



## Request for Council Action

**TO:** Mayor and City Council  
**FROM:** Tim Murray, City Administrator  
**MEETING DATE:** January 14, 2020  
**SUBJECT:** Proposed Amendments to Chapter 2 and Chapter 6 of the City Charter

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### **Background:**

The City's Charter Commission meets annually (with additional meetings as needed) to discuss and review potential changes to the City Charter. From their meetings held in 2018 and 2019, the Charter Commission forwarded five (5) recommended Charter amendments to the City Council for consideration. These recommendations were reviewed at the 11/6/2019 Joint Council Committee meeting, with four (4) of the five recommended changes supported by the Council. Ordinances 2019-21 through 2019-24 have been prepared to make these changes.

Changes to the City's Charter are governed under Minnesota Statutes, Ch. 410.12. The changes are made (in accordance with Subd. 7 of the statute) via ordinance. Part of the process to consider adoption of the ordinances is the noticing and holding of a public hearing on the proposed changes—a Public Hearing was held on December 10, 2019, however, the full Council was not present so no vote could be taken on the changes (a 7/7<sup>ths</sup> vote is required for passage). Similarly, we did not have a full Council for the December 23, 2019 meeting, so the item was not put on the agenda.

Statute 410.12 Subd. 7 requires that the vote on the proposed changes be held within one month following the public hearing—that time has expired, so we re-published the hearing notice and are conducting another Public Hearing at this meeting. The hearing is then followed by votes on two readings of the ordinances (a 7/7<sup>ths</sup> vote is required for passage of each), and lastly by the publication of the ordinances, with the changes taking effect 90 days afterwards.

### **Recommendation:**

Approve Ordinances 2019-21, -22, -23, and -24 on First Reading following Public Hearing (separate action required on each ordinance; unanimous vote required for approval)

**Attachments:**

- Ordinance 2019-21
- Ordinance 2019-22
- Ordinance 2019-23
- Ordinance 2019-24
- Public Hearing Notice
- 2019-11-06 Joint Committee meeting materials

**CITY OF FARIBAULT  
NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENTS TO THE CITY CHARTER**

NOTICE IS HEREBY GIVEN that the City Council of the City of Faribault, Minnesota will conduct a public hearing on January 14, 2020, at 6:00 p.m., or as soon as possible thereafter, in the Council Chambers at 208 N.W. 1<sup>st</sup> Avenue, Faribault, Minnesota 55021 to consider oral and written testimony concerning proposed amendments to Chapters 2 and 6 of the Home Rule Charter of the City.

The Charter Commission recommends that the amendments be adopted by ordinance of the City Council in the manner prescribed by Minnesota Statutes Section 410.12, subdivision 7. Under that procedure, after the public hearing, the ordinance is enacted if it receives an affirmative vote of all members of the City Council and is approved by the Mayor and published as in the case of other ordinances. The adopting ordinance is effective 90 days after its passage and publication. If within 60 days thereof, a petition requesting a referendum signed by registered voters equal in number to five percent of the registered voters in the city, or 2,000, whichever is less, is filed with the City Clerk, the ordinance is not effective until approved by the voters in a general or special election or the Council may reconsider its action in adopting the ordinance.

The proposed amendments would amend Sections 2.02 and 2.05 of Chapter 2 and Sections 6.02 and 6.04 of Chapter 6 of the Charter as follows:

**Section 2.02. - Boards and commissions.**

There shall be no separate, independent administrative boards or commissions, except those required by law or established by the council. The council may establish boards, commissions, committees, task forces or other groups to advise the council regarding municipal activities, to investigate subjects of interest to the city, or to perform quasi-judicial functions. All such boards, commissions, committees, task forces or other groups established by the council shall be governed by all applicable statutes, ordinances, rules or requirements provided by federal, state or local laws.

**Section 2.05. - Vacancies; appointments.**

A vacancy in the council shall be deemed to exist on the happening of any of the following events, before the expiration of the term of such office:

- (1) The death of the mayor or council member;
- (2) The resignation of the mayor or council member;
- (3) The removal of the mayor or council member;
- (4) The mayor's or council member's ceasing to be an inhabitant of the city;
- (5) The mayor's or council member's conviction of any infamous crime, or of any offense involving a violation of the official oath;
- (6) The mayor's or council member's refusal or neglect to take the oath of office, or to give or renew the official bond, or to deposit or file such oath or bond within the time prescribed;
- (7) The decision of a competent tribunal declaring the mayor's or council member's election or appointment void;
- (8) The death of the person elected or appointed to fill a vacancy, or for a full term, before the person qualifies, or before the time when by law the person should enter upon the duties of the office, in which case the vacancy shall be deemed to take place at the time when the term of office would have begun had the person lived.
- (9) The mayor's or council member's inability to serve in the office or attend council meetings for a 90-day period because of illness, or because of absence from or refusal to attend council meetings for a 90-day period. If any of the preceding conditions occurs, the council may, after it has by resolution declared a vacancy to exist, fill the vacancy at a regular or special council meeting for the remainder of the unexpired term, or until the person is again able to resume duties and attend council meetings, whichever is earlier. When the person is again able to resume duties and attend council meetings, the council shall by resolution remove the temporary officeholder and restore the original officeholder.

