



**Crystal Charter Commission  
Meeting Agenda and Notice**

**Tuesday, April 22, 2014  
7:00 p.m.**

**Crystal City Hall  
4141 Douglas Drive North  
Conference Room A**

- I. Call to order and roll call
- II. Consideration of the meeting minutes from February 21, 2013
- III. Election of Officers (Chair, Vice Chair, Secretary)
- IV. Review Annual Report of Chair
- V. Ranked-choice voting
  - Legislative update
  - Future of ranked-choice voting in Crystal?
- VI. Data Practices Compliance
- VII. Other Business
- VIII. Adjournment

Posted: April 17, 2014

**Minutes of the Meeting for the  
Home Rule Charter Commission  
of the City of Crystal  
Thursday, February 21, 2013**

I. Call to order and roll call

Pursuant to due call and notice thereof, the meeting of the Crystal Charter Commission was held commencing at 6:00 p.m. on Thursday, February 21, 2013, at Crystal City Hall, 4141 Douglas Drive North, in the City of Crystal. The meeting was called to order by Chair Harley Heigel.

Attendance

The assessing specialist recorded the attendance with the following members present: Joe Selton, Doug Brown, Naomi Davidson, Harley Heigel, Joel Franz, Jim Oathout, Jeffrey Munson and Jennifer Sodd. Also present: Commission Attorney Michael Norton, City Manager Anne Norris, City Clerk Chrissy Serres, Assessing Specialist Gail Van Krevelen, and resident Dave Anderson. Absent: Samantha Erickson.

II. New member, Jennifer Sodd, was introduced and welcomed to the Commission.

III. Consideration of the meeting minutes from the Charter Commission Meeting from October 4, 2012

The charter commission considered the meeting minutes from October 4, 2012. Moved by Commissioner Franz and seconded by Commissioner Brown to approve the meeting minutes from October 4, 2012.

IV. Election of Officers (Chair, Vice Chair, Secretary)

- a) Chair Harley Heigel opened up nominations for the Office of Commission Chair: Moved by Commissioner Brown and seconded by Commissioner Davidson to appoint Commissioner Heigel as Chair.

Motion carried without dissent.

- b) Chair Harley Heigel opened up nominations for the Office of Commission Vice Chair: Moved by Commissioner Munson and seconded by Commissioner Heigel to appoint Commissioner Brown as Vice Chair.

Motion carried without dissent.

- c) Chair Harley Heigel opened up nominations for the Office of Commission Secretary: Moved by Commissioner Franz and seconded by Commissioner Selton to appoint Commissioner Sodd as Secretary.

Motion carried without dissent.

It was moved by Commissioner Brown and seconded by Commissioner Franz to switch item V. and item VI. for discussion.

Motion carried without dissent.

- V. Discuss a request by Dave Anderson to study a proposal regarding membership size of the Charter Commission.  
The Commission members discussed the pros and cons of changing the membership size of the commission. It was decided to make no changes at this time.

Moved by Commissioner Franz to keep the Charter Commission size at nine members and seconded by Commissioner Davidson.

Motion carried without dissent.

- VI. Discuss ranked-choice voting  
The Commission members discussed ranked-choice voting and whether it would be a viable option for the city. Several members liked the idea of ranked-choice voting but there are currently no machines certified for counting ranked-choice ballots so the Commission members did not feel it was feasible at this time. It was decided to leave this item open and revisit it at a future date as technology develops.

- VII. Commission members reviewed the Annual Report of Commission Chair.

Moved by Commissioner Selton to accept the Annual Report of Commission Chair and seconded by Commissioner Franz.

Motion carried without dissent.

- VIII. Other Business  
None

- IX. Adjournment

Moved by Commissioner Munson and seconded by Commissioner Selton to adjourn the meeting at 7:00 p.m.

Respectfully submitted,

Recording Secretary Gail Van Krevelen

April 23, 2014

Chief Judge Peter A. Cahill  
Hennepin County Government Center  
300 South Sixth St  
Minneapolis MN 55487-0422

Dear Honorable Judge Cahill:

I want to report to you on the Commission's activities, as required by Minnesota Statutes, Section 410.05, and subdivision 2. The Crystal Charter Commission met on February 21, 2013.

During the meeting, the commission reviewed, researched, and discussed possible amendments to the City Charter, which included 1) Section 2.04 relating to the size of the City Council; and 2) Section 4.02 relating to the viability of using ranked-choice voting in the city.

In regards to Section 2.04, the Commission voted in favor of maintaining the current size of the City Council. Regarding Section 4.02 relating to the viability of using ranked-choice voting, the Commission members did not feel it was feasible at this time due to the fact that currently no machines are certified for counting ranked-choice ballots. It was decided to leave this item open and revisit it at a future date as technology develops.

To date, the Charter Commission has no vacancies on its 9-member commission.

