

KETCHIKAN CHARTER COMMISSION

REGULAR MEETING

September 10, 2004

The regular meeting of the Ketchikan Charter Commission commenced at 6:01 p.m., Friday, September 10, 2004, in the City Council Chambers.

Roll Call

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

A: Pledge of Allegiance**B: Ceremonial Matters/Introductions**

OTTE said she'd like to welcome to Ketchikan Jean Hurlbert and BJ Newbery from Pittsburgh, Kansas.

THOMPSON said note should be taken that the next day was the 3rd anniversary of the tragedy of 9.11.

C: Public Comments

There were no members of the public present at the meeting. Should someone come in and wish to address the body, they will be encouraged to do so.

D. Informational Reports and/or Commission Presentations

THOMPSON said he'd written a preamble for the laundry list and OTTE said she'd gotten it after the agenda item had been distributed, but would include it in the final copy for distribution.

THOMPSON said he'd also gone through and cross-referenced F-1 with J to insure there were no inconsistencies. He said he hadn't found anything, but encouraged the body to review the document. He said he was sure there

were things that would be found, and hopefully they would be found prior to submitting the document to the LBC.

OTTE indicated she was a little behind as she'd had houseguests all week. She said she'd be working the following Sunday getting the Petition changes incorporated and should have a new document for the body and the public by mid-week. She said she'd email the revised document, but would have the printed copies by mid-week. The 9/3/04 minutes were not complete for review at that meeting, and would be available at the next meeting on 9/17.

E. Consent Calendar

M/S PAINTER/HARRINGTON for approval of the minutes of the August 28th Meeting and Public Hearing.

OTTE indicated the minutes from the 9/3/04 would be available at the 9/17 meeting.

There was a unanimous voice vote approving the minutes.

F. Vouchers

NONE

G-1 Work session

M/S PAINTER/FINNEY to recess into work session to discuss the Draft 2004 Petition and Exhibits, 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.

A roll-call vote was taken on the motion.

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

AGAINST:

ABSENT: KIFFER

HARRINGTON said talked about 2 of the suggestions to the new Assembly and asked that 4th and 5th suggestions on page 3 be taken out. It was discussed and agreed to do so. He said that the paragraph on annexation be eliminated, but if the issue should come up prior to consolidation, the Commission may want to recommend there be a differential on property taxes due to the unavailability of services to those outlying wilderness areas. THOMPSON said that it was interesting that there were people living in Loring and Bull Island that pay full property taxes and receive no services. That is something that could be looked at in the future, but he concurs that the annexation should come out of the consolidation document.

OTTE said there was an area in the document that the Loring information could be placed as an informational item, should the body desire to do so. The consensus was that the issue is covered in the Charter under expanding service areas and isn't necessary to be included in the Petition document.

PAINTER mentioned that the suggestion be made to have the new Assembly schedule their meetings for a later time (7pm) so that the expenditure wouldn't be necessary for food & beverages as at an earlier meeting start time. It could save approximately \$7-10,000 per year. The body was not in consensus about this administrative & legislative function of the Assembly and chose not to put it in the document.

FINNEY wanted it more emphatically put in J-1 about the subsidies to the Water department from the other utilities. The current wording says may be cross subsidizing and it was agreed to put the words 'are cross-subsidizing' in J-1. He also pointed out that in another paragraph, spinning off the Electric & Telecommunications sections of KPU 'would be of great benefit for the community'. FINNEY indicated that this body doesn't know that, and the language was changed to 'may be of benefit to the community'.

THOMPSON indicated that in the Petition, the body had elected to put into the Charter that the accounting of those departments should be clearly delineated as to where the revenues were coming and the expenditures were going, in order to see to what extent either of the divisions was being subsidized. He said there was a word missing in that section in the Charter that should be inserted. Section 8.03 (a) should have the word 'financial' inserted between consolidated & statement.

HARRINGTON said as an over-all statement that what the Commission desires is full transparency of the financial status of the new Municipality. He said he

didn't know how to say it. So much of the financial stuff is meant for the auditors and the government, not for people, and if there were a transparent system so that people understand what's happening to their money, there would be less dissatisfaction and a little more faith in the body. MCCARTY related the government-directed School District accounting and how different it was from what HARRINGTON was talking about.

