

**CITY OF LINO LAKES
CHARTER COMMISSION**

DATE : January 11, 2001
TIME STARTED : 7:05 P.M.
TIME ENDED : 10:25 P.M.
MEMBERS PRESENT : Dahl, Trehus, Bening, Sullivan, Aldentaler, Zych,
G. Lane, DeMotts, Christopherson, Rafferty, and
Carlson
MEMBERS ABSENT : Rehbine, S. Lane, Montain, and Zastrow
STAFF MEMBERS PRESENT : Linda Waite Smith and John Powell

COUNCIL MEMBERS PRESENT: Carlson, Dahl, O'Donnell, Reinert, and Mayor
Bergeson

CALL TO ORDER AND ROLL CALL

Chair Sullivan called the regular meeting of the Lino Lakes Charter Commission to order at 7:05 p.m. on January 11, 2001.

It was noted that all absences were excused except for Commissioner Zastrow.

APPROVAL OF MINUTES

October 12, 2000

Motion by Commissioner Bening, seconded by Commissioner Carlson, to accept the Charter Commission minutes of October 12, 2000.

Commissioner Rafferty stated the minutes indicate his absence was not excused. He stated the Commission needs to nail down the proper people to call regarding an absence. He stated he called three (3) members of the Commission to inform them of his absence. He stated he needs clarification for possible absences in the future.

Chair Sullivan stated Commissioners must call an Officer regarding an absence. The City Clerk is not an Officer of the Commission.

Commissioner Rafferty asked if the Commission has an opinion from the City Attorney regarding this issue. He stated the Commission needs to be specific on whom to call. He asked if the Commission specifically stated Commissioners must call an Officer.

Chair Sullivan advised the Commission can obtain a legal opinion from the City Attorney.

Commissioner Christopherson stated it was made clear at the April 2000 meeting that an Officer must be notified. However, the policy is not stated in the by-laws.

Commissioner Rafferty stated the absence policy needs to be included in the member's packets so there is no confusion.

Council Member/Commissioner Dahl stated she would like to table the minutes until later in the meeting.

Commissioner Bening withdrew his motion. Commissioner Carlson withdrew his second.

MOTION by Commissioner Bening, seconded by Commissioner Lane, to table the October 12, 2000, minutes until later in the evening. Motion carried.

REPORTS OF THE CHAIR

Joint Council/Charter Meeting (Road Reconstruction, Clerk/Treasurer position as referenced in the Charter, Five Year Plan Review) – Commissioner Zych stated the Commission spends a lot of time spinning its wheels and never seems to get anywhere. He referred to the agenda for the joint meeting and stated the Commission is working on things it has no jurisdiction over. He stated the Commission is not responsible for road reconstruction or the Five Year Plan. The Charter indicates the City must have a Five Year Plan. He referred to the file cabinet as another example. He stated he is happy to be on the Commission but is very frustrated. He referred to the State law regarding the duties of the Commission. He stated the welcome letter should be done by the City. He indicated the Commission needs direction about what they should be doing.

Commissioner Trehus stated he does not feel that the Commission needs direction from the Council. The Commission is a separate entity from the Council.

Chair Sullivan stated the issues on the agenda was approved by the majority of the Commission. He referred to an opinion from the City Attorney that indicated the Commission is doing their job.

Commissioner Trehus stated road reconstruction is driven by the Charter. He stated it is the responsibility of the Commission to make sure the Charter and the City are working. The City is not in compliance with the Charter if it does not have a Five Year Plan.

Commissioner Zych asked whether the Charter or State Statue law precedes relating to the issues.

Chair Sullivan stated the Commission are custodians of the charter. Part of the Charter is the Five Year Plan. He noted the Commission will not approve the Five Year Plan but review it for compliance.

Commissioner Zych asked where it says the Commission should review the Five Year Plan.

Commissioner Carlson stated the Commission has to make sure the City has a Five Year Plan. The Commission and the Council need communication regarding road reconstruction.