Yours truly,

Harley Heigel  
Charter Commission Chair

cc: Mike Norton  
Anne Norris  
Chrissy Serres  
Commission Members



## Ranked Choice Voting: Frequently Asked Questions

### **Q: Is Ranked Choice Voting confusing?**

**A: No.** For voters, RCV is as easy as 1-2-3. Instead of being limited to only choosing one candidate, voters have the opportunity to rank their vote in accordance with their personal preferences.

In 2013, Minneapolis voters demonstrated a deep and thorough understanding of Ranked Choice Voting, as more than three-quarters (78%!) of all voters ranked all three available mayoral choices.

Additionally, an independent exit poll conducted by Edison Research found that a whopping 85% of polled voters thought RCV was either very or somewhat simple to use. These phenomenal numbers transcended race, age and income levels; all voters felt this way.

Even going back to 2009, following Minneapolis' very first election using RCV, an independent study conducted by St. Cloud State University found that only 3% of voters said they didn't understand RCV. These numbers will only continue to improve as voters become more familiar with this easy-to-use system.

### **Q: Aren't there a lot of errors on Ranked Choice Voting ballots?**

**A: No,** not significantly more than in traditional elections. In the 2013 Minneapolis mayoral election, just half of one % (0.5%) of all ballots cast in the mayoral race had errors, such as an over-vote or a skipped ranking. And 90% of these were correctable errors, resulting in a 99.94% valid ballot rate.

### **Q: Does Ranked Choice Voting disproportionately affect or disenfranchise voters of color or seniors?**

**A: No.** All voters find RCV easy to understand and simple to use. In 2013, 85% of polled voters in Minneapolis – including 82% of voters of color – found RCV very or somewhat simple to use. In fact, in Ward 5 – the city's most ethnically diverse ward – 84% of voters ranked at least two mayoral candidates, demonstrating a clear understanding of the benefits of RCV. Moreover, less than 1% of ballots had errors, and there were *zero* defective ballots in that highly competitive City Council race.

Overall, more than two-thirds – 67% to 80% – of polled voters across all age, income, education and ethnic groups said they were familiar with RCV before going to the polls.

### **Q: Do voters even like using Ranked Choice Voting?**

**A: They sure do!** Not only do voters enjoy the luxury of voting true to their actual heart – instead of their fears – but they also endure far less negative campaigning and mudslinging. Several media articles highlighted the unusually positive tone of the Minneapolis mayoral race, in which no mail, TV or radio advertisement was negatively directed at another candidate. Following the Minneapolis election, more than two-thirds (68%) of all voters want to continue using RCV in future municipal elections and 61% would like to use it for state elections.

**Q: What are the benefits of Ranked Choice Voting?**

**A: From eliminating spoiler votes to reducing the cost of campaigning, the benefits are numerous.** Ranked Choice Voting:

- Combines two elections in one so voters need only make one trip to the polls and taxpayers and candidates need pay for only one election
- Brings together the most candidates with the most voters in a single decisive election
- Opens the political process to new voices
- Encourages candidates to build a broad coalition of support
- Eliminates "wasted" votes
- Solves the "spoiler" problem and gives voters more choice
- Promotes more diverse representation
- Reduces negative campaigning and promotes civil, issue-oriented campaigns
- Mitigates political polarization
- Gives greater security for military and overseas voters

**Q: Where else is Ranked Choice Voting used?**

**A: Ranked Choice Voting is used in many cities in the United States – and worldwide.** It is now a clearly tested, effective voting method. San Francisco, Berkeley, San Leandro and Oakland, California; Portland, Maine; Takoma Park, Maryland; Hendersonville, North Carolina; Cambridge, Massachusetts and Telluride, Colorado use RCV for municipal elections. South Carolina, Louisiana and Arkansas use RCV for military and overseas voters. RCV is pending implementation in more than a dozen other cities, including Memphis, Tennessee and Santa Fe, New Mexico.

RCV is also used in many democracies around the world, including Australia, New Zealand, Ireland, Northern Ireland, Scotland, and London, England.

**Q: Can Ranked Choice Voting be used in other cities in Minnesota?**

**A: Only in those cities with their own charters.** Minneapolis and St. Paul both proved the success of RCV this fall. Currently, the cities of Duluth, Red Wing and Rochester are in various stages of exploration. Additionally, many other communities are interested in RCV's potential to save taxpayer dollars by eliminating low turnout and costly local nonpartisan primary races.

Recognizing that, a bipartisan-backed bill, authored by Rep. Steve Simon and Sen. Ann Rest and dubbed the "RCV Local Options Bill," has been introduced to support and promote political innovation in communities across the state. This measure would give Minnesota counties, cities and towns the freedom and flexibility to use Ranked Choice Voting without seeking legislative approval.

