

CHARTER COMMISSION

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Wednesday, July 13, 2022 @ 5:00pm

The public is invited to attend this meeting in person

Meeting is also streamed live on YouTube: www.youtube.com/CityOfBrainerdMN

1. Call To Order

2. Roll Call

___ K. Bevans ___ J. Burton ___ J. Czczok ___ J. Lambert

___ M. O'Day ___ A. Shipe ___ K. Yeager

3. Approval/Amendment Of Agenda

4. Old Business

4.A. Discussion On Ordinance 1532

Documents:

Ordinance 1532 Agenda Item.pdf

4.B. Discussion On Ordinance 1533

Documents:

Ordinance 1533 Agenda Item.pdf

5. Commissioner Comments

6. Adjourn

MEMO



TO: Charter Commission Members

FROM: City Administrator, Jennifer Bergman
Finance Director, Connie Hillman

DATE: July 8, 2022

RE: Discussion on Charter Ordinance 1532

The Council considered Ordinance 1532 regarding the proposed changes to the Charter (see attached). In order to amend the Charter by Ordinance, the Charter Commission must propose the changes and the City Council must vote unanimously on the Ordinance. This ordinance failed on a 4-3 vote.

This Ordinance combined several amendments as proposed by the Charter Commission:

- 1) Chapter One, Section 2 – removing the written description of the Wards and replacing it with “The City shall be divided into four wards in accordance with state law.”
- 2) Chapter Two, Section 14 – changing the elections of President and Vice-President to the first meeting in January as opposed to the first meeting of the City Council after the regular City election.
- 3) Chapter Two, Section 36 – adding this section to address special assessments
- 4) Chapter Three, Section 2 – eliminating the majority of the language in the Permanent Improvement Fund and replacing it with Chapter Two, Section 36.

Councilmember Stenglein did state during the meeting that she will be voting no because there are too many changes in one ordinance and that these should be considered separately.

Staff is recommending that we divide this into three ordinances: 1) Items 1 and 2 above; 2) Item 3 above; and, 3) Item 4 above.

Recommendation: Direct staff to divide Ordinance 1532 into three separate ordinances to be brought back to the City Council for consideration.

ORDINANCE

No. _____

AN ORDINANCE AMENDING THE CITY CHARTER

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Chapter One is amended as follows, with underlined language added and deleted language struck out.

CHAPTER ONE

NAME, BOUNDARIES, POWERS AND DIVISIONS

2. The City shall be divided into four wards in accordance with state law. ~~That the Council be empowered to divide the City of Brainerd by ordinance into four (4) wards as equal in size and population as practicable. The Council must, within 60 days after each U.S. decennial census, readjust the boundaries of the four (4) wards provided there is a 10% or more deviation in population among said wards and if the Council does not do so, the Charter Commission of the City of Brainerd is empowered to do so.~~
 - d. ~~FIRST WARD: All of the territory south of the main line of the Burlington Northern Santa Fe Railroad and east of the Mississippi River beginning at the mainline railroad tracks and following said River south to the south City limits/Woodland Hills Lane, thence east to Greenwood Street, thence south to the centerline of the South 6th Street/Business Highway 371, thence northeast to the centerline of County Road 117, thence east to the centerline of the Spur Line Trail, thence north to the centerline of Willow Street, thence west to the centerline of South 6th Street/Business Highway 371, thence north to the centerline of Rosewood Street, thence east to the centerline of South 7th Street, thence north to the centerline of Quince Street, thence east to the centerline of the Spur Line Trail, thence north to the mainline railroad tracks of the Burlington Northern Santa Fe Railroad, thence west to the Mississippi River to the point of beginning.~~
 - b. ~~SECOND WARD: All of the territory within the City limits west/northwest of the Mississippi River, and, southeast of the Mississippi River commencing at the intersection of the centerline of the Mississippi River and the main line of the Burlington Northern Santa Fe Railroad, thence east along the railroad tracks to the centerline of North 8th Street, thence north to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to the centerline of Grove Street, thence east to the centerline of North 11th Street, thence north along North 11th Street to the centerline of Evergreen Avenue, thence northeast to the Public Access driveway, thence north along the driveway to the centerline of the Mississippi River.~~

