

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

The Charter Commission conducted a regular meeting on Wednesday, February 13, 2019, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Chairperson Joseph Field
 Commissioner Susan E. Anderson
 Commissioner Jim Bendtsen
 Commissioner Joshua Fuhreck
 Commissioner Jennifer Leistico
 Commissioner Chad Sivertson

Members Absent: Commissioner Mark Barrows
 Commissioner Ben Deemer
 Commissioner John Niederhaus

Also Present: City Clerk Jo Thieling
 City Administrator Kurt Ulrich
 Administrative Services Director Colleen Lasher
 City Attorney Joe Langel
 City Councilmember Debra Musgrove

CALL TO ORDER

Chairperson Field called the regular meeting of the Charter Commission to order at 6:36 p.m.

CITIZEN INPUT

None.

APPROVE AGENDA

Motion by Commissioner Leistico, seconded by Commissioner Sivertson, to approve the agenda as presented.

Motion carried. Voting Yes: Chairperson Field, Commissioners Leistico, Sivertson, Anderson, Bendtsen, and Fuhreck. Voting No: None. Absent: Commissioner Barrows, Deemer and Niederhaus.

APPROVE MINUTES

Motion by Commissioner Fuhreck, seconded by Commissioner Sivertson, to approve the following meeting minutes as presented:

1) Regular Charter Commission Meeting dated December 17, 2018

Motion carried. Voting Yes: Chairperson Field, Commissioners Fuhreck, Sivertson, Anderson, Bendtsen, and Leistico. Voting No: None. Absent: Commissioner Barrows, Deemer and Niederhaus.

COMMISSION BUSINESS

5.1 Review of Charter Chapter 4 Nominations and Elections

City Attorney Langel stated that the purpose of the case is to review the existing provisions in the City's Charter relating to conducting elections as the current Charter language is not entirely consistent with State law. He explained that there are sections of Chapter 4 of the Charter that must be amended to comply with the State Statutes, and there are other sections that may be amended. The Charter could suggest an ordinance amending only the provisions that are not consistent with the State Statute or the Charter could suggest an ordinance amending or repealing the entire Chapter 4, making the conduction of elections more straightforward.

City Attorney Langel stated that advisory elections are unique to charter cities, but most hardly ever choose to do them. He stated that primary elections are also not required by State law and noted that the process outlined currently in the Charter is unwieldly and there is language that must be ignored as it is not consistent with State law. He reviewed language that is included in the Charter that is not required as it is already defined by State law, which is already very specific, and therefore the duplicative language is not required to be in the Charter. He explained that the duplicative language is not providing any benefit to the City of Ramsey. He also identified language that exists in the Charter and conflicts with State law.

Commissioner Bendtsen asked if there should be language stating that the City is going to follow State law, or whether that is just assumed.

City Attorney Langel noted that if the language is not included in the Charter, it would default to State law. He referenced the section relating to primary elections, which are not required by State law. He asked if there is a need for primary elections in Ramsey. He explained that until you have passed the filing date, you will be unaware of the number of people that will be running and therefore notice has already been made for a possible primary and the timelines are impacted.

Commissioner Anderson stated that there have been a number of communities moving towards using ranked choice voting and asked if that should be considered.

City Attorney Langel stated that he did not know if Ramsey has expressed interest in ranked choice voting, as that is still a new process in Minnesota. He was unsure that Ramsey would have a high enough number of people attempting to run that would require ranked choice voting. He stated that his sense is that issue would not be addressed at this time and the focus could just be on cleaning up the section on primary elections.

Chairperson Field stated that ranked choice voting could be a session in itself and therefore he would like to redirect the conversation tonight on simply reviewing Chapter 4.

Commissioner Sivertson stated that the instant runoff voting gets rid of the need for primary elections.

Chairperson Field stated that topic is somewhat controversial and therefore he would suggest abstaining from that discussion tonight.

City Attorney Langel stated that he would also suggest additional public input prior to discussion of that topic. He moved back to the section related to primary elections and suggested that the decision be made to remove the need for primary elections all together, simply clean up the language, or at least remove the requirement for a primary election during special elections. He explained that attempting to fit a primary election into a special election creates a mess and lengthens the process.

Commissioner Anderson asked if most charter cities use a primary election.

