

Council Proceedings

Joint Work Session with Charter Commission

January 12, 2004

Council Members

Present: Lehmann, Zachman, Hellquist, Johnson, Downs, Erickson, Meuers

Charter Commission

Members Present: Stombaugh, Albrecht, Meuers, Stowe, Hall, McDonnell
Campbell and Guida were excused

Staff Present: Minke, Sherman, Freeberg

Mayor Lehmann called the meeting to order at 5:35 p.m. and noted that the purpose of the meeting was to review some recommendations for amendments to the City Charter and to review the proposed improvement projects for 2004. The meeting was turned over to the Charter Commission, and introductions were made.

CHARTER COMMISSION

Commissioner Albrecht reviewed the role of the Commission, their relationship to the City Council, a review of the bylaws, and the various ways to amend the Charter. She noted that one of the purposes of this work session is to provide some recommendations for amendments to the Charter and to review the reasoning behind those recommendations. Packets of detailed information were provided for review of the following proposed amendments:

Section 2.03 COUNCIL COMPOSITION AND ELECTION. *The council shall be composed of a mayor and six councilpersons who shall be qualified voters and who shall be elected in the manner hereinafter provided. A The mayor and one councilperson shall be elected at large and each shall serve for a term of two years and until his successor is elected and qualified. ~~The other six~~ five councilpersons shall be elected one from each of five wards and one at large. Each shall serve for a term of four years and until their successors are elected and qualified.*

Discussion: Following discussion of the advantages and disadvantages, it was noted that state statute seemed to support a four-year term for at large council positions. Minke explained that there is an Attorney General's advisory opinion that says all councilor positions (including at large) must be four year terms. He also noted however, that there are attorneys (including the City Attorney) who have conflicting opinions. There was no strong opposition from Councilmembers regarding this amendment.

Section 2.05 VACANCIES. *An elective office becomes vacant when the person elected or appointed, or the incumbent thereto, dies before taking office or fails to qualify, resigns in writing filed with the city clerk, is convicted of a felony, ceases to reside in the city or ward from which elected, is absent from three consecutive regular council meetings except for excused absences as defined by a five-sevenths vote of the council, or is adjudged incompetent by a court of competent jurisdiction. In each such case the council shall by resolution declare the vacancy to exist. ~~If no general election is to occur within 120 days after the filing of the resolution, the council shall then call a special election to be held within 60 days of the vacancy resolution, for the purpose of filling said vacancy. In the event that a general election is scheduled within the 120-day time frame, the council seat will be declared vacant until a candidate is elected at the general election. The council shall forthwith appoint an eligible person to fill the vacancy until the next regular municipal election. In the event of a tie, the council shall determine the result by lot from those having the greatest number of votes.~~*

If the council fails to fill the vacancy within 30 days following the declaration of a vacancy, the city clerk shall call for a special election to be held not sooner than 90 days and not later than 120 days following the declaration of the vacancy.

Discussion: It was noted that the recommended process represents an expedient procedure for restoring representation in a ward following a vacancy. Some concerns were expressed that the proposed appointment process would weaken the democratic

process. Erickson stated her belief that this issue should be placed on a ballot for the public to decide.

Section 3.08 SIGNING AND PUBLICATION OF ORDINANCES. *Every ordinance or resolution passed by the council shall be signed by the mayor, attested, filed and preserved by the city clerk. Every ordinance shall be published once in the official newspaper. In the case of lengthy ordinances or ordinances which include maps or charts, if the city council determines that the publication of the title and a summary of the ordinance would clearly inform the public of the intent and affect of the ordinance, the council may by ~~four-fifths~~ five-sevenths of its members direct that only the title of the ordinance and a summary be published with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of city clerk and at any other location which the council designates. To the extent and in the manner provided by law an ordinance may incorporate by reference a statute, state administrative rule or regulation of Minnesota, a code, or ordinance or part thereof without publishing the material referred to in full.*

Discussion: There was general consensus supporting this amendment, however, it was agreed that the vote of the council should be changed to five-sevenths to reflect a strong majority.

