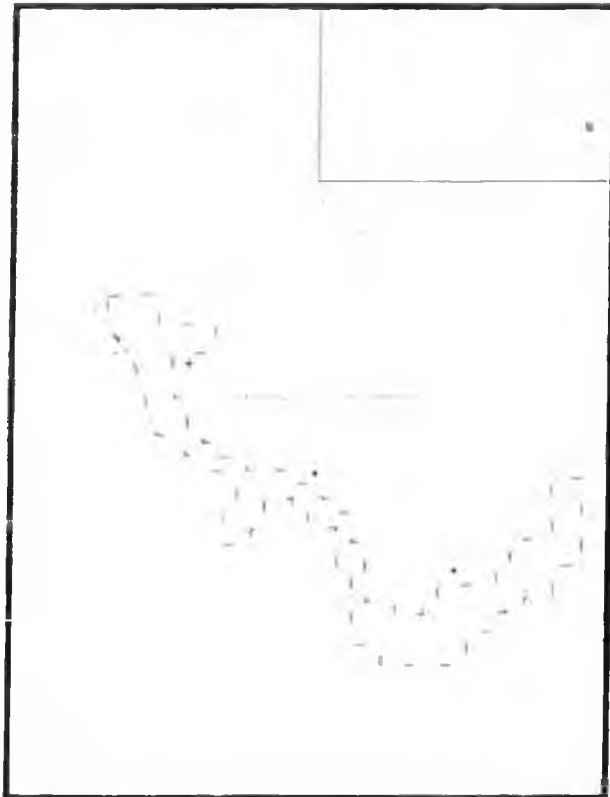
## Petersburg

<b>Location:</b>	Petersburg is located on the northwest end of Mitkof Island, where the Wrangell Narrows meet Frederick Sound. It lies midway between Juneau and Ketchikan, about 120 miles from either community. The area encompasses 43.9 sq. miles of land and 2.2 sq. miles of water.	
<b>Population:</b>	3,123 (2004 State Demographer estimate)	
<b>City Classification:</b>	Home Rule City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Petersburg City School District	

In 2004, the City of Petersburg submitted a petition for annexation of approximately 34.2 square miles on Mitkof Island. LBC staff completed the technical review of the petition in December 2004, and the content was determined to be substantially complete. The Petition was accepted for filing and the deadline for receipt of responsive briefs and written comments was set for April 18, 2005.

In March of 2005, LBC Staff met with a resident of the area proposed for annexation to the City of Petersburg. The territory in question encompasses an estimated 162 residents and \$14,575,000 in taxable property. Procedures and advantages of filing responsive briefs were addressed during the meeting. Other residents also inquired about filing responsive briefs regarding the City's pending annexation petition. By the deadline of April 18, one responsive brief and sixteen written comments were timely filed. Additionally, one set of informational materials was submitted. After conferring with officials of the City of Petersburg, the LBC Chair set July 15 as the deadline for receipt of the reply brief from the City of Petersburg.


Figure 2-1. Boundaries for the proposed annexation of approximately 34.2 square miles of territory by the City of Petersburg.



On June 8, the LBC Chair granted a request by the City of Petersburg to extend the deadline for filing its reply brief in the pending annexation proceedings. The new deadline was set for August 15, 2005. LBC Staff provided representatives of the City of Petersburg with materials to facilitate efforts to complete and submit the City's reply brief. The City of Petersburg met the August 15 deadline for filing the reply brief.

LBC staff began work on the Preliminary Report regarding the Petersburg annexation proposal in September. Progress on the preliminary report was put on hold temporarily while LBC staff completed some other projects requiring immediate attention. Work on the Petersburg Preliminary report resumed in late December.


## Valdez

<b>Location:</b>	Valdez is located on the north shore of Port Valdez, a deep water fjord in Prince William Sound. It lies 305 road miles east of Anchorage, and 364 road miles south of Fairbanks. It is the southern terminus of the Trans-Alaska oil pipeline. The area encompasses 222.0 sq. miles of land and 55.1 sq. miles of water.	
<b>Population:</b>	4,454 (2004 State Demographer estimate)	
<b>City Classification:</b>	Home Rule City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Valdez City School District	

In January 2005, LBC staff responded to inquiries about annexation from representatives from the City of Valdez, as well as from some residents of the proposed annexation territory. Background information about annexation was provided to all interested parties.

A representative of the City of Valdez requested annexation petition forms in March. In July, LBC Staff was advised that the City would likely file a petition for annexation within the next three months. It was indicated that the City might seek the extension of the City's jurisdictional boundaries to at least Mile 30 of the Richardson Highway. The territory in question reportedly contains residential and commercial properties with ties to Valdez. The potential for significant additional development of the territory (e.g., ski resort) reportedly exists. No decision has yet been reached locally regarding the proposed method of annexation. However, in August LBC staff once again provided the City of Valdez with materials for annexation. The materials included forms to petition for annexation by the legislative review method and the election-by-aggregate voter method.

## Wasilla

<b>Location:</b>	Wasilla is located midway between the Matanuska and Susitna Valleys, on the George Parks Highway. It lies between Wasilla and Lucille Lakes, 43 miles north of Anchorage. The area encompasses 11.7 sq. miles of land and 0.7 sq. miles of water.	
<b>Population:</b>	6 109 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Matanuska-Susitna Borough	
<b>School District:</b>	Matanuska-Susitna Borough School District	

In 2005, an official of the City of Wasilla advised LBC Staff that some property owners in a subdivision contiguous to the existing boundaries of the City of Wasilla have expressed interest in annexation and would like the City to pursue annexation on their behalf. LBC Staff provided information concerning standards and procedures for annexation. At this point, no petition has been filed.

## Section II. City Incorporation

City incorporation activities occurred in the following localities during 2005:


- ★ Anchor Point
- ★ Iliamna
- ★ Naukati
- ★ Willow

★ Willow

Iliamna ★ ★ Anchor Point

Naukati ★

## Anchor Point

<b>Location:</b>	Anchor Point is located on the Kenai Peninsula at the junction of the Anchor River and its north fork, 14 miles northwest of Homer. It lies at mile 156 of the Sterling Highway. The area encompasses 90.8 sq. miles of land and 0.1 sq. miles of water.	
<b>Population:</b>	1,792 (2004 State Demographer estimate)	
<b>City Classification:</b>	Unincorporated	
<b>Borough:</b>	Kenai Peninsula Borough	
<b>School District:</b>	Kenai Peninsula Borough School District	


Since December of 2003, Anchor Point residents have shown an interest in pursuing city incorporation. A survey conducted in May 2004 indicated that 86% of the respondents were in favor of city incorporation. Anchor Point residents and their Chamber of Commerce subsequently formed a committee to pursue city incorporation to study the issues related to incorporating their community as a second class city. On January 14, 2005, a member of an ad hoc committee to incorporate requested petition forms from the LBC. The LBC Staff furnished the forms as well as related materials. This was followed by a request from the Secretary of the Anchor Point Chamber of Commerce for LBC assistance in the guidance and preparation of the petition. A sample petition illustrating form completion was forwarded to her.



*Anchor Point. Photo obtained from the Kenai Peninsula Borough website.*

No petition for incorporation of the City of Anchor Point has yet been filed with the LBC.

## Iliamna

<b>Location:</b>	Iliamna is located on the northwest side of Iliamna Lake, 225 miles southwest of Anchorage. It is near the Lake Clark Park and Preserve. The area encompasses 35.9 miles of land and 0.6 sq. miles of water.	
<b>Population:</b>	90 (2004 State Demographer estimate)	
<b>City Classification:</b>	Unincorporated	
<b>Borough:</b>	Lake and Peninsula Borough	
<b>School District:</b>	Lake and Peninsula Borough School District	


In February, a resident of Iliamna contacted LBC Staff regarding options to provide for improved local services. He stressed that fundamental public service needs of the residents of Iliamna were not being met. Particular concern was expressed regarding the lack of emergency medical services, fire protection, solid waste disposal, water utilities, sewage disposal, and planning in the context of the prospective development of the nearby Pebble mineral deposit.

The individual expressed interest in exploring various alternative local government structures including:

1. formation of a city government to serve the residents of Iliamna,
2. annexation of Iliamna to the nearby existing City of Newhalen, and
3. formation of a borough service area in the Lake and Peninsula Borough.

In seeking funding for a study of the options, LBC Staff encouraged the resident to contact the Lake and Peninsula Borough. LBC Staff provided materials relating to local government taxation and city incorporation.

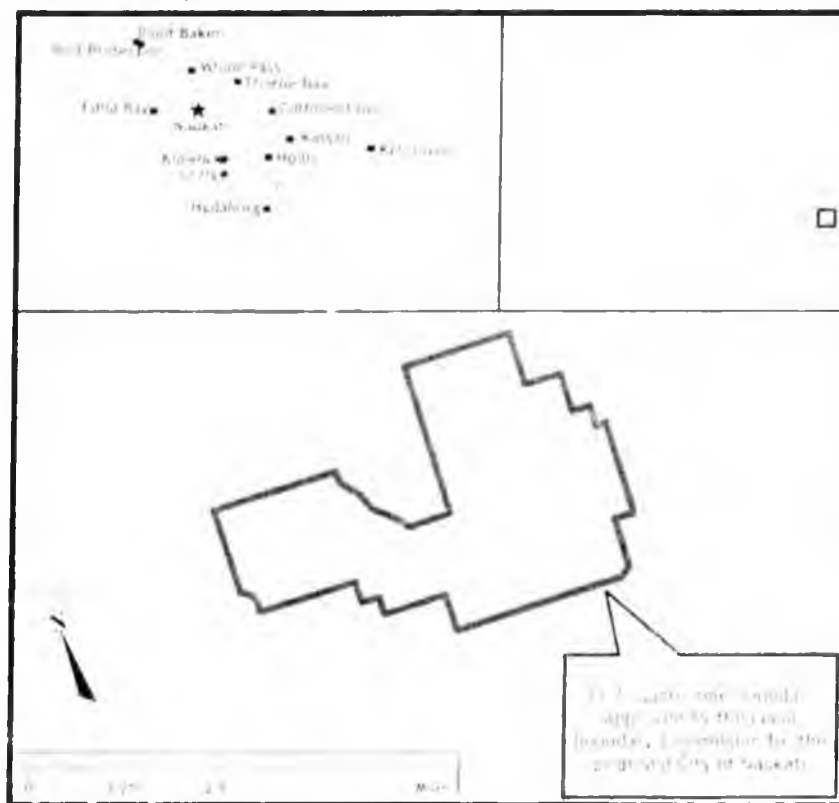
## Naukati

<b>Location:</b>	Naukati is located on the west coast of Prince of Wales Island in Southeast Alaska. The area encompasses 4.8 sq. miles of land and 0.2 sq. miles of water.	
<b>Population:</b>	107 (2004 State Demographer estimate)	
<b>City Classification:</b>	Unincorporated	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Southeast Island Regional Educational Attendance Area	

In 2004, voters in Naukati submitted a petition to incorporate as a second class city. The technical review of the petition revealed several aspects that required correction. By April 2004, the corrected petition was reviewed, but the conflicting interests and views of several of the parties that were involved necessitated further investigation.

DCCED's 196-page preliminary report and recommendation on the Naukati proposal was published and distributed in August 2005. LBC Staff conducted a public informational meeting in Naukati on October 4 to discuss matters relating to the proposed city incorporation. LBC staff toured portions of the 44 square miles within the proposed City of Naukati.

Figure 2-2. Proposed City of Naukati boundaries as approved by the Local Boundary Commission.




LBC staff toured portions of the 44 square miles within the proposed City of Naukati.

Eighteen individuals, groups and organizations submitted comments on Commerce's preliminary report. LBC Staff studied those comments and published a final report on the Naukati proposal in November.

The LBC conducted a public hearing in Naukati on December 12. Following the hearing, the LBC approved the petition with amended boundaries. In order to ensure fiscal viability of the proposed city, promote the State's best interest, and measure the personal commitment of local residents regarding the proposed city, the LBC imposed two conditions on incorporation. The conditions require voter approval of a proposition authorizing the city to levy a 5-percent sales tax and 3.5-mill property tax. The decisional statement was adopted by the LBC in January 2006. The incorporation election is expected to occur in the late spring of 2006.

## Willow

<b>Location:</b>	Willow is located in the Matanuska-Susitna Borough, between mile 60 and 80.7 of the George Parks Highway, north of Houston. Its western boundary is the Susitna River. The area encompasses 684.8 sq. miles of land and 8.0 sq. miles of water.	
<b>Population:</b>	1,856 (2004 State Demographer estimate)	
<b>City Classification:</b>	Unincorporated	
<b>Borough:</b>	Matanuska-Susitna Borough	
<b>School District:</b>	Matanuska-Susitna Borough School District	

In July 2004, LBC Staff responded to requests from the office of former State Representative Masek and some residents of Willow to provide information about city incorporation. In 2005, LBC Staff responded to three separate inquiries from residents of Willow regarding various aspects of city incorporation. Information was provided about the process for city incorporation; different classes of city government; the capacity of a city within an organized borough to provide for municipal planning, platting, and land use regulation; and the relationship between a borough and a city within that borough.

Some local residents stressed that Willow is undergoing substantial development and that the need for local planning is becoming more evident to several residents of the community. LBC Staff urged those who are interested in forming a city to involve officials of the Matanuska-Susitna Borough in the discussions.


