

MEETING NOTICE AND AGENDA

White Bear Lake Charter Commission
Wednesday, November 10, 2021
7:00 p.m.
Council Chambers of City Hall
4701 Highway 61
White Bear Lake, MN 55110

1. Call to Order and Roll Call
2. Approval of minutes of meeting held on September 8, 2021
3. Approval of Agenda
4. Old Business
 - A. Review of Charter Section 4.13 pertaining to election of the Council Chair and correction of references in the Charter to “annual” municipal elections
 - B. Redistricting
 - 1) Municipal Redistricting Roles and Responsibilities
<https://ossmedia.sos.state.mn.us/redistricting/municipal-redistricting/index.html#/>
5. New Business
6. Open Discussion
7. Adjournment

NOTE: Please contact city clerk, Kara Coustry, if you *cannot* attend, 651-429-8508 or clerk@whitebearlake.org

**MINUTES OF THE
WHITE BEAR LAKE CHARTER COMMISSION
SEPTEMBER 08, 2021**

1. CALL TO ORDER AND ROLL CALL

In accordance with published notice, a meeting of the White Bear Lake Charter Commission was called to order by Chairman Tim Geck at 7:00 p.m. in White Bear Lake City Hall Council Chambers,

The Chair announced this meeting would serve the purpose of the annual meeting requirement set forth in State Statute and Commission By-Laws. At roll call the following members were present: Mike Amundsen, Marc Aune, James Berry, Scott Bill, Scott Costello, Tim Geck, Dale Grambush, Robert Hafdahl, Dillon Lang, Dan Louismet and Mark Sather. James Patrick Barone was excused. A quorum was declared.

Also present was Assistant City Manager Rick Juba.

2. APPROVAL OF THE MINUTES

Marc Aune called for correction of the date on the header of pages 2-3 of the draft minutes for the September 9, 2020 meeting and election of Marc Aune rather than Scott Bill as Vice Chair. The Commission agreed.

It was moved by Member **Hafdahl**, seconded by Member **Louismet**, to approve the minutes of the meeting held September 9, 2020 as amended.

The motion carried unanimously.

3. APPROVAL OF THE AGENDA

It was moved by Member **Bill**, seconded by Member **Aune** to approve the agenda as presented.

The motion carried unanimously.

4. OLD BUSINESS

- A. Review of Charter Section 4.13 pertaining to election of the Council Chair and correction of references in the Charter to “annual” municipal elections

Chair Geck summarized the Commission’s action on this topic at its last meeting on September 8, 2020 including its discussion of the City Councils’ request that the Commission consider an amendment to Section 4.13 pertaining to election of the City Council Chair. Discussion of that request also included recognition of a technical err referring to the “annual” municipal election when in fact the city’s elections are held on a “biennial” cycle. The Chair also called to Commission’s attention to a memorandum from the City Manager dated August 13, 2021 attached hereto.

During the discussion it was recognized that there are at least four (4) references to “annual” elections including Sections 4.04, 4.12, 4.13 and 4.26.

Member Costello pointed to language in Section 4.12 which referred the City Council setting the day of its regular monthly meeting, when in fact the Council currently conducts two regular meetings per month (except December). He suggested the fourth paragraph of Section 4.12 be replaced with the following:

At its first regular meeting each January, the Council shall set the dates of its regular meetings for the year. Special meetings may be called by the Mayor or by the Chair of the Council at any time. Reasonable public notice shall be given for all special Council meetings through the media. (Ref. Ord. 898, 8/24/93)

There was further discussion of the City Council’s request to consider amending the Charter to provide that the Chair be elected at the first meeting of odd numbered years rather than annually. Members requested further information regarding the procedure set forth in other home rule charters. The Secretary agreed to research other Charters for comparison.

It was moved by Member **Hafdahl**, seconded by Member **Aune** to table the proposed amendments and schedule a meeting for November 10, 2021 at 7:00 p.m. for further consideration.

The motion carried unanimously.

5. NEW BUSINESS

A. Election of Offices

The Chair explained that according to Charter Commission By-Laws the term of offices will expire at the conclusion of the annual meeting. The Chair called for nomination of offices.

It was moved by Member **Louismet**, seconded by Member **Berry** to nominate Member Geck for the position of Chair, Member Aune for the position of Vice Chair and Member Sather for the position of Secretary.

