

**KETCHIKAN CHARTER COMMISSION**

REGULAR MEETING

July 23, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:02 p.m., Friday, July 23, 2004, in the City Council Chambers.

**Roll Call**

PRESENT: OTTE, HARRINGTON, MCCARTY, FINNEY, PAINTER,  
THOMPSON, KIFFER

ABSENT:

**A: Pledge of Allegiance****B: Ceremonial Matters/Introductions**

City Attorney Steve Schweppe, and Borough Attorney, Scott Brandt-Erichsen, were recognized as being in the audience.

**C: Public Comments**

Steve Shrum, 5338 North Tongass, urged the Commission to avoid the pitfalls that occurred when the City annexed the Shoreline Area and to watch for those things in the consolidation process.

He indicated since 2000 his tax bills had climbed 192.6% on his floating airplane hanger at 5811 North Tongass, his house appraisal went up 58.9% and the land adjacent to the floating hanger tax had increased 85.3% because of the Shoreline annexation. He said it was wrong since he received no additional services on these properties such as bus, Public Works; snow plowing, sidewalks, streetlights, sewers, or harbors. He was upset about these inequities and not happy about what had been promised Shoreline residents and what actually happened. He said the Commission should consider getting rid of the bus system to save some money and possibly lower taxes, but to watch out for the pitfalls as the consolidation effort continues.

Paul Hook, 488 North Point Higgins Road, indicated he was a new member to

the North Tongass Fire & EMS Service Area Board and a volunteer for the North Tongass Fire & EMS department. He said he was against consolidating the fire departments because of the need for fast initial EMS services with the defibrillators & hot monitors in the ambulance and firefighters who were trained to fight fires in a no-hydrant environment. He said the volunteers provide traffic control when needed so the EMS can have a safe environment while doing their jobs. There is a sense of community. Mutual aid works fine. Mr. Hook said that under areawide powers, in talking with other people of what happened since Shoreline was annexed, they don't have a manned firehouse. North Tongass needs one. First responders are needed. He said he could see the volunteers going away just like Shoreline's did. He said he could see the mill rate going out of control. The North Tongass Board is fighting very hard to keep the mill rate down and using an annual fee so that the payments are made equitable to all the affected citizens. He said he felt that if the North Tongass Fire & EMS service, there will be ambulance response from 10 or more miles away and there are a lot of elderly patients. A slow response by an ambulance wouldn't be appropriate for any of the emergencies. He said North Tongass Fire & EMS would not be able to provide the citizens of that area the services they need and pay for.

Ken Kiffer, 630 North Point Higgins Road, said he'd been a volunteer firefighter for 28 years out North. He said he was opposed to the areawide Fire & EMS services. He said he felt there were other alternatives that should be pursued. Mr. Kiffer continued that the City is the biggest entity and that fire department will assume everything, both North & South. There's no way it can't happen, he said. North and South Tongass need protection. When the City took over Shoreline, the fire & police chiefs said they wouldn't need new equipment. There has been a whole lot of new equipment purchased since the annexation. He said the smaller entities wouldn't have a say in what happens. He wants the language in the Petition to reflect that the identities of each department be kept as is and the quality of the service would stay the same. He said there was no way there would be a higher quality of service by having the departments bigger entity take over everything and take care of the whole works.

Mr. Kiffer mentioned the current charge (by agreement) by the City to the South Tongass department for ambulance response. The same contract was utilized for North Tongass before their department was up and running. He noted the patient also got billed for those responses. He said that once the contract services, as well as the fees are imposed, it costs approximately \$1300 per ambulance call. North Tongass now has a cost of about \$500 per call. He wanted to know if prices would go down with the consolidation of the departments. He felt that North Tongass would also be charged the \$1300+

per ambulance services.

He said that other areas could be looked at very quickly without combining the total entities. Even if there would have to be one chief for everything and then have the individual departments. He wanted the Commission to look at the Seattle Fire Department. They have the Seattle Fire Department and the King County Fire Department and they work fine. They have their differences like anybody does, but he said he didn't understand why the local departments would have to invent something that isn't already invented somewhere else. He wanted to know why they have to try. He wanted to see the Commission work on something other than combining the departments, and he said he knew there were ways out there to do it, because he felt it was important. It's important to the departments to keep their identity.

Mr. Kiffer went on to say that Mr. Hook had alluded to the manned station as far as the North end. A fire engine cannot be dispatched from either the City or South Tongass in time to save a house on North Tongass. Most of the house fires are called in after the fire is well involved. To keep the same level of service that is right now, there would need to be a lot of volunteers or a manned station out on each end of town to have quick response to a scene. That would cost approximately \$1 million and he didn't feel the people would go for that.

Mr. Kiffer continued that the City's agility testing was too tough for most of the volunteers on North Tongass. He said that most volunteers would go away. There may be 4-5 staying for the entire North Tongass area, but that's not enough. He said he was assuming that those physical tests would prevail in a combined department since the City's department was the larger. The City has a fair group of volunteers, but they don't stay long. The fire fighters in the City fight a different kind of fire. The volunteers North & South fight fires without hydrants in most cases, without streetlights, on narrow roads with no places to turn around. He said the Commission needed to find a different solution than areawide fire & EMS powers.

Joni Koerner, 409 North Higgins Court, said she had always been opposed to consolidation, but understood the reasons behind it now from watching the Commission meetings, and is in favor of a government being operated more cheaply and to the betterment of the citizens. She said she was vehemently opposed to areawide Fire & EMS. Ms. Koerner said that living outside the City is a lifestyle choice and she said she enjoyed the sense of community and the more relaxed, informal way of living.

She said she's had two chimney fires while living outside the City and both times the volunteers responded quickly and saved their residence. She said

she never minded paying the dues to Pond Reef. She said she didn't understand how combining could help in any way. She wants the volunteers to continue. She said she understood from talking to some folks that if the departments were combined, there would definitely be a monetary value attached to that. She understood the property tax assessment for the service area fire department, and now there is an additional flat fee of \$100 and she said she didn't know how that was arrived at. She said her wages haven't been increased for a long time and she said she certainly couldn't afford the \$1000/year fees she's heard a combined department would cost with the paid salaries, equipment, etc. She said she wants to continue living in Ketchikan, but could not if the fees for services get that high. Something has to be worked out so the regular, common working people can live their lives honestly where they want to.

PAINTER pointed out how the funding for the City's fire & EMS, the police and part of the Public Works was from the 1% Public Safety and 1.5% Public Works dedicated sales taxes. Most purchases are in the City so the rural residents are also partially funding the City's departments with their sales tax. He said the funding of the City's fire department was not primarily burdening the taxpayer (such as property tax assessments are). PAINTER went on to say that he was an advocate of areawide fire, but he had voted it down the prior meeting because he didn't want to hamper the consolidation effort by splitting the community on that issue.

Ms. Koerner said she felt that unless the whole town were made the City, and those that live outside the City accept that they're never going to have the same amenities, but that's the choice they're making by living outside. She said that as Mr. Kiffer had spoken about the differences in the kinds of fire departments, it would be very hard to duplicate what's in town. She said she was concerned now with the dry weather about people just burning stuff. Forest fires could be a real problem in the area and someone to respond quickly is needed.

