

TO: Honorable Mayor and City Council

FROM: City Administrator Ron Johnson

SUBJECT: City Charter- Section 4.05 City Attorney

DATE: January 31, 2017

BACKGROUND

It was pointed out that **Section 4.05 THE CITY ATTORNEY** of the City Charter states as follows: "Among other duties, the City Attorney must attend Council meetings ... for the City."

I discussed this with Mayor Robinson and it was decided to have a representative of Campbell Knutson Professional Association, who represents us as City Attorney, present at this meeting. Roger Knutson informed me that his firm will be represented at this meeting by attorney Amy Schutt.

In addition, he responded to Section 4.05 with the attached letter in which he states "If a provision is directory, it is informational and strict compliance is not required." Council would not need the City Attorney represented at all meetings with this in mind, nor would you need to modify the Charter.

Fortunately, the need to have City Attorney representation at City Council meetings has been minimal. It is rare when a legal opinion is needed immediately during a meeting, and can be requested of the City Attorney after the meeting and brought back to a future meeting.

If the City Attorney was present at all regular meetings that are of normal length, it would cost approximately \$350 per meeting or \$9,100 per year.

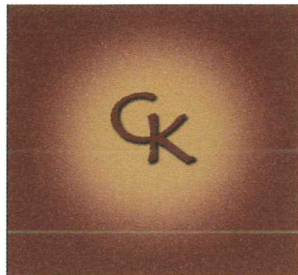
If Council wants to modify the Charter by deleting or modifying this Charter provision, this would require approval by the voters to approve any change at a special or regular election, or Council could ask the District Court to appoint (seven) members to the Charter Commission and follow that path. Staff will provide more detailed information about that process at a future meeting if this is the direction Council chooses.

City Attorney Knutson's recommendation is there is no need to amend the Charter.

REQUESTED COUNCIL ACTION

Provide direction as to how Council would like to proceed related to Section 4.05 of the City Charter.

Attachment(s): January 24, 2017 Campbell Knutson letter



CAMPBELL KNUTSON

Professional Association

January 24, 2017

Thomas J. Campbell
Roger N. Knutson
Thomas M. Scott
Elliott B. Knetsch
Joel J. Jamnik
Andrea McDowell Poehler
Soren M. Mattick
John F. Kelly
Henry A. Schaeffer, III
Alina Schwartz
Shana N. Conklin
Amy B. Schutt
James J. Mongé, III
Jerome M. Porter
Kurt S. Fischer

Mr. Ron Johnson, ICMA-CM
City Administrator
City of Cannon Falls
918 River Road
Cannon Falls, MN 55009

Re: City Charter Section 4.05 – The City Attorney

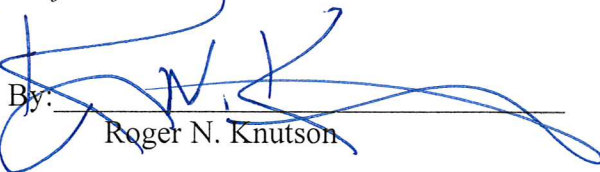
Dear Ron:

You asked me to review City Charter Section 4.05 which states “the City Attorney must attend council meetings.” The Charter does not provide any consequences or penalties for not adhering to the provision. Minnesota Courts have ruled that when there are no sanctions or consequences the provision is directory and not mandatory. Manco of Fairmont Inc. v. Town Board of Rock Dell Township, 583 N.W.2d 293 (1998). If a provision is directory, it is informational and strict compliance is not required.

Section 4.05 is not a new Charter provision. The need for the physical presence of the City Attorney at council meetings has been reduced or replaced by email, cell phones, the internet, skype and other electronic communication. Minnesota Courts refer to this as “the doctrine of substantial compliance.” Chandler v. Kroiss, 190 N.W.2d 472 (1971).

Very truly yours,

CAMPBELL KNUTSON
Professional Association

By: 
Roger N. Knutson

RNK:slc

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