

## KETCHIKAN GATEWAY BOROUGH

### RESOLUTION NO. 2631

#### **A Resolution of the Ketchikan Gateway Borough Assembly Establishing the Policy that the Borough will not Initiate any Annexation Proposal without a Request from Residents or Property Owners within an Area Subject to Annexation**

#### **RECITALS**

- A. **WHEREAS**, Article X, Section 3 of the Constitution of the State of Alaska requires all of Alaska to be divided into boroughs (organized or unorganized), with each borough encompassing a natural social, economic, geographic, and political region; and
- B. **WHEREAS**, the 1961 Alaska Legislature established a single unorganized borough comprising all of Alaska not within an organized borough – which, at the time, encompassed the entire state; and
- C. **WHEREAS**, the single unorganized borough did not then – nor does it now – constitute a natural social, economic, geographic, and political region; and
- D. **WHEREAS**, in 1963, the Alaska Legislature mandated that the greater Ketchikan area and seven other areas of Alaska incorporate as separate organized borough governments by January 1, 1964; and
- E. **WHEREAS**, on September 13, 1963, the Ketchikan Gateway Borough was incorporated with boundaries encompassing approximately 1,733 square miles; and
- F. **WHEREAS**, the 1,733-square mile area encompassed by the Borough's initial corporate boundaries excluded much of the area within the "model borough boundaries" of the Ketchikan Gateway Borough as formally defined by the Alaska Local Boundary Commission in the 1990s; and
- G. **WHEREAS**, in 2008, the Borough initiated a petition to annex most of the area within that portion of the unorganized borough lying within the model borough boundaries of the Ketchikan Gateway Borough; and

- H. **WHEREAS**, in the course of considering the petition, citizens of the unincorporated community of Meyers Chuck, which was within the model borough boundaries of the Ketchikan Gateway Borough, expressed a strong preference to be included within the boundaries of the pending City and Borough of Wrangell incorporation proposal; and
- I. **WHEREAS**, citizens of the unincorporated community of Hyder, which was also within the model borough boundaries of the Ketchikan Gateway Borough, expressed strong opposition to being included within the boundaries of the Ketchikan Gateway Borough; and
- J. **WHEREAS**, the Ketchikan Gateway Borough Assembly ultimately supported the preferences of the residents of Meyers Chuck and Hyder based on the borough annexation standards established in law; and
- K. **WHEREAS**, on October 29, 2012, the Prince of Wales Community Advisory Council initiated a feasibility analysis regarding a potential Prince of Wales Island borough; and
- L. **WHEREAS**, at a meeting of the Greater Ketchikan Chamber of Commerce on January 30, 2013, Bill Atland, co-owner of the Whale Tale Pharmacy in Craig on Prince of Wales Island, asked, "Must we form a borough before the Ketchikan Gateway Borough annexes us? If so, please tell your Assembly to let us know;" and
- M. **WHEREAS**, on February 25, 2013, the Ketchikan Gateway Borough Assembly responded to the question from Mr. Atland by unanimously adopting Resolution No. 2462, expressing no desire to annex Prince of Wales Island (copy attached as Exhibit A); and
- N. **WHEREAS**, the Prince of Wales Community Advisory Council is continuing to consider Borough formation; and
- O. **WHEREAS**, fears and rumors reportedly continue that the Ketchikan Gateway Borough might annex all or portions of Prince of Wales Island.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH** as follows:

**Section 1.** The Ketchikan Gateway Borough Assembly, through its membership as it is presently constituted, hereby declares that it is the policy of the Ketchikan Gateway

Borough that the Borough will seek no additional annexation without specifically being asked to annex an area by residents or property owners in that area.

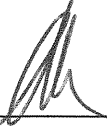
**Section 2.** The policy expressed in Section 1 of this resolution is made in good faith. The Ketchikan Gateway Borough Assembly, through its membership as it is presently constituted, expresses its policy position with strong conviction based upon current Borough plans and intentions.

Notwithstanding the foregoing expression of good faith regarding its declaration, the Borough Assembly cannot bind others who are authorized by State law (3 AAC 110.410) to initiate petitions for annexation (including the Alaska State Legislature; Commissioner of the Alaska Department of Commerce, Community, and Economic Development; a person designated by the Local Boundary Commission; a political subdivision of the State; a regional educational attendance area; voters of a political subdivision of the State; voters of a regional educational attendance area; or voters in an area proposed for annexation). Moreover, it is expressly acknowledged that the current Assembly cannot legally bind a future Assembly.

