

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

March 12, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:00 p.m., Friday, March 12, 2004, in the City Council Chambers.

A: Pledge of Allegiance**Roll Call**

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

ABSENT: NONE

B: Ceremonial Matters/Introductions

City/KPU Manager Karl Amylon, City Finance Director Bob Newell, & Ketchikan Gateway Borough School District Superintendent Harry Martin were recognized as being in the audience to address upcoming discussion items.

C: Public Comments

NONE

D. Informational Reports and/or Commission Presentations

Chair Thompson said that he had spoken to Borough Manager Eckert who was unable to attend the meeting and Al Hall was still out of town. He did indicate that he'd had some discussion with Mr. Amylon and Mr. Newell and they had some consensus on some things and it was suggested that Mr. Eckert email any further concerns and that the finance issues would be reviewed a third time on March 19.

Chair Thompson also indicated that the Borough had said it would be difficult for them to run the grant monies through their books and it was suggested that another non-profit should be found to pay the Commission's financial obligations. The Chamber of Commerce and KIC were both contacted and

both indicated they were willing to provide that service for a fee. The Chamber needed to ratify a board email polling at a formal meeting, which would take place within 2 weeks. The only concerns that Chair Thompson had were regarding with the grant agreement with the State and the reporting requirements, but JC Conley, Chamber President, indicated they wouldn't have a problem with that.

Commissioner Otte indicated that one resume had been received for the open staff position and she had spoken with another person who indicated they would turn in their resume by the closing date.

Commissioner Kiffer said that the collection points for the surveys have been set as long as the Commission maintains the boxes. No one wants to distribute surveys, but will allow the boxes at their businesses. A&P declined to have a box at their store.

Commissioner Painter wanted to know if there were any other alternatives to KIC or the Chamber handling our funds for a \$600 fee. He said he felt our budget was tight enough without having to pay that amount. He asked that the City be approached to distribute the funds.

E. Consent Calendar

The minutes of the March 5, 2004 regular meeting were approved by unanimous voice vote.

F. Unfinished business

F-1: Review and Acceptance of the Article IX, Education, of the Ketchikan 2004 Draft CHARTER, Second Reading

M/S McCarty/Painter to approve Article IX, Education, of the Ketchikan 2004 DRAFT Charter in the second reading of three.

Commissioner Otte indicated that the indication in the motion that there would be three readings of this Article was an error on her part. Unless something came up at the meeting tonight necessitating three readings, she didn't believe that had been the Commission's intent.

Superintendent Martin came and spoke to the wording change in 9.05 (b). He indicated that the biennial requirement was satisfactory to the District and Board.

Commissioner Harrington again questioned the fact that when the District gets a grant and spends the money, then they take it to the Assembly for approval, it's usually after-the-fact, so the approval would be a moot point, or if there were a problem, it conceivably could be.

Superintendent Martin said he agreed. For many years the District did just that, but in the past 2 or 3 years the Assembly has indicated they'd like more information from the District about how much more money is obtained than was originally budgeted. He said the Borough Attorney said that language should be included providing for the Assembly's approval. Mr. Martin said as long as there was no language saying they could disapprove it, it was fine.

The other section was concerned about encumbering or spending money that hadn't been allocated to begin with. He said the new wording was an attempt to try to alleviate Chair Thompson's fears of the initial allocation and that's what he (Mr. Martin) was thinking was the foundation formula, the initial allocation in the initially submitted budget. That's their initial amount and it will stay that way UNLESS the District gets changes in the budget due to grant awards. And then the District would go back to the Assembly and say they had gotten X amount of money between September and January and to inform the Assembly of those grant monies for approval. He said they District could then do that process again at the end of the fiscal year, so that all monies spent for the schools were accounted for to the Assembly.

He said that the process would be, if not indicated with the new wording, that someone in the District decides to put in for a grant. The way it is now, before applying for the grant, the District would have to go to the Assembly and ask permission to put in for it, then also go to the School Board for permission. This would make the process very unwieldy when time is often short to submit applications for grants. Many of the grants are for less than \$2000 each. He said the District keeps scrupulous track of all funds obtained through grants; they go through an annual audit process. The Assembly has said they'd like to see the figures occasionally, but Mr. Martin didn't think the District needed to go for approval every time; it would just bog down the process.

Commissioner McCarty said it seemed to him that the issue on both sides is addressed by having an ultimate amount that the District can spend. If they are allowed to spend \$30m, there's no way the District would come close to spending all of that until later in the fiscal year. If the Assembly is updated with the amounts obtained and the \$30m could be increased at that time. He said he saw the section as a kind of check and balance, but it's workable.

Mr. Martin said he agreed and felt that biennially would be a sufficient requirement for notice of those additional funds, since most don't start being awarded until late in the calendar year.

