

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

September 3, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:04 p.m., Friday, September 3, 2004, in the City Council Chambers.

Roll Call

PRESENT: OTTE, PAINTER, THOMPSON, HARRINGTON, KIFFER, FINNEY
ABSENT: MCCARTY

A: Pledge of Allegiance

B: Ceremonial Matters/Introductions

There were no ceremonial matters

C: Public Comments

There were no members of the public present at the meeting.

D. Informational Reports and/or Commission Presentations

THOMPSON indicated the submittals to the laundry list. There was information from HARRINGTON regarding property tax options. He said as far as he could tell, once the Commission gets through what's on this agenda, the process is pretty much done. If anyone has something else, now would be the time to get it out for discussion.

PAINTER said he'd had an interesting phone call.

E. Consent Calendar

M/S PAINTER/HARRINGTON for approval of the minutes of the August 27th Meeting

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HARRINGTON pointed out an error in wording on page 13.

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

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

The motion passed 6-0.

F. Vouchers

M/S PAINTER/HARRINGTON to authorize the payment of vouchers, as submitted, for a total of \$ 1,857.5.

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

The motion passed with a vote of 5-0 with 1 abstention.

G-1 Work session

M/S PAINTER/HARRINGTON to recess into work session to discuss the Draft 2004 Petition and Exhibits, including the budget, as well as any other Commission business.

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 it is not required that minutes be kept.

HARRINGTON indicated that in Exhibit A, the Chitwood Study is referenced with footnotes and it is indicated the study is included as part of the Petition as an Exhibit. He said he'd like to delete the phrase to put it in with the document. He said the reference is there and that document is about 2 1/2 inches thick and to include it as an Exhibit would require making multiple copies and the Secretary would have to scan the entire document to get it on a CD. He said no one is going to read it anyway. It's available if they want

it.

THOMPSON said that one of the things that had come up in the emails of the week was that OTTE confirmed what the filing requirements are and it is both paper and electronic, and the larger this document is, the more expense it's going to be. The Commissioners had seen the bill for distributing the original draft, so he said he'd have no objection to that exclusion.

PAINTER said just as long as the Petition meets the requirements and OTTE indicated that the study is footnoted, just like other information from the State, and the LBC has already been given the Chitwood study in the prior City petition and the other footnoted report from 1975 is not included as an exhibit. She said she couldn't see why the Chitwood study would need to be included.

HARRINGTON said if it saves work and money, no one's going to read it anyway since it's so lengthy and out of date.

FINNEY pointed out that on page 7 in Exhibit F, under the Gateway Service Area, there are a couple of Ketchikan Service Areas still remaining. Those will be corrected.

THOMPSON said he'd like to point out that on page 17 of F, the percentage should be 10%, not 20%.

OTTE said she'd like to distribute the entire new F to everyone and THOMPSON said to wait until the finally adopted Draft and then send everyone that one. OTTE said that would be logical, but she'd told people there would be updates forthcoming a week ago, so she was already late with those. THOMPSON said it's still a working document and he'd sent it to the City/Borough Finance Directors and it's available on Sitnews, so it's out there for people to review. OTTE said that we'd indicated to the public that as changes were made to the document we would update their binders with Errata pages and the new Budget. HARRINGTON asked THOMPSON if he expected further corrections from the Finance Directors and THOMPSON said he didn't think so. He said he'd spoken with Mr. Newell and they discussed the budget document and Mr. Newell had had a chance to review it and he said he didn't have any heartburn, and after the document is into its final form, there will be more things brought up. That's kind of the nature of the beast, but of a substantive nature, no. HARRINGTON said that as of tonight the Budget narrative will be adopted and THOMPSON said that was the intent.

OTTE suggested that Friday, the 17th, have as the only agenda item a complete review of the document, and make any little changes. She said that after the meeting of the 10th, there should be no more big changes to the document, so maybe after that meeting, she would be able to get the duplications done for the binder-holders and get it to Sitnews prior to the Public Hearing on the 17th.

THOMPSON indicated that the parts that were really changed in Exhibit F, Budget narrative, were from page 16 on. He said he wanted to make sure that the bullet points that were inserted were appropriate and were inclusive of all the comments expressed at the 8/27 meeting, especially in regard to the insurance issue. PAINTER said he like the statement that regardless of whether consolidation happens, the insurance and PERS issues are still going to be there for the City/Borough to deal with. THOMPSON said he'd asked OTTE to send the minutes since the sound was off during the meeting the night these things had been discussed. He said he'd highlighted all the comments regarding the budget issues, both by the Commissioners and the public and added them to the Exhibit narrative. He said he thought it had been covered, but he wasn't sure that this would necessarily pass muster at the LBC level, but that will be dealt with that if it comes up. He said he thinks that's the best that could be done at this point.

THOMPSON said that other than that section, there were just a few changes to the whole. He said that he thought everyone on the Commission had had a chance to look at the redline document to see what the changes were and if there was anything he'd missed should be taken up. He said he didn't crosscheck with Exhibit J or the Petition and requested that be done by the Commissioners to make certain changes there didn't need to be done. THOMPSON said the problem with this document is that there's repetition throughout. If you change something in one place, you've got to change it in several.

THOMPSON said that the only other thing that's been discussed that's not in the document and it might be put in as an F-5 or better yet, up in the Petition is the taxation. OTTE indicated she said she had a format and she'd work something up. She said it was very easy to understand. The one that the City had in the original petition is not very clear to her. THOMPSON said the only thing done with property tax is taking two taxes and making them into one and if it can be shown before and after, if we could show the sales taxes and the property taxes they should probably go in the petition.

HARRINGTON said it would be nice to get it in the newspaper as well.

OTTE said that she didn't believe in putting the whole chart in the paper. First of all, she said, it's going to be a really expensive ad to run because the figures can't be put so small that people couldn't read them. Secondly, we are not campaigning for passage of a consolidation vote at this point. We're trying to get input and the petition will be out for community review. She suggested a smaller ad saying property taxes are...she said she didn't think a huge chart was what was needed. PAINTER pointed out that Mr. Tipton, Mayor Weinstein and Mr. Amylon had both brought it up.

THOMPSON said it should be seen how simple a chart could be made. The Commission budget should be checked to see if there is money for it.

HARRINGTON said that an ad prior to the 17th Public Hearing should be done with the bullet points of where the Commission is on a lot of the issues, as well. There is going to be another sizable expenditure when it's time to duplicate this thing to send to the LBC, so that needs to be factored in when we look at how expensive the ads might be. As long as there are funds in the budget to cover all this, he said, it's no problem. OTTE indicated she thought there were plenty of funds left.

FINNEY wanted to know if a flyer in the paper the better way to go? OTTE said it was about the same expense as for an ad. FINNEY said that a bigger piece of paper with a lot more information could be submitted. HARRINGTON was appointed as the flyer guy. HARRINGTON said he would play around with setting up the information and send it to OTTE & THOMPSON, but technically, he said he'd just draft it and send it to either one of OTTE & THOMPSON. THOMPSON said he should just send it to both of them and they would get together & refine the information. PAINTER said the information wouldn't fit in the "little giant" ad format and OTTE agreed. HARRINGTON said he'd take a stab at formatting the flyer.

PAINTER said to make sure he included the fact that all residents get to make a choice in bond issues for the hospital and KPU. OTTE suggested that HARRINGTON search the minutes on Sitnews. She said she had for a time used the phrase "bullet point" when talking about advertising ideas.

