

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

February 27, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:00 p.m., Friday, February 27, 2004, in the City Council Chambers.

A: Pledge of Allegiance**Roll Call**

PRESENT: PAINTER, OTTE, THOMPSON, HARRINGTON, KIFFER,
MCCARTY, FINNEY
ABSENT: NONE

B: Ceremonial Matters/Introductions

Karl Amylon was introduced. He indicated he was present to answer questions on Article VIII, Municipal Utilities

C: Public Comments

No other persons present at this time.

D. Informational Reports and/or Commission Presentations

Commissioner Otte reported that the job description is ready for posting. She indicated she was waiting for word from the Chair as to whether the Borough's website would be available for posting the position. The Chair indicated that Mr. Eckert said they would assist however they could. The Chair & Mr. Eckert spoke about whether the KCC Clerk would be an employee or be under contract. KGB has indicated that a contract would be easier for their accounting office. Commissioner Otte indicated she would start formatting an agreement.

Chair Thompson indicated that the DCED grant administrator had the grant agreement ready to forward to Mr. Eckert. It is noted that the Borough must make a Resolution to accept those monies on their next regular meeting after Mr. Eckert signs the document.

The Commissioners all commented how helpful it was to have the Clerks at the last meeting. Their expertise assisted immensely.

E. Consent Calendar

The minutes of the February 20, 2004 regular meeting were approved by unanimous voice vote.

Commissioners agreed to move Item G-1 ahead of Unfinished Business so that Mr. Amylon would not have to sit through the entire agenda.

G-1: Review and Acceptance of articles VIII and IX of the City of Ketchikan's Charter of 2001, First Reading

M/S Harrington/McCarty to Approve Article VIII of the Ketchikan 2004 Draft Charter in the first Reading.

Mr. Amylon was asked if he had any general points to speak on. Commissioner McCarty had a specific point about bonding with relation to the Utilities.

Mr. Amylon indicated he was at the meeting not as a representative of the City, but as someone who was involved in the prior Charter process. He said he'd heard comments relative to the specific issue about the municipal utilities, he cautioned that when reviewing the Charter, it's easy to make changes or revisions based on what's in front of the Commission on paper, but when those changes are translated into reality, it can become a lot more complicated than it would appear.

Regarding the bond question, he said he and the City Finance Director had tried to contact their bond counsel relative to the impact if one or more of the divisions of the Utility were spun off. He said that if KPU were spun off separately from the general government side, in terms of indebtedness, there probably wouldn't be a significant impact. It may limit the government down the road in terms of future bonding relative to the ability to pledge the revenues of the utility but to backing up those revenues by the full faith and credit of the City. If, one or more of the divisions of the Utility were spun off to general government, a gray area is opened. The bond counsel was not available this date to give any potential ramifications of this, but Mr. Amylon said that any existing debt that KPU has is issued on the pledge of all the revenues of KPU. So, if KPU had issued \$10m of water improvement debt, the revenues of Telephone and Electric are pledge to retire that debt. It gets complicated.

Mr. Amylon indicated that he'd heard talk of spinning off the Water Division and putting it off with Public Works. The Water Division currently operates at a deficit of \$800,000 to \$1m per year. If the Telephone & Electric revenues were no longer available to offset that deficit, then the government would have to look at subsidizing the Water Division through other revenues or an increase in rates. The Water Division is very small with fixed costs, so there isn't a lot of margin to reduce costs to make up the deficit.

He said he could give more examples, but on the subject of spinning off the whole utility, he wanted the Commission to keep in mind a couple of things. Currently the Utility pays General Government for a variety of services provided by General Government: Human Resources, Finance, and Administration. If a separate Division is anticipated, the question arises regarding total independence. If totally independent of the general government side, you would end up with two HR's, two finance offices, and two sets of administrators. If not, the issue comes up that if some duties are shared (as currently), and there are two separate chief executive officers (one for the Borough and one for KPU), the question would be who takes precedence for the tasks of the Finance Officer.

