

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING
& WORKSESSION

August 5, 2005

The regular meeting of the Ketchikan Charter Commission commenced at 6:00 p.m., Friday, August 5, 2005, in the City Council Chambers.

Roll Call

PRESENT: OTTE, HARRINGTON (6:10), PAINTER, THOMPSON, MCCARTY,
FINNEY, KIFFER

ABSENT:

A: PLEDGE OF ALLEGIANCE**B: CEREMONIAL MATTERS/INTRODUCTIONS**

NONE

C: PUBLIC COMMENTS

NONE

D. INFORMATIONAL REPORTS AND/OR COMMISSION PRESENTATIONS

NONE

E. CONSENT CALENDAR

M/S MCCARTY/PAINTER for approval of the minutes for the meeting of April 22, 2005.

The minutes were approved by a unanimous affirmative voice vote.

F. VOUCHERS

NONE

G-1 RECESS THE MEETING INTO WORKSESSION.

OTTE suggested that the agenda items requiring action be completed and then the body could recess into work session. There was no objection from the Commission. The G items were moved to after consideration of the H items on the agenda.

H: OLD BUSINESS

H-1 Amend Article XII, Areawide, Nonareawide and Service Area Powers, Section 12.04(b) (Second Reading)

M/S MCCARTY/PAINTER to amend Article XII, Section 12.04 (b) as indicated above by adding the phrase, "if voters reside in the service area," in the first sentence and adding the paragraph "Provided however, that the Borough Assembly by ordinance may establish a process to provide for de minimus exemptions to boundary amendment that need not be approved as provided in subsections (1) and (2) above, in the second reading.

KIFFER said he leaned more toward the "d" option previously discussed, or he said he was comfortable going up from 1% to 2%, but he said he really thought that some of the service areas, even 2 or 3% is a lot of property and it seemed to him that it wasn't that big a stretch that if there's somebody that complains or somebody that's not comfortable with it, that they can come in and send it to the voters.

MCCARTY said that there are both the service area boards to deal with this and there is the Assembly to be here for the comments and considerations, which may effect what the final vote will be. There is a certain point reached where he thought it wasn't in any way beneficial other than to try to stop change, if that's one's goal, to have these very small percentages have the ability to block a change. He said that if the process was getting down into the 1 & 2% brackets that's so under-whelming, the portions being affected that it would be better to go with de minimus that will be defined by the board. If there are even one or two people who are very irate coming into the Assembly or to the service area board and bring that up, they may well be persuasive that it is not a de minimus concern and it should go to an election.

NOTE: HARRINGTON arrived and THOMPSON briefed him on the change in agenda order.

PAINTER said the he concurred with MCCARTY. Service areas have boards advisory to the Assembly. The Assembly is where any final changes or actions may be taken, contrary to what's in the ordinance. It doesn't matter. If a citizen of the community has a problem with a neighbor's dog, or a problem with service area boundaries or whatever, the Assembly always has an open ear to listen to

the concerns of the public. He said that being on the Assembly, they do make changes. It's quite easy if a person has their facts and ducks in a row to change the Assembly's opinion if the point can be proven.

KIFFER said he'd like everyone to understand that yes, the service areas do have boards, but on occasion, the Assembly's wishes and pleasures are not the same as those boards for a variety of reasons and those boards are only advisory. He said to him if the discussion is about moving properties around or pulling properties out of a service area and into another one, or doing away with a service area, that's personal property of the citizens and he said, he thought that they deserved a vote on all matters that pertained to their property.

FINNEY indicated that he concurred with KIFFER. He said he thought it was good to have a de minimus and he would be happy to raise the level of what is considered de minimus property provided that if there are three or four, five or ten people, or whatever that percentage works out to be and they all want something and it's presented and it's done without a vote and without all the hoopla of a full-fledged vote, but, he continued, what if there is a service area that wants to vote, 100 people on one side and 2 people on the other, and he is concerned for the potential of a land grab or such enveloping the 2 who don't want to have it done. The de minimus rule would allow the Assembly to pretty much rubber stamp the wishes of a service board or what appeared to be a majority of people, but it may not be. What KIFFER is saying is that if somebody objects, on either side of it, the de minimus properties and/or other people in the service area then it's just got to go to a vote of the entire service area. He wanted confirmation that's what KIFFER was trying to get to. KIFFER said yes, it was. FINNEY continued that would occur only if there were an objection brought before the Assembly.

THOMPSON said he was the one that had put forward the option "d" and he'd been thinking about this. The difference between "d" and the main motion of the agenda item that passed on the first reading is that the Commission is allowing the Assembly to determine a process by which a de minimus amount could be established or if someone has a problem, in other words, if one or two people come up and say they don't want to be in that service area, or we don't want to be left out, that they can come before the Assembly. But, he continued, if you read through what is says, "the Borough Assembly may, by ordinance, establish a process to provide for de minimus exemptions." THOMPSON continued that it was the difference between putting the 1% or the 2% and tying the Assembly's hands to a number or giving the Assembly the latitude to make those decisions. That's the difference, he said, that he sees.

KIFFER said he would be very comfortable with letting the Assembly come up with a procedure that establishes...because, really, in the service areas, there

may be two or three or four percent in one service area may not be as bad as twenty in another. He said he'd be happy with that as long as language was left in that allowed for the people to object to it, and if they did object to it, that it would go to a vote, and not with a percentage.

PAINTER said he agreed and he didn't like to put hard numbers in the Charter. He gave an example of the Gravina Island property owners north of the airport reserve and the need to form a service area. The potential for road powers, etc. will be a hard issue between those property owners who want roads, and those who don't. The scenario might be 2-4 people objecting to being included in the service area, but when that day comes and there is a service area and a road, are they not going to take advantage of the infrastructure there? He said he was sticking with the motion as written.

OTTE said she was trying to come up with some kind of an amendment to the current motion that would address KIFFER & FINNEY's concerns but leave what's there intact. She suggested some language along the lines of 'however, should there be formal objection by an of the affected property owners/people...'

MCCARTY said that the problem as he saw it is there could be someone who owns one of the 1" square certificates for owning land in Alaska or sections where a small amount of actual land area was left out of any formally deeded property, and under that sort of system, any of those just mentioned could stop every bit of what might happen in the service area if that person doesn't agree. At some point, either the form of government chosen is where everyone in the community shows up at a meeting and votes on things, or we have a representative government with some decision-making body that tries to balance all of these different interests. That's what this is talking about: the Assembly will set up a process and within that process it may or may not decide that they need a specific definition of de minimus or go with a more general term and within the context of a specific issue they could make some definitions. If there is enough interest, even if it's people who don't own land in that service area or whatever the issue might be, the Assembly will listen. He said the way the motion is written is as good as it gets. The Commission is saying the Assembly needs to set up a process and in that process; all sides should be taken into account.

HARRINGTON said that service areas are going to be faced more with those picayune, little problems of adjusting the size of the service areas before they'll deal with any of the other major problems that going to affect the size and shape of a service area, and to have a process down so that those things can be adjusted easily and simply without a change in the Charter or a vote of the people makes a lot more sense. He said he supported this current motion and let the Assembly set up the de minimus process and if the de minimus process

doesn't look like it's what the Commission envisioned, he said he'd make his opinion known.

