

**City of Ramsey**  
**Agenda**  
**Charter Commission**  
**Wednesday, November 17, 2021**  
**6:00 pm**  
**Council Chambers, 7550 Sunwood Drive NW**

- 1. Call to Order**
- 2. Citizen Input**
- 3. Approve Agenda**
- 4. Approve Minutes**
  1. Approve the Following Meeting Minutes:
    - 1) Regular Charter Commission Meeting - August 27, 2020
- 5. Commission Business**
  1. Introduce New City Attorney
  2. Accept the Following Resignations of Charter Commission Members, Declare Vacancies, and Advertise to Fill Same:
    - 1) Mr. John Niederhaus, term ending 12-31-21; and
    - 2) Mr. Chad Sivertson, term ending 12-31-21
  3. Continue Review of Amendments to Chapter 4 of the Charter - Nominations and Elections
- 6. Commission/Staff Input**
- 7. Adjournment**

**Charter Commission**

**4. 1.**

**Meeting Date:** 11/17/2021

**By:** Colleen Lasher, Administrative Services

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**Information**

**Title:**

Approve the Following Meeting Minutes:

1) Regular Charter Commission Meeting - August 27, 2020

**Purpose/Background:**

Purpose: To review minutes from past meeting and approve.

Background: The last regular meeting held by the Charter Commission was August 27, 2020. That set of minutes is attached for Commission review and approval.

**Recommendation:**

Staff recommends reviewing the attached set of minutes and approving with or without amendments.

**Outcome/Action:**

Motion to approve the following meeting minutes:

1) Regular Charter Commission Meeting - August 27, 2020.

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**Attachments**

Draft 08-27-20 Charter Minutes

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**Form Review**

<b>Inbox</b>	<b>Reviewed By</b>	<b>Date</b>
Kurt Ulrich	Kurt Ulrich	11/10/2021 04:25 PM
Form Started By: Colleen Lasher		Started On: 11/10/2021 06:51 AM
Final Approval Date: 11/10/2021		

**CHARTER COMMISSION  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

The Charter Commission conducted a regular meeting on Thursday, August 27, 2020, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present:                   Chairperson Joseph Field  
  Commissioner Susan E. Anderson  
  Commissioner Jim Bendtsen  
  Commissioner Ben Deemer  
  Commissioner Joshua Fuhreck  
  Commissioner Jennifer Leistico  
  Commissioner Laura Moore  
  Commissioner Chad Sivertson

Members Absent:                   Commissioner John Niederhaus

Also Present:                       Administrative Services Director Colleen Lasher  
  City Administrator Kurt Ulrich  
  City Attorney Joe Langel  
  City Councilmember Debra Musgrove  
  Finance Director Dianna Lund

**CALL TO ORDER**

Chairperson Field called the regular meeting of the Charter Commission to order at 6:21 p.m.

**CITIZEN INPUT**

None.

**APPROVE AGENDA**

Motion by Commissioner Deemer, seconded by Commissioner Bendtsen, to approve the agenda as presented.

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertson	aye
Chairperson Field	aye
Commissioner Deemer	aye
Commissioner Leistico	aye
Commissioner Fuhreck	aye

Commissioner Anderson     aye  
Commissioner Moore         aye

Motion carried.

**APPROVE MINUTES**

Motion by Commissioner Deemer, seconded by Commissioner Bendtsen, to approve the following meeting minutes as presented:

- 1)     Regular Charter Commission Meeting dated October 17, 2019

Further Discussion: Chairperson Field stated that on page nine, the last two motions above Commission staff input, it should state, “Voting No: None.”

A roll call vote was performed:

Commissioner Bendtsen     aye  
Commissioner Sivertsen     aye  
Chairperson Field         aye  
Commissioner Deemer        aye  
Commissioner Leistico     aye  
Commissioner Fuhreck      aye  
Commissioner Anderson     aye  
Commissioner Moore         aye

Motion carried.

**COMMISSION BUSINESS**

**5.1     Introduce New Charter Member**

City Administrator Ulrich introduced the newly appointment Member of the Commission, Laura Moore.

Commissioner Moore introduced herself and noted that she is also a part of the Environmental Policy Board.

**5.2     Elect Chair and Vice Chair**

Chairperson Field noted that the positions run for two-year terms, therefore these nominations will run for 2020 and 2021.

Motion by Commissioner Anderson, seconded by Commissioner Sivertson, to elect Commissioner Field to serve as Chair for the Charter Commission for years 2020 – 2021.

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertsen	aye
Commissioner Deemer	aye
Commissioner Leistico	aye
Commissioner Fuhreck	aye
Commissioner Anderson	aye
Commissioner Moore	aye
Chairperson Field	aye

Motion carried.

Motion by Chairperson Field to elect Commissioner Deemer to serve as Vice Chair for the Charter Commission for years 2020 – 2021.

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertsen	aye
Chairperson Field	aye
Commissioner Deemer	aye
Commissioner Leistico	aye
Commissioner Fuhreck	aye
Commissioner Anderson	aye
Commissioner Moore	aye

Motion carried.

### **5.3 Approve Year End Activity Letter**

Chairperson Field noted that included in the case was the draft summary letter for the year 2019 for the Commission's review, comment, and approval. Once approved by the Commission, staff will forward the letter to the Chief Judge.

Motion by Commissioner Leistico, seconded by Commissioner Deemer, to approve the year-end annual report letter for 2019 and direct staff to submit such report to The Honorable Douglas B. Meslow, Chief Judge of the Tenth Judicial District.

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertsen	aye
Chairperson Field	aye
Commissioner Deemer	aye
Commissioner Leistico	aye

Commissioner Fuhreck        aye  
Commissioner Anderson       aye  
Commissioner Moore         aye

Motion carried.

#### **5.4     Resume Consideration of Pending Motion Regarding Franchise Fees**

Chairperson Field provided background information and stated that the purpose of this case is to resume consideration of a pending motion regarding Franchise Fees that was made at the February 19, 2019 meeting.

Motion by Commissioner Bendtsen, seconded by Commissioner Anderson, to reconsider the motion that was tabled at the February 19, 2019 meeting.

A roll call vote was performed:

Commissioner Bendtsen       aye  
Commissioner Sivertsen       aye  
Chairperson Field             aye  
Commissioner Deemer         aye  
Commissioner Leistico        aye  
Commissioner Fuhreck        aye  
Commissioner Anderson       aye  
Commissioner Moore         aye

Motion carried.

Chairperson Field stated that the Commission requested a study to be completed on alternate road funding sources. He stated that the Commission was allowed \$1,500 for the study but the Council allowed additional funding for a total of \$5,000. He stated that the study was completed by the University of Minnesota Resilient Communities Project.

Commissioner Anderson stated that the Council has already taken action on the franchise fees and asked the purpose of continuing this discussion.

City Administrator Ulrich recognized that the study results were delayed because of trouble placing it with a class through RCP due to COVID. He noted that many different funding sources were included in the report but not all of those are available to the City, as some are not allowed by the State.