Commissioner Kiffer wondered if there shouldn't just be a contingency figure put in the budget to cover the smaller grants, so that the approval process wouldn't be needed for them, but Mr. Martin said some of the grants vary greatly in amount from year to year and others are only one-time large grants, so a contingency in the budget wouldn't be accurate either.

Mr. Martin then explained one of the more complicated annual grant awards that often is amended throughout the year, starting with one amount and being increased by addendum. He said that most of the grants are submitted in May, even though they are not awarded until September or after. The grants are submitted on the current year's funding/expectations. If the Federal Government gives more Title 1 grants than expected, those figures don't come until the next calendar year. He said the language covers the District not over-spending what the Borough has already approved in State foundation allocations and Borough money that is supposed to be appropriated within the cap. Grants come in after the May 1 deadline for the School District budget. No other foundations monies come in, nor does the Assembly typically add any more money than budgeted, however, the language covers either of those situations.

Chair Thompson asked how much is the total District budget. Mr. Martin said it was close to \$20m when all the grants are obtained.

Commissioner Harrington said that everything in the suggested language made sense to him, except for the last two words, "for approval". He said that informing the Assembly of the updated budget figures makes sense, but to retroactively ask for approval doesn't make sense, nor does the asking ahead of time because of the time lag. He wanted to know if the last "for approval" in Mr. Martin's suggested wording for 9.05 (b) [note: Mr. Martin's language was written for 9.05 (2)] could be dropped. Mr. Martin said that was fine with him.

Commissioner McCarty said he'd sat on both bodies. He said the School Board is saying that they have a fund and if they pick up money outside of cost to the Borough, shouldn't that be money they could use. But, he said, there is also a concern at times that when full funding to the cap hasn't been made or in the case where the Assembly says there are XX amount of dollars to be spent on education, which would include the grants, they ultimately approve the checks as they come through. If "approval" is said in the document, then "non-approval" is implied. He said that the suggested language would be workable.

Mr. Martin said that taking off the wording “for approval” would be good, since a lot of the time, the money IS already spent and he didn’t think the Assembly would say no to the District spending the extra monies.

Commissioner Otte said she thought “for approval” had to be in the wording because the Assembly has passed the total amount authorized in the District’s budget by ordinance and if there are further funds added to that approved amount, the ordinance would have to be changed to reflect the new total. Other Commissioners disagreed with that assessment.

Mr. Martin indicated that grant funding was very specific as to what it could be spent on. When a grant is received, those monies must be spent on the activity or purchase of specific things. There is no chance that grant monies could be used to reduce the contribution by the Borough. It would be illegal to do that.

Commissioner McCarty said that the approval is based mostly on whether changes to the budget amount will be needed, not specific items, or, he wondered, was Mr. Martin reading that the District needed to get specific approval to spend the grant money. Mr. Martin responded that the original Charter language said, “The school district may not appropriate or otherwise incur the expenditure of any funds, regardless of the source, in excess of the total amount of the budget, as approved by the Assembly, without prior approval of the Assembly.” He said that didn’t make sense because of the later receipt of the grant money from the budget submission date of May 1. He said the Chair was concerned that the Assembly needs to approve funds, and they do in the initial budget on May 1. Most of the time the grant money comes in, at least to the total amount, after that time. The cap dates are the last 20 days in October. That number usually comes back in the middle of November. The District budget is built on an estimate of total number of students. This estimate is pretty much a guess. That’s how the budget is started. That figure will not be known until November, because that’s when they get funded, based on that 20-day count of students actually enrolled in the schools. If that number were up significantly, then the amount would change at that time. And since that is foundation money, the District could come back to the Assembly then and say this number went up. The other thing that means is if the foundation money goes up, the cap from the Borough also goes up. So, theoretically, the District could come back and say the foundation money went up, so they would like to up the cap from the Borough. The part that bothers him is just the grant awards coming in from the beginning of school throughout the year for specific activities or purchases and they cannot be used to come back and take money out of what the Borough has said they would give for activities and Title 1 money. The suggested amendment does do what the District wants done, as

well as setting a check/balance of the District's expenditures.

Commissioner McCarty reiterated prior comments about the District's expenditures and the budget amount.

Mr. Martin said the biggest grant usually received is about \$700,000 to \$800,000.

Commissioner McCarty talked about the end of the year for the District and the fact that there may be funds left and the Assembly perceiving that perhaps the next year's budget wouldn't need as much funding.

Chair Thompson and Commissioner Kiffer discussed the wording further [of the amendment to 9.05 (b)]. Chair Thompson said the "for approval" needed to be in there in the case where the State funding is increased and the District wants a boost in the cap from the Borough.

