



City of Fridley Charter Commission

Agenda

**Monday, October 5, 2020
7:00 P.M.**

Pursuant to Minnesota Emergency Executive Order 20-74, the October 5, 2020 meeting of the Fridley Charter Commission will be a hybrid meeting. If you wish to attend the meeting in person it will be held at Fridley City Hall (7071 University Avenue NE, Fridley, MN 55432). If you wish to attend the meeting virtually please click on the Zoom meeting links.

In Person: Fridley Civic Campus – Emergency Operations Center (EOC)
7071 University Avenue NE, Fridley, MN

Virtual: <https://zoom.us/j/96385518482> or call 312-626-6799, webinar ID: 963 8551 8482

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Agenda**
 - A. Motion approving the March 9, 2020 Meeting Agenda
- 4. Approval of Meeting Minutes**
 - A. Motion approving the October 5, 2020 Meeting Minutes
- 5. Administrative Matters**
 - A. Review of Bylaws
- 6. Old Business**
 - A. Review of Chapter 12
- 7. New Business**
- 8. Future Meeting Topics/Communications**
- 9. Adjournment**

**CITY OF FRIDLEY
CHARTER COMMISSION MEETING
MARCH 9, 2020**

CALL TO ORDER:

Chair Rolstad called the Charter Commission meeting to order at 7:00 p.m.

ROLL CALL:

Members Present: Commissioners Gary Braam, Donald Findell (remote participation), Manuel Granroos, Nikki Karnopp, Ted Kranz, Bruce Nelson, Rick Nelson, Courtney Rathke, Barb Reiland, Pam Reynolds, Val Rolstad, Cynthia Soule, Avonna Starck

Members Absent: Commissioners Kelli Brillhart, Richard Johnston

Others Present: Melissa Moore, Admin. Services Coord./Deputy City Clerk/Staff Liaison

APPROVAL OF AGENDA

Commissioner Braam MOVED and Commissioner Reiland seconded a motion approving the meeting agenda as amended.

UPON A VOICE VOTE, ALL VOTING AYE, VICE CHAIR SOULE DECLARED THE MOTION CARRIED.

Commissioner Reynolds asked if a review of the Bylaws should be added to the agenda, as an annual review is called for at the Annual Meeting. Ms. Moore asked the Commission if a review of the Bylaws may be considered at the April meeting due to Mr. Tienter's absence at this evening's meeting. Commissioner Reynolds suggested this be discussed during Future Meeting Topics. Chair Rolstad asked that a review of the Bylaws be added to Administrative Matters at the April 6, 2020 meeting.

APPROVAL OF MINUTES

Commissioner Braam had one revision to the February 3, 2020 minutes. Chair Rolstad was not in attendance at the meeting.

Commissioner Rick Nelson MOVED and Commissioner Reynolds seconded a motion approving the meeting minutes of February 3, 2020 as amended.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR ROLSTAD DECLARED THE MOTION CARRIED.

ADMINISTRATIVE MATTERS

A. Annual Meeting - Election of Officers

Ms. Moore noted a typo on the official ballot contained in the March 9, 2020 agenda packet. Commissioner Rick Nelson is asking to be considered for Chair, not Commissioner Bruce Nelson. She asked that the Commission strike through Commissioner Bruce Nelson's name and write Rick Nelson.

Commissioner Reynolds asked if prior to the vote, the Commission must suspend the Bylaws because they call for a secret ballot. Ms. Moore confirmed that according to Rosenberg's Rules, the Commission must call for a temporary suspension of the Bylaws, which requires a 2/3 vote. The Bylaws would go back into effect after the election is done.

Commissioner Findell MOVED and Commissioner Starck seconded a motion to temporarily suspend the Bylaws to allow for non-secret written ballots in the contested election of officers.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR ROLSTAD DECLARED THE MOTION CARRIED.

Commissioner Rathke informed the Commission that she had not yet been administered the Oath of Office for Charter Commission appointment. Ms. Moore asked for a temporary recess of the meeting so she could print Commissioner Rathke's Oath. Commissioner Rathke's Oath of Office was administered and the March 9, 2020 meeting resumed.

Chair Rolstad asked if there were any other nominations from the floor for any position. Hearing none, Chair Rolstad asked for a motion from the floor to close nominations.

Commissioner Soule MOVED and Commissioner Rathke seconded a motion to close nominations from the floor.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR ROLSTAD DECLARED THE MOTION CARRIED.

Ms. Moore asked Chair Rolstad to ask for a teller committee to tabulate ballots. Commissioner Kranz and Commissioner Soule volunteered. Commissioners Kranz and Soule collected ballots from the group and counted votes for each position.

Chair Rolstad asked Commissioner Findell to hold his ballot up to his screen so the group could see his selections. Commissioners Kranz and Soule added Commissioner Findell's choices to their results.

