Call to Order

Roll Call

1. Election of Officers: Chair, Vice Chair, Secretary

Approval of Minutes

2. Minutes of February 7, 2018

Reports of the Chair, Officers, Commissions and Committees

3. Approval of Charter Commission 2018 Annual Report

Public Comment

Unfinished Business

4. Charter Commission Membership

5. Discuss Election Vacancies/Open Seats

New Business

6. Primary Elections

7. Chamber of Commerce Membership

8. 2019 Meeting Schedule

Adjourn
City of Moorhead
Charter Commission
Meeting Minutes
February 07, 2018 at 8:00 AM
City Hall Boardroom

Call to Order

Roll call of the members was made as follows:

<table>
<thead>
<tr>
<th>Board Member</th>
<th>Present/Absent</th>
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</thead>
<tbody>
<tr>
<td>Eldon Wollman</td>
<td>Present</td>
</tr>
<tr>
<td>Russ Hanson</td>
<td>Absent</td>
</tr>
<tr>
<td>Julian Dahlquist</td>
<td>Absent until 8:03 am</td>
</tr>
<tr>
<td>Kenneth Tangen</td>
<td>Present</td>
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<tr>
<td>Angelique McDonald</td>
<td>Absent</td>
</tr>
<tr>
<td>Darvin Landa</td>
<td>Present</td>
</tr>
<tr>
<td>James Steen</td>
<td>Present</td>
</tr>
<tr>
<td>Athena Gracyk</td>
<td>Present</td>
</tr>
<tr>
<td>Corey Delorme</td>
<td>Present</td>
</tr>
<tr>
<td>Thomas Krabbenhof</td>
<td>Absent</td>
</tr>
<tr>
<td>Douglas Fagerlie</td>
<td>Present</td>
</tr>
<tr>
<td>Bradley Vesta</td>
<td>Present</td>
</tr>
<tr>
<td>Joel Rehder</td>
<td>Present</td>
</tr>
</tbody>
</table>

Guests present:
- Sarah Wear City Attorney
- Michelle French City Clerk

1. Election of Officers: Chair, Vice Chair, Secretary

   Minutes: Motion to elect Vesta as Chair made by Landa; seconded by Delorme; motion approved by unanimous vote. Vesta abstained from voting.

   Motion to elect Rehder as Vice Chair made by Steen; seconded by Landa; motion approved by unanimous vote. Rehder abstained from voting.

   Motion to elect Dahlquist as Secretary made by Landa; seconded by Vesta; motion approved by unanimous vote. Dahlquist abstained from voting.

Approval of Minutes

2. June 21, 2017 Minutes

   Minutes: Motion to approve minutes of June 21, 2017 made by Tangen; seconded by Steen; motion approved by unanimous vote.

Reports of the Chair, Officers, Commissions and Committees

   Minutes: Doug Fagerlie stated that the September and December Charter Meetings were cancelled due to the lack of agenda items. He suggested that the Charter
Commission meet only when necessary.

James Steen agreed and stated that the Charter Bylaws only require one meeting a year.

Julian Dahlquist expressed his concern with not being able to view the previous meeting because he was absent and the software doesn’t work with a mac. Discussion occurred regarding the access to meeting video.

Public Comment
The Moorhead City Charter Commission welcomes and encourages public input on issues listed on the agenda or of general community interest. Citizens wishing to address the Charter Commission regarding a specific agenda item will be afforded an opportunity during the discussion of that item. Speakers are limited to a 2-minute presentation. Citizens wishing to speak on matters not listed on the agenda will be afforded the opportunity to do so under the heading "Public Comment".

Unfinished Business

3. Discuss Election Vacancies/Open Seats

Minutes: Doug Fagerlie provided a brief recap from the June 21, 2017 discussion regarding election vacancies and open seats.

Athena Gracyk announced that the Council should have provided input; therefore since no input has been made, we should continue the discussion.

Jim Steen stated that the Charter Commission is here to interpret the Charter, not create policies.

Ken Tangen discussed section 2.06 in the City Charter regarding vacancies.

Motion to direct the Chair to entertain the invitation to the Mayor and Council to discuss a standard policy regarding election vacancies/open seats and have a response to the Charter Commission by March 30, 2018 made by Steen; seconded by Gracyk; motion approved by unanimous vote.

