

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO ____ F-1_____

MEETING OF **February 20, 2004**

ITEM TITLE Review and acceptance of the Article II and Article III of the Ketchikan 2004 DRAFT Charter SUBMITTED BY John Harrington

SUMMARY STATEMENT

At the last regular meeting, the Commission amended and voted on Article II and Article III for the Ketchikan 2004 DRAFT Charter, utilizing a comparison document between the Ketchikan 2001 Charter and the Haines, Sitka, Juneau successfully adopted charters.

[Formatting note: Wording added to the Charter is underlined. Areas of concern or questions are highlighted.]

RECOMMENDED ACTION:

"I move to approve Articles II and III of the Ketchikan 2004 DRAFT Charter in the second reading."

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ARTICLE II THE ASSEMBLY

Section 2.01 Legislative Powers.

The legislative power of the municipality is vested in the Assembly.

Section 2.02 Terms and Representation.

(a) Composition of Assembly. The Assembly, elected by the qualified voters of the municipality, shall be composed of seven assembly members.

(b) Mayor. The mayor shall be elected by the qualified voters of the municipality.

(c) Terms. The term of the office of all assemblymembers elected after the first election under this Charter and the term of office of the mayor shall be three years and until a successor qualifies.

(d) Terms of Assemblymembers and Mayor Elected at First Election. At the first election under this Charter, the two assemblymember candidates receiving the highest number of votes at large shall be elected for three-year terms and until a successor qualifies. The three candidates receiving the next highest number of votes at large shall be elected for two-year terms and until a successor qualifies. The two candidates receiving the next highest number of votes at large shall be elected for one-year terms and until a successor qualifies. At the first election under this Charter, the Mayor shall be elected for a three-year term and until a successor qualifies. For purposes of computing the length of the first term for assemblymembers elected at the first election, the period between that first election and the first Tuesday of October immediately following that first election will not be considered. The first regular election provided for in Section 5.01(a) will occur no earlier than twelve months after the effective date of this Charter.

(e) Representation at Subsequent Elections. At all subsequent regular elections, the election to fill the offices of assemblymembers and the mayor shall be at large by the qualified voters of the municipality for three-year terms except as provided in Section 2.04(c) of this Charter.

(f) Term of Office The term of office of the mayor and each assemblymember shall begin upon certification of the results of the election at which the assemblymember was duly elected.

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(g) **Term Limits.** The Assembly, subject to voter approval, may adopt term limitations for the offices of mayor and assemblymembers. Such term limitations shall not prohibit persons from serving at least two consecutive three-year terms.

Section 2.03Qualifications.

(a) **Residency.** Except as may be otherwise provided by law, only a qualified voter of the municipality who has been a resident of the municipality for at least one year immediately preceding election or appointment to office shall be qualified for elective municipal office.

(b) **Determination of Qualifications and Forfeiture.** The Assembly shall be the judge of the election and qualifications of its members and of grounds for forfeiture of office and for that purpose shall have power to subpoena witnesses, administer oaths, and require production of evidence. An assemblymember charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand.

Section 2.04Vacancies and Forfeiture of Office

(a) **Creation of Vacancies.** The office of an elected municipal official shall become vacant upon death, resignation, removal from office in any manner authorized by law or by this Charter, or by forfeiture of office.

(b) **Forfeiture of Office.** An elected municipal official shall forfeit office if the official:

- (1) Is convicted of a felony.
 - (2) Fails to comply with all qualifications prescribed by this Charter or applicable law.
 - (3) Knowingly violates any prohibitions of this Charter.
 - (4) Fails to attend three consecutive regular meetings of the Assembly without being excused by the Assembly.
 - (5) Fails to take office within thirty days after election or appointment.
 - (6) Ceases to be a qualified voter residing in the municipality.
1. Commits an act punishable under Subsection 16.01(b) of this Charter.

(c) **Filling of Vacancies.** The Assembly shall, by ordinance, establish procedures for filling of vacancies in the office of assemblymember and mayor. Within thirty days after an assemblymember position becomes vacant, the Assembly shall appoint a qualified person as an assemblymember to serve until the next regular election when a qualified

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successor will be elected at large and certified to fill the remainder of the unexpired term. If a vacancy occurs in the office of mayor, the vice mayor shall act as mayor until the Assembly appoints a qualified person to serve as mayor until the next regular election when a qualified successor will be elected at large and certified to fill the remainder of the unexpired term.

Section 2.05 Organization and Officers.

(a) Mayor. The mayor shall preside at meetings of the Assembly and shall be recognized as head of the municipal government for all ceremonial purposes and by the governor for purposes of martial law. The mayor shall have no administrative duties except that the Assembly may authorize the mayor to sign written obligations of the municipality and perform other occasional duties on behalf of the Assembly.

(b) Vice Mayor. At the first meeting after the time prescribed for beginning of the terms for newly elected members, the Assembly shall elect from its membership a vice mayor who shall act as mayor during the absence or disability of the mayor or as provided in Section 2.04(c) above. The vice mayor shall vote as an assemblymember but shall never have the power to veto.

