

CHARTER COMMISSION

PROPOSED AGENDA FOR NOVEMBER 13, 2018, MEETING

4:30 P.M. – **ROOM 104** OF CITY HALL

- A. Administrative Business
 - a. Call Meeting to Order
 - b. Recording of Attendance
 - c. Approve Minutes of September 11, 2018 meeting
 - d. Set Order of Agenda
 - e. Communications
 - Goslee memo concerning Section 6.07
 - Section 6.07 options
 - Goslee memo concerning Section 8.03
 - Draft Annual Report (to be sent November 7th)
- B. Open Comment Period
- C. Committee Reports
- D. Unfinished and Deferred Business
 - Consideration of Section 6.07 – Ordinance Publication
- E. New Business
 - Consideration of Section 8.03 – Deputy City Clerk
 - Approval of Annual Report for 2018
- F. Other business - as may be brought up by members
- G. Adjourn

CHARTER COMMISSION

MINUTES FOR SEPTEMBER 11, 2018

4:30 P.M. – ROOM 320 CITY HALL

A. Administrative Business

- a. Call Meeting to Order: The meeting of the Commission was held in Room 320 of City Hall and was called to order by Vice Chair Robert Haeussinger at approximately 4:33 p.m.
- b. Recording of Attendance: Present were commission members, Robert Haeussinger, Jane Belau, Fred Suhler, Marcia Marcoux, Fran Bradley, John Eckerman, Dave Senjem, Kellie Mueller, Carol Kamper and Stephanie Podulke. Absent were commission members Vince Barry, Leigh Johnson, Kathy Meyerle, Ray Schmitz, and Dick Hall.
- c. Approval of Minutes: Motion and a second to approve minutes of March 13, 2018. Unanimous vote.
- d. Set Order of Agenda: Agenda set as ordered.
- e. Communications: Goslee identified the communication as his memo dated September 10, 2018 regarding Section 3.00 & Section 6.07.

B. Open Comment Period: There were no speakers as part of the open comment period.

C. Committee Reports: None

D. Unfinished and Deferred Business: None

E. New Business:

a. Consideration of Section 3.00 – Charter Election: Dave Goslee addressed his memo and indicated that timing of the Charter elections is different than timing of general elections as provided by statute. Discussion was held on how the Commission would like to correct this so as to avoid an appearance of holding two elections. After discussion of several alternatives for making the charter consistent with state law, Fred Suhler moved to amend Charter Section 3.00 with regard to timing of elections under that section to read the same as in state law. Carol Kamper seconded. With no further discussion vote was taken: Aye: 9; Nay – 0; no abstentions. Motion carried.

b.) Consideration of Section 6.07 – Ordinance Publications: Goslee addressed the Board and inquired if there is a desire to remove the language requiring the city clerk to publish ordinances in the official newspaper. Potential benefits would be reduced publication costs and the potential to catch a greater portion of the intended audience. City Clerk Hollingshead was present and addressed questions from the

Board and the budget concerns she has. The Commission's initial concerns are of whether or not posting electronic would provide adequate notice as well as be user friendly to the citizens. Goslee provided names of Cities that still publish in the newspaper and those that prefer to post electronic only. After further discussion Member Fran Bradley motioned to direct Deputy City Attorney Dave Goslee to bring back proposed language for this amendment to the next meeting for consideration. Member Fred Suhler seconded that motion. Open for discussion. Vote: Aye – 9; Nay – 0; No abstentions; motion carried. Question was posed if this was going to be a hearing or an agenda item and Goslee stated it is not intended to be a public hearing.

F. Other business: None

G. Adjourn: Next meeting will be November 13, 2018 at 4:30 p.m. in conference room 104. Member Kamper moved to adjourn meeting; seconded by Member Marcoux. Meeting adjourned at 4:58 p.m.

OFFICE OF THE CITY ATTORNEY
MEMORANDUM

DATE: November 6, 2018

TO: Commission members

FROM: David M. Goslee – Deputy City Attorney

SUBJECT: Potential language for Charter Section 6.07

I drafted two versions for consideration by the city clerk. With the elections she did not have an opportunity to review and provide a recommendation. I will provide both for your consideration and may have a recommendation from Anissa for next Tuesday's meeting. The first option is amending the existing section 6.07 modifying the publication requirements. The second option is what I am referring to as the modified Duluth version. It seems fairly simple and to the point. The options are in a separate page to preserve the redlining.

SECTION 6.07. (Publication). Every ordinance ~~passed as aforesaid adopted by the common council~~ shall be recorded by the city clerk in ~~hard copy or electronic format a book provided for that purpose.~~ ~~Except as hereinafter provided, it shall not be in force, however,~~ An ordinance shall be effective until when signed by the mayor, attested by the city clerk and published, the ordinance effective on the first day of publication. ~~published once in the official paper of the city.~~ Publication may be perfected by publishing in the official paper of the city or by posting it to the city's official web-site. An ordinance must be published in the official paper if required by state law or upon the direction of the common council. ~~Ordinances adopted during a declared emergency disaster shall be in force upon adoption without the need for publication.~~ In the case of lengthy ordinances to be published in the official paper, the common council may, by vote of five of its members, direct that only the title of the ordinance and a summary be published, conforming to Minnesota Statutes Section 331A.01, subdivision 10 as amended. Such summary statement shall also contain a notice that the entire text of the ordinance is available for inspection at the Office of the City Clerk, ~~at the community library, and at any other public location which the common council may designate.~~ Prior to its publication the title and text of the summary shall be approved by the common council upon determination by the council that the summary clearly informs the public of the intent and effect of the ordinance. ~~Before any such ordinance shall be recorded, the publication thereof as aforesaid shall be proved by the affidavit of the foreman or publisher of such paper. This affidavit shall be recorded therewith and shall at all times be deemed and taken as sufficient evidence of such publication.~~

