

DRAFT 1/21/05

Ketchikan Charter Commission Response to Written Briefs and Comments on Consolidation Charter Petition

The Local Boundary Commission (LBC) received a written brief from the City of Ketchikan and written comments from the Mayor of the City of Ketchikan and the Ketchikan Gateway Borough in response to the petition filed in late September 2004 to consolidate the Ketchikan Gateway Borough and the City of Ketchikan into to a single municipality. The LBC has provided time for the KCC to file written comments or a brief in response to the comments received.

The following is the Commission's response to the submitted brief and comments. Each respondent's concerns will be addressed individually and in detail in subsequent sections:

Introduction

The Charter Commission is indebted to the City, the Borough and their staff for their time, effort and advice. Without the input from these stakeholders, we could not have completed our task in the allotted time.

The Ketchikan Charter Commission was elected by the citizens of the borough (and thus the city) to create a charter to consolidate two community corporations worth well over \$100 million. The two local governments have greatly assisted the Commission in our development of a new charter for a consolidated Ketchikan. Considering their extensive involvement, it is important that the Commission respond to their concerns regarding our petition. A discussion of these concerns underscores fundamental political and philosophical issues that the Charter Commission addressed in the charter development as well as providing a comprehensive review of the final work product.

Background

The Commission began charter development by a systematic review of features of four Charters: the prior (failed) 2000 City of Ketchikan consolidation Charter, and the successful Charters of Sitka, Juneau and Haines. Early in the development process, the Commission chose to use the City's prior Petition and Charter as the default document. This Petition (and Charter) was narrowly defeated in the prior consolidation attempt, yet represented an excellent model to build upon and amend. This was also done to facilitate the parliamentary process and it provided an easy way to insure that local governments' charter priorities (specifically the City's) were considered. An affirmative vote of at least 4 Commission members was required to make substantive changes in the Charter or any portion of the Petition.

There was a drawback to this approach. The Commission wanted to develop a charter that would be approved by the community. Because of that concern, the Commission needed to continually examine the reasons for the City's prior charter failure and structure the new charter to address those deficiencies.

Why the City's Charter Failed

Although it was never articulated in any document, it was the Commission's assessment that the city's charter failed for four reasons:

- First, the vote came at an inopportune time. The vote on consolidation came shortly after the City's annexation of the Shoreline area over the opposition of the Shoreline residents. This forced annexation caused a great deal of resentment among the rural residents of the Borough. Consolidation came to be viewed as the next step in a city take-over.
- Second, the Commission determined that the City's charter failed because it did not address the rural residents' concerns regarding government: not enough limits on government and the growth of government were included in the City's charter.
- Third, the City's charter identified nearly a million dollars in savings the first year. This level of reduction was considered unattainable in the short term. Community members researched the consolidation of Sitka, Juneau and Haines. Their research revealed that there were little, if any, immediate savings due to consolidation. The City's reported \$900,000 in savings was viewed with extreme skepticism.
- Fourth, the Commission determined that the single most important reason for its failure was taxes. This item requires a more extensive discussion:

The City's Tax Structure

A review of the current service delivery and taxing program reveals that the city has four income streams from the citizens of the city and borough: sales tax, property tax, fees, and subsidies from KPU. Only one of these income streams is derived exclusively from the city taxpayers - property tax.

The rural residents of the borough participate in the funding of areawide services provided by the city primarily through the sales tax: 85% of all commercial transactions and corresponding sales tax revenues take place inside city limits. In addition, the rural resident participates in the funding of the exclusively city services of police, fire and EMS, roads and public works through the sales tax.

In the areas of fees and utility charges, the city's water service operates at a loss and the rural resident subsidizes the city-only water service through telephone and electric utility fees. Finally, the rural resident provides a subsidy to city government through a utility "payment in lieu of taxes" which is exclusively for city coffers.

The pivotal point in the city's prior charter and the primary reason for its defeat was an attempt to shift even more of the cost of city services onto the rural resident.

With this understanding in mind the Commission reviewed options to address this inequity. However, the Commission determined that any attempt to parse the taxing structure and then make it more equitable was doomed to cause the failure of the consolidation effort. To shift the burden of funding city services back to the citizens of the city (the proposed Gateway Service Area) would require dramatic increases in water rates and the service area property tax mill rate. It became obvious that any dramatic shift in taxes would guarantee the new charter's demise in much the same way and for the same reason that the City's prior Petition (and Charter) was defeated. At the end of the day, though, both the City and Borough services were being met by the existing tax structure.

Charter Development

The Commission used three concepts to develop the new Charter.

First, as stated earlier, the Commission used the three other City charters to focus the discussion. The City's prior charter was the prototype document. Comparable sections from the four charters were presented in a side-by-side comparison. The Commission discussed and compared each section individually. The Commission was surprised at the similarity of all the charters and aspects of all the charters, except Juneau's, were incorporated into the final charter document.

