

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING
& WORKSESSION

March 11, 2005

The regular meeting of the Ketchikan Charter Commission commenced at 6:00 p.m., Friday, March 11, 2005, in the City Council Chambers.

Roll Call

PRESENT: OTTE, HARRINGTON, PAINTER, FINNEY (6:03 pm), KIFFER,
THOMPSON

ABSENT: MCCARTY

A: PLEDGE OF ALLEGIANCE**B: CEREMONIAL MATTERS/INTRODUCTIONS**

City Manager, Karl Amylon, was noted as present for the meeting.

C: PUBLIC COMMENTS

Karl AMYLON, Ketchikan City Manager, apologized that he was unable to attend the last meeting. He said he noted there was a lot of discussion on the issue of Payment in Lieu of Taxes (PILT) and he said, he said he believes the Charter does allow for discretionary PILT from KPU (Port?) to the Municipality. He said he couldn't find anything allowing a similar discretionary PILT from the Utility or the Port to service areas. In the City's response brief to the LBC, that was a particular concern of the City, given the impact of both the Utility and the Port on the Gateway Service Area.

AMYLON continued that at a minimum, recognizing the reluctance to make it mandatory, he suggested that the Charter be amended to allow that same discretionary action for PILT going to service areas as well as to the new Borough.

THOMPSON asked if that would suffice to meet the City's needs in terms of the responsive brief to the LBC. AMYLON said that he thought the Commission would still see the City, if it's not reflected in the 3-year budget plan for the Gateway Service Area, he said the City would probably continue to reference that as a concern, but again, it does allow the flexibility for the new Assembly to address that issue, assuming consolidation passes. He said he thinks the

Commission is better off in terms of the Petition going forward with the LBC, to be able to respond in that fashion.

PAINTER asked whether AMYLON was saying the Municipality would act as a pass-through agency for some of the PILTs where the revenues, say from Ports & Harbors and KPU, go to the Municipality, when, in fact, the Gateway Service Area has the brunt of providing the services to those entities.

AMYLON said what he was saying was as a major provider of municipal services for all residents of the community, what will become the Gateway Service Area, the present City has traditionally relied on a revenue source coming from PILT both from the Utility and the Port. He said the manner in which the Charter is currently structured does not provide a mechanism for PILT from the Port or KPU going to the GSA. He said that at a minimum there ought to be language that allows discretion to the Assembly, if it so chooses, to have the Utility and the Port make PILT to service areas generally, but his concern is for the GSA. He said he would be delighted if the three-year budget reflected such payments, but that is a matter for the Commission to deliberate and the City will consider as the process continues.

OTTE said she'd made a suggestion in the work session agenda that perhaps Article 8 of the Charter could be re-written to encompass both the Utility and the other Enterprise Funds as far as how they are dealing with things. She asked if that would be untoward to put the enterprise funds in that section.

AMYLON said he couldn't speak to the enterprise funds generally. Right now, for instance, the Water Division, which operates at a loss does not...He continued he guessed it does, because KPU collectively pays the PILT. Wastewater and Solid Waste on the general government side – technically they are enterprise funds. They do not make a PILT. On the Borough side, the Airport is an enterprise fund. To the best of his knowledge, he said, he didn't believe the Airport provides a PILT to the Borough. He said he had a hard time being comfortable in making a recommendation relative to the enterprise funds. He said that generally the common practice or common principal is if you have an enterprise fund such as KPU or the Port that's turning a profit and relies on services that either the Municipality or a particular service area provides, it's appropriate for a PILT to be made. In the future, depending on what happens, he said he would find it very unlikely that Wastewater or Solid Waste will ever in a position where they are generating massive profits. Depending on what transpires with the Airport in concession and things like that, he said he guessed that's conceivable that maybe an Airport Authority down the road would, in fact, want to contribute a PILT.

HARRINGTON said he wanted to back up for a second and mention a couple of things. He said first of all, in the PILT, there is no such thing as a pass-through because it is the Borough doing Borough business. The funds collected within one geographic area that are to be spent within that geographic area is really essentially those powers that are in the service area. He said the way the document is written, the Assembly would clearly have the authority to spend the PILT on Gateway Service Area projects, solely, but to speak to AMYLON's concern, he said he had no problem being more specific in the Charter, spelling that out, and backing up even further, when the budget was being done, part of the conversation said we were going to be holding those income streams at the current rate in predicting the budget for the future. He said it was his understanding that the PILT that currently exists from the Port & KPU were flowing to the GSA and, addressing THOMPSON, said that was a question for him.

THOMPSON said that is not true. HARRINGTON said that was his understanding in the discussions. THOMPSON continued that the funds are flowing to the combined General Fund because the way the budget was structured was the things were combined and what was left behind were Police, Public Safety, Public Works and those were funded with the streams from strictly within. THOMPSON continued that AMYLON has a valid point. THOMPSON said the best example he could think of, for instance, is Police and Fire. And certainly when there are a million visitors in town and they're all down there in the Port, the City is providing a level of Police, Fire and Public Safety, and they should be compensated for that. He said he had no problem with that. THOMPSON continued that he would concur that the Assembly already has that authority. He said he agrees with AMYLON in making the language more precise that those funds could be allocated back to the service areas.

OTTE requested that someone come up with some language for that.

D. INFORMATIONAL REPORTS AND/OR COMMISSION PRESENTATIONS

THOMPSON said he'd been out of town but he had been in contact with the City and Borough Finance Directors via email. He said he'd spoken with AMYLON earlier that day. HOUTS, from the Borough, is in the middle of preparing the budget for the Assembly and NEWELL, from the City, is working on their CAFIR. He said the first time they probably all come together is the first of April. That's as far as the update to the Commission's budget has come along. THOMPSON said they did discuss what they wanted to do. He said they don't want to throw out the baby with the bath water and he said they think they can take the Commission's budget as submitted to the LBC and make adjustments to that. He said they weren't completely starting over, but the issues will be addressed. He

said they'd probably start with just a joint meeting among the three and discuss the issues and what adjustments need to be made.

E. CONSENT CALENDAR

M/S PAINTER/HARRINGTON for approval of the minutes for the meeting of February 25, 2005.

The minutes were approved by a unanimous affirmative voice vote.

F. VOUCHERS

NONE

G-1 RECESS THE MEETING INTO WORKSESSION TO CONSIDER THE 2004 CONSOLIDATION PETITION, INCLUDING DISCUSSION OF THE BRIEF AND COMMENTS SUBMITTED TO THE LBC BY THE CITY AND BOROUGH

Note: Work sessions are informal discussion sessions held for the purpose of exchanging and gathering information. No action may be taken, formal rules of order are relaxed, and there is no requirement that minutes be kept.

M/S PAINTER/HARRINGTON to recess the meeting into work session. A unanimous affirmative roll-call vote was taken.

OTTE explained the PILT issue was only for the work session at this point and there were previous minutes attached to the "G" agenda item dealing with that issue. She also indicated there were emails from Borough Attorney, SBE and NEWELL regarding the non-recourse bonds.

