

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

August 6, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:02 p.m., Friday, August 6, 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

Ketchikan Gateway Borough Clerk, Harriett Edwards, was noted to be in the audience.

C: Public Comments

NONE

D. Informational Reports and/or Commission Presentations

THOMPSON said he'd put together a bunch of agenda items based on the last week's discussions. He said he and OTTE spent 3 hours on Saturday reviewing the document and making sure all exhibits were accounted for. An extension to the State grant funding was submitted, but the answer is expected to be negative. The Chamber will need to write the State a check for approximately \$2,900 to reimburse unused monies.

OTTE indicated the advertisements that will appear in the Local Paper and the Ketchikan Daily News announcing the Public Hearings. TBC will be doing the actual duplication of the copies of the Petition and Exhibit for dispersal. OTTE said she would be doing the dividers and actually putting the binders together over the weekend.

THOMPSON said he wanted the Commission to consider a monetary contribution to Sitnews for all their hard work. MCCARTY said that it would be difficult to make a donation, but they can certainly be reimbursed for their time and equipment use. That way public monies are not being given away. The Commission would be compensating an entity for services. MCCARTY said that phrasing the desire appropriately leaves it so that challenges wouldn't arise. THOMPSON said that since they are a non-profit they cannot charge for advertising, but there are expenses that are ongoing. PAINTER said that Tongass Business Center has donated a computer for the Commission's use, has advertised the meetings using half of their normal advertising space.

MCCARTY said that as a corollary to those would be two things to the newspaper: One would be some sort of summary article letting everyone know what's coming and where the Commission is, requesting that people let the Commission know (a Point of View); and secondly, a letter from all the Commissioners to the paper thanking the supporters of the effort, not only those mentioned above, but to those who participated in the process and attended the meetings. HARRINGTON said that it could be done in a combination ad by advertising the public hearings and at the same time, thanking those persons who have been good for the Commission. Outside of that, he would prefer that any monies left over be brought back to the Commission for any other spending or use of those funds. HARRINGTON said he did have some reticence about spending government monies. FINNEY said that finding someone to give any surplus money to sounds like the same stuff he's heard from the local governments, so he wouldn't be in favor of doing that. He said he didn't mean to imply that the folks at Sitnews are not greatly appreciated for their time and energy, but he wanted this Commission to start by setting a good fiscal example.

E. Consent Calendar

NONE. Meeting minutes from the 7/29 & 7/30/04 meetings will be presented for approval on 8/13/04.

F. Vouchers

M/S MCCARTY/HARRINGTON to approve a voucher in the amount of \$960.00.

A roll-call vote was taken

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

The vote on the motion was 6-0 with one abstention.

G-1 Work session

NONE

H: Unfinished/Old Business

H-1: After a discussion, this item was moved to the end of the agenda.

I: New Business

I-1 Amend Charter Article VI: Initiative, Referendum and Recall

M/S MCCARTY/HARRINGTON to replace Article VI: Initiative, Referendum and Recall with the amended version provided by the City and Borough Clerks.

Ms. Edwards joined the discussion at the podium on this agenda item. She inquired as to whether the Commission had any questions about the replacement Article.

OTTE questioned 6.03 (1) as to the wording. Ms. Edwards indicated the word "or" should be included in the statement.

Ms. Edwards said that she and Ms. Suiter started with the Alaska Statutes' procedures for Initiative and Referendum for general law municipalities. She said they then looked at the sections they didn't like, for instance, the timing for the election. They did some changes to the State Statutes and then submitted those changes to Steve Schweppe for his review, then to Scott Brandt-Erichsen for his review and finally to Dan Bockhorst at the LBC. Each one of these gentlemen contributed their comments and suggestions and they were included in the amended version.

Ms. Edwards said that on Initiative and Referendums, the signature requirements. There was a choice between requiring 15%, 20% or 25% of the number of votes cast at the last regular election. She said that they decided to

do a compromise and picked 20%. She said she didn't know if anyone on the Commission had any strong feelings about that. The 25% is the maximum number of signatures that can be required for initiative or referendum. MCCARTY asked whether she had the number of voters that voted in the last regular election to give some idea of the number that might be needed to get an initiative or referendum going. Ms. Edwards said that in a normal, regular election there are around 3200 voters, so using 20% of that number, it would require between 600 – 700 signatures for the Initiative and Referendum process.

