

**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
March 21, 2013**

5:15 P.M.

The Burleigh County Home Rule Charter Commission convened with all members present. Chairman Woodcox called the initial meeting to order with the first item of business the introduction of members and staff.

Chairman Woodcox stated his goal of having a draft charter ready within 90 days, a public hearing in August, and a special election in October/November. Upon discussion it was determined that the County Commission will decide the specifics of the sales tax and that the Charter Commission will be responsible for the Charter which provides the authority.

Auditor/Treasurer Glatt briefly discussed the difference between a limited and a comprehensive charter. Glatt noted a limited charter could authorize only sales taxes and a comprehensive charter could include many things including changing the form and structure of county governance. Glatt noted the charter could allow citizens to initiate and refer ordinances as was done with snow gates and smoking in bars. Glatt stated believes the Williams County charter is limited and the Cass and Ward County Charters are more comprehensive.

Chairman Woodcox stated he likes the initiation and referral of ordinances and feels it could be beneficial to county residents and help resolve issues related to dogs at large and fireworks.

Comm. Lembke questioned what the County Commission wants from Home Rule.

Comm. Peluso stated he feels the charter should be limited to the sales tax only as that is what has been "sold to the people."

Comm. Lembke requested that a presentation be made by the Sheriff's Dept. regarding the projected need for jail space based upon the oil boom. Auditor/Treasurer Glatt stated the jail study included capacity requirements based upon models with and without an "oil boom". Chairman Woodcox stated he will request the Sheriff's Dept. to make a presentation at the next meeting.

Comm. Wrangham stated he is only considering a limited home rule charter for sales tax to fund a jail.

Comm. Lembke questioned how the operating expenses for a new jail would be funded and if mill levy funds could be used to "get started." Auditor/Treasurer Glatt explained Limited and General Obligation Bonds and the funds that could be raised from each source.

Lembke suggested the perhaps some of the sales tax funds could be dedicated for jail operations.

Auditor\Treasurer Glatt again stated he believes the Williams County Charter is limited and that research needs to be conducted to see what items need to be included for a home rule charter to be effective.

Comm. Saude agreed with Auditor\Treasurer Glatt that the Williams County Charter is limited.

By consensus it was agreed to utilize the Williams County Charter as a first draft with Asst. State's Attorney Schwarz researching the minimum information needed to be included.

Comm. Lembke questioned if there might be a way to allow the county to move forward with the jail and then perhaps repay the mill levy funds with the sales tax revenues.

Chairman Woodcox suggested that before the next meeting a draft be prepared with only the minimum requirements of home rule included. Woodcox continued that he will request the Sheriff's Dept. make a presentation on the jail needs.

On a motion made, seconded, and carried, the Charter Commission recessed until April 25, 2013.

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman

**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
April 25, 2013**

5:15 P.M.

The Burleigh County Home Rule Charter Commission convened with all members present except Commissioner Lembke.

Motion by Comm. Saude, 2nd by Comm. Wrangham, to approve the March 21, 2013 meeting minutes as presented. All members present voted "AYE." Motion carried.

Sheriff Heinert appeared and provided statistics related to inmate population in the Burleigh County Detention Center noting the jail is continuing to see increasing numbers:

Inmates (Daily Average)	Year
125	2010
155	2012
167	1 st quarter of 2013

Outside Costs*	Year
\$27,000	2010
\$243,000	2012
\$68,000	1 st quarter of 2013

*Excludes fuel, transportation, personnel time.

Heinert noted felony charges have increased resulting in longer stays and further the jail is seeing more prisoners incarcerated with felony charges than misdemeanors. Heinert added Kimme & Associates is meeting with Morton County tonight to discuss Morton County jail options. Heinert concluded Kimme & Associates will return to Bismarck the middle of May, with their final report due June 1st which will serve as a "blue print" for the architect.

The Commission then reviewed the Draft Home Rule Charter as prepared by Asst. State's Attorney Schwarz based upon request of Charter Commission to utilize the Williams County Charter as a first draft and including the minimum information needed.

