

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
5617 HOUSE COMMUNITY & REGIONAL AFFAIRS

With coastal management plans, the enforceability of both the KIB plan and the Lake and Peninsula plan will be identical.

Thus, the KIB appears to offer the contested area no advantage in either the number of services to be provided nor the extent to which required services will be rendered. Thus, the Department concludes that both entities are equally able to serve the area.

F. 2. To what extent would the financial viability of either municipality be affected if the contested area were included within the boundaries of the other municipality?

As noted previously, the area offers relatively little to either municipality in raw fish tax returns. The Alaska Department of Fish and Game as well as the petitioner have indicated that fish processing may occur on floating processors (there are no shorebased processors in the contested area) but it would be limited to bottomfish catcher/processors. Any raw fish tax revenues from this activity would be relatively insignificant since the bottomfish stock have been extensively harvested and there is very little activity at this point.

The area offers somewhat more value in relative taxable property. It would represent approximately 1.2% of the total of the Kodiak Island Borough. It would represent more value to the Lake and Peninsula Borough at 15.9% of its total property value. Thus, in relative terms, the contested area appears to be more valuable to the Lake and Peninsula Borough.

The potential tax from sales of fish in the contested area does appear to be relatively more significant to the proposed borough than to the existing borough. Currently the KIB levies a 4.5 mill areawide property tax and no sales tax. The proposed Lake and Peninsula Borough will levy a 1% sales and use tax. Although the tax structure of the proposed borough is unknown at this time, presumably the tax will be levied at the point of fish sale as currently implemented by at least one other borough in the state. The Alaska Department of Fish and Game in Kodiak has reported that the 1988 value of salmon caught for the mainland of the Kodiak Management Area (from Cape Douglas to Cape Kilokak) was \$13,938,400. The following table reflects the species, pounds, price and value of salmon caught in this area during this season:

<u>Species</u>	<u>Pounds Caught</u>	<u>Price Per Pound</u>	<u>Value</u>
King Salmon	64,000	\$1.25	80,000
Red Salmon	2,000,000	\$2.55	\$ 5,100,000
Cono Salmon	420,000	\$1.50	630,000
Pink Salmon	6,612,000	.70	4,628,400
Chums	3,500,000	\$1.00	3,500,000
TOTAL	12,596,000		\$13,938,400

Noting that this was an unusually large catch (30% - 50% higher than the average poundage for the area) with record prices, the Department has conservatively estimated the value of salmon in the area at \$6,000,000. Since the KIB levies no sales tax, these fish offer no sales tax revenues to the KIB. However, since the Lake and Peninsula Borough will levy a 1% sales and use tax, these salmon alone represent a potential \$60,000 to the new Borough. Putting this figure into relative perspective, this is 8.8% of the total local revenues for the Lake and Peninsula Borough. On the other hand, the potential property tax revenues from the territory represent only 1.2% of the total local revenues to be generated by the KIB. Thus, to the Lake and Peninsula Borough, the loss of sales and use tax revenue is far more significant than to the Kodiak Island Borough.

While the Department considers neither government infeasible if the contested area remains outside the respective jurisdictional boundaries of either one, the area is significantly more valuable to the Lake and Peninsula Borough in terms of taxable property and fish sales than it is to the KIB. Therefore, the Department concludes that the Lake and Peninsula Borough's argument is definitely more persuasive and meritorious than the KIB in this regard.

F. 3. To what extent does the annexation petition from the KIB and the borough incorporation petition from the Lake and Peninsula region best meet the standards for their respective actions?

The Department has determined that the borough incorporation petition from the Lake and Peninsula region meets the standards for borough incorporation to a degree which warrants inclusion of the contested area within the boundaries of the Lake and Peninsula Borough. Under separate cover, the Department has analyzed and concluded that the Lake and Peninsula Borough incorporation meets all standards for this action (see report titled Report and Recommendation to the Local Boundary Commission on the Petition for Incorporation of a Lake and Peninsula Borough). Under cover of this report, the Department, establishes that the Kodiak Island Borough, in the absence of a competing petition, would sufficiently meet the standards for annexation to the degree necessary to recommend the action.

Section G.  
APPLICATION OF ANNEXATION STANDARDS

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## INTRODUCTION

State statutes and administrative regulations establish a number of standards which must be applied in judging the merits of any proposal for the annexation of territory to a borough. This section of the report lists each of these standards (phrased as a question and printed in bold capital letters), followed by a discussion of current conditions which apply under the standard and the Department's analysis of the degree to which the standard is satisfied by the proposal.

To approve the annexation, the LBC must determine that one or more of the first eight standards is satisfied to the extent that annexation is warranted. It is mandatory that all of the remaining standards (9th - 14th borough incorporation standards) be satisfied. It is within the Commission's discretion to approve the petition as submitted, reject the petition entirely, or amend the boundaries of the territory proposed for annexation. With respect to the latter, the LBC may expand or reduce the territory proposed for annexation.

## BOROUGH ANNEXATION STANDARDS

**G. 1. IS THE CONTIGUOUS TERRITORY TOTALLY SURROUNDED BY THE BOROUGH'S BOUNDARIES?**

The territory proposed for annexation is not totally surrounded by boundaries of the Kodiak Island Borough. Therefore, this standard is not met.

**G. 2. IS THE LAND IN THE TERRITORY WHOLLY OWNED BY THE BOROUGH?**

None of the land in the territory proposed for annexation is owned by the Borough. Therefore, this standard is not met.

**G. 3. IS THE TERRITORY IN NEED OF MUNICIPAL SERVICES WHICH THE BOROUGH CAN PROVIDE MORE EFFICIENTLY THAN ANOTHER MUNICIPALITY OR THE STATE?**

The Kodiak Island Borough exercises the following powers on an areawide or non-areawide basis: education, planning, platting, regulatory controls, assessment and collection of taxes, health services, parks and recreation, animal control, solid waste collection and disposal and economic development.

Because the subject territory is uninhabited, the demand for services is limited. The borough contends that the area warrants land use planning, platting and land use regulations which it would provide upon annexation. The petition also indicates that solid waste disposal for floating processors is

being provided by the KIB. The KIB contends that with the enactment of MARPOL on December 31, 1988, this service will be mandated. That is, since it reportedly provides solid waste collection and disposal at the Port of Kodiak it will be impacted by the requirements of the recently enacted federal legislation. However, the Department understands that the City of Kodiak actually provides waste collection services to the users of the harbor. In response to the legislation, the City plans to purchase additional solid waste receptacles for the harbor. The City is planning to offset the additional costs it will incur in the handling of solid waste and waste oil from marine vessels through increases in moorage and/or user fees. Thus, the City of Kodiak is actually providing these services to vessels frequenting the waters of the contested area.

In considering whether the Kodiak Island Borough is the municipality best suited to provide planning and solid waste disposal services, the Department notes that the proposed Lake and Peninsula School Borough will offer identical planning services to that area currently proposed for incorporation. Further, since the City of Kodiak provides solid waste services to the vessels of the area, the KIB appears to offer no advantage to the area over services to be provided by other governments. Therefore, the Department concludes that this standard is not met.

**G. 4. IS THERE A REASONABLE LIKELIHOOD THAT FUTURE GROWTH AND DEVELOPMENT WILL OCCUR WITHIN THE TERRITORY AND THAT ANNEXATION OF THE TERRITORY WILL ENABLE THE BOROUGH TO PLAN FOR AND CONTROL THAT DEVELOPMENT?**

The petitioner identifies potential development of the area. This is primarily through mineral, oil and gas and fishing activities. The petitioner has observed that mineral exploration continues to take place in the area proposed for annexation. Oil and gas lease sale #114 is scheduled to be held in September of 1990. Both activities have the potential for resource development and attendant impact on the area proposed for annexation. However, because the potential for this development is so speculative, the Department can not conclude that these activities will satisfy this standard.

The petitioner has observed that the number of offshore floating processors in this area continues to increase yearly and certainly indicates growth and development in the fishing industry in the area. While the actual number of fish processors will certainly fluctuate with the fish harvest, the petitioner observes that it is likely the area will see added growth in the use of offshore processors since it is also likely that larger and more varied fish harvests will be experienced in the future.

The Department recognizes the potential for growth of this industry sufficient to meet the "potential for development" suggested by this standard. It agrees that inclusion of this area within a regional government is appropriate for regulation

of the growing fisheries industry. Since the area faces problems and issues that are likely to be regional in nature (mineral and fisheries resource extraction) the Department finds it appropriate to assume a regional approach to problem solving.

Both governments can argue that it is necessary for each to regulate development activity in the contested area. That is, debris and waste wash ashore on the Alaska Peninsula as well as on Kodiak Island. Therefore, there is no compelling aspect of this argument which justifies the KIB having this territory any more than the proposed Lake and Peninsula Borough. Both governments are regional governments with legitimate concerns over control and regulation of development activity in the area. Thus, it is the Department's opinion that only in the absence of a Lake and Peninsula Borough should the petitioner be allowed to plan for and control existing and anticipated development in the contested area proposed for annexation.

**G. 5. IS THE HEALTH, WELFARE OR SAFETY OF BOROUGH RESIDENTS ENDANGERED BY CONDITIONS EXISTING OR DEVELOPING IN THE TERRITORY AND WILL ANNEXATION ENABLE THE BOROUGH TO REMOVE OR RELIEVE THESE CONDITIONS?**

The KIB has argued that the mineral resource extraction industries and floating processors in the area as well as federal land development plans have resulted in negative impacts on local fishermen and onshore fish processors on Kodiak Island. The petitioner observes that the number of offshore processors, who typically operate with self-contained out-of-state crews, has increased substantially in recent years. The petitioner contends that these processors have drawn the fish which would normally be delivered to on-shore facilities, thus denying the KIB the proportionate amount of raw fish tax revenues as well as its residents the dollars that would normally go to the local economy. The economic welfare of KIB residents is thus negatively affected.

The petitioner further argues that floating processors discharge waste that finds its way to the beaches and waters of Kodiak Island. Thus, the health of KIB residents is endangered.

Finally, the petitioner makes the point that the federal government has indicated its intent to plan for and manage the land in the area proposed for annexation without regard to the concerns of the KIB. The petitioner argues that annexation of the area will allow more extensive and influential input from the borough on the use and management of these lands.

The Department does not discount the Borough's arguments. However, to the extent that they apply to the KIB so they apply to the proposed Lake and Peninsula Borough. In fact, it is notable that in relative financial terms these arguments apply to a greater degree to the Lake and Peninsula Borough. That is, the contested area holds relatively greater revenue potential for the Lake and Peninsula Borough than for the KIB.

As noted earlier, this area represents 1.2% of the total taxable property value of the borough. However, it represents 15.9% of the total taxable value of the Lake and Peninsula Borough. Further, the estimated numbers of fish sold in the contested area are tantamount to an additional \$60,000 in sales and use tax revenues to the Lake and Peninsula Borough while they represent no additional tax revenue to the KIB. These fish sales then represent 8.8% of the total local revenues to be generated by the Lake and Peninsula Borough. On the other hand the territory represents only 1.2% of the total local revenues generated by the KIB, and these in terms of taxable property values. Thus, to the Lake and Peninsula Borough, the loss of taxable property values and sales/use tax revenue from this area is far more significant than to the Kodiak Island Borough.

In terms of endangerment to the health of borough residents, again the proposed Lake and Peninsula Borough will face the problems experienced by the KIB. Floating debris and waste washes ashore on the Alaska Peninsula even as it does on Kodiak Island. The Lake and Peninsula region contends that these conditions apply to it to at least the same extent, if not more so, than they do to the KIB. The Department agrees.

In regard to influence over land use and management plans of the area by the federal government, the Lake and Peninsula Borough claims even greater interest in policy direction. It notes that much of the land in the area proposed for annexation is also within the Katmai National Park and Preserve, Becharof National Wildlife Reserve, Alaska Peninsula National Wildlife Reserve, and Aniakchak National Monument and Preserve. These federal parks and reserves contain practically all of the proposed borough's remaining lands on the Alaska Peninsula. Given the interest to which the proposed Lake and Peninsula borough will have in federal decisions over these lands, the proposed borough would seem to have a need for an even greater degree of influence in federal planning and management decisions of the area.

All factors considered, it is the Department's opinion that only in the absence of a Lake and Peninsula borough should the petitioner annex the contested area to address the economic and health problems presented by the existing and developing industry in the area.

**G. 6. IS THE EXTENSION INTO THE TERRITORY OF BOROUGH SERVICES OR FACILITIES NECESSARY TO ENABLE THE BOROUGH TO PROVIDE ADEQUATE SERVICE TO BOROUGH RESIDENTS, AND IS IT IMPOSSIBLE OR IMPRACTICAL FOR THE BOROUGH TO EXTEND THE FACILITIES OR SERVICES UNLESS THE TERRITORY IS WITHIN THE BOROUGH'S BOUNDARIES?**

The Kodiak Island Borough has presented no evidence that its petition satisfies this standard. Likewise, the Department is unaware of circumstances which apply in this situation.

C. 7. DO THE RESIDENTS OR PROPERTY OWNERS WITHIN THE TERRITORY RECEIVE OR CAN THEY BE REASONABLY EXPECTED TO RECEIVE, DIRECTLY OR INDIRECTLY, THE BENEFIT OF BOROUGH GOVERNMENT WITHOUT COMMENSURATE PROPERTY TAX CONTRIBUTIONS, WHETHER BOROUGH SERVICES ARE RENDERED OR RECEIVED INSIDE OR OUTSIDE THE BOROUGH?

The Kodiak Island Borough has presented no evidence that its petition satisfies this standard. Likewise, the Department is unaware of circumstances which apply in this situation.

G. 8. IS THE ANNEXATION OTHERWISE NECESSARY TO ACCOMPLISH A VALID PUBLIC PURPOSE?

The petitioner has stated that it believes the Kodiak Island Borough can not "control its destiny" (based as it is on the commercial fishing industry) without expanding its regional geographic base. This expansion is necessary because of the trend toward floating fish processing, federal and state decisions made about the contested area without regulatory input from the Borough, and loss of local revenue which the area may somewhat offset. The Borough implies that the combined impact of these conditions forms a valid public purpose of the action.

However, as stated in preceding standards, as the situation applies to the KIB so it applies to the proposed Lake and Peninsula Borough. That is, the latter argues that it will need to: regulate and control development and attendant impacts of existing and anticipated growth; avail itself of any potential raw fish tax revenues or potential fish sale tax revenues; and influence federal land use and management decisions of so much of its territory. Thus, an equally valid public purpose is served by the inclusion of this area within the proposed Lake and Peninsula borough as within the Kodiak Island Borough. In fact, given the relative importance of this area in terms of potential revenue, impact on its region's residents and interest in federal management decisions, it is the Department's opinion that only in the absence of a Lake and Peninsula Borough does annexation of the contested area by the KIB become necessary to accomplish a valid public purpose.

#### BOROUGH INCORPORATION STANDARDS

The following standards are those which apply to the incorporation of boroughs. While these standards are examined with regard to the proposed Lake and Peninsula Borough under separate cover, they likewise apply in the case of proposed annexations. In fact, it is mandatory that they be met in the course of a successful borough annexation. Therefore, they are examined below.

G. 9. IS THE KODIAK ISLAND BOROUGH CAPABLE OF AND WILLING TO EXTEND AREAWIDE AND NON-AREAWIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION?

As indicated in Section G.3. of this report, the need for services in the area proposed for annexation is limited. The extension of areawide and non-areawide services to this territory would require little expenditure by the Borough. The KIB appears willing and capable of serving the contested area. Therefore, the Department agrees that on the merits of the annexation only, this standard is satisfied.

G. 10. WOULD THE POPULATION WITHIN THE EXPANDED BOUNDARIES OF THE BOROUGH REMAIN INTERRELATED AND INTEGRATED AS TO ITS SOCIAL, CULTURAL, AND ECONOMIC ACTIVITIES?

The area proposed for annexation is uninhabited. However, the KIB has claimed that the social, cultural and economic activities of the population of the Borough is tied to the area proposed for annexation. The Department agrees that on the merits of the annexation only, this standard is satisfied.

G. 11. WOULD THE POPULATION WITHIN THE EXPANDED BOUNDARIES OF THE BOROUGH REMAIN LARGE AND STABLE ENOUGH TO SUPPORT BOROUGH GOVERNMENT?

Again, since the area proposed for annexation is uninhabited, the size and stability of the Borough's population would not be affected by the annexation. The Department agrees that on the merits of this annexation only, this standard is satisfied.

G. 12. WOULD THE EXPANDED BOUNDARIES OF THE BOROUGH CONFORM GENERALLY TO THE NATURAL GEOGRAPHY AND STILL INCLUDE ALL AREAS NECESSARY FOR FULL DEVELOPMENT OF MUNICIPAL SERVICES?

The petitioner contends that with this annexation, the Borough's boundaries would follow the natural geography of the region. It identifies the Aleutian Range running east/west along the peninsula as a natural divider between the rivers that empty into Shelikof Strait and those that empty into Bristol Bay. The Borough notes that this drainage pattern unites the area with the Kodiak Island Borough as the islands' rivers likewise flow into Shelikof Strait. The Department agrees that on the merits of this annexation only, this standard is satisfied.

G. 13. WOULD THE ECONOMY OF THE EXPANDED BOROUGH STILL INCLUDE THE HUMAN AND FINANCIAL RESOURCES CAPABLE OF PROVIDING MUNICIPAL SERVICES?

Again, because there is no population change, the annexation would have no effect on the human resources of the KIB. Likewise, it would have no effect on the human resources of the proposed Lake and Peninsula Borough. The Department agrees that on the merits of this annexation only, this standard is satisfied.

G. 14. WOULD THE LAND, WATER AND AIR TRANSPORTATION FACILITIES OF THE EXPANDED BOROUGH STILL ALLOW THE COMMUNICATION AND EXCHANGE NECESSARY FOR THE DEVELOPMENT OF INTEGRATED BOROUGH GOVERNMENT?

This annexation will not affect the ability of residents of the Kodiak Island Borough to communicate and interrelate. The Department agrees that on the merits of this annexation only, this standard is satisfied.

Section H.  
CONCLUSIONS AND RECOMMENDATIONS

## INTRODUCTION

This section of the report summarizes the findings of the Department with regard to the petition before the LBC. These findings are presented as conclusions. The conclusions are followed by recommendations to the LBC.

## H. 1. DEPARTMENT CONCLUSIONS

Clearly, claims to the contested area by the KIB and the proposed Lake and Peninsula Borough are meritorious in their own right. Both governments appear to meet the standards for their respective actions; both governments appear to be capable of serving the territory; neither government would be rendered financially infeasible if the territory were located within the boundaries of the other. However, given the fact that claims are laid to the same territory by these two regional governments under the conditions stated herein, the Department finds that the cumulative weight of evidence supports the proposed Lake and Peninsula Borough. Thus, it is the conclusion of the Department that the proposed Lake and Peninsula Borough should include the contested area within its proposed boundaries. However, because of the legitimacy of the claims on the part of both regional governments, it is also the conclusion of the Department that if the Lake and Peninsula region fails to incorporate as a borough during 1989, the Local Boundary Commission should forward a legislative review annexation recommendation to the 2nd Session of the Sixteenth State Legislature (to convene in 1990), that the contested area be annexed to the Kodiak Island Borough.

## H. 2. DEPARTMENT RECOMMENDATIONS

1. The Local Boundary Commission approve the annexation of the Semidi Islands and Chirikof Island to the Kodiak Island Borough. The boundaries of the Kodiak Island Borough would then read as follows:

Beginning at 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, thence; thence northeasterly to a point at 56° 28' 00" North Latitude, 155° 12' 00" West Longitude which is the mid-channel of Shelikof Strait; thence continuing along the mid-channel of Shelikof Strait to a point at 58° 45' North Latitude; thence northeasterly to a point three geographic miles northeasterly of the northwestern peninsula of Ushagat Island; thence continuing along a line that is three geographical miles north of Ushagat, West Amatuli and East Amatuli Islands; thence along a line that is three geographical miles seaward from the Pacific coast of Shuyak, Afognak, Marmot, Spruce,

Kodiak, Woody, Ugak, Sitkalidak, Two Headed, Geese, Sitkinak and Chirikof Islands; thence along a line that is three geographical miles south and west of the Semidi Islands; thence northwesterly to 56° 16' 10" North Latitude, 157° 07' 40" West Longitude, the point of beginning.

