

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

January 21, 2005

The regular meeting of the Ketchikan Charter Commission commenced at 6:00 p.m., Friday, January 21, 2005, in the City Council Chambers.

****Note:** There were problems with the recording equipment for the first part of the meeting. The first parts of the minutes are taken from written notes and a video of the meeting.

Roll Call

PRESENT: OTTE, HARRINGTON, MCCARTY, PAINTER, THOMPSON

ABSENT: FINNEY, KIFFER

A: PLEDGE OF ALLEGIANCE**B: CEREMONIAL MATTERS/INTRODUCTIONS**

It was noted that this date, January 21, 2005, is exactly one year from the date of the first meeting of the Charter Commission.

C: PUBLIC COMMENTS

NONE

D. INFORMATIONAL REPORTS AND/OR COMMISSION PRESENTATIONS

NONE

E. CONSENT CALENDAR

M/S PAINTER/HARRINGTON for approval of the minutes for the meeting of September 17, 2004.

The minutes were approved by a unanimous voice vote.

F. VOUCHERS

As authorized at the September 17, 2004 meeting, vouchers totaling \$1,689.82 were detailed for the Commission's information.

THOMPSON said there was about \$97 left. When it was required the Commission return the unused funds through June 30, 2004 to the State, it was done on a cash basis instead of encumbrances and approximately \$700 more than should have been was returned. All in all, we did a pretty good job on the budget.

G-1 RECESS THE MEETING INTO WORKSESSION TO CONSIDER

Note: Work sessions are informal discussion sessions held for the purpose of exchanging and gathering information. No action may be taken, formal rules of order are relaxed, and there is no requirement that minutes be kept.

M/S PAINTER/HARRINGTON to recess the meeting into work session. A roll-call vote was taken with 5 affirmative votes.

PAINTER wanted to know of any correspondence with Mr. Bockhorst since the deadline for comments. It was pointed out that copies of those emails were included in the packet that formally notified the Commission of the actual responses and the time-line being set for the Commission's response to those comments & brief.

THOMPSON said that when he was notified and we had the comments in hand he had emailed Mr. Bockhorst and asked that the Commission be given until the end of February to get a formal response together since the brief/comments were quite extensive. Mr. Bockhorst said that the end of February was fine and that if we needed more time than that, the LBC would probably have no problem with an extension.

THOMPSON went on to say that there had been three written comments; one from the City Manager as a legal brief, one letter from the City Mayor and one letter from the Borough Manager. He said when those were received he'd talked with PAINTER and HARRINGTON about setting up this meeting and HARRINGTON agreed to start to draft a proposed Commission response. That draft response was then sent to THOMPSON and he added comments, then it was sent for inclusion in the agenda packet.

THOMPSON said that the Commission's response can be however is chosen by the body. He said we could do three individual responses or include all our comments in one document. He said the draft had been written on the basis that we'd have a general introduction such as HARRINGTON had written and THOMPSON said he felt that HARRINGTON had hit the nail on the head on most of the items. The Commission can then go into individual items for response. On page 4 of the draft are a lot of those in italics that could be bullet points in our response to those issues, but there are a lot of unanswered questions. This

draft only goes through Mr. Amylon's brief and not the two letters, so those bullet points would have to be added.

HARRINGTON said he'd started working on a response when he'd received the City agenda item of their 12/13/04 meeting which was submitted for Council approval prior to submission to the LBC. He then modified the Commission's draft response once the formal comments were received. The report to the Council had more points than the final brief. OTTE said she found the agenda item easier to read than the brief. She offered to make copies of the agenda item and referred members to the City's website for the 12/13/04 meeting. She said that from the main page on the City website, just click on the Mayor & Council link and there would be another link to agendas & minutes. THOMPSON said he'd read it, but would like a copy.

HARRINGTON continued that he gathered we would meet and have a general synopsis of our point of view, in addition to our Petition. That was why, he said, he'd started off with the introductory verbiage. He apologized for not getting more of the specifics done.

THOMPSON asked if it would be appropriate to review the draft introduction for any Commission comments or additions.

MCCARTY said before we got to that, he thought the salient point to guide the whole (response) thing was that we had to decide whether this is a good idea or not (responding). That question must be answered first. Mr. Amylon seems supportive of the idea. Let's figure out how to make it work. We need to be dealmakers. He said it's important as a preface or a forward to get the commitment that it should go forward, then we need to figure out how to make it work.

MCCARTY continued that in looking at the three comments, they pointed out things they didn't like. They didn't say we shouldn't do it (consolidate), they just want things fixed. He suggested using a positive process rather than adversarial. Anything can be nit-picked to death. He said we needed to start from the point that it's a good idea (consolidation). That's the core of this thing. Let's make it work. Then we start dealing with these issues. We need to set the tone. This is not an adversarial situation; it's not us or them; it's us and our future.

PAINTER said he concurred. He said on this 7-member body there are 3 City residents, 3 rural residents and 1 person elected at-large and we debated a lot of these topics with the objective in mind to come up with a reasonable plan that's the most fair to the most people and from the different perspectives of rural and urban. The main objective was to meet the State standards and make the process the most palatable to the voters. We've met the standards, he

continued. Did we come up with a perfect document? No. Can it be changed or amended? Yes, if we do like MCCARTY said. If we take and change our document to respond to the City's concerns, is it still going to be palatable to the voters?

HARRINGTON said that clearly there is room for change. He said, for instance, the one item that was mentioned about the authorization for the Water Department to be taken out of KPU. That was in the City's prior document. If the City's opposed to that, we could change it if we choose to do so. That's not a major stumbling block. Some of the other issues that Mr. Amylon raises are not going to be things we will change, but a lot of them are.

OTTE said she didn't disagree. She said we've debated and come up with something. The clerical things that were pointed out, especially in the Borough's letter, they need to be tidied up. There are a couple of references that shouldn't be in there. As far as addressing the concerns presented by Mr. Amylon, Mr. Eckert and Mr. Weinstein, she said it would behoove the body to see if we can get those participants and Mr. Bockhorst and have meetings until we can come up with a consensus that everyone can deal with. She said it's not us or them, it's us, as MCCARTY had said.

THOMPSON related that he and Mr. Amylon had spoken at a Rotary meeting the prior week on consolidation and people were commenting how congenial they were and THOMPSON said he'd told them he and Mr. Amylon were on the same side. They just had a different vision as to what the consolidation would look like. He said both got the opportunity to explain their positions and where the process was. They also both answered questions. Some of the questions, he said, he couldn't answer because he, at that point, could not speak to the Commission's reaction to the submitted comments. After that meeting, Mr. Amylon indicated he would be available to sit down in a work session and talk through some of the problems.

THOMPSON continued that we can go through the comment documents and say, for example, this is something that's a technical error and easily corrected, or we can say that this particular issue needs to be discussed. If the issues can be sorted into those categories at this meeting, we'll be ahead of the game. Then maybe we can sit down with those folks in a work session and talk about the differences on some of the comments. We can decide to agree or agree to disagree and let the voters decide, or let the LBC decide and he said he felt that was where the Commission needed to go with this thing.

PAINTER said after reading both the City's and Borough's responses he felt the main issues of the City's were the allocation of funding, reserves and the services that were placed areawide, mainly because the reserves and funding were put

there mainly by City residents and not Borough residents and what is not given consideration in that is the fact that 85% of all purchases in the community are made within the City of Ketchikan, thus the sales taxes, when it comes to these funds and reserves, are being contributed by all residents and there's a lot of emphasis in the document on the funding.

