

Ramsey County Charter Commission
Wednesday, June 8, 2011

The Ramsey County Charter Commission special meeting, held at the Vadnais Heights Commons, 655 E. County Road F, Vadnais Heights, MN, was called to order at 6:00 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 (late)
District 5: Rod Halvorson
Robert Spaulding
District 6: Mike Fratto
Russ Miller
District 7: Bud Berry
At-Large: Beverly Aplikowski
A.L. Brown
Fred Perez

MEMBERS ABSENT:

District 1: Bob Weisenburger (not excused)

District 3: VACANT

District 7: Marv Koppen (excused)

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

APPROVAL OF THE JUNE 8, 2011 AGENDA

Mr. Fratto moved, seconded by Ms. Aplikowski, to approve the Agenda of the June 8, 2011 special meeting.

Mr. Halvorson moved an amendment to the Agenda to allow for another item, 'Other Business', in case discussion brings up action that should be placed on the agenda of the next meeting.

Mr. Carruthers stated that a special meeting is one where the public is not routinely advised of the existence of the meeting. There is an opinion from the Department of Administration stating that when a special meeting is held, the announced agenda must be adhered to. He believes that Mr. Halvorson is stating that no action would be taken tonight, but the same thing could be accomplished by stating that the next agenda include the item in question. That could be done without making a change to tonight's agenda.

Mr. Halvorson agreed and withdrew his motion.

The Agenda of June 8, 2011 was approved unanimously.

CONSIDERATION OF A RESOLUTION ABOUT THE IMPACT OF THE VIKINGS STADIUM PLAN ON THE RIGHTS GUARANTEED IN THE RAMSEY COUNTY CHARTER

Chair Sonterre asked members to keep their comments brief, while not limiting the intended point. Personal opinions of stadiums and public financing are not part of the proposed resolution; therefore, should not be part of the discussion.

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Mr. Fratto moved approval of the proposed resolution distributed with the documentation, seconded by Mr. Halvorson.

Mr. Fratto said the Charter, which the state legislature authorized Ramsey County to adopt, was adopted by the citizens of Ramsey County. The terms of the Charter were known to the citizens when they adopted it, which included certain limitations relative to taxing. The proposal we have been hearing indicates that should a stadium bill pass, the right of the citizens would be taken away from them, therefore, usurping what the citizens voted for.

Mr. Hendricks moved an amendment to the motion on the floor: to delete the entire motion and replace it with the resolution he circulated, which states that the Ramsey County Charter Commission has no authority to request the Governor, Legislature or Board of Ramsey County Commissioners oppose or support any proposed or anticipated state legislation and that the Ramsey County Charter Commission is not the policy-determining body of the County and the Charter Commission would exceed its authority by approving any resolution related to proposed or speculative state legislation that does not affect any rights created by the Charter.

Mr. Brown questioned whether a motion to replace an entire motion is a motion to amend, and therefore, whether it is proper. He believes it is a substitute motion and there is a motion on the floor that needs to be debated before we move to that.

Ms. Aplikowski said substitution is a form of amendment.

Mr. Brown takes issue with that and believes both resolutions should be discussed, but doesn't think one discussion should be short-handed for the other.

Mr. Aplikowski agrees with the angst behind that but a substitution motion is a form of an amendment.

Mr. Fratto, as mover of the original motion, withdrew his motion so discussion on parliamentary procedures can be eliminated and the Commission could proceed with Mr. Hendricks motion. Once that is determined, we could move back to this resolution.

Mr. Halvorson agreed with the motion to temporarily withdraw the first resolution, because Mr. Hendricks resolution specifically speaks to whether we should even talk about the issue. That issue should be solved before talking about the actual meat of the issue. He supports temporary withdrawal of the first resolution.

Mr. Fratto moved, seconded by Mr. Halvorson, to temporarily table the original resolution. Motion to table passed unanimously.

Mr. Hendricks moved a substitute resolution, which was read in full, seconded by Mr. Benke.

Mr. Hendricks stated that the role of the Ramsey County Charter Commission is to periodically review the Charter. The proposed legislation introduced at the State Legislature that impacts how a local sales tax can be imposed is a right created by state law, not by the Charter of Ramsey County.