- ~~c. THIRD WARD: All of the territory north of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of North 8th Street, thence north along North 8th Street to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to center line of Grove Street, thence east to the centerline of North 11th Street, thence north to the centerline of Evergreen Avenue, thence northeast to the Public Access Driveway, thence north along the driveway to the centerline of the Mississippi River, thence northeasterly along the centerline of the Mississippi River to the east City limits.~~
- ~~d. FOURTH WARD: All of the territory South of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of the Spur Line Trail, thence south to the centerline of Quince Street, thence west to the centerline of South 7th Street, thence south to the centerline of Rosewood Street, thence west to the centerline of South 6th Street/Business Highway 371 thence south to the centerline of Willow Street, thence east to the centerline of the Spur Line Trail, thence south to the centerline of County Road 117, thence west to the centerline of South 6th Street/Business Highway 371, thence south to the south City limits.~~

SECTION TWO: Chapter Two is amended and renumbered as follows, with underlined language added and deleted language struck out.

CHAPTER TWO

OFFICERS AND ELECTIONS

14. At the first meeting in January of the City Council after the regular City election it shall proceed to elect by ballot from its members ~~number~~ a President and Vice-President. The President shall preside over the meetings of the City council and appoint all standing and temporary committees thereof, and during absence of the Mayor from the City, or the Mayor's inability for any reason to discharge the duties of the office, the said President shall exercise all the powers and discharge all the duties of the Mayor.
- ~~36.~~ The City Council may at its discretion defer payment of certain special assessments for street improvements as defined in Chapter 429 of the Minnesota Statutes where a financial hardship exists. The Council shall by Ordinance or Resolution define the circumstances wherein such deferments may be made.
- ~~36-37.~~ No appropriation shall be made without a vote of a majority of all the members of the City Council in its favor, which shall be taken by ayes and nays vote, and entered among the proceedings of the Council. No vote of the City Council shall

be reconsidered or rescinded at any meeting unless there shall be present at such meeting as large a number of Council Members as were present when said vote was originally taken.

37-38. The City Council shall examine, audit, and adjust the accounts of the City at such times as it deems proper or as otherwise required by law.

38-39. The City Council shall have the power to make purchases on behalf of the City and may make purchases through such methods or designees as the Council may determine from time to time by Ordinance or Resolution. The provisions of this section shall not apply to purchases made by, or on behalf of the Public Utilities Commission or the Park Board or the departments under their control respectively.

SECTION THREE: Chapter Three is amended and renumbered as follows, with deleted language struck out.

CHAPTER THREE

FINANCES

2. Except as otherwise provided herein, all disbursements shall be made by check or electronic transfer. Checks shall be signed by the Mayor and countersigned by the City Administrator. All payments are to be reviewed and approved by the City Council.

The City Council shall annually levy taxes to provide for the following specifically designated fund:

A PERMANENT IMPROVEMENT FUND, for paying such portion of the cost of improving streets and alleys as shall devolve upon the City, under the provisions of ~~Subdivision (11) of this Section 46~~. For the support of this fund the City Council shall annually levy on taxable property of the City taxes to an amount not to exceed 9% of the City's previous year's total levy. No part of this fund shall be used for any other purpose. ~~In anticipation of the collection of such taxes for the then current year and succeeding years, the City Council may at the proper time, and from time to time, issue and dispose of certificates of indebtedness in an aggregate amount equal to eighty (80) per cent of such levy in the then current year and estimated amount for not more than ten succeeding years;; provided, that the issuable aggregate of such certificates of indebtedness shall at no time exceed the sum of money then in the permanent improvement revolving fund under the provisions of Section 49 of the City Charter, as herewith amended, together with the additional amount of bonds that may or can be issued thereunder, added to the total of cash payments guaranteed by bonds of owners of real property abutting on such or similar street or alley improvements. These certificates shall be known as Re-paving Certificates of Indebtedness, and on~~