In each case, the council shall by resolution declare such vacancy to exist and shall appoint an eligible person to fill the vacant office until the next regular city election is held. In the case of a tie vote in the council for a vacancy in the position of a council member, the mayor shall make the appointment, selecting one of the finalists that was before the council for consideration for appointment. In the case of a tie vote in the council for a vacancy in the position of mayor, the vice mayor shall make the appointment, selecting one of the finalists that was before the council for consideration for appointment. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor.

**Section 6.02. - Powers and duties of the city administrator.**

*Subdivision 1. Responsible for administration.* The city administrator shall be responsible to the council for the administration of the City's affairs. The city administrator shall have the powers and duties set forth in the following subdivisions and as established by the council.

*Subdivision 2. Enforcement.* The city administrator shall see that this charter and the laws, ordinances, and resolutions of the City are enforced.

*Subdivision 3. Personnel.* ~~The council shall have the power to appoint, suspend or remove departmental administrators established by ordinance. Except as provided above, the administrator shall have the power to suspend, remove or discharge employees only upon obtaining the prior approval of the council at any regular or special meeting called for that purpose. Hiring, suspension or discharge of civil service employees shall be in accordance with applicable statutes. The council shall appoint all subordinate officers and employees and shall oversee and supervise any review, appraisal or discipline related to such employees, unless otherwise delegated.~~

- A. In situations where immediate employment action is needed relative to the city administrator, the Mayor along with one other council member, or such committee appointed by the council for such employment oversight purposes, shall be authorized to immediately respond to any employment situation, in the interests of the public health, safety and welfare of the city.
- B. The administrator, or designee in their absence, shall have the authority to suspend any employee of the city where immediate employment action is needed. The administrator shall promptly inform the council of such action, and if needed, shall request a special meeting be held to review the matter with the council for consideration of further employment action, up to and including termination.
- C. The administrator, or designee in their absence, shall have the authority to appoint, suspend, or discharge all part-time, seasonal, and temporary employees, and shall have the authority to discharge all probationary employees except departmental administrators.

**Section 6.04. - Subordinate ~~officer~~employees.**

There shall be ~~officers~~employees subordinate to the city administrator as the council may establish by ordinance or resolution. The council may, by ordinance or resolution, abolish ~~offices~~positions which have been created and it may combine the duties of various ~~offices~~positions as it may see fit.

Anyone wishing to express an opinion about the proposed amendments orally or in writing will be heard at the public hearing.

Dated: December 28, 2019

/s/ Timothy C. Murray  
City Administrator



## Council Committee Memorandum

**TO:** Joint Council Committee  
**FROM:** Tim Murray, City Administrator  
**MEETING DATE:** November 6, 2019  
**SUBJECT:** Review of Charter Commission Recommendations

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### **Discussion:**

The City's Charter Commission meets annually (with additional meetings as needed) to discuss and review potential changes to the City Charter. From their meetings held in 2018 and 2019, the Charter Commission is forwarding the following recommended amendments to the City Council for consideration. Minutes from the Charter Commission meetings held in 2018 and 2019 are attached.

Changes to the City's Charter are governed under Minnesota Statutes, Ch. 410.12. For those changes that are supported, the next steps in the process (in accordance with Subd. 7 of the statute) will be to draft the ordinance outlining the changes, noticing and holding a public hearing on the proposed changes, Council vote on the ordinance (a 7/7<sup>th</sup> vote is required), and publication of the ordinance.

There are five (5) proposed amendments to the City Charter that are being recommended to the City Council by the Charter Commission. Recommended [additions](#) and [deletions](#) are shown thus.

#### (1) Sec. 2.02. – Board and commissions

The Charter Commission recommends adding additional language to the end of this section as follows:

#### **Section 2.02. - Boards and commissions.**

There shall be no separate, independent administrative boards or commissions, except those required by law or established by the council. The council may establish boards, commissions, committees, task forces or other groups to advise the council regarding municipal activities, to investigate subjects of interest to the city, or to perform quasi-judicial functions. [All such boards, commissions, committees, task forces or other groups established by the council shall be governed by all applicable statutes, ordinances, rules or requirements provided by federal, state or local laws.](#)

This language serves to reinforce the requirements for all Council-established entities (even ad-hoc committees) to follow all public meeting requirements, including meeting notices, agendas, etc.

(2) Sec. 2.05. – Vacancies; appointments (*for City Council*)

The Charter Commission recommends adding restrictions on the appointment in the case of tie votes when filling a vacancy on the City Council by requiring that the appointee be one of the finalists that was under consideration (the current language allows for the appointment of any eligible person, regardless of whether or not they were even under consideration).

