



CHARTER COMMISSION AGENDA

COUNCIL CHAMBERS

TUESDAY, JUNE 27, 2023

4:00 PM

NOTICE IS HEREBY GIVEN that the Charter Commission of the City of Faribault, Minnesota will conduct a special meeting on June 27, 2023 at 4:00 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 the Minutes
3. Election of Officers
 - A. Chair
 - B. Vice Chair
 - C. Secretary
4. Old Business
 - A. Oath of Office (Sec. 12.02)
 - B. Sale of Real Property (Sec. 12.04)
 - C. Administrative Offenses (Sec. 12.09)
5. New Business
6. Review/Creation of 2023 Annual Report
7. General Discussion Items/Future Agenda Topics
8. Charter Commission Meeting Schedule
9. Adjournment



CHARTER COMMISSION AGENDA

COUNCIL CHAMBERS

TUESDAY, JUNE 27, 2023

4:00 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 June 27, 2023 at 4:00 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 20, 2022
3. Election of Officers
 - A. Chair
 - B. Vice Chair
 - C. Secretary
4. Old Business
 - A. Oath of Office (Sec. 12.02)
 - B. Sale of Real Property (Sec. 12.04)
 - C. Administrative Offenses (Sec. 12.09)
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9. Adjournment

Dated: June 22, 2023

/s/ Timothy C. Murray
City Administrator



CHARTER COMMISSION MINUTES

COUNCIL CHAMBERS

THURSDAY, OCTOBER 20, 2022

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, Dave Albers, Kymn Anderson, Dan Burns, John Jasinski, Tom Spooner, and Pat Rice. Commissioner Dan Behrens was absent. Also in attendance were City Administrator Tim Murray, City Clerk Heather Slechta and City Attorney Scott Riggs.

Approval of the Minutes

Motion by Commissioner Albers, seconded by Commissioner Rice to approve October 14, 2021 - Charter Commission Meeting Minutes as amended with Commissioner Albers added to the Roll Call listing and carried unanimously.

Election of Officers

Motion by Commissioner Anderson, seconded by Commissioner Spooner to appoint the following slate of officers; Chair: Chuck Ackman; Vice Chair: Pat Rice and Secretary: Dan Behrens and carried unanimously.

New Business

Oath of Office (Sec. 12.02)

City Administrator Tim Murray explained that 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: 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 or required. Murray recommended that this section is amended to simply remove the perjury statement from the oath.

The requirement for swearing an oath is contained in Minnesota Statutes 358.05, 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, the "perjury" or "so help me God" language is not included either.

Based upon this information, he proposed 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.

Commissioner Anderson requested that rather than “or her” be added that it just state “the”.

Motion Commissioner Anderson, seconded by Commissioner Jasinski to amend the oath of office and carried unanimously.

Commissioner Ackman asked what happens if this change is not supported by the Council. City Attorney Scott Riggs stated that it would then go on the ballot for a vote.

Commissioner Terms

Murray stated that there are five (5) commissioner terms expiring at the end of 2022, the Commissioners terms that are expiring include:

- Commissioner Kymn Anderson
- Commissioner Dan Behrens
- Commissioner Kay Duchene (Open)
- Commissioner John Jasinski
- Commissioner Pat Rice

Attorney Riggs explained the process includes being appointed by the Chief Judge, typically the Council makes the recommendation to the Chief Judge via a resolution.

Commissioner Anderson, Behrens, Jasinski and Rice are interested in serving again. Murray stated that Dave Miller is also interested in serving on the Commission. Commissioner Rice recommended Ann Vohs and Murray stated that Jay Valentyn name was brought up as well.

Murray stated that he will reach out to the candidates to see if they are interested in serving. Commissioner Albers had no problem with having either Dave or Jay on the Commission. Commissioner Jasinski and Rice supported all candidates. Commissioner Anderson felt that Ann Vohs would be great and asked if any one has asked either Valentyn or Vohs if they would be interested in serving. At this time, no one has, staff can reach out to see if they would be interested.