Mr. Amylon said that until the Commission comes up with specific proposals, it would be difficult for him to respond in generalities.

Commissioner McCarty indicated that the City's 2001 Charter gave the options to consider the changes to the Utility. He wanted to know if by having that in the former proposed Charter indicated there wouldn't be significant financial impacts. Mr. Amylon answered by saying that by having those options in the Charter for any potential future discussion about nonareawide and areawide powers. What currently exists, for example, is that KPU provides water to the City residents. Through Service Area or Nonareawide powers, the Borough provides water to various Borough constituents. There was discussion that sometime in the future the Utility might take over the management of all the waterpowers in the Borough. He said that in framing the 2001 Charter, they were trying to preserve as many alternatives as possible for changes to the current system.

Commissioner McCarty said that if he understood Mr. Amylon correctly, if this Commission were to adopt this language as it stands, it is more the implementation where the new Assembly would be passing ordinances, that that's where the problem might arise.

Mr. Amylon indicated that this whole thing needs to be looked at in the context of what is this Commission's formal mission: not only to work on the Charter, but

the Petition, including a financial plan and a transition plan, is the overall desired result. The financial and transition plans are two overwhelming efforts. It's "easy" to say, within the Charter, that a, b & c are going to be done, but translating that into the financial and transition plans, then going out and selling it to City and Borough residents becomes a much more difficult task. So, while the Commission is reviewing the Charter, he urged the Commissioners to keep in mind how the changes are going to work into the full-blown petition and once that's put together, what the financial impacts and service impacts would be to the citizens of the new Borough. The two go hand in hand. You cannot separate that in terms of a viable proposal that can then be offered to the citizens.

Commissioner Painter asked about whether with the passage of the years since the original Article XIII was written, if there any changes Mr. Amylon would like to see in the Article.

Mr. Amylon responded (for himself) that originally the Council had appointed a sub-committee to start writing a Charter long before Annexation or the prior Consolidation effort. Approximately one year was spent writing the Charter and then when the Consolidation effort took place and issues were specifically addressed, and dealing with the LBC, the document was fine-tuned. He said that three years ago he was comfortable with the language, and yes, he still is. He said that it wasn't necessarily ideal, but this Commission has to make its own decisions. He said that as the Commission reviews the entire Charter, that the Commission continuously think not only in terms of the Charter, but also of the entire petition. Things have changed since three years ago. There is a new North Tongass Fire & EMS Service Area; there's a proposal for the South Tongass EMS Service Area with a May vote. Those are going to change. No one knows how Saxman is going to fit into the EMS powers for the South Tongass Service Area. There is a lot of work that needs to be done beyond the Charter, and what is decided about the Charter is then going to dictate the need to undertake that work and when the results are seen, it may force the Commission back into the Charter, that whatever the issue would need to be revisited from the Charter language on through the petition and financials.

Commissioner Finney asked Mr. Amylon if there was anything the Commission had already considered that gives him concern, any changes the Commission has made.

Mr. Amylon said that although he'd been out of town last week, he didn't think there was anything of concern. He said that he was happy the Financial Officer change had been rectified and that both the City and Borough Clerks were on top of things, so any changes made at their suggestion were probably good

changes. He said he understood the Commission had put on hold the duty of the Borough Manager putting together a Utility budget, pending deliberation of Article VIII. That makes sense.

Commissioner Finney asked whether Mr. Amylon was personally for or against splitting off the Utilities. Mr. Amylon wanted to know what Commissioner Finney meant by splitting off the Utility(ies). Commissioner Finney then commented that Mr. Amylon had mentioned splitting off the Water Division and/or the entire Utility. Mr. Amylon said that if it means a Utility completely independent from the proposed Borough Assembly, with its own governing board and independent support staff (Management, HR & Finance), in his mind another layer of government is added to the already existing layer and he said that for 15,000 residents, there's too much government in this town.