PAINTER said he'd gotten into a discussion with an opponent of consolidation and he said he had tried to touch on the good points, trying to sell it. One of the things this individual didn't like, even though he was told that the rural residents would have a choice in KPU and hospital matters, he says, yes, but

they will also be responsible for the bonded indebtedness that has occurred before the consolidation. KIFFER said that people just have to understand that this is a forward-looking move and people just have to understand that fact.

OTTE said that you're either for the concept and are willing to make compromises in order to get to that end goal and still be for it, or, you just bury your head in the sand and say, I don't want it. PAINTER said that another good point to consolidation that nobody has mentioned there is the issue of the harbors outside the City limits.

HARRINGTON said he'd like to review some of Lance Mertz's points from his memorandum.

THOMPSON asked if anyone had anything else to say about F-1. The Commission indicated they assumed that THOMPSON had done his due diligence. The Commissioners indicated that in the redline version, not that many things had been changed.

THOMPSON moved the discussion on to the laundry list. He said he hadn't seen a lot of duplication and OTTE said she'd taken the ones THOMPSON had covered off her list. KIFFER wanted to discuss Ports & Harbors. He said he wasn't happy about the way things were, but he said, that was probably the way it had to be.

THOMPSON said his #4 on the laundry list came about because of a call from the City Finance Director and they were concerned because of the budget that the refuse collection had been pulled away from the disposal division. They were concerned because they (the City) got some synergy from the two crews (disposal & collection) together. THOMPSON wanted to know if it should be looked at as an accounting function, or from an operational standpoint. Operationally, they have guys that are working loading the baler who can substitute on the trucks. They are able to move the people around. It was written into the budget that that's a separate item for that, so that's where the efficiencies come in. KIFFER wanted to know why that was a separate item and THOMPSON explained that the power to collect solid waste is a service area power and the disposal of solid waste is an areawide power. KIFFER then said that what the City is saying is there is no way to utilize equipment and personnel between those two without a revenue sharing similar to what they do now. THOMPSON said not so much that, but they were talking about operationally. There would be someone assigned to the collection crew, and one day he might work in the plant, or if they had

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someone working in the plant that they would put on the collection crew for one day. It's the most optimum use of the personnel's time, however, the two functions are completely separate. One is over in the Gateway Service Area and the other is in the General Fund and they were concerned that from an operational standpoint, it makes sense to use the people where they're needed and then it just becomes a matter of accounting for it. That's the reason that item was in there.

PAINTER said he liked THOMPSON's #13. THOMPSON said there was so much to do reference sales tax polices and the taxes themselves, that he didn't know how to phrase the suggestion. PAINTER said it was something that really needed to be done. OTTE suggested encouragement of enforcement of current Code in the sales tax area would be something the new Assembly should look into. PAINTER asked whether there would be a tax enforcement officer? OTTE said that there is supposed to be someone from the Borough's Finance Office who is supposed to audit businesses to see if they were in compliance. PAINTER wanted to know if that was the person who came up with the giant yellow tax enforcement poster. That is unknown and the big yellow posters don't need to be discussed at this time.

HARRINGTON said that THOMPSON's #10 still brings up the supposition that there is a government within the government and he said he was presuming that was going to remain, he said he hated to foster that idea, but clearly there is the concern about the parallel institutions and the need to dissolve them for cost effectiveness. He said he'd rather be much more emphatic and have the list state that this is an area that needs to be streamlined of the public works departments to make sure they are integrated and charged off to who knows what. THOMPSON suggested that HARRINGTON do a re-write of this item of the list and send it to OTTE. OTTE said that anything the Commissioners wanted to add more information or suggestions for changes for this new Exhibit, J-1, to the Petition, or if they had anything new to add to the list, to please send it to her for inclusion at the next meeting.

The Petition document is going to close on the 17th so that copies can be distributed prior to the final Commission meeting of the 24th.

PAINTER pointed out that in #9, Vactor truck is a brand name and perhaps a sludge pump truck should be substituted.

THOMPSON said that on KIFFER's #1, Emergency Ordinances, he wanted to take that up when Mr. Schweppe's suggested changes are discussed under

the agenda item. He said he thought he misunderstood when voting last week and he had made some changes to 3.03 and that may address the issues in that item. THOMPSON said when he'd re-read Mr. Schweppe's comments in light of what it actually said, he's replacing a whole bunch of verbiage with one very short paragraph that controverted what the Commission's attempt was.

THOMPSON said he liked KIFFER's #2. He said that his #4 would be addressed during the discussion about the tax cap item.

THOMPSON said he liked KIFFER's comment #5 about the road powers, but all of his concerns are not addressed. KIFFER said that he thought that that's something that needs to be fixed somehow, but he didn't have any real suggestions. The Assembly is going to have to address it pretty quickly in their process. There are several big projects that are coming up that are going to require roads that are going to be considered unnecessary and he said he thought the new Assembly would have to address that.

OTTE suggested having the service area board members for the newly formed Gateway Service Area be elected at the same time as the Assembly is elected. PAINTER wanted to know how that could be done in a general election because only those service area residents could vote on that issue. OTTE said they do it all the time. The Commissioners started listing North Tongass Fire Service Area, etc. and OTTE said the initial service area board. The Gateway Service Area is a non-existent entity. When the consolidation effort passes, the Assembly needs to decide if there is going to be a board, and if that board is appointed or elected. She then said never mind, it would have to wait until the Assembly is elected so that they can decide. HARRINGTON said that it does make sense for the Commission to recommend that because the precincts are such right now that the City is separate from the rest of the Borough, that the new Gateway Service Area is the logical one to have an elected board and that election could come up at the next general election following the vote for the Assembly.

PAINTER then pointed out that if there were going to be an elected board for the Gateway Service Area, then all the other ones would have to have elected boards. The Commissioners disagreed. PAINTER said that this is because the current service areas that are going to remain status quo, their boards are appointed. They're going to say that they didn't get a chance to elect their boards. HARRINGTON said the problem is the headache of...North Tongass would be fairly easy because the precincts do jibe with the service area, but the other ones do not. Waterfall is not a separate precinct, Mud

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Bight isn't, as well as Gold Nugget, Forest Park and there's a problem of running an election for the smaller service areas. [OTTE pointed out that Harriett Edwards was at home tearing out her hair at the mention of these types of election.] HARRINGTON said that he would recommend that they continue with the appointing process for the smaller service areas. The Gateway Service Area is a much different animal. THOMPSON said that he thought the Commission should reword and combine KIFFER's #2 to say something like, "the Assembly should consider having elected members of service area boards." Then combine that with OTTE' #4. It should be left in the new Assembly's hands.

KIFFER said that elections are always discussed, and it's always assumed that this service area election has to be tagged on to a general election. It doesn't need to be. If the Assembly is to be encouraged that an election of that service area itself, which isn't going to cost \$10,000. Understand that the Gateway Service Area doesn't currently exist, so it wouldn't work for them, but he said, his concern is for the existing service areas, that the Assembly be encouraged to accept the members for that service area board that are elected out of that area. KIFFER said that it didn't need to be an official State election, it needs to be the Assembly listening to the service area board members giving them a recommendation of what the service area wants to place with the Assembly. PAINTER said there is no such thing as a non-State-sanctioned election. KIFFER said that it's done quite a bit; in fact it was done just recently on North Tongass. He said they'd had people coming out of their board...PAINTER said it has to be sanctioned by the State. KIFFER said there were people who came off the board; how did they get replaced? They were appointed by the Assembly based on what the service area board wanted them to appoint. KIFFER went on to say that's what had happened in South Tongass as well. PAINTER said that Harriett (Ms. Edwards) would probably come marching through the door very shortly. PAINTER also said that if that were done, tagging the service area board election onto a general election (local election) there would have to be two ballots. Those who reside within the Gateway Service Area and those who didn't. OTTE said that had happened before. There had been elections with both City and Borough issues, but if the other service area boards are elected like was being discussed, there aren't precincts where that precinct would get the Gold Nugget service area exclusively. THOMPSON said it should be left up to the new Assembly. If they want to add an elected board for any of the service areas, rather than an appointed board, they have the authority to order an election.