Council Member Carlson stated she is also interested in the City Attorney's opinion. She indicated she does believe in communication between the Commission and Council.

Chair Sullivan advised the Commission will make sure the Five Year Plan includes what it should. Road reconstruction has been on the Charter's agenda for quite some time from the result of a joint meeting with the Council. It was indicated at that meeting that the City can not use General funds to fix roads.

Commissioner Zych stated the Commission should then be amending the Charter.

Commissioner Trehus asked why the City does not have a fund in place for road reconstruction. He stated it is easier to go to the voters if the City already had dollars in place for a project.

Mayor Bergeson stated that it is an accounting procedure and he believes it is beyond the scope of the Commission or Council. It is up to the finance people. The rules are set up by State law. It is a matter of practice and fact. It is beyond the role of the Council or Charter to dictate that issue.

Chair Sullivan stated he sees the Charter mechanism as going to the voters even if the money is in place. Voters have the say about what projects will be done. Some cities have funds already set up. The Commission wants to know if there is an effort by the Council to get a fund set up. The concern relates to where the funds are going if they are not going to road reconstruction.

Mayor Bergeson advised the City's books are audited every year and are a matter of public record. The Finance Director can bring a copy of the report to the April 2001 meeting.

Commissioner Zych stated the property taxes go to the General Fund and cannot be used for roads. The only way to obtain funding is a special levy.

Commissioner Trehus asked if there is any perception within the City that the Charter would prohibit the idea of putting dollars into a fund ahead of time.

Council Member Reinert stated there has to be a revenue source. The Charter prohibits the use of General Fund dollars. The City would have to go to the voters to approve of dollars going into a special road reconstruction fund.

The City Administrator clarified that Commissioner Trehus is suggesting the City put dollars into a fund for road reconstruction. The City could then go to the voters to get approval for a road project.

Commissioner Zych excused himself from the meeting at 7:30 p.m.

Council Member Reinert stated he does not feel it is right to collect money from the residents ahead of time.

Commissioner Trehus stated it is easier to get approval from the residents if the funds are already there.

Council Member Reinert stated the current way of reconstructing roads has worked in the past.

Council Member O'Donnell stated the Council tried to set up a fund with the meter fees. There was a citizen outcry. It was not a perfect solution but it was step in the right direction.

Council Member Carlson stated the first step is to determine the cost of the roads that need to be repaired.

Mayor Bergeson stated staff had done an overall study regarding road reconstruction throughout the City.

The City Engineer stated road reconstruction will cost approximately \$7 million dollars for the next four (4) years. That only includes the streets that are in the worst condition. The Council has asked staff to fold in the utility issue when determining road reconstruction projects.

Commissioner Trehus referred to the Twilight Acres project. He stated the information he received was sketchy. Residents were given a figure of costs and a 60 day window to petition out of the project. The appraisals were done after the 60 day window. He asked if the estimated cost can dramatically change after the appraisals are done.

The City Engineer explained the process that was used in Twilight Acres noting the costs were not covered by the appraisals. The current status of the project is that it is being scaled down for sewer improvements only. The City is also asking the County for a grant to help with the costs.

Council Member Carlson noted the project was petitioned by neighbors. The residents knew the City could not assess them for more than the appraisal amount. The grant was not available until this year.

Commissioner Trehus stated he had the impression the appraisal figure went up after the 60 day window expired.

The City Engineer stated the feasibility study stayed the same. The assessment amount came down a bit after the bids were obtained. He explained how the assessments were derived within the Lakes Addition project.

Commissioner Carlson stated part of the Commission's intent is to see if the City can be proactive on the road situation. The Commission wants to know if the Council has any plans other than the franchise fees and according to Section 8 regarding road reconstruction.