## Section III. City Reclassification

City reclassification activities occurred in the following localities during 2005:

- ★ Bethel
- ★ Dillingham
- ★ Pelican
- ★ Homer


Bethel ★  
 Dillingham ★      ★ Homer      ★ Pelican

### Bethel

<b>Location:</b>	Bethel is located at the mouth of the Kuskokwim River, 40 miles inland from the Bering Sea. It lies in the Yukon Delta National Wildlife Refuge, 400 air miles west of Anchorage. The area encompasses 43.8 sq. miles of land and 5.1 sq. miles of water.	
<b>Population:</b>	5,888 (2004 State Demographer estimate)	
<b>City Classification:</b>	Second Class City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Lower Kuskokwim Regional Educational Attendance Area	

In 2004, the Mayor of Bethel expressed interest in exploring the prospect of reclassifying the second class city to a first class city government or home rule city. Reclassification had been explored several times in the past. LBC Staff was invited to address the Bethel Chamber of Commerce, and made a presentation on May 12, 2005.

## Dillingham

<b>Location</b>	Dillingham is located at the northern end of Nushagak Bay in northern Bristol Bay, at the confluence of the Wood and Nushagak Rivers. It lies 327 miles southwest of Anchorage. The area encompasses 33.6 sq. miles of land and 2.1 sq. miles of water.	
<b>Population:</b>	2,422 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Dillingham City School District	

Interest in reclassifying the City of Dillingham, from a first class city in the unorganized borough, to a second class city continued in 2005. Informational materials including those that related to the effects of reclassification and the fundamental policy issues involved were provided.


In January, LBC Staff prepared a 27-page set of petition forms for reclassification of a first class city in the unorganized borough to a second class city. The forms were provided to a group of Dillingham residents who had indicated intent to petition for reclassification of the city of Dillingham. The prospect of reclassification was given prominent attention in the LBC's report to the 2005 legislature. The Commission noted that "the prospective Dillingham proposal represents a microcosm of the entire state in terms of the growing debate over local government boundary matters. It has potentially far-reaching implications."

The City of Dillingham was incorporated as a second class city in 1963, and under a 1972 law, it was reclassified by legislative fiat as a first class city. As a first class city in the unorganized borough, Dillingham is obligated by State law to operate a city school district.

Dillingham schools are in serious disrepair. The condition of local school facilities raises significant concerns pertaining to both health and safety issues (e.g., mold, electrical problems, and troubles regarding the structural integrity of the Dillingham High School/Middle School). Faced with the prospect of significant increases in local taxes to support schools in December 2004, Dillingham voters overwhelmingly rejected a proposition to authorize the City of Dillingham to issue up to \$25 million in bonds to remedy the problems.

Reclassification proponents question why Dillingham is saddled with local responsibility for schools while many other areas of the state are not. Advocates of reclassification in Dillingham specifically cited Bethel as an example. They note that Bethel, a second class city, has an economy similar to Dillingham but that its population is 2.5 times greater than that of Dillingham. Based on the latest federal census, the median household income and median family income in Bethel are, respectively, 11.4 percent and 8.7 percent higher than is the case in Dillingham. Further, the percentage of Dillingham residents living in poverty is slightly higher compared to Bethel.


## Homer

<b>Location:</b>	Homer is located on the north shore of Kachemak Bay on the southwestern edge of the Kenai Peninsula. It is 227 road miles south of Anchorage, at the southern-most point of the Sterling Highway. The area encompasses 10.6 sq. miles of land and 11.9 sq. miles of water.	
<b>Population:</b>	5,332 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Kenai Peninsula Borough	
<b>School District:</b>	Kenai Peninsula Borough School District	

In September the Homer City Clerk advised LBC staff that the Homer City Council directed City staff to research the prospect of becoming a home rule city. Reportedly, this interest stems from a desire to create a city permanent fund that would be protected by the provisions of a home rule charter.

At the City Clerk's request, LBC staff provided background materials regarding home rule local government in Alaska. Materials sent included the publication *Home Rule - Maximum Local Self-Government* prepared by LBC staff in 2000. They also included information on the topic prepared by LBC staff last year when City of Wasilla officials were contemplating home rule status.

## Pelican

<b>Location:</b>	Pelican is located on the northwest coast of Chichagof Island on Lisianski Inlet. It lies 80 miles north of Sitka and 70 miles west of Juneau. The area encompasses 0.6 sq. miles of land and 0.1 sq. miles of water.	
<b>Population:</b>	118 (2004 State Demographer estimate)	
<b>City Classification:</b>	First Class City	
<b>Borough:</b>	Unorganized	
<b>School District:</b>	Pelican City School District	

The Pelican City Council expressed interest in reclassification of the first class city government. Such interest has been expressed a number of times since the late 1990s, when Pelican suffered substantial declines in its population.

- Between 1990 and 2000, the population of Pelican declined by more than 26 percent.
- From 2000 - 2004, the population declined by an additional 27 percent.
- The 2004 population was 118, less than one-third of the minimum population required under State law to form a first class city.

As a first class city in the unorganized borough, the City of Pelican is required by State law to operate a city school district and to provide significant financial support for its schools. In FY 2005, the City of Pelican was required to contribute \$52,121 in support of its schools. With only 11 students in its city school district, the FY 2005 required local contribution of the City of Pelican amounted to \$4,738 per student (one of the highest levels in Alaska).

During the last week of May 2005, LBC Staff provided background materials on city reclassification to Pelican City officials. The materials included forms to petition for reclassification.

As reported previously, some residents of the City of Dillingham, a first class city in the unorganized borough, have also expressed interest in reclassification due to the high cost of operating a city school district. Together, Pelican and Dillingham account for 11 percent of the city school districts in Alaska.

## Section IV. Borough Annexation

Borough annexation activities occurred in the following localities during 2005:

- ★ Fairbanks North Star Borough
- ★ Ketchikan Gateway Borough
- ★ City and Borough of Juneau

Fairbanks North  
Star Borough

City and Borough  
of Juneau

Ketchikan Gateway  
Borough

### Fairbanks North Star Borough

**Location:** The Fairbanks North Star Borough is located in the heart of Interior Alaska, and is the second-largest population center in the state. Fairbanks lies 45 minutes by air from Anchorage and 3 hours from Seattle. The area encompasses 7,361.0 sq. miles of land and 77.8 sq. miles of water.

**Population:** 84,979 (2004 State Demographer estimate)


**Borough  
Classification:** Second Class Borough



The news media reported on January 9, 2005 that the Fairbanks North Star Borough Mayor had made a preliminary determination that annexation of land north to the Yukon River and south to the Goodpaster River would be economically viable. Borough officials reportedly projected that such annexation would bring an estimated \$8 million to the borough with the addition of the multi-million dollar Pogo Mine and about 100 miles of the Trans-Alaska oil pipeline.

No petition for annexation of the area in question was filed with the LBC.

## Ketchikan Gateway Borough

<b>Location</b>	The Ketchikan Gateway Borough is located near the southernmost boundary of Alaska, in the Southeast Panhandle. It is comprised of the Cities of Ketchikan and Saxman. The area encompasses 1,233.2 sq. miles of land and 520.8 sq. miles of water.	
<b>Population:</b>	13,030 (2004 State Demographer estimate)	
<b>Borough Classification:</b>	Second Class Borough	

Beginning in 1998, the Ketchikan Gateway Borough petitioned the LBC to annex an estimated 5,524 square miles, which encompassed all of the area within the

Figure 2-3. Ketchikan Gateway Borough model borough boundaries.



borough's model boundaries with two exceptions.


The proposal omitted 17.9 square miles in and around Hyder and 3.5 square miles in and around Meyers Chuck. The petition was denied by the LBC at that time, in part, due to the fact that the annexation would have created two enclaves within the proposed expanded boundaries of the borough.

In 2003 and 2004, the Ketchikan Gateway Assembly continued to consider various proposals for annexation. In December of 2005, the Borough Assembly scheduled a hearing on a proposal to annex all unorganized territory within its model boundaries

with the exception of approximately 205 square miles of public and private lands surrounding and including the community of Hyder. The territory proposed for annexation includes the community of Meyers Chuck, an unincorporated settlement containing approximately 0.6 square miles of land and 0.2 square miles of water.

The hearing is scheduled to be held Saturday, January 21, 2006.

### City and Borough of Juneau

<b>Location:</b>	Located on the mainland of Southeast Alaska, opposite Douglas Island, Juneau was built at the heart of the Inside Passage along the Gastineau Channel. It lies 900 air miles northwest of Seattle and 577 air miles southeast of Anchorage. The area encompasses 2,716.7 sq. miles of land and 538.3 sq. miles of water.	
<b>Population:</b>	30,966 (2004 State Demographer estimate)	
<b>Borough Classification:</b>	Unified Home Rule Borough	

In November 2005, an official of the City and Borough of Juneau advised LBC staff that the Juneau Mayor and Assembly will consider a possible annexation proposal. Juneau's Mayor appointed a committee of former assembly members and planning commissioners to hold public hearings, gather input and report to the Assembly on a recommended action in 2006. LBC staff met with the committee on January 5.




*Juneau.*

## Section V. Borough Consolidation

Borough consolidation activities occurred in the Ketchikan area during 2005.

### Ketchikan Gateway Borough

<b>Location</b>	The Ketchikan Gateway Borough is located near the southernmost boundary of Alaska, in the Southeast Panhandle. It is comprised of the Cities of Ketchikan and Saxman. The area encompasses 1,233.2 sq. miles of land and 520.8 sq. miles of water.		
<b>Population:</b>	13,030	(2004	State Demographer estimate)
<b>Borough Classification:</b>	Second Class Borough		



In May 2003, an initiative to petition for consolidation of the Ketchikan Gateway Borough and the City of Ketchikan was started. Approval of the measure by areawide voters signaled support of the concept of consolidation. The voters agreed to the formation of a Ketchikan Consolidation Commission, whose responsibility it would be to turn this into a reality.

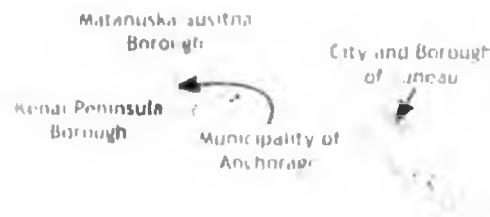
The Ketchikan Consolidation Commission prepared and filed a petition for consolidation of the City of Ketchikan and Ketchikan Gateway Borough in September 2004. The Consolidation Commission met in January and February 2005 to plan its reply to the City of Ketchikan's response brief that opposed the Consolidation Petition as it was currently written and to address comments by the Ketchikan Gateway Borough Manager and the Mayor of the City of Ketchikan. (The Ketchikan Gateway Borough filed comments regarding the proposal, but did not oppose the petition.) LBC Staff, the Ketchikan City Manager, City Finance Director, Borough Manager, Borough Attorney, and Borough Clerk all attended the February meeting.

The City, Borough, and Commission officials worked cooperatively over the next few months in a good faith effort to address everyone's concerns. In October 2005, the Consolidation Commission submitted an amended petition and its reply brief. The LBC Chair set December 30, 2005 as the deadline for receipt of written comments on amendments to the pending petition for consolidation.

## Section VI. - Borough Detachment

Borough detachment activities occurred in the following localities in 2005:

- ★ Matanuska-Susitna Borough (Ahtna, Inc. lands)
- ★ Municipality of Anchorage (Eagle River-Chugiak area)
- ★ City and Borough of Juneau (Shelter Island)
- ★ Kenai Peninsula Borough (Hope, Cooper Landing, Moose Pass, Seward)




### Matanuska-Susitna Borough

<b>Location:</b>	The Borough encompasses 24,681.5 sq. miles of land and 578.3 sq. miles of water.	
<b>Population:</b>	70,148 (2004 State Demographer estimate)	
<b>Borough Classification:</b>	Second Class Borough	

On April 7, LBC Staff met with the Vice-President of Corporate Affairs and the Vice-President of Subsidiary Operations for Ahtna Incorporated. The principal purpose of the meeting was to discuss borough incorporation. However, in passing, the officials indicated that the Corporation intends to petition in the not-too-distant future for detachment of the northernmost portion of the area within the Matanuska-Susitna Borough. That area encompasses substantial lands owned by Ahtna Incorporated. Ahtna officials indicated that the prospective proposal would concurrently seek annexation of the same territory to the Denali Borough. The LBC denied a similar proposal in 1997.

## Municipality of Anchorage

<b>Location:</b>	Anchorage, the most populated municipality in Alaska, is located in southcentral Alaska at the head of Cook Inlet. It is 3 hours by air from Seattle. The area encompasses 1,697.2 sq. miles of land and 263.9 sq. miles of water.		
<b>Population:</b>	277,498	(2004	State Demographer estimate)
<b>Borough Classification:</b>	Unified Home Rule Borough		

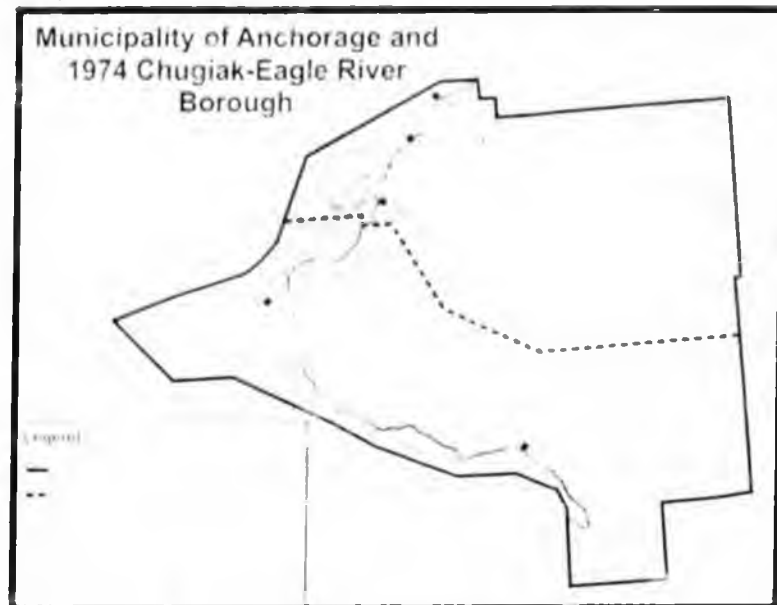


There is interest among some residents in the Eagle River-Chugiak region in detaching from the Municipality of Anchorage and becoming a separate borough government.