#### **D. Informational Reports and/or Commission Presentations**

THOMPSON said Exhibit F and the proposed 3-year budget had been distributed and he hoped the Commissioners could read them during the next week and discuss at the next meeting.

OTTE said the calendars for August and September were distributed. August is quite ambitious, however, time is short. Nothing is permanent on this calendar, but a plan needs to be made.

## **E. Consent Calendar**

M/S MCCARTY/HARRINGTON for approval of the minutes of the July 7, 2004 regular meeting.

A voice vote was taken and the minutes were approved by a unanimous voice vote.

## **F. Vouchers**

M/S MCCARTY/PAINTER & KIFFER for payment of Vouchers in the amount of \$255.00.

A roll-call vote was taken.

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

The only voucher presented was that of pay for Ms. Otte. She abstained from the 6-0-1 vote.

**G-1 Recess the meeting into worksession to consider the 2004 Draft Consolidation Petition, as well as the 2004 DRAFT Charter, as well as correspondence received addressing issues within the Petition and Exhibits.**

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 into work session.

A unanimous roll-call vote was taken to recess into work session.

Steve Schweppe and Scott Brandt-Erichsen joined the Commissioners sitting at the microphones for the work session.

Since the discussion would center on Mr. Brandt-Erichsen's memorandum written in June as he reviewed the draft Petition page by page. Some of the suggestions were clerical in nature, others will require action by the Commission should the suggested changes be desired. Mr. Schweppe had

addressed some of Mr. Brandt-Erichsen's remarks with remarks of his own. Those were the items of main interest to discuss at the meeting with both gentlemen present.

The areas discussed and a brief recap of those discussions follows.

- The affect of areawide powers on those powers currently exercised by Saxman was discussed. It was felt that Mr. Schweppe's comments on the issue covered the topic sufficiently. (See pages 1 & 2 (#3) of the agenda item for G-1 & 2 of 7/23/04 agenda).
- A discussion of Fire & EMS powers to be exercised and if areawide, would the services have to be equal in all areas with a dramatic increase in the costs or if nonareawide, would the Commission be giving up some of the efficiencies they are attempting to point toward. SBE thought there was some confusion about the level of service issue and that there could be slower response times in some areas while still giving equitable service. There could be a combined department with 3 separate battalions with the North & South not staffed 24-hours per day. They could be staffed exactly as the service area departments are currently with a unified command structure. They are all going to be supervised by the Municipal Assembly & Manager. He continued there could be three different service areas but the bodies, the equipment, the way they actually do the work could be the same under either scenario. The primary difference is the funding mechanism. If the service area model is continued, the Gateway Service Area supported by the \_% sales tax plus supplemented by property taxes, everyone who lives outside that service area is paying a chunk of that sales tax and the property taxes paid by the Gateway residents to support their fire is lower than it would be if the sales taxes weren't being paid by everyone. The North & South residents who are paying for services with higher property taxes because they aren't getting any of the Gateway sales taxes. If the people don't mind paying the higher property taxes, it's not the most balanced money-wise, but in terms of delivery of service, whether it's called a service area, keeping the pots of money separate, or whether it's an areawide function, the distribution of the bodies and equipment will be the same.
- PAINTER brought up the naming of the municipality and it was decided that the concerns expressed by Mr. Schweppe earlier had been addressed. Mr. Schweppe indicated he would have made the legal name the Municipality of Ketchikan with an aka of Ketchikan, but the Commission had addressed the actual legal issues.

- KIFFER wanted to know if the discussion was truly about areawide vs. nonareawide regarding Saxman if they are opting out of the consolidation. Mr. Schweppe said they weren't opting out of the consolidation, they were going to remain an independent corporation with a number of areawide powers they contribute toward, however, they also wanted to have the ability to do more on their own, such things as the museum and port and in the draft Charter, that was allowed, but they also have to contribute to the areawide powers and services. They shouldn't get to enjoy the services without paying for them. If they want to have something in addition to the areawide services the Municipality is providing, the Charter addresses that option allowed that.

KIFFER wanted to know if Saxman decided not to run their port facility, would the Municipality be required to take over running that entity. SBE said that it was not so much the ports, because the ports are funded as an enterprise function funded by their own revenues, but the Gateway Mental Health, the Civic Center, the Hospital, the Museum, and the Library (currently everyone pays for the Library but Saxman) they would have to pay for. The materials in this Petition have been fairly straightforward that everyone will be paying for those things. The sticky issues are the Fire & EMS and the water & sewer. Right now Saxman is not paying for fire & EMS from the South Tongass Service Area. They are not in that service area and don't pay that service area tax. The Saxman Fire Department (not functioning) and the STSA have an agreement for mutual aid, and even though the Saxman Fire Department doesn't really exist as a separate entity, that's the way it's been. If areawide Fire & EMS were approved, there would be an issue as to how to provide Fire service to Saxman if they aren't in the service area, would that service continue by agreement with the Municipality. There was an EMS service agreement between the City of Ketchikan and City of Saxman and that could continue for provision of Fire & EMS services within Saxman.

If there aren't water and sewer powers, and if Saxman decides to stop doing their own, SBE wanted to know if the Charter would have to be amended for the Municipality to take over the Saxman sewer system?

Mr. Schweppe said if Saxman decides not to run their port facility, the property is theirs and the Municipality wouldn't have to step in to run it. If an agreement were worked out for the Municipality to run it, then that could happen, but the new government would not be forced to do so if there are areawide Ports & Harbors powers. KIFFER stated then that would be the same with sewer & water, if Saxman decided not to run those functions any more. There was no discussion on this statement,

however some Commissions appeared to disagree.

PAINTER wanted to know if the current Borough millage rate was the same inside Saxman as anywhere else in the Borough and that was answered that it was. The only difference is that Saxman does have some Native restricted lands that are not subject to property taxes, but they don't pay any service area taxes on top of the Borough's mill rate, but that didn't include the special tax rate for the library. SBE said the Library is paid with a nonareawide tax by the Borough and a City tax levy. The cost split is done proportionately based on population. Up until about three or four years ago, the Saxman population was lumped in with the rest of the Borough population for calculating the split, but because they are a separate City, they don't pay the nonareawide mill levy, so starting about 3 or 4 years ago doing the split, it works out that the Borough's percent is about 35-38% and the City's is the rest, but there's not a separate charge to Saxman for it, and it's pretty much been ignored.

KIFFER said that following those lines with a consolidated fire/EMS department with areawide services, then Saxman would be contracting with the Municipality to provide fire/EMS services unless they went back and adopted fire powers on their own. SBE said they actually have ordinances for fire fighting and EMS, but it would be their choice whether they'd want their own or contract with the Municipality.

If the sewer powers are areawide in the Charter, then assuming Saxman's, should they decide not to run their own, could be done. The Municipality would not necessarily take over their system, but there would be the authority for the Municipality to deal with sewer problems in Saxman to get them whatever they need. That would be paid for by LID, or grants, and would be a problem for the manager, but at least the manager would have the authority to solve the problem. SS said that the original draft Charter said that sanitary sewerage could be done on an areawide basis, service area basis, or nonareawide basis in such a manner as the Assembly determines. So, if the Assembly determined that Saxman should be part of an areawide sewer system, it would be. The language addressing Saxman says except to the extent permitted by the law. They can have separate, concurrent jurisdiction, but if the Charter says the Assembly could have it areawide, and the Assembly said they were going areawide, then Saxman would be part of those areawide services. FINNEY pointed out that KIFFER's concern was that any of the powers stated as areawide and Saxman decided to turn them over to the Municipality then there a dilapidated sewer or water system.