THOMPSON asked if AMYLON had any suggested language to insert in 8:03 (e) and 10:09 (b) to further specify distribution of the PILT. AMYLON read from 8:03 (e), "The Assembly may require the municipal utilities to annually pay to the Municipality **and/or service areas as designated by the Assembly** an amount reasonably estimated to be not more than the amount that said utilities would pay in taxes, assessments or charges if subject to all such taxes, assessments, or charges." AMYLON said that he would suggest that the language be sent to the two attorneys for their review. He said the same phrase could be inserted in Section 10.09 (b), "The Assembly may require the municipally owned Port to pay annually to the Municipality **and/or service areas as designated by the Assembly** a payment in lieu of taxes." He said the same language as in 8:03 (e) might be carried over, "not more than the amount that said Port would pay in taxes, assessments or charges if subject to all such taxes, assessments, or charges." AMYLON said the Assembly may want

the discretion to determine what service areas may be reasonably entitled to a PILT. There are some service areas that encompass off-road areas of the Borough and it might not be appropriate for them to be receiving PILT.

THOMPSON said that language will be sent to the Attorneys and be brought back as an agenda item.

FINNEY wanted to know if those were the only two, the utilities and the Port. Are there other potential enterprise funds that might be included in the assessment of a PILT? THOMPSON said that he was thinking that under Article X, Finance, rather than limiting it to the Port in section 10:09 (b), it could say, Municipally Owned Enterprise Funds. If they determine, since it's under a "may", the Assembly would have the option, and certainly the Port falls under that, but the Airport may fall under that. He asked AMYLON if he thought there would be objection to including all the enterprise funds? AMYLON said no. THOMPSON reviewed the proposed changes: In 10.09 (b) the word Port is taken out of the title and leave it just as **Payments in Lieu of Taxation. The Assembly may require the municipally owned enterprise funds to annually pay to the Municipality and/or service areas as designated by the Assembly a payment in lieu of taxes not more than the amount that said enterprise funds would pay in taxes, assessments or charges if subject to all such taxes, assessments, or charges.**

PAINTER said there are currently enterprise funds not currently paying PILT simply because they cannot afford it because they're operating at a deficit, but that doesn't mean at some point they won't be making money and when they are, they should be paying the PILT.

AMYLON said the one point he would clarify, and he said, he wasn't trying to make an argument for or against this, but he wanted the Commission to recognize that under the existing City Charter, KPU is a combined enterprise fund, so the discussion is not about segregating out Water, Telephone and Electric and having each make a separate PILT? He said he thinks that how the language is in the proposed Charter. THOMPSON said that KPU would fall under the Utility section. AMYLON said it would. He said he wasn't suggesting anything, he was just trying to make it clear that the discussion isn't about, in the case of the Utility, three separate PILTs. OTTE said that might be clarified by saying excepting...AMYLON said he didn't think it would require any clarification in the document, he just wanted to note that point. KIFFER said the way KPU is set up it's only one fund.

FINNEY said if it were split out into three funds and charged the same amount to each (1/3), whatever the same amount would be...OTTE said that wouldn't work. FINNEY wanted to know why not. THOMPSON said that if the Assembly, and he

said he thought that in the Charter the Assembly was given the ability to split up KPU and if they don't split it up, then the way it's structured right now, it's a combined utility. It's one entity. FINNEY said that's his concern; if the Water Department or whatever came off of it, doesn't mean that they still would not be subject to a PILT. THOMPSON said, "a potential PILT." FINNEY said yes. THOMPSON said if the Assembly splits the Water Department off.

HARRINGTON said that he would argue if the department were moved out of the combined enterprise fund that it would no longer be an enterprise fund, it would be more of along the line with the sewer system. It would go into Public Works. He said that's someone else's ballgame.

THOMPSON said the next issue he'd like to talk about is the revenue/non-recourse revenue bonds.

THOMPSON said that the information provided in the G agenda statement from NEWELL and SBE is very much to the point. He said he'd like to add the State does not require a vote of the people for non-recourse revenue bonds. The City currently does and the Borough currently doesn't for their economic development. He said if there is a non-recourse bond, those bonds are paid back by the user fees. For example, the Airport; if there is a non-recourse bond over there, the only payment on that bond comes from the landing fees or the fees from the airport that stream directly toward that bond. If those are not sufficient to pay back that bond, they do not come back to the taxpayers. The taxpayers have no money at risk, per se, on those types of bonds and that's why the State doesn't require a vote of the people.

THOMPSON continued that the City currently has to go to a vote of the people for a revenue bond. For instance, the Port expansion will have to go back to a vote of the citizens. The question is, as SBE said, this (section of the Charter) can be left as it is, but if it's economic development, a vote of the people is not required for a non-recourse revenue bond. SBE said it was a judgment call. Currently, it is set up that if the Assembly decides they want to build something and they are going to get revenue from the passenger fees to build that and there is non-recourse back to the taxpayers if the bond obligations are forfeited, they don't have to take it to the voters. That's the way the Charter is written right now. The question the Commission needs to ask is that okay? If it's alright as it is, leave it alone, then it needs to be taken back.

OTTE said there are revenue bonds and general obligation bonds. Revenue bonds, by their nature, are non-recourse. THOMPSON said that is correct, but they don't have to be non-recourse. OTTE continued by saying that the bond doesn't have to be labeled non-recourse, it can just be a revenue bond. THOMPSON said that it must be specified either recourse or non-recourse.

There are, on occasion, recourse revenue bonds. They are called double-barreled shotgun bonds. If they are non-recourse revenue bonds, then they don't have to go to a vote.

PAINTER said whereas recourse general obligation bonds would be like schools. THOMPSON said that recourse means that the full faith and credit of the municipality is pledged against those bonds and if there is a default, taxes could be changed to pay off the bond.

HARRINGTON wanted to know if the City, in their prior Charter, required a vote on those bonds. THOMPSON said he didn't know and asked AMYLON if that was the case. AMYLON said that in the Charter of three years ago all bonds had to go to the voter regardless of whether they were revenue versus general obligation. He said he could easily fashion an argument on either side for not having to take revenue bonds to the voters. If the full faith and credit of the municipality isn't pledged, some could argue that seems to make sense in terms of non-recourse bonds, there's really not a risk to the user, per se. He said that using the Port as an example; if the City's current charter were currently structured where non-recourse bonds were not taken to the voters, the Council could decide on its own what position to place the new berth. There are some in this community who would be very much outraged that the voters would not have a say in that. AMYLON said the Commission just needs to spin the wheel and take their best shot. The direction he was given three years ago was to maintain the status quo of requiring the bonds be approved by the voters. That's the way it's been done in Ketchikan and that's what was done. He said that speaking for himself, not the council, can understand the desire to not have the non-recourse revenue bonds going to the voters.

AMYLON continued that the one thing he would add is that Telephone is a revenue producing entity and as things get more complex and competition increases, KPU and the Telephone Division are going to be coming under increasing pressure to respond and to respond rapidly. KPU will not have the profit margins that have been traditional. There are going to be times when significant expenditures are going to have to be made and they're going to have to be made in a very expedited manner. That does not lend itself well to having to go to the voters for non-recourse revenue bonds.

