

**MOORHEAD CHARTER COMMISSION
MEETING MINUTES/NOTES
March 7, 2006**

Members Present: Jeff Frider, Bill Palma, Peter Marinucci, Jay Haiby, Mary Davies, Morrie Lanning, Tammy Norgard, Roger Buscher, Rick Stotts

Members Absent: Laurie Hoium, Larry Nordick, Eileen Hastad, Betsy Vinz

Staff Present: John Shockley, Assistant City Attorney; Ryan O'Keefe, Assistant to the City Manager

Jeff Frider, Chair, called the meeting to order at 7:00 a.m.

A motion was made and seconded to approve the minutes from the February 7, 2006 meeting. The motion was approved by unanimous consent.

A request was made that the agenda be amended to allow the Charter Commission By-Laws Sub-Committee to give their update immediately. No objections were voiced so Chair Frider noted Item 4 as being on the table for discussion.

Commissioner Davies gave a brief update regarding the progress of the Charter Commission By-Laws/Handbook Sub-Committee's work. She then inquired if anyone had suggestions for amending the previously distributed preliminary draft of the Commission by-laws. Commissioner Lanning stated that he would like to explore policies that could limit the number of current City Council members that may serve on the Commission. In addition, he expressed his disapproval of the idea of having the Commission make recommendations to the District Court for the position of Charter Commissioner. Commissioner Davies asked what the opinion of the Commission was on having one- or two-year terms for Commission officers. Chair Frider felt that with the limited number of Charter Commission meetings held each year, two years are necessary for officers to become proficient in their positions. Commissioner Marinucci stated that all points of view should be able to find expression in the Commission. As the composition of the Commission is constantly changing, new commissioners may not have an opportunity to influence the selection of officers if the terms are too long.

Chair Frider directed staff to identify any future Charter Commission By-Laws Sub-Committee updates as Item 3 on the agenda.

The next item discussed was 3-A (Amendment Requests). The first amendment request examined was Question 1, which reads:

Question 1. "Should the Moorhead City Charter be amended to modify language and/or procedures regarding the timing of special elections, especially with respect to recent changes in state law and how such timing may impact Charter provisions relating to

procedures for initiating and/or referring ordinances for voter ratification (local Initiative & Referendum)?”

Several amendment options were presented in a memorandum drafted by Asst. City Attorney Shockley. Commissioner Lanning stated that the language for the first option should specify the first Tuesday after the first Monday as the date to hold a special election in May so that citizens may be able to easily discern upon which dates of the year the City would consent to hold a special election. Commissioner Marinucci argued that the whole issue of timing conflicts regarding special elections could be solved if the period for City Council review of initiated and referred measures was shortened. Asst. City Attorney Shockley stated that the controversial nature of some initiated or referred measures might require extended City Council discussions. Chair Frider felt that shortening the length of time for City Council review of initiated or referred measures would limit dialogue. There was consensus to adopt Commissioner Lanning’s language amendment of option one of Asst. City Attorney Shockley’s memo. The Commission unanimously consented to adopt option one and to move it forward to Council.

The Commission then began discussion of Question 2, which reads:

Question 2. “Should the Moorhead City Charter be amended to include language and/or procedures reflecting implementation of initiated and/or referred ordinances as approved or enacted upon by voters, especially with respect to questions regarding Mayor and City Council authority to subsequently modify, amend, or repeal such ordinances?”

Asst. City Attorney Shockley briefly discussed the details of his memorandum to the Commission that outlined the issues concerning initiatives and referendums, and the advantages and disadvantages of permitting the Council to amend them subsequent to voter approval. Commissioner Norgard moved to amend the City Charter to restrict the City Council from amending initiated measures approved by, or to enact measures successfully referred by, the voters within two years of such approval or referral, unless such amendment or enactment is supported by two-thirds of the Council. Thereafter, it may be amended or repealed in the same manner as other ordinances of the City. Commissioner Stotts seconded the motion. A request was made that the motion be amended to exclude referendums. Both sponsors of the motion agreed to that amendment of their motion. The motion passed, five votes to four, with Commissioners Norgard, Davies, Stotts, Buscher, and Chair Frider voting yea, and Commissioners Lanning, Palma, Marinucci, and Haiby voting nay.

Next, the Commission examined Question 2 strictly in terms of its application to referendums. Commissioner Lanning felt that having different rules for initiatives and referendums would be confusing. Chair Frider asked what the difference was between initiatives and referendums in terms of the concerns raised in Question 2. Commissioner Lanning stated that the unintended consequences of a poorly worded ordinance were more likely to occur from an initiative than

from a referendum. Commissioner Davies made a motion to amend the City Charter using similar language as the amendment just previously approved, but applied in terms of referendums. Commissioner Norgard seconded the motion. The motion passed eight votes to one, with Commissioners Davies, Lanning, Norgard, Buscher, Stotts, Palma, Haiby, and Chair Frider voting yea, and Commissioner Marinucci voting nay.

Commissioner Lanning felt that this discussion highlighted a longstanding concern he's had in regard to confusion over the number of votes required to approve various types of action that may be taken by the Council. He would like to see this topic taken up in the future as a possible charter reform.

Asst. City Attorney Shockley inquired whether the Commission would like him to draft language for the Commission to review, or if they would like him to simply forward the amendments to the City Council for approval. Commissioner Lanning suggested that the language be drafted and mailed to the individual Commissioners. If anyone on the Commission had a concern about the language, they could contact the Chair and express them. Chair Frider suggested that a timeline for commenting on the language be included in the mailing to Commissioners.

The next topic for discussion was Question 3, which states:

Question 3. "Should the Moorhead City Charter be amended to modify language and/or procedures regarding the filling of City Council vacancies?"

Chair Frider directed staff to research examples from other cities as to what methods they employ to fill City Council vacancies and specific timing issues raised by those methods. Commissioner Lanning asked that the possibility of allowing council members to resign after giving prior notice be explored. This would allow time for a special election to be held prior to the vacancy occurring.

Commissioner Haiby inquired as to the current legal status of Charter provisions that would allow for the recall of public officials. It was his understanding that, in the recent past, the procedure was challenged in court. Asst. City Attorney Shockley was directed to research Commissioner Haiby's question and to update the Commission at the April 18th meeting.

The question as to whether Council Members could serve on the Charter Commission is to be added to the next agenda.

The next meeting of the Charter Commission was previously scheduled at the February 7, 2006 meeting for April 18, 2006 at 7:00 a.m. in the City Council Chambers. This meeting was adjourned at 8:30 a.m.