

ALASKA LEGISLATURE COMMITTEE FILES

2007-2008

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Petersburg

Location:	Petersburg is located on the western coast of Alaska, midway between Juneau and Kodiak, about 120 miles from either community. The area encompasses 43.9 sq. miles of land and 2.2 sq. miles of water.
Population:	3,155 (2005 State Demographer estimate)
City Classification:	Home Rule City
Borough:	Unorganized
School District:	Petersburg City Schools



Pre-2006 Background

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

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

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

2006

LBC Staff worked on the preliminary report for the proposed annexation to the City of Petersburg during the first months of 2006. However by May 1, the Petersburg City Manager recommended to the City Council that the City's pending petition for annexation of 34.2 square miles be withdrawn. The Manager expressed the view that withdrawal of the annexation petition would

City of Petersburg Proposed Annexation



be warranted given the planned submission of a petition to incorporate a Petersburg borough. The City Council expressed no opposition to the Manager's recommendation. In view of the preceding, LBC Staff ceased to work on its preliminary report regarding the matter on April 28.

In discussions with the City Manager, LBC Staff noted that no public notice had been given by the City of Petersburg that the matter would be addressed by the City Council at the May 1 meeting. LBC Staff advised the City Manager that formal action to withdraw the petition must be taken by the Council at a properly-noticed meeting. On May 15, the Council of the City of Petersburg adopted Resolution Number 1795, "A Resolution Withdrawing the City's Petition to the Local Boundary Commission to Annex Approximately 34.2 Square Miles on Mitkof Island and Informing of the Intent to Seek Borough Formation." The resolution stated, in part:

... the City has been investigating and comparing the benefits of borough formation to its existing annexation petition and it has been determined borough formation would best benefit the whole of the Petersburg area.

... in order to preserve the surrounding area's cultural, educational and economic identification, the City hereby withdraws its annexation petition, submitted to the Local Boundary Commission on January 10, 2005;

... the City Council for the City of Petersburg intends to pursue Home Rule Borough formation.

A consultant preparing a petition for incorporation of a home-rule Petersburg borough advised LBC Staff that the intent is to have a petition and charter ready to submit to the Local Boundary Commission in late summer or early fall 2006. The consultant submitted a list of twenty questions concerning a broad range of issues. LBC Staff drafted a ten-page response to the questions.

The prospective borough proposal would encompass the City of Petersburg, about 170 residents living near Petersburg just outside the city boundary, the second-class city of Kupreanof with about 40 residents, and another 25 or so residents living in remote areas.⁹ Thus, some 98 percent of the residents of the prospective proposed Petersburg borough live in or immediately adjacent to the City of Petersburg. The prospective proposal will seek to simultaneously dissolve the City of Petersburg, retain the City of Kupreanof, and form a home-rule borough.

In September, a member of the Petersburg Borough Charter Commission met twice with LBC Staff. Staff was advised that the Charter Commission was meeting on a weekly basis and that its work would likely be concluded by the end of October. LBC Staff addressed technical questions concerning home-rule charters and borough government.

In October, LBC Staff responded to a number of inquires from the Petersburg City Clerk and the consultant hired by the City of Petersburg to develop a Petersburg borough proposal. Topics addressed included provisions in the proposed charter and other parts of the prospective petition relating to service areas, sales taxes, and property taxes. For example, AS 29.05.140(e), provides that "Unless the incorporation takes effect on January 1, the newly incorporated municipality may not levy property taxes before January 1 of the year immediately following the year in which the incorporation takes effect." To address the need to permit the prospective new borough to levy property taxes without delay, it was noted that the LBC could defer the effective date of incorporation under 3 AAC 110.630(c).

LBC Staff urged the consultant to arrange for a thorough review of technical aspects of the proposed charter, as well as the style and drafting of the charter. The LBC Staff report on the review of the Ketchikan consolidation charter was provided to the consultant as an example.

⁹ Ch. 8, FSSLA 2005 is relevant in terms of the Wrangell borough proposal and the prospective Petersburg borough proposal. In relevant part, Section 3 of that law provides:

Notwithstanding (a) of this section, the state land identified in this subsection and described in the document entitled 'University of Alaska Land Grant List 2005,' dated January 12, 2005, may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009, that includes Wrangell or Petersburg. If a borough is not formed before July 1, 2009, land described in this subsection shall be conveyed to the University of Alaska on July 1, 2009. If a borough is formed before July 1, 2009, and the borough does not select land described in this subsection before January 1, 2013, the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to this subsection: (1) Parcel Number SD.1001, Beecher Pass; (2) Parcel Number SD.1001, Favor Peak; (3) Parcel Number CS.TL.1001, Three Lake Road; (4) Parcel Number SD.1001, Read Island; (5) Parcel Number SD.1001, Whitney Island; (6) Parcel Number CS.EW.1001, Earl West Cove; (7) Parcel Number CS.OV.1001, Olive Cove; and (8) Parcel Number SD.1001, Thoms Place.

North Pole

Location:	North Pole is located 27 miles southeast of Fairbanks on the Richardson Highway. It lies 385 miles north of Anchorage. The area encompasses 4.2 sq. miles of land and 0.1 sq. miles of water.
Population:	1,595 (2005 State Demographer estimate)
City Classification:	Home Rule City
Borough:	Fairbanks North Star Borough
School District:	Fairbanks North Star Schools



In May, LBC Staff provided a North Pole city council member with petition forms and other information regarding annexation of territory using the local action method initiated by all property owners and registered voters in the territory proposed for annexation. At issue is a prospective proposal for annexation of 12 acres to the City of North Pole.

Seldovia

Location:	Seldovia is on the Kenai Peninsula across from Homer on the south shore of Kachemak Bay. It is a 45 minute flight to Anchorage. The area encompasses 0.4 sq. miles of land and 0.2 sq. miles of water.
Population:	287 (2005 State Demographer estimate)
City Classification:	First Class City
Borough:	Kenai Peninsula Borough
School District:	Kenai Peninsula Schools



In October, the Seldovia City Clerk advised LBC Staff that the City of Seldovia was planning to petition for annexation of four uninhabited and undeveloped parcels. The four parcels encompass about 100 acres adjoining the existing boundaries of the City of Seldovia. Three of the parcels are owned by a group of private investors who plan to subdivide and sell the property. That group has requested annexation to provide for the extension of utilities and other City services. The fourth parcel is owned by the Kenai Peninsula Borough.

LBC Staff provided the City Clerk with background information and forms to petition for annexation using what is commonly referred to as the "100-percent-of-owners-and-voters method of annexation."

Soldotna

Location:	Soldotna is on the Kenai Peninsula, 150 highway miles south of Anchorage, at the junction of the Sterling and Kenai Spur Highways. It lies 10 miles inland from Cook Inlet, and borders the Kenai River. The area encompasses 6.9 sq. miles of land and 0.5 sq. miles of water.
Population:	3,869 (2005 State Demographer estimate)
City Classification:	First Class City
Borough:	Kenai Peninsula Borough
School District:	Kenai Peninsula Schools



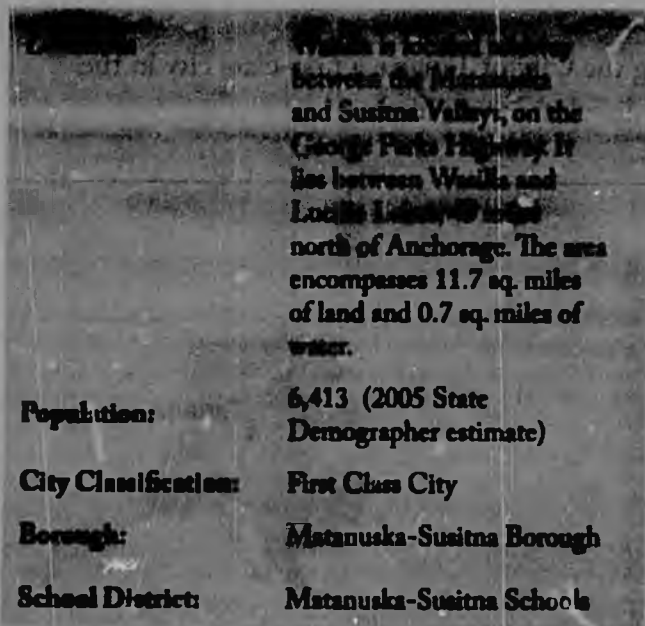
Staff from the Soldotna City Manager's Office contacted LBC Staff about a prospective legislative review annexation proposal. Soldotna City officials are contemplating annexation of four areas. Those consist of the "Funny River Road area" (estimated population: 130); Kalifornsky Beach Road area (estimated population: 530); Ridgeway area (estimated population: 476); and Skyview High School area (uninhabited).

At the request of the City of Soldotna, LBC Staff provided forms to petition for legislative review annexation, background information about annexation, a copy of the laws establishing standards and procedures for annexation, and other related information.

Although city officials initially contemplated using the legislative review method of annexation, the City has now expanded its consideration to include the local option annexation method.

In December, LBC Staff responded to technical questions concerning the local action methods for annexation. The City of Soldotna plans to petition for annexation of a parcel of land using the local action method that requires the consent of all owners and resident registered voters. Additionally, the City of Soldotna continues to explore the prospect of annexation of the other properties.

Wasilla



City of Wasilla officials are contemplating a proposal for annexation using what is commonly referred to as the "100-percent-of-owners-and-voters method of annexation." LBC Staff provided the Wasilla City Planner with petition forms and background information about the standards and procedures for annexation.

In November, officials of the City of Wasilla advised LBC Staff that the City had received requests for annexation from all property owners and resident registered voters in three separate territories contiguous to the City of Wasilla. The three territories comprised a total of approximately 130 acres. The City plans to confer with owners of six other properties in the vicinity to determine whether the owners are inclined to also seek annexation.

On November 17, LBC Staff met with Wasilla's Deputy Administrator and a City Planner to discuss the requirements and procedures regarding the City's proposed annexation of 131.5 acres to the City of Wasilla. Subject to LBC approval of a city government's petition, AS 29.06.040(c)(3) allows a city to annex adjoining territory, if all owners of the property proposed for annexation and all registered voters residing on that property first petition that city for annexation. All the owners and all the registered voters residing on the property proposed for annexation to the City of Wasilla have signed a petition.

Section III. City Dissolution

During 2006, interest was expressed in dissolving the City of Tanana, a first-class city in the unorganized borough. However, no petition for dissolution was filed.

Tanana

Location:	Tanana is located in Interior Alaska about two miles west of the junction of the Tanana and Yukon Rivers, 130 air miles west of Fairbanks. The area encompasses 11.6 sq. miles of land and 4.0 sq. miles of water.
Population:	281 (2005 State Demographer estimate)
City Classification:	First Class City
Borough:	Unorganized
School District:	Tanana City Schools



On June 10, LBC Staff responded to an inquiry from a resident of Tanana regarding the consequences of dissolution of the City of Tanana. The caller indicated that prevalent conflicts between the Tanana city government and the Tanana Tribal Council motivated the inquiry.

Staff provided general information about the consequences of dissolution, noting for example, that the City of Tanana School District (FY 2006 enrollment 67) would be merged into the Yukon Koyukuk REAA (FY 2006 enrollment 1,612). In FY 2006, the local contribution for schools required under AS 14.17.410(b)(2) from the City of Tanana was \$22,692. LBC Staff noted that the education funding cost differentials for the City of Tanana School District (1.496) and the Yukon Koyukuk REAA (1.502) were substantially the same.

In addition to addressing the effects of dissolution, LBC Staff provided information about standards and procedures for dissolution.

Section IV. City Reclassification

Houston

Description:	Houston is located north of Anchorage in the Matanuska-Susitna Borough, 57 road miles north of Anchorage. It lies on the Parks Highway, along the Little Susitna River. The area encompasses 22.4 sq. miles of land and 1.2 sq. miles of water.
Population:	1,447 (2005 State Demographer estimate)
City Classification:	Second Class City,
Borough:	Matanuska-Susitna Borough
School District:	Matanuska-Susitna Schools



There was interest in 2006 in reclassifying Houston, currently a second-class city.

On August 29, LBC Staff responded to an inquiry regarding city reclassification from the City Clerk of the City of Houston. The City of Houston was incorporated as a second-class city within the Matanuska-Susitna Borough in 1966. The 1970 population of the City of Houston was 66. The State Demographer estimated the 2005 population of the City of Houston to be 1,447. The 2005 figure is 3.6 times greater than the 400-person requirement for reclassification of a second-class city to a first-class city. The City of Houston is the third most populous second-class city in Alaska.