The teller committee presented a total of 13 ballots. Chair Rolstad asked Ms. Moore to read the individual ballots. They were as follows:

Bruce Nelson: Val Rolstad, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Pam Reynolds: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Don Findell: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Cindy Soule: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary

Courtney Rathke: Val Rolstad, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Manuel Granroos: Val Rolstad, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Avonna Starck: Val Rolstad, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Val Rolstad: Val Rolstad, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Barb Reiland: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Gary Braam: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Nikki Karnopp: Abstention for Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Ted Kranz: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary
Rick Nelson: Rick Nelson, Chair; Kelli Brillhart, Vice Chair; Barb Reiland, Secretary.

Ms. Moore confirmed the tallies counted by the teller committee were Rick Nelson received seven votes and Val Rolstad received five votes for Chair with one abstention. Kelli Brillhart received 13 votes for Vice Chair and Barb Reiland received 13 votes for Secretary.

Chair Rick Nelson took over as Chair of the meeting.

OLD BUSINESS

A. Review of Chapter 12 – Miscellaneous Procedures

Chair Nelson confirmed the addition of "In addition to the legal newspaper, such notices shall also be posted on the City website." He asked for any further additions. None were given.

Chair Nelson confirmed that no changes were made to Section 12.02.

Chair Nelson confirmed that no additional changes were needed for Section 12.03.

Commissioner Reynolds informed the Commission that Section 12.04 was the section she worked on to simplify the language and layout. Chair Nelson confirmed the work Commissioner Reynolds did on Section 12.04 is in Exhibit B. Commissioner Reynolds informed the Commission she did not add any additional text. She also informed the Commission there is nothing in the text pointing out this section would apply to commissioners, it only speaks to the Council or city employees.

Commissioner Reiland asked what the definition of "frank" was. Commissioner Rathke answered that in this case a frank is a stamp for postage.

Commissioner Nelson asked if the Commission liked the format of adding bullets to the paragraph. He added the new format is consistent with how some of the newer revisions of the Charter have been laid out.

Commissioner Findell asked that the bullets be indented. Chair Nelson asked staff to format the paragraph similar to previous sections.

Commissioner Granroos asked if "city officers" was a term to use in the title. Commissioner Reynolds answered that city officers refers to the City Manager and other directors. Commissioner Braam asked

about other commission members. Commissioner Reynolds confirmed there is nothing in this section referring to other commission members. Commissioner Braam asked that other commissioners be noted in the title. Commissioner Rathke noted a difference in who the section applies to in the title versus who it applies to in the section. She noted the need for a better connection between the title and the body of the text. Ms. Moore agreed to report back to the Commission with a definition of "city officers."

Chair Nelson confirmed the Commission wishes to know what the definition of "city officers" is and should other commission members be added to this section. Chair Nelson asked if the group wished to continue looking at the format of the section. Commissioner Kranz noted many other sections of the Charter contain bullet points. Chair Nelson asked if there was consensus. The group agreed. Chair Nelson asked if anyone opposed adding bullets, no one said yes. Chair Nelson asked staff to reformat Section 12.04 to reflect Commissioner Reynolds' formatting suggestions.

Commissioner Findell suggested the portion "with the exception of..." along with the two bullet points be separated in its own paragraph. The Commission agreed.

Commissioner Reiland asked why public utilities are called out differently than anything else in the section. Chair Nelson noted this text was written decades ago, and it's possible public utility corporations existed in Fridley who may have offered various incentives. This could happen again in the future. Commissioner Karnopp noted that the five bullet points outlining intangible things be added to the top. It does not matter if those things come from a public utility or some other group. Also, the sentence starting with "No member of the City Council..." should be deleted. Commissioner Rathke agreed they be added under "thing of value" and to strike the sentence about public utilities.

Commissioner Rathke asked if the yellow highlighted sentence should be added back to account for what happens when a city officer violates this section. Chair Nelson noted there are other provisions with other bodies, where a violation of the section may not be a fireable offense. Commissioner Reiland asked if a statement regarding applicable laws could be added. Commissioner Rathke asked if there is an investigative process involved if someone were to violate this section. Chair Nelson noted his experience representing employees of labor unions who were under investigation where other laws applied to the situation. Commissioner Reynolds noted the group deleted the sentence due to staff's comments, "at present, the language remains inconsistent with the powers and authorities of the City Manager to appoint and remove City staff. More importantly, the current text does not reflect other requirements outlined in Federal and/or State law such as the Minnesota Veterans Preference Act..." She added the group could leave the sentence in, but it has no real bearing on what will actually happen if a disciplinary action is needed. If the City Manager found out about a violation, they could fire the employee, then an administrative process would begin. But, the Charter says if you're found guilty, you're automatically removed. In real life that isn't how it works. If the group wanted to put a sentence in the text that reflects what truly happens, the group could do that. Commissioner Reiland commented the current text leaves too much out in the open. Commissioner Rathke added there is no penalty stated. Commissioner Reiland recommended the text be left in and incorporate portions of staff's comments regarding state and federal regulations generally.