KIFFER said that even though the bonds would be non-recourse, what is the risk to the municipality? THOMPSON said that the risk to the municipality is exactly...the best example is the one just used regarding the Port. It's allowing the new Assembly to make a decision that affects the community for a long period of time with a majority (4 votes) at the table to put a dock north or south, invest in new Telephone equipment, that sort of thing. There is a revenue stream that's outside of the taxpayers, the taxpayers aren't going to pay for it,

but it does affect the infrastructure of our town in a large way and the lifestyle would be affected. Whichever way the dock is placed, there's a considerable difference. Does this Commission want to have that in the hands of the Assembly or a vote of the people? If, on the other hand, if there is going to be a utility competing in the open market, they have to have the flexibility to have all the tools to compete.

MYLON said that it even gets more difficult. It's not only a question of taking it to the voters and getting a ballot proposition passed; then the time to negotiate the sale of the bonds and how they are going to be issued and that tacks on more time. He said one thing that might be considered, and he said he wasn't saying it was a solution, but the Commission may want to talk with the attorneys and get their take on whether there can be a distinction between utility revenue bonds versus other municipal revenue bonds. Perhaps, say, **with the exception of utility revenue bonds, all bonds, even if they are non-recourse revenue bonds, would have to go to the voters.** MYLON said he's not sure how that would be received, but it might be something to think about.

THOMPSON wanted to know what the Commission's desire on this issue would be.

KIFFER said that someone crazy enough to give a bond to expand the Port on a non-recourse basis, he didn't think they would do it anyhow. All said that they would. The revenue stream is there. KIFFER continued that the problem he sees is there is going to be more of a impact to the community than just the payment of that bond. He said that granted the money to repay that bond isn't going to come out of the taxpayers pockets, but there are going to be a whole lot of ancillary things that are going to be changed and moved and upgraded in relationship to any kind of a project of that size. He said he's leaning toward the way the City had it that all bonds go to a vote of the people.

HARRINGTON said that was the reason he'd brought it up. He said his memory of a meeting almost exactly a year ago when the Commission was ready to abandon a vote of the people on those bonds, MYLON was there at the time saying his group was very firm (in the prior attempt) in the fact that they wanted a vote left in the Charter and HARRINGTON said that certainly changed his mind that we needed to do that. He said that if somehow through this process we have lost that decision and now have made it so we don't require a vote of the people, he would really like to re-visit that and re-visit it with the three options:

1. Excluding the Utility;
2. All bonds require a vote of the people; and
3. The current language.

He suggested that those three options be brought back for a discussion.

FINNEY asked AMYLON if there were a dollar limit on the bonds; would that suffice? He said that he would agree about the Port in that it changes the whole pattern, but it's a huge dollar figure. He wanted to know if the dollar limit would be the way to go.

AMYLON said that a dollar limit in terms of actually incorporating it into the Charter would probably do more to confuse the people than just saying yes or no that either you do or don't go to the voters. He thinks HARRINGTON is right that the decision be made that either all bonds are going to go to the voters for approval, or non-recourse revenue bonds are not subject to a vote and then under either one of those alternatives, consideration might want to be given for some kind of exemption for utility revenue bonds. He said that is something the Commission needs to wrestle with.

THOMPSON asked AMYLON how much difficulty the City has in terms of bonding for KPU for revenue bonds. He wanted to know if it was a major undertaking or is it...AMYLON asked if THOMPSON meant getting it through the voters. THOMPSON answered, getting it through the voters...from start to finish. When it's decided that there is a project that needs bonding. AMYLON said he'd had this conversation with NEWELL that afternoon on the Port project and assuming that on April 7th the Council were to approve a resolution authorizing a ballot question, it could be well into October or November before he would have proceeds to be able to spend. On the Port, under normal circumstances, that would probably be do-able. Where the City is currently is somewhat unusual. On the Utility, it can get hairy. KPU had generator #2 go down at Bailey a couple of months ago. It was fortunate in that there is surplus generation available right now, but if the Wardcilla unit, for instance, or if the line had gone out between Ketchikan and Swan, any type of catastrophe like that which would require a significant investment of funds and they have to move quickly or, again, going to Telecommunications; it really limits the ability to affectively deal with those type of circumstances, to run it like a business. On the other hand, AMYLON continued, as frustrating as the Port project has been, he said he thinks a project of that magnitude and the implications to the whole community, the voters probably ought to have their say. He said he didn't have a problem with that.

THOMPSON said what it sounded like AMYLON was saying is that if the Assembly were to declare an emergency, which has been addressed in the Charter, and instead of saying they could do it under economic development financing, if they were to do it under emergency financing, substitute the word emergency for economic development, a lot of the problems would be solved. AMYLON said that the question or definition of an emergency is something that the Commission will have to talk to the attorneys about. He said he didn't have an answer for that. He said that he can offer is if two years from now GCI deploys

6th generation technology that puts KPU Telephone at a real competitive disadvantage and the Manager would have to go and borrow \$7 million to keep pace but there isn't 7 or 8 months to go through the typical process, does that constitute an emergency? He said he didn't think so. THOMPSON said that it might if it were going to put the utility under water. AMYLON said that's why the Commission needs to consult with the attorneys. THOMPSON asked OTTE to address that question to the attorneys.

THOMPSON continued that as he reads in 11.04 and 11.05, 11.04 says it must be taken to the voters. 11.05 states that if it's economic development, it doesn't need to go to the voters. He said he didn't know why that was separated out, but he said he thinks maybe that was a combination of the current Borough and City, but he said if 11.05 were eliminated or made 11.05 stating that it has to be an emergency or exempting the utilities. AMYLON said that in the case of the utilities or the Port, he could fashion an argument why either one of those would be an economic development project. He said some of the language needs to be cleared up with the legal counsel.

KIFFER said his concern is that at some point technology is going to clean our clock in relationship to KPU. He said that at some point as we go along, it may very well be best for the community to say we're out of the business. We can't keep up and we're not going to pour money into this any more. He said that KPU could come in, in trying to keep ahead of technology, and put a \$7 or \$10 million bond in there so that we could all have video telephones in our house, when, is that really what the people want. An emergency is a generator going out or a line going down or something that would prevent KPU from operating as it is at that time, that would be considered an emergency. Something to keep pace with the Jones', he said he didn't know.

PAINTER said that to his recollection, KPU, in the past several years since the dissolution of the KPU Advisory Board and the Council's decision to operate KPU as a business, and their decision to go with the TV, and prior to that, a vote of the people whether or not to sell the Telecommunications business (the voters didn't want to do that), but Telecommunications is a rapidly changing, technological deal and the City's choice up to this point in time to run KPU as an enterprise and a profitable deal is to keep up with the technology and do what needs to be done, because that's what the voters said to do several years ago. Trying to keep with status quo, he said he'd be in favor of excluding the utility from going to the voters for revenue bonds because there are times when there is a short window to catch up that's going to cost in the millions and it being a revenue bond, they've got to demonstrate to the bonding company the revenue stream is there to do so and on the other hand, any of the other community projects should go before the voters, even though like AMYLON said on the Port deal, it's virtually a revenue bond situation, the revenue stream is there, the

bonding company would jump at doing that, but it's a very controversial community issue that would have long-lasting effects on other commerce in the community. He said the only case that he could see that really shouldn't go to the voters is probably the utility and that's what he'd be in favor of.