It also provides a blueprint for RCV implementation in local jurisdictions; establishes guidelines to ensure that the next generation of voting equipment is RCV-capable and enables statutory jurisdictions to use RCV while allowing charter cities to approve RCV by ordinance. It's entirely voluntary and contains no mandates.

Without the bill, every non-charter jurisdiction – that's most units of government in Minnesota – wanting to use RCV must spend time, money and effort seeking special legislation.

## RANKED CHOICE VOTING BY THE NUMBERS: 2013 Key Minneapolis Election Findings

- Turnout in Minneapolis was over 80,000 – **the highest for a municipal election in 12 years.**
- Voters demonstrated a deep and thorough understanding of Ranked Choice Voting: 88% ranked a second choice, and **a full 78% ranked all three of their available choices in the mayoral race.** Mayor-elect Betsy Hodges, who won by building a broad coalition of first, second and third choice support, was present on 63% percent of all ballots.
- High rates of ranking consistently occurred across the competitive, multi-candidate City Council and Park Board races as well, including in the lower-income and highly diverse Wards 5 and 9.

	<u>Ranked 2 candidates</u>	<u>Ranked 3 candidates</u>
Park Board At-Large	76%	61%
Ward 5 City Council	75%	63%
Ward 9 City Council	81%	61%
Ward 13 City Council	83%	63%

- Minneapolis leadership is more diverse than ever:
  - A gender-balanced city council and the second female mayor in Minneapolis history.
  - The first Somali-American, Latina, and Hmong city council candidates elected in Minneapolis history, resulting in the city’s most diversely represented city council.
- Just half of one percent (0.5%) of all ballots cast in the mayoral race had errors, such as an over-vote or skipped ranking. Ninety percent of these were correctable errors, resulting in a 99.94% valid ballot rate.
- In the city’s most ethnically diverse ward, Ward 5, voters proved that they understood and appreciated RCV:
  - Turnout in the council race was 3,622 (24%) – the highest since 2005 when Don Samuels and Natalie Lee first ran against each other.
  - 75% of voters ranked two choices, and 63% ranked all three available choices in the council race. In the mayoral race, 84% ranked two candidates and 76% ranked three candidates.
  - The winner of the city council race, Blong Yang, was elected with 52% of voter support, a higher share than in both the mayoral race and the competitive council races.
  - Less than 1% of ballots had errors, and there were *zero* defective ballots in the council race.

- **A whopping 85% of polled voters found RCV very or somewhat simple to use, according to an exit poll conducted by Edison Research.**
  - While younger voters aged 18-34 (91%) found RCV simplest to use, 81% of voters aged 65 and older found it simple as well.
  - Income and education did not significantly impact ease of RCV use:
    - **88% of voters *with* a college education and 81% of voters *without* found RCV to be simple.**
    - 87% of voters with an income above \$100,000 and 83% of voters with an income under \$100,000 found RCV to be easy.
  - **82% of voters of color found RCV to be simple**, finally putting to rest the concern that communities of color would find RCV difficult.
- More than two-thirds – 67% to 80% – of polled **voters across all age, income, education and ethnic groups said they were familiar with RCV before going to the polls**, demonstrating the importance and success of the outreach and education efforts undertaken by FairVote MN, the City of Minneapolis, and others to prepare voters for Election Day.
- Last, but not least, voters *like* it: **More than two-thirds (68%) of all voters want to continue to use RCV in future municipal elections and 61 percent would like to see it used for state elections.**
  - High levels of support for RCV in Minneapolis exists among older, nonwhite, lower income and less educated voters, who critics thought wouldn't understand or like RCV: 62% of those aged 65 and older, 59% of people of color, 63% of those without a college degree and 68% of those earning under \$50,000 all want to see RCV continue in future city elections.

Sources:

- Election Results provided by the City of Minneapolis Elections Department at <http://vote.minneapolismn.gov>.
- Exit Poll conducted by Edison Research. The poll was conducted in-person at 18 randomly selected voting precincts among 2,453 Minneapolis voters, using a weighted design to ensure an accurate representation of all voters. The margin of error at the 95% confidence level for the full Minneapolis sample of 2,453 voters is  $\pm 2.9$ .

MINNEAPOLIS

# YourCity. YourVote.

NOVEMBER 5



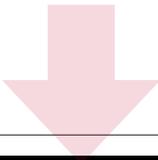
## RCV: Easy as 1, 2, 3...

This November, you'll vote for Mayor, City Council, Park Board and the Board of Estimate and Taxation using Ranked Choice Voting (RCV).

With RCV, there is no primary election – RCV folds two elections into one, so you only have to make one trip to the polls in November.

