



**CHARTER COMMISSION AGENDA**

**November 12, 2019 – 7:00 P.M.**

**CHARTER COMMISSION MEETING**

**MINNEHAHA ROOM**

**UPPER LEVEL**

**MINNETONKA COMMUNITY CENTER**

1. Call to order
2. Minutes: Nov. 20, 2018
3. Report of city attorney
4. Ranked choice voting and 2019 meeting schedule
5. Consideration of amendment to sections 5.08 and 5.09 of the Minnetonka city charter
6. Election of officers
7. Annual report
8. Other business
9. Adjournment

**Attachments:**

- a. Minutes of Nov. 20, 2018
- b. Memo from city attorney dated Oct. 25, 2019
- c. Staff report from Sept. 9, 2019 council study session
- e. City calendar 2020
- f. Calendar of charter commission availability
- g. Draft annual report



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**MINUTES OF THE  
MINNETONKA CHARTER COMMISSION**

**Nov. 20, 2018**

1. CALL TO ORDER

Chair Northrup called the meeting to order at 7:04 p.m.

Members present: John Cheleen, John Northrup, Terry Schneider, LuAnn Tolliver, Brad Wiersum.

Members absent: Karen Anderson, Sandal Hart, David Larson and Linnea Sodergren (all excused absences).

Staff present: City Attorney Corrine Heine.

2. MINUTES: NOV. 9, 2017 AND SEPT. 25, 2018

Schneider moved, Cheleen seconded, a motion to approve the minutes of the Nov. 9, 2017 charter commission meeting. With the exception of an abstention by Commissioner Wiersum, all voted "aye."

Commissioner Wiersum noted several clerical corrections to the proposed minutes of Sept. 25, 2018. Wiersum moved, Schneider seconded, a motion to approve the minutes of the Sept. 25, 2018 charter commission meeting. All voted "aye."

3. REPORT OF CITY ATTORNEY

The city attorney provided her report regarding legislation enacted in 2018 and court decisions issued in 2018 that had a bearing on city charter matters.

4. CONSIDERATION OF CHANGE TO SECTION 2.03, TERMS OF OFFICE

As directed by the commission at its Sept. 25, 2018 meeting, the city attorney prepared a proposed amendment to Section 2.03, subdivision 2 of the city charter. The amendment removes a conflict between the charter and state law by providing that the terms of city council members start on the first Monday in January.

Schneider moved, Cheleen seconded, a motion to recommend the amendment to the

city council. All voted “aye.”

#### 5. CONSIDERATION OF CHANGE TO SECTION 2.06, VACANCIES IN OFFICE

The city attorney reviewed the draft amendment to Section 2.06 of the charter. She indicated that the proposed amendment included a reorganization of the subdivisions, to flow in a more chronological fashion, and the addition of headings to provide guideposts.

In the proposed draft, the attorney recommended removing a provision in subdivision 3 of the existing section that provided for an “automatic vacancy” in certain cases. The attorney explained that, with the current wording, it was possible for a council member’s seat to be declared vacant based on an unproven allegation that the member was no longer a resident of the ward or city – which raises concerns under the Minnesota constitution. The attorney mentioned that the commission should determine the time period for the council to make an investigation and decision when a resident alleges that a vacancy exists. The attorney noted that issues of residency can be factually complicated and may depend upon issues of subjective intent to return to the city. Commissioner Wiersum suggested 45 days, and there was general agreement by other commission members.

Commissioner Schneider asked what would happen if the council were tied. City Attorney Heine responded that if the council did not make a decision within the time period, the issue could be resolved a court action.

The city attorney noted that the proposed subdivision 4 describes the process for filling a vacancy. She recommended a change from the existing charter in those cases where more than two years remain in the term of a vacant office. Although the current charter allows the council 60 days to call a special election, she recommended changing the charter to require that the council call the special election at the first council meeting that is held after the vacancy occurs. Under the revised language, the council may still make an interim appointment, either at the same meeting or at a subsequent meeting.

Commissioner Schneider asked what would happen if the council declared a vacancy, but the current office holder disputed the council’s decision that a vacancy existed. The city attorney explained that the office holder would need to challenge the city council’s decision in a court action.

Subdivision 5 of the proposed draft describes the requirements for holding a special election. The requirement to hold the special election within 90 days after the council calls for the special election is removed, because it conflicts with the new uniform

election dates that are established by state law. Under the proposed language, a special election must be held at the earliest date allowed under state law, except, that when a special election will occur in the same year as a regular municipal election, then the city council may postpone the special election until the regular municipal election. In that case, a primary could be held if the timing of the vacancy permits it.

Northrup moved, Schneider seconded, a motion to recommend the amendment to the city council, with the addition of 45 days at subdivision 3.b. and the combination of the contents of paragraphs b. and c. in subdivision 4 as a single paragraph b. All voted "aye."

#### 6. RE-APPOINTMENTS IN 2019 AND NEW APPOINTMENTS

The terms of two members will expire during 2019 – David Larson and Terry Schneider. The city attorney reported that David Larson had informed her that he would seek re-appointment. Commissioner Schneider indicated that he would check back with the city attorney at a later date, closer to the expiration of his term.

#### 7. ELECTION OF OFFICERS

Schneider moved, Wiersum seconded the following slate of candidates: John Northrup, Chair; Linnea Sodergren, Vice-Chair; and LuAnn Tolliver, Secretary. All voted "aye."

#### 8. ANNUAL REPORT

The city attorney provided the draft annual report and indicated that relevant information from the Nov. 20 meeting would be added. Tolliver moved, Northrup seconded, a motion to authorize the city attorney to submit the annual report. All voted "aye."

#### 9. 2019 MEETING SCHEDULE

The commission selected Nov. 12, 2019 at 7 p.m. for the annual meeting in 2019. The city attorney will confirm an available meeting room.

#### 10. OTHER BUSINESS

The chair asked whether there were any issues that the commission wanted to review in the upcoming year. There were no suggestions.

11. ADJOURNMENT

Wiersum moved, Cheleen seconded, to adjourn the meeting. All voted "aye." The chair declared the meeting adjourned at 8:12 p.m.

Respectfully submitted,

LuAnn Tolliver  
Secretary

**To:** Minnetonka Charter Commission  
**From:** Corrine Heine, City Attorney  
**Date:** Oct. 25, 2019  
**Subject:** Meeting of Nov. 12, 2019; Agenda Items 3, 4 and 5

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### 3. Report of city attorney

During the year, I monitor legislation and court decisions that address the authority of charter cities.

#### Legislation

There was no legislation in the 2019 legislative session that directly affected the authority of charter cities.

#### Court decisions

- *Clark v. City of St. Paul*, decided by the Minnesota Supreme Court in October 2019. This involves the use of referendum to rescind an ordinance that established organized collection in the city of St. Paul. A state law establishes a process for implementing organized collection; that process involves providing public notices to the public and licensed haulers, and holding meetings and negotiations with haulers. St. Paul followed the process and, at the conclusion of the process, entered into a contract with a consortium of haulers to provide solid waste collection services in the city. After signing the contract, the city adopted an ordinance to make changes to the city code that were necessary to implement the contract. Residents submitted a referendum petition on the ordinance. The city refused to put the issue on the ballot, on the grounds that the state law preempted the use of referendum and that the referendum was an unconstitutional impairment of contract. The petitioners sued. The district court ruled in favor of the petitioners, and the court of appeals affirmed. The city's preemption claim was premised on the theory that the referendum conflicted with the process prescribed by statute. The court of appeals held that there was no conflict with state law, because the city could comply with both the statute's procedural requirements and its charter requirements for referendum. The court also held that the contract with the haulers was not constitutionally impaired, even if the referendum resulted in the contract being breached.
- *Minnesota Chamber of Commerce v. City of Minneapolis*, decided by the Minnesota Court of Appeals in April 2019. Like the *Graco* case (see below), this case involved a challenge to an ordinance enacted under the city's home rule powers. The Minneapolis city council adopted an ordinance requiring employers to provide sick leave to employees. The Minneapolis Chamber of Commerce and other parties sued, alleging that the ordinance was preempted by state law, conflicted with state law, and improperly had extraterritorial

effect. The district court held that the city could apply the ordinance to employers located in the city but issued a permanent injunction from imposing the requirements on employers located outside the city. The court of appeals affirmed the holding that state law did not preempt the city from enacting the sick-and-safe leave ordinance, and it reversed the district court's decision that the ordinance had impermissible extraterritorial effect. The court held that because the ordinance only required leave to accrue based on hours worked within the city and allowed the accrued leave to be used when scheduled to work in the city, there was no impermissible extraterritorial effect. The Minnesota Supreme Court accepted review of this case, and that appeal is pending.

