

June 10, 2004

Memorandum

To: Ken Krushenski

From: Ron Darden

Subject: Advisory Charter Commission

As you know, the Tennessee Constitution provides three ways by which amendments to the city charter may be proposed for referendum:

1. By an elected charter commission formed under constitutional provisions. Oak Ridge is using this method.
2. By a charter commission formed by a private act of the state legislature.
3. By ordinance of the local governing board.

Home rule charters are subject to the general laws of the state, the state constitution, and the federal constitution. Charters granted by the state do not override general laws of statewide applicability and they do not override state and federal constitutions. Private acts of the state legislature do not generally apply if a city has a home rule charter. State general laws do apply to home rule charters.

The Charter Commission's proposed advisory charter committee is formed to assist the city council in reviewing the charter. It is advisory to the city council. It represents a structured method for periodically reviewing the charter. It takes nothing from the three methods provided in the state constitution. They remain as options for proposing amendments to the city charter. It only insures that the council will review the city charter on a periodic basis in the future.

If the council agrees with the recommendations of the committee, the council puts the recommendations into ordinance form and submits them as their recommendations. Upon council's approval of the ordinance, the election commission is advised to place the items on the ballot for referendum using the provisions of the constitution. It doesn't matter whether or not one agrees with the constitutional provisions granting the council the power to propose amendments for referendum. This is how "home rule" charters are amended.

It doesn't matter whether you call the group of citizens who will be reviewing and advising the city council a committee or a commission. I suppose one could call it a group of citizens. They will be performing the same task as assigned.