New Business

4. Approval of Moorhead City Charter Commission 2017 Annual Report

Minutes: Motion to approve the 2017 Annual Report made by Landa; seconded by Delorme; motion approved by unanimous vote.

5. 2018 Meeting Schedule

Minutes: The Charter Commission set the following 2018 meeting schedule: April 18, June 6th, September 12th, and December 5th.

Motion to approve the 2018 meeting schedule made by Steen; seconded by Gracyk; motion approved by unanimous vote.

Adjourn

Meeting adjourned at 8:47 am

Respectfully submitted by:
Michelle French, City Clerk
The Moorhead City Charter Commission met on February 7, 2018. The topics discussed by the Charter Commission and any outcomes reached on these matters are outlined below.

**Election of officers**
Chair – Bradley Vesta  
Vice Chair – Joel Rehder  
Secretary – Julian Dahlquist

**City Council Vacancies/Open Seats:**  
The Charter Commission invited the Mayor and Council to discuss a standard policy regarding election vacancies/open seats and have a response to the Charter Commission by March 30, 2018. It was noted that no further action was taken on this issue in 2018.

Angelique McDonald resigned from her at-large position on the Commission on June 5, due to personal reasons.

On December 10 the Council appointed Mark Voxland to the vacant at-large position, which expires on January 31, 2019.

Chair Bradley Vesta resigned from his Ward 4 position on the Commission on September 1 because he moved out of the City.

On September 24 the Council appointed Dave Sederquist to the vacant Ward 4 position, which expires on January 31, 2019.

Respectfully submitted:

________________________________________

__________________________, Charter Commission Chair

Date _________________________________
Call to Order

Roll call of the members was made as follows:

<table>
<thead>
<tr>
<th>Board Member</th>
<th>Present/Absent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Julian Dahlquist</td>
<td>Present</td>
</tr>
<tr>
<td>Corey Delorme</td>
<td>Present</td>
</tr>
<tr>
<td>Douglas Fagerlie</td>
<td>Present</td>
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<tr>
<td>Angelique McDonald</td>
<td>Absent</td>
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<td>Absent</td>
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<tr>
<td>Darwin Landa</td>
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<td>Joel Rehder</td>
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<td>Present</td>
</tr>
<tr>
<td>Eidon Wollman</td>
<td>Absent</td>
</tr>
</tbody>
</table>

Board Member: Russell Hanson was present until 8:11 am.

Guests present:
- Sarah Wear: City Attorney
- Michelle French: City Clerk
- Christina Volkers: City Manager
- Mark Altenburg: Moorhead Resident

1. Administer Oath of Office to New Member(s)

   Oath was administered to Corey Delorme

Approval of Minutes

2. February 15, 2017 Minutes

   Motion to approve minutes of February 15, 2017 by Steen seconded by Gracyk; motion approved by unanimous vote.

Reports of the Chair, Officers, Commissions and Committees

Public Comment

The Moorhead City Charter Commission welcomes and encourages public input on issues listed on the agenda or of general community interest. Citizens wishing to address the Charter Commission regarding a specific agenda item will be afforded an opportunity during the discussion of that item. Speakers are limited to a 2-minute presentation. Citizens wishing to speak on matters not listed on the agenda will be afforded the opportunity to do so under the heading "Public Comment".
Unfinished Business

3. Discuss Election Vacancies/Open Seats

Minutes: Discussion occurred regarding the process that was determined for the 2016 Council vacancy.

The Charter Commission members directed the City Attorney to come up with scenarios, look at other City Charters, and provide a list of compatible offices.

The Charter Commission would like a clear policy on how to fill vacancies and can a Council Member running for office, run for multiple offices.

Motion to direct the City Attorney to clarify incompatible office made by Steen seconded by Delorme; motion approved by unanimous vote.

Motion to direct the City Attorney to determine where in the City Charter the term vacancies exist made by Rehder seconded by Gracyk; motion approved by unanimous vote.

New Business

Minutes: Discussion occurred regarding the Charter Commission membership.

Motion to change the membership of the Moorhead Charter Commission from 13 members to 11 members effective January 31, 2019 made by Landa seconded by Steen; motion approved by unanimous vote.

The membership will consist of two members per ward with the Mayor appointing three members.

Next meeting will be held on June 21, 2017.

