

Ramsey County Charter Commission
Monday, November 14, 2011

The Ramsey County Charter Commission meeting, held at the White Bear Lake City Hall, 4701 Highway 61, White Bear Lake, MN was called to order at 7:00 p.m. by Chair Rich Sonterre, with the following members present:

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Robert Spaulding (unexcused)

Marv Koppen (excused)

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

APPROVAL OF THE NOVEMBER 14, 2011 AGENDA

Fratto moved, seconded by Aplikowski, to approve the November 14, 2011 Agenda. Approved unanimously.

MINUTES OF AUGUST 15, 2011; AUGUST 31, 2011; SEPTEMBER 28, 2011; OCTOBER 11, 2011 PUBLIC HEARING and OCTOBER 11, 2011 SPECIAL MEETING

The Minutes of August 15, 2011; August 31, 2011; September 28, 2011; and October 11, 2011 were moved by Fratto and seconded by Weisenburger. Approved unanimously.

CITIZEN COMMENTS/INPUT

Dave Brudevold, 2208 Sargent Ave, Saint Paul, spoke of the stadium issue and urged members to consider a charter amendment.

Greg Copeland, Saint Paul, thanked the Commissioners for holding public hearings on the stadium issue. He urged members to consider a charter amendment.

Tom Goldstein, 1399 Sherburne Ave, Saint Paul, spoke of the Commissioners' salary issue and suggested that any future salary increase be subject to a vote. He also spoke about the County's Administrative Code and how it coordinates with the Charter.

(Continued)

OLD BUSINESS

a) Salary Ordinance for County Commissioners – Moses said the Commissioners can set their salary at any point they want – the Charter Commission needs to look to the future. Moses moved the following language, seconded by Olson: *“Should the Ramsey County Home Rule Charter be amended so that a salary ordinance increasing Commissioner salaries by more than three percent (3%) or more than the official Consumer Price Index (CPI) as determined by the U.S. Bureau of Labor Statistics for the previous calendar year – whichever is less – shall be subject to an automatic referendum?”*

Fratto doesn't have any reference as to where it would fit in the Charter. Fratto moved to table this item until more information is available as to where it would go in the Charter, seconded by Berry.

Halvorson suggested it be placed in 8.10 in the Charter. The title could be 'Automatic Referendum for Commissioner salaries.'

Aplikowski said Chapter 2 of the Charter pertains to Commissioners' compensation.

Fratto asked that legal counsel advise the members.

Sonterre agrees with the basis for the question but believes details need to be identified. He believes more time is necessary to iron out the details.

Hendricks said the Charter Commission has discussed this in the past. A subcommittee also discussed the issue, and public hearings were held.

Moses encouraged members not to get bogged down in the details.

Weisenburger believes the language is not appropriate – it would not exist in a labor agreement.

Benke said he is willing to look at the issue but there are too many loopholes as it is written.

Brown suggested that everyone set forth their concerns so discussion can take place on them.

Aplikowski called the question. Roll Call: motion to call the question passed.

Vote to table the language as presented: Ayes – Weisenburger, Perez, Fratto, Berry, Benke, Aplikowski, Sonterre – 7. Nays – Olson, Moses, Miller, Leifeld, Hendricks, Halvorson, Gustafson, Brown – 8. Motion to table failed.

Discussion continued.

Moses moved an amendment to the main motion to remove reference to the CPI and have the reference only to 3% or more; seconded by Fratto. The motion reads as: *“Should the Ramsey County Home Rule Charter be amended so that a salary ordinance increasing Commissioner salaries by more than three percent (3%) shall be subject to an automatic referendum?”*

Miller asked if it could be interpreted to be a 6% increase if they don't take a raise for two years.

(Continued)

Benke suggested that perhaps raises would be taken that would not have been taken without this language.

Discussion included adding a reference to calendar year.

Brown recommended an amendment changing the language to '3% or more'. This was accepted as a friendly amendment which changes the motion to: *"Should the Ramsey County Home Rule Charter be amended so that a salary ordinance increasing Commissioner salaries by three percent (3%) or more shall be subject to an automatic referendum?"*

Vote on friendly amendment: Ayes, all except Aplikowski.

Sonterre reread the suggested Charter Amendment: *"Should the Ramsey County Home Rule Charter be amended so that a salary ordinance increasing Commissioner salaries by three percent (3%) or more shall be subject to an automatic referendum?"*

Halvorson encouraged the language to not include reference to a year because that would just add confusion. Right now, their salary \$82,400; 3% of that is \$2,472. If the Commissioners decided to raise their salary \$1 more than that, at any time, this year, next year, four years down the road – if they even move to raise their salary more than that it would be subject to an automatic referendum. It is very clear and simple that there would be an automatic referendum if their salary is ever going to be more than 3% more.