**Section 2.05. - Vacancies; appointments.**

A vacancy in the council shall be deemed to exist on the happening of any of the following events, before the expiration of the term of such office:

- (1) The death of the mayor or council member;
- (2) The resignation of the mayor or council member;
- (3) The removal of the mayor or council member;
- (4) The mayor's or council member's ceasing to be an inhabitant of the city;
- (5) The mayor's or council member's conviction of any infamous crime, or of any offense involving a violation of the official oath;
- (6) The mayor's or council member's refusal or neglect to take the oath of office, or to give or renew the official bond, or to deposit or file such oath or bond within the time prescribed;
- (7) The decision of a competent tribunal declaring the mayor's or council member's election or appointment void;
- (8) The death of the person elected or appointed to fill a vacancy, or for a full term, before the person qualifies, or before the time when by law the person should enter upon the duties of the office, in which case the vacancy shall be deemed to take place at the time when the term of office would have begun had the person lived.
- (9) The mayor's or council member's inability to serve in the office or attend council meetings for a 90-day period because of illness, or because of absence from or refusal to attend council meetings for a 90-day period. If any of the preceding conditions occurs, the council may, after it has by resolution declared a vacancy to exist, fill the vacancy at a regular or special council meeting for the remainder of the unexpired term, or until the person is again able to resume duties and attend council meetings, whichever is earlier. When the person is again able to resume duties and attend council meetings, the council shall by resolution remove the temporary officeholder and restore the original officeholder.

In each case, the council shall by resolution declare such vacancy to exist and shall appoint an eligible person to fill the vacant office until the next regular city election is held. In the case of a tie vote in the council for a vacancy in the position of a council member, the mayor shall make the appointment, [selecting](#)

one of the finalists that was before the council for consideration for appointment. In the case of a tie vote in the council for a vacancy in the position of mayor, the vice mayor shall make the appointment, selecting one of the finalists that was before the council for consideration for appointment. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular city election and more than two years remain in the unexpired term, a special election shall be held at or before the next regular city election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular city election or when less than two years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor.

(3) Sec. 4.05. – Primary elections (*new section*)

Under State Statute, primaries are held when there are more than 2 candidates per open seat (for example, if more than 6 people file for 3 open councilmember seats, or more than 2 people file for an open mayoral seat). The City Council previously adopted Resolution 94-060, which set the numbers for primaries at more than 3 candidates per open councilmember seats, and 4 or more candidates for an open mayoral seat.

State Statute allows home rule charter cities to establish requirements for holding primaries (different from the statutory thresholds) through their charter. As our policy was established by resolution and not the charter, an amendment to the charter is warranted to allow us to continue using our current practices. Following is the proposed language for this new section that would provide for this:

**Section 4.05. – Municipal primary elections.**

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

(4) Sec. 6.02. – Powers and duties of the city administrator.

The Charter Commission had initial discussions regarding the authority to deal with employment matters at their 2018 meeting, but did not make any recommendations on changes at that time. The topic was

discussed again at their 2019 meeting. The two primary concerns with the current language in the City Charter are that there is limited ability to take immediate action when needed and that all hiring, discipline, and termination is required to be done by the Council.

The first change provides for the ability of the mayor and one other council member to take immediate action on employment issues concerning the city administrator, when deemed necessary to protect public interests. If circumstances arise whereby action regarding the administrator need to be taken quickly, waiting to advertise for and hold a special (closed session) council meeting might not address the situation.

The other proposed changes would provide some authority to the city administrator to also deal with time-critical employment matters, as well as putting more authority with the administrator when it comes to probationary, temporary or seasonal employees.

Following are the recommended changes for this section:

**Section 6.02. - Powers and duties of the city administrator.**

*Subdivision 1. Responsible for administration.* The city administrator shall be responsible to the council for the administration of the City's affairs. The city administrator shall have the powers and duties set forth in the following subdivisions and as established by the council.

*Subdivision 2. Enforcement.* The city administrator shall see that this charter and the laws, ordinances, and resolutions of the City are enforced.

*Subdivision 3. Personnel.* ~~The council shall have the power to appoint, suspend or remove departmental administrators established by ordinance. Except as provided above, the administrator shall have the power to suspend, remove or discharge employees only upon obtaining the prior approval of the council at any regular or special meeting called for that purpose. Hiring, suspension or discharge of civil service employees shall be in accordance with applicable statutes. The council shall appoint all subordinate officers and employees and shall oversee and supervise any review, appraisal or discipline related to such employees, unless otherwise delegated.~~

A. In situations where immediate employment action is needed relative to the city administrator, the Mayor along with one other council member, or such committee appointed by the council for such employment oversight purposes, shall be authorized to immediately respond to any employment situation, in the interests of the public health, safety and welfare of the city.