HARRINGTON went on to say that as a recommendation from the
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Commission, he would like to specifically suggest that they look at an election of a service area board for the Gateway Service Area. He said to just leave it at that and let the new Assembly deal with any of the other service areas regarding this issue.

FINNEY asked what the community would have then; there is an elected Assembly and if there was an election for a service area board for the Gateway Service Area, wouldn't that be just like having the City Council again? THOMPSON said not necessarily because...FINNEY interjected that they (a new elected service area board) might not have the power as an advisory board, but the appearance is what has really been done with this consolidation. THOMPSON said the wording would be suggestive that the elected service area board should be an approach worth further study. When it's determined the complexities that the new Assembly is going to have to have dealing with all of the Borough & City stuff, and the City stuff is in a service area, it's going to make logical sense to get some people in to do the leg-work and go through the documents and make recommendations so the right questions and decisions can be arrived at.

FINNEY said supposing there were an elected advisory service area board, if the Gateway Service Area starts paying those elected board members, just like they currently are with the City Council for public service, where are all the savings then? OTTE said she agreed. What's the answer? An unpaid advisory board, and if that's the desire, does it get written into these suggestions?

PAINTER said it was really hard to see what the picture of the future would look like under consolidation, so you have to picture that the services and funding and everything for the Municipality is going to be increasing the Gateway Service Area services and funding and goes on, workings of the government is going to be lessened from what it is currently with the City, so the task of a service area board for the Gateway Service Area is not at all going to be like what the current City Council. The powers are going to be less and they're not going to be paid, unless the Gateway Service Area decides they want to. PAINTER said they are only going to be dealing with the services and powers, not policy, that are only type-specific for the Gateway Service Area and not the areawide stuff because that's what the Assembly will be handling. The brunt of the job is going to go to the Municipal Assembly. FINNEY said that the bottom line, if they're treated like all the other advisory boards, they'll be pretty much another fly on the wall.

THOMPSON wanted to know if there was a consensus on how to deal with
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OTTE's #4. FINNEY said to combine KIFFER's #2 with OTTE's #4.

FINNEY wanted to know whether by putting these suggestions in the document it would be indicating a consensus on the part of all the Commissioners? THOMPSON said yes. OTTE said that if the Commissioners had anything different, to please get those things to her. FINNEY said he'd put a little bit more effort into his laundry list.

HARRINGTON said he'd like to jump ahead and said that some of what Lance Mertz said some of the things that he (HARRINGTON) would like to see on the laundry list. One of the items was privatization of KPU. THOMPSON said that his response to Mr. Mertz's comments would have been, baby steps. The Commission needs to take the initial steps and all these things would be good things to do, but if they are all attempted at once, it would be very confusing, very difficult to sell, and THOMPSON said that while he agrees with a lot of things that Mr. Mertz discussed, he didn't feel that the initial consolidation effort should include some of them.

OTTE said that to establish a Port Authority takes a lot longer to do than the Commission had to work on the entire project. HARRINGTON said that a Port Authority could have authorized them to do it without a vote of the people, within the Petition, however, that doesn't gel with the Commission's purpose. That's a laundry list item and it needs to be said that the new Assembly needs to look at a Port Authority as a potential goal. He said divestiture of KPU into a ratepayer co-op should happen, as well. Get it out of the government, but keep it under the ownership of the locals.

OTTE said she liked the next to the last paragraph in Mr. Mertz's comments.

KIFFER said that he also agreed with most of what Mr. Mertz had said. He said that as he was thinking about the laundry list, he said he was thinking about what the new Assembly would be doing 2, 3 years or 4 years down the road after consolidating and trying to deal with new things on both sides of the borough and the city fence. He said he sees the laundry list as just ink and paper because we recommend that they need to look at this? They're going to have their hands so full over the next three or four years just trying to meld these two governments together. He said he didn't see how a laundry list is going to do anything and he agreed that KPU needs to be looked at, but if that's the only effort on the part of the Commission is to put it on the laundry list, he was wondering how effective it would be.

OTTE wanted to know if any of the Commissioners were planning on leaving
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town. She said they'd gotten elected because first of all, we were silly enough to put our names down and secondly, because each of the Commissioners care about the community and what happens to it. So, she said, the laundry list might go on deaf ears, or be kind of shunted off, but the Commissioners are going to be in town. We could go and say, hey, I was on that consolidation commission and I helped write it, and okay guys, it's settled down a little bit, how about some of these things we spoke to? PAINTER said that it could be that some of the Commissioners might be on that new Assembly. OTTE said she didn't see it as wasted ink and paper, but there was insufficient time to address the KPU or the Port Authority issue.

KIFFER wanted to know if there was any other option that would strongly encourage the new Assembly to not ignore the key items. THOMPSON said they'd be told that the government would "unconsolidated" unless they dealt with it. OTTE said, again, that the people that are elected have to be trusted. THOMPSON said that some of the things on the laundry list had been addressed in the past and probably would, again, in the future. Several years ago there had been a divestiture vote on KPU and the Port Authority was considered not too long ago. He said one of the problems he has with a Port Authority is that for a community of 14,500 to have yet another government authority with taxing powers and employees and that kind of goes against the purpose of consolidation. That's setting up another small government. If it made sense to do so and things would be better run, great. If it would save taxpayer's money and better bang for the buck, great, but one of the reasons that people don't like port authorities is that they do have basically the same authorities an assembly does. They have taxing authority; they can set up their own police; they have their own elected officials; and that's part of the debate on it. Yes, it should be looked at, but as part of consolidation, no.

HARRINGTON wanted to know how, with what THOMPSON said, is that any different than what is currently at the Airport? They already can charge, they already have their own police force, they already have their own fire; it is not a port authority, but it's like one. THOMPSON said yes, but they report to the current Assembly. There isn't a separate board. HARRINGTON said that any port authority that would be set up could be done the same way and they have the multi-dollar piece of land out there, which is just ripe for being used as some sort of port base. It should be sold or a professional land management person in charge of it. THOMPSON said that it should be looked at.

THOMPSON said that the divestiture/co-op of KPU and the Port Authority
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should be pulled out of Mr. Mertz's comments and added to the laundry list. The laundry list will be cleaned up and put into Petition document format.

OTTE said that copies of the letters she had sent to DOT and AST regarding their presence in Ketchikan should consolidation occur, as well as a response letter to Mr. Stage about including the potential for a Loring service area in the petition document. These were just copies of letters that had already been mailed.

THOMPSON asked if the Commission wanted to discuss the tax cap before going back into regular session. He said it might be a little easier to discuss all 5 or 6 of the options of the H-2 agenda statement. He said perhaps a break and then come back to work session for a discussion on that agenda item.

The Commission took a 10-minute break.

