



CHARTER COMMISSION AGENDA

COUNCIL CHAMBERS

THURSDAY, OCTOBER 20, 2022

7:00 PM

1. Call to Order/Roll Call
2. Approval of the Minutes
 - A. Approve October 14, 2021 - Charter Commission Meeting Minutes
3. Election of Officers:
 - A. Chair
 - B. Vice Chair
 - C. Secretary
4. New Business
 - A. Oath of Office (Sec. 12.02)
 - B. Membership (5 terms expiring end of 2022)

Kymn Anderson	05/24/11	4 yrs.	12/31/2022
Dan Behrens	05/24/11	4 yrs.	12/31/2022
John Jasinski	05/24/11	4 yrs.	12/31/2022
Pat Rice	05/24/11	4 yrs.	12/31/2022
Open (Kay Duchene)	01/22/19	4 yrs.	12/31/2022
5. Review/Creation of 2022 Annual Report
6. General Discussion Items/Future Agenda Topics
7. Charter Commission Meeting Schedule
8. Adjournment



CHARTER COMMISSION AGENDA

COUNCIL CHAMBERS THURSDAY, OCTOBER 20, 2022 7:00 PM

NOTICE OF SPECIAL MEETING OF THE CITY OF FARIBAULT CHARTER COMMISSION

NOTICE IS HEREBY GIVEN that the Charter Commission of the City of Faribault, Minnesota will conduct a special meeting on October 20, 2022 at 7:00 p.m., in the Council Chambers at 208 N.W. 1st Avenue, Faribault, Minnesota 55021, for the following purposes:

1. Call to Order/Roll Call
2. Approval of Minutes
 - A. Minutes from meeting of October 14, 2021
3. Election of Officers
 - A. Chair
 - B. Vice Chair
 - C. Secretary
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 - B. Membership (5 terms expiring end of 2022)

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8. Adjournment

Dated: October 14, 2022

/s/ Timothy C. Murray
City Administrator



CHARTER COMMISSION MINUTES

COUNCIL CHAMBERS

THURSDAY, OCTOBER 14, 2021

7:00 PM

Call to Order/Roll Call

The Charter Commission meeting was called to order by Chair Chuck Ackman at 7:00 pm in the Faribault City Council Chambers. Commission Members present included Chair Chuck Ackman, Kymn Anderson, Dan Behrens, Dan Burns, Tom Spooner, and Pat Rice. Commissioners Kay Duchene and John Jasinski were absent. Also in attendance were City Administrator Tim Murray, Assistant to the City Administrator Heather Slechta and City Attorney Scott Riggs.

Approval of Minutes

Motion by Commissioner Rice, seconded by Commissioner Burns to approve the minutes from meeting of September 24, 2020 and carried unanimously.

Election of Officers

Motion by Commissioner Anderson, seconded by Commissioner Burns to nominate Commissioner Ackman as Chairperson, Commissioner Rice as Vice Chairperson and Commissioner Behrens as Secretary and carried unanimously.

New Business

City Administrator Tim Murray explained that Staff has not identified any items for discussion under "New Business" for this year's Charter Commission meeting. Murray explained that there are no commissioner terms expiring at the end of 2021. Five (5) seats are scheduled to end on December 31, 2022; Commissioner Kymn Anderson, Commissioner Dan Behrens, Commissioner Kay Duchene, Commissioner John Jasinski and Commissioner Pat Rice. The remaining four (4) members' terms run through December 31, 2024.

Commissioner Ackman stated that he liked the make-up of the group having city experience. Commissioner Rice asked what the process is to replace a member of the Commission. Murray stated that City Attorney Scott Riggs sends the recommendation from the Council to the district judge, however, anyone can apply to the district judge to be appointed to Commission. Murray informed the Commission that Commissioner Duchene stated that she would submit a letter of resignation due to her health issues. Commissioner Albers stated that he would like to leave the seat open for another year. It was the consensus of the Commission to leave the seat open for the remainder of Duchene's term.

Commissioner Rice asked if the Commission would want to do something to celebrate Heritage Days, in the past the Commission held a pancake breakfast on the Saturday of Heritage Days. Murray stated that city government was established on April 2, 1872, Staff are currently working on a logo, there are plans for fireworks and to have representatives from our sister cities Würzburg and Podensac visit. Commissioner Ackman stated that representatives from Würzburg came in 2004. Commissioner Ackman stated that he liked the idea to celebrate government and what it does. It was suggested to possibly work with Sam Temple to create something for Heritage Days. Commissioner Anderson, Ackman, Rice, and Burns will work to put something together.

Review/Creation of 2021 Annual Report

City Administrator Tim Murray stated that Minnesota Statutes Section 410.05, subdivision 2 requires the submittal of an annual report on the actions of the Charter Commission to the chief judge of the district court, on or before December 31 of each year. This report is submitted by the City Attorney.

