

**Ramsey County Charter Commission**  
**Monday, May 2, 2011**

The Ramsey County Charter Commission meeting, held at the City of North Oaks Community Meeting Room, 100 Village Center Drive, North Oaks, MN, was called to order at 7:02 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 6: Mike Fratto  
Russ Miller  
District 7: Marv Koppen  
At-Large: Beverly Aplikowski  
A.L. Brown  
Fred Perez

MEMBERS ABSENT:

District 1: Bob Weisenburger (not excused)

District 3: VACANT

District 5: Rod Halvorson (not excused)  
Robert Spaulding (excused)

Bud Berry (excused)

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

**APPROVAL OF THE MAY 2, 2011 AGENDA**

Ms. Aplikowski moved, seconded by Mr. Fratto to approve the Agenda of May 2, 2011.

Mr. Olson suggested that the Agenda be amended to clearly state new business in #6. Mr. Sonterre is not comfortable with adding new business items that have not been made available for public consideration ahead of the meeting.

Mr. Fratto said that normally 'new business' could be items that arise for discussion – not necessarily for action until a future meeting.

Mr. Moses said he would like to introduce the issue he will be introducing on the August agenda.

Ms. Aplikowski said that at the meeting, if it is announced at the meeting that you intend to introduce that business, then it becomes an agenda item for a future item.

Mr. Sonterre said he has suggested a new business item for the August agenda is to discuss deadlines for new business items, and he would like to see attachments, etc. available for a prescribed amount of time before the meeting so there is an opportunity to read them, ask questions, etc.

The agenda was unanimously approved.

**APPROVAL OF THE FEBRUARY 7, 2011 MINUTES**

Upon duly made motion, the Minutes of the February 7, 2011 Meeting were unanimously approved as submitted.

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**CITIZEN COMMENTS/INPUT** - None.

**OLD BUSINESS**

Mr. Sonterre asked Phil Carruthers, Assistant County Attorney, to follow up on some of the items discussed at the February 2011 meeting.

Term Limits

Mr. Carruthers said several questions were asked at the last meeting during the overview of the Charter and the Charter Commission By-Laws.

- Does state law supersede Home Rule Charter regarding term limits of elected officials and campaign finance laws?

*Could the Ramsey County Charter Commission enact term limits?* Mr. Carruthers said the Charter Commission could never set term limits on office-holders other than County office-holders, i.e., a state legislator, because that goes beyond the scope of the Charter.

*Could the Ramsey County Charter Commission pass term limits that would apply to County elected officials, i.e., County Commissioners, Sheriff, Attorney?* He was directed to a Minnesota Supreme Court Case which makes it clear that according to a majority of the Minnesota Supreme Court in 1995, in a case called Minneapolis Term Limit Coalition vs. Mary Keefe, that a City Charter could not attempt to impose term limits; this was something pre-empted by the Minnesota Constitution, which laid out the qualifications to run for office in Minnesota and that they did not include any term limits. The Minnesota Supreme Court said the Constitution of the State pre-empted the issue and prohibited, in this case, the City of Minneapolis, from attempting to impose term limits. There is a clear cut Minnesota Supreme Court decision on this issue.

*What about campaign finance laws?* That is a more complex issue. What must be looked at on the issue of pre-emption is the Minnesota Courts, including the Supreme Court and Court of Appeals, and said that it is a four-factor test to see if the state has pre-empted an issue so a local government cannot pass a law in conflict with state law. That could be in the form of a charter provision or the form of an ordinance. In determining whether pre-emption has occurred, the four factors are: look at the subject matter regulated; whether the subject matter is so fully covered by state law that it has become solely a matter of state concern; whether any partial legislation is subject to an attempt to treat the subject matter as solely a state concern; and whether the nature of the subject matter is such that the local regulation will have an adverse effect on the general state population. Two recent court cases: the Minnesota photo cop whereby if a person went through a stop sign, a camera would take a picture and there was a presumption that the registered owner was in fact the driver. You had to prove that you were not the driver. The issue went to the Court of Appeals; they said that when you look at the traffic laws of the state of Minnesota, that applies to all the roadways and highways in the state. The Minnesota Legislature has said they have pre-empted this issue because it applies to all the roads and highways. Moreover, the court said that the rules of criminal procedure pre-empt this because in a criminal case, the state has to prove the case. A combination of the state laws dealing with traffic rules and the criminal laws, dealing with burden of proof, make it clear that the state has pre-empted this issue. They did not allow the City of Minneapolis to pass this ordinance.

A recent Supreme Court case that went the other way dealt with rank choice voting in Minneapolis. There the Minnesota Supreme Court said they don't believe the state has pre-empted that issue, and is therefore permissible.