In 2004, LBC staff conducted an educational meeting to address the issues involving the detachment of the Eagle River Chugiak Region from the Municipality of Anchorage. However, no formal petition for borough detachment was filed during 2005.

Consulting firms have twice declined to submit proposals to conduct a fiscal analysis of the proposed detachment of the greater Eagle River-Chugiak area from the Municipality of Anchorage. The declinations stemmed from the limited funding available for the project. The Legislature had appropriated \$30,000 for the project but that level of funding proved to be inadequate. The consultants estimated that \$75,000 - \$100,000 would be needed to undertake the analysis.

Figure 2-4. Municipality of Anchorage with the boundaries of the proposed 1974 Chugiak-Eagle River Borough outlined below.

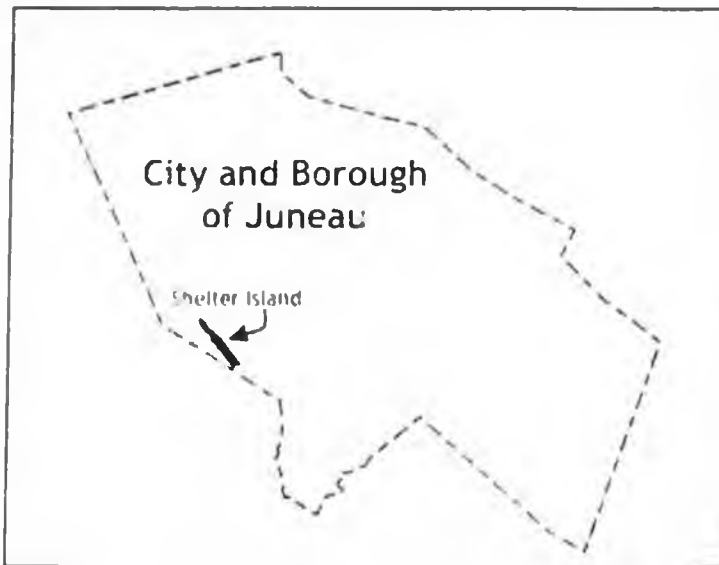


## City and Borough of Juneau

<b>Location:</b>	The area encompasses 2,716.7 sq. miles of land and 538.3 sq. miles of water.	
<b>Population:</b>	30,966 (2004 State Demographer estimate)	
<b>Borough Classification:</b>	Unified Home Rule Borough	

In July 2005, LBC Staff responded to an inquiry regarding the prospect of detaching Shelter Island from the City and Borough of Juneau. Shelter Island, in Lynn Canal north of Auke Bay, has been part of the Juneau borough

Figure 2-5. Location of Shelter Island within the City and Borough of Juneau.



north of Auke Bay, has been part of the Juneau borough since the borough was incorporated in 1963. Some property owners were motivated to explore detachment because of a perceived lack of services, increasing property assessments, and rising property tax levies.

LBC Staff provided information about constitutional and other standards regarding borough boundaries. Factors working against the proposal to detach Shelter Island from the City and Borough of Juneau include the fact that the territory in question has been part of the

Juneau borough for more than four decades. Additionally, Alaska's Constitution encourages the extension of borough government.

## Kenai Peninsula Borough

**Location:** The Kenai Peninsula Borough is comprised of the Kenai Peninsula, Cook Inlet and a large unpopulated area northeast of the Alaska Peninsula. The Borough includes portions of the Chugach National Forest, the Kenai National Wildlife Refuge, the Kenai Fjords National Park, and portions of the Lake Clark and Katmai National Park. The twin Cities of Kenai and Soldotna are the population centers of the Borough, approximately 65 air miles south of Anchorage. The area encompasses 16,013.3 sq. miles of land and 8,741.3 sq. miles of water.

**Population:** 50,980 (2004 State Demographer estimate)

**Borough Classification:** Second Class Borough

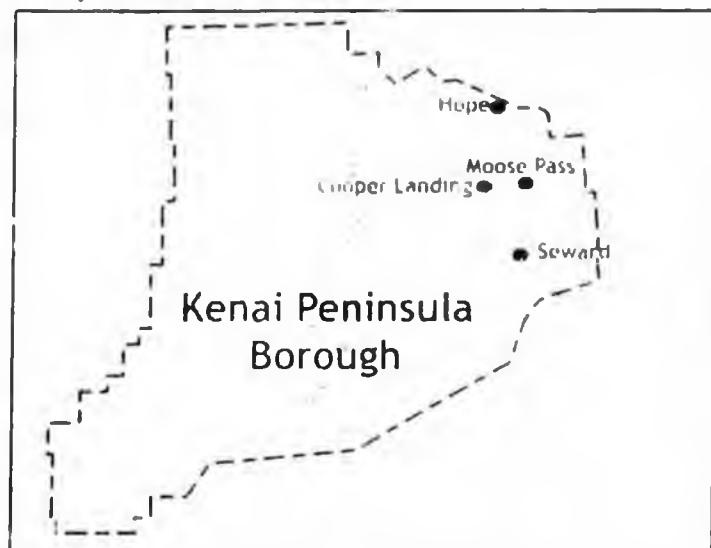


In November, a resident of Cooper Landing announced plans to petition the LBC to detach Hope, Cooper Landing, Moose Pass, and Seward from the Kenai Peninsula Borough, and have those four communities form a new borough. The individual indicated that the area in question encompasses approximately half the geographic area of the Kenai Peninsula Borough.

The individual indicated further that he was working with other residents of the Kenai Peninsula Borough who plan to pursue the two boundary changes in the immediate future. The prospective petitioner indicated that the local option election method would be proposed for both boundary changes.

LBC Staff was advised that approximately ten individuals are currently involved in the effort. The individual indicated a number of factors have motivated the group. Those include the perception that: (1) the current form of representation

Figure 2-6. Communities within the area under consideration for detachment from the Kenai Peninsula Borough. Other communities located in the Kenai Peninsula Borough include Anchor Point, Clam Gulch, Homer, Kachemak, Kenai, Kasilof, Nanwalek, Nikiski, Nikolaevsk, Port Graham, Salamatof, Seldovia, Soldotna, and Tyonek.



for the Kenai Peninsula Borough Assembly is inadequate; (2) borough taxes are disproportionately high vis-à-vis local services; and (3) the prospect that schools at Hope and Cooper Landing will be closed (ten students are currently enrolled at the Cooper Landing School; that figure is expected to drop to seven next school year).

The resident requested that LBC Staff provide petition forms to allow the local group to develop the planned petition.

LBC Staff provided the individual with the petition forms and a copy of relevant background publications previously prepared by LBC Staff including: (1) *Local Government in Alaska*; (2) *Required Contents of a Petition to the Local Boundary Commission for Borough Detachment and/or Incorporation*; (3) *Review of Standards for Detachment from an Organized Borough and Incorporation of a New Borough*; (4) *Review of 1974 - 1977 Efforts to Form the Chugiak-Eagle River Borough*; and (5) *Overview - Process to Petition to Detach from the Municipality of Anchorage and incorporate an Eagle River Borough*.

No formal petition for borough detachment has yet been filed with the LBC.

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## Section VII. Borough Incorporation

Borough incorporation activities occurred in the following regions in 2005:

- ★ AVCP-Calista
- ★ Chatham/Glacier Bay/Icy Strait
- ★ Copper River
- ★ Deltana
- ★ Dillingham Census Area
- ★ Middle Kuskokwim
- ★ Nenana
- ★ Prince William Sound
- ★ Skagway
- ★ Wrangell
- ★ Yukon Flats

## AVCP-Calista

In 2004, a steering committee to address the prospects of incorporating a borough encompassing the AVCP-Calista region was established at a regional economic summit held in Bethel. The AVCP-Calista region encompasses roughly 58,000 square miles and more than 23,000 residents.

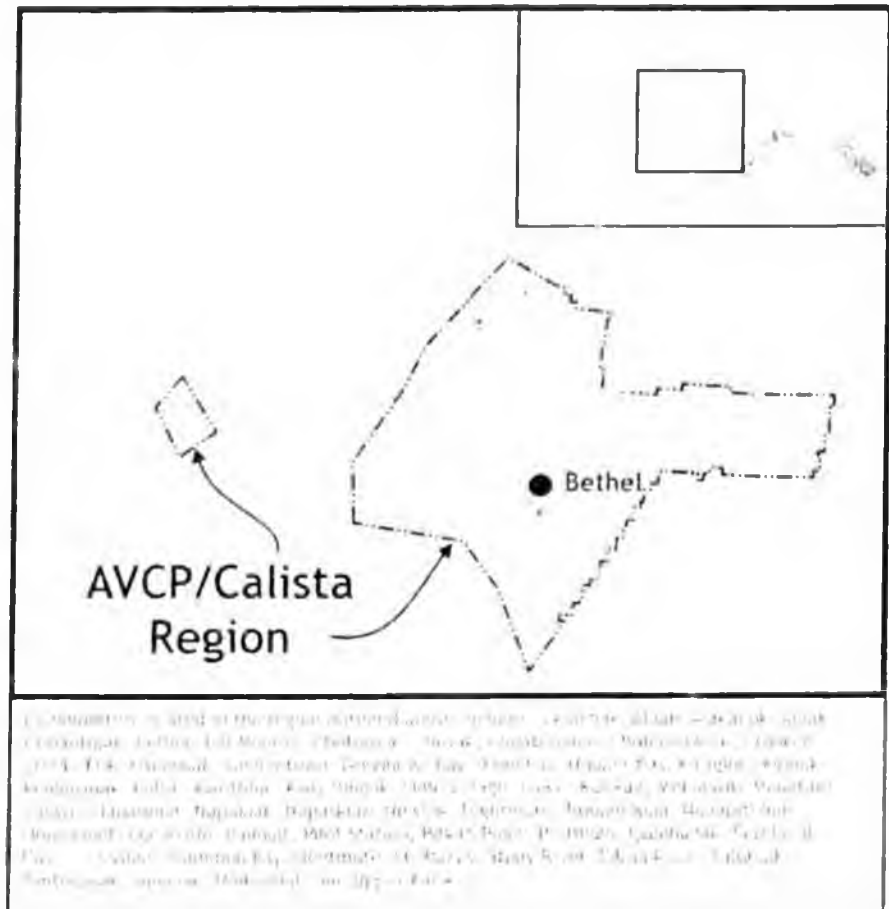
A 1981 study concluded that a borough encompassing the 58,000 square-mile Calista region was feasible. See *AVCP Regional Government Study*, Darbyshire and Associates, Inc. (December 1981).

Interest in borough formation was prompted, in part, by the prospective development of the Donlin Creek mineral deposit. The deposit lies approximately 12 miles north of Crooked Creek and about 150 miles northeast of Bethel. The Donlin Creek site is estimated to hold 27.8

million ounces of gold, making it one of the world's largest undeveloped deposits of gold.

Less than one percent of the region is currently within the jurisdictional boundaries of a city government. About 2 percent of the residents of the region live within the boundaries of a municipal school district. That particular characteristic is nearly the exact opposite of the remainder of Alaska. More than 95 percent of the residents of Alaska outside the AVCP region live within municipal school districts that are operated by organized boroughs, home rule or first class cities.

Figure 2-7. Some regionally based groups in the AVCP/Calista region explored borough incorporation during early 2005.



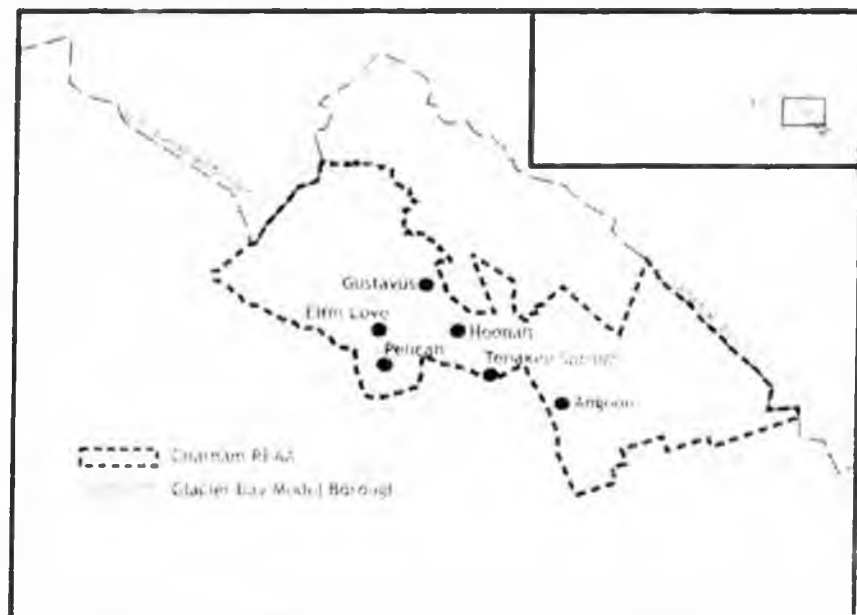
LBC Staff addressed the topic of borough formation at a Bethel Chamber of Commerce meeting in May 2005. Interest in borough formation in the AVCP-Calista region appears to have waned as a result of the development of a preference for a regional port authority. However, as reflected below, interest in forming a borough in the Middle Kuskokwim portion of the AVCP-Calista region remains strong. The Middle Kuskokwim region encompasses an estimated 11,441 square miles and approximately 1,600 residents.