LBC Staff provided the Houston City Clerk with a copy of the statutes and LBC regulations relating to city reclassification. A sample city reclassification petition and background on local government in Alaska was also provided

Section V. Borough Incorporation

Activities regarding borough incorporation occurred to varying degrees in 16 areas of the state during 2006. Three formal proposals to the Commission were pending during 2006 (Delta-Greely, Skagway and Wrangell). Four other areas were the subject of formal studies: Eagle River-Chugiak; Glacier Bay-Chatham; Middle Kuskokwim; and Yukon Flats). The 15 areas are:

- Copper River Basin;
- Delta-Greely region;
- Ekwok;
- Eagle River-Chugiak territory;
- Greater Nenana territory;
- Glacier Bay-Chatham region (Angoon, Elfin Cove, Kake, Hoonah, Pelican, Gustavus, and Tenakee Springs);
- Kake;
- Middle Kuskokwim region;
- Petersburg;
- Prince William Sound;
- Skagway;
- Valdez;
- Yukon Flats;
- Yukon-Koyukuk;
- Yukon-Kuskokwim Delta; and
- Wrangell.

Copper River Basin

Pre-2006 Background

Initial interest in 2004 for borough formation was followed up in 2005 with an invitation for LBC Staff to attend a meeting in the Copper River Region to discuss the pertinent issues. A public forum was held in Glennallen on March 8. LBC Staff made a presentation on borough government at the meeting, which was organized by the Greater Copper River Valley Chamber of Commerce. An estimated 300 people were in attendance. Also in attendance at the meeting was a representative of the City of Valdez, who addressed various issues relating to a prospective proposal for incorporation of a borough in the Prince William Sound region.

Following the March 8, 2005 meeting, a small number of local residents formed an ad hoc study group regarding boroughs. The group requested informational materials from the LBC. This was followed by a meeting between the Superintendent of the Copper River REAA and LBC Staff on April 1 to discuss matters



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

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

2006

The Division Director and LBC staff met with Brenda Rebne, Ahtna Vice-President of Corporate Affairs on February 2 to discuss options for borough formation. Ms. Rebne is interested in learning more about administrative boroughs and exploring other options for the Copper River Valley region.

Ms. Rebne expressed interest in talking to representatives of the Copper Valley Economic Development Corporation. She wants to talk to them about borough development and get their sentiments on conducting a feasibility study on borough options. Ms. Rebne is interested in getting funding for the feasibility study. The Director and LBC staff suggested the possibility of a legislative appropriation.

On February 17, officials of the Ahtna Corporation met with Commerce Commissioner Bill Noll and LBC Staff. Continued interest was expressed in exploring borough government issues that might potentially affect the Copper River Basin. Concern was expressed about the prospect that the Copper River Basin might be annexed into an existing borough (e.g., Matanuska-Susitna or Fairbanks North Star) or that it could be included in a future borough that includes territory beyond the Copper River Basin (e.g., Deltana or Prince William Sound). Ahtna Corporation officials also noted concern over legislative proposals such as SB 112 – the head tax on certain residents of the unorganized borough. The tax would also apply to certain individuals employed within the unorganized borough. Ahtna officials expressed continued interest in legislative funding for analysis of the options facing the region (e.g., annexation, status quo, borough formation, etc.).

Delta-Greely Region

On January 3, a petition signed by 259 individuals was submitted to the LBC for incorporation of the Deltana Borough which encompasses approximately 5,892 square miles. The area includes the Pogo Mine, Fort Greely, Healy Lake, Whitestone, Big Delta, and Deltana. The petition sought to incorporate a unified home-rule borough with boundaries identical to those of the Delta-Greely REAA. (The proposed borough includes only a portion of the Upper Tanana Basin model borough; the Alaska Gateway REAA portion is excluded). Upon incorporation of the Deltana Borough, the second-class City of Delta Junction – the only city government in the area proposed for incorporation – will be dissolved. Following the determination by LBC Staff that the form and content of the Deltana Borough incorporation proposal

was proper and the petition was acceptable for filing, the LBC Chair set March 31, 2006 as the deadline for receipt of responsive briefs and written comments concerning the petition for incorporation. One of the 41 written public comments received by the deadline was a petition, signed by 239 individuals claiming to be local registered voters, which said the Deltana Charter was “flawed in concept.”

The Delta-Greely School District currently operates three schools at a cost of \$6.1 million a year. The State pays nearly all the costs of the school. Some funding is provided by the federal government. The district's 4,148 residents currently pay nothing to help operate those schools because they live in the unorganized borough outside home rule and first class cities. Under the current Deltana Borough proposal, the new borough government would contribute about \$800,000 to local education. The Borough's proponents plan to raise the bulk of the money from the developers of the Pogo Mine through a contractual payment in lieu of taxes (PILT). The Red Dog lead and zinc mine has a similar funding arrangement with the Northwest Arctic Borough in the Kotzebue region.

Under the 10-year PILT agreement signed with the City of Delta Junction on November 15, 2005, Teck-Pogo's payments to the new borough would ramp up to \$2 million a year by 2008, or



more if the value of the gold mine goes up. Teck-Pogo also agreed to pay up to \$350,000 a year toward bonding costs for new schools and other construction if the borough provides a matching share. Until a borough is created, PILT payments go to the City of Delta Junction. If the Deltana residents vote to incorporate as a borough and the second class City of Delta Junction is dissolved, the PILT agreement will be automatically assumed by the Deltana Borough. Unless a new borough is formed by December 31, 2008, the PILT agreement will terminate.

In July 2004, the City of Delta Junction received a \$1.2 million, no-interest loan from the State of Alaska to pay off a lawsuit settlement regarding the establishment of a private prison at Fort Greely, under a bill signed into law by Governor Frank Murkowski. The City is required to make yearly \$50,000 payments to the State. Should the City of Delta Junction be incorporated into a borough, the balance of the City of Delta Junction's no-interest prison debt loan will be forgiven by the State; as of November 2006, the loan balance was \$1.1 million.

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

On December 4, LBC Staff conducted a 2 ½ hour public informational meeting in Delta Junction, before an audience of approximately 115 people. LBC Staff made a brief presentation on future proceedings and outlined the Staff's recommendations in the Preliminary Report, published in November. LBC Staff answered over 30 questions that members of the public wrote on blank index cards, and another 20 or so extemporaneous questions from the audience. After the Question/Answer Session, 16 members of the public took the opportunity to comment for



3 minutes each. All written and oral comments will be addressed in the Final Report which is expected to be published in January 2007.

The LBC plans to hold a public hearing in Delta Junction on March 16, 2007. If the LBC decides at its decisional meeting to approve the Deltana Borough proposal, an election will be held. Incorporation is conditioned upon voter approval of propositions providing for:

- A 3 percent home heating fuel and vehicle gas sales tax;
- A 10 percent energy tax on the sale of electrical power; and
- The PILT Agreement with Teck-Pogo, Inc.

Ekwok

Pre-2006 Background

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

The Pebble prospect is located approximately 17 miles northwest of Iliamna. The claims adjoining the Pebble prospect extend to within approximately five miles of the boundary dividing the Lake and Peninsula Borough and the Dillingham Census Area portion of the unorganized borough.

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



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

2006

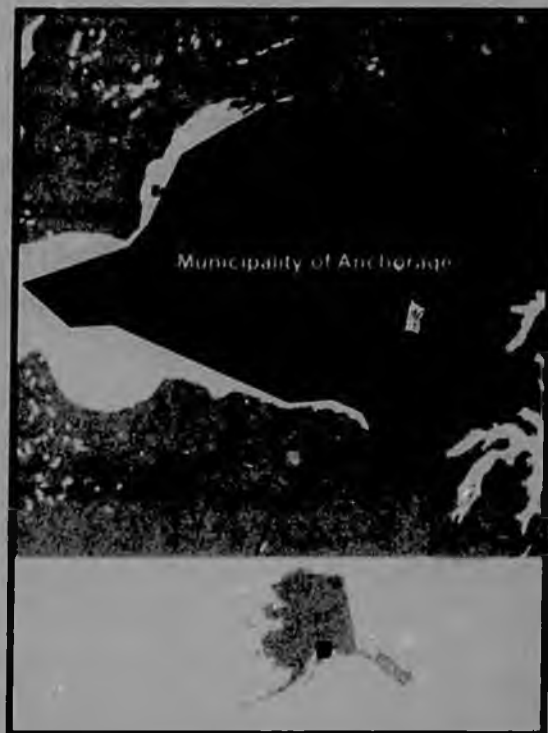
The Ekwok City Clerk has been directed by the City Council to explore formation of an Ekwok-only borough. The City Clerk indicated that City Council did not wish for Ekwok to be in the same borough as Dillingham. Ekwok, a second-class city inhabited by 118 people, lies along the Nushagak River 43 miles northeast of Dillingham.

On November 14, LBC Staff responded to the Ekwok City Clerk's inquiry regarding borough incorporation. LBC Staff provided the City Clerk with a copy of the constitutional, statutory, and regulatory standards for borough incorporation. In doing so, LBC Staff emphasized that those standards require, absent a compelling reason otherwise, that a borough encompassing Ekwok include the entire Southwest Region REAA school district and the City of Dillingham. LBC Staff also provided the City Clerk with a copy of the procedures for borough incorporation and other materials (e.g., *Local Government in Alaska*).

Eagle River-Chugiak Territory

In 2006 the legislature appropriated \$87,500 for "a study to determine the economic feasibility and financial impact of separating the greater Eagle River - Chugiak region from the Municipality of Anchorage and incorporating that region into a separate borough government." (Chapter 33 SLA 06) On October 30, a contract was entered with Northern Economics Inc. to perform the Eagle River - Chugiak Detachment and Borough Feasibility Study. The contractor has begun work on GIS mapping and data gathering from the Municipality of Anchorage and is progressing on meeting the contract timeline. Components of the final report will be submitted in phases. Due dates and information to be submitted are:

- December 15, 2006 - existing service by location, fiscal effects on existing services, and revenue by source;



- January 15, 2007 - effects on revenue, taxable property assessed value, contribution in support of schools;
- March 15, 2007 - 95 percent complete draft;
- March 30, 2007 - final study and printed materials.

In addition to the feasibility study, the contractor will make one presentation up to four hours in length to agencies and other invited individuals by no later than April 16, 2007.

Greater Nenana Territory

On January 18, LBC Staff conducted a public informational meeting regarding borough government. The meeting was held in Nenana, with teleconference sites established in Minto, Rampart, Manley, Tanana, and Minchumina. Approximately 120 individuals were present at the site in Nenana. The meeting lasted from 7 p.m. until 10 p.m.

On February 15, LBC Staff met briefly with an attorney representing a Nenana client who has expressed interest in exploring the prospect of a borough limited to the greater Nenana area. As envisioned by the attorney, the prospective borough would encompass only the "communities" of "Nenana (proper)", "North Nenana," and "South Nenana." LBC Staff noted the provisions of law (3 AAC 110.920) under which community determinations are made. Discussion also ensued about prior proposals to form small boroughs. Opportunities for funding of borough feasibility studies were also addressed.



Glacier Bay-Chatham Region (Angoon, Elfin Cove, Hoonah, Pelican, Gustavus, and Tenakee Springs)

At the request of Haines Representative Bill Thomas, Commerce assisted in organizing a borough informational meeting in Juneau on March 30, 2006. Mayors and community leaders from Angoon, Hoonah, Gustavus, Kake, Pelican, and Tenakee Springs gathered in Juneau to discuss the prospect of forming a borough extending from the southern boundary of the Yakutat Borough to Kuiu Island in the south. That area includes Icy Straits, Chatham Straits, and Frederick Sound.

DCA Director Mike Black and Juneau Commerce staff made informational presentations. Community officials from the six communities shared ideas and information regarding borough government and the potential benefits a borough government would bring to the communities and residents within the region. Topics of discussion included a comparison of the unorganized borough and organized boroughs; pros and cons of borough formation; organized borough powers; and the borough formation process.

During the 2006 session, the Legislature appropriated \$90,000 for the economic feasibility study of a borough comprising the area within the Glacier Bay and Chatham model borough boundaries. In the fall, an RFP for this work was completed and a contractor was hired to complete the study by the end of May 2007. The contract calls for two community visits per affected community, public hearings, education and communication. Prior to the final report being issued, a meeting will be held in Juneau with community leaders to review the findings of the investigative effort.