Motion by Commissioner Rice, seconded by Commissioner Albers to recommend to the Council that Dave Miller be appointed to the Commission, of another seat were to come open, the Commission would recommend Ann Vohs be appointed to the Commission and carried unanimously.

Review/Creation of 2022 Annual Report

Murray explained that Minnesota Statutes Sec. 410.05, subd. 2 requires the submittal of an annual report on the actions of the Charter Commission. A copy of last year's report was included for review prior to the meeting. Attorney Riggs will complete the 2022 Annual Report.

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

General Discussion Items/Future Agenda Topics

Murray informed the Commission that 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.

Murray explained that later this year he 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. While uncertain whether any Charter amendments will be needed for this, he wanted to solicit input from members of the Charter Commission.

Commissioner Ackman asked if there would be an appeals process, Attorney Riggs stated that there has to be an appeals process. The administrative citations route is typically cheaper for the offender and the City. Commissioner Albers asked how this would be enforced, Attorney Riggs stated that we already have staff that do enforcement, this would just be a different arena to handle it rather than using the courts. Murray stated that there would be multiple staff that would be able to do enforcement. Commissioner Jasinski had concerns that it could creep into a negative. Commissioner Anderson thought it could be a positive to move the process along more quickly. Attorney Riggs added that the appeal hearing would be done by an outside source, and this is not a criminal violation.

Commissioner Rice asked if this would be used to deal with dangerous dog issues, Attorney Riggs explained that most likely that would be handled through other ordinances and statutes. Commissioner Ackman thought it made sense and worth moving forward. Commissioner Burns asked how serious of a problem are the issues that these fines would be used for, Murray stated that it varies by Councils, some want the violations taken care of more quickly than others. This would not be a money maker for the City. Attorney Riggs stated that this is a separate tool and is less formal. Commissioner Albers asked if the violation letters would explain the time line for corrections. Murray explained that a letter, a follow-up letter and then a fine would happen, with the goal being that issue is corrected. Commissioner Rice asked if the fines would be all over the place, Attorney Riggs explained that they would be established fees. Commissioner Spooner stated that this is a way to speed up the process and help the neighbors out.

Motion by Commissioner Anderson, seconded by Commissioner Albers to bring back a citation ordinance to review at the next Charter Commission meeting and carried unanimously.

Murray will review the administrative citations with the Council prior to bringing this back for any necessary charter amendments.

Commissioner Ackman asked if there is public input on all agenda items at Council meetings--Commissioner Anderson stated that there is not a time for public dialog at work sessions. Commissioner Burns asked what Ackman was proposing. Ackman stated that he is looking for more dialog with the Council and the public at their meetings. Commissioner Albers stated that with some issues at the Planning Commission, the Council is coming to their meeting with their minds made up and they do not want to listen to the public. Murray requested clarification, and stated that public comment is not usually done for each consent agenda item, however if there is a public hearing or members of the public are in attendance for an item for discussion the Mayor goes out to the public for comment. Commissioner Spooner stated that if this is in regards to the housing project, people didn't show up for the Council meeting. Murray also stated that it was a decision of the Council that work sessions were their time to work through issues and that members of the public need to be invited to speak.

Murray also requested input from the Charter Commission on eliminating the possibility of a primary election—although not a Charter issue, he requested their input. A primary election is only conducted if there are more candidates than two times the number of open seats. However, in addition to reducing the number of candidates to be on the ballot at the general election, having a primary moves the filing period up from August to May. While it is difficult to know the reasons why the number of candidates filing has been so limited, perhaps having the filing period closer to the general election would result in more people filing for office. The last time a city primary was required due to the number of candidates was in 2008, as the number of filings has remained low over the past number of elections, reaching a low this year of three candidates for three seats.