City Attorney Langel replied that most charter cities choose not to have primary elections. He stated that if there is not a primary election, then you would simply follow regular State law and if there are four candidates, you simply end up with four candidates on the ballot.

Commissioner Bendtsen stated that he does not see a need for a primary election.

Commissioner Fuhreck stated that he believes that the primary election would be important for the regular election process but would agree to eliminate primaries for special elections. He stated that he does not see holding primaries for a regular election as a problem but agreed that the process would be unnecessary and lengthens the special election process.

Commissioner Leistico stated that considering the size of Ramsey and the fact that this would be a non-partisan office, she does not see the need for primary elections. She did not believe that the extra expense is worth narrowing the candidate pool from three candidates to two.

Commissioner Sivertson asked if there is an added cost to have a primary election.

City Clerk Thieling stated that the City has held primary elections and there is an added cost, equal to running two complete elections as the primary is treated the same as the general election. She stated that if the primary were left only for regular election years, the cost would be fairly low as there would already be a primary for the other general election offices and therefore that additional cost would only be printing.

Chairperson Field asked the percentage of turnout of voters for the last few special elections and primaries.

Commissioner Anderson asked why the City is left to wait until August for the next City Councilmember to be elected.

City Clerk Thieling stated that if the Charter were amended to follow State language the City could have possibly met the February date, but would certainly have hit the April date.

Chairperson Field asked how the City has a Charter section that conflicts to this level with the State law.

City Attorney Langel stated that he was unsure when the provision was added. He stated that State election law is changed on a fairly frequent basis and a lot of the Charters have not been modified along with those changes, which creates these conflicting issues. He stated that the options would be to remove primaries entirely or at least remove the need for primaries in special elections. He stated that he would also recommend streamlining the language to simplify and remove conflicting language.

Commissioner Anderson stated that currently there is a provision within the Charter which requires a special election when a Councilmember moves.

City Attorney Langel stated that there is language within State law that specifies when a special election must be held, dependent upon the length of the remaining term, otherwise appointment could be made to fill the vacancy. He continued to review sections of Chapter 4, highlighting language which he would recommend removing because it is unnecessary, duplicative, or conflicting with State law. He stated that the goal would be to streamline the language and process without taking anything substantive away from the City. He explained that things are easier if everyone is on the same page, rather than having five different cities with five different election processes. He noted that it is easier for City staff to use the resource of Anoka County, if they are talking about the same processes.

Chairperson Field stated that it seems that there are three categories for the proposed changes to the Charter which would be duplicative language, language that conflicts with the State law, and areas of discretion. He asked City Attorney Langel to identify which category the proposed changes fall within.

City Attorney Langel continued to review the sections of Chapter 4, identifying whether the proposed change would be duplicative, conflicting with State law, or an area of discretion.

Chairperson Field stated that section 4.4 contains both special and advisory elections, noting that while special elections are a required element, advisory elections are not necessary. He commented that there seem to be faults in an advisory election as that would simply be equal to a public polling.

Commissioner Leistico asked if an advisory election would be combined with a general election or whether that would be similar to a special election process, as that would make a difference in the cost and effort.

City Attorney Langel stated that it is not clear. He explained that he would interpret the sentence as stating that the Council could call an advisory election at any time and therefore that question could be added to a general election ballot. He stated that his preference would be to clarify the language to remove “special” from advisory election to provide clarification if that element is going to be kept. He continued to review Chapter 4, moving onto section 4.5 regarding vacancies. He stated that section could be removed entirely and fall back on State law, which would be his preference. He explained that if the additional language is not benefiting the City as a whole, it should not be there, particularly if State law already addresses the process, as it simply creates a logistical mess. He noted that the timelines identified in the Charter conflict with State law, and therefore the City has to default to State law anyway. He recommended removing the section entirely, or at minimum streamlining the section.

Chairperson Field asked how defaulting to the State law would affect a vacant seat compared to the current Charter language.

City Attorney Langel replied that the timing of when the special election could be held, the notice for the filing period, how those timing periods disagree with State law, and the added primary requirement.

City Clerk Thieling noted that the conflicting issues created the timeline the City is currently following to fill a vacancy, which has extended out to eight months.