## How to Vote with a Ranked Choice Ballot

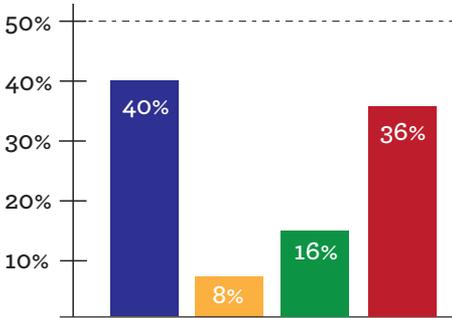
- 1) Select your preferred candidate and fill in the oval next to the candidate's name in the 1st choice column.
- 2) Indicate your 2nd choice. Your ballot will count for this candidate if (and only if) your 1st choice loses. It doesn't help your 1st choice candidate to rank him or her more than once or to not rank anyone else.
- 3) Rank a 3rd choice if you have one. Your ballot will count for this candidate only if your 1st and 2nd choices lose.



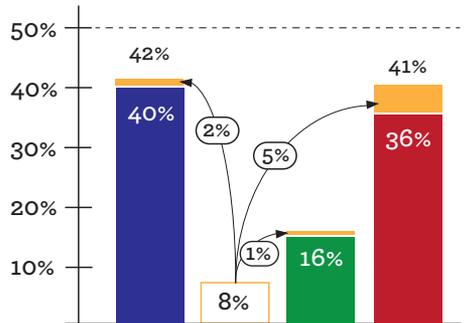
MAYOR		
Rank your first, second and third choice candidates in the columns below. One to be elected.		
1	2	3
1st Choice	2nd Choice, if any Must be <b>DIFFERENT</b> from your 1st choice	3rd Choice, if any Must be <b>DIFFERENT</b> from your 1st and 2nd choices
Select one	Select one	Select one
<input type="radio"/> HARALSON Apple Party	<input checked="" type="radio"/> HARALSON Apple Party	<input type="radio"/> HARALSON Apple Party
<input checked="" type="radio"/> HONEYCRISP Classic Party	<input type="radio"/> HONEYCRISP Classic Party	<input type="radio"/> HONEYCRISP Classic Party
<input type="radio"/> MCINTOSH Apple Party	<input type="radio"/> MCINTOSH Apple Party	<input checked="" type="radio"/> MCINTOSH Apple Party
<input type="radio"/> REGENT Cold Hardy Party	<input type="radio"/> REGENT Cold Hardy Party	<input type="radio"/> REGENT Cold Hardy Party
<input type="radio"/> SNOWSWEET Apple Party	<input type="radio"/> SNOWSWEET Apple Party	<input type="radio"/> SNOWSWEET Apple Party
<input type="radio"/> FIRESIDE Apple Party	<input type="radio"/> FIRESIDE Apple Party	<input type="radio"/> FIRESIDE Apple Party

# How to count RCV ballots:

Everyone has one vote, but is able to indicate their “backup” choices. Here’s how we count RCV ballots in a single-seat race.

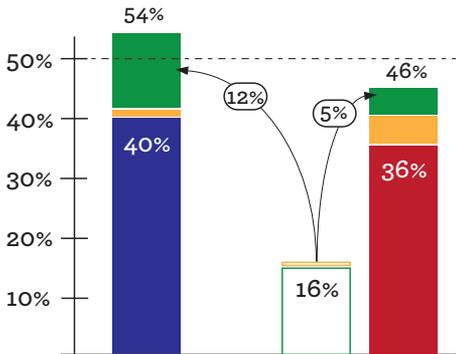


**1** All 1st choices on the ballots are counted. Did someone meet the threshold of 50% +1 of the votes? If yes, s/he wins. If not....



**2** The candidate with the fewest 1st choice votes is defeated. The ballots cast for him/her are reassigned to those voters’ 2nd choices.

(Note: ONLY the defeated candidate’s ballots are reassigned. Ballots cast for all other candidates continue to count for those candidates.)



**3** Did a candidate meet the threshold of the new vote totals? If yes, s/he wins. If not, repeat step 2.

Keep going until a candidate reaches the threshold (or until 2 candidates remain and the one with the most votes wins).

In the multi-seat elections, like Park Board, you use the same ranking process. The threshold to win is different because there are more seats to fill and rounds of counting occur until all seats are filled.

**Ranked Choice Voting is as easy as 1-2-3!**  
**Visit [vote.MinneapolisMN.gov](http://vote.MinneapolisMN.gov) for more information.**

