

City of Ramsey
Agenda
Charter Commission
Monday, October 21, 2013
6:30 pm
Council Chambers, 7550 Sunwood Drive NW

- 1. Call to Order**
- 2. Citizen Input**
- 3. Approve Agenda**
- 4. Approve Minutes**
 1. Approve the Following Meeting Minutes:
 1. Charter - Regular - September 19, 2013
- 5. Commission Business**
 1. Discuss Provisions of the Charter that Pertain to Funding Sources for the City (i.e. Franchise Fees, General Levy, Special Assessments) and Determine Whether Applicable Charter Amendments Should be Implemented
- 6. Commission/Staff Input**
- 7. Adjournment**

Charter Commission

4. 1.

Meeting Date: 10/21/2013

By: Jo Thieling, Administrative Services

Information

Title:

Approve the Following Meeting Minutes:

1. Charter - Regular - September 19, 2013

Purpose/Background:

To review and approve meeting minutes.

Recommendation:

N/A

Action:

Motion to approve the following Charter Commission Meeting Minutes:

1. Charter Commission Meeting Minutes dated September 19, 2013
-

Attachments

[Charter Mtg Mts 091913](#)

Form Review

Inbox

Kurt Ulrich

Form Started By: Jo Thieling

Final Approval Date: 10/17/2013

Reviewed By

Jo Thieling

Date

10/17/2013 04:30 PM

Started On: 10/17/2013 12:56 PM

**CHARTER COMMISSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Charter Commission conducted a regular meeting on Thursday, September 19, 2013, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Joseph Field
 Commissioner Susan E. Anderson
 Commissioner Jim Bendtsen
 Commissioner Ben Deemer
 Commissioner Harry Niska
 Commissioner Chad Sivertson
 Commissioner Eric Zaetsch

Members Absent: Commissioner John Niederhaus

Also Present: Mayor Sarah Strommen
 Councilmember Mark Kuzma
 City Administrator Kurtis G. Ulrich
 City Attorney Joseph Langel
 City Clerk Jo Thieling

CALL TO ORDER

Chairperson Field called the regular meeting of the Charter Commission to order at 6:34 p.m.

CITIZEN INPUT

None.

APPROVE AGENDA

Motion by Commissioner Anderson, seconded by Commissioner Deemer to approve the agenda as presented.

Motion carried. All present voted in favor.

APPROVE MINUTES

Motion by Commissioner Deemer, seconded by Commissioner Bendtsen to approve the meeting minutes dated April 19, 2012.

Motion carried. Voting Yes: Chairperson Field, Commissioners Deemer, Bendtsen, Anderson, and Niska. Voting No: None. Abstain: Commissioners Sivertson as he was not present at the

April 19, 2012 meeting and Commissioner Zaetsch as he was not yet an appointed member.
Absent: Commissioner Niederhaus.

COMMISSION BUSINESS

5.1 Elect Chair and Vice Chair for 2013

City Clerk Thieling explained that since this is the first meeting of the year for the Charter, they shall elect a chair and vice chair.

Consensus of the Commission was that the election should be for two years – 2013 and 2014.

Chair Field opened the floor for nominations.

Nomination for Commissioner Joe Field for Charter Chair for years 2013 and 2014 by Commissioner Anderson, seconded by Commissioner Sivertson.

Nomination for Commissioner Harry Niska for Charter Chair for years 2013 and 2014 by Commissioner Bendtsen.

Commissioner Niska stated he would support the nomination for Commissioner Field.

Commissioner Bendtsen withdrew his nomination.

Upon inquiry, and hearing nothing further, Chair Field closed the nominations. All voted in favor of Joe Field as Chair for years 2013 and 2014. Commissioner Niederhaus absent.

Nomination for Commissioner Harry Niska for Charter Vice Chair for years 2013 and 2014 by Commissioner Bendtsen, seconded by Commissioner Deemer.

Upon inquiry, and hearing nothing further, Chair Field closed the nominations. All voted in favor of Harry Niska as Vice Chair for years 2013 and 2014. Commissioner Niederhaus absent.

5.2 Introduce new Charter Commission Member and Update Commission on Status of Vacancies.

City Clerk Thieling introduced newest Commissioner Eric Zaetsch, who had been sworn in prior to the meeting. It was noted that Joe Field and Jim Bendtsen were also sworn in for another four-year term prior to the meeting. Mrs. Thieling reported that the following Commissioners' terms expire in December of this year: Susan Anderson, Ben Deemer, John Niederhaus and Chad Sivertson and stated that those interested in reappointment should submit their letters of interest to the City Clerk or directly to the judge.

Joseph Langel, the City's new attorney was introduced to the Commission as well. It was noted that he has a lot of experience with Charter cities. A brief question and answer period followed

the introduction – consisting of questions about the open meeting law, getting topics on the agenda, etc.

5.3 Receive Presentation of City’s Strategic Plan

City Clerk Thieling noted that Mayor Strommen, Councilmember Kuzma, and City Administrator Ulrich were present and that Mayor Strommen and Mr. Ulrich would present on the City’s Strategic Plan.

Mayor Strommen and City Administrator Ulrich presented a power point on the Strategic Plan followed by a discussion with the Charter.

The presentation, as well as having Mayor Strommen, Councilmember Kuzma and City Administrator Ulrich present, brought about discussion relating to franchise fees, funding sources, the City’s budget, taxes, waiving of fees for developments, HRA’s - including the Anoka County HRA, road reconstruction, prioritizing the roads for construction, the petition process for and against projects, terms from the Strategic Plan such as enhancing the elections process (asked for an example), success terms, and smart budgeting (asked for an example), prioritizing expenditures, implementing new revenue sources, property taxes, the levy limits and whether or not the Council adopted the maximum, economic development, tax base, SAC and WAC and building permit fees, Local Government Aid, policies and administration, staff roles and responsibilities, road conditions and the PASER system.

The Commission thanked Mayor Strommen, Councilmember Kuzma and City Administrator Ulrich for attending the meeting and for the presentation and answers to questions. Chair Field added he really liked the measurables and was impressed with the balanced scorecard.

Commissioner Deemer added that he was pleased that the Council made the decision to continue with six issues of the *Ramsey Resident*.

5.4 Approve Summary Letter to the Judge

City Clerk Thieling noted the Charter’s summary letter to the Judge for year 2012 activities was included with the agenda.

It was suggested that the letter be broken down into separate paragraphs for activities versus just for the meetings, which may make it a little easier to read; however, the content of the letter was fine.

Motion by Commissioner Deemer, seconded by Commissioner Zaetsch, voted to approve the year-end summary letter, amended as suggested, and directed staff to submit it on behalf of the Charter Commission.

Motion carried. All present voted in favor. Absent: Commissioner Niederhaus.

5.5 Update on Topics for Discussion

City Clerk Thieling reported that at the Charter Commission meeting in April 2012, there were a few items slated for review at a subsequent meeting. One was to review Sections 2.3 through 2.5 of the City's Charter. The City Attorney was asked to draft an ordinance amending 2.5 to clarify the clause referring to non-residency in the City to include language relating to non-residency in the ward as well. The Commission had approved a motion that the Attorney draft an ordinance to delete 2.3.3 and rewrite the last sentence of 2.3.1 to make it easier to understand what years different Councilmembers are elected without having to do the math. Mrs. Thieling suggested that since the attorney and some Charter members are new, the Commission should review the past direction and clarify the intent of the proposed amendments for Attorney Langel.

At the April 2012 meeting, former City Attorney Goodrich noted that Section 4.5.5 had been discussed years ago. It talks about such a remote event that he wasn't sure that the Charter would even want to review it again. He suggested the Commission could study 4.5 dealing with vacancies and a "learning session" could be held on it to maybe brainstorm to make the language more clear. The question was raised about the dates of special elections and did the Commission want to consider extending the dates so there is time for a primary election. Mrs. Thieling reiterated that these instances are rare and added that a primary election is quite costly as well.

Discussion ensued relating to scheduling a work session to talk about Charter Section 2.3 and maybe 4.5 as well.

Commissioner Zaetsch noted Chapter 11 and stated that maybe the City would want to offer broadband and wondered if there is anything in Chapter 11 that might restrict the City Council from offering broadband. He suggested that could be a future discussion.

Motion by Commissioner Zaetsch, seconded by Commissioner Anderson that the Charter Chair and the City Clerk work on scheduling a work session and report back to the Commission with a date and time and an agenda which should include 2.3 through 2.5 and 4.5 of the City's Charter.

Further discussion: Commissioner Niska stated he would prefer a regular meeting be scheduled, where the Commission can take action. He stated that 2.3.3 could be rewritten – it's pretty straight forward. Section 2.5 can easily be amended to add language that you must live within your ward. Commissioner Bendtsen expressed an interest in doing the same, stating that he felt that the Commission was pretty much in agreement on most of language. Commissioner Niska stated that 2.3.3 would not be a substantive change – as you could refer to the presidential election year and the governor election year for electing Mayor and Council – both At Large and Ward representation. Section 2.5 would just be to clarify that if the vacancy occurs in a ward, the candidate must live in the ward. Commissioner Anderson asked that a broadband discussion be brought back as well.

