

Advisory Commission on Local Government
Minutes – Organizational Meeting
September 1, 2005

- I. Call to Order at 11:03 a.m.
- II. Members present: Senator(s) Gary Stevens, Chairman; Bert Stedman, Tom Wagoner; Representative(s) Bill Thomas, Co-chair; John Coghill, Woody Salmon; Public members: Scott Brandt-Erichsen, Marvin Yoder (online); Lisa Von Bargaen (online/present after noon); Also present: Rep. Reggie Joule, Arliss Sturgulewski, Vic Fisher, David Case, Greta Goto.
- III. Background and Overview, History of Local Governments – Kevin Ritchie, AML

Mr. Ritchie provided a power point overview that is available for download at this link: <http://www.akaclg.com>. The presentation included a history of the evolution of local government in Alaska since Statehood, and a summary of the conclusions and focus of two previous local government advisory efforts that were conducted in 1979 and 1992. He said that the 1979 Local Government Symposium emphasized the constitutional mandate for creation of voluntary organized and unorganized administrative units where comprehensive regional planning would take place. He noted that the lack of regional administrative units was considered a roadblock to the efficient delivery of services, and that sharing state revenues was implicit in those findings.

The 1992 committee on governmental roles reached conclusions including that the state should directly provide basic services either directly or funded with state revenues. He noted another key conclusion was that citizens should bare a portion of the costs. Mr. Ritchie highlighted a significant finding that core services should be delivered at the state level and they are typically provided at that level in other geographically large states. Other findings included opposing federal mandates and transfers of those mandates to local governments, and ensuring that state revenue sharing programs should take into account local need.

Mr. Ritchie noted the overall decrease in the smaller local government budgets of 40% due to the cuts in revenue sharing. He said that the smallest cities represent 2/3 of all cities that received revenue sharing most of which have a population of less than 100. Using Ambler as an example of a small city in the unorganized borough (incorporated as cities, but without a property tax base due to large federal or state land holdings) being hardest hit by elimination of revenue sharing. Typically fuel prices are double the cost in small communities as they are in the larger communities, and there are not a lot of jobs, he said.

Mr. Ritchie referred to the State Assessors report on property values, entitled Alaska Taxable found at <http://www.commerce.state.ak.us/dca/osa/pub/04Taxable.pdf> noting the average property value per capita in areas in and outside of organized boroughs. For example the total value of everything in Ambler is listed as \$3.5 million, due to so much federal land that is not taxable it would not make sense to have a property tax. Also most residents don't purchase the bulk of their goods in Ambler, so a sales tax would not generate a great deal of revenue.

Referring to a list of cities in fiscal failure, Mr. Ritchie noted the increase (currently 13) in cities that are in various stages of dissolution, and added that to do so requires additional expenditures for hiring an attorney. Mr. Ritchie noted that many cities have eliminated their public safety budgets, and dialing 9-11 in many areas will not reap a response. He added that many states share revenue with remote or poor cities to ensure a basic level of services, and it's a normal thing to do. Rep. Thomas noted that many of the communities were in jeopardy of having their bulk fuel grants seized by the IRS. Alaska is facing a significant and important lack of services that requires a statewide solution, he said.

In response to a question by Rep. Thomas, Kevin said larger cities (with a property tax base) such as Haines are in a different situation, they have typically made up the lost revenue sharing and state support for services with increased local taxation. In response to a question from Rep. Joule, whether the sales tax paid by rural city residents equates to an equal or typical percentage (of annual income) paid per capita in property taxes by an urban taxpayer, Mr. Ritchie noted that would have to be studied.

Mr. Ritchie referred to a chart related to local contributions (for the larger school districts) for education funding and noted how the average cost that municipalities contribute has been increasing (from 28% to 36%). He noted that the state does not pay 100% of the cost of education in rural Alaska as some speculate, but approximately 69% of total funding for REAA's comes from the state (whereas 61% of funding for borough school districts comes from state funds). He noted that including impact aid (Title 1 federal funding), for which certain rural areas of the state are eligible (due to the impact from federal landholdings and thereby presenting a lack of a property tax base) closes, to a large degree, the ratio of difference between what larger communities contribute in the education formula as the local contribution. He also pointed out that several cities (18) in the unorganized borough function as home rule cities which includes the responsibility for education, Skagway Pelican, Tanana, Petersburg, Nome, being examples.

Rep. Coghill requested additional information on portions or conditions of impact aid, for education in the unorganized borough (REAA's), that can't be counted in the calculation that determines the amount of state funding for education.

