



City of Fridley Charter Commission

Agenda

**Monday, March 9, 2020
7:00 P.M.**

Location: Fridley Civic Campus – Gathering Room
7071 University Avenue NE
Fridley, MN

- 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 February 3, 2020 Meeting Minutes
- 5. Administrative Matters**
 - A. Annual Meeting - Election of Officers (Chair, Vice Chair and Secretary)
- 6. Old Business**
 - A. Review of Chapter 12
- 7. New Business**
- 8. Future Meeting Topics/Communications**
- 9. Adjournment**

Motion to adjourn the meeting

**CITY OF FRIDLEY
CHARTER COMMISSION MEETING
FEBRUARY 3, 2020**

CALL TO ORDER:

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

ROLL CALL:

Members Present: Commissioners Gary Braam, Kelli Brillhart, Manuel Granroos, Richard Johnston, Nikki Karnopp, Bruce Nelson, Rick Nelson, Barb Reiland, Pam Reynolds, Valerie Rolstad, Cynthia Soule, Avonna Starck,

Members Absent: Commissioners Donald Findell, Ted Kranz, Courtney Rathke

Others Present: Daniel Tienter, Finance Director/City Treasurer/City Clerk/Staff Liaison
Melissa Moore, Admin. Services Coord./Deputy City Clerk/Staff Liaison
David Ostwald, Councilmember-at-Large
Steve Eggert, Councilmember, Ward 2

APPROVAL OF AGENDA

Commissioner Rick Nelson requested to amend the agenda to add item 5E to discuss the Commission agenda packet. Vice Chair Soule added the request as agenda item 5E.

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

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

APPROVAL OF MINUTES

Commissioner Braam MOVED and Commissioner Rick Nelson seconded a motion approving the meeting minutes of January 6, 2019.

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

ADMINISTRATIVE MATTERS

A. Updated Membership List

Mr. Tienter said a members list is in the agenda packet. The new list includes the Commission's two new members, Nikki Karnopp and Courtney Rathke.

B. Upcoming Term Expiring: Gary Braam

Vice Chair Soule asked Commissioner Braam if he wanted to be reappointed. Commissioner Braam said he would like to be reappointed.

Commissioner Rick Nelson MOVED and Commissioner Brillhart seconded a motion to recommend the reappointment of Commissioner Gary Braam to a new four-year term to the Charter Commission to Chief Judge Meslow.

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

C. 2019 Annual Report

Vice Chair Soule noted that this Annual Report will put the Commission in compliance with Minnesota Statute.

Commissioner Reynolds added the Annual Report had never been sent before.

Commissioner Reiland MOVED and Commissioner Johnston seconded a motion to approve the draft 2019 Annual Report and that it be sent to Chief Judge Meslow.

Commissioner Reynolds wished to amend the last bullet in the last paragraph because January 27, 2020 is when Council called for a public hearing.

Mr. Tienter asked for a friendly amendment to revise the wording of the last bullet point.

Commissioner Reynolds made a friendly amendment to restate the last sentence as: Review of Chapter 6 (Administration of City Affairs) resulting in two Charter Amendments, which the City Council began consideration of on January 27, 2020.

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

D. Nominating Committee Report

Vice Chair Soule asked the Nominating Committee to give its report.

Commissioner Reynolds announced the Nominating Committee would like to offer the following names for 2020 officers: Val Rolstad and Rick Nelson for a contested ballot for Chair; Kelli Brillhart for the position of Vice Chair; and Barb Reiland for the position of Secretary.

Vice Chair Soule noted that with the Chair position being contested, there will be an election at the March meeting.

Commissioner Braam inquired about the Commissioners who will not be at the March meeting, and if they will be included in the election process.

Mr. Tienter informed the Commission that the Open Meeting Law (OML) would likely prevent any absent Commissioners from participating remotely in an election. The Commission's bylaws control when the annual meeting takes place and when the election must occur. The rules of order would allow a suspension of bylaws if by a 2/3 majority vote if it was passed. The election would need to be held over until all members were present.

Commissioner Reynolds responded that the bylaws allow for a secret ballot for contested offices and asked if the absent commissioners could be allowed to submit a ballot because there will be an actual ballot for the Chair position.