FINNEY asked if there was going to be a lead-in when the laundry list goes into the Petition. THOMPSON explained the first lead-in sentence. FINNEY pointed out that in THOMPSON's #2, there was really no suggested action, just a point made. THOMPSON said some of them wouldn't necessarily have a solution, just the fact that the perceived area of concern was being pointed out.

THOMPSON said that the Commission would now discuss agenda items H-2 (A-F). THOMPSON invited HARRINGTON to lead off the discussion. THOMPSON asked HARRINGTON which of the proposed options was his favorite.

HARRINGTON said his original change to the Petition, 9 mills with voter approval for raising the cap was his preference. He said obviously that wasn't going anywhere. He said he'd even consider 9.2 mills. If that weren't done, then his preference would be to establish 9.2 mills and give the new Assembly, by a super majority of some sort, authorization to declare a financial emergency and to exceed that limit, on a year-by-year basis. He said the original and Item B were his favorites. He said if he had to, he'd probably go along with C, D & E. He said he hates F and he didn't like A.

THOMPSON asked in terms of Item B, what was to prevent them from continuing every year from declaring an emergency and raising the taxes? Not a thing, except it's a super majority and every time they have to do it, they have to declare an emergency and they have to have the super majority, but remember, HARRINGTON said, every year there's an election right after that. That's where you kick the bums out who raised it. The only way to raise the

cap and get it out of that cycle is by a vote of the people.

PAINTER said he liked what Mr. Tipton had said; it's short and simple. PAINTER indicated that the item he was referring to was #5 on Mr. Tipton's list. Mr. Tipton was there the last Friday and Saturday. He said he'd said it before and he would say it again; he didn't like having a tax cap. He said he likes part of what HARRINGTON had said, part of what everybody else said, is that simply stated, taxes, sales taxes, levies and apportionment and property tax could only be changed a 2/3 vote or super majority by the Assembly. Because of the cost of a special election, those voters who are going to vote in that election, percentages are going to be low. The shell game; the guessing game, of a municipal manager of trying to guess at the do or die date of an election, or doing the emergency route and then doing it the next year, or whether there are reserves to cover the budget shortfall for a year. The first time the manager gets caught in the cross-fire of the guessing game as to how much revenue sharing there is going to be, he/she is either going to get fired, or quit.

KIFFER said he agreed with that, but he thought that having the Assembly's ability to operate above that cap is a real do-able thing. Everyone's said that seven votes are not attainable; he said he accepted that, but they (the Borough Assembly) knew last year that this year they were in trouble. If they know going into the budget process that they either have to get 6 votes to go above the tax cap to get out of the financial trouble predicted for the next year or the issue has to be taken to the voters. They know it's going to cost \$10,000 and they also know they may get turned down if it goes to the voters. He said that for the Assembly to get 6 votes to operate above the cap, if it's necessary, they're going to do it because the alternative is not going to be good and they could get turned down, which really would put them in trouble. KIFFER said that requiring 6 votes is a big deal.

PAINTER said whether there's a tax cap by ordinance or not a tax cap, the proof in the pudding is a prudent assembly and prudent staff management should have been doing their job way back in the year and watching the deficit spending, looking ahead of where they were going, instead of just doing business. KIFFER said this amendment sort of forces them to do that. If they know that in order to operate above the cap, they're going to have to jump through some hoops. That's going to force the Assembly to look a little farther down the road.

OTTE said that was basically what THOMPSON's addition to the agenda item says (the additional option). She said it deletes Section 10.05 that talks

about sales tax and puts local sales and the property tax raising procedures on the same procedure and the six votes are there. PAINTER said there was no way to do 3/4 of a 7-member body. FINNEY said the unanimous (7-0) vote requirement has been removed (convicting them 12-0).

THOMPSON said that he didn't think anyone on the Commission wanted to discuss A. That's probably been ruled out. THOMPSON said in reference to Item B that if it's to be allowed for an Assembly to declare an ordinance and operate above the cap, what's the point of the cap? They've established a cap that's arbitrary and they've said they're not going to go above a certain number and if they choose to raise it, they're going to raise it. If there is a cap imposed by the Commission of 9.2 mills and they say it's an emergency and they (the Assembly) are going to operate above it, what's the point of that cap? He said he didn't see what the point is. Point two, THOMPSON continued, is this does not solve the problem of running sales or property tax. On the other hand, it actually goes the other way. It makes it easier for the Assembly to raise property taxes without having to go to a vote of the people. Third, he said, there could be 6 people vote for this property tax cap, the mayor could veto it, and there would only be 5 votes necessary to over-ride his veto. He said he was struggling with the six votes.

PAINTER said that THOMPSON's added suggestion prevents being captured in a cap and six or seven or five votes to change that. It would help prevent things from becoming fees if the tax cap couldn't be raised. OTTE concurred indicating they couldn't supplant the taxes that couldn't be raised with fees.

KIFFER said he liked where THOMPSON was going with his suggested changes because it cures the recent problem about sales tax and property tax and the perceptions that the voters had about what went on. He wanted to know what prevents the mayor from vetoing the vote and then having to go back to a 5-2 vote? There would still be that problem. THOMPSON said that's why he'd put 3/4 in there, but he would be more inclined to make that a 2/3 vote and make it 5 votes and be consistent. He said the only reluctance he has with that is he's kind of like FINNEY, 12-0 is always good. If 7 people cannot agree that taxes need to be raised, that it's an emergency, it should be taken to the voters. Mr. Tipton said the Assembly could always take it to the voters if they aren't comfortable making the choice. The other side of the coin is that this will be a Home Rule Municipality. Home rule municipalities are managed and run by elected representatives who are expected to make these types of decisions. If it is the desire to put some brakes on them, you make them have a super majority. That way, just like the Commission has attempted to do, if there isn't a vote of 5-2, 6-1 or 7-0 to have a consensus

that the choice is the best way to go before something is passed. A 4-3 vote is not a consensus, at least in his mind, said THOMPSON. A 5-2 vote is a pretty good consensus majority.

FINNEY said he'd been thinking about this tax cap situation and he actually agreed with THOMPSON on that. He gave an example where he thought something was there that required a raise in taxes and one fool on the body says no. He said he might have his own interests why he thinks there should be more money up there. The reality is that it's going from what a majority of the people want. He said if the Commission was to go behind the idea of the elected officials, if you trust the bums and typically, four of them should represent the majority of the community that might want to raise taxes, that's what they want to do. He said he thought a simple majority...he said to him, maybe a unanimous vote and a tax cap is too much. Maybe a tax cap and a super majority vote is a better way to go.

HARRINGTON said that if the body went back to OTTE's suggestion that the number of Assembly members be raised and only do it to 8, then 2/3 or 3/4 are the same number of votes anyway. He said he'd like to have it consistent. He went on, if there is a super majority or 2/3 in one spot, it makes sense it's 2/3 throughout. He said he could just see it becomes a scratching the head and wondering what were those people (the Commission) thinking about by having all of these various votes? He said it needs to be consistent with 2/3 if it's going to be done. He said he kind of liked the idea of requiring a 2/3 vote to raise any tax or fee. If something is going to be raised, it needs 2/3's. He said he still likes having a cap on top of that, but, he said, it's looking like he's losing that battle toward having a cap, but he would really like to see a cap.