A roll call vote was taken on the motion to change Article XII, Areawide and Service Area Powers, Section 12.04 (b) to read:

Section 12.04 Creation, Expansion, Reduction, Consolidation, Alteration, and Termination of Service Areas.

(b) **Expansions or Reductions of Service Areas.** The boundaries of a service area may only be expanded or reduced by an ordinance adopted by the Assembly that describes the proposed new boundaries of the service area and the powers to be exercised therein and, if voters reside in the service area, which is approved by both:

- (1) A majority of the voters residing within the boundaries of the existing service area or, in the case of a reduction, a majority of the voters who will remain within the boundaries of the service area after the reduction; and
- (2) A majority of the voters residing in the area that will be added to or subtracted from the existing service area or, if no voters reside within that area, by written consent of all owners of real property within the area that will be added to or subtracted from the existing service area.

Provided however, that the Borough Assembly by ordinance may establish a process to provide for de minimus exemptions to boundary amendment that need not be approved as provided in subsections (1) and (2) above.

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

The motion carried with a 6-1 vote.

H-2 Amend Article VIII, Section 8:03 (e): Payment in Lieu of Taxes (Second Reading)

M/S PAINTER/MCCARTY to amend Article VIII, Section 8.03 by inserting the phrase "and/or service areas as determined by the Assembly" into the first sentence as indicated, in the second reading.

MCCARTY said the federal government has been doing this for years when they have a huge chunk of land that they've pulled out of the tax rolls as a way to not askew the tax system in an area. This is another political decision that the

Assembly is going to have to look at all different spectrums in making the decision, but, he said, he thinks this is a power that makes sense.

A roll call vote was taken on the motion to change Article XIII, Section 8.03 (e) to read:

Section 8.03 (e) Payment in Lieu of Taxes. The Assembly may require the municipal utilities to annually pay to the Municipality and/or service areas as determined by the Assembly an amount reasonably estimated to be not more than the amount that said utilities would pay in taxes, assessments, or charges if subject to all such taxes, assessments, or charges.

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

The motion passed with a 7-0 vote.

H-3 Amend Article X, Section 10.09(b): Taxation: Port Payment in Lieu of Taxes (Second Reading)

M/S MCCARTY/PAINTER to amend Article X, Section 10.09 (b) by deleting the word "Port" from the title and the words "the port" in the first sentence, adding the phrase "municipally owned enterprise funds" to the first sentence, the phrase "and/or service areas as designated by the Assembly" after the words pay to the Municipality and the phrase "not more than the amount that said enterprise funds would pay in taxes, assessments or charges if subject to all such taxes, assessments, or charges" in the second reading.

MCCARTY said that this is a companion for the prior agenda item and it makes a lot of sense that we have enterprise funds and service areas considered in this allocation of monies.

THOMPSON said that this agenda item is one that will address one of the comments from the City because it's not just related, we want to make sure that all the different enterprise funds are being paid for and specifically one of the things that came up was having the Port of Ketchikan support, by a PILT or some other method, their costs to the emergency medical response, police and fire that will be provided by the Gateway Service Area. This is a very important amendment.

MCCARTY stated that this is the kind of general philosophy we are trying to further which is the people who are receiving the services are paying a fair share of the costs, which is the whole philosophy of what we are trying to do, trying to get that equity.

A roll call vote was taken on the motion to change Article X, Section 10.09 (b) to read:

Payment in Lieu of Taxation: The Assembly may require municipally owned enterprise funds to annually pay to the Municipality and/or service areas as designated by the Assembly a payment in lieu of taxes not more than the amount that said enterprise funds would pay in taxes, assessments or charges if subject to all such taxes, assessments, or charges.

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

The motion passed with a 7-0 vote.

THOMPSON indicated that the agenda would move back to the "G" items, the work session. OTTE asked that the work session be further moved until deliberation on I-1 and I-2 had taken place to clear up the "business" of the group prior to going into work session. THOMPSON asked if there was any objection to moving the work session further.

MCCARTY said that most of the items in I-1 are recommendation or review by bond counsel to make sure that pieces are consistent and he said that in his experience, if bond counsel says these are good suggestions, we should probably follow those recommendations.

THOMPSON asked the Commission if anyone had any objection to moving on to the next agenda item. There was no objection from the body.

I: NEW Business

I-1 Amend Article XI, Section 11.05: Economic Development Financing

THOMPSON introduced the first item under new business as suggested charter changes and/or discussion items regarding the Municipal Bond Counsel. He said he'd like to point out that as OTTE indicated, there are several items in this agenda item. They can all be adopted with one motion, or each item can be addressed separately. OTTE pointed out that some were not specific motions, but discussion items regarding where the Commission wants to go in a particular

area. THOMPSON suggested going through the items one by one. He said that unless there is discussion on it, the question would be called for on each item.

I-1 (1) (Section 11.03 specifically) M/S MCCARTY/FINNEY to replace all instances of the use of the word "therefore" referenced by Attorney David Thompson in his faxed comments in various sections of the Charter having to do with bond financing with the correct word, "therefor".

MCCARTY said that the bond counsel references Section 11.03, with a very specific difference given between the two words. He wanted to clarify that any changes made to "therefore" would be limited to the bonding sections of the Charter.

A roll call vote on the motion was taken.

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

The motion passed with a 7-0 vote with the understanding that the item will come back for a second reading and the proposed changes will be sent by the Secretary to David Thompson, Municipal Bond Counsel, or the Municipal Attorneys for their review, just to make sure we didn't pull one out that shouldn't have been. HARRINGTON suggested bringing any of these approved changes back altogether for a second reading approval. OTTE said that the Commission had consistently brought back any changes to the Charter for a second reading and that procedure should be followed in these instances.

I-1 (2) [Section 8.03 (g)] Sale of the Municipal Utility

CHAIR THOMPSON indicated that Bond Counsel Thompson had questioned the first sentence in Section 8.03 (g) which states: "The municipally owned electric, telephone, or water services may not be sold or leased..." by asking *"Is this limited to a sale or lease in whole? Or would it apply to a sale or lease of part of a system? For example, would it take a vote to approve the lease of an insubstantial asset of one of the utilities? Note, however, that covenants in revenue bond ordinances may further limit sale or lease of utility assets."*

THOMPSON said that the Commission needs to say whether or not the question should be addressed, or leave the wording alone. OTTE wondered if the Commission needed to get into any further detail in this section of the Charter than what is already in the Charter following the questioned statement, "EXCEPT BY AUTHORITY OF AN ORDINANCE APPROVED OR ENACTED AT AN ELECTION BY AN AFFIRMATIVE VOTE OF A MAJORITY OF THE QUALIFIED VOTERS OF THE MUNICIPALITY WHO VOTE ON THE QUESTION OF APPROVING THE ORDINANCE."

MCCARTY said that he thought that it makes some sense that you can't just lease it out without at some point going to a vote. On the other hand, he continued, he didn't think many people should go to a vote if you're saying that KPU is going to lease out a backhoe or a compressor or something, so he said, he suggested that a way to handle this would be similar to what the bodies have for the level that a manager can make a decision without Council/Assembly approval, that there would be language in here that says the Assembly would set a limit (without putting the dollar figure in the Charter), but put the procedure in that the Assembly must set a limit at which past that point, it would have to go to the voters. THOMPSON asked if MCCARTY wanted to put that in the form of a motion.