Mr. Tienter answered that pursuant to the OML, all action would need to take place within the meeting proper. Anyone absent could not present a ballot and have it read at the meeting. The OML prohibits remote participation except in certain circumstances. If they voluntarily remove themselves from the meeting, the Commission cannot make an accommodation under state law for balloting purposes. However, staff would research the issue further to confirm this interpretation of the law.

Commissioner Reiland asked who would not be at the March meeting.

Commissioner Reynolds noted that Commissioner Findell will not be back until April. Commissioner Starck will check with Commissioner Kranz.

Mr. Tienter noted the bylaws are very clear when the annual meeting occurs. All members not in attendance for that meeting would have been aware of the election well in advance, and if there is a contested ballot, they knew they would not be able to participate.

Commissioner Reynolds asked if they would receive notification of this report.

Mr. Tienter answered yes. With the next agenda packet, staff will release it with the timing consistent with the bylaws. Commissioner Reynolds noted it was ten days before the election. Mr. Tienter agreed.

Mr. Tienter clarified that staff will anticipate proceeding with the election in March, and participation would be required in person at the meeting. Staff will notify the Commission if that understanding changes.

Commissioner Reynolds wished to add that prior to the election in March, there will still be an open nomination. The Commission agreed. Nominations from the floor will be accepted.

Commissioner Reiland asked Mr. Tienter if an absent Commissioner felt very strongly for or against a candidate for Chair, if they could call in to the meeting.

Mr. Tienter said no, that would be a violation of the OML. Commissioner Rick Nelson noted that unless it was advertised prior, it would not be permissible.

Mr. Tienter noted there are a few exceptions that would allow Commissioners to attend remotely. They would need to participate in the meeting in a public place, must be visible in addition to a few other requirements. Likely, the members who are absent would not meet the threshold. The OML is quite restrictive, and every year there is an effort to revise it to allow for these types of situations.

Commissioner Reynolds raised her concern for Chair Rolstad participating this evening in the Nominating Committee.

Mr. Tienter answered that the Minnesota Supreme Court has ruled that if a committee meeting occurs with a number of attendees that are below the number of a quorum, they may conduct a meeting without public notice because there is not the opportunity to take official actions. The Courts are also very particular in prohibiting serial meetings.

Commissioner Reiland MOVED and Commissioner Johnston seconded a motion to accept the 2020 Nominating Committee report.

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

E. Charter Commission Agenda Packets

Vice Chair Soule began the discussion of agenda item 5E to discuss the agenda packet.

Commissioner Rick Nelson asked if the Commissioners could receive the packet sooner.

Mr. Tienter acknowledged the timeliness issues of the packets. Typically, staff mail the packets on Wednesday before the meetings. Some Commissioners report they do not receive their packets until the day of, or after, the meeting. Staff will attempt to mail the packets sooner.

Commissioner Rick Nelson felt that for the Commissioners to receive their packet with only one day to review is a disservice to the community.

Commissioner Reynolds added she looked at part of the agenda online, but when she got to the pages on Chapter 12, the print was too small.

Commissioner Brillhart asked if members of the Commission could opt out of receiving a paper copy of the packet to save the City the cost of printing and supplies.

Mr. Tienter was fine with sending packets electronically to those Commissioners who request that. Staff will send an email to the Commission for their feedback.

Mr. Tienter informed the Commission of staff's efforts to investigate the City's mail processes and figure out how the City should proceed in the future. As part of that project, he noted that the USPS is reporting historically low mail service delivery times according to their own metrics. Staff may need to change delivery dates to accommodate this.

Vice Chair Soule asked if the out of town Commissioners continue to receive mail packets. Staff confirmed they do.

Commissioner Johnston asked why the packets weren't printed on both sides. Staff agreed that all future packets will be double sided.

Commissioner Rick Nelson, revisiting the previous topic regarding the OML, indicated an absent Commission members could notify the public where they would take the meeting, and it would satisfy the requirements. Commissioner Brillhart asked even if the member was out of state. Commissioner Nelson said yes and read a portion of Minnesota Statute § 13D. If in the notice it says that people will be brought in electronically, that satisfies the requirement if it is ten days in advance.

Commissioner Brillhart noted there would be a problem with the election. The statute says votes would be required by roll call, and the Charter bylaws specifically state that contested elections must be on a written ballot. She asked how off-site attendees would provide a written ballot at the meeting?

