



HISTORIC
FRANKLIN
TENNESSEE

Items WS 5/25/10

MEMO 9,10,11

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.

PROPOSED CHARTER AMENDMENTS

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.

Article VI. Mayor

Section 2. Powers and Duties

(c) See to the enforcement of the ordinances of the city, and to the preservation of its health and peace. In emergencies he is empowered to call to his aid every male-inhabitant of the city in such enforcement, and the Board may prescribe penalties for a failure to obey such call.

Article VII. Administration

Section 1. Officers.

The following officers shall be appointed or confirmed by the Board of Mayor and Aldermen, as determined by ordinance, and shall serve at the will and pleasure of the board: City Administrator, ~~and~~ City Recorder, ~~Treasurer,~~ ~~all department heads.~~ The board may confirm one (1) person to serve as both city administrator and recorder. The board shall by ordinance fix the salaries of all officers, which shall be the sole compensation to which they shall be entitled.

Section 2. Powers and Duties of City Administrator.

There shall be created the full-time position of City Administrator for the City of Franklin. The city administrator shall be nominated by the mayor, advised by an ad hoc search committee, and confirmed by an affirmative vote of a majority of the board. The administrator shall serve at the will and pleasure of the board.

The duties of the city administrator shall be set by ordinance, and shall include, but not be limited to, the following:

- (1) Take executive direction only from the mayor.
- (2) Discuss city business, including constituent concerns, with members of the Board of Mayor and Aldermen.
- (3) Appoint, transfer, demote, discipline, or discharge department heads. The Board may by ordinance or rule establish hearing and appeals procedures governing such actions by the City Administrator, but no such procedure shall contain provision for appeal to or review by the Board. The decision of the City Administrator shall be final.
- (4) Give executive direction to department heads.
- (5) Prepare the budget.
- (6) Participate in the preparation of long-range plans as they affect budget considerations.
- (7) Perform such other duties required by this charter or other law, and such duties as may be required by ordinance not inconsistent with this charter or other law.

Section 4. Duties of the Treasurer.

~~The treasurer shall perform such duties as shall be required by ordinance. Before entering upon the discharge of his duties the treasurer shall execute a bond in such amount and on such terms as may be determined by the board.
[deleted]~~

Article VIII. Finance

Section 7. Amendment after Adoption.

If during the fiscal year the city administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the board by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 10. Transfer of Appropriations.

~~At any time during the fiscal year the mayor may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the mayor or the city administrator, the board may by ordinance transfer part or all of any encumbered appropriation balance from one (1) department, office, or agency to another.~~

Transfer of appropriations shall be decided by ordinance.

Article X. City Court

Section 4. Jurisdiction, Powers.

The city judge shall try all persons charged with violation of the ordinances of the city and shall have the power to levy fines, penalties and forfeitures not exceeding fifty dollars (\$50) for each offense and to impose such costs as the council may by ordinance provide, to issue all necessary process, to administer oaths, and to punish for contempt by fine and/or imprisonment in cases provided for in Section 23-902 of the Tennessee Code Annotated.

The City Judge shall be vested with concurrent jurisdiction with Judges of the General Sessions Courts of the state of Tennessee in all cases charging violation of the criminal laws of the state of Tennessee, shall have the power to impose such fines, penalties and forfeitures as may be provided by such criminal laws, and shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions for similar work in state cases.

~~The City Judge is vested with Juvenile Court jurisdiction concurrent with that of the Juvenile Court Judges of the state of Tennessee as set forth in Chapter 2, Title 37 of the Tennessee Code Annotated.~~

The City Judge may appoint a clerk of the City Court who shall receive such compensation as may be fixed by the board of mayor and aldermen. Any person so appointed as the clerk of the City Court shall have power and authority to issue warrants of arrest upon a finding of probable cause, and shall fulfill such other duties and functions as may be delegated to him or her by the City Judge, including but not limited to the maintenance of books and records pertaining to the issuance of warrants of arrests and the disposition of cases coming before the court, the collection of fines and costs, preparation of orders, preparation of reports, and attendance at all sessions of court.