Fratto requested clarification that Halvorson's interpretation is that Commissioners could only receive 3% from now on. That is not what it is – they could adopt an ordinance every year up to 3%.

Brown said there is a serious issue with the economy; this is not a political issue but it is a good government policy issue. There should be some control over how much money a person can give him/herself. He asked if there is a way to safeguard against raising other benefits/compensation rather than salary. He believes the Charter Commission should be satisfied with the word 'salary' and have hope that elected public officials act in good faith and don't start giving themselves bonuses.

Benke suggested changing the word 'salary' to 'compensation'.

Brown said he doesn't want to be unfair to the Commissioners; if healthcare goes up he doesn't believe they should be saddled with having to pick up the extra costs. He is leery about changing the reference to 'compensation'.

Fratto agrees with Brown. He believes the term 'salary' is the best suited.

Hendricks said the Charter currently reads that increases to Commissioners' salaries is by ordinance, and is subject to a referendum. Every year the Commissioners want to increase their salary they must pass a salary ordinance by the preceding July 1st. Any citizen can gather signatures and put the issue up for referendum. He believes the protection is currently in the Charter. Secondly, the salary is not part of the County budget process. Third, we are talking about an approximate \$21,000 overall increase which would cost the county much more than that to hold a special election.

(Continued)

Moses said the idea is that Commissioners would use common sense when considering an increase in salary. He doesn't believe there would be many instances where the increase would exceed 3%.

Hendricks said the County Board has not increased its salary for 2011 or 2012.

Aplikowski referred to Chapter 2, section 2, that states the County Board may annually set their salary by ordinance. She suggested inserting "not to exceed 3%" and asked if that would do what the Commission members have been talking about.

Brown said it could be changed in D2.

Halvorson believes the 3% would work and is something that is easy to understand. He believes everyone in elected office wants to do the right thing; if the Charter says that their limit on salaries is 3% he believes the elected officials would live within that. He believes it would be difficult to go over 3% and if they did, they would actually trigger the special election with its high cost.

Sonterre moved to reintroduce the motion to table; to table it to the 2/6/2012 meeting and call a special work session at 6:00 p.m. that evening to specifically discuss this topic. This will take at least another hour – each new version is better than the last, but he would like to get this right. Hendricks seconded the motion.

Olson suggested it be placed on the agenda as a regular item.

Sonterre said the suggestion of a work session is to clarify some of the concerns; he wants to move this along. He prefers to see it be continued discussion.

Fratto agrees with the work session prior to the regular meeting but is reluctant to set the exact time. There is time to get it on the November ballot.

Moses wants to get this done.

Vote to table to February 6, 2012 – unanimous.

b) Report from Nominating Committee

Hendricks, Perez and Halvorson served on the Nominating Committee. They met by phone and while there is not consensus, there is a majority. The slate being presented is: Chair – Bob Benke; Vice-Chair – Randy Gustafson. Both accepted the nomination.

c) Reconsideration of the 10/11 Charter Amendment. Halvorson said he will not make a motion to reconsider the amendment tonight.

(Continued)

ELECTION OF CHAIR FOR 2012

Sonterre opened the nominations for Chair. Benke was nominated by the nominating committee. Halvorson moved, seconded by Leifeld, to nominate Leifeld as Chair for 2012. With no other nominations, the nominations were closed. Leifeld and Benke are on the ballot for 2012 Chair.

A ballot vote was taken: Leifeld - 6. Benke – 9. Benke is Chair of the Charter Commission for 2012.

ELECTION OF VICE-CHAIR FOR 2012

Sonterre opened the nominations for Vice-Chair. Gustafson was nominated by the nominating committee. Halvorson moved, seconded by Weisenburger, to nominate Leifeld as Vice-Chair for 2012. With no other nominations, the nominations were closed. Leifeld and Gustafson are on the ballot for 2012 Vice-Chair.

A ballot vote was taken: Leifeld – 5. Gustafson – 10. Gustafson is Vice-Chair of the Charter Commission for 2012.

NON-AGENDA

Miller said he wrote down some words that were spoken tonight: future scandal, do not trust, skeptical of leaders, etc., and raised the issue of term limits. He believes that having term limits would be the obvious answer for all these issues. He knows there have been discussions; but because we are a Charter County does it make a difference. He said he was not in favor of appointing the Sheriff; there is a different Sheriff today. He has been told many times there is nothing we can do, but he would like to discuss it again.

Moses said the last time it was discussed we were told it couldn't be done, but he believes a fresh look should be taken on this issue.

Brown asked legal counsel to provide a written legal opinion if one has not previously been written.

Fratto said the issue related to the Administrative Code raised by Mr. Goldstein is one that should be discussed.