B. The administrator, or designee in their absence, shall have the authority to suspend any employee of the city where immediate employment action is needed. The administrator shall promptly inform the council of

such action, and if needed, shall request a special meeting be held to review the matter with the council for consideration of further employment action, up to and including termination.

C. The administrator, or designee in their absence, shall have the authority to appoint, suspend, or discharge all part-time, seasonal, and temporary employees, and shall have the authority to discharge all probationary employees except departmental administrators.

(5) Sec. 6.04. – Subordinate officers.

The reference to people working for the City as “officers” and the positions which they fill as “offices” is viewed as confusing and perhaps antiquated. The Charter Commission recommends changing “officers” to “employees” and “offices” to “positions” to make it clear that this section of the City Charter applies to all employees of the City, not just those that have “officer” in their title. Following are the proposed changes to this section:

**Section 6.04. - Subordinate ~~officers~~ employees.**

There shall be ~~officers~~ employees subordinate to the city administrator as the council may establish by ordinance or resolution. The council may, by ordinance or resolution, abolish ~~offices-positions~~ which have been created and it may combine the duties of various ~~offices-positions~~ as it may see fit.

**Attachments:**

- 2018-09-27 Charter Commission Meeting Minutes – APPROVED
- 2019-10-16 Charter Commission Meeting Minutes – DRAFT
- Minnesota Statutes, Ch. 410.12
- Resolution 94-060



## CHARTER COMMISSION MINUTES

**COUNCIL CHAMBERS**

**THURSDAY, SEPTEMBER 27, 2018**

**7:00 PM**

### **1. Call to Order/Roll Call**

The Charter Commission meeting was called to order by Chair Gary Kindseth at 7:00 PM in the Faribault City Council Chambers. Commission Members present included Chair Gary Kindseth, Chuck Ackman, Dave Albers, Kymn Anderson, Dan Behrens, Dan Burns, Elizabeth Cap, John Jasinski and Pat Rice. Also in attendance were City Administrator Tim Murray, Assistant to the City Administrator Heather Slechta and City Attorney Scott Riggs.

### **2. Approval of Minutes**

There was discussion by the Commission regarding the accuracy and detail in the minutes from the August 24, 2017 meeting. It was suggested that the meetings of the Charter Commission be recorded. It was the consensus of the Charter Commission to audio record all future Commission meetings.

Motion by Ackman, seconded by Rice to approve the minutes from meeting of August 24, 2017 and carried unanimously.

### **3. Election of Officers**

Motion by Commissioner Anderson, seconded by Commissioner Albers to appoint Commissioner Ackman to Chair, Commissioner Rice to Vice Chair and Commissioner Behrens to secretary and carried unanimously.

### **4. New Business**

#### **A. City Charter issues for review**

##### **1. Advisory Committee Language**

City Attorney Riggs brought forth proposed language based on discussions from the August 24, 2017 Charter Commission meeting regarding specific authority and control over all such boards, commissions, committees, task forces or other groups established by the Council. Although Riggs felt that it is not needed, it verifies the requirements. The proposed specific language would be added to the end of City Charter Section 2.02 and would read as follows: All such boards, commissions, committees, task forces or other groups established by the council shall be governed by all applicable statutes, ordinances, rules or requirements provided by federal, state or local laws.

City Administrator Tim Murray explained that this became necessary as ad hoc committees were not posting meeting agendas. Commissioner Albers felt that this takes out the interpretation, and there is value in having the language in the Charter, it dictates the direction. Commissioner Ackman questioned what is the actual problem and is this the remedy? Commissioner Anderson, remarked that the Commission originally went through the Charter to clarify and remove redundant language and this feels like we are adding it back in. Riggs reiterated that this is already required and not necessary to add to the Charter. Commissioner Kindseth stated that they tried to simplify the Charter. Commissioner Cap questioned if people are aware of the laws.

Motion by Commissioner Albers, seconded by Commissioner Jasinski to recommend to the Council to adopt the additional advisory committee language in the City Charter, Section 2.02 and carried unanimously.

2. Clarifying Council authority for employment matters

City Attorney Scott Riggs explained that revisions to Section 6.04 of the City Charter would clarify the council authority over all employees unless delegated. Suggested language included; Inserting the phrase “and employees” into the title of Section 6.04; and to insert Council authorizing language as to all city employees as follows: “The council shall appoint all subordinate officers and employees and shall oversee and supervise any review, appraisal or discipline related to all such employees, unless otherwise delegated.

