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March 22, 2022

Mr. Kurt Ulrich
City Administrator, City of Ramsey
7550 Sunwood Drive NW
Ramsey, MN 55303

RE: *Investigation of Staff Actions Related to Charter Commissioner Membership Openings and Applications*

Dear Mr. Ulrich:

At the last Council meeting I was asked to undertake an investigation into the methods and practices of the staff in dealing with the most recent vacancies on the City Charter Commission. In particular, I was asked to examine the issue of whether there were any improprieties or irregularities in the manner in which the public announcement of the vacancies occurred, in addition to the process by which the names were placed before the Chief Judge.

In making my investigation, I have discussed the issues raised with various individuals directly involved in the matter, as well as reviewing correspondence and the public record of what occurred, including the comments made in the public meeting and various emails. Much of the focus of the inquiry was assisted by the questions of Councilmember Howell, some 22 in number, and the responses of the City clerk. I have appended that inquiry and the answers given to this response and would incorporate them by reference as part of this report and identified it as Exhibit 1.

In addition, Councilmember Howell subsequently provided a much more extensive list of follow-up questions that arrived too late to be responded to immediately by staff but were

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nonetheless very helpful in focusing the inquiry further on the obvious areas of concern to the Council members who had raised these issues.

The statutory framework for the selection of Charter Commission members is Minnesota Statute §410.05. A copy of that statute is appended as Exhibit 2.

Here, based on my review of the foregoing, are the central

FACTS

1. Under Minnesota Statute 410.05, appointments to a charter commission in Minnesota are a matter exclusively in the discretion of the Chief Judge of the judicial district in which the charter city is located. Anoka County is in the tenth judicial district in Minnesota.
2. Charter commission members serve four years term “ and until their successors are appointed and qualify” unless they no longer wish or are able to serve, in which case the vacancy is filled by a new appointment. Only the Chief Judge has the authority, by written order, to remove a serving charter commission member from office. The law requires such an order to state the reason for the removal. Upon the expiration of a term, the Chief Judge has 60 days in which to either appoint new commissioners or reappoint existing commissioners.
3. The only responsibility given to a city council under the statute, whose role is not mandatory, is to “submit to the court the names of eligible nominees which the court may consider in making appointments...”. The Chief Judge is not required, under the statute, to appoint only those individuals who were submitted by a city council. The Chief Judge’s office had indicated that some city’s actually recommend individuals for membership to the charter commission. The City of Ramsey has never done so nor does the statute even suggest, much less require that practice.
4. The City of Ramsey has, for many years, had in place a policy governing the manner in which commissions and boards of the city are to be selected. That policy very specifically does not govern the selection of charter commission members.
5. There does not appear to have ever been a separate policy governing the manner in which charter commission vacancies and applications were to be handled by the City. The City’s staff was left to its own judgement and direction on the matter.

6. The staff only became aware of the pending vacancies late in October of 2021. That left a total of four months for the appointments to be made if done within the 60-day time frame contemplated by the statute. As a practical matter, there would be no vacancies where a commission seat would be unfilled as the terms only expire when the subsequent appointment occurs.

7. Multiple announcements were made of the vacancies in a variety of formats, which resulted in six applications being made by individuals seeking the appointment. This number was significantly higher than in past years, indicating some degree of success in the effort undertaken, as well as interest in the openings.

8. While the staff has stated that other notice or publication possibilities were missed, largely through inadvertence, this judgement was largely retrospective in character. I have been made aware, in my inquiry, of no one individual who subsequently expressed interest in the position and failed to learn of the vacancies through the media channels utilized by the City in the matter. There is no requirement in the statute or charter related to publication requirements.

9. I am also unaware of any accusation that the manner in which the staff solicited interest in the charter commission vacancies was motivated by inappropriate efforts to favor any group or individuals in the process. No effort, beyond forwarding the names of all those who had applied, appears to have been made to influence outcomes in any way.