If the Commission doesn't want to have a separate Utility and continue with the shared services in the new government, but spinning off one or more of the Divisions, how does that translate to the rate-payers currently served by the Utility? Until the Commission defines that, then Mr. Amylon didn't feel that he could respond to the question, either as a Manager or as a citizen. As a hypothetical, splitting the Water Division out of KPU into Public Works will firstly impact with a probable doubling of the rates.

It's easy to say that the City residents need to pay the cost of their water and other Electric & Telephone rate payers need not do that, but translate that into the canneries and what that rate hike would do to the economic viability of the canneries. Then what does it do to the employment level of those canneries and any other industry that is highly dependent on water. Mr. Amylon said that those aren't easy questions and that he was not saying there was a right or a wrong answer, but those are the kind of impacts the Commission is going to have to weigh.

He said that if the Commission wants a separate, independent organization and the Utility no longer pays general government a percentage of the cost of Finance, HR, the Clerks, the Council and Administration, that is great for the Utility. They have a potential windfall by not paying the Borough the cost of those services, but with that revenue gone from the Borough, what then are the tax implications? If you're talking \$500,000 to \$1m in what are now current transfers for services rendered from the Utilities to general government, there probably will be less work for general government, but he didn't think it would be on a dollar-for-dollar basis.

If there's a completely independent manager for the Utility, then does that mean you will have another manager for the Borough side of the government? That

just trickles down through the whole equation. A lot of people think there should be two managers for general government and the utility. Others say that it seems to have been working the way it is now. When questioned about what his thoughts are on this issue, he admitted he might be biased, but he felt that in his opinion for the ability for the two sides of the government to cooperate has increased. That putting the dollar equation aside, just the fact that the Public Works Director and Streets staff trying to coordinate water & sewer projects and doing utility relocation and upgrades. It's the same argument that the Commission is here for in terms of why consolidation benefits the community: not having two sets of legislative priorities; and one common agenda for the good of the community and the residents. He says he feels there are definite advantages to the present one-manager system. He said it is a lot of work, but adding the Borough into the present mix is going to add more work. He also said it probably can be done with a good Charter, a well-defined plan and a committed staff.

Commissioner Finney then asked if in Mr. Amylon's opinion whether the utilities should stay just the way they are without being spun off in any fashion. Mr. Amylon answered that the responsibilities the Commission has are very daunting just to get the petition together, but to go out and sell it, if you talk about spinning off the utility or a portion of it, depending on how you structure it, he thinks it will make the whole process that much harder to sell.

He indicated there are a lot of challenges beyond the purview of this Commission. If the Commissioner's were to ask the Mayor or Council Members about KPU, they would say that KPU is a very dynamic environment. The telecommunications industry is changing almost daily, and the Commission shouldn't get side-tracked into that issue relative to the Commission's deliberations, but the changes will definitely have an impact in the way things go in the future.

Commissioner McCarty asked Mr. Amylon about using the prior consolidation's numbers as a basis for this petition, or are those numbers too far out of date. Mr. Amylon indicated the numbers definitely need to be updated and the amount of effort involved in that is going to depend on two things: One is what decisions the Commission makes about issues like the utility; what powers are going to areawide and nonareawide; any changes to the Service Areas, which have been modified since three years ago; and how sales and property taxes are going to be changed. All those decisions are going to dictate the level of work needed to complete the petition and transition plan & budget. The other is Mr. Amylon did not know what assumptions have been made about who is going to do this work. If the assumption is that it is going to be City and Borough staff, he said he had no directive from the Council to allow staff time of

this magnitude and he said he knows the Borough is just starting a very difficult budget process, so he doubts whether they will be able to do much to assist the Commission.

