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**MEMORANDUM**

**TO: Glen Thompson  
Charter Commission**

**FROM: Steven H. Schweppe  
City Attorney**

**RE: Article 16.06(b) Concerning Sales and Use Taxes**

**DATE: April 8, 2004**

The idea to have a sales tax re-authorization election in three years is a very poor idea. There are several reasons why this should not be mandated by charter. It is important to realize that the first several years of the new municipal government will be difficult. The elected and appointed municipal officials will already be under substantial pressure just dealing with the numerous issues arising from the transition. An election to re-authorize one of the two largest sources of municipal revenues would simply compound that pressure and make long term planning and integration of operations more difficult. It is interesting to speculate whether such a provision would have an impact on the new municipality's bond rating during the first three years. Since the re-authorization threatens a loss or reduction in City service area revenues, it would certainly affect projects within the City service areas.

In dealing with sales tax issues it is important to remember that the default mechanism for municipal and service area financing is the property tax. To the extent that sales tax revenue is taken away from a service area, the property tax finances the service area expenses. An election to re-allocate sales taxes is in reality an election to raise property taxes in the City service area by re-allocating sales tax revenues to decrease property taxes outside the City service area.

In order to make the consolidation palatable for City property owners, the City's draft charter assured that the current City of Ketchikan's 2½% sales tax would continue to be allocated towards the City service area's costs of law enforcement, public works, and fire

protection. Without this assurance, City voters would be foolish to vote for consolidation. It would threaten the funding for very expensive services which otherwise would be paid for entirely by City property tax payers. Currently City voters, through their elected representatives, have sole control over how they allocate the costs of public works, police, and fire services between sales and property taxes. Why would any City voter want to take the risk that a primary source for funding police, public works, and fire service will be stripped from the City service area and re-allocated to lower the borough property tax? Any such re-allocation would simply increase the difference between property taxes in the City and outside of the City.

When the City drafted its proposed charter, one of the important principles was to realistically attach resources to powers. For example, in Section 10.06(b) the City of Ketchikan's 1% hospital sales tax went areawide when hospital and other health services went areawide. If there is a desire to re-allocate more of the City sales tax to an areawide government, this should be done in the context of transferring powers areawide as well. For example, if police or public works functions are areawide, an appropriate amount of the sales taxes used for these purposes should also go areawide. Since we understood that the outlying areas did not want public works or police powers on an areawide basis, we needed to assure that the City taxpayer would not be stuck paying the full burden of these costs without the help of sales tax. After all, people in the outlying areas and in the tourist industry have always claimed that they pay through the sales tax for the City streets and City law enforcement services they use when doing business, shopping, or traveling through the City. I suggest that, if there is an inequity in the current sales tax structure, that inequity does not exist in the sales tax, but in the allocation of areawide and non-areawide services.

Of course, sales taxes are always subject to re-authorization. Under the City's draft charter, re-allocation could occur by the separate votes of City service area and borough voters. The City's draft charter, however, assured that City voters would determine whether or not to abandon or reduce their reliance on sales tax revenue to help fund police, public works, and fire services. That is a right they already have through the elected City Council. The City's draft simply preserved that right and remained consistent with the principle of maintaining the status quo unless good reasons existed for change. Rather than introduce major uncertainty and the possibility of large property tax increases for a majority of voters, I believe you should focus on determining what services will be areawide versus non-areawide and then allocate sales taxes on a service area or areawide basis depending upon how those services are provided.