

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

The Charter Commission conducted a regular meeting on Thursday, June 25, 2014, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

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

Members Absent: None.

Also Present: City Clerk Jo Thieling
 City Attorney Joe Langel

1. CALL TO ORDER

Chairperson Field called the regular meeting of the Charter Commission to order at 6:00 p.m.

2. CITIZEN INPUT

Wayne Buchholz, 14621 Neon Street, stated he recently attended a City Council meeting to request that an item be removed from the Consent Agenda. He added he was told that a Consent Agenda item can only be removed by a City Councilmember. He expressed concern that a City Councilmember can add or remove a Consent Agenda item without public input or objection. Mr. Buchholz stated, under *Robert's Rules*, a change in the way City Council Meeting Agenda items are regulated must be enacted by the Charter Commission. He requested that the Charter Commission consider adding this as a discussion item at one of their upcoming meetings.

Chairperson Field requested that City staff add this item to an upcoming Charter Commission meeting agenda for review and discussion. City Clerk Thieling agreed.

3. APPROVE AGENDA

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

Motion carried. Voting Yes: Chairperson Field, Commissioners Deemer, Bendtsen, M. Anderson, S. Anderson, Niederhaus, Niska, Sivertson, and Zaetsch. Voting No: None.

4. APPROVE MINUTES

Commissioner S. Anderson asked whether the font size of the text on the Charter Commission packet's cover page could be enlarged.

City Clerk Thieling apologized for the small font size, and added it is a software default that City staff has not been able to change. She added the City Council packet's cover page has the same appearance.

Motion by Commissioner Deemer, seconded by Commissioner S. Anderson, to approve the following meeting minutes as presented:

- 1) Regular Charter Commission Meeting dated April 23, 2014

Motion carried. Voting Yes: Chairperson Field, Commissioners Deemer, S. Anderson, M. Anderson, Bendtsen, Niederhaus, Niska, Sivertson, and Zaetsch. Voting No: None.

5. COMMISSION BUSINESS

5.1: Franchise Fee Ordinance

Chairperson Field noted that the Charter Commission is present tonight to discuss possible options related to the proposed franchise fee ordinance, in light of the City Council's discussion at its June 10, 2014 meeting. He added the City Council did not have a unanimous or even majority consensus to move forward with the proposed ordinance.

City Attorney Langel presented the staff report, indicating the purpose of this Case is for the Charter Commission to consider whether to pursue a Charter amendment concerning franchise fees in light of the City Council's decision not to approve the proposed Charter amendment ordinance.

City Attorney Langel reviewed that since last October, the City Council and the Charter Commission have exchanged proposed amendments to the City Charter that would provide limitations on the use of franchise fees. At its last meeting of April 23, 2014, the Commission modified the draft amendment and sent it back to the Council. On June 10, 2014, the City Council considered the proposed amendment but a motion to introduce the ordinance failed. There was a lack of consensus with respect to moving forward with franchise fees and under restrictions. Without unanimous approval by the Council, the Charter amendment requires voter approval.

City Attorney Langel explained that pursuant to Minnesota Statutes Section 410.12, absent a voter petition, the only means by which the amendment can be put before the voters is if the Charter Commission votes to do so. Because of the July 8 Statutory deadline for submitting the

question, the Charter Commission would have to take action at this meeting to put the Charter amendment on the ballot for the November election.

It was noted the proposed ordinance presented to the City Council for public hearing was included in the meeting packet. Because the City Council is unwilling to pursue the proposed amendment at this time, staff recommends that the proposed amendment not be put on the ballot.

Commissioner Zaetsch stated his impression of the ongoing dialogue with the City Council was that the franchise fee would only be used for roads. He added at least two City Councilmembers have recently expressed a desire for more flexibility.

City Attorney Langel stated the majority of Councilmembers indicated a desire to restrict the use of franchise fees for road improvement projects, and that has not changed.