City Administrator Ulrich stated that in his opinion the section that is causing a problem is specifically section 4.5.4. He noted that statutory cities can appoint someone to a vacancy when there is two years or less remaining in the term, while the Charter spells out that an appointment can be made only if there are 365 days or less remaining in the term. He explained that statutory cities can appoint someone, following a series of interviews with the City Council, which eliminates the need for a majority of the special elections.

Chairperson Field asked for input on the possibility of removing this section, which would default to State law. He explained that this would allow the City Council to appoint someone to a vacancy if there is two years or less remaining in a term, while the Charter specifies that the appointment can only be made if there are less than 365 days remaining in the term.

Commissioner Anderson stated that the dates required, and the current process has caused the Council to have a vacancy for multiple years. She stated that in her opinion there is a need to fill that vacancy quickly and therefore she would favor modifying the situation regarding vacancies to give the Council permission to fill a vacancy.

Commissioner Fuhreck stated that eliminating the need for a primary during a special election would assist in streamlining the process but he would want the provision to stand that allows appointments only with 365 days or less remaining in a term.

Commissioner Bendtsen stated that he would be in favor of removing any section that is direct conflict with the State law. He stated that he would also support eliminating primary elections and would support appointments being made only with 365 days or less remaining in a term. He

stated that he would support removal of primaries certainly for special elections but did not see the need to have a primary election in any City election. He stated that having special and advisory in the same sentence just makes language confusing and he would support clarifying that language.

Commissioner Anderson stated that appointments are made to fill vacancies in every other level of government, explaining that someone is appointed to fill that vacancy until the next election is held.

City Administrator Ulrich asked for clarification on whether to keep the ability to appoint within only less than 365 days or follow the State Statute of two years remaining in the term.

Commissioner Sivertson asked the number of Councilmembers that are needed to pass an action.

City Administrator Ulrich stated that there was a point in the last year when the Council only had five members and four Councilmembers are needed to pass an action.

City Clerk Thieling explained that there is nothing that can be done at this time to speed up this special election date because of the timeline that must be followed for the special election. She stated that it is unknown as to whether a primary would be needed until the filing date has passed, and therefore that has to be planned for regardless of whether it will be needed. She explained that any changes that are going to be made to the Charter will still not impact this special election process because of the lengthy process required to amend the Charter.

Commissioner Bendtsen stated that he would favor appointment with only less than 365 days remaining in a term.

Commissioner Sivertson stated that he would favor following the State Statute requirement of allowing appointments with less than two years remaining on a term.

Commissioner Leistico stated that she would support allowing appointment with two years remaining, and if less than one year is chosen, she would recommend removing the provision for a primary election.

Commissioner Fuhreck stated that he would favor leaving the less than 365 days period for appointment.

Chairperson Field stated that he would support leaving the appointments to terms less than 365 days.

City Attorney Langel stated that he can bring back language that would be consistent with removing the need for a primary in a special election and allowing appointments with terms less than 365 days remaining.

City Clerk Thieling stated that for the special elections in February and April of 2018, for the special primary there were 15,491 registered voters and a total of 213 people voted and for the

actual special election there were 15,492 registered voters and 230 people voted. She stated that for the regular election primary there were 15,629 registered voters with 3,223 people voting and for the general election there were 15,890 registered voters and 11,764 people voted. She noted that even for special elections, there is a very small portion of the population voting.

City Attorney Langel continued to review section 4.5 and identified language that he would recommend removing.

Chairperson Field suggested language be amended that state if there are no candidates for a special election, the Council shall appoint someone to an expiring or vacant municipal office.

City Attorney Langel stated that his thought process is to simplify as much as possible, removing language that conflicts with State law, remove items that do not benefit the City, and focus on the few sections remaining.

Chairperson Field stated that approach number one would be to eliminate the section entirely and follow State law or to take the discussion tonight and simplify the language to follow State law and incorporate the comments tonight.

Commissioner Bendtsen stated that he would recommend removing anything that conflicts with State law, removing anything duplicative, remove the need for special and primary elections, and keep the appointments to a term of 365 days or less.

Commissioner Fuhreck stated that he would agree with the comments of Commissioner Bendtsen. He stated that he would be in favor of leaving primaries for regular elections but removing them for special elections.