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Mr. Halvorson wanted Mr. Hendricks' proposal to be heard because it weighs on whether we have the power we think we have to speak to the Charter. As the Ramsey County Charter Commission, he believes one of the duties is to protect the Charter and not only to review or amend it but to actually be the best spokesperson or proponent of the Charter to be followed. He can't imagine anything more important than that duty. He thinks the motion on the floor is ill-advised and a mistake: 1) Section 1.02 – Construction of Powers – within the Charter, "In this charter no mention of a specific power is exclusive or restricts the authority that the county would have if the specific power were not mentioned. This charter shall be liberally construed..." His belief is that the Charter, where it does outline some duties of the Charter Commission, which are to review and propose amendments, are not the only thing the Charter Commission can consider. He believes we should liberally construe, as instructed in Chapter 1, to say that it is our role to be an aggressive supporter of the Charter and the right of the people. 2) He disagrees with a comment in the newspaper that we do not live in a democracy but rather in a republic. He pointed out that person may not have read the Charter because in Ramsey County we live in a hybrid. We do not live in a republic where every decision is made by an elected official, because we have initiative, referendum, and recall. We do not have a pure democracy where the people decide every issue, but we do not have a pure republic. The people of Ramsey County voted for this hybrid; he believes it should be protected. 3) A 'whereas' clause states "there is no known effort to circumvent the Ramsey County Charter by denying the citizens of Ramsey County the right to submit a County Board approved ordinance"; there is clearly an effort to circumvent the Ramsey County Charter. He referred to an original Vikings bill, which is probably not the bill that will be voted upon, but the intent of the author who would also be offering the final bill, which states in lines 25.22-25, "within the meaning of any law or charter limitation. Notwithstanding any law or charter provision to the contrary" and goes on to basically eliminate the Charter. She was probably referring to the Minneapolis charter which has a \$25 million limit, and anything over that would have to be voted on by the people. There are efforts to make sure that the people of Ramsey County will not be able to exercise their charter rights by putting it in the bill to eliminate. Another article includes a statement by Commissioner Victoria Reinhardt that 'the Legislature can exempt the board from voting on the tax, which would mean the tax would be exempt from a petition and countywide vote.' That is one of our Commissioners admitting the legislature and proponents of this bill want to bypass the people's vote. Not only in the state statute that requires a vote on a sales tax increase but they will also exempt our Charter to make sure we don't get a chance to vote. He contends that Mr. Hendricks' comment is false. He also had a private conversation with the Director of the House Research staff, Patrick McCormack. When asked about the meaning of that language, Mr. McCormack indicated that language was to avoid a charter. When asked if there was language ready for the new bill, he stated that it is privately held and could not be shown until it is about ready to be voted on. Mr. Halvorson asked him the odds of that bill including a provision that circumvents the Ramsey County Charter. The response from Mr. McCormack was 'yes'. He believes the Charter Commission has more to do than just review the Charter and offer amendments; there is some obligation to protect the Charter. The people of Ramsey County spoke and on occasion want a form of pure democracy; they voted to allow referendums in this County. If a decision by the Board is for an ordinance to pass a sales tax increase, then the citizens of Ramsey County have a right to vote on that sales tax increase. They should have a right to that public policy decision because they made that decision when the Charter was adopted.

Mr. Benke asked Mr. Carruthers for legal advice about the role of the Charter Commission.

Mr. Carruthers reviewed the Charter, the statute enacted by the legislature that authorized the Charter Commission and the possible adoption of a Charter, and Robert's Rules of Order. He did not find

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anything one way or another about the possibility of adopting a resolution such as Mr. Halvorson's. There is general language in Robert's Rules of Order that speaks about the ability of a body to pass a resolution. Mr. Halvorson's resolution is an advisory type of resolution. It is giving advice to the governor, legislature and county board and deals with a general issue about the Charter. He believes that given there is nothing that says the Commission can't do it, there is probably the ability to express the Commission's opinion on this issue. It is non-binding, but is a statement about your opinion. He doesn't see anything that says that cannot be done.