Mayor Bergeson advised this Council has not spent any time discussing road reconstruction other than incidentally. During the past year, the Council has been consumed with the Comprehensive Plan and other issues. The previous Council did discuss the road issue. Road reconstruction is a concern to this Council and it will be discussed. He stated his personal opinion has changed in the last year. He advised that he believes road reconstruction is a recurring expense to the City as a whole. Therefore, referendums are not appropriate for recurring expenses. He stated referendums are appropriate for a one time expense such as the athletic complex. He indicated that he believes in time the referendums will not pass because the majority of residents live on a new street, which was paid for when they purchased their homes. Residents won't be willing to pay for the street again.

Commissioner Trehus asked how the City would respond if the referendum requirement was not a part of the Charter.

Mayor Bergeson stated it is the responsibility of Council and City staff to determine how road reconstruction stacks up with other priorities within the City. Dollars have to be allocated for road reconstruction and a determination of the appropriate level of taxation would be made.

Commissioner Bening asked if the allocation of funds means saving it from year to year.

Mayor Bergeson advised whether the money is saved from year to year or spent is an engineering question.

Commissioner Bening stated that saving the dollars ahead of time can be done now with or without the Charter.

Mayor Bergeson stated he does not believe the City has the latitude with the Charter to do that now.

Council Member Reinert stated not responding to a problem now because it does not exist is not appropriate. He stated money could be put aside for repairs and maintenance. However, major projects should go to the voters.

Commissioner Trehus stated the only way to change the Charter is to obtain voter approval. The voters can continue to pass referendums or turn control over to the City.

Council Member Carlson stated another way is for the voters to approve a tax every year for a fund without specifying the project. The voters would then have approval when the project comes up.

Commissioner Trehus stated he feels the City could raise taxes for road reconstruction but not spend them without voter approval.

Council Member Reinert suggested it may be helpful to the Commission if the City Attorney is present for Charter Commission meetings.

Chair Sullivan stated opinions are received from the City Attorney and the League of Cities. He stated the Council can set up different funds from the dollars from the General Fund. He inquired about what is in the General Fund now.

The City Administrator advised the General Fund dollars are put into several different accounts. The General Fund dollars come from grant money, taxes, and permit revenues. Any revenue that is not already designated goes into the General Fund. She stated this is the first time she has heard that the City could set aside tax dollars for roads and then go to the voters for approval. She advised she will confer with the City Attorney regarding that option.

Chair Sullivan asked if a road reconstruction project will be put on the ballot next year.

The City Engineer advised staff is going to present a proposal to the Council for approval on next years ballot. The referendum will be for projects for the next two (2) years.

The City Administrator stated the Public Service Director wants the Commission to keep in mind that the City will hopefully be trying to pass a referendum for the athletic complex.

Chair Sullivan advised the term Clerk-Treasurer is inaccurate within the Charter. The League of Cities has made suggestions regarding a change. The change can be brought before the Council for a vote. He asked for Council direction regarding the change. He referred to a letter from the City Administrator recommending the Charter be changed. A sub-committee has been formed to review the change.

The City Administrator explained the reason for the change noting the positions are now two (2) separate positions within the City. The change should be made for clarity. She inquired about the recommendation from the League of Cities.

Commissioner Bening stated an option is to leave the term off and have the Council determine who performs what duties.

Chair Sullivan noted the term indicated a checks and balances system between the two (2) positions.

Commissioner Trehus stated that technically, the City is not in compliance with the Charter.

Commissioner Bening stated there are 27 occurrences of the term Clerk-Treasurer within the Charter.

The City Administrator advised the City Clerk is aware of the process used to amend the Charter.

Chair Sullivan inquired about the official copy of the Charter.

Commissioner Bening stated the original copy was lost in the computer when the files were moved to the new City Hall. He stated he scanned his copy of the document, which did not reproduce exactly the same. The City Clerk has indicated she re-scanned the original document and it is now in the computer system. He suggested the Commission review the re-scanned document at a future meeting.

Chair Sullivan advised the Finance Director will be present at the April 2001 meeting to discuss the Five Year Plan. The Commission will review the contents at that time. He suggested the Commission be distributed a copy prior to the meeting.

The City Administrator advised she already distributed a copy to the Commissioner's.

Chair Sullivan stated the Commissioner's want the most current copy of the Plan.