Regarding the additional revenue that the state is realizing due to the high price of oil, Mr. Ritchie noted that there is a disproportionate additional cost in the rural areas from the high price they have to pay for their fuel. The formula used by the Department of Revenue is that for every \$1 increase in a price per barrel of oil, the state treasury gets \$65 million in revenue, but Alaskans will pay \$20.0 million for that extra cost (to buy the more expensive fuel), assuming little markup.

Mr. Ritchie concluded with a long list of functions and costs that have shifted from the state to the local governments and the property taxpayer, including alcohol treatment, police, and senior citizen property tax exemption. Senator Stedman asked how much of the shift is due to inflation. Mr. Ritchie said the good news is that the local governments have gotten leaner and more efficient by absorbing inflation. Mr. Ritchie referred to the constitutional mandate to divide the state into multiple organized and unorganized boroughs to move towards identifying particular administrative units and boundaries, and mentioned that the USDA is focused on regional economic development and is studying regional divisions in conjunction

with the Denali Commission (CEMPRA). The state needs to provide services in a consistent, coordinated way to through common regions, he said.

Rep. Thomas commented that several municipalities may be in a position to make money on the municipal sales tax on fuel in their communities. There was further discussion regarding the Senior Citizen tax exemption that local governments are required by statute to offer, but for which the state reimbursement has been discontinued.

Rep. Salmon noted that the bigger villages like Ft. Yukon and Galena where the city budget has decreased while the tribal budget has gone up. He said that private enterprise is experiencing barriers to entry.

IV. State and Tribal Government Relationships and Responsibilities

Greta Goto, Sr. V.P. and Director for the Native Policy Center, First Alaskans Institute.

Ms. Goto noted that First Alaskans Institute is a nonprofit charitable organization created to develop the capacity of native people through three emphasis areas.

1. Leadership Development (internship program)
2. Public Policy Institute (research center)
3. Education (improve education for Alaska Natives)

She noted that their Alaska Native Policy Center has been working closely with ISER on an analysis of their work: *Status of Alaska Natives*, and have circulated that work among seven of twelve ANCSA Native Associations for feedback. She noted the importance of recognizing the demographic impact of Natives in the state. There are over 120,000 Alaskan Natives in Alaska and that 58% live in rural Alaska, and that 44% is 19 years old, or younger, she said. Ms. Goto also noted that the organization has undertaken a literature review focusing on rural governance studies over the past 30 years, however it is still under construction. Upon completion she noted it would be available to the Commission.

Ms. Goto referenced another project they have just initiated: Rural Development Performance Measures, which will link economic growth activity to poverty reduction. She noted that their review of the state is structured around the 12 regional corporation boundaries. Looking at the data, and considering statistics on poverty it is indicated that statewide the poverty rate is 20% for Natives; whereas for non-natives it is 7%, but the poverty rate by ANCSA region varies. In response to a request by Rep. Coghill, Ms. Goto indicated that she would keep Commission members informed of progress.

Rep. Joule asked if there was current data or studies contemplated regarding the economic impact of trade between urban and rural Alaska. Mr. Ritchie responded that he was aware of a study prepared in the mid-90's (commissioned by the North Slope Borough) that concluded that one out of five jobs in Anchorage exist due to rural economic trade.

Vice-chairman Thomas asked what the outcomes of the earlier studies had been or whether ideas of the efforts were ever implemented. Mr. Ritchie noted that following the first 1979 Symposium revenue sharing was increased and reached its highest level in 1984 (\$140.0 million).

Chairman Stevens referred to a legal opinion characterizing the role of the Legislature in its mandate to act as an assembly for the unorganized borough. He asked Mr. Ritchie for clarification on the character of the home rule charter within the unorganized borough. Mr. Ritchie responded that the key concept is that creating regional administrative areas, not necessarily formal boroughs, allows for greater regional control and decision-making.

Rep. Coghill commented on the lack of a tax base in much of rural Alaska due to federal and tribal nontaxable lands, and economies that are not sustainable. He supported looking for relief where assets are present but unavailable, and to look for ways to create a tax base, recognizing that some areas are just not going to be able to show any assets on which to build. He noted that the DCCED reports are helpful but hopes this commission will be able to answer the question how to catalog the assets of an area - including a whole array of human, resource and economic – so that an area can, if possible, govern itself.

Rep. Salmon spoke about the various governing entities that exist in an area he represents. In Fort Yukon he noted the activities of: Tanana Chiefs, city, native village, state, federal, village corp., regional village corporations, regional health corporation, have a tendency to overlap and that the buck gets passed.

Lunch Break: 12:30 – 1:30 p.m.