Adjourn

Meeting adjourned at 9:08 am

Respectfully submitted by:
Michelle French, City Clerk
Commissioner Landa introduced the following resolution and moved for its adoption:

RESOLUTION TO AMEND THE
MOORHEAD CHARTER COMMISSION BYLAWS

WHEREAS, during its April 12, 2017, meeting, the Moorhead Charter Commission Members discussed an amendment to Article III of the Moorhead Charter Commission Bylaws (the “Bylaws”); and

WHEREAS, Article III(A) of the Bylaws currently states that the Charter Commission will be made up of 13 members; and

WHEREAS, the Moorhead Charter Commission has determined that the Bylaws should be amended to reflect that the Charter Commission will be made up of 11 members beginning January 31, 2019; and

WHEREAS, Article IX of the Bylaws provides that the Bylaws can be amended at any meeting of the Moorhead Charter Commission by 2/3 vote of those present, provided that the amendment has been submitted in writing to the members at least two weeks prior to the adoption of the amendment.

NOW THEREFORE, be it resolved as follows:

1. The proposed amendment was submitted in writing to the members at least two weeks prior to the adoption of these amendments.

2. Article III(A) of the Bylaws shall be amended as follows:

   “Effective January 31, 2019, the Commission shall have 11 members, duly appointed and certified by the District Court.”

3. The language that is struck will be deleted from the Bylaws, and language that is underlined will be new language to be added to the Bylaws.

4. The Secretary of the Moorhead Charter Commission is hereby directed to take the steps necessary to have the above-described amendment reflected in the Bylaws in the records of the Moorhead Charter Commission.

Dated: April 12, 2017.

APPROVED:

________________________________
Chair
The motion for the adoption of the foregoing resolution was duly seconded by Commissioner Steen. On roll call vote the following commissioners voted aye: Dahlquist, Delorme, Fagerlie, Gracyk, Krabbenhoft, Landa, Rehder, Steen, and Vesta. The following commissioners voted nay: none. The following commissioners were absent and not voting: McDonald, Hanson, Tangen, and Wollman. The majority (or two-thirds of those present if approved) having voted in the affirmative, the motion was approved and the resolution was duly adopted.
January 7, 2019

Moorhead Charter Commission

SUBJECT: DISCUSSION REQUESTED REGARDING POSSIBLE PRIMARIES FOR CITY ELECTIONS

Dear Commissioner Joel Rehder, Acting Chair

A request has been made through my office from a citizen in Moorhead, to the Moorhead Charter Commission regarding the above subject. Please consider the following:

BACKGROUND
On November 5, 2013 the voters of the City of Moorhead voted to amend the Moorhead City Charter to change the City’s municipal elections from odd to even year elections.

City Charter:

CHAPTER 4 ELECTIONS

Section 4.01. Regular Elections. The regular city election is held on the first Tuesday after the first Monday in November of each even numbered year at the place or places designated by council resolution. The city clerk must publish a notice of the election at least 14 days prior to the election. Failure to publish the notice does not invalidate the election. (Ord. 95-1, 4-17-1995, eff. 7-17-1995; amended per election of 11-5-2013)

Section 4.02. Special Elections. The council may by resolution order a special election as provided by law and establish the procedures for holding the election. The clerk must publish a notice of the special election at least 14 days prior to the election. Failure to publish the notice does not invalidate the election. The procedure at a special election must conform as nearly as possible to the procedure applying to other city elections. (Ord. 95-1, 4-17-1995, eff. 7-17-1995)

Section 4.03. Procedure At Elections. Subject to this charter and law the council may by ordinance further regulate the conduct of city elections. Except as otherwise provided by this charter and ordinance, state law applies to city elections. (Ord. 95-1, 4-17-1995, eff. 7-17-1995)

The city now holds municipal elections for the offices of mayor and city council along with other local offices such as county commissioner, sheriff, school board, state offices and congressional offices, among others, in even years. Most of these offices are first subject to a primary election in August, including the local county offices.
Moorhead residents, whose primary interest was local municipal elections, inquired as to why elections for city offices were not also on the August primary election ballot. They assumed it would be and were confused when they got to the polling location to see city elected offices were not on the August ballot. These Moorhead residents could not find a detailed explanation as to why not, other than the city does not call for participation in the primary election because it just hasn’t been done and it would take a charter change to do so.