Motion by Commissioner Zaetsch, seconded by Commissioner Anderson, to amend the motion to schedule a regular meeting, not a work session, and discuss 2.3 through 2.5, 4.5, plus Chapter 11 with regard to broadband.

Motion carried. All present voted in favor. Absent: Commissioner Niederhaus.

COMMISSION/STAFF INPUT

City Clerk Thieling inquired if there is any interest in amending the City's Charter to state that local write-in votes do not have to be tallied unless the person has filed as a write-in a certain number of days prior to the election. She referred to the City of Blaine's Charter language about this subject, and added that it does save time for the election judges on election night. At this point, State, Federal and County level write-in candidates are not counted unless they have filed as a write-in prior to the election. The write-in votes would still be counted, however, they would not be tallied. That is where the time savings occur for the judges.

Motion by Commissioner Zaetsch, seconded by Commissioner Sivertson, to add the topic of write-ins to the next agenda and supply the Commission with the language used by the City of Blaine.

Motion carried. All present voted in favor. Absent: Commissioner Niederhaus.

ADJOURNMENT

Motion by Commissioner Deemer, seconded by Commissioner Zaetsch, to adjourn the meeting.

Motion carried. All present voted in favor. Absent: Commissioner Niederhaus.

The regular meeting of the Charter Commission adjourned at 8:28 p.m.

Respectfully submitted,

Jo Ann M. Thieling
City Clerk

Joseph J. Langel
City Attorney

Minutes taken and transcribed by Jo Thieling, City Clerk

Meeting Date: 10/21/2013

By: Jo Thieling, Administrative Services

Information

Title:

Discuss Provisions of the Charter that Pertain to Funding Sources for the City (i.e. Franchise Fees, General Levy, Special Assessments) and Determine Whether Applicable Charter Amendments Should be Implemented

Purpose/Background:

Purpose: The purpose of this case is to discuss funding sources for the City - including the use of franchise fees, general levy and special assessments - and to seek feedback from Charter Commissioners before possible Charter amendments are considered..

Background: As the Charter Commission is aware, the City Council is currently considering implementing franchise fees as a source of funding for the Street Maintenance Program. The City Council conducted a public hearing on Tuesday, October 8 relating to the introduction of an ordinance to establish franchise fees. It was noted that 22 people spoke at the public hearing, with 18 people opposing the use of franchise fees for funding road maintenance. Council postponed introduction of such ordinance(s) to the next meeting (October 22). The draft ordinances are attached for Commission information.

During public input, questions were raised about the Charter and how it meshed with the Council's consideration of instituting a franchise fee. Attorney Langel was asked to weigh in on the inquiry. Mr. Langel's response was that there is no question that the City Council has the authority under the current Charter language to institute a franchise fee, as the Charter gives the City Council authority unless otherwise stated in the Charter. Attorney Langel explained the Charter Commission can put parameters/limitations on a franchise fee if it does not conflict with State law but the Charter is a constitutional document so the Commission needs to use care when amending for any issue.

Chairperson Field suggested it would be helpful for the Charter Commission to have some type of historical and legal analysis of franchise fees and submitted a list of questions to City staff. Mr. Fields' request, as well as the responses by the City Attorney are attached for Commission review. Attorney Langel supplied responses to all but item #4 which was referred to City Engineer Bruce Westby. Number 4 is a request for a summary of metro area and a few outstate charter provisions and ordinances that pertain to the establishment or amendment of franchise fees. Staff has not had a chance to dedicate a lot of time to this research; however, we will attach what information is available at this time. The City Engineer is aware of 43 cities who currently have a franchise fee with CenterPoint Energy; that list of cities is attached. It is possible that is not a complete list. Staff also included the franchise fee language from the Charters of the following cities: Anoka, Blaine, Coon Rapids, Ham Lake, and Lino Lakes. Staff had communication with Jeanette Behr, Attorney with the Research Department at the League, and she will compile some franchise fee data and the cities who are using franchise fees for funding sources and email it to staff by Monday. Therefore, it is anticipated more information will be available and distributed at the meeting.

Chair Field has stated he will allow public input/comment during the discussion of this case.

Chairperson Field also requested that any Charter Commissioners who had suggestions for amended Charter language to submit such draft language in advance of the meeting so that it could be included with the agenda. Staff received two suggested amendments from Commissioner Zaetsch, which are attached to this case. The amendments are suggested for Chapter 7 and Chapter 10. Staff received an email from Commissioner Deemer suggesting also that the Commission members review Chapters 7 and 10 of the Charter as they seem to be the two sections that may govern what the City Council can do. The current Chapters 7 and 10 are attached to this case as well.

Commissioner Zaetsch asked that the Commission receive the copy of State Statute 410.09 Regulations of Franchises (attached) and enter into discussion regarding same.

Notification:

The Charter Commission was notified of this meeting via email.

Observations/Alternatives:

As stated, Chairperson Field called this Charter Commission meeting to discuss/receive feedback relating to funding sources. Mr. Field has also stated that following discussion, the Commission may work to craft language for a proposed Charter amendment.

Recommendation:

Review the information and be prepared to discuss possible amendments to the City's Charter as it relates to funding sources.

Action:

Based upon discussion.

Attachments

[Draft Ord Franchise Agrmt w Anoka Municipal](#)

[Draft Ord Franchise Agrmt w Connexus](#)

[Draft Ord Franchise Fee Anoka Municipal](#)

[Draft Ord Franchise Fee Connexus](#)

[Draft Ord Franchise Fee CenterPoint](#)

[Request for Info and Response](#)

[List of cities w franchise fees](#)

[Sampling of City Charter Language re Franchise Fees](#)

[Sugg for Amend Ch 7 Zaetsch](#)

[Sugg for Amend Ch 10 Zaetsch](#)

[Chapter 7 Ramsey Charter](#)

[Chapter 10 Ramsey Charter](#)

[SS 410 09 Regulation of Franchises](#)

Form Review

Inbox	Reviewed By	Date
Bruce Westby	Bruce Westby	10/17/2013 04:04 PM
Joe Langel	Joe Langel	10/17/2013 04:10 PM
Kurt Ulrich	Kurt Ulrich	10/17/2013 04:24 PM
Form Started By: Jo Thieling		Started On: 10/17/2013 09:03 AM
Final Approval Date: 10/17/2013		

CITY OF ANOKA ELECTRIC FRANCHISE ORDINANCE

**ORDINANCE NO. 13-19
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

AN ORDINANCE GRANTING TO THE CITY OF ANOKA, A MINNESOTA MUNICIPAL CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF RAMSEY, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC WAYS AND PUBLIC GROUNDS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

- 1.1 City.** The City of Ramsey, County of Anoka, State of Minnesota.
- 1.2 City Utility System.** The facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer, water, or any other public utility service owned or operated by City or agency thereof..
- 1.3 Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.
- 1.4 Company.** City of Anoka Municipal Electric Utility, a Minnesota municipal corporation, its successors and assigns.
- 1.5 Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.
- 1.6 Notice.** A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the City Manager, City of Anoka, 2015 First Ave., Anoka, Minnesota 55303. Notice to the City shall be mailed to the City Clerk, City of Ramsey, 7550 Sunwood Drive, Ramsey, MN 55303. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.

1.7 **Public Ground.** Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

1.8 **Public Way.** Any street, alley, walkway or other public right-of-way within the City.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Ways and Public Grounds of City subject to the provisions of this ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

2.2 **Effective Date.** This franchise agreement shall be in force and effect from and after the later of 30 days after its publication or its acceptance by Company.

2.3 **Service and Rates.** The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.40.

2.4 **Publication Expense.** The expense of publication of this ordinance will be paid by the City and reimbursed to City by Company.

2.5 **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 **Location of Facilities.** Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways so as not to disrupt normal operation of any City Utility System previously installed therein. Electric Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground

Electric Facilities in place, provided at the City's request, Company will remove abandoned metal or concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project.

3.2 Field Locations. Company shall provide field locations for its underground Electric Facilities within a reasonable period of time on request by the City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Way or Public Ground without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Way or Public Ground, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Way or Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, except as may be required by the laws of the State of Minnesota.

3.5 Avoid Damage to Electric Facilities. Nothing in this ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.6 Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Ways or Public Ground where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Ways and Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Ground is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities.

3.7 Shared Use of Poles. Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities whenever such use will not interfere with the use of

such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.

SECTION 4. RELOCATIONS.

