

VICKERS LAW OFFICE

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September 5, 2007

Beverly Fisher
Councilwoman
City of Marble Rock
PO Box 98
Marble Rock, IA 50653-0098

Dear Ms. Fisher:

I have been requested by you in your capacity as city council member to render a written opinion relating to a municipal matter pertaining to the park board. Under City Code 5-2-2, board members are appointed by the Mayor with approval of the Council. The term for the board members is four years. Upon completion of the four-year term, it is my opinion, that that position is then vacant. The City Ordinance does not state that the member shall serve until their replacement is appointed or approved. The Ordinance does state that vacancies are filled in the same manner as the original appointments.

You also requested whether or not the City Council can dismiss a member without cause. I find no authority in your City Code for the dismissal of a board member without cause by the City Council. Please take note that during the previous turmoil involving the Veterans' Monument, the City Clerk provided me with a copy of a City Council Rules of Procedure from the Management Information Center of the International Institute of Municipal Clerks in Pasadena, California. This packet was dated July 1983. If those Rules of Procedure have ever been approved by the City Council of Marble Rock, I am unaware of that approval. Those Rules of Procedure do provide for the removal of members of boards and commissions by the City Council upon a majority vote of the Council. There are items in the Rules of Procedure that are in conflict with the City Code, and it is my opinion that the City Code would take preference. Please refer to Iowa Code § 372.15, which I am enclosing.

Sincerely,

VICKERS LAW OFFICE

A handwritten signature in black ink, appearing to read "Richard W. Vickers". The signature is written in a cursive style with a large initial "R" and "V".

Richard W. Vickers
Attorney at Law

RWV:mlh

Cc: Mayor
City Clerk

§5663; C46, 50, §363.36; 68A.1(8); C75, 77, 79, 81, 4, §46]

3; C73, §512, 522; C97, §651; SS15, §1056-a26, §39, §5633, 5640, 5663, §3, 50, §363.11, 363.19, 20.13; C54, 58, 62, 66, 71, 75, 77, 79, 81, §372.13(3)]

1095, 1098, 1103, 1105, 524, 528, 532, 534; C97, §651, 657, 668, 1056-a27, 26, 1056-b14, 1056-b17, §39, §5638, 5663, 5671, 6651, 6666, 6674; C46, 63.36, 363.45, 416.43, 419.37, 419.52, 419.60; 363.40, 363A.4, 363B.11, §9, 10; C75, 77, 79, 81,

3; C73, §512, 522; C97, 7-a; C24, 27, 31, 35, 39, §3, 50, §363.19, 363.33, §73, §368A.1(4), 368A.3, §6; 82 Acts, ch 1047, §1] §520; C97, §641; S13, §5626; C46, 50, §363.4; §363.7; C75, 77, 79, 81, 1098; C73, §505, 519, §3, 943, 945; S13, §669, §9; C24, 27, 31, 35, 39, §1, 6704, 6705; C46, 50, 419.19, 420.14, 420.15; 363A.4, 363B.9, 363C.2, 363.39, 363A.4, 363B.9, 20.15; C75, 77, 79, 81,

Paragraph b, takes effect January 1,

CHAPTER 373

CONSOLIDATED METROPOLITAN CORPORATIONS

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ive date.

2003, and applies to elections held on or after that date; 2002 Acts, ch 1134, §116
Subsection 2, paragraph b amended

372.14 The mayor.

1. The mayor is the chief executive officer of the city and presiding officer of the council. Except for the supervisory duties which have been delegated by law to a city manager, the mayor shall supervise all city officers and departments.

2. The mayor may take command of the police and govern the city by proclamation, upon making a determination that a time of emergency or public danger exists. Within the city limits, the mayor has all the powers conferred upon the sheriff to suppress disorders.

3. The mayor pro tem is vice president of the council. When the mayor is absent or unable to act, the mayor pro tem shall perform the mayor's duties, except that the mayor pro tem may not appoint, employ, or discharge officers or employees without the approval of the council. Official actions of the mayor pro tem when the mayor is absent or unable to act are legal and binding to the same extent as if done by the mayor. The mayor pro tem retains all of the powers of a council member.

[R60, §1082, 1085, 1091, 1102, 1105, 1121; C73, §506, 512, 518, 519, 531, 534, 537, 547; C97, §658; S13, §658; SS15, §1056-b7; C24, 27, 31, 35, 39, §5639, 6619, 6647; C46, 50, §363.18, 419.33, 420.9 - 420.11; C54, 58, 62, 66, 71, 73, §363C.13, 368A.2; C75, 77, 79, 81, §372.14]

Enforcement of motor vehicle law, §321.6

372.15 Removal of appointees.

Except as otherwise provided by state or city law, all persons appointed to city office may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the city clerk, and a copy shall be sent by certified mail to the person removed who, upon request filed with the clerk within thirty days of the date of mailing the copy, shall be granted a public hearing before the council on all issues connected with the removal. The hearing shall be held within thirty days of the date the request is filed, unless the person removed requests a later date.

[C77, 79, 81, §372.15]

- 373.7 Form of ballot.
373.8 Effect of consolidation.
373.9 Metropolitan council.
373.10 Taxing authority.
373.11 Service delivery.

373.1 Creation of commission.

1. Cities within a county may unite to form a single unit of local government in accordance with this chapter. Any city located in two or more counties shall be allowed to participate in a metropolitan consolidation in the county where at least fifty percent of its population resides. An alternative form of metropolitan government shall be submitted to the electorate by a commission in the form of a charter or charter amendment proposed in accordance with this chapter.

2. Participation in a charter commission under this chapter may be proposed by:

a. The city council adopting a resolution calling for participation.

b. By petition of the number of eligible electors of the city equal to at least twenty-five percent of the votes cast in the city at the last regular city election petitioning the council to adopt a resolution calling for participation. The council shall within thirty days of the filing of a valid petition adopt such a resolution.

91 Acts, ch 256, §40

373.2 Appointment of commission members.

1. Within forty-five days after the establishment of a commission, the members of the commission shall be appointed as follows:

a. One member shall be appointed by the city council of each city participating in the charter process.

b. An additional member shall be appointed by each city council for every twenty-five thousand residents in the participating city.

c. One member shall be appointed by each state legislator whose legislative district is located in the commission area if a majority of the constituents of that legislative district resides in the commission area. However, if a commission area does not have a state legislative district which has a majority of its constituents residing in the commission area, the legislative district having the largest plurality of constituents residing in the commission area shall appoint one member.

2. Only eligible electors of the county not holding a city, county, or state office shall be members of the commission. In counties having multiple state legislative districts, the districts shall be represented as equally as possible. The membership shall be bipartisan and gender balanced and each appointing authority under subsection 1 shall provide for representation of various age groups, racial minorities, economic groups, and representatives of identifiable geographically defined populations, all in reasonable relationship to the proportions in which these groups are present in the population of the commission area. A vacancy on the commission shall be filled by appointment in the same manner as the original appointment. The county auditor shall notify the ap-