On June 1, the City of Hoonah, in a concurrent but unrelated effort, published the "Glacier Bay - Chatham Borough Initial Borough Feasibility Study." The report leads off with the statement that "[t]he City of Hoonah is planning to prepare a petition to form a borough in late 2006." The report cites the following eight principles regarding a prospective borough: (1) "High quality education"; (2) "Keep our communities independent and unique"; (3) "Use our strong regional voice to advocate for both borough and each community's priority capital needs and projects"; (4) "Use borough resources to foster and support our communities and our regional needs"; (5) "Continued ability of residents to engage in subsistence harvesting and gathering activities"; (6) "Regional emphasis on reducing electrical rates, high quality docks and harbors, and a strong, sustainable marine highway ferry system"; (7) "Install and maintain high speed video-conferencing capability in all communities to support and enhance Assembly, School Board and citizen communication"; and (8) "No borough property tax."

The region in question encompasses the communities of Hoonah (a first-class city with a population of 861), Kake (a first-class city with 598 residents), Angoon (a second-class city with 497 residents), Gustavus (a second-class city with 459 residents), Pelican (a first-class city with a population of 115); Tenakee Springs (a second-class city with 98 inhabitants), and Elfin Cove, an unincorporated settlement of 29 residents. The study estimates that 57 individuals live in other parts of the prospective borough, bringing the total population to 2,714.

The "initial feasibility study" comprises 28 pages and addresses the following 10 fundamental topics:

- (1) "Questions for Review and Consideration";
- (2) "Introduction and Background";
- (3) "Organizing Principles for Our Borough";
- (4) "Why a Glacier Bay-Chatham Borough?";
- (5) "Overview: Glacier Bay-Chatham Proposed Borough";
- (6) "Election Districts & Voting: Glacier Bay-Chatham Borough";
- (7) "State and Federal Revenue to Glacier Bay-Chatham Borough";
- (8) "Glacier Bay-Chatham Borough Budget" (\$2.5 million and \$1.9 million scenarios are provided);
- (9) "Schools and Education: Glacier Bay-Chatham Borough"; and
- (10) "Land: Glacier Bay-Chatham Borough."

Kake

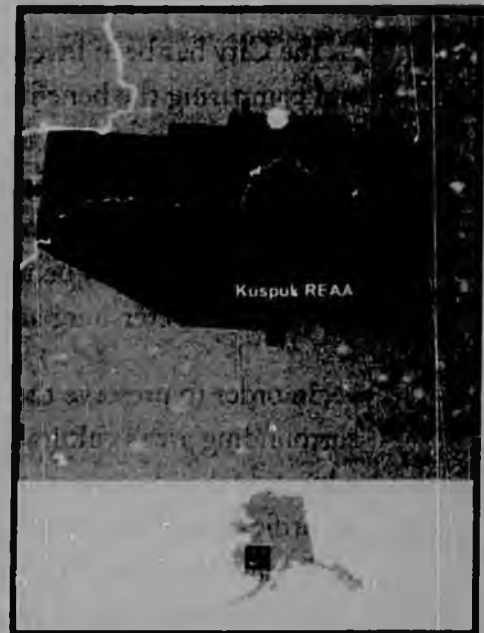
On November 22, LBC Staff responded to an inquiry by the City Clerk regarding borough incorporation. The Kake City Clerk inquired on behalf of the Kake City Council about formation of a Kake-only borough. The City of Kake is a first-class city inhabited by 598 people. Kake is located on the northwest coast of Kupreanof Island along Keku Strait, 38 air miles northwest of Petersburg.

LBC Staff provided the City Clerk with a copy of the constitutional, statutory, and regulatory standards for borough incorporation and the forms to petition for a home-rule borough. LBC Staff also provided the City Clerk with a copy of the procedures for borough incorporation and other materials (e.g., Local Government in Alaska).



Middle Kuskokwim region

At the invitation of The Kuskokwim Corporation, Commerce staff attended a conference to discuss borough formation in the middle Kuskokwim region in Aniak on April 6. Representatives from every village in the Kuspuk Regional Education Attendance Area, Calista Corporation, Scammon Bay Tribe, and Barrick Gold Corporation met in Aniak to discuss regional issues regarding the prospective development of the largest gold mine in Alaska. DCA staff presented a general information session on the process of borough formation, the pros and cons of boroughs, and the projected finances of a borough. The meeting was lively with many questions asked about what a borough might mean to residents. James Fueg of Barrick Gold Corporation stated that the mine needed certainty from a legitimate local taxing authority before investors can finalize a financial picture. The general interest in borough formation is very high. The arguments against a borough were heard and some were dispelled. Concerns still remain in some peoples' minds, but a borough petition may surface in the near future.



In October 2006, a contract in the amount of \$60,000 was awarded for the preparation of an economic feasibility study for the formation of a borough in the middle Kuskokwim region. The area to be studied follows the boundaries of the Kuspuk REAA, and also conforms to the model borough boundaries. A draft report is due to be submitted by February 15, 2007. It will be presented to local residents at a regional meeting to be held in Aniak in March 2007, and the final report is due June 30, 2007. Subcontractors to Lamar Cotten for this contract are *Information Insights* and *Jade North*. The study will include consideration of the feasibility of borough formation both with and without the development of a mine at Donlin Creek.

Petersburg

On May 15, the Petersburg City Council adopted "Resolution Number 1795, A Resolution Withdrawing the City's Petition to the Local Boundary Commission to Annex Approximately 34.2 Square Miles on Mitkof Island and Informing of the Intent to Seek Borough Formation." The resolution states, in part:

... the City has been investigating and comparing the benefits of borough formation to its existing annexation petition and it has been determined borough formation would best benefit the whole of the Petersburg area.

... in order to preserve the surrounding area's cultural, educational and economic identification, the City hereby withdraws its annexation petition, submitted to the Local Boundary Commission on January 10, 2005;



... the City Council for the City of Petersburg intends to pursue Home Rule Borough formation.

The prospective borough proposal would encompass the City of Petersburg, about 170 residents living near Petersburg just outside the city boundary, the 2nd class city of Kupreanof with about 40 residents, and another 25 or so residents living in remote areas. Thus, some 98 percent of the residents of the prospective proposed Petersburg borough live in or immediately adjacent to the City of Petersburg. The prospective Petersburg proposal will seek to simultaneously dissolve the City of Petersburg, retain the City of Kupreanof, and form a home rule borough.¹⁰

In September, a member of the Petersburg Borough Charter Commission met twice with LBC Staff. Staff was advised that the Charter Commission was meeting on a weekly basis and that its work would soon be concluded. LBC Staff addressed technical questions concerning home rule charters and borough government. Staff also responded to an inquiry from Petersburg's planning consultant about the form and content of a borough incorporation petition.

In October, LBC Staff responded to a number of inquiries from the Petersburg City Clerk and the consultant hired by the City of Petersburg to develop a Petersburg borough proposal. Topics addressed included provisions in the proposed charter and other parts of the prospective petition relating to service areas, sales taxes, and property taxes. For example, AS 29.05.140(e), provides that "Unless the incorporation takes effect on January 1, the newly incorporated municipality may not levy property taxes before January 1 of the year immediately following the year in which the incorporation takes effect." To address the need to permit the prospective new borough to levy property taxes without delay, it was noted that the LBC could defer the effective date of incorporation under 3 AAC 110.630(c). LBC Staff urged the consultant to arrange for a thorough review of technical aspects of the proposed charter, as well as the style and drafting of the charter. The LBC Staff report on the review of the Ketchikan consolidation charter was provided to the consultant as an example.

¹⁰ Ch. 8, FSSLA 2005 is relevant in terms of the Wrangell borough proposal and the prospective Petersburg borough proposal. In relevant part, Section 3 of that law provides:

Notwithstanding (a) of this section, the state land identified in this subsection and described in the document entitled 'University of Alaska Land Grant List 2005,' dated January 12, 2005, may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009, that includes Wrangell or Petersburg. If a borough is not formed before July 1, 2009, land described in this subsection shall be conveyed to the University of Alaska on July 1, 2009. If a borough is formed before July 1, 2009, and the borough does not select land described in this subsection before January 1, 2013, the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to this subsection: (1) Parcel Number SD.1001, Beecher Pass; (2) Parcel Number SD.1001, Favor Peak; (3) Parcel Number CS.TL.1001, Three Lake Road; (4) Parcel Number SD.1001, Read Island; (5) Parcel Number SD.1001, Whitney Island; (6) Parcel Number CS.EW.1001, Earl West Cove; (7) Parcel Number CS.OV.1001, Olive Cove; and (8) Parcel Number SD.1001, Thoms Place

Prince William Sound

Pre-2006 Background

In 2002, the Legislature enacted House CS for Senate Bill No. 359(FIN). Then-Governor Knowles signed the legislation into law as Chapter 53 SLA 2002. Section 3 of the law required the LBC to review conditions in the unorganized borough and to report to the Legislature the areas the LBC identified as meeting the standards for borough incorporation.

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

In 2003, the Cordova City Council renewed a previous endorsement for the incorporation of a Prince William Sound borough. The Council adopted a resolution stating, "The City Council of the City of Cordova, Alaska, supports the formation of a Prince William Sound Borough and directs staff to work with the Local Boundary Commission to consider the borough formation." Resolution 01-03-05, Council of the City of Cordova (January 8, 2003).

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

On March 8, 2005, the Council of the City of Cordova adopted, by a unanimous vote, a resolution substantially the same as the August 2, 2004 resolution of the City of Whittier which urged the LBC to consider incorporation of a Prince William Sound Borough.



2006

On January 31, staff from Commerce's central office in Anchorage advised LBC Staff that the Cordova City Clerk had inquired about aspects of a petition for incorporation of a Prince William Sound Borough. No indication was given that the filing of a petition for incorporation of a Prince William Sound Borough by the City of Cordova or others is imminent.

Skagway

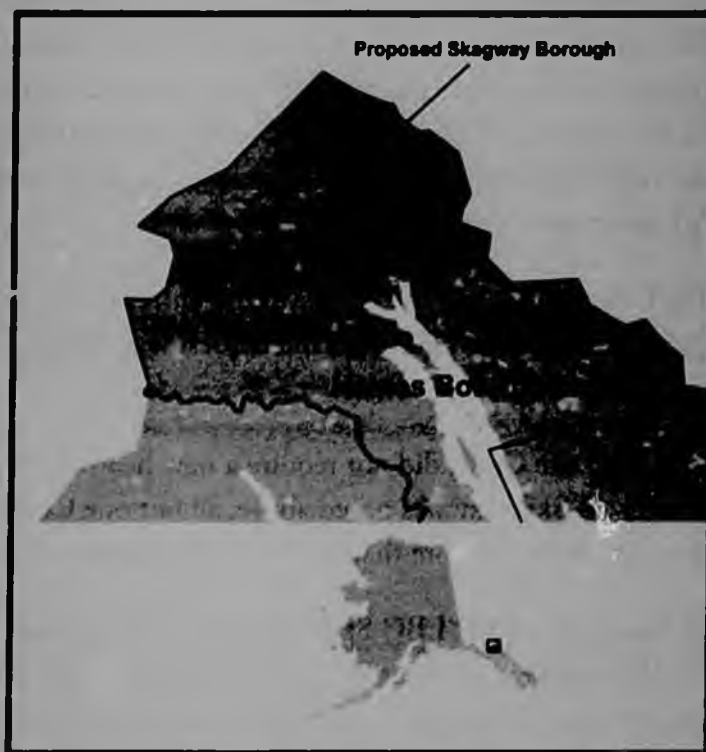
Pre-2006 Background

In January 2001, fifty-eight voters in Skagway petitioned the LBC for dissolution of the City of Skagway and concurrent incorporation of a Skagway borough. The boundaries, duties, powers, population, and other fundamental characteristics of the proposed borough were identical to those of the existing city government.

In June 2002, the LBC Staff published its Preliminary Report on the proposal. The report expressed the Staff's preliminary findings and conclusions that the Petition did not meet the applicable standards for borough incorporation. On August 9, 2002, Staff published its Final Report. The Final Report affirmed the preliminary conclusions that the Petition did not meet all of the requisite standards. Therefore, the Final Report recommended that the LBC deny the Petition.

On August 31, 2002, all five members of the LBC as it was then constituted held a public hearing in Skagway and toured the area proposed for incorporation. On September 1, 2002, the LBC denied the Petition by unanimous vote. On September 27, 2002, in a 3 to 2 vote, the LBC adopted its Statement of Decision rejecting the Petition.