Chair Nelson led the discussion on revising the yellow highlighted sentence in Exhibit B. The Commission agreed the text should read: "A violation of any of the provisions of this Section shall subject the offender to appropriate disciplinary action in compliance with all applicable laws and regulations."

Commissioner Reiland MOVED and Commissioner Rolstad seconded a motion to change the yellow highlighted sentence in Exhibit B. Commissioner Rathke offered a friendly amendment to say the text deleted at the February meeting should be reinserted and amended to read "A violation of any of the provisions of this Section shall subject the offender to appropriate disciplinary action in compliance with all applicable laws and regulations."

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR NELSON DECLARED THE MOTION CARRIED.

Chair Nelson opened the discussion on Section 12.05.

Chair Nelson recalled that a list of employees and Councilmembers who were bonded would be provided to the Council on an annual basis. He asked if that language was still what the Commission wished to add. Commissioners Granroos and Reiland replied yes. Chair Nelson recalled that Councilmember-at-Large Ostwald noted such a list would be informational to the Council.

Commissioner Reiland noted if a list was given to the Council annually, it would be for reference purposes only, not for a substantive debate. Commissioner Reynolds added that if every employee was covered there, wouldn't be a need for a list. Commissioner Rathke pointed to staff's comment that all employees are covered with a \$300,000 bond. Chair Nelson noted it was in the document notes, not in the document text. He suggested the following text: "A copy of the list and amount of the bonds for each office as outlined above, shall be provided to the Council on an annual basis for reference purposes."

Commissioner Rathke asked if "annual basis" should be defined. Commissioner Braam noted the Council runs on a fiscal year so the negotiations for the insurance bonds are part of the budget discussions.

Chair Nelson MOVED and Commissioner Starck seconded a motion to add "A copy of the list and amount of the bonds for each office as outlined above, shall be provided to the Council on an annual basis for reference purposes."

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR NELSON DECLARED THE MOTION CARRIED.

Chair Nelson opened the discussion on Section 12.06.

Commissioner Reynolds asked for particular clarification on this section. She noted the recommendation from staff talks about eliminating the requirement of the sale proceeds. She does not feel the Commission should do that, outlining her concerns of the profits from the sale of the old city hall property and where that money is going. She is concerned if the City nets money off of a particular property, that amount of money should be placed against the bond or the borrowing for

the new city hall. In staff's comment about making early payments to the 2017A Capital Improvement Bonds, she feels that staff should take the money and invest it, so in 2026 it can be applied to the bond. She does not want staff to take the sale proceeds of land the City already owned and put the proceeds toward a different purpose. Additionally, Commissioner Reynolds recalls early repayment of bonds was allowed. She will look back at her materials from Ehlers to confirm. She concluded that even if early payments cannot be made, proceeds from the sale of land from the old city hall should be invested and earmarked for payment in 2026.

Commissioner Karnopp asked if this was more of an issue of how the Council was appropriating the funds? Commissioner Rathke agreed she also would like to know the answer to Commissioner Reynolds' concerns, but asked if this meeting was the appropriate venue to get that answer. Commissioner Reynolds responded that it should be because the Charter controls the sale of real property. Commissioner Rathke said this is something we need to discuss with Mr. Tienter or the Council so that the Commission has a better understanding of what is meant by this paragraph.

Commissioner Reynolds also raised the question if staff took unused vehicles and equipment and put it online for auction, would those proceeds be covered by this section as well. Commissioner Karnopp wished to not get into too many specifics about how staff spend money. Commissioner Reiland does not want staff to sell the old city hall, take a bond out for a new building, use that money for something else and leave the taxpayers with the debt for a new city hall. Chair Nelson added that taking the language out suggested by staff would allow staff to use proceeds from the sale of real property for whatever they wanted. Commissioner Reiland gave the example that if the City sold a fire truck, the proceeds should go toward purchasing new equipment, not taking out new bonds to buy new equipment. Chair Nelson confirmed that this Section of the Charter pertains to real property. If the City sells a portion of land, this Section of the Charter dictates what the City may do with the sale proceeds.

Commissioner Karnopp noted this group is asking staff and Council to use the money responsibly. She said she assumes staff have plans for paying the bonds back. Commissioner Reynolds noted staff pay back the bonds in the amount of \$2 million per year.

Commissioner Findell does not want any of this section removed from the Charter. There is already the sentence saying the proceeds shall be used to retire any outstanding debt. He does not see a need to remove any language from this Section.

Commissioner Reiland MOVED and Commissioner Kranz seconded a motion to not remove any text from Section 12.06 and keep it as is.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR NELSON DECLARED THE MOTION CARRIED.

