

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

June 18, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:02 p.m., Friday, June 18, 2004, in the City Council Chambers.

A: Pledge of Allegiance**Roll Call**

PRESENT: OTTE, THOMPSON, MCCARTY, KIFFER, PAINTER

ABSENT: FINNEY, HARRINGTON

B: Ceremonial Matters/Introductions

City Clerk, Katy Suiter, and Borough Clerk, Harriett Edwards were recognized as being in the audience.

C: Public Comments

NONE

D. Informational Reports and/or Commission Presentations

THOMPSON said he'd emailed the attorneys that afternoon, but didn't expect a response until next week. He said he'd done an interview with the Daily News and it looked like a good article and he spent 20 minutes on KRBD on Tuesday. He said he'd done no further work on the budget this week, but expected some information from the Borough next week.

OTTE said Mr. Amylon requested that item H-3 be once again postponed from tonight's meeting. He is unable to make the meeting and some of his staff were out of town. He respectfully requested that the Commission take the EMS/Fire matter up at their 6/25 meeting.

PAINTER said he had contacted Ernie Boyd, who indicated that he would be willing to continue his position as the minority representative for the Federal Election statistics as required in the Petition.

E. Consent Calendar

M/S PAINTER/MCCARTY for approval of the minutes of the June 11, 2004 regular meeting.

The minutes of the June 2, 2004 regular meeting were approved by unanimous voice vote.

F. Vouchers

M/S MCCARTY/KIFFER moved for payment of Vouchers in the amount of \$1,360.00.

MCCARTY pointed out that should there be another meeting with slightly more or just a bare majority, including OTTE, he would suggest that there should be no problem with Ms. OTTE voting on any items not involving her pay. He said since it's a contractual obligation that isn't something she has much control over and even if there are only four people it would be acceptable to vote in that case. Certainly, the question could be split.

A roll-call vote was taken.

FOR: THOMPSON, PAINTER, KIFFER, MCCARTY
ABSENT: FINNEY, HARRINGTON
ABSTAIN: OTTE

The payment of vouchers was approved by a vote of 4-0 with one abstention. Ms. Otte had a payment voucher on the list and abstained.

G-1 Recess the meeting into worksession to consider the 2004 Draft Consolidation Petition, including changes to Exhibit F; discussion of the 2004 DRAFT Charter; and other items of business before the Commission.

It was decided, by no objection, to refrain from going into work session, as there were no updates to the budget available until after the Borough approves their budget on Monday, June 21, 2004.

MCCARTY indicated that there were a number of issues presented by the two attorneys and he wanted to thank them, as well as the Clerks and other staff

who have been giving the Commission information. He said he thought that the attorney comments had not been received by all the Commissioners and perhaps those could be reviewed during the next meeting's work session. OTTE said she'd format Mr. Schweppe's remarks into a document with Mr. Brandt-Erichsen's and have that ready for Commission review next meeting. Also to be addressed in work session will be the issue of naming the combined government.

PAINTER said he'd like to see included in the name of the combined government both the words Ketchikan and Gateway.

H: Unfinished/Old Business

H-1: 2004 Draft Consolidation Petition, including Exhibit F

There were no changes for the Petition or Charter approved during the work session. The item will appear on the next agenda.

H-2: Review and/or Amend the 2004 DRAFT Charter

Clerks Suiter and Edwards took seats with the Commissioners during the review of the following 13 agenda items in order to answer questions and give comments on each specific item.

H-2(a) Article II, Section 2.04 – Vacancies and Forfeiture of Office

M/S MCCARTY/PAINTER to Amend Article II, Section 2.04 (c) – Vacancies & Forfeiture of Office to delete all but the first sentence.

MCCARTY said he's generally most supportive of the body figuring out its own rules and procedures and this is one of them. There has been a problem over the years that there has never been a specific procedure, and he feels there should be a requirement that a policy be set. He said he supported the motion.

KIFFER said that it's nice to be able, within the Charter, to make it really simple and make it easy for the Assembly to do business. There's a large percentage of the population who will be voting on the Consolidation that feel that one of the primary problems is the Assembly's inability to do what they feel is business in a timely manner. If the Assembly is allowed to set their own rules, are those rules going to be consistent with what the Commission is trying to do.

PAINTER indicated he concurred. He said the usual manner of filling a vacancy

seems to be to take the next-highest vote getter in the prior election and some people have a problem with that. He referred to it as bringing back one of the "good old boys". He said he didn't know that the procedures needed to be set in the Charter. It's something that the future Assembly will need to deal with and try to make a fair & just procedure.

