



CHARTER COMMISSION

Public Safety Building—Training Room, 825 41st Ave NE

Thursday, July 21, 2022

7:00 PM

AGENDA

ATTENDANCE INFORMATION FOR THE PUBLIC

Members of the public who wish to attend may do so in-person, by calling **1-312-626-6799** and **entering meeting ID 885 1238 4309** or by Zoom at <https://us02web.zoom.us/j/88512384309>. For questions please call the Administration Department at 763-706-3610.

CALL TO ORDER

ROLL CALL/STATUS OF MEMBERSHIP

1. **Current Opening on Charter Commission as Commissioner Schluender Did Not Reapply, Application Sought Through 7/31/22.**

APPROVAL OF AGENDA

APPROVAL OF MINUTES

2. **Approval of April 21, 2022 Meeting Minutes.**

CORRESPONDENCE

OLD BUSINESS

3. **City Council Vacancies (Chapter 2 Section 9).**
First Reading of Amendment to Chapter 2, Section 9.

NEW BUSINESS

ADJOURNMENT

Auxiliary aids or other accommodations for individuals with disabilities are available upon request when the request is made at least 72 hours in advance. Please contact Administration at 763-706-3610 to make arrangements.



CHARTER COMMISSION

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7:00 PM

MINUTES

CALL TO ORDER

Charter Commission President Steve Smith called the April 21, 2022 meeting to order at 7:00 pm.

ROLL CALL

Members present: Matt Abel, Kathy Ahlers, Larry Betzold, Tyler Eubank, Ben Harris, Bill Hugo, Cliff Johnson, Carolyn Laine, Joe Schluender, Frost Simula, Steve Smith, Susan Wiseman, Nick Zeimet.

Members absent: Ramona Anderson, Gregory Sloat.

Also in attendance: City Attorney Jim Hoeft, City Clerk / Recording Secretary Sara Ion.

STATUS OF MEMBERSHIP

1. Reappointment of Commissioner Ahlers and Hugo.

City Clerk Ion stated that all paperwork was in order and filed for Commissioners' Ahlers and Hugo to continue their service.

2. Appointment of Commissioner Larry Betzold to Fill Position Left Vacant by Commissioner Kaiser.

Commissioner Betzold introduced himself to the group and was welcomed as a new member.

3. Election of 2022 Officers.

Commissioner Smith and Laine were nominated for President. A roll call vote was conducted, and the votes were as follows: 7 votes for Smith (Abel, Betzold, Eubank, Harris, Johnson, Schluender, Smith), 6 votes for Laine (Ahlers, Hugo, Laine, Simula, Wiseman, Zeimet).

Commissioner Abel and Laine were nominated for Vice President. A roll call vote was conducted, and the votes were as follows: 9 votes for Laine (Ahlers, Betzold, Eubanks, Hugo, Laine, Schluender, Simula, Wiseman, Zeimet), 4 votes for Abel (Abel, Harris, Johnson, and Smith).

Commissioner Simula was nominated for Secretary. There were no other nominations, and Commissioner Simula accepted the nomination.

The Charter Commission Officers for 2022 will be President Smith, Vice President Laine, and Secretary Simula.

APPROVAL OF AGENDA

Motion by Commissioner Abel, seconded by Commissioner Harris, to approve the agenda. Motion passed unanimously.

APPROVAL OF MINUTES

Motion by Commissioner Simula, seconded by Commissioner Abel, to approve the October 21, 2021 Meeting Minutes. Motion passed unanimously.

CORRESPONDENCE

There was no correspondence at this time.

OLD BUSINESS

City Council Vacancies (Chapter 2 Section 9).

President Smith asked the City Clerk to present information related to what a special election would look like for the City of Columbia Heights.

City Clerk Ion presented information related to a vacancy occurring beginning of a new year. A special election cannot be called for after March 31st during an election year. She stated that there are many other cities in Minnesota who are looking to revert to what the City of Columbia Heights has in place. A special election necessitates the same amount of attention and resources as a regular election does per our City Charter.

Commissioner Harris posed a question related to when special elections can be held. He clarified that there are specific dates when a special election can be held and that these dates are dictated by State Statute.

Clerk Ion also reviewed the current timeline in the Charter for appointment when a vacancy occurs.

President Smith stated that the timeline for appointment has also been a big topic of discussion.