Commissioner Ackman asked if this would give the Council permission to fire any employee, such as the janitor, he was under the impression that the Council oversaw the City Administrator, who then oversaw the staff. Commissioner Anderson asked if this was always how things were done. Riggs explained that the City of Faribault is a City Administrator not City Manager city. Commissioner Behrens does not want to overreach, the City Council gets involved at the Director level. Commissioner Rice asked how terminations are currently handled, Murray explained that himself, HR, and the Department Director work to get a resignation, currently the City Administrator can place an employee on administrative leave, however, only the City Council can terminate an employee, however, this has not always been done. Commissioner Jasinski explained that the Council was involved while he was mayor was when there were budget cuts and 18 positions were eliminated and then again when there was an issue in the Police Department. Commissioner Ackman thought that the Administrator worked for the Council, and they could hire/fire department heads and staff, the language should reflect the practice. Commissioner Anderson felt the cleanest way to make changes to Section 6.04 is to put the changes on the ballot, Commission Kindseth questioned if the City or City Council would want to do put this on the ballot. Riggs explained that the League of Minnesota Cities has loosened their stance on elected charters, so there could be changes made through the Council.

Riggs also recommended that language be inserted that would authorize oversight of the city administrator as follows “in situations where immediate employment action is needed relative to any employee of the city, the mayor along with one other council member, or such committee appointed by the council for such employment oversight purposes, shall be able to immediately respond to any employment situation, all in the interests of the public health, safety and welfare of the city

Commissioner Cap felt that there needs to be more than one Council member and the Mayor present to suspend an employee and that public health, safety and welfare of the City should be clearly defined. Commissioner Ackman explained that the Council would have to ratify the decision of the Mayor and Council member within a certain timeframe. Commissioner Anderson asked if there is a personnel committee, Murray explained that it is called the General Affairs Committee. Anderson further stated that since the Council can set committees, can the Commission request that a committee be formed for performance reviews or dismissal of employees—she felt it should be a committee of at least two Councilors and the Mayor. Commissioner Behrens stated that the Council could choose each year who is on the committee.

There was also much discussion on the removal of former City Administrator Brian Anderson, as well as the process that was used to remove him from his position.

Motion by Commissioner Behrens, seconded by Commissioner Jasinski to draft language to allow the City Administrator to hire and terminate employees below the Director level. Commissioner Behrens withdrew his motion.

### 3. Clarifying staff authority regarding employment matters

City Attorney Riggs introduced language to add to Section 6.02, creating subdivision 3A; Clarifying Staff Authority Regarding Employment Matters. Riggs explained that pursuant to discussions with City Administrator Murray, additional language regarding the authority of the city administrator relative to the city administrator's oversight of city employees in certain circumstances could be inserted as a new subdivision 3A in Section 6.02 as follows: Notwithstanding anything to the contrary in Subdivision 3 or Subdivision 4 of this Section 6, or otherwise, the city administrator, is authorized to oversee and supervise all probationary, seasonal and temporary employees as directed by the council. Riggs also provided alternative language that could read as follows: Notwithstanding anything to the contrary in Subdivision 3 or Subdivision 4 of this Section 6, or otherwise, the council delegates to the administrator the authority to oversee and supervise all probationary, seasonal and temporary employees as necessary with follow-up to the council as needed.

Due to the previous discussion regarding Section 6.02 and 6.04, a motion was made by Commissioner Ackman, seconded by Commissioner Anderson to direct staff to draft language for Section 6 with explicit language and carried unanimously.

### 4. Elections language

City Attorney Riggs explained that in 1994, the City of Faribault adopted Resolution 94-060, which established a policy for municipal primary elections. Specifically, the Resolution provides that a municipal primary election shall only take place before a general election if there are three or more candidates for each open city council seat or if there are four or more candidates for an open mayoral seat. For example, if there are three openings on the city council, nine or more city council candidates are required to trigger the need for a city council primary. In contrast, a mayoral primary is simply triggered when four or more candidates file for an open mayoral seat. The policy set forth in Resolution 94-060 is inconsistent with state statute, as Minn. Stat. § 205.065, subd. 4 provides that when a municipality opts to have municipal primaries, they shall do so unless "not more than twice the number of individuals to be elected to a municipal office file for nomination for the office...". In other words, the statute requires a primary if more than six candidates file for three open city council seats, or, if more than two candidates filed for an open mayoral seat. Because charter cities are provided with the authority to adopt their own rules for primary elections, the City and Rice County have each adhered to Resolution 94-060 since its adoption, notwithstanding its inconsistencies with Minn. Stat. § 205.065, subd. 4. that expressly provides that in all home rule charter cities, primary elections held for choosing city officials "shall be held as provided in state law, except that Minn. Stat. § 205.065, subdivision 4 which does not apply to a city whose charter provides the manner of holding its primary". As previously indicated, it is Resolution 94-060 that provides the manner for holding primaries in Faribault, not the City Charter.

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

Motion by Commissioner Rice, seconded by Commissioner Jasinski to recommend to the Council to adopt the proposed Charter Language Regarding Primary Elections and carried unanimously.

**B. Requesting Charter Commission Appointments**

Commissioner Kindseth informed the Commission that there are five Commissioners that have terms expiring on December 31, 2018. Commissioner Kindseth will not be seeking reappointment, however, Commissioners Anderson, Behrens, Jasinski and Rice are interested in reappointment. Riggs explained that anyone can apply to the District Court to be considered for a Charter Commission appointment. It has been past practice of the City Council to send a list of interested parties to the court. Murray informed the Commission that at the Council work session on October 2, 2018 the Council will be discussing Board and Commission term limits.