Ms. Edwards said that the 15% requirement came where there is a population of less than 7500. In State Statutes of these procedures if the service area or municipality has a population of less than 7500, the percentage would be 15%. Over 7500 would require at least 20%. HARRINGTON said that knowing his penchant for allowing the most number of citizens to speak on an issue, he said he'd probably be one to push for a 15%. He wanted to know if that adversely affected her office. In answer to that statement, Ms. Edwards stated that none of these differences adversely affected her job because it is part of her job. She said that she thought 15% was too low for a municipality of Ketchikan's size.

OTTE wanted to know about 6.06, Protests, why would the mayor be the one to whom protest documentation would be filed with. She said that it was her understanding that the home-rule form of government being adopted in this consolidation was a strong Assembly form and wanted to know if it was because the mayor was the titular head of the government and he would be required to pass the protest on to the Assembly. Ms. Edwards said that was the case. Since the Clerk is the one who does or does not certify the petition, the protests would not be appropriate going to the Clerk's office. So, the Mayor would get the protest and the Mayor is charged with bringing the protest to the Assembly at their next regular meeting. The Assembly would then hear and decide the protest, but all they would be deciding on is whether a signature should be counted or not; not the merits of the petition itself.

The procedures were described as follows:

If someone comes in with an application for a petition, they file it with the Clerk's office. The Clerk then reviews the application to make certain that it complies with the State law (with assistance from the Attorney) and at that point, the Clerk decides whether the application for an initiative petition meets the law. If the Clerk doesn't, section 6.02 covers denial of the petition and that decision is subject to judicial review. The next step after finding the application sufficient is to actually do the petition books and give them to the people

supporting the petition. The individuals or groups then have 90 days to collect the required number of signatures. They (the individual or group) then file the petition books back with the Clerk, where the signatures are validated by counting the signatures and verifying that they are all actually registered voters. After this step, if the Clerk indicates there aren't enough signatures, that's when the individual or group would take a protest to the Assembly after the Clerk gave the reasons for not counting certain signatures.

She said she had briefly spoken with the Borough Attorney. The idea would be, as far as that, to detail out the procedures for that through an ordinance rather than listing all the little picayune things that the individual or group would have to do and any timeframes. HARRINGTON wanted to know if someone protests the Clerk's decision to the Assembly, is the Assembly's decision available for judicial review. Ms. Edwards thought that would be the case.

THOMPSON questioned if he got the correct number of signatures in 30 days, rather than the 90 days allowed, and the Clerk rejected half of them, would he still have the 60 days to get the necessary signatures. She said that in Section 6.05 it says that should a petition be found insufficient, the individual or group would have an additional 10 days to collect the correct number of signatures, not the full 60 remaining of the 90.

PAINTER wanted to know if the signer's identifier had been changed from what it is currently to just the last 4 digits of the signer's Social Security number. She said she'd added that in. PAINTER said that currently it was the voter ID number or the full SSN. Ms. Edwards said that the Division of Elections has gone to using just the last 4 digits of the SSN. State law does not require an identifier, however, with the Clerks getting electronic voter lists from the State and it's very easy to check a signer's status by requiring the identifier information.

OTTE questioned Section 6.10 (a) where it says that in order for the Assembly to change within 2 years anything adopted by the process, they can only amend it by a 2/3 vote. She said she liked that idea. The people have spoken and to keep a reign on the Assembly by requiring the super majority vote to make any changes to anything passed through an initiative process. Ms. Edwards said that State law says 2 years. When the suggested wording was reviewed by Mr. Schweppe, he brought up that in the City charter there is a provision for the Assembly to amend something within that 2-year period of time that called for a vote of 5. She said she'd just put in 2/3 in case the make-up of the Assembly is changed in the future.

Ms. Edwards went on to say that sometimes initiatives especially are not as well thought-out as they should be. They are poorly written and the effect is

something other than what those persons who supported the initiative is not what they had in mind. This allows a remedy that situation. Having a super majority would help to pass those type of amendments. MCCARTY gave some information on what would constitute a repeal rather than an amendment.

THOMPSON asked when determining the number of signatures necessary on a Petition, it states that the number needed will be 20% of the votes cast in the last regular election. If there were a referendum for a North Tongass issue, would the total signatures needed be just for the North Tongass area, rather than for the whole municipality. In 6.04(e) that issue is addressed where it would be 20% of the number of persons voting in the last general election in the area being voted on.

Ms. Edwards pointed out that the sponsors (the people that initially file the application for the petition and circulate that petition) of a petition do not have to be registered voters. It wasn't always like this, but there was a law that the US Supreme Court just addressed that particular issue and the initiative procedures. The application must be signed by at least 10 residents of the Municipality at least 18 years of age. The people who sign the petition must be registered voters, but not the sponsors. Residency is determined by 30-days residence within the Borough.