MCCARTY said he'd thought of his comments about this idea of where we want to go with thing. Do we want to make it happen? And what do we do to make it happen? He said he thought that's the intro. The next phase is, and it may not be in this specific order, but there are clearly some specific ones; numbers that need correcting; if we used the wrong year. Those are technical or typographical type errors. Those can be worked through. So many of the numbers that are being used; Mr. Amylon referred to the hospital and some of these funds will potentially be used up by the time we get there; bonds will be paid off; money will be used to pay for a project or go back to pay off bonds. The way we address most of those numbers is to say these are "moving targets"; our best guess at this time. These are things that will be dealt with later; the money may not be there but these are our best guesses. We have to make some assumptions, but this one about some of these numbers we're working on, as a really good example would be the commentary he had about employees, whether we're going to save money. We clearly want to use that report. A lot of money and time was spent into it. And, he said, he thinks there is some value in citing to that report saying that we believe in the long run this is an accurate assumption. We know transitions frequently require more effort, and then you come up to a peak from where you were before and then you come back down. So, we refer to that. But many of the things that we talked about are not things that we decide, they aren't things in the Charter, and will have to be implemented by the new Assembly. And all we can do is give them some guidance. That's kind of like the second phase, after we say it's going to work, we say we made some assumptions, we changed the numbers that were clearly inaccurate, we have a section where we say these are suggestions, these are assumptions we're working under, but it's going to be a work in progress. Part of it is going to be in the transition phase and part of it is going to be ordinances being adopted, policy decisions are going to have to be made by the people on the ground. We're just giving them a road map of things to consider. Many of these comments are directed at things that we're suggesting that we clearly discussed at the table and said all we're doing is saying these are things that should be looked at; we think these are good ideas; these are things that should be looked at and the new Assembly and management should decide about them when the time comes. Within those numbers, this moving target we have of what is oil money, how much is being generated; how much is the State going to provide. Unfortunately, we have a moving target that seems to be an increasingly steep slope on the retirement funds and insurance. They are numbers we have no control over so that's part of this process. He said he

thinks in our response, instead of going in and saying we agree or disagree, or get into the battle of numbers, our response if it's more generic in that phase is much better than getting into a kind of a battle of us or them. He said there are some specific ones, for instance, what numbers should be used in calculating the property taxes. There's no doubt the tax rolls took a major whack because the mill came out and was no longer a taxable entity. MCCARTY said he thought we lose our focus if we get too bogged down in the details. The ones that need to be changed, we change; point out the policy suggestions. He went on to say he'd spoken his piece on the property cap before; he said he objects to that, but if nothing else, if you assume there is a cap, Mr. Amylon may have a very valid point. We are relatively close to that cap at this point. If the body feels there must be one, it may be worthwhile to revisit that cap. It isn't worthwhile if we'd picked a property tax levy that's 3 mills below what any person would say the budget was going to have to be. Past that, he said, fight no battle before we need to. We can state that many of these things are guidelines and they're not fixed in stone. It's going to be up to the people in place. All we're doing is giving suggestions and giving the best guesses on moving targets.

PAINTER said he would support, if Mr. Bockhorst is willing to come down, to maybe spend a half a day, or whatever the case might be, and if the City and the Borough are willing to participate to see if we can't sit down together and try to.... PAINTER said he wasn't saying, like MCCARTY said, we need some guidance from Mr. Bockhorst and try to work out these problems. He said he didn't want to end up with is a "those who are for, those who are against" kind of thing and that could very well happen. PAINTER said he liked the idea of everyone sitting down.

THOMPSON wanted to know what would happen if there wasn't a consensus. Does the group agree not to agree at that point and leave it in the hands of the LBC and bring it to the voters? There are some philosophical issues that were brought up in the Charter that the City doesn't agree with; one being the property tax cap, to which they are adamantly opposed to it.

OTTE said she thought that some of the things needed to be addressed in detail. She said she thought that Mr. Amylon's point about the employees might have merit. She said she'd started doing the PES's and thought she should continue that process so the staffing should be looked into in more detail and perhaps offer a little more as to what initial savings will be realized when the vote is approved. She said she also agreed that some of the projections of funds could be revisited and updated. A little more attention to these figures and with the City's 2005 budget being done, and she said she was sure Mr. Newell would be happy to provide any information needed to update the figures.

THOMPSON said that the problem he has with that is at what point in time is a line drawn on the "moving target"? Mr. Amylon and Mr. Eckert both brought up things that the Commission was unaware of at the time of submission of the document. We could revise the document week in and week out and it still wouldn't be accurate. He said this is a feasibility study. He said the other problem he has with delving into that, and it kind of goes to this PERS & TRS thing, is that these are issues that neither one of the legislative bodies (City & Borough) have decided how to deal with these increases; whether taxes will be raised or services would be decreased, and as HARRINGTON said, it would be impertinent of this body to try to legislate those changes through the proposed Charter and tell them that we think that taxes should be raised or that personnel should be decreased to pay for the increases. The Commission extrapolated the proposed budget off the existing published budgets of the City and the Borough to demonstrate that it was financially feasible to combine the two entities. He said there is a point where a line must be drawn and indicate that these are the facts at the time of submittal. There will forever be changes; these are "moving targets" with budgets changing every year. The governor has \$18M in the current budget to address the major issues, like the PERS and TRS, and back-fill some of the shortfall. The State recognizes there is a major problem, either a breakdown in actuarial tables or there was an error in the PERS & TRS and they are going to have to fix the problem. So far, it appears that they will. If the Commission budgets that there will not be any funds to ameliorate this problem then the Commission's budget would be just as wrong as if these funding problems hadn't been addressed at all.

MCCARTY said that was why he was trying to make a point of, "is this a good idea or not?" You start with that, and you start working within the things. We could get bogged down in the details and we can argue and if we're not careful we'll get into it too far as to staffing (how many Clerks are needed, how many people do we need here or there). He said he's been through that battle before on these bodies and the Manager makes those decisions. Overall the Assembly, the Council and the School Board determine the overall budget and maybe make some suggestions as to cuts and then it's up to the Manager. He said he thought it was the difference between strategies and tactics. Tactics is how to win the scrimmage and the strategy is about the overall goal. This body needs to get stuck on the strategies and not get too far down in the levels because there could be arguments all day long as to whose numbers are correct; is the governor going to give money; or whatever. He said he would suggest that the idea of talking to Mr. Bockhorst is great in that we need to find out what he sees that needs to be done by this Commission or is the document already submitted sufficient. He said he thought we should be focusing on where we want to go as opposed to what were the exact words used.

OTTE said she had a question. She said that she wants the consolidation effort to succeed. In the City's prior effort, they presented their budget and their staffing levels as if the new Assembly was going to walk in and that was going to be the actual budget. In the approach that this Commission has taken, it was more of a document showing the feasibility of the consolidation, rather than getting into the details. What does the LBC want? She said that the Commission needs to find that out. If that's what the LBC wants, then we have a lot of work to do. THOMPSON said that if they want a budget that they can come in and approve, it's an impossible task. He said that if the instructions from the LBC are read, they state that the petition has to demonstrate that it is financially viable. THOMPSON went on to say that like MCCARTY said, anyone could come in and pick apart anybody's budget. OTTE said she understood, but that is a lot of the difference and why Mr. Amylon is making all these financial points, because the approach was so totally different.

MCCARTY said that the approach was totally different and part of the thing is that Mr. Amylon is the tactical man in this sequence, and so is Mr. Eckert. They have to make the thing run on a day-to-day basis so they are looking at the nuts and bolts of the numbers, instead of being told the strategy by the policy making body as to where they want to go and then it's up to the managers to get there. And that's the difference in the approach. This commission is taking the long-range view and saying that it's the job of the manager to make it run. MCCARTY said that it wasn't up to this Commission to do that, but rather give a road map as to how to get there and that it's feasible to combine the two governments. He said there are certain assumptions with the consolidation; he said he hadn't heard of anyone who disputes the efficiencies in general or disputes there are going to be some savings that are going to be affected. He said once a person gets below that level as to exactly how it's to be done and what choices are to be made, that's why the managers get paid the big bucks. To some extent, Mr. Amylon and Mr. Eckert are saying that the Commission should do their jobs for them on those levels. MCCARTY said he felt there was some very good constructive criticism. They are saying that the Commission is putting them in the position potentially, from their viewpoint, that it isn't going to work; the cap and some of the other things. He said he thought the Commission's response to make it workable would not to be side tracked from the main effort. The job of this Commission is to find an overall road map and we're pretty close. If we get the information from the LBC on things that this Commission must do. The disagreement on policies, on the numbers, on whether the governor is going to be backing us, whether the legislature is going to make certain decisions all could be put into the document, but MCCARTY said that the Commission would be foolish to put a lot of weight on them.