V. Overview – Incentives and Disincentives to the Formation and Sustainability of Local and Regional Governments – Mike Black, Director, Division of Community Advocacy, Dept. of Commerce, Community & Economic Development

Mr. Black provided the members with a one-page overview, http://www.alaskapolitics.com/akacgl/pdfs/black_2005090101.pdf noting the premise that people want to take control of their local governments. The statutes provide people with the means to take control of land use, education, police, recreation, and utility operations, if they so desire. With that comes responsibilities, and resources. The state provides access to loans and grants. Generally disincentives are uncertainty, legal responsibilities for elections, and relationships with the state and federal governments.

He noted organizational grants are given upon formation according to statute; \$600,000 is allowed for forming boroughs, \$75,000 for cities. Other grants, such as federal revenue, PILT, national forest receipts, and shared fisheries taxes are distributed throughout the unorganized borough. He explained how PILT payments are determined, “Congress appropriates a certain amount of money nationally for areas containing large federal landholdings. In Alaska the money goes first to the state; in the unorganized borough, based on the acreage where large federal land holdings are present, for example, the large federal landholdings of the Yukon Wildlife Refuge in the Wade Hampton census district, the payment is calculated per acre and distributed based on population.

Rep. Coghill noted that a national legislative committee (CSG) on which he sits has been scrutinizing the issue of PILT payments in Alaska, and perhaps preparing to challenge Congress on the appropriation.

VI. Discussion – Rural Capacity for Self-Governance → Revenue Sources, Taxation

In response to a comment by Scott Brandt-Erichsen regarding national forest receipts formulas in and outside of organized boroughs, Mr. Black noted that due to the census district distribution Wrangell may not have the amount of federal land acreage to substitute for what Ketchikan gets via the census district. He also noted that forest receipts represent a tremendous revenue source for Southeast Alaska.

Rep. Salmon asked what kind of benefit Fort Yukon, which sits in the middle of a refuge, could expect by forming a borough given the vast amounts of federal land. Mr. Black said a PILT payment goes to Fort Yukon currently, if a borough encompassing more of the refuge were included that might change according to the final acreage.

Senator Stedman and Rep. Thomas noted that much of the national forest receipts go to Juneau, an area that has not had a great degree of logging activity.

Chairman Stevens touched on the subject of mining taxation and severance taxes and the impacts on local government and borough formation. Mr. Black said that a mining property tax was a strong incentive for borough formation, in the ability to provide a substantial, local tax base from major resource development.

Senator Stedman said that the biggest stumbling block against borough formation is the resistance to paying property taxes. Mr. Black agreed that was true and that the fears are not always based on a good understanding of the facts. For instance the 4 mil education equivalent is based on property values and the amount of tax that would be required by each property owner would be rather small in the smaller, less economically developed areas of the state, he said.

Chairman Stevens asked Mr. Black about the department's position on dividing the unorganized borough into regional units, one of the recommendations of the earlier studies on local government. Mr. Black responded that from a coordination standpoint it would be immensely helpful to manage (as a borough assembly would help) from a common region than what currently exists which is often a multitude of coordinating organizations. It made sense to him to correlate common regions when it comes to the investments of the state and federal government in those regions. This was identified as an area for further review.

Rep. Thomas noted that Valdez, Unalaska, Skagway and the North Slope Borough, are successful cities, but the legislature asks them to pay more for education, so success appears to be a disincentive. He noted the situation was difficult to explain. Mr. Black acknowledged the cases cited, in that these areas felt that they didn't receive a fair level of service from the state. He noted that in some cases it is an incentive to form a borough in order to avoid being taken over by another local government. Mr. Coghill noted that these results are due to statutory mandates, and that for instance Valdez chose to pick up extra responsibility.

Chairman Stevens asked Mr. Black to give the Commission further thought regarding the notion of dividing the unorganized borough into regional/administrative units. His response was received: http://www.alaskapolitics.com/akacgl/pdfs/dcced_info.pdf

VII. Public Comment

Arliss Sturgulewski, former Senator and Co-Chair of the 1979 local government study, commented that it was refreshing to see that this Commission was looking backwards on earlier efforts. She noted that confusion regarding the multiplicity of governing entities was one of the prime reasons for the final unifying efforts of the Anchorage Charter Commission in 1975. It was a major undertaking that took two years including a rewrite of city codes and zoning at the time of oil and gas development. Deciding issues such as how much the North Slope would get from oil and gas, she said.

Ms. Sturgulewski noted that the recognition of 226 tribes by the federal government further contributes to the “multiplicity” equation of how services are delivered. As a revenue stream, tribal recognition has benefited communities, but nothing is done in a coordinated way.