The Petitioner asked the LBC to reconsider its decision. The LBC denied the request. The Petitioner then appealed to the Superior Court.



In March 2003, four new members of the LBC were appointed. Only one of the five Commissioners who rendered the September 2002 decision remained on the LBC.

On September 20, 2005, the Superior Court, Judge Patricia Collins presiding, issued a 22-page Order on Appeal ("Court Order"). In a discussion of the background, the Court addressed the prior LBC's consideration and application of ten fundamental principles regarding boroughs. The Court focused on the prior LBC's formulation and application of the principle that "geographically boroughs were envisioned as relatively large regional units while cities are intended to be relatively small units."

The Court found that "that portion of the 'fundamental principles' for borough formation set forth in the Statement of Decision that requires that boroughs encompass 'relatively large' geographic areas that are larger than the Skagway borough's proposed size is the equivalent of a new regulation." *Id.* at 13. The Court then held that "the Commission did not promulgate the 'relatively large/larger than Skagway geographic size requirement' in accordance with the Administrative Procedures Act."

The Court remanded the matter to the current LBC for reconsideration. The LBC asked the Court to reconsider; however, the request was denied. The LBC did not appeal that ruling to the Supreme Court.

Although the Court did not require a new hearing, the current LBC decided to hold a new hearing in Skagway. As noted above, all but one Commissioner was new to the matter on remand. Further, more than four years had passed since the Petition had been filed.

In November 2005, LBC Staff provided each member of the LBC with a printed copy of the 1,326-page Record in the original proceedings. The LBC invited the Petitioner, public, and Department to submit supplemental materials. The Petitioner, public, and Department availed themselves of the opportunity to bring additional facts into the record by filing supplemental materials.

2006

In August 2006, LBC Staff filed its Supplemental Report regarding the Skagway borough proposal. That report presented the agency's supplemental findings and conclusions that the Skagway borough proposal did not meet all of the requisite borough incorporation standards. The LBC allowed the Petitioner to reply to the Supplemental Report in a brief dated November 17, 2006.

The Petitioner, on February 13, 2006, requested that the public hearing be held during the summer months of 2006. The LBC Chair granted that request and invited the Petitioner to propose a two-week period of its choice. From February 21, 2006, the date of that invitation,

until August 7, 2006, the Petitioner failed to propose any dates for the hearing. On August 7, 2006, the Petitioner proposed that the hearing be postponed until the summer of 2007. The full LBC decided that such an additional delay was unwarranted. The Petitioner was informed on September 6 that the hearing was scheduled to begin November 27, 2006.

Four members of the LBC traveled to Skagway on Sunday, November 26, 2006. One member was unable to do so because of scheduling conflicts. Commissioners toured portions of the area proposed for incorporation.

In formal sessions lasting some 24 hours from Monday afternoon, November 27 through the evening of Wednesday, November 29, 2006, the LBC addressed procedural issues relating to the Skagway proposal, heard the Petitioner's opening and closing statements, and heard testimony in favor of the Petition from 22 witnesses presented by the Petitioner. Additionally, the LBC, pursuant to its authority in 3 AAC 110.560(d), called Victor Fischer to provide sworn testimony.



LBC Hearing on the Skagway Remand Proceedings

The LBC convened a decisional session in Anchorage on December 13, 2006. At the December 13 decisional session, the Commission deliberated for approximately five hours. At the end of those deliberations, the Commission approved the Skagway Petition by a vote of three to two. Commissioners Hargraves, Harcharek, and Zimmerle ("the Commission majority") voted in favor of the Petition. Commissioners Hicks and Nakazawa ("the Commission minority") voted to deny the Petition.

On January 11, 2007, over a period of approximately three hours, the Commission engaged in further substantive discussions regarding the Skagway borough proposal, including discussions relating to the findings and conclusions of the Commission in this matter.

The LBC's Statement of Decision in this matter includes findings and conclusions from the three-member majority and a dissenting statement from the two-member minority.

Valdez

Following the December 13 approval by the LBC of the Skagway borough proposal, LBC Staff was advised that the City of Valdez officials were seeking professional consulting services for the development of a Valdez borough incorporation.

Yukon Flats

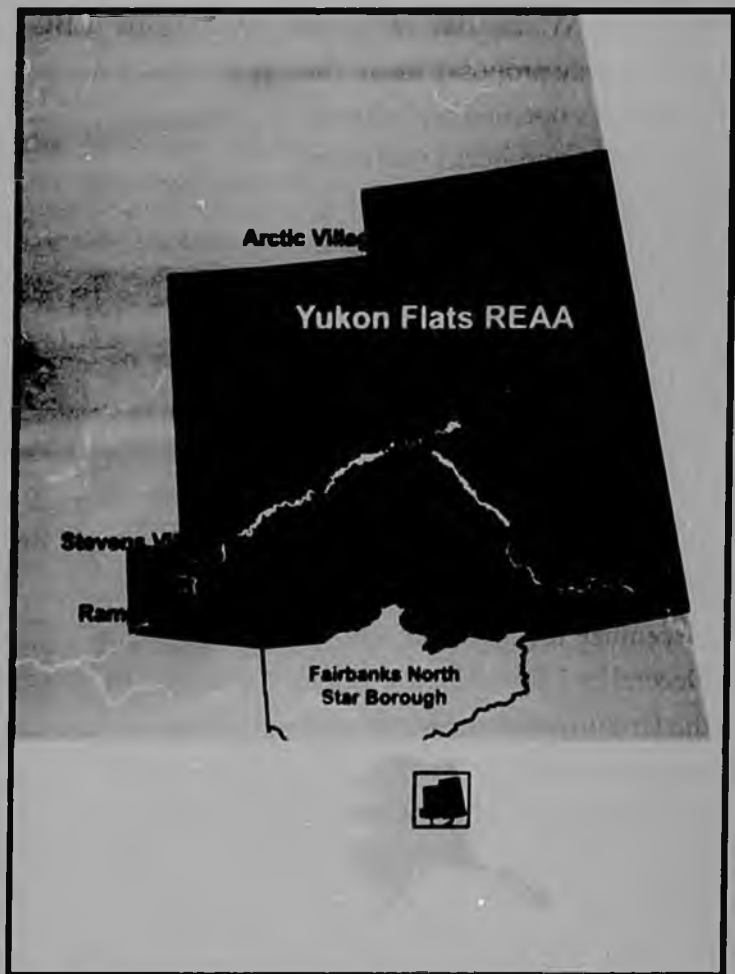
Pre-2006 Background

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

LBC Staff received several more inquiries about the topic from the Council of Athabascan Tribal Governments (CATG). CATG officials advised LBC Staff that the leadership of the Yukon Flats region had scheduled a meeting in February 2005 during which the topic of

borough government was expected to be a prominent issue. CATG officials also voiced objections to the prospective proposal from the Fairbanks North Star borough to extend its boundaries to the Yukon River.

On February 3, 2005 LBC Staff made a presentation in Fort Yukon regarding a prospective Yukon Flats borough government. The meeting was sponsored by the Gwichyaa Zhee Gwich'in Tribal Council (formerly known as the Native Village of Fort Yukon, IRA). The two and one-half hour long meeting was attended by approximately 20 individuals in Fort Yukon. It was broadcast



live over KZPA 900-AM to all Yukon Flats villages. The Yukon Flats villages of Beaver, Venetie, and Birch Creek participated in the meeting by teleconference, as did the offices of Senator Kookesh and Representative Salmon. Organizations represented at the meeting included CATG, Tanana Chiefs Conference, and the City of Fort Yukon.

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

The report consisted of more than 110 pages. The report estimates that the value of taxable property in the Yukon Flats REAA is \$340 million. (The boundaries of the Yukon Flats REAA and those of the Yukon Flats model borough differ somewhat.) The Trans-Alaska Pipeline System (TAPS) accounts for \$316 million of the value of property in the REAA. The estimate of the value of the TAPS property was based on information provided by the Alaska Department of Revenue.

The estimated \$24 million figure for other taxable property was developed by adjusting the figure used in a 1979 Yukon Flats borough study. Examination of the accuracy of the estimate of the non-TAPS property was beyond the scope of the study. It is noted, however, that in 2002 the State Assessor roughly estimated that the value of taxable property in the Yukon Flats REAA (excluding TAPS) was about \$29 million. With 1,496 residents, a \$340 million tax base is equivalent to \$227,273 per capita. That figure is more than two and one-quarter times greater than the \$99,948 per capita average for all sixteen organized boroughs in Alaska.



Trans-Alaska Pipeline

The Study indicated that TAPS accounts for 93 percent of the value of the estimated taxable property in the region. Thus, based on the estimates provided, TAPS would pay 93 percent of any property taxes levied by a borough encompassing the Yukon Flats REAA. According to the Department of Labor and Workforce Development, the region had average monthly employment of 539 jobs that generated \$18,480,964 in wages during 2004. The study notes the prospect for significant deposits of oil and gas in the region. It states, for example, that "a 1 in 20 or 30 chances exists for oil revenues of 200 to 800 million barrels."

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

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

In late 2005, Commerce granted CATG \$30,000 in funding to conduct a borough feasibility study.

2006

In November, LBC Staff conferred briefly with the consultant preparing the Yukon Flats Borough feasibility study. Information was provided about the requirements for integration of REAA functions into a borough government. The Yukon Flats Regional Government Study can be viewed online at:

ftp://ftp.dcbd.dced.state.ak.us/DCBD/Borough_Feasibility_Studies/YukonFlatsFinal11.20.06.pdf

Yukon-Koyukok

On January 18, LBC Staff conducted a public informational meeting regarding borough government. The meeting was held in Nenana, with teleconference sites established in Minto, Rampart, Manley, Tanana, and Minchumina. Approximately 120 individuals were present at the site in Nenana. The meeting lasted from 7 p.m. until 10 p.m.

Yukon-Kuskokwim Delta

Pre-2006 Background

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

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

Interest in borough formation was prompted, in part, by the prospective development of the Donlin Creek mineral deposit. The deposit lies approximately 12 miles north of Crooked Creek and about 150 miles northeast of Bethel. The Donlin Creek site is estimated to hold 27.8 million ounces of gold, making it one of the world's largest undeveloped deposits of gold.

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

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



2006

According to a March 21 letter from the head of the AVCP, the group held a "special convention" on March 6-7 in Bethel. The AVCP region encompasses some 56 communities and six school districts (City of St. Mary's, Lower Kuskokwim REAA, Yupiit Federal Transfer REAA, Lower Yukon REAA, Kashunamiut Federal Transfer REAA, and Kuspuk REAA).

Among the topics at the convention was the Donlin Creek mineral deposit and the possibility of forming a borough encompassing Donlin Creek.

In a related matter, the Kuskokwim Corporation held a meeting on April 6 in Aniak to discuss the prospect of forming a borough, the boundaries of which might be limited to those of the Kuspuk REAA.

Wrangell

Pre-2006 Background

LBC Staff was advised in March 2005 by an attorney representing the City of Wrangell that a petition for incorporation of a Wrangell Borough was being developed. This proposal will apparently include Meyers Chuck and, perhaps, Hyder. Meyers Chuck is within the area proposed for annexation by the Ketchikan Gateway Borough. Some residents of Meyers Chuck and Hyder have expressed a preference to be included within a Wrangell Borough rather than the Ketchikan Gateway Borough.



2006

In January, City of Wrangell officials reported that they were developing a petition to form a borough.

They indicated that the petition will include Meyers Chuck and Union Bay, areas that are currently within the model borough boundaries for the Ketchikan Gateway Borough.

In March, Sara Heideman of the Anchorage law firm of Hedland, Brennan & Heideman contacted LBC Staff on behalf of the City of Wrangell. Ms. Heideman advised LBC Staff that a petition to incorporate a Wrangell borough as a unified home-rule borough would be filed with the LBC before the end of April 2006. According to Ms. Heideman, the boundaries of the proposed borough would include only a portion of the area within the Petersburg-Wrangell

model borough boundaries, and would also include the Meyers Chuck/Union Bay portion of the area within the Ketchikan Gateway Borough model boundaries. A petition for annexation of a 4,701 square mile portion of the area within the model boundaries of the Ketchikan Gateway Borough (including Meyers Chuck and Union Bay) was filed by the Ketchikan Gateway Borough in February.