MCCARTY said that either format as drafted or as amended doesn't tackle that problem. There is no question that in some cases in several elections that the next highest vote getter was the incumbent and they may well have not been elected because the voters were saying they didn't want that person back. The way it's drafted doesn't address either situation. One just says they will set policies and the longer format says they will appoint a qualified person, but doesn't address how the qualifications are set.

KIFFER said that the shorter, amended, version of this says that the office will be filled and it doesn't say how long the fill will be: for the term of the person being replaced; until the next election; or for a totally new full-length term? He said he thinks the longer version is still allowing the Assembly to appoint someone; it just gives the voters a chance to change their minds at the next election.

MCCARTY questioned the Clerks as to whether State statute says that the filling of vacancy will only be until the next regular election. Ms. Edwards was unsure as to whether that was in State statute, but she would check. Ms. Suiter said the longer format is directly from the current City Charter. She said that in addition to the Charter wording, the City Code reflects a very detailed process for filling the vacancy. Ms. Edwards said that every place she'd heard of in Alaska had that the appointment to fill a vacancy was only until the next regular election.

THOMPSON said that if the amendment is made, it allows the Assembly to use the longer version, or not. They could adopt some other method to fill the vacancy. He said the question for the Commission is whether it's desired to be set in the Charter that they (the new Assembly) can come up with drawing lots, or drawing names out of a hat, however they want to do it, but they shall appoint a qualified person to serve. How it's done is left totally to the new Assembly, in fact, they haven't been told that they have to appoint somebody. In that case, they could opt to not fill the vacancy or have a special election. On the one hand the Assembly is being given broad latitude and on the other hand they are being given some latitude with some guidelines.

KIFFER said he was assuming that the procedures for actually filling the vacancy as set by ordinance could also be changed by ordinance.

THOMPSON said that if it's put in the Charter that they shall appoint someone to serve, that precludes them adopting an ordinance that would provide for a special election, if they so chose. Ms. Suiter asked if the Commission thought that a special election for one Assembly seat would be desired. THOMPSON said if the Charter section were shortened, the Assembly could pass an ordinance that says if there is a vacancy, and the vacancy is for a term in excess of one year, then they could hold a special election, and if it were not in excess of one year, then the vacancy would be filled by appointment. The shorter version gives the Assembly more latitude but the longer version does not.

KIFFER said he thought THOMPSON was right and that was one of the things he had a problem with the proposed changes. The Assembly is an elected body and the people want a full Assembly in place. They should have some latitude, but not to where there could be a delay in filling a vacancy on the Assembly.

Ms. Suiter said that the City had recently been through the process two times. The current process for filling a vacancy on the Council is people who are interested in filling the slot send in letters of interest and the Council reviews those letters and conducts interviews in public and then the Council votes to chose someone from those who expressed interest. She said that no matter how the section reads, it doesn't mean that the process will require a special election. Filling of vacancies would probably continue to be by declaration of interest.

Ms. Edwards said the Borough ordinance on this subject does not go into detail on the process. The Borough's ordinance just says the Assembly will appoint someone, but not how to go about appointing someone and she feels the Ordinance should be very specific.

A roll-call vote was taken on the motion to delete all but the first sentence of Article II, Section 2.04 (c).

FOR:

AGAINST: PAINTER, MCCARTY, KIFFER, THOMPSON, OTTE

ABSENT: FINNEY, HARRINGTON

The motion failed 5-0.

H-2(b) Article II, Section 2.05 (b) – Vice Mayor

M/S MCCARTY/PAINTER to Amend Article II, Section 2.05 (b) – Vice Mayor to
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read “At the first regular meeting of the Assembly in November of each year, the Assembly shall elect from its membership a vice mayor who shall act as mayor during the absence, disability, or vacancy in the office of the mayor. The vice mayor shall vote as an Assembly member but shall never have the power to veto.”

The Commission asked the Clerks for an explanation as to this change. Ms. Edwards said she just felt it would be nice to wait. The certification of the elections normally happens the Monday after the election and the way the Charter is written, that’s when the vice mayor is elected. She said she thought it would be good to wait a couple of weeks and allow the new Assembly members time to get settled in and get appointed, but she said she has no strong feelings about this change one way or another. It was just a suggestion.

THOMPSON asked if he could offer a friendly amendment to say, “Not later than the first regular meeting of the Assembly of each year...” That allows them at any time after the election is certified, but not later than the first meeting in November, to elect a vice mayor. That covers both the current practice and the proposed change.

MCCARTY said that made sense to him and since he’s the one that made the motion, why not consider that a friendly amendment. That covers both choices, really. If they think they’re ready, they can go ahead; otherwise they have a little time.

Ms. Suiter said the only comment she had was the thing that ran through her mind was what if there were a recall election shortly after a regular election where you have several members, including the Mayor and vice mayor, gone. Then, the way it was proposed, they would have had to wait until November to appoint somebody. Typically, the body uses someone who has been acting as an Assembly member for a while. They don’t use somebody who is brand new to the Assembly because of lack of experience.