Clerk Ion stated that the timeline, budget, and staffing needs for a special election look a lot like the general election we are holding this year. All the polling locations, election judges, election assistant, public works staff, and administrative needs are the same for a special election.

Commission Harris asked about the costs and budget needed for a special election.

Clerk Ion clarified that yes, the city would need to start budgeting for a special election now if this is something that the Charter Commission would want to add to the Charter. The cost related to a special election would be similar to a regular election. The Council would need to plan ahead and have this added to the budget.

Commission Johnson asked how long a seat would be open if there was a special election to fill a vacancy.

Commissioner Laine stated that there may be confusion between an appointment and a special election. There was clarification that currently an appointment would occur within 100 days with the current Charter language. She asked if the Commission wants to make the time to appoint shorter, and if the Commission would like the voters to have a choice on who is serving on the Council with a special election after an appointment is made.

Commission Johnson stated that he was under the assumption that they were replacing the appointment process with a special election at the last meeting.

Commissioner Laine stated that when she reviewed the last meeting minutes, she had a hard time following what the conversation was that the Commission was having. Therefore, she is clarifying what action the Commission wants to take.

Commissioner Harris also stated that there is also a conversation related to how to handle what happens when a tie occurs.

Commissioner Laine stated that there is some language proposed to address when a tie occurs in the packet.

Commissioner Simula stated discussion of having a special election is moot because it is part of the Charter. It is called for if there is two years remaining in the term. The Council can call for a special election.

Commission Ahlers stated that she did not feel that the budget for an election is a big concern and is only a small fraction of the large city budget.

Commission President Smith asked for City Attorney Hoeft to address the Commission as well about Special Elections.

City Attorney Hoeft stated that the conversation did start with shortening the appointment time frame. There has also been ongoing conversations related to special elections. Councilmembers are elected to four-year terms, and if a vacancy was to occur at the beginning of a four-year term there would be an appointment made and then an election for their position at the next regularly scheduled election to fill their open seat. What the City Clerk is alluding to, is that we do not know when an opening may occur on the Council, or when an election will need to occur. Even if there is language in the Charter, it maybe unnecessary because there could be an election in a time shorter than two years. There could be situations where special election could not be held because of the timelines are not aligned with the general election.

City Clerk Ion clarified that there if Commission were to move forward with special election language there could be situations where a special election is held and a councilmember is sworn in for six to eight months, and a general election is held again for that council seat.

Commissioner Harris clarified that we would need to make sure that special elections were always budgeted for.

City Clerk Ion clarified that this was correct. She clarified that the timeline for elections, staffing and budget are something that need to be considered when adding special election to the Charter. Budgeting for this impacts the city in a lot of different ways.

Commissioner Ahlers asked for clarification on how often money is reallocated by the City Council to cover an unexpected expense.

Attorney Hoeft stated that the availability of funds is not an issue. If the Charter is changed to add a special election. The Council would set a new fund and could pre-fund a special election right away. If the Council did not pre-fund a special election, there could be an interfund transfer if needed. This would need a four fifth vote of the council, because it is a modification of the budget.

Commissioner Ahlers asked how often modifications of the budget were completed by the Council.

Attorney Hoeft stated it was possible this is done less than four times a year.

Commissioner Smith Clarified the current appointment process that is currently set in the City Charter.

Commissioner Harris stated that by adding a special election process we are becoming beholden to State Statutes and would need to hold special elections at specified times.

Commissioner Johnson asked if we need to wait for the actual vacancy to occur in the Council.

Attorney Hoeft stated, yes we do.

Commissioner Simula stated that there is language in the packet that establishes shortening the appointment language and adding special election language at the discretion of the council.

Commissioner Harris feels that carrying the budget and preparing for staffing for a special election is a concern for having the special election language in the Charter.

Commission President Smith asked for clarification on the appointment process and asked about putting the special election language aside.

Commissioner Wiseman confirmed that she would like to move forward with tightening the language for appointment, since there is language related to special, elections existing in the Charter.

Commission President confirmed this language.

Commissioner Harris clarified the timeline.

Commissioner Ahlers was unsure if the language was being changed to “shall” have a special election to “must” have a special election.

City Clerk Ion read the language in the City Charter, Chapter 4, Section 29 into the record:
“SPECIAL ELECTIONS. The council may by resolution order a special election, fix the time of holding the

same, and provide all means for holding such special election. The procedure at such election shall conform as nearly as possible to that herein provided for other municipal elections.”