OTTE said she'd forward the excerpt from the minutes to the attorneys and ask them for some suggested language for the alternate sections and bring it back for work session, not as an agenda item, for next time.

FINNEY said that his concern would be that good money would be thrown after bad trying to stay up with technology and then find out that like a dot-com, you crash, and the \$50 million that KPU just spent wasn't worth anything because of new technology. He said that PAINTER had a good point in that regard in that the bonding companies would really serve as the filters for that. If they think it would be a good investment, it's their money they're putting out there, it may not be a bad way to go.

THOMPSON asked AMYLON on a non-recourse revenue bond for KPU, say (to give a wild example) a \$50 million piece of equipment and it was bonded for with the revenue stream and somebody came in and brought in their \$100 million machine and put KPU out of business, would a bonding company at that point, have any recourse to KPU and the assets of KPU? AMYLON said he wished NEWELL were there. If the bonds were insured, which is what getting non-recourse revenue bonds is all about, he said he thinks it would be unlikely, but the Commission might want to pose that question to the Finance Directors. He said he thought PAINTER hit the nail on the head; if KPU wanted to go out and sell \$50 million worth of bonds to keep up with GCI or ACS or whoever, if there isn't a credible plan in place, it wouldn't be possible to get the bonds rated and they wouldn't be sold. He said he didn't think that is of a particular concern.

OTTE said that before the expansion into the television product a business plan had to be produced and it had to be examined by bond counsel? AMYLON said the process hasn't gotten that far.

PAINTER said he sees no difference in anyone doing a start-up business and needing financing and going to the bank. The bank has to see a business plan and if it doesn't pencil out on paper, there won't be a loan.

THOMPSON said his question was if they do lend the money, if those bonds were insured and there was a default...AMYLON said he'd rather have NEWELL address that question. That would be the risk. The question should be asked as to what would be the risk if something were allowed and a management group makes a decision in all good faith and good conscience with their best business sense. Things happen out there that are beyond control and he said he goes back to

the early days of the Washington Public Power supply. Five nuclear plants were considered to be enough power forever and it was the largest municipal bond default in the history of man. Things happen, so what's the recourse from the bonding companies back to KPU if that were to happen? If they're insured bonds and the insurance company picks up the default on that, we don't have to worry about them coming in and taking over KPU. No harm/no foul.

OTTE wanted to know if an agenda item was requested or to just get more information for the work session at the next meeting. THOMPSON said he thought we should get some more information and if an agenda item could be developed, that would be fine. HARRINGTON said he would like to see an agenda item with those three options. Whether it's at the next meeting or not, it's irrelevant. THOMPSON asked if HARRINGTON was going to submit it and OTTE said that's going to happen. THOMPSON said that if HARRINGTON submits it, it will be on the agenda.

HARRINGTON wanted to know the expectation for a new budget time frame. THOMPSON said probably the first or second week in April. In talking with both of the Finance Directors, there's no way they are going to be able to afford the time until the first part of April. HARRINGTON said there may very well be a couple of weeks now between this meeting and the next in which we could generate some...he said he was trying to think ahead as to whether he should volunteer for anything. THOMPSON wanted to know what he would be willing to do. HARRINGTON said to sketch out some of the verbiage on what we've been talking about.

It was decided to have the next meeting on March 25th.

PAINTER mentioned to FINNEY that last meeting FINNEY had some heartburn about the expansion/reduction of the service areas. It's on the agenda for tonight's meeting. THOMPSON said that he'd read through the minutes on this issue and he thought there were some good points brought up regarding the de minimus exceptions to the required service area vote on expansion or reduction. He said he thinks that's the definition of de minimus at the State level does not apply very well to Ketchikan after he'd read the comments from the last meeting. He said that 1,000 people is Ward Cove to Lighthouse and 6% of the parcels in here may be too much. He said his suggestion would be either to just take it out and leave it alone and make the issue go to the affected voters which is kind of difficult when adding just one parcel or maybe the threshold could be dropped a little, instead of having 6%, maybe have 1% and instead of having 1,000 people, maybe have 50 people. He said one of the things he found interesting was when the Assembly made the adjustments to Gold Nugget and Waterfall, there were two meetings, notices had gone out and no testimony was given on either of those service areas. A lot of people opted out of a service area. He said if he'd

been in the service area, and they were going to cut the number of properties paying into that pool by half, he said he'd probably have had something to say about that.

OTTE said those that opted out hadn't been paying that particular fee for quite some time because they weren't getting the service. That was a housekeeping measure on the part of the Borough. PAINTER said they were paying the fee through the millage rate because Waterfall has road powers. Those lots that wanted out of the service area had no access through the Waterfall road system. Their access was from Tongass Highway. OTTE said that it seemed to her that when it was being discussed at the last meeting that those fees to those lots had been waived for quite some time and she said she remembered that issue coming up when she still worked for the Borough. She asked FINNEY if he was paying both the sewer fee and the road fee. FINNEY said they'd dropped the sewer fee some time ago and it could be that they dropped the road fee during the last year. OTTE said she thought they had. FINNEY said this goes back to THOMPSON's statement about the notices going out. He said he'd not received a notice and he would really have been angry had the issue been one of becoming a part of a service area with the attendant fees and he'd not had a notice. FINNEY said it's probably not a bad way to go if the de minimus is really small and he said he thought that 50 was way too many. Fifty people could take a big swath. If there is a service area with 100 members and it's being allowed to add 50 or take away 50 without a vote, that's still a lot of people.

THOMPSON wanted to know if a number wasn't added to expand/reduce, but rather a percentage, if that would suffice. FINNEY suggested 2% of the parcels and/or 2% of the total land area. That would be so a large tract of property couldn't swing it one way or another. He then said 2% of the people could also be a de minimus basis for a non-vote.

HARRINGTON talked about North Tongass Fire Department and if a road were built to Loring in the future, and no one lives there, the voters ought to have a chance to vote on whether they take that huge section into the service area, but little pieces are different. He said they didn't want to encumber them, but he said he didn't want to say 2% or 3%, 1%, 10 people, 6 people or 8 people. He wanted to know if the issue couldn't be left to the Assembly to say, in effect, "that the Assembly, by ordinance, may establish a process to provide for de minimus exemptions for boundary amendments" and leave it there and leave it up to the new Assembly to, at a future date, establish, by ordinance, what the de minimus is and how to go about that process. THOMPSON said that on a case by case basis they could determine whether it's de minimus or not. He said that a small service area, like Gold Nugget, as opposed to North Tongass. HARRINGTON said he'd rather they did it by establishing a process for doing it. THOMPSON said that if that's the way it was desired, why didn't the Commission

just do it right here. It's de minimus. What's the definition of de minimus? He said HARRINGTON didn't want to do the work to define de minimus, but he wants to leave it to the Assembly. HARRINGTON said it was because the future Assembly may say, we wrote this in the year 2008, it's now 2025 and what was 100 people back then is now equivalent to 10,000 and we probably should change the resolution or go back to the voters. THOMPSON said it wouldn't need to, because it would fall under the auspices of the State. HARRINGTON said we've never built in numbers, generally, and said he just wants to leave it up to the new Assembly to establish the process.

