

Charter Commission Agenda

1. Call To Order
2. Approval Of Minutes
 - A. Approval Of Minutes

Documents:

[2A. 2017-08-24 CHARTER COMMISSION MINUTES DRAFT - 509583V3.PDF](#)

3. Election Of Officers
 - A. A. Chair
 - B. B. Vice Chair
 - C. C. Secretary
4. New Business
 - A. City Charter Issues For Review

Documents:

[4A1-2-3 MEMORANDUM REGARDING CHARTER COMMISSION ITEMS - 537848V2.PDF](#)
[4A4. DOCSOPEN ELECTIONS LANGUAGE-.PDF](#)

- B. Requesting Charter Commission Appointments
5. Review/Creation Of Annual Report
6. Charter Commission Meeting Schedule
7. General Discussion Item
8. Agenda Topics For Next Meeting
9. Adjournment

City Charter Commission

City of Faribault, MN
Minutes of August 24, 2017

1. Call to order / Roll call

The scheduled meeting of the Faribault Charter Commission was called to order by Chair Gary Kindseth on Thursday, August 24, 2017, at 7:00 p.m., in the Faribault City Hall Council Chambers. Commission members present included Chair Gary Kindseth, Chuck Ackman, Dave Albers, Kymn Anderson, Dan Behrens, Dan Burns, Elizabeth Cap, John Jasinski and Pat Rice.

Others present: Deputy City Administrator Murray, City Attorney Scott Riggs, and Deputy City Clerk Carole Dillerud.

2. Approval of minutes

Commission member Rice made a motion to approve the minutes of the August 25, 2016 Charter Commission meeting as presented. The motion was seconded by Commission member Jasinski. Motion passed unanimously.

3. Election of Officers

- A. Chair – Gary Kindseth
- B. Vice Chair – Chuck Ackman
- C. Secretary – Dan Behrens

Commissioners reaffirmed that the officer positions did not have a “term” limit and to reappoint the current officers.

Commission member Jasinski made a motion to re-appoint the Charter Commission Officers as presented. The motion was seconded by Commission member Burns. Motion passed unanimously.

4. New Business

4.A. Previous City Charter issues for review

- 1. Section 7.10 ordinance revision
- 2. Section 7.11 ordinance revision

City Attorney Riggs reviewed Sections 7.10 and 7.11 of the City Charter. The Commissioners had previously last year recommended amendments to the Charter and directed City Attorney Riggs to present for Council consideration of approval at the December 27, 2016 and January 10, 2017 Council meetings. The proposed amendments did not receive unanimous Council approval, and as required by Minnesota statutes, thus approval of both of the amendments failed.

Attorney Riggs recommended that the proposed amendments be once again offered and recommended for Council adoption as both amendments clarify issues in the

Charter. The proposed amendments were intended to update, clarify and simplify the existing Charter language.

Commissioner Rice inquired how many development entities the City oversees. Attorney Riggs responded that only the EDA and HRA with separate authority, but the City Council has final authority on many aspects.

Commissioner Cap questioned why the City gave authority to the EDA and HRA, and if they could currently buy and/or sell property. Attorney Riggs commented that Minnesota statutes granted authority over real property to both the EDA and the HRA in certain situations. It was noted that the City, the EDA and the HRA can all convey and accept real estate pursuant to statutory authority, etc.

Motion by Commission member Rice, seconded by Commission member Ackman, to again present the Charter Commissions' recommended amendments of Section 7.10 and Section 7.11 to the City Council for approval. Motion passed unanimously.

4.B. New City Charter issues for review

Commissioner Chair Kindseth presented for the Commissions' review and discussion of the following matter:

1. *Review of the various methods that a Charter Commission can propose amendments to the Charter*

Attorney Riggs stated that there were several specific ways to amend the Charter and discussed and explained the relevant statutory revisions.

The Commissioners discussed the various methods of amending the Charter and the types of questions that can be placed on a ballot for a vote, along with the types of amendments that could be submitted by ordinance through the City Council.

2. *Also, review the role of the Charter Commissions as it pertains to City's activities*
 - o *Northfield's Charter Commission appears to be very active and offers comments to the City on a variety of areas*

Commissioner Cap inquired if the City had ever considered becoming a statutory city versus a charter city. Commissioner Ackman provided a brief history of the City as a Charter city, and the Charter Commission. The Commission reviewed and updated the Charter in the 1970's. The Commissioners shared their work experience(s) and spent considerable time reviewing the intent of, and updated (refreshed) the Charter in 2011. Attorney Riggs commented that Charter form of government works well with the City of Faribault.