MCCARTY continued that he was trying to figure out how to do that. Discussion occurred. THOMPSON suggested that something be placed at the end or in the middle that says partial sales or leases of utility assets are subject to procedures set by the Assembly by ordinance. MCCARTY suggested adding a sentence to what is already in place: *Provided that the Assembly shall establish a procedure to determine the (further discussion) dollar amount that will trigger an election.* MCCARTY said that was for discussion purposes and the Commission could decide how to dress it up better.

THOMPSON said he would second the proposed motion for purposes of discussion.

HARRINGTON said that obviously the intent of the Commission, historically, has been the sale or lease of one or more of the entire utility. We didn't talk about trucks or cars or equipment or tools. Clearly the intent on the record is the entire Utility. He said he didn't think that anybody would get confused, but whether or not we need to build that in, he said he didn't think we needed to but we may want to instead of saying "the municipally owned electric, telephone, or water services, put in the word "utility" as if an entire company; the sale or lease of the utility may be sold or leased. He continued that if the Commission is going to have to argue about or discuss those minor little things, he said he'd like to just say, "except for insubstantial assets" of them. He said that he thought that clearly on its basis right now, the intent is the entire utility.

THOMPSON offered a potential amendment by substitution to the motion that changes the wording to say, *"The municipally owned electric, telephone, or water utilities may not be wholly sold or leased except by the authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the Municipality who vote on the question of approving the ordinance."* THOMPSON said that if the desire was to do a partial sale or lease ... OTTE confirmed that the word "utilities" instead of services and inserting

the word "wholly" in front of sold or leased. PAINTER seconded the amended motion.

MCCARTY said the problem he has is that there could be sufficient enough sale or alienation of assets such as you own the shell but there's nothing there you can do anything with. He said that he tends to be more comfortable with the idea that it may not be substantially sold or leased. THOMPSON said that the original verbiage he'd written down was wholly or substantially. MCCARTY said that he would be willing to go with the way THOMPSON stated it, but if there is a bit more skepticism, then substantially might be the better word to insert rather than wholly. THOMPSON said he would accept substantially as a friendly amendment to the original amendment motion.

THOMPSON then re-stated the amendment to MCCARTY's original motion on the change to Section 8.03 (g): *"The municipally owned electric, telephone, or water utilities may not be substantially sold or leased except by the authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the Municipality who vote on the question of approving the ordinance."*

A roll call vote on the motion was taken.

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

The amended motion passed by a vote of 7-0.

I-1 (3) Section 10.07 Property Tax Limit

NOTE: IT WAS DETERMINED BY THE CHAIR AND THE SECRETARY AFTER THE MEETING THAT THE SECTION, 10.07 PROPERTY TAX LIMIT, THAT HAD THE SUGGESTED CHANGES APPROVED BY THE COMMISSION ON 8/5/05, WAS THE OLDER VERSION OF THIS SECTION. SINCE THE APPROVED MOTION MERELY CHANGED THE ORDER OF SENTENCES, WITHOUT CHANGING THE SUBSTANCE OF THE SECTION, THE CORRECT WORDING FOR THE SECTION WILL BE BROUGHT FORWARD IN SECOND READING AT THE NEXT COMMISSION MEETING.

Section 10.07 Property Tax Limit

The areawide property tax levy shall not exceed one (1%) percent (10 mills) of the assessed valuation of the property to be taxed. The voters may raise this limit by an affirmative vote of the majority of the voters participating in a special or regular election, but in no event shall the property tax levy during a year exceed three percent (thirty mills) of the assessed value of the property in the

Municipality. This section shall not in any way limit the ability of the Municipality to meet its bonded obligations and in no event shall the property tax levy during a year exceed three percent (thirty mills) of the assessed value of the property in the Municipality. **[As written, the last sentence is puzzling. Does the 3% limitation contradict the statement that this section will not limit the ability of the Municipality to meet its bonded obligations? That's why I suggest this revision.]**

Bolded comment by Attorney David Thompson.

THE ABOVE CHANGES WERE APPROVED BY A 6-1 VOTE ON 8/5/05.

The amended Article X, Section 10.07 made by the Commission on 3/25/05 reads as follows:

The increase in the rate of the areawide property tax levy from one year to the next shall not exceed two-tenths (.2%) percent of the assessed valuation of the property to be taxed, (2 mills) above the rate levied in the prior fiscal year. The Assembly may raise this limit by a super-majority vote (2/3), advertised for a minimum of one month prior to the first of two noticed meetings or may elect to have the voters raise this limit by an affirmative vote of the majority of the voters participating in a special or regular election. This section shall not in any way limit the ability of the Municipality to meet its bonded obligations and in no event shall the property tax levy during a year exceed three percent (thirty mills) of the assessed value of the property in the Municipality.

A motion to reflect the proper Section 10.07 will be included on the next agenda.

I-1 (4) Taxation: Supermajority Requirement to Raise Taxes or Fees Limit

OTTE was asked to explain this section. She indicated that the Bond Counsel, Mr. Thompson, had raised a question about supermajority requirements for raising fees. She said that since the Commission had already addressed this issue by amending Section 10.08 and removing reference to raising fees, the point made by Mr. Thompson was moot and no action was required to be taken by the Commission.

MCCARTY said that he had voted against the last motion even though the suggested language was clearer; he disagreed with the whole property tax limit. He said it was the same with this section. The things we have done make the intent of the Commission more clear, so he supports the clarity, he just disagrees with the result.

I-1 (5) General-Obligation Bonds and Revenue Bonds

M/S PAINTER/MCCARTY to delete the following from Section 11.01 (b): 'If the full faith and credit of the entire Municipality is pledged for the payment of indebtedness incurred on a service area or nonareawide basis, then the indebtedness must be approved on an areawide and on a service area or nonareawide basis.'

THOMPSON said he was not in favor of this motion. He said it was because if the full faith and credit of the entire Municipality is going to be pledged for payment of indebtedness of a service area, then, he said, if South Tongass service area wants to build two fire stations and they want to put it out for bond and they want to pledge the full faith, and he would be paying for that not being a member of that service area, he said he thought it should go to a vote of the entire community. He indicated that's what the un-amended section says.

FINNEY wanted to know if, in the above example, would THOMPSON be paying for that if South Tongass fails. THOMPSON said that if South Tongass couldn't generate enough revenue to pay for that bond, then the Borough at large pays for that bond because the full faith and credit of the Borough has been pledged. He said that if he and his assets and his taxes are going to be pledged, he said he wanted a say in it. He said he'd probably go along with it, if a good argument is made, but not to allow the people to vote on it is a mistake.

MCCARTY said that on a relative sliding scale on this, the full faith and credit may be for \$5,000 or it may be for \$2 million. He said he believed that because the Assembly decides what will be done by the service areas before it goes any further. The Assembly is a brake on what happens and hopefully the force of reason when a certain point is reached, the assets of the full Municipality are being pledged, hopefully they've thought that while it might be centered in one service area, it has enough benefit to the whole of the community that there is some basis for giving them that financial backing. And finally, when some dollar limit is reached, they're going to say that this is something we (the Assembly) are standing behind and we have the power to hold an election on bonded indebtedness, we're going to have an election. This doesn't say the Borough can't; this language is taking out that they must. MCCARTY continued that any reasonable Assembly is going to look at it and at some point they're going to say that the service area will be backed if it's say, \$15 thousand, they literally have to sign off on it, but they have to sign off on even the stuff that isn't pledged.