Asst. State's Attorney Schwarz noted the Draft is based upon the Williams Charter which is similar to the Cass and Ward Charters. Schwarz noted none of these charters has experienced any issues to date and are working very well.

Comm. Wrangham questioned how this charter fits with state law and if adopted, does it supersede state law?

Schwarz presented language from the Ramsey County MN Home Rule Charter noting this language may better explain how the charter fits with state law.

Comm. Wrangham questioned if state law applies why does the same language need to be in the Home Rule Charter?

Chairman Woodcox stated if this is the case Articles 2, 4, 6, 7, 8 could be omitted from the Charter.

Schwarz noted certain language is needed to complete the document and it was deemed that a majority of the items are needed to provide a better flow for the reader.

Auditor\Treasurer Glatt then presented the he following items were considered for further review, update, or change:

ARTICLE 2 – Home Rule Powers of County

#2.should we list sales, use, alcohol, \$25 maximum, etc. or is this to be part of ordinance or part ARTICLE 8 Revenue Authority.

ARTICLE 3 – Adoption of Ordinances and Resolution

Section 2 – Procedures.....

- Change to 10 days
- ADD 2nd reading is a PUBLIC HEARING

ARTICLE 4 – Initiative and Referendum

The applicable provisions of state law will govern the exercise of powers of initiative and referendum under this charter. What are these and should they be spelled out?

- Is 15% of votes for Governor too many? (6,444)

ARTICLE 7 – Financial Procedures

Section 4; #2 at end....No amendment to the budget may increase the authorized expenditures to an amount greater than total estimated resources. Glatt to visit with Cass, Ward, Williams who have the same language.

Section 6: Inappropriate revenues should be unappropriated. Glatt to do more research as to what exactly emergency notes are with ND State Tax Dept. and Bond Counsel.

ARTICLE 8 – Revenue Authority and Limitations

Section 1.should we list sales, use, alcohol, \$25 maximum, etc. or is this to be part of ordinance.

ARTICLE 11 – Amendments and Repeal

...in manner provide by state law (2% of population) or 15% of votes for Governor Should number required to initiate or refer an ordinance be the same as to repeal charter?

Referendum by Board of County Commissioners

Should this be included?

Auditor/Treasurer Glatt and Asst. State's Attorney Schwarz will follow up on items needing clarification and update the draft Home Rule Charter.

Auditor/Treasurer Glatt then presented a calendar and timeline for the Home Rule Charter process. The Charter Commission accepted the calendar \ timeline for reference.

On a motion made, seconded and carried the Charter Commission adjourned until May 30, 2013 at 5:15pm

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman

**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
May 30, 2013**

5:15 P.M.

The Burleigh County Home Rule Charter Commission convened with all members present.

Motion by Comm. Peluso, 2nd by Comm. Lembke, to approve the April 25, 2013 meeting minutes as presented. All members voted "AYE." Motion carried.

Sheriff Heinert appeared and presented a detention center update noting the average daily prisoner count and the number of Burleigh County prisoners housed in other facilities (14 today). Heinert also presented a timeline for selecting an architect and developing plans and specs for a new facility to be presented to the County Commission on June 3. Heinert noted a new detention center would house 325-350 inmates for Burleigh County; however, if Morton County is included, it could house 425-450 inmates. Heinert reported that the Kimme & Associates final report was completed and sent earlier today. Heinert concluded he would provide more information after review of the final report. Heinert noted he has requested a grant and contract from the US Marshall Service for construction funding.

Chairman Woodcox noted that a decision is needed from Morton County regarding whether Morton is interested in a joint facility. Woodcox noted a decision is needed by July 1, 2013 in order to move forward with formal construction plans and specifications.

The Charter Commission then reviewed the draft charter. Auditor\Treasurer Glatt explained this Draft incorporates the changes requested at the last meeting including language in Article 1 from Ramsey County, MN as suggested by Asst. SA Schwarz better explaining how the charter fits with state law.

