



**MINUTES
CHARTER COMMISSION
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
WEDNESDAY, MAY 3, 2022
7 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

In accordance with published notice, a meeting of the Charter Commission of the City of White Bear Lake was called to order at 7 p.m. in the White Bear Lake City Hall Council Chamber. Vice Chair Marc Aune acted as Chair in place of Timothy Geck, who was excused for the evening. At roll call, the following members were present: Vice Chair Marc Aune, Secretary Mark Sather, Michael Amundsen, James Barone, James Berry, Victoria Biehn, Heidi Boyd, Scott Costello, Cynthia Jones, Dillon Lang and Darryl LeMire. Chair Timothy Geck and members Scott Bill, Jo Emerson, and Dale Grambush were excused. Staff present included Assistant City Manager Rick Juba and City Clerk Caley Longendyke.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the Charter Commission Meeting on September 14, 2022

It was moved by Member **Barone**, seconded by Member **Boyd**, to approve the minutes. Motion carried unanimously.

3. APPROVAL OF THE AGENDA

It was moved by Member **Barone**, seconded by Member **LeMire**, to approve the agenda. Motion carried unanimously.

4. UNFINISHED BUSINESS

A. Amendment to Charter Commission Resolution 22-2, amending the City Charter’s election- and gender-related terminology

Secretary Mark Sather presented a summarized timeline and history of the proposed amendment to the City Charter. The Commission began reviewing City Charter language regarding municipal elections in August 2021. During this review, Commission members also reviewed it for gender neutrality and other various inconsistencies. The resulting amendment was presented to the City Council in early 2022, but then reconsidered after additional changes regarding election terminology were recommended by the City Attorney. The final amendments were then approved by the Charter Commission on September 14, 2022 (Res. No. 22-2). The Charter Commission waited to present the proposed changes to the City Council in response to a pending proposal by staff to amend city attorney term lengths, which were presented later during this meeting. The superseding corrections address all the election- and gender-related terminology, and remove a specific State Statute reference in Section 5.16.

It was moved by Member **Amundsen**, seconded by Member **Berry**, to approve Res. No. 23-1, which supersedes Res. No. 22-2, proposing an amendment to several sections of the City Charter as it relates to election- and gender-related terminology, specifically the following sections: 2.02, 4.04, 4.12, 4.13, 4.14, 4.17, 4.26 and 5.16. Motion carried unanimously.

Secretary Sather provided general information to newer members of next steps. The Charter Commission's approval of the proposed changes will be presented to the City Council by ordinance with public notice and two readings. Changes to the City Charter require an affirmative vote of all members of the City Council. The Charter chair sends a letter to the mayor regarding the proposed amendment.

5. NEW BUSINESS

A. Proposed amendment to City Charter – Attorney appointment term

Vice President Aune summarized the proposed change, initiated by City staff. He explained that there are annual business items for City Council vote, including approving an annual appointment of city attorneys. The request from staff is to allow the City Council to appoint the city's attorneys for multiple years. Assistant City Manager Juba explained that multi-year contracts have been used for city attorneys, but have recently been reduced to one-year contracts to align with the City Charter. Juba explained that multi-year contracts help keep prices down and reduces staff time reviewing new contracts year-to-year, so staff is proposing to increase the appointment terms of city attorneys from one year to multiple years. He noted that Charter President Timothy Geck works for the city's prosecuting attorney office, so Vice President Marc Aune has been handling this business for the Charter Commission.

Costello asked for clarification on "multiple years", and Juba said the standard practice would be three years. Barone was favorable to multiple years to allow flexibility for staff, especially if it is financially beneficial for longer-term contracts. He mentioned the contracts should include language for the ability to terminate a contract if needed. Referencing the *League of Minnesota Cities Handbook for Minnesota Cities* and the guidance on the specificity level of a City Charter, Berry was in favor broader language and was in support of multiple years, allowing the City Council to determine the specific number of years. Secretary Sather asked about the discrepancy in the city's practice and the City Charter. Juba explained that the practice was corrected when it was discovered that the City Charter only allowed for one-year appointments. Sather mentioned that the annual terms allow for new City Councils to decide on the appointments every year, which is easier than pursuing the termination of an undesired multi-year appointment. Sather questioned whether the cost savings would be guaranteed. There was discussion about professional services contracts typically being lower cost when entering into an agreement for multiple years.

Amundsen understood the need to update the City Charter for evolving practices. He was in favor of allowing for more flexibility when it involves a service, compared to if it was involving an elected position, which should be more defined. He agreed with Berry that it could be broader and the details can be determined by the City Council. As a previous City Councilmember, LeMire said that his 12-year-term began and ended with the same prosecuting attorney, but still required an annual appointment. He asked Sather about his experience as a

former City Manager about the staff time to negotiate new contracts each year. Sather provided information about his experience, including a new Council at one point seeking bids for a new city attorney. He believes the strongest argument is cost-savings, but was curious if this was guaranteed. He didn't think it was time-consuming to renew a yearly contract, but rather more time-consuming to seek a new attorney. Sather shared that the attorney is an appendage of the City Council and should reflect their values. Barone acknowledged the comment made about appointing a new Chair of the Council after each municipal election, but felt professional services are different. He recognized the advantage of being able to negotiate contracts and is in favor of providing that ability to the City Council and staff.

