



**CHARTER COMMISSION MEETING AGENDA**  
**December 10, 2014 - 8:00 AM**  
**Hjemkomst Center - Elm Board Room**

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**Call to Order**

**Roll Call**

**Approval of Minutes**

1. October 22, 2014 Charter Commission Minutes

**Reports of the Chair, Officers, Commissions and Committees**

**Public Comment**

**Unfinished Business**

2. City Council Voting Requirements
  - A. Contracts
  - B. Acquiring Property, Selling Property, Disposing of Property, Utilizing Eminent Domain
  - C. Tax Levies
  - D. Bond Issues
  - E. Mayor Voting

**New Business**

3. Set 2015 City Charter Commission Meetings

**Adjourn**





**City of Moorhead  
Charter Commission  
Meeting Minutes  
October 22, 2014 at 8:00 AM  
Hjemkomst Center - Elm Board Room**

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**Roll call of the members was made as follows:**

**Call to Order**

**Roll Call**

**Roll call of the members was made as follows:**

Board Member:	Eldon Wollman	Present
Board Member:	Russ Hanson	Present
Board Member:	Francine Gilmore	Present
Board Member:	Ken Tangen	Present
Board Member:	Jim Danielson	Absent
Board Member:	Darvin Landa	Present
Board Member:	James Steen	Present
Board Member:	Athena Gracyk	Present
Board Member:	Ronald Hagemann	Present
Board Member:	Tom Krabbenhoft	Present
Board Member:	Doug Fagerlie	Present
Board Member:	Yoke-Sim Gunaratne	Present
Board Member:	Michael Friesen	Present

**Guests present:**

Pat Kovash	Kovash Marine/MBA/EDA
Jim Haney	Moorhead City Council
Bruce Bekkerus	A-1 Automotive
Les Stenerson	Stenerson Lumber

Introduction of New Member/Administer Oath of Office

**Approval of Minutes**

September 3, 2014 Minutes

Doug Fagerlie made a correction that Richard Bolton was no longer on the Charter Commission and Michael Friesen replaced him and was present at the September 3, 2014 Meeting.

Motion to approve amended minutes of September 3, 2014 by Fagerlie seconded by Gilmore; motion approved by unanimous vote.

**Reports of the Chair, Officers, Commissions and Committees**

None

## **Public Comment**

Comments were received from Pat Kovash, Moorhead Marine; Jim Haney, Council Member; Bruce Bekkerus, A-1 Automotive; and Les Stenerson, Stenerson Lumber; regarding the current voting requirements.

## **Unfinished Business**

### City Council Voting Requirements

John Shockley, City Attorney, provided a brief history on the City of Moorhead's voting requirements.

### Contracts

The Charter Commission briefly discussed "Contracts" and would like to invite the City Manager to attend the next meeting for clarity.

The Charter Commission directed John Shockley, City Attorney, to provide a memo on how contracts work.

Acquiring Property, Selling Property, Disposing of Property, Utilizing Eminent Domain

Tax Levies

Bond Issues

Mayor Voting

### League of Minnesota Cities Discussion

Russ Hanson announced that the League of Minnesota Cities does not have an expert relating to Charter Cities.

The Charter Commission would like to invite a Political Scientist from the University of North Dakota and a representative from the City of Barnesville to the next meeting.

## **New Business**

Motion to hold the next meeting on Wednesday, December 10, 2014 at 8:00 am made by Fagerlie seconded by Steen; motion approved by unanimous vote

## **Adjourn**

Meeting Adjourned at 9:43 am

*Respectfully submitted by:  
Michelle French, City Clerk*

# MEMORANDUM

**TO:** Moorhead Charter Commission  
**FROM:** John T. Shockley  
**DATE:** May 13, 2008  
**RE:** Section 3.04 of the Moorhead Charter



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## I. INTRODUCTION

On May 2, 2008, the Moorhead Charter Commission met to discuss City Council Expenditure Rules contained within the Moorhead City Charter. The Moorhead City Charter contains super majority requirements (three-fourths of the Council must vote in favor of a budget) for appropriating City expenditures. This memo will discuss state law voting requirements and compare them with the Moorhead Charter. It should be noted that state law sets the minimum voting requirements, and a city charter may expand upon those requirements; however, it cannot be less than the minimum requirements of state law.