KIFFER questioned 6.09(b) where it discusses when a referendum petition is suspended for cause and the next meeting the Assembly comes up with an ordinance that will defeat whatever the petition was designed to do. KIFFER wanted to know who determines whether the Assembly's legislation is too similar to the petition language to keep the Assembly's action from occurring while the petition is on suspension. Ms. Edwards and MCCARTY said the Municipal Attorney and then a person would have the fallback of a judicial review. The petitioner's would also have a say in whether the proposed legislation by the Assembly was similar. KIFFER wanted to know if there was a maximum length to the suspension. There is a certain time limit on when a ruling needs to be made on initiative and referendum petitions. The Clerk has 20 days to make a ruling. It's like a veto and if the veto isn't over-written, it stays in place. If the Assembly does not call for an election, the ordinance that has to do with the referendum is suspended until there is an election.

Ms. Edwards said that State law states that if there is a petition for an initiative or referendum and the signatures are gathered and the petition is ruled sufficient, the petition is then certified. The next step is a mandatory election, whether at a regular election within 75 days or a special election no sooner than 45 days or later than 75 days on the certified petition. This process allows the Assembly the latitude whether to call a special election or not. The section

suspending action on something where there is a referendum to stop, there is the latitude to wait until the next regular election. Special elections cost about \$10,000 each.

HARRINGTON wanted to know if the imposition of the sludge fee would be suspended after a referendum petition was certified. The answer was yes. Ms. Edwards said that if the Assembly chooses not to call a special election within 75 days of the certification, then the ordinance would be suspended (after the 75 days).

The Commission thanked Ms. Edwards, as well as Ms. Suiter, Mr. Brandt-Erichsen and Mr. Schweppe for their efforts on behalf of the Commission. He said this really goes to the heart of what the representative society is about. Ms. Edwards said that it was an educational process for she and Ms. Suiter and they really enjoyed it and they appreciated the opportunity to be able to work on this.

A roll-call vote was taken on the motion to replace Article VI in its entirety with the amended version.

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

The motion passed with a 7-0 vote.

OTTE questioned whether this change in the Charter could be included in the Petition documents to be presented for public review on Monday without a second reading. There was a motion and second to allow this to occur. MCCARTY said that the Commission is not like the formal legislative bodies that require second readings. THOMPSON pointed out that there is an informal rule adopted by the body to have the second reading on these issues. MCCARTY said there aren't any subjects that haven't been discussed a number of times previously, maybe not exact language, and this is not such a substantial change as to require a vote of the body to not bring the item back for a second reading. THOMPSON said that the body should vote on it because it does go against prior actions by the body.

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

The motion to allow final passage of Item I-1 was 7-0.

I-2 Amend Charter Article X: Finance, Section 10.05 (b)

M/S PAINTER/KIFFER to amend Article X: Finance, Section 10.05 (b) to add the statement after the second sentence, 'Any proposed fee that is based upon or applicable to the physical location of a business or residence shall be considered a use tax for purposes of this section'; and to change the remainder of the Section to read, 'The Assembly may, by ordinance, but without ratification of the voters, decrease any sales or use tax or change administrative procedures or fees'.

PAINTER said that regarding sales tax, it has to be ratified by the voters. If the wording is taken out regarding sales tax, he said he'd support the motion.

THOMPSON said that in the original Section 10.05 (b), the Assembly could, without ratification of the voters, increase the transient occupancy taxes, create or terminate exemptions to the sales tax, change administrative procedures or fees and increase the rate of levy of sales or use taxes on specifically designated goods or services. THOMPSON said that he did not want that sentence in the Charter.

PAINTER said that the wording saying to increase the rate of levy of sales or use taxes totally disagrees with what Mr. Brandt-Erichsen said about ANY increase of sales taxes must go to a vote.

KIFFER said he could understand where THOMPSON was coming from but tacking the use tax or change administrative procedures or fees; Mr. Brandt-Erichsen had something to say about the use tax. THOMPSON said that SBE didn't like comparing a fee to a use tax. MCCARTY said there's a transaction and some good or service is changing hands and it is taxed. If it is taxed because the sale occurs in town here, then it is a sales tax. If it is purchased in Seattle and it is decided that is going to be taxed, it's a use tax. Same thing, but it's where the sale occurs.

