

**KETCHIKAN CHARTER COMMISSION**

REGULAR MEETING  
& WORKSESSION

March 25, 2005

The regular meeting of the Ketchikan Charter Commission commenced at 6:00 p.m., Friday, March 25, 2005, in the City Council Chambers.

**Roll Call**

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

ABSENT:

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

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

**C: PUBLIC COMMENTS**

NONE

**D. INFORMATIONAL REPORTS AND/OR COMMISSION PRESENTATIONS**

NONE

**E. CONSENT CALENDAR**

M/S MCCARTY/PAINTER for approval of the minutes for the meeting of March 11, 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.**

It was determined that a work session was not needed.

M/S HARRINGTON/MCCARTY to modify the agenda to consider whether to move into a work session after item H-5. The motion was approved with no objection.

**H: OLD BUSINESS**

**H-1 Amend Article XII, Areawide, Nonareawide and Service Area Powers, Section 12.04(b) (postponed from 2/15, 2/25 & 3/11/05)**

M/S HARRINGTON/FINNEY to adopt Option B.

HARRINGTON said any of the 4 options were acceptable, but he preferred Option B.

There was a general discussion of the item including the issue of voting by residents vs. owners and definitions of de minimus to be included in the Charter and which option should be considered.

A roll-call vote was taken on the motion.

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

The motion passed with a vote of 6 to 1 and the item will be brought back at the 4/15 meeting for second reading.

**H-2 Amend Article X, Section 10.07: Property Tax Limit (Second Reading)**

M/S PAINTER/OTTE to delete Article X, Section 10.07: Property Tax Limit in its entirety.

It was noted that this option was not the option voted on affirmatively at the 3/11/05 meeting, however, the motion to delete the section in its entirety was

ruled in order since it would negate the changes voted on 3/11/05 and a roll-call vote was taken on that motion.

FOR: PAINTER, MCCARTY, OTTE

AGAINST: THOMPSON, HARRINGTON, KIFFER, FINNEY

The motion to delete Section 10.07 in its entirety failed.

A discussion ensued again regarding the language that had been passed at the 3/11/05 meeting, to wit:

**SECTION 10.07      PROPERTY TAX LIMIT**

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 [±]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.

M/S THOMPSON/OTTE to adopt the changes to Section 10.07 as indicated under Item C by setting a cap as a percentage above the prior fiscal year's rate, giving the Assembly specific notice and advertisement criteria prior to requiring a super-majority vote of the Assembly to raise the cap, and giving the Assembly the option of seeking voter approval as opposed to the requirements for Assembly approval of the raise in the cap, in the second reading.

Again, a lengthy discussion was held, with each Commission member re-stating his/her position on the tax cap issue.

OTTE suggested Alternate 4 to the main motion that was suggested by BRANDT-ERICHSEN after the last meeting. This alternate changes the wording so that instead of saying "above the rate levied in the prior fiscal year", the wording would be "from one year to the next" so that it would be clear that the rate starts at zero and the Assembly must annually set the rate.

FINNEY asked if the 2-mills went year-to-year, so that if the rate is 10, the next year it could go to 10.2, the next 10.4, etc? He wanted to know if that compounded annually.

THOMPSON said the property tax levy year-to-year could not exceed the previous year's levy by more than 2-mills. FINNEY said then they could raise it 2-mills annually into perpetuity. OTTE interjected that would be with a month's notice and the two public hearings. She said the Assembly is being given the option of doing that, but the action would have to be publicized more than is currently required.

OTTE said she'd like to amend the main motion to Alternate 4 of the prior-passed motion on the issue. PAINTER seconded the motion to amend.

FINNEY re-stated that we don't need to allow the Assembly the latitude to immediately raise the taxes at the table.

THOMPSON said he accepted the amendment as a friendly amendment to the main motion and as OTTE had seconded his motion on the main motion, a vote would pass the amended changes in the second reading.

