



CHARTER COMMISSION MEETING AGENDA
December 14, 2011 - 7:30 AM
City Hall Boardroom

Charter Commission Meeting

1. Call to Order
2. Roll Call
3. Approval of Minutes
 - A. November 11, 2011 Charter Commission Meeting Minutes
4. Reports of the Chair, Officers, Commissions and Committees
5. Public Comment
6. Unfinished Business
 - A. Discussion of Charter Commission Recommendations to the City Council
 - B. Discussion of Mayoral Voting and Council Composition
7. New Business
8. Adjourn

**City of Moorhead
Charter Commission
Meeting Minutes
November 16, 2011 at 7:30 AM
City Hall Boardroom**

Roll call of the members was made as follows:

Board Member:	James Danielson	Present
Board Member:	Eileen Hastad	Absent
Board Member:	Roger Buscher	Present
Board Member:	Kenneth Tangen	Present
Board Member:	Russell Hanson	Present
Board Member:	Darvin Landa	Present
Board Member:	Patricia Staples	Absent
Board Member:	Ronald Hagemann	Absent
Board Member:	Travis Reimche	Absent
Board Member:	Douglas Fagerlie	Present
Board Member:	Thomas Krabbenhoft	Absent
Board Member:	Richard Bolton	Present
Board Member:	Yoke-Sim Gunaratne	Absent

Charter Commission Meeting

1. Call to Order

Minutes: Chair Danielson called the meeting to order.

2. Roll Call

Minutes: Roll call and introductions were conducted.

3. Approval of Minutes

Minutes: It was requested that the Commissioner Orientation/Representation Discussion be conducted prior to Unfinished Business.

It was requested that a New Business item related to Oakport Annexation/Redistricting be added to the agenda.

A. August 3, 2011 Charter Commission Meeting Minutes

Motion made to Approve made by Douglas Fagerlie and seconded by Kenneth Tangen

Motion to Approve Minutes of August 3, 2011

Motion Passed

For: 7 - James Danielson, Roger Buscher, Kenneth Tangen, Russell Hanson, Darvin Landa, Douglas Fagerlie, Richard Bolton

Absent: 6 - Eileen Hastad, Patricia Staples, Ronald Hagemann, Travis Reimche, Thomas Krabbenhoft, Yoke-Sim Gunaratne

4. Reports of the Chair, Officers, Commissions and Committees

Minutes: No reports were presented.

5. Public Comment

Minutes: No citizens addressed the Commission.

6. Unfinished Business

A. Discussion of Timeline for City Council to Act on Charter Commission Recommendations

Minutes: It was noted that John Shockley, Assistant City Attorney, provided information to Commissioners following the August 3, 2011 Charter Commission meeting regarding time limits for Charter Commission recommendations to the City Council as set forth in Minnesota State Statutes.

Jill Wenger, City Clerk, reported that Moorhead Public Service (MPS) has delayed their cost of service analysis which will assist in determining revised hydrant rate charges to the City of Moorhead. It is now anticipated that the study will not be conducted until 2012.

Shockley clarified the following in response to Commissioner questions:

- According to Minnesota State Statute the City Council has a duty to act on Charter recommendations; however, Statutes are not clear when Charter Cities require a second reading for final ordinance approval.
- Generally City Councils are allowed to table a recommendation for a valid reason but only for a reasonable amount of time. In the current situation, the City Council did have a valid reason to table.
- The Charter has the ability to express to the Mayor and Council whether they believe a reasonable amount of time has lapsed.

Charter Commission Members noted the following:

- Concern was expressed regarding continued delays of the Council to act on a Charter Commission recommendation.
- It is believed that a decision to repeal the fixed hydrant rate charge should not be postponed in order for City and MPS staff to determine a revised hydrant rate and that the Council has a duty to act upon the Charter recommendations.
- Concern was expressed regarding the Council setting a precedent on delaying Charter recommendations.

Charter Commissioners directed Shockley to draft an initial letter on behalf of the Charter urging the Mayor and Council to conduct second reading of the ordinance citing Minnesota State Statute authority. The letter will be provided to Chair Danielson for review and additional commentary. A draft copy will be forwarded to all Charter Commissioners for feedback before it is provided to the Mayor and Council. City Manager Michael Redlinger and MPS General Manager Bill Schwandt will be provided with a copy of the

letter when it is submitted.