The body would still have the ability, because they would essentially be a service area as the City of Saxman, to assess fees. SBE said it would be a location and it would be like if in Bear Valley all the sewer mains failed. Would the Municipality do a LID to build a new sewer line and have the people served pay for it, or would grants be sought, or would the rates be raised for everyone to generate enough cash to pay for the repairs. The financing mechanism is driven by the management decisions at the time, but there would be the ability to solve the problem. The language that SS found in the Charter regarding the sewer, there would be the ability to solve the problem.

KIFFER said that he agreed with Mr. Shrum's comments about his taxes going up and he doesn't get a vote on the sewer line going to his house. Whereas if the Assembly had that authority that in the event that Saxman decided to give that service/power up or the Assembly decides to take over that system, it would go to a vote of the people. SBE and SS disagreed. SS said that the thought about sewer powers was such an important community-wide health issue, that the new Assembly needed to have the widest power and authority to deal with that kind of issue because it doesn't just affect one person, it affects the entire community. KIFFER wanted to know if that included water. SS said that water was separate and he thought it was covered in the Utility article in the Charter (Article VIII). Saxman's concerns have always been for its' park, its' port and the feeling they have that they have the ability to obtain additional economic development funding because of their status. The draft Charter was intended to address those three things that are important to the Saxman community, the particular heritage issues and the unique opportunities for economic development monies that might not be available community-wide.

KIFFER then asked SS & SBE if Saxman had made any contact with them regarding this new consolidation effort. SS indicated not the new one, but they did attend the public hearings and sent a letter in favor of the consolidation effort during the City's prior effort.

- THOMPSON brought up #31 in the memorandum was an area where there was some disagreement between SBE & SS. This had to do with Charter section 2.04 (b)(7) and the cross-referenced section 16.01(b) regarding a procedure for the new Assembly to determine whether a violation had occurred by an Assemblymember.
- OTTE asked SBE about #37, his comment about why sewer services shouldn't be a part of the Utility. She indicated that made sense to have

that service be part of the Utility, rather than the way it is currently done. She said that he had another sewer issue listed in #5 on page 3 of the memo. SBE said that SS just pointed out that the language in 12.04 (f), the last sentence states that the ordinance may designate sanitary sewer services as a municipal utility under section 8.01. It can be designated as a utility by ordinance, he said, which addresses his concern. Right now the Borough operates its sewer function as a nonareawide function, but it's sort of run as an enterprise fund where it's attempted to have the charges for the service balance with the expenses in providing the service. The City has sewer under Public Works. SS said it is under Public Works and there's a separate fee, so it's also operated as an enterprise fund. SBE said he didn't know what the relation is between the fee and the cost on either side, whether there are some unintentional or intentional subsidy or not. On the Borough side it's probably pretty close; on the City side, he said he didn't have any reason to believe that it's different. THOMPSON checked the budget figures and said he thought they were both running pretty well. He said it was hard to tell because the sewer under Public Works is run as part of that department. SBE said both in comment #5 and #37 is pretty well covered in 12.04 (f) addressed his concerns about the sewer services.

- PAINTER asked SS about KPU's reserves, as referenced in SBE's comment #40. SBE questioned the build-up of large reserves because of the Utility's capital improvements and purchases without having to go for voter approval of a revenue bond. SS said he thought SBE's real issue was whether there should be voter approval required of all revenue bonds. SS said he and SBE have disagreed, or talked about this subject for quite awhile. SBE has always pointed out that the airport has relatively small revenue bond requirements financed by the users and they enjoy the convenience of not having to have a vote every time they pledge those revenues. SS said that on the other hand, KPU has very large revenue bond issues. He said without voter approval, the Assembly could buy, say, Swan Lake with a vote of four members of the Assembly and bond for it. That kind of thing could have a major impact on the costs of being in this community. The thought was when working on the draft Charter that because of the scope of those decisions, it was better to have voter approval for all revenue bonds. If that means saving up for a project, he said that wasn't such a bad thing and beyond that there would be the additional protection with KPU that it would have to be for KPU purposes, so that, to some extent, bars the Assembly from building up revenues at KPU and applying it to the tax rate, because those are separate accounts.

PAINTER wanted to know how large the KPU reserves were at this time. SS said he didn't know. OTTE wanted to know, when there were significant reserves, why were the rates being raised? She said there certainly shouldn't be any rise in utility rates during any period when the Utility is holding a large reserve. SS said he was the wrong person to be asking these questions. PAINTER said the reason he brought it up was because of SBE's comments that said he had concerns about building up large cash reserves because those reserves weren't irrevocably dedicated to a particular project. PAINTER went on to give an example of KPU needing to replace one of the diesels or a turbine at Swan Lake. He said there is wording in the Charter for an emergency situation and raising funds and the future Assembly could act in an emergency situation, but voter approval of bonded indebtedness for a capital improvement or an emergency situation, could happen within 75 days. He said he doubted whether a replacement machine of that size could be obtained in that time frame from the suppliers, and he said he tended to agree with SBE in perhaps number one: easing up on the rate payers; or put that money to work. SS said he was the wrong person to ask about that and those type questions should go to Bob Newell. He also said there are very significant structural things happening with KPU that would require large amounts of cash. He said he might be wrong, but a lot of the reserves PAINTER was referring to were associated with the Intertie, which is gone now because that's been transferred to the Four Dam Pool, so what the current status of the reserves were, he didn't know. THOMPSON said that according to the numbers he'd gotten from the City, the KPU reserves total about \$7.8 million. He said that's a little higher than they needed and that was noted in the financial report, but they are currently operating with about a \$3 million deficit, totally, so that will bring down the reserves quickly.

MCCARTY said this was more of a philosophical discussion and what it appears to be is "pay me now or pay me later". There could be some savings and ease into some of the purchases, assuming that reasonable decisions are being made and there aren't decisions driven by the fact that there is money to spend. Saving could be started in lieu of having a sudden tax increase to pay for the bonds if the costs come out of property taxes, or if out of revenue, if it is started early, it's a little bit for a long time instead of a sudden jump and a big bite. He said those are philosophical things. There is no way to legislate whether the people on the new Assembly can make the proper decisions, who are smart enough to decide whether a purchase or bonding is necessary.

regarding the magnitude of the bonds that were being discussed for KPU. He said if the discussion is about bonding in excess of \$1 million, that's probably something that should go to the voters, assuming there is time. If there were a spendthrift Assembly, it would be a good thing to require the vote. THOMPSON said he didn't have a problem in the government building up the appropriate reserves to cover shortfalls or in anticipation of major purchases.

MCCARTY said he had been through the IRATE period in Ketchikan and it appeared that there had been a locked pot of money possibly being used for purposes other than what it was intended for. Oversight of the funds is where the problems arise. He went on to say that past a certain figure, there should be a vote on the expenditure. PAINTER said his figure was obviously wrong, and that was why he'd brought it up.