PAINTER said that he agrees and that rather than get into the deal of putting hard numbers in the Charter, since they change over time, for example, in the past couple of months ago, some of the residents of the Mud Bight Service Area requested that the service area be abolished. He said he didn't think the Assembly took action on it. THOMPSON said not yet. PAINTER said that if the majority of the residents come before the Assembly and have a justifiable reason to abolish the service area, it's the just duty of the Assembly to do what the wishes of the residents and property owners are and that's, he thinks, the most rational process that this should be taken care of.

THOMPSON said he disagreed. If that's the case, then they can hold an election and they can have a bona fide election and vote and it's done. What's being discussed is if one person comes in and says they want out or in, he said he thinks that instead of just developing a process, he thinks the Assembly should have the authority to declare a de minimus situation is there and if there is no objection to that, it goes through. And if someone objects, then they have to take it to a vote.

PAINTER said just like a current zoning change. THOMPSON said, yes, for all intents and purposes. FINNEY asked what would constitute an objection? THOMPSON said that somebody comes in that's a resident of that service area and says, I object to that, it's not de minimus and I want it to go to a vote. Take it to a vote at the next regular election. If one person wants in or one person wants out, the Borough says that's de minimus and no one objects, it's done.

OTTE wanted to know if the current agenda item would not be reviewed at the current meeting and THOMPSON said he thought the body might want to postpone it. He said he thinks the Assembly should just be able to say that's de minimus and then hold a public hearing and if somebody comes up and says, I object, it's not de minimus, then it would go to an election. This would create a situation where the Commission wouldn't have to put any numbers in the Charter. OTTE said there would be three choices on the agenda item; HARRINGTON's, THOMPSON's and the one suggested by SBE.

FINNEY was wondering if on the emergency powers that we were talking about on the bond issues, if it's an emergency, could we say a 7-vote or unanimous vote of the Assembly to pass it? THOMPSON said he thought that would be in contradiction with the Emergency Powers, because there's a clause in the Charter that he thought said super-majority would declare an emergency ordinance, so if the unanimous vote were put in the bond section, they would not be consistent with each other. It could be done, but there could be some problems with it.

KIFFER said he thought the big problem with that is what AMYLON was talking about, what is an emergency? A manager's emergency to keep up with GCI is different than a generator going out. That's going to be a problem. He said he thought a super-majority to declare it. OTTE said that process to declare anything an emergency is already in the Charter. THOMPSON said that what's being said is that if the Assembly declares an emergency, they then have the authority to issue bonds without a vote. That's the question. THOMPSON said he thought he'd rather have the ability to issue the bonds as an emergency rather than economic development without a vote, even if they're non-recourse revenue bonds. If they're recourse bonds, then they have to go to the voters.

G-2 RECONVENE INTO REGULAR SESSION

M/S PAINTER/HARRINGTON to reconvene the meeting into regular session. A unanimous affirmative roll-call vote was taken.

H: OLD BUSINESS

H-1 Amend Article XII, Areawide, Nonareawide and Service Area Powers, Section 12.04(b) (postponed from 2/25/05)

M/S PAINTER/HARRINGTON to postpone this item until the 3/25/05 meeting.

The move to postpone was approved by a unanimous roll-call vote.

H-2 Amend Article X, Section 10.0: Property Tax Limit (Postponed from 2/25/05)

M/S PAINTER/THOMPSON to delete Article X, Section 10.07 in its entirety.

OTTE pointed out that the motion on the table was one of three on the agenda statement. There are two other options being offered for consideration.

HARRINGTON requested to provide another option to this issue. He said that short of deleting the section, he would like to add some language. He said after the first sentence, he wanted to add the following to the first sentence, "the Borough Assembly may raise the tax cap by ordinance approved by a super-majority vote of the Assembly." THOMPSON wanted to know if he was substituting option (b) and HARRINGTON said no, that he wanted a specific number in there that could be raised by a vote of the people or a super-majority of the Assembly. FINNEY said it was like (c) but with the .2 taken out. KIFFER said how about (b) with a different figure in there.

THOMPSON said he had a problem and he thought the City brought it out in their comments that with the PERS & TERS thing and going back to this budget on that, the 10-mills, you could be up against it pretty quickly. He continued that nowhere else in this document has there been a hard number put in and he said really has a problem with putting hard numbers in there. He said he thought the option to make something a variable should be there. If there is going to be a property tax limit, he said he really thinks that it should be set at some rate above that in existence on the date this consolidation takes effect. That way there's a little bit of wiggle room. He said he believes that the cap should just be removed from the Charter because he doesn't think it does any good. If the Assembly can raise it by super-majority, which is what we agreed to a long time ago and if the Assembly can raise the levy by a 2/3 majority vote, and they can raise the sales taxes by 2/3's majority, what is the point of even having a tax cap in here? Let's leave it at the 30 mills that's mandated by the State and go on with our lives.

PAINTER said he agreed. Any of the alternates and HARRINGTON's, there's no teeth in it. What it does is it prolongs the process for two Assembly meetings. KIFFER said that's the teeth. PAINTER went on to say we've heard it said by many people who have spoken to the Commission and he said he knows he has said that he takes a little bit different view because he's sitting on an elected body now and his view has changed from last October because the seven people who are sitting on the Assembly that are making the decisions of the community are put there by the voters. He said that the seven people are very serious when it comes to dealing with other people's money, or public funds and projects. In business, if he makes a mistake, that's his problem. He said if he makes a mistake sitting on the Assembly, that's the entire community's problem. As elections happen, if an Assembly member or Council member is not performing and is not rational, they're not going to get voted in again. The constraints put on management of the municipality, especially when it comes to school funding which is the highest expenditure of any municipality and having to wait, and understanding that the future Municipality's year-end is June 30th, the legislative information isn't available until the end of April or mid-May as to what kind of revenue sharing will be granted for the schools. There isn't much

time to figure out what to do or go through, if one of these other routes were chosen, the process of raising the tax cap.

FINNEY said the problem he has with all this is it's a contentious issue. It's split about 50-50 and to him, it's like a port issue that's going to change the style of life of the town and the people should vote on it. If there's a mistake made sitting on the Assembly, it's going to affect everyone in the community. It should be put back in their hands and let them decide. He said if there's a need to raise the cap, then he said, it should be sold to the community and let them vote it up or down and they can do it on day one that the Charter is passed. If the new Assembly is sitting here and it's 10 percent or whatever the number is, 10-mill cap isn't going to work for us, gosh, we've got to go to 15 or 20, get out there and do the work and put it to the people and vote it out entirely if it doesn't work. Give them an opportunity to vote it up or down. THOMPSON said they're going to vote it up or down when they vote on consolidation, why don't we put the cap in there at 30-mills like the State has it and leave it go?

KIFFER said he agreed with FINNEY. He said he heard about the PERS and TERS problem last year and maybe we should have started the process of raising the cap last year. However, KIFFER continued, we've operated underneath that cap forever. Maybe the PERS and TERS issue is going to be more damaging than we realize, but we knew about that in 2004. This isn't a new thing. He said he thought there is time, and there certainly was time back then, to take this thing to the people to say, hey look, we've got this coming up, like FINNEY said, you sell it. The cap may need to be raised. He said he just didn't see it as a problem and this is something that will, you know, we leave this thing at 10-mills and he said, he thought he agreed that's a hard number in there that may not reflect where the budget is going to be at the time this thing goes in to a vote. He said he just didn't want to throw it out and put in 30. Is it possible to put a bold asterisk in there and have that set at the time this thing goes into a vote? No, why not?