Commissioner Harrington said that regarding the State funding; say, the Borough has approved the School District budget and the cap. If there were a large increase in students and that would be an increase in the budget funding, it makes sense that the District should come back and re-do the budget. Not only because the total budget needs to be raised, but also the Assembly may want to re-balance how much of the local expenditure is involved. He said he didn't think, with the grant awards, that the Assembly didn't need to have anything other than the information, not their approval. If the words "for approval" are left in, there is an opening for the Assembly to say the District doesn't need as much funding from the Borough.

Commissioner McCarty spoke of tension between the Assembly and the District over funding. There may be the perception, with the addition of these grant funds, that the books are not clean. Some may perceive there are two sets of books. The Assembly should have the right to know how much it actually costs to run the system. The new language doesn't say that every time the District was to accept money, they would have to come to the Assembly to change the budget. The day-to-day stuff is up to the School Board. If it is desired to have good communication between the two entities, then having the Assembly informed of newly obtained funding is the way to go.

M/S Harrington/Painter to amend Article IX by substituting Mr. Martin's 9.05 (2) for the Charter's 9.05 (b) that says, "The Assembly may increase or decrease the budget of the school district only as to total amount. The school district will not spend or encumber any monies based on the initial state foundation allocations and/or initial Assembly allocations without prior Assembly approval.

The school district will submit any changes in its budget due to grant award monies biennially to the Assembly for approval.”

Commissioner Kiffer said he still had a problem with the District spending the money then going to the Assembly for approval to have spent the money. He said he’d like to see “biennially to the Assembly for approval” taken out. He said it’s already in there in the first sentence. If there is any drastic change in the budget due to enrollment or grants, they are coming back twice a year anyhow.

Commissioner Harrington asked for a poll of the Commission to see how many wanted to drop the second “for approval” in 9.05 (b). He said he hates to have amendments to amendments. There were no objections to this informal change.

M/S Harrington/Painter to amend the amendment to read to adopt Mr. Martin’s substitution section 9.05 (b) by ending the amendment with the word “Assembly”, and drop “for approval” on the last sentence.”

Commissioner Painter wanted to remind everyone that the Borough Attorney had looked over the wording and didn’t appear to have a problem with the wording and the only thing that was really changed from the last week to then is the addition of the specific wording having to do with the grant monies and reassurance of not being able to spend or encumber over the budget.

Commissioner Harrington indicated that if the amendment to the amendment passes and the dropping of the “for approval” raises some concern of the Borough Attorney, we may want to bring it back to the table. The section can remain highlighted.

Chair Thompson asked to make a friendly amendment to the amendment of the amendment to change the wording where it says “based on” to “in excess of” and where it says “due to grant award monies biennially” change to “at least” biennially. That gives more options if needed. Explanations were given. Commissioner Finney said it seemed the first change would just throw the grant money back in to where it needed approval. Chair Thompson agreed to withdraw both the friendly amendments to the amendment of the amendment.

Commissioner McCarty said it’s legal to make the change, but should the Commission do it? He said he thought for political reasons the change shouldn’t be made.

A roll call vote was taken to drop the “for approval” from the last sentence in Mr. Ketchikan Charter Commission Minutes

March 12, 2004

Martin's amendment to section 9.05 (b).

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

The amendment to the amendment was approved.

A roll call vote was taken on the main amendment that substituted Mr. Martin's 9.05 (2) for the Charter Section 9.05 (b) omitting the words "for approval" in the last sentence.

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

The amendment passed.

M/S Harrington/McCarty to amend Article IX by deleting Section 9.03(d), Compensation, "Compensation for school board members shall be the same as that established for Assembly members."

Commissioner Harrington indicated that Mr. Harpold's comments of last week were not persuasive. Anyone who runs for Assembly or School Board for the money, he doesn't want them in there. This is not a position for compensation. He said he'd like to continue to have the School Board set their own compensation as they do now and if they so chose to set it the same as the Assembly, it should be up to them. He felt the Commission should not be specifying that type of thing in the Charter.

Commissioner Painter said the document is set in stone once it's turned in and this isn't something he wants permanently in the Charter. He said it's a matter for the future Assembly and School Board.

Commissioner Finney wanted to know how setting the compensation is done now. How would it be done for the consolidated body? Superintendent Martin said the setting of compensation was currently in the Board policy manual that they are to set whatever compensation they receive.

A roll call vote was taken to delete Section 9.03 (d), Compensation, from the Charter document.

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

The amendment passed.

M/S McCarty/Painter to amend the main motion to read, "I move to approve Article IX, Education, of the Ketchikan 2004 DRAFT Charter in the second reading," dropping the words "of three".

A roll call vote was taken on the change in the main motion to delete the wording "of three".

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

The amendment to the wording of the main motion passed.