THOMPSON asked that if there is a cap, chances are the taxes will go to the cap. But, if there isn't a cap and say to the Assembly. KIFFER wanted to know when the last time was where the community finances ran at the cap? Never. FINNEY said the only reason he'd be in a favor of a cap is because it's a big bullet point sell in the consolidation effort. He said he didn't care if the cap were put at 10, 15, whatever it is. He said that's the reason to have a cap, in his mind, he said he didn't think it mechanically does the Commission any good to have it there. He said he thought needing the 5 votes is the needed brakes for the tax purposes, but having a tax cap written into the Charter would help sell the document.

THOMPSON said first, the number that's been bandied about has been 9 or 9.2 mill areawide property tax limit. That's 1/2-mill above where the tax rate

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is currently. THOMPSON said that no one knows whether in a year and a half from now the tax rate wouldn't be at 9.8 and the cap would be lower than that. He went on to say that should a cap be established, it should be at some millage above that property tax levy that is in effect at the time this Charter goes into effect, rather than having a hard number in there. If the taxes are raised to 10 mills, then we go to one mill over or 1/2 mill over, or whatever. PAINTER pointed out that the 10th's should be eliminated. THOMPSON said another thing he's concerned about, as has been seen with the insurance issue, there could be a million dollar problem – that's a mill or 1/4% of sales taxes. If there is going to be a tax cap, there has to be enough wiggle room that they won't be under water right away.

FINNEY said that it's going to come back; it's the issue of how much money a person is willing to spend for government. It's not how much government that you want; and that's what gets to him. It comes to a point where they should start chopping it off and if the insurance or what have you goes to that extent, then personnel should be whittled off. There may not be the services that are right now. He said that's his feeling on taxes and on government. It's not how much government does he want, it's how much money he is willing to spend for government. And when he's willing to spend that much money, he said he wants the best bang for his buck. He said he's shelling out as much as he's willing to spend for government.

PAINTER said that there is no assembly member that is going to be elected on a platform of raising taxes; nobody that runs for office. FINNEY said he'd disagree. He said he's seen a lot of people on the platform that the schools would be funded to the cap and that required taxes to be raised and will again.

PAINTER said they didn't get his vote. Typically, an elected official never runs on a platform of ultimately...may skirt around the issues, but, and whenever a decision regarding taxes is before the Assembly or the City Council, no one wants the hot potato, but only if you've dug yourself into a hole and you have to pay for goods and services already rendered, and so that's like going into a restaurant and ordering a hamburger and realizing you don't have enough money to pay for that.

KIFFER said the elected officials have already raised the taxes this year and the community is not being given enough credit to be able to say that the increase is necessary. He said that having a cap and having to work within that cap, or have some additional effort to go above that cap, the only good

is that they are going to have to think about what's going to happen during this year. If the Assembly is forced to jump through the hoops a year from now to deal with the cap, they know they're going to have a problem, it's just going to make them think farther ahead.

PAINTER said they should have been thinking farther ahead earlier on in the year.

FINNEY asked KIFFER if he had a number in his mind and setting the cap, or talking like THOMPSON said, or a mill or 1/2-mill higher than whatever it is when consolidation goes into effect? KIFFER said he would be really happy with 1/2-mill over when it goes into effect. He said he'd even be willing to talk higher than that, because he doesn't think that the actual height of the cap, or the distance between is as important as what it's going to make them do this year. FINNEY said the perception of it. PAINTER said that if the cap could be changed by a super majority vote on an ordinance as with THOMPSON, any taxes, if there is a cap, whether it's dealing with politicians, electricity, water or sewer, it takes the path of least resistance. If the Municipality is short-funded at budget time and they've got to generate more income to pay for things that has been done throughout the year, they're going to take the path of least resistance. If there's a tax cap that they could change by ordinance and give themselves a black eye in public, there would be the temptation to change a portion of those proposed taxes into fees or they could increase the occupancy tax in whatever areas or all areas. KIFFER said that's why he agrees with THOMPSON's. PAINTER said he liked what THOMPSON had to say in his amendment.

THOMPSON said that HARRINGTON had made an earlier comment about his Item B, if there was an emergency declared and the taxes were raised over the cap, that shortly after that would be the opportunity to vote some of those Assembly members out who were in favor of that raise. The same thing happens on his proposed option, said THOMPSON, if the five or six people vote to raise the taxes and the public doesn't like it, then they (Assembly members) could be voted out at the next election. Would that mean the taxes would automatically go down? No. But if they operate at the emergency ordinance above the tax cap, is it automatically revert? No, not until the next year. HARRINGTON and KIFFER both said that it would automatically revert. That year's done, but at least it goes back, said KIFFER. He went on that with THOMPSON's amendment, if four of them get voted out every year and it keeps crawling up a mill every year and it never reverts back.

FINNEY said that when the millage rate is around 25, people would be put into office to put an end to it. The community in general will rise up and say enough, enough, enough and put the people out. That's what elections and representative government is all about; that's the reality of it.

PAINTER said that the Commission is looking at this issue from the standpoint as taxpayers listening to neighbors; from a businessman's perspective and the new Assembly that may or may not have the right to change taxes by ordinance, is doing so by the majority of the public that elected them and their peers. If the majority of the people who are speaking up want to have a White Cliff School replacement built and the majority of the input of the people, the calls, the letters to the editor all are leading them toward the decision to fund that project and the bonding for the project. It may require taxes being increased. Private enterprise is not being dealt with; the public is being dealt with. If the public wants a swimming pool and a majority of the public is for that project, that's what an Assemblyperson is going to do as an elected official. If that's not being done, that Assemblyperson is going to be the bum that got voted out, whether it's raising taxes or not. HARRINGTON said he disagreed, but he didn't want to comment further.

HARRINGTON inquired where this issue was going to go. He said he'd expressed his preference and wondered if anyone else had anything to say. FINNEY asked HARRINGTON to summarize his thoughts on the issue. He said his concern he had was would a cap be put on the sales tax as well? HARRINGTON said there is a cap on sales tax that is set by a vote of the people and he said that he didn't think this would apply if the Assembly were allowed to raise sales taxes without a vote, which is why, he said, when he got that point in his head that said the people won't stand for the Assembly having the authority to automatically raise sales taxes, then the millage rate becomes the only place they could raise it. If there is a cap left in, then they can't do that without a vote of the people, therefore they must sell it to the people or, as the concern was expressed, the needed monies would be passed along in fees, which is the process where he really likes the idea of a supermajority to raise fees, as well. HARRINGTON continued he didn't think that the end document would be perfect, but he said he wants to be able to say to the citizens that a cap is to be retained. There is one now, the people know there is one, they know it's sort of a flaky deal, but there is one and he said he thinks the people are going to want to continue to have a cap.

FINNEY asked THOMPSON said that HARRINGTON's answer didn't explained to him what would happen with the sales tax. There's a tax on the property tax millage rate, how could the sales tax be capped? Or, there is none.

THOMPSON said there is none. HARRINGTON said there's no such thing as a sales tax cap. There is a State mandated 30% sales tax. THOMPSON said that in his proposal, the authority would be given to the Assembly, the same type of authority for sales tax and fees as property taxes, the desire to do what happened this past spring would be eliminated; if a sales tax is not passed, the Assembly would have no other recourse but to raise the property taxes way up. There would be no incentive built into the system (with his proposal). They decide if it would be better to use sales taxes and maybe capture some visitor industry dollars, or would the necessary monies be paid through property taxes. What makes more sense from an operational standpoint, from a taxation standpoint because it takes 5 or 6 votes to raise that rate, and the same thing for property taxes. And, if the people don't like what those folks do, then they'll respond at the polls, but it makes it across the board – it's the same procedure that they have the authority. Right now, within the City of Ketchikan, they don't take either sales or property taxes to the voters. They are a home rule municipality and the Council decides those questions. They get a lot of input from the public, and they certainly will get input at the polls, but that's the way the home rule works. What this proposal does is it makes them have a super majority, at least a 5-2, to say that a super majority of the elected representatives agree this is the best way to go, whether it is 5 or 6 votes. If that many elected representatives to decide that's the best way for the community to go as far as taxation, that's the preferred way to do it.