3. *Based on recent City Council discussions and events, should the Commission "ask" if there is any desire on the Council's part to review the various sections regarding the City Administrator position?*
 - o *Section 2.09 – Interference with Administration*
 - o *Section 6.01 – City Administrator*

Commissioner Chair Kindseth inquired if Commissioners were interested in becoming involved in the hiring (selection) process when there was a vacant (Administrator) position. Commissioner Ackman did not support any Commission involvement in the process; Commissioner Anderson inquired as to where that authority would come from procedurally. City Attorney Riggs would communicate with the City Administrator about the Commissioners (consensus) request regarding Section 6.01 on the general guidelines to help, "...deal with" Administrator recommendations; exit strategies.

Commissioners discussed the recently-appointed ad hoc Senior Advisory Committee, reasons why the Committee was created, and authority of the Committee. Charter Section 2.02 permitted the formation of committees, and gave the Council such authority. Commissioners concluded that the Charter should provide clear guidance and concise language was necessary for the Council, as well as provide a level of protection. Attorney Riggs stated that it was within the inherent power of the City Council to take action by somebody (Mayor??; multiple Councilmembers??); This type of authority is also interpreted from state statute. Attorney Riggs agreed that such authority should be more clearly stated within the Charter and that he will provide clarifying language for the Commission to consider for this item (review administrative leave, etc.) for possible Charter amendment(s).

4. *Review the various methods of how the City can dispose of "surplus" property as it pertains to the City Charter sections.*
 - *Section 7.12 Surplus Property*
 - *Section 12.04 Sale of Real Property*

Commissioners discussed the sale of City surplus real property and/or forfeited property. Recently, the EDA, as the development arm of the City, has been utilized to sell real property on behalf of the City. Attorney Riggs commented that the Charter requires the sale of real property via ordinance, but does not set forth any additional process or procedure for such sales.

5. Review/Creation of 2017 Annual Report

Attorney Riggs will update and create a new letter to be mailed to the Courts.

6. Charter Commission Meeting Schedule

The next meeting date would be determined by the City Administrator. Minnesota State Statute requires an annual meeting of the Charter Commission.

7. General Discussion Item

City Attorney Riggs reported that the State Legislature did not adopt any legislation requiring immediate Charter revision.

8. Agenda Topics for Next Meeting

City Attorney Riggs discussed administrative leave, particularly as to the city administrator position in the City, in response to questions from commissioners. Administrative leave generally occurs in cities, but the City Attorney is not aware of any

other City detailing such language within its charter. City Attorney Riggs commented that general language could be adopted for the Commissioners' review. City Attorney Riggs will provide better-defined language that attempts to address administrative leave situations in the City.

9. Adjournment

Motion by Commission member Jasinski, seconded by Commission member Ackman, carried unanimously, to adjourn the meeting at 8:21 p.m.

Submitted by:

Dan Behrens, Secretary

Kennedy

&

Graven

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MEMORANDUM

To: Honorable Faribault Charter Commission Members
Timothy C. Murray, City Administrator

From: Scott J. Riggs, City Attorney

Date: September 24, 2018

Re: City Charter Language for Review, Item 4.A.1, 2 and 3

The following is proposed rough, draft language in follow-up to discussions at the Charter Commission meeting on August 24, 2017, and in follow-up to discussions with City Administrator Timothy C. Murray. The proposed rough, draft language is for initial discussion purposes and has not yet been discussed in any form or brought forth for discussion before the City Council.

1. Advisory Committees Language. Based on discussion regarding specific authority and control over all such boards, commissions, committees, task forces or other groups established by the Council, please note the following proposed specific language: Add to the end of City Charter Section 2.02:

All such boards, commissions, committees, task forces or other groups established by the council shall be governed by all applicable statutes, ordinances, rules or requirements provided by federal, state or local laws.

2. Clarifying Council Authority for Employment Matters. Insert the following revisions to City Charter Section 6.04:
 - (a) Insert the phrase “and employees” into the title of Section 6.04;

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- (b) Insert Council authorizing language as to all city employees as follows: “The council shall appoint all subordinate officers and employees and shall oversee and supervise any review, appraisal or discipline related to all such employees, unless otherwise delegated.”
 - (c) Insert Council authorizing language as to oversight of the city administrator as follows: “In situations where immediate employment action is needed relative to any employee of the city, the mayor along with one other council member, or such committee appointed by the council for such employment oversight purposes, shall be able to immediately respond to any employment situation, all in the interests of the public health, safety and welfare of the city.”
3. Clarifying Staff Authority Regarding Employment Matters. Pursuant to discussions with City Administrator Murray, possible additional language regarding the authority of the city administrator relative to the city administrator’s oversight of city employees in certain circumstances could be inserted as a new subdivision 3A in Section 6.02 as follows:

Notwithstanding anything to the contrary in Subdivision 3 or Subdivision 4 of this Section 6, or otherwise, the city administrator, is authorized to oversee and supervise all probationary, seasonal and temporary employees as directed by the council. ***[OR, ALTERNATIVELY -- outright delegation]*** – Notwithstanding anything to the contrary in Subdivision 3 or Subdivision 4 of this Section 6, or otherwise, the council delegates to the administrator the authority to oversee and supervise all probationary, seasonal and temporary employees [as necessary//with follow-up to the council as needed].

