

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO | - 6

MEETING OF August 6, 2004

ITEM TITLE Amend Specific Items as Suggested by the Borough Attorney (First Reading) [Postponed 7/30/04] SUBMITTED BY Glen Thompson

SUMMARY STATEMENT

During the regular meeting of July 23, 2004, the Commission recessed into work session and held a lengthy discussion of a memorandum by Borough Attorney, Scott Brandt-Erichsen, with counter comments by City Attorney, Steve Schweppe. Both attorneys were present and it was decided to bring back the suggested changes in the form of a list for Commission review.

The attached document is a modification of the above-mentioned memorandum, with only those areas the Commission felt were necessary to change included. Any of the items can be removed from this blanket agenda item and be voted on by the Commission in a separate vote.

RECOMMENDED ACTION:

"I move to amend the Draft Consolidation Petition as indicated in each separate item of the attached modified memorandum."

1. On page three (of the Petition), I would recommend that in the listing of 'areawide powers required by statute,' the taxing powers should be re-worded to read, "Assessment and collection of taxes, including but not limited to property, sales and transient occupancy taxes." The future assembly may elect to impose excise taxes or other taxes as alternatives. The Charter section 10.04 gives all taxing powers allowed by law.

2. Exhibit F, page 3, there has been discussion of a port revenue bond for port improvements. It is unclear how much the inter-fund loan would be, or what the purpose of such a loan was. Also, the state revenue sharing and safe communities funding has been eliminated. Thus the reference to a 15% rate of reduction is now inaccurate.

3. Exhibit F, page 18, the Major Capital Improvements Fund is slated to go to the Gateway Service Area. As noted in comment 16 above, some of the facilities that these funds were being reserved for are facilities that are being transferred as part of the shift to areawide powers. Accordingly, some portion of this fund should also becoming areawide funds for future improvements to the Civic Center, Gateway Mental-Health facility, the Library, the Museum and the like. **(Note: In the revised Exhibit F, the funds revert to the Municipality, but are held for the Gateway Service Area. Chair Thompson has requested a listing of potential uses for this fund, and the section will be revisited should any of those projects be considered part of the Municipality after consolidation.)**

4. Charter section 12.04(b) addresses amendment of service area boundaries. I believe this section is too limiting. It would require approval of the voters for any change in service area boundaries. Thus, if only a single homeowner wants to join a service area, that action would require voter approval from the existing service area. Similarly, if the Assembly desires to remove a single parcel from a service area, that action would require approval of voters in the area which would remain. I would recommend a threshold that would moderate this requirement. An example may be seen from AS 29.35.450 that treats less than 1000 persons or 6% of the number of parcels in the service area as a de minimus amount below which a vote of the remainder of the service area is not required. The charter could also identify a de minimus level such as 10% of the assessed value.

SS: Care should be taken in allowing expansion of service areas without approval of voters in each area. While some de minimus alteration might be allowed, it should not be allowed to be repeated over and over so as to in effect add a large area over time without voter approval. This is particularly true in cases of service areas where large capital costs must be incurred by members of the service area. Outlying areas may well want to join the service area after those costs have been paid so that they can get the benefits of the improvements but not contribute to the cost.

5. This section, 16.05, addresses continuing effect of ordinances. If the intention is to limit building safety and police action to the Ketchikan Service Area, both in this

section and in the transition plan (Exhibit J page 23), a jurisdictional limitation upon application of the building safety ordinances and general criminal and traffic ordinances should be spelled out. Otherwise, the Building Safety Code, for example, would apply throughout the jurisdictional boundaries of the new municipality, but would only be enforced within the City Service Area. On the same topic, the procedure called for in the transition plan for resolving conflicting ordinances minimizes the role of the Assembly. I would be surprised to see the Assembly come up with and pass a well-drafted alternative within 30 days. Often it takes longer to have a thoughtful review and adoption. Additionally, I would recommend that the ordinance review process include the Clerk, as well as the Manager, Mayor and Attorney.

NOTE: At the June 18, 2004 Charter Commission meeting, the City and Borough Clerks both stated how important it is that the Clerk be included in the ordinance review process and desired that this information be passed along in the Transition Plan.

Exhibit J, page 23, the earlier comments regarding the procedure for selection between competing code provisions applies to this page as well.

6. Exhibit J, page 13, currently the Borough does not pay in proportion of the cost attributable to the number of residents located in Saxman. Saxman residents do not contribute to funding of the Library.