

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO _____ I - 1 _____

MEETING OF August 6, 2004

ITEM TITLE Amend Article VI: Initiative,
Referendum and Recall (First Reading)
SUBMITTED BY Harriett Edwards, Borough Clerk
and Katy Suiter, City Clerk

SUMMARY STATEMENT

During a prior work session in which the City and Borough Clerks assisted the Commission in improving language in the Charter document, they indicated they would like to work together toward establishing a more comprehensive and instructive section in the Charter on Initiative, Referendum and Recall procedures.

Attached for review by the Commission is a copy of that compilation. The draft Article VI has been reviewed by the City & Borough Attorneys, as well as Dan Bockhorst of the Local Boundary Commission and represents a well-thought out and citizen-friendly section of Municipal law.

Ms. Edwards has also submitted a memorandum for inclusion with this agenda statement.

RECOMMENDED ACTION:

"I move to replace the existing Article VI: Initiative, Referendum and Recall with the amended version provided by the City and Borough Clerks."

ARTICLE VI INITIATIVE, REFERENDUM AND RECALL

Section 6.01 Initiative and referendum.

The powers of initiative and referendum concerning laws and resolutions of the municipality are reserved to the voters of the municipality. The powers of initiative and referendum shall not apply to administrative matters, matters unenforceable by law, or matters restricted by Article XI, Section 7, of the State constitution.

Section 6.02 Application for petition.

(a) An initiative or a referendum is proposed by filing an application with the Municipal Clerk containing the ordinance or resolution to be initiated or referred. Each application shall include only a single subject. The application shall contain the name and address of a contact person and an alternate to whom all correspondence relating to the petition may be sent. An application shall be signed by at least ten residents of the municipality at least 18 years of age who will sponsor the petition. An additional sponsor may be added at any time before the petition is filed by submitting the name of the sponsor to the Clerk. Within twenty days the Clerk shall certify the application if the Clerk finds that it is in proper form and complies with Charter Section 6.01 and this section.

(b) A decision by the Clerk on an application for petition is subject to judicial review.

Section 6.03 Contents of petition.

(a) Within two weeks after certification of an application for an initiative or a referendum petition, a petition shall be prepared by the Municipal Clerk. Each copy of the petition must contain:

- (1) a summary of the ordinance or resolution to be initiated referred;
- (2) the complete ordinance or resolution sought to be initiated or referred as submitted by the sponsors;
- (3) the date on which the petition is issued by the Clerk;
- (4) notice that signatures must be secured within ninety days after the date the petition is issued;
- (5) spaces for each signature, the printed name of each signer, the date each signature is affixed, the residence and mailing addresses of each signer; and an identifier consisting of date of birth, voter identification number or last four digits of the signer's social security number;
- (6) a statement, with space for the sponsor's sworn signature and date of signing, that the sponsor personally circulated the petition, that all signatures were affixed in the presence of the sponsor, and that the sponsor believes the signatures to be those of the persons whose names they purport to be; and

- (7) space for indicating the total number of signatures on the petition.
- (b) If a petition consists of more than one page, each page must contain the summary of the ordinance or resolution to be initiated or referred.
- (c) The Clerk shall notify the contact person and alternate in writing by certified mail when the petition is available. The contact person or alternate must notify sponsors. Copies of the petition shall be provided by the Clerk to each sponsor who appears in the Clerk's office and requests a petition, and the Clerk shall mail the petition to each sponsor who requests that the petition be mailed.

Section 6.04 Signature requirements

- (a) The signatures on an initiative or a referendum petition shall be secured within ninety days after the date of mailing of the notice under Section 6.03(c) that the petition is available. The statement provided under Section 6.03(a)(6) shall be signed and dated by the sponsor. Signatures shall be in ink or indelible pencil.
- (b) The Clerk shall determine the number of signatures required on a petition and inform the contact person and alternate in writing. Except as provided in (e) of this section, a petition shall be signed by a number of qualified voters equal to at least twenty percent of the votes cast at the last regular election held before the date written notice is given to the contact person and alternate that the petition is available.
- (c) Illegible signatures shall be rejected by the Clerk unless accompanied by a legible printed name. Signatures not accompanied by a legible residence address shall be rejected.
- (d) A petition signer may withdraw the signer's signature on written application to the Clerk before certification of the petition.
- (e) If the ordinance or resolution that is the subject of an initiative or a referendum petition affects only an area that is less than the entire area of the municipality, only qualified voters residing in the affected area may sign the petition. The petition shall be signed by a number of qualified voters equal to at least twenty percent of the votes cast in that area at the last regular election held before the date written notice is given to the contract person and alternate that the petition is available.