4.1 Relocation of Electric Facilities in Public Ways. If the City determines to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The Company to relocate its Electric Facilities located therein. The Company shall relocate its Electric Facilities at its own expense. The City shall give the Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Electric Facilities in Public Ground. City may require the Company at Company's expense to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 Projects with Federal Funding. Relocation, removal, or rearrangement of any Company Electric Facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the right herein granted to Company is a valuable right. City shall not order Company to remove, or relocate its Electric Facilities when a Public Way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to Company, but the City need not pay those portions of such for which reimbursement to it is not available.

4.5 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the Public Ways and Public Grounds of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper and non-negligent manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. ABANDONED FACILITIES.

Company shall comply with City ordinances, Minnesota Statutes, Section 216D.01 et seq., and Minnesota Rules Part 7819.3300, as they may be amended from time to time. Company shall maintain records describing the exact location of all abandoned and retired Electric Facilities within the City, and shall produce such records to City at City's request, and shall comply with the location requirements of Section 216D.04 with respect to all Electric Facilities, including abandoned and retired Facilities.

SECTION 10. FRANCHISE FEE.

10.1 Fee Schedule. During the term of the franchise hereby granted, and in addition to any permit or other fees that City may impose or has a right to impose, the City may impose in Company a franchise fee, not to exceed an amount set forth in a Fee Schedule adopted by separate ordinance from each customer in the designated Customer Classification for metered service at each and every customer location. The amount of the fees may be amended from time to time by City. The charge shall be applied monthly and shall be billed per account. Company shall, within 30 days of the City's request, provide City with revenue estimates for establishing a fee schedule.

10.2 Separate Ordinance. The franchise fees shall be imposed by separate ordinance duly adopted from time to time by the City Council, and that separate ordinance shall dictate the date upon which collection of that franchise fee shall commence. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate franchise fee ordinance will commence until this Ordinance is effective.

10.3 Terms Defined. For the purpose of this Section 10, the following definitions apply:

10.3.1 "Customer Class" shall refer to the classes listed on the Fee Schedule as defined or determined in Company's electric tariffs on file with the Commission.

10.3.2 "Fee Schedule" refers to the schedule in Section 10.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement, or may be annually amended to reflect changes in the franchise fees imposed by the City.

10.4 Collection of the Fee. The franchise fee shall be payable not less often than quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by this Section 10. No franchise fee shall be payable by Company if Company is

legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company's applicable rates for electric service. Company may pay the City the fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

10.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The "same or greater equivalent amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 10.5, the foregoing conditions will be waived to the extent of such written consent.

10.6 Notification Requirement. In addition to the required proceedings and notification of the public by the City, a joint letter will be sent on behalf of the City and Company by Company clearly explaining the purpose and use of the fee, the fee schedule including frequency of billing which clearly state Connexus is required under law to bill and collect the fee and distribute funds back to the City. Connexus is not profiting in any way by administer the franchise fee.

SECTION 11. SEVERABILITY.

If any portion of this franchise is found to be invalid for any reason whatsoever, the validity of the remainder shall not be affected.

SECTION 12. AMENDMENT.

This ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of the Company's written consent thereto with the City Clerk within 90 days after the effective date of the amendatory ordinance.

SECTION 13. REPEALER.

Previous franchises superseded. This franchise supersedes any previous electric franchise granted to the Company or its predecessor.

SECTION 14. LIMITATION ON APPLICABILITY.

This ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

PASSED and ADOPTED by the City Council of the City of Ramsey, Minnesota, this the 12th day of November, 2013.

Mayor

Attest:

City Clerk

Introduction date: October 8, 2013
Continuation date: October 22, 2013
Posting dates: October 22, 2013 – November 12, 2013
Adoption date: November 12, 2013
Publication date: November 15, 2013
Effective date: February 28, 2014

(Published in the Anoka County Union the 25th day of October, 2013.)

CONNEXUS ENERGY ELECTRIC FRANCHISE ORDINANCE

**ORDINANCE NO. 13-20
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

AN ORDINANCE GRANTING TO CONNEXUS ENERGY, A MINNESOTA COOPERATIVE CORPORATION, ITS SUCCESSORS AND ASSIGNS, PERMISSION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN IN THE CITY OF RAMSEY, MINNESOTA, AN ELECTRIC DISTRIBUTION SYSTEM AND TRANSMISSION LINES, INCLUDING NECESSARY POLES, LINES, FIXTURES AND APPURTENANCES, FOR THE FURNISHING OF ELECTRIC ENERGY TO THE CITY, ITS INHABITANTS, AND OTHERS, AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA, ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

- 1.1 City. The City of Ramsey, County of Anoka, State of Minnesota.
- 1.2 City Utility System. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.
- 1.3 Company. Connexus Energy, a Minnesota cooperative corporation, its successors and assigns.
- 1.4 Electric Facilities. Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.
- 1.5 Notice. A written notice served by one party on the other party referencing one or more provisions of this Ordinance. Notice to Company shall be mailed to the Chief Executive Officer, Connexus Energy, 14601 Ramsey Boulevard N.W., Ramsey, Minnesota 55303-6024. Notice to the City shall be mailed to the City Clerk, City of Ramsey, 7550 Sunwood Drive NW, Ramsey, Minnesota 55303. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.
- 1.6 Public Ground. Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

1.7 Public Way. Any street, alley, walkway or other public right-of-way within the City.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 Grant of Franchise. City hereby grants Company, for a period of 20 years from the date passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Grounds and Public Ways of City, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

2.2 Effective Date; Written Acceptance. This franchise agreement shall be in force and effect from and after the later of 30 days after its publication or its acceptance by Company. The City, by Council resolution, may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

2.3 Service and Rates. The service to be provided and the rates to be charged by Company for electric service in City are established by Company's Board of Directors. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.40.

2.4 Publication Expense. The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

2.5 Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used, or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1 Location of Facilities. Electric Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System Electric. Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground Electric Facilities in place, provided

at the City's request, Company will remove such underground Electric Facilities which interfere with a City improvement project, but only to the extent such Electric Facilities are uncovered by excavation as part of the City improvement project, and restore the Public Way in accordance with Minnesota Rule 7819.1100.

3.2 Field Locations. Company shall provide field locations for its underground Electric Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3 Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

3.4 Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same in accordance with Minnesota Rule 7819.1100, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

3.5 Avoid Damage to Electric Facilities. Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

3.6 Notice of Improvements. No less than four weeks prior to implementation, the City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain: (i) the nature and character of the improvements, (ii) the Public Grounds and Public Ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company within a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities.

3.7 Shared Use of Poles. Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities upon terms and conditions acceptable to Company whenever such use will not interfere with the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.

SECTION 4. RELOCATIONS.

4.1 Relocation of Electric Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public Way or to construct or reconstruct any City Utility System. If a relocation is ordered within five years of a prior relocation of the same Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Ordinance requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

4.2 Relocation of Electric Facilities in Public Ground. City may require Company, at Company's expense, to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

4.3 Projects with Federal Funding. City shall not order Company to remove or relocate its Electric Facilities when a Public Way is vacated, improved or realigned for a right-of-way project or any other project which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation are first paid to Company. The City is obligated to pay Company only for those portions of its relocation costs for which City has received federal funding specifically allocated for relocation costs in the amount requested by the Company, which allocated funding the City shall specifically request. Relocation, removal or rearrangement of any Company Electric Facilities made necessary because of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the rights herein granted to Company are valuable rights.

4.4 No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

SECTION 5. TREE TRIMMING.

Company may trim all trees and shrubs in the Public Grounds and Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

SECTION 6. INDEMNIFICATION.

6.1 Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner, of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

6.2 Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 7. VACATION OF PUBLIC WAYS.

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29. In accordance with Minnesota Rules, Part 7819.3200, if City's order directing vacation of the Public Way does not require relocation of Company's Electric Facilities, the vacation proceeding shall not be deemed to deprive Company of its right to continue to use the right-of-way of the former Public Way for its Electric Facilities installed prior to such order of vacation.

SECTION 8. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 9. FRANCHISE FEE.

9.1 Fee Schedule. During the term of the franchise hereby granted, and in addition to any permit or other fees being imposed on Company, the City may impose on Company a franchise fee by collecting the amounts indicated in a Fee Schedule set forth in a separate ordinance from each customer in the designated Company Customer Class.

9.2 Separate Ordinance. The franchise fee shall be imposed by a separate ordinance duly adopted by the City Council, and that separate ordinance shall dictate the date upon which collection of that franchise fee shall commence. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the City in regard to the interpretation of, or enforcement of, the separate ordinance. No action by the City to implement a separate franchise fee ordinance will commence until this Ordinance is effective.

9.3 Terms Defined. For the purpose of this Section 9, the following definitions apply:

9.3.1 “Customer Class” shall refer to the classes listed on the Fee Schedule as defined or determined in Company’s electric tariffs on file with the Commission.

