

**MINUTES OF THE
WHITE BEAR LAKE CHARTER COMMISSION
NOVEMBER 13, 2019**

1. CALL TO ORDER AND ROLL CALL

A meeting of the White Bear Lake Charter Commission was called to order by Chairman Tim Geck at 7:00 p.m. in the second floor conference room at City Hall. The following members were present: Marc Aune, James Patrick Barone, James Berry, Scott Bill, Scott Costello, Tim Geck, Karen Hogen, Dan Louismet, Mark Sather, and Ray Smith. Members Dale Grambush and Robert Hafdahl were excused pursuant to bylaws. A quorum was declared.

Also present was Assistant City Manager, Rick Juba

2. APPROVAL OF THE MINUTES

It was moved by **Member Barone**, seconded by **Member Louismet**, to approve the minutes of the meeting held September 11, 2019 as presented.

The motion carried unanimously.

3. APPROVAL OF THE AGENDA

It was moved by **Member Berry**, seconded by **Member Smith** to approve the agenda as presented.

The motion carried unanimously.

4. OLD BUSINESS

- A. Proposed Amendment of Section 8.05 and addition of section 8.11 of the City Charter pertaining to administrative penalties and the collection of fines and penalties

Chair Geck initiated discussion by explaining this proposal was presented at the request of the City at the Charter Commission meeting of September 11, 2019. Following discussion at that time the matter was continued to this date with the request that the City provide additional information regarding whether other home rule cities in Minnesota had similar provisions in their charter and for additional examples of code enforcement cases where the proposed amendment would apply. He called upon Assistant City Manager, Rick Juba, to respond to the Commission's requests.

Mr. Juba replied that for approximately the past 15 years the City has conducted code enforcement through both criminal and administrative procedures. In the case of minor code violations, individuals deemed responsible for the violation were provided correction notices and a period of time to correct the condition or behavior.

If correction is not achieved, a second notice is typically given if the condition allows. Subsequent failure to comply resulted in issuance of an administrative citation which carries a fine established by ordinance. Violations considered more serious resulted in a District Court violation. He explained that most violations are corrected following the first or second notice and they typically involve long grass or weeds, junk automobiles, outdoor storage and accumulation of materials in violation of the Municipal Code, unmaintained structures and animal waste. Compliance prior to issuance of a citation avoids a fine. Failure to comply results in issuance of either an administrative or District Court violation.

Administrative violations may be resolved by correction and compliance as well as payment of the assigned fine. The alleged violator may also appeal the finding and citation to an independent hearing officer appointed by the City Council. The hearing officer may sustain, adjust or dismiss the fine. If the alleged violator fails to pay or appeal the fine, a District Court citation may be issued by the City and the alleged violator may pay the District Court fine or appeal to the court.

Administrative citations ignored by the alleged violator but issued for violations not usually considered serious by District Court Judges (i.e. barking dogs, junk accumulation, unmaintained property, junk cars, illegal home occupations, etc.) are the intended subject of the proposed amendment. If approved, fines for unpaid administrative citations may be assessed to the subject property.

Mr. Juba further explained that the number of nuisance code violations for January 2016 through August 2019 was almost 2,800. Over 96 percent of violations are corrected within the allowed time. He also explained that those not corrected often are the cause of considerable concern from area residents and property owners. The proposed amendment is expected to allow the City to achieve compliance without resorting to the lengthy and costly District Court option. It will allow the City Council to assess the administrative fine to the property similar to unpaid utility charges or safety and sanitation abatement costs.

Member Costello pointed out that the proposed amendment is similar to a Charter provision in the City of Crystal, MN which has been in place for more than 15 years and is apparently working. Member Louismet questioned whether the City of Crystal provision was considered successful. Mr. Juba stated the City reported it was satisfied with application of the assessment authority but he was unaware if the measurement was fine receipt or compliance.

Following considerable discussion of examples of cases where administrative citations had allowed the City to achieve compliance with the Municipal Code and example of appeals to the hearing officer that resulted in positive solutions it was moved by **Member Barone**, seconded by **Member Berry** to adopt **Resolution No. 19-01** proposing an amendment to Section 8.05 and additional of Section 8.11 of the City Charter pertaining to administrative penalties and the collection of fees and penalties.

Member Costello stated this proposed action is the first step toward a charter amendment. The proposed must be forwarded to the City Council, be heard in a public hearing, receive a unanimous vote of the City Council, and is subject to a 60-day remonstrance period during which a petition could be submitted requiring the question to be brought before the voters in a referendum.

In response to a question from Member Louismet, Chair Geck and Mr. Juba described the appeal procedure afforded to an individual receiving an administrative citation including a hearing before the Council appointed Hearing Officer and a District Court Judge on the subject of the alleged violations and subject fine as well as an appeal of an assessment to District Court.

Members Aune, Hogen and Smith spoke in favor of the motion stating that based on examples presented, it appears that failure to comply and pay the fine appears to be based more on willingness than means.

There being no further discussion, the Chair called for the vote and the motion passed unanimously.

5. NEW BUSINESS

Nothing scheduled.

6. OPEN DISCUSSION

No further discussion.

7. ADJOURNMENT

There being no further business to come before the Commission, it was moved by **Member Aune**, seconded by **Member Hogen**, to adjourn the meeting at 7:40 p.m.

The motion carried unanimously.

Tim Geck, Chair

ATTEST:

Mark Sather, Secretary