THOMPSON said because what the people are going to vote on has to be in there. That's why the b & c options are presented for consideration. Put it 2-tenths of a percent (2-mills) above that in existence on the day it's ratified. He said that gives a cap that's 2-mills above whatever the levy is at the time that this thing goes in. If the current levy is 8-mills, then the cap is 10-mills and in order to raise it, it will take a 2/3's vote of the Assembly. And if item c is chosen, it would have to be advertised for a minimum of one month prior to the first of two noticed meetings. THOMPSON said that if there were going to be a tax cap, and you know I've had a struggle with this 10-mills, it's a variation from what we've done all through this document in trying not to put hard numbers in there, and we don't know what the millage rate is going to be a year and a half down the road.

PAINTER said he'd like to stress again that this tax cap thing and any of the alternatives, there's no teeth in it. You can either before the voters or through the process of resolution. The other thing that is very detrimental to this tax cap, when it comes to recourse revenue bonding.

A roll-call vote was taken on the original motion on the floor to delete Section 10.07 in its entirety.

FOR: PAINTER, OTTE

AGAINST: THOMPSON, HARRINGTON, KIFFER, FINNEY

The motion failed 4-2.

HARRINGTON suggested that between this meeting and the 25th to come up with some sort of compromise.

M/S THOMPSON/OTTE to adopt item "b" of the agenda statement which changed Section 10.07 as follows: *The areawide property tax levy shall not exceed two-tenths (.2%) [~~one (1%)~~] percent (2 mills) [~~(10 mills)~~] above the rate levied in the prior fiscal year of the assessed valuation of the property to be taxed. The Assembly may raise this limit by a super-majority vote (2/3), advertised for a minimum of one month prior to the first of two noticed meetings. [~~The voters may raise this limit by an affirmative vote of the majority of the voters participating in a special or regular election~~]. This section shall not in any way limit the ability of the Municipality to meet its bonded obligations and in no event shall the property tax levy during a year exceed three percent (thirty mills) of the assessed value of the property in the Municipality.*

FINNEY asked why the part that allows the voters to vote on it as an option? THOMPSON said because the Assembly can always refer something to the voters. It's moot. It means nothing. Any time the Assembly wishes, they can take a question as a referendum to the people. If they're not comfortable with it, they can take it to the voters. If they have a 4-3 and can't get the 5-2, those four people can say to refer it to the voters and there could be a special election. FINNEY wanted to know where that was stated and OTTE asked if that didn't have to be stated in the Charter language. THOMPSON said that it was his understanding when talking to the attorneys was that was redundant to be in there. He said it could be referred to the attorneys. The Assembly can refer it to the voters at any time. OTTE said the Assembly can take anything that they're working on and if it's contentious and they cannot get a good consensus, they can say they want a referendum vote on this. We don't want to make the decision because it's so contentious and they can go out and do that. THOMPSON said he didn't have a problem leaving it in there, but he said he'd been told that it was redundant language.

THOMPSON said the reason he'd voted no to leave Section 10.07 the property tax language in the Charter is because he does agree that the teeth that it has is that it slows down the process. If the Assembly is up against the tax cap and it needs to be raised in order to raise the levy, the cap has to be raised before the levy can be set. It slows the process down and gives the public plenty of time to get their input into the process, but it also still allows for 2-mills, which is basically \$2 million of wiggle room when the Charter would go into effect. There is some room under the cap whatever happens. He said the other thing is that the Assembly is still allowed, by a 2/3s vote, to raise that cap and/or raise the levy. That doesn't bind their hands, but it puts some speed bumps out.

FINNEY wanted to know if 2-mills was \$20 per thousand. The group concurred.

HARRINGTON wanted to know if the process of two readings for any changes in the Charter would be continuing and THOMPSON said if that was the desire of the body. He said with that understanding, he would support the motion. THOMPSON said he was hopeful that would be done because he was hopeful of having MCCARTY in attendance at the next meeting. He said that this is probably one of the most important things we are doing.

MYLON was asked for his opinion. FINNEY asked if the change gave enough wiggle room. MYLON said he wasn't going to respond in terms of mills or whether there's enough leverage. He said he'd been in this business too long to know that long-term trends cannot be predicted. He said the Commission knows his position on the cap. He said he would urge the Commission to think back to the meeting with BOCKHORST and what Harriett said. He continued that the Commission is trying to craft a new structure of government for the community and if the Commission is so afraid that people who are going to be elected to the new Assembly are going to make wrong decisions, maybe a Charter and structure more attuned to the Massachusetts form of government should be looked into where they have the annual town meetings and all of the decisions are made once a year or invoke KPU and let's get voting on-line for every issue and do away with the Assembly and we'll just put every issue to a vote and people can vote from their houses. He said he knew it probably sounded silly to HARRINGTON, but people elect citizens to the Assembly to represent them and make decisions on their behalf. That's what democracy in this country is all about and that's what he grew up on. He further continued that he didn't understand the fear.

PAINTER asked MYLON about the tax cap and it was one of the big-ticket items in the City's comments. With the motion on the table, would MYLON be comfortable with that? MYLON responded that speaking for himself and not the council, he'd want to go back and talk to the Finance Director and the Attorney before committing to it. He said he was not in a position to speak for

the Council. He said they'd shared their concerns with them before the Brief was filed and we will do a similar thing again after the Commission submits their comments and the LBC comes out with their Preliminary Report. We will go back to the Council and give them our assessment of where the process is at and recommend comments to be made when the LBC comes down for public hearings.

OTTE suggested a vote be taken on the motion on the table. Bring the item back for a second reading with all of the options still available, including HARRINGTON's change.

HARRINGTON said he wanted to respond to the fear factor. He said he had served seven years on an elected body and a body will take action and the community will find out about that action, usually somewhere between two to four months after the action has taken place. That's why, he said, he'd like to see some process that slows the process of raising the cap down. Citizens here just do not catch on day one unless it's really vitally important to them, so it's not a fear factor, it's a realistic assessment of what he's seen on an elected body. He said this does bring into it some additional steps and that's all he's asking, that there be a process and the elected body must take time and spread the process of making the decision out so the citizens get a chance.

THOMPSON asked HARRINGTON whether he thought that the motion provided sufficient time to do that. HARRINGTON said he wasn't sure, but he would support it while he has a couple of weeks to think about it.

PAINTER said the only thing he'd like to add to HARRINGTON's comments though, and he said he'd have to agree in the past years, these decisions that are being discussed for voter approval, have been voted up or down by anywhere from 15-27% of the registered voters. HARRINGTON said to him that was not a weakness because if there are 15-27% of the people who are actually paying attention and looking and considering the issue, those are the people you want voting.

KIFFER said he agreed with HARRINGTON and that's the democratic process. We do have the right to vote or not. He said whether he agreed with that or not, that is our right. He said he wouldn't support the motion. He said he could reluctantly be talked into supporting the "c" motion, but if the language is taken out where the voters do not have the opportunity, he would not vote for it. THOMPSON asked if KIFFER would like to offer "c" as a substitute amendment.