Commissioner Kiffer spoke about the spinning off of part of KPU, and wondered when the City's earlier consolidation Charter was formulated, was much time spent looking at that spin-off option. Mr. Amylon responded that it was pretty much concluded that KPU would continue with current operations and to preserve within the structure of the charter options for future discussion relative to a different configuration of areawide and nonareawide relative to water and perhaps wastewater, but there was not a lot of discussion about spinning one or more of the divisions off. Commissioner Kiffer said that as he understood it, that it was looked at the balance between KPU Telephone subsidizing up to \$1m to the Water Division, that there was some discussion on that? That it could possibly be done, but it was a time frame issue, or merely trying to not change too many things at once.

Mr. Amylon responded that he didn't think it was a time-frame issue as much as it was a realistic assessment of the impacts of doing that. He said it was not only Telephone over a 10-year period that has subsidized water. It has been Electric as well. The mill shut down and the loads were lost, so Electric is in a difficult time right now, and Electric is losing money. So now the discussion isn't just about Water, it's about Water & Electric. Taking the argument one step further and Telephone is the only Division making money and it was desired to spin off Water and Electric to the new Borough, Telephone as a municipal telephone company could stand independently. It is a capital-intensive endeavor. In order to keep current there is going to have to be a drawdown of reserves or asking the voters to approve debt. So, in terms of Telephone, it would probably be the best of both worlds, but in terms of Water & Electric, if Telephone were not there to subsidize them, then the alternative would be to increase the rates of both. He wondered how the Commission would go out and sell that choice to the population.

Commissioner Kiffer said that in the private sector, Electric and Telephone were the two divisions that could conceivably have some challenges from private providers. He wanted to know if Mr. Amylon saw any private competition for the Telephone Division. Mr. Amylon responded that was already here with GCI and the Internet and he thinks that within the next few years GCI will also petition to go into the local exchange service, so competition is already here. The real action right now Statewide, and probably the Federal level, is the wireless issue and if KPU is going to remain at all competitive, that market will have to be entered, where competition will be with Dobson and others.

He said he wasn't as concerned about competition on the Electric side of things, but there is a movement afoot in Juneau and the private sector to bring natural gas to Ketchikan and other Southeast communities. There is a potential for that to erode some more of Electric's revenues with that. He indicated that Ketchikan is not greatly dependent on heating with natural gas, but different appliances readily lend themselves to that type of conversion.

Commissioner Kiffer asked about Electric and the Intertie and whether that project is a good thing. Mr. Amylon said he feels there are lots of potential opportunities for Electric to grow its load. The Intertie will not by itself grow a load, but if Ketchikan does grow a load, the Intertie will provide a reasonable reliable supply of energy from Tyee. What Ketchikan needs to do more of is pursue other users of electricity. Currently KPU is putting service over to Gravina and Seley's mill in support of the dry kiln. Between May and September, there is a great market demand through the cruise ships. Rather than the ships burning diesel for their electricity while at dock, they could plug in to shore power. Juneau is currently doing this. Mr. Amylon said that the Intertie wouldn't change Ketchikan's demand. If Ketchikan's demand changes, rather than going out and buying another diesel generator or doing another Whitman Lake project, Ketchikan, by agreement, will procure the additionally needed power from the Intertie.

Chair Thompson requested to know if KPU was run as an enterprise fund. Mr. Amylon indicated that the utility is run as a combined enterprise fund. Revenues are used to fund all those enterprises, as opposed to the Solid Waste Fund. That fund is solely dependent on the \$15 per month fees to fund solid waste expenditures. Water, Electric & Telephone in and of themselves are not a pure enterprise fund. That's why it's referred to as a combined (or consolidated) enterprise fund. Chair Thompson pointed out that in the Charter it indicates that the municipally owned utilities shall operate in a business-like manner. He pointed out that an enterprise fund is a non-profit fund under a government in which the revenues and expenditures stay within that one fund, but with KPU it's combined. Mr. Amylon talked about when he first came to Ketchikan and wondered why the utilities weren't necessarily self-sufficient funds. That's not the way that KPU was initially set up. It may sound good on paper, or scholastic theory, but in terms of consolidation, the Commission then has to be realistic and if it is desired that Water be self sufficient, then anyone currently served by KPU Water is going to look at a significant rate increase and what are the chances of selling that. Chair Thompson said that in terms of the way things are structured right now, those are strictly divisions of KPU and KPU is one enterprise fund. Mr. Amylon pointed out that is why the debt becomes problematic because the revenues of the enterprise fund are pledged to any of the division's debt issues.