Comm. Wrangham requested that Article 2, Section 1. Acquire, hold, operate, and dispose of property....include specific reference to North Dakota Century Code Chapter 32-15: Eminent Domain.

Glatt then noted changes to Article 3, Section 2 changing from 20 days to 10 days for the publication and the change to a public hearing for the second reading of an ordinance as discussed at the last meeting.

Glatt also explained that additions were made to Article 11 – Amendments and Repeal as the charter states "in manner provide by state law" and the new language clarifies this requirement. Glatt continued the only references to statute he could find are related to statewide initiative and referral and municipal (city home rule) requirements. Glatt noted two (2) Attorney General's opinions that state other charters which require 15% of votes for Governor to amend or repeal are in conflict with statute which requires 2% of population.

Glatt continued he drafted a separate document titled Powers of the People which he suggested replace Article 4 - Initiative and Referendum. Glatt stated this new Article is patterned after the City of Bismarck Home Rule Charter and details how ordinances can be initiated and referred. Glatt concluded that although these changes are quite extensive this is still a limited home rule charter as the only power is related to ordinances.

By consensus all of the discussed changes were agreed upon and accepted.

Glatt then presented an even more limited Home Rule Charter with the only power being to levy a one half of one percent (.5%) sales tax for the construction of a Detention Center and demolition and remodeling of the current Detention Center with such tax taking effect on October 1, 2014 and expiring when all necessary funds are collected.

Upon question, Asst. SA Schwarz stated he would like an opportunity to review the charter and determine if such a charter would meet legal requirements and accomplish what is desired.

On a motion made, seconded, and carried, the Charter Commission recessed until June 27, 2013.

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman

**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
June 27, 2013**

5:15 P.M.

The Burleigh County Home Rule Charter Commission convened with all members present except Comm. Wrangham.

Motion by Comm. Lembke, 2nd by Comm. Peluso, to approve the May 30, 2013, meeting minutes as presented. All members present voted "AYE." Motion carried.

Comm. Peluso presented a brief detention center update. Peluso stated a Jail Committee meeting was held on 6/24 for the purpose of answering the Morton County questions regarding ownership and operations of a joint detention facility. Peluso reported the meeting went very well with the deadline for a decision from Morton County extended until July 15, 2013.

The Charter Commission then continued its review of the two (2) drafts discussed to date.

Motion by Comm. Lembke, 2nd by Comm. Saude, to forward the one (1) page limited Home Rule Charter draft to public hearing and the County Commission.

Comm. Peluso questioned Auditor\Treasurer Glatt on his opinion of the two (2) drafts. Glatt responded he believes the longer draft charter is the better option. Glatt stated his opinion is based upon *Article 4 - Powers of the People* of the long version which provides the citizens of the county the ability to govern themselves by the means of initiative and referral of ordinances.

Vote on Motion: All members present voted "AYE." Motion carried.

Glatt noted the next step is that the Charter Commission shall hold at least one public hearing on the proposed charter and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. Glatt noted the Charter Commission has been meeting on the last Thursday of the month and stated the timeline he previously submitted suggested the public hearing be held September 26. Glatt suggested moving the date as the County Commission Final Budget Hearing will be held that same day and by stature cannot be held before 6:00pm.

By consensus the Charter Commission agreed to present the approved draft to the County Commission on July 15, 2013, and to conduct a public hearing on the approved draft on September 26, 2013.

On a motion made, seconded, and carried, the Charter Commission recessed.

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman

**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
August 29, 2013**

5:15 P.M.

The Burleigh County Home Rule Charter Commission convened with all members present except Comm. Wrangham.

Motion by Comm. Lembke, 2nd by Comm. Peluso, to approve the June 27, 2013, meeting minutes as presented. All members present voted "AYE." Motion carried.

The Charter Commission then reviewed two (2) new draft charters.