THOMPSON suggested an amendment to say, "Any proposed "fee" that is based upon or applicable to the physical location of a business or residence shall be subject to this section. He said he'd also like to change it to say "any involuntary proposed fee that is based upon...." He said that if he chooses to rent a stall in the harbor, that's a voluntary fee. What he's talking about are the mandatory areawide fees, which are a tax by any other name, which the voters should have a say in.

HARRINGTON said that the discussion should back up a second and not try to

massage the language. He said the Commission needs to make it clear what is intended. He said as he understands it, what is intended is to make sure any mandatory fee is approved by the voters. And that is only the mandatory fees. Any voluntary fees are subject to the whim of the Assembly. He said he could support that. He said that he couldn't support the current proposed language.

THOMPSON said he'd written the amendment that way because of how the "fee" could be defined. He said this was a first attempt. MCCARTY said that if it's called a fee, in municipal law language, fee has a different meaning closer to what THOMPSON is talking about. When sales or use tax is referred to, there is a problem in that there is a whole body of law in which it means something else. Then it gets into the issue of what is involuntary or voluntary. Further discussion was held on the issue.

HARRINGTON said that he thought the Commission was trying to solve a problem that exists but by response to bad legislation by new legislation is almost always poor legislation. He said he hesitated to go there, but because it is a response to the sludge fee, he said he'd rather suggest a referendum process to terminate the thing. THOMPSON said that any ordinance could be changed by referendum. MCCARTY disagreed. He said there are some limitations. HARRINGTON said he doubted that there could be a referendum to stop the mill establishment. THOMPSON asked Ms. Edwards if a petition were brought to her to repeal the sludge fee ordinance, would that be something that could be done with the way the Initiative/Referendum section is written.

Ms. Edwards said that would be an administrative fee or item. The sludge fee is nonareawide. Ms. Edwards said that the powers of initiative and referendum would not apply to administrative matters. She said she would consider that an administrative matter. The way she read it she said she took it to mean that every time fees for water fee or sewer fee there had to be a vote on it. THOMPSON said taken to a ridiculous level, yes. Any time the government wants to put its hand in his pocket, and spend his money, he'd like to have a say in it and there is a say to a certain extent with a representative Assembly, but he said he didn't always agree with what they are saying. He then said to Ms. Edwards that what he understood her to say was that would be an administrative thing and not something that would be subject to a referendum. Ms. Edwards said, yes, and to take as a for instance a person's sewer system. There needs to be a certain amount of money to make the thing function. There are certain permits to be obtained. The users of that sewer system are charged a fee in order to cover the costs. And if the procedure starts to put it out to a vote every time the costs of materials in the plant goes up, the system cannot be run at a deficit, and the administration would need to react to the

price increase in a fairly efficient manner and fairly quickly. She said she couldn't conceive of having to take something like that to a vote because it's more of an administrative matter. If the borough has areawide sewer powers, then they are charged with running a sewer system and they have to run that system efficiently and effectively.

MCCARTY said there are certain decisions, certain types of financial decisions where a certain point is reached and the administration has to be able to run the operation and the Commission seems to be getting too far into that micro-managing. If there is going to be direct democracy, those things can be done (Who is John Galt?) but at some point when representatives are being selected, it's to the bigger issues. At some point when looking at the fees, a person can say this is a tax, it was called a fee, but it is really a tax.

KIFFER said that the Municipality needs some leeway in exemptions for sales tax. To get THOMPSON where he wants to just take out the increase in occupancy taxes and then take out the change administrative procedures and fees which they are going to do anyhow, and take out the increase in rate in the rest of that sentence. THOMPSON said he'd like to strike the whole thing.

PAINTER discussed the last sales tax increase vote and his feelings on tweaking the sales tax code. The wording that's in the Charter is there to allow some of this tweaking that is necessary.

HARRINGTON said he moved to amend Section 10.05 (b) by leaving all of the existing language in the section except terminate the section after change administrative procedures or fees and delete "and increase the rate of levy of sales or use taxes on specifically designated goods or services." THOMPSON seconded the amendment.

HARRINGTON said if it were his preference, he'd like to stop the rise in the transient occupancy tax. He said he hated them, however, he said he didn't want to stop the Municipality's ability to change that. He said he didn't want to stop the Assembly from creating or terminating exemptions. He said the Assembly has to be able to change administrative procedures and fees. The only thing that truly offends him, he said, was that they have the ability to increase the rate of sales taxes without a vote of the people so long as they did it on specific goods and that's what that says. PAINTER said he disagreed and explained his position.