**Section 3.** A copy of this resolution shall be provided to the Prince of Wales Community Advisory Council.

**Section 4.** This Resolution shall be effective immediately upon adoption.

ADOPTED this 7<sup>th</sup> day of December, 2015.



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David Landis, Borough Mayor

ATTEST:



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Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:



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Scott A. Brandt-Erichsen, Borough Attorney

## EXHIBIT A

## KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2462

**A Resolution of the Ketchikan Gateway Borough Assembly Expressing No Desire on the Part of the Assembly to Attempt to Annex Prince of Wales Island; and Providing for an Effective Date.**

**RECITALS**

- A. WHEREAS**, Article X §3 of the Constitution of the State of Alaska provides that the entire State shall be divided into organized and unorganized boroughs established according to standards relating to population, geography, economy, transportation, and other factors, and that each borough must embrace an area and population with common interests to the maximum degree possible; and
- B. WHEREAS**, the greater Ketchikan area and Prince of Wales Island have certain common interests with respect to population, geography, economy, transportation, and other factors; and
- C. WHEREAS**, the framers of Alaska's Constitution intended that borough boundaries "must remain flexible in order to permit future adjustment to growth and changing requirements for the performance of regional functions" (*Alaska's Constitutional Convention*, p. 119, Victor Fischer, 1975); and
- D. WHEREAS**, the 1961 Alaska Legislature established a single unorganized borough legally defined as that portion of Alaska not within an organized borough – which, at the time, was all of Alaska; and
- E. WHEREAS**, the single unorganized borough was not established according to standards; did not in 1961, and does not now, reflect commonalities with respect to population, geography, economy, transportation, and other factors; and did not in 1961, and does not now, embrace an area and population with common interests to the maximum degree possible; and
- F. WHEREAS**, in 1963, the Alaska Legislature mandated that the greater Ketchikan area and seven other areas incorporate as separate organized borough governments by January 1, 1964; and
- G. WHEREAS**, on September 13, 1963, the Ketchikan Gateway Borough was incorporated with boundaries encompassing 1,733 square miles; and
- H. WHEREAS**, multiple competing borough incorporation and annexation proposals

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in Alaska during the late 1980s and early 1990s led the Alaska Local Boundary Commission to draw "model borough boundaries" for all of Alaska; and

- I. WHEREAS**, model boundaries were identified for 25 existing and prospective boroughs, including one set encompassing an estimated 7,296 square miles for the Ketchikan Gateway Borough and a separate set encompassing an estimated 8,200 square miles for a future Prince of Wales Island Borough; and
- J. WHEREAS**, on May 19, 2008, the Ketchikan Gateway Borough annexed 5,167 square miles – all within the model borough boundaries of the Ketchikan Gateway Borough; and
- K. WHEREAS**, on May 30, 2008, the City and Borough of Wrangell incorporated with boundaries encompassing an estimated 3,465 square miles (including 191 square miles that had been within the model boundaries of the Ketchikan Gateway Borough); and
- L. WHEREAS**, on October 29, 2012, the Prince of Wales Community Advisory Council initiated a borough feasibility analysis; and
- M. WHEREAS**, the contractor preparing the feasibility analysis was specifically asked by the Prince of Wales Community Advisory Council to (among other tasks):
- (1) examine "a tax on extraction of resources" as an option for raising local revenue to support a Prince of Wales Borough;
  - (2) "address the limited life span of POW mines, and the implication of relying upon them for a borough tax revenue;"
  - (3) consider establishment of a borough "permanent fund" . . . "in response to short mine-life-cycles;"
  - (4) estimate "anticipated revenues of the two mines;" (see, *Prince of Wales Borough Feasibility Study - October 29, 2012 Kick-Off Meeting - Summary & Questions For Sheinberg Team To Answer*); and
- N. WHEREAS**, the "resources" and "mines" referred to in the Recital M above are understood to consist of the Niblack project and the Bokan project, both of which are located closer to the Ketchikan Gateway Borough than to any other existing municipal government (respectively, 11.5 miles and 13.5 miles from the corporate boundaries of the Ketchikan Gateway Borough); and
- O. WHEREAS**, at the meeting of the Greater Ketchikan Chamber of Commerce on January 30, 2013, a respected guest from Prince of Wales Island asked, 'Must we form a borough before the Ketchikan Gateway Borough annexes us? If so, please tell your Assembly to let us know;' and

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**P. WHEREAS**, the question raised by the Prince of Wales Island guest at the Greater Ketchikan Chamber of Commerce is the only outreach to the Ketchikan Gateway Borough to date on the issue of a Prince of Wales Island Borough, and deserves the courtesy of a response; and