Although prior news reports indicated that Wrangell and Petersburg officials had not ruled out a borough proposal that encompasses both communities (located 31 miles from each other), the Wrangell City Council decided to move ahead with its own proposal.¹¹

On April 26, LBC Staff received a Petition to the Local Boundary Commission for Incorporation of the City and Borough of Wrangell, a Unified Home Rule Municipality. The area proposed for incorporation encompasses approximately 3,465 square miles inhabited by an estimated 2,445 residents. According to the Petitioner's figures, nearly 95 percent of that population currently resides within the corporate boundaries of the City of Wrangell. All of the students enrolled in public schools within the proposed borough are served by the Wrangell City School District. A portion of the area proposed for incorporation overlaps the area proposed for annexation by the Ketchikan Gateway Borough. In this case, State law requires that the Petition be signed by 166 qualified voters of the City of Wrangell and 30 qualified voters in the remainder of the proposed borough. The Petition bears the signatures of 287 individuals claiming to be residents of the City of Wrangell and 32 individuals claiming to reside within the remnant. As part of its pending technical review, LBC Staff has requested the State Division of Elections to provide a current list of registered voters in the area proposed for incorporation.

LBC Staff completed its technical review of the form and content of the Petition to incorporate the City and Borough of Wrangell, a unified home-rule borough in early May. It was determined that the Petition was signed by 279 qualified voters within the City of Wrangell (166 were required) and 25 qualified voters within the remainder of the proposed borough

¹¹ 2005 University Lands Bill Contains Provisions Regarding Wrangell Borough Proposal and Prospective Petersburg Proposals - Ch. 8, FSSLA 2005 is relevant in terms of the Wrangell borough proposal and the prospective Petersburg borough proposal. In relevant part, Section 3 of that law provides:

Notwithstanding (a) of this section, the state land identified in this subsection and described in the document entitled 'University of Alaska Land Grant List 2005,' dated January 12, 2005, may not be conveyed to the University of Alaska under this section if the land is included in a borough formed before July 1, 2009, that includes Wrangell or Petersburg. If a borough is not formed before July 1, 2009, land described in this subsection shall be conveyed to the University of Alaska on July 1, 2009. If a borough is formed before July 1, 2009, and the borough does not select land described in this subsection before January 1, 2013, the land not selected by the borough shall be conveyed to the University of Alaska on June 30, 2013. The following land is subject to this subsection: (1) Parcel Number SD.1001, Beecher Pass; (2) Parcel Number SD.1001, Favor Peak; (3) Parcel Number CS.TL.1001, Three Lake Road; (4) Parcel Number SD.1001, Read Island; (5) Parcel Number SD.1001, Whitney Island; (6) Parcel Number CS.EW.1001, Earl West Cove; (7) Parcel Number CS.OV.1001, Olive Cove; and (8) Parcel Number SD.1001, Thoms Place

(eight were required). Other elements of the Petition were determined to be in compliance with the requirements of State law.

Following the determination by LBC Staff that the form and content of the City and Borough of Wrangell proposal were proper and that the Petition had been accepted for filing, the Chair of the LBC set July 14, 2006, as the deadline for receipt of responsive briefs and written comments on the petition. As required by law, LBC Staff prepared notice of the filing of the petition, public service announcements, a form for an affidavit to be completed by the petitioner, and directions to the petitioner for publication, posting, and mailing of the notice; service of the petition, and other requirements at this stage in the proceeding.

The Petitioner's representative for the Wrangell borough proposal expressed a desire that concurrent consideration be given to the Wrangell proposal and the Ketchikan borough annexation proposal. The two proposals contain overlapping areas.



Wrangell

According to the Petition, slightly more than 95 percent of the population of the proposed borough resides within the corporate boundaries of the City of Wrangell (2,308 of 2,445 residents or 95.2 percent). Of the remaining 137 residents, an estimated 40 live in what the Petitioner refers to as 'Wrangell West,' which is immediately outside the existing corporate boundaries of the City of Wrangell. Additionally, Thoms Place (on the south side of Wrangell Island) is estimated to have 22 residents; Olive Cove (on Etolin Island) is estimated to have 2 residents; Meyers Chuck and Union Bay (which are the subject of a competing petition for annexation filed by the Ketchikan Gateway Borough) are estimated to have a population of 25; Farm Island is inhabited by 2 residents; and the Tyee Hydroelectric facility houses three individuals. The Petitioner estimates that approximately 90 percent of the taxable real and personal property in the proposed borough lies within the existing boundaries of the City of Wrangell (\$139.2 million of \$154.6 million).

Thirty-five individuals filed written comments regarding the Wrangell borough incorporation proposal by the July 14 deadline. Additionally, one set of written comments was received on July 17. The LBC Chair advised LBC Staff that, barring objection from the Petitioner or the

Alaska Department of Law, he was inclined to accept the late-filed comments because they had been postmarked on July 11, well before the deadline. The Petitioner expressed no objection to accepting the comments. No formal responsive briefs were filed during the comment period. The next step in the proceedings is to allow the Petitioner to reply to the comments.

On July 26, the LBC Chair set August 25, 2006 as the deadline for filing a responsive brief from the Wrangell borough petitioner. The responsive brief would address public comments filed by the interested individuals and organizations. Thirty-five sets of such comments were filed by the July 14 deadline. Additionally, with no objection from the petitioner or the Alaska Department of Law, the LBC Chair accepted one set of written comments received on July 17. The late-filed comments were accepted because they had been postmarked on July 11, well before the deadline.

On August 25, 2006, the Petitioner for incorporation of a Wrangell borough filed a 19-page reply brief in response to comments that had been filed regarding the Wrangell borough proposal.

Section VI. Borough Annexation

Interest in annexation was exhibited in the following three boroughs during 2006. A petition for annexation to the Ketchikan Gateway Borough was filed. The three boroughs are:

- Haines Borough (Klukwan);
- Ketchikan Gateway Borough; and
- City and Borough of Juneau.

Haines Borough

Location:	Haines Borough is located on the shores of the Lynn Canal, between the Chilkoot and Chilkat Rivers, 80 air miles northwest of Juneau. By road, the Haines Borough is 775 miles from Anchorage. The area encompasses 2,343.7 sq. miles of land and 382.1 sq. miles of water.
Population:	2,287 (2005 State Demographer estimate)
Borough Classification:	Home Rule Borough



On April 25, LBC Staff responded to an inquiry from the Haines Borough School Superintendent about the prospect of annexation of Klukwan. Klukwan is an 892.2 acre (1.4 square mile) enclave surrounded by the 2,357 square mile Haines Borough. Education services in Klukwan are currently provided by the Chatham REAA.

LBC Staff provided the Superintendent with information concerning standards and procedures for annexation. Information was also provided concerning the effects of annexation on education funding. Among the materials provided was a copy of the April 25, 2005 AG's opinion on the "50 percent discount rule" under AS 14.17.510(c) regarding local contributions for schools.

Ketchikan Gateway Borough

Location	The Ketchikan Gateway Borough is located near the southernmost boundary of Alaska, in the Southeast Peninsula. It is situated south of the cities of Ketchikan and Saxum. The area encompasses 1,231.2 square miles of land and 520.8 square miles of water.
Population	13,125 (2005 State Department estimate)
Borough Classification	Second Class Borough



Pre-2006 Background

Beginning in 1998, the Ketchikan Gateway Borough (KGB) petitioned the LBC to annex an estimated 5,524 square miles, which encompassed all of the area within the borough's model boundaries with two exceptions.

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

In 2003 and 2004, the Ketchikan Gateway Assembly continued to consider various proposals for annexation. In December of 2005, the Borough Assembly scheduled a hearing on a proposal to annex all unorganized territory within its model boundaries with the exception of approximately 205 square miles of public and private lands surrounding and including the community of Hyder. The territory proposed for annexation includes the community of Meyers Chuck, an unincorporated settlement containing approximately 0.6 square miles of land and 0.2 square miles of water. The hearing was scheduled to be held early in the new year.

2006

On January 21, the Assembly of the Ketchikan Gateway Borough held a hearing on a prospective annexation proposal encompassing an estimated 4,701 square miles. The hearing was held to

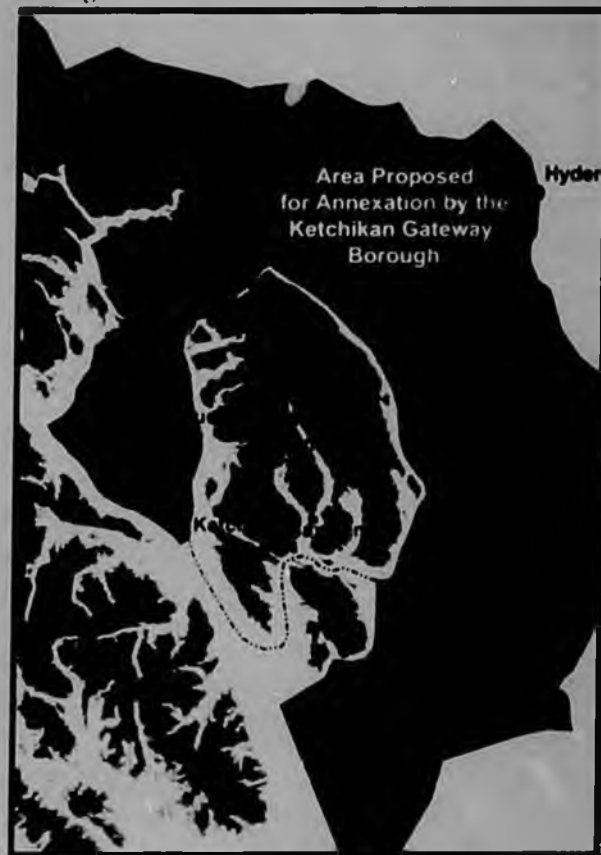
comply with a requirement imposed by the LBC (3 AAC 110.425) for legislative review of annexation petitions. It was reported that nearly 30 residents showed up for three hours of public testimony.

The Ketchikan Gateway Borough Assembly met on February 6 and decided to reconsider its January 21 decision to hold a special advisory election in April on the proposal for annexation of 4,701 square miles. Instead, the Assembly authorized the filing of its annexation petition "as prepared."

LBC staff was contacted by the Chair of the Meyers Chuck Community Association requesting information on how to deal with the two proposed borough formations in Southeast that are impinging on the town's borders. He expressed concern that petitions for the Ketchikan Gateway Borough annexation and proposed Wrangell Borough incorporation would be submitted to LBC without Meyers Chuck residents having the opportunity to be heard. The Chair asked to be kept informed of developments involving either proposed borough. He wants to know about every opportunity Meyers Chuck residents will have to participate in public comment. Staff suggested ways for keeping informed and involved in the petition process as things move along with both the Ketchikan Gateway Borough annexation proposal and the Wrangell Borough incorporation proposal. LBC Staff prepared informational materials on the borough petition standards and procedures and sent them to the Meyers Chuck Community Association.

On February 14, LBC received the Ketchikan Gateway Borough Petition for annexation of 4,701 square miles. Following the determination by LBC staff that the form and content of the Petition were proper and that the Petition had been accepted for filing, the Chair of the LBC set 4:30 p.m. on April 28, 2006, as the deadline for receipt of responsive briefs and written comments on the petition. As required by law, LBC Staff prepared notice of the filing of the petition; and directions to the petitioner for publication, posting, and mailing of the notice, service of the petition, and other requirements at this stage in the proceeding.

Proposed Annexation to the Ketchikan Gateway Borough



On February 22, LBC Staff notified the Ketchikan Gateway Borough that the Borough's Petition for annexation of 4,701 square miles had been accepted for filing. As required by law, LBC Staff prepared the Notice of Filing and provided directions to the Petitioner for its publication and proper service, posting at designated sites, and public service announcement. Individuals and organizations had until April 28 to submit written comments or responsive briefs on the matter.

LBC Staff responded to several requests for information about the Petition for annexation during the comment period. By the April 28 deadline, responsive briefs were filed by the City of Wrangell, the Metlakatla Indian Community, and Hyder resident Peter Caffall-Davis. In addition, 19 sets of timely written comments were received.

In May, LBC Staff responded to numerous inquiries for information concerning the pending proposal for annexation of 4,701 square miles to the Ketchikan Gateway Borough. In particular, extensive materials were provided to the Ketchikan Gateway Borough for preparation of its reply brief. The LBC Chair set 5 p.m., June 21, 2006, as the deadline for receipt of a reply brief from the Ketchikan Gateway Borough in the proceedings for the proposed annexation of 4,701 square miles. LBC Staff notified the Petitioner's Representative of the deadline.