~~every one shall be stated the particular purpose for which it is issued or describe the specific improvement on which it is based. Such certificates shall be consecutively numbered, with date of issue, date of maturity, bear interest, payable semi-annually, have proper interest coupons attached, be signed by the Mayor, countersigned by the City Administrator, and be attested by the corporate seal; and, so far as practicable, shall be in denominations of not less than \$500.00. Whenever occasion arises for the issuance of such repaying certificates, it shall be the duty of the City Council to make requisite calculations, computations and estimates with respect to the quantity and various times of collection of taxes so levied and to be levied, and thereupon, as the circumstances may require, to issue and sell one or more of such certificates. All such certificates shall be so issued as to mature serially, on proper dates, to the end that eighty (80) per cent of the estimated tax collection for this fund in each and every year will pay the certificates as they mature, and succeeding issues shall appear in regular order following previously issued certificates; and whenever there is an unused or unappropriated margin of such eighty (80) per cent of the estimated tax collection for this fund, over and above the aggregate amount of all such certificates theretofore issued, then and under such circumstances the earliest maturing certificates of the next succeeding issue shall be made to mature at such times and in such manner as to assure payment thereof out of, and at the time of collection of, such prior unused or unappropriated margin of such eighty (80) per cent of such estimated tax collection. If in any year the taxes collected for this fund shall not be sufficient to pay the certificates maturing in that year, the deficit shall be paid from the general fund. The earliest maturing certificates of the first issue hereunder shall mature on the first day of December in the year following the year of their issuance, and the other certificates in such issue, to mature later and serially, shall be distributed in succeeding serials and follow in such order of maturity that eighty (80) per cent of the estimated tax collections, year by year, will pay such certificates in each and every year thereafter. Neither the City Council nor any officer of the City shall in any year appropriate, expend or disburse any part of this fund, or do any other act therewith, at such time or in such manner as to render the available balance thereof insufficient to pay, when due, the certificates maturing in that particular year. The City Council shall, at the proper time, and from time to time, prepare for every issue and sale of such re-paving certificates of indebtedness by appropriate resolution setting forth in sufficient detail the date of issuance, number or quantity, specific denominations, and various dates of maturity thereof, the rate of interest thereon, and the nature or character, location, extent, and approximate total cost of the particular improvement on which the same are founded. The sale of such certificates of indebtedness shall be made, conducted, and carried on in the manner provided for sales of bonds under the certain provisions of section 49 of the City Charter, as herewith amended; provided, further, that no certificate shall be sold for less than par and accrued interest.~~

SECTION FOUR: Chapter Five – Streets – is repealed in its entirety. Chapter Six – Public Utilities Commission – is renumbered as Chapter Five. Chapter Seven – The Park and Recreation Board – is renumbered as Chapter Six. Chapter Eight – Public Library Board – is renumbered as Chapter Seven. Chapter Nine – General Provisions – is renumbered as Chapter Eight.

SECTION FIVE: Upon passage, this ordinance becomes effective 90 days after its publication.

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

MEMO



TO: Charter Commission Members

FROM: City Administrator, Jennifer Bergman
Finance Director, Connie Hillman

DATE: July 8, 2022

RE: Discussion on Charter Ordinance 1533

The Council considered Ordinance 1533 regarding the proposed changes to the Charter which was the ordinance eliminating Sections 3, 4 and 5 of Chapter Three (see attached). In order to amend the Charter by Ordinance, the Charter Commission must propose the changes and the City Council must vote unanimously on the Ordinance. The vote failed on a 3-4 vote.

I have been asked by a couple of Charter Commission members about the history of the allocations for Brainerd Community Action, The Center and the Northland Arboretum. Attached is a history timeline. In addition, the Commission wanted to know how much each organization has received since they began receiving the mill levy (see attached).

I have also been asked about the process to place something on the ballot for a referendum. According to City Attorney Joe Langel a charter commission may propose amendments to the charter to be placed on a ballot. This request must be submitted at least 17 weeks in advance of the general election which would have needed to be done by July 12th to meet the deadline for the 2022 general election (see attachment Minnesota Statutes 410.12, Subd. 1). A charter commission may propose the form of the question; however, the form shall be fixed by the governing body (410.12, Subd. 4).