THOMPSON said that in going through the current budgets, a person often has to really delve to get the appropriate numbers as to what's being subsidized and where those subsidies are coming from. He said in going through the Borough budget, it was apparent that the Transit system is subsidized by at least \$325,000, the Rec Center, and from the City, the Civic Center. He said the community probably would want to subsidize these entities through the general fund, but it would be nice to know exactly how much money that costs. MCCARTY pointed out that often salaries of management or other professional staff are allocated out, so there's really no clear picture as to how much it actually costs to staff those positions. He said that language should be put into the Transition Plan saying that in melding of the two financial systems, consideration should be given to insure that the new budget (and reports) should strive for transparency and ease of understanding by non-financial persons. That could be put in J-1. HARRINGTON said that instead of a suggestion, the wording be built into the Transition Plan a positive statement that those types of financial documents are expected. MCCARTY suggested that in the process of developing the new accounting department/systems that these various things will occur.

PAINTER mentioned the various different departments that have enforcement divisions: Parking, Animal Control, and Code Enforcement. There are issues in the community where there are ordinances enacted that are not enforced. Consequently, things continue to happen with no enforcement: sales tax problems, etc. MCCARTY said maybe there should be another comment similar to the financial department's that says if there are going to be ordinances on the books, the Assembly should be prepared to enforce them. If they're not going to be enforced, they should be removed. Examples were given. People should know in advance that the rules (Planning, for example) are going to be enforced, or, if they're not going to be enforced, get them off the books. PAINTER said he didn't want to create another entity of enforcement, but there are a lot of things that are in the ordinances in both the City and the Borough that are virtually non-enforced. Further examples were given. FINNEY said that occasionally the noise ordinance is enforced. It's something that's on the books and they can pull it out and enforce it. FINNEY said there are some ordinances that should

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remain on the books, even if there isn't a specific person targeting that particular ordinance. It might be needed.

MCCARTY said that something should be inserted into the Transition Plan that says, as part of the Transition, there should be a review of the City and Borough ordinances, Municipal Code and Planning Code with the thought that there should not be things on the books that aren't going to be enforced because it misleads people into thinking they can rely on those rules.

THOMPSON said that on Page 22 of the Transition Plan, there should be a statement put in to the effect that ordinances should not be ratified by the new Assembly unless the Municipality plans to enforce said ordinance. They should be reviewed to determine if they are currently effective and enforceable and they should be modified to fit those criteria in the review process.

HARRINGTON said that enforcement was too strong a word. Maybe the phrase 'shall be followed' would be less onerous. THOMPSON pointed out that the word enforcement wasn't liked, but the Code (and Ordinances) is the law and it's up to the government to enforce their laws.

OTTE indicated that both the Attorneys offices and the Clerks offices review the ordinances from time-to-time to make certain they are still effective and pertinent, however, some language in the Transition Plan directing the new Assembly would be good.

PAINTER gave another example of how Code was not being enforced.

MCCARTY said that the one he had a real problem with was the Planning Department. He said he'd spent 3 years on the Planning Commission and 8 years on the Assembly watching the appeals that came in. People saying they'd built and had desire to develop their land and the guy next door is saying he built with the idea he had a green belt and that's the one that really causes heartburn. Those review processes are going to have people say that the rules were on the books and they'd relied on those rules when they developed, now why isn't the other guy being forced to obey those rules?

PAINTER said so far the body had put wording into the Charter about taxes. He said he'd gotten a lot of input about assessment and valuation of properties. A discussion ensued about the process for appeals and the process for assessment. The community hasn't really seen as sharp a decline in property values as anticipated after the mill closure and they are wondering at the process. The Assessment department utilizes the latest techniques in Regular Charter Commission
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valuing properties; they are members of the American Appraisal Institute. He said that if restraints are put on the taxes, what is to say that the assessments wouldn't be skewed in order to keep the revenues even? This was also discussed. The Assessment office consists of professionals who are valuing based on comparables and properties are as a general rule selling at or above assessments.