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MEMORANDUM

To: Honorable Faribault Charter Commission Members
Timothy C. Murray, City Administrator

From: Scott J. Riggs, City Attorney
David T. Anderson, Assistant City Attorney

Date: September 21, 2018

Re: Proposed Charter Language Regarding Primary Elections

I. Overview

In 1994, the City of Faribault adopted Resolution 94-060, attached hereto as Exhibit A, which established a policy for municipal primary elections. Specifically, the Resolution provides that a municipal primary election shall only take place before a general election if there are three or more candidates for *each* open city council seat or if there are four or more candidates for an open mayoral seat. For example, if there are three openings on the city council, nine or more city council candidates are required to trigger the need for a city council primary. In contrast, a mayoral primary is simply triggered when four or more candidates file for an open mayoral seat.

The policy set forth in Resolution 94-060 is inconsistent with state statute, as Minn. Stat. § 205.065, subd. 4 provides that when a municipality opts to have municipal primaries, they shall do so unless “not more than twice the number of individuals to be elected to a municipal office file for nomination for the office...”. In other words, the statute requires a primary if more than six candidates file for three open city council seats, or, if more than two candidates filed for an open mayoral seat. Because charter cities are provided with the authority to adopt their own rules for primary elections, the City and Rice County have each adhered to Resolution 94-060 since its adoption, notwithstanding its inconsistencies with Minn. Stat. § 205.065, subd. 4.

Minn. Stat. § 205.02 expressly provides that in all home rule charter cities, primary elections held for choosing city officials “shall be held as provided in [state law], except that [Minn. Stat. §] 205.065, subdivision 4... [does] not apply to a city *whose charter* provides the manner of holdings

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its primary...”. As previously indicated, it is Resolution 94-060 that provides the manner for holding primaries in Faribault, not the City Charter.

II. Proposed Charter Language

Based on the information above and assuming that the practice for primary elections adopted 24 years ago is desired to be continued, language similar to that contained in Resolution 94-060 should be added to the Faribault City Charter to both clarify the City’s primary election procedure and adhere to plain language of Minn. Stat. § 205.02. Amending the City Charter to include the language below would suffice and would allow the City to continue its current practices in conformance with state law and as established by Resolution 94-060:

4.05. Municipal Primary Elections. When there are at least three times as many city council candidates that have filed for nomination as there are open city council seats, a primary election shall be held to narrow said field to two times as many candidates per open seat. When there are four or more candidates that have filed for nomination for an open mayoral seat, a primary election shall be held to narrow said field to two mayoral candidates. Unless otherwise inconsistent with this Section 4.05, all provisions governing municipal primary elections contained in Minnesota law shall apply.

Please let me know if you have additional questions or concerns regarding this matter.

SJR

EXHIBIT A

CITY OF FARIBAULT
RESOLUTION 94-60

RESOLUTION OF THE FARIBAULT CITY COUNCIL
ESTABLISHING POLICY FOR MUNICIPAL PRIMARY ELECTIONS

WHEREAS, Minnesota State Law and the Faribault City Charter provide the City Council with discretion in the holding of municipal primary elections, and

WHEREAS, the purpose of primary elections is to narrow the field of a large number of candidates in elections so that the voters can have clearer choices in the general election, and

WHEREAS, the City Council does not wish to needlessly hold primary elections, and

WHEREAS, there is a need for a uniform policy direction for the establishment of municipal primary elections.

NOW, THEREFORE, BE IT RESOLVED that the City Council adopt the following policy regarding primary elections:

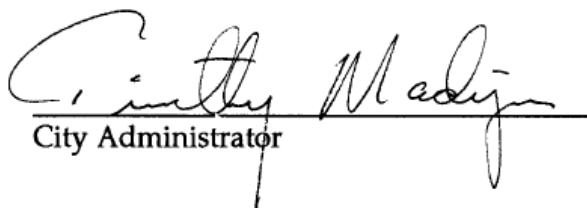
"When there are three or more candidates for each City Council vacancy, a primary election will be held to narrow the field down to two candidates per council vacancy. When there is four or more candidates for the Mayor's position, a primary election will be held to narrow the field to two candidates."

Adopted: March 22, 1994



Mayor

ATTEST:



City Administrator