- *Graco v. City of Minneapolis*, decided by the Minnesota Court of Appeals in March 2019. This case does not directly involve a challenge to a city charter provision, but it demonstrates the breadth of powers that home rule charter cities may exercise. The Minneapolis city council adopted an ordinance establishing a \$15 per hour minimum wage. The ordinance applies to employees who work at least two hours per week within Minneapolis city limits. Graco Corporation and other parties sued, but Graco is the only remaining plaintiff in the action. The district court ruled in favor of the city, holding that the ordinance was not preempted by state law, did not conflict with state law, and did not improperly have extraterritorial effect. The court of appeals affirmed the district court. In its decision, the court noted that charter cities have “all the legislative power possessed by the legislature of the state” as to municipal matters, except where the legislature has expressly or impliedly restricted those powers. The Minnesota Supreme Court has accepted review of this case, and that appeal is pending.
- *Butler v. City of St. Paul*, decided by the Minnesota Court of Appeals in January 2019. Residents submitted a petition to amend the St. Paul city charter, to require that city elections occur in even-numbered years instead of odd-numbered years. Under the charter, the petition required 7,011 valid signatures. The elections office used the State Voter Registration System (SVRS) to determine whether the signatures were valid, and it determined that there were only 5,866 valid signatures on the petition. One of the organizing members of the petition drive sued, claiming that the city improperly rejected a number of signatures because, according to the SVRS, they were not registered voters who resided in St. Paul. He claimed that the voters did live in St. Paul at the time they signed the petition, even though that was not what the SVRS showed. The court held that the city reasonably relied on the SVRS in rejecting the petition; it was the plaintiff's burden to show that the city had committed an error.

#### **4. Ranked choice voting**

At its September 9, 2019 study session, the city council discussed the topic of ranked choice voting for municipal elections. A copy of the staff report from that council meeting is included with this packet. At the conclusion of the meeting, the council indicated that the issue should be referred to the charter commission for study and a recommendation.

As an independent body, the charter commission is not required to act at the direction of the city council on this issue. However, because ranked choice voting cannot be implemented without a charter amendment, the charter commission is an appropriate body to study the issue. In addition,

it could be argued that, as an appointed body, the charter commission is best positioned to provide an objective and impartial viewpoint on the procedure that the city should use to elect its officials.

If the charter commission agrees to undertake a study of ranked choice voting, the next issue for the commission is the process that it wants to follow. The following are offered as points of comparison:

- Processes followed by other cities that considered or adopted ranked choice voting:
  - St. Louis Park. The city council asked the charter commission to study ranked choice voting in 2017. The charter commission held six meetings:
    - Oct. 24, 2017 and Dec. 6, 2017. Commission discussed the recommendation from the council and the commission's interest in studying ranked choice voting. On Dec. 6, 2017, the commission directed the executive committee of the commission to develop a proposed public process and report back to the committee.
    - Jan. 10, 2018. Commission reviewed the public process proposal. Commission decided to hold two meetings: an expert panel discussion at which commission members could ask questions of persons experienced in elections and ranked choice voting; and a listening session at which the commission could hear public comment on the proposal.
    - Feb. 13, 2018. The commission asked questions of an expert panel consisting of Loren Botner (election judge, St. Louis Park), Deb Brinkman (President, League of Women Voters St. Louis Park), Ginny Gelms (Hennepin County Elections Manager), Professor David Schultz (political science professor, Hamline University), Mary Wickersham (election judge, St. Louis Park), Jeanne Massey (Executive Director, FairVote MN) and Chris Tholkes (election judge, St. Paul).
    - March 6, 2018. The commission received public comment on ranked choice voting.
    - March 13, 2018. The commission voted 10-2 to recommend adoption of an ordinance amending the city charter to provide for ranked choice voting.
  - Minneapolis. The city council appointed a task force on March 10, 2006 to study ranked choice voting. According to the progress reports submitted by the task force:
    - The first meeting was an overview of instant runoff voting and procedures for charter amendments.
    - At the second meeting, the task force discussed issues regarding the constitutionality of ranked choice voting systems, Minnesota statutes, and use of ranked choice voting in other jurisdictions in the U.S.
    - At the third meeting, the elections staff outlined voter education and election judge education efforts that would be needed, and reviewed education efforts used in San Francisco. The task force provided a progress report to the city council after this meeting.
    - In the final two meetings, the task force considered polling equipment needs and procedures and conducted a conference call with San Francisco elections staff. The task force submitted a final report to the city council in May 2006.



- The city council subsequently referred the proposed charter amendment to the charter commission, which rejected the proposal. The city then put the issue on the ballot, where it was approved by the voters.
- Process followed by Minnetonka for change in mayor's term of office
  - Jan. 12, 1989. During the course of a review of the entire charter, the commission raised the issue of whether the mayor's term should be four years instead of two.
  - Feb. 9, 1989. A motion to increase the term failed on a 5-4 vote.
  - Dec. 14, 1989. The commission received a report from the assistant city manager of Eden Prairie regarding that city's decision to change the mayor's term from two to four years.
  - Jan. 11, 1990. The commission decided to move forward with increasing the mayor's term to four years.
  - Feb. 8, 1990. The commission looked at options for implementing the mayor's four-year term. Ultimately, the commission voted to recommend that the city council put on the ballot an amendment that would change the mayor's term to four years, with elections for the mayor's office only in even-numbered years.
  - May 14, 1990. The commission reported to the city council at a study session regarding the work that the commission had been doing on the charter, including the recommendation to change the mayor's term. There was a division of opinion at the city council.
  - June 14, 1990. The commission voted to delay placing the question on the ballot from 1990 to 1991.
  - Sep. 13, 1990. The commission decided to postpone further work on the issue until 1991.
  - Jan. 10, 1991. The commission obtained input from the mayor and a council member on the issue of the mayor's term and even-year elections.
  - Feb. 21, 1991. In two separate agenda items, the commission received input from two members of the city council. (I.e., the commission heard from four council members but no more than two council members were present at the meeting at any given time.) Based on the Jan. and Feb. meetings, two members of the council favored a four-year term, and the rest wanted to keep the two-year term.
  - March 14, 1991. The commission voted to rescind its prior actions regarding the mayoral term, but the motion failed. The commission formed a task force of three commission members to make a recommendation to the commission in April.
  - April 11, 1991. The task force recommended rescinding the prior actions and instead recommending that the mayor have a four-year term and be elected in odd-numbered years. The commission decided to recommend the amendment to the city council, to be put on the ballot.
  - May 9, 1991. The commission approved the language for the amendment and approved an implementation plan, including how to publicize the proposed amendment and inform the public.
  - May 14, 1991. The commission reported to the city council at a council study session regarding the commission's plans for informing the public of the proposed amendment.
  - June 13, 1991. The commission reviewed the proposed ballot language and adopted a motion to recommend the ballot language to the city council.

- July 1, 1991. The city council approved the ballot language.
- Aug. 8, 1991. The commission discussed the plan for a public forum on the proposed amendment. The forum was to include a panel consisting of Larry Donlin (former mayor – in favor), Karen Anderson (council member - opposed), Barbara Link (charter commission chair), Stan Peskar (general counsel for the League of Minnesota Cities-neutral), and Larry Bakken (professor at Hamline, mayor of Golden Valley, vice president of League of Minnesota Cities board-neutral).
- Sept. 12, 1991. There was further discussion about the upcoming public forum and an article for the Minnetonka Memo.
- No records of the date for the public forum could be located, but it would have been held prior to the November election, where the voters approved the amendment.

## **5. Amendment to Sections 5.08 and 5.09 – Initiative and Referendum Elections**

In 2018, the charter commission recommended amendments to section 2.06 of the city charter, in order to address a 2017 change in state law. In the 2017 legislation, the legislature required that municipal special elections must be held on one of five days in a year. That created a conflict with provisions in section 2.06, which required special elections to be held within time periods that the state law no longer accommodates.

The proposed amendments to sections 5.08 and 5.09 are based on the same conflict. In both instances, the charter contemplates that a municipal election, either regular or special, could be held within 60 days after a triggering decision is made. However, state law requires cities to provide 74 days' advance notice to the county auditor of any municipal election, and the state's requirement for five uniform dates for elections makes it impractical to simply extend the 60-day period to some other time period.