On June 16, 2006, the KGB filed a 34-page brief in reply to written comments and responsive briefs regarding its legislative review petition to annex approximately 4,701 square miles. LBC Staff responded to several inquiries regarding the timeliness of the filing and whether respondents should have been notified of the date set by the Chair.

City and Borough of Juneau

Location:	Located on the mainland of Southeast Alaska, opposite Douglas Island, Juneau was built at the heart of the Inside Passage along the Gastineau Channel. It lies 900 air miles northwest of Seattle and 577 air miles southeast of Anchorage. The area encompasses 2,716.7 sq. miles of land and 538.3 sq. miles of water.
Population:	31,193 (2005 State Demographer estimate)
Borough Classification:	Unified Home Rule Municipality



Pre-2006 Background

In November 2005, an official of the City and Borough of Juneau advised LBC staff that the Juneau Mayor and Assembly were considering a possible annexation proposal. Juneau's Mayor

administrative boroughs, public comment, and minutes of prior JASC meetings. The information is available online at:

http://www.juneau.org/clerk/boards/Annexation_Study_Commission/CBJ_Annexation_Study_Commission.php

Section VII. Borough Detachment

Interest in borough detachment occurred in the following boroughs during 2006. However, no petitions were filed.

- Kenai Peninsula Borough (Hope);
- Haines Borough (Swanson Harbor);
- Matanuska-Susitna Borough (Ahtna, Inc. lands);
- Matanuska-Susitna Borough (Little Nelchina area);
- Municipality of Anchorage (Eagle River-Chugiak area); and
- City and Borough of Juneau (Greens Creek Mine).

Kenai Peninsula Borough

Location:	The Kenai Peninsula Borough is comprised of the Kenai Peninsula, Cook Inlet and a large unpopulated area northeast of the Alaska Peninsula. The Borough includes portions of the Chugach National Forest, the Kenai National Wildlife Refuge, the Kenai Fjords National Park, and portions of the Lake Clark and Katmai National Park. The twin cities of Kenai and Soldotna are the population centers of the Borough and are located approximately 65 air miles south of Anchorage. The area encompasses 16,013.3 sq. miles of land and 8,741.3 sq. miles of water.
Population:	51,268 (2005 State Demographer estimate)
Borough Classification:	Second Class Borough



LBC Staff responded to an inquiry from a citizen of Hope regarding standards and procedures for detachment from a borough. The citizen indicated that a community meeting was scheduled to be held at 7 p.m. on June 1 at the Hope Community Hall to discuss the detachment of Hope from the Kenai Peninsula Borough.

It is unclear whether current interest in the topic is related to a detachment proposal contemplated in November, 2005, involving Hope, Cooper Landing, Moose Pass and Seward. At that time, factors prompting the interest in detachment included the perception that: (1) the current form of representation for the Kenai Peninsula Borough Assembly is inadequate; (2) borough taxes are disproportionately high vis-à-vis local services; and (3) the prospect that schools at Hope and Cooper Landing will be closed due to low enrollment.

Kenai Peninsula Borough



At the request of Kenai Peninsula Borough residents in December 2005, LBC Staff drafted a 56-page set of forms for a petition to concurrently detach from an organized borough and incorporate a new borough using the local action process for two concurrent changes. LBC Staff provided the petition forms and a copy of relevant background publications previously prepared by LBC Staff including: (1) Local Government in Alaska; (2) Required Contents of a Petition to the Local Boundary Commission for Borough Detachment and/or Incorporation; (3) Review of Standards for Detachment from an Organized Borough and Incorporation of a New Borough; (4) Review of 1974 – 1977 Efforts to Form the Chugiak-Eagle River Borough; and (5) Overview – Process to Petition to Detach from the Municipality of Anchorage and Incorporate an Eagle River Borough.

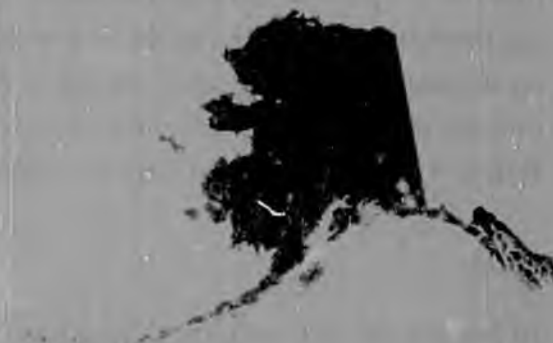
No formal petition for borough detachment has yet been filed with the LBC.

Haines Borough

Location: Haines Borough is located on the shores of the Lynn Canal, between the Chilkoot and Chilkat Rivers, 80 air miles northwest of Juneau. By road, it is 775 miles from Anchorage. The area encompasses 2,343.7 sq. miles of land and 382.1 sq. miles of water.

Population: 2,207 (2005 State Demographer estimate)

Borough Classification: Home Rule Borough



In November, LBC Staff responded to an inquiry from a Swanson Harbor resident regarding the prospect of detachment of Swanson Harbor at the tip of the Chilkat Peninsula from the Haines Borough. The inquiry was prompted by his perception that he bore a substantial (and increasing)

burden from property taxes levied by the Haines Borough, but received relatively little or nothing in the way of Borough services.

LBC Staff discussed the areawide property tax levy by the Haines Borough which funds, in part, the Borough's "required local contribution" in support of schools. Staff explained that detachment from an organized borough was a complex process subject to legal standards established in Alaska's Constitution, statutes, and administrative regulations of the Local Boundary Commission. Copies of relevant materials on borough detachment and background on the required local contribution were prepared and sent as a follow up to the inquiry.

Matanuska-Susitna Borough (Ahtna, Inc. lands)

Location:	The Borough is comprised of the lush farmlands of the Matanuska and Susitna Valleys, approximately 42 miles northeast of Anchorage. The Borough encompasses 24,681.5 sq. miles of land and 578.3 sq. miles of water.
Population:	74,041 (2005 State Demographer estimate)
Borough Classification:	Second Class Borough



Pre-2006 Background

On April 7, 2005 LBC Staff met with the Vice-President of Corporate Affairs and the Vice-President of Subsidiary Operations for Ahtna Incorporated. The principal purpose of the meeting was to discuss borough incorporation. However, in passing, the officials indicated that the Corporation intended to petition in the not-too-distant future for detachment of the northernmost portion of the area within the Matanuska-Susitna Borough. That area encompasses substantial lands owned by Ahtna Incorporated. Ahtna officials indicated that the prospective proposal would concurrently seek annexation of the same territory to the Denali Borough. The LBC denied a similar proposal in 1997.

2006

In January and February, the Ahtna Vice-President for corporate affairs advised LBC staff of continued interest in detachment of Ahtna lands from the northern portion of the Matanuska-Susitna Borough and the simultaneous annexation of those lands to the Denali Borough. Ahtna is reportedly contemplating development of the lands and does not believe that the Matanuska-Susitna Borough has the capacity to effectively and efficiently serve that portion of the borough.

Ahtna officials reported that they had discussed the matter with officials of the Denali Borough. It was indicated that Denali Borough officials have pledged to follow up in terms of a formal proposal for the proposed boundary change.

Matanuska-Susitna Borough (Little Nelchina area)

On June 10, LBC Staff responded to an inquiry about borough detachment from a resident of the Little Nelchina area in the eastern portion of the Matanuska-Susitna Borough. The inquirer, a long-time resident of the Matanuska-Susitna Borough, was concerned about the failure on the part of the State to promote boroughs in all areas of Alaska that have the capacity to operate boroughs. The inquirer indicated that a point had been reached where escalating property taxes and other circumstances compel him to pursue detachment of territory from the eastern portion of the Matanuska-Susitna Borough.

LBC Staff provided background information about the public policy issues involved in borough formation, standards for borough incorporation, procedures for borough incorporation, and sample detachment petition materials.

LBC Staff responded to further inquiries about borough detachment from another resident of the Little Nelchina area in the eastern portion of the Matanuska-Susitna Borough. The inquirer took the position that the Little Nelchina area was included by an "administrative glitch" during the 1960s. He estimated that some 75 individuals live in the area in question.

According to a resident of the Little Nelchina area, a public meeting was held in July regarding the issue of detachment of the Little Nelchina area from the Matanuska-Susitna Borough. A representative of the Borough was reportedly present. Local residents plan to invite a representative from the LBC Staff to a public meeting on the topic later this year.

Little Nelchina located on the eastern boundary of the Matanuska-Susitna Borough.

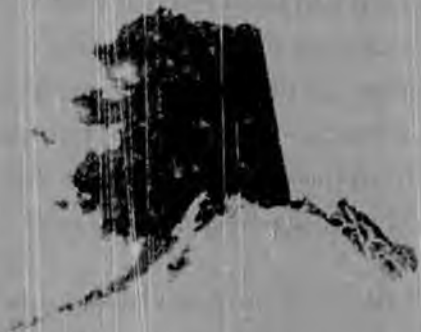


Local residents maintain that the Little Nelchina area was inappropriately included in the Matanuska-Susitna Borough. The Matanuska-Borough was incorporated by legislative fiat in 1964. Its boundaries were defined by the Legislature to consist of the "Palmer-Wasilla-Talkeetna Election District #7." That boundary allegedly excluded any area that drained into the Copper River basin. According to the local resident, the Little Nelchina drains into the Copper River Basin, even though the Alaska Department of Natural Resources claims that it drains into the Matanuska River basin.

LBC Staff has advised local residents that regardless of whether the area was improperly included in the Matanuska-Susitna Borough nearly 43 years ago, formal detachment proceedings would be necessary to remove the territory. On several occasions, the Alaska Supreme Court has applied the doctrine of *de facto* municipal incorporation to the formation of local governments and to the alteration of their boundaries. The doctrine provides that regardless of errors in the formation or alteration of municipal boundaries, if the error was not challenged in a timely manner and if the government, in good faith, exercised powers in the area, the incorporation or boundary change will be considered to be proper.

Municipality of Anchorage

Location:	Anchorage, the most populated municipality in Alaska, is located in southcentral Alaska at the head of Cook Inlet. It is 3 hours by air from Seattle. The area encompasses 1,697.2 sq. miles of land and 263.9 sq. miles of water.
Population:	278,241 (2005 State Demographer estimate)
Borough Classification:	Unified Home Rule Municipality



Pre-2006 Background

In 1974, the Alaska Legislature authorized voters in the Eagle River – Chugiak area to detach from what was then the Greater Anchorage Area Borough and create a separate borough. Eagle River – Chugiak area voters approved the proposition; however, the Act by the Legislature was later determined to be unconstitutional. Consequently, the Eagle River – Chugiak area was "reincorporated" into the Anchorage borough (which, by that time, had become a unified home-rule borough). Immediately after the Supreme Court decision, voters of the Eagle River – Chugiak area petitioned the LBC for the creation of a new borough. The LBC rejected the proposal in 1975. The LBC's decision was upheld following an appeal to the Superior Court.

If the LBC were to approve a future Eagle River – Chugiak detachment proposal, it would be subject to approval by the voters or the Alaska Legislature. Details about the applicable detachment standards and procedures, attempts in the mid-1970s to detach the Eagle River – Chugiak area, and related information is available on the LBC Website at:

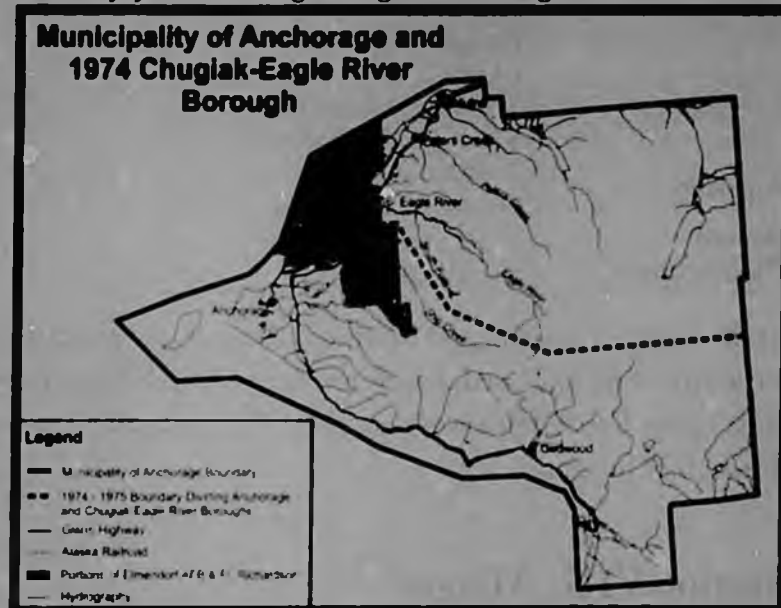
<http://www.dced.state.ak.us/dca/lbc/eagleriver.htm>

2006

In May, a member of the Anchorage Assembly expressed interest in exploring a proposal for detachment of the Eagle River – Chugiak area from the Municipality of Anchorage. Assemblyman Dick Traini indicated he might initiate consideration among Assembly members of the proposal in June. The Assembly of the Municipality of Anchorage has authority under State law to initiate a formal petition to the Local Boundary Commission for detachment of the area in question.