**5. Review/Creation of 2018 Annual Report**

Riggs explained that this is a requirement. Riggs will work with Murray and Slechta to complete the report. Since there will be an additional meeting before the year ends, this will remain an agenda item.

**6. Charter Commission Meeting Schedule**

Riggs and Murray will work to complete amendments to Section 6 of the City Charter. Once the edits are complete, a meeting will be scheduled.

**7. General Discussion Items - None**

**8. Agenda Topics for next meeting**

The next meeting will include more discussion on City Charter Chapter 6 amendments.

**9. Adjournment**

Motion by Jasinski, seconded by Behrens to adjourn the meeting.

Meeting adjourned at 8:24 PM.

Respectfully Submitted,

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Heather Slechta  
Assistant to the City Administrator



## CHARTER COMMISSION MINUTES

**COUNCIL CHAMBERS**

**WEDNESDAY, OCTOBER 16, 2019**

**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 Behrens, Dan Burns, Elizabeth Cap, Kay Duchene, John Jasinski and Pat Rice. 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 Jasinski, seconded by Rice to approve the minutes from meeting of September 27, 2018 and carried unanimously.

### **Election of Officers**

Motion by Jasinski, seconded by Burns to appoint Chuck Ackman as Chairperson, Pat Rice as Vice-Chair and Dan Behrens as Secretary and carried unanimously.

### **New Business-City Charter issues for review**

#### *Proposed language changes to Sec. 2.05 regarding appointments for Council vacancies*

City Administrator Tim Murray explained that Section 2.05 of the City Charter outlines the conditions and process for the declaration of a vacancy on the City Council and the appointment of an eligible person to fill the vacancy. In the event there is a tie vote for the appointment, the Mayor then makes the appointment, if the appointment is for the position of mayor, the Vice Mayor makes the appointment.

The current language allows any eligible person to be appointed, even someone outside the list of candidates for which the vote was taken. The proposed language would restrict the appointment to one of the candidates that tied for the highest number of votes, which would likely be the expectation of those involved as well as the public.

Councilor Cap asked if the Charter Commission should first define what makes an individual a candidate and how they become a candidate, however, through some discussion it was the consensus of the Commission to leave the process of candidacy to the Council. Commissioner Kymn Anderson was in favor of allowing the Mayor to select the appointment, as is current practice.

Through some discussion it was the consensus of the Commission to change the word candidate to finalist.

Motion by Cap, seconded by Rice to recommend approval by the Council modifications to Section 2.05 Vacancies; appointments, with the following changes; in the case of a tie vote in the council for a vacancy in the position of a council member, the mayor shall make the appointment by “selecting one of the finalists that was before the council for consideration for appointment” and in the case of a tie vote in the council for a vacancy in the position of mayor, the vice mayor shall make the appointment “selecting one of the finalists that was before the council for consideration for appointment” and carried unanimously.

*Proposed language changes to Sec. 6.02 clarifying Council and staff authority for employment matters*

City Administrator Tim Murray explained that at the September 27, 2018 Charter Commission meeting, potential changes regarding the authority to deal with employment matters was considered. The two primary concerns with the current language in the Charter are that there is limited ability to take immediate action when needed and that all hiring, discipline, and termination is required to be done by the Council.

The proposed changes provides for the ability of the mayor and one other council member to take immediate action on employment issues, dealing with the employee in question, protecting public interests. If circumstances would arise whereby action regarding an employee, up to and including the administrator, need to be taken quickly, waiting to advertise for and hold a special council meeting might not address the situation in a timely matter.

The other change would provide some authority to the administrator to also deal with time-critical employment matters, as well as putting more authority with the administrator when it comes to temporary or seasonal employees.

Commissioner Kymn Anderson was in favor of strengthening the city administrator role to a city manager type role that would allow the administrator to hire, discipline and terminate employees if necessary up to the department head position.

Commissioner John Jasinski was not comfortable with the proposed language that would allow the mayor and one-other council member to take immediate employment action when needed relative to any employee of the city, and requested that any employee changed to city administrator.

Commissioner Chuck Ackman requested that the administrator be granted the authority to appoint, suspend or discharge part-time employees.

The consensus of the Commission was to request that the Council discuss possibly changing the city administrator titles and duties to a council-city manager form of government at a future meeting and if the Council would like the position to change, the Commission will further explore it.

Motion by Rice, seconded by Cap to recommend approval by the City Council modifications to Section 6.02 Powers and duties of the city administrator as presented with the addition of “, or designee in their absence,” after “The administrator” in Sub 3. (B) and (C); the addition of “part-time, “ before “seasonal” to Sub. 3 (C), and replacing “any employee of the city” with “city administrator” in Sub. 3 (A) and carried unanimously.