MCCARTY said the word levy meant the cap, how high it could go. The levy is what is set every year. A cap is how high the levy can go. They are two different things. PAINTER pointed out that sales tax is already capped by the State of Ketchikan Charter Commission Minutes

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Alaska. MCCARTY said to him a cap is the lid and the levy is what is done each year on property taxes. On sales taxes would probably be the same thing. THOMPSON said when a property tax is levied, the mill rate is levied against the assessed value. So, the rate of levy of the sales tax is what rate is going to be charged. HARRINGTON said that what that section is aimed at is tobacco and liquor. By this section, the Assembly can set the tax on these specific items by ordinance. He said he wanted that eliminated.

MCCARTY said that these issues pop up every time and a decision needs to be made as to what is wanted in the Charter. The question is which is preferred: it cannot be done without a vote; or the legislative body acts and if it isn't liked, they can be vetoed by a referendum. Those are the choices in this section. At some point care should be taken to make certain that the Commission isn't going too deeply into the issue. HARRINGTON has narrowed it down as to which part of the section is causing the most heartburn. Is the Commission saying there will be no taxes, with limited exceptions, except when they are voted in by the people, or is the Commission saying the Assembly has a lot of discretion, but if there are enough questions in the community, there is the referendum veto option.

PAINTER asked that by adopting the amended section, would the Assembly have the option of changing the single-item sales tax. Ms. Edwards responded that yes, they would through the exemption process, which is how it's done now. Right now any sales above \$1000 are exempted from sales tax on a single-item sale. All the Assembly would have to do is adopt an ordinance to amend that exemption to a different number. PAINTER then asked if the Assembly could also cease the out of area sales exemption to what is known as a point of sale. Ms. Edwards again said, yes there could be wording in the code that would address that.

FINNEY reiterated what has been discussed to get the issue cleared.

A roll-call vote on the amendment to abandon the original motion and go to the original section and delete the language after administrative procedures or fees in the last sentence was taken.

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

The amendment passed by a vote of 5-2. Since the original motion was negated by the amendment, the item is complete.

A break was taken from 7:10 to 7:18.

FINNEY asked that if it was desired by the Assembly to raise the sludge fee, they could do it. The citizens cannot change that particular item by referendum because it is an administrative matter and the only thing that could be done is to “vote the bums out of office.” MCCARTY said it could be challenged via the judicial system if all else failed. The courts typically give deference to legislative actions that they have power to do what they’re doing unless it’s outrageous. There is always redress with the court system.

I-3(a)Amend Charter Article X: Finance, Section 10.07

M/S PAINTER/FINNEY to replace Article X: Finance, Section 10.07 with the following:

No increase in the rate of levy of a property tax applied on an areawide, nonareawide, or service area basis shall become effective except by an ordinance adopted by the Assembly and ratified by a majority of the qualified voters who vote on the ordinance at a general or special election. If the increase in the rate of levy of a property tax is limited to a service area or in nonareawide, the vote is limited to those qualified to vote in the area. The Assembly may by ordinance, and without ratification by the voters, decrease the rate of levy on any property tax.

THOMPSON said this was an attempt to capture FINNEY’s intent from the last week’s meeting. He said that every time there is a cap established, the rate always gets to that point. THOMPSON said that it should be taken to the voters if the property tax rate needs to be increased. He said he’d substantially just copied the sales tax section. For all intents and purposes, what this says is that if the Assembly wants to raise the property tax mill rate, it has to go to the voters. This was the sense he’d gotten from the last week’s discussion.

MCCARTY said he had three parts: First, philosophically he opposes caps; there should be lobbying at the table and see how the vote comes out; secondly, he said the way he reads this change it would appear that this is saying that whatever the tax is going to be that year, it must be taken to a vote, as opposed to saying whatever is set cannot exceed a certain amount. He said it looks like every year there would be a vote on what the property tax would be; and thirdly, and this MCCARTY said he had more of a problem, he said if this is desired to be enacted, the Commission should look at the mechanics and be wary of what the result will be because unlike a sales tax when it can be done any time during the year, there are statutory mandates and extraneous powers

that are affected here. The budget must be adopted by the 15th of June by State Statute. The legislature is not out of session much before then and that has a major effect on the local budget. There is enough trouble right now setting a school district budget that is a big portion of the local budget and mill levy use. If there were to be an election, it would have to take place before the end of June if it is desired to go over the cap. It would take almost a week to certify the election and to set up the election and all the processes entailed is at least a 60-day process. If there is a crunch, the election process will have to be started which may or may not be needed, sometime in April at the latest. To be safe, if there is any hint of a budget crisis, the process should be started, even though it might not be needed.

