

KETCHIKAN CHARTER COMMISSION

AGENDA STATEMENT

NO _____ H-4 _____

MEETING OF **September 3, 2004**

ITEM TITLE Amend Sections 2.01(d), Terms of Assembly Members & Mayor Elected at First Election; 2.10(a)(2)(c), Other Public Offices, Employment or Contract; Section 3.03, Ordinances – Emergency; Conform Sections 4.01, Municipal Manager: Appointment, Ter

m, Qualifications, Removal with Section 2.10(a)(1), Other Public Offices, Employment, or Contracts; Section 6.02(a), Application for Petition and 6.03(6), Contents of Petition; Section 9.05(d), Budget and 6-Year Plan; Section 12.02(c) Mandatory Areawide P

owers; and Section 12.03, Services Provided by Service Area. (Second Reading) SUBMITTED BY Debby Otte

SUMMARY STATEMENT

At their August 28, 2004 meeting the Commission considered changes to the Draft Charter suggested by City Attorney Steve Schweppe in an August 20, 2004 memorandum. The items were the technical issues he had written about. Each item, listed separately with recommended motions, was discussed and all but one was approved under the umbrella of one agenda statement. These items are brought back for a second review and passage.

Item 1:

Section 2.01(d). Terms of Assembly members and Mayor Elected at First Election. This section provides that the first term for Assembly members does not include the period between the first election and the first Tuesday of October following that first election. It does not similarly exclude that time for the first mayor.

Recommended Motion:

"In order to get the mayor's term on the same October-to-October cycle, I move to change the fifth sentence of Section 2.01(d) to read: 'For purposes of computing the length of the first term for ~~[Assembly members]~~ persons elected at the first election, the period between that first election and the first Tuesday of October immediately following that first election will not be considered'."

Item 2:

Section 2.10(a)(2)(c), Other Public Offices. Employment or Contract. This section provides that elected municipal officials may enter into contracts provided that the goods or services contracted for are sold at an amount to be set by ordinance. After this section was written, the draft Charter was changed to allow KPU Telecommunications to set some rates by regulation, not by ordinance. (c) should be changed to reflect this fact.

Recommended Motion:

"I move to change Section 2.10(a)(2)(c) to read: The goods or services contracted for, purchased, exchanged or sold at an amount to be set by ordinance or regulation."

Item 3:

Section 3.03. Ordinances—Emergency. This section has been changed to provide that an emergency ordinance automatically expires in 60 days. This section seems impractical. Emergency ordinances may authorize contracts. A contract needs to be approved by an ordinance which does not expire automatically in 60 days. Furthermore, it may be worthwhile to consider expanding the definition of emergency. As you may recall, the City was asked to pass an emergency ordinance to authorize the refinancing of the Four Dam Pool. The emergency was not for the immediate preservation of public peace, health, or safety, but for the purpose allowing the Four Dam Pool to take advantage of a low interest rate in a rapidly rising interest rate environment. The City could not declare an emergency for this purpose. The Borough's present code is more flexible in that it allows the assembly to adopt emergency ordinances "to meet a public emergency." Since the Borough code does not limit emergency to "public peace, health, or safety," the Borough ordinance allows greater flexibility to meet other types of emergencies.

Recommended Motion:

"I move to amend Section 3.03, Ordinances-Emergency to read, 'An emergency ordinance is an ordinance which in the judgment of the assembly is necessary to meet a public emergency and which will become effective immediately without a second reading'."

Item 4:

Section 4.01. This section provides that neither the mayor nor any assembly member may be appointed manager during the term for which the member was elected. This is not consistent with 2.10(a) (1) which says that no elected official may be hired for a period of one year after vacating office.

Recommended Motion:

"I move to amend the third sentence of Section 4.01 to read: 'Neither the mayor nor any assemblymember may be appointed manager during the period of not less than one year after vacating office'."

NOTE: The change suggested in Item 5 was defeated at the meeting of 8/28/04.

Item 6:

Section 9.05(d): The Charter is not a statement of policy or agreement, but a statement of the law. The language that the school board recognizes the assembly's power is superfluous and confusing.

Recommended Motion:

"I move to change the wording in the last sentence of Section 9.05(d) as indicated." [~~The school board recognizes that~~]

Decisions by the Assembly shall be final in matters concerning school construction and other capital improvements, site selection, employment of architects and building plans.

Item 7:

Section 12.02(c), Mandatory Areawide Powers. The draft removes Mental Health and Substance Abuse programs from the mandatory areawide powers. I understand that the transition plan states that these will be provided on an areawide basis. I do not know why they were removed from the list of mandatory areawide powers. Perhaps the Commission thought that their inclusion would require the new municipality to provide these services. I do not read Section 12.02 as requiring the municipality to provide these areawide services. Instead it simply says that if the municipality provides these services, they shall be provided on an areawide basis. The status of mental health and substance abuse should be clarified.

Recommended Motion:

"I move to change the wording in Section 12.02(c) so that it reads: 'The power to provide for hospital and public health services, including substance abuse and mental health. (The power to provide emergency medical services shall be exercised as provided in Section 12.03);"

Item 8:

Section 12.03. Services Provided by Service Area. The draft Charter provides that street construction and maintenance and building code enforcement shall be provided by service area only. If street construction and maintenance and building code enforcement are to be by service area, then the remainder of Section 12.03 needs to be updated as well. The last sentence in 12.03(a) should be changed to read:

Recommended Motion:

"I move to change the last paragraph in Section 12:03(a) to read: 'No areawide power shall be interpreted to include or authorize any of the powers described in (1) through [(3)] (5) above' and the first sentence of 12.03(b) changed to read: 'Unless otherwise changed, that area described in the consolidation petition as the Gateway Service Area shall be a service area for each and all of the powers described in (a)(1) — [(3)] (5) [~~above, for the power to build, operate, maintain and replace road, bridges, sidewalks, culverts, storm sewers and drainage ways and other public works~~]."