FINNEY said that while KIFFER was thinking, he'd like to weigh in. He said he has the fear that Harriett mentioned. He said he thinks that we should have a Massachusetts style of government where the people should vote in and the

reason he said he was saying this is because he's getting a lot of support in the community for a tax cap. He said that he is the representative on the Commission saying to go this way. He said he was being asked that in the future he didn't want to have...don't use the people on the body because he's not thinking that way, well, he said, he is one of those people and he thinks that way and that's why he wants to vote the tax cap in right now because he has the fear, the fear of an Assembly raising the taxes when they don't have to be raised or shouldn't be because it's not what the people want.

KIFFER was asked whether he wanted to make a substitute amendment to the motion. He said he would make a substitute as long as it was thoroughly understood that this, that we will bring this back again for a second reading and discussion. THOMPSON said that was a matter of course. HARRINGTON seconded the substitution of choice "c" of the agenda statement, which changes Section 10.07 to read: *The areawide property tax levy shall not exceed two-tenths (.2%) [one (1%) percent (2 mills) {(10 mills)}] above the rate levied in the prior fiscal year of the assessed valuation of the property to be taxed. The Assembly may raise this limit by a super-majority vote (2/3), advertised for a minimum of one month prior to the first of two noticed meetings[-] or may elect to have [7]the voters [may] raise this limit by an affirmative vote of the majority of the voters participating in a special or regular election. This section shall not in any way limit the ability of the Municipality to meet its bonded obligations and in no event shall the property tax levy during a year exceed three percent (thirty mills) of the assessed value of the property in the Municipality.*

FINNEY said for clarification it's been said that's redundancy, but it would be left in, the section about having the option to take raising the tax cap to the voters. THOMPSON said he didn't have a problem with it.

A roll-call vote was taken on motion "c" of the agenda statement. HARRINGTON said that since this was an substitution, passage would pass the entire thing and there wouldn't necessarily be a second vote. THOMPSON said that was correct.

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

The substitute motion "c" passed by a vote of 4-2.

HARRINGTON requested that a news release be put out asking that people come to the next meeting to speak specifically to the tax cap. THOMPSON said that wasn't a bad idea, and he suggested that people be asked to Email the Commission with their comments on the tax cap. HARRINGTON said that a news release would be put in the paper, he was sure, and perhaps the next meeting

open with a work session specifically on the tax cap so the public could speak directly to that and the Commissioners just on that issue.

PAINTER said that we'd been sitting in meetings for over a year and he could count the different people on one hand who have attended our meetings. HARRINGTON said that's why he thought he'd give them one more chance.

H-3 Amend Article X, Section 10.08: Taxation: Supermajority Requirement to Raise Taxes or Fees Limit (Postponed from 2/25/05)

OTTE pointed out that there are three suggested motions with the agenda statement and any others could be entertained.

M/S FINNEY/HARRINGTON to adopt the (c) the suggestion which changes Section 10.08 as follows:

Any ordinance or resolution that will increase the rate of fees, sales tax levies or increase the rate of property tax levies on an areawide, nonareawide or service area basis above the rate levied in the prior fiscal year shall require the affirmative vote of two-thirds (2/3) of the Assembly, or be approved by a majority of the qualified voters who vote on the ordinance or resolution at a general or special election. If the increase in the rate of levy of the general sales tax, use tax or fee is limited to a service area or is nonareawide, the vote is limited to those qualified to vote in that area.

HARRINGTON wanted to know if the fees referred to relate to KPU rates. THOMPSON said it would be any fees. HARRINGTON said technically, do we pay a fee for our phone? THOMPSON said it would apply to all fees.

THOMPSON moved to amend the section to delete the word fees. HARRINGTON seconded that motion.

THOMPSON said he'd had a conversation with NEWELL and they were talking specifically about fees and KPU came up. If there are bonds that are non-recourse revenue bonds for say, KPU Television, and a 2/3s majority cannot be obtained to raise the television fees that are needed to make that go, there fore there isn't the money to pay the bonds and there is a default on the bonds, there could be a court judgment where they could come in and take over KPU and raise the fees for us. That could be a real problem in terms of those type fees. THOMPSON continued that most the fees he had a problem with in putting fees in this section were things like the Planning Department and some of the other fees that have to be addressed at the Assembly table. He said he wasn't really concerned about what is being charged for fines at the library and he said he

wasn't concerned about what's charged for animal licenses. If by putting fees in this section it will potentially open the door to a major problem for the enterprise funds, unless they were to be exempted in this, he said he didn't think that fees should be included in that section. He said he has no problem with the sales or property taxes. That's where a majority of the revenue comes from. The fees are generally raised through an enterprise fund which is to be operated like a business or they are insignificant in terms of the overall picture and they should be set by ordinance by the Assembly.

FINNEY said that goes back the concern that fees would be raised instead of taxes to get by. Then what happens? There's currently a \$100 fee for all property owners on North Tongass to the service area and that fee could be raised to \$500. The board could do that. THOMPSON said there would still have to be a vote of four people to raise that fee, there would have to be an ordinance to raise that fee, but it wouldn't require a super-majority. What that means, and he said he'd use North Tongass as an example. THOMPSON went on to say there was some reticence on the part of the Assembly when that \$100 fee was put in there. They said they didn't understand it, there would be problems for staff to track and account for it. They didn't like that idea, but North Tongass Fire said this is what we want to do. If it was going to require 5 votes of the Assembly to allow you to do that, it's a lot bigger task than it was to get a majority of 4. There still has to be a majority of the Assembly approve any raise in fees or a change in fee structure, the super-majority wouldn't be required on fees. He said that service areas are a good example of that.

KIFFER said that it seems as a community that we're always discussing the raising of the fees and taxes to support what we want to do next. He asked if anyone had considered stopping what we're doing and not charging the fee; a reduction in government or services. He said he had to go along with FINNEY, but he understands the problem, that can become a problem, but he said, he squalled bad to have his septic tank cleaned out and he said he doesn't want to spend \$250.

THOMPSON said he had to agree with KIFFER and admitted that he was the one banging his shoe on the table the loudest for leaving fees in there, but when he realized what was being discussed as a super-majority and not being able to get that at the table would potentially cause those kinds of liabilities and problems, he said he's willing to go along with just requiring a majority rather than a super-majority. Any fee that is there is going to go on a public hearing for the ordinance and the public can come in and voice their opinions, and he said he agreed that we better not be paying \$300 for the sewer fees, but that's the type of thing that has to be left to the Assembly and a lot of that is driven by cost. If we come in under an NPDES permit the City of Ketchikan and what used to cost 10 cents a gallon to process now costs \$10, there has to be an adjustment in the

fees. There would be no choice, or the toilets cannot be flushed. There's a point that you can't just say let's stop what we're doing. Some of these things are public safety/health issues and the fees are put in place so that the costs are distributed evenly. THOMPSON said he didn't like the idea of raising fees either, but all that's being discussed is whether it's going to be a simple majority or a super-majority on fees.

THOMPSON said the other problem is, what constitutes a fee? FINNEY said that's it. Right now we're trying to make a level playing field between sales & property taxes, so, you can't play that game. Everyone knows it's going to go up and you're going to have to be public about it. He said the problem he's got is, again, we're allowing the fees to come in the back door and jacking the fees up. He said that's the concern he has.