Section 6.05 Sufficiency of petition.

- (a) All copies of an initiative or a referendum petition shall be assembled and filed

as a single instrument, subject to (b) of this section. Within ten days after the date the petition is filed, the municipal Clerk shall

- (1) certify on the petition whether it is sufficient; and
 - (2) if the petition is insufficient, identify the insufficiency and notify the contact person and alternate by certified mail.
- (b) A petition that is insufficient may be supplemented with additional signatures obtained and filed before the eleventh day after the date of mailing of the notice of insufficiency and rejection of the petition.
- (c) A petition that is insufficient shall be rejected and filed as a public record unless it is supplemented under (b) of this section. Within ten days after a supplementary filing the Clerk shall recertify the petition. If it is still insufficient, the petition is rejected and filed as a public record.

Section 6.06 Protest.

If the municipal Clerk certifies that an initiative or a referendum petition is insufficient, a signer of the petition may file a protest with the mayor within seven days after the certification. The mayor shall present the protest at the next regular meeting of the Assembly. The Assembly shall hear and decide the protest.

Section 6.07 New petition.

Failure to secure sufficient signatures does not preclude the filing of a new initiative or referendum petition. However, an application for a new petition on substantially the same matter may not be filed sooner than six months after a petition is rejected as insufficient.

Section 6.08 Initiative election.

- (a) Unless substantially the same measure is adopted, when a petition seeks an initiative vote the Clerk shall submit the matter to the voters at the next regular or special election occurring no sooner than sixty days after certification of the petition. If no regular election occurs within seventy-five days after the certification of a petition, the Assembly may call a special election not sooner than sixty days after certification.
- (b) If the Assembly adopts substantially the same measure, the petition is void, and the matter initiated may not be placed before the voters.
- (c) The ordinance or resolution initiated shall be published in full in the notice of election, but may be summarized on the ballot to indicate clearly the proposal submitted. The ballot summary shall be stated in the affirmative so that a yes vote will always mean that the voter approves of the affirmative of the ballot summary; and a no vote disapproves the affirmative statement of the ballot summary.

(d) If a majority vote favors the ordinance or resolution, it becomes effective upon certification of the election, unless a different effective date is provided in the ordinance or resolution.

Section 6.09 Referendum election.

(a) Unless the ordinance or resolution is repealed, when a petition seeks a referendum vote, the Clerk shall submit the matter to the voters at the next regular or special election occurring no sooner than sixty days after certification of the petition. If no regular election is scheduled to occur within seventy-five days of certification of a petition, the Assembly may call a special election not sooner than sixty days after certification.

(b) The ordinance or resolution against which the petition is filed shall be suspended pending certification of the referendum vote if either: 1) a petition is certified before the effective date of the matter referred; or 2) the petition is certified after the effective date of the matter referred, but the Assembly does not place the issue before the voters at a regular or special election within seventy-five days of certification of a petition. During the period of suspension, the Assembly may not enact an ordinance or resolution substantially similar to the suspended measure.

(c) If the Assembly repeals the ordinance or resolution before the referendum election, the petition is void and the matter referred shall not be placed before the voters.

(d) If a majority vote favors the repeal of the matter referred, it is repealed. Otherwise, the matter referred remains in effect or, if it has been suspended, becomes effective on certification of the election.

Section 6.10 Effect.

(a) The Assembly may not, within two years after the effective date, repeal an ordinance or resolution which has been adopted in an initiative election or adopted after a petition that contains substantially the same measure has been filed, but may at any time pass by a two-thirds vote an ordinance or resolution amending it.

(b) If an ordinance or resolution is repealed in a referendum election or by the Assembly after a petition that contains substantially the same measure has been filed, substantially similar legislation may not be enacted by the Assembly for a period of two years.

(c) If an initiative or a referendum measure fails to receive voter approval, a new application for petition for substantially the same measure may not be filed sooner than six months after the election results are certified.

(d) If two or more initiated or referred ordinances which have conflicting provisions are enacted or approved at the same election, the one receiving the largest affirmative vote shall prevail.

Section 6.11 Further regulation by ordinance.

The Assembly, by ordinance, may further regulate the procedures for the initiative and referendum.

Section 6.12 Recall

All incumbents of elective offices of the municipality, including persons chosen to fill vacancies in such offices, shall be subject to recall from office by the qualified voters of the municipality. Procedures and grounds for recall shall be such as prescribed by law. The Assembly, by ordinance, may further regulate the recall insofar as such regulation is not in conflict with the State constitution or law.