MCCARTY went on to say that the exact thing has happened in other areas where tax caps were enacted and the fees went up. The Governor recently handled some of the State's economic woes by raising fees throughout the government. There are ways to get around that cap with a low assessment/high mill levy, or high assessment/low mill levy but remarkably, the money is the same from either alternative.

PAINTER said the government is going to take the path of least resistance when it comes to increasing revenues. HARRINGTON said that in his observation of assessment of property values, they don't adjust the assessed values. They could be challenged in courts if they really got outrageous and he didn't think these guys would do that, they're too professional. MCCARTY said they'd never gone out there to make more money for the government.

THOMPSON said there are two things available to the citizen; one is that the Assembly sits as the Board of Equalization or a board could be appointed. If the citizen doesn't agree with that, the issue could be taken to court and have an outside professional appraisal done. There are pretty stringent requirements to go before the BOE; there are four or five items that have to be done. PAINTER said he had seen that due to staffing and workload (there is supposed to be a new assessment every two years), there are several people who didn't get their new appraisal timely and instead of incremental adjustments, there was one big change.

MCCARTY went on to discuss Item H-2. He said he wasn't talking about the merits of having a tax cap, but he felt the way that it was written utilized a non-Charter process to amend the Charter. He said in the first paragraph that talks about there could be an affirmative vote of the majority of the voters to move the cap from 10 mills, it's unclear from the language whether this vote is to amend the Charter or whether it's just an election and the Charter is being changed by less than the formal process required. He went on to say that the second section (10.08) talking about any change in fees, etc. sets in the Charter how these things will happen, but again, a non-charter process is being used for amending the Charter. The Charter cannot be amended by Assembly action; it must be changed by a vote. MCCARTY said that the way

the new Charter sections (10.07 and 10.08) read are saying what these things would be and when compared to the first paragraph, it winds up with what may be a challengeable action in that someone says that there's a Charter and to amend the Charter there is a specific process. In the new sections, it's set forth that the Charter is set in concrete and there is a non-Charter amendment process that would amend the Charter. MCCARTY said that may be more him doing legalese analysis, but that's something that care should be given to.

HARRINGTON inquired of MCCARTY that he was saying that the section that says the voters may raise this limit by an affirmative vote, etc., at a special or regular election...the question is, is this an amendment to the Charter or is this a raise outside of the Charter and if that line were just deleted or added the voters may raise this limit by amending the Charter? He said it seems the Charter amendments are essentially the same thing, an affirmative vote of a majority of the people at a special or regular election. HARRINGTON said that's the objection? MCCARTY said the objection of saying if there is a difference from simply calling an election on a subject and calling an election for a constitutional (a Charter) amendment, if there's any difference in the process. The body needs to make sure that it's made clear whether changing this amount, is that a change to the Charter or is it a more informal process? It may be overly technical.

THOMPSON asked if could say in the second sentence of 10.07, the voters may amend this Charter to raise this limit by an affirmative vote of the majority of the voters...? MCCARTY said that would make it clear that it is an amendment to the Charter. If it were part of the Charter being amended, that would be the proper way to amend the Charter.

HARRINGTON inquired as to MCCARTY's second objection having to do with Section 10.08? MCCARTY said the second part, assuming for the moment that this is a Charter provision and the Assembly can change it. You could potentially get outside ...he said, it may not be a problem, but he's saying that someone looking at it from a slightly different viewpoint other than what was intended when it was drafted. The Commission should look at it from that side and see whether that potentially sends up a conflict again. HARRINGTON said that it was his understanding that on that second paragraph (10.08) it applied to everything except going above the 10-mill limit, so that all raises would require the super-majority up to a 10-mill limit and anything beyond that would have to be an amendment to the Charter. MCCARTY said it may be clear to someone else, but he said he was looking at it from a skeptical viewpoint. He said he'd much rather do preventive maintenance on the Regular Charter Commission

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document now, than get into a lawsuit and have to clarify. In these sections, while he said, he was sure the implication is the body couldn't exceed 10 mills, what if the taxes were going to be lowered? If the taxes could be lowered without the process, that's the inference, but the one that isn't made clear in the sections is if there would be an increase from the 10-mills, would that be a permanent change until it's changed again, or would that be for one fiscal year? OTTE said if the Charter was being amended, it was a permanent change. If the first point he'd brought up was rectified, then that question would be answered. If it's made clear that it's a Charter change, the change would remain in effect until the Charter was changed again. He said if he were the attorney for someone who didn't want to pay their taxes, he would argue that the way it's currently written is a legislative rather than constitutional (Charter) action. Procedurally, the Commission wants to make sure that it's clear and review the proposed sections with the aspect that an attorney would be coming in with a client with a lot of money at stake, and as that client's representative, the attorney would try to attack the wording because the client doesn't want more taxes, even in a situation where a majority of the people are convinced it's a good idea.

