

**TO: MAYOR AND CITY COUNCIL**

**FROM: Neil Jensen, City Administrator**

**SUBJECT: City Attorney Attendance**

**MEETING DATE: March 21, 2023**

**BACKGROUND**

It was discussed at the last City Council meeting to get an opinion from our City Attorney about the attendance of the City Attorney at all City Council meetings. The attached is the recommendation from Campbell Knutson when they gave their opinion in 2017. Since this was discussed previously, I felt this opinion would be accepted and to not spend more money on another opinion.

**STAFF RECOMMENDATION**

For discussion purposes.

**1. Resolution 2258, Approving HBC's Cable Franchise Application.**

A motion was made by Council Member McCusker, seconded by Council Member Berg and unanimously carried, to adopt Resolution 2258, approving HBC's cable franchise application.

**2. Introduction and First Reading of Ordinance 349, Granting a Franchise to Hiawatha Broadband Communications, Inc., to Construct, Operate, and Maintain a Cable Communications System in the City of Cannon Falls.**

A motion was made by Council Member Mattson, seconded by Council Member Carpenter and unanimously carried, to approve the introduction and first reading of Ordinance 349.

City Charter Section  
4.05 City Attorney

Administrator Johnson introduced Attorney Amy Schutt, representing the firm of Campbell Knutson, and provided background information with regard to Section 4.05 of the Cannon Falls City Charter requiring that the City Attorney be present at council meetings. He discussed communication from Attorney Roger Knutson and the process that has historically taken place with regard to the services provided by the City Attorney. Mayor Robinson referenced the process to change the Charter language. Council Member Carpenter expressed his opinion that the City Attorney should not be required to attend all City Council meetings. Council Member Abadie commented that, in the event that a topic arises during a City Council meeting that requires an opinion from the City Attorney, the City Attorney can be requested to review the meeting video. Council Member McCusker suggested continuing the current process. City Attorney Amy Schutt commented that most of the work was done on the front end, adding that Campbell Knutson would be happy to send a representative to attend City Council meetings if requested to do so. The consensus of the Mayor and City Council was to continue the current process.

Authorize  
Advertisement for  
Bids for the Alexander  
Court Project

City Engineer Anderson provided background information with regard to plans for the Alexander Court development in the area of the proposed new GrandStay Hotel near the south interchange along Highway 52. He discussed the project schedule and bidding process for street improvements. He commented that the Public Works Commission had reviewed this information and recommended moving forward with the project.

Council Member McCusker commented with regard to trail connections and holding ponds. He suggested tabling a decision and recommending further discussion by the Park Board. Mr. Anderson indicated that the project schedule would not be adversely affected by

**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.

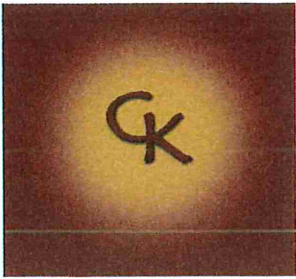
If Council wants to modify the Charter by deleting or modifying this Charter provision, this would require approval by the voters to approve any change at a special or regular election, or Council could ask the District Court to appoint (seven) members to the Charter Commission and follow that path. 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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