Some speculate that the exclusion of a primary was simply an oversight when the charter was changed in 2013 (to even year elections) and that a corresponding primary should be a part of our municipal government. The following were supplied as reasons for the city public office elections to participate in a primary election earlier than the November general election:

1. To increase voter participation in the primary;
2. To highlight local issues earlier and increase voter engagement;
3. To lessen confusion at primary election (why is my city candidate not on here) and general election (manageable number of candidates, narrowed choice);
4. To enfranchise the largest number of registered voters;
5. The city’s effort, time and cost will not increase as the city already implements an August primary election, its

Changes that would need to be made if city elections participated in primaries:

1. Moorhead Charter would need to be changed to call for city offices subject to August primary election, specifying that the candidates for each office be reduced to two for a November general election runoff,
2. Filing period would need to be earlier, as per state law. The filing period would begin in May instead of August, like the county commission filing period, to account for August primary election. See Minnesota Statutes regarding municipal primary elections: https://www.revisor.mn.gov/statutes/cite/205.065 In a city nominating candidates at a primary, an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary as per Minnesota law: https://www.revisor.mn.gov/statutes/cite/205.13

Finally, I have requested the Moorhead City Attorney to weigh in on the legalities of this potential change in preparation for the Charter Commission meeting on January 14, 2019.

Thank you for this consideration of Moorhead citizen requests to improve city elections by further enfranchising voters and making the process more clear and convenient.

Sincerely,

Christina M. Volkers
City Manager
Subdivision 1. Establishing primary.
A municipal primary for the purpose of nominating elective officers may be held in any city on the second Tuesday in August of any year in which a municipal general election is to be held for the purpose of electing officers. The date of a municipal primary held in an odd-numbered year may be postponed for inclement weather as provided in section 205.105.

Subd. 2. Resolution or ordinance.
The governing body of a city may, by ordinance or resolution adopted by April 15 in the year when a municipal general election is held, elect to choose nominees for municipal offices by a primary as provided in this section. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. The municipal clerk shall notify the secretary of state and the county auditor within 30 days after the adoption of the resolution or ordinance.

Subd. 3.
[Repealed, 1994 c 646 s 28]

Subd. 4. Candidates, filing.
The clerk shall place upon the primary ballot without partisan designation the names of individuals whose candidacies have been filed and for whom the proper filing fee has been paid. When not more than twice the number of individuals to be elected to a municipal office file for nomination for the office, their names shall not be placed upon the primary ballot and shall be placed on the municipal general election ballot as the nominees for that office. When more than one council member is to be elected for full terms at the same election, the candidates' names shall be placed under one office on the ballot with the number to be elected to the office specified directly underneath the title and identification of the office.

Subd. 5. Results.
The municipal primary shall be conducted and the returns made in the manner provided for the state primary so far as practicable. The canvass may be conducted on either the second or third day after the primary.
The governing body of the municipality shall canvass the returns, and the two candidates for each office who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to the office, who receive the highest number of votes, shall be the nominees for the office named. Their names shall be certified to the municipal clerk who shall place them on the municipal general election ballot without partisan designation and without payment of an additional fee.

Subd. 6. Recount.
A losing candidate at the municipal primary may request a recount of the votes for that nomination subject to the requirements of section 204C.36.
Subd. 1a. Filing period.
In a city nominating candidates at a primary, an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary. In municipalities that do not hold a primary, an affidavit of candidacy must be filed no more than 70 days and not less than 56 days before the municipal general election held in March in any year, or a special election not held in conjunction with another election, and no more than 98 days nor less than 84 days before the municipal general election held in November of any year. The municipal clerk's office must be open for filing from 1:00 p.m. to 5:00 p.m. on the last day of the filing period.
January 7, 2019

Moorhead Charter Commission

SUBJECT: CHAMBER OF COMMERCE MEMBERSHIP

Dear Commissioner Joel Rehder, Acting Chair

We are requesting the Charter Commission consider a change to the Moorhead City Charter to allow for membership for both the City of Moorhead, which includes Moorhead Public Service, and the Moorhead Economic Development Authority. Please consider the following:

BACKGROUND
The City of Moorhead, Moorhead Public Service, and Moorhead Economic Development Authority all are current members of the FM Area Chamber of Commerce and have been for many years.

