



CHARTER COMMISSION MEETING AGENDA

June 04, 2014 - 8:00 AM

City Hall Boardroom

Call to Order

Roll Call

Approval of Minutes

1. March 19, 2014 Meeting Minutes

Reports of the Chair, Officers, Commissions and Committees

Public Comment

Unfinished Business

New Business

2. City Council Voting Requirements
3. Board & Commission Term Limits

Adjourn



**City of Moorhead
Charter Commission
Meeting Minutes
March 19, 2014 at 8:00 AM
City Hall Boardroom**

Roll call of the members was made as follows:

Board Member:	Eldon Wollman	Present
Board Member:	Russ Hanson	Present
Board Member:	Francine Gilmore	Absent
Board Member:	Ken Tangen	Present
Board Member:	Jim Danielson	Present
Board Member:	Darvin Landa	Present
Board Member:	James Steen	Present
Board Member:	Athena Gracyk	Absent until 8:10 am
Board Member:	Ronald Hagemann	Present until 8:38 am
Board Member:	Tom Krabbenhoft	Absent
Board Member:	Doug Fagerlie	Present
Board Member:	Yoke-Sim Gunaratne	Present
Board Member:	Richard Bolton	Absent

Call to Order

Roll Call

Approval of Minutes

1. December 11, 2013 Charter Commission Minutes

Minutes: Jim Danielson noted the correction of roll call, Darvin Landa was present.

Motion to approve minutes of December 11, 2014 as amended by Fagerlie seconded by Steen; motion approved by unanimous vote.

Reports of the Chair, Officers, Commissions and Committees

Minutes: James Steen would like to discuss the Council policy on limiting terms on Boards and Commissions at the next Charter Commission Meeting.

Kenneth Tangen would like to discuss Council voting requirements at the next Charter Commission Meeting as well.

2. Introduction of New Member/Administer Oath of Office

Public Comment

Unfinished Business

3. Role of Legal Counsel in Relations to Charter Commission

Minutes: Ken Tangen proposed the question to John Shockley "if there is a conflict of interest, would he step down?" Charter Commission members are pleased with the City Attorney's performance.

Motion to approve John Shockley as Legal Advisor, if a conflict of interest is at stake, the Charter Commission can retain a different attorney at any time by Danielson seconded by Hagemann; motion approved by unanimous vote.

New Business

4. Approval of Moorhead City Charter Commission 2013 Annual Report

Minutes: Russ Hanson introduced the City Charter Commission Annual Report.

Motion to strike "some of the stated reasons that there was not support for the proposed amendment were as follows by Danielson seconded by Hagemann; motion approved by unanimous vote.

5. Set 2014 Meetings of the City Charter Commission

Minutes: Russ Hanson recommended meeting the first Wednesday in June, September, December, and March at 8:00 am.

Motion to recommend meeting the first Wednesday in June, September, December, and March at 8:00 am by Tangen seconded by Landa; motion approved by unanimous vote.

6. Election of Officers: Chair, Vice Chair, Secretary

Minutes: James Danielson and Eldon Wollman suggested sending something on behalf of the Charter Commission to Richard Bolton.

Secretary: Motion to recommend Ronald Hagemann by James Danielson seconded by Landa; motion approved by unanimous vote.

Vice Chair: Motion to recommend Doug Fagerlie by Tangen seconded by Steen; motion approved by unanimous vote.

Chair: Motion to recommend Russ Hanson by Danielson seconded by Landa; motion approved by unanimous vote.

Adjourned at 8:45 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



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 City Charter Committee

FROM: John T. Shockley and Erin F. Musland

DATE: May 30, 2014

RE: Charter Amendment Setting Term Limits for Moorhead Public Service Commissioners



Moorhead Public Service Commissioners are appointed by the Moorhead City Council, pursuant to Chapter 12 of the Moorhead City Charter. The City Charter does not set a limit on the number of terms a Moorhead Public Service Commissioner may serve. Instead, Section 12.03 of the City Charter provides that Commissioners shall be appointed for terms of three years and shall “serve until their successors are appointed and qualify.”

By resolution, the Moorhead City Council has determined that no citizen appointed by the City Council may serve for more than two consecutive terms, with the exception that citizens appointed to complete unexpired terms of other appointees shall be eligible to be appointed for two full terms in addition to serving out the unexpired term. *See* City of Moorhead, Resolution 87-513, I(A)(10).

Because they are appointed by the Moorhead City Council, Moorhead Public Service Commissioners are subject to the two-term limit set by Resolution 87-513. However, a City resolution cannot take precedence over the City Charter, which explicitly requires that Commissioners continue to serve “until their successors are appointed and qualify.” *See* Moorhead City Charter, Section 12.03. Therefore, as the law currently stands, even if a Moorhead Public Service Commissioner has already served two complete three-year terms, the Commissioner may continue to serve until a qualified successor is appointed by the City Council, pursuant to Moorhead’s City Charter.

The Moorhead City Charter Commission has inquired about changing this, by amending Moorhead’s City Charter to include a strict term limitation for Moorhead Public Service Commissioners. Attached is a suggested “Proposed Amendment” to Section 12.03 of the Moorhead City Charter, which adopts language similar to the language used in Amendment XXII to the U.S. Constitution restricting the number of terms a U.S. President may serve, and incorporates the concepts already set forth by Moorhead City Council Resolution 87-513 regarding term limits. Please let us know if the attached Proposed Amendment will work for your purposes. Thank you.

Proposed Amendment to Section 12.03 of Moorhead City Charter

Section 12.03. Commission: membership. Subdivision 1. The commission consists of five commissioners, each appointed for a term of three years. ~~Commissioners serve until their successors are appointed and qualify.~~ No person shall be appointed to the commission for more than two terms, except that a person appointed to the commission to fulfill the remainder of an unexpired term to which some other person was appointed commissioner shall be eligible for appointment for two full terms in addition to serving out the unexpired term. A commissioner must be a resident of the city. Each of four of the commissioners must be a resident of each of the four wards in the city; the fifth commissioner is appointed at large. A change of residence of a commissioner from the ward from which the commissioner is appointed creates a vacancy in the office. A vacancy in office of commissioner is filled by appointment for the unexpired term. The council may by ordinance provide for the compensation of the commissioners.