NEW BUSINESS

FUTURE MEETING TOPICS/COMMUNICATIONS

Chair Nelson asked if there was any new business to bring before the Commission.

Chair Nelson affirmed that a review of the Bylaws will be added to the April 6, 2020 meeting.

Chair Nelson affirmed that a continued review of Chapter 12 will be added to the April 6, 2020 meeting, including revised language that was approved at this evening's meeting. The next meeting will begin with a discussion of Section 12.07.

Commissioner Rolstad asked if there was pre-meeting work that should be done on the Bylaws prior to the next meeting. Commissioner Reynolds noted the particular language regarding "secret ballots" should be the only change needed. Commissioner Kranz wished this to be put on the next agenda. He is not comfortable with everyone knowing who he voted for. Chair Nelson and Commissioner Reynolds noted that is a requirement according to the Open Meeting Law. The Bylaws' wording calling for a "secret ballot" is what needs to change.

Commissioner Reynolds asked about the letter Ms. Skogen sent to Chief Judge Meslow regarding Mr. Ostwald's resignation citing he was resigning because our Charter specifically states no elected official may serve on the Charter Commission. She wished to know if that was accurate. She cannot find that language in the Charter and asked if anyone on the Commission knew why that was added to the letter to Chief Judge Meslow. Commissioner Starck added she had looked in the school board Bylaws and found no mention of such restriction. Ms. Moore confirmed no evidence of such a restriction in the Charter, or elsewhere in State statute. Commissioner Reynolds concluded that members of the Council could serve on the Charter Commission. She did not wish to add further discussion to a future meeting.

ADJOURNMENT:

Commissioner Granroos MOVED and Commissioner Reiland seconded a motion to adjourn the meeting.

UPON A VOICE VOTE, ALL VOTING AYE, CHAIR NELSON DECLARED THE MOTION CARRIED AND THE MEETING WAS ADJOURNED AT 8:28 P.M.

Respectfully submitted,

Melissa Moore
Administrative Services Coordinator/Deputy City Clerk/Staff Liaison

Commissioner Barb Reiland, Secretary



MEMORANDUM

Meeting Date: 10-05-2020
To: City of Fridley Charter Commission
Subject: Annual Review of Bylaws
Agenda Item: 5A

Introduction

At its March 9, 2020 meeting the Charter Commission asked staff to prepare a preliminary review of the Commission's Bylaws.

Discussion

Staff have prepared a preliminary review of the Commission's Bylaws. The substantive changes are a deletion in Section VII regarding voting for contested election(s) of officers. Section VII of the Commission Bylaws suggest that a secret vote is permissible in contested elections of officers. However, the Commission is subject to all of the same statutory requirements (M.S. § 13D.01 subd. 4) as the City Council when it comes to voting on matters, including the election of officers or any other internal matters. In the case of a contested election, there must be no secret ballots. If the Commission uses ballots, every Commission Member's ballot must be read aloud and reflected in the minutes.

Additional minor revisions are included related to capitalization, all of which are underlined in the attached draft.

FRIDLEY HOME RULE CHARTER COMMISSION
BY-LAWS
Approved May 6, 2019

- I. NAME -- the name of the organization shall be the Fridley Home Rule Charter Commission.
- II. PURPOSE -- the purpose of this organization shall be to frame and amend the Charter to meet the needs of the residents of Fridley.
- III. MEETINGS
- A. Commission meetings will be held in the Fridley Municipal Center; or a designated public location upon proper notice.
- B. The annual meeting shall be held in March of each year. The election of officers shall take place at the annual meeting.
- C. Special meetings may be called by the chair. In addition, the Chair shall call a special meeting within ten (10) days upon receipt of a written request signed by at least five (5) members. Such special meeting shall require proper notice to the commissioners and the public.
- D. A quorum to conduct business shall be determined according to the following schedule:
- | Number of Appointed Charter Commission Members | Quorum |
|--|--------|
| 15, 14, 13 | 7 |
| 12 or 11 | 6 |
| 10 or fewer | 5 |
- E. Except as provided in these by-laws, all meetings shall be governed in accordance with Rosenberg's Rules of Order Newly Revised 2011.
- F. The time of the meeting shall be called by the chair. If there is not a quorum within ten minutes after the meeting time is to commence, the members shall be dismissed. However, if the chair felt there was important business to be addressed, the chair would have the discretion to ask members to stay longer, but may not exceed an additional ~~10~~ten minutes past the specified time.
- IV. MEMBERSHIP -- The membership of this organization shall be 15 members.
- A. All members shall be expected to attend all meetings. If unable to attend, the member shall inform either the chair or the secretary as to the reason.

- B. Any member missing three (3) consecutive meetings without an adequate excuse, or failing to perform the duties of the office shall be subject to a discharge from the Commission upon a written request to the Court, supported by two-thirds (2/3) of the Commission members present and voting.