MCCARTY said the crunch things, to him, are the cap; if there's going to be one, that's a policy decision, but if we are going to have a cap that goes into place

upon consolidation, then it must be revisited as to whether the number is reasonable. Is the cap that's been set too close to what a reasonable budget would require? Especially if the numbers are crunched, taking PERS and different permutations of monies, if there's a million or million & a half shortfall and if the cap going into the new government is 3-tenths of a mill wiggle room, it cannot be done. That would need 11 mills to make it work. Those big numbers are reasonable to revisit, but not the small numbers. Small numbers are for the managers.

HARRINGTON said he realized that the cap is a pivotal issue on this and he said that he had a distinct memory that he said he really needed to go back and review the two meeting minutes prior to the last meeting because he said he thought the wording on the cap had been changed. He wanted to know if the minutes could be resurrected from those meetings and OTTE said they were over in the office. HARRINGTON requested a break to allow retrieval of those minutes for his perusal. He said he thought the problem had been solved.

The Commission took a 20-minute break.

HARRINGTON said that he'd had a distinct memory that when the Commission was dealing with the sales tax issue and the tax cap issue at those last few meetings, we had decided that we were not going to go to a vote of the people for a sales tax increase or require a super-majority to implement it. He said he also had the distinct memory that the tax cap had been emasculated so that also could be changed by a vote of the Assembly with a super majority. He said he hadn't been able to find it in the minutes yet, but he would keep looking.

MCCARTY said that there is some good reasoning behind the idea that if there is some kind of tax cap, you don't want to see an end run on that cap by jacking up the fees to create the same amount of revenue under a different name, but there was a comment in here that we didn't intend to make KPU fees part of the fees. He said that unless the Commission wants to spend about 3 or 4 pages of very fine print talking about all the exceptions, that might be one of the things that needs to be revisited. He said he didn't think the Commission wanted to put a bar on the library deciding what they want to charge for late fees, or any number of fees like the Parks & Rec people want to charge different fees and they really don't want to have to come back and have the Assembly review those changes. MCCARTY said that once the document starts saying fees, how are fees defined, what level do they kick in, is it a percentage or a dollar amount? It's really a problem and he said he could understand why California and other states have said they'd seen what happens as soon as a tax cap is put in and where it went, but that's a real mess to get into. He said he was using the library as an example and he didn't want to have the librarian have to come to the Assembly and have to go through that whole process they have to change a

very minor fee that is not something that is really designed in any form to balance the budget.

HARRINGTON said that he had been speaking very specifically about KPU and that in his mind, the Commission was saying we wanted that run as a business. It was to be exempt from and separate from the "government" end of stuff. As far as the government's definition of what is a fee and what is a tax, that's where we got into the problem was if you call it a fee and not a tax, how do you control the escalation in fees as opposed to taxes. He continued that he had never yet seen a body that is required to vote on an administrative thing and come through on a 4-3 vote. He said almost all of these things are unanimous or nearly unanimous for the pointless little raises.

OTTE said that at this point on both sides of the fence, the Borough and the City, when the librarian wants to raise the fees or when the Civic Center wants to raise the fees, they must take that in either resolution or ordinance form to the Council for approval. Similarly, if the Airport, Parks & Rec or Animal Control want to raise their fees, the Assembly must approve them. We're not saying anything more than they need to make sure that this is a necessary thing by putting a super majority on it. She said the current procedure is not being changed, there is just a little more restriction being added to make certain that the fee increases are warranted and it's not something that's trying to slide through.

THOMPSON said that what was removed from HARRINGTON's draft that the Commission said was the check and balance on taxes versus fees was it would be allowed for the Assembly to raise the property tax cap with a super majority. That language did not make it into the Charter that was submitted to the LBC and HARRINGTON remembers that we'd agreed to that and THOMPSON said he thought we'd agreed to that, but it's not in the Charter. PAINTER said we'd gone through the definition of super majority as being 5 persons and MCCARTY said that was his specific recollection. THOMPSON said that it says in the submitted Charter that to raise the tax cap, it must be taken to the voters. He said that he thought if the minutes are reviewed, he didn't think that was what we wanted to put in there. MCCARTY said that compromise was very definitely made. That was a hard fight. THOMPSON said that is something that could be made an Errata and could be rectified. It's a big change. That was something we fought over. PAINTER said he remembered it specifically because his first motion was a unanimous vote and it was debated that there never would be a unanimous vote to raise taxes. THOMPSON said then there was the six-vote compromise and then 5 votes. PAINTER said that it was also discussed if there was someone missing, and then there couldn't be a vote.

OTTE said that the minutes from those meetings are pretty much verbatim and if it turns out that something didn't get changed in the LBC Charter from what was

discussed and voted on, the minutes will reflect what actually occurred. If there are further questions, there are the videos or the audiotapes. THOMPSON wanted to make that an action item to go back and research this issue and if changes need to be made, they can then be brought up and voted on.

THOMPSON said that he guessed there was kind of a policy of where the Commission wants to go with the response to the brief and comments. He said he liked what MCCARTY said because obviously if the brief and comments are reviewed, there are some things that could be agreed on by the Commission as being errata and mechanical and he said he thought the body should step through the documents and see which ones of those can be identified. On the ones that are not simply errata, it's interesting because some of the issues that were brought up by the City were actually addressed by Mr. Brandt-Erichsen and he had the opposite view and there may be a point where we want to take the easy ones and we want to go back to the LBC and say which ones do they (the LBC) have heartburn over that they want us to address. And then take the process from there.

MCCARTY said that he thought it was a good analysis. This is a process. It's not like at any point it's got to be super solid. It's a process. They (the LBC) could say these are things that are so serious, if they cannot be addressed, the whole issue is dead. There is point – counterpoint; the understanding of Mr. Brandt-Erichsen on a particular issue and maybe Mr. Amylon's or someone else. These are valid discussion points. We have two different positions; people look at this and discuss it and think maybe one is better than the other; maybe some place in between is a better point. That's a great place to be instead of no response at all. We progress further; there's discussion; the LBC discusses; there will be public hearings and these will be brought up. The more the pot is stirred, the more people who want to come to the table who want to respond and make comments. And then they are synthesized and hope it works.

THOMPSON inquired as to whether the Commission wanted to step through the documents and see if there were items that can be identified that are very specific that we could agree to.

OTTE indicated she thought the Commission should go through as quickly as possible and mark up their copies. She said the body has to decide what we are going to do. THOMPSON said he thought we should go through and glean out the ones that are things that we can agree that we missed, or that was not our intent. He said an example would be the setting of KPU fees. He said as he understood the Commission's intent when writing the document and transition plan, we were not trying to set fees for enterprise funds, which would include KPU, the Airport and Ports & Harbors. Those fees would be set by the market and we did not intend to have to bring those to the Assembly and that language

should be in there. We'll find that as one of the comments and we can say, yes, that was our intent and we can fix that.

MCCARTY indicated that the water department issue would be another one. He said his response would be the City, in its prior petition, seemed to support a certain position and this Commission followed that to a large degree. The City is now posited a different position and that may mean that this issue should be re-visited and further discussion would help us to deal with it. Rather than, to some extent, what seems to be defensive or argumentative response, he said he thought that just the idea that there are two different positions that this body indicate that this is an issue that has to be addressed and deserves further discussion and that this Commission proceeded with a certain assumption and one of the major players has said that was an incorrect assumption and let's see how it plays out.

HARRINGTON said he wasn't exactly sure what...he said when he was devising his response; a lot of the stuff that was in this body's petition was grounded in data that was received. When we received contradictory data after the fact, it may sound like it's defensive, but when we reiterate and go back and the original data on which the original basis was made is still valid and for these reasons. Is that argumentative or is that an explanation of why this Commission is putting, say, a 1% increase in the assessed valuation and explaining the rationale behind it. OTTE said she didn't think that was defensive but explanatory so that the Commissioners of the LBC can say, well, that makes perfect sense.