THOMPSON continued that the whole purpose in the exercise is fiscal restraint; telling the government that there's a limit to what the voters will stand for and the taxpayers can afford and there's a point at which services and costs need to be looked into before taxes are raised. If, at this table, the Assembly looks at all the costs and determine that their constituents do not want police and fire services, they do not want their sewers backing up, the Assembly needs to pass this tax in order to pay for those services. The voters would go along with that.

PAINTER said because there are fees, sales tax and property tax all there, it doesn't give one avenue of lesser resistance for the Assembly to increase the monies. THOMPSON said he agreed. PAINTER continued that it leaves the option open, because it's not known. One of the outlying service areas may want to increase fees for fire protection or EMS and it gives them the option. That happens all the time. There's not a year goes by that there isn't a service area that makes a change in their services and fees, because that's what the residents want. It gives them the option to be able to do that

through the advisory boards of the service areas.

THOMPSON said the thing he didn't like about option B was that it wouldn't get away from the extortion like what was seen this past year. Under option B, the Assembly could say they were going to put a .5% sales tax out to the voters and if it's not voted on affirmatively, there will be an emergency declared and the property taxes would be raised to raise the funds. It doesn't solve that problem. Option D does, because there's no incentive for them to do that. They have to get 5 or 6 votes, they have to get the votes at this table, regardless of how the monies are to be raised, whether it be an areawide garbage fee, a sewer fee, a sales tax, a sales tax within the Gateway Service Area, whatever they would want to raise, they would have to get 5 or 6 votes at the table to do that.

FINNEY suggested a 10-mill cap. By the time 3 years has past, the rate will probably be at 9.5 anyway. PAINTER asked, set by ordinance? FINNEY said set by the Charter. OTTE asked if FINNEY wanted to put a hard number in the Charter. FINNEY said if there were a place to put it, this would be the one place to put it.

OTTE suggested the following: By ordinance, shall establish an areawide property tax rate no more than 1.5-mills above the areawide property tax based on assessed valuation of the property to be taxed in place on the date the newly consolidated Municipality begins operation. THOMPSON said that the following could be added: Notwithstanding the foregoing, any ordinance or resolution that would increase fees, sales tax levies, or property tax levies requires 5 votes of the Assembly. PAINTER said he didn't like the percentages. He said round numbers should be in there, not 10th's. THOMPSON said OTTE was saying putting the rate at a mill and a half over what would be on that date. KIFFER wanted to know if PAINTER was suggesting 2? PAINTER said a mill is a million dollars. PERS or a lot of the issues could eat that up quickly. FINNEY said to start chopping, then. He said that 2 mills, even 1.5 mills, is too much. PAINTER said, then one-mill or two-mills. THOMPSON said he couldn't support two-mills; he said he'd support a mill.

INNEY said the Commission was going back to the same thing; these people were willing to raise taxes as needed, so if they hit that cap, they go up to a mill, and it needs to go past that limit, give it to the people. He said there was plenty of time to figure it out and they could.

PAINTER said the Commission had to look at what the picture would be. The entire area is going to be comprised of different service areas. If the consensus of the community for a specific areawide power, all of the people want that to be done and taxes would need to be increased to do so, whether sales or property taxes, the body is going to have to do it, because that's what the people want. If it's a specific service area request that the consensus of the people want, then it's only dealing with that service area. If that service area wants to pay an extra .3 of a mill or whatever. FINNEY said this would not disallow that. PAINTER said that the cap is smoke and mirrors. If it could be changed by ordinance with a 5 or 6 member vote...THOMPSON said no, that's not what is being said. He said that what he'd said was if a cap was established, say 10 for discussion purposes, regardless of the fact that the level is under that 10-mill cap; the Assembly couldn't raise the tax levy (the rate of taxation), without 5 votes on sales tax, property tax, or fees. There would still have to be 5 votes to raise taxes. There would also be the cap that would never be exceeded, but if the current rate was 8.7 and they wanted to raise it to 9.2 (the cap being 10), the Assembly would need 5 votes would be required. If they wanted to raise the cap, it would have to go to a vote for a Charter amendment. KIFFER said the government has never run against that cap. He said the mill rate had been lowered 8 years ago, and it's been every little bit, just what HARRINGTON's concern is, it's climbing and climbing. It's taken a lot of time to get there. There has been a lot of time to reflect on it. PAINTER said that KIFFER needed to understand that if what occurred 8 years ago was noted when Borough staff was given the marching orders to drop the millage rate by 2 mills, there were consequences for that. There were reserves that were drawn down. FINNEY said, yeah, but the public paid less money in taxes. KIFFER said, yeah, the money went back into the public. PAINTER continued that the reserves that were burned. THOMPSON said those operations after the millage rate drop were also funded by the earnings on the Land Trust and the Disaster Fund monies. That's how they were able to lower the millage rate.

THOMPSON said it is what it is. The Commission could argue about what happened 8 years ago, but that doesn't give direction as to how the body wants to proceed to the future.

PAINTER said that to put the 10-mill cap in the Charter? THOMPSON said yes, put it in the Charter and it can only be changed by Charter amendment. That gives the Assembly 1.3-mills of wiggle room, but he said that he still thought it should require 5 votes to raise sales taxes and 5 votes to raise property taxes. FINNEY said he also agreed with 5 votes for fees. HARRINGTON said that a super majority could be decided throughout the document, or 3/4 of the Regular Charter Commission

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Assembly, so long as it's consistent.

PAINTER brought up the statewide sales tax cap issue from several years ago, as well as the Shoreline annexation. He indicated that the sales tax cap issue had not gotten to the ballot. FINNEY indicated that PAINTER was saying that this might get thrown back to the Commission. PAINTER said if it does, it does, and then changes will have to be made. FINNEY said that if it were made a mill higher than what the taxes are at the point of consolidation, that's roughly 10% higher on taxes. PAINTER said that the Commission seemed to be willing to go with a 10-mill cap in the Charter and include THOMPSON's language on the fees and all taxes.

OTTE wanted to know if anyone had substitute wording ready for any of these suggestions, so when the agenda item is reviewed, it will be clear what the Commission is voting on. THOMPSON said if the Commission seemed to be in apparent agreement as to the desired direction this item would take. He said he didn't want another 4-3 vote on it.

THOMPSON said that what he would propose when the body reviews the agenda item is as follows: The language would revert to the original language adopted on 8/6/04 with the limit being set at 1% (10-mills) of the assessed value of the property to be taxed. Voters may 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 Municipality to meet its bonded obligations and in no event shall the property tax levy during a year exceed 3% (30-mills) of the assessed value of the property in the municipality. And then, any ordinance or resolution that would increase...HARRINGTON said that would need to be a whole separate section. THOMPSON said the title of the new section would be: Taxation Super Majority Requirement to Raise Taxes or Fees Limit.