Chairperson Field stated that some elements of the study met the intent of the Committee but not all elements were met through the study.

Commissioner Anderson stated that the City had some difficulty gathering information from some cities as they did not want to provide their positions but noted that the cities were then listed on the next page.

City Administrator Ulrich provided additional background information, noting that the students and the City received permission from the cities to share their names in the report.

Chairperson Field commented that this appears to be a limited glimpse and while the study says that some trends favor franchise fees, he was unable to determine the support for that. He commented that the report does not offer enough information to support for or against franchise fees and noted that additional information would be needed.

Commissioner Fuhreck commented that any unbiased reading of the report did not sway one way or another towards or against franchise fees.

Commissioner Leistico stated that she believed that the report was in favor of franchise fees, as she read it.

Chairperson Field stated that the purpose of the report was to find out what other communities are doing to fund their roads and not whether or not to support franchise fees specifically. He stated that the Committee also wanted feedback on how many increases have occurred for cities that implemented franchise fees. He stated that not all the questions were well answered by the report. He read aloud the proposed language from the motion made at the February 2019 meeting. He stated that language could potentially limit the allowed amount of a franchise fee but was unsure of the exact amount that would be allowed.

Commissioner Deemer stated that it is his interpretation that the proposed language would take away from the intent of how the City would like to use the franchise fee. He explained that there are different utilities that have franchise fees and that could cause a great deal of inequality, as not everyone has gas service or cable service.

Commissioner Sivertson stated that the motion would limit the allowed use of franchise fees to cover the cost of a utility service bringing the service to the customer, rather than allowing a municipality to raise additional funds through that source.

Chairperson Field stated that one criticism of franchise fees is that they are considered regressive. He noted that would be a political decision of the Council. He stated that the consideration of the Charter Commission is that there is no limit on the amount of a franchise fee. He stated that even if set by the City Council at a certain amount, a future Council could increase that amount.

City Administrator Ulrich stated that currently there is no levy limit on the property tax levy.

Chairperson Field stated that he believed that Ramsey attempts to promote itself for not using the full taxable levy.

Finance Director Lund stated that the City does not have a restriction on the levy, although it does have a restriction on the amount of debt that can be carried. She commented that if the restriction is placed in the manner discussed, it would be minimal such as plowing and mowing grass. She stated that the ordinance in place states that franchise fees would be limited to use for road improvements and it has been determined that \$1,900,000 is needed annually for that purpose. She explained that if the language proposed by the Charter Commission were in place, the franchise fee revenue would not cover that expense. She stated that the Council is currently continuing budget discussions and would like to limit the levy increase to five percent. She explained that if the \$1,900,000 in road funding were added to the levy that would result in an increase of 16 percent, without considering daily operations and the current City debt.

Chairperson Field asked about the expert that the City hired the previous year to conduct public meetings.

City Administrator Ulrich stated that the City contracted with WSB.

Chairperson Field asked if WSB met with the RCP group.

City Administrator Ulrich noted that RCP reviewed some of those materials but did not believe that they met directly with WSB.

Commissioner Leistico commented that State law allows cities to utilize franchise fees for this purpose and asked if the State places any limits or restrictions on the use.

City Attorney Langel stated that restriction is not placed by the State. He noted that a time limit and other restrictions were placed on the use within the City's ordinance. He stated that the franchises being used for this purpose are gas and electric and not cable.

Chairperson Field asked about the next step if the Charter Commission adopted the motion on the table.

City Attorney Langel stated that if the Charter Commission proposes an amendment to the Charter, it must be submitted 17 weeks before the general election in order to be placed on the ballot. He noted that because of the timing, it would then go forward under a special election and believed the earliest consideration would then be February.

Commissioner Bendtsen stated that he has a number of objections to the use of franchise fees to raise road funds, noting that it is very regressive. He noted that many people will pay more in franchise fees than they would be charged through property taxes. He also did not believe that it is fair when some people do not have vehicles and others have four vehicles, yet they would be charged the same. He stated that people are afraid to commit to funding the road improvements. He noted that assessments are only 25 percent while the taxpayers fund the remaining 75 percent of that cost.

Commissioner Deemer noted that the proposed language would remove the option for the City to raise revenue from franchise fees, which is allowed by State Statute. He agreed that roads have been a long-term issue but noted that residents do not want to pay an assessment to repair the roads.

Commissioner Moore asked if the purpose of the Charter Commission is to determine whether it is legal to add language to the Charter Commission; specifically, whether it is legal to add the language, regardless of personal opinion.

Chairperson Field stated that the Commission does not deal with the legalities of things but has the legal power to change the Charter by suggestion, which then goes before the residents for a vote.

Commissioner Leistico stated that the language is already within the Charter and the proposed amendment would be to restrict the Council from using the franchise fee in the manner they wish.

Commissioner Fuhreck asked if the special assessments are currently being levied per driveway.

City Administrator Ulrich explained that the assessments are levied on a per unit basis for residential development and front footage for commercial.

Commissioner Fuhreck stated that if his home were worth \$600,000 and his neighbor's home were worth \$200,000, they would then be assessed equally, which sounds regressive to him.

Chairperson Field stated that he would be curious to know how the city of Coon Rapids uses special assessments and bonding for roads, without using franchise fees.

City Administrator Ulrich stated that Coon Rapids does use franchise fees but uses them for the general fund and not for roads.

Finance Director Lund explained that Coon Rapids uses the franchise fee for general City expenses and not for roads.

Chairperson Field stated that would have been pertinent information to include in the study. He stated that Eagan, Stillwater, and White Bear Lake do not use franchise fees. He stated that he finds that the study is not what he expected.

Finance Director Lund stated that from the 2015 study, Eagan does have a franchise fee.

Commissioner Leistico stated that the study identifies cities that use franchise fees for road purposes, not whether the city uses franchise fees for general fund purposes.

Chairperson Field stated that if the motion does not pass, the City would be able to continue to use the franchise fee as desired and if the motion passes, a limit would be placed on the amount the City could charge for the franchise fee. He noted that if passed, this would need to go before the residents for a vote.

Commissioner Anderson commented that she believed the intent of the amendment was to limit the amount of franchise fees that could be charged, rather than not allowing them at all.

Chairperson Field stated that the amendment as proposed would limit the increase in costs that results for a utility company to implement its service, which would be negligible.

Commissioner Anderson believed that the intent was to ensure that the franchise fees would only be used for improving roads and to have additional controls.

Chairperson Field stated that the amendment would match the actual expense for a utility company to implement their service, rather than allowing the City to raise revenue through that purpose.

City Administrator Ulrich stated that other options were discussed with the Charter Commission five or six years ago to make the Charter more consistent with the ordinance, to use that method for only road funding and with caps but that did not move forward.

Commissioner Sivertson stated that in those discussions it was determined that the Charter cannot engage in budget issues and that is why the discussion ended.