Section 2.06Salaries and Compensation.

The Assembly, by ordinance, shall determine the salary of the mayor and assemblymembers. An increase in salary shall not take effect until the Assembly meeting following the regular election after the ordinance has been adopted. The Assembly may, by ordinance, provide for expense accounts and/or other payments to the mayor and assemblymembers for expenses incurred in their official duties.

Section 2.07Meetings.

The Assembly shall meet regularly and at such times and places as shall be prescribed by ordinance. Special meetings shall be held at the call of the mayor or of four or more assemblymembers and, whenever practicable, reasonable notice shall be given. All meetings of the Assembly shall comply with the Alaska Open Meetings law and other applicable laws regarding such meetings.

Section 2.08Rules and Record.

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The Assembly shall, by ordinance, determine its own rules and order of business and shall maintain a journal of its proceedings as a permanent public record.

Section 2.09 Voting.

(a) Quorum and Voting Requirements. Four assemblymembers shall constitute a quorum. No Assembly action shall be valid or binding unless adopted by an affirmative vote of four or more assemblymembers. All assemblymembers present shall be required to vote subject to Section 16.01 of this Charter.

(b) Mayor's Vote and Veto. The mayor shall not have a vote except in the case of a tie. The mayor shall vote in the case of a tie subject to Section 16.01 of this Charter. The mayor shall have the power to veto actions of the Assembly except the confirmation or rejection of appointees and except those actions described in Alaska Statutes 29.20.270(c) and (e) (1996). The veto may be exercised at any time prior to the beginning of the next regular meeting of the Assembly provided, however, that the subject of the veto has not passed out of the control of the Assembly prior to the exercise of the veto. The mayor shall advise the Assembly in writing no later than the beginning of the next regular meeting of the reasons for vetoing an action. At such meeting, the Assembly may finally pass an action, ordinance, or resolution over the veto of the mayor, whether or not the mayor submits the reasons for the veto. An affirmative vote of five members of the Assembly shall be required to pass an action, ordinance, or resolution which has been vetoed by the mayor, and the vote shall be by yeas and nays and shall be entered in the journal.

(c) Roll Calls. A roll call vote shall be taken whenever required by law or whenever requested by any member of the Assembly. Roll call votes shall be entered in the journal. A roll call vote shall be taken on appropriations for the expenditure of funds and on the passage of ordinances.

Section 2.10 Prohibitions.

(a) Other Public Offices, Employment, or Contracts.

- (1) No elected municipal official shall be hired or appointed to any compensated municipal office or municipal employment for a period of one year after vacating office, other than membership on a board or commission.

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- (2) The relationship of independent contractor for goods and services does not constitute employment for the purposes of this section. Subject to any further limitations established by ordinance, elected municipal officials may enter into contracts with the municipality and may buy from, exchange with, or sell to the municipality provided that: A) the contract, purchase, exchange, or sale is awarded through an outcry public auction or through a competitive bidding process in which sealed bids are submitted and the bid most advantageous to the municipality is selected; B) the contract, purchase, exchange, or sale is approved by the Assembly; or C) the goods or services contracted for, purchased, exchanged, or sold have an equivalent value of five hundred dollars (\$500) or less in 1998 dollars.

(b) Relationship with Employees. The Assembly shall not recommend or direct the appointment or removal of any officer or employee of the municipality's administration except as provided by this Charter. Subordinates of the municipal manager shall report to and obtain direction from the municipal manager and not from the Assembly, the mayor, or individual assemblymembers.

(c) Representation of Client. No assemblymember may represent any client before any municipal department, agency, school district, or utility.

Section 2.11 Investigations.

The Assembly may conduct hearings and may make investigations into matters affecting the municipality and matters concerning the conduct of any municipal department, office, or agency. The Assembly may subpoena witnesses, administer oaths, take testimony, and require production of evidence. Any person who fails or refuses to obey a subpoena or a lawful order issued in the exercise of these powers by the Assembly shall be guilty of a misdemeanor.

Section 2.12 Clerk.

There shall be a municipal clerk who shall be an officer of the municipality appointed by the Assembly and who shall serve at the pleasure of the Assembly.

The clerk shall serve as clerical officer of the Assembly. The clerk shall keep

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the journal of the proceedings of the Assembly and shall permanently record all ordinances and resolutions passed by it. The clerk shall be custodian of such documents, records, and archives as may be provided by law or ordinance; shall be custodian of the seal of the municipality, and shall attest and affix the seal to documents when required in accordance with this Charter, law, or ordinance; shall keep a correct and up-to-date record of the municipal boundaries and changes therein; and shall supervise municipal elections and such other elections as may be required by law or ordinance, including voter registration and records; provided that the Assembly, by ordinance, may vest the supervision of elections in a board. The clerk shall perform other duties as shall be prescribed by the Assembly.

Section 2.13Municipal Attorney.

There shall be a municipal attorney appointed by the Assembly who shall serve at the pleasure of the Assembly.

Section 2.14 Chief Fiscal Officer.

There shall be a municipal chief fiscal officer appointed by the Assembly who shall serve at the pleasure of the Assembly.

