

**Ramsey County Charter Commission
Monday, February 7, 2011**

The Ramsey County Charter Commission meeting, held at the Association of Minnesota Counties Building, 125 Charles Avenue, St. Paul, MN was called to order at 7:08 p.m. by Chair Richard Sonterre, with the following members present:

MEMBERS PRESENT:

District 1: Richard Sonterre

District 2: Bob Benke

District 2: Richard Moses

District 3: Bryan Olson

District 4: Peter Hendricks

District 4: Chris Leifeld

District 5: Rod Halvorson

Robert Spaulding

District 6:

District 7: Bud Berry

Marv Koppen

At-Large: Beverly Aplikowski

Mike Fratto

Fred Perez

MEMBERS ABSENT:

District 1: Bob Weisenburger (excused)

District 3: VACANT

District 6: A.L. Brown

Russ Miller (excused)

Also present: Phil Carruthers, Director, Civil Division, County Attorney's Office; Harry McPeak, Assistant County Attorney; and Bonnie Jackelen, County Manager's Office.

Citizens present: Andy Noble

INTRODUCTIONS – Everyone present introduced themselves.

CITIZEN COMMENTS/INPUT - None.

APPROVAL OF THE FEBRUARY 7, 2011 AGENDA

Upon duly made motion, the Agenda of February 7, 2011 was approved.

APPROVAL OF THE NOVEMBER 8, 2010 MINUTES

Upon duly made motion, the Minutes of the November 8, 2010 meeting were approved.

OLD BUSINESS – MEMBER ORIENTATION

Phil Carruthers, Director, Civil Division, County Attorney's Office, provided a 9-page hand-out summarizing the provisions of the Ramsey County Home Rule Charter and the Bylaws of the Charter Commission. This hand-out is attached to these Minutes as an Exhibit. Mr. Carruthers explained the highlights of these provisions.

Mr. Moses asked when the budget is presented to the County Board and the Charter Commission. Mr. Carruthers said the County Manager shall provide the annual budget to the Charter Commission when submitting it to the County Board. Ms. Jackelen said the proposed 2012-2013 budget would be given to the Commissioners by the County Manager late July or early August 2011. The Charter Commissioner's comments would have to be filed three weeks prior to adoption of the budget which will be mid-December.

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Mr. Benke asked if the County Board has an obligation to accept comments provided by the Charter Commission or if comments are treated like citizen comments. Mr. Carruthers said the Charter does not state what happens once the Charter Commission transmits its comments, nor does it address what the County Board must do with the comments.

Someone suggested that perhaps this is something that can be looked at in the future.

Mr. Hendricks said the Commission has occasionally discussed whether or not it has the authority to change the Charter regarding term limits of elected officials and campaign finance laws related to their expenditures. He asked if Mr. Carruthers could address that and if state law supersedes the Charter Commission on those two areas.

Mr. Halvorson presented clarification that perhaps the answer should be two-fold: one for any Ramsey County elected officials, and secondly, for any other elected officials within Ramsey County, i.e. legislators.

Mr. Carruthers said an analysis and research would have to be done. We would need to look at if the state legislature has pre-empted the issues. When it comes to legislators, if the legislature has passed a statewide law that applies to legislators it would be difficult to say that is not a pre-emption. For County-elected officials, there are laws and statutes dealing with campaign finance that do apply to people who run for county positions. There are some state laws that apply to county officials. We would have to look at the extent the state statutes pre-empt the issue or preclude the county from taking action. In terms of term limits, that would be the same issue; is there a pre-emption or not. He is not aware of any term limits in Minnesota; even the Governor is not subject to term limits. Therefore, he does not believe there is a pre-emption issue there. We would have to look at the statutes to see if there is something that precludes a county from having term limits. Research would have to be done on both issues.

Mr. McPeak added that those are also his thoughts. The issue regarding legislators is probably not in the purview of the Charter.

Mr. Hendricks believes there was a Minnesota Supreme Court case related to term limits and the City of Minneapolis, and that proposed term limits were struck down.