SBE said that what MCCARTY said about this discussion being more philosophical than practical was true. He went on to say there were three hats that could be worn: 1) When advising someone running an enterprise function, it is desirable for that person to have as much flexibility as possible and it wouldn't be desirous to require a vote; 2) As a voter, it is desirous to have a vote on funds on which rates will have to be paid; and 3) If there is a vote requirement, the rates are getting raised and the reserves are being built so that a vote won't be necessary. The concern is that the money being built up is going to be spent on something else, not the impending project. That is a management issue. SBE said that it's a legitimate position to require a vote on revenue bonds. It is not required, and he said he didn't have a problem with the voting aspect, but he did get concerned about large pools of cash.

KIFFER said he sees this as akin to a sales tax cap. He said he'd watched the last time when the reserves were built up and he agreed that KPU does need the reserves, especially with the telecommunications technology upgrades needed. He wanted to know if it were feasible to cap the reserves, to allow KPU management to build up their reserves to a reasonable level and then cap them and set arbitrary limits for bonds. If the figure were, say, \$750,000, it would go to a vote. In an emergency situation, the Assembly could take 75 days and get it done. He said he didn't want to see this issue open-ended, just like he doesn't want to see the sales tax open-ended. PAINTER pointed out that sales tax is open-ended and has no cap. Sales tax is always voter approved. KIFFER conceded he had been talking about property taxes. He said he was all for allowing the Assembly the option of

managing the Municipality as they need to, he just didn't want the Assembly to have the power to do whatever they want.

THOMPSON asked SBE if there was a threshold amount that he could identify in terms of the airport versus KPU. SBE said it would change with inflation, but if it were approached as a percentage of the total budget rather than a fixed amount, that might be the way to address the situation. He gave an example, for a particular enterprise fund, if the annual budget is \$2 million, maybe 50% of that budget would be a cap that could be imposed so spending didn't exceed that amount without a vote. If revenue bonds were to be used for water or sewage facilities for line extension projects of \$1-1.5 million, would the desire be to have everyone vote areawide to see if \_\_-mile of water line could be built with a revenue bond? KIFFER said maybe that would be a question for KPU.

MCCARTY asked SS if there were a threshold number for the City for putting a revenue bond before the voters. SS replied that any City/KPU revenue bond requires an election. He said that while working on the prior Charter draft, there had been a discussion to set a dollar figure as a threshold, and discussed the effect of inflation and the conclusion was that approach was more trouble than it was worth and just have all revenue bonding be up to the voters. He said the expenditure is either small enough that management could handle it through reserves or other means, or if it were a significant enough amount that borrowing money would be needed, then the voters should approve that debt.

HARRINGTON said he would be concerned if a dollar amount were set, the tendency would be to fudge on the projects by splitting them in order not to require a vote. He said he felt it should stay the way it is with a vote required on revenue bonds.

- THOMPSON asked the attorneys if they had anything more for the Commission, or if the Commission had any more questions for the attorneys. OTTE pointed out that there were so many things to look through. Maybe just a pause was warranted so everyone could look through his or her notes. HARRINGTON pointed out that once the Commission gets the semi-final Petition document ready, if the attorneys would please go over those documents closely and see if there was anything left out or in error and bring those omissions or corrections to the body, it would be appreciated. THOMPSON requested that OTTE bring to the next meeting a compilation of changes suggested by SBE in his memorandum for the Commission's vote. MCCARTY said there was real benefit in having the people whose work puts them

in daily contact with the document review that document. He thanked the attorneys for their efforts.

- PAINTER requested comments from the attorneys regarding the City building code regarding setbacks in the Shoreline area. A discussion ensued regarding the differences between the City's code and the Borough's code. He said that when the Shoreline annexation took place it was explained that the City would accept Shoreline, its' dwellings & structures, as is, where is, and there would be no retrospective action, but any new construction would have to abide by the City Building Code. He said he'd invited the City Building Inspector and the Chair of the KGB Planning Commission to address the body at a future date. He said his question was about the difference in side set-backs (5' City and 15' Borough) and the fact that the Shoreline residents are required to use the Borough's 15' and not allowed to take advantage of the City's 5'. MCCARTY wanted to know if perhaps that was a zoning problem rather than a Building Code problem. SBE said that it was a zoning situation and the compliance would be to the more restrictive of the two sets of figures. It depends on how the area is zoned, i.e., low-density residential or high density residential. The building code looks more to whether the building will fall down, or electrical installation. The 5' restriction in the City is more for fire safety. PAINTER then stated that with this in mind, there may be lots within the City that must comply with the 15' setback and SBE said that was true.

SBE said the more difficult issue with the Building Code that is encountered is that there are a lot of structures out North or South that were built that do not comply with the Uniform Building Code-type requirements. If a person was upgrading those buildings after consolidation and the Uniform Building Code applies there, they are going to have to comply with that code. HARRINGTON said he would like to interrupt as he felt there were a lot of viewers at that moment saying, "Building Code enforcement was one of the areas specified for service areas and limited to the City only." He said if it wasn't that way, the body would need to make it that way or this effort doesn't have a chance to pass. Building code enforcement is a hot-button issue out North and they are dead set against it.

SBE said that the difficulty there is the jurisdiction of the elected body; they are the legislature for the entire area and if they are going to pass an ordinance and not have it apply throughout the whole area, they'd have to have some legitimate basis to justify why it wouldn't apply to the whole area. OTTE said SBE had addressed the issue on page 10 # 43

of his memo. SBE said that DWI is currently a crime in the City. If that becomes the law for the whole jurisdiction, it's illegal to drive drunk throughout the Municipality. If it were said that it's only against the law within a circle, where would the line be drawn? The laws that are passed are laws of general application unless they are restricted in some fashion. What is the rationale for restricting the jurisdiction of the law? Anchorage said they had a building safety service area and the law will only be enforced within that service area and they have a separate levy that pays for that service area. The law applies outside the service area, but they said the City doesn't enforce it. THOMPSON said that's essentially how it would be set up in the consolidated government. Right now, there's a building inspector part of the Gateway Service Area. His function is within that service area and he cannot operate outside that area. SBE said that if the Assembly adopts the Uniform Building Code, it adopts that code. The law wouldn't say the UBC is adopted from the 100 block of Front Street to the 2000 block of Front Street.

SS pointed out that the UBC is already applicable since the State has adopted it. Technically speaking, the UBC applies throughout the island. There's a different enforcement mechanism already. SBE said the State & City's fire codes are substantially the same. THOMPSON asked SBE what would be the rationale for saying that police powers were only going to be exercised within the Gateway Service Area? He wanted to know why that line was drawn there. SBE said that we're only going to pay for someone to enforce the laws there. THOMPSON said that what is being said is that if the building codes were to be enforced outside the area they are now being enforced, that would be a huge financial burden on the taxpayers out there and therefore there's a rationale for limiting the enforcement of the building codes to the areas that are now being enforced and being paid for by the Gateway Service Area.