V. OFFICERS

A. Election of Officers.

- 1. The officers of this organization shall be a Chair, Vice Chair and a Secretary.
- 2. The Chair, Vice Chair and Secretary shall be elected from the membership of the Commission.
- 3. The Chair, Vice Chair and Secretary shall be elected at the annual meeting. No officer shall serve more than two consecutive terms in the same office.
- 4. All officers shall begin their terms of office upon election to that office.
- 5. Election to vacant offices shall be made from the floor at the next meeting following the meeting at which the vacancy is declared.
- 6. Officers of this organization shall be declared duly elected by a simple majority vote of those present and voting. Any contested race for an office shall be done by a written ballot. The acting chair will ask for a teller committee of two (2) to count the ballots.

B. Duties of Officers and City Staff Liaison.

- 1. The Chair shall have the following responsibilities:
 - a. to call all regular and special meetings;
 - b. preside at all meetings;
 - c. set the agenda;
 - d. implement the decisions of this Commission; and
 - e. participate in all Commission decisions as a voting member.
- 2. The Vice Chair shall assist the chair in the performance of these duties. In the event the Chair is unable to perform these duties, the Vice Chair shall discharge such duties.
- 3. The Secretary shall be responsible for:
 - a. keeping an accurate record of attendance;
 - b. recording of minutes at all meetings;

- c. distributing minutes to members within a reasonable time;
 - d. giving notice to members who have missed two (2) consecutive meetings pursuant to Article IV, Section B, of the By-Laws;
 - e. transmitting all correspondence and related resource material concerning this Commission to the Ceity Clerk for retention; and
 - f. presiding at meetings in the absence of the Cehair and Vice Cehair.
4. The city staff liaison shall be designated by the Ceity Clerk and serve as a recording secretary at all meetings of the Charter Commission. The liaison, with the direction of the Secretary, will have the following responsibilities:-
- a. serve in an advisory capacity at all meetings as a non-voting member;
 - b. assist the Commission by providing research information as requested by Officers;
 - c. accurately record attendance and minutes of all meetings;
 - d. distribute minutes and notices of upcoming meetings with proposed agenda in a timely manner;
 - e. prepare proposed Charter changes for submission to the City Council; and
 - f. retain records of Commission proceedings as required by Minnesota state law.

VI. COMMITTEES

- A. The Cehair shall have the power to create committees, appoint members and designate chairs of those committees.
- B. In January of each year the Chair shall appoint a nominating committee of three (3) or more members who shall report the nomination of one (1) or more candidates for each office. A written report of such nominations shall be transmitted electronically or by mail to each member at least ten (10) days before the annual meeting.

VII. VOTING

- A. A majority vote of members present shall be sufficient to pass motions and resolutions except as provided elsewhere.
- B. There shall be no secret votes, ~~other than contested election(s) of officers.~~

Commented [MM1]: This deletion is at the suggestion of the Commission per the meeting minutes from March 9, 2020.

VIII. ORDER OF BUSINESS

- 1. Call to Order by the Chair.
- 2. Roll Call.
- 3. Approval of Agenda

4. Approval of Minutes.
5. Administrative Matters.
6. Old Business.
7. New Business.
8. Future Meeting Topics.
9. Adjournment.

IX. AMENDMENT

- A. These by-laws can be amended at any regular meeting of the Commission by a two-thirds (2/3) vote of those present, provided that the amendment has been submitted in writing electronically or by mail to the members at least two (2) weeks before the vote on the amendment.

DRAFT

MEMORANDUM



Meeting Date: 10-05-2020
To: City of Fridley Charter Commission
Subject: Continued Revision of Chapter 12: Definition of City Officer
Agenda Item: 6A

Introduction

At its March 9, 2020 meeting the Charter Commission asked staff to research the definition of "city officer" in Minnesota Statute (M.S.).

Discussion

There are several sections within statute that the Commission may find helpful:

M.S. § 10A01 Subd. 2: Local official means a person who holds elective office in a political subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.

M.S. § 412.681: Manager Runs City; Offices may be Joined or Abolished. There shall be a clerk, a treasurer, and such other officers subordinate to the manager as the council may create by ordinance. The clerk shall be subject to the direction of the manager and shall have such duties in connection with the keeping of the public records, the custody and disbursement of the public funds, and the general administration of the city's affairs as shall be ordained by the council. The clerk may be designated to act as secretary of the council. The treasurer shall have the powers and perform the duties imposed upon treasurers under the laws relating to cities generally. The council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices as it may deem fit. The council may provide for the performance by the manager of the duties of any officer except the treasurer.

M.S. § 471.895: Certain Gifts by Interested persons Prohibited. Subdivision 1, part D. Definitions.

(d) "Local official" means:

(1) an elected or appointed official of a county or city or of an agency, authority, or instrumentality of a county or city.