All that is required to eliminate having a city primary is the passage of a resolution that would rescind the resolution that established having a primary. Should a future council decide that a primary would again be preferred, they would only need to pass a new resolution establishing a city primary no later than April 15 in the year when the municipal general election would be held.

Commissioner Ackman stated that a change in election procedures happened during his time in office. Commissioner Anderson was in favor of more conversation regarding the primary. Commissioner Spooner was in favor of keeping the primary. Commissioner Anderson stated that she was unqualified to run, when she first ran, but learned, she stated to let everyone be on the general ballot. Commissioner Albers agreed with Commissioner Anderson, and stated that those that are not elected may be interested in serving on our Boards and Commissions. Commissioner Ackman thought that holding a primary would allow for the more serious candidates to rise to the top.

The members of the Charter Commission were generally mixed on their positions on this matter.

The last item that was brought up for discussion was the sale of City-owned property. The Charter currently requires that the sale of real property owned by the City be done by ordinance, approved by at least five members of the Council. It also includes specific direction on the use of the net proceeds from the sales. The proposed change to this section of the Charter would be to approve the sale by resolution. This is much more standard across the state, would decrease the timeframe required for approval, and could be considered in many cases to be more "business friendly", as often the sale of a City-owned property is to a business or developer.

Commissioner Rice asked if this would provide more protection for the City, Attorney Riggs stated that it would not. Commissioner Spooner asked how many times the ordinance needs to be published, Murray stated once. Also discussed was the direction on the use of proceeds although Murray liked the provision to put the proceeds into the Capital funds, there was support from the Charter Commission to simply eliminate that language outright.

Motion by Rice, seconded by Spooner to bring language back to the next Charter Commission meeting for further discussion and carried unanimously.

Charter Commission Meeting Schedule

Motion by Albers, seconded by Commissioner Anderson to hold a Charter Commission Meeting the first quarter of 2023 and carried unanimously.

Adjournment

Motion by Commissioner Spooner, seconded by Commissioner Albers to adjourn the meeting and carried unanimously.

The Charter Commission adjourned at 8:21 pm.

Respectfully Submitted,

Heather Slechta
City Clerk



Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: June 27, 2023
SUBJECT: Election of Officers

Background:

The following commissioners currently hold officer positions as elected in 2022:

Chair:	Chuck Ackman
Vice Chair:	Pat Rice
Secretary:	Dan Behrens

The Commission is requested to vote for officer positions for 2023.

Recommendation:

Nominate commissioners for officer positions and conduct vote(s)

Attachments:

(None)



Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: June 27, 2023
SUBJECT: Old Business

Background:

The following changes to the City Charter were discussed at the October 20, 2022 Charter Commission meeting, and are now being brought back for final discussion and action.

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. The language proposed to be modified is highlighted.

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 Commission supported removal of the phrase "... and this I do under the penalties of perjury." and revising "his" to "the". A draft ordinance that reflects these changes is attached.

B. Sale of Real Property (Section 12.04)

The Charter currently requires the sale of real property owned by the City be approved by ordinance, by at least five members of the Council. The proposed change to this section would be to approve the sale by resolution. This is much more standard across the state, would decrease the timeframe required for approval, and could be considered in many cases to be more "business friendly", as often the sale of a City-owned property is to a business or developer.

Section 12.04. Sale of real property.

No real property of the City shall be disposed of except by ordinance approved by at least five members of the council. The net cash proceeds of any sale of the property shall be used to retire any outstanding indebtedness incurred by the City in the acquisition or improvement of the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.

The current language also includes specific direction on the use of the net proceeds from the sales. While not specific, the proposed changes require that the resolution approving the sale would identify the initial disposition of the proceeds.

C. Administrative Offenses (Section 12.09 – New section)

The use of Administrative Offense citations is recommended as a means to increase compliance with the City Code in a more timely and efficient manner, prior to criminal/civil prosecution. This would address minor violations on zoning matters, property maintenance, etc. The City Attorney recommends that this authority be clearly established in the City Charter.