## II. CHARTER SECTION AT ISSUE

Section 3.04 - Ordinances and Resolutions. Except as otherwise provided in this Charter, all legislation shall be by ordinance. The votes of the Council members on any action taken shall be recorded in accordance with law. Except as otherwise provided in this chapter, an affirmative vote of a majority of all the members of the Council shall be required for the adoption of ordinances and for the payment of preauthorized expenditures. Resolutions may be adopted by an affirmative vote of the majority of a quorum, except that every ordinance or resolution involving the appropriation or disposition of public property, the expenditure of public money, levying any tax or assessment, creating any liability, awarding or approving any contract for the payment of money, or ordering any condemnation of private property shall require a three-fourths vote of all members of the City Council; provided, however, that the adoption and approval of the regular payroll of the City employees shall only require majority vote of the members of the Council present. (Emphasis added.)

This section creates a super majority requirement (three-fourths of the City Council) for several items. When the Charter is silent on a matter involving Council voting, and state law would require a super majority, state law would prevail. I have attempted to put together a list of items that contain voting requirements as set forth in Section 3.04. *It should be noted that this list is not exhaustive.*

<u>MATTER</u>	<u>MOORHEAD CHARTER</u>	<u>STATE LAW</u>
Procedural Motions	Majority vote. Moorhead Charter § 3.04	Majority vote (general rule) <u>see also</u> Minn. Stat. § 412.211

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Ordinances	Majority vote of all members of the City Council. Moorhead Charter § 3.04	Majority vote of all members of City Council present. Minn. Stat. § 412.191, subd. 4; <u>see also</u> Minn. Stat. § 412.221
Resolutions	Majority vote of a quorum. Moorhead Charter § 3.04	Majority vote of quorum. Minn. Stat. § 412.221; Minn. Stat. § 412.211
Resolution to Approve Summary Publication of an Ordinance	Silent.	Four-fifths of all members of the City Council. Minn. Stat. § 412.191, subd. 4
Vacation of Streets	Silent.	Four-fifth of all members of the City Council. Minn. Stat. § 412.851
Decision to Change Classification of Land in Zoning Districts from Residential to Commercial or Industrial	Silent.	Two-thirds of City Council members. Minn. Stat. § 462.357, subd. 2
Determination of City Employee Salary	Majority vote of all members of City Council present. Moorhead Charter § 3.04	Majority vote of all members of City Council present. Minn. Stat. § 412.211
Contracts	Three-fourths vote of all members of City Council. Moorhead Charter § 3.04	Majority vote of all members of City Council. Minn. Stat. § 412.221
Acquiring Property, Selling Property, Dividing Property, Utilizing Eminent Domain	Three-fourths vote of all members of City Council. Moorhead Charter § 3.04	Majority vote of all members of City Council. Minn. Stat. § 412.211
Tax Levies	Three-fourths vote of all members of City Council. Moorhead Charter § 3.04	Majority vote of all members of the City Council. Minn. Stat. § 412.251
Bond Issues	Three-fourths vote of all members of City Council. Moorhead Charter § 3.04	Varies with specific issue.

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**III. CONCLUSION**

As you will note, most of the items containing the super majority requirement in the Moorhead City Charter are not reflective of state law majority requirements. It should be noted that the City has the authority to impose such super majority requirements in its Charter, and such decisions are, of course, policy decisions. Any amendment to the Moorhead City Charter can be proposed by the Moorhead City Charter Commission. However, ordinances to amend the Moorhead City Charter must be unanimously approved by the Moorhead City Council.

JTS/cs

# MEMORANDUM

TO: Moorhead Charter Commission  
FROM: Sarah M. Wear  
DATE: July 8, 2014  
RE: Voting Requirements  
OT File No. 14-05-01



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## I. INTRODUCTION

The Moorhead Charter Commission specifically requested information on the pros and cons of a possible amendment to Section 3.04 of the Moorhead City Charter from current super-majority voting requirements (three-fourths of the Council must vote in favor) to majority voting requirements for the following four categories: (1) contracts; (2) acquiring property, selling property, disposing of property, utilizing eminent domain; (3) tax levies; and (4) bond issues. This memo outlines the pros and cons for the change to a majority voting requirement. Since the decision whether to institute a majority or a super-majority voting requirement is primarily a policy question, research on the issue is mainly limited to opinion articles and commentary on the pros and cons of each type of voting requirement. Further, this is a fundamental policy question regarding the balance of majority versus minority voting rights.