THOMPSON said that he'd point out that this is talking about bonds and bonds are not generally going to be issued for \$5,000. This discussion is about \$1 million or better. As an example, and he said this was a poor example perhaps,

the situation with the Port expansion that's being discussed. That's a service area function and they're going to pledge the full faith and credit of the Borough against it. He said he thought that everyone that was being pledged for a \$70 million.... He said he wanted to pick a different example because the Port question is an Enterprise Fund. He then brought up the instance that the DEC came in and said to the Gateway Service Area that a filtration plant is necessary and the cost will be \$35 million. The folks within the GSA say, yes, they do need clean water, we're going to build this plant, but they want to pledge the full faith and credit of the Municipality for the entire project. THOMPSON said he thought it was incumbent upon the body to allow the folks that are part of the pledge of that full faith and credit to have a say in it. MCCARTY said the key word is allow. He said he didn't think that not having the language in the Charter bars that option, the question is whether it's mandated. Generally bonds are for larger amounts, but theoretically, bonds could be for a much lower amount of money.

KIFFER said that he just wanted to point out a side note that the filtration plant was being talked about at \$30 million, not \$35. He said he read Mr. Thompson's explanations twice and he didn't get the point. He said he wasn't going to support this motion. He said he agreed with THOMPSON and he thought that if the folks areawide are going to be potentially footing the bill, then they should vote on it.

HARRINGTON said that there was a problem being faced here in that any bonded indebtedness would have to go to a full vote of the people because there is no separate entity that has legal standing except the Borough and as such, as soon as you have a bond, it is the full faith of the entire Borough that is bonded, not the service area because the service area has no standing. It becomes then a matter of do we in the North Tongass service area, if we chose to bond, are willing to come to the Borough Assembly and say that the debt would be paid by North Tongass, but it's still the Borough Assembly that's going to have to assess those payments.

THOMPSON said that if we're going to bond we need to have an election to do all bonding. Not only does it have to pass areawide muster that the people are saying our level of bonding is such that we're comfortable with it in an overall situation. But also, the people within the service area have to agree that they're willing to tax themselves and pay for that bond so that there are two questions. It's still one vote, but a majority of the service area and a majority of the areawide voters must approve the issuance of a bond.

HARRINGTON said that means no bonding for service areas without a total vote of the people. There is no question about that. He said that although North Tongass moved and maneuvered in such as way as fast as we could to avoid going to a vote for bonding because of the time lags which then, of course, we

were tapping into Borough-wide funds and borrowing it from the Borough, in essence, so that we didn't have to do that. It would have been better to have had a vote of the people out North and he said, he's convinced it would have been better if we had asked for a vote of the people out North before we tacked on any of that debt, but functionally, it was one of those decisions that our board made saying no, they didn't have the time. So if we do this, it's a vote of the entire people. He said he thought keeping the section the way it is would be asking for more problems. He said he'd support the deletion of that section with the intent that says the Borough Assembly must be the watchdog on that.

THOMPSON said that in his opinion, if we're going out to the bond market to get a bond; we're talking a million dollars or more, generally, and if we're going to create a debt of the areawide people that live in the Borough for any purpose whatsoever, they need to have a bite of the apple and a vote on it. Because what happens, is if you're going to raise the bond level, the total amount of bonding that's out there on the market, there is recourse on those bonds, if for whatever reason...somebody's taxes could go up or will go up. If something happens in the service area and people move away, or that service area doesn't generate enough taxes or revenues or something untoward happens, everybody's taxes would go up. The people have a right to know that the total overall bond debt, how much per person that works out to be, and then give the information about the further proposed bond debt. The service area may be willing to pay for it, but if they cannot, we all will be responsible for that debt.

FINNEY said there was another issue in his mind and it kind of ties in with the Port situation currently happening in town. He said to assume that the service area want a bonded indebtedness that affects the rest of the community. He said to him that's what he sees with the Port expansion issue. It affects the community as a whole, but only the City of Ketchikan is able to vote on that issue. It's going to affect everyone's lifestyles, but only the City residents get to vote; yet it affects the entire community. He said he could see more of those things coming along where a service area has the potential for going into indebtedness and sucking in the entire community. It may be good for that service area, but the rest of the community may say that as a whole, it's going to affect us and "we" don't want them to have that.

THOMPSON said there's a certain amount of bonding capacity that a community of our size has. Once that capacity has been reached, the market will be saturated and no more bonding will be available, or if it is, it's going to be considerably more expensive. He said he thought that if we go out to bond, no matter what, everyone should have a vote on it.

KIFFER said this doesn't eliminate other ways to fund service area projects. The Borough Assembly could loan the money, for instance. This is strictly bonds and

he said he agrees that a million dollars; you know, a million dollars isn't much any more, but looking at bonds for \$20 million and he said that he'd read the memo and he didn't understand what his point was. If he could clarify it a little bit, I might be able to understand it.

A roll call vote was taken on the motion to delete the following from Section 11.01 (b): 'If the full faith and credit of the entire Municipality is pledged for the payment of indebtedness incurred on a service area or nonareawide basis, then the indebtedness must be approved on an areawide and on a service area or nonareawide basis.'

FOR: MCCARTY, HARRINGTON

AGAINST: THOMPSON, KIFFER, PAINTER, FINNEY, OTTE

The motion failed by a vote of 5-2. It was determined by the body that unless a Commission specifically requests that this question be brought back again, this issue is finished.

HARRINGTON said that for the record, any bonded indebtedness incurred by the Municipality or the service areas therein will require a vote of all the people, as well as approval of the affected service area.

I-1 (6) Section 11.02 (b) Notice of Bond Indebtedness

M/S OTTE/HARRINGTON to make the suggested deletions and additions to Section 11.02 (b) as shown above.

OTTE said that 11.02 (b) referred to bonds secured by taxes to be levied. The section (with the suggested changes) reads as follows:

Section 11.02 (b) For bonds secured by a pledge of taxes to be levied in a service area or on a non-areawide basis, the notice shall also contain the information required in (3), (4), and (5) relative to the service area or other area. Instead of the information required in (3) and (4), for revenue bonds that are not also secured by a general obligation pledge secured by a pledge of the municipal utilities' revenues, the notice shall contain the amount of current indebtedness secured by the applicable revenues, including authorized but unsold bonds, and the amount of the current year's debt service on outstanding bonds of the Municipality secured by a pledge of the applicable revenue. ~~information required in (3) and (4) relative to the affected municipal utilities.~~

OTTE continued that what it's saying is that the Municipality has to inform the voters how much is being added to the overall debt secured by those revenue sources and what other obligations are outstanding to the Borough.

FINNEY restated that the current indebtedness would have to be disclosed. He asked if it also would let the voter know what the maximum indebtedness would be. The answer to that was no. He again restated that it would just show how much was being added on to what is currently owed.

MCCARTY said this is another example where the bond counsel took a clause that was at the end of the paragraph and inserted it earlier in the paragraph so it is more clear what sections that clause refers to. He said he thought it was a better drafting, that it didn't change the substance. Notice of the indebtedness would still have to be given.

PAINTER wanted to know if the original verbiage in this verbatim from the City's prior Charter. No one could recall if it was.