Motion by Commissioner Behrens, seconded by Commissioner Rice to authorize the preparation and submittal of the annual report by the City Attorney and carried unanimously.

General Discussion Items/Future Agenda Topics

City Administrator Tim Murray explained that at the Council Work Session on June 1, 2021, a recommendation to reclassify the Assistant to the City Administrator position to City Clerk was reviewed and discussed, with the Council in support of the change. Murray stated that Section 6.02, Subdivision 10 of the Charter assigns the duties of a city clerk to the city administrator.

Murray explained that if it is believed that one or more changes to the Charter related to this change be considered as a future agenda topic. Murray stated that both he and the City Attorney did not believe that changes to the Charter were necessary for this change but some revisions to the City Code of Ordinances could be appropriate.

Commissioner Behrens did not see the need to bring this to a future meeting for discussion. Commissioner Spooner asked of this title is used industry-wide. Murray stated that it is more defined industry-wide. Commissioner Burns asked if this would change the organization chart, Murray stated the position would still report to the City Administrator. Commissioner Anderson asked if the change was more reflected of other cities, Murray stated that it varies by city.

It was the consensus of the Commission to not make the changes in the Charter.

Charter Commission Meeting Schedule

It was the consensus of the Charter Commission to hold the 2022 annual meeting in September/October.

Adjournment

Motion by Commissioner Rice, seconded by Commissioner Spooner to adjourn the Charter Commission meeting and carried unanimously.

Meeting adjourned at 7:31 p.m.

Respectfully Submitted,

Heather Slechta
City Clerk



Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: October 20, 2022
SUBJECT: New Business

Background:

A. Oath of Office (Section 12.02)

The Charter requires all elected and appointed officials to take an oath prior to assuming their office, with the oath given in Section 12.02:

Section 12.02. Oath of office.

Every elected or appointed officer of the City shall, before entering upon the duties of his office, take and subscribe an oath of office in substantially the following form: "I do solemnly swear (or affirm) to support the Constitution of the United States and of the State of Minnesota, and that I will faithfully discharge the duties of the office of _____ (title of office) of the City of Faribault, Minnesota, to the best of my judgment and ability, and this I do under the penalties of perjury."

The phrase "... and this I do under the penalties of perjury." often raises some odd looks for those swearing the oath. This language is identified as an acceptable alternative to an ending of "so help me God"; however, in looking at the Constitution, the phrase "so help me God" is not included/required. I am recommending we amend this section to simply remove the perjury statement from the oath.

The requirement for swearing an oath is contained in Minnesota Statutes 358.05 (attached), which then references Article V, Sec. 6 of the State Constitution:

Sec. 6. Oath of office of state officers. Each officer created by this article before entering upon his duties shall take an oath or affirmation to support the constitution of the United States and of this state and to discharge faithfully the duties of his office to the best of his judgment and ability.

In looking at a sample Oath of Office from the Minnesota Secretary of State's Office (attached), the "perjury" or "so help me God" language is not included either.

Based upon this information, I would propose the following language revision for the oath:

I _____ (insert name) do solemnly swear (or affirm) to support the Constitution of the United States and of the State of Minnesota, and that I will faithfully discharge the duties of the office of _____ (title of office) of the City of Faribault, Minnesota, to the best of my judgment and ability, ~~and this I do under the penalties of perjury.~~

As part of the amendment, the addition of "or her" after "his" in the first sentence would also be included.

B. Commissioner Terms

There are five (5) commissioner terms expiring at the end of 2022:

Commissioner Kymn Anderson
Commissioner Dan Behrens
Commissioner Kay Duchene
Commissioner John Jasinski
Commissioner Pat Rice

The remaining four (4) members' terms run through December 31, 2024. In addition to asking the sitting commissioners if they are interested in being considered for appointment to an additional 4-year term, all commissioners are requested to provide the names of any individuals that they feel should be considered, as at least one new commissioner will be needed to fill Commissioner Duchene's seat.

Recommendation:

Discuss New Business items presented and take action.

Attachments:

- Minnesota Statutes Section 358.05
- Sample Oath from Secretary of State's Office

358.05 OATH OF OFFICE.

The oath of office to be taken by members and officers of either branch of the legislature shall be that prescribed by the Constitution of the state of Minnesota, article IV, section 8. Every person elected or appointed to any other public office, including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in the Constitution of the state of Minnesota, article V, section 6.

History: (6963) *RL s 2677; 1976 c 2 s 172*



OATH OF OFFICE

OATH

State of Minnesota

SS:

County of _____

*I, _____
do solemnly swear or affirm that I will support the Constitution of the United
States and the Constitution of the State of Minnesota, and that I will discharge
faithfully the duties of the office of _____ in the
County of _____, the State of Minnesota, to the best
of my judgment and ability.*

Signature

Subscribed and sworn to before me this _____ day of _____ 20____.