THOMPSON said that the only thing he heard that really needed to be done was the modification to the first paragraph. That says if the cap is raised, it's a Charter amendment. OTTE said she didn't think 10.08 was clear and suggested adding the words 'up to the cap' after property tax levies. She said that should be added to clarify that those changes would only be up to the cap.

MCCARTY said this is an area where redundancy might be worthwhile with either insertion of language or both. It makes it abundantly clear because if there is enough money at stake, there are enough attorneys to try to find a way for their clients to not have to pay the increases.

THOMPSON said that Section 10.08 to read 'Any ordinance or resolution that will increase fees, sales tax levies or property tax levies up to the limit set in Section 10.07 on an areawide, nonareawide or service area basis....' Decreases will be allowed with any type of majority. MCCARTY said that the issue of decreasing taxes need not be addressed.

FINNEY referred to the laundry list again and discussed the role of the various boards and their relationship with the Assembly and what the Assembly's role should or would be in relationship to those boards. He said he wasn't sure what was in the Charter or in the current ordinances about the Assembly reviewing or over-riding motions made by other boards. The Planning

Commission comes to mind especially. He said he'd watched as a man had gone before the Planning Commission for 3 to 4 months and got a ruling from them in favor of his action just to have that ruling overturned by the Assembly as the Board of Adjustment when an appeal on the Planning Commission action was filed. He said he didn't think that's the way those things should happen. He said he didn't know where this Commission in the Petition was on that issue, but he wanted to bring it up for discussion.

MCCARTY said that the case law in Alaska and across the country pretty well clearly establishes that when an Assembly sits as a Board of Equalization on the taxes or as the Board of Adjustment on the planning issues, the Assembly sits as an administrative law panel, like a court. The Assembly is not supposed to be a political body during those processes. Things are supposed to be determined by legal basis; here's the law, how do the facts apply to it. In a political decision, it's either I like it or I don't. When sitting as an appeal body, the Assembly has to say that have they (Assessment or Planning Commission) missed it so badly by whatever the standard is, should their decision be overturned? FINNEY wanted to know if that was something the new Assembly should look into or be aware of. MCCARTY said that all that could be done is educate the Assembly as to what is expected of them in those situations. A lot of the time, Assembly members say they were elected in the political process, that they are politicians who are supposed to listen to the public. Having a legal background makes it easier to interpret what is expected of the BOE and BOA decisions.

FINNEY said that's the way he thought it was supposed to be and they (the Assembly) cannot overturn things on a whim, but there needed to be some gross point of law that had been missed that would allow the Assembly to overturn the assessment or recommendation of the Planning Commission. He said the Assembly doesn't seem to get it. He said it's a function of educating them and he wondered if that should be included in the laundry list. MCCARTY said he didn't think so. It was the squeaky wheel syndrome and that cannot be gotten past.

HARRINGTON said there were cultures within the three bodies and within the School Board there was a culture that said every School Board member needed to be trained. What is appropriate, not appropriate, job duties, etc. in order to effectively serve on that Board and every year there were refreshers to these duties as a Board member. The culture of the Assembly is not that way at all. The culture is they make their own rules and they live by them. There is no ongoing sense of what their role ought to be; what the ideal Borough Assembly process is. It's sadly lacking and would be a good Regular Charter Commission
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thing to encourage. Half of the problems, HARRINGTON continued, could have been resolved by appropriate training in proper conduct and what is appropriate. However, he said, he couldn't see how this Commission could say that in the document. MCCARTY said that so many people may have a world of skills when they are first elected, and taking the School Board as an example, most people run for the School Board because they really care about the schools and care about particular policies or schools, and there is always a tug on that body more than any of the other as to whether as a board member you sit back and let the superintendent run the district and principals run the schools, or whether on the other side, the members saying they were elected to watch these things and as a member will exert control over what's going on. That's the nature of the beast. But, there cannot be anything put into the Transition Plan or laundry list, but just because a person has watched and paid attention to what's going on, doesn't mean they know how to do it after getting elected.