Mr. Brown addressed Mr. Hendricks, and said that if the Charter Commission does nothing, and the bill stripping away the ability to vote on a referendum is passed, what position would the Charter Commission be in at that point. Would the Commission be in a position to speak to it then, or should it be addressed now, or not at all?

Mr. Hendricks said we need to look at how the state allows municipalities to enact local sales tax. That is created solely by state statute. The state legislature makes those laws. If the state says they are giving authority to a particular county to enact the local sales tax by resolution, that would not be subject to a referendum. That is an issue that should be taken up with the state legislature, not with this body. If the members want to lobby the legislature on how the bill regarding a stadium should be crafted, they should do so.

Mr. Moses said members do not have to individually lobby legislators, but as a body the Charter Commission can advise the governor and legislature on what to do in this case. He believes that is the substance of Mr. Halvorson's draft.

Mr. Brown asked Mr. Hendricks if his position is that if the state legislature wants to permit this to be done by resolution we should say nothing about that before it is done. He understands Mr. Halvorson's resolution to essentially tell the state legislature we don't think they should permit this local government to take this particular action because we are the only Home Rule Charter County in the State of Minnesota and we want to preserve our right, if necessary, to speak to it. He is trying to understand the disconnect between the idea that the legislature can give the municipality the authority to do something and we should be silent about whether the legislature should take that action.

Mr. Hendricks said the entire previously proposed bill is not available; Mr. Halvorson provided only two pages. If you read the entire bill that was introduced at the last session it says that a local sales tax can be imposed by ordinance. That was the amendment was possibly to 297A.99 amending how the local sales tax is proposed, allowing a municipality (or county) to impose by ordinance. If it is by ordinance, the people have the right to bring a referendum. The legislature is not circumventing any powers created by the Charter.

Mr. Brown asked if his position would change if the legislature said they can impose the sales tax by ordinance and that ordinance shall not be subject to referendum.

Mr. Hendricks said that is an issue with the state.

Roll Call: Ayes – Aplikowski, Benke, Berry, Hendricks, Miller, Perez, Sonterre – 7. Nays – Brown, Fratto, Halvorson, Moses, Olson, Spaulding – 6. Resolution 2011-001.

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WHEREAS, The powers of the Ramsey County Charter Commission are enumerated in Sections 6.01 (G) and 11.03 of the Ramsey County Charter and Minnesota Statutes §383A.554; and

WHEREAS, The Ramsey County Charter Commission is a seventeen member standing commission appointed by the District Court; and

WHEREAS, The Ramsey County Charter specifically directs Charter Commission members to periodically review the charter and propose any necessary amendments; and

WHEREAS, The Ramsey County Charter Commission shall review and may comment upon the County Manager's budget proposals in terms of whether, in the view of the Charter Commission, such proposals implement the requirements set forth in the section for strategic, tactical and public data and information systems planning; and

WHEREAS, The powers of the Ramsey County Board are enumerated in the Ramsey County Charter and the Board shall be the policy-determining body of the County; and

WHEREAS, Only the Minnesota State Legislature has the power to enact laws related to how a local sales tax is imposed; and

WHEREAS, Only the Legislature has the power to grant citizens the right to vote on the imposition of a local sales tax; and

WHEREAS, The Ramsey County Charter does not grant any rights to the citizens of Ramsey County to vote on the imposition of a local sales tax; and

WHEREAS, The Ramsey County Charter grants the citizens of Ramsey County the right to require ordinances approved by the County Board to be submitted to a vote of the people by the process known as referendum; and

WHEREAS, There is no known effort to circumvent the Ramsey County Charter by denying the citizens of Ramsey County the right to submit a County Board approved ordinance to a vote of the people by referendum as guaranteed by the Charter; Now, Therefore, Be It

RESOLVED, The Ramsey County Charter Commission has no authority to request that the Governor, Legislature or Board of Ramsey County Commissioners oppose or support any proposed or anticipated state legislation; and Be It Further

RESOLVED, The Ramsey County Charter Commission is not the policy-determining body of the County and the Charter Commission would exceed its authority by approving any resolution related to proposed or speculative state legislation that does not affect any rights created by the Charter.

ADJOURNMENT

Mr. Halvorson moved to adjourn the meeting.