## **RANKED CHOICE VOTING BY THE NUMBERS: 2013 Key Ward 1 Saint Paul Election Findings**

- Turnout for the Ward 1 city council race was 4,766 -- 33%% higher than in 2011, and **the Ward's highest turnout for a municipal election in 8 years.**
- Voters demonstrated a deep and thorough understanding of Ranked Choice Voting: **over 72% of voters ranked at least 2 choices, and over half ranked at least 3. The winner, Dai Thao, was present on 66% of all ballots cast.**
- **72% of polled voters found RCV very or somewhat simple to use, according to an exit poll conducted by Edison Research.**
- More than three-fifths – 63% to 84% -- of polled voters across all age, income, education and ethnic groups said they were familiar with RCV before going to the polls, demonstrating the importance and success of the outreach and education efforts undertaken by FairVote Minnesota in partnership with the community organizations and the Ramsey County Elections to prepare voters for Election Day.
- Ward 1 voters said that the election was civil overall, with 72 percent saying that candidates spent only some, very little or no time criticizing each other.
- Last, but not least, voters *liked* RCV: **More than three-fifths (62 %) of all Saint Paul Ward 1 voters want to continue to use RCV in future municipal elections and 58% want to use it in future state elections.**
  - High levels of support for RCV in Ward 1 exists among older, nonwhite, lower income and less educated voters, who critics thought wouldn't understand or like RCV: 62% of voters 65 and older, 56% people of color, 64% of people earning under \$50,000 a year, and 52% of individuals without a college degree all want to see RCV continue in future city elections.

## 35 mayoral candidates in Minneapolis again? Not likely

Article by: Eric Roper  
Star Tribune  
March 25, 2014 - 12:24 AM

Remember the 35 candidates in the last Minneapolis mayoral race and how long it took to declare a winner?

City officials are working to make sure that never happens again.

Four months after the election, the city clerk's office is recommending that the filing fee be increased from \$20 and that new tabulation methods be implemented to speed vote counting. The current rules and glut of candidates meant it took two 12-hour days to tabulate the results of the mayor's race, the city's first major test of ranked-choice voting.

So many candidates — including one named Captain Jack Sparrow — received a minimal number of votes in the ranked-choice contest that the clerk's office estimates that 91 percent could have been eliminated in the first round of tabulation if the rules had been different. That would have meant producing a final result in the afternoon following Election Day.

"I think it went very smoothly last year," said Jeanne Massey, executive director of FairVote, which advocates for ranked-choice voting. "But it certainly took people by surprise that there were that many candidates on the ballot. And it took longer than it needed to. With these improvements, both of those things will be better in 2017."

Efforts to increase the filing fee were put in motion less than 24 hours after the election, when the city's charter commission voted to raise it from \$20 to \$500 to run for mayor. That proposal died because the council failed to act in time, but Council Member Cam Gordon said Monday that he is working on another proposal — with a lower fee — that he hopes will garner unanimous support from his colleagues.

In a report Monday, which will be presented to a council committee on Tuesday, City Clerk Casey Carl's office did not recommend an amount for the new filing fee but made it clear it doesn't want to see dozens of candidates again.

"The public reasonably expects candidates to display a certain level of public support in order to appear on the ballot," the report said. "Requiring a candidate to pay a filing fee higher than the current fee of \$20 (or allowing ballot access if they reach a certain number of signatures on a candidacy petition) achieves this goal."

### Batch elimination

Carl's office recommended in its report that ordinances should be changed for the 2017 municipal election to allow for batch elimination based on candidates' potential to win the election.

Rather than eliminating all mathematically impossible candidates at once, current ordinances use a slower method that was designed for hand counting.

Massey said she hopes that the city will also pursue certification of vote tabulation software, which would further expedite the counting process.

The lack of that certified software factored into another oddity of the 2013 election: watching tabulators manipulate Excel spreadsheets via a Skype feed into the City Hall rotunda. Officials are recommending changing the ordinance language to clarify that public observation of tabulation is only necessary if paper ballots are being handled.

The detailed report also showed that 2013 city elections cost \$1.75 million. That's just over what Carl originally requested, but much more than the \$1.3 million the council approved. The last ranked-choice election in Minneapolis, in 2009, cost \$1.47 million.

### Repeated candidate rankings

One major driver of the cost was mailing a voter guide to every household in the city, which cost \$97,536. Massey said a new voter education campaign initiated by the city in 2013 makes cost comparisons to previous elections difficult.

Just more than 80,000 ballots were cast in the election, which allowed voters to select three candidate preferences. Seventy-six percent of ballots in the mayor's race listed the maximum of three candidate choices.

The city found the most common voter error was repeating a candidate in the rankings — 3.28 percent of ballots in the election had this error.

"This reflects a common theme identified during voter outreach efforts, where many voters expressed the belief that 'bullet voting' would help a preferred candidate to advance in a race where additional rounds of tabulation were required," the report said.

### Voters split on ranked choice

An accompanying survey of 800 residents found that voters are somewhat split on their opinions of ranked-choice voting. Forty-one percent said they prefer the traditional voting system, followed by 39 percent who prefer ranked-choice voting and 17 percent who did not have a preference.



A voter received help from election officials at the Elliot Park Recreation Center after having cast a ballot that was rejected by the voting machine for apparently having some marks that could not be read accurately by the machine.