Commissioner Rick Nelson said you could do a roll call vote by allowing them to cast their vote to the committee who would be counting the ballots.

Commissioner Brillhart noted that would not be a written ballot. Commissioner Rick Nelson agreed.

Mr. Tienter said staff will research the topic. The Department of Administration has several advisory opinions related to this topic. Staff will examine those findings.

Commissioner Brillhart added if there was not a contested election, this discussion would not be an issue.

OLD BUSINESS

A. Review of Chapter 12 – Miscellaneous Procedures

Commissioner Reynolds requested the Commission go through one section at a time.

Mr. Tienter reminded the Commission that at the January meeting, the direction for staff was to look at the entire chapter. Staff went through each section and compared the language to other city charters and various State statutes. Sample language, included in the attachment, is reference material to assist with the discussion this evening.

Mr. Tienter noted that in Section 12.01, staff's comment notes the Commission could revise this section to be broader than what is currently written. He noted this section was amended the last time the Commission revised it. The examples from the cities of Hopkins and Richfield are short and broad statements to say that the Council has to annually designate a newspaper, then the Council can have things published that it deems to be in the public interest and as required by other chapters of the Charter or state law. If the Commission replaced the Charter language with something similar to the example language, it would still provide much of the spirit of what is contemplated in Section 12.01 and provide broad expanse of powers that Charters typically provide to City Councils.

Commissioner Reynolds replied she liked the current language because it provides an explanation for the general public to understand why the section is there. She likes that the Fridley language speaks to providing for the publication of city information.

Vice Chair Soule recalled the last time the group discussed this section, the wording about the ability to use electronic means for publication was added as an additional way to communicate.

Commissioner Brillhart asked if the word "may" should be replaced with "shall." Electronic communication is very important to the younger generations and if the Commission wants them involved in local government, the City must communicate that way.

Commissioner Reynolds pointed out in the second paragraph, the word "may" was used several times.

Commissioner Granroos asked if the Commission would change the word "may" to "shall" in all cases.

Commissioner Rick Nelson suggested changing the second to the last sentence to say, "In addition, the City Council shall use electronic means for publication."

Mr. Tienter recommended the word "may" remain because electronic communications is a nebulous term, and there are many different modes of communication. Additionally, with the

language being so broad and the evolution of technology over time, he would strain to understand what "electronic" could mean in the future.

Commissioner Karnopp recalled *The Life* is designated as the City's official newspaper. Would it be beneficial to note in the Charter that the City designates the web site as the official publication?

Mr. Tienter answered that state law already provides ways for electronic publication that specifically discuss the city's web site. Section 12.11 of the Charter makes those provisions supplementary to the Charter. He feels that what the Commission is trying to communicate is already permitted by state law, which permits electronic transmission. The Commission could say the city must designate annually the city's web site as its official mode of communication of public notices.

Mr. Tienter asked the Commission to reconsider the last sentence of the second paragraph.

Commissioner Rick Nelson answered that sentence allows the provisions to stand that are legal, but those that are not are deemed void.

Commissioner Reynolds likened it to a savings clause.

Commissioner Rick Nelson asked if Section 12.01 could be added to the web site. The City is trying to wean itself off paper and move into the modern era with electronic communication. At a later time, the City could eventually stop publishing in a newspaper and go to electronic means only.

Mr. Tienter answered that language could be added that could require the City to publish anything on the web site that it puts in the newspaper. Staff already have generally incorporated that practice by using the Public Notice page on the City's web site.

Mr. Tienter asked the Commission to make a motion to express its intent and staff will begin drafting language for the Commission to consider.

Commissioner Starck noted the language could simply say "these matters will also be published on the web site."

Commissioner Rick Nelson added "in addition to the legal newspaper such matters shall be posted to the City website."

Commissioner Starck asked if matters would be posted for a certain time period.

Mr. Tienter answered that Charter provisions and state law control the requirements for the length of time items need to be published. Usually it is 10 or 14 days before the event is to occur.

Commissioner Rick Nelson asked if posts to the City's web site are archived.

Mr. Tienter answered that public notices from the newspaper are archived, but he is unsure of the City's web site. Currently staff receive a signed Affidavit of Publication from the newspaper along with a clipping of the notice. The Commission could revise the language of this section to include a requirement that notices be posted to the web site and archived.

Commissioner Reynolds added that public notices are archived on the online document archives of the web site.