Mr. Amylon indicated when questioned that the sewer department is self-sufficient. He said he thought that there could be an argument made to put sewer in with the other utilities and become part of KPU. In theory, most of the present enterprise funds could all be put in with KPU, like solid waste and sewer. He said that in the past, the solid waste function was thought of as just the city's, but with environmental issues coming into play, it became more and more costly to fund solid waste activities, so a lot of municipalities went from a tax-supported solid waste to more of a utility approach to the situation. He said that where he had come from there were incentives given for recycling by how the garbage disposal was charged.

The Commissioners thanked Mr. Amylon and urged him to listen and jump in with any suggestions or help if he saw the need.

M/S Harrington/Kiffer to amend 8.03(e), Payment in Lieu of Taxes, to substitute "may" for shall in the first sentence and delete everything after the first sentence in that section.

Commissioner Harrington said he felt that this ties the future Assembly's hands in that they must charge and exactly what they must charge. He said he feels it is a hidden tax payment and the citizens should know what they are paying for.

Commissioner McCarty asked Mr. Amylon why this was put in the Charter. Mr. Amylon said it is not at all uncommon throughout the country for public or private utilities to pay payment in lieu of taxes. In his experience in upstate New York, the utility as well as the railroad, both paid taxes determined by the State of New York. The theory is quite simple. Why shouldn't KPU have to pay a fair share for police, fire, snow removal or anything else for which the private citizen pays taxes? They are a revenue generating utility and it is common practice across the country to base it on the assessed valuation of the assets of the utility based on the millage levy. It is no different than the Port paying to the government a payment in lieu of taxes, which it currently does. The Port benefits from the same services as a private citizen: the police, fire, and public works.

Chair Thompson asked Mr. Amylon his opinion about putting how things have to be done in a Charter document, as opposed to just saying it will be up to the new Assembly to determine how the Charter is carried out. Mr. Amylon said that in (d), for example, that incurring of debt is a very sensitive issue. He said that he had heard many times that people could not conceive the voters ever giving up the right to an Assembly to issue debt. In terms of the Utility, generally speaking Utility debt is in revenue bonds and generally, there is a distinction

between general obligation bonds that are backed by the full faith and credit of the municipality and the revenue bonds that are solely based on revenues. There were a few in the Council who thought revenue bonds didn't need voter approval, but the majority of the Council felt that was a precedent (no voter approval for debt) that they didn't want to get into.

Mr. Amylon said that paragraph (b), General Manager, is in there to because when the original Charter was written in the 1960's, there was a lot of concern that KPU has to be operated in a reasonable business manner, that the general government side, that if there wasn't a restrictive clause, that it could interfere with the utility operating in a business-like manner. Wouldn't it be easy, without the restriction, to transfer excess funds from the utility to fund general government and then nobody would have to pay taxes? Perhaps ridiculous, but it certainly makes the point about why the paragraph is there.

On paragraph (c), Lapse of Appropriations, Mr. Amylon said he didn't know the genesis of this paragraph, but during his tenure as Manager, his office and that of Finance have made a concerted effort that if an appropriation has been made in one year's budget and no significant activity occurs regarding this appropriation, the policy has been made to have that appropriation lapse. That precludes any department or Division from maintaining and adding to a slush fund or perhaps deviating from the intended purpose by not using appropriated monies in a timely manner. You don't want vast amounts of appropriated monies being carried over for years and years as opposed to lapsing back into reserves and being re-appropriated for a different purpose. The City Attorney can probably further address this paragraph if there are further questions.