MCCARTY said another way of amending the section further would be instead of saying November, to say, “At the first regular meeting of the Assembly following an election of members..” OTTE said the Assembly would have almost a month as it stands now. MCCARTY said that what he was thinking of was that if there were a recall in March, one could argue that the section says they would have to wait until November to elect a vice mayor. KIFFER said that the friendly amendment to the section addresses that concern, that the Assembly could, after a recall, elect a vice mayor, as long as it was before November.

A roll-call vote on the change to Article II, Section 2.05 (b) – Vice Mayor to read “Not later than the first regular meeting of the Assembly in November each year, the Assembly shall elect from its membership a vice mayor who shall act as mayor during the absence, disability, or vacancy in the office of the mayor. The vice mayor shall vote as an Assembly member but shall never have the power to veto.”

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

The amendment passed 5-0.

H-2(c) Article II, Section 2.09 – Voting
Article II, Section 2.09 (a) – Quorum and Voting Requirements
Article II, Section 2.09 (b) – Mayor’s Vote and Veto

M/S MCCARTY/PAINTER to add the asterisks as suggested in Section 2.09 (a). Further to amend the last sentence of Section 2.09 (b) to read, “An affirmative vote of two-thirds (2/3) of the total membership of the Assembly shall be required to pass an action, ordinance, or resolution which has been vetoed by the mayor, and the vote shall be by yeas and nays and shall be entered into the journal.”

MCCARTY indicated that in the event that the number of Assembly members is changed, either in this Charter, or in the future, this lessens the editorial burden of having to go back and check each section of the Charter to make changes to specific numbers. Whatever the number of Assembly members, it takes a super majority to over-ride a mayoral veto. This just simplifies the situation. Sometimes if a change is made by ordinance in one place, it can show up in other places in the Code and it’s hard to cross-reference.

THOMPSON said that MCCARTY didn’t address the clerical housekeeping issue in Section 2.09 (a). He said that would be included in the motion. He questioned the Clerks whether the reference in Section 2.09 (a) should be changed to say “a majority”, rather than a specific number, would constitute a quorum? Ms. Edwards said that she likes having the specific number. It’s a definite number and it’s something that would have to be changed if the number of Assembly members is changed. But to just state a definite number is a lot better in that situation. OTTE said that if the numbers are highlighted, and if the number of Assembly members is increased, the needed changes will be easier to pick up in a final review of the document.

MCCARTY indicated his concurrence with the change. PAINTER indicated that it's been observed that had a couple of members not been absent, action would not have happened.

A roll-call vote was taken on the change to Section 2.09 (b) from "five members" to two-thirds (2/3) of the total membership would be required to over-ride a mayoral veto.

FOR: MCCARTY, PAINTER, KIFFER, THOMPSON, OTTE

AGAINST:

ABSENT: FINNEY, HARRINGTON

**H-2(d) Article III, Section 3.02 – Ordinances – General
Article III, Section 3.02 (b) – Readings**

M/S PAINTER/MCCARTY moved to amend Article III, Section 3.02 (b) to read: "A proposed non-emergency ordinance shall be read in full or by title only, and an affirmative vote of a majority of the Assembly shall be required for advancing to public hearing and second reading. A non-emergency ordinance in which substantive amendments are made in first reading shall require an additional reading before passing to second reading. Notice of the public hearing containing a summary of the ordinance and the time and place for the hearing shall be published not less than five (5) days prior to the date of the public hearing. Before a vote on final passage, a proposed non-emergency ordinance shall be read by title or in full and an affirmative vote of a majority of the Assembly shall be required for its final passage."

Ms. Edwards said that as she had indicated at the last meeting, she prefers having the public hearing right before the Assembly vote on an ordinance. She said that in most cases, there are few people who speak to ordinances, but she said that when there is something that people want to comment on, she likes to see a specific spot for people to come up and talk about that ordinance. She said that if someone comes up during Public Comment and says to the Assembly that they've got an appointment (or plane or whatever) but they'd like to speak to the ordinance, the Assembly will certainly allow that comment, but those people who are willing to wait for the Public Hearing then has the full focus of the Assembly on their comments. She said she likes that process and having the ordinance review set out in the agenda and the public hearings are noticed separately in the paper so that people are made aware of the change in law outside of the ad for the agenda. She said she'd much rather err by giving too much information than not enough.