In February, 2018, Cities and Counties received an email from the League of MN Cities (LMC) outlining that there is an Attorney General Opinion that states Minnesota State Statutes do not allow cities to be a member of their local Chamber of Commerce. However, the email from LMC does highlight that a charter city may give authority from their city charter to have membership in their local Chamber of Commerce, because no such authority exists in statute. See email attached from Kevin Frazell, LMC with attached Opinion from the Attorney General.

In March, 2018, as a result of my request to the Moorhead City Attorney, we received an analysis by Mr. John Shockley, City Attorney (see attached email). In his analysis, Mr. Shockley concurred with the Attorney General Opinion and surmised that if we wish to continue membership in our local Chamber of Commerce, the Charter would have to change to allow. This is confirmed in a follow up email from Mr. Shockley in October 2018.

REQUEST
As the Moorhead City Manager, I believe there is value to the City, our citizens, and our elected leaders to remain members of the FM Area Chamber of Commerce. The City of Moorhead has been a member for many years and as such, we support our community and local businesses and in return, we have the privilege of participating, as a member, in many local events. Further, our local Chamber of Commerce supports our legislative efforts and responds promptly to our requests for assistance or information. We share space in the Hjemkomst and value our relationship with the FM Area Chamber of Commerce. We are requesting the Charter Commission consider a change to the Moorhead City Charter allowing for membership in our local Chamber of Commerce for the City of Moorhead and the Economic Development Authority. We believe if this change is made, that would be enough to allow for Moorhead Public Service to remain a member as they are legally part of the City.
Finally, I have requested a final review by the Moorhead City Attorney to allow any further comments for consideration on the legalities of this potential change in preparation for the Charter Commission meeting on January 14, 2019.

Thank you for this consideration. I am available to discuss at your convenience.

Sincerely,

[Signature]

Christina M. Volkers
City Manager
Good afternoon,

Recent conversations some of our elected officials asked the League to clarify whether there is authority for cities to be members of their local Chamber of Commerce organization as well as the city’s ability to donate to the Chamber of Commerce. Following is the information the League has provided to city attorneys, and which we think you will also find helpful.

State law authorizes cities “to appropriate not more than $50,000 annually to any incorporated development society or organization of the state for promoting, advertising, improving, or developing the economic and agricultural resources of the city.” Minn. Stat. § 469.191. Because of the limitations regarding donations, cities interested in donating up to $50,000 in any given year to an incorporated development society or organization are encouraged by the League to consult their city attorney. A Chamber of Commerce or other organizations may meet these statutory requirements but we would encourage you to do your due diligence to make sure the organization is in fact incorporated for these purposes.

There is also an attorney general opinion to consider in this conversation. The City of Staples asked for an opinion on whether the city could pay membership dues to their local Chamber of Commerce. The Minnesota Attorney General’s office opined that, while this authority (Minn. Stat. § 469.191) allows a city to contribute up to $50,000 annually to a chamber of commerce, it does not allow a city to become a member of the chamber of commerce, or to pay dues to it. The opinion does specifically mention that a charter city may have authority from their city charter to have membership in the Chamber of Commerce but no such authority exists in statute. As you all know, attorney general opinions do not have the same weight as a court decision so there is certainly room for interpretation based on the facts related to each city. I have attached the opinion to this email for anyone that is interested.

A popular reference we share with cities inquiring if they can make donations to organization is the League’s memo on Public Purpose Expenditures. For reference, it is available here:
https://www.lmc.org/media/document/1/publicpurposeexpenditures.pdf?inline=true

We hope this information is helpful. Please let me know if you have additional questions or concerns on this topic.

Kind regards,

Amber G. Eisenschenk | Codification & Research Staff Attorney
Tel: 651-281-1227  Cell: 612-750-4825
Fax: 651-215-4127
eaizenschenk@lmc.org | www.lmc.org
League of Minnesota Cities
145 University Ave. West | St. Paul, MN 55103

This response is intended to convey general information and should not be taken as legal advice or as a substitute for competent legal guidance. Consult your city attorney for advice regarding specific situations.
STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY III
ATTORNEY GENERAL

June 27, 1997

Hans B. Borstad
Staples City Attorney
208 North Fourth Street
Staples, MN 56479

Re: Staples Chamber of Commerce Membership

Dear Mr. Borstad:

I am in receipt of your letter asking whether the City of Staples is authorized to pay membership dues to the Staples Chamber of Commerce. After reviewing prior opinions of the Attorney General on this issue as well as the relevant Minnesota statutes, it is my opinion that, while the City of Staples would be authorized by statute to appropriate up to $50,000 annually to the Staples Chamber of Commerce in certain circumstances, the City would not be permitted to contribute this money in the form of membership dues absent specific authority to do so in the City Charter.