### Chatham / Glacier Bay / Icy Strait

On February 4, the Superintendent of both the Chatham Regional Educational Attendance Area (REAA) and the City of Pelican School District contacted LBC Staff to request information regarding incorporation of a borough conforming to the boundaries of the Chatham REAA. LBC Staff provided information about borough incorporation standards and procedures, along with materials relating to contemporary boundary issues and activities.

In November, the City of Hoonah announced its intent to petition the LBC for formation of the area's "Model Borough" that includes the communities of Elfin Cove, Gustavus, Hoonah, Pelican, and Tenakee Springs. A steering committee comprised of affected communities will be organized to continue the borough formation discussion. The City of Hoonah has contracted with a Juneau firm to prepare the updated evaluation and fiscal analysis for borough formation.

Figure 2-8. Chatham and Glacier Bay areas are illustrated below.



### Copper River Region

Initial interest in 2004 for borough formation was followed up in 2005 with an invitation for LBC Staff to attend a meeting in the Copper River Region to discuss the pertinent issues. A public forum was held in Glenallen on March 8. LBC Staff made a presentation on borough government at the meeting, which was organized by the Greater Copper River Valley Chamber of Commerce.

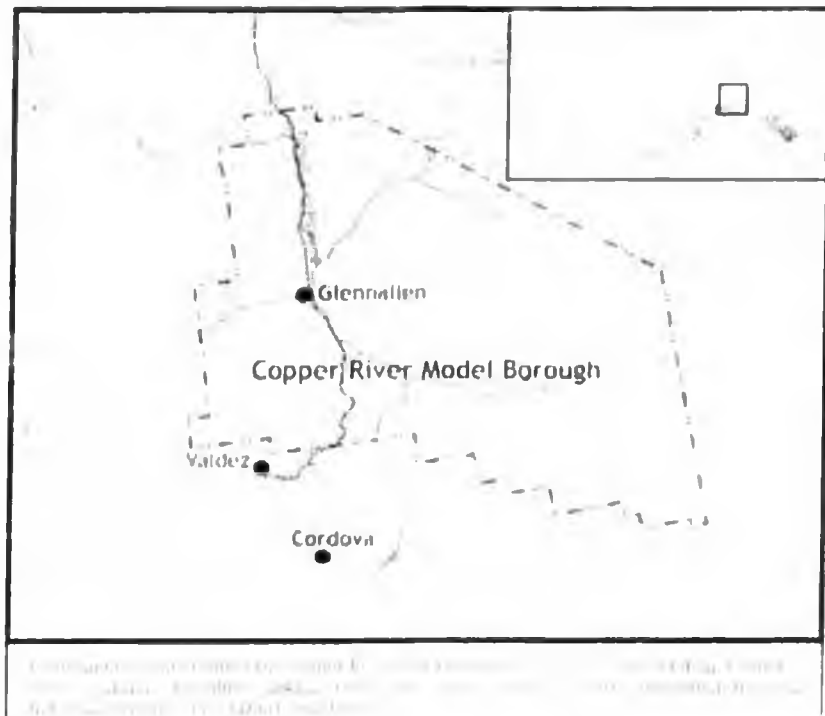
An estimated 300 people were in attendance. Also in attendance at the meeting was a representative of the City of Valdez, who addressed various issues relating to a prospective proposal for incorporation of a borough in the Prince William Sound region.

Following the March 8 meeting, a small number of local residents formed an ad hoc study group regarding boroughs. The group requested informational materials from the LBC. This was followed by a meeting between the Superintendent of

the Copper River REAA and LBC Staff on April 1 to discuss matters pertaining to borough formation. During the meeting one area of particular interest was the potentially large mineral deposit in the Tangle Lakes area near Paxson, which prompted concern on the part of some over the prospect of annexation proposals from existing boroughs. The Tangle Lakes mineral deposit overlaps the southern portion of the Delta Greely REAA and the northern portion of the Copper River REAA.

There was also some interest in borough formation shown by the officials at Ahtna Incorporated. They indicated that the prospect for oil and gas development, the gas pipeline, and further tourism development made the Basin an attractive candidate for annexation to an existing borough. At the request of Ahtna, Inc., LBC Staff made a presentation on the formalities of borough government for villages in the Copper River Basin. This presentation was made on June 30, 2005, at a joint meeting of Ahtna Inc., and the Successor Village Organizations in Copper Center. The meeting lasted more than two hours and around 50 individuals attended. Those present expressed interest in an examination of more specific aspects of a prospective borough. LBC staff pledged to offer support but not at that time, regrettably, there is no State funding available for a borough feasibility analysis. During each of the last several years, the LBC has recommended that the Legislature appropriate funding for this purpose.

Figure 2-9. Copper River Model Borough is illustrated below.



## Deltana

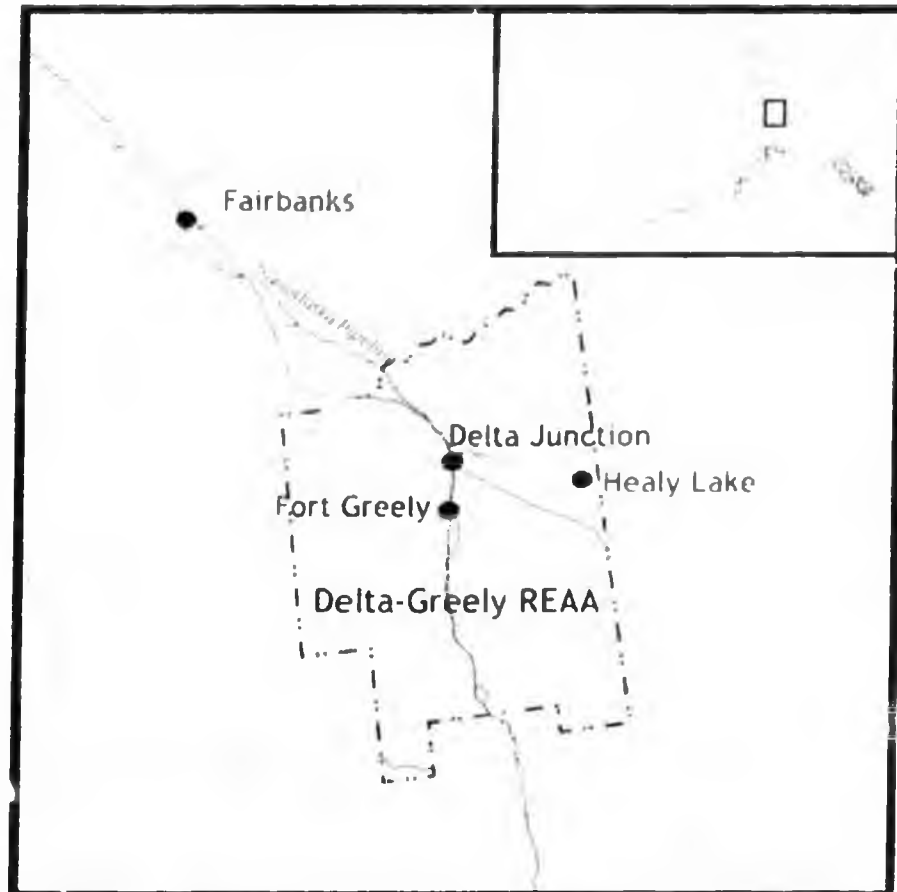
After exploring the idea in 2004 of forming a borough encompassing the Delta-Greely Regional Educational Attendance Area, the initiative was carried forward into 2005. LBC Staff provided technical assistance in developing a proposal to incorporate a unified home rule borough.

On April 25, a draft of the petition for incorporation of a unified home rule borough known as Deltana Borough was submitted by Delta Greely officials to LBC Staff for technical review. Incorporation of a unified home rule borough would result in dissolution of the City of Delta Junction, the only city government in the area proposed for incorporation. The boundaries of the proposed borough are identical to the Delta Greely REAA. The proposed

borough includes only a portion of the Upper Tanana Basin model borough (the Alaska Gateway REAA portion is excluded).

On March 17, the State Assessor released figures concerning the estimated value of taxable property in the Delta Greely REAA and Alaska Gateway REAA. The figures indicate that the per capita value of taxable property in the Delta Greely REAA is \$130,585 (30.7 percent higher than the \$99,948 per capita average for all sixteen organized boroughs. Excluding oil and gas property taxable under AS 43.56, the per capita value of taxable property in the Delta Greely REAA is estimated to be \$79,947, virtually identical to the per capita average for all sixteen organized boroughs (excluding oil and gas property).

Figure 2-10. Delta-Greely REAA residents submitted a petition seeking incorporation of the Deltana Borough on January 3, 2006.



Projected locally generated revenues consist of a 3 percent "home heating fuel and vehicle gas sales tax" (projected to generate \$288,000 in the first year), a 10 percent "energy tax (sales of electrical power)" (projected to generate \$280,000 in the first year), and a payment by the Pogo Mine in lieu of a 2 percent mineral severance tax.

On May 10, LBC Staff completed a preliminary review of the April 25 draft of the proposed Delta Greely Borough Charter. Given the significance of the draft Charter (the proposed organic law of the prospective Deltana Borough) Staff made a particular effort to provide critical analysis and thorough comments. The review addressed form and style, potential ambiguities, provisions that might be subject to misinterpretation, missing elements required by State law, and other issues.

On May 26, the LBC Staff conducted a thorough review of the modified 46-page draft petition to incorporate and were aided in this venture by staff from both the Department of Commerce and the Department of Labor. The thorough review and extensive comments were provided with the expectation that they would facilitate the proceedings once the petition is formally filed.

This was followed by further refining of the draft petition during June and meeting between LBC Staff and the consultant providing professional services to Delta Greely residents. Following further technical review of the revised draft Deltana Borough incorporation petition, LBC Staff determined that the form and content of the draft were in substantial compliance with the requirements in law.

LBC staff has been informed that an estimated 250 signatures have been gathered on the petition to incorporate a unified home rule borough with boundaries identical to those of the Delta-Greely Regional Educational Attendance Area. The petition is expected to be filed with the LBC in January 2006.

## Dillingham Census Area

In January 2004, Northern Dynasty Mines, Inc. announced the results of mineral exploration tests that had been carried out in the Pebble gold-copper-molybdenum prospect over the previous two years. The announcement indicated that the 1,440-acre (2.25 square miles) Pebble prospect is one of the largest gold and copper deposits in North America. It is projected to contain at least 26.5 million ounces of gold, 16.5 billion pounds of copper, and 900 million pounds of molybdenum. The deposit reportedly has an estimated value of approximately \$28 billion.

The Pebble prospect is located in the north-west portion of the Lake and Peninsula Borough, approximately 17 miles north of Iliamna. The

claims adjoining the Pebble prospect extend to within approximately five miles of the boundary dividing the Lake and Peninsula Borough and the Dillingham Census Area portion of the unorganized borough.

In 1997, a petition was filed to annex the 20,271 square-mile Dillingham Census Area to the Lake and Peninsula Borough. The petition was later abandoned.

In February of 2005, Commerce staff was contacted by residents of Ekwok to present information regarding borough formation and the powers and duties of a borough. Ekwok is a second class city in the unorganized borough. It is located on the Nushagak River, about 43 miles northeast of Dillingham and 285 miles southwest of Anchorage. Because of the City's proximity to the Pebble Mine project, the residents of Ekwok are interested in the planning, platting, and land-use regulation duties of a borough.

Figure 2-11. Dillingham Census Area is illustrated below.

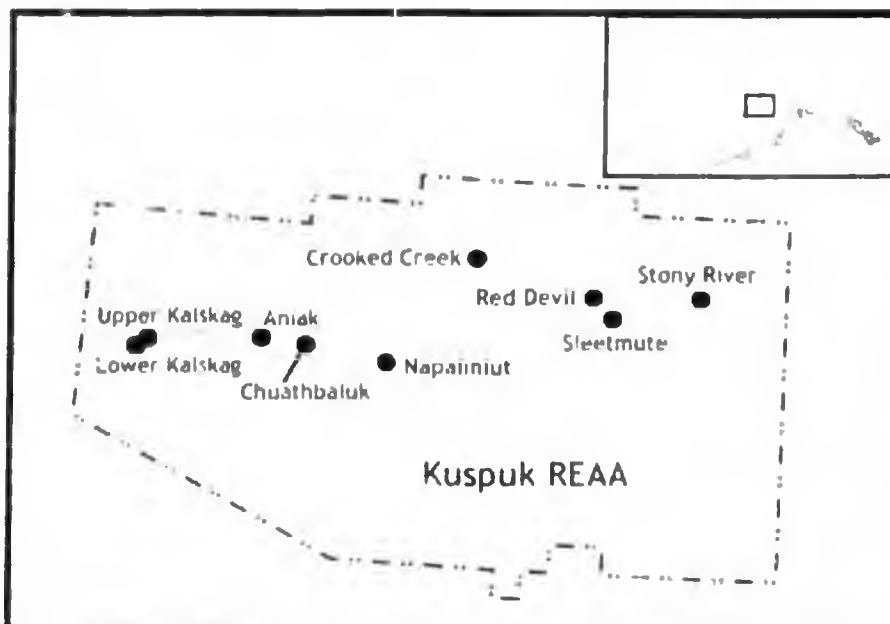


## Middle Kuskokwim Area

On February 14, 2005, LBC Staff met with representatives of the Kuskokwim Corporation to discuss borough formation in the Kuspuk region and possibly the Iditarod region. Interest in borough formation was prompted by the prospective development of the Donlin Creek mine. At a subsequent meeting on February 24, LBC Staff met with the Executive Board of the Kuskokwim Corporation. Board members are exploring ways to provide information regarding borough government to residents of the Kuspuk REAA region.