Ms. Suiter said she had discussed this item with Ms. Edwards and she said

she'd been coming from the City's side of things where they don't separately advertise all ordinances. They don't have public hearings for all ordinances. Their Charter designates there must be public hearings for rate changes, budget amendments and other certain things. Typically they take place right at the beginning of the agenda. People who want to speak on those issues are given an opportunity to do so at that time and those remarks are separately recorded in the minutes. She said she understands Ms. Edwards' viewpoint. She said that if people could speak to ordinances at the beginning of the meeting, then they could go home and watch the rest of the meeting on TV and the body could get on with business, but it's just a matter of different perspectives.

Ms. Edwards said that to address Ms. Suiter's concerns, when the Assembly sets their order of business, at that time they could address any concerns about placement of Public Hearings on the agenda and people having to wait to testify. She said that at one time the Assembly had Public Hearings at the beginning of the meetings. They would then act on those ordinances later in the meeting, but before the meeting was convened, they had a public hearing. She said she really didn't like that process, but there are different ways the issue could be handled.

THOMPSON said that the Assembly could set their agenda however they chose. They could have the public hearings at the beginning or they could move their agenda items around. The Charter is not telling them when they have to have the public hearing, just that they must do so. He also said that separate ads for noticing ordinances could get quite expensive. He said that the information could somehow be included in the publishing of the agenda to meet the Charter requirement. THOMPSON indicated that the City/Borough of Juneau has a weekly ad that's about 1/2 of a page talking about their agendas, items of import to the community and it's quite informative.

MCCARTY said the new Assembly could handle most of the expressed concerns when they set up of their agenda process. Everything the Commission can do to make sure that the public is aware of what is going on is money and time well spent. There is a tendency by a lot of people to regard the ordinance process as a lot of gobblety-gook so if there are ways to make certain the public has been informed, then it's up to the public to be informed and active.

Ms. Suiter said that the Commission shouldn't forget that the original language in this Charter was taken from the City of Ketchikan's Charter and that was written before the enactment of the Open Meetings Act, which is something that needs to be addressed in the new charter.

PAINTER said he likes the idea of separating ordinances out and having the hearings separate. He said he thinks that when testimony is given under Public Comment, there is a hodge-podge of topics addressed, but when there is a hearing on a single matter, the full attention of the Assembly is on that topic.

KIFFER said that as he reads the proposed amendment, he doesn't see the requirement for the Assembly to have the ordinances separated on the agenda. He said he was hesitant to put the restriction on the Assembly in the Charter of how they will set their agenda.

Ms. Suiter said that the Assembly could set their agenda however they want, but this amendment allows for the public notice requirement. She continued to say that is essential in any elected body.

A roll-call vote was taken on the amendment to Article III, Section 3.02 (b) – Readings to change the public notice requirements. The amended section would read: “A proposed non-emergency ordinance shall be read in full or by title only, and an affirmative vote of a majority of the Assembly shall be required for advancing to public hearing and second reading. A non-emergency ordinance in which substantive amendments are made in first reading shall require an additional reading before passing to second reading. Notice of the public hearing containing a summary of the ordinance and the time and place for the hearing shall be published not less than five (5) days prior to the date of the public hearing. Before a vote on final passage, a proposed non-emergency ordinance shall be read by title or in full and an affirmative vote of a majority of the Assembly shall be required for its final passage.”

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

The motion passed 5-0.

MCCARTY reminded the Clerks that no matter what's put in the Charter document, it's up to them and their successors to make certain the intent of the Commission is carried out by the new Assembly.

H-2(e) Article III, Section 3.02 (c) – Passage, Publication, and Effective Date

M/S MCCARTY/PAINTER to amend Article III, Section 3.02 (c) – Passage, Publication and Effective Date to read: “Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations shall go into effect immediately upon final passage unless they specify a later time. All other ordinances shall go into effect the day following the next regular meeting after the adoption of said ordinance unless the ordinance specifies otherwise.”

MCCARTY said he didn’t have any feelings about this change one way or the other, other than it takes out the sentence requiring publication in the second sentence. He queried Ms. Edwards as to the reason behind the change.

Ms. Edwards responded why should money be spent to publish something that has already passed. Her main point was to eliminate the 30-day requirement that has created a problem at times for both the City and the Borough. She said she just couldn’t see the need to publish something after the fact. OTTE indicated that the City’s process confuses her because when they post after the fact, it seems like they are still up for consideration.

Ms. Suiter said that she thought it was originally written with the 30-day period to allow for referendums to be filed on an ordinance that the Council passed. She reminded everyone that this language was drafted in 1960. She said she didn’t feel it was necessary.

Ms. Edwards indicated that this amendment mimics what the Borough does and the reason having most ordinances effective the day after the next meeting is to allow time for mayoral veto or for reconsideration.

THOMPSON said that two weeks should be adequate time for the filing of a referendum. He inquired as to whether any rights were lost as far as filing for a referendum and Ms. Edwards replied no. MCCARTY said that the process could be started in that time frame.