9.3.2 “Fee Schedule” refers to the schedule in Section 9.1 setting forth the various customer classes from which a franchise fee would be collected if a separate ordinance were implemented immediately after the effective date of this franchise agreement. The Fee Schedule in the separate ordinance may include new Customer Class added by Company to its electric tariffs after the effective date of this franchise agreement, or may be annually amended to reflect changes in the franchise fees imposed by the City.

9.3.3 “Gross Revenue” means all sums, excluding any surcharge or similar addition to the Company’s charges to customers for the purpose of reimbursing the Company for the cost resulting from the franchise fee, received by the Company from the sale of electricity to its retail customers within the corporate limits of the City.

9.4 Collection of the Fee. The franchise fee shall be payable quarterly and shall be based on the amount collected by Company during complete billing months during the period for which payment is to be made by imposing a surcharge equal to the designated franchise fee for the applicable customer classification in all customer billings for electric service in each class. The payment shall be due the last business day of the month following the period for which the payment is made. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice requirements and not occur more often than annually and no change shall require a collection from any customer for electric service in excess of the amounts specifically permitted by this Section 9. No franchise fee shall be payable by Company if Company is legally unable to first collect an amount equal to the franchise fee from its customers in each applicable class of customers by imposing a surcharge in Company’s applicable rates for electric service. Company may pay the City the

fee based upon the surcharge billed subject to subsequent reductions to account for uncollectibles, refunds and correction of erroneous billings. Company agrees to make its records available for inspection by the City at reasonable times provided that the City and its designated representative agree in writing not to disclose any information which would indicate the amount paid by any identifiable customer or customers or any other information regarding identified customers. In addition, the Company agrees to provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

9.5 Equivalent Fee Requirement. The separate ordinance imposing the fee shall not be effective against Company unless it lawfully imposes and the City monthly or more often collects a fee or tax of the same or greater equivalent amount on the receipts from sales of energy within the City by any other energy supplier, provided that, as to such a supplier, the City has the authority to require a franchise fee or to impose a tax. The “same or greater equivalent amount” shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers the percentage of the annual bill represented by the amount collected for franchise fee purposes. The franchise fee or tax shall be applicable to energy sales for any energy use related to heating, cooling or lighting, or to run machinery and appliances, but shall not apply to energy sales for the purpose of providing fuel for vehicles. If the Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 9.5, the foregoing conditions will be waived to the extent of such written consent.

9.6 Notification Requirement. In addition to the required proceedings and notification of the public by the City, a joint letter will be sent on behalf of the City and Company by Company clearly explaining the purpose and use of the fee, the fee schedule including frequency of billing which clearly state Connexus is required under law to bill and collect the fee and distribute funds back to the City. Connexus is not profiting in any way by administer the franchise fee.

SECTION 10. PROVISIONS OF ORDINANCE.

10.1 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2 Limitation on Applicability. This Ordinance constitutes a franchise agreement between the City and Company as the only parties, and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 11. AMENDMENT PROCEDURE.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the

amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the date of final passage by the City of the amendatory ordinance.

SECTION 12. PREVIOUS FRANCHISES SUPERSEDED.

This franchise supersedes any previous electric franchise granted to Company or its predecessor.

PASSED and ADOPTED by the Ramsey City Council this 12th day of November, 2013.

Mayor

ATTEST:

City Clerk

Introduction date: October 8, 2013
Continuation date: October 22, 2013
Posting dates: October 22, 2013 – November 12, 2013
Adoption date: November 12, 2013
Publication date: November 15, 2013
Effective date: February 28, 2014

(Published in the Anoka County Union the 25th day of October, 2013.)

CITY OF ANOKA ELECTRIC FRANCHISE FEE

**ORDINANCE NO. 13-21
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

AN ORDINANCE IMPLEMENTING AN ELECTRIC ENERGY FRANCHISE FEE ON THE CITY OF ANOKA, A MUNICIPAL CORPORATION, FOR PROVIDING ELECTRIC ENERGY SERVICE WITHIN THE CITY OF RAMSEY, MINNESOTA

THE CITY OF RAMSEY DOES ORDAIN:

Section 1. Electric Franchise Fee

(a) *Definitions.* For the purposes of this Ordinance, the following terms shall have the following meanings:

- (1) City. The City of Ramsey, County of Anoka, State of Minnesota.
- (2) Company. City of Anoka Municipal Utility, a municipal corporation, its successors and assigns.
- (3) Franchise Agreement. The franchise agreement between the City and Company pursuant to City Ordinance 13-19.
- (4) Notice. “Notice” means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to City Manager, City of Anoka, 2015 First Ave., Anoka, Minnesota 55303. Notice to City shall be mailed to the City Clerk at 7550 Sunwood Dr. NW, Ramsey, MN 55303.

(b) *Purpose.* The Ramsey City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City. Pursuant to the Franchise Agreement the City has the right to impose a franchise fee on Company. All franchise fee revenues generated through this ordinance shall be collected in lieu of special assessments for street maintenance projects, and shall be dedicated only to long-term street maintenance program projects including pavement preservation and street reconstruction projects.

(c) *Franchise Fee Statement and Schedule.* A franchise fee is hereby imposed on Company commencing March 1, 2014 and in accordance with the following fee schedule:

The charge shall be applied monthly and shall be billed per account.

<u>Customer Classification</u>	<u>Amount per Month</u>
Residential	\$8.00
Small C&I Non-Demand	\$8.00
Small C&I Demand	\$8.00
Large C&I	\$8.00
Public Street Lighting	\$8.00
Municipal Pumping Non-Demand	\$8.00
Municipal Pumping Demand	\$8.00

(d) *Account Fee.* This fee is an account based fee and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter, but only one account, only one fee shall be assessed to that account. In the event any entities covered by this ordinance have more than one account, each account shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any account, the highest possible fee amount shall apply.

(e) *Payment.* Franchise fees are to be collected by the Company and submitted to the City as follows:

January – March collections due by April 30.
April – June collections due by July 31.
July – September collections due by October 31.
October – December collections due by January 31.

(f) *Record Support for Payment.* The Company shall make each payment when due and, if requested by the City, shall provide a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total made to account for any non-collectible accounts, refunds or error corrections. The Company shall permit the City, and its representatives, access to the Company's records for the purpose of verifying such statements.

(g) *Payment Adjustments.* Payment to the City will be adjusted where the Company is unable to collect the franchise fee. This includes non-collectible accounts.

(h) *Dispute Resolution.* If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this ordinance or for such other relief permitted by law.

(i) *Effective Date of Franchise Fee.* The effective date of this Ordinance shall be February 1, 2014. Collection of the fee shall commence March 1, 2014.

(j) *Relation to Franchise Agreement.* This ordinance is enacted in compliance with the Franchise Agreement and shall be interpreted as such.

(k) *Periodic Review.* The City Council may review this ordinance from time to time to determine whether the fees set hereby should be amended.

(l) *Permit Fees.* The Company will administer the collection and payment of franchise fees to the City. Said fees are not in lieu of permit fees, or other fees that may be imposed on the Company in relation to its operations as a public utility in the City.

(m) *Rebate Program.* The City will rebate the lesser annual amount paid for franchise fees versus special assessments over the remaining term of the special assessments, regardless if the assessment was pre-paid or is currently being paid through property taxes. Rebates will be in the form of a credit to the fourth quarter municipal utility bill of qualifying property addresses. This rebate program applies strictly to qualifying property addresses during the effective term of their current assessment or this ordinance, whichever expires first.

Section 2. Effective Date. This ordinance takes effect as provided by the City Charter. This ordinance shall terminate 5 years from the date passed and adopted by the City. If the termination date falls within the middle of a 3 month collection period, the ordinance shall terminate at the end of the collection period.

PASSED AND ADOPTED by the Ramsey City Council this 12th day of November, 2013.

Mayor

Attest:

City Clerk

Introduction date:	October 8, 2013
Continuation date:	October 22, 2013
Posting dates:	October 22, 2013 – November 12, 2013
Adoption date:	November 12, 2013
Publication date:	November 15, 2013
Effective date:	February 28, 2014

(Published in the Anoka County Union the 25th day of October, 2013.)

CONNEXUS ENERGY ELECTRIC FRANCHISE FEE

**ORDINANCE NO. 13-23
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

AN ORDINANCE MODIFYING THE ELECTRIC FRANCHISE FEE ON CONNEXUS ENERGY FOR PROVIDING ELECTRIC SERVICE WITHIN THE CITY OF RAMSEY.

THE CITY COUNCIL OF THE CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA, ORDAINS:

SECTION 1. The City of Ramsey Code of Ordinances is hereby amended as follows:

Subdivision 1. Purpose. The Ramsey City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City of Ramsey. All franchise fee revenues generated through this ordinance shall be collected in lieu of special assessments for street maintenance projects, and shall be dedicated only to long-term street maintenance program projects including pavement preservation and street reconstruction projects.