Modified Duluth version:

SECTION 6.07. (Publication). An ordinance shall be effective when signed by the mayor, attested by the city clerk, and published. Every ordinance shall be published in full at least once on the city's official website within ten days after passage and approval. Said publication shall remain on the city's official website for a period of at least 30 days. The city clerk shall also publish the ordinance in the city's official paper when required by state law or when directed by the common council. The ordinance shall be effective on the day it is first published. In the case of a lengthy ordinance to be published in the official paper, the summary publication process of Minn. Stat. Ch. 331A may be used.

OFFICE OF THE CITY ATTORNEY
MEMORANDUM

DATE: November 6, 2018

TO: Commission members

FROM: David M. Goslee – Deputy City Attorney

SUBJECT: Repeal of Section 8.03.

Charter Section 8.03 provides authority for the city clerk to both appoint and fire a deputy city clerk. I don't have any background on the need for this provision. The best I can tell you is that it was adopted some time between 1891 and 1954. I don't have a way to pin it down any further and the need for this provision is unclear. Repeal is being recommended for the following reasons:

- This is the only reference in the charter to an employee who is not a department head (mentioned in the charter are the city attorney, city clerk, finance director, city administrator, library director, park, director of parks, and utility general manager)
- This provision is inconsistent with Charter Section 7.03, subd. 1 that makes only the city attorney and city administrator at-will employees
- This provision is inconsistent with existing City policy and the collective bargaining agreement covering the position
- This provision is likely inconsistent with the public employees labor relations act

Section 8.03 reads as follows:

SECTION 8.03. (Deputy city clerk). A deputy city clerk shall be appointed by and serve at the pleasure of the city clerk. Such appointment shall be effective from and after confirmation by the common council. In the event the position of deputy city clerk remains vacant for a period of 30 days or more, the common council may appoint a suitable person to fill such position. When appointed by the common council, the deputy city clerk may be removed by the city clerk with the consent of the common council. The salary of the deputy city clerk shall be fixed by the common council and shall be paid from city funds. The deputy city clerk shall perform such duties as may be assigned to him by the city clerk and, subject to the direction and control of the city clerk, shall exercise all the powers and authorities of the city clerk.

November 13, 2018

Honorable Jodi Williamson
Dodge County Courthouse
22 6th Street East, Dept. 12
Mantorville, MN 55955

Re: Rochester Charter Commission Annual Report for 2018

Dear Judge Williamson:

Please accept this letter as the Rochester Charter Commission's Annual Report for 2018 as required by Minn. Stat. §410.05, subd. 2. This report is sent to you in your position as Chief Judge for the Third Judicial District.

The Charter Commission met six times in 2018 and discussed a variety of different matters, some under its own initiative and others under the initiative of City department heads. The Commission spent the first part of the year and most of three meetings reviewing ranked choice voting and whether that process would benefit the citizens of Rochester. It was one of the rare times that Room 104 of city hall was standing room only for a Charter Commission meeting. Ultimately the Commission was not in favor of moving this forward. During this same time the Commission had City IT staff attend a meeting and gave them suggestions on improving the City's web-site and the Commission's page on that site.

The Commission proposed two different amendments to the City Council for consideration as amendments by ordinance. This process allows the adoption of an ordinance amending a charter if it was proposed by a charter commission and unanimously approved by a city council. The first proposed ordinance went to a public hearing before the Rochester City Council in March. A group of high school students had asked the Commission to consider making the Charter gender neutral. The Commission directed the city attorney to use his editorial authority to begin the process. This ordinance completed the process and was ultimately approved by unanimous vote of the City Council.

The second proposed amendment by ordinance went to the Council at a public hearing last month. There is language in the charter establishing the charter election on a date different from

that required by state law. The Commission, at the city clerk's request, wanted to avoid the appearance that there would be a second election after the general election established by state law. That matter was approved by unanimous Council vote.

The Commission has several other matters that it is currently reviewing. One is the ordinance publication requirement. The Charter currently requires all ordinances to be published in the official newspaper. Numerous charter commissions across the state have started considering different ways of publishing their ordinances, such as on their web-sites, and several have taken that step. One potential benefit is cost savings, with ordinance publication costs averaging \$1500.00 per ordinance. Another consideration is reaching the intended audience. The Commission decided ...

A final matter under consideration is a provision authorizing the city clerk to essentially hire and fire a deputy clerk. This is the only reference in the Charter to a City employee that is not a department head and it appears to be inconsistent with other provisions of the Charter, Human Resource policies, the collective bargaining agreement, and likely state law. The Commission decided ...

Since this is an even-numbered year we will have terms expiring and there will be need to have you make appointments or reappointments. I will send a letter identifying members whose terms are expiring and outlining the process that has been used in the past.

Respectfully Submitted,

Rochester Charter Commission,
By Vincent Barry, President

Cc: Anissa Hollingshead, Rochester City Clerk