PAINTER asked that what was being said was that the areawide property tax limit shall not exceed 1%? That was affirmed. The section 10.07 Section would only change from the 8/6 amendments from .9% to 1%. THOMPSON suggested that would be 10.07 (a) and the other new section would be (b). OTTE said, no, the second one has a different title. It should be a new Section and the subsequent sections would be re-numbered. Section 10.05 (b) would also be deleted, since it would be covered in the new 10.08. That puts everything on a level playing field. If the new body gets 5 votes, things move. FINNEY wanted to know if there were a cap on sales tax and the body answered no, just a statewide cap.

G-2 Return to regular session

M/S PAINTER/HARRINGTON to return to regular session.

The motion passed by a unanimous voice vote.

H: Unfinished/Old Business

H-1 Approval of any changes to the 2004 DRAFT Petition discussed in Work Session

M/S PAINTER/HARRINGTON to approve any changes to the Draft Petition discussed in work session not covered by subsequent agenda items.

OTTE listed the changes covered by this agenda item:

Change word in the minutes; Remove references to Ketchikan Service Area; Eliminate A-1 Exhibit, references changed and renumber subsequent; P 17 of Petition, 10% not 20%; Tax chart inserted; Work up an ad prior to the 17th Public Hearing; Laundry list will be Exhibit J-1 and some changes were made and will be incorporated. THOMPSON indicated that HARRINGTON had agreed to attempt a re-write on his #10 on the laundry list.

A roll-call vote was taken on the motion.

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

AGAINST:

ABSENT: MCCARTY

H-2(A-F) Article X: Finance, Section 10.07 – 6 Variations on the Tax Cap

M/S PAINTER/FINNEY delete Section 10.05 (b) that describes sales tax increases and to amend Article X: Finance, Section 10.07 – Property Tax Limit, to read as follows: The areawide property tax levy shall not exceed 1 (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. 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.

Further, a new Article X: Finance, Section 10.08 – Taxation: Supermajority Requirement to Raise Taxes or Fees Limit, will be added to the Charter, with subsequent sections renumbered accordingly. Section 10.08 will read: Any ordinance or resolution that will increase fees, sales tax levies or property tax levies on an areawide, nonareawide or service area basis shall require the affirmative vote of two-thirds (2/3) of the Assembly or be approved by a majority of the qualified voters who vote on the ordinance or resolution at a general or special election. If the increase in the rate of levy of the general sales tax, use tax or fee is limited to a service area or is nonareawide, the vote is limited to those qualified to vote in that area.

THOMPSON said for clarity, Section 10.07 currently says, The Assembly, by ordinance, shall establish a property tax levy limit for each and every areawide, nonareawide and service area property tax. Any property tax limits so established may only be increased by at least a 2/3-majority vote of the Assembly. This recently approved amendment to Section 10.07 will be replaced with the original language that was adopted on 8/6/04 with a substitution in the amount of the cap and the addition of the new Section 10.08.

M/S FINNEY/KIFFER to require 6 votes (3/4) of the body to make any changes to the cap or the taxes. NOTE: 3/4 would require 6 votes.

KIFFER said he understood HARRINGTON's concern about making the document standardized in all voting requirements, however, he said he didn't think there was anything that the public had more interest in and stands to lose or gain, than in taxes. He said he felt that does warrant a stronger vote. If the new Assembly cannot look ahead far enough and they find themselves in trouble and sit down amongst themselves and come up with a consensus, like this Commission has had to do since this issue has split the Commission severely. He said that he suspects that when the Commission is done, it will be a unanimous vote. If the new Assembly cannot get 6 votes to raise the cap, then maybe there are the wrong people on the Assembly.

FINNEY said that the problem with that is when voting is taking place...what the Commission has done is negotiate, when votes are actually being taken on taxes as an Assembly, it's yes or no. They are either raised, or not. They might get raised to a smaller degree; that might be the negotiation that's arrived at. THOMPSON said that the other part that's in the amendment is

that if it becomes apparent that there won't be enough votes on the Assembly, they can always take it to the voters. KIFFER said that would work with 6 as well. OTTE said that it takes 4 votes to take it to the voters, any time the body would decide to do so. PAINTER said that if the new Assembly wasn't comfortable with their vote, they could always have an election. KIFFER said hence the last time it went to the voters. He went on to say that the idea of the negotiations of whether or not to raise the cap or taxes doesn't come in the first meeting. Taxes, and the raising thereof, that's a long process. It isn't completed with one or two meetings and having to vote it up or down in one meeting. It culminates in that, true, but there's a lot of discussion prior to that vote of the body. He said he didn't think that 6 votes was that big a detriment and having to put 6 votes in is going to make the Assembly think the prior year about raising taxes.

FINNEY went on to say that another point would be if you, as an Assemblyperson, didn't want taxes raised, you should be able to convince another 2 members to vote it down. There would only be 3 votes to vote it down with the 2/3 requirement.

A roll-call vote on the amendment to the main motion to require a vote of 6 (3/4) of the Assembly to raise taxes.

FOR: KIFFER, THOMPSON

AGAINST: HARRINGTON, PAINTER, FINNEY, OTTE

ABSENT: MCCARTY

The motion to amend failed 4-2.

HARRINGTON said he would reluctantly support the amendment as presented in the agenda item. PAINTER said it was a tough issue. OTTE said everyone has compromised to a degree to get somewhat of a consensus. She said she thought that was admirable. HARRINGTON said he wanted to put in an amendment to make it 9.5, but he said he'd shut up.

A roll-call vote on the main motion was held.

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

AGAINST:

ABSENT: MCCARTY

HARRINGTON said he assumed this would be back at the next meeting for a second reading.

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The motion passed unanimously in the first reading.

H-3 Amend Exhibit L, Affidavit of Petitioner's Representative Concerning Source and Accuracy of Information in the Petition (Second Reading)

M/S PAINTER/HARRINGTON to amend Exhibit L of the Draft Consolidation Petition to list Glen Thompson, Chair of the Ketchikan Charter Commission, as the Petitioner's Representative of the 2004 Draft Petition for Consolidation in the second reading.

A roll-call vote was taken on the motion.

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

AGAINST:

ABSENT: MCCARTY

The motion passed 6-0.

H-4 Changes in numerous sections of the Draft Charter as suggested by City Attorney, Steve Schweppe (Second Reading)

M/S PAINTER/HARRINGTON to amend the Petition making the changes suggested by Mr. Schweppe's memorandum and adopted at the 8/28/04 meeting.

M/S THOMPSON/KIFFER to amend the main motion to exclude Item #3 on the agenda statement and consider that one separately.

A roll-call vote on the main motion, with Item #3 removed for separate consideration was held.

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

AGAINST:

ABSENT: MCCARTY

The main motion passed 6-0.

THOMPSON indicated that in Article III, Section 3.03, it reads: *An emergency ordinance is an ordinance which, in the judgment of the Assembly, is necessary for the immediate preservation of the public peace, health, or safety, and which should become effective immediately without a second*

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reading. Every such ordinance shall contain, as a part of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least two-thirds (2/3) of the members of the Assembly shall be required for the final passage of an emergency ordinance. An emergency ordinance is repealed by resolution or automatically expires in sixty days.

THOMPSON said that the problem that Mr. Schweppe indicates is that some things that are done under emergency ordinance can't expire and if that's the case, before 60 days expires, the Assembly would have to pass an ordinance to re-affirm their emergency ordinance. What Mr. Schweppe's motion says, "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'." THOMPSON said that the further language would be removed with Mr. Schweppe's amendment and leaving a very brief statement. He said that he felt a 2/3 vote to declare an emergency is proper. He also said that it should expire in 60 days.