Council Member/Commissioner Dahl stated this is the first time all Council Members attended a joint meeting with the Commission. She thanked the Council.

Council Member Reinert referred to the October 2000 minutes of the Commission. A comment was made that the City finances are all screwed up. He expressed concern regarding that comment. He added that Mr. Rolek is excellent in the position and does a good job.

Council Member/Commissioner Dahl stated she has many concerns regarding the minutes. She stated she is listening to the tape and did not hear that statement. She advised she would like to table the minutes for further review.

Commissioner Trehus stated he made the comment. He indicated he does not feel the statement came across the way it was intended. He stated he meant that he does not understand why the taxes are so high and there is no money to fix roads. He stated the comment was not a reflection of a particular individual. He added the Park Board needs more money also.

Council Member Carlson stated the City is working on Park Dedication fees but a definite plan is needed. The City has to cut \$80,000 from the budget in order to maintain the tax rate. Many items cut were maintenance issues related to the Parks.

Commissioner Rafferty stated he is pleased the Council is looking into the Park Dedication fees. There is no excuse for developers buying up large parcels of land at a small cost. There is not much land left within the City. The City does need a higher Park Dedication fee. He added that the money is not useful if there is no land to develop the parks.

Council Member Reinert stated the City is growing and will continue to grow resulting in more tax dollars. Park Dedication fees need to be increased.

Chair Sullivan called for a short recess at 8:35 p.m.

Chair Sullivan reconvened the meeting at 8:46 p.m.

October 12, 2000 Minutes – Commissioner Dahl stated she would like to table the minutes to allow more review time. She stated she has concerns regarding her statements and the statement regarding the mismanagement of funds.

MOTION by Commissioner Dahl, seconded by Commissioner Rafferty, to table the October 12, 2000, Minutes until the April 2001 Charter Commission meeting.

Chair Sullivan advised the Commission must remember to be respectful when someone is talking.

The motion carried with Commissioner DeMotts abstaining.

Five Year Plan – Chair Sullivan stated that the Commission needs to review the Five Year Plan for compliance. The Commission does not have to take any formal action. He indicated if there are problems, the Commission can work with City staff to eliminate them.

Commissioner Rafferty stated that as a group the Commission needs to be aware of the Five Year Plan and review it.

Chair Sullivan added that the Five Year Plan ensures that the City deals with certain issues such as road reconstruction.

Commissioner stated the Finance Director will be reviewing the Plan at the next meeting. The Plan currently is only a draft. She suggested the Commission review the Plan when it is completed.

Chair Sullivan noted he requested the most current copy of the Plan.

Commissioner Christopherson stated he does not want to look at the details of the Plan. The Commission should look at the points in the Charter that the Plan has to address.

City Attorney Response to Charter Opinions Question – Chair Sullivan referred to letter from the City Attorney that indicated it is appropriate for the Commission to give the Council their opinion.

Commissioner Bening stated there is no legal obligation for the Commission to render its opinion. It is up to the discretion of the Commission.

REPORT OF COMMITTEES

Special Elections Costs (Commissioner DeMotts) – Chair Sullivan referred to page 6 of the October 2000 minutes relating to this issue. He stated some Commissioners thought there should not have been a special election for the third Council position.

Commissioner DeMotts distributed a cost summary of the City expenditures regarding the cost of the special election. He noted the cost will be higher when the two (2) new precincts are added.

Commissioner Dahl read a letter from the City Clerk regarding the cost difference of the quote she gave for a special election. That cost did include the general election and was not accurate.

Chair Sullivan asked the Commission if they are in favor of an amendment to the charter regarding this issue.

It was the consensus of the Commission to remove this item from future meeting agendas.

New Resident Charter Information (Commissioner Gene/Sharon Lane) – MOTION by Commissioner G. Lane to table the New Resident Charter Information to the April 2001 meeting.

Commissioner Trehus made a friendly amendment to include that Commissioner's review what has been provided and send any comments or changes to Commissioner S. Lane.