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When looking at campaign law, there is a state law that deals with local government officials; Chapter 211A and some provisions in Chapter 211B. 211A deals with campaign financial reports and campaign finance limits. If a person is running for municipal office there are certain reporting requirements. The state statute says the provision requiring filing reports are in addition to any local ordinances or charter provisions. On the filing requirements, the legislature has stated they are not pre-empting the issue but allowing local governments to provide additional rules – they cannot contradict these rules – but they can provide additional rules.

On contribution limits, the statute specifically states that this section supercedes any home rule charter. There is a \$100 contribution limit for a municipal candidate in a non-election year; \$300 limit in an election year, except if your territory has a population of over 100,000, then it is \$500 in an election year and \$100 in other years. The state legislature has clearly pre-empted contribution limits. There are a number of other provisions in 211A and 211B – such as what campaign dollars can be spent on. There is no provision in the law about pre-emption.

If the Charter Commission was considering passing rules that were different from what is contained in 211A and 211B, discussions should be held with the County Attorney's office about that.

Majority rule

- Clarification of majority rule – 50%+1 vs. 51%

Mr. Carruthers said the statute passed by the legislature that authorized Ramsey County to have a home rule charter and a charter commission process, stated that the initial charter had to pass by 51% of the voters. The Charter itself states that any subsequent amendment would have to be passed by the same percentage as in the initial legislation – 51% (or more). He looked at the constitution dealing with charters and found that Section 5, Article 7, talks about charter commissions and charter changes and adoptions, and says 'shall not become effective until approved by the voters by the majority required by law. He concludes that the constitution authorized the legislature to set whatever majority they wanted to. If they set 51% that is permissible. The legislature has the right to do it. In order to change it, the legislature would need to change it in statute. The percentage is for the initial adoption of the charter.

Mr. Benke asked if the same law applies to a county as a municipality. Mr. Carruthers responded affirmatively.

Mr. Fratto said that someone would have to create a bill to get it passed by the legislature to make the county different from a municipality. Mr. Fratto asked if there could be an amendment to the Charter to change to a simple majority. Mr. Carruthers did not research that issue, but believes that is correct. Mr. Fratto asked if it addresses 'people voting on the issue' versus 'people voting in the affirmative'. Mr. Benke said the state constitution changes do require 50%+1 of those voting.

Mr. Carruthers will re-check Statute section 383A. He believes it is 51% of those voting on the issue, not 51% of those voting, but he will double-check. An email response will be sent out if he doesn't find the answer before the meeting adjourns.

Mr. Carruthers said the item passes if "51% of the votes cast on the proposition are in favor". That is different from the state constitution which is the "voters voting in that election" which is why some of those constitutional amendments are defeated. On the state constitution, if a person does not vote on

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the constitutional amendment, it is counted as a 'no' vote. Here, it is 51% of the votes cast on the proposition.

**Members' unexcused absences**

Attendance for the 2010 and 2011 meetings had been distributed.

Mr. Sonterre asked a question about the definition of 'attendance'. The by-laws indicate that a majority of commission members may remove a member if the member has three or more unexcused absences from regularly scheduled commission meetings. He asked if that was over the course of a term or over the course of a year.

Mr. Fratto said that if the determination was over the course of a year, the member would miss 75% of the meetings with an unexcused absence. If a member is not making the meetings they should be removed anyway. He believes this is talking about a term.

Mr. Sonterre agrees that there should be a higher level of expectation for participation; that is why he wanted to know if the Commission would be engaging in future discussion on attendance issues and whether or not members should or should not remain active. To begin that discussion, if it is over a term we have staggered terms, so attendance by each individual member should be reported from the beginning of a term to the present.

Mr. Hendricks stated that the By-laws language actually states 'three consecutive unexcused absences'.

Mr. Brown said his last unexcused absence was based on the agenda. When making choices about how to spend his time, and he sees that there is old business or a presentation by a Commissioner, it is not a good use of his time. He discourages holding a meeting for the sake of holding a meeting; he believes this Commission has been guilty of that.

Mr. Sonterre would like to continue discussion of this as a new agenda item at the August meeting.

**NEXT AGENDA**

- Mr. Olson would like to propose generic changes to the By-Laws to be placed on the August meeting agenda.
- Mr. Moses will re-introduce a salary ordinance for County Commissioners to be placed on the August meeting agenda.
- Mr. Sonterre would also like to discuss changes regarding the attendance policy.
- Mr. Sonterre would like to discuss the creation of an official agenda time-line policy, including the point at which all new business items must be identified and to have all supporting documentation ready for distribution to the Commission members.

Mr. Hendricks spoke to the issue of changes to the By-Laws and that there may be ramifications with the Charter, Section 11.03. Mr. Carruthers was asked to research this issue.

**ADJOURNMENT**

There being no further business, Chair Sonterre declared the meeting adjourned at 7:52 p.m.