Vice President Aune reminded Commission members to keep in mind that the proposed change is a change of powers for the City Council and that it should also involve a philosophical decision, separate from logistics like cost savings. He also said there can be more specific language proposed, such as "up to" a specified number of years. Amundsen reiterated that the Charter should be broader to not only provide flexibility, but to prevent the need to amend the City Charter when details change. Lang is in favor of flexibility, but thinks the number of years should be clarified. He acknowledges that terms longer than one year would allow more options for representation who may desire longer contracts. He noted that he wasn't favorable in a contract term extending beyond the term of the City Council. LeMire was in favor of multiple years as long as the prosecutor continues their annual update to the City Council. Sather was not in favor of multiple years. He is worried about the City Council approving a 10-year contract and the burden of terminating a contract early. He also questioned the certainty of cost savings. Boyd supported providing flexibility. She felt the Charter provides the framework, and staff can make the decisions for the work and the budget, and the proposal to the Council. Biehn asked about the process of breaking a contract and any associated fines. Assistant City Manager Juba said it would be unlikely that there would be fines when breaking a contract, and said the professional relationship usually ends on mutual agreement, and services terminate after a grace period outlined in the contract. When asked who is initiating the proposal, Juba clarified that the amendment is being proposed by the city manager and mayor.

Vice President Aune asked for a general vote to determine the desire of Commission members. Sather and LeMire showed support for no change, Lang and Jones showed support for a specific number of years, and Costello, Amundsen, Berry, Barone and Boyd showed support for "multiple years." When Barone asked about an earlier comment referring to a typical three-year standard, Juba said he wouldn't be able to speak to the standard in the industry, but the current city attorneys expressed desire for three-year contracts. Barone proposed changing the clause to "up to five years." Costello shared concerned about not getting a unanimous vote among Councilmembers, based on the debate that was happening among Charter Commission members. It was moved by Member **Barone**, seconded by Member **Jones**, to approve the resolution, with the amended language replacing "multiple years" with "up to five years". Costello asked why not consider "up to four years," which would align with City Council terms. Amundsen said the language "up to five years" doesn't mean it has to be a full five-year contract. He acknowledged Sather's concerns about the possibility of a new majority Council who desires a different attorney, but said the Council would have the ability to vote to end a contract.

Procedures were discussed, as it relates to proposed amendments coming from the Charter Commission or from staff. When referring back to concerns about the certainty of cost savings, Sather requested to remove the whereas clause, “Multi-year contracts for legal representation is often financially beneficial to the City and its taxpayers and is a common practice in municipal government.” Amundsen countered the concern, saying multi-year contracts typically result in cost savings, though he was not in opposition of removing the language.

The motion by Member Barone, seconded by Member Jones, to approve the resolution, with amended language replacing “multiple years” with “up to five years” and removing the clause about financial benefit, was declared carried on the following vote:

Ayes: Amundsen, Aune, Barone, Berry, Biehn, Boyd, Costello, Jones, LeMire

Nays: Lang, Sather

Due to a conflict of interest with President Timothy Geck and his law firm, Vice President Aune will sign the resolution.

6. DISCUSSION

A. Role of the Charter Commission and Home Rule Charters in Minnesota

Secretary Sather provided an overview of a resourceful document created by the League of Minnesota Cities (LMC). Printed for each Commission member was *Chapter 4: The Home Rule Charter City* from LMC’s *Handbook for Minnesota Cities*, which is a comprehensive resource for laws affecting Minnesota city governments. Sather recommended Commission members review the chapter and keep it accessible for reference. He provided general information about the Charter Commission, including it being subject to Open Meeting Law. Sather said the LMC Handbook *Chapter 4: The Home Rule Charter City* references Minnesota State Statutes, Chapter 410, but said the Handbook helps summarize the language in better context. Sather mentioned the by-laws and talked about attendance of Commission members. He said there should be discussion on the definition of an excused absence.

Amundsen requested there be better communication with all Charter Commission members, not just between the president/vice president and staff, when involving Charter business. He asked that if a decision needs to be made or a discussion needs to happen, the Commission should convene.

B. Format of meeting packets for Charter Commission members

Commission members receive their Charter Commission meeting packets in paper format. Sather recognized that materials can be delivered electronically for those who prefer. He asked if there was stronger preference to receive materials in printed or electronic format, or it can be decided individually. He said it’s something to consider for the next meeting. Amundsen recommended taking into consideration the size of the packet, with larger packets being electronic. Large documents (e.g. 11 x 17) should be printed for Commission members. Assistant City Manager Juba said staff will send out the packet both electronically and by mail, and Commission members can notify staff if they do not want it printed.

Sather referred to the Charter Commission roster and asked Commission members to review their information. He reminded them that Charter Commission materials, including the roster, is public information. On the roster, “four-year” was removed from the term length, because Sather explained that Commission members may be appointed to a two-year term for their first appointment. The one-year gap between the term end-dates was questioned, because there should be a two-year gap between the term end-dates for every other Commission member. The City Clerk will look into this further.

7. ADJOURNMENT

There being no further business before the Commission, it was moved by Member **Boyd** seconded by Member **Biehn** to adjourn the regular meeting at 8:38 p.m. Motion carried unanimously.

Tim Geck, Chair

ATTEST:

Mark Sather, Secretary