

**Ramsey County Charter Commission  
Special Meeting  
Tuesday, October 11, 2011**

A special meeting of the Ramsey County Charter Commission was held in the Council Chambers of the Ramsey County Court House, 15 West Kellogg Blvd., St. Paul, MN 55102, and was called to order at 9:05 p.m. by Chair Rich Sonterre, with the following members present:

MEMBERS PRESENT:

District 1: Richard Sonterre  
Bob Weisenburger  
District 2: Richard Moses  
Bob Benke  
District 3: Bryan Olson  
Randy Gustafson  
District 4: Peter Hendricks  
Chris Leifeld  
District 5: Rod Halvorson  
Robert Spaulding  
District 6: Mike Fratto  
District 7: Marv Koppen  
Bud Berry  
At-Large: Beverly Aplikowski  
A.L. Brown  
Fred Perez

MEMBERS ABSENT:

Russ Miller (excused)

Also present: Jeff Stephenson, Acting Director, Civil Division, County Attorney's Office and Bonnie Jackelen, County Manager's Office.

CONSIDERATION OF AMENDMENT TO THE RAMSEY COUNTY HOME RULE CHARTER

Chair Sonterre read the proposed amendment to the Home Rule Charter: *Shall Ramsey County be prohibited from using any revenues, including those raised by taxes or bonding, to fund or assist in funding a Major League Baseball or National Football League sports team or stadium?*

Halvorson introduced and moved the following motion, seconded by Olson, to amend the Ramsey County Home Rule Charter as follows: *"Sec. 9.06 Prohibition on Taxing and Bonding – Ramsey County shall be prohibited from using any revenues, including those raised by taxes or bonding, to fund or assist in funding a Major League Baseball or National Football League sports team or stadium."*

Halvorson read two sentences from the Home Rule Charter: *Section 11.03 – The Charter Commission members shall periodically review the Charter and propose any necessary amendments.* He proposes that his amendment is necessary.

Halvorson referred to Section 8.06 in the Charter, and said that this is the current law in Ramsey County. We have a state law that requires that all local sales tax be voted on by the people from that district. We do not have any control over that state law. If it happens here in this county, and we are the only county with a charter commission, this is what it says we should be doing or allowing. The citizens voted in 1990 and this is how they wanted to be governed. *Section 8.06 – Referendum – Any ordinance may be subject to referendum by petition filed with 45 days after its*

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*publication*. The people of Ramsey County adopted a constitution that says when there is a policy decision made by the Ramsey County Commissioners that they disagree with, they have a right to petition, and if they are successful have a right to vote on that issue. That is the current law. It has never been exercised, but he feels it is clear from the testimony that people would like to exercise their right to vote.

Halvorson read from a bill introduced by Senator Rosen (page 25, line 25): *Notwithstanding any ordinance or charter provision to the contrary*". He believes that the intent of the legislation is to make sure that our charter is subverted. Our rights that the people demanded in 1990 to vote on issues will be circumvented. It will be done by state law; this is the reason he believes the charter needs to be changed. Right now the charter is retroactive; after the fact, if the ordinance is passed, we could have petitions and a referendum. Because of what we have seen happen in Minnesota on the Twins and other issues, he believes it is clear from the legislation currently before the legislature, or would be for a special session, that there is every intent to subvert Ramsey County's charter and our people who have voted who want a right to vote. He believes the reactive part of the charter should be changed to become proactive, and is why he is suggesting the charter amendment. Some people say constitutions should be based on structure and not public policy. He understands that basic framework, but even in the US Constitution, the Minnesota Constitution, and the Ramsey County Charter, both structure and public policy are dealt with. The US Constitution had ten amendments and they are all public policy – *freedom of speech, religion* – are public policy. Even some negative things are included and are public policy. The state constitution has structure and also includes policy. We have one of the largest constitutions in the country, which is because there is a great deal of policy in the Minnesota Constitution. The Ramsey County Home Rule Charter has structure and has Chapter 8, Initiative and Referendum, that is public policy. We are the guardians of the Ramsey County Charter. If you are concerned that the charter is under threat along with the right of Ramsey County citizens to vote on major issues that they believe are important, you should vote for this amendment and it should go on the ballot. He believes the people who have spoken have said the same thing. The public support is there; the St. Paul legislative delegation is overwhelmingly opposed to the Ramsey County sales tax being used to fund the Vikings stadium. City councils, including St. Paul, have said they think the Ramsey County sales tax, which will amount to \$670 million over 30 years, is an inappropriate tax to use. The people should be allowed to vote on it. The only way we will be able to protect that right is to move forward as a charter amendment. He thanked the Charter Commission for voting for the resolution that passed 10-3 that said: "*we oppose anyone who tries to circumvent the right of the people to vote on a referendum*". It should now be turned into proactive action, adopt a charter amendment, have it go on the ballot in 2012, and if we adopt this tonight, and the legislature is called into special session any time in October or November, they will know that the people of Ramsey County are expecting to vote in 2012. There has been common ground between the left and the right stating that the people have a right to vote on this because we have a charter that says they should.