(a) Pursuant to City Ordinance No. 13-20, a Franchise Agreement between the City and Connexus Energy, the City has the right to impose a franchise fee on Connexus Energy in amount and fee design as authorized in Section 9.1 of the Connexus Energy Franchise.

(b) Pursuant to City Ordinance No. 13-20, the City exercised its right to impose a franchise fee on Connexus Energy. This includes the right to modify the fee amount with the consent of Connexus Energy as to amount and notice period, to which Connexus Energy has consented.

Subd. 2. Franchise Fee Statement. Pursuant to Ordinance No. 13-20, the franchise fee imposed on Connexus Energy under its Electric Franchise is hereby amended. The amended fee schedule is attached hereto and made a part of this ordinance, commencing with the Connexus Energy's March 2014 billing month.

Subd. 3. Payment and Fee Design. The franchise fee shall be payable to the City in accordance with the terms set forth in Section 9.4 of the Franchise.

- a) This fee is an account based fee and not a meter based fee. An account includes all electric meters located on a single property or premises that have the same address and property owner.
- b) Properties with a single address and owner shall pay the largest fee that applies to any one of their meters.
- d) Separately metered space rented to tenants other than the owner shall pay a fee for each tenant meter.

e) The City Administrator, or his designee, is authorized to determine the appropriate implementation of this Section 3.2. Appeals from decisions of the staff may be taken to the City Council.

Subd. 4. Record Support for Payment. Connexus Energy shall make each payment when due and, if requested by the City, shall provide at the time of each payment a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total surcharge billed in the period for which the payment is being made to account for any uncollectibles, refunds or error corrections.

Subd. 5. Enforcement. Any dispute, including enforcement of a default regarding this ordinance will be resolved in accordance with Section 2.5 the Franchise Agreement.

Subd. 6. Effective Date of Franchise Fee. Notwithstanding the effective date of this ordinance and notwithstanding any contrary provisions in the Franchise, the effective date of the fee collected under Subdivision 2 of this ordinance is the later of ten (10) days after the publication or after the sending of written notice enclosing a copy of this adopted ordinance upon Connexus Energy by certified mail.

Subd. 7. Fee Review. The City Council may review this Ordinance from time to time to determine whether to continue, terminate or modify the fee. If the Council deems it to be in the City's best interest to continue the fee in its current form, no Council action is necessary. If the Council deems it to be in the City's best interest to terminate or modify the fee, the Council shall give Connexus at least sixty (60) days written notice prior to the proposed change.

Subd. 8. The City recognizes that Connexus Energy will surcharge its customers in the City the amount of the fee.

Subd. 9. Rebate Program. The City will rebate the lesser annual amount paid for franchise fees versus special assessments over the remaining term of the special assessments, regardless if the assessment was pre-paid or is currently being paid through property taxes. Rebates will be in the form of a credit to the fourth quarter municipal utility bill of qualifying property addresses. This rebate program applies strictly to qualifying property addresses during the effective term of their current assessment or this ordinance, whichever expires first.

SECTION 2. This ordinance takes effect as provided by City Charter. This ordinance shall terminate 5 years from the date passed and adopted by the City. If the termination date falls within the middle of a 3 month collection period, the ordinance shall terminate at the end of the collection period.

EXHIBIT A

CONNEXUS ENERGY ELECTRIC FRANCHISE
FEE SCHEDULE

<u>Class</u>	<u>Fee or % Per Month</u>
Residential	\$8.00
Small Commercial/Industrial (Non Demand)	\$8.00
General Commercial/Industrial (Demand)	\$8.00
Large Commercial/Industrial (> 1 MW Demand)	\$8.00
Outdoor Advertising (Billboards), Non-Metered Cable/TV/Phone	\$8.00
Irrigation services, Lift Station services, Siren services	\$8.00
Street Lights	\$8.00
Wells & Pumps (city well)	\$8.00

FRANCHISE FEES ARE TO BE COLLECTED BY THE UTILITY IN THE AMOUNTS SET FORTH IN THE ABOVE SCHEDULE, AND SUBMITTED TO THE CITY ON A QUARTERLY BASIS AS FOLLOWS:

January through March collections due by April 30.
April through June collections due by July 31.
July through September collections due by October 31.
October through December collections due by January 31.

PASSED and ADOPTED by the Ramsey City Council this 12th day of November, 2013.

Mayor

ATTEST:

City Clerk

Introduction date: October 8, 2013
Continuation date: October 22, 2013
Posting dates: October 22, 2013 – November 12, 2013
Adoption date: November 12, 2013
Publication date: November 15, 2013
Effective date: February 28, 2014

(Published in the Anoka County Union the 25th day of October, 2013.)

CENTERPOINT ENERGY GAS FRANCHISE FEE

**ORDINANCE NO. 13-22
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

AN ORDINANCE IMPLEMENTING A GAS ENERGY FRANCHISE FEE ON CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY") FOR PROVIDING GAS ENERGY SERVICE WITHIN THE CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA.

THE CITY OF RAMSEY DOES ORDAIN:

Section 1: Gas Franchise Fee

(a) *Definitions.* For the purposes of this Ordinance, the following terms shall have the following meanings:

- (1) City. The City of Ramsey, County of Anoka, State of Minnesota.
- (2) Company. CenterPoint Energy Minnesota Gas ("CenterPoint Energy"), its successors and assigns.
- (3) Franchise Agreement. The franchise agreement between the City and Company pursuant to City Ordinance 03-16.
- (4) Notice. "Notice" means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 800 LaSalle Avenue, Minneapolis, MN 55402. Notice to City shall be mailed to the City Clerk at City of Ramsey, 7550 Sunwood Drive, Ramsey, Minnesota, 55303.

(b) *Purpose.* The Ramsey City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City. Pursuant to the Franchise Agreement the City has the right to impose a franchise fee on Company. All franchise fee revenues generated through this ordinance shall be collected in lieu of special assessments for street maintenance projects, and shall be dedicated only to long-term street maintenance program projects including pavement preservation and street reconstruction projects.

(c) *Franchise Fee Statement and Schedule.* A franchise fee is hereby imposed on Company commencing with the March 2014 billing month, and in accordance with the following fee schedule:

Customer Classification

Amount per Account per Month (\$)

Residential	\$8.00 per month
Firm A	\$8.00 per month
Firm B	\$8.00 per month
Firm C	\$8.00 per month
Small Volume, Dual Fuel A ("SVDF A")	\$8.00 per month
Small Volume, Dual Fuel B ("SVDF B")	\$8.00 per month
Large Volume, Dual Fuel ("LVDF")	\$8.00 per month

(d) *Account Fee.* This fee is an account based fee and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter, but only one account, only one fee shall be assessed to that account. In the event any entities covered by this ordinance have more than one account, each account shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any account, the highest possible fee amount shall apply.

(e) *Payment.* Franchise fees are to be collected by the Company and submitted to the City as follows:

January-March collections due by April 30.
April-June collections due by July 31.
July-September collections due by October 31.
October-December collections due by January 31.

(f) *Record Support for Payment.* The Company shall make each payment when due and, if requested by the City, shall provide a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total made to account for any non-collectible accounts, refunds or error corrections. The Company shall permit the City, and its representatives, access to the Company's records for the purpose of verifying such statements.

(g) *Payment Adjustments.* Payment to the City will be adjusted where the Company is unable to collect the franchise fee. This includes non-collectible accounts.

(h) *Dispute Resolution.* If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this ordinance or for such other relief permitted by law.

i) *Effective Date of Franchise Fee.* The effective date of this Ordinance shall be after its publication and ninety (90) days or more after sending written notice enclosing a copy of this adopted Ordinance to Company by certified mail. Collection of the fee shall commence as provided above.

(j) *Relation to Franchise Agreement.* This ordinance is enacted in compliance with the Franchise Agreement and shall be interpreted as such.

(k) *Periodic Review.* The City Council may review this ordinance from time to time in whatever manner the City Administrator then determines to be appropriate, including, but not limited to, review by the City Council in either a work session or a regular session. Failure to review this ordinance shall not in any way invalidate or limit it.

(l) *Rebate Program.* The City will rebate the lesser annual amount paid for franchise fees versus special assessments over the remaining term of the special assessments, regardless if the assessment was pre-paid or is currently being paid through property taxes. Rebates will be in the form of a credit to the fourth quarter municipal utility bill of qualifying property addresses. This rebate program applies strictly to qualifying property addresses during the effective term of their current assessment or this ordinance, whichever expires first.

Section 2: Effective Date. This ordinance takes effect as provided by the City Charter. This ordinance shall terminate 5 years from the date passed and adopted by the City. If the termination date falls within the middle of a 3 month collection period, the ordinance shall terminate at the end of the collection period.

PASSED and ADOPTED by the Ramsey City Council this 12th day of November, 2013.

Mayor

ATTEST:

City Clerk

Introduction date:	October 8, 2013
Continuation date:	October 22, 2013
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(Published in the Anoka County Union the 25th day of October, 2013.)

