

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO I - 4 (b)
MEETING OF August 6, 2004

ITEM TITLE Amend Exhibit F and all Draft Documents (First Reading) To be considered only if Item I-4 (a) is defeated) SUBMITTED BY Glen Thompson, Chair

SUMMARY STATEMENT

During the course of the deliberations of the Charter Commission, the subjects of the Public Works functions and assignment have been discussed many times. Borough Attorney, Scott Brandt-Erichsen, has sent numerous documents and had numerous discussions with the Commission regarding Public Works and the monies associated with the services provided and the corresponding tax rates, both areawide and for the Gateway Service Area. Several of his comments are shown starting on page 2 of this agenda item.

RECOMMENDED ACTION:

"I move to amend the Draft Petition as follows:

The proposed consolidated budget, tax rates to be established and all related references in the draft documents shall be revised to show a .25% decrease in the Gateway Service Area Public Works sales tax and a concurrent increase in the areawide general sales tax. This adjustment will have the effect of transferring approximately \$500,000 of revenue from the Gateway Service Area to the consolidated General Fund and increase overall sales taxes by approximately \$100,000 in order to fund Public Works maintenance and operations on assets that will be transferred from the former City of Ketchikan to the consolidated Municipality."

Excerpts from Scott Brandt-Erichsen's June 11, 2004 memorandum to the Charter Commission include:

1. Exhibit E-3, page 1-2, this portion has the same issues as noted in comments five, six and seven above. Additionally, the facility and vehicle maintenance reference seems inappropriate as a separately identified power. **(Note: This "power" was removed from the list during the 7/29-30 work session. The continuing discussion by Mr. Brandt-Erichsen is pertinent to this and the previous agenda item.)** The state statutes provide that a liberal construction shall be given to all powers and functions of a municipality conferred by Title 29, and that unless otherwise limited by law, a municipality has and may exercise all powers and functions necessary were fairly implied in or incident to the purpose of all powers and functions conferred by Title 29. See AS 29.35.400-410. Maintenance of public facilities or vehicles used in the exercise of some municipal or service area power will be, in nearly every case, incidental to the purpose or function of the underlying power. For example, having police powers necessarily includes the ability to maintain police vehicles.

Listing this item as a separate Gateway service area power complicates the picture for maintaining facilities and vehicles that are not part of the Gateway Service Area. While it may track with the method currently used by the City to organize its Public Works Department, it does not make sense to have facility and vehicle maintenance be only a service area power, not exercised areawide. It begs the question of what power is being exercised when repairs are made to the Museum or Civic Center buildings, or when vehicles are used by Assessment, Planning, Parks and Recreation, or in Garbage or Sludge operations and those vehicles are repaired. Facility and vehicle maintenance should not be a separate power, but should be administered in relation to each power in a coordinated and cost-effective manner.

While it is not clear, there appears to be a funding issue driving identification of this power in the prior consolidation petition. City Public Works services are funded largely from sales tax. You will notice that the description of existing powers and duties in exhibit J, page 3-5 recognizes the 1 1/2 percent Public Works sales tax as a funding source for the Library, Museum, Civic Center, Mental Health/Substance Abuse, Public Works Engineering, Public Works Streets and Roads, and municipal facility and vehicle maintenance. Although the entire one and one half percent Public Works sales tax is proposed to be retained by the Gateway Service Area, many of those functions funded by that sales tax are identified to no longer be funded by the Gateway Service Area. If some of the current funding for vehicle and facility maintenance and construction for these functions are transferred, then an appropriate portion of the associated sales taxes should transfer as well. Otherwise, the expense burden on areawide functions is increased without a corresponding transfer of revenues.

I do not know what level of sales tax would most accurately correspond to this shift, or in the event that Fire facilities, equipment and dispatch are treated as areawide as well, what level of Public Safety sales tax should become areawide, but I do know that failure to address these issues will result in an artificially higher tax burden on areas outside of the Gateway Service Area and lower tax burden on areas within the Gateway Service Area than is currently experienced.

2. Exhibit G, page 7, regarding the Gateway Service Area, the comments noted above in item 16 are relevant for determining what portion of the Public Works sales tax should be shifted areawide and how the vehicle and building maintenance "power" should be exercised.

3. Exhibit J, pages 3-5, several of the funds addressed on these pages note reliance on the 1 1/2 percent Public Works sales-tax. However, the petition, as noted above, does not

allocate that sales tax in proportion to allocation of the services funded by that sales-tax.

4. Exhibit J, page 18, as noted previously the Public Safety and Public Works sales-taxes may need to be apportioned based upon those services currently funded by those funding sources that are transferred to become areawide functions.

5. Exhibit J, page 28, the figures in the proposed taxation levels should be revised to reflect allocation of powers.