

Dan Bockhorst

3962 Big Rock Road

Ketchikan, Alaska 99901

Telephone: 907-247-3962 • Email: bockhorst@kpunet.net

March 20, 2018

SENT VIA EMAIL

The Honorable Patricia B. Branson
Mayor
City of Kodiak
710 Mill Bay Road
Kodiak, AK 99615

Re: Restructuring of Kodiak Area Local Governments

Dear Mayor Branson:

By way of introduction, I responded affirmatively to a recent inquiry from Ketchikan Gateway Borough Mayor David Landis as to whether I would be willing and available to consult with you on the topic of restructuring Kodiak area local governments. In follow up, you provided some 50 pages of related materials yesterday and asked me to review and comment on those materials prior to a March 21 joint work session of the Kodiak City Council and the Kodiak Island Borough Assembly. In terms of my background, I am presently retired after working in the field of local government in Alaska for more than 40 years, including more than 4 years as the Haines City Administrator, more than 27 years as the chief of staff of the Alaska Local Boundary Commission, and more than 9 years as the Ketchikan Gateway Borough Manager.

The material that you provided included a list of 15 questions. I consider all your questions to be reasonable and appropriate at this stage of the discussions regarding the matter.

Based on the information you provided, consolidation of the City of Kodiak and the Kodiak Island Borough appears to be the focus of those advocating for reorganization of Kodiak area local governments.

Among the options for restructuring, forming, or dissolving local governments in Alaska, or altering their corporate boundaries, consolidation is second only to unification in terms of complexity.

A proposal to consolidate (i.e., dissolve municipal corporations and incorporate a new borough government) is not a simple undertaking. By Alaska standards, the two local governments being considered for consolidation are major municipal corporations.

Both the City of Kodiak and Kodiak Island Borough are mature local governments that provide many essential services to significant numbers of residents. The local governments involved have substantial assets and debt. Following is a summary profile of the City of Kodiak and the Kodiak Island Borough. It provides information which may be known to some or even many but should be helpful to all during preliminary discussions of consolidation.

Kodiak Island Borough

The Kodiak Island Borough is a general-law borough that has been in existence for 55 years. It serves an estimated 13,287 residents according to 2017 estimates of the Alaska Department of Labor and Workforce Development.

Two-thirds of the Borough's residents (8,834) live within 11 separate communities or Census Designated Places or CDPs. These are:

- Akhiok (population 88),
- Aleneva (population 24),
- Chiniak (population 44),
- Karluk (population 29),
- Kodiak (population 5,952),
- Kodiak Station (population 1,303),
- Larsen Bay (population 86),
- Old Harbor (population 214),
- Ouzinkie (population 146),
- Port Lions (population 175), and
- Womens Bay (population 773).

Six of the communities listed above are incorporated as city governments.

The six areas served by city governments and the five unincorporated communities are scattered throughout approximately 21,908 square miles encompassed by the Borough's corporate boundaries. Some are remote.

Additionally, an estimated one-third of the Borough's population (4,453) resides outside the 11 communities/CDPs. Presumably, many or most of those 4,453 residents live near the area within the boundaries of the City of Kodiak, which is a critical factor in terms of consolidation for reasons discussed later in this letter.

Among the assets of the Borough are 25 school buildings totaling 568,961 square feet.

As of June 30, 2017, the Borough had \$73,045,000 in general obligation debt secured by the full faith and credit of the Borough.

The Borough provides the following services: general government, education, tax assessment and collection, fire protection, first-response emergency medical services, health facilities, construction and maintenance of roads and other infrastructure, community and economic development, solid waste disposal, tourism development, parks, and cultural and recreational activities.

The Borough's FY 2018 budget totals \$46,688,788. Included in that figure is \$24,830,272 for "education." The education costs include the Borough's local contribution for schools,

school-related debt service, school-related capital projects, and other related costs. Apart from that, the Kodiak Island Borough School District (a component unit of the Borough¹) had a FY 2017 proposed budget² of \$47,395,711. A portion of that – just under \$10.3 million – was cash and in-kind services provided by the Borough. As such, the cash and in-kind services by the Borough would be reflected in both the Borough's budget and the District's budget. In other words, those funds are counted twice. Counting funds only once results in a combined figure in excess of \$80 million for the authorized annual expenditures of the Borough and its school district based on the Borough's FY 2018 budget and the District's proposed FY 2017 budget.