Commissioner Finney indicated the dollar amount was still in Section 9.05 (e) and at some point that wording should be addressed. Commissioner McCarty suggested that the section remain highlighted and it will then be re-addressed as another review of the Charter document takes place. He said that he agreed that numbers shouldn't be left in the document.

Commissioner Otte suggested that Section 9.05 (e) read, " Every three years the School Board and the Assembly shall jointly set the price limit for items to be included on the 6-year capital improvement plan as well as items with life expectancy of over 5 years." She said that something on that order would cover the language problem.

Commissioner Harrington said they were going to have to do a six-year plan and they were going to have to come up with the language. He said it solves communication problems now between the two bodies, but he said they should set their own process once consolidation takes place and that section should probably just be deleted.

Commissioner Painter thought that the right phraseology should be determined to substitute for all the areas in the Charter that specify exact dollar amounts, something related to the Consumer Price index so the dollar amount can change as the years go by.

Commissioner Kiffer said he agreed with Commissioner Painter. The Section should be highlighted and the Commission move on at this time. When the entire review is complete the Commission can go back and fix those sections. It was suggested that if any of the experts in the audience came up with better language, they should let us know, but for now to just highlight the section and move on.

A roll-call vote was taken on the main motion, as amended, to approve Article IX, Education, of the 2004 Draft Charter in the second reading.

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

F-2: Review and Acceptance of the Article X, Finance, of the Ketchikan 2004 Draft CHARTER, Second Reading of Three

M/S Painter/Harrington to approve Article X, Finance, as amended, of the Ketchikan Draft Charter in the second reading of three.

City/KPU General Manager Karl Amylon spoke to the Commission on this section. Commissioner Painter yielded his chair. He said he had a discussion with Mr. Eckert earlier this week but he wanted some clarification on Section 10.07 that was inserted in the first reading. He said that section could be interpreted in one of a number of ways. Initially, the first sentence talks about the levy not exceeding 14 mills and then the ability of the voters is there to raise that at a special election. Then, he said, it goes on to talk about the 14 mills not encumbering the municipality's ability to meet its bonded indebtedness and that in no event will the levy ever exceed 30 mills. His question was as to the intent: to restrict the mill levy to 14 exclusive of debt and then anything between 14 & 30 mills would then be attributed to debt?

Commissioner Harrington indicated that the section was patterned after the Sitka Charter and at that point they established a limit on their mill rate that could only be changed by the voters, but they left the proviso in there that if they voted, they still could never go beyond 30 mills and if, for some reason, a debt was there, then there was some flexibility to raise the millage rate to meet a municipal debt situation.

Mr. Amylon said he thought he understood the latter, that the mill rate can never go above 30 mills. He said the question he was still unclear on was relative to the initial 14 mills. Is that meant to apply to both the operational and capital of the budget? Commissioner Harrington indicated yes. Mr. Amylon responded that if that was the case, there is a major problem. Commissioner Harrington indicated that the number 14 was put in there as a placeholder because the budget hasn't been reviewed and it is still unknown what will be needed.

Mr. Amylon said that currently the City's mill levy is 6.4 and includes no debt component within the general fund. The Borough's mill levy right now is 7.0 and he didn't know how much of that levy is dedicated to bonded indebtedness.

He said that based on his discussions with the Borough Manager earlier in the week, he believes there is a good possibility, given the Borough's current budget problems, and if a special election goes through to increase the sales tax levy, but is not successful, the mill levy for the Borough could go up another mill or mill and a half. So, if that were the case, just in terms of the placeholder number, the Commission would be up against the upper limit.

He said that for himself, philosophically, it's easy to put in a ceiling in the Charter document, but that ceiling doesn't really have any value or mean anything until the areawide and nonareawide powers, how sales tax issues are to be dealt with, but right now, just speaking for the City and without the knowledge as to whether the City will be a service area and whether that service area will have a separate board of directors different from the Assembly, he said the City is currently at 13.4 mills. This year the City lost \$1m in State assistance. He said that the Commission is putting in artificial limits that may not allow the municipality, the Borough or service areas, in the case of the City, to respond to unique sets of circumstances. He said that he thinks it's contrary to what the model is based on. An Assembly is elected to represent the people. The way the Charter is drafted now, generally new bond obligations go to the voters so they have their input on debt at that time, but when an operating budget is discussed, it's more of a volatile document. It can be very sensitive to economic conditions. Given what has happened in this community the last 5-7 years and the Commission is also predicated on the assessed valuation. There isn't a stable assessed valuation in the community today. It has been declining over the last several years and when that is coupled with the current tax levies, in a difficult economy, it has to asked whether these artificial barriers are desired in the Charter, or whether the new Assembly should be allowed once the powers are defined and how sales taxes, etc. are going to be levied, the latitude to figure out how they are going to make it work. He said that both for himself and the Borough Manager that overall, they do share the same philosophy that a property tax limit in a community like Ketchikan is something that neither he nor Mr. Amylon would likely endorse.