In a letter forwarded to LBC Staff on May 2, the President of the Kuskokwim Corporation submitted "a formal request to initiate the process of obtaining information regarding borough formation to distribute to residents in our region."

Figure 2-12. Kuspuk REAA home to many of the middle Kuskokwim communities, is illustrated below.



LBC Staff agreed to participate in meetings in the region and to otherwise provide information regarding boroughs.

## Nenana

The community of Nenana expressed interest in borough formation. LBC Staff was approached with requests for information and responded with a presentation on October 5, 2004. Officials and other local residents of Nenana asked LBC Staff to make a second public presentation on the topic and the meeting was tentatively scheduled for May 16, 2005. However, due to scheduling conflicts, this meeting was postponed indefinitely.

LBC Staff provided information regarding borough government to an official of the City of Nenana. The official indicated that the Nenana City Council was expected to take up the issue of exploring a proposal to form a borough with the southern boundary at the Denali Borough, eastern boundary at the Fairbanks North Star Borough, and

the northern boundary at the Yukon River. The western boundary was undetermined at that time. The prospective proposal might include the communities of Nenana, Minto, Old Minto, and Tanana. Rampart and Ruby might also be included once a tentative western boundary is decided upon. Another boundary scenario is to join with the prospective Delta Greely Borough. A third boundary scenario is to encompass all of the Yukon Koyukuk REAA.

The Council of the City of Nenana has asked LBC Staff to make a public presentation on borough formation,

which has been scheduled for January 18, 2006. City Council members want to explore the advantages and disadvantages of borough government; the prospect for annexation to an adjoining borough; whether Nenana is required to be in a borough; borough boundary standards; and borough incorporation procedures.

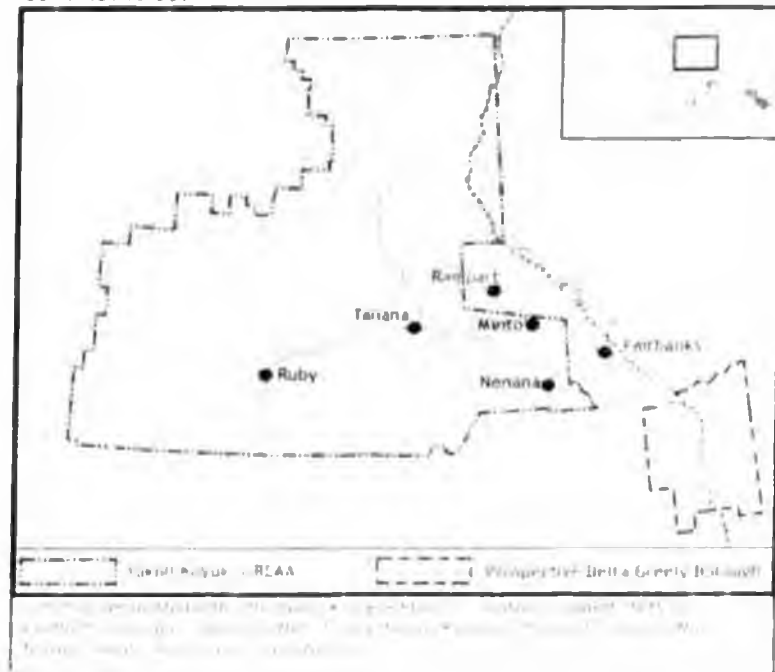
### Prince William Sound

The matter of incorporating a Prince William Sound borough has been a controversial issue for several years. In 2002, the Legislature enacted House CS for Senate Bill No. 359(FIN). Then-Governor Knowles subsequently signed the legislation into law as Chapter 53 SLA 2002. Section 3 of the law required the LBC to review conditions in the unorganized borough and to report to the Legislature the areas the LBC has identified that meet the standards for borough incorporation.

The LBC fulfilled its duty under the legislative directive in February 2003. The LBC concluded that seven areas of the unorganized borough, including the Prince William Sound region, met the standards for borough incorporation.

In 2003, the Cordova City Council renewed its endorsement for the incorporation of a Prince William Sound borough. The Council adopted a resolution stating, "The City Council of the City of Cordova, Alaska, supports the formation of a Prince William Sound Borough and directs staff to work with the Local Boundary Commission to con-

Figure 2-13. Among the various scenarios for the Nenana borough options include several of the Yukon Koyukuk communities.

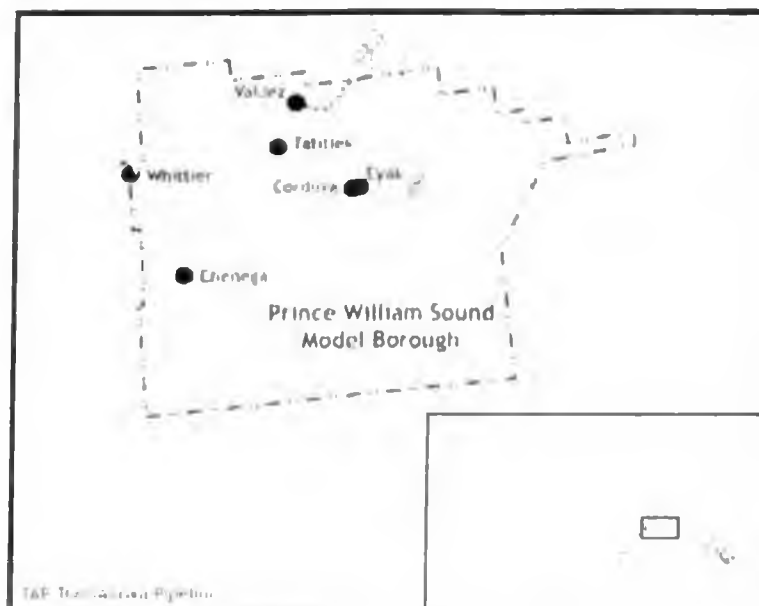


sider the borough formation." Resolution 01-03-05, Council of the City of Cordova (January 8, 2003).

On August 2, 2004, the Whittier City Council adopted Resolution 745-04, requesting the LBC to formally consider incorporation of a Prince William Sound Borough. However, public sentiment soon shifted and on May 10, 2005 voters of the City of Whittier repealed this same measure.

On March 8, 2005, the Council of the City of Cordova adopted, by a unanimous vote, a resolution substantially the same as the August 2, 2004 resolution of the City of Whittier which urged the LBC to consider incorporation of a Prince William Sound Borough. The City of Cordova also requested information regarding environmental programs and the proposed Prince William Sound borough, and borough jurisdiction over state waters.

Figure 2-14. Prince William Sound Model Borough.



## Skagway

In September 2002, the LBC denied a petition to incorporate a Skagway borough. That decision was appealed to Superior Court in November 2002. Oral arguments on the appeal were held before Superior Court Judge Collins on April 7, 2005.

On September 20, Superior Court Judge Collins issued a ruling remanding the Skagway Borough proposal to the LBC. The LBC filed a request for reconsideration, which was subsequently denied.

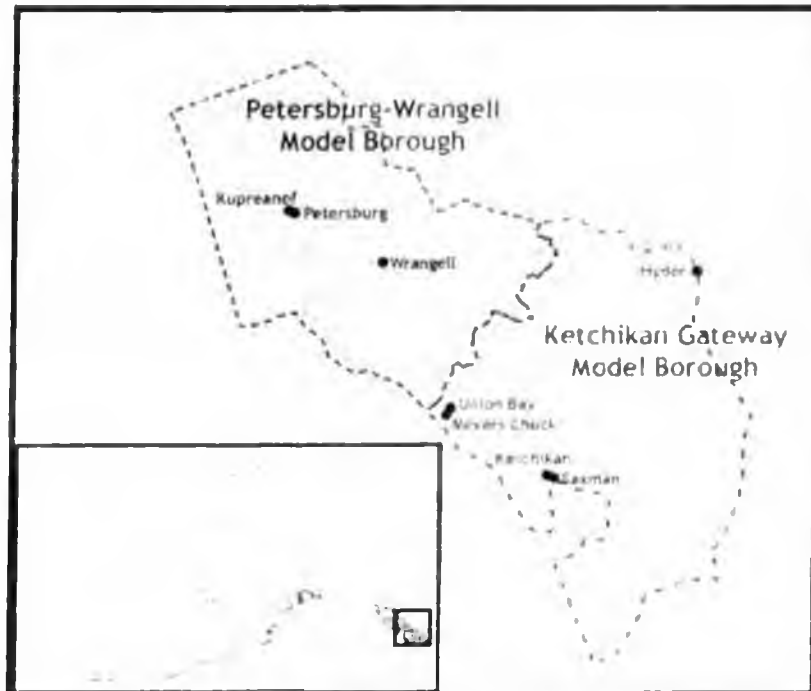
In the remand proceedings, the LBC invited the Petitioner to submit a supplemental brief by December 30. On December 29, 2005, the Petitioner filed a supplemental brief. LBC Staff prepared a public notice of opportunity to submit written comments and responsive briefs regarding reconsideration of the Skagway borough proposal with the LBC by January 31, 2006. A supplemental report from Commerce will be due by February 28, 2006.

The LBC will tour the territory proposed for incorporation and conduct a public hearing in Skagway on or after March 21, 2006.

## Wrangell

LBC Staff was advised in March by an attorney representing the City of Wrangell that a petition for incorporation of a Wrangell Borough was being developed. This proposal will apparently include Meyers Chuck and, perhaps, Hyder. Meyers Chuck is within the area proposed for annexation by the Ketchikan Gateway Borough. Some residents of Meyers Chuck and Hyder have expressed a preference to be included within a Wrangell Borough rather than the Ketchikan Gateway Borough.

Figure 2-15. Petersburg-Wrangell Model Borough and Ketchikan Gateway Model Borough boundaries.



## Yukon Flats

In early 2005, interest had been shown by residents of Fort Yukon regarding the formation of a Yukon Flats borough. The topic was prompted by the prospect for development of oil and gas facilities in the Yukon Flats region, coupled with the potential for a proposal by the Fairbanks North Star Borough to propose annexation of a portion of the Yukon Flats region. LBC Staff provided extensive materials regarding borough formation and borough government in Alaska.

LBC Staff received several more inquiries about the topic from the Council of Athabaskan Tribal Governments (CATG). CATG officials advised LBC Staff that the leadership of the Yukon Flats region had scheduled a meeting in February 2005 during which the topic of borough government was expected to be a prominent issue. CATG officials also voiced objections to the prospective proposal from the Fairbanks North Star borough to extend its boundaries to the Yukon River.

On February 3, LBC Staff made a presentation in Fort Yukon regarding a prospective Yukon Flats borough government. The meeting was sponsored by the Gwichyaa Zhee Gwich'in Tribal Council (formerly known as the Native Village of Fort Yukon, IRA). The two and one-half hour long meeting was attended by approximately 20 individuals in Fort Yukon. It was broadcast live over KZPA 900-AM to all Yukon Flats villages.

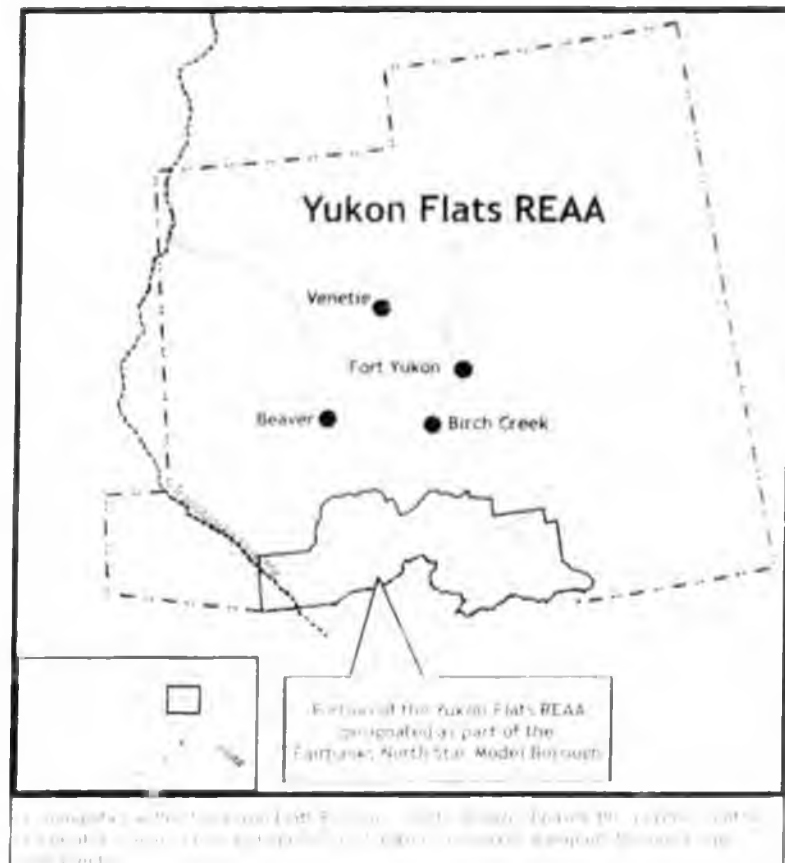
The Yukon Flats villages of Beaver, Venetie, and Birch Creek participated in the meeting by teleconference, as did the offices of Senator Kookesh and Representative Salmon. Organizations represented at the meeting included CATG, Tanana Chiefs Conference, and the City of Fort Yukon.

