

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO G-3

MEETING OF March 19, 2004

ITEM TITLE Review and acceptance of the Article XIV, Local Improvement & Service Districts, of the City of Ketchikan's Charter of 2001 in the first reading SUBMITTED BY John Harrington
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SUMMARY STATEMENT

Attached is Article XIV, Local Improvement & Service Districts, of the Ketchikan 2001 Charter document and alternatives from Sitka, Juneau and Haines for review and approval.

RECOMMENDED ACTION:

"I move to approve Article XIV, Local Improvement & Service Districts, of the Ketchikan 2004 DRAFT Charter in the first reading of three."

ARTICLE XIV LOCAL IMPROVEMENT AND SERVICE DISTRICTS

Section 14.01 Purpose.

Subject to this Charter's limitations on the exercise of areawide and service area powers, the municipality shall have the power to make public improvements, including local improvements and to provide local services, within the municipality.

To the extent otherwise permitted by this Charter and other law, the cost of a public improvement and local services may be paid wholly by the municipality, or partly by the municipality and partly by benefitted property, or wholly by benefitted property, as the Assembly may determine. Said cost or part thereof to be borne by benefitted property may be assessed by special assessment upon the benefitted property.

Section 14.02 Local Improvement Procedure.

The Assembly may begin procedures for local improvements either on its own initiative or upon receipt of a petition. Procedures for local services may begin only upon petition of the owners of a majority of the property which will be assessed for the local service. The Assembly shall prescribe, by ordinance, special assessment procedures, including re-assessment procedures, for local improvements and local services and for agreements for furnishing local services, capital improvements, and the extension thereof in lieu of assessment.

Section 14.03 Lien for Special Assessments.

The municipality shall have a first lien upon all real property against which special assessments are assessed, for the special assessments and any collection charges, penalties, and interest which may accumulate thereto; and the lien shall be of the same character, effect, and duration, and shall be enforceable in the same manner, as the lien for municipal taxes.

Section 14.04 All Real Property Liable for Special Assessments.

All real property, including such as is exempt from taxation in accordance with law, shall be liable for the cost of local improvements and local services assessed in accordance with this article unless specifically exempted from special assessments by law. If municipality property is benefitted by the local improvement or local services, the Assembly may make payments in lieu of the amount which would otherwise be assessed against the property.

[Sitka Alternative, Note:in two Articles] ARTICLE XIV SERVICE AREAS

Section 14.0 Purpose

Service areas may be established to provide services not provided on an area wide basis or to provide a higher level of service than that provided on an area wide basis.

Section 14.02 Establishment

(a) By Ordinance. The Assembly by ordinance may establish, alter, consolidate, or abolish service areas. The Assembly by ordinance may add or eliminate services to a service area. The ordinance shall contain the following:

- (1) Boundaries and area to be included;
- (2) Service to be provided or be eliminated; and
- (3) Other provisions the Assembly includes.

(b) By Petition. Procedures for the establishment by petition, or in protest, of a service area shall be in accordance with Section 6.01 of this Charter as it would apply to the area in question. If a petition of protest is filed, the ordinance is suspended until ratified by a majority of those in the service area voting on the question. Each new service or each service to be eliminated shall be placed separately on the ballot.

Section 14.03 Criteria

Service areas shall be established according to criteria of need and economic operating efficiency and shall comprise the area to which the services shall be provided. A new service area shall be established only after Assembly determination that such services cannot be provided reasonably by an existing service area or by alteration of an existing service area.

Section 14.04 Financing

The Assembly may levy taxes, assessments, or other charges within a service area to finance the services, and funds thereby raised shall not be used for any purpose outside of the service area.

ARTICLE XV LOCAL IMPROVEMENT DISTRICTS

Section 15.01 Purpose

Local improvement districts may be established in a limited and determinable area to confer the special benefits of any municipal improvement. All or any part of the costs of the improvement may be paid out of the proceeds of special assessments levied against the benefitted property.

Section 15.02 Local Improvement Procedure

The Assembly by ordinance shall prescribe procedures for establishment of local improvement districts and for agreements for furnishing capital improvements and the extension thereof in lieu of assessments.

Section 15.03 Assessment in Proportion to Benefit

The Assembly by ordinance shall establish the method of apportioning and assessing the cost of improvements upon benefitted real property. Costs shall be assessed against real property specially benefitted in proportion to the benefits.