Section 6.01 THE CITY MANAGER. *The city manager shall be the chief administrative officer of the city. He shall be chosen by the council solely on the basis of his training, experience, executive and administrative qualifications. ~~He~~ The City Manager need not be a resident of the city, ~~at the time of appointment but may reside outside the city while in office only with the approval of the council.~~ The city council shall appoint the city manager for an indefinite term and may remove him at any time by a majority vote of its members. At least thirty days before such removal becomes effective the council shall by majority vote of its members adopt a preliminary resolution stating the reason(s) for removal. If the manager has served for one year, he may request, prior to the effective date of his removal, a public hearing, which shall be held during a regularly scheduled council meeting not later than thirty days after the filing of such request. After such hearing, if one is requested, the council by majority vote of its members may either reinstate the manager or may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty and shall pay any remaining balance due of his salary and benefits for the month. Council may also choose to allow salary and/or benefits for one more calendar month, not to exceed a total of two calendar months' salary and benefits, after the adoption of the preliminary resolution.*

Discussion: The consensus was to proceed with the amendment, inasmuch as state law prohibits a residency requirement for any employee.

Role of the Police Civil Service Commission:

The Charter Commission recommended transferring the authority for all personnel (including the Police Department) to the City Manager. Resolution No. 04-01 supporting that recommendation as well as establishing a voluntary citizen advisory board to act in an advisory capacity on Police Department related issues was proposed.

Discussion: Consensus was reached to bring this issue forth by resolution at the next council meeting to abolish the Police Civil Service Commission. However, during discussion of the composition of the advisory board, it was agreed that the membership should not include Police Department personnel. Charter Commission members supported that amendment.

Conclusion

Albrecht noted that the Commission intends to continue their review of the charter to make it gender neutral, correct typographical and grammatical errors, and correct inconsistencies with state law. Future recommendations will be presented for council consideration.

Lehmann expressed appreciation to the Charter Commission for their efforts during the past several months.

Following a ten-minute recess, the meeting reconvened.

2004 IMPROVEMENT PROJECTS

Improvement projects proposed for 2004 include the following:

1. Westside Interceptor Sanitary Sewer (From NW Bemidji to Downtown)
2. Park Avenue Storm Sewer (Storm sewers and ponds in area between Paul Bunyan Drive and 30th Street West of Irvine Avenue)
3. Fairview Addition Water & Sewer (26th Street to 30th Street, Park Avenue to Irvine Avenue)
4. Irvine Avenue portion of Cedar Lane Sewer
5. Clausen Avenue Street (one block south of Rako)
6. Middle School Road & 23rd Street
7. Utility inspections in Nymore area (Clean & televise the interior of sanitary and storm sewer pipes and manholes)
8. New Well #7
9. Paint Nymore Water Tank
10. Downtown street overlays (Beltrami Avenue from 2nd to 6th Street plus 2nd 3rd, 4th, 5th & 6th from Minnesota to Bemidji Avenue)
11. 2004 Street Reconstruction/overlay program

Engineer Freeberg provided an overview and status of each project along with cost estimates, and proposed funding mechanisms.

In addition to the projects listed, Freeberg also discussed street reconstruction in the BSU neighborhood, which is estimated to cost approximately \$2,200,000. This project was not included in the list because the city has insufficient funds. In lieu of this project, it was recommended that the city focus on overlaying as much street as possible to protect it from the need to reconstruct in the near future. Connected to the BSU reconstruction project is the planned 2007 Mn/DOT reconstruction of Paul Bunyan Drive, and it was noted that there are utility improvements the city should make prior to the Mn/DOT project.

Discussion followed regarding funding of street improvements and it was noted that the city has the opportunity to bond outside the levy limit for street improvements.

Consensus was reached to move forward with the proposed project schedule using the recommended funding mechanisms and to consider a bond issue to do the overlay project in 2004.

ADJOURN

There being no further business presented for discussion at this time, the meeting was adjourned 8:40 p.m.

Respectfully submitted,

Shirley Sherman, City Clerk