## II. PROS

A majority voting requirement allows the larger view, either for or against an issue, to be represented. The view of the larger half of the community, through the representatives on the Moorhead City Council, is used and carried out through a majority voting requirement. The majority voting requirement is utilized by most organizations. The majority requirement is a faster way to enact the majority view on public policy as it is easier to convince a simple majority to vote in favor of a particular position. A majority voting requirement allows for change and adaptation to be more reflective of the view of the majority of the community. The majority requirement is also consistent with state law requirements for the four categories outlined above.

Additionally, MN Statute § 412.191 requires a majority vote of all the members of the council to approve a budget and tax levy. Requiring a majority vote for a tax levy would maintain consistency in that process. The current super-majority requirement for a tax levy is not consistent with the state requirement. As a result, the preliminary tax levy vote requires only five (5) votes and the final tax levy vote requires six (6) votes which can create confusion and put additional uncertainty into the budget process.



## **MEMORANDUM**

**July 8, 2014**

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It could be argued that a majority voting requirement is more democratic. The super-majority requirement can be viewed as undemocratic as it can transfer all the power from the majority to the minority, thereby prohibiting the majority view from being followed. Simply put, three (3) council members could vote in a group to block any proposal under a super-majority voting requirement.

### **III. CONS**

Requiring only a majority vote does not give a voice to the minority view, and therefore, not everyone is represented in majority rule. Super-majorities help favor minority viewpoints. Requiring a super-majority allows the minority view to be heard. It also prevents a view held by a simple majority from being able to change policy. Maintaining the current super-majority requirements helps to preserve the status quo by making it more difficult to institute or adopt changes. A super-majority requirement also ensures that any changes made are supported by more than a simple majority of those advocating the change. It could be argued that the combination of a ward system and super-majority voting requirements was intended to prevent action from being taken that would disadvantage one region of the city.

### **IV. ALTERNATIVE**

I believe the Charter Commission previously discussed a possible alternative to the majority voting requirement or the super-majority voting requirement. This alternative required the affirmative vote of either six (6) members of the council OR five (5) council members plus the Mayor. This alternative required an amendment to Chapter 2 Section 2.07 which currently states the Mayor has a vote only in the case of a tie vote of the council members. This option is somewhat of a compromise between the majority and the super-majority options. It addresses any concern raised by the super-majority requirement allowing three (3) council members to block proposals brought before the City Council and it addresses concerns that requiring a majority is not stringent enough.

# MEMORANDUM

**TO:** Moorhead Charter Commission  
**FROM:** Sarah M. Wear  
**DATE:** August 26, 2014  
**RE:** Sections 2.07, 3.03, 3.04 and 3.07 of the Moorhead Charter



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## I. INTRODUCTION

The Moorhead Charter Commission requested information on a possible change to Section 3.04 of the Moorhead City Charter, which currently contains super majority voting requirements (three-fourths of the Council must vote in favor) for a number of items. The Commission requested modification to the voting requirements by (1) giving the Mayor the right to vote and (2) modifying the super majority voting requirements to a majority requirement. This requested change also would require changes to Sections 2.07, 3.03 and 3.07 to give the Mayor voting power. This memo sets forth the current Charter language and illustrates the requested changes.

## II. CHARTER SECTION 3.04

The Moorhead City Charter, Section 3.04 currently states:

Section 3.04. Ordinances And Resolutions. Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of council members on any action taken shall be recorded in accordance with law. Except as otherwise provided in this charter, an affirmative vote of a majority of all the members of the council shall be required for the adoption of ordinances and for the payment of preauthorized expenditures. Resolutions may be adopted by an affirmative vote of the majority of a quorum, **except that every ordinance or resolution involving the appropriation or disposition of public property, the expenditure of public money, levying any tax or assessment, creating any liability, awarding or approving any contract for the payment of money, or ordering any condemnation of private property shall require a three-fourths vote of all members of the council;** provided, however, that the adoption and approval of the regular payroll of city employees shall only require majority vote of the members of the council present.

(Emphasis added).

This section currently creates a super majority voting requirement (three-fourths of the City Council) for several items.

The proposed changes to Section 3.04, which would amend the three-fourths voting requirement to a majority voting requirement and to allow the Mayor to be included in the vote, are reflected below:

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Section 3.04. Ordinances and Resolutions. Except as otherwise provided in this charter, all legislation shall be by ordinance. The votes of the mayor and council members on any action taken shall be recorded in accordance with law. Except as otherwise provided in this charter, an affirmative vote of a majority of all the members of the council shall be required for the adoption of ordinances, resolutions, and for the payment of preauthorized expenditures. ~~Resolutions may be adopted by an affirmative vote of the majority of a quorum, except that every ordinance or resolution involving the appropriation or disposition of public property, the expenditure of public money, levying any tax or assessment, creating any liability, awarding or approving any contract for the payment of money, or ordering any condemnation of private property shall require a three-fourths vote of all members of the council;~~ provided, however, that the adoption and approval of the regular payroll of city employees shall only require majority vote of the members of the council present. For purposes of this section, the mayor is considered a voting member of the council.