MCCARTY said what he was saying was that he thinks rather than stake out a position and say this is the one, we need to avoid that on any issue. He said he thinks that this is a tough issue because of, if you will, using police inside the City limits, but people that shop here or work here get some benefits. How would that be allocated? He said he didn't know. You don't get water outside certain boundaries from the current City water system. Your friends come to town and they stay in a hotel, they can take a shower there. He said he didn't know how those things could be measured. MCCARTY went on to say that he'd read this thing and he said he'd done his best to read it as an impartial reader, as opposed to someone on the Commission and he said he had some problems with some of the sections that he staked out a position and that could be adversarial. He said that has to be avoided. Our job as Commissioners is to be impartial as opposed to being advocates. Mediators trying to find a prime result and if a position is staked out too solidly or too early, we may defeat our purpose.

HARRINGTON said that's what we did was we were impartial and took a look at very diametrically opposite kinds of positions, rural vs. City, and said we cannot deal with the them and us, we must deal with just us and yes, there are those

issues. We need to resolve those issues and one way to resolve those issues is not to address them at this time but to push them over to the next body, saying we can be a single united community and not do this at the expense of the "other guy". We can hold things as they are and allow the legislative process to calcify them or change them as they see fit. He said that's what he was trying to say in the document was we bent over backwards to avoid penalizing anyone in this document and if it is attacked for not having gone far enough, what's being said is that it is desired that the "other guy" be penalized. We are not set up to do that. We are set up to establish a coherent, viable approach that allows the legislative body to address this at some future date. He said he didn't want to be Solomon and divide the baby. He said he wants to be in a position that says here's the assets and here's the process; you, the legislative body, take your time and make the decisions; things are being kept at the status quo as much as possible. He said he'd tried to explain why we couldn't do what Mr. Amylon wants us to do, because to do so is to penalize "the other guy" and yes, Mr. Amylon is speaking for the City residents and he does a good job. We are not speaking for the City, we're speaking for the entire Borough and that's why we need to define those issues.

MCCARTY said that speaking for himself, as an individual, the way that he read HARRINGTON's response, it did not come across as a totally impartial way to do it. It appeared to come across, in part, as a position for someone who is from outside the City limits, as to why we should do these things. He said he was correct or that other people would say that, but he said he's using that as an example just in general that we have to be careful we don't come across that way in what we are doing. That, in some manner, we become advocates for one segment as opposed to the other. He said he thinks that in many ways we serve our best function for pointing out the issues and things that need to be resolved. These are the tensions. Subsidizing the water department through paying utility bills outside the water serving area, which is very clear from Mr. Amylon's information that there's no way in heck they can make that water system make it on its own. People couldn't afford those water rates. Those are things that are worthwhile to point out and what do we do? There's some benefit to having a viable system inside the City limits, that it's worthwhile, even if you don't get the water, to pay part of that cost. Those are things that are worthwhile to point out and then we point out that it's up to the policy makers to decide. Someone is going to get hurt, either people who don't get water and are paying for water they don't get, or people who get the water are paying a price they can't afford, which may be too costly to all of us because you cannot shut the water system down. That's just my concern. We need to be careful. He said his perspective that at this stage we say these are valid concerns from Mr. Amylon, very valid concerns from people outside the City and it has to be resolved. Maybe we make a suggestion as to the route to solve it.

THOMPSON wanted to know what MCCARTY envisioned the Commission send back to the LBC, anything?

MCCARTY said that the first stage is to inquire if there is something in these comments that is such a black hole that we've got to address. If the LBC says that these are good discussion points, good topics to bring up at the public meetings in the future and then come back and meld it into the final document.

THOMPSON inquired of MCCARTY that what he was saying was the Commission should send a request back to the LBC that we have reviewed the comments and that other than a few things that are easily identifiable and easily fixed, perhaps the tax cap issue and some of the other things, most of the rest of the issues are philosophical; (to the LBC) is there anything that you feel that the Commission should address before the initial report is issued? He wanted to know if that was what MCCARTY was saying.

MCCARTY said that from his perspective, he thought not. Unless the LBC says these specific things that need to be addressed, again, he said, he's a big proponent for not fighting a battle until it's needed. Right now, we want to use these comments as a discussion tool. The Commission has a really good document, very comprehensive document that we made a lot of work through, and as a general concept, he said he thought it was well received. If the Commission gets down into the details, we get too bogged down and get away from the basic concept of it's a good idea, let's do it, let's make it work, now, how do we make it work. If the LBC says there is too big a hole, then we have to address it. If we don't, then the stage to address it is as we get more information.

THOMPSON wanted to know how the rest of the Commission felt about that.

HARRINGTON said that it makes sense for the Commission to approach the LBC on what they want, but they clearly want us, they have said they want a brief, a response from us. THOMPSON said that wasn't completely true. We have an opportunity afforded us to respond and they will afford us as much time as we need to do whatever we want to do. What MCCARTY is saying is let's not over-do it. Let's respond to the things that make sense and are easy to do and then ask them if there is anything in the comments received that make this a showstopper that we have to address before we move forward on this.

MCCARTY said that the party that has to bear the burden of proof on any level in the court system has the first and the last bite. The one that is responding gets one chance. It is not infrequent that the people who have that burden of proof may say that it's been covered well enough, they've said their piece, and no further response from me is necessary. MCCARTY said he thought that was

what the LBC was saying; it's not that the Commission is required to make a brief, we should respond to the things that we need to. We all are going to have different levels of what we think we need to. MCCARTY said that some base assumptions: 1) Numbers: If the Commission says there is a million and there is only ½ million, change that number then we decide, past those points, the numbers that everyone is in agreement on finite, discernable things. He said he didn't know where that limit is. He said his is not nearly as high a hurdle to do as some of the others may think. He said he wasn't going to say he's right, it's just his philosophy on these things that there's no need to do some of these things unless you must. Those things that must be done should be done well.

PAINTER said that in regard to what HARRINGTON was looking for in the minutes, he said he'd been looking through Mayor Weinstein's comments and at the bottom of page 2, paragraph C he says, "The proposed petition requires any tax, rate, or fee increase, including for utilities, would have to be approved by a super-majority or 5 members of the Assembly. Furthermore, the petition proposes a 10-mill tax cap with voter approval required to increase it." He wanted to know if there was a point of clarification that we did not make clear?

THOMPSON said that was the question that HARRINGTON had brought up. He said they both thought that the Commission had made it an either/or to raise that tax cap, just like we did with the fees and it's not in the document that was filed. What Mr. Weinstein has in his letter is exactly what is reflected in the Charter. He said he didn't believe that was the intent of the Commission. He went on to say that would have to be researched.

MCCARTY said that the either/or kind of sticks in his mind. PAINTER concurred. MCCARTY said that he knew the Commission had that discussion but he said that he didn't know where the omission occurred in that it didn't go up to the LBC, but that was reviewed and it was a major change to back off of having to go to the voters. PAINTER concurred that he thought it was the intent of the Commission to have the either/or option in the Charter because of Mr. Amylon and other's concerns and the legislative calendar versus local budget timing.

THOMPSON said it was a compromise between what the City and Borough currently have. The Borough takes everything to the voters and the City does it by resolution of the Council. The compromise was 5 votes. We discussed 5, 4, 6 and FINNEY wanted 7. THOMPSON said that he remembers that we did it and that's what it's in there as 5 on the fees. We probably just didn't put it in the other paragraph because we were discussing it in regard to the fees, but it was supposed to have applied to the cap as well. The section on fees does say taxes, fees, but we didn't exempt the enterprise funds from that and there are some other areas, for instance, the bonds where there were some concerns brought up that we weren't clear that we were exempting our bond obligations.

THOMPSON said that he thinks the document is clear on that, but there were some questions brought up in the comments/brief that it wasn't clear that this could affect the bonding.