With respect to the water areas, the boundaries of the Kodiak Island Borough extend to the limits of the State's jurisdiction under AS 44.03.010.

2. The Local Boundary Commission approve inclusion of the contested area within the proposed boundaries of the Lake and Peninsula Borough. However, inclusion is contingent upon successful borough incorporation. Should the area remain unincorporated during 1989, the contested area should automatically be recommended for annexation to the KIB and presented for approval to the 2nd session of the 16th state legislature.

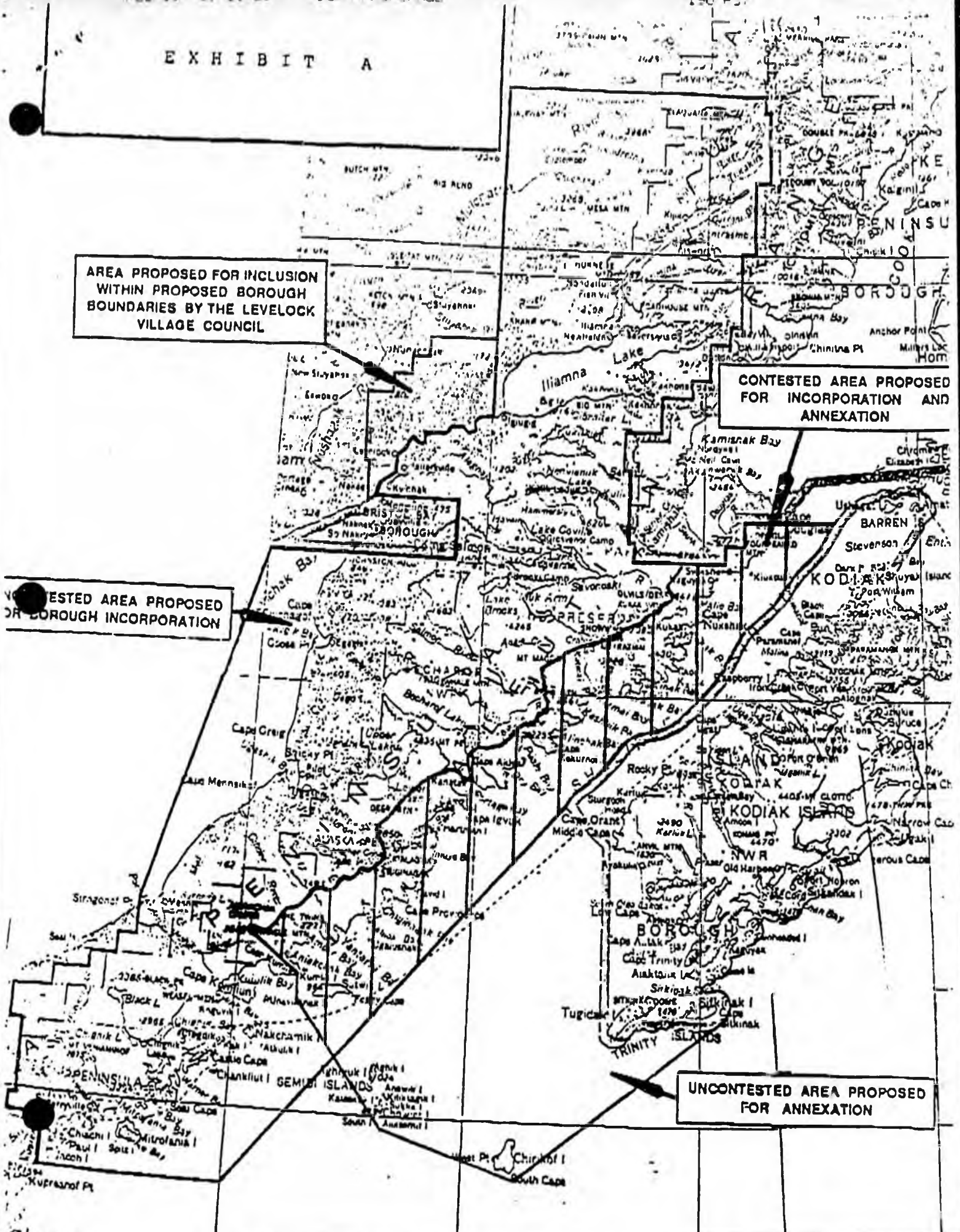
EXHIBIT A

AREA PROPOSED FOR INCLUSION WITHIN PROPOSED BOROUGH BOUNDARIES BY THE LEVELOCK VILLAGE COUNCIL

CONTESTED AREA PROPOSED FOR INCORPORATION AND ANNEXATION

UNCONTESTED AREA PROPOSED FOR BOROUGH INCORPORATION

UNCONTESTED AREA PROPOSED FOR ANNEXATION



# 3

LAKE & PENINSULA SCHOOLS

TEL No.

907 246 4473 Feb 11, 89 9:53 P.02



**THE  
LAKE AND PENINSULA  
SCHOOL DISTRICT**

P.O. Box 498  
King Salmon, Alaska 99619  
Phone (907) 246-4280



**Date:** February 10, 1989

**TO:** Members of the Alaska Legislature

**From:** Frank Hill, Petitioners Representative *FH*  
Lake and Peninsula Home Rule Borough

The petitioners for the incorporation of the Lake and Peninsula Borough request your support in disapproving the annexation proposed by the Kodiak Island Borough.

Representative George Jacko Jr. has introduced HJR23 which, if passed, would disapprove the Local Boundary Commission's inappropriate recommendation for annexation of territory to the Kodiak Island Borough.

The Lake and Peninsula area residence will vote on the incorporation of a Home Rule Borough on April 11, 1989. Most of the territory that Kodiak Island Borough will annex is within the area proposed for incorporation by the Lake and Peninsula Borough.

Please review the attached document which briefly list reasons why we believe the Kodiak Island Borough annexation needs to be disapproved by the Alaska Legislature.

Thank you in advance for your support on Rep Jacko's resolution which is critical to borough formation in the Lake and Peninsula area.

**The Legislature Should Deny The Annexation By Kodiak Island Borough For the Following Reasons:**

- 1) The majority of the areas proposed for annexation falls within the borders of The Lake and Peninsula REAA.
- 2) Mandatory Borough formation proposed by HRI in the 15th Legislature gave cause to think about creating our own borough in the region. Also when Lake and Peninsula REAA territory was allowed to become a part of the Aleutians East Borough as it was incorporated gave further cause to begin the process of forming a borough in the Lake and Peninsula region.
- 3) On March 30, 1988 The Representatives of all the villages within The Lake and Peninsula REAA voted to request that The Lake and Peninsula REAA study the feasibility of a borough in the region, and if found feasible, to file an incorporation petition on their behalf.
- 4) During the June 9, 1988 School Board Meeting, The Lake and Peninsula School Board approved the drafting of a petition for the incorporation of The REAA as a home rule borough.
- 5) The Lake and Peninsula Borough Incorporation proposal drafts were submitted to DCRA in September 1988; copies of The Incorporation proposal were requested by Kodiak Island Borough.
- 6) Kodiak Island Borough (KIB) filed a proposal to annex territory on the Alaska Peninsula and the waters of Shelikof Strait on October 13, 1988. The land area and much of the water area are currently within The Lake and Peninsula REAA.
- 7) A petition to incorporate the entire Lake and Peninsula REAA as a home rule borough was filed on November 10, 1988.
- 8) The DCRA completed a study of the two petitions, and concluded that the contested area should be included within the proposed Lake and Peninsula Borough. The DCRA study recommended that the annexation proposal by Kodiak Island Borough be denied.
- 9) The LBC conducted teleconference hearings in with Kodiak, and three communities (Newhalen, Port Heiden, and Chignik) within the area proposed for incorporation on December 2, 3, 1988. The hearings were held to receive testimony on the Kodiak Island Borough Annexation, and The Incorporation of Lake and Peninsula Borough questions.
- 10) On December 4, 1989, the LBC held a decisional meeting concerning the Kodiak Annexation and Lake and Peninsula Borough Incorporation issues. The LBC approved the KIB Annexation proposal and the incorporation petition for the Lake and Peninsula home rule borough.
- 11) The LBC favored an existing, viable borough with additional resource and revenue base over a proposed borough that has yet to prove its actual economic viability.
- 12) It is the position of Lake and Peninsula that the area allowed to be annexed is noncontiguous to the KIB. The contested area is separated from the KIB by Federal Waters. LBC regulations (19 AAC 19.190 (b) (1) (2) ) do not allow annexation of noncontiguous areas.
- 13) The LBC made no finding that the contested area was contiguous to KIB.
- 14) The residents of the proposed Lake and Peninsula borough view the annexation by KIB as a disincentive to incorporating their own area due to the diminished economic viability caused by the KIB annexation. We are convinced that the Kodiak annexation will jeopardize voter approval of borough formation in the Lake and Peninsula Area.

Petitioners  
Lake and Peninsula Borough.

February 7, 1989  
Box 762  
Dillingham, Ak 99576

Sen. Al Adams, Chairman  
Senate Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Rep. Eileen Maclean, Chairman  
House Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: Local Boundary Commission - HB-131, Kodiak Island Borough  
annexation, Lake and Peninsula incorporation

Dear Sen. Adams and Rep. Maclean:

I write to urge your committees to consider a major overhaul of the Local Boundary Commission process for considering borough incorporations and annexations. I also urge you to put borough decisions on hold in the meantime, and more particularly to veto the Kodiak Island Borough annexation and, if possible, to remand the Lake and Peninsula decision to the LBC for further consideration.

As a Dillingham city councilman, an attorney employed by a Native association, and a former newspaper writer in Bristol Bay I have closely scrutinized the above-referenced actions and also the 1987 Aleutians East incorporation. In terms of substantive analysis these three LBC decisions are probably the worst administrative decisions I have seen in ten years of legal practice.

While Rep. Shultz's bill is a good starting point, it does not go far enough. A major problem is that the statutory and regulatory standards, probably inadequate to begin with, have been so loosened in application that they no longer mean anything. The LBC simply substitutes its own judgement for the legally-promulgated standards whenever a contested issue arises, with the result that its decisions are arbitrary and inconsistent.

The process encourages land-grabs and results in further concentration of the tax base in the more politically sophisticated, urbanized communities at the expense of villages. It also results in boundaries that are irrational from a geographic and demographic perspective. You simply cannot carve up large regions of the state on a first-come

first-served basis, requiring only minimal compliance with weak standards, and hope to have a fair and rational result.

The Kodiak Island Borough annexation. This annexation should be vetoed because it is bad public policy and because the LBC threw its standards to the winds to allow it.

The Kodiak borough was allowed to annex a large uninhabited portion of the Alaska Peninsula and adjacent waters of the Shelikoff Strait that Lake and Pen also sought to incorporate. It should be borne in mind that Lake and Pen had only to meet the standards for incorporation, while Kodiak had to meet those standards and the regulatory standards for annexation.

The LBC's rationale for giving the area to Kodiak instead of Lake and Pen seems to have been that the Shelikoff Strait is fished primarily by Kodiak-based fishermen and that taxes from that fishery should, in fairness, go to Kodiak. While that may seem reasonable, no such standard is found in the statute or the regulations. This is a prime example of the LBC substituting its own judgement of what "ought" to happen for the legally-established rules.

The Kodiak annexation was granted under the LBC's regulations governing "contiguous" annexations, under which it had to meet one of eight regulatory standards. However, a preliminary issue not even discussed in the decision was whether the annexed territory is contiguous to the original borough. By any common sense definition it is not contiguous because it is separated from the original Kodiak Island Borough by federal waters beyond the territorial limit of Alaska and will be a separate enclave.

Likewise, the eight regulatory standards were not meaningfully applied. The LBC found that three of them were met, but not one of these findings withstands scrutiny. The LBC merely accepted the bare representations of the petitioners without independent analysis or research - despite DCRA's statutory duty to "investigate" proposals.

There was no evidence of likely development in the area which Kodiak could realistically plan for or control, no evidence that municipal services were needed and no evidence that the borough would provide any additional services in the area, which after all is uninhabited. In short, the only real reason for the annexation was to provide the Kodiak borough an additional revenue source, and that alone does not meet the legal standards. It should also be noted that most of the reasons the LBC cited for approving the annexation applied only to the waters of Shelikoff Strait and not to the Alaska Peninsula.

From a public policy perspective one has to question the wisdom of giving this revenue source to a borough with a relatively vibrant economy and healthy tax base at the expense of nearby chronically depressed villages with no tax base. Kodiak has numerous fisheries and is one of the communities directly benefitting from the "Americanization" of the North Pacific bottom fishery. It has year-round harbors and processing plants. The Lake Iliamna villages in contrast are almost solely dependent on the Bristol Bay salmon fishery, for which non-residents hold most permits. There are no processing plants. The typical village has only a few salmon permits and a handful of salaried jobs in the schools and local government. Unemployment is astronomical in the winter months.

One would think it in the state's interest that such villages have access to nearby fisheries, if only through taxation. And perhaps the new borough could develop programs enabling its people to more directly benefit from the Shelikoff Strait fisheries.

The LSC's decision itself found that the revenues from this territory would be much more important to Lake and Pen than to Kodiak, although not critical to either. Kodiak's benefit would be negligible.

Lake and Peninsula incorporation. This decision should be held open by whatever legal mechanism is available to do so. For one thing, a veto of the Kodiak annexation will not alone give Lake and Pen the additional territory it sought, and deserves.

For another, the borough's northwestern boundary was approved without adequate notice to neighboring communities in the Nushagak drainage. In my view, the procedures used effectively precluded any meaningful opportunity to be heard by residents of the adjacent area and thereby violated their constitutional rights of due process and equal protection.

Substantively, the northwestern boundary clearly violates the statutory standards by following longitudinal lines rather than natural geography and socio-economic use patterns. By slashing arbitrarily across the drainages, it divides historic (and logical) planning units and puts valuable spawning grounds for the Nushagak salmon fishery in the new borough. It also places subsistence hunting and fishing areas that Nushagak village residents say are traditionally "theirs" in the Lake and Pen Borough.

Depending on Lake and Pen's evidence, of course, the boundary might be moved in either direction if the legal standards were applied. But the northwestern boundary was not even addressed in the LSC decision, and the LSC refused to grant reconsideration of the decision so that it could be.

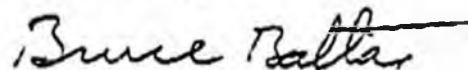
Another reason for overturning this decision is the speed with which it was made (24 days). This did not allow sufficient investigation and evaluation of the proposal by DCRA and the LBC, much less by the public. Many residents of the region believe one borough encompassing all of Bristol Bay would be a better choice. DCRA has been asked to study this possibility but has not done so.

In conclusion, the LBC process and the statutory standards for incorporation should be modified to ensure that boundaries are made on sound planning principles. Natural geography, traditional use patterns, and existing land-planning units should be emphasized in unpopulated areas. At the very least, if decisions are going to be made on the basis of "who should get the revenues," the legislature and not the LBC should establish the policies for making that choice. I would think the state would want to spread out the tax base as much as possible.

The standards and procedures should also be modified to give the interests of communities outside proposed boundaries equal consideration and to ensure that regions are looked at as whole.

The LBC's analysis would be improved if neutral hearing officers conducted the hearings and made recommended decisions, and if DCRA's investigative and technical assistance roles were clearly separated and performed by different people. DCRA's investigative duty should be more clearly spelled out so that decisions are based on facts and expertise rather than the superficial representations of those pushing a proposal. Right now, the whole petitioning process is little more than a word game.

Sincerely,



Bruce B. Baltar

cc Sen. Zharoff  
Sen. Binkley  
Rep. Jacko  
Rep. Hoffman  
Rep. M. Davis  
Rep. Schultz

FROM: COMMENTS ON LOCAL BOUNDARY COMMISSION PROCESS BY: BRISTOL BAY NATIVE ASSOC.

B. Annexation.

There are no statutory standards for annexation. The LBC by regulation (19 AAC 10.190) has set up separate standards for the annexation of contiguous territory and of non-contiguous territory. The latter, for obvious reasons, is much more stringent.

1. Definition of "Contiguous."

The LBC recently approved the annexation of a large area on the Alaska Peninsula to the Kodiak Island Borough under its standards for annexation of contiguous territory. The annexed area is separated from the Kodiak Island Borough by Shelikoff Strait, the center of which for its entire course is federal water beyond the territorial limit of Alaska. The LBC rejected Lake and Pen's competing claim for the same territory.

Neither the LBC decision nor its staff report discuss the crucial preliminary issue of whether the annexed territory is contiguous to the original Kodiak Island Borough. Under a dictionary or common sense definition, it surely is not contiguous. However, contiguous is defined at 19 AAC 10.840(4) "as territory which is immediately adjacent to or which is separated only by natural or artificial barriers which do not disrupt or impede the supplying or receiving of municipal services."

The problem with that definition, as apparently construed by the LBC in the Kodiak decision, is that the exception swallows the rule. Boroughs provide very few municipal services in roadless, unpopulated areas, and those services they do provide (i.e., planning) are not hampered by geographic barriers. If the Alaska Peninsula is "contiguous" to Kodiak Island despite the jurisdictional barrier of federal waters, it is difficult to conceive of any roadless, sparsely populated area of the state that is not contiguous to any other area. An ocean, another borough, a mountain range, or 500 miles of land are just barriers which do not "disrupt or impede" borough services when those services are almost non-existent to begin with.

The definition of contiguous in 19 AAC 10.840(4) could be salvaged if the LBC were to construe it more closely to the dictionary definition. But following the Kodiak decision, there is no longer a distinction between contiguous and non-contiguous lands for purposes of borough annexations, and the whole framework of 19 AAC 10.190 is undermined.

## 2. Standards for contiguous annexations.

Eight standards are set forth in 19 AAC 10.190(a) for annexation of contiguous territory. Only one of these standards must be met for the annexation to be approved. In addition, the annexation must meet the four statutory standards for borough incorporation of AS 29.05.031.

Some of the eight standards of 10.190(a) are relatively straight-forward and easy to apply, i.e. whether the land is totally surrounded by the borough or wholly owned by the borough. Others, however, have been so watered down by the LBC that virtually any proposal will meet them. Such standards are meaningless.

The problem can best be illustrated by reference to an LBC decision. In the Kodiak decision the LBC found that three of the regulatory standards for annexation were met, those of 19 AAC 10.190(a)(3), (4) and (8).

### (a) Application of 10.190(a)(3)

The LBC found that the Kodiak annexation met the third regulatory standard: "the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state." Specifically, the LBC found that the area was in need of "planning, economic development and solid waste collection and disposal which can best be provided by the Kodiak Island Borough."

This ruling is particularly surprising since earlier in the decision the LBC said: "The contested area is uninhabited. Therefore, the need for services in that area is greatly limited."

In regard to "planning," the area consists almost entirely of state and federal land (with some subsurface rights owned by a Native regional corporation). Coastal management and state and federal land use plans are already in place and could not easily be changed by a borough, nor did Kodiak indicate it would try to do so. The decision offered no explanation at all of how planning services would be improved; arguably planning services could suffer due to the dismemberment of the CRSA.

The "economic development" consisted of "salmon enhancement projects" which were never identified in the decision, the DCRA report, or testimony. Worse, there was no finding or evidence that salmon enhancement is actually needed, which would be necessary to meet the standard. Moreover, given exclusive federal jurisdiction on federal lands and ADF&G's authority over fish stocks, it is doubtful that any such borough-sponsored project is feasible. (The LBC decision did not discuss the legal obstacles to it.)

As for "solid waste collection and disposal," the opinion discussed fisheries-related waste disposal in the City of Kodiak and at the Borough's landfill on Kodiak Island. It did not find that such services were needed within the annexed area. Indeed, there was no discussion of such services within the annexed area and the Kodiak Borough did not indicate it would extend such services into the area.

Since there is no population to be served and since planning services are already in place, it is apparent that the LBC bent over backwards to find this standard met. It is quite difficult to conceive of any area in the state which would not meet it as applied.

(b) Application of 10.190(a)(4)

The LBC also found the fourth standard met, that "there is a reasonable likelihood that future growth and development will occur within the territory considered for annexation and that annexation of that territory will enable the borough to plan for and control that development."