Section 2.15Special Advisors.

The Assembly may appoint special legal and financial advisors for bond issues or other matters and shall retain such legal counsel as it requires.

Section 2.16Boards and Commissions.

(a) Boards and Commissions. The Assembly may establish boards and commissions, shall prescribe their duties, purpose, and functions, and the qualifications and conditions of service of the appointed members. Members of boards and commissions shall be appointed by the mayor subject to confirmation by the Assembly. A quorum of any board or commission and the number of members required to approve an action shall be a majority of its membership unless otherwise determined by the Assembly.

(b) By ordinance, the Assembly may create or designate itself to be a board of review, adjustment, or equalization.

ARTICLE III LEGISLATION

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Section 3.01 Action Required By Ordinance.

In addition to other acts required by law or by this Charter to be done by ordinance, those acts of the Assembly shall be done by ordinance which:

- (a) Adopt or amend an administrative code;
- (b) Provide for a fine or other penalty or establish a rule or regulation for the violation of which a fine or other penalty is imposed;
- (c) Levy taxes, except the Assembly may, by resolution or ordinance, establish the mill levy on which property taxes shall be collected;
- (d) Grant, renew, or extend a franchise;
- (e) Establish the rates charged by the municipal utilities except as provided in paragraph 8.02(c)(2);
- (f) Authorize the borrowing of money;
- (g) Establish procedures for the conveyance, disposition, or lease of real and personal property of the municipality;
- (h) Propose amendments to this Charter;
- (i) Adopt, with or without amendment, ordinances proposed under initiative powers;
- (j) Fix the wages and benefits of members of the Assembly;
- (k) Adopt, modify, or reject the comprehensive plan, land use or subdivision regulations, building and housing codes, and the official map;
- (l) Amend or repeal any ordinance previously adopted except as otherwise provided in Article VI with respect to repeal of ordinances reconsidered under the referendum power;
- (m) Establish a formal procedure for acquisition from the state of land or rights in land and disposal of those lands or rights in land;
- (n) Authorize any contract, other than a contract for the purchase, sale,

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conveyance, disposition, or lease of real property, which by its terms will not be fully executed within five years and which cannot be terminated by the municipality without penalty upon notice of thirty (30) days or less.

Section 3.02 Ordinances - General.

Except as otherwise provided in this Charter, the following procedure shall govern the enactment of all ordinances:

(a) Enacting Clause. The enacting clause of all ordinances passed by the Assembly shall be, "Be it ordained by the Assembly of the municipality of Ketchikan, Alaska", or similar words to that effect, and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the municipality of Ketchikan, Alaska", or similar words to that effect;

(b) Readings. A proposed non-emergency ordinance shall be read in full or by title only, and an affirmative vote of a majority of the Assembly shall be required for advancing to second reading. A non-emergency ordinance in which substantive amendments are made in first reading shall require an additional reading before passing to final reading. Before a vote on final passage, a proposed non-emergency ordinance shall be read by title or in full and an affirmative vote of a majority of the Assembly shall be required for its final passage;

(c) Passage, Publication, and Effective Date. No ordinance, except an emergency ordinance, may be finally passed on the same day that it is introduced. Within ten days after its final passage, every ordinance shall be published in a newspaper of general circulation within the municipality. Publication shall be in full or by number and title with a brief summary. Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations shall go into effect immediately upon such final passage unless they specify a later time. All other ordinances shall go into effect thirty (30) days after such final passage unless the ordinance specifies otherwise.

Section 3.03 Ordinances - Emergency.

An emergency ordinance is an ordinance which, in the judgment of the Assembly, is necessary for the immediate preservation of the public peace, health, or safety, and which should become effective immediately without a second reading. Every such ordinance shall contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called

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the emergency section, shall declare the emergency. An affirmative vote of at least five members of the Assembly shall be required for the final passage of an emergency ordinance. An emergency ordinance is repealed by resolution or automatically expires in sixty days.

Section 3.04 Ordinances - Adoption by Reference.

The Assembly, by ordinance, may adopt by reference codes, ordinances, standards, and regulations relating to matters which it has power to regulate otherwise. Such code, ordinance, standard, or regulation so adopted need not be enrolled in the book of ordinances; but a copy shall be filed and kept in the office of the clerk. The clerk shall keep copies of all such codes, ordinances, standards, and regulations in force for distribution or sale at their approximate cost.

Section 3.05 Ordinances - Codification.

The ordinances shall be codified and published in book or pamphlet or kept up to date in a loose-leaf system. Titles, enacting clauses, and emergency sections may be omitted from the code and temporary and special ordinances and parts of ordinances may be omitted. Permanent general ordinances and parts of ordinances which are to be repealed by the code shall be omitted from the code. The ordinances and parts of ordinances included in the code may be revised, rearranged, corrected for clerical errors, and reorganized and the code may contain new matter and provisions of the state constitution and law applicable to the municipality and this Charter. A copy of the code shall be filed and kept in the office of the clerk after adoption, but the code need not be enrolled in the book of ordinances.