MCCARTY said that there had been a lengthy discussion about that with Mr. Amylon and probably Mr. Newell brought that up that we had to be very careful of bonding. There are contractual/legal obligations. If the language isn't clear, the intent was very clear that we're not tampering with those things.

HARRINGTON said his memory is that we set it up so that the process of raising the sales tax and raising the bond issues, even with the limits were the same, requiring exactly the same vote.

THOMPSON said the method that was used was based which worked better for the community.

HARRINGTON said that was correct, and not which was easier to do at the time. That's why he said he remembered saying if the tax cap to be raised by 5 votes of the Assembly, why didn't we have it down to 9.2, and he remembered saying he would shut up at that point. And I did. He said his intent was, that way it takes 2 5-votes; one to raise the cap and one to raise the issues above what the cap was, but getting back to the response; if this were like what the Borough Attorney wrote that there was some stuff in there that was not pro what we were doing, but clearly said, this is workable, but...I have some questions. HARRINGTON went on that if that was the way Mr. Amylon had written his thing, he said he would agree completely, let's turn it over, but that's not how he wrote his brief. He wrote his brief that said you (the LBC) should, under no circumstances, accept this as is. And that's the part that requires the Commission to say, wait a minute. The City's brief has some valid points on some of the topics and the Commission will grant those, but on most of what was said, there is a terribly different point of view between the City's brief and the Commission, and that it is appropriate for these reasons...He said that had the City's brief been a neutral kind of brief that would be one thing, but that was not a neutral brief. That was not pointing out problems, it was advocating for not allowing the Petition to go further.

THOMPSON wanted to know where the Commission should go from here.

OTTE said she thought the Commission should make a response to the comments and brief. She said she feels the LBC doesn't require us to respond, but she thinks they are expecting us to. If that isn't the case, the Commission needs to find out.

PAINTER said that the clerical items could be addressed, but things that we didn't know about when our petition was submitted shouldn't need to be addressed.

THOMPSON said there were both clerical and structural things that he felt that the Commission could agree to. OTTE said that in order to do that, this body needs to review these documents on a page-by-page basis. THOMPSON said then let's go through the City's document and decide which of the issues can be decided right now.

HARRINGTON said that when the Commission heard that PERS was going to be affected and we didn't know what it was, but it had a 5% increase. He said he didn't know about any of the other Commissioners, but he heard a 5% increase. A 5% increase does work, however, now it's come out that it's a 50% increase and that does worry him and that was something we should have dealt with, but because the language of the increase, it wasn't PERS that increased by 5%, it was 5% of the salaries that were made which is a dramatic thing and should have been mentioned in the document. Some of it was the translating of the information that we received.

MCCARTY said that on a personal level, he had about 1/2 hour of viable meeting time left and he is approaching meltdown. THOMPSON indicated he would see about getting through the 3 documents in a half-hour. He said if the Commission could go through the documents, quickly identify the things that we can agree to at this table right now, we should do that. Then, we can recess and each of us can write up what would be appropriate. In MCCARTY's case, he might want to write that these are issues that are philosophical. Tell us what to do. OTTE says we should address each one of them individually. THOMPSON said that each of the Commissioners can do that and he said the Commission should agree to reconvene in a couple of weeks. THOMPSON said the Commissioners should send their documents to him and he will assemble them in a document and then the whole Commission can sit down and decide how we're going to respond. He said there were some simple things that would obviously have a response, but there are some big-ticket items in these comments and brief that the Commission can agree to that's going to take a lot of the heat off. One is the 5/2 super majority to raise the cap. OTTE said that's assuming we can figure out what should have been in the document. THOMPSON said that there's a Commissioner sitting here right now that can say that's what we intended and we can vote on that and go. If the other two have a problem with that, they can call for a reconsideration or bring it back if they have a problem with it, but THOMPSON said he didn't think they would, because that's what we decided and we can fix that.

THOMPSON said that we could fix the setting the fees on Enterprise Funds. We included the Parking Fund in with the Economic Development Fund. We said we were going to pull it out and it didn't get pulled out. That was an issue. That's very simple. He said he thought we could get through this in 10 or 15 minutes of the things that are simple, but there are actually some pretty big issues that they raised that were things that we didn't intend to have come out the way they did and they can be clarified right now. The rest of it, we may not be able to do anything with. MCCARTY's position is, let's ask the LBC beyond these things that we've agreed to right now, these easy ones, which ones are a black hole. OTTE'S position is that they all should be addressed, and THOMPSON said he wasn't sure what position PAINTER & HARRINGTON had on this. Let's think about them and come back.

OTTE said not necessarily all of them. I agree that we don't want to get into a spitting war, but she said the Commission does need to make a response. We could say that we as a body disagree with the point made by the Borough (City or Mayor). PAINTER said he agrees there should be a response, but he says that response shouldn't be made until after we've had a work session with Mr. Bockhorst, the City Manager and the Borough Manager. OTTE said those arrangements should be made and there should be another meeting date set.

THOMPSON said that the Commission should meet in two weeks, February 4th. We should also include the City and Borough Attorneys in the workshop. OTTE said if we were going to meet two weeks from today, Mr. Bockhorst should be contacted and see if he can come on that date, or should we do it on a Saturday? The Commissioners said the day didn't matter. THOMPSON said he didn't know if Mr. Bockhorst would be able to make it down but we can ask him that in an email and then OTTE could advise everyone if he can make it. MCCARTY said it might be possible to rig a speakerphone if he's unable to come down. THOMPSON said that the attorneys, the managers, the finance officers and the mayors should be invited. OTTE & PAINTER suggested that it shouldn't be a political deal, but strictly staff.

THOMPSON started the review of the City's brief.

Section 1 is a difference of opinion. There is a moving target with the numbers. We obviously need to do our best to suggest a balanced budget. That's the best we can do. Many of the things have changed since the Commission started.

Page 13, Section II-A, Paragraph 2.

Port service area taxes – We did not provide in our budget the ability for the Gateway Service Area to be compensated by the Enterprise Fund that is using the services and THOMPSON said that should be inserted in the language and agree to that. That should apply to all the Enterprise Funds. HARRINGTON

wanted a definition of Enterprise Funds. THOMPSON said they are the Ports & Harbors, the Airport and KPU. HARRINGTON queried as to where they got their revenues and the answer is from user fees. MCCARTY said that an Enterprise Fund is entitled to reasonable compensation for expenses and services it provides. THOMPSON reiterated that the service area should be compensated for its expenses that are incurred on behalf of an Enterprise Fund. Then that becomes part of their cost structure to charge user fees. HARRINGTON said this is the payment in lieu of taxes that we failed to require, but we did not fail to say it was available. We did allow it; we just failed to require it. THOMPSON said that payment in lieu of taxes go to the General Fund of the consolidated Borough. What Mr. Amylon is saying on page 13 is the Gateway Service Area will be providing Police, Fire, Public Works and direct service area support to this Enterprise Fund, for which they (the Service Area) should be compensated.

HARRINGTON then reiterated that it doesn't go to the General Fund. It is not specific. It may go wherever the Assembly chooses to put it. The current language is permissive. All he is saying is that we did not require it to happen, and HARRINGTON said he didn't want to require it, personally, but he said the new Assembly has been given all the tools necessary to use that if they so desire.

THOMPSON said that what Mr. Amylon is saying is that we did not put that in the plan that they would be doing that and that's a significant expense to that service area and that puts the service area's budget at risk. HARRINGTON wanted clarification that it wasn't in the budget that way; is that what he is pointing out? THOMPSON said it's not factually going to occur that they're going to be reimbursed for their support of those Enterprise Funds. PAINTER asked, as payment in lieu of taxes? HARRINGTON said that's where he was getting confused, when enterprise funds are being talked about, because this a payment in lieu of taxes. This is real estate tax to the enterprise fund. THOMPSON said there is a difference here, too. There is payment in lieu of taxes and there are also administrative fees. There are fees that can be charged by the service area for items provided. HARRINGTON said, yes, but this speaks directly to the payment in lieu of taxes. THOMPSON said this speaks to taxes, but the point he was trying to make is that the service area should have the ability to charge the enterprise fund a fee for services provided and those funds should go back to the service area. For instance, if Forest Park was to send their contractor in to plow Deermount, the Gateway Service Area should recompense the Forest Park Service Area for those expenses and that's not called out in the Petition and that's what he said he was reading in this section. HARRINGTON said he was reading it entirely differently, as did OTTE.