Mr. Tienter asked for time to confirm with the Information Technology department if the City's web site is being archived in some way.

Commissioner Reynolds noted that public hearings are archived because they become a part of the record of another meeting.

Mr. Tienter does not believe staff have an internal protocol that causes staff to archive anything on the web site as they would for anything that goes in the official newspaper.

Commissioner Rick Nelson MOVED and Commissioner Starck seconded a motion to add to "In addition to the legal newspaper, such notices shall also be posted on the City website" after the last sentence.

Commissioner Granroos asked that a step to archiving be added.

Commissioner Brillhart answered that process may be addressed in Section 12.02.

Vice Chair Soule confirmed the motion is to add the above sentence to the end of the first paragraph.

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

Commissioner Reynolds brought forth a discussion of the last sentence of the second paragraph. She confirmed she sees this as a savings clause where if state law changes, the language in the Charter is void. She asked if this sentence should be contained in Section 12.01 or in a whole separate section.

Mr. Tienter answered that if the goal of the sentence is to act as a savings clause, then it should not be in the section on official publications. The way the Charter would be interpreted as currently drafted, is under the guise of applicability as it relates to publications, not to applicability of the entire Charter. This type of language fits in Section 12.11 which talks about the application of general laws. Generally, in staff's research, they have not found many Charters that have language such as this.

Commissioner Brillhart doesn't feel the language does any harm.

Commissioner Reynolds added it doesn't have anything to do with official publications.

Commissioners Brillhart and Rick Nelson agreed and both stated it should be moved to Section 12.11.

Commissioner Rick Nelson MOVED and Commissioner Brillhart seconded a motion to move the last sentence of the second paragraph of Section 12.01, to Section 12.11.

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

Vice Chair Soule opened the discussion on Section 12.02 (Publicity of Records). Commissioner Granroos asked if Section 12.02 was where the discussion should happen if data is archived. He asked if a sentence could be added.

Commissioner Brillhart answered that Section 12.02 references the Minnesota Government Data Practices Act (MGDPA), which is a state law that controls how government data is collected, stored, maintained and released.

Commissioner Granroos asked who saves City data.

Mr. Tienter answered that under the MGDPA, the City and staff are the responsible authorities for maintaining all of the City's records and data consistent with the Records Retention Schedule (Schedule) from the Minnesota Department of Administration. The Schedule addresses many different types of documents and references the statutes that direct the retention period each City must adhere to. Mr. Tienter recommends the Commission remove Section 12.02 in its entirety because Section 12.11 talks about Minnesota state law as applicable to all home rule charter cities. Many city charters don't have reference to the MGDPA because data practices are already understood to be a requirement of home rule municipalities.

Commissioner Brillhart replied that it wouldn't hurt to keep the reference even if staff are engaging in the practice.

Commissioner Reynolds added she would like to keep it so that people reading the Charter will know they have access to information through the MGDPA. Commissioner Brillhart agreed that the section should stay as is.

Commissioner Rick Nelson asked if it would be helpful to list an index that lists all the different laws for people to examine things further, such as the OML or the MGDPA.

Mr. Tienter replied that Section 12.11 already accomplishes that through the application of general law.

Commissioner Rick Nelson said it would be a reference point for residents.

Mr. Tienter replied something like that would be better served as an appendix to the Charter, or introductory information on the City's website. Generally, the Charter is not a reference guide, it is the document that provides for all the powers and authorities for the City. The Commission has struggled with the idea of statutory references, so there are complicating factors that come in when adding additional references to the Charter. As a document, if those statutes change, then the Commission must amend the Charter. It is not a good or bad idea to do it that way, but he cautioned the Commission in adopting things by reference.

Commissioner Reiland expressed concerns with staff asking for references being added to Section 12.11, but then at the same time asking for the section to be broader.

Commissioner Reynolds noted staff's comments suggest deleting Section 12.02 because the topic is covered in Section 12.11 but the MGDPA does not appear in Section 12.11.

Commissioner Reiland followed up that Section 12.11 suggests a broader interpretation.

Commissioner Rick Nelson MOVED and Commissioner Reiland seconded a motion to keep Section 12.02 as it is written.

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

Vice Chair opened the discussion on Section 12.03 (Oath of Office).