HARRINGTON said that an emergency ordinance may expire within 60 days, but if there have already been contractual commitments or purchases, those couldn't be rescinded. Those things could not be reconsidered, either. He said that to leave the 60 days requirement leads to confusion. FINNEY said to delete the 60-day requirement. THOMPSON said that he would be willing to delete the final sentence of Section 3.03 as it reads, but not the rest. KIFFER said that a contractual agreement was a binding agreement and doesn't have anything to do with the emergency ordinance. It was a result of the emergency ordinance. THOMPSON said if the order is rescinded, then the authority of the Assembly to have entered into that contract and to continue to operate under that contract lapses, and there would be a legal vacuum that could cause problems. KIFFER said he didn't see that. He said he could see a problem if the contractual agreement would come after the lapse in the emergency ordinance, but not before that time. While the emergency order is still in place, once the contractual agreement takes precedence over the emergency order. It's a result of the emergency order. It then becomes its own entity.

HARRINGTON said that maybe the discussion was what is important. He said there had been the emergency order for North Tongass so that equipment could be purchased in one reading. They cannot go out now and buy fire equipment with one reading because the emergency has passed. They also don't have to give the trucks back, either.

THOMPSON said that when he read the Attorney's comments that the 60-day expiration would create legal issues in terms of whether or not the contract would remain valid if the enacting ordinance had expired or lapsed. And, he said, one would assume that the Assembly would go back and put a proper ordinance in, but they might not and they forgot to do that, then there could be claims or other legal issues. When something is not clear and not black

and white under the law, especially in a public forum in accordance with the laws, and there is an emergency order saying there would be a contract to buy a fire truck and the ordinance expires and there would be a contract without a proper ordinance. That's putting into question spending of funds that were not properly authorized.

PAINTER gave an example of what constitutes an emergency, its location and whether the health and safety of individuals is at stake, or buildings and government property. Consideration should also be given as to whether the emergency has to do with essential government services or ancillary services. KIFFER said like Mr. Schweppe's remarks about the Four Dam Pool. He said that wasn't, in his opinion, an emergency. HARRINGTON said if it's going to save money; that is a type of emergency.

THOMPSON said that was covered with the 2/3-majority vote requirement. He said the only thing he thought was muddy on the wording was the 60-day expiration. THOMPSON said he'd pulled that out of the Juneau Charter and put it in Ketchikan's Draft Charter.

HARRINGTON requested that a motion of substitution on Mr. Schweppe's amendment be done with the wording the Commission desires.

THOMPSON said he'd move to revert to the original 3.03 wording and delete the last sentence having to do with the 60-day expiration. He said one vote would be needed for the substitution. HARRINGTON asked if the Commission wanted to leave the sentence dealing with the Public Health, safety, etc. in the Charter, which takes it out of the fiscal realm. FINNEY said he'd like to leave it in there, as did HARRINGTON. HARRINGTON said that he would like to keep Mr. Schweppe's language as the first sentence and then put in the 2/3-majority and delete the last sentence.

THOMPSON said there was a motion on the floor to Amend Section 3.03 – Emergency Ordinances 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'. He said he'd like to amend that to include the original Section 3.03 sentence 2, which includes the wording: 'Every such ordinance shall contain, as apart of its title, the words, "and declaring an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency. An affirmative vote of at least two-thirds (2/3) of the members of the Assembly shall be required for the final passage of an emergency ordinance. HARRINGTON seconded this substitution.

KIFFER said that this is about an emergency ordinance and it should be an emergency. If the Assembly hasn't been planning or paying attention and \$1/2 million in revenue is due to be lost because they haven't done their planning, is that an emergency? All said yes. OTTE said that's a 1/2-mill of tax that someone's going to have to pony up. FINNEY said to KIFFER that the Commission just passed that a 2/3's could raise taxes. If that's not an emergency, he didn't

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know what was. If 2/3 can do that, then the governmental body is being trusted to use their discretion when they declare an emergency. KIFFER said he understood that. He said he agreed with the 2/3, but he didn't agree with the definition that this amendment brings as an emergency. If this is a public health or safety issue, he said he was all for it. He said 2/3's and he'd grit his teeth and go for that, but the way being suggested is not the intent of what an emergency ordinance should be. FINNEY said that in his mind, an emergency ordinance is so that the body could work around the ordinances in place for the reasons given and he said, he and HARRINGTON feel that economics is part of that, too. If there's money to be saved, let's give the latitude to work outside the Code. KIFFER said that's defined as a loophole. FINNEY said he didn't necessarily disagree with KIFFER, but he was for the amendment to the section.

A roll-call vote was taken on the amended amendment as stated above by THOMPSON and seconded by HARRINGTON.

FOR: OTTE, HARRINGTON, PAINTER, FINNEY, THOMPSON

AGAINST: KIFFER

ABSENT: MCCARTY

The motion passed in first reading 5-1.

I-1 Amend Article XII, Section 12.03(a)(4) – Streets and Roads

M/S PAINTER/HARRINGTON to amend Article XII, Section 12.03(a)(4) to read: Street construction and maintenance, provided that the Municipality may, as an areawide power, construct new streets to primarily serve publicly owned property and may maintain those streets; in the first reading.

THOMPSON indicated the amendment as well as the attached memorandum from Mr. Schweppe. PAINTER said this had been discussed with Mr. Schweppe. It gives the Municipality the ability to exercise the option of constructing streets or roads to publicly owned properties, but it leaves the power within the service areas. He said without this amendment, the Municipality would not have the option to put any roads in to public facilities.

KIFFER said it would have to take it to the people to get permission. OTTE said the Municipality would probably need to bond to meet the construction costs to build a road or street, in which case it would go to the people. OTTE said she couldn't see putting any more "let's take it to the people" for the Assembly to do the jobs they were elected to do.

PAINTER said there was public property within the Municipality at numerous
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locations. What if the people decide with the boat harbors situation that a new boat launch was needed? There would be one built on public lands, however, it would need an access road. Without this amendment, the Municipality could not construct that road to a public facility.

A roll-call vote was taken on the motion in first reading.

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

The motion passed in first reading by a vote of 5-1.

J: Commission Comments

FINNEY said he was glad to see the three Commissioners running for the Borough Assembly. The public would be well served to elect all three, if they could.

PAINTER said he was glad to hear the mostly unanimous votes at the meeting.

KIFFER said the Commission has come to a head on two really major issues and was successful in coming to a consensus and getting unanimous votes.

OTTE said the farmer and the cowman should be friends.

THOMPSON said he was really happy that the tax cap issue had been worked through. He asked OTTE if that would come back for final reading at the next meeting. She indicated yes. He said he thought that was the last major item for the Commission, so unless anyone had other hot issues that needed to be reviewed, it is time for us...there's the laundry list and a few other items, but it's time to take one last look at the document and be ready to vote it up or vote it down to send it on.

OTTE said that on the 17th, the up-to-date document would be out for the Public Hearing. The Borough Clerk has offered to scan those documents that are not available electronically, like the Borough budget and the maps. PAINTER wanted to know if OTTE was possibly not going to be at the meeting on the 10th and if not, they didn't know how to run the equipment. She said they could be trained, but she would be there. She had a perfect

attendance record, unlike most others on the body.

The meeting was adjourned at 8:23 pm.