THOMPSON said that this particular one should have a response from the Commission saying that the Gateway Service Area should be compensated for

expenses it incurs on behalf of other service areas. THOMPSON said he thought that was in the Petition, but it wasn't spelled out.

MCCARTY said this can be said, but the other part that goes with it is the service area is not independent from the Assembly. The Assembly ultimately supervises the service area. That's the second sentence that goes with that and then this Charter clearly provides the power of the Assembly to allocate these monies and it clearly states a philosophy that this is appropriate to charge for reasonable amounts. The policy decision of how to implement that is up to the Assembly. End of story. This issue has been addressed.

THOMPSON wanted to know if that covered what we wanted to say and HARRINGTON wanted to know what was going to be changed. THOMPSON said we were responding to that concern with those statements. HARRINGTON said that is exactly his position and that's well put. THOMPSON said we didn't have to change our document; we just have to tell that it's in there and that's our intent.

MCCARTY said that the first sentence is: The philosophy is, you pay for what you get. The second is: The power is there. The third is: We encourage the use of that power. And finally: It's a policy decision for the Assembly to make as the ultimate supervisor of service areas.

OTTE said that on page 14, II-B regarding the statement that the Gateway Service Area is going to need to replace antiquated facilities, Fire Station One, "the residents of the Gateway Service Area will still be responsible for much, if not most, of the annual capital expenditures of the new government," OTTE wanted to know why that would be. If he read that, that certainly wasn't the Commission's intent because the annual capital expenditures in the Gateway Service Area are going to be handled by the GSA fees and taxes, the Fire, the Police. The Borough owns the equipment and the facilities, so why would the GSA be responsible for the capital expenditure?

MCCARTY said that it goes back to people should pay for what they get. In a service area that provides services to others is entitled to be reimbursed. First of all, we don't know what the number's going to be. He said he sees the response is a philosophical one. We don't disagree with the general idea that you pay for what you get. And we understand that there's going to be this division between the assets, they have to be owned by the Borough, that's just the way it's set up because the Borough is everything, and then the service area may utilize them, fund them. THOMPSON said not only that, it's just like North Tongass Fire Department. They have fire stations and fire engines that are paid for out of their service area taxes that support the services the people want. He said he really didn't understand the purpose of this statement because the taxes that pay for that are paid for from the residents of the service area, the property

taxes that are only paid within the service area and the sales taxes collected within the service area for Public Safety and Public Works. That's where the money is coming from now. We didn't change that. He said he thought this was a little bit of hyperbole to a certain extent because if you're going to have a police department you are going to have to have police stations and police cars and those things are going to be paid from taxes generated within the service area as they are now.

OTTE wanted to know if the Borough, as the all-encompassing government, maintains ownership of that equipment and those facilities? THOMPSON said yes, but they have a balance sheet, a fund account, for those and that's where they're placed is on that service area's.... each service area has an income statement and a balance sheet and that's where they are accounted for. It's really an accounting function more than anything else.

MCCARTY said what he sees on this; again, the response is a philosophical one. The number we don't know. It's going to depend on if it's a sales tax, how much sales might be occurring at that time and if it's a property tax, we don't know what the mill rate will be or the assessment will be. But as far as the philosophy, one area is not supposed to be subsidizing another area. You pay for what you get. There's a much better way to say that, in essence, but that's distilled to the meat and that's what we're looking at. We're not trying to rob one group to pay another. We're trying to reach an allocation where each person/each area is paying its fair share. He said he thought that was as far as it should go with it.

THOMPSON said on page 16, there is a comment stating, "The resources of the Economic and Parking Development Fund were dedicated primarily for parking development in the Central Business District." These funds are currently combined with the Economic Development Fund and that was not the intent and Mr. Newell and he had discussed this, there is a worksheet that still has the two funds combined and that's very simple to pull it out. THOMPSON said he and Mr. Newell had talked about the fact that if the consolidated government tried to take that money, the City would probably spend it on something that they may not want and that was not our intent. So that's very simple to fix.

MCCARTY said that on some of the numbers, we had to recognize they were there and make some assumptions and we can say that on some of the assumptions we assumed the money would be spent and some others we thought some money would be left and we couldn't ignore these funds and had to make some allocations. If the money is targeted, it's dedicated funds and the Commission is not trying to take it away from the dedication, it has to stay there. And our response is to say that and then to say, if monies are spent, the monies will be spent. We are certainly not saying they can't spend it in the meantime. HARRINGTON said that it's also probably worth footnoting the changes in the

spreadsheet have been made. MCCARTY said specifically, and with respect to that part, there was an error and it needs to be changed. HARRINGTON said he thought MCCARTY was right and we should pass it off as a philosophical language and that corrections have been made.

THOMPSON said there was another on the bottom of page 16 that speaks to the service area's bonds will be less attractive and will carry higher interest rates, but the service areas carry the full weight and credit of the combined Borough, so that's another area where that's not the intent, it's not to segregate those bonds. If the Borough bonds on behalf of one of its service areas, everybody is liable for it.

MCCARTY related a little of the history of when the excess utility reserves were brought to the attention of the residents. He said that large reserves do make lenders comfortable, but if there is too much in reserves, it means the rates have been higher than they needed to be just to build up the reserves and that can deflate the economy, so there's a kind of philosophy that the City adopted about 20 years ago.

HARRINGTON pointed out on page 17 regarding section III and the annexation of land including Meyers Chuck and Hyder. THOMPSON said he kind of glossed over that one because no, that one is still up in the air and he said he thinks that this particular one is a moving target. OTTE pointed out that on one had it says it's impossible to anticipate and then it says to consider any effects. So how can you consider any effects if it's impossible to anticipate? It's a conundrum kind of paragraph. THOMPSON said that's why he didn't consider that a slam-dunk because it's another one of the moving targets. MCCARTY said that if there is a reply to this section it should say we don't know what's going to happen to this. Obviously when we get closer to a final document and there's something more solid on this issue, it should be considered. That's as much as we can say on that.

THOMPSON brought up page 18, the cap on fees. This again goes back to when we were discussing the PILT, but this is specific to fees. The intent was not for the Port, the Airport or KPU to be included in that. Interestingly enough, the Utility Manager can establish and adjust rates for charges in a competitive market. That's the same thing. We can exempt those in the section. The subject is whether the KPU fees would be subject to the super majority. They still have to be approved by a majority, but the intent is not to hamstring the utilities. If they come in and they have to get it done and it's a market question, there is management in place. THOMPSON said that we could also say that we want the approval of those fees to have to be a super majority. MCCARTY said that his concern is more along the lines that THOMPSON has. There are some major breaks there. For instance, the Planning Department has some pretty

substantial fees for say a subdivision and some of the other things that are done there. The Library Department is not very big on their late charges. He said he wasn't sure what the Police Department charged for a cab fee and some of the others. He said he didn't know whether every one of those has to...

THOMPSON said that every single one of them has to go before either body. MCCARTY said he'd just assumed that some of them had been being done administratively. THOMPSON said that it's possible that some of the de minimus ones, for instance, library fines, are not brought forward, but he said, he knows that all the Parks & Rec fees, all the KPU rates, everything's brought before the governing body and they approve it. MCCARTY said maybe the only question would be is there at some level at which you say you need to have a super majority of the body or is it simply just a majority. THOMPSON said that's what he'd been saying about these Enterprise Fund fees, that the threshold could be lowered. Maybe we don't want to do that. If we lower the threshold on KPU fees, maybe because they can't get a super majority to raise sales or property taxes, our utility rates would go through the roof. MCCARTY said there's been an argument, to some extent, that utilities, at times, have funded other things and kept property taxes down by having the phone bill higher, for instance.

