

CITY OF SHAKOPEE, MINNESOTA

RESOLUTION NO. 2020-099

**RESOLUTION CALLING FOR AN ELECTION ON THE QUESTION OF
ABOLISHMENT OF THE SHAKOPEE PUBLIC UTILITIES COMMISSION**

WHEREAS, in 1950, by vote of the Shakopee City Council, the Shakopee Public Utility Commission (“Utility”) was established;

WHEREAS, in the past several years, the Shakopee City Council has shown increasing concern with multiple issues within the operation of the Utility;

WHEREAS, these areas of concern include relations between the City and the Utility, the soundness and veracity of Utility finances, actions by the Utility and its staff in violation of state law, and public health and safety concerns;

WHEREAS, the City/Utility relationship has been damaged by: 1) the Utility’s unilateral action to change its payment in lieu of taxes to the City acting against history, agreement and legal precedent; 2) the Utility’s refusal to provide answers to questions posed by the City; 3) the Utility’s untimely answers to valid public records requests; and 4) the Utility’s unilateral submission of the City’s 2019 Comprehensive Water Plan to the Metropolitan Council absent any input/review by City staff;

WHEREAS, the soundness and veracity of Utility finances are in question because 1) both water connection and water trunk charges are among the highest in the state with no reasonable explanation as to why that is the case, and 2) the Utility has been collecting fees for a water plant for decades with no plan and no designated fund for the treatment plant;

WHEREAS, the Utility has committed violations of law and ethics by: 1) contracting to pay at least two employees (Utilities Manager and Director of Finance and Administration) in excess of the state-mandated salary cap in violation of state law; 2) committing multiple Open Meeting Law violations through a culture of hiding information from the public including the salaries of high-level employees of the Utility, providing secret “Commissioner Only” meeting packets out of public view, and altering state reports; and 3) Utility staff manipulating information given to the Commission and the public at large;

WHEREAS, the Office of the State Auditor has opined that the actions of the Utility in regard to the salary cap violations were “absurd and unreasonable”;

WHEREAS, the current Utilities Manager is under investigation for these ethical and unlawful actions;

WHEREAS, the City Council has serious public safety and health concerns in that 1) the nitrate levels in the City’s drinking water continue to be elevated, with the levels significantly higher than our neighboring cities, 2) Shakopee is the only city in Scott and Carver Counties, and

one of the few in the Metro area, to have untreated water; 3) Shakopee is the largest community in the state with untreated water, 4) the Utility encourages the residential/industrial drilling of wells in violation of a sensible wellhead protection program, and 5) there is no long-term plan to address the quality of city water other than to “blend” water with excessive nitrate levels with less contaminated water to get it under the state maximum nitrate levels; and

WHEREAS, the City has tried in the past several years to focus the Commission on oversight and planning and has expressed significant concerns to the Commission regarding the above to no avail.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Shakopee, Minnesota, as follows:

1. The City Council hereby finds and determines that it is in the best interest of the health, welfare, and safety of the City and its residents that the City place the following question on the ballot for voter determination, to wit “Shall the Shakopee Public Utilities Commission be abolished?”
2. That the proposition for Commission abolishment will be submitted to the voters of the City at the general election to be held on Tuesday, November 3, 2020. The election will be held and conducted in accordance with the laws of the State of Minnesota relating to regular municipal elections.
3. The City Clerk is directed to cause a sample ballot in substantially the form attached as Exhibit A and a notice of election in substantially the form attached as Exhibit B to be posted, published, and delivered as required by law as follows:
 - (a) The notice of election will be delivered to the County Auditor of Scott County, Minnesota, at least 74 days prior to the election, pursuant to Minnesota Statutes, Section 205.16, Subdivision 4, together with a written request to notify the Secretary of State of the election at least 74 days prior to the election pursuant to Minnesota Statutes, Section 205.16, Subdivision 5;
 - (b) The notice of election will be published twice in successive weeks in the official newspaper of the City commencing at least two weeks prior to the election, pursuant to Minnesota Statutes, Section 205.16, Subdivision 1;
 - (c) The sample ballot will be published twice in successive weeks in the official newspaper of the City commencing at least two weeks prior to the election, pursuant to Minnesota Statutes, Section 205.16, Subdivision 2; and
 - (d) The sample ballot will be posted in the office of the City Clerk at least ten days prior to the election, pursuant to Minnesota Statutes, Section 205.16, Subdivision 3.