There was more discussion by the Commission on the cap issue. THOMPSON said that in trying to reach a compromise on this issue, right now in the First Class City of Ketchikan, the sitting elected Council can raise property taxes and the sales taxes at the table. In the Borough, the sales tax rate is taken to the voters, but the property tax has an arbitrary cap set by the Assembly to make people feel good and they put a couple of roadblocks in their process. He said what he's trying to do with this motion is to find some middle ground somewhere in between those two extremes that everyone can live with. The proposed language puts some brakes on the ability of the government to raise taxes because of the hoops that they have to jump through. They have to have a super-majority, so they cannot pass these increases with a 4-3 vote. They have to give 2 months notice, so they have to let the public have their say in the matter. THOMPSON continued that he thinks that part of the Commission's problem is that some members are from the Borough where there are a lot of brakes put on the process and the Borough doesn't have those first class powers as opposed to the City. This Commission is trying to merge a larger City organization with a somewhat smaller Borough organization, and in doing so; we don't want to hamstring the over-all operation of the new Municipality. He said he thought this motion provided a good compromise for the Commission to embrace.

Mr. AMYLON was asked for his opinion on the motion. AMYLON said the Commission knows where his stance is on this issue. He said that he understands the dilemma of trying to accommodate both the urban and rural perspectives on this issue.

MYLON said that the Commission should keep in mind is that operations are not happening in a static environment. Things are changing and things are changing rapidly. He said PERS and TERS have been discussed. MYLON continued that in the last couple of weeks the Gateway Center for Mental Health is going to find itself in a competitive position with other health providers for grant funds, that in the past they have not had to compete for. If it's not successful, normally the City would drawdown on the Hospital Sales Tax funds, but those funds are not going to be around, at least initially, due to the situation at the hospital. It's not static.

He said he was trying to emphasize to the Commission is that he understands why there is an attempt to build in the speed bumps and why accountability of the Assembly is desired, but, he said he thinks there is the real potential if something goes sideways, at least for a year, if 5 votes cannot be mustered, what the Commission will leave as a legacy to the new Assembly is the real distinct possibility that in the absence of that super-majority, there are going to be hard and unpleasant cuts required in the budget. MYLON continued that if the Commission is willing to live with that scenario and say, this is how we want it structured and we're fine with leaving that potential and that problem with the new Assembly, that's the Commission's decision.

MYLON said that he didn't know how the City and the City Council would react to this change, as he wasn't in a position to speak to that at that time. He said that from a manager's perspective, he didn't think it was a wise move, but that it was just his opinion.

The Commission again discussed raising taxes in the North Tongass service area and maybe service cuts are bad for those in government, but not so bad to the people, but that wasn't the government's decision, it's the people's decision.

MCCARTY said that we (the Commission) should just fold our materials, walk out and quit. He said that he felt like he was wasting his time. Government is not some evil empire and we are separate from it. There are two members on the Commission who are the government, the evil empire that some are expressing such concern about. He wanted to know what was so special about the North Tongass Service Area Board as opposed to the City Council or the Borough Assembly. He said that as an attorney, the basic reason to put together a contract is to make sure what the agreement is, not because of the need to stop the other guy from being a bad guy. There is no ability to draft an agreement to cover every contingency if someone is entering into it with the idea of being a crook. He went on to say that the Charter could not be written to stay away from the rascals if they are bound and determined to do bad stuff, but enough could be written in there so that the good guys cannot do their jobs. He said he has faith in the government; government is us. We are trying to set up a system

to make sure that it won't go wrong and what is being done is harnessing the chance to good by spending so time worrying about what can go bad. He said he thought the Commission was missing the big picture.

Further comments were made by Commissioners including the fact that service area boards are advisory only to the Borough Assembly.

A roll-call vote was taken on the original motion (as amended by friendly amendment) to change the wording in Section 10.07 as follows:

the **increase in the rate of the** areawide property tax levy **from one year to the next** shall not exceed two-tenths (.2%) [~~one (1%)~~] percent of the assessed valuation of the property to be taxed, (2 mills) [~~(10 mills)~~] **above the rate levied in the prior fiscal year.** 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 [F]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.

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

The motion passed with a vote of 5-2. The changes will be incorporated into the Petition Charter.

### **H-3 Amend Article X, Section 10.08: Taxation: Supermajority Requirement to Raise Taxes or Fees Limit (Second Reading)**

M/S HARRINGTON/KIFFER amend Article X, Section 10.08 by adding the underlined language as shown above and striking the reference to fees from the title and body of the section in the second reading. The amended section would read:

#### **10.08 Taxation: Supermajority Requirement to Raise Taxes ~~or Fees~~ Limit**

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~~z~~ or 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.