DRAFT

MEMORANDUM

TO: Ramsey Charter Commission

FROM: Joseph J. Langel, City Attorney
Bruce Westby, City Engineer

DATE: October 16, 2013

RE: Franchise Fees

The City Council held a public hearing on October 8, 2013, to obtain public comments on proposed franchise fees. On October 10th, Chairman Field submitted a memorandum to City staff requesting information on a number of issues related to those fees. This memorandum is staff's response to Chairman Field's requests, which are set forth below in bold.

1. Minnesota statutory authority for franchise fees complete with dates of enactment and copies of same.

Minnesota Statutes section 216B.36 authorizes the adoption of franchise fees. The full statute is attached, but the relevant language is as follows:

Under the... franchise, the utility may be obligated by any municipality to pay to the municipality fees to raise revenue or defray increased municipal costs accruing as a result of utility operations, or both. The fee may include but is not limited to a sum of money based upon gross operating revenues or gross earnings from its operations in the municipality...

This statute was enacted in 1974 and was amended four times after that, most recently in 1991.

2. A synopsis of present City Charter provisions perceived to pertain to franchise fees.

Chapter 10 of the Charter regulates the use of franchises. Within that Chapter, only section 10.4 directly relates to franchise fees. That section contains the following language:

Subject to any applicable state statutes, the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee.

This sentence authorizes the Council to set franchise fee rates. More generally, section 7.1 of the Charter grants the Council “full authority” over the City’s financial affairs. Note also that section 1.2 grants the City all statutory powers unless otherwise indicated in the Charter, and as stated above, the City has statutory authority to enact franchise fees. There are no provisions in the Charter that prevent or restrict the Council from imposing such fees.

3. A reference to any present City ordinances pertaining to franchise fees.

We are not aware of any current City ordinances that directly pertain to franchise fees.

4. A summary of metro area and a few outstate charter provisions and ordinances that pertain to the establishment or amendment of franchise fees.

5. Indicate whether there are any distinctions between charter cities and other cities when it comes to enacting franchise fees upon its residents.

The only distinction would be if a city’s charter contained some sort of limitation or regulation of franchise fees. Absent such provisions, there are no differences between charter and non-charter cities.

6. Please address the effect of the Charter Commission amending the Charter on October 21, 2013, on the present ordinance proposal by the City pertaining to franchise fees.

The Charter Commission cannot amend the Charter on October 21st. Almost all charter amendments must be approved by the voters at an election. The exception is if the Commission proposes an amendment and the Council enacts it by ordinance by unanimous vote. Even then, due to notice and hearing requirements and a 90-day delay for the effective date, it takes months for the amendment to take effect. *See Minn. Stat. § 410.12*. In the meantime, any franchise fee ordinance approved by the Council will remain in effect.

7. Address whether there has been any legal challenges to franchise fees established for repairing roadways. Does there have to be any correlation between the fee and the right-of-way use by a utility? Could a franchise fee exceed the cost of road repair?

The franchise statute, section 216B.36, does not mandate any correlation between the amount of the fee and the utility’s use of the right-of-way. The statute

specifically allows the imposition of franchise fees for the sole purpose of raising revenue, without having to tie those fees to any particular costs or any particular use of the revenue. The revenue generated by the fees can exceed the costs of road repair and maintenance; there are no statutory limits. We are not aware of any legal challenges of the nature you describe.

8. Address what sections of the Charter would be impacted by eliminating special assessments and whether any Minnesota statute would limit the Charter Commission's ability to eliminate or limit special assessments via a Charter amendment.

The proposed franchise fee ordinance language provides that if fees are adopted, those people with existing assessments will have the assessments rebated to the extent that franchise fees are paid. This provision does not impact the existing Charter language on assessments.

If the existing process for imposing assessments is to be modified, that would require changes to Chapter 8 of the Charter. I am not aware of any statute that would limit the Commission's ability to eliminate or limit special assessments.

Jo Thieling

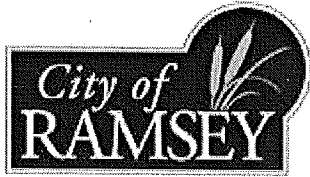
From: Bruce Westby
Sent: Thursday, October 17, 2013 3:02 PM
To: Jo Thieling
Cc: Kurt Ulrich
Subject: RE: Charter Cities in MN

Jo:

Below is a partial list of cities that to the best of my knowledge currently have franchise fee ordinances (43 total). I have also requested a list of cities with franchise fee ordinances from LMC. I'll let you know if/when I receive something from them. Until then, I hope this helps.

Afton
Alexandria
Anoka
Benson
Blue Earth
Brooklyn Center
Champlin
Coon Rapids
Cottage Grove
Deephaven
Eagle Lake
Eden Prairie
Edina
Elk River
Excelsior
Golden Valley
Granite Falls
Hopkins
Lake Crystal
Little Falls
Long Prairie
Mankato
Melrose
Minneapolis
Morris
Mound
Mounds View
New Hope
North Mankato
Oakdale
Osseo
Owatonna
Prior Lake
Richfield
Richmond
Robbinsdale

Sauk Centre
Sleepy Eye
Saint Augusta
Saint Louis Park
Waseca
Winnebago
Winsted

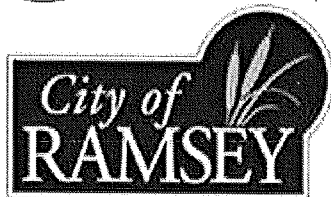


Bruce Westby, P.E.
City Engineer | City of Ramsey
7550 Sunwood Drive NW | Ramsey, MN 55303
763-433-9825 (Direct) | 763-433-9848 (Fax)
763-647-4485 (Cell)
bwestby@ci.ramsey.mn.us

From: Jo Thieling
Sent: Thursday, October 17, 2013 9:21 AM
To: Bruce Westby; Kurt Ulrich
Subject: FW: Charter Cities in MN

Attached is the list of Charter Cities I received from the League.

A handwritten signature in cursive script, appearing to read "Jo Thieling".



Jo Thieling, CMC
City Clerk | City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303
763-433-9840 (Direct) | 763-433-9898 (Fax)
jthieling@ci.ramsey.mn.us

From: Clark, Elaine [<mailto:EClark@lmc.org>]
Sent: Thursday, October 17, 2013 9:11 AM
To: Jo Thieling
Cc: Cabot, Danielle
Subject: Charter Cities in MN

Jo, Attached is a list of the 107 cities in Minnesota that we have listed in our database as Charter Cities.

Elaine Clark | End User Technician
Tel: (651) 215-4007 | Fax: (651) 215-4139
Helpdesk: (651) 215-4100
eclark@lmc.org | www.lmc.org
League of Minnesota Cities
145 University Ave. West | St. Paul, MN 55103

Connecting & Innovating since 1913

CHAPTER 11. FRANCHISES

Section 11.01 Franchises Required.

Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures, in, over, upon or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the Clerk to guarantee publication before the ordinance is passed.

Section 11.02 Term.

No perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted for a period of more than twenty-five years.

Section 11.03 Public Hearing.

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten (10) days prior to the date of the hearing.

Section 11.04 Power of Regulation Reserved.

Subject to any applicable law, the Council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 11.05 Renewals or Extensions.

Every extension, renewal or modification of any existing franchise or of any franchise granted thereafter shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

Blaine, Minnesota, Code of Ordinances >> PART I - CHARTER >> CHAPTER 10. FRANCHISES >>

CHAPTER 10. FRANCHISES

Sec. 10.01. Franchises required.

Sec. 10.02. Term.

Sec. 10.03. Public hearings.

Sec. 10.04. Power of regulation reserved.

Sec. 10.05. Renewals or extensions.

Sec. 10.01. Franchises required.

Except as otherwise provided by law, no person, firm or corporation shall place or maintain any permanent or semipermanent fixtures in, over, upon or under any street or public place for the purpose of operating a public utility or for any other purpose, without a franchise therefor from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the clerk to guarantee publication before the ordinance is passed.

Sec. 10.02. Term.

No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty (20) years shall be effective until approved by a majority of the electors voting thereon, at a general or special election.

Sec. 10.03. Public hearings.

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least twice in the official newspaper not less than twenty (20) days prior to the date of the hearing.

Sec. 10.04. Power of regulation reserved.

Subject to any applicable law the council may by ordinance reasonably regulate and control the exercise of any franchise including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Sec. 10.05. Renewals or extensions.

Every extension, renewal, or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

CITY OF COON RAPIDS, MINNESOTA

CHAPTER 1-1000

FRANCHISES

1-1001 Franchises Required. Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any purposes, without a franchise therefor from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Clerk to guarantee publication before the ordinance is passed.

1-1002 Term. No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding 20 years shall be effective until approved by a majority of the votes cast in a regular or special municipal election. [Revised 1/11/94, Ordinance 1479]

1-1003 Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least twice in the official paper and posted in three (3) public places within the City not less than ten (10) days prior to the date of the hearing.

