

CITY OF ST. FRANCIS
ST. FRANCIS MN
ANOKA COUNTY

CHARTER COMMISSION MINUTES

JANUARY 26, 2017

Call to Order: The Charter Commission meeting was called to order at 5:30 pm by Randy Dressen.

Roll Call: Present were Randy Dressen, Malcolm Beck, Steve Kane, Rich Skordahl and Tim Brown. Gary Zimmerman absent. Also present were City Administrator Joe Kohlmann, Assistant City Attorney David Schaps, Mayor Steve Feldman (pending appointment) and City Clerk Barb Held.

Approve Minutes of February 1, 2016: Motion by Kane second Beck to approve the February 1, 2016 Charter Commission Minutes. Motion carried unanimously.

Appointment of Chair and Vice Chair: Beck nominated Randy Dressen as Chair. **Motion by Kane second Beck to appoint Randy Dressen as the Chair for the Charter Commission.** Dressen ask three times if there were any other nominations. **Beck moved to close nominations.** Motions carried unanimously.

Kane nominated Malcolm Beck as Vice Chair. **Motion by Kane second Brown to appoint Malcolm Beck as the Vice Chair for the Charter Commission.** Dressen asked three times if there any other nominations. **Kane moved to close nominations.** Motion carried unanimously.

City Attorney's Memorandum – Potential City Charter Amendment to allow St. Francis Paid Per Call fire fighters to Serve on the City Council: City Attorney Scott Lepak's memorandum addressed the potential City Charter Amendment to allow St. Francis Paid Per Call Firefighters to serve on the City Council. Assistant City Attorney David Schaps went over the memorandum with the Charter Commission. The city attorney's office received a request from current City Councilmember Robert Bauer to consider an amendment to the City's Charter. Bauer was elected to the City Council in the November 2016 election and took office in January 2017. Bauer was a member of the Fire Department. Schaps said due to a provision in the City Charter, it is 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.

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.

Schaps stated their office contacted the Attorney General's Office on this matter to seek an advisory opinion. City Attorney's office was informed in a telephone conversation that they would not interpret a City Charter provision. This means seeking a formal advisory opinion on this 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).

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.

Dressen stated Mr. Bauer is present so I would like to allow him to speak.

Bauer gave a brief presentation on why he believes he should be allowed to serve both on the City Council and be a paid on call firefighter.

Dressen said he appreciated the State to allow the City to make the decision. Back some years ago Brown was not allowed to serve as a firefighter either when he was elected to the city council.

Feldman stated I think allowing firefighters to be on the council it is a good thing, we are missing a pool of people by not allowing them to be on the council.

Skordahl said we know around the State places are finding it hard to get firefighters. But now you would have a person who is a boss of your peers. Don't think it would be fair to allow him to vote on certain issues. I am a little concerned about the day to day operations of the fire department that may come up.

Brown said the only thing I can go on is past experience. I did render my resignation from the fire department when I was elected to the city council. It was difficult but felt there was a conflict of interest. My concern was how could I approve a budget when I have a vested interest in the fire department.

Kane stated I do see a lot of potential conflict. I concur with everything said.

Feldman asked what verbiage can be done so they have to restrain on certain questions. Dressen said by doing that you are truly handicapping the councilmember by putting constraints on them.

Brown asked if we don't change the Charter could the City pay for his expense to keep up his training? Discussion was then held on PERA and how a leave of absence would affect his pension. Discussion also was held on requiring to abstain on certain issues.

Beck stated you were elected by the people of St. Francis to be a council member. I don't like the idea of you not being able to vote.

Brown asked about abstaining on a vote, how would it count. There are ordinance amendments, zoning issues and possibly Charter amendments that may need a 5-0 vote.

General discussion was how do other cities handle this issue. Commission members all agreed there may need to be more research done on this before we make a decision.

Motion by Brown second Kane to table the decision on whether to amend the Charter until more research can be done and reconvene at a later date.
Motion carried 5-0.

Dressen asked who is going to do the research? It was decided to have the attorney's office research other charter cities. When should we meet again? It was decided to give legal ample time to do the research. It was agree upon to set the next Charter Commission meeting for April 27, 2017 at 5:30 pm.

Adjournment: Motion by Beck second Brown to adjourn the Charter Commission meeting at 6:06 pm. Motion carried 5-0.

Barbara I. Held, City Clerk