Also of note is the Yukon Flats Borough Study, a borough feasibility study undertaken by five graduate students in the University of Alaska Fairbanks Engineering Science Management and Civil Engineering Departments. The Study was substantially completed on April 25.

The report consisted of more than 110 pages. The report estimates that the value of taxable property in the Yukon Flats REAA is \$340 million. (The boundaries of the Yukon Flats REAA and those of the Yukon Flats model borough differ somewhat.) The Trans-Alaska Pipeline System (TAPS) accounts for \$316 million of the value of property in the REAA. The estimate of the value of the TAPS property was based on information provided by the Alaska Department of Revenue. The estimated \$24 million figure for other taxable property was developed by adjusting the figure used in a 1979 Yukon Flats borough study. Examination of the accuracy of the estimate of the non-TAPS property was beyond the scope of the study. It is noted, however, that in 2002 the State Assessor roughly estimated that the value of taxable property in the Yukon Flats REAA (excluding TAPS) was about \$29 million. With 1,496 residents, a \$340 million tax base is equivalent to \$227,273 per capita. That figure is more than two and one-quarter times greater than the \$99,948 per capita average for all sixteen organized boroughs in Alaska.

The Study indicated that TAPS accounts for 93 percent of the value of the estimated taxable property in the region. Thus, based on the estimates provided, TAPS would pay 93 percent of any property taxes levied by a borough encompassing the Yukon Flats REAA. According to the Department of Labor and Workforce Development, the

Figure 2-16. Yukon Flats REAA.



region had average monthly employment of 539 jobs that generated \$18,480,964 in wages during 2004. The study notes the prospect for significant deposits of oil and gas in the region. It states, for example, that "a 1 in 20 or 30 chances exists for oil revenues of 200 to 800 million barrels."

Another noteworthy aspect of the report was an innovative effort by the graduate students to analytically evaluate and rank various subjective factors that would likely encourage or discourage formation of a Yukon Flats borough. Not surprisingly, that effort indicated that the threat of being annexed to the Fairbanks North Star Borough represented the greatest motivation for forming a Yukon Flats borough. Factors such as the general opportunity to achieve "maximum local self-government" through borough formation and the ability to exercise platting and land use regulation powers provided almost no influence on the decision. After examining four options (i.e. remain unorganized or incorporate as a home rule, first class, or second class borough), the report concluded that the best option is for the region to form a home rule borough. The report also recognized that further study of the matter was warranted.

LBC Staff, the State Assessor, and staff from DCCED's Fairbanks office reviewed and commented on a draft of the report. On April 26, LBC Staff participated on a five-member review panel at the UAF Campus. Other members of the panel were Jim Whitaker, Fairbanks North Star Borough Mayor; Jim Mery, Doyon Senior Vice-Presidents for Lands and Natural Resources; Pete Hallgren, former Sitka Mayor, Assembly Member, Attorney, and current Delta Junction City Administrator; and Bruce Thomas, CATG member. After considering the comments by the panel, the students finalized the report.

In late 2005, CATG was granted funding to conduct a borough feasibility study.

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## Section VIII. Regulations

In late 2005, the LBC initiated an effort to explore prospective changes to the regulations of the Commission. The LBC created two subcommittees to consider changes. One will examine prospective changes relating to procedures and the other will explore possible changes to standards.

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## Section IX. Litigation Involving the LBC

### Homer

The year was filled with ongoing activity concerning the Homer annexation remand noted earlier in this report. At its January 5, 2005 meeting, the LBC affirmed the December 26, 2001 decision of the LBC granting annexation of 4.58 square miles to the City of Homer. A decisional statement setting out the basis for the January 5 ruling was approved by the LBC on February 4 and distributed to all interested parties. This action was followed by Petitioner's formal request for reconsideration of the Homer Annexation remand decision which the LBC denied for failure to meet the criteria for reconsideration set out in the law. Appeals by Abigail Fuller and the Kachemak Area Coalition, Inc., d/b/a Citizens Concerned About Annexation (CCAA) of the LBC's February 4, 2005 decision followed and are currently pending.

### Skagway

In September 2002, the LBC denied a petition to incorporate a Skagway borough. That decision was appealed to Superior Court in November 2002. On September 20, 2005, Superior Court Judge Collins issued a ruling remanding the Skagway Borough proposal to the LBC. The LBC filed a request for reconsideration, which Judge Collins subsequently denied. In the remand proceedings, the LBC invited the Petitioner to submit a supplemental brief by December 30, 2005.

On December 29, 2005, The Petitioners filed a Supplemental Brief of the Petitioners. Pursuant to Local Boundary Commission Order Dated October 24, 2005. Responsive briefs and comments will be due on January 31, 2006. A supplemental report from Commerce will be due by February 28, 2006. Sometime on or shortly after March 21, 2006, the LBC will tour the territory proposed for incorporation and conduct a public hearing in Skagway.



## Chapter 3 Policy Issues and Concerns

### Introduction

This section summarizes the major policy issues and concerns before the Local Boundary Commission (LBC) in 2005. These policy matters were discussed in detail in the *Report of the Local Boundary Commission to the First Session of the Twenty-Fourth Alaska Legislature, January 2005*. For reference, the complete text of this comprehensive discussion on policy issues and concerns can be found at <http://www.commerce.state.ak.us/dca/lbc/lbcannualreport.htm#reports>. A copy can also be obtained by request by contacting the Local Boundary Commission staff.

The Local Boundary Commission wishes to bring the following policy issues and concerns to the attention of the legislature:

- Substantial disincentives and a lack of adequate inducements hinder incorporation of organized boroughs and annexation to existing boroughs.
- Lack of standards and law providing the manner for establishment of unorganized boroughs.
- Funding for borough feasibility studies.
- The law curbing the escalating "tax" on borough and city school districts lacks provisions to deal with boundary changes.
- School Consolidation Study.

#### **Section I. Substantial Disincentives and a Lack of Adequate Inducements Hinder Incorporation of Organized Boroughs and Annexation to Existing Boroughs.**

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##### *Subsection A. Statement of Issue:*

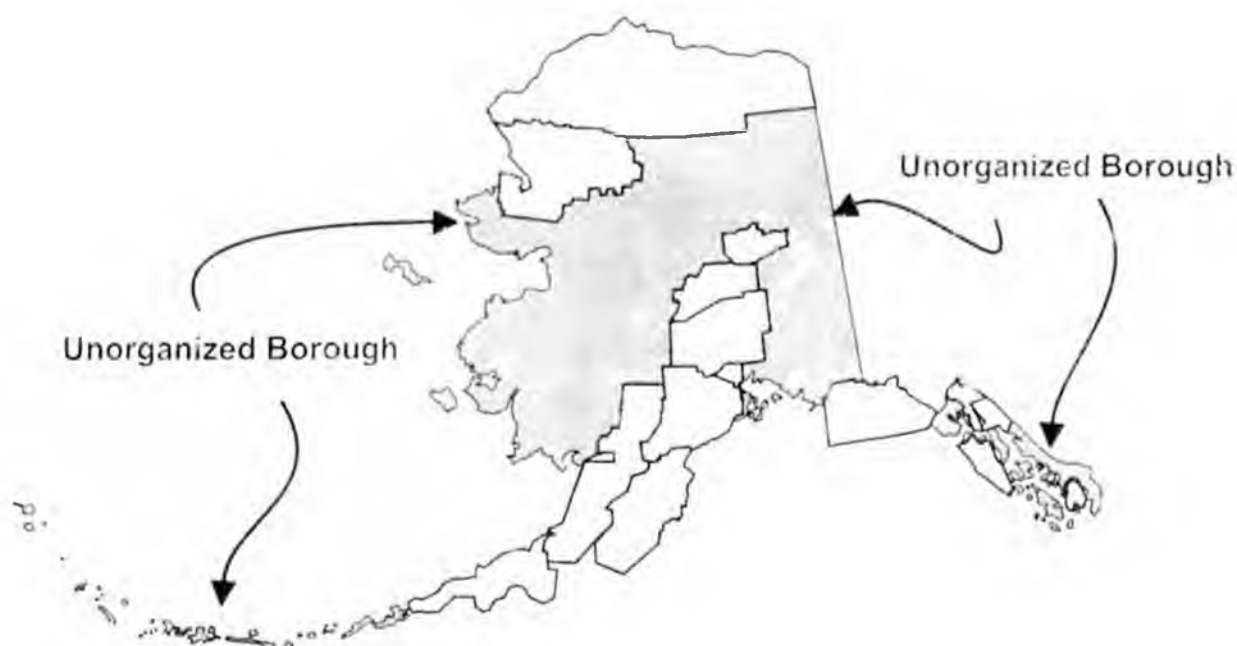
As it has done since the 1980s, the Local Boundary Commission continues to urge the legislature to examine and address the substantial disincentives and lack of inducements for borough incorporation and annexation. The legislature and the

Commission have complementary duties relating to this issue. Specifically, the legislature has the constitutional duty to prescribe procedures and standards for borough formation (Art. X, Sec. 3). The Commission has the statutory duty to make studies of local government boundary problems (AS 44.33.812[a][1]).

In 1961, the founders of Alaska local government opted to make borough formation voluntary. Legislators recognized from the very beginning that there were inadequate incentives to encourage people to form boroughs. Unfortunately, the inducements to organize that were lacking failed to evolve over time. In fact, there were substantial disincentives to borough formation and annexation. The organized borough concept had little appeal to most rural communities who surmised that they were better off maintaining the status quo with the State paying for the majority of services, especially education. Under Alaska law, boroughs that organize are mandated to carry out the State's constitutional duty for public education within their boundaries. They are also required to pay a significant portion of the State's cost of education, while regional educational attendance areas are not. There proved to be other inequities as well. Thus, contrary to the express intent of the 1963 Mandatory Borough Act, organized boroughs are being deprived of State services, revenues, or assistance and are being penalized because of incorporation.

A summary of the disincentives for borough incorporation and annexation that exist in the current law follows:

- Areas of the unorganized borough outside of home rule and first class cities have no obligation to financially support their schools. Borough formation results in the imposition in those areas of the requirement for local contributions in support of schools (4 mill equivalent or 45% of basic need, whichever is less).



- Borough formation would bring about consolidation of school districts in the unorganized borough, an effect that is commonly perceived as a loss of local control regarding schools. Under present circumstance, the delivery of education services in the unorganized borough is fractionalized. Although the unorganized borough accounts for less than 14% of the state's population, 70% of Alaska's school districts exist in the unorganized borough.
- In some cases, borough formation carries the prospect of *substantial* education funding reductions in the form of eliminated supplementary funding floors under AS 14.17.490, reduced area cost differentials, and other factors.
- Borough formation or annexation would mean the loss of eligibility on the part of REAAs and cities in the unorganized borough for National Forest Receipts.
- The extension of borough government would result in the loss of eligibility on the part of cities for federal payments in lieu of taxes (PL 94-565, as amended by PL 104-333).
- Borough formation or annexation would cause the loss of eligibility for State Revenue sharing by unincorporated communities and volunteer fire departments in the unorganized communities and volunteer fire departments in the unorganized borough.
- The extension of borough government requires areawide planning, platting, and land use regulation. Such is commonly perceived by cities currently exercising those powers as a loss of local control (although boroughs may delegate the powers to cities within the borough).

Circumstances such as the above, have contributed to a growing interest in forming single-community borough governments. In addition to the disincentives and the lack of inducements to form boroughs, it appears that local officials are concerned about being compelled into larger, legislatively-mandated boroughs. Local officials from Wrangell, Nome, Petersburg, Hoonah, Unalaska, Valdez, and other communities have recently expressed interest in forming single-community, or relatively small boroughs. Several other communities in the unorganized borough have also expressed interest in single-community borough government in years past. Those include Nenana, Tanana, Cordova, and Pelican. The Commission is concerned that if this trend continues, it will lead to a proliferation of single-community boroughs created in a piecemeal fashion across Alaska. The prospect of single-community boroughs also raises serious questions whether such would undermine the ability of surrounding communities to ever shoulder the responsibility of borough government in an effective and efficient manner.

### ***Subsection B. Background:***

The authors of the local government article of Alaska's Constitution envisioned that organized boroughs would be established wherever citizens were ready for and capable of assuming the responsibilities of local government.<sup>8</sup> The founders recognized that the legislature would have widely divergent alternatives available to carry out its duty to prescribe methods for borough formation. Delegates preferred a voluntary, rather than compulsory, approach to borough incorporation. However, they recognized that to be successful, a voluntary approach needed adequate inducements to establish boroughs.<sup>9</sup> They anticipated that the Alaska Legislature would provide such incentives. Unfortunately, that vision of the framers of Alaska's Constitution - undoubtedly one of the most critical aspects of implementing the Local Government Article of Alaska's Constitution - still awaits fulfillment.

Statistics offer compelling evidence that inducements of voluntary borough incorporation have been generally inadequate over the course of 47 years of statehood.