Under the proposed amendments, an election that is required by either an initiative or referendum petition must be held at the earliest possible date that is permissible under state law. An elections in response to an initiative petitions is restricted to a regular municipal or state general election, because the charter does not allow a special election on initiative petitions.

## **City Council Study Session Item #2 Meeting of September 9, 2019**

**Brief Description:** City charter and elections

### **Background**

Some residents, as well as the nonprofit group FairVote Minnesota, have asked the city council to consider implementation of ranked choice voting (RCV) in Minnetonka. RCV is a voting procedure that could be implemented by an amendment to the city's charter. This staff report begins by describing what home rule charters are, how charters may be amended, the Minnetonka City Charter's chapter regarding the form of government and elections, and a history of amendments to those chapters. The remainder of the staff report addresses what RCV is, where it is in use, and anticipated questions about the use of RCV in Minnetonka. Note that a representative of FairVote has asked to provide a short presentation at the study session to demonstrate how RCV works.

### **Home Rule Charter Authority**

Minnetonka is a home rule charter city. The creation of charter cities is authorized by the Minnesota Constitution and Chapter 410 of state statutes. A charter city can exercise any power allowed under its local charter, so long as the power does not conflict with state laws and is not preempted by state law. The adoption of a city charter gives charter cities more local control over the manner in which the city is organized and the powers that it can exercise. This is in contrast to statutory cities, which can only exercise those powers expressly or impliedly provided by state statutes. The charter for the City of Minnetonka was adopted by an election held on November 4, 1969.

By law, all charter cities have a charter commission. The charter commission is independent of the city council, and its members are appointed by the chief judge of the county in which the city is located. The charter commission's statutory duty is to study the local charter and government, and it has a prescribed role in any proposal to amend the city charter.

State law allows the charter to be amended by any of the following procedures:

- The charter commission may propose an amendment to be put to the voters as a ballot question. The city council must determine the wording of the ballot question, but so long as the proposed amendment is constitutional, the council cannot refuse to submit the question to the voters.
- Registered voters may petition to amend the charter. State law and the charter contain detailed requirements, but in general, the petition is submitted to the city clerk to verify that the requirements for the petition have been met, and then it is submitted to the city council. As with the commission-proposed amendments, the council determines the wording of the ballot question but must submit the question to the voters, unless the amendment is not constitutional.
- By ordinance, the city council may propose an amendment to the charter commission. The charter commission has 60-150 days to review the proposed amendment and either return it to the city council or submit the commission's own proposed amendment. The

council then submits to the voters either its original proposal or the substitute amendment.

- The charter commission may recommend that the city council amend the charter by ordinance. After a public hearing, the council may adopt the ordinance by a unanimous vote of all members of the council. The charter amendment becomes effective 90 days after publication of the ordinance, unless a voter petition with the requisite number of signatures is timely submitted. If a sufficient petition is submitted, the council may rescind the ordinance or submit it to the voters. This is the only means to amend a charter that does not require submission to the voters.

### **Minnetonka City Charter – Provisions on Elections**

Chapter 2 of the Minnetonka City Charter outlines the city's form of government. Several characteristics of Minnetonka's form of government would be available even if the city were a statutory city, including: council-manager form of government; seven-member council; and four-year terms for mayor and council members. Minnetonka's ward system, however, is not generally available to statutory cities. Minnetonka's charter provides for the election at large of the mayor and two council members, and the election of the remaining four members from each of four wards. Although there are some unique ways in which a statutory city might have a ward system, the general laws do not allow statutory cities to create ward systems.

Chapter 4 of the Minnetonka City Charter governs nominations and elections. Except for special elections, the charter contemplates a single-winner, majority voting system in odd-numbered years. A single-winner system is one in which voters are allowed to vote for only one candidate per office; this contrasts with multi-winner systems, where voters can vote for more than one candidate for an open seat, and a designated number of the top vote-getters are elected. (E.g., "vote for up to three" school board members.) In a majority voting system, the winner must have a majority of votes to win, as contrasted with a plurality voting system, where the top vote-getter wins, even if he or she has less than a majority of all votes cast.

Minnetonka's charter requires a primary for general elections any time there are more than two candidates for an office; this results in a majority voting system. However, Section 2.06 of the charter provides that there is no primary in a special election to fill a vacancy, except when the special election is held concurrently with a state general election and there is adequate time to conduct a primary. Therefore, the city uses a plurality voting system for special elections in which no primary is conducted.

Since its original adoption in 1969, Chapter 2 of the city charter has been amended 22 times – twice by submission of a ballot question to the voters, and 20 times by unanimous adoption of an ordinance that the charter commission recommended to the council. Of the amendments accomplished by ordinance, two were part of general re-writes of the charter, for gender neutrality and language simplification; others involved amendments to conform to state law or amend provisions that related to council vacancies, qualifications for office, incompatible offices, salaries, and boards and commissions.

The two amendments that were submitted to the voters for approval were: the adoption of the ward system for electing council members, approved by the voters in February 1970; and, the change in the mayor's term from two years to four years, approved by the voters in November

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1991. Chapter 4 has been amended six times – five times by unanimous adoption of an ordinance (two of which also amended Chapter 2) and once by the February 1970 ballot issue.

***Discussion Point:***

- ***Does the city council have questions about the city charter's provisions or the methods of amending the charter?***

**Proposal for ranked choice voting**

The remainder of this staff report is organized around common questions related to ranked choice voting (RCV).

What is ranked choice voting?

RCV is sometimes called “instant runoff voting.” RCV is a methodology that, in general terms, eliminates the process of separate primary and general elections in favor of a single election in which voters may rank candidates for a particular office in order of the voters’ preference – e.g., first, second, third, etc.

Votes are initially tabulated based on the first choices of all voters. If one candidate obtains a majority of all votes cast, that candidate is the winner, and no additional rounds are counted. However, if no candidate obtains a majority of all votes cast, the candidate with the lowest number of first-choice votes is eliminated, and a second round of counting is conducted for the continuing candidates.

In the second round, the first-choice votes in favor of all continuing candidates are counted, and the second-choice votes of those voters who had marked the eliminated candidate as their first choice are allocated among the continuing candidates. If the second round does not result in a majority vote in favor of a single candidate, the candidate with the lowest vote total is eliminated and a third round of voting is conducted. Counting continues in the same manner for as many additional rounds as may be needed. A voter’s first-choice is used until that candidate is eliminated, then the second-choice vote is used until that candidate is eliminated, and then the third choice vote is used. When one candidate obtains a majority of the votes being counted, that candidate is the winner, and no additional rounds of voting occur.

As noted, a representative of FairVote has asked to provide a short presentation at the study session to demonstrate how RCV works. Attached is an executive summary and the presentation submitted by FairVote.

Is ranked choice voting legal in Minnesota?

State law does not currently allow RCV for state elections or for municipal elections in statutory cities. Home rule charter cities, however, may implement RCV by charter amendment and adoption of a properly-drafted ordinance that governs the details of the RCV process. In 2009, the Minnesota Supreme Court upheld the constitutionality of Minneapolis’ RCV ordinance.

Home rule charter cities may provide for RCV in their charters, but only if the charters also provide for municipal elections in odd-numbered years. Due to issues of conformity with the ballot requirements for state general elections, the consensus is that RCV cannot be conducted on municipal elections in even-numbered years.

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Which Minnesota cities are using ranked choice voting or considering its use?

The following cities have adopted RCV:

- Minneapolis amended its charter to provide for RCV in 2006. A committee of the city council initiated the proposal in March 2006 by asking the council to appoint a task force to study the issue. The council submitted a proposed amendment to the charter commission, but the charter commission rejected it twice. The issue was submitted to the voters at the Nov. 7, 2006 election, and it passed 78,741 (64.95%) to 42,493 (35.05%). The council approved the ordinance to establish RCV procedures in 2008. After prevailing in a lawsuit that challenged the constitutionality of RCV, the city first used RCV in the 2009 municipal election. It was again used in 2013 and 2017. Since its adoption in 2008, the ordinance on elections procedures has been amended three times, in 2009, 2013, and 2015.
- St. Paul amended its charter to provide for RCV in 2009, after receiving a voter petition to amend the charter. The voters approved the amendment in November 2009. The council adopted the ordinance establishing RCV procedures in 2011 and amended it in 2011, 2015 and 2018. It has been used in municipal elections since 2011.
- St. Louis Park adopted RCV in 2018, and it will be used for the first time in the 2019 municipal election. According to city records, the city council discussed the use of RCV on numerous occasions, beginning in 2006. In 2017, the council adopted a resolution asking the charter commission to study and make recommendations on the use of RCV. The charter commission discussed the issue at six meetings between Oct. 24, 2017 and Mar. 13, 2018, including a “listening session” where the commission heard from an expert panel, as well as question-and-answer session for the public. On Mar. 13, 2018, the commission recommended that the city council amend the charter by ordinance. The council adopted the ordinance on May 8, 2018, and the charter amendment was effective Aug. 15, 2018. The council adopted an ordinance establishing RCV procedures on Dec. 3, 2018.

