Ordinance No. 2017-01

An Ordinance amending Section 2.06 of the Minnetonka City Charter; relating to vacancies in offices and filling a temporary vacancy in office

The City of Minnetonka ordains:

Section 1. Preamble.

The Minnetonka charter commission voted on November 10, 2016, to recommend amendments to sections of the Minnetonka charter. The city council discussed the amendments in a study session on October 17, 2016 and introduced the ordinance on December 5, 2016. Notice of a public hearing on the proposed amendments, including the text of the proposed amendments, was published in the city's official newspaper on December 6, 2016. The public hearing was held on January 9, 2017 before the city council, at which time all people desiring to be heard were given an opportunity to address the council. After considering the advice of the charter commission and any comments from citizens, the city council has determined that the following amendments are relatively minor and may be appropriately adopted by ordinance rather than by an election.

Section 2. Section 2.06, subdivision 2 of the Minnetonka city charter is amended to read as follows:

Subd. 2. A vacancy in a council position also exists in the following situations:

(a) failure of an elected person to qualify on or before the date of the council's second regular meeting in the year after the election;

(b) termination of residency in the city;

(c) except as provided in section 2.04, termination of a ward council member's residency in the ward from which elected;

(d) continuous absence from the city for more than 90 days;

(e) conviction of a felony either before or after qualification for office; or

(f) loss of qualifications for the elective office; or

The stricken language is deleted; the underlined language is inserted.
(g) failure without good cause to perform any of the duties of office for a period of 90 consecutive days.

Section 3. Section 2.06 of the city charter is amended by adding a new subdivision as follows:

Subd. 9. When the mayor or a council member is unable to serve in the office or attend council meetings for a 90-day period because of illness, or because of absence from or refusal to attend council meetings for a 90-day period, the city council, by resolution, may declare a temporary vacancy in that office to exist. After a vacancy is declared, the council must appoint a qualified individual to fill the vacancy for the remainder of the unexpired term or until the original officeholder is again able to resume duties and attend council meetings, whichever is earlier. When the original officeholder is again able to resume duties and attend council meetings, the council must by resolution remove the temporary officeholder and restore the original officeholder.

Section 4. This ordinance is effective 90 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on January 9, 2017.

Terry Schneider, Mayor

Attest:

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
Action on this Ordinance:

Date of introduction: December 5, 2016
Date of adoption: January 9, 2017
Motion for adoption: Wagner
Seconded by: Wiersum
Voted in favor of: Bergstedt-Wagner-Ellingson-Allendorf-Acomb-Wiersum-Schneider
Voted against: None
Abstained: None
Absent: None
Ordinance adopted.

Date of publication: January 19, 2017

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on January 9, 2017.

David E. Maeda, City Clerk

The stricken language is deleted; the underlined language is inserted.
EXHIBIT A

City of Minnetonka

Policy Number 2.2
Disposition of Surplus Property

Purpose of Policy: This policy establishes conditions for the disposition of surplus personal property belonging to the city.

Introduction
The city's disposition of personal property is limited only by the general principle that as a public trustee, the city should not sell property for less than its fair market value. For this reason, the following procedures are suggested. This policy establishes procedures for donation of surplus equipment of any value by the city to a nonprofit organization, as required by Minnesota Statutes § 471.3459. It also governs the disposition, by means other than donation, of surplus property with an estimated value in excess of the city manager's contracting authority.

Procedures

Disposition of surplus property

Identify surplus property and eligible surplus equipment
A department director initially determines. The city manager shall establish procedures for monitoring city equipment, materials and supplies; determining what that an item or items are surplus property or eligible surplus equipment, i.e., they are no longer useful for a public purpose; and estimating the fair market value of the surplus property or eligible surplus equipment; and disposing of surplus equipment with an estimated value that is within the city manager's contracting authority, in a manner allowed by law. This. For purposes of this policy, "surplus property" is any personal property that is no longer useful for a public purpose may be due to any number of factors including state of repair, deterioration, replacement by more current models, etc. "Eligible surplus equipment" is any surplus property that qualifies for donation as set forth in this policy.

Memorandum
The department director prepares a memorandum to the city manager listing surplus items, estimating their value, and requesting approval for disposition.

Determination
The city manager, in his/her own discretion, may authorize disposition.