Chairperson Field called for votes on the motion to approve the amendment to Section 10.4 of the Charter, which adds the phrase "except that any franchise fees imposed under State Statute must be limited to defray an actual increased municipal costs accrued as a result of utility operations and may not be used to generate revenue."

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertsen	aye
Commissioner Deemer	nay
Commissioner Leistico	nay
Commissioner Fuhreck	nay
Commissioner Anderson	nay
Commissioner Moore	nay
Chairperson Field	aye

Motion failed.

## **5.5 Review Amendments to Chapter 4 of the Charter – Nominations and Elections to be in Conformity with State Law**

Chairperson Field reviewed the staff report noting that the purpose of the case is review Chapter 4 of the Charter, Nominations and Elections, to conform with State law. A lengthy discussion ensued when the Commission discussed the topic at the February and October 2019 meetings and a consensus of the Commission was reached. The City Attorney was asked to revise Chapter 4 of the City's Charter to remove the language conflicting with State law, remove duplicative language, remove the need for primaries – with one option to remove primaries all together and another to

remove primaries for special elections, and clean up the language regarding advisory elections – with an option to remove advisory elections all together and another option to state that advisory elections can only occur with general elections. Regarding Section 4.5.4, an option should be brought back to remove that section which would default to State law and another option cleaning up the language and allowing appointment for terms of only less than 365 days.

Administrative Services Director Lasher stated that one Councilmember stated that they would be hesitant to appoint someone to the Council.

Chairperson Field asked if this could go back before the Council for consideration again.

City Attorney Langel stated that it would be difficult for voters to digest this information given the technicalities. He also agreed that it would not make much sense to send this back to the Council, as there was not unanimous support and was a vote of 5-2. He stated that there may be a benefit in holding joint discussions related to primaries and the length of appointments that could occur under certain circumstances as those were the two main issues of why the vote failed. He noted that the vast majority of the changes were to clean up the language to comply with State law.

Commissioner Anderson stated that this issue continues to happen, as one Councilmember is moving, and the Council is down another member that will need to be replaced through a special election.

City Attorney Langel provided additional clarification on the intended language.

Commissioner Fuhreck suggested that the language be sent back to the Council absent the primary and appointment language in order to accomplish the other changes and setup a meeting with the Council to discuss the other two elements.

Commissioner Leistico stated that she read the reaction of the Council to the proposed language and was frustrated that some members of the Council were caught off guard and did not provide feedback. She believed that it would be helpful to have a joint meeting in order to come to a consensus.

Commissioner Deemer stated that he has been involved in the City since the 1970's. He noted that changes have been made to this chapter several times during that time. He noted that the main objection of the Council seemed to be that they would be appointing someone rather than that person being elected. He stated that prior to 2000, the Council appointed at least five to seven members to the Council without an election. He noted that those appointed members served until the next election and were then required to run. He believed that the changes should be made to ensure that the language complies with State law and also supported removing the primary requirement.

Councilmember Musgrove commented that she believed the Commission submitted well thought out language that complied with State law and therefore she voted in favor of the changes. She noted that the majority of the Council respected the work the Commission did to bring this language up to Code and eliminate the elements that cause an additional financial burden on the

City. She believed that it would be helpful to have a joint meeting focused on the two points of disagreement.

Commissioner Anderson stated that there are several people on the Council up for election and therefore believes that the joint discussion should be held after January 2021.

Chairperson Field stated that if everything except the two objectionable items were approved, would that then create a hole that would place the City in violation of the State law because those were not addressed.

City Attorney Langel stated that there is interaction between some of the provisions and therefore he was unsure that would be the best option. He believed that it would be better to complete the amendments all together.

Chairperson Field suggested tabling this and requesting feedback from the dissenting members of the Council as to the alternative language they would propose.

City Administrator Ulrich stated that he could then schedule that for a Council worksession.

It was the consensus of the Commission to table the matter with the direction discussed.

Commissioner Anderson suggested that the Commission wait until the membership of the Council changes, noting that Mayor LeTourneau will not be a part of the Council in a few months and he was one of the dissenting voters.

Motion by Commissioner Fuhreck, seconded by Commissioner Deemer, to postpone this matter to the next meeting of the Charter Commission.

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertsen	aye
Chairperson Field	aye
Commissioner Deemer	aye
Commissioner Leistico	aye
Commissioner Fuhreck	aye
Commissioner Anderson	aye
Commissioner Moore	aye

Motion carried.

## **6. COMMISSION / STAFF INPUT**

### **6.1 Other**

No comments.

**7. ADJOURNMENT**

Motion by Commissioner Deemer to adjourn the meeting.

A roll call vote was performed:

Commissioner Bendtsen	aye
Commissioner Sivertsen	aye
Chairperson Field	aye
Commissioner Deemer	aye
Commissioner Leistico	aye
Commissioner Fuhreck	aye
Commissioner Anderson	aye
Commissioner Moore	aye

Motion carried.

The regular meeting of the Charter Commission adjourned at 8:15 p.m.

Respectfully submitted,

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Colleen Lasher  
Administrative Services Director

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Joseph J. Langel  
City Attorney

Drafted by Amanda Staple  
*TimeSaver Off Site Secretarial, Inc.*

**Charter Commission**

**5. 1.**

**Meeting Date:** 11/17/2021

**By:** Colleen Lasher, Administrative Services

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**Information**

**Title:**

Introduce New City Attorney

**Purpose/Background:**

**Purpose:** The purpose of this case is to introduce and officially welcome Mr. Frederick Knaak, the City of Ramsey's new City Attorney.

**Background:** Civil legal services were provided by Mr. Joseph Langel of Ratwik, Roszak & Maloney, PA. from July 1, 2013 through October 31, 2021. The City Council has a policy to periodically review the city's professional service contracts and the current firm. Consistent with this policy, the City of Ramsey solicited a Request for Proposals for Civil Legal Services and subsequently interviewed five law firms and selected the firm of Holstad & Knaak, PLC to represent the city. It was the consensus of the Council to enter into a contract for civil legal services with the firm of Holstad & Knaak, PLC, with Frederick W. Knaak, Esq. to serve as the City Attorney, effective November 1, 2021.

**Funding Source:**

N/A

**Recommendation:**

N/A

**Outcome/Action:**

Introduce and welcome Mr. Frederick Knaak, the City of Ramsey's new City Attorney.

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**Attachments**

*No file(s) attached.*

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**Form Review**

**Inbox**

Kurt Ulrich

Form Started By: Colleen Lasher

Final Approval Date: 11/10/2021

**Reviewed By**

Kurt Ulrich

**Date**

11/10/2021 04:25 PM

Started On: 11/10/2021 06:55 AM

**Charter Commission**

5. 2.

**Meeting Date:** 11/17/2021

**By:** Colleen Lasher, Administrative Services

**Information**

**Title:**

Accept the Following Resignations of Charter Commission Members, Declare Vacancies, and Advertise to Fill Same:

- 1) Mr. John Niederhaus, term ending 12-31-21; and
- 2) Mr. Chad Sivertson, term ending 12-31-21

**Purpose/Background:**

**Purpose:** The purpose of this case is to inform the Charter Commission that Commissioners Mr. John Niederhaus and Mr. Chad Sivertson have submitted letters of resignation, and to state staff's intent to advertise to fill the vacancies.