Certain sections of statute, or rules may reference or define certain positions, but they typically have varying definitions related to the section of statute and the functions they govern. For reference only M.S. § 412.02 which governs Statutory Cities, defines city officers as the Mayor, Clerk and Treasurer. Fridley Charter Section 6.04 (Subordinate Officers) states, "[t]here shall be a City Clerk, City Treasurer, City Attorney and other officers subordinate to the City Manager..."

The Commission may expressly define "city officer" in the Charter through an amendment, reference Section 6.04, or reference any portion of statute.

Exhibit A

FRIDLEY CITY CHARTER
CHAPTER 12. MISCELLANEOUS PROVISIONS

Section 12.01. OFFICIAL PUBLICATIONS.

The Council shall regulate by ordinance, subject to the requirements of this Charter, the manner in which official publicity shall be given to the holding of elections, ordinances, resolutions, requests for bids upon contemplated purchases and contracts, and all other matters whatsoever which require publication either by the provisions of this Charter or by the laws of Minnesota. It shall annually designate a legal newspaper of general circulation in the City as the official newspaper in which shall be published such measures and matters as are by the laws of this State and this Charter required to be so published, and such other matters as the Council may deem it advisable and in the public interest to have published in this manner.

At its discretion, the City Council may also provide for the publication of important city information including but not limited to the annual budget, ordinances, and resolutions. Such publication may be done by mailing or posting of printed copies thereof upon bulletin boards located in public places of the City in such number and for such period of time as the Council may direct in each case. In addition to the legal newspaper, such notices shall also be posted on the City website. In addition, the City Council may use electronic means for publication. Nothing herein contained shall be construed as authorizing or attempting to authorize any violation of the Constitution or the Statutes of the State in any matter which is of State concern or which is exclusively under State control. (Ref Ord 1310)

Commented [TD1]: The Charter Commission may revise this section to a broader statement on official publications or requirements. Please see the example language from other City Charters listed immediately after the section.

Commented [MM2]: This section is to be added to 12.11.

Example Language	
City of Hopkins	The Council shall annually designate one official newspaper as defined by Minnesota State Statutes in which shall be published such matters as are required to be published by the laws of the State or the provisions of this Charter.
City of Richfield	The Council shall annually designate a legal newspaper of general circulation in the City as its official newspaper in which shall be published ordinances and other matters required by law to be so published, as well as such other matters as the Council may deem it in the public interest to have published in this manner.

Section 12.02. PUBLICITY OF RECORDS.

All records and accounts of every office, department or agency of the City shall be open to inspection in accordance with the Minnesota Government Data Practices Act.

Section 12.03. OATH OF OFFICE.

Every officer of the City shall, before entering upon the duties of the office, take and subscribe an oath of office in substantially the following form: "I, [Name], do solemnly swear to support the

Commented [TD3]: The Charter Commission may remove this section as Section 12.11 already provides that all other State laws generally applicable to home rule municipalities apply to the City. In this case, the Minnesota Government Data Practices Act is applicable to all political subdivisions of the State, including home rule municipalities.

Commented [TD4]: The current text of this section reflects guidance from the Office of the Minnesota Secretary of State. With that stated, the Charter Commission could revise the text of the Oath of Office, if it so desired.

Exhibit A

~~Constitution of the United States, the Constitution of the State of Minnesota, the Fridley City Charter and City Code; and to discharge faithfully the duties entrusted upon me as a [Official Title] of the City of Fridley to the best of my judgement and ability. "I do solemnly swear (or affirm) to support the Constitution of the United States and of the State of Minnesota and to discharge faithfully the duties devolving upon me as (Mayor, or Councilmember, or City Manager, etc.) of this City to the best of my judgement and ability." (Ref. Ord. 857)~~

Section 12.04. CITY OFFICERS NOT TO ACCEPT FAVORS OR CONTRACTS.

No member of the City Council or employee of the City shall;

1. ~~S~~solicit or receive any;

- any pay
- commission
- money
- thing of value included but not limited to:
 - any pass
 - frank
 - free ticket
 - free service
 - or any other favor upon terms more favorable than those granted the general public.

2. ~~D~~erive any profit, directly or indirectly, from or by reason of;

- any improvement
- alteration or repair required by authority of the City
- or any contract to which the City shall be a party.

With the exception of:

- lawful compensation, including authorized expenditures
- or salary as such member of the City Council or as such employee.

~~No member of the City Council or employee of the City, except as otherwise provided in this Charter, or by law, shall solicit, accept or receive, directly or indirectly, from any public utility corporation or the owner of any public utility or franchise:~~

~~A violation of any of the provisions of this Section shall disqualify subject the offender to appropriate disciplinary action in compliance with all applicable laws and regulations. If found guilty, from continuing in office or in the employment of the City, and the offender shall be removed therefrom. Any contract with the City in which any member of the City Council or employee of the City is, or becomes, directly or indirectly interested personally shall be voidable at the option of the Council; and any money which shall have been paid on such contract by the City may be recovered from any or all of the persons interested therein by joint or several action. (Ref. Ord. 857)~~

Section 12.05. OFFICIAL BONDS.