The attached ordinance adds a new section to the Charter (12.09) authorizing the City to impose civil penalties (known as administrative offenses). In conjunction with the adoption of the new Section 12.09, a second ordinance has been prepared to authorize the assessment of unpaid penalties against the property (inserting a new Section 8.03, with the existing Section 8.03 renumbered as 8.04).

Administrative offense charges will be established as part of the annual fee schedule)

Each of these items was discussed at a City Council Work Session late last year, and the Council was supportive of the changes/additions. A reminder, the approval of an ordinance amending the City Charter requires a unanimous vote of the City Council, and they do not become effective until 90 days after publication.

Recommendation:

Discuss Old Business items presented and take action as appropriate

Attachments:

- Ordinance 2023-xx Amending Section 12.02 – Oath of office. of the Faribault City Charter
- Ordinance 2023-xx Amending Section 12.04 - Sale of real property. of the Faribault City Charter
- Ordinance 2023-xx Adding Section 12.09 – Fines and civil penalties. to the Faribault City Charter
- Ordinance 2023-xx Amending Chapter 8. - PUBLIC IMPROVEMENTS AND SPECIAL ASSESSMENTS of the Faribault City Charter
- Email from City Attorney – 2022-10-29

**CITY OF FARIBAULT
ORDINANCE No. 2023-xx**

**AMENDING SECTION 12.02 – OATH OF OFFICE. OF THE
FARIBAULT CITY CHARTER**

THE CITY OF FARIBAULT ORDAINS:

Section 1. The City Council of the City of Faribault, pursuant to the recommendation of the City of Faribault Charter Commission, has hereby determined that Chapter 12 of the City Charter be amended by the addition of the underlined language and by the deletion of the ~~stricken~~ language in Section 12.02 as follows:

Section 12.02. - Oath of office.

Every elected or appointed officer of the City shall, before entering upon the duties of ~~his~~the office, take and subscribe an oath of office in substantially the following form: "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.~~"

Section 2. This ordinance shall take effect ninety days after the date of its publication.

First Reading:

Second Reading:

Publication Date:

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

**CITY OF FARIBAULT
ORDINANCE No. 2023-xx**

**AMENDING SECTION 12.04 – SALE OF REAL PROPERTY. OF THE
FARIBAULT CITY CHARTER**

THE CITY OF FARIBAULT ORDAINS:

Section 1. The City Council of the City of Faribault, pursuant to the recommendation of the City of Faribault Charter Commission, has hereby determined that Chapter 12 of the City Charter be amended by the addition of the underlined language and by the deletion of the ~~stricken~~ language in Section 12.04 as follows:

Section 12.04. – Sale of real property.

No real property of the City shall be disposed of except by ~~ordinance~~resolution approved by ~~at least five members of~~ the council. The initial disposition of the net cash proceeds of any sale of the property shall be specified in the approving resolution~~used to retire any outstanding indebtedness incurred by the City in the acquisition or improvement of the property. Any remaining net proceeds shall be used to finance other improvements in the capital improvement budget or to retire any other bonded indebtedness.~~

Section 2. This ordinance shall take effect ninety days after the date of its publication.

First Reading:

Second Reading:

Publication Date:

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

**CITY OF FARIBAULT
ORDINANCE No. 2023-xx**

**ADDING SECTION 12.09 – FINES AND CIVIL PENALTIES. TO THE
FARIBAULT CITY CHARTER**

THE CITY OF FARIBAULT ORDAINS:

Section 1. The City Council of the City of Faribault, pursuant to the recommendation of the City of Faribault Charter Commission, has hereby determined that Chapter 12 of the City Charter be amended by adding the following section in its entirety:

Section 12.09. – Fines and civil penalties.

The Council may provide by ordinance that a violation of a City ordinance is either a misdemeanor or a petty misdemeanor, punishable in accordance with State law. The Council shall establish by ordinance a procedure for imposing a civil penalty known as an administrative offense as defined in City Code.