**Background:** Staff received correspondence from Mr. John Niederhaus and Mr. Chad Sivertson, current Charter Commissioners, that they have moved permanently out of the City and will no longer serve on the City's Charter Commission. Staff will submit an advertisement to fill the vacancies in the next Ramsey Resident, the City's official newspaper, social media and will also place an announcement on the City's website. Both Mr. John Niederhaus and Mr. Chad Sivertson had terms set to expire on December 31, 2021.

The Commission currently has two other members whose terms are expiring at the end of year 2021; Ms. Susan Anderson and Mr. Ben Deemer. At the time of this writing, one member wishes to be reappointed and staff is awaiting information from the other member regarding their desire to request reappointment or not. The terms of all the seated members are as follows:

- Susan Anderson - term expiration 12/31/2021
- Jim Bendtsen - term expiration 12/31/2024
- Ben Deemer - term expiration 12/31/2021
- Joe Field - term expiration 12/31/2024
- Josh Fuhreck - term expiration 12/31/2024
- Jennifer Leistico - term expiration 12/31/2024
- Laura Moore - term expiration 12/31/2022
- Vacant - term expiration 12/31/2021
- Vacant - term expiration 12/31/2021

**Notification:**

NA

**Time Frame/Observations/Alternatives:**

NA

**Funding Source:**

NA

**Recommendation:**

NA

**Outcome/Action:**

No formal action is necessary. This case is for informational purposes.

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**Attachments**

*No file(s) attached.*

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**Form Review**

**Inbox**

Kurt Ulrich  
Colleen Lasher (Originator)  
Kurt Ulrich  
Form Started By: Colleen Lasher  
Final Approval Date: 11/12/2021

**Reviewed By**

Kurt Ulrich  
Colleen Lasher  
Kurt Ulrich

**Date**

11/10/2021 04:30 PM  
11/12/2021 07:40 AM  
11/12/2021 09:45 AM  
Started On: 11/10/2021 07:07 AM

**Charter Commission**

5. 3.

**Meeting Date:** 11/17/2021

**By:** Colleen Lasher, Administrative Services

**Information**

**Title:**

Continue Review of Amendments to Chapter 4 of the Charter - Nominations and Elections

**Purpose/Background:**

Purpose

The purpose of this case is to review Chapter 4 of the Charter, Nominations and Elections, to conform with state law; as well as to consider other potential beneficial changes to Chapter 4 that could be agreed upon.

Changes to State Election Law

The State Legislation previously set uniform election dates for special elections which prompted a complete review of Chapter 4, Nominations and Elections, of the City's Charter. The current Charter language does not include these dates, is not entirely consistent with State law, and causes problems in administering City elections. Many sections of Chapter 4 are preempted by State law.

City of Ramsey Actions - To Date

As the Charter Commission will recall, the Commission started its work on updating Chapter 4 in February 2019. The Charter Commission met in February 2019 and October 2019 and received information with regard to what must be amended to comply with State law, and what else could be amended to make administering elections, especially special elections, more straight forward and timely.

In cooperation with former City Attorney Langel, a draft ordinance (#19-15 "An Ordinance Amending the Charter by Repealing and Replacing Chapter 4 - Nominations and Elections") was drafted and then reviewed by the City Council on December 10, 2019, but it did not pass. In order for the ordinance to pass, all Councilmembers must motion in favor of the ordinance. When the City Council reviewed this topic in December 2019, the main point of dissent was related to primaries and the length of Council appointments that could occur under certain circumstances.

When the Charter Commission met on August 27, 2020, (in hopes of getting additional information from the City Council) it was decided to postpone this matter to the next meeting of the Charter Commission (which is this evening).

Most recently, on April 20, 2021, staff, former City Attorney Langel and the City Council met again to discuss this matter. As a result of that discussion, former City Attorney Langel provided the attached documents for new consideration.

This evening, City Attorney Knaak will be on hand to provide assistance with this matter.

**Notification:**

N/A

**Time Frame/Observations/Alternatives:**

NA

**Funding Source:**

N/A

**Recommendation:**

Based on discussion.

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**Outcome/Action:**

Based on discussion.

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**Attachments**

Memo

Draft Clean Chapter 4

Redline Chapter 4

Minutes 04-20-21 Special WS

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**Form Review**

**Inbox**

Kurt Ulrich

Form Started By: Colleen Lasher

Final Approval Date: 11/12/2021

**Reviewed By**

Kurt Ulrich

**Date**

11/12/2021 11:43 AM

Started On: 11/10/2021 07:30 AM

## MEMORANDUM

**TO:** City Council

**FROM:** Joseph J. Langel  
Nathan B. Shepherd  
City Attorneys

**DATE:** September 28, 2021

**RE:** Charter Election Provisions

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The presence of language that is inconsistent with state law has the potential to create confusion and uncertainty in the administration of the City's elections. Therefore, we were asked to provide revisions to the election administration portion of the City Charter, removing language or provisions that conflict with state law.

This memorandum describes proposed changes to these provisions of the Charter and sets forth the legal issues underlying those changes. We also provide a redlined version of Chapter Four of the Charter that reflects the changes identified here, as well as a clean copy that incorporates those changes.

### **Background**

Through their charters, cities have general authority to “provide for any scheme of municipal government not inconsistent with the constitution” and “for the regulation of all local municipal functions, as fully as the legislature might have done before home rule charters for cities were authorized.” Minn. Stat. § 410.07. However, “[c]ities have no power to regulate in a manner that conflicts with state law or invades subjects that have been preempted by state law.” *Jennissen v. City of Bloomington*, 913 N.W.2d 456, 459 (Minn. 2018). Thus, a city “cannot enact a local regulation that conflicts with state law or enact a regulation when state law fully occupies a particular field of legislation.” *Bicking v. City of Minneapolis*, 891 N.W.2d 304, 313 (Minn. 2017).

Since 1959, state law has dictated that municipal elections are controlled by state election law. Minn. Stat. § 205.02, subd. 1. Since then, the legislature further clarified that, “[i]n all statutory and home rule charter cities, the primary, general and special elections held for choosing city officials and deciding public questions relating to the city shall be held as provided in [chapter 205.]” *Id.*, subd. 2. In addition to the city-specific election chapter, other election statutes that apply to municipalities will generally control in the City, regardless of the charter. *See, e.g.*, Minn. Stat. § 204B.16, subd. 1 (requiring that each “municipality” designate polling places according to a certain schedule); *see*

Minn. Stat. § 200.02, subs. 8, 9 (defining the term “municipality” to include charter cities). Further, state law identifies only a handful of statutory exceptions that do not apply to charter cities. Minn. Stat. § 205.02, subd. 2 (“[S]ections 205.065, subdivisions 4 to 6; 205.07, subdivision 3; 205.10; 205.121; and 205.17, subdivision 3, do not apply to a city whose charter provides the manner of holding its primary, general or special elections.”).