FINNEY asked that if the fees were left in the section, it could be amended so that the Utilities would be exempt?

THOMPSON asked AMYLON to weigh in on this, since the City has to do this with KPU quite significantly. AMYLON spoke about some acids that are a big issue with KPU now. EPA standards say that there couldn't be more than 60 parts per billion and we're a couple of parts over. He said that right now ADEC is saying that if the City doesn't get within the limit, they're going to come down and issue a consent order by compliance and that if by the end of 2005 it's not in compliance, there will be 18 months allowed to install filtration. There is no way that filtration can be installed if rates aren't going to go up. It's the cost of doing business. AMYLON wanted to know if PAINTER was going to be told that he can't raise his prices because one of the fuel suppliers wants to increase their surcharge by 4%? You're not going to tell PAINTER that he can't raise his charges because his costs are going up, why are you telling government they can't raise their charges because their costs are going up? He said this is where it's necessary to be careful. He said in his opinion, it's a two-edged sword. He said he understands the concern about playing games with property & sales taxes, and in the City's case, the reality of it is property taxes in this town haven't gone up since he's been there. Wastewater has and the areawide \$15 for solid waste fee went in. He said he thought there'd been one electric rate increase since he's been here and that was in 1995 and 2 1/2 percent. He said if a utility in the lower 48 could be found that has only had a 2.5% rate increase in the last 10 years, he would be amazed. It's the cost of doing business. He said you can say you don't want the taxes to go up, we don't want this, or we don't want that, well, are you prepared to let the new Assembly say they're not going to fund 3/4s of a million dollars in community agency funding. Are you prepared to terminate the bus system? That's what's being set up here. If the Commission makes the parameters so strict and make it impossible for the Assembly without voter approval, be it property tax cap or sales tax increases, if

they don't have the flexibility, at some point it's going to catch up to the community and it's going to bite big time. That's the reality of it. AMYLON said that whoever's at this dais at that time is going to be thanking the Commission personally for putting them in the position of getting a whole lot of people angry at them because they are going to have to make tough cuts. He said this was his opinion.

KIFFER said he wished he could offer a solution, but he couldn't. The problem is, as FINNEY commented, is it certainly came through this year. Did anyone look at their property tax assessment? The property tax rate didn't go up, it just added on 28% on the assessment and got the same job done. So that does happen. Honest to God, that kind of playing around does happen. He said he didn't know what to do.

PAINTER said there's a process of appeals to go through to protest the increase in assessment. KIFFER said he imagined a certain percentage of them are going to win. He said he bet that percentage would be less than 10%.

FINNEY said he wasn't sure he'd gotten his answer there and he would like to get that clarified before voting. The question was if KPU was exempted from the fee increase process of a super-majority, would that work? AMYLON said that as he understood the amendment, what THOMPSON proposed was to delete fees from the section requiring a super-majority and if you're looking not to have that, AMYLON suggested an amendment to the amendment if the concern is KPU utility rates. That would be "all fees excluding KPU"...there are other utilities; there's wastewater, solid waste, that type of thing.

THOMPSON said he'd go back to what he'd said before. You cannot raise fees without an ordinance and without a majority vote. He said all he's saying by deleting fees from this section, it's taking the approval of fee changes from a super-majority to a majority so that if, heaven forbid, DEC comes down and says that filtration will be put in on the water. FINNEY said if we have faith in the Assembly, shouldn't we be able to get 5 of them to vote in favor of raising fees under those circumstances? Once again, you want to weigh in on having faith in the seven people at the table, but you're saying we really only need to have faith in four of them doing the right thing. He said he'd like to keep that mark raised and see 5 votes required to raise any of those things; taxes or fees. We've talked about if they are bums or incompetent they won't get re-elected and he said he didn't believe that's true.

HARRINGTON said there are a lot of things he is compromising on and he said he's doing it for one reason: and that is that the City has violently objected to the way it is. He said he wants the consolidation to pass. He said he didn't want to see a rigid objection coming from the City. He said he could live without the

fees included in the super-majority requirement if it gives the City room to say, okay, then he said, he can live with that. He said he'd rather have the fees in there, but he said he was going to vote for the amendment to remove the fees. The overall thing is to get the compromise out here so that we can have a chance of passing this consolidation and getting it to the people without some major objections from either of the elected bodies.

PAINTER said that each and every one of the Commissioners need to remind themselves of why we are here and the main objective. He said he guaranteed that the Commission cannot go with the sales pitch to the voters and the public meetings are held with the LBC with strong objections from either the City or the Borough. If that happens, this Commission has wasted its time here for over a year, or on the contrary, maybe some of you haven't wasted your time.

A roll-call vote was taken on the amendment to eliminate fees from Section 10.08.

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

The amendment to the main motion to remove fees from Section 10.08 passed by a vote of 4-2

A roll-call vote was taken on the main motion to adopt choice (c) as amended.

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

It was understood that all the options would be brought back on an agenda statement for further review at the next meeting. THOMPSON said that if he'd read the City's comments correctly, they'd just as soon leave everything to a simple majority as it is now. If they want to raise fees, sales taxes or property taxes, they do it with a simple majority. The Borough takes theirs to the voters, so this super-majority is a compromise between the two entities.

I: NEW Business

I-1 Amend Article X, Section 10.05: Taxation: Sales and Use Taxes; Ratification of Sales or Use Tax Rate Increases

M/S PAINTER/FINNEY to amend Article XI, Section 11.04 by deleting the words "Ratification of Sales or Use Tax Rate Increases from the title."

There was no discussion and a roll-call vote was taken on the motion.

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

The motion passed 5-1.

I-2 Amend Article XI, Section 11.04: Revenue Bonds and Borrowing

M/S PAINTER/HARRINGTON to amend Article XI, Section 11.04 by deleting the words "for refunding."

There was no discussion and a unanimous affirmative roll-call vote was taken on the motion.

The motion passed 6-0.

J. Commission Comments

HARRINGTON said he'd like to see the Commission reach out to the community one more time and try to get them to the next meeting. HARRINGTON said that one thing AMYLON had said that struck him as something he'd like to deal with. He said this would be finished at some point. He said he'd rather that it be finished and send it to the City Council for their review before it goes back to the LBC so those comments don't come in again like before and necessitate our reconvening to take another look at it again. He said if it's at all possible, let's get these issues settled. Let's seek out the City Council before we finalize it.

THOMPSON thanked AMYLON for coming and said that his comments were greatly appreciated. This whole process, especially after we've already submitted a petition is going to be one of compromise if not consensus. THOMPSON said he thought, as we've done before, we need to at least strive to get the 5-2 or 6-1 votes. THOMPSON said the City could certainly be asked to weigh in on the document after the Commission's reviews and changes are indicated.

THOMPSON said he hoped we were getting closer to a compromise position. He said he didn't know that there would be a complete consensus between the City and the Borough and this Commission on all the issues before us, but there's hopefully going to be a point in time that we can take this before the voters and say we've gotten it as close as it can and there's three different viewpoints here. Vote it up or vote it down and let's get on with our lives.

The meeting was adjourned at approximately 7:50 p.m.