

MINUTES
WEST ST. PAUL CHARTER COMMISSION
Monday, October 19, 2020

5:30 P.M.

MUNICIPAL CENTER
COUNCIL CHAMBERS

AND

WEB-EX DUE TO COVID-19 PANDEMIC LOCAL EMERGENCY DECLARATION

MEMBERS PRESENT IN COUNCIL CHAMBERS:

Chair Aaron VanMoorlehem, Commissioners Mark Tessmer, Doug Fromm, Jim McKie, Karen Vavreck, Jim Probst

MEMBER PRESENT VIA WEB-EX:

Tim Haubrich, Andrea Friesen, Matthew Schempp, Tim Valento, Councilmember Liaison Fernandez

MEMBERS ABSENT: Wendy DeVore

OTHERS PRESENT IN COUNCIL CHAMBERS:

City Attorney Kori Land, City Manager Ryan Schroeder, Councilmember John Justen

1. CALL TO ORDER

Chair VanMoorlehem called the meeting to order at 5:30 p.m.

2. ROLL CALL

3. ADOPT AGENDA

Motion by Fromm/Probst to adopt the agenda. Motion passed 10-0.

4. CONSENT

A. Approve Meeting Minutes of Feb. 26, 2020

Motion by Fromm/Vavreck to approve the minutes. Motion passed 10-0.

5. NEW BUSINESS

- A. Election of Officers. VanMoorlehem said he would be willing to serve another term as Chair. *McKie/Tessmer* moved to appoint Chair VanMoorlehem for another term. Motion passed 10-0.

Fromm agreed that he would be willing to continue to serve as Vice Chair. *McKie/Tessmer* moved to appoint Vice Chair Fromm for another term. Motion passed 10-0.

- B. Assessment Policy update. City Manager Schroeder outlined the new sidewalk assessment policy, explaining that new sidewalks are not assessed but are absorbed in the City's costs for construction, but replacement sidewalks are included in the corresponding roadway improvement project and then the assessments are capped at the special benefit appraisal that is done as part of the project. The Commission had no additional questions.
- C. City Council Voting Requirements. The Commission desired to have additional explanation on a prior planning application that resulted in approval by the Council with a 3-0 vote due to several Council members abstaining because of a perceived conflict of interest, when the Charter requires 4 votes to pass and motion. A healthy discussion ensued with all Commissioners expressing their opinions on the subject of voting protocols in a conflict situation.

Haubrich/Tessmer moved to ask the City Attorney to prepare Charter language requiring Councilmembers to articulate any conflict of interest into the record if they abstain due to a conflict of interest. It was requested that such language would be reviewed by the Charter Commission at its next meeting. Motion passed 10-0.

Other discussion surrounded the potential for Councilmembers to orchestrate a failed vote by choosing to abstain or by being absent. Commissioner Fromm provided the following examples:

Example 1 (normal tie vote):

Councilmembers A, B, C = would vote yes

Councilmembers D, E, F = would vote no

Mayor would vote yes

3-3 tie so Mayor votes to break the tie and it passes.

Example 2 (manipulated failed vote):

Councilmembers A, B, C = would vote yes

Councilmembers D, E, F = would vote no

Councilmember F abstains/is absent

Mayor would vote yes

3-2 vote fails because Charter requires 4 votes to pass

There were questions surrounding the Charter language versus state law on the required number of votes. Attorney Land indicated that the two were consistent.

It was requested that the City Attorney look at this issue to see if this could be reconciled so that councilmembers could not orchestrate a failed vote by failing to attend or by abstaining from a vote. It was requested that such research be provided at the next meeting.

- D. Expired Terms & Appointments to Charter Commission.** Seven commissioners' terms expired in 2020 or will expire in 2021. Commissioner DeVore is the only one who has indicated she did not want to reapply, which leaves one vacancy. Chair VanMoorlehem and Vice Chair Fromm outlined the protocol followed for the last round of appointments. It was summarized that previously Commissioner McKie conducted a pre-interview of the applicants and then the Commission interviewed the applicants in person. Commissioner Vavreck said she did not have a pre-interview so she would rather do in person interviews only. Commissioners Fromm, Haubrich and Tessmer commented that they enjoyed the group interviews. Commissioner McKie asked if the application process was closed or if additional applications could be accepted. Chair VanMoorlehem said it could still be open to allow more people to apply. Commissioner Fromm agreed that the City should solicit more applications. Commissioner Tessmer recalled that for the interview process, there was a set of questions and then each Commissioner was allowed to ask follow-up questions. The general consensus was to conduct in-person interviews to fill the vacancy. City Attorney Land was asked to circulate the previous interview questions to the Commission and if Commissioners wanted to amend them, they could provide feedback. It was recommended that the questions be sent to the applicants prior to the interviews. Interviews would be conducted at the next meeting to fill the seat of Commissioner DeVore. Commissioners Haubrich, Tessmer and Valento's terms expired in 2020 and they indicated that they wished to be reappointed.

Probst/Friesen moved Commissioners Haubrich, Tessmer and Valento to be reappointed. Motion passed 10-0.

The remaining Commissioners whose terms expire in 2021 (Commissioners Fromm, Schempp, Vavreck) will be considered for reappointment at the next meeting.

- E. Council members as Election Judges.** The Commission was provided the history of the question that was raised about Councilmembers serving as election judges and the conflict with the Charter provision stating that Councilmembers cannot be an employee. State law is clear as to when a sitting councilmember can serve as an election judge and City Attorney Land clarified how the Charter provision interacted with the position of an election judge. She concluded that so long as the Councilmember followed state law as to when they can be an election judge and in addition, are not compensated for serving as an election judge, a Councilmember could serve as an election judge. The Commission decided that no action was needed.

6. OLD BUSINESS

- A. Ranked Choice Voting update. City Manager Schroeder gave a summary of the presentation given to the Council on ranked choice voting. His recollection was that there were no strong feelings expressed either way. City Manager Schroeder said there are difficulties in the mechanics of ranked choice voting at this time and the City Clerk was concerned about uniformity amongst cities in the County, since the County provides all election trainings. She was concerned that West St. Paul would become an island when it comes to the voting process training. The Commission agreed that the issue was still not ripe for implementation. Commissioner Schempp stated that the City needed to wait for change at a larger level.

7. SET NEXT MEETING DATE

The Commission set the next meeting date for Tuesday, January 12, 2021. Agenda items to include:

- Consider Conflict of Interest disclosure language
- Discuss number of votes required to pass a motion to avoid a manipulated vote
- Conduct applicant interviews to fill the vacancy on the Commission.

8. ADJOURNMENT

Motion to adjourn by Probst/Vavreck. The meeting was adjourned at 6:35.