There are sterling examples of things coming together, the Municipality of Galena along with the Loudon Tribe have engaged in very cooperative efforts, she said. She complimented Mr. Yoder for a coordinating effort in Galena called ‘The Breakfast Club’. She lamented that “the rural voices don’t come to Juneau anymore,” noting that the rural tribal governments go directly to Washington, D.C.

Ms. Sturgulewski said that boroughs form when there is an economic incentive. She said that there is a lack of money for an area northwest of Fairbanks to work towards a potential Doyon Region borough which could use oil and gas taxation. She brought up the efforts of Delta (near the Pogo mine), which is moving towards possible borough formation, and suggested the Commission receive input from the chairman of the effort. Lake and Peninsula is faced with expanding their boundaries (Pebble); and in the Calista region, Kuskokwim village corporation is examining borough formation (Donlin Creek). She noted there are actions the legislature and state could take that would have either a negative or positive impact, for encouraging the formation of boroughs. She added that the state is not visible in rural communities; representatives from state departments are not known, unlike the elected representatives.

In response to a question from Chairman Stevens about why prior recommendations were not implemented, Ms. Sturgulewski said “the money came.” She noted that there was a corresponding increase in revenue sharing, but that the preoccupation on spending money on capital projects sidetracked efforts to concentrate on the policy and statutory fixes to the unorganized borough boundary problems. She added that since then there have been good efforts but they often equate to reinventing the wheel. A good step would be the division of the unorganized borough into smaller segments.

In response to a question from the Chairman concerning her thoughts on severance taxes, Ms. Sturgulewski said that because there isn’t a real state policy on severance taxes, changes to statute concerning types of local option taxes, such as severance taxes need to be considered very carefully. Specifically she identified SB 179, a bill held over the interim by the Senate CRA Committee, which along with a mining property tax in the unorganized borough, proposes to restrict mining severance taxes from local options. She noted that fish

taxes are considered a severance tax. She noted that areas along the pipeline corridor have an incentive for oil and gas severance taxation, and could have formed as boroughs.

Rep. Thomas asked for Ms. Sturgulewski's input regarding the idea of the incentive for borough formation such as organizational grants in lieu of land. She noted that ISER received grant monies to expand the University's role and to get a picture of areas with land deficiencies. She noted that even Anchorage never received their full entitlement. She said she promoted the idea of a community dividend, which would go a long way towards helping sustain rural communities, many of which are dying even while they're rich in resources.

Vic Fisher, former Senator and participant in the Constitutional Convention, said that he's been involved in local government in Alaska for 55 years. He said that the Constitution provides for maximum local self-government, and the borough provides for maximum *regional* self-government. Mr. Fisher noted that at the time of statehood Congress specifically prohibited counties in Alaska so they couldn't tax mining properties, canneries, etc. The borough concept was designed to be flexible, to provide for 1st class boroughs and other boroughs that might be established. The concept (envisioning areas such as Kotzebue, Southeast, etc.) was that those able to run their own affairs would form organized boroughs. It was not conceived that there would be one unorganized "amorphous mass," rather that all of Alaska would be divided into regional boroughs; either organized or unorganized to provide basic state services with maximum local participation. Each would be the basis for exercising some measure of maximum local self-government appropriate for that area, not necessarily with organization, as a means for regional planning and for coordinating state activity. He said that this basis exists in the REAA's, and in the model borough study done by LBC. He suggested using those existing delineations as a point of departure, and then to create something, make decisions, hold hearings and starting to move in that direction. He reiterated that the subject has been studied over and over again but we just haven't moved ahead.

Mr. Fisher said a disincentive, aside from concern and fear and the unknown is the existence of mandatory *powers* that have to be exercised by the organized borough. He said those mandatory powers are a creation of the legislature. There is no reason why an area would have to jump from unorganized status to immediately have to exercise those particular powers. The other aspect is home rule, he said. He suggested that the Commission look at that issue in terms of adding flexibility to make the idea work. The Constitution provides 1st class cities and boroughs can move to home rule. Sitka, and Juneau and Anchorage have exercised home rule very effectively as urban boroughs. Areas such as the Northwest Arctic, Lake and Peninsula Borough, North Slope have exercised it well. Each region can decide on its own, subject to state law, to adopt a charter adapted to its particular region. He said that even the least capable unorganized borough should have a voice and be able to craft a home rule charter to meet their needs as far as how they organize and what they do and don't do.

He said that the rural governance commission discussed boundary delineations in relation to jurisdiction. Mr. Fisher said that during the writing of the constitution tribal governments were not an issue, as subsistence was not an issue in those days. They established a local government system where only cities and boroughs could tax. Tribal governments that

function as governments cannot be recognized as part of the local government system, however, in retrospect he wishes there wasn't that restriction. He said that Lake and Peninsula Borough has demonstrated that they can use tribal governments for delivery of services. Lake and Peninsula Borough treats communities with a tribal government the same as they do small city governments.