Commissioner Harris read the proposed amendments from the packet into the record:

“Special elections must be held at the earliest date possible under state law. Candidates must file for office no later than four weeks before the election. If a special election occurs in the same year as a regular municipal election, the council may at its option schedule the special election to occur in conjunction with the regular municipal election rather than at the earliest possible date under state law.”

Commissioner Laine stated that she would like to make a motion to shorten the process from 105 days to 45 days to make an appointment to the Council when there is a vacancy.

Attorney Hoeft stated that he would like the entire motion to read. Wiseman seconded the motion.

Commissioner Laine stated her motion:

Notice of said vacancy shall be posted at city hall for a period of two (2) weeks from the date of the adoption of the resolution declaring said vacancy. Notice shall also be posted in a designated city publication for a period of two (2) weeks as soon as possible after the date of the adoption of said resolution. Applications shall be sought and accepted from individuals interested in filling the vacancy, which applications shall be submitted to city hall, to the attention of the City Clerk. At its option, the council may interview each of the applicants and shall conduct said interviews in an agreed upon uniform manner as a council. The council shall make its appointment from the pool of applicants within forty-five (45) days of the vacancy resolution, whether done so at a regular council meeting or a special meeting. If the council fails to make the appointment within forty-five (45) days, or, if before the end of the forty-five (45) days, votes three times on the appointment and is unable to fill the vacancy, the mayor must, within fifteen (15) days, appoint a person from the remaining applicants under consideration to fill the vacancy. The individuals so appointed shall filled said vacancy until the next regular state or municipal election.

Commissioner Harris clarified where the motion ended.

Commissioner Laine stated that the language of the motion did not include anything related to a special election, just what was read.

Commissioner Johnson clarified that there will be additional conversation about the motion.

Attorney Hoeft stated that the motion has been made and seconded. The motion has been made to change the timeline for appointment and for the mayor to be able to make the appointment if there is a tie.

Commissioner Laine pointed out that Statutory Cities do allow the mayor to appoint when there is a tie.

Commissioner Ahlers asked for clarification on what occurred the last time when there was tie.

Attorney Hoeft stated that there were seven votes, and the Council made the determination on who they would vote to appoint. The mayor did not break the tie.

Commissioner Johnson stated that he does not like the mayor having the ability to have a tie breaking vote.

Commissioner Schluender stated that the mayor would be deciding between two candidates when breaking a tie vote.

Commissioner Smith stated we were coming to an hour, and he asked for people to consider the motion that was made.

Commissioner Laine stated that the new proposal is that we are dropping of the language of the special election and moving forward with the tightening of the language of the appointment time period.

Commissioner Wiseman called the question, for the first reading on July 21, 2022. Commissioner Abel, Ahlers, Betzold, Eubank, Harris, Hugo, Laine, Schluender, Simula, Smith, Wiseman, Zeimet voted Aye. Commissioner Johnson voted Nay. The motion passed.

NEW BUSINESS

Motion by Commissioner Ahlers, seconded by Commissioner Able to approve the 2021 Charter Commission Annual Report. All Ayes.

ADJOURNMENT

Motion by Commissioner Laine, seconded by Commissioner Harris, to adjourn the meeting. All Ayes.

Meeting adjourned at 8:15pm.

Respectfully Submitted

Sara Ion, City Clerk/Recording Secretary

CHAPTER 2
FORM OF GOVERNMENT

Section 6. FORM OF GOVERNMENT. The form of government established by this charter shall be known as the "Council-Manager Plan."

Section 7. ELECTIVE OFFICES. The council shall be composed of a mayor and four council members who shall be qualified electors, and who shall be elected at large in the manner hereinafter provided. The four council members shall serve for a term of four years and until their successors are elected and qualified. The Mayor shall serve for a term of two years and until a successor is elected and qualified. The council shall be judge of the election of the mayor and council members. **(Ordinance No. 1466, passed December 15, 2003) (Ordinance No. 1300, passed April 10, 1995)**

Section 8. INCOMPATIBLE OFFICES. No member of the council shall hold any paid municipal office or employment under the City of Columbia Heights, and until one year after the expiration of that member's term as council member no former member shall be appointed to any paid office or employment under the city which office or employment was created or the emoluments of which were increased during that member's term. **(Ordinance No. 1086, passed June 11, 1984)**