Section 15.04 Lien

A special assessment, together with collection and interest charges, is a lien on the property assessed second in priority only to property taxes and prior special assessments. The assessment lien shall be enforceable in the same

manner as a lien for municipal taxes.

Section 15.05 Protests

If protests as to the necessity for any local improvement are made within the time allowed by ordinance by the owners of real property that will bear at least fifty percent of the estimated cost to be borne by the benefitted property, the improvement shall not proceed until the protests have been reduced below fifty per cent.

Section 15.06 Limitation on Actions

No special assessment procedure may be contested by an action at law or in equity unless commenced within sixty days after the confirmation of the special assessment roll.

Section 15.07 Property Liable

All real property, including property exempt from taxation as provided by law, shall be liable for the cost of local improvements unless specifically exempted by ordinance of general effect.

Section 15.08 Receipts

Accounts for local improvement districts shall be kept separate from other municipal accounts. Revenues from a special assessment shall be used solely to pay the cost of the improvements or the principal and interest on indebtedness incurred for the improvements.

[Haines Alternative Note: in three Articles] ARTICLE XII SERVICE AREAS

Section 12.01 Purpose and criteria of service areas

Service areas may be established to provide services not provided on an areawide basis or to provide a higher level of service than that already provided on an areawide basis. A service area may be established to meet a need, improve safety, increase economic operating efficiency, and provide other reasonable benefits to residents of that area. Only the area in which the service shall be provided shall comprise the service area.

.Section 12.02 Proposals and Protests

(A) Proposals. *Service area creation, alteration, consolidation, or abolition may be proposed by*

(1) a voter proposal petition following the same form and procedure as for less-than-areawide initiative; or

(2) a notice of intent by the assembly to introduce an ordinance.

The assembly by ordinance shall establish the full requirements for service area petitions of proposal and the notice of intent to introduce a service area ordinance.

By supermajority vote, the assembly may deny a petition that proposes the continued existence or creation of a service area.

(B) Protests. *Voters within the area affected may protest a proposed or newly enacted service area ordinance. A protest petition must follow the same form and procedure as less-than-areawide initiative and referendum. If a petition of protest is certified, the ordinance is suspended until ratified by a majority of those in the area voting on the question.*

If an ordinance to be ratified proposes that a service area be expanded, the voters in the area proposed for annexation and the voters in the existing service area must separately ratify the annexation.

If an ordinance to be ratified proposes that a service area be reduced, the voters in the area proposed for detachment and the voters in the proposed remnant service area must separately ratify the change.

Section 12.03 Establishment

Service areas are created, consolidated, altered, or abolished by ordinance. The ordinance

shall contain

- (1) boundaries and area to be included;
- (2) service to be provided or eliminated; and
- (3) other provisions the assembly may prescribe by ordinance.

The assembly shall by ordinance adopt procedures for the creation, alteration, consolidation, and abolition of service areas.

Section 12.04 Administration and Finance

(A) Procedures. The assembly shall by ordinance prescribe procedures for the administration of service areas and financing services.

(B) Revenue. The assembly by ordinance may levy taxes, make assessments, receive state funds, and otherwise generate income to pay the costs of services provided.

(C) Separate accounting. An account for each service area shall be created and kept separate from all other borough accounts. Revenues collected within a service area may be applied only to service area costs; service area costs will be paid only from service area accounts.

(D) Service area boards. The assembly may provide for appointed or elected boards to supervise the furnishing of services in service areas.

ARTICLE XIII LOCAL IMPROVEMENT DISTRICTS

Section 13.01 Purpose and Criteria

Property owners may request the borough to create a local improvement district (LID) to fund a capital improvement project within the district.

An LID may be established only if the assembly determines there is a need for the capital improvement and that it will provide a reasonable benefit to property owners in the proposed district and to the borough at large. The assembly may prescribe additional criteria by ordinance.

The total cost of the planned capital improvement shall be less than the assessed value of property in the proposed LID owned by individuals or entities that do not object to the creation of the LID.