Chairperson Field stated that if primaries are eliminated, you extend the political season for the hoards of people running for City Council and the public at large is subjected to more political campaigning. He stated that for a normal election there is already a primary and therefore there is little additional cost or process.

Commissioner Leistico stated that she would argue that holding a primary would extend the election season as people begin campaigning earlier for the primary. She stated that she would agree with removing any language that conflicts with State law. She stated that she would remove primary elections for both the special and regular elections. She noted that she would also follow State law to allow appointments to be made with two years or less remaining in a term but advised that she would also agree with the appointment being allowed with only 365 days or less.

It was the consensus of the Commission that if there are no candidates for a special election, the Council shall appoint someone to an expiring or vacant municipal office until the next regular municipal election.

Chairperson Field stated that he is getting the sense that this discussion will continue at the next Charter Commission meeting. He confirmed the consensus to remove the language conflicting

with State law; removing duplicative language; remove the need for primaries, with one option to remove primaries all together and another option to remove primaries for special elections; clean-up the language regarding advisory elections, with an option to remove advisory elections all together and another option to state that advisory elections can only occur with general elections; and regarding section 4.5.4, an option should be brought back to remove that section which would default to State law, and another option cleaning up the language and allowing appointment for terms of only less than 365 days.

City Administrator Ulrich noted that sometimes there are special elections that align with general elections, as the City did this past fall. He noted that in that circumstance that might be an exception that would allow for a primary for a special election as it coincides with the regular general election.

5.2 Discuss Commissioning a Study on Alternate Sources for Road Funding

Chairperson Field stated that the City of Ramsey is considering alternate sources for road funding, noting that he recently attended a public meeting on the topic. He reviewed the options that would be available that include 100 percent assessments, the current assessment policy, or franchise fees. He stated that there is a provision in the Charter on franchise fees and provided background information on how franchise fees work. He noted that lengthy discussions occurred in 2013, and reviewed a proposal that was made by a former Commissioner. He stated that proposal imposed a limit on how franchise fees could be used. He stated that he is not suggesting that the Commission take up action on the proposal but suggested that the language be considered for future debate until a private study can be commissioned to review options for road funding. He believed that the information would be useful to the Commission and to the Council as well. He stated that he reached out to City staff to determine if there are funds available for this type of study and learned that \$1,500 could be allocated for this type of study.

Commissioner Bendtsen asked how much the City of Ramsey is paying WSB for the presentation that is currently underway.

City Administrator Ulrich explained that the price of the WSB contract was \$35,000 and was separated into three different phases. He stated that phase one was to review the current pavement management plan and make recommendations, phase two moved into additional staff and public meetings along with presentation of resources, and phase three would include additional public meetings and potentially leading to a recommendation on a funding source for road improvements. He noted that the contract does have check-in points where the contract can be stopped. He stated that currently the City uses assessments for road financing and noted that if there is a consensus of the public input to continue with that, the service proposal would stop after phase two.

Commissioner Anderson asked how Elk River is funding their road improvements, as they seem to have sufficient funds.

City Administrator Ulrich stated that Elk River uses franchise fees for road improvements and has implemented a special sales tax for a community center. He noted that a number of cities use franchise fees already, including Elk River, Rogers, Princeton, and Brooklyn Park.

Chairperson Field stated that the representative from WSB did provide all the options but candidly did favor franchise fees. He stated that he would like to commission a separate study that would provide an independent opinion on what other communities are using and the available options.

Commissioner Fuhreck stated that he would be interested in historical data on how other municipalities that use franchise fees have been able to hold the line.

Commissioner Sivertson stated that there were complaints in the past from residents that have utilities for outbuildings and would not want to be charged twice. He stated that he has also heard that utility companies do not like the use of franchise fees as they become the middle man. He stated that there is a lot of gray area left unanswered and he would be in favor of bringing the motion back into play.

Commissioner Anderson stated that there are still urban and rural areas in the community. She stated that while she believes that this would be a good idea, she was unsure that a proper study could be completed for \$1,500.

City Administrator Ulrich stated that the scope of a study should be defined and put into writing, establishing the topics the Commission would like covered and staff can then request proposals from different firms. He noted that perhaps the Council would be interested in providing additional funding.