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Mr. Brown suggested that rather than adjourning the meeting, perhaps the two motions are reconcilable. He would like to compare the two resolutions to see if Mr. Halvorson's resolution can't also be moved forward.

Mr. Aplikowski said that just because the above resolution passed, it does not mean that the Commission is against the Charter or procedures.

Mr. Halvorson withdrew his motion to adjourn.

Mr. Brown believes there is room for Mr. Halvorson's motion to be heard because Mr. Hendricks' motion simply says that the Commission has no authority to request that the Governor or legislature or Board of Commissioners oppose or support any proposed anticipated legislation. Because this body has agreed with that does not mean that this body doesn't have a right to say that we believe the Charter process should be followed. He recommended that Mr. Halvorson move his resolution. What Mr. Hendricks' resolution says to him is that the Charter Commission does not have the authority to request that the Governor oppose or support any proposed or anticipated legislation.

Mr. Hendricks said that does not affect any rights created by the Charter.

Mr. Brown said he reads that the resolution just adopted prohibits the Charter Commission from making a request to the Governor, legislature or Board of Commissioners to oppose or support any proposed or anticipated legislation. Mr. Halvorson's resolution does not prohibit the Charter Commission from making a general statement that we support the Charter process that would permit a referendum on any bill passed. Those are two distinct things. It is directed more to the general public than it would be to the Governor and elected officials.

Chair Sonterre said we would now be debating a resolution different from what was presented. He called for a motion.

Mr. Brown moved Mr. Halvorson's original resolution with the following amendment in line 23 of the second resolved clause: "RESOLVED, The Ramsey County Charter Commission values the right of the people to choose by referendum and would oppose any effort to circumvent the referendum process present in the Ramsey County Charter." Mr. Halvorson seconded the amended resolution.

Mr. Brown said it is not the role of the Charter Commission to be quiet while it is decided what we can vote on. He is saying that as a member of the Charter Commission we should allow someone to gather signatures, which is a right preserved by the Charter. Any legislation that takes away that right should be offensive to the members of the Charter Commission. Whether the people choose to vote or not is their business; whether they choose to become engaged in the referendum process or not is also their business; but to simply say to someone that they cannot vote on an issue that you were previously given the right to vote on, he believes is something the Charter Commissioner should say something about. He believes this resolution does not tell the Governor, legislature, etc. what to do, but at least hear from the people. The role of the Charter Commission is to preserve the Charter and follow the Charter.

Mr. Halvorson supports the motion as amended. He has been a long-time Vikings fan. However, he will speak to only one factor; the Ramsey County residents have a right to make the decision; it

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should not be imposed by the Governor if he signs such a bill, or the legislature, or a majority of the Ramsey County voters. We have a history in this County that says we believe in referendum and believe that the people of Ramsey County have a right to express their opinion on important matters, and this is clearly an important matter. He wants to protect that right. He doesn't understand why anyone would fear that right. It's amazing how the very political people, elected by the people, might pass a law stopping that from happening. We, as citizens of Ramsey County, and members of the Charter Commission, have a right to be guardians of this Charter and to say that the people have the right. This deal would impact us more than the rest of the State. In one way, the Vikings are an asset to the state, but to ask this burden to be placed and imposed on the citizens and businesses of Ramsey County is a mistake and harmful to the County and particularly harmful to St. Paul. It is wrong to say that we are the only ones who need to bear about one-third of the cost, without the citizens' consent. Let the people decide.

Mr. Hendricks believes it is important to note that the referendum process relates only to County Board-approved ordinances. It has nothing to do with state legislation.

Mr. Brown said that argument is lost of him. All the state would do is authorize the County Board to make an ordinance. He takes offense if the legislature states the tax could be adopted by resolution or if by ordinance, it would not be subject to the referendum. We are talking about the people's right to vote on what would inevitably be a Ramsey County ordinance or resolution.

Mr. Spaulding suggested that perhaps the revised clause could be softened, and moved to modify the revised resolution to replace the word 'oppose' to 'have serious reservations about'. The motion to amend failed for lack of a second.