Hendricks asked if Halvorson said the charter allows people to petition to have a referendum even if there is no county ordinance.

Halvorson responded negatively, and added that is the other way to circumvent the rights of the people in Ramsey County. If the legislature does not take it away they can tell the county it can be passed by a resolution, even though it is as important as the entire annual budget. The charter says a referendum is based on an ordinance.

Hendricks said the bill introduced by Senator Rosen is a complex bill and goes on for many pages. Only one section was mentioned by Halvorson. Hendricks pointed out a subsequent section

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– subdivision 9 – that says that taxes must be imposed by an ordinance. As we know, the Ramsey County Charter allows the public to petition for a referendum of any ordinance. The legislature is not taking away the rights of the people of Ramsey County to have a referendum, unless the County Board adopts an ordinance issuing bonds. If they do that the public still has the right under the charter to petition for a referendum. He asked why another layer is necessary. The Charter Commission, which is an appointed body, is not the policy making body of the County; that is the elected County Board. The County Board, the state legislature and the governor can make decisions for which they will be held accountable by the voters. He cannot support the motion on the table.

Fratto said he helped start the organization *Open Your Hearts to the Hungry and Homeless*, which will celebrate 25 years of existence. He finds it ironic that we can be sitting here discussing an entertainment area when we have so many people who are deprived of food and shelter.

Aplikowski said that was not germane to the discussion on the table.

Benke said he doesn't understand the logic of this being proactive.

Halvorson believes the legislature can and will try to override an ordinance. He is trying to get at the constitution of the state of Minnesota establishes the right and structure in this state that allows for home rule charters. One of the provisions in the constitution indicates that home rule charters can supersede state law. The Ramsey County Charter supersedes state law 23 times. He suggests that if the commission acts tonight and there would be something on the November 2012 ballot, if the legislature passes a bill that circumvents the charter rights and voting rights of the people of Ramsey County, he believes there would be a constitutional problem that would arise. If we could adopt this and the people of Ramsey County adopt this, and the legislature tries to subvert it by passing a bill that supersedes our charter, when we have the right under the constitution to supersede state law, he believes what will happen is that Ramsey County citizens will have their say and have a right to vote and there may be a constitutional challenge at a point when those two things collide.

Hendricks said that in the interest of full disclosure, it is important to look at the entire constitution. Section 2, quoted earlier, states "*any special law may be modified or superseded by a later home rule charter or amendment applicable to the same local government unit*". That is where Halvorson stopped but is not where the constitution stops. This does not prevent the adoption of subsequent laws on the same subject. He reads that to mean that the legislature can pass another law superseding what we have done.

Weisenburger said he has listened to the testimony and also has a lot of regard for the people to vote. He believes Halvorson is trying to circumvent what is already in the charter, and that is there is no petition.

Brown will support the motion. He believes Halvorson is trying to deal with the fact that a referendum would only come after the ordinance is passed. He doesn't believe there is anything wrong with amending the charter to add a provision that permits the people to have a special vote on a particular tax. He believes the issue should be looked at narrowly. Much of the testimony missed the point. Whether one is for or against the stadium has nothing to do with this debate. This debate is whether or not the people have a right to vote. Those arguments should be taken to the street. He agrees with Hendricks that the Charter Commission is not the public policy making body of the County. We are permitting the opportunity for the people, who are the ultimate public policymakers, to make policy. Just because some Commissioners believe this is a good idea means we have to be stuck with it. We have always been given the power to second guess our elected officials – that is built into the process by referendum. Halvorson's motion protects that right. It is a fair concern to say that it somewhat circumvents the petition issue. This protects the ultimate right for the people to have a say about this type of ordinance being passed. It is built into state law; it is built into the Charter.

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We have the right to second guess our elected officials. This provides an opportunity to protect that core right. Without this amendment we do not have that opportunity.