10. The Chief Judge made the most recent appointments to the charter commission without any consultation with the City or its staff.

Based upon the above determinations, I've reached the following key

CONCLUSIONS:

1. No improper conduct or culpable negligence occurred in the manner in which this issue was dealt with by the City staff. No state or city standard exists which would require any different action that what was taken.

2. It is evident, in reviewing the depth and strength of the concerns raised by Council members, that a detailed policy should be adopted regarding the manner in which the City

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determines charter commission vacancies, notifies the public of those vacancies and does so in a manner timely enough to provide adequate opportunity for interested members of the public to apply. This should contain "hard" deadlines enough in advance to accommodate ample public notice and the requirements of the judicial deadline. This kind of policy for charter commission selection is well within the City's authority.

3. It is possible that in order to provide sufficient time to staff and the public a charter amendment might be required mandating a minimum notice requirement for any charter commission member not seeking reappointment.

Please note that these findings and conclusions are based on the materials available to me and the time frame in which this investigation needed to be conducted. Please advise if you wish further information and work on this matter from me.

Respectfully,

A handwritten signature in black ink, appearing to read "Frederic W. Knaak", written over a horizontal line.

Frederic W. Knaak,
City Attorney

Questions and responses regarding Charter Commission recruitment and application process

1. What has been the practice of submitting applications to the judge?

Response: They are received by the City and submitted to the judge directly.

2. Are they submitted at one time?

Response: Yes.

3. After the deadline?

Response: Yes.

4. If so, was that done here?

Response: Yes.

5. Was there even a deadline?

Response: Yes.

6. Did the city adhere to it?

Response: Yes. The letter was sent to the judge on January 24th (Monday after the deadline).

7. Who was responsible for creating the deadline?

Response: City Clerk based on the need to follow #8 below, with the concurrence of the City Administrator.

8. Was the deadline an internal decision by staff?

Response: There is a 60-day appointment process governed by statute 410.05.

9. Was the deadline legally required? If so, please provide the statute or other documentation that it was a legally required date.

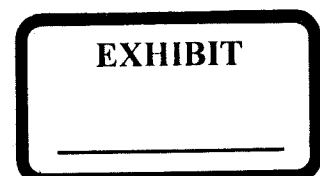
Response: Yes. Sec. 410.05 MN Statutes

10. The city clerk stated that she failed to meet the deadline to publish the advertisement for Charter Commission vacancies in the Nov./Dec. Ramsey Resident. What was that deadline and when was she aware of having missed it?

Response: The Nov/Dec Ramsey Resident deadline was October 1, 2021. The City Clerk was made aware of the impending resignation of two Charter commission members on October 26, 2021, when notifications were sent for an upcoming November 17, 2021 Charter Commission Meeting.

11. What was the deadline for publication in the Jan/Feb Ramsey Resident?

Response: December 1, 2021



12. What was the initial date of vacancy and the subsequent 60-day mark?

Response: Resignations were formally recognized at the November 17, 2021 Charter Commission meeting, and publicized in our official newspaper on November 19, 2021. Excerpt from Sec. 410.05 "Upon the expiration of each term, the chief judge shall appoint new or reappoint existing commission members within 60 days." The 60-day rule started on January 1, 2022. Since we were made aware of a vacancy for the next term, the recruitment was started in November 2021. The application link on the Charter Commission page was live from November 8, 2021 to January 24, 2022. We received one application on November 25, 2021, our second application came in on Saturday, January 8, 2022, the following Monday, January 10th was the first business day that we had reached enough applicants to fill the two current vacancies. We received two additional applications the morning of January 10th. That afternoon it was discussed when we should close the recruitment due to reaching sufficient applicants, we discussed adding a deadline since it was recently advertised in the Jan/Feb Ramsey Resident. As a courtesy, an end date of January 21, 2022 was listed to allow anyone who had previously seen the listing to still apply. The alternative would be pulling the application and submitting applications to the judge upon having at least two applicants to fill the two seats. We received two additional applications between January 11 and January 21, 2022. On January 11, 2022 an email was sent to the Communications and Events Coordinator to cancel the upcoming Facebook posts for the Charter Commission. There was not a request to pull or delete the current Facebook post on 1/10/22. Both the City Clerk and Deputy City Clerk were unaware that the January 10th post was mistakenly deleted, neither have access to make or edit posts on the city's Facebook page.