MCCARTY went on to say that's the sort of problem that may be mechanically needed. The Commission may feel it's worth it, but that should be kept in mind in the choice that's made.

OTTE said that in reading Mr. Brandt-Erichsen's response to this item, there is no way other than a vote to respond to demands for service or changes in the public funding. Any strict limits on property taxes make the accurate division of existing sales taxes at the time of the Petition even more critical because the new Assembly would have limited tools to correct any errors or inaccurate estimates. She said she didn't think this was a good idea. As MCCARTY pointed out, a yearly panic in March to decide if there is an election needed is not appropriate. That's not any way to run a business or a government. The time waste alone is not worth it.

PAINTER said that the only thing he'd like to add in this scenario of probable annual \$10,000 cost of an election no later than the month of April, the month of April is a bad time to mention any taxes.

FINNEY wanted to know how else could the property tax raises be controlled. Several mentioned vote the good ones in and the bad ones out. FINNEY said therein is the problem; you think you've got the good ones in there and they raise your taxes and fool you. How are those taxes going to get lowered? He said he hadn't seen any good ones come in there and lower the taxes. Several Commissioners pointed out that taxes were lowered a few years ago. They dropped two mills several years ago. FINNEY said his concern is what is the option out there. Just let the Assembly run rampant the way it is? He continued that the concerns that MCCARTY and OTTE expressed about 11th hour needs for the budget, he said he struggled with what that would be.

(CLERK'S NOTE: In the interest in completing these minutes in a timely

manner for inclusion in the 8/13/04 agenda packet, the minutes will be abbreviated from this point on and be formatted similar to prior work session minutes. If further information is desired as to specifics of the discussion items, video of the meeting is available for duplication upon request.)

M/S HARRINGTON/THOMPSON to replace the suggested amendment to Section 10.07 to read, "The areawide property tax levy shall not exceed nine-tenths (.9%) percent (9 mill) of the assessed valuation of the property to be taxed."

A roll-call vote was taken on the amendment.

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

I-3(b)Amend Charter Article X: Finance, Section 10.07 (Note: Should I-3(a) above pass, this item will not be considered.)

NOT CONSIDERED

I-4(a)Amend Exhibit F Narrative

M/S PAINTER/MCCARTY to add the following to the end of the Exhibit F narrative:

Under the proposed budget scenario, the entire 1.5% Public Works sales tax and Public Safety sales tax are accounted for within the newly created Gateway Service area. Some of the Public Works functions, such as maintaining the Library and Museum, etc. have been transferred to the General Fund Public Works Department. It is noted that the cost has been transferred without a corresponding allocation in the Public Works Sales Tax.

THOMPSON had added this explanation to the motion on his agenda statement: This was done for two reasons. First, in accordance with the proposed charter, service area taxes must be utilized solely within a service area. Second, the consolidated General Fund had a modest surplus and didn't appear to require additional revenue. It is interesting to note that changing only .25% of this Public Works sales tax from a service area tax to an areawide tax would provide the consolidated General Fund with approximately \$600,000 in revenue while only increasing overall taxes by approximately \$100,000 (the Ketchikan Charter Commission Minutes

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other \$500,000 would shift from the Gateway Service area to area-wide). This appeared to be the type of minor adjustment best left to the new consolidated assembly and voters three years hence.

It is noted that this is not part of the Charter, but part of the budget narrative.

HARRINGTON pointed out that this 1.5% Public Works tax is essentially for capital improvements and similar kinds of infrastructure. Right now the City has approximately \$8m revenues in their coffers. At the same time the Petition is proposing that the Library goes areawide and one of the things upcoming is construction of a new Library; the museum is also slated to go areawide and the Museum is saying that they need to remodel the existing building substantially to establish a new museum. These are two of the most capital-intensive items are in areas that are currently in the City that are going to go areawide. HARRINGTON continued that it makes sense to him since that the planning has been going in that direction, that the Commission take a full .5% and move that percentage of the tax areawide. It changes the tax structure in sales tax from a 3.5% Municipality/2.5% Gateway Service Area to a 4% Municipality/2% Gateway Service Area. The taxes remain the same, however, they are distributed differently. It then tracks and follows the powers being transferred. The question then remains as to whether this impacts the Gateway Service Area negatively and it may. The City/Gateway Service Area has enough cash on hand to cover most eventualities and as such, the only downside seen, are the rural residents seeing a _% increase in sales tax. That is palatable given that they are already paying it within the City now.