Given the specificity of these exceptions and the blanket statement that charter cities must conduct their elections in accordance with Minnesota Election Law,<sup>1</sup> it is possible that a court would determine that state law “fully occupies [the] particular field of” municipal election law. In light of the strong potential that state law may be determined to preempt the provisions of the City Charter related to City elections, the safest course of action is to presume that the City Charter may not deviate from state law unless there is specific authorization to do so. Therefore, where there are potential conflicts between the City Charter and provisions of state law, the safest course is to resolve those conflicts in favor of state law.

The following pages go through Chapter 4 of the Charter section by section, showing the proposed changes and providing comments on the rationale for those changes.

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<sup>1</sup> See Minn. Stat. § 200.015 (“The Minnesota Election Law applies to all elections held in this state unless otherwise specifically provided by law.”); *see also* Minn. Stat. § 200.01 (defining “Minnesota Election Law” to include chapters 200 through 211C).

## Specific Provisions

### Sec. 4.1. - The regular municipal election.

A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year, ~~commencing in 1984~~, at such places as the city council shall designate. At least 15 days prior notice shall be given by the city clerk by posting a notice thereof in at least one public place in each election precinct, and by publishing a notice thereof at least once in the official newspaper of the city stating the time and the places of holding such election and of the officers to be elected. Failure to give such notice shall not invalidate such election. Elected and qualified officers provided for by this Charter shall assume the duties of office to which they were elected on the first ~~business day~~ Monday in January following such election.

### **Commentary:**

The final sentence of this section, related to the date a council member assumes office, is inconsistent with state law. State law dictates that city council members elected at regular elections assume office on the first Monday in January following their election. Minn. Stat. § 205.07, subd. 1a.

The balance of this paragraph is not necessarily inconsistent with state law. The reference to 1984 was removed as unnecessary.

#### **4.1.1 Primary elections.**

~~The regular p~~Primary elections shall be held on the same date as prescribed by ~~the~~ Minnesota ~~Statute~~Election Law, which establishes the statewide primary election date. The primary election shall be for the selection of two nominees for each elective office at the regular municipal election.~~;~~ ~~If~~unless two ~~nominees~~candidates or fewer file for ~~each~~any elective office, that office shall not appear on the primary ballot and the candidates shall appear on the municipal general election ballot as the nominees for that office.

#### **Commentary:**

The first sentence is inconsistent with state law because, as written, it applies to both regular and special elections, but the “statewide primary election date” only concerns the regular election. Furthermore, primary elections for special elections are addressed in section 4.5.

As for the second clause of the second sentence (“unless two nominees or fewer file for each elective office”), under state law, if there are not more than twice the number of filers as seats (e.g. if there are one or two filers for one seat), the seat does not appear on the primary election ballot. Instead, the candidates simply proceed to the general election. The proposed language is consistent with state law while retaining as much of the present language as possible.

**Sec. 4.2. - Filing for office.**

All persons who shall desire to be elected to any elected office shall file an affidavit not more than ~~ten weeks~~ 84 days nor less than ~~eight weeks~~ 70 days before the primary election with the city clerk, paying a filing fee to the city clerk in an amount as set by ordinance or filing a nominating petition. The clerk shall also accept an application for candidacy as authorized by state law.

The city clerk shall prepare and have printed at the expense of the city the necessary ballots or other required material for such election.

The ballots or other material shall contain no political party designation of any candidate and the names of the candidates for each office shall be rotated in the manner provided by state law ~~may be arranged on the ballot alphabetically according to the surname of each candidate.~~ Consistent with state law, ~~T~~he ballots or the results shall be counted and preserved and the city clerk shall be the final custodian of such ballots or returns for the city.

A sample ballot or a facsimile representation of the ballot shall be posted at the place of election at least one week before such election by the city clerk, whose duty it is to preserve such sample ballots.

**Commentary:**

The first clause of the first sentence, related to the timing of the filing of an affidavit, conflicts with state law related to certain filing deadlines. State law sets the filing period for “a city nominating candidates at a primary, . . . for a city office voted on in November.” Minn. Stat. § 205.13, subd. 1a. In that case, “an affidavit of candidacy for a city office voted on in November must be filed no more than 84 days nor less than 70 days before the city primary.” *See id.*<sup>2</sup> Thus, to the extent that the first clause of the

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<sup>2</sup> Note that, while the statute sets the filing period for non-November elections for “municipalities that do not hold a primary,” the statute does not address any non-November elections for municipalities that do hold a primary. Minn. Stat. § 205.13, subd. 1a. This suggests that the City could set its own deadlines for non-November elections. The Secretary of State’s election guide does not explicitly recognize this authority for cities, however, so there may be some risk in taking this position.

first sentence applies to “a city office voted on in November,” the timing set out in that clause of the Charter is inconsistent with state law.

The second portion of the first sentence, related to paying a fee with the affidavit of candidacy, is inconsistent with state law that permits candidates for office to file a nominating petition in place of the filing fee. Minn. Stat. § 205.13, subd. 4; *see also* Minn. Stat. § 204B.11, subd. 2 (d) (setting the required number of signatures for a petition for an office with a filing fee set by charter). That language also ignores the potential for voters to apply for the candidacy of another voter. Minn. Stat. § 205.13, subd. 1. The proposed language simply adds language recognizing the potential for an application for candidacy or a nominating petition in place of a filing fee. Language permitting the filing fee to be set by ordinance must be retained in order for the City to have that authority. *See id.*, subd. 3(c) (“A home rule charter city that sets filing fees by authority provided in city charter is not subject to the fee limits in this section.”). In order to retain that authority for all elections, if the first clause is clarified to apply to only non-November special elections, the second clause should be separated into a separate sentence. If the first clause is remade in a different manner, the council could also append a clause at the end of the sentence recognizing the potential for a petition to be filed in lieu of a fee.

The second sentence is not inconsistent with state law. “The municipal clerk shall prepare and have printed the necessary election materials, including ballots, for a municipal election.” Minn. Stat. § 205.185, subd. 1; *see also* Minn. Stat. § 205.17, subd. 1 (“In all statutory and home rule charter cities, and in all towns, the municipal clerk shall have printed the official ballot containing the names of all candidates for municipal offices and municipal ballot questions.”).

The second clause of the third sentence, regarding the arranging of the candidate names on the ballots, conflicts with state law. State statute requires that “[t]he names shall be arranged on city ballots in the manner provided for the state elections.” Minn. Stat. § 205.17, subd. 1. For state elections, the names are rotated along precinct lines. *Id.*, subd. 2; *see also* Minn. R. 8220.0825 and 8250.1810.