13. When did staff begin discussions with a councilmember regarding the possibility of applying for the Charter Commission?

Response: The City Administrator, Clerk and Deputy City Clerk were unaware of any discussion, the first notice was receiving the online application on January 10, 2022.

14. Did staff seek legal advice from anyone regarding this and if so, approximately what date(s)? If so, who did they reach out to for legal counsel?

Response: Yes, this scenario was investigated when a board and commission member applied to be on the Charter Commission in November of 2019, at that point it was determined with consultation of the City Attorney at the time, that Boards and Commission members and Council Members were able to sit on the Charter Commission. Prior to the most recent appointments, two current Boards and Commission members sat on the Charter Commission. Staff reviewed the City Charter and Statute to confirm there were no restrictions. The current City Attorney concurs with this determination.

15. Please list all dates and locations of publication for the vacancies.

Response: Charter Commission Page/Online Application live 11/8/2021-1/24/2022 at 9am
Published in the Anoka Herald Union Herald on 11/19/2021
QCTV Ad 12/29-1/21/22
Posted on the Ramsey Community Sign 12/29-1/21/22
Published in Jan/Feb RR in homes 1/4/22

Posted on Facebook 1/10/2022 & 1/20/2022

Spotlight/Newsflash Article on Website 1/18/2022-1/24/2022 @ 11:59pm

Website hits breakdown:

Website hits 11/8 to 12/31: 41 views

Website hits 1/1/22 to 1/24/22: 56 views

***No website hits on Charter Commission page from 1/22/22 to 1/24/22 (app still up and live)**

Total views 11/8/21 to 1/24/22: 97 views

16. What was the initial date that the openings were listing as available opportunities along with the application on the Charter Commission page of the city website?

Response: November 8, 2021 listed until January 24, 2022 (78 days)

17. Did staff discuss bringing the state statute allowing Councilmembers to apply and the Charter's silence on the matter to the attention of the council, or charter commission? If so, when? What was the outcome of that discussion?

Response: No.

18. Were all six applications provided to the judge?"

Response: Yes

19. When did staff become aware of openings on charter commission?

Response: Staff became aware of openings upon calling Charter Committee members to arrange a Charter Commission meeting; October 26, 2021.

20. Were there any reappointed members?

Response: Yes, there were two, plus 6 new applicants.

21. Is Facebook an official posting location?

Response: The official posting location is the City website; Facebook is used as a source for advertising.

22. What did staff do to be sure there was adequate advertisement?

Response: Staff advertised beginning November 8, as follows:

Charter Commission page

Newspaper Ad 11/19/21

RR in homes 1/4/22

QCTV Ad

Community Sign

Facebook post

Spotlight/Newsflash on website 1/18/22 to 1/24/22

Total Web hits 11/8/2021 to 1/24/2022: 97

23. Please give a history of number of applications received for charter commission.

Response: 2012: 1 Applicant – Published in Nov/Dec 2012 RR

2013: 2 Applicants – Published in Sept/Oct 2013 RR

2014: No recruitment

2015: No recruitment

2016: 1 Applicant – Published in March/April 2016 RR

2017: 2 Applicants – Published in Jan/Feb 2017 RR

2018: No recruitment

2019: 4 Applicants – Published in Nov/Dec 2019 RR

2020: No recruitment

2022: 6 Applicants – Published in Jan/Feb 2022 RR

24. Did staff purposely take actions with intent to reduce the number of applications?

Response: No.