Manner of disposition
Upon recommendation of the city manager, the city council will decide the manner of disposing of any surplus property that has a value in excess of the city manager's contracting authority. The manner of disposition may be by:

Disposition may be by:
- Sale at public auction, including an electronic auction
- Private sale
- Sale by sealed bids
- Trade-in on new items
- Transfer to another public corporation on terms approved by the council
- Donation to a nonprofit organization, subject to the restrictions in this policy

Restrictions on sale
- Sale of surplus property at public auctions or by sealed bid should-must be preceded by at least one week's published notice and posted on the city website. No public notice or posting is required for an electronic auction at a nationally recognized web site.

- Sale Price:
  - The council may establish conditions on the sale of surplus property, such as a minimum sales price, to ensure that the city receives a fair price for the property. Except for items sold at auction, all sales should be for not less than the item's fair market value as estimated by the department head or appraised and approved by the city manager.

Purchase by City Employees
City employees may purchase surplus property only if it is sold at public auction or by sealed bid one week's published and posted notice. A violation of this provision is a misdemeanor under State law.

Notice to Other Departments
Prior to disposition and public notice, a list of items scheduled for disposition should be circulated to all department directors to give other departments the opportunity to make use of the items to be sold.

Property of Little or No Value
Property with little or no resale value may be discarded, donated to a nonprofit organization, or disposed of in another manner approved by the city manager.

Donation of eligible surplus equipment

Scope
This policy applies to all donations of surplus equipment to a nonprofit organization, regardless of the estimated value of the surplus equipment. For purposes of this policy, surplus equipment that is eligible for donation includes:
- equipment used by the public works department that is no longer needed by any city department and has minimal or no resale value
- cellular phones that are no longer needed by any city department and have minimal or no resale value; and
- emergency medical or firefighting equipment that is no longer needed by any city department and either does not meet industry standards for emergency medical services, police or fire departments or has minimal or no resale value.

To be eligible for a donation, a nonprofit organization must have been formed under section 501(c)(3) of the Internal Revenue Code and must serve one or more of the following functions: cultural, historical, educational, safety, social services, environmental or economic.
Procedure
A proposed donation of surplus equipment may be initiated by a city department or by request of a nonprofit organization. The city manager must evaluate the proposal or request and make a preliminary decision whether donation is appropriate. If the manager determines that donation is appropriate, the availability of the surplus equipment for donation must be advertised on the city's website for at least 5 working days prior to a final decision being made, and nonprofit organizations that have requested to be notified of possible donations must be notified by email or other reasonable means. After considering all responses, the city manager must make a decision or recommendation to the city council, as appropriate to the manager's authority.

Authority
The city manager has authority to approve donations of surplus equipment with an estimated value of less than $25,000. The city council must approve the donation of any surplus equipment with an estimated value of $25,000 or more, by majority vote.

Prioritization of donations
If more than one nonprofit organization requests a donation for the same surplus equipment, the city shall consider factors it deems relevant, including how the surplus equipment will be used, whether the organization serves city residents, how the donation will serve the city's strategic goals, the extent to which the donation will serve the greatest number of people, and whether the organization has previously received a donation.

Conflict of Interest
Any city employee or official who participates in the decision to donate surplus equipment must disclose any relationship with the requesting nonprofit organization, including volunteer work or financial contributions. The city manager, in consultation with the city attorney, may determine that an employee or official is disqualified from participating in the donation decision, based upon the level of the person's relationship with the organization.

As is
A donation of surplus equipment is made "as is" with no warranty, guarantee or representation of any kind, express or implied, as to the condition, utility, or usability of the surplus equipment offered. The surplus equipment may be defective and cannot be relied upon for safety purposes. A copy of this policy must be provided to every nonprofit organization that requests a donation.

Title
The city manager or designee shall cause any title or other ownership documents to be transferred to the receiving nonprofit organization at the time of transfer. Any fees required to transfer the surplus equipment are the responsibility of the nonprofit organization.

Transportation
A requesting nonprofit organization must provide a detailed plan for transporting the surplus equipment from the city to the nonprofit organization. The receiving nonprofit organization must pay all expenses associated with the transportation of the surplus equipment.

Adopted by Resolution No. 81-6692
Council Meeting of September 21, 1981

Amended by Resolution No. 98-064
Council Meeting of May 11, 1998

Amended by Resolution No. 2003-077
Council Meeting of August 25, 2003

Amended by Resolution No. 2005-036
Council Meeting of April 11, 2005

Amended by Resolution No. 2017-009
Council meeting of January 9, 2017