Ms. Edwards said that upon certification of a referendum petition, the ordinance or resolution would be suspended pending a referendum vote. So, it would depend on what the time frame would be. She said she just couldn’t see someone within thirty days being able to file a petition and collect signatures. They could do an application for a petition at any time and as soon as the petition was certified it would stop action on whatever the referendum’s subject. Ms. Suiter said if an Assembly were looking for an immediate recall, they would push ahead hard on an issue they wanted to get going. But if the public were against it, they’d be foolish to push, knowing there were some rumblings.

KIFFER wanted to know if the application for referendum would suspend action

on the ordinance or resolution, or would it be the certification of the petition? Ms. Edwards said it depended on the process that was adopted by the Commission. She said that she and Ms. Suiter have started to work on an initiative and referendum process and they fully intend to deliver the best one in the State for this Charter. If State law is followed, an application for a petition has to be filed. Then that is reviewed to make sure that they are asking for something that they can get. Then the petition is issued and signatures are gathered. The petition is then certified after the signatures are validated and counted. KIFFER wanted to know the general time frame in this process. Ms. Edwards responded that it is about 100 days, if State law was followed, from beginning to end. The Clerk has two weeks to determine the validity of the application and 90 days is allowed for signature gathering. She said she couldn't envision any measure that an Assembly, Council or any elected body that would be subject to an immediate referendum. If there was that strong a feeling in the community, unless they were all looking for immediate recall, there is no deadline. KIFFER said then that the time frame doesn't matter to him.

THOMPSON said that the 30-day delay in having an ordinance take effect is more of a pain in the neck than anything, in terms of operating the government. MCCARTY said that the Clerks' offices seem to move quickly on these items by not sitting on something for the whole two weeks allowed. Most of the local governments are pretty responsive when there is enough pressure brought to bear. THOMPSON said that in getting the process started for the Charter Commission vote, the Clerk's office responded within 5 days.

A roll-call vote was taken to amend Article II, Section 3.02 (c) to read as follows: "Emergency ordinances and ordinances making, repealing, transferring, or otherwise changing appropriations shall go into effect immediately upon final passage unless they specify a later time. All other ordinances shall go into effect the day following the next regular meeting after the adoption of said ordinance unless the ordinance specifies otherwise."

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

The motion passed 5-0.

H-2(f) Article III, Section 3.03 – Ordinances – Emergency

M/S PAINTER/KIFFER to amend Article III, Section 3.03 to read "two-thirds (2/3)

of the members of the Assembly shall be required for the final passage of an emergency ordinance.” The original reference was to “five” members.

MCCARTY said he'd seen super majorities elsewhere just be 60%. This is another way to avoid going back for some of the detail work should there be more members (or less) on the Assembly.

A roll-call vote was taken on the amendment.

FOR: THOMPSON, KIFFER, MCCARTY, PAINTER, OTTE

AGAINST:

ABSENT: FINNEY, HARRINGTON

The amendment passed 5-0.

H-2(g) Article III, Section 3.05 – Ordinances - Codification

M/S MCCARTY/PAINTER to amend Article III, Section 3.05 to read, “ The ordinances shall be codified and the municipal code shall be made available in electronic and printed form. Procedures for codification shall be set forth in ordinances adopted by the Assembly.”

Ms. Edwards said that most municipal codes already have something in the front, usually in the general part right at the very beginning, where they explain a lot of the stuff about ordinances. A while back when the Borough adopted an ordinance that was included in the first part under General, where the Borough Attorney was appointed as the reviser of the code. She said she actually does the codification of the code, but every once in awhile she said she comes across a problem with an ordinance that was adopted. She said she then runs it by the Attorney to make sure that the changes that are needed in the Code are correct because of conflicts discovered during the codification process. And all of this is just set forth in the Code.

KIFFER said the way the section is now it's really wordy. He asked Ms. Edwards if her proposed amendment speaks at the State level. She wanted to know if there were some State statutes that bind the process. Ms. Edwards said, no, it's how codification occurs. Everyone does codification by tradition as to how it occurs. She said that she was thinking that all of the wording included in this original section could be incorporated into the Code as part of the process to adopt the Code. Because that is what will happen: the new Assembly, as they start passing new ordinances, will develop a Code and they have to adopt that Code in total and then any future ordinances just amend that

original Code.

Ms. Suiter said that basically what this section is saying is that the laws must be codified. If a law is passed, it must be codified. That's a matter of State law. The manner in which the law is codified and provide the information to the public should be changeable. It doesn't need to be delineated because the processes will change. But, the fact that codification is necessary will not change. Ms. Suiter said her only suggestion would be maybe to mention that the Code would be available in the Clerk's office. Further discussion decided that information should be in the ordinance, rather than the Charter.