Jim Gehrz, Dml - Star Tribune

Fifty-three percent of respondents said ranked-choice voting should be used in future municipal elections, however. Thirty-seven percent said it should not.

Eric Roper • 612-673-1732 Twitter: @StribRoper

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## Local governments deserve the option of ranked-choice voting

Article by: Pete Lindstrom and Emily Larson  
April 7, 2014 - 6:27 PM

This legislative session, we have missed a great opportunity for innovative, reform-minded Minnesota cities. Despite bipartisan support for ranked-choice voting, the Senate elections committee prevented a hearing of the "local options" bill. This bill would have given cities like ours the flexibility and the tools to switch to RCV.

The bill contained no mandates, and it would have had absolutely no impact on cities uninterested in exploring RCV. But for us and a number of interested cities across our state, it offered two important things: the freedom to give it a try without seeking legislative approval, along with guidelines and structure to ensure smooth, uniform implementation.

It's that second piece that matters most to Duluth, where citizens are pursuing the potential to bring RCV to the ballot this fall. Last weekend, delegates to the DFL Party's Seventh District convention passed a resolution supporting RCV, and they did so emphatically — with 74.8 percent of the vote.

This discussion has been a long time coming in the Port City; two years ago, a seven-member task force recommended putting RCV up for consideration by voters. (It's also worth noting that all four candidates for the Minnesota House seat in District 7A, including DFL endorsee Jennifer Schultz, have declared their support for RCV.) Should Duluthians decide to adopt RCV, the guidelines in the now-dead bill would have been invaluable.

For Falcon Heights, both of the bill's main provisions are important. Under current law, Falcon Heights, as a non-charter jurisdiction, must spend valuable time, energy and money to secure special legislative clearance if it wants to use RCV. We called this measure the "local control" bill for a reason: The choice should be ours to make. As House author Steve Simon, DFL-Hopkins, put it: "If Roseville or Red Wing wants to experiment with RCV — great. If their people love it — great. If their people hate it, they can ditch it. That's it."

Many legislators, such as Simon and Senate author Ann Rest, DFL-New Hope, agree. So does Gov. Mark Dayton. More important, however, is that voters across the state do, as well. We were hopeful that the Legislature, including the Senate elections committee, would have been a willing partner in empowering local governments to explore the possibilities of RCV.

As one of us wrote in a letter to Senate elections committee chairwoman Sen. Katie Sieben, DFL-Newport, there are many reasons some cities want to pursue RCV: "more civil campaigns, greater voter choice, broader participation, its ability to remove barriers — by eliminating the primary — for students, military voters and other overseas voters."

We understand it's likely that some cities don't want to pursue RCV — and, again, it's important to be clear that this bill would have changed nothing for them. We seek the statewide framework and guidance this bill would have brought. In the meantime, we'll continue working with our constituents to explore the innovation of RCV in our respective cities. But next session? We'll be back.

*Pete Lindstrom is mayor of Falcon Heights. Emily Larson is vice president of the Duluth City Council.*



Fred Matamoros • News Tribune/MCT.

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**Kennedy**

**&**

**Graven**

**CHARTERED**

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(612) 337-9310 fax  
email: mnorton@kennedy-graven.com

**MEMORANDUM**

**TO:** Crystal Charter Commission

**FROM:** Michael T. Norton, Attorney

**CC:** Chrissy Serres, City Clerk

**DATE:** March 28, 2014

**RE:** Data Practices Compliance Issues

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Recently while researching other charter commission issues, I came across an opinion from the Minnesota Commissioner of Administration addressing compliance requirements for charter commissions under the Minnesota Government Data Practices Act (“MGDPA”). The Commissioner issues opinions relating to compliance requirements based on requests from individuals and entities seeking guidance.

The Crystal Charter Commission is a governmental entity created by state law with its members appointed by Hennepin County District Court’s Chief Judge. While the Commission is closely aligned with the City of Crystal, it is not a governmental entity directly under the management of the City. It is true of course that the Commission receives staff help from the City Clerk, the City Manager and the City Attorney in order to undertake its governmental activities. The Commission creates and receives “government data” that is relevant to the Commission’s activities. This data includes the organizational documents, meeting minutes, various other records including reports to the public and the Crystal City Council. While I do not recall any specific requests for data from the Commission in recent years, we are in an election year and it may be that citizens or other individuals may want to have access to data maintained by the Commission. As a result, it is appropriate that the Commission develop materials to show that it is in compliance with the MGDPA, Minnesota Statutes Chapter 13.

The primary requirement for the Commission to comply with the MGDPA is that it must prepare a public access procedure as required by Minn. Stat. § 13.03, subd. 2(b). This statute requires that the Commission prepare and have on file the procedures that must be followed if an individual is seeking government data maintained by the Commission. The requirements in brief are as follows:

1. Appointment of a “responsible authority” – this individual is responsible for collecting and storing data maintained by the Commission and complying with MGDPA dissemination requirements – typically the City Clerk would perform this function;
2. Develop procedures to be followed by individuals seeking access to data;
3. Develop a procedure for collecting fees where permitted by the MGDPA;
4. Develop procedures to allow individuals to inspect and copy commission data.