Chairperson Field stated that he would want to ensure that municipalities similar to Ramsey in age and miles in roads are included in the study, all available financing options, what has happened in other communities that utilize franchise fees, the number of cities that engage in 100 percent levy/assessment, additional information on the assessment model that Ramsey currently follows, and the annual budget of municipalities that are spent on road improvements compared to the remaining budget.

Commissioner Anderson stated that the whole city is concerned with road improvements and funding, as is the City Council.

Chairperson Field stated that he hopes that the City Council does not take this the wrong way. He stated that when you are opening up a box of potentially unlimited funding, that would be similar to letting a kid loose in a candy store. He stated that for the City to engage someone that is very enthusiastic about franchise fees may not be the best choice. He noted that once this box is opened this could be an uncontrolled shadow tax. He stated that if the Commission were to order a separate study that could have better standing in the end and could provide an option that would work for the City without amending the Charter related to franchise fees.

Commissioner Bendtsen stated that during the last presentation on road financing there was approximately 10 minutes spent on each of the other options and 90 minutes on franchise fees.

Commissioner Fuhreck agreed that it would be helpful to spend the additional funds to see not only the pros of franchise fees but also the pros and cons of all the options.

Chairperson Field stated that a motion is required to extend the money for this study.

Motion by Chairperson Field, seconded by Commissioner Sivertson, that Charter Chapter 10, Section 10.4 would be amended to state, “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.”

Further discussion: Chairperson Field stated that he would entertain a motion to table this action until a study can be completed. Commissioner Anderson stated that she would believe that the City Council has done some of this work already and would not just be leaning towards franchise fees on a whim. City Administrator Ulrich stated that they do not have to start from zero as there is past research that can be updated, and the funds can be used to provide an extra level of analysis.

Motion by Commissioner Bendtsen, seconded by Commissioner Anderson, to table the motion until a study can be commissioned.

Further discussion: Chairperson Field stated that the original motion was needed in order to propose an amendment that will provide the \$1,500 to use for the study. Commissioner Anderson asked who would be commissioned to be responsible for the study. Chairperson Field stated that a Committee could be selected to assist in the process. City Administrator Ulrich stated that the suggestion of a Committee appointed to study this would work well from a staff perspective. He noted that the Committee could first define the scope of the study. Commissioners Bendtsen, Anderson, Sivertson, and Chairperson Field agreed to form a Committee. Chairperson Field stated that he would like ample time to review the study results prior to the next discussion.

Motion carried. Voting Yes: Chairperson Field, Commissioners Bendtsen, Anderson, Fuhreck, Leistico, and Sivertson. Voting No: None. Absent: Commissioner Barrows, Deemer and Niederhaus.

Chairperson Field stated that the motion has been made that will allow the funds for the study to be allocated and noted that the Committee of four will meet outside of this Commission with staff to continue the work.

5.3 Approve Year End Activity Letter to Chief Judge for Year 2018

Chairperson Field noted that included in the case was the draft summary letter for the year 2018 for the Commission’s review, comment, and approval. Once approved by the Commission, staff will forward the letter to the Chief Judge.

Motion by Commissioner Bendtsen, seconded by Commissioner Fuhreck, to approve the year-end annual report letter for 2018 and direct staff to submit such report to The Honorable Douglas B. Meslow, Chief Judge of the Tenth Judicial District.

Motion carried. Voting Yes: Chairperson Field, Commissioners Bendtsen, Fuhreck, Anderson, Leistico, and Sivertson. Voting No: None. Absent: Commissioner Barrows, Deemer and Niederhaus.

6. COMMISSION / STAFF INPUT

6.1 Other

Commissioner Fuhreck stated that at a future meeting he would like to discuss the issue of the Chris Riley rule, where someone is running for a body that is already in the body, which in essence just created another vacancy after the election. He explained that he would like a provision where that person would need to resign from their current position in order to run for a vacant position.

7. ADJOURNMENT

Motion by Commissioner Fuhreck, seconded by Commissioner Sivertsen, to adjourn the meeting.

Motion carried. All present voted in favor.

The regular meeting of the Charter Commission adjourned at 9:11 p.m.

Respectfully submitted,

Jo Ann M. Thieling
City Clerk

Joseph J. Langel
City Attorney

Drafted by Amanda Staple
TimeSaver Off Site Secretarial, Inc.