SBE said in the current system there's a structural barrier to enforcement because there is not a police force outside the City of Ketchikan and if there is a service area that is just doing the enforcement, that could create the barrier, but the law will still apply throughout. THOMPSON said that every house in the Borough is subject to the UBC now. The State Fire Marshall could come in and inspect anyone's house in the Borough and issue citations. There is no money for that to happen, so they don't. It goes back to the saying that if the law isn't going to be enforced, why have the law? He said what SBE was saying was that if there was going to be a law in one area, it has to apply in general, but if it isn't going to be enforced outside of one area, then it's a moot point. SBE said it's more difficult to pick the areas to enforce the

law when it's the same government because outside the City of Ketchikan, but inside the Borough, the Borough has not adopted the UBC and Uniform Fire Code, so it's the State's problem to enforce it, but if it's the same Assembly and the laws are being adopted and then the areas are picked where they would be enforced, it's possible to get away with it. Anchorage gets away with it, but there is something about it that's just not right. He said he'd often wondered if he bought a house in Girdwood or Eagle River Valley, somewhere outside the enforcement zone, and the contractor who built the home didn't comply with the building code and he sued the contractor and the municipality for not complying with the building code, the builder would probably be liable, but not the government due to statutory immunity from liability.

OTTE wanted to know if there was some language that SBE could suggest that would address his concerns in #43. She said she thought he had a valid point about both the police and the building code. SBE said that if zoning requirements were going to be enforced, which often go hand-in-hand with the building things.... OTTE said there is a Code Enforcement Officer with the Borough, so the Code is going to become one code, not just the Borough code, so there's a Code Enforcement Officer and a Building Inspector, who is supposed to check to see if everything is compliant with the law, and the State law says that the UBC is in effect, she said it seems to be a conundrum about who is going to enforce what law.

MCCARTY said there is the Planning Department that doesn't go out and look for violations and even if they are aware of a violation, unless there is a formal complaint, they don't usually go out there. The Code Enforcement Officer does something when someone makes a complaint. There has to be a complaint made now, whereas there used to be a number of people who were actively looking for violations. He said it's a system that, whether it hasn't been challenged, or whether it's withstood the challenge and withstood it; this is how it will be set up. He said he suspected at some point that there will probably be people who complain about shoddy building or non-compliant building, who will request enforcement on a larger scale than is currently being done.

SBE said that probably the best way to address it is where that function is placed. If the building permit function is going to be within the Gateway Service Area and the police are only within the service area, then the money for enforcement goes with those positions is only there. He said there's awkwardness because it's more efficient to have cooperation between the building permit staff and the zoning permit staff.



KIFFER said he agreed with the efficiencies, but the thing has to pass muster with the public, too, and he said he agreed with HARRINGTON in that the rural residents are going to want the building code enforced. He said if that is left as a service area function and the Gateway Service Area elects to adopt building code enforcement that must mean that the people within that area want to pay for it. If there were a true problem in other service areas, there still would be the State's building code to fall back on, but leave it in one or two service areas, whoever wanted that service.

PAINTER said that typically when someone applies for a building permit, they get their zoning permit from the Borough and the City resident doesn't pay for the services of the Building Inspector to review the plans and give a stamp of approval. He asked SS if that were correct. SS said there were charges for building inspection.

MCCARTY talked about how when the septic problems got real bad out in the Borough, at least three times in his recollection, and the response was not driven by health standards, but was driven by the fact that people couldn't sell their properties. The legislators were able to put enough pressure on the administrators in Juneau that they lifted enforcement of those restrictions. He said it didn't make a lot of sense if there is raw sewage (or close to it) in the ground and it is ignored because people were upset about their property sales. If there's a problem, it should be fixed. He said this blends in with what KIFFER just said; that whether a building code is reasonable or not is not the issue, it's either inconvenient or more expensive or people think it is unreasonable. It's a fact of life. He said he is having trouble hearing some of the conversations about getting into practicalities, can the Petition pass, the end product will be such a compromise that it isn't worth the effort. He said he didn't know if the Commission was approaching that point, but he said he keeps hearing that tone and if it cannot be done the right way or close to the right way, the Commission needs to be careful, are we doing it the right way. He said he was getting more sensitive about putting something together that functions at the lowest denominator; what level can the Commission get by with offending the least amount of people so maybe this thing could get put in place and is it going to have enough value to even make the effort? He wanted to caution the Commission about how far would this have to be taken to make it palatable.

The Commission took a break from 7:43 to 7:53 p.m.

SBE said that he and SS had both looked at the Charter and the draft Petition and in Exhibit J, Page 17, listing of nonareawide powers, #2 is Building Code Enforcement. The way that is set out, there would be Building Code Enforcement only be initially in the Gateway Service Area and would only be expanded to those areas whose citizens vote to have that service. He said the Commission may want to replace the word nonareawide with service area since it will only be in the Gateway Service Area, but on an intellectual level and thinking about law enforcement, he said there was something about it that bothers him to have the enforcement not be the same as where something is made illegal, but that wording, combined with 12.04 (d) about expansion or reduction of powers, those two together would allow the continuation of having the building code enforcement within the Gateway Service Area until people voted to have it differently. It maintains the status quo, and the paperwork is set up to do that. THOMPSON said it could be somewhat justified in the fact that outside the Gateway Service Area, it wouldn't be funded.

- OTTE indicated that all the references in SBE's memo to Exhibit G were actually to the budget section, F, however that section had a bad header. That section is the budget section and will be discussed next week. She suggested that everyone be sure to bring SBE's document to make certain his concerns were addressed. OTTE said she'd send a copy of the budget to both SBE and SS.
- OTTE discussed item # 16 regarding the Facilities and Vehicle Maintenance and the fact that SBE felt those shouldn't be listed as a specific power, since they had more to do with the operations, rather than a law issue. She said she agreed that function should be coordinated and administered in a coordinated and a cost effective manner. The Commission had already highlighted that item because there was thought to consider consolidating all the maintenance facilities.

HARRINGTON said that part of the reason that was highlighted was due to the fact that those duties were tied to the 1 % Public Works Sales Tax for the Gateway Service Area and so much of those Public Works functions are maintenance of equipment and that sort of thing. He said it became confused in the discussion that there were parallel systems being built in for the maintenance of vehicles. THOMPSON pointed out that the Public Works Sales Tax fund that is currently in the City is strictly for capital improvements and infrastructure, not operations and maintenance. Those functions are covered under the general fund. The lion's share of that tax is used for infrastructure.

- OTTE pointed out #7, page 3, of the memo, in which SBE pointed out that the listing of nonareawide powers and services does not include the road powers of the Gateway Service Area. She said the memo also indicated that that list didn't include building safety powers. She said she wasn't quite sure what section of nonareawide powers SBE was referring to. SBE said that on page 3 of the Petition whether the Commission wanted to indicate service area powers of police, roads, building safety in the Gateway Service area; whether it was desired to have sewer as a utility power, or an areawide power; and where fire & EMS were to be placed. The fact that it's listed there are no nonareawide powers or services required, he said he thought in the Charter there were discussions about some of the powers being nonareawide. THOMPSON interjected that powers are either areawide or service area, except for sewer that can be anything. OTTE said that sewer is currently nonareawide. THOMPSON said that was one that may have to be addressed, since it's exercised both in service areas and on a nonareawide basis. OTTE said that roads are service area and they should be listed. SBE said it was more an omission of a category on page 3 of the Petition. Where are the powers going to be listed that are just service area powers? THOMPSON said that in the Charter, 12.03 addresses the services provided by service areas. SBE said he was just talking about the Petition, not the Charter.