The fourth sentence, related to counting and preserving ballots or returns, treads on an area that is fully controlled by state law. If the Charter contained specifics on how ballots should be counted, for example, that language could conflict with state law. Given its general nature, however, this language could be clarified as a direction of policy rather than a statement on a topic already covered by state law. For example, this sentence directs the preservation of ballots, but does not indicate the form that they must be preserved in or how long they must be preserved. The Minnesota records retention schedule requires that voted ballots be preserved for 22 months except in the case of a challenge, and unvoted ballots destroyed after certification. In order to avoid any

potential conflict with state law, this sentence can merely incorporate state law into this general statement of policy.

The final sentence of this section, relating to posting sample ballots, adds a requirement on top of statutory language but does not replace the statutory requirement. *See* Minn. Stat. § 205.16, subds. 2 and 3. This language therefore does not conflict with state law.

**Sec. 4.3. - Procedure at elections.**

Consistent with the provisions of this Charter and applicable state statutes, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this Charter and supplementary ordinances, general state statutes on elections shall apply to municipal elections.

**Commentary:**

This section is not inconsistent with state law.

**Sec. 4.4. - Special and advisory elections except for elected office.**

The council may by resolution order ~~any a~~ special or advisory election on a question on which the voters are authorized to pass judgment under this Charter by law. The council may also, by resolution, order an advisory election to be held on a question that the city council has sole authority to resolve. The results of the advisory election are advisory to the council and have no binding effect. Special and advisory elections shall be held in the manner set forth for special elections in statutory cities under Minnesota Election Law. This section does not apply to special elections to fill vacancies in municipal offices.~~deemed appropriate by the council, for any reason authorized by law or this Charter, and provide all means for holding it. At least 15 days' prior notice shall be given by the city clerk by posting a notice thereof in at least one public place in each election precinct, and by publishing a notice thereof at least once in the official newspaper of the city stating the time and the places of holding such election.~~

**Commentary:**

The existing language indicates that the Council can determine how to hold special and advisory elections by resolution and provides notice requirements. This language is not consistent with state law. The revised language retains authority for these elections while referring to state law for the appropriate procedures.

**Sec. 4.5. - Vacancy of municipal elected office.**

4.5.1 When a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, ~~there shall be a special election held within 90 days after the vacancy occurs to elect~~ a successor shall be elected by special primary and special election on the next practicable election dates to serve ~~for~~ the remainder of the unexpired term of the office vacated.

4.5.1.1 When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a regular primary election, the special primary election to fill the vacancy shall coincide with the regular Municipal Election, the election to fill the vacancy shall be held on the next election date thereafter, and the notice of such vacancy shall be published as soon as is practicable.

**Commentary:**

The requirement that a special election occur within 90 days in this scenario conflicts with state law. The 90-day election timing ignores the need for a primary and ignores the limitations on certain election dates specified by state law. The easiest way to ensure that this language is compliant with state law is to remove the 90-day timeline while retaining the requirement that a successor be elected to fill the vacancy.

Paragraph 4.5.1.1 is the former 4.5.5.1, as modified to provide for a primary election. It was moved to this location because it is a subset of the circumstances in 4.5.1 (vacancy when more than a year remaining in the term).

~~4.5.2 The city clerk shall give at least 60 days published prior notice of such special election, except as set forth under 4.5.5 of this section.~~

**Commentary:**

The notice required here would be in addition to statutory notice. There is no purpose served by an extra notice, so it was deleted.

~~4.5.3~~2 The procedure at such election and assumption of duties of elected officers following such election shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.

**Commentary:**

The language of section 4.5.2 is not inconsistent with state law and was therefore retained.

~~4.5.4~~3 In the case of a vacancy where there remains less than 365 days in the unexpired term, the council shall, by a majority vote, appoint a successor to serve for the remainder of said term. In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

**Commentary:**

The language of section 4.5.3 is not inconsistent with state law and was therefore retained.

~~4.5.5 Office vacancy when less than eight weeks prior to primary election.~~

~~4.5.5.1 Special election. When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a primary election there shall be no primary election, except as provided in section 4.5.5.3 below. The special election to fill the vacancy shall coincide with the regular Municipal Election and the notice of such vacancy shall be published as soon as is practicable.~~

**Commentary:**

As noted above, this provision was modified and moved up to below 4.4.1

~~4.5.5.2 Vacancy in offices to be voted on in the regular Municipal Election. If a vacancy occurs less than eight weeks prior to the primary election, in the office of the mayor or the council members whose seats are to be voted on in the regular Municipal Election, said vacancy shall be considered not to exist for the purpose of the regular Municipal Election. The person elected to fill the vacancy in the regular Municipal Election, if approved by unanimous vote of the sitting council, may assume the duties of the office to which elected on the first business day following the city clerk's issuance of a certificate of election to said person.~~

**Commentary:**

This provision has no application because this situation is controlled by 4.5.3. An office will only be voted on in the regular City election at the regular election in the November prior to the expiration of the term for that office. A vacancy that occurs less than eight weeks prior to the primary election for that regular election will necessarily occur with less than one year remaining in the term. In that case, the Council is required to appoint a person to the office under 4.5.3.

~~4.5.5.3 Vacancy in an office not to be voted on in the regular Municipal Election. If a vacancy occurs in the office of the mayor or a councilmember not standing for election in the regular Municipal Election, a special primary election and a special election shall be held in January of the subsequent year following the vacancy to fill said vacancy. The election procedures for the special primary election and the special election shall be those election procedures for municipal office candidates as prescribed in Minnesota Statutes and this Charter. Notwithstanding section 2.3.1 of this Charter, which provides for a four year term for the mayor and council members, the term of the mayor and/or a councilmember elected pursuant to this subsection will be for the remainder of the vacant term.~~

**Commentary:**

This provision overlaps and conflicts with section 4.5.5.1. If the office is not on the ballot at the next regular election and the vacancy occurs less than eight weeks before the primary election for that regular election, the vacancy can only have occurred in the second year of the term. In that case, 4.5.5.1 dictates the result. The last sentence of this section is duplicative of the term language in 4.5.1.

~~4.5.6 If there are insufficient numbers of candidates in a regular or special election to fill expiring or vacated municipal offices, the city council shall fill said offices by appointment until the next regular municipal election. In the case of a tie vote of the council, the mayor shall make said appointment from the candidates under consideration.~~

**Commentary:**

This provision is inconsistent with state law. The City does not have authority to cancel an election because of insufficient candidates. Even if the City did not receive any affidavits of candidacy for an office, a resident could be elected as a write-in candidate.

**Sec. 4.1. - The regular municipal election.**

A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even-numbered year at such places as the city council shall designate. At least 15 days prior notice shall be given by the city clerk by posting a notice thereof in at least one public place in each election precinct, and by publishing a notice thereof at least once in the official newspaper of the city stating the time and the places of holding such election and of the officers to be elected. Failure to give such notice shall not invalidate such election. Elected and qualified officers provided for by this Charter shall assume the duties of office to which they were elected on the first Monday in January following such election.