Signature of Notary Public

Date Commission Expires

Printed Name of Notary Public

County of Residence



Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: October 20, 2022
SUBJECT: Review/Creation of 2022 Annual Report

Background:

Minnesota Statutes Sec. 410.05, subd. 2 requires the submittal of an annual report on the actions of the Charter Commission:

The commission shall submit to the chief judge of the district court, on or before December 31 of each year, an annual report outlining its activities and accomplishments for the preceding calendar year.

A copy of last year's report (in letter format) is attached. Staff is looking for any direction as well as authorization to prepare and submit the required report for 2021.

Recommendation:

Authorize preparation and submittal of annual report.

Attachments:

- 2021 Annual Report



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October 27, 2021

The Honorable Joseph A. Bueltel
Chief Judge
Third Judicial District
Steele County Courthouse
111 East Main Street
Owatonna, MN 55060

Re: City of Faribault Charter Commission – 2021 Annual Report

Dear Judge Bueltel:

I am writing to you on behalf of the City of Faribault Charter Commission (the “Commission”) and pursuant to Minnesota Statutes Section 410.05, subd. 2. The Commission has authorized the forwarding of this correspondence to you as the Commission’s annual report outlining its activities and accomplishments for the year of 2021.

The Commission held one meeting on Thursday, October 14, 2021. During its meeting, the Commission members discussed the annual review of the City Charter. No recommendations were made for any revisions to the Faribault City Charter.

Please feel free to contact me or City Administrator Timothy C. Murray with any questions that you may have.

Sincerely,

KENNEDY & GRAVEN, CHARTERED

A handwritten signature in blue ink that reads "Scott J. Riggs".

Scott J. Riggs
City Attorney for the City of Faribault

SJR:jms
cc: Timothy C. Murray, City Administrator



Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: October 20, 2022
SUBJECT: General Discussion Items/Future Agenda Topics

Background:

The Commission is invited to recommend or propose any other future agenda items for consideration.

Later this year I will be asking the City Council to consider the use of "Administrative Citations" as a means to increase compliance with the City Code in a more timely and efficient manner (as opposed to criminal prosecution, for example). While I am uncertain whether any Charter amendments will be needed for this, I would like to solicit input from members of the Charter Commission on this option, given the background and experience of the members. An example from another city in Minnesota is attached.

There is a Boards and Commissions Recruitment Event and an Appreciation Dinner scheduled for 5:00pm-6:00pm and 6:00pm-8:00pm, respectively, on Wednesday, December 7, 2022 at the 3 Ten Event Venue at 310 Central Avenue. For the Recruitment Event, we are looking to have a representative from each board and commission attend to provide information about that particular board/commission. All of the members of the Commission will be receiving invitations to the Appreciation Dinner later this month. Following the dinner, the commission chair or another representative in attendance will be asked to give a quick run-down of Charter Commission issues/accomplishments for 2022.

Recommendation:

Discuss and comment.

Attachments:

- Example of Administrative Citations Ordinance

ARTICLE I.5. ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES

Sec. 2-4. Specified.

Sections 2-4 through 2-12 shall govern administrative citations and civil penalties for violations of the City Code.

(Ord. No. 98-3, 2-23-98)

Sec. 2-5. Purpose.

The city council finds that there is a need for additional alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, the administrative enforcement of the municipal code may increase compliance with the Code, encourage citizens to become involved in the process of enforcement, and is more informal and cost effective by keeping minor violations out of the criminal court system. Accordingly, the city council finds that the use of administrative citations and the imposition of civil penalties is a legitimate alternative method of enforcement of the Municipal Code that is also an effective way to promote the health, safety, and welfare of the citizens. This method of enforcement shall be in addition to and not exclusive of any other legal remedy including the filing of criminal charges which may be pursued for City Code violations.

(Ord. No. 98-3, 2-23-98)

Sec. 2-6. General provisions.

- (a) A violation of any provision of the City Code is an administrative offense, which may be subject to an administrative citation and civil penalties pursuant to sections 2-4 through 2-12. Each day a violation exists constitutes a separate offense.
- (b) An administrative offense may be subject to a civil penalty not exceeding two thousand dollars (\$2,000.00).
- (c) The city council shall adopt by resolution a schedule of fines for offenses initiated by administrative citation. The city council is not bound by that schedule when a matter is appealed to it for administrative review. The city council shall adopt a schedule of fees to be paid to administrative hearing officers.
- (d) The city administrator must adopt procedures for administering the administrative citation program.

(Ord. No. 98-3, 2-23-98)

Sec. 2-7. Administrative citation.