It is well settled in this state that a municipal corporation has only such powers as are expressly conferred upon it by statute or its charter, or necessarily implied therefrom. It has no inherent power. Borgelt v. City of Minneapolis, 271 Minn. 249, 135 N.W.2d 438 (1965); see generally 13A Dunnell, Minn. Digest 2d Municipal Corporations § 3.01a (3rd Ed. 1981). This longstanding principle was relied upon by our office in Op. Atty. Gen. 63-b-1, May 11, 1944, which concluded that the City of New Ulm, a home rule charter city, was without authority, under state law or local charter provision, to subscribe and pay for one or more memberships in a civic and commerce association which was a reorganization of a businessmen’s association. Similarly, in Op. Atty. Gen. 218r, February 24, 1949 (1950 Attorney General Report No. 103), we concluded that the Village of Buffalo (now a statutory city) could not join or pay dues to a local chamber of commerce since no such power was conferred upon it by statute. In connection with this issue, your letter refers to three statutes as potential sources of authorization to take the action you describe.

Minn. Stat. § 469.189 (1944), authorizes the governing body of certain cities to appropriate money to advertise the municipality, its resources and advantages. This Office has taken the position that there is a distinction between statutory authorization to appropriate and use money for a purpose, and authorization to contribute money to a body generally committed to advancing a purpose. See, e.g., Op. Atty. Gen. 59a3, January 15, 1959; wherein we determined that statutory authority for a city to “appropriate money” for purposes of historical preservation and observances permitted the city to contract with the county historical society for specific services, but not to donate funds to the society to expend in its own discretion. For the
same reasons, we conclude that section 469.189 (1996) does not authorize the city to donate funds or purchase a “membership” in the local chamber of commerce.

Minn. Stat. § 469.191 (1996) provides:

A home rule or statutory city or town described in section 368.01, subdivision 1 or 1a, may appropriate not more than $50,000 annually out of the general revenue fund of the jurisdiction to be paid to any incorporated development society or organization of this state for promoting, advertising, improving, or developing the economic and agricultural resources of the city or town.

It is our understanding that this section was first enacted in 1989 primarily to allow small rural towns to participate in an organization called the Minnesota Initiative Fund, an organization which received grants from the McKnight Foundation matching certain contributions from towns and cities. However, contemporaneous legislative history indicates an understanding by the legislature that this law would also allow a city or town to contribute up to $50,000 annually to a local chamber of commerce. This seems to be a reasonable interpretation of the language of Minn. Stat. § 469.191, and it is my opinion that this provision would authorize the City of Staples to contribute up to $50,000 annually to the Staples Chamber of Commerce.

Authority to contribute does not necessarily permit membership, however. In general, it has been our view that authority of local units of government are not authorized to form or join “private” organizations absent specific statutory authority. See, e.g., Op. Atty. Gen. 92a-30, January 29, 1986; 733, July 29, 1988. For example, Minn. Stat. § 144.581 (1996), which is mentioned in those opinions, authorizes hospital authorities to join and sponsor memberships in certain organizations.

In addition, the Legislature has addressed the authority of municipalities to provide for municipal membership in certain local, state and national associations. In addition, cities are expressly authorized by Minn. Stat. § 465.58 (1996) to pay annual dues in the League of Minnesota Cities and the expenses of delegates attending the meetings thereof. Neither of these sections would apply to your situation, however.

A broader grant of authority is found in Minn. Stat. § 471.96, subd. 1 (1996), which provides as follows:

The governing bodies of cities, counties, and towns are hereby authorized to appropriate necessary funds to provide membership of their respective municipal corporations or political subdivisions respectively in county, regional, state, and national associations of a civic, educational, or governmental nature which have as their purpose the betterment and improvement of municipal
governmental operations. Cities, counties, and towns are also authorized to take
participate through duly designated representatives in the meetings and activities of such associations, and the governing bodies of cities, counties and towns respectively are authorized to appropriate necessary funds to defray the actual and necessary expenses of such representatives in connection therewith. For purposes of this section, the governing body of a town is the town board.

