

MOORHEAD CHARTER COMMISSION
MEETING MINUTES/NOTES
April 18, 2006

Members Present: Jeff Frider, Bill Palma, Jay Haiby, Mary Davies, Morrie Lanning, Roger Buscher, Laurie Hoium, Eileen Hastad, and Betsy Vinz

Members Absent: Larry Nordick, Peter Marinucci, Tammy Norgard, and Rick Stotts

Staff Present: John Shockley, Assistant City Attorney, and 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 March 6, 2006 meeting. The motion was approved by unanimous consent.

The next Item discussed was **Item 3. Charter Commission By-Laws/Handbook Subcommittee Update**. Commissioner Davies presented the most recent draft of the document and requested the Commission's input regarding the final draft. Referring to Section III G. of the draft, which addresses vacancies on the Commission, Commissioner Lanning stated that he felt that there was no reason to alter the current method of presenting nominations to the District Court. Commissioner Palma agreed, arguing that nominations originating from outside of the City Council might compromise the even distribution of Commissioners across the wards. Commissioner Haiby suggested allowing the Charter Commission to submit nominations to the District Court. Commissioner Lanning felt that creating more than one route to nomination would generate confusion. However, he was supportive of allowing Commissioners to submit their recommendations to City Council Members. Commissioner Lanning moved to amend the Draft Charter Commission By-Laws, specifically Section III G. "Whenever there are vacancies on the Commission," to include the language:

the City Council shall submit names of eligible nominees to the district court for consideration in making appointments.

The motion was seconded by Commissioner Davies and approved by unanimous consent. Commissioner Lanning inquired as to when the approved Charter Commission By-Laws would come into effect. Specifically, he wanted to know what the implications of the new term-limits for Commission Officers would be for current Officers. Commissioner Davies stated that the by-laws would be effective at the beginning of next year. Commissioner Lanning moved to approve the language presented by Commissioner Davies for the Charter Commission By-Laws with an amendment to Section 5. A. 2. to include at the end of that section:

excluding filling an unexpired term

Betsy seconded the motion and it was approved by unanimous consent. The approved by-laws will be effective at the beginning of 2007.

The next item discussed was **Item 4. City Attorney Updates**. In response to an inquiry at the last meeting, Asst City Atty Shockley updated the Commission on the legal issues surrounding the recall of public officials within the State of Minnesota. He explained that a public official might only be recalled for political malfeasance or nonfeasance, which is a very difficult standard to prove. Commissioner Haiby highlighted Section 2.06 (f) of the City Charter, which makes reference to removal of the mayor or council member from office, and inquired as to how it would operate given the current status of State law in relation to this issue. Asst City Atty Shockley's initial opinion was that its inclusion in the Charter was only meant as a reference to applicable State law. Staff was directed to research the issue further and to update the Commission at the next meeting.

The next item discussed was **Item 5. A. Review of Approved Charter Amendment Language**. Asst City Atty Shockley requested that the Commission consider amending the language approved at the March 6, 2006 meeting that amended Section 5.05 of the City Charter because of possible conflicts with school board elections that were discovered by City Clerk Kaye Buchholz. In addition, Commissioner Lanning gave a quick update on current legislative efforts to set statewide election dates and how it might affect efforts by the City to set available election dates. Commissioner Haiby made a motion to change the language of the approved amendment to Section 5.05 of the City Charter by replacing all occurrences of the phrase "second Tuesday following the First Monday" with the phrase "state wide election date." The motion was seconded by Commissioner Hastad and was approved by unanimous consent. The amended draft of this ordinance was approved for consideration by the City Council.

The next item discussed was **Item 5. B. Amendment Requests**. The last amendment request remaining to be examined by the Commission is **Question 3** which asks:

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

Commissioner Vinz stated that holding elections to fill vacancies is important to her. Commissioner Lanning inquired as to whether it is possible for a Council Member to give notice of their intentions to leave a position vacant, thereby allowing time for an election to be held prior to that vacancy. Asst City Atty Shockley responded that notice could be given to the public informally, but it may be difficult to create a mechanism for formal notice of a future vacancy because it could create an unlawful imposition upon an elected official. Staff was directed to further research the issue and to give the Commission an update at their next meeting. Commissioner Davies stated that holding ward-wide special elections would be her preferred method of dealing with council vacancies. Chair Frider felt comfortable allowing the City Council discretion when filling vacancies. Commissioner Palma voiced his opposition to a

particular method of filling vacancies by which the City Council appoints the recipient of the second highest number of votes in the most recent City Council election in that ward. Commissioner Vinz believed it to be important that the policy for filling City Council vacancies be consistent in its method and application. Commissioner Davies expressed an interest in exploring an application process for filling vacancies. Chair Frider argued that silence by the City Charter on this issue may be preferable. Commissioner Haiby suggested that requiring a super-majority for the approval of City Council appointments may inspire more confidence in the process. Commissioner Lanning agreed, recalling that past appointments made by the City Council were typically consensus decisions. Commissioner Palma felt that the remaining Council Member in the ward experiencing a vacancy should be heavily influential in the appointment process. Commissioner Hoium expressed her concern that the remaining Council Member from the affected ward would likely support a candidate with an ideology similar to their own, whereas the voters within that ward may actually desire a balanced ideological viewpoint. Commissioner Vinz agreed that the City Council and the public may have differing views regarding the characteristics of a desirable candidate for appointment. Asst City Atty Shockley reminded the Commission that they are not required to make any changes to the City Charter concerning City Council vacancies. If the Commission feels comfortable with the current process, then they could inform the City Council that **Question 3** was examined and it was decided that no changes were necessary.

The meeting was adjourned at 8:30 a.m. The next two meetings have been scheduled for May 16, 2006 and June 20, 2006 at 7:00 a.m. in the Chambers.