Commented [MM5]: Commissioner Reynolds agreed to further revise and simplify the language of Section 12.04.

Commented [MM6]: M.S. 412.02

Commented [TD7]: The Charter Commission should consider revising this section to exclude the termination of employment. At present, the language remains inconsistent with the powers and authorities of the City Manager to appoint and remove City staff. More importantly, the current text does not reflect other requirements outlined in Federal and/or State law, such as the Minnesota Veterans Preference Act, which requires additional due process for veterans separated from employment with a political subdivision. Additionally, certain employees may be subject to other separation requirement of their collective bargaining agreements.

Commented [MM8]: The Charter Commission requested revisions to reflect how staff currently administer official bonds. The City procures bond coverage for City officials through the League of Minnesota Cities Insurance Trust (LMCIT). Every employee is covered for \$300,000 per occurrence.

Exhibit A

The offices of City Manager, the City Clerk and City Treasurer and such other officers or employees of the City, as may be provided for by ordinance, shall each, before entering upon the duties of their respective offices or employment, give a corporate surety bond to the City in such form and in such amount as may be fixed by the Council as security for the faithful performance of their respective official duties and the safekeeping of the public funds. ~~Such bonds shall be approved by the City Council and approved as to form by the City Attorney. They shall be filed with the Secretary of the Council. In the event the Secretary of the Council holds more than one (1) office by appointment, the Secretary's bond or bonds shall be filed with the Mayor.~~ The provisions of the laws of the State relating to official bonds, not inconsistent with this Charter, shall be complied with. The premiums on the corporate surety bonds hereinbefore provided for shall be paid by the City.

Commented [TD9]: The Charter Commission may revise this section to a boarder statement on official bonds. Please see the example language from other City Charters listed immediately after the section.

A copy of the list and amount of the bonds for each office as outlined above, shall be provided to the Council on an annual basis for reference purposes. (Ref. Ord. 857)

Example Language	
City of Coon Rapids City of Richfield (similar, but not exact)	The City Manager, the City Clerk, the City Treasurer, and such other officers or employees of the City as may be provided for by ordinance shall each, before entering upon the duties of his respective office of employment, give a corporate surety bond to the City in such form and in such amount as may be fixed by the Council as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds may be either individual or blanket bonds at the discretion of the City Council. They shall be approved by the Council, and approved as to form by the City Attorney, and filed with the City Clerk. The provisions of the laws of the State relating to official bonds not inconsistent with this Charter shall be complied with. The premium on such bonds shall be paid by the City.

Section 12.06. SALES OF REAL PROPERTY.

No real property of the City shall be sold or disposed of except by ordinance. ~~The proceeds of any such sale shall be used as far as possible to retire any outstanding indebtedness incurred by the City in the purchase, construction, or improvement of this or other property used for the same public purpose; but if there be no such outstanding indebtedness, then the Council may by a resolution adopted by an affirmative vote of at least four (4) members of the Council designate some other public use for such proceeds.~~

Commented [TD10]: The Charter Commission should consider revisions to this section to exclude the requirement of sale proceeds to retire any outstanding indebtedness. Generally, the requirement would be inconsistent with the mechanics of debt financing and the limited opportunity to "pay-off" any indebtedness in advance. For example, the City cannot make an early payment on the 2017A Capital Improvement Bonds for the Fridley Civic Campus until 2026.

Section 12.07. VACATION OF STREETS.

The Council shall have the exclusive power, by resolution passed by a vote of at least four (4) members of the Council, to vacate or discontinue highways, streets, easements, and alleys within the City. Such vacations may be made only after notice and hearing of affected property owners, and upon such further terms and by such procedure as the Council may by ordinance prescribe. A

Commented [TD11]: The Charter Commission should consider revising this section to allow from the approval of a vacation by a simple majority of the Council. Additionally, the Charter Commission should consider establishing an exact notice period (e.g., two weeks, 10 days).

Additionally, the Charter Commission may remove this section in total and State law would control regarding the vacation of streets pursuant to Section 12.11 of the Charter and State law.

Exhibit A

record of each such vacation shall be filed in the office of the Anoka County Recorder. (Ref. Ord. 592, Ord. 1090)

Example Language	
City of Anoka	The Council may by resolution vacate any street, alley, easement, public grounds, public way, or other right in property, granted to or owned by the City, or any part thereof, on its own motion or at the request of one or more of the owners of land abutting the property to be vacated. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing. The Council shall cause written notice of the hearing to be mailed to each property owner affected by the proposed vacation at least ten (10) days before the hearing. The notice must contain a copy of the proposed resolution as well as the time, place, and date of the hearing. The vacation resolution may reserve any interest or right in the vacated property not greater than the City's interest prior to the vacation. A certified copy of the vacation resolution shall be filed with the County recorder. Failure to file the resolution shall not invalidate the vacation proceedings.