PAINTER said he'd like to offer a friendly amendment and add wording after the word available to read, "to the public".

A roll-call vote was taken to amend Article III, Section 3.05 to read, "The ordinances shall be codified and the municipal code shall be made available to the public in electronic and printed form. Procedures for codification shall be set forth in ordinances adopted by the Assembly."

FOR: KIFFER, MCCARTY, PAINTER, THOMPSON, OTTE

AGAINST:

ABSENT: FINNEY, HARRINGTON

The motion passed by a vote of 5-0.

H-2(h) Article IV, Section 4.01 – Municipal Manager: Appointment, Term, Qualifications, Removal

M/S PAINTER/MCCARTY to amend the last sentence of Article IV, Section 4.01 to read, "The Assembly may suspend or remove the manager at any time by vote of the Assembly."

THOMPSON said that the way he reads it, unless the Commission desires a greater number than the majority to remove the manager (a super-majority or 2/3 of the Assembly) saying a majority of the assemblymembers is a moot point. There has to be a majority in any vote for passage.

M/S PAINTER/KIFFER to amend the amendment to read, "The Assembly may suspend or remove the manager at any time by a two-thirds (2/3) vote of the Assembly."

MCCARTY commented that a superintendent or manager is in trouble if he/she is on the cusp to get group support. He said he thought the Commission

would want to stay away from, going to a super majority. He said he felt that any reasonable Assembly is not going to quickly make a decision to let the manager go. Currently and in recent past, the Borough, at least, has had contracts with its managers and unless the manager is let go for malfeasance or something on that order, there is a buy-out clause in that contract. That by itself, and the inertia against change, is going to be a heavy break. A manager would have to upset some people badly to get four votes against. If there are four people that don't want the manager, that manager had better go instead of saying, oh, there has to be five votes to get rid of me.

Ms. Edwards brought up the question that if it's going to take 2/3 to fire a manager, is it also going to take 2/3 to hire one? She also commented that sitting in essentially the same situation as the manager, serving at the pleasure of the Assembly, she could go into a meeting and be dismissed, but a person in these positions goes into the job knowing that action is a potential.

THOMPSON said that if this amendment is adopted against what is already in the document, it really doesn't make any changes. It just removes a redundancy. This item is highlighted for review to begin with. The question before the Commission is a majority or super-majority desired for the removal of the manager. He said what he'd like to do is ask the maker's of the motion to postpone the question on this item until all the other members are present. This was marked as something that is important and he said he felt it was important. Does the Commission want a majority, 2/3, or a unanimous vote required for this action. If the Commission is only looking toward a simple majority, the proposed language is more than adequate. OTTE said she'd add the amended language to the agenda statement for the next week's meeting, and expressed hope that all will be present.

PAINTER wanted to know how the City has this procedure lined out. Ms. Edwards interjected that if this procedure is set for the manager, the Clerk and Attorney(s). Ms. Suiter said that she thought Ms. Edwards was just trying to clean up the language. For anything to pass, a majority of the Assembly has to vote in affirmative. Ms. Edwards said this has now brought up meatier issues than a mere redundancy.

PAINTER said that when Assembly member's absence during a critical vote, it gets a little sticky sometimes.

MCCARTY said that if the Assembly vote is 4-3 in favor of keeping the manager on, the manager is getting a strong message that the job being done is not good enough, if it's that close. He said there should be more discussion on this issue. If it's getting that tight in the vote, there's something seriously

wrong.

THOMPSON asked for a voice vote to continue this item to the next agenda. There was no opposition voiced.

H-2(i) Article VIII, Section 8.03 – Utility Budget, Rates, and Borrowing

M/S OTTE/MCCARTY to amend Article VIII, Section 8.03 (f) to reference Section 10.14 rather than 10.13 as is indicated in the document.

This is a housekeeping measure. A roll-call vote was taken on the motion.

FOR: PAINTER, THOMPSON, KIFFER, MCCARTY, OTTE

AGAINST:

ABSENT: FINNEY, HARRINGTON

The motion passed 5-0.

H-2(j) Article X, Section 10.03 (b) – Supplemental and Emergency Appropriations

M/S PAINTER/OTTE to amend Article X, Section 10.03 (b) second sentence to read, “**shall be approved by a unanimous vote of all Assembly members present at a meeting attended by a quorum of Assembly members,**” instead of the current language which reads, “*shall be approved by all Assembly members present or by seven of its membership, whichever is the lesser number.*”

The full paragraph on supplemental and emergency appropriations with the proposed amendment was read.

OTTE commented that the current language is confusing. MCCARTY said that in an emergency, the event that not all members could be present is covered.

A roll-call vote was taken on the motion.