On June 6, by an 8 to 2 vote, the Assembly of the Municipality of Anchorage adopted “AR No. 2006-152, A Resolution of the Anchorage Municipal Assembly Supporting Studies to Determine the Economic Feasibility and Financial Impact of Separating the Greater Chugiak-Eagle River Area from the Municipality of Anchorage.” To obtain a copy of the resolution, contact LBC Staff.

Boundary of the 1974 Chugiak-Eagle River Borough



The resolution pledges the Municipality's cooperation in working with the Division of Community Advocacy in the planned study to determine the economic feasibility and fiscal impact of detachment. To maintain the independence and integrity of the LBC and its staff, neither is involved in the administration of the \$87,500 appropriated by the legislature for the project.

The resolution also conditionally provides that the “Anchorage Assembly will pass a resolution in support of detachment of Chugiak-Eagle River.” The conditions are “[s]ubject to delineation of appropriate boundary changes, budget and transition plan sufficient for review, determination of

the economic feasibility and financial impact, legislative and voter approvals determined by the Local Boundary Commission and further subject to any final judicial resolution.”

In a related matter, the 2006 Legislature appropriated \$87,500 for “. . . no other purpose than a study to determine the economic feasibility and financial impact of separating the greater Eagle River - Chugiak region from the Municipality of Anchorage and incorporating that region into a separate borough government.” To maintain the independence and integrity of the LBC and its staff with respect to the prospective proposal for detachment of the Eagle River – Chugiak area, LBC Staff will not administer the funding. The funds are being administered by other staff in the Department of Commerce.

City and Borough of Juneau

Location:	Located on the mainland of Southeast Alaska, opposite Douglas Island, Juneau was built at the heart of the narrow Passage along Chatham Strait Channel. The area encompasses 2,716.7 sq. miles of land and 538.3 sq. miles of water.
Population:	31,193 (2005 State Demographer estimate)
Borough Classification:	Unified Home Rule Municipality



At the March 30 meeting of mayors and community leaders from six southeast communities, those attending discussed detaching Greens Creek Mine from the City and Borough of Juneau. The Greens Creek Mine was part of a 140-square mile annexation in 1994 to the City and Borough of Juneau.

Section VIII. Merger

Although no petition was filed, interest in merger occurred with respect to the following cities in 2006,

- City of Kachemak; and
- City of Homer.

Kachemak

Location:	Kachemak is on the Eagle Road, adjacent to Homer, on the Kenai Peninsula. It is on the northern shore of Kachemak Bay. The area encompasses 1.8 sq. miles of land and 0.0 sq. miles of water.
Population:	457 (2005 Commerce Certified Population)
City Classification:	Second Class City
Borough:	Kenai Peninsula Borough
School District:	Kenai Peninsula Schools



Homer

Location:	Homer is located on the north shore of Kachemak Bay on the southwestern edge of the Kenai Peninsula. It is 227 road miles south of Anchorage, at the southern-most point of the Sterling Highway. The area encompasses 10.6 sq. miles of land and 14.9 sq. miles of water.
Population:	5,435 (2005 State Demographer estimate)
City Classification:	First Class City
Borough:	Kenai Peninsula Borough
School District:	Kenai Peninsula Schools



At the request of a member of the Homer City Council, LBC Staff prepared forms at the end of January for a local action petition to merge the City of Kachemak and the City of Homer. LBC staff prepared petition forms for the merger of a first class city and second class city. The forms provide for initiation of the petition by registered voters from each city government. The petition forms comprised 39 pages. The petition forms and supplemental materials were provided to the individual on January 30.

Local news reports in late March indicated that the petition might be circulating for signature.

According to a report in the March 29 edition of the Homer News, the petition "drew fire" from Kachemak's Mayor and "could start a controversy rivaling Homer's battle with annexation."

The news report indicated that Phil Morris, the Mayor of the City of Kachemak, sent a letter to the roughly 475 residents of Kachemak urging them to "learn the facts" before signing a petition rumored to be

circulating within the city. The Mayor of the City of Kachemak was quoted as saying the city was incorporated in 1961 as a "tax dodge," for area residents who didn't want to be included in the City of Homer. The newspaper reports that there is no city sales tax in Kachemak City and only a 2.0 mill property tax. In comparison, the adjoining City of Homer levies a 3.5 percent city sales tax and a 5.0-mill property tax. Morris commented, "It's like a big lion eating a little kitty cat. And Homer residents should realize it's bad for them too."

The newspaper quoted Kachemak's Mayor as stating that Homer benefits greatly from having a smaller, separate city entity as a neighbor. According to the report, the Mayor claimed from 1986 to 2005, Kachemak City contributed \$1.895 million in state and federal money for large Homer projects, including \$1.29 million for a new sewer system, \$350,000 for two fire truck projects and \$125,000 in grants and other funds to the Homer Public Library, the Homer Animal Shelter and Homer Hockey Association. Morris said that Kachemak City can get this money because it is small and separate from Homer.

City Boundaries for Kachemak and Homer.



Section IX. Consolidation

Interest in consolidation occurred with respect to the following cities in 2006:

- City of Fairbanks;
- City of Ketchikan; and
- Ketchikan Gateway Borough.

Fairbanks

Location:	Fairbanks is located in the heart of Alaska's Interior, on the banks of the Chena River in the Tanana Valley. By air, Fairbanks is 45 minutes from Anchorage and 3 hours from Seattle. It lies 358 road miles north of Anchorage. The area encompasses 31.9 sq. miles of land and 0.8 sq. miles of water.
Population:	31,182 (Commerce 2005 Cert. Population)
City Classification:	Home-Rule City
Borough:	Fairbanks North Star Borough
School District:	Fairbanks North Star Schools



LBC Staff responded to an inquiry from a resident of the City of Fairbanks and the Fairbanks North Star Borough regarding consolidation of those two local governments. LBC Staff provided extensive materials relating to the unsuccessful effort in 2000 to consolidate the City of Fairbanks and the Fairbanks North Star Borough. Additionally, LBC Staff provided materials relating to the most recent unsuccessful effort to consolidate the City of Ketchikan and the Ketchikan Gateway Borough.

Ketchikan Gateway Borough

Location:	The Ketchikan Gateway Borough is located on the southeastern coast of Alaska. It is comprised of the cities of Ketchikan and Saxman. The area encompasses 1,233.2 sq. miles of land and 520.8 sq. miles of water.
Population:	13,129 (2005 State Demographer estimate)
Borough Classification:	Second Class Borough



Pre-2006 Background

In 2003, voters in the Ketchikan Gateway Borough ("KGB") approved an initiative to establish a seven-member elected commission ("Ketchikan Charter Commission" or "KCC") to draft a proposal to consolidate the City of Ketchikan ("City") and the KGB. Three members of the KCC were elected from the City, three from the portion of the KGB outside the City, and one at-large.

The KCC prepared and filed a petition for consolidation in September 2004. The City filed a responsive brief that opposed the Consolidation Petition. The KGB Manager and the Mayor of the City also filed comments regarding the proposal.

The KCC met in January and February 2005 to plan its reply to the City's response brief and the other comments. LBC Staff, the City Manager, City Finance Director, KGB Manager, KGB Attorney, and KGB Clerk all attended the February meeting.

The City, KGB, and KCC officials worked cooperatively over the next several months in a good faith effort to address all concerns. In October 2005, the KCC submitted an amended petition and its reply brief. The LBC Chair set December 30, 2005 as the deadline for receipt of written comments on amendments to the pending petition for consolidation. No comments were received by the deadline.

2006

In January, LBC Staff provided members of the LBC with the (1) original petition and supporting documents (budgets of the City of Ketchikan, Borough School District, and Borough); (2) responsive brief from the City of Ketchikan; (3) written comments from the Ketchikan Gateway Borough and Mayor of the City of Ketchikan; and (4) the amended petition for consolidation.

In April, LBC Staff published its *Preliminary Report to the Local Boundary Commission on Ketchikan Local Government Consolidation*. The Preliminary Report, consisting of 172 pages, endorsed the proposal, but encouraged a thorough technical review of the 51-page proposed home rule charter.

The KCC met on May 3, 2006. By a unanimous vote, it approved a motion to request that LBC Staff undertake a technical review of the proposed Charter. The KCC encouraged LBC Staff to consult with officials of the City and the KGB in the course of the technical review.

May 18 was the deadline for receipt of comments on the Preliminary Report. Comments were received only from the City Manager. LBC Staff completed its technical review of the Charter by May 23 and provided those review materials to the Petitioner, the City, and the KGB. On May 31, the KCC voted unanimously to accept the "style, grammar, and word usage" edits suggested by LBC Staff as well as the "technical" modifications suggested by the LBC Staff. Further, the KCC separately addressed questions raised by LBC Staff regarding provisions of the Charter relating to initiatives and referenda in only a portion of the borough. Lastly, the KCC clarified its intent regarding a matter involving a municipal bond election.

By the end of May, LBC Staff completed its Final Report on the consolidation proposal. The report comprised 42 pages. The Final Report recommended that the LBC modify the Charter included in the Amended Petition to reflect the recommended changes detailed in the report. With Charter amendments, the Final Report recommended that the LBC approve the Amended Petition in order that the proposal would be presented to the voters for their consideration.

Following the public hearing on June 26 in Ketchikan, the LBC approved the petition by a four to zero vote. (One member of the Commission had been recused from the LBC's proceedings regarding the Ketchikan local government consolidation and future hearings on the KGB annexation due to residency and ownership of real property in the City of Ketchikan.)

At its meeting of July 7, the LBC adopted a 49-page decisional statement explaining all major considerations leading to its June 26 decision to amend and approve the petition for



Ketchikan

consolidation. Following the meeting, a copy of the decisional statement was served on the Petitioner and Respondent. A copy was also provided to two Ketchikan residents who had requested the document.

July 25 was the deadline for filing requests for reconsideration of the LBC's July 7 decision. No timely requests were filed by the parties or public. The LBC had authority to order reconsideration on its own motion through July 27.

Following the expiration of the opportunity for reconsideration, the LBC Chair, on July 28, notified the Director of State Elections that the LBC had approved the Ketchikan consolidation proposal.

On August 25, the Director of Elections issued the order for the Ketchikan local government consolidation election. The order provided that the election would be conducted by mail in accordance with AS 15.20.800 and 6 AAC 25.590. November 21, 2006, was considered to be the date of the election – the deadline for voters to postmark ballots.

On August 31, LBC Staff prepared and filed a requisite Federal Voting Rights Act preclearance request for the election. The request comprised 12 pages.

On September 6, the Division of Elections issued an *Amended Order and Notice of Consolidation Election*. The amended order changed the deadline to register to vote in the November 21 consolidation election from October 20 to October 22. Revised elections planning calendar was also prepared by the Division of Elections. LBC Staff filed the *Amended Order* and the revised planning calendar with the U.S. Justice Department as an amendment to the August 29 federal Voting Rights Act preclearance submission.

The election was conducted as scheduled. On December 7, the final results of the by-mail election on the proposal to consolidate the City and the KGB were certified by the State Division of Elections. The outcome of the proposition, which was determined by the areawide tally, reflected nearly two-to-one opposition to the proposal. Only 1,170 of the 3,301 (35.4 percent) votes were cast in favor of consolidation, while 2,131 (64.6 percent) votes were cast in opposition. A total of 3,301 ballots were cast among the 10,162 registered voters. That represents a 32.5 percent voter turnout.

Votes cast inside the City reflected narrow approval of the consolidation proposal. Specifically, 791 (52.6 percent) such votes favored consolidation, while 712 (47.4 percent) opposed it. However, votes cast outside the City reflected strong opposition. Only 379 (21.1 percent) of the votes cast outside the City endorsed the proposal, while 1,419 (78.9 percent) of those votes opposed the proposal.

