

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO F-2

MEETING OF March 19, 2004

ITEM TITLE Review and acceptance of the Article XI, Borrowing, of the 2004 DRAFT Ketchikan Charter in the third reading of three SUBMITTED BY John Harrington
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SUMMARY STATEMENT

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

Since this issue is so complex, the Commission has decided to initially review this article a total of three times.

Formatting note: Wording added to the Charter is underlined. **[Deleted items are smaller font, bracketed and bolded]**. ****Areas of concern or questions are highlighted and marked with asterisks.****

RECOMMENDED ACTION:

"I move to approve Article XI, Borrowing, as amended, of the Ketchikan 2004 DRAFT Charter in the third reading of three."

ARTICLE XI – BORROWING

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Section 11.01 General-Obligation Bonds, and Revenue Bonds.

(a) Power to Borrow. The municipality shall have power to borrow money and to issue its general-obligation bonds, revenue bonds, or other such evidences of indebtedness therefore, but only when authorized by the Assembly for capital improvements and ratified at an election by a majority of those qualified to vote and voting on the question.

(b) Areawide, Non-areawide, and Service Area Indebtedness. The municipality may incur indebtedness:

- (1) On an areawide basis when exercising powers on an areawide basis;
- (2) On a service area basis when exercising powers through a service area;
- (3) On a non-areawide basis when exercising powers on a non-areawide basis.

Indebtedness incurred on a service area basis shall be repaid from revenues and taxes received from the service area and indebtedness incurred on a non-areawide basis shall be repaid from revenues and taxes received from the affected area. The full faith and credit of the municipality may, however, be pledged to guarantee repayment of indebtedness incurred on a service area basis or on a non-areawide basis if the indebtedness has been approved as required by this subsection. If the indebtedness is incurred for the exercise of areawide powers, the election approving the indebtedness shall be areawide. If the indebtedness is incurred on a service area basis and is to be repaid solely from revenues and taxes received from the service area, the election approving the indebtedness shall be among the voters of the service area. If the indebtedness is incurred on a non-areawide basis and is to be repaid solely from revenues and taxes received from the affected area, the election approving the indebtedness shall be among the voters of the affected area. If the full faith and credit of the entire municipality is pledged for the payment of indebtedness incurred on a service area or non-areawide basis, then the indebtedness must be approved on an areawide and on a service area or non-areawide basis.

(c) General-obligation evidences of indebtedness may also be secured by revenues from a revenue-producing utility or enterprise when they are issued for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of the said utility or enterprise, and/or by other designated funds or revenues specifically pledged for payment of principal and interest thereon. Capital improvements as used hereinabove may also include a part of all of the municipality's share of the cost of public improvement of

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which a part is to be paid by benefitted property. Bond anticipation notes [Construction warrants] may be issued following bond issue approval, and pending sale of the bonds.

(d) The requirement for ratification does not apply to borrowing money to meet appropriations for a particular fiscal year, nor to indebtedness to be paid from special assessments to be made on benefitted property, nor to refunding indebtedness.

Section 11.02 Notice of Bond Election.

(a) Before holding any election required by this article, the Assembly shall cause a notice of election to be published once a week for three consecutive weeks in a newspaper of general circulation in the municipality. The first publication shall be at least twenty (20) days prior to the date of election. For elections approving the issuance of general-obligation bonds or revenue bonds the notice shall contain the following information:

- (1) The amount of the bonds, purposes of issuance, and length of time within which the bonds shall mature;
- (2) The amount of the estimated annual debt service on the proposed bonds based upon an estimate of the anticipated interest rate;
- (3) The amount of the current total general obligation indebtedness of the municipality including authorized but unsold bonds;
- (4) The amount of the current year's debt service on the outstanding bonds of the municipality;
- (5) The current total assessed valuation within the municipality.

(b) For bonds secured by a pledge of taxes to be levied in a service area or on a non-areawide basis, the notice shall also contain the information required in (3), (4), and (5) relative to the service area or other area. For bonds secured by a pledge of the municipal utilities' revenues, the notice shall contain the information required in (3) and (4) relative to the affected municipal utilities.

(c) Omissions of information required by (2), (3), and (4) or errors in such information shall not invalidate any election.

Section 11.03 Borrowing to Meet Appropriations.

The municipality shall have power to borrow money to meet appropriations for any fiscal year in anticipation of the collection of revenues for that year, when authorized by the Assembly, and without submitting the question to the voters. The total of such indebtedness shall never exceed 25% of anticipated revenues of that year. All debts so contracted shall be paid before the end of the next

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fiscal year.

Section 11.04 Revenue Bonds and Borrowing.

The municipality shall have power to borrow money and to issue revenue bonds or other such evidences of indebtedness therefore, the principal and interest of which are payable solely out of, and the only security of which is, the revenues of a revenue-producing municipal utility or enterprise; but only when authorized by the Assembly ** and ratified by the voters ** for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of the said utility or enterprise, for refunding or for purposes authorized by Section 11.03 of this Charter. Bond anticipation notes [Construction warrants] may be issued following the ratification of a bond issue and pending sale of the bonds.

Section 11.05 Economic Development Financing

The municipality may enact ordinances authorizing the issuance of non-recourse revenue bonds or other non-recourse revenue obligations and the application of the proceeds thereof for economic development purposes, subject to the following limitations:

- (a) Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant to this section shall be payable only from money or other property received as a result of projects financed by the non-recourse revenue bonds, or other non-recourse revenue obligations, and from money or other property received from private sources.
- (b) Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant this section shall not be payable from, or secured by, any municipal assets, tax funds, or governmental revenue, or by all or part of the faith and credit of the municipality.
- (c) Non-recourse revenue bonds or other non-recourse revenue obligations may only be used to finance economic development projects, as defined by ordinance.

The restrictions of Articles VIII, X, and XI of this Charter shall not be construed as limitations upon the authority granted by this section. Non-recourse bonds and other non-recourse revenue obligations may be issued pursuant to this section without ratification at an election.

Section 11.06 Unexpended and Unencumbered Balances.

Every bond or other evidence of indebtedness shall contain a statement of the

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purpose for which it is issued, and the proceeds thereof shall not be used for any other purpose, except that, whenever any proceeds of an issue remain unexpended and unencumbered for the purpose for which issued, the Assembly shall authorize the use of such unexpended and unencumbered funds only for the following purposes, which are listed in descending order of priority:

- (a) For the retirement of such issue;
- (b) If such issue has been fully retired, then for the retirement of other bonds or obligations issued on the same areawide, service area, or non-areawide basis;
- (c) If there are no such other bonds or obligations of the Assembly outstanding, then for any purpose related to the same areawide, service area, or non-areawide purpose.

**** Section 11.07 Voiding Authorization of Bonds.**

The Assembly, by resolution or ordinance, may void the authorization of any unsold bonds or other evidences of indebtedness at any time. Every obligation shall be sold within the ten years following the adoption of the ordinance authorizing its issuance or the ratification of such issuance by the qualified voters of the municipality, whichever is later, 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. Authorization of obligations not sold within the time limits provided shall lapse unless otherwise voided at an earlier date by the Assembly. **

Section 11.08 Assembly to Have Power to Regulate.

The Assembly shall have power to regulate the indebtedness of the municipality and the issuance of bonds and other evidences of indebtedness, regardless of type or purpose, including general-obligation, revenue, special-assessment, refunding, and other, subject only to the limitations imposed by the state constitution and law and this Charter.