Commissioner Zaetsch stated two Councilmembers supported the use of franchise fees in the case of a budget shortfall. He asked whether the City Council did not foreclose future use of franchise fees for purposes other than roads.

City Attorney Langel stated a vote was taken but his understanding was that franchise fees as a potential funding source is no longer on the table given the lack of consensus by the City Council.

Chairperson Field stated the Charter Commission initially became involved in this issue as it opened the possibility of the use of franchise fees without limits or duration, and with no dedicated purpose. He asked the Commissioners to consider whether they wished to act on the proposed ordinance independently of the City Council.

Commissioner Niska stated the Charter Commission's actions will decide whether this issue will be on the 2014 election ballot before the statutory deadline of July 8, 2014, as referenced in the staff report.

City Attorney Langel agreed.

Commissioner Niska expressed concern regarding the timing of this issue, as it is unnecessary to force an issue on the 2014 ballot that is no longer a 2014 issue. He added it would be helpful to have the opinion and commitment from someone familiar with the City Council's position.

Commissioner Bendtsen stated he attended the City Council meeting at which this issue was discussed. He added the City Council considered whether the Charter Commission would be willing to act on other points related to franchise fees, such as changing the allowable percentage required to block a project.

Commissioner Deemer stated, with regard to the City Council's June 23, 2014, meeting minutes, a Councilmember made a comment in direct contradiction to the purpose of the proposed ordinance amendment, as follows: Page 3, 2nd paragraph – "A future City Council can decide that this amendment is no longer just for road maintenance."

Chairperson Field agreed, but added the amendment text was still rejected by the City Council.

Commissioner S. Anderson stated there are multiple references to the “Charter” during the Public Hearing, which should read “Charter Commission.” She added that should be corrected because it is confusing. Commissioner S. Anderson asked whether City staff could locate a previous Charter amendment that was enacted in 1992 and effective January 25, 1993.

City Clerk Thieling agreed and noted that City Charter Sections 8.1-8.5, amended by Ordinance 92-12, increased the percentage of residents required to counter-petition a Council-initiated project.

Chairperson Field stated an option would be to table the matter, and propose an amendment when the City Council considers this issue again. He added the Commission has expressed its concerns regarding the proposed ordinance to the City Council.

Commissioner Zaetsch asked whether there might be an “ex post facto,” if the Charter were to be amended after the proposed ordinance is passed.

City Attorney Langel stated an ordinance can be amended on various timelines, assuming the City Council passes an ordinance and approves a franchise fee without the Charter Commission’s input. He added an ordinance is in effect until it is renewed.

Commissioner Zaetsch asked whether an ordinance can take effect before there is a vote on a Charter amendment.

Commissioner Niska stated a contrary City ordinance cannot be legally enforced if the amendment prohibits the excise of a franchise fee.

Commissioner Deemer stated the City Council did not support the proposed franchise fee ordinance. He added he does not support special elections for this issue, adding he would rather have the City Council’s approval.

City Attorney Langel stated there are various options for a ballot initiative.

Chairperson Field asked whether there was consensus to proceed with a ballot initiative for a proposed amendment to the franchise fee ordinance.

Commissioner Zaetsch stated he would support the “Niska” amendment.

Commissioner Sivertson requested that the Niska amendment be read for the Charter Commission’s consideration.

Commissioner Niska read the following proposed amendment to City Charter Section 10.4: “...except that any franchise fees imposed under applicable State Statute must be limited to defraying increased municipal costs accrued as a result of utility operations, and may not be used

to raise general revenue.” He added this text was taken from the Charter Commission’s January 27, 2014, minutes.

Commissioner Bendtsen asked whether there are other funding sources available as a stop gap without a franchise fee. He stated he supports the Niska amendment.

Commissioner Zaetsch stated there is emergency bonding.