Commissioner McCarty said he remembers living near military bases and they paid payment in lieu of taxes. He questioned whether this is not just a way to move money from one pocket to another. He questioned whether the Commission should go out and get commercial appraisals on all of KPU's properties. Mr. Amylon said that even though the City is a little behind, they have current appraisals of municipal properties so that they have values to translate into PILT. He also said that Commissioner Harrington was right, that it could be argued that it's a movement of money. The services offered through property taxes are services that are afforded to the Utility. Commissioner Harrington said that on the other hand, there comes a point where there is an illogic involved of the city paying the city for services. Commissioner Harrington said he didn't want to say don't do it, he just wanted to let it be up to the new government. Mr. Amylon said he was just trying to respond to Commissioner McCarty's argument. There is precedent in terms of military installations and there's precedent in terms of special franchises. He said he didn't want to argue the point and he felt that the rationale for the Utility having a PILT is the

same rationale as why there is a PILT by the Port. He said he guessed the question that the Commission is ultimately going to have to look at is how the may and shall are quantified in the transition plan.

Commissioner Harrington said the less changes made in the way things are done now, the better, and the more flexibility that can be given to the new Assembly, the better. He indicated that in providing a transition budget, he would assume the PILT was in there so that somewhere down the road, the new Assembly can say to discontinue the practice. Commissioner Painter concurred. Current practices continue during the transition time until they are changed or re-affirmed by the new Assembly.

Commissioner McCarty said that these are areas that should be highlighted to come back to, since these have financial implications. The assumption is that PILT will continue and there are other things that need to be re-addressed. He said that leaving the things in the charter is better, since things may change radically in two years and these sections will have to re-addressed, but that this is one of the areas that should be grayed or highlighted to come back to.

Commissioner Kiffer said that the Utility is locked into paying the taxes with the way it's worded. He wanted to know if there is another way to get that money if the PILT is dropped. Commissioner Finney answered maybe fees, or blocks of money. Chair Thompson said he was going to vote against the amendment because the utility is supposed to run in a business-like manner and they should be paying those applicable taxes for services utilized. If the wording is changed there is a potential for a future assembly will give the Utilities a tax relief that changes their competitiveness and if we don't have a utility providing the highest level of service at the lowest competitive price, we are not getting the efficiencies we want. This section levels the playing field so that the Utilities and any of the competitors are on the same footing and the taxpayers of Ketchikan know what the true costs are associated with the services charged to them. If the utility is going to run on a business-like basis the cost of the infrastructure to conduct the business should be included. He said he feels that perhaps the method or amount set in the Charter could be removed, but not the requirement to pay the taxes.

Commissioner Harrington said the Utilities are NOT like other businesses in town that need the electricity and phone service to conduct business. He said that it raises the cost of KPU doing business, which is like a tax hidden from the people. He said if there were competition for the services provided by KPU, then they should pay the taxes. Further discussion between Commissioner Harrington and Chair Thompson took place.

Commissioner Finney said that he probably would vote for the amendment because one of the options out there is to have them pay those taxes through the utilities and he feels that item (b) should be removed and have the excess income dollars go back into the general fund. If can sell power to the cruise ships at a profitable rate, why then shouldn't the whole community prosper from those sales. Secondly, he says he favors the locally owned utilities as opposed to a larger entity to come in and raise the rates. With a local utility, the people have some say-so in how high the rates go. If not taxing the utility gives them an edge over anyone coming in, and then he would be in favor of that to keep the competitive edge with the locals.

Commissioner McCarty said that (e) and (b) are about the same things. Either we pay taxes, or we shift excess monies to the general government. You can either call it PILT or the profit could go to the general government. He said it seems to him that if you're paying something, it really doesn't matter what form it comes from. There is a possibility that the rates could be jacked up to get a profit to move the money elsewhere, but he said it really wasn't his area of expertise.