The changes noted above reflect the proposed change requiring a majority vote of the mayor and the members of the council for all resolutions and ordinances, with the exception of regular payroll for city employees, which would require a majority vote of the mayor and members of the council present.

### II. CHARTER SECTION 2.07

The changes noted above would give regular voting rights to the Mayor. This change to Section 3.04 in turn requires a change to Sections 2.07, 3.03 and 3.07 in order to properly give the Mayor the right to vote.

The Moorhead City Charter Section 2.07 currently states:

Section 2.07. The Mayor. The mayor is a member of the council for purposes of presiding at its meetings. The mayor may not vote on matters before the council unless there is a tie vote of the council members, in which case the mayor may vote. The mayor may appoint council committees. The mayor may not serve on a council committee unless such service is approved by a unanimous vote of all council members. The mayor is the head of the city government for ceremonial purposes, for the purpose of service of civil process, and for purposes of martial law. The mayor has no administrative duties.

The proposed change would allow the Mayor to vote on ordinances and resolutions as a member of the council. These proposed changes to the Moorhead City Charter, Section 2.07 are reflected below:

Section 2.07. The Mayor. The mayor is a member of the council for purposes of presiding at its meetings. The mayor may ~~not~~ vote on all matters before the council ~~unless there is a tie vote of the council members, in which case the mayor may vote.,~~ but may not cast an additional vote in case of a tie vote of the council. The mayor may appoint council committees. The mayor may not serve on a council committee

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unless such service is approved by a unanimous vote of all council members. The mayor is the head of the city government for ceremonial purposes, for the purpose of service of civil process, and for purposes of martial law. The mayor shall sign all resolutions and ordinances duly adopted by the council. The mayor has no administrative duties.

The changes noted above give the Mayor the right to vote on all items before the council, whereas the Mayor previously was permitted to vote only in the case of a tie vote of the council. The provision inserted stating the Mayor is to sign resolutions and ordinances adopted by the council is based on the removal of Section 3.07 (discussed below).

### III. CHARTER SECTION 3.03

A change to Section 3.03 would be required to eliminate the reference to the voting restrictions for the Mayor imposed by Section 2.07 which are no longer in place under this proposal.

The Moorhead City Charter Section 3.03 currently states:

Section 3.03. Rules of Procedure. The council determines its own rules and order of business. A majority of the council members constitutes a quorum, but a smaller number may adjourn from time to time. The council may by rule provide a means by which a minority may compel the attendance of absent members. For voting purposes, the council is composed of the two council members for each of the four wards of the city, and the mayor may vote only as provided in section 2.07.

The proposed changes to the Moorhead City Charter, Section 3.03 are reflected below:

Section 3.03. Rules of Procedure. The council determines its own rules and order of business. A majority of the council members constitutes a quorum, but a smaller number may adjourn from time to time. The council may by rule provide a means by which a minority may compel the attendance of absent members. For voting purposes, the council is composed of the two council members for each of the four wards of the city, and the mayor ~~may vote only as provided in section 2.07.~~

### IV. CHARTER SECTION 3.07

The proposed changes giving the Mayor voting power would conflict with the provisions contained in Section 3.07. The terms of the current Section 3.07 give the Mayor the power to object to an ordinance or resolution that has been passed by the council. Given the modifications outlined above, if this section were to remain, the Mayor would in essence have two votes. Therefore, Section 3.07 would need to be deleted.

The Moorhead City Charter Section 3.07 currently states:

Section 3.07. Ordinance and Resolutions; Approval by Mayor. An ordinance or resolution adopted by the council must be promptly presented to the mayor for

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approval. The mayor approves the ordinance or the resolution by signing it and filing it with the clerk. If the mayor does not file the signed ordinance or resolution with the clerk within seven days of adoption, the ordinance or resolution is deemed approved. If the mayor does not approve the ordinance or resolution, the mayor must return it to the clerk, who must present it, together with the mayor's written objections, to the council at its next regular meeting or at a special meeting called for the purpose of reconsidering the ordinance or resolution. At that meeting the vote by which the ordinance or resolution was adopted is deemed to be reconsidered. If, upon reconsideration, six of the council members approve the ordinance or resolution; it is adopted notwithstanding the mayor's disapproval. The vote of each council member on the reconsideration of an ordinance or resolution must be recorded by the clerk. If an ordinance or resolution is adopted in the absence of the mayor, the mayor pro tem must approve the ordinance or resolution and the official minutes of the council's action, but the mayor must approve or disapprove the ordinance in accordance with this section.