Auditor/Treasurer Glatt explained that pursuant to further review by the State's Attorney and the ND State Tax Dept. several items of the sales tax need to be defined either in the charter itself or by ordinance. Glatt noted these items include but are not limited to: Collection and Administration, Sales, Use and Alcohol, Exemptions, Maximums, Compensation, and Contract with State Tax Commissioner. Glatt stated one draft specifies the sales tax particulars in the body of the charter and the second draft allows for ordinances which would then allow an ordinance to contain the sales tax particulars. Glatt stated in either case the sales tax particulars would mirror the City of Bismarck sales tax.

Asst. State's Attorney Schwarz confirmed Glatt's analysis and explanation.

Motion by Comm. Lembke, 2nd by Comm. Peluso, to forward the Limited Charter with Sales Tax Charter draft to public hearing.

Glatt recommended the Charter with Ordinance be forwarded to public hearing as it will provide the ability to for the Commission and citizens to do more in regards to fireworks, stray animals, etc.;

Comm. Lembke stated he believed the direction of the County Commission to the Charter Commission was to create a limited charter for the purpose of a sales tax to construct a new detention center.

Vote on Motion: All members present voted "AYE." Motion carried.

Glatt noted the next step is that the Charter Commission shall hold at least one public hearing on the proposed charter and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. Glatt noted the Charter Commission had previously scheduled the public hearing for September 26. Glatt suggested moving the date as the County Commission Final Budget Hearing will be held that same day and by stature cannot be held before 6:00pm. Glatt noted that pursuant to state law he will be required to send at least 3,394

notices of the Final Budget Hearing to citizens noting his concerns over parking, seating, etc. if both hearing are held on the same night.

Chairman Woodcox stated he simply wanted to limit the number of meetings and therefore wanted the Charter Public Hearing to be held the same night as the County Commission meeting and final budget hearing.

By consensus the Charter Commission agreed to keep and to conduct a public hearing on the draft on September 26, 2013, at 5:00P.M.

On a motion made, seconded, and carried, the Charter Commission recessed until September 26, 2013.

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman

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**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
September 26, 2013**

5:00 P.M.

The Burleigh County Home Rule Charter Commission convened with all members present.

This was the hour and date set for a public hearing regarding the proposed Burleigh County Home Rule Charter.

Chairman Woodcox explained the Home Rule Charter Commission has met several times over the past six (6) months reviewing other Home Rule Charters and developing the draft charter presented this evening.

Chairman Woodcox opened the hearing for public testimony.

County Commission Mark Armstrong appeared and thanked the Home Rule Charter Commission for their work developing the draft charter. Armstrong noted his comments do not reflect the effort of the Charter Commission. Armstrong continued that after re-reading our jail consultant's report, talking to members of the legislature, and people involved in our criminal justice system, and to voters to pass a home rule charter and sales tax to build a new jail facility, effectively tripling our jail capacity, is the wrong approach. Armstrong stated what we have in Burleigh County is an incarceration problem as Burleigh County has more people in jail than any other county in North Dakota, by a factor of almost three times. Armstrong continued that on any given night fewer than 10% of those in the Burleigh County jail are serving sentences, with the vast majority in jail awaiting a hearing before a judge. Armstrong noted we have a lower crime rate than Fargo or Grand Forks and yet we have more criminals locked up. Armstrong stated this is largely due to the sentencing practices of the judges in the South Central Judicial District. Armstrong continued we keep people in jail instead using supervised probation. Armstrong stated rehabilitation is lacking in our community and we need to change the practices of the South Central Judicial District. Armstrong requested a serious discussion be held regarding charging and sentencing practices of this judicial district and with the law enforcement community to figure out ways to divert those from going to jail through sound supervision practices using technology and supervised probation. Armstrong noted that other states are far ahead of us in this regard. Armstrong concluded by stating that the added costs for the operations of a 450 bed jail will dwarf over time what the brick and mortar costs and a much smaller new detention center should be built with the majority of our tax money used to develop a better plan to keep low-risk offenders out of jail.

Comm. Lembke responded to Armstrong by stating that the duty of the Charter Commission was to develop a charter for the purpose of authorizing a sales tax to fund a new jail – not whether a new jail was needed or not.

Comm. Peluso added that the County Commission has decided after much debate that a new jail is needed and furthermore that a sales tax is the best funding mechanism.