FOR: MCCARTY, OTTE, PAINTER, THOMPSON, KIFFER

AGAINST:

ABSENT: FINNEY, HARRINGTON

H-2(k) Article XI, Section 11.02 (a) – Notice of Bond Election

M/S PAINTER/MCCARTY to amend the first sentence of Article XI, Section 11.02 (a) to read, “Before holding any election required by this article, the Assembly shall cause a notice of bond indebtedness to be published once a week for three consecutive weeks in a newspaper of general circulation in the municipality”, and further amend the section by changing the title from “*Notice of Bond Election*” to “**Notice of Bond Indebtedness.**”

A roll-call vote was taken on the amendments.

FOR: KIFFER, PAINTER, THOMPSON, MCCARTY, OTTE

AGAINST:

ABSENT: FINNEY, HARRINGTON

H-2(l) Article XV, Section 15.02 – Election

M/S MCCARTY/PAINTER to amend Article XV, Section 15.02 by changing the wording of the paragraph to, “Proposed amendments shall be submitted to the Ketchikan Charter Commission Minutes

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qualified voters of the municipality at the next regular election, or at a special election occurring more than 70 days after adoption of the ordinance, the final report of the charter commission, or certification of the initiative petition. A notice containing the full text of each proposed amendment shall be published. THOMPSON said that he was happy about the changes proposed by the Clerks.

A roll-call vote was taken on the amendment.

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

The motion passed 4-1.

MCCARTY indicated that the comments by the City Clerk were more persuasive to him for the proposed changes.

**H-2(m)Article XVI, Section 16.01 – Personal Financial Interest;
Nepotism**

M/S MCCARTY/PAINTER to amend the first sentence in Article XVI, Section 16.01 (a) to read, “ An elected municipal officer may not participate in any official action in which the officer or a member of the officer’s household has a substantial financial interest unless, after disclosure of the interest, the officer’s participation is approved in public meeting by a majority of the body.”

MCCARTY said that the groups he’s served on typically have the head of the board (mayor) would make a decision but it was subject to review by the board. The question was whether it took more than a majority of those present to make any changes in the presiding officer’s decision. He said he was uncomfortable in indicating that the issue could be decided one way or another way. It’s better to have a fixed procedure. He said this is a better way to do it. He said he thinks sometimes the procedure gets skewed when people don’t want to speak up against the mayor. Let the membership that works together decide on whether there is a conflict.

Ms. Suiter said she thinks that a person who is elected needs to be able to remove himself or herself if they say they feel they have a conflict because of a financial gain. If the mayor disagrees with that person, or the elected body does, it doesn’t give the person the right to remove him or herself from the voting. She said she agreed with Ms. Edwards’ summation that the burden

shouldn't be put on the mayor alone.

MCCARTY said that there might be a problem in defining the term member of the family. How far out does that extend? There are some people that a person may consider closer than the blood relations. There should be the appearance of fairness. The public perception may be that a person is so close to somebody, either they are liked or disliked so intensely, that there is not going to be a fair vote on the issue. PAINTER pointed out that the wording specifically says a member of the household, which he interpreted to mean an immediate family member. MCCARTY said that Assembly members couldn't opt out of voting because it may cost them the next election or hurt a friend's feelings, but there has to be a process and he said he felt this was about as far as the Commission could go to codifying it.

THOMPSON said there are times when there is a bare quorum and trying to get something passed and there is someone there that has a minor interest in the issue that says they may have a conflict and they desire a ruling from the chair. He said he felt that one of the primary duties of the mayor is to adjudicate those types of conflicts and for this to take that power away from the mayor, that's really the mayor's job. He said that if there's an objection by the Assembly then there could be a vote by the body, but the mayor should have the first call.

MCCARTY said he thought THOMPSON might mistake the current system we have and the Charter as it appears. The mayor is a ribbon cutter and runs the meeting and in exceptional circumstances vetoes or breaks ties. The proposed government in this Charter is not a strong mayor form of government. It's the Assembly that's the government and the Assembly is the ones that should be making the rulings on its procedures. The mayor can be impartial and run the meeting. It's much more difficult when the mayor has made a decision and then the body wants to over-rule it. He wanted to know how the mayor could chair that situation when the body is challenging him/her. MCCARTY said there must be awareness in where the power of the government lies and clearly this proposed government is not a strong mayor form of government. It's up to the Assembly to make these sorts of decisions.

KIFFER said the public has voted for these Assembly members, including the mayor. He said he thinks it should be a consensus rather than a ruling. Putting that responsibility on one person in an elected body is not a good idea.

PAINTER said he liked the amendment.