4.1.1. *Primary elections.* The regular primary election shall be held on the same date as prescribed by Minnesota Election Law, which establishes the statewide primary election date. The primary election shall be for the selection of two nominees for each elective office at the regular municipal election. If two candidates or fewer file for any elective office, that office shall not appear on the primary ballot and the candidates shall appear on the municipal general election ballot as the nominees for that office.

**Sec. 4.2. - Filing for office.**

All persons who shall desire to be elected to any elected office shall file an affidavit not more than twelve weeks nor less than ten weeks before the primary election with the city clerk, paying a filing fee to the city clerk in an amount as set by ordinance or filing a nominating petition. The clerk shall also accept an application for candidacy as authorized by state law.

The city clerk shall prepare and have printed at the expense of the city the necessary ballots or other required material for such election.

The ballots or other material shall contain no political party designation of any candidate and the names of the candidates for each office shall be rotated in the manner provided by state law. Consistent with state law, the ballots or the results shall be counted and preserved and the city clerk shall be the final custodian of such ballots or returns for the city.

A sample ballot or a facsimile representation of the ballot shall be posted at the place of election at least one week before such election by the city clerk, whose duty it is to preserve such sample ballots.

### **Sec. 4.3. - Procedure at elections.**

Consistent with the provisions of this Charter and applicable state statutes, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this Charter and supplementary ordinances, general state statutes on elections shall apply to municipal elections.

### **Sec. 4.4. - Special and advisory elections except for elected office.**

The council may by resolution order a special election on a question on which the voters are authorized to pass judgment under this Charter by law. The council may also, by resolution, order an advisory election to be held on a question that the city council has sole authority to resolve. The results of the advisory election are advisory to the council and have no binding effect. Special and advisory elections shall be held in the manner set forth for special elections in statutory cities under Minnesota Election Law. This section does not apply to special elections to fill vacancies in municipal offices.

### **Sec. 4.5. - Vacancy of municipal elected office.**

4.5.1 When a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, a successor shall be elected by special primary and special election on the next practicable election dates to serve the remainder of the unexpired term of the office vacated.

4.5.1.1 When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a regular primary election, the special primary election to fill the vacancy shall coincide with the regular Municipal Election, the election to fill the vacancy shall be held on the next election date thereafter, and the notice of such vacancy shall be published as soon as is practicable.

4.5.2 The procedure at such election and assumption of duties of elected officers following such election shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.

4.5.3 In the case of a vacancy where there remains less than 365 days in the unexpired term, the council shall, by a majority vote, appoint a successor to serve for the remainder of said term. In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

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4.1.1. *Primary elections.* ~~The regular p~~Primary elections shall be held on the same date as prescribed by ~~the~~ Minnesota Statute Election Law, which establishes the statewide primary election date. The primary election shall be for the selection of two nominees for each elective office at the regular municipal election. ~~If~~ unless two ~~nominees~~ candidates or fewer file for ~~each~~ any elective office, that office shall not appear on the primary ballot and the candidates shall appear on the municipal general election ballot as the nominees for that office.

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The council may by resolution order ~~any a~~ special ~~or advisory~~ election on a question on which the voters are authorized to pass judgment under this Charter by law. The council may also, by resolution, order an advisory election to be held on a question that the city council has sole authority to resolve. The results of the advisory election are advisory to the council and have no binding effect. Special and advisory elections shall be held in the manner set forth for special elections in statutory cities under Minnesota Election Law. This section does not apply to special elections to fill vacancies in municipal offices, deemed appropriate by the council, for any reason authorized by law or this Charter, and provide all means for holding it. At least 15 days' prior notice shall be given by the city clerk by posting a notice thereof in at least one public place in each election precinct, and by publishing a notice thereof at least once in the official newspaper of the city stating the time and the places of holding such election.

### **Sec. 4.5. - Vacancy of municipal elected office.**

4.5.1 When a vacancy in an elected office of the city occurs with 365 days or more remaining in the term of the vacated office, ~~there shall be a special election held within 90 days after the vacancy occurs to elect~~ a successor shall be elected by special primary and special election on the next practicable election dates to serve ~~for~~ the remainder of the unexpired term of the office vacated.

4.5.1.1 When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a regular primary election, the special primary election to fill the vacancy shall coincide with the regular Municipal Election, the election to fill the vacancy shall be held on the next election date thereafter, and the notice of such vacancy shall be published as soon as is practicable.

~~4.5.2 The city clerk shall give at least 60 days published prior notice of such special election, except as set forth under 4.5.5 of this section.~~

~~4.5.3-2~~ The procedure at such election and assumption of duties of elected officers following such election shall conform as nearly as practicable to that prescribed for other municipal elections under this Charter.

~~4.5.4-3~~ In the case of a vacancy where there remains less than 365 days in the unexpired term, the council shall, by a majority vote, appoint a successor to serve for the remainder of said term. In the case of a tie vote of the council, the mayor, or acting mayor if the office of mayor be vacant, shall make the appointment from the candidates involved in the tie vote.

~~4.5.5 Office vacancy when less than eight weeks prior to primary election.~~

~~4.5.5.1 Special election. When a vacancy in an elected office of the city occurs when there is less than eight weeks prior to a primary election there shall be no primary election, except as provided in section 4.5.5.3 below. The special election to fill the vacancy shall coincide with the regular Municipal Election and the notice of such vacancy shall be published as soon as is practicable.~~

~~4.5.5.2 Vacancy in offices to be voted on in the regular Municipal Election. If a vacancy occurs less than eight weeks prior to the primary election, in the office of the mayor or the council members whose seats are to be voted on in the regular Municipal Election, said vacancy shall be considered not to exist for the purpose of the regular Municipal Election. The person elected to fill the vacancy in the regular Municipal Election, if approved by unanimous vote of the sitting council, may assume the duties of the office to which elected on the first business day following the city clerk's issuance of a certificate of election to said person.~~

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~~4.5.6 If there are insufficient numbers of candidates in a regular or special election to fill expiring or vacated municipal offices, the city council shall fill said offices by appointment until the next regular municipal election. In the case of a tie vote of the council, the mayor shall make said appointment from the candidates under consideration.~~

**CITY COUNCIL SPECIAL WORK SESSION  
CITY OF RAMSEY  
ANOKA COUNTY  
STATE OF MINNESOTA**

The Ramsey City Council conducted a City Council Special Work Session on Tuesday, April 20, 2021, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Mark Kuzma  
Councilmember Ryan Heineman  
Councilmember Chelsea Howell  
Councilmember Debra Musgrove  
Councilmember Chris Riley  
Councilmember Dan Specht  
Councilmember Matt Woestehoff

Also Present: City Administrator Kurtis Ulrich  
Public Works Superintendent Grant Riemer  
Deputy City Administrator Timothy Gladhill  
City Engineer Bruce Westby  
Administrative Services Director Colleen Lasher  
City Attorney Joe Langel  
Utilities Supervisor John Nelson

**1. CALL TO ORDER**

Mayor Kuzma called the City Council Work Session to order at 6:39 p.m.