The following cities have considered RCV but have not adopted it:

- Duluth proposed to amend its charter in 2015 to allow RCV. The ballot measure failed, with 5,271 (25.29%) voting in favor of the proposed charter amendment and 15,564 (74.71%) voting against.
- Brooklyn Park considered the use of RCV in 2016 but decided not to proceed. The charter commission discussed the issue over a four-year period, from 2011 to 2015. The commission presented a recommendation report to the city council in December 2015. After a public hearing on Feb. 8, 2016, the city council voted unanimously not to amend the city charter. It should be noted that Brooklyn Park holds its municipal elections in even years. Due to an issue of conformity with the legal requirements for state ballots, implementation of RCV requires odd-year elections.
- The Rochester Charter Commission considered the use of RCV in 2018 but chose not to move forward. Rochester holds its municipal elections in even years.

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RCV is under consideration in the following cities:

- The City of Bloomington is currently studying RCV. Its city council and charter commission held a joint meeting on May 16, 2019, at which time the council expressed interest in holding additional study sessions before making a decision on whether to proceed with RCV.
- The City of Red Wing's city council has expressed interest and, on July 8, 2019, referred the issue to the Red Wing Charter Commission for consideration

How many primaries has the city of Minnetonka had in the past 20 years?

One of the potential benefits of RCV is that it eliminates primaries, making the below information pertinent. In the past 20 years, the City of Minnetonka has had four primaries.

2003 – Primary for Council Member Wards 1 & 4 (three candidates each)  
Voter turnout 4.4%

2005 – Primary for Council Member At Large Seat A (five candidates) and  
Council Member At Large Seat B (three candidates)  
Voter turnout 4.58%

2007 – Primary for Council Member Ward 4 (four candidates)  
Voter turnout 8%

2013 – Primary for Council Member Seat B (four candidates)  
Voter turnout 2.7%

The average voter turnout for general elections in Minnetonka from 2011 - 2017 was 14.5%.

How many special elections and appointments has the City of Minnetonka had in the past 20 years?

2002- Council appointment for Ward 3 vacancy because Ward 3 Council Member Koblick was elected to the Hennepin County Board of Commissioners.

2008 – Council appointment for mayoral vacancy because Mayor Callison was elected to the Hennepin County Board of Commissioners.

2009- Council appointment for At Large Seat B because Council Member Schneider was appointed as mayor.

2012- Special election for At Large Seat B because Council Member Greves resigned. No primary, but eight candidates were on the ballot. Voter turnout was 8%.

2018- Special election for Ward 3 because Council Member Wiersum was elected as mayor. No primary, but there were five candidates on the ballot. Voter turnout was 13%.

2018 – Council appointment for Ward 2 vacancy because Council Member Wagner resigned.

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2019- Council interim appointment for At Large Seat B until November special election because Council Member Acomb was elected to the Minnesota Legislature.

How does RCV affect the cost of elections?

The cost of odd year elections can vary depending on whether it is a single ward or citywide election. Primaries can range in cost from \$10,000 (single ward) to \$40,000 (citywide).

Election costs have increased over the past few years with new equipment, increase in the number of absentee voters, and supplies. Due to the fact that there has not been a primary in six years, there is no recent expense data.

Implementing RCV would result in additional costs for outreach and education, ballot printing, postage, ballot counter programming and additional staff time. First time education and outreach alone, depending on the scope of effort, could reach over \$25,000 based on discussions with St. Louis Park staff.

How does RCV impact or change election administration?

The process for election administration would not significantly change with RCV. However, written rules and procedures on how to conduct this type of election in the community would be needed, with direction from the city council.

A great effort would need to be focused on outreach and education during the transition to RCV, and continuing education on this process would be necessary for future elections.

The other change relates to results reporting/tabulating. The process for precinct election judges would not change: they would electronically report initial results to Hennepin County after the close of polling and return the voting machines' results sticks to city hall. After that point, however, RCV would require additional city staff time for vote tabulation. City staff would deliver the result sticks to the county, the county would load the data into their system and provide the city with a cast vote record spreadsheet.

***City staff would use the spreadsheet to manually tabulate the ranked choice voting results. The anticipated turnaround time to manually tabulate results could take days.*** It took Minneapolis one day to tabulate their last election, and the prior election took three days. This process would delay completing election judge payroll and other currently required post-election duties. There are some RCV tabulating programs being developed by the current equipment vendor, but nothing at this point is certified in Minnesota.

What would the staffing impacts be, if any?

Staff anticipates that additional staffing would be needed both to study the possible use of RCV and, if RCV is adopted, to implement it.

Due to other demands on the current full-time elections staff during 2020, temporary, part-time employees would need to be recruited and hired to handle overflow work. This would free up full-time elections staff to assist with the collection of information and public meetings related to the consideration of RCV. Presidential election years generate a higher volume of work than other election years. In 2020, the elections addition of a presidential nomination primary in March means that elections staff will be handling three elections in 2020. The estimated cost of the temporary assistance is \$50,600 - \$56,200.



If the city adopts RCV, additional staffing would be needed on an ongoing basis. For RCV to be successful, extensive voter outreach and education is necessary. Election judges would need additional training and instructions on how to work with voters at the polling locations, to answer questions and educate those unfamiliar with the RCV process. As part of voter education, and in collaboration with Hennepin County, staff would hold mock elections throughout the transition period to provide voters the opportunity to practice the process. Judges would be hired to execute and manage the planning and education process.

Because RCV would be used only for municipal elections in odd-numbered years, voters would use different voting systems from year to year. Staff anticipates utilizing the additional election staff to provide education and outreach on RCV in odd-numbered years and using the same staff to provide education on primaries and general elections in even-numbered years.

As a point of comparison, St. Louis Park created a multi-layered elections program with part of it entailing RCV. St. Louis Park has 16 precincts and 32,816 registered voters. Minnetonka has 23 precincts and 37,467 registered voters. Based on St. Louis Park's experience, and looking only at the election-related staff that city employed, Minnetonka staff estimates the need to hire one full-time staff person to handle voter outreach and education and RCV implementation, and temporary staff or resources as needed to assist existing elections and communication personnel. The estimated cost range for the full time employee is between \$91,100-\$99,350 including salary and benefits. Additionally, funds totaling \$20,000 - \$35,000 may be needed for technology, supplies, a potential intern and/or graphic design needs, for **a total estimated cost range of \$111,100 - \$134,350.**

How would this change the execution of elections with our partners, Secretary of State's office, Hennepin County, and school districts?

The office of the Minnesota Secretary of State (SOS) works directly with Hennepin County, and the county relays all information to the city. If Minnetonka chooses to use the SOS Election Night Reporting system so that the council results show up on the SOS webpage, that office would not have the ability to put a disclaimer that the results were just the first count results and that further counting may have to occur.

Our relationship with Hennepin County generally would stay the same. The county would continue to do all of the Voter Registration, Absentee Voting (Mail), UOCAVA, Equipment and Ballot Programming, Election Night Reporting and so on. The areas of change would involve designing RCV ballots and tabulating voting results.

During the odd years, the school districts will often have a school board race and a referendum question on the ballot. When this is the case, school district offices and ballot questions would likely be on the back of the ballot. That way the instructions pertain specifically to that type of election. Referendum ballot questions are straight forward – with a yes and a no option. The ballot for school district offices could be confusing because generally those are multi-winner elections. For example, there may be five candidates for three open seats; voters are instructed to vote for three candidates; the three top vote-getters win. RCV voting is not available for school districts. Therefore, the city side of the ballot would be RCV and the school district side would not.

What are other major election changes or factors to consider over the next few years?

Although not official, there has been conversation around a new piece of equipment to replace the current AutoMARK. The AutoMARK is an optical scan ballot marker designed for use by people who are unable to personally mark a ballot due to physical impairments or language barriers. This will require additional training of our judges and education to the voters who utilize this machine.

After the 2020 census, 2021/2022 will be the time for Minnetonka to redistrict to ensure balanced wards. This may or may not result in fewer or higher number of precincts and voting location changes for residents, as well as potential ward boundary changes for council members. City staff time would be needed to educate residents about those changes.