Section 13.02 Proposals, Protests, and Appeals

(A) Proposing LID creation. An LID may only be initiated by a petition of the property owners in the proposed LID. The petition must include a capital improvement plan detailing a carefully prepared and credible estimate of cost of the capital improvement to be borne by the property owners of the district. The capital improvement plan must list the estimated assessment for each lot or parcel of land in the proposed district. The petition must be signed by a number of property owners who collectively would bear more than 50 percent of the projected cost of the assessment for the capital improvement. The assembly shall describe by ordinance other requirements for the petition.

(B) Protesting LID creation. If written protests are filed by at least 50 percent of the number of property owners in the proposed district, without regard to property value, the assembly shall not proceed until the protests have been settled to the satisfaction of 66 percent of the property owners in the proposed district. If a property owner has more than one lot or parcel of land within the proposed LID, that property owner may be counted only once for purposes of this protest procedure.

(C) Objections and appeals. A decision of the assembly concerning the creation of an LID or the assessment relating to the LID may be appealed to the superior court within 30 days of the date on which the assembly adopts the final assessment roll by resolution or ordinance.

Section 13.03 Establishment

The assembly shall establish an LID by ordinance and shall prescribe by ordinance procedures for the creation of an LID consistent with this charter. An LID may be dissolved by assembly resolution after the assessment of the LID has been paid in full.

Section 13.04 Finance

(A) Assessment. To pay for all or a portion of the project, the borough may levy and collect special assessments upon real property specifically benefited by such improvements. The assessment or levy shall be proportionate to the benefit received from the improvement, as determined by the

assembly by ordinance.

A special assessment for capital improvements, with interest and collection charges, is a lien on the property assessed, second only to property taxes and prior special assessments.

(B) Accounting. An account for each LID shall be created and kept separate from all other borough accounts. Revenues collected within an LID may be applied only to LID costs; LID costs will be paid only from LID accounts.

ARTICLE XIV OTHER SPECIAL ASSESSMENT DISTRICTS

Section 14.01 Purpose and Criteria

The assembly by ordinance may establish special assessment districts to provide and finance relatively temporary capital improvements and services less suitable for LID or service area.

The total cost of any proposed improvement and the cost of any proposed service over the first five years must be less than the assessed value of the property in the proposed special assessment district. The request for improvement shall be evaluated by the assembly based on the need for the proposed improvement or service and the benefit to the proposed district and the borough at large.

Section 14.02 Proposals and Protests

(A) Proposals. An improvement proposal may be initiated by

(1) a petition to the assembly from the property owners who collectively would bear more than 50 percent of the cost of the total special assessment, or

(2) the assembly, by notice of intent to introduce an ordinance.

(B) Protests. If written protests are filed by property owners who would collectively bear 50 percent or more of the cost of the special assessment, the assembly shall not proceed until

(1) approval is granted by property owners who would collectively bear more than 50 percent of the special assessment, or

(2) approval is given by a supermajority vote of the assembly.

Section 14.03 Establishment

The assembly shall prescribe by ordinance the procedures relating to establishing and dissolving special assessment districts, providing services, making improvements, and financing the work to be done. Public hearings and assembly action are required to determine the need for the improvements or service and the special assessment roll.

An assessment district may be formed or extended only with the approval of the majority of those being asked to pay, except that the assembly may form or extend a special assessment district with a supermajority vote of the assembly.

Section 14.04 Finance

Capital improvements may be funded by a tax assessment against property, and services may be funded by fee, assessment, or tax levy. In all cases, the fee, assessment, or levy shall be proportionate to the benefit received and the burden imposed upon the improvement or service.

Revenue generated by the assessment district shall be applied only to the improvement or service, and costs of the district must be provided for by the district itself.

[Juneau Alternative Note: in two Articles] ARTICLE XI — SERVICE AREA

Section 11.1. PURPOSE. Service areas may be established to provide services not provided on an areawide basis or to provide a higher level of service than that provided on an areawide basis.

Section 11.2. ESTABLISHMENT. (a) The assembly by ordinance may establish, alter, consolidate, or abolish service areas. The assembly by ordinance may add or eliminate services to a service area. The ordinance shall contain the following:

(1) Boundaries and area to be included;

(2) Service to be provided or be eliminated; and

(3) Other provisions the assembly includes.