**2. TOPICS FOR DISCUSSION**

**2.01: Review Water Treatment Plant Schedule and Construction Method**

Utilities Supervisor Nelson reviewed the staff report.

Mayor Kuzma asked if RJM would be used as the construction manager.

Public Works Superintendent Riemer replied that is the construction manager for the public works facility. He stated that for the water treatment plant, staff would propose to use the design bid model because the inside of the water treatment plant is very complex.

Councilmember Howell asked, in the design bid build model, would those engineering firms be more specialized to this industry.

Utilities Supervisor Nelson confirmed that to be true.

Councilmember Howell asked if there are fewer firms that specialize in that area.

City Engineer Westby replied that the design bid model is the standard model the City uses. He replied that there are at least a dozen firms that specialize in this area.

Councilmember Riley asked for clarification, if there are a dozen firms that specialize in water treatment facilities.

City Engineer Westby confirmed that there are at least a dozen firms that would have all the specialties inhouse to design the different elements of a water treatment plant.

Councilmember Heineman asked if there are typically cost savings when a project is brought inhouse to one firm or whether there would be cost savings to bidding different elements to different firms.

City Engineer Westby replied that in theory it should be a more cost-effective process to use one firm, as the people working on the different elements would know each other and could easily communicate with each other.

City Administrator Ulrich stated that this will come back to the Council again to select contractors.

## **2.02: Review Past Charter Proposals Concerning City Elections**

City Administrator Ulrich reviewed the staff report.

City Attorney Langel commented that the Charter Commission has been working on this for quite some time. He provided additional details on the conflicts with elections within the existing Charter language and State Statute and the difficulties it provided for staff. He stated that the information was presented to the Charter Commission in depth in 2019, it moved forward to the City Council but there was not support to adopt the changes. He stated that the first category for the changes is related to primary elections and provided additional background on the elements that were considered to determine how much benefit is provided in Ramsey from primaries versus the cost and staff time necessary. He stated that the Charter Commission recommended to eliminate the primaries. He stated that the other option out for discussion was to eliminate primaries except for those occurring for general elections as those would align with State primaries. He stated that a unanimous vote is required and not all members of the Council at that time supported that concept, therefore the amendment process stopped.

Mayor Kuzma asked the process that would be followed if there were multiple people running and there was not a primary.

City Attorney Langel replied that multiple people would then be on the ballot and the person with the most votes would win.

Councilmember Heineman asked and received confirmation that there would not be an issue with runoffs.

Councilmember Musgrove commented that she likes the idea of having a primary if there are other elections going on. She was unsure that a primary would be needed for a special election for a vacant position.

City Attorney Langel agreed that it causes additional problems to have primaries for special elections because of the timing and specific dates allowed for special elections.

Councilmember Heineman asked if eliminating primaries for special elections would allow for someone to be elected as soon as possible.

City Attorney Langel confirmed that would allow the position to be filled more quickly as it would eliminate that additional primary process.

Councilmember Heineman stated that he would support eliminating primaries outside of a regular general election.

Councilmember Howell asked if there could then be three to five or more candidates for a special election.

City Attorney Langel confirmed that a special election could have any number of candidates if there is not a primary.

Councilmember Howell commented that she would perhaps favor a primary.

Mayor Kuzma stated that he was opposed to this in 2019 and remains opposed. He believed that a primary serves a purpose in finding out additional information on candidates. He stated that if there are five or more candidates it would be difficult to have useful information to base a decision off. He stated that he would favor continuing with the existing process.

City Attorney Langel advised that if there is not support for the changes related to primaries, the Council could choose to update the Charter to at minimum match the State Statute languages where it is outdated and conflicting. He provided details on another option the City could pursue to fill vacancies. He stated that State Statute would allow for the Council to appoint someone to a vacant seat when there is less than two years on a term. He noted that the Charter Commission reviewed that option and suggested that appointments be allowed when there is less than one year on a vacant seat term.

Councilmember Riley commented that the City has had a problem for a number of years which has resulted in an open seat almost consistently for the past five years because of the City rules for special elections. He believed that primaries are not necessary as there are other government positions that have multiple candidates to vote for. He stated that when he vacated his seat, he aligned that with the seat vacation falling under a regular cycle. He asked if the language could be written in a manner that would eliminate special elections, allow appointment, and instead have an election on the next State held election day.

City Attorney Langel confirmed that aligns with option four and reviewed those details. He noted that a special election could still occur, it would simply align with November.

Councilmember Riley confirmed that he would prefer that option.

Councilmember Specht commented that he believes that a primary provides value. He stated that allowing the Council to appoint someone would seem to be a conflict and commented that person would have an unfair advantage because their name would be out there already ahead of the election.

Councilmember Woestehoff stated that he would believe there should either be primaries for everyone or primaries for no one. He stated that he would be interested in additional information related to runoffs. He stated that he is torn on the idea of appointments. He stated that in a perfect world an appointment would be unanimous. He stated that it would also make him nervous for the Council to make an appointment rather than the residents electing that person.

Councilmember Howell agreed with Councilmember Specht that the election process is important and would not want to appoint members.

Councilmember Musgrove commented that the Charter Commission also discussed the cost for special elections. She recognized that there are a number of inconsistencies between the Charter language and State Statute which has caused additional staff time and resources. She stated that it does not appear the Council is unanimous on these issues. She stated that perhaps the discussion should focus on the inconsistencies rather than primaries and special elections.

City Attorney Langel confirmed that the original intent of the update was to simply and clarify the language to be consistent with State law without changing the existing process. He confirmed that could be done without adding the primary and special election processes.

City Administrator Ulrich confirmed consensus that there is not unanimous agreement related to primaries and special elections and therefore this could be brought forward as more of a housekeeping item to address the inconsistencies with State law. He provided additional details on the lengthy process for special elections with primaries.

City Attorney Langel commented that the City could approach the legislature to request additional dates for special elections, but he was unsure how receptive the legislature would be to that idea.

Mayor Kuzma commented that Ramsey is fortunate to have seven members and a full Council at this time. He stated that it appears the consensus at this time would be to clean up the language to be more in line with State Statute.

Councilmember Heineman commented that he would not support a runoff option as that would cause more confusion and time.

Councilmember Musgrove agreed that would add more time for staff and cost for the City to continuously run elections.

City Administrator Ulrich stated that another option would be to place this on the ballot and let residents decide.

**3. ADJOURNMENT**

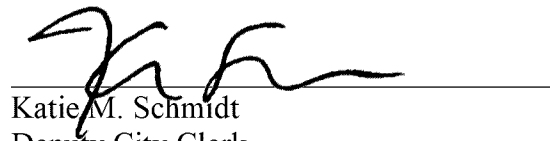
The Work Session of the City Council was adjourned at 7:30 p.m.

Respectfully submitted,



Kurtis G. Ulrich  
City Administrator

ATTEST:



Katie M. Schmidt  
Deputy City Clerk

Drafted by Amanda Staple  
*TimeSaver Off Site Secretarial, Inc.*