410.05 CHARTER COMMISSION.

Subdivision 1. **Appointment.** When the district court of the judicial district in which a city is situated, deems it for the best interest of the city so to do, the court, acting through its chief judge, may appoint a charter commission to frame and amend a charter. Upon presentation of a petition requesting such action, signed by at least ten percent of the number of voters of the city, as shown by the returns of the last regular city election, or upon resolution of the governing body of the city requesting such action, the court shall appoint a charter commission. The commission shall be composed of not less than seven nor more than 15 members, each of whom shall be a qualified voter of the city. The size of the commission shall be determined within the above limits by the court, except that where the commission is appointed pursuant to a petition of the voters or resolution of the governing body of the city, the size of the commission shall be as specified in such petition or resolution. Any city may by charter provision fix the size of the charter commission at a figure which shall not be less than seven nor more than 15 members, and such charter provision shall prevail over any inconsistent provisions of this subdivision. Except as otherwise provided in the charter, no person shall be disqualified from serving on a charter commission by reason of holding any other elective or appointive office other than judicial. The charter may provide that members of the governing body of the city cannot serve on the charter commission.

Subd. 2. **Commission members; terms, vacancies.** Charter commission members shall hold office for the term of four years, and until their successors are appointed and qualify, except that of members initially appointed after July 1, 1967, eight shall be appointed for two-year terms and seven for four-year terms. Vacancies in the commission shall be filled by appointment of the chief judge for the unexpired terms. Upon the expiration of each term, the chief judge shall appoint new or reappoint existing commission members within 60 days. Appointments shall be made by order filed with the court administrator of the district court. An appointee who neglects to file with the court administrator within 30 days a written acceptance and oath of office shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. The charter commission, within 30 days after the initial appointment of the commission, shall make rules, including quorum requirements, with reference to its operations and procedures. 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. The commission shall forward a copy of the report to the clerk of the city. Any member may be removed at any time from office, by written order of the district court, the reason for such removal being stated in the order. When any member has failed to perform the duties of office and has failed to attend four consecutive meetings without being excused by the commission, the secretary of the charter commission shall file a certificate with the court setting forth those facts and the district court shall thereupon make its order of removal and the chief judge shall fill the vacancy created thereby.

Subd. 3. **Commission appointments; nominees.** A city council, a charter commission, or the petitioners requesting the appointment of a charter commission may submit to the court the names of eligible nominees which the district court may consider in making appointments to the charter commission.

Subd. 4. **Commission meetings.** The charter commission shall meet at least once during each calendar year, and upon presentation of a petition signed by at least ten percent of the number of voters of the municipality, as shown by the returns of the last annual municipal election, or upon resolution approved by a majority of the governing body of the city requesting the commission to convene, the commission shall meet to consider the proposals set forth in such petition or resolution.

Subd. 5. **Discharge.** (a) A charter commission in a statutory city may be discharged as follows:

EXHIBIT

(1) if the charter commission of a statutory city determines that a charter is not necessary or desirable, the commission may be discharged by a vote of three-fourths of its members; or

(2) if a petition signed by registered voters equal in number to at least five percent of the registered voters in the city requesting a referendum to discharge the charter commission is filed with the city clerk, an election must be held on the issue at a general election or a special election pursuant to section 205.10. If a majority of the votes cast support the referendum, the charter commission shall be discharged.

(b) Another commission may not be formed sooner than one year from the date of discharge.

History: (1269) RL s 749; 1909 c 423; 1913 c 535 s 1; 1949 c 210 s 1; 1959 c 305 s 5; 1961 c 608 s 1; Ex1967 c 33 s 1; 1971 c 208 s 1-3; 1973 c 123 art 5 s 7; 1976 c 44 s 20; 1979 c 330 s 3; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 51 s 1; 2004 c 197 s 1,2; 2008 c 331 s 6; 2020 c 87 s 1