City Attorney Langel stated City staff has discussed the proposed language of the “Niska” amendment, and what it would mean in terms of dollar value to the City. He added City staff would struggle to provide a cost amount that corresponds with the restriction in the statute, and franchise fees would not be in place. He added a motion was approved by the City Council to direct the Charter Commission to review counter-petitions to Council-initiated improvements during budget discussions in the fall, to find a way to pay for roads. He reiterated the City Council has made it clear that they have no further interest in franchise fees, and it seemed, in his opinion, it would be pointless to pursue an election.

Commissioner Niska stated that taking the proposed amendment to a vote would present voters with the question of whether franchise fees should be used as a general revenue source, or linked to something related to the franchise. He added the Charter Commission and community members have expressed their feelings about using franchise fees as a source of general revenue, and the issue will eventually resurface and create additional cost to the City in terms of a special election. He noted he does not support the Charter Commission moving forward on the franchise fee amendment at this time.

Commissioner Zaetsch stated he fully concurs with Commissioner Niska’s comments, and agrees that the Commission should not do anything that might be considered confrontational at this time. He added Chapter 7 of the City Charter relates to borrowing mechanisms that would provide options for relief, independent of franchise fees. He reiterated his support of the “Niska” amendment.

Commissioner Niska stated he would propose a motion in light of the City Attorney’s opinion regarding the intent of the City Council not to bring the franchise fee up again in 2014.

City Attorney Langel stated, in response to Commissioner Niska’s comment, that he does not speak for the City Council, but provides his own opinion of the City Council’s actions in this matter.

Commissioner Zaetsch stated the Charter Commission could consider tabling the issue indefinitely with the understanding that the question of franchise fees can be revisited in all aspects.

Chairperson Field stated a motion to indefinitely table might prevent the Commission from raising the issue.

City Attorney Langel stated an “indefinite postponement” would mean that an issue can be raised again at any time.

Commissioner Zaetsch stated inclusion of the phrase “in all aspects” would make it clear that the Commission is not limited.

Motion by Commissioner Niska, seconded by Commissioner Deemer, to postpone indefinitely the consideration of a proposed franchise fee amendment to the City Charter.

Motion carried. Voting Yes: Chairperson Field, Commissioners Niska, Deemer, M. Anderson, S. Anderson, Bendtsen, Niederhaus, Sivertson, and Zaetsch. Voting No: None.

5.2: Consideration of Amendment to Charter Section 8.4.5 – Counter Petitions to Council Initiated Improvements

City Attorney Langel presented the staff report, indicating the Charter Commission is asked to consider the impact of existing Charter language concerning counter-petitions to Council-initiated improvements and possible changes to that language. He explained that under the City Charter, a local improvement project financed to some degree by special assessments can be initiated by either a petition from property owners or by the Council. If the Council initiates the project, property owners who would be assessed for the project can petition against it. The petition must be filed within 60 days of the Council’s public hearing and the petition must be signed by more than 50% of the property owners. If a valid petition is filed, the project cannot proceed ‘at the expense of the benefited property owners.’

City Attorney Langel stated a drawback to this proposal is that by the time the Council holds the assessment hearing, the City has already invested considerable funds and effort in engineering work and in producing the required feasibility study. A successful petition against the improvement means those funds and effort are wasted. The Council would like to modify the Charter so as to reduce the possibility of spending funds unnecessarily. This can be accomplished by increasing the required percentage of petitioning property owners from 50% to 75%.

Staff recommends amending Section 8.4.5 of the Charter to require a higher percentage of petitioning property owners, and recommend the change to the City Council for approval.

Chairperson Field stated there was a lot of debate when action was taken by the City Charter on this issue, and the percentage was increased from 35% to 50%.

Commissioner Sivertson confirmed that the language was changed in 2012.

Commissioner Zaetsch stated a 75% petition is a large number, and it would be difficult to get.

Chairperson Field stated the proposed amendment for consideration by the City Charter relates to Section 8.4.5, as a possible funding alternative to the franchise fee, to pave the way for

successful special assessment planning in the future. Commissioner Niska stated Chapter 8.4.2 requires a 4/5 City Council vote for projects not initiated by petition.