Despite fewer registered voters, the number of votes cast outside the City was higher than the number within the City. A total of 1,798 votes were cast outside the City. Based on the 4,169 registered voters in that area at the time of the general election (the number was slightly different than the figure for the consolidation election), voter turnout in that part of the Borough amounted to 43.1 percent. Inside the City of Ketchikan, only 1,503 votes were cast. Based on the 5,958 registered voters in that part of the Borough at the time of the 2006 State general election, voter turnout inside the City was just 25.2 percent.

This was the fifth time that voters in Ketchikan had rejected unification or consolidation.

Section X. Regulations

In 2006, the LBC proceeded with the in-depth review of prospective changes to its regulations. Two subcommittees reviewed the issues underlying the suggested changes. One subcommittee considered issues relating to procedures. That subcommittee was comprised of Commissioners Georgiana Zimmerle and Tony Nakazawa. The other subcommittee analyzed substantive issues relating to standards for boundary changes. Commissioners Bob Harcharek and Bob Hicks comprised that subcommittee. Ultimately, the subcommittees determined that the majority of issues on the list warranted proposed changes to the Commission's regulations. Several issues were deferred for development in an in-house procedures manual or further review by individual Commissioners and Staff.

At its public meeting of April 1, 2006, the Commission directed Staff to draft regulations that addressed all issues identified by the two subcommittees. Staff was also authorized and directed to draft regulations for issues that arose during the course of business, including changes necessitated by revisions to statutes. Staff was directed to have an initial draft of regulations prepared by June 30, 2006. At its April 1 meeting, the Commission also adopted the budget proposed by Chair Hargraves for FY 2007 in response to a request for such from the director of Commerce's Division of Community Advocacy.

Staff timely completed the initial draft, which was considered in work session when the Commission convened in Ketchikan in late June 2006. The initial draft was over 140 pages (double-spaced) in length. At that lengthy work session, the Commission made several policy decisions regarding the draft regulations and directed Staff to further refine the proposed changes in accordance with those new directives. Commissioners who had specific proposed minor editorial changes to the draft were directed to meet with Staff individually. The Assistant Attorney General (AAG) assigned to the Commission also attended and participated in the work session.

Staff completed a revised conceptual draft of regulations in late August 2006. The draft was reviewed at a lengthy Commission work session on September 22, 2006. At the work session, the Commission endorsed the vast majority of the conceptual draft regulations for purposes of public notice, comment, and hearing. The Commission made minor revisions to the draft and reserved consideration of several provisions pending their review by the Department of Law Regulations Attorney. The Commission noted its intent to hold hearings on the proposed regulations throughout the state and in conjunction with other Commission hearings when feasible. The Commission also determined that an additional work session was needed to consider the changes directed at that time and to review conclusions reached by the Regulations Attorney. The Commission's AAG participated in the work session by teleconference. The Director of the Division of Community Advocacy also briefly attended to relay the commitment of funding the regulations project through June 30, 2007.

In November 2006, Staff completed revising the conceptual draft regulations to address policy issues raised by Commission members at the work session of September 22; to add new provisions addressing issues that arose during the intervening period; to address issues that had been referred to the Department of Law for review; to make minor changes to respond to recent issues; and complete initial editing to comply with form and formatting requirements of the Department of Law Drafting Manual for Administrative Regulations. The draft was 184 pages in length (double-spaced).

At its December 13 public meeting, the Commission approved for notice and hearing the November revised conceptual draft regulations. Individual Commission members were authorized to work with Staff with other suggested editorial changes.

The draft regulations were forwarded to the Regulations Attorney in the Department of Law with a request to open a file for the project. The Regulations Attorney assigned the project File No. 993-07-0095. AAG Marjorie Vandor was assigned as agency counsel for the project. A draft public notice of the proposed regulations has been prepared and furnished to the Commission and AAG Marjorie Vandor for review. The Commission will also determine the time and locations for public hearings around the state in 2007.

Chapter 3

Policy Issues and Concerns

Introduction

This chapter addresses contemporary policy issues and concerns of the LBC.¹¹ In sum, these relate to:

- Increasing difficulties in rendering borough boundary determinations following the 1963 Mandatory Borough Act.
- Substantial disincentives and a lack of adequate inducements hinder incorporation of organized boroughs and annexation to existing boroughs.
- Lack of standards and methods for establishment of unorganized boroughs.
- Funding for borough feasibility studies.
- Compensation for members of the LBC.

Section I. Increasing Difficulties in Rendering Borough Boundary Determinations Following the 1963 Mandatory Borough Act

Subsection A. Statement of Issue

With the exception of a period of only eight months or so to implement the 1963 Mandatory Borough Act, the State has employed a *laissez faire* policy regarding borough formation. That policy allows residents of the unorganized borough, irrespective of their fiscal and administrative capacity to support borough government, to decide when or even if they wish to incorporate boroughs. That policy has often stymied formation of large regional boroughs and may have contributed to boundary determinations that have been widely criticized and regarded by some as mistakes.

¹¹ Many of the policy matters addressed here are discussed in detail in prior reports of the LBC. Those include, in particular, the *Report of the Local Boundary Commission to the First Session of the Twenty-Fourth Alaska Legislature* (January 2005), *School Consolidation: Public Policy Considerations and a Review of Opportunities for Consolidation* (February 2004), and *Unorganized Areas of Alaska that Meet Borough Incorporation Standards* (February 2003). Those reports are available on the LBC Website at <<http://www.dced.state.ak.us/dca/lbc/lbc.htm>>. A copy of any of those reports can also be obtained by contacting LBC staff.

Subsection B. Background

Article X, Section 3 of the Alaska Constitution requires that "The entire State shall be divided into boroughs, organized or unorganized." It provides further that organized and unorganized boroughs, "shall be established in a manner and according to standards" enacted by the legislature. In 1960, the LBC made the following observations regarding boroughs in its report to the First Alaska State Legislature:

One thing can be agreed upon: the borough is the intermediate unit of local government between the City and the State. . . .

The Commission presently takes the position that a borough was designed to be a form of regional government. . . .

....

Following this concept to the next logical phase, it supports the Commission's present thinking that organized boroughs, particularly in Alaska, were to be large in size - otherwise they would be duplicating the service area's jurisdiction. No opinion is expressed at this time as to just how large the borough should be, for there are other considerations to be weighed: for example, the population density would be an important factor but, it is felt, in view of existing conditions in Alaska, the general rule should be large boroughs, and the exception should be small boroughs.

(State of Alaska Local Boundary Commission, *First Report to the Second Session of the First Alaska State Legislature* (February 2, 1960), pp. I-7 - I-9.)

To assist the legislature in carrying out the constitutional requirement that all of Alaska be divided into organized and unorganized boroughs, with each borough embracing an area and population with common interests to the maximum degree possible, the 1960 LBC formally recommended as follows to the First Alaska State Legislature:

[T]hat the Legislature give the Commission a mandate by Resolution, directing the Commission to divide the whole of Alaska into boroughs, organized or unorganized, and that such recommendation(s) be presented to the next Legislature.

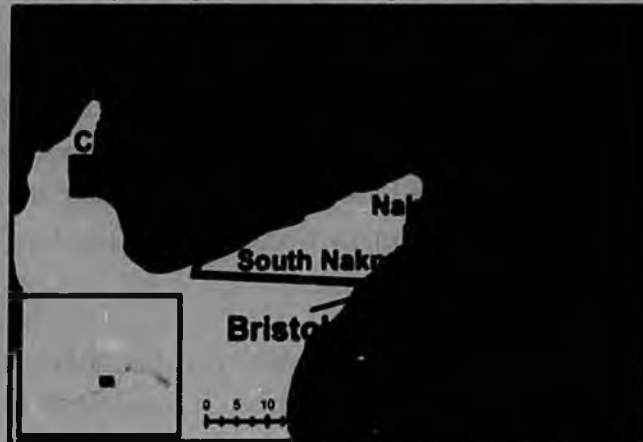
(*Id.* at III-4.)

The Legislature rejected the LBC's recommendation. In 1961, a law was enacted establishing a single unorganized borough encompassing all of Alaska not within organized boroughs (at the

time there were none; so the single unorganized borough initially encompassed the entire state). State laws providing standards and procedures for *voluntary* incorporation of organized boroughs were also enacted in 1961. This created a structure in which borough boundary decisions would be made on a piecemeal basis without an overall plan for the division of all of Alaska into organized and unorganized boroughs.

Some members of the current Commission find it not surprising then that despite expressing a clear predisposition toward large regional boroughs, that the first LBC approved the creation of the 850-square mile Bristol Bay Borough in 1962. Other members of the current Commission take the view that the legislative action in 1961 was then and is now no excuse for establishment of small, nonregional boroughs.

Bristol Bay Borough and Surrounding Communities



Following approval of the Bristol Bay Borough proposal by the LBC in 1962, Alaska's Secretary of State expressed immediate and resounding criticism of the action. (See Appendix E Memorandum from Hugh J. Wade to Governor William A. Egan, July 9, 1962.) Over the ensuing years, the creation of the Bristol Bay Borough has been repeatedly characterized as an extremely poor public policy decision by the LBC. For example, in 1991, former Constitutional Convention delegate Victor Fischer wrote:

The first violation of the regional concept came with establishment of the very first borough. In creating the Bristol Bay Borough, the Local Boundary Commission took a tiny part of a real region and gave it borough status under the constitution. This gross error was not rectified when the Lake and Peninsula Borough was created.

(Letter from Victor Fischer to the LBC, October 11, 1991.)

In 1963, the Legislature made a significant reversal of the 1961 policy by passing the Mandatory Borough Act. That landmark legislation, which was signed into law by Governor Egan (former President of the Alaska Constitutional Convention), mandated formation of boroughs in eight specific regions of Alaska (the greater areas of Ketchikan, Sitka, Juneau, Kodiak Island, Kenai Peninsula, Anchorage, Matanuska-Susitna valleys, and Fairbanks). Today, the eight boroughs formed under the Mandatory Borough Act are inhabited by an estimated 558,059 Alaskans, just over 84 percent of the state's population. The average size of the 8 boroughs formed under the Mandatory Borough Act is just under 10,000 square miles.

It is particularly noteworthy that John Rader, who sponsored the 1963 Mandatory Borough Act, viewed the LBC, in a practical sense, as an institution that was possibly incapable of exercising the political leadership necessary to achieve the vision of the framers of Alaska's Constitution regarding establishment of boroughs. In that regard, Mr. Rader wrote as follows in his recount of the legislative history of the 1963 Mandatory Borough Act:

So far as I am aware, [the Local Boundary Commission] has no broad view nor does it seek broad solutions. As a government tool, it is a small one. I would judge that its usefulness in the future would, therefore, be limited to smaller and more localized issues. The heat generated by annexation or by incorporation, particularly when it is done by executive fiat, is very intense.^[12]

Perhaps the commission could afford to make enemies one by one, bit by bit, but it could never maintain itself in the face of a barrage of criticism which was statewide. The legislature would destroy it.^[13] By the very nature of the political organization, the commission is not in a position to defend itself. The problems of annexation and incorporation of local government are political decisions which should be made in a manner permitting public political debate.



John Rader, sponsor of the 1963 Mandatory Borough Act.

(John L. Rader, "Legislative History," in Ronald C. Cease and Jerome R. Saroff (eds.), *The Metropolitan Experiment in Alaska, A Study of Borough Government*, Frederick A. Praeger, Publishers, New York, 1968, p. 90.)

After the 1963 Mandatory Borough Act, the State reverted to the 1961 laissez-faire policy of borough formation. Under that policy, the second borough proposal approved by the LBC was that providing for the creation of the Haines Borough in 1968. The boundaries approved by that LBC resulted in three enclaves within the borough, including Klukwan and Skagway.¹⁴

¹² [Footnote 18 in original.] Executives and administrators may find the Boundary Commission to be useful as a buffer between themselves and the public.

¹³ [Footnote 19 in original.] This problem was foreseen by the Constitutional Convention which gave the commission constitutional status (Art. X, sec. 12) to protect it. Despite this, the legislature could effectively limit the commission, e.g., by statutory definitions and by withholding appropriate staff and other necessary support.

¹⁴ Those consisted of (1) the military installation at Lutak Inlet known as the "base proper to the Petroleum Distribution Office, Haines Terminal and Pumping Station"; (2) a 1.4-square mile enclave including Klukwan; and (3) the 443.1 square mile area comprising the proposed Skagway Borough.