Section 9. VACANCIES IN THE COUNCIL. A vacancy in the council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, cessation as a resident of the city, continuous absence from the city for more than three months, conviction of a felony of any such person whether before or after qualification, the failure of any council member without good cause to perform any of the duties of membership in the council for a period of three months or for any other cause as may be provided for in Minnesota Statutes, as amended. In each such case, at the next regular meeting following receipt of notice by the council of one of the foregoing conditions, the council shall by resolution declare such vacancy to exist unless further investigation is required. Notice of said vacancy shall be posted at city hall for a period of two (2) weeks from the date of the adoption of the resolution declaring said vacancy. Notice shall also be published in a designated city newspaper for a period of two (2) weeks as soon as possible after the date of the adoption of said resolution, with the publication being completed no later than thirty (30) days from said date. Applications shall be sought and accepted from individuals interested in filling the vacancy, which applications shall be submitted to city hall, to the attention of the City Clerk, within 45 days from the date of said resolution. The council shall interview each of the applicants within 30 days from the close of the application period, and shall conduct said interviews in an agreed upon uniform manner as a council. After said 30 day period, the council shall make its appointment from the pool of applicants within 15 days, whether done so at a regular council meeting or a special meeting. The individuals so appointed shall fill said vacancy until the next regular municipal election, when the office shall be filled for the unexpired term by an eligible person elected at large in the manner hereinafter set forth; provided, however, that if a vacancy is declared by resolution after March 31st in the year of a regular municipal election, then the appointment process as set forth herein shall not take effect and any such vacancy shall continue to

exist until said election, at which time the vacancy shall be filled for the unexpired term by an eligible person elected at large in the manner hereinafter provided. Notwithstanding anything to the contrary herein, any vacancy resulting from a recall election or from a resignation following the filing of a recall petition shall be filled in the manner provided in such case. **(Ordinance No. 1331, passed September 23, 1996) (Ordinance No. 1086, passed June 11, 1984)**

Section 10. THE MAYOR. The mayor shall be the presiding officer of the council, and shall exercise all powers and perform all duties conferred and imposed upon the mayor by this charter, the ordinances of the city, and the laws of the state. A president pro tempore shall be chosen who shall serve as president in the mayor’s absence, and who shall, in the mayor’s absence, exercise all powers and perform all duties conferred and imposed upon the mayor by this charter, the ordinances of the city and the laws of the state. In the absence of both the mayor and the president pro tempore, the council member with the most seniority (as determined by consecutive uninterrupted years of service to date) shall exercise and perform said powers and duties. The mayor shall have the appointment, control, and direction of all police officers of the city, and shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil processes, and by the governor for the purposes of the military law. In the event of a vacancy in the office of mayor, whether by death, resignation, or any other cause, the council shall order a special election to fill the vacancy for the unexpired term except in the case of a recall, the vacancy shall be filled in the manner provided by this charter. **(Ordinance No. 1389, passed April 26, 1999) (Ordinance No. 1086, passed June 11, 1984)**

Section 10A. (Deleted per Ordinance No. 1584, passed August 23, 2010)

Section 11. THE CITY MANAGER. The city manager shall be the chief administrative officer of the city. The city manager shall be chosen by the council solely on the basis of executive and administrative qualifications and the choice shall not be limited to inhabitants of the city or state. The city manager shall be appointed for an indefinite period and shall be removable by the council at any time. If removed at any time after one year of service, such person may demand written charges. Such demand shall be in writing and shall be served upon the mayor or any member of the council within one week after the date of the resolution of suspension or removal and written charges shall be served upon the city manager within fifteen days after the service of such demand upon the mayor or any member of the council and public hearing shall be had on said charges before the city council within thirty days after the service of such charges, but the city council and the city manager may consent to a hearing on said charges at a later date, but the removal of the city manager shall not take effect until such hearing shall have been held, but pending such hearing the city council may suspend the city manager from office. During the absence or disability of the city manager, the duties of that office shall be performed by some properly qualified person designated by the council. **(Ordinance No. 1086, passed June 11, 1984)**

Section 12. OATH OF OFFICE. Every officer of the city shall, before entering upon the duties of the office, take and subscribe an oath of office in substantially the following form: I do solemnly swear [or affirm] to support the constitution of the United States and of this state, and to discharge faithfully the duties devolving upon me as _____ of this city to the best of my judgment and ability. **(Ordinance No. 1086, passed June 11, 1984)**

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