Action Requested: Discuss what next steps, if any, the Charter Commission would like to take.

ORDINANCE
No. _____

AN ORDINANCE AMENDING THE CITY CHARTER

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Chapter Three is amended as follows, with deleted language struck out.

CHAPTER THREE

FINANCES

3. ~~That annual amount to be levied for general taxation in any year for all said funds shall not exceed the amounts as established by state statute. There shall be a levy of 1.5% of the previous year's total City levy for an entity within the city limits of Brainerd to provide community action programs and events.~~
4. ~~There shall be a levy of 1.5% of the previous year's total City levy for the establishment and maintenance of a program for the benefit of senior citizens or to a subsidized non-profit senior citizens organization within the city limits of Brainerd.~~
5. ~~There shall be a levy of 1.5% of the previous year's total City levy an arboretum or green space organization within the city limits of Brainerd.~~

SECTION TWO: Upon passage, this ordinance becomes effective 90 days after its publication.

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Charter Contributions History/Timeline

Year	Organization	Action	Outcome
1976	Community Action	City Referendum	Passes
1976	Arboretum	County Referendum	Fails
1978	Arboretum	County Referendum	Fails
1982	Senior Citizen Program	City Referendum	Passes
1989	Arboretum	Council discusses one-time payment to the Arb of \$2,000	Approved
1990	Arboretum	Council discussed contribution of \$2,500 to Arb for composting site	Denied
1995	Arboretum	Council considers first right of refusal for the Beal land if the Arboretum were to meet its demise	Approved
1995	Arboretum	Council considers special use deed with the Arb for the former city dump site	Approved
2000	Arboretum	Council considers annexation of part of the Arb to allow for the Charter Commission to include the Arb into the Charter	Approved
2001	Arboretum	Consider Charter amendment to include a contribution to the Arb in the Charter	Approved

History of Mill Levied

<u>Year Collected</u>	<u>Community Action</u>	<u>Senior Center</u>	<u>Arboretum</u>
1977	\$ 13,000		
1978	13,250		
1979	13,500		
1980	14,750		
1981	16,400		
1982	17,601		
1983	21,143	\$ 21,143	
1984	22,898	22,898	
1985	22,966	22,966	
1986	23,880	23,880	
1987	24,707	24,707	
1988	25,655	25,655	
1989	25,655	25,655	
1990	25,500	25,500	
1991	26,000	26,000	
1992	26,800	26,800	
1993	26,800	26,800	
1994	16,359	16,359	
1995	16,270	16,270	
1996	20,059	20,059	
1997	30,850	30,850	
1998	29,252	29,252	
1999	40,500	40,500	
2000	45,703	45,703	
2001	48,125	48,125	
2002	54,678	54,678	
2003	60,146	60,146	\$ 60,146
2004	69,896	69,896	69,896
2005	78,773	78,773	78,773
2006	89,486	89,486	89,486
2007	99,146	99,146	99,146
2008	103,404	103,404	103,404
2009	106,919	106,919	106,919
2010	108,198	108,198	108,198
2011	101,706	101,706	101,706
2012	83,500	83,500	83,500
2013	76,236	76,236	73,236
2014	76,998	76,998	76,998
2015	77,383	77,383	77,383
2016	80,788	80,788	80,788
2017	83,131	83,131	83,131
2018	84,794	84,794	84,794
2019	87,338	87,338	87,338
2020	91,879	91,879	91,879
2021	100,516	100,516	100,516
2022 Total to be Paid	95,685	95,685	95,685
Grand Total	\$ 2,418,221	\$ 2,329,720	\$ 1,752,921
^^ 2022	106,346	106,346	106,346
** 2022	91,997	91,997	91,997

^^ Old Language

** New Language

410.12 AMENDMENTS.

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of)
) ss.
County of)

..... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed

(Signature of Circulator)

Subscribed and sworn to before me

this day of

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

Subd. 3. May be assembled as one petition. All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Subd. 4. Election. Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

Subd. 5. Amendments proposed by council. The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

Subd. 6. Amendments, cities of the fourth class. The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

History: (1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43