- Only about 1 in 26 Alaskans (3.8 percent) lives in boroughs that were formed voluntarily.<sup>10</sup>
- In contrast to the above figure, approximately 100 in 120 Alaskans (83.6 percent) live in boroughs that were formed under the 1963 Mandatory Borough Act, which compelled eight particular regions to form boroughs.
- Of the sixteen Alaska boroughs, only eight formed voluntarily.

Promotion of borough formation is sound public policy.

#### **Boroughs:**

- promote maximum local self-government with a minimum of local government units;
- provide a normal structure for service delivery;

<sup>8</sup> Borough Government in Alaska, Thomas A. Morehouse and Victor Fischer, page 39 (1971).

<sup>9</sup> Ibid., page 61; also, Alaska's Constitutional Convention, Victor Fischer, page 120 (1975).

<sup>10</sup> Boroughs that have formed voluntarily typically enjoy abundant natural resources or other attributes that make borough government particularly attractive for these regions. Many of the eight boroughs formed under the 1963 Mandatory Borough Act lack comparable resources. The eight boroughs that formed voluntarily are the Bristol Bay Borough, Haines Borough, North Slope Borough, Northwest Arctic Borough, Aleutians East Borough, Lake and Peninsula Borough, Denali Borough, and Yakutat Borough.

- offer stable administrative infrastructure to provide services;
- foster local responsibility and decision making;
- promote accountability;
- provide a means to promote private ownership of land;
- have capacity to provide greater financial aid to schools;
- consolidate school districts;
- have capacity for regional control of alcohol and illegal substances;
- promote economic development;
- provide a proper role for State government; and
- promote equity and fairness.

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*Subsection C. Recommendations:*

For more than four decades, experts and public policy makers have recognized that Alaska has failed to implement an effective policy regarding borough formation.

The Commission urges the legislature to give thoughtful consideration to the following recommendations in order to facilitate formation of new boroughs in Alaska.

1. Tax the unorganized borough (e.g. property, sales, employment, and head taxes).
2. Provide financial aid to boroughs.
3. Increase organization grants for new boroughs and extend grants to boroughs that expand their boundaries.
4. Eliminate the necessity that boroughs encompassing the Trans-Alaska Oil Pipeline must impose property taxes.
5. Extend municipal land grants for annexations and consider increases in entitlements.

## Section II. Lack of Standards and Law Providing the Manner for Establishment of Unorganized Boroughs.

### *Subsection A. Statement of the Issue:*

Article X, Section 3 of Alaska's Constitution requires the Alaska Legislature to enact laws providing for (1) standards for establishment of organized and unorganized boroughs and (2) methods for establishment of organized and unorganized boroughs. In 1961, the Legislature enacted standards for establishment of *organized boroughs*. Laws providing the manner for establishment of *organized boroughs* have also been enacted. However, the Legislature of the State of Alaska has yet to enact laws providing standards and the manner for establishment of *unorganized boroughs*.

The absence of standards for establishment of unorganized boroughs and the lack of compliance with the common-interest principle on the part of the single unorganized borough act as a significant impediment to achievement of the constitutional goal of maximum local self-government with a minimum of local government units set out in Article X, Section 1 of Alaska's Constitution.

This issue is reflected in the following excerpt from comments made in 1981 by Dr. John Bebout, a consultant to the Local Government Committee at the Alaska Constitutional Convention, Assistant Director of the National Municipal League, and Professor at the New York University School of Administration:

...

The development of consensus for organized borough government seems likely in most regions to be a gradual process if it occurs at all. The first step toward it is to break up the single unorganized borough by a single act which established boundaries that make sense in terms of the socio-economic standards set by the constitution and reflect the needs of all regions of the state. To continue to create new boroughs, whether unorganized or organized, piecemeal would be likely to leave shapeless areas that could never be assembled in viable borough units unless radical changes were made in the boundaries of already established boroughs, always a politically chancy business.

*Problems and Possibilities for Service Delivery and Government in the Alaska Unorganized Borough, pp. 86 - 88.*

***Subsection B. Background:***

In summary, Alaska's Constitution imposes the following seven duties upon the legislature:

1. Enact standards for establishment of organized boroughs;
2. Enact standards for establishment of unorganized boroughs;
3. Enact laws providing the manner for establishment of organized boroughs;
4. Enact laws providing the manner for establishment of unorganized boroughs;
5. Classify boroughs;
6. Prescribe the powers and functions of boroughs; and
7. Enact methods by which boroughs may be "organized, incorporated, merged, consolidated, reclassified, or dissolved."

Five of the seven duties outlined in Article X, Section 3 have been fulfilled. The exceptions are the duty to enact standards for establishment of unorganized boroughs and the duty to enact laws providing for the manner in which unorganized boroughs will be established.

A single, residual unorganized borough does not conform to constitutional guidelines. The 1961 Alaska Legislature, without the benefit of standards, established a single unorganized borough encompassing all of Alaska not within an organized borough. Given the vast and diverse nature of Alaska, this action was inconsistent with the mandate of Article X, Section 3 that each borough, organized and unorganized, "embrace an area and population with common interests to the maximum degree possible." Prior legislative proposals, at least six in the last ten years, have recognized that the unorganized borough does not conform to the common interest clause of the Alaska Constitution.

Standards for unorganized boroughs should include consideration of the fiscal and administrative capacity of the area. In the LBC's view, the capacity of an area to assume local responsibility is determined by two fundamental factors. One is the specific duties imposed on boroughs by the State. Obviously, the greater the duties imposed on boroughs (e.g. education, transportation, public safety, health and social services, etc.), the greater the difficulty regions will have in meeting the capacity threshold. The second factor is the human and financial resources available to the borough.

The failure to follow the constitutional principles concerning unorganized boroughs hinders coordinated delivery of state services. In remarks to the LBC on January 5, 2005, former Senator Victor Fischer stressed the importance of establishing multiple unorganized boroughs. Senator Fischer pointed out that the issue was the fundamental concern in a 1979 Local Government Study initiated by the Chairs of the Senate and House Community and Regional Affairs Committees in response to recognized problems related to local government in Alaska. The study recommended the establishment of multiple regional unorganized boroughs. The purpose of doing so was twofold: (1) to promote efficient and effective delivery of all state services, and (2) to provide common areas for collection of information, data, and other materials important to the region and to agencies responsible for provision of technical and financial assistance.

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***Subsection C. Recommendation:***

The LBC recommends that the Alaska Legislature enact laws providing standards for establishment of unorganized boroughs and the manner in which unorganized boroughs are created identical to those for organized boroughs found in A.S. 29.05.031, except with respect to fiscal and administrative capacity.

AS 29.05.031 states:

- (a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:
- (1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;
  - (2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;
  - (3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;
  - (4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

The LBC is prepared to lend its expertise and assistance to the Legislature in the development of appropriate standards and procedures for establishment of unorganized boroughs.

### **Section III. Funding for Borough Feasibility Studies**

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#### ***Subsection A. Statement of the Issue:***

There is no ready source of funding for borough feasibility studies.

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#### ***Subsection B. Background:***

AS 44.33.840 44.33.846 authorizes the undertaking of borough feasibility studies. Unfortunately, however, funding for the studies has never been appropriated. As outlined in Chapter 2 of this report, certain regions have interest in considering borough incorporation. If the legislature institutes adequate inducements for borough incorporation on the order recommended by the LBC earlier in this Chapter, interest in borough incorporation will likely increase significantly.

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#### ***Subsection C. Recommendation:***

The LBC recommends the Legislature appropriate funding for local borough study efforts in the near term, and if inducements for borough incorporation are implemented, to significantly increase funding.

### **Section IV. The Law Curbing the Escalating "Tax" on Borough and City School Districts Lacks Provisions to Deal with Boundary Changes.**

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#### ***Subsection A. Statement of the Issue:***

In 2001, the Legislature amended the formula under which State aid for borough and city school districts is calculated. The amendment was intended to provide modest financial relief for the boroughs and eighteen cities that are required to make a "local contribution" in support of their schools.

However, it is unclear how the 2001 amendment applies with respect to municipal boundary changes for boroughs and cities that are required to operate schools (i.e. formation of a new borough or city school district, or detachment from an existing borough or city school district). It appears that the prospect for such boundary changes was not considered when the 2001 amendment was crafted.

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**Subsection B. Background:**

State aid for all types of school districts is nominally defined by AS 14.17.410(b)(1) and represented by the following formula:

<p><b>Basic Need"</b></p> <ul style="list-style-type: none"><li>- required local contribution</li><li>- <u>90% of federal impact aid</u></li></ul> <p>= State aid</p>
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The distinction among types of school districts with respect to State aid arises from the fact that only borough and city school districts are subject to the required local contribution provision. The required "local contribution" of a city or borough school district results in a direct offset of State aid for education. For each dollar that a borough or city is required to contribute, State aid to that borough or city school district *declines* by one dollar. If a borough or city fails to make its required "local contribution," all State aid for education is withheld from that borough or city school district.

In effect, the required "local contribution" is a State tax imposed on organized boroughs and cities that operate schools. Public school districts other than boroughs and cities are not required to make local contributions. Therefore, those other districts are exempt from the tax.

Prior to the 2001 amendment, the required "local contribution" for many boroughs and cities had been escalating significantly year after year. The 2001 amendment slowed the increase in the required "local contribution" for those boroughs and cities, but it did not address what effect its application would have on municipal boundary changes for boroughs and cities required to operate schools.

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" The term "basic Need" is defined in the glossary.

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**Subsection C. Recommendations:**

To address the issue set out above, the LBC recommends the following amendments to AS 14.17.510:

Sec. \_\_\_\_ AS 14.17.510(c) is amended to read:

(c) Notwithstanding AS 14.17.410(b)(2) and the other provisions of this section, if the assessed value in a city or borough school district determined under (a) of this section increases from the base [YEAR], only 50 percent of the annual increase in assessed value may be included in determining the assessed value in a city or borough school district under (a) of this section. The limitation on the increase in assessed value in this subsection applies only to a determination of assessed value for purposes of calculating the required contribution of a city or borough school district under AS 14.17.410(b)(2) and 14.17.490(b). In this subsection, the base [YEAR] is the full and true value of the taxable real and personal property as of January 1, 1999, except as provided in (d) - (i) of this section.

Sec. \_\_\_\_ AS 14.17.510 is amended by adding new subsections to read:

(d) The base for a borough, home rule city in the unorganized borough, or first class city in the unorganized borough that existed before January 1, 1999, and that annexes territory after January 1, 1999, is the sum of the full and true value of the taxable real and personal property in that borough or city as of January 1, 1999, and the full and true value of taxable real and personal property in the annexed area or territory on January 1 of the year immediately following the year in which the annexation takes effect.

(e) Except as provided in (f), the base for a borough incorporated after January 1, 1999, is the sum of the base for all home rule and first class cities in the newly incorporated borough as of the date of incorporation of the borough and the full and true value of taxable real and personal property in the borough outside home rule and first class cities on January 1 of the year immediately following the year in which the borough incorporation takes effect.

(f) The base for a borough incorporated after January 1, 1999, through merger, consolidation, or unification is the sum of the base for the borough that existed before merger, consolidation, or unification.

(g) The base for a home rule or first class city in the unorganized borough incorporated after January 1, 1999, is the full and true value

of taxable real and personal property in the city on January 1 of the year immediately following the year in which the incorporation takes effect.

(h) The base for a city in the unorganized borough that was reclassified from a second class city to a first class city after January 1, 1999, is the full and true value of taxable real and personal property in the city on January 1 of the year immediately following the year in which the reclassification takes effect.

(i) The base for a borough, home rule city in the unorganized borough, and first class city in the unorganized borough from which an area or territory is detached after January 1, 1999, is reduced in proportion to the ratio of the full and true value of taxable property in the detached area or territory as estimated by the Department of Commerce, Community, and Economic Development divided by the full and true value of taxable property in the borough on January 1 of the year immediately following the year in which the detachment takes effect.

To ensure coordination of the above recommendation with other recommendations made by the Commission in this report, the LBC notes that it has also urged the Legislature to consider amendment of AS 14.17.510(a) in the context of providing inducements for the incorporation of boroughs. Details concerning that proposed amendment are outlined in Section I of this Chapter. The specific amendment recommended for AS 14.17.510(a) is set out below.

Sec. \_\_\_\_ . AS 14.17.510(a) is amended to read:

(a) To determine the amount of required local contribution under AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the Department of Commerce, Community, and Economic Development, in consultation with the assessor for each district in a city or borough, shall determine the full and true value of the taxable real and personal property in each district in a city or borough. If there is no local assessor or current local assessment for a city or borough school district, then the Department of Commerce, Community, and Economic Development shall make the determination of full and true value from information available. In making the determination, the Department of Commerce, Community, and Economic Development shall be guided by AS 29.45.110. However, the full and true value of taxable real and personal property in any area detached shall be excluded from the determination of the full and true value of the municipality from which the property was detached for the two years immediately preceding the effective date of the detachment. Also, in making the determination for a municipality that is a school

district or for a city that is within a borough school district, the assessed value of property taxable under AS 43.56 shall be excluded if a municipal tax is not levied under AS 29.45.080 in that school district. The determination of full and true value shall be made by October 1 and sent by certified mail, return receipt requested, on or before that date to the president of the school board in each city or borough school district. Duplicate copies shall be sent to the commissioner. The governing body of a city or borough that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Commerce, Community, and Economic Development only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

## Section V. School Consolidation Study.

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### *Subsection A. Statement of the Issue:*

When considering the costs of education, it is prudent to examine the possibilities of school consolidation.