THOMPSON said that the Assembly are legislators and if they determine a law is ineffective or wrong, they can change that law. That's the normal mind-set that if it were wrong, they would fix it. But, by the same token, a person that goes through a process based on an ordinance in place should have the right to expect that ordinance to be followed. That's when they (the Assembly) sit on the Equalization or Adjustment boards, they need to follow what ordinances are in effect at the time, not the desire to change the ordinance in the future. He said that seems to be what happens a lot, especially in Planning & Zoning. A citizen is operating on the basis of the ordinances in effect at the time and the Commission or Assembly don't like those particular ordinances, they can change them down the road, but they cannot change it and mess up someone that's already made an investment or they open themselves up to a lawsuit. The bodies need to be educated.

Ruth Hill, 808 Forest Park Drive, said she'd been looking at the laundry list and wondered about the merging of the DP departments, since the vehicle maintenance facilities had been mentioned. She said that was a big one. THOMPSON said he thought Data Processing had been addressed in the Transition Plan. The laundry list is things that hadn't been addressed in the Transition Plan. She said that the School District had just hired a new DP Manager for more than the City's will make eventually.

MCCARTY said that the School Board has a specifically mandated, un-comprehensible system to run their books. They almost have to run two sets of books to get the State what they need and the Assembly/community what they need. There had been that problem when it was discussed that

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the Borough/School District combine their financial offices and the same problem exists between the City and Borough's departments being able to electronically communicate. Maybe it does come down to two sets of books; one for the financial people to really zero in the balances/expenditures; and one for the public that clearly shows what is happening with the finances.

THOMPSON pointed out that on page 25 of the Transition Plan it says the following executive offices are duplicated and will be combined by consolidation, and he listed them. The list included the DP department was listed.

OTTE indicated that neither the School District issues nor the KPU issues had been considered when compiling the Draft Petition. The Commission's focus was on the two governing bodies. THOMPSON said there hadn't been anything in the laundry list that speaks to consolidating the School District into the over-all government. MCCARTY said that was probably a worthwhile one to put in, even though they may be separate, legally the School District is separate, but the Assembly runs it. It's good for them to be able to communicate, because when the budget discussions take place that was always the biggest gripe the Assembly had that they couldn't understand the School budget. KPU is another one. If the programs are set up appropriately, those issues could be addressed.

Ms. Hill said that there are people going to be missing from the City side during the next week and if there were more people with wider range of expertise talking about Transition Plan language, it would probably be better for the Commission.

FINNEY asked about the item on the laundry list concerning an elected advisory board for the Gateway Service Area. OTTE said perhaps she'd gotten it wrong, but she would check on how the Commission had requested that item be worded, whether they wanted to advise the Assembly to either go elected or appointed for the advisory board for the Gateway Service Area.

HARRINGTON said he thought that since this item spoke just to the Gateway Service Area, the Commission wanted it left as recommending they take a look at an elected board. FINNEY said if that's the way it was remembered by the others, perhaps he'd misunderstood. MCCARTY said that along that vein, he suggested that the Commission recommend to the new Assembly they should have a separate Board of Equalization & Adjustment, especially on the taxes. They should have professional people who really know the area because it gets pretty technical. He said he didn't want to go there now,
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but that might be something to consider. He said it's better to leave it alone at this point. THOMPSON said the Charter gives the Assembly the authority to either sit as those Boards, or appoint those boards.

The Commission took a break from 7:00-7:13 and reconvened back into work session.

THOMPSON said the emergency ordinances (second reading) or the Streets/roads agenda items had not been discussed. There was no desire to discuss them in work session.