Sonterre said two items for future meetings are the County's Administrative Code and term limits.

Hendricks said it would be helpful to have Joe Mansky, Elections Manager, present at a future meeting.

Brown moved to request a legal opinion from counsel whether term limits can survive under the Minnesota Constitution and Minnesota case laws to be received prior to the February 6th meeting. The motion was seconded. Approved unanimously. This will be an agenda item for the 2/6/12 meeting.

Halvorson said the Supreme Court decision on Minneapolis was a divided issue. He believes there would be a problem with term limits. He would like to know if it was a divided court and a divided opinion, so that we would know not only according to their ruling what we should do but what options there would be in changing that.

Halvorson did not understand the extent of the Administrative Code adopted by the County Commissioners. It is odd that the body that makes the law is the one who could usually review the administrative code to implement that law. He is not sure the Charter Commission has reviewed the rules that are set out to implement the Charter that was adopted in the 1990s. The Charter Commission should have the opportunity to review the rules; we may disagree entirely with the intent of the original charter members. For example, the Charter says the signature page shall be certified. The question is what is 'certified'. The highest form is notarization; the lowest is an oath. Did the original charter commission mean for every ten signatures to be certified? The County Commissioners could have a different perspective than we would. We normally agree that we have more of an obligation to the citizens because they reserve certain rights to themselves. He believes there is an inherent conflict of interest because the County Commissioners have publicly stated, and they agree, that they should be the policy makers on all issues. If they believe that, maybe they should suggest we eliminate the Charter and do what the other 86 counties do. As long as we have a Charter and a Charter Commission, there are many questions that have come up. There is nothing about a pre-petition in the Charter, but it is required. There are hurdles adopted by the Commissioners; do you believe the original people who wanted the Charter want these hurdles? Pre-petition, with the requirement for 500 signatures; wait for 30 days until the County Attorney determines if the language is adequate or not. The County Attorney works for the Commissioners, not the people. That brings up the whole thing about them also being attorney for the Charter Commission. He believes that when there is potential disagreement between the County Attorney and the Charter Commission, who is their client? Others are the 30 day waiting period and the County Attorney giving the okay to the language; and notarization of signatures.

Halvorson would like the County Attorney's opinion on four areas of the Administrative Code: what is their opinion on whether the pre-petition process is consistent with the Charter; is allowing the County Attorney to say no to language consistent with the Charter; is the 30 day waiting period while waiting for the County Attorney's answer consistent with the Charter; and is notarization the proper definition of certification in the Administrative Code that is not in the Charter.

Sonterre said this could be addressed at the May 2012 meeting. If there are additional concerns they could be addressed at the February 6 meeting and sent to the County Attorney's Office and Elections Office.

Fratto said he believes we are going to run into a legal issue long before the May meeting and the answers are needed by the February meeting.

Hendricks reiterated his request to have someone educated in these matters address the Commission at the February meeting. If questions need to be formulated for the County Attorney that could be done. He also believes we need to be careful about having this body used as a forum for members of the 'no stadium tax' as a way to get legal issues addressed for that particular group. If that group has questions about the process, which may or may not be that onerous, they could bring those issues to the appropriate forum. Also, the Charter allows the County Board to adopt administrative rules.

Benke suggested that there needs to be a process within the group to formulate questions to the County Attorney.

(Continued)
Charter Commission – November 14, 2011 – Page Seven

Brown agreed that Joe Mansky should be invited to the next meeting and that getting something on the Administrative Code should be sent out prior to the next meeting.

Aplikowski asked if it is the culture of this group to work in sub-groups. Perhaps sub-groups could be adopted to discuss these issues.

Benke requested clarification that the County Attorney has been asked for opinions.

Brown moved, seconded by Fratto, that the Charter Commission asks the County Attorney for an opinion on how the Administrative Code, related to referendum, initiative and amendment, interacts with the Charter and create a road map so we can better understand the issues. Sonterre asked that this information be provided to members prior to the meeting. Unanimously approved.

Olson asked for the deadline for documentation packets. Jackelen responded 10 days prior to the meeting.

Hendricks moved, seconded by Gustafson, to request a presentation by someone from the Minnesota Department of Administration on the open meeting law and data practices act. This would be on the May 7th meeting agenda. Unanimously approved.

2012 MEETING DATES

Olson asked to establish location for 2012 meetings and suggested the February 6th meeting be held in the Court House Council Chambers. Jackelen suggested the May 7th meeting be held at the Public Works facility. The location for the other two meetings, August 6th and October 29th, would be established at a later date.

October 29th was unanimously chosen as a meeting date instead of November 5th.

ADJOURNMENT

The meeting was adjourned at 9:12 p.m.

Bonnie C. Jackelen, Chief Clerk-County Board