

RESOLUTION 2010-10

A Resolution To Amend the Franklin City Charter Relative to Franchises

WHEREAS, the Charter of the City of Franklin, Tennessee, is incorporated by Chapter 126 of the Private Acts of Tennessee for 1967, as amended, of the General Assembly of the State of Tennessee; and

WHEREAS, the interest of the City of Franklin, Tennessee, will be served if the Charter of the City is further amended; and now, therefore;

BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE THAT:

The Honorable Charles M. Sargent, Jr. and Jack Johnson are hereby requested to introduce the following Act to the General Assembly of the State of Tennessee:

AN ACT to amend the Charter of the City of Franklin, Tennessee, being Chapter 126 of the Private Acts of Tennessee for 1967, as amended:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

Section 1. Article II, Section 1, Subsection 9 shall be amended to delete the text noted with a ~~strike through~~ and to add the following text noted in **bold**, so that it shall read as follows:

Article II. Powers

Section 1. Enumerated.

* * *

(9) **Grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished the city and those therein, and this authorization shall apply to both residential and commercial service and shall be authorized regardless of zone.** Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for the period of thirty (30) years or less, but no longer. The Council may prescribe in each grant of a franchise, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. The Council may also impose upon the grantee of any franchise a reasonable franchise fee for the use of the city's rights-of-way, and the franchisee is authorized to pass the costs of such fee on to its customers within the City of Franklin. Any franchise fee shall be calculated by any legal means in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened. ~~Nothing in this subsection shall apply to providers of telecommunications services or information services.~~ This act shall not alter in any fashion any existing franchise agreement in place as of the date of enactment of this act between the city and any provider of telecommunications services or information services.

Section 2. This act shall become effective when it has been approved by the Board of Mayor and Aldermen of the City of Franklin by a vote of not less than two-thirds of the entire membership of the board (alternatively, by a majority vote in a referendum held for the purpose of approval of the act) within days of its signing by the governor of this state. The approval or non-approval of the act by the Board of Mayor and Aldermen shall be certified by the mayor (or other chief executive) of the City of Franklin to the Tennessee Secretary of State.

ADOPTED THIS ____ DAY OF _____, 2010.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

By: _____
ERIC S. STUCKEY
City Administrator/Recorder

By: _____
JOHN C. SCHROER
Mayor



HISTORIC
FRANKLIN
TENNESSEE

MEMORANDUM

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Russell Truell, Assistant City Administrator
Shauna R. Billingsley, Interim City Attorney

DATE: January 5, 2010

RE: Charter Amendments

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with proposed Charter Amendments.

Background

Periodically, BOMA reviews the City Charter and discusses proposed amendments. As you know, the Board of Mayor and Aldermen must consider the proposed Charter amendments and must pass a resolution regarding such amendments, which will then be placed before the State legislature for its consideration as a Private Act. We have been told by our state representatives that they do not want to place a resolution before the legislature without a unanimous or close to unanimous resolution requesting such. Of course, once the matter is passed by the legislature it will come back to you for a final vote, which must be approved by 2/3 of the entire board.

Charter Amendments

Following is a list of proposed Charter Amendments in three categories:

I. Budget

Article VII, Section 4 of the Charter entitled "Duties of the Treasurer" shall be amended by deleting the Section in its entirety. The City does not utilize a treasurer position.

Article VIII, Section 10 of the Charter entitled "Transfer of Appropriations" shall be amended by deleting the section in its entirety and substituting in its place the following: "Transfer of appropriations shall be determined by ordinance."

The Charter specifies that funds cannot be moved between departments without amending the budget ordinance. When the Charter provisions were made (1979 or earlier) there were fewer departments and much less complexity to the budget documents.

The City currently has fourteen departments, some with multiple divisions, and it is common for a need to arise for shifting funds between departments. The City also has hundreds of line items that break down in detail where money is spent, and those sometimes require movement of budget funds.

Because of the unusual financial circumstances in which we find ourselves, the concept of a vacancy rate was added to this year's budget. That will require close oversight and inevitably the movement of certain budget amounts between departments or divisions while still living within the original budget approved by the Board. The increase or decrease of the total appropriation would still require an amendment to the budget ordinance and as such the required notice and three readings.



II. Franchises

Article II, Section 1, sub-section (9) of the Charter shall be amended by deleting the first sentence in its entirety and adding the following sentence in its place “Grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished to the City and those therein, and this authorization shall apply to both residential or commercial service and shall be authorized regardless of zone.” City Staff proposes to amend Article II, Section 1, sub-section (9) by deleting the sentence “[n]othing in this subsection shall apply to providers of telecommunications services or information services.”

Currently the only way the City has the authority to grant franchises for telecommunications is through the Competitive Cable and Video Services Act—HB1421. However, that Act only authorizes franchises for residential broadband and not commercial.

III. General Clean-Up

Article VI, Section 2, sub-section (c) of the Charter shall be amended by deleting the word “male” from the second sentence. Article VII, Section 1 shall be amended to insert the word “and” after the words “City Administrator”, and to delete the word “Treasurer” and the phrase “all department heads.”

Article VII, Section 2 of the Charter shall be amended to insert the words “Powers and” before the word “Duties” in the section caption so that the caption reads “Powers and Duties of the City Administrator.” The section shall also be amended to insert the words “by an” between the word “confirmed” and the word “affirmative” in the second sentence.

Article VII, Section 10 of the Charter shall be amended to add the word “to” between the words “up” and “the.” This is simply cleaning up the section.

Article X, Section 4 of the Charter shall be amended by deleting the third paragraph in its entirety.

Financial Impact

There is no direct financial impact attributable to the proposed Charter Amendments.

Options

Consider changing the Charter as proposed, or continue as is.

Recommendations

Staff recommends changing the Charter as proposed.