Mr. Amylon said he wanted to point out two things and that he wasn't there to advocate "may" or "shall". He said that you couldn't look at (e) without looking at (b) because if PILT are not required, his interpretation of (b), if you have surplus assets or funds, you cannot arbitrarily transfer them to the municipality's general fund. Point two is a side note. The City vs. Borough mindset must be set aside when looking at (e) because the PILT is not going to the City but the new municipality.

Commissioner Kiffer felt that if the utility is taxed, money is being taken out of our own pockets and why is the utility making a single dollar. They should break even. He said he doesn't understand this and he's going to vote yes, but with the assurance that the section will be grayed out.

Commissioner Finney said that if the excess money were taken straight across and the property taxes were lowered as a result, then the municipality would have a different base for generating revenues, say from the cruise ships.

A roll-call vote was taken on whether to substitute "may" for "shall" in 8.03 (e) and set aside everything past the first sentence of that section.

FOR: PAINTER, MCCARTY, KIFFER, HARRINGTON, FINNEY
AGAINST: THOMPSON, OTTE
ABSENT: NONE

The amendment passed, with the stipulation that the section be shaded.

Discussion was held on (b), and Commissioner Harrington didn't like the idea of monies transferred from the utility would fund non-profits. He would just as soon leave the monies for the utilities only and have it run as much like a business as possible. Most Commissioners agreed that changing (b) was not a good idea. Commissioner Harrington said he would possibly bring an amendment to this section. Chair Thompson said there were two ways to deal with reserves: transfer funds to the general government, or keep the reserves in the utility and lower the rates. He said that Electric and Telephone are regulated and there is language that talks about how their rates are set. Commissioner McCarty said that the regulatory agencies are comfortable with PILT, but he said he wasn't comfortable at this stage changing the language in (b) because it is such a major change and it leaves it open for the possibility for outrageous rates to subsidize other areas of the government. He said that there should be some way to get the money to the community. By changing the "may" to "shall" there is a safety valve because if a future assembly decides to not do the PILT, they will have to decide where to come up those funds in the general government. The Commissioners also talked about (b) being a safeguard against underhanded transfers of assets from the utility to the general government.

Mr. Amylon spoke to the Commissioners and said that Water, Electric & Telephone are not regulated by the RCA; however, they are regulated related to various aspects within the Telephone Division. He cautioned against inserting language that gives the assembly free autonomy to start shifting excess assets and funds other than how PILT is defined from utility to general government. If you provide language for the Assembly to achieve that end, he said his immediate concern is the opening up of the potential for placing the utility in conflict with a wide variety of statutes relative to the Telecommunications Act. If the Commission were concerned about the accrual of significant reserves, obviously the Assembly would have to look at the need for reserves against the potential reduction of rates. He said in his opinion the Commission should not look to KPU assets as a substitute source of revenue for general government. Not only is there potential to mask the true cost of general government, but also there is potential to put the utility in conflict with a variety of Federal and State statutes.

Commissioner Finney questioned about when there is money left toward the end of the year, isn't there a rush to spend before the new budget year? Mr. Amylon responded that it is a balancing act. Depending on the involved personalities, there is a potential to do that, but if there is not some kind of emphasis placed on expending money for program projects in a timely manner

and those funds are allowed to accrue over a period of time, with no intention of being expended, then there is the potential for understating assets for the Utility because those assets have been programmed for a dedicated purpose and they are no longer un-obligated, even though there may no longer be an intent to spend them depending on the circumstances. That is what led to the City's present practices. When these funds are carried over year to year, the assets available to the budget process are understated. Further discussion was held regarding these and other issues relating to Article VIII.

Marvin Hill, 808 Forest Park, said that one of the checks and balances of the government system is the public budget process and this information is all open to the public. They can come in and see the reserves, etc. The public can act as a watchdog.

Commissioner Finney wanted to know why in 8.01 there was the provision that the Water utilities may be split off water utilities and wondered why this was in here. Commissioner Otte thought that because there were other water service areas and running all the water services by the municipality may be a less expensive option for the community.