*Proposed language changes to Sec. 6.04 regarding employees*

City Administrator Tim Murray explained that one of the recommended changes proposed in 2018 was to add the phrase “and employees” to the title of Sec. 6.04. The addition of “employees” would ensure understanding that the authorities outlined apply to all people working for the City, not just those in a position that has a job title that includes “officer”.

Through some discussion it was the consensus of the Charter Commission to remove the word “officers” and use employees as well as remove the work “offices” and use the word positions.

Motion by Duchene, seconded by Jasinski to recommend to the Council approval of the proposed language changes using the word employee rather than officer and using the word position rather than office and carried unanimously.

**Review/Creation of 2019 Annual Report**

City Attorney Scott Riggs will work with City Staff to complete the required annual report.

**Charter Commission Meeting Schedule**

The Charter Commission discussed meeting again in either September or October of 2020.

**General Discussion Items**

City Administrator Tim Murray explained the process to adopt the recommended changes to the Charter. Murray will present the changes at a future Joint Committee Meeting for Council discussion. Charter amendments require a 7:0 vote to pass.

**Agenda Topics for next meeting.**

Commissioner Dave Albers stated that there could be items from the Comprehensive Plan that may need to be discussed by the Charter. Commissioner Elizabeth Cap asked if the Mayor would have the authority to deny refugee resettlement into the community if there was an executive order issued by President Trump giving Mayors that authority. Attorney Scott Riggs stated that mayors can only do what the legislature passes on to them, and at this time there has been nothing passed.

Commissioner Kymn Anderson requested that the Charter Commission be notified when these items are presented for approval to the Council.

**Adjournment**

Motion by Cap, seconded by Jasinski to adjourn the meeting.  
The Charter Commission meeting was adjourned at 8:26 pm.

Respectfully Submitted,

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Heather J. Slechta  
Assistant to the City Administrator

DRAFT

**410.12 AMENDMENTS.**

Subdivision 1. **Proposals.** The charter commission may propose amendments to such charter and shall do so upon the petition of voters equal in number to five percent of the total votes cast at the last previous state general election in the city. Proposed charter amendments must be submitted at least 17 weeks before the general election. Only registered voters are eligible to sign the petition. All petitions circulated with respect to a charter amendment shall be uniform in character and shall have attached thereto the text of the proposed amendment in full; except that in the case of a proposed amendment containing more than 1,000 words, a true and correct copy of the same may be filed with the city clerk, and the petition shall then contain a summary of not less than 50 nor more than 300 words setting forth in substance the nature of the proposed amendment. Such summary shall contain a statement of the objects and purposes of the amendment proposed and an outline of any proposed new scheme or frame work of government and shall be sufficient to inform the signers of the petition as to what change in government is sought to be accomplished by the amendment. The summary, together with a copy of the proposed amendment, shall first be submitted to the charter commission for its approval as to form and substance. The commission shall within ten days after such submission to it, return the same to the proposers of the amendment with such modifications in statement as it may deem necessary in order that the summary may fairly comply with the requirements above set forth.

Subd. 1a. **Alternative methods of charter amendment.** A home rule charter may be amended only by following one of the alternative methods of amendment provided in subdivisions 1 to 7.

Subd. 2. **Petitions.** The signatures to such petition need not all be appended to one paper, but to each separate petition there shall be attached an affidavit of the circulator thereof as provided by this section. A petition must contain each petitioner's signature in ink or indelible pencil and must indicate after the signature the place of residence by street and number, or other description sufficient to identify the place. There shall appear on each petition the names and addresses of five electors of the city, and on each paper the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. The affidavit attached to each petition shall be as follows:

State of ..... )  
) ss.  
County of ..... )

..... being duly sworn, deposes and says that the affiant, and the affiant only, personally circulated the foregoing paper, that all the signatures appended thereto were made in the affiant's presence, and that the affiant believes them to be the genuine signatures of the persons whose names they purport to be.

Signed .....

(Signature of Circulator)

Subscribed and sworn to before me

this ..... day of ..... .....

Notary Public (or other officer)

authorized to administer oaths

The foregoing affidavit shall be strictly construed and any affiant convicted of swearing falsely as regards any particular thereof shall be punishable in accordance with existing law.