The LBC cited testimony from Kodiak officials that "there is potential for development of mineral, oil and gas and fishing activities in the area considered for annexation." The specific examples cited were the federal oil and gas lease sale scheduled for 1990, "likely" growth in the number of offshore processors, and Kodiak's complaint it hadn't been consulted on federal land use plans.

One problem with this analysis is that both the federal lease sale and the growth of offshore processors apply only to the waters and not to the annexed territory on the Alaska Peninsula. Indeed, the federal lease sale will occur by definition outside of state and borough jurisdiction. Likewise, there was no discussion of how the borough could plan for and control the growth of offshore processors, a process that (if true) will likely occur outside the boundary of the state. The reference to federal land use plans is a non sequiter, irrelevant to the issue of whether there is a reasonable likelihood of growth and development.

There was no finding of fact and no evidence of any projected shoreside development in that part of the Alaska Peninsula. No land disposals, no mineral discoveries, no development of canneries or other fishery-related infrastructure were indicated. The LBC did not even look behind the federal lease sale to find if oil is actually expected to be discovered. (In fact, the Shelikoff Strait is not considered a good oil prospect and the lease sale has generated little interest by the oil industry.)

A better interpretation of this standard would apply it to areas experiencing specific, identifiable development that distinguishes them from the unorganized borough in general, or in which such development is planned. Examples would include rapid population growth or industrial or mineral development such as the Red Dog Mine. To extend the standard to areas such as the south side of the Alaska Peninsula, which at most is experiencing slow incremental development no different in scope from that in any other unpopulated area, is to render the standard meaningless.

(c) Application of 10.190(a)(8)

The LBC also concluded that the eighth standard was met, that "the annexation is otherwise necessary to accomplish a valid public purpose." The decision refers to the growth of offshore fish processors which are replacing shore-based processors, thereby diminishing local employment and depriving municipal governments of raw fish taxes. It concludes: "Annexation of the area in question would mitigate these negative effects."

This again is completely irrelevant as applied to the annexed land on the Alaska Peninsula. Even in regard to the waters it is difficult to see how annexation to the borough could curtail the growth of offshore processors, or confine them to the three-mile limit. Although the annexation may give Kodiak more raw fish tax revenues simply by increasing the area in which it collects them, if that is all the standard means then raising revenue alone becomes a "valid public purpose" sufficient to justify annexation.

I. Procedural Problems

A. Timeframe.

The timeframe used by the LBC to reach borough decisions precludes rational decision-making and may in itself violate constitutional standards of due process. The Aleutian's East process took just two months from the filing of the petition to the decisional meeting (May 7 - July 8, 1987). The Kodiak process took just over seven weeks (Oct. 14 - Dec. 4, 1988), and the Lake and Pen process lasted just three and one-half weeks (Nov. 10 - Dec. 4, 1988). It is inconceivable that all factors relevant in applying all the standards to all the boundaries can be adequately weighed in those time frames.

DCRA is under statutory duty to investigate borough proposals. AS 29.05.080. Some indication of the depth of investigation which should be required may be found in the

legislation which authorizes DCRA to contract for borough studies and allows up to three years for completion of the studies. AS 44.47.730. Nowhere near that depth of analysis was given to any of the Bristol Bay proposals.

It is equally impossible for an opponent of a borough proposal to adequately respond in the time allowed. The borough petitioners have months or years to prepare the proposal, and an adequate response would require considerable marshalling of facts, evidence and legal arguments. The LBC's own regulations call for "answering briefs" to be filed (19 AAC 10.390), but no time is provided to prepare them, especially considering that the governing bodies of cities and most other organizations are not in continuous session and need time to react.

Ironically, the LBC has no legal deadline for considering borough petitions. It rushes decisions only as a matter of policy. (Deadlines come into play only after the LBC's public hearing. And, in practice, the LBC doesn't take as long as those deadlines allow.)

## B. Notice.

### 1. Outside the boundary.

One major flaw with the regulations governing notice and public hearings is that as interpreted they don't recognize the rights of those outside of proposed boundaries.

AAC 10.370(a) requires that the petition be served directly on "every municipality in or adjoining the territory." In the unorganized borough, of course, municipal boundaries rarely meet. The only interpretation of this regulation that makes sense in the unorganized borough is to apply it to communities in the adjoining geographical area. The regulation should also be expanded to include unincorporated communities.

The LBC, however, and its staff interpret it to require direct notice only to municipalities with a common legal boundary with the new borough. As a result, in the Lake and Pen process villages in the Nushagak drainage did not receive direct notice of the Lake and Pen proposal, and at the time the decision was made DCRA's mailing list did not include one village or village corporation on the western side of boundary. Nor did it include BBNA or the Southwest Region School District - even though the latter would lose one of its villages to the proposal.

# STATE OF ALASKA

## THE LEGISLATURE

1988

Source

SEN HCR 33 (COPA)

Legislative  
Resolutive No.

52



Relating to annexations recommended by the Local Boundary Commission.

borough to be self-governing and give them reasonable time to study the concept of self-government; and

BE IT FURTHER RESOLVED that the Local Boundary Commission is requested to postpone borough annexation procedures until after December 1, 1989, in an area where the formation of an organized borough is being studied if a person residing in the area proposed to be annexed and involved in the organization effort requests the delay.

### BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA

WHEREAS Article X of the Constitution of the State of Alaska encourages the formation of local governments; and

WHEREAS municipalities are best operated when they are closest to the people governed; and

WHEREAS residents of a community are the best determiners of what system of government best fits the community needs; and

WHEREAS a municipality can petition the Local Boundary Commission for annexation of an area without first consulting with the residents of the area to be annexed and without the residents' consent; and

WHEREAS the Local Boundary Commission was established to recommend proposed local government boundary changes and may present changes to the legislature within the first 10 days of any regular session; and

WHEREAS various communities in the unorganized borough are studying the concept of self-government and this study may conflict with Local Boundary Commission recommendations for annexation; and

WHEREAS the legislature recognizes that the Local Boundary Commission has statutory and constitutional responsibilities for hearing annexation petitions;

BE IT RESOLVED by the Alaska State Legislature that the Local Boundary Commission is requested to take into full consideration the desire of residents of an area in the unorganized

#6

#7

# Egegik Village Council

Box 29

Egegik, Alaska 99579

Dan Buckworst  
Community and Regional Affairs  
949 E. 36th Avenue  
Anchorage, Alaska 99508

October 14, 1988

Dear Sir,

We listened to the teleconference on October 11th 1988 concerning Kodiak annexing the east peninsula coast and the Chignik fishing grounds. We are opposed to this annexation for the following reasons.

1. This area includes our old village of Kanatuk, No one lives there in the winter now. but in the summer it is still used as a camping site for people from Egegik. And some day may be a town again. This area also includes the Federal Becharoff refuge. which if we become part of a Borough ourselves we will want because of the Tourist Hunting and mineral potentials it holds. The people of Kodiak have never lived in this area so they have no right to this land as ground base or economic base. It should be part of the Lake and Peninsula Borough when Formed soon.

2. The Kodiak Island Borough should not be allowed to take a communities Fishing area with out taking also the City itself, that will rob Chignik for future potential revenue for the Lake and Peninsula Borough when Formed.

3. We want the potential revenue producing Land and water in our area to remain ours. Not be divided up between other districts that are not even connected to us by any land base, or historical connection.

4. The Communities in the Lake and Peninsula are striving to form our own Borough and should be allowed the time to vote on it before you chop it up and give it away to other boroughs. We as a community are not opposed to being part of a Borough, But we have just found out that we need to form our own in the last 6 months and Community and Regional affairs is presently in the process of doing a study to help us form our own Borough at this time. So we do not think you should allow Kodiak to have what we are asking for also.

Sincerely,

*Richard E. Deigh*

Richard E. Deigh, President

cc: Local Boundry Commission  
Chow Taylor, Com&Reg. Dillingham  
Lake and Peninsula School District

RECEIVED  
OCT 15 1988

Community & Reg. Affairs  
Municipal & Reg. Asst.

# EGEGIK IMPROVEMENT CORPORATION

Box 29

Egegik, Alaska 99570

October 30, 1988

C. Bettisworth, Chairman  
Local Boundry Commission  
State of Alaska  
Community and Regional Affairs  
949 E. 36th  
Anchorage, Alaska 99508

RECEIVED

NOV 1 1988

Dept. of Comm. & Reg. Affairs  
Div. of Municipal & Reg. Assr.

Dear Mr Bettisworth;

RE: Annexation Petition, Kodiak Island Borough

The Egegik Council is hereby on record in opposition to the Petition by Kodiak Island Borough to annex land on the Alaskan Peninsula.

Page 8 of the petition states that the Kodiak Island Borough is linked to the Alaskan Peninsula by long standing cultural and economic ties. Egegik Village Council goes on record to refute that statement. The Alaska Peninsula area that is in question has more ties to this Community than to Kodiak Island Borough. The Village of Kanatuk, which is now abandoned had residents who came to Egegik to fish in the summer and returned to Kanatuk in the winter. When the children were required to attend school they moved to Egegik permanently. When mail is forwarded to Kanatuk it is sent to Egegik not Kodiak. If there are any ties to the region in question, it is with Egegik. In point of fact, the remaining descendants of Kanatuk's people reside here in Egegik, when not employed elsewhere, and still have fishing permits for Bristol Bay not Kodiak.

Page 9 of the petition states that the social and kinship links appear greater between South Kodiak Island Villages and the Alaskan Peninsula. Our question here and it should be yours, is how can there be any social and kinship links where there are no people? You have to have a society and a community to do that.

The petition also states that the major users of the area in question are Kodiak residents. The people of the Village of Egegik use that portion of the Alaskan Peninsula also for camping, clam digging, and hunting. There are also many Professional Guides based out of King Salmon, Egegik, and Pilot Point. Other communities on the Peninsula use the area in question for hunting and fishing. The people of Chignik also use some of this area for commercial fishing.

Page 12 5th paragraph, 1st sentence, states that the Kodiak Island Borough would be able to influence planning and decision making for the area in question. Egegik does not have a government 150 miles away making decisions on land that we use and should be ours. True, the Regional Corporation does have land selections on the Alaskan Peninsula, but that was because there was no other land that could be allocated on Kodiak Island. Socially and culturally, the people had closer ties with the former people of the region in question, through the now abandoned village of Kanatuk.

Page 15 of the petition under standard 3, states that the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality. The question you need to ask is what services and to who? The petition states on page 9, 5th paragraph, that the Kodiak Island Borough is

not proposing to annex any of the established villages or cities on the Alaska Peninsula. How can the borough provide a municipal service when there is no municipality to provide it to in the area in question.

Page 16, standard 4, 3rd paragraph states that there is mineral potential in the area. It is the Egegik Council's position that if mineral development take place it should be controlled by dictates from a government based on the Alaskan Peninsula, not the Kodiak Island Borough. The rationale here is that the Kodiak Island Borough is 150 miles away and the people of Egegik would have no influence on policy decisions in the area in question.

Page 17, 3rd paragraph, 2nd sentence once again states that the Kodiak Island residents are the primary users of the area. A check with the State of Alaska, Guide Licensing and Control Board, shows that 30 use the approximate area, based out of King Salmon alone, as well as residents from the other communities on the Alaska Peninsula.

Page 17, States that the welfare, health and safety of the residents of the organized borough is endangered by conditions existing, on development in the territory and annexation will enable the organized borough to remove or relieve those conditions. We don't know what kind of dangers Kodiak has but we do not want their problems transferred to land close to us and how can giving them land help them get rid of whatever dangers they may have? Kodiak Island Borough states that it would provide land use regulations that provide for orderly growth in the area. Your question should be what orderly growth of the area and for what purpose? No one to my knowledge actually lives in the area in question and the Dept. of Fish and Game already handles the Hunting and Fishing Regulations.

Page 19. Standard 4, states that at least 1,000 people are located within the area. Of course Kodiak Island has 17,000 people, but there are no people and no organized communities in the area that they purpose to annex. It is assumed that the area stated here is the area in question, namely the land mass of the Alaska Peninsula that Kodiak wants to annex. For the record there are not 1,000 people residing in the area unless you count the caribou!

Page 19, Standard 5, refers to a regional education attendance area and educational services. The Kodiak Island Borough proposes to provide educational services should any new communities be created. Let it be pointed out that the area in question is already in the jurisdiction of the Lake and Peninsula Regional Education Attendance Area. The statement that Lake and Peninsula does not provide education services in the area in question is true only because there's no one there to receive them.

Regarding the specific Requiements of AS29.05.031 (a) (Formerly A.S.29.18.030): Standard 1 refers to the population of the area being interrelated, etc. The area in question, Alaskan Peninsula has no population per se. (Alaskan Peninsula Exhibit 2, page 26 Annexation Petition)

Standard 2, page 20, refers to the boundaries of the proposed borough conforming to generally natural geogrophy. It is suggested that the Kodiak Island Borough restrict its boundaries to the natural geography outlined by its name, Kodiak Island Borough.

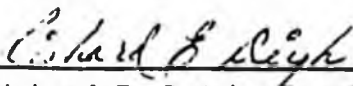
Page 20, standard 3, should refer to the area in question, not the existing borough. Here again it is stated that the Borough can provide municipal services to the annexed area. What municipal services can the Borough provide to the Alaskan Peninsula when there is no one residing in the area? How can the Kodiak Island Borough propose to provide services on the one hand and propose not to include the established villages in the other hand?

Page 21, standard 3, refers to Transportation Facilities. It is required that the communities in a borough be linked by an established daily system which does not exist to the region from Kodiak. The nearest transportation link to Kodiak is Chignik and it is proposed not to be included in the annexation. It is stated that the area in question has a current transportation system with Kodiak, (this simply is not true and has the capability of providing increased service. How can transportation increase when there is no one residing in the area now?

Finally, in reference to the new regulations [ 19 AAC 10.835. (d) ] and the standards followed by the Local Boundry Commission:

Standard 1: states that again the Kodiak Island Borough is better able to provide services to the Alaskan Peninsula. How can the borough offer services but not include established villages? (9, 5th paragraph. Annexation Petition, Kodiak Island Borough) Again there's the statement that the area in question, (Alaska Peninsula) is predominantly used by current Kodiak Island Borough residents. Egegik Council disagrees that they use it more than we do. The area in question is used by over 74 professional guides and all local residents at one time or another and the people of Chignik commercial fish there every year. The area is used by all the people of the Alaska Peninsula for hunting or fishing. Finally the Village of Egegik does not believe that Kodiak Island Borough meets or exceeds the standards required for Annexation, especially that area that includes the Alaskan Peninsula.

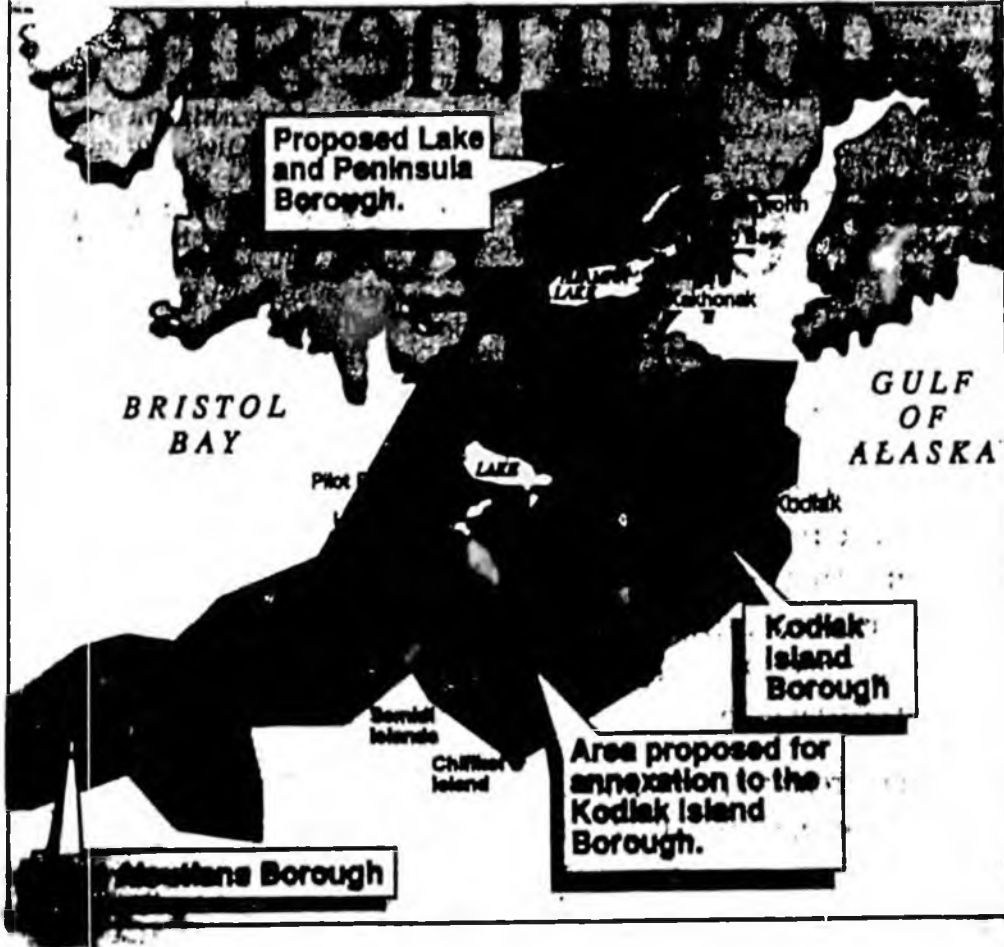
Sincerely,

  
Richard E. Deigh, President

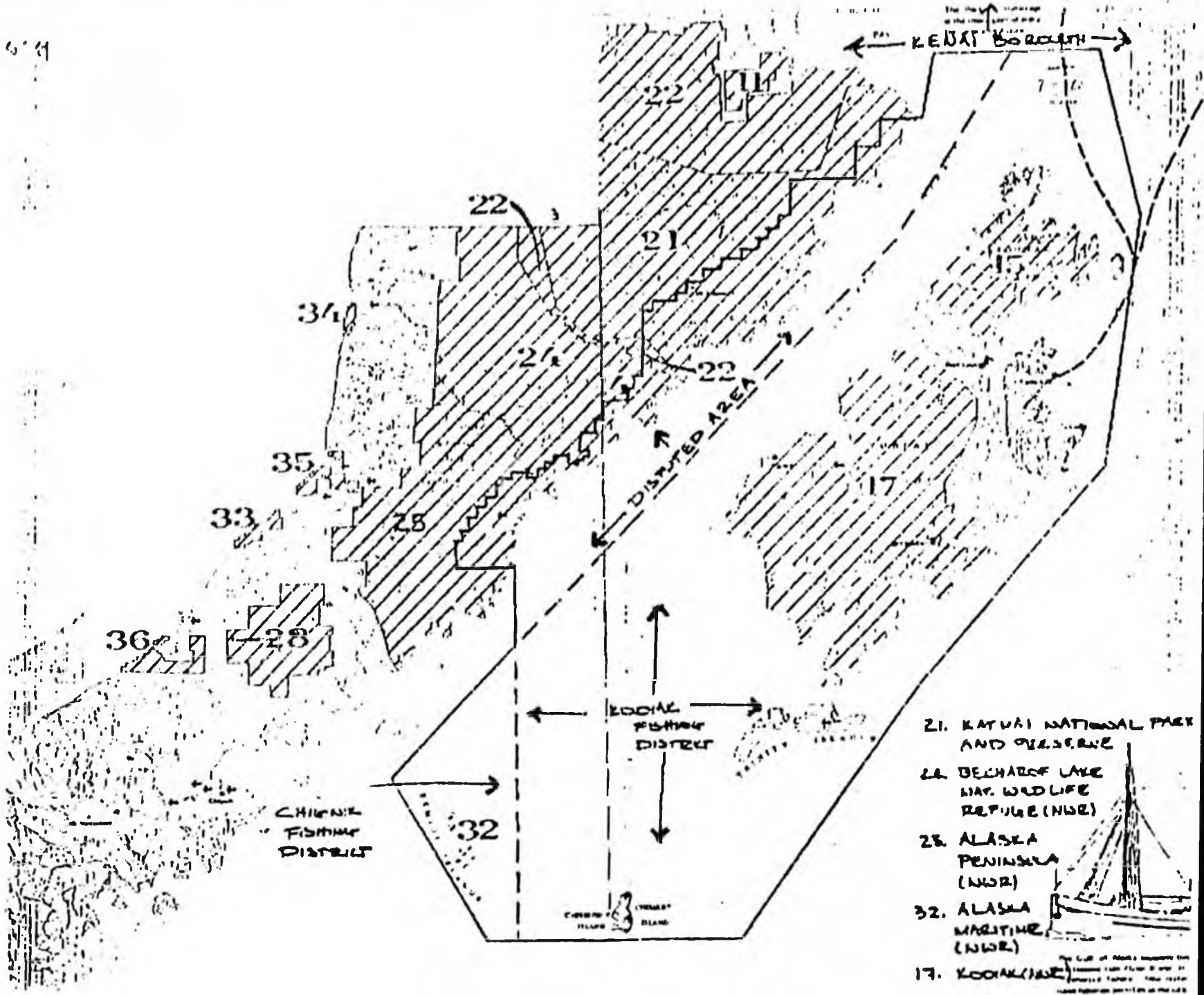
REFER TO KODIAK ISLAND ANEXATION PETITION  
DATED OCTOBER 13, 1988, FOR INFORMATION

cc: Pilot point Village Council  
Ugashik Village Council  
Frank Hill, Superintendant, Lake and Peninsula School District  
Sue Flensburg, Bristol Bay Coastal Resourse Service Area  
Bristol Bay Times and Dutch Harbor Fisherman  
David Hoffman, Commissioner, DCRA  
Anchorage Dailey News  
Senator Fred Zharoff  
Jim Clark, Bristol Bay Borough  
K. Jerome Selby, Kodiak Island Borough  
Borough Post, Naknek

# Proposed Borough Plans



679



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LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

ANNEXATION TO THE KODIAK ISLAND BOROUGH

SUMMARY OF PROPOSED ANNEXATION

On October 14, 1988, under the provisions of AS 29.06 040(b), the Kodiak Island Borough submitted a petition for annexation of approximately 12,825 square miles. The territory was comprised of approximately 2,130 square miles of land and approximately 10,695 square miles of water.