THOMPSON said that Mr. David Thompson is the bond counsel for both the City and the Borough and the conversations and comments that he gave were in coordination with both of the local attorneys. This was not conceived in a vacuum. MCCARTY said that this is one of the major firms in Seattle and they are a major player nationally in the area of bond counsels. He thought that the firm was giving advice to a lot of communities in Alaska and other states.

A roll call vote on the amendment to Section 11.02 (b) followed.

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

The motion passed with a vote of 7-0.

I-1 (7) Revenue Bonds and Borrowing

M/S PAINTER/HARRINGTON to delete the language that is crossed out, as shown above, in Section 11.04.

The changes to the section are shown as follows:

The Municipality shall have power to borrow money and to issue revenue bonds or other such evidences of indebtedness ~~therefore,~~ the principal and interest of which are payable solely out of, and the only security of which is, the revenues of a revenue-producing municipal utility or enterprise; but only when authorized by the Assembly and ratified by the voters for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of the said utility or enterprise, ~~for refunding or for purposes authorized by~~

~~Section 11.03 of this Charter.~~ Bond anticipation notes may be issued following the ratification of a bond issue and pending sale of the bonds.

FINNEY asked for a paraphrase. THOMPSON said you've got to take it to a vote. OTTE then said that the bond counsel indicated that requiring a vote for refunding conflicted with provisions of Sections 11.01 (d) and 11.03. THOMPSON went on to say that the municipality often refunds bonds when the interest rates are favorable and that's saying those refunds do not have to be taken back for a vote of the people, they've already voted on the bonds and since the refunding would be to try and save some money, the Assembly could do that without taking it back to the people. FINNEY said he thought the Commission had addressed that previously. THOMPSON said that the Commission had, but this particular section is out of kilter with those changes done previously.

A roll call vote was taken on the motion to amend Article XI, Section 11.04.

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

The motion passed by a 7-0 vote.

I-1 (8) Economic Development Financing

M/S MCCARTY/FINNEY to make the changes to Charter Section 11.05 (a) as suggested by Bond Counsel David Thompson and shown above.

MCCARTY read the text as it would change in the proposed motion:

Section 11.05 (a) Economic Development Financing

(a) Non-recourse revenue bonds and other non-recourse revenue obligations issued pursuant to this section shall be secured and payable only from any source except revenues, including tax revenue, of the Municipality. ~~money or other property received as a result of projects financed by the non-recourse revenue bonds, or other non-recourse revenue obligations, and from money or other property received from private sources.~~

OTTE said that Bond Counsel Thompson indicated that the changes shown above tracks the language of the Alaska Statutes [AS 29.47.390 (a)] and avoids the implication that a project of the Municipality may be financed by such a bond.

THOMPSON said that the key to this is the definition of non-recourse bonds. In Mr. Thompson's memorandum he explained that the non-recourse bond is a third

party bond. It's kind of a loan guarantee. It's a pipeline-financing situation and that's what trying to say in terms of the non-recourse. THOMPSON continued that it's a different definition than what we would think it means.

HARRINGTON said that not only that, but Mr. Thompson made it clear that the Economic Development title was a misnomer and HARRINGTON said he thought that the title of the Section should be changed to Non-Recourse Bond Financing. THOMPSON indicated that suggestion would be taken as a friendly amendment. There were no objections from the rest of the Commission.

A roll call vote was taken on the motion that included the friendly amendment.

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

The motion passed by a vote of 7-0.

I-1 (9) Section 11.05 (c) Economic Development Financing

THOMPSON said this one might need to be discussed a little bit.

MCCARTY started to make a motion on the next item on the agenda and was corrected. He then said that as far as he was concerned, the only thing that was going to change was the title (from the last action). HARRINGTON indicated that there didn't need to be a motion to take no action.

THOMPSON said that if no one was willing to make a motion, this item fails for lack of a motion.

I-1 (10) New Section, Section 11.09, Challenges to Bond Authorizations

M/S MCCARTY/PAINTER to approve the addition of an additional paragraph in Article XI of the Charter, Section 11.09, as shown above.

That new Section would read:

Section 11.09 Challenges to Bond Authorizations

Notwithstanding any provision of this charter to the contrary, no action challenging the authority or proceedings for or the validity of, the issuance of any bonds (or other obligations), a bond ratification election, or the authorization of taxes to pay any bond (or other obligation), may be commenced or maintained unless instituted within thirty (30) days from the date of certification of the results of a bond ratification election or from the date of passage of the

ordinance or resolution authorizing the issuance of any bonds (or other obligations) when a bond ratification election has been obtained or is not required.

MCCARTY said this was very similar to what happens in court proceedings, whether criminal or civil. If you don't like the decision that came from the judge, you have 30 days to file a notice of appeal. For such things as zoning appeals, tax appeals, or whenever you have an administrative procedure, typically you have a time limit for any further action to be taken so that a matter can have some finality. Potentially, you may wish to have more than 30 days or less than 30 days, but there is a lot of benefit of putting an end time frame in a proceeding.

FINNEY wanted to know if MCCARTY thought the 30 days was adequate time? MCCARTY said that most of the paperwork in the process has been in place and moving forward for quite some time. It's not just something dropped on the population cold and 30 days later you have to try to do something. There has been some time during the process already. This section says from the time a decision is made; one that you've supposedly been watching and paying attention to. If it is not liked, something needs to be filed before 30 days after the decision. When it's like a criminal sentence or a multi-million dollars at stake in a big construction dispute, if the protest can't be filed within 30 days, and that's just for the notice to be filed that there will be an appeal.

A roll call vote was taken on the motion.

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

The motion passed with a vote of 7-0.

THOMPSON asked that the Secretary provide a copy of Section 11 as fully amended to the Commission. It could be in redline or final, but he said it would be so that everyone could see if the changes have continuity and the sections say what the Commission intended. THOMPSON said he'd prefer the changes be shown in final rather than redline.

I-2 Deletion of all reference in the Charter, Budget, Budget narrative and Transition Plan of the movement of ¼% Public Works sales tax revenue from the Gateway Service Area to the consolidated Municipality of Ketchikan

M/S MCCARTY/PAINTER to restore the ¼% Public Works sales tax to the Gateway Service Area in all areas of the Petition, including the Charter, the budget, the budget verbiage and the transition plan.

MCCARTY said that the City certainly had some concerns about this section.

FINNEY wanted a brief re-cap of why the ¼% was taken in the first place. OTTE said it was part of the work session from the last meeting. THOMPSON said that because of the City's objections to the changing of the ¼% from the current City's Public Works sales tax to the new Municipality in order to compensate the new Municipality for the maintenance & upkeep of those entities proposed to be transferred to areawide. An agenda item for this change is required since this ¼% change in tax rate is mentioned in the Charter, as well as the other verbiage in the Petition.

MCCARTY said that the Commission had decided at the last meeting to bring this forward since it was a substantial issue, not necessarily in dollar values, but in philosophical.

THOMPSON said that when the budget was being done a year ago, there had been several discussions regarding this ¼% sales tax and the thought was that certain of the assets that were the City's would be transferring to the new Municipality and some of the sales tax revenues that are now being collected within the City should be transferred as well to pay for some of the upkeep and Public Works functions of those buildings. The City said no, if more taxes are needed, raise the rate on an areawide basis, but don't take any of the taxes from the proposed Gateway Service Area. They said that the City residents had already established that rate as what they wanted to tax themselves to pay for current City (proposed Gateway Service Area) items. He continued that it was a very large issue for the City in their response to the Petition. THOMPSON said that in terms of the proposed budget, it was not critical to what was being done to balance the budget at the time a year ago. The move was done from the standpoint of logic rather than finances and now, looking back at it, since the City has a problem with it, it's not a great effort to change it back. He said, in fact, that if the Commission needs to have more taxes on an areawide basis, we'd put those in.