Rep. Coghill asked if Mr. Fisher was aware of the intent in creating REAA's and limiting their taxing authority, and whether the boundaries followed the ANCSA regions? Ms. Sturgulewski responded that a tremendous amount of work and public hearings went into the work of the LBC in determining the model borough boundaries, as well as court decisions. Mr. Fisher added that REAA boundaries relate in some ways to the ANCSA boundaries, however it's not formulaic (some ANCSA contain several REAA's). Ms. Sturgulewski suggested that there be a public forum to get support for regional borough restructuring, if legislation is developed. She said when there's economic incentive they will form. Mr. Fisher added that the state has the ability to raise revenues in a way that no local government has. Resources that provide revenue to the state are in rural Alaska he said, and the state can serve as a "collection agency" to then channel the money back out for local services at the local level. But, he warned, there needs to be operational money for the local governments from the state on a continuing basis.

VIII. Strategies and Solutions/Possible Legislation

Issues Identified:

- Revenue sharing options: safe communities per capita?
- Governmental stratification working with other entities in regional areas on common concerns.
- Create regional/smaller unorganized units of the unorganized borough
- Encourage the 2-3 most likely areas ready to form boroughs
- Examine Incentives/\$ Endowment - targeting above areas
- Severance tax as revenue base for forming borough government
- Examine effect (incentive/disincentive) of 4 mil tax on unorganized borough (valid valuation/labor income statistics available? ISER? Bunde's bill: SB 112)
- Property tax exemptions
- Statutory changes necessary to remove the disincentives to forming borough (narrow zoning, taxing, other powers explicit in Statute)
- Exemption of TAPS from local valuations in unorganized borough (HB 217)
- Extending Home Rule powers to sub areas of the unorganized borough
- Examine forest receipts distribution
- Dissolution procedures/e.g. all debts paid, leftover assets
- Examine structure of REAA's why organized as service districts as opposed to Borough?

Marvin Yoder spoke to the need for providing services for issues of statewide interest such as law enforcement. He cited incidents where police could not respond due to manpower shortages and the increase in criminal activities such as meth labs.

Scott Brandt-Erichsen, referring to the interest in extracting revenue from rural areas to pay for education, emphasized the need to know what income and assets are available in the unorganized borough. He asked if there are statistics on per capita income levels in the unorganized borough vs. the organized borough. If the ratio of per capita tax burden to per capita income might be in the same range as an actual mil rate or sales tax rate, it might shed light on the assumptions.

Mr. Fisher noted that ISER has received U.S. Census permission to provide relevant information on regional income data. Rep. Coghill noted that the Dept. of Labor only has half of the information.

Discussion continued relating to the structure and boundaries of the REAA's, and the statutory requirements for provision of education to those areas as a disincentive to organize as a borough.

Rep. Joule commented that the present group is akin to "preaching to the choir" they collectively know what people in rural Alaska are capable of, and that what these areas need is empowerment. That would put less of a burden on the Legislature. He wanted the group to recognize that mandating changes threatens a community's ability to feel empowered. There needs to be an effort to work with these communities and not simply do something to them. He encouraged the Commission to work with the local governments and groups, and to resist condemning for instance that some communities with limited public and private services may rely on income such as Bingo receipts, and understand the unique situations that exist in the rural communities.

There was discussion regarding the limited lifespan and mandate to the Commission and, and how the next meetings should be concentrated on narrowing the scope to specific legislation ~ keeping in mind that like the Salmon Task Force there were many ideas that did not move forward. Sen. Stedman emphasized a need to concentrate on areas that are truly needy (without an economic base) as opposed to other areas that have an economic base but just chose not to tax themselves.

Rep. Coghill suggested that one emphasis should be on the capacity of areas to tax themselves; one approach could be that if the area is willing and able to take on certain levels of governance, then there would be some incentive or formula that recognizes that greater independence. Keeping in mind that some areas have federal lands, and state lands that are not taxable, and that we should strengthen partnerships between other entities.

X. Identify Subsequent Projects, Meeting Times and Locations

The next meeting of the Commission was suggested (and later determined to be) October 21, 2005 in Fairbanks, during AFN. Other meetings suggested were November 10th in Bethel or Anchorage (AML meets there then). A possible meeting in December was discussed, with a final meeting suggested to occur a few days prior to the first day of next session

XI. The meeting adjourned at 3:45 p.m.