Mr. Tienter noted that Councilmember-at-Large Oswald's Oath of Office was included with the agenda packet. Staff did review the language, which is recommended by the Minnesota Secretary of State's Office.

Commissioner Reynolds concern with the Oath of Office in the Charter is that it fails to have the words "City Charter" in it. She feels any commission member or Councilmember should take an oath to uphold the Charter.

Vice Chair Soule confirmed that the Commission would like to amend the Charter to include the words in Councilmember-at-Large Oswald's Oath of Office.

Commissioner Rick Nelson MOVED and Commissioner Reynolds seconded a motion to change the Oath of Office in Section 12.03 to reflect what is currently being used.

Commissioner Rick Nelson commented it is another example of staff not following the Charter. He wants to bring the practices of staff into compliance with the Charter.

Vice Chair Soule restated the Oath of Office language to say, "I, [Name], do solemnly swear to support the 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."

Commissioner Johnston confirmed that for each person being sworn in, their position would change accordingly in the Oath of Office.

Mr. Tienter noted that many other charters remove the parentheticals and put blanks in the oath, so it does not assume only certain people need to assume the oath.

Commissioner Rick Nelson asked if the Charter Commissioners are considered officers of the City. The group agreed they were not. Commissioner Rick Nelson asked since the City Manager is hired, why they are considered an officer of the City? Why would they be included with the oath when they are not elected to their position.

Mr. Tienter answered that generally the City Manager is sworn in because the City Manager is the only member that is appointed by the Council to faithfully discharge the Charter on their behalf. The oath has been applied to them as well.

Commissioner Reynolds asked if the Planning Commission swear an oath.

Mr. Tienter does not believe any of the advisory commissions swear an oath.

Commissioner Reynolds noted the Charter Commissioners swear an oath because the Chief Judge appoints them. Mr. Tienter noted there are statutory requirements which address oaths for Charter Commissions.

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

Vice Chair opened the discussion on Section 12.04 (City Officers Not to Accept Favors or Contracts).

Mr. Tienter said staff did not have any issues with Section 12.04, except for the sentence which references an offender being fired from their position for a violation. As mentioned in the comments, the Charter generally talks about how the City Manager is responsible for appointing and removing staff, so this section conflicts with the powers and authorities of the City Manager. More importantly, there are several laws that control how individuals may be removed from gainful employment. One example is the Veterans Preference Act, which requires an employee be placed on leave, attend a hearing, etc., before the employee maybe terminated. The City is also party to collective bargaining agreements, and those often contain other language as it relates to being removed from a given position. While staff are supportive of ensuring that they are rooting out corruption, waste and fraud, they also want to be consistent with the state and federal laws as well as collective bargaining agreements, and other sections of the Charter.

Commissioner Reynolds noted that even if someone is in a labor union, they may be fired.

Commissioner Rick Nelson added that a union employee is considered guilty until found innocent. Commissioner Reynolds said she understands that staff are saying it is the job of the City Manager to fire an employee for a violation, and regardless if they were covered by a labor union or not, the staff member could be discharged.

Mr. Tienter said the text does say "shall be discharged." Additionally, it does not have any of the typical sentiments of the progressive disciplinary model of modern organizations.

Commissioner Rick Nelson noted that if an employee covered by a labor union steals something, they may be suspended for two weeks, but according to the Charter they should be fired. The Commission must add provisions that say unless the employee is covered under other agreements that supersede the Charter, or it may be easier to simply take the sentence out.

Commissioner Reynolds felt the entire section should be put into bullet format and rewritten to reflect there are other controlling circumstances.

Commissioner Johnston asked why the Commission doesn't just remove the sentence.

Mr. Tienter added that was the recommendation of staff.

Commissioner Rick Nelson answered if an employee is not under a labor agreement, you are truly an at-will employee, in which case the City Manager has the discretion to terminate you. Commissioner Reynolds noted that Fridley does not have many union employees, so they could be terminated at any time. Commissioner Rick Nelson agreed there is no use for this sentence.

Commissioner Brillhart agreed the sentence is not needed.

Commissioner Rick Nelson MOVED and Commissioner Brillhart seconded a motion to strike the sentence, "A violation of any of the provisions of this Section shall disqualify the offender, if found guilty, from continuing in office or in the employment of the City, and the offender shall be removed therefrom."

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

Commissioner Reynolds agreed to further revise and simplify the language of Section 12.04.