THOMPSON wanted to know what the body thought. HARRINGTON said that given that the super majority is not a major issue. He said he couldn't remember significant issues that are settled 4-3 routinely. He said a 5-vote majority is not a major hurdle except when there's contention. When there's contention, HARRINGTON said he'd rather they were forced to have the super majority and to say, yeah, they might be able to raise the PILT on KPU and thus raise the rates on KPU with four votes, he said he thought that's way too far out on the limb. THOMPSON said then that's not a slam-dunk? PAINTER said or when there are members of the Assembly absent. HARRINGTON said he thought KPU could be exempted from the super majority. He said he thought it was appropriate if as I remember the vision that we had, these were to be run as businesses, in a business-like manner and in a competitive environment...THOMPSON said that businesses often go to their boards for price changes, too. THOMPSON wanted to know if it was okay, then, to exempt the Enterprise Funds from the super majority requirement for fees.

MCCARTY said that one of the check-backs is the initiative and referendum and if the public feels that there is an end-run being done, someone can always try to challenge it. It's a question of which route you go.

HARRINGTON wanted clarification that by saying the Enterprise Funds, THOMPSON is referring to KPU, the Airport and the Port. He said he didn't have any problem from exempting those entities from the 5-vote super majority requirement.

THOMPSON referred to page 18, B, Refunding of Revenue Bonds and said, again, this is talking about getting lower interest rates to refund a bond and what we have right now is that it would have to go to a vote and there is oftentimes not time to accomplish this. HARRINGTON said that this is one that had language been suggested to insert in that section, it would have been appropriate. He went on to say this was a slam-dunk to him. THOMPSON said we could agree with the City's brief on this section, but we need some language of how it should read. HARRINGTON said the people have already voted to go into debt, and usually the interest rates are not established until after the vote anyway, and this is a financing tool. This is strictly for revenue bonds, not general obligation. MCCARTY said that he thought the response should be we agree that this is a sensible idea and we will work with whomever to get appropriate language to make it clear. The key is getting approval to borrow the money. The management of the funds is an administrative task.

THOMPSON said that page 19 C, the Water Division of KPU, and HARRINGTON's suggested response was very good. He essentially said that the Commission was not trying to split off KPU's water division and increase the rates 100% in town, but we want the transparency and the numbers so that people have a clearer understanding of where the costs are. PAINTER pointed out that the way the language reads, it gives flexibility to the new Assembly. HARRINGTON said that this was language that had been in the City's prior petition and we really didn't mess with it. OTTE said that it's giving the Assembly permission. It's not doing it. She said she didn't think there was a need for any change in the language. MCCARTY said the response should be the full intent is that the policy makers and the voters need to have as clean and as clear and as understandable information as possible and that's the sole purpose of this section. Policy decisions then can be made with some good, accurate information.

OTTE said she had a comment on paragraph D, page 19, Names of Service Area and Municipality. She said they knew she would. OTTE continued that individuals and all three governments had at least 7 months to comment on the blankety-blank names and no one did, so the names are fine! MCCARTY said that the Commission's response could be that the LBC said we had to do one or the other.

Page 20, paragraph E, Solid Waste Collection and Disposal really is what the City had in their prior petition and it's the status quo, so THOMPSON said he felt this section was commentary rather than anything, and it really relates to our Exhibit J1, which is the laundry list and is kind of a moot point. There's not really much to say about it. HARRINGTON said that his draft comment on the laundry list needs to be in there someplace which is to say, we're choosing NOT to deal with these issues because they need to have a legislative body look at them and as

such, all we're doing is raising the issue and saying it needs to be dealt with. We're not telling anyone what to do about the issue or how to do it; just something needs to be done. MCCARTY said he thinks that it works well on a number of these issues. Our purpose on many issues is to point out to the legislative body pertinent information, concerns and let them figure out what's best.

Page 21, F, New Bond Issues and any of the rest of these are moving targets and they are not yet issued. There's no data. How many times is this Commission going to be required to update the document? It's another one of those moving target issues. MCCARTY said that the Commission should just say that because these things change over time, we had to pick a date certain and pick some numbers. The Petition included the 2005-06 Borough budget and the 2004 City budget were used as the basis for the Petition. MCCARTY said there didn't have to be a reference to specific numbers or dates; it should say these numbers change over time. We had to pick a stopping point and we encourage new numbers being provided as they are appropriate, and we will strive to have the most up-to-date numbers when we come up with the final document.

Page 21, G, 911 Services. THOMPSON said that looks like something clerical in nature and he said he'd take a look at that. He said he and Mr. Newell had discussed this at some length and he disagrees with the section in the brief and he said, he thought he and Mr. Newell had it all straightened out. That's the 911 costs were like \$500k and \$100k in revenue and he thought that had all been moved to the areawide and they're saying we didn't or something. Whatever number you want, that's the number we'll go with.

Page 21, Miscellaneous Corrections. These programs that don't exist any more. Every one of them is fine and we can just make the changes.

MCCARTY suggested that we put in a conclusion part and make the following points: We tried to make a best guess based on the information at the time and that numbers change all the time and we're willing to modify if necessary. Some points are going to be policy decisions and we only make suggestions to the policy makers that they should look at the suggestions and the different viewpoints that have been raised.

THOMPSON said he didn't see anything on Mr. Weinstein's that was numerical or procedural. His is more on the policy.

OTTE said she thought the loss of the rural status on the home loans should be looked into. We should ask Mr. Bockhorst about page 3 of Mr. Eckert's on this topic. THOMPSON said that he wasn't addressing those since they weren't official comments by Mr. Eckert. That was in a footnote exhibit. OTTE said that

might be true, but it still went to the LBC. THOMPSON said he didn't know if was used by permission because the official comments by Mr. Eckert that were approved by the Assembly are in a signed letter. OTTE said it would be interesting to find out if it was used with permission. HARRINGTON said it was made a public document, so that point isn't going to be argued. THOMPSON said he hadn't gone through that exhibit as far as comments.

THOMPSON then went on to Mr. Eckert's letter and said that in Item 2, there is some footnote stuff. That's pretty much slam-dunk. Items 3, 4 and 5 are moving targets and that discussion should be included for these items. OTTE suggested finding all the moving targets and list them with a single set of comments having to do with moving targets. Item 7 is a clerical correction between the words written and the number listed. Item 8, separation of wastewater services funds. The wording was awkward and THOMPSON said he agreed with that.

THOMPSON continued in the letter submitted by Mr. Eckert:
Item 9, Land Trust and Maintenance Fund needs to be updated. Housekeeping.

Item 10, Housekeeping.

Item 11: Housekeeping.

Item 12: Housekeeping. At the end of the section it says that at a minimum, this listing should probably reference that water service is provided in the South Tongass Service Area.

Item 13: This needs to be addressed. It's an opinion being expressed, but in there it says the Charter is more restrictive than would be required by current status of state law. We are free to be more restrictive as long as we comply with the minimums of state law. This might be one to ask the attorneys their opinion when we get into work session. OTTE said she thought there were opinions in some of the correspondence received from the attorneys during the regular session of the Commission and she'd try to find that. She said that she thought Mr. Schweppe had addressed the phrase substantive amendment. It may have been Scott Brandt-Erichsen, but one of them in the dueling attorney thing where we combined both their comments into one document for clarity. MCCARTY said that one of them said that if there had already been two meetings, it should be ready to proceed and the other said that this is so new and if people didn't effectively have notice, maybe would have shown up if they'd known a different direction was being pursued. OTTE said she thought they'd both suggested language, so that might be worth bringing back, or going back and looking at the discussion. What we decided is in the Charter. THOMPSON said his comment on this section was "duly noted."

Section 14: The same thing. Currently the Mayor nominates and the Assembly confirms. The current practice of how those things are done is something the new Assembly will have to re-adopt by ordinance. OTTE wanted to know if there wasn't a set of rules & procedures that were separate from the Code that the Assembly currently uses. They're going to have to decide how they're going to do it. We've left it open and they can re-adopt the ordinance or not. MCCARTY mentioned that the question is whether this is by Charter or by Ordinance that it's set. If it's by ordinance, the Assembly is free to revisit how they want to do the selection process, whereas if it's in the Charter, it's a much more cumbersome process if they want to cut back or give more power to the mayor. THOMPSON said that it's put in the Charter that the Assembly is the appointing authority, so they can do it in any manner they choose.