Bob Newell, City Finance Director, indicated he was there at the meeting to answer any questions the Commission might have. He said he didn't have any remarks prepared.

Chair Thompson asked Mr. Newell if there were anything in the Finance or Borrowing articles that caused him any concern or anything he'd like changed.

Mr. Newell indicated that in Section 10.14, Audit, he thought it was a good idea to have a time limit, but the 120 days stated in the section is too short. He felt

180 days would be more realistic. He said that in talking about supplemental and emergency transfers of appropriated reserves, the section doesn't define a supplemental and emergency appropriation. He said that in Juneau's alternative, Section 9.10, they put the language better. Chair Thompson asked if Mr. Newell suggested substituting this Juneau alternative (9.10 (a) (b) for the current 10.03.

He said that he had reviewed the other city's charters, but they were written with more policy that he said he felt should be set by the Assembly instead of putting it into the Charter. He said that if there's too much detail in the Charter, it's hard to make changes.

Commissioner McCarty said that's what the Commission has been trying to do and any comments received are definitely listened to.

Commissioner Finney asked if the fiscal year would be a problem for the City, to which he replied that it would be his preference, and a lot less work, to go by a calendar year, but he also understands the necessity of changing to the July 1-June 30 year due to the State budget being on that calendar. He said that personally that year-end closure is a lot easier to do in the winter when the weather is crummy.

Commissioner Harrington wanted to know if it would be appropriate to leave in a provision in the Charter for a two-year budget cycle. Mr. Newell felt that was an issue that would be better left to the new Assembly to decide. Commissioner Harrington wanted to know if the option should be put in the Charter. Mr. Newell indicated he really didn't have an opinion on that.

Commissioner McCarty said that Mr. Newell had mentioned the different years between the City and the Borough and the School District fiscal years and wanted to know in the transition budget if the City should be budgeted 6 months or 1.5 years. He also wanted to know the feasibility of having the City, whether as a service area or independently should keep their own budget cycle. Mr. Newell responded that he thought the new Assembly would want to adopt whatever budget and code is currently being utilized by the two bodies and the new entity would operate under those codes and budgets until the Assembly adopts new documents. In regard to the transition time for the City, Mr. Newell said a 6-month budget should be set for the City to segue into the new entity's budget year. He also said that no part of the new government should be on a different fiscal year.

Commissioner Finney asked about Section 10.09, Taxation: Assessment, and wanted to know if there was any economic difference about having the taxable

status set on July 1 instead of January 1. It was explained that to set the assessment rate in July, there was no time to go to the equalization process and then have the numbers firmed up before the property tax is set in July. Mr. Newell felt there wouldn't be enough time to go through that process.

Chair Thompson asked Mr. Newell if he wanted to comment on the section on Borrowing at that time, and he indicated he'd wait for that section to come up.

M/S Painter/McCarty to amend Section 10.03, Supplemental and Emergency Appropriations and Transfer of Appropriated Reserves by inserting the language found in the Juneau alternative in Section 9.10 in its entirety and amends the amount of days in 10.14 from 120 to 180 days for the audit.

Commissioner Painter pointed out that this was the second of three readings on this Article and he would like the Commission to hear from Al Hall, Finance Director of the Borough, on this section.

A roll-call vote was taken on Mr. Newells' suggested changes to delete Section 10.03 and insert Juneau's 9.10 and to change to 180 days from 120 days in 10.14, Audit.

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

The amendment passed.

Commissioner Painter suggested leaving 10.07, Property Tax Limit, in the document for now and make certain it's highlighted until the Commission has heard from Al Hall and Les Shepherd who worked on the Sitka draft Charter. It was pointed out that Mr. Shepherd has indicated that he did not wish to participate in the Commission's deliberations. Commissioner Harrington said that he would call Mr. Shepherd and try to determine the answer about the property tax limit. If Mr. Shepherd were unavailable, he would try one of the other persons who sat on Sitka's Charter Commission to try to determine why it was put in their Charter.

Commissioner Harrington indicated that he put that in the last week because of discussions with north end residents who said the only way they'd vote for consolidation was with some kind of taxation limits in place. Commissioner Kiffer concurred and said the 14 mills were in there just to hold the spot. He said it was a bit unrealistic but that issue would surely be revisited before the process was over.

Commissioner McCarty said that every place he's seen that has had a cap has pretty much turned out to be a disaster. Just look at the problems in California. He said that's why the people elected to the Assembly need to deal with that, not this Commission.

Commissioner Painter indicated that he would still like to hear Al Hall's comments on the section and to learn why Sitka put the limit in and if there are any current ramifications they are facing now that they've been consolidated for about 10 years.