Vice Chair opened the discussion on Section 12.05 (Official Bonds).

Mr. Tienter informed the Commission that in reviewing bond language, he provided examples from Coon Rapids and Richfield. There are a few areas staff think could be cleaned up, specifically the three sentences highlighted in pink.

Commissioner Brillhart asked if the draft language is the process that staff currently follow.

Mr. Tienter replied at this point of time, the City procures its bonds through its annual property and casualty insurance renewal. The example language does not necessarily reflect what the City currently does.

Commissioner Brillhart asked for a recommendation from staff on revised language that does reflect the process followed by the City.

Mr. Tienter answered the City does generally follow the process that is included in the official bonds. In looking through minutes, Mr. Tienter has not found language that says the bonds were approved by the Council. The changes to Chapter 6, assuming the Council approves them, would now cause all the City's insurance renewals to be approved by the Council, if they meet the cost threshold. Generally, the language in official bonds is consistent across city charters. The language that is highlighted is somewhat different than the Fridley City Charter.

Commissioner Brillhart confirmed that the bonds will be approved by Council once the changes to Section six are approved.

Mr. Tienter confirmed. The value of the City's municipal insurance contract exceeds \$175,000 at present. If it goes down, then the insurance contract could dip below \$175,000, and the City Manager would then approve it administratively. Currently, the City's renewal is about \$190,000 per year. It does fluctuate based on claims.

Vice Chair Soule confirmed the request is to have staff look at section 12.05 and report back with suggestions on what the current process is, then the Commission will work on the wording.

Commissioner Reynolds wishes to know how staff currently do things.

Mr. Tienter answered the City goes through an annual property and casualty insurance renewal process. Included in that renewal are the official bonds. If the City renews, which it will and does every year, those renewals are signed by the City Manager because the budget already appropriates the money necessary to support the contract related to the insurance renewals.

Commissioner Rick Nelson confirmed that is a line item in the budget, so the Council has in essence already approved the renewal.

Mr. Tienter agreed and added clarification that insurance renewals are many different line items in the budget. Each department has a line item, and each roll up into the full budget.

Commissioner Rick Nelson asked if the City Clerk provides a report to Council on the bonds that have been issued, or what employees have been bonded.

Mr. Tienter answered no, there is no official report that is sent to the Council. It is possible the City Manager relays some of that information to the Council through his weekly report, but he was unsure.

Commissioner Rick Nelson thought that documentation would be beneficial for the Council's sake.

Mr. Tienter added if the Commission would like staff to draft language it could be prepared for the March meeting.

Commissioner Granroos MOVED and Commissioner Brillhart seconded a motion for staff to prepare a report of all bonded employees including their amount of coverage per division. In addition, draft new language of Section 12.05 which reflects the bonding process the City currently follows.

Commissioner Rick Nelson asked Councilmember-at-Large Ostwald if he felt a report of bonded employees and amounts would be beneficial. Councilmember-at-Large Ostwald agreed it was pertinent information for Council to have.

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

The Commission agreed to suspend the rest of the discussion of Chapter 12 until the March meeting, continuing on at Section 12.06.

NEW BUSINESS

FUTURE MEETING TOPICS/COMMUNICATIONS

Vice Chair Soule suggested a continuation of Chapter 12, with a revisit to section 12.04 and 12.05, and moving on to 12.06 and to continue working through that chapter.

Vice Chair Soule reminded the Commission that in March, the group will meet on March 9, 2020.

Commissioner Reynolds asked Mr. Tienter about the language in Chapter 2 and Chapter 4 and where staff is at with those.

Mr. Tienter informed the Commission he has sent a note to the new City Attorney and has not heard back yet. Mr. Biggerstaff is swamped now because during the transition, the City held off on some legal work.

Commissioner Reynolds asserted the Charter Commission should have its own attorney, per state statute. Council approval is required, but state statute allows for up to \$10,000 for legal representation.

Vice Chair Soule asked if that is a topic for a future meeting.

Commissioner Reynolds wishes to discuss the topic at a future meeting.

ADJOURNMENT:

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

UPON A VOICE VOTE, ALL VOTING AYE, VICE CHAIR SOULE DECLARED THE MOTION CARRIED AND THE MEETING WAS ADJOURNED AT 8:22 P.M.