Aplikowski said the motion on the floor does not do what Brown says it will do. This would prohibit the County Commissioners from considering the tax. It has nothing to do with taking it out to the people. This would prevent it from even taking it to the people. She cannot support the amendment the way it is worded.

Brown said this says the people have already considered this particular tax and don't want it. Maybe they will love it or reject it but they should have the right to consider it.

Aplikowski said the Charter Commission is advisory to the County Commissioners. This means we are telling the County Commissioners that they may not even consider any money ever for a sports stadium. It has nothing to do with putting it out to referendum. The Commission would be prohibiting the County Commissioners from doing their job by the way this motion is worded.

Brown said the most the Commission can do is let the people tell the County Commissioners what to do. The Commission has no authority to affect public change. The best we can do is give the people the chance to affect the public change they want. We should check the bylaws, the constitution, whatever. We are far from an advisory board to the Ramsey County Board of Commissioners – we are not that. We are an independent body with an independent responsibility set up by those who founded the Charter.

Koppen referred to legal counsel and asked if the Charter allows a referendum with the correct number of signatures without the Commission doing anything tonight.

Halverson objected to asking the County Attorney a question. This issue should be debated among the Commission members. The answer to Koppen's question is yes.

Hendricks said the number is actually 27,800.

Koppen accepted that response; the answer is yes. Lyle Nelson, former Commission member who spoke at the public hearing, made some pertinent examples for why this is not a good idea. Nelson commented about what is good policy – the ability to petition and have referendum already exists, and we are trying to circumvent what is already in the Charter. The protection is already there. Going ahead with what we are trying to do is not good policy.

Brown said the Legislature can override a reference to a referendum and there is nothing we can do to stop it if they decide that there would be no referendum, and we would have to live with that result. But to pretend that this is an imaginary problem is something he cannot accept. To those who think there is nothing to worry about, they should be in favor of it.

Spaulding noted that the job of the Charter Commission members is to protect and defend the Charter, first and fundamentally. That means that we work when it is under threat, do our due diligence, and stand up for those principles, and not idly watch the Charter, which was adopted in 1990 by a vote of the citizens of Ramsey County, dissipate in the face of a challenge from another entity. Whether in the long run the Charter can survive that is a matter that is beyond us. The voters chose this Charter and the right to vote. The Commission is responsible for protecting the rights enumerated in the Charter. The best way to do that is to support Halverson's motion. He respects both sides of this issue and the rich testimony received. Two principles are overriding that moved him from saying he does not want to vote on every issue as many who testified said. But, this is a unique and different kind of issue that deserves special consideration by the Commission charged with protecting the Charter. The first principle: the stadium that could be built; the principle beneficiary would be a single, private, for-profit corporation. It is not defined a clear public benefit. Some of the testimony suggested it can wheel influence over the outcome that is challenging in a political year. The second principle: the type of development that is represented by a major league baseball or national league football stadium – the total cost in this case of the proposal put forward of the

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principle and interest payments are in the ballpark and actually exceed the annual budget of the County – that is, we will pay more for this stadium than Ramsey County spends on everything else in a single year, currently. That is a major benchmark and threshold. To leave that choice in the hands of seven County Commissioners with a profound legacy for future generations, without allowing the vote that is called for in the Ramsey County Charter, abdicates the Commission's responsibility to protect and defend the Charter that the voters voted for.

Gustafson appreciates all the comments for what is at issue, and that is are we protecting the Charter. Are we willing to take this issue up and defend it against the constitution; are we willing to put this Charter Commission to the task of defending our right in court to defend it against whatever would happen on the basis of speculation, on the basis of something might happen, something might go on, something might happen – to take that 'might' because we decide we don't want a stadium as the issue, we are going to defend our right to put our County at risk, our Charter Commission at risk in a court challenge because something might or might not happen when we have the right currently within the Charter for initiative and referendum on ordinance, the right to appeal – we would violate that right to protect us and our need to protect our Charter by not putting this before the voters before something happens.

Moses said the petition before us is very straight-forward, well-thought out, and some members are willing to undermine it. We should look at this for what it is and vote on it.

Hendricks echoed Gustafson's comments. This is a way for the appointed Charter Commission to micromanage the elected County Board. We don't have the authority to do that. There are protections that are not being subverted or circumvented by the proposed stadium legislation. There is no proposal to do away with the referendum and initiative and recall in the Charter. What is next? What group will come before the Charter Commission and request that there shall be no County revenue spent on "X, Y and Z"? A few years ago a citizen came before the Charter Commission with opposition to the County spending money on child collection. It is not germane. He urged Commission members to oppose Halverson's motion. He is opposed to public financing, and if the Legislature, the Governor and County Board want to issue bonds, then they will be held accountable by the voters.