On November 10, 1988, voters in the adjacent Lake and Peninsula REA petitioned for the incorporation of a home rule borough encompassing an estimated 26,675 square miles of land and waters offshore. Nearly all of the estimated 2,130 square miles of land and much of the waters sought for annexation by the Kodiak Island Borough were also included in the area proposed for incorporation.

On December 2, 3 and 4 1988, a series of public hearings were scheduled to be held by the Commission in the communities of Kodiak, Iliamna, Port Heiden and Chignik Bay concerning the proposed borough incorporation and the proposed annexation of a portion of the same territory to the Kodiak Island Borough. Weather and technical problems at two airports however, forced the Commission to conduct these meetings via teleconference from Anchorage with all communities scheduled for hearings.

A decisional session was held December 4, 1988 in Anchorage. The four participating Commission members voted 3 to 1 to approve the annexation petition with amended boundaries. The amended boundaries resulted in exclusion of that portion of the Alaska Peninsula and waters offshore lying southwest of Cape Kilokak. The area approved for annexation consists of that portion of the Alaska Peninsula which drains into the mainland district of the Alaska Department of Fish and Game Kodiak Area Salmon District (Cape Douglas to Cape Kilokak), Chirikof Island, the Semidi Islands and the waters offshore of these lands (see Exhibit A). Much of the water area is presently outside the boundaries of the State (and thus the potential jurisdiction of the Borough). However, Borough officials anticipate that actions contemplated by the federal government may extend the jurisdiction of the State and the Borough in the area.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In arriving at its findings, the LBC has considered documents and evidence including but not limited to, the petition for annexation, accompanying brief, the report and recommendation of the Department, and oral testimony provided during the series of public hearings on December 2, 3 and 4. Because of the competing nature of the annexation petition from the Kodiak Island Borough and the borough incorporation

LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

petition from the Lake and Peninsula area, the findings of fact and conclusions of law listed below include consideration of the competing petition standards as well as other standards for annexation and incorporation. For the sake of expediency, only those standards satisfied by each petition are discussed. If the standard is not mentioned, it may be assumed that it was not met.

I. Under competing petitions standards, it is appropriate that those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore be included within the Kodiak Island Borough rather than the proposed Lake and Peninsula Borough.

a. Ability to Serve the Territory in Question

The proposed Lake and Peninsula Borough would initially exercise only the powers of education, planning and tax collection. As the need arose, the Borough could assume other powers. The Kodiak Island Borough currently exercises (on an areawide or non-areawide basis), the powers of solid waste collection and disposal and economic development along with other required and discretionary powers.

The territory in question is unpopulated, therefore the need for services is greatly limited. Both the Kodiak Island Borough and the proposed Lake and Peninsula Borough would have the capacity to provide the required degree of planning, land use regulation and tax collection and assessment.

However, the Kodiak Island Borough exercises the power of economic development by engaging in commercial salmon enhancement activities within its boundaries. It is estimated that 67 salmon streams exist in that portion of the Alaska Peninsula which drains into the Alaska Department of Fish and Game Kodiak Area Salmon District (within the contested area). Commercial harvests of salmon, herring, bottomfish and shrimp in this district are carried out predominantly by residents of the Kodiak Island Borough. It is unlikely that the Lake and Peninsula Borough would spend funds for salmon enhancement for the principal benefit of residents of an adjacent borough if this area were included within its boundaries.

Further, the Kodiak Island Borough provides solid waste collection and disposal within the City of Kodiak and the area outside of all other cities in the borough. The Borough anticipates expansion of this service as a result of recently enacted federal legislation known as MARPOL which was effective December 31, 1988.

Given the service needs relating to economic development and solid waste collection and disposal, the Commission found that the Kodiak Island Borough would be better able to serve that portion of the Peninsula which drains into the Kodiak Area Salmon

LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

District and the waters offshore.

b. Importance of the Region to the Financial Viability of each Competing Entity

The contested area offers relatively little to either municipality in revenues from the State Business Fisheries Tax. Fish processing may occur on floating bottomfish catcher/processors, many of whom operate outside of the jurisdiction of the State. Thus the potential for revenues to either borough from the State Business Fisheries Tax from this activity would be limited.

The contested area is estimated by the Kodiak Island Borough to have a taxable value of \$5,110,000. That value represents approximately 1.2% of the total value of taxable property within the Kodiak Island Borough. Given the current levy of ad valorem taxes, the Kodiak Island Borough would generate \$22,995 in revenues from the entire area proposed for annexation. However, the portion of the area proposed for annexation consisting of the land on the Peninsula which drains into the Kodiak Area Salmon District is reported to be owned almost entirely by the State and Federal governments. It is believed that the Koniag Regional Corporation owns limited oil and gas subsurface rights in the area around Wide Bay. The value of those rights, if any, is undetermined. As such, the particular area in question has virtually no taxable value and would provide the Kodiak Island Borough with no opportunity to generate property tax revenues. The contested area represents an estimated 15.9% of the total property value within the Lake and Peninsula Borough. However, that prospective borough does not propose to levy a property tax. Therefore, the area means no loss in potential ad valorem taxes to the prospective Lake and Peninsula Borough.

The potential for revenues from a municipal sales and use tax on commercial fishing in the contested area is more significant to the proposed Lake and Peninsula Borough than to the Kodiak Island borough. Currently the Kodiak Island Borough levies no sales tax. The proposed Lake and Peninsula Borough will levy a 1% sales and use tax. Although the precise structure of the proposed sales and use tax is unknown at this time, the tax could be levied at the point of sale of the fish as currently implemented by at least one other borough in the state. The Alaska Department of Fish and Game in Kodiak has reported that the 1988 value of salmon caught for the mainland of the Kodiak Management Area (from Cape Douglas to Cape Kilokak) was \$13,938,400. Noting that this was an unusually large catch (30% - 50% higher than the average poundage for the area) with record prices, the Department of Community and Regional Affairs conservatively estimated the value of the annual harvest of salmon in the area at \$6,000,000. Since the Kodiak Island Borough levies no sales and use tax, these fish offer no sales or use tax revenues to it. However, since the Lake and Peninsula Borough will levy a 1% sales and use tax, these salmon represent a potential \$60,000 in annual revenues to the new Borough. That amount represents 6.9% of the total local revenues for the Lake and

LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

Peninsula Borough. However, in relative terms of total revenues (local, state and federal), the \$60,000 amounts to only 0.8% of the income anticipated by the Borough in FY 92.

In relative terms, the territory is more important to the financial viability of the Lake and Peninsula Borough than it is to the Kodiak Island Borough. The potential revenues generated within the area represent 6.9% of the locally generated revenues of the Lake and Peninsula Borough and only 1.2% (0% in the area which drains into the Kodiak Area Salmon District) of the locally generated revenues of the Kodiak Island Borough.

However, in absolute terms the importance of the contested area to the financial viability of each of the competing entities is much different. At most, there would be an estimated annual loss of \$60,000 to the Lake and Peninsula Borough if the area were included within the Kodiak Island Borough. The loss to the Kodiak Island Borough would represent a maximum annual loss of \$22,995. The loss of such funds to either entity would not render either one infeasible. Therefore, while the Commission found that in relative terms the area is more important financially to the Lake and Peninsula Borough, the level of funding involved is so small (less than 1% of the projected FY 92 budget of the Lake and Peninsula Borough) that this factor was given minimal consideration in judging the competing interests.

c. Satisfaction of Standards for Annexation and Incorporation.

Of the many standards which apply to incorporation and annexation proposals, the principal ones of interest here which have not yet been examined relate to the social, cultural and economic interrelationship between the populations of each competing entity within the area in question and how this area conforms to the natural geography of the area encompassed by the competing entities.

Those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean ranging from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore are of vital economic importance to the residents of the Kodiak Island Borough. As noted earlier, the waters in this area comprise the Kodiak Area Salmon District (Mainland District). The area also includes most, but not all of the Kodiak Shellfish District. Commercial harvests of salmon, herring, bottomfish, shrimp and crab in these waters are carried out predominantly by residents of the Kodiak Island Borough. Kodiak area fishermen also use the uplands for storage of fishing gear. If the area were included within the proposed Lake and Peninsula Borough, it is unlikely that sales and use taxes levied in the area in question by that government would be used to support services and facilities available to those paying the tax in that particular area. In other boroughs (notably the Aleutians East Borough and the Bristol Bay Borough) those who pay taxes on fish caught in those respective regions also use the public facilities and services located in those areas.

LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

To divide the Shelikof Strait so the waters are located within two separate boroughs would likely create problems in the management of the area. Difficulties in the enforcement of municipal tax levies and the management of natural resources (particularly commercial fishing) are likely to result.

Cultural and historical ties to the territory in question exist for the areas within the Kodiak Island Borough as well as the Lake and Peninsula Borough. Based on testimony and documents submitted to the Commission, the strength of these ties appears to be equal if not greater for the Kodiak Island Borough.

The area in question is also more geographically related to the Kodiak Island Borough than to the proposed Lake and Peninsula Borough. The Aleutian Range on the Alaska Peninsula, which determines river drainage patterns, serves as a natural topographical divider for those rivers that drain into Shelikof Strait. The Strait in turn unites the rivers on Kodiak Island with these same rivers as a common drainage basin.

The Commission found that the appropriate standards for annexation and incorporation support the inclusion into the Kodiak Island Borough of those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean ranging from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore. Further references to the territory considered for annexation include the territory described in this section plus those areas proposed for annexation to the Kodiak Island Borough which do not overlap the territory proposed for incorporation by the Lake and Peninsula Borough.

**II. The territory considered for annexation is in need of municipal services which the Borough can provide more efficiently than another municipality or the State**

As previously noted, much of the contested area is in need of planning, economic development and solid waste collection and disposal services which can best be provided by the Kodiak Island Borough. The facts which supported that conclusion also support the conclusion that the entire area considered for annexation is in need of municipal services which the Kodiak Island Borough can provide most efficiently.

**III. There is a reasonable likelihood that future growth and development will occur within the territory considered for annexation and that annexation of that territory will enable the Borough to plan for and control that development**

Kodiak Island Borough officials testified that there is potential for development of mineral, oil and gas and fishing activities in the area considered for annexation. The petitioner has observed that mineral exploration continues to take place in the area considered for annexation. Oil and gas lease sale #114 is scheduled to be held by the

LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

Federal government in September of 1990. Both activities have the potential for resource development and attendant impact on the area considered for annexation.

The petitioner has observed growth in the number of offshore floating processors in this area. While the actual number of fish processors will certainly fluctuate with the fish harvest, the petitioner observes that it is likely the area will see added growth in the use of offshore processors since it is also likely that larger and more varied fish harvests will be experienced in the future.

Finally, officials of the Kodiak Island Borough have testified that the Federal government has prepared and carried out plans for the management of lands in the area considered for annexation without regard to their concerns. Annexation of the area will allow more extensive and influential input from the borough on the use and management of these lands.

**IV. The annexation is otherwise necessary to accomplish a valid public purpose**

The Kodiak Island Borough noted that the number of offshore processors, which typically operate with self-contained out-of-state crews, has increased substantially in recent years. The petitioner contends that these processors have attracted the fish which would normally be delivered to on-shore facilities, thus denying the Borough the proportionate amount of raw fish tax revenues as well as its residents the dollars that would normally be dispersed into the local economy. The economic welfare of the region is thus negatively affected. Annexation of the area in question would mitigate these negative effects.

**V. The Kodiak Island Borough is capable of and willing to extend areawide and non-areawide services to the area considered for annexation**

As indicated earlier, the need for services in the area considered for annexation is limited. The extension of areawide and non-areawide services to this territory would require little expenditure by the Borough. The Kodiak Island Borough appears willing and capable of serving the contested area.

**VI. The Kodiak Island Borough, with the addition of the area considered for annexation, still satisfies the standards for incorporation of a borough as required by 19 AAC 10.220**

A. The population within the expanded boundaries of the borough remains interrelated and integrated as to its social, cultural, and economic activities. The area proposed for annexation is uninhabited. However, as noted earlier there are strong social, cultural and economic ties between the area considered for annexation and the population of the Borough.

LBC RECOMMENDATION TO THE FIRST SESSION  
OF THE SIXTEENTH STATE LEGISLATURE

B. The population within the expanded boundaries of the borough remains large and stable enough to support borough government. Again, since the area considered for annexation is uninhabited, the size and stability of the Borough's population would not be affected by the annexation.

C. The expanded boundaries of the borough still conform generally to natural geography and include all areas necessary for full development of municipal services. With the annexation, the Borough's boundaries would follow the natural geography of the region.

D. The economy of the expanded borough still includes the human and financial resources capable of providing municipal services. Again, because there is no population change, the annexation would have no effect on the human resources of the Kodiak Island Borough. Any impact on the financial resources of the Borough would be positive.

E. The land, water and air transportation facilities of the expanded borough still allow the communication and exchange necessary for the development of integrated borough government. This annexation will not affect the ability of residents of the Kodiak Island Borough to communicate and interrelate.

**LBC DECISION AND RECOMMENDATION**

Based upon the findings of fact and conclusions of law summarized herein, the proposed annexation of approximately 12,825 square miles of territory to the Kodiak Island Borough does not, in its entirety, satisfy the applicable requirements of State statute and regulation regarding annexation of contiguous and competing territory to a borough. However, there is an approximate 12,343 square mile area which has been found to satisfy these requirements.

*THEREFORE*, the Commission ordered the amendment of the petition to include: 1. (with respect to the area in competition involving the proposed Lake and Peninsula Borough) only those lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean from the Kenai Peninsula Borough Boundaries to Cape Kilokak and the waters offshore; and 2. all other territory sought for annexation by the Kodiak Island Borough.

*IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE X, SECTION 12 OF THE STATE CONSTITUTION*, the Commission hereby recommends to the First Session of the Sixteenth Legislature, the annexation of the territory described herein. The resulting boundary description of the Kodiak Island Borough reads as follows:

19 AAC 10.185 COMMUNITY AND REGIONAL AFFAIRS 19 AAC 10.190

**Article 7. Standards for Annexation to Organized Boroughs**

<b>Section</b>	<b>Section</b>
185. Applicability	210. Annexation of incorporated territory
190. Annexable territory	220. Statutory standards
200. Application of standards	

**19 AAC 10.185. APPLICABILITY.** The provisions of 19 AAC 10.185 — 19 AAC 10.220 apply to a proposal for annexation by local action (19 AAC 10.630 — 19 AAC 10.730) or by legislative review (19 AAC 10.450 — 19 AAC 10.620). (Eff. 2/21/82, Register 81)

**Authority:** Art. X, Sec. 12, Ak. Const.  
AS 44.47.567

**19 AAC 10.190. ANNEXABLE TERRITORY.** (a) Territory which is contiguous to an organized borough may be annexed to that borough if one or more of the following standards are met:

- (1) the contiguous territory is totally surrounded by the organized borough's boundaries;
- (2) the land in the territory is wholly owned by the organized borough;
- (3) the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state;
- (4) there is a reasonable likelihood that future growth and development will occur within the territory and annexation of the territory will enable the organized borough to plan for and control that development;
- (5) the health, welfare, or safety of the residents of the organized borough is endangered by conditions existing or developing in the territory and annexation will enable the organized borough to remove or relieve those conditions;
- (6) the extension into the territory of borough services or facilities is necessary to enable the organized borough to provide adequate service to residents of the organized borough, and it is impossible or impractical for the organized borough to extend the facilities or services unless the territory is within the organized borough's boundaries;
- (7) residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of organized borough services without commensurate property tax contributions, whether such services are rendered or received inside or outside the territory; or
- (8) the annexation is otherwise necessary to accomplish a valid public purpose.

(b) Territory which is not contiguous to the borough may be annexed to the borough if

(1) the land in the territory is wholly owned or leased by the borough or used primarily for the performance of borough functions; and

(2) annexation is necessary to enable the borough to achieve adequate control, protection or management of the property.

(c) Contiguous territory which does not meet the requirements of (a) of this section may nevertheless be annexed to a borough if the territory lies between the borough boundary and noncontiguous territory which does meet the requirements of (a) of this section.

(d) In determining whether the standard established in (a)(7) of this section is met, the commission will consider alternate methods available to the borough for offsetting the cost of providing services to individuals or property beyond its property taxation powers.

(e) The commission will, in its discretion, conduct public hearings or investigations after a detachment to determine if the service requirements of the territory are being met. If the commission determines that the service requirements of the territory are not being met, it will, in its discretion, begin annexation proceedings under this chapter. (Eff. 2/21/82, Register 81)

Authority: Art. X, Sec. 12, Ak. Const.  
AS 44.47.567

Editor's notes. — 19 AAC 10.190 is based on a former version of 19 AAC 05.110.

**19 AAC 10.200. APPLICATION OF STANDARDS.** The commission will not approve an annexation unless the annexing organized borough demonstrates to the satisfaction of the commission that it is capable of extending and willing to extend services to the annexed area in accordance with this subsection. If possible, areawide and non-areawide borough services shall be extended to the annexed area immediately. If the immediate extension of services is not possible, the commission must be satisfied that the services not immediately extended will be extended as soon as possible and that reasonable plans have been formulated for the capital expansion necessary for the extension of services. (Eff. 2/21/82, Register 81)

Authority: Art. X, Sec. 12, Ak. Const.  
AS 44.47.567

Editor's notes. — 19 AAC 10.200 is based on a former version of 19 AAC 05.120.

19 AAC 10.185 COMMUNITY AND REGIONAL AFFAIRS 19 AAC 10.190

Article 7. Standards for Annexation to Organized Boroughs

Section	Section
185. Applicability	210. Annexation of incorporated territory
190. Annexable territory	220. Statutory standards
200. Application of standards	

19 AAC 10.185. APPLICABILITY. The provisions of 19 AAC 10.190 — 19 AAC 10.220 apply to a proposal for annexation by local action (19 AAC 10.630 — 19 AAC 10.730) or by legislative review (19 AAC 10.450 — 19 AAC 10.620). (Eff. 2/21/82, Register 81)

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AS 44.47.567

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(1) the contiguous territory is totally surrounded by the organized borough's boundaries;

(2) the land in the territory is wholly owned by the organized borough;

(3) the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state;

(4) there is a reasonable likelihood that future growth and development will occur within the territory and annexation of the territory will enable the organized borough to plan for and control that development;

(5) the health, welfare, or safety of the residents of the organized borough is endangered by conditions existing or developing in the territory and annexation will enable the organized borough to remove or relieve those conditions;

(6) the extension into the territory of borough services or facilities is necessary to enable the organized borough to provide adequate service to residents of the organized borough, and it is impossible or impractical for the organized borough to extend the facilities or services unless the territory is within the organized borough's boundaries;

(7) residents or property owners within the territory receive or may be reasonably expected to receive, directly or indirectly, the benefit of organized borough services without commensurate property tax contributions, whether such services are rendered or received inside or outside the territory; or

(8) the annexation is otherwise necessary to accomplish a valid public purpose.