Section 2. This ordinance shall take effect ninety days after the date of its publication.

First Reading:

Second Reading:

Publication Date:

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

CITY OF FARIBAULT
ORDINANCE No. 2023-xx

**AMENDING CHAPTER 8. - PUBLIC IMPROVEMENTS AND SPECIAL
ASSESSMENTS OF THE FARIBAULT CITY CHARTER**

THE CITY OF FARIBAULT ORDAINS:

Section 1. The City Council of the City of Faribault, pursuant to the recommendation of the City of Faribault Charter Commission, has hereby determined that Chapter 8 of the City Charter be amended by the addition of the underlined language and by the deletion of the ~~stricken~~ language in Chapter 8 as follows:

Section 8.03. - Certification of Administrative Offense Penalties.

The City may certify unpaid property-based Administrative Offense penalties by certification to property taxes. Collection of Administrative Offense penalties shall proceed only in accordance with an ordinance adopted by the Council that must require at least the following:

The City must give notice to the property owner listed on the official tax records at least 30 days prior to imposing the certification.

The City must attempt to obtain voluntary payment of the fees and penalties and allow the property owner the opportunity to request certification to the property taxes as a method of payment. The City must provide an opportunity for a hearing regarding the certification before either the City Council or a neutral third party as specified in City Code.

Administrative Offense penalties and charges must be directly related to the property being assessed according to City Code and as published in the City's fee schedule. Certifications under this ordinance shall be imposed pursuant to Minnesota State Statutes including 366.011, 366.012, 415.01, and 429.101, as amended and as specified in City Code.

Section 8.0~~3~~4. - Local improvement procedure.

When the City undertakes any local improvement subject to Minnesota law, it shall comply with the provisions of that law. The council may by resolution prescribe the procedure to be followed in making any other local improvement and levying assessments therefor.

Section 2. This ordinance shall take effect ninety days after the date of its publication.

First Reading:

Second Reading:

Publication Date:

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

From: [Riggs, Scott J.](#)
To: [Tim Murray](#)
Cc: [Riggs, Scott J.](#); [Short, Jean M.](#)
Subject: FA105-451: Work Session agenda packet is enclosed.
Date: Saturday, October 29, 2022 12:43:55 PM
Attachments: [r-s Work Session agenda packet for 11.1.2022.pdf](#)

Tim:

One clarification that we should discuss on Monday regarding the proposals relative to the Charter Commission and the work session packet – I do think if we desire to pursue administrative penalties, we should adopt appropriate charter provisions.

The League of Minnesota Cities and district courts in Minnesota have generally noted that statutory cities cannot impose administrative penalties; however, charter cities maybe can, with appropriate charter language.

Some charter cities (see below -- **Mounds View** (the sections noted below were adopted in direct response to authority questions raised by the Ramsay County District Court), **Minnetonka** (the language in Minnetonka's charter was referred to by many in the discussions on administrative penalties that percolated in the late 1990's though the 2000's)) have based such administrative penalty provisions on Charter authority. We do not have similar language in the Faribault Charter. This is the issue that Kay raised in the past, particularly the language that Mounds View adopted.

As I noted in our discussions at the charter commission meeting, courts have pushed back as to cities exercising administrative citation authority outside of the court system – not sure how Rice County District Court would look at this situation.

Please let me know if you are available to discuss on Monday.

Thanks.

Scott J. Riggs
Kennedy & Graven, Chartered

A. Mounds View Charter sections.

Section 12.14. Fines and Civil Penalties. The Council may provide by ordinance that a violation of a City ordinance is either a misdemeanor or a petty misdemeanor, punishable in accordance with State law. The Council shall establish by ordinance a procedure for imposing a civil penalty known as an administrative offense as defined in City Code. (Amended by Ord. 810, adopted July 28, 2008.)