Motion made to Approve made by Darvin Landa and seconded by Richard Bolton
Motion to draft a letter to the Mayor and Council urging them to act upon Charter Commission Recommendations in a timely matter

Motion Passed

For: 7 - James Danielson, Roger Buscher, Kenneth Tangen, Russell Hanson, Darvin Landa, Douglas Fagerlie, Richard Bolton

Absent: 6 - Eileen Hastad, Patricia Staples, Ronald Hagemann, Travis Reimche, Thomas Krabbenhoft, Yoke-Sim Gunaratne

B. Discussion of Council Composition & Elections by Ward

Minutes: Charter Commission Members noted the following:

- The current ward model is preferred. Moorhead residents do not indicate concern over the current arrangement.
- The current ward model appears to safeguard against single interest groups.
- Conducting an at-large election campaign may be too costly for some citizens interested in becoming a Council Member.
- Current ward sizes make it difficult for an individual to reach every constituent during an election campaign. It is preferred that the wards be further divided into eight areas.
- Concern was noted on further dividing wards as two Council Members per ward provides some variety in representation.
- Some interest was noted in allowing the Mayor to be a regular voting member as the only at-large representative elected to the City Council.
- It is believed that strengthening the voting voice of the Mayor may expedite decisions of the Council.

Shockley noted that a voting Mayor may effect voting requirement provisions outlined in the City Charter, particularly as it relates to decisions requiring a super-majority vote. Shockley stated that he would provide a background memo to the Charter Commission.

It was determined that further discussion on Council composition and Mayoral voting be conducted at a Charter Commission meeting with larger attendance prior to any action.

7. New Business

A. Commissioner Orientation/Representation Discussion (Chair Danielson)

Minutes: Chair Danielson spoke to Commissioners regarding concepts of representation. Danielson recommended that Commissioners elect a "Trustee Model" form of representation to serve the best interests of the community.

B. Oakport Annexation/Redistricting

Minutes: Concern was noted regarding the impact of ward composition following Oakport annexation in 2015.

Shockley noted that there may be provisions that would not allow a City to redistrict an annexed territory until congressional and legislative boundaries are redistricted following the 2020 census. Shockley stated that he would research whether cities have the authority to redistrict between census years and provide an update to the Charter Commission.

Shockley noted that City staff recently developed a report related to Oakport annexation issues and that the information would be provided to Charter Commission members.

8. Adjourn

Motion made to Approve made by Douglas Fagerlie and seconded by Darvin Landa

Motion to Adjourn

Motion Passed

For: 7 - James Danielson, Roger Buscher, Kenneth Tangen, Russell Hanson, Darvin Landa, Douglas Fagerlie, Richard Bolton

Absent: 6 - Eileen Hastad, Patricia Staples, Ronald Hagemann, Travis Reimche, Thomas Krabbenhoft, Yoke-Sim Gunaratne

Minutes: It was determined that the Charter Commission would meet on December 14, 2011.

Meeting adjourned at 8:32 a.m.

*Respectfully submitted by:
Jill Wenger, City Clerk*

MOORHEAD CHARTER COMMISSION

Jim Danielson, Chair
Travis Reimche, Vice Chair
Eileen Hastad, Secretary

November 28, 2011

Mayor and City Council Members
City of Moorhead
P.O. Box 779
Moorhead, MN 56561-0779

Dear Mr. Mayor and Members of the Moorhead City Council:

As the chair of the Charter Commission, I am requesting that the Moorhead City Council act upon the May 4, 2011, recommendation of the Charter Commission to repeal Subdivision 2 of Section 12.11 of the Moorhead City Charter (hereinafter "Subdivision 2"). This recommendation was put in ordinance form (hereinafter the "Proposed Ordinance") and presented to the City Council with the recommendation of the Charter Commission in accordance with Minn. Stat. §410.12. Unfortunately, the City Council has not held a second reading on the Proposed Ordinance.

On May 4, 2011, the Charter Commission approved repealing Subdivision 2, and on May 23, 2011, the City Council held a first reading on the Proposed Ordinance. On June 13, 2011, the City Council held a public hearing on the Proposed Ordinance, and then subsequently tabled the ordinance as the Mayor and City Council requested that City staff provide the Mayor and Council with a briefing memo following discussion with MPS regarding revised hydrant fees. Since June 13, 2011, the Council has not taken any action on the Proposed Ordinance.

Upon recommendations made by the Charter Commission, the City Council has an obligation to consider and pass amendments to the Moorhead City Charter. Minnesota Statute Section 410.12 provides that "[w]ithin one month of the public hearing, the city council must vote on the proposed charter amendment ordinance." Although the City Council has held a first reading on the proposed ordinance, it has not held a second reading. The Charter Commission can understand a short delay between the first reading and second reading of the ordinance to allow staff to gather additional and germane information relative to the Proposed Ordinance. However, the current delay is not for the purpose of gathering additional and germane information because a rate study does not appear related to the proposed Charter amendment. Further, the delay between the first reading and the second reading is inconsistent with the general understanding of "reasonable" according to the Charter Commission and, at a minimum, appears to conflict with the intent of Minn. Stat. § 410.12. As such, the Charter Commission expects that the proposed Charter amendment will be taken off the table by the City Council, considered and voted upon.

Thank you, and please contact me if you have any questions.