The Chair called for additional nominations and hearing none he declared the nominations closed.

The motion carried unanimously.

B. Redistricting

There was general discussion of the Commission’s duties as the City’s Redistricting Commission as set forth in Section 3.02. It was noted that

consideration of changes to Ward boundaries may not proceed until State Legislative Districts are first redefined. Further discussion was deferred until the November 10, 2021 meeting.

6. OPEN DISCUSSION

It was noted that Karin Hogan did not seek reappointment at the end of her term resulting in an additional vacancy. The Chair will contact the Chief Judge's office and ask staff to post notice of the vacancy and specifically encourage females to apply.

7. ADJOURNMENT

There being no further business to come before the Commission, it was moved by Member **Louismet**, seconded by Member **Bill**, to adjourn the meeting at 8:32 p.m.

The motion carried unanimously.

Tim Geck, Chair

ATTEST:

Mark Sather, Secretary



City of White Bear Lake

City Manager's Office

To: Members of the Charter Commission

From: Ellen Hiniker, City Manager

Date: August 13, 2021

Subject: **Review of Charter Section 4.13 - Election of a Council Chair**
Correction of references in the City Charter to “annual” municipal elections

BACKGROUND

During election of the Council Chair at the first meeting in January, 2020, Councilmember Jones questioned whether this election should occur with an experienced Council. Per the City Charter, election of the Chair occurs in January following the municipal election, at which time, up to three of five Councilmembers have the potential of being new to the Council. It has been suggested that by moving election of the Council Chair to odd years, Councilmembers making this decision will have already been in place for at least one year.

As reflected in the minutes of the September 9, 2020 Charter Commission meeting, the merits of this change were discussed. It was also pointed out that an election provides the public an opportunity to make a change in Council direction and/or leadership, something which would not be as readily possible if the Chair election were moved to odd years. It was also noted that changing the timing of Chair election might result in the need to re-elect a new Chair should they not be re-elected in an upcoming election.

The Charter Commission did not conclude whether to recommend an amendment related to the timing of the Chair election. However, there was additional discussion related to language that references annual municipal elections, which are actually held biennially. Staff was asked to prepare alternative language to clarify the frequency of municipal elections for the Commission's consideration.

PROPOSED CHANGES:

Proposed changes are indicated below with deleted text being ~~stricken~~ and added text being double-underlined.

Sect. 4.04. Mayor -- Vacancy of Office. When the office of Mayor becomes vacant, the Council shall appoint, by majority vote, a qualified person as Mayor if the remaining term of office is less than six (6) months. Notice of the vacancy shall be published by the City Clerk in the official newspaper one week prior to the meeting for the appointment. The appointed Mayor shall exercise all the powers and perform all the duties of Mayor until a Mayor is elected at the next ~~annual~~ municipal election. The office of Mayoral vacancy shall be filled by a special election when the remaining term of office is six (6) months or greater. The City Clerk shall, within fifteen (15) days of the vacancy, give legal notice in the official newspaper of the vacancy with dates for filing and the date(s) of the special election(s). The period for filing for the vacancy shall be ten (10) calendar

days from (including) the date of the legal notice. The special election shall occur within fifteen (15) to twenty (20) days after the close of filing. If more than two (2) candidates have filed for the vacancy, the first election date shall be considered the primary election with general election date occurring fourteen (14) days later. When two (2) or fewer candidates have filed for the vacancy, the general election shall occur on the first election date. (Ref. Ord. 898, 8/24/93)

Sect. 4.12. Council -- Meetings and Procedures. The Council shall make its rules of procedure and shall be the judge of the qualifications and election of its members and of the grounds for forfeiture of their offices, and for this purpose shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in the official newspaper at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Council vacancies shall be filled by appointment when the remaining term of office is less than six (6) months. The appointment shall be by majority vote of the Council. Notice of the vacancy shall be published by the City Clerk in the official newspaper one week prior to the meeting for the appointment.