Commissioner Deemer stated a super majority of 2/3rds, or 66%, would be appropriate.

Commissioner M. Anderson stated 75% is an arbitrary number, and “greater than 50%” makes more sense.

Chairperson Field agreed, adding 75% is not necessary if 60% is sufficient. He added 75% seems high, and there would be a lot of opposition.

Commissioner Bendtsen stressed the importance of keeping it simple.

Commissioner Niska stated 4/5ths would be a non-arbitrary number, and it is also what is required from the City Council on a vote. He added he agrees that super majorities are arbitrary, and he feels 60-66% (3/5ths or 2/3rds) is reasonable.

Commissioner Zaetsch stated a super majority could be required in any instance where assessment costs are 50% or less of the project.

Chairperson Field stated he likes that idea, although it is not always the case.

Commissioner Zaetsch stated the super majority is lost if the assessment procedure is scaled back. He added a project could be ‘killed’ at 60% if assessments are high.

Commissioner M. Anderson stated he supports no change in the current percentage.

Commissioner Niederhaus agreed.

Commissioner S. Anderson stated another solution might be to change the City’s responsibility for certain planning costs. She added the cost to taxpayers will increase significantly if a project is postponed. She noted she supports increasing the percentage to 60%.

Motion by Commissioner Deemer, seconded by Commissioner Bendtsen, to recommend the City Council amend Section 8.4.5 of the Charter to increase the percentage from 50% to 60% of petitioning property owners required for Council-initiated local improvements.

Motion carried. Voting Yes: Chairperson Field, Commissioners Deemer, Bendtsen, S. Anderson, Niska, and Zaetsch. Voting No: Commissioners M. Anderson, Niederhaus, and Sivertson.

6. COMMISSION / STAFF INPUT

City Clerk Thieling stated the City Charter document has been reviewed and some discrepancies corrected. She added binders with copies of the Charter were distributed to the Charter Commission, with a cover page listing the corrections that have been made. She noted the

corrected document will be available soon on MuniCode, the online documents service used by the City.

Commissioner Niska requested that City staff ensure that these corrections are also added to the City Charter that is available on the website as a PDF document.

City Clerk Thieling agreed.

Commissioner Zaetsch stated there are a few other housekeeping issues that require attention from the Commission. He added he would like to see authorities listed in the City Charter, as well as the addition of a quorum requirement and restrictions on City employment for elected officials. He noted the Charter Commission could discuss and implement a procedure for Commissioners to follow when they would like to get an item on a meeting agenda.

City Clerk Thieling stated she has researched that subject, and the Commission at one time considered an open agenda process in which a Commissioner could add an agenda item to be discussed by the Commission. She added the agenda item could be removed if no other Commissioners wanted to discuss it.

Chairperson Field agreed that sounded like a reasonable idea.

Commissioner Bendtsen stated, with regard to housekeeping issues suggested by Commissioner Zaetsch, the Commission might want to have a regular schedule of meetings.

Chairperson Field stated the Commission is required to have one meeting per year. He added the Charter Commission should have a set of operational guidelines, and that could be a potential agenda item for discussion.

City Clerk Thieling stated the original Charter Commission was formed in 1984, and they met weekly using *Robert's Rules* as their procedures policy.

Commissioner Niska stated Chairperson Field was elected by the Charter Commission, and he has exercised the appropriate discretion in handling requests. He added he would suggest a rule that requires transparency in the process, so that any requests for consideration received by the Chairperson must be reviewed by the Charter Commission.

Chairperson Field stated the Charter Commission has the authority to address issues if they see cause to do so.

7. ADJOURNMENT

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

Motion carried. All present voted in favor.

The regular meeting of the Charter Commission adjourned at 8:21 p.m.

Respectfully submitted,

Jo Ann M. Thieling
City Clerk

Joseph J. Langel
City Attorney

Drafted by Mary Mullen
TimeSaver Off Site Secretarial, Inc.