MCCARTY said that if it (sewer powers) was nonareawide, then it must be a service area/nonareawide. It can only be one or the other, or no power at all, and the things that can't be done are not listed. THOMPSON said that the areawide things are listed in the Charter; things that may only be provided in a service area; and then there is sewer, which is something that can be done however the Assembly wants to handle it. MCCARTY said that if there is a power, then it either has to be either areawide or nonareawide, or it could be called nonareawide/service area, whichever term is preferred.

SBE said the issue was more of a technical drafting thing. Figuring out where they are going to put them is a policy decision. On the first twelve pages of the document is the Petition itself. In the Petition it lists off the areawide powers and nonareawide powers, but it doesn't list off powers in service areas. He said his comment was that it should be indicated which ones were going to be in the service areas because there are more places with road powers than just the Gateway Service Area; Forest Park, Mud Bight, Waterfall, Gold Nugget. Service area powers are distinct from nonareawide because nonareawide means everywhere

except in the City.

SS said the Commission should be careful about roads on that point, as well. That power is not necessarily in all the service areas. The draft Charter says that Public Works inside the City will be by service area, but of course, the Borough is involved in various roads, the Gravina Bridge, other roads elsewhere. SBE said they weren't involved in roads outside of service areas. SS said well, if they are going to do the Gravina Bridge, if they're going to do the Lewis Reef Road and participate in those kinds of things. SBE said that in order for the Borough to participate in a road off the Airport reserve, there must be a service area. On the Airport reserve, the road is being done under the Airport powers. SS said the thought on this issue was that the City streets and roads were going to be paid for by the people who resided inside the City. As far as what would happen to roads elsewhere, it would be by service area or areawide. KIFFER questioned that areawide would include the Gateway Service Area. SS said that people inside the Gateway Service Area might end up paying toward roads in the outlying area, but not the other way around. He said he didn't think that power should be identified as a just as a service area power because, as far as roads inside the Gateway Service Area, yes, that is a service area power. OTTE said that the other service areas that have adopted those powers, whether they're using them or not, they're listed in a section in the document. She wanted to know if roads needed to be addressed. SS said he didn't think the Commission wanted to tie the new Assembly into all roads have to be done in service areas.

- Marvin Hill, 808 Forest Park Drive, Chairman of the Forest Park Service Area Board, spoke to the body regarding roads. He wanted to clarify that Forest Park no longer had sewer powers. The Borough had confiscated them and had throughout the island. He said the question on sewer powers for the Borough is moot, since they've already got them.

Mr. Hill went on to say that there is no place that is not maintained either by the State or by a service area. He said that status quo would go the same no matter what the vote might be. THOMPSON asked about construction of new roads, for example, Lewis Reef. It's not in a service area. Mr. Hill responded that it would be in a service area since there is something over there for them to have. THOMPSON wanted to know if that was before or after the road went in? Mr. Hill said that the road is being done without any Borough money, unless the Borough has recently put some money in.

THOMPSON said that in 12.01 it says that except as otherwise required by this Charter or by applicable State law, all powers of the Municipality may be exercised on an areawide, nonareawide or a service area basis, or other basis. He said the document goes on in 12.02 and says that these are the things that it may exercise on an areawide basis and then in 12.03 it says only in service areas. THOMPSON said that nowhere in the Charter, with the exception of 12.03 (b) does it even discuss roads, and that is strictly to preserve the ability for the Gateway Service Area to continue to do road construction and maintenance. But, he pointed out, roads are not discussed anywhere else in the Charter. He said to his way of thinking, if they're not discussed, the Borough may exercise that power under Title 29 of the Alaska Statutes in any manner the Assembly deems appropriate.

SS said the idea was the concern had been expressed that the people in the outlying areas did not want to pay for City streets and that's what the Charter says. Mr. Hill interjected that they were already helping pay for them with sales tax. SS said that's just the way it is. He went on to say that there would be a service area sales tax, partly to cover some of the costs, but the big concern was that the people were going to be taxed in their property taxes to pay for the maintenance of the City streets and the Charter says it's not going to happen because the City streets are going to be part of a service area. He said that as far as what happens to other streets, he said that would be up to the Assembly.

SBE said that one sort of slipped by a lot of the Borough staff folks the last time consolidation was considered, because having it within the Assembly's discretion and without a public vote, to exercise areawide road powers, while it gives them the power, it also creates a significant problem. Last winter or maybe the winter before when the State said they weren't going to plow the road to North Point Higgins School and, apart from phone calls and emails, the only thing that kept the KGB from having to take on that expense and that responsibility as a Borough was the fact that the Borough did not have road powers. If the Borough could have, simply by adopting an ordinance, plowed those roads, the State could have said, they weren't going to do it and the Borough has the ability to acquire the powers and solve the problem and the Borough should do it. SBE said the KGB had to point out to them that they had no legal authority to spend that money in that manner. He said the Commission might

want to clarify that roads are only a service area power.

MCCARTY said that the flip of that is that given the current budgetary constraints, the State has the power to say that's not a road they wish to maintain, especially if it's not the main thoroughfare. They don't even have that obligation. He said he didn't think this was a real defense against what the State might decide to do because we have no control over the State.

SS said that on the other side of the coin, if the Borough land on Gravina is to be developed, roads have to be built. If recreational opportunities are going to be opened up on Gravina, roads will have to be built. If it states that roads must be done by service area, it's might be hard to build those roads. He said the way it was written was to give some flexibility in the decision-making.

Mr. Hill said that the budgets in every service area in the Borough go through the Borough process, so the Borough administers that function. There is no problem building roads in a service area, because the Borough administers the project. Forest Park could get bonding and put the second access into the subdivision, however, they're waiting to see what happens with the bridge, because where they want to put the second access (which would not be much of an improvement over the road they have now) is also where the bridge may go.

KIFFER said that he could see where SS was coming from because there is the same problem with law enforcement. If the Municipality takes over the legal authority to provide the service, the State's out of here. (Others said maybe). KIFFER said that's what happened in Juneau. That's not known as a fact, but it has happened before and he said he thought it would be a lot less cumbersome to develop a service area if that's what's necessary to build the Borough roads, or it could be made into a subdivision.

HARRINGTON wanted to know if the Municipality could establish an LID if there were no residents. SBE said it would have to be balloted by the people who own the property. He said that in mentioning Gravina, there are two parts of the road. There's the part that's on the Airport reserve because the Borough controls all of that property and as the owner of the property, and part of its Airport function, they can build a road on the reserve. The road cannot go off the reserve and no money can be spent for building a road off the reserve unless

there's a LID, a grant, or a service area that generates the revenue to pay for it. So the people who own the property there would have to form a service area to allow for maintenance of the road. HARRINGTON said specifically, the Borough has a lot of property, and if it chose to subdivide and sell off lots, can they establish a LID in the future on Borough-only land where future purchasers of that property would be buying into the LID. SBE said yes, and a service area, as well. That's how Waterfall was done.