MOTION was seconded by Commissioner Christopherson. The motion carried.

Clerk/Treasurer Amendment (Commissioners Bening and Trehus) – Chair Sullivan advised a packet was sent to the sub-committee suggesting a plan of action relating to this issue.

Commissioner Bening distributed information regarding the number of times and the page numbers that the term Clerk-Treasurer is used in the Charter. The information also included his proposed changes. He suggested the Commission review the information and discuss it further at the next meeting.

Chair Sullivan advised the League of Cities suggested the change include simply deleting the term treasurer. Commissioner Bening's proposed changes include changing the term to City Clerk.

Commissioner Bening stated the City Clerk is a more defined term and is the correct job title.

Chair Sullivan inquired about the Finance person.

Commissioner Bening stated the City Administrator has indicated the Finance Director position should not be included.

Commissioner Trehus stated the term Treasure could be kept but not referred to as the City Treasurer.

Commissioner Rafferty stated he likes the recommendations. He stated he will review the proposed changes. He added he does not like the idea of changing the Finance Director.

Chair Sullivan read part of a letter from the City Administrator relating to her recommendations about the change.

Commissioner Bening stated his proposal came from discussions he had with the City Clerk and Finance Director. He noted the City Clerk and the Finance Director have not seen his proposed changes.

Commissioner Trehus stated the Commission should get a legal opinion then forward to the Council to approve the change. He indicated that he believes the Charter is too specific. He stated his thinking is to leave the reference general so the function is carried out but the Council determines who will carry it out. He suggested the Commission leave the Charter as is but change Section 6.04 by defining the functions of each position.

Commissioner DeMotts stated he believes the Charter can't use the term Clerk-Treasurer.

Commissioner Trehus stated the term is used in the Charter but Section 6.04 would clarify that there is not that particular position, but the functions are carried out.

Chair Sullivan read the letter from Mr. Addicks regarding his recommendations.

Commissioner Bening noted the by-laws would also have to be changed in the Charter is amended.

Commissioner Dahl suggested it would be advantageous for the Commission to have the City Attorney review both proposals relating to the legality of each.

Chair Sullivan advised he will leave it up to the sub-committee regarding a legal opinion.

Commissioner Aldentaler excused himself from the meeting at 9:35 p.m.

Commissioner Trehus stated that based on direction from Chair Sullivan to seek a legal opinion, the sub-committee has agreed to draft a cover letter and send both options to the City Attorney for an opinion. The sub-committee will give a report at the next meeting.

Chair Sullivan advised he should sign the letter.

Commissioner Carlson referred to the letter from Mr. Addicks regarding the elimination of the term Treasurer. The City does not have a Treasurer. Both proposals are good but do not solve the problem. The City has to have a Clerk and that has to be pointed out.

Commissioner Trehus stated his proposed change refers state law and that covers the Clerk requirement. It does not need to be specified. He stated his option redefines the staff positions.

Commissioner Carlson stated the problem is that the City does not have a Treasurer.

UNFINISHED BUSINESS

1999 Annual Report (Vice Chair Montain/Secretary Rafferty) – Chair Sullivan advised the Commission is waiting for a report from Commissioner Montain.

Commission Files (Secretary Rafferty) – Commissioner Rafferty stated the file is in place at the new City Hall. A final bill has not yet been received but it is approximately \$600 - \$700. He stated he and the City Clerk have a key. The files have been moved from the old City Hall. Additional files do need to be moved. The file is located in the copy room area.

Chair Sullivan stated the Officers of the Commission and the City Clerk should have a key. The Commissioners agreed.

Commissioner Rafferty stated he would prefer that the City Clerk is present when anyone is going through the files.

Review City Council Meeting Minutes for Charter Compliance, May 8, May 22, August 14, September 11, September 25, October 9, October 23, 2000 – Chair Sullivan advised the Commission determined the minutes will be noted only if there is a problem. The Commission agreed there were no problems with the referenced Council meeting minutes.