FINNEY said that if he understood the issue, the Borough is still taking the services out of the Gateway Service Area and now, with this change, the revenue

stream is not following the services to support them? He said that's what he thought that was all about.

THOMPSON said that was the original argument that we had to make that adjustment. There is not a direct cause and effect, necessarily, between those taxes and those functions. In the budget, in fact, it did not appear that it was necessary to move that ¼% over to balance the budget. It was something that was done from the standpoint that it kind of made sense to do that. The City responded that first of all, they didn't agree with our budget and they said, and, on top of the fact that the Commission had made all of these egregious errors in the proposed budget, a ¼% of taxes were taken away from the service area and transferred it to the Borough and the situation was made worse by doing so. Their comment was that if those taxes are needed to balance the budget, raise taxes. The service area has already established that this is what they need for sales taxes and in their view of the Petition budget; they said they still need those taxes and the Commission shouldn't take ¼% away. If another ¼% in taxes is needed areawide, raise the taxes.

KIFFER said that this had been decided that if that revenue stream is tied to those services that are being moved from the Gateway Service Area to the Municipality, to him if that revenue stream doesn't move with those services, then there are two problems created. One, we're putting an areawide burden without the revenue stream to cover it. Like they said, if they need more taxes in the Gateway Service Area, if they want that ¼% tax, they could raise it themselves.

THOMPSON said that the problem that arises is that the ¼%, the mathematical effect on the City (Gateway Service Area) was much greater than that effect on the overall budget of the Municipality. Their revenues were going down by a considerably larger amount than the areawide was going up because of the way the taxes are structured.

MCCARTY said this doesn't affect the philosophical concern that he didn't hear the City object to that if you have something that generates income and has costs that you ignore that transfer. He said for instance, the City had the Parks & Rec building and all of a sudden the Borough takes the Parks & Rec building, if they had bonded or done something to generate the monies related to pay it back, they don't get to keep the money since the Borough would now be paying the bills. Philosophically, that's going to be taken into consideration and those adjustments need to be taken that funds that are tied to an expense would have to be worked out. This ¼% was a guesstimate, so it doesn't bear a direct relationship to what the adjustment would actually be. There's nothing in doing this that says you don't make those adjustments. We have to be careful, as

we've discussed all along, when finite numbers are put in and lock that rate in now; he said he didn't agree with that.

THOMPSON said that MCCARTY was correct. He pointed out that one of the other things the City also took issue with was taking part of the City's reserves and transferred them to the General Fund. He said he'd pulled a number out and said 20%. That sounded like a reasonable number and it wasn't very big. They then said in their brief that 20% was too high. The issue had been discussed prior to the Commission's submission of the Petition and THOMPSON said that he thought that number was okay with them, but they responded that was too high. THOMPSON said he'd told the City that the Commission was willing to work on that to determine a fair number; if the assets are being transferred, there are some of those reserves that were generated by those assets (taxation) and those funds should go to the new Municipality. The City said they agreed, but they didn't agree with the Commission's number. He said that was the same type of thing as the ¼%.

PAINTER said in reading the minutes of the last meeting in regard to this and the discussion by everyone sounded like the Commission pretty much agreed to not put the ¼% in the Charter, but to put it in the Transition Plan as a suggestion for the future Assembly.

HARRINGTON said when there had been a requirement for a vote of the people in concrete in the document for any raising of taxes; this was a very pivotal issue for him. As soon as the requirement went down to a super-majority to adjust the taxes, he said this issue was not important to him at all because when the Assembly meets to set the funding for the entire Borough, including the Gateway Service Area, this number is subject to change based on the needs of the service area that the Assembly can raise with a super-majority or lower with a basic majority the sales taxes within the service area. HARRINGTON said he'd much rather see the document reflect as little specification as to these sales taxes in the document as we can get by, especially the Charter to allow the Assembly to establish not only the percentage, but where it's going and for what purpose.

FINNEY said that since the language is still in the Charter that allows the new sitting Assembly to regulate or throw those tax monies however they perceive a best fit. The group agreed with that statement.

A roll call vote was taken on the motion to remove all reference to a transfer of ¼% Public Works sales tax from the present City (future Gateway Service Area) to the General Fund of the new Municipality. The agenda statement reflects the specific areas in the Petition and Charter that would need to be changed.

FINNEY asked again that the Charter will not reference the ¼% change in the sales taxes and the group said it would not. FINNEY re-capped that everywhere that percentage of taxes is mentioned; the new sitting Assembly would have the option to change those taxes with a super-majority.

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

The motion passed with a 7-0 vote.

A break was requested and commenced at approximately 7:20 p.m.
The Commission reconvened at 7:34 p.m.

G-1 RECESS THE MEETING INTO WORKSESSION TO CONSIDER THE 2004 CONSOLIDATION PETITION, INCLUDING DISCUSSION OF THE BRIEF AND COMMENTS SUBMITTED TO THE LBC BY THE CITY AND BOROUGH

Note: Work sessions are informal discussion sessions held for the purpose of exchanging and gathering information. No action may be taken, formal rules of order are relaxed, and there is no requirement that minutes be kept.

M/S PAINTER/HARRINGTON to move into work session.
The motion was approved by a unanimous voice vote.

PAINTER asked THOMPSON to explain his inability to get together with the City and Borough finance directors. THOMPSON said that back in April he had met with Mr. Houts & Mr. Newell and basically, a lot of the issues that were brought up by the City related to things that the Commission didn't have a crystal ball or the ability to determine how the existing governments were going to deal with the financial impacts of various situations, much less a crystal ball to put it into our budgets; specifically, PERS & TRS, insurance and some of those things and all of the moving targets. He said he'd met with the City & Borough and asked them to tell the Commission what those numbers are and then he could adjust the Petition budget to what they thought the numbers and the costs would be. If there would be taxes needed to make it balance, we would plug those in, but they'd be plugged in both before and after so that we would be dealing with apples and apples. They (the City & Borough finance directors) agreed and they were tentatively trying to target the end of May to get that done and THOMPSON said he'd sent a message to them in June and they weren't ready to provide the information and they weren't done. He said the most recent discussion was with Mr. Newell right before scheduling the present meeting and he called and indicated that the City is working on their form of a revised budget. Newell indicated they'd been working on it since the middle of June, but although they

were close, he would not commit to any date for completion. He said they were doing it in their spare time. None of the situation has changed with regard to the budget, but the ball is still in their court to go forward.

THOMPSON said what he'd like for the Commission to do at this point is to respond to the LBC in letter form and tell them we have reviewed the City and Borough's comments that were submitted and these are the changes that we've made to date and give them a redline edition of our documents, give them a final copy of the sections that have changed and in the letter we can explain that we have, as far as the budget goes, we believe that the submitted budget is a good budget and there are other ways of looking at it. The City's preparing a response to the budget; we've opened the door to them, but they haven't given us anything and it's time for this thing to move on. Should the City provide us a proposed, revised budget, the Commission will be reconvened and act on that budget, and if we deem that there are changes necessary to our Petition budget, we will forward those on to the LBC as well. At this point, this will be the formal response to the prior submitted comments.