Commissioner Finney then questioned section 8.03 (g), Sale of the Municipal Utility. He wanted to know why it was worded electric, telephone, and water services. He felt that it should say electric, telephone, "or" water services.

M/S Finney/Harrington to change the "and" to "or" in 8.03(g).

The amendment passed by unanimous voice vote.

Commissioner Kiffer indicated that in 8.01, the word "water" should be removed to just say "services" be removed. Commissioner Harrington said he would like to highlight the entire of Section 8.01 and come back and revisit it next meeting.

A roll call vote on approving Article VIII, as amended, in the first reading, was taken.

FOR: PAINTER, HARRINGTON, KIFFER, FINNEY, MCCARTY,
THOMPSON, OTTE
AGAINST:
ABSENT:

Article VIII as amended was approved in the first reading.

A 10-minute recess was called.

The meeting was gaveled back into session at 8:00 pm.

M/S Painter/McCarty to postpone Article IX review until there are representatives from the School District present. A friendly amendment was made to postpone until next week, 3/5/04.

The postponement was approved by unanimous voice vote.

F. Unfinished business

F-1: Acceptance of the Articles IV, V, VI and Article VII of the Ketchikan 2004 Draft Charter Agreement, Second Reading

M/S McCarty/Painter to approve Articles IV, V, VI, and VII in the second reading.

FOR: THOMPSON, PAINTER, HARRINGTON, KIFFER, FINNEY, MCCARTY,
OTTE

AGAINST:

ABSENT:

It was pointed out that the highlights in the documents are not coming through in the PDF documents on Sitnews. It was also suggested that for reference, the deleted portions remain in the documents until final approval of the Charter. Commissioner McCarty pointed out that in standard legislative documents, new text is underlined and deleted text is set apart in brackets. Asterisks were suggested to set apart the highlighted areas for the PDF documents. The Secretary agreed to go through the current draft document and make those suggested changes and to handle all future document changes in this manner.

F-2: Suggested questions for a Commission mail-out Survey (Continued from February 20, 2004)

Commissioner Painter remarked how his document came about. He did say that he would like to see a section left on the bottom for comments. He said the Daily News insert would probably be the most cost effective.

Commissioner Kiffer indicated he would contact the grocery stores and other businesses about putting drop boxes at their locales for return of the surveys.

M/S Thompson/Painter to adopt Mr. Painter's version of the survey.

A lengthy discussion was held as to the merit of even doing a survey at this

time and in what form. Commissioner Finney requested cost figures to go with question #3, the districting question. Commissioner Finney also proposed conducting a phone poll that would be a truer representative sample. The time involved would be extensive and perhaps legality issues regarding the “do not call” situation.

Commissioner Kiffer indicated that he had visited 45 random houses and there was some confusion as to what district meant.

Ruth Hill, 808 Forest Park Drive, suggested the survey be included in the KPU bill.

Paul Hook, 488 North Point Higgins, affirmed the idea of a survey and even though the people crumple the survey up, an idea might be planted. The Commission should do something as a start.

In question 3, the word District will be changed to Precinct. Question 2 will be deleted. The listings in question 7 will be changed to indicate whether the City or the Borough or service area currently provides the services.

A vote on approval of the content, as amended, was taken. The item will return next week to approve as to form and authorize distribution.

FOR: THOMPSON, PAINTER, HARRINGTON, FINNEY, MCCARTY, KIFFER,
OTTE

AGAINST:

ABSENT:

F-3: Motion to approve the Commission’s budget (Note: Postponed from January 30, 2004)

M/S McCarty/Harrington to approve the attached budget for the Ketchikan Charter Commission.

On voice vote, the motion passed, pending funding.

FOR: HARRINGTON, PAINTER, FINNEY, MCCARTY, THOMPSON, KIFFER,
OTTE

AGAINST:

ABSENT

H: Commission Comments

All Commissioners indicated it was time to go home.

Commissioner Painter said keep it simple, stupid. There are some issues that need to be highlighted and return to.

The meeting was adjourned at 8:54 pm.