OTTE said she wanted the Commission to discuss the flyer/ad as to what they wanted included. A discussion was held as to what format was desired – flyer won. The tax chart should go on the other side of the verbiage. The cost is not appreciably different. As an aside, OTTE said she didn't think the Petition was the place to put the tax chart. It's a very formatted document and the tax chart would be too big to put into there without making it look funny. Maybe as an Exhibit to one of the other sections? HARRINGTON said Mr. Tipton's concern was that the tax information should be included early in the document to overshadow the perception by the little blurb in the Petition that it appears that taxes are being raised.

OTTE continued that the sale of the consolidation issue wasn't going to happen for another year. What's being attempted by the flyer is public information for the Public Hearing. Maybe it will generate some response for our Public Hearing at the next meeting. FINNEY wondered if it was worth the time, effort and money to put the flyer out, but the rest of the Commission felt it was appropriate. FINNEY said that the money should be saved and information should be distributed just before the vote on consolidation.

MCCARTY said that the Commission is very close to a document that's worthwhile to send to the State. The public should be made aware now, and the document would undoubtedly be sent back for some adjustments for the Commission to work out. The current Petition is a work in progress, a discussion item. He said he wanted to see what the LBC says before starting to get into really selling the concept and document to the public.

HARRINGTON said there is so much rumor in the community about consolidation anyway, that the Commission would do well to squelch some of those rumors from the beginning. MCCARTY said that anything that might increase the public comment is worthwhile. OTTE said it also shows the LBC

that this Commission has tried very hard to get the public involved in the shaping of the document.

THOMPSON said he'd jotted down 10 highlights of what the Commission's been doing by just flipping through the Charter. Those probably wouldn't fit on a flyer, so maybe a regular ad would suffice. He then changed his mind. Flyer it is.

G-2 Return to regular session

M/S FINNEY/MCCARTY 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 MCCARTY/PAINTER to approve any clerical changes to the 2004 DRAFT Petition as discussed in work session.

THOMPSON pointed out on page 2 of the Charter, there should be a slash between assembly & manager. OTTE noted that additional change. THOMPSON said he'd come up with verbiage for the end of Section 8 in the Transition Plan (p 27) for the budget transparency request. It should be noted there would be one reading only on this item, due to time constraints.

A roll-call vote was taken on the motion.

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

AGAINST:

ABSENT: KIFFER

H-2 Article X: Finance, Section 10.05 (b), Section 10.07 and New Section 10.08 with subsequent Section number changes (Second Reading)

M/S HARRINGTON/PAINTER to delete Section 10.05 (b) that describes sales

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tax increases.

Further, it was moved to amend Article X: Finance, Section 10.07 to read: 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 *amend this Charter* to 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 still, it was moved to insert a new Article X: Finance, Section 10.08 – Taxation: Supermajority Requirement to Raise Taxes or Fees Limit, which will read:

Any ordinance or resolution that will increase fees, sales tax levies or property tax levies *up to the limit set in Section 10.07* 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.

Finally, all subsequent sections to the newly created Section 10.08 in Article X: Finance will be renumbered appropriately.

MCCARTY said he'd spoken at length about his opposition to setting a tax cap and he said that while he would vote on the whole document to be passed on to the LBC, he said he felt this was such a serious mistake, if this were presented at an election, even though he's committed to consolidation, he would vote against it. It too severely hampers local government.

HARRINGTON said he'd vote for this, but there is a grievance that he has, a feeling the Commission will hear about the sales tax component of this before being done. Because as the sales tax is pulled out of a vote of the people, even requiring a super majority, he said he sensed the Commission may hear about it and there may be repercussions about it. Since the Commission is limiting tying the hands of the new Assembly on property taxes, he would vote in favor of the motion.

PAINTER said that all the Commissioners had made some concessions in coming as close to a unanimous agreement as possible on this issue. He said this might come back to the Commission from the LBC. One of the questions he'd raised at the last meeting was there was a legal problem with the statewide tax cap initiative and he didn't know if the legal issues that prevented that from being voted on applied to this document, but he guessed we'd see. He said, for now, this is the best we've got.

FINNEY said that it should be a 7-0 vote to raise any taxes, so this is a good compromise document that's been arrived at by the Commission.

OTTE said she sincerely dislikes having a hard number in the Charter. She said her suggested amendment wherein at the time of consolidation, the property tax limit would be set to 1-mill above current, was more appropriate, but the body has come to this compromise and she would go along with the body.