The City Clerk will provide some examples of such policies for the Commission to consider at the next meeting.

**CITY OF CRYSTAL  
CHARTER COMMISSION**

**DATA PRACTICES POLICY**

**I. INTRODUCTION**

This policy is adopted to comply with the requirements of Minnesota Statutes Chapter 13.

**II. RESPONSIBLE AUTHORITY**

The person who is the responsible authority for compliance with Minnesota Statutes Chapter 13 is the City Clerk, as designated by Charter Commission Resolution #2014 -01. The responsible authority may designate certain other city employees in complying with this policy.

**III. ACCESS TO PUBLIC DATA**

- a. All information maintained by the Charter Commission is public unless there is specific statutory designation that gives it a different classification. Requests will be received and processed only during normal business hours.
- b. If copies cannot be made at the time of the request or the compilation of data requested is difficult, copies must be supplied as soon as reasonably possible.

Categories are as follows:

<b>Data on Individuals (Natural Persons)</b>	<b>Data Not on Individuals</b>	<b>Degree of Accessibility</b>
Public	Public	Accessible to anyone
Private	Nonpublic	Accessible to data subjects and to government officials whose duties reasonably require access
Confidential	Protected Nonpublic	Accessible only to government officials whose duties reasonably require access

The Charter Commission uses the State of Minnesota’s General Records Retention Schedule which lists data series maintained by the Charter Commission and their classifications.

## **A. People Entitled to Access**

Any person has the right to inspect and copy public data (there may be charges associated with obtaining copies). The person also has the right to have an explanation for the meaning of the data. The person does not need to state his or her name or give the reason for the request. Staff may ask clarifying questions for the sole purpose of facilitating access to the data.

## **B. Form of Request**

Requests for access to public data may be made by telephone, in writing, or in person.

## **C. Time Limits**

- a. Requests will be received and processed only during normal business hours.
- b. If copies cannot be made at the time of the request or the compilation of data requested is difficult, copies must be supplied as soon as reasonably possible.

## **D. Fees**

Fees may be charged only if the requesting person asks for a copy. Fees will be charged according to the City of Crystal's fee schedule, unless there are non-standard fees involved for the actual costs associated with the searching for, retrieving, summarizing, or mailing the data. The fee may not include time necessary to separate public from non-public data.

# **IV. ACCESS TO DATA ON INDIVIDUALS**

Information about individual people is classified by law as public, private or confidential.

## **A. People Entitled to Access**

- a. Public information about an individual may be shown or given to anyone.
- b. Private information about an individual may be shown or given to:
  - i. The individual, but only once every six months, unless a dispute has arisen or additional data has been collected.
  - ii. A person who has been given access by the express written consent of the data subject.
  - iii. People who are authorized access by the federal, state or local law and court order.
  - iv. People about whom the individual was advised at the time the data was collected.
  - v. People within the city staff, the Charter Commission and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.
- c. Confidential information may not be given to the subject of the data, but may be shown or given to:

- i. People who are authorized access by federal, state or local law and court order.
- ii. People within the city staff, the Charter Commission and outside agents (such as attorneys) whose work assignments or responsibilities reasonably require access.

## **B. Form of Request**

Any individual may request verbally or in writing if the Charter Commission has stored data about that individual and whether the data is classified as public, private, or confidential.

All requests to see or copy private or confidential information must be in writing.

## **C. Identification of Requesting Party**

The responsible authority or designee must verify the identity of the requesting party as a person entitled to access. This can be through personal knowledge, presentation of written identification, or other reasonable means.

## **D. Time Limits**

- a. Requests will be received and processed only during normal business hours.
- b. The response must be as soon as reasonably possible. In most cases, it should be within 10 working days. If not, the responsible authority may require additional days to respond if it notifies the requesting person that it cannot comply and approximately how many days will be needed to comply with the request.

## **E. Fees**

Fees may be charged in the same manner as for public information.

## **F. Summary Data**

Summary data is statistical records and reports derived from data on individuals but which does not identify an individual by name or any other characteristic that could uniquely identify an individual. Summary data derived from private or confidential data is public. The responsible authority or designee will prepare summary data upon request, if the request is in writing and the requesting party pays for the cost of preparation. The responsible authority or designee must notify the requesting party about the estimated costs and collect those costs before preparing or supplying the summary data. This should be done within a reasonable amount of time after receiving the request. If the summary data cannot be prepared within 10 working days, the responsible authority must notify the requester of the anticipated time schedule and the reasons for the delay.