Council vacancies shall be filled by special election when the remaining term of office is six (6) months or greater. The City Clerk shall, within fifteen (15) days of the vacancy, give legal notice in the official newspaper of the vacancy, with dates for filing and the date(s) of the special election(s). The period for filing for the vacancy shall be ten (10) calendar days from (including) the date of the legal notice. The special election shall occur within fifteen (15) to twenty (20) days after the close of filing. If more than two (2) candidates have filed for the vacancy, the first election date shall be considered the primary election with general election date occurring fourteen (14) days later. When two (2) or fewer candidates have filed for the vacancy, the general election shall occur on the first election date.

The Council at its first regular meeting in January following the ~~annual~~ biennial municipal election shall set the day of its regular monthly meetings for the year. Special meetings may be called by the Mayor or by the Chair of the Council at any time. Reasonable public notice shall be given for all special Council meetings through the media. (Ref. Ord. 898, 8/24/93)

Sect. 4.13. Chair of the Council -- Acting Mayor. At the first regular meeting of the Council in January following the ~~annual~~ biennial municipal election, the Council shall elect one of its members as Chair of the Council. The Chair of the Council shall appoint all committees of the Council. The Chair shall preside over the meetings of the Council only in the absence of the Mayor and shall maintain the right and authority to vote on all motions, resolutions and ordinances considered by City Council. (Rev. by Ord. 90-09-819, 9/25/90; Ord. 16-12-2021, 12/13/16)

Sect. 4.26. Official Publications. The Council shall at its first regular meeting in the January following the ~~annual~~ biennial municipal election, or as soon thereafter as practicable, designate the official newspaper of the City for publication of all notices required by this Charter. In all other cases, the City Council may designate the manner of publication of notices. (Ref. Ord. 898, 8/24/93)

RECOMMENDED ACTION

If the Commission chooses not to alter the timing of election of the Council Chair, staff recommends adoption of the attached resolution forwarding the above proposed City Charter revisions to the City Council for consideration.

ATTACHMENTS

Resolution

**CHARTER COMMISSION
RESOLUTION NO. 21-1**

**A RESOLUTION OF THE WHITE BEAR LAKE CHARTER COMMISSION
PROPOSING AN AMENDMENT OF SECTIONS 4.04, 4.12, 4.13 and 4.26 OF
THE CITY CHARTER PERTAINING TO ELECTION FREQUENCY**

WHEREAS, in 1990, City Charter Section 2.02 Municipal Elections was amended to reflect a decision that municipal elections be held in odd years, opposed to annually; and

WHEREAS, during review of the City Charter document, it was discovered that several other Sections still refer to municipal elections as being conducted annually.

NOW, THEREFORE, BE IT RESOLVED by the Charter Commission of the City of White Bear Lake that the following amendments of the City Charter are hereby proposed to the City Council for enactment pursuant to Minnesota Statutes Section 410.12, Subd. 7.

Sect. 4.04. Mayor -- Vacancy of Office. When the office of Mayor becomes vacant, the Council shall appoint, by majority vote, a qualified person as Mayor if the remaining term of office is less than six (6) months. Notice of the vacancy shall be published by the City Clerk in the official newspaper one week prior to the meeting for the appointment. The appointed Mayor shall exercise all the powers and perform all the duties of Mayor until a Mayor is elected at the next ~~annual~~ municipal election. The office of Mayoral vacancy shall be filled by a special election when the remaining term of office is six (6) months or greater. The City Clerk shall, within fifteen (15) days of the vacancy, give legal notice in the official newspaper of the vacancy with dates for filing and the date(s) of the special election(s). The period for filing for the vacancy shall be ten (10) calendar days from (including) the date of the legal notice. The special election shall occur within fifteen (15) to twenty (20) days after the close of filing. If more than two (2) candidates have filed for the vacancy, the first election date shall be considered the primary election with general election date occurring fourteen (14) days later. When two (2) or fewer candidates have filed for the vacancy, the general election shall occur on the first election date. (Ref. Ord. 898, 8/24/93)

Sect. 4.12. Council -- Meetings and Procedures. The Council shall make its rules of procedure and shall be the judge of the qualifications and election of its members and of the

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RESOLUTION NO. 21-1**

grounds for forfeiture of their offices, and for this purpose shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in the official newspaper at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Council vacancies shall be filled by appointment when the remaining term of office is less than six (6) months. The appointment shall be by majority vote of the Council. Notice of the vacancy shall be published by the City Clerk in the official newspaper one week prior to the meeting for the appointment.