Section 8.06. Certification of Administrative Offense Penalties. Authority is granted to the City of Mounds View to certify unpaid property-based Administrative Offense penalties by certification to property taxes. Collection of Administrative Offense penalties shall proceed only in accordance with an ordinance adopted by the Council that must require at least the following:

The City must give notice to the property owner listed on the official tax records at least 30 days prior to imposing the certification.

The City must attempt to obtain voluntary payment of the fees and penalties and allow the property owner the opportunity to request certification to the property taxes as a method of payment. The City must provide an opportunity for a hearing regarding the certification before either the City Council or a neutral third party as specified in City Code.

Administrative Offense penalties and charges must be directly related to the property being assessed according to City Code and as published in the fee schedule. Certifications under this ordinance shall be imposed pursuant to Minnesota State Statutes including 366.011, 366.012, 415.01, and 429.101, as amended and as specified in City Code. (Amended by Ord. 810, adopted 28, 2008.)

B. Minnetonka Charter sections:

Section 12.12. Fines and Penalties.

The council may provide by ordinance that a violation of a city ordinance is either a misdemeanor or a petty misdemeanor, punishable in accordance with state law. In addition, the council may establish by ordinance a procedure for imposing a civil penalty not exceeding \$2,000 for each ordinance violation. This procedure must provide an opportunity for a hearing before a neutral party, which may be the council.

Section 8.03. Fees and Civil Penalties.

The council may provide by ordinance that fees, civil penalties, and late payment penalties imposed by the city may be assessed against (a) property that was the subject matter, or related to the subject matter, of the fees and penalties, or (b) property that was the location of an activity, proposed use, city service, or other circumstance that resulted in the fees and penalties. The ordinance must require the city to attempt to obtain voluntary payment of the fees and penalties before imposing the assessments. The ordinance must require the city to give notice and an opportunity to be heard to the property owner listed on the official tax records before imposing the assessments. The assessments will be collected like special assessments.



Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: June 27, 2023
SUBJECT: New Business

Background:

Staff has identified a section in the Charter for review and discussion:

Section 12.03. - Official bonds.

The city administrator and such other officers or employees of the City as may be specified by ordinance shall each, before entering upon the duties of his respective office of employment, give a corporate surety bond to the City as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bonds shall be in such form and amount as the council determines and may be either individual or blanket bonds in the discretion of the council. They shall be approved by the city council and filed with the city administrator. The provisions of Minnesota laws relating to official bonds not inconsistent with this charter shall be complied with. The premiums on such bonds shall be paid by the City.

Considering actual practice in relation to the language in this section indicates that some revisions may be warranted to ensure that the appropriate actions are being taken.

Commissioners are also encouraged to bring forth any Charter matters they feel should be reviewed or discussed.

Recommendation:

Discuss New Business items presented and provide direction to Staff as appropriate

Attachments:

- Statute 412.111
- Statute 412.151
- OSA "Avoiding Pitfall" publication

412.111 DEPARTMENTS, BOARDS.

The council may create departments and advisory boards and appoint officers, employees, and agents for the city as deemed necessary for the proper management and operation of city affairs. The council may prescribe the duties and fix the compensation of all officers, both appointive and elective, employees, and agents, when not otherwise prescribed by law. The council may require any officer or employee to furnish a bond conditioned for the faithful exercise of duties and the proper application of, and payment upon demand of, all moneys officially received. Unless otherwise prescribed by law, the amount of the bonds shall be fixed by the council. The bonds furnished by the clerk and treasurer shall be corporate surety bonds. The council may provide for the payment from city funds of the premium on the official bond of any officer or employee of the city. The council may, except as otherwise provided, remove any appointive officer or employee when in its judgment the public welfare will be promoted by the removal. This provision does not modify the laws relating to veterans preference or to members of a city police or fire civil service commission or public utilities commission.