# Plan for new borough fuels debate on Alaska Peninsula

ASSOCIATED PRESS

A plan to create a new borough on the Alaska Peninsula is causing a tangle of battle lines to be drawn in communities throughout the region.

At issue are taxes, control over fish and other resources and whether another layer of government is necessary.

Some of it may be sorted out in April, when residents vote on whether to form the new Lakes and Peninsula Borough.

The battle began two years ago, when the state's Local Boundary Commission approved the new East Aleutians Borough.

Peninsula residents were furious. The

new borough's boundaries stretched to the edge of two peninsula villages, enabling the new government to collect thousands of dollars a year in fish taxes from fisherman working waters off the peninsula.

The school board started talking about forming a borough to keep others from gobbling up more of the area.

"They felt like they were being picked on," said Bruce Baltar, a lawyer for the Bristol Bay Native Association, which works with villages in the area. "It was a land grab and they were mad about it. They didn't want it to happen again."

Within months, though, the peninsula was being picked at from another direc-

tion. Officials from the Kodiak Island Borough launched a bid to annex a long strip of peninsula land south of the Alaska Range, as well as a big strip of the salmon-rich Shelikof Strait.

State officials approved the annexation in January. Unless the legislature blocks it, that part of the peninsula becomes part of the Kodiak Island Borough on March 4.

Meanwhile, backers of Lakes-Peninsula Borough wrote a petition last year, with proposed borders stretching from north of Lake Clark down to the Aleutians East border. Enough signatures were gathered among the 1,500 people who live in the area to put it on the ballot April 11.

Supporters think it could mean more money for schools in the region, and they don't envision many government services beyond that.

"We'd rather have our own borough controlled by people from around here than be taken over by Kodiak or Kenai," says Wassilie Balluta of Newhalen, a village of 160 on Iliamna Lake.

Those opposed don't want taxes or local resources going elsewhere.

"We're just not interested in seeing our fish taxes going outside the community," says Ron Bowers, a member of the Chitina council who is also fire chief and public safety officer.

2/2/81  
Archie Thomas

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

THE LAKE AND PENINSULA )  
SCHOOL DISTRICT, P.O. BOX )  
498, King Salmon, Alaska, )  
99613 )  
Appellant, )  
vs. )  
ALASKA LOCAL BOUNDARY )  
COMMISSION and the KODIAK )  
ISLAND BOROUGH, )  
Appellees. )

Case No. 3AN-89-\_\_\_\_\_ CI

STATEMENT OF POINTS ON APPEAL

1. Allowing certain lands on the Alaska Peninsula which drain into Shelikof Strait and the Pacific Ocean ranging from the Kenai Peninsula Borough boundaries to Cape Kilokak and the waters offshore (hereinafter referred to as the competing territory) to be annexed to the Kodiak Island Borough violates A.S. 14.08.031(b).

2. Allowing the competing territory to be annexed to the Kodiak Island Borough is irrational.

3. Allowing the competing territory to be annexed to the Kodiak Island Borough violates Section 3, Article X, of the Constitution of the State of Alaska.

4. Allowing the competing territory to be annexed to the Kodiak Island Borough will deprive The Lake and Peninsula

1 School District and any borough hereinafter created voluntarily  
2 or mandatory, of a significant portion of its tax base.

3 5. Allowing the competing territory to be annexed to  
4 the Kodiak Island Borough is not in the best interests of the  
5 State of Alaska.

6 6. The proposed Lake and Peninsula Borough is better  
7 able to serve the competing territory.

8 7. The financial viability of the proposed Lake and  
9 Peninsula Borough would be adversely affected if the competing  
10 territory was included within the boundaries of the Kodiak Island  
11 Borough.

12 8. The Lake and Peninsula Borough incorporation  
13 petition more fully meets the borough incorporation standards in  
14 law than the annexation petition of the Kodiak Island Borough.

15 9. Allowing the competing territory to be annexed to  
16 the Kodiak Island Borough violates the standards for annexation  
17 to organized boroughs set forth in 19 AAC 10.185 et seq.

18 10. The competing territory is not contiguous to the  
19 Kodiak Island Borough.

20 11. The competing territory is not wholly owned or  
21 leased by the Kodiak Island Borough or used primarily for the  
22 performance of Borough functions.

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24  
25 STATEMENT OF POINTS ON APPEAL  
26 Page 2 of 3

1           12. Annexation of the competing territory is not  
2 necessary to enable the Kodiak Island Borough to achieve adequate  
3 control, protection, or management of the property.

4           13. Allowing the competing territory to be annexed to  
5 the Kodiak Island Borough is an abuse of discretion.

6           14. The hearing procedures of the Local Boundary  
7 Commission were inadequate and did not allow for a proper and  
8 appropriate factual determination and analysis of the issues  
9 raised by the competing petitions.

10           15. The Commission based its decision in large measure  
11 on the assertion that the Kodiak Island Borough would undertake  
12 salmon enhancement projects in the competing territory, without  
13 any factual support, determination or analysis as to whether the  
14 Kodiak Island Borough could, would, or even had the jurisdiction  
15 and power to perform such projects.

16           16. The competing territory is more geographically  
17 related to the proposed Lake and Peninsula Borough than to the  
18 Kodiak Island Borough.

19           DATED this 10th day of February, 1989, at Anchorage,  
20 Alaska.

21                           HEDLAND, FLEISCHER, FRIEDMAN,  
22                           BRENNAN & COOKE  
23                           Attorneys for Appellant  
24                           The Lake and Peninsula  
25                           School District

26           By: \_\_\_\_\_

Saul R. Friedman



THE  
LAKE AND PENINSULA  
SCHOOL DISTRICT

P.O. Box 498  
King Salmon, Alaska 99613  
Phone (907) 246-4280



SPECIAL MEETING  
THE LAKE AND PENINSULA SCHOOL BOARD MINUTES  
MARCH 31, 1988  
King Salmon, Alaska

1. CALL TO ORDER

President Annie Christensen called the Special Meeting of the Lake and Peninsula School Board to order at 10:50 a.m., March 31, 1988, at the ComSerFac in King Salmon, Alaska.

The purpose of the Special Meeting is to present information and discuss the formation of a borough from within the boundaries of The Lake and Peninsula School District.

2. ROLL CALL

A quorum was established with Wassie Balluta, Annie Christensen, Lola Lind, Patty Alsworth, Roy Skonberg, David Wilder and Bobby Jo Kramer present.

Staff members present for all or a portion of the meeting were: Frank Hill, Superintendent; Dennis Niedermeyer, Business Manager; Charles Beatie, Facilities Coordinator; Bill Powers, District Librarian; Becky Tucker, Secretary; and Sue McDowell, Recording Secretary.

Dr. James Barnett, Consultant to the Board, and Saul Friedman, District Attorney, were present for the meeting.

3. INTRODUCTION OF VISITORS

The following visitors and the organizations they were representing were introduced: Glenn Kalmakoff, Ivanof Bay Local School Advisory Committee (LSAC); Dennis Shangin, Perryville LSAC; Beth Joy Abalama, Egegik LSAC and Village Administrator; Jeff Gabel, Egegik Village Representative; Lydia Wilson, Nondalton LSAC; Cledia Terrel, Nondalton LSAC; Mary Ann Olympic, Igiugig LSAC; Dan Salmon, Igiugig Village Council; Norman Jacks, Pedro Bay LSAC; Ron Aaberg, Pedro Bay Council; Jim Clark, Bristol Bay Borough Manager, Naknek; Pete Hill, Alaska Peninsula Corporation; Marlene O'Domin, Chignik River Limited; Kathy Chamberlain, Port Heiden LSAC; Tenny Elliott, Port Alsworth LSAC; Barry Kalmakoff, Chignik Lake; Glen R. Alsworth, Lake Clark Area; Port Alsworth; Boris Kosteruk, Perryville Council; Lynn Carlson,

3. INTRODUCTION OF VISITORS CONTINUED

Port Heiden; Clara Trefon, Kijik Corporation; Melvin Trefon, Kijik Corporation; Doug Merwin, Chignik Bay LSAC; John Matson, Port Heiden; Teresa Seybert, Pilot Point LSAC; Joanne Wassilie, Newhalen LSAC; Tim LaPorte, Iliamna Air Taxi; Steve Willis, Six-Mile Air, Nondalton; Marius Pedersen, Chignik Lagoon; Clem Grunert, Jr., Chignik Lagoon Village Council; Steve Nowatak, Kokhanok Village Council; Mike May, Iliamna; Jim Sanders, Department of Community and Regional Affairs; Sue Arce, Iliamna LSAC; Mark Bunnell, City of Chignik Bay; Daniel Roehl, Kokhanok; Garrith J. Nielsen, Kokhanok; Charles O'Domin, Chignik Lake; Elia Lind, Chignik Lake; Richard Leath, Bristol Bay School District; Sandra Stepanoff, Farwest Corporation; Jerry Armstrong, Iliamna Trading Company; and Bob Arce, Iliamna.

4. BOROUGH FORMATION

a. Opening Remarks by Board and Superintendent

Frank Hill, Superintendent, speaking on behalf of the Board, explained how the meeting would be conducted. Frank reviewed the agenda packet, explaining where the information it contained came from. Materials selected were not selected to influence for or against borough formation, but only to pass on information that mentioned and is of concern to The Lake and Peninsula School District. Presentations will be made by Jim Sanders, Department of Community and Regional Affairs and Saul Friedman, District Attorney. A comment and question session will be next, followed by a summary with the Board asking for direction or advice from the people assembled.

b. Department of Community and Regional Affairs on Boroughs, Borough Formation

Jim Sanders, from the Department of Community and Regional Affairs, gave his presentation which covered the following areas: a review of the activity of borough formation in the state, what is a borough and the different types of boroughs there are, the standards of becoming a borough, the process of becoming a borough, and what the DORA is currently doing which is related to boroughs.

4. BOROUGH FORMATION CONTINUED

- b. Department of Community and Regional Affairs on Boroughs,  
Borough Formation

Mr. Sanders stated that the Department of Community and Regional Affairs must receive a request from a group or organization of an area before they will do a feasibility study concerning borough formation. The report is at no cost to the area or group requesting the study done. This study will determine if the area meets all the criteria for becoming a borough and has the potential revenue for supporting the borough after it is started. This study does not commit the area to becoming a borough, but only gives them the information they need to start with should they decide to form.

The Board recessed for lunch at 12:05 p.m. and reconvened at 12:55 p.m. with the same members present.

- c. Saul Friedman, Attorney for The Lake and Peninsula School  
District

Saul Friedman, the District's Attorney, briefly explained the reasons why the meeting had been held. He also discussed the effects on the day-to-day operation of the schools, should the area become a borough.

- d. Comments, Questions by Participants from Villages

Comments and/or questions were heard from by the participants and answered either by Saul Friedman, Jim Sanders, or school administrators.

The Board recessed for a break at 2:20 p.m. and reconvened at 2:35 p.m. with the same members present.

- d. Comments, Questions by Participants from Villages Continued

The open discussion period continued until there were no further comments or questions by the participants.

The Lake and Peninsula School Board  
Special Board Meeting of March 31, 1988  
Page 4

e. Recap/Review by Board and Superintendent

Superintendent Frank Hill asked the participants if they were ready to make a suggestion as to what action they would like to see the Board take.

Lola Lind moved and Wassie Balluta seconded that The Lake and Peninsula School Board request a borough feasibility study that would outline either north and south boroughs, and a combined borough, taking alternate forms of finance into consideration. The vote passed with six ayes and one nay.

There was some concern on two of the Board members' part that the motion did not reflect the wishes of the participants. The group was asked to raise their hands if they wished a study to be done, as outlined in the motion. With a show of hands, it appeared unanimous that the group present were in favor that a feasibility study be done. When the participants were asked if anyone opposed the study, no one raised their hand. There was also a show of hands of the people present as to if Bristol Bay Borough should be added to the study. This vote, taken by a show of hands, had approximately eight to ten people in agreement.

The Board member who had voted against the motion then changed her vote after seeing how the group felt.

Bobby Jo Kramer asked Mr. Sanders how long it would take to complete the study. Mr. Sanders stated that it would be January 1989, at the earliest before it could be completed. Mr. Sanders indicated that the time could be shortened somewhat if The Lake and Peninsula School District would assist the Department of Community and Regional Affairs with information and scheduling hearings. The Board requested that the public hearing process be maintained in any attempt to shorten the time frame for the study.

The people present were thanked for their participation and for attending the meeting.

Wassie Balluta moved and Patty Alsworth seconded to adjourn the meeting at 3:40 p.m. The motion passed unanimously.

  
Eric Christensen

  
Patty Alsworth



THE  
LAKE AND PENINSULA  
SCHOOL DISTRICT

P.O. Box 498  
King Salmon, Alaska 99613  
Phone (907) 246-4280



SPECIAL MEETING  
THE LAKE AND PENINSULA SCHOOL BOARD MINUTES  
Full Transcription of Meeting  
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King Salmon, Alaska

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2. ROLL CALL

A quorum was established with Wassie Balluta, Annie Christensen, Lola Lind, Patty Alsworth, Roy Skonberg, David Wilder and Eobby Jo Kramer present.

Staff members present for all or a portion of the meeting were: Frank Hill, Superintendent; Dennis Niedermeyer, Business Manager; Charles Beatie, Facilities Coordinator; Bill Powers, District Librarian; Becky Tucker, Secretary; and Sue McDowell, Recording Secretary.

Dr. James Barnett, Consultant to the Board, and Saul Friedman, District Attorney, were present for the meeting.

3. INTRODUCTION OF VISITORS

The following visitors and the organizations they were representing were introduced: Glenn Kalmakoff, Ivanof Bay Local School Advisory Committee (LSAC); Dennis Shagin, Perryville LSAC; Beth Joy Abalama, Egegik LSAC and Village Administrator; Jeff Gabel, Egegik Village Representative; Lydia Wilson, Nondalton LSAC; Claudia Terrel, Nondalton LSAC; Mary Ann Olympic, Igiugig LSAC; Dan Salmon, Igiugig Village Council; Norman Jacko, Pedro Bay LSAC; Ron Adberg, Pedro Bay Council; Jim Clark, Bristol Bay Borough Manager, Naknek; Pete Hill, Alaska Peninsula Corporation; Mariene O'Connell, Chignik River Limited; Eddie Shambler, Bristol Bay Borough; and Larry Hill, Bart Alworth.

3. INTRODUCTION OF VISITORS CONTINUED

Port Heiden; Clara Trefon, Kijik Corporation; Melvin Trefon, Kijik Corporation; Doug Merwin, Chignik Bay LSAC; John Matson, Port Heiden; Teresa Seybert, Pilot Point LSAC; Joanne Wassilie, Newhalen LSAC; Tim LaForte, Iliamna Air Taxi; Steve Willis, Six-Mile Air, Nondalton; Marius Pedersen, Chignik Lagoon; Clem Grunert, Jr., Chignik Lagoon Village Council; Steve Mowatak, Kokhanok Village Council; Mike May, Iliamna; Jim Sanders, Department of Community and Regional Affairs; Sue Arce, Iliamna LSAC; Mark Bunnell, City of Chignik Bay; Daniel Roehl, Kokhanok; Garrith J. Nielsen, Kokhanok; Charles O'Domin, Chignik Lake; Elia Lind, Chignik Lake; Richard Leath, Bristol Bay School District; Sandra Stepanoff, Farwest Corporation; Jerry Armstrong, Iliamna Trading Company; and Bob Arce, Iliamna.

4. BOROUGH FORMATION

a. Opening Remarks by Board and Superintendent

Frank Hill, Superintendent, speaking on behalf of the Board, explained how the meeting would be conducted. Frank reviewed the agenda packet, explaining where the information it contained came from. Materials selected were not selected to influence for or against borough formation, but only to pass on information that mentioned and is of concern to The Lake and Peninsula School District. Presentations will be made by Jim Sanders, Department of Regional and Community Affairs and Saul Friedman, District Attorney. A comment and question session will be next, followed by a summary with the Board asking for direction or advice from the people assembled.

b. Department of Community and Regional Affairs on Boroughs, Borough Formation

Jim Sanders, from the Department of Community and Regional Affairs, gave his presentation which covered the following areas: a review of the activity of borough formation in the state, what is a borough and the different types of boroughs there are, the standards of becoming a borough, the process of becoming a borough, and what the DCRA is currently doing which is related to boroughs.

b. Department of Community and Regional Affairs on Boroughs,  
Borough Formation continued

Mr. Sanders distributed a copy of 2d Sponsor Substitute for House Bill 1, which would force the incorporation or annexation of all unorganized boroughs by 1990. There does seem to be a trend towards borough formation, the latest borough being the Aleutians East Borough which formed the summer of 1987. The Department of Community and Regional Affairs is currently writing six reports for areas around the state who are also considering forming boroughs. The Lake and Peninsula School District is now almost completely surrounded by boroughs.

The Department of Community and Regional Affairs was asked by the Legislature to write a Regional Government Study that looked at all the REAAs across the state, making a determination on the feasibility of these areas becoming boroughs. Submitted to the Legislature in January, this study showed potential for a lot of revenue for The Lake and Peninsula School District from the fishing industries.

Mr. Sanders distributed a draft entitled "Regional Government in Alaska", another report the Department of Community and Regional Affairs wrote at the request of the Legislature. This report explains why the state is to be broken into boroughs, the classes of boroughs and their powers and duties, where boroughs can get the revenue needed to support themselves, the standards for borough formation and the procedures for borough formation.

Mr. Sanders stated that the Department of Community and Regional Affairs must receive a request from a group or organization of an area before they will do a feasibility study concerning borough formation. The report is at no cost to the area or group requesting the study done. This study will determine if the area meets all the criteria for becoming a borough and has the potential revenue for supporting the borough after it is started. This study does not commit the area to becoming a borough, but only gives them the information they need to start with should they decide to form.

The Board recessed for lunch at 12:05 p.m. and reconvened at 12:55 p.m. with the same members present.

c. Saul Friedman, Attorney for The Lake and Peninsula School District

Saul Friedman, the District's Attorney, stated that this was a timely meeting for the following reasons:

1. There is a decline in state revenues due to oil prices and the Legislature is looking for budget items to cut. Education is one of the largest budget items because REAAs (including The Lake and Peninsula School District) do not have to pay for local education. If areas are legally forced to become boroughs, they would then have to pay for their own education.
2. The Aleutians East Borough did not want to make their people have to pay property tax to support their borough. By including the waters and shoreline of Fish and Game Management Area M (around and up to Port Heiden), they could collect a raw fish tax which would provide the funds they needed. In doing so, they took lands belonging to the Bristol Bay Native Corporation and the Alaska Peninsula Corporation. These two corporations, along with The Lake and Peninsula School District and Bayview Incorporated, have all filed a lawsuit challenging that Borough and the fact that they took that land. They are not trying to stop the Aleutians East from becoming a borough, but to say that it is not proper for the Aleutians Region to take a portion of BBNC lands and APC lands to fund services that will be provided for people in communities of the Aleutians East.
3. A recent newspaper article from The Kodiak Fisherman described how the Kodiak Island Borough was considering to annex prime fishing areas across the Shelikoff Straits on the Alaskan Peninsula in order to help fund services for their Borough from the fish tax. They are being stopped only because these areas extend beyond the three mile limit of state boundaries, which is normally the limit set for a borough.

What is unfortunate is that if these things are allowed to occur other boroughs being allowed to take more lands or even villages that are currently part of the District, that you may get in a situation four or five years down the road where you want to form a borough, and you find out you're no longer a real region anymore. You may find that pieces of you have been taken and you no longer are an entity that has social, ethnic, and economic ties. You might not have enough area left to form a borough.

pressure is to at least understand the issues and maybe to come to some decisions. This pressure is coming from these outside forces and you may need to act now, before you really want to, in order to prevent the worst situation from happening further on down the road.