1-1004 Power of Regulation Reserved. Subject to any applicable law the Council may, by ordinance, reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

1-1005 Renewals or Extensions. Every extension, renewal, or modification of any existing franchise or of any franchise granted herein shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

CHAPTER TEN

FRANCHISES

SECTION 10.01 Franchises Required

Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility or for any other purposes, without a franchise therefor from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Clerk to guarantee publication before the ordinance is passed.

SECTION 10.02 Term

No exclusive or perpetual franchise shall ever be granted. No franchise for a term exceeding twenty years shall be effective until approved by a majority of the electors voting thereon.

SECTION 10.03 Public Hearing

Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearings shall be published at least once in the official newspaper not less than ten (10) days prior to the date of the hearing.

SECTION 10.04 Power of Regulation Reserved

Subject to any applicable law the Council may, by ordinance, reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

SECTION 10.05 Renewals or Extensions

Every renewal or modification of a franchise, including an existing franchise, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

Lino Lakes City Charter

CHAPTER X. FRANCHISES

Section 10.01. Except as otherwise provided by state law, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street or public place for the purpose of operating a public utility, or for any other purpose, without a franchise therefore from the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. No exclusive franchise shall be granted unless the proposed ordinance is submitted to the voters of the City following a public hearing and approved by at least a majority of those voting thereon. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Clerk to guarantee publication before the ordinance is passed. (*Amended 05/27/2003*)

Section 10.02. Term. No perpetual franchise or privilege shall be created, nor shall any exclusive franchise or privilege be granted for a period of more than twenty-five (25) years.

Section 10.03. Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by Council, the Council shall hold a public hearing on the matter. Not less than ten (10) days prior to the date of the hearing, notice of such hearing shall be published at least once in the official newspaper and additional notice of such hearing shall be given in such manner as the Council shall determine.

Section 10.04. Power of Regulation Reserved. Subject to any applicable state law, the Council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable state or municipal law, or regulation, or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 10.05. Renewals or Extensions. Every extension, renewal, or modification of any existing franchise, or of any franchise granted thereafter, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

In anticipation of the Charter Commission meeting, my state of mind is to advocate a provision to Charter Chap. 7:

Section 7.13 Franchise Fee Bill of Rights.

Regardless of any State of Minnesota permissions, City of Ramsey shall not use a franchise fee as a revenue generation process.

That as a starting point of what I believe to be good policy, with, however, a willingness to consider:

Section 7.13 Franchise Fee Bill of Rights.

Regardless of any State of Minnesota permissions, City of Ramsey shall not use a franchise fee as a revenue generation process, unless and until levy limits have been reached in taxing property to support the general fund and a deficit exists between general fund revenue and necessary expenditures. If ever imposed, franchise fee revenue generation shall not be structured in a way proportionately more onerous on the poor and those facing hardship than on those of greater means and greater capacity to pay.

Those two alternatives do express what I believe to be good policy, with the latter being more permissive toward government flexibility than the former. A third alternative, taking account of how a PUC regulated utility might be constrained by PUC rules/orders/policy whereas a cooperative is not, there is this third possibility:

Section 7.13 Franchise Fee Bill of Rights.

Regardless of any State of Minnesota permissions, City of Ramsey shall not use a franchise fee as a revenue generation process, unless and until levy limits have been reached in taxing property to support the general fund and a deficit exists between general fund revenue and necessary expenditures. If ever imposed, franchise fee revenue generation shall not be structured in a way proportionately more onerous on the poor and those facing hardship than on those of greater means and greater capacity to pay. Accordingly, in negotiation of franchise grants to energy providers City representatives in negotiation shall mandate as a contract condition of a franchise grant that disproportionate impact on the poor and destitute shall not happen in any franchise fee pass-through from the franchisee to the energy-consuming public.

In that fashion, the City would have flexibility to structure its fee to the franchisee in any manner convenient, so long as fair to the destitute, with the utility then also obligated to assure fairness.

That would be my starting point for discussion of Charter language about City of Ramsey and franchise fee use/non-use.

In anticipation of the Charter Commission meeting, in addition to any earlier proposals, I suggest:

Section 10.6 Franchise Fee Constraint.

In the event a franchise fee ever is imposed in a franchise grant to a utility, the City shall not permit any ordinance or franchisee-ratepayer contract term under which the utility can terminate services in the absence of due process and a judicial hearing over non-payment of the utility's pass-through to ratepayers of any such fee. The City shall require this as a term of any grant or renewal of a franchise.

As a rationale I suggest: In a private contract situation, where a utility such as Connexus can impose a contract of adhesion on ratepayers - a take it or leave it, our way or the highway, with Connexus having clear unequal bargaining power and with there being no convenient market alternative. And part of that contract of adhesion is that if a ratepayer defaults on payment the power is turned off. They need not go to court to sue for money due, where conciliation court exists to minimize costs of litigating. They hold the big hammer and it can be justified as needed to have an orderly provision of power to everyone that everyone be made by some mechanism to pay, no freeloaders allowed.

THE FUNDAMENTAL GOVERNMENTAL POWER QUESTION, SHOULD RAMSEY, INDEED ANY GOVERNMENT, HOLD THE IMMEDIATE POWER TO SHUT OFF YOUR POWER IF YOU DO NOT PAY SOME IMPOSED MONTHLY TAX, WHEN SET DUE BY GOVERNMENT? SHOULD THERE BE SAFEGUARDS, DELAYS, ALL THE STUFF "DUE PROCESS" MEANS?

CLEARLY, NO TO THE FIRST QUESTION, YES TO THE SECOND. WITH STATE GOVERNMENT RECOGNIZING THERE MUST BE BOUNDS. THERE IS LAW AGAINST RESIDENTIAL SHUT-OFF IN THE DREARY COLD OF WINTER.

Now, there appears to be but one single statute on franchise fees; fictionally saying it is between a government franchisor and a public utility franchisee, a regulated contract situation (at least when cooperatives are not the utility player), the statute saying that the government may "fee" the utility having that express power in the course of a franchise grant or franchise extension negotiation.

The truth is the government and utility together have no great motive to not agree to something amenable to them, however onerous, e.g., a tax and its flow-through to ratepayers, since ratepayers are, at the most fundamental level, constrained to have to do business with the anointed utility, which has power to impose largely any terms it wants onto ratepayers.

The situation stinks of the likelihood of the abuse - by agreement - that franchise terms will be structured so that if there is any default in the ratepayer paying the flow-through tax; without any due process concerns; the government will be assured that such obstreperous persons will promptly have electric services terminated. That is how the pernicious thing will be enforced. There will be no hearing where a case of unique need or cause for an exception can be made and heard and judged.

Some guy climbs a pole or goes behind your home to the meter, and shuts you off.

Even if argued as unlikely a scenario in practice, a clear Charter constraint shall decisively forestall any such possible mischief, over time, where different officials will be serving with differing world views.

CHAPTER 7 TAXATION AND FINANCES

Section 7.1 Council to Control Finances. The council shall have full authority over the financial affairs of the city except as limited or prohibited by the state constitution, state laws, or this charter. It shall provide for the collection of all revenues and other assets, and the auditing and settlement of accounts. It shall further provide for the safekeeping and disbursement of public moneys.

Section 7.2 Fiscal Year. The fiscal year of the city shall be the calendar year.

Section 7.3 System of Taxation. Subject to the state constitution, and except as forbidden by it, or by state statutes, the council shall have full power to provide by ordinance for a system of local taxation. This authority includes the power by ordinance to assess, levy, and collect taxes on all subjects or objects of taxation except as limited or prohibited by the state constitution, by this charter or by state statutes imposing restriction upon the city, irrespective of charter provisions.

Section 7.4 Submission of Budget.

7.4.1 Annually, the city administrator shall submit to the council the budget recommendations in accordance with a budget calendar to be established by resolution. The budget shall provide a complete financial plan for all city funds and activities for the ensuing fiscal year and, except as required by state statutes or this charter, shall be in such form as the council may require. It shall include a summary and show in detail all estimated income and all proposed expenditures, including debt service and comparative figures for the current fiscal year, actual and estimated, and the preceding year. In addition to showing proposed expenditures for current operations, it shall show proposed capital expenditures to be made during the year and the proposed method of financing each such capital expenditure. The total proposed operating budget to be provided from the property tax shall not exceed the amounts authorized by state statutes and this charter. Consistent with these provisions, the budget shall contain such information and be in the form prescribed by ordinance and by state statutes. The Annual Financial Statement shall be in such form as state statutes, this charter or the council may prescribe.

7.4.2 For each utility operated by the city, its budget shall show anticipated net surplus or deficit and the proposed method of its disposition; and subsidiary budgets for each utility giving income and expenditure information shall be included or attached as appendices.

Section 7.5 Long-term Financial Plan.