Mr. Fratto understands Mr. Hendricks' position that it is not our position to tell the legislature or the Governor what to do. As a citizen of the state of Minnesota he has a right to tell the Governor, legislature and County Board what to do. He was also appointed to serve on this Commission which is to protect the Charter and the terms of the Charter. He believes he has the right to offer a statement indicating opposition to any effort to circumvent the provisions of the Charter. Therefore, he supports the amended resolution.

Mr. Brown said that every year the Commission receives the proposed County budget and is requested to review and comment. He said the Commission has some policy implications in the role.

Mr. Miller said his interpretation is that only the legislature has the power to make a sales tax increase. One of the things he brought up a couple of years ago is term limits, but he was told the Charter Commission can't do anything about them.

Ms. Aplikowski asked if it is the purview of the Commission to take more than one subject at a time. We are talking about more than one thing in this resolution – circumventing the public's right to vote on something and also saying that we don't believe the County Board can pass a sales tax. She believes those are two different thought processes. The clarification in the current resolution is just saying that we don't want anyone to pass anything without taking it to the people.

Mr. Brown clarified that the resolution could be passed, but if the people want to speak to it, there is a provision in the Charter that allows them to do so – please do not do anything that would imperil that provision.

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Ms. Aplikowski said the crux is to not circumvent the process.

Mr. Brown said it would not automatically place anything on the ballot – it doesn't make this a referendum issue. It makes the referendum possible if the people choose to do so.

Ms. Aplikowski asked if the citizens already have that ability.

Mr. Brown said the issue is that it may not be in the bill.

Ms. Aplikowski asked where the resolutions would be sent.

Mr. Brown said the Chair of the County Board should receive a copy of all Charter Commission resolutions.

Mr. Olson said County residents who have spoken with him on this issue are concerned that the legislature won't pass this to the County Board, but would make special legislation to permit a sales tax. If it does not go to the County Board, the Charter would be nullified. As long as it travels through the process and goes to the County Board, he believes everyone is fine with letting that happen. There is a concern that it will not go to the County Board. If it goes to the County Board and they vote on an ordinance, that would trigger the referendum.

Chair Sonterre said he has found both sides of the discussion compelling and both have significant merit. Whether it is municipal charters or this one, his greatest concern has been to attempt to legislate through the Charter. Today the State of Minnesota has a mechanism to circumvent this process. That is the real problem. The Charter is not the mechanism or the vehicle to take on that fight. He doesn't believe that the Charter Commission is the vehicle by which we take on that fight.

Member Chris Leifeld arrived as the vote was to be taken.

Mr. Sonterre said a 'yes' vote would support the language within the original resolution, minus line 23 and down, substituting the amendment.

Roll Call: Ayes – Benke, Berry, Brown, Fratto, Halvorson, Hendricks, Miller, Moses, Olson, Spaulding, - 10. Nays – Aplikowski, Perez, Sonterre – 3. Abstain: Leifeld – 1. Resolution 2011-002

WHEREAS, Ramsey County is the only Home Rule Charter County in Minnesota; and

WHEREAS, The Ramsey County Home Rule Charter makes it clear that our County has faith in the public policy wisdom of its citizens by establishing the right of our citizens to Initiative, Referendum and Recall, and thus places the right to final public policy decisions in the hands of the citizens of Ramsey County; and

WHEREAS, A proposal by the owners of the Vikings and two Ramsey County Commissioners has been publicly released that includes building a stadium in Arden Hills and would be partially funded by a \$350 million half-cent sales tax imposed primarily on the citizens and business of Ramsey County; Now, Therefore, Be It

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RESOLVED, The Ramsey County Charter Commission opposes any effort to circumvent the Ramsey County Home Rule Charter and the citizens of Ramsey County by denying Ramsey County citizens the right to vote on a countywide sales tax or preventing Ramsey County citizens from seeking a referendum to place this extremely important public policy on a ballot for the citizens of our County to make a final decision; and Be It Further

RESOLVED, That the Ramsey County Charter Commission values the right of the people to choose by referendum and would oppose any effort to circumvent the referendum process present in the Ramsey County Charter.

ADJOURNMENT

There being no further business, Chair Sonterre declared the meeting adjourned at 6:56 p.m.

Bonnie C. Jackelen