The Commission held a general discussion of the item.

Karl AMYLON said he wasn't going to fight the fight on areawide issues, he said he was there totally from the service area perspective. If it's desired to hold areawide to a higher standard and require a super-majority, then that's a decision. He said speaking from a service area perspective, both in regard to property taxes and sales taxes. He said he understands that it will be the Assembly that will ultimately have the approval on that, but he again urged the Commission that at a minimum to consider a simple majority vote for service areas on these issues.

HARRINGTON said he would like to move to delete the last part of the section from "or be approved by a majority ..." since an election is always possible and the language is superfluous. The motion was seconded by KIFFER.

THOMPSON said he thought he'd read something about if the Borough would take this to the voters, it would be an advisory vote rather than a referendum or initiative vote. OTTE thought she'd seen that, too. He said he'd like to leave the language in there because it makes it specific.

Further discussion was held.

HARRINGTON said he was willing to withdraw his amendment and the second concurred.

AMYLON said he couldn't even get 4 votes to pay vouchers lately and the discussion is about taxes and bonds and the Commission is now going to give him a super-majority threshold.

A roll-call vote was taken on the original motion.

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

The motion passed with a vote of 5-2. The changes will be incorporated into the Petition Charter.

#### **H-4 Amend Article XI, Section 11.05: Revenue Bonds and Borrowing (Second Reading)**

M/S HARRINGTON/FINNEY moved to amend Article XI, Section 11.04 by deleting the words "for refunding" in the second reading.

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

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

The motion passed unanimously, 7-1. The changes will be incorporated into the Petition Charter.

**H-5 Amend Article X, Section 10.05: Taxation: Sales and Use Taxes; Ratification of Sales or Use Tax Rate Increases (Second Reading)**

M/S HARRINGTON/PAINTER to amend Article X, Section 10.05 by deleting the words "Ratification of Sales or Use Tax Rate Increases" from the title in second reading.

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

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

The motion passed unanimously, 7-1. The changes will be incorporated into the Petition Charter.

**I: NEW Business**

**I-1 Amend Article VIII, Section 8.03 (e): Payment in Lieu of Taxes**

M/S HARRINGTON/PAINTER to amend Article VIII, Section 8.03 by inserting the phrase "and/or service areas as determined by the Assembly" in to the first sentence as indicated.

The Article section would read:

Section 8.03 (e) Payment in Lieu of Taxes. The Assembly may require the municipal utilities to annually pay to the Municipality **and/or service areas as determined 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.



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

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

The motion passed 7-1 in first reading. The item will be brought forward at the next meeting for final passage.

**I-2 Amend Article X, Section 10.09 (b): Port Payment in Lieu of Taxes**

M/S MCCARTY/HARRINGTON moved to amend Article X, Section 10.09 (b) as follows: ~~Port~~ Payment in Lieu of Taxation: The Assembly may require ~~the port~~ **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.**

KIFFER pointed out a housekeeping item in that the word "the" should also be eliminated from in front of the deleted "port" in the first sentence. There was no objection.

THOMPSON asked AMYLON if the changes suggested were adequate to address his concerns. AMYLON said he thought the proposed language would address the concerns. He said he did have a question to the Commission as a hole relative to both items I-1 & I-2. He said that he understood THOMPSON was going to be meeting with NEWELL and the Borough Finance Director shortly to go over the budget and 3-year plan. He said these two items would be a big item for the City relative to the budgets and he wanted to request that as the budget is formulated, PILT from the Utility and the Port to the Gateway Service Area be factored into those budget projections. THOMPSON said that would definitely be done.

There was no further discussion on the item. A roll-call vote was taken on the motion.

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

The motion passed in first reading with a vote of 7-1. The item will be brought forward at the next meeting for final passage.

## **J. Commission Comments**

THOMPSON said the issue of non-recourse revenue bonds had not yet been addressed and whether or not there is a requirement that they should go before the voters. He said that he'd discussed this issue with several people and currently in the Charter, 11.05, the final sentence of that section says "Non-recourse bonds and other non-recourse revenue obligations may be issued pursuant to this section without ratification at an election. THOMPSON said all the rest of the sections on bonds currently have a requirement for an election. He said in discussions with AMYLON, he has indicated there are pros and cons on both sides of the equation. THOMPSON said he'd had a conversation with one of the mayors and his comment that struck home was that every time we obligate our citizenry to long-term debt, you always should take it to them and let them vote on it. That really struck home in the spirit of what the Commission is trying to do. THOMPSON said he thought 11.05 should be placed on the agenda for the next meeting and discuss whether or not it's appropriate to put an election requirement back in the economic development financing.