Chair Thompson offered an amendment to 10.02 that states somewhere in that section that the Borough may, by ordinance, adopt a two-year budget. Commissioner Harrington seconded this amendment.

A roll-call vote was taken to amend Section 10.02 as listed above.

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

The amendment passed.

A roll-call vote was then taken on the main motion, to approve Article X, Finance, as amended, of the Ketchikan 2004 DRAFT Charter in the second reading of three.

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

The Article passed in second reading.

F-3: Review and Acceptance of the Article XI, Borrowing, of the Ketchikan 2004 DRAFT Charter, Second Reading of Three

M/S Painter/Harrington to approve Article XI, Borrowing, of the Ketchikan 2004 DRAFT Charter in the second reading of three.

Mr. Newell pointed out that in Section 11.04 talks about Revenue Bonds and Borrowing. He said that normally the voters do not ratify revenue bonds. There are some communities in Alaska that have that voter ratification provision, but most don't. He said the reason why is that revenue bonds usually result in a pledge of revenues from a utility or an enterprise fund that is used to pay off the debt service on this type bond. You're not really pledging the full faith and credit

of the municipality. You're not pledging property taxes or other general government revenues for revenue bonds. He said that it would be to the advantage of the Telephone utility not to have to go to the voters every time they need to issue bonds for their capital improvements.

Chair Thompson indicated he thought that subject had been mentioned in the White Paper or some of the other comments that had come out on the original charter.

Mr. Newell said his other comment had to do with Section 11.01 (c) in the last sentence where construction warrants are indicated. He said that wording was outdated and it should say bond anticipation notes. This wording was also in Section 11.04.

Mr. Newell also said that he wasn't sure why Section 11.07 was shaded, but he didn't think it was a very good idea. If there is voter approval for a bond issue, there should be a specified time period that the bonds have to be issued. He said he felt 10 years was pretty reasonable. Commissioner Finney said his concern was that 10 years seemed long enough, but the language following stipulating unless there was legal action that it could go on forever. He said that he didn't want any stipulation, that if it's not been done in 10 years, the whole matter should be revisited. Commissioner McCarty wanted to know if Commissioner Finney was thinking about deleting the language, "except when such sale has been delayed by an action to determine the validity of the proceedings authorizing the issuance of such obligations, in which case the period of such delay may be added to the said ten years." Commissioner McCarty then asked Mr. Newell if that language could be removed without causing a problem.

Mr. Newell responded that he thought that the intent of that language was not to lose the voter approval in the event that someone made a lawsuit against the bond issue. He said that it was a policy decision that needed to be made by the Commission, but the language as it is right now was reviewed by the City's bond counsel and they were comfortable with it. Commissioner Finney said that after ten years maybe things would have changed entirely, or longer if there were a lawsuit, and maybe it should be revisited.

Commissioner McCarty pointed out that the Assembly had the right to void the bond issuance at an earlier date.

Mr. Newell said he had looked at the other city's charters and there was some good stuff included, but it was too much detail for a Charter. Usually those details are addressed in the bond ordinance as opposed to putting them in the

Charter. He said some of the language used elsewhere could actually make it difficult to market the bonds.

Commissioner Harrington asked for clarification on Section 11.04 and the concerns raised by Mr. Newell. Mr. Newell explained that normally revenue bonds are not voted on. Commissioner Harrington asked if Mr. Newell's recommendation was to delete that Section. Mr. Newell responded that the whole thing could be deleted or just the reference to ratification by the voters. Commissioner Harrington asked if the issuance of revenue bonds was not addressed in the Charter, could the Assembly then still issue them. Mr. Newell believed they could. He also said that the wording in the last sentence could be further changed to, "Bond Anticipation Notes may be issued following the Assembly approval of a bond issue and pending sale of the bonds."

Karl Amylon, City/KPU General Manager, spoke to the Commission on the issue of Section 11.04 and voter approval. He said that while in other communities approval of revenue bonds may not be necessary, but he felt with Ketchikan's history of the public's desire to be a part of the bonding process, he felt that the Charter would be difficult to sell if the voter approval reference was removed. He also said that the issuance of revenue bonds without voter approval was especially important to the Telephone Division with the quickly changing technology would enhance the utility's ability to compete.

Commissioner McCarty asked didn't the utilities need to go to the Council now to get approval for the bonds? Mr. Amylon responded that currently that for the City (general government) or the utility to issue debt, ultimately it has to go to the voters for approval. What Mr. Newell was saying in the case of the utility and in terms of standard practice, generally when a municipality issued a revenue bond, it not something that necessarily goes to the voters for approval. In Ketchikan, however, the voters' approval has been necessary. From a management point of view that is not the most effective way to go about business. He said this issue was discussed extensively prior to the last consolidation effort and the Commission needs to ask themselves in terms of marketing and the overall consolidation petition if it is desired to give a future Assembly the ability to go out and borrow for revenue bonds without voter approval.