Council vacancies shall be filled by special election when the remaining term of office is six (6) months or greater. The City Clerk shall, within fifteen (15) days of the vacancy, give legal notice in the official newspaper of the vacancy, with dates for filing and the date(s) of the special election(s). The period for filing for the vacancy shall be ten (10) calendar days from (including) the date of the legal notice. The special election shall occur within fifteen (15) to twenty (20) days after the close of filing. If more than two (2) candidates have filed for the vacancy, the first election date shall be considered the primary election with general election date occurring fourteen (14) days later. When two (2) or fewer candidates have filed for the vacancy, the general election shall occur on the first election date.

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Sect. 4.13. Chair of the Council -- Acting Mayor. At the first regular meeting of the Council in January following the ~~annual~~ biennial municipal election, the Council shall elect one of its members as Chair of the Council. The Chair of the Council shall appoint all committees of the Council. The Chair shall preside over the meetings of the Council only in the absence of the Mayor and shall maintain the right and authority to vote on all motions, resolutions and ordinances considered by City Council. (Rev. by Ord. 90-09-

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RESOLUTION NO. 21-1**

819, 9/25/90; Ord. 16- 12- 2021, 12/13/16)

Sect. 4.26. Official Publications. The Council shall at its first regular meeting in the January following the ~~annual~~ biennial municipal election, or as soon thereafter as practicable, designate the official newspaper of the City for publication of all notices required by this Charter. In all other cases, the City Council may designate the manner of publication of notices. (Ref. Ord. 898, 8/24/93)

The foregoing resolution, offered by Commission member ____ and supported by Commission member _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Tim Geck, Chair

ATTEST:

Mark Sather, Secretary

----- Forwarded message -----

From: **Mark Sather** <markwsather@gmail.com>

Date: Thu, Oct 28, 2021 at 3:41 PM

Subject: Re: "Annual" Charter Thoughts

To: Marc Aune <marcaune@gmail.com>

Cc: Timothy Geck <timgeck@gdolaw.com>

Marc,

You make a good suggestion. I did more digging, however, and found what may be a better cure. Charter section 2.02 adopts by reference MN Statute 205.07 which defines certain procedures for municipal elections. That specific section pertains to the election dates, etc. but other sections of Chapter 205 make reference to "General" municipal elections distinguishing between "Primary" elections and "Special" elections. If we substitute "General Election" for all references to "Annual Election" we should have that conflict resolved and also be consistent with the language of MS 205.07.

Take a look at that and let me know what you think. In the meantime I am still looking at the charters of other home rule cities to see when and how they select their Chair/Vice Mayor/Mayor pro-tem, etc..

Our next meeting is November 10th.

On Fri, Oct 22, 2021 at 8:40 PM Marc Aune <marcaune@gmail.com> wrote:
Hi Mark. Here are my belated thoughts on the Charter and the use of the word "annual."

As I read through the fourth paragraph of 4.12 regarding elections, I wondered if the word "annual" was used to differentiate from special elections described in the previous paragraph. In other words, the purpose of using the word "annual" was to make clear that any "special" elections would not affect the "regular" schedule of the Council.

In 2.06 the term "regular municipal election" is used. I think it is necessary to distinguish that the "first regular meeting" in paragraph four of 4.12 is to happen after the **regular** municipal election, and this is probably the clearest way.

Marc

----- Forwarded message -----

From: **Toskey, Kevin** <KToskey@lmc.org>
Date: Mon, Nov 1, 2021 at 10:17 AM
Subject: City Charter - Acting Mayor
To: Sather, Mark <markwsather@gmail.com>

Hello Mark:

Thanks for your question.

We do maintain an updated collection of city charters in our files – we have it stored on Laserfiche so it is accessible to LMC staff but not the general public.

With acting mayors, the most common language I've seen is pretty general. This language from the Bloomington city charter (Section 2.06) is very typical: "The Council shall choose from its members an Acting Mayor who shall hold office at the pleasure of the Council and shall serve as Mayor in the absence of the Mayor or in the event of the Mayor's disability." Almost identical language is found in the charters of Anoka, Blaine, Brooklyn Center, Brooklyn Park, Coon Rapids, Crystal, Fridley, Ham Lake, Mounds View, Plymouth, Ramsey, Robbinsdale, St. Francis, St. Louis Park, Wayzata, and West St. Paul.