Section 12.08. DAMAGE SUITS.

1. No action shall be maintained against the City on account of any injuries or damages to persons or property, unless such action shall be commenced within one (1) year from the occurrence of such injury or damage, nor unless notice shall have been given in writing as required by Minnesota Statutes. (Ref. Ord. 873)
2. No action shall be maintained against the City on account of injuries or damages to persons or property resulting from or caused by any accumulation or deposit of ice or snow on any public street, sidewalk, building, or place.

Commented [TD12]: The Charter Commission may remove this section as Section 12.11 already provides that all other State laws generally applicable to home rule municipalities apply to the City. In this case, Minnesota Statute Chapter 466, which controls tort liability for political subdivisions would apply. The Charter Commission could also include a reference to the this or other State statutes controlling tort claim limits.

It is worth noting that several City Charters do not include a reference to damage suits.

Example Language	
City of Saint Louis Park	The State of Minnesota has regulated actions for the recovery of damages for injuries to persons and property by statute. Therefore, the Minnesota Tort Claims Act, applicable to Minnesota municipalities as it may be amended from time to time, M.S.A. § 3.736, is hereby adopted by reference. The city expressly preserves all rights and defenses accorded to it by law, including the right to bring claims for contribution or indemnity.

Section 12.09. RECOVERY OF JUDGEMENT FOR DAMAGES.

If any judgement shall be recovered in any action against the City for any injury or damage caused by any obstruction, excavation, opening or defect in any street or alley or public ground caused or

Commented [TD13]: For the comments mentioned into the previous comments, the Charter Commission may consider removal of this section.

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occasioned by the act or omission of any person or corporation, the City shall have the right to recover the amount of any such judgement from the person or corporation so responsible for such obstruction, excavation, opening or defect; and such person or corporation is hereby declared to be liable to the City in the amount of such damages, provided, however, the City shall give such person or corporation notice of any claim for such injury or damage and of any action to recover for the same and shall give such person or corporation the right and reasonable opportunity to defend such action.

Section 12.10. CITY TO SUCCEED TO RIGHTS AND OBLIGATIONS OF FORMER MUNICIPALITY

The City of Fridley shall remain vested with and continue to have, hold and enjoy all property, property rights, rights of action, and rights of every kind, privileges and immunities now belonging to or pertaining to the Village of Fridley, and shall be subject to all liabilities which exist against said Village on the effective date of this Charter.

Section 12.11. APPLICATION OF GENERAL LAWS.

All general laws and statutes of the State applicable to all cities operating under home rule Charters, or applicable to cities of the same class as the City of Fridley operating under home rule Charters, and not inconsistent with the provisions of this Charter, shall apply to the City of Fridley and shall be construed as supplementary to the provisions of this Charter. The City shall have all powers and authority granted by the laws of the State to municipalities to acquire property or exercise authority or powers beyond the corporate limits. All powers by this Section conferred shall be exercised conformably to this Charter so far as may be possible, and such authority and power shall not authorize the City to incur any bonded debt beyond the limitations, or in any other manner than authorized by this Charter.

Nothing herein contained shall be construed as authorizing or attempting to authorize any violation of the Constitution or the Statutes of the State in any matter which is of State concern or which is exclusively under State control.

Commented [TD14]: The Charter Commission may revise this section to provide a broader and simpler statement related to those State statutes applicable to the City.

Commented [MM15]: The Commission directed this sentence be moved to Section 12.11 and removed from 12.01.

Example Language	
City of Ramsey	All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Ramsey operating under home rule charters, and not inconsistent with the provisions of this Charter, or the ordinances of this city, shall apply to the City of Ramsey, and shall be construed as supplementary to the provision of this Charter.
City of Anoka	All general laws and statutes of the state applicable to all cities operating under home rule charters, or applicable to cities of the same class as the City of Ramsey operating under home rule charters, and not inconsistent with the provisions of this Charter, or the ordinances of this city, shall apply to the City of Ramsey, and shall be construed as supplementary to the provision of this Charter.

Exhibit A

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Section 12.12. EXISTING ORDINANCES, REGULATIONS, BOARDS AND COMMISSIONS CONTINUED

All ordinances, regulations, boards and commissions of the municipality in force and existing when this Charter takes effect, and not inconsistent with the provisions hereof, are hereby continued in full force and effect until amended, repealed, vacated or abolished.

Section 12.13. PENDING CONDEMNATIONS AND ASSESSMENTS.

Any proceeding for condemnation for public improvement or assessment in progress when this Charter takes effect shall be continued and completed under the laws under which such proceedings were begun. All assessments made by the Village prior to the time when this Charter takes effect shall be collected and the lien thereof enforced in the same manner as if this Charter had not been adopted.