Commissioner McCarty pointed out that he has heard comments for years about the fact that people outside the City couldn't vote on KPU revenue bonds, even though the services were in both the City and Borough, nor did they get to vote for the Council who voted on the rates. He asked Mr. Amylon if that was discussed during the last consolidation effort. Mr. Amylon responded that under the previous effort, a conscious decision was made to have the utility as

an areawide power and the way the prior charter was drafted, if the utility wanted to go out and borrow debt, it would have to be approved on an areawide basis by the voters. If that particular provision is removed, in essence what is being said is the Assembly has the ability to go out and issue the debt without voter approval. He said there are very good benefits to that in terms of utility operations, but on the other hand, it is being removed from the residents' purview and this needs to be thought of in the context of selling consolidation to the voters.

Chair Thompson asked Mr. Amylon what his preference would be, to take revenue bonds to the voters or not. Mr. Amylon responded that in his prior position of 11 years, revenue bonds had never been taken to the voters, so he said he's comfortable either way. There are pros and cons to each view. If you take revenue debt out of the equation of voter approval, that's a very fundamental change in terms of what Ketchikan residents are used to.

Commissioner Kiffer said he agreed that this thing (Charter) has to fly with the voters. Haines, Sitka & Juneau also have voter approval in their charters. He said he'd be really hesitant about taking that kind of ratification away from the voters.

M/S McCarty/Harrington to amend Sections 11.04 & 11.01 (c) to change the wording from Construction warrants to "Bond anticipation notes".

A roll-call vote was taken on the above amendment.

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

The amendment passed. It was further suggested to highlight the words "and ratified by the voters" in Section 11.04.

A roll-call vote was taken at this time to approve Article XI, Borrowing, as amended, of the Ketchikan DRAFT Charter in the second reading of three.

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

The Article was approved in the second reading of three.

A short break was held and the Commission reconvened at 7:53 pm.

G-1: Introduction of article XII, Service Areas & Areawide; Article XIII, Saxman; and Article XIV, Local Improvement & Service Districts, of the City of Ketchikan's Charter of 2001, Not for Discussion

Marvin Hill, 808 Forest Park Drive, Chairman of the Board of Forest Park Service Area.

One of the first things that were discussed during the recent Forest Park Board meeting was whether the service area boards are going to be Boards of Directors or Advisory Boards because there is a difference. He said that Forest Park is a Board of Directors because that was what it was when they became a part of the Borough. They feel that sometimes the Borough doesn't listen to what they have to say.

Commissioner Harrington pointed out that since he's Chair of the North Tongass Service Area Board, he checked out whether there could be more power built into the Charter for service area boards. The response was a reference to a legal action by a service area against a Borough for maintenance of roads and the Court said that service areas have no authority it is all Borough powers. It is all the powers the Borough chooses to use in a service area, not areawide. Mr. Hill pointed out that Forest Park had road and sewer power before they became a service area. Commissioner Harrington said they had it because they were a homeowner's association, not as a Borough power. Once the Borough power became involved, Forest Park IS an advisory board whether you want to be or not. Commissioner Harrington said that was the answer he got when he was inquiring. He asked if there was any way around this situation and the only way seen that gave any more power to the service area board was to limit the power of the Borough Manager. Commissioner Harrington then went to the Borough Manager and said that he planned to put limits on his powers, that he may not do anything outside of the area of personnel and emergencies without Assembly or Service Area Board approval. He (the Manager) said he could live with that, but that was the only way that the service area boards could have more power.

Mr. Hill indicated the reason the boards need more power is a lot of the projects that happen within a service area start off as a good idea and by the time they're enacted, they've become a grandiose scheme and the service area members are expected to pay the bill. The service area boards need to be allowed more input into the process and what's happening within their service areas.

Commissioner Painter indicated he thought that in the LBC's reference to service areas that Alaska Statutes spell out what powers go along with the Ketchikan Charter Commission Minutes

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boards. Commissioner Painter indicated he'd found this information on the Boundary Commission's website.

Commissioner Kiffer said that statutes and what service areas can do and all that aside, he wanted to say that the service area boards should be put there by the people to do the bidding of the people in that service area. He said he felt very strongly about that. He questioned Mr. Hill about whether Forest Park had regular meetings (Yes) and he wanted to know what the participation level was in the service area. Mr. Hill said there was good participation. He said they still do a bit of volunteer labor in the service area, which the Borough frowns on since the Borough isn't directly supervising them. Commissioner Kiffer asked if Mr. Hill thought the people in the service area were happy with the system as it is right now. Mr. Hill said that if they weren't his phone would be ringing off the hook.