Dist. 47 State Representative Larry Klemin appeared and stated he supports the Home Rule Charter as the need for a new Detention Center has been well documented. Klemin continued this draft charter provides a mechanism for the funding and with no other purpose. Klemin added he favors a sales tax over property taxes for funding the jail.

Bill Bandy appeared and suggested that concrete termination date for the sales tax would gain more support from voters.

Robert Graham appeared and stated he objected to home rule charter. Graham added that several sections related to sales taxes are not necessary and that there should be a termination date for the charter.

Auditor\Treasurer Glatt stated that since the only power of the charter is the sales tax, in effect the charter ends when the sales tax ends.

Melvin Webster appeared and stated he is opposed to any home rule charter. Webster added that any end date on the charter or sales tax can be extended and the powers expanded.

Comm. Lembke stated the Home Rule Charter Commission was very concerned with these arguments against Home Rule and for that purpose drafted a very limited charter.

Robert Verke appeared and stated he also opposes home rule. Verke added that the original Bismarck City Home Rule Charter had a termination date and that has been extended several times. Verke stated he opposes the sales tax and thinks a property tax should be used to fund the jail. Verke continued that if property taxes are used they will end when the jail is paid for.

As no one else present appeared the public hearing was closed.

Chairman Woodcox reiterated that the charter as drafted is very limited and there is no intent to amend the charter or extend the sales tax beyond funding of the jail. Woodcox continued any amendment(s) to the charter would require voter approval. Woodcox suggested that perhaps some minor changes need to be made to the draft to clarify the end date of the sales tax.

Comm. Lembke stated the wording of the termination of the sales tax is a legal item and should be drafted by the State's Attorney.

Asst. State's Attorney Schwarz appeared and stated he will review this issue and provide some suggested language for further consideration.

Comm. Wrangham stated he supports the charter and the sales tax as it spreads the cost over more users, adding let those who contribute to the jail overcrowding problem help pay for adding jail space through the sales tax.

On a motion made, seconded, and carried, the Charter Commission recessed subject to call.

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman

DRAFT

**BURLEIGH COUNTY
HOME RULE CHARTER COMMISSION
MEETING MINUTES
December 12, 2013**

5:15 P.M.

The Burleigh County Home Rule Charter Commission convened with Chairman Woodcox and Commissioners Lembke and Saude present. Commissioners Peluso and Wrangham absent.

Motion by Comm. Lembke, 2nd by Comm. Saude, to approve the August 29 and September 26, 2013 meeting minutes as presented. All members present voted "AYE." Motion carried.

The Charter Commission then reviewed the draft charter and considered items/suggestions submitted at public hearing. Auditor/Treasurer Glatt explained the Draft incorporates the changes suggested at the public hearing and drafted by Asst. SA Schwarz better explaining how the charter fits with state law. Schwarz noted the changes are as follows: Page 3: Termination Date The sales tax shall expire when all necessary funds for the construction of the Detention Center and demolition and remodeling of the current Detention Center are collected. **At such point, notice will be provided to the Office of the Tax Commissioner of the cease date. Such will be provided at least ninety days prior to the start of a calendar quarter,** and in Article IV: Article IV- Amendments and Repeal and Termination In the manner as provided by state law, this charter may be amended or repealed. **At the expiration of the sales tax as included in Article II of this Charter, this Home Rule Charter will terminate.**

Motion by Comm. Lembke, 2nd by Comm. Saude, to adopt and submit the Home Rule Charter document to the Burleigh County Commission as presented. All members present voted "AYE." Motion carried.

Auditor/Treasurer Glatt then presented bond amortization schedules based upon a ½ cent and 1 cent sales tax. Comm. Lembke stated he requested this information to determine the interest savings of a 1 cent sales tax. Lembke stated that after discussion with others in the community a ½ cent sales tax is in his opinion the best alternative.

On a motion made, seconded, and carried, the Charter Commission adjourned.

Kevin J. Glatt, Auditor/Treasurer

Jerry Woodcox, Chairman