What would be the timing for RCV implementation?

Other cities that have implemented RCV have taken a period of time, generally several months, to study RCV, to obtain information from elections experts, and to solicit public input and disseminate information to the public. That task could be undertaken by the city council, assigned to a task force, or submitted to the charter commission for its consideration. It should be noted that the charter commission is an independent body and is not legally obligated to undertake review unless it is presented with an ordinance by the council. However, the charter commission has a cooperative history with the city council and is comprised of several former members of the council or city commissions.

***If the council wishes further study of RCV, city staff recommends that the issue be referred to the charter commission.*** If there is consensus at this evening's study session to do so, city staff would prepare an action item for an upcoming regular city council meeting for council to formally request the charter commission to study the issue.

If a study is undertaken, it would likely start in November 2019. The charter commission does not meet until November, and the council is in a period of transition, with elections pending and at least two new members starting in January. It is assumed the study would involve at least three meetings, including collection and review of information and one or more opportunities to hear from experienced election officials and the public. Based on the experience of other cities, it is estimated the study could be completed by June 2020.

If an amendment is proposed by the charter commission, it could be adopted by the ordinance process within approximately six to eight weeks, but it would not be effective for an additional 90 days after adoption – roughly November 2020. In the alternative, the issue could be put to the voters as a special election question at the November 2020 election; if the question were to pass, the amendment would be effective immediately. In either case, an early estimated effective date for the charter amendment is November 2020.

Following the adoption of the charter amendment, the council would need to adopt an ordinance that establishes the election procedures for Minnetonka. (For example, Minneapolis and St. Louis Park allow up to three candidates to be ranked, while St. Paul allows up to six.) That process would likely involve several council meetings for study, discussion, and public input. In any case, the earliest that RCV could be used would be the 2021 municipal election.

### **Discussion Points**

- ***Does the city council have any questions regarding ranked choice voting, particularly related to administration and costs?***
- ***Is the council interested in referring RCV to the charter commission for further study?***

### **Summary**

The City of Minnetonka is governed by a home rule charter, which makes it eligible under state law for ranked choice voting in odd-year elections. Although there is support from FairVote Minnesota to institute RCV in Minnetonka, further study would allow for a more in-depth analysis of the process and engage a broader range of voices in the discussion before a final decision is made to allow for RCV.

#### Submitted through:

Geralyn Barone, City Manager  
Mike Funk, Assistant City Manager/Administrative Services Director

#### Originated by:

Corrine Heine, City Attorney  
Moranda Dammann, Administrative Services Manager  
Becky Koosman, City Clerk

### Why Use Ranked Choice Voting?

- Minnetonka elections are typically positive and well-run. But voter turnout, especially in primaries, is very low (4% average), and special elections historically result in a winner without a majority.
- Ranked Choice Voting would allow Minnetonka to eliminate the primary, rolling all candidates into a single November election when turnout is much higher, electing candidates with a majority of support, and saving time/money.
- Minneapolis, St. Paul and St. Louis Park have established a blueprint and process that would make adopting it here straightforward.

### How Does Ranked Choice Voting Work?

- Instead of just picking one candidate per race, voters are allowed (but not required) to make a 1st/2nd/3rd choice
- The first preferences of each voter are counted. If any candidate receives a majority (50% +1) of the first preferences, they win. If no candidate reaches a majority, then the candidate with the fewest first preferences is eliminated. The voters who preferred the eliminated candidate then have their vote moved to their 2nd preference. The ballots are counted again, if a candidate has a majority, they are the winner. If not, candidates continue to be eliminated and ballots reallocated until one reaches the winning threshold.
- A voter's second or third choices have no value and is not counted unless their first choice is eliminated from the contest. A voter's third choice only counts if their first and second choices are eliminated.

### Why Ranked Choice Voting is Better

- Ranked Choice Voting eliminates low-turnout, costly and unrepresentative primaries. Several previous elections required a primary (and we should expect future elections will), with a voter turnout averaging 4%, and voter demographics that are unrepresentative of Minnetonka's population. Eliminating the costly and time-consuming primary frees up more resources for other city priorities, and streamlines the campaigning and voting process for candidates and voters.
- Our current special elections result in a winner without majority support, simply due to math. With 3 or more popular candidates, getting to 50% is challenging. Ranked Choice Voting would ensure a winner with majority support, by eliminating spoiler and vote-splitting dynamics.
- Ranked Choice Voting creates greater civic engagement because it allows more candidates to run through November in regular elections. More candidates and competitive elections foster more interaction between voters and candidates - discussing issues, raising election awareness. Voters have more power with their vote, are more satisfied with the outcome.

### A Proven, Easy and Popular Way to Vote

- Used by millions in the US, 100+ million globally. Used in Minneapolis for a decade, statewide in Maine. Dozens of cities from San Francisco to smaller cities in Utah. Validated by Minnesota State Supreme Court.
- Voters can rank as many or few candidates as they want. 92% of all 2017 voters in Minneapolis thought ranking was easy. 87% of voters ranked more than one candidate. 84% wanted to continue using the system. The effective ballot rate was 99.96%. Works with existing Hennepin County voting equipment.
- All kinds of Minnetonka residents like it. Seniors, busy professionals, parents and the disabled prefer one trip to the polls instead of two. Residents who prioritize low taxes, or those who expect Minnetonka to think ahead. People who want greater community engagement and inclusivity. Younger people with fresh eyes and a desire for more open and inclusive elections.

A circular button with a patriotic design. The top half is red with a row of five white stars. The middle section is white with the word "VOTE" in bold, black, sans-serif capital letters. The bottom half is blue with a row of five white stars. The button is set against a background of the American flag's stars and stripes.

**VOTE**

# OVERVIEW

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- **Where are we now?** We have two opportunities to improve our election process – low-turnout primaries, single day special elections.
- **How does it work?** Ranked Choice Voting is like a primary & general election rolled into a single voting day that results in a majority winner
- **What are the benefits?** It would reduce costs & ensure elections are more representative of voters and their preferences.
- **Is it a good idea?** Used by millions across US, overwhelmingly preferred by voters, validated by Minnesota Supreme Court.

# AGENDA SUMMARY

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1. How voting & counting works
2. The problems it addresses
3. What people think about it










# WHAT DOES A RANKED CHOICE VOTING BALLOT LOOK LIKE?

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**Sample Ballot**

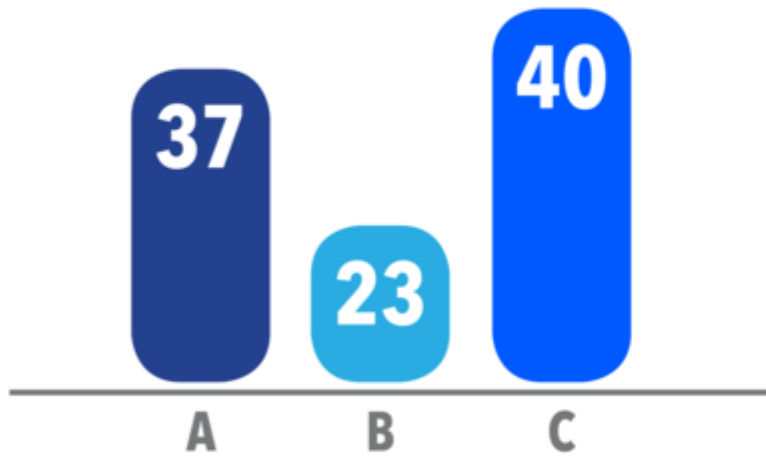
Fill in the ovals by ranking candidates in order of preference

	1st Choice	2nd Choice	3rd Choice
 Candidate A	(1)	(2)	(3)
 Candidate B	(1)	(2)	(3)
 Candidate C	(1)	(2)	(3)

# How Your Vote Counts

Number of voters: 100    Winning threshold:  $100/2 + 1 = 51$  votes

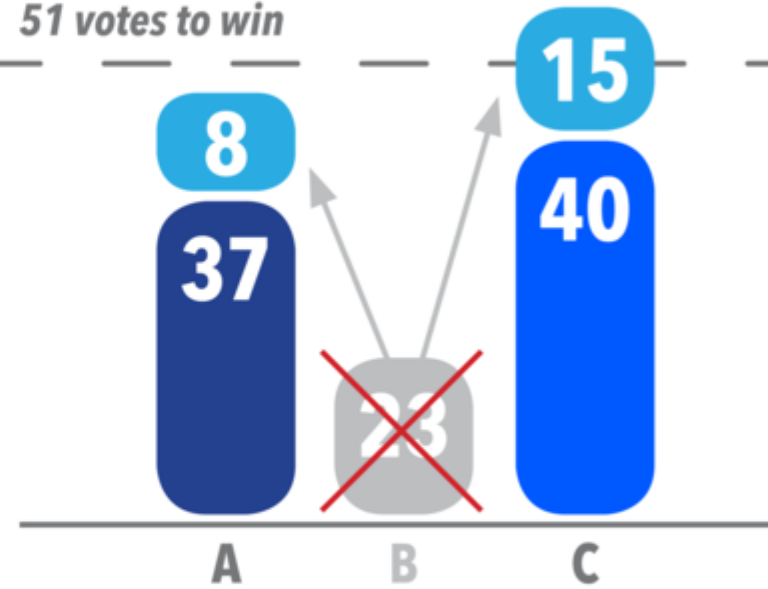
51 votes to win



## Tally Round 1

No candidate reached the winning threshold. Candidate B has the fewest votes and will be eliminated in Tally Round 2.