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### *Subsection B. Background:*

The LBC and the Department of Education and Early Development (DEED) was mandated in 2003 by the Legislature to conduct a study and report back to them, identifying opportunities for consolidation of schools, with an emphasis on school districts with fewer than 250 students, through borough incorporation, borough annexation, and other boundary changes; and to examine the public policy advantages of these prospective consolidations, including projected cost savings and potential improvements in educational services made possible through greater economies of scale. The 330 page report was distributed and is posted on the LBC's Web site. The economic effects of consolidating ten small city school districts, each with fewer than 250 students were analyzed. By merging fourteen districts into four larger regional districts – ten small city school districts and four regional educational attendance areas – the LBC concluded that consolidation would result in significant economic gain. Consolidation would reduce State education costs, increase the entitlement for education funding per student, and would free up local taxes in the ten cities studied, among other advantages.

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**Subsection C. Recommendation:**

The LBC recommends the Legislature consider the joint report on school consolidation submitted by the LBC and DEED in February 2004, especially the conclusions found on pages 65 to 69 and the recommendations on pages 51 to 59. Included were general recommendations that the Legislature: (1) promote borough government; (2) establish a threshold for school districts to relinquish school powers; (3) establish formal procedures for REAA boundary changes; (4) address the establishment of Federal Transfer Regional Educational Attendance Areas through apparent local and special legislation; (5) remove disincentives for school consolidation from the education funding formula; and (6) create incentives for school consolidation.

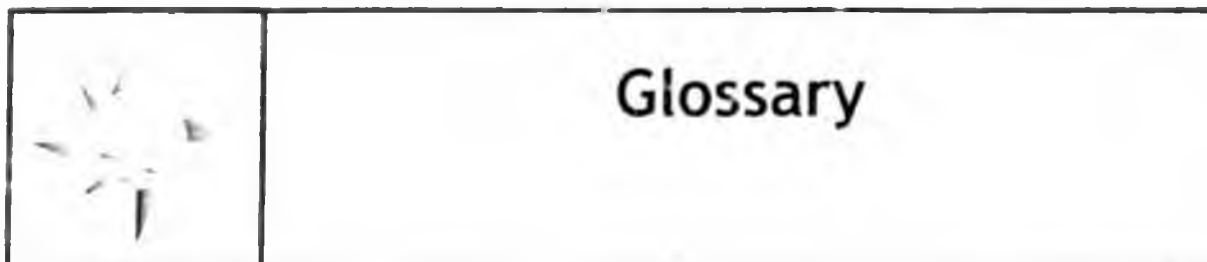
**Alaska Advisory Commission on Local Government**

The Local Boundary Commission applauds the 2005 Legislature for establishing the nine-member Alaska Advisory Commission on Local Government (AACLG) under the provisions of Legislative Resolve No. 25. The AACLG consists of three members of the Alaska State Senate, three members of the Alaska State House of Representatives, and three members of the general public. The AACLG was charged with conducting a needs assessment of the unorganized borough and crafting legislative solutions to address both short-term and long-term sustainability issues.

The AACLG is expected to deliver its report to the Legislature by January 15, 2006, together with legislative proposals for consideration during the Second Regular Session of the Twenty-Fourth Alaska Legislature.

As a major fiscal incentive for Alaska communities to create boroughs, the AACLG is proposing one-time grants of \$12.5 to \$15 million to any newly incorporated borough. As envisioned, the grant funds would be required to be invested and only the earnings could be used for borough services. It would be, in effect, a Permanent Fund for new boroughs.

The AACLG has also conceived a new type of organized borough called an "administrative borough." As conceptualized, an administrative borough would not have the same duties imposed on other organized boroughs. For example, it would not be required, nor even permitted, to exercise the power of public education. It would also have taxing powers limited only to sales and use taxes. As envisioned, administrative boroughs would play a role in the planning and development of facilities for the service region and would foster coordination in the delivery of services to borough residents.



**Alaska Department of Commerce, Community and Economic Development (Department)** means the State agency that serves as staff to the Alaska Local Boundary Commission and also serves as the local government agency mandated by Article X, section 14 of the Constitution of the State of Alaska (formerly Alaska Department of Community and Economic Development, or DCEd).

**Alaska Local Boundary Commission (LBC)** is the independent commission established under Alaska's Constitution (Article X, section 12) to render judgments regarding proposals to alter municipal boundaries. The Local Boundary Commission is one of only five boards of the State of Alaska with constitutional origins.

**Annexation** is the expansion of the jurisdictional boundaries of an existing city government or borough government.

**Areawide** means throughout a borough, both inside and outside all cities in the borough (AS 29.71.800).

**Assembly** means the governing body of a borough (AS 29.71.800).

**Average Daily Membership (ADM)** is the average daily student count over 20 consecutive school-days in October (AS 14.17.600). ADM is defined in State law as "the aggregate number of full-time equivalent students enrolled in a school district during the student count period for which a determination is being made, divided by the actual number of days that school is in session for the student count period for which the determination is being made" (AS 14.17.990(1)).

**Base Student Allocation** is the dollar value set in State law that is applied to the "district adjusted ADM" to arrive at the "basic need" for school districts. The current base student allocation set out in AS 14.17.470 is \$4,576.

**Borough** means a general law borough (first class, second class, or third class), a non-unified home rule borough, or a unified home rule borough (unified municipality) (3 AAC 110.990(1)).

In general terms, the word 'borough' means a place organized for local government. Boroughs exist in certain other states in this country and in other countries; however, they bear no similarity to boroughs in Alaska.

After much debate, Alaska's Constitutional Convention Delegates chose the term "borough" over alternatives such as county, canton, division, and province. They did so because they felt that the term borough did not carry the connotations of the other terms. The Delegates wanted to preclude rigid thinking and the application of restrictive court decisions based on the extensive body of county law developed in the existing states. (See, Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, 1971, p. 37.)

In Alaska, a borough is a regional unit of municipal government (See, Victor Fischer, *Alaska's Constitutional Convention*, 1975, pp. 116 - 123); Thomas A. Morehouse and Victor Fischer, *Borough Government in Alaska*, 1971, pp. 37 - 41; *Mobil Oil v. Local Boundary Commission*, 518 P.2d 92, 100 (Alaska 1974); and Alaska State Legislature, Legislative Counsel, *Proceedings of the Alaska Constitutional Convention*, 1963, pp. 2638 and 2641.)

**Census Designated Place (CDP)** means a statistical territory, defined for each decennial census according to Census Bureau guidelines, comprising a densely settled concentration of population that is not within an incorporated place, but is locally identified by a name. Beginning with Census 2000, there are no size limits.

**Charter** is the organic law of a home-rule municipality describing the rights and responsibilities of the municipality and its citizens (AS 29.04.010).

**City** means a general law (first class or second class city or a home-rule city government (AS 29.71.800)). It is a municipal corporation and political subdivision of the State of Alaska.

**Coastal Resource Service Area (CRSA)** means a service area established and organized under AS 29.03.020 and AS 46.40.110 - 46.40.180 (3 AAC 110.990(2)).

**Commission** refers to the Local Boundary Commission (3 AAC 110.990(3)).

**Community** means a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920 (3 AAC 110.990(5)).

**Consolidation** in terms of "municipal consolidation" means the dissolution of two or more municipalities and their incorporation as a new municipality (AS 29.71.800). "Consolidation" in terms of "school consolidation", means the combining of two or more school districts through any of several means (e.g., borough incorporation, annexation, city reclassification, city dissolution, or modifying the boundaries of REAAs).

**Contiguous** means, with respect to territories and properties, adjacent, adjoining, and touching each other (3 AAC 110.990(6)).

**Council** means the governing body of a city (AS 29.71.800).

**Department** means the "Alaska Department of Commerce, Community and Economic Development" (formerly DCED for "Alaska Department of Community and Economic Development" and formerly DCRA for the "Alaska Department of Community and Regional Affairs").

**DEED** is an acronym for "Alaska Department of Education and Early Development."

**Detachment** means reduction of the jurisdictional boundaries of an existing city or borough government (AS 29.06.040).

**Dissolution** means terminating the corporate status of a municipal government (AS 29.06.450).

**District** means a city or borough school district or a regional educational attendance area (REAA) (AS 14.17.990(2)). District also means a federal transfer regional educational attendance area (FTREAA).

**Federal Impact Aid** is federal financial assistance provided, upon application, to school districts with children whose parents live and/or work on federal property. Ninety percent of the eligible federal impact aid funds are used in the calculation of state aid (see column 4 of Tables 1-4 in Part I of the report for treatment of the deductible federal impact aid).

**Federal Transfer Regional Educational Attendance Area (FTREAA)** means an educational service area established and organized under a special act in 1985 (Ch. 66, SLA 1985) separate and distinct from an REAA established and organized under AS

14.031 and AS 29.03.020. There are two FTREAs: (1) a school district that provides education services to three villages in the Lower Kuskokwim REAA (Akiachak, Akiak, and Tuluksak); and (2) a school district that provides education services to the village of Chevak in the Lower Yukon REAA.

**General Law Municipality** means a municipal corporation and political subdivision of the State of Alaska that has legislative powers conferred by State law; it may be an unchartered first-class borough, second-class borough, third class borough, first-class city, or second-class city organized under the laws of the State of Alaska. (AS 29.04.020.)

**Home-Rule Municipality** means a city or a borough that has adopted a home-rule charter. A home-rule municipality has all legislative powers not prohibited by law or charter (AS 29.04.010).

**Incorporation** means creating a political subdivision and municipal government under the laws of Alaska (AS 29.05.011 - 29.05.031).

**Merger** means dissolution of a municipality and its absorption by another municipality (AS 29.71.800).

**Model Borough Boundaries** means those boundaries set out in the Commission's publication Model Borough Boundaries, revised as of June 1997 and adopted by reference (3 AAC 110.990(9)).

**Municipality** means a political subdivision incorporated under the laws of the state that is a home-rule or general law city, a home-rule or general law borough (AS 29.71.800).

**Nonareawide** means throughout the area of a borough outside all cities in the borough (AS 29.71.800).

**Permanent Resident** means a person who has maintained a principal domicile in the territory proposed for change under this chapter for at least 30 days immediately preceding the date of acceptance of a petition by the department, and who shows no intent to remove that principal domicile from the territory at any time during the pendency of a petition before the Commission (3 AAC 110.990(10)).

**Petition** means a proposal for one or more actions by the Local Boundary Commission as provided for under 3 AAC 110.420.

**Petitioner** is the entity or group, set out in 3 AAC 110.410, filing a request for action by the Local Boundary Commission.

**Petitioner's Representative** is the person designated to act as the representative of a petitioner (3 AAC 110.410(e)).

**Political** means pertaining or relating to the policy of the administration or government. Pertaining to, or incidental to, the exercise of the functions vested in those charged with the conduct of government; relating to the management of affairs of state; as political theories; or pertaining to exercise of rights and privileges or the influence by which individuals of a state seek to determine or control its public policy; having to do with organization or action of individuals, parties or interests that seek to control appointment or action of those who manage affairs of a state. (Blacks Law Dictionary)

**Political Subdivision** means a borough or city organized and operated under state law (3 AAC 110.990(11)).

**Property Owner** means a legal person holding a vested fee simple interest in the surface estate of any real property including submerged lands; "property owner" does not include lienholders, mortgagees, deed of trust beneficiaries, remaindermen, lessees, or holders of unvested interests in land (3 AAC 110.990(12)).

**Quality School Funding** is a component of public school funding. Under AS 14.17.480, a district is eligible to receive a quality school funding grant not to exceed the district's adjusted ADM multiplied by \$16.

**Reclassification** means changing the classification of a municipal government; e.g., from a second-class city to a first-class city (AS 29.04.040 - 29.04.050).

**Regional Educational Attendance Area (REAA)** means an educational service area established and organized under AS 14.08.031 and AS 29.03.070. It is a school district that provides education services to that portion of the unorganized borough outside of home-rule and first-class cities.

**Reply Brief** refers to the document filed by the Petitioner with the Local Boundary Commission pursuant to 3 AAC 110.490.

**Required Local Contribution** means the local contribution required by AS 14.17.410(b)(2) of a city or borough school district that is the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Economic Development under AS 14.17.510 and AS 29.45.110, not to exceed 45 percent of a district's basic need for the preceding fiscal year as determined under AS 14.17.410(b)(1). Neither REAAs nor FTREAAAs are subject to required local contributions. (See also "voluntary local contribution.")

**Respondent** is a person or entity who argues for or against a petition, has the capacity to sue or be sued, and has certain rights and responsibilities in a petition proceeding.

**Responsive Brief** refers to the document filed by a respondent under 3 AAC 110.480.

**Service Area** refers to an area in which borough services are provided that are not offered on an areawide or nonareawide basis, or in which a higher or different level of areawide or nonareawide services are provided. Borough service areas are not local governments because they lack legislative and executive powers. Nonetheless, borough service areas are local governmental units in the context of the minimum of local government units clause found in Article X, § 1 of Alaska's Constitution.

**State** (where capitalized) refers to the State of Alaska government.

**State Aid (State Foundation Formula)** equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year. (AS 14.17.410(b)(1)).

**Unorganized Borough** means areas of Alaska that are not within the boundaries of an organized borough (AS 29.03.010).

**Voluntary Local Contribution** (also referred to as "excess local contribution") means the level of funding in addition to the local contribution required under AS 14.17.410(b)(2) that a city or borough school district may contribute in a fiscal year. The voluntary local contribution may not exceed the greater of (1) the equivalent of a two-mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Community and Economic Development under AS 14.17.510 and AS 29.45.110; or (2) 23 percent of the district's basic need for the fiscal year under AS 14.17.410(b)(1). (See also "required local contribution.")



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