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

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

The motion passed in the second reading with a vote of 5-1.

H-3 Amend Article III, Section 3.03, Ordinances – Emergency (Second Reading)

M/S PAINTER/FINNEY 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. 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.

A roll-call vote was taken on the motion.

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

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The motion passed 6-0.

H-4 Amend Article XII, Section 12.03 (a)(4) dealing with streets and roads (Second reading)

M/S PAINTER/HARRINGTON in the second reading 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;

PAINTER suggested changing the second 'may' to 'shall' and was resoundingly told no by the body.

A roll-call vote was taken on the motion.

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

The motion passed in second reading 6-0.

I New Business

NONE

J: Commission Comments

MCCARTY said the Commission had made a lot of progress and is very close to sending a very good working document on to the LBC. He said it would definitely be a work in progress for a while. All the Commissioners have some things they like, some they don't like, but it's overall a pretty good product.

OTTE thanks Ruth Hill for being a part of the Commission's deliberations at every turn. Her presence has been appreciated.

PAINTER wanted to know what happens after September 27th and the document is forwarded to the LBC? There has been no discussion about

what happens should the LBC contact THOMPSON or OTTE so that there may be a need to reconvene to discuss their comments. He wanted to know if there was a plan? THOMPSON said that once the document is forwarded, the Commission has to wait until the LBC responds. If they respond and it is felt that the Commission needs to decide on something that's clerical, that's not a big deal. If there is something substantive, a meeting would be called and re-convene as a Commission and any major changes the LBC wants to make to the document would be discussed at that time. It's this Commission's document. PAINTER wanted to know what the time frame might be, i.e. vacations, etc. OTTE pointed out that the LBC would send back their comments and this Commission would have a certain amount of time to respond to their comments. It wouldn't be a 5-day requirement, so chances are, everyone could be gathered.

THOMPSON said that if the LBC did return something to the Commission, it would probably be incumbent upon the Commission to try to resolve it or make a decision as a body as quickly as possible so that the process isn't delayed.

MCCARTY said the Commission would recess subject to call of the Chair.

THOMPSON said he'd like to thank everyone on the Commission for the hard work. A lot of people in the community have spoken to him with kudos for the work that's been done and everyone recognizes the amount of effort that it takes to meet every week for 8 months. With that said, he said there was one item left to deliberate, the paragraph to the Transition Plan that he would distribute to the Commission via email and if there are any comments, please get them done and sent to OTTE so that an agenda item could be crafted.

THOMPSON went on to say that after the Public Hearing on 9/17, he'd like to plan, barring anything that would need to be addressed based on the Public Hearing content; he'd like to call for a vote to put this thing to bed and send it on to the LBC.

HARRINGTON said that it would best be put on the agenda that amendments to the entire document would be considered at that meeting on the 17th and those amendments would have 1 reading only so that the notice is out. THOMPSON said that was there as a general statement, but he would like to have it on the agenda, as the final item of business, approve the document for submission to the LBC. MCCARTY said that the last item should be

consideration of a resolution to transmit the Draft Petition through the Borough Assembly to the LBC.

That could be deferred to the 24th if there were a snag, but THOMPSON said, he didn't really anticipate any snags. That way notice would have been given as to the action. OTTE said that after the Public Hearing, the regular meeting could continue, if necessary.

THOMPSON wanted to know if the Public Hearing could be scheduled first and OTTE said it had already been advertised as starting at 7. No one wanted to wait to start the regular meeting until after that time, so the regular meeting will start at 6, followed by the time for Public Hearing, and a continuation of the regular meeting if necessary.

PAINTER wanted to know if the caution by the Borough Attorney would be necessary as to comments on whatever language THOMPSON came up with to insert into the Transition Plan. THOMPSON said all comments should go to the Secretary, OTTE, for compilation into an agenda statement. It will be put on as a work session item so that it can be discussed if necessary.

MCCARTY mentioned was it people aren't saying anything because they're ignoring the Commission? He said all the comments he'd had were positive and that people are listening and watching. If hot button issues had arisen, they would have been here. What they've seen so far, the tenor of the group working together and that gives some confidence as to what the deliberations are accomplishing.

The meeting was adjourned at 7:40 pm.