51 votes to win



## Tally Round 2

Candidate B's votes are reallocated based on those voters' 2nd choices. After Tally Round 2, Candidate C reaches the 51 votes threshold and wins.

# PROBLEMS ADDRESSED BY RANKED CHOICE VOTING

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# PROBLEM #1: SPECIAL ELECTIONS - SPOILERS, STRATEGIC VOTING, WINNERS WITHOUT MAJORITIES

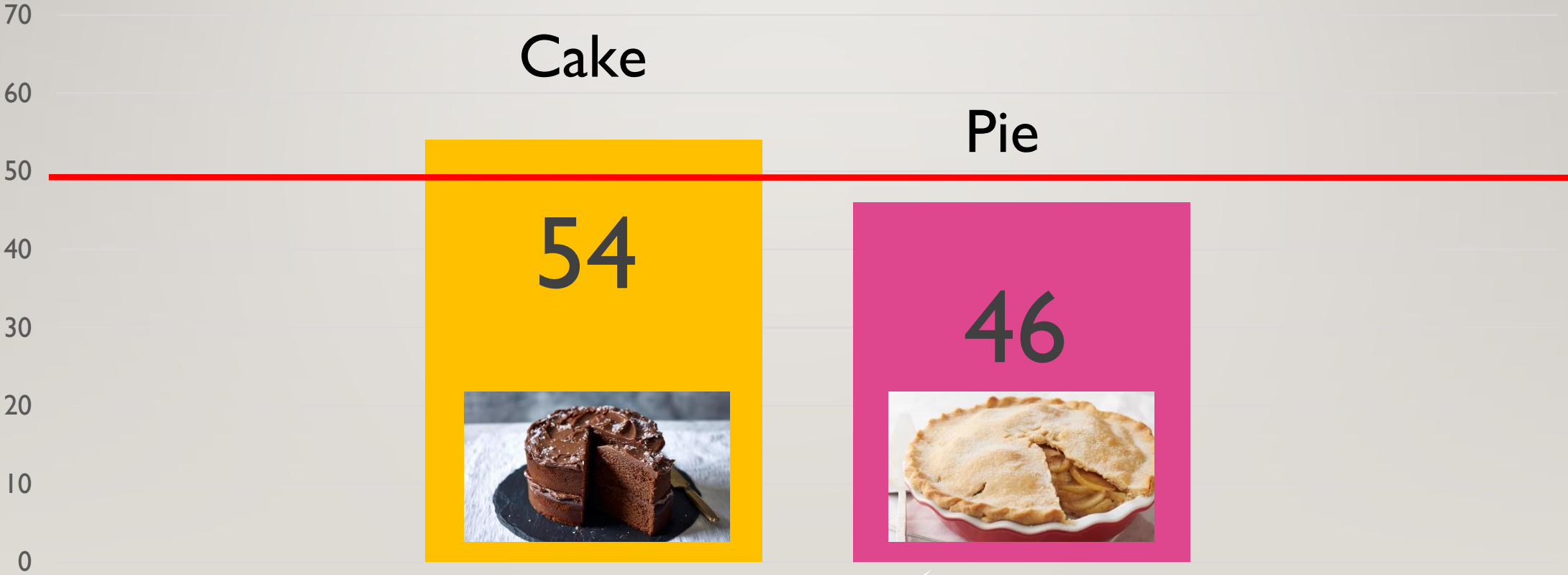
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# CAKE OR PIE?