Sincerely,

Jim Danielson
Chairperson of the Charter Commission

CC: Michael Redlinger, City of Moorhead
Bill Schwandt, Moorhead Public Service

Jill Wenger

From: John T. Shockley <JShockley@OhnstadLaw.com>
Sent: Friday, December 09, 2011 1:57 PM
To: Jill Wenger
Subject: RE: Charter Commission - 12/14/2011
Attachments: 20111209_152139.pdf

TO: Chair and Members of the Moorhead Charter Commission

FROM: John T. Shockley

RE: Information regarding voting mayors

As you know the Moorhead City Charter provides that the mayor votes only in the event of a tie and is a member of the City Council for purposes of a quorum. If the mayor were given the power to vote, the mayor would then be considered part of the City Council for the purpose of voting. Under many provisions of the charter, the required number of votes is a fraction of the members of the council. Thus, for example when awarding a contract three-fourths of the members of the City Council must vote in favor of the contract. See Section 3.04. Thus, currently six members of the council are required to vote in favor of a contract. If the mayor were given voting authority, contract approval would then require seven votes (9 voting members x .75 = 7).

I have also attached some general information about different forms of government in Minnesota, including the council manager form of government for your general review as it may be helpful to think about during the discussion of a voting mayor. In the event that the Charter Commission wanted to draft a specific charter amendment for discussion I could provide more analysis than this general overview.

Thanks

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C. Forms of city organization

Cities in Minnesota have used four forms of administrative organization or “plans”: weak mayor-council, strong mayor-council, council-manager, and commission.

1. Weak mayor-council

The weak mayor-council plan is by far the most common plan in Minnesota. Besides being the form for Standard Plan, Plan A, and Plan B statutory cities, it is also the favorite of most home rule charter cities. Under the weak mayor-council plan, administrative as well as legislative authority is the ultimate responsibility of the council unless the council has created an independent board, such as a utilities commission, to handle one or more specific functions. In Plan B statutory cities, however, administrative power is generally the responsibility of the city manager.

See Council-manager discussion below at Part II-C-3.

The mayor’s powers in weak mayor-council communities are no greater than those of any other member of the council, with the exception of the mayor’s role as presiding officer at council meetings and several other minor duties. No individual councilmember holds specific administrative powers.

Many statutory Standard Plan and Plan A cities create a city administrator position by resolution or ordinance and specify the responsibilities of the position. City administrators are appointed because of their professional qualifications; this is not a political appointment. Many cities have also created combined city clerk-administrator positions.

2. Strong mayor-council

The strong mayor-council plan is rare in Minnesota; only three cities use this administrative format: St. Paul, Duluth, and St. Cloud. Home rule charter cities are the only cities that may have this form of organization. Under the strong mayor-council plan, the mayor is generally responsible for the operation of all administrative agencies and departments within the city.

If the plan is the conventional, strong mayor-council plan, the mayor:

- Can appoint and remove department heads and other subordinate staff subject to civil-service provisions where applicable.
- Is not a councilmember, but can veto council legislation subject to the right of the council to override the veto by an extraordinary majority.
- Prepares and administers a budget that the council approves.

The chief functions of the council are to:

- Legislate and set policies.
- Pass budgets and bond issues.

- Review mayoral and administrative actions.

All of these features can vary under city charter provisions.

3. Council-manager

Minn. Stat. § 412.541,
subd. 2.

Some home rule charter cities and those 16 statutory cities operating under Optional Plan B in the statutory-city code have a council-manager form of government. Only statutory cities with populations of more than 1,000 may adopt Optional Plan B. Under this form, the council has policy-making and legislative authority, but administration of the government is the manager's responsibility.

The manager is directly responsible to the council. The manager has indefinite tenure and is subject to removal by the council after a hearing. The manager appoints department heads, usually without council approval. Here again, the home rule charter can change the conventional plan. City managers are appointed because of their professional qualifications; the position is not a political appointment.

4. Commission

The commission form of organization is no longer used in Minnesota. In recent years, only one home rule charter city in the state used a commission structure. No statutory cities have ever used this structure; and the option for statutory cities to adopt this form of government is no longer available.

Under this form of organization, each of the elected councilmembers is responsible for a particular administrative department so that, in addition to duties as a legislative official, the councilmember is also a department head. Many cities, particularly those without an administrator, employ an informal commission structure, assigning one or two councilmembers to devote particular attention to specific city services such as public safety or public works.

The mayor, with minor exceptions, has the same powers and duties as councilmembers. The council, as a whole, is responsible for administrative coordination and for the formation of legislative policy. The charter can alter this plan.

See Handbook, Chapter 3;
See Handbook, Chapter 4.

Details on the powers and duties of statutory cities are available in Chapter 3. Home rule charter cities are covered in Chapter 4. In order to change from one form to another, an affirmative vote of the city's voters is required.