As far as the day-to-day operations of the school was concerned, people in the District would probably notice no difference. Although there would be some accounting differences, the School Board would still be over the normal operations. Instead of reporting to the State, the Board would now report to the Borough Assembly. The big difference would be that the school buildings would belong to the Borough and not the State. When new construction was needed, the Borough would decide if it was economically possible, rather than making a request to the State and being ranked against all the other job requests from around the State.

d. Comments, Questions by Participants from Villages

The meeting was opened to the floor for comments and/or questions:

Dennis Niedermeyer: I wanted to clarify an issue concerning the authority a borough would have to build buildings. A borough can establish a bonded indebtedness for building schools the state may reimburse. What happens in other boroughs and cities, is the city can go ahead and build a building without waiting for the Legislature to appropriate the money and then get reimbursed for the cost of that building over time. The Borough has greater control over when it can meet the needs of a district over a REAA. This can affect the operation of education because a borough can respond quicker to the space limitations of a certain school.

Saul Friedman: This is correct, except this is going to change. Right now the Legislature is looking at the State automatically reimbursing municipalities up to 80% of the cost of building indebtedness. In the past, a school could be built by a borough or city government and they would pay for that school by selling bonds. The State would reimburse the borough up to 80% of the cost of those bonds. There is now a question whether the Legislature is going to appropriate that money and the Governor is trying to put firm restrictions on that. In the future, if the borough wanted to alleviate a space problem and build a new school, the borough would have to consider very strongly whether it could afford to do that on its own and generate the money to pay for that school by taxes.

Dennis: But right now, an REA would never have that option.

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Saul: Right now for an REAA to build a school, the district has to submit to the Department of Education what your priorities are in Capital Improvements. The Department of Education gets these priorities from every REAA in the state and then it makes a priority and sends their priority list to the Legislature. The Legislature may only fund 10 educational projects throughout the state and there will be lots of unmet needs. That's how it works now. A borough could change that except it comes down to whether it can afford to build new buildings on its own without state support.

Jim Barnett: Saul has covered our list of concerns and that is the main reason we've gotten together today; the options you may have today, six months or a year down the road you may not have. The school board felt strongly enough about it to bring you here today to let you know these options. The big concern is this annexation that is going on around you, or the attempts to annex areas. The Lake and Peninsula School District has the potential for generating quite a bit of revenue. Our local contribution right now exceeds the 4 mil required of boroughs to support a school system, so there would be no taxes for the operation of the school. If the area became a borough, there would be no tax for education unless it were for building or something like that. In fact we would gain a little to be able to finance the programs we would like to have. Saul mentioned that there would be no difference in the operation of the school. There could be a difference if parts of the District were annexed and we had some schools go to this new borough in Southwest Region, this new borough in Aleutians East Region and some to someplace else, you would have several different school systems operating schools in what used to be The Lake and Peninsula School District. There would be some difference if you allow this to happen, if you sit by and allow the area to be annexed away in pieces. I don't think there is anyone in the whole District that is for forming a borough if things could remain the same forever. We're doing all right now; if it's not broken, why fix it? But I don't think at the same time any of us here believes that down the road this area is not going to be a borough, or part of somebody else's borough. And that's the reason we brought you all together, to present the information to you and let you know what your options are at the present time, what they might be in the future or may not be in the future.

Elm Grunert, Chignik Lagoon: The land across the Shelikof Island to the Kodiak Native Corporation. I think it goes up to the Aniakchak Park, so if they want that land across Shelikof so they have a right to it. Also that land that they claim for their Native Corporation is in our commercial fishing industry. Some land that

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Saul Friedman: First, the Kodiak Island Borough would have to file a petition with the Local Boundary Commission to annex this land. The Local Boundary Commission would consider whether there were services that could be provided to the borough, whether there were ties to the borough from that land across the Strait, they would go through the same kind of analysis they go through when considering a new borough. They can usually come up with a decision that if it makes sense for the Kodiak Island Borough to expand across Shelikoff Strait. If this happens and in the election it was approved, it doesn't matter who owns that land, it would become part of the borough. Tax monies from any commercial fish sales in those boundaries would go to support that borough.

Frank Hill: Isn't it true that a borough cannot annex only fishing waters without being associated with some lands? The Aleutians East had to take the coastal lands associated with the fishing waters they claimed, when maybe all they wanted were the waters offshore.

Saul Friedman: A borough does need to take control of the lands where the streams go into the bays to control the fishing.

Jim Sanders: This is true, but a borough doesn't always need to take the land. It is up to the discretion of the Local Boundary Commission on what will be done.

Frank Hill: What of the case where there might be a city or village near the boundary, and the borough wants to annex the beachfront up to the village, leaving it, and thereby not being responsible for services to it.

Jim Sanders: The Local Boundary Commission does not allow for annexing right up to a community. The area across from the Shelikoff Strait does not meet the standards for annexing areas to a borough. The area must be touching the existing borough. The area across from the Shelikoff Strait is noncontiguous land to the Kodiak Island Borough. The Local Boundary Commission will look at this.

Glen Alsworth, Bert Alsworth: The Kenai Borough crosses the Cook Inlet and get land up to the Lake Clark area. Would not precedence be set because of this?

Jim Sanders: One needs to look at when the Kenai Borough was formed and look at the Local Boundary Commission and the assumptions of that time as to what belonged to the state. Looking at a map, it looks like the area that would belong to the Kenai Borough, but it doesn't. The

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Glen Alsworth: So that precedence won't affect the decision on Kodiak?

Jim Sanders: It shouldn't.

Frank Hill: I believe there was an argument on who had jurisdiction over the Cook Inlet at that time and the Inlet was considered to be an inland waterway. Could Shelikoff Strait be considered as such?

Jim Sanders: We went to the State Department with such a question and they said that water is territorial water and not under state jurisdiction.

Doug Merwin, Chignik Bay: If an area of 4,000 people wanted to include an area of 1,000 people and the annexation was approved by the Local Boundary Commission and came up for a vote, if the 4,000 people vote for annexation, does the area of only 1,000 people have to become a part of that borough?

Jim Sanders: If the Local Boundary Commission had approved the annexation, the larger area had gone through all the legal steps necessary, and the matter went to a vote, the majority would rule. However, anyone can challenge an election but they must have a legal basis to do so.

Pete Hill, Alaska Peninsula Corporation: If The Lake and Peninsula School District did in fact become a borough, what would be the chances of that borough taking back some of that offshore waters around Port Heiden?

Saul Friedman: That's impossible to answer; I don't think the chances would be very good. The Local Boundary Commission, when it got the petition from Lake and Peninsula for the borough, would look at the boundary and see if they would want to change it and take it away from Aleutians East. I think the tendency of the Local Boundary Commission would be to leave it there and not to make a boundary change as they have already examined the issue, listened to both sides of the controversy and checked all the fishing records of Area M and made the determination that they want that area to stay with Aleutians East. I think it would be very difficult for them to change. This brings out the fear that if there are other areas taken, you may never be able to get them back.

Pete Hill: I'm thinking of what happened to North Slope Borough with the area that was taken within the North Slope Borough and what happened to the area that was taken within the North Slope Borough.

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Saul Friedman: What happened was when North Slope Borough was formed, they took a portion of land that was within the Nana Regional Corporation which turned out to be the land they mined. Nana wanted to get that back. When they wanted to form the Northwest Artic Borough they realized the Red Dog Mine was going to be the major source of taxing for the Northwest Artic Borough. If they weren't going to get that mine, then they weren't going to form the borough. There was a lot of tension between those two groups, but the Local Boundary Commission never had to make the decision. They worked out a deal between themselves because they were neighbors and they wanted to make a deal.

Jim Sanders: The Local Boundary Commission has gone through the whole process and I think they'd be real hesitant in going back to change it, although it could be a situation like we had with the Northwest Artic Borough and the North Slope where Lake and Pen and Aleutians East could come to some sort of a agreement.

Sue Arce, Iliamna: Are we being forced into becoming a borough or do we have a choice not to be a borough?

Jim Sanders: At the present time, you have a choice. There is no one saying you have to become a borough. I think the concern is that at some point in the future you may be forced to become a borough.

Frank Hill: And at that future point there may less options as to what kind of borough or whether you can be self-sufficient as a unit as it now stands. You may be limited considerably from what it is now.

Sue Arce: How does becoming a borough affect the outlying communities and the school district? Would the Lake and Peninsula still be called the Lake and Peninsula or would it all be just one big borough?

Frank Hill: That depends on the form that the borough took. If it included everything that is now The Lake and Peninsula School District there would not be a whole lot of change in how it was operated. But if it were fragmented out, there could be some changes. It isn't clear-cut at any stage right now, because of what form it could or would take. At this point it is intact, except for the little chunk that got bit off down south, and there are a better options now than there might be in the future.

Boris Kostrik, Perryville: Who does the Local Boundary Commission

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Frank Hill: The members are appointed by the Governor.

Jim Sanders: Yes, they are appointed by the Governor and serve at the pleasure of the Governor. They have authority to make decisions on Local Boundary Commission matters, but they have to stay within the laws that are prescribed for boards and commissions and make all their decisions based on State's standards for annexation and incorporation. There are laws that they must follow. There is no one they answer to, other than those laws.

Saul Friedman: They answer to the courts. That is what has happened with the people who disagree with the decision on Area M. They have gone to court and have asked a judge to look into the matter and our argument is that the Local Boundary Commission made a mistake. They didn't act properly. Area M is more tied into Bristol Bay than it is for the economics and culture of the Aleutians and the Boundary Commission made a mistake. Unfortunately, the courts will give a lot of weight to this local boundary. The judges say these are people are appointed to do this sort of thing, they're experts at it with staffs who help them. Courts don't like to overturn what the Boundary Commission does. It has happened in the past. Hopefully within six months we will have our decision.

Ron Aaberg, Pedro Bay: It seems like we're going to get hooked on taxing the fish industry just like the state was hooked on oil money and if that comes to a halt, are there any studies on different things you could tax, like tourism? My other question is, since I'm a Native Allotment owner, down the road, could they ever tax Native Allotments?

Saul Friedman: What you have said about the future of taxes is absolutely correct. Right now the state is selling the idea of boroughs right now, on the basis there is going to be enough money through fish taxation where the boroughs won't have to tax personal property. If a borough government forms and has all these expenses and something happens to fishing where they can't generate that revenue from fishing, it's going to have to find another means of paying for itself. This will be other forms of taxes. Fortunately, under a borough, a borough can tax lots of other sources including tourism. You could probably tax services like guiding services and airtaxies.

Jim Sanders: If you asked us to do a feasibility study for your region, that could be one of the special issues that you ask for us to address, looking for alternative sources of revenue. As far as taxing your Native Allotment, I don't think that is going to happen.

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Ron Aaberg: You could tax private property, I'm not clear on the difference.

Jim Sanders: The borough would have to have a property tax.

Ron Aaberg: If it's a restrictive deed and they came up with a property tax, could they tax only houses?

Saul Friedman: No, they can't tax the houses separately from the land. But they can tax cars, planes, whatever is stored on the land.

Mark Bunnell, Chignik Bay: Would taxes depend on areas? Would one city be taxed higher than another?

Jim Sanders: No, they would all be paying the same. Unless they had a service area where, like in the Chignik area, if they had some sort of search and rescue service. The borough could help provide for that service but it would only serve the Chignik area, they could have a special tax that only people of that area would pay for that extra service. The people would have to vote on it, the borough could not decide that automatically.

Frank Hill: But the voting would take place just among the people who would be served.

Saul Friedman: An area-wide service like health would be paid for by everybody and the money would have to go to that service. A service provided for just one section would be voted on and then paid for, if it passed, by people being served in that area.

Mark Bunnell: Hopefully there wouldn't be sales tax or land tax, but if they did start it, from one end to the other regardless if one area was better off than another, would you start charging them more to subsidize the poorer areas?

Saul Friedman: No, it has to be equal. The one thing you aren't focusing on is that you elect the borough assembly from your communities and those people listen to you as the voter. They aren't going to vote to put in services or raise taxes unless they feel the support from among the communities. This won't happen without your input and say-so. The purpose of having a borough government is that you're going to control what happens within your area and decide what services you want, when you want them and whether you're willing to pay for them. It is much more controlled. You can vote these people out if you don't like what they are doing.

Kathy Chamberlain, Port Heiden: If we put off the decision to become a borough and something would happen where we would fall below the standards required to be a borough and then HBI or some similar legislation forcing us to be a borough should pass, what would happen then? If the annexations take place and the major fisheries are all annexed by other areas, and we would no longer have the financial base to become a borough, then legislation would pass.

Jim Sanders: That is something that is going to have to be looked at for other regions besides just hypothetically for what you're proposing. There are REAAs in the state that really don't have the local economy to tax to support a borough government. If the state does mandate at some point that legislation, and that area can't pay for its local schools or a borough government, there's going to have to be a determination of what is going to be done to supplement that. If you were in a position where you couldn't afford through local revenue sources to support a school system, the state would have to continue. They couldn't bail out and say sorry.

Saul Friedman: I think what would happen is you'd be aligned with somebody else. If Lake and Pen got to a point where pieces of you were chipped away and the legislature didn't think you could successfully be a borough, you'd become part of the Southwest Borough or something else. You'd no longer exist as an entity.

Jim Barnett: If you wait till you're annexed away, you'd be paying taxes to some other borough and be a part of another borough that you are paying taxes to educate someone else's students.

Dennis Niedermeyer: The districts that don't act get annexed away along with their properties and/or areas that generate revenue. All the poor ones are going to be lumped together and so the odds of you getting annexed to one who has absolutely no resources is very unlikely. That is one of the greatest concerns that we have. If there was some way that we could maintain the integrity of the District without fear of being annexed by the Local Boundary Commission or anything else. I think the best is to do nothing. Those are our two choices.

Kathy Chamberlain: Is it likely to be annexed by someone other than a contiguous area?

Jim Sanders: It would be contiguous.

Kathy Chamberlain: Then it would be feasible that at some point they might take the Chignik and put them with Aleutians East and take the

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Jim Sanders: That's possible.

Beth Joy Abalama, Egegik: If we decide to become a borough and we were making up our charter, we could decide our assembly size. We could put that there were two people from each village and they could meet and decide what they were going to do. At the beginning of the charter, you would decide what taxes you would begin with and if there was some need to change that after a few years, then all the people in the whole district would have to vote to change that to add other taxes.

Frank Hill: Even if it were to mean area-wide services?

Beth Joy Abalama: Yes.

Frank Hill: That is my understanding.

Beth Joy Abalama: So you couldn't have a couple of people on the board decide that they would go ahead and tax the people on their homes, boats or planes. Everything would be written into the charter at the beginning and everyone would have to agree on it.

Frank Hill: Or if you did initiate a new service to tax, it would have to be voted on anyway by the population.

Jim Sanders: Yes, for additional services.

Saul Friedman: There are three mandatory services that you have to provide: education, planning and zoning, and the ability to collect taxes. If fishing taxes weren't able to pay for these services, the assembly would have to pass an ordinance selecting some other tax.

Beth Joy Abalama: The people would vote on that.

Saul Friedman: No, the assembly by an ordinance, by law, could set up that tax.

Beth Joy Abalama: But because you have set up your charter to have two people from each community, everybody would still have their say.

Saul Friedman: You could have a charter that says the assembly could not pass a property tax without approval of the majority of the voters of the whole borough. On the issue of two people from each village, I don't think that can happen. The law requires one man, one vote. You have to equalize population per representative. A village with 200 people can't have the same number of assembly people as a village with 400 people because you won't have equal representative. You have to draw boundaries such that there is some equality in numbers.

Beth Joy Abalama: How can you have too much of that problem though with our District? There are 13 communities with between 100 and 200 people.

Saul Friedman: It would go by population. If you said there were 2000 people in the region and you were going to have 10 members on the assembly, each assembly person would represent approximately 200 people. Then you would draw your boundaries around each community to find as close to 200 in each boundary.

Jim Sanders: You would write that into your charter. There has to be proportionate representation.

Frank Hill: There seems to be some sort of a number which seems to be practical on assembly size. What is the largest assembly you know of in the state?

Jim Sanders: I think Northwest Arctic has 11. Kenai had a huge one for awhile, maybe 18 people. But they've reduced it back down.

Dan Salmon, Igiugig: I have a few concerns; Igiugig, based on the population charts, is second to the smallest. As a traditional council, the majority of our revenue comes from State Revenue Sharing. Under the borough act, we lose that revenue as a traditional council. And if that borough decided that the only services it would provide is education, then essentially we would be losing the present amount we get now to cover the services we have now. My other question is are federal facilities such as military facilities taxable?

Frank Hill: No.

Jim Sanders: On your first question, if you had a home-rule borough in your charter you could set up where there could be some sort of pass-through where the money the borough receives because of the test-acts in the unincorporated communities could be returned to the

Frank Hill: Or you could agree to provide the service that the council was serving.

Jim Sanders: I know a lot of the smaller communities use that revenue from unincorporated communities to help pay for the nontraditional borough service such as fuel or to hire people.

Dan Salmon: Right now, we, as a village, decide how we want to spend our money based on what's allowable and I see that being swallowed up. I'm afraid that we would get lost in the shuffle because we do have one of the lowest populations and the borough assembly representation is based on population. One other thing, did I hear that possibly Naknek (Bristol Bay Borough) would be included when the Boundary Commission looks at this?

Jim Sanders: I said that they would want to look at that. Part of the standards that are in the administrative codes are that you have to examine whether or not the area proposed for incorporation can be annexed or consolidated with an existing municipality. You're going to be surrounding an existing borough, so it makes common sense that you're going to have to examine whether or not you should all be part of one borough.

Dan Salmon: The Boundary Commission decides that while the Naknek (Bristol Bay Borough) is so small and being swallowed, it should all be one?

Jim Sanders: It would ultimately be involved with that decision. I don't know what kind of petition would come out of this area if it decided to become a borough. It might petition to take in that area, or the Local Boundary Commission might make the decision that that should be considered and they would make that part of their decisional process.

Dan Salmon: They would by far swallow up the population of this whole district. Does that mean that they would make up 90% of the assembly because they have more people than we do? I'd vote for a borough if I could get a guarantee that we'd still get our share of the revenue sharing and have as much say, or at least some say in the assembly. But I don't see it happening based on the figures I've seen on these charts.

Lola Lind: Under the home-rule charter it could possibly be written into the charter that the state revenue sharing funds could be funneled back to the incorporated communities. Most of our 14 sites are unincorporated and I think that's going to be a big concern because they will lose what little operating capital we've got. Is it only under a home-rule charter that that would be an option? If it were a first or second class borough, we wouldn't have that option?

Jim Sanders: If it were a home-rule charter, it would be mandatory. If you were to incorporate as a borough right now, it would have to be an annual decision. The assembly that you elect today can't decide what it will do with its revenues ten years from now. They can't obligate those funds.

Lola Lind: So if we wanted a long-range idea and wanted to make sure that it was guaranteed, the only way would be to write it into a home-rule charter and become a home-rule borough.

Jim Sanders: That would be the only way that you could count on it being there.

Saul Friedman: That amount of money is not going to make the decision whether this borough would be viable. The idea is to make a government that is formed to serve the needs of the people and you do that by setting these rules in advance.

Jeff Gabel, Egegik: I think every village in the District is concerned by this issue of revenue sharing. But I don't know of any village where 100% of its services are funded by revenue sharing, so I don't see any problem with that at all.

Norman Jacko, Pedro Bay: If they did do away with revenue sharing, then the traditional council would be obsolete.

Frank Hill: There are still grants that are available for that type of entity that boroughs can't apply for. I also understand that you'd reduce the need for the council greatly. The option of what to do with the funds from revenue sharing is an important issue, apparently, and I think we've learned that if you form a borough, you'll want some way to control those funds and taxes. This is a mechanical process that once it is in place, it will just happen. The first and second class boroughs have to vote each year before the assembly can decide if they want to give it to them or not. This can happen even if you aren't a home-rule borough.

Beth Joy Abalama, Egegik: You were saying you would have to group villages together to get one representative for 200 people or one representative for how ever big the group would be. Naknek and King Salmon then would have the biggest say and the rest of us would all be left sitting with one person from two villages who has to report back to the villages. If each village doesn't have at least one representative, the unrepresented villages are going to be left out.