Since the proposed changes would give the Mayor a vote in the process of adopting ordinances and resolutions, the provision for giving the Mayor a right to approve or not approve an ordinance or resolution is no longer consistent with the other terms of the City Charter. The sentence added to the end of Section 2.07 above incorporates the signature requirement of the Mayor on all resolutions and ordinances duly adopted by the council, but no longer carries with it the requirement that the signature indicates approval by the Mayor of the resolution or ordinance.

### V. CONCLUSION

The Moorhead Charter Commission requested additional information on the proposed amendments to the City Charter as set forth above related to voting and voting requirements. The City of Moorhead has the authority to amend its Charter to reflect voting requirements consistent with state law. Any amendment to the Moorhead City Charter can be proposed by the Moorhead City Charter Commission.

# MEMORANDUM

**TO:** Moorhead Charter Commission  
**FROM:** John T. Shockley  
**DATE:** November 13, 2014  
**RE:** Historical Composition of Moorhead's City Council



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## QUESTION

How many members composed the Moorhead City Council under previous versions of the Moorhead City Charter?

## SHORT ANSWER

Under the 1881 "Charter and Ordinances of the City of Moorhead," seven (7) members composed the Moorhead City Council: the mayor and six (6) aldermen. Thereafter, under all subsequent charters, nine (9) members composed the Moorhead City Council: the mayor and eight (8) aldermen. In all instances, the Moorhead charters provided that two (2) aldermen should be elected from each ward. In 1881, the City had only three wards (and thus, only six (6) aldermen), but thereafter, the City had four wards (and thus, eight (8) aldermen).

## DISCUSSION

Below is an overview of the key provisions in the previous versions of the Moorhead City Charter that relate to the composition of the Moorhead City Council:

- 1881:** This initial charter document provided that "[t]he mayor and aldermen shall constitute the city council..." *Chapter 4, Section 1*. Further, "[t]he elective officers of each ward shall be two (2) aldermen, who shall be owners of real estate and residents within and qualified voters of the ward for which they may be elected." *Chapter 2, Section 2*. In addition, "[s]aid city of Moorhead shall comprise and is hereby divided into three (3) wards..." *Chapter 1, Section 3*. Thus, under this document, the seven (7) total members composed the Moorhead City Council: the mayor and six (6) aldermen.
- 1900:** Beginning with the 1900 charter document, although the composition of the Moorhead City Council remained the same, the total number of wards increased to four, thereby increasing the number of aldermen on the Council to eight. The charter still provided that "[t]he legislative power of the city shall be vested in a council, which shall be

composed of the mayor and aldermen.” *Chapter IV, Section 63*. Further, “[t]here shall be elected in the city of Moorhead a mayor [and] two members of the council from each ward, who shall be known as aldermen . . .” *Chapter II, Section 5*. However, the charter now provided that “[t]he city of Moorhead is hereby divided into four wards . . .” *Chapter I, Section 3*. Thus, under this charter, nine (9) total members composed the Moorhead City Council: the mayor and eight (8) aldermen.

- 1947:** The composition of the 9-member Moorhead City Council did not change with the adoption of the 1947 charter. *See Chapter IV, Section 54; Chapter II, Section 5; and Chapter I, Section 3*.
- 1952:** The composition of the 9-member Moorhead City Council again remained unchanged with the adoption of the 1952 charter. *See Chapter IV, Section 54; Chapter II, Section 5; and Chapter I, Section 3*.
- 1967:** The composition of the 9-member Moorhead City Council remained the same with the adoption of the 1967 charter. *See Chapter IV, Section 54; Chapter II, Section 5; and Chapter I, Section 3*.
- 1978:** Finally, the Moorhead City Council remained a Council of nine (9) members with the adoption of the 1978 charter. Specifically, it provided that “[t]he council shall be composed of the Mayor and two Aldermen from each of the four wards of the city.” *Chapter 2, Section 2.03*.