OTTE indicated that the format of our response would not be to respond point by point to the City's brief or Borough's comments, but pointing out those things that have been addressed in a list in the letter indicating our changes in the following segments of our Petition. She said she doesn't intend to send all the sections that are not changed; just the sections of the Petition and Charters where there are changes in verbiage.

MCCARTY said he agreed with what's been proposed. He said the only thing he suggested a substantial amount of thought going to the sections that references the finances and say that we're working on them and as soon as more information becomes available, those points will be reviewed and updated as needed. Much of the financial information is changing as the time goes by. The idea being that we've tried to address the mechanical issues and the financial issues as far as hard numbers, they may be a hard number at some point in time, but over time they change.

THOMPSON said that the real key to it is if in our letter address the things that were brought up in G-1 on page 2, the PERS, TRS, staffing plan, the mill rate stabilization; all the things we've talked about and what our position is on those items, even though those numbers haven't been generated. We've certainly opened the door to that. He said he fully expects the City will bring the Commission something, but what he proposes is that over the next week or two that OTTE and he get together, draft the document for submission to the LBC, make the changes to the Transition Plan and the Budget verbiage that are needed due to our errors and omissions (the Parking fund, the Hospital fund, the bonded indebtedness of both entities).

THOMPSON said that what he's saying is let's propose to write a letter to the LBC with attachments; here are the documents red-lined, here are the documents that we've changed based on our review of the brief and comments that were filed and this is our response. The budget can be discussed in that letter. The caveat to this is he said he's trying to get to the point where should we never receive something from the City, which is a possibility (although, he said, he doubted that would happen and he thinks they will send us something), but should we never get something from the City on the budget, that we can move this process forward. We're stalled right now and we need to move this process forward and the only way we're going to do that is to provide our formal response to the brief and comments and move this process forward.

HARRINGTON said that back in May, or April, we were talking about a summary document, that addressed the budget and would essentially show the Borough budget, the City budget and the consolidated budget, in essence to show in a one-page format that the taxes are going to be there whether we are combined or not combined. He said he wanted to see a prototype document set up for the citizenry when the time comes prior to a vote. He said he wanted the first page of the budget to show that we're not, by our existence, does not drastically or substantively the tax situation, as well as the expenditures. He wanted to know if that type of document could be produced as a cover to the budget.

THOMPSON said that based on the budget that was submitted, yes. Based on the concerns the City raised with the insurance and the PERS/TRS and some of the other things, no. We cannot.

HARRINGTON said that was what he was after because it could be adjusted later if more information is available. The data could be added into where the City is separate and where we are combined, and the same for the Borough so that we have that document to show the citizens that their taxes are not being raised just because of consolidation. He said he thought that was the death knell of the previous effort because it looked like there was a dramatic increase in taxes to the Borough residents.

FINNEY said that on the same line as HARRINGTON, it seems like it's kind of an arithmetic equation that as soon as the PERS/TRS/insurance go up in the City & Borough, they're going to go up in the consolidated budget. The City is going to raise their taxes or their revenue stream, or whatever, but our budget still has to match those expenditures. It's relevant in that if it goes up in one place, it will go up in the other. Fictitious numbers could be used because essentially that's what budgets are.

MCCARTY said he couldn't necessarily speak for the City but it seems as if we have addressed a lot of the philosophical concerns they voiced in their brief.

When you get down to the nuts and bolts, the ¼% is a major change, as well as some other things in there, some of these reserve funds we looked at. Those are some major changes. Those are kind of philosophical issues. He said he thinks there is some benefit in not fighting a battle before we need to, so he agreed that we should have that sheet. The question is when should it be put together. He said his feeling is that at this point it's too early. The numbers are still going to be moving. As we get closer to where we're getting toward public hearings or election, then we need to have something. What happens, as we've seen with this, which one is it now: version 1 or version 2 of a particular section? Too many of these floating around will cause confusion, as well, and people will pick out the one that catches their attention and it may be one version that is out of date. A lot of time then is spent arguing over something that isn't an issue. He said he's a little concerned about when that number thing is put together.

FINNEY said he had one more note on that. Right now in the budget that had been submitted, didn't we essentially raise the sales tax by a ¼%? To make it balance? He said he couldn't remember if that was this ¼% that was just taken out, but we come back to the point where he didn't see that changing. If where we're sitting right now, whatever constraints we needed to add to that budget to make it work a year ago, those same constraints are going to be added to the new budget. They may have a certain percentage sales or property tax to make their budgets balance and a year from now, we're going to have that same percentage plus this little bit. He said that seemed to him that it wasn't going to change.

THOMPSON said that's true. That's why other than some of the technical things we've done, if the costs are increased because of this PERS/TRS thing out there, you have to increase your revenues or bring the reserves down or cut services, but if you're a sitting body that has a responsibility for that, you're going to look at all your options on the table. He said that a good example is the Land Trust Fund. Earnings from the Land Trust Fund of the Borough are allowed to be used for maintenance of Borough property, so anything we've got can be maintained using those Land Trust funds. The Hospital sales tax can be used for the Hospital or other general fund purposes. Things move around in there. When there is PILT, currently KPU pays a PILT, a rather sizable one, to the City. That PILT in our budget is going to the consolidated Borough, because they're the governing body. The City came back and said that some of the PILT should go to the service area for services provided. Well, how much and for what? That's really the question that we cannot answer. They need to answer that. The same goes for the Port. The Port makes a large PILT to the City. In the consolidated budget, that's all going to the Gateway Service Area. That's probably not correct. What is a reasonable number between the GSA & the Municipality? In the consolidated budget, that wasn't addressed. The City said

that needed to be addressed because they need that funding. We didn't have to put that funding in to make things balance because the City is in a lot better shape financially than the Borough. However, the Borough's not in bad shape. He continued that there is a big misnomer out there that the Borough is almost bankrupt, but that's not the case. They don't have a lot of reserves. When there are a lot of reserves, that means somebody paid too much, whether in property taxes, sales taxes, or what have you, or you're not spending enough money. And, he said, he's never known a government not to be able to spend money, so he said he thinks somebody got taxed too much. But, the Borough is not in bad financial shape. If the Borough budget is perused, it's very conservative and it doesn't have a lot of reserves built into the General Fund, but there are \$2 million sitting there as a reserve. Maybe that's not enough, but maybe it is.

KIFFER said that he's anxious to have this thing go back to the LBC in a nice package and at some point, we're going to have to have the figures and we need the figures, or we've got to go with the figures we've got. He said he'd hate to see this thing go two or three or five months from now when it's to the wire and then we're provided figures that are way over or under what we've got now and we have to make a radical change which may change that single sheet that HARRINGTON wants. At the very end when we've got to change that sheet, and yes, there is going to be an increase in taxes that we haven't had time to properly prepare the public for that, so all that they see is we're raising the taxes at the last minute. He said if we get some good figures, great, if not, let's move on.

THOMPSON said that's what he's saying. He said he thinks we need to move the numbers that we've got at this time and make minor adjustments to them, but the numbers that we have are not bad numbers and it's a moving target and if the City should give us those numbers and come back with a response within the next couple of weeks while we're putting this document together, then we'll take the time to stop and address the new figures, but if they don't, he said it's time for the Commission to say that this is what we've got, we're going to move forward, and let the LBC come back and say, well, we don't think that's enough.

