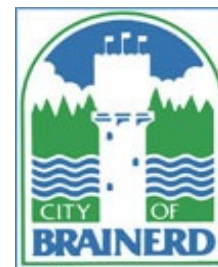


MEMO



TO: Charter Commission Members

FROM: City Administrator, Jennifer Bergman

DATE: April 15, 2022

RE: Discussion of Chapter One – Names, Boundaries, Powers and Divisions

Following each decennial census, all voting districts must be examined to ensure that equal population is distributed for all federal, state and county offices as well as any municipalities that elect their representatives by district which Brainerd does. This process is known as redistricting. If the population in our wards deviates more than 10%, the City is required to redistrict. However, the change in population from 2010 to 2020 did not deviate more than 10% in any of our wards; therefore, the City of Brainerd was not required to redistrict.

In anticipation of redistricting, we started to look at the Charter to see what changes, if any, would need to be made. When we did that, we discovered that the ward boundaries listed in Chapter One of the Charter were incorrect. It appears as if the Charter was not amended after the change in 2010.

Background

According to City Attorney Langel, in 1909, the legislature passed what is now codified as [Minn. Stat. § 410.21](#), which states as follows:

“The provisions of any charter of any such city adopted pursuant to this chapter shall be valid and shall control as to nominations, primary elections, and elections for municipal offices, notwithstanding that such charter provisions may be inconsistent with any general law relating thereto, and such general laws shall apply only in so far as consistent with such charter.”

Charter provisions regarding “elections for municipal offices” presumably include provisions relating to election wards. This statute contains pretty broad language that seems to put election control firmly in the hands of the Charter Commission. Decades later, however, the legislature passed numerous statutes that are collectively known as the Minnesota Election Law. That includes Chapter 205, a section of which (205.02) states:

“Subdivision 1. Minnesota Election Law.

Except as provided in this chapter the provisions of the Minnesota Election Law apply to municipal elections, so far as practicable.

Subd. 2. City elections.

In all statutory and home rule charter cities, the primary, general and special elections held for choosing city officials and deciding public questions relating to the city shall be held as provided in this chapter, except that sections [205.065](#), subdivisions 4 to 6; [205.07](#), subdivision 3; [205.10](#); [205.121](#); and [205.17](#), subdivision 3, do not apply to a city whose charter provides the manner of holding its primary, general or special elections.”

The legislature made Minnesota Election Law applicable to all cities, with the exception of several specific provisions that are not applicable to charter cities. None of those specific provisions concern election wards. To the extent section 410.21 conflicts with section 205.02, the latter controls because it was passed later in time and is more specific. See Minn. Stat. § 645.26 (the more specific provision controls over the general, and the later law controls over an irreconcilable earlier law).

All this is to say that, when it comes to election wards, Chapter 205 appears to control. With respect to changing the boundaries of existing election wards, State law provides when it must occur ([Minn. Stat. § 204B.135, subd. 1](#)), the vehicle for making the changes (([Minn. Stat. § 205.84, subd. 2](#) – by ordinance), the layout of the wards ([Minn. Stat. § 205.84, subd. 1\(a\)](#) – equal in population as practicable and composed of compact, contiguous territory), and the penalty for not changing the wards when required ([Minn. Stat. § 205.84, subd. 2](#) – no further compensation paid to the mayor and council until it is completed).

Given that State law already regulates when and how wards are redrawn, paragraph 2 of Chapter One of the Charter is not necessary at all, other than to state how many wards there ought to be (because that is not addressed by Minnesota Election Law and is therefore entirely up to the City). The entire paragraph can be reduced to a single sentence: “The City shall be divided into four wards in accordance with state law.” The Minnesota Election Law will take care of everything else.

Recommendation

Staff is recommending removing the ward boundaries from the Charter and replacing the language with “the City shall be divided into four wards in accordance with state law.”

BRAINERD CITY CHARTER

CHAPTER ONE

NAME, BOUNDARIES, POWERS AND DIVISIONS

1. All that district of country in the county of Crow Wing contained within the limits and boundaries as now are or hereafter may be established shall be a City by the name of "Brainerd," and all the people now inhabiting, and those who shall hereafter inhabit the same district shall be a municipal corporation by the name of "The City of Brainerd", and by that name may sue and be sued, plead and be impleaded, in any court; make and use a common seal, and alter it at pleasure; take and hold, lease and convey, all such real personal and mixed property as the purposes of the corporation may require, or the transaction or exigencies of the business may render convenient, within or without the limits of such district; shall be capable of contracting and being contracted with, and shall have all the general powers possessed by municipal corporations at common law, and, in addition thereto, shall possess all powers hereinafter specifically granted; and all the authorities thereof shall have perpetual succession.
2. ~~The City shall be divided into four wards in accordance with state law. That the Council be empowered to divide the City of Brainerd by ordinance into four (4) wards as equal in size and population as practicable. The Council must, within 60 days after each U.S. decennial census, readjust the boundaries of the four (4) wards provided there is a 10% or more deviation in population among said wards and if the Council does not do so, the Charter Commission of the City of Brainerd is empowered to do so.~~
 - a. ~~FIRST WARD: All of the territory south of the main line of the Burlington Northern Santa Fe Railroad and east of the Mississippi River beginning at the mainline railroad tracks and following said River south to the south City limits/Woodland Hills Lane, thence east to Greenwood Street, thence south to the centerline of the South 6th Street/Business Highway 371, thence northeast to the centerline of County Road 117, thence east to the centerline of the Spur Line Trail, thence north to the centerline of Willow Street, thence west to the centerline of South 6th Street/Business Highway 371, thence north to the centerline of Rosewood Street, thence east to the centerline of South 7th Street, thence north to the centerline of Quince Street, thence east to the centerline of the Spur Line Trail, thence north to the mainline railroad tracks of the Burlington Northern Santa Fe Railroad, thence west to the Mississippi River to the point of beginning.~~
 - b. ~~SECOND WARD: All of the territory within the City limits west/northwest of the Mississippi River, and, southeast of the Mississippi River commencing at the intersection of the centerline of the Mississippi River and the main line of the Burlington Northern Santa Fe Railroad, thence east along the~~

~~railroad tracks to the centerline of North 8th Street, thence north to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to the centerline of Grove Street, thence east to the centerline of North 11th Street, thence north along North 11th Street to the centerline of Evergreen Avenue, thence northeast to the Public Access driveway, thence north along the driveway to the centerline of the Mississippi River.~~

~~c. THIRD WARD: All of the territory north of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of North 8th Street, thence north along North 8th Street to the centerline of Washington Street, thence east to the centerline of North 10th Street, thence north to center line of Grove Street, thence east to the centerline of North 11th Street, thence north to the centerline of Evergreen Avenue, thence northeast to the Public Access Driveway, thence north along the driveway to the centerline of the Mississippi River, thence northeasterly along the centerline of the Mississippi River to the east City limits.~~

~~d.a. FOURTH WARD: All of the territory South of the main line of the Burlington Northern Railroad and east of a line commencing at the intersection of the Burlington Northern Santa Fe main line track and the centerline of the Spur Line Trail, thence south to the centerline of Quince Street, thence west to the centerline of South 7th Street, thence south to the centerline of Rosewood Street, thence west to the centerline of South 6th Street/Business Highway 371 thence south to the centerline of Willow Street, thence east to the centerline of the Spur Line Trail, thence south to the centerline of County Road 117, thence west to the centerline of South 6th Street/Business Highway 371, thence south to the south City limits.~~