THOMPSON continued that a good example is the Port Expansion, which is a rather contentious issue and he said he was under the mistaken impression that the City had the ability to bond these non-recourse revenue bonds without taking the issue to the voters. That's one of the things that's very political in this community right now and in fact, it's going to have to go back to the voters. He said he kind of agreed with that.

OTTE said that a lot of the information and discussion that took place at the 3/11 meeting is in the G-1 agenda statement. She said she'd appreciate someone doing that agenda item. She said that she thought HARRINGTON had agreed to do this at the 3/11 meeting, so maybe he could provide an agenda item for the 4/15 meeting.

FINNEY said he'd like to comment on something PAINTER had said at the last meeting regarding just how far out the road did he (FINNEY) lived. He said he'd been thinking about it for the last couple of weeks and he'd heard enough comments at the table that the feeling is that the Commission is loaded with us rednecks from the Borough and it seemed to be that they were tipping this Charter in the Borough's favor. He said as for himself, he lives at Mile 16 North Tongass. He said he has two houses within the City limits that are rentals. He said his economic well-being was just about equal between the City and the Borough, so there's no gain for him no matter how this charter comes out. He said he's going to pay one way or another and he just wanted to make that clarification.

HARRINGTON said that as one of the other rednecks from out north, he also has property in both locations.

PAINTER said touché.

MCCARTY said he'd heard the comment about compromise in trying to put the Petition together and the only thing he could say is that at some point...He said that King Solomon had offered a compromise, each could half the baby. MCCARTY said that wasn't especially viable if one accepts that alternative. He apologized and said he was at a point where he thought we'd compromised past viability.

KIFFER said his assets were not split and he said he probably was the proverbial redneck from the north end. He said he's uncomfortable with where the Commission is on a couple of these issues and he said he thought we were going to get there. He said he has a tremendous respect for the elected officials; even more so spending the last however many months sitting on this Commission. It's not something that he would do in any stretch of the imagination and he said he applauds the folks that do. He said he's been relaying what he's been told as he walks the streets and he said, he said he's in terrible disagreement with 4-3 votes. He said he thought the Commission was in a very difficult portion of the process and he said if the emotion is kept out of the proceedings and we will get there.

OTTE said she respected the elected officials as well, having been a worker bee for both entities, she said she understands what has to be done to get where they need to be at the beginning of every fiscal year. She said that it is imperative that we trust ourselves as a community and as individuals, that we are putting people who not only are willing to put up with it, but are willing to learn the process and do it properly. We all disagree on things and there is no need to be personal about it. She said she was happy the Commission is getting somewhere so that we can get the process continuing and hopefully be ready for the July 1, 2006 consolidated Municipality of Ketchikan.

THOMPSON said he'd like to point out that the politically correct term is hillbilly, not redneck. Everyone sitting at the table is an elected official, so we're all bums and between now and the next meeting he said it is his plan to get together with the Finance Directors from the City and Borough and knock some of the rough edges off the budget where there are problems. He said he hoped to bring at least a draft back to the next meeting. THOMPSON said he wasn't completely sure that could be accomplished between then and the next meeting, but he said he hoped to have a good start on it. He said that he thought that a lot of what the Commission has done since the Petition was filed has been to address the concerns that have indicated by the somewhat vehement and vocal opposition

from both the City and the Borough. The way that is accomplished is through a position of compromise. He said he thought the Commission was getting there. Everyone could dig in their heels and say that's as far as they'll go, but if we don't do that, there probably won't even be a vote on the consolidation. If something can be arrived at where all sides say, well, I don't really like it, but I don't really dislike it either, then we've accomplished what we can and a vote can happen.

The date of April 15, 2005 was chosen as the next meeting date since both the Finance Directors were currently involved in large projects and not available until after the first part of April.

The meeting was adjourned at approximately 7:13 p.m.