Ms. Edwards said if the wording "presiding officer", that doesn't always mean the mayor. It could be the vice-mayor. If there were a situation where there

were only four people present to act on an item and one of them just plain didn't want to vote, they could try and say they have a conflict. The way it's supposed to work in the ideal world is that if an Assembly member feels that they have a conflict, or even feel that there's even a little sense of a conflict, they should declare it. They then declare their conflict of interest and the mayor (presiding officer) will say yes or no to that conflict and then the Assembly has the final say on it, because they can over-ride the mayor and say differently. She said the evening's discussion had always referenced the mayor, and the Charter says the presiding officer. She just wanted to remind the Commissioners of that. Ms. Edwards went on to say that she truly believes that this ruling on a conflict of interest should be left to the Assembly because some times conflicts are not major in one person's mind where they are in another's.

Ms. Suiter said that this is a narrow type of conflict, a substantial financial interest.

A roll-call vote was taken on the amendment.

FOR: KIFFER, MCCARTY, THOMPSON, PAINTER, OTTE

AGAINST:

ABSENT: FINNEY, HARRINGTON

The motion passed 5-0.

Ms. Edwards commented on a couple of things in Scott Brandt-Erichsen's memorandum of June 11, 2004. She said he pointed out that the Commission should check to make certain that the Borough Clerk makes more than the City Clerk. She said that she and Ms. Suiter agreed that in item 43 of Mr. Brandt-Erichsen's memo (p 9), the last sentence that states, "Additionally, I would recommend that the ordinance review process include the Clerk, as well as the Manager, Mayor & Attorney", is something that they would like the Commission to consider. She said they are the ones dealing with elections, the codification and they feel they should be included in that ordinance review process. She said they want the opportunity to be included.

MCCARTY said that different viewpoints are essential in documents such as ordinances and the comments the Clerks have made during this process have been really helpful in formulating the documents.

Ms. Edwards indicated the last item from Mr. Brandt-Erichsen's memorandum was in number 55 (p 11). She said he had recommended staffing levels for the Attorney's office and she and Ms. Suiter wanted to recommend staffing for the Clerk's office for the three-year period of transition, as well as beyond that time

frame. She said both she and Ms. Suiter feel that adequate staffing during the initial three years would consist of a head clerk, a deputy clerk, two assistant clerks & one administrative assistant. She said that at the beginning of the transition process, the Clerk's office is viewed as public access for information the staffing should be 4 to 5 people because the Assembly will be adopting a whole new set of ordinances, there will be changes to the Code, plus all the normal activities like holding elections. There would be a lot of Board of Adjustment meetings and Board of Equalization meetings because of the changes in taxing procedures and just the sheer volume of meetings that are going to be held to get the new government up and running would justify maintaining the current staffing level, if not adding a position for this transition period. Ms. Edwards and Ms. Suiter indicated that after the transition period, they envision a staffing level minimum of three persons, preferably 3.5. Ms. Edwards said that was their recommendation when the staffing plan is being formulated that it's not immediately thought that there is total duplication of duties and responsibilities, nor will the work load remain the same, but will be increased tremendously.

THOMPSON said at the last meeting it had been discussed that the Attorneys, the Clerks and the Finance offices would probably not see an immediate reduction in staff since those departments would probably have to bear the brunt of the work to make the new government function.

Ms. Edwards thanked the Commission for their time and effort on this endeavor. THOMPSON said he'd like to thank the Clerks for their enormous help. If this Commission didn't have the people who currently are doing the work providing input, the Commission's job would be impossible.

H-3 Amend Article XII – Areawide, Nonareawide and Service Area Powers, Sections 12.03 (2), 12.07 and 12.02 (c) [Continued from June 11, 2004 Meeting. Motion on the floor.]

Karl Amylon, City Manager, had contacted OTTE and requested that this item be continued until the June 25, 2004 meeting.

M/S OTTE/MCCARTY to postpone this item until the meeting of June 25, 2004. An affirmative voice vote was taken and the item will be continued until the next meeting.

I: New Business

I-1 Amend all Petition documents to replace the name of the newly

created service area (the former City of Ketchikan)

MCCARTY made a motion to postpone this item until the next meeting. THOMPSON seconded this motion because the issue of the name of the consolidated government will be discussed during work session at the next meeting and until that issue is settled, it's presumptive to take on the issue of the name of the new service area that will be created from the former City of Ketchikan.

Several members made comments regarding the proposed names for the service area. OTTE pointed out that the names included for choice on the agenda statement were from the surveys and certainly any other suggestion would be considered. PAINTER felt that the names currently being considered should be reversed in keeping more with the status quo, for example, the service area should be called the Ketchikan Service Area and the consolidated government should be known as the Gateway Municipality.

THOMPSON indicated that hearing no objection; I-1 would be postponed until the next meeting.

J: Commission Comments

It's hot.

The meeting was adjourned at 7:30 p.m.