Saul Friedman: I used 200 as an example. If you wanted an assembly of 20 people, you could do it. It's how you want to write up your charter. A real concern is that the large population areas, like Naknek, would have the larger number of assembly members and control revenue. This is where the term gerrymander comes in, where you break up Naknek. You take a portion of Naknek and stick it with another village, so that Naknek is divided into three or four different election districts so they don't wind up getting all that power. There are ways to compensate for that. One thing the Department of Justice looks at, and one of the reasons for the review by the Department of Justice, is to make sure that in any new government, the minority population isn't being pushed out of power.

Jim Sanders: In the Aleutians East Borough, they have six assembly members and a mayor just elected. False Pass and Nelson Lagoon had no one elected from their areas to the assembly. The way they set it up, there will always be a representative from those communities. The representatives come in to all meetings. They are a non-voting member, but they get to speak and participate in every aspect of the assembly. They speak for their communities and carry back information to their communities. They have insured that all communities will always have a representative present.

Pete Hill, Naknek: What would it take to get a study of The Lake and Peninsula School District initiated? Would a request from The Lake and Peninsula School Board be enough?

Jim Sanders: Yes, we need a formal request from some entity; a city, the Lake and Peninsula School District. We need something that requests that we do a follow through. It wouldn't be fair to a region to have the department initiate something on their own, we want to be asked to do it.

David Wilder: In the executive summary we received, it states that The Lake and Peninsula School District, as a borough, would not need to levy taxes, and in effect we would end up with close to \$200,000 in excess revenues. Do you have any idea how much of that is derived from revenue sharing?

Jim Sanders: Most of that is raw fish tax, not from revenue sharing.

David Wilder: This says that seven boroughs would not need to levy taxes. Does that mean raw fish tax?

Jim Sanders: You would not have to have a sales or property tax.

David Wilder: Then we aren't talking about fish tax.

Jim Sanders: Well, the State is already collecting a fish tax.

Frank Hill: You are saying it wouldn't be a new tax, or additional fish tax.

David Wilder: Would it be an additional tax in that area?

Jim Sanders: No, because the areas are already paying for that but it is just going into the State treasury and not coming back to the region now, where if you had a regional government it would be a way of getting that tax back.

Dennis Niedermeyer: In talking to the people who put the summary that David Wilder is mentioning together, the only revenues counted for The Lake and Peninsula School District were based on those already going to cities, not counting the monies that were counted for Eyegik and Ugashik. Those numbers are estimated numbers and are low estimates. The State currently has a five cent tax on all fish that goes to a processor being levied. Chignik gets 25% of that and the State gets 75% of that. If you become a borough, the borough gets 50%. Is that correct?

Jim Sanders: The city gets 50% right now. If they became a borough, they would get 25%.

Dennis Niedermeyer: But there is no money currently collected on fish tax on areas outside of Chigniks and Port Heiden. 100% of the monies are going to the State and are not reflected in the figures in that summary.

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Mark Bunnell, Chignik Bay: I don't know if there are any other second-class cities, but we became a second-class city to receive these raw fish taxes and we have turned that over to start some permanent jobs around town. With the borough coming in, since I'm the mayor, do I have to go back and tell them that what we've worked for for several years now is down the drain and I'm going to have to pay off some of my workers and stop some of the services that we've already had.

Saul Friedman: You're anticipating something that hasn't happened and you have a chance to control. The issue is how much money is it going to take to run the new borough. The borough can pass a new raw fish tax of 2 or 3% which may pay for the entire operations of the borough and then be able to let Chignik keep all of the money that it now gets from the State. You're assuming that the new borough here would need 25% of what you now get. That's may not be true. In Aleutians East, this is the only borough I have the figures for, their raw fish tax from the State brings them \$400,000 approximately. They added another 2% on top of that and that's bringing in another \$700,000. Let's assume that they had made their tax 4%, then they would have brought in enough money to run their borough and the State tax could go right back to the communities and the borough wouldn't need any of that money. That is something that can be dealt with, can be worked out.

Jim Sanders: The way the law is written right now, it doesn't automatically go from 50% to 25%. It's phased out over three years.

Mark Bunnell: We've just heard that as soon as the borough comes in they're taking half of that and it costs so much and we're a second-class city, but it took a lot to get that second-class city and it takes a lot to keep it going.

Jim Sanders: That was the concern in King Cove and Sand Point, that they were going to lose their money. They changed their laws to allow that transition.

Frank Hill: If an area wants to maintain a level of services, they could elect to be a service area which wouldn't affect all the rest of the borough. They would vote on taxing themselves more and could still maintain jobs for the area, if they want to do that themselves.

Edna Rueli, Kokhanak: What would happen to Chignik's taxes if Poodik (borough) comes in and takes that?

Frank Hill: It would depend on if Chignik had a representative on the assembly that would help provide for them. Their representative could be outvoted at times by the majority being in Kodiak.

Dan Roehl: So wouldn't it be better to become our own borough now and have control over our own tax money?

Frank Hill: We feel we have those choices now and for a little while. Down the road we don't know what those choices will be.

Bob Arce, Iliamna: Is the Department of Community and Regional Affairs responsible for doing all the feasibility studies? Do they consider the affect of fish taxes declining or increasing? How long does the Department forecast the future of the revenue?

Jim Sanders: The study is done in-house and the figures are carried out for five years.

Bob Arce: How long does it take to formulate a report?

Jim Sanders: Around 10-11 months.

Bob Arce: Can the study look at other alternatives too? For instance, not only looking at the Lake and Peninsula area but also including Naknek (Bristol Bay Borough)?

Jim Sanders: We can look at any alternative you want.

Bob Arce: And the direction has to come from the people involved.

Frank Hill: We understand that you can tailor make the study and ask our own questions. If the Iliamna Lake area wanted a study looking into the possibility of being its own borough, that could be answered real quickly. The smaller an area is, the less options asked for, the quicker the study can be done.

Bobby Jo Kramer: What happens to the money the village councils own if they become part of a borough? What of the ANCSA lands held in trust and the facilities owned now by the villages?

Jim Sanders: Those lands will continue to stay in trust and the facilities remain with the council unless the borough wants to take over those powers. For example, if the borough wanted to take over recreation, then the village recreation building would become the responsibility of the borough. Normally that doesn't happen.

Bobby Jo Kramer: Would the land held in trust be an option for the 10% of the land the borough takes?

Jim Sanders: The lands the borough takes are from state-owned land only.

The Board recessed for a break at 2:20 p.m. and reconvened at 2:35 p.m. with the same members present.

Doug Merwin, Chignik Bay: First, is there any way to keep the integrity of the Lake and Pen boundaries without becoming a borough? And second, do these figures that we see that don't require with the present economical system as it is include the cost of a borough government? And if so, what sort of figures do they project it will cost to keep a borough government going?

Jim Sanders: There is nothing really threatening the Lake and Pen boundaries right now, Kodiak has not submitted a petition and is not going across. The only way to really protect it is that anytime you saw someone proposing something to change those boundaries would be to make your concerns known. Make sure the Local Boundary Commission understood that that is not what the region wanted. There is no legal way to say these are the boundaries and no one can ever change them.

Doug Merwin: If they had public hearings in June, when we're out fishing it could be pretty tough.

Jim Sanders: You're right, and I think the Department will really try not to let that happen, as it happened last time with the Aleutians East. There has been a lot of criticism over that. The figures are from the House Research Committee Group and I'm not familiar with them.

Saul Friedman: The Aleutians East budget is an example of a minimum government cost and here are approximately what they have projected to be their annual operating budget: \$180,000 for the Assembly, \$293,000 for the Department of Mayor, \$150,000 for the Department of Administration and Finance, \$172,000 for the Department of Community Affairs, \$82,000 for the Department of Law and \$100,000 for the Department of Education. This is for the transition of the BEAM schools and the city schools to become borough schools. They have a reserve account of \$575,000 for capital improvements. This is money they won't spend right now, but will have to spend later for capital improvements within the borough.

Frank Hill: To operate a district, it will take at least 1 1/2 million additional to the money they have for the transition period.

Glen Alsworth, Port Alsworth: Would it be appropriate for the region to request a study from you, and because you would have that in front of you, if anyone else looked at annexing parts of us, everyone in the region would be notified. And you would also be aware that this study is ongoing so it would be like we were first in the door, at least for the study.

Jim Sanders: You can certainly let anyone know that a study is going on for the incorporation of the Lake and Pen area. The Local Boundary Commission would take this into consideration before they made any decisions.

Glen Alsworth: Would this have any effect on Kodiak if we started the process of studying our area?

Jim Sanders: It could affect their decision, they could decide to do it real quick.

Frank Hill: One of the cases we could make in our study would be that the fishing on that south side of the peninsula is vital to us and could affect the decision.

Jim Barnett: I hope everyone has read the packets we've sent to the schools and villages which contains the newspaper article about the Kodiak borough and the Kodiak borough mayor made the statement that the Boundary Commission said if they wanted that land they got it. They could ask to annex that area at any time and if the people who sit on the Boundary Commission are so inclined they'll give it to them. If you are concerned enough that you want a study, and you are looking at forming a borough, that would lend some weight or credibility to the fact that you're looking to form a borough

About this time last year, we found out about the study Aleutians East was conducting to become a borough. It was the last of May, first of June, that we found out about their boundaries. I tried to contact the people I needed to at villages. I delivered packets, but I couldn't sit down to talk with anyone. That borough was voted on and formed by October even though we'd filed a lawsuit to prevent it. There wasn't anything we could do. How long did it take to do the study on that borough?

Jim Sanders: That study took 1 1/2 years.

Jim Barnett: We didn't know anything about it until about this time last year when the boundaries proposed included some of the Lake and Pen District's lands.

Jim Sanders: That study was a legislative appropriation that came to the Department and then contracted out to a consultant.

Lola Lind: When boroughs start talking about annexations, from what I understand the law to be, they have to hold a public meeting within their borough. They don't have to inform anyone else about them. It's nice that they do, but their history from the last year is they don't. This is a big concern. We found out about Kodiak by accident, a Board member was in Kodiak and just picked up a paper. We hear about Dillingham through the back door. We aren't getting the information and by the letter of the law, they don't have to inform outside their boundaries.

Jim Sanders: Well, in Kodiak, there was no formal action, so no one had to be notified. Technically, you only need to hold the public hearings within the area that is incorporating. You are supposed to notify anyone who also has interests and concerns, and this is done through the public notice section in the paper. If you don't read the classified notice section of the paper, chances are you won't know about it. The Local Boundary Commission does go through great pains to advertise in local papers. But it also means you have to read the classified section and the public notices.

Frank Hill: I have a problem with the minimum amount of hearings held and their location. I sat on the Planning and Zoning Commission for Bristol Bay Borough for eight years and whenever we planned to rezone any piece of property we had to hold public meetings and notify every adjacent property owner that that piece of property that they were neighbor to was going to be rezoned. This is in effect, the same type of thing. You're affecting a much larger area and the economy of an area. Wherever it is possible to make changes in the process for holding hearings through the Local Boundary Commission or regulation, I believe that it would be in everybody's interest in getting proper hearings in the places where they're getting to people who will be affected. It's a lot easier to sneak up on people when they are sleeping and this seems to be the attitude that people in rural areas and more remote parts in Alaska are getting from the organized areas.

Don: Nerwin, Chenik Bay: If a feasibility study were done, what would it cost and why would you not do it?

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Jim Sanders: I'm not sure what the cost would be, but it's something we do internally and at no cost to anyone other than our department.

Dave Wilder: Under the home-rule borough charter, how much requirements do we have to do as far as doing away with planning and zoning and taxation? Or are they absolutely required?

Jim Sanders: Yes, those are the three mandatory requirements and you can't get around them, no matter what class borough you have.

Glen Alsworth, Port Alsworth: Just because you are required to assess property, you're not required to set a mil rate any higher than 0. We could set that mil rate at 0 if there were no taxes necessary. We would be meeting the requirements. Planning and zoning could be left open.

Jim Sanders: You could also transfer planning and zoning back to the cities. The borough then would have responsibility for the unincorporated areas in the borough boundaries.

David Wilder: The Aleutians East Borough became a first-class borough and then they will change to a home-rule borough. Why did they start out as a first-class borough?

Jim Sanders: If I remember right, the law was written that you had to be a first-class borough and then become a home-rule borough. The law has been changed since then and now you can go directly from incorporation to a home-rule borough. There is another reason. If you incorporate as a home-rule borough, that means you have to write a petition and a home-rule charter which will define everything you will do with this borough. It's a major job to do the petition and get it passed, and it's probably a little easier to start as a first-class borough and get organized, and then write your charter and have your voters approve it.

Norman Jacko, Pedro Bay: To start the study, all you need is someone like The Lake and Peninsula School District to ask you to do it. So we're here to form a consensus on if we want to have a study done or not?

Frank Hill: We've been advertising this meeting as one where we wouldn't actually come in and make any decision to vote for or against a borough. We'd like to stay with that format. At the end of the meeting, the Board will ask the people present for some sort of direction.

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Jim Barnett: If we asked for a feasibility study, which would give us more information, it would not advocate one way or the other that a borough be formed. If there is enough interest to request a feasibility study, it would give you more information to base your final decision.

Pete Hill, Naknek: From a statement in one of our handouts, it says the boundaries of a proposed borough must also include at least one entire regional education attendance area. How strongly is this held to?

Jim Sanders: That is in the administrative code and up to the discretion of the Local Boundary Commission. The case would have to be made that boundaries less than or more than required, were appropriate.

Cathy Chamberlain, Port Heiden: What is the school Board doing now to monitor the activities of the Local Boundary Commission?

Frank Hill: In terms of my own personal activity, I read the newspaper a lot more carefully. Other than that, we don't have a formal process by which we set up a watch-dog routine. Mr. Friedman checks with the Boundary Commission once every now and then to see what's going on and what's been filed.

Saul Friedman: Kodiak has not filed for formal petition for annexation. They've talked about it, but because of the issue of the three miles and how wide Shelikoff Strait is, they've been told that is U.S Government waters.

Dan Salmon, Igiugig: If the Boundary Commission is appointed by the Governor, then every new term new members are appointed?

Jim Sanders: Some of the people were appointed by Hammond. Each year one of those people's terms end and the governor decides whether or not to continue that person in the position or appoint someone new. We have two new members now.

Dan Salmon: Is there anyone from the western Alaska area?

Jim Sanders: There is no one from the southwestern area.

e. Recap/Review by Board and Superintendent

Frank Hill: We are at the point where the Board will be asking for direction. Hopefully you'll ask the residents, please don't

Melvin Trefon, Nondalton: If the Board entertains the idea of having a study done, who would fund the writing of the petition and the charter?

Jim Sanders: The Department doesn't pay for writing the petition or the charter. We would provide technical assistance and help along the way. We are in the process of writing a model home-rule charter that would be available for communities. There are other examples from other boroughs available too.

Frank Hill: I understand that the Aleutians East borrowed money as a future entity against their \$600,000 allocation as collateral.

Jim Sanders: That was all done after they held their election.

Glen Alsworth, Port Alsworth: That would be one of the reasons why maybe forming a first class borough then going to a home-rule charter would be required, because having already been organized you'd already have the funds.

Jim Sanders: It is a lot more work to start off with a charter.

Doug Merwin, Chignik Bay: When you say "they" borrowed money, who are "they"?

Frank Hill: It was the borough itself.

Doug Merwin: So they aren't yet a borough, yet they're borrowing money on the speculation that they will be.

Frank Hill: They borrowed money on the future appropriation that they will get for organizing as a borough.

Jim Sanders: They borrowed money after the election in the borough had been held so they knew they would get that \$300,000 for the first year.

Bob Arce, Iliamna: If we are going to ask for a study, one suggestion I would ask is to get the answer to a number of lingering questions we have up north. Could the study take a number of different paths? The question has always lurked; can the south support its own school district, can the north support its own school district, should it be as it is now combined with one big district. Could subsections of the report address these questions? Do we seem to really look if the individual areas can support their own

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Glen Alsworth, Port Alsworth: The guidelines in terms of borough formation requires 1000 residents and that would shoot either side down.

Bob Arce: Those populations though are based on 1980 studies and that's eight years ago. I've heard talk that the 1980's population figures are incorrect. Some of the communities are larger and it's actually close to 1000 people up north and there's even more down south. I'm not advocating anything one way or another, but I've heard these questions for years and years about how each area could support their own districts. All I'm asking is that the answers finally get down in black and white.

Frank Hill: Maybe a side question should be are the population figures bound by statistic of eight years back. How recent are the population figures used?

Jim Sanders: The population figures used now are updated yearly. There are a lot of people who don't agree with them. The incorporated communities can challenge that and get it changed.

Frank Hill: Do you know the basis of the population studies?

Jim Sanders: I don't exactly understand but it has something to do with the Permanent Dividend Fund applications that are submitted. There is a formula attached to that that projects how many people are in a region.

Lola Lind: It's all done based on projections though, not actual head count.

Jim Sanders: No, there won't be another head count until 1990.

Frank Hill: Do we need any other direction from the group?

Pete Hill, Naknek: If a motion were to be in order, then I would go with the guidelines Bob Arce suggested.

Lola Lind moved and Wassie Balluta seconded that The Lake and Peninsula School Board request a borough feasibility study that would outline either north and south boroughs, and a combined borough, taking alternate forms of finance into consideration. The vote passed with six ayes and one nay.

Both Joy Analam, Egegik: Did the motion include Naknek (if that's Joy Borough) to be in the study?

David Wilder: It was my understanding was that this meeting was going to come up with a consensus from the people present of what was needed rather than an action from the Board. Is that possible? I don't feel we have a real consensus as far as how they feel. I want to know if everyone agrees with this motion.

With a show of hands, it appeared unanimous that the group present were in favor that a feasibility study be done. When the participants were asked if anyone opposed the study, no one raised their hand. There was also a show of hands of the people present as to if Bristol Bay Borough should be added to the study. This vote, taken by a show of hands, had approximately eight to ten people in agreement.

Lonny Elliott, Port Alsworth: Bristol Bay Borough was the first borough in the state. Can one borough annex another borough?

Frank Hill: Yes.

Saul Friedman: It has to be by mutual consent of both areas with an election taking place with both entities voting and with prior approval from the Local Boundary Commission.

Cathy Chamberlain, Port Heiden: If in including the Bristol Bay Borough, should we ask for a full study of the whole area? I think what we're saying is we want to keep Lake and Pen as an entity and not include Bristol Bay. I think we should look at the consequences of including them. This would be part of our discussion with the Boundary Commission, why it would be included or not included.

Beth Joy Abalama, Egegik: We wouldn't be taking on their charter, they would be taking on ours. We don't want their charter.

Frank Hill: That's a technical point. They are a second class borough and if we adopted a home-rule, and who annexes who, I'm not sure who would come out with the majority. That could be part of the study and what would be best for both groups.

Wassie Balluta: After the study has been done, we should plan on meeting as a group like this again.

Bobby Jo Kramer: How long before the study will be done?

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Jim Sanders: It will probably be next January before you get the report back because you will have a lot of information available this summer, but we can't hold meetings in the summer, as you've pointed out. It isn't necessary to include what type of borough you would want to be. We would be looking at the three mandatory powers and what it costs to operate the borough.

Dennis Niedermeyer: Are you the only ones who can do the study?

Jim Sanders: No, you can hire someone to do one. There are consultants who are more than willing to do one.

Dennis Niedermeyer: Is there anything that stops an area from setting up a petition?

Jim Sanders: No. By having the study done, you basically have all of the information and homework that you need to put into a petition.

Bobby Jo Kramer: Now that we have heard what the wishes of this group are on the matter of the study, I want to change by vote on the motion to "aye".

The people present were thanked for their participation and for attending the meeting.

Wassie Balluta moved and Patty Alsworth seconded to adjourn the meeting at 3:40 p.m. The motion passed unanimously.



THE  
LAKE AND PENINSULA  
SCHOOL DISTRICT

P.O. Box 498  
King Salmon, Alaska 99613  
Phone (907) 216-1280



THE LAKE AND PENINSULA SCHOOL BOARD MINUTES  
SPECIAL MEETING  
November 4, 1988

1. CALL TO ORDER

The Special Meeting of The Lake and Peninsula School Board was called to order by President Annie Christensen at 10:55 a.m., November 4, 1988, at the Quinnat Landing Hotel in King Salmon, Alaska.

2. ROLL CALL

A quorum was established with Wassie Balluta, Roy Skonberg, Bobby Jo Kramer, Patty Alsworth, David Wilder, and Annie Christensen. Lola Lird was unable to attend.