7.5.1 The city council shall have prepared a long-term financial plan of at least five years. This information shall be revised and extended each year. The city council shall hold an annual public hearing on the long-term financial plan and adopt it by resolution with or without amendment. The financial plan, at minimum, shall consist of three elements as specified in Sections 7.5.2 through 7.5.4 which follow.

7.5.2 The Public Service Program. The program shall be a continuing five-year plan for all public services, estimating future needs for the public health, safety and welfare of the city. It shall measure the objectives and needs for each city department, the standard of services desired, and the impact of each such service on the annual operating budget.

7.5.3 The Capital Improvement Program. This program shall consist of projects and facilities that are or will be needed by the city in carrying out the anticipated program of public services. It shall include a list of all capital improvements proposed to be undertaken during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements; the priority of each anticipated improvement; cost estimate, method of financing and recommended time schedule for each such improvement; and the estimated annual cost of operating and maintaining the facilities to be constructed or acquired. This information shall be revised and extended each year for capital improvements still pending or in process.

7.5.4 Five Year Financial Forecast. This forecast shall detail the estimated revenue and expenditures necessary to carry out the Public Service and Capital Improvement Programs as described in Sections 7.5.2 and 7.5.3. In addition, the forecast will identify financing sources and uses, cash flow projections, and financial policies that impact exercise control over revenues and expenditures.

7.5.5 A summary of the long-term financial plan shall be published in the city newsletter annually.

Section 7.6 Council Action on Budget.

7.6.1 The budget public hearing dates, procedures to be followed during the hearing; and publications are established by state statute. However, the actual adoption of the proposed annual budget and the municipal levy shall take place at the next regularly scheduled council meeting following the mandated public hearing(s) to ensure that comments received during the public hearing(s) are given due consideration before the final budget and municipal tax levy are adopted. The council may revise the proposed budget but no amendment to the budget shall increase the authorized expenditures to a amount greater than the estimated funds available. The council shall adopt the budget by a resolution that shall set forth the total for each budgeted fund and each department function or program, with such segregation as to objects and purpose of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying the amount of taxes provided in the budget, and the city administrator shall certify the tax resolution to the county auditor in accordance with state law. Adoption of the budget resolution shall constitute appropriations at the beginning of the fiscal year of the sums fixed in the resolution of the several purposes named.

7.6.2 At least two weeks before the proposed budget is adopted, for the ensuing fiscal year, a summary of the proposed budget and municipal levy increases and decreases shall be given in the city newsletter. Such summary shall be set forth in language designed to be readily understood by the layperson, and shall provide appropriate supporting information as to the necessity for any increases. Failure to provide the specified

summary will not invalidate the budget. A summary of the adopted final budget shall be printed in the city newsletter as soon as is practical after the adoption.

Section 7.7 Enforcement of the Budget.

7.7.1 The city council shall enforce the provisions of the budget. It shall approve and authorize payments of bills, at each regularly scheduled council meeting, that have been presented for payment, supported by an itemized bill, payroll time sheet, or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness. Bills that are of an ongoing operating nature, have been appropriated in the budget, and been approved by the responsible city officer, may be paid prior to regular council meetings to avoid late penalties or to take advantage of available discounts. Other payments may occur in the event it is unreasonable or untimely to obtain council approval for funding an emergency or unforeseen expenditure which is necessary for the routine operation of the city as directed by council in a purchasing policy which shall be adopted by ordinance.

7.7.2 Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution, or for any amount in excess of the amount authorized, shall be a personal obligation upon the person incurring the obligation and such person will be subject to appropriate disciplinary or criminal action. No check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, time sheet or other document approved and signed by the responsible city officer who vouches for its correctness and reasonableness.

Section 7.8 Alterations to the Budget. After the budget resolution has been adopted, the council shall not increase the amounts fixed in the resolution beyond the estimated funds available except to the extent that actual receipts exceed the estimated funds available. At anytime, the council may, by resolution approved by a 4/5 vote of its members, reduce the sums appropriated for any purpose by the budget resolution, or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

Section 7.9 Funds. There shall be maintained in the city treasury a general fund and such other funds as may be required by state statutes, resolution or ordinance. The council shall, by resolution or ordinance, create and abolish funds and shall define which funds are eligible for interfund loans as it may deem necessary and appropriate.

Section 7.10 City Indebtedness.

7.10.1 Except as provided in Sections 7.11 and 7.12, no obligation shall be issued to pay current expenses, but the council may issue and sell obligations for any other municipal purpose in accordance with state statutes and within the limitations prescribed by law. Except in the case of obligations for which an election is not required by this charter or state statutes, no such obligation shall be issued and sold without the approval of the majority of the voters voting on the question at a general or special election.

7.10.2 A description of each such proposed issue shall be published in the city newsletter, but failure to publish such description, or any defect in the description, shall not invalidate the issue. However, corrections shall be published at the earliest practical time.

Section 7.11 Tax Anticipation Certificates. At anytime after January 1, the council may issue tax anticipation certificates in anticipation of state and federal aids and the collection of taxes levied the previous year for any fund and not yet collected. The total amount of certificates issued against any fund for any year together with interest thereon until maturity shall not exceed 90 percent of the total state and federal aids and current taxes due to the fund and uncollected at the time of issuance. Such certificates shall be issued on such terms and conditions as the council may determine, but they shall become due no later than April 1 of the year following their issuance. The proceeds of the tax levied and such state or federal aids as the governing body may have allocated for the fund against which tax anticipation certificates are issued, and the full faith and credit of the city shall be irrevocably pledged for the redemption of the certificates.

Section 7.12 Emergency Debt Certificates.

7.12.1 If in any year, the receipt from taxes or other sources should, for some unforeseen cause, become insufficient for the ordinary expenses of the city, or if any calamity or other public emergency necessitates the making of extraordinary expenditures, the council may by ordinance issue on such terms and in such manner as the council determines, emergency debt certificates to run not in excess of three years. A tax sufficient to pay principal and interest on such certificates with the margin required by law shall be levied as required by law. The ordinance authorizing the issue of the emergency debt certificates shall state the nature of the emergency and be approved by at least four members of the council. It may be passed by emergency ordinance as defined in Section 3.6 except that the ordinance shall be enacted by a 4/5 vote of the council.

7.12.2 A description of each such proposed certificate shall be published in the city newsletter, but failure to publish such description, or any defect in the description, shall not invalidate the certificate. However, corrections shall be published at the earliest practical time.

- Sections 7.1 through 7.12 amended by Ordinance - effective March 25, 1994

- Sections 7.4.1 & 7.6.1 amended by Ordinance – effective January 24, 2001

CHAPTER 10 FRANCHISES

Section 10.1 Except as otherwise provided by state statutes, no person, firm or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon or under any street or public place for the purpose of operating a public utility, or for any other purpose, without a franchise therefore from the city. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. No exclusive franchise shall be granted unless the proposed ordinance is submitted to the voters of the city following a public hearing and approved by at least a majority of those voting thereon. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the city clerk to guarantee publication before the ordinance is passed.

Section 10.2 Term. No perpetual franchise or privilege shall be created, nor shall any exclusive franchise or privilege be granted for a period of more than twenty-five years.

Section 10.3 Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the council, the council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the city newsletter and in the official newspaper not less than ten days prior to the date of the hearing. Failure to publish said notice or any defect in said notice shall not invalidate the notice. However, correction(s) must be published at the earliest practical time.

Section 10.4 Power of Regulation Reserved. Subject to any applicable state statutes, the council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable state or municipal law, or regulation, or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Section 10.5 Renewals or Extensions. Every extension, renewal, or modification of any existing franchise, or of any franchise granted thereafter, shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

- Section 10.1 amended by Ordinance – effective January 24, 2001

Excerpt of Email from Eric Zaetsch

Jo, the 410.09 is no suggestion. It is binding existing statutory law.

This online link, and it has plebiscite language we MUST discuss because it might not have been followed, and needs to be in the future. This online State official link

<https://www.revisor.mn.gov/statutes/?id=410.09>

It states, as part of MINNESOTA CHARTER LAW, that chapter, but the language of limitation is not specific to charters, and charter wording. What the legislature intended can be debated, but the language seems clear and direct.

410.09 REGULATION OF FRANCHISES.

Such proposed charter may provide for regulating and controlling the exercise of privileges and franchises in or upon the streets and other public places of the city, whether granted by the city, by the legislature, or by any other authority; but no perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted, unless the proposed grant be first submitted to the voters of the city, and be approved by a majority of those voting thereon, nor in such case for a period of more than 25 years.

History:

(1283) [RL s 753](#); [1973 c 123 art 5 s 7](#)

Connexus has an exclusive electricity franchise on my street, I cannot buy power from another supplier, and ditto for Center Point on gas; and was either ever voted on and "approved by a majority of those voting"???

It needs consideration per rule of law. What is history? What next?