Further discussion was held on this suggestion. It was noted that this action would take the Gateway Service Area's budget from a surplus condition to a deficit condition.

An explanation as to the difference between this item, I-4(a), and the following item, I-4(b) was requested. THOMPSON explained that (a) just suggests that a comment be made in the narrative that there are some maintenance items related to the powers that are leaving the current City and going areawide and needs to be addressed. If .25% of the sales tax from being a Gateway Service Area sales tax to an areawide tax, it has the effect of shifting \$600,000 to the Municipality. (b) Says that action is going to take place. It was noted that Mr. Brandt-Erichsen was in favor of I-4(b), not (a).

Discussion continued on the items and the change in the percentage of taxes being shifted to areawide. It was also explained that a separate vote of the people would not be needed at the time of the consolidation vote to change any of the tax percentages. When the consolidation vote takes place, all the Petition

tax structure would be approved or not approved by that election. It was mentioned that the numbers may change prior to the Petition ever getting to a vote, and the numbers might change, but this idea of shifting the taxation with the shifting of powers is a good idea.

It was suggested that I-4(b) be considered before (a) to determine the Commission's feelings on the shift in taxes. If (b) passes, then (a) could be changed and added to the Petition document as an explanatory paragraph.

There was no objection voiced to considering the items in reverse order. HARRINGTON said he'd remove his suggestion of .5% and revert the issue to the originally suggested .25%.

I-4(b) Amend Exhibit F Narrative (Note: This item will only be considered should I-4(a) above not be adopted.) [Further note: this item was considered prior to I-4(a).]

M/S PAINTER/MCCARTY 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.

A roll-call vote was taken on this amendment to the Petition documents.

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

The amendment to the Petition passed by a 5-2 vote.

A short break was taken from 8:10 to 8:18 in order to draft amended verbiage to accompany item I-4(a).

Item I-4(a) was amended by a series of amendments to be added to the narrative. A roll-call vote was taken on I-4(a) as amended by the Commission.

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

The motion was approved by a vote of 7-0.

I-5 Consideration of consolidating the Public Works Department

M/S PAINTER/MCCARTY 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 reflect a consolidated Public Works Department. The PW engineering, garage and buildings functions currently described as part of the Gateway Service Area shall be allocated to the general fund and combined with the public works function of the consolidated General Fund. This will reallocate approximately \$1.5 million per year in operating cost and \$180,000 per year in capital cost from the Gateway Service Area to the consolidated general Fund. To fund this reallocation, the Gateway Service Area Public Works Sales Tax shall be decreased by .75% and a concurrent increase in the areawide general sales tax will be adopted.

THOMPSON spoke to the motion in that this item follows one of the Commission's discussions last week to have a consolidated Public Works Department and only those functions that are related specifically to the Gateway Service Area would remain within the service area. The building maintenance, the garage, and the Engineering functions need to be on a broader basis, so those costs are taken to the Municipality and take the revenues with them.

A discussion followed on the merits of consolidating the Borough & City Public Works Departments. It was noted that Public Works is not a power, but a support division for the administration. There are three line items within the City's budget for garage, engineering and building maintenance within the Public Works budget. There are also solid waste, wastewater treatment and others that are specific to the service area. The first three were rather nebulous and have the service area charge back to the managing municipality for services from those three departments rather than having those functions within the general government and allocating costs to the service area. Further detailed discussion took place regarding the mechanics of a move of the duties and monies.

Cost savings could be realized if the nebulous three areas of the current City's

Public Works Department, the garage, the building maintenance and the engineering, were transferred to the general government and the costs could be allocated out for use of these services.

MCCARTY said it was more of a Transition Plan item. PAINTER concurred.

M/S MCCARTY/ to substitute 'include in the Transition Plan J-1' for the original wording 'to amend the Draft Petition'.

A roll-call vote was taken on the amendment.

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

The amendment passed with a vote of 5-2.

The decision now has been made as to where the suggested language will be included. The next vote will be on what it is going to say. The wording needs to be with the changes to the language in the section from 'shall' to 'should', 'will to would', a more suggestive tense rather than it will occur.

A roll-call vote was taken on the main motion as amended.

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

The motion passed with a vote of 5-2.

I-6 Amend Areas of the Petition and Charter as suggested by Borough Attorney, Scott Brandt-Erichsen and/or City Attorney, Steve Schweppe (Postponed on 7/30/04)

M/S HARRINGTON/FINNEY to amend the Draft Consolidation Petition as indicated in each separate item of the attached modified memorandum.