Brown said that is not true. That is the fundamental problem with the argument. We are not micromanaging the County Board at all, we can't do that. The most we can do is send it to a vote. The only question is that this is such an issue that the people have a right to vote on it; that is the Charter's only role, we don't control anything else. Should this make it to the ballot, we would each go out and express our own personal views in the ballot box; the outcome cannot be controlled.

Sonterre said he is caught up on one issue and believes that we absolutely, wholly and truly, live in a representative democracy – we elect individuals to make the decisions of government for you. For him, this is not a decision being made on how he feels about taxes; it is not about public/private partnership; but about representative democracy. He does not believe that an appointed group such as the Charter Commission should be circumventing and challenging the representatives that we elected to make these decisions. They will all be held accountable. The Charter stands on its merits; the protections are there if individuals want to take this to a vote; the Charter does not need to be proactive and create new language. The Charter is such an amazing conceptual document that this type of specific narrow language defeats it, and it may go down a path of additional requests for special types of action. There is a \$641 million annual budget in Ramsey County. If that got put to a vote every year it would fail every year. That is why the County Commissioners make those decisions. He appreciates all the time, thoughts, motions, etc. the Commission members have put into this; the commentary from the residents; but he cannot support

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this because he believes it is fundamentally wrong.

Aplikowski heard clearly from a lot of people tonight that they want the right to vote. She could not support the motion because it doesn't talk about taking it out to vote; it just prohibits the County from considering using funds for that. That is her objection for the wording of the motion, and she will not support it tonight.

Olson cited Halvorson's proposed Charter amendment. Tomorrow a petition drive could start with 45 days to capture approximately 28,000 signatures. That can be an initiative, a citizen's initiative. If they don't like this language, they could propose other language. If the Charter Commission does not vote favorably tonight for letting people vote on this issue, which is already granted to them by State law and the Charter, they ought to take it upon themselves to do this on their own. Sonterre had said people vote for elected officials to make decisions, but what kind of recourse do people have if these elected officials are circumventing laws? The answer would be that they can be punished at the next election. In 2006, the Legislature, by only two votes in Senate and about 10-11 votes in the House, passed the Twins bills, ignoring their own State law that attaches sales taxes to a referendum. In Lanesboro, Minnesota, there was an advisory referendum asking people if they wanted a city sales tax. They voted favorably, and then had something to take to the Legislature with approval to speed up the process, freeing up time for the Legislature. An idea might be to do referendums ahead of time and then taking them to the Legislature for permission. He does not have respect for any legislator or elected official who want to end-around.

Sonterre said he is not an advocate for anyone in any position of life to violate law. If the Legislature chooses to violate law, it is an action they should be accountable for. He is not supportive of a preemptive statement or process that would try to further hold them accountable for following laws. The constitution gives them a right to change or overrule any Charter policy or amendment in the first place. He would rather do it right the first time and hold them accountable versus to create a whole new set of rules and policies because they are not doing their job in the first place. Deal with it where the problem lies.

Olson said a lot of people who spoke tonight don't have that kind of faith and want to make sure this Charter is not circumvented in any way. The vote in 1990 must be respected.

Weisenburger called the question to end the debate, seconded by Hendricks.

Roll call on the question to end the debate: Ayes – Aplikowski, Benke, Berry, Brown, Fratto, Gustafson, Hendricks, Koppen, Leifeld, Moses, Olson, Perez, Spaulding, Weisenburger, Sonterre. Nays – Halvorson.

Roll call on the main motion for the proposed amendment: "*Sec. 9.06 Prohibition on Taxing and Bonding – Ramsey County shall be prohibited from using any revenues, including those raised by taxes or bonding, to fund or assist in funding a Major League Baseball or National Football League sports team or stadium.*" Ayes – Brown, Fratto, Leifeld, Moses, Olson, Spaulding - 6. Nays - Aplikowski, Benke, Berry, Gustafson, Halvorson, Hendricks, Koppen, Perez, Weisenburger, Sonterre - 10. (Halvorson originally passed and then voted no.) Motion failed 6-10.

Halvorson said he supported the motion that he just voted against, which gives him an opportunity for a motion to reconsider it sometime in the future.

## **ADJOURNMENT**

There being no further business, Chair Sonterre declared the meeting adjourned at 9:55 p.m.