# 2 CANDIDATE RACE

Cake vs Pie

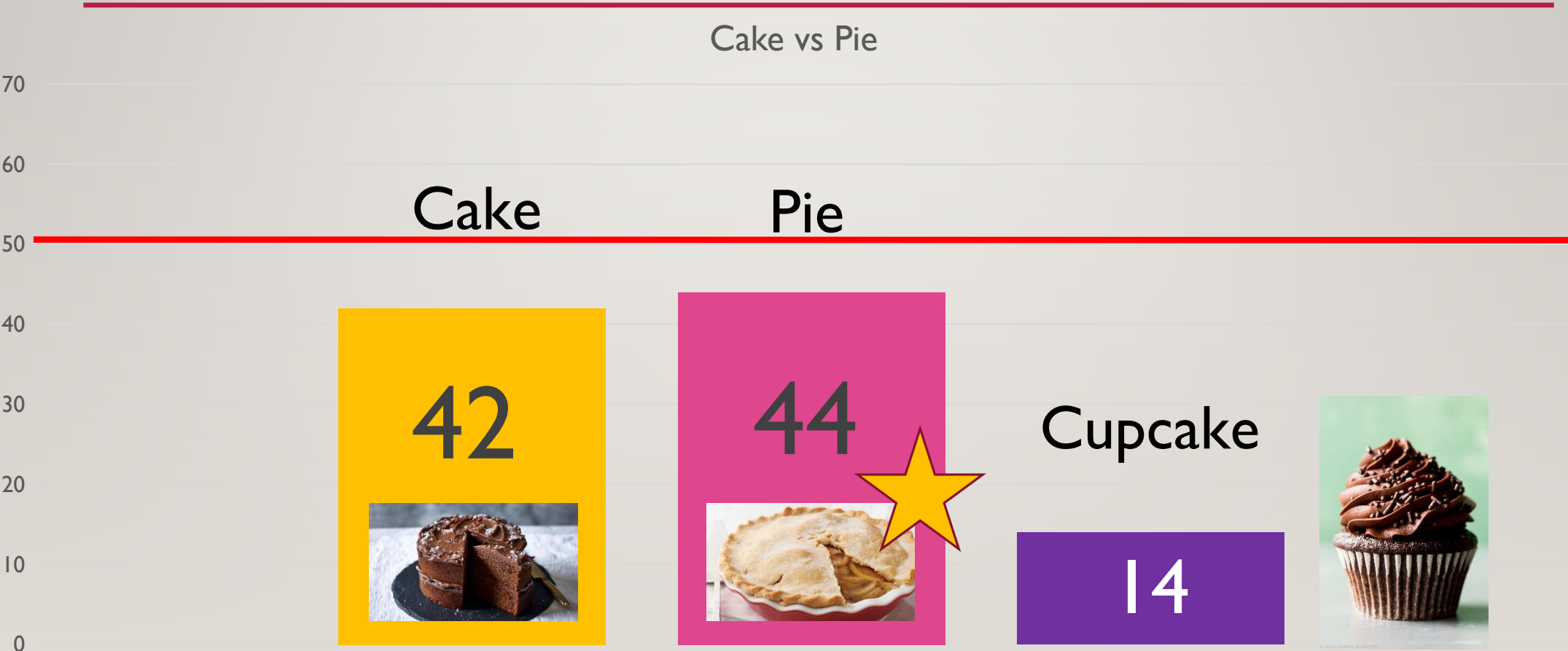




# CAKE OR PIE? OR CUPCAKE?

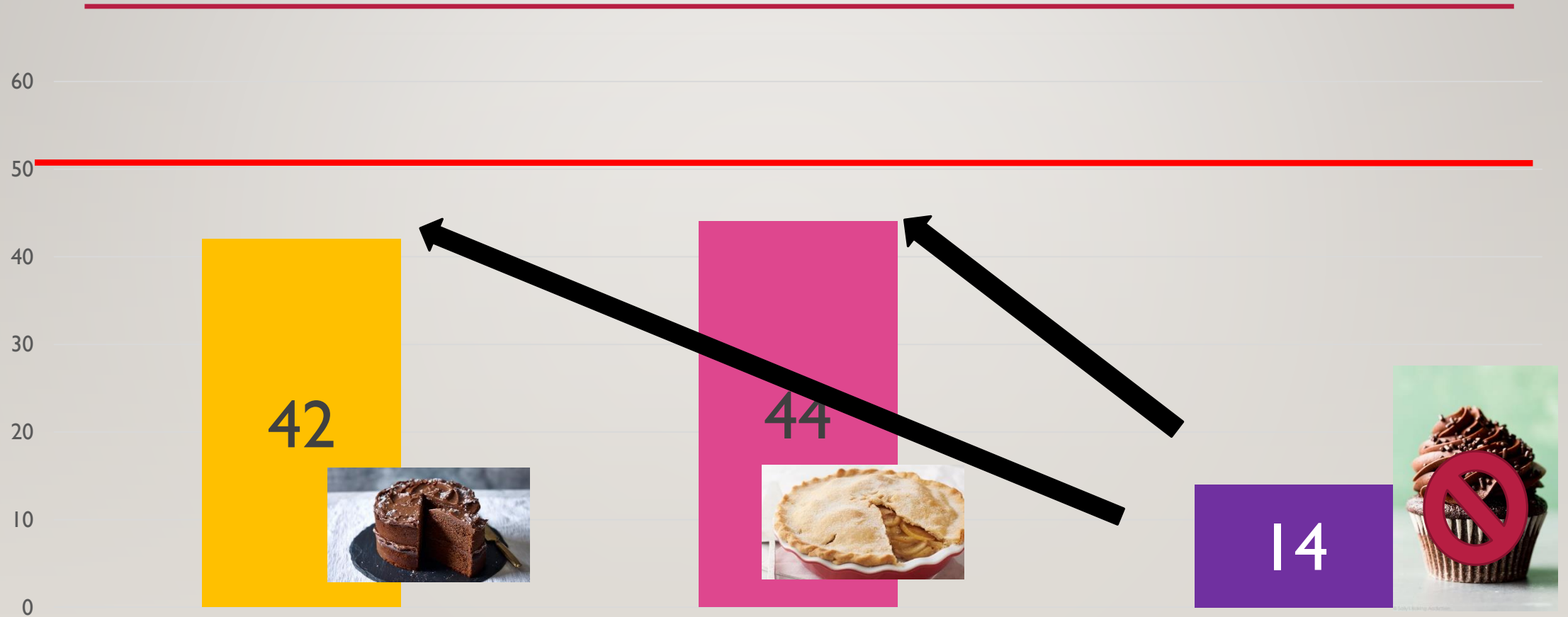


# 3 CANDIDATES, SAME VOTERS

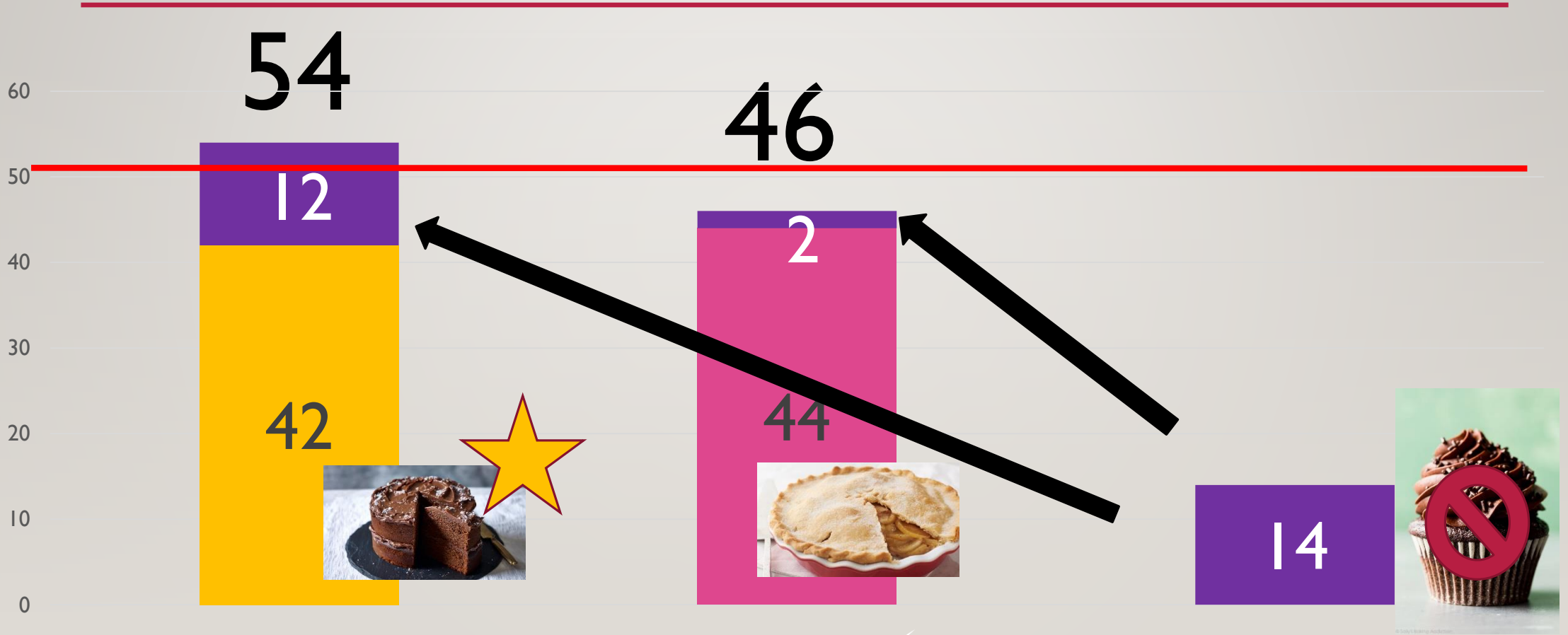




# GETTING TO A MAJORITY WINNER



# GETTING TO A MAJORITY WINNER



# SPECIAL DAY ELECTIONS: MANY CANDIDATES, NO MAJORITY WINNER

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Vegan Carrot Cake



# SUMMARY

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- Ranking candidates produces a winner preferred by the majority
- Emerging candidates can be supported without “spoiling” the outcome
- Less strategic voting: voters choose their favorite without being penalized, losing candidates have a clearer idea of true voter support

# PROBLEM #2: LOW-TURNOUT, UNREPRESENTATIVE, COSTLY PRIMARIES

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# PRIMARY ELECTION TURNOUT

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Election Year	Registered Voters	Voters	Turnout %	Details
2003	16744	736	4.40%	Ward 1 (3 candidates), Ward 4 (3)
2005	35517	1628	4.58%	At large seat A (5 candidates) and B (3)
2007	8819	707	8.02%	Ward 4 (4 Candidates)
2013	35364	956	2.70%	At large seat B (4 Candidates)

# PRIMARY ELECTION CHALLENGES

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- Cost of a primary takes money from other city priorities
- Primary voters are not representative of Minnetonka residents
- Two election days – more challenging for candidates and voters
- Many candidates are eliminated before most people are paying attention



# SUMMARY

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- Ranking enables more efficient and representative elections, better for city administrators, candidates and voters



# GREATER CIVIC ENGAGEMENT

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1. More candidates run
2. More interaction between candidates and voters
3. Higher voting rates
4. Greater voter satisfaction



# WHAT WE KNOW ABOUT RANKED CHOICE VOTING

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1. Proven
2. Easy
3. Popular

# RANKED CHOICE VOTING IS PROVEN

---

- Used by millions in US, 100+ million globally
- In Minneapolis for a decade, statewide in Maine, in dozens of other cities from San Francisco to small cities in Utah
- Validated by Minnesota State Supreme Court

# RANKED CHOICE VOTING IS NOT HARD OR CONFUSING

---

- Voters can rank as many or few candidates as they want
- 92% of all voters in Minneapolis thought ranking was easy
- 84% wanted to continue using the system
- The effective ballot rate was 99.96%
- Works with existing voting equipment

# WHO LIKES RANKED CHOICE VOTING IN MINNETONKA?

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- Seniors, busy professionals, parents, disabled: One trip to the polls instead of two
- Residents who prioritize low taxes
- People who expect Minnetonka to think ahead
- Those who want greater community engagement and inclusivity
- Younger people with fresh eyes

# ACCORDING TO MINNETONKA RESIDENTS, RANKED CHOICE VOTING IS...

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“A better way to do things”