OTTE pointed out that the items included in this agenda statement were the items still pending that Borough Attorney, Scott Brandt-Erichsen, submitted to the Commission in late June.

She went on to say that in #1, SBE recommends the taxing powers under areawide powers required by statute to say 'Assessment and collection of taxes, including, but not limited to, property, sales and transient occupancy taxes.'

THOMPSON suggested that the body go into work session for a few minutes to go through this item and then vote appropriately when the regular session resumes.

M/S MCCARTY/PAINTER to go into work session.
A unanimous voice vote was taken.

Note: Work sessions are informal discussion sessions held for purpose of exchanging and gathering information. No action may be taken, formal rules of order are relaxed, and minutes are not required to be kept.

OTTE then talked about #2 in the memo regarding port revenue bond for port improvements. The concerns raised were already dealt with.

#3 in the agenda item were about the Major Capital Improvements Fund. In the revised Exhibit F, the funds revert to the Municipality, but are held for the Gateway Service Area. Chair Thompson had requested a listing of potential uses for this fund and Mr. Newell indicated there were no specific capital projects in it. THOMPSON said this was a moot point because the service area will probably use the funds for something that will benefit the entire community. No further action is needed.

#4 addresses Section 12.04(b) in the Charter dealing with amendment of the service area boundaries. SBE says it's too limiting however Steve Schweppe thinks care should be taken in allowing expansion of service areas without approval of the voters in each area. OTTE said her opinion would be to leave the wording in the Charter the way it is. The body concurred.

#5 Addresses the continuing effect of ordinances found in Section 16.05 of the Charter. The Building Code Enforcement issue was discussed at length with the attorneys at the prior meeting.

SBE also addressed the procedure called for in the Transition Plan for resolving conflicting ordinances and he suggested it would be appropriate for the Clerk, as well as the Mayor and Attorney to be included in the ordinance review process. The body decided not to address either of these remarks.

On page 23 of Exhibit J under Municipal Ordinances also addresses who would be part of the review process. OTTE pointed out that the Clerk was not specifically included and the body agreed that would be appropriate.

#6. SBE addressed the fact that in the past Saxman residents have not been

paying a portion of the library tax, but they will be in the new Municipality, so this item is also moot.

HARRINGTON requested that on Page 3 of the Petition document, the listed taxes be adjusted to what is going to be levied, rather than what is currently being levied. OTTE and THOMPSON indicated that they had talked about this change and they would adjust the document accordingly.

M/S OTTE/PAINTER to reconvene into regular session.
The motion to reconvene passed with a unanimous voice vote.

FINNEY expressed concerns about the Public Works tax changes and a discussion ensued. The explanation sufficed.

There is a motion on the table regarding agenda item I-6, on the #1 suggestion of Mr. Brandt-Erichsen to change the wording on page 3 of the Petition concerning taxing powers under mandatory areawide powers to read: Assessment and collection of taxes, including, but not limited to, property, sales and transient occupancy taxes and to include the Clerk position in the sections dealing with the review of Municipal Ordinances.

A roll-call vote was taken on the amendment.

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

The motion passed 7-0.

H-1 Approve Exhibit F (Budget) and Acceptance of the Proposed Budget

M/S MCCARTY/PAINTER to approve Exhibit F (Budget) and accept the proposed budget in the second reading.

M/S HARRINGTON/FINNEY to put forward a friendly amendment to empower the Chair to make the necessary adjustments in the figures based on the actions at this night's meeting. The amendment will carry the main motion.

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

The motion with the amendment passed 7-0.

HARRINGTON reminded the Chair and Secretary to make the adjustments in the Charter and all the Petition documents in reference to the .25% tax shift.

J: Commission Comments

MCCARTY reminded everyone that the meeting attendance the week following the 8/13 meeting and Public Hearing will be discussed at the 8/13 meeting.

The meeting calendar was briefly discussed.

The Charter Commission meetings will start at 6 and the Public Hearings are advertised from 7-9 pm. HARRINGTON asked that the Commission reconvene after the public hearing to discuss any of the points raised by the public. He also said that there should be a list of where the bound petition documents are distributed so that updates can be sent out as things change through the process. OTTE indicated that would be taken care of.

PAINTER said the document is finalized for distribution and the Commission has done their diligence.

HARRINGTON said he wanted to add water powers to that list of things that are areawide.

The meeting was adjourned at approximately 9:15 p.m.