PAINTER said that he agreed and in the months that's it's been since the original Petition was submitted to the LBC, there are so many different things that have changed within the two entities that effect their budgets, spending and bonding. For example, with the redo of the last project, there's not going to be any \$1 million Hospital fund. OTTE interjected and said until litigation is complete. THOMPSON said to remember that we're talking about Hospital Sales Tax earnings, so those funds continue to accumulate. PAINTER said that with the auction of Borough lands the other day; there is over \$3 million new monies into the Borough coffers. There are additional properties put back on the tax rolls.

The City is facing a possible bonded indebtedness of \$35 million for a water filtration plant that may happen before voters get to decide on the consolidation issue, so how can we keep re-convening and tweaking the numbers to coincide with the current situation? We can't. There are too many things.

OTTE said we've got to complete our task and the best way to do it is what THOMPSON has suggested. She wanted to know if the rest of the Commission concurred. We will call you back and give you

THOMPSON said that once the document is done, we'd do a broadcast of the document to the Commission. Give the Commissioners some time to review it and then convene to adopt it, to send it out with the letter, if that works for everyone.

MCCARTY said that two factors come to mind in watching this whole process. One is, if you're Pollyanna, we've got it all done, just vote on the darn thing. If you want to sit and snipe at it, we can go through every paragraph and find something wrong. Somewhere you've got to get a middle ground. The other part is that it's amazing for most of us that with your feet to the fire, how much you can produce, whereas the Borough and the City have to function day-to-day and they have projects coming up. They've got to get the day-to-day work out. Taking time away from that for this theoretical project we're working on, for any of us would probably be a lower priority if you were working in their management. By sending this back to the State and putting something in, it drives some people to respond to it. There is a working document instead of theory. Instead of waiting for them to respond, we can say, here it is. He said he thinks that we should put it together, send it up to the LBC and see what we're directed to do. We've taken out the big uglies and now we'll see what happens.

HARRINGTON said that he thinks we've addressed just about all of the major philosophical issues that were brought up by the City and Borough and the language issues. We're down to the budget issues, which were the major stumbling blocks that the City had with our Petition. If PERS/TRS is the single-most egregious problem, he said we knew they're looking at a 5% increase each year for three years in those expenses, that's not an impossible task to build that into the budget the way it is, to adjust it from the 2% to the 5% additional expense each year over the three year period. He said there is some minor tweaking that can be done to our budget as it now stands to get over that one hurdle, but he keeps hearing what the LBC was saying that it would be much better if we get all of the stakeholders and their information here and we can combine. OTTE interjected and asked how long we were going to sit on it. HARRINGTON said he understood and that's why he said that we should do the

best we can, but we need some tweaking, we can't send it the way it is, but wait for a little while to get this all together.

MCCARTY said that one more thing to put in the letter/notice that we'll be sending off, using the retirement funds as an issue, is that whether we have consolidation or not, those obligations are going to have to be met and we're either going to hang together or we're all going to hang separately. These aren't issues that consolidation is driving. They're going to have to be solved. That's one way to address some of these issues. It's not a consolidation issue, per se, that there's a pension issue out there, it's just how we deal with it in our proposed budget and which pocket will the monies be pulled out of.

FINNEY said that he thought part of that problem, however, is again, the two government bodies have a couple of ways to deal with it: raise taxes, find new revenues, or cut services. That's a tough thing for us to try to be fixing. MCCARTY said those were political choices. OTTE said we're not supposed to be dealing with those types of things. FINNEY said yes, but if HARRINGTON's examples are taken, just make the budget fit 7% increase in benefits, that really is the end of the day where the page is shown with the 3 budgets, the problem with that is, which method did we use to get there? Because really, our only method we've got is just to show that it's going to be a raise in taxes to balance the budget at that point. Whereas he said, he's got to think that the two bodies have other alternatives and combination of methods for the fix that we as the Commission don't have. It puts the Commission at a disadvantage.

THOMPSON said that one of the things that the Commission didn't deal a lot with was in the staffing plan. He said we hadn't gone in with a big carving knife and carve out huge chunks of people out of the budget. And certainly, when these two governments are combined, there's going to be more than just the very top level of management that's going to be duplicated. THOMPSON said that OTTE had spent a long time putting together a complete staffing plan in case that is necessary. OTTE said it was just a projection; it shouldn't really go into the budget. It's a feasibility document saying yes, there will be savings. She said she'd saved a lot. THOMPSON asked whether it was the Commission's job to make those decisions regarding staffing. The pen is mightier than the sword and certainly, a really good budget could come out of the Commission, but that's not the Commission's job. That's the Assembly's job.

MCCARTY said that could be the introduction to the budget section saying the Commission made a philosophical choice that the staffing is a political choice for the Assembly to make. We have determined that either revenues can be increased, decrease expenditures, use reserves or raise taxes. That's a political choice and it is not up to the Commission to do that.

THOMPSON said that he felt the Commission's budget was pretty tight when submitted. There were a few things wrong with it, but he said he thought another discussion and narrative, rather than the summary page, needs to be done and include the PERS/TRS in there. He said if we increase the costs, we're going to increase the revenue one to one. All that's being done is raising both numbers up. Will it make somebody feel better that all the numbers are on the same page? Maybe it will, maybe it won't. We don't know what's going to happen next year if the legislature is going to fund PERS/TRS. They might bring back the municipal dividend. We don't know.

PAINTER said the only other major contentious issue of concern on the City's behalf was the allocation of City assets. THOMPSON said to him that's not that big of a deal. It was the reserve funds and how much was going here and going there. Whatever is fair and we knew that these assets were going to come across, the Museum, Library, Civic Center, etc. and the Assembly is going to make those decisions, not the Charter Commission. THOMPSON said he'd met with the City and said that 20% seemed equitable and he said he'd given them some rationale as to how that number had been determined and they said okay, and then after the Petition was submitted, they said it was too high. THOMPSON said that these were balance sheet items and we were focusing on the operating budget and how do we make this thing work. When you talk about a balance sheet item, that's how much we've got and which pocket it's in and it's all going to be one Borough so whether it's in the pocket of the North Tongass Fire Department, or in the pocket the GSA, it's in effect all in the pocket of the Borough. He said he didn't really see that as a major stumbling block.

M/S OTTE/PAINTER to reconvene into regular session to consider scheduling of any further necessary meetings, adoption of any proposed language for the formal response (if necessary) and to conduct the rest of the Commission's business.

The motion was approved by a unanimous voice vote.

I-3

Not necessary at this meeting. The item will be moved forward to the next agenda.

J. Commission Comments

HARRINGTON said he'd had a hard time shifting gears. After 4 months of working on this and then 4 months of not working on this, to come and pick it all up cold again is hard. If we need to do stuff, let's do it soon while this is still fresh. Let's set the meetings as close to this date as we can, get it over with and

get this thing wrapped up as best we can. He said that's it's too hard to go back and re-read everything to be current and then drop it.

OTTE said that a good place to look is to go to sitnews.us/ and read the minutes. They are all posted there and it's easy to scan and do word searches.

THOMPSON said he agreed with HARRINGTON. We'd taken a hiatus while waiting for the numbers and now we're moving forward.

The meeting was adjourned, subject to recall by the Chair, at approximately 8:03 p.m.