Respectfully submitted,

Melissa Moore

Administrative Services Coordinator/Deputy City Clerk/Staff Liaison

Commissioner Bruce Nelson, Secretary



MEMORANDUM

Meeting Date: 03-09-2020
To: City of Fridley Charter Commission
Subject: Election of Officers
Agenda Item: 5B

Introduction

Pursuant to Section V of the Charter Commission (Commission) Bylaws, officers of the Commission are to be elected at the March Annual Meeting.

Discussion

The Nomination Committee gave its report to the Commission on February 3, 2020 (Exhibit A).

Pursuant to 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. Therefore, per Rosenberg's Rules of Order, staff recommend the Commission make a motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass.

Section V of the Bylaws directs the Chair to ask for a teller committee of two to count ballots. Staff also recommend the teller committee review the ballots then read the name of each Commissioner and who they voted for.

Attachments

- Exhibit A: Nominating Committee Report
- Exhibit B: Official Ballot for Election of Officers



February 3, 2020

Fridley Charter Commission Nominating Committee Report

The Nominating Committee consisted of Chairperson Rolstad and Commissioners Reynolds and Starck.

The Nominating Committee met on February 3 preceding the Charter Commission meeting. After discussion, the Nominating Committee offered the following nominations to serve as the 2020-2021 Charter Commission Officers:

Chair: Bruce Nelson and Valerie Rolstad

Vice Chair: Kelli Brillhart

Secretary: Barb Reiland

All three members have agreed to serve if elected.

If two or more Commissioners wish to serve in a particular office, the Commission may choose to hold a contested election at the March meeting.

The election will be held during the Commission's annual meeting on Monday March 9, 2020 at 7:00 p.m. at the Fridley Civic Campus, Fireside Room.



Fridley Charter Commission

Official Ballot for Election of Officers

Voting Commission Member Name: _____

Please select one per category.

Chair: Bruce Nelson
 Valerie Rolstad
 Nomination from the floor _____

Vice Chair: Kelli Brillhart
 Nomination from the floor _____

Secretary: Barb Reiland
 Nomination from the floor _____



MEMORANDUM

Meeting Date: 03-09-2020
To: City of Fridley Charter Commission
Subject: Chapter 12 Revisions
Agenda Item: 6A

Introduction

The Charter Commission began its revision of Chapter 12 at the February 3, 2020.

Discussion

Attached are revisions of Sections 12.01 through 12.03 as directed from the February meeting (Exhibit A). Also included in Exhibit A is a revision recommended by staff to Section 12.05.

Commissioner Reynolds' revisions to Section 12.04 are attached as Exhibit B.

Attachments

- Exhibit A: Sections 12.01, 12.02, 12.03 and 12.05 revisions directed from the Commission
- Exhibit B: Section 12.04 revisions from Commissioner Reynolds

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.

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.

Commented [TD2]: 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.

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 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.

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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 solicit or receive any pay, commission, money, thing of value, or derive 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, except 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, any pass, frank, free ticket, free service, or any other favor, upon terms more favorable than those granted the public generally. ~~A violation of any of the provisions of this Section shall disqualify the offender, 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)

Commented [MM4]: Commissioner Reynolds agreed to further revise and simplify the language of Section 12.04.

Commented [TD5]: 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.

Section 12.05. OFFICIAL BONDS.

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. (Ref. Ord. 857)

Commented [MM6]: 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.

Commented [TD7]: 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.

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

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	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.
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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.

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 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.

- No action shall be maintained against the City on account of any injuries or damages to

Commented [TD8]: 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.

Commented [TD9]: 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.

Commented [TD10]: 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.

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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.

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 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.

Commented [TD11]: For the comments mentioned into the previous comments, the Charter Commission may consider removal of this section.

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

Commented [TD12]: The Charter Commission may revise this section to provide a broader and simpler statement related to those State statutes applicable to the City.

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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 [MM13]: 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.

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.

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

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

1. Solicit or receive:
 - any pay
 - commission
 - money
 - thing of value.
2. Derive 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:

- any pass
- frank
- free ticket
- free service
- or any other favor, upon terms more favorable than those granted the public generally.

A violation of any of the provisions of this Section shall disqualify the offender, if found guilty, from continuing in office or in the employment of the City, and the offender shall be removed therefrom. (deleted at February meeting)

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. 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)