

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO. H-1

MEETING OF March 25, 2005

ITEM TITLE

Amend Article XII, Areawide, Nonareawide and Service Area Powers, Section 12.04(b) (Postponed from 2/15/05, 2/25/05 & 3/11/05)

SUBMITTED BY Debby Otte

SUMMARY STATEMENT

Charter section 12.04, subsection (b), calls for votes for adding or subtracting property from a Service Area. This section does not provide any waiver of a public vote for de minimus changes. If only one or two parcels are to be added or subtracted from a large Service Area it would appear to require a vote throughout the Service Area. The most relevant state statute on the subject, Alaska statute 29.35.450, has de minimus exemptions for less than 6% changes in a service area. The charter provision is not defective as written. Whether a de minimus exemption should be permitted is a policy question.

This item was discussed by the Commission at their regular meetings of February 25, 2005 and March 11, 2005 and a vote was taken to postpone action until there could be further consultation with the Borough Attorney. Borough Clerk Edwards agreed to question the Attorney on this item. Several members of the Commission had misgivings about the numbers from the State statutes proposed to be included in the Charter.

As mentioned above by Scott Brandt-Erichsen, the option of permitting the de minimus exemption to changes in service areas is a policy question.

On 3/23/05 Mr. Brandt-Erichsen was queried as to whether the new options by Mr. Harrington and Mr. Finney would pass muster with the State. The (d) option by Mr. Thompson was not available at the time Mr. Brandt-Erichsen was emailed, but his answer on Mr. Finney's proposal would hold true to Mr. Thompson's as well. Mr. Brandt-Erichsen said:

I think Mr. Harrington's language is just fine. The limits need not be the same as in the statute. I agree that the statute limits are pretty high for a small community. They were drafted with Anchorage in mind. You can set lower limits as provided in Mr. Finney's proposal, or delegate it to the assembly to define de minimus by ordinance as suggested by Mr. Harrington. Mr. Harrington's offers more flexibility.

Suggested Changes

(a)

Section 12.04 Creation, Expansion, Reduction, Consolidation, Alteration, and Termination of Service Areas.

(b) **Expansions or Reductions of Service Areas.** The boundaries of a service area may only be

expanded or reduced by an ordinance adopted by the Assembly that describes the proposed new boundaries of the service area and the powers to be exercised therein and, if voters reside in the service area, which is approved by both:

- (1) A majority of the voters residing within the boundaries of the existing service area or, in the case of a reduction, a majority of the voters who will remain within the boundaries of the service area after the reduction; and
- (2) A majority of the voters residing in the area that will be added to or subtracted from the existing service area or, if no voters reside within that area, by written consent of all owners of real property within the area that will be added to or subtracted from the existing service area.

Provided, however, that a boundary amendment which affects less than 6% of the number of parcels for a service area or adds less than 1000 residents to a service area, whichever is less, need not be approved as provided in subsection (1) and (2) above.

(a) RECOMMENDED ACTION: (Scott Brandt-Erichsen)

"I move to amend Article XII, Section 12.04(b) by adding the phrase ",if voters reside in the service area," in the first sentence and adding the paragraph "Provided, however, that a boundary amendment which affects less than 6% of the number of parcels for a service area or adds less than 1000 residents to a service area, whichever is less, need not be approved as provided in subsection (1) and (2) above."

(b) RECOMMENDED ACTION: (John Harrington)

" I move to amend Article XII, Section 12.04(b) by adding the phrase, "if voters reside in the service area," in the first sentence and adding the paragraph, "Provided however, that the Borough Assembly by ordinance may establish a process to provide for de minimus exemptions to boundary amendment that need not be approved as provided in subsections (1) and (2) above."

(c) RECOMMENDED ACTION: (Brad Finney)

"I move to amend Article XII, Section 12.04(b) by adding the phrase, "if voters reside in the service area," in the first sentence and adding the paragraph, "Provided however, that a boundary amendment which affects less than 2% of the number of parcels for a service area or adds less than 2% of the of the number of parcels for a service area or adds less than 2% to the residents of a service area, whichever is less, need not be approved as provided in subsections (1) and (2) above."

(d) RECOMMENDED ACTION: (Glen Thompson)

"I move to amend Article XII, Section 12.04(b) by adding the phrase, "if voters reside in the service area," in the first sentence and adding the paragraph, "Provided however, that a boundary amendment which affects less than 1% of the number of parcels for a service area or changes the number of residents of said service area by less than 1%, whichever is less, need not be approved as provided in subsections (1) and (2) above unless any resident of the service area formally objects."