From our understanding of the nature of such organizations, it does not appear that chambers of commerce can be characterized as “associations of a civic, educational, or governmental nature which have as their purpose the betterment and improvement of municipal government operations” within the purview of this statute, even though their interests may include such objectives.

Subdivision 2 goes on to provide that the statute does not affect “any statutory, charter or common law power of cities” to provide for membership and participation in state and national associations. I am aware of no general statutory or common law power on the part of cities to provide for membership.

For the foregoing reasons, we conclude that the city lacks statutory authority to purchase membership in the local chamber of commerce. While it is possible that such authority might be contained in the City’s Charter, your letter does not refer to any such charter provision, and we do not ordinarily undertake in our opinions to construe provisions of local charters. See Op. Atty. Gen. 629a, May 9, 1975.

Very truly yours,

KENNETH E. RASCHKE, JR.
Assistant Attorney General

(612) 297-1141

KER:it
AG:25442 v1
Good afternoon,

You inquired regarding the authorities for the City, EDA and MPS to be a member of the chamber.

**City, Paying Dues.** Although there is no direct authority precluding a city from the payment of dues, the Minnesota Attorney General has opined that it is not permissible for a city or town to pay dues to a chamber of commerce. A.G. Op. (June 27, 1997). The Attorney General’s opinion is essentially that the Minnesota statute authorizing cities to contribute funds to local organizations like these is limited to donations for the stated statutory purpose and cannot be extended to purchasing a membership, through dues or otherwise. Id. (citing Minn. Stat. § 469.191 (1996)). The statute has not changed substantially since the Attorney General’s opinion. The Minnesota State Auditor has explicitly adhered to the Attorney General’s opinion in his three separate Statements of Position (2014, 2012, and 2008) Unsurprisingly, the League of Minnesota Cities takes the same position. See League of Minnesota Cities, Information Memo Public Purpose Expenditures. There is only one case on Westlaw citing that statute, and it is not on point. Lamminen v. City of Cloquet, 987 F. Supp. 723 (D. Minn. 1997) (addressing public notice in bidding process regarding allegation that another statute applied to a situation where the city contributed Christmas lights pursuant to Minn. Stat. § 469.191). I anticipate Minnesota courts would come down the same way as the Attorney General, especially if most Minnesota cities do not have the practice of paying dues to chambers of commerce, further the City is required to follow attorney general opinions.

Notwithstanding, Minn. Stat. § 469.191 provides the City with express authority to “appropriate not more than $50,000 annually out of the general revenue fund of the jurisdiction to be paid to any incorporated development society or organization of this state for promoting, advertising, improving, or developing the economic and agricultural resources of the city or town.” Minn. Stat. § 469.191. The Minnesota Attorney General, the Minnesota State Auditor, and the League of Minnesota Cities all agree that this may apply to local chambers of commerce. But the money simply cannot buy membership in the institution.

**Being a Member.** I found no authority directly on point regarding whether City membership generally in the chamber of commerce (if, e.g., honorary membership) is permissible. The implications of the above-cited authority likely preclude this as well. Additionally, municipalities are have only the powers they are specifically granted by statute, and Minn. Stat. 471.96 specifically grants cities and their employees the power to be members of “civic educational associations” (e.g., League of Minnesota Cities) and does not explicitly grant them the authority to be members of private organizations regardless of their function or purpose.

**EDA, Paying Dues and Being a Member.** As far as I can tell, i.e., based on limited authority, the situation is possibly less restrictive for economic development associations. For example, EDAs’ express statutory authority is more far-reaching regarding participation in organizations than cities: “Public Relations. To further an authorized purpose, an authority may (1) join an official, industrial, commercial, or trade association, or another organization concerned with the purpose, . . . Activities under this subdivision have a public purpose.” Minn. Stat. § 469.101 subd. 16. I found no cases or other persuasive authority addressing that subdivision in particular so I cannot definitively say that a chamber of commerce would fit within its definition. But my guess is that it would: EDAs are not precluded from joining chambers of commerce, and I see no specific prohibition from EDAs paying dues. EDAs have the different statutory structure as cities regarding donations or membership, and it appears less restrictive. The City should follow up with other cities and EDAs to determine standard practice or ask the Minnesota Attorney General for an opinion.

**MPS.** Same analysis as the City as it is part of the City.

Hope this helps

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