SS said that the thought was that building of roads is obviously important for development and the Borough would probably find a way to do it, one way or another, by calling it recreation or economic development by trying to put it in some other hat and why not be open and honest about it and indicate that it could be a service area, it could be areawide, and that he agreed with MCCARTY that when the State says they're not going to plow roads, they aren't really going to care what kind of power the Municipality has. They're going to do what they want. SS wanted to know how it would be done then. There are some areas where people go around and get contributions from the neighborhood to get the roads plowed.

SBE said the biggest difficulty for the Borough is standards and liability. If a governmental decision is not made to maintain the roads, there is no liability, but if road maintenance is taken on, every goat trail that's built that has water running down the middle of it, if the Borough's got to plow them because it's providing areawide road powers, the roads would need to be built standards that could actually be plowed and maintained, which costs money. SS said it doesn't have to be areawide; it's an option for the new Assembly. The new Assembly says that there's a major road that's important for economic development activity here and they think everyone should pay for it; we're going to exercise that road power. If they don't think it's important and primarily serving a small part of the community, and it's more appropriate to be on a service area basis, that's the way it would be operated. The important thing being that the people in the outlying areas wouldn't be paying for the maintenance and building of the Gateway Service Area streets.

THOMPSON said there are two sides to this issue. One is the road construction, but the higher cost is often the maintenance of it, so he said he could see where SBE's thinking came from for not adopting the areawide road powers. That's a decision for the Assembly, naturally, but in the case where the community had the political

leverage to say that the government didn't have the ability to plow the roads. He said it's kind of like not having areawide police powers. If areawide police powers were adopted the likelihood would be that the Troopers would pull out. That was a concern the last consolidation effort. So by limiting that to service areas...SS said that the same argument happened in Juneau and Anchorage. In Anchorage they said they didn't have the power to have the police up on the Hillside and the State said they didn't care. In Juneau, there was the same kind of argument. The State basically said well then, find the power, because they weren't going to be there any more. MCCARTY said they pulled the VPSO's out of a lot of villages and Troopers out of a lot of places. The State has the police power; they just don't send them out there, except when they're requested.

- OTTE indicated that the suggestion by SBE to maintain some of the staffing levels a little higher during the transition years had been noted and she believed that the proposed budget from THOMPSON reflected that idea. She mentioned that the budget would be discussed at the next meeting.

SBE said that however it turns out, he believed it would be workable. He said he thought the biggest problem is the money and how the existing money is parceled out and divide up the tax burdens. He suggested that Forest Park be used as a yardstick. Forest Park has the biggest collection of services of anywhere in the Borough. If the money situation ends up with the people of Forest Park paying more taxes than the people in the Gateway Service Area, then something is wrong. That was one of the issues during the last consolidation effort.

Both Mr. Brandt-Erichsen and Mr. Schweppe were thanked by the Commission for the time and energy they've put forth in assisting in the Commission's task.

THOMPSON said he wanted to give the Commission a brief overview of what he'd done with the budget. He said he'd discussed it in the email, but as he said before, he took the City and Borough budgets and added them together and looked for all the duplications. He explained what he'd done with adjustments and the transfers. There were some one-time expenditures removed. He said the only thing that was pulled out of the budget was some labor. He explained the labor summary provided and noted it would be updated due to the FTE's not being quite done. He indicated that basically eliminating a Manager, a Finance Director, an HR person, Mayor & Assembly and a Public Works Director for \$500,000 (round numbers). He said he'd done some gerrymandering to try to keep the departments staffed at close to the



current combined levels. That \$500,000 was the only thing pulled out of the budget and without doing much with taxes, the budget balances. He said the only tax changes he'd adopted into the budget were taking the Hospital tax to an areawide basis (1%) and that would be about a \$250,000 difference. He said he'd also increased the Transient Occupancy tax outside the City limits from 4 to 6% to have a uniform rate. Those two changes generated about \$275,000 with the \$500,000 savings in labor, plus, the Borough's raise in taxes which somewhat balanced their budget in their general fund.

THOMPSON said the one caveat he wanted to say was that he'd only received the majority of the Borough's budget. He said he hadn't gotten the book. He said he had the City's book, but there may be some expenses that are listed as operational expenses that are actually capital expenditures because he didn't have the detail on it. There are still some fuzzy details in the new budget. There also currently as many bonds outstanding as there were when the prior effort took place. There are some outstanding school bonds; there are some outstanding bonds in the Ports Department and in KPU. He said that in the transfers, there's only one left, the Hospital, and that transfers about \$800,000 from the sales tax fund to pay that bond off.

THOMPSON said that the \_\_% sales tax designed to pay the school bonds, so that freed up some other money in the budget. He asked the Commissioners to read through the budget narrative because the rationale was to keep the status quo and don't raise taxes. He said he'd underlined everything he'd changed. He pointed out there is an interim year and discussed the specific figures. The Gateway Service Area is showing a sizable surplus. There is possibly some room for the new Assembly to give them some mill levy relief if they chose or decrease the Public Works sales tax a bit.

THOMPSON said the only two funds that seemed to be having a little problem in the budget were Gateway Mental Health and Substance Abuse, so, he said, he increased the transfers for those two and got them back on the positive side. He indicated that the Gold Nugget Service Area is budgeted, and has been for a while, to expend more money than they're taking in, so they will probably see some adjustment done there by the new Assembly.

THOMPSON again asked for the Commissioner's help in pointing out any errors they saw. The Commissioners thanked THOMPSON for all his efforts.

OTTE brought up the green calendars each Commissioner had received. On it were suggested public hearing dates for the Commission, as well as other organizations' meeting dates for Commissioners to attend and publicize the consolidation effort. Dates were agreed on and OTTE said she'd bring back an updated calendar to the next meeting. Unless huge crowds show up, the

public hearings will be in the Council Chambers. THOMPSON said that if lots of people show up for the first two public hearings, it might be a good idea for the Commission to rent the Civic Center for the last Saturday one. The public hearings will be advertised separately in the newspaper.

FINNEY wanted to know if there were a set number of meetings required and the answer was no. It was explained that the public hearings would be open mike and that if anyone wanted to look at the Petition documents, the two Clerks offices and the Library would have copies for review, OTTE said she could email the document to anyone who wanted their own, it would be posted on Sitnews and she'd be willing to make paper copies for anyone who requested them.

PAINTER said he didn't see too many people volunteering for attending the meetings of the other organizations. THOMPSON said he could probably make all the meetings that one week.

## **G-2 Reconvene Into Regular Session**

M/S PAINTER/HARRINGTON to reconvene into regular session and address the items left on the agenda. There was a unanimous voice vote taken to return to regular session.

## **H: Unfinished/Old Business**

### **H-1: 2004 Draft Consolidation Petition**

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

### **H-2 H-2 (a) Amend Article XII, Sections 12.02 and 12.03, establishing fire and EMS powers as areawide (Second Reading)**

M/S OTTE/MCCARTY to make the suggested changes to Charter Article XII, Sections 12.02 and 12.03, establishing an areawide Fire and EMS Department within the consolidated municipality." With this action, the necessity of the North Tongass Fire & EMS Service Area would be nullified and that issue will be addressed should this current action take place in the second reading.