**Q. WHEREAS**, the Assembly can only express its position based upon current Borough plans and intentions; it cannot bind others who are authorized by State law (3 AAC 110.410) to initiate petitions for annexation including the Alaska State Legislature; the Commissioner of the Alaska Department of Commerce, Community, and Economic Development; a person designated by the Local Boundary Commission; a political subdivision of the State; a regional educational attendance area; voters of a political subdivision of the State; voters of a regional educational attendance area; or voters in an area proposed for annexation.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH** as follows:

**Section 1.** The Assembly expresses its sincere appreciation for the question: "Must Prince of Wales Island residents form a borough before the Ketchikan Gateway Borough annexes them?" The answer is a resounding "No!" There is no evidence to suggest that the interests of the Ketchikan Gateway Borough and its citizens would be served by such an annexation.

However, one circumstance might lead to a change in that position. Should Prince of Wales Island residents propose to incorporate a Prince of Wales Island Borough that would impose taxes or other revenue measures directed – not generally at residents, commerce, and industry – but narrowly at mines, the Borough Assembly may reconsider its position.

This stance is not intended as a threat, but rather is a good-faith answer to the legitimate question posed at the meeting of the Greater Ketchikan Chamber of Commerce on January 30, 2013. The Assembly's rationale for this position is set out in Section 2 below.

**Section 2.** The citizens of the Greater Ketchikan area and Prince of Wales Island have suffered losses in jobs, population, and school enrollment, and other measures of healthy economies in the 1990s.

The two regions are slowly rebounding. The Ketchikan Gateway Borough is making every reasonable effort to facilitate the development of a Niblack Mine on Prince of Wales Island and a Niblack Mill on Gravina Island. One example of such effort is a recent \$2.5 million grant awarded by the Ketchikan Gateway Borough to ensure construction of the Whitman Lake Hydroelectric project. The Whitman Lake project

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which will help to ensure the availability of hydroelectric resources needed for economic development in the region.

The Niblack project, owned by Heatherdale Resources Limited, offers significant economic development opportunities for both Prince of Wales Island and the greater Ketchikan area. Mineral exploration and definition at the 6,200-acre Niblack project site on Prince of Wales Island will continue through the end of calendar year 2014. Heatherdale's critical pre-feasibility and feasibility analyses will begin in the second half of this year and conclude 18 months later at the end of calendar year 2014. If the pre-feasibility and feasibility studies lead to project approval, construction at the mine site and mill site are expected to begin in the second-half of 2016, and be completed 18 months later by the end of 2017. Operations would commence in 2018.

Heatherdale plans to barge material from Niblack on Prince of Wales Island to an offsite location for mill processing. The Ketchikan Gateway Borough's Gravina Island Industrial Complex is, at this time, Heatherdale's preferred site for a mill.

The plan to barge material from the Niblack site to Gravina Island demonstrates that Clarence Strait – the midline of which serves as the corporate boundary of the Ketchikan Gateway Borough in this area – does not necessarily represent the best demarcation between Prince of Wales Island and Ketchikan with respect to common interests regarding transportation, geography, and economy.

There are existing borough governments in Alaska that rely almost exclusively on mines to generate "local" revenues for borough operations. The potential impacts from the types of municipal fiscal policies implied in Recital M above (i.e., a tax or payment in lieu of taxes narrowly imposed on mines to (1) fund borough government while the mines are operating and (2) build a borough permanent fund large enough to fund borough operations after the mines have closed) might in and of themselves render a Niblack or Bokan development unfeasible. This would adversely affect the economic interests of the greater Ketchikan region and Prince of Wales Island.

**Section 3.** A copy of this resolution shall be provided to the Prince of Wales Community Advisory Council.


**Section 4.** This Resolution shall be effective immediately upon adoption.

ADOPTED this 25<sup>th</sup> day of February, 2013.



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Dave Kiffer, Borough Mayor

ATTEST:

  
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Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:

  
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Scott A. Brandt-Erichsen, Borough Attorney

EFFECTIVE DATE:		FEBRUARY 25, 2013		
ROLL CALL	YES	NO	ABSENT	
Bailey	✓			
Moran	✓			
Painter	✓			
Phillips	✓			
Rotecki	✓			
Thompson	✓			
Van Horn	✓			
Mayor (tie votes only)				
<b>4 AFFIRMATIVE VOTES REQUIRED FOR PASSAGE</b>				