In FY 2018, the Borough levied the following taxes (see page 36 of Borough's FY 2018 Budget for total real and personal property tax levies by the Borough's nine tax code areas)

- Property Taxes
 - ✓ areawide real and personal property: 10.75 mills
 - ✓ Womens Bay Service Area road service real and personal property: 2.5 mills
 - ✓ Womens Bay Service Area fire protection real and personal property: 2.5 mills
 - ✓ Service Area #1 road service real and personal property: 1.5 mills
 - ✓ Protection Area #1 fire protection real and personal property: 1.5 mills
 - ✓ Monashka Bay Service Area road service real and personal property: 2.5 mills
 - ✓ Bayview Service Area road service real and personal property: 1.5 mills
 - ✓ Airport fire protection real and personal property: 1.25 mills
 - ✓ Woodland Acres street light real and personal property: 0.1 mills
 - ✓ Tide Gate Mission Lake real and personal property: 1.0 mills
- sales tax: none
- nonareawide transient room tax: 5%
- areawide severance tax on certain natural resources: 10.75 mills

City of Kodiak

The City of Kodiak is currently a home-rule city government. The City's classification as a home-rule local government is likely to be a significant factor with respect to consolidation as is noted later in this letter.

The City of Kodiak was incorporated 77 years ago and became a home-rule city when voters adopted a home rule charter 53 years ago on March 16, 1965.

¹ In Alaska, a municipal school district is not a separate and distinct corporation. State law (AS 29.35.160(a)) provides that a borough "constitutes a borough school district and establishes, maintains, and operates a system of public schools on an areawide basis as provided in AS 14.14.060."

² The most recent budget readily available to me.

The corporate boundaries of the City of Kodiak are relatively small. According to the City, its corporate boundaries encompass 6.2 square miles (State records indicate that the area is slightly more than 5.5 square miles).

An estimated 5,952 individuals reside within the boundaries of the City of Kodiak – nearly half (44.8%) of the population of the Borough.

As noted in the above profile of the Kodiak Island Borough, one-third of the Borough's population (4,453) resides outside the 11 recognized communities in the Borough. Presumably, the greatest number of those residents live near the area within the boundaries of the City of Kodiak, the most populous community within the Borough. For reasons addressed later in this letter, that factor may be critical in terms of consolidation.

The City of Kodiak provides police, jail services, fire protection, animal control, regional dispatch services (including E-911), ambulance services, boat harbors, port and cargo facilities, street maintenance, airport facilities, water utilities (including areas outside the boundaries of the City), sewer utilities (including areas outside the boundaries of the City), building inspection services, recreation programs, park operations and maintenance, museum, cemetery, and library services.

The City has a current budget of \$37,386,307, comprised of the General Fund (\$19,583,887, Special Revenue Fund \$189,500, Capital Project Appropriations \$2,103,901, Enterprise Funds totaling \$14,894,540, and Internal Service Funds totaling \$614,479).

As of June 30, 2017, the City of Kodiak had debt of \$19,297,733, including \$6,565,000 in general obligation bonds for which the City has pledged its full faith and credit, \$389,398 in Bond Premium, \$11,817,854 in net pension liabilities, and \$525,481 in accrued employee leave.

In FY 2018 the City levied the following taxes

- real property: 2.0 mills (an increase to 4.0 mills in FY 2019 is under consideration)
- personal property: none
- sales tax: 7%
- transient room tax: 5%

(End of profiles)

Consolidation, as it currently appears to be envisioned, would result in the dissolution of both the Kodiak Island Borough and the City of Kodiak. Concurrent with the dissolution, a new home-rule or general-law borough government would be formed.

Those developing a petition for consolidation would be faced with the decision regarding the classification of the proposed new borough. The choice made by the petitioners – formation of either a general-law borough or a home-rule borough – would likely be another critical choice.

If the petition calls for the new consolidated borough to be a general-law borough, it might be concluded by the Local Boundary Commission that the consolidation proposal diminishes maximum local self-government since the City of Kodiak is a home-rule city and home rule is consistent with Alaska's constitutional principle of maximum local self-government.

Here are some simple *examples* of elements of a hypothetical home-rule charter that might be important to Kodiak area residents in terms of maximum local self-government:

- Provisions that make it easier to institute new taxes or, conversely, terms that make it more difficult to institute new taxes
- Elements that cap existing tax rates
- Terms that limit local government spending
- Provisions that impose term limits on local government officials

Another critical way in which home rule serves the principle of maximum local self-government is that a home-rule charter can only be amended by a vote of the people.

Again, the discussion above offers minimal examples of the way in which a charter offers maximum local self-government. Given time constraints, I have not undertaken a review of the existing Home-Rule Charter of the City of Kodiak.