HARRINGTON said he had heard from a lot of citizens over the 4-3 vote. He said he'd made it clear at the last meeting that the key to this process was to have a plan. He said he'd worked out a possible transition plan and it was

rough because he didn't want to spend a lot of time until the issue was finally decided. He said he firmly believed that these departments could be successfully consolidated and still maintain their current volunteer organizations, but he said it wasn't going to happen. Not because it couldn't but because there's a self-fulfilling prophecy out there right now that says no matter what the smaller departments do, the City will take over the new fire department. The regulations that are currently in the City will become the regulations for the consolidated department and that the smaller departments will be infected with this stuff. He said the idea wasn't going anywhere. He said it was not worth fighting the perceptions that are out there because it would be a self-fulfilling prophecy, there will be volunteers lost, there would be damage to the fire response in the outlying areas and there would be more personnel needed, which would increase the costs. The philosophical thought is that, yes, it could be made to work. He said he didn't think it could right now, but in the future it could. He said he would be shifting his position on the issue.

A roll-call vote was taken on the motion.

FOR: MCCARTY

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

The motion failed 6-1. The issue of areawide Fire & EMS is tabled and a section will be added to the Transition Plan suggesting areawide Fire & EMS be looked into by the new Assembly as a means of efficiency of operations and possible cost-savings.

**H-2 H-2(b) Amend Article XII, Areawide, Nonareawide and Service Area Powers, Section 12.03 (2), 12.07 and 12.02 (c) (Postponed on July 7, 2004)**

M/S HARRINGTON/MCCARTY to make the suggested changes to Article XII, Areawide, Nonareawide and Service Area powers as shown above."

HARRINGTON said he still thought that this should be returned for a second reading. It was agreed by the body to have it brought back on the next meeting's agenda. He said there were some concerns about the elimination of Section 12.07. He said that if the section were clean, as it will be with passage of the changes, it would maintain the status quo.

MCCARTY said he'd voted yes on the prior motion more because he'd made an intellectual commitment to do this consolidation the right way the first time.

He said he'd made the comment purposely when he talked about the past sewage problems. He said he also has to deal in reality and he often has to tell his clients that the perception is the reality, whether it is accurate or true or reasonable, people have to deal with the hand they are dealt. He said this issue is not something worthwhile to break the whole consolidation on. He said he'd heard there had been tremendous changes and improvements in communication between the departments in the last year and that makes a lot of sense. He said that may continue and if there is enough force for the consolidation of the departments, it will happen, or maybe it will happen in the practical aspect whether they are legally unified or not. He said he'd vote for this one and he said we'd wind up in the same spot; he just had to make a comment. He said you have to be careful sometimes because the easy way is not necessarily the best way. Some things are so crucial that must, or must not, be in the Petition and there are others that are close enough, let's put it together, so he'd vote for this one.

A roll-call vote was taken on the motion.

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

The motion passed to second reading by a vote of 7-0.

### **H-3 Amend Article I, Section 1.01 – Name (Second Reading)**

M/S PAINTER/OTTE to amend, in second reading, Article I, Section 1.01 – Name, by deleting the words City and Borough and adding the words Municipality of in their place.

HARRINGTON brought up whether there would be a municipal assembly or a borough assembly.

A roll call vote was taken on the motion.

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

The motion passed with a 6-1 vote.

### **I: New Business**

#### **I-1 Amend Sections 2.12 and 2.13 – Clerk & Municipal Attorney**

M/S MCCARTY/PAINTER to amend Article II, Section 2.12 -- Clerk, and Article II, Section 2.13-- Municipal Attorney by adding a sentence at the end of each section to read, Section 2.12: **The Assembly may suspend or remove the Clerk at any time by vote of the Assembly;** and Section 2.13: **The Assembly may suspend or remove the Municipal Attorney at any time by vote of the Assembly."**

(It was noted that this was not a second reading, as was indicated on the agenda statement.)

KIFFER said that he wasn't really in favor of this action, however, this is the language that was brought up by the Clerks and Attorneys and he would support it.

There was a roll-call vote on the motion.

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

The motion passed to the second reading by a vote of 7-0.

#### **J: Commission Comments**

KIFFER said that he appreciated HARRINGTON's work and what he's gone through in the past week. He said he was opposed to consolidation of the Fire/EMS departments and he'd talked with the City & South Tongass departments and he said that as was stated earlier, when it's right to happen, it will. He said his opposition to it has never been that the consolidated departments couldn't work; it was that the attempt was being made to consolidate something without a plan. When the volunteers and departments come together and work out a plan, he said it might work.

OTTE thanked THOMPSON for his hard work on the budget. She said she knew it wasn't easy, but it is harder to delegate that kind of task to several people and have it go together.

HARRINGTON said that it is hard to break the mold that the community is in between the rural and the urban. He said it's seen throughout conversations. If this effort is successful, there will be an urban and a rural municipality that is

unified, with one governing council/assembly and he said that a lot of the issues that seem to come up still play off the two sides, but there will still be one council/assembly sitting on top of all of it. He said as he's slowly getting used to and comfortable with that idea, he said he's seeing a real light out there, that a lot of the structural elements of the turmoil...rural and city are already positioned now to be at odds. There's just no way to get around it and he said, he's beginning to see as the end of this process approaches and listening to what the attorneys have to say, he said he gets this glimmer that this could really work, and work well.

THOMPSON said he's encouraged by the fact that when the Commission discusses these things and there was good feedback from the public throughout the week, the body was divided last week and asked for feedback and that certainly came. He said that most of the votes at the table are 5-2, 6-1 or 7-0. That says the Commission is working well together. He said he's happy to see that. THOMPSON went on to say that the topic of the eventual consolidation of the Fire/EMS needed to be placed on the laundry list for the Transition Plan so that the new Assembly knows that issue needs to be addressed. He said he was going to propose an action list to put into the Transition plan: sales tax reform. There are differing rates, senior citizen exemptions that are being abused, there are people being taxed (or not taxed). There are a lot of things with sales tax. That's for the new Assembly. It was decided that Fire & EMS, philosophically, was a great idea, but practically it wouldn't work right now. The Water Department inside KPU is another issue that should be addressed. Should Public Works be consolidated? Should there be a Central Garage and do centralized Public Works. All of these things can be put into a laundry list and tell the new Assembly that these are all areas where money could be saved and efficiencies realized. He said that the Commission doesn't need to do those things now. First comes the consolidation, then deal with the things that should be accomplished once consolidation is a reality.

THOMPSON asked that everyone go over the budget and be ready to discuss it on Thursday. He said the goal with the budget was to combine the City and Borough budgets and eliminate duplications and see where the funding fell. After the budget has been reviewed, plan on reviewing the Petition documents to eliminate the highlights, either by changing those sections or agreeing to drop the highlighting. There is only one more meeting after next Thursday/Friday to finalize the documents to distribute them. There will be comments back and the Commission will have the ability to adjust the documents on into September, but it's getting to the end and it has to go before the Borough.

OTTE pointed out that because the Commission was created because of an initiative, a Borough resolution is not needed to forward the documents on to the LBC. As a courtesy and with a request letter, we would give the final document to the Assembly to forward to the LBC with whatever comments they chose to make. A resolution by the Assembly to pass it on, but a copy of the certified initiative must be included in the Petition.

The meeting was adjourned at approximately 8:58 p.m.