4. The polling places, hours of election, and the respective judges for the election will be those established by the City for the general election scheduled for November 3, 2020. The polls will be open from 7:00 a.m. until 8:00 p.m.
5. The City Clerk is authorized and directed to prepare the ballot in substantially the form attached as Exhibit A, subject to the requirements of Minnesota Statutes, Section 205.17.
6. The City Council shall meet in the City Hall on Tuesday, November 10, 2020, at 7:00 p.m., to canvass the results of the election and to declare the results thereof.

Adopted by the City Council of the City of Shakopee, Minnesota this 18th day of August 2020.

Mayor

ATTEST:

City Clerk

EXHIBIT A
FORM OF BALLOT

CITY QUESTION BALLOT

CITY OF SHAKOPEE

GENERAL MUNICIPAL ELECTION

Tuesday, November 3, 2020

INSTRUCTIONS TO VOTERS: To vote for a question, completely fill in the oval next to the word “YES” for that question. To vote against a question, completely fill in the oval next to the word “NO” for that question.

CITY QUESTION NO. 1:

ABOLISHMENT OF THE SHAKOPEE PUBLIC UTILITIES COMMISSION

Shall the Shakopee Public Utilities Commission be abolished?

☐ YES

☐ NO

EXHIBIT B
NOTICE OF ELECTION

NOTICE OF ELECTION
CITY OF SHAKOPEE
SCOTT COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that an election will be held in and for the City of Shakopee, Scott County, Minnesota, on Tuesday, the 3rd day of November, 2020, at which the following proposition will be submitted to the voters of the City for their approval or rejection:

CITY QUESTION NO. 1:

ABOLISHMENT OF THE SHAKOPEE PUBLIC UTILITIES COMMISSION

Shall the Shakopee Public Utilities Commission be abolished?

YES _____
NO _____

The polling place for said election is as follows:

Shakopee P-1	Shakopee West Junior High School	200 10 th Avenue East
Shakopee P-2	Pearson Early Childhood Center	917 Dakota Street South
Shakopee P-3	Fire Station Number 1	2700 Vierling Drive East
Shakopee P-4	Red Oak Elementary School	7700 Old Carriage Court
Shakopee P-5	Youth Building at Lions Park	1099 Adams Street
Shakopee P-6	Community Center	1255 Fuller Street
Shakopee P-7	First Presbyterian Church	909 Marschall Road South
Shakopee P-8	Shakopee Police Station	475 Gorman Street
Shakopee P-9	Faith Lutheran Church	150 130 th Street West
Shakopee P-10	Shakopee Area Catholic Education Center	2700 17 th Avenue East
Shakopee P-11	Cross of Peace Lutheran Church	1506 Wood Duck Trail
Shakopee P-12A	Eagle Creek Elementary School	6855 Woodward Avenue
Shakopee P-12B	Eagle Creek Elementary School	6855 Woodward Avenue
Shakopee P-13	Cross of Peace Lutheran Church	1506 Wood Duck Trail

The polling place for said election will be open at 7:00 a.m. and will remain open until closing at 8:00 p.m. This election will be held in conjunction with the State of Minnesota general election.

Any qualified registered voter of the City is entitled to vote at said election, and any resident of the City not previously registered as a voter may register on election day.

BY ORDER OF THE CITY COUNCIL

/s/ William H. Reynolds
City Administrator

Dated: _____, 2020.

STATE OF MINNESOTA)
)
COUNTY OF SCOTT) SS.
)
CITY OF SHAKOPEE)

I, the undersigned, being the duly qualified and acting City Clerk of the City of Shakopee, Minnesota (the “City”), do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of the City Council of said City held on August 18, 2020, with the original thereof on file in my office and the same is a full, true, and correct copy thereof, insofar as the same relates to the question of abolishing the Shakopee Public Utilities Commission.

WITNESS My hand as such City Clerk and the corporate seal of the City this ____ day of _____, 2020.

City Clerk
City of Shakopee, Minnesota

(SEAL)