Summary data may be prepared by “blacking out” personal identifiers, or cutting out portions of the records that contain personal identifiers.

The responsible authority may ask an outside agency or person to prepare the summary data if 1) the specific purpose is given in writing; 2) the agency or person agrees not to disclose the private or confidential data; and 3) the responsible authority determines that access by this outside agency or person will not compromise the privacy of the private or confidential data.

## **G. Juvenile Records**

The following applies to private (not confidential) data about people under the age of 18.

**Parental Access.** In addition to the people listed above who may have access to private data, a parent may have access to private information about a juvenile data subject. “Parent” means the parent or guardian of a juvenile data subject, or individual acting as a parent or guardian in the absence of a parent or guardian. The parent is presumed to have this right unless the responsible authority or designee has been given evidence that there is federal law, state law, court order, or other legally binding document which prohibits this right, or upon request in writing by the minor if the responsible authority determines that withholding the data would be in the best interest of the minor.

## **V. DENIAL OF ACCESS**

If the responsible authority or designee determines that the requested data is not accessible to the requesting party, the responsible authority or designee must inform the requesting party at the time of the request or in writing as soon after the request as possible. The responsible authority must give the specific legal authority, including statutory section, for withholding the data. The responsible authority or designee must place an oral denial in writing upon request. This must also include the specific legal authority for the denial.

## **VI. COLLECTION OF DATA ON INDIVIDUALS**

The collection and storage of information about individuals will be limited to that necessary for the administration and management of programs specifically authorized by the state legislature, city council or federal government.

When an individual is asked to supply private or confidential information about the individual, the individual must receive a Tennessee warning which contains:

1. The purpose and intended use of the requested data;
2. Whether the individual may refuse or is legally required to supply the requested data;
3. Any known consequences from supplying or refusing to supply the information; and

4. The identity of other persons or entities authorized by state or federal law to receive the data.

A Tennessean warning is not required when an individual is requested to supply investigative data to a law enforcement officer.

A Tennessean warning may be on a separate form or may be incorporated into the form that requests the private or confidential data.

## **VII. CHALLENGE TO DATA ACCURACY**

An individual who is the subject of public or private data may contest the accuracy or completeness of that data. The individual must notify the responsible authority in writing describing the nature of the disagreement. Within 30 days, the responsible authority or designee must respond and either (1) correct the data found to be inaccurate or incomplete and attempt to notify past recipients of inaccurate or incomplete data, including recipients named by the individual, or (2) notify the individual that the authority believes the data to be correct.

An individual who is dissatisfied with the responsible authority's action may appeal to the Commission of the Minnesota Department of Administration, using the contested case procedures under Minnesota Statutes Chapter 14. The responsible authority will correct any data if so ordered by the Commissioner.

## **VIII. DATA PROTECTION**

### **A. Data Safeguards**

Private and confidential information will be stored in files or databases that are not readily accessible to individuals who do not have authorized access and which will be secured during hours when offices are closed.

Private and confidential data must be kept only in secure offices, except when necessary for Charter Commission business.

Only those employees whose job responsibilities require them to have access will be allowed access to files and records that contain private or confidential information. These employees will be instructed to:

1. Not discuss, disclose, or otherwise release private or confidential data;
2. Not leave private or confidential data where non-authorized individuals might see it; and
3. Shred private or confidential data before discarding.

**CRYSTAL CHARTER COMMISSION**

**RESOLUTION NO. 2014-01**

**RESOLUTION APPOINTING CITY CLERK CHRISTINA SERRES  
AS CRYSTAL CHARTER COMMISSION'S  
DATA PRACTICES COMPLIANCE OFFICIAL**

WHEREAS, the Crystal Charter Commission is a governmental entity created by State law with its members appointed by the Hennepin County District Court's Chief Judge; and

WHEREAS, as a governmental entity, the Crystal Charter Commission is required to comply with provisions of Minnesota Statutes Chapter 13 regarding access to data; and

WHEREAS, Minnesota Statutes Chapter 13 requires that governmental entities designate a person to act as its data practices compliance official to receive questions or concerns regarding problems in obtaining access to data or other data practices problems within the city, and,

WHEREAS, the Crystal Charter Commission desires to satisfy the requirement for appropriate access to data by immediately appointing a qualified data practices compliance official as required under statute.

BE IT RESOLVED, the Crystal Charter Commission appoints the City Clerk as the data practices compliance official to receive questions and concerns regarding problems in obtaining access to data or other data practices problems.

BE IT FURTHER RESOLVED that the Crystal City Council appoints Christina Serres, City Clerk, as the Responsible Authority for the purposes of meeting all requirements of Minnesota Statutes, Chapter 13.

Adopted by the Crystal Charter Commission this 22<sup>rd</sup> day of April, 2014.

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Harley Heigel, Chair

ATTEST:

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Gail Van Krevelen, Secretary to Commission