Sections 15 & 16: Again, those are policies. HARRINGTON said that about 16, he could see where Mr. Amylon definitely has a concern about the way we have an increase in a mill levy is a tax increase no matter, even if you drop the mill levy. THOMPSON said there may be some verbiage in there we need to clear up what our intent was. MCCARTY said this is not a zero budget thing on the levy. What you're looking at is what was last year's, that's the number you're working off of and if you want to move up or down then you have to take action. THOMPSON agreed, but what Mr. Amylon is saying is that if the assumption is made that not doing anything means it's going to stay the same as it was last year, doesn't. That means the levy goes to zero because you have to actually set it. And we need to clarify that in our language that we're talking about increases. HARRINGTON said that shouldn't be a difficult thing.

Section 17: OTTE said she agreed with the Borough's comments because she had watched the Economic Development funds disappear under different guises for a number of years. There was always some way to justify something being quasi-economic development. THOMPSON said he wasn't sure what the comments were addressing and OTTE suggested that we ask for clarification.

Section 18: Referred to earlier to correct the fact that Article XII of the Charter does not have any reference to water services and water powers are currently being exercised in the South Tongass Service Area.

Section 19: Conflicting statements. THOMPSON said this was another one that we need to ask them how to word that language because what we were trying to say there is if the powers that are reserved to service areas are ancillary to the exercise of an areawide power, then they can do it, for instance, police at the Airport, but he's saying that the way that it written right now is contradictory, so we need to ask the attorneys.

Section 20: THOMPSON said that he agreed with this section that the Commission should do something with de minimus changes. He said we should just go with Alaska statutes on that. Right now we don't have that. MCCARTY said that was a good starting point and they could always change it if they thought it didn't work.

Section 21: THOMPSON said that this is one of those things that is kind of some verbiage housekeeping that we need to do. We talked about the City and Gateway Service Area, but we didn't talk about the Public Works at the Borough when we kept them separate. HARRINGTON said that we did speak to that but not under this section. We said that initially they would be parallel organizations that need to be merged. THOMPSON said that the Commission needs to put something into J to fix that.

THOMPSON said the other thing that wasn't clarified that we're treating the exercise for the power which is associated which is nonareawide or areawide power and which approach we're using, whether it's strictly geographical. In other words, once the two governments are merged, does the Reid Building become part of the Gateway Service Area because it is located within that service area, or does it become part of the...is it related to function and Mr. Eckert is saying that there are boundaries of service areas that are completely specified in the Code and we know where they area. If there's something that's within those boundaries and we said Public Works applies to all assets within the Gateway Service Area, is that by function, that it's something used by the service area, or if it's located within the service area? For instance, all the schools that are inside the City boundaries, would those become part of the Gateway Service Area? That's not our intent at all. Our intent is that the Police, the Fire and the Public Works that are remaining behind, so it's related to the function of the service area and we need to make that clarification

MCCARTY said that on the other side, the City has Harbor powers outside of its limits. THOMPSON said that we need to ask the Borough Attorney what language needs to be inserted and that it's our intent that it's by function and tell us what and where to put that in to clarify that.

Section 22. Pre-selecting a method for selecting which agenda and procedures would be used. THOMPSON said that makes sense. He said he thought something should be put in the plan to cover that.

Section 23. THOMPSON said it is another of the moving targets, as is Section 24. THOMPSON said that on the job description issue, we recognize that as an issue, as well as transitional costs and PERS & TERS costs which are not calculated.

MCCARTY said that one of the problems with this is until the manager makes some decisions as to what positions are needed, the department managers and what's needed in each department, it's very difficult to start doing job descriptions if there's a department that has 4 people in it currently and after consolidation the department will go to 3. That's going to make a major difference on job allocations.

THOMPSON said that what Mr. Eckert is saying is that there are parallel positions in these two organizations that have substantially different rates of pay and the question then becomes when looking at the employment matrix, how much is that going to make a difference in the overall scheme of things. That won't be known until it works itself out. Certainly the pay rates will have to be brought up to some level of compromise. MCCARTY said that not much could be done because so many of the positions are covered by unions and it's obviously going to be subject to negotiation. It's very unlikely that there will be many agreements to downsize on salaries and benefits, but some equity needs to be found. It's not just simply that the Assembly makes the decision because there is the protection of the employment contract and they can make all kinds of policy decisions, but they've got enforceable contracts that may be covering.

OTTE asked that if any of the Commission members do written suggestions for changes to a specific section or page, clearly indicate which pages are being referenced on these documents (the brief and comments) and get them to her. PAINTER wanted to know if it would be easy if he wrote in the margins and scanned the document and send it. OTTE said that would work.

THOMPSON said he wanted to re-cap what the Commission is going to do from here:

1. Write up the ones that were discussed as being easy.
2. Make a list of the ones that are not.
3. Set a meeting with the Borough and City staffs and invite Mr. Bockhorst down and see if we can work through the ones that are more contentious.

THOMPSON said that we'd ask the questions we need on the ones we agree with, but we don't know what kind of language would do it. We'll get those off the table because they are slam dunks and the ones that are left, we'll create a list for meeting with the local staff and Mr. Bockhorst to discuss them.

MCCARTY suggested that a short phone call or an email, or some form of communication with Mr. Bockhorst might take place, asking if he could come down and is there anything here that the LBC sees as a big red flag that we really need to work on. We're not talking about a 10-page dissertation, just something short and quick stating the things we really need to do – the deal

killers. THOMPSON said he'd be more than happy to do that in conjunction with Ms. OTTE.

HARRINGTON wanted to know if the Commission should fire the secretary at this point, so there are no additional monies spent, since we're out? \$97 doesn't look like it would be very many hours. THOMPSON agreed. OTTE said that should go on the agenda for the next meeting. It was a signed contract and the termination of the contract could be made retroactive to the last of September. THOMPSON agreed that it couldn't be discussed in open session tonight since it wasn't on the agenda for tonight's meeting.

G-2 RECONVENE INTO REGULAR SESSION

M/S PAINTER/HARRINGTON to reconvene the meeting into regular session.

A unanimous voice vote passed the motion to reconvene into regular session.

H: UNFINISHED/OLD BUSINESS

NONE

I: COMMISSION COMMENTS

THOMPSON inquired as to whether a motion was need on anything we did tonight. OTTE said no, there has been no decision about the discussion items, just assignments have been given. We've just discussed the approach that's going to be taken. PAINTER wanted to know if it didn't have to be on the record about trying to schedule a meeting? OTTE said it could be in the comment section. OTTE said she would probably do minutes for the work session. The tape machine malfunctioned (Rose Wood said). THOMPSON said we are up to Comments, so we can set our meetings however we want.

MCCARTY said that we keep trying and see what we get. He said he probably had come down heavier than he should have on just the idea that the tone we set, which he thought was a good one throughout our meetings, it's important to keep going. We need to be energetic in this document but we need to be a little careful of taking it as if somebody has given insult.

HARRINGTON asked that the action item for the next agenda include the termination of the contract with Ms. OTTE and the tax cap clarification. He said he was glad we were back.

PAINTER said he now has first-hand experience that this community needs to consolidate. There are current issues in the community that consolidation would make life a lot easier on.

THOMPSON said he would like to have another meeting in approximately 2 weeks. He said Mr. Bockhorst would be contacted and asked the question that MCCARTY suggested and see if it fits into his schedule and budget to come down and meet with us, and once Mr. Bockhorst's schedule is known we can contact the staff of both the City and the Borough. There probably will be an email. It might be a lengthy meeting, so he said he was leaning toward a Saturday, rather than a Friday so we will have enough time.

M/S MCCARTY/PAINTER to recess subject to the call of the Chair.

A voice vote was taken on the motion.

The meeting was adjourned at approximately 8:24 p.m.