Chair Sullivan advised he will request copies of the Council minutes for the following Commissioners: Trehus, Christopherson, Carlson, Bening, G. Lane, and Sullivan.

Charter Commission Membership List (Secretary Rafferty) – Commissioner Rafferty distributed a folder that included the membership list. Also included in the folder was a letter from Barry Sullivan regarding Commission terms. The letter indicated Commissioner's have two (2) full terms even if you were appointed in the middle of a term. He noted the terms will be listed correctly when the handout is redone.

Commissioner G. Lane asked that when the handout is redone, the list of when the terms expire or number of terms to go should be included.

Commissioner Rafferty reviewed other handouts that were included in the folder. He advised he will send a letter to each Commissioner with a list of the people to call for absences. He added that Commissioner Zastrow's absence should be excused. He stated clarification is needed regarding the time frame in which to contact an Officer.

Chair Sullivan stated the letter should include that an Officer should call another Officer if he or she will be absent.

Commissioner G. Lane asked if it is written somewhere that Commissioner's must call an Officer.

Chair Sullivan advised it is not written that a Commissioner must call an Officer. The Commission previously discussed this issue and it was determined that Commissioner's must call an Officer for the absence to be excused.

Commissioner Dahl read the by-laws regarding the rules for absences noting it must be two (2) consecutive absences.

Commissioner G. Lane stated that up until tonight, all absences should be excused if a Commissioner made an effort to contact another Commissioner. If calling an Officer is required, the Officer's numbers should be listed on the meeting agenda.

Commissioner Rafferty advised he will not send a letter regarding this issue until it is further discussed.

Commissioner Christopherson stated that if that is the policy, it should be added to the by-laws.

Commissioner G. Lane stated that anyone with an unexcused absence in the last year should be changed to excused if they tried to contact another Commissioner.

MOTION by Commissioner Trehus to direct the City Administrator to investigate the cost of the City Attorney being present at the meetings for the entire meeting or for one hour.

Commissioner Dahl stated when the City Attorney's contract was renewed, the cost was approximately \$95 per hour.

MOTION was seconded by Commissioner Dahl.

Chair Sullivan inquired about the avenue to direct the City Administrator to investigate the City Attorney's fees.

Commissioner Trehus stated Chair Sullivan should talk the City Administrator and direct her to investigate the fees for the City Attorney to be present at 8:00 p.m. for one hour or 8:00 p.m. for two (2) hours.

Commissioner Dahl suggested the times be left open for the City Attorney to be present at the beginning of a meeting.

MOTION carried with Commissioner Bening abstaining.

By-Laws/Section 9. (Appointments) Amendment (Secretary Rafferty) – This item will appear on the April 2001 Charter Commission meeting agenda.

Research Commissioner Terms (Vice Chair Montain) – This item was discussed earlier in the meeting.

NEW BUSINESS

Set April 2001 Agenda – Chair Sullivan advised the following items will appear on the April 2001 meeting agenda:

Absence Policy	New Resident Letter
October 12, 2000, Minutes	Review Official Charter
Five Year Plan/Finance Director	Clerk/Treasurer Amendment
1999 Annual Report	Review Council Minutes
Commission Membership List	By-Laws/Section 9. (Appointments)

Commissioner Carlson suggested Chair Sullivan use a gavel to keep order in the meetings.

Chair Sullivan advised Commissioner's must police themselves and be more respectful of each other and the Chair.

Commissioner G. Lane suggested limiting the meetings to two (2) hours. If the meeting is not completed, another meeting would have to be scheduled.

Commissioner Dahl stated the comments made by Commissioner Zych served as a wake up call relating to this issue. She also thanked Commissioner Rafferty for the folder.

Commissioner G. Lane stated all absences need to be cleared. Unexcused absences could be held against a Commissioner trying to get reappointed.

ADJOURN

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MOTION by Chair Sullivan, seconded by Commissioner G. Lane, to adjourn the meeting at 10:25 p.m. Motion carried unanimously.

Respectfully submitted,

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TimeSaver Off-Site Secretarial, Inc.