History: 1949 c 119 s 14; 1951 c 378 s 4; 1973 c 123 art 2 s 1 subd 2; 1983 c 359 s 65; 1986 c 444

412.151 DUTIES OF CLERK.

Subdivision 1. **Listed; fees; deputy; absence.** The clerk shall give the required notice of each regular and special election, record the proceedings thereof, notify officials of their election or appointment to office, certify to the county auditor all appointments and the results of all city elections. The clerk shall keep (1) a minute book, noting therein all proceedings of the council; (2) an ordinance book to record at length all ordinances passed by the council; and (3) an account book to enter all money transactions of the city including the dates and amounts of all receipts and the person from whom the money was received and all orders drawn upon the treasurer with their payee and object. Ordinances, resolutions, and claims considered by the council need not be given in full in the minute book if they appear in other permanent records of the clerk and can be accurately identified from the description given in the minutes. The clerk shall act as the clerk and bookkeeper of the city, shall be the custodian of its seal and records, shall sign its official papers, shall post and publish such notices, ordinances and resolutions as may be required and shall perform such other appropriate duties as may be imposed by the council. For certified copies, and for filing and entering, when required, papers not relating to city business, the clerk shall receive the fees allowed by law to town clerks; but the council may require the clerk to pay such fees into the city treasury. With the consent of the council, the clerk may appoint a deputy for whose acts the clerk shall be responsible and whom the clerk may remove at pleasure. In case of the clerk's absence from the city or disability, the council may appoint a deputy clerk, if there is none, to serve during such absence or disability. The deputy may discharge any of the duties of the clerk, except that deputy shall not be a member of the council.

Subd. 2. **Delegation; audit.** The council by ordinance may delegate all or part of the clerk's bookkeeping duties to another officer or employee. The officer or employee who by ordinance is made responsible for the clerk's bookkeeping duties shall furnish a fidelity bond conditioned for the faithful exercise of duties. The council may provide for the payment from city funds of the premium on the official bond. If the bookkeeping functions of the clerk are delegated to the city treasurer, the council shall provide for an annual audit of the city's financial affairs in accordance with the minimum procedures prescribed by the state auditor. A copy of the ordinance shall be provided to the state auditor.

History: 1949 c 119 s 18; 1951 c 378 s 6; 1953 c 735 s 3; 1973 c 123 art 2 s 1 subd 2; 1984 c 384 s 1; 1986 c 444

Bonds for Public Employees and Officers

Minnesota law requires fidelity or faithful performance bonds for certain local government positions. In order to minimize the risk of loss of public funds, public entities should review what positions require bonding and then make sure all required bonds are in place. Public entities should also consider whether bonds should be obtained for additional employees/officers.

Some of the positions that require bonds include:

- Statutory city clerks and treasurers, or others as the city council may require ([Minn. Stat. § 412.111](#));
- Public officer or employee delegated the duties of city clerk ([Minn. Stat. § 412.151](#));
- Town clerks ([Minn. Stat. § 367.10](#));
- Town treasurers ([Minn. Stat. § 367.15](#));
- Relief association treasurers ([Minn. Stat. § 424A.014](#));
- Port authority treasurers ([Minn. Stat. § 469.051](#));
- Economic development authority treasurers ([Minn. Stat. § 469.096](#)); and
- School district employees who receive district funds ([Minn. Stat. § 123B.14](#)).

Date this Avoiding Pitfall was most recently published: 3/3/2023



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Charter Commission Memorandum

TO: Charter Commission
FROM: Tim Murray, City Administrator
MEETING DATE: June 27, 2023
SUBJECT: Review/Creation of 2023 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 2023.

Recommendation:

Authorize preparation and submittal of annual report

Attachments:

- 2022 Annual Report



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February 2, 2023

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 – 2022 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 2022.

The Commission held one meeting on Thursday, October 20, 2022. 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, reading "Scott J. Riggs", is positioned above the typed name.

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: June 27, 2023
SUBJECT: General Discussion Items/Future Agenda Topics

Background:

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

Recommendation:

Discuss and comment.

Attachments:

(None)