“The kind of thing I would expect Minnetonka to do”

“Fairer for all the candidates and the voters”

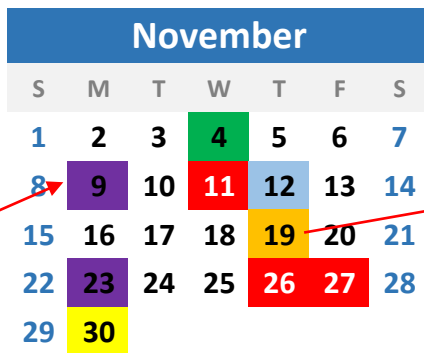
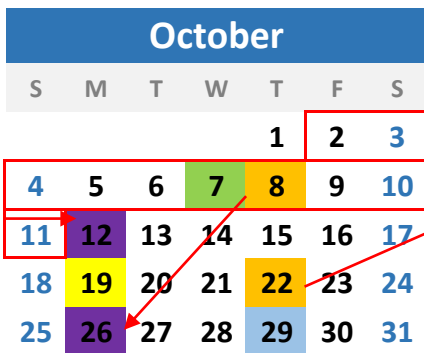
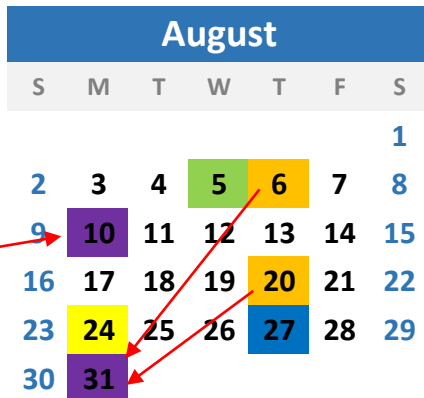
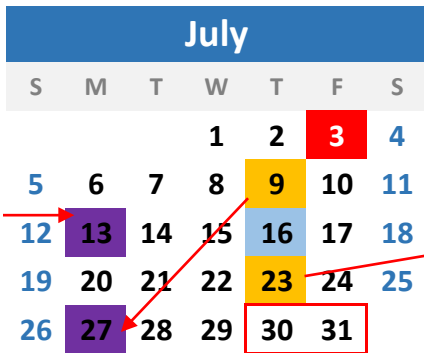
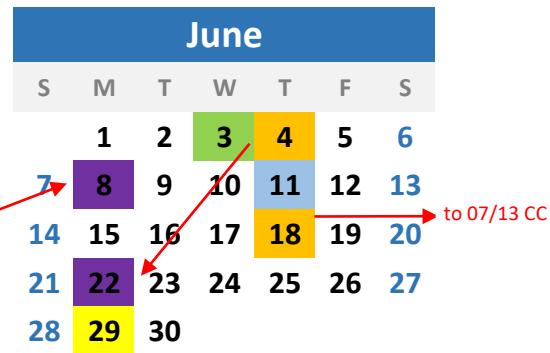
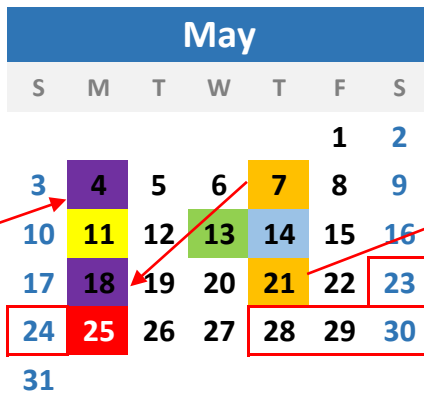
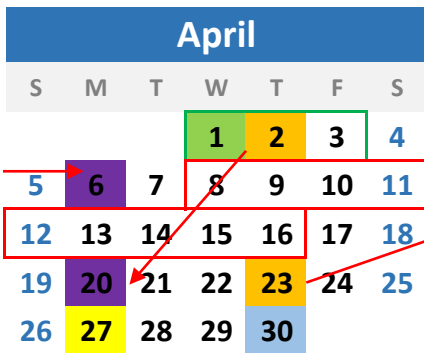
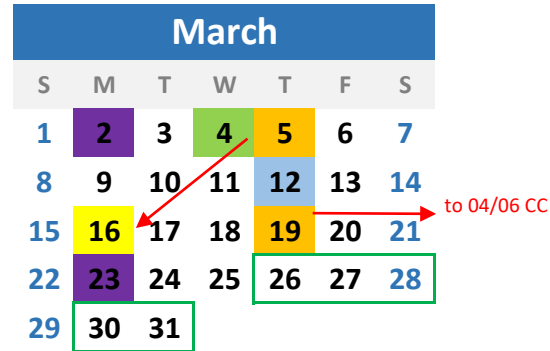
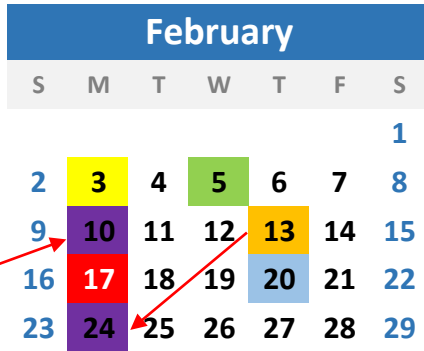
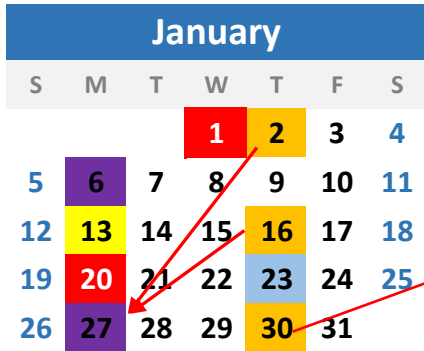
“More efficient, like our city”

“A no-brainer”

“A quick win”

“Obvious, once you think about it for a minute”

# 2020






Passover	04/08-04/16	Hopkins/Mtka/Wayzata Spring Breaks
Holy Week	04/09-04/10	
Easter	04/12	CC Meeting
Eid al-Fitr	05/23-05/24	CC Study Session
Shavout	05/28-05/30	PC Meeting
Eid al-Adha	07/30-07/31	EDAC Meeting
Rosh Hashanah	09/18-09/20	Joint PC/EDAC Meeting
Yom Kippur	09/27-09/28	PB Meeting
Sukkot	10/02-10/09	Joint CC/PB Meeting
Shemittah Atonet	10/09-10/11	
Simchat Torah		City Hall Closed

# January 2020

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

## AVAILABILITY

### Key

-  Three or more members not available
-  Two members not available
-  One member not available



# February 2020

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	

## AVAILABILITY

### Key




- Three or more members not available
- Two members not available
- One member not available

# March 2020

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

## AVAILABILITY

### Key

-  Three or more members not available
-  Two members not available
-  One member not available

# April 2020

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

## AVAILABILITY

Key




- Three or more members not available
- Two members not available
- One member not available

# May 2020

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

## AVAILABILITY

### Key

-  Three or more members not available
-  Two members not available
-  One member not available






# June 2020

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	2	3	4	5	6	7
[Yellow background]						
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

## AVAILABILITY

Key

-  Three or more members not available
-  Two members not available
-  One member not available

## 2019 Annual Report Charter Commission

### Mission

The mission of the Minnetonka Charter Commission is to oversee the city's charter which defines the parameters within which city government can operate. As an independent body, the charter commission will represent citizen viewpoints and consider and recommend appropriate revisions to the charter which balances the best interests of city government and the citizens.

### Membership

Terry Schneider was reappointed to the commission in 2019. There were no other changes in membership. Officers during the year have been John Northrup, Chair; and Linnea Sodergren, Vice-Chair; and LuAnn Tolliver, Secretary. The commission elected [describe election results] at its annual meeting on Nov. 12, 2019.

The only meeting in 2019 was the annual meeting, held Nov. 12, 2019. Attendance at those meetings is shown below.

### 2019 Attendance Schedule

Member	Nov	Meetings Attended
Anderson		%
Cheleen		%
Hart		%
Larson		%
Northrup		%
Schneider		%
Sodergren		%
Tolliver		%
Wiersum		%

Y = Present; E = Excused; U = Unexcused; T = Term Expired; R = Resigned

### Highlights of the Past Year

The commission considered changes to Sections 5.08 and 5.09 of the city charter, for the purpose of removing conflicts with state election laws. At its regular meeting in November, the commission recommended [include description of action on proposed charter amendment.] The commission also [include description regarding ranked choice voting issue].