Staff members present for all or a portion of the meeting were: Frank Hill, Superintendent; Dr. Gary Jacobsen, Assistant Superintendent; Dennis Niedermeyer, Business Manager; Ron Jones, Administrative Assistant; Charles Beattie, Facilities Coordinator; Melvin Blaylock, Speech Pathologist; and Sue McDowell and Janice Ecothe, Recording Secretaries.

3. INTRODUCTION OF VISITORS

The following were present for all or a portion of the meeting: Pete Hill, Alaska Peninsula Corporation, Naknek; Saul Friedman, District Legal Counsel, Anchorage; Bob Arce, Iliamna Village; Agnes Rychnovsky, Newhalen Tribal Council, Newhalen; Richard Wilson, Kokhanok Village; Lee Fink, Port Alsworth Village; Dan Salmon, Village, Igiugig; Jim Stevens, Mayor, Nondalton; Melvin Trefon, Kijik Corporation, Nondalton; Mary Ann Olympic, LSAC, Igiugig; Virgil Delkittie Sr., LSAC, Nondalton; Garith Nielsen, LSAC, Kokhanok; Ron Aaberg, Council, Pedro Bay; Norman Jacko, Village, Port Alsworth; Marvin Williams, Council, Egegik; Terri Albright, Council, Egegik; Beth Joy Akalama, Council Administrator, Egegik; Myra Olsen, Council, Egegik; Eunice Neketa, LSAC, Pilot Point; Orville Lird, LSAC, Fort Heiden; Alvin Pedersen, LSAC, Chignik Lagoon; Pam Christensen, City, Port Heiden; Nana Kalmakoff, LSAC, Chignik Lake; Melissa Ross, LSAC, Chignik Bay; Minnie Skonberg, LSAC, Chignik Bay; Tony Gregorio, LSAC, Chignik Lagoon; Johnny Lird, LSAC, Chignik Lake; Steve Willis, Six-Mile Air, Nondalton; Fred Pike, Bristol Bay Borough Mayor, Naknek; Jim D. Clark, Bristol Bay Borough Manager, Naknek; Dennis Shauglin, LSAC, Perryville; Ella Kalmakoff, Village, Ivanof Bay; Glenn Kalmakoff, LSAC, Ivanof Bay; Donald Powers, City, Chignik Bay.

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4. BOROUGH FORMATION

a. Opening Remarks by Board and Superintendent

President Annie Christensen and Superintendent Frank Hill thanked the participants from the District's communities for attending the Second Special Meeting on Boroughs.

Superintendent Hill briefly discussed the Agenda for the meeting and then the visitors introduced themselves.

Superintendent Hill reported that the feasibility study was included in a report that the Department of Community and Regional Affairs (DCRA) had published in January of 1988. This report said that Lake and Pen, if it was incorporated as it now stands, would be viable and feasible. Since March, the date of the District's first meeting on boroughs, the pace for which this development has taken place has gone way too fast and taking much less time than it should. Some of the pressures are originating outside the region, and which we have no control over. This is one reason for the fast pace. The main pressure that is being felt is the Kodiak Island Borough Annexation Petition. Kodiak Island is proposing to annex approximately 2000 square miles across the Peninsula to within 20 miles of Chignik taking in all the waters of Shelikof and the waters of Wide Bay to Semidi Islands and then back around to Kodiak. We have to have an Incorporating Petition filed within sixty days (60) to be a competing Petition. It's been almost a month since Kodiak filed. Levelock wants to be included in the Lake and Peninsula Borough, according to Superintendent Hill. This will include legal considerations and involvements which we are not sure how it will impact the Petition. The Local Boundary Commission must decide on the request, then make adjustments to the proposed borough as to assembly, boundaries,

Superintendent Hill presented a map that had the boundaries for the proposed Borough on it outlined. The boundaries were explained and the boundaries of the nine other areas in the state were explained also. Superintendent Hill explained the reason for Borough Formation of our District is only to preserve the educational programs the School District already maintains.

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Superintendent Hill explained the Incorporating Petition, the Brief, and the Charter. These are only drafts and not the final drafts. The most important document is the Charter. The Charter is the Constitution of the Borough. The Charter would be the strict rules for the Assembly and the opportunities for the people to be heard. The Incorporating Petition is our way of filing with the Local Boundary Commission that we are going to become a borough. Once the Petition is approved the Charter will also be approved.

Superintendent Hill, turned the meeting over to Saul Friedman, the District's Attorney, to explain what happens once the Petition is filed.

Saul Friedman: The Petition is actually the people of this region saying to the State of Alaska, the agency that deals with this is the Local Boundary Commission, which is set up by law to review requests from groups, such as yourself, or from groups from around the State saying we want to become a city, or in the case of Kodiak Borough, they say they want to take new land and make it part of their borough. Or it could be a borough that says they don't want to be a borough anymore. But those decisions are made by a state agency called the Local Boundary Commission. The way you get something in front of the Local Boundary Commission is by a petition. A petition is a written document, that if you have a copy of it in front of you, has to contain certain things in order for it to be proper. One of the things it has to contain when submitted is, by law, 15% of the voters who voted in the last election in this area, have signed this Petition. The Local Boundary Commission is not going to start spending a lot of time, effort, energy, and money on petitions that are not supported, at least initially, by quite a number of people in this region. Otherwise, one (1) or two (2) people could submit petitions that would never have a chance of being approved. Once the Local Boundary approves the petition, and agrees that, in this situation, the Lake and Peninsula Region does meet the standards for a borough, when they approve the petition, what they are approving then goes out to a vote to all the people eligible to vote within the boundaries of the proposed Lake and Peninsula Borough. So the Local Boundary Commission is not deciding that there will be a new borough. The Local Boundary Commission is only deciding that, under State law, the standards for the borough are met, that this area could support a borough, and saying to the people of the region now you vote on it. Those of you who may choose to sign the petition are really only starting the process by which all of you in the region will ultimately vote on whether or not it's a good idea to have a borough. The State will have to be put in charge of the Local Boundary Commission.

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Commission to say we agree with you, it's a possibility of a borough, let's go to the election. If they find that those standards aren't met, that's the end of the process right there. If the Local Boundary Commission doesn't think that this region could ever support a borough, then there will never be an election on that issue. The only way you could ever change that would be to file a court action against the Local Boundary Commission. The standards are fairly wide open. The most important standard is that there are sufficient anticipated revenues to maintain and operate the powers of government that you want to give to the government. The government runs, as everyone knows, primarily on taxes, on revenues that are brought in for the most part through taxation. It can come in from grants from the State, grants from the Federal government, but money has to be brought into the borough government in order for the borough government to run whatever it is that you want it to run. One of the most important things that the Local Boundary Commission will look at is to whether or not the cost of running a borough government can be paid for by the revenues that can be generated by this region. There are two main ways to generate revenue in an area such as this; one is through a property tax, which is not being suggested by the Petition as a way to produce revenue, and the other one is by a tax on fish. A new fish tax is a way in which enough money could be generated to run the operations of a borough government. That's the primary standard that will be looked at. The other standard is population standard, and standards relating to the fact that this is a region, that there are similarities in the cultural and ethnic and sociological and economic factors that bring you together as a group, as a regional people, which makes sense to form into a government. When people seek a petition to form a government, you can do it in many different ways. In this situation, what the School District is proposing, that the borough become a home rule borough which gives you the power right off the bat, through the petition process, to pretty much set the ground rules for the new borough through a charter. When that charter is adopted, it becomes like the Constitution. That becomes the document which will govern this borough in the future. What you put in there now is the bottom line as to what kind of government you want and what kind of powers you want the borough to have. You decide your own fate. There are certain provisions in the law that you can't change, even through a charter. An example is the open meetings law; that State law which says that any elected body has to have open meetings. That can't be changed by a charter. You can't have a charter that says the meetings are held secretly. There are others kinds of basic provisions in the law which you have no control over, they are in the State law and you can't change them at all.

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up the kind of government that you want and that's what's in the Charter, and that's what needs to be looked at today. Now is the time to bring them out because changes can be made in that basic document.

Superintendent Hill informed everyone that tentative hearings have been set for the competing petitions from Kodiak Island Borough and the Lake and Peninsula Home Rule Borough. They are scheduled for December 2, 3, and 4th, 1988. One will be held in the evening of the 2nd at Kodiak. The Iliamna and Newhalen area hearing will be held during the morning and early afternoon of the 3rd, then meeting at Port Heiden the evening of that same day. The last meeting will be at Chignik Bay on the 4th. The Local Boundary Commission will then fly back to Anchorage for a decisional meeting. Annexation needs legislative approval. The Legislature has 45 days to take action. If they do not act on the annexation within the 45 days, the annexation is considered approved. No legislative action is needed for incorporation, however.

b. Comments, Questions by Participants from Villages

Pete Hill (Alaska Peninsula Corporation): Could we buy any time, perhaps by supporting or addressing the question of whether or not Kodiak Island Borough can go across the waters of Shelikoff Strait? Does the Local Boundary Commission look at that first before they make the decision, or do they just go ahead and do it, and then they fight it out with the State, or whoever?

Superintendent Hill: To answer your first question of whether we can buy time or not, that I'm not sure. The Local Boundary Commission has adopted as one of its own operating regulations which says "if there are competing petitions, to be considered a competing petition, it has to be filed within sixty (60) days of the initial filing of the other competing petition. So you would buy a little time, but already nearly a month has gone by. My understanding is that the filing of the Kodiak Annexation proposal has already been screened by the DORA and they have met the general requirements for annexation. It would meet the requirements enough to be submitted to the Local Boundary Commission for their review and their approval or disapproval.

Saul Friedman: What you are saying is for a borough to take new land, it's a lot harder for that borough to take new land if that land and the town is contiguous, meaning it's not right next door to you. It's only if you're a borough that you can take land that's not

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ridiculous. You can't run services from Kodiak to land a thousand miles away. But if it's land that is right next door to the Kodiak boundary, it's a lot easier for Kodiak to just expand its jurisdiction over these other lands. What you're talking about is the fact that in Kodiak's request, they want to leap over Shelikoff Straits and take land on the other side of the Straits on the Peninsula. The issue is, is that land next to Kodiak? Does the fact that there is this open water prevent it from being contiguous land. That decision will be made by the Local Boundary Commission. If they accept and approve the Kodiak's Petition, then they will probably do it saying that waterway does not affect it being contiguous, because we do not consider that natural boundary to interfere with the fact that this land is contiguous. They are relying on an Attorney General's opinion that says you can still do that even though you have these natural boundaries as long as it really doesn't prevent you from providing services.

Pete Hill: They would still have it three (3) miles offshore from each point of land then?

Saul Friedman: It doesn't effect the fact that in the middle of the Strait there is open U.S. waters that aren't within the jurisdiction of anybody. Kodiak's jurisdiction will extend three (3) miles outside. It's possible, just as has been done with the Aleutians East Borough, is for some group to file a lawsuit against that decision, if the Boundary Commission approves that annexation. While that lawsuit is going on, Kodiak has increased it's size and covers that territory. And we are still waiting on a decision on the Aleutians East, we filed a lawsuit protesting taking that land in Management Unit M, and it still hasn't been decided. It's probably not best to sit back and hope that a legal challenge would prevent Kodiak from taking that land. This is what happens with these competing petitions. Kodiak is seeking the land across the Shelikoff Strait. If no one else is also trying to grab that land, all the Local Boundary Commission has to decide is "Do we want to give that land to Kodiak?" But if Lake and Peninsula Borough is also, at the same time, saying we want that land, then you have the two (2) competing requests for land and the Local Boundary Commission has to look at both of those to figure out which is in the best interest of the State, and everybody else. It's a lot easier for the Local Boundary Commission to say we think it's in the best interest of Lake and Peninsula to form that group, as opposed to Kodiak. But if there is no one else there, there is just Kodiak, they'll look at it as good. That's why Frank believes, and I agree with him, that it's important to keep the Commission to have competing positions for the

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Marvin Williams (Egegik): The land at Kanatak has been resided by Egegik. Before people lived in Egegik, they used to go between Kanatak and Egegik.

Myra Olsen (Egegik): Kanatak was the traditional home for people at Egegik. Egegik was the summer home for the people of Kanatak. They went to Egegik to fish and then they went back over the mountain to Kanatak to winter.

Marvin Williams: The people in Egegik have been fighting to remain exactly as we are now. We don't want to become a borough and we don't want to become a city. We believe that we are taxed enough the way it is now. We don't want to become involved in it. I know that we are getting squeezed right now and it is getting to be the time where we're going to have to make a choice, but you mean if all the representatives that are here from all the villages, if we were to protest Kodiak and go between the Local Boundary Commission, that that wouldn't stall us for time?

Superintendent Hill: That's not a guarantee. The Local Boundary Commission is trying to answer the question of what is the benefit to the State and the residents, who makes the better case for providing service to that area. We all know that there is no one living there currently, or on a permanent basis. But we can track, just like we have in the Petition, that residents on this side of the Peninsula have a long historic and cultural interest in that side of the Peninsula, including the area into which Kodiak is attempting to annex. Whether it's a strong enough argument to sway the Boundary Commission to change their mind, or deny, is not something we can guarantee even if everybody in the whole Peninsula screamed about it.

Saul Friedman: And it wouldn't stall for time because those hearings are set for December and they will have those hearings. And the only issue would be Kodiak's. So everybody would testify at those hearings, but it wouldn't give more time; the Commission would still decide after those hearings.

Marvin Williams: Another big issue down there is fish tax. Where would the funds go if we were to actually become a borough? Would it go to all the people in the borough as a whole, and if so, what would Egegik get out of it?

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Superintendent Hill: Since Egegik is not an incorporated city, you would not be eligible for half of what the State collects in terms of a processing tax on the fish processed within State waters, or what would then be the borough.

Myra Olsen: We're right now in the process of looking to incorporate.

Superintendent Hill: I understand that. There are several communities that are. I asked Dan Bockhorst, at the DCRA, how many communities within what's now Lake and Pen, how many people have asked to be looked at in terms of incorporation, and he was perplexed because he says that he doesn't think that by forming into a municipality or local city that it provides you any greater protection within a borough. Basically, it doesn't. Forming ahead of a borough incorporation doesn't stop you from forming after. Big Lake, just in the last six (6) months, has been incorporated as a second class city within the borough of Mat-Su.

Myra Olsen: As I understand it, it would be better if you incorporated into a city before joining a borough to get a bigger share of the revenues.

Superintendent Hill: The share would not be any different, from the way that I understand it. A city, such as Chignik and others, receives 50% of the revenue that the State collects from the processors that process fish within the municipality's borders. Over a three (3) year period, after a borough comes in, half of what a city receives would go to the surrounding borough. That's the way the law is written right now, and that's the way that I understand it. It would not, I don't believe if you formed ahead of a borough, change the amount you would receive, the percentage. If that's the case, I'm not aware of it.

Joy Abalama (Egegik): The way the DCRA explained it to us, if there is no borough, a city gets 50% of the fish tax the State collects, and if we become a borough on top of that, we would still get 25% of that fish tax. As it is right now, if we are unincorporated and the borough takes over, and it's not in our Charter that we get part of our fish tax, but it's given back to us in services. The question is, if we don't become a city, what kind of services are we going to get for the tax on fish you have not asked.

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Superintendent Hill: That really is the issue you need to discuss and why because it kind of runs against what we're trying to do in terms of this Charter. One of the requests that we had from the representatives that came in March, and many of you are here again from the March meeting will recall that the emphasis that was given to us was make the government invisible. The government should not have much influence on the lives of the people. In other words, if there is no money coming to the community now from the processing, then what you would get as a borough would eventually be seen as area-wide services. If we try to start backing in the benefits of a borough to each community then the Charter and the whole emphasis of the government would change and you would end up with a whole lot of involvement of the borough in people's lives. The intent that I got earlier was to try to incorporate the District, keep the rest of these annexing entities out of our way so that they would keep threatening to put us in with Kodiak or wherever. We want to stay like we are.

Joy Abalama: The only thing is we could use more jobs.

Superintendent Hill: I don't know if that's the function of the borough, necessarily, but as a borough you certainly would have a much greater region wide emphasis to control development and there are processes for planned development within a borough Charter that we've promoted or discussed.

Wassie Balluta: Maybe the confusion is between the differences of boroughs. Maybe you could explain the differences between first class, second class and home rule boroughs.

Superintendent Hill: I think that Joy's saying that if you are a second class city and there is no borough around you, you do get more tax rebate. That's true. It is not completely eliminated once a borough surrounds you. You get half of what you had, but even that is phased in over a three (3) year period. It doesn't happen all at once. I don't know if I know all the intricacies of what the differences between a first class borough, a second class borough or a home rule borough are. Except that I know a home rule borough allows you a lot more flexibility in terms of how you set up the operation. A home rule borough allows you to say we want to be as low-key and as invisible as possible. If this area is incorporated, the Assembly is elected, and the people start telling them they want more things happening in their community like roads and libraries, then you are going to agree to spend some of the tax money that might be generated to do that. That's why it becomes your option either

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You can get some of the benefits of area-wide taxation or collection of area wide taxes, like the raw fish tax, in areas that don't necessarily generate it. That's why cities lose 25% of what you would have gotten. I didn't mean to get entirely into this without pointing out a couple of other issues, or asking if anyone had any questions on the Petition or Brief. Let's look at each document and then get to the Charter and be done with it. Otherwise we won't know if we're covering all of it or not.

Melvin Trefon (Nondalton): I wonder where you got your data on the population figures.

Superintendent Hill: The population figure that you see is a result of a study that was done last May of people who lived in are considered residents of a community. That was done by the school secretaries or principals going to a village council or someone in the village. We have lists of names for everyone of those numbers that we have. That list was developed on the advice and information we received from the community people. It wasn't something we drummed up. It varies somewhat from what some of you have said. That may be true. I asked Dan Bockhorst about what numbers we should use. The other official information that exists, I understand, is quite different than this; it is less.

Melvin Trefon: For Nondalton, we have 200 and something that we use on our Revenue Sharing applications. You have 195 which is really low.

Superintendent Hill: It wasn't an intentional understatement of any of these numbers. We asked people to be very careful that these numbers are actually people who are residents of the area. These are from one (1) day old babies to people who have been there all their lives. This is, as of May, all we had.

Dennis Niedermeyer: There was some elimination of people who were listed in two (2) communities; the same people. One community may be counting for Revenue Sharing some of the people who also reside, or were counted, in another community.

Superintendent Hill: The other thing we asked in the population survey was if people were seasonal or not. For instance, one community had more of the people listed as seasonal than actually reside there, and we know that is true about all of the communities we talk about some of the carryover communities. As the actual

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was the way it should be done. We aren't trying to refute anybody else's numbers, this is the number we felt comfortable with.

Bob Arce (Iliamna): On the Incorporating Petition, one of the concerns we had is that the seats that represent an area, if people are supposed to represent six (6) villages, or five (5) villages, or seven (7) villages, than those seats should only be voted upon by the people who reside in those communities, not by the whole District. Often times, what happens, you may be unhappy with what is happening, and you know the representative from your area, but the people from the north or south may not be familiar with who those people are, and so when it comes time to vote, it's just as easy to vote for the incumbent. So, what we wanted to see was just that if you reside in the community that that seat represents, then only those communities the seat represents would vote. Also, most of the people who run for seats are ordinary people and in order to get votes District-wide, you're talking expense down south to campaign and it can't all be done by mail. If you're looking at a \$400 or \$500 charter round-trip to King Salmon, you can imagine how much it would cost to go down south and vice versa. I can see the Mayor being elected by the whole district, but the Assembly members should only be voted and elected by the people who reside in those communities.

Joy Akalana: At the last meeting there was the idea that the Assembly would have 14 people on it, each representing their own community and when that person comes back to the village and if people don't ask him what happened, it's their own fault that they don't find out. But if there is only one (1) person for over six (6) villages, half of those villages aren't going to find out what's really going on.

Marvin Williams: And what's good for one village isn't necessarily good for another.

Superintendent Hill: The reason that it is represented the way it is here is that the seats and their assignments, the apportionment, was pretty much set up just like the School Board currently is. That's the model we used. Everybody is nominated within whatever seat your community is represented and then you are elected at large. Saul tells me that that is an option whether you are nominated in and get voted on by only the people within that district.

Bob Arce: I'm not trying to say that they are wrong, I'm just saying that it's a different way of looking at it.