**Subd. 3. May be assembled as one petition.** All petition papers for a proposed amendment shall be assembled and filed with the charter commission as one instrument. Within ten days after such petition is transmitted to the city council, the city clerk shall determine whether each paper of the petition is properly attested and whether the petition is signed by a sufficient number of voters. The city clerk shall declare any petition paper entirely invalid which is not attested by the circulator thereof as required in this section. Upon completing an examination of the petition, the city clerk shall certify the result of the examination to the council. If the city clerk shall certify that the petition is insufficient the city clerk shall set forth in a certificate the particulars in which it is defective and shall at once notify the committee of the petitioners of the findings. A petition may be amended at any time within ten days after the making of a certificate of insufficiency by the city clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The city clerk shall within five days after such amendment is filed, make examination of the amended petition, and if the certificate shall show the petition still to be insufficient, the city clerk shall file it in the city clerk's office and notify the committee of the petitioners of the findings and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

**Subd. 4. Election.** Amendments shall be submitted to the qualified voters at a general or special election and published as in the case of the original charter. The form of the ballot shall be fixed by the governing body. The statement of the question on the ballot shall be sufficient to identify the amendment clearly and to distinguish the question from every other question on the ballot at the same time. If 51 percent of the votes cast on any amendment are in favor of its adoption, copies of the amendment and certificates shall be filed, as in the case of the original charter and the amendment shall take effect in 30 days from the date of the election or at such other time as is fixed in the amendment.

**Subd. 5. Amendments proposed by council.** The council of any city having a home rule charter may propose charter amendments to the voters by ordinance. Any ordinance proposing such an amendment shall be submitted to the charter commission. Within 60 days thereafter, the charter commission shall review the proposed amendment but before the expiration of such period the commission may extend the time for review for an additional 90 days by filing with the city clerk its resolution determining that an additional time for review is needed. After reviewing the proposed amendment, the charter commission shall approve or reject the proposed amendment or suggest a substitute amendment. The commission shall promptly notify the council of the action taken. On notification of the charter commission's action, the council may submit to the people, in the same manner as provided in subdivision 4, the amendment originally proposed by it or the substitute amendment proposed by the charter commission. The amendment shall become effective only when approved by the voters as provided in subdivision 4. If so approved it shall be filed in the same manner as other amendments. Nothing in this subdivision precludes the charter commission from proposing charter amendments in the manner provided by subdivision 1.

**Subd. 6. Amendments, cities of the fourth class.** The council of a city of the fourth class having a home rule charter may propose charter amendments by ordinance without submission to the charter commission. Such ordinance, if enacted, shall be adopted by at least a four-fifths vote of all its members after a public hearing upon two weeks' published notice containing the text of the proposed amendment and shall be approved by the mayor and published as in the case of other ordinances. The council shall submit the proposed amendment to the people in the manner provided in subdivision 4, but not sooner than three months after the passage of the ordinance. The amendment becomes effective only when approved by the voters as provided in subdivision 4. If so approved, it shall be filed in the same manner as other amendments.

Subd. 7. **Amendment by ordinance.** Upon recommendation of the charter commission the city council may enact a charter amendment by ordinance. Within one month of receiving a recommendation to amend the charter by ordinance, the city must publish notice of a public hearing on the proposal and the notice must contain the text of the proposed amendment. The city council must hold the public hearing on the proposed charter amendment at least two weeks but not more than one month after the notice is published. Within one month of the public hearing, the city council must vote on the proposed charter amendment ordinance. The ordinance is enacted if it receives an affirmative vote of all members of the city council and is approved by the mayor and published as in the case of other ordinances. An ordinance amending a city charter shall not become effective until 90 days after passage and publication or at such later date as is fixed in the ordinance. Within 60 days after passage and publication of such an ordinance, a petition requesting a referendum on the ordinance may be filed with the city clerk. The petition must be signed by registered voters equal in number to at least five percent of the registered voters in the city or 2,000, whichever is less. If the requisite petition is filed within the prescribed period, the ordinance shall not become effective until it is approved by the voters as in the case of charter amendments submitted by the charter commission, the council, or by petition of the voters, except that the council may submit the ordinance at any general or special election held at least 60 days after submission of the petition, or it may reconsider its action in adopting the ordinance. As far as practicable the requirements of subdivisions 1 to 3 apply to petitions submitted under this section, to an ordinance amending a charter, and to the filing of such ordinance when approved by the voters.

**History:** (1286) RL s 756; 1907 c 199 s 1; 1911 c 343 s 1; 1939 c 292 s 1; 1943 c 227 s 1; 1949 c 122 s 1; 1959 c 305 s 3,4; 1961 c 608 s 5,6; 1969 c 1027 s 3; 1973 c 503 s 1-4; 1986 c 444; 1998 c 254 art 1 s 107; 1999 c 132 s 42; 2005 c 93 s 1; 2008 c 331 s 7; 2010 c 184 s 43

**CITY OF FARIBAULT  
RESOLUTION 94-60**

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

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

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

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

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

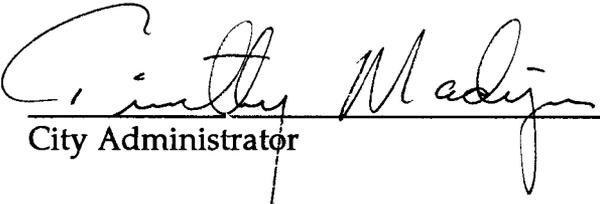
NOW, THEREFORE, BE IT RESOLVED that the City Council adopt the following policy regarding primary elections:

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

Adopted: March 22, 1994

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Administrator