- (a) Any person authorized to enforce provisions of the City Code may issue an administrative citation upon belief that a Code violation has occurred. The citation will be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

-
- (b) The person responsible for the violation must either pay the scheduled fine or request a hearing within fourteen (14) days after issuance. Payment of the fine constitutes admission of the violation. A late payment fee of ten (10) percent of the scheduled fine amount shall be imposed in accordance with section 2-11.

(Ord. No. 98-3, 2-23-98)

Sec. 2-8. Administrative hearing.

- (a) The city council shall periodically approve a list of people, from which the city administrator will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The hearing officer is a public officer as defined by Minnesota Statutes section 609.415. The hearing officer must not be a city employee.
- (b) The person charged with a violation may request a hearing before a single hearing officer.
- (c) The person charged with a violation shall have the right to request no later than five (5) days before the date of the hearing that the assigned hearing officer be removed from the case. One (1) such request for each case will be granted automatically by the city administrator. A subsequent request must be directed to the assigned hearing officer who will decide whether he or she can fairly and objectively review the case. The city enforcement officer may remove a hearing officer only by requesting that the assigned hearing officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the officer shall remove himself or herself from the case, and the city administrator shall assign another hearing officer.
- (d) Upon the hearing officer's own initiative or upon the written request of the person charged with a violation or the city, the officer may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents that are material to the matter being heard. The party requesting the subpoena shall be responsible for serving the subpoena in the manner provided for in civil actions and for paying the fees and expenses of any witness. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The officer may cancel or modify the subpoena if it is unreasonable or oppressive. Any person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena shall be guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
- (e) Notice of the hearing must be served in person or by mail on the person charged with the violation at least ten (10) days in advance of the hearing, unless a shorter time period is agreed to by all parties. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing officer shall tape record the hearing and receive testimony and exhibits. The officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value that is not outweighed by prejudicial effect.
- (f) The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer will consider the following factors:
- (1) The duration of the violation;
 - (2) The frequency or reoccurrence of the violation;
 - (3) The seriousness of the violation;
 - (4) The history of the violation;
 - (5) The violator's conduct after issuance of the notice of hearing;

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- (6) The good faith effort by the violator to comply;
 - (7) The economic impact of the penalty on the violator;
 - (8) The impact of the violation upon the community; and,
 - (9) Any other factors appropriate to a just result.

The hearing officer may exercise discretion to impose a fine for more than one (1) day of the continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons must be in writing.

- (g) The failure to pay the fine or request an appeal within thirty (30) days after the citation or the failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the person charged with a violation; a court order requiring the person charged to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" shall not include: forgetfulness and intentional delay.

(Ord. No. 98-3, 2-23-98; Ord. No. 2018-16 , 8-27-18)

Sec. 2-9. Judicial review.

An aggrieved party may obtain judicial review of the decision of the hearing officer in accordance with state law. The request for judicial review shall be filed in Martin County District Court and served upon the city clerk within thirty (30) days of the final decision of the hearing officer.

(Ord. No. 98-3, 2-23-98; Ord. No. 2018-16 , 8-27-18)

Editor's note(s)—Ord. No. 2018-16 , adopted Aug. 27, 2018, repealed the former § 2-9 and redesignated the former §§ 2-10—2-12 as §§ new §§ 2-9—2-11 to read as set out herein. Former § 2-9 pertained to administrative review and derived from Ord. No. 98-3, adopted Feb. 23, 1998. The redesignated sections have retained their historical notations.

Sec. 2-10. Recovery of civil penalties.

- (a) If a civil penalty is not paid within the time specified, it shall constitute:
 - (1) A lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation, or
 - (2) A personal obligation of the violator in all other situations.
- (b) A lien may be assessed against the property and collected in the same manner as taxes.
- (c) A personal obligation may be collected by any appropriate legal means.
- (d) A late payment fee of ten (10) percent of the fine shall be assessed for each thirty-day period, or part thereof, that the fine remains unpaid after the due date.
- (e) During the time that a civil penalty remains unpaid, the provisions of City Code section 14-24 shall apply to any license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.
- (f) Failure to pay a fine is grounds for suspending or revoking a license associated with the violation.

(Ord. No. 98-3, 2-23-98; Ord. No. 2018-16 , 8-27-18)

Note(s)—See editor's note at § 2-9.

Sec. 2-11. Criminal penalties.

The following are misdemeanors, punishable in accordance with state law:

- (1) Failure, without good cause, to pay a fine or request a hearing within thirty (30) days after issuance of an administrative citation.
- (2) Failure, without good cause, to appear at a hearing which was scheduled under section 2-8.
- (3) Failure to pay a fine or comply with conditions imposed by a hearing officer within thirty (30) days after it was imposed, or such other time as may be established by the hearing officer

(Ord. No. 98-3, 2-23-98; Ord. No. 2018-16 , 8-27-18)

Note(s)—See editor's note at § 2-9.

Secs. 2-12—2-15. Reserved.