If the petitioners choose to pursue a home rule borough, a charter would have to be written and included in the consolidation petition. It is noteworthy that drafting a home-rule charter is a major undertaking by itself. Prospective petitioners would face a critical political question about how they would draft a charter. Legally, the proposed charter could be written by one individual sitting at his or her kitchen table. At the other end of the spectrum, working with the local governments, a commission could be appointed by the affected local governments to draft the charter or the local governments could stage an election to choose the charter commission.

A home rule charter is a constitution for local government. Care must be taken how that constitution is drafted and the framework of the document.

The corporate boundaries of a new borough formed through consolidation would be identical to those of the existing boundaries of the Kodiak Island Borough unless a concurrent proposal to modify the boundaries through annexation or detachment were included in the proposal and approved by the Local Boundary Commission and voters. Some or all the other five city governments within the corporate boundaries of the Kodiak Island Borough could also be dissolved if such were proposed in the petition; however, this does not seem to be contemplated. The discussion below assumes that the dissolution of no city government other than the City of Kodiak would be proposed; it also assumes that no concurrent annexation or detachment of territory within the boundaries of the Kodiak Island Borough would be involved.

A petition for consolidation of the Kodiak Island Borough and City of Kodiak would have to include a practical plan that demonstrates the capacity of the proposed new borough government to extend essential municipal services into the areas of the local governments proposed to be dissolved in the shortest practicable time after the effective date of the consolidation.

As noted in the profile of the Kodiak Island Borough provided above, it is likely that many or most of the 4,453 residents who live outside the 11 communities/CDPs in the Borough, live near the area within the boundaries of the City of Kodiak. That factor is critical in terms of consolidation as it will likely pose another challenging political question to those pursuing consolidation.

The petition must define how services will be provided in a consolidated borough. The area of the former City of Kodiak would presumably become a borough service area. The question would likely arise whether those in the area adjacent to that proposed service area should be included in that service area. This, of course, is equivalent to the question of whether those residents should be annexed into the City of Kodiak in the current local government structure.

The petition must include a practical plan for the assumption by the new borough of all relevant and appropriate powers, duties, rights, and functions presently exercised by the Kodiak Island Borough and the City of Kodiak. If the petitioners plan to create a new general-law borough, a thorough and careful examination should be made of the impact of doing so with respect to the requirement for the plan of assumption. The plan must be prepared in consultation with the officials of the Kodiak Island Borough and City of Kodiak, and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the effective date of consolidation.

The petition must include a practical plan for the transfer and integration of all relevant and appropriate assets and liabilities of the Kodiak Island Borough and City of Kodiak. The plan must be prepared in consultation with the officials of those two governments and must be designed to effect an orderly, efficient, and economical transfer within the shortest practicable time, not to exceed two years after the date of consolidation. The plan must specifically address procedures that ensure that the transfer and integration occur without loss of value in assets, loss of credit reputation, or a reduced bond rating for liabilities.

If the full faith and credit of the entire borough is pledged for the payment of the debt of a service area, an areawide election must be held and the proposition must pass both areawide and in the service area. If the indebtedness is limited to a service area, the vote is limited to voters in the service area. Only the full faith and credit of the area voting on the indebtedness is pledged for the payment of the debt.

The financial implications of consolidation are not simple or easily determined. On the surface, some may assume that consolidation would lead to a reduction in staff. Those assumptions may not necessarily hold true. Petitioners should examine that issue and other effects of consolidation carefully. Even if it can be objectively concluded that a consolidated government could be effectively and efficiently operated with fewer staff, the savings may not be as great as it might appear superficially. For example, termination of groups, departments or job classes from participation in the Public Employees' Retirement System (PERS) may require a termination study under AS 39.35.615-625. When a termination of a department, group or

Patricia B. Branson, Mayor

March 20, 2018

Page 7 of 7

classification has occurred, AS 39.35.625 requires employers to pay continuing contributions to the Public Employees Retirement System plan until the past service liability is extinguished.

Before approving a consolidation petition, the Local Boundary Commission may require that the Kodiak Island Borough and the City of Kodiak execute an agreement approved by the Local Boundary Commission for the assumption of powers, duties, rights, and functions, and for the transfer and integration of assets and liabilities.

I hope this letter is useful in offering insights into a prospective consolidation effort. I could go on; however, time constraints lead to me stop at this point. If further questions arise following the March 21 work session and if I can be of help in addressing those questions, please let me know.

Cordially,

A handwritten signature in black ink, appearing to read "Dan Bockhorst", written in a cursive style.

Dan Bockhorst