Some cities with variation on the selection of acting mayor:

Columbia Heights:

Section 10. 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.

Hastings:

SECTION 3.04. ACTING MAYOR. At the first regular Council meeting of the year and at such other times as a majority of the Council deems it appropriate, the Mayor shall nominate a councilperson to serve as acting Mayor. The councilperson nominated shall serve as acting Mayor only if their nomination is approved by a majority vote of the entire Council including the councilperson nominated. If the councilperson nominated by the Mayor does not obtain the majority vote as required, then the at-large councilperson who has been in the at-large office the longest time shall become the acting Mayor without further vote of the Council. If both at-large councilpersons have the same tenure in that office, the acting Mayor shall be determined by lot from among the at-large councilpersons. The acting Mayor shall serve as Mayor in case of the Mayor's disability or absence from the City.

Hopkins:

Section 2.06. THE MAYOR. Subdivision 1. The Mayor shall be the presiding officer of the Council and shall vote on all motions before the Council as any other member thereof. A president pro tempore shall be chosen by the full City Council at the first Council meeting in January after a municipal election. The president pro tempore shall serve as presiding officer in the Mayor's absence, and as Acting Mayor in case of the Mayor's disability or absence from the City. In cases where the Mayor and the President Pro Tempore are both absent, the Council Member, who has served the longest, shall perform as acting Mayor.

Lino Lakes:

Section 2.06, Subdivision 2. At its first meeting each year the Council shall choose an Acting Mayor to assume the office during the disability or absence of the Mayor, or, in case of vacancy in the office of Mayor, until a successor has been elected or appointed and qualifies.

Mankato (Six ward council members plus one at-large council member)

Section 2.02, Subdivision 4. Subd. 4. During a temporary absence from the City or disability of the Mayor, the Council member at large shall act as Mayor Pro Tem and shall, during such absence or disability, possess the powers of and discharge the duties of Mayor. In the event both the Mayor and council member at large are absent from the City and/or disabled, the City Council shall elect one of its members to act as Mayor Pro Tem who, during such absence and/or disability, shall possess the powers of and discharge the duties of Mayor including acting as the presiding officer at City Council meetings. Any such council member elected to serve as Mayor Pro Tem may be removed by majority vote of the Council at any time.

Minnetonka:

Section 2.07. The council must choose from its members an acting mayor, who holds office at the pleasure of the council and serves as mayor in the mayor's absence or disability. The council may also choose from its members an alternate acting mayor, who holds office at the pleasure of the council and serves as mayor in the absence or disability of both the mayor and the acting mayor.

South St. Paul:

Section 3.15. Acting Mayor. After each general city election or when otherwise required, the city council shall at the first meeting of the council, choose one member of the city council to serve as acting mayor. The acting mayor shall serve in the event of the vacancy, absence from the city, inability of the mayor to perform the duties of the office due to sickness or other cause. The acting mayor shall exercise the powers and perform the duties of the mayor and while in this capacity the acts of the acting mayor shall have the same force and validity as the mayor. The acting mayor shall serve until the mayor is again able to carry out the duties of the office. In the absence of the mayor and acting mayor, the city council will select a member to serve in the capacity of acting mayor.

Stillwater:

6.02. - Vice-Mayor. After the election of its members, the Council must, at its first meeting, elect one of its members as Vice-Mayor, who will act as Mayor Pro Tempore during the temporary absence or disability of the Mayor.

I limited my search mainly to metro-area charter cities. I don't think you'll find a lot of variation on this throughout the state. The main variations are in the level of detail in the clauses.

I hope this is useful – if you'd like to see more, please let me know.

Sincerely,

Kevin Toskey | Staff Attorney

League of Minnesota Cities | 145 University Ave. West | St. Paul, MN 55103

412.121 ACTING MAYOR.

At its first meeting each year the council shall choose an acting mayor from the council members. The acting mayor shall perform the duties of mayor during the disability or absence of the mayor from the city or, in case of vacancy in the office of mayor, until a successor has been appointed and qualifies.

History: *1949 c 119 s 15; 1969 c 9 s 83; 1973 c 123 art 2 s 1 subd 2; 1986 c 444*