The second tool the Commission used was the identification and remediation of the issues that caused the failure of the previous consolidation attempt.

The third tool of the Commission was developed through lengthy discussion, false starts, and frustrating verbal adventures into the realm of infinite charter possibilities. This third tool was a philosophical mindset to implement only those changes to the status quo that were necessary to make the charter acceptable to all the citizens of the Borough. In other words, the Commission chose to avoid substantive unnecessary changes to the status quo. The Ketchikan community is a conservative community where change is viewed with skepticism. Each change in the status quo fosters doubt and opposition, thus the fewer changes the better. At each Commission discussion that would lead toward major changes in taxes, powers or governing structure, significant opposition was encountered from various commissioners. So the philosophical 'touchstone' of the proceedings became "first, do no harm" to the chances of passage. Any issues not specifically pertinent to consolidation were left to a future legislative body. Most of these issues were noted and appended to the consolidation document. No suggestions were made regarding actions the future legislative body should take but the proposed charter and transition plan allowed that future legislative body the latitude to act in the public interest.

Discussion of the City Manager's specific points of concern:

"Introduction of a tight property tax cap."

- The tax cap currently exists in the current Borough, but not in the city.
- The tax cap is a limit on government.
- The tax cap is not a major impediment because it can be changed by a vote of the people and does not apply to GO bonds or revenue bonds.
- Given the Commission's priorities, the tax cap maintains the status quo and is a minor limit on government.

"A super-majority vote for tax and fee increases."

- Although voter approval for sales tax increase is currently required in the borough it is not required in the city thus this reconciles the disparity by compromise.
- Under the new charter approval of an increase in sales tax can be accomplished by either the voters or by a majority of 5 Borough Assembly members.

"A reallocation of financial resources from the area within the current City limits to balance the areawide budget of the consolidated municipality."

"A reduction in sales tax revenues available to fund services within the present City limits."

I.) *"The petition fails to reasonably anticipate the expenses of the consolidated government."*

I-A.) *"The petition seriously understates the consolidated government's operating expenses."*

I-B.) *"The petition overstates revenues by assuming unlikely increases in property values."*

- Discussions with staff in the Borough Assessment office gleaned the following information:
 1. A one- percent (1-%) per year increase is a reasonable projection. Historically the increase was higher than 1% with only the last three years have seen a decline.
 2. Residential property values did not decrease during the difficult post-mill period.
 3. The reduction in the total assessed valuation during the past three years was primarily due to two things. First, was the gradual removal from the tax rolls

of the mill site properties. (Note: this was a reduction in total valuation not tax revenues, because these properties had not generated tax revenues since before the bankruptcy. Also worthy of note is the Borough's plan to put these properties up for sale.) The second area was a reduction in the value of the cannery sites.

I-C.) *"The petition's staffing plan is incomplete."*

This point has been corrected with a new Exhibit J-**, attached and made part of the consolidation petition.

I-D.) *"The Petition maintains an artificially low mill rate by subsidizing the general fund with funds that are unavailable."*

The Commission discussed this point and a consensus was expressed that these funds were moving targets and there was no real way to anticipate unknown future uses for the funds.

I-E.) *"The proposed budget does not properly address the Borough's economic development fund or the City's Economic Development and Parking Fund."*

II.) *"The Petition unfairly allocates risks and costs to the residents of the City of Ketchikan."*

II-A.) *"The petition's failure to provide for payments in lieu of Gateway Service Area taxes forces service area residents to subsidize areawide services."*

This point has been addressed and is included in the updated Section ** of the Consolidation Charter.

II-B.) *"The petition deprives city residents of needed sales tax revenues."*

II-C.) *"The petition unfairly takes assets from the proposed Gateway Service Area and allocates them to areawide services."*

III.) *"The petition fails to consider the Borough's plans to annex additional land."*

IV.) *"The petition contains various other...errors..."*

A. *"Cap on Fees:"*

- The Commission's intent regarding "taxes and fees" was not intended to apply to K.P.U. fees. The Charter Petition can be modified to address this concern and resolve any conflict.

B.) *"Refunding of Revenue Bonds"*

- The Charter Petition can be modified to address this concern and resolve any conflict.

C.) *"Removal of the Water Division from KPU."*

- The Commission chose to keep the wording of this provision from the City's previous charter. The Commission will review this now that the City has changed its position on the matter. It is not the Commission's intent to make each division of KPU self-supporting; but it is the Commission's intent to increase the 'transparency' of fiscal matters. Each member of the public deserves to have as much information as they desire. The Charter Petition can be modified to address this concern and resolve any conflict.

D.) *"Names of Service Area and Municipality."*

- Significant time and debate went into the naming process. Few area residents approached the Commission with any suggested name changes.

E.) *"Solid Waste Collection and Disposal."*

F.) *"New Bond Issue."*

G.) *"Reporting of Emergency 911 Services."*

H.) *"Additional Corrections."*

The Charter Petition can be modified to address this concern and resolve any conflict.