Mr. Sonterre asked County Attorney staff to research those two issues.

Mr. Fratto referred to page 4 of the hand-out; section IV. A. 3 c&d, and asked for clarification of those two references.

Mr. Carruthers said understands that the Commission reviews what the County Board is proposing; the Charter Commission can accept it as written, reject it or suggest an amendment. That is what would then go to a vote of the electorate.

Mr. Fratto said that means that before it goes to the electorate the Charter Commissioner would have to approve the language. Mr. Carruthers responded affirmatively.

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Mr. Benke referred to page 4 of the hand-out; section IV. B. 1a, it is stated that the amendment would pass if 51 percent of the votes cast on the proposition are in favor. Section IV. B. 2. d.4 states it must pass by a majority of those voting. There appears to be ambiguity.

Mr. Carruthers will double check to make sure he read it correctly.

Mr. Fratto said he reads the various sections as: IV. B. 1a refers to what is proposed from the Charter Commission and Section IV. B. 2. d.4 is when the County Board attempts to amend the Charter by ordinance which then requires a majority of those casting votes. The reference to 51% is of the voters. In order for it to go to the voters, the Charter Commission must pass it by a majority – 9 votes.

Mr. Benke would still like some clarity on this issue.

Mr. Leifeld asked if B1 is representative of those people voting in the general election.

Mr. Hendricks said 51% is the electorate; Minnesota Statutes 383.a.556. “If 51% of the votes passed on the proposition are in favor of the proposed charter, it shall be considered adopted”. There will never be exactly 51%; Darwin Lookingbill interpreted it that “at least 51%” is required for approval of the Charter and any subsequent amendments to the Charter by the electorate. If the percentage was 50.99%, it would fail.

Ms. Aplikowski said B1 talks about a general election; B2 talks about an ordinance passed at the Board.

Mr. Halvorson believes there is a problem. This defies normal democratic procedures. He believes it was a statutory mistake when it was drafted. In everything else, winning an election is 50% +1.

Mr. Hendricks pointed out – not the Governor. Mr. Halvorson said that is a plurality. Other than a plurality, whenever one talks about a majority rule, everything he has read is 50% +1. He believes that is an oddity of the statute and perhaps the Charter Commission should consider an amendment to the Charter or ask the legislators to change the statute.

Mr. Carruthers said this issue will also be researched.

Mr. Sonterre said this will be ‘unfinished business’ on a future agenda.

Mr. Benke referred to page 2 of the hand-out under ‘attendance’ the Charter Commission by-laws state that a member may be removed if the member has three or more unexcused absences from regularly scheduled commission meetings. He asked if any members fall into this provision. He also asked if there are any time constraints in the enforcement of this provision.

Ms. Jackelen said the Bylaws state consecutive unexcused absences. When asked if there is a definition of ‘unexcused’, Ms. Jackelen responded that from previous discussion those people who notify her that they are unable to attend a meeting are listed as ‘excused’. Mr. Fratto said that means that a member could miss three-fourths of all meetings in any given year. Perhaps that is something the Commission should work on.

Mr. Sonterre asked if absenteeism has been a problem. Ms. Jackelen said there was an instance where a person had three unexcused absences, but that person was at the end of her term, so it was never dealt with.

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Mr. Hendricks asked about Section 11.03 in the Home Rule Charter that states ‘No person shall be appointed to more than two successive terms as a commission member.’ He asked if a person serves a partial term whether or not that would count as the first of two successive terms. Ms. Jackelen said that the Chief Judge determined that a person can serve a partial term followed by appointment to two full four-year terms.

NEXT MEETING

The next meeting of the Ramsey County Charter Commission will be Monday, May 2, 2011. The location of that meeting will be the City of North Oaks Community Meeting Room, 100 Village Center Drive, North Oaks (northeast corner of Highways 96 and 49).

ADJOURNMENT

There no further business, the meeting was adjourned.

Bonnie C. Jackelen, Chief Clerk – County Board