

CITY OF ST. FRANCIS  
ST. FRANCIS MN  
ANOKA COUNTY

CHARTER COMMISSION AGENDA  
ST. FRANCIS CITY HALL  
23340 CREE STREET NW

JANUARY 26, 2017

5:30 PM

1. Call to Order
2. Approve Minutes of February 1, 2016
3. Appointment of Chair and Vice Chair
4. New Business: City Attorney's Memorandum – Potential City Charter Amendment to Allow St. Francis Paid Per Call Fire fighters to service on the City Council
5. Other Items of Discussion
6. Adjournment

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CHARTER COMMISSION MINUTES

FEBRUARY 1, 2016

**Call to Order:** The Charter Commission meeting was called to order at 5:00 pm by Randy Dressen.

**Roll Call:** Present were Randy Dressen, Gary Zimmerman, Malcolm Beck, Steve Kane, Rich Skordahl and Tim Brown. Also present was, City Administrator Joe Kohlmann Assistant City Attorney David Schaps and City Clerk Barb Held.

**Approve Minutes of January 29, 2015: Motion by Brown second Kane to approve the January 29, 2015 Charter Commission Minutes.** Motion carried unanimously.

**Appointment of Chair and Vice Chair:** Brown nominated Randy Dressen as Chair. **Motion by Brown second Kane to appoint Randy Dressen as the Chair for the Charter Commission. Motion by Beck second Zimmerman that nominations cease.** Motions carried unanimously.

Brown nominated Steve Kane as Vice Chair. **Motion by Brown second Skordahl to appoint Steve Kane as the Vice Chair for the Charter Commission. Nominations closed after three times of calling for nominations.** Motion carried unanimously.

**Charter Discussion on Setting Regular City Council Meetings by Resolution:** Dressen stated this matter had been discussed briefly last year about the possibility of amending the Charter allowing the City Council to have an option of cancelling a meeting by resolution. The ones discussed were the second meeting in December and possibly the first meeting in July, which often falls close to the fourth of July. Assistant City Attorney David Schaps stated currently, the City Charter in Section 3.02 directs that the City Council "shall meet at such time or times each month as may be prescribed or by ordinance." The statutory requirement is the City is required to hold a meeting at least on a monthly basis in order to pay their bills. If the Charter Commission decides to proceed and recommend the City Council approve an ordinance granting them the ability to set it's meeting schedule by resolution. Schaps referenced the City Attorney's memorandum regarding the steps that would have to be followed if the Charter Commission proposed change brought before the City Council. The proposed change in the Charter would read if approved by the City Council;

**Section 3.02 Council Meeting.** *The Council shall meet at such time or times each month as may be prescribed or by ordinance resolution. In addition, the Mayor or any two (2) Council persons may call special meetings of the Council upon such notice as may be prescribed by Ordinance.*

Discussion by the commission members on whether to forward the amendment on to the City Council. **Motion by Beck second Brown to move forward with the proposed change.** Motion carried unanimously.

**Other Items of Discussion:** Skordahl said we do have a vacancy, how do we publish this. Held said we have it on our website and ad for the Charter and EDA were published in the Courier.

**Adjournment:** Motion by Kane second Zimmerman to adjourn the Charter Commission meeting at 5:20 pm. Motion carried 5-1. Brown voting nay.

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Barbara I. Held, City Clerk

DRAFT

JEFFREY S. JOHNSON  
RUSSELL H. CROWDER  
MICHAEL F. HURLEY  
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## MEMORANDUM

TO: St. Francis Chart Commission Members  
FROM: Scott Lepak, St. Francis City Attorney  
RE: Potential City Charter Amendment to Allow St. Francis Paid Per Call Firefighters to Serve on the City Council.  
DATED: January 19, 2017

Our office received a request from a current City Councilmember to consider an amendment to the City's Charter. Robert Bauer was elected to the City Council in November of 2016 and recently took the oath of office. Prior to assuming office, Mr. Bauer was a member of the Fire Department.

Due to a provision in the City Charter, it was our office's opinion that Mr. Bauer could not serve as both a city councilmember and a paid per call fire department in the municipal Fire Department and that the two positions were incompatible. The applicable City Charter section states:

Section 2.04 Incompatible Offices. No member of the Council shall hold any paid appointive office or paid employment for the City other than that to which the member was elected, although the member may be appointed to the office of Mayor in case of a vacancy. (Emphasis added).

As a member of the Fire Department, Mr. Bauer and all other members of the Fire Department receive paid employment in per call wages and contributions to the fire relief fund. This language has been utilized in the past to prevent sitting council members from serving on the fire department.

In addressing this issue, our office contacted the Attorney General's Office on this matter to seek an advisory opinion. Our office was informed in a telephone conversation that they would not interpret a City Charter provision. This means seeking a formal advisory opinion on the issue would not be a means to resolve this issue. This is consistent with their longstanding practice. Further, the conversation with the Assistant Attorney General who typically reviews these matters noted that a Fire Chief could not also serve on a City Council under a prior Advisory Opinion (April 5, 1971).

The takeaway from this conversation with the Attorney General's Office is that they will not assist in making a determination one way or the other on the Charter provision. They pretty clearly would indicate an individual could not serve as a Fire Chief and be on the Council.

In light of this information, Councilmember Bauer requested a leave of absence from the St. Francis Department pending a potential resolution to this issue. He also requested the Charter Commission consider an amendment to the City Charter to allow firefighters to be specifically exempted from this provision.

The proposed amendment to address this situation would be as listed below:

**PROPOSED AMENDEMENT TO CITY CHARTER  
CHAPTER 2  
FORM AND ORGANIZATION OF GOVERNMENT**

**Section 2.04** Incompatible Offices. No member of the Council shall hold any paid appointive office or paid employment for the City other than that to which the member was elected, although the member may be appointed to the office of Mayor in case of a vacancy. This prohibition shall not apply to paid per call firefighters in the St. Francis Fire Department.

I am seeking charter commission input and direction on this issue. If the Charter Commission is not interested in this amendment, please let me know. If the Charter Commission wishes to make this or any other amendment, please let me know.

The process on amendment would be as follows:

The Charter Commission, citizens and the City Council may all propose charter amendments. The Charter Commission may recommend the City Council amend the Charter by ordinance.

The steps to have the Charter Commission proposed change brought before the City Council are as follows:

Step 1. The Charter Commission makes a recommended change to the Charter by ordinance and includes the text of the proposed amendment.

Step 2. This recommendation is submitted to the City.

Step 3. Within one month of receiving the recommendation from the Charter Commission, the City must publish notice of public hearing of the proposal (which must contain the text of the proposed amendment). Minn. Stat. Sec. 410.12, subd. 7.

Step 4. The City must hold a public hearing on the proposed charter amendment at least two (2) weeks but not more than one (1) month after the notice is published.

Step 5. The City Council must vote on it within one (1) month of the public hearing. The vote must be unanimous.

Step 6. The changes are published like all other ordinances.

Step 7. Within 60 days after passage and publication, citizens may petition to submit the matter to referendum.

Step 8. The Charter Commission may submit any of these issues to the voters if they are not unanimously adopted by the City Council. This must be submitted at least 17 weeks before the general election. Minn. Stat. Sec. 410.12 Subd (1-3).

The applicable law in this area is Minn. Stat. 410.12 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.

(Emphasis Added).