(b) If a petition of protest is filed with the assembly before the effective date of the ordinance adopted under this

section, the ordinance shall be submitted to the qualified voters residing in the service area or proposed service area and if ratified shall take effect upon certification of the election. The petition shall contain signatures of at least ten percent or 100 of the qualified voters residing in the service area, or proposed service area, whichever is the lesser. Each new service or each service to be eliminated shall be placed separately on the ballot and shall require ratification by a majority of the qualified voters voting on the question. There shall be no election under this subsection to eliminate a service to be provided on an areawide basis.

Section 11.3. CRITERIA. (a) A new service area shall be established only after assembly determination that such services cannot be provided reasonably by an existing service area or by alteration of an existing service area. (b) Service areas shall be established according to criteria of need and economic operating efficiency and shall comprise the area to which the services shall be provided.

Section 11.4. FINANCING. The assembly may levy taxes, assessments or other charges within a service area to finance the services, and funds thereby raised shall not be used for any purpose outside of the service area, provided, however, revenues from non-property taxes and charges which are in excess of those required to finance the services provided by the service area may be used to offset a part of the areawide property tax levy within the service area. (As amended by Serial No. 77-26 § 4, 1977).

Section 11.5. BOARDS. The assembly may appoint boards from each service area to make recommendations concerning services in that service area.

ARTICLE XII — LOCAL IMPROVEMENT DISTRICTS

Section 12.1. PURPOSE. Local improvement districts may be established for special assessments upon real property in a limited and determinable area for special benefits conferred upon the property by any municipal improvement and to provide for the payment of all or any part of the costs of the improvement out of the proceeds of special assessments.

Section 12.2. LOCAL IMPROVEMENT PROCEDURE. The assembly by ordinance shall prescribe procedures for establishment of local improvement districts and for agreements for furnishing capital improvements and the extension thereof in lieu of assessments.

Section 12.3. ASSESSMENT IN PROPORTION TO BENEFIT. The assembly by ordinance shall establish the method of apportioning and assessing the cost of improvements upon benefitted real property. Costs shall be assessed against real property specially benefitted in proportion to the benefits.

Section 12.4. PROTESTS. If protests as to the necessity for any local improvement are made by owners of benefitted real property which will bear 50 percent or more of that portion of the estimated cost of the improvement which will be borne by owners of benefitted real property, the improvement shall not proceed until the protests have been reduced so that the real property of those still protesting shall not bear 50 percent of the said estimated cost of the improvement; provided however, that the assembly by ordinance may authorize the improvement by an affirmative vote of eight members.

Section 12.5. LIMITATIONS ON ACTIONS. No special assessment procedure may be contested by an action at law or in equity unless commenced within sixty days after the confirmation of the special assessment roll.

Section 12.6. LIEN. The municipality shall have a lien after taxes upon all real property against which special assessments are assessed, for the special assessments and collection charges, penalties, and interest which accumulate. The lien is paramount and superior to any other lien created before or after the assessment except a lien for a prior assessment and for taxes. Assessments shall become due and payable at such time or times in one or more installments and bear such interest and such penalty for delinquency as the assembly by ordinance shall prescribe. The assessment lien shall be enforceable in the same manner as a lien for municipal taxes.

Section 12.7. PROPERTY LIABLE. All real property, including property exempt from taxation as provided by law, shall be liable for the cost of local improvements unless specifically exempted by ordinance.

Section 12.8. EXPENDITURES PRIOR TO IMPROVEMENT. No expenditure, except for administrative, planning, engineering, and legal work for any local improvement, the cost of which is to be borne by special assessments on the real property benefitted, may be made unless funds have been authorized to finance the expenditures. All

expenditures under this section shall be repaid to the source thereof from improvement funds which become available.

Section 12.9. RECEIPTS. Accounts for local improvement districts shall be kept separate from other municipal accounts. Revenues from special assessments shall be used solely to pay the cost of the principal of or interest on indebtedness and improvements to which they apply.

Section 12.10. CORRECTION OF INVALID SPECIAL ASSESSMENTS. If a special assessment procedure is irregular or invalid for any reason, the assembly may correct it within ninety days after the confirmation of the special assessment roll or after final determination of any litigation thereon. If payments have been made under an irregular or invalid procedure, such payments shall be credited to payments required under the corrected procedure, or in the alternate the assembly by ordinance shall provide for refunds.