Chair Thompson pointed out Section 12.06 (b), Supervision of Service Areas, that states, "The Assembly may provide for an appointed or elected board to supervise the furnishing of services in a service area or may exercise such supervision by itself. The Assembly or board shall determine the cost and levels of service, the means, methods, and facilities for providing the service and all requirements for receiving the service." He requested Mr. Hill consult the Forest Park board about this section and come back with some discussion. Chair Thompson said that it was his understanding that the Borough's job in a service area is to be the conduit through which monies are collected from the service area constituents and funneled back into the service area and hopefully, there's some input from the board. Chair Thompson said what he's hearing is there is some stonewalling going on and the service area's needs are not being met and the Borough is not listening to what the Board wants or not doing things the way the Board wants.

Mr. Hill indicated an example of recent frustration with the current system. He said that for their recent road improvements the first step was to solicit bids, either on their own or through the Borough office. He said by the time the bids come in and by the time the money's appropriated and by the time the contract is signed and ready to go, the summer season is over and the paving doesn't get done until the next year. He said that the only way to do it is to use the bid from the last year and tell the contractor an addendum would be added to that bid, or you put enough in the capital improvement fund that when the bids come in, the money is appropriated and the project can start. He said the time lag is what kills a lot of the small projects.

Commissioner Painter asked Mr. Hill what the Forest Park mill rate was. It is 11.2 mills. He said the South Tongass EMS might be a mill or more added

onto their present total. Once their roadwork gets done, they'll drop that mill, but it will just be traded for the EMS mill.

Linda Randall, 145 Forest Park Drive, Secretary of the Forest Park Service Area Board and Homeowner's Association and on the South Tongass Service Area Board. She said that the biggest problem she sees in service areas is input from the Borough and the go-between the two entities is terrible. Answers to questions are hard to get. No one from the Assembly has ever come to the service area meetings and there have never been special meetings between the service areas and the Assembly.

Ms. Randall indicated that contracts are often changed and the board never sees the contractor or the final contract. Often the contractors don't understand that they are working for the service area board and didn't know what was expected. She said communications are very poor. She said the Borough, with little input from the Board wrote the contracts.

She said that lack of information is a key. Right now South Tongass is suffering because they're trying to do the first budget of the expanded service area and cannot get the information they need.

Service areas need a more formal setting; they need more help.

In Forest Park the same board sits for homeowners as for the Borough. That may be one of the reasons their board is stronger than some is that they've been doing it a long time and represent everyone very well.

Commissioner Painter questioned Ms. Randall as to what services should be areawide in the interests of economy and public safety. She said the sewer got taken over and it runs worse. The roads wouldn't be a good choice to have areawide unless there were contracts w/individuals to service an area rather than a dependence on the government's road crew. There was too much area and other priorities would slip in front of their area. Forest Park is a very high traffic area. Mr. Hill also pointed out that with government employees, someone would probably be on the payroll year round, not like a contract employee who would only work when needed.

Ms. Randall also said that Fire & EMS should be areawide. Water and sewer eventually should be. She said that it would cost less for Fire/EMS to be areawide.

Commissioner Kiffer commented that service area residents know what's needed in their areas more than if services were provided by an umbrella "big"

government. He said that it would probably cost more for the fire services than it does currently and the issue is what do the people want to pay.

Further discussion was held about specific projects and services in the south end area.

Ms. Randall suggested that Article XII should be given to Gisele from the Borough Public Works Department and ask that she take copies to the service area board meetings. She said that Gisele tries to get answers for the board's questions, but she often cannot get any questions. It has helped having a Borough staff person at the meetings, but they still have trouble getting questions answered.

H: Commission Comments

Commissioner Kiffer indicated there is a task force in town that is evaluating the island's fire departments for operations. The reports will be available in a couple of weeks.

Commissioner Finney thanked Linda Randall for her input.

Commissioner Harrington said at the last meeting he couldn't answer why he'd voted no on the survey. He has developed a second survey for the Commission's review and will bring it forward for discussion at a later meeting.

Commissioner Painter said he wanted to thank those people who have come to the meetings to assist the Commission. It is appreciated.

Chair Thompson said he had talked to Mayor Weinstein who said he wasn't really happy with our impending survey. Chair Thompson pointed out that everyone had expressed some concerns, but there was a need to get something out and to keep it on one page. After their discussion, the Mayor agreed that it should go out. The Chair indicated that in Article X, Finance that this board needs to focus on the what, not the how, and for that reason, he's probably going to make a motion to